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1976 EDITION

CONTAINING THE GENERAL AND PERMANENT LAWS
OF THE UNITED STATES, IN FORCE
ON JANUARY 3, 1977

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VOLUME TEN

TITLE 42—THE PUBLIC HEALTH AND WELFARE

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TITLES OF UNITED STATES CODE

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2. The Congress.
*3. The President.
*4. Flag and Seal, Seat of Government, and the States.
*5. Government Organization and Employees.
*6. Surety Bonds.
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*This title has been enacted as law.
†This title has been eliminated by the enactment of Title 10.

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PREFACE—1976 EDITION

This ninth edition of the United States Code was prepared and published pursuant to section 285b of Title 2 of the Code. It contains a consolidation and codification of all the general and permanent laws of the United States which are in force on January 3, 1977. By statutory authority this edition may be cited "U.S.C. 1976 ed." Previous editions were published in 1926, 1934, 1940, 1946, 1952, 1958, 1964, and 1970.

Inasmuch as many of the general and permanent laws which are required to be incorporated in this Code are inconsistent, redundant, and obsolete, the Office of the Law Revision Counsel is engaged in a comprehensive project of revising and enacting the Code into law, title by title. Since 1947, bills have been enacted to revise, codify and enact into law Titles 1, 3, 4, 5, 6, 9, 10, 13, 14, 17, 18, 23, 28, 32, 35, 37, 38, 39, and 44. In addition, bills relating to other titles are also being prepared for introduction. When this work is completed all the titles of the Code will be legal evidence of the general and permanent law and recourse to the numerous volumes of the Statutes at Large for this purpose will be unnecessary.

The title and chapter structure of the 1970 edition, together with Supplement V thereto, has been substantially preserved, the only changes made having been necessitated by the enactment of legislation since 1970.

This edition continues the practice of setting out notes captioned "Section referred to in other sections". These notes have been inserted following each section that is referred to in the text of another section, indicating the section that contains the internal reference. In addition, there is included in this edition, for the first time, a comprehensive Table of Internal References which appears in the Tables volume. This Table consolidates all internal references contained in the individual "Section referred to in other sections" notes.

This edition has been prepared and published under the supervision of Edward F. Willett, Jr., Law Revision Counsel of the House of Representatives, with the assistance of the West Publishing Company, of St. Paul, Minnesota, which assisted in preparing all prior editions and supplements of the Code. Grateful acknowledgment is made of the cooperation by all who have helped in this work, particularly by the staffs of the publishing company and of the Office of the Law Revision Counsel, and by the Government Printing Office.

Thomas P O'Neill Jr.
M.C.

Speaker of the House of Representatives

WASHINGTON, D.C., *January 4, 1977.*

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CHAPTER 1—THE PUBLIC HEALTH SERVICE

SUBCHAPTER I—GENERALLY

Sec.
1 to 1j. Repealed.
2. Omitted.
3, 4. Repealed.
5. Omitted.
6 to 15a. Repealed.
16. Omitted.
17 to 25e. Repealed.
26. Isolation of civilians for protection of military, air and naval forces.
27. Definitions.
28 to 45. Repealed.
46. Omitted.

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61. Omitted.
62. Repealed.
63. Omitted.
64. Repealed.
64a to 64c. Omitted.
65 to 70a. Repealed.

SUBCHAPTER I—GENERALLY

§§ 1 to 1j. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 1, acts July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided that the Public Health and Marine Hospital Service should be known as the Public Health Service, is now covered by section 202 of this title.

Section 1a, act Nov. 11, 1943, ch. 298, § 1, 57 Stat. 587, which provided for the organization and function of the Public Health Service, is now covered by section 203 of this title.

Section 1b, act Nov. 11, 1943, ch. 298, § 2, 57 Stat. 587, which provided for the appointment of Assistant Surgeons General, their grade, pay, and allowances, is now covered by sections 206, 207, and 210 of this title.

Section 1c, act Nov. 11, 1943, ch. 298, § 3, 57 Stat. 587, which provided for the chiefs of divisions, their grade, pay and allowances, and the creation of a Dental Division and a Sanitary Engineering Division, is now covered by sections 206, 207, and 210 of this title.

Section 1d, act Nov. 11, 1943, ch. 298, § 4, 57 Stat. 587, which provided for temporary promotions in regular corps in time of war, is now covered by section 211 of this title.

Section 1e, act Nov. 11, 1943, ch. 298, § 5, 58 Stat. 588, which provided for the review of record of officers above the grade of assistant surgeon and their separation from service, is now covered by section 211 of this title.

Section 1f, act Nov. 11, 1943, ch. 298, § 6, 58 Stat. 588, which provided for an acting Surgeon General during absence of Surgeon General and Assistant to the Surgeon General, is now covered by section 206 of this title.

Section 1g, act Nov. 11, 1943, ch. 298, § 7, 57 Stat. 588, which provided for death and disability benefits of commissioned officers during war and for the transfer of Service to the Military forces, is now covered by sections 213 and 217 of this title.

Section 1h, act Nov. 11, 1943, ch. 298, § 8, 57 Stat. 589, which provided for commissioned officers' benefits as civil officers and employees of United States and election of benefits, is now covered by Title 5, Government Organization and Employees.

Section 1i, act Nov. 11, 1943, ch. 298, § 9, 57 Stat. 589, which provided for beneficiaries' benefits where commissioned officer lost his life on active duty between Dec. 7, 1941, and Nov. 11, 1943.

Section 1j, act Nov. 11, 1943, ch. 298, § 11, 57 Stat. 589, which provided for the transfer of appropriations to continue transferred functions is now covered by note under section 201 of this title.

Renumbering and Repeal of Repealing Act

Section 1313, formerly 611, of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 2. Omitted

Codification

Section, acts Feb. 3, 1905, ch. 297, § 1, 33 Stat. 650; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309; 1939 Reorg. Plan No. I, eff. July 1, 1939, § 201, 4 F.R. 2728, 53 Stat. 1424, provided for jurisdiction of the Federal Security Agency over the Service, and was superseded by section 202 of this title.

REPEALS

Act Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which changed name of Public Health and Marine Hospital Service of the United States to Public Health Service was repealed by act July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714, renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91-572, § 6(b), 84 Stat. 1506; May 16, 1972, Pub. L. 92-294, § 3(b), 86 Stat. 137; Nov. 16, 1973, Pub. L. 93-154, § 2(b)(2); 87 Stat. 604, and repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936. Act July 1, 1944, retained the name Public Health Service.

§§ 3, 4. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 3, acts July 1, 1902, ch. 1370, § 9, 32 Stat. 714; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for rules and regulations of service by the President, is now covered by section 216 of this title.

Section 4, R.S. § 4802; acts July 1, 1902, ch. 1370, § 9, 32 Stat. 714; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for an annual report by the Surgeon General to the Federal Security Administrator, is now covered by section 229 of this title.

RENUMBERING AND REPEAL OF REPEALING ACT

Section 1313, formerly 611, of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b). Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2). Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 5. Omitted

CODIFICATION

Section, act Mar. 4, 1915, ch. 167, § 4, 38 Stat. 1191, which provided for appointment to higher grade of officers of Public Health Service detailed with the former Isthmian Canal Commission, was omitted as executed.

§§ 6 to 15a. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 6, acts July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the care of sick and disabled seamen, is now covered by section 249 of this title.

Section 6a, act Mar. 31, 1936, ch. 161, 49 Stat. 1185, which provided for the care of seamen on Government vessels not in the Military or Naval Establishments and of cadets on State school ships, is now covered by section 249 of this title.

Section 7, act Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for investigations by Service into diseases, etc., and publications relating thereto, is now covered by section 241 of this title.

Section 8, acts July 1, 1902, ch. 1370, § 4, 32 Stat. 713; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the use of the Service in time of war, is now covered by section 217 of this title.

Section 8a, act Apr. 9, 1930, ch. 125, § 2(a), 46 Stat. 150, which provided for the extension of the facilities of the Service to health officials and scientists, is now covered by section 241 of this title.

Section 9, act Oct. 1, 1918, ch. 179, § 2, 40 Stat. 1008, which provided for the suppression of Spanish influenza and other communicable diseases, is now covered by section 264 of this title.

Section 9a, act Apr. 9, 1930, ch. 125, § 3, 46 Stat. 150, which provided that the administrative office and bureau divisions in the District of Columbia be a part of the departmental organization and the scientific offices and research laboratories as part of the field services, is now covered by section 203 of this title.

Section 10, acts Mar. 3, 1875, ch. 130, § 1, 18 Stat. 377; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the appointment of the Surgeon General, is now covered by section 205 of this title.

Section 11, R.S. § 4802; acts July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the supervisory powers of the Surgeon General, is now covered by section 203 of this title.

Section 11a, act Apr. 9, 1930, ch. 125, § 10(b), 46 Stat. 152, which provided for the pay and allowances of the Surgeon General and for reversion in grade on expiration of term, is now covered by sections 205 and 207 of this title.

Section 11b, act Aug. 9, 1939, ch. 606, 53 Stat. 1266, which provided for the rank and pay of the Assistant to the Surgeon General, is now covered by sections 206 and 207 of this title.

Section 12, acts Jan. 4, 1889, ch. 19, § 1, 25 Stat. 639; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for appointment of medical officers after examination, is now covered by section 209 of this title.

Section 13, act Jan. 4, 1889, ch. 19, § 2, 25 Stat. 639, which provided for original appointments as assistant surgeons and promotion of passed assistant surgeon, is now covered by sections 209 and 211 of this title.

Section 14, act Aug. 14, 1912, ch. 288, § 2, 37 Stat. 309, provided for help as provided by Congress, is now covered by section 209 of this title.

Section 15, acts Mar. 3, 1891, ch. 541, § 1, 26 Stat. 923; July 31, 1894, ch. 174, § 1, 28 Stat. 179; July 1, 1902, ch. 1370, § 1, 32 Stat. 712, which provided for details for duty in the bureau, is now covered by section 215 of this title.

Section 15a, acts Mar. 2, 1895, ch. 177, § 1, 28 Stat. 780; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the detail of two hospital attendants for duty in the laboratory, is now provided for in section 215 of this title.

RENUMBERING AND REPEAL OF REPEALING ACT

Section 1313, formerly 611, of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b). Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2). Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 16. Omitted

CODIFICATION

Section, which was from the Interior Department Appropriation Act, 1950, act Oct. 12, 1949, ch. 680, title I, 63 Stat. 791, was omitted as not repeated in the General Appropriation Act, 1951, act Sept. 6, 1950, ch. 896, 64 Stat. 595. It related to detail of Public Health medical officers to the Bureau of Mines. Provisions for details to executive departments are now covered by section 215 of this title.

REPEALS

Act July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91-

572, § 6(b), 84 Stat. 1506; May 16, 1972, Pub. L. 92-294, § 3(b), 86 Stat. 137; Nov. 16, 1973, Pub. L. 93-154, § 2(b)(2), 87 Stat. 604, and repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936, repealed portions of Appropriations Acts June 12, 1917, ch. 27, § 1, 40 Stat. 146; May 24, 1922, ch. 199, 42 Stat. 588; Jan. 24, 1923, ch. 42, 42 Stat. 1210; June 5, 1924, ch. 264, 43 Stat. 422; Mar. 3, 1925, ch. 462, 43 Stat. 1175, which contained similar provisions to those of this section, but later appropriation acts containing such provisions were not repealed.

SIMILAR PROVISIONS

Similar provisions were contained in the following acts:

June 29, 1948, ch. 754, § 1, 62 Stat. 1139.
July 25, 1947, ch. 337, § 1, 61 Stat. 483.
July 1, 1946, ch. 529, § 1, 60 Stat. 375.
July 3, 1945, ch. 262, § 1, 59 Stat. 351.
June 28, 1944, ch. 298, § 1, 58 Stat. 499.
July 12, 1943, ch. 219, § 1, 57 Stat. 485.
July 2, 1942, ch. 473, § 1, 56 Stat. 548.
June 28, 1941, ch. 259, § 1, 55 Stat. 345.
June 18, 1940, ch. 395, § 1, 54 Stat. 444.
May 10, 1939, ch. 119, § 1, 53 Stat. 725.
May 9, 1938, ch. 187, § 1, 52 Stat. 330.
Aug. 9, 1937, ch. 570, § 1, 50 Stat. 602.
June 22, 1936, ch. 691, § 1, 49 Stat. 1791.
May 9, 1935, ch. 101, § 1, 49 Stat. 205.
Apr. 7, 1934, ch. 104, title III, 48 Stat. 564.
Mar. 1, 1933, ch. 144, title III, 47 Stat. 1406.
July 1, 1932, ch. 361, title III, 47 Stat. 516.
Feb. 23, 1931, ch. 280, title III, 46 Stat. 1349.
Apr. 18, 1930, ch. 184, title III, 46 Stat. 212.
Jan. 25, 1929, ch. 102, title III, 45 Stat. 1133.
Feb. 15, 1928, ch. 57, title III, 45 Stat. 103.
Feb. 24, 1927, ch. 189, title III, 44 Stat. 1219.
Apr. 29, 1926, ch. 195, title III, 44 Stat. 368.
Jan. 24, 1923, ch. 42, 42 Stat. 1210.
Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1401.
June 5, 1920, ch. 235, § 1, 41 Stat. 911.
July 19, 1919, ch. 24, § 1, 41 Stat. 199.
July 1, 1918, ch. 113, § 1, 40 Stat. 671.

§§ 17 to 25e. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 17, act Oct. 1, 1918, ch. 178, 40 Stat. 992, which provided for a detail for duty with the Department of Agriculture, is now covered by section 215 of this title.

Section 17a, act Apr. 9, 1930, ch. 125, § 1, 46 Stat. 150, which provided for a detail for duty with executive and independent departments carrying on public health activities, is now covered by section 215 of this title.

Section 17b, act Apr. 9, 1930, ch. 125, § 2(a), 46 Stat. 150, which provided for a detail for duty with educational and research institutions, is now covered by section 215 of this title.

Section 17c, act Apr. 26, 1939, ch. 92, § 1, 53 Stat. 620, which provided for a detail for duty on vessels of Coast and Geodetic Survey, is now covered by section 215 of this title.

Section 18, act Oct. 27, 1918, ch. 196, 40 Stat. 1017, which provided for a Reserve of the Public Health Service, is now covered by sections 204, 207, 209, and 210 of this title.

Section 18a, act Apr. 9, 1930, ch. 125, § 6, 46 Stat. 151, which provided for the assignment of Reserve officers to active duty and for such service counting for promotion credits, is now covered by section 204 of this title.

Section 18b, act Mar. 18, 1943, ch. 17, title I, § 1, 57 Stat. 24, which provided for the distribution of Reserve officers among the several grades, is now covered by section 209 of this title.

Section 19, acts Feb. 19, 1897, ch. 265, § 1, 29 Stat. 554; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for leaves of absence for medical officers, is now covered by section 210-1 of this title.

Section 20, act July 9, 1917, ch. 37, 40 Stat. 242, which provided for pensions to officers detailed for service with Coast Guard, Army, or Navy, is now covered by section 213 of this title.

Section 21, § § acts July 1, 1902, ch. 1370, § 5, 32 Stat. 713; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309; Apr. 9, 1930, ch. 125, § 13, 46 Stat. 152; May 26, 1930, ch. 320, § 1, 46 Stat. 379, which provided for the establishment of the National Advisory Health Council as an advisory board for the National Institute of Health, is now covered by section 218 of this title.

Section 21a, act Aug. 10, 1939, ch. 636, 53 Stat. 1338, which provided for the compensation of the National Advisory Health Council, is now covered by section 210 of this title.

Section 22, acts July 1, 1902, ch. 1370, § 6, 32 Stat. 713; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309; May 26, 1930, ch. 320, § 1, 46 Stat. 379, which provided for the appointment of chiefs of divisions and the director of the institute, and their pay and allowances, is now covered by sections 206 and 210 of this title.

Section 23, act Mar. 4, 1913, ch. 149, § 1, 37 Stat. 915, which provided for the pay of the director of the Hygienic Laboratory which is now known as the National Institute of Health, is covered by section 210 of this title.

Section 23a, act May 26, 1930, ch. 320, § 1, 46 Stat. 379, provided that the Hygienic Laboratory should be succeeded by the National Institute of Health and that all laws, authorizations, and appropriations of the Hygienic Laboratory should become applicable to its successor.

Section 23b, act May 26, 1930, ch. 320, § 2, 46 Stat. 379, which provided for the acceptance of gifts by the Federal Security Administrator, is now covered by section 219 of this title.

Section 23c, act May 26, 1930, ch. 320, § 3, 46 Stat. 380, which provided for detailing to duty of scientists receiving fellowships, is now covered by sections 209 and 241 of this title.

Section 23d, act May 26, 1930, ch. 320, § 4, 46 Stat. 380, which provided for appointment and compensation of personnel of the National Institute of Health, is now covered by section 209 of this title.

Section 23e, act May 26, 1930, ch. 320, § 5, 46 Stat. 380, which provided that the facilities of the National Institute of Health be available to States, counties, and municipalities, is now covered by section 241 of this title.

Section 23f, act May 26, 1930, ch. 320, § 6, 46 Stat. 380, which provided for the rank, pay, and allowances of the Director of the Institute, is now covered by sections 206, 207, and 210 of this title.

Section 23g, acts Apr. 9, 1930, ch. 125, § 2(b), 46 Stat. 150; May 26, 1930, ch. 320, § 1, 46 Stat. 379, which provided for additional divisions in the Institute as authorized by the Administrator, is now covered by section 203 of this title.

Section 24, act July 9, 1918, ch. 143, ch. XV, § 3, 40 Stat. 886, provided for the establishment of a Division of Venereal Diseases.

Section 25, act July 9, 1918, ch. 143, ch. XV, § 4, 40 Stat. 886, provided for the duties of the Division of Venereal Diseases.

Section 25a, act July 9, 1918, ch. 143, ch. XV, § 4a, as added May 24, 1938, ch. 267, 52 Stat. 439, which provided for appropriations to assist political subdivisions in venereal disease work, is now covered by sections 241 and 246 of this title.

Section 25b, act July 9, 1918, ch. 143, ch. XV, § 4b, as added May 24, 1938, ch. 267, 52 Stat. 439, which provided for allotments to political subdivisions for venereal disease work, is now covered by section 246 of this title.

Section 25c, act July 9, 1918, ch. 143, ch. XV, § 4c, as added May 24, 1938, ch. 267, 52 Stat. 439, which provided for payments from allotments to political subdivisions, is now covered by section 246 of this title.

Section 25d, act July 9, 1918, ch. 143, ch. XV, § 4d, as added May 24, 1938, ch. 267, 52 Stat. 439, which provided for rules and regulations governing the Division

of Venereal Diseases, is now covered by section 216 of this title.

Section 25e, act July 9, 1918, ch. 143, ch. XV, § 4e, as added May 24, 1938, ch. 267, 52 Stat. 439, provided for the construction of sections 25a to 25e of this title.

Renumbering and Repeal of Repealing Act

Section 1313, formerly 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2). Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 26. Isolation of civilians for protection of military, air and naval forces

The Secretary of the Army, the Secretary of the Air Force and the Secretary of the Navy are authorized and directed to adopt measures for the purpose of assisting the various States in caring for civilian persons whose detention, isolation, quarantine, or commitment to institutions may be found necessary for the protection of the military, air and naval forces of the United States against venereal diseases.

(July 9, 1918, ch. 143, ch. XV, § 2, 40 Stat. 886.)

Codification

The Secretary of the Air Force was inserted under the authority of section 207(a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, and Secretary of Defense Transfer Order No. 40 [App. A(73)], July 22, 1949. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947. Sections 205(a) and 207 (a), (f) of act July 26, 1947, were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 and 8010 to 8013 continued the Departments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

Transfer of Functions

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force from the Secretary of the Army, see Secretary of Defense Transfer Order No. 40 [App. A(73)], July 22, 1949.

Section Referred to in Other Sections

This section is referred to in section 27 of this title.

§ 27. Definitions

The terms "State" and "States," as used in this chapter, shall be held to include the District of Columbia.

(July 9, 1918, ch. 143, ch. XV, § 8, 40 Stat. 887.)

References in Text

This chapter, referred to in text, means chapter XV of act July 9, 1918, ch. 143, 40 Stat. 887, which, insofar as classified to the Code, enacted sections 24 to 27 of this title and amended section 28 of this title. For complete classification of this Act to the Code, see Tables volume.

§§ 28 to 43. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 28, acts July 1, 1902, ch. 1370, § 3, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309; July 9, 1918, ch. 143, ch. XV, § 3, 40 Stat. 886, which provided divisions under Assistant Surgeons General and the rank, pay, and allowances of said Assistants, is now covered by sections 206, 207, and 210 of this title.

Section 28a, act Apr. 9, 1930, ch. 125, § 10(c), 46 Stat. 152, which provided for a chief of the narcotics division, is now covered by section 206 of this title.

Section 29, acts July 1, 1902, ch. 1370, § 7, 32 Stat. 713; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for conferences with State and Territorial boards of health, is now covered by section 242n of this title.

Section 30, acts July 1, 1902, ch. 1370, § 8, 32 Stat. 714; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the compilation of mortality, morbidity, and vital statistics, is now covered by section 242k(g) of this title.

Section 31, act June 5, 1920, ch. 235, § 1, 41 Stat. 883, which provided that officers of the Service could make allotments of their pay, is now covered by section 704 of Title 37, Pay and Allowances of the Uniformed Services.

Section 32, act Mar. 6, 1920, ch. 94, § 1, 41 Stat. 507, which provided for the purchase of quartermaster supplies by officers of the Service, is now covered by section 210 of this title.

Section 33, act Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1378, which provided for limitations on the expenditure of appropriations, is now covered by section 227 of this title.

Section 33a, act May 14, 1935, ch. 110, 49 Stat. 229, which provided for the covering into the Treasury moneys collected for treatment of foreign seamen and other pay patients, is now covered by section 221 of this title.

Section 34, acts July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 2, 37 Stat. 309; Apr. 9, 1930, ch. 125, § 10(a), 46 Stat. 152, which provided for titles for officers of the Service, is now covered by section 207 of this title.

Section 35, act Apr. 9, 1930, ch. 125, § 10(a), 46 Stat. 152, which provided titles for officers other than medical officers of the Service, is now covered by section 207 of this title.

Section 36, act Apr. 9, 1930, ch. 125, § 10(a), 46 Stat. 152, which provided titles for officers in the grade of Assistant Surgeons General, is now covered by section 206 of this title.

Section 37, acts Apr. 9, 1930, ch. 125, § 9, 46 Stat. 151; Nov. 11, 1943, ch. 298, § 7, 57 Stat. 588, which provided for promotions, pay and allowances, and severance from Service of commissioned officers is now covered by sections 209 et seq. of this title.

Section 38, act Apr. 9, 1930, ch. 125, § 4, 46 Stat. 150, which provided for the appointment and grades of medical, dental, sanitary engineer, and pharmacist officers, is now covered by section 209 of this title.

Section 39, Apr. 9, 1930, ch. 125, § 5, 46 Stat. 150, which provided for the number, pay and allowances, and service credits for pay purposes of medical, dental, sanitary engineer, and pharmacist officers, is now covered by sections 209 et seq. of this title.

Section 40, act Apr. 9, 1930, ch. 125, § 11, 46 Stat. 152, which provided for the appointment and qualifications of employees other than commissioned officers, is now covered by section 209 of this title.

Section 41, act Apr. 9, 1930, ch. 125, § 7, 46 Stat. 151, which provided for the appointment of persons other than commissioned officers for scientific research, is now covered by section 209 of this title.

Section 42, act Apr. 9, 1930, ch. 125, § 12, 46 Stat. 152, which provided for medical and hospital services to officers disabled by sickness or injury, is now covered by sections 213 and 248 of this title.

Section 43, act Mar. 3, 1919, ch. 98, § 3, 40 Stat. 1303, related to the transfer of property and equipment to

the Service. Act Mar. 4, 1921, ch. 156, 41 Stat. 1365, formerly cited to section 43, was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

RENUMBERING AND REPEAL OF REPEALING ACT

Section 1313, formerly 611, of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§§ 44, 45. Repealed. Oct. 31, 1951, ch. 654, § 1(45), 65 Stat. 703

Section 44, act Mar. 15, 1920, ch. 100, § 1, 41 Stat. 530; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424, related to transfer of surplus motor-propelled vehicles in the War Department (now Department of the Army) to the Federal Security Agency for the use of the Public Health Service and is now covered by section 483 of Title 40, Public Buildings, Property, and Works.

Section 45, act Mar. 15, 1920, ch. 100, § 4, 41 Stat. 531; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424, related to freight charges for the transfer of motor-propelled vehicles in the War Department (now Department of the Army) to the Federal Security Agency for the use of the Public Health Service and is now covered by section 484 of title 40.

§ 46. Omitted

CODIFICATION

Section, which related to relocation of physicians and dentists, was from the First Supplemental National Defense Appropriation Act, 1944, act Dec. 23, 1943, ch. 380, title I, § 101, 57 Stat. 617, and was not repeated in subsequent appropriation acts.

SUBCHAPTER II—PAY

CROSS REFERENCES

Pay and allowances generally, see Title 37, Pay and Allowances of the Uniformed Services.

§ 61. Omitted

CODIFICATION

Section, acts Jan. 22, 1925, ch. 87, title I, 43 Stat. 774; Mar. 2, 1926, ch. 43, title I, § 1, 44 Stat. 147, related to travel expenses for travel on Government owned vessels and was superseded by section 404 et seq. of Title 37, Pay and Allowances of the Uniformed Services.

§ 62. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, act May 18, 1920, ch. 190, § 11 (proviso), 41 Stat. 604, related to longevity pay and credit for service in other branches. Similar provisions are now contained in section 517 of Title 10, Armed Forces, and sections 201, and 203 to 205 of Title 37, Pay and Allowances of the Uniformed Services.

§ 63. Omitted

CODIFICATION

Section, acts May 28, 1924, ch. 203, 43 Stat. 194; Feb. 11, 1925, ch. 209, 43 Stat. 872; May 21, 1926, ch. 355, 44 Stat. 604, which related to time spent at the Military and Naval Academies, expired with the appropriation acts of which it was a part.

§ 64. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, act May 18, 1920, ch. 190, § 12, 41 Stat. 604, related to transportation of dependents. See sections 404 to 407 and 409 to 411 of Title 37, Pay and Allowances of the Uniformed Services.

§§ 64a to 64c. Omitted

CODIFICATION

Section 64a, act Feb. 21, 1929, ch. 288, 45 Stat. 1254, defined child and children as used in section 64 of this title, and was superseded by section 401 of Title 37, Pay and Allowances of the Uniformed Services.

Section 64b, act June 24, 1935, ch. 291, § 3, 49 Stat. 421, defined permanent change in station as used in section 64 of this title and was superseded by section 411 of Title 37.

Provisions of section 64c, which related to use of government automobiles to transport school children at isolated stations, were enacted as permanent legislation by the 1948 amendment to section 227 of this title. Section 64c was based upon the following appropriation acts:

June 14, 1948, ch. 465, title II, § 201, 62 Stat. 400.
July 8, 1947, ch. 210, title II, § 201, 61 Stat. 267.
July 26, 1946, ch. 672, title II, § 201, 60 Stat. 690.
July 3, 1945, ch. 263, title II, § 201, 59 Stat. 368.
June 28, 1944, ch. 302, title II, § 201, 58 Stat. 559.
July 12, 1943, ch. 221, title II, § 201, 57 Stat. 507.
July 2, 1942, ch. 475, title II, § 201, 56 Stat. 582.
July 1, 1941, ch. 269, title II, § 201, 55 Stat. 483.
June 26, 1940, ch. 428, title II, § 201, 54 Stat. 587.

§ 65. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, acts Mar. 2, 1923, ch. 178, title I, 42 Stat. 1385; Aug. 4, 1949, ch. 393, § 11, 63 Stat. 559, prohibited the issuance of heat or light in kind to any person in the Public Health Service while such person is receiving an allowance for rental of quarters.

§§ 66 to 69. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 66, act Apr. 9, 1930, ch. 125, § 8, 46 Stat. 151, which provided for disability pay for commissioned officers, is now covered by section 212 of this title.

Section 67, act May 14, 1937, ch. 180, title I, § 1, 50 Stat. 148, which provided for compensation of field employees rendering part-time and call services, is now covered by section 210 of this title.

Section 68, acts June 26, 1940, ch. 428, title II, 54 Stat. 584; July 1, 1941, ch. 269, title II, 55 Stat. 480, which provided transportation funds for shipment of deceased officers, is now covered by section 224 of this title.

Section 69, acts May 27, 1908, ch. 200, § 1, 35 Stat. 373; May 13, 1938, ch. 213, 52 Stat. 352; Oct. 28, 1943, ch. 289, 57 Stat. 583, provided for the settlement of accounts of deceased officers and men. See section 2771 of Title 10, Armed Forces.

RENUMBERING AND REPEAL OF REPEALING ACT

Section 1313, formerly 611, of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b). Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294. § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2). Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 70. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 655

Section, act June 30, 1949, ch. 286, title I, 63 Stat. 365, provided for a per diem allowance of officers detailed to the Coast Guard.

Acts June 26, 1943, ch. 147, title I, 57 Stat. 210; Mar. 31, 1943, ch. 30, § 1, 57 Stat. 55; June 22, 1944, ch. 269, title I, 58 Stat. 315; May 29, 1945, ch. 130, 59 Stat. 216; July 12, 1946, ch. 569, § 1, 60 Stat. 530; July 1, 1947, ch. 186, title I, 61 Stat. 225; June 19, 1948, ch. 558, title I, 62 Stat. 562, which contained provisions similar to section 70 of this title, were repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 651-654.

§ 70a. Repealed. Dec. 28, 1945, ch. 597, § 4, 59 Stat. 662

Section, act Oct. 27, 1943, ch. 287, § 6, 57 Stat. 583, provided for reimbursement for property lost or destroyed in service while serving with the Navy.

CHAPTER 1A—THE PUBLIC HEALTH SERVICE; SUPPLEMENTAL PROVISIONS

§§ 71 to 71*l*. Transferred

CODIFICATION

Section 71, act Apr. 9, 1930, ch. 125, § 1, 46 Stat. 150, which provided for a detail for duty with executive and independent departments carrying on public health activities, was transferred to section 17a of this title.

Section 71a, act Apr. 9, 1930, ch. 125, § 2(a), 46 Stat. 150, which provided for a detail for duty with educational and research institutions, was transferred to section 17b of this title.

Section 71b, act Apr. 9, 1930, ch. 125, § 2(a), 46 Stat. 150, which provided for the extension of the facilities of the Service to health officials and scientist, was transferred to section 8a of this title.

Section 71c, acts Apr. 9, 1930, ch. 125, § 2(b), 46 Stat. 150; May 26, 1930, ch. 320, § 1, 46 Stat. 379, which provided for additional divisions in the Institute as authorized by the Federal Security Administrator, was transferred to section 23g of this title.

Section 71d, act Apr. 9, 1930, ch. 125, § 3, 46 Stat. 150, which provided that the administrative office and bureau divisions in the District of Columbia be a part of the departmental organization and the scientific offices and research laboratories be a part of the field service, was transferred to section 9a of this title.

Section 71e, act Apr. 9, 1930, ch. 125, § 4, 46 Stat. 150, which provided for the appointment and grades of medical, dental, sanitary, engineer, and pharmacist officers, was transferred to section 38 of this title.

Section 71f, act Apr. 9, 1930, ch. 125, § 5, 46 Stat. 150, which provided for the number, pay and allowances, and service credits for pay purposes of medical, dental, sanitary, engineer, and pharmacist officers, was transferred to section 39 of this title.

Section 71g, act Apr. 9, 1930, ch. 125, § 6, 46 Stat. 151, which provided for the assignment of Reserve officers to active duty and for such service counting for promotion credits, was transferred to section 18a of this title.

Section 71h, act Apr. 9, 1930, ch. 125, § 7, 46 Stat. 151, which provided for the appointment of persons other than commissioned officers for scientific research, was transferred to section 41 of this title.

Section 71i, act Apr. 9, 1930, ch. 125, § 8, 46 Stat. 151, which provided for disability pay for commissioned officers, was transferred to section 66 of this title.

Section 71j, act Apr. 9, 1930, ch. 125, § 9, 46 Stat. 151, which provided for promotions and pay and allowances of commissioned officers, was transferred to section 37 of this title.

Section 71k, act Apr. 9, 1930, ch. 125, § 10(a), 46 Stat. 152, which provided titles for officers other than medical officers of the Service, was transferred to section 35 of this title.

Section 71*l*, act Apr. 9, 1930, ch. 125, § 10(a), 46 Stat. 152, which provided titles for officers in the grade of Assistant Surgeon General, was transferred to section 36 of this title.

§ 71m. Omitted

CODIFICATION

Section, act Apr. 9, 1930, ch. 125, § 10(a), 46 Stat. 152, which provided for the repeal of the limitation upon the number of senior surgeons and Assistant Surgeons General at large of the Public Health Service on active duty, was omitted as executed to section 34 of this title.

§§ 71n to 71q. Transferred

CODIFICATION

Section 71n, act Apr. 9, 1930, ch. 125, § 10(b), 46 Stat. 152, which provided for the pay and allowances of the Surgeon General and for reversion in grade on expiration of term, was transferred to section 11a of this title.

Section 71o, act Apr. 9, 1930, ch. 125, § 10(c), 46 Stat. 152, which provided for a Chief of the Narcotics Division, was transferred to section 28a of this title.

Section 71p, act Aug. 9, 1930, ch. 125, § 11, 46 Stat. 152, which provided for the appointment and qualifications of employees other than commissioned officers, was transferred to section 40 of this title.

Section 71q, act Apr. 9, 1930, ch. 125, § 12, 46 Stat. 152, which provided for medical and hospital services to officers disabled by sickness or injury, was transferred to section 42 of this title.

§ 71r. Omitted

CODIFICATION

Section, acts Apr. 9, 1930, ch. 125, § 13, 46 Stat. 152; May 26, 1930, ch. 320, § 1, 46 Stat. 379, which changed the name of the Advisory board for National Institute of Health to the National Advisory Health Council and provided for appointment of additional members and the terms of service, compensation, and allowances for such additional members and an additional function for the Council, was omitted as executed to section 21 of this title.

CHAPTER 2—SANITATION AND QUARANTINE

Sec.
81 to 87. Repealed.
88. Discharge of cargo of vessel in quarantine.
89. Quarantine warehouses; erection.
90. Same; deposit of goods.
91. Extending time for entry of vessels subject to quarantine.
92 to 96. Repealed.
97. State health laws observed by United States officers.
98. Vessels for quarantine officers.
99 to 111. Repealed.
112. Removal of revenue officers from port during epidemic.
113, 114. Repealed.

§§ 81 to 87. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 81, act Feb. 15, 1893, ch. 114, § 1, 27 Stat. 449, which provided penalties for the entry of vessels in violation of quarantine laws, is now covered by section 271 of this title.

Section 82, acts Feb. 15, 1893, ch. 114, § 2, 27 Stat. 450; Aug. 18, 1894, ch. 300, 28 Stat. 372; Feb. 27, 1921, ch. 80, 41 Stat. 1149; Feb. 7, 1925, ch. 146, 43 Stat. 809; July 10, 1940, ch. 566, 54 Stat. 747, which provided for bills of health, is now covered by section 269 of this title.

Section 82a, act Feb. 15, 1893, ch. 114, § 13, as added Mar. 3, 1931, ch. 409, § 1, 46 Stat. 1491, which provided for duplicate bills of health, is now covered by section 269 of this title.

Section 83, act Feb. 15, 1893, ch. 114, § 11, as added Mar. 3, 1901, ch. 836, 31 Stat. 1087, provided that vessels from foreign ports without bill of health not entering the United States were subject to quarantine regulations.

Section 84, act Feb. 15, 1893, ch. 114, § 6, 27 Stat. 452, provided for the disposition of infected vessels.

Section 85, act June 19, 1906, ch. 3433, § 4, 34 Stat. 300, which provided penalties for infractions of quarantine, is now covered by section 271 of this title.

Section 86, act Apr. 29, 1878, ch. 66 § 1, 20 Stat. 37, prohibited entry of vessels and vehicles contrary to state quarantine laws. Provisions concerning quarantine are now contained in sections 264 to 272 of this title. Compliance with state laws, see section 97 of this title.

Section 87, act Apr. 17, 1917, ch. 3, § 1, 40 Stat. 6, provided for the payment of cost of fumigation and disinfection of foreign vessels.

RENUMBERING AND REPEAL OF REPEALING ACT

Section 1313, formerly 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 88. Discharge of cargo of vessel in quarantine

Whenever, by the health laws of any State, or by the regulations made pursuant thereto, any vessel arriving within a collection district of such State is prohibited from coming to the port of entry by law established for such district, and such health laws require or permit the cargo of the vessel to be unladen at some other place within or near to such district, the collector, after due report to him of the whole of such cargo, may grant his warrant or permit for the unlading and discharge thereof, under the care of the surveyor, or of one or more inspectors, at some other place where such health laws permit, and upon the conditions and restrictions which shall be directed by the Secretary of Health, Education, and Welfare, or which such collector may, for the time, deem expedient for the security of the public revenue.

(R.S. § 4793; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

Words "or delivery" following "port of entry" which were included in this section as originally enacted were omitted as ports of delivery were abolished pursuant to the President's Message to Congress on Mar. 3, 1913, set out in the Codification note under section 1 of Title 19, Customs Duties.

R.S. § 4793 is from act Feb. 23, 1799, ch. 12, § 2, 1 Stat. 619.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of the Department of Treasury relating to public health were transferred to the Federal Security Agency pursuant to Reorg. Plan No. I of 1939, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Quarantine stations, see section 267 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 90, 91, 97 of this title.

§ 89. Quarantine warehouses; erection

There shall be purchased or erected, under the orders of the President, suitable warehouses, with wharves and inclosures, where merchandise may be unladen and deposited, from any vessel which shall be subject to a quarantine, or other restraint, pursuant to the health laws of any State, at such convenient places therein as the safety of the public revenue and the observance of such health laws may require.

(R.S. § 4794.)

CODIFICATION

R.S. § 4794 is from act Feb. 23, 1799, ch. 12, § 3, 1 Stat. 620.

CROSS REFERENCES

Establishment and management of quarantine stations, grounds and anchorages, see section 267 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 90, 97 of this title.

§ 90. Deposit of goods in warehouses

Whenever the cargo of a vessel is unladen at some other place than the port of entry under sections 88 and 89 of this title, all the articles of such cargo shall be deposited, at the risk of the parties concerned therein, in such public or other warehouses or inclosures as the collector shall designate, there to remain under the joint custody of such collector and of the owner, or master, or other person having charge of such vessel, until the same are entirely unladen or discharged, and until the articles so deposited may be safely removed without contravening such health laws. And when such removal is allowed, the collector having charge of such articles may grant permits to the respective owners or consignees, their factors or agents, to receive all merchandise which has been entered, and the duties accruing upon which have been paid, upon the payment by them of a reasonable rate of storage; which shall be fixed by the Secretary of Health, Education, and Welfare for all public warehouses and inclosures.

(R.S. § 4795; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

R.S. § 4795 is from act Feb. 23, 1799, ch. 12, § 2, 1 Stat. 619.

Omission of words "or delivery" following "port of entry", see Codification note under section 88 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of the Department of Treasury relating to public health were transferred to the Federal Security Agency pursuant to Reorg. Plan No. I of 1939, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 91, 97 of this title.

§ 91. Extending time for entry of vessels subject to quarantine

The Secretary of Health, Education, and Welfare is authorized, whenever a conformity to such quarantines and health laws requires it, and in respect to vessels subject thereto, to prolong the terms limited for the entry of the same, and the report or entry of their cargoes, and to vary or dispense with any other regulations applicable to such reports or entries. No part of the cargo of any vessel shall, however, in any case, be taken out or unladen therefrom, otherwise than is allowed by law, or according to the regulations established by sections 88 and 90 of this title.

(R.S. § 4796; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

R.S. § 4796 is from act Feb. 23, 1799, ch. 12, § 1, 1 Stat. 619.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of the Department of Treasury relating to public health were transferred to the Federal Security Agency pursuant to Reorg. Plan No. I of 1939, set out in the Appendix to Title 5, Government Organization and Employees.

§§ 92 to 96. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 92, acts Feb. 15, 1893, ch. 114, § 3, 27 Stat. 450; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the enforcement of quarantine regulations, is now covered by sections 264 to 267 of this title.

Section 92a, acts Apr. 29, 1878, ch. 66, § 5, 20 Stat. 38; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, § 1, 37 Stat. 309, which provided for a national quarantine system, is now covered by sections 264 to 267 of this title.

Section 93, acts Feb. 15, 1893, ch. 114, § 4, 27 Stat. 451; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the duties of the Surgeon General relating to quarantine, is now covered by sections 264 to 270 of this title.

Section 94, act Feb. 15, 1893, ch. 114, § 5, 27 Stat. 451, which provided for regulations to secure sanitary conditions of vessels, is now covered by section 269 of this title.

Section 94a, act Feb. 15, 1893, ch. 114, § 14, as added Mar. 3, 1931, ch. 409, § 1, 46 Stat. 1492, which provided for hours of inspection at quarantine stations, is now covered by section 267 of this title.

Section 94b, act Feb. 15, 1893, ch. 114, § 16, as added Mar. 3, 1931, ch. 409, § 1, 46 Stat. 1492, which provided for the schedule of charges and payment of them, is now covered by section 269 of this title.

Section 94c, act Feb. 15, 1893, ch. 114, § 15, as added Mar. 3, 1931, ch. 409, § 1, 46 Stat. 1492, which provided for the procurement of health certificates, is now covered by section 269 of this title.

Section 94d, act Feb. 15, 1893, ch. 114, § 17, as added Mar. 3, 1931, ch. 409, § 1, 46 Stat. 1492, which provided medical and hospital benefits to officers and employees of the national quarantine service, is now covered by section 253 of this title.

Section 94e, act Mar. 3, 1931, ch. 409, § 3, 46 Stat. 1492, which provided for extended quarantine service, is now covered by section 267 of this title.

Section 95, acts Mar. 27, 1890, ch. 51, § 1, 26 Stat. 31; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which related to regulations to prevent spread of communicable diseases, is now covered by section 264 of this title.

Section 96, act June 19, 1906, ch. 3433, § 6, 34 Stat. 301, provided that jurisdiction over established station acquired by the United States be ceded before payment of compensation.

RENUMBERING AND REPEAL OF REPEALING ACT

Section 1313, formerly 611, of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 97. State health laws observed by United States officers

The quarantines and other restraints established by the health laws of any State, respecting any vessels arriving in, or bound to, any port or district thereof, shall be duly observed by the officers of the customs revenue of the United States, by the masters and crews of the several Coast Guard cutters, and by the military officers commanding in any fort or station upon the seacoast; and all such officers of the United States shall faithfully aid in the execution of such quarantines and health laws, according to their respective powers and within their respective precincts, and as they shall be directed, from time to time, by the Secretary of Health, Education, and Welfare. But nothing in sections 88 to 91, 97, and 112 to 114 of this title and section 73 of title 4 shall enable any State to collect a duty of tonnage or impost without the consent of Congress.

(R.S. § 4792; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953

Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

REFERENCES IN TEXT

Sections 113 and 114, included in the references in text to sections 88 to 91, 97, and 112 to 114 of this title, were repealed by act June 25, 1948, ch. 646, §§ 21, 39, 62 Stat. 862, 992.

CODIFICATION

R.S. § 4792 is from act Feb. 23, 1799, ch. 12, § 1, 1 Stat. 619.

"Coast Guard vessel" was substituted for "revenue cutter" on authority of act Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800. That act was repealed by act Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561, section 1 of which reestablished the Coast Guard by enacting Title 14, Coast Guard.

"Sections 88 to 91, 97, and 112 to 114 of this title and section 73 of title 4" was substituted for "this Title", meaning Title LVIII of the Revised Statutes, which consisted of sections 4792 to 4800. Section 4798 of the Revised Statutes had been classified to section 8 of former Title 4, Flag and Seal, Seat of Government, and the States, the provisions of which were reenacted as section 73 of title 4 upon the revision and enactment of Title 4 by act July 30, 1947, ch. 389, § 1, 61 Stat. 641.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Such Plan provided that, notwithstanding such transfer of functions, the Coast Guard shall continue to operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in sections 1 and 3 of Title 14, Coast Guard.

Functions of the Department of Treasury relating to public health were transferred to the Federal Security Agency pursuant to Reorg. Plan No. I of 1939, set out in the Appendix to Title 5.

§ 98. Vessels for quarantine officers

The Secretary of the Navy is authorized, in his discretion, at the request of the Secretary of Health, Education, and Welfare, to place gratuitously, at the disposal of the proper quarantine authorities, at any of the ports of the United States, to be used temporarily for quarantine purposes, such vessels or hulks belonging to the United States as are not required for other uses of the National Government, subject to such restrictions and regulations as the Secretary of the Navy may deem necessary to impose for the preservation thereof.

(June 14, 1879, No. 6, 21 Stat. 50; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

REPEALS

Act Feb. 15, 1893, ch. 114, 27 Stat. 449, which was formerly set out in the credit to this section and which abolished the National Board of Health and placed all duties relating to quarantines and quarantine regulations with the Marine Hospital Service, was repealed by act July 1, 1944, ch. 373, title XIII, § 1313, formerly 611, 58 Stat. 714, renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b), Dec 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

The Public Health Service and its functions and personnel were transferred from the Department of Treasury to the Federal Security Agency pursuant to Reorg. Plan No. I of 1939, set out in the Appendix to Title 5, Government Organization and Employees.

The Marine Hospital Service was redesignated the Public Health and Marine Hospital Service by act July 1, 1902, ch. 1370, § 1, 32 Stat. 712, which in turn was redesignated the Public Health Service by act Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309.

§§ 99 to 108. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 99, act Feb. 15, 1893, ch. 114, § 12, as added Mar. 3, 1901, ch. 836, 31 Stat. 1087, which provided medical officers performing duties as quarantine officers with authority to administer oaths, is now covered by section 272 of this title.

Section 100, act Feb. 15, 1893, ch. 114, § 8, 27 Stat. 452, provided compensation for use of State buildings for quarantine purposes.

Section 101, act June 19, 1906, ch. 3433, § 5, 34 Stat. 301, which provided for the acquisition of quarantine stations, is now covered by section 267 of this title.

Section 102, act Feb. 15, 1893, ch. 114, § 10, as added Mar. 3, 1901, ch. 836, 31 Stat. 1086, and amended July 1, 1902, ch. 1370, § 1, 32 Stat. 712, which provided for the establishment of quarantine grounds, now covered by sections 267 and 271 of this title.

Section 103, act June 19, 1906, ch. 3433, § 1, 34 Stat. 299, which provided for the control and management of quarantine grounds, is now covered by section 267 of this title.

Section 104, acts June 19, 1906, ch. 3433, § 2, 34 Stat. 299; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, provided for the transferral of title of land and water from other departments to the Service for its use.

Section 105, act June 19, 1906, ch. 3433, § 3, 34 Stat. 300, provided for notice of selection of places for quarantine stations and anchorages.

Section 106, acts Aug. 1, 1888, ch. 727, § 1, 25 Stat. 355; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided penalties for trespass on quarantine stations, is now covered by section 271 of this title.

Section 107, act Mar. 27, 1890, ch. 51, § 2, 26 Stat. 31, which provided penalties for the violation of quarantine laws by officers of Service, is now covered by section 271 of this title.

Section 108, act Mar. 27, 1890, ch. 51, § 3, 26 Stat. 32, which provided penalties for the violation of quarantine laws by common carriers, is now covered by section 271 of this title.

RENUMBERING AND REPEAL OF REPEALING ACT

Section 1313, formerly 611, of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 109. Repealed. May 29, 1928, ch. 901, § 1(24), 45 Stat. 986, 988

Section, acts June 12, 1917, ch. 27, § 1, 40 Stat. 121; June 5, 1920, ch. 235, § 1, 41 Stat. 885; Feb. 17, 1922, ch. 55, 42 Stat. 380; Jan. 3, 1923, ch. 22, 42 Stat. 1102; Apr. 4, 1924, ch. 84, title I, 43 Stat. 76; Jan. 20, 1925, ch. 85, § 1, 43 Stat. 757; Jan. 22, 1925, ch. 87, title I, 43 Stat. 775, required a detailed report to be made to Congress of expenditures to prevent epidemics.

§§ 110, 111. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 110, acts June 5, 1920, ch. 235, § 1, 41 Stat. 875; June 16, 1921, ch. 23, § 1, 42 Stat. 38, which provided for a schedule of charges for vessels at New York quarantine station, is now covered by section 269 of this title.

Section 111, act Feb. 15, 1893, ch. 114, § 7, 27 Stat. 452, which provided for the suspension of immigration, is now covered by section 265 of this title.

RENUMBERING AND REPEAL OF REPEALING ACT

Section 1313, formerly 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1958, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 112. Removal of revenue officers from port during epidemic

Whenever, by the prevalence of any contagious or epidemic disease in or near the place by law established as the port of entry for any collection district, it becomes dangerous or inconvenient for the officers of the revenue employed therein to continue the discharge of their respective offices at such port, the Secretary of the Treasury, or, in his absence, the Undersecretary of the Treasury, may direct the removal of the officers of the revenue from such port to any other more convenient place, within, or as near as may be to, such collection district. And at such place such officers may exercise the same powers, and shall be liable to the same duties, according to existing circumstances, as in the port or district established by law. Public notice of any such removal shall be given as soon as may be.

(R.S. § 4797; July 31, 1894, ch. 174, § 4, 28 Stat. 205; June 10, 1921, ch. 18, § 301, 42 Stat. 23; Feb. 17, 1922, ch. 55, 42 Stat. 366.)

CODIFICATION

R.S. 4797 is from act Feb. 23, 1799, ch. 12, § 4, 1 Stat. 620.

Acts July 31, 1894, and June 10, 1921, abolished the offices of First Comptroller and Comptroller of the Treasury.

"Undersecretary of the Treasury" was substituted for "the First Comptroller" on authority of act Feb. 17, 1922.

CROSS REFERENCES

Cost of removal of public officer by reason of sickness, etc., see section 554 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 97 of this title.

§ 113. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992

Section 113, R.S. § 4799, act Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167, related to adjournment of courts during an epidemic.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Sept. 1, 1948.

§ 114. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862

Section 114, R.S. § 4800, related to removal of prisoners during an epidemic.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Sept. 1, 1948.

CHAPTER 3—LEPROSY

§§ 121 to 125. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 121, acts Mar. 3, 1905, ch. 1443, § 1, 33 Stat. 1009; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, provided for the establishment in perpetuity of a hospital station and laboratory at Molokai, Hawaii.

Section 122, act Mar. 3, 1905, ch. 1443, § 3, 33 Stat. 1009, which provided for the admission and treatment of leper patients, is now covered by section 255 of this title.

Section 123, acts Mar. 3, 1905, ch. 1443, § 4, 33 Stat. 1009; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the detail of officers and employees for leprosy work, is now covered by section 215 of this title.

Section 124, acts Mar. 3, 1905, ch. 1443, § 6, 33 Stat. 1010; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided regulations for administration of hospital station and laboratory, is now covered by section 256 of this title.

Section 125, acts Mar. 3, 1905, ch. 1443, § 7, 33 Stat. 1010; Mar. 4, 1911, ch. 285, § 1, 36 Stat. 1394; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for additional pay and allowances to officers detailed on leprosy duty, is now covered by section 210 of this title.

RENUMBERING AND REPEAL OF REPEALING ACT

Section 1313, formerly 611, of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-134, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§§ 131 to 135. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 131, act Feb. 3, 1917, ch. 26, § 1, 39 Stat. 872, provided for the establishment of a leprosy home in the United States.

Section 132, act Feb. 3, 1917, ch. 26, § 4, 39 Stat. 873, provided for the erection of buildings for the home.

Section 133, act Feb. 3, 1917, ch. 26, § 2, 39 Stat. 873, which provided for receipt of lepers into the home, is now covered by section 255 of this title.

Section 134, act Feb. 3, 1917, ch. 26, § 3, 39 Stat. 873, which provided for regulations governing the home, is now covered by sections 255 and 256 of this title.

Section 135, act Feb. 3, 1917, ch. 26, § 5, 39 Stat. 873, which provided for additional pay of officers detailed to duty at said home, is now covered by section 210 of this title.

RENUMBERING AND REPEAL OF REPEALING ACT

Section 1313, formerly 611, of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-204, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

CHAPTER 3A—CANCER

§§ 137 to 137g. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 137, act Aug. 5, 1937, ch. 565, § 1, 50 Stat. 559, which provided for the establishment of the National Cancer Institute, is now covered by section 281 of this title.

Section 137a, act Aug. 5, 1937, ch. 565, § 2, 50 Stat. 559, which provided for the powers and duties of the Surgeon General, is now covered by section 282 of this title.

Section 137b, act Aug. 5, 1937, ch. 565, § 3, 50 Stat. 560, which provided for the establishment of the National Advisory Cancer Council, is now covered by section 218 of this title.

Section 137c, act Aug. 5, 1937, ch. 565, § 4, 50 Stat. 560, which provided for the powers and functions of the Council, is now covered by section 284 of this title.

Section 137d, act Aug. 5, 1937, ch. 565, § 5, 50 Stat. 561, which provided for the administration of powers by Surgeon General, is now covered by section 283 of this title.

Section 137e, act Aug. 5, 1937, ch. 565, § 6, 50 Stat. 561, which provided for the acceptance of gifts, is now covered by section 283 of this title.

Section 137f, act Aug. 5, 1937, ch. 565, § 7, 50 Stat. 561, which provided for appropriations, is now covered by section 285 of this title.

Section 137g, act Aug. 5, 1937, ch. 565, § 8, 50 Stat. 562, which related to appointment of officers, functions under other provisions, regulations, reports, effective date, and citation, is now covered in part by sections 209, 216, 229, and 286 of this title.

RENUMBERING AND REPEAL OF REPEALING ACT

Section 1313, formerly 611, of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

CHAPTER 4—VIRUSES, SERUMS, TOXINS, ANTITOXINS, ETC.

§§ 141 to 148. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 141, act July 1, 1902, ch. 1378, § 1, 32 Stat. 728, which provided for the regulation of sale of and interstate traffic of viruses, serums, toxins, antitoxins, etc., is now covered by section 262 of this title.

Section 142, act July 1, 1902, ch. 1378, § 2, 32 Stat. 729, which related to falsely labeling or marking container or package, is now covered by section 262 of this title.

Section 143, act July 1, 1902, ch. 1378, § 3, 32 Stat. 729, which provided for the inspection of manufacturing establishments, is now covered by section 262 of this title.

Section 144, act July 1, 1902, ch. 1378, § 4, 32 Stat. 729, which provided for the inspection of foreign manufacturing establishments, is now covered by section 262 of this title.

Section 145, acts July 1, 1902, ch. 1370, § 1, 32 Stat. 712; July 1, 1902, ch. 1378, § 4, 32 Stat. 729; Aug. 14, 1912, ch. 288, 37 Stat. 309, which provided for issuing of licenses to manufacturing establishments, is now covered by section 262 of this title.

Section 146, act July 1, 1902, ch. 1378, § 5, 32 Stat. 729, provided for the enforcement of regulations, and is now covered by section 262 of this title.

Section 147, act July 1, 1902, ch. 1378, § 6, 32 Stat. 729, which provided against interfering with officers, is now covered by section 262 of this title.

Section 148, act July 1, 1902, ch. 1378, § 7, 32 Stat. 729, which related to penalties for offenses, is now covered by section 262 of this title.

RENUMBERING AND REPEAL OF REPEALING ACT

Section 1313, formerly 611, of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506; 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

CHAPTER 5—MATERNITY AND INFANCY WELFARE AND HYGIENE

§§ 161 to 175. Repealed. Jan. 22, 1927, ch. 53, § 2, 44 Stat. 1024

Section 161, act Nov. 23, 1921, ch. 135, § 3, 42 Stat. 224, related to creation of the Board of Maternity and Infant Hygiene and the administration of this chapter by the Children's Bureau.

Section 162, act Nov. 23, 1921, ch. 135, § 1, 42 Stat. 224, related to authorization of appropriations.

Section 163, acts Nov. 23, 1921, ch. 135, § 2, 42 Stat. 224; Jan. 22, 1927, ch. 53, § 1, 44 Stat. 1024, related to amount and apportionment of appropriations.

Section 164, act Nov. 23, 1921, ch. 135, § 4, 42 Stat. 225, related to acceptance of the provisions of this chapter by the States.

Section 165, act Nov. 23, 1921, ch. 135, § 5, 42 Stat. 225, related to the deduction of administrative expenses from the appropriation.

Section 166, act Nov. 23, 1921, ch. 135, § 6, 42 Stat. 225, related to clerical assistants for the Children's Bureau.

Section 167, act Nov. 23, 1921, ch. 135, § 7, 42 Stat. 225, related to apportionment of appropriation to States.

Section 168, act Nov. 23, 1921, ch. 135, § 8, 42 Stat. 225, related to submission and approval of plans by States.

Section 169, act Nov. 23, 1921, ch. 135, § 9, 42 Stat. 225, related to the power of representatives of the Children's Bureau to enter homes and to take charge of children.

Section 170, act Nov. 23, 1921, ch. 135, § 10, 42 Stat. 225, related to certification of amounts apportioned to States.

Section 171, act Nov. 23, 1921, ch. 135, § 11, 42 Stat. 226, related to reports by the States.

Section 172, act Nov. 23, 1921, ch. 135, § 12, 42 Stat. 226, related to limitation on expenditure of amounts apportioned to the States.

Section 173, act Nov. 23, 1921, ch. 135, § 13, 42 Stat. 226, related to the requirement that the Children's Bureau perform the duties assigned to it by this chapter.

Section 174, act Nov. 23, 1921, ch. 135, § 14, 42 Stat. 226, related to the construction of this chapter.

Section 175, act Mar. 10, 1924, ch. 46, § 3, 43 Stat. 17, related to the extension of this chapter to Hawaii.

EFFECTIVE DATE OF REPEAL

Repeal of sections 161 to 175 of this title effective June 30, 1929.

CHAPTER 6—THE CHILDREN'S BUREAU

Sec.
191. Bureau established.
192. Chief of bureau; investigations and reports.
193. Assistant chief.
194. Quarters for bureau.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 22 section 2102.

§ 191. Bureau established

There shall be established in the Department of Health, Education, and Welfare a bureau to be known as the Children's Bureau.

(Apr. 9, 1912, ch. 73, § 1, 37 Stat. 79; Mar. 4, 1913, ch. 141, § 3, 37 Stat. 737; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

Section was formerly classified to section 18 of Title 29, Labor.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

"Federal Security Agency" was substituted for "Department of Labor" by Reorg. Plan No. 2 of 1946, set out in the Appendix to Title 5, Government Organization and Employees, which transferred the Children's Bureau, exclusive of its Industrial Division, from the Department of Labor to the Federal Security Agency. Functions of the Bureau, its Chief, and of the Secretary of Labor relating to such functions, were transferred to the Federal Security Administrator.

Functions authorized by section 192 of this title and such other functions of the Federal Security Agency as the Administrator might designate were to be administered through the Children's Bureau under his direction and control; and

Functions of the Children's Bureau under sections 201 to 216, 217 to 219 of Title 29, Labor, were transferred to the Secretary of Labor.

For transfer of personnel, property, records and funds, see section 12 of Reorg. Plan No. 2 of 1946.

Act Apr. 9, 1912, established the Children's Bureau in the Department of Commerce and Labor. Act Mar. 4, 1913, transferred the Children's Bureau to the Department of Labor, which was created by that act, and is authority for the substitution of "Department of Labor" for "Department of Commerce and Labor".

CROSS REFERENCES

Health research and research training resources in participating foreign countries, use by Secretary in exercise of functions under this chapter, see section 2102 of Title 22, Foreign Relations and Intercourse.

§ 192. Chief of bureau; investigations and reports

The Children's Bureau shall be under the direction of a chief, to be appointed by the President, by and with the advice and consent of the Senate. The said bureau shall investigate and report to the Secretary of Health, Education, and Welfare, upon all matters pertaining to the welfare of children and child life among all classes of our people, and shall especially investigate the questions of infant mortality, the birth rate, orphanage, juvenile courts, desertion, dangerous occupations, accidents and diseases of children, employment, legislation affecting children in the several States and Territories. But no official, or agent, or representative of said bureau shall, over the objection of the head of the family, enter any house used exclusively as a family residence. The chief of said bureau may from time to time publish the results of these investigations in such manner and to such extent as may be prescribed by the Secretary.

(Apr. 9, 1912, ch. 73, § 2, 37 Stat. 79; Mar. 4, 1913, ch. 141, §§ 3, 6, 37 Stat. 737, 738; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

In the first sentence, provisions which specified an annual compensation of $5,000 for the chief of the Childrens Bureau have been omitted as obsolete and superseded. Following enactment of the Classification Act of 1923, the compensation was fixed in accordance with that Act. See act Feb. 27, 1925, title IV, 43 Stat. 1050. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees. Section 5102 of Title 5 now contains the applicability provisions of the 1949

Act, and section 5103 of Title 5 authorizes the Civil Service Commission to determine the applicability to specific positions and employees.

Section was formerly classified to section 18a of Title 29, Labor.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

"Federal Security Administrator" was substituted for "said department" and for "Secretary of Labor" by Reorg. Plan No. 2 of 1946. See Transfer of Functions note set out under section 191 of this title.

"Secretary of Labor" was substituted for "Secretary of Commerce and Labor" by act Mar. 4, 1913. See Transfer of Functions note set out under section 191 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 289h of this title.

§ 193. Assistant chief

There shall be in the Children's Bureau, until otherwise provided for by law, an assistant chief, to be appointed by the Secretary of Health, Education, and Welfare.

(Apr. 9, 1912, ch. 73, § 3, 37 Stat. 80; Mar. 4, 1913, ch. 141, §§ 3, 6, 37 Stat. 737, 738; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

Section 3 of act Apr. 9, 1912, also provided for compensation of assistant chief and for appointment and compensation of other employees of the bureau.

Section was formerly classified to section 18b of Title 29, Labor.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

"Federal Security Administrator" was substituted for "Secretary of Labor" by Reorg. Plan No. 2 of 1946. See Transfer of Functions note set out under section 191 of this title.

"Secretary of Labor" was substituted for "Secretary of Commerce and Labor" by act Mar. 4, 1913. See Transfer of Functions note set out under section 191 of this title.

§ 194. Quarters for bureau

The Secretary of Health, Education, and Welfare is directed to furnish sufficient quarters for the work of this bureau at an annual rental not to exceed $2,000.

(Apr. 9, 1912, ch. 73, § 4, 37 Stat. 80; Mar. 4, 1913, ch. 141, § 3, 37 Stat. 737; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

Section was formerly classified to section 18c of Title 29, Labor.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

"Federal Security Administrator" was substituted for "Secretary of Labor" by Reorg. Plan No. 2 of 1946. See Transfer of Functions note set out under section 191 of this title.

"Secretary of Labor" was substituted for "Secretary of Commerce and Labor" by act Mar. 4, 1913. See Transfer of Functions note set out under section 191 of this title.

CHAPTER 6A—THE PUBLIC HEALTH SERVICE

SUBCHAPTER I—ADMINISTRATION

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201. Definitions.
202. Administration and supervision of Service.
203. Organization of Service.
204. Composition of commissioned corps; appointment of commissioned officers of Regular and Reserve Corps.
205. Appointment and tenure of office of Surgeon General; reversion in rank.
206. Assignment of officers.
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(b) Assistant Surgeons General.
(c) Creation of temporary positions as Assistant Surgeons General.
(d) Designation of Assistant Surgeon General with respect to absence, disability, or vacancy in the offices of Surgeon General and Deputy Surgeon General.
207. Grades, ranks, and titles of commissioned corps.
(a) Grades of commissioned officers.
(b) Titles of medical officers.
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(d) Maximum number in grade for each fiscal year.
208. Repealed.
209. Appointment of personnel.
(a) Original appointments to Regular and Reserve Corps; limitation on appointment and call to active duty.
(b) Grade and number of original appointments.
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(d) Date of appointment; credit for service.
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209a, 209b. Omitted.
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Sec.
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(b) Promotion to certain grades only to fill vacancies; regulations; definition of "restricted grade".
(c) Examinations.
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(e) Promotion of professional category officers to fill certain vacancies.
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(k) Temporary promotions; fill vacancy in higher grade; war or national emergency; selection of officers; termination of appointment.
(l) Determination of requirements of Service by Secretary; assignment of Reserve Officers to professional categories; temporary promotions; termination of temporary promotions.
(m) Acceptance of promotion; oath and affidavit.
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211c. Promotion credit for medical officers in the assistant grade.
212. Retirement of commissioned officers.
(a) Age; length of service; computation of retired pay; voluntary retirement of Surgeon General, Deputy Surgeon General and Assistant Surgeon General.
(b) Basic pay of highest temporary grade.
(c) Recall to active duty.
(d) Active service.
(e) Crediting of part of year of active service.
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213. Military benefits.
(a) Rights, privileges, immunities, and benefits accorded to commissioned officers or their survivors.
(b) Award of decorations.
(c) Authority of Surgeon General.
(d) Active service deemed active military service with respect to laws administered by Veterans' Administration.
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213a. Rights, benefits, privileges, and immunities for commissioned officers or beneficiaries; exercise of authority by Secretary or designee.
214, 214a. Repealed.
215. Detail of Service personnel.
(a) Other government departments.
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(c) Nonprofit educational, research, or other institutions engaged in health activities for special studies and dissemination of information.
(d) Availability of funds; detailed services deemed service for commutation of pay, promotion, etc.
216. Regulations.
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Chapter Referred to in Other Sections

This chapter is referred to in sections 217a-1, 300a-7, 1320a-1, 2689n, 3509 of this title; title 18 section 42.

SUBCHAPTER I—ADMINISTRATION

§ 201. Definitions

When used in this chapter—

(a) The term "Service" means the Public Health Service;

(b) The term "Surgeon General" means the Surgeon General of the Public Health Service;

(c) Unless the context otherwise requires, the term "Secretary" means the Secretary of Health, Education, and Welfare.

(d) The term "regulations", except when otherwise specified means rules and regulations made by the Surgeon General with the approval of the Secretary;

(e) The term "executive department" means any executive department, agency, or independent establishment of the United States or any corporation wholly owned by the United States;

(f) Except as provided in sections 246(g)(4)(B), 247c(c)(1), 254d(h)(3), 263(5), 264(d), 292a(9), 300a(c), 300d(2), 300f(13), 300n(1), and 300s-3(1) of this title, the term "State" includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, and the Virgin Islands.

(g) The term "possession" includes, among other possessions, Puerto Rico and the Virgin Islands;

(h) The term "seamen" includes any person employed on board in the care, preservation, or navigation of any vessel, or in the service, on board, of those engaged in such care, preservation, or navigation;

(i) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, exclusive of aircraft and amphibious contrivances;

(j) The term "habit-forming narcotic drug" or "narcotic" means opium and coca leaves and the several alkaloids derived therefrom, the best known of these alkaloids being morphia, heroin, and codeine, obtained from opium, and cocaine derived from the coca plant; all compounds, salts, preparations, or other derivatives obtained either from the raw material or from the various alkaloids; Indian hemp and its various derivatives, compounds, and preparations, and peyote in its various forms; isonipecaine and its derivatives, compounds, salts, and preparations; opiates (as defined in section 4731(g) of title 26);

(k) The term "addict" means any person who habitually uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction;

(l) The term "psychiatric disorders" includes diseases of the nervous system which affect mental health;

(m) The term "State mental health authority" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for administering the mental health program of the State, it means such other State agency;

(n) The term "heart diseases" means diseases of the heart and circulation;

(o) The term "dental diseases and conditions" means diseases and conditions affecting teeth and their supporting structures, and other related diseases of the mouth; and

(p) The term "uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, or National Oceanic and Atmospheric Administration.

(q) The term "drug dependent person" means a person who is using a controlled substance (as defined in section 802 of title 21) and who is in a state of psychic or physical dependence, or both, arising from the use of that substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence.

(July 1, 1944, ch. 373, title I, § 2, 58 Stat. 682; July 3, 1946, ch. 538, § 3, 60 Stat. 421; Feb. 28, 1948, ch. 83, § 1, 62 Stat. 38; June 16, 1948, ch. 481, § 6(a), 62 Stat. 469; June 24, 1948, ch. 621, § 6(a), 62 Stat. 601; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; June 25, 1959, Pub. L. 86-70 § 31(a), 73 Stat. 148; Apr. 8, 1960, Pub. L. 86-415, § 5(a), 74 Stat. 34; July 12, 1960, Pub. L. 86-624, § 29(a), 74 Stat. 419; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; Mar. 13, 1970, Pub. L. 91-212, § 11, 84 Stat. 67; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Oct. 27, 1970, Pub. L. 91-513, title I, § 2(b), 84 Stat. 1240; Dec. 16, 1974, Pub. L. 93-513, § 2(b),

88 Stat. 1693; June 23, 1976, Pub. L. 94-317, title III, § 301(a), 90 Stat. 707; Oct. 12, 1976, Pub. L. 94-484, title IX, § 905(a), 90 Stat. 2325.)

REFERENCES IN TEXT

Section 247c(c)(1) of this title was included by Pub. L. 94-484 in the list of excepted sections referred to in subsec. (f) of this section defining the term "State" without reference to a previous repeal of the provision by Pub. L. 94-317, title II, § 203(f)(1), June 23, 1976, 90 Stat. 704.

Section 4731(g) of title 26, referred to in subsec. (j), was repealed by Pub. L. 91-513, title III, § 1101(b)(3)(A), Oct. 27, 1970, 84 Stat. 1292. A definition of "opiate" is now contained in section 102 of Pub. L. 91-513, which is classified to section 802 of Title 21, Food and Drugs. Reference to section 4731(g) of title 26 was substituted for "section 3228(f) of title 26" on authority of section 7852(b) of Title 26, Internal Revenue Code, which provides that a reference in other laws to the Internal Revenue Code of 1939 is deemed a reference to the corresponding provision of the Internal Revenue Code of 1954.

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-484 included in the list of excepted sections reference to sections 247c(c)(1), 254d(h)(3), 263(5), and 292a(9) of this title, deleted from the enumeration reference to section 263c(5) of this title, and defined "State" to include the Northern Mariana Islands.

Pub. L. 94-317 substituted provisions defining, with certain specific exceptions, the term "State" to include the several States, the District of Columbia, Guam, Puerto Rico and the Virgin Islands for provisions defining the term "State" to include a State or the District of Columbia, Puerto Rico, or the Virgin Islands, except in section 264(d) of this title such term means a State or the District of Columbia, and in subchapter XII of this chapter such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands.

1974—Subsec. (f). Pub. L. 93-523 designated existing provisions as cl. (1) and added cl. (2).

1970—Subsec. (c). Pub. L. 91-212 qualified the definition by prefixing "Unless the context otherwise requires".

Subsec. (q). Pub. L. 91-513 added subsec. (q).

1960—Subsec. (f). Pub. L. 86-624 eliminated "Hawaii," preceding "Puerto Rico".

Subsec. (p). Pub. L. 86-415 added subsec. (p).

1959—Subsec. (f). Pub. L. 86-70 eliminated "Alaska," following "Hawaii," and substituted "or the District of Columbia" for ", the District of Columbia, or Alaska".

1948—Subsec. (j). Act Feb. 28, 1948, added "isonipecaine and its derivatives, compounds, salts, and preparations; opiates (as defined in section 4731(g) of title 26)" following "various forms;".

Subsec. (n). Act June 16, 1948, added subsec. (n) which defines "heart disease".

Subsec. (o). Act June 24, 1948, added subsec. (o) to define "dental diseases and conditions".

1946—Subsecs. (l), (m). Act July 3, 1946, added subsecs. (l) and (m).

CHANGE OF NAME

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, abolished the Environmental Science Services Administration, established the National Oceanic and Atmospheric Administration, and redesignated the Commissioned Officer Corps of ESSA as the Commissioned Officer Corps of NOAA. For further details, see Transfer of Functions note set out under section 851 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 276 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (f) of this section by Pub. L. 86-624 effective Aug. 21, 1959, see section 47(f) of Pub. L. 86-624, set out as an Effective Date of 1960 Amendment note under section 645 of Title 20, Education.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-70 effective Jan. 3, 1959, see section 47(d) of Pub. L. 86-70.

SHORT TITLE OF 1976 AMENDMENTS

Pub. L. 94-573, § 1(a), Oct. 21, 1976, 90 Stat. 2710 provided that: "This Act [which enacted section 300d-21 of this title, amended sections 295f-6 and 300d to 300d-9 of this title, enacted provisions set out as notes under sections 242b, 300d, 300d-7, and 300d-9 of this title, and amended provisions set out as notes under sections 218, 289c-1, and 289*l*-1 of this title] may be cited as the 'Emergency Medical Services Amendments of 1976'."

Pub. L. 94-562, § 1(a), Oct. 19, 1976, 90 Stat. 2645, provided that: "This Act [which enacted sections 289c-3a, 289c-7, and 289c-8 of this title, amended sections 289c-2, 289c-5, and 289c-6 of this title, and enacted provisions set out as notes under sections 289a, 289c-3a, and 289c-7 of this title] may be cited as the 'Arthritis, Diabetes, and Digestive Disease Amendments of 1976'."

Section 1(a) of Pub. L. 94-484 provided that: "This Act [enacting sections 254 to 254k, 292, 292e to 292k, 294 to 294*l*, 294r to 294z, 294aa, 295f-1, 295g to 295g-8, 295g-10, 295h to 295h-2, and 295h-4 to 295h-7 of this title; renumbering sections 293d as 292a, 293e as 292b, 295h-8 as 292c, 295h-9 as 292d, 293g to 293i as 293d to 293f, 294 to 294c as 294m to 294p, 294e as 294q, 295f-5 as 295f-2, and 295f-6 as 295g-9 of this title; amending sections 201, 234, 244-1, 245a, 246, 247c, 254b, 263c, 292a to 292c, 293 to 293d, 293f, 294g, 294m to 294p, 295e-1 to 295e-4, 295f to 295f-4, 295g, 295g-11, 295g-23, 295h-1 to 295h-3, 297, 300a, 300d, 300d-7, 300f, 300*l*-1, 300n, and 300s-3 of this title and sections 1101 and 1182 of Title 8, Aliens and Nationality; repealing sections 234, 244-1, 245a, 254b, 292 to 292j, 293f, 294d, 294f, 294g, 295f-1, to 295f-4, 295g, 295g-1, 295g-11, and 295g-21 to 295g-23 of this title; omitting sections 295h to 295h-2, 295h-3a to 295h-3d, 295h-4, 295h-5, and 295h-7 of this title; and enacting provisions set out as notes under sections 254d, 292, 292b, 292h, 293, 293f, 294, 294n, 294*o*, 294q, 294r, 294t, 294z, 295g, 295g-1, 295g-9, 295g-10, 295h, 295h-4, and 300*l*-1, of this title and section 1182 of title 8] may be cited as the 'Health Professions Educational Assistance Act of 1976'."

Pub. L. 94-460, § 1(a), Oct. 8, 1976, 90 Stat. 1945, provided that: "This Act [enacting section 300e-15 of this title, amending sections 242c, 289k-2, 300e, 300e-1 to 300e-11, 300e-13, 300n-1, 1395x note, 1395mm, and 1396b of this title, section 8902 of Title 5, Government Organization and Employees, and section 360d of Title 21, Food and Drugs, and enacting provisions set out as notes under sections 300e and 1396b of this title] may be cited as the 'Health Maintenance Organization Amendments of 1976'."

Pub. L. 94-380, § 1, Aug. 12, 1976, 90 Stat. 1113, provided: "That this Act [amending section 247b of this title and enacting provisions set out as a note under section 247b of this title] may be cited as the 'National Swine Flu Immunization Program of 1976'."

Section 101 of Pub. L. 94-317 provided that: "This title [enacting subchapter XV of this chapter] may be cited as the 'National Consumer Health Information and Health Promotion Act of 1976'."

Section 201 of Pub. L. 94-317 provided that: "This title [amending sections 243, 247b, 247c, 4801, 4831, and 4841 to 4843 of this title and enacting provisions set out as notes under sections 247b and 247c of this title] may be cited as the 'Disease Control Amendments of 1976'."

Pub. L. 94-278, § 1(a), Apr. 22, 1976, 90 Stat. 401, provided that: "This Act [which enacted sections 217a-1, 289*l*-5, 300b, 300b-1 to 300b-5 of this title and sections 350 and 378 of Title 21, Food and Drugs, and amended sections 213e, 225a, 234, 241, 247d, 254c, 287, 287a to 287d, 287f to 287i, 289a, 289c-1, 289c-5, 289c-6, 289*l*-1, 289*l*-2, 294b, 295g-23, 300c-11, 300*l*, 300p-3, 300s-1, 6062 and 6064 of this title and sections 321, 333, 334 and 343 of Title 21, and enacted provisions set out as notes under sections 218, 287, 289c-1, 289c-2, 289*l*-1, 300b and 6001 of this title and sections 334 and 350 of title 21] may be cited as the 'Health Research and Health Services Amendment of 1976'."

Pub. L. 94-278, title IV, § 401, Apr. 22, 1976, 90 Stat. 407, provided that: "This title [enacting part A of subchapter IX of this chapter, omitting former Part B of of subchapter IX of this chapter relating to Cooley's Anemia Programs, redesignating former Parts C and D of subchapter IX of this chapter as Parts B and C of subchapter IX of this chapter, respectively, and amending section 300c-11(b)(5) of this title] may be cited as the 'National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Diseases Act'."

Pub. L. 94-278, title VI, § 601, Apr. 22, 1976, 90 Stat. 413, provided that: "This title [amending sections 289a, 289c-1, 289c-5, and 289c-6 of this title and amending provisions set out as notes under section 289c-1 of this title] may be cited as the 'National Arthritis Act Technical Amendments of 1976'."

Short Title of 1975 Amendments

Pub. L. 94-63, title I, § 101, July 29, 1975, 89 Stat. 304, provided that: "This title [amending section 246 of this title and enacting provisions set out as a note under section 246 of this title] may be cited as the 'Special Health Revenue Sharing Act of 1975'."

Pub. L. 94-63, § 201, July 29, 1975, 89 Stat. 306, provided that: "This title [adding sections 300a-6a and 300a-8 of this title, amending sections 300, 300a-1 to 300a-4 of this title, and repealing section 3505c of this title] may be cited as the 'Family Planning and Population Research Act of 1975'."

Pub. L. 94-63, § 901(a), July 29, 1975, 89 Stat. 355, provided that: "This title [enacting sections 296j to 296m and 298b-3 of this title, amending sections 296 to 296i, 297 to 297e, 297g to 297h, 298 to 298b-2, 298c, 298c-1 and 298c-7 of this title, repealing sections 296g, 296i, 297f, 298c-7, and 298c-8 of this title, and enacting provisions set out as notes under sections 296, 296a, 296d, 296e, 296m, 297, and 297b of this title and former section 297f of this title] may be cited as the 'Nurse Training Act of 1975'."

Pub. L. 93-641, § 1, Jan. 4, 1975, 88 Stat. 2225, provided that: "This Act [enacting subchapter XIII of this chapter amending section 300e-4 of this title, repealing section 247a of this title, and enacting provisions set out as notes under sections 217a, 229, 291b, 300*l*-4, and 300m of this title] may be cited as the 'National Health Planning and Resources Development Act of 1974'."

Short Title of 1974 Amendments

Pub. L. 93-640, § 1, Jan. 4, 1975, 88 Stat. 2217, provided that: "This Act [enacting sections 289c-4, 289c-5, and 289c-6 of this title, amending sections 289a and 289c-1 of this title, and enacting provisions set out as notes under section 289c-1 of this title] may be cited as the 'National Arthritis Act of 1974'."

Pub. L. 93-523, § 1, Dec. 16, 1974, 88 Stat. 1660, provided that: "This Act [which enacted subchapter XII of this chapter and section 349 of Title 21, Food and Drugs, amended section this section title, and enacted provisions set out as a note under section 300f of this title] may be cited as the 'Safe Drinking Water Act'."

Pub. L. 93-354, § 1, July 23, 1974, 88 Stat. 373, provided that: "This Act [enacting sections 289c-1a, 289c-2, and 289c-3 of this title, amending sections 247b and 289c-1 of this title, and enacting provisions set out as notes under section 289c-2 of this title] may be cited as the 'National Diabetes Mellitus Research and Education Act'."

Pub. L. 93-353, § 1(a), July 23, 1974, 88 Stat. 362, provided that: "This Act [which enacted sections 242k, 242m to 242o, and 253b of this title, renumbered as sections 235, 236, 242*l*, 244-1, 245a, and 247d former sections 242i, 242j, 242f, 242d, 242g, and 242h, amended sections 236, 242b, 242c, 242*l*, 244-1, 245a, 280b, 280b-1, 280b-2, 280b-4, 280b-5, and 280b-7 to 280b-9, and repealed sections 242e, 244, 244a, 245, 247, 280b-3, and 280b-12 of this title, and enacted provisions set out as notes under sections 242m, 253b, and 230b of this title] may be cited as the 'Health Services Research, Health Statistics, and Medical Libraries Act of 1974'."

Pub. L. 93-353, title I, § 101, July 23, 1974, 88 Stat. 362, provided that: "This title [which added sections 242k, 242m to 242o, and 253b, renumbered as sections 235, 236, 242*l*, 244-1, 245a, and 247d former sections 242i, 242j, 242f, 242d, 242g, and 242h, amended sections 236, 242b, 242c, 242*l*, 244-1, and 245a, and repealed sections 242e, 244, 244a, 245, and 247 of this title and enacted provisions set out as notes under sections 242m and 253b of this title] may be cited as the 'Health Services Research and Evaluation and Health Statistics Act of 1974'."

Pub. L. 93-352, title I, § 101, July 23, 1974, 88 Stat. 358, provided that: "This title [enacting section 289*l*-4 of this title, amending sections 241, 282, 286a, 286b, 286c, 286d, 286g, and 289*l* of this title, enacting provisions set out as notes under sections 289*l* and 289*l*-1 of this title, and amending provisions set out as a note under this section] may be cited as the 'National Cancer Act Amendments of 1974'."

Pub. L. 93-348, title I, § 1, July 12, 1974, 88 Stat. 342, provided that: "This Act [which enacted sections 218(f), 289*l*-1 to 289*l*-3 and 300a-7(c) of this title, amended sections 241(c) to (i), 242a(a)(1), (b), 282(a)(3) to (7), 286a(b)(7), 286b(b)(3), 287a(7), 287b(a)(7), 287d(b), 288a(c) to (f), 289c(a), 289c-1(c)(2), 289g, 289k, and 300a-7(b) of this title, and enacted provisions set out as notes under sections 218, 241, 289*l*-1, and 289*l*-3 of this title] may be cited as the 'National Research Act'."

Pub. L. 93-348, title I, § 101, July 12, 1974, 88 Stat. 342, provided that: "This title [which enacted sections 289*l*-1 and 289*l*-2 and amended sections 241(c)-(i), 242a(a)(1), (b), 282(a)(3) to (7), 286a(b)(7), 286b(b)(3), 287a(7), 287b(a)(7), 287d(b), 288a(c) to (f), 289c(a), 289c-1(c)(2), 289g, 289k, 295f-3(a), and 295h-9 of this title] may be cited as the 'National Research Service Award Act of 1974'."

Pub. L. 93-296, § 1, May 31, 1974, 88 Stat. 184, provided that: "This Act [enacting Part H of subchapter III of this chapter and provisions set out as notes under section 289k-2 of this title] may be cited as the 'Research on Aging Act of 1974'."

Pub. L. 93-270, § 1, Apr. 22, 1974, 88 Stat. 90, provided that: "This Act [which enacted part B of subchapter IX of this chapter, amended sections 289d and 289g of this title, and enacted provisions set out as a note under section 289g of this title] may be cited as the 'Sudden Infant Death Syndrome Act of 1974'."

Short Title of 1973 Amendments

Pub. L. 93-222, § 1, Dec. 29, 1973, 87 Stat. 914, provided in part that Pub. L. 93-222 [which enacted section 2001 of this title and subchapter XI of this chapter and section 280c of this title, amended section 2001 of this title and section 172 of Title 12, Bank and Banking, repealed section 763c of Title 33, Navigation and Navigable Waters, enacted provisions set out as notes under sections 300e and 300e-1 of this title, amended provisions set out as notes under this section, and repealed provisions set out as notes under this section and sections 211a, 212a, and 222 of this title] shall

be cited as the "Health Maintenance Organization Act of 1973."

Pub. L. 93-154, § 1, Nov. 16, 1973, 87 Stat. 594, provided that: "This Act [which enacted subchapter X of this chapter and section 295f-6 of this title, amended sections 295f-2 and 295f-4 of this title, and enacted provisions set out as a note under this section] may be cited as the 'Emergency Medical Services Systems Act of 1973'."

Pub. L. 93-45, § 1, June 18, 1973, 87 Stat. 91, provided that: "This Act [which enacted section 300a-7 of this title and amended sections 242b, 242c, 244-1, 245a, 246, 280b-4, 280b-5 280b-7, 280b-8, 280b-9, 291a, 291j-1, 291j-5, 295h-1, 295h-2, 295h-3a, 299a, 300 300a-1, 300a-2, 300a-3, 2661, 2671, 2677, 2681, 2687, 2688a, 2688d, 2688j-1, 2688j-2, 2688l, 2688l-1, 2688n-1, 2688o, and 2688u of this title, and enacted provisions set out as amendment to note provisions under this section] may be cited as the 'Health Programs Extension Act of 1973'."

Short Title of 1972 Amendments

Pub. L. 92-585, § 1, Oct. 27, 1972, 86 Stat. 1290, provided that: "This Act [which enacted section 234 of this title, amended sections 254b and 294a of this title, and enacted provisions set out as a note under section 246 of this title] may be cited as the 'Emergency Health Personnel Act Amendments of 1972'."

Pub. L. 92-449, § 1, Sept. 30, 1972, 86 Stat. 748, provided that: "This Act [which enacted section 247c of this title, amended sections 247b and 300(c) of this title, and enacted provisions set out as notes under section 247c of this title] may be cited as the 'Communicable Disease Control Amendments Act of 1972'."

Pub. L. 92-449, title II, § 201, Sept. 30, 1972, 86 Stat. 750, provided that: "This title [which enacted section 247c of this title and provisions set out as notes under section 247c of this title] may be cited as the 'National Venereal Disease Prevention and Control Act'."

Pub. L. 92-423, § 1, Sept. 19, 1972, 86 Stat. 679, provided that: "This Act [which enacted sections 287b to 287f and 287i of this title, amended sections 218, 241, 287, 287a, 287g, and 287h of this title, and enacted provisions set out as notes under section 287 of this title] may be cited as the 'National Heart, Blood Vessel, Lung, and Blood Act of 1972'."

Short Title of 1971 Amendments

Pub. L. 92-218, § 1, Dec. 23, 1971, 85 Stat. 778, provided that: "This Act [which enacted sections 286a to 286g and 289l of this title, amended sections 218(a), (b), 241(d), (i), 282, 283(b), (c), and 284 of this title, and enacted provisions set out as notes under section 286a of this title] may be cited as 'The National Cancer Act of 1971'."

Pub. L. 92-158, § 1(a), Nov. 18, 1971, 85 Stat. 465, provided that: "This Act [enacting sections 296h, 296i, 297i, 298b-1 and 298b-2 of this title, amending sections 296, 296a, 296b, 296c, 296d, 296e, 296f, 296g, 297, 297a, 297b, 297c, 297e, 297f, 298, 298b, 298c and 298c-7 of this title and enacting provisions set out as notes under sections 296, 296a, 296d, 296e, 297b and 298c of this title] may be cited as the 'Nurse Training Act of 1971'."

Pub. L. 92-157, title I, § 101(a), Nov. 18, 1971, 85 Stat. 431, provided that: "This title [which enacted sections 293i, 294g, 295e-1 to 295e-5,, 295f-5, 295g-11, 295g-21 to 295g-23, and 3505d of this title, amended sections 210 to 218, 242i, 254, 276, 277, 280, 280a-1, 292b, 292d to 292f, 292h to 292j, 293 to 293e, 293g, 293h, 294 to 294f, 295f to 295f-4, 295g, 295g-1, 295h-3d, 295h-4, 295h-8, 295h-9, 1857c-6, 1857c-8, 1857f-6c, 1857h-5, and 2676 of this title and section 346a of Title 21, Food and Drugs, and enacted provisions set out as notes under section 295h-8 of this title] may be cited as the 'Comprehensive Health Manpower Training Act of 1971'."

Short Title of 1970 Amendments

Pub. L. 91-623, § 1, Dec. 31, 1970, 84 Stat. 1868, provided: "That this Act [which enacted sections 233 and 254b of this title] may be cited as the 'Emergency Health Personnel Act of 1970'."

Pub. L. 91-572, § 1, Dec. 24. 1970, 84 Stat. 1504, provided that: "This Act [enacting sections 300 to 300a-6 and 3505a to 3505c of this title, amending sections 211a, 212a of this title and section 763c of Title 33, Navigation and Navigable Waters, and enacting provisions set out as notes under sections 201, 222, and 300 of this title] may be cited as the 'Family Planning Services and Population Research Act of 1970'."

Pub. L. 91-519, § 1, Nov. 2, 1970, 84 Stat. 1342, provided that "This Act [enacting sections 295h-3a to 295h-3d, 295h-8 and 296h-9 of this title, amending sections 295f-1, 295f-2, 295h to 295h-2, 295h-4 and 295h-7 of this title, repealing section 295h-3 of this title and enacting provisions set out as notes under sections 295f-1, 295-f2, and 295h-4 of this title] may be cited as the 'Health Training Improvement Act of 1970'."

Pub. L. 91-515, § 101, Oct. 30, 1970, 84 Stat. 1297, provided that: "This title [amending sections 299 to 299g, 299i, and 299j of this title] may be cited as the 'Heart Disease, Cancer, Stroke, and Kidney Disease Amendments of 1970'."

Pub. L. 91-464, § 1, Oct. 16, 1970, 91 Stat. 988, provided: "That this Act [amending section 247b of this title] may be cited as the 'Communicable Disease Control Amendments of 1970'."

Pub. L. 91-296, § 1(a), June 30, 1970, 84 Stat. 336, provided that: "This Act [enacting sections 229b, 291j-1 to 291j-10, and 291o-1 of this title, amending sections 291a, 242b, 245a, 246, 291 note, 291b, 291c, 291d, 291e, 291f, 291i, 291k to 291m-1, 291o, and 299a of this title and section 1717 of Title 12, Banks and Banking, enacting provisions set out as notes under section 201, 242, 245a, 246, 291a, 291b, 291c, 291e, 291f, 291o, 295h-6, and section 2688p of this title, and repealing sections 295h-6, and 2688p of this title] may be cited as the 'Medical Facilities Construction and Modernization Amendments of 1970'."

Section 1 of Pub. L. 91-212 provided that: "This Act [enacting section 280b-12 of this title and amending sections 201, 276 to 278, 280, 280a-1, 280b, 280b-2 to 280b-9, 280b-11 of this title] may be cited as the 'Medical Library Assistance Extension Act of 1970'."

Short Title of 1968 Amendments

Pub. L. 90-602, § 1, Oct. 18, 1968, 82 Stat. 1172, provided that: "This Act [enacting subpart 3 of part F of subchapter II of this chapter and provisions set out as notes under section 263b of this title] may be cited as the 'Radiation Control for Health and Safety Act of 1968'."

Pub. L. 90-574, title IV, § 401, Oct. 15, 1968, 82 Stat. 1011, provided that: "This title [sections 291a and 291b of this title] may be cited as the 'Hospital and Medical Facilities Construction and Modernization Assistance Amendments of 1968'."

Pub. L. 90-490, § 1, Aug. 16, 1968, 82 Stat. 773, provided: "That this Act [which enacted sections 294f, 295g-1, 295h-6, 295h-7, 296f, 296g, and 297h of this title, amended sections 242d, 242g, 292b to 292e, 293 to 293d, 294 to 294d, 295f to 295f-4, 295g, 295h to 295h-3, 296 to 296b, 296d, 296e, 297 to 297f, 298b, 298c, and 298c-1 of this title, omitted sections 298c-2 to 298c-6 of this title, and enacted provisions set out as notes under sections 292b, 292e, 293 to 293c, 294f, 295f, 295f-2, 295g, 296, 296d, 296f, and 297a of this title] may be cited as the 'Health Manpower Act of 1968'."

Short Title of 1967 Amendments

Pub. L. 90-174, § 1, Dec. 5, 1967, 81 Stat. 533, provided: "That this Act [which enacted sections 217b, 254a, 263a, and 291m-1 of this title, amended sections 241, 242, 242b, 243, 244, 246, 249, 251, 293e, 295h-4, and 296e of this title, repealed section 291n of this title, and enacted provisions set out as notes under this section and sections 242b, 242c, 246, 263a, and 296(e) of

this title] may be cited as the 'Partnership for Health Amendments of 1967'."

Pub. L. 90-174, § 5(c), Dec. 5, 1967, 81 Stat. 536, provided that: "This section [enacting section 263a of this title and note provisions thereunder] may be cited as the 'Clinical Laboratories Improvement Act of 1967'."

Pub. L. 90-31, § 1, June 24, 1967, 79 Stat. 81, provided "That this Act [adding section 225a of this title and amending sections 2681, 2684(a)(7), 2687, 2688a(b), 2688d, and 2691(e) of this title] may be cited as the 'Mental Health Amendments of 1967'."

Short Title of 1966 Amendments

Pub. L. 89-751, § 1, Nov. 3, 1966, 80 Stat. 1222, provided: "That this Act [enacting prior sections 295h to 295h-5 and 298c to 298c-8 of this title, amending sections 292b, 294d, 294n to 294p, 296, 297c to 297f and 298 of this title, and section 1717 of Title 12, Banks and Banking, and enacting provisions set out as notes under a prior section 294, section 294d, and prior sections 297c and 297f of this title] may be cited as the 'Allied Health Professions Personnel Training Act of 1966'."

Pub. L. 89-749, § 1, Nov. 3, 1966, 80 Stat. 1180, provided: "That this Act [amending 243, 245a, and 246 of this title, repealing sections 247a and 247c of this title, and enacting provisions set out as notes under this section and sections 243 and 245a of this title] may be cited as the 'Comprehensive Health Planning and Public Health Services Amendments of 1966'."

Pub. L. 89-709, § 1, Nov. 2, 1966, 80 Stat. 1103, provided: "That this Act [amending sections 293, 293a, 293d, 293e, 294, 294a, and 294b of this title] may be cited as the 'Veterinary Medical Education Act of 1966'."

Short Title of 1965 Amendments

Section 1 of Pub. L. 89-291, Oct. 22, 1965, 79 Stat. 1059, provided that: "This Act [enacting sections 280a-1 of this title and Part J of subchapter II of this chapter and amending section 277 of this title] may be cited as the 'Medical Library Assistance Act of 1965'."

Pub. L. 89-290, § 1, Oct. 22, 1965, 79 Stat. 1052, provided that: "This Act [which enacted sections 295f to 295f-4 and 295g of this title, and amended sections 293, 293a, 293d, 294 to 294d, 297b, and 298b of this title] may be cited as the 'Health Professions Educational Assistance Amendments of 1965'."

Pub. L. 89-239, § 1, Oct. 6, 1965, 79 Stat. 926, provided: "That this Act [enacting sections 299 to 299i of this title, amending sections 211a and 212a of this title, sections 757, 790, 800 of former Title 5, Executive Departments and Government Officers and Employees, and section 763c of Title 33, Navigation and Navigable Waters, and enacting provisions set out as notes under sections 201, 214, 222, and 249 of this title] may be cited as the 'Heart Disease, Cancer, and Stroke Amendments of 1965'."

Pub. L. 89-115, § 1, Aug. 9, 1965, 79 Stat. 448, provided: "That this Act [amending sections 241, 292c, and 292d of this title, and section 2211 of Title 5, Government Organization and Employees, and enacting section 623h of title 5 and provisions set out as a note thereunder] may be cited as the 'Health Research Facilities Amendments of 1965'."

Pub. L. 89-109, § 1, Aug. 5, 1965, 79 Stat. 435, provided: "That this Act [amending sections 246, 247a, 247b, and 247d of this title] may be cited as the 'Community Health Services Extension Amendments of 1965'."

Short Title of 1964 Amendments

Pub. L. 88-581, Sept. 4, 1964, 78 Stat. 908, provided: "That this Act [enacting subchapter VI of this chapter, and amending sections 291c, 291o, 293, 293a, 293e, and 293h of this title, and enacting provisions set out as notes under sections 201, 211a, 212a, 222, 291c, 293, 293e, 293h of this title, sections 757, 790, 800 of Title 5, Government Organization and Employees, and section 763c of Title 33, Navigation and Navigable Waters] may be cited as the 'Nurse Training Act of 1964'."

Pub. L. 88-497, § 1, Aug. 27, 1964, 78 Stat. 613, provided that: "This Act [which amended sections 244-1 and 245a of this title] may be cited as the 'Graduate Public Health Training Amendments of 1964'."

Pub. L. 88-443, § 1, Aug. 18, 1964, 78 Stat. 447, provided that: "This Act [enacting sections 247c, 291 to 291j, 291k to 291m, 291n, and 291o of this title and enacting provisions set out as notes under section 291 of this title] may be cited as the 'Hospital and Medical Facilities Amendments of 1964'."

Short Title of 1963 Amendment

Pub. L. 88-129, § 1, Sept. 24, 1963, 77 Stat. 164, provided: "That this Act [which enacted sections 292j, 293 to 293h, 294 to 294e and amended sections 292 to 292b, 292d to 292i of this title] may be cited as the 'Health Professions Educational Assistance Act of 1963'."

Short Title of 1962 Amendments

Pub. L. 87-868, § 1, Oct. 23, 1962, 76 Stat. 1155, provided that this Act [which enacted section 247b of this title] may be cited as the "Vaccination Assistance Act of 1962."

Section 319 of act July 1, 1944, formerly section 310, as added by Pub. L. 87-692, Sept. 25, 1962, 76 Stat. 592, amended and renumbered, is popularly known as the "Migrant Health Act".

Short Title of 1961 Amendment

Pub. L. 87-395, § 1, Oct. 5, 1961, 75 Stat. 824, provided: "That this Act [which enacted section 247a of this title, amended sections 246, 289c, 291i, 291n, 291s, 291t, 291w, and 292c to 292g of this title, and enacted provisions set out as a note under section 291s of this title] may be cited as the 'Community Health Services and Facilities Act of 1961'."

Short Title of 1960 Amendment

Section 1 of Pub. L. 86-415, Apr. 8, 1960, 74 Stat. 32, provided: "That this Act [which amended sections 201, 209, 210, 211, 212, 253, and 415 of this title, and section 2251 of former Title 5, Executive Departments and Government Officers and Employees, and enacted provisions set out as notes under sections 209 and 212 of this title and section 2253 of former title 5] may be cited as the 'Public Health Service Commissioned Corps Personnel Act of 1960'."

Short Title of 1956 Amendments

Section 2 of act Aug. 3, 1956, ch. 907, 70 Stat. 960, provided that: "This Act [which enacted part I of subchapter II of this chapter] may be cited as the 'National Library of Medicine Act'."

Act July 3, 1956, ch. 510, § 1, 70 Stat. 490, provided that: "This Act [which enacted section 246 of this title, amended section 241 of this title, and enacted provisions set out as a note under section 246 of this title] may be cited as the 'National Health Survey Act'."

Short Title of 1955 Amendment

Joint Res. July 28, 1955, ch. 417, § 1, 69 Stat. 382, provided that: "This joint resolution [which enacted section 242b of this title and provisions set out as a note under section 242b of this title] may be cited as the 'Mental Health Study Act of 1955'."

Short Title of 1948 Amendments

Section 1 of act June 24, 1948, provided that: "This Act [which enacted part C of subchapter III of this chapter and amended sections 201, 210, 218, and 241 of this title] may be cited as the 'National Dental Research Act'."

Section 1 of act June 16, 1948, provided that: "This Act [which enacted sections 287 to 287c of this title, and amended sections 201, 203, 206, 210, 218, 219, 241, 246, 281, 283, and 286 of this title] may be cited as the 'National Heart Act'."

SHORT TITLE OF 1946 AMENDMENT

Section 1 of act July 3, 1946, provided: "That this Act [which enacted sections 232 and 242a of this title, amended sections 201, 209, 210, 215, 218, 219, 241, 244, and 246 of this title, and enacted provisions set out as a note under this section] may be cited as the 'National Mental Health Act'."

SHORT TITLE

Section 1 of act July 1, 1944, as amended by acts Aug. 13, 1946, ch. 958, § 4, 60 Stat. 1049; July 30, 1956, ch. 779, § 3(a), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4(a), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89-239, § 3(a), 79 Stat. 930; Dec. 24, 1970, Pub. L. 91-572, § 6(a), 84 Stat. 1506; May 16, 1972, Pub. L. 92-294, § 3(a), 86 Stat. 137; Nov. 16, 1973, Pub. L. 93-154, § 2(b)(1), 87 Stat. 604, Dec. 29, 1973, Pub. L. 93-222, § 7(a), 87 Stat. 936, provided that: "This Act [enacting this chapter] may be cited as the 'Public Health Service Act'."

RENUMBERING AND REPEAL OF REPEALING ACT

Section 1313, formerly § 611, of act July 1, 1944, renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919; 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931; 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506, 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604. repealed and amended sections in this title and in Title 8, Aliens and Nationality, 14, Coast Guard, 21, Food and Drugs, 24, Hospitals and Asylums, 31, Money and Finance, 33, Navigation and Navigable Waters, former Title 34, Navy, Title 44, Public Printing and Documents, Title 46, Shipping, Title 48, Territories and Insular Possessions, and Title 49, Transportation, and was itself repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

SAVINGS PROVISIONS

Section 1314, formerly § 612, of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91-572, § 6(b), 84 Stat. 1506; May 16, 1972, Pub. L. 92-294, § 3(b), 86 Stat. 137; Nov. 16, 1973, Pub. L. 93-154, § 2(b)(2), 87 Stat. 604, provided that the repeal of statutes and parts of statutes by sections 1313, formerly § 611, of act July 1, 1944, not affect any act done, right accruing or accrued, or suit or proceeding had or commenced in any civil cause before such repeal, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3, of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

PURPOSE OF ACT JULY 3, 1946

Section 2 of act July 3, 1946, provided: "The purpose of this Act [see Short Title of 1946 Amendment note above] is the improvement of the mental health of the people of the United States through the conducting of researches, investigations, experiments, and demonstrations relating to the cause, diagnosis, and treatment of psychiatric disorders; assisting and fostering such research activities by public and private agencies, and promoting the coordination of all such researches and activities and the useful application of their results; training personnel in matters relating to mental health; and developing, and assisting States in the use of, the most effective methods of prevention, diagnosis, and treatment of psychiatric disorders."

EXISTING POSITIONS, PROCEDURES, REGULATIONS, FUNDS, APPROPRIATIONS, AND PROPERTY

Sections 1301 to 1303, formerly §§ 601 to 603, of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; Sept. 3, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91-572, § 6(b), 84 Stat. 1506; May 16, 1972, Pub. L. 92-294, § 3(b), 86 Stat. 137; Nov. 16, 1973, Pub. L. 93-154, § 2(b)(2), 87 Stat. 604, related to the effect of this chapter on existing positions, procedures, regulations, funds, appropriations, and property, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

APPROPRIATIONS FOR EMERGENCY HEALTH AND SANITATION ACTIVITIES

Section 1304, formerly § 604, of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91-572, § 6(b), 84 Stat. 1506; May 16, 1972, Pub. L. 92-294, § 3(b), 86 Stat. 137; Nov. 16, 1973, Pub. L. 93-154, § 2(b)(2), 87 Stat. 604, authorized annual appropriations during World War II and during period of demobilization to conduct health and sanitation activities in military, naval, or industrial areas, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936. Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of section 1004 of act July 1, 1944, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

DEFINITION OF "SECRETARY"

Pub. L. 90-174, § 15, Dec. 5, 1967, 81 Stat. 542, provided that: "As used in the amendments made by this Act [enacting sections 217b, 243(c), 251(b), 254a, 263a, and 291m-1 and amending sections 242b, 242g(c), 246(d)(1), (e), and 296e(c)(1) of this title] the term 'Secretary' means the Secretary of Health, Education, and Welfare."

AVAILABILITY OF APPROPRIATIONS

Pub. L. 91-296, title VI, § 601, June 30, 1970, 84 Stat. 353, as amended Pub. L. 93-45, title IV, § 401(a), June 18, 1973, 87 Stat. 95; Pub. L. 93-352, title I, § 113, July 23, 1974, 88 Stat. 360, provided that: "Notwithstanding any other provision of law, unless enacted after the enactment of this Act [June 30, 1970] expressly in limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program for which appropriations are authorized by the Public Health Service Act (Public Law 410, Seventy-eighth Congress, as amended) [this chapter] or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (Public Law 88-164, as amended) [sections 2689 et seq. and 6001 et seq. of this title] shall remain available for obligation and expenditure until the end of such fiscal year."

HAZARDOUS SUBSTANCES

Federal Hazardous Substances Act as not modifying this chapter, see Pub. L. 86-613, § 18, July 12, 1960, 74 Stat. 380, set out as a note under section 1261 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5633 of this title; title 18 sections 3651, 4209.

§ 202. Administration and supervision of Service

The Public Health Service in the Department of Health, Education, and Welfare shall be administered by the Surgeon General under the supervision and direction of the Secretary.

(July 1, 1944, ch. 373, title II, § 201, 58 Stat. 683; 1953 Reorg. Plan No. 1, §§ 5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

INTERNATIONAL HEALTH ADMINISTRATION

Ex. Ord. No. 10399, Sept. 27, 1952, 17 F.R. 8648, designated the Surgeon General to perform certain duties under the International Sanitary Regulations of the World Health Organization.

REORGANIZATION PLAN NO. 1 OF 1953

Eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631

Prepared by the President and transmitted to the Senate and to the House of Representatives in Congress assembled, March 12, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see section 901 et seq. of Title 5, Government Organization and Employees].

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

§ 1. CREATION OF DEPARTMENT; SECRETARY

There is hereby established an executive department, which shall be known as the Department of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Department). There shall be at the head of the Department a Secretary of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate, and who shall receive compensation at the rate now or hereafter prescribed by law for the heads of executive departments. The Department shall be administered under the supervision and direction of the Secretary.

§ 2. UNDER SECRETARY AND ASSISTANT SECRETARIES

There shall be in the Department an Under Secretary of Health, Education, and Welfare and two Assistant Secretaries of Health, Education, and Welfare, each of whom shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter provided by law for under secretaries and assistant secretaries, respectively, of executive departments. The Under Secretary (or, during the absence or disability of the Under Secretary or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe) shall act as Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

§ 3. SPECIAL ASSISTANT

[Section provided for the appointment of Special Assistant to the Secretary (Health and Medical Affairs), and was repealed by Pub. L. 90-83, § 10(c), Sept. 11, 1967, 81 Stat. 224.]

§ 4. COMMISSIONER OF SOCIAL SECURITY

There shall be in the Department a Commissioner of Social Security who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions concerning social security and public welfare as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter fixed by law for grade GS-18 of the general schedule established by the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].

§ 5. TRANSFERS TO THE DEPARTMENT

All functions of the Federal Security Administrator are hereby transferred to the Secretary. All agencies of the Federal Security Agency, together with their respective functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), and all other functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the Federal Security Agency are hereby transferred to the Department.

§ 6. PERFORMANCE OF FUNCTIONS OF THE SECRETARY

The Secretary may from time to time make such provisions as the Secretary deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

§ 7. ADMINISTRATIVE SERVICE

In the interest of economy and efficiency the Secretary may from time to time establish central administrative services in the fields of procurement, budgeting, accounting, personnel, library, legal, and other services and activities common to the several agencies of the Department; and the Secretary may effect such transfers within the Department of the personnel employed, the property and records used or held, and the funds available for use in connection with such administrative-service activities as the Secretary may deem necessary for the conduct of any services so established: *Provided*, That no professional or substantive function vested by law in any officer shall be removed from the jurisdiction of such officer under this section.

§ 8. ABOLITIONS

The Federal Security Agency (exclusive of the agencies thereof transferred by sec. 5 of this reorganization plan), the offices of Federal Security Administrator and Assistant Federal Security Administrator created by Reorganization Plan No. I [of 1939] (53 Stat. 1423) the two offices of assistant heads of the Federal Security Agency created by Reorganization Plan No.2 of 1946 (60 Stat. 1095) and the office for Commissioner for Social Security created by section 701 of the Social Security Act, as amended (64 Stat. 558) [section 901 of this title], are hereby abolished. The Secretary shall make such provisions as may be necessary in order to wind up any outstanding affairs of the Agency and offices abolished by this section which are not otherwise provided for in this reorganization plan.

§ 9. INTERIM PROVISIONS

The President may authorize the persons who immediately prior to the time this reorganization plan takes effect occupy the offices of Federal Security Administrator, Assistant Federal Security Administrator, assistant heads of the Federal Security Agency, and Commissioner for Social Security to act as Secretary, Under Secretary, and Assistant Secretaries of Health, Education, and Welfare, and as Commissioner of Social Security, respectively, until those offices are filled by appointment in the manner provided by sections 1, 2, and 4 of this reorganization plan, but not for a period of more than 60 days. While so acting, such persons shall receive compensation at the rates provided by this reorganization plan for the offices the functions of which they perform.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1953, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended.

In my message of February 2, 1953, I stated that I would send to the Congress a reorganization plan defining a new administrative status for Federal activities in health, education, and social security. This plan carries out that intention by creating a Department of Health, Education, and Welfare as one of the executive departments of the Government and by transferring to it the various units of the Federal Security Agency. The Department will be headed by a Secretary of Health, Education, and Welfare, who will be assisted by an Under Secretary and two Assistant Secretaries.

The purpose of this plan is to improve the administration of the vital health, education, and social-security functions now being carried on in the Federal Security Agency by giving them departmental rank. Such action is demanded by the importance and magnitude of these functions, which affect the well-being of millions of our citizens. The programs carried on by the Public Health Service include, for example, the conduct and promotion of research into the prevention and cure of such dangerous ailments as cancer and heart disease. The Public Health Service also administers payments to the States for the support of their health services and for urgently needed hospital construction. The Office of Education collects, analyzes, and distributes to school administrators throughout the country information relating to the organization and management of educational systems. Among its other functions is the provision of financial help to school districts burdened by activities of the United States Government. State assistance to the aged, the blind, the totally disabled, and dependent children is heavily supported by grants-in-aid administered through the Social Security Administration. The old-age and survivors insurance system and child development and welfare programs are additional responsibilities of that Administration. Other offices of the Federal Security Agency are responsible for the conduct of Federal vocational rehabilitation programs and for the enforcement of food and drug laws.

There should be an unremitting effort to improve those health, education, and social-security programs which have proved their value. I have already recommended the expansion of the social-security system to cover persons not now protected, the continuation of assistance to school districts whose population has been greatly increased by the expansion of defense activities, and the strengthening of our food and drug laws.

But good intent and high purpose are not enough; all such programs depend for their success upon efficient, responsible administration. I have recently taken action to assure that the Federal Security Administrator's views are given proper consideration in executive councils by inviting her to attend meetings of the Cabinet. Now the establishment of the new Department provided for in Reorganization Plan No. 1 of 1953 will give the needed additional assurance that these matters will receive the full consideration they deserve in the whole operation of the Government.

This need has long been recognized. In 1923, President Harding proposed a Department of Education and Welfare, which was also to include health functions. In 1924, the Joint Committee on Reorganization recommended a new department similar to that suggested by President Harding. In 1932, one of President Hoover's reorganization proposals called for the concentration of health, education, and recreational activities in a single executive department. The President's Committee on Administrative Management in 1937 recommended the placing of health, education, and social-security functions in a Department of Social Welfare. This recommendation was partially implemented in 1939 by the creation of the Federal Security Agency—by which action the Congress indicated its approval of the grouping of these functions in a single agency. A new department could not be proposed at that time because the Reorganization Act of 1939 prohibited the creation of additional executive departments. In 1949, the Commission on Organization of the Executive Branch of the Government proposed the creation of a department for social security and education.

The present plan will make it possible to give the officials directing the Department titles indicative of their responsibilities and salaries comparable to those received by their counterparts in other executive departments. As the Under Secretary of an executive department, the Secretary's principal assistant will be better equipped to give leadership in the Department's organization and management activities, for which he will be primarily responsible. The plan opens the way to further administrative improvement by authorizing the Secretary to centralize services and activities common to the several agencies of the Department. It also established a uniform method of appointment for the heads of the three major constituent agencies. At present, the Surgeon General and the Commissioner of Education are appointed by the President and confirmed by the Senate, while the Commissioner for Social Security is appointed by the Federal Security Administrator. Hereafter, all three will be Presidential appointees subject to Senate confirmation.

I believe, and this plan reflects my conviction, that these several fields of Federal activity should continue within the framework of a single department. The plan at the same time assures that the Office of Education and the Public Health Service retain the professional and substantive responsibilities vested by law in those agencies or in their heads. The Surgeon General, the Commissioner of Education, and the Commissioner of Social Security will all have direct access to the Secretary.

There should be in the Department an Advisory Committee on Education, made up of persons chosen by the Secretary from outside the Federal Government, which would advise the Secretary with respect to the educational programs of the Department. I recommend the enactment of legislation authorizing the defrayal of the expenses of this Committee. The creation of such a Committee as an advisory body to the Secretary will help insure the maintenance of responsibility for the public educational system in State and local governments while preserving the national interest in education through appropriate Federal action.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1953 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that by reason of these reorganizations, it is necessary to include in the reorganization plan provisions for the appointment and compensation of the new officers specified in sections 1, 2, 3, and 4 of the reorganization plan. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

Although the effecting of the reorganizations provided for in the reorganization plan will not in itself result in immediate savings, the improvement achieved in administration will in the future allow the performance of necessary services at greater savings than present operations would permit. An itemization of these savings in advance of actual experience is not practicable.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, MARCH 12, 1953.

REORGANIZATION PLAN NO. 3 OF 1966

Eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 25, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat.

203, as amended [see section 901 et seq. of Title 5, Government Organization and Employees].

PUBLIC HEALTH SERVICE

SECTION 1. TRANSFER OF FUNCTIONS

(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Health, Education, and Welfare (hereinafter referred to as the Secretary) all functions of the Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service.

(b) This section shall not apply to the functions vested by law in any advisory council, board, or committee of or in the Public Health Service which is established by law or is required by law to be established.

SEC. 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any officer, employee, or agency of the Public Health Service or of the Department of Health, Education, and Welfare.

SEC. 3. ABOLITIONS

(a) The following agencies of the Public Health Service are hereby abolished:

(1) The Bureau of Medical Services, including the office of Chief of the Bureau of Medical Services.

(2) The Bureau of State Services, including the office of Chief of the Bureau of State Services.

(3) The agency designated as the National Institutes of Health (42 U.S.C. 203), including the office of Director of the National Institutes of Health (42 U.S.C. 206(b)) but excluding the several research Institutes in the agency designated as the National Institutes of Health.

(4) The agency designated as the Office of the Surgeon General (42 U.S.C. 203(1)), together with the office held by the Deputy Surgeon General (42 U.S.C. 206(a)).

(b) The Secretary shall make such provisions as he shall deem necessary respecting the winding up of any outstanding affairs of the agencies abolished by the provisions of this section.

SEC. 4. INCIDENTAL TRANSFERS

As he may deem necessary in order to carry out the provisions of this reorganization plan, the Secretary may from time to time effect transfers within the Department of Health, Education, and Welfare of any of the records, property, personnel and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Department which relate to functions affected by this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization of health functions of the Department of Health, Education, and Welfare.

I

Today we face new challenges and unparalleled opportunities in the field of health. Building on the progress of the past several years, we have truly begun to match the achievements of our medicine to the needs of our people.

The task ahead is immense. As a nation, we will unceasingly pursue our research and learning, our training and building, our testing and treatment. But now our concern must also turn to the organization of our Federal health programs.

As citizens we are entitled to the very best health services our resources can provide.

As taxpayers, we demand the most efficient and economic health organizations that can be devised.

I ask the Congress to approve a reorganization plan to bring new strength to the administration of Federal health programs.

I propose a series of changes in the organization of the Public Health Service that will bring to all Americans a structure modern in design, more efficient in operation and better prepared to meet the great and growing needs of the future. Through such improvements we can achieve the full promise of the landmark health legislation enacted by the 89th Congress.

I do not propose these changes lightly. They follow a period of careful deliberation. For many months the Secretary of Health, Education, and Welfare, and the Surgeon General have consulted leading experts in the Nation—physicians, administrators, scientists, and public health specialists. They have confirmed my belief that modernization and reorganization of the Public Health Service are urgently required and long overdue.

II

The Public Health Service is an operating agency of the Department of Health, Education, and Welfare. It is the principal arm of the Federal Government in the field of health. Its programs are among those most vital to our well-being.

Since 1953 more than 50 new programs have been placed in the Public Health Service. Its budget over the past 12 years has increased tenfold—from $250 million to $2.4 billion.

Today the organization of the Public Health Service is clearly obsolete. The requirement that new and expanding programs be administered through an organizational structure established by law more than two decades ago stands as a major obstacle to the fulfillment of our Nation's health goals.

As presently constituted, the Public Health Service is composed of four major components:

National Institutes of Health.
Bureau of State Services.
Bureau of Medical Services.
Office of the Surgeon General.

Under present law, Public Health Service functions must be assigned only to these four components.

This structure was designed to provide separate administrative arrangements for health research, programs of State and local aid, health services, and executive staff resources. At a time when these functions could be neatly compartmentalized, the structure was adequate. But today the situation is different.

Under recent legislation many new programs provide for an integrated attack on specific disease problems or health hazards in the environment by combining health services, State and local aid, and research. Each new program of this type necessarily is assigned to one of the three operating components of the Public Health Service. Yet none of these components is intended to administer programs involving such a variety of approaches.

Our health problems are difficult enough without having them complicated by outmoded organizational arrangements.

But if we merely take the step of integrating the four agencies within the Public Health Service we will not go far enough. More is required.

III

The Department of Health, Education, and Welfare performs major health or health-related functions which are not carried out through the Public Health Service, although they are closely related to its functions. Among these are:

Health insurance for the aged, administered through the Social Security Administration;

Medical assistance for the needy, administered through the Welfare Administration;

Regulation of the manufacture, labeling, and distribution of drugs, carried out through the Food and Drug Administration; and

Grants-in-aid to States for vocational rehabilitation of the handicapped, administered by the Vocational Rehabilitation Administration.

Expenditures for health and health-related programs of the Department administered outside the Public Health Service have increased from $44 million in 1953 to an estimated $5.4 billion in 1967.

As the head of the Department, the Secretary of Health, Education, and Welfare is responsible for the Administration and coordination of all the Department's health functions. He has clear authority over the programs I have just mentioned.

But today he lacks this essential authority over the Public Health Service. The functions of that agency are vested in the Surgeon General and not in the Secretary.

This diffusion of responsibility is unsound and unwise.

To secure the highest possible level of health services for the American people the Secretary of Health, Education, and Welfare must be given the authority to establish—and modify as necessary—the organizational structure for Public Health Service programs.

He must also have the authority to coordinate health functions throughout the Department. The reorganization plan I propose will accomplish these purposes. It will provide the Secretary with the flexibility to create new and responsive organizational arrangements to keep pace with the changing and dynamic nature of our health programs.

My views in this respect follow a basic principle of good government set by the Hoover Commission in 1949 when it recommended that "the Department head should be given authority to determine the organization within his Department."

IV

In summary, the reorganization plan would:

Transfer to the Secretary of Health, Education, and Welfare the functions now vested in the Surgeon General of the Public Health Service and in its various subordinate units (this transfer will not affect certain statutory advisory bodies such as the National Advisory Cancer and Heart Councils);

Abolish the four principal statutory components of the Public Health Service, including the offices held by their heads (the Bureau of Medical Services, the Bureau of State Services, the National Institutes of Health exclusive of its several research institutes such as the National Cancer and Heart Institutes, and the Office of the Surgeon General); and

Authorize the Secretary to assign the functions transferred to him by the plan to officials and entities of the Public Health Service and to other agencies of the Department as he deems appropriate.

Thus, the Secretary would be—

Enabled to assure that all health functions of the Department are carried out as effectively and economically as possible;

Given authority commensurate with his responsibility; and

Made resonsible in fact for matters for which he is now, in any case, held accountable by the President, the Congress, and the people.

V

I have found, after investigation, that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

Should the reorganizations in the accompanying reorganization plan take effect, they will make possible more effective and efficient administration of the affected health programs. It is, however, not practicable at this time to itemize the reductions in expenditures which may result.

I strongly recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, April 25, 1966.

EXECUTIVE ORDER No. 10506

Ex. Ord. No. 10506, Dec. 14, 1953, 18 F.R. 8219, which delegated certain functions of the President relating to the Public Health Service, was superseded by Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note below.

Ex. ORD. No. 11140. DELEGATION OF FUNCTIONS

Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, provided:

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of Health, Education, and Welfare is hereby authorized and empowered, without the approval, ratification, or other action of the President, to perform the following-described functions vested in the President under the Public Health Service Act (58 Stat. 682), as amended [this chapter]:

(a) The authority under Section 203 (42 U.S.C. 204): to appoint commissioned officers of the Reserve Corps.

(b) The authority under Section 206(b) (42 U.S.C. 207(b)) to prescribe titles, appropriate to the several grades, for commissioned officers of the Public Health Service other than medical officers.

(c) The authority under Section 207(a)(2) (42 U.S.C. 209(a)(2)) to terminate commissions of officers of the Reserve Corps without the consent of the officers concerned.

(d) The authority under Section 210(a), (k), and (l) (42 U.S.C. 211(a), (k), and (l)) to make or terminate temporary promotions of commissioned officers of the Regular Corps and Reserve Corps.

(e) The authority under Section 211(a)(5) (42 U.S.C. 212(a)(5)) to approve voluntary retirements under that section.

(f) The authority to prescribe regulations under the following-designated Sections: 207(a), 207(b), 208(e), 210(a), 210(b), 210(d)(1), 210(h), 210(l), 210(j)(1), 210(k), 215(a), 218(a), 219(a), and 510 (42 U.S.C. 209(a), 209(b), 210(e), 211(a), 211(b), 211(d)(1), 211(h), 211(l), 211(j)(1), 211(k), 216(a), 218a(a), 210-1(a), and 228).

(g) The authority under Sections 321(a) and 364(a) (42 U.S.C. 248(a) and 267(a)) to approve the selection of suitable sites for and the establishment of additional institutions, hospitals, stations, grounds, and anchorages; subject, however, to the approval of the Director of the Bureau of the Budget, except as he may otherwise provide.

SEC. 2. The Surgeon General is hereby authorized and empowered, without the approval, ratification, or other action of the President, to perform the function vested in the President by Sections 203 and 207(a)(2) of the Public Health Service Act (58 Stat. 683, 685), as amended (42 U.S.C. 204 and 209(a)(2)), or otherwise, of accepting voluntary resignations of commissioned officers of the Regular Corps or the Reserve Corps.

SEC. 3. The Secretary of Health, Education, and Welfare is hereby authorized and empowered, without the approval, ratification, or other action of the President, to exercise the authority vested in the President by Section 704 of Title 37 of the United States Code to prescribe regulations.

SEC. 4. The Secretary of Health, Education, and Welfare is hereby authorized to redelegate all or any part of the functions set forth under (a), (b), (c), and (d) of Section 1 hereof to the Surgeon General of the Public Health Service or other official of that Service who is required to be appointed by and with the advice and consent of the Senate.

SEC. 5. All actions heretofore taken by appropriate authority with respect to the matters affected by this order and in force at the time of the issuance of this order, including any regulations prescribed or approved with respect to such matters, shall, except as

they may be inconsistent with the provisions of this order, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this order.

SEC. 6. As used in this order, the term "functions" embraces duties, powers, responsibilities, authority, or discretion, and the term "perform" may be construed to mean "exercise".

SEC. 7. (a) Executive Order No. 10506 of December 10, 1953, entitled "Delegating Certain Functions of the President under the Public Health Service Act," is hereby superseded.

(b) Executive Orders Nos. 9993 of August 31, 1948, 10031 of January 26, 1949, 10280 of August 16, 1951, 10354 of May 26, 1952, and 10497 of October 27, 1953, which prescribed regulations relating to commissioned officers and employees of the Public Health Service, are hereby revoked. Nothing in this subsection shall be deemed to alter or otherwise affect the regulations prescribed by the Surgeon General (42 CFR Parts 21 and 22) to replace the regulations prescribed by the orders described in the preceding sentence.

LYNDON B. JOHNSON.

§ 203. Organization of Service

The Service shall consist of (1) the Office of the Surgeon General, (2) the National Institutes of Health, (3) the Bureau of Medical Services, and (4) the Bureau of State Services. The Surgeon General is authorized and directed to assign to the Office of the Surgeon General, to the National Institutes of Health, to the Bureau of Medical Services, and to the Bureau of State Services, respectively, the several functions of the Service, and to establish within them such divisions, sections, and other units as he may find necessary; and from time to time abolish, transfer, and consolidate divisions, sections, and other units and assign their functions and personnel in such manner as he may find necessary for efficient operation of the Service. No division shall be established, abolished, or transferred, and no divisions shall be consolidated, except with the approval of the Secretary. The National Institutes of Health shall be administered as a part of the field service. The Surgeon General may delegate to any officer or employee of the Service such of his powers and duties under this chapter, except the making of regulations, as he may deem necessary or expedient.

(July 1, 1944, ch. 373, title II, § 202, 58 Stat. 683; June 16, 1948, ch. 481, § 6(b), 62 Stat. 469; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

AMENDMENTS

1948—Act June 16, 1948, substituted in cl. (2) "National Institutes of Health" for "National Institute of Health".

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare, and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

ABOLITION OF AGENCIES

The Bureau of Medical Services, Bureau of State Services, National Institutes of Health, excluding the several research Institutes in the agency, and the Office of the Surgeon General were abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 226 of this title.

§ 204. Composition of commissioned corps; appointment of commissioned officers of Regular and Reserve Corps

There shall be in the Service a commissioned Regular Corps and, for the purpose of securing a reserve for duty in the Service in time of national emergency, a Reserve Corps. All commissioned officers shall be citizens and shall be appointed without regard to the civil-service laws and compensated without regard to chapter 51 and subchapter III of chapter 53 of title 5. Commissioned officers of the Reserve Corps shall be appointed by the President and commissioned officers of the Regular Corps shall be appointed by him by and with the advice and consent of the Senate. Commissioned officers of the Reserve Corps shall at all times be subject to call to active duty by the Surgeon General, including active duty for the purpose of training and active duty for the purpose of determining their fitness for appointment in the Regular Corps.

(July 1, 1944, ch. 373, title II, § 203, 58 Stat. 683; Feb. 28, 1948, ch. 83, § 2, 62 Stat. 39; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972.)

REFERENCES IN TEXT

The Civil Service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

"Chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949, as amended" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

1948—Act Feb. 28, 1948, struck out the last sentence which read "All active service in the Reserve Corps, as well as service in the Regular Corps, shall be credited for the purpose of promotion in the Regular Corps."

REPEALS

Act Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972, set out in the credit of this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, and the Surgeon General, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

OSTEOPATHS AS RESERVE OFFICERS

Section 709 of act July 1, 1944, renumbered by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, which provided for appointment of osteopaths as reserve officers until six months after World War II, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

CROSS REFERENCES

Pay and allowances of commissioned officers, see section 210 of this title.

§ 205. Appointment and tenure of office of Surgeon General; reversion in rank

The Surgeon General shall be appointed from the Regular Corps for a four-year term by the President by and with the advice and consent of the Senate. Upon the expiration of such term the Surgeon General, unless reappointed, shall revert to the grade and number in the Regular Corps that he would have occupied had he not served as Surgeon General.

(July 1, 1944, ch. 373, title II, § 204, 58 Stat. 684.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 206 of this title.

§ 206. Assignment of officers

(a) Deputy Surgeon General

The Surgeon General shall assign one commissioned officer from the Regular Corps to administer the Office of the Surgeon General, to act as Surgeon General during the absence or disability of the Surgeon General or in the event of a vacancy in that office, and to perform such other duties as the Surgeon General may prescribe, and while so assigned he shall have the title of Deputy Surgeon General.

(b) Assistant Surgeons General

The Surgeon General shall assign six commissioned officers from the Regular Corps to be, respectively, the Director of the National Institutes of Health, the Chief of the Bureau of State Services, the Chief of the Bureau of Medical Services, the Chief Medical Officer of the United States Coast Guard, the Chief Dental Officer of the Service, and the Chief Sanitary Engineering Officer of the Service, and while so serving they shall each have the title of Assistant Surgeon General.

(c) Creation of temporary positions as Assistant Surgeons General

The Surgeon General, with the approval of the Secretary, is authorized to create special temporary positions in the grade of Assistant Surgeons General when necessary for the proper staffing of the Service; but the number of such special temporary positions, when added to the eight positions created by section 205 of this title and subsections (a) and (b) of this section, shall not on any day exceed three-fourths of 1 per centum of the highest number, during the ninety days preceding such day, of officers of the Regular Corps on active duty and officers of the Reserve Corps on active duty for more than thirty days. The Surgeon General may assign officers of either the Regular Corps or the Reserve Corps to any such special temporary positions, and while so serving they shall each have the title of Assistant Surgeon General.

(d) Designation of Assistant Surgeon General with respect to absence, disability, or vacancy in the offices of Surgeon General and Deputy Surgeon General

The Surgeon General shall designate the Assistant Surgeon General who shall serve as Surgeon General in case of absence or disability, or vacancy in the offices, of both the Surgeon General and the Deputy Surgeon General.

(July 1, 1944, ch. 373, title II, § 205, 58 Stat. 684; Feb. 28, 1948, ch. 83, § 3, 62 Stat. 39; June 16, 1948, ch. 481, § 6(b), 62 Stat. 469; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

AMENDMENTS

1948—Subsec. (b). Act June 16, 1948, substituted "National Institutes of Health" for "National Institute of Health".

Subsec. (c). Act Feb. 28, 1948, added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Act Feb. 28, 1948, redesignated former subsec. (c) as (d).

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare, by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

ABOLITION OF OFFICES

The Office of the Surgeon General, together with the office held by the Deputy Surgeon General, the Bureau of Medical Services, including the office of Chief of the Bureau of Medical Services, the Bureau of State Services, including the office of Chief of the Bureau of State Services, and the National Institutes of Health, including the office of Director of the National Institutes of Health, were abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 210b of this title.

§ 207. Grades, ranks, and titles of commissioned corps

(a) Grades of commissioned officers

The Surgeon General, during the period of his appointment as such, shall be of the same grade as the Surgeon General of the Army; the

Deputy Surgeon General and the Chief Medical Officer of the United States Coast Guard, while assigned as such, shall have the grade corresponding with the grade of major general; and the Chief Dental Officer, while assigned as such, shall have the grade as is prescribed by law for the officer of the Dental Corps selected and appointed as Assistant Surgeon General of the Army. Assistant Surgeons General, while assigned as such, shall have the grade corresponding with either the grade of brigadier general or the grade of major general, as may be determined by the Secretary after considering the importance of the duties to be performed: *Provided*, That the number of Assistant Surgeons General having a grade higher than that corresponding to the grade of brigadier general shall at no time exceed one-half of the number of positions created by subsection (b) of section 206 of this title or pursuant to subsection (c) of section 206 of this title. The grades of commissioned officers of the Service shall correspond with grades of officers of the Army as follows:

(1) Officers of the director grade—colonel;

(2) Officers of the senior grade—lieutenant colonel;

(3) Officers of the full grade—major;

(4) Officers of the senior assistant grade—captain;

(5) Officers of the assistant grade—first lieutenant; and

(6) Officers of the junior assistant grade—second lieutenant.

(b) Titles of medical officers

The titles of medical officers of the foregoing grades shall be respectively (1) medical director, (2) senior surgeon, (3) surgeon, (4) senior assistant surgeon, (5) assistant surgeon, and (6) junior assistant surgeon. The President is authorized to prescribe titles, appropriate to the several grades, for commissioned officers of the Service other than medical officers. All titles of the officers of the Reserve Corps shall have the suffix "Reserve."

(c) Commissioned officers assigned as chief of division

Any commissioned officer below the grade of director who is assigned to serve as chief of a division shall, for the duration of such assignment, have the grade of director and receive the pay and allowances applicable to such grade.

(d) Maximum number in grade for each fiscal year

Within the total number of officers of the Regular Corps authorized by the appropriation Act or Acts for each fiscal year to be on active duty, the Secretary shall by regulation prescribe the maximum number of officers authorized to be in each of the grades from the junior assistant grade to the director grade, inclusive. Such numbers shall be determined after considering the anticipated needs of the Service during the fiscal year, the funds available, the number of officers in each grade at the beginning of the fiscal year, and the anticipated appointments, the anticipated promotions based on years of service, and the anticipated retirements during the fiscal year. The number so determined for any grade for a fiscal year may not exceed the number limitation (if any) contained in the appropriation Act or Acts for such year. Such regulations for each fiscal year shall be prescribed as promptly as possible after the appropriation Act fixing the authorized strength of the corps for that year, and shall be subject to amendment only if such authorized strength or such number limitation is thereafter changed. The maxima established by such regulations shall not require (apart from action pursuant to other provisions of this chapter) any officer to be separated from the Service or reduced in grade.

(July 1, 1944, ch. 373, title II, § 206, 58 Stat. 684; Feb. 28, 1948, ch. 83, § 4, 62 Stat. 39; Oct. 31, 1951, ch. 653, 65 Stat. 700; July 17, 1952, ch. 931, 66 Stat. 758; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 7, 1962, Pub. L. 87-649, § 11(1), 76 Stat. 497.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-649 eliminated provisions which related to pay and allowances.

1952—Subsec. (a). Act July 17, 1952, provided that the Chief Medical Officer of the Coast Guard should have the grade, pay, and allowances of a major general.

1951—Subsec. (a). Act Oct. 31, 1951, provided equality of grade, pay, and allowances between the Chief Dental Officer and the comparable officer in the Army.

1948—Subsec. (a). Act Feb. 28, 1948, increased grade of Deputy Surgeon General from brigadier general to major general and increased grade of certain Assistant Surgeons General from brigadier general to major general as the Federal Security Administrator might determine.

Subsecs. (c), (d). Act Feb. 28, 1948, added subsecs. (c) and (d).

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

ABOLITION OF OFFICES

The Office of the Surgeon General, together with the office held by the Deputy Surgeon General, were abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (d) of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 210b of this title.

§ 208. Repealed. Feb. 28, 1948, ch. 83, § 5(a), 62 Stat. 40

Section, act July 1, 1944, ch. 373, title II, § 207, 58 Stat. 685, related to establishment of special temporary provisions and is now covered in part by sections 206(c) and 207(c) of this title.

§ 209. Appointment of personnel

(a) Original appointments to Regular and Reserve Corps; limitation on appointment and call to active duty

(1) Except as provided in subsections (b) and (e) of this section, original appointments to the Regular Corps may be made only in the junior assistant, assistant, and senior assistant grades and original appointments to a grade above junior assistant shall be made only after passage of an examination, given in accordance with regulations of the President, in one or more of the several branches of medicine, dentistry, hygiene, sanitary engineering, pharmacy, nursing, or related scientific specialties in the field of public health.

(2) Original appointments to the Reserve Corps may be made to any grade up to and including the director grade but only after passage of an examination given in accordance with regulations of the President. Reserve commissions shall be for an indefinite period and may be terminated at any time, as the President may direct.

(3) No individual who has attained the age of forty-four shall be appointed to the Regular Corps, or called to active duty in the Reserve Corps for a period in excess of one year, unless (A) he has had a number of years of active service (as defined in section 212(d) of this title) equal to the number of years by which his age exceeds forty-four, or (B) the Surgeon General determines that he possesses exceptional qualifications, not readily available elsewhere in the Commissioned Corps of the Public Health Service, for the performance of special duties with the Service, or (C) in the case of an officer of the Reserve Corps, the Commissioned Corps of the Service has been declared by the President to be a military service.

(b) Grade and number of original appointments

(1) Not more than 10 per centum of the original appointments to the Regular Corps authorized to be made during any fiscal year may be made to grades above that of senior assistant, but no such appointment may be made to a grade above that of director. For the purpose of this subsection the number of original appointments authorized to be made during a fiscal year shall be (1) the excess of the number of officers of the Regular Corps authorized by the appropriation Act or Acts for such year over the number of officers on active duty in the Regular Corps on the first day of such year, plus (2) the number of such officers of the Regular Corps who, during such fiscal year, have been or will be retired upon attainment of age sixty-four or have for any other reason ceased to be on active duty. In determining the number of appointments authorized by this subsection an appointment shall be deemed to be made in the fiscal year in which the nomination is transmitted by the President to the Senate.

(2) In addition to the number of original appointments to the Regular Corps authorized by paragraph (1) to be made to grades above that of senior assistant, original appointments authorized to be made to the Regular Corps in any year may be made to grades above that of senior assistant, but not above that of director, in the case of any individual who—

(A)(i) was on active duty in the Reserve Corps on July 1, 1960, (ii) was on such active duty continuously for not less than one year immediately prior to such date, and (iii) applies for appointment to the Regular Corps prior to July 1, 1962; or

(B) does not come within clause (A)(i) and (ii) but was on active duty in the Reserve Corps continuously for not less than one year immediately prior to his appointment to the Regular Corps and has not served on active duty continuously for a period, occurring after June 30, 1960, of more than three and one-half years prior to applying for such appointment.

(3) No person shall be appointed pursuant to this subsection unless he meets standards established in accordance with regulations of the President.

(c) Issuance of commissions

Commissions evidencing the appointment by the President of officers of the Regular or Reserve Corps shall be issued by the Secretary under the seal of the Department of Health, Education, and Welfare.

(d) Date of appointment; credit for service

(1) For purposes of basic pay and for purposes of promotion, any person appointed under subsection (a) of this section to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b) of this section, shall, except as provided in paragraphs (2) and (3) of this subsection, be considered as having had on the date of appointment the following length of service: Three years if appointed to the senior assistant grade, ten years if appointed to the full grade, seventeen years if appointed to the senior grade, and eighteen years if appointed to the director grade.

(2) For purposes of basic pay, any person appointed under subsection (a) of this section to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b) of this section, shall, in lieu of the credit provided in paragraph (1) of this subsection, be credited with the service for which he is entitled to credit under any other provision of law if such service exceeds that to which he would be entitled under such paragraph.

(3) For purposes of promotion, any person originally appointed in the Regular Corps to the senior assistant grade or above who has had active service in the Reserve Corps shall be considered as having had on the date of appointment the length of service provided for in paragraph (1) of this subsection, plus whichever of the following is greater: (A) The excess of his total active service in the Reserve Corps (above the grade of junior assistant) over the length of

service provided in such paragraph, to the extent that such excess is on account of service in the Reserve Corps in or above the grade to which he is appointed in the Regular Corps or (B) his active service in the same or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he would have had the training and experience necessary for such appointment.

(4) For purposes of promotion, any person whose original appointment is to the assistant grade in the Regular Corps shall be considered as having had on the date of appointment service equal to his total active service in the Reserve Corps in and above the assistant grade.

(e) Reappointment; credit for service

(1) A former officer of the Regular Corps may, if application for appointment is made within two years after the date of the termination of his prior commission in the Regular Corps, be reappointed to the Regular Corps without examination, except as the Surgeon General may otherwise prescribe, and without regard to the numerical limitations of subsection (b) of this section.

(2) Reappointments pursuant to this subsection may be made to the permanent grade held by the former officer at the time of the termination of his prior commission, or to the next higher grade if such officer meets the eligibility requirements prescribed by regulation for original appointment to such higher grade. For purposes of pay, promotion, and seniority in grade, such reappointed officer shall receive the credits for service to which he would be entitled if such appointment were an original appointment, but in no event less than the credits he held at the time his prior commission was terminated, except that if such officer is reappointed to the next higher grade he shall receive no credit for seniority in grade.

(3) No former officer shall be reappointed pursuant to this subsection unless he shall meet such standards as the Secretary may prescribe.

(f) Special consultants

In accordance with regulations, special consultants may be employed to assist and advise in the operations of the Service. Such consultants may be appointed without regard to the civil-service laws.

(g) Designation for fellowships; duties; pay

In accordance with regulations, individual scientists, other than commissioned officers of the Service, may be designated by the Surgeon General to receive fellowships, appointed for duty with the Service without regard to the civil-service laws, may hold their fellowships under conditions prescribed therein, and may be assigned for studies or investigations either in this country or abroad during the terms of their fellowships.

(h) Aliens

Persons who are not citizens may be employed as consultants pursuant to subsection (f) of this section and may be appointed to fellowships pursuant to subsection (g) of this section. Unless otherwise specifically provided, any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them, shall not be applicable in the case of persons employed or appointed pursuant to such subsections.

(i) Civil service appointments by Secretary

The appointment of any officer or employee of the Service made in accordance with the civil-service laws shall be made by the Secretary, and may be made effective as of the date on which such officer or employee enters upon duty.

(July 1, 1944, ch. 373, title II, § 207, formerly § 208, 58 Stat. 685; July 3, 1946, ch. 538, § 4, 60 Stat. 421; Aug. 13, 1946, ch. 958, § 3, 60 Stat. 1049; renumbered and amended Feb. 28, 1948, ch. 83, § 5(a)-(d), 62 Stat. 40; Oct. 12, 1949, ch. 681, title V, § 521(a), 63 Stat. 834; Reorg. Plan No. 1 of 1953, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 27, 1956, ch. 211, § 3(a)-(c)(1), 70 Stat. 116; Apr. 8, 1960, Pub. L. 86-415, §§ 2, 3, 74 Stat. 32.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsecs. (f), (g), (i), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

In subsec. (f), the words "and their compensation may be fixed without regard to the Classification Act of 1923, as amended", and in subsec. (g), the words "and compensated without regard to the Classification Act of 1923, as amended" were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in subsecs. (f) and (g) because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632 (of which section 1 revised and enacted Title 5, Government Organization and Employees, into law). Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Civil Service Commission to determine the applicability to specific positions and employees.

In subsec. (h), the references to subsections (f) and (g) of this section were, in the original, references to subsections (e) and (f) and were changed to reflect the probable intent of Congress.

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-415, § 2, added par. (3).

Subsec. (b). Pub. L. 86-415, § 3, designated first, second and third sentences as par. (1), fourth sentence as par. (3) and added par. (2).

1956—Subsec. (a)(1). Act Apr. 27, 1956, § 3(a), inserted reference to subsection (e) of this section.

Subsec. (a)(2). Act Apr. 27, 1956, § 3(c)(1), substituted "an indefinite period" for "a period of not more than five years".

Subsec. (e). Act Apr. 27, 1956, § 3(b), added subsec. (e). Former subsec. (e) redesignated (f).

Subsecs. (f) to (i). Act Apr. 27, 1956, § 3(b), redesignated former subsecs. (e) to (h) as (f) to (i).

1949—Subsec. (d). Act Oct. 12, 1949, substituted "base pay" for "pay and pay period" wherever appearing.

1948—Subsec. (a)(1). Act Feb. 28, 1948, struck out "surgery" following "several branches of medicine".

Subsec. (a)(2). Act Feb. 28, 1948, omitted "any such commission" preceding "may be terminated", and "in his discretion" following "at any time".

Subsec. (b). Act Feb. 28, 1948, provided for grade and number of original appointments.

Subsecs. (c), (d). Act Feb. 28, 1948, added subsecs. (c) and (d). Former subsecs. (c) and (d) redesignated (e) and (f).

Subsecs. (e), (f). Act Feb. 28, 1948, redesignated former subsecs. (c) and (d) as (e) and (f). Former subsecs. (e) and (f) redesignated (g) and (h).

Subsec. (g). Act Feb. 28, 1948, redesignated former subsec. (e) as (g) and changed reference in text from "subsection (c) of this section" to "subsection (e) of this section", and "subsection (d) of this section" to "subsection (g) of this section".

Subsec. (h). Act Feb. 28, 1948, redesignated former subsec. (f) as (h).

1946—Subsec. (b). Act July 3, 1946, authorized the appointment of additional officers to grades above that of senior assistant but not above that of director, and limits the number so appointed to 20.

Subsec. (b)(2). Act Aug. 13, 1946, inserted "(A)" preceding "to assist", substituted "clause" for "paragraphs", and inserted clause (B).

EFFECTIVE DATE OF 1960 AMENDMENT

Section 8(a) of Pub. L. 86-415 provided that: "The amendments made by sections 2 and 5(b) [to subsec. (a)(3) of this section and section 210(b) of this title] shall become effective July 1, 1960."

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, and the Surgeon General, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (b) of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 390e of Title 7, Agriculture.

TERM OF RESERVE COMMISSIONS IN EFFECT ON APRIL 27, 1956

Section 3(c)(2) of act Apr. 27, 1956, provided that: "The enactment of paragraph (1) of this subsection [amending subsec. (a)(2) of this section] shall not affect the term of the commission of any officer in the Reserve Corps in effect on the date of such enactment [Apr. 27, 1956] unless such officer consents in writing to the extension of his commission for an indefinite period, in which event his commission shall be so extended without the necessity of a new appointment."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 210, 210b of this title.

§§ 209a, 209b. Omitted

CODIFICATION

Section 209, act Dec. 22, 1944, ch. 660, title I, § 101, 58 Stat. 856, which related to the number of regular commissioned nurses to be appointed, their grades, and their length of service for purposes of pay and pay periods, was omitted as not repeated in subsequent appropriation acts.

Section 209b, act Dec. 22, 1944, ch. 660, title I, § 101, 58 Stat. 857, which authorized the appointment of fifty additional regular commissioned officers of which twenty-four were to be in the grades above that of senior assistant, was omitted as not repeated in subsequent appropriation acts.

§ 209c. Repealed. Pub. L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 499

Section, act July 3, 1945, ch. 263, title II, 59 Stat. 370, provided that for purposes of pay and pay period the officers appointed to grades above that of senior assistant pursuant to section 209b of this title shall be considered as having had on the date of appointment service equal to that of the junior officer of the grade to which appointed.

§ 209d. Appointment of osteopaths as commissioned officers

Graduates of colleges of osteopathy whose graduates are eligible for licensure to practice medicine or osteopathy in a majority of the States of the United States, or approved by a body or bodies acceptable to the Secretary, shall be eligible, subject to the other provisions of this chapter, for appointment as commissioned medical officers in the Public Health Service.

(Feb. 28, 1948, ch. 83, § 5(b), 62 Stat. 40; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

REFERENCES IN TEXT

"Provisions of this chapter," referred to in text, was in the original "provisions of this Act," meaning act Feb. 28, 1948, ch. 83. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was not enacted as a part of the Public Health Service Act, which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 210. Pay and allowances

(a) Commissioned officers of Regular and Reserve Corps

Commissioned officers of the Regular and Reserve Corps shall be entitled to receive such pay and allowances as are now or may hereafter be authorized by law.

(b) Purchase of supplies

Commissioned officers on active duty and retired officers entitled to retired pay pursuant to section 211(g)(3), 212, or 213a(a) of this title, shall be permitted to purchase supplies from the Army, Navy, Air Force, and Marine Corps at the same price as is charged officers thereof.

(c) Members of national advisory or review councils or committees

Members of the National Advisory Health Council and members of other national advisory or review councils or committees established under this chapter, including members of the Technical Electronic Product Radiation Safety Standards Committee and the Board of Regents of the National Library of Medicine, but excluding ex officio members, while attending conferences or meetings of their respective councils or committees or while otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate specified at the time of such service for grade GS-18 of the General Schedule, including traveltime; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 for persons in the Government service employed intermittently.

(d) Field employees

Field employees of the Service, except those employed on a per diem or fee basis, who render part-time duty and are also subject to call at any time for services not contemplated in their regular part-time employment, may be paid annual compensation for such part-time duty and, in addition, such fees for such other services as the Surgeon General may determine; but in no case shall the total paid to any such employee for any fiscal year exceed the amount of the minimum annual salary rate of the classification grade of the employee.

(e) Additional pay for leprosy detail

Whenever any noncommissioned officer or other employee of the Service is assigned for duty which the Surgeon General finds requires intimate contact with persons afflicted with leprosy, he may be entitled to receive, as provided by regulations of the President, in addition to any pay or compensation to which he may otherwise be entitled, not more than one-half of such pay or compensation.

(f) Allowances included in fellowships

Individuals appointed under section 209(g) of this title shall have included in their fellowships such stipends or allowances, including travel and subsistence expenses, as the Surgeon General may deem necessary to procure qualified fellows.

(g) Positions in professional, scientific and executive service; compensation; appointment

The Secretary is authorized to establish and fix the compensation for, within the Public Health Service, not more than one hundred and fifty positions, of which not less than one hundred and fifteen shall be for the National Institutes of Health, in the professional, scientific, and executive service, each such position being established to effectuate those research and development activities of the Public Health Service which require the services of specially qualified scientific, professional and administrative personnel: *Provided*, That the rates of compensation for positions established pursuant to the provisions of this subsection shall not be less than the minimum rate of grade 16 of the General Schedule nor more than (1) the highest rate of grade 18 of the General Schedule, or (2) in the case of two such positions, the rate specified, at the time the service in the position is performed, for level II of the Executive Schedule (5 U.S.C. 5313) and such rates of compensation for all positions included in this proviso shall be subject to the approval of the Civil Service Commission. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose.

(July 1, 1944, ch. 373, title II, § 208, formerly § 209, 58 Stat. 686; July 3, 1946, ch. 538, § 5(a), 60 Stat. 422; renumbered and amended Feb. 28, 1948, ch. 83, § 5(a), (g), (h), 62 Stat. 40; June 16, 1948, ch. 481, § 4(d), 62 Stat. 467; June 24, 1948, ch. 621, § 4(d), 62 Stat. 601; Oct. 12, 1949, ch. 681, title V, § 521(b), 63 Stat. 834; Aug. 9, 1950, ch. 654, § 1, 64 Stat. 426; Aug. 15, 1950, ch. 714, §§ 3(e), 4(b), 64 Stat. 447; 1953 Reorg. Plan No. 1, §§ 5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1955, ch. 437, title II, § 201, 69 Stat. 407; June 29, 1956, ch. 477, title II, § 201, 70 Stat. 430; July 31, 1956, ch. 804, title I, § 117(b), 70 Stat. 741; June 20, 1958, Pub. L. 85-462, § 12(e), 72 Stat. 214; Sept. 6, 1958, Pub. L. 85-929, § 9, 72 Stat. 1789; Apr. 8, 1960, Pub. L. 86-415, § 5(b), 74 Stat. 34; Sept. 2, 1960, Pub. L. 86-703, title II, § 201, 74 Stat. 764; Sept. 7, 1962, Pub. L. 87-649, §§ 11(3), 14b, 76 Stat. 497, 499; Oct. 11, 1962, Pub. L. 87-793, § 1001(d), 76 Stat. 864; Aug. 14, 1964, Pub. L. 88-426, title III, § 305(1), 78 Stat. 422; Oct. 15, 1968, Pub. L. 90-574, title V, § 501, 82 Stat. 1012; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(b)(1), 84 Stat. 1310; Nov. 18, 1971, Pub. L. 92-157, title III, § 301(a), 85 Stat. 463.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (c), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

The General Schedule, referred to in subsecs. (c), (g), is set out under section 5332 of Title 5, Government Organization and Employees.

Classified civil service, referred to in subsec. (g), as meaning "competitive service", see section 2102(c) of Title 5.

CODIFICATION

"Section 209(g) of this title" was substituted for "section 209(f) of this title" to conform to the Congressional intent manifested in Pub. L. 92-157, § 301(a), which called for substitution of "subsection (g)" for "section 209(f)".

AMENDMENTS

1971—Subsec. (f). Pub. L. 92-157 substituted "section 209(g) of this title" for "section 209(f) of this title". See Codification note above.

1970—Subsec. (c). Pub. L. 91-515 extended coverage to encompass members of other national review councils or national advisory or review committees established under this chapter, including members of the Technical Electronic Product Radiation Safety Standards Committee and the Board of Regents of the National Library of Medicine, authorized service to be at the request of the Secretary in place of the Surgeon General, and revised rates of compensation and travel allowances.

1968—Subsec. (g). Pub. L. 90-574 inserted "(1)" following "nor more than", and added provisions of cl. (2).

1962—Subsec. (b). Pub. L. 87-649 eliminated sentence which permitted commissioned officers on active duty to make allotments from their pay, and substituted "Commissioned officers on active duty and retired officers" for "Such officers, and retired officers." See section 704 of Title 37, Pay and Allowances of the Uniformed Services.

Subsec. (g). Pub. L. 87-793 substituted provisions requiring the rates of compensation to be not less than the minimum rate of grade 16 nor more than the highest rate of grade 18 of the General Schedule, for provisions which prescribed annual rates of compensation of not less than $12,500 nor more than $19,000.

1960—Subsec. (b). Pub. L. 86-415 authorized retired officers entitled to retired pay pursuant to section 211(g)(3), 212, or 213a(a) of this title, to purchase supplies, and included the purchase of supplies from the Air Force.

Subsec. (g). Pub. L. 86-703 substituted "one hundred and fifty" for "eighty-five" and "one hundred and fifteen" for "seventy-three".

1958—Subsec. (g). Pub. L. 85-929 substituted "in the professional, scientific, and executive service" for "in the professional and scientific service", and substituted "of specially qualified scientific, professional, and administrative personnel" for "of specially qualified scientific or professional personnel".

Pub. L. 85-462, substituted "eighty-five positions, of which not less than seventy-three shall be for the National Institutes of Health" for "sixty positions".

1956—Subsec. (g). Act June 29, 1956, substituted "$20,000" for "$15,000".

1955—Subsec. (g). Act Aug. 1, 1955, increased from thirty to sixty the number of positions which the Administrator may establish in the professional and scientific service.

1950—Subsec. (b). Act Aug. 9, 1950, struck out of the first sentence the words "and may be granted leaves of absence without any deduction from their pay", following "allotments from their pay".

Subsec. (c). Act Aug. 15, 1950, § 3(e), made provisions applicable to members of all national advisory councils.

Subsec. (g). Act Aug. 15, 1950, § 4(b), added subsec. (g).

1949—Subsec. (a). Act Oct. 12, 1949, made section applicable to Reserve officers.

Subsec. (b). Act Oct. 12, 1949, redesignated former subsec. (c) as (b) and repealed former subsec. (b) relating to Reserve officers.

Subsec. (c). Act Oct. 12, 1949, redesignated former subsec. (e) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Act Oct. 12, 1949, redesignated former subsec. (f) as (d) and repealed former subsec. (d) relating to female commissioned officers and defining "dependent".

Subsec. (e). Act Oct. 12, 1949, redesignated former subsec. (g) as (e) and omitted references to allowances. Former subsec. (e) redesignated (c).

Subsec. (f). Act Oct. 12, 1949, redesignated former subsec. (h) as (f). Former subsec. (f) redesignated (d).

1948—Subsec. (b). Act Feb. 28, 1948, inserted "except as otherwise provided by law".

Subsec. (e). Acts June 16, 1948, § 4(d) and June 24, 1948, § 4(d), made section applicable to the National Advisory Heart Council and increased the per diem of all members from $25 to $50, and made section applicable to the National Advisory Dental Research Council, respectively.

Subsec. (h). Act Feb. 28, 1948, changed reference from "section 209(d) of this title" to "section 209(f) of this title".

1946—Subsec. (e). Act July 3, 1946, added "members of the National Advisory Mental Health Council".

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment by Pub. L. 87-793 effective on the first day of the first pay period which begins on or after Oct. 11, 1962, under provisions of section 1008 of Pub. L. 87-793.

Amendment by Pub. L. 87-649, effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (b) by Pub. L. 86-415, effective July 1, 1960, see section 8(a) of Pub. L. 86-415, set out as an Effective Date of 1960 Amendment note under section 209 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment of subsec. (g) by Pub. L. 85-929 effective Sept. 6, 1958, see section 6(a) of Pub. L. 85-929, set out as an Effective Date of 1958 Amendment note under section 342 of Title 21, Food and Drugs.

Amendment of subsec. (g) by Pub. L. 85-462 effective on June 20, 1958, see section 17(b) of Pub. L. 85-462.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 3(a) of act Aug. 9, 1950, provided that the amendment of this section and the enactment of section 210-1 of this title shall become effective as of July 1, 1950.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949.

REPEALS

Act July 31, 1956, ch. 804, title I, § 117(b), 70 Stat. 741, which amended subsec. (g) of this section to increase the salary rates, was repealed by Pub. L. 88-426, title III, § 305(1), Aug. 14, 1964, 78 Stat. 422.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, eff. Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

CROSS REFERENCES

Allotments by commissioned officers of the Public Health Service, see section 704 of Title 37, Pay and Allowances of the Uniformed Services.

National advisory councils, see section 218 of this title.

Pay and allowances of officers of Public Health Service, see Title 37, Pay and Allowances of the Uniformed Services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 217a, 242k, 263f, 289 of this title.

§ 210-1. Annual and sick leave

(a) Regulations

In accordance with regulations of the President, commissioned officers of the Regular Corps and officers of the Reserve Corps on active duty may be granted annual leave and sick leave without any deductions from their pay and allowances: *Provided,* That such regulations shall not authorize annual leave to be accumulated in excess of sixty days.

(b) Repealed. Pub. L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 499

(c) Prohibition

Except in cases of emergency, no annual leave shall be granted to an officer described in subsection (a) of this section between the date upon which such officer applies for, or the Service directs, his retirement, separation, or release from active duty, whichever date is the earlier, and the effective date of such retirement, separation or release from active duty.

(d) Definitions

For purposes of this section the term "accumulated annual leave" means unused accrued annual leave carried forward from one leave year into a succeeding leave year, and the term "accrued annual leave" means the annual leave accruing to an officer during one leave year.

(July 1, 1944, ch. 373, title II, § 219, as added Aug. 9, 1950, ch. 654, § 2, 64 Stat. 426, and amended Sept. 7, 1962, Pub. L. 87-649, § 14b, 76 Stat. 499.)

PARTIAL REPEAL OF SUBSECTION (D)

Subsection (d) of this section was repealed by Pub. L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 499, insofar as it was applicable to the last sentence of subsection (c) of this section which authorized a lump-sum payment to an officer credited with unused accumulated and accrued annual leave. See section 501 of Title 37, Pay and Allowances of the Uniformed Services.

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-649 repealed former subsec. (b), which required forfeiture of all pay and allowances of an officer absent without leave, and is now covered by section 503 of Title 37, Pay and Allowances of the Uniformed Services.

Subsec. (c). Pub. L. 87-649 repealed last sentence which authorized a lump-sum payment for unused accumulated and accrued annual leave on the date of separation, retirement, or release from active duty, and is now covered by section 501 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE

Section effective July 1, 1950, see section 3(a) of act Aug. 9, 1950, set out as an Effective Date of 1950 Amendment note under section 210 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

COMPENSATION FOR PRIOR ACCUMULATED AND ACCRUED LEAVE; LIMITATION; INAPPLICABLE TO OFFICERS ON TERMINAL LEAVE PRIOR TO JULY 1, 1950

Section 3(b) and (c) of act Aug. 9, 1950, which provided that any officer credited with more than sixty days of accumulated and accrued leave on June 30, 1949, be compensated for so much of such leave as exceeds sixty days, that such compensation be due and payable on July 1, 1950, and that the provisions of this Act not apply to any officer on terminal leave preceding separation, retirement, or release from active duty, was omitted as executed.

AVAILABILITY OF FUNDS

Section 4 of act Aug. 9, 1950, which provided for the availability of funds for payment of compensation for prior accumulated and accrued leave for any officer under section 3 of this Act, was omitted as executed.

LEAVE REGULATIONS

Section 5 of act Aug. 9, 1950, provided that: "Except insofar as the provisions of this Act [enacting this section, amending section 210 of this title, and enacting provisions set out as notes under this section and section 210 of this title] are inconsistent therewith, leave regulations adopted prior to the enactment of this Act [Aug. 9, 1950], pursuant to the Public Health Service Act [this chapter], shall remain in effect until repealed, amended, or superseded."

§ 210a. Repealed. Pub. L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 499

Section, act Feb. 28, 1948, ch. 83, § 5(e), (f), 62 Stat. 41, related to service credit for commissioned officers on active duty Feb. 28, 1948, and to service credit for pay and promotion purposes of certain appointees during period Feb. 28, 1948, to July 1, 1948.

§ 210b. Professional categories

(a) Division of corps; basis of categories

For the purpose of establishing eligibility of officers of the Regular Corps for promotions, the Surgeon General shall by regulation divide the corps into professional categories. Each category shall, as far as practicable, be based upon one of the subjects of examination set forth in section 209(a)(1) of this title or upon a subdivision of such subject, and the categories shall be designed to group officers by fields of training in such manner that officers in any one grade in any one category will be available for similar duty in the discharge of the several functions of the Service.

(b) Assignment of officers

Each officer of the Regular Corps on active duty shall, on the basis of his training and experience, be assigned by the Surgeon General to one of the categories established by regulations under subsection (a) of this section. Except upon amendment of such regulations, no assignment so made shall be changed unless the Surgeon General finds (1) that the original assignment was erroneous, or (2) that the officer is equally well qualified to serve in another category to which he has requested to be transferred, and that such transfer is in the interests of the Service.

(c) Maximum number of officers in each category

Within the limits fixed by the Secretary in regulations under section 207(d) of this title for any fiscal year, the Surgeon General shall determine for each category in the Regular Corps the maximum number of officers authorized to be in each of the grades from the assistant grade to the director grade, inclusive.

(d) Vacancies in grade for purposes of promotion

The excess of the number so fixed for any grade in any category over the number of officers of the Regular Corps on active duty in such grade in such category (including in the case of the director grade, officers holding such grade in accordance with section 207(c) of this title) shall for the purpose of promotions constitute vacancies in such grade in such category. For purposes of this subsection, an officer who has been temporarily promoted or who is temporarily holding the grade of director in accordance with section 207(c) of this title shall be deemed to hold the grade to which so promoted or which he is temporarily holding; but while he holds such promotion or grade, and while any officer is temporarily assigned to a position pursuant to section 206(c) of this title, the number fixed under subsection (c) of this section for the grade of his permanent rank shall be reduced by one.

(e) Absence of vacancy in grade as affecting promotion

The absence of a vacancy in a grade in a category shall not prevent an appointment to such grade pursuant to section 209 of this title, a permanent length of service promotion, or the recall of a retired officer to active duty; but the making of such an appointment, promotion, or recall shall be deemed to fill a vacancy if one exists.

(f) Vacancy in grade as affecting maximum number for each category

Whenever a vacancy exists in any grade in a category the Surgeon General may increase by one the number fixed by him under subsection (c) of this section for the next lower grade in the same category, without regard to the numbers fixed in regulations under section 207(d) of this title; and in that event the vacancy in the higher grade shall not be filled except by a permanent promotion, and upon the making of such promotion the number for the next lower grade shall be reduced by one.

(July 1, 1944, ch. 373, title II, § 209, as added Feb. 28, 1948, ch. 83, § 5(i), 62 Stat. 41, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1,1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (c) of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 211 of this title.

§ 211. Promotion of commissioned officers

(a) Permanent or temporary promotions; examination

Promotions of officers of the Regular Corps to any grade up to and including the director grade shall be either permanent promotions based on length of service, other permanent promotions to fill vacancies, or temporary promotions. Permanent promotions shall be made by the President, by and with the advice and consent of the Senate, and temporary promotions shall be made by the President. Each permanent promotion shall be to the next higher grade, and shall be made only after examination given in accordance with regulations of the President.

(b) Promotion to certain grades only to fill vacancies; regulations; definition of "restricted grade".

The President may by regulation provide that in a specified professional category permanent promotions to the senior grade, or to both the full grade and the senior grade, shall be made only if there are vacancies in such grade. A grade in any category with respect to which

such regulations have been issued is referred to in this section as a "restricted grade".

(c) Examinations

Examinations to determine qualification for permanent promotions may be either noncompetitive or competitive, as the Surgeon General shall in each case determine; except that examinations for promotions to the assistant or senior assistant grade shall in all cases be noncompetitive. The officers to be examined shall be selected by the Surgeon General from the professional category, and in the order of seniority in the grade, from which promotion is to be recommended. In the case of a competitive examination the Surgeon General shall determine in advance of the examination the number (which may be one or more) of officers who, after passing the examination, will be recommended to the President for promotion; but if the examination is one for promotions based on length of service, or is one for promotions to fill vacancies other than vacancies in the director grade or in a restricted grade, such number shall not be less than 80 per centum of the number of officers to be examined.

(d) Permanent promotions to qualified officers on length of service

Officers of the Regular Corps, found pursuant to subsection (c) of this section to be qualified, shall be given permanent promotions based on length of service, as follows:

(1) Officers in the junior assistant grade shall be promoted at such times as may be prescribed in regulations of the President.

(2) Officers with permanent rank in the assistant grade, the senior assistant grade, and the full grade shall (except as provided in regulations under subsection (b) of this section) be promoted after completion of three, ten, and seventeen years, respectively, of service in grades above the junior assistant grade; and such promotions, when made, shall be effective, for purposes of pay and seniority in grade, as of the day following the completion of such years of service. An officer with permanent rank in the assistant, senior assistant, or full grade who has not completed such years of service shall be promoted at the same time, and his promotion shall be effective as of the same day, as any officer junior to him in the same grade in the same professional category who is promoted under this paragraph.

(e) Promotion of professional category officers to fill certain vacancies

Officers in a professional category of the Regular Corps, found pursuant to subsection (c) of this section to be qualified, may be given permanent promotions to fill any or all vacancies in such category in the senior assistant grade, the full grade, the senior grade, or the director grade; but no officer who has not had one year of service with permanent or temporary rank in the next lower grade shall be promoted to any restricted grade or to the director grade.

(f) Reexamination upon failure of promotion; effective date of promotion

If an officer who has completed the years of service required for promotion to a grade under paragraph (2) of subsection (d) of this section fails to receive such promotion, he shall (unless he has already been twice examined for promotion to such grade) be once reexamined for promotion to such grade. If he is thereupon promoted (otherwise than under subsection (e) of this section), the effective date of such promotion shall be one year later than it would have been but for such failure. Upon the effective date of any permanent promotion of such officer to such grade, he shall be considered as having had only the length of service required for such promotion which he previously failed to receive.

(g) Separation from service upon failure of promotion

If, for reasons other than physical disability, an officer of the Regular Corps in the junior assistant grade is found pursuant to subsection (c) of this section not to be qualified for promotion he shall be separated from the Service. If, for reasons other than physical disability, an officer of the Regular Corps in the assistant, senior assistant, or full grade, after having been twice examined for promotion (other than promotion to a restricted grade), fails to be promoted—

(1) if in the assistant grade he shall be separated from the Service and paid six months' basic pay and allowances;

(2) if in the senior assistant grade he shall be separated from the Service and paid one year's basic pay and allowances;

(3) if in the full grade he shall be considered as not in line for promotion and shall, at such time thereafter as the Surgeon General may determine, be retired from the Service with retired pay (unless he is entitled to a greater amount by reason of another provision of law) at the rate of 2½ per centum of the basic pay of the permanent grade held by him at the time of retirement for each year, not in excess of thirty, of his active commissioned service in the Service.

(h) Separation from service upon refusal to stand examination

If an officer of the Regular Corps, eligible to take an examination for promotion, refuses to take such examination, he may be separated from the Service in accordance with regulations of the President.

(i) Review of record; separation from service

At the end of his first three years of service, the record of each officer of the Regular Corps originally appointed to the senior assistant grade or above, shall be reviewed in accordance with regulations of the President and, if found not qualified for further service, he shall be separated from the Service and paid six months' pay and allowances.

(j) Determination of order of seniority

(1) The order of seniority of officers in a grade in the Regular Corps shall be determined, subject to the provisions of paragraph (2) of this subsection, by the relative length of time spent in active service after the effective date of each such officer's original appointment or permanent promotion to that grade. When permanent promotions of two or more officers to the same grade are effective on the same day, their relative seniority shall be the same as it was in the grade from which promoted. In all

other cases of original appointments or permanent promotions (or both) to the same grade effective on the same day, relative seniority shall be determined in accordance with regulations of the President.

(2) In the case of an officer originally appointed in the Regular Corps to the grade of assistant or above, his seniority in the grade to which appointed shall be determined after inclusion, as service in such grade, of any active service in such grade or in any higher grade in the Reserve Corps, but (if the appointment is to the grade of senior assistant or above) only to the extent of whichever of the following is greater: (A) His active service in such grade or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he had the training and experience necessary for such appointment, or (B) the excess of his total active service in the Reserve Corps (above the grade of junior assistant) over three years if his appointment in the Regular Corps is to the senior assistant grade, over ten years if the appointment is to the full grade, or over seventeen years if the appointment is to the senior grade.

(k) Temporary promotions; fill vacancy in higher grade; war or national emergency; selection of officers; termination of appointment

Any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for temporary promotion to fill a vacancy in any higher grade in such category, up to and including the director grade. In time of war, or of national emergency proclaimed by the President, any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for promotion to any higher grade in such category, up to and including the director grade, whether or not a vacancy exists in such grade. The selection of officers to be recommended for temporary promotions shall be made in accordance with regulations of the President. Promotion of an officer recommended pursuant to this subsection may be made without regard to length of service, without examination, and without vacating his permanent appointment, and shall carry with it the pay and allowances of the grade to which promoted. Such promotions may be terminated at any time, as may be directed by the President.

(l) Determination of requirements of Service by Secretary; assignment of Reserve Officers to professional categories; temporary promotions; termination of temporary promotions

Whenever the number of officers of the Regular Corps on active duty, plus the number of officers of the Reserve Corps who have been on active duty for thirty days or more, exceeds the authorized strength of the Regular Corps, the Secretary shall determine the requirements of the Service in each grade in each category, based upon the total number of officers so serving on active duty and the tasks being performed by the Service; and the Surgeon General shall thereupon assign each officer of the Reserve Corps on active duty to a professional category. If the Secretary finds that the number of officers fixed under section 210b(c) of this title for any grade and category (or the number of officers, including officers of the Reserve Corps, on active duty in such grade in such category, if such number is greater than the number fixed under section 210b(c) of this title) is insufficient to meet such requirements of the Service, officers of either the Regular Corps or the Reserve Corps may be recommended for temporary promotion to such grade in such category. Any such promotion may be terminated at any time, as may be directed by the President.

(m) Acceptance of promotion; oath and affidavit

Any officer of the Regular Corps, or any officer of the Reserve Corps on active duty, who is promoted to a higher grade shall, unless he expressly declines such promotion, be deemed for all purposes to have accepted such promotion; and shall not be required to renew his oath of office, or to execute a new affidavit as required by section 3332 of title 5.

(July 1, 1944, ch. 373, title II, § 210, 58 Stat. 687; Feb. 28, 1948, ch. 83, § 6(a), 62 Stat. 42; Oct. 12, 1949, ch. 681, title V, § 521(c), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 27, 1956, ch. 211, § 4(a), 70 Stat. 117; Apr. 8, 1960, Pub. L. 86-415, § 5(c), 74 Stat. 34; Sept. 7, 1962, Pub. L. 87-649, § 11(2), 76 Stat. 497.)

CODIFICATION

"Section 3332 of title 5" was substituted for "the Act of December 11, 1926, as amended (5 U.S.C. 21a)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1962—Subsec. (g). Pub. L. 87-649 substituted "basic pay" for "pay" in clauses (1) and (2).

1960—Subsec. (g). Pub. L. 86-415 substituted "of the basic pay of the permanent grade held by him at the time of retirement for each year" for "of his active duty pay at the time of retirement for each complete year" in cl. (3).

1956—Subsec. (d)(2). Act Apr. 27, 1956, deleted "pay period and for purposes of" preceding "seniority in grade".

1949—Subsec. (g). Act Oct. 12, 1949, struck out "incurred in line of duty" wherever appearing.

1948—Act Feb. 28, 1948, amended subsecs. (a) to (c) generally, and added subsecs. (d) to (m).

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the

Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 210, 212 of this title.

§ 211a. Repealed. Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936

Section, act July 1, 1944, ch. 373, title XIII, § 1311, formerly title VII, § 711, as added Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, and renumbered title VIII, § 811, by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 721, renumbered title IX, § 911, by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, renumbered title X, § 1011, by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, renumbered title XI, § 1111 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506, renumbered title XII, § 1211 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137, renumbered title XIII, § 1311, by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, provided for the appointment to higher grades of Public Health Service officers for mental health and hospital construction activities.

§ 211b. Repealed. Pub. L. 94-412, title V, § 501(f), Sept. 14, 1976, 90 Stat. 1258

Section, act Feb. 28, 1948, ch. 83, § 6(b) to (f), 62 Stat. 45, dealt with promotion of Public Health Service officers.

SAVINGS PROVISIONS

Repeal of this section by Pub. L. 94-412 not to affect any action taken or proceeding pending at the time of repeal, see section 501(h) of Pub. L. 94-412, set out as a Savings Provisions note under section 1601 of Title 50, War and National Defense.

§ 211c. Promotion credit for medical officers in the assistant grade

Any medical officer of the Regular Corps of the Public Health Service who—

(1)(A) was appointed to the assistant grade in the Regular Corps and whose service in such Corps has been continuous from the date of appointment or (B) may hereafter be appointed to the assistant grade in the Regular Corps, and

(2) had or will have completed a medical internship on the date of such appointment,

shall be credited with one year for purposes of promotion and seniority in grade, except that no such credit shall be authorized if the officer has received or will receive similar credit for his internship under other provisions of law. In the case of an officer on active duty on the effective date of this section who is entitled to the credit authorized herein, the one year shall be added to the promotion and seniority-in-grade credits with which he is credited on such date.

(July 1, 1944, ch. 373, title II, § 220, as added Apr. 30, 1956, ch. 223, § 3, 70 Stat. 121.)

REFERENCES IN TEXT

For "the effective date of this section", referred to in the text, see section 7 of act Apr. 30, 1956, which provided in part that this section shall become effective the first day of the month following the day of enactment, Apr. 30, 1956.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

§ 212. Retirement of commissioned officers

(a) Age; length of service; computation of retired pay; voluntary retirement of Surgeon General, Deputy Surgeon General and Assistant Surgeon General.

(1) A commissioned officer of the Service shall be retired on the first day of the month following the month in which he attains the age of sixty-four years.

(2) A commissioned officer of the Service may be retired by the Secretary, and shall be retired if he applies for retirement, on the first day of any month after completion of thirty years of active service.

(3) Any commissioned officer of the Service who has had less than thirty years of active service may be retired by the Secretary, with or without application by the officer, on the first day of any month after completion of twenty or more years of active service of which not less than ten are years of active commissioned service in any of the uniformed services.

(4) A commissioned officer retired pursuant to paragraph (1), (2), or (3) who was (in the case of an officer in the Reserve Corps) on active duty with the Service on the day preceding such retirement shall be entitled to receive retired pay at the rate of 2½ per centum of the basic pay of the highest grade held by him as such officer and in which, in the case of a temporary promotion to such grade, he has performed active duty for not less than six months, (A) for each year of active service, or (B) if it results in higher retired pay, for each of the following years:

(i) his years of active service (determined without regard to subsection (d) of this section) as a member of a uniformed service; plus

(ii) in the case of a medical or dental officer, four years and, in the case of a medical officer, who has completed one year of medical internship or the equivalent thereof, one additional year, the four years and the one year to be reduced by the period of active service performed during such officer's attendance at medical school or dental school or during his medical internship; plus

(iii) the number of years of service with which he was entitled to be credited for purposes of basic pay on May 31, 1958, or (if higher) on any date prior thereto, reduced by any such year included under clause (i) and further reduced by any such year with which he was entitled to be credited under paragraphs (7) and (8) of section 205(a) of title 37 on any date before June 1, 1958;

except that (C) in the case of any officer whose retired pay, so computed, is less than 50 per centum of such basic pay, who retires pursuant to paragraph (1) of this subsection, who has not less than twelve whole years of active service (computed without the application of subsection (e) of this section), and who does not use, for purposes of a retirement annuity under subchapter III of chapter 83 of title 5, any service which is also creditable in computing his retired pay from the Service, it shall, instead, be 50 per centum of such pay, and (D) the retired pay of an officer shall in no case be more than 75 per centum of such basic pay.

(5) With the approval of the President, a commissioned officer whose service as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General has totaled four years or more and who has had not less than twenty-five years of active service in the Service may retire voluntarily at any time; and his retired pay shall be at the rate of 75 per centum of the basic pay of the highest grade held by him as such officer.

(b) Basic pay of highest temporary grade

For purposes of subsection (a) of this section, the basic pay of the highest grade to which a commissioned officer has received a temporary promotion means the basic pay to which he would be entitled if serving on active duty in such grade on the date of his retirement.

(c) Recall to active duty

A commissioned officer, retired for reasons other than for failure of promotion to the senior grade, may (1) if an officer of the Regular Corps or an officer of the Reserve Corps entitled to retired pay under subsection (a) of this section, be involuntarily recalled to active duty during such times as the Commissioned Corps constitutes a branch of the land or naval forces of the United States, and (2) if an officer of either the Regular or Reserve Corps, be recalled to active duty at any time with his consent.

(d) Active service

The term "active service," as used in subsection (a) of this section, includes:

(1) all active service in any of the uniformed services;

(2) active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service only the last five years thereof may be included; and

(3) all active service (other than service included under the preceding provisions of this subsection) which is creditable for retirement purposes under laws governing the retirement of members of any of the uniformed services.

(e) Crediting of part of year of active service

For the purpose of determining the number of years by which a percentage of the basic pay of an officer is to be multiplied in computing the amount of his retired pay pursuant to section 211(g)(3) of this title or paragraph (4) of subsection (a) of this section, a part of a year of active service of six months or more shall be counted as a whole year and a part of a year of active service which is less than six months shall be disregarded.

(f) Retirement or separation for physical disability

For purposes of retirement or separation for physical disability under chapter 61 of title 10, a commissioned officer of the Service shall be credited, in addition to the service described in section 1208(a)(2) of that title, with active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service, only the last five years thereof may be so credited. For such purposes, such section 1208(a)(2) shall be applicable to officers of the Regular or Reserve Corps of the Service.

(July 1, 1944, ch. 373, title II, § 211, 58 Stat. 688; Feb. 28, 1948, ch. 83, § 7, 62 Stat. 46; Oct. 12, 1949, ch. 681, title V, § 521(d), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 27, 1956, ch. 211, § 5(a)-(c), 70 Stat. 117; Aug. 10, 1956, ch. 1041, § 5, 70A Stat. 620; Apr. 8, 1960, Pub. L. 86-415, § 4, 74 Stat. 33; May 14, 1970, Pub. L. 91-253, § 1, 84 Stat. 216.)

Codification

"Subchapter III of chapter 83 of title 5" was substituted for "the Civil Service Retirement Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

Amendments

1970—Subsec. (a)(4). Pub. L. 91-253 inserted "plus" after the semicolon at the end of cl. (ii), and added cl. (iii).

1960—Pub. L. 86-415 amended section generally, and among other changes, authorized the retirement of commissioned officers who have had less than 30 years of active service any time after the completion of 20 years of active service, permitted persons who have served as Deputy Surgeons General or Assistant Surgeons General for four or more years and who have had at least 25 years of active service to retire voluntarily at any time, provided for the recall to active duty of officers of the Reserve Corps entitled to retired pay under subsection (a) of this section during such times as the Corps constitutes a branch of the land or naval forces of the United States, authorized credit, for retirement purposes, of active service in the uniformed services and limited to five years the crediting of active service with the Public Health Service other than as a commissioned officer, and established the methods for computation of retired pay for active duty officers retiring for age or length of service.

1956—Subsec. (a). Act Apr. 27, 1956, § 5(a), authorized the crediting of noncommissioned service for purposes of retirement.

Subsec. (b)(1). Act Apr. 27, 1956, § 5(b), authorized the crediting of noncommissioned service in the Service for purposes of retirement.

Subsec. (c). Act Apr. 27, 1956, § 5(c), permitted the recall of retired officers of the Regular Corps without their consent whenever the Regular Corps has military status, and authorized the recall of retired officers of the Regular or Reserve Corps with their consent at any time.

Subsec. (g). Act Aug. 10, 1956, provided for the crediting of service for the purposes of retirement or separation for physical disability under chapter 61 of title 10, Armed Forces.

1949—Subsec. (a). Act Oct. 12, 1949, redesignated former subsec. (b) as (a), substituted "subsection (b)"

for "subsection (c)" and repealed former subsec. (a) relating to retirement for disability or disease.

Subsec. (b). Act Oct. 12, 1949, redesignated former subsec. (c) as (b) and omitted reference to retirement for disability or disease. Former subsec. (b) redesignated (a).

Subsec. (c). Act Oct. 12, 1949, redesignated former subsec. (d) as (c) and omitted reference to recovery from a disability. Former subsec. (c) redesignated (b).

Subsecs. (d) to (f). Act Oct. 12, 1949, redesignated former subsecs. (e) to (g) as (d) to (f). Former subsec. (d) redesignated (c).

Subsec. (g). Act Oct. 12, 1949, redesignated former subsec. (h) as (g) and amended the subsection generally to relate to retirement or separation for physical disability.

1948—Subsec. (b). Act Feb. 28, 1948, added length of service for retirement purposes.

Subsec. (c)(2). Act Feb. 28, 1948, made subdivision applicable to the grade of Assistant Surgeon General.

Subsec. (d). Act Feb. 28, 1948, substituted "under the provisions of subsection (b) of this section" for "for age".

Subsecs. (g), (h). Act Feb. 28, 1948, added subsecs. (g) and (h).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 2 of Pub. L. 91-253 provided that: "The amendments made by this Act [amending subsec. (a)(4) of this section] shall apply in the case of retired pay for any period after the month in which this Act is enacted [May 1970]."

EFFECTIVE DATE OF 1960 AMENDMENT

Section 8(b) of Pub. L. 86-415 provided that: "The amendment made by section 4 [to this section] shall become effective on the date of enactment of this Act [Apr. 8, 1960] in the case of commissioned officers of the Regular Corps of the Public Health Service, and on July 1, 1960, in the case of commissioned officers of the Reserve Corps of the Public Health Service."

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949.

SAVINGS PROVISIONS

Subsections (c) and (d) of section 8 of Pub. L. 86-415 provided that:

"(c) An officer in the Regular Corps on active duty on the date of enactment of this Act [Apr. 8, 1960] may be retired and have his retired pay computed under section 211 of the Public Health Service Act, as amended by this Act [this section], or, if he so elects, under such section as in effect prior to the date of enactment of this Act [Apr. 8, 1960].

"(d) The limitation under subsection (f) of section 211 of the Public Health Service Act, as amended by this Act [subsec. (f) of this section], on the amount of active service with the Public Health Service, other than as a commissioned officer, which may be counted for purposes of retirement or separation for physical disability, shall not apply in the case of any officer of the Reserve Corps of the Public Health Service on active duty on June 30, 1960."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, eff. Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

COVERAGE UNDER CIVIL SERVICE RETIREMENT ACT

Creditable service for purposes of the Civil Service Retirement Act for certain commissioned officers of the Regular or Reserve Corps of the Public Health Service, see section 6(a), (b) of Pub. L. 86-415, set out as a note under section 8332 of Title 5, Government Organization and Employees.

CROSS REFERENCES

Restriction on retirement payment to officers selling to Government agencies, see section 801 of Title 37, Pay and Allowances of the Uniformed Services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 209, 210 of this title.

§ 212a. Repealed. Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936

Section, act July 1, 1944, ch. 373, title XIII, § 1312, formerly title VII, § 712, as added Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, and renumbered title VIII, § 812, by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 721, renumbered title IX, § 912, by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, renumbered title X, § 1012, by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, renumbered title XI, § 1112 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506, renumbered title XII, § 1212 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137, renumbered title XIII, § 1312, by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, provided for the retirement of certain officers of the Reserve Corps of the Public Health Service for disability.

§ 212b. Repealed. Apr. 27, 1956, ch. 211, § 5(d), 70 Stat. 117

Section, act July 31, 1953, ch. 296, title II, § 201, 67 Stat. 254, authorized the recall of retired officers of the Service, and is now covered by section 212(c) of this title.

§ 213. Military benefits

(a) Rights, privileges, immunities, and benefits accorded to commissioned officers or their survivors

Except as provided in subsection (b) of this section, commissioned officers of the Service and their surviving beneficiaries shall, with respect to active service performed by such officers—

(1) in time of war;

(2) on detail for duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard; or

(3) while the Service is part of the military forces of the United States pursuant to Executive order of the President;

be entitled to all rights, privileges, immunities, and benefits now or hereafter provided under any law of the United States in the case of commissioned officers of the Army or their surviving beneficiaries on account of active military service, except retired pay and uniform allowances.

(b) Award of decorations

The President may prescribe the conditions under which commissioned officers of the Service may be awarded military ribbons, medals, and decorations.

(c) Authority of Surgeon General

The authority vested by law in the Department of the Army, the Secretary of the Army, or other officers of the Department of the Army with respect to rights, privileges, immunities, and benefits referred to in subsection (a) of this section shall be exercised, with respect to commissioned officers of the Service, by the Surgeon General.

(d) Active service deemed active military service with respect to laws administered by Veterans' Administration

Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all laws administered by the Veterans' Administration (except the Servicemen's Indemnity Act of 1951) and section 417 of this title.

(e) Active service deemed active military service with respect to Soldiers' and Sailors' Civil Relief Act of 1940

Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all rights, privileges, immunities, and benefits now or hereafter provided under the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. 501 et seq.).

(July 1, 1944, ch. 373, title II, § 212, 58 Stat. 689; July 15, 1954, ch. 507, § 14(a), 68 Stat. 481; Aug. 1, 1956, ch. 837, title V, § 501(b)(1), 70 Stat. 881; Apr. 22, 1976, Pub. L. 94-278, title XI, § 1101, 90 Stat. 415.)

REFERENCES IN TEXT

The Servicemen's Indemnity Act of 1951, referred to in subsec. (d), is act Apr. 25, 1951, ch. 39, pt. I, 65 Stat. 33, which was classified generally to subchapter II (§ 851 et seq.) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by act Aug. 1, 1956, ch. 873, title V, § 502(9), 70 Stat. 886.

The Soldiers' and Sailors' Civil Relief Act of 1940, referred to in subsec. (e), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, which is classified to section 501 et seq. of Title 50, App., War and National Defense. For complete classification of this Act to the Code, see section 501 of Title 50, App., and Tables volume.

AMENDMENTS

1976—Subsec. (e). Pub. L. 94-278 added subsec. (e).

1956—Act Aug. 1, 1956, amended section generally to extend all rights, privileges, immunities, and benefits provided for commissioned officers of the Army or their surviving beneficiaries to commissioned officers of the Service, with the exception of retired pay and uniform allowances, when performing duty under certain circumstances, and to provide that active service of commissioned officers shall be deemed to be active military service in the Armed Forces for the purposes of all laws administered by the Veterans' Administration (except the Servicemen's Indemnity Act of 1951) and section 417 of this title.

1954—Subsec. (a)(1). Act July 15, 1954, struck out "burial payments in the event of death," following "limited to,".

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

EFFECTIVE DATE OF 1956 AMENDMENT; APPLICABILITY

Section 501(b)(2) of act Aug. 1, 1956, provided that: "The amendment made by this subsection [to this section] (A) shall apply only with respect to service performed on or after July 4, 1952, (B) shall not be construed to affect the entitlement of any person to benefits under the Veterans' Readjustment Assistance Act of 1952 [act July 16, 1952, ch. 875, 66 Stat. 633], (C) shall not be construed to authorize any payment under section 202(i) of the Social Security Act [section 402(i) of this title], or under Veterans Regulation Numbered 9(a), for any death occurring prior to January 1, 1957, and (D) shall not be construed to authorize payment of any benefits for any period prior to January 1, 1957."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

RECOMPUTATION OF SOCIAL SECURITY BENEFITS FOR OFFICERS ENTITLED TO OLD-AGE INSURANCE BENEFITS PRIOR TO JANUARY 1, 1957, OR FOR SURVIVORS OF OFFICERS WHO DIED PRIOR TO JANUARY 1, 1957

Section 501(b)(3) of act Aug. 1, 1956, provided that: "In the case of any individual—

"(A) who performed active service (i) as a commissioned officer of the Public Health Service at any time during the period beginning July 4, 1952, and ending December 31, 1956, or (ii) as a commissioned officer of the Coast and Geodetic Survey at any time during the period beginning July 29, 1945, and ending December 31, 1956; and

"(B)(i) who became entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] prior to January 1, 1957, or

"(ii) who died prior to January 1, 1957, and whose widow, child, or parent is entitled for the month of January 1957, on the basis of his wages and self-employment income, to a monthly survivor's benefit under section 202 of such act [section 402 of this title]; and

"(C) any part of whose service described in subparagraph (A) was not included in the computation of his primary insurance amount under section 215 of such act [section 415 of this title] but would have been included in such computation if the amendment made by paragraph (1) of this subsection or paragraph (1) of subsection (d) had been effective prior to the date of such computation, the Secretary of Health, Education,

and Welfare shall, notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title], recompute the primary insurance amount of such individual upon the filing of an application, after December 1956, by him or (if he dies without filing such an application) by any person entitled to monthly survivor's benefits under section 202 of such act [section 402 of this title] on the basis of his wages and self-employment income. Such recomputation shall be made only in the manner, provided in title II of the Social Security Act [sections 401 to 425 of this title] as in effect at the time of the last previous computation or recomputation of such individual's primary insurance amount, and as though application therefor was filed in the month in which application for such last previous computation or recomputation was filed. No recomputation made under this paragraph shall be regarded as a recomputation under section 215(f) of the Social Security Act [section 415(f) of this title]. Any such recomputation shall be effective for and after the twelfth month before the month in which the application was filed, but in no case for any month before January 1957."

DISPOSITION OF REMAINS OF DECEASED PERSONNEL

Recovery, care, and disposition of the remains of deceased members of the uniformed services and other deceased personnel, see section 1481 et seq. of Title 10, Armed Forces.

BURIAL OF CERTAIN COMMISSIONED OFFICERS

Act Apr. 30, 1956, ch. 227, 70 Stat. 124, provided: "That burial in national cemeteries of the remains of commissioned officers of the United States Public Health Service who were detailed for duty with the Army or Navy during World War I pursuant to the act of July 1, 1902 (32 Stat. 712, 713), as amended, and Executive Order Numbered 2571 dated April 3, 1917, and of the wife, widow, minor child and, in the discretion of the Secretary of the Army, unmarried adult child of these officers is authorized: *Provided*, That the remains of the wife, widow, and children may, in the discretion of the Secretary of the Army, be removed from a national cemetery proper and interred in the post section of a national cemetery if, upon death, the related officer is not buried in the same or an adjoining gravesite."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 213a, 215 of this title.

§ 213a. Rights, benefits, privileges, and immunities for commissioned officers or beneficiaries; exercise of authority by Secretary or designee

(a) Commissioned officers of the Service or their surviving beneficiaries are entitled to all the rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army or their surviving beneficiaries under the following provisions of title 10:

(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

(2) Chapter 61, Retirement or Separation for Physical Disability, except that sections 1201, 1202, and 1203 do not apply to commissioned officers of the Public Health Service who have been ordered to active duty for training for a period of more than 30 days.

(3) Chapter 69, Retired Grade, except sections 1374, 1375 and 1376(a).

(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

(5) Chapter 73, Retired Serviceman's Family Protection Plan; Survivor Benefit Plan.

(6) Chapter 75, Death Benefits.

(7) Section 2771, Final settlement of accounts: deceased members.

(8) Chapter 163, Military Claims, but only when commissioned officers of the Service are entitled to military benefits under section 213 of this title.

(9) Section 2603, Acceptance of fellowships, scholarships, or grants.

(10) Section 2634, Motor vehicles: for members on permanent change of station.

(11) Section 1035, Deposits of Savings.

(b) The authority vested by title 10 in the "military departments", "the Secretary concerned", or "the Secretary of Defense" with respect to the rights, privileges, immunities, and benefits referred to in subsection (a) of this section shall be exercised, with respect to commissioned officers of the Service, by the Secretary of Health, Education, and Welfare or his designee.

(July 1, 1944, ch. 373, title II, § 221, as added Aug. 10, 1956, ch. 1041, § 4, 70A Stat. 619, and amended Sept. 2, 1958, Pub. L. 85-861, § 4, 72 Stat. 1547; Aug. 14, 1959, Pub. L. 86-160, § 3, 73 Stat. 359; July 27, 1962, Pub. L. 87-555, § 2, 76 Stat. 244; Oct. 2, 1963, Pub. L. 88-132, § 5(k), 77 Stat. 214; Aug. 14, 1964, Pub. L. 88-431, § 1(d), 78 Stat. 440; Aug. 14, 1966, Pub. L. 89-538, § 3(b), 80 Stat. 348; Sept. 21, 1972, Pub. L. 92-425, § 5, 86 Stat. 713.)

CODIFICATION

Section 2 of Pub. L. 87-555 provided in part as follows: "Section 221 of the Public Health Service Act, as amended (42 U.S.C. 213a), is amended by adding the following new clause at the end thereof." Since the new clause is numbered "(9)" and subsection (a) contains clauses (1) through (8), the amendment was executed to subsection (a), which would appear to be the intent of Congress.

Section was formerly classified to section 316 of title 37 prior to the general revision and enactment of Title 37, Pay and Allowances of the Uniformed Services, by Pub. L. 87-649, § 1, Sept. 7, 1962, 76 Stat. 451.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-425 substituted "Retired Serviceman's Family Protection Plan; Survivor Benefit Plan" for "Annuities Based on Retired or Retainer Pay" in cl. (5).

1966—Subsec. (a). Pub. L. 89-538 added cl. (11).

1964—Subsec. (a). Pub. L. 88-431 added cl. (10).

1963—Subsec. (b). Pub. L. 88-132 included reference to the Secretary of Defense.

1962—Subsec. (a). Pub. L. 87-555 added cl. (9).

1959—Subsec. (a). Pub. L. 86-160 added cl. (1) and renumbered former cls. (1) to (7) as (2) to (8).

1958—Subsec. (a). Pub. L. 85-861 substituted "provisions" for "chapters" in the opening clause, eliminated former cl. (1) which related to chapter 55 of title 10, renumbered former cls. (2) to (6) as (1) to (5), amended cl. (1), as renumbered, to make sections 1201 to 1203 of title 10, inapplicable to commissioned officers of the Public Health Service who have been ordered to active duty for training for a period of more than 30 days, inserted a reference to section 1374 of title 10 in cl. (2), as renumbered, eliminated "Care of the Dead" which followed "Benefits" in cl. (5), as renumbered, and added cl. (6).

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

BACK PAYMENTS: VALIDATION; APPLICATION; LIMITATIONS; ACCOUNTABILITY OF DISBURSING OFFICERS; REGULATIONS

Transportation and travel allowances to escorts for dependents of members, see sections 4 to 7 of Pub. L. 86-160, set out as a note under section 1036 of Title 10, Armed Forces.

DESIGNATION OF BENEFICIARY MADE BEFORE JANUARY 1, 1956

Designation of beneficiary made before Jan. 1, 1956, considered as the designation of a beneficiary for the purposes of section 4 of Pub. L. 85-861, which amended this section, see section 31 of Pub. L. 85-861, set out as a note under section 2771 of Title 10, Armed Forces.

RULES AND REGULATIONS; SAVINGS DEPOSIT BENEFITS

Regulations prescribed by the Secretary of Health, Education, and Welfare concerning savings deposit benefits for Public Health Service personnel to be prescribed jointly with regulations prescribed by the Secretaries concerned under section 1035 of Title 10, Armed Forces, see section 3(c) of Pub. L. 89-538, set out as a note under section 1035 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 210 of this title.

§ 214. Repealed. Pub. L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 499

Section, acts July 1, 1944, ch. 373, title II, § 213, 58 Stat. 689; Apr. 27, 1956, ch. 211, § 2(a), 70 Stat. 116, authorized allowances for uniforms, and is now covered by section 415 of Title 37, Pay and Allowances of the Uniformed Services.

§ 214a. Repealed. Sept. 1, 1954, ch. 1211, § 5, 68 Stat. 1130

Section, act July 31, 1953, ch. 296, title II, § 204, 67 Stat. 257, related to allowances for use of taxicabs, etc., around duty posts. See now section 408 of Title 37, Pay and Allowances of the Uniformed Services.

§ 215. Detail of Service personnel

(a) Other government departments

The Secretary is authorized, upon the request of the head of an executive department, to detail officers or employees of the Service to such department for duty as agreed upon by the Secretary and the head of such department in order to cooperate in, or conduct work related to, the functions of such department or of the Service. When officers or employees are so detailed their salaries and allowances may be paid from working funds established as provided by law or may be paid by the Service from applicable appropriations and reimbursement may be made as agreed upon by the Secretary and the head of the executive department concerned. Officers detailed for duty with the Army, Air Force, Navy, or Coast Guard shall be subject to the laws for the government of the service to which detailed.

(b) State health or mental health authorities

Upon the request of any State health authority or, in the case of work relating to mental health, any State mental health authority, personnel of the Service may be detailed by the Surgeon General for the purpose of assisting such State or a political subdivision thereof in work related to the functions of the Service.

(c) Nonprofit educational, research, or other institutions engaged in health activities for special studies and dissemination of information

The Surgeon General may detail personnel of the Service to nonprofit educational, research, or other institutions engaged in health activities for special studies of scientific problems and for the dissemination of information relating to public health.

(d) Availability of funds; detailed services deemed service for computation of pay, promotion, etc.

Personnel detailed under subsections (b) and (c) of this section shall be paid from applicable appropriations of the Service, except that, in accordance with regulations such personnel may be placed on leave without pay and paid by the State, subdivision, or institution to which they are detailed. The services of personnel while detailed pursuant to this section shall be considered as having been performed in the Service for purposes of the computation of basic pay, promotion, retirement, compensation for injury or death, and the benefits provided by section 213 of this title.

(July 1, 1944, ch. 373, title II, § 214, 58 Stat. 690; July 3, 1946, ch. 538, § 6, 60 Stat. 423; Oct. 12, 1949, ch. 681, title V, § 521(e), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

In subsec. (a), Air Force was inserted on the authority of section 207(a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 502, which established a separate Department of the Air Force, and Secretary of Defense Transfer Order No. 40 [App. A(74)], July 22, 1949, which transferred certain functions, insofar as they pertain to the Air Force, which were not previously transferred to the Department of the Air Force and Secretary of the Air Force. Section 207(a), (f) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 8010 to 8013 continued the Department of the Air Force under the administrative supervision of a Secretary of the Air Force.

AMENDMENTS

1949—Subsec. (d). Act Oct. 12, 1949, substituted "the computation of basic pay" for "longevity pay".

1946—Subsec. (b). Act July 3, 1946, provided for the detail of personnel where a request comes from the State mental health authority.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3

of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

TRANSFERS OF PERSONNEL OCCASIONED BY CREATION OF THE ENVIRONMENTAL PROTECTION AGENCY

Pub. L. 91-604, § 15(b)(1)-(8)(A), Dec. 31, 1970, 84 Stat. 1710-1712, provided that:

"(1) Subject to such requirements as the Civil Service Commission may prescribe, any commissioned officer of the Public Health Service (other than an officer who retires under section 211 of the Public Health Service Act [section 212 of this title] after his election but prior to his transfer pursuant to this paragraph and paragraph (2)) who, upon the day before the effective date of Reorganization Plan Numbered 3 of 1970 (hereinafter in this subsection referred to as the 'plan'), is serving as such officer (A) primarily in the performance of functions transferred by such plan to the Environmental Protection Agency or its Administrator (hereinafter in this subsection referred to as the 'Agency' and the 'Administrator,' respectively), may, if such officer so elects, acquire competitive status and be transferred to a competitive position in the Agency; or (B) primarily in the performance of functions determined by the Secretary of Health, Education, and Welfare (hereinafter in this subsection referred to as the 'Secretary') to be materially related to the functions so transferred, may, if authorized by agreement between the Secretary and the Administrator, and if such officer so elects, acquire such status and be so transferred.

"(2) An election pursuant to paragraph (1) shall be effective only if made in accordance with such procedures as may be prescribed by the Civil Service Commission (A) before the close of the 24th month after the effective date of the plan [Dec. 2, 1970], or (B) in the case of a commissioned officer who would be liable for training and service under the Military Selective Service Act of 1967 [section 451 et seq. of Title 50, App., War and National Defense] but for the operation of section 6(b)(3) thereof (50 U.S.C. App. 456(b)(3)), before (if it occurs later than the close of such 24th month) the close of the 90th day after the day upon which he has completed his 24th month of service as such officer.

"(3)(A) Except as provided in subparagraph (B), any commissioned officer of the Public Health Service who, pursuant to paragraphs (1) and (2), elects to transfer to a position in the Agency which is subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code (hereinafter in this subsection referred to as the 'transferring officer'), shall receive a pay rate of the General Schedule grade of such position which is not less than the sum of the following amounts computed as of the day preceding the date of such election:

"(i) the basic pay, the special pay, the continuation pay, and the subsistence and quarters allowances, to which he is annually entitled as a commissioned officer of the Public Health Service pursuant to title 37, United States Code;

"(ii) the amount of Federal income tax, as determined by estimate of the Secretary, which the transferring officer, had he remained a commissioned officer, would have been required to pay on his subsistence and quarters allowances for the taxable year then current if they had not been tax free;

"(iii) an amount equal to the biweekly average cost of the coverages designated 'high option, self and family' under the Government-wide Federal employee health benefits programs plans, multiplied by twenty-six; and

"(iv) an amount equal to 7 per centum of the sum of the amounts determined under clauses (i) through (iii), inclusive.

"(B) A transferring officer shall in no event receive, pursuant to subparagraph (A), a pay rate in excess of the maximum rate applicable under the General Schedule to the class of position, as established under chapter 51 of title 5, United States Code, to which such officer is transferred pursuant to paragraphs (1) and (2).

"(4)(A) A transferring officer shall be credited, on the day of his transfer pursuant to his election under paragraphs (1) and (2), with one hour of sick leave for each week of active service, as defined by section 211(d) of the Public Health Service Act [section 212(d) of this title].

"(B) The annual leave to the credit of a transferring officer on the day before the day of his transfer, shall, on such day of transfer, be transferred to his credit in the Agency on an adjusted basis under regulations prescribed by the Civil Service Commission. The portion of such leave, if any, that is in excess of the sum of (i) 240 hours, and (ii) the number of hours that have accrued to the credit of the transferring officer during the calendar year then current and which remain unused, shall thereafter remain to his credit until used, and shall be reduced in the manner described by subsection (c) of section 6304 of title 5, United States Code.

"(5) A transferring officer who is required to change his official station as a result of his transfer under this subsection shall be paid such travel, transportation, and related expenses and allowances, as would be provided pursuant to subchapter II of chapter 57 of title 5, United States Code, in the case of a civilian employee so transferred in the interest of the Government. Such officer shall not (either at the time of such transfer or upon a subsequent separation from the competitive service) be deemed to have separated from, or changed permanent station within, a uniformed service for purposes of section 404 of title 37, United States Code.

"(6) Each transferring officer who prior to January 1, 1958, was insured pursuant to the Federal Employees' Group Life Insurance Act of 1954, and who subsequently waived such insurance, shall be entitled to become insured under chapter 87 of title 5, United States Code, upon his transfer to the Agency regardless of age and insurability.

"(7)(A) Effective as of the date a transferring officer acquires competitive status as an employee of the Agency, there shall be considered as the civilian service of such officer for all purposes of chapter 83, title 5, United States Code, (i) his active service as defined by section 211(d) of the Public Health Service Act [section 212(d) of this title], or (ii) any period for which he would have been entitled, upon his retirement as a commissioned officer of the Public Health Service, to receive retired pay pursuant to section 211(a)(4)(B) of such Act [section 212(a)(4)(B) of this title]; however, no transferring officer may become entitled to benefits under both subchapter III of such chapter and title II of the Social Security Act [section 401 et seq. of this title] based on service as such a commissioned officer performed after 1956, but the individual (or his survivors) may irrevocably elect to waive benefit credit for the service under one such law to secure credit under the other.

"(B) A transferring officer on whose behalf a deposit is required to be made by subparagraph (C) and who,

after transfer to a competitive position in the Agency under paragraphs (1) and (2), is separated from Federal service or transfers to a position not covered by subchapter III of chapter 83 of title 5, United States Code, shall not be entitled, nor shall his survivors be entitled, to a refund of any amount deposited on his behalf in accordance with this section. In the event he transfers, after transfer under paragraphs (1) and (2), to a position covered by another Government staff requirement system under which credit is allowable for service with respect to which a deposit is required under subparagraph (C), no credit shall be allowed under such subchapter III with respect to such service.

"(C) The Secretary shall deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, on behalf of and to the credit of such transferring officer, an amount equal to that which such individual would be required to deposit in such fund to cover the years of service credited to him for purposes of his retirement under subparagraph (A), had such service been service as an employee as defined in section 8331(1) of title 5, United States Code. The amount so required to be deposited with respect to any transferring officer shall be computed on the basis of the sum of each of the amounts described in paragraph (3)(A) which were received by, or accrued to the benefit of, such officer during the years so credited. The deposits which the Secretary is required to make under this subparagraph with respect to any transferring officer shall be made within two years after the date of his transfer as provided in paragraphs (1) and (2), and the amounts due under this subparagraph shall include interest computed from the period of service credited to the date of payment in accordance with section 8334(e) of title 5, United States Code.

"(8)(A) A commissioned officer of the Public Health Service, who, upon the day before the effective date of the plan, is on active service therewith primarily assigned to the performance of functions described in paragraph (1)(A), shall, while he remains in active service, as defined by section 211(d) of the Public Health Service Act [section 212(d) of this title], be assigned to the performance of duties with the Agency, except as the Secretary and the Administrator may jointly otherwise provide."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 246, 254d, 2004b of this title.

§ 216. Regulations

(a) Prescription by President; appointments, retirement, etc.

The President shall from time to time prescribe regulations with respect to the appointment, promotion, retirement, termination of commission, titles, pay, uniforms, allowances (including increased allowances for foreign service), and discipline of the commissioned corps of the Service.

(b) Promulgation by Surgeon General; administration of Service

The Surgeon General, with the approval of the Secretary, unless specifically otherwise provided, shall promulgate all other regulations necessary to the administration of the Service, including regulations with respect to uniforms for employees, and regulations with respect to the custody, use, and preservation of the records, papers, and property of the Service.

(c) Preference to school of medicine

No regulation relating to qualifications for appointment of medical officers or employees shall give preference to any school of medicine.

(July 1, 1944, ch. 373, title II, § 215, 58 Stat. 690; Oct. 12, 1949, ch. 681, title V, § 521(f), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

AMENDMENTS

1949—Subsec. (b). Act Oct. 12, 1949, deleted references to travel and transportation of household goods and effects.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, January 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

§ 217. Use of Service in time of war or emergency

In time of war, or of emergency proclaimed by the President, he may utilize the Service to such extent and in such manner as shall in his judgment promote the public interest. In time of war, or of emergency involving the national defense proclaimed by the President, he may by Executive order declare the commissioned corps of the Service to be a military service. Upon such declaration, and during the period of such war or such emergency or such part thereof as the President shall prescribe, the commissioned corps (a) shall constitute a branch of the land and naval forces of the United States, (b) shall, to the extent prescribed by regulations of the President, be subject to the Uniform Code of Military Justice [10 U.S.C. 801 et seq.], and (c) shall continue to operate as part of the Service except to the extent that the President may direct as Commander in Chief.

(July 1, 1944, ch. 373, title II, § 216, 58 Stat. 690; Apr. 27, 1956, ch. 211, § 1, 70 Stat. 116.)

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in the text, is classified to chapter 47 (§ 801 et seq.) of Title 10, Armed Forces.

AMENDMENTS

1956—Act Apr. 27, 1956, empowered the President to declare the commissioned corps of the Service to be a military service in time of emergency involving the national defense, and substituted "the Uniform Code of Military Justice" for "the Articles of War and to the Articles for the Government of the Navy".

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, ch. 570, 66 Stat. 334, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of said Joint Res. July 3, 1952.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

EXECUTIVE ORDER NO. 9575

Ex. Ord. No. 9575, eff. June 28, 1945, 10 F.R. 7895, formerly set out as a note under this section, which declared the Commissioned Corps of the Public Health Service to be a military service subject to the Articles for the Government of the Navy as therein prescribed, was superseded by Ex. Ord. No. 10349, eff. Apr. 28, 1952, 17 F.R. 3769.

EXECUTIVE ORDER NO. 10349

Ex. Ord. No. 10349, eff. Apr. 28, 1952, 17 F.R. 3769, formerly set out as a note under this section, superseded Ex. Ord. No. 9575, set out above, and subjected the Commissioned Corps of the Public Health Service to the provisions of the Uniform Code of Military Justice until June 1, 1952.

EXECUTIVE ORDER NO. 10356

Ex. Ord. No. 10356, eff. June 2, 1952, 17 F.R. 4967, formerly set out as a note under this section, amended Ex. Ord. No. 10349, set out above, and extended from June 1, 1952, to June 15, 1952 the period during which the Commissioned Corps of the Public Health Service was subject to the provisions of the Uniform Code of Military justice.

EXECUTIVE ORDER NO. 10362

Ex. Ord. No. 10362, eff. June 14, 1952, 17 F.R. 5413, formerly set out as a note under this section, amended Ex. Ord. No. 10356, set out above, and extended from June 15, 1952 to June 30, 1952 the period during which the Commissioned Corps of the Public Health Service was subject to the Uniform Code of Military Justice.

EXECUTIVE ORDER NO. 10367

Ex. Ord. No. 10367, eff. June 30, 1952, 17 F.R. 5929, formerly set out as a note under this section, amended Ex. Ord. No. 10362, set out above, and extended from June 30, 1952 to July 3, 1952, the period during which the Commissioned Corps of the Public Health Service was subject to the Uniform Code of Military Justice.

CROSS REFERENCES

Personnel of Public Health Service serving with armed forces as subject to Uniform Code of Military Justice, see section 802 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254d of this title; title 10 section 1332.

§ 217a. Advisory councils or committees

(a) Appointment; purpose

The Secretary may, without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, from time to time, appoint such advisory councils or committees (in addition to those authorized to be established under other provisions of law), for such periods of time, as he deems desirable with such period commencing on a date specified by the Secretary for the purpose of advising him in connection with any of his functions.

(b) Compensation and allowances of members not full-time employees of the United States

Members of any advisory council or committee appointed under this section who are not regular full-time employees of the United States, while attending meetings or conferences of such council or committee or otherwise engaged on business of such council or committee receive compensation and allowances as provided in section 210(c) of this title for members of national advisory councils established under this chapter.

(c) Transfer of functions

Upon appointment of any such council or committee, the Surgeon General, with the approval of the Secretary may transfer such of the functions of the National Advisory Health Council relating to grants-in-aid for research or training projects or programs in the areas or fields with which such council or committee is concerned as he determines to be appropriate.

(July 1, 1944, ch. 373, title II, § 222, as added Oct. 17, 1962, Pub. L. 87-838, § 3, 76 Stat. 1073, and amended Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(a)(3), (c), 84 Stat. 1310, 1311.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (a), is set out under section 5332 of title 5.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-515, § 601(c)(1), substituted provisions authorizing the Secretary to appoint advisory councils or committees without regard to specified provisions governing appointments in the competitive service and relating to classification and General Schedule pay rates, for provisions authorizing the Surgeon General to appoint advisory committees without regard to the civil service laws and subject to the Secretary's approval in such cases as he prescribed.

Subsec. (b). Pub. L. 91-515, § 601(a)(3), added "council or" preceding "committee" wherever appearing therein.

Subsec. (c). Pub. L. 91-515, § 601(a)(3), (c)(2), added "council or" preceding "committee" wherever appearing therein, and "or programs" following "projects".

TERMINATION OF ADVISORY COMMITTEES; REPORT BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE TO CONGRESSIONAL COMMITTEES RELATING TO TERMINATION

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, provided that:

"(a) An advisory committee established by or pursuant to the Public Health Service Act [section 201 et seq. of this title] the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 [sections 2689 et seq. and 6001 et seq. of this title], or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [section 4541 et seq. of this title] shall ter-

minate at such time as may be specifically prescribed by an Act of Congress enacted after the date of the enactment of this Act [Jan. 4, 1975].

"(b) The Secretary of Health, Education, and Welfare shall report, within one year after the date of the enactment of the Act [Jan. 4, 1975], to the Committee on Labor and Public Welfare [now Committee on Human Resources] of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (1) the purpose and use of each advisory committee established by or pursuant to the Public Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and (2) his recommendations respecting the termination of each such advisory committee."

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

§ 217a-1. Advisory committees; prohibition of consideration of political affiliations

All appointments to advisory committees established to assist in implementing the Public Health Service Act [42 U.S.C. 201 et seq.], the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 [42 U.S.C. 2689 et seq. and 6001 et seq.], and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [42 U.S.C. 4541 et seq.], shall be made without regard to political affiliation.

(Pub. L. 94-278, title X, § 1001, Apr. 22, 1976, 90 Stat. 415.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to this chapter (§ 201 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, referred to in text, is Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 284, as amended, which is classified principally to subchapter III (§ 2689 et seq.) of chapter 33 and chapter 75 (§ 6001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title and Tables volume.

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, referred to in text, is Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, which is classified principally to chapter 60 (§ 4541 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of this title and Table volume.

CODIFICATION

Section was not enacted as a part of the Public Health Service Act which comprises this chapter.

§ 217b. Volunteer services

Subject to regulations, volunteer and uncompensated services may be accepted by the Secretary, or by any other officer or employee of the Department of Health, Education, and Welfare designated by him, for use in the operation of any health care facility or in the provision of health care.

(July 1, 1944, ch. 373, title II, § 223, as added Dec. 5, 1967, Pub. L. 90-174, § 6, 81 Stat. 539.)

DEFINITION OF "SECRETARY"

Term "Secretary" used in this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90-174, set out as a note under section 201 of this title.

§ 218. National Advisory Councils

(a) National Advisory Health Council, National Advisory Mental Health Council, National Advisory Council on Alcohol Abuse and Alcoholism, and National Advisory Dental Research Council; composition; qualifications; appointment and tenure

The National Advisory Health Council, the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Dental Research Council shall each consist of the Surgeon General, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members; and twelve members appointed without regard to the civil-service laws by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare. The twelve appointed members of each such council shall be leaders in the fields of fundamental sciences, medical sciences, or public affairs, and six of such twelve shall be selected from among leading medical or scientific authorities who, in the case of the National Advisory Health Council, are skilled in the sciences related to health, and in the case of the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Dental Research Council, are outstanding in the study, diagnosis, or treatment of psychiatric disorders, alcohol abuse and alcoholism, and dental diseases and conditions, respectively. In the case of the National Advisory Dental Research Council, four of such six shall be dentists. Each appointed member of each such council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, (2) the terms of the members (other than the members of the National Advisory Council on Alcohol Abuse and Alcoholism) first taking office after September 30, 1950, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Surgeon General at the time of appointment; and (3) the terms of the members of the National Council on Alcohol Abuse and Alcoholism first taking office after December 31, 1970, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as desig-

nated by the Secretary at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term, but terms expiring prior to October 1, 1950, shall not be deemed "preceding terms" for the purposes of this sentence.

(b) Duties of National Advisory Health Council

The National Advisory Health Council shall advise, consult with, and make recommendations to, the Surgeon General on matters relating to health activities and functions of the Service. The Surgeon General is authorized to utilize the services of any member or members of the Council, and where appropriate, any member or members of the national advisory councils or committees established under this chapter on mental health, alcohol abuse and alcoholism, dental, rheumatism, arthritis, and metabolic diseases, neurological diseases and blindness, and other diseases, in connection with matters related to the work of the Service, for such periods, in addition to conference periods, as he may determine.

(c) Duties of National Advisory Mental Health Council

The National Advisory Mental Health Council shall advise, consult with, and make recommendations to, the Surgeon General on matters relating to the activities and functions of the Service in the field of mental health. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of mental health and recommend to the Surgeon General, for prosecution under this chapter, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of psychiatric disorders; and (2) to collect information as to studies being carried on in the field of mental health and, with the approval of the Surgeon General, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public or private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Surgeon General, for acceptance pursuant to section 219 of this title, conditional gifts for work in the field of mental health; and the Surgeon General shall recommend acceptance of any such gifts only after consultation with the Council.

(d) Duties of National Advisory Council on Alcohol Abuse and Alcoholism

The National Advisory Council on Alcohol Abuse and Alcoholism shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Secretary in the field of alcohol abuse and alcoholism, including policies and priorities with respect to grants and contracts. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of alcohol abuse and alcoholism and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of alcohol abuse and alcoholism, and (2) to collect information as to studies being carried on in the field of alcohol abuse and alcoholism and, with the approval of the Secretary, make available such information through appropriate publications for the benefit of health and welfare agencies or organizations (public or private) or physicians or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 4591 of this title conditional gifts for work in the field of alcohol abuse and alcoholism; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council.

(e) National Advisory Council on Drug Abuse; composition; qualifications; duties

(1) The National Advisory Council on Drug Abuse shall consist of the Secretary, who shall be Chairman, the chief medical officer of the Veterans' Administration or his representative, and a medical officer designated by the Secretary of Defense, who shall be ex officio members. In addition, the Council shall be composed of twelve members appointed by the Secretary without regard to the provisions of title 5 governing appointments in the competitive service. The appointed members of the Council shall represent a broad range of interests, disciplines, and expertise in the drug area and shall be selected from outstanding professionals and paraprofessionals in the fields of medicine, education, science, the social sciences, and other related disciplines, who have been active in the areas of drug abuse prevention, treatment, rehabilitation, training, or research.

(2) The Council shall advise, consult with, and make recommendations to, the Secretary

(A) concerning matters relating to the activities and functions of the Secretary in the field of drug abuse, including, but not limited to, the development of new programs and priorities, the efficient administration of programs, and the supplying of needed scientific and statistical data and program information to professionals, paraprofessionals, and the general public; and

(B) concerning policies and priorities respecting grants and contracts in the field of drug abuse.

(f) National Advisory Council for the Protection of Subjects of Biomedical and Behavioral Research; composition; qualifications; appointment and tenure; duties; applicability of section 14 of Federal Advisory Committee Act

(1) There shall be established a National Advisory Council for the Protection of Subjects of Biomedical and Behavioral Research (hereinafter in this subsection referred to as the "Council") which shall consist of the Secretary who shall be Chairman and not less than seven nor more than fifteen other members who shall be appointed by the Secretary without regard to the provisions of title 5 governing appointments in the competitive service. The Secretary shall select members of the Council from individuals distinguished in the fields of medicine, law, ethics, theology, the biological, physical, behavioral and social sciences, philosophy, humanities, health administration, government,

and public affairs; but three (and not more than three) of the members of the Council shall be individuals who are or who have been engaged in biomedical or behavioral research involving human subjects. No individual who was appointed to be a member of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (established under title II of the National Research Act) may be appointed to be a member of the Council. The appointed members of the Council shall have terms of office of four years, except that for the purpose of staggering the expiration of the terms of office of the Council members, the Secretary shall, at the time of appointment, designate a term of office of less than four years for members first appointed to the Council.

(2) The Council shall—

(A) advise, consult with, and make recommendations to, the Secretary concerning all matters pertaining to the protection of human subjects of biomedical and behavioral research;

(B) review policies, regulations, and other requirements of the Secretary governing such research to determine the extent to which such policies, regulations, and requirements require and are effective in requiring observance in such research of the basic ethical principles which should underlie the conduct of such research and, to the extent such policies, regulations, or requirements do not require or are not effective in requiring observance of such principles, make recommendations to the Secretary respecting appropriate revision of such policies, regulations, or requirements; and

(C) review periodically changes in the scope, purpose, and types of biomedical and behavioral research being conducted and the impact such changes have on the policies, regulations, and other requirements of the Secretary for the protection of human subjects of such research.

(3) The Council may disseminate to the public such information, recommendations, and other matters relating to its functions as it deems appropriate.

(4) Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.

(g) National Advisory Council on Migrant Health; duties; composition; tenure; applicability of section 14(a) of the Federal Advisory Committee Act

(1) Within 120 days of July 29, 1975, the Secretary shall appoint and organize a National Advisory Council on Migrant Health (hereinafter in this subsection referred to as the "Council") which shall advise, consult with, and make recommendations to the Secretary on matters concerning the organization, operation, selection, and funding of migrant health centers and other entities under grants and contracts under section 247d of this title.

(2) The Council shall consist of fifteen members, at least twelve of whom shall be members of the governing boards of migrant health centers or other entities assisted under section 247d of this title. Of such twelve members who are members of such governing boards, at least nine shall be chosen from among those members of such governing boards who are being served by such centers or grantees and who are familiar with the delivery of health care to migratory agricultural workers and seasonal agricultural workers. The remaining three Council members shall be individuals qualified by training and experience in the medical sciences or in the administration of health programs.

(3) Each member of the Council shall hold office for a term of four years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (B) the terms of the members first taking office after July 29, 1975, shall expire as follows: four shall expire four years after such date, four shall expire three years after such date, four shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment.

(4) Section 14(a) of the Federal Advisory Committee Act shall not apply to the Council.

(July 1, 1944, ch. 373, title II, § 217, 58 Stat. 691; July 3, 1946, ch. 538, § 5(b)-(d), 60 Stat. 422; June 16, 1948, ch. 481, §§ 4(a)-(c), 6(b), 62 Stat. 467, 469; June 24, 1948, ch. 621, § 4(a)-(c), 62 Stat. 600; Aug. 15, 1950, ch. 714, § 3(a)-(d), 64 Stat. 446; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(a)(1), 84 Stat. 1310; Dec. 31, 1970, Pub. L. 91-616, title IV, § 401, 84 Stat. 1853; Nov. 18, 1971, Pub. L. 92-157, title III, § 301(b), 85 Stat. 463; Dec. 23, 1971, Pub. L. 92-218, § 6(a)(1), 85 Stat. 785; Mar. 21, 1972, Pub. L. 92-255, title V, § 502(a), 86 Stat. 85; Sept. 19, 1972, Pub. L. 92-423, § 7(a), 86 Stat. 687; July 12, 1974, Pub. L. 93-348, title II, § 211(a), 88 Stat. 351; July 29, 1975, Pub. L. 94-63, title IV, § 401(b), 89 Stat. 341; July 26, 1976, Pub. L. 94-371, § 9, 90 Stat. 1040.)

REFERENCES IN TEXT

The Civil-service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

The provisions of title 5 governing appointments in the competitive service, referred to in subsecs. (e)(1) and (f)(1), are classified to section 3301 et seq. of Title 5.

Provisions respecting National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (established under title II of the National Research Act), referred to in subsec. (f)(1), are set out as a note under section 289*l*-1 of this title.

Federal Advisory Committee Act, referred to in subsecs. (f)(4), (g)(4), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section 502(a) of Pub. L. 92-255, which added subsec. (e) of this section, was amended in its entirety by Pub. L. 94-237, § 12(b)(1), Mar. 19, 1976, 90 Stat. 247. Section 12(b)(1) of Pub. L. 94-237 provided for the enactment of a new section 502 of Pub. L. 92-255, set out as section 1192 of Title 21, Food and Drugs, without directory language relating to the former provisions of such section 502.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-371 added provision that the Council advise the Secretary regarding policies and priorities with respect to grants and contracts in the field of alcohol abuse and alcoholism.

1975—Subsec. (g). Pub. L. 94-63 added subsec. (g).

1974—Subsec. (f). Pub. L. 93-348 added subsec. (f).

1972—Subsec. (a). Pub. L. 92-423, § 7(a)(1), (2), struck out "the National Advisory Heart Council," following "the National Advisory Council on Alcohol Abuse and Alcoholism" in two instances and "heart diseases," following "alcohol abuse and alcoholism,", respectively.

Subsec. (b). Pub. L. 92-423, § 7(a)(2), struck out "heart," following "alcohol abuse and alcoholism,".

Subsec. (e). Pub. L. 92-255 added subsec. (e).

1971—Subsec. (a). Pub. L. 92-218, § 6(a)(1)(A), (B), excluded reference to the National Advisory Cancer Council preceding the National Advisory Mental Health Council in two instances and struck out the word "cancer," preceding "psychiatric disorders".

Pub. L. 92-157 substituted "National Advisory Council on Alcohol Abuse and Alcoholism" for "National Advisory Council on Alcoholic Abuse and Alcoholism" in the second sentence.

Subsec. (b). Pub. L. 92-218, § 6(a)(1)(B), struck out the word "cancer," preceding "mental health" in the listing of various diseases.

1970—Subsec. (a). Pub. L. 91-616, § 401(a), made subsection applicable to the National Advisory Council on Alcohol Abuse and Alcoholism, and added alcohol abuse and alcoholism to the enumeration of diseases concerning which the members of such Council must be skilled, and prescribed the manner in which the terms of the members of the Council would expire.

Subsec. (b). Pub. L. 91-616, § 401(b), added reference to the National Advisory Council on Alcohol Abuse and Alcoholism authorizing the Surgeon General to utilize the services of the members of such Council for additional periods.

Pub. L. 91-515 added "or committees" following "councils".

Subsec. (d). Pub. L. 91-616, § 401(c), added subsec. (d).

1950—Act Aug. 15, 1950, § 3(d), amended catchline to reflect addition of new advisory councils.

Subsec. (a). Act Aug. 15, 1950, § 3(a), applied provisions to all of the advisory councils with regard to composition, qualifications, and appointment and tenure of members.

Subsec. (b). Act Aug. 15, 1950, § 3(b), made subsection also applicable to new advisory councils.

Subsec. (c). Act Aug. 15, 1950, § 3(c), redesignated former subsec. (e) as (c), and repealed former subsec. (c).

Subsecs. (d), (f), (g). Act. Aug. 15, 1950, § 3(c), repealed subsecs. (d), (f), and (g).

1948—Acts June 16, 1948, § 4(c), and June 24, 1948, § 4(c), included in the catchline the National Advisory Heart and Dental Research Councils, respectively.

Subsec. (a). Act June 16, 1948, § 6(b), substituted "National Institutes of Health" for "National Institute of Health" in second sentence.

Subsec. (b). Acts June 16, 1948, § 4(b), and June 24, 1948, § 4(b), made subsection applicable to the National Advisory Heart Council and the National Advisory Dental Research Council, respectively.

Subsec. (f). Act June 16, 1948, § 4(a), added subsec. (f), which established the National Advisory Heart Council.

Subsec. (g). Act June 24, 1948, § 4(a), added subsec. (g), which established the National Advisory Dental Research Council.

1946—Act July 3, 1946, inserted "Mental Health" in the catchline.

Subsec. (b). Act July 3, 1946, inserted "or of the National Advisory Mental Health Council".

Subsecs. (d), (e). Act July 3, 1946, added subsecs. (d) and (e).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-63 effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 211(b) of Pub. L. 93-348, as amended by Pub. L. 94-278, title III, § 301(b), Apr. 22, 1976, 90 Stat. 407; Pub. L. 94-573, § 18(b), Oct. 21, 1976, 90 Stat. 2720, provided that: "The amendment made by subsection (a) [enacting subsec. (f) of this section] shall take effect January 1, 1978."

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-423 effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92-423, set out as an Effective Date of 1972 Amendment note under section 287 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-218 effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92-218, set out as an Effective Date note under section 286a of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Subsecs. (a) and (c) of section 3 of act Aug. 15, 1950, provided in part that the amendment of this section and the repeal of former subsecs. (c), (d), (f), (g) shall be effective Oct. 1, 1950.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

For transfer of certain membership functions, insofar as they pertain to the Air Force, which functions were not previously transferred from the Secretary of the Army to the Secretary of the Air Force and from the Department of the Army to the Department of the Air Force, see Secretary of Defense Transfer Order No. 40 [App. C(7)], July 22, 1949.

EXPIRATION OF TERMS OF OFFICE ON SEPTEMBER 30, 1950

Section 3(c) of act Aug. 15, 1950, provided in part that terms of office as members of national advisory councils pursuant to this section subsisting on Sept. 30, 1950, shall expire at the close of business on such day.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 287f, 289, 292b, 2689r, 3511 of this title.

§ 218a. Training of officers; availability of appropriations for pay and allowances, tuition, fees, and expenses; reimbursement by officer upon voluntary separation

(a) Appropriations available for the pay and allowances of commissioned officers of the Service shall also be available for the pay and allowances of any such officer on active duty while attending any Federal or non-Federal educational institution or training program and, subject to regulations of the President and to the limitation prescribed in such appropriations, for payment of his tuition, fees, and other necessary expenses incident to such attendance.

(b) Any officer whose tuition and fees are paid pursuant to subsection (a) of this section while attending an educational institution or training program for a period in excess of thirty days shall be obligated to reimburse the Service for such tuition and fees if thereafter he voluntarily leaves the Service within whichever of the following periods of active service is the greater: (1) six months, or (2) twice the period of such attendance but in no event more than two years. Such subsequent period of service shall commence upon the cessation of such attendance and of any further continuous period of training duty for which no tuition and fees are paid by the Service and which is part of the officer's prescribed formal training program, whether such further training is at a Service facility or otherwise. The Surgeon General may waive, in whole or in part, any reimbursement which may be required by this subsection upon a determination that such reimbursement would be inequitable or would not be in the public interest.

(July 1, 1944, ch. 373, title II, § 218, as added Feb. 28, 1948, ch. 83, § 8, 62 Stat. 47, and amended Apr. 27, 1956, ch. 211, § 6, 70 Stat. 117.)

AMENDMENTS

1956—Subsec. (a). Act Apr. 27, 1956, § 6(a), authorized the training of all officers of the Service, and substituted "any Federal or non-Federal educational institution or training program" for "any educational institution".

Subsec. (b). Act Apr. 27, 1956, § 6(b), required reimbursement of tuition and fees by officers who receive training in excess of 30 days and who voluntarily leave the Service within a period of time which is equal to twice the period of such training, with a minimum period of six months of service, and a maximum period of two years, and permitted the Surgeon General to waive any reimbursement.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

§ 219. Gifts for benefit of Service

(a) Acceptance by Secretary

The Secretary of Health, Education, and Welfare is authorized to accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Service or for the carrying out of any of its functions. Conditional gifts may be so accepted if recommended by the Surgeon General, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, but no gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress.

(b) Depository of funds; availability for expenditure

Any unconditional gift of money accepted pursuant to the authority granted in subsection (a) of this section, the net proceeds from the liquidation (pursuant to subsection (c) or subsection (d) of this section) of any other property so accepted, and the proceeds of insurance on any such gift property not used for its restoration, shall be deposited in the Treasury of the United States and are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Service, and he may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such gifts and the income from such investments shall be available for expenditure in the operation of the Service and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Service by Congress.

(c) Evidences of unconditional gifts of intangible property

The evidences of any unconditional gift of intangible personal property, other than money, accepted pursuant to the authority granted in subsection (a) of this section shall be deposited with the Secretary of the Treasury and he, in his discretion, may hold them, or liquidate them except that they shall be liquidated upon the request of the Secretary of Health, Education, and Welfare whenever necessary to meet payments required in the operation of the Service or the performance of its functions. The proceeds and income from any such property held by the Secretary of the Treasury shall be available for expenditure as is provided in subsection (b) of this section.

(d) Real property or tangible personal property

The Secretary of Health, Education, and Welfare, shall hold any real property or any tangible personal property accepted unconditionally pursuant to the authority granted in subsection (a) of this section and he shall permit such property to be used for the operation of the Service and the performance of its functions or he may lease or hire such property, and may insure such property, and deposit the income thereof with the Secretary of the Treasury to be available for expenditure as provided in subsection (b) of this section: *Provided*, That the

income from any such real property or tangible personal property shall be available for expenditure in the discretion of the Secretary of Health, Education, and Welfare, for the maintenance, preservation, or repair and insurance of such property and that any proceeds from insurance may be used to restore the property insured. Any such property when not required for the operation of the Service or the performance of its functions may be liquidated by the Secretary of Health, Education, and Welfare, and the proceeds thereof deposited with the Secretary of the Treasury, whenever in his judgment the purposes of the gifts will be served thereby.

(July 1, 1944, ch. 373, title V, § 501, 58 Stat. 709; July 3, 1946, ch. 538, § 10, 60 Stat. 425; June 16, 1948, ch. 481, § 6(b), 62 Stat. 469; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 15, 1968, Pub. L. 90-574, title V, § 503(b), 82 Stat. 1012.)

AMENDMENTS

1968—Subsec. (e). Pub. L. 90-574 struck out subsec. (e), which provided for the acknowledgment of donations of $50,000 or more in aid of research by the establishment of suitable memorials within the National Institutes of Health, and the National Institute of Mental Health.

1948—Subsec. (e). Act June 16, 1948, substituted "National Institutes of Health" for "National Institute of Health".

1946—Subsec. (e). Act July 3, 1946, made provisions applicable to the National Institute of Mental Health.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

CROSS REFERENCES

National Institutes of Health gift fund and conditional gift fund to be classified on books of Treasury as trust funds, see section 725s of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 218, 278, 283, 284, 287g, 287h, 288c of this title.

§ 220. Use of immigration station hospitals

The Immigration and Naturalization Service may, by agreement of the heads of the departments concerned, permit the Public Health Service to use hospitals at immigration stations for the care of Public Health Service patients. The Surgeon General shall reimburse the Immigration and Naturalization Service for the actual cost of furnishing fuel, light, water, telephone, and similar supplies and services, which reimbursement shall be covered into the proper Immigration and Naturalization Service appropriation, or such costs may be paid from working funds established as provided by law, but no charge shall be made for the expense of physical upkeep of the hospitals. The Immigration and Naturalization Service shall reimburse the Surgeon General for the care and treatment of persons detained in hospitals of the Public Health Service at the request of the Immigration and Naturalization Service unless such persons are entitled to care and treatment under section 249(a) of this title.

(July 1, 1944, ch. 373, title V, § 502, 58 Stat. 710.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department were, with a few exceptions, transferred to the Attorney General, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by sections 1 and 2 of Reorg. Plan No. 2 of 1950, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, which were repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662. The Immigration and Naturalization Service, referred to in this section, is a bureau in the Department of Justice.

§ 221. Disposition of money collected for care of patients

Money collected as provided by law for expenses incurred in the care and treatment of foreign seamen, and money received for the care and treatment of pay patients, including any amounts received from any executive department on account of care and treatment of pay patients, shall be covered into the appropriation from which the expenses of such care and treatment were paid.

(July 1, 1944, ch. 373, title V, § 503, 58 Stat. 710.)

§ 222. Care of Service patients at Saint Elizabeths Hospital

Insane patients entitled to treatment by the Service shall be admitted, upon order of the Secretary, into Saint Elizabeths Hospital or, upon order of the Surgeon General, into any hospital, institution, or station of the Service especially equipped for the accommodation of such patients and shall be cared for and treated therein until cured or until ordered removed by the officer authorizing such admittance. Funds available for the operation of such hospitals, institutions, and stations of the Service shall also be available for expenditure to meet court costs and other expenses of the Service incident to proceedings for the commitment, to Saint Elizabeths Hospital or to any hospital, institution, or station of the Service, of any mentally incompetent person entitled to treatment by the Service.

(July 1, 1944, ch. 373, title V, § 504, 58 Stat. 710; June 25, 1948, ch. 654, § 6, 62 Stat. 1018; 1953

Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

AMENDMENTS

1948—Act June 25, 1948, permitted the payment of court costs and other expenses of the Service incident to commitment of mental patients.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

SAINT ELIZABETHS HOSPITAL PATIENTS IN SERVICE HOSPITALS

Section 1308, formerly § 608, of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91-572, § 6(b), 84 Stat. 1506; May 16, 1972, Pub. L. 92-294, § 3(b), 86 Stat. 137; Nov. 16, 1973, Pub. L. 93-154, § 2(b)(2), 87 Stat. 604, provided that insane patients receiving treatment at hospitals of the Service during World War II may continue to be cared for after termination of the War, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 223. Settlement of claims

The Secretary may consider, ascertain, adjust and determine any claim which shall accrue, on account of damages occasioned by collisions or incident to the operation of vessels of the Service, and for which damages such vessels are found by him to be responsible. To be considered for settlement under this section, claims must be presented to the Secretary within one year of their accrual. The amount ascertained and determined to be due any claimant, not exceeding $3,000 in any one case, shall be certified to Congress as a legal claim for payment out of appropriations that may be made therefor by Congress, together with a brief statement of the character of each claim, the amount claimed, and the amount allowed. Acceptance by any claimant of the amount determined to be due under this section shall be deemed to be in full and final settlement of such claim against the Government of the United States.

(July 1, 1944, ch. 373, title V, § 505, 58 Stat. 710; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 224. Transportation of remains of officers

Appropriations available for traveling expenses of the Service shall be available for meeting the cost of preparation for burial and of transportation to the place of burial of remains of commissioned officers, and of personnel specified in regulations, who die in line of duty. Appropriations available for carrying out the provisions of this chapter shall also be available for the payment of such expenses relating to the recovery, care and disposition of the remains of personnel or their dependents as may be authorized under other provisions of law.

(July 1, 1944, ch. 373, title V, § 506, 58 Stat. 710; July 15, 1954, ch. 507, § 14(b), 68 Stat. 481.)

AMENDMENTS

1954—Act July 15, 1954, added sentence relating to availability of appropriations for paying expenses relating to the recovery, care, and disposition of the remains of personnel or their dependents.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

DISPOSITION OF REMAINS OF DECEASED PERSONNEL

Recovery, care and disposition of the remains of deceased members of the uniformed services and other deceased personnel, see section 1481 et seq. of Title 10, Armed Forces.

§ 225. Repealed. July 12, 1955, ch. 328, § 5(4), 69 Stat. 296

Section, acts July 1, 1944, ch. 373, title V, § 507, 58 Stat. 711; Feb. 25, 1946, ch. 35, § 2, 60 Stat. 30, provided for the settlement of accounts of deceased officers. See section 2771 of Title 10, Armed Forces, and section 714 of Title 32, National Guard.

EFFECTIVE DATE OF REPEAL

Repeal of section by act July 12, 1955, effective as of the effective date of the payment provisions of sections 361 to 365 of former Title 37, Pay and Allowances, except with respect to the deaths of members, see section 5 of act July 12, 1955.

§ 225a. Availability of appropriations for grants to Federal institutions

Appropriations to the Public Health Service available under this chapter for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcoholism, narcotic addiction, drug abuse, and drug dependence, and appropriations available under the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.] for construction and staff-

ing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities shall also be available on the same terms and conditions as apply to non-Federal institutions, for grants for the same purpose to Federal institutions, except that grants to Federal institutions may be funded at 100 per centum of the costs.

(July 1, 1944, ch. 373, title V, § 507, as added June 24, 1967, Pub. L. 90-31, § 5, 81 Stat. 79, and amended Oct. 27, 1970, Pub. L. 91-513, title I, § 3(c), 84 Stat. 1241; Apr. 22, 1976, Pub. L. 94-278, title XI, § 1102(b), 90 Stat. 415.)

REFERENCES IN TEXT

The Community Mental Health Centers Act, referred to in text, is Pub. L. 88-164, title II, as added by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309, which is classified principally to subchapter III (§ 2689 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2689 of this title and Tables volume.

PRIOR PROVISIONS

A former section 507 of act July 1, 1944, ch. 373, title V, providing for the settlement of accounts of deceased officers, was classified to section 225 of this title.

AMENDMENTS

1976—Pub. L. 94-278 substituted "Federal institutions, except that grants to" for "hospitals of the Service, of the Veterans' Administration, or of the Bureau of Prisons of the Department of Justice, and to Saint Elizabeth Hospital, except grants to such".

1970—Pub. L. 91-513 inserted references to appropriations available for grants to expand existing treatment and research programs and facilities for alcoholism, narcotic addiction, drug abuse, and drug dependence, and appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities, and added provision that grants to the specified Federal institutions may be funded at 100 per centum of the costs.

EFFECTIVE DATE

Section 5 of Pub. L. 90-31 provided in part that this section shall be effective July 1, 1968.

§ 226. Transfer of funds

For the purpose of any reorganization under section 203 of this title, the Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to make such transfers of funds between appropriations as may be necessary for the continuance of transferred functions.

(July 1, 1944, ch. 373, title V, § 508, 58 Stat. 711; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970 redesignated the Bureau of the Budget as the Office of Management and Budget.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 227. Availability of appropriations

Appropriations for carrying out the purposes of this chapter shall be available for expenditure for personal services and rent at the seat of Government; books of reference, periodicals, and exhibits; printing and binding; transporting in Government-owned automotive equipment, to and from school, children of personnel who have quarters for themselves and their families at stations determined by the Surgeon General to be isolated stations; expenses incurred in pursuing, identifying, and returning prisoners who escape from any hospital, institution, or station of the Service or from the custody of any officer or employee of the Service, including rewards for the capture of such prisoners; furnishing, repairing, and cleaning such wearing apparel as may be prescribed by the Surgeon General for use by employees in the performance of their official duties; reimbursing officers and employees, subject to regulations of the Secretary, for the cost of repairing or replacing their personal belongings damaged or destroyed by patients while such officers or employees are engaged in the performance of their official duties; and maintenance of buildings of the National Institutes of Health.

(July 1, 1944, ch. 373, title V, § 509, 58 Stat. 711; June 16, 1948, ch. 481, § 6(b), 62 Stat. 469; June 25, 1948, ch. 654, § 7, 62 Stat. 1018; Reorg. Plan No. 1 of 1953, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

AMENDMENTS

1948—Act June 25, 1948, amended section generally to make it apply to all appropriations to carry out the purposes of the Service instead of merely to appropriations to carry out the research functions of the Service.

Act June 16, 1948, substituted "National Institutes of Health" for "National Institute of Health".

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 227a. Omitted

CODIFICATION

Section, Pub. L. 90-132, title II, § 204, Nov. 8, 1967, 81 Stat. 407, providing that appropriations to the Public Health Service be available for research grants to hospitals of the Service, the Bureau of Prisons, Department of Justice, and to Saint Elizabeths Hospital, on the same terms and conditions as grants to non-Federal institutions, was enacted as part of the Department of Health, Education, and Welfare Appropriation Act, 1968, and not as part of the Public Health Service Act, which comprises this chapter, and was omitted as superseded by the former provisions of section 225a of this title and as not repeated in subsequent appropriation acts.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior Appropriation Acts:

Pub. L. 89-787, title II, § 204, Nov. 7, 1966, 80 Stat. 1400.

Pub. L. 89-156, title II, § 204, Aug. 31, 1965, 79 Stat. 609.

Pub. L. 88-605, title II, § 204, Sept. 19, 1964, 78 Stat. 979.

Pub. L. 88-136, title II, § 204, Oct. 11, 1963, 77 Stat. 244.

Pub. L. 87-582, title II, § 204, Aug. 14, 1962, 76 Stat. 379.

Pub. L. 87-290, title II, § 206, Sept. 22, 1961, 75 Stat. 608.

Pub. L. 86-703, title II, § 207, Sept. 2, 1960, 74 Stat. 773.

Pub. L. 86-158, title II, § 210, Aug. 14, 1959, 73 Stat. 355.

§ 228. Wearing of uniforms

Except as may be authorized by regulations of the President, the insignia and uniform of commissioned officers of the Service, or any distinctive part of such insignia or uniform, or any insignia or uniform any part of which is similar to a distinctive part thereof, shall not be worn, after the promulgation of such regulations, by any person other than a commissioned officer of the Service.

(July 1, 1944, ch. 373, title V, § 510, 58 Stat. 711; June 25, 1948, ch. 645, § 5, 62 Stat. 859.)

AMENDMENTS

1948—Act June 25, 1948, omitted penal provisions which are now covered by section 702 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment effective Sept. 1, 1948, see section 20 of act June 25, 1948.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

§ 229. Annual report of Surgeon General

The Surgeon General shall transmit to the Secretary, for submission to the Congress at the beginning of each regular session, a full report of the administration of the functions of the Service under this chapter, including a detailed statement of receipts and disbursements.

(July 1, 1944, ch. 373, title V, § 511, 58 Stat. 711; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

AGENCY REPORTING REQUIREMENTS; REPORT BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE TO CONGRESSIONAL COMMITTEES RELATING TO REQUIREMENTS, TERMINATION, ETC.

Pub. L. 93-641, § 7, Jan. 4, 1975, 88 Stat. 2275, provided that by Jan. 4, 1976, the Secretary of Health, Education, and Welfare report to the Committee on Labor and Public Welfare (now Committee on Human Resources) of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on the identity, due date, etc., of certain reports required under the Public Health Service Act (section 201 et seq. of this title), the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (sections 2689 et seq. and 6001 et seq. of this title), or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (section 4541 et seq. of this title).

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

§ 229a. Memorials and other acknowledgments for contributions to the health of the nation

The Secretary may provide for suitably acknowledging, within the Department (whether by memorials, designations, or other suitable acknowledgments), (1) efforts of persons who have contributed substantially to the health of the Nation and (2) gifts for use in activities of the Department related to health.

(July 1, 1944, ch. 373, title V, § 512, as added Oct. 15, 1968, Pub. L. 90-574, title V, § 503(a), 82 Stat. 1012.)

USE OF "SECRETARY" TO MEAN SECRETARY OF HEALTH, EDUCATION, AND WELFARE

"Secretary" as Secretary of Health, Education, and Welfare, in the amendments made by Pub. L. 90-574, see section 507 of Pub. L. 90-574, set out as a note under section 299a of this title.

§ 229b. Evaluation of programs

Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation for grants, contracts, or other pay-

ments under any provision of this chapter, the Mental Retardation Facilities Construction Act [42 U.S.C. 6001 et seq.], the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.], the Act of August 5, 1954 (Public Law 568, Eighty-third Congress) [42 U.S.C. 2001 et seq.], or the Act of August 16, 1957 (Public Law 85-151) [42 U.S.C. 2005 et seq.], for any fiscal year beginning after June 30, 1970, shall be available for evaluation (directly, or by grants or contracts) of any program authorized by this chapter or any of such other Acts, and, in the case of allotments from any such appropriation, the amount available for allotment shall be reduced accordingly.

(July 1, 1944, ch. 373, title V, § 513, as added June 30, 1970, Pub. L. 91-296, title IV, § 401(a), 84 Stat. 351.)

REFERENCES IN TEXT

The Mental Retardation Facilities Construction Act, referred to in text, is Pub. L. 88-164, title I, as added by Pub. L. 94-103, Oct. 4, 1975, 89 Stat. 496, now known as the Developmental Disabilities Services and Facilities Construction Act, which is classified generally to chapter 75 (§ 6001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title and Tables volume.

The Community Mental Health Centers Act, referred to in text, is Pub. L. 88-164, title II, as added by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309, which is classified principally to subchapter III (§ 2689 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2689 of this title and Tables volume.

The act of Aug. 5, 1954, referred to in text, is act Aug. 5, 1954, ch. 658, 68 Stat. 674, which is classified generally to subchapter I (§ 2001 et seq.) of chapter 22 of this title. For complete classification of this Act to the Code, see Tables volume.

The act of Aug. 16, 1957, referred to in text, is Pub. L. 85-151, Aug. 16, 1957, 71 Stat. 370, which is classified generally to subchapter II (§ 2005 et seq.) of chapter 22 of this title. For complete classification of this Act to the Code, see Tables volume.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of this section see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

§ 230. Repealed. Apr. 27, 1956, ch. 211, § 5(e), 70 Stat. 117

Section, act July 1, 1944, ch. 373, title VII, § 706, 58 Stat. 713, as renumbered by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, and amended by acts Feb. 28, 1948, ch. 83, § 9(a), 62 Stat. 47; Oct. 12, 1949, ch. 681, title V, § 521(g), 63 Stat. 835, provided for the computation of retired pay, and is now covered by section 212 of this title.

§ 231. Service and supply fund; uses; reimbursement

A service and supply fund of $250,000 is established, without fiscal year limitation, for the payment of salaries, travel, and other expenses necessary to the maintenance and operation of (1) a supply service for the purchase, storage, handling, issuance, packing, or shipping of stationery, supplies, materials, equipment, and blank forms, for which stocks may be maintained to meet, in whole or in part, requirements of the Public Health Service and requisitions of other Government Offices, and (2) such other services as the Surgeon General, with the approval of the Secretary of Health, Education, and Welfare, determines may be performed more advantageously as central services; said fund to be reimbursed from applicable appropriations or funds available when services are performed or stock furnished on a basis of rates which shall include estimated or actual charges for personal services, materials, equipment (including maintenance, repairs, and depreciation), and other expenses.

(July 3, 1945, ch. 263, title II, 59 Stat. 370; 1953 Reorg. Plan No. 1, §§ 5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

Section is from the Federal Security Appropriation Act, 1946, act July 3, 1945, and was not enacted as part of the Public Health Service Act which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 232. National Institute of Mental Health; authorization of appropriation; construction; location

There is authorized to be appropriated a sum not to exceed $7,500,000 for the erection and equipment, for the use of the Public Health Service in carrying out the provisions of this Act, of suitable and adequate hospital buildings and facilities, including necessary living quarters for personnel, and of suitable and adequate laboratory buildings and facilities, and such buildings and facilities shall be known as the National Institute of Mental Health. The Administrator of General Services is authorized to acquire, by purchase, condemnation, donation, or otherwise, a suitable and adequate site or sites, selected on the advice of the Surgeon General of the Public Health Service, in or near the District of Columbia for such buildings and facilities, and to erect thereon, furnish, and equip such buildings and facilities. The amount authorized to be appropriated in this section shall include the cost of preparation of drawings and specifications, supervision of construction, and other administrative expenses incident to the work: *Provided*, That the Administrator of General Services shall prepare the plans and specifications, make all necessary contracts, and supervise construction.

(July 3, 1946, ch. 538, § 11, 60 Stat. 425; June 30, 1949, ch. 288, title I, § 103(a), 63 Stat. 380.)

REFERENCES IN TEXT

This Act, referred to in text, is act July 3, 1946, ch. 538, 60 Stat. 421, known as the National Mental Health Act, which enacted this section and section 242a, amended sections 201, 209, 210, 215, 218, 219, 241, 244, and 246 of this title, and enacted provisions set out as notes under section 201 of this title. For complete classification of this Act to the Code, see Short Title of 1946 Amendment note set out under section 201 of this title and Tables volume.

CODIFICATION

Section was enacted as a part of the National Mental Health Act, and not as a part of the Public Health Service Act which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions of Public Health Service of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103(a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103(b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see section 605 of act June 30, 1949, set out as an Effective Date note under section 471 of Title 40, Public Buildings, Property, and Works.

§ 233. Civil actions or proceedings against commissioned officers or employees

(a) Exclusiveness of remedy

The remedy against the United States provided by sections 1346(b) and 2672 of title 28, or by alternative benefits provided by the United States where the availability of such benefits precludes a remedy under section 1346(b) of title 28, for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigation, by any commissioned officer or employee of the Public Health Service while acting within the scope of his office or employment, shall be exclusive of any other civil action or proceeding by reason of the same subject-matter against the officer or employee (or his estate) whose act or omission gave rise to the claim.

(b) Attorney General to defend action or proceeding; delivery of process to designated official; furnishing of copies of the pleading and process to United States attorney, Attorney General, and Secretary

The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

(c) Removal to United States district court; procedure; proceeding upon removal deemed a tort action against United States; hearing on motion to remand to determine availability of remedy against United States; remand to State court or dismissal

Upon a certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merit that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State Court: *Provided*, That where such a remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in the event the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

(d) Compromise or settlement of claim by Attorney General

The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28 and with the same effect.

(e) Assault or battery

For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to assault or battery arising out of negligence in the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations.

(f) Authority of Secretary or designee to hold harmless or provide liability insurance for assigned or detailed employees

The Secretary or his designee may, to the extent that he deems appropriate, hold harmless or provide liability insurance for any officer or employee of the Public Health Service for damage for personal injury, including death, negligently caused by such officer or employee while acting within the scope of his office or employment and as a result of the performance of medical, surgical, dental, or related

functions, including the conduct of clinical studies or investigations, if such employee is assigned to a foreign country or detailed to a State or political subdivision thereof or to a non-profit institution, and if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, for such damage or injury.

(July 1, 1944, ch. 373, title II, § 224, formerly § 223, as added Dec. 31, 1970, Pub. L. 91-623, § 4, 84 Stat. 1870, and renumbered Nov. 18, 1971, Pub. L. 92-157, title III, § 301(c), 85 Stat. 463.)

§ 234. Repealed. Pub. L. 94-484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2281

Section, act July 1, 1944, ch. 373, title II, § 225, as added Oct. 27, 1972, Pub. L. 92-585, § 5, 86 Stat. 1293, and amended Aug. 23, 1974, Pub. L. 93-385, § 1, 88 Stat. 741; Apr. 22, 1976, Pub. L. 94-278, title IX, § 901, 90 Stat. 415; Sept. 30, 1976, Pub. L. 94-437, title I, § 104, 90 Stat. 1403; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(t), 90 Stat. 2246, related to the Public Health and National Health Service Corps Scholarship Training program.

EFFECTIVE DATE OF REPEAL

Section 408(b)(1) of Pub. L. 94-484 provided in part that the repeal of this section is effective Oct. 1, 1977.

§ 235. Administration of grants in multigrant projects; promulgation of regulations

For the purpose of facilitating the administration of, and expediting the carrying out of the purposes of, the programs established by subchapters V, VI, and VII of this chapter, and sections 242b, 246(a), 246(b), 246(c), 246(d), and 246(e) of this title in situations in which grants are sought or made under two or more of such programs with respect to a single project, the Secretary is authorized to promulgate regulations—

(1) under which the administrative functions under such programs with respect to such project will be performed by a single administrative unit which is the administrative unit charged with the administration of any of such programs or is the administrative unit charged with the supervision of two or more of such programs;

(2) designed to reduce the number of applications, reports, and other materials required under such programs to be submitted with respect to such project, and otherwise to simplify, consolidate, and make uniform (to the extent feasible), the data and information required to be contained in such applications, reports, and other materials; and

(3) under which inconsistent or duplicative requirements imposed by such programs will be revised and made uniform with respect to such project;

except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law.

(July 1, 1944, ch. 373, title II, § 226, formerly title III, § 310A, as added Oct. 30, 1970, Pub. L. 91-515, title II, § 270, 84 Stat. 1306, amended Nov. 18, 1971, Pub. L. 92-157, title II, § 201, 85 Stat. 461, and renumbered July 23, 1974, Pub. L. 93-353, title I, § 102(e), 88 Stat. 362.)

REFERENCES IN TEXT

Subchapters V, VI, and VII of this chapter, referred to in text, are classified to sections 292 et seq., 296 et seq., and 299 et seq., respectively, of this title.

CODIFICATION

Section was formerly classified to section 242i of this title.

AMENDMENTS

1971—Pub. L. 92-157 provided for administration of programs established under subchapters V and VI of this chapter.

§ 236. Annual report by Secretary on activities related to health facilities and services and expenditure of funds

On or before January 1 of each year, the Secretary shall transmit to the Congress a report of the activities carried on under the provisions of subchapter VII of this chapter and sections 246(a), 246(b), 246(c), 246(d), and 246(e) of this title together with (1) an evaluation of the effectiveness of such activities in improving the efficiency and effectiveness of the research, planning, and delivery of health services in carrying out the purposes for which such provisions were enacted, (2) a statement of the relationships between Federal financing and financing from other sources of the activities undertaken pursuant to such provisions (including the possibilities for more efficient support of such activities through use of alternate sources of financing after an initial period of support under such provisions), and (3) such recommendations with respect to such provisions as he deems appropriate.

(July 1, 1944, ch. 373, title II, § 227, formerly title III, § 310B, as added Oct. 30, 1970, Pub. L. 91-515, title II, § 280, 84 Stat. 1307, and renumbered and amended July 23, 1974, Pub. L. 93-353, title I, § 102(f), 88 Stat. 362.)

REFERENCES IN TEXT

Subchapter VII of this chapter, referred to in text, is classified to section 299 et seq. of this title.

CODIFICATION

Section was formerly classified to section 242j of this title.

AMENDMENTS

1974—Pub. L. 93-353, § 102(f)(1), struck out references to sections 242b and 242c of this title.

SUBCHAPTER II—GENERAL POWERS AND DUTIES

PART A—RESEARCH AND INVESTIGATIONS

§ 241. Research and investigations generally

The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification,

REFERENCES IN TEXT

This Act, referred to in text, is act July 3, 1946, ch. 538, 60 Stat. 421, known as the National Mental Health Act, which enacted this section and section 242a, amended sections 201, 209, 210, 215, 218, 219, 241, 244, and 246 of this title, and enacted provisions set out as notes under section 201 of this title. For complete classification of this Act to the Code, see Short Title of 1946 Amendment note set out under section 201 of this title and Tables volume.

CODIFICATION

Section was enacted as a part of the National Mental Health Act, and not as a part of the Public Health Service Act which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions of Public Health Service of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103(a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103(b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see section 605 of act June 30, 1949, set out as an Effective Date note under section 471 of Title 40, Public Buildings, Property, and Works.

§ 233. Civil actions or proceedings against commissioned officers or employees

(a) Exclusiveness of remedy

The remedy against the United States provided by sections 1346(b) and 2672 of title 28, or by alternative benefits provided by the United States where the availability of such benefits precludes a remedy under section 1346(b) of title 28, for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigation, by any commissioned officer or employee of the Public Health Service while acting within the scope of his office or employment, shall be exclusive of any other civil action or proceeding by reason of the same subject-matter against the officer or employee (or his estate) whose act or omission gave rise to the claim.

(b) Attorney General to defend action or proceeding; delivery of process to designated official; furnishing of copies of the pleading and process to United States attorney, Attorney General, and Secretary

The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

(c) Removal to United States district court; procedure; proceeding upon removal deemed a tort action against United States; hearing on motion to remand to determine availability of remedy against United States; remand to State court or dismissal

Upon a certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merit that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State Court: *Provided*, That where such a remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in the event the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

(d) Compromise or settlement of claim by Attorney General

The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28 and with the same effect.

(e) Assault or battery

For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to assault or battery arising out of negligence in the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations.

(f) Authority of Secretary or designee to hold harmless or provide liability insurance for assigned or detailed employees

The Secretary or his designee may, to the extent that he deems appropriate, hold harmless or provide liability insurance for any officer or employee of the Public Health Service for damage for personal injury, including death, negligently caused by such officer or employee while acting within the scope of his office or employment and as a result of the performance of medical, surgical, dental, or related

functions, including the conduct of clinical studies or investigations, if such employee is assigned to a foreign country or detailed to a State or political subdivision thereof or to a non-profit institution, and if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, for such damage or injury.

(July 1, 1944, ch. 373, title II, § 224, formerly § 223, as added Dec. 31, 1970, Pub. L. 91-623, § 4, 84 Stat. 1870, and renumbered Nov. 18, 1971, Pub. L. 92-157, title III, § 301(c), 85 Stat. 463.)

§ 234. Repealed. Pub. L. 94-484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2281

Section, act July 1, 1944, ch. 373, title II, § 225, as added Oct. 27, 1972, Pub. L. 92-585, § 5, 86 Stat. 1293, and amended Aug. 23, 1974, Pub. L. 93-385, § 1, 88 Stat. 741; Apr. 22, 1976, Pub. L. 94-278, title IX, § 901, 90 Stat. 415; Sept. 30, 1976, Pub. L. 94-437, title I, § 104, 90 Stat. 1403; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(t), 90 Stat. 2246, related to the Public Health and National Health Service Corps Scholarship Training program.

EFFECTIVE DATE OF REPEAL

Section 408(b)(1) of Pub. L. 94-484 provided in part that the repeal of this section is effective Oct. 1, 1977.

§ 235. Administration of grants in multigrant projects; promulgation of regulations

For the purpose of facilitating the administration of, and expediting the carrying out of the purposes of, the programs established by subchapters V, VI, and VII of this chapter, and sections 242b, 246(a), 246(b), 246(c), 246(d), and 246(e) of this title in situations in which grants are sought or made under two or more of such programs with respect to a single project, the Secretary is authorized to promulgate regulations—

(1) under which the administrative functions under such programs with respect to such project will be performed by a single administrative unit which is the administrative unit charged with the administration of any of such programs or is the administrative unit charged with the supervision of two or more of such programs;

(2) designed to reduce the number of applications, reports, and other materials required under such programs to be submitted with respect to such project, and otherwise to simplify, consolidate, and make uniform (to the extent feasible), the data and information required to be contained in such applications, reports, and other materials; and

(3) under which inconsistent or duplicative requirements imposed by such programs will be revised and made uniform with respect to such project;

except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law.

(July 1, 1944, ch. 373, title II, § 226, formerly title III, § 310A, as added Oct. 30, 1970, Pub. L. 91-515, title II, § 270, 84 Stat. 1306, amended Nov. 18, 1971, Pub. L. 92-157, title II, § 201, 85 Stat. 461, and renumbered July 23, 1974, Pub. L. 93-353, title I, § 102(e), 88 Stat. 362.)

REFERENCES IN TEXT

Subchapters V, VI, and VII of this chapter, referred to in text, are classified to sections 292 et seq., 296 et seq., and 299 et seq., respectively, of this title.

CODIFICATION

Section was formerly classified to section 242i of this title.

AMENDMENTS

1971—Pub. L. 92-157 provided for administration of programs established under subchapters V and VI of this chapter.

§ 236. Annual report by Secretary on activities related to health facilities and services and expenditure of funds

On or before January 1 of each year, the Secretary shall transmit to the Congress a report of the activities carried on under the provisions of subchapter VII of this chapter and sections 246(a), 246(b), 246(c), 246(d), and 246(e) of this title together with (1) an evaluation of the effectiveness of such activities in improving the efficiency and effectiveness of the research, planning, and delivery of health services in carrying out the purposes for which such provisions were enacted, (2) a statement of the relationships between Federal financing and financing from other sources of the activities undertaken pursuant to such provisions (including the possibilities for more efficient support of such activities through use of alternate sources of financing after an initial period of support under such provisions), and (3) such recommendations with respect to such provisions as he deems appropriate.

(July 1, 1944, ch. 373, title II, § 227, formerly title III, § 310B, as added Oct. 30, 1970, Pub. L. 91-515, title II, § 280, 84 Stat. 1307, and renumbered and amended July 23, 1974, Pub. L. 93-353, title I, § 102(f), 88 Stat. 362.)

REFERENCES IN TEXT

Subchapter VII of this chapter, referred to in text, is classified to section 299 et seq. of this title.

CODIFICATION

Section was formerly classified to section 242j of this title.

AMENDMENTS

1974—Pub. L. 93-353, § 102(f)(1), struck out references to sections 242b and 242c of this title.

SUBCHAPTER II—GENERAL POWERS AND DUTIES

PART A—RESEARCH AND INVESTIGATIONS

§ 241. Research and investigations generally

The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification,

sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to—

(a) Collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

(b) Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(c) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Cancer Advisory Board, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or with respect to heart, blood vessel, lung, and blood diseases and blood resources, recommended by the National Heart, Lung, and Blood Advisory Council, or, with respect to dental diseases and conditions, recommended by the National Advisory Dental Research Council; and include in the grants for any such project grants of penicillin and other antibiotic compounds for use in such project; and make, upon recommendation of the National Advisory Health Council, grants-in-aid to public or non-profit universities, hospitals, laboratories, and other institutions for the general support of their research: *Provided*, That such uniform percentage, not to exceed 15 per centum, as the Surgeon General may determine, of the amounts provided for grants for research projects for any fiscal year through the appropriations for the National Institutes of Health may be transferred from such appropriations to a separate account to be available for such research grants-in-aid for such fiscal year;

(d) Secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(e) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment;

(f) Make available, to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields;

(g) Enter into contracts, including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under sections 2353 and 2354 of title 10, except that determination, approval and certification required thereby shall be by the Secretary of Health, Education, and Welfare; and

(h) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Cancer Advisory Board, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart, blood vessel, lung, and blood diseases and blood resources, upon recommendation of the National Heart, Lung and Blood Advisory Council, or, with respect to dental diseases and conditions, upon recommendations of the National Advisory Dental Research Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

(July 1, 1944, ch. 373, title III, § 301, 58 Stat. 691; July 3, 1946, ch. 538, § 7(a), (b), 60 Stat. 423; June 16, 1948, ch. 481, § 4(e), (f), 62 Stat. 467; June 24, 1948, ch. 621, § 4(e), (f), 62 Stat. 601; June 25, 1948, ch. 654, § 1, 62 Stat. 1017; July 3, 1956, ch. 510, § 4, 70 Stat. 490; Sept. 15, 1960, Pub. L. 86-798, 74 Stat. 1053; Oct. 17, 1962, Pub. L. 87-838, § 2, 76 Stat. 1073; Aug. 9, 1965, Pub. L. 89-115, § 3, 79 Stat. 448; Dec. 5, 1967, Pub. L. 90-174, § 9, 81 Stat. 540; Oct. 30, 1970, Pub. L. 91-515, title II, § 292, 84 Stat. 1308; Dec. 23, 1971, Pub. L. 92-218, § 6(a)(2), 85 Stat. 785; Sept. 19, 1972, Pub. L. 92-423, § 7(b), 86 Stat. 687; July 12, 1974, Pub. L. 93-348, title I, § 104(a)(1), 88 Stat. 346; July 23, 1974, Pub. L. 93-352, title I, § 111, 88 Stat. 360; Apr. 22, 1976, Pub. L. 94-278, title I, § 111, 90 Stat. 405.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-278 substituted "heart, blood vessel, lung, and blood diseases and blood resources" for "heart diseases" and "National Heart, Lung and Blood Advisory Council" for "National Heart and Lung Advisory Council".

Subsec. (h). Pub. L. 94-278 substituted "heart, blood vessel, lung, and blood diseases and blood resources" for "heart diseases" and "National Heart, Lung, and Blood Advisory Council" for "National Heart and Lung Advisory Council".

1974—Subsec. (c). Pub. L. 93-348, § 104(a)(1)(A) to (C), struck authorization of Surgeon General to establish and maintain research fellowships in the Public Health Service with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad, now covered in section 289*l*-1(b) of this title; substituted "research projects" for "research or research training projects" in two instances, "general support of their research" for "general support of their research and research training programs" and "research grants-in-aid" for "research and research training program grants-in-aid"; and redesignated former subsec. (d) as amended as subsec. (c).

Subsec. (d). Pub. L. 93-348, § 104(a)(1)(C), redesignated former subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsecs. (e), (f). Pub. L. 93-348, § 104(a)(1)(C), redesignated former subsecs. (f) and (g) as subsecs. (e) and (f), respectively. Formerly subsec. (e) redesignated (d).

Subsec. (g). Pub. L. 93-348, § 104(a)(1)(C), redesignated former subsec. (h) and (g). Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 93-352 struck out "during the fiscal year ending June 30, 1966, and each of the eight succeeding fiscal years" following "Enter into contracts".

Pub. L. 93-348, § 104(a)(1)(C), redesignated former subsec. (i) as (h). Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L. 93-348, § 104(a)(1)(C), redesignated former subsec. (i) as (h).

1972—Subsecs. (d), (i). Pub. L. 92-423 substituted "National Heart and Lung Advisory Council" for "National Advisory Heart Council".

1971—Subsecs. (d), (i). Pub. L. 92-218 substituted "National Cancer Advisory Board" for "National Advisory Cancer Council".

1970—Subsec. (h). Pub. L. 91-515 substituted "eight succeeding fiscal years" for "five succeeding fiscal years."

1967—Subsec. (h). Pub. L. 90-174 substituted "five" for "two" succeeding fiscal years.

1965—Subsec. (h). Pub. L. 89-115 added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 89-115 redesignated former subsec. (h) as (i).

1962—Subsec. (d). Pub. L. 87-838 inserted "or research training" in two places.

1960—Subsec. (d). Pub. L. 86-798 authorized the Surgeon General, upon recommendation of the National Advisory Health Council, to make grants to public or non-profit universities, hospitals, laboratories, and other institutions to support research and research training programs, and to make available for such research and research training programs, up to 15 per centum of amounts provided for research grants through the appropriations for the National Institutes of Health.

1956—Subsec. (g). Act July 3, 1956, added subsec (g). Former subsec. (g) redesignated (h).

Subsec. (h). Act July 3, 1956, redesignated former subsec. (g) as (h).

1948—Subsec. (d). Acts June 16, 1948, § 4(e), and June 24, 1948, § 4(e), made provisions applicable to the National Advisory Heart Council and the National Advisory Dental Research Council, respectively.

Subsec. (d). Act June 25, 1948, continued in basic legislation the authority to purchase penicillin and other antibiotic compounds for use in research projects.

Subsec. (g). Acts June 16, 1948, § 4(f); June 24, 1948, § 4(f), made provisions applicable to the National Advisory Heart Council and the National Advisory Dental Research Council, respectively.

1946—Subsec. (d). Act July 3, 1946, made the National Advisory Mental Health Council the body to make recommendations to the Surgeon General on awarding of grants-in-aid for research projects with respect to mental health.

Subsec. (g). Act July 3, 1946, gave National Advisory Health Council the right to make recommendations to carry out purposes of this section.

Effective Date of 1974 Amendment

Section 104(b) of Pub. L. 93-348 provided that: "The amendments made by subsection (a) [amending sections 241(c) to (i), 242a(a)(1), (b), 282(a)(3) to (7), 286a(b)(7), 286b(b)(3), 287a(7), 287b(a)(7), 287d(b), 288a(c) to (f), 289c(a), 289c to 1(c)(2), 289g, 289k, and heading preceding section 289*l* of this title] shall not apply with respect to commitments made before the date of the enactment of this Act [July 12, 1974] by the Secretary of Health, Education, and Welfare for research training under the provisions of the Public Health Service Act amended or repealed by subsection (a)."

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-423 effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92-423, set out as an Effective Date of 1972 Amendment note under section 287 of this title.

Effective Date of 1971 Amendment

Amendment by Pub. L. 92-218 effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92-218, set out as an Effective Date note under section 286a of this title.

Transfer of Functions

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

Termination of Advisory Committees

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

Fiscal Year Transition Period of July 1, 1976, Through September 30, 1976, Deemed Part of Fiscal Year Beginning July 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (c) of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. set out as a note under section 390e of Title 7, Agriculture.

Section Referred to in Other Sections

This section is referred to in sections 242, 242a, 263, 282, 283, 287a, 287h, 288a, 288b, 289a, 289c, 289d, 289g, 289k, 289k-1, 289k-4, 1857i, 4551 of this title; title 21 section 1191.

§ 242. Studies and investigations on use and misuse of narcotic drugs and other drugs; annual report to the Attorney General; cooperation with States

(a) In carrying out the purposes of section 241 of this title with respect to drugs the use or misuse of which might result in drug abuse or dependency, the studies and investigations authorized therein shall include the use and misuse of narcotic drugs and other drugs. Such studies and investigations shall further include the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, and other drugs subject to control under the Controlled Substances Act [21 U.S.C. 801 et seq.] and Controlled Substances Import and Export Act [21 U.S.C. 951 et seq.], together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of narcotic drugs or other drugs subject to control under such Acts, together with reserves of such drugs, that are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be reported not later than the first day of April of each year to the Attorney General, to be used at his discretion in determining manufacturing quotas or importation requirements under such Acts.

(b) The Surgeon General shall cooperate with States for the purpose of aiding them to solve their narcotic drug problems and shall give authorized representatives of the States the benefit of his experience in the care, treatment, and rehabilitation of narcotic addicts to the end that each State may be encouraged to provide adequate facilities and methods for the care and treatment of its narcotic addicts.

(July 1, 1944, ch. 373, title III, § 302, 58 Stat. 692; Oct. 27, 1970, Pub. L. 91-513, title II, § 701(j), 84 Stat. 1282.)

References in Text

The Controlled Substances Act, referred to in subsec. (a), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables volume.

The Controlled Substances Import and Export Act, referred to in subsec. (a), is title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285, which is classified principally to subchapter II (§ 951 et seq.) of chapter 13 of title 21. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables volume.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-513 added references to drug dependency, drugs other than narcotic drugs, and substances subject to control under the Controlled Substances Act and the Controlled Substances Import and Export Act, substituted the first day of April of each year for the first day of September of each year as the date by which the study results must be submitted, substituted the Attorney General for the Secretary of the Treasury as the officer to whom the report is to be submitted, and struck out references to the Narcotic Drugs Import and Export Act.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-513 effective on the first day of the seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91-513, set out as an Effective Date note under section 801 of Title 21, Food and Drugs.

SAVINGS PROVISIONS

Amendment by Pub. L. 91-513 not to affect or abate any prosecutions for violation of law or any civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of such amendment, and all administrative proceedings pending before the Bureau of Narcotics and Dangerous Drugs on Oct. 27, 1970, to be continued and brought to final determination in accord with laws and regulations in effect prior to Oct. 27, 1970, see section 702 of Pub. L. 91-513, set out as a Savings Provisions note under section 321 of Title 21, Food and Drugs.

MARIHUANA AND HEALTH REPORTING

Pub. L. 91-296, title V, §§ 501-503, June 30, 1970, 84 Stat. 352, provided as follows:

"SEC. 501 [CONGRESSIONAL FINDINGS]

"The Congress finds that the use of marihuana is increasing in the United States, especially among the young people thereof, and that there is need for a better understanding of the health consequences of using marihuana. The Congress further finds that, notwithstanding the various studies carried out, and research engaged in, with respect to the use of marihuana, there is a lack of an authoritative source for obtaining information involving the health consequences of using marihuana.

"SEC. 502. [ANNUAL REPORT TO CONGRESS BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE]

"The Secretary of Health, Education, and Welfare, after consultation with the Surgeon General and other appropriate individuals, shall transmit a report to the Congress on or before January 31, 1971, and annually thereafter (1) containing current information on the health consequences of using marihuana, and (2) containing such recommendations for legislative and administrative action as he may deem appropriate. A preliminary report shall be transmitted to the Congress by the Secretary concerning current information on the health consequences of using marihuana not later than ninety (90) days after the date of enactment of this title [June 30, 1970].

"SEC. 503. [Short Title]

"This title may be cited as the 'Marihuana and Health Reporting Act'."

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 21 section 1191.

§ 242a. Mental health; clinical training and instruction and clinical traineeships; stipends and allowances; research projects; protection of identity of subjects of drug research; grants to public and other nonprofit institutions

(a) In carrying out the purposes of section 241 of this title with respect to mental health, the Surgeon General is authorized—

(1) to provide clinical training and instruction and to establish and maintain clinical traineeships (with such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary);

(2) to make grants to State or local agencies, laboratories, and other public or nonprofit agencies and institutions, and to individuals for investigations, experiments, demonstrations, studies, and research projects with respect to the development of improved methods of diagnosing mental illness, and of care, treatment, and rehabilitation of the mentally ill, including grants to State agencies responsible for administration of State institutions for care, or care and treatment, of mentally ill persons for developing and establishing improved methods of operation and administration of such institutions.

The Secretary may authorize persons engaged in research on mental health, including research on the use and effect of alcohol and other psychoactive drugs, to protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

(b) The Secretary may provide for training, instruction, and traineeships under subsection (a)(1) of this section through grants to public and other nonprofit institutions. Grants under paragraph (2) of subsection (a) of this section may be made only upon recommendation of the National Advisory Mental Health Council. Such grants may be paid in advance or by way of reimbursement, as may be determined by the Surgeon General; and shall be made on such conditions as the Surgeon General finds necessary.

(July 1, 1944, ch. 373, title III, § 303, as added July 3, 1946, ch. 538, § 7(c), 60 Stat. 423, and amended Aug. 2, 1956, ch. 871, title V, § 501, 70 Stat. 929; Oct. 27, 1970, Pub. L. 91-513, title I, § 3(a), 84 Stat. 1241; May 14, 1974, Pub. L. 93-282, title I, § 122(b), 88 Stat. 132; July 12, 1974, Pub. L. 93-348, title I, § 104(a)(2), 88 Stat. 346.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-282 substituted "mental health, including research on the use and effect of alcohol and other psychoactive drugs" for "the use and effect of drugs".

Subsec. (a)(1). Pub. L. 93-348, § 104(a)(2)(A), inserted "clinical" preceding "training and instruction" and "traineeships" and substituted following "traineeships" parenthetical phrase "(with such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary)" for ", in accordance with the provisions of section 289c(a) of this title".

Subsec. (b). Pub. L. 93-348, § 104(a)(2)(B), authorized the Secretary to provide for training, instruction, and traineeships under subsection (a)(1) of this section through grants to public and other nonprofit institutions.

1970—Subsec. (a). Pub. L. 91-513 added provisions authorizing the withholding of information concerning the identity of persons who are the subjects of research on the use and effect of drugs.

1956—Subsec. (a). Act Aug. 2, 1956, substituted provisions of par. (1) relating to traineeships in accordance with section 289c(a) of this title and par. (2) relating to grants for research and improved operation of mental institutions for provisions relating to admission of study patients, including patients from St. Elizabeths Hospital, to the National Institute of Mental Health.

Subsec. (b). Act Aug. 2, 1956, substituted provisions relating to recommendation of grants by Council and payment by Surgeon General for provisions relating to mental health training.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93-348, set out as an Effective Date of 1974 Amendment note under section 241 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of section by act Aug. 2, 1956, effective July 1, 1956, see section 503 of act Aug. 2, 1956.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289k-1, 4551 of this title; title 21 sections 850, 1191.

§ 242b. General authority respecting health statistics and health services research, evaluations, and demonstrations

(a) Scope of activities

(1) The Secretary shall—

(A) undertake through the National Center for Health Services Research, the National Center for Health Statistics, and such other units of the Department of Health, Education, and Welfare as he may select, and

(B) support,

health statistical activities and health services research, evaluation, and demonstrations.

(2) In carrying out paragraph (1), the Secretary shall give appropriate emphasis to research and statistical activities respecting—

(A) the determinants of an individual's health,

(B) the impact of the environment on individual health and on health care,

(C) the accessibility, acceptability, planning, organization, technology, distribution, utilization, quality, and financing of systems for the delivery of health care, including systems for the delivery of preventive, personal, and mental health care, and

(D) individual and community knowledge of individual health and the systems for the delivery of health care.

(b) Additional authority; scope of activities

To implement subsection (a) of this section, the Secretary may, in addition to any other authority which under other provisions of this chapter or any other law may be used by him to implement such subsection, do the following:

(1) Utilize personnel and equipment, facilities, and other physical resources of the Department of Health, Education, and Welfare, permit appropriate (as determined by the Secretary) entities and individuals to utilize the physical resources of such Department, provide technical assistance and advice, make grants to public and nonprofit private entities and individuals, and enter into contracts with public and private entities and individuals, for (A) health services research, evaluation, and demonstrations, and (B) health services research and health statistics training, and (C) health statistical activities.

(2) Admit and treat at hospitals and other facilities of the Service persons not otherwise eligible for admission and treatment at such facilities.

(3) Secure, from time to time and for such periods as the Secretary deems advisable, the assistance and advice of experts and consultants from the United States or abroad.

(4) Acquire, construct, improve, repair, operate, and maintain laboratory, research, and other necessary facilities and equipment, and such other real or personal property (including patents) as the Secretary deems necessary; and acquire, without regard to section 34 of title 40, by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia.

(c) Coordination of activities through units of the Department

The Secretary shall coordinate all health services research, evaluation, demonstration, and health statistical activities undertaken and supported through units of the Department of Health, Education, and Welfare. To the maximum extent feasible, such coordination shall be carried out through the National Center for Health Services Research and the National Center for Health Statistics.

(July 1, 1944, ch. 373, title III, § 304, as added July 28, 1955, ch. 417, § 3, 69 Stat. 382, and

amended Aug. 2, 1956, ch. 871, title V, § 502, 70 Stat. 930; Dec. 5, 1967, Pub. L. 90-174, § 3(a), 81 Stat. 534; June 30, 1970, Pub. L. 91-296, title IV, § 401(b)(1)(A), 84 Stat. 352; Oct. 30, 1970, Pub. L. 91-515, title II, §§ 201(a)-(c), 202, 203, 84 Stat. 1301-1303; June 18, 1973, Pub. L. 93-45, title I, § 102, 87 Stat. 91; July 23, 1974, Pub. L. 93-353, title I, § 103, 88 Stat. 362.)

AMENDMENTS

1974—Pub. L. 93-353, in revising generally provisions of subsecs. (a) to (c), provided for general authority respecting health statistics and health services research, evaluation, and demonstrations, subsec. (a) relating to scope of activities, subsec. (b) relating to additional authority and scope of activities, and subsec. (c) relating to coordination of activities through units of the Department. Former provisions related to research and demonstrations relating to health facilities and services, subsec. (a) relating to grants and contracts for projects for research, experiments, or demonstrations and related training, cost limitation, wage rates, labor standards, and other conditions, and payments (former subsec. (a)(2) and (3) now being covered by section 242m(h) and (e), respectively), subsec. (b) relating to systems analysis of national health care plans, and cost and coverage report on existing legislative proposals, and subsec. (c) relating to authorization of appropriations.

1973—Subsec. (c)(1). Pub. L. 93-45 authorized appropriations of $42,617,000 for fiscal year ending June 30, 1974.

1970—Subsec. (a)(1). Pub. L. 91-515, §§ 201(a)(1), 203, redesignated former subsec. (a) as (a)(1), and, as so redesignated substituted "(A)" and "(B)" for "(1)" and "(2)", and "(i) to (iii)" for "(A) to (C)", and added cls. (iv) and (v).

Subsec. (a)(2). Pub. L. 91-515, § 201(a)(2), redesignated former subsec. (b) as (a)(2), and, as so redesignated, substituted "subsection" for "section" wherever appearing therein.

Subsec. (a)(3). Pub. L. 91-515, §§ 201(a)(3), 202, redesignated former subsec. (c) as (a)(3)(A), and as so redesignated, substituted "subsection" for "section" wherever appearing therein, and added subsec. (a)(3)(B).

Subsec. (b). Pub. L. 91-515, § 201(a)(2)(A), (b), added subsec. (b). Former subsec. (b) was redesignated as subsec. (a)(2).

Subsec. (c). Pub. L. 91-515, §§ 201(a)(3)(A), (c), 202(1), redesignated former subsec. (d) as (c), and, as so redesignated, substituted provisions authorizing appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, and authorizing to be appropriated such additional sums for each fiscal year as may be necessary to carry out the provisions of subsec. (b), for provisions authorizing appropriations of $20,000,000 for the fiscal year ending June 30, 1968, $40,000,000 for the fiscal year ending June 30, 1969, and $60,000,000 for the fiscal year ending June 30, 1970. Former subsec. (c) was redesignated as subsec. (a)(3)(A).

Subsec. (d). Pub. L. 91-515, § 201(c), redesignated former subsec. (d) as (c).

Pub. L. 91-296 struck out provisions authorizing the use of appropriated funds for evaluation of the program authorized by this section. See section 229b of this title.

1967—Pub. L. 90-174 substituted provisions of subsecs. (a) to (d) for research and demonstrations relating to health facilities (incorporated from former section 291n of this title) for provisions of former subsecs. (a) to (d) for mental health study including grants for special projects, conditions thereof, and definition of "organization", authorization of appropriations, terms of grant, availability of amounts otherwise appropriated and noninterference with research and study programs of the National Institute of Mental Health, and acceptance of additional financial support.

1956—Act Aug. 2, 1956, changed heading of section 304 of act July 1, 1944 from "Grants for special projects in mental health" to "Mental health study grants". Section heading has been changed for purposes of codification.

EFFECTIVE DATE OF 1970 AMENDMENTS

Section 201(d) of Pub. L. 91-515 provided that: "The amendments made by subsection (c) of this section [amending subsec. (c) of this section] shall be effective only with respect to fiscal years ending after June 30, 1970."

Section 401(b)(1) of Pub. L. 91-296 provided, in part, that the amendment by section 401(b)(1)(A) of Pub. L. 91-296 [amending subsec. (d) of this section] shall be effective with respect to appropriations for fiscal years beginning after June 30, 1970.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of section by act Aug. 2, 1956, effective July 1, 1956, see section 503 of act Aug. 2, 1956.

NUMBER AND FUND LIMITATION OF GRANTS AND CONTRACTS FOR THE PERIOD OF JULY 1, 1975, THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 106(b), Apr. 21, 1976, 90 Stat. 386, provided that: "Section 308(c) of the Public Health Service Act (42 U.S.C. 242m(c)) shall not apply to any funds obligated or grants or contracts made or entered into for the period of July 1, 1975, through September 30, 1976. The aggregate number of grants and contracts made or entered into under sections 304 and 305 of the Act (42 U.S.C. 242b and 242c) for the period of July 1, 1975, through September 30, 1976, respecting a particular means of delivery of health services, or another particular aspect of health services, may not exceed twenty-five, and the aggregate amount of funds obligated under grants and contracts for that period under those sections respecting a particular means a delivery of health services may not exceed $6,250,000."

TRANSFER OF EQUIPMENT

Pub. L. 94-573, § 15, Oct. 21, 1976, 90 Stat. 2719, provided that:

"Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare may vest title to equipment purchased—

"(1) with funds under the seven contracts for emergency medical services demonstration projects entered into in 1972 and 1973 under section 304 of the Public Health Service Act [this section] (as in effect at the time the contracts were entered into), and

"(2) by contractors with the United States under such contracts or subcontractors under such contracts,

in such contractors or subcontractors without further obligation to the Government or on such terms as the Secretary considers appropriate."

CONGRESSIONAL DECLARATION OF PURPOSE

Section 2 of Joint Res. July 28, 1955, provides a Congressional statement of the critical need for an analysis and reevaluation of the human and economic problems of mental illness and of the resources, methods, and practices utilized in diagnosing, treating, caring for, and rehabilitating the mentally ill, both within and outside of institutions, as might lead to the development of recommendations for such better utilization of those resources or such improvements on and new developments in methods of diagnosis, treatment, care, and rehabilitation as give promise of resulting in a marked reduction in the incidence or duration of mental illness and, in consequence, a lessening of the appalling emotional and financial drain on the families of those afflicted or on the economic resources of the States and of the Nation and a declaration of the policy to promote mental health and to help solve the complex and the interrelated problems posed by

mental illness by encouraging the undertaking of nongovernmental, multidisciplinary research into and reevaluation of all aspects of our resources, methods, and practices for diagnosing, treating, caring for, and rehabilitating the mentally ill, including research aimed at the prevention of mental illness.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

CHILDREN'S EMOTIONAL ILLNESS STUDY; PROGRAM GRANTS; CONDITIONS; DEFINITIONS; APPROPRIATIONS; TERMS OF GRANT

Pub. L. 89-97, title II, § 231, July 30, 1965, 79 Stat. 360, as amended by Pub. L. 90-248, title III, § 305, Jan. 2, 1968, 81 Stat. 929, provided that:

"(a) The Secretary of Health, Education, and Welfare is authorized, upon the recommendation of the National Advisory Mental Health Council and after securing the advice of experts in pediatrics and child welfare, to make grants for carrying out a program of research into and study of our resources, methods, and practices for diagnosing or preventing emotional illness in children and of treating, caring for, and rehabilitating children with emotional illnesses.

"(b) Such grants may be made to one or more organizations, but only on condition that the organization will undertake and conduct, or if more than one organization is to receive such grants, only on condition that such organizations have agreed among themselves to undertake and conduct, a coordinated program of research into and study of all aspects of the resources, methods, and practices referred to in subsection (a).

"(c) As used in subsection (b), the term 'organization' means a nongovernmental agency, organization, or commission, composed of representatives of leading national medical, welfare, educational, and other professional associations, organizations, or agencies active in the field of mental health of children.

"(d) There are authorized to be appropriated for the fiscal year ending June 30, 1966, the sum of $500,000 to be used for a grant or grants to help initiate the research and study provided for in this section; and the sum of $500,000 for the succeeding fiscal year for the making of such grants as may be needed to carry the research and study to completion. The terms of any such grant shall provide that the research and study shall be completed not later than three years from the date it is inaugurated; that the grantee shall file annual reports with the Congress, the Secretary, and the Governors of the several States, among others that the grantee may select; and that the final report shall be similarly filed."

DEFINITION OF "SECRETARY"

Term "Secretary" used in this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90-174, set out as a note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 235, 242c, 242k, 242*l*, 242m, 280c, 300*l*-3 of this title.

§ 242c. National Center for Health Services Research

(a) Establishment; appointment and supervision of Director

There is established in the Department of Health, Education, and Welfare the National Center for Health Services Research (hereinafter in this section referred to as the "Center") which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs).

(b) Duties

In carrying out section 242b(a) of this title, the Secretary, acting through the Center, may undertake and support research, evaluation, and demonstration projects (which may include and shall be appropriately coordinated with experiments and demonstration activities authorized by the Social Security Act [42 U.S.C. 301 et seq.] and the Social Security Amendments of 1967) respecting—

(1) the accessibility, acceptability, planning, organization, distribution, technology, utilization, quality, and financing of health services and systems;

(2) the supply and distribution, education and training, quality, utilization, organization, and costs of health manpower; and

(3) the design, construction, utilization, organization, and cost of facilities and equipment.

(c) Research, evaluation, and demonstration projects respecting certain specific matters

The Secretary shall afford appropriate consideration to requests of—

(1) State, regional, and local health planning and health agencies,

(2) public and private entities and individuals engaged in the delivery of health care, and

(3) other persons concerned with health services,

to have the Center or other units of the Department of Health, Education, and Welfare undertake research, evaluations, and demonstrations respecting specific aspects of the matters referred to in subsection (b) of this section.

(d) New centers for multidisciplinary health services and research, evaluation, and demonstration projects respecting certain specific matters; grants or contracts for assistance of nonprofit entities; approval of applications for grants and contracts for: Health Care Technology Center, Health Care Management Center, Health Services Policy Analysis Center and additional centers; requirements for aid

(1) The Secretary shall, by grants or contracts, or both, assist public or private nonprofit entities in meeting the costs of planning and establishing new centers, and operating existing and new centers, for multidisciplinary health services, research, evaluations, and demonstrations respecting the matters referred to in subsection (b) of this section. To the extent practicable, the Secretary shall approve, in accordance with the requirements of this subsection and section 242m of this title, a number of applications for grants and contracts under this subsection which will result in at least six of such centers (including three national special emphasis centers, one of which (to be designated as the Health Care Technology Center) shall focus on all forms of technology, including computers and electronic devices, and its applications in health care delivery; one of which (to be designated as the Health Care Management

Center) shall focus on the improvement of management and organization in the health field, the training and retraining of administrators of health care enterprises, and the development of leaders, planners, and policy analysts in the health field; one of which (to be designated as the Health Services Policy Analysis Center) shall focus on the development and evaluation of national policies with respect to health services, including the development of health maintenance organizations and other forms of group practice, with a view toward improving the efficiencies of the health services delivery system) being operational in each fiscal year.

(2)(A) No grant or contract may be made under this subsection for planning and establishing a center unless the Secretary determines that when it is operational it will meet the requirements listed in subparagraph (B) and no payment shall be made under a grant or contract for operation of a center unless the center meets such requirements.

(B) The requirements referred to in subparagraph (A) are as follows:

(i) There shall be a full-time director of the center who possesses a demonstrated capacity for sustained productivity and leadership in health services research, demonstrations, and evaluations, and there shall be such additional full-time professional staff as may be appropriate.

(ii) The staff of the center shall represent all relevant disciplines.

(iii) The center shall (I) be located within an established academic or research institution with departments and resources appropriate to the programs of the center, and (II) have working relationships with health service delivery systems where experiments in health services may be initiated and evaluated.

(iv) The center shall select problems in health services for research, demonstrations, and evaluations on the basis of (I) their regional or national importance, (II) the unique potential for definitive research on the problem, and (III) opportunities for local application of the research findings.

(v) Such additional requirements as the Secretary may by regulation prescribe.

(e) Additional authority of Secretary concerning research, evaluation, and demonstration projects respecting certain specific matters

The authority of the Secretary under section 242b(b) of this title shall be available to him with respect to the undertaking and support of projects under subsections (b), (c), and (d) of this section.

(July 1, 1944, ch. 373, title III, § 305, as added July 3, 1956, ch. 510, § 3, 70 Stat. 490, and amended Oct. 30, 1970, Pub. L. 91-515, title II, § 210, 84 Stat. 1303; June 18, 1973, Pub. L. 93-45, title I, § 103, 87 Stat. 91; July 23, 1974, Pub. L. 93-353, title I, § 104, 88 Stat. 363; Oct. 8, 1976, Pub. L. 94-460, title III, § 301, 90 Stat. 1960.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

The Social Security Amendments of 1967, referred to in subsec. (b), is Pub. L. 90-248, Jan. 2, 1968, 81 Stat. 821. For complete classification of this Act to the Code, see Short Title note set out under section 1305 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (d)(1). Pub. L. 94-460 increased from two to three the number of national special emphasis centers and added provision for a national special emphasis center, to be designated as the Health Services Policy Analysis Center, to focus on the development and evaluation of national policies with respect to health services, including the development of health maintenance organizations and other forms of group practice, with a view toward improving the efficiencies of the health services delivery system.

1974—Pub. L. 93-353, in revising generally provisions of subsecs. (a) to (e), provided for a National Center for Health Services Research, subsec. (a) relating to establishment of such National Center under supervision of a Director, subsec. (b) relating to its duties, subsec. (c) relating to research, evaluation, and demonstration projects respecting certain specific matters, subsec. (d) relating to new centers for multidisciplinary health services and research, evaluation, and demonstration projects respecting certain specific matters, grants or contracts for assistance of nonprofit entities, approval of applications for grants and contracts for Health Care Technology Center, Health Care Management Center, and additional centers, and requirements for aid, and subsec. (e) relating to additional authority of Secretary concerning research, evaluation, and demonstration projects respecting certain specific matters. Former provisions related to conduct of national health surveys and studies, subsec. (a) relating to determination of extent of illness and disability and related information, development and test of methods for obtaining current data, and use and publication of information, subsec. (b) relating to development of uniform system of health information and statistics, subsec. (c) relating to publication of results, subsec. (d) relating to authorization of appropriations, and subsec. (e) relating to cooperation with other Governmental or State agencies.

1973—Subsec. (d). Pub. L. 93-45 authorized appropriations of $14,518,000 for fiscal year ending June 30, 1974.

1970—Subsec. (a). Pub. L. 91-515, § 210(a), added cls. (F) to (H) and provisions relating to restrictions imposed upon the use and divulgence of information obtained in accordance with this paragraph.

Subsec. (b). Pub. L. 91-515, § 210(b), added subsec. (b). Former subsec. (b) was redesignated (c).

Subsec. (c). Pub. L. 91-515, § 210(b), redesignated former subsec. (b) as (c). Former subsec. (c) was redesignated (d).

Subsec. (d). Pub. L. 91-515, § 210(b), (c), redesignated former subsec. (c) as (d), and, as so redesignated, substituted provisions authorizing appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, for provisions authorizing appropriations for each fiscal year beginning after June 30, 1956, such sums as the Congress determines for carrying out the provisions of this section. Former subsec. (d) was redesignated (e).

Subsec. (e). Pub. L. 91-515, § 210(b), redesignated former subsec. (d) as (e).

NUMBER AND FUND LIMITATION OF GRANTS AND CONTRACTS FOR THE PERIOD OF JULY 1, 1975, THROUGH SEPTEMBER 30, 1976

Applicability of section 242m(c) of this title to number and amounts of grants and contracts under this section for the period of July 1, 1975, through Sept. 30, 1976, see section 106(b) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 386, set out as a note under section 242b of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242l, 242m of this title.

§ 242d. Transferred

CODIFICATION

Section, act July 1, 1944, ch. 373, title III, § 306, as added Aug. 2, 1956, ch. 871, title I, § 101, 70 Stat. 923, and amended July 23, 1959, Pub. L. 86-105, § 1, 73 Stat. 239; Sept. 8, 1960, Pub. L. 88-497, § 2, 78 Stat. 613; Aug. 16, 1968, Pub. L. 90-490, title III, § 302(b), 82 Stat. 789; Mar. 12, 1970, Pub. L. 91-208, § 3, 84 Stat. 52; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(b)(2), 84 Stat. 1311; June 18, 1973, Pub. L. 93-45, title I, § 104(a), 87 Stat. 91, related to graduate or specialized training for physicians, engineers, nurses, and other professional personnel and was transferred to section 244-1 of this title.

§ 242e. Repealed. Pub. L. 93-353, title I, § 102(a), July 23, 1974, 88 Stat. 362

Section, act July 1, 1944, ch. 373, title III, § 307, as added Aug. 2, 1956, ch. 871, title II, § 201, 70 Stat. 924, and amended July 23, 1959, Pub. L. 86-105, § 2, 73 Stat. 239; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(b)(2), 84 Stat. 1311, provided for a professional nurse traineeship program for which authorization of appropriations were made through fiscal year ending June 30, 1964. Provision for the continuation of the program was made by the Nurse Training Act of 1964 and is now contained in section 297 et seq. of this title.

§§ 242f to 242j. Transferred

CODIFICATION

Section 242f, act July 1, 1944, ch. 373, title III, § 308, as added July 12, 1960, Pub. L. 86-610, § 3, 74 Stat. 364, related to international cooperation with respect to biomedical research and the health services research and statistical activities, and was transferred to section 242l of this title.

Section 242g, act July 1, 1944, ch. 373, title III, § 309, as added Sept. 8, 1960, Pub. L. 86-720, § 1(a), 74 Stat. 819, and amended Aug. 27, 1964, Pub. L. 88-497, § 3, 78 Stat. 613; Nov. 3, 1966, Pub. L. 89-749, § 4, 80 Stat. 1190; Dec. 5, 1967, Pub. L. 90-147, §§ 2(g), 8(c), 81 Stat. 534, 540; Aug. 16, 1968, Pub. L. 90-490, title III, § 302(a), 82 Stat. 788; Mar. 12, 1970, Pub. L. 91-208, §§ 1, 2, 84 Stat. 52; June 30, 1970, Pub. L. 91-296, title IV, § 401(b)(1)(B), 84 Stat. 352; June 15, 1973, Pub. L. 93-45, title I, § 104(b), (c), 87 Stat. 91, related to graduate public health training grants and was transferred to section 245a of this title.

Section 242h, act July 1, 1944, ch. 373, title III, § 310, as added Sept. 25, 1962, Pub. L. 87-692, 76 Stat. 592, and amended Aug. 5, 1965, Pub. L. 89-109, § 3, 79 Stat. 436; Oct. 15, 1968, Pub. L. 90-574, title II, § 201, 82 Stat. 1006; Mar. 12, 1970, Pub. L. 91-209, 84 Stat. 52; June 18, 1973, Pub. L. 93-45, title I, § 105, 87 Stat. 91, related to health services for domestic agricultural migrants and was transferred to section 247d of this title.

Section 242i, act July 1, 1944, ch. 373, title III, § 310A, as added Oct. 30, 1970, Pub. L. 91-515, title II, § 270, 84 Stat. 1306, and amended Nov. 18, 1971, Pub. L. 92-157, title II, § 201, 85 Stat. 461, related to administration of grants in multigrant projects and was transferred to section 235 of this title.

Section 242j, act July 1, 1944, ch. 373, title III, § 310B, as added Oct. 30, 1970, Pub. L. 91-515, title II, § 280, 84 Stat. 1307, provided for and annual report by the Secretary on activities related to health facilities and services and expenditure of funds and was transferred to section 236 of this title.

§ 242k. National Center for Health Statistics

(a) Establishment; appointment and supervision of Director

There is established in the Department of Health, Education, and Welfare the National Center for Health Statistics (hereinafter in this section referred to as the "Center") which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs).

(b) Duties

In carrying out section 242b(a) of this title, the Secretary, acting through the Center, may—

(1) collect statistics on—

(A) the extent and nature of illness and disability of the population of the United States (or of any groupings of the people included in the population), including life expectancy, the incidence of various acute and chronic illnesses, and infant and maternal morbidity and mortality,

(B) the impact of illness and disability of the population on the economy of the United States and on other aspects of the well-being of its population (or of such groupings),

(C) environmental, social, and other health hazards,

(D) determinants of health,

(E) health resources, including physicians, dentists, nurses, and other health professionals by specialty and type of practice and the supply of services by hospitals, extended care facilities, home health agencies, and other health institutions,

(F) utilization of health care, including utilization of (i) ambulatory health services by specialties and types of practice of the health professionals providing such services, and (ii) services of hospitals, extended care facilities, home health agencies, and other institutions,

(G) health care costs and financing, including the trends in health care prices and cost, the sources of payments for health care services, and Federal, State, and local governmental expenditures for health care services, and

(H) family formation, growth, and dissolution; and

(2) undertake and support (by grant or contract) research, demonstrations, and evaluations respecting new or improved methods for obtaining current data on the matters referred to in paragraph (1).

(c) Statistical compilations and surveys

The Center shall furnish such special statistical compilations and surveys as the Committee on Human Resources and the Committee on Appropriations of the Senate and the Committee on Interstate and Foreign Commerce and the Committee on Appropriations of the House

of Representatives may request. Such statistical compilations and surveys shall not be made subject to the payment of the actual or estimated cost of the preparation of such compilations and surveys.

(d) Technical aid to States and localities

To insure comparability and reliability of health statistics, the Secretary shall, through the Center, provide adequate technical assistance to assist State and local jurisdictions in the development of model laws dealing with issues of confidentiality and comparability of data.

(e) Federal-State-local cooperative health statistics system

The Secretary shall (1) assist State and local health agencies, and Federal agencies involved in matters relating to health, in the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels; (2) coordinate the activities of such Federal agencies respecting the design and implementation of such cooperative system; (3) undertake and support (by grant or contract) research, development, demonstrations, and evaluations respecting such cooperative system; (4) provide the Federal share of the data collection costs under such system; and (5) review statistical activities of the Department of Health, Education, and Welfare to assure that they are consistent with such cooperative system.

(f) Federal State cooperation

To assist in carrying out this section, the Secretary shall cooperate and consult with the Departments of Commerce and Labor and any other interested Federal departments or agencies and with State and local health departments and agencies. For such purpose he shall utilize insofar as possible the services or facilities of any agency of the Federal Government and, without regard to section 5 of title 41, of any appropriate State or other public agency, and may, without regard to such section, utilize the services or facilities of any private agency, organization, group, or individual, in accordance with written agreements between the head of such agency, organization, or group and the Secretary or between such individual and the Secretary. Payment, if any, for such services or facilities shall be made in such amounts as may be provided in such agreement.

(g) Collection of health data; data collection forms

To secure uniformity in the registration and collection of mortality, morbidity, and other health data, the Secretary shall prepare and distribute suitable and necessary forms for the collection and compilation of such data which shall be published as a part of the health reports published by the Secretary.

(h) Registration area records

There shall be an annual collection of data from the records of births, deaths, marriages, and divorces in registration areas. The data shall be obtained only from and restricted to such records of the States and municipalities which the Secretary, in his discretion, determines possess records affording satisfactory data in necessary detail and form. Each State or registration area shall be paid by the Secretary the Federal share of its reasonable costs (as determined by the Secretary) for collecting and transcribing (at the request of the Secretary and by whatever method authorized by him) its records for such data.

(i) United States National Committee on Vital and Health Statistics; establishment; membership; term of office; vacancies; service pending a successor in office; compensation; functions; consultations of Secretary with Committee and professional advisory groups

(1) There is established in the Office of the Secretary a committee to be known as the United States National Committee on Vital and Health Statistics (hereinafter in this subsection referred to as the "Committee") which shall consist of fifteen members.

(2)(A) The members of the Committee shall be appointed by the Secretary from among persons who have distinguished themselves in the fields of health statistics, epidemiology, and the provision of health services. Except as provided in subparagraph (B), members of the Committee shall be appointed for terms of three years.

(B) Of the members first appointed—

(i) five shall be appointed for terms of one year,

(ii) five shall be appointed for terms of two years, and

(iii) five shall be appointed for terms of three years,

as designated by the Secretary at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(3) Members of the Committee shall be compensated in accordance with section 210(c) of this title.

(4) It shall be the function of the Committee to assist and advise the Secretary—

(A) to delineate statistical problems bearing on health and health services which are of national or international interest;

(B) to stimulate studies of such problems by other organizations and agencies whenever possible or to make investigations of such problems through subcommittees;

(C) to determine, approve, and revise the terms, definitions, classifications, and guidelines for assessing health status and health services, their distribution and costs, for use (i) within the Department of Health, Education, and Welfare, (ii) by all programs administered or funded by the Secretary, including the Federal-State-local cooperative health statistics system referred to in subsection (e) of this section, and (iii) to the extent possible as determined by the head of the agency involved, by the Veterans' Administration, the Department of Defense, and other Federal agencies concerned with health and health services;

(D) with respect to the design of and approval of health statistical and health information systems concerned with the collection, processing, and tabulation of health statistics

within the Department of Health, Education, and Welfare;

(E) to review and comment on findings and proposals developed by other organizations and agencies and to make recommendations for their adoption or implementation by local, State, national, or international agencies;

(F) to cooperate with national committees of other countries and with the World Health Organization and other national agencies in the studies of problems of mutual interest; and

(G) to issue an annual report on the state of the Nation's health, its health services, their costs and distributions, and to make proposals for improvement of the Nation's health statistics and health information systems.

(5) In carrying out health statistical activities under this part, the Secretary shall consult with, and seek the advice of, the Committee and other appropriate professional advisory groups.

(July 1, 1944, ch. 373, title III, § 306, as added July 23, 1974, Pub. L. 93-353, title I, § 105, 88 Stat. 365, and amended S. Res. 4, Feb. 4, 1977.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (g) of this section were contained in section 313 of act July 1, 1944, ch. 373, title III, 58 Stat. 693, as amended Oct. 30, 1970, Pub. L. 91-516, title II, § 282, 84 Stat. 1308 (formerly classified to section 245 of this title) prior to repeal of the provision by Pub. L. 93-353, title I, § 102(a), July 23, 1974, 88 Stat. 362.

Provisions similar to those comprising subsec. (h) of this section were contained in section 312a of act July 1, 1944, ch. 373, title III, as added Aug. 31, 1954, ch. 1158, § 2, 68 Stat. 1025 (formerly classified to section 244a of this title) prior to repeal of the provision by Pub. L. 93-353, title I, § 102(a), July 23, 1974, 88 Stat. 362.

CHANGE OF NAME

The Committee on Labor and Public Welfare of the Senate was abolished and replaced by the Committee on Human Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242*l*, 242m, 300*l*-2, 300m-1 of this title.

§ 242*l*. International cooperation

(a) Cooperative endeavors; statement of purpose

For the purpose of advancing the status of the health sciences in the United States (and thereby the health of the American people), the Secretary may participate with other countries in cooperative endeavors in biomedical research and the health services research and statistical activities authorized by sections 242b, 242c, and 242k of this title.

(b) Authority of Secretary; building construction prohibition

In connection with the cooperative endeavors authorized by subsection (a) of this section, the Secretary may—

(1) make such use of resources offered by participating foreign countries as he may find necessary and appropriate;

(2) establish and maintain fellowships in the United States and in participating foreign countries;

(3) make grants to public institutions or agencies and to nonprofit private institutions or agencies in the United States and in participating foreign countries for the purpose of establishing and maintaining the fellowships authorized by paragraph (2);

(4) make grants or loans of equipment and materials, for use by public or nonprofit institutions or agencies, or by individuals, in participating foreign countries;

(5) participate and otherwise cooperate in any international meetings, conferences, or other activities concerned with biomedical research, health services research, or health statistics;

(6) facilitate the interchange between the United States and participating foreign countries, and among participating foreign countries, of research scientists and experts who are engaged in experiments and programs of biomedical research, health services research, and health statistical activities, and in carrying out such purpose may pay per diem compensation, subsistence, and travel for such scientists and experts when away from their places of residence at rates not to exceed those provided in section 5703(b) of title 5 for persons in the Government service employed intermittently; and

(7) procure, in accordance with section 3109 of title 5, the temporary or intermittent services of experts or consultants.

The Secretary may not, in the exercise of his authority under this section, provide financial assistance for the construction of any facility in any foreign country.

(July 1, 1944, ch. 373, title III, § 307, formerly § 308, as added July 12, 1960, Pub. L. 86-610, § 3, 74 Stat. 364, renumbered and amended July 23, 1974, Pub. L. 93-353, title I, § 106, 88 Stat. 367.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (b)(6), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

CODIFICATION

Section was formerly classified to section 242f of this title.

AMENDMENTS

1974—Pub. L. 93-353 amended section generally.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 242m of this title; title 22 section 2101.

§ 242m. General provisions respecting sections 242b, 242c, 242k, and 242*l* of this title concerning general authority of Secretary, National Center and other centers for Health Services Research, National Center for Health Statistics, and International cooperation

(a) Reports to Congress, and President and Congress; review by Office of Management and Budget

(1) Not later than December 1 of each year, the Secretary shall make a report to Congress respecting (A) the administration of sections 242b, 242c, 242k, and 242*l* of this title during

the preceding fiscal year, and (B) the current state and progress of health services research and health statistics.

(2) The Secretary, acting through the National Center for Health Services Research and the National Center for Health Statistics, shall assemble and submit to the President and the Congress not later than December 1 of each year the following reports:

(A) A report on health care costs and financing. Such report shall include a description and analysis of the statistics collected under section 242k(b)(1)(G) of this title.

(B) A report on health resources. Such report shall include a description and analysis, by geographic area, of the statistics collected under section 242k(b)(1)(E) of this title.

(C) A report on the utilization of health resources. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 242k(b)(1)(F) of this title.

(D) A report on the health of the Nation's people. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 242k(b)(1)(A) of this title.

(3) The Office of Management and Budget may review any report required by paragraph (1) or (2) of this subsection before its submission to Congress, but the Office may not revise any such report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comment respecting any such report.

(b) Grants or contracts; applications, submittal; application review panel, findings and recommendations; other provisions applicable

(1) No grant or contract may be made under section 242b, 242c, 242k, or 242*l* of this title unless an application therefor has been submitted to the Secretary in such form and manner, and containing such information, as the Secretary may by regulation prescribe.

(2) Each application submitted for a grant or contract under section 242b or 242c of this title, in an amount exceeding $35,000 of direct costs and for a health services research, evaluation, or demonstration project, shall be submitted by the Secretary for review for scientific merit to a panel of experts appointed by him from persons who are not officers or employees of the United States and who possess qualifications relevant to the project for which the application was made. A panel to which an application is submitted under this paragraph shall report its findings and recommendations respecting the application to the Secretary in such form and manner as the Secretary shall by regulation prescribe.

(3) If an application is submitted under section 242b, 242c, or 242k of this title for a grant or contract for a project for which a grant or contract may be made or entered into under another provision of this chapter, such application may not be approved under section 242b, 242c, or 242k of this title and funds appropriated under this section may not be obligated for such grant or contract. The applicant who submitted such application shall be notified of the other provision (or provisions) of this chapter under which such application may be submitted.

(c) Fiscal year number and fund limitation of grants and contracts

The aggregate number of grants and contracts made or entered into under sections 242b and 242c of this title for any fiscal year respecting a particular means of delivery of health services or another particular aspect of health services may not exceed twenty; and the aggregate amount of funds obligated under grants and contracts under such sections for any fiscal year respecting a particular means of delivery of health services or another particular aspect of health services may not exceed $5,000,000.

(d) Information; publication restrictions

No information obtained in the course of activities undertaken or supported under section 242b, 242c, 242k, or 242*l* of this title may be used for any purpose other than the purpose for which it was supplied unless authorized under regulations of the Secretary; and (1) in the case of information obtained in the course of health statistical activities under section 242b or 242k of this title, such information may not be published or released in other form if the particular establishment or person supplying the information or described in it is identifiable unless such establishment or person has consented (as determined under regulations of the Secretary) to its publication or release in other form, and (2) in the case of information obtained in the course of health services research, evaluations, or demonstrations under section 242b or 242c of this title, such information may not be published or released in other form if the person who supplied the information or who is described in it is identifiable unless such person has consented (as determined under regulations of the Secretary) to its publication or release in other form.

(e) Payment procedures; advances or reimbursement; installments; conditions; reductions

(1) Payments of any grant or under any contract under section 242b, 242c, 242k, or 242*l* of this title may be made in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary deems necessary to carry out the purposes of such section.

(2) The amounts otherwise payable to any person under a grant or contract made under section 242b, 242c, 242k, or 242*l* of this title shall be reduced by—

(A) amounts equal to the fair market value of any equipment or supplies furnished to such person by the Secretary for the purpose of carrying out the project with respect to which such grant or contract is made, and

(B) amounts equal to the pay, allowances, traveling expenses, and related personnel expenses attributable to the performance of services by an officer or employee of the Government in connection with such project, if such officer or employee was assigned or detailed by the Secretary to perform such services,

but only if such person requested the Secretary to furnish such equipment or supplies, or such services, as the case may be.

(f) Contracts without regard to section 529 of title 31 and section 5 of title 41

Contracts may be entered into under section 242b, 242c, or 242k of this title without regard to section 529 of title 31 and section 5 of title 41.

(g) Research results; publication; indexing, abstracting, and other services; prohibition against restriction of publication and dissemination of national center project data and results; statistical publications

(1) The Secretary shall—

(A) publish, make available and disseminate, promptly in understandable form and on as broad a basis as practicable, the results of health services research, demonstrations, and evaluations undertaken and supported under sections 242b and 242c of this title;

(B) make available to the public data developed in such research, demonstrations, and evaluations; and

(C) provide indexing, abstracting, translating, publishing, and other services leading to a more effective and timely dissemination of information on health services research, demonstrations, and evaluations in health care delivery to public and private entities and individuals engaged in the improvement of health care delivery and the general public; and undertake programs to develop new or improved methods for making such information available.

Except as provided in subsection (d) of this section, the Secretary may not restrict the publication and dissemination of data from, and results of projects undertaken by, centers supported under section 242c(d) of this title.

(2) The Secretary shall (A) take such action as may be necessary to assure that statistics developed under sections 242b, 242c, and 242k of this title are of high quality, timely, comprehensive as well as specific, standardized, and adequately analyzed and indexed, and (B) publish, make available, and disseminate such statistics on as wide a basis as is practicable.

(h) Project facility or equipment cost limitation of grants and contracts; labor standards; regulations

(1) Except where the Secretary determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of section 242b, 242c, or 242k of this title, a grant or contract under section 242b, 242c, or 242k of this title with respect to any project for construction of a facility or for acquisition of equipment may not provide for payment of more than 50 per centum of so much of the cost of the facility or equipment as the Secretary determines is reasonably attributable to research, evaluation, or demonstration purposes.

(2) Laborers and mechanics employed by contractors and subcontractors in the construction of such a facility shall be paid wages at rates not less than those prevailing on similar work in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to any labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. Appendix) and section 276c of title 40.

(3) Such grants and contracts shall be subject to such additional requirements as the Secretary may by regulation prescribe.

(i) Authorization of appropriations

(1) For health service research, evaluation, and demonstration activities undertaken or supported under section 242b or 242c of this title, there are authorized to be appropriated $65,200,000 for the fiscal year ending June 30, 1975, and $80,000,000 for the fiscal year ending June 30, 1976. Of the funds appropriated under this paragraph for any fiscal year, not less than 25 per centum of such funds shall be made available only for health services research, evaluation, and demonstration activities directly undertaken by the Secretary under such section.

(2) For health statistical activities undertaken or supported under section 242b or 242c of this title, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1975, and $30,000,000 for the fiscal year ending June 30, 1976.

(July 1, 1944, ch. 373, title III, § 308, as added July 23, 1974, Pub. L. 93-353, title I, § 107(a), 88 Stat. 368, and amended Apr. 21, 1976, Pub. L. 94-273, § 7(2), 90 Stat. 378.)

REFERENCES IN TEXT

The code citation for the Act of March 3, 1931, referred to in subsec. (h)(2), as it appeared in the original, contained a transposition of numbers. The correct citation now appears in the text.

Reorganization Plan Numbered 14 of 1950 (5 U.S.C. Appendix), referred to in subsec. (h)(2), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (e) of this section were contained in subsec. (a)(3) of section 304 of act July 1, 1944, ch. 373, title III, as added July 28, 1955, ch. 417, § 3, 69 Stat. 382, and thereafter amended (formerly classified to section 242b(a)(3) of this title) prior to general amendment of such section 304 by Pub. L. 93-353, title I, § 103, July 23, 1974, 88 Stat. 362.

Provisions similar to those comprising subsec. (h)(1) of this section were contained in subsec. (a)(2) of section 304 of act July 1, 1944, ch. 373, title III, as added July 28, 1955, ch. 417, § 3, 69 Stat. 382, and thereafter amended (formerly classified to section 242b(a)(2) of this title) prior to general amendment of such section 304 by Pub. L. 93-353, title I, § 103, July 23, 1974, 88 Stat. 362.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-273 substituted "December" for "September" wherever appearing therein.

NUMBER AND FUND LIMITATION OF GRANTS AND CONTRACTS FOR THE PERIOD OF JULY 1, 1975, THROUGH SEPTEMBER 30, 1976

Applicability of subsec. (c) of this section to number and amounts of grants and contracts under sections 242b and 242c of this title for the period of July 1, 1975, through Sept. 30, 1976, see section 106(b) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 386, set out as a note under section 242b of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (a) of this section and subsec. (i)(1) of this section provisions relating to availability of appropriations, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR ENDING JUNE 30, 1977

Section 107(b) of Pub. L. 93-353 provided that: "The authorizations of appropriations provided by section 308(i) of the Public Health Service Act [subsec. (i) of this section] is extended for the fiscal year ending June 30, 1977, in the amounts authorized for the preceding fiscal year unless before June 30, 1976, Congress has passed legislation repealing this subsection."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242c, 292h of this title.

§ 242n. Health conferences

A conference of the health authorities in and among the several States shall be called annually by the Secretary. Whenever in his opinion the interests of the public health would be promoted by a conference, the Secretary may invite as many of such health authorities and officials of other State or local public or private agencies, institutions, or organizations to confer as he deems necessary or proper. Upon the application of health authorities of five or more States it shall be the duty of the Secretary to call a conference of all State health authorities joining in the request. Each State represented at any conference shall be entitled to a single vote. Whenever at any such conference matters relating to mental health are to be discussed, the mental health authorities of the respective States shall be invited to attend.

(July 1, 1944, ch. 373, title III, § 309, as added July 23, 1974, Pub. L. 93-353, title I, § 107(a), 88 Stat. 371.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 312 of act July 1, 1944, ch. 373, title III, 58 Stat. 693, as amended (formerly classified to section 244 of this title) prior to repeal of the provision by Pub. L. 93-353, title I, § 102(a), July 23, 1974, 88 Stat. 362.

§ 242o. Publication of health educational information

From time to time the Secretary shall issue information related to public health, in the form of publications or otherwise, for the use of the public, and shall publish weekly reports of health conditions in the United States and other countries and other pertinent health information for the use of persons and institutions concerned with health services.

(July 1, 1944, ch. 373, title III, § 310, as added July 23, 1974, Pub. L. 93-353, title I, § 107(a), 88 Stat. 371.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 315 of act July 1, 1944, ch. 373, title III, 58 Stat. 695, as amended Oct. 30, 1970, Pub. L. 91-515, title II, § 282, 84 Stat. 1308 (formerly classified to section 247 of this title) prior to repeal of the provision by Pub. L. 93-353, title I, § 102(a), July 23, 1974, 88 Stat. 362.

PART B—FEDERAL-STATE COOPERATION

§ 243. General grant of authority for cooperation

(a) Enforcement of quarantine regulations; prevention of communicable diseases

The Secretary is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations made pursuant to this chapter which such authorities may be able and willing to provide. The Secretary shall also assist States and their political subdivisions in the prevention and suppression of communicable diseases, shall cooperate with and aid State and local authorities in the enforcement of their quarantine and other health regulations and in carrying out the purposes specified in section 246 of this title, and shall advise the several States on matters relating to the preservation and improvement of the public health.

(b) Comprehensive and continuing planning; training of personnel for State and local health work; fees

The Secretary shall encourage cooperative activities between the States with respect to comprehensive and continuing planning as to their current and future health needs, the establishment and maintenance of adequate public health services, and otherwise carrying out the purposes of section 246 of this title. The Secretary is also authorized to train personnel for State and local health work. The Secretary may charge only private entities reasonable fees for the training of their personnel under the preceding sentence.

(c) Development of plan to control epidemics and meet emergencies or problems resulting from disasters; cooperative planning; temporary assistance; reimbursement of United States

(1) The Secretary is authorized to develop (and may take such action as may be necessary to implement) a plan under which personnel, equipment, medical supplies, and other resources of the Service and other agencies under the jurisdiction of the Secretary may be effectively used to control epidemics of any disease or condition referred to in section 247b(f) of this title and to meet other health emergencies or problems involving or resulting from disasters or any such disease. The Secretary may enter into agreements providing for the cooperative planning between the Service and public and private community health programs and agencies to cope with health problems (including epidemics and health emergencies) resulting from disasters or any disease or condition referred to in section 247b(f) of this title.

(2) The Secretary may, at the request of the appropriate State or local authority, extend temporary (not in excess of forty-five days) assistance to States or localities in meeting health emergencies of such a nature as to warrant Federal assistance. The Secretary may require such reimbursement of the United States for assistance provided under this paragraph as he may determine to be reasonable under the circumstances. Any reimbursement so paid shall be credited to the applicable appropri-

ation for the Service for the year in which such reimbursement is received.

(July 1, 1944, ch. 373, title III, § 311, 58 Stat. 693; Nov. 3, 1966, Pub. L. 89-749, § 5, 80 Stat. 1190; Dec. 5, 1967, Pub. L. 90-174, § 4, 81 Stat. 536; Oct. 30, 1970, Pub. L. 91-515, title II, § 282, 84 Stat. 1308; June 23, 1976, Pub. L. 94-317, title II, § 202(b), (c), 90 Stat. 703.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-317, § 202(c), added provision authorizing Secretary to charge only private entities reasonable fees for the training of their personnel.

Subsec. (c). Pub. L. 94-317, § 202(b), made changes in phraseology and restructured provisions into pars. (1) and (2) and, in par. (1), as so restructured, added provisions authorizing Secretary to develop a plan utilizing Public Health Service personnel, equipment, medical supplies and other resources to control epidemics of any disease referred to in section 247b of this title.

1970—Subsecs. (a), (b). Pub. L. 91-515 substituted "Secretary" for "Surgeon General" wherever appearing therein.

1967—Subsec. (c). Pub. L. 90-174 added subsec. (c).

1966—Pub. L. 89-749 designated existing provisions as subsec. (a), added subsec. (b), and amended subsec. (b) to permit the Surgeon General to train personnel for State and local health work.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 5(a) of Pub. L. 89-749 provided in part that subsec. (b) of this section shall be effective July 1, 1966.

Section 5(b) of Pub. L. 89-749 provided in part that the amendment of subsec. (b) of this section, permitting the Surgeon General to train personnel for State and local health work, shall be effective July 1, 1967.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (c) of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 343 of Title 7, Agriculture.

DEFINITION OF "SECRETARY"

Term "Secretary" used in subsec. (c) of this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90-174, set out as a note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857i of this title.

§ 244. Repealed. Pub. L. 93-353, title I, § 102(a), July 23, 1974, 88 Stat. 362

Section, acts July 1, 1944, ch. 373, title III, § 312, 58 Stat. 693; July 3, 1946, ch. 538, § 8, 60 Stat. 424; Dec. 5, 1967, Pub. L. 90-174, § 12(b), 81 Stat. 541; Oct. 30, 1970, Pub. L. 91-515, title II, § 282, 84 Stat. 1308, provided for health conferences and is now covered by section 242n of this title.

§ 244-1. Repealed. Pub. L. 94-484, title V, § 503(b), Oct. 12, 1976, 90 Stat. 2300

Section, act July 1, 1944, ch. 373, title III, § 312, formerly § 306, as added Aug. 2, 1956, ch. 871, title I, § 101, 70 Stat. 923, amended July 23, 1959, Pub. L. 86-105, § 1, 73 Stat. 239; Sept 8, 1960, Pub. L. 86-720, § 1(b), 74 Stat. 820; Aug. 27, 1964, Pub. L. 88-497, § 2, 78 Stat. 613; Aug. 16, 1968, Pub. L. 90-490, title III, § 302(b), 82 Stat. 789; Mar. 12, 1970, Pub. L. 91-208, § 3, 84 Stat. 52; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(b)(2), 84 Stat. 1311; June 18, 1973, Pub. L. 93-45, title I, § 104(a), 87 Stat. 91, and renumbered and amended July 23, 1974, Pub. L. 93-353, title I, § 102(b), 88 Stat. 362; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(a)(1), 90 Stat. 2244, related to graduate or specialized training for physicians, engineers, nurses, and other professional personnel.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Oct. 1, 1977, see section 503(c) of Pub. L. 94-484, set out as an Effective Date of 1976 Amendment note under section 295f-2 of this title.

§§ 244a, 245. Repealed. Pub. L. 93-353, title I, § 102(a) July 23, 1974, 88 Stat. 362

Section 244a, act July 1, 1944, ch. 373, title III, § 312a, as added Aug. 31, 1954, ch. 1158, § 2, 68 Stat. 1025, related to birth and death statistics, annual collection, and compensation for transcription, and is now covered by section 242k(h) of this title.

Section 245, acts July 1, 1944, ch. 373, title III, § 313, 58 Stat. 693; Oct. 30, 1970, Pub. L. 91-515, title II, § 282, 84 Stat. 1308, provided for collection of vital statistics, and is now covered by section 242k(g) of this title.

§ 245a. Repealed. Pub. L. 94-484, title V, § 503(b), Oct. 12, 1976, 90 Stat. 2300

Section, act July 1, 1944, ch. 373, title III, § 313, formerly § 309, as added Sept. 8, 1960, Pub. L. 86-720, § 1(a), 74 Stat. 819, amended Aug. 27, 1964, Pub. L. 88-497, § 3, 78 Stat. 613; Nov. 3, 1966, Pub. L. 89-749, § 4, 80 Stat. 1190; Dec. 5, 1967, Pub. L. 90-174, §§ 2(g), 8(c), 81 Stat. 534, 540; Aug. 16, 1968, Pub. L. 90-490, title III, § 302(a), 82 Stat. 788; Mar. 12, 1970, Pub. L. 91-208, §§ 1, 2, 84 Stat. 52; June 30, 1970, Pub. L. 91-296, title IV, § 401(b)(1)(B), 84 Stat. 352; June 18, 1973, Pub. L. 93-45, title I, § 104(b), (c), 87 Stat. 91, and renumbered and amended July 23, 1974, Pub. L. 93-353, title I, § 102(c), 88 Stat. 362; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(a)(2), (3), 90 Stat. 2244, related to graduate public health training grants.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Oct. 1, 1977, see section 503(c) of Pub. L. 94-484, set out as an Effective Date of 1976 Amendment note under section 295f-2 of this title.

§ 246. Grants and services to States

(a) Comprehensive health planning and services

(1) In order to assist the States in comprehensive and continuing planning for their current and future health needs, the Secretary is authorized during the period beginning July 1, 1966, and ending June 30, 1973, to make grants to States which have submitted, and had approved by the Secretary, State plans for comprehensive State health planning. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1967, $7,000,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $15,000,000 for the fiscal year ending June 30, 1971, $17,000,000 for the fiscal year ending June 30, 1972, $20,000,000 for the fiscal year ending June 30, 1973, and $10,000,000 for the fiscal year ending June 30, 1974.

(2) In order to be approved for purposes of this subsection, a State plan for comprehensive State health planning must—

(A) designate, or provide for the establishment of, a single State agency, which may be

an interdepartmental agency, as the sole agency for administering or supervising the administration of the State's health planning functions under the plan;

(B) provide for the establishment of a State health planning council, which shall include representatives of Federal, State, and local agencies (including as an ex officio member, if there is located in such State one or more hospitals or other health care facilities of the Veterans' Administration, the individual whom the Administrator of Veterans' Affairs shall have designated to serve on such council as the representatives of the hospitals or other health care facilities of such Administration which are located in such State) and nongovernmental organizations and groups concerned with health (including representation of the regional medical program or programs included in whole or in part within the State), and of consumers of health services, to advise such State agency in carrying out its functions under the plan, and a majority of the membership of such council shall consist of representatives of consumers of health services;

(C) set forth policies and procedures for the expenditure of funds under the plan, which, in the judgment of the Secretary, are designed to provide for comprehensive State planning for health services (both public and private and including home health care), including the facilities and persons required for the provision of such services, to meet the health needs of the people of the State and including environmental considerations as they relate to public health;

(D) provide for encouraging cooperative efforts among governmental or nongovernmental agencies, organizations and groups concerned with health services, facilities, or manpower, and for cooperative efforts between such agencies, organizations, and groups and similar agencies, organizations, and groups in the fields of education, welfare, and rehabilitation;

(E) contain or be supported by assurances satisfactory to the Secretary that the funds paid under this subsection will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available by the State for the purpose of comprehensive health planning and not to supplant such non-Federal funds;

(F) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(G) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(H) provide that the State agency will from time to time, but not less often than annually, review its State plan approved under this subsection and submit to the Secretary appropriate modifications thereof;

(I) effective July 1, 1968, (i) provide for assisting each health care facility in the State to develop a program for capital expenditures for replacement, modernization, and expansion which is consistent with an overall State plan developed in accordance with criteria established by the Secretary after consultation with the State which will meet the needs of the State for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner, and (ii) provide that the State agency furnishing such assistance will periodically review the program (developed pursuant to clause (i)) of each health care facility in the State and recommend appropriate modification thereof;

(J) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this subsection; and

(K) contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this subsection.

(3)(A) From the sums appropriated for such purpose for each fiscal year, the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of the population and the per capita income of the respective States; except that no such allotment to any State for any fiscal year shall be less than 1 per centum of the sum appropriated for such fiscal year pursuant to paragraph (1). Any such allotment to a State for a fiscal year shall remain available for obligation by the State, in accordance with the provisions of this subsection and the State's plan approved thereunder, until the close of the succeeding fiscal year.

(B) The amount of any allotment to a State under subparagraph (A) for any fiscal year which the Secretary determines will not be required by the State, during the period for which it is available, for the purposes for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments to such States under subparagraph (A) for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State from funds appropriated pursuant to this subsection for a fiscal year shall be deemed part of its allotment under subparagraph (A) for such fiscal year.

(4) From each State's allotment for a fiscal year under this subsection, the State shall from time to time be paid the Federal share of the expenditures incurred during that year or the

succeeding year pursuant to its State plan approved under this subsection. Such payments shall be made on the basis of estimates by the Secretary of the sums the State will need in order to perform the planning under its approved State plan under this subsection, but with such adjustments as may be necessary to take account of previously made underpayments or overpayments. The "Federal share" for any State for purposes of this subsection shall be all, or such part as the Secretary may determine, of the cost of such planning, except that in the case of the allotments for the fiscal year ending June 30, 1970, it shall not exceed 75 per centum of such cost.

(b) Project grants for areawide health planning; authorization of appropriations; prerequisites for grants; application; contents

(1)(A) The Secretary is authorized, during the period beginning July 1, 1966, and ending, June 30, 1974, to make, with the approval of the State agency administering or supervising the administration of the State plan approved under subsection (a) of this section, project grants to any other public or nonprofit private agency or organization (but with appropriate representation of the interests of local government where the recipient of the grant is not a local government or combination thereof or an agency of such government or combination) to cover not to exceed 75 per centum of the costs of projects for developing (and from time to time revising) comprehensive regional, metropolitan area, or other local area plans for coordination of existing and planned health services, including the facilities and persons required for provision of such services; and including the provision of such services through home health care; except that in the case of project grants made in any State prior to July 1, 1968, approval of such State agency shall be required only if such State has such a State plan in effect at the time of such grants. No grant may be made under this subsection after June 30, 1970, to any agency or organization to develop or revise health plans for an area unless the Secretary determines that such agency or organizaiton provides means for appropriate representation of the interests of the hospitals, other health care facilities, and practicing physicians serving such area, and the general public. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1967, $7,500,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, $40,000,000 for the fiscal year ending June 30, 1973, and $25,100,000 for the fiscal year ending June 30, 1974.

(B) Project grants may be made by the Secretary under subparagraph (A) to the State agency administering or supervising the administration of the State plan approved under subsection (a) of this section with respect to a particular region or area, but only if (i) no application for such a grant with respect to such region or area has been filed by any other agency or organization qualified to receive such a grant, and (ii) such State agency certifies, and the Secretary finds, that ample opportunity has been afforded to qualified agencies and organizations to file application for such a grant with respect to such region or area and that it is improbable that, in the foreseeable future, any agency or organization which is qualified for such a grant will file application therefor.

(2)(A) In order to be approved under this subsection, an application for a grant under this subsection must contain or be supported by reasonable assurances that there has been or will be established, in or for the area with respect to which such grant is sought, an areawide health planning council. The membership of such council shall include representatives of public, voluntary, and nonprofit private agencies, institutions, and organizations concerned with health (including representatives of the interests of local government of the regional medical program for such area, and of consumers of health services). A majority of the members of such council shall consist of representatives of consumers of health services.

(B) In addition, an application for a grant under this subsection must contain or be supported by reasonable assurances that the areawide health planning agency has made provision for assisting health care facilities in its area to develop a program for capital expenditures for replacement modernization, and expansion which is consistent with an overall State plan which will meet the needs of the State and the area for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner.

(c) Project grants for training, studies, and demonstrations; authorization of appropriations

The Secretary is also authorized, during the period beginning July 1, 1966, and ending June 30, 1974, to make grants to any public or nonprofit private agency, institution, or other organization to cover all or any part of the cost of projects for training, studies, or demonstrations looking toward the development of improved or more effective comprehensive health planning throughout the Nation. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1967, $2,500,000 for the fiscal year ending June 30, 1968, $5,000,000 for the fiscal year ending June 30, 1969, $7,500,000 for the fiscal year ending June 30, 1970, $8,000,000 for the fiscal year ending June 30, 1971, $10,000,000 for the fiscal year ending June 30, 1972, $12,000,000 for the fiscal year ending June 30, 1973, and $4,700,000 for the fiscal year ending June 30, 1974.

(d) Grants for comprehensive public health services; form, manner, contents and required assurances of application; annual review of activities undertaken in application; prerequisites for approval of application; allotment of funds; maximum amount of grants; availability of allotments; authorization of appropriations

(1) From allotments made pursuant to paragraph (4), the Secretary shall make grants to State health and mental health authorities to assist in meeting the costs of providing comprehensive public health services.

(2) No grant may be made under paragraph (1) to the State health or mental health authority of any State unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurances satisfactory to the Secretary that—

(A) the comprehensive public health services provided within the State will be provided in accordance with the State plan prepared in accordance with section 300m-3(c)(2) of this title or the State plan approved under subsection (a) of this section, whichever is applicable;

(B) funds received under grants under paragraph (1) will (i) be used to supplement and, to the extent practical, to increase the level of non-Federal funds that would otherwise be made available for the purposes for which the grant funds are provided, and (ii) not be used to supplant such non-Federal funds;

(C) the State health authority, and, with respect to mental health activities, the State mental health authority will—

(i) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds received under grants under paragraph (1);

(ii) from time to time, but not less often than annually, report to the Secretary (through a uniform national reporting system and by such categories as the Secretary may prescribe) a description of the comprehensive public health services provided in the State in the fiscal year for which the grant applied for is made and the amount of funds obligated in such fiscal year for the provision of each such category of services; and

(iii) make such reports (in such form and containing such information as the Secretary may prescribe) as the Secretary may reasonably require, and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

(D) the State mental health authority will—

(i) establish and carry out a plan which—

(I) is designed to eliminate inappropriate placement in institutions of persons with mental health problems, to insure the availability of appropriate noninstitutional services for such persons, and to improve the quality of care for those with mental health problems for whom institutional care is appropriate; and

(II) shall include fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions described in subclause (I), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees;

(ii) prescribe and provide for the enforcement of minimum standards for the maintenance and operation of mental health programs and facilities (including community mental health centers) with the State; and

(iii) provide for assistance to courts and other public agencies and to appropriate private agencies to facilitate (I) screening by community mental health centers (or, if there are no such centers, other appropriate entities) of residents of the State who are being considered for inpatient care in a mental health facility to determine if such care is necessary, and (II) provision of followup care by community mental health centers (or if there are no such centers, by other appropriate entities) for residents of the State who have been discharged from mental health facilities.

(3) The Secretary shall review annually the activities undertaken by each State with an approved application to determine if the State complied with the assurances provided with the application. The Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

(A) that the State for which the application was submitted did not comply with assurances provided with a prior application under paragraph (2), and

(B) that he cannot be assured that the State will comply with the assurances provided with the application under consideration.

(4) For the purpose of determining the total amount of grants that may be made to the State health and mental authorities of each State, the Secretary shall, in each fiscal year and in accordance with regulations, allot the sums appropriated for such year under paragraph (7) among the States on the basis of the population and the financial need of the respective States. The populations of the States shall be determined on the basis of the latest figures for the population of the States available from the Department of Commerce.

(5) The Secretary shall determine the amount of any grant under paragraph (1); but the amount of grants made in any fiscal year to the public and mental health authorities of any State may not exceed the amount of the State's allotment available for obligation in such fiscal year. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

(6) In any fiscal year—

(A) not less than 15 per centum of a State's allotment under paragraph (4) shall be made available only for grants under paragraph (1) to the State's mental health authority for the provision of mental health services; and

(B) not less than—

(i) 70 per centum of the amount of a State's allotment which is made available for grants to the mental health authority, and

(ii) 70 per centum of the remainder of the State's allotment,

shall be available only for the provision[1] services in communities of the State.

(7)(A) For payments under grants under paragraph (1) there are authorized to be appropriated $100,000,000 for fiscal year 1976, and $110,000,000 for fiscal year 1977.

(B) For payments under grants under paragraph (1) for establishing and maintaining programs, described in applications under paragraph (2), for the screening, detection, diagnosis, prevention, and referral for treatment of hypertension there are authorized to be appropriated $15,000,000 for fiscal year 1976, and $15,000,000 for fiscal year 1977.

(e) Repealed. Pub. L. 94-63, title V, § 501(b), July 29, 1975, 89 Stat. 346

(f) Interchange of personnel with States

(1) For the purposes of this subsection, the term "State" means a State or a political subdivision of a State, or any agency of either of the foregoing engaged in any activities related to health or designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a) of this section; the term "Secretary" means (except when used in paragraph (3)(D)) the Secretary of Health, Education, and Welfare; and the term "Department" means the Department of Health, Education, and Welfare.

(2) The Secretary is authorized, through agreements or otherwise, to arrange for assignment of officers and employees of States to the Department and assignment to States of officers and employees in the Department engaged in work related to health, for work which the Secretary determines will aid the Department in more effective discharge of its responsibilities in the field of health as authorized by law, including cooperation with States and the provision of technical or other assistance. The period of assignment of any officer or employee under an arrangement shall not exceed two years.

(3)(A) Officers and employees in the Department assigned to any State pursuant to this subsection shall be considered, during such assignment, to be (i) on detail to a regular work assignment in the Department, or (ii) on leave without pay from their positions in the Department.

(B) Persons considered to be so detailed shall remain as officers or employees, as the case may be, in the Department for all purposes, except that the supervision of their duties during the period of detail may be governed by agreement between the Department and the State involved.

(C) In the case of persons so assigned and on leave without pay—

(i) if the rate of compensation (including allowances) for their employment by the State is less than the rate of compensation (including allowances) they would be receiving had they continued in their regular assignment in the Department, they may receive supplemental salary payments from the Department in the amount considered by the Secretary to be justified, but not at a rate in excess of the difference between the State rate and the Department rate; and

(ii) they may be granted annual leave and sick leave to the extent authorized by law, but only in circumstances considered by the Secretary to justify approval of such leave.

Such officers and employees on leave without pay shall, notwithstanding any other provision of law, be entitled—

(iii) to continuation of their insurance under chapter 87 of title 5, and coverage under chapter 89 of title 5, so long as the Department continues to collect the employee's contribution from the officer or employee involved and to transmit for timely deposit into the funds created under such chapters the amount of the employee's contributions and the Government's contribution from appropriations of the Department; and

(iv)(I) in the case of commissioned officers of the Service, to have their service during their assignment treated as provided in section 215(d) of this title for such officers on leave without pay, or (II) in the case of other officers and employees in the Department, to credit the period of their assignment under the arrangement under this subsection toward periodic or longevity step increases and for retention and leave accrual purposes, and, upon payment into the civil service retirement and disability fund of the percentage of their State salary, and of their supplemental salary payments, if any, which would have been deducted from a like Federal salary for the period of such assignment and payment by the Secretary into such fund of the amount which would have been payable by him during the period of such assignemnt with respect to a like Federal salary, to treat (notwithstanding the provisions of section 8348(g) of title 5) their service during such period as service within the meaning of subchapter III of chapter 83 of title 5; except that no officer or employee or his beneficiary may receive any benefits under subchapter III of chapter 83 of title 5, chapter 89 of title 5, or chapter 87 of title 5, based on service during an assignment hereunder for which the officer or employee or (if he dies without making such election) his beneficiary elects to receive benefits, under any State retirement or insurance law or program, which the Civil Service Commission determines to be similar. The Department shall deposit currently in the funds created under chapter 87 of title 5, chapter 89 of title 5, and the civil service retirement and disability fund, respectively, the amount of the Government's contribution under these chapters on account of service with respect to which employee contributions are collected as provided in subparagraph (iii) and the amount of the Government's contribution under subchapter III of chapter 83 of title 5 on account of service with respect to which payments (of the amount which would have been deducted under that subchapter) referred to in subparagraph (iv) are made to such civil service retirement and disability fund.

(D) Any such officer or employee on leave without pay (other than a commissioned officer of the service) who suffers disability or death as a result of personal injury sustained while in

[1] So in original. Probably should be "provision of".

the performance of his duty during an assignment hereunder, shall be treated, for the purposes of subchapter I of chapter 81 of title 5, as though he were an employee, as defined in such subchapter, who had sustained such injury in the performance of duty. When such persons (or his dependents, in case of death) entitled by reason of injury or death to benefits under that subchapter is also entitled to benefits from a State for the same injury or death, he (or his dependents in case of death) shall elect which benefits he will receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

(4) Assignment of any officer or employee in the Department to a State under this subsection may be made with or without reimbursement by the State for the compensatin (or supplementary compensation), travel and transportation expenses (to or from the place of assignment), and allowances, or any part thereof, of such officer or employee during the period of assignment, and any such reimbursement shall be credited to the appropriation utilized for paying such compensation, travel or transportation expenses, or allowances.

(5) Appropriations to the Department shall be available, in accordance with the standardized Government travel regulations or, with respect to commissioned officers of the Service, the joint travel regulations, for the expenses of travel of officers and employees assigned to States under an arrangement under this subsection on either a detail or leave-without-pay basis and, in accordance with applicable law, orders, and regulations, for expenses of transportation of their immediate families and expenses of transportation of their household goods and personnel effects, in connection with the travel of such officers and employees to the location of their posts of assignment and their return to their official stations.

(6) Officers and employees of States who are assigned to the Department under an arrangement under this subsection may (A) be given appointments in the Department covering the periods of such assignments, or (B) be considered to be on detail to the Departments. Appointments of persons so assigned may be made without regard to the civil service laws. Persons so appointed in the Department shall be paid at rates of compensation determined in accordance with chapter 51 and subchapter III of chapter 53 of title 5, and shall not be considered to be officers or employees of the Department for the purposes of (A) subchapter III of chapter 83 of title 5, (B) chapter 87 of title 5, or (C) unless their appointments result in the loss of coverage in a group health benefits plan whose premium has been paid in whole or in part by a State contribution, chapter 89 of title 5. State officers and employees who are assigned to the Department without appointment shall not be considered to be officers or employees of the Department, except as provided in subsection (7), nor shall they be paid a salary or wage by the Department during the period of their assignment. The supervision of the duties of such persons during the assignment may be governed by agreement between the Secretary and the State involved.

(7)(A) Any State officer or employee who is assigned to the Department without appointment shall nevertheless be subject to the provisions of section 203, 205, 207, 208, and 209 of title 18.

(B) Any State officer or employee who is given an appointment while assigned to the Department, or who is assigned to the Department without appointment, under an arrangement under this subsection, and who suffers disability or death as a result of personal injury sustained while in the performance of his duty during such assignment shall be treated, for the purpose of subchapter I of chapter 81 of title 5, as though he were an employee, as defined in such subchapter, who had sustained such injury in the performance of duty. When such person (or his dependents, in case of death) entitled by reason of injury or death to benefits under that subchapter is also entitled to benefits from a State for the same injury or death, he (or his dependents, in case of death) shall elect which benefits he will receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

(8) The appropriations to the Department shall be available, in accordance with the standardized Government travel regulations, during the period of assignment and in the case of travel to and from their places of assignment or appointment, for the payment of expenses of travel of persons assigned to, or given appointments by, the Department under an arrangement under this subsection.

(9) All arrangements under this subsection for assignment of officers or employees in the Department to States or for assignment of officers or employees of States to the Department shall be made in accordance with regulations of the Secretary.

(g) Consultation with State authorities; failure to comply with statute or rules and regulations; definitions

(1) All regulations and amendments thereto with respect to grants to States under subsection (a) of this section shall be made after consultation with a conference of the State health planning agencies designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a) of this section. All regulations and amendments thereto with respect to grants to States under subsection (d) of this section shall be made after consultation with a conference of State health authorities and, in the case of regulations and amendments which relate to or in any way affect grants for services or other activities in the field of mental health, the State mental health authorities. Insofar as practicable, the Secretary shall obtain the agreement, prior to the issuance of such regulations or amendments, of State authorities or agencies with whom such consultation is required.

(2) The Secretary, at the request of any recipient of a grant under this section, may reduce the payments to such recipient by the fair market value of any equipment or supplies

furnished to such recipient and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the recipient when such furnishing or such detail, as the case may be, is for the convenience of and at the request of such recipient and for the purpose of carrying out the State plan or the project with respect to which the grant under this section is made. The amount by which such payments are so reduced shall be available for payment of such costs (including the costs of such equipment and supplies) by the Secretary, but shall, for purposes of determining the Federal share under subsection (a) or (d) of this section, be deemed to have been paid to the State.

(3) Whenever the Secretary, after reasonable notice and opportunity for hearing to the health authority or, where appropriate, the mental health authority of a State or a State health planning agency designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a) of this section, finds that, with respect to money paid to the State out of appropriations under subsection (a) or (d) of this section, there is a failure to comply substantially with either—

(A) the applicable provisions of this section;

(B) the State plan submitted under such subsection; or

(C) applicable regulations under this section;

the Secretary shall notify such State health authority, mental health authority, or health planning agency, as the case may be, that further payments will not be made to the State from appropriations under such subsection (or in his discretion that further payments will not be made to the State from such appropriations for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such State from appropriations under such subsection, or shall limit payment to activities in which there is no such failure.

(4) For the purposes of this section—

(A) The term "nonprofit" as applied to any private agency, institution, or organization means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(B) The term "State" includes the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia and the term "United States" means the fifty States and the District of Columbia.

(July 1, 1944, ch. 373, title III, § 314, 58 Stat. 693; July 3, 1946, ch. 538, § 9, 60 Stat. 424; June 16, 1948, ch. 481, § 5, 62 Stat. 468; Reorg. Plan No. 1 of 1953, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053; 67 Stat. 631; Aug. 1, 1956, ch. 852, § 18, 70 Stat. 910; July 22, 1958, Pub. L. 85-544, § 1, 72 Stat. 400; Oct. 5, 1961, Pub. L. 87-395, § 2(a)-(d), 75 Stat. 824; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(1), 76 Stat. 587; Aug. 5, 1965, Pub. L. 89-109, § 4, 79 Stat. 436; Nov. 3, 1966, Pub. L. 89-749, § 3, 80 Stat. 1181; Dec. 5, 1967, Pub. L. 90-174, §§ 2(a)-(f), 3(b)(2), 8(a), (b), 12(d), 81 Stat. 533-535, 540, 541; June 30, 1970, Pub. L. 91-296, title I, § 111(b), title IV, § 401(b)(1)(C), (D), 84 Stat. 340, 352; Oct. 27, 1970, Pub. L. 91-513, title I, § 3(b), 84 Stat. 1241; Oct. 30, 1970, Pub. L. 91-515, title II, §§ 220, 230, 240, 250, 260(a)-(c)(1), 282, 84 Stat. 1304-1306, 1308; Dec. 31, 1970, Pub. L. 91-616, title III, § 331, 84 Stat. 1853; Mar. 21, 1972, Pub. L. 92-255, title IV, § 403(a), 86 Stat. 77; June 18, 1973, Pub. L. 93-45, title I, § 106, 87 Stat. 92; Nov. 9, 1973, Pub. L. 93-151, § 8, 87 Stat. 568; July 29, 1975, Pub. L. 94-63, title I, § 102, title V, § 501(b), title VII, § 701(a), (b), 89 Stat. 304, 346, 352; Oct. 12, 1976, Pub. L. 94-484, title IX, § 905(b)(1), 90 Stat. 2325.)

Repeals

Subsec. (f) of this section repealed (less applicability to commissioned officers of the Public Health Service) by Pub. L. 91-648, title IV, §§ 403, 404, Jan. 5, 1971, 84 Stat. 1925, effective sixty days after Jan. 5, 1971.

References in Text

The civil service laws, referred to in subsec. (f)(6), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

Codification

In subsec. (f), "chapter 87 of title 5", "chapter 89 of title 5", "section 8348(f) of title 5", "subchapter III of chapter 83 of title 5", "subchapter I of chapter 81 of title 5", and "chapter 51 and subchapter III of chapter 53 of title 5" were substituted for "the Federal Employees' Group Life Insurance Act of 1954", "the Federal Employees' Health Benefits Act of 1959", "the Independent Offices Appropriation Act, 1959, under the head 'Civil Service Retirement and Disability Fund'", "the Civil Service Retirement Act", "the Federal Employees' Compensation Act", and "the Classification Act of 1949", respectively, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

Amendments

1976—Subsec. (g)(4)(B). Pub. L. 94-484 defined "State" to include the Northern Mariana Islands.

1975—Subsec. (d). Pub. L. 94-63, §§ 102, 701(a), substituted provisions relating to grants made pursuant to allotments to State health and mental health authorities for meeting the costs of providing comprehensive public health services, for provisions relating to grants made pursuant to appropriations for the fiscal year ending June 30, 1968 to the fiscal year ending June 30, 1975, to State health or mental health authorities to aid in the establishment and maintenance of adequate public health services, including the training of personnel for State and local health work.

Subsec. (e). Pub. L. 94-63, §§ 501(b), 701(b), struck out subsec. (e), which authorized appropriations from fiscal year ending June 30, 1968 through fiscal year ending June 30, 1975 for project grants for health services and related training, set forth procedures for making such grants, and prohibited grants after the fiscal year ending June 30, 1975, for provisions of this chapter amended by title VII of the Health Revenue Sharing and Health Services Act of 1975.

1973—Subsec. (a)(1). Pub. L. 93-45, § 106(a)(1), authorized appropriations of $10,000,000 for fiscal year ending June 30, 1974.

Subsec. (b)(1)(A). Pub. L. 93-45, § 106(a)(2), (b), authorized appropriations of $25,100,000 for fiscal year ending June 30, 1974, and extended period for making project grants from June 30, 1973, to June 30, 1974.

Subsec. (c). Pub. L. 93-45, § 106(a)(3), (b), authorized appropriations of $4,700,000 for fiscal year ending June 30, 1974, and extended period for grants from June 30, 1973, to June 30, 1974.

Subsec. (d)(1). Pub. L. 93-45, § 106(a)(4), authorized appropriations of $90,000,000 for fiscal year ending June 30, 1974.

Subsec. (e). Pub. L. 93-151 prohibited use of appropriated funds for lead based paint poisoning control.

Pub. L. 93-45, § 106(a)(5), authorized appropriations of $230,700,000 for fiscal year ending June 30, 1974, and prohibited any grant for such fiscal year to cover cost of services described in cl. (1) or (2) of the first sentence if a grant or contract to cover cost of such services may be made or entered into from funds authorized to be appropriated for such fiscal year under an appropriations authorization in any provision of this chapter (other than this subsection) amended by title I of the Health Programs Extension Act of 1973.

1972—Subsec. (d)(2)(K). Pub. L. 92-255 required State plans to provide for licensing of facilities for treatment and rehabilitation of persons with drug abuse and other drug dependence problems and for expansion of State mental health programs and other prevention and treatment programs in the field of drug abuse and drug dependence.

1970—Pub. L. 91-515, § 282, substituted "Secretary" for "Surgeon General" in subsecs. (a)(1), (a)(2)(C), (E) to (H), (K), (a)(3)(B), (a)(4), (b)(1)(A), (c), (d)(1), (d)(2)(C), (F) to (H), (J), (d)(4)(A), (d)(6), and (g)(1) to (3).

Subsec. (a)(1). Pub. L. 91-515, § 220(a), extended period for making grants to States from June 30, 1970 to June 30, 1973, and authorized appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

Subsec. (a)(2)(B). Pub. L. 91-515, § 220(b), (c), added provisions authorizing appointment of an exofficio member from representatives of Federal, State, and local agencies involved, and requiring representation of the regional medical program or programs included in whole or in part within the State.

Subsec. (a)(2)(C). Pub. L. 91-515, § 220(d), added "and including home health care" following "private" and "and including environmental considerations as they relate to public health" following "people of the State".

Subsec. (b). Pub. L. 91-515, § 230, redesignated existing provisions as subsec. (b)(1)(A), and, as so redesignated, extended period for making project grants from June 30, 1970 to June 30, 1973, added "and including the provision of such services through home health care" following "such services", and authorized appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, and added subsec. (b)(1)(B) and (b)(2).

Pub. L. 91-296, § 111(b), added provisions requiring that before grants be made to agencies or organizations to develop or revise health plans for an area the Secretary determine that the agency or organization provides means for appropriate representation of the interests of the hospitals, practicing physicians, and the general public.

Subsec. (c). Pub. L. 91-515, § 240, extended period for making grants from June 30, 1970, to June 30, 1973, and authorized appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

Subsec. (d)(1). Pub. L. 91-515, § 250(a), authorized appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

Pub. L. 91-296, § 401(b)(1)(C), struck out except which provided for the use of up to 1 per centum by the Secretary for evaluation. See, now, section 229b of this title.

Subsec. (d)(2)(C). Pub. L. 91-515, § 250(b), added provisions requiring the State plan to contain assurances that the plan is compatible with the total health program of the State.

Subsec. (d)(2)(K). Pub. L. 91-513 added subpar. (K).

Subsec. (d)(2)(L). Pub. L. 91-616 added subpar. (L).

Subsec. (e). Pub. L. 91-515, § 260(a), (b), (c)(1), added provisions authorizing appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, provisions authorizing grants to cover part of the cost of equity requirements and amortization of loans on facilities acquired from the Office of Economic Opportunity or construction in connection with any program or project transferred from the Office of Economic Opportunity, and provisions requiring the application for any grant made under this subsection to be referred for review and comment to the appropriate areawide health planning agency, or, if no such agency is in the area, then to such other public or nonprofit private agency or organization (if any) which performs similar functions.

Pub. L. 91-296, § 401(b)(1)(D), struck out provision for the use of up to 1 per centum of the appropriation for grants under subsec. (e) by the Secretary for evaluation. See, now, section 229b of this title.

1967—Subsec. (a)(1). Pub. L. 90-174, § 2(a)(1), extended period for making grants to States from June 30, 1968, to June 30, 1970, increased appropriations authorization for fiscal year ending June 30, 1968, from $5,000,000 to $7,000,000, and authorized appropriations of $10,000,000 and $15,000,000 for fiscal years ending June 30, 1969, and 1970, respectively.

Subsec. (a)(2)(I) to (K). Pub. L. 90-174, § 2(a)(2), added subpar. (I) and redesignated former subpars. (I) and (J) as (J) and (K), respectively.

Subsec. (a)(4). Pub. L. 90-174, § 2(a)(3), limited Federal share of expenditures, in the case of allotments for fiscal year ending June 30, 1968, to 75 per centum of cost of planning.

Subsec. (b). Pub. L. 90-174, § 2(b)(1), (2), extended period for making grants to public or nonprofit private organizations from June 30, 1968, to June 30, 1970, and authorized appropriations of $10,000,000 and $15,000,000 for fiscal years ending June 30, 1969, and 1970, respectively, and provided for appropriate representation of interests of local government where recipient of grant is not a local government or combination thereof or an agency of such government or combination, respectively.

Subsec. (c). Pub. L. 90-174, § 2(c), extended period for making grants to public or nonprofit private organizations from June 30, 1968, to June 30, 1970, and authorized appropriations of $5,000,000 and $7,500,000 for fiscal years ending June 30, 1969, and 1970, respectively.

Subsec. (d)(1). Pub. L. 90-174, §§ 2(d)(1), 8(a), increased appropriations authorization for fiscal year ending June 30, 1968, from $62,500,000 to $70,000,000, and authorized appropriations of $90,000,000 and $100,000,000 for fiscal years ending June 30, 1969, and 1970, respectively, and made program evaluation funds available for any fiscal year ending after June 30, 1968, respectively.

Subsec. (d)(5). Pub. L. 90-174, § 2(d)(2), made the Federal share of 66⅔ per centum applicable to the Trust Territory of the Pacific Islands.

Subsec. (d)(7). Pub. L. 90-174, § 2(d)(3), provided for an allocation of 70 per centum of funds for provision under the State plan of services in communities of the State.

Subsec. (e). Pub. L. 90-174, §§ 2(e), 3(b)(2), 8(b), increased appropriations authorization for fiscal year ending June 30, 1968, from $62,500,000 to $90,000,000, authorized appropriations of $95,000,000 and $80,000,000 for fiscal years ending June 30, 1969, and 1970, respectively, inserted "(including related training)" after "providing services" in cl. (1), substituted "developing" for "stimulating" and inserted "(including related training)" after "health services" in cl. (2), struck out cl. (3) which authorized grants to cover part of cost of undertaking studies, demonstrations, or training designed to develop new methods or improve existing methods of providing health services, and made program evaluation funds available for any fiscal year ending after June 30, 1968.

Subsec. (f)(5). Pub. L. 90-174, § 12(d)(1), inserted "for" before "the expenses of travel".

Subsecs. (f)(6), (8). Pub. L. 90-174, § 12(d)(2), substituted "Department" for "Service" in pars. (6) and (8).

Subsec. (g)(4)(B). Pub. L. 90-174, § 2(f), defined "State" to include the Trust Territory of the Pacific Islands.

1966—Subsec. (a). Pub. L. 89-749 substituted provisions authorizing the Surgeon General to make grants to States to assist in comprehensive and continuing planning for their current and future health needs, authorizing appropriations therefor, setting out the requirements for an acceptable State plan for comprehensive State health planning, covering the allotting of the appropriated sums to the States, and the payment of the allotted funds, for provisions authorizing the Surgeon General, through the use of grants and other assistance, to help local programs of prevention, treatment, and control of venereal diseases, covering the payment of the costs of assistance by personnel of the Public Health Service to assist in carrying out the purposes of the section with respect to venereal disease, and authorizing the appropriation of funds.

Subsec. (b). Pub. L. 89-749 substituted provisions for project grants by the Surgeon General covering the development of comprehensive regional, metropolitan, or local coordination of existing and planned health facilities and persons required for providing services and the authorization of appropriations of $5,000,000 for fiscal 1967 and $7,500,000 for fiscal 1968 for provisions authorizing the appropriation of funds to enable the Surgeon General to aid in the development of measures for the local prevention, treatment, and control of tuberculosis.

Subsec. (c). Pub. L. 89-749 substituted provisions for project grants for the development of improved or more effective comprehensive health planning throughout the United States and the authorization of appropriations of $1,500,000 for fiscal 1967 and $2,500,000 for fiscal 1968 for provisions authorizing the Surgeon General to assist, through grants and otherwise, in the establishment and maintenance of adequate public health services by States, counties, health districts, and other political subdivisions, authorizing appropriations therefor, and covering the allotment, payment, and allocation of appropriated funds.

Subsec. (d). Pub. L. 89-749 substituted provisions authorizing grants by the Surgeon General to State health or mental health authorities to assist in establishing and maintaining adequate public health services, setting out the requirements for an acceptable State plan for the supplying of public health services, authorizing an appropriation of $62,500,000 for fiscal 1968, the allotment of appropriated funds, payments to States, and the determination of the Federal share for provisions covering the allotment of appropriated funds among the several States on the basis of population, incidence of venereal disease, tuberculosis, mental health problems, and the financial needs of the various States.

Subsec. (e). Pub. L. 89-749 substituted provisions for project grants for health services development to public or private nonprofit agencies and for the authorization of an appropriation of $62,500,000 for fiscal 1968 for provisions covering the establishment and maintenance of community programs of heart disease control and the allotments and appropriations therefor.

Subsec. (f). Pub. L. 89-749 substituted provisions covering the interchange of personnel with States, the application of statutes covering Federal employees to interchanged personnel, and the coverage of State officers and employees, for provisions for the determination and certification of amounts paid to each State from allotments thereto.

Subsec. (g). Pub. L. 89-749 substituted provisions for consultation with State health planning agencies concerning regulations and amendments with respect to grants to States, the reduction of payments, cessation of payments for non-compliance, and definitions, for provisions limiting the expending of grant funds for purposes specified by statute and by the agency, organization, or institution to which payment was made.

Subsecs. (h) to (m). Pub. L. 89-749 eliminated subsecs. (h) to (m) which dealt, respectively, with the requirement that State funds be provided for the same purpose as that for which allotted funds are spent, the cessation of Federal aid and the procedures in connection therewith, the promulgation of rules and regulations and the consultation with State health authorities precedent thereto, the availability of appropriated funds for administrative expenses including printing and travel expenses, applicability of the section to Guam and Samoa, and the reduction of payments commensurate to the expense of the detailing of Public Health Service personnel to States.

1965—Subsec. (c). Pub. L. 89-109 substituted "first six fiscal years ending after June 30, 1961" for "first five fiscal years ending after June 30, 1961" and "$5,000,000" for "$2,500,000".

1962—Subsec. (*l*). Pub. L. 87-688 inserted "and American Samoa", "or American Samoa", and "or American Samoa, respectively" following "Guam".

1961—Subsec. (c). Pub. L. 87-395, § 2(a) to (c), substituted "of the first five fiscal years ending after June 30, 1961, the sum of $50,000,000" for "fiscal year a sum not to exceed $30,000,000", "such amount as may be necessary" for "an amount, not to exceed $3,000,000", "$2,500,000" for "$1,000,000", and provided that when an appropriating act provides that the amounts it specifies are available only for allotments and payments for such services and activities under this subsection as specified in such act, the requirements of subsec. (h) shall apply to such allotments and payments.

Subsec. (m). Pub. L. 87-395, § 2(d), added subsec. (m).

1958—Subsec. (c). Pub. L. 85-544 designated existing provisions of second sentence as clause (1) and added clause (2).

1956—Subsec. (*l*). Act Aug. 1, 1956, added subsec. (*l*).

1948—Subsec. (e). Act June 16, 1948, § 5(a), added subsec. (e) to provide for community programs of heart disease control. Former subsec. (e) redesignated (f).

Subsec. (f). Act June 16, 1948, § 5(a), (b), redesignated former subsec. (e) as (f) and added proviso relating to the determination and certification of amounts to be paid under subsec. (e). Former subsec. (f) redesignated (g).

Subsec. (g). Act June 16, 1948, § 5(a), (c), redesignated former subsec. (f) as (g) and brought subsecs. (e) and (f)(1) within the provisions of this subsection. Former subsec. (g) redesignated (h).

Subsec. (h). Act June 16, 1948, § 5(a), (d), redesignated former subsec. (g) as (h) and made the subsection applicable to agencies, institutions or other organizations specified in subsec. (f)(1). Former subsec. (h) redesignated (i).

Subsec. (i). Act June 16, 1948, § 5(a), (e), redesignated former subsec. (h) as (i), made the subsection applicable to subsec. (e), and made technical changes as a result of the renumbering of subsections. Former subsec. (i) redesignated (j).

Subsec. (j). Act June 16, 1948, § 5(a), redesignated former subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (k). Act June 16, 1948, § 5(a), redesignated former subsec. (j) as (k).

1946—Subsec. (c). Act July 3, 1946, increased the annual appropriation from $20,000,000 to $30,000,000, and increased the annual amount available to provide demonstrations and to train personnel for State and local health work from $2,000,000 to $3,000,000.

Subsec. (d). Act July 3, 1946, provided that the Surgeon General shall give special consideration to the extent of the mental health problem as well as other special problems.

Subsec. (f). Act July 3, 1946, provided that in matters relating to work in the field of mental health the Surgeon General shall deal with the State mental health authorities where they differ from the general health authorities.

Subsec. (h). Act July 3, 1946, provided that in matters relating to work in the field of mental health the

Surgeon General shall deal with the State mental health authorities where they differ from the general health authorities.

Subsec. (i). Act July 3, 1946, provided that in matters relating to work in the field of mental health the Surgeon General shall deal with the State mental health authorities where they differ from the general health authorities.

Effective Date of 1975 Amendment

Section 102 of Pub. L. 94-63 provided in part that the amendment of subsec. (d) by section 102 of Pub. L. 94-63, generally revising prerequisites and procedures for assistance, is effective with respect to grants made under subsec. (d) of this section from appropriations under such subsection for fiscal years beginning after June 30, 1975.

Amendment by section 501(b) of Pub. L. 94-63, striking out provisions of subsec. (e), effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

Effective Date of 1970 Amendments

Section 260(c)(2) of Pub. L. 91-515 provided that: "The amendment made by paragraph (1) [amending subsec. (e) to require review of grant applications] shall be effective with respect to grants under section 314(c) of the Public Health Service Act [subsec. (e) of this section] which are made after the date of enactment of this Act [Oct. 30, 1970.]"

Section 401(b)(1) of Pub. L. 91-296 provided, in part, that the amendment by section 401(b)(1)(C), (D) of Pub. L. 91-296 [amending subsecs. (d)(1) and (e)] shall be effective with respect to appropriations for fiscal years beginning after June 30, 1970.

Effective Date of 1967 Amendment

Section 2(d)(2), (f) of Pub. L. 90-174 provided in part that amendment of subsecs. (d)(5) and (g)(4)(B) by such section 2(d)(2), (f), shall be effective July 1, 1968.

Section 3(b) of Pub. L. 90-174 provided in part that the amendment of subsec. (e) repeal of section 291n of this title, and enactment of provisions set out as a note under section 242b of this title by such section 3(b) shall be effective with respect to appropriations for fiscal years ending after June 30, 1967.

Effective Date of 1966 Amendment

Section 6 of Pub. L. 89-749 provided in part that: "The amendments made by section 3 [amending this section] shall become effective as of July 1, 1966, except that the provisions of section 314 of the Public Health Service Act [this section] as in effect prior to the enactment of this Act shall be effective until July 1, 1967, in lieu of the provisions of subsections (d) and (e), and the provisions of subsections (g) insofar as they relate to such subsections (d) and (e), of section 314 of the Public Health Service Act [this section] as amended by this Act."

Effective Date of 1962 Amendment

Section 4(b) of Pub. L. 87-688 provided that: "The amendments made by this section [to subsec. (*l*) of this section and sections 291g, 291i, and 291t of this title] shall become effective July 1, 1962."

Effective and Termination Date of 1958 Amendment

Section 2 of Pub. L. 85-544 provided that: "The amendment made by the first section of this Act [amending prior provisions of subsec. (c) of this section] shall be applicable only to the fiscal years beginning July 1, 1958, and July 1, 1959."

Effective Date of 1956 Amendment

Section 18 of act Aug. 1, 1956, provided in part that subsec. (*l*) shall be effective July 1, 1956.

Transfer of Functions

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsecs. (a)(2)(F) and (d)(2)(F) of this section, insofar as relates to the prescription of personnel standards on a merit basis, transferred to United States Civil Service Commission, see section 4728(a)(3)(C) of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Fiscal Year Transition Period of July 1, 1976, through September 30, 1976, Deemed Fiscal Year

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (d)(4) and (5) of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

Fiscal Year Transition Period of July 1, 1976, through September 30, 1976, Deemed Part of Fiscal Year Beginning July 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (d)(2)(C) and (6) of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

Period of July 1, 1975, through September 30, 1976, Considered as One year

Period of July 1, 1975, through Sept. 30, 1976, considered as one year for purposes of subsec. (d)(2)(C)(ii) and (3) of this section, see section 206(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 394, set out as a note under section 1176 of Title 21, Food and Drugs.

Public Health Services Hospitals

Pub. L. 93-155, title VIII, § 818(a), (b), Nov. 16, 1973, 87 Stat. 622, provided that:

"(a) Except as provided in subsection (b), the Secretary of Health, Education, and Welfare shall take such action as may be necessary to assure that the hospitals of the Public Health Service, located in Seattle, Washington, Boston, Massachusetts, San Francisco, California, Galveston, Texas, New Orleans, Louisiana, Baltimore, Maryland, Staten Island, New York, and Norfolk, Virginia, shall continue—

"(1) in operation as hospitals of the Public Health Service,

"(2) to provide for all categories of individuals entitled or authorized to receive care and treatment at hospitals or other stations of the Public Health Service inpatient, outpatient, and other health care services in like manner as such services were provided on January 1, 1973, to such categories of individuals at the hospitals of the Public Health Service referred to in the matter preceding paragraph (1) and at a level and range at least as great as the level and range of such services which were provided (or authorized to be provided) by such hospitals on such date, and

"(3) to conduct at such hospitals a level and range of other health-related activities (including training and research activities) which is not less than the level and range of such activities which were being conducted on January 1, 1973, at such hospitals.

"(b)(1) The Secretary may—

"(A) close or transfer control of a hospital of the Public Health Service to which subsection (a) applies,

"(B) reduce the level and range of health care services provided at such a hospital from the level and

range required by subsection (a)(2) or change the manner in which such services are provided at such a hospital from the manner required by such subsection, or

"(C) reduce the level and range of the other health-related activities conducted at such hospital from the level and range required by subsection (a)(3),

if Congress by law (enacted after the date of the enactment of this Act [Nov. 16, 1973]) specifically authorizes such action.

"(2) Any recommendation submitted to the Congress for legislation to authorize an action described in paragraph (1) with respect to a hospital of the Public Health Service shall be accompanied by a copy of the written, unqualified approval of the proposed action submitted to the Secretary by each (A) section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) the area in which such hospital is located or which is served by such hospital, and (B) section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such area.

"(3) For purposes of this subsection, the term 'section 314(a) State health planning agency' means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) of the Public Health Service Act [subsec. (a) of this section] (referred to in paragraph (2) as a 'section 314(a) plan'); and the term 'section 314(b) areawide health planning agency' means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) of that Act (referred to in paragraph (2) as a 'section 314(b) plan')."

Pub. L. 93-155, title VIII, § 818(c), Nov. 16, 1973, 87 Stat. 623, repealed provisions of Pub. L. 92-585, § 3, Oct. 27, 1972, 86 Stat. 1292, which related to closing or transferring of control by Secretary of a hospital or other health care delivery facility of the Public Health Service and procedure therefor, and which are now covered by section 818(a), (b) of Pub. L. 93-155.

LIMITATION ON GRANTS-IN-AID TO SCHOOLS OF PUBLIC HEALTH

Section 2 of Pub. L. 85-544, which had limited the authority of the Surgeon General to make grants-in-aid totaling not to exceed $1,000,000 annually to schools of public health for fiscal year beginning July 1, 1958, and July 1, 1959, was repealed by section 2 of Pub. L. 86-720, Sept. 8, 1960, 74 Stat. 820.

GRANTS TO STATES TO PROVIDE FOR VACCINATION AGAINST POLIOMYELITIS

The Poliomyelitis Vaccination Assistance Act of 1955, act Aug. 12, 1955, ch. 863, 69 Stat. 704, as amended Feb. 15, 1956, ch. 39, 70 Stat. 18, authorized appropriations to remain available until close of June 30, 1957 and provided for allotments to States, State application for funds, payments to States, use of funds paid to States, furnishing of vaccine by Surgeon General, diversion of Federal funds, supervision over exercise of functions, and definitions.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 2 of Pub. L. 89-749 provided that:

"(a) The Congress declares that fulfillment of our national purpose depends on promoting and assuring the highest level of health attainable for every person, in an environment which contributes positively to healthful individual and family living; that attainment of this goal depends on an effective partnership, involving close intergovernmental collaboration, official and voluntary efforts, and participation of individuals and organizations; that Federal financial assistance must be directed to support the marshaling of all health resources—national, State, and local—to assure comprehensive health services of high quality for every person, but without interference with existing patterns of private professional practice of medicine, dentistry, and related healing arts.

"(b) To carry out such purpose, and recognizing the changing character of health problems, the Congress finds that comprehensive planning for health services, health manpower, and health facilities is essential at every level of government; that desirable administration requires strengthening the leadership and capacities of State health agencies; and that support of health services provided people in their communities should be broadened and made more flexible."

Section 2 of act July 3, 1956, provided that:

"(a) The Congress hereby finds and declares—

"(1) that the latest information on the number and relevant characteristics of persons in the country suffering from heart disease, cancer, diabetes, arthritis and rheumatism, and other diseases, injuries, and handicapping conditions is now seriously out of date; and

"(2) that periodic inventories providing reasonably current information on these matters are urgently needed for purposes such as (A) appraisal of the true state of health of our population (including both adults and children), (B) adequate planning of any programs to improve their health, (C) research in the field of chronic diseases, and (D) measurement of the numbers of persons in the working ages so disabled as to be unable to perform gainful work.

"(b) It is, therefore, the purpose of this Act [see Short Title of 1956 Amendment note set out under section 201 of this title] to provide (1) for a continuing survey and special studies to secure on a non-compulsory basis accurate and current statistical information on the amount, distribution, and effects of illness and disability in the United States and the services received for or because of such conditions; and (2) for studying methods and survey techniques for securing such statistical information, with a view toward their continuing improvement."

APPLICABILITY OF REORGANIZATION PLAN NO. 3 OF 1966

Section 7 of Pub. L. 89-749 provided that: "The provisions enacted by this Act [amending this section and sections 242g and 243 of this title] shall be subject to the provisions of Reorganization Plan No. 3 of 1966 [set out as a note under section 202 of this title]."

DEFINITION OF "SECRETARY"

Term "Secretary" used in subsec. (d)(1) of this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90-174, set out as a note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 235, 236, 243, 247b, 254b, 291e, 293a, 300d, 300d-1, 300d-5, 300e-2, 300e-3, 300e-5, 300*l*, 300*l*-3, 300*l*-4, 1320a-1, 1857i, 2689r, 2689t, 4728 of this title; title 21 sections 1173, 1176; title 48 section 1666.

§ 246a. Bureau of State Services management fund; establishment; advancements; availability

For the purpose of facilitating the economical and efficient conduct of operations in the Bureau of State Services which are financed by two or more appropriations where the costs of operation are not readily susceptible of distribution as charges to such appropriations, there is established the Bureau of State Services management fund. Such amounts as the Secretary may determine to represent a reasonable distribution of estimated costs among the various appropriations involved may be advanced each year to this fund and shall be available for expenditure for such costs under such regulations as may be prescribed by the Secretary:

Provided, That funds advanced to this fund shall be available only in the fiscal year in which they are advanced: *Provided further*, That final adjustments of advances in accordance with actual costs shall be effected wherever practicable with the appropriations from which such funds are advanced.

(Pub. L. 86-703, title II, § 201, Sept. 2, 1960, 74 Stat. 765; Pub. L. 91-515, title II, § 282, Oct. 30, 1970, 84 Stat. 1308.)

CODIFICATION

Section was not enacted as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1970—Pub. L. 91-515 substituted "Secretary" for "Surgeon General" wherever appearing therein.

§ 247. Repealed. Pub. L. 93-353, title I, § 102(a), July 23, 1974, 88 Stat. 362

Section, acts July 1, 1944, ch. 373, title III, § 315, 58 Stat. 695; Oct. 30, 1970, Pub. L. 91-515, title II, § 282, 84 Stat. 1308, provided for publication of health educational information, and is now covered by section 242o of this title.

§ 247a. Repealed. Pub. L. 93-641, § 5(d), Jan. 4, 1975, 88 Stat. 2275

Section, act July 1, 1944, ch. 373, title III, § 316, as added Oct. 30, 1970, Pub. L. 91-515, title II, § 281, 84 Stat. 1307, provided for the establishment, composition, qualifications of members, terms of office, vacancies, reappointment, compensation, travel expenses, and functions of the National Advisory Council on Comprehensive Health Planning Programs.

§ 247b. Grants for disease control programs

(a) Authority of Secretary

The Secretary may make grants to States and, in consultation with State health authorities, to public entities to assist them in meeting the costs of disease control programs.

(b) Application; submission, approval and form; required contents; criteria for making grants

(1) No grant may be made under subsection (a) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information as the Secretary shall by regulation prescribe and shall meet the requirements of paragraph (2).

(2) An application for a grant under subsection (a) of this section shall—

(A) set forth with particularity the objectives (and their priorities, as determined in accordance with such regulations as the Secretary may prescribe) of the applicant for each of the disease control programs it proposes to conduct with assistance from a grant under subsection (a) of this section;

(B) contain assurances satisfactory to the Secretary that, in the year during which the grant applied for would be available, the applicant will conduct such programs as may be necessary (i) to develop an awareness in those persons in the area served by the applicant who are most susceptible to the diseases or conditions referred to in subsection (f) of this section of appropriate preventive behavior and measures (including immunizations) and diagnostic procedures for such diseases, and (ii) to facilitate their access to such measures and procedures; and

(C) provide for the reporting to the Secretary of such information as he may require concerning (i) the problems, in the area served by the applicant, which relate to any disease or condition referred to in subsection (f) of this section, and (ii) the disease control programs of the applicant for which a grant is applied for.

In considering such an application the Secretary shall take into account the relative extent, in the area served by the applicant, of the problems which relate to one or more of the diseases or conditions referred to in subsection (f) of this section and the extent to which the applicant's programs are designed to eliminate or reduce such problems. The Secretary shall give special consideration to applications for programs which (A) will increase to at least 80 per centum the immunization rates of any population identified as not having received, or as having failed to secure, the generally recognized disease immunizations, and (B) to the fullest extent practicable, will cooperate and use public and nonprofit private entities and volunteers. The Secretary shall give priority to applications submitted for disease control programs for communicable diseases.

(c) Period of grant; method of payment; reduction of amount

(1) Each grant under subsection (a) of this section shall be made for disease control program costs in the one-year period beginning on the first day of the first month beginning after the month in which the grant is made.

(2) Payments under grants under subsection (a) of this section may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of this section.

(3) The Secretary, at the request of a recipient of a grant under subsection (a) of this section, may reduce the amount of such grant by—

(A) the fair market value of any supplies (including vaccines and other prevention agents) or equipment furnished the grant recipient, and

(B) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such recipient and for the purpose of carrying out a program with respect to which the recipient's grant under subsection (a) of this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be

deemed as part of the grant and shall be deemed to have been paid to the recipient.

(d) Grants and contracts with public and nonprofit private entities; purposes; application; submission, approval and form

(1) The Secretary may conduct, and may make grants to and enter into contracts with public and nonprofit private entities for the conduct of—

(A) training for the administration and operation of disease prevention and control programs, and

(B) demonstrations and evaluations of such programs.

(2) No grant may be made or contract entered into under paragraph (1) unless an application therefor is submitted to and approved by the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(e) Coordination of activities by Secretary

The Secretary shall coordinate activities under this section respecting disease control programs with activities under other sections of this chapter respecting such programs.

(f) Definitions

For purposes of this section, the term "disease control program" means a program which is designed and conducted so as to contribute to national protection against diseases or conditions of national significance which are amenable to reduction, including tuberculosis, rubella, measles, poliomyelitis, diphtheria, tetanus, pertussis, mumps, and other communicable diseases (other than venereal diseases), and arthritis, diabetes, diseases borne by rodents, hypertension, pulmonary diseases, cardiovascular diseases, and Rh disease. Such term also includes vaccination programs, laboratory services, studies to determine the disease control needs of the States and the means of best meeting such needs, the provision of information and education services respecting disease control, and programs to encourage behavior which will prevent disease and encourage the use of preventive measures and diagnostic procedures. Such term also includes any program or project for rodent control for which a grant was made under section 246(e) of this title for the fiscal year ending June 30, 1975.

(g) Authorization of appropriations; limitation on use of funds

(1)(A) For the purpose of grants under subsection (a) of this section for disease control programs to immunize children against immunizable diseases (including measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and mumps), there are authorized to be appropriated $9,000,000 for fiscal year 1976, $17,500,000 for fiscal year 1977, and $23,000,000 for fiscal year 1978.

(B) For the purpose of grants under subsection (a) of this section for disease control programs for diseases borne by rodents there are authorized to be appropriated $13,500,000 for fiscal year 1976, $14,000,000 for fiscal year 1977, and $14,500,000 for fiscal year 1978.

(C) For the purpose of grants under subsection (a) of this section for disease control programs, other than programs for which appropriations are authorized under subparagraph (A) or (B), and for the purpose of grants and contracts under subsection (d) of this section, there are authorized to be appropriated $4,000,000 for fiscal year 1976, $4,500,000 for fiscal year 1977, and $5,000,000 for fiscal year 1978.

(D) Not to exceed 15 per centum of the amount appropriated for any fiscal year under any of the preceding subparagraphs of this paragraph may be used by the Secretary for grants and contracts for such fiscal year for programs for which appropriations are authorized under any one or more of the other subparagraphs of this paragraph if the Secretary determines that such use will better carry out the purpose of this section, and reports to the appropriate committees of Congress at least thirty days before making such use of such amount his determination and the reasons therefor.

(2) Except as provided in section 247c of this title, no funds appropriated under any provision of this chapter other than paragraph (1) of this subsection may be used to make grants in any fiscal year for disease control programs if (A) grants for such programs are authorized by subsection (a) of this section, and (B) all the funds authorized to be appropriated under this subsection for that fiscal year have not been appropriated for that fiscal year and obligated in that fiscal year.

(h) Annual report; contents

The Secretary shall submit to the President for submission to the Congress on January 1 of each year (1) a report (A) on the effectiveness of all Federal and other public and private activities in controlling the diseases and conditions referred to in subsection (f) of this section, (B) on the extent of the problems presented by such diseases, (C) on the effectiveness of the activities, assisted under grants and contracts under this section, in controlling such diseases, and (D) setting forth a plan for the coming year for the control of such diseases; and (2) a report (A) on the immune status of the population of the United States, and (B) identifying, by area, population group, and other categories, deficiencies in the immune status of such population.

(i) Use of funds; enforcement of treatment under disease control programs

(1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this chapter) and which are available for the conduct of disease control programs from being used in connection with programs assisted through grants under subsection (a) of this section.

(2) Nothing in this section shall be construed to require any State or any agency or political subdivision of a State to have a disease control program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such a program.

(j) National swine flu immunization program; establishment; limitations of program; quarterly reports to Congress; contracts for procurement of swine flu vaccine; authorization of funds

(1) The Secretary is authorized to establish, conduct, and support (by grant or contract) needed activities to carry out a national swine flu immunization program until August 1, 1977 (hereinafter in this section referred to as the "swine flu program"). The swine flu program shall be limited to the following:

(A) The development of a safe and effective swine flu vaccine.

(B) The preparation and procurement of such vaccine in sufficient quantities for the immunization of the population of the States.

(C) The making of grants to State health authorities to assist in meeting their costs in conducting or supporting, or both, programs to administer such vaccine to their populations, and the furnishing to State health authorities of sufficient quantities of such swine flu vaccine for such programs.

(D) The furnishing to Federal health authorities of appropriate quantities of such vaccine.

(E) The conduct and support of training of personnel for immunization activities described in subparagraphs (C) and (D) of this paragraph and the conduct and support of research on the nature, cause, and effect of the influenza against which the swine flu vaccine is designed to immunize, the nature and effect of such vaccine, immunization against and treatment of such influenza, and the cost and effectiveness of immunization programs against such influenza.

(F) The development, in consultation with the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, and implementation of a written informed consent form and procedures for assuring that the risks and benefits from the swine flu vaccine are fully explained to each individual to whom such vaccine is to be administered. Such consultation shall be completed within two weeks after enactment of this Act, or by September 1, 1976, whichever is sooner. Such procedures shall include the information necessary to advice[1] individuals with respect to their rights and remedies arising out of the administration of such vaccine.

(G) Such other activities as are necessary to implement the swine flu program.

(2) The Secretary shall submit quarterly reports to the Congress on the administration of the swine flu program. Each such report shall provide information on—

(A) the current supply of the swine flu vaccine to be used in the program;

(B) the number of persons inoculated with such vaccine since the last report was made under this paragraph and the immune status of the population;

(C) the amount of funds expended for the swine flu program by the United States, each State, and any other entity participating in the program and the costs of each such participant which are associated with the program, during the period with respect to which the report is made; and

(D) the epidemiology of influenza in the United States during such period.

(3) Any contract for procurement by the United States of swine flu vaccine from a manufacturer of such vaccine shall (notwithstanding any other provision of law) be subject to renegotiation to eliminate any profit realized from such procurement (except that with respect to vaccine against the strain of influenza virus known as influenza A/Victoria/75 profit shall be allowed but limited to an amount not exceeding a reasonable profit), as determined pursuant to criteria prescribed by the Secretary, and the contract shall expressly so provide. Such criteria shall specify that any insurance premium amount which is included in the price of such procurement contract and which is refunded to the manufacturer under any retrospective, experience-rating plan or similar rating plan shall in turn be refunded to the United States.

(4) No funds are authorized to be appropriated to carry out the activities of the swine flu program authorized in subparagraphs (A), (B), (D), (E), and (F) of paragraph (1) of this subsection in addition to the funds appropriated by Public Law 94-266.

(k) Protection of agencies, organizations and individuals against nonnegligent liability arising from administration of swine flu immunization program; exclusive remedy; procedure for claims for personal injury or death; report to Congress on conduct of settlement and litigation activities

(1)(A) The Congress finds that—

(i) in order to achieve the participation in the program of the agencies, organizations, and individuals who will manufacture, distribute, and administer the swine flu vaccine purchased and used in the swine flu program and to assure the availability of such vaccine in interstate commerce, it is necessary to protect such agencies, organizations, and individuals against liability for other than their own negligence to persons alleging personal injury or death arising out of the administration of such vaccine;

(ii) to provide such protection and to establish an orderly procedure for the prompt and equitable handling of claims by persons alleging such injury or death, it is necessary that an exclusive remedy for such claimants be provided against the United States because of its unique role in the initiation, planning, and administration of the swine flu program; and

(iii) in order to be prepared to meet the potential emergency of a swine flu epidemic, it is necessary that a procedure be instituted for the handling of claims by persons alleging such injury or death until Congress develops a permanent approach for handling claims arising under programs of the Public Health Service Act.

(B) To—

(i) assure an orderly procedure for the prompt and equitable handling of any claim for personal injury or death arising out of the administration of such vaccine; and

(ii) achieve the participation in the swine flu program of (I) the manufacturers and dis-

[1] So in original. Probably should be "advise".

tributors of the swine flu vaccine, (II) public and private agencies or organizations that provide inoculations without charge for such vaccine or its administration and in compliance with the informed consent form and procedures requirements prescribed pursuant to subparagraph (F) of paragraph (1) of this subsection, and (III) medical and other health personnel who provide or assist in providing inoculations without charge for such vaccine or its administration and in compliance with such informed consent form and procedures requirements,

it is the purpose of this subsection to establish a procedure under which all such claims will be asserted directly against the United States under section 1346(b) of title 28, and chapter 171 of such title (relating to tort claims procedure) except as otherwise specifically provided in this subsection.

(2)(A) The United States shall be liable with respect to claims submitted after September 30, 1976 for personal injury or death arising out of the administration of swine flu vaccine under the swine flu program and based upon the act or omission of a program participant in the same manner and to the same extent as the United States would be liable in any other action brought against it under such section 1346(b) and chapter 171, except that—

(i) the liability of the United States arising out of the act or omission of a program participant may be based on any theory of liability that would govern an action against such program participant under the law of the place where the act or omission occurred, including negligence, strict liability in tort, and breach of warranty;

(ii) the exceptions specified in section 2680(a) of title 28, shall not apply in an action based upon the act or omission of a program participant; and

(iii) notwithstanding section 2401(b) of title 28, if a civil action or proceeding for personal injury or death arising out of the administration of swine flu vaccine under the swine flu program is brought within two years of the date of the administration of such vaccine and is dismissed because the plaintiff in such action or proceeding did not file an administrative claim with respect to such injury or death as required by such chapter 171, the plaintiff in such action or proceeding shall have 30 days from the date of such dismissal or two years from the date the claim arose, whichever is later, in which to file such administrative claim.

(B) For purposes of this subsection, the term "program participant" as to any particular claim means the manufacturer or distributor of the swine flu vaccine used in an inoculation under the swine flu program, the public or private agency or organization that provided an inoculation under the swine flu program without charge for such vaccine or its administration and in compliance with the informed consent form and procedures requirements prescribed pursuant to subparagraph (F) of paragraph (1) of this subsection, and the medical and other health personnel who provided or assisted in providing an inoculation under the swine flu program without charge for such vaccine or its administration and in compliance with such informed consent form and procedures requirements.

(3) The remedy against the United States prescribed by paragraph (2) of this subsection for personal injury or death arising out of the administration of the swine flu vaccine under the swine flu program shall be exclusive of any other civil action or proceeding for such personal injury or death against any employee of the Government (as defined in section 2671 of title 28) or program participant whose act or omission gave raise to the claim.

(4) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government (as defined in such section 2671) or program participant (or any liability insurer thereof) based upon a claim alleging personal injury or death arising out of the administration of vaccine under the swine flu program. Any such person against whom such civil action or proceeding is brought shall deliver all process served upon him (or an attested true copy thereof) to whoever is designated by the Secretary to receive such papers, and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the civil action or proceeding is brought, to the Attorney General, and to the Secretary.

(5)(A) Upon certification by the Attorney General that a civil action or proceeding brought in any court against any employee of the Government (as defined in such section 2671) or program participant is based upon a claim alleging personal injury or death arising out of the administration of vaccine under the swine flu program, such action or proceeding shall be deemed an action against the United States under the provisions of title 28, and all references thereto. If such action or proceeding is brought in a district court of the United States, then upon such certification the United States shall be substituted as the party defendant.

(B) Upon a certification by the Attorney General under subparagraph (A) of this paragraph with respect to a civil action or proceeding commenced in a State court, such action or proceeding shall be removed, without bond at any time before trial, by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and be deemed an action brought against the United States under the provisions of title 28, and all references thereto; and the United States shall be substituted as the party defendant. The certification of the Attorney General with respect to program participant status shall conclusively establish such status for purposes of such initial removal. Should a district court of the United States determine on a hearing on a motion to remand held before a trial on the merits that an action or proceeding is not one to which this subsection applies, the case shall be remanded to the State court.

(C) Where an action or proceeding under this subsection is precluded because of the availability of a remedy through proceedings for com-

pensation or other benefits from the United States as provided by any other law, the action or proceeding shall be dismissed, but in that event the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this subsection.

(6) A program participant shall cooperate with the United States in the processing or defense of a claim or suit under such section 1346(b) and chapter 171 based upon alleged acts or omissions of the program participant. Upon the motion of the United States or any other party, the status as a program participant shall be revoked by the district court of the United States upon finding that the program participant has failed to so cooperate, and the court shall substitute such former participant as the party defendant in place of the United States and, upon motion, remand any such suit to the court in which it was instituted.

(7) Should payment be made by the United States to any claimant bringing a claim under this subsection, either by way of administrative settlement or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover for that portion of the damages so awarded or paid, as well as any costs of litigation, resulting from the failure of any program participant to carry out any obligation or responsibility assumed by it under a contract with the United States in connection with the program or from any negligent conduct on the part of any program participant in carrying out any obligation or responsibility in connection with the swine flu program. The United States may maintain such action against such program participant in the district court of the United States in which such program participant resides or has its principal place of business.

(8) Within one year of August 12, 1976, and semiannually thereafter, the Secretary shall submit to the Congress a report on the conduct of settlement and litigation activities under this subsection, specifying the number, value, nature, and status of all claims made thereunder, including the status of claims for recovery made under paragraph (7) of this subsection and a detailed statement of the reasons for not seeking such recovery.

(*l*) Definitions relating to the swine flu immunization program

For the purposes of subsections (j) and (k) of this section—

(1) the phrase "arising out of the administration" with reference to a claim for personal injury or death under the swine flu program includes a claim with respect to the manufacture or distribution of such vaccine in connection with the provision of an inoculation using such vaccine under the swine flu program;

(2) the term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands; and

(3) the term "swine flu vaccine" means the vaccine against the strain of influenza virus known as influenza A/New Jersey/76 (Hsw 1N1), or a combination of such vaccine and the vaccine against the strain of influenza virus known as influenza A/Victoria/75.

(July 1, 1944, ch. 373, title III, § 317, as added Oct. 23, 1962, Pub. L. 87-868, § 2, 76 Stat. 1155, and amended Aug. 5, 1965, Pub. L. 89-109, § 2, 79 Stat. 435; Oct. 16, 1970, Pub. L. 91-464, § 2, 84 Stat. 988; Sept. 30, 1972, Pub. L. 92-449, title I, § 101, 86 Stat. 748; July 23, 1974, Pub. L. 93-354, § 4, 88 Stat. 376; July 29, 1975, Pub. L. 94-63, title VI, § 601, 89 Stat. 346; June 23, 1976, Pub. L. 94-317, title II, § 202(a), 90 Stat. 700; Aug. 12, 1976, Pub. L. 94-380, § 2, 90 Stat. 1113.)

REFERENCES IN TEXT

Two weeks after enactment of this Act, referred to in subsec. (j)(1)(F), probably means two weeks after enactment of the National Swine Flu Immunization Program of 1976, Pub. L. 94-380, which was approved Aug. 12, 1976.

Pub. L. 94-266, referred to in subsec. (j)(4), is Pub. L. 94-266, Apr. 15, 1976, 90 Stat. 362, which was not classified to the Code.

The Public Health Service Act, referred to in subsec. (k)(1)(A)(iii), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

AMENDMENTS

1976—Pub. L. 94-317 enlarged coverage of this section to include many non-communicable diseases as well as expanding coverage of communicable diseases, increased appropriations for grants, widened scope of Secretary's authority to make grants and enter into contracts to include nonprofit private entities and required a report from the Secretary on the effectiveness of all federal and other public and private activities in controlling the diseases covered under this section.

Subsecs. (j) to (*l*). Pub. L. 94-380 added subsecs. (j) to (*l*).

1975—Subsec. (d)(3). Pub. L. 94-63, § 601(b), added authorization of appropriation for fiscal year 1976.

Subsec. (h)(1). Pub. L. 94-63, § 601(a), added reference to diseases borne by rodents.

1974—Subsec. (a). Pub. L. 93-354, § 4(1) to (3), substituted "communicable and other disease control" for "communicable disease control", "communicable and other diseases" for "communicable diseases", and "communicable and other disease control program" for "communicable disease program".

Subsec. (b)(2)(C). Pub. L. 93-354, § 4(1), (4), substituted "communicable or other disease" for "communicable disease" in cl. (i) and "communicable and other disease control" for "communicable disease control" in cl. (ii).

Subsec. (b)(3). Pub. L. 93-354, § 4(1), substituted "communicable and other disease control" for "communicable disease control".

Subsec. (d). Pub. L. 93-354, § 4(1), substituted "communicable and other disease control" for "communicable disease control" in pars. (1), (2), and (3).

Subsec. (f)(1). Pub. L. 93-354, § 4(1), substituted "communicable and other disease control" for "communicable disease control".

Subsec. (h)(1). Pub. L. 93-354, § 4(1), (5), substituted "communicable and other disease control" for "communicable disease control" in two places and inserted reference to diabetes mellitus.

Subsec. (i). Pub. L. 93-354, § 4(1), substituted "communicable and other disease control" for "communicable disease control".

1972—Subsec. (a). Pub. L. 92-449 substituted provision for grants by the Secretary in consultation with the State health authority to agencies and political subdivisions of States, for former provision for grants by the Secretary with the approval of the State health

authority to political subdivisions or instrumentalities of States, incorporated existing provisions in provision designated as cl. (1), inserting therein ",in the area served by the applicant for the grant,", substituted a cl. (2) reading "design of the applicant's communicable disease program to determine its effectiveness", for former provision reading "levels of performance in preventing and controling such diseases", struck out appropriations authorization of $75,000,000 and $90,000,000 for fiscal years ending June 30, 1971, and 1972, now covered for subsequent years in subsec. (d), and struck out provision for use of grants to meet cost of studies to determine the control needs of communities and the means of best meeting such needs, now covered in subsec. (h)(1) of this section.

Subsec. (b). Pub. L. 92-449 substituted provisions of par. (1) respecting applications for grants, submission, approval, form, and content of applications; par. (2) respecting application requirements; and par. (3) incorporating former subsec. (g) provisions respecting consent of individuals for former definitions provision now incorporated in subsec. (h) of this section.

Subsec. (c). Pub. L. 92-449 designated existing provisions as par. (1) and among minor punctuation changes inserted after "Payments" the words "under grants"; and redesignated former subsec. (d) as par. (2), inserted after "officer or employee" the words "of the Government", substituted "in detailing the personnel" for "personal services", and deleted provision that the reduced amount shall, for purposes of subsec. (c), be deemed to have been paid to the agency.

Subsec. (d). Pub. L. 92-449 substituted provisions respecting authorization of appropriations and limitation on use of funds, for former provisions respecting grant reduction, now covered in subsec. (c)(2) of this section.

Subsec. (e). Pub. L. 92-449 substituted provisions for emergency plan development and authorization of appropriations, for use of funds provisions now incorporated in subsec. (i) of this section.

Subsec. (f). Pub. L. 92-449 substituted provisions respecting conditional limitation on use of funds, for former provisions for an annual report, now covered in subsec. (g) of this section.

Subsec. (g). Pub. L. 92-449 incorporated former subsec. (f) provisions in the introductory text and cl. (3), prescribed a January 1 submission date, and added provisions of cls. (1), (2), and (4). Former subsec. (g) consent of individuals provision respecting communicable disease control and vaccination assistance now covered in subsec. (b)(3) of this section and section 247c(h) of this title.

Subsec. (h). Pub. L. 92-449 redesignated former subsec. (b) as (h), substituted in introductory text "this section" for "this subsection", and in par. (1) deleted "venereal disease" following "tuberculosis,", inserted "(other than venereal disease)" following "other communicable diseases", and included in definition of "communicable disease control program" vaccination programs, laboratory services, and control studies.

Subsec. (i). Pub. L. 92-449 redesignated former subsec. (e) as (i), inserted reference to agency of a State, and substituted "under provisions of Federal law (other than this chapter)" for "under other provisions of this chapter or other Federal law".

1970—Subsec. (a). Pub. L. 91-464 authorized appropriation of $75,000,000 for the fiscal year ending June 30, 1971, and $90,000,000 for the fiscal year ending June 30, 1972, and made the award of the grants dependent upon the extent of the communicable disease and the success of the programs and permitted the use of the grants for meeting the cost of programs and studies to control the communicable diseases and eliminated reference to purchase of vaccines and the use of grants for salaries and expenses of personnel and to the authority of the Surgeon General.

Subsec. (b). Pub. L. 91-464 substituted definitions of "communicable disease control program" and "State" for definition of "immunization program".

Subsec. (c). Pub. L. 91-464 substituted reference to Secretary for reference to Surgeon General and omitted provisions relating to the purchasing and furnishing of vaccines and the requirement of obtaining assurances from the recipients of grants.

Subsec. (d). Pub. L. 91-464 substituted reference to Secretary for reference to Surgeon General and omitted reference to Public Health Service.

Subsec. (e). Pub. L. 91-464 eliminated reference to title V of the Social Security Act and substituted provisions for the use of funds for the conduct of communicable disease control programs for provisions for the purchase of vaccine or for organizing, promoting, conducting, or participating in immunization programs.

Subsecs. (f), (g). Pub. L. 91-464 added subsecs. (f) and (g).

1965—Subsec. (a). Pub. L. 89-109, § 2(a), (b), (d)(1), inserted "and each of the next three fiscal years", substituted "any fiscal year ending prior to July 1, 1968" for "the fiscal years ending June 30, 1963, and June 30, 1964", "tetanus, and measles" for "and tetanus", "of preschool age" for "under the age of five years", and "immunization" for "intensive community vaccination", and permitted grants to be used to pay costs in connection with immunization of other infectious diseases.

Subsec. (b). Pub. L. 89-109, § 2(c), (d)(1), substituted "against the diseases referred to in subsection (a) of this section" for "against poliomyelitis, diphtheria, whooping cough, and tetanus", "of preschool age" for "who are under the age of five years" and "immunization" for "intensive community vaccination" in two instances.

Subsec. (c). Pub. L. 89-109, § 2(d)(1), (e), inserted "on the basis of estimates" and "(with necessary adjustments on account of underpayments or overpayments)" in par. (1), and substituted "immunization" for "intensive community vaccination" in pars. (2) and (3).

Effective Date of 1976 Amendment

Section 202(a) of Pub. L. 94-317 provided in part that the amendment by Pub. L. 94-317 is effective with respect to grants under this section for fiscal years beginning after June 30, 1975.

Effective Date of 1975 Amendment

Section 608 of Pub. L. 94-63 provided that: "Except as may otherwise be specifically provided, the amendments made by this title [enacting sections 300c-21 and 300c-22 of this title, amending this section, and enacting provisions set out as notes under sections 289, 289k-2, and 1395x of this title] and by titles I [amending section 246 of this title and enacting provisions set out as notes under section 246 of this title], II [enacting sections 300a-6a and 300a-8 of this title, amending sections 300 and 300a-1 to 300a-4 of this title, repealing section 3505c of this title, and enacting provision set out as a note under section 300 of this title], III [enacting sections 2689 to 2689aa of this title, amending sections 2691 and 2693 to 2696 of this title, and enacting provisions set out as notes under section 2689 of this title], IV [amending sections 218 and 247d of this title and enacting provision set out as a note under section 247d of this title], and V[enacting section 254c of this title and amending section 246 of this title] of this Act shall take effect July 1, 1975. The amendments made by this title and by such titles to the provisions of law amended by this title and by such titles are made to such provisions as amended by title VII of this Act [amending sections 246, 247d, 300, 300a-1 to 300a-3 of this title and sections 2681, 2687, 2688a, 2688d, 2688j-1, 2688j-2, 2688*l*, 2688*l*-1, 2688n-1, 2688o and 2688u of this title]."

Effective Date of 1972 Amendment

Section 102 of Pub. L. 92-449 provided that: "The amendment made by section 101 of this title [to this section] shall apply to grants made under section 317 of the Public Health Service Act [this section] after June 30, 1972, except that subsection (d) of such section as amended by section 101 [subsec. (d) of this sec-

tion] shall take effect on the date of enactment of this Act [Sept. 30, 1972]."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

ASSISTANCE OF ADMINISTRATOR OF VETERANS' AFFAIRS IN ADMINISTRATION OF NATIONAL SWINE FLU IMMUNIZATION PROGRAM OF 1976; CLAIMS FOR DAMAGES

Pub. L. 94-420, § 3, Sept. 23, 1976, 90 Stat. 1301, provided that:

"(a) In order to assist the Secretary of Health, Education, and Welfare in carrying out such program of 1976 pursuant to subsection (j) of section 317 of the Public Health Service Act (42 U.S.C. 247b), as added by Public Law 94-380, Ninety-fourth Congress (August 12, 1976) [subsec. (j) of this section], the Administrator of Veterans' Affairs, in accordance with the provisions of such subsection (j), may authorize the administration of vaccine, procured under such program and provided by the Secretary at no cost to the Veterans' Administration, to eligible veterans (voluntarily requesting such vaccine) in connection with the provision of care for a disability under chapter 17 of title 38, United States Code, in any health care facility under the jurisdiction of the Administrator. In carrying out such program, the Secretary may provide the Administrator with such vaccine at no cost to the Veterans' Administration.

"(b) Notwithstanding the provisions of subsection (k) of such section 317 [subsec. (k) of this section], any claim or suit for damages for personal injury or death, in connection with the administration of vaccine as authorized by subsection (a) of this section, allegedly arising from the malpractice or negligence of personnel granted immunity under section 4116 of such title 38 while in the exercise of their duties in or for the Department of Medicine and Surgery of the Veterans' Administration, shall be considered and processed in accordance with the provisions of such section 4116, and the recovery authority provided the United States under paragraph (7) of such subsection (k) [subsec. (k)(7) of this section] shall not be applicable to such claims or suits."

STUDY BY SECRETARY OF SCOPE AND EXTENT OF LIABILITY ARISING OUT OF IMMUNIZATION PROGRAM; ALTERNATIVE PROTECTIVE APPROACHES; REPORT TO CONGRESS

Section 3 of Pub. L. 94-380 provided that the Secretary conduct a study of the liability for personal injuries or death arising out of immunization programs and of alternative approaches to provide protection against such liability and that the Secretary report to Congress on the findings of such study by Aug. 12, 1977.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsecs. (b), (d)(4), and (f) of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 243, 247c of this title.

§ 247c. Venereal disease prevention and control projects and programs

(a) Technical assistance to public and nonprofit private entities and scientific institutions

The Secretary may provide technical assistance to appropriate public and nonprofit private entities and to scientific institutions for their research, training, and public health programs for the prevention and control of venereal disease.

(b) Research, demonstration, education, and training projects; authorization of appropriations

(1) The Secretary is authorized to make grants to States, political subdivisions of States, and any other public or nonprofit private entity for projects for the conduct of research, demonstrations, education, and training for the prevention and control of venereal disease.

(2) For the purpose of carrying out this subsection, there are authorized to be appropriated $5,000,000 for fiscal year 1976, $6,600,000 for fiscal year 1977, and $7,600,000 for fiscal year 1978.

(c) Project grants to States; authorization of appropriations

(1) The Secretary is authorized to make project grants to States and, in consultation with the State health authority, to political subdivisions of States, for—

(A) venereal disease surveillance activities, including the reporting, screening, and followup of diagnostic tests for, and diagnosed cases of, venereal disease;

(B) casefinding and case followup activities respecting venereal disease, including contact tracing of infectious cases of venereal disease and routine testing, including laboratory tests and followup systems;

(C) interstate epidemiologic referral and followup activities respecting venereal disease;

(D) professional and public venereal disease education activities; and

(E) such special studies or demonstrations to evaluate or test venereal disease prevention and control strategies and activities as may be prescribed by the Secretary.

(2) For the purpose of carrying out this section there is authorized to be appropriated $32,000,000 for fiscal year 1976, $41,500,000 for fiscal year 1977, and $43,500,000 for fiscal year 1978.

(d) Terms and conditions; payments; recordkeeping; audit; grant reduction; information disclosure

(1) Grants made under subsection (b) or (c) of this section shall be made on such terms and conditions as the Secretary finds necessary to carry out the purposes of such subsection, and payments under any such grants shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary.

(2) Each recipient of a grant under this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant was given or used, and the amount of that portion of the cost of the

project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(3) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of grants under this section that are pertinent to such grants.

(4) The Secretary, at the request of a recipient of a grant under this section, may reduce such grant by the fair market value of any supplies or equipment furnished to such recipient and by the amount of pay, allowances, travel expenses, and any other costs in connection with the detail of an officer or employee of the United States to the recipient when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such recipient and for the purpose of carrying out the program with respect to which the grant under this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies, equipment, or personal services on which the reduction of such grant is based.

(5) All information obtained in connection with the examination, care, or treatment of any individual under any program which is being carried out with a grant made under this section shall not, without such individual's consent, be disclosed except as may be necessary to provide service to him or as may be required by a law of a state or political subdivision of a State. Information derived from any such program may be disclosed—

(A) in summary, statistical, or other form, or

(B) for clinical or research purposes,

but only if the identity of the individuals diagnosed or provided care or treatment under such program is not disclosed.

(e) Conditional limitation on use of funds

Except as provided in section 247b(g)(2) of this title, no funds appropriated under any provision of this chapter other than this section may be used to make grants in any fiscal year for programs or projects respecting venereal disease if (1) grants for such programs or projects are authorized by this section, and (2) all the funds authorized to be appropriated under this section for that fiscal year have not been appropriated for that fiscal year and obligated in that fiscal year.

(f) Limitations on section 247b grants

Not to exceed 50 per centum of the amounts appropriated for any fiscal year under subsections (b) and (c) of this section may be used by the Secretary for grants for such fiscal year under section 247b of this title.

(g) Consent of individuals

Nothing in this section shall be construed to require any State or any political subdivision of a State to have a venereal disease program which would require any person, who objects to any treatment provided under such a program, to be treated under such a program.

(h) Definition

For purposes of this section and section 247b of this title, the term "venereal disease" means gonorrhea, syphilis, or any other disease which can be sexually transmitted and which the Secretary determines is or may be amendable to control with assistance provided under this section and is of national significance.

(July 1, 1944, ch. 373, title III, § 318, as added Sept. 30, 1972, Pub. L. 92-449, title II, § 203, 86 Stat. 751, and amended June 23, 1976, Pub. L. 94-317, title II, § 203(b)-(i), 90 Stat. 704, 705; Oct. 12, 1976, Pub. L. 94-484, title IX, § 905(b)(2), 90 Stat. 2325.)

CODIFICATION

Pub. L. 94-484, title IX, § 905(b)(2), Oct. 12, 1976, 90 Stat. 2325, amended former subsec. (c)(1) by defining "State" to include the Northern Mariana Islands. Former subsec. (c) of this section had been previously repealed by section 203(f)(1) of Pub. L. 94-317. See 1976 Amendment note for subsec. (c) of this section set out below.

PRIOR PROVISIONS

A prior section 247c, act July 1, 1944, ch. 373 title III, § 318, as added Aug. 18, 1964, Pub. L. 88-443, § 2, 78 Stat. 447, which related to grants for assisting in the areawide planning of health and related facilities, was repealed by Pub. L. 89-749, § 6, Nov. 3, 1966, 80 Stat. 1190 eff. July 1, 1967.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-317, § 203(c), substituted "public and nonprofit private entities and to" for "public authorities and".

Subsec. (b)(1). Pub. L. 94-317, § 203(i), inserted "education," before "and training".

Subsec. (b)(2). Pub. L. 94-317, § 203(b)(1), substituted provisions authorizing appropriations of $5,000,000 for fiscal year 1976, $6,600,000 for fiscal year 1977, and $7,600,000 for fiscal year 1978, for provisions authorizing appropriations of $7,500,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

Subsec. (c). Pub. L. 94-317, § 203(b)(2), (d), (e), (f)(1), (3), (8), redesignated subsec. (d) as (c) and, as so redesignated, inserted, in par. (1)(B), reference to routine testing, including laboratory tests and followup systems and substituted in par. (1)(E). "prevention and control strategies and activities" for "control" and, in par. (2), provisions authorizing appropriations of $32,000,000 for fiscal year 1976, $41,500,000 for fiscal year 1977, and $43,500,000 for fiscal year 1978, for provisions authorizing appropriations of $30,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Former subsec. (c) which provided for authorization of appropriations to enable the Secretary to make grants to state health authorities to establish and maintain programs for diagnosis and treatment of venereal disease was amended by striking out reference to dark-field microscope techniques for diagnosis of both gonorrhea an syphilis, and as so amended, was repealed.

Subsec. (d). Pub. L. 94-317, § 203(f)(2), (4), (5), (8), redesignated subsec. (e) as (d) and, as so redesignated, substituted in par. (1) "or (c)" for "or (d)", eliminated in par. (4) provisions relating to the amount of reduction of a grant under former subsec. (c) whereby such amount shall be deemed a part of the grant to the recipient of the grant and shall be deemed to have been paid to such recipient, and inserted in par. (5) reference to requirement by law of a State or political subdivision of a state. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 94-317, § 203(f)(8), (g), redesignated subsec. (f) as (e), and, as so redesignated, substituted "247b(g)(2) of this title" for "247b(d)(4) of this title". Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 94-317, § 203(f)(6), (8), redesignated subsec. (g) as (f) and, as so redesignated, substituted "and (c)" for ", (c), and (d)". Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 94-317, § 203(f)(7), (8), redesignated subsec. (h) as (g), and, as so redesignated, struck out "treated or to have any child or ward of his" after "a program, to be". Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 94-317, § 203(h), added subsec. (h). Former subsec. (h) redesignated (g).

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 203(a) of Pub. L. 94-317 provided that:

"The Congress finds and declares that—

"(1) the number of reported cases of venereal disease continues in epidemic proportions in the United States;

"(2) the number of patients with venereal disease reported to public health authorities is only a fraction of those actually infected;

"(3) the incidence of venereal disease is particularly high in the 15-29-year age group, and in metropolitan areas;

"(4) venereal disease accounts for needless deaths and leads to such severe disabilities as sterility, insanity, blindness, and crippling conditions;

"(5) the number of cases of congenital syphilis, a preventable disease, tends to parallel the incidence of syphilis in adults;

"(6) it is conservatively estimated that the public cost of care for persons suffering the complications of venereal disease exceed $80,000,000 annually;

"(7) medical researchers have no successful vaccine for syphilis or gonorrhea, and have no blood test for the detection of gonorrhea among the large reservoir of asymptomatic females;

"(8) school health education programs, public information and awareness campaigns, mass diagnostic screening and case followup activities have all been found to be effective disease intervention methodologies;

"(9) knowledgeable health providers and concerned individuals and groups are fundamental to venereal disease prevention and control;

"(10) biomedical research leading to the development of vaccines for syphilis and gonorrhea is of singular importance for the eventual eradication of these dreaded diseases; and

"(11) a variety of other sexually transmitted diseases, in addition to syphilis and gonorrhea, have become of public health significance."

Section 202 of Pub. L. 92-449 provided that:

"(a) The Congress finds and declares that—

"(1) the number or reported cases of venereal disease has reached epidemic proportions in the United States;

"(2) the number of patients with venereal disease reported to public health authorities is only a fraction of those treated by physicians;

"(3) the incidence of venereal disease is particularly high among individuals in the 20-24 age group, and in metropolitan areas;

"(4) venereal disease accounts for needless deaths and leads to such severe disabilities as sterility, insanity, blindness, and crippling conditions;

"(5) the number of cases of congenital syphilis, a preventable disease, in infants under one year of age increased by 33⅓ per centum between 1970 and 1971;

"(6) health education programs in schools and through the mass media may prevent a substantial portion of the venereal disease problem; and

"(7) medical authorities have no successful vaccine for syphilis or gonorrhea and no blood test for the detection of gonorrhea among the large reservoir of asymptomatic females.

"(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act [this chapter] to establish a national program for the prevention and control of venereal disease."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsecs. (f) and (g) [now subsecs. (e) and (f)] of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 247b of this title.

§ 247d. Migrant health centers

(a) Definitions

For purposes of this section:

(1) The term "migrant health center" means an entity which either through its staff and supporting resources or through contracts or cooperative arrangements with other public or private entities provides—

(A) primary health services,

(B) as may be appropriate for particular centers, supplemental health services necessary for the adequate support of primary health services,

(C) referral to providers of supplemental health services and payment, as appropriate and feasible, for their provision of such services,

(D) environmental health services, including, as may be appropriate for particular centers, the detection and alleviation of unhealthful conditions associated with water supply, sewage treatment, solid waste disposal, rodent and parasitic infestation, field sanitation, housing, and other environmental factors related to health,

(E) as may be appropriate for particular centers, infectious and parasitic disease screening and control,

(F) as may be appropriate for particular centers, accident prevention programs, including prevention of excessive pesticide exposure, and

(G) information on the availability and proper use of health services,

for migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers, within the area it serves (referred to in this section as a "catchment area").

(2) The term "migratory agricultural worker" means an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last twenty-four months, and who establishes for the purposes of such employment a temporary abode.

(3) The term "seasonal agricultural workers[1]" means an individual whose principal employment is in agriculture on a seasonal basis and who is not a migratory agricultural worker.

(4) The term "agriculture" means farming in all its branches, including—

(A) cultivation and tillage of the soil,

(B) the production, cultivation, growing, and harvesting of any commodity grown on, in, or as an adjunct to or part of a commodity grown in or on, the land, and

[1] So in original. Probably should be "worker".

(C) any practice (including preparation and processing for market and delivery to storage or to market or to carriers for transportation to market) performed by a farmer or on a farm incident to or in conjunction with an activity described in subparagraph (B).

(5) The term "high impact area" means a health service area or other area which has not less than six thousand migratory agricultural workers and seasonal agricultural workers residing within its boundaries for more than two months in any calendar year. In computing the number of workers residing in an area, there shall be included as workers the members of the families of such workers.

(6) The term "primary health services" means—

(A) services of physicians and, where feasible, services of physicians' assistants and nurse clinicians;

(B) diagnostic laboratory and radiologic services;

(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well child services, and family planning services);

(D) emergency medical services;

(E) transportation services as required for adequate patient care; and

(F) preventive dental services.

(7) The term "supplemental health services" means services which are not included as primary health services and which are—

(A) hospital services;

(B) home health services;

(C) extended care facility services;

(D) rehabilitative services (including physical therapy) and long-term physical medicine;

(E) mental health services;

(F) dental services;

(G) vision services;

(H) allied health services;

(I) pharmaceutical services;

(J) therapeutic radiologic services;

(K) public health services (including nutrition education and social services);

(L) ambulatory surgical services;

(M) health education services; and

(N) services which promote and facilitate optimal use of primary health services and the services referred to in the preceding subparagraphs of this paragraph, including, if a substantial number of the individuals in the population served by a migrant health center are of limited English-speaking ability, the services of outreach workers fluent in the language spoken by a predominant number of such individuals.

(b) Priority areas for project and program assistance; assignment and determination of priorities; approval of application for grant to area without migratory agricultural workers

(1) The Secretary shall assign to high impact areas and any other areas (where appropriate) priorities for the provision of assistance under this section to projects and programs in such areas. The highest priorities for such assistance shall be assigned to areas in which reside the greatest number of migratory agricultural workers and the members of their families for the longest period of time.

(2) No application for a grant under subsection (c) or (d) of this section for a project in an area which has no migratory agricultural workers may be approved unless grants have been provided for all approved applications under such subsections for projects in areas with migratory agricultural workers.

(c) Grants pursuant to assigned priorities to public and nonprofit private entities for projects to plan and develop centers; costs includable and criteria for grants; grants or contracts with public and nonprofit private entities for projects to plan and develop programs in areas without centers and specified migratory population; scope of programs for grants or contracts; number of grants or contracts; determination of amount of grants

(1)(A) The Secretary may, in accordance with the priorities assigned under subsection (b)(1) of this section, make grants to public and nonprofit private entities for projects to plan and develop migrant health centers which will serve migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers, in high impact areas. A project for which a grant may be made under this subparagraph may include the cost of the acquisition and modernization of existing buildings (including the costs of amortizing the principal of, and paying the interest on, loans) and the costs of providing training related to the management of migrant health center programs, and shall include—

(i) an assessment of the need that the workers (and the members of the families of such workers) proposed to be served by the migrant health center for which the project is undertaken have for primary health services, supplemental health services, and environmental health services;

(ii) the design of a migrant health center program for such workers and the members of their families, based on such assessment;

(iii) efforts to secure, within the proposed catchment area of such center, financial and professional assistance and support for the project; and

(iv) initiation and encouragement of continuing community involvement in the development and operation of the project.

(B) The Secretary may make grants to or enter into contracts with public and nonprofit private entities for projects to plan and develop programs in areas in which no migrant health center exists and in which not more than six thousand migratory agricultural workers and their families reside for more than two months—

(i) for the provision of emergency care to migratory agricultural workers, seasonal agricultural workers, and the members of families of such migratory and seasonal workers;

(ii) for the provision of primary care (as defined in regulations of the Secretary) for such workers and the members of their families;

(iii) for the development of arrangements with existing facilities to provide primary health services (not included as primary care as defined under regulations under clause (ii))

to such workers and the members of their families; or

(iv) which otherwise improve the health of such workers and their families.

Any such program may include the acquisition and modernization of existing buildings and providing training related to the management of programs assisted under this subparagraph.

(2) Not more than two grants may be made under paragraph (1)(A) for the same project, and if a grant or contract is made or entered into under paragraph (1)(B) for a project, no other grant or contract under that paragraph may be made or entered into for the project.

(3) The amount of any grant made under paragraph (1) for any project shall be determined by the Secretary.

(d) Grants pursuant to assigned priorities to public and nonprofit private centers and related entities functioning without center determination for costs of operation; grants and contracts with public and nonprofit private entities for projects for operation of programs in areas without centers and specified migratory population; scope of programs for grants and contracts; costs includable for grants or contracts; determination of amount of grants

(1)(A) The Secretary may, in accordance with priorities assigned under subsection (b)(1) of this section, make grants for the costs of operation of public and nonprofit private migrant health centers in high impact areas.

(B) The Secretary may, in accordance with priorities assigned under subsection (b)(1) of this section, make grants for the costs of the operation of public and nonprofit entities which intend to become migrant health centers, which provide health services in high impact areas to migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers, but with respect to which he is unable to make each of the determinations required by subsection (f)(2) of this section. Not more than two grants may be made under this subparagraph for any entity.

(C) The Secretary may make grants to and enter into contracts with public and nonprofit private entities for projects for the operation of programs in areas in which no migrant health center exists and in which not more than six thousand migratory agricultural workers and their families reside for more than two months—

(i) for the provision of emergency care to migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers;

(ii) for the provision of primary care (as defined in regulations of the Secretary) for such workers and the members of their families;

(iii) for the development of arrangements with existing facilities to provide primary health services (not included as primary care as defined under regulations under clause (ii)) to such workers and the members of their families; or

(iv) which otherwise improve the health of such workers and the members of their families.

Any such program may include the acquisition and modernization of existing buildings and providing training related to the management of programs assisted under this subparagraph.

(2) The costs for which a grant may be made under paragraph (1)(A) or (1)(B) may include the costs of acquiring and modernizing existing buildings (including the costs of amortizing the principal of, and paying the interest on, loans); and the costs for which a grant or contract may be made under paragraph (1) may include the costs of providing training related to the provision of primary health services, supplemental health services, and environmental health services, and to the management of migrant health center programs.

(3) The amount of any grant made under paragraph (1) shall be determined by the Secretary.

(e) Contracts with public and private entities for implementation and enforcement of environmental health standards and projects and studies related to environmental health hazard problems

The Secretary may enter into contracts with public and private entities to—

(1) assist the States in the implementation and enforcement of acceptable environmental health standards, including enforcement of standards for sanitation in migrant labor camps and applicable Federal and State pesticide control standards; and

(2) conduct projects and studies to assist the several States and entities which have received grants or contracts under this section in the assessment of problems related to camp and field sanitation, pesticide hazards, and other environmental health hazards to which migratory agricultural workers, seasonal agricultural workers, and members of their families are exposed.

(f) Approval of application as prerequisite for grant or contract; form and manner of submission and contents of application; determination of entity as center as prerequisite for approval of application; criteria for determination; priorities for applications; nonapplicability of statutory provisions to contracts

(1) No grant may be made under subsection (c) or (d) of this section and no contract may be entered into under subsection (c)(1)(B), (d)(1)(C), or (e) of this section unless an application therefore[1] is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe. An application for a grant or contract which will cover the costs of modernizing a building shall include, in addition to other information required by the Secretary—

(A) a description of the site of the building,

(B) plans and specifications for its modernization, and

(C) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on the modernization of the building will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with

[1] So in original. Probably should be "therefor".

the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards referred to in subparagraph (C) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 276c of title 40.

(2) The Secretary may not approve an application for a grant under subsection (d)(1)(A) of this section unless the Secretary determines that the entity for which the application is submitted is a migrant health center (within the meaning of subsection (a)(1) of this section) and that—

(A) the primary health services of the center will be available and accessible in the center's catchment area promptly, as appropriate, and in a manner which assures continuity;

(B) the center will have organizational arrangements, established in accordance with regulations of the Secretary, for (i) an ongoing quality assurance program (including utilization and peer review systems) respecting the center's services, and (ii) maintaining the confidentiality of patient records;

(C) the center will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(D) the center (i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (ii) has made or will make every reasonable effort to enter into such an arrangement;

(E) the center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], to medical assistance under a State plan approved under title XIX of such Act [42 U.S.C. 1396 et seq.], or to assistance for medical expenses under any other public assistance program or private health insurance program;

(F) the center (i) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, (ii) has made and will continue to make every reasonable effort (I) to secure from patients payment for services in accordance with such schedules, and (II) to collect reimbursement for health services to persons described in subparagraph (E) on the basis of the full amount of fees and payments for such services without application of any discount, and (iii) has submitted to the Secretary such reports as he may require to determine compliance with this subparagraph;

(G) the center has established a governing board which (i) is composed of individuals a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center, and (ii) establishes general policies for the center (including the selection of services to be provided by the center and a schedule of hours during which services will be provided), approves the center's annual budget, and approves the selection of a director for the center;

(H) the center has developed, in accordance with regulations of the Secretary, (i) an overall plan and budget that meets the requirements of section 1861(z) of the Social Security Act [42 U.S.C. 1395x(z)] and (ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to (I) the costs of its operations, (II) the patterns of use of its services, (III) the availability, accessibility, and acceptability of its services, and (IV) such other matters relating to operations of the applicant as the Secretary may, by regulation, require;

(I) the center will review periodically its catchment area to (i) insure that the size of such area is such that the services to be provided through the center (including any satellite) are available and accessible to the migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers, in the area promptly and as appropriate, (ii) insure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs, and (iii) insure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the center, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social groupings, and available transportation; and

(J) in the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, the center has (i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (ii) identified an individual on its staff who is fluent in both that language and English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

(3) In considering applications for grants and contracts under subsection (c) or (d)(1)(C) of this section, the Secretary shall give priority to applications submitted by community-based organizations which are representative of the populations to be served through the projects, programs, or centers to be assisted by such grants or contracts.

(4) Contracts may be entered into under this section without regard to section 529 of title 31 and section 5 of title 41.

(g) Technical and other nonfinancial assistance for centers or public or private nonprofit entities operating as centers without determination of status

The Secretary may provide (either through the Department of Health, Education, and Welfare or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to any migrant health center or to any public or private nonprofit entity to assist it in developing plans for, and in operating as, a migrant health center, and in meeting the requirements of subsection (f)(2) of this section.

(h) Authorization of appropriations; availability of funds for grants and contracts

(1) There are authorized to be appropriated for payments pursuant to grants and contracts under subsection (c)(1) of this section $4,000,000 for fiscal year 1976, and $4,000,000 for fiscal year 1977. Of the funds appropriated under this paragraph for fiscal year 1976, not more than 30 per centum of such funds may be made available for grants and contracts under subsection (c)(1)(B) of this section, and of the funds appropriated under this paragraph for the next fiscal year, not more than 25 per centum of such funds may be made available for grants and contracts under such subsection.

(2) There are authorized to be appropriated for payments pursuant to grants and contracts under subsection (d)(1) of this section (other than for payments under such grants and contracts for the provision of inpatient and outpatient hospital services) and for payments pursuant to contracts under subsection (e) of this section, $30,000,000 for fiscal year 1976, and $35,000,000 for fiscal year 1977. Of the funds appropriated under the first sentence for fiscal year 1976, there shall be made available for grants and contracts under subsection (d)(1)(C) of this section an amount not exceeding the greater of 30 per centum of such funds or 90 per centum of the amount of grants made under this section for the preceding fiscal year for programs described in subsection (d)(1)(C) of this section. Of the funds appropriated under the first sentence for fiscal year 1977, there shall be made available for grants and contracts under subsection (d)(1)(C) of this section an amount not exceeding the greater of 25 per centum of such funds or 90 per centum of the amount of grants made under this section for the preceding fiscal year for programs described in subsection (d)(1)(C) of this section which received grants under this section for the fiscal year ending June 30, 1975. Of the funds appropriated under this paragraph for any fiscal year, not more than 10 per centum of such funds may be made available for contracts under subsection (e) of this section.

(3) There are authorized to be appropriated for payments under grants and contracts under subsection (d)(1) of this section for the provision of inpatient and outpatient hospital services $5,000,000 for fiscal year 1976, and $5,000,000 for fiscal year 1977.

(July 1, 1944, ch. 373, title III, § 319, formerly § 310, as added Sept. 25, 1962, Pub. L. 87-692, 76 Stat. 592, amended Aug. 5, 1965, Pub. L. 89-109, § 3, 79 Stat. 436; Oct. 15, 1968, Pub. L. 90-574, title II, § 201, 82 Stat. 1006; Mar. 12, 1970, Pub. L. 91-209, 84 Stat. 52; June 18, 1973, Pub. L. 93-45, title I, § 105, 87 Stat. 91, renumbered July 23, 1974, Pub. L. 93-353, title I, § 102(d), 88 Stat. 362, and amended July 29, 1975, Pub. L. 94-63, title IV, § 401(a), title VII, § 701(c), 89 Stat. 334, 352; Apr. 22, 1976, Pub. L. 94-278, title VIII, § 801(a), 90 Stat. 414.)

References in Text

The Social Security Act, referred to in subsec. (f)(2)(D), (E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

Codification

Section was formerly classified to section 242h of this title.

Amendments

1976—Subsec. (a)(7). Pub. L. 94-278 redesignated former subpars. (L) and (M) as (M) and (N) and added subpar. (L).

1975—Subsec. (a). Pub. L. 94-63, §§ 401(a), 701(c), designated existing provision as subsec. (a) and, as so designated, substituted provisions defining specified terms, for provisions setting forth health services for domestic agricultural migrants and authorizing appropriations from the fiscal year ending June 30, 1966 through the fiscal year ending June 30, 1975 for the implementation of programs and projects.

Subsecs. (b) to (h). Pub. L. 94-63, § 401(a), added subsecs. (b) to (h).

1973—Pub. L. 93-45 authorized appropriations of $26,750,000 for fiscal year ending June 30, 1974.

1970—Pub. L. 91-209 substituted "Secretary" for "Surgeon General", authorized appropriations of $20,000,000, $25,000,000, and $30,000,000 for the fiscal years ending June 3, 1971, June 30, 1972, and June 30, 1973, respectively, made the bringing about of continuity in health services one of the objects of the Secretary's grants for special projects, inserted parenthetical reference to allied health professions personnel, authorized the Secretary to provide funds towards health services for those performing seasonal agricultural services, and provided for the representation of all elements of the migratory worker population, whose health needs are to be met, in the development of health programs and that such persons be given an opportunity to participate in the implementation of such programs.

1968—Pub. L. 90-574 added provisions authorizing appropriations of $9,000,000 for the fiscal year ending June 30, 1969, and $15,000,000 for the fiscal year ending June 30, 1970.

1965—Pub. L. 89-109 substituted "not to exceed $7,000,000 for the first year ending June 30, 1966, $8,000,000 for the fiscal year ending June 30, 1967, and $9,000,000 for the fiscal year ending June 30, 1968" for "for the fiscal year ending June 30, 1963, the fiscal year ending June 30, 1964, and the fiscal year ending June 30, 1965, such sums, not to exceed $3,000,000 for any year, as may be be necessary", and inserted "including necessary hospital care, and" in cl. (1)(ii).

Effective Date of 1975 Amendment

Amendment by section 401(a) of Pub. L. 94-63, generally revising and redesignating provisions relating to migrant health centers, effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date

of 1975 Amendment note under section 247b of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 104, Apr. 21, 1976, 90 Stat. 385, provided that: "For the purpose of the second sentence of section 319(h)(2) of the Public Health Service Act (42 U.S.C. 247d(h)(22)) [subsec. (h)(2) of this section] the period of July 1, 1976, through September 30, 1976, shall be treated as part of fiscal year 1976, and the 90 per centum limitation specified in that sentence shall be increased to 112.5 per centum for that period."

STUDY OF HOUSING CONDITIONS OF AGRICULTURAL MIGRATORY WORKERS; CONSULTATIONS; SUBMISSION OF REPORT TO CONGRESSIONAL COMMITTEES

Section 401(c) of Pub. L. 94-63 provided that:

"(1) The Secretary of Health, Education, and Welfare (hereinafter in this subsection referred to as the 'Secretary') shall conduct or arrange for the conduct of a study of—

"(A) the quality of housing which is available to agricultural migratory workers in the United States during the period of their employment in seasonal agricultural activities while away from their permanent abodes;

"(B) the effect on the health of such workers of deficiencies in their housing conditions during such period; and

"(C) Federal, State, and local government standards respecting housing conditions for such workers during such period and the adequacy of the enforcement of such standards.

In conducting or arranging for the conduct of such study, the Secretary shall consult with the Secretary of Housing and Urban Development.

"(2) Such study shall be completed and a report detailing the findings of the study and the recommendations of the Secretary for Federal action (including legislation) respecting such housing conditions shall be submitted to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare [now Committee on Human Resources] of the Senate within eighteen months of the date of the enactment of the first Act making appropriations for such study."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 218, 300e-14a, 1396b of this title; title 29 section 774.

PART C—HOSPITALS, MEDICAL EXAMINATIONS, AND MEDICAL CARE

SUBPART I—GENERAL PROVISIONS

AMENDMENTS

1976—Pub. L. 94-484, title IV, § 407(a), Oct. 12, 1976, 90 Stat. 2268 added heading "Subpart I—General Provisions".

§ 248. Control and management of hospitals; furnishing prosthetic and orthopedic devices; transfer of patients; disposal of articles produced by patients; disposal of money and effects of deceased patients; payment of burial expenses

The Surgeon General, pursuant to regulations, shall—

(a) Control, manage, and operate all institutions, hospitals, and stations of the Service, including minor repairs and maintenance, and provide for the care, treatment, and hospitalization of patients, including the furnishing of prosthetic and orthopedic devices, and tobacco; and from time to time, with the approval of the President, select suitable sites for and establish such additional institutions, hospitals, and stations in the States and possessions of the United States as in his judgment are necessary to enable the Service to discharge its functions and duties;

(b) Provide for the transfer of Public Health Service patients, in the care of attendants where necessary, between hospitals and stations operated by the Service or between such hospitals and stations and other hospitals and stations in which Public Health Service patients may be received, and the payment of expenses of such transfer;

(c) Provide for the disposal of articles produced by patients in the course of their curative treatment, either by allowing the patient to retain such articles or by selling them and depositing the money received therefor to the credit of the appropriation from which the materials for making the articles were purchased;

(d) Provide for the disposal of money and effects, in the custody of the hospitals or stations, of deceased patients; and

(e) Provide, to the extent the Surgeon General determines that other public or private funds are not available therefor, for the payment of expenses of preparing and transporting the remains of, or the payment of reasonable burial expenses for, any patient dying in a hospital or station.

(July 1, 1944, ch. 373, title III, § 321, 58 Stat. 695; June 25, 1948, ch. 654, § 2, 62 Stat. 1017.)

AMENDMENTS

1948—Subsec. (a). Act June 25, 1948, § 2(a), continued the authority of the Service to furnish tobacco to patients being treated by it.

Subsec. (e). Act June 25, 1948, § 2(b), added subsec. (e) to provide authority to pay certain burial expenses.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254e, 260a of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 24-614 of the District of Columbia Code.

§ 249. Medical care and treatment at hospitals and other stations of the Service

(a) Persons entitled to care and treatment without charge

The following persons shall be entitled, in accordance with regulations, to medical, surgical, and dental treatment and hospitalization without charge at hospitals and other stations of the Service:

(1) Seamen employed on vessels of the United States registered, enrolled, and licensed under the maritime laws thereof, other than canal boats engaged in the coasting trade;

(2) Seamen employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration;

(3) Seamen, not enlisted or commissioned in the military or naval establishments, who are employed on State school ships or on vessels of the United States Government of more than five tons' burden;

(4) Cadets at State maritime academies or on State training ships;

(5) Seamen on vessels of the Mississippi River Commission and, upon application of their commanding officers, officers and crews of vessels of the United States Fish and Wildlife Service;

(6) Enrollees in the United States Maritime Service on active duty and members of the Merchant Marine Cadet Corps;

(7) Seamen-trainees, while participating in maritime training programs to develop or enhance their employability in the maritime industry; and

(8) Persons who own vessels registered, enrolled, or licensed under the maritime laws of the United States, who are engaged in commercial fishing operations, and who accompany such vessels on such fishing operations, and a substantial part of whose services in connection with such fishing operations are comparable to services performed by seamen employed on such vessel or on vessels engaged in similar operations.

(b) Foreign seamen; rates

When suitable accommodations are available, seamen on foreign-flag vessels may be given medical, surgical, and dental treatment and hospitalization on application of the master, owner, or agent of the vessel at hospitals and other stations of the Service at rates fixed by regulations. All expenses connected with such treatment, including burial in the event of death, shall be paid by such master, owner, or agent. No such vessel shall be granted clearance until such expenses are paid or their payment appropriately guaranteed to the Collector of Customs.

(c) Quarantined persons

Any person when detained in accordance with quarantine laws, or, at the request of the Immigration and Naturalization Service, any person detained by that Service, may be treated and cared for by the Public Health Service.

(d) Temporary treatment and care

Persons not entitled to treatment and care at institutions, hospitals, and stations of the Service may, in accordance with regulations of the Surgeon General, be admitted thereto for temporary treatment and care in case of emergency.

(e) Treatment and care at facilities other than those of the Service

Persons entitled to care and treatment under subsection (a) of this section and persons whose care and treatment is authorized by subsection (c) of this section may, in accordance with regulations, receive such care and treatment at the expense of the Service from public or private medical or hospital facilities other than those of the Service, when authorized by the officer in charge of the station at which the application is made.

(July 1, 1944, ch. 373, title III, § 322, 58 Stat. 696; June 25, 1948, ch. 654, § 3, 62 Stat. 1018; Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1119; Aug. 13, 1964, Pub. L. 88-424, 78 Stat. 398; Dec. 5, 1967, Pub. L. 90-174, § 10(c), 81 Stat. 541.)

AMENDMENTS

1967—Subsec. (a)(7). Pub. L. 90-174 substituted provision for entitlement to treatment and hospitalization of seamen-trainees, while participating in maritime training programs to develop or enhance their employability in the maritime industry, for provision for such entitlement of employees and noncommissioned officers in the field service of the Public Health Service when injured or taken sick in line of duty.

1964—Subsec. (a). Pub. L. 88-424 added par. (8).

1948—Subsec. (e). Act June 25, 1948, permitted the Service to provide for the care and treatment of individuals detained in accordance with our quarantine laws.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

The Fish and Wildlife Service, created by Reorg. Plan No. III of 1940, § 3, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, was succeeded by the United States Fish and Wildlife Service established by act Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1119. See section 742b of Title 16, Conservation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to title 5.

All functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department were, with a few exceptions, transferred to the Attorney General, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by sections 1 and 2 of Reorg. Plan No. 2 of 1950, eff. May 24, 1950, 15 F.R.

3173, 64 Stat. 1261, which were repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662. The Immigration and Naturalization Service, referred to in this section, is a bureau in the Department of Justice.

TERMINATION OF WAR SHIPPING ADMINISTRATION

Act July 8, 1946, ch. 543, title 2, § 202, 60 Stat. 501, terminated the War Shipping Administration as of Sept. 1, 1946, and all its functions, powers, duties, etc., were transferred to the United States Maritime Commission for the period from Sept. 1, 1946, to Dec. 31, 1946, for the purpose of liquidating the Administration.

FOREIGN SEAMEN

Section 810(c), formerly § 710(c), of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, which gave foreign seamen the same benefits as accorded seamen employed on United States vessels under subsec. (a)(1) of this section, was repealed effective Jan. 25, 1948, by Joint Res. July 25, 1947, ch. 327, § 2(b), 61 Stat. 451.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, except for treatment of seamen, see section 2651 et seq. of this title.

United States Maritime Service administrative enrollees acquiring civil service status not entitled to health benefits of this section, see section 1126 of Title 46, Shipping.

SECTION REFERRED TO IN OTHER SECTIONS

This section referred to in sections 220, 254e of this title; title 46 section 1126.

§ 250. Medical care and treatment of Federal prisoners

The Service shall supervise and furnish medical treatment and other necessary medical, psychiatric, and related technical and scientific services, authorized by section 4005 of title 18, in penal and correctional institutions of the United States.

(July 1, 1944, ch. 373, title III, § 323, 58 Stat. 697.)

CODIFICATION

"Section 4005 of title 18" was substituted for "the Act of May 13, 1930, as amended (U.S.C., 1940 edition, title 18, secs. 751, 752)" on authority of act June 25, 1948, ch. 645, 62 Stat. 684, section 1 of which enacted Title 18, Crimes and Criminal Procedure.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

Transfer of appropriations for Federal Prison System to Public Health Service for expenditure for medical relief for inmates, see section 250a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254e of this title.

§ 250a. Transfer of appropriations

There may be transferred to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions.

(Pub. L. 94-362, title II, § 201, July 14, 1976, 90 Stat. 945.)

CODIFICATION

Section was enacted as part of the Departments of State, Justice, and Commerce, The Judiciary, and Related Agencies Appropriations Act, 1977, and not as part of the Public Health Service Act which comprises this chapter.

Section was formerly classified to section 341h of title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

Oct. 21, 1975, Pub. L. 94-121, title II, § 201, 89 Stat. 620.

Oct. 5, 1974, Pub. L. 93-433, title II, § 201, 88 Stat. 1194.

Nov. 27, 1973, Pub. L. 93-162, title II, § 201, 87 Stat. 643.

Oct. 25, 1972, Pub. L. 92-544, title II, § 201, 86 Stat. 1116.

Aug. 10, 1971, Pub. L. 92-77, title II, § 201, 85 Stat. 253.

Oct. 21, 1970, Pub. L. 91-472, title II, § 201, 84 Stat. 1047.

Dec. 24, 1969, Pub. L. 91-153, title II, § 201, 83 Stat. 410.

Aug. 9, 1968, Pub. L. 90-470, title II, § 201, 82 Stat. 675.

Nov. 8, 1967, Pub. L. 90-133, title II, § 201, 81 Stat. 418.

Nov. 8, 1966, Pub. L. 89-797, title II, § 201, 80 Stat. 1487.

Sept. 2, 1965, Pub. L. 89-164, title II, § 201, 79 Stat. 628.

Aug. 31, 1964, Pub. L. 88-527, title II, § 201, 78 Stat. 719.

Dec. 30, 1963, Pub. L. 88-245, title II, § 201, 77 Stat. 783.

Oct. 18, 1962, Pub. L. 87-843, title II, § 201, 76 Stat. 1088.

Sept. 21, 1961, Pub. L. 87-264, title II, § 201, 75 Stat. 553.

Aug. 31, 1960, Pub. L. 86-678, title II, § 201, 74 Stat. 563.

July 13, 1959, Pub. L. 88-84, title II, § 201, 73 Stat. 189.

June 30, 1958, Pub. L. 85-474, title II, § 201, 72 Stat. 252.

June 11, 1957, Pub. L. 85-49, title II, § 201, 71 Stat. 62.

June 20, 1956, ch. 414, title II, § 201, 70 Stat. 307.

July 7, 1955, ch. 279, title II, § 201, 69 Stat. 273.

§ 251. Medical examination and treatment of Federal employees; medical care at remote stations

(a) The Surgeon General is authorized to provide at institutions, hospitals, and station of the Service medical, surgical, and hospital services and supplies for persons entitled to treatment under subchapter I of Chapter 81 of title 5 and extensions thereof. The Surgeon General may also provide for making medical examinations of—

(1) employees of the Alaska Railroad and employees of the Federal Government for retirement purposes;

(2) employees in the Federal classified service, and applicants for appointment, as requested by the Civil Service Commission for the purpose of promoting health and efficiency;

(3) seamen for purposes of qualifying for certificates of service; and

(4) employees eligible for benefits under the Longshoremen's and Harbor Workers' Compensation Act, as amended [33 U.S.C. 901 et seq.], as requested by any deputy commissioner thereunder.

(b) The Secretary is authorized to provide medical, surgical, and dental treatment and hospitalization and optometric care for Federal employees (as defined in section 8901(1) of title 5) and their dependents at remote medical facilities of the Public Health Service where such care and treatment are not otherwise available. Such employees and their dependents who are not entitled to this care and treatment under any other provision of law shall be charged for it at rates established by the Secretary to reflect the reasonable cost of providing the care and treatment. Any payments pursuant to the preceding sentence shall be credited to the applicable appropriation to the Public Health Service for the year in which such payments are received.

(July 1, 1944, ch. 373, title III, § 324, 58 Stat. 697; Dec. 5, 1967, Pub. L. 90-174, § 10(a), (b), 81 Stat. 540.)

REFERENCES IN TEXT

The Longshoremen's and Harbor Workers' Compensation Act, as amended, referred to in subsec. (a)(4), is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, which is classified generally to chapter 18 (§ 901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables volume.

CODIFICATION

In subsec. (a), "subchapter I of chapter 81 of title 5" was substituted for "United States Employees' Compensation Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-174, § 10(a), designated existing provisions as subsec. (a) and redesignated cls. (a) to (d) as cls. (1) to (4), respectively.

Subsec. (b). Pub. L. 90-174, § 10(b), added subsec. (b).

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (b) of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

DEFINITION OF "SECRETARY"

Term "Secretary" used in subsec. (b) of this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90-174, set out as a note under section 201 of this title.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254e of this title.

§ 252. Medical examination of aliens

The Surgeon General shall provide for making, at places within the United States or in other countries, such physical and mental examinations of aliens as are required by the immigration laws, subject to administrative regulations prescribed by the Attorney General and medical regulations prescribed by the Surgeon General with the approval of the Secretary.

(July 1, 1944, ch. 373, title III, § 325, 58 Stat. 697; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

REFERENCES IN TEXT

The immigration laws, referred to in text, mean chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality, and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens. See section 1101(a)(17) of title 8.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254e of this title.

§ 253. Medical services to Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service

(a) Persons entitled to medical services

Subject to regulations of the President—

(1) commissioned officers, chief warrant officers, warrant officers, cadets, and enlisted personnel of the Regular Coast Guard on active duty, including those on shore duty and those on detached duty; and Regular, and temporary members of the United States Coast Guard Reserve when on active duty;

(2) commissioned officers, ships' officers, and members of the crews of vessels of the National Oceanic and Atmospheric Administration on active duty, including those on shore duty and those on detached duty; and

(3) commissioned officers of the Regular or Reserve Corps of the Public Health Service on active duty;

shall be entitled to medical, surgical, and dental treatment and hospitalization by the Service. The Surgeon General may detail commissioned officers for duty aboard vessels of the Coast Guard or the National Oceanic and Atmospheric Administration.

(b) Repealed. Pub. L. 88-71, § 2(a), July 19, 1963, 77 Stat. 83

(c) Examination of personnel of Service assigned to Coast Guard or National Oceanic and Atmospheric Administration

The Service shall provide all services referred to in subsection (a) of this section required by the Coast Guard or National Oceanic and Atmospheric Administration and shall perform all duties prescribed by statute in connection with the examinations to determine physical or mental condition for purposes of appointment, enlistment, and reenlistment, promotion and retirement, and officers of the Service assigned to duty on Coast Guard or National Oceanic and Atmospheric Administration vessels may extend aid to the crews of American vessels engaged in deep-sea fishing.

(July 1, 1944, ch. 373, title III, § 326, 58 Stat. 697; June 7, 1956, ch. 374, § 306(3), 70 Stat. 254; Apr. 8, 1960, Pub. L. 86-415, § 5(d), 74 Stat. 34; July 19, 1963, Pub. L. 88-71, § 2, 77 Stat. 83; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

AMENDMENTS

1963—Subsec. (b). Pub. L. 88-71, § 2(a), repealed subsec. (b), which provided for treatment of dependents of personnel, and is now covered by section 253a(b) of this title.

Subsec. (c). Pub. L. 88-71, § 2(b), inserted "or Coast and Geodetic Survey" following "Coast Guard" in two instances.

1960—Subsec. (a). Pub. L. 86-415 eliminated provisions which authorized medical, surgical, and dental care and hospitalization for retired personnel of the Coast Guard, Coast and Geodetic Survey, and the Public Health Service.

1956—Subsec. (b). Act June 7, 1956, repealed subsec. (b) except insofar as it related to dependent members of families of ships' officers and members of crews of vessels of the Coast and Geodetic Survey.

CHANGE OF NAME

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, abolished the Environmental Science Services Administration, established the National Oceanic and Atmospheric Administration, and redesignated the Commissioned Officer Corps of ESSA as the Commissioned Officer Corps of NOAA. For further details, see Transfer of Functions note set out under section 851 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1956 AMENDMENT

Partial repeal of subsec. (b) of this section by act June 7, 1956, was made effective six months after June 7, 1956, by section 307 of act June 7, 1956.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855 80 Stat. 1610, set out as a note under section 202 of this title.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Members of Coast Guard Reserve entitled to benefits of subsecs. (a) and (b) of this section, see section 755 of Title 14, Coast Guard.

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254e of this title; title 14 section 755.

§ 253a. Medical services to retired personnel of National Oceanic and Atmospheric Administration

(a) Eligibility

Subject to regulations of the President, retired ships' officers and retired members of the crews of vessels of the National Oceanic and Atmospheric Administration shall be entitled to medical, surgical, and dental treatment and hospitalization at facilities of the Public Health Service: *Provided*, That the ships' officer or crew member, (1) was on active duty as a vessel employee of the National Oceanic and Atmospheric Administration on July 1, 1963, or on July 19, 1963, whichever is later, and his employment as a vessel employee was continuous from that date until retirement, or (2) was retired as a vessel employee of the National Oceanic and Atmospheric Administration on or before July 1, 1963, or on July 19, 1963, whichever is later.

(b) Treatment of dependents of personnel

Subject to regulations of the President, dependent members of families (as defined in such regulations) of ships' officers and members of crews of vessels of the National Oceanic and Atmospheric Administration, whether such, ships' officers and members of crew are on active duty or retired, shall be furnished medical advice and outpatient treatment by the Public Health Service at its hospitals and relief stations and, if suitable accommodations are available, they shall also be furnished hospital-

ization at hospitals of the Public Health Service: *Provided*, That the ships' officer or crew member (1) was on active duty as a vessel employee of the National Oceanic and Atmospheric Administration on July 1, 1963, or on July 19, 1963, whichever is later, and his employment as a vessel employee has been continuous from that time, or (2) was on active duty as a vessel employee of the National Oceanic and Atmospheric Administration on July 1, 1963, or on July 19, 1963, whichever is later, and his employment as a vessel employee was continuous from that time until retirement, or (3) was retired as a vessel employee of the National Oceanic and Atmospheric Administration on or before July 1, 1963, or on July 19, 1963, whichever is later. When dependent members of families are hospitalized, a per diem charge, at such uniform rate as may be prescribed from time to time for the hospitalization of dependents of members of the uniformed services at hospitals of the uniformed services pursuant to section 1078(a) of title 10 shall be made.

(c) Identification

The National Oceanic and Atmospheric Administration shall furnish proper identification to those persons entitled to medical treatment under the provisions of this section.

(Pub. L. 88-71, § 1, July 19, 1963, 77 Stat. 83; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

CODIFICATION

Section was not enacted as part of the Public Health Service Act which comprises this chapter.

CHANGE OF NAME

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, abolished the Environmental Science Services Administration, established the National Oceanic and Atmospheric Administration, and redesignated the Commissioned Officer Corps of ESSA as the Commissioned Officer Corps of NOAA. For further details, see Transfer of Functions note set out under section 851 of Title 33, Navigation and Navigable Waters.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

EX. ORD. NO. 11160. REGULATIONS RELATING TO MEDICAL CARE FOR RETIRED PERSONNEL OF COAST AND GEODETIC SURVEY [NOW NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION] AND THEIR DEPENDENTS

EX. Ord. No. 11160, July 6, 1964, 29 F.R. 9315, provided:

By virtue of the authority vested in me by the first section of the Act of July 19, 1963 (Public Law 88-71, 77 Stat. 83, 42 U.S.C. 253a) [this section], and as President of the United States, I hereby prescribe the following regulations relating to the medical care of certain retired personnel of the Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration] and dependents of Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration] ships' officers and crew members, both active and retired.

SECTION 1. *Definitions.* As used in these regulations, the term:

(1) "Retired ships' officer and retired crew member" means a noncommissioned ships' officer or crew member of a vessel of the Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration] who either was on active duty as a vessel employee on July 19, 1963, and whose employment as such vessel employee was continuous from that date until the date of his retirement, or who had retired as a vessel employee on or before July 19, 1963.

(2) "Active duty ships' officer and active duty crew member" means a noncommissioned ships' officer or crew member on active duty as a vessel employee of the Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration] on July 19, 1963, and whose employment as such vessel employee has been continuous from that time.

(3) "Dependent members of families", with respect to active duty or retired ships' officers or crew members, means:

(A) the lawful wife;

(B) the unmarried legitimate child, including an adopted child or stepchild, who has not passed his twenty-first birthday; and

(C) the father or mother, if in fact dependent upon such active duty or retired ships' officer or crew member for over one-half of his or her support.

(4) "Relief stations" means Public Health Service outpatient clinics and outpatient offices.

(5) "Outpatient clinic" means a full-time outpatient medical facility, operated in Federally owned or leased space under the supervision of a commissioned medical officer or a full-time civil service medical officer (formerly known as a Second-Class Relief Station).

(6) "Outpatient office" means a part-time outpatient facility serving all classes of legal beneficiaries, located in other than Federal space, and in the charge of a local private physician under contract to the Service to provide medical care on an annual or fee basis (formerly known as a Third-Class Relief Station).

SEC. 2. *Persons entitled to treatment.* The following persons shall be entitled to medical care under these regulations:

(1) Retired ships' officers and retired crew members of the Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration];

(2) Dependent members of families of persons described in paragraph (1) of this section;

(3) Dependent members of families of active duty ships' officers and crew members of the Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration].

SEC. 3. *Application for treatment; evidence of eligibility.* Persons entitled to medical care under Section 2 of these regulations, when applying to Public Health Service medical care facilities for medical care, shall produce proper identification, as issued to them by the Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration], and such identification shall be accepted as evidence of eligibility for such medical care by the Service.

SEC. 4. *Extent of treatment; retired ships' officers and crew members.* Subject to the limitation imposed by paragraph (2) of this section, retired ships' officers and crew members entitled to medical care under these regulations shall be furnished:

(1) Medical, surgical, and dental treatment at hospitals, outpatient clinics, and outpatient offices of the Service, and hospitalization at hospitals of the Service. The Service will not be responsible for defraying the cost of hospitalization, medical services, and supplies procured elsewhere.

(2) Dental treatment shall be furnished to the extent that facilities and services at hospitals and out-

patient clinics of the Service having full-time dental officers on duty are available to provide such treatment. At other Service facilities, dental treatment shall be limited to emergency measures necessary to relieve pain.

SEC. 5. *Extent of treatment; dependent members of families; charges.* (a) Dependent members of families shall be furnished medical advice and outpatient treatment at hospitals, outpatient clinics, and outpatient offices of the Service and, if suitable accommodations are available, shall be furnished hospitalization at hospitals of the Service. The Service will not be responsible for defraying the cost of hospitalization, medical services, and supplies procured elsewhere.

(b) For the purpose of this section—

(1) Medical advice and outpatient treatment may include such services and supplies as the Medical Officer in Charge may deem to be necessary for reasonable and adequate treatment.

(2) Hospitalization shall be furnished when, in the opinion of the Medical Officer in Charge, suitable accommodations are available and the condition of the patient is such as to require hospitalization. When hospitalization is authorized, it may include such services and supplies as the Medical Officer in Charge may deem to be necessary for reasonable and adequate treatment.

(c) Charges shall be made for hospitalization of dependent members of families at the same per diem rate as is prescribed for dependents of members of the uniformed services pursuant to section 1078(a) of Title 10 of the United States Code.

(d) Dental treatment may be furnished to the extent that facilities and services at hospitals and outpatient clinics of the Service having full-time dental officers are available to provide such treatment. Dental care will not be furnished under any circumstances in private facilities at the expense of the Service.

SEC. 6. *Prior orders.* Executive Order No. 9703 of March 12, 1946, prescribing regulations relating to medical care of certain personnel of the Coast Guard, Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration], Public Health Service, and former Lighthouse Service, is hereby amended to the extent necessary to conform it to the provisions of this order.

LYNDON B. JOHNSON.

§ 253b. Former Lighthouse Service employees; medical service eligibility

Subject to regulations of the President, lightkeepers, assistant lightkeepers, and officers and crews of vessels of the former Lighthouse Service, including any such persons who subsequent to June 30, 1939, were involuntarily assigned to other civilian duty in the Coast Guard, who were entitled to medical relief at hospitals and other stations of the Public Health Service prior to July 1, 1944, and who retired under the provisions of section 763 of title 33, shall be entitled to medical, surgical, and dental treatment and hospitalization at hospitals and other stations of the Public Health Service.

(Pub. L. 93-353, title I, § 108(a), July 23, 1974, 88 Stat. 371.)

CODIFICATION

Section was enacted as a part of Health Services Research, Health Statistics, and Medical Libraries Act of 1974, and as a part of Health Services Research and Evaluation and Health Statistics Act of 1974, and not as a part of the Public Health Service Act which comprises this chapter.

EFFECTIVE DATE

Section 108(b) of Pub. L. 93-353 provided that: "Subsection (a) [this section] shall be effective from December 28, 1973."

§ 254. Interdepartmental work

Nothing contained in this part shall affect the authority of the Service to furnish any materials, supplies, or equipment, or perform any work of services, requested in accordance with section 686 of title 31, or the authority of any other executive department to furnish any materials, supplies, or equipment, or perform any work or services, requested by the Department of Health, Education, and Welfare for the Service in accordance with that section.

(July 1, 1944, ch. 373, title III, § 327, 58 Stat. 697; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 254a. Sharing of medical care facilities and resources

(a) Definitions

For purposes of this section—

(1) the term "specialized health resources" means health care resources (whether equipment, space, or personnel) which, because of cost, limited availability, or unusual nature, are either unique in the health care community or are subject to maximum utilization only through mutual use;

(2) the term "hospital", unless otherwise specified, includes (in addition to other hospitals) any Federal hospital.

(b) Statement of purpose; agreements or arrangements; reciprocity; reimbursement; credits

For the purpose of maintaining or improving the quality of care in Public Health Service facilities and to provide a professional environment therein which will help to attract and retain highly qualified and talented health personnel, to encourage mutually beneficial relationships between Public Health Service facilities and hospitals and other health facilities in the health care community, and to promote the full utilization of hospitals and other health facilities and resources, the Secretary may—

(1) enter into agreements or arrangements with schools of medicine, and with other health schools, agencies, or institutions, for such interchange or cooperative use of facilities and services on a reciprocal or reimbursable basis, as will be of benefit to the training or research programs of the participating agencies; and

(2) enter into agreements or arrangements with hospitals and other health care facilities for the mutual use or the exchange of use of

specialized health resources, and providing for reciprocal reimbursement.

Any reimbursement pursuant to any such agreement or arrangement shall be based on charges covering the reasonable cost of such utilization, including normal depreciation and amortization costs of equipment. Any proceeds to the Government under this subsection shall be credited to the applicable appropriation of the Public Health Service for the year in which such proceeds are received.

(July 1, 1944, ch. 373, title III, § 328, as added Dec. 5, 1967, Pub. L. 90-174, § 7, 81 Stat. 539.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (b) of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

DEFINITION OF "SECRETARY"

Term "Secretary" used in this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90-174, set out as a note under section 201 of this title.

§ 254b. Repealed. Pub. L. 94-484, title IV, § 407(b)(1), Oct. 12, 1976, 90 Stat. 2268

Section, act July 1, 1944, ch. 373, title III, § 329, as added Dec. 31, 1970, Pub. L. 91-623, § 2, 84 Stat. 1868, and amended Nov. 18, 1971, Pub. L. 92-157, title II, § 203, 85 Stat. 462; Oct. 27, 1972, Pub. L. 92-585, § 2, 86 Stat. 1290; July 29, 1975, Pub. L. 94-63, title VIII, §§ 801-803, 89 Stat. 353, 354; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(b), 90 Stat. 2244, related to the establishment of the National Health Service Corps, assignment of personnel and statement of purpose.

EFFECTIVE DATE OF REPEAL

Repeal of section applicable only with respect to fiscal years beginning after Sept. 30, 1977, see section 407(c)(1) of Pub. L. 94-484 set out as an Effective Date note under section 254d of this title.

§ 254c. Community health centers

(a) Definitions

For purposes of this section, the term "community health center" means an entity which either through its staff and supporting resources or through contracts or cooperative arrangements with other public or private entities provides—

(1) primarily health services,

(2) as may be appropriate for particular centers, supplemental health services necessary for the adequate support of primary health services,

(3) referral to providers of supplemental health services and payment, as appropriate and feasible, for their provision of such services,

(4) as may be appropriate for particular centers, environmental health services, and

(5) information on the availability and proper use of health services,

for all residents of the area it serves (referred to in this section as a "catchment area").

(b) Additional definitions

For purposes of this section:

(1) The term "primary health services" means—

(A) services of physicians and, where feasible, services of physicians' assistants and nurse clinicians;

(B) diagnostic laboratory and radiologic services;

(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well child services, and family planning services);

(D) emergency medical services;

(E) transportation services as required for adequate patient care; and

(F) preventive dental services.

(2) The term "supplemental health services" means services which are not included as primary health services and which are—

(A) hospital services;

(B) home health services;

(C) extended care facility services;

(D) rehabilitative services (including physical therapy) and long-term physical medicine;

(E) mental health services;

(F) dental services;

(G) vision services;

(H) allied health services;

(I) pharmaceutical services;

(J) therapeutic radiologic services;

(K) public health services (including nutrition education and social services);

(L) ambulatory surgical services;

(M) health education services; and

(N) services which promote and facilitate optimal use of primary health services and the services referred to in the preceding subparagraphs of this paragraph, including, if a substantial number of the individuals in the population served by a community health center are of limited English-speaking ability, the services of outreach workers fluent in the language spoken by a predominant number of such individuals.

(3) The term "medically underserved population" means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services.

(c) Grants to public and nonprofit private entities for projects to plan and develop centers; costs includable and criteria for grants; number of grants; determination of amount of grants

(1) The Secretary may make grants to public and nonprofit private entities for projects to plan and develop community health centers which will serve medically underserved populations. A project for which a grant may be made under this subsection may include the cost of the acquisition and modernization of existing buildings (including the costs of amortizing the principal of, and paying the interest on, loans) and shall include—

(A) an assessment of the need that the population proposed to be served by the community health center for which the project is undertaken has for primary health services, supplemental health services, and environmental health services;

(B) the design of a community health center program for such population based on such assessment;

(C) efforts to secure, within the proposed catchment area of such center, financial and professional assistance and support for the project; and

(D) initiation and encouragement of continuing community involvement in the development and operation of the project.

(2) Not more than two grants may be made under this subsection for the same project.

(3) The amount of any grant made under this subsection for any project shall be determined by the Secretary.

(d) Grants to public and nonprofit private centers and related entities functioning without center determination for costs of operation; costs includable for grants; number of grants; determination of amount of grants

(1)(A) The Secretary may make grants for the costs of operation of public and nonprofit private community health centers which serve medically underserved populations.

(B) The Secretary may make grants for the costs of the operation of public and nonprofit private entities which provide health services to medically underserved populations but with respect to which he is unable to make each of the determinations required by subsection (e)(2) of this section.

(2) The costs for which a grant may be made under paragraph (1) may include the costs of acquiring and modernizing existing buildings (including the costs of amortizing the principal of, and paying interest on, loans) and the costs of providing training related to the provision of primary health services, supplemental health services and environmental health services, and to the management of community health center programs.

(3) Not more than two grants may be made under paragraph (1)(B) for the same entity.

(4) The amount of any grant made under paragraph (1) shall be determined by the Secretary.

(e) Approval of application as prerequisite for grant; form and manner of submission and contents of application; determination of entity as center as prerequisite for approval of application

(1) No grant may be made under subsection (e)[1] or (d) of this section unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe. An application for a grant which will cover the costs of modernizing a building shall include, in addition to other information required by the Secretary—

(A) a description of the site of the building,

(B) plans and specifications for its modernization, and

(C) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on the modernization of the building will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards referred to in subparagraph (C) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 5 U.S.C. Appendix) and section 276c of title 40.

(2) Except as provided in subsection (d)(1)(B) of this section, the Secretary may not approve an application for a grant under subsection (d) of this section unless the Secretary determines that the entity for which the application is submitted is a community health center (within the meaning of subsection (a) of this section) and that—

(A) the primary health services of the center will be available and accessible in the center's catchment area promptly, as appropriate, and in a manner which assures continuity;

(B) the center will have organizational arrangements, established in accordance with regulations prescribed by the Secretary, or (i) an on-going quality assurance program (including utilization and peer review systems) respecting the center's services, and (ii) maintaining the confidentiality of patient records;

(C) the center will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(D) the center (i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (ii) has made or will make every reasonable effort to enter into such an arrangement;

(E) the center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], to medical assistance under a State plan approved under title XIX of such Act [42 U.S.C. 1396 et seq.], or to assistance for medical expenses under any other public assistance program or private health insurance program;

(F) the center (i) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, (ii) has made and will continue to make every reasonable effort (I) to secure from patients payment for services in accordance with such schedules, and (II) to collect reimbursement for health services to persons described in subparagraph (E) on the basis of the full amount of fees and payments for such services without application of any discount, and (iii) has submitted to the Secre-

[1] So in original. Probably should be "(c)".

tary such reports as he may require to determine compliance with this subparagraph;

(G) the center has established a governing board which (i) is composed of individuals a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center, and (ii) meets at least once a month, establishes general policies for the center (including the selection of services to be provided by the center and a schedule of hours during which services will be provided), approves the center's annual budget, and approves the selection of a director for the center;

(H) the center has developed, in accordance with regulations of the Secretary, (i) an overall plan and budget that meets the requirements of section 1861(z) of the Social Security Act [42 U.S.C. 1395x(z)] and (ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to (I) the costs of its operations, (II) the patterns of use of its services, (III) the availability, accessibility, and acceptability of its services, and (IV) such other matters relating to operations of the applicant as the Secretary may, by regulation, require;

(I) the center will review periodically its catchment area to (i) insure that the size of such area is such that the services to be provided through the center (including any satellite) are available and accessible to the residents of the area promptly and as appropriate, (ii) insure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs, and (iii) insure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the center, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social groupings, and available transportation; and

(J) in the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, the center has (i) developed a plan and made arrangements responsible to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (ii) identified an individual on its staff who is fluent in both that language and in English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

(f) Technical and other nonfinancial assistance for public or private nonprofit entity operating as center without determination of status

The Secretary may provide (either through the Department of Health, Education, and Welfare or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to any public or private nonprofit entity to assist it in developing plans for, and in operating as, a community health center, and in meeting requirements of subsection (e)(2) of this section.

(g) Authorization of appropriations

(1) There are authorized to be appropriated for payments pursuant to grants under subsection (c) of this section $5,000,000 for fiscal year 1976, and $5,000,000 for fiscal year 1977.

(2) There are authorized to be appropriated for payments pursuant to grants under subsection (d) of this section $215,000,000 for fiscal year 1976, and $235,000,000 for fiscal year 1977.

(July 1, 1944, ch. 373, title III, § 330, as added July 29, 1975, Pub. L. 94-63, title V, § 501(a), 89 Stat. 342, and amended Apr. 22, 1976, Pub. L. 94-278, title VIII, § 801(b), 90 Stat. 415.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (e)(2)(D), (E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (b)(2). Pub. L. 94-278 redesignated former subpars. (L) and (M) as (M) and (N) and added subpar. (L).

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1396b of this title.

SUBPART II—NATIONAL HEALTH SERVICE CORPS PROGRAM

AMENDMENTS

1976—Pub. L. 94-484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2268, added heading "Subpart II—National Health Service Corps Program".

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 294t, 294u of this title.

§ 254d. National Health Service Corps

(a) Establishment; composition; purpose

There is established, within the Service, the National Health Service Corps (hereinafter in this subpart referred to as the "Corps") which (1) shall consist of such officers of the Regular and Reserve Corps of the Service and such civilian personnel as the Secretary may designate (such officers and personnel hereinafter in this subpart referred to as "Corps members") and (2) shall be utilized by the Secretary to improve the delivery of health services in health manpower shortage areas as defined in section 254e(a) of this title.

(b) Recruitment programs at training schools

The Secretary shall conduct at schools of medicine, osteopathy, dentistry, and, as appropriate, nursing and other schools of the health professions and at entities which train allied health personnel, recruiting programs for the Corps and the Scholarship Program.

(c) Travel expenses; reimbursement; limitation

The Secretary may reimburse applicants for positions in the Corps for actual and reasonable expenses incurred in traveling to and from their places of residence to a health manpower shortage area (designated under section 254e of this title) in which they may be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip.

(d) Monthly pay adjustments of members directly engaged in delivery of health services in health manpower shortage area; monthly pay defined; monthly pay adjustment of member with service obligation incurred under Scholarship Program

(1) The Secretary may, under regulations promulgated by the Secretary, adjust the monthly pay of each member of the Corps who is directly engaged in the delivery of health services in a health manpower shortage area as follows:

(A) During the first 36 months in which such a member is so engaged in the delivery of health services, his monthly pay shall be increased by an amount (not to exceed $1,000) which when added to the member's monthly pay and allowances will provide a monthly income competitive with the average monthly income from a practice of an individual who is a member of the profession of the Corps member, who has equivalent training, and who has been in practice for a period equivalent to the period during which the Corps member has been in practice.

(B) During the period beginning upon the expiration of the 36 months referred to in subparagraph (A) and ending with the month in which the member's monthly pay and allowances are equal to or exceed the monthly income he received for the last of such 36 months, the member shall receive in addition to his monthly pay and allowances an amount which when added to such monthly pay and allowances equals the monthly income he received for such last month.

(C) For each month in which a member is directly engaged in the delivery of health services in a health manpower shortage area in accordance with an agreement with the Secretary entered into under section 294n(f)(1)(C) of this title, under which the Secretary is obligated to make payments in accordance with section 294n(f)(2) of this title, the amount of any monthly increase under subparagraph (A) or (B) with respect to such member shall be decreased by an amount equal to one-twelfth of the amount which the Secretary is obligated to pay upon the completion of the year of practice in which such month occurs.

For purposes of subparagraphs (A) and (B), the term "monthly pay" includes special pay received under chapter 5 of title 37.

(2) In the case of a member of the Corps who is directly engaged in the delivery of health services in a health manpower shortage area in accordance with a service obligation incurred under the Scholarship Program, the adjustment in pay authorized by paragraph (1) may be made for such a member only upon satisfactory completion of such service obligation, and the first 36 months of such member's being so engaged in the delivery of health services shall, for purposes of paragraph (1)(A), be deemed to begin upon such satisfactory completion.

(e) Employment ceiling of Department not affected by Corps members

Corps members assigned under section 254f of this title to provide health services in health manpower shortage areas shall not be counted against any employment ceiling affecting the Department.

(f) Assignment of personnel provisions inapplicable to members whose service obligation incurred under Scholarship Program

Sections 215 and 217 of this title shall not apply to members of the National Health Service Corps during their period of obligated service under the Scholarship Program.

(g) School participation in development of administrative guidelines

The administrative unit which administers section 295f of this title—

(1) shall participate in the development of regulations, guidelines, funding priorities, and application forms, and

(2) shall be consulted by, and may make recommendations to, the Secretary in the review of applications and proposals for, and the awarding of, grants and contracts,

with respect to the Corps.

(h) Definitions

For the purposes of this subpart:

(1) The term "Department" means the Department of Health, Education, and Welfare.

(2) The term "Scholarship Program" means the National Health Service Corps Scholarship Program established under section 294t of this title.

(3) The term "State" includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(July 1, 1944, ch. 373, title III, § 331, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 407(b)(3), 90 Stat. 2268.)

EFFECTIVE DATE; OTHER PROVISIONS: HEALTH MANPOWER SHORTAGE AREA; APPROVAL OF APPLICATIONS FOR ASSIGNMENT OF CORPS PERSONNEL; ASSIGNMENT PERIOD, COMMENCEMENT; CREDIT FOR MONTHS OF PRIOR HEALTH CARE AND SERVICES FOR ADDITIONAL PAY BENEFIT; NATIONAL ADVISORY COUNCIL ON THE NATIONAL HEALTH SERVICE CORPS, CONTINUATION OF COUNCIL AND APPOINTMENT OF MEMBERS

Section 407(c) of Pub. L. 94-484 provided that:

"(1) The amendment made by subsections (a) and (b) [enacting this subpart and repealing section 254b of this title] shall apply only with respect to fiscal years beginning after September 30, 1977, except that the Secretary of Health, Education, and Welfare shall carry out the activities described in section 332 of the Public Health Service Act (as added by such amendment) [section 254e of this title] after the date of enactment of this Act [Oct. 12, 1976].

"(2)(A) Any area for which a designation under section 329(b) of the Public Health Service Act (as in effect on September 30, 1977) [section 254b(b) of this title] was in effect on such date and in which National Health Service Corps personnel were, on such date, providing, under an assignment made under such sec-

tion (as so in effect), health care and services for persons residing in such area shall, effective October 1, 1977, be considered under subpart II of part C of title III of such Act (as added by subsection (b) of this section) [this subpart] to (i) be designated a health manpower shortage area (as defined by section 332 of such Act (as so added)) [section 254e of this title], and (ii) have had an application approved under section 333 of such Act (as so added)) [section 254f of this title] for the assignment of Corps personnel unless, as determined under subparagraph (B) of this paragraph, the assignment period applicable to such area (within the meaning of section 334 (as so added)) [section 254g of this title] has expired.

"(B) The assignment period (within the meaning of such section 334) [section 254g of this title] applicable to an area described in subparagraph (A) of this paragraph shall be considered to have begun on the date Corps personnel were first assigned to such area under section 329 of such Act (as in effect on September 30, 1977) [section 254b of this title].

"(C) In the case of any physician or dentist member of the Corps who was providing health care and services on September 30, 1977, under an assignment made under section 329(b) of such Act (as in effect on September 30, 1977) [section 254b(b) of this title], the number of the months during which such member provided such care and services before October 1, 1977, shall be counted in determining the application of the additional pay provisions of section 331(d) of such Act (as added by subsection (b) of this section) [subsec. (d) of this section] to such number.

"(3) The amendment made by subsection (b) which established an Advisory Council previously established under section 329 of the Public Health Service Act [section 254b of this title] shall not be construed as requiring the establishment of a new Advisory Council under such section 337 [section 254j of this title], and the amendment made by such subsection with respect to the composition of such Advisory Council shall apply with respect to appointments made to the Advisory Council after October 1, 1977, and the Secretary of Health, Education, and Welfare shall make appointments to the Advisory Council after such date in a manner which will bring about, at the earliest feasible time, the Advisory Council composition prescribed by the amendment."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 254g of this title.

§ 254e. Health manpower shortage areas

(a) Designation by Secretary; medical facility defined

(1) For purposes of this subpart the term "health manpower shortage area" means (A) an area in an urban or rural area (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health services) which the Secretary determines has a health manpower shortage, (B) a population group which the Secretary determines has such a shortage, or (C) a public or nonprofit private medical facility or other public facility which the Secretary determines has such a shortage.

(2) For purposes of this subsection, the term "medical facility" means a facility for the delivery of health services and includes—

(A) a hospital, State mental hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, community mental health center, migrant health center, and community health center;

(B) such a facility of a State correctional institution or of the Indian Health Service;

(C) such a facility used in connection with the delivery of health services under sections 248 of this title (relating to hospitals), 249 of this title (relating to care and treatment of seamen and others), 250 of this title (relating to care and treatment of Federal prisoners), 251 of this title (relating to examination and treatment of certain Federal employees), 252 of this title (relating to examination of aliens), or 253 of this title (relating to services to certain Federal employees), or part D of subchapter II of this chapter (relating to services for persons with Hansen's disease); and

(D) a Federal medical facility.

(b) Criteria for designation of health manpower shortage areas; promulgation of regulations

The Secretary shall establish by regulation, promulgated not later than May 1, 1977, criteria for the designation of areas, population groups, medical facilities, and other public facilities, in the States, as health manpower shortage areas. In establishing such criteria, the Secretary shall take into consideration the following:

(1) The ratio of available health manpower to the number of individuals in an area or population group, or served by a medical facility or other public facility under consideration for designation.

(2) Indicators of a need, notwithstanding the supply of health manpower, for health services for the individuals in an area or population group or served by a medical facility or other public facility under consideration for designation, with special consideration to indicators of—

(A) infant mortality,

(B) access to health services, and

(C) health status.

(3) The percentage of physicians serving an area, population group, medical facility, or other public facility under consideration for designation who are employed by hospitals and who are graduates of foreign medical schools.

(c) Designation of area; considerations by Secretary; recommendations of State Governor, State health planning and development agencies, and health system agencies

In determining whether to make a designation, the Secretary shall take into consideration the following:

(1)(A) The recommendations of each health systems agency (designated under section 300*l*-4 of this title) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility under consideration for designation.

(B) The recommendations of the State health planning and development agency (designated under section 300m of this title) if such area, population group, medical facility, or other public facility is within a health service area for which no health systems agency has been designated.

(2) The recommendations of the Governor of each State in which the area, population group, medical facility, or other public facility under consideration for designation is in whole or part located.

(d) Health manpower shortage areas in States; time for designation by Secretary; publication of list; annual review of designations

In accordance with the criteria established under subsection (b) of this section and the considerations listed in subsection (c) of this section the Secretary shall designate, not later than November 1, 1977, health manpower shortage areas in the States, publish a descriptive list of the areas, population groups, medical facilities, and other public facilities so designated, and at least annually review and, as necessary, revise such designations.

(e) Notice of proposed designation to chief administrative officer of facility; time for comment

Prior to the designation of a public facility, including a Federal medical facility, as a health manpower shortage area, the Secretary shall give written notice of such proposed designation to the chief administrative officer of such facility and request comments within 30 days with respect to such designation.

(f) Notice of area designation to State Governor, health systems agency, State health planning and development agency, and appropriate public or nonprofit entities in area designated

The Secretary shall give written notice of the designation of a health manpower shortage area, not later than 60 days from the date of such designation, to—

(1) the Governor of each State in which the area, population group, medical facility, or other public facility so designated is in whole or part located;

(2)(A) each health systems agency (designated under section 300*l*-4 of this title) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility so designated; or

(B) the State health planning and development agency of the State (designated under section 300m of this title) if there is a part of such area, population group, medical facility, or other public facility within a health service area for which no health systems agency has been designated; and

(3) appropriate public or nonprofit private entities which are located or which have a demonstrated interest in the area so designated.

(g) Recommendations to Secretary

Any person may recommend to the Secretary the designation of an area, population group, medical facility, or other public facility as a health manpower shortage area.

(h) Public information programs in designated areas

The Secretary shall conduct such information programs in areas, among population groups, and in medical facilities and other public facilities designated under this section as health manpower shortage areas as may be necessary to inform public and nonprofit private entities which are located or have a demonstrated interest in such areas of the assistance available under this subchapter by virtue of the designation of such areas.

(July 1, 1944, ch. 373, title III, § 332, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 407(b)(3), 90 Stat. 2270.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254d, 254f, 294h, 294n, 294t, 294u, 294x of this title.

§ 254f. Corps personnel

(a) Conditions necessary for assignment of Corps members to health manpower shortage areas; assignment of members to a Federal health care facility

(1) The Secretary may assign members of the Corps to provide, under regulations promulgated by the Secretary, health services in or to a health manpower shortage area during the assignment period (specified in the agreement described in section 254g of this title) only if—

(A) a public or nonprofit private entity, which is located or has a demonstrated interest in such area makes application to the Secretary for such assignment;

(B) such application has been approved by the Secretary;

(C) an agreement has been entered into between the entity which has applied and the Secretary, in accordance with section 254g of this title; and

(D) in the case of an application made by an entity which has previously been assigned a Corps member for a health manpower shortage area under an agreement (entered into under section 254g of this title) or under section 254b of this title as in effect before October 1, 1977) which has expired, the Secretary has (i) conducted an evaluation of the continued need for health manpower for the area, the use of Corps members previously assigned to the area, community support for the assignment of Corps members to the area, the area's efforts to secure health manpower for the area, and fiscal management by the entity with respect to Corps members previously assigned and (ii) on the basis of such evaluation has determined that—

(I) there is a continued need for health manpower for the area;

(II) there has been appropriate and efficient use of Corps members previously assigned to the entity for the area;

(III) there is general community support for the assignment of Corps members to the entity;

(IV) the area has made continued efforts to secure health manpower for the area; and

(V) there has been sound fiscal management, including efficient collection of fee-for-service, third-party, and other appropriate funds, by the entity with respect to Corps members previously assigned to such entity.

(2) Corps members may be assigned to a Federal health care facility, but only upon the request of the head of the department or agency of which such facility is a part.

(b) Approval of application for assignment of Corps personnel subject to review and comment on application by health service agencies in designated area

The Secretary may not approve an application under this section for assignment of a Corps member to a health manpower shortage area unless the Secretary has afforded—

(1) each health systems agency (designated under section 300*l*-4 of this title) for a health service area which includes all or part of the area in which the area, population group, medical facility, or other public facility so designated is located, or

(2) if there is a part of such area, population group, medical facility, or other public facility located within a health service area for which no health systems agency has been designated, the State health planning and development agency (designated under section 300m of this title) of the State in which such part is located,

an opportunity to review the application and submit to the Secretary its comments respecting the need for, and proposed use of, the Corps member requested in the application.

(c) Applications; consideration and approval by Secretary; priorities; special categories; cooperation with Corps members; comments by health professionals and societies in designated area

In considering, and giving approval to, applications made under this section for the assignment of Corps members, the Secretary shall—

(1) give priority to an application which provides for the assignment of Corps members to an area, population group, medical facility, or other public facility with the greatest health manpower shortage, as determined under criteria established under section 254e(b) of this title;

(2) give special consideration to an application which provides for the use of physician assistants, nurse practitioners, or expanded function dental auxiliaries;

(3) take into consideration the willingness of individuals in the area or population group, or at the medical facility or other public facility, and of the appropriate governmental agencies or health entities, to assist and cooperate with the Corps in providing effective health services; and

(4) take into consideration comments of medical, osteopathic, dental, or other health professional societies serving the area, population group, medical facility, or other public facility, or, if no such societies exist, comments of physicians, dentists, or other health professionals serving the area, population group, medical facility, or other public facility.

(d) Assignment of members without regard to ability of area to pay for services

The Secretary shall assign Corps members to entities in health manpower shortage areas without regard to the ability of the individuals in such areas, population groups, medical facilities, or other public facilities to pay for such services.

(e) Selection of Corps member for assignment; characteristics

In making the assignment of a Corps member to an entity in a health manpower shortage area which has had an application approved under this section, the Secretary shall seek to assign to an area a Corps member who has (and whose spouse, if any, has) those characteristics which are characteristics which increase the probability of the member's remaining to serve the area upon completion of his assignment period.

(f) Public or nonprofit private entities; technical assistance by Secretary

(1) The Secretary shall provide technical assistance to a public or nonprofit private entity which is located or has a demonstrated interest in a health manpower shortage area and which desires to make an application under this section for assignment of a Corps member to such area.

(2) The Secretary shall provide, to public and nonprofit private entities which are located or have a demonstrated interest in a health manpower shortage area to which area a Corps member has been assigned, technical assistance to assist in the retention of such member in such area after the completion of such member's assignment to the area.

(3) The Secretary shall provide, to health manpower shortage areas to which no Corps member has been assigned, (A) technical assistance to assist in the recruitment of health manpower for such areas, and (B) current information on public and private programs which provide assistance in the securing of health manpower.

(g) Contracts for study of methods of assignments of Corps members

The Secretary shall conduct, or enter into contracts for the conduct of, studies of the methods of assignments of Corps members to health manpower shortage areas. Such studies shall include studies of—

(1) the characteristics of physicians, dentists, and other health professionals who are more likely to remain in practice in health manpower shortage areas;

(2) the characteristics, including utilization and reimbursement patterns, of areas which have been able to retain health manpower personnel; and

(3) the appropriate conditions for the assignment and use of nurse practitioners, physician assistants, and expanded function dental auxiliaries in health manpower shortage areas.

(h) Practice within State by Corps member

Notwithstanding any other law, any member of the Corps licensed to practice medicine, osteopathy, or dentistry in any State shall, while serving in the Corps, be allowed to practice such profession in any State.

(July 1, 1944, ch. 373, title III, § 333, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 407(b)(3), 90 Stat. 2272.)

REFERENCES IN TEXT

Section 254b of this title, referred to in subsec. (a)(1)(D), was repealed by Pub. L. 94-484, title IV, § 407(b)(1), Oct. 12, 1976, 90 Stat. 2268.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254d, 254g, 254h, 254i of this title.

§ 254g. Cost sharing

(a) Charges for services; collection of payments; payment to United States; annual report

The Secretary shall require, as a condition to the approval of an application under section

254f of this title, that the entity which submitted the application enter into an agreement for a specific assignment period (not to exceed 4 years) with the Secretary under which—

(1) the entity shall be responsible for charging, in accordance with subsection (d) of this section, for health services provided by Corps members assigned to the entity;

(2) the entity shall take such action as may be reasonable for the collection of payments for such health services, including, if a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of such health services if it had not been provided by Corps members under this subpart, the collection, on a fee-for-service or other basis, from such agency or third party, the portion of such cost for which it would be so responsible (and in determining the amount of such cost which such agency or third party would be responsible, the health services provided by Corps members shall be considered as being provided by private practitioners);

(3) the entity shall pay to the United States, as prescribed by the Secretary in each calendar quarter (or other period as may be specified in the agreement) during which any Corps member is assigned to such entity, the sum of—

(A) the portion of the salary (including amounts paid in accordance with section 254d(d) of this title) and allowances of any Corps member received by such member during such calendar quarter (or other period) while such member was assigned to such entity;

(B) for any Corps member assigned to such entity, an amount which bears the same ratio to the amount paid under the Scholarship Program to or on the behalf of such Corps member as the number of days of obligated service provided by such member during such quarter (or other period) bears to the number of days in his period of obligated service under such Program; and

(C) if such entity received a loan under section 254h(c) of this title, an amount which bears the same ratio to the amount of such loan as the number of days in such quarter (or other period) during which any Corps members were assigned to the entity bears to the number of days in the assignment period after such entity received such loan; and

(4) the entity shall prepare and submit to the Secretary an annual report, in such form and manner, as the Secretary may require.

(b) Waiver of payment; use of funds

(1) The Secretary may waive in whole or in part the application of the requirement of subsection (a)(3) of this section for an entity if he determines that the entity is financially unable to meet such requirement or if he determines that compliance with such requirement would unreasonably limit the ability of the entity to provide for the adequate support of the provision of health services by Corps members.

(2) The Secretary may waive in whole or in part the application of the requirement of subsection (a)(3) of this section for any entity which is located in a health manpower shortage area in which a significant percentage of the individuals are elderly, living in poverty, or have other characteristics which indicate an inability to repay, in whole or in part, the amounts required in subsection (a)(3) of this section.

(3) In the event that the Secretary grants a waiver under paragraph (1) or (2), the entity shall be required to use the total amount of funds collected by such entity in accordance with subsection (a)(2) of this section for the improvement of the capability of such entity to deliver health services to the individuals in, or served by, the health manpower shortage area.

(c) Excess funds

The excess (if any) of the amount of funds collected by an entity in accordance with subsection (a)(2) of this section over the amount paid to the United States in accordance with subsection (a)(3) of this section shall be used by the entity to expand and improve the provision of health services to the individuals in the health manpower shortage area for which the entity submitted an application or to recruit and retain health manpower to provide health services for such individuals.

(d) Charge for services; reduced rate; no charge

Any person who receives health services provided by a Corps member under this subpart shall be charged for such services on a fee-for-service or other basis, at a rate approved by the Secretary, pursuant to regulations. Such rate shall be computed in such a way as to permit the recovery of the value of such services, except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary shall provide for the furnishing of such services at a reduced rate or without charge.

(e) Deposit of funds in Treasury as miscellaneous receipts; appropriations unaffected

Funds received by the Secretary under an agreement entered into under this section shall be deposited in the Treasury as miscellaneous receipts and shall be disregarded in determining the amounts of appropriations to be requested and the amounts to be made available from appropriations made under section 254k of this title to carry out this subpart.

(July 1, 1944, ch. 373, title III, § 334, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 407(b)(3), 90 Stat. 2274.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254f, 254i of this title.

§ 254h. Provision of health services by Corps members

(a) Means of delivery of services

In providing health services in a health manpower shortage area, Corps members shall utilize the techniques, facilities, and organizational forms most appropriate for the area, population group, medical facility, or other public facility, and shall, to the maximum extent feasible, provide such services (1) to all individuals in, or served by, such health manpower shortage area regardless of their ability to pay for

the services, and (2) in connection with (A) direct health services programs carried out by the Service, (B) any other direct health services program carried out in whole or in part with Federal financial assistance, or (C) any other health services activity which is in furtherance of the purposes of this subpart.

(b) Utilization of existing health facilities; lease, acquisition, and use of equipment and supplies; permanent and temporary professional services

(1) Notwithstanding any other provision of law, the Secretary may (A) to the maximum extent feasible make such arrangements as he determines necessary to enable Corps members to utilize the health facilities in or serving the health manpower shortage area in providing health services; (B) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies; and (C) secure the permanent or temporary services of physicians, dentists, nurses, administrators, and other health personnel. If there are no health facilities in or serving such area, the Secretary may arrange to have Corps members provide health services in the nearest health facilities of the Service or may lease or otherwise provide facilities in or serving such area for the provision of health services.

(2) If the individuals in or served by a health manpower shortage area are being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary may, in addition to such other arrangements as he may make under paragraph (1), arrange for the utilization of such hospital or facility by Corps members in providing health services, but only to the extent that such utilization will not impair the delivery of health services and treatment through such hospital or facility to individuals who are entitled to health services and treatment through such hospital or facility.

(c) Loan; purposes; limitations

The Secretary may make one loan to any entity with an approved application under section 254f of this title to assist such entity in meeting the costs of (1) establishing medical, dental, or other health profession practices, including the development of medical practice management systems; (2) acquiring equipment for use in providing health services; (3) renovating buildings to establish health facilities; and (4) establishing appropriate continuing education programs. No loan may be made under this subsection unless an application therefor is submitted to, and approved by, the Secretary. The amount of any such loan shall be determined by the Secretary, except that no such loan may exceed $50,000.

(d) Property and equipment disposal; fair market value; sale at less than full market value

Upon the expiration of the assignment of all Corps members to a health manpower shortage area, the Secretary may (notwithstanding any other provision of law) sell, to any appropriate local entity, equipment and other property of the United States utilized by such members in providing health services. Sales made under this subsection shall be made at the fair market value (as determined by the Secretary) of the equipment or such other property; except that the Secretary may make such sales for a lesser value to an appropriate local entity, if he determines that the entity is financially unable to pay the full market value.

(e) Admitting privileges denied to Corps member by hospital; notice and hearing; denial of Federal funds for violation; hospital defined

(1)(A) It shall be unlawful for any hospital to deny an authorized physician or dentist member of the Corps admitting privileges when such Corps member otherwise meets the professional qualifications established by the hospital for granting such privileges and agrees to abide by the published bylaws of the hospital and the published bylaws, rules, and regulations of its medical staff.

(B) Any hospital which is found by the Secretary, after notice and an opportunity for a hearing on the record, to have violated this subsection shall upon such finding cease, for a period to be determined by the Secretary, to receive and to be eligible to receive any Federal funds under this chapter or under titles XVIII or XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.].

(2) For purposes of this subsection, the term "hospital" includes a State or local public hospital, a private profit hospital, a private nonprofit hospital, a general or special hospital, and any other type of hospital (excluding a hospital owned or operated by an agency of the Federal Government), and any related facilities.

(July 1, 1944, ch. 373, title III, § 335, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 407(b)(3), 90 Stat. 2275.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (e)(1)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254g of this title.

§ 254i. Annual report to Congress; contents

The Secretary shall submit an annual report to Congress on May 1 of each year, and shall include in such report with respect to the previous calendar year—

(1) the number, identity, and priority of all health manpower shortage areas designated in such year and the number of health manpower shortage areas which the Secretary estimates will be designated in the subsequent year;

(2) the number of applications filed under section 254f of this title in such year for assignment of Corps members and the action taken on each such application;

(3) the number and types of Corps members assigned in such year to health manpower shortage areas, the number and types of additional Corps members which the Secretary estimates will be assigned to such areas in the

subsequent year, and the need for additional members for the Corps;

(4) the recruitment efforts engaged in for the Corps in such year and the number of qualified individuals who applied for service in the Corps in such year;

(5) the number of patients seen and the number of patient visits recorded during such year with respect to each health manpower shortage area to which a Corps member was assigned during such year;

(6) the number of Corps members who elected, and the number of Corps members who did not elect, to continue to provide health services in health manpower shortage areas after termination of their service in the Corps and the reasons (as reported to the Secretary) of members who did not elect for not making such election;

(7) the results of evaluations and determinations made under section 254f(a)(1)(D) of this title during such year; and

(8) the amount charged during such year for health services provided by Corps members, the amount which was collected in such year by entities in accordance with agreements under section 254g of this title, and the amount which was paid to the Secretary in such year under such agreements.

(July 1, 1944, ch. 373, title III, § 336, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 407(b)(3), 90 Stat. 2277.)

§ 254j. National Advisory Council on National Health Service Corps

(a) Establishment; appointment of members

There is established a council to be known as the National Advisory Council on the National Health Service Corps (hereinafter in this section referred to as the "Council"). The Council shall be composed of fifteen members appointed by the Secretary as follows:

(1) Four members shall be appointed from the general public to represent the consumers of health care, at least two of whom shall be individuals who are residents of, members of, or served by Corps members assigned to, a health manpower shortage area.

(2) Three members shall be appointed from medical, dental, and other health professions.

(3) One member shall be appointed from a State health planning and development agency (designated under section 300m of this title), one member shall be appointed from a Statewide Health Coordinating Council (designated under section 300m-3 of this title), and one member shall be appointed from a health systems agency (designated under section 300*l*-4 of this title).

(4) Three members shall be appointed from the Service, at least two of whom shall be members of the Corps directly engaged in the provision of health services in a health manpower shortage area.

(5) Two members shall be appointed from the National Council on Health Planning and Development (established under section 300k-3 of this title).

No individual who is a provider of health care (as defined in section 300n(3) of this title) may be appointed as a member of the Council under paragraph (1), (3), or (5). The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this subpart, and shall review and comment upon regulations promulgated by the Secretary under this subpart.

(b) Term of members; compensation; expenses

(1) Members of the Council shall be appointed for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be removed, except for cause. Members may be reappointed to the Council.

(2) Members of the Council (other than members who are officers or employees of the United States), while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive for each day (including traveltime) in which they are so serving the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule; and while so serving away from their homes or regular places of business all members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 for persons in the Government Service employed intermittently.

(c) Termination of council

Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.

(July 1, 1944, ch. 373, title III, § 337, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 407(b)(3), 90 Stat. 2277.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b)(2), is set out under section 5332 of Title 5, Government Organization and Employees.

Section 5703 of title 5, referred to in subsec. (b)(2), was amended by Pub. L. 94-22 and as so amended does not contain a subsec. (b).

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (c), is section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, which is set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 254k. Authorization of appropriations

(a) To carry out the purposes of this subpart, there are authorized to be appropriated $47,000,000 for the fiscal year ending September 30, 1978; $57,000,000 for the fiscal year ending September 30, 1979; and $70,000,000 for the fiscal year ending September 30, 1980.

(b) An appropriation under an authorization under subsection (a) of this section for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under an authorization under subsection (a) of this section for an-

other fiscal year; but no funds may be made available from any appropriation under such authorization for obligation under this subpart before the fiscal year for which such appropriation is authorized.

(July 1, 1944, ch. 373, title III, § 338, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 407(b)(3), 90 Stat. 2278.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254g of this title.

PART D—LEPERS

PART REFERRED TO IN OTHER SECTIONS

This Part is referred to in section 254e of this title.

§ 255. Reception in any hospital; payment of travel expenses of indigent lepers

The Service shall, in accordance with regulations, receive into any hospital of the Service suitable for his accommodation any person afflicted with leprosy who presents himself for care, detention, or treatment, or who may be apprehended under section 256 or 264 of this title, and any person afflicted with leprosy duly consigned to the care of the Service by the proper health authority of any State. The Surgeon General is authorized, upon the request of any health authority, to send for any person within the jurisdiction of such authority who is afflicted with leprosy and to convey such person to the appropriate hospital for detention and treatment. When the transportation of any such person is undertaken for the protection of the public health the expense of such removal shall be met from funds available for the maintenance of hospitals of the Service. Such funds shall also be available, subject to regulations, for transportation of recovered indigent leper patients to their homes, including subsistence allowance while traveling. When so provided in appropriations available for any fiscal year for the maintenance of hospitals of the Service, the Surgeon General is authorized and directed to make payments to the Board of Health of Hawaii for the care and treatment in its facilities of persons afflicted with leprosy at a per diem rate, determined from time to time by the Surgeon General, which shall, subject to the availability of appropriations, be approximately equal to the per diem operating cost per patient of such facilities, except that such per diem rate shall not be greater than the comparable per diem operating cost per patient at the National Leprosarium, Carville, Louisiana.

(July 1, 1944, ch. 373, title III, § 339, formerly § 331, 58 Stat. 698; June 25, 1948, ch. 654, § 4, 62 Stat. 1018; June 25, 1952, ch. 460, 66 Stat. 157; July 12, 1960, Pub. L. 86-624, § 29(b), 74 Stat. 419; renumbered Oct. 12, 1976, Pub. L. 94-484, title IV, § 407(b)(2), 90 Stat. 2268.)

AMENDMENTS

1960—Pub. L. 86-624 eliminated words, "Territory, or the District of Columbia" following "proper health authority of any State", and substituted "Board of Health of Hawaii" for "Board of Health of the Territory of Hawaii".

1952—Act June 25, 1952, provided for payments to the Hawaiian Board of Health for expenditures made by them in the care and treatment of patients.

1948—Act June 25, 1948, authorized payment of travel expenses of indigent leper patients.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-624 effective on Aug. 21, 1959, see section 47(f) of Pub. L. 86-624, set out as an Effective Date of 1960 Amendment note under section 645 of Title 20, Education.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 stat. 1610, set out as a note under section 202 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

§ 256. Apprehension, detention, treatment, and release

The Surgeon General may provide by regulation for the apprehension, detention, treatment, and release of persons being treated by the Service for leprosy.

(July 1, 1944, ch. 373, title III, § 340, formerly § 332, 58 Stat. 698; renumbered Oct. 12, 1976, Pub. L. 94-484, title IV, § 407(b)(2), 90 Stat. 2268.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 255 of this title.

PART E—NARCOTIC ADDICTS AND OTHER DRUG ABUSERS

AMENDMENTS

1970—Pub. L. 91-513, title I, § 2(a)(6), Oct. 27, 1970, 84 Stat. 1240, inserted reference to other drug abusers in part heading.

PART REFERRED TO IN D.C. CODE

This part is referred to in section 24-613 of the District of Columbia Code.

§ 257. Care and treatment of narcotic addicts

(a) Surgeon General authorized to provide programs

The Surgeon General is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who are civilly committed to treatment or convicted of offenses against the United States and sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts who are committed to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act [18 U.S.C. 5005 et seq.],

addicts and other persons with drug abuse and drug dependence problems who voluntarily submit themselves for treatment, and addicts convicted of offenses against the United States and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, including persons convicted by general courts-martial and consular courts. Such care and treatment shall be provided at hospitals of the Service especially equipped for the accommodation of such patients or elsewhere where authorized under other provisions of law, and shall be designed to rehabilitate such persons, to restore them to health, and, where necessary, to train them to be self-supporting and self-reliant; but nothing in this section or in this part shall be construed to limit the authority of the Surgeon General under other provisions of law to provide for the conditional release of patients and for aftercare under supervision. In carrying out this subsection, the Secretary shall establish in each hospital and other appropriate medical facility of the Service a treatment and rehabilitation program for drug addicts and other persons with drug abuse and drug dependence problems who are in the area served by such hospital or other facility; except that the requirement of this sentence shall not apply in the case of any such hospital or other facility with respect to which the Secretary determines that there is not sufficient need for such a program in such hospital or other facility.

(b) Furnishing of information relating to persons voluntarily undergoing care to the Mayor of the District of Columbia

Upon the admittance to, and departure from, a hospital of the Service of a person who voluntarily submitted himself for treatment pursuant to the provisions of this section, and who at the time of his admittance to such hospital was a resident of the District of Columbia, the Surgeon General shall furnish to the Mayor of the District of Columbia or his designated agent, the name, address, and such other pertinent information as may be useful in the rehabilitation to society of such person.

(c) Agreements with other departments and agencies

The Secretary may enter into agreements with the Administrator of Veterans' Affairs, the Secretary of Defense, and the head of any other department or agency of the Government under which agreements hospitals and other appropriate medical facilities of the Service may be used in treatment and rehabilitation programs provided by such department or agency for drug addicts and other persons with drug abuse and other drug dependence problems who are in areas served by such hospitals or other facilities.

(July 1, 1944, ch. 373, title III, § 341, 58 Stat. 698; May 8, 1954, ch. 195, § 3, 68 Stat. 80; July 24, 1956, ch. 676, title III, § 302(a), 70 Stat. 622; Nov. 8, 1966, Pub. L. 89-793, title VI, § 601, 80 Stat. 1449; 1967 Reorg. Plan No. 3, § 401, eff. Nov. 3, 1967 (in part), 32 F.R. 11669, 81 Stat. 951; Oct. 27, 1970, Pub. L. 91-513, title I, § 2(a)(1), 84 Stat. 1240; Mar. 21, 1972, Pub. L. 92-255, title IV, § 402, 86 Stat. 77; Dec. 24, 1973, Pub. L. 93-198, title IV, § 421, 87 Stat. 789.)

REFERENCES IN TEXT

The Narcotic Addict Rehabilitation Act of 1966, referred to in subsec. (a), is Pub. L. 89-793, titles I to IV, Nov. 8, 1966, 80 Stat. 1438. Title I of the Act is classified generally to chapter 175 (§ 2901 et seq.) of Title 28, Judiciary and Judicial Procedure. Title II of the Act is classified generally to chapter 314 (§ 4251 et seq.) of Title 18, Crimes and Criminal Procedure. Title III of the Act is classified generally to subchapter II (§ 3411 et seq.) of chapter 42 of this title. Title IV of the Act is classified generally to subchapter III (§ 3441 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables volume.

The Federal Youth Corrections Act, referred to in subsec. (a), is act Sept. 30, 1950, ch. 1115, § 2, 64 Stat. 1086, which is classified generally to chapter 402 (§ 5005 et seq.) of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section is also set out in D.C. Code, § 24-613.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-255, § 402(a), required establishment in hospitals and other appropriate medical facilities of treatment and rehabilitation programs for drug addicts and other persons with drug abuse and drug dependence problems where sufficient need for such programs exists.

Subsec. (c). Pub. L. 92-255, § 402(b), added subsec. (c).

1970—Subsec. (a). Pub. L. 91-513 inserted provision for the voluntary submission for treatment of persons with drug abuse and drug dependence problems.

1966—Subsec. (a). Pub. L. 89-793 designated existing provisions as subsec. (a), substituted care and treatment provisions for persons who are civilly committed to treatment or convicted of Federal offenses and sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts who are committed to custody of Attorney General pursuant to provisions of Federal Youth Corrections Act, and addicts convicted of Federal offenses and who are not sentenced to treatment under such Act of 1966 for prior care and treatment provisions for addicts who have been or are hereafter convicted of Federal offenses, deleted language for care and treatment for addicts who are committed to the Service or to a hospital thereof pursuant to section 260a of this title, and provided for care and treatment at places other than hospitals of the Service where authorized by other provisions of law and for conditional release of patients and aftercare under supervision.

Subsec. (b). Pub. L. 89-793 designated existing provisions as subsec. (b).

1956—Act July 24, 1956, required the Surgeon General to furnish to the Commissioners or their designated agent, the name, address, and any other useful information relating to persons who voluntarily submit themselves for treatment and who, at the time of submission, are residents of the District of Columbia.

1954—Act May 8, 1954, inserted in first sentence the reference to addicts who are committed to the Service or to a hospital thereof pursuant to section 260a of this title.

TRANSFER OF FUNCTIONS

Except as otherwise provided in Reorg. Plan No. 3 of 1967, eff. Nov. 3, 1967 (in part), 32 F.R. 11669, 81 Stat. 948, all functions of the Board of Commissioners of the District of Columbia were transferred to the Commissioner of the District of Columbia by section 401 of Reorg. Plan No. 3 of 1967. The office of Commissioner of the District of Columbia, as established by Reorg. Plan No. 3 of 1967, was abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, and replaced by the office of Mayor of

the District of Columbia by section 421 of Pub. L. 93-198, classified to section 1-161 of the District of Columbia Code. Accordingly, "Mayor" was substituted for "Commissioners".

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3441 of this title.

§ 257a. Medical treatment of narcotics addiction; report to Congress

The Secretary of Health, Education, and Welfare, after consultation with the Attorney General and with national organizations representative of persons with knowledge and experience in the treatment of narcotic addicts, shall determine the appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of narcotic addicts, and shall report thereon from time to time to the Congress.

(Pub. L. 91-513, title I, § 4, Oct. 27, 1970, 84 Stat. 1241.)

CODIFICATION

Section was not enacted as part of the Public Health Service Act, which comprises this chapter.

§ 258. Employment; establishment of industries, plants, etc.; sale of commodities; disposition of proceeds

Narcotic addicts or other persons with drug abuse and drug dependence problems in hospitals of the Service designated for their care shall be employed in such manner and under such conditions as the Surgeon General may direct. In such hospitals the Surgeon General may, in his discretion, establish industries, plants, factories, or shops for the production and manufacture of articles, commodities, and supplies for the United States Government. The Secretary of the Treasury may require any Government department, establishment, or other institution, for whom appropriations are made directly or indirectly by the Congress of the United States, to purchase at current market prices, as determined by him or his authorized representative, such of the articles, commodities, or supplies so produced or manufactured as meet their specifications; and the Surgeon General shall provide for payment to the inmates or their dependents of such pecuniary earnings as he may deem proper. The Secretary of Health, Education, and Welfare shall establish a working-capital fund for such industries, plants, factories, and shops out of any funds appropriated for Public Health Service hospitals at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for; and such fund shall be available for the purchase, repair, or replacement of machinery or equipment, for the purchase of raw materials and supplies, for the purchase of uniforms and other distinctive wearing apparel of employees in the performance of their official duties, and for the employment of necessary civilian officers and employees. The Surgeon General may provide for the disposal of products of the industrial activities conducted pursuant to this section, and the proceeds of any sales thereof shall be covered into the Treasury of the United States to the credit of the working-capital fund.

(July 1, 1944, ch. 373, title III, § 342, 58 Stat. 699; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 27, 1970, Pub. L. 91-513, title I, § 2(a)(2)(A), 84 Stat. 1240.)

AMENDMENTS

1970—Pub. L. 91-513 inserted reference to persons with drug abuse and drug dependence problems.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 258a. Transfer of balances in working capital fund, narcotic hospitals, to surplus fund

As of June 30, 1947, and the end of each fiscal year thereafter any balances in the "Working capital fund, narcotic hospitals," in excess of $150,000 shall be transferred to the surplus fund of the Treasury.

(July 8, 1947, ch. 210, title II, § 201, 61 Stat. 269.)

CODIFICATION

Section was enacted as part of the Federal Security Agency Appropriation Act, 1948, and not as part of the Public Health Service Act which comprises this chapter.

§ 259. Convict addicts or other persons with drug abuse or drug dependence problems

(a) Transfers to and from hospitals; duty of prosecuting officers to report convicted persons believed to be addicts

The authority vested with the power to designate the place of confinement of a prisoner shall transfer to hospitals of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems, if accommodations are available, all addicts or other persons with drug abuse and drug dependence problems who have been or are hereafter sentenced to confinement, or who are now or shall hereafter be confined, in any penal, correctional, disciplinary, or

reformatory institution of the United States, including those addicts or other persons with drug abuse and drug dependence problems convicted of offenses against the United States who are confined in State and Territorial prisons, penitentiaries, and reformatories, except that no addict or other person with a drug abuse or other drug dependence problem shall be transferred to a hospital of the Service who, in the opinion of the officer authorized to direct the transfer, is not a proper subject for confinement in such an institution either because of the nature of the crime he has committed or because of his apparent incorrigibility. The authority vested with the power to designate the place of confinement of a prisoner shall transfer from a hospital of the Service to the institution from which he was received, or to such other institution as may be designated by the proper authority, any addict or other person with a drug abuse or other drug dependence problem whose presence at a hospital of the Service is detrimental to the well-being of the hospital or who does not continue to be a narcotic addict or other person with a drug abuse or other drug dependence problem. All transfers of such prisoners to or from a hospital of the Service shall be accompanied by necessary attendants as directed by the officer in charge of such hospital and the actual and necessary expenses incident to such transfers shall be paid from the appropriation for the maintenance of such Service hospital except to the extent that other Federal agencies are authorized or required by law to pay expenses incident to such transfers. When sentence is pronounced against any person whom the prosecuting officer believes to be an addict or other person with a drug abuse or other drug dependence problem, such officer shall report to the authority vested with the power to designate the place of confinement, the name of such person, the reasons for his belief, all pertinent facts bearing on such addiction, drug abuse, or drug dependence, and the nature of the offense committed. Whenever an alien addict or other person with a drug abuse or other drug dependence problem transferred to a Service hospital pursuant to this subsection is entitled to his discharge but is subject to deportation, in lieu of being returned to the penal institution from which he came he shall be deported by the authority vested by law with power over deportation.

(b) Repealed. Pub. L. 92-293, § 3, May 11, 1972, 86 Stat. 136

(c) Discharge; further treatment

Not later than one month prior to the expiration of the sentence of any addict or other person with a drug abuse or other drug dependence problem confined in a Service hospital, he shall be examined by the Surgeon General or his authorized representative. If the Surgeon General believes the person to be discharged is still an addict or other person with a drug abuse or other drug dependence problem and that he may by further treatment in a Service hospital be cured of his addiction, drug abuse, or drug dependence, the addict or other person with a drug abuse or other drug dependence problem shall be informed, in accordance with regulations, of the advisability of his submitting himself to further treatment. The addict or other person with a drug abuse or other drug dependence problem may then apply in writing to the Surgeon General for further treatment in a Service hospital for a period not exceeding the maximum length of time considered necessary by the Surgeon General. Upon approval of the application by the Surgeon General or his authorized agent, the addict or other person with a drug abuse or other drug dependence problem may be given such further treatment as is necessary to cure him of his addiction, drug abuse, or drug dependence.

(d) Gratuities and transportation furnished upon discharge or release on parole

Every person convicted of an offense against the United States, upon discharge, or upon release on parole, from a hospital of the Service, shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution.

(e) Admission of probationers to hospitals for treatment

Any court of the United States having the power to suspend the imposition or execution of sentence and to place a defendant on probation under any existing laws may impose as one of the conditions of such probation that the defendant, if an addict or other person with a drug abuse or other drug dependence problem, shall submit himself for treatment at a hospital of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems until discharged therefrom as cured and that he shall be admitted thereto for such purpose. Upon the discharge of any such probationer from a hospital of the Service, he shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution. The actual and necessary expense incident to transporting such probationer to such hospital and to furnishing such transportation and gratuities shall be paid from the appropriation for the maintenance of such hospital except to the extent that other Federal agencies are authorized or required by law to pay the cost of such transportation: *Provided*, That where existing law vests a discretion in any officer as to the place to which transportation shall be furnished or as to the amount of clothing and gratuities to be furnished, such discretion shall be exercised by the Surgeon General with respect to addicts or other persons with drug abuse and drug dependence problems discharged from hospitals of the Service.

(July 1, 1944, ch. 373, title III, § 343, 58 Stat. 699; Oct. 27, 1970, Pub. L. 91-513, title I, § 2(a)(2)(A), (3), (4), 84 Stat. 1240; May 11, 1972, Pub. L. 92-293, § 3, 86 Stat. 136.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-293 struck out subsec. (b) which provided for the application of sections 710 to 712a, 714 to 723c and 744h of title 18 to narcotic addicts and persons with drug abuse and drug dependence problems.

1970—Pub. L. 91-513 extended section to cover drug abuse or drug dependence and to cover persons with drug abuse or drug dependence problems.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

CROSS REFERENCES

Discharge from prison, transportation, clothing and money issued, see section 4281 of Title 18, Crimes and Criminal Procedure.

§ 260. Addicts and persons with drug abuse or drug dependence problems

(a) Application for admission

Any addict or other person with a drug abuse or other drug dependence problem, whether or not he shall have been convicted of an offense against the United States, may apply to the Surgeon General for admission to a hospital of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems.

(b) Determination of addiction; conditions of admission; payment of subsistence, care, and treatment

Any applicant shall be examined by the Surgeon General who shall determine whether the applicant is an addict or other person with a drug abuse or other drug dependence problem, whether by treatment in a hospital of the Service he may probably be cured of his addiction, drug abuse, or drug dependence, and the estimated length of time necessary to effect his cure. The Surgeon General may, in his discretion, admit the applicant to a Service hospital. No such addict or other persons with a drug abuse or other drug dependence problem shall be admitted unless he agrees to submit to treatment for the maximum amount of time estimated by the Surgeon General to be necessary to effect a cure, and unless suitable accommodations are available after all eligible addicts or other persons with drug abuse and drug dependence problems convicted of offenses against the United States have been admitted. Any such addict or other person with a drug abuse or other drug dependence problem may be required to pay for his subsistence, care, and treatment at rates fixed by the Surgeon General and amounts so paid shall be covered into the Treasury of the United States to the credit of the appropriation from which the expenditure for his subsistence, care, and treatment was made. Appropriations available for the care and treatment of addicts or other persons with drug abuse and drug dependence problems admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to any place within the continental United States, including subsistence allowance while traveling, for any indigent addict or other person with a drug abuse or other drug dependence problem who is discharged as cured.

(c) Period of confinement

An addict or other person with a drug abuse or other drug dependence problem admitted for treatment under this section, including any addict or other person with a drug abuse or other drug dependence problem, not convicted of an offense, who voluntarily submits himself for treatment, may be confined in a hospital of the Service for a period not exceeding the maximum amount of time estimated by the Surgeon General as necessary to effect a cure of the addiction, drug abuse, or drug dependence or until such time as he ceases to be an addict or other person with a drug abuse or other drug dependence problem.

(d) Other rights unaffected

Any addict or other person with a drug abuse or other drug dependence problem admitted for treatment under this section shall not thereby forfeit or abridge any of his rights as a citizen of the United States; nor shall such admission or treatment be used against him in any proceeding in any court; and the record of his voluntary commitment shall, except as otherwise provided by this chapter, be confidential and shall not be divulged.

(July 1, 1944, ch. 373, title III, § 344, 58 Stat. 701; June 25, 1948, ch. 654, § 5, 62 Stat. 1018; July 24, 1956, ch. 676, title III, § 302(b), 70 Stat. 622; Oct. 27, 1970, Pub. L. 91-513, title I, § 2(a)(2)(A), (3), (4), 84 Stat. 1240.)

AMENDMENTS

1970—Pub. L. 91-513 extended coverage of section to cover drug abuse or drug dependence and to cover persons with drug abuse or drug dependence problems.

1956—Subsec. (d). Act July 24, 1956, substituted "shall, except as otherwise provided by this chapter, be confidential" for "shall be confidential".

1948—Subsec. (b). Act June 25, 1948, added last sentence to continue authority to provide transportation for indigent narcotics who are discharged as cured.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

§ 260a. Admission of addicts committed from District of Columbia

(a) Conditions

The Surgeon General is authorized to admit for care and treatment in any hospital of the Service suitably equipped therefor, and thereafter to transfer between hospitals of the Service in accordance with section 248(b) of this title, any addict, who is committed, under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress) [D.C. Code, § 24-601 et seq.], to the Service or to a hospital thereof for care and treatment and who the Surgeon General determines is a proper subject for such care and treatment. No such addict shall be admitted unless (1) committed prior to July 1, 1958; (2) at the time of commitment, the number of persons in hospitals of the Service who have been admitted pursuant to this subsection is less than one hundred; and (3) suit-

able accommodations are available after all eligible addicts convicted of offenses against the United States have been admitted.

(b) Discharge from hospitals; notice; delivery to court

Any person admitted to a hospital of the Service pursuant to subsection (a) of this section shall be discharged therefrom (1) upon order of the Superior Court of the District of Columbia, or (2) when he is found by the Surgeon General to be cured and rehabilitated. When any such person is so discharged, the Surgeon General shall give notice thereof to the Superior Court of the District of Columbia and shall delivery such person to such court for such further action as such court may deem necessary and proper under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress) [D.C. Code, § 24-601 et seq.].

(c) Authority of Surgeon General and other officers

With respect to the detention, transfer, parole, or discharge of any person committed to a hospital of the Service in accordance with subsection (a) of this section, the Surgeon General and the officer in charge of the hospital, in addition to authority otherwise vested in them, shall have such authority as may be conferred upon them, respectively, by the order of the committing court.

(d) Payment of costs; determination; disposition of moneys; availability of appropriations

The cost of providing care and treatment for persons admitted to a hospital of the Service pursuant to subsection (a) of this section shall be a charge upon the District of Columbia and shall be paid by the District of Columbia to the Public Health Service, either in advance or otherwise, as may be determined by the Surgeon General. Such cost may be determined for each addict or on the basis of rates established for all or particular classes of patients, and shall include the cost of transportation to and from facilities of the Public Health Service. Moneys so paid to the Public Health Service shall be covered into the Treasury of the United States as miscellaneous receipts. Appropriations available for the care and treatment of addicts admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to the District of Columbia, including subsistence allowance while traveling, for any such addict who is discharged.

(July 1, 1944, ch. 373, title III, § 345, as added May 8, 1954, ch. 195, § 2, 68 Stat. 79, and amended July 24, 1956, ch. 676, title III, § 302(c), 70 Stat. 622; July 29, 1970, Pub. L. 91-358, title I, § 155(c)(32), 84 Stat. 572.)

REFERENCES IN TEXT

The act of June 24, 1953 (Public Law 76, Eighty-third Congress), referred to in subsecs. (a) and (b), is act June 24, 1953, ch. 149, 67 Stat. 77, which is classified to section 24-601 et seq. of the District of Columbia Code.

CODIFICATION

Section is also set out in D.C. Code, § 24-614.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-358 substituted "Superior Court of the District of Columbia" for "United States District Court for the District of Columbia" in two instances.

1956—Subsec. (a). Act July 24, 1956, substituted "July 1, 1958" for "July 1, 1956", and "one hundred" for "fifty".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-358 effective the first day of the seventh calendar month which begins after July 29, 1970, see section 199(a) of Pub. L. 91-358, set out as an Effective Date of 1970 Amendment note under section 1257 of Title 28, Judiciary and Judicial Procedure.

DECLARATION OF PURPOSE

With respect to enactment of this section and section 261a of this title, and amendment of section 257 of this title, section 1 of act May 8, 1954, as amended by act July 24, 1956, § 303, provided: "In order to afford the District of Columbia the facilities required to carry out the Act of June 24, 1953 (Public Law 76, Eighty-third Congress), as amended [D.C. code, §§ 24-601 to 24-611], and to help it meet its responsibility for the detention, care, and treatment of noncriminal narcotic addicts, it is hereby declared to be the purpose of this Act to authorize the limited use of suitable Public Health Service facilities at the expense of the District of Columbia for such detention, care, and treatment."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

§ 261. Penalties for introducing prohibited articles and substances into hospitals; escaping from, or aiding and abetting escape from hospitals

(a) Any person not authorized by law or by the Surgeon General who introduces or attempts to introduce into or upon the grounds of any hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, any habit-forming narcotic drug or substance controlled under the Controlled Substances Act [21 U.S.C. 801 et seq.], weapon, or any other contraband article or thing, or any contraband letter or message intended to be received by an inmate thereof, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than ten years.

(b) It shall be unlawful for any person properly committed thereto to escape or attempt to escape from a hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, and any such person upon the apprehension and conviction in a United States court shall be punished by imprisonment for not more than five years, such sentence to begin upon the expiration of the sentence for which such person was originally confined.

(c) Any person who procures the escape of any person admitted to a hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, or who advises, connives at, aids, or assists in such escape, or who conceals any such inmate after such escape, shall be punished upon conviction in a United States

court by imprisonment in the penitentiary for not more than three years.

(July 1, 1944, ch. 373, title III, § 346, formerly § 345, 58 Stat. 701, renumbered May 8, 1954, ch. 195, § 2, 68 Stat. 79, and amended Oct. 27, 1970, Pub. L. 91-513, title I, § 2(a)(2)(A), (5), 84 Stat. 1240.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Foods and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables volume.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-513, § 2(a)(2), (5), extended section to cover hospitals in which persons with drug abuse and drug dependence problems are cared for and added substances controlled under the Controlled Substances Act to the enumeration of prohibited articles.

Subsecs. (b), (c). Pub. L. 91-513, § 2(a)(2), extended provisions to cover hospitals in which persons with drug abuse or drug dependence problems are treated and cared for.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

§ 261a. Release of patients; determination by Surgeon General

For purposes of this chapter, an individual shall be deemed cured of his addiction, drug abuse, or drug dependence and rehabilitated if the Surgeon General determines that he has received the maximum benefits of treatment and care by the Service for his addiction, drug abuse, or drug dependence or if the Surgeon General determines that his further treatment and care for such purpose would be detrimental to the interests of the Service.

(July 1, 1944, ch. 373, title III, § 347, as added May 8, 1954, ch. 195, § 4, 68 Stat. 80, and amended Oct. 27, 1970, Pub. L. 91-513, title I, § 2(a)(4), 84 Stat. 1240.)

CODIFICATION

Section is also set out in D.C. Code, § 24-615.

AMENDMENTS

1970—Pub. L. 91-513 added ", drug abuse, or drug dependence" following "addiction", in two instances.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

PART F—LICENSING OF BIOLOGICAL PRODUCTS AND CLINICAL LABORATORIES AND CONTROL OF RADIATION

SUBPART 1—BIOLOGICAL PRODUCTS

§ 262. Regulation of biological products

(a) Intrastate and interstate traffic; suspension or revocation of license as affecting prior sales

No person shall sell, barter, or exchange, or offer for sale, barter, or exchange in the District of Columbia, or send, carry, or bring for sale, barter, or exchange from any State or possession into any other State or possession or into any foreign country, or from any foreign country into any State or possession, any virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood components or derivative, allergenic product, or analogous product, or arsphenamine or its derivatives (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of diseases or injuries to man, unless (1) such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product has been propagated or manufactured and prepared at an establishment holding an unsuspended and unrevoked license, issued by the Secretary as hereinafter authorized, to propagate or manufacture, and prepare such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product for sale in the District of Columbia, or for sending, bringing, or carrying from place to place aforesaid; and (2) each package of such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product is plainly marked with the proper name of the article contained therein, the name, address, and license number of the manufacturer, and the date beyond which the contents cannot be expected beyond reasonable doubt to yield their specific results. The suspension or revocation of any license shall not prevent the sale, barter, or exchange of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid which has been sold and delivered by the licensee prior to such suspension or revocation, unless the owner or custodian of such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid has been notified by the Secretary not to sell, barter, or exchange the same.

(b) Falsely labeling or marking package or container; altering label or mark

No person shall falsely label or mark any package or container of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid; nor alter any label or mark on any package or container of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid so as to falsify such label or mark.

(c) Inspection of establishment for propagation and preparation

Any officer, agent, or employee of the Department of Health, Education, and Welfare,

authorized by the Secretary for the purpose, may during all reasonable hours enter and inspect any establishment for the propagation or manufacture and preparation of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid for sale, barter, or exchange in the District of Columbia, or to be sent, carried, or brought from any State or possession into any other State or possession or into any foreign country, or from any foreign country into any State or possession.

(d) Regulations governing licenses

Licenses for the maintenance of establishments for the propagation or manufacture and preparation of products described in subsection (a) of this section may be issued only upon a showing that the establishment and the products for which a license is desired meet standards, designed to insure the continued safety, purity, and potency of such products, prescribed in regulations, and licenses for new products may be issued only upon a showing that they meet such standards. All such licenses shall be issued, suspended, and revoked as prescribed by regulations and all licenses issued for the maintenance of establishments for the propagation or manufacture and preparation, in any foreign country, of any such products for sale, barter, or exchange in any State or possession shall be issued upon condition that the licensees will permit the inspection of their establishments in accordance with subsection (c) of this section.

(e) Interference with officers

No person shall interfere with any officer, agent, or employee of the Service in the performance of any duty imposed upon him by this section or by regulations made by authority thereof.

(f) Penalties for offenses

Any person who shall violate, or aid or abet in violating, any of the provisions of this section shall be punished upon conviction by a fine not exceeding $500 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

(g) Construction with other laws

Nothing contained in this chapter shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.].

(July 1, 1944, ch. 373, title III, § 351, 58 Stat. 702; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 2, 1958, Pub. L. 85-881, § 2, 72 Stat. 1704; Oct. 30, 1970, Pub. L. 91-515, title II, § 291, 84 Stat. 1308.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (g), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1970—Subsecs. (a) to (c). Pub. L. 91-515 added "vaccine, blood, blood component or derivative, allergenic product," following "antitoxin" wherever appearing therein.

1958—Subsec. (d). Pub. L. 85-881 eliminated words "made jointly by the Surgeon General, the Surgeon General of the Army, and the Surgeon General of the Navy, and approved by the Secretary" following "regulations" in first sentence.

TRANSFER OF FUNCTIONS

References to Secretary and Department of Health, Education, and Welfare were substituted for references to Federal Security Administrator and Federal Security Agency respectively pursuant to Reorg. Plan No. 1 of 1953, § 5, set out as a note under section 202 of this title, which transferred all functions of the Federal Security Administrator to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency to the Department of Health, Education, and Welfare. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

CROSS REFERENCES

Regulation of biological products for use in treatment of domestic animals, see sections 151 to 158 of Title 21, Food and Drugs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 263 of this title; title 21 section 392.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 2-261 of the District of Columbia Code.

§ 263. Preparation of biological products by Service

(a) The Service may prepare for its own use any product described in section 262 of this title and any product necessary to carrying out any of the purposes of section 241 of this title.

(b) The Service may prepare any product described in section 262 of this title for the use of other Federal departments or agencies, and public or private agencies and individuals engaged in work in the field of medicine when such product is not available from establishments licensed under such section.

(July 1, 1944, ch. 373, title III, § 352, 58 Stat. 703.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 201 of this title.

SUBPART 2—CLINICAL LABORATORIES

§ 263a. Licensing of laboratories

(a) Definitions

As used in this section—

(1) the term "laboratory" or "clinical laboratory" means a facility for the biological, mi-

crobiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body, for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, man;

(2) The term "interstate commerce" means trade, traffic, commerce, transportation, transmission, or communication between any State or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, and any place outside thereof, or within the District of Columbia.

(b) Prohibition of unlicensed laboratory procedures; small or infrequent operation exemption

(1) No person may solicit or accept in interstate commerce, directly or indirectly, any specimen for laboratory examination or other laboratory procedures, unless there is in effect a license for such laboratory issued by the Secretary under this section applicable to such procedures.

(2) The Secretary shall by regulation exempt from the provisions of this section laboratories whose operations are so small or infrequent as not to constitute a significant threat to the public health.

(c) Laboratory procedures covered by license

A license issued by the Secretary under this section may be applicable to all laboratory procedures or only to specified laboratory procedures or categories of laboratory procedures.

(d) Application; information; standards; period of validity; renewal; national accreditation exemption; license fees

(1) A license shall not be issued in the case of any clinical laboratory unless (A) the application therefor contains or is accompanied by such information as the Secretary finds necessary, and (B) the applicant agrees and the Secretary determines that such laboratory will be operated in accordance with standards found necessary by the Secretary to carry out the purposes of this section. Such standards shall be designed to assure consistent performance by the laboratories of accurate laboratory procedures and services, and shall include, among others, standards to assure—

(i) maintenance of a quality control program adequate and appropriate for accuracy of the laboratory procedures and services;

(ii) maintenance of records, equipment, and facilities necessary to proper and effective operation of the laboratory;

(iii) qualifications of the director of the laboratory and other supervisory professional personnel necessary for adequate and effective professional supervision of the operation of the laboratory (which shall include criteria relating to the extent to which training and experience shall be substituted for education); and

(iv) participation in a proficiency testing program established by the Secretary.

(2) A license issued under this section shall be valid for a period of three years, or such shorter period as the Secretary may establish for any clinical laboratory or any class or classes thereof; and may be renewed in such manner as the Secretary may prescribe. The provisions of this section requiring licensing shall not apply to a clinical laboratory in a hospital accredited by the Joint Commission on the Accreditation of Hospitals or by the American Osteopathic Association, or a laboratory which has been inspected and accredited by such commission or association, by the Commission on Inspection and Accreditation of the College of American Pathologists, or by any other national accreditation body approved for the purpose by the Secretary, but only if the standards applied by such commission, association, or other body in determining whether or not to accredit such hospital or laboratory are equal to or more stringent than the provisions of this section and the rules and regulations issued under this section, and only if there is adequate provision for assuring that such standards continue to be met by such hospital or laboratory; provided that any such laboratory shall be treated as a licensed laboratory for all other purposes of this section.

(3) The Secretary may require payment of fees for the issuance and renewal of licenses, but the amount of any such fee shall not exceed $125 per annum.

(e) Revocation, suspension, or limitation; notice and hearing; grounds

A laboratory license may be revoked, suspended, or limited if the Secretary finds, after reasonable notice and opportunity for hearing to the owner or operator of the laboratory, that such owner or operator or any employee of the laboratory—

(1) has been guilty of misrepresentation in obtaining the license;

(2) has engaged or attempted to engage or represented himself as entitled to perform any laboratory procedure or category of procedures not authorized in the license;

(3) has failed to comply with the standards with respect to laboratories and laboratory personnel prescribed by the Secretary pursuant to this section;

(4) has failed to comply with reasonable requests of the Secretary for any information or materials, or work on materials, he deems necessary to determine the laboratory's continued eligibility for its license hereunder or continued compliance with the Secretary's standards hereunder;

(5) has refused a request of the Secretary or any Federal officer or employee duly designated by him for permission to inspect the laboratory and its operations and pertinent records at any reasonable time; or

(6) has violated or aided and abetted in the violation of any provisions of this section or of any rule or regulation promulgated thereunder.

(f) Legal procedure; imminent hazard to public health; jurisdiction of district court; temporary injunctions or restraining orders; bond; final orders

Whenever the Secretary has reason to believe that continuation of any activity by a laboratory licensed under this section would constitute an imminent hazard to the public health, he may bring suit in the district court for the district in which such laboratory is situated to

enjoin continuation of such activity and, upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order under this section shall be granted without bond by such court.

(g) Appeals; petitions; record; additional evidence; modified or new findings; jurisdiction of court of appeals; conclusiveness of findings; review by Supreme Court

(1) Any party aggrieved by any final action taken under subsection (e) of this section may at any time within sixty days after the date of such action file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original action, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(h) Violations and penalties

Any person who willfully violates any provision of this section or any rule or regulation promulgated thereunder shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine.

(i) Professional and insurance exemptions

The provisions of this section shall not apply to any clinical laboratory operated by a licensed physician, osteopath, dentist, or podiatrist, or group thereof, who performs or perform laboratory tests or procedures, personally or through his or their employees, solely as an adjunct to the treatment of his or their own patients; nor shall such provisions apply to any laboratory with respect to tests or other procedures made by it for any person engaged in the business of insurance if made solely for purposes of determining whether to write an insurance contract or of determining eligibility or continued eligibility for payments thereunder.

(j) Utilization of services or facilities of public or private agencies; payments: advances or reimbursement, installments

In carrying out his functions under this section, the Secretary is authorized, pursuant to agreement, to utilize the services or facilities of any Federal or State or local public agency or nonprofit private agency or organization, and may pay therefor in advance or by way of reimbursement, and in such installments, as he may determine.

(k) State laws unaffected

Nothing in this section shall be construed as affecting the power of any State to enact and enforce laws relating to the matters covered by this section to the extent that such laws are not inconsistent with the provisions of this section or with the rules and regulations issued under this section.

(*l*) State law coverage exemption

Where a State has enacted or hereafter enacts laws relating to matters covered by this section, which provide for standards equal to or more stringent than the provisions of this section or than the rules and regulations issued under this section, the Secretary may exempt clinical laboratories in that State from compliance with this section.

(July 1, 1944, ch. 373, title III, § 353, as added Dec. 5, 1967, Pub. L. 90-174, § 5(a), 81 Stat. 536.)

EFFECTIVE DATE

Section 5(b) of Pub. L. 90-174 provided that: "The amendment made by subsection (a) [enacting this section] shall become effective on the first day of the thirteenth month after the month [December 1967] in which it is enacted, except that the Secretary of Health, Education, and Welfare may postpone such effective date for such additional period as he finds necessary, but not beyond the first day of the 19th month after such month [December 1967] in which the amendment is enacted."

SHORT TITLE

Section 5(c) of Pub. L. 90-174 provided that: "This section [enacting this section and note provisions under this section] may be cited as the 'Clinical Laboratories Improvement Act of 1967.'"

DEFINITION OF "SECRETARY"

Term "Secretary" used in this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90-174, set out as a note under section 201 of this title.

SUBPART 3—ELECTRONIC PRODUCT RADIATION CONTROL

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in title 15 section 2080.

§ 263b. Congressional declaration of purpose

The Congress hereby declares that the public health and safety must be protected from the dangers of electronic product radiation. Thus, it is the purpose of this subpart to provide for

the establishment by the Secretary of an electronic product radiation control program which shall include the development and administration of performance standards to control the emission of electronic product radiation from electronic products and the undertaking by public and private organizations of research and investigation into the effects and control of such radiation emissions.

(July 1, 1944, ch. 373, title III, § 354, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1173.)

SHORT TITLE

For Short Title of Pub. L. 90-602, which enacted this subpart, see Short Title of 1968 Amendments note set out under section 201 of this title.

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

Section 3 of Pub. L. 90-602 provided that: "As used in the amendments made by section 2 of this Act [enacting this subpart], except when otherwise specified, the term 'Secretary' means the Secretary of Health, Education, and Welfare, and the term 'Department' means the Department of Health, Education, and Welfare."

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Section 4 of Pub. L. 90-602 provided that: "The amendments made by section 2 of this Act [enacting this subpart] shall not be construed as superseding or limiting the functions, under any other provision of law, of any officer or agency of the United States."

§ 263c. Definitions

As used in this subpart—

(1) the term "electronic product radiation" means—

(A) any ionizing or non-ionizing electromagnetic or particulate radiation, or

(B) any sonic, infrasonic, or ultrasonic wave, which is emitted from an electronic product as the result of the operation of an electronic circuit in such product;

(2) the term "electronic product" means (A) any manufactured or assembled product which, when in operation, (i) contains or acts as part of an electronic circuit and (ii) emits (or in the absence of effective shielding or other controls would emit) electronic product radiation, or (B) any manufactured or assembled article which is intended for use as a component, part, or accessory of a product described in clause (A) and which when in operation emits (or in the absence of effective shielding or other controls would emit) such radiation;

(3) the term "manufacturer" means any person engaged in the business of manufacturing, assembling, or importing of electronic products;

(4) the term "commerce" means (A) commerce between any place in any State and any place outside thereof; and (B) commerce wholly within the District of Columbia; and

(5) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, and American Samoa.

(July 1, 1944, ch. 373, title III, § 355, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1174, and amended Oct. 12, 1976, Pub. L. 94-484, title IX, § 905(b)(1), 90 Stat. 2325.)

AMENDMENTS

1976—Par. (5). Pub. L. 94-484 defined "State" to include the Northern Mariana Islands.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 2080.

§ 263d. Program of control

(a) Establishment

The Secretary shall establish and carry out an electronic product radiation control program designed to protect the public health and safety from electronic product radiation. As a part of such program, he shall—

(1) pursuant to section 263f of this title, develop and administer performance standards for electronic products;

(2) plan, conduct, coordinate, and support research, development, training, and operational activities to minimize the emissions of and the exposure of people to, unnecessary electronic product radiation;

(3) maintain liaison with and receive information from other Federal and State departments and agencies with related interests, professional organizations, industry, industry and labor associations, and other organizations on present and future potential electronic product radiation;

(4) study and evaluate emissions of, and conditions of exposure to, electronic product radiation and intense magnetic fields;

(5) develop, test, and evaluate the effectiveness of procedures and techniques for minimizing exposure to electronic product radiation; and

(6) consult and maintain liaison with the Secretary of Commerce, the Secretary of Defense, the Secretary of Labor, the Atomic Energy Commission, and other appropriate Federal departments and agencies on (A) techniques, equipment, and programs for testing and evaluating electronic product radiation, and (B) the development of performance standards pursuant to section 263f of this title to control such radiation emissions.

(b) Powers of Secretary

In carrying out the purposes of subsection (a) of this section, the Secretary is authorized to—

(1)(A) collect and make available, through publications and other appropriate means, the results of, and other information concerning, research and studies relating to the nature and extent of the hazards and control of electronic product radiation; and (B) make such recommendations relating to such hazards and control as he considers appropriate;

(2) make grants to public and private agencies, organizations, and institutions, and to individuals for the purposes stated in paragraphs (2), (4), and (5) of subsection (a) of this section;

(3) contract with public or private agencies, institutions, and organizations, and with indi-

viduals, without regard to section 529 of title 31 and section 5 of title 41; and

(4) procure (by negotiation or otherwise) electronic products for research and testing purposes, and sell or otherwise dispose of such products.

(c) Record keeping

(1) Each recipient of assistance under this subpart pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants or contracts entered into under this subpart under other than competitive bidding procedures.

(July 1, 1944, ch. 373, title III, § 356, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1174.)

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law or any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

§ 263e. Studies by the Secretary

(a) Report to Congress

The Secretary shall conduct the following studies, and shall make a report or reports of the results of such studies to the Congress on or before January 1, 1970, and from time to time thereafter as he may find necessary, together with such recommendations for legislation as he may deem appropriate:

(1) A study of present State and Federal control of health hazards from electronic product radiation and other types of ionizing radiation, which study shall include, but not be limited to—

(A) control of health hazards from radioactive materials other than material regulated under the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.];

(B) any gaps and inconsistencies in present controls;

(C) the need for controlling the sale of certain used electronic products, particularly antiquated X-ray equipment, without upgrading such products to meet the standards for new products or separate standards for used products;

(D) measures to assure consistent and effective control of the aforementioned health hazards;

(E) measures to strengthen radiological health programs of State governments; and

(F) the feasibility of authorizing the Secretary to enter into arrangements with individual States or groups of States to define their respective functions and responsibilities for the control of electronic product radiation and other ionizing radiation;

(2) A study to determine the necessity for the development of standards for the use of nonmedical electronic products for commercial and industrial purposes; and

(3) A study of the development of practicable procedures for the detection and measurement of electronic product radiation which may be emitted from electronic products manufactured or imported prior to the effective date of any applicable standard established pursuant to this subpart.

(b) Participation of other Federal agencies

In carrying out these studies, the Secretary shall invite the participation of other Federal departments and agencies having related responsibilities and interests, State governments—particularly those of States which regulate radioactive materials under section 2021 of this title and interested professional, labor, and industrial organizations. Upon request from congressional committees interested in these studies, the Secretary shall keep these committees currently informed as to the progress of the studies and shall permit the committees to send observers to meetings of the study groups.

(c) Organization of studies and participation

The Secretary or his designee shall organize the studies and the participation of the invited participants as he deems best. Any dissent from the findings and recommendations of the Secretary shall be included in the report if so requested by the dissenter.

(July 1, 1944, ch. 373, title III, § 357, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1176.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (a)(1)(A), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and De-

partment of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

§ 263f. Performance standards for electronic products

(a) Promulgation of regulations

(1) The Secretary shall by regulation prescribe performance standards for electronic products to control the emission of electronic product radiation from such products if he determines that such standards are necessary for the protection of the public health and safety. Such standards may include provisions for the testing of such products and the measurement of their electronic product radiation emissions, may require the attachment of warning signs and labels, and may require the provision of instructions for the installation, operation, and use of such products. Such standards may be prescribed from time to time whenever such determinations are made, but the first of such standards shall be prescribed prior to January 1, 1970. In the development of such standards, the Secretary shall consult with Federal and State departments and agencies having related responsibilities or interests and with appropriate professional organizations and interested persons, including representatives of industries and labor organizations which would be affected by such standards, and shall give consideration to—

(A) the latest available scientific and medical data in the field of electronic product radiation;

(B) the standards currently recommended by (i) other Federal agencies having responsibilities relating to the control and measurement of electronic product radiation, and (ii) public or private groups having an expertise in the field of electronic product radiation;

(C) the reasonableness and technical feasibility of such standards as applied to a particular electronic product;

(D) the adaptability of such standards to the need for uniformity and reliability of testing and measuring procedures and equipment; and

(E) in the case of a component, or accessory described in paragraph (2)(B) of section 263c of this title, the performance of such article in the manufactured or assembled product for which it is designed.

(2) The Secretary may prescribe different and individual performance standards, to the extent appropriate and feasible, for different electronic products so as to recognize their different operating characteristics and uses.

(3) The performance standards prescribed under this section shall not apply to any electronic product which is intended solely for export if (A) such product and the outside of any shipping container used in the export of such product are labeled or tagged to show that such product is intended for export, and (B) such product meets all the applicable requirements of the country to which such product is intended for export.

(4) The Secretary may by regulation amend or revoke any performance standard prescribed under this section.

(5) The Secretary may exempt from the provisions of this section any electronic product intended for use by departments or agencies of the United States provided such department or agency has prescribed procurement specifications governing emissions of electronic product radiation and provided further that such product is of a type used solely or predominantly by departments or agencies of the United States.

(b) Administrative procedure

The provisions of subchapter II of chapter 5 of title 5 (relating to the administrative procedure for rulemaking), and of chapter 7 of title 5 (relating to judicial review), shall apply with respect to any regulation prescribing, amending, or revoking any standard prescribed under this section.

(c) Publication in Federal Register

Each regulation prescribing, amending, or revoking a standard shall specify the date on which it shall take effect which, in the case of any regulation prescribing, or amending any standard, may not be sooner than one year or not later than two years after the date on which such regulation is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest and publishes in the Federal Register his reason for such finding, in which case such earlier or later date shall apply.

(d) Judicial review

(1) In a case of actual controversy as to the validity of any regulation issued under this section prescribing, amending, or revoking a performance standard, any person who will be adversely affected by such regulation when it is effective may at any time prior to the sixtieth day after such regulation is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such regulation. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the regulation, as provided in section 2112 of title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or

setting aside of his original regulation, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the regulation in accordance with chapter 7 of title 5 and to grant appropriate relief as provided in such chapter.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such regulation of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not substitution for any other remedies provided by law.

(e) Availability of record

A certified copy of the transcript of the record and administrative proceedings under this section shall be furnished by the Secretary to any interested party at his request, and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceeding arising under or in respect of this subpart irrespective of whether proceedings with respect to the regulation have previously been initiated or become final under this section.

(f) Technical Electronic Product Radiation Safety Standards Committee

(1)(A) The Secretary shall establish a Technical Electronic Product Radiation Safety Standards Committee (hereafter in this subpart referred to as the "Committee") which he shall consult before prescribing any standard under this section. The Committee shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspects of electronic product radiation safety, and shall be composed of fifteen members each of whom shall be technically qualified by training and experience in one or more fields of science or engineering applicable to electronic product radiation safety, as follows:

(i) Five members shall be selected from governmental agencies including State and Federal Governments;

(ii) Five members shall be selected from the affected industries after consultation with industry representatives; and

(iii) Five members shall be selected from the general public, of which at least one shall be a representative of organized labor.

(B) The Committee may propose electronic product radiation safety standards to the Secretary for his consideration. All proceedings of the Committee shall be recorded and the record of each such proceeding shall be available for public inspection.

(2) Payments to members of the Committee who are not officers or employees of the United States pursuant to section 210(c) of this title shall not render members of the Committee officers or employees of the United States for any purpose.

(g) Review and evaluation

The Secretary shall review and evaluate on a continuing basis testing programs carried out by industry to assure the adequacy of safeguards against hazardous electronic product radiation and to assure that electronic products comply with standards prescribed under this section.

(h) Product certification

Every manufacturer of an electronic product to which is applicable a standard in effect under this section shall furnish to the distributor or dealer at the time of delivery of such product, in the form of a label or tag permanently affixed to such product or in such manner as approved by the Secretary, the certification that such product conforms to all applicable standards under this section. Such certification shall be based upon a test, in accordance with such standard, of the individual article to which it is attached or upon a testing program which is in accord with good manufacturing practice and which has not been disapproved by the Secretary (in such manner as he shall prescribe by regulation) on the grounds that it does not assure the adequacy of safeguards against hazardous electronic product radiation or that it does not assure that electronic products comply with the standards prescribed under this section.

(July 1, 1944, ch. 373, title III, § 358, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1177, and amended Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(b)(2), (3), 84 Stat. 1311.)

AMENDMENTS

1970—Subsec. (f)(2). Pub. L. 91-515 struck out the provisions which related to the payment of compensation and travel expenses of members of the Committee who are not officers or employees of the United States, and substituted "to members of the Committee who are not officers or employees of the United States pursuant to section 210(c) of this title" for "under this subsection".

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263d, 263g, 263h, 263i, 263j, 263k, 263n, of this title.

§ 263g. Notification of defects in and repair or replacement of electronic products

(a) Notification; exemption

(1) Every manufacturer of electronic products who discovers that an electronic product produced, assembled, or imported by him has a defect which relates to the safety of use of such product by reason of the emission of electronic product radiation, or that an electronic product

produced, assembled, or imported by him on or after the effective date of an applicable standard prescribed pursuant to section 263f of this title fails to comply with such standard, shall immediately notify the Secretary of such defect or failure to comply if such product has left the place of manufacture and shall (except as authorized by paragraph (2)) with reasonable promptness furnish notification of such defect or failure to the persons (where known to the manufacturer) specified in subsection (b) of this section.

(2) If, in the opinion of such manufacturer, the defect or failure to comply is not such as to create a significant risk of injury, including genetic injury, to any person, he may, at the time of giving notice to the Secretary of such defect or failure to comply, apply to the Secretary for an exemption from the requirement of notice to the persons specified in subsection (b) of this section. If such application states reasonable grounds for such exemption, the Secretary shall afford such manufacturer an opportunity to present his views and evidence in support of the application, the burden of proof being on the manufacturer. If, after such presentation, the Secretary is satisfied that such defect or failure to comply is not such as to create a significant risk of injury, including genetic injury, to any person, he shall exempt such manufacturer from the requirement of notice to the persons specified in subsection (b) of this section and from the requirements of repair or replacement imposed by subsection (f) of this section.

(b) Method of notification

The notification (other than to the Secretary) required by paragraph (1) of subsection (a) of this section shall be accomplished—

(1) by certified mail to the first purchaser of such product for purposes other than resale, and to any subsequent transferee of such product; and

(2) by certified mail or other more expeditious means to the dealers or distributors of such manufacturer to whom such product was delivered.

(c) Requisite elements of notification

The notifications required by paragraph (1) of subsection (a) of this section shall contain a clear description of such defect or failure to comply with an applicable standard, an evaluation of the hazard reasonably related to such defect or failure to comply, and a statement of the measures to be taken to repair such defect. In the case of a notification to a person referred to in subsection (b) of this section, the notification shall also advise the person of his rights under subsection (f) of this section.

(d) Copies to Secretary of communications by manufacturers to dealers or distributors regarding defects

Every manufacturer of electronic products shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers or distributors of such manufacturer or to purchasers (or subsequent transferees) of electronic products of such manufacturer regarding any such defect in such product or any such failure to comply with a standard applicable to such product. The Secretary shall disclose to the public so much of the information contained in such notice or other information obtained under section 263i of this title as he deems will assist in carrying out the purposes of this subpart, but he shall not disclose any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 unless he determines that it is necessary to carry out the purposes of this subpart.

(e) Notice from Secretary to manufacturer of defects or failure to comply with standards

If through testing, inspection, investigation, or research carried out pursuant to this subpart, or examination of reports submitted pursuant to section 263i of this title, or otherwise, the Secretary determines that any electronic product—

(1) does not comply with an applicable standard prescribed pursuant to section 263f of this title; or

(2) contains a defect which relates to the safety of use of such product by reason of the emission of electronic product radiation;

he shall immediately notify the manufacturer of such product of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance or that the alleged defect does not exist or does not relate to safety of use of the product by reason of the emission of such radiation hazard. If after such presentation by the manufacturer the Secretary determines that such product does not comply with an applicable standard prescribed pursuant to section 263f of this title, or that it contains a defect which relates to the safety of use of such product by reason of the emission of electronic product radiation, the Secretary shall direct the manufacturer to furnish the notification specified in subsection (c) of this section to the persons specified in paragraphs (1) and (2) of subsection (b) of this section (where known to the manufacturer), unless the manufacturer has applied for an exemption from the requirement of such notification on the ground specified in paragraph (2) of subsection (a) of this section and the Secretary is satisfied that such noncompliance or defect is not such as to create a significant risk of injury, including genetic injury, to any person.

(f) Correction of defects

If any electronic product is found under subsection (a) or (e) of this section to fail to comply with an applicable standard prescribed under this subpart or to have a defect which relates to the safety of use of such product, and the notification specified in subsection (c) of this section is required to be furnished on account of such failure or defect, the manufacturer of such product shall (1) without charge, bring such product into conformity with such standard or remedy such defect and provide reimbursement for any expenses for transportation of such product incurred in connection with having such product brought into conformity or having such defect remedied, (2) re-

place such product with a like or equivalent product which complies with each applicable standard prescribed under this subpart and which has no defect relating to the safety of its use, or (3) make a refund of the cost of such product. The manufacturer shall take the action required by this subsection in such manner, and with respect to such persons, as the Secretary by regulations shall prescribe.

(g) Effective date

This section shall not apply to any electronic product that was manufactured before October 18, 1968.

(July 1, 1944, ch. 373, title III, § 359, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1180.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263i, 263j of this title.

§ 263h. Imports

(a) Refusal of admission to noncomplying electronic products

Any electronic product offered for importation into the United States which fails to comply with an applicable standard prescribed under this subpart, or to which is not affixed a certification in the form of a label or tag in conformity with section 263f(h) of this title shall be refused admission into the United States. The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon the latter's request, samples of electronic products which are being imported or offered for import in to the United States, giving notice thereof to the owner or consignee, who may have a hearing before the Secretary of Health, Education, and Welfare. If it appears from an examination of such samples or otherwise that any electronic product fails to comply with applicable standards prescribed pursuant to section 263f of this title, then, unless subsection (b) of this section applies and is complied with, (1) such electronic product shall be refused admission, and (2) the Secretary of the Treasury shall cause the destruction of such electronic product unless such article is exported, under regulations prescribed by the Secretary of the Treasury, within 90 days after the date of notice of refusal of admission or within such additional time as may be permitted by such regulations.

(b) Bond

If it appears to the Secretary of Health, Education, and Welfare that any electronic product refused admission pursuant to subsection (a) of this section can be brought into compliance with applicable standards prescribed pursuant to section 263f of this title, final determination as to admission of such electronic product may be deferred upon filing of timely written application by the owner or consignee and the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as the Secretary of Health, Education, and Welfare may by regulation prescribe. If such application is filed and such bond is executed the Secretary of Health, Education, and Welfare may, in accordance with rules prescribed by him, permit the applicant to perform such operations with respect to such electronic product as may be specified in the notice of permission.

(c) Liability of owner or consignee for expenses connected with refusal of admission

All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in subsection (a) of this section and the supervision of operations provided for in subsection (b) of this section, and all expenses in connection with the storage, cartage, or labor with respect to any electronic product refused admission pursuant to subsection (a) of this section, shall be paid by the owner or consignee, and, in event of default, shall constitute a lien against any future importations made by such owner or consignee.

(d) Designation of agent for purposes of service

It shall be the duty of every manufacturer offering an electronic product for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made for and on behalf of said manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made upon said manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon said manufacturer, and in default of such designation of such agent, service of process, notice, order, requirement, or decision in any proceeding before the Secretary or in any judicial proceeding for enforcement of this subpart or any standards prescribed pursuant to this subpart may be made by posting such process, notice, order, requirement, or decision in the Office of the Secretary or in a place designated by him by regulation.

(July 1, 1944, ch. 373, title III, § 360, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1181.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

§ 263i. Inspection, records, and reports

(a) Inspection of premises

If the Secretary finds for good cause that the methods, tests, or programs related to electronic product radiation safety in a particular factory, warehouse, or establishment in which electronic products are manufactured or held, may not be adequate or reliable, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are thereafter authorized (1) to enter, at reasonable times, any area in such factory, warehouse, or establishment in which the manufacturer's tests (or testing programs) required by section 263f(h) of this title are carried out, and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, the facilities and procedures within such area which are related to electronic product radiation safety. Each such inspection shall be commenced and completed with reasonable promptness. In addition to other grounds upon which good cause may be found for purposes of this subsection, good cause will be considered to exist in any case where the manufacturer has introduced into commerce any electronic product which does not comply with an applicable standard prescribed under this subpart and with respect to which no exemption from the notification requirements has been granted by the Secretary under section 263g(a)(2) or 263g(e) of this title.

(b) Record keeping

Every manufacturer of electronic products shall establish and maintain such records (including testing records), make such reports, and provide such information, as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this subpart and standards prescribed pursuant to this subpart and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with standards prescribed pursuant to this subpart.

(c) Disclosure of technical data

Every manufacturer of electronic products shall provide to the Secretary such performance data and other technical data related to safety as may be required to carry out the purposes of this subpart. The Secretary is authorized to require the manufacturer to give such notification of such performance and technical data at the time of original purchase to the ultimate purchaser of the electronic product, as he determines necessary to carry out the purposes of this subpart after consulting with the affected industry.

(d) Public nature of reports

Accident and investigation reports made under this subpart by any officer, employee, or agent of the Secretary shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident. Any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations. Any such report shall be made available to the public in a manner which need not identify individuals. All reports on research projects, demonstration projects, and other related activities shall be public information.

(e) Trade secrets

The Secretary or his representative shall not disclose any information reported to or otherwise obtained by him, pursuant to subsection (a) or (b) of this section, which concerns any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, except that such information may be disclosed to other officers or employees of the Department and of other agencies concerned with carrying out this subpart or when relevant in any proceeding under this subpart. Nothing in this section shall authorize the withholding of information by the Secretary, or by any officers or employees under his control, from the duly authorized committees of the Congress.

(f) Information required to identify and locate first purchasers of electronic products

The Secretary may by regulation (1) require dealers and distributors of electronic products, to which there are applicable standards prescribed under this subpart and the retail prices of which is not less than $50, to furnish manufacturers of such products such information as may be necessary to identify and locate, for purposes of section 263g of this title, the first purchasers of such products for purposes other than resale, and (2) require manufacturers to preserve such information. Any regulation establishing a requirement pursuant to clause (1) of the preceding sentence shall (A) authorize such dealers and distributors to elect, in lieu of immediately furnishing such information to the manufacturer, to hold and preserve such information until advised by the manufacturer or Secretary that such information is needed by the manufacturer for purposes of section 263g of this title, and (B) provide that the dealer or distributor shall, upon making such election, give prompt notice of such election (together with information identifying the notifier and the product) to the manufacturer and shall, when advised by the manufacturer or Secretary, of the need therefor for the purposes of section 263g of this title, immediately furnish the manufacturer with the required information. If a dealer or distributor discontinues the dealing in or distribution of electronic products, he shall turn the information over to the manufacturer. Any manufacturer receiving information pursuant to this subsection concerning first purchasers of products for purposes other than resale shall treat it as confidential and may use it only if necessary for the purpose of notifying persons pursuant to section 263g(a) of this title.

(July 1, 1944, ch. 373, title III, § 360A, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1182.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263g, 263j of this title.

§ 263j. Prohibited acts

(a) It shall be unlawful—

(1) for any manufacturer to introduce, or to deliver for introduction, into commerce, or to import into the United States, any electronic product which does not comply with an applicable standard prescribed pursuant to section 263f of this title;

(2) for any person to fail to furnish any notification or other material or information required by section 263g or 263i of this title; or to fail to comply with the requirements of section 263g(f) of this title;

(3) for any person to fail or to refuse to establish or maintain records required by this subpart or to permit access by the Secretary or any of his duly authorized representatives to, or the copying of, such records, or to permit entry or inspection, as required by or pursuant to section 263i of this title;

(4) for any person to fail or to refuse to make any report required pursuant to section 263i(b) of this title or to furnish or preserve any information required pursuant to section 263i(f) of this title; or

(5) for any person (A) to fail to issue a certification as required by section 263f(h) of this title, or (B) to issue such a certification when such certification is not based upon a test or testing program meeting the requirements of section 263f(h) of this title or when the issuer, in the exercise of due care, would have reason to know that such certification is false or misleading in a material respect.

(b) The Secretary may exempt any electronic product, or class thereof, from all or part of subsection (a) of this section, upon such conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

(July 1, 1944, ch. 373, title III, § 360B, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1184.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 263k of this title.

§ 263k. Enforcement

(a) Jurisdiction of courts

The district courts of the United States shall have jurisdiction, for cause shown, to restrain violations of section 263j of this title and to restrain dealers and distributors of electronic products from selling or otherwise disposing of electronic products which do not conform to an applicable standard prescribed pursuant to section 263f of this title except when such products are disposed of by returning them to the distributor or manufacturer from whom they were obtained. The district courts of the United States shall also have jurisdiction in accordance with section 1355 of title 28 to enforce the provisions of subsection (b) of this section.

(b) Penalties

(1) Any person who violates section 263j of this title shall be subject to a civil penalty of not more than $1,000. For purposes of this subsection, any such violation shall with respect to each electronic product involved, or with respect to each act or omission made unlawful by section 263j of this title constitute a separate violation, except that the maximum civil penalty imposed on any person under this subsection for any related series of violations shall not exceed $300,000.

(2) Any such civil penalty may on application be remitted or mitigated by the Secretary. In determining the amount of such penalty, or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be deducted from any sums owing by the United States to the person charged.

(c) Venue; process

Actions under subsections (a) and (b) of this section may be brought in the district court of the United States for the district wherein any act or omission or transaction constituting the violation occurred, or in such court for the district where the defendant is found or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever defendant may be found.

(d) Warnings

Nothing in this subpart shall be construed as requiring the Secretary to report for the institution of proceedings minor violations of this subpart whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

(e) Compliance with regulations

Except as provided in the first sentence of section 263n of this title, compliance with this subpart or any regulations issued thereunder shall not relieve any person from liability at common law or under statutory law.

(f) Additional remedies

The remedies provided for in this subpart shall be in addition to and not in substitution for any other remedies provided by law.

(July 1, 1944, ch. 373, title III, § 360C, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1184.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

§ 263l. Annual report

(a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this subpart for the preceding calendar year. Such report shall include—

(1) a thorough appraisal (including statistical analyses, estimates, and long-term projections) of the incidence of biological injury, and effects, including genetic effects, to the population resulting from exposure to electronic product radiation, with a breakdown, insofar as practicable, among the various sources of such radiation;

(2) a list of Federal electronic product radiation control standards prescribed or in effect in such year, with identification of standards newly prescribed during such year;

(3) an evaluation of the degree of observance of applicable standards, including a list of enforcement actions, court decisions, and compromises of alleged violations by location and company name;

(4) a summary of outstanding problems confronting the administration of this subpart in order of priority;

(5) an analysis and evaluation of research activities completed as a result of Government and private sponsorship, and technological progress for safety achieved during such year;

(6) a list, with a brief statement of the issues, of completed or pending judicial actions under this subpart;

(7) the extent to which technical information was disseminated to the scientific, commercial, and labor community and consumer-oriented information was made available to the public; and

(8) the extent of cooperation between Government officials and representatives of industry and other interested parties in the implementation of this subpart including a log or summary of meetings held between Government officials and representatives of industry and other interested parties.

(b) The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of electronic product radiation control and to strengthen the national electronic product radiation control program.

(July 1, 1944, ch. 373, title III, § 360D, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1185.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

§ 263m. Federal-State cooperation

The Secretary is authorized (1) to accept from State and local authorities engaged in activities related to health or safety or consumer protection, on a reimbursable basis or otherwise, any assistance in the administration and enforcement of this subpart which he may request and which they may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance, and (2) he may, for the purpose of conducting examinations, investigations, and inspections, commission any officer or employee of any such authority as an officer of the Department.

(July 1, 1944, ch. 373, title III, § 360E, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1186.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

§ 263n. State standards

Whenever any standard prescribed pursuant to section 263f of this title with respect to an aspect of performance of an electronic product is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, any standard which is applicable to the same aspect of per-

formance of such product and which is not identical to the Federal standard. Nothing in this subpart shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a requirement with respect to emission of radiation from electronic products procured for its own use if such requirement imposes a more restrictive standard than that required to comply with the otherwise applicable Federal standard.

(July 1, 1944, ch. 373, title III, § 360F, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1186.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

PART G—QUARANTINE AND INSPECTION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 300j-9 of this title.

§ 264. Regulations to control communicable diseases

(a) Promulgation and enforcement by Surgeon General

The Surgeon General, with the approval of the Secretary, is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

(b) Apprehension, detention, or conditional release of individuals

Regulations prescribed under this section shall not provide for the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of such communicable diseases as may be specified from time to time in Executive orders of the President upon the recommendation of the National Advisory Health Council and the Surgeon General.

(c) Application of regulations to persons entering from foreign countries

Except as provided in subsection (d) of this section, regulations prescribed under this section, insofar as they provide for the apprehension, detention, examination, or conditional release of individuals, shall be applicable only to individuals coming into a State or possession from a foreign country or a possession.

(d) Apprehension and examination of persons reasonably believed to be infected

On recommendation of the National Advisory Health Council, regulations prescribed under this section may provide for the apprehension and examination of any individual reasonably believed to be infected with a communicable disease in a communicable stage and (1) to be moving or about to move from a State to another State; or (2) to be a probable source of infection to individuals who, while infected with such disease in a communicable stage, will be moving from a State to another State. Such regulations may provide that if upon examination any such individual is found to be infected, he may be detained for such time and in such manner as may be reasonably necessary. For purposes of this subsection, the term "State" includes, in addition to the several States, only the District of Columbia.

(July 1, 1944, ch. 373, title III, § 361, 58 Stat. 703; Reorg. Plan No. 1 of 1953, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; July 12, 1960, Pub. L. 86-624, § 29(c), 74 Stat. 419; June 23, 1976, Pub. L. 94-317, title III, § 301(b)(1), 90 Stat. 707.)

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-317 added provision defining, for purposes of this subsection, the term "State" to include, in addition to the several States, only the District of Columbia.

1960—Subsec. (c). Pub. L. 86-624 eliminated a reference to the Territory of Hawaii.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-624 effective on Aug. 21, 1959, see section 47(f) of Pub. L. 86-624, set out as an Effective Date of 1960 Amendment note under section 645 of Title 20, Education.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

CROSS REFERENCES

Compliance with State laws, see section 97 of this title.

Removal of revenue officers, during epidemics, see section 112 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 255, 266, 271 of this title; title 45 section 546.

§ 265. Suspension of entries and imports from designated places to prevent spread of communicable diseases

Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce such persons and property is required in the interest of the public health, the Surgeon General, in accordance with regulations approved by the President, shall have the power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose.

(July 1, 1944, ch. 373, title III, § 362, 58 Stat. 704.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 271 of this title.

§ 266. Special quarantine powers in time of war

To protect the military and naval forces and war workers of the United States, in time of war, against any communicable disease specified in Executive orders as provided in subsection (b) of section 264 of this title, the Surgeon General, on recommendation of the National Advisory Health Council, is authorized to provide by regulations for the apprehension and examination, in time of war, of any individual reasonably believed (1) to be infected with such disease in a communicable stage and (2) to be a probable source of infection to members of the armed forces of the United States or to individuals engaged in the production or transportation of arms, munitions, ships, food, clothing, or other supplies for the armed forces. Such regulations may provide that if upon examination any such individual is found to be so infected, he may be detained for such time and in such manner as may be reasonably necessary.

(July 1, 1944, ch. 373, title III, § 363, 58 Stat. 704.)

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 271 of this title.

§ 267. Quarantine stations, grounds, and anchorages

(a) Control and management

Except as provided in title II of the Act of June 15, 1917, as amended [50 U.S.C. 191 et seq.], the Surgeon General shall control, direct, and manage all United States quarantine stations, grounds, and anchorages, designate their boundaries, and designate the quarantine officers to be in charge thereof. With the approval of the President he shall from time to time select suitable sites for and establish such additional stations, grounds, and anchorages in the States and possessions of the United States as in his judgment are necessary to prevent the introduction of communicable diseases into the States and possessions of the United States.

(b) Hours of inspection

The Surgeon General shall establish the hours during which quarantine service shall be performed at each quarantine station, and, upon application by any interested party, may establish quarantine inspection during the twenty-four hours of the day, or any fraction thereof, at such quarantine stations as, in his opinion, require such extended service. He may restrict the performance of quarantine inspection to hours of daylight for such arriving vessels as cannot, in his opinion, be satisfactorily inspected during hours of darkness. No vessel shall be required to undergo quarantine inspection during the hours of darkness, unless the quarantine officer at such quarantine station shall deem an immediate inspection necessary to protect the public health. Uniformity shall not be required in the hours during which quarantine inspection may be obtained at the various ports of the United States.

(c) Overtime pay for employees of Service

The Surgeon General shall fix a reasonable rate of extra compensation for overtime services of employees of the United States Public Health Service, Foreign Quarantine Division, performing overtime duties including the operation of vessels, in connection with the inspection or quarantine treatment of persons (passengers and crews), conveyances, or goods arriving by land, water, or air in the United States or any place subject to the jurisdiction thereof, hereinafter referred to as "employees of the Public Health Service", when required to be on duty between the hours of 6 o'clock postmeridian and 6 o'clock antemeridian (or between the hours of 7 o'clock postmeridian and 7 o'clock antemeridian at stations which have a declared workday of from 7 o'clock antemeridian to 7 o'clock postmeridian), or on Sundays or holidays, such rate, in lieu of compensation under any other provision of law, to be fixed at two times the basic hourly rate for each hour that the overtime extends beyond 6 o'clock (or 7 o'clock as the case may be) postmeridian, and two times the basic hourly rate for each overtime hour worked on Sundays or holidays. As used in this subsection, the term "basic hourly

rate" shall mean the regular basic rate of pay which is applicable to such employees for work performed within their regular scheduled tour of duty.

(d) Payment of extra compensation to United States; bond or deposit to assure payment; deposit of moneys to credit of appropriation

(1) The said extra compensation shall be paid to the United States by the owner, agent, consignee, operator, or master or other person in charge of any conveyance, for whom, at his request, services as described in this subsection (hereinafter referred to as overtime service) are performed. If such employees have been ordered to report for duty and have so reported, and the requested services are not performed by reason of circumstances beyond the control of the employees concerned, such extra compensation shall be paid on the same basis as though the overtime services had actually been performed during the period between the time the employees were ordered to report for duty and did so report, and the time they were notified that their services would not be required, and in any case as though their services had continued for not less than one hour. The Surgeon General with the approval of the Secretary of Health, Education, and Welfare may prescribe regulations requiring the owner, agent, consignee, operator, or master or other person for whom the overtime services are performed to file a bond in such amounts and containing such conditions and with such sureties, or in lieu of a bond, to deposit money or obligations of the United States in such amount, as will assure the payment of charges under this subsection, which bond or deposit may cover one or more transactions or all transactions during a specified period: *Provided,* That no charges shall be made for services performed in connection with the inspection of (1) persons arriving by international highways, ferries, bridges, or tunnels, or the conveyances in which they arrive, or (2) persons arriving by aircraft or railroad trains, the operations of which are covered by published schedules, or the aircraft or trains in which they arrive, or (3) persons arriving by vessels operated between Canadian ports and ports on Puget Sound or operated on the Great Lakes and connecting waterways, the operations of which are covered by published schedules, or the vessels in which they arrive.

(2) Moneys collected under this subsection shall be deposited in the Treasury of the United States to the credit of the appropriation charged with the expense of the services, and the appropriations so credited shall be available for the payment of such compensation to the said employees for services so rendered.

(July 1, 1944, ch. 373, title III, § 364, 58 Stat. 704; June 21, 1957, Pub. L. 85-58, ch. VII, § 701, 71 Stat. 181; Aug. 1, 1958, Pub. L. 85-580, title II, § 201, 72 Stat. 467.)

AMENDMENTS

1958—Subsec. (c). Pub. L. 85-580 increased the rate of pay for each hour that the overtime extends beyond 6 o'clock (or 7 o'clock as the case may be) postmeridian from one and one-half times the basic hourly rate to two times the basic hourly rate.

1957—Subsecs. (c), (d). Pub. L. 85-58 added subsecs. (c) and (d).

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270, 271 of this title.

§ 268. Quarantine duties of consular and other officers

(a) Any consular or medical officer of the United States, designated for such purpose by the Secretary, shall make reports to the Surgeon General, on such forms and at such intervals as the Surgeon General may prescribe, of the health conditions at the port or place at which such officer is stationed.

(b) It shall be the duty of the customs officers and of Coast Guard officers to aid in the enforcement of quarantine rules and regulations; but no additional compensation, except actual and necessary traveling expenses, shall be allowed any such officer by reason of such services.

(July 1, 1944, ch. 373, title III, § 365, 58 Stat. 705; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

Reference to the Secretary of Health, Education, and Welfare was substituted for reference to the Federal Security Administrator pursuant to section 5 of Reorg. Plan No. 1, of 1953, set out as a note under section 202 of this title, which transferred all functions of the Federal Security Administrator to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency to the Department of Health, Education, and Welfare. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Officers of the customs are officers of the Treasury Department.

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions

thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270 of this title.

§ 269. Bills of health

(a) Detail of medical officer; conditions precedent to issuance; consular officer to receive fees

Except as otherwise prescribed in regulations, any vessel at any foreign port or place clearing or departing for any port or place in a State or possession shall be required to obtain from the consular officer of the United States or from the Public Health Service officer, or other medical officer of the United States designated by the Surgeon General, at the port or place of departure, a bill of health in duplicate, in the form prescribed by the Surgeon General. The President, from time to time, shall specify the ports at which a medical officer shall be stationed for this purpose. Such bill of health shall set forth the sanitary history and condition of said vessel, and shall state that it has in all respects complied with the regulations prescribed pursuant to subsection (c) of this section. Before granting such duplicate bill of health, such consular or medical officer shall be satisfied that the matters and things therein stated are true. The consular officer shall be entitled to demand and receive the fees for bills of health and such fees shall be established by regulation.

(b) Collectors of customs to receive originals; duplicate copies as part of ship's papers

Original bills of health shall be delivered to the collectors of customs at the port of entry. Duplicate copies of such bills of health shall be delivered at the time of inspection to quarantine officers at such port. The bills of health herein prescribed shall be considered as part of the ship's papers, and when duly certified to by the proper consular or other officer of the United States, over his official signature and seal, shall be accepted as evidence of the statements therein contained in any court of the United States.

(c) Regulations to secure sanitary conditions of vessels

The Surgeon General shall from time to time prescribe regulations, applicable to vessels referred to in subsection (a) of this section for the purpose of preventing the introduction into the States or possessions of the United States of any communicable disease by securing the best sanitary condition of such vessels, their cargoes, passengers, and crews. Such regulations shall be observed by such vessels prior to departure, during the course of the voyage, and also during inspection, disinfection, or other quarantine procedure upon arrival at any United States quarantine station.

(d) Vessels from ports near frontier

The provisions of subsections (a) and (b) of this section shall not apply to vessels plying between such foreign ports on or near the frontiers of the United States and ports of the United States as are designated by treaty.

(e) Compliance with regulations

It shall be unlawful for any vessel to enter any port in any State or possession of the United States to discharge its cargo, or land its passengers, except upon a certificate of the quarantine officer that regulations prescribed under subsection (c) of this section have in all respects been complied with by such officer, the vessel, and its master. The master of every such vessel shall deliver such certificate to the collector of customs at the port of entry, together with the original bill of health and other papers of the vessel. The certificate required by this subsection shall be procurable from the quarantine officer, upon arrival of the vessel at the quarantine station and satisfactory inspection thereof, at any time within which quarantine services are performed at such station.

(July 1, 1944, ch. 373, title III, § 366, 58 Stat. 705.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270, 271 of this title.

§ 270. Quarantine regulations governing civil air navigation and civil aircraft

The Surgeon General is authorized to provide by regulations for the application to air navigation and aircraft of any of the provisions of sections 267 to 269 of this title and regulations prescribed thereunder (including penalties and forfeitures for violations of such sections and regulations), to such extent and upon such conditions as he deems necessary for the safeguarding of the public health.

(July 1, 1944, ch. 373, title III, § 367, 58 Stat. 706.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

§ 271. Penalties for violation of quarantine laws

(a) Penalties for persons violating quarantine laws

Any person who violates any regulation prescribed under sections 264 to 266 of this title, or any provision of section 269 of this title or any regulation prescribed thereunder, or who enters or departs from the limits of any quarantine station, ground, or anchorage in disregard of quarantine rules and regulations or without permission of the quarantine officer in charge, shall be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or both.

(b) Penalties for vessels violating quarantine laws

Any vessel which violates section 269 of this title, or any regulations thereunder or under section 267 of this title, or which enters within or departs from the limits of any quarantine station, ground, or anchorage in disregard of the quarantine rules and regulations or without permission of the officer in charge, shall forfeit to the United States not more than $5,000, the amount to be determined by the court, which shall be a lien on such vessel, to be recovered by proceedings in the proper district court of the United States. In all such proceedings the United States attorney shall appear on behalf of the United States; and all such proceedings shall be conducted in accordance with the rules and laws governing cases of seizure of vessels for violation of the revenue laws of the United States.

(c) Remittance or mitigation of forfeitures

With the approval of the Secretary, the Surgeon General may, upon application therefor, remit or mitigate any forfeiture provided for under subsection (b) of this section, and he shall have authority to ascertain the facts upon all such applications.

(July 1, 1944, ch. 373, title III, § 368, 58 Stat. 706; June 25, 1948, ch. 646, § 1, 62 Stat. 909; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "United States district attorney". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision note thereunder.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

§ 272. Administration of oaths by quarantine officers

Medical officers of the United States, when performing duties as quarantine officers at any port or place within the United States, are authorized to take declarations and administer oaths in matters pertaining to the administration of the quarantine laws and regulations of the United States.

(July 1, 1944, ch. 373, title III, § 369, 58 Stat. 706.)

PART H—GRANTS TO ALASKA FOR MENTAL HEALTH

PRIOR PROVISIONS

Another Part H, entitled "National Library of Medicine", was added by act Aug. 3, 1956, ch. 907, 70 Stat. 960. Its part designation was changed to "Part I" and it is set out in section 275 et seq. of this title.

§ 273. Repealed. Pub. L. 86-70, § 31(b)(1), June 25, 1959, 73 Stat. 148

Section, act July 1, 1944, ch. 373, title III, § 371, as added July 28, 1956, ch. 772, title II, § 201, 70 Stat. 709, authorized grants to the Territory of Alaska for an integrated mental health program. Another section 371 of act July 1, 1944, added by act Aug. 3, 1956, ch. 907, § 1, 70 Stat. 960, is set out as section 275 of this title.

EFFECTIVE DATE OF REPEAL

Section 31(b)(1) of Pub. L. 86-70 provided in part that the repeal of this section shall be effective July 1, 1959.

§ 274. Grants to Alaska for mental health program; payments for construction of hospital facilities

(a) Authorization of appropriation

There is authorized to be appropriated an amount not exceeding the total sum of $6,500,000, to remain available until expended, to enable the Surgeon General to make payments to Alaska as the total contribution of the Federal Government to be used in defraying the cost of construction of hospital and other facilities in Alaska needed for the carrying out of a comprehensive mental health program.

(b) Construction of projects

Such facilities shall be scheduled for construction in accordance with a comprehensive construction program, developed by Alaska in consultation with the Public Health Service and approved by the Surgeon General. Projects shall be constructed in accordance with such approved program and in accordance with the plans and specifications for the project approved by the Surgeon General.

(c) Certification for payment; inspection; withholding of payment

Upon certification by Alaska, based upon inspection by it, that work has been performed upon a project, or purchases have been made in accordance with approved plans and specifications, and that payment of an installment is due, the Surgeon General shall certify such installment for payment: *Provided, however,* That the Surgeon General may cause the project to be inspected at any time, and if such inspection indicates that the project is not being constructed in accordance with approved plans and specifications, he may, after notice and affording opportunity for hearing, withhold further payment until he finds that adequate corrective measures have been taken.

(d) Definition of cost of construction

The term "cost of construction" means the amount found necessary by the Surgeon General for the construction of a project and includes the construction and initial equipment of buildings (including medical transportation facilities), architects' and engineering fees, the cost of land acquired specifically for the purpose of the project, and on-site improvements.

(e) Recovery of value of facility

If, within twenty years from the date of completion of construction, any hospital or other medical facility constructed with the aid of grants under this section shall cease to be a publicly owned facility operated for the care or treatment of patients under Alaska's mental health program, the United States shall be entitled to recover from Alaska the then value of the hospital or other medical facility, reduced, however, proportionately to the extent to which Alaska may have contributed to the cost of construction thereof.

(July 1, 1944, ch. 373, title III, § 372, as added July 28, 1956, ch. 772, title II, § 201, 70 Stat. 710, and amended June 25, 1959, Pub. L. 86-70, § 31(b)(2)-(4), 73 Stat. 148.)

PRIOR PROVISIONS

Another section 372 of act July 1, 1944, added by act Aug. 3, 1956 ch. 941, § 1, 70 Stat. 960, and relating to the functions of the National Library of Medicine, is set out as section 276 of this title.

AMENDMENTS

1959—Subsec. (a). Pub. L. 86-70, § 31(b)(2), eliminated words "the Territory of" preceding "Alaska as".

Subsec. (b). Pub. L. 86-70, § 31(b)(3), substituted "Alaska" for "the Territory".

Subsec. (c). Pub. L. 86-70, § 31(b)(3), substituted "Alaska" for "the Territory".

Subsec. (e). Pub. L. 86-70, § 31(b)(3), (4), substituted "Alaska" for "the Territory" in two instances, and "Alaska's" for "the Territory's".

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-70 effective on Jan. 3, 1959, see section 47(d) of Pub. L. 86-70.

EFFECTIVE DATE

Section 203 of act July 28, 1956 provided that this section shall be effective July 28, 1956.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service were transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

PART I—NATIONAL LIBRARY OF MEDICINE

AMENDMENTS

1970—Pub. L. 91-212, § 10(a)(2), Mar. 13, 1970, 84 Stat. 66, redesignated "Part H—National Library of Medicine", as "Part I—National Library of Medicine".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 280b-2 of this title.

§ 275. Congressional declaration of purpose; establishment

In order to assist the advancement of medical and related sciences, and to aid the dissemination and exchange of scientific and other information important to the progress of medicine and to the public health, there is established in the Public Health Service a National Library of Medicine (hereinafter referred to in this part as the "Library").

(July 1, 1944, ch. 373, title III, § 381, formerly § 371, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 960, and renumbered Mar. 13, 1970, Pub. L. 91-212, § 10(a)(3), 84 Stat. 66.)

PRIOR PROVISIONS

A prior section 371 of act July 1, 1944, added by act July 28, 1956, ch. 772, title II, § 201, 70 Stat. 209, and relating to grants for Alaska Mental Health program, was set out as section 273 of this title.

SHORT TITLE

For Short Title of act Aug. 3, 1956, ch. 907, which enacted this part, see Short Title of 1956 Amendments note set out under section 201 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

§ 276. Functions of Secretary

(a) Acquisition, organization, etc., of materials

The Secretary, through the Library and subject to the provisions of subsection (c) of this section, shall—

(1) acquire and preserve books, periodicals, prints, films, recordings, and other library materials pertinent to medicine;

(2) organize the materials specified in clause (1) of this subsection by appropriate cataloging, indexing, and bibliographical listing;

(3) publish and make available the catalogs, indexes, and bibliographies referred to in clause (2) of this subsection;

(4) make available, through loans, photographic or other copying procedures or otherwise, such materials in the Library as he deems appropriate;

(5) provide reference and research assistance; and

(6) engage in such other activities in furtherance of the purposes of this part as he deems appropriate and the Library's resources permit.

(b) Exchange, destruction, or disposal of unneeded materials

The Secretary may exchange, destroy, or otherwise dispose of any books, periodicals, films, and other library materials not needed for the permanent use of the Library.

(c) Rules for public access to materials

The Secretary is authorized, after obtaining the advice and recommendations of the Board (established under section 277 of this title), to prescribe rules under which the Library will

provide copies of its publications or materials, or will make available its facilities for research or its bibliographic, reference, or other services, to public and private agencies and organizations, institutions, and individuals. Such rules may provide for making available such publications, materials, facilities, or services (1) without charge as a public service, or (2) upon a loan, exchange, or charge basis, or (3) in appropriate circumstances, under contract arrangements made with a public or other nonprofit agency, organization, or institution.

(July 1, 1944, ch. 373, title III, § 382, formerly § 372, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 960, and renumbered and amended Mar. 13, 1970, Pub. L. 91-212, § 10(a)(3), (b)(1), (d)(1), 84 Stat. 66, 67; Nov. 18, 1971, Pub. L. 92-157, title III, § 301(d)(1), 85 Stat. 463.)

PRIOR PROVISIONS

A prior section 372 of act July 1, 1944, added by act July 28, 1956, ch. 772, title II, § 201, 70 Stat. 209, and relating to payments for construction of hospital facilities in connection with the Alaska mental health program, is set out as section 274 of this title.

AMENDMENTS

1971—Pub. L. 92-157 inserted "Secretary" preceding ", through the Library" in subsec. (a), "may exchange" in subsec. (b), and "is authorized" in subsec. (c), to correct an omission brought about by incompleteness of congressional provisions as disclosed in the 1970 Amendment note below.

1970—Pub. L. 91-212, § 10(d)(1), struck out "Surgeon General" wherever appearing. "Secretary" was editorially substituted therefor in the codification of Pub. L. 91-212 as the probable intent of Congress.

Subsec. (c). Pub. L. 91-212, 10(b)(1), substituted "section 383" for "section 373" which for purposes of codification has been editorially translated as "section 277 of this title."

EFFECTIVE DATE OF 1970 AMENDMENT

Section 12(b) of Pub. L. 91-212 provided that: "The amendments made by sections 10(d) and 11 [amending this section and sections 201, 277, 278, 280, 280a-1, 280b-2 to 280b-9 and 280b-11 of this title] shall take effect on the date of enactment of this Act [Mar. 13, 1970]."

§ 277. Board of Regents

(a) Establishment; composition; appointment of members; Chairman; executive secretary

There is established in the Public Health Service a Board of Regents of the National Library of Medicine (referred to in this part as the "Board") consisting of the Surgeons General of the Public Health Service, the Army, the Navy, and the Air Force, the Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration, the Assistant Director for Biological and Medical Sciences of the National Science Foundation, and the Librarian of Congress, all of whom shall be ex officio members and ten members appointed by the President, by and with the advice and consent of the Senate. The ten appointed members shall be selected from among leaders in the various fields of the fundamental sciences, medicine, dentistry, public health, hospital administration, pharmacology, or scientific or medical library work, or in public affairs. At least six of the appointed members shall be selected from among leaders in the fields of medical, dental, or public health research or education. The Board shall annually elect one of the appointed members to serve as Chairman until the next election. The Secretary shall designate a member of the Library staff to act as executive secretary of the Board.

(b) Duties of Board; annual report of Secretary

It shall be the duty of the Board to advise, consult with, and make recommendations to the Secretary on important matters of policy in regard to the Library, including such matters as the acquisition of materials for the Library, the scope, content and organization of the Library's services, and the rules under which its materials, publications, facilities, and services shall be made available to various kinds of users, and the Secretary shall include in his annual report to the Congress a statement covering the recommendations made by the Board and the disposition thereof. The Secretary is authorized to use the services of any member or members of the Board in connection with matters related to the work of the Library, for such periods, in addition to conference periods, as he may determine.

(c) Terms of office; vacancies; reappointment

Each appointed member of the Board shall hold office for a term of four years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of the members first taking office after August 3, 1956 shall expire as follows: three at the end of four years after August 3, 1956, three at the end of three years after August 3, 1956, two at the end of two years after August 3, 1956, and two at the end of one year after August 3, 1956, as designated by the President at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term.

(July 1, 1944, ch. 373, title III, § 383, formerly § 373, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 960, amended Oct. 22, 1965, Pub. L. 89-291, § 4, 79 Stat. 1067, and renumbered and amended Mar. 13, 1970, Pub. L. 91-212, § 10(a)(3), (d)(1), 84 Stat. 66, 67; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(b)(2), 84 Stat. 1311; Nov. 18, 1971, Pub. L. 92-157, title III, § 301(d)(2), 85 Stat. 464.)

AMENDMENTS

1971—Pub. L. 92-157 inserted "Secretary" preceding "shall designate" in last sentence of subsec. (a), and preceding "on important matters", "shall include", and "is authorized" in subsec. (b), to correct an omission brought about by incompleteness of congressional provisions as disclosed in 1970 Amendment note, and again struck out subsec. (d) as part of section 383 of act July 1, 1944, previously struck out as part of section 373 of act July 1, 1944.

1970—Subsecs. (a), (b), (d). Pub. L. 91-212, § 10(d)(1), struck out "Surgeon General" wherever appearing. "Secretary" was editorially substituted therefor in the codification of Pub. L. 91-212 as the probable intent of Congress.

Subsec. (d). Pub. L. 91-515 struck out subsec. (d) which related to the payment of compensation and travel expenses of appointed members of the Board not otherwise in the employ of the United States.

1965—Subsec. (d). Pub. L. 89-291 substituted "$75" for "$50".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 276 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 276, 279, 280b-1, 280b-2 of this title.

§ 278. Acceptance and administration of gifts; establishment of memorials

The provisions of section 219 of this title shall be applicable to the acceptance and administration of gifts made for the benefit of the Library or for carrying out any of its functions, and the Board shall make recommendations to the Secretary of Health, Education, and Welfare relating to establishment within the Library of suitable memorials to the donors.

(July 1, 1944, ch. 373, title III, § 384, formerly § 374, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 961, and renumbered and amended Mar. 13, 1970, Pub. L. 91-212, § 10(a)(3), (d)(1), 84 Stat. 66, 67.)

AMENDMENTS

1970—Pub. L. 91-212, § 10(d)(1), substituted "Board" for "Surgeon General".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 276 of this title.

§ 279. Definitions

For purposes of this part the terms "medicine" and "medical" shall, except when used in section 277 of this title, be understood to include preventive and therapeutic medicine, dentistry, pharmacy, hospitalization, nursing, public health, and the fundamental sciences related thereto, and other related fields of study, research, or activity.

(July 1, 1944, ch. 373, title III, § 385, formerly § 375, as added Aug. 3, 1956, ch. 907 § 1, 70 Stat. 962, and renumbered and amended Mar. 13, 1970, Pub. L. 91-212, § 10(a)(3), (b)(2), 84 Stat. 66.)

AMENDMENTS

1970—Pub. L. 91-212, § 10(b)(2), substituted "section 383" for "section 373" which for purposes of codification has been editorially translated as "section 277 of this title".

§ 280. Library facilities

There are authorized to be appropriated sums sufficient for the erection and equipment of suitable and adequate buildings and facilities for use of the Library in carrying out the provisions of this part. The Administrator of General Services is authorized to acquire, by purchase, condemnation, donation, or otherwise, a suitable site or sites, selected by the Secretary in accordance with the direction of the Board, for such buildings and facilities and to erect thereon, furnish, and equip such buildings and facilities. The sums authorized in this section to be appropriated shall include the cost of preparation of drawings and specifications, supervision of construction, and other administrative expenses incident to the work. The Administrator of General Services shall prepare the plans and specifications, make all necessary contracts, and supervise construction.

(July 1, 1944, ch. 373, title III, § 386, formerly § 376, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 962, and renumbered and amended Mar. 13, 1970, Pub. L. 91-212, § 10(a)(3), (d)(1), 84 Stat. 66, 67; Nov. 18, 1971, Pub. L. 92-157, title III, § 301(d)(3), 85 Stat. 464.)

AMENDMENTS

1971—Pub. L. 92-157 inserted "Secretary" in the phrase "selected by the Secretary" to correct an omission brought about by incompleteness of congressional provisions as disclosed in 1970 Amendment note below.

1970—Pub. L. 91-212, § 10(d)(1), struck out "Surgeon General". "Secretary" was editorially substituted therefor in the codification of Pub. L. 91-212 as the probable intent of Congress.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 276 of this title.

§ 280a. Transfer of Armed Forces Medical Library

All civilian personnel, equipment, library collections, other personal property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), which the Director of the Office of Management and Budget shall determine to relate primarily to the functions of the Armed Forces Medical Library, are transferred to the Service for use in the administration and operation of this part. Such transfer of property, funds, and personnel, and the other provisions of this part, shall become effective on the first day, occurring not less than thirty days after August 3, 1956, which the Director of the Office of Management and Budget determines to be practicable.

(July 1, 1944, ch. 373, title III, § 387, formerly § 377, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 962, amended 1970 Reorg. Plan No. 2 § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, and renumbered Mar. 13, 1970, Pub. L. 91-212, § 10(a)(3), 84 Stat. 66.)

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of Reorg. Plan No. 2 of 1970, redesignated the Bureau of the Budget as the Office of Management and Budget and the offices of

Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget as Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively. Section 103 of Reorg. Plan No. 2 of 1970, transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget. See Part I of Reorganization Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

§ 280a-1. Regional branches

(a) Whenever, the Secretary, with the advice of the Board, determines that—

(1) in any geographic area of the United States, there is no regional medical library adequate to service such area;

(2) under the criteria prescribed in section 280b-8 of this title, there is a need for a regional medical library to serve such area; and

(3) because there is located in such area no medical library which, under the provisions of section 280b-8 of this title, can feasibly be developed into a regional medical library adequate to serve such area,

he is authorized to establish, as a branch of the National Library of Medicine, a regional medical library to serve the needs of such area.

(b) For the purpose of establishing branches of the National Library of Medicine under this section, there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, such sums, not to exceed $2,000,000 for any fiscal year, as may be necessary. Sums appropriated pursuant to this section for any fiscal year shall remain available until expended.

(July 1, 1944, ch. 373, title III, § 388, formerly 378, as added Oct. 22, 1965, Pub. L. 89-291, § 3, 79 Stat. 1067, and renumbered and amended Mar. 13, 1970, Pub. L. 91-212, § 10(a)(3), (d)(1), 84 Stat. 66, 67; Nov. 18, 1971, Pub. L. 92-157, title III, § 301(d)(4), 85 Stat. 464.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92-157 inserted "Secretary" in the phrase "Whenever, the Secretary" to correct an omission brought about by incompleteness of congressional provisions as disclosed in 1970 Amendment note below.

1970—Subsec. (a). Pub. L. 91-212, § 10(d)(1), struck out "Surgeon General". "Secretary" was editorially substituted therefor in the codification of Pub. L. 91-212 as the probable intent of Congress.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 276 of this title.

PART J—ASSISTANCE TO MEDICAL LIBRARIES

AMENDMENTS

1970—Pub. L. 91-212, § 10(a)(1), Mar. 13, 1970, 84 Stat. 66, redesignated "Part I—Assistance to Medical Libraries", as "Part J—Assistance to Medical Libraries".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 293b of this title.

§ 280b. Congressional findings and declaration of policy

(a) Finding of lack of growth in facilities for the dissemination of knowledge

The Congress hereby finds and declares that (1) the unprecedented expansion of knowledge in the health sciences within the past two decades has brought about a massive growth in the quantity, and major changes in the nature of, biomedical information, materials, and publications; (2) there has not been a corresponding growth in the facilities and techniques necessary adequately to coordinate and disseminate among health scientists and practitioners the ever-increasing volume of knowledge and information which has been developed in the health science field; (3) much of the value of the ever-increasing volume of knowledge and information which has been, and continues to be, developed in the health science field will be lost unless proper measures are taken in the immediate future to develop facilities and techniques necessary to collect, preserve, store, process, retrieve, and facilitate the dissemination and utilization of, such knowledge and information.

(b) Statement of policy to assist in distribution and utilization of information

It is therefore the policy of this part to—

(1) assist in the training of medical librarians and other information specialists in the health sciences;

(2) assist, through grants to physicians and other practitioners in the sciences related to health, to scientists, and to public or nonprofit private institutions on behalf of such physicians, other practitioners, and scientists, in the compilation of existing, and the creation of additional, written matter which will facilitate the distribution and utilization of knowledge and information relating to scientific, social, and cultural advancements in sciences related to health;

(3) assist in the conduct of research, investigations, and demonstrations in the field of medical library science and related activities, and in the development of new techniques, systems, and equipment for processing, storing, retrieving, and distributing information in the sciences related to health;

(4) assist in establishing, expanding, and improving the basic resources of medical libraries and related facilities;

(5) assist in the development of a national system of regional medical libraries each of which would have facilities of sufficient depth and scope to supplement the services of other medical libraries within the region served by it; and

(6) provide financial support to biomedical scientific publications.

(c) Authorization of appropriations

For the purpose of grants and contracts under sections 280b-3, 280b-4, 280b-5, 280b-7, and 280b-8 of this title, there are authorized to be appropriated $17,500,000 for the fiscal year ending June 30, 1975, and $20,000,000 for the fiscal year ending June 30, 1976.

(July 1, 1944, ch. 373, title III, § 390, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1059, and amended Mar. 13, 1970, Pub. L. 91-212, §§ 4(b), 5(b), 6(b), 84 Stat. 64, 65; July 23, 1974, Pub. L. 93-353, title II, §§ 201(a), 202(a), 88 Stat. 371, 372.)

REFERENCES IN TEXT

Section 280b-3 of this title, referred to in subsec. (c), was repealed by Pub. L. 93-353, title II, § 202(d), July 23, 1974, 88 Stat. 372.

AMENDMENTS

1974—Subsecs. (b)(1) to (7). Pub. L. 93-353, § 202(a), struck out par. (1) provisions for assistance in the construction of new, and the renovation, expansion, or rehabilitation of existing medical library facilities, and redesignated former pars. (2) to (7) as (1) to (6), respectively.

Subsec. (c). Pub. L. 93-353, § 201(a), added subsec. (c).

1970—Subsec. (b)(3). Pub. L. 91-212, § 4(b), substituted reference to grants for reference to special fellowships and added public and nonprofit private institutions on behalf of qualified individuals to the category of recipients.

Subsec. (b)(4). Pub. L. 91-212, § 5(b), added demonstrations as projects for which assistance could be given.

Subsec. (b)(5). Pub. L. 91-212, § 6(b), added authority to assist in establishing the basic resources of libraries and related facilities.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 201(a) of Pub. L. 93-353 provided in part that enactment of subsec. (c) of this section by Pub. L. 93-353 shall be effective July 1, 1974.

Section 205 of Pub. L. 93-353 provided that: "The amendments made by section 202 [amending sections 280b(b), 280b-1, 280b-2(b), and 280b-8(b), (d) and repealing section 280b-3 of this title], 203 [amending sections 280b-4(a); 280b-5(a), (b), 280b-7, 280b-8(a), and 280b-9(a) of this title], and 204 [repealing section 280b-12 of this title] shall apply with respect to appropriations under part J of the Public Health Service Act [this part] for fiscal years beginning after June 30, 1974."

EFFECTIVE DATE OF 1970 AMENDMENT

Section 12(a) of Pub. L. 91-212 provided that: "Except as provided in subsection (b) [see Effective Date of 1970 Amendment note set out under section 276 of this title], the amendments made by this Act [enacting section 280b-12 of this title and amending sections 280b and 280b-3 to 280b-9 of this title] shall apply with respect to appropriations for fiscal years ending after June 30, 1970."

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR ENDING JUNE 30, 1977

Section 201(c) of Pub. L. 93-353 extended the authorization of appropriations provided by subsec. (c) of this section for the fiscal year ending June 30, 1977, in the amount authorized for the preceding fiscal years unless, before June 30, 1976, Congress repealed this subsection.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280b-4, 280b-5, 280b-7, 280b-8, 280b-9 of this title.

§ 280b-1. Definitions

As used in this part—

(1) the term "sciences related to health" includes medicine, osteopathy, dentistry, and public health, and fundamental and applied sciences when related thereto;

(2) the terms "National Medical Libraries Assistance Advisory Board" and "Board" mean the Board of Regents of the National Library of Medicine established under section 277(a) of this title; and

(3) the term "medical library" means a library related to the sciences related to health.

(July 1, 1944, ch. 373, title III, § 391, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1059, and amended Mar. 13, 1970, Pub. L. 91-212, § 10(b)(3), 84 Stat. 66; July 23, 1974, Pub. L. 93-353, title II, § 202(b), 88 Stat. 372.)

AMENDMENTS

1974—Pub. L. 93-353 struck out par. (3) definitions of "construction" and "cost of construction" and redesignated former par. (4) as (3).

1970—Par. (2). Pub. L. 91-212, substituted "section 383(a)" for "section 373(a)" which for purposes of codification has been editorially translated as "section 277(a) of this title".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93-353, set out as an Effective Date of 1974 Amendment note under section 280b of this title.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 280b-2. National Medical Libraries Assistance Advisory Board

(a) Composition

The Board of Regents of the National Library of Medicine established pursuant to section 277(a) of this title shall, in addition to its functions prescribed under section 277 of this title, constitute and serve as the National Medical Libraries Assistance Advisory Board (hereinafter in this part referred to as the "Board").

(b) Functions

The Board shall advise and assist the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this part.

(c) Authorization to use services of members for periods in addition to conference periods

The Secretary is authorized to use the services of any member or members of the Board, in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as he may determine.

(d) Compensation; travel expenses

Appointed members of the Board who are not otherwise in the employ of the United States, while attending conferences of the Board or otherwise serving at the request of the Secre-

tary in connection with the administration of this part, shall be entitled to receive compensation, per diem in lieu of subsistence, and travel expenses in the same manner and under the same conditions as that prescribed under section 277(d) of this title, when attending conferences, traveling, or serving at the request of the Secretary in connection with the administration of part I of this subchapter which deals with the National Library of Medicine.

(July 1, 1944, ch. 373, title III, § 392, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1060, and amended Mar. 13, 1970, Pub. L. 91-212, § 10(b)(4), (d)(2)(A), 84 Stat. 66, 67; July 23, 1974, Pub. L. 93-353, title II, § 202(c), 88 Stat. 372.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-353 deleted par. (1) designation and struck out par. (2) provisions requiring Board consideration of all applications for construction grants under this part and making to the Secretary such recommendations as it deems advisable with respect to (A) the approval of such applications, and (B) the amount which should be granted to each applicant whose application, in its opinion, should be approved.

1970—Subsec. (a). Pub. L. 91-212, § 10(b)(4)(A), (B), substituted "section 383(a)" and "section 383" for "section 373(a)" and "section 373", respectively, which for purposes of codification have been editorially translated as "section 277(a) of this title" and "section 277 of this title".

Subsecs. (b), (c). Pub. L. 91-212, § 10(d)(2)(A), substituted "Secretary" for "Surgeon General" wherever appearing in subsecs. (b) and (c).

Subsec. (d). Pub. L. 91-212, § 10(b)(4)(C)(D), (d)(2)(A), substituted "section 383(d)" and "part I" for "section 373(d)" and "Part H which deals with the National Library of Medicine," respectively, which for purposes of codification have been editorially translated as "section 277(d) of this title" and "part I of this subchapter", and substituted "Secretary" for "Surgeon General" wherever appearing.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93-353, set out as an Effective Date of 1974 Amendment note under section 280b of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of subsecs. (b) to (d) by Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 276 of this title.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 280b-3. Repealed. Pub. L. 93-353, title II, § 202(d), July 23, 1974, 88 Stat. 372

Section, act July 1, 1944, ch. 373, title III, § 393, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1060, and amended Mar. 13, 1970, Pub. L. 91-212, §§ 2(a), 3, 10(d)(2), 84 Stat. 63, 64, 67, related to grants for construction of medical library facilities, providing in the subsections as follows: subsec. (a), authorization; subsec. (b), conditions prerequisite to approval; subsec. (c), factors considered in acting upon application; subsec. (d), amount and limitation of grant; subsec. (e), reservation of amount and payments; subsec. (f), computation of amount and exclusions from cost of construction; subsec. (g), recovery of funds; and subsec. (h), authorization of appropriations.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 93-353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93-353, set out as an Effective Date of 1974 Amendment note under section 280b of this title.

§ 280b-4. Grants for training in medical library sciences

(a) To carry out the purposes of section 280b(b)(1) of this title, the Secretary shall make grants—

(1) to individuals to enable them to accept traineeships and fellowships leading to post-baccalaureate academic degrees in the field of medical library science, in related fields pertaining to sciences related to health, or in the field of the communication of information;

(2) to individuals who are librarians or specialists in information on sciences relating to health, to enable them to undergo intensive training or retraining so as to attain greater competence in their occupations (including competence in the fields of automatic data processing and retrieval);

(3) to assist appropriate public and private nonprofit institutions in developing, expanding, and improving, training programs in library science and the field of communications of information pertaining to sciences relating to health; and

(4) to assist in the establishment of internship programs in established medical libraries meeting standards which the Secretary shall prescribe.

(b) Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board.

(July 1, 1944, c. 373, title III, § 393, formerly § 394, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1062, amended Mar. 13, 1970, Pub. L. 91-212, §§ 2(b), 10(d)(2)(A), 84 Stat. 63, 67; June 18, 1973, Pub. L. 93-45, title I, § 107(a), 87 Stat. 92, and renumbered and amended July 23, 1974, Pub. L. 93-353, title II, §§ 203(a), 204, 88 Stat. 372, 373.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-353, § 203(a), struck out first sentence provisions respecting authorization of appropriations to carry out purposes of section 280(b)(2) of this title in amounts of $1,500,000, $1,750,000, $2,000,000, and $1,500,000 for fiscal years ending June 30, 1971, 1972, 1973, and 1974, respectively, and substituted "To carry out the purposes of section 280b(b)(1) of this title, the Secretary shall make" for "Sums made available under this section shall be utilized by the Secretary in making".

1973—Subsec. (a). Pub. L. 93-45 authorized appropriations of $1,500,000 for fiscal year ending June 30, 1974.

1970—Subsec. (a). Pub. L. 91-212, §§ 2(b), 10(d)(2)(A), substituted provisions which authorized appropriations of $1,500,000 for the fiscal year ending June 30, 1971, $1,750,000 for the fiscal year ending June 30, 1972, and $2,000,000 for the fiscal year ending June 30, 1973, for provisions which authorized appropriations

for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, of such sums as may be necessary, not to exceed $1,000,000 for any fiscal year, and substituted "Secretary" for "Surgeon General" wherever appearing.

Subsec. (b). Pub. L. 91-212, § 10(d)(2)(A), substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93-353, set out as an Effective Date of 1974 Amendment note under section 280b of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of subsec. (a) by section 2(b) of Pub. L. 91-212 applicable with respect to appropriations for fiscal years ending after June 30, 1970, see section 12(a) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 280b of this title.

Amendment by section 10(d)(2)(A) of Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 276 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280b of this title.

§ 280b-5. Assistance for special scientific projects, and research and development in medical library science and related fields

(a) Grants for compilation or writing of contributions relating to advancements in sciences related to health

To carry out the purposes of section 280b(b)(2) of this title, the Secretary shall make grants to physicians and other practitioners in the sciences related to health, to scientists, and to public or nonprofit private institutions on behalf of such physicians, other practitioners, and scientists for the compilation of existing, or writing of original, contributions relating to scientific, social, or cultural, advancements in sciences related to health. In making such grants, the Secretary shall make appropriate arrangements whereby the facilities of the National Library of Medicine and the facilities of libraries of public and private nonprofit institutions of higher learning may be made available in connection with the projects for which such grants are made.

(b) Grants for special projects in medical library science and related fields

To carry out the purposes of section 280b(b)(3) of this title, the Secretary shall make grants to appropriate public or private nonprofit institutions and enter into contracts with appropriate persons, for purposes of carrying out projects of research, investigations, and demonstrations in the field of medical library science and related activities and for the development of new techniques, systems and equipment for processing, storing, retrieving, and distributing information pertaining to sciences related to health.

(c) Manner of payment; regulations

Payment pursuant to grants made under this section may be in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board.

(July 1, 1944, ch. 373, title III, § 394, formerly § 395, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1062, amended Mar. 13, 1970, Pub. L. 91-212, §§ 2(c), (d), 4(a), 5(a), 10(c)(1)(A), (B), (2)(A)-(C), (d)(2)(A), 84 Stat. 63, 64, 66, 67; June 18, 1973, Pub. L. 93-45, title I, § 107(b), (c), 87 Stat. 92, and renumbered and amended July 23, 1974, Pub. L. 93-353, title II, §§ 203(b), 204, 88 Stat. 372, 373.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-353, § 203(b)(1), struck out first and second sentence provisions respecting authorization of appropriations to carry out purposes of section 280(b)(3) of this title in amounts of $500,000 for fiscal years ending June 30, 1966, through June 30, 1973, and $95,000 for fiscal year ending June 30, 1974, and substituted "To carry out the purposes of section 280b(b)(2) of this title, the Secretary shall" for "Sums made available under this subsection shall be utilized by the Secretary to".

Subsec. (b). Pub. L. 93-353, § 203(b)(2), struck out first and second sentence provisions respecting authorization of appropriations to carry out purposes of section 280(b)(4) of this title in amounts of $3,000,000 for fiscal years ending June 30, 1966, through June 30, 1973, and $900,000 for fiscal year ending June 30, 1974, and substituted "To carry out the purposes of section 280b(b)(3) of this title, the Secretary shall make" for "Sums made available under this subsection shall be utilized by the Secretary in making" and "enter into contracts" for "entering into contracts".

1973—Subsec. (a). Pub. L. 93-45, § 107(b), authorized appropriations of $95,000 for fiscal year ending June 30, 1974, to enable the Secretary to carry out the purposes of section 280b(b)(3) of this title.

Subsec. (b). Pub. L. 93-45, § 107(c), authorized appropriations of $900,000 for fiscal year ending June 30, 1974, to enable the Secretary to carry out the purposes of section 280b(b)(4) of this title.

1970—Subsec. (a). Pub. L. 91-212, §§ 2(c), 4(a)(1), (2), 10(c)(1)(A), (B), (d)(2)(A), designated existing provisions as subsec. (a), and, as so designated, substituted "Secretary" for "Surgeon General" wherever appearing, extended the authorization for appropriations from the fiscal year ending June 30, 1970 to the fiscal year ending June 30, 1973, substituted a reference to this subsection for a reference to this section, substituted references to grants for references to special fellowships, and provided that such grants be made to public or nonprofit private institutions on behalf of qualified individuals.

Subsec. (b). Pub. L. 91-212, §§ 2(d), 5(a), 10(c)(2)(A), (B), (d)(2)(A), redesignated former section 280b-6(a) as subsec. (b), and, as so redesignated, substituted "Secretary" for "Surgeon General" wherever appearing, extended the authorization for appropriations from the fiscal year ending June 30, 1970 to the fiscal year ending June 30, 1973, substituted a reference to this subsection for a reference to this section, and added demonstrations as projects for which authorized sums could be utilized.

Subsec. (c). Pub. L. 91-212, § 10(c)(2)(C), (d)(2)(A), redesignated former section 280b-6(b) as subsec. (c), and, as so redesignated, substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93-353, set out as an Effective Date of 1974 Amendment note under section 280b of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by sections 2(c), (d), 4(a), 5(a), and 10(c) of Pub. L. 91-212 applicable with respect to appropriations for fiscal years ending after June 30, 1970, see section 12(a) of Pub. L. 91-212, set out as an Effective

Date of 1970 Amendment note under section 280b of this title.

Amendment by section 10(d)(2)(A) of Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 276 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280b of this title.

§ 280b-6. Transferred

CODIFICATION

Section, act July 1, 1944, ch. 373, title III, § 396, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1063 was redesignated as subsecs. (b) and (c) of section 280b-5 of this title by Pub. L. 91-212, § 10(c)(2), Mar. 13, 1970, 84 Stat. 66.

§ 280b-7. Grants for establishing, expanding, and improving basic medical library or related resources

(a) Uses for which grants may be employed

To carry out the purposes of section 280b(b)(4) of this title, the Secretary shall make grants of money, materials, or both, to public or private nonprofit medical libraries and related scientific communication instrumentalities for the purpose of establishing, expanding, and improving their basic medical library or related resources. The uses for which grants so made may be employed include, but are not limited to, the following: (1) acquisition of books, journals, photographs, motion picture and other films, and other similar materials, (2) cataloging, binding, and other services and procedures for processing library resource materials for use by those who are served by the library or related instrumentality, and (3) acquisition of duplication devices, facsimile equipment, film projectors, recording equipment, and other equipment to facilitate the use of the resources of the library or related instrumentality by those who are served by it, and (4) introduction of new technologies in medical librarianship.

(b) Computation of amount of grant; factors considered in determining scope of services provided by library; maximum amount of grant

(1) The amount of any grant under this section to any medical library or related instrumentality shall be determined by the Secretary on the basis of the scope of library or related services provided by such library or instrumentality in relation to the population and purposes served by it. In making a determination of the scope of services served by any medical library or related instrumentality, the Secretary shall take into account the following factors—

(A) the number of graduate and undergraduate students making use of the resources of such library or instrumentality;

(B) the number of physicians and other practitioners in the sciences related to health utilizing the resources of such library or instrumentality;

(C) the type of supportive staffs, if any, available to such library or instrumentality;

(D) the type, size, and qualifications of the faculty of any school with which such library or instrumentality is affiliated;

(E) the staff of any hospital or hospitals or of any clinic or clinics with which such library or instrumentality is affiliated; and

(F) the geographic area served by such library or instrumentality and the availability, within such area, of medical library or related services provided by other libraries or related instrumentalities.

(2) In no case shall any grant under this section to a medical library or related instrumentality for any fiscal year exceed $200,000; and grants to such medical libraries or related instrumentalities shall be in such amounts as the Secretary may by regulation prescribe with a view to assuring adequate continuing financial support for such libraries or instrumentalities from other sources during and after the period for which Federal assistance is provided.

(July 1, 1944, ch. 373, title III, § 395, formerly § 397, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1063, renumbered § 396 and amended Mar. 13, 1970, Pub. L. 91-212, §§ 2(e), 6(a)(1), (2), 10(c)(3), (d)(2)(A), 84 Stat. 63, 64, 67; June 18, 1973, Pub. L. 93-45, title I, § 107(d), 87 Stat. 92, and renumbered § 395 and amended July 23, 1974, Pub. L. 93-353, title II, §§ 203(c), 204, 88 Stat. 372, 373.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-353, § 203(c)(1)-(3), substituted "To carry out the purposes of section 280b(b)(4) of this title, the Secretary shall make" for "Sums made available under this section shall be utilized by the Secretary for making", redesignated cls. (A) to (D) as (1) to (4), redesignated subsec. (b), as so amended, as subsec. (a), and repealed former subsec. (a) provisions respecting authorization of appropriations to carry out purposes of section 280b(b)(5) of this title in amounts of $3,500,000, $4,000,000, $4,500,000, and $2,705,000 for fiscal years ending June 30, 1971, 1972, 1973, and 1974.

Subsec. (b). Pub. L. 93-353, § 203(c)(3), redesignated former subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 93-353, § 203(c)(3), redesignated former subsec. (c) as (b)

1973—Subsec. (a). Pub. L. 93-45 authorized appropriations of $2,705,000 for fiscal year ending June 30, 1974.

1970—Subsec. (a). Pub. L. 91-212, §§ 2(e), 10(d)(2)(A), substituted "Secretary" for "Surgeon General", and substituted provisions which authorized appropriations of $3,500,000 for the fiscal year ending June 30, 1971, $4,000,000 for the fiscal year ending June 30, 1972, and $4,500,000 for the fiscal year ending June 30, 1973, for provisions which authorized appropriations for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, of such sums as may be necessary, not to exceed $3,000,000 for any fiscal year.

Subsec. (b). Pub. L. 91-212, §§ 6(a)(1), 10(d)(2)(A), added establishment of basic medical libraries as purpose for which grants could be utilized and substituted "Secretary" for "Surgeon General".

Subsec. (c). Pub. L. 91-212, §§ 6(a)(2), 10(d)(2)(A), substituted "Secretary" for "Surgeon General" wherever appearing, struck out the requirement that the amount of a grant be determined as a proportion of the annual operating expenses of applicant libraries and that the amount of subsequent grants decrease annually as a proportion of either the library's annual operating expenses or, if lesser, the prior year's grant, and added the requirement that such grants not exceed $200,000 for any fiscal year and be in such amounts as the Secretary may prescribe by regulation in order to assure that adequate financial support

from other sources continue during and after the period of Federal assistance.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93-353, set out as an Effective Date of 1974 Amendment note under section 280b of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by sections 2(e) and 6(a) of Pub. L. 91-212 applicable with respect to appropriations for fiscal years ending after June 30, 1970, see section 12(a) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 280b of this title.

Amendment by section 10(d)(2)(A) of Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 276 of this title.

LIMITATION ON AMOUNT OF GRANT FOR THE FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976 THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 106(c), Apr. 21, 1976, 90 Stat. 386, provided that no grant under this section for the period July 1, 1976 through Sept. 30, 1976 shall exceed $50,000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280b of this title.

§ 280b-8. Grants for establishment of regional medical libraries

(a) Grants to public or private nonprofit medical libraries

To carry out the purposes of section 280b(b)(5) of this title, the Secretary, with the advice of the Board, shall make grants to existing public or private nonprofit medical libraries so as to enable each of them to serve as the regional medical library for the geographical area in which it is located.

(b) Uses for which grants may be employed

The uses for which grants made under this section may be employed include, but are not limited to, the following—

(1) acquisition of books, journals, and other similar materials;

(2) cataloging, binding, and other procedures for processing library resource materials for use by those who are served by the library;

(3) acquisition of duplicating devices and other equipment to facilitate the use of the resources of the library by those who are served by it;

(4) acquisition of mechanisms and employment of personnel for the speedy transmission of materials from the regional library to local libraries in the geographic area served by the regional library; and

(5) planning for services and activities under this section.

(c) Conditions prerequisite; priorities

(1) Grants under this section shall be made only to medical libraries which agree (A) to modify and increase their library resources, and to supplement the resources of cooperating libraries in the region, so as to be able to provide adequate supportive services to all libraries in the region as well as to individual users of library services, (B) to provide free loan services to qualified users, and make available photoduplicated or facsimile copies of biomedical materials which qualified requesters may retain.

(2) The Secretary, in awarding grants under this section, shall give priority to medical libraries having the greatest potential of fulfilling the needs for regional medical libraries. In determining the priority to be assigned to any medical library, he shall consider—

(A) the adequacy of the library (in terms of collections, personnel, equipment, and other facilities) as a basis for a regional medical library; and

(B) the size and nature of the population to be served in the region in which the library is located.

(d) Maximum amount of grants

Grants under this section for basic resource materials to a library may not exceed 50 per centum of the library's annual operating expense (exclusive of Federal financial assistance under this part) for the preceding year; or in case of the first year in which the library receives a grant under this section for basic resource materials, 50 per centum of its average annual operating expenses over the past three years (or if it had been in operation for less than three years, its annual operating expenses determined by the Secretary in accordance with regulations prescribed by him).

(e) Payments

Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board.

(f) Authority to contract; limitations

The Secretary may also carry out the purposes of this section through contracts, and such contracts shall be subject to the same limitations as are provided in this section for grants.

(July 1, 1944, ch. 373, title III, § 396, formerly § 398, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1065, renumbered § 397 and amended Mar. 13, 1970, Pub. L. 91-212, §§ 2(f), 7, 10(c)(3), (d)(2)(A), 84 Stat. 63, 65, 67; June 18, 1973, Pub. L. 93-45, title I, § 107(e), 87 Stat. 92, and renumbered § 396 and amended July 23, 1974, Pub. L. 93-353, title II, §§ 202(e), (f), 203(d)(1), 204, 88 Stat. 372, 373.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-353, § 203(d)(1), struck out first sentence provisions respecting authorization of appropriations to carry out purposes of section 280b(b)(6) of this title in amounts of $3,000,000, $3,250,000, $3,500,000, and $2,902,000 for fiscal years ending June 30, 1971 through 1974, respectively, and substituted "To carry out the purposes of section 280b(b)(5) of this title, the Secretary, with the advice of the Board, shall make" for "Sums made available under this section shall be utilized by the Secretary, with the advice of the Board, to make".

Subsec. (b)(6). Pub. L. 93-353, § 202(e), struck out par. (6) which provided for use of grants for construction, renovation, rehabilitation, or expansion of physical plant considered necessary by the regional medical library to carry out its proper functions as a regional library.

Subsec. (d). Pub. L. 93-353, § 202(f), struck out first sentence provisions respecting the making of grants for construction, renovation, rehabilitation, or expan-

sion of physical plant in the same manner and subject to the same conditions as provided for grants under section 280b-3 of this title, except that eligibility for any such grant would be determined on the basis of the construction requirements of the library so as to be able to serve as a regional medical library.

1973—Subsec. (a). Pub. L. 93-45 authorized appropriations of $2,902,000 for fiscal year ending June 30, 1974.

1970—Subsec. (a). Pub. L. 91-212, §§ 2(f), 10(d)(2)(A), substituted provisions which authorized appropriations of $3,000,000 for the fiscal year ending June 30, 1971, $3,250,000 for the fiscal year ending June 30, 1972, and $3,500,000 for the fiscal year ending June 30, 1973, for provisions which authorized appropriations for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, of such sums as may be necessary, not to exceed $2,500,000 for any fiscal year, and substituted "Secretary" for "Surgeon General" wherever appearing.

Subsec. (b). Pub. L. 91-212, § 7(1), redesignated existing par. (5) as par. (6) and added new par. (6).

Subsec. (c)(1). Pub. L. 91-212, § 7(2), added requirement that medical libraries agree to supplement the resources of cooperating libraries in the region.

Subsec. (c)(2). Pub. L. 91-212, §§ 7(3), 10(d)(2)(A), struck out cl. (A) relating to the determination of the need of such a library and redesignated existing cls. (B) and (C) as cls. (A) and (B), and substituted "Secretary" for "Surgeon General".

Subsecs. (d), (e). Pub. L. 91-212, § 10(d)(2)(A), substituted "Secretary" for "Surgeon General" wherever appearing in subsecs. (d) and (e).

Subsec. (f). Pub. L. 91-212, § 7(4) added subsec. (f).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93-353, set out as an Effective Date of 1976 Amendment note under section 280b of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of subsecs. (a), (b), (c) and (f) by sections 2(f), 7(1) to (4) of Pub. L. 91-212 applicable with respect to appropriations for fiscal years ending after June 30, 1970, see section 12(a) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 280b of this title.

Amendment of subsecs. (a), (c)(2), (d), (e), and (f) by section 10(d)(2)(A) of Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 276 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280a-1, 280b of this title.

§ 280b-9. Grants to provide support for biomedical scientific publications

(a) Purpose of grants

To carry out the purposes of section 280b(b)(6) of this title, the Secretary, with the advice of the Board, shall make grants to, and enter into appropriate contracts with, public or private nonprofit institutions of higher education and individual scientists for the purpose of supporting biomedical scientific publications of a nonprofit nature and to procure the compilation, writing, editing, and publication of reviews, abstracts, indices, handbooks, bibliographies, and related matter pertaining to scientific works and scientific developments.

(b) Duration

Grants under this section in support of any single periodical publication may not be made for more than three years, except in those cases in which the Secretary determines that further support is necessary to carry out the purposes of this section.

(c) Payments

Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board.

(July 1, 1944, ch. 373, title III, § 397, formerly § 399, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1066, renumbered § 398 and amended Mar. 13, 1970, Pub. L. 91-212, §§ 2(g), 8, 10(c)(3), (d)(2)(A), 84 Stat. 63, 65, 67; June 18, 1973, Pub. L. 93-45, title I, § 107(f), 87 Stat. 92, and renumbered § 397 and amended July 23, 1974, Pub. L. 93-353, title II, §§ 203(e), 204, 88 Stat. 372, 373.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-353, 203(e), struck out first and second sentence provisions respecting authorization of appropriations to carry out purposes of section 280b(b)(7) of this title in amounts of $1,000,000 for fiscal years ending June 30, 1966, through 1973, and $340,000 for fiscal year ending June 30, 1974, and substituted "To carry out the purposes of section 280b(b)(6) of this title, the Secretary, with the advice of the Board, shall make grants to, and enter into appropriate contracts" for "Sums made available under this section shall be utilized by the Secretary, with the advice of the Board, in making grants to, and entering into appropriate contracts".

1973—Subsec. (a). Pub. L. 93-45 authorized appropriations of $340,000 for fiscal year ending June 30, 1974, to enable the Secretary to carry out the purposes of section 280b(b)(7) of this title.

1970—Subsec. (a). Pub. L. 91-212, §§ 2(g), 10(d)(2)(A), extended authorization of appropriations from the fiscal year ending June 30, 1970 to the fiscal year ending June 30, 1973, and substituted "Secretary" for "Surgeon General" wherever appearing.

Subsec. (b). Pub. L. 91-212, § 8, authorized the Secretary to extend grants beyond three years when determined by him to be necessary to carry out the purposes of this section.

Subsec. (c). Pub. L. 91-212, § 10(d)(2)(A), substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93-353, set out as an Effective Date of 1974 Amendment note under section 280b of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of subsecs. (a) and (b) by sections 2(g) and 8 of Pub. L. 91-212 applicable with respect to appropriations for fiscal years ending after June 30, 1970, see section 12(a) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 280b of this title.

Amendment of subsecs. (a) and (c) by section 10(d)(2)(A) of Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 276 of this title.

§ 280b-10. Continuing availability of appropriated funds

Funds appropriated to carry out any of the purposes of this part for any fiscal year shall remain available for such purposes for the fiscal year immediately following the fiscal year for which they were appropriated.

(July 1, 1944, ch. 373, title III, § 398, formerly § 399a, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1066, renumbered § 399, Mar. 13, 1970, Pub. L. 91-212, § 10(c)(3), 84 Stat. 67, and renumbered § 398, July 23, 1974, Pub. L. 93-353, title II, § 204, 88 Stat. 373.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

§ 280b-11. Records and audit

(a) Each recipient of a grant under this part of this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to any grant received under the provisions of this part.

(July 1, 1944, ch. 373, title III, § 399, formerly § 399b, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1066, renumbered § 399a and amended Mar. 13, 1970, Pub. L. 91-212, § 10(c)(3), (d)(2)(A), 84 Stat. 67, and renumbered § 399, July 23, 1974, Pub. L. 93-353, title II, § 204, 88 Stat. 373.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-212, § 10(d)(2)(A), substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as an Effective Date of 1970 Amendment note under section 276 of this title.

§ 280b-12. Repealed. Pub. L. 93-353, title II, § 204, July 23, 1974, 88 Stat. 373

Section, act July 1, 1944, ch. 373, title III, § 399b, as added Mar. 13, 1970, Pub. L. 91-212, § 9, 84 Stat. 65, related to transfer of funds.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 93-353 applicable with respect to appropriations under this part for fiscal years beginning after June 30, 1974, see section 205 of Pub. L. 93-353, set out as an Effective Date of 1974 Amendment note under section 280b of this title.

PART K—QUALITY ASSURANCE

§ 280c. Programs to assure quality of health care

(a) Evaluation and research respecting effectiveness, administration, and enforcement of programs; authorization of appropriations

(1) The Secretary, through the Assistant Secretary for Health, shall conduct research and evaluation programs respecting the effectiveness, administration, and enforcement of quality assurance programs. Such research and evaluation programs shall be carried out in cooperation with the entity within the Department which administers the programs of assistance under section 242b of this title.

(2) For the purpose of carrying out paragraph (1), there are authorized to be appropriated $4,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, $9,000,000 for the fiscal year ending June 30, 1976, $9,000,000 for the fiscal year ending June 30, 1977, and $10,000,000 for the fiscal year ending June 30, 1978.

(b) Annual report to President and Congress

The Secretary shall make an annual report to the Congress and the President on (1) the quality of health care in the United States, (2) the operation of quality assurance programs, and (3) advances made through research and evaluation of the effectiveness, administration, and enforcement of quality assurance programs. The first annual report under this subsection shall be made with respect to calendar year 1974 and shall be submitted not later than March 1, 1975. The Office of Management and Budget may review the Secretary's report under this subsection before its submission to the Congress, but the Office may not revise the report or delay its submission to the Congress, and it may submit to the Secretary and the Congress its comments (and those of other departments and agencies of the Government) with respect to such report.

(July 1, 1944, ch. 373, title III, § 399A, formerly § 399c, as added Dec. 29, 1973, Pub. L. 93-222, § 3, 87 Stat. 934, and renumbered July 29, 1975, Pub. L. 94-63, title VI, § 607(a), (c), 89 Stat. 351.)

SUBCHAPTER III—NATIONAL RESEARCH INSTITUTES

AMENDMENTS

1950—Act Aug. 15, 1950, ch. 714, § 2(a), 64 Stat. 444, substituted "National Research Institutes" for "National Cancer, Heart, and Dental Institutes" as the subchapter heading.

1948—Act June 24, 1948, ch. 621, § 3(a), 62 Stat. 598, substituted "National Cancer, Heart, and Dental Institutes" for "National Cancer and Heart Institutes" as the subchapter heading.

Act June 16, 1948, ch. 481, § 3, 62 Stat. 464, substituted "National Cancer and Heart Institutes" for "National Cancer Institute" as the subchapter heading.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 300d-5, 300p-2 of this title.

PART A—NATIONAL CANCER INSTITUTE

AMENDMENTS

1948—Act June 16, 1948, ch. 481, § 3(b), 62 Stat. 464, added heading of Part A.

§ 281. Division in National Institutes of Health

The National Cancer Institute shall be a division in the National Institutes of Health.

(July 1, 1944, ch. 373, title IV, § 401, 58 Stat. 707; June 16, 1948, ch. 481, § 6(b), 62 Stat. 469.)

AMENDMENTS

1948—Act June 16, 1948, substituted "National Institutes of Health" for "National Institute of Health".

CROSS REFERENCES

April as Cancer Control Month, see section 150 of Title 36, Patriotic Societies and Observances.

§ 282. Powers and duties of Surgeon General; procedure for approval of grants; limitation on amount

(a) In carrying out the purposes of section 241 of this title with respect to cancer the Surgeon General, through the National Cancer Institute and in cooperation with the National Cancer Advisory Board, shall—

(1) Fosterage of research

Conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of cancer;

(2) Coordination of researches

Promote the coordination of researches conducted by the Institute and similar researches conducted by other agencies, organizations, and individuals;

(3) Technical clinical training and instruction

Provide clinical training and instruction in technical matters relating to the diagnosis and treatment of cancer;

(4) Securement of expert advice

Secure for the Institute consultation services and advice of cancer experts from the United States and abroad;

(5) Cooperation with State agencies

Cooperate with State health agencies in the prevention, control, and eradication of cancer;

(6) Acquisition, use, and loan of radium

Procure, use, and lend radium as provided in section 283 of this title.

(b) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Cancer Institute may approve grants under this chapter for cancer research or training—

(1) if the direct costs of such research and training do not exceed $35,000, but only after appropriate review for scientific merit but without the review and recommendation by the National Cancer Advisory Board prescribed by section 283(c) of this title, and

(2) if the direct costs of such research and training exceed $35,000, but only after appropriate review for scientific merit and recommendation for approval by such Board as prescribed by section 283(c) of this title.

(July 1, 1944, ch. 373, title IV, § 402, 58 Stat. 707; Dec. 23, 1971, Pub. L. 92-218, §§ 3(b)(1), (2), 6(a)(2), 85 Stat. 784, 785; July 12, 1974, Pub. L. 93-348, title I, § 104(a)(3), 88 Stat. 346; July 23, 1974, Pub. L. 93-352, title I, § 102, 88 Stat. 358.)

AMENDMENTS

1974—Subsecs. (a)(3) to (7). Pub. L. 93-348 substituted in par. (3) "clinical training and instruction" for "training and instruction", and struck out par. (4) providing for establishment of fellowships and redesignated former pars. (5) to (7) as pars. (4) to (6), respectively.

Subsec. (b)(1). Pub. L. 93-352, § 102(1), substituted "if the direct costs of such research and training do not exceed $35,000, but only" for "in amounts not to exceed $35,000".

Subsec. (b)(2). Pub. L. 93-352, § 102(2), substituted "if the direct costs of such research and training do not exceed $35,000, but only" for "in amounts not to exceed $35,000".

1971—Subsec. (a) Pub. L. 92-218, §§ 3(b)(2), 6(a)(2), designated existing provisions as subsec. (a) and redesignated pars. (a), (b), (c), (d), (e), (f), and (g) therein as pars. (1), (2), (3), (4), (5), (6), and (7), respectively, and substituted "National Cancer Advisory Board" for "National Cancer Advisory Council" in the introductory text.

Subsec. (b). Pub. L. 92-218, § 3(b)(1), added subsec. (b).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93-348, set out as an Effective Date of 1974 Amendment note under section 241 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-218 effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92-218, set out as an Effective Date note under section 286a of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 283, 284 of this title.

§ 283. Authority of Surgeon General

(a) Authority under other provisions; purchase of radium; facilities for training and instruction

In carrying out the provisions of section 282 of this title all appropriate provisions of section 241 of this title shall be applicable to the authority of the Surgeon General, and he is authorized—

(1) to purchase radium, from time to time, without regard to section 5 of title 41 to make such radium available for the purposes of this part, both to the Service and by loan to other agencies and institutions for such consideration and subject to such conditions as he may prescribe;

(2) to provide the necessary facilities where training and instruction may be given in all technical matters relating to diagnosis and treatment of cancer to persons found by the Surgeon General to have proper technical qualifications, and designated by him for such training or instruction, and to fix and

pay them a per diem allowance during such training or instruction of not to exceed $10.

(b) Acceptance of conditional gifts; donations

The Surgeon General shall recommend acceptance of conditional gifts pursuant to section 219 of this title, for study, investigation, or research into the cause, prevention, and methods of diagnosis and treatment of cancer, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute, only after consultation with the National Cancer Advisory Board. Donations of $50,000 or over in aid of research under this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

(c) Grants-in-aid for cancer projects; review by National Cancer Advisory Board

Except as provided in section 282(b) of this title, in carrying out the purposes of section 282 of this title grants-in-aid for cancer projects shall be made only after review and recommendation of the National Cancer Advisory Board made pursuant to section 284 of this title.

(July 1, 1944, ch. 373, title IV, § 403, 58 Stat. 707; June 16, 1948, ch. 481, § 6(c), 62 Stat. 469; Dec. 23, 1971, Pub. L. 92-218, §§ 3(b)(3), 6(a)(2), (3), 85 Stat. 784, 785.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 92-218, § 6(a)(3), substituted "National Cancer Advisory Board" for "National Cancer Advisory Council".

Subsec. (c). Pub. L. 92-218, §§ 3(b)(3), 6(a)(2), substituted "Except as provided in section 282(b) of this title, in carrying out" for "In carrying out" and "National Cancer Advisory Board" for "National Cancer Advisory Council".

1948—Act June 16, 1948, substituted "this part" for "this subchapter" wherever appearing.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-218 effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92-218, set out as an Effective Date note under section 286a of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 282 of this title.

§ 284. Functions of Board

The National Cancer Advisory Board is authorized—

(a) Review of research problems

To review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of cancer, and certify approval to the Surgeon General, for prosecution under section 282 of this title, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of cancer;

(b) Collection and dissemination of information

To collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, and methods of diagnosis and treatment of cancer, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through the appropriate publications for the benefit of health agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

(c) Review of applications by research institutions for grants-in-aid

To review applications from any university, hospital, laboratory, or other institution whether public or private, or from individuals, for grants-in-aid for research projects relating to cancer, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of cancer;

(d) Recommendations for acceptance of conditional gifts

To recommend to the Surgeon General for acceptance conditional gifts pursuant to section 219 of this title; and

(e) Recommendations for administration of laws

To make recommendations to the Surgeon General with respect to carrying out the provisions of this part.

(July 1, 1944, ch. 373, title IV, § 404, 58 Stat. 708; June 16, 1948, ch. 481, § 6(c), 62 Stat. 469; Dec. 23, 1971, Pub. L. 92-218, § 6(a)(4), 85 Stat. 785.)

AMENDMENTS

1971—Pub. L. 92-218 substituted "National Cancer Advisory Board" for "council" in the text preceding par. (a), and "Board" for "council" in section heading.

1948—Act June 16, 1948, substituted "this part" for "this subchapter" wherever appearing.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-218 effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92-218, set out as an Effective Date note under section 286a of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time

as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 283 of this title.

§ 285. Use of appropriations

Appropriations to carry out the purposes of this subchapter shall be available for the acquisition of land or the erection of buildings only if so specified, but in the absence of express limitation therein may be expended in the District of Columbia for personal services, stenographic recording and translating services, by contract if deemed necessary, without regard to section 5 of title 41; traveling expenses (including the expenses of attendance at meetings when specifically authorized by the Surgeon General); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of motor-propelled passenger-carrying vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of this subchapter.

(July 1, 1944, ch. 373, title IV, § 405, 58 Stat. 708.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 287d of this title.

§ 286. Additional authority

This part shall not be construed as limiting (a) the functions or authority of the Surgeon General of the Public Health Service under any other subchapter of this chapter, or of any officer or agency of the United States, relating to the study of the prevention, diagnosis, and treatment of any disease or diseases for which a separate institute is established under this chapter; or (b) the expenditure of money therefor.

(July 1, 1944, ch. 373, title IV, § 406, 58 Stat. 708; June 16, 1948, ch. 481, § 6(c), 62 Stat. 469; Aug. 15, 1950, ch. 714, § 4(a), 64 Stat. 447.)

AMENDMENTS

1950—Act Aug. 15, 1950, made section applicable to any disease or diseases.

1948—Act June 16, 1948, substituted "this part" for "this subchapter" wherever appearing.

PRIOR PROVISIONS

Provisions similar to those of this section were contained in act July 1, 1944, ch. 373, title IV, § 415, as added June 16, 1948, ch. 481, § 3(b), 62 Stat. 466, (formerly classified to section 287d of this title) prior to repeal thereof by section 4(c) of the act Aug. 15, 1950, ch. 714, 64 Stat. 447.

§ 286a. National Cancer Program

(a) Coordination of Institute activities with National Cancer Program

The Director of the National Cancer Institute shall coordinate all of the activities of the National Institutes of Health relating to cancer with the National Cancer Program.

(b) Director of National Cancer Institute; duties

In carrying out the National Cancer Program, the Director of the National Cancer Institute shall:

(1) With the advice of the National Cancer Advisory Board, plan and develop an expanded, intensified, and coordinated cancer research program encompassing the programs of the National Cancer Institute, related programs of the other research institutes, and other Federal and non-Federal programs.

(2) Expeditiously utilize existing research facilities and personnel of the National Institutes of Health for accelerated exploration of opportunities in areas of special promise.

(3) Encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research.

(4) Collect, analyze, and disseminate information (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer) useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country.

(5) Establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for research and set standards of safety and care for persons using such materials.

(6) Support research in the cancer field outside the United States by highly qualified foreign nationals which research can be expected to inure to the benefit of the American people; support collaborative research involving American and foreign participants; and support the training of American scientists abroad and foreign scientists in the United States.

(7) Support appropriate manpower programs of training in fundamental sciences and clinical disciplines to provide an expanded and continuing manpower base from which to select investigators, physicians, and allied health professions personnel, for participation in clinical programs relating to cancer, including the use of training stipends, fellowships, and career awards.

(8) Call special meetings of the National Cancer Advisory Board at such times and in such places as the Director deems necessary in order to consult with, obtain advice from, or to secure the approval of projects, programs, or other actions to be undertaken without delay in order to gain maximum benefit from a new scientific or technical finding.

(9)(A) Prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate (including an estimate of the number and type of personnel needed for the National Cancer Program) for the National Cancer Program, after reasonable opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, and the National Cancer Advisory Board; and (B) receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the National Cancer Institute.

(c) President's Cancer Panel; membership; term; Chairman; compensation and travel expenses; meetings; transcripts; reports to President

(1) There is established the President's Cancer Panel (hereinafter in this section referred to as the "Panel") which shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background are exceptionally qualified to appraise the National Cancer Program. At least two of the members of the Panel shall be distinguished scientists or physicians.

(2)(A) Members of the Panel shall be appointed for three-year terms, except that (i) in the case of two of the members first appointed, one shall be appointed for a term of one year and one shall be appointed for a term of two years, as designated by the President at the time of appointment, and (ii) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(B) The President shall designate one of the members to serve as Chairman for a term of one year.

(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel, and shall be allowed travel expenses (including a per diem allowance) under section 5703(b) of title 5.

(3) The Panel shall meet at the call of the Chairman, but not less often than twelve times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the Chairman shall make such transcript available to the public.

(4) The Panel shall monitor the development and execution of the National Cancer Program under this section, and shall report directly to the President. Any delays or blockages in rapid execution of the Program shall immediately be brought to the attention of the President. The Panel shall submit to the President periodic progress reports on the Program and annually an evaluation of the efficacy of the Program and suggestions for improvements, and shall submit such other reports as the President shall direct. At the request of the President, it shall submit for his consideration a list of names of persons for consideration for appointment as Director of the National Cancer Institute.

(July 1, 1944, ch. 373, title IV, § 407, as added Dec. 23, 1971, Pub. L. 92-218, § 3(a), 85 Stat. 779, and amended July 12, 1974, Pub. L. 93-348, title I, § 104(a)(4), 88 Stat. 346; July 23, 1974, Pub. L. 93-352, title I, §§ 103-105, 88 Stat. 359.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (c)(2)(C), is set out under section 5332 of Title 5, Government Organization and Employees.

Section 5703 of Title 5, referred to in subsec. (c)(2)(C), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

AMENDMENTS

1974—Subsec. (b)(4). Pub. L. 93-352, § 103, substituted "information (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer)" for "all data".

Subsec. (b)(7). Pub. L. 93-352, § 104, struck out "where appropriate" preceding "the use of training stipends, fellowships, and career awards".

Pub. L. 93-348 substituted "clinical programs relating to cancer, including the use of training stipends" for "clinical and basic research and treatment programs relating to cancer, including where appropriate the use of training stipends".

Subsec. (b)(9)(A). Pub. L. 93-352, § 105, inserted "(including an estimate of the number and type of personnel needed for the National Cancer Program)" after "budget estimate".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93-348, set out as an Effective Date of 1974 Amendment note under section 241 of this title.

EFFECTIVE DATE

Section 7 of Pub. L. 92-218 provided that:

"(a) This Act and the amendments made by this Act [which enacted sections 286a to 286g, and 289*l* of this title, and amended sections 218(a), (b), 241(d), (i), 282, 283(b), (c) and 284 of this title, and enacted provisions set out as notes under this section] shall take effect sixty days after the date of enactment of this Act [Dec. 23, 1971] or on such prior date after the date of enactment of this Act [Dec. 23, 1971] as the President shall prescribe and publish in the Federal Register.

"(b) The first sentence of section 454 of the Public Health Service Act (added by section 5 of this Act) [section 289*l* of this title] shall apply only with respect to appointments made after the effective date of this Act (as prescribed by subsection (a)).

"(c) Notwithstanding the provisions of subsection (a), members of the National Cancer Advisory Board (authorized under section 410B of the Public Health Service Act, as added by this Act) [section 286f of this title] may be appointed, in the manner provided for in such section, at any time after the date of enactment of this Act [Dec. 23, 1971]. Such officers shall be compensated from the date they first take office, at the rates provided for in such section 410B [section 286f of this title]."

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 2 of Pub. L. 92-218 provided that:

"(a) The Congress finds and declares—

"(1) that the incidence of cancer is increasing and cancer is the disease which is the major health concern of Americans today;

"(2) that new scientific leads, if comprehensively and energetically exploited, may significantly advance the time when more adequate preventive and therapeutic capabilities are available to cope with cancer;

"(3) that cancer is a leading cause of death in the United States;

"(4) that the present state of our understanding of cancer is a consequence of broad advances across the full scope of the biomedical sciences;

"(5) that a great opportunity is offered as a result of recent advances in the knowledge of this dread disease to conduct energetically a national program against cancer;

"(6) that in order to provide for the most effective attack on cancer it is important to use all of the biomedical resources of the National Institutes of Health; and

"(7) that the programs of the research institutes which comprise the National Institutes of Health have made it possible to bring into being the most productive scientific community centered upon health and disease that the world has ever known.

"(b) It is the purpose of this Act [see Short Title of 1971 Amendments note under section 201 of this title] to enlarge the authorities of the National Cancer Institute and the National Institutes of Health in order to advance the national effort against cancer."

FINDINGS RESPECTING REVIEW OF ADMINISTRATIVE PROCESSES AND FACILITATION OF CANCER PROGRAM; REPORT TO CONGRESS; ADDITIONAL APPROPRIATIONS

Section 4 of Pub. L. 92-218 mandated a review by the President of all administrative processes under which the National Cancer Program will operate, including advisory council and peer group review, with a report and recommendations to be submitted to Congress within one year from Dec. 23, 1971, and also provided that the President ask the Congress without delay for additional appropriations as are required for the cancer program.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 289*l* of this title.

§ 286b. National Cancer Research and Demonstration Centers

(a) Authorization; support for Centers

The Director of the National Cancer Institute is authorized to provide for the establishment of new centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Such centers may be supported under subsection (b) of this section or under any other applicable provision of law.

(b) Cooperative agreement with nonprofit agencies or institutions for Federal payments of basic operating support; uses of Federal funds; support limitation; periods and extensions of support

The Director of the National Cancer Institute, under policies established by the Director of the National Institutes of Health and after consultation with the National Cancer Advisory Board, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers (including, but not limited to, centers established under subsection (a) of this section) for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 285 of this title), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) clinical training (including clinical training for allied health professions personnel), and (4) demonstration purposes; but support under this subsection (other than support for construction) shall not exceed $5,000,000 per year per center. Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the National Cancer Institute for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the National Cancer Institute.

(July 1, 1944, ch. 373, title IV, § 408, as added Dec. 23, 1971, Pub. L. 92-218, § 3(a), 85 Stat. 781, and amended July 12, 1974, Pub. L. 93-348, title I, § 104(a)(5), 88 Stat. 347; July 23, 1974, Pub. L. 93-352, title I, § 106, 88 Stat. 359.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-352 struck out "fifteen" preceding "new centers for clinical research".

Subsec. (b)(3). Pub. L. 93-348 inserted "clinical" before "training" wherever appearing.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93-348, set out as an Effective Date of 1974 Amendment note under section 241 of this title.

EFFECTIVE DATE

Section effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92-218, set out as an Effective Date note under section 286a of this title.

§ 286c. Cancer Control Programs

(a) Cooperation with State and other health agencies

The Director of the National Cancer Institute shall establish programs as necessary for cooperation with State and other health agencies in the diagnosis, prevention, and treatment of cancer, including programs to provide appropriate trials of programs of routine exfoliative cytology tests conducted for the diagnosis of uterine cancer.

(b) Authorization of appropriations

There are authorized to be appropriated to carry out this section $20,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, $40,000,000 for the fiscal year ending June 30, 1974, $53,500,000 for the fiscal year ending June 30, 1975, $68,500,000 for the fiscal year ending June 30, 1976, and $88,500,000 for the fiscal year ending June 30, 1977.

(July 1, 1944, ch. 373, title IV, § 409, as added Dec. 23, 1971, Pub. L. 92-218, § 3(a), 85 Stat. 781, and amended July 23, 1974, Pub. L. 93-352, title I, § 107, 88 Stat. 359.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-352, § 107(a), added provisions directing the inclusion of programs to provide appropriate trials of programs of routine exfoliative cytology tests conducted for the diagnosis of uterine cancer.

Subsec. (b). Pub. L. 93-352, § 107(b), added provisions authorizing appropriations of $53,500,000 for the fiscal year ending June 30, 1975, $68,500,000 for the fiscal year ending June 30, 1976, and $88,500,000 for the fiscal year ending June 30, 1977.

EFFECTIVE DATE

Section effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92-218, set out as an Effective Date note under section 286a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 286g of this title.

§ 286d. Authority of Director of National Cancer Institute

(a) The Director of the National Cancer Institute (after consultation with the National Cancer Advisory Board), in carrying out his functions in administering the National Cancer Program and without regard to any other provision of this chapter, is authorized—

(1) if authorized by the National Cancer Advisory Board, to obtain (in accordance with section 3109 of title 5, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred experts or consultants who have scientific or professional qualifications;

(2) to acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire, without regard to section 34 of title 40, by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Cancer Institute for a period not to exceed ten years;

(3) to appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

(4) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

(5) to accept voluntary and uncompensated services;

(6) to accept unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(7) to enter into such contracts, leases, cooperative agreements, or other transactions, without regard to section 529 of title 31 and section 5 of title 41, as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution;

(8) to take necessary action to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the National Cancer Institute and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally; and

(9) to award grants for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control, as deemed necessary for the National Cancer Program.

(b)(1) The Director of the National Cancer Institute shall provide and contract for a program to disseminate and interpret, on a current basis, for practitioners and other health professionals, scientists, and the general public scientific and other information respecting the cause, prevention, diagnosis, and treatment of cancer.

(2) The Director of the National Cancer Institute shall include in the annual report required by section 286e(b) of this title a report on the progress, activities, and accomplishments of, and expenditures for, the information services of the National Cancer Program.

(July 1, 1944, ch. 373, title IV, § 410, as added Dec. 23, 1971, Pub. L. 92-218, § 3(a), 85 Stat. 782, and amended July 23, 1974, Pub. L. 93-352, title I, § 108, 88 Stat. 359.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-352, § 108(5), designated existing provisions as subsec. (a).

Subsec. (a)(1). Pub. L. 93-352, § 108(1), substituted "one hundred" for "fifty".

Subsec. (a)(9). Pub. L. 93-352, § 108(2)-(4), added subsec. (a)(9).

Subsec. (b). Pub. L. 93-352, § 108(5), added subsec. (b).

EFFECTIVE DATE

Section effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92-218, set out as an Effective Date note under section 286a of this title.

§ 286e. Scientific review; use of peer review groups; reports to Congress

(a) The Director of the National Cancer Institute shall, by regulation, provide for proper scientific review of all research grants and programs over which he has authority (1) by utilizing, to the maximum extent possible, appropriate peer review groups established within the National Institutes of Health and composed principally of non-Federal scientists and other experts in the scientific and disease fields, and (2) when appropriate, by establishing, with the approval of the National Cancer Advisory Board and the Director of the National Institutes of Health, other formal peer review groups as may be required.

(b) The Director of the National Cancer Institute shall, as soon as practicable after the end of each calendar year, prepare in consultation with the National Cancer Advisory Board and submit to the President for transmittal to the Congress a report on the activities, progress,

and accomplishments under the National Cancer Program during the preceding calendar year and a plan for the Program during the next five years.

(July 1, 1944, ch. 373, title IV, § 410A, as added Dec. 23, 1971, Pub. L. 92-218, § 3(a), 85 Stat. 782.)

EFFECTIVE DATE

Section effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92-218, set out as an Effective Date note under section 286a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 286d of this title.

§ 286f. National Cancer Advisory Board

(a) Membership; representation of interests; qualifications of appointees

There is established in the National Cancer Institute a National Cancer Advisory Board (hereinafter in this section referred to as the "Board") to be composed of twenty-three members as follows:

(1) The Secretary, the Director of the Office of Science and Technology, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration (or his designee), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Board.

(2) Eighteen members appointed by the President.

Not more than twelve of the appointed members of the Board shall be scientists or physicians and not more than eight of the appointed members shall be representatives from the general public. The scientists and physicians appointed to the Board shall be appointed from persons who are among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of cancer or in fields related thereto. Each appointed member of the Board shall be appointed from among persons who by virtue of their training, experience, and background are especially qualified to appraise the programs of the National Cancer Institute.

(b) Terms; quorum; National Cancer Advisory Board supersedure of National Advisory Cancer Council

(1) Appointed members shall be appointed for six-year terms, except that of the members first appointed six shall be appointed for a term of two years, and six shall be appointed for a term of four years, as designated by the President at the time of appointment.

(2) Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Appointed members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

(3) A vacancy in the Board shall not affect its activities, and twelve members thereof shall constitute a quorum.

(4) The Board shall supersede the existing National Advisory Cancer Council, and the appointed members of the Council serving on the effective date of this section shall serve as additional members of the Board for the duration of their terms then existing, or for such shorter time as the President may prescribe.

(c) Chairman

The President shall designate one of the appointed members to serve as Chairman for a term of two years.

(d) Meetings; advisory and auxiliary functions

The Board shall meet at the call of the Director of the National Cancer Institute or the Chairman, but not less often than four times a year and shall advise and assist the Director of the National Cancer Institute with respect to the National Cancer Program.

(e) Executive Secretary

The Director of the National Cancer Institute shall designate a member of the staff of the Institute to act as Executive Secretary of the Board.

(f) Investigation of programs and activities; hearings; testimony; time and place for convening and acting

The Board may hold such hearings, take such testimony, and sit and act at such times and places as the Board deems advisable to investigate programs and activities of the National Cancer Program.

(g) Reports to President and Congress

The Board shall submit a report to the President for transmittal to the Congress not later than January 31 of each year on the progress of the National Cancer Program toward the accomplishment of its objectives.

(h) Compensation and travel expenses

Members of the Board who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Board compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

(i) Staff, information, and other assistance

The Director of the National Cancer Institute shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities.

(July 1, 1944, ch. 373, title IV, § 410B, as added Dec. 23, 1971, Pub. L. 92-218, § 3(a), 85 Stat. 783.)

REFERENCES IN TEXT

For effective date of this section, referred to in subsec. (b)(4), see Effective Date note set out below.

The General Schedule, referred to in subsec. (h), is set out under section 5332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Notwithstanding provision for effectiveness of Pub. L. 92-218 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, members of

National Cancer Advisory Board may be appointed at any time after Dec. 23, 1971 and compensated from the date of first taking office as provided in this section 7(a) and (c) of Pub. L. 92-218, set out as an Effective Date note under section 286a of this title.

TRANSFER OF FUNCTIONS

All functions vested by law in the Office of Science and Technology and in the Director or Deputy Director of the Office of Science and Technology were transferred to the Director of the National Science Foundation, and Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of Reorg. Plan No. 2 of 1962, was abolished by sections 2 and 3(a)(5) of Reorg. Plan No. 1 of 1973, effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 286g. Authorization of appropriations

For the purpose of carrying out this part (other than section 286c of this title), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972, $500,000,000 for the fiscal year ending June 30, 1973; $600,000,000 for the fiscal year ending June 30, 1974; $750,000,000 for the fiscal year ending June 30, 1975; $830,000,000 for the fiscal year ending June 3, 1976; and $985,000,000 for the fiscal year ending June 30, 1977.

(July 1, 1944, ch. 373, title IV, § 410C, as added Dec. 23, 1971, Pub. L. 92-218, § 3(a), 85 Stat. 784, and amended July 23, 1974, Pub. L. 93-352, title I, § 109, 88 Stat. 359.)

AMENDMENTS

1974—Pub. L. 93-352 added provisions authorizing appropriations of $750,000,000 for the fiscal year ending June 30, 1975, $830,000,000 for the fiscal year ending June 30, 1976, and $985,000,000 for the fiscal year ending June 30, 1977.

EFFECTIVE DATE

Section effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92-218, set out as an Effective Date note under section 286a of this title.

PART B—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

AMENDMENTS

1976—Pub. L. 94-278, title I, § 112, Apr. 22, 1976, 90 Stat. 405, substituted "National Heart, Lung, and Blood Institute" for "National Heart and Lung Institute" in the Part B heading.

1972—Pub. L. 92-423, § 6(e), Sept. 19, 1972, 86 Stat. 687, substituted "Heart and Lung" for "Heart" in the Part B heading.

1948—Act June 16, 1948, ch. 481, § 3(b), 62 Stat. 464, added heading of Part B.

§ 287. Establishment of Institute

There is established in the Public Health Service a National Heart, Lung, and Blood Institute (hereafter in this part referred to as the "Institute").

(July 1, 1944, ch. 373, title IV, § 411, as added June 16, 1948, ch. 481, § 3(b), 62 Stat. 464, and amended Sept. 19, 1972, Pub. L. 92-423, § 6(a), 86 Stat. 686; Apr. 22, 1976, Pub. L. 94-278, title I, § 102, 90 Stat. 402.)

AMENDMENTS

1976—Pub. L. 94-278 substituted "National Heart, Lung, and Blood Institute" for "National Heart and Lung Institute".

1972—Pub. L. 92-423 substituted "National Heart and Lung Institute" for "National Heart Institute".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 9 of Pub. L. 92-423 provided that: "This Act and the amendments made by this Act [see Short Title of 1972 Amendment note under section 201 of this title] shall take effect sixty days after the date of enactment of this Act [Sept. 19, 1972], or on such prior date after the date of enactment of this Act [Sept. 19, 1972], as the President shall prescribe and publish in the Federal Register."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

PURPOSE OF THIS PART

Section 2 of act June 16, 1948, provided that: "The purpose of this Act [see Short Title of 1948 Amendments note set out under section 201 of this title] is to improve the health of the people of the United States through the conduct of researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of diseases of the heart and circulation; assist and foster such researches and other activities by public and private agencies, and promote the coordination of all such researches and activities and the useful application of their results; provide training in matters relating to heart diseases, including refresher courses for physicians; and develop, and assist States and other agencies in the use of, the most effective methods of prevention, diagnosis, and treatment of heart diseases."

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 101 of Pub. L. 94-278 provided that:

"(a) Congress finds and declares that—

"(1) diseases of the heart, blood, and blood vessels collectively cause more than half of all the deaths each year in the United States and the combined effect of the disabilities and deaths from such diseases is having a major social and economic impact on the Nation;

"(2) elimination of heart and blood vessel diseases as significant causes of disability and death could increase the average American's life expectancy by about eleven years and could provide for annual savings to the economy in lost wages, productivity, and cost of medical care of more than $40,000,000,000 per year;

"(3) chronic lung diseases have been gaining steadily in recent years as important causes of disability and death, with emphysema being among the fastest rising causes of death in the United States;

"(4) chronic respiratory diseases affect an estimated ten million Americans, emphysema an estimated one million, chronic bronchitis an estimated four million, and asthma an estimated five million;

"(5) thrombosis (the formation of blood clots in the vessels) may cause, directly or in combination

with other problems, many deaths and disabilities from heart disease and stroke which can now be prevented;

"(6) blood and blood products are essential human resources whose value in saving life and promoting health cannot be assessed in terms of dollars;

"(7) the provision of prompt and effective emergency medical services utilizing to the fullest extent possible advances in transportation and communications and other electronic systems and specially trained professional and paraprofessional health care personnel can reduce substantially the number of fatalities and severe disabilities due to critical illnesses in connection with heart, blood vessel, lung, and blood diseases;

"(8) blood diseases, including nutritional anemia, anemia due to inherited abnormalities (such as sickle cell anemia and Cooley's anemia (thalassemia), anemias resulting from failure of the bone marrow, hemorrhagic defects (a common cause of death in patients with leukemia and other malignancies, and of disability from inherited diseases such as hemophilia)), and malignancies of the lymph nodes and bone marrow, such as leukemia, have a devastating impact in spite of recent advances, and constitute an important category of illness that requires major attention; and

"(9) the greatest potential for advancement against heart, blood vessel, lung, and blood diseases lies in the National Heart, Lung, and Blood Institute, but advancement against such diseases depends not only on the research programs of that Institute but also on the research programs of other research institutes of the National Institutes of Health.

"(b) It is the purpose of this title [amending this section and sections 241, 287a to 287d and 287f to 287i of this title, and enacting provisions set out as notes under section 287g of this title] to enlarge the authority of the National Heart, Lung, and Blood Institute in order to advance the national attack upon heart, blood vessel, lung, and blood diseases and to enlarge its authority with respect to blood resources."

Section 2 of Pub. L. 92-423 provided that:

"(a) Congress finds and declares that—

"(1) diseases of the heart and blood vessels collectively cause more than half of all the deaths each year in the United States and the combined effect of the disabilities and deaths from such diseases is having a major social and economic impact on the Nation;

"(2) elimination of heart and blood vessel diseases as significant causes of disability and death could increase the average American's life expectancy by about eleven years and could provide for annual savings to the economy in lost wages, productivity, and costs of medical care of more than $30,000,000,000 per year;

"(3) chronic lung diseases have been gaining steadily in recent years as important causes of disability and death, with emphysema alone being the fastest rising cause of death in the United States;

"(4) chronic respiratory diseases affect an estimated ten million Americans, emphysema an estimated one million, chronic bronchitis an estimated four million, and asthma an estimated five million;

"(5) thrombosis (the formation of blood clots in the vessels) may cause, directly or in combination with other problems, many deaths and disabilities from heart disease and stroke which can now be prevented;

"(6) blood and blood products are essential human resources whose value in saving life and promoting health cannot be assessed in terms of dollars;

"(7) the provision of prompt and effective emergency medical services utilizing to the fullest extent possible advances in transportation and communications and other electronic systems and specially trained professional and paraprofessional health care personnel can reduce substantially the number of fatalities and severe disabilities due to critical illnesses in connection with heart, blood vessel, lung, and blood diseases; and

"(8) the greatest potential for advancement against heart, blood vessel, lung, and blood diseases lies in the National Heart and Lung Institute, but advancement against such diseases depends not only on the research programs of that Institute but also on the research programs of other research institutes of the National Institutes of Health.

"(b) It is the purpose of this Act [see Short Title of 1972 Amendment note set out under section 201 of this title] to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack upon heart, blood vessel, lung, and blood diseases."

REPORT TO CONGRESS

Section 8 of Pub. L. 92-423 provided for a review by the Secretary of Health, Education, and Welfare of all administrative processes under which the National Heart, Blood Vessel, Lung, and Blood Disease Program will operate, including the processes of advisory council and peer group reviews, with the submission of a report to Congress of the findings of such review within one year of Sept. 19, 1972.

§ 287a. Research and training in diseases of heart, blood vessel, lung, and blood and in management of blood resources

In carrying out the purposes of section 241 of this title with respect to heart, blood vessel, lung, and blood diseases and with respect to the use of blood and blood products and the management of blood resources the Secretary, through the Institute and in cooperation with the National Heart, Lung, and Blood Advisory Council (hereinafter in this part referred to as the "Council"), shall—

(1) Fosterage of research

Conduct, assist, and foster researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources;

(2) Coordination of research and control programs

Promote the coordination of research and control programs conducted by the Institute, and similar programs conducted by other agencies, organizations, and individuals;

(3) Research facilities made available

Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special studies related to the purposes of this part;

(4) Grants-in-aid for research projects

Make grants-in-aid to universities, hospitals, laboratories, and other public or private agencies and institutions, and to individuals for such research projects relating to heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources as are recommended by the Council, including grants to such agencies and institutions for the construction, acquisition, leasing, equipment, and maintenance of such hospital, clinic, laboratory, and related facilities, and for the care of such patients therein, as are necessary for such research;

(5) Establishment of information center

Establish an information center on research, prevention, diagnosis, and treatment of heart, blood vessel, lung, and blood diseases and on

the use of blood and blood products and the management of blood resources, and collect and make available, through publications and other appropriate means, information as to, and the practical application of, research and other activities carried on pursuant to this part;

(6) Securement of expert advice and services

Secure from time to time, and for such periods as he deems advisable, the assistance and advice of persons from the United States or abroad who are experts in the field of heart, blood vessel, lung, and blood diseases and the management of blood resources;

(7) Clinical training and instruction and clinical traineeships

In accordance with regulations and from funds appropriated or donated for the purpose, provide clinical training and instruction and establish and maintain clinical traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other nonprofit institutions.

(July 1, 1944, ch. 373, title IV, § 412, as added June 16, 1948, ch. 481, § 3(b), 62 Stat. 464, and amended Sept. 19, 1972, Pub. L. 92-423, § 6(b), 86 Stat. 686; July 12, 1974, Pub. L. 93-348, title I, § 104(a)(6), 88 Stat. 347; Apr. 22, 1976, Pub. L. 94-278, title I, § 103, 90 Stat. 402.)

AMENDMENTS

1976—Pub. L. 94-278, § 103(a)(1), (b), in provisions preceding par.(1), inserted reference to the use of blood and blood products and the management of blood resources and substituted "National Heart, Lung, and Blood Advisory Council" for "National Heart and Lung Advisory Council".

Par. (1). Pub. L. 94-278, § 103(a)(2), inserted reference to the use of blood and blood products and the management of blood resources.

Par. (4). Pub. L. 94-278, § 103(a)(3), inserted reference to the use of blood and blood products and the management of blood resources.

Par. (5). Pub. L. 94-278, § 103(a)(4), inserted reference to the use of blood and blood products and the management of blood resources.

Par. (6). Pub. L. 94-278, § 103(a)(5), substituted "heart, blood vessel, lung, and blood diseases and the management of blood resources" for "heart diseases".

Par. (7). Pub. L. 94-278, § 103(a)(6), inserted reference to the use of blood and blood products and the management of blood resources.

1974—Par. (7). Pub. L. 93-348 substituted "for the purpose, provide clinical training and instruction and establish and maintain clinical traineeships, in the Institute" for "for the purpose (1) establish and maintain research fellowships in the Institute and elsewhere with such stipends and allowances (including travel and subsistence expenses) as he may deem necessary to train research workers and procure the assistance of the most brilliant and promising research fellows from the United States and abroad, and, in addition, provide for such fellowships through grants, upon recommendation of the Council, to public and other nonprofit institutions; and (2) provide training and instruction and establish and maintain traineeships, in the Institute".

1972—Pub. L. 92-423 substituted "heart, blood vessel, lung, and blood" for "heart" wherever appearing in introductory text and pars. (1) and (4) to (7), formerly designated pars. (a) and (d) to (g); substituted "Secretary" and "National Heart and Lung Advisory Council" for "Surgeon General" and "National Advisory Heart Council" in introductory text; and redesignated as pars. (1) to (7) former pars. (a) to (g), respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93-348, set out as an Effective Date of 1974 Amendment note under section 241 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-423 effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92-423, set out as an Effective Date of 1972 Amendment note under section 287 of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 287b, 287g, 287h of this title.

§ 287b. National heart, blood vessel, lung, and blood diseases and blood resources

(a) Plan development; National Institutes of Health and National Institutes of Neurological Diseases and Stroke, coordination provision

The Director of the Institute, with the advice of the Council, shall develop a plan for a National Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources Program (hereafter in this part referred to as the "Program") to expand, intensify, and coordinate the activities of the Institute respecting heart, blood vessel, lung, and blood diseases and blood resources (including its activities under section 287a of this title) and shall carry out the Program in accordance with such plan. The Program shall be coordinated with the other research institutes of the National Institutes of Health to the extent that they have responsibilities respecting such diseases and shall provide for—

(1) investigation into the epidemiology, etiology, and prevention of all forms and aspects of heart, blood vessel, lung, and blood diseases, including investigations into the social, environmental, behavioral, nutritional, biological, and genetic determinants and influences involved in the epidemiology, etiology, and prevention of such diseases;

(2) studies and research into the basic biological processes and mechanisms involved in

the underlying normal and abnormal heart, blood vessel, lung, and blood phenomena;

(3) research into the development, trial, and evaluation of techniques, drugs, and devices, (including computers) used in, and approaches to, the diagnosis, treatment (including emergency medical service), and prevention of heart, blood vessel, lung, and blood diseases and the rehabilitation of patients suffering from such diseases;

(4) establishment of programs that will focus and apply scientific and technological efforts involving biological, physical, and engineering sciences to all facets of heart, blood vessel, lung, and blood diseases with emphasis on refinement, development, and evaluation of technological devices that will assist, replace, or monitor vital organs and improve instrumentation for detection, diagnosis, and treatment of those diseases;

(5) establishment of programs for the conduct and direction of field studies, large-scale testing and evaluation, and demonstration of preventive, diagnostic, therapeutic, and rehabilitative approaches to, and emergency medical services for, such diseases;

(6) studies and research into blood diseases and blood, and into the use of blood for clinical purposes and all aspects of the management of its resources in this country, including the collection, preservation, fractionalization, and distribution of it and its products;

(7) the education and training of scientists, clinicians, and educators, in fields and specialties (including computer sciences) requisite to the conduct of clinical programs respecting heart, blood vessel, lung, and blood diseases and blood resources;

(8) public and professional education relating to all aspects of such diseases and the use of blood and blood products and the management of blood resources;

(9) establishment of programs for study and research into heart, blood vessel, lung, and blood diseases of children (including cystic fibrosis, hyaline membrane, and hemolytic and hemophilic diseases) and for the development and demonstration of diagnostic, treatment, and preventive approaches to these diseases; and

(10) establishment of programs for study, research, development, demonstrations and evaluation of emergency medical services for people who become critically ill in connection with heart, blood vessel, lung, or blood diseases, which programs shall include programs for (A) the training of paraprofessionals in (i) emergency treatment procedures, and (ii) utilization and operation of emergency medical equipment, (B) the development and operation of (i) mobile critical care units (including helicopters and other airborne units where appropriate), (ii) radio, telecommunications, and other means of communications and (iii) electronic monitoring systems, and (C) the coordination with other community services and agencies in the joint use of all forms of emergency vehicles, communications systems, and other appropriate services.

The Program shall give special emphasis to the continued development in the Institute of programs relating to atherosclerosis, hypertension, thrombosis, and congenital abnormalities of the blood vessels as causes of stroke, and to effective coordination of such programs with related stroke programs in the National Institute of Neurological Diseases and Stroke.

(b) Transmittal of plan and report to Congress

(1) The plan required by subsection (a) of this section shall (A) be developed within one hundred and eighty days after the effective date of this section, (B) be transmitted to the Congress, and (C) set out the Institute's staff requirements to carry out the Program and recommendations for appropriations for the Program.

(2) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare in consultation with the Council and submit to the President for transmittal to the Congress a report on the activities, progress, and accomplishments under the Program during the preceding fiscal year and a plan for the Program during the next five years. Each such plan shall contain (A) an estimate of the number and type of personnel which will be required by the Institute to carry out the Program during the five years with respect to which the plan is submitted, and (B) recommendations for appropriations to carry out the program during such five years.

(c) Director of the Institute; functions

In carrying out the Program, the Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the Council and without regard to any other provision of this chapter, may—

(1) if authorized by the Council, obtain (in accordance with section 3109 of title 5, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred experts or consultants who have scientific or professional qualifications;

(2) acquire, construct, improve, repair, operate, alter, renovate and maintain heart, blood vessel, lung, and blood disease and blood resource laboratory, research, training, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; and acquire, without regard to section 34 of title 40, by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years; and

(3) enter into such contracts, leases, cooperative agreements, or other transactions, without regard to section 529 of title 31 and section 5 of title 41, as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution.

(d) Assistant Director for Prevention Education, and Control; appointment; functions; special emphasis of program

There shall be in the Institute an Assistant Director for Prevention Education, and Control who shall be appointed by the Director of the

Institute. The Director of the Institute, acting through the Assistant Director for Prevention Education, and Control, shall conduct a program to provide the public and the health professions with health information with regard to cardiovascular, blood and pulmonary diseases and blood resources. In the conduct of such program, special emphasis shall be placed upon dissemination of information regarding diet, exercise, stress, hypertension, cigarette smoking, weight control, and other factors affecting the prevention of arteriosclerosis and other cardiovascular diseases and of pulmonary and blood diseases.

(July 1, 1944, ch. 373, title IV, § 413, as added Sept. 19, 1972, Pub. L. 92-423, § 3(3), 86 Stat. 680, and amended July 12, 1974, Pub. L. 93-348, title I, § 104(a)(7), 88 Stat. 347; Apr. 22, 1976, Pub. L. 94-278, title I, § 104, 90 Stat. 402.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subsec. (b)(1)(A), see section 9 of Pub. L. 92-423, set out as an Effective Date of 1972 Amendment note under section 287 of this title.

PRIOR PROVISIONS

A prior section 287b, act July 1, 1944, ch. 373, title IV, § 413, as added June 16, 1948, ch. 481, § 3(b) 62 Stat. 464, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. April 11, 1953, 18 F.R. 2053, 67 Stat. 631, provided for administration of powers by Surgeon General, acceptance of gifts, and memorials, was transferred to section 287h of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-278, § 104(a), in provisions preceding par. (1), substituted "Diseases and Blood Resources" for "Disease" and inserted reference to blood resources.

Subsec. (a)(7). Pub. L. 94-278, § 104(a)(2), inserted reference to blood resources.

Subsec. (b)(2). Pub. L. 94-278, § 104(b), substituted "fiscal" for "calendar" wherever appearing and added provisions requiring plan to contain an estimate of number and type of personnel needed to carry out Program and recommendations for appropriations.

Subsec. (c)(1). Pub. L. 94-278, § 104(c), substituted "one hundred" for "fifty".

Subsec. (c)(2). Pub. L. 94-278, § 104(d), substituted "operate, alter, renovate" for "operate" and inserted reference to blood resources.

Subsec. (d). Pub. L. 94-278, § 104(e), substituted "Assistant Director for Prevention Education, and Control" for "Assistant Director for Health Information Programs" wherever appearing and "blood and pulmonary" for "and pulmonary" in second sentence and inserted reference to blood resources in second sentence and "and blood" after "pulmonary" in third sentence.

1974—Subsec. (a)(7). Pub. L. 93-348 inserted "clinical" preceding "programs".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93-348, set out as an Effective Date of 1974 Amendment note under section 241 of this title.

EFFECTIVE DATE

Section effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92-423, set out as an Effective Date of 1972 Amendment note under section 287 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 287g of this title.

§ 287c. Heart, blood vessel, lung, and blood disease prevention and control programs

(a) Establishment

The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the Council, shall establish programs as necessary for cooperation with other Federal Health agencies, State, local, and regional public health agencies, and nonprofit private health agencies in the diagnosis, prevention, and treatment (including the provision of emergency medical services) of heart, blood vessel, lung, and blood diseases, appropriately emphasizing the prevention, diagnosis, and treatment of such diseases of children.

(b) Authorization of appropriations

There is authorized to be appropriated to carry out this section $25,000,000 for the fiscal year ending June 30, 1973, $35,000,000 for the fiscal year ending June 30, 1974, $45,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for fiscal year 1976, and $30,000,000 for fiscal year 1977.

(July 1, 1944, ch. 373, title IV, § 414, as added Sept. 19, 1972, Pub. L. 92-423, § 3(3), 86 Stat. 682, and amended Apr. 22, 1976, Pub. L. 94-278, title I, § 105, 90 Stat. 403.)

PRIOR PROVISIONS

A prior section 287c, act July 1, 1944, ch. 373, title IV, § 414, as added June 16, 1948, c. 481, § 3(b), 62 Stat. 464, provided for the functions of the Council, and was transferred to section 287g of this title.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-278 authorized appropriations of $10,000,000 for fiscal year 1976, and $30,000,000 for fiscal year 1977.

EFFECTIVE DATE

Section effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92-423, set out as an Effective Date of 1972 Amendment note under section 287 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 287i of this title.

§ 287d. National research and demonstration centers for heart, blood vessel, lung, and blood diseases and blood resources

(a) Research, training, demonstration, and disease prevention activities

(1) The Director of the Institute may provide for the development of—

(A) ten new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for heart diseases and for research in the use of blood and blood products and in the management of blood resources;

(B) ten new centers for basic and clinical research into, training in, and demonstration

of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for lung diseases (including bronchitis, emphysema, asthma, cystic fibrosis, and other lung diseases of children), and

(C) ten new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for blood, blood vessel diseases, research in the use of blood products, and research in the management of blood resources.

(2) The centers developed under paragraph (1) shall, in addition to being utilized for research, training, and demonstrations, be utilized for the following prevention programs for cardiovascular, pulmonary, and blood diseases:

(A) Programs to develop improved methods of detecting individuals with a high risk of developing cardiovascular, pulmonary, and blood diseases.

(B) Programs to develop improved methods of intervention against those factors which cause individuals to have a high risk of developing such diseases.

(C) Programs to develop health professions and allied health professions personnel highly skilled in the prevention of such diseases.

(D) Programs to develop improved methods of providing emergency medical services for persons with such diseases.

(3) Centers developed under this subsection may be supported under subsection (b) of this section or under any other applicable provision of law. The research, training, and demonstration activities carried out through any such center may relate to any one or more of the diseases referred to in paragraph (1) of this subsection.

(b) Payments under cooperative agreements with public or nonprofit agencies; use of funds; limitations; "construction" and "training" defined

The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the Council, may enter into cooperative agreements with public or nonprofit private agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for, existing or new centers (including centers established under subsection (a) of this section) for basic or clinical research into, training in, and demonstration of the management of blood resources and advanced diagnostic, prevention, and treatment methods for heart, blood vessel, lung, or blood diseases. Funds paid to centers under cooperative agreements under this subsection may be used for—

(1) construction, notwithstanding section 285 of this title,

(2) staffing and other basic operating costs, including such patient care costs as are required for research,

(3) training, including training for allied health professions personnel, and

(4) demonstration purposes.

The aggregate of payments (other than payments for construction) made to any center under such an agreement for its costs (other than indirect costs) described in the first sentence may not exceed $5,000,000 in any year, except that the aggregate of such payments in any year may exceed such amount to the extent that the excess amount is attributable to increases in such year in appropriate costs as reflected in the Consumer Price Index published by the Bureau of Labor Statistics. Support of a center under this subsection may be for a period of not to exceed five years and may be tended by the Director of the Institute for additional periods of not more than five years each, after review of the operations of such center by an appropriate scientific review group established by the Director. As used in this section, the term "construction" does not include the acquisition of land; and the term "training" does not include research training for which fellowship support may be provided under section 289*l*-1 of this title.

(July 1, 1944, ch. 373, title IV, § 415, as added Sept. 19, 1972, Pub. L. 92-423, § 3(3), 86 Stat. 683, and amended July 12, 1974, Pub. L. 93-348, title I, § 104(a)(8), 88 Stat. 347; Apr. 22, 1976, Pub. L. 94-278, title I, § 106, 90 Stat. 403.)

PRIOR PROVISIONS

A prior section 287d, act July 1, 1944, ch. 373, title IV, § 415, as added June 16, 1948, ch. 621, § 3(b), 62 Stat. 598, which related to additional authority with respect to heart diseases, was repealed by act Aug. 15, 1950, ch. 714, § 4(c), 64 Stat. 447, and is now covered by section 286 of this title.

AMENDMENTS

1976—Subsec. (a)(1)(A). Pub. L. 94-278, § 106(a)(1), (b)(1), substituted "ten" for "fifteen" and "diseases" for ", blood vessel, and blood diseases", and inserted reference to research in the use of blood and blood products and in the management of blood resources.

Subsec. (a)(1)(B). Pub. L. 94-278, § 106(a)(2), (b)(2), substituted "ten" for "fifteen" and struck out "chronic" before "lung diseases".

Subsec. (a)(1)(C). Pub. L. 94-278, § 106(a)(3)(C), added subpar.(C).

Subsec. (a)(2). Pub. L. 94-278, § 106(b)(3), (4), (5), (6), in provisions preceding subpar.(A), substituted "paragraph (1)" for "paragraph (1)(A)", inserted "pulmonary and blood" before "diseases", in subpar.(A), substituted "cardiovascular, pulmonary, and blood diseases" for "cardiovascular disease", and in subpars.(B), (C) and (D), substituted "such diseases" for "such disease".

Subsec. (b). Pub. L. 94-278, § 106(c)(1), (2), in first sentence, inserted reference to the management of blood resources and in first sentence following par.(4), substituted provisions authorizing payments to center not to exceed $5,000,000 and authorizing payments of excess amounts where attributable to increased costs reflected by the Consumer Price Index for provisions authorizing payments to center not to exceed $5,000,000 for a period not to exceed 5 years which may be extended by the Director upon review by scientific review group.

1974—Subsec. (b). Pub. L. 93-348 added definition of "training".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93-348, set out as an Effective Date of 1974 Amendment note under section 241 of this title.

EFFECTIVE DATE

Section effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92-423, set out as an Effective Date of 1972 Amendment note under section 287 of this title.

§ 287e. Interagency Technical Committee

(a) Establishment; coordination functions

The Secretary shall establish an Interagency Technical Committee on Heart, Blood Vessel, Lung and Blood Diseases and Blood Resources which shall be responsible for coordinating those aspects of all Federal health programs and activities relating to heart, blood vessel, lung, and blood diseases and to blood resources to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

(b) Chairman; representation from Federal agencies

The Director of the Institute shall serve as Chairman of the Committee and the Committee shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities as determined by the Secretary.

(July 1, 1944, ch. 373, title IV, § 416, as added Sept. 19, 1972, Pub. L. 92-423, § 3(3), 86 Stat. 684.)

EFFECTIVE DATE

Section effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92-423, set out as an Effective Date of 1972 Amendment note under section 287 of this title.

§ 287f. National Heart, Lung, and Blood Advisory Council

(a) Establishment; membership; ex officio members; selection of members

There is established in the Institute a National Heart, Lung, and Blood Advisory Council to be composed of twenty-three members as follows:

(1) The Secretary, the Director of the National Institutes of Health, the Director of the National Science Foundation, and the chief medical officer of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, shall be ex officio members of the Council.

(2) Eighteen members appointed by the Secretary.

Eleven of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to diseases of the heart, blood vessels, lungs, and blood; two of the appointed members shall be selected from persons enrolled in residency programs providing training in heart, blood vessel, lung, or blood diseases; and five of the appointed members shall be selected from members of the general public who are leaders in the fields of fundamental or medical sciences or in public affairs.

(b) Terms; vacancies; service pending succession in office; quorum; Council as successor to National Advisory Heart Council; additional membership from former Council; compensation and travel expenses

(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

(3) The Council shall supersede the existing National Advisory Heart Council appointed under section 218 of this title, and the appointed members of the National Advisory Heart Council serving on the effective date of this section shall serve as additional members of the National Heart, Lung, and Blood Advisory Council for the duration of their terms then existing, or for such shorter time as the Secretary may prescribe.

(4) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(c) Chairman

The Secretary (or his designee) shall be the Chairman of the Council.

(d) Executive Secretary; staff, information, and other assistance

The Director of the Institute shall (1) designate a member of the staff of the Institute to act as Executive Secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

(e) Meetings

The Council shall meet at the call of the Chairman, but not less often than four times a year.

(July 1, 1944, ch. 373, title IV, § 417, as added Sept. 19, 1972, Pub. L. 92-423, § 3(3), 86 Stat. 684, and amended Apr. 22, 1976, Pub. L. 94-278, title I, § 107, 90 Stat. 404.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subsec. (b)(1)(B), (3), see section 9 of Pub. L. 92-423, set out as an Effective Date of 1972 Amendment note under section 287 of this title.

The General Schedule, referred to in subsec. (b)(4), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-278, § 107(b), in provisions preceding par. (1), substituted "National Heart, Lung, and Blood Advisory Council" for "National Heart and Lung Advisory Council".

Subsec. (a)(1). Pub. L. 94-278, § 107(a), substituted "Director of the National Science Foundation" for "Director of the Office of Science and Technology".

Subsec. (b)(3). Pub. L. 94-278, § 107(b), substituted "National Heart, Lung, and Blood Advisory Council" for "National Heart and Lung Advisory Council".

EFFECTIVE DATE

Section effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92-423, set out as an Effective Date of 1972 Amendment note under section 287 of this title.

TRANSFER OF FUNCTIONS

All functions vested by law in the Office of Science and Technology and in the Director or Deputy Director of the Office of Science and Technology were transferred to the Director of the National Science Foundation, and the Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of Reorg. Plan No. 2 of 1962 was abolished by sections 2 and 3(a)(5) of Reorg. Plan No. 1 of 1973 effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 287g. Functions of Council

(a) General authorization

The Council is authorized to—

(1) Review of research problems

review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources, and certify approval to the Secretary, for prosecution under section 287a of this title, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources;

(2) Review applications for grants-in-aid for research

review applications from any university, hospital, laboratory, or other institution or agency, whether public or private, or from individuals, for grants-in-aid for research projects relating to heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources, and certify to the Secretary its approval for grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources;

(3) Review applications for grants-in-aid for traineeships

review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources, and certify to the Secretary its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this chapter;

(4) Recommendations for awarding and budgeting of contracts

recommend to the Secretary (A) areas of research in heart, blood vessels, lung, and blood diseases and in the use of blood and blood products and the management of blood resources which it determines should be supported by the awarding of contracts in order to best carry out the purposes of this part, and (B) the percentage of the budget of the Institute which should be expended for such contracts;

(5) Collection and dissemination of information

collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung and blood diseases and to the use of blood and blood products and the management of blood resources, by correspondence or by personal investigation of such studies, and with the approval of the Secretary make available such information through appropriate publications for the benefit of health and welfare agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

(6) Recommendations for acceptance of conditional gifts

recommend to the Secretary for acceptance conditional gifts pursuant to section 219 of this title for carrying out the purposes of this part; and

(7) Recommendations for administration of laws

advise, consult with, and make recommendations to the Secretary, the Director of the National Institutes of Health, and the Director of the National Heart, Lung, and Blood Institute with respect to carrying out the provisions of this part.

(b) Assistance respecting section 287b Program; hearings; time and place for sessions; transmittal of report to President and Congress

(1) The Council shall advise and assist the Director of the Institute with respect to the Program established under section 287b of this title. The Council may hold such hearings, take such testimony, and sit and act at such times and places, as the Council deems advisable to investigate programs and activities of the Program.

(2) The Council shall submit a report to the Secretary for simultaneous transmittal, not later than November 30 of each year, to the President and to the Congress on the progress of the Program toward the accomplishment of its objectives during the preceding fiscal year.

(July 1, 1944, ch. 373, title IV, § 418, formerly 414, as added June 16, 1948, ch. 481, § 3(b), 62 Stat. 464, 466, renumbered and amended Sept. 19, 1972, Pub. L. 92-423, §§ 3(2), 6(c), 86 Stat. 680, 686; Apr. 22, 1976, Pub. L. 94-278, title I, §§ 102, 108(1)-(3)(A), 90 Stat. 402, 404.)

PRIOR PROVISIONS

Provisions similar to those in subsec. (a) were formerly contained in section 287c of this title.

AMENDMENTS

1976—Subsecs. (a)(1) to (3). Pub. L. 94-278, § 108(1), in pars. (1) to (3), inserted reference to the use of blood and blood products and the management of blood resources.

Subsecs. (a)(4) to (7). Pub. L. 94-278, § 108(1), (2), redesignated pars. (4), (5) and (6) as pars. (5), (6), and (7), inserted reference to the use of blood and blood resources and the management of blood resources in par. (5) as redesignated, added par. (4), and substituted "National Heart, Lung, and Blood Institute" in par. (7) as redesignated for "National Heart and Lung Institute".

Subsec. (b)(2). Pub. L. 94-278, § 108(3)(A), substituted provisions relating to the submission by Council of a report, on progress of program, to Secretary for simultaneous transmittal to the President and Congress for provisions relating to submission by Council of a report, on progress of program, to the President for transmittal to Congress not later than January 1 of each year.

1972—Subsec. (a). Pub. L. 92-423, § 6(c)(1) to (5), designated existing provisions as subsec. (a); substituted "Secretary" for "Surgeon General" in pars. (1) to (5), formerly designated pars. (a) to (e); substituted "heart, blood vessel, lung, and blood" for "heart" wherever appearing in pars. (1) to (4), formerly designated pars. (a) to (d); substituted in par. (6), formerly designated par. (f), "Secretary, the Director of the National Institutes of Health, and the Director of the National Heart and Lung Institute"; and redesignated as pars. (1) to (6) former pars. (a) to (f), respectively.

Subsec. (b). Pub. L. 92-423, 6(c)(1), added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 108(3)(C) of Pub. L. 94-278 provided that: "The amendment made by subparagraph (A) [amending subsec. (b)(2) of this section] shall take effect as of January 1, 1976."

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-423 effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92-423, set out as an Effective Date of 1972 Amendment note under section 287 of this title.

FISCAL YEAR TRANSITION

Section 108(3)(B) of Pub. L. 94-278 provided that: "For purposes of section 418(b)(2) of the Public Health Service Act [subsec. (b)(2) of this section] (as amended by subparagraph (A)) [see 1976 Amendment note above] the period beginning July 1, 1975, and ending September 30, 1976, shall be considered a fiscal year."

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 287h of this title.

§ 287h. Administration

(a) Authority of the Secretary; grants-in-aid

In carrying out the provisions of section 287a of this title all appropriate provisions of section 241 of this title shall be applicable to the authority of the Secretary, and except as provided in subsection (c) of this section, grants-in-aid for heart, blood vessel, lung, and blood disease research and training projects and projects with respect to the use of blood and blood products and the management of blood resources, shall be made only after review and recommendation of the Council made pursuant to section 287g of this title.

(b) Acceptance of conditional gifts; memorials

The Secretary may, in accordance with section 219 of this title, accept conditional gifts for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung, and blood diseases and into the use of blood and blood products and the management of blood resources, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or over for carrying out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

(c) Research and training grants; limitations

Under procedures approved by the Director of the National Institutes of Health, the Director of the National Heart, Lung, and Blood Institute may approve grants under this chapter for research and training in heart, blood vessel, lung, and blood diseases and for research and training in the use of blood and blood products and the management of blood resources—

(1) if the direct costs of such research and training do not exceed $35,000, but only after appropriate review for scientific merit but without review and recommendation by the Council, and

(2) if the direct costs of such research and training exceed $35,000, but only after appropriate review for scientific merit and recommendation for approval by the Council.

(July 1, 1944, ch. 373, title IV, § 419A, formerly § 413, as added June 16, 1948, ch. 481, § 3(b), 62 Stat. 464, and renumbered and amended Sept. 19, 1972, Pub. L. 92-423, §§ 3(1), 5, 6(d), 86 Stat.

680, 686, 687; Apr. 22, 1976, Pub. L. 94-278, title I, §§ 102, 109, 90 Stat. 402, 405.)

CODIFICATION

Section 287g of this title is a reference to section 418 of act July 1, 1944, and was substituted for such section as manifesting Congressional intent in Pub. L. 92-423 which enacted another section 414 as part of act July 1, 1944, classified to section 287c of this title, and renumbered former section 414 of act July 1, 1944, originally so referred to in subsec. (a) of this section, as section 418, classified to section 287g of this title.

PRIOR PROVISIONS

Provisions similar to those in subsecs. (a) and (b) were formerly contained in section 287b of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-278, § 109(1), inserted reference to projects with respect to the use of blood and blood projects and the management of blood resources.

Subsec. (b). Pub. L. 94-278, § 109(2), inserted reference to the use of blood and blood products and the management of blood resources.

Subsec. (c). Pub. L. 94-278, §§ 102, 109(3), substituted "National Heart, Lung, and Blood Institute" for "National Heart and Lung Institute" and inserted reference to research and training in the use of blood and blood products and the management of blood resources in the provisions preceding par. (1).

Subsec. (c)(1). Pub. L. 94-278, § 109(4), substituted "if the direct costs of such research and training do not exceed $35,000, but only" for "in amounts not to exceed $35,000".

Subsec. (c)(2). Pub. L. 94-278, § 109(5), substituted "if the direct costs of such research and training exceed $35,000, but only" for "in amounts exceeding $35,000".

1972—Subsec. (a). Pub. L. 92-423, §§ 5(1), 6(d)(1), substituted "except as provided in subsection (c) of this section, grants-in-aid" for "grants-in-aid" and "Secretary" and "heart, blood vessel, lung, and blood" for "Surgeon General" and "heart", respectively.

Subsec. (b). Pub. L. 92-423, § 6(d)(2), substituted "The Secretary may, in accordance with section 219 of this title, accept conditional gifts" and "heart, blood vessel, lung, and blood" for "The Surgeon General shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 219 of this title," and "heart", respectively.

Subsec. (c). Pub. L. 92-423, § 5(2), added subsec. (c).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-423 effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92-423, set out as an Effective Date of 1972 Amendment note under section 287 of this title.

§ 287i. Authorization of appropriations

For the purpose of carrying out this part (other than section 287c of this title), there is authorized to be appropriated $375,000,000 for the fiscal year ending June 30, 1973, $425,000,000 for the fiscal year ending June 30, 1974, $475,000,000 for the fiscal year ending June 30, 1975, $339,000,000 for fiscal year 1976, and $373,000,000 for fiscal year 1977. Of the sums appropriated under this section for any fiscal year, not less than 15 per centum of such sums shall be reserved for programs under this part respecting diseases of the lung and not less than 15 per centum of such sums shall be reserved for programs under this part for programs respecting blood diseases and blood resources.

(July 1, 1944, ch. 373, title IV, § 419B, as added Sept. 19, 1972, Pub. L. 92-423, § 4, 86 Stat. 685, and amended Apr. 22, 1976, Pub. L. 94-278, title I, § 110, 90 Stat. 405.)

AMENDMENTS

1976—Pub. L. 94-278 authorized appropriations of $339,000,000 for fiscal year 1976, and $373,000,000 for fiscal year 1977, and substituted "blood diseases and blood resources" for "diseases of the blood".

EFFECTIVE DATE

Section effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92-423, set out as an Effective Date of 1972 Amendment note under section 287 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

PART C—NATIONAL INSTITUTE OF DENTAL RESEARCH

AMENDMENTS

1948—Act June 24, 1948, ch. 621, § 3(b), 62 Stat. 598, added heading of Part C.

§ 288. Establishment of Institute

There is established in the Public Health Service a National Institute of Dental Research (hereafter in this part referred to as the "Institute").

(July 1, 1944, ch. 373, title IV, § 421, as added June 24, 1948, ch. 621, § 3(b), 62 Stat. 598.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

PURPOSE OF THIS PART

Section 2 of act June 24, 1948, provided that: "The purpose of this Act [see Short Title of 1948 Amendment note set out under section 201 of this title] is to improve the dental health of the people of the United States through the conduct of researches, investigations, experiments, and studies relating to the cause, diagnosis, and treatment of dental diseases and conditions; assist and foster such researches and other activities by public and private agencies; provide training in matters relating to dental diseases and conditions; and promote the coordination of all such researches and activities and the useful application of their results, with a view to the development and prompt widespread use of the most effective methods of prevention, diagnosis, and treatment of dental diseases and conditions."

APPROPRIATION FOR CONSTRUCTION OF RESEARCH FACILITIES

Section 5 of act June 24, 1948, as amended June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; July 19, 1956, ch. 637, 70 Stat. 578, authorized an appropriation of a

sum not to exceed $4,000,000 for the erection and equipment of suitable and adequate buildings and facilities for the use of the National Institute of Dental Research and authorized the Administrator of General Services to acquire, by purchase, condemnation, donation, or otherwise, a suitable and adequate site or sites, selected on the advice of the Surgeon General of the Public Health Service, in or near the District of Columbia for such buildings and facilities and to erect thereon, furnish, and equip such buildings and facilities.

§ 288a. Powers and duties of Surgeon General

In carrying out the purposes of section 241 of this title with respect to dental diseases and conditions the Surgeon General, through the Institute and in cooperation with the National Advisory Dental Research Council (hereafter in this part referred to as the "Council"), shall—

(a) Fosterage of research

conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of dental diseases and conditions;

(b) Coordination of research programs

promote the coordination of researches conducted by the Institute, and similar researches conducted by other agencies, organizations, and individuals;

(c) Securement of expert advice and services

secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in the field of dental diseases and conditions;

(d) Cooperation with State health agencies

cooperate with State health agencies in the prevention and control of dental diseases and conditions; and

(e) Establishment of clinical traineeships

provide clinical training and instruction and establish and maintain clinical traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other nonprofit institutions.

(July 1, 1944, ch. 373, title IV, § 422, as added June 24, 1948, ch. 621, § 3(b), 62 Stat. 598, and amended July 12, 1974, Pub. L. 93-348, title I, § 104(a)(9), 88 Stat. 347.)

Amendments

1974—Pars. (c) to (f). Pub. L. 93-348 struck out par. (c) providing for establishment of fellowships and redesignated former pars. (d) to (f) as (c) to (e), and in par. (e) substituted "clinical training and instruction and establish and maintain clinical traineeships" for "training and instruction and establish and maintain traineeships", respectively.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93-348, set out as an Effective Date of 1974 Amendment note under section 241 of this title.

Abolition of Office of Surgeon General

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

Section Referred to in Other Sections

This section is referred to in sections 288b, 288c of this title.

§ 288b. Administration of powers by Surgeon General; acceptance of gifts; memorials

(a) In carrying out the provisions of section 288a of this title all appropriate provisions of section 241 of this title shall be applicable to the authority of the Surgeon General, and grants-in-aid for dental research and training projects shall be made only after review and recommendation of the Council made pursuant to section 288c of this title.

(b) The Surgeon General shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 219 of this title, for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or over for carrying out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

(July 1, 1944, ch. 373, title IV, § 423, as added June 24, 1948, ch. 621, § 3(b), 62 Stat. 598, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

Transfer of Functions

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare, and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan. No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Abolition of Office of Surgeon General

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

§ 288c. Functions of Council

The Council is authorized to—

(a) Review of research problems

review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of dental diseases and conditions, and certify approval to the

Surgeon General, for prosecution under section 288a(a) of this title, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of dental diseases and conditions;

(b) Collection and dissemination of information

collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the information of the general public;

(c) Review applications for grants-in-aid for research

review applications from any university, hospital, laboratory, or other institution, whether public or private, or from individuals, for grants-in-aid for research projects relating to dental diseases and conditions, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions;

(d) Recommendations for acceptance of conditional gifts

recommend to the Surgeon General for acceptance conditional gifts pursuant to section 219 of this title for carrying out the purposes of this part;

(e) Recommendations for administration of laws

make recommendations to the Surgeon General with respect to carrying out the provisions of this part; and

(f) Review applications for grants-in-aid for traineeships

review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions, and certify to the Surgeon General its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this chapter.

(July 1, 1944, ch. 373, title IV, § 424, as added June 24, 1948, ch. 621, § 3(b), 62 Stat. 598.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

TERMINATION OF ADVISORY COUNCILS

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 288b of this title.

§§ 288d, 288e. Repealed. Aug. 15, 1950, ch. 714, § 4(c), 64 Stat. 447

Section 288d, act July 1, 1944, ch. 373, title IV, § 425, as added June 24, 1948, ch. 621, § 3(b), 62 Stat. 598, which related to additional authority with respect to dental diseases, is now covered by section 286 of this title.

Section 288e, act July 1, 1944, ch. 373, title IV, § 426, as added June 24, 1948, ch. 621, § 3(b), 62 Stat. 598, related to annual appropriations.

PART D—NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES; NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE; AND OTHER INSTITUTES

AMENDMENTS

1972—Pub. L. 92-305, § 1(b)(2), May 19, 1972, 86 Stat. 163, substituted "National Institute of Arthritis, Metabolism, and Digestive Diseases; National Institute of Neurological Diseases and Stroke; and Other Institutes" for "National Institute on Arthritis, Rheumatism, and Metabolic Diseases, National Institute on Neurological Diseases and Stroke, and Other Institutes" in Part D designation.

1950—Act Aug. 15, 1950, ch. 714, § 2(b), 64 Stat. 444, added heading of Part D.

§ 289. Congressional declaration of purpose

The purpose of sections 210(c), (g), 218, 286, and this part is to improve the health of the people of the United States through the conduct of researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of arthritis and rheumatism, multiple sclerosis, cerebral palsy, epilepsy, poliomyelitis, blindness, leprosy, and other diseases; assist and foster such researches and other activities by public and private agencies, and promote the coordination of all such researches and activities and the useful application of their results; provide training in matters relating to such diseases; and develop, and assist States and other agencies in the use of, the most effective methods of prevention, diagnosis, and treatment of such diseases.

(Aug. 15, 1950, ch. 714, § 1, 64 Stat. 443.)

CODIFICATION

Section was not enacted as a part of the Public Health Service Act which comprises this chapter.

COMMISSION FOR THE CONTROL OF EPILEPSY AND ITS CONSEQUENCES

Pub. L. 94-63, title VI, § 604, July 29, 1975, 89 Stat. 348, provided for the establishment of the temporary Commission for the Control of Epilepsy and Its Consequences to make a study of the proper role of Federal and State governments and national, local, and private agencies in the research, prevention, etc., of epilepsy and to develop a national plan for its prevention and control. A final report detailing its findings and recommendations was to be transmitted to the President and Congress not later than one year after July 29, 1975, 30 days after the transmittal of which the Commission should cease to exist.

COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Pub. L. 94-63, title VI, § 605, July 29, 1975, 89 Stat. 349, provided for the establishment of the temporary Commission for the Control of Huntington's Disease and Its Consequences to make a study of the proper role of Federal and State governments and national, local, and private agencies in the research, prevention, etc. of Huntington's disease and to develop a national plan for its prevention and control. A final report detailing its findings and recommendations was to be transmitted to the President and Congress not later than one year after July 29, 1975, 30 days after the transmittal of which the Commission should cease to exist.

§ 289a. Institutes for research

(a) Establishment of institutes for research on arthritis, etc.

The Surgeon General shall establish in the Public Health Service an institute for research on arthritis, rheumatism, digestive diseases, and metabolism, and an institute for research on neurological diseases (including epilepsy, cerebral palsy, and multiple sclerosis) and blindness, and he shall also establish a national advisory council or committee for each such institute to advise, consult with, and make recommendations to him with respect to the activities of the institute with which each council or committee is concerned.

(b) Establishment of additional institutes as deemed necessary

The Surgeon General is authorized with the approval of the Secretary to establish in the Public Health Service one or more additional institutes to conduct and support scientific research and professional training relating to the cause, prevention, and methods of diagnosis and treatment of other particular diseases or groups of diseases (including poliomyelitis and leprosy) whenever the Surgeon General determines that such action is necessary to effectuate fully the purposes of section 241 of this title with respect to such disease or diseases. Any institute established pursuant to this subsection may in like manner be abolished and its functions transferred elsewhere in the Public Health Service upon a finding by the Surgeon General that a separate institute is no longer required for such purposes. In lieu of the establishment pursuant to this subsection of an additional institute with respect to any disease or diseases, the Surgeon General may expand the functions of any institute established under subsection (a) of this section or under any other provision of this chapter so as to include functions with respect to such disease or diseases and to terminate such expansion and transfer the functions given such institute elsewhere in the Service upon a finding by the Surgeon General that such expansion is no longer necessary. In the case of any such expansion of an existing institute, the Surgeon General may change the title thereof so as to reflect its new functions.

(c) Obligation of appropriations for basic and clinical orthopedic research

Of the sums appropriated for any fiscal year under this chapter for the National Institutes of Health, not less than $500,000 shall be obligated for basic and clinical orthopedic research conducted within the National Institute of Arthritis, Metabolism, and Digestive Diseases which relates to the methods of preventing, controlling and treating arthritis and related musculoskeletal diseases, (hereinafter in this part collectively referred to as "arthritis"), including research in implantable biomaterials and biomechanical and other orthopedic procedures and research in the development of new and improved orthopedic treatment methods.

(July 1, 1944, ch. 373, title IV, § 431, as added Aug. 15, 1950, ch. 714, § 2(b), 64 Stat. 444, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(a)(2), 84 Stat. 1310; May 19, 1972, Pub. L. 92-305, § 1(b)(1), 86 Stat. 163; Jan. 4, 1975, Pub. L. 93-640, § 5(b), 88 Stat. 2224; Apr. 22, 1976, Pub. L. 94-278, title VI, § 603(a)(1), 90 Stat. 414.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-278 inserted "(hereinafter in this part collectively referred to as 'arthritis')" after "musculoskeletal diseases".

1975—Subsec. (c). Pub. L. 93-640 added subsec. (c).

1972—Subsec. (a). Pub. L. 92-305 redesignated institute for research on arthritis, rheumatism, and metabolic diseases as institute for research on arthritis, rheumatism, digestive diseases, and metabolism.

1970—Subsec. (a). Pub. L. 91-515 added "or committee" following "council" wherever appearing therein.

CHANGE OF NAME

Section 7 of Pub. L. 90-639, Oct. 24, 1968, 82 Stat. 1362, provided in part that: "The name of the National Institute of Neurological Diseases and Blindness is hereby changed to the 'National Institute for Neurological Diseases and Stroke'."

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan. No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

NATIONAL COMMISSION ON DIGESTIVE DISEASES

Pub. L. 94-562, title III, § 301, Oct. 19, 1976, 90 Stat. 2650, provided that:

"(a) The Secretary of Health, Education, and Welfare (hereafter in this section referred to as the 'Secretary') after consulting with the Director of the National Institutes of Health, shall, within sixty days of the date of enactment of this section [Oct. 19, 1976], establish a National Commission on Digestive Diseases (hereafter in this section referred to as the 'Commission').

"(b) The Commission shall be composed of twenty-six members as follows:

"(1) Ten members, appointed by the Secretary from scientists, physicians, and other health professionals, not in the employment of the Federal Government, as follows: Two shall be practicing clinical gastroenterologists, two shall be gastroenterologists involved primarily in research on digestive diseases,

one shall be a surgeon, one shall be an expert in liver disease, one shall be an epidemiologist, one shall be an allied health professional, and two shall be basic biomedical scientists (such as biochemists, physiologists, microbiologists, nutritionists, pharmacologists, or immunologists).

"(2) Six members, appointed by the Secretary from the general public, of whom at least three shall have personal or close family experience with digestive diseases.

"(3) One member, appointed by the Secretary from the members of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council whose primary interest is in the field of digestive diseases.

"(4) The Director of the National Institutes of Health or his designee; the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases or his designee; the Directors, or their designees, of the National Institute of Allergy and Infectious Diseases, the National Cancer Institute, the National Institute of General Medical Sciences; the Associate Director for Digestive Diseases and Nutrition of the National Institute of Arthritis, Metabolism, and Digestive Diseases; the Director of the Center for Disease Control or his designee; the Chief Medical Director of the Veterans' Administration or his designee; and the Secretary of Defense or his designee shall each be ex officio members of the Commission.

"(c) The members of the Commission shall select a Chairperson from among the appointed members of the Commission.

"(d) The Commission shall first meet as directed by the Secretary, not later than sixty days after the Commission is established, and thereafter shall meet at the call of the Chairperson of the Commission, but not less often than three times during the life of the Commission. The Commission may hold such hearings, take such testimony, and sit and act at such time and places as the Commission deems advisable.

"(e)(1) The Commission may appoint and fix the pay of an executive secretary to effectively carry out its functions. The executive secretary shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(2) The Secretary shall provide the Commission with such additional professional and clerical staff, such information, and the services of such consultants as the Secretary determines to be necessary for the Commission to carry out effectively its functions.

"(f) Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment. Members of the Commission who are not officers or employees of the Federal Government shall receive compensation at a rate not to exceed the daily equivalent of the annual rate in effect for Grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Commission. All members, while serving away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code for persons in Government service employed intermittently.

"(g)(1) The Commission shall—

"(A) conduct a comprehensive study of the present state of knowledge of the incidence, duration, and morbidity of, and mortality rates resulting from, digestive diseases and of the social and economic impact of such diseases;

"(B) evaluate the public and private facilities and resources (including trained personnel and research activities) for the diagnosis, prevention, and treatment of, and research in, such diseases; and

"(C) identify programs (including biological, behavioral, nutritional, environmental, and social programs) in which, and the means by which, improvement in the management of digestive diseases can be accomplished.

Each Federal entity administering health programs and activities related to digestive diseases shall, upon request, assist the Commission in carrying out its duties under this paragraph.

"(2) Based on the study, evaluation, and identification made pursuant to paragraph (1), the Commission shall develop and recommend a long-range plan for the use and organization of national resources to effectively deal with digestive diseases. The plan shall provide for—

"(A) research studies into the basic biological processes and mechanisms related to digestive diseases;

"(B) investigations into the epidemiology, etiology, diagnosis, treatment, prevention, and control of digestive diseases;

"(C) development of preventive measures (including education programs, programs for the elimination of environmental hazards related to digestive diseases, and clinical programs) to be taken against digestive diseases;

"(D) detection of digestive diseases in the presymptomatic stages and development and evaluation of new and improved methods of screening for digestive diseases;

"(E) development of criteria for the diagnosis and the clinical management and control of digestive diseases;

"(F) development of coordinated health care systems for dealing with digestive diseases;

"(G) education and training (including continuing education programs) of scientists, clinicians, educators, and allied health professionals in the fields and specialties requisite to the conduct of programs related to digestive diseases with special emphasis on training for careers in research, teaching, and all aspects of patient care;

"(H) the conduct and direction of field studies and clinical trials for testing, evaluating, and demonstrating preventive, diagnostic, therapeutic, rehabilitative, and control measures in digestive diseases;

"(I) establishment of a standardized nomenclature of all digestive diseases for use in basic and clinical research and to facilitate collaborative studies; and

"(J) establishment of a system of periodic surveillance of the research potential and research needs in digestive diseases corresponding with the recently completed survey organized by the National Institute of Arthritis, Metabolism, and Digestive Diseases.

The long-range plan formulated under this paragraph shall also include within its scope related nutritional disorders and basic biological processes and mechanisms in nutrition which are related to digestive diseases.

"(h) The Commission shall recommend for each of the Institutes of the National Institutes of Health whose activities are to be affected by the long-range plan estimates of the expenditures needed to carry out each Institute's part of the overall program. Such estimates shall be prepared for the fiscal year beginning immediately after completion of the Commission's plan and for each of the next two fiscal years.

"(i)(1) Within eighteen months following its initial meeting (as prescribed by subsection (d)), the Commission shall publish and transmit directly to the Congress a final report respecting its activities under this section. The report shall contain (A) the long-range plan required by subsection (g), (B) the expenditure estimates required by subsection (h), and (C) any recommendations of the Commission for legislation.

"(2) The Commission shall cease to exist on the thirtieth day following the date of submission of the final report to Congress.

"(j) There are authorized to be appropriated without fiscal year limitation $1,500,000 to carry out the purposes of this section."

APPROPRIATION FOR BASIC AND CLINICAL ORTHOPEDIC RESEARCH FOR FISCAL TRANSITION PERIOD JULY 1, 1976 THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 106(d), Apr. 21, 1976, 90 Stat. 386, provided that of the sums appropriated under this chapter for the period of July 1, 1976 through Sept. 30, 1976, not less than $125,000 shall be obligated for basic and clinical orthopedic research as prescribed under subsec. (c) of this section.

MULTIPLE SCLEROSIS, CAUSES, CURES, AND TREATMENTS

Pub. L. 92-563, Oct. 25, 1972, 86 Stat. 1177, known as the "National Advisory Commission on Multiple Sclerosis Act" established a National Advisory Commission to study and investigate the most effective means of finding the cause of and cures for multiple sclerosis. Such Commission was to transit to the Secretary for transmittal to the President and Congress a final report and recommendations not later than one year after Oct. 25, 1972, 30 days after the transmittal of which the Commission should cease to exist.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289b, 289c-1 of this title.

§ 289b. Establishment of national advisory councils or committees; composition; qualifications; appointment and tenure; expansion of functions of already established councils or committees

(a) The Surgeon General is also authorized with the approval of the Secretary of Health, Education, and Welfare to establish additional national advisory councils or committees to advise, consult with, and make recommendations to the Surgeon General on matters relating to the activities of any institute established under subsection (b) of section 289a of this title, or relating to the conduct and support of research and training in such disease or group of diseases (except a disease or group of diseases for which an institute is established under any provision of this subchapter other than section 289a(b) of this title) as he may designate. Any such council, and each of the two councils or committees established under section 289a(a) of this title, shall consist of the Surgeon General, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members, and of twelve members appointed without regard to the civil-service laws by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare. The twelve appointed members shall be leaders in the field of fundamental sciences, medical sciences, education, or public affairs, and six of such twelve shall be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment of the disease or diseases to which the activities of the institute are directed. Each appointed member of the council shall hold office for a term of four years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and except that, of the members first appointed, three shall hold office for a term of three years, three shall hold office for a term of two years, and three shall hold office for a term of one year, as designated by the Surgeon General at the time of appointment. None of such twelve members shall be eligible for reappointment until a year has elapsed since the end of his preceding term.

(b) In lieu of appointment of an additional advisory council or committee upon the establishment pursuant to subsection (b) of section 289a of this title of an additional institute or upon expansion pursuant to such subsection of the functions of an institute, the Surgeon General may expand the functions of an advisory council or committee established under section 289a(a) of this title or any other provision of this chapter so as to include functions with respect to the particular disease or diseases to which the activities of the additional institute or the expanded activities of the existing institute are directed. In the case of any such expansion of an existing council or committee, the membership thereof representing persons outstanding in activities with which the council or committee is concerned may be changed or increased so as to include some persons outstanding in the new activities. Any new council or committee established under subsection (a) of this section or any expansion of an existing council or committee under this subsection may be terminated by the Surgeon General at, before, or after the termination of the new institute or expansion of the existing institute which occasioned such new council or committee or expansion of an existing council or committee. In the case of any such expansion of an existing council or committee the Surgeon General may change the title thereof so as to reflect its new functions.

(July 1, 1944, ch. 373, title IV, § 432, as added Aug. 15, 1950, ch. 714, § 2(b), 64 Stat. 444, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(a)(1), (2), 84 Stat. 1310.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-515, § 601(a)(1), added "or committees" following "councils" wherever appearing therein.

Subsec. (b). Pub. L. 91-515, § 601(a)(2), added "or committee" following "council" wherever appearing therein.

CHANGE OF NAME

Name of National Institute of Neurological Diseases and Blindness changed to National Institute of Neurological Diseases and Stroke, see section 1 of Pub. L. 90-489, Aug. 16, 1968, 82 Stat. 772, set out as CHANGE OF NAME note under section 289a of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan. No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289c-1, 289f, 289j, 289k-3 of this title.

§ 289c. Functions of institutes and advisory council or committee

(a) Where an institute has been established under this part, the Surgeon General shall carry out the purposes of section 241 of this title with respect to the conduct and support of research relating to the disease or diseases to which the activities of the institute are directed, through such institute and in cooperation with the national advisory council or committee established or expanded by reason of the establishment of such institute. The provisions of this subsection shall also be applicable to any institute established by any other provision of this chapter to the extent that such institute does not already have the authority conferred by this subsection.

(b) Upon the appointment of a national advisory council or committee for an institute established under this part of the expansion of an existing institute pursuant to said sections, such council or committee shall assume the duties, functions, and powers of the National Advisory Health Council with respect to grants-in-aid for research and training projects relating to the disease or diseases to which the activities of the institute are directed.

(July 1, 1944, ch. 373, title IV, § 433, as added Aug. 15, 1950, ch. 714, § 2(b), 64 Stat. 444, and amended Oct. 5, 1961, Pub. L. 87-395, § 7, 75 Stat. 826; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(a)(2), 84 Stat. 1310; July 12, 1974, Pub. L. 93-348, title I, § 104(a)(11), 88 Stat. 347.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-348 struck out second sentence reading "In addition, the Surgeon General is authorized to provide training and instruction and establish and maintain traineeships and fellowships, in such institute and elsewhere, in matters relating to the diagnosis, prevention, and treatment of such disease or diseases with such stipends and allowances (including travel and subsistence expenses) for trainees and fellows as he may deem necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public and other nonprofit institutions."

1970—Subsec. (a). Pub. L. 91-515 added "or committee" following "council".

Subsec. (b). Pub. L. 91-515 added "or committee" following "council" wherever appearing therein.

1961—Subsec. (a). Pub. L. 87-395 repealed the phrase "(including grants-in-aid for drawing plans, erection of buildings, and acquisition of land therefor)" which followed "activities of the institute are directed".

CHANGE OF NAME

Name of National Institute of Neurological Diseases and Blindness changed to National Institute of Neurological Diseases and Stroke, see section 1 of Pub. L. 90-489, Aug. 16, 1968, 82 Stat. 772, set out as a CHANGE OF NAME note under section 289a of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendments by Pub. L. 93-348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93-348, set out as an Effective Date of 1974 Amendment note under section 241 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 7 of Pub. L. 87-395 provided in part that the repeal of the parenthetical phrase in subsec. (a) of this section shall be effective July 1, 1962.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 289c-1. National Institute of Arthritis, Metabolism, and Digestive Diseases

(a) Designation of Institute and advisory council

The Research Institute on Arthritis, Rheumatism, and Metabolic Diseases established under section 289a(a) of this title is designated the "National Institute of Arthritis, Metabolism, and Digestive Diseases", and the Advisory Council established under section 289b of this title to advise the Secretary with respect to the activities of the Institute is designated the "National Arthritis, Metabolism, and Digestive Diseases Advisory Council". There shall be in the Institute an Associate Director for Digestive Diseases.

(b) Committee within Advisory Council; duties

There is established in the National Arthritis, Metabolism, and Digestive Diseases Advisory Council a committee to advise the Director of the Institute respecting the activities of the Institute concerning digestive diseases. The committee shall be composed of those members of the Advisory Council who are outstanding in the diagnosis, prevention, and treatment of digestive diseases. The committee shall review applications made to the Director for grants for

research projects relating to the diagnosis, prevention, and treatment of digestive diseases and shall recommend to the Director for approval those applications and contracts which the committee determines will best carry out the purposes of this part. The Advisory Council shall review applications made to the Director for grants for research projects related to arthritis and shall recommend to the Director for approval those applications and contracts which the Council determines will best carry out the purposes of this part. The Advisory Council shall also review and evaluate the arthritis programs under this part and shall recommend to the Director such changes in the administration of such programs as it determines are necessary.

(c) Program of research and training in diagnosis, etc., of digestive diseases

The Director of the Institute, acting through the Associate Director for Digestive Diseases, shall (1) carry out, at the facilities of the Institute, a program of research in the diagnosis, prevention, and treatment of digestive diseases; and (2) carry out programs of support for research and training (other than research training for which National Research Service Awards may be made under section 289*l*-1 of this title) in the diagnosis, prevention, and treatment of digestive diseases, including support for training in medical schools, graduate clinical training, epidemiology studies, clinical trials, and interdisciplinary research programs.

(d) Program of support for research and training in diagnosis, etc., of diabetes mellitus

The Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases, working through the Associate Director for Diabetes (if that position is established), shall (1) carry out programs of support for research and training in the diagnosis, prevention, and treatment of diabetes mellitus and related endocrine and metabolic diseases, and (2) establish programs of evaluation, planning, and dissemination of knowledge related to research and training in diabetes mellitus and related endocrine and metabolic diseases.

(e) Associate Director for Arthritis and Related Musculoskeletal Disease; duties

There is established within the Institute the position of Associate Director for Arthritis and Related Musculoskeletal Disease (hereinafter in this part referred to as the "Associate Director"), who shall report directly to the Director of such Institute and who, under the supervision of the Director of such Institute, shall be responsible for programs regarding arthritis within such Institute.

(f) Annual report to Congress; contents

The Director of the Institute shall, as soon as practicable, but not later than sixty days, after the end of each fiscal year, prepare, in consultation with the National Advisory Council, and submit to the President and to the Congress a report. Such report shall include (1) a proposal for the Institute's activities under the Arthritis Plan formulated under the National Arthritis Act of 1974 and activities under other provisions of law during the next five years, with an estimate for such additional staff positions and appropriations as may be required to pursue such activities, and (2) a program evaluation section, wherein the activities and accomplishments of the Institute during the preceding fiscal year shall be measured against the Director's proposal for that year for activities under the Arthritis Plan.

(July 1, 1944, ch. 373, title IV, § 434, as added May 19, 1972, Pub. L. 93-305, § 1(a), 86 Stat. 162, and amended July 12, 1974, Pub. L. 93-348, title I, § 104(a)(10), 88 Stat. 347; July 23, 1974, Pub. L. 93-354, § 5(b), 88 Stat. 377; Jan. 4, 1975, Pub. L. 93-640, § 5(a), (c), 88 Stat. 2224; Apr. 22, 1976, Pub. L. 94-278, title VI, § 603(a)(2), (3), 90 Stat. 414.)

References in Text

The National Arthritis Act of 1974, referred to in subsec. (f), is Pub. L. 93-640, Jan. 4, 1974, 88 Stat. 2217, which enacted sections 289c-4, 289c-5, and 289c-6 of this title, amended sections 289a and 289c-1 of this title, and enacted provisions set out as notes under this section. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

Amendments

1976—Subsec. (b). Pub. L. 94-278, § 603(a)(2), struck out "and related musculoskeletal diseases" after "related to arthritis".

Subsec. (e). Pub. L. 94-278, § 603(a)(3), struck out "and related musculoskeletal diseases (hereinafter in this part collectively referred to as 'arthritis')" after "programs regarding arthritis".

1975—Subsec. (b). Pub. L. 93-640, § 5(c), added provisions relating to the review by the Advisory Council of applications for grants for research projects in arthritis and musculoskeletal diseases, and recommendations for approval, and provisions relating to review and evaluation of arthritis programs and recommendations as to changes in the administration of such programs.

Subsecs. (e), (f). Pub. L. 93-640, § 5(a), added subsecs. (e) and (f).

1974—Subsec. (c)(2). Pub. L. 93-348 inserted after "training" where appearing initially "(other than research training for which National Research Awards may be made under section 289*l*-1 of this title)".

Subsec. (d). Pub. L. 93-354 added subsec. (d).

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93-348, set out as an Effective Date of 1974 Amendment note under section 241 of this title.

Congressional Findings and Declaration of Purpose

Section 2 of Pub. L. 93-640, as amended by section 602(a) of Pub. L. 94-278, provided that:

"(a) The Congress makes the following findings—

"(1) Arthritis and related musculoskeletal diseases constitute major health problems in the United States in that they afflict more than twenty million Americans and are the greatest single cause of chronic pain and disability.

"(2) The complications of arthritis lead to many other serious health problems and other severe physical disabilities in persons of all ages with the disease, particularly children and adolescents.

"(3) The annual cost of arthritis to the national economy in 1970, from medical care expenses and lost wages, was $9,200,000,000, including $2,500,000,000 in medical expenses, and number of work-days lost in that year totaled over 14,500,000.

"(4) Uncontrolled arthritis significantly decreases the quality of life and has a major negative economic, social, and psychological impact on the families of its victims and society generally.

"(5) Athletic and other types of joint injuries involving trauma can lead to arthritis.

"(6) The development of advanced methods of diagnosis and treatment of arthritis and quality trained health professionals in arthritis deserves the highest national priority.

"(7) There is a critical shortage of medical facilities and properly trained health professionals and allied health professionals in the United States for arthritis research, prevention, treatment, care, and rehabilitation programs.

"(8) The citizens of the United States should have a full understanding of the nature of the human, social, and economic impact of arthritis and should be encouraged to seek early diagnosis and treatment to prevent or mitigate physical disability resulting from arthritis.

"(9) There is great potential for making major advances against arthritis in the National Institute of Arthritis, Metabolism, and Digestive Diseases, in concert with other institutes of the National Institutes of Health."

"(b) It is therefore the purpose of this Act [Pub. L. 93-640] to provide for—

"(1) the formulation of a long-range plan—

"(A) to expand and coordinate the national research, treatment, and control effort against arthritis;

"(B) to advance educational activities for patients, professional and allied health personnel, and the public which will alert the citizens of the United States to the early indications of arthritis; and

"(C) to emphasize the significance of early detection and proper control of these diseases and of the complications which may evolve from them;

"(2) the establishment and support of programs to develop new and improved methods of arthritis screening, detection, prevention, and referral;

"(3) the establishment of a central arthritis screening and detection data bank; and

"(4) the development, modernization, and operation of centers for arthritis screening, detection, diagnosis, prevention, control, treatment, education, rehabilitation, and research and training programs."

NATIONAL COMMISSION ON ARTHRITIS AND RELATED MUSCULOSKELETAL DISEASES

Section 3 of Pub. L. 93-640, as amended by Pub. L. 94-278, title VI, § 602(b), Apr. 22, 1976, 90 Stat. 414; Pub. L. 94-573, § 17, Oct. 21, 1976, 90 Stat. 2719, provided for the establishment of a National Commission on Arthritis and Related Musculoskeletal Diseases to survey Federal, State, and local health programs and to formulate a long-range plan with recommendations for the use and organization of national resources to combat arthritis. The Commission was to prepare for each affected Institute estimates of necessary expenditures, which estimates were to be transmitted to Congress with the Arthritis plan. The Commission ceased to exist on Dec. 31, 1976.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (f) of this section, see section 204(*l*) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289c-4, 289c-6 of this title.

§ 289c-1a. Associate Director for Diabetes

The Secretary of Health, Education, and Welfare may establish within the National Institute of Arthritis, Metabolism, and Digestive Diseases the position of Associate Director for Diabetes who would report directly to the Director of the Institute and who, under the supervision of the Director of the Institute, would be responsible for programs with regard to diabetes mellitus within the Institute.

(Pub. L. 93-354, § 6, July 23, 1974, 88 Stat. 377.)

CODIFICATION

Section was enacted as part of the National Diabetes Mellitus Research and Education Act, and not as part of the Public Health Service Act which comprises this chapter.

§ 289c-2. Diabetes mellitus and related endocrine and metabolic disorders

(a) Research and training centers

Consistent with applicable recommendations of the National Commission on Diabetes, the Secretary shall provide for the development, or substantial expansion, of centers for research and training in diabetes mellitus and related endocrine and metabolic disorders. Each center developed or expanded under this section shall (1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Secretary; and (2) conduct (A) research in the diagnosis and treatment of diabetes mellitus and related endocrine and metabolic disorders and the complications resulting from such disease or disorders, (B) training programs for physicians and allied health personnel in current methods of diagnosis and treatment of such disease, disorders, and complications, and (C) information programs for physicians and allied health personnel who provide primary care for patients with such disease, disorders, or complications. Insofar as practicable, centers developed or expanded under this section shall be located geographically on the basis of population density throughout the United States and in environments with proven research capabilities.

(b) Evaluation and report to Congress

The Secretary shall evaluate on an annual basis the activities of centers developed or expanded under this section and shall report to the Congress (on or before September 30 of each year) the results of his evaluation.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section $8,000,000 for fiscal year ending June 30, 1975, $12,000,000 for fiscal year ending June 30, 1976, $20,000,000 for fiscal year ending June 30, 1977, $12,000,000 for the fiscal year ending September 30, 1978, $20,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title IV, § 435, as added July 23, 1974, Pub. L. 93-354, § 5(a), 88 Stat. 376, and amended Apr. 21, 1976, Pub. L. 94-273, § 2(21), 90 Stat. 376; Oct. 19, 1976, Pub. L. 94-562, title II, § 202, 90 Stat. 2650.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-273 substituted "September" for "June".

Subsec. (c). Pub. L. 94-562 authorized the appropriation of $12,000,000 for the fiscal year ending Sept. 30, 1978, $20,000,000 for the fiscal year ending Sept. 30, 1979, and $20,000,000 for the fiscal year ending Sept. 30, 1980.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 2 of Pub. L. 93-354 provided that:

"(a) The Congress makes the following findings:

"(1) Diabetes mellitus is a major health problem in the United States which directly affects perhaps as many as ten million Americans and indirectly affects perhaps as many as fifty million Americans who will pass the tendency to develop diabetes mellitus to their children or grandchildren or to both.

"(2) Diabetes mellitus is a family of diseases that has an impact on virtually all biological systems of the human body.

"(3) Diabetes mellitus is the fifth leading cause of death from disease, and it is the second leading cause of new cases of blindness.

"(4) The severity of diabetes mellitus in children and most adolescents is greater than in adults, which in most cases involves greater problems in the management of the disease.

"(5) The complications of diabetes mellitus, particularly cardiovascular degeneration, lead to many other serious health problems.

"(6) Uncontrolled diabetes mellitus significantly decreases life expectancy.

"(7) There is convincing evidence that the known prevalence of diabetes mellitus has increased dramatically in the past decade.

"(8) The citizens of the United States should have a full understanding of the nature of the impact of diabetes mellitus.

"(9) The attainment of better methods of diagnosis and treatment of diabetes mellitus deserves the highest priority.

"(10) The establishment of regional diabetes research and training centers throughout the country is essential for the development of scientific information and appropriate therapies to deal with diabetes mellitus.

"(11) In order to provide for the most effective program against diabetes mellitus it is important to mobilize the resources of the National Institutes of Health as well as the public and private organizations capable of the necessary research and public education in the disease.

"(b) It is the purpose of this Act [see Short Title note set out under section 201 of this title] to—

"(1) expand the authority of the National Institutes of Health to advance the national attack on diabetes mellitus; and

"(2) as part of that attack, to establish a long-range plan to—

"(A) expand and coordinate the national research effort against diabetes mellitus;

"(B) advance activities of patient education, professional education, and public education which will alert the citizens of the United States to the early indications of diabetes mellitus; and

"(C) to emphasize the significance of early detection, proper control, and complications which may evolve from the disease."

NATIONAL COMMISSION ON DIABETES

Section 3 of Pub. L. 93-354, as amended by Pub. L. 94-278 title VII, § 701, Apr. 22, 1976, 90 Stat. 414, provided for the establishment of a National Commission on Diabetes to formulate a long-range plan and research program to investigate and combat diabetes mellitus, etc. The Commission was further mandated to prepare budget estimates for each Institute involved in research, such estimate to be transmitted to Congress with a final report containing the long-range plan. The Commission ceased to exist after Sept. 30, 1976.

PERIOD OF JULY 1, 1975, THROUGH SEPTEMBER 30, 1976, CONSIDERED AS ONE YEAR

Period of July 1, 1975, through Sept. 30, 1976, considered as one year for purposes of subsec. (b) of this section, see section 206(*l*) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 394, set out as a note under section 1176 of Title 21, Food and Drugs.

§ 289c-3. Diabetes Mellitus Coordinating Committee

For the purpose of—

(1) better coordination of the total National Institutes of Health research activities relating to diabetes mellitus; and

(2) coordinating those aspects of all Federal health programs and activities relating to diabetes mellitus to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities,

the Director of the National Institutes of Health shall establish a Diabetes Mellitus Coordinating Committee. The Committee shall be composed of the Directors (or their designated representatives) of each of the Institutes and divisions involved in diabetes-related research and shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities as determined by the Secretary. The Committee shall be chaired by the Director of the National Institutes of Health (or his designated representative). The Committee shall prepare a report as soon after the end of each fiscal year as possible for the Director of the National Institutes of Health detailing the work of the Committee in carrying out the coordinating activities described in paragraphs (1) and (2) of this section.

(July 1, 1944, ch. 373, title IV, § 436, as added July 23, 1974, Pub. L. 93-354, § 5(a), 88 Stat. 376.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 390e of Title 7, Agriculture.

§ 289c-3a. National Diabetes Advisory Board

(a) Establishment; composition

The Secretary shall establish a National Diabetes Advisory Board (hereinafter in this section referred to as the "Board") to be composed of twenty-three members as follows:

(1) The following ex officio members: The Assistant Secretary for Health or his designee, the Director of the National Institutes of

Health or his designee, the Director of the National Institute of Arthritis, Metabolism and Digestive Disease or his designee, the Director of the National Heart, Lung, and Blood Institute or his designee, the Director of the National Eye Institute or his designee, the Director of the Center for Disease Control or his designee, the Administrator of the Health Services Administration or his designee, the Administrator of the Health Resources Administration or his designee, the Associate Director for Diabetes of the National Institute of Arthritis, Metabolism, and Digestive Diseases or his designee, the Chief Medical Director of the Veterans' Administration or his designee, and the Secretary of Defense or his designee.

(2) Seven members shall be appointed by the Secretary from individuals who are not in the employ of the Federal Government and who are health and allied health professionals or scientists representing the various specialties and disciplines involved with diabetes mellitus and related endocrine and metabolic diseases.

(3) Five members shall be appointed by the Secretary from the general public, including at least one person with diabetes and two persons each of whom is a parent of a diabetic child.

(b) Chairperson

The members of the Board shall select a Chairperson from among the appointed members.

(c) Executive director, professional staff members, clerical staff members, and administrative support services and facilities

The Secretary shall, after consultation with and consideration of the recommendations of the Board, provide the Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Board, provide the Board with such additional professional staff members, such clerical staff members, and (through contracts or other arrangements) with such administrative support services and facilities, such information, and such services of consultants, as the Secretary determines are necessary for the Board to carry out its functions.

(d) Compensation and travel expenses

Members of the Board who are officers or employees of the Federal Government shall serve as members of the Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5.

(e) Term of office

The appointed members of the Board shall be appointed to serve until the expiration of the Board (as provided in subsection (*l*) of this section).

(f) Duties

The Board shall—

(1) review and evaluate the implementation of the long range plan to combat diabetes mellitus (hereinafter in this section referred to as the "Diabetes Plan") formulated by the National Commission on Diabetes under section 3(e) of the National Diabetes Mellitus Research and Education Act, and

(2) for the purpose of assuring the most effective utilization and organization of diabetes resources, advise and make recommendations to Congress, the Secretary, and the heads of other appropriate Federal agencies with respect to the Diabetes Plan and with respect to the guidelines, policies and procedures of Federal programs relating to diabetes.

(g) Collection of data

The Board may collect such data as it deems advisable and necessary to enable it to perform the functions required by subsection (f) of this section

(h) Subcommittees; establishment; composition

The Board may, from time to time, establish Subcommittees. Such Subcommittees may be composed of Board members and nonmember consultants with expertise in the particular area addressed by such Subcommittees.

(i) Meetings

The full Board shall hold regular quarterly meetings. In addition, the full Board or any of its Subcommittees may hold such additional meetings as are necessary in order to enable the Board to carry out its activities.

(j) Report to Secretary and Congress

One year after the date of its establishment and each year thereafter the Board shall submit to the Secretary and to the Congress a report—

(1) which describes the Board's activities during the year for which the report is made;

(2) which describes and evaluates the progress made in such year in diabetes research, treatment, education, and training;

(3) which summarizes and analyzes expenditures made by the Federal Government for diabetes-related activities during the year for which the report is made; and

(4) which contains the Board's recommendations (if any) for changes in the Diabetes Plan.

The annual diabetes report shall be made available to the public at the same time it is transmitted to Congress and the Secretary.

(k) Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of this section $300,000 for the fiscal year ending September 30, 1978, $300,000 for the fiscal year ending September 30, 1979, and $300,000 for the fiscal year ending September 30, 1980.

(l) Expiration of Board

The Board shall expire on September 30, 1980.

(July 1, 1944, c. 373, title LV, § 436A, as added Oct. 19, 1976, Pub. L. 94-562, title II, § 201(a), 90 Stat. 2648.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (d), is set out under section 5332 of Title 5, Government Organization and Employees.

Section 5703 of title 5, referred to in subsec. (d), was amended generally by Pub. L. 94-22, § 4, and as so amended does not contain a subsec. (b).

Section 3(e) of the National Diabetes Mellitus Research and Education Act, referred to in subsec. (f)(1), is section 3(e) of Pub. L. 93-354, July 23, 1974, 88 Stat. 373, which is set out as a note under section 289c-2 of this title.

EFFECTIVE DATE

Section 201(b) of Pub. L. 94-562 provided that: "The Secretary of Health, Education, and Welfare shall establish the National Diabetes Advisory Board (established by the amendment made by subsection (a) [enacting this section]) not later than ninety days after the date of enactment of this section [Oct. 19, 1976]".

§ 289c-4. Arthritis Coordinating Committee; establishment; composition; chairman; report to Secretary; time; contents; meetings

(a) In order to improve coordination of all activities in the National Institutes of Health, in the Department of Health, Education, and Welfare, and in other departments and agencies of the Federal Government relating to Federal health programs and activities relating to arthritis, the Secretary shall establish an Arthritis Coordinating Committee to be composed of representatives of the Department of Health, Education, and Welfare (including the Food and Drug Administration) and of the Veterans' Administration, the Department of Defense, and other Federal departments and agencies involved in research, health services, or rehabilitation programs affecting arthritis. This committee shall include the Directors (or their designated representatives) of each of the Institutes of the National Institutes of Health involved in arthritis related research. The Committee shall be chaired by the Associate Director established pursuant to section 289c-1(e) of this title and shall prepare a report not later than sixty days after the end of each fiscal year as possible, for the Secretary detailing the work of the committee in seeking to improve coordination of departmental and interdepartmental activities relating to arthritis during the preceding fiscal year. Such report shall include—

(1) a description of the work of the committee in coordinating the research activities of the National Institutes of Health relating to arthritis during the preceding year, and

(2) a description of the work of the committee in promoting the coordination of Federal health programs and activities relating to arthritis to assure the adequacy of such programs and to provide for the adequate coordination of such programs and activities.

(b) The Committee shall meet at the call of the chairman, but not less often than four times a year.

(July 1, 1944, ch. 373, title IV, § 437, as added Jan. 4, 1975, Pub. L. 93-640, § 4, 88 Stat. 2221.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

§ 289c-5. Arthritis demonstration projects

(a) Grants to public and nonprofit entities; coordination with Federal, State, etc., agencies

The Secretary, acting through the Assistant Secretary for Health, may make grants to public and nonprofit entities to establish and support projects for the development and demonstration of methods for arthritis, screening, detection, and referral, and for the dissemination of these methods to the health and allied health professions. Activities under such projects shall be coordinated with (1) Federal, State, local, and regional health agencies, (2) centers assisted under section 289c-6 of this title, and (3) the data system established under subsection (c) of this section.

(b) Scope of programs

Projects under this section shall include programs which—

(1) emphasize the development and demonstration of new and improved methods of screening and early detection, referral, and diagnosis of individuals with a risk of developing arthritis, asymptomatic arthritis, or symptomatic arthritis;

(2) emphasize the development and demonstration of new and improved methods for patient referral from local hospitals and physicians to appropriate centers for early diagnosis and treatment;

(3) emphasize the development and demonstration of new and improved means of standardizing patient data and recordkeeping;

(4) emphasize the development and demonstration of new and improved methods of dissemination of knowledge about the projects and methods referred to in the preceding paragraphs of this subsection to health and allied health professionals; and

(5) emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information—

(A) on the importance of early detection of arthritis, of seeking prompt treatment, and of following an appropriate regimen; and

(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis.

(c) Arthritis Data System; establishment; purpose; standardization of patient data and recordkeeping

(1) As soon as practicable after January 4, 1975, the Secretary, through the Assistant Secretary for Health, shall establish the Arthritis Data System for the collection, storage, analy-

sis, retrieval, and dissemination of data derived from patient populations with asymptomatic and symptomatic types of arthritis, including where possible, data involving general populations for the purpose of detection of individuals with a risk of developing arthritis.

(2) The Secretary shall provide for standardization of patient data and recordkeeping for the collection, storage, analysis, retrieval, and dissemination of such data in cooperation with projects under this section and centers assisted under section 289c-6 of this title, and other persons engaged in arthritis programs.

(d) Authorization of appropriations

(1) There are authorized to be appropriated to carry out this section $2,000,000 for fiscal year ending June 30, 1975, $3,000,000 for fiscal year ending June 30, 1976, and $4,000,000 for fiscal year ending June 30, 1977.

(2) There are authorized to be appropriated to carry out subsections (a) and (b) of this section $3,000,000 for the fiscal year ending September 30, 1978, $4,000,000 for the fiscal year ending September 30, 1979, and $5,000,000 for the fiscal year ending September 30, 1980.

(3) There are authorized to be appropriated to carry out subsection (c) of this section $1,000,000 for the fiscal year ending September 30, 1978, $1,250,000 for the fiscal year ending September 30, 1979, and $1,500,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title IV, § 438, as added Jan. 4, 1975, Pub. L. 93-640, § 4, 88 Stat. 2222, and amended Apr. 22, 1976, Pub. L. 94-278, title VI, § 603(b), 90 Stat. 414; Oct. 19, 1976, Pub. L. 94-562, title I, § 101(a)-(d), 90 Stat. 2645.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-562, § 101(a), struck out "prevention," following "detection," and substituted "data system" for "data bank".

Pub. L. 94-278 inserted "established" after "data bank" in second sentence.

Subsec. (b)(5). Pub. L. 94-562, § 101(b), added subsec. (b)(5).

Subsec. (c)(1). Pub. L. 94-562, § 101(c), substituted "Data System" for "Screening and Detection Data Bank" and "derived from" for "useful in screening, prevention, and early detection involving".

Subsec. (d). Pub. L. 94-562 designated existing provisions as par. (1) and added pars. (2) and (3).

§ 289c-6. Multipurpose arthritis centers

(a) Development, modernization and operation; modernization defined

The Secretary, acting through the Assistant Secretary for Health may, after consultation with the National Advisory Council established under section 289c-1(a) of this title and consistent with the Arthritis Plan developed pursuant to the National Arthritis Act of 1974, provide for the development, modernization, and operation (including staffing and other operating costs such as the costs of patient care required for research) of new and existing centers for arthritis research, screening, detection, diagnosis, prevention, control, and treatment, for education related to arthritis, and for rehabilitation of individuals who suffer from arthritis. For purposes of this section, the term "modernization" means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

(b) Duties and functions

Each center assisted under this section shall—

(1)(A) use the facilities of a single institution or a consortium of cooperating institutions, and (B) meet such qualifications as may be prescribed by the Secretary; and

(2) conduct—

(A) basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of, arthritis and complications resulting from arthritis, including research into implantable biomaterials and biomechanical and other orthopedic procedures and in the development of other diagnostic and treatment methods;

(B) training programs for physicians and other health and allied professionals in current methods of diagnosis, screening and early detection, prevention, control, and treatment of arthritis, and in research in arthritis;

(C) information and continuing education programs for physicians and other health and allied health professionals who provide care for patients with arthritis; and

(D) programs for the dissemination to the general public of information—

(i) on the importance of early detection of arthritis, of seeking prompt treatment, and of following an appropriate regimen; and

(ii) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and ineffective drugs and devices.

(c) Programs

Each center assisted under this section may conduct programs to—

(1) develop new and improved methods of screening and early detection, referral, and diagnosis of individuals with a risk of developing arthritis, asymptomatic arthritis, or symptomatic arthritis,

(2) disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping, and

(3) develop community consultative services to facilitate the referral of patients to centers for treatment.

(d) Geographical distribution

The Secretary shall, insofar as practicable, provide for an equitable geographical distribution of centers assisted under this section. The Secretary shall give appropriate consideration to the need for centers especially suited to meeting the needs of children affected by arthritis.

(e) Annual activities evaluation; report to Congressional committees; time

The Secretary shall evaluate on an annual basis the activities of centers receiving support under this section and shall report to the appropriate committees of Congress the results of his evaluations not later than four months after the end of each fiscal year.

(f) Limitation of grants

Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases.

(g) Authorization of appropriations

For purposes of this section, there are authorized to be appropriated $11,000,000 for the fiscal year ending June 30, 1965, $8,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending June 30, 1977, $18,700,000 for the fiscal year ending September 30, 1978, $19,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980. Not less than 20 per centum of the funds appropriated for each fiscal year under this subsection shall be used for the purposes of establishing new centers.

(July 1, 1944, ch. 373, title IV, § 439, as added Jan. 4, 1975, Pub. L. 93-640, § 4, 88 Stat. 2222, and amended Apr. 22, 1976, Pub. L. 94-278, title VI, § 603(c), 90 Stat. 414; Oct. 19, 1976, Pub. L. 94-562, title I, § 102(1)-(5), 90 Stat. 2646.)

REFERENCES IN TEXT

The National Arthritis Act of 1974, referred to in subsec. (a), is Pub. L. 93-640, Jan. 4, 1975, 88 Stat. 2217, which enacted sections 289c-4, 289c-5, and 289c-6 of this title, amended sections 289a and 289c-1 of this title, and enacted provisions set out as notes under section 289c-1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

CODIFICATION

Subsec. (d) was omitted in the enactment of this section by Pub. L. 93-640, § 4. Subsecs. (e) through (h) were editorially redesignated as (d) through (g), respectively, in order to conform to the probable intent of Congress. This has now been corrected by Pub. L. 94-278. See 1976 Amendment notes set out below.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-278, § 603(c)(1), inserted "new and existing" before "centers" in first sentence.

Subsec. (b)(2)(B). Pub. L. 94-562, § 102(1), inserted reference to research in arthritis.

Subsecs. (d), (e). Pub. L. 94-278, § 603(c)(3), redesignated former subsecs. (e) and (f) as (d) and (e).

Subsec. (f). Pub. L. 94-562, § 102(2), substituted "Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases" for "No center may receive more than three grants under this section".

Pub. L. 94-278, § 603(3), redesignated former subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 94-562, § 102(3)-(5), authorized the appropriation of $18,700,000 for the fiscal year ending Sept. 30, 1978, $19,000,000 for the fiscal year ending Sept. 30, 1979, and $20,000,000 for the fiscal year ending Sept. 30, 1980.

Pub. L. 94-278, § 603(c)(2), (3), redesignated former subsec. (h) as (g) and substituted "$8,000,000" for "$13,000,000" and "$20,000,000" for "$15,000,000". Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 94-278, § 603(c)(3), redesignated former subsec. (h) as (g).

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (e) of this section and subsec. (g) of this section provisions relating to use of appropriated funds, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 289c-5 of this title.

§ 289c-7. National Arthritis Advisory Board

(a) Establishment; composition

The Secretary shall establish a National Arthritis Advisory Board (hereinafter in this section referred to as the "Board") to be composed of twenty-four members as follows:

(1) Eight members shall be appointed by the Secretary from individuals who are scientists, physicians, or other health professionals, who are not employed by the Federal Government, and who represent the various specialties and disciplines involved in arthritis. Of the members appointed pursuant to this paragraph, three shall be clinical rheumatologists, two shall be orthopedic surgeons, two shall be rheumatology investigators, and one shall be an allied health professional.

(2) Six members shall be appointed by the Secretary from individuals, who are not employed by the Federal Government, with an interest in arthritis and who as a group have knowledge and experience in the fields of medical education, nursing, community program development, health education, data systems, and public information.

(3) One member shall be appointed by the Secretary from individuals who are members of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council and who are expert in the field of arthritis.

(4) Four members shall be appointed by the Secretary from the general public. At least two of such members shall be persons who have arthritis and one shall be the parent of a child who has arthritis.

(5) The Assistant Secretary of Health or his designee, the Director of the National Institutes of Health or his designee, the Associate Director for Arthritis of the National Institute of Arthritis, Metabolism, and Digestive Diseases or his designee, the Chief Medical Director of the Veterans' Administration or his designee, and the Secretary of Defense or his designee shall each be ex officio members.

(b) Chairperson

The members of the Board shall select a Chairperson from among the appointed members.

(c) Executive director, professional staff members, clerical staff members, and administrative support services and facilities

The Secretary shall, after consultation with and consideration of the recommendations of the Board, provide the Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Board, provide the Board with such additional professional staff members, such clerical staff members, and (through contracts or other arrangements) with such administrative support services and facilities, such information, and such services of consultants, as the Secretary determines are necessary for the Board to carry out its functions.

(d) Compensation and travel expenses

Members of the Board who are officers or employees of the Federal Government shall serve as members of the Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5.

(e) Term of office

The appointed members of the Board shall be appointed to serve until the expiration of the Board (as provided in subsection (l) of this section).

(f) Duties

The Board shall—

(1) review and evaluate the implementation of the Arthritis Plan (formulated under section 3(g) of the National Arthritis Act of 1974); and

(2) for the purpose of assuring the most effective utilization and organization of arthritis resources, advise and make recommendations to Congress, the Secretary, and the heads of other appropriate Federal agencies with respect to the Arthritis Plan and with respect to the guidelines, policies and procedures of Federal programs relating to arthritis.

(g) Collection of data

The Board may collect such data as it deems advisable and necessary to enable it to perform the functions required by subsection (f) of this section.

(h) Subcommittees; establishment; composition

The Board may, from time to time, establish Subcommittees. Such Subcommittees may be composed of Board members and nonmember consultants with expertise in the particular area addressed by such Subcommittees.

(i) Meetings

The full Board shall hold regular quarterly meetings. In addition, the full Board or any of its Subcommittees may hold such additional meetings as are necessary in order to enable the Board to carry out its activities.

(j) Report to Secretary and Congress

One year after the date of its establishment and each year thereafter the Board shall submit to the Secretary and to the Congress a report—

(1) which describes the Board's activities during the year for which the report is made;

(2) which describes and evaluates the progress made in such year in arthritis research, treatment, education, and training;

(3) which summarizes and analyzes expenditures made by the Federal Government for arthritis-related activities during the year for which the report is made; and

(4) which contains the Board's recommendations (if any) for changes in the Arthritis Plan.

The annual arthritis report shall be made available to the public at the same time it is transmitted to Congress and the Secretary.

(k) Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of this section $300,000 for the fiscal year ending September 30, 1978, $300,000 for the fiscal year ending September 30, 1979, and $300,000 for the fiscal year ending September 30, 1980.

(l) Expiration of Board

The Board shall expire on September 30, 1980.

(July 1, 1944, ch. 373, title IV, § 440, as added Oct. 19, 1976, Pub. L. 94-562, title I, § 103(a), 90 Stat. 2646.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (d), is set out under section 5332 of Title 5, Government Organization and Employees.

Section 5703 of title 5, referred to in subsec. (d), was amended generally by Pub. L. 94-22, § 4, and as so amended does not contain a subsec. (b).

Section 3(g) of the National Arthritis Act of 1974, referred to in subsec. (f), is section 3(g) of act Jan. 4, 1975, 88 Stat. 2217, which is set out as a note under section 289c-1 of this title.

EFFECTIVE DATE

Section 103(b) of Pub. L. 94-562 provided that: "The Secretary of Health, Education, and Welfare shall establish the National Arthritis Advisory Board (established by the amendment made by subsection (a) [enacting this section]) not later than ninety days after the date of enactment of this section [Oct. 19, 1976].

§ 289c-8. Coordinating Committee for Digestive Diseases; establishment; composition; meetings; report to Secretary

(a) The Secretary shall establish a Coordinating Committee for Digestive Diseases (hereafter in this section referred to as the "Committee") to be composed of the Directors (or their designated representatives) of each of the Institutes of the National Institutes of Health involved in digestive disease research; and the head (or his designated representative) of the Alcohol, Drug Abuse and Mental Health Ad-

ministration, the National Institute of Occupational Safety and Health, the Food and Drug Administration, the Department of Medicine and Surgery of the Veterans' Administration, the Center for Disease Control, the Department of Defense, the Department of Agriculture, the Health Services Administration, the Health Resources Administration, the Social Security Administration, and the Institute of Medicine of the National Academy of Sciences. The Committee shall be chaired by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases and the Associate Director for Digestive Diseases and Nutrition of that Institute shall serve as vice chairman. The Committee shall meet at the call of the Chairman, but not less often than three times a year.

(b) The Committee shall be responsible for the coordination of the activities of the entities represented on the Committee respecting digestive diseases. The Committee shall submit to the Secretary an annual report detailing the manner in which the Committee has coordinated such activities.

(July 1, 1944, ch. 373, title IV, § 440A, as added Oct. 19, 1976, Pub. L. 94-562, title III, § 302, 90 Stat. 2653.)

Part E—National Institute of Child Health and Human Development and National Institute of General Medical Sciences

§ 289d. National Institute of Child Health and Human Development

(a) Establishment; research and special health problems relating to maternal health, child health, and human development

The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service the National Institute of Child Health and Human Development for the conduct and support of research and training relating to maternal health, child health, and human development, including research and training in the special health problems and requirements of mothers and children and in the basic sciences relating to the processes of human growth and development, including prenatal development.

(b) Research relating to sudden infant death syndrome

The Secretary shall carry out through the National Institute of Child Health and Human Development the purposes of section 241 of this title with respect to the conduct and support of research which specifically relates to sudden infant death syndrome.

(July 1, 1944, ch. 373, title IV, § 441, as added Oct. 17, 1962, Pub. L. 87-838, § 1, 76 Stat. 1072, and amended Apr. 22, 1974, Pub. L. 93-270, § 2(a), (b)(1), 88 Stat. 90.)

Amendments

1974—Pub. L. 93-270 substituted "the National Institute of Child Health and Human Development" for "an institute", designated existing provisions as subsec. (a) and added subsec. (b).

Transfer of Functions

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3 of 1966, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

Section Referred to in Other Sections

This section is referred to in sections 289f, 289g of this title.

§ 289e. Establishment of institute of general medical sciences

The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service an institute for the conduct and support of research and training in the general or basic medical sciences and related natural or behavioral sciences which have significance for two or more other institutes, or are outside the general area of responsibility of any other institute, established under or by this chapter.

(July 1, 1944, ch. 373, title IV, § 442, as added Oct. 17, 1962, Pub. L. 87-839, § 1, 76 Stat. 1072, and amended Oct. 30, 1970, Pub. L. 91-515, title VI, § 602, 84 Stat. 1311.)

Amendments

1970—Pub. L. 91-515 struck out "research" preceding "training".

Transfer of Functions

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

Section Referred to in Other Sections

This section is referred to in section 289f of this title.

§ 289f. Establishment of advisory councils or committees

(a) Authority of Surgeon General

The Surgeon General is authorized, with the approval of the Secretary, to establish an advisory council or committee to advise, consult with, and make recommendations to the Surgeon General on matters relating to the activities of the institute established under section 289d of this title. He may also, with such approval, establish such a council or committee with respect to the activities of the institute established under section 289e of this title.

(b) Composition; terms of office; reappointment of members; qualifications

The provisions relating to the composition, terms of office of members, and reappointment of members of advisory councils or committees under section 289b(a) of this title shall be applicable to any council or committee established under this section, except that, in lieu of the requirement in such sections that six of the members be outstanding in the study, diagnosis, or treatment of a disease or diseases, six of such members shall be selected from leading medical or scientific authorities who are outstanding in

the field of research or training with respect to which the council or committee is being established, and except that the Surgeon General, with the approval of the Secretary, may include on any such council or committee established under this section such additional ex officio members as he deems necessary in the light of the functions of the institute with respect to which it is established.

(c) Duties, functions, and powers

Upon appointment of any such council or committee, it shall assume all or such part as the Surgeon General may, with the approval of the Secretary, specify of the duties, functions, and powers of the National Advisory Health Council relating to the research or training projects with which such council or committee established under this part is concerned and such portion as the Surgeon General may specify (with such approval) of the duties, functions, and powers of any other advisory council or committee established under this chapter relating to such projects.

(July 1, 1944, ch. 373, title IV, § 443, as added Oct. 17, 1962, Pub. L. 87-838, § 1, 76 Stat. 1072, and amended Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(a)(1), (2), 84 Stat. 1310.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-515, § 601(a)(2), added "or committee" following "council" wherever appearing therein.

Subsec. (b). Pub. L. 91-515, § 601(a)(1), (2), added "or committees" following "councils" and "or committee" following "council" wherever appearing therein.

Subsec. (c). Pub. L. 91-515, § 601(a)(2), added "or committee" following "council" wherever appearing therein.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 289g. Research

The Secretary shall, through an institute established under this part, carry out the purposes of section 241 of this title with respect to the conduct and support of research which is a function of such institute, except that the Secretary shall, in accordance with section 289d(b) of this title, determine the areas in which and the extent to which he will carry out such purposes of section 241 of this title through such institute or an institute established by or under other provisions of this chapter, or both of them, when both such institutes have functions with respect to the same subject matter.

(July 1, 1944, ch. 373, title IV, § 444, as added Oct. 17, 1962, Pub. L. 87-838, § 1, 76 Stat. 1073, and amended Apr. 22, 1974, Pub. L. 93-270, § 2(b)(2), 88 Stat. 90; July 12, 1974, Pub. L. 93-348, title I, § 104(a)(11), 88 Stat. 347.)

AMENDMENTS

1974—Pub. L. 93-348 struck out second sentence reading "The Secretary is also authorized to provide training and instruction and establish and maintain traineeships and fellowships, in the institute established under section 289d of this title and elsewhere in matters relating to diagnosis, prevention, and treatment of a disease or diseases or in other aspects of maternal health, child health, and human development, with such stipends and allowances (including travel and subsistence expenses) for trainees and fellows as he deems necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public or other nonprofit institutions."

Pub. L. 93-270 substituted "Secretary" for "Surgeon General" and in first sentence "Secretary shall, in accordance with section 289d(b) of this title," for "Surgeon General shall, with the approval of the Secretary".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93-348, set out as an Effective Date of 1974 Amendment note under section 241 of this title.

REPORTS TO CONGRESSIONAL COMMITTEES; FUNDS, ESTIMATE: TRANSMITTAL TO CONGRESSIONAL COMMITTEES

Section 2(c) of Pub. L. 93-270 provided that:

"(1) Within ninety days following the close of the fiscal year ending June 30, 1975, and the close of each of the next two fiscal years, the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives and to the Committee on Labor and Public Welfare [now the Committee on Human Resources] of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives the following information for such fiscal year:

"(A) The (i) number of applications approved by the Secretary in the fiscal year reported on for grants and contracts under the Public Health Service Act [this chapter] for research which relates specifically to sudden infant death syndrome, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds.

"(B) The (i) number of applications approved by the Secretary in such fiscal year for grants and contracts under the Public Health Service Act [this chapter] for research which relates generally to sudden infant death syndrome, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds.

Each such report shall contain an estimate of the need for additional funds for grants or contracts under the Public Health Service Act [this chapter] for research which relates specifically to sudden infant death syndrome.

"(2) Within five days after the Budget is transmitted by the President to the Congress for the fiscal year ending June 30, 1976, and for each of the next two fiscal years, the Secretary shall transmit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Labor and Public Welfare [now the Committee on Human Resources] of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives an estimate of the amount requested for the National Institutes of Health for research relating to sudden infant death syndrome and a comparison of

that amount with the amount requested for the preceding fiscal year."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975; APPLICABILITY TO SECTION 2(c) OF PUB. L. 93-270

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of section 2(c) of Pub. L. 93-270, set out as a note under this section, setting forth reporting requirements, see section 204(6) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

§ 289h. Preservation of existing authority

Nothing in this part shall be construed as affecting the authority of the Secretary under section 192 of this title, or title V of the Social Security Act [42 U.S.C. 701 et seq.] or as affecting the authority of the Surgeon General to utilize institutes established under other provisions of this chapter for research or training activities relating to maternal health, child health, and human development or to the general medical sciences and related sciences.

(July 1, 1944, ch. 373, title IV, § 445, as added Oct. 17, 1962, Pub. L. 87-838, § 1, 76 Stat. 1073.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title V of the Social Security Act is classified principally to subchapter V (§ 701 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

PART F—NATIONAL EYE INSTITUTE

AMENDMENTS

1968—Pub. L. 90-489, § 1, Aug. 16, 1968, 82 Stat. 771, added heading of Part F.

§ 289i. Establishment of National Eye Institute

The Secretary is authorized to establish in the Public Health Service an institute for the conduct and support of research for new treatment and cures and training relating to blinding eye diseases and visual disorders, including research and training in the special health problems and requirements of the blind and in the basic and clinical sciences relating to the mechanism of the visual function and preservation of sight. The Secretary is also authorized to plan for research and training, especially against the main causes of blindness and loss of visual function.

(July 1, 1944, ch. 373, title IV, § 451, as added Aug. 16, 1968, Pub. L. 90-489, § 1, 82 Stat. 771.)

§ 289j. Establishment of advisory council or committee

(a) Authority of Secretary

The Secretary is authorized to establish an advisory council or committee to advise, consult with, and make recommendations to him on matters relating to the activities of the National Eye Institute.

(b) Composition; terms of office; reappointment of members

The provisions relating to the composition, terms of office of members, and reappointment of members, of advisory councils under section 289b(a) of this title shall be applicable to the council or committee established under this section, except that the Secretary may include on such council or committee established under this section such additional ex officio members as he deems necessary.

(c) Duties, functions, and powers

Upon appointment of such council or committee, it shall assume all or such part as the Secretary may specify of the duties, functions, and powers of the National Advisory Health Council relating to the research or training projects with which such council or committee established under this part is concerned and such portion as the Secretary may specify of the duties, functions, and powers of any other advisory council or committee established under this chapter relating to such projects.

(July 1, 1944, ch. 373, title IV, § 452, as added Aug. 16, 1968, Pub. L. 90-489, § 1, 82 Stat. 772, and amended Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(a)(2), 84 Stat. 1310.)

AMENDMENTS

1970—Pub. L. 91-515 added "or committee" following "council" wherever appearing therein.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 289k. Research

The Secretary shall, through the National Eye Institute established under this part, carry out the purposes of section 241 of this title with respect to the conduct and support of research with respect to blinding eye diseases and visual disorders associated with general health and well-being, including the special health problems and requirements of the blind and the mechanism of sight and visual function, except that the Secretary shall determine the areas in which and the extent to which he will carry out such purposes of section 241 of this title through such Institute or an institute established by or under other provisions of this chapter, or both of them, when both such institutes have functions with respect to the same subject matter.

(July 1, 1944, ch. 373, title IV, § 453, as added Aug. 16, 1968, Pub. L. 90-489, § 1, 82 Stat. 772, and amended July 12, 1974, Pub. L. 93-348, title I, § 104(a)(11), 88 Stat. 347.)

AMENDMENTS

1974—Pub. L. 93-348 struck out second sentence reading "The Secretary is also authorized to provide training and instruction and establish and maintain traineeships and fellowships, in the National Eye Institute and elsewhere in matters relating to diagnosis,

prevention, and treatment of blinding eye diseases and visual disorders with such stipends and allowances (including travel and subsistence expenses) for trainees and fellows as he deems necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public or other nonprofit institutions."

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93-348, set out as an Effective Date of 1974 Amendment note under section 241 of this title.

PART G—NATIONAL INSTITUTE OF MENTAL HEALTH

AMENDMENTS

1974—Pub. L. 93-282, title II, § 202, May 14, 1974, 88 Stat. 135, added "Part G—National Institute of Mental Health" and redesignated former Part G as "Part H—Administrative Provisions". Another Part G is now Part J.

§ 289k-1. National Institute of Mental Health

(a) Establishment; functions of Institute; functions of Secretary regarding mental illness prevention, treatment, and rehabilitation program

There is established the National Institute of Mental Health (hereinafter in this part referred to as the "Institute") to administer the programs and authorities of the Secretary with respect to mental health. The Secretary, acting through the Institute, shall, in carrying out the purposes of sections 241 and 242a of this title and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 [42 U.S.C. 2689 et seq. and 6001 et seq.] (other than part C of title II [42 U.S.C. 2689 et seq.]) with respect to mental illness, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of mental illness and for the rehabilitation of the mentally ill. The Secretary shall carry out through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

(b) Appointment of Director and employment and functions of officers and employees of Institute

(1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute.

(c) Administration of programs to encourage widest participation of professionals and paraprofessionals in certain related disciplines

The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines.

(July 1, 1944, ch. 373, title IV, § 455, as added May 14, 1974, Pub. L. 93-282, title II, § 202, 88 Stat. 135.)

REFERENCES IN TEXT

The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, referred to in subsec. (a), is Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 284, as amended, which is classified principally to subchapter III of chapter 33 (§ 2689 et seq.) and chapter 75 (§ 6001 et seq.) of this title. Part C of title II, also referred to in subsec. (a), is classified generally to part C (§ 2689i et seq.) of subchapter III of chapter 33 of this title. For complete classification of this Act to the Code, see Short Title note see out under section 6001 of this title and Tables volume.

PART H—NATIONAL INSTITUTE ON AGING

AMENDMENTS

1974—Pub. L. 93-296, § 3, May 31, 1974, 88 Stat. 185, added Part H. Former Part H, originally Part G, was redesignated Part I by Pub. L. 93-348, title I, § 103, July 12, 1974, 88 Stat. 342 and Pub. L. 93-352, title I, § 110, July 23, 1974, 88 Stat. 360.

§ 289k-2. Establishment

The Secretary shall establish in the Service an institute to be known as the National Institute on Aging (hereinafter in this part referred to as the "Institute") for the conduct and support of biomedical, social, and behavioral research and training related to the aging process and the diseases and other special problems and needs of the aged.

(July 1, 1944, ch. 373, title IV, § 461, as added May 31, 1974, Pub. L. 93-296, § 3, 88 Stat. 185.)

PRIOR PROVISIONS

Another section 461 of the Public Health Service Act, act July 1, 1944, ch. 373, title IV, which was added as section 454 of the Act by Pub. L. 92-218, § 5, Dec. 23, 1971, 85 Stat. 785, and renumbered section 461 by Pub. L. 93-282, title II, § 202, May 14, 1974, 88 Stat. 135, is set out as section 289*l* of this title.

SHORT TITLE

For Short Title of Pub. L. 93-296, which enacted this Part, see Short Title of 1974 Amendments note set out under section 201 of this title.

CONGRESSIONAL FINDING AND DECLARATION OF PURPOSE

Section 2 of Pub. L. 93-296 provided that:

"The Congress finds and declares that—

"(1) the study of the aging process, the one biological condition common to all, has not received research support commensurate with its effects on the lives of every individual;

"(2) In addition to the physical infirmities resulting from advanced age, the economic, social, and psychological factors associated with aging operate to exclude millions of older Americans from the full life and the place in our society to which their years of service and experience entitle them;

"(3) recent research efforts point the way toward alleviation of the problems of old age by extending the healthy middle years of life;

"(4) there is no American institution that has undertaken comprehensive systematic and intensive studies of the biomedical and behavioral aspects of aging and the related training of necessary personnel;

"(5) the establishment of a National Institute on Aging within the National Institutes of Health will meet the need for such an institution."

COMMITTEE ON MENTAL HEALTH AND ILLNESS OF THE ELDERLY

Pub. L. 94-63, title VI, § 603, July 29, 1975, 89 Stat. 347, as amended by Pub. L. 94-460, title III, § 303, Oct. 8, 1976, 90 Stat. 1960, provided for the appointment of a Committee on Mental Health and Illness of the Elderly to make a study of and recommendations respecting the future needs for mental health facilities, etc., care of elderly, and proposals for implementing the recommendations of the 1971 White House Conference on Aging. A report on the findings of the Committee was to be submitted to Congress not later than 2 years from July 29, 1975, thirty days after submission of which the Committee ceased to exist.

§ 289k-3. National Advisory Council on Aging

(a) Establishment

The Secretary shall establish a National Advisory Council on Aging to advise, consult with, and make recommendations to him on programs relating to the aged which are administered by him and on those matters which relate to the Institute.

(b) Terms of office; appointment; ex officio members

The provisions relating to the composition, terms of office of members, and reappointment of members of advisory councils under section 289b(a) of this title shall be applicable to the Advisory Council established under this section, except that (1) the Secretary may include on such Advisory Council such additional ex officio members as he deems necessary, and (2) the Secretary shall appoint to the Council leading medical or scientific authorities skilled in aspects of the biological and the behavioral sciences related to aging.

(c) Duties, functions, and powers

Upon appointment of such Advisory Council, it shall assume all, or such part as the Secretary may specify, of the duties, functions, and powers of the National Advisory Health Council relating to programs for the aged with which the Advisory Council established under this part is concerned and such portion as the Secretary may specify of the duties, functions, and powers of any other advisory council established under this chapter relating to programs for the aged.

(July 1, 1944, ch. 373, title IV, § 462, as added May 31, 1974, Pub. L. 93-296, § 3, 88 Stat. 185.)

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 289k-4. Functions of Secretary acting through Institute

(a) Research investigation, experiments, etc.; coordination of activities; training and instruction

The Secretary (1) shall, through the Institute, carry out the purposes of section 241 of this title with respect to research investigations, experiments, demonstrations, and studies related to the aging process and the diseases and other special problems and needs of the aged, except that the Secretary shall determine the area in which and the extent to which he will carry out such activities in furtherance of the purposes of section 241 of this title through the Institute or another institute established by or under other provisions of this chapter, or both of them, when both such institutes have functions with respect to the same subject matter, and (2) shall be responsible for coordinating such activities so as to avoid unproductive and unnecessary overlap and duplication of such functions. The Secretary may also provide training and instruction and establish traineeships and fellowships, in the Institute and elsewhere, in matters relating to study and investigation of the aging process and the diseases and other special problems and needs of the aged. The Secretary may provide trainees and fellows participating in such training and instruction or in such traineeships and fellowships with such stipends and allowances (including travel and subsistence expenses and dependency allowances) as he deems necessary, and, in addition, provide for such training, instruction, traineeships, fellowships through grants to public or other nonprofit institutions. In carrying out his health manpower training responsibilities under this chapter or any other Act, the Secretary shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

(b) Scientific studies

The Secretary shall, through the Institute, conduct scientific studies to measure the impact on the biological, medical, and psychological aspects of aging of all programs and activities assisted or conducted by the Department of Health, Education, and Welfare.

(c) Public information and education programs

The Secretary, through the Institute, shall carry out public information and education programs designed to disseminate as widely as possible the findings of Institute-sponsored and other relevant aging research and studies and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older.

(July 1, 1944, ch. 373, title IV, § 463, as added May 31, 1974, Pub. L. 93-296, § 3, 88 Stat. 185.)

§ 289k-5. Research program

(a) The Secretary, in consultation with the Institute and the National Advisory Council on Aging and such other appropriate advisory bodies as he may establish, shall within two years after May 31, 1974, develop a plan for a research program on aging designed to coordinate and promote research into the biological, medical, psychological, social, educational, and economic aspects of aging. Such program shall be carried out, as to research involving the functions of the Institute, primarily through the Institute, and as to other research shall be carried out through any other institute established by or under other provisions of this chapter or through any appropriate agency or other organizational unit within the Department of Health, Education, and Welfare.

(b) Upon its completion, the plan for a research program on aging, required by subsec-

tion (a) of this section, shall be transmitted to the Congress and to the President and shall set forth the staffing and funding requirements to carry out such program.

(July 1, 1944, ch. 373, title IV, § 464, as added May 31, 1974, Pub. L. 93-296, § 3, 88 Stat. 186, and amended Nov. 28, 1975, Pub. L. 94-135, title II, § 206, 89 Stat. 728.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-135 substituted "two years" for "one year".

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

PART I—GENERAL PROVISIONS

AMENDMENTS

1974—Pub. L. 93-352, title I, § 110, July 23, 1974, 88 Stat. 360, redesignated former Part H as Part I.

Pub. L. 93-348, title I, §§ 103, 104(a)(12), July 12, 1974, 88 Stat. 342, 347, redesignated former Part H as Part I and substituted "General Provisions" for "Administrative Provisions", respectively.

Pub. L. 93-282, title II, § 202, May 14, 1974, 88 Stat. 135, redesignated former Part G as Part H (now Part I).

1971—Pub. L. 92-218, § 5, Dec. 23, 1971, 85 Stat. 785, added heading of former Part G (now Part I).

§ 289l. Directors of Institutes; appointment; direct reporting requirement

The Director of the National Institutes of Health shall be appointed by the President by and with the advice and consent of the Senate; and the Director of the National Cancer Institute shall be appointed by the President. Except as provided in section 286a(b)(9) of this title, the Director of the National Cancer Institute shall report directly to the Director of the National Institutes of Health.

(July 1, 1944, ch. 373, title IV, § 471, formerly § 454, as added Dec. 23, 1971, Pub. L. 92-218, § 5, 85 Stat. 785, renumbered § 461, May 14, 1974, Pub. L. 93-282, title II, § 202, 88 Stat. 135; renumbered § 471, July 12, 1974, Pub. L. 93-348, title I, § 103, 88 Stat. 342, and renumbered § 471 and amended July 23, 1974, Pub. L. 93-352, title I, §§ 110, 112(a), 88 Stat. 360.)

AMENDMENTS

1974—Pub. L. 93-352, § 112, added requirement that the Director of the National Institutes of Health be appointed with the advice and consent of the Senate.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 112(b) of Pub. L. 93-352 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to appointments to the office of Director of the National Institutes of Health made after the date of the enactment of this Act [July 23, 1974]."

EFFECTIVE DATE

First sentence of section applicable only with respect to appointments made after the effective date of Pub. L. 92-218, such Pub. L. 92-218, including second sentence effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7(a) and (b) of Pub. L. 92-218, set out as an Effective Date note under section 286a of this title.

§ 289l-1. National Research Service Awards and grants for research or research training

(a) Biomedical and behavioral research and research training; grants to public and nonprofit private institutions; references to Institutes or Administration; residences use restrictions; Awards in subject areas with personnel needs

(1) The Secretary shall—

(A) provide National Research Service Awards for—

(i) biomedical and behavioral research at the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration or under programs administered by the Division of Nursing of the Health Resources Administration, in matters relating to the cause, diagnosis, prevention, and treatment of diseases or other health problems,

(ii) training at the Institutes and Administration of individuals to undertake such research,

(iii) biomedical and behavioral research at public institutions and at nonprofit private institutions, and

(iv) pre- and postdoctoral training at such public and private institutions of individuals to undertake such research; and

(B) make grants to public institutions and to nonprofit private institutions to enable such institutions to make to individuals selected by them National Research Service Awards for research (and training to undertake such research) in the matters described in subparagraph (A)(i).

A reference in this subsection to the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration shall be considered to include the institutes, divisions, and bureaus included in the Institutes or under the Administration, as the case may be.

(2) National Research Service Awards may not be used to support residencies.

(3) Effective July 1, 1975, National Research Service Awards may be made for research or research training in only those subject areas for which, as determined under section 289l-2 of this title, there is a need for personnel.

(b) Applications for Awards: approval by Secretary, assurances of service requirement, sponsorship, form, submission, and information; review by appropriate advisory councils; applications for grants: approval by Secretary, form, submission, and information; limitation of Award period; stipends and allowances and other payments at non-Federal public or nonprofit private institutions

(1) No National Research Service Award may be made by the Secretary to any individual unless—

(A) the individual has submitted to the Secretary an application therefor and the Secretary has approved the application;

(B) the individual provides, in such form and manner as the Secretary shall by regulation prescribe, assurances satisfactory to the Secretary that the individual will meet the

service requirement of subsection (c)(1) of this section, and

(C) in the case of a National Research Service Award for a purpose described in subsection (a)(1)(A)(iii) or (a)(1)(A)(iv) of this section, the individual has been sponsored (in such manner as the Secretary may by regulation require) by the institution at which the research or training under the Award will be conducted.

An application for an Award shall be in such form, submitted in such manner, and contain such information, as the Secretary may by regulation prescribe.

(2) The award of National Research Service Awards by the Secretary under subsection (a) of this section and the making of grants for such Awards shall be subject to review and approval by the appropriate advisory councils within the Department of Health, Education, and Welfare (A) whose activities relate to the research or training under the Awards, or (B) at which such research or training will be conducted.

(3) No grant may be made under subsection (a)(1)(B) of this section unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary may by regulation prescribe. Subject to the provisions of this section other than paragraph (1) of this subsection, National Research Service Awards made under a grant under subsection (a)(1)(B) of this section shall be made in accordance with such regulations as the Secretary shall prescribe.

(4) The period of any National Research Service Award made to any individual under subsection (a) of this section may not exceed three years in the aggregate unless the Secretary for good cause shown waives the application of the three-year limit to such individual.

(5) National Research Service Awards shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the recipients of the Awards as the Secretary may deem necessary. A National Research Service Award made to an individual for research or research training at a non-Federal public or nonprofit private institution shall also provide for payments to be made to the institution for the cost of support services (including the cost of faculty salaries, supplies, equipment, general research support, and related items) provided such individual by such institution. The amount of any such payments to any institution shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs of the institution for establishing and maintaining the quality of its biomedical and behavioral research and training programs.

(c) Health research, teaching, and health-related activities: participation of recipients of Awards; service period; recovery formula upon noncompliance with service requirement; obligation of service: cancellation, waiver or suspension

(1)(A) Each individual who receives a National Research Service Award shall, in accordance with paragraph (3), engage in—

(i) health research or teaching or any combination thereof which is in accordance with usual patterns of academic employment,

(ii) if authorized under subparagraph (B), serve as a member of the National Health Service Corps or serve in his specialty, or

(iii) if authorized under subparagraph (C), serve in a health related activity approved under that subparagraph,

for a period computed in accordance with paragraph (2).

(B) Any individual who received a National Research Service Award and who is a physician, dentist, nurse, or other individual trained to provide health care directly to individual patients may, upon application to the Secretary, be authorized by the Secretary to—

(i) serve as a member of the National Health Service Corps,

(ii) serve in his specialty in private practice in a geographic area designated by the Secretary as requiring that specialty, or

(iii) provide services in his specialty for a health maintenance organization to which payments may be made under section 1395mm of this title and which serves a medically underserved population (as defined in section 300e-1(7) of this title),

in lieu of engaging in health research or teaching if the Secretary determines that there are no suitable health research or teaching positions available to such individual.

(C) Where appropriate the Secretary may, upon application, authorize a recipient of a National Research Service Award, who is not trained to provide health care directly to individual patients, to engage in a health-related activity in lieu of engaging in health research or teaching if the Secretary determines that there are no suitable health research or teaching positions available to such individual.

(2) For each year for which an individual receives a National Research Service Award he shall—

(A) for twelve months engage in health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment if so authorized, serve as a member of the National Health Service Corps, or

(B) if authorized under paragraph (1)(B) or (1)(C), for twenty months serve in his specialty or engage in a health-related activity.

(3) The requirement of paragraph (1) shall be complied with by any individual to whom it applies within such reasonable period of time, after the completion of such individual's Award, as the Secretary shall by regulation prescribe. The Secretary shall (A) by regulation prescribe (i) the type of research and teaching which an individual may engage in to comply with such requirement, and (ii) such other requirements respecting such research and teaching and alternative service authorized under paragraphs (1)(B) and (1)(C) as he deems necessary; and (B) to the extent feasible, provide that the members of the National Health Service Corps who are serving in the Corps to meet the requirement of paragraph (1) shall be assigned to patient care and to positions which

utilize the clinical training and experience of the members.

(4)(A) If any individual to whom the requirement of paragraph (1) is applicable fails, within the period prescribed by paragraph (3), to comply with such requirement, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula—

$$(A=\phi[t-1/2s/t])$$

in which "A" is the amount the United States is entitled to recover; "$_{\phi}$" is the sum of the total amount paid under one or more National Research Service Awards to such individual; "t" is the total number of months in such individual's service obligation; and "s" is the number of months of such obligation served by him in accordance with paragraphs (1) and (2) of this subsection.

(B) Any amount which the United States is entitled to recover under subparagraph (A) shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under subparagraph (A) on account of any National Research Service Award is paid, there shall accrue to the United States interest on such amount at a rate fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date the United States becomes entitled to such amount.

(5)(A) Any obligation of any individual under paragraph (3) shall be canceled upon the death of such individual.

(B) The Secretary shall by regulation provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

(d) Authorization of appropriations; minimum sums for subsection (a)(1)(A) payments

There are authorized to be appropriated to make payments under National Research Service Awards and under grants for such Awards $207,947,000 for the fiscal year ending June 30, 1975, $165,000,000 for fiscal year 1976, and $185,000,000 for fiscal year 1977. Of the sums appropriated under this subsection, not less than 25 per centum shall be made available for payments under National Research Service Awards provided by the Secretary under subsection (a)(1)(A) of this section.

(July 1, 1944, ch. 373, title IV, § 472, as added July 12, 1974, Pub. L. 93-348, title I, § 103, 88 Stat. 342, and amended Apr. 22, 1976, Pub. L. 94-278, title II, §§ 201, 202, 203(a), title XI, § 1102(a), 90 Stat. 405, 406, 415.)

AMENDMENTS

1976—Subsec. (a)(1)(A)(i). Pub. L. 94-278, §§ 201(a)(1), 202(a), substituted "or under programs administered by the Division of Nursing of the Health Resources Administration, in matters" for "in matters" and "diseases or other health problems" for "the disease or (diseases) or other health problems to which the activities of the Institutes and Administration or Division of Nursing are directed".

Subsec. (a)(1)(A)(iii). Pub. L. 94-278, § 201(a)(2), struck out "non-Federal" before "public institutions".

Subsec. (a)(1)(B). Pub. L. 94-278, § 201(a)(2), struck out "non-Federal" before "public institutions".

Subsec. (b)(2). Pub. L. 94-278, § 202(b), substituted "within the Department of Health, Education, and Welfare" for "to the entities of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration".

Subsec. (c)(1)(A)(i). Pub. L. 94-278, § 201(b), substituted "health research or teaching or any combination thereof which is in accordance with usual patterns of academic employment" for "health research or teaching".

Subsec. (c)(2)(A). Pub. L. 94-278, § 201(c), substituted "health research or teaching or any combination thereof which is in accordance with usual patterns of academic employment" for "health research or teaching".

Subsec. (c)(4)(A). Pub. L. 94-278, § 203(a)(1), struck out "and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at a rate fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing at the time each Award to such individual was made" following "National Research Service Award to such individual".

Subsec. (c)(4)(B). Pub. L. 94-278, § 203(a)(2), substituted "at a rate fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date the United States becomes entitled to such amount" for "at the same rate as that fixed by the Secretary of Treasury under subparagraph (A) to determine the amount due the United States".

Subsec. (c)(5). Pub. L. 94-278, § 1102(a), redesignated the second subsec. (c)(4) as subsec. (c)(5).

Subsec. (d). Pub. L. 94-278, § 201(d), authorized appropriations of $165,000,000 for fiscal year 1976 and $185,000,000 for fiscal year 1977.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 203(b) of Pub. L. 94-278, provided that: "The amendments made by subsection (a) [see 1976 amendment notes above] shall apply with respect to National Research Awards under section 472 [this section] which are made from appropriations for fiscal years ending on or after June 30, 1975."

INVESTIGATIONS AND STUDIES OF IMPLICATION OF DISCLOSURE OF RESEARCH INFORMATION TO PUBLIC; REPORT TO CONGRESSIONAL COMMITTEES

Section 301(a) of Pub. L. 94-278 provided for an investigation and study by the President's Biomedical Research Panel, established by section 201(a) of Pub. L. 93-352, set out as a note below, and the National Commission for the Protection of Human subjects of Biomedical and Behavioral Research, established by section 201 of Pub. L. 93-348, set out as a note below, such study to consist of the implications of the disclosure to the public of information contained in research protocols, hypotheses, and designs obtained by the Secretary in connection with an application or proposal for a grant, fellowship, or contract, submitted during the period beginning Jan. 1, 1975 and ending Dec. 31, 1975. The Panel was required to complete its study not later than May 31, 1976, and submit its report and recommendations for legislation to Committees of Congress not later than June 30, 1976; the Commission was required to complete its study no later than Nov. 30, 1976, and submit its report and recommendations for legislation to Committees of Congress not later than Dec. 31, 1976.

BIOMEDICAL RESEARCH; ESTABLISHMENT OF PRESIDENT'S BIOMEDICAL RESEARCH PANEL

Pub. L. 93-352, title II, § 201, July 23, 1974, 88 Stat. 361, established the President's Biomedical Research Panel to review, assess, etc., and make recommendations concerning policy issues concerning the subject, content, organization, and operation of biomedical and

behavioral research supported under programs of the National Institutes of Health and the National Institute of Mental Health. The Panel was to submit a comprehensive report to the President and to the Congress not later than the expiration of the 15-month period beginning on the first day of the first month following the date on which all of the appointed members of the Panel have taken office and ceased to exist upon the expiration of the 18-month period beginning on the first day of the first month following the date on which all of the appointed members of the Panel have taken office.

BIOMEDICAL AND BEHAVIORAL RESEARCH TRAINING; CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

Section 102 of Pub. L. 93-348 provided that:

"(a) Congress finds and declares that—

"(1) the success and continued viability of the Federal biomedical and behavioral research effort depends on the availability of excellent scientists and a network of institutions of excellence capable of producing superior research personnel;

"(2) direct support of the training of scientists for careers in biomedical and behavioral research is an appropriate and necessary role for the Federal Government; and

"(3) graduate research assistance programs should be the key elements in the training programs of the institutes of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration.

"(b) It is the purpose of this title [see section 101 of Pub. L. 93-348 set out as Short Title of 1974 Amendment note under section 201 of this title] to increase the capability of the institutes of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration to carry out their responsibility of maintaining a superior national program of research into the physical and mental diseases and impairments of man."

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Sections 201 to 205 of Pub. L. 93-348, as amended by Pub. L. 94-573, § 18(a), Oct. 21, 1976, 90 Stat. 2719, provided for the establishment of a National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research to conduct an investigation and study to identify the basic ethical principles which should underline biomedical and behavioral research involving human subjects and to develop guidelines and make recommendations to the Secretary concerning administration of such guidelines. The Commission was also to make recommendations to the Congress respecting the functions and authority of the National Advisory Council for the Protection of Subjects of Biomedical and Behavioral Research, and make periodic reports to the President, Congress, and the Secretary concerning such duties. The Commission's duties were to be completed not later than the expiration of the 36 month period beginning on the first day of the first month that follows the date on which all the members of the Commission have taken office, with a final report to be submitted to the President, Congress and the Secretary not later than 90 days after the expiration of such 36 month period, the Commission ceased to exist thirty days following the submission of such final report.

LIMITATION ON RESEARCH

Section 213 of Pub. L. 93-348 provided that: "Until the Commission has made its recommendations to the Secretary pursuant to section 202(b), the Secretary may not conduct or support research in the United States or abroad on a living human fetus, before or after the induced abortion of such fetus, unless such research is done for the purpose of assuring the survival of such fetus."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 287d, 289c-1, 294u of this title.

§ 289l-2. Studies respecting biomedical and behavioral research personnel

(a) Scope of undertaking

The Secretary shall, in accordance with subsection (b) of this section, arrange for the conduct of a continuing study to—

(1) establish (A) the Nation's overall need for biomedical and behavioral research personnel, (B) the subject areas in which such personnel are needed and the number of such personnel needed in each such area, and (C) the kinds and extent of training which should be provided such personnel;

(2) assess (A) current-training programs available for the training of biomedical and behavioral research personnel which are conducted under this chapter at or through institutes under the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration, and (B) other current training programs available for the training of such personnel;

(3) identify the kinds of research positions available to and held by individuals completing such programs;

(4) determine, to the extent feasible, whether the programs referred to in clause (B) of paragraph (2) would be adequate to meet the needs established under paragraph (1) if the programs referred to in clause (A) of paragraph (2) were terminated; and

(5) determine what modifications in the programs referred to in paragraph (2) are required to meet the needs established under paragraph (1).

(b) Arrangement with National Academy of Sciences or other nonprofit private groups or associations

(1) The Secretary shall request the National Academy of Sciences to conduct the study required by subsection (a) of this section under an arrangement under which the actual expenses incurred by such Academy in conducting such study will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such study.

(2) If the National Academy of Sciences is unwilling to conduct such study under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such study and prepare and submit the reports thereon as provided in subsection (c) of this section.

(3) The National Academy of Sciences or other group or association conducting the study required by subsection (a) of this section shall conduct such study in consultation with the Director of the National Institutes of Health.

(c) Report to Congressional committees

A report on the result of such study shall be submitted by the Secretary to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee

on Human Resources of the Senate not later than September 30, of each year.

(July 1, 1944, ch. 373, title IV, § 473, as added July 12, 1974, Pub. L. 93-348, title I, § 103, 88 Stat. 345, and amended S. Res. 4, Feb. 4, 1976; Apr. 22, 1976, Pub. L. 94-278, title II, §§ 204, 205, 90 Stat. 406.)

AMENDMENTS

1976—Subsec. (b)(3). Pub. L. 94-278, § 204, added subsec. (b)(3).

Subsec. (c). Pub. L. 94-278, § 205, substituted "September 30" for "March 31".

CHANGE OF NAME

The Committee on Labor and Public Welfare of the Senate was abolished and replaced by the Committee on Human Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 289l-1 of this title.

§ 289l-3. Institutional Review Boards; ethics guidance program

(a) The Secretary shall by regulation require that each entity which applies for a grant or contract under this chapter for any project or program which involves the conduct of biomedical or behavioral research involving human subjects submit in or with its application for such grant or contract assurances satisfactory to the Secretary that it has established (in accordance with regulations which the Secretary shall prescribe) a board (to be known as an "Institutional Review Board") to review biomedical and behavioral research involving human subjects conducted at or sponsored by such entity in order to protect the rights of the human subjects of such research.

(b) The Secretary shall establish a program within the Department under which requests for clarification and guidance with respect to ethical issues raised in connection with biomedical or behavioral research involving human subjects are responded to promptly and appropriately.

(July 1, 1944, ch. 373, title IV, § 474, as added July 12, 1974, Pub. L. 93-348, title II, § 212(a), 88 Stat. 352.)

REGULATIONS

Section 212(b) of Pub. L. 93-348 provided that: "The Secretary of Health, Education, and Welfare shall within 240 days of the date of the enactment of this Act [July 12, 1974] promulgate such regulations as may be required to carry out section 474(a) of the Public Health Service Act [subsec. (a) of this section]. Such regulations shall apply with respect to applications for grants and contracts under such Act [this chapter] submitted after promulgation of such regulations."

§ 289l-4. Peer review of grant applications and contract projects

(a) Regulations

The Secretary, after consultation with the Director of the National Institutes of Health, and, where appropriate, the Directors of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, shall by regulation require appropriate scientific peer review of—

(1) applications made after the effective date of such regulations for grants under this chapter for biomedical and behavioral research; and

(2) biomedical and behavioral research and development contract projects to be administered after such effective date through an institute established under this subchapter, the National Institute on Alcohol Abuse and Alcoholism, or the National Institute on Drug Abuse.

(b) Conduct of review of grant applications

Regulations promulgated under subsection (a) of this section shall, to the extent practical, require that the review of grant applications required by the regulations be conducted—

(1) in a manner consistent with the system for scientific peer review applicable on July 23, 1974, to applications for grants under this chapter for biomedical and behavioral research, and

(2) by peer review groups performing such review on or before such date.

(c) Qualifications of peer review groups

The members of any peer review group established under such regulations shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States.

(July 1, 1944, ch. 373, title IV, § 475, formerly § 472, as added July 23, 1974, Pub. L. 93-352, title I, § 110, 88 Stat. 360, and renumbered July 29, 1975, Pub. L. 94-63, title VI, § 607(b), (c), 89 Stat. 351.)

§ 289l-5. Visiting Scientist Awards; regulations

(a) The Secretary may make awards (referred to as "Visiting Scientist Awards") to outstanding scientists who agree to serve as visiting scientists at institutions of post-secondary education which have significant enrollments of disadvantaged students. Visiting Scientist Awards shall be made by the Secretary to enable the faculty and students of such institutions to draw upon the special talents of scientists from other institutions for the purpose of receiving guidance, advice, and instruction with regard to research, teaching, and curriculum development in the biomedical and behavioral sciences and such other aspects of these sciences as the Secretary shall deem appropriate.

(b) The amount of each Visiting Scientist Award shall include such sum as shall be commensurate with the salary or remuneration which the individual receiving the award would have been entitled to receive from the institution with which the individual has, or had, a permanent or immediately prior affiliation. Eligibility for and terms of Visiting Scientist Awards shall be determined in accordance with regulations the Secretary shall prescribe.

(July 1, 1944, ch. 373, title IV, § 476, as added Apr. 22, 1976, Pub. L. 94-278, title XI, § 1103, 90 Stat. 415.)

PART J—MISCELLANEOUS PROVISIONS

CODIFICATION

The designation of this part was editorially changed from Part G to Part J in view of the subsequent enactment of Parts G to I.

§ 290. National Institutes of Health Management Fund; establishment; advancements; availability; final adjustments of advances

For the purpose of facilitating the economical and efficient conduct of operations in the National Institutes of Health which are financed by two or more appropriations where the costs of operation are not readily susceptible of distribution as charges to such appropriations, there is established the National Institutes of Health Management Fund. Such amounts as the Director of the National Institutes of Health may determine to represent a reasonable distribution of estimated costs among the various appropriations involved may be advanced each year to this fund and shall be available for expenditure for such costs under such regulations as may be prescribed by said Director, including the operation of facilities for the sale of meals to employees and others at rates to be determined by said Director to be sufficient to cover the reasonable value of the meals served and the proceeds thereof shall be deposited to the credit of this fund: *Provided*, That funds advanced to this fund shall be available only in the fiscal year in which they are advanced: *Provided further*, That final adjustments of advances in accordance with actual costs shall be effected wherever practicable with the appropriations from which such funds are advanced.

(Pub. L. 85-67, title II, § 201, June 29, 1957, 71 Stat. 220; Pub. L. 87-290, title II, § 201, Sept. 22, 1961, 75 Stat. 603.)

CODIFICATION

Section was enacted as a part of the Department of Health, Education, and Welfare Appropriation Act, 1958, and not as a part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1961—Pub. L. 87-290 substituted "reasonable value of the meals served" for "cost of such operation".

§ 290a. Victims of fire

(a) Research on burns, burn injuries, and rehabilitation

The Secretary of Health, Education, and Welfare shall establish, within the National Institutes of Health and in cooperation with the Secretary, an expanded program of research on burns, treatment of burn injuries, and rehabilitation of victims of fires. The National Institutes of Health shall—

(1) sponsor and encourage the establishment throughout the Nation of twenty-five additional burn centers, which shall comprise separate hospital facilities providing specialized burn treatment and including research and teaching programs and twenty-five additional burn units, which shall comprise specialized facilities in general hospitals used only for burn victims;

(2) provide training and continuing support of specialists to staff the new burn centers and burn units;

(3) sponsor and encourage the establishment of ninety burn programs in general hospitals which comprise staffs of burn injury specialists;

(4) provide special training in emergency care for burn victims;

(5) augment sponsorship of research on burns and burn treatment;

(6) administer and support a systematic program of research concerning smoke inhalation injuries; and

(7) sponsor and support other research and training programs in the treatment and rehabilitation of burn injury victims.

(b) Authorization of appropriations

For purposes of this section, there are authorized to be appropriated not to exceed $5,000,000 for the fiscal year ending June 30, 1975 and not to exceed $8,000,000 for the fiscal year ending June 30, 1976.

(Pub. L. 93-498, § 19, Oct. 29, 1974, 88 Stat. 1547.)

CODIFICATION

Section was enacted as part of the Federal Fire Prevention and Control Act of 1974 (which is classified principally to chapter 49 (§ 2201 et seq.) of Title 15, Commerce and Trade), and not as a part of the Public Health Service Act with comprises this chapter.

SUBCHAPTER IV—CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 293a, 300o-1, 300p-2, 2005b, 2005d, 3188a, 3195, 4519 of this title; title 40 App., sections 202, 214.

§ 291. Congressional declaration of purpose

The purpose of this subchapter is—

(a) to assist the several States in the carrying out of their programs for the construction and modernization of such public or other nonprofit community hospitals and other medical facilities as may be necessary, in conjunction with existing facilities, to furnish adequate hospital, clinic, or similar services to all their people;

(b) to stimulate the development of new or improved types of physical facilities for medical, diagnostic, preventive, treatment, or rehabilitative services; and

(c) to promote research, experiments, and demonstrations relating to the effective development and utilization of hospital, clinic, or similar services, facilities, and resources, and to promote the coordination of such research, experiments, and demonstrations and the useful application of their results.

(July 1, 1944, ch. 373, title VI, § 600, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 447.)

PRIOR PROVISIONS

A prior section 291, act July 1, 1944, ch. 373, title VI, § 601, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041,

and amended Oct. 25, 1949, ch. 722, § 6, 63 Stat. 900; July 12, 1954, ch. 471, § 4(a), 68 Stat. 464, related to subject matter similar to this section prior to the general amendment of this subchapter by Pub. L. 88-443.

Provisions similar to those comprising this section were contained in former section 291o, act July 1, 1944, ch. 373, title VI, § 641, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461, prior to the general amendment of this subchapter by Pub. L. 88-443.

Effective Date

Section 3(b) of Pub. L. 88-443, as amended by Pub. L. 91-296, title I, § 120, June 30, 1970, 84 Stat. 343, provided that:

"The amendment made by subsection (a) [see Short Title of 1964 Amendment note set out under section 201 of this title] shall become effective upon the date of enactment of this Act [Aug. 18, 1964], except that—

"(1) all applications approved by the Surgeon General under title VI of the Public Health Service Act [this subchapter] prior to such date, and allotments of sums appropriated prior to such date, shall be governed by the provisions of such title VI in effect prior to such date;

"(2) allotment percentages promulgated by the Surgeon General under such title VI during 1962 shall continue to be effective for purposes of such title as amended by this Act for the fiscal year ending June 30, 1965;

"(3) the terms of members of the Federal Hospital Council who are serving on such Council prior to such date shall expire on the date they would have expired had this Act not been enacted;

"(4) the provisions of the fourth sentence of section 636(a) of the Public Health Service Act [former section 291n of this title], as in effect prior to the enactment of this Act, shall apply in lieu of the fourth sentence of section 624(a) of the Public Health Service Act, as amended by this Act [section 291n(a) of this title], in the case of any project for construction of a facility or for acquisition of equipment with respect to which a grant for any part thereof or for planning such construction or equipment was made prior to the enactment of this Act;

"(5) no application with respect to a project for modernization of any facility in any State may be approved by the Surgeon General, for purposes of receiving funds from an allotment under section 602(a)(2) of the Public Health Service Act, as amended by this Act [section 291b(a)(2) of this title], before July 1, 1965, or before such State has had a State plan approved by the Surgeon General as meeting the requirements of section 604(a)(4)(E) [section 291d(a)(4)(E) of this title] as well as the other requirements of section 604 of such Act as so amended [section 291d of this title];

"(6) the provisions of clause (b) of section 609 of the Public Health Service Act, as amended by this Act [section 291i of this title], shall apply with respect to any project whether it was approved, and whether the event specified in such clause occurred, before, on, or after the date of enactment of this Act [June 30, 1970], except that it shall not apply in the case of any project with respect to which recovery under title VI of such Act [this subchapter] has been made prior to the enactment of this paragraph."

Section Referred to in Other Sections

This section is referred to in section 291a of this title.

Part A—Grants and Loans for Construction and Modernization of Hospitals and Other Medical Facilities

Part Referred to in Other Sections

This part is referred to in section 291j-1 of this title.

§ 291a. Authorization of appropriations

In order to assist the States in carrying out the purposes of section 291 of this title, there are authorized to be appropriated—

(a) for the fiscal year ending June 30, 1974—

(1) $20,800,000 for grants for the construction of public or other nonprofit facilities for long-term care;

(2) $70,000,000 for grants for the construction of public or other nonprofit outpatient facilities;

(3) $15,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;

(b) for grants for the construction of public or other nonprofit hospitals and public health centers, $150,000,000 for the fiscal year ending June 30, 1965, $160,000,000 for the fiscal year ending June 30, 1966, $170,000,000 for the fiscal year ending June 30, 1967, $180,000,000 each for the next two fiscal years, $195,000,000 for the fiscal year ending June 30, 1970, $147,500,000 for the fiscal year ending June 30, 1971, $152,500,000 for the fiscal year ending June 30, 1972, $157,500,000 for the fiscal year ending June 30, 1973, and $41,400,000 for the fiscal year ending June 30, 1974; and

(c) for grants for modernization of the facilities referred to in paragraphs (a) and (b), $65,000,000 for the fiscal year ending June 30, 1971, $80,000,000 for the fiscal year ending June 30, 1972, $90,000,000 for the fiscal year ending June 30, 1973, and $50,000,000 for the fiscal year ending June 30, 1974.

(July 1, 1944, ch. 373, title VI, § 601, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 448, and amended Oct. 15, 1968, Pub. L. 90-574, title IV, § 402(a), 82 Stat. 1011; June 30, 1970, Pub. L. 91-296, title I, §§ 101(a), 102, 116(a), 84 Stat. 337, 341; June 18, 1973, Pub. L. 93-45, title I, § 108(a), 87 Stat. 92.)

Prior Provisions

A prior section 291a, act July 1, 1944, ch. 373, title VI, § 611, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, authorized appropriations for surveys and planning prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291d, act July 1, 1944, ch. 373, title VI, § 621, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 2(a), 63 Stat. 897; July 27, 1953, ch. 243, 67 Stat. 196; Aug. 2, 1956, ch. 871, title IV, § 401, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85-664, § 1(a), 72 Stat. 616 related to subject matter similar to this section prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291p, act July 1, 1944, ch. 373, title VI, § 646, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461 related to subject matter similar to this section prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291s, act July 1, 1944, ch. 373, title VI, § 651, as added July 12, 1954, ch. 471, § 3, 68 Stat. 462, and amended Aug. 2, 1956, ch. 871, title IV, § 402, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85-664, § 1(b), 72 Stat. 616; Oct. 5, 1961, Pub. L. 87-395, § 3(a), 75 Stat. 825 related to subject matter similar to this section prior to the general amendment of this subchapter by Pub. L. 88-443.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-45, § 108(a)(1), substituted introductory text reading "fiscal year ending June 30, 1974" for "fiscal year ending June 30, 1965, and each of the next eight fiscal years" and in cl. (1) "$20,800,000" for "$85,000,000".

Subsec. (b). Pub. L. 93-45, § 108(a)(2), authorized appropriations of $41,400,000 for fiscal year ending June 30, 1974.

Subsec. (c). Pub. L. 93-45, § 108(a)(3), authorized appropriations of $50,000,000 for fiscal year ending June 30, 1974.

1970—Par. (a). Pub. L. 91-296, §§ 101(a)(1), (2), 116(a), substituted "outpatient facilities" for "diagnostic or treatment centers" in the enumeration of facilities eligible for construction grants, extended through the fiscal year ending June 30, 1973, the authority to appropriate funds for construction grants, increased from $70,000,000 to $85,000,000 the annual authority to make grants for public or other nonprofit facilities for long-term care, from $20,000,000 to $70,000,000 the authority for public or other nonprofit outpatient facilities, and from $10,000,000 to $15,000,000 the authority for public or other nonprofit rehabilitation facilities.

Par. (b). Pub. L. 91-296, §§ 101(a)(3), 102(a)(1), struck out provisions authorizing grants for modernization of facilities and added provisions authorizing the appropriation of $147,500,000 for the fiscal year ending June 30, 1971, $152,500,000 for the fiscal year ending June 30, 1972, and $157,500,000 for the fiscal year ending June 30, 1973, for grants for the construction of public or other nonprofit hospitals and public health centers

Par. (c). Pub. L. 91-296, § 102(a)(2), added par. (c).

1968—Par. (a). Pub. L. 90-574, § 402(a)(1), substituted "next five" for "next four".

Par. (b). Pub. L. 90-574, § 402(a)(2), authorized appropriation of $195,000,000 for the fiscal year ending June 30, 1970.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 101(b) of Pub. L. 91-296 provided that: "The amendments made by subsection (a) [amending par. (a) of this section and authorizing appropriations for fiscal years ending on June 30, 1970, 1971, and 1972, in par. (b) of this section] shall take effect with respect to appropriations made under such section 601 [this section] for fiscal years beginning after June 30, 1970."

Section 102(a) of Pub. L. 91-296 provided, in part, that the amendment by section 102(a) of Pub. L. 91-296 [striking out reference to modernization grants in par. (b) and added par. (c) of this section] is effective with respect to appropriations made under this section for fiscal years beginning after June 30, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291b, 291d, 291g, 291o of this title.

§ 291b. State allotments

(a) Computation for individual States; formulas for both new construction and modernization

(1) Each State shall be entitled for each fiscal year to an allotment bearing the same ratio to the sums appropriated for such year pursuant to subparagraphs (1), (2), and (3), respectively, of section 291a(a) of this title, and to an allotment bearing the same ratio to the sums appropriated for such year pursuant to section 291a(b) of this title, as the product of—

(A) the population of such State, and

(B) the square of its allotment percentage,

bears to the sum of the corresponding products for all of the States.

(2) For each fiscal year, the Secretary shall, in accordance with regulations, make allotments among the States, from the sums appropriated for such year under section 291a(c) of this title, on the basis of the population, the financial need, and the extent of the need for modernization of the facilities referred to in paragraphs (a) and (b) of section 291a of this title, of the respective States.

(b) Minimum allotments

(1) The allotment to any State under subsection (a) of this section for any fiscal year which is less than—

(A) $50,000 for the Virgin Islands, American Samoa, The Trust Territory of the Pacific Islands, or Guam and $100,000 for any other State, in the case of an allotment for grants for the construction of public or other nonprofit rehabilitation facilities,

(B) $100,000 for the Virgin Islands, American Samoa, The Trust Territory of the Pacific Islands, or Guam and $200,000 for any other State in the case of an allotment for grants for the construction of public or other nonprofit outpatient facilities,

(C) $200,000 for the Virgin Islands, American Samoa, The Trust Territory of the Pacific Islands, or Guam and $300,000 for any other State in the case of an allotment for grants for the construction of public or other nonprofit facilities for long-term care or for the construction of public or other nonprofit hospitals and public health centers, or for the modernization of facilities referred to in paragraph (a) or (b) of section 291a of this title, or

(D) $200,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and $300,000 for any other State in the case of an allotment for grants for the modernization of facilities referred to in paragraphs (a) and (b) of section 291a of this title,

shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment from appropriations under such subparagraph or paragraph to each of the remaining States under subsection (a) of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from appropriations under such subparagraph or paragraph from being thereby reduced to less than that amount.

(2) An allotment of the Virgin Islands, American Samoa, The Trust Territory of the Pacific Islands, or Guam for any fiscal year may be increased as provided in paragraph (1) only to the extent it satisfies the Surgeon General, at such time prior to the beginning of such year as the Surgeon General may designate, that such increase will be used for payments under and in accordance with the provisions of this part.

(c) Allotment percentages; definition; determination

For the purposes of this part—

(1) The "allotment percentage" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for the Commonwealth of Puerto

Rico, Guam, American Samoa, The Trust Territory of the Pacific Islands and the Virgin Islands shall be 75 per centum.

(2) The allotment percentages shall be determined by the Surgeon General between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of each of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce, and the States shall be notified promptly thereof. Such determination shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such determination.

(3) The population of the several States shall be determined on the basis of the latest figures certified by the Department of Commerce.

(4) The term "United States" means (but only for the purposes of paragraphs (1) and (2)) the fifty States and the District of Columbia.

(d) Availability of allotments in subsequent years

(1) Any sum allotted to a State, other than the Virgin Islands, American Samoa, The Trust Territory of the Pacific Islands and Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the sums allotted to such State for such purposes for such next two fiscal years.

(2) Any sum allotted to the Virgin Islands, American Samoa, The Trust Territory of the Pacific Islands or Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to it, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the sums allotted to it for such purpose for each of such next two fiscal years.

(e) Transfer of allotments

(1) Upon the request of any State that a specified portion of any allotment of such State under subsection (a) of this section for any fiscal year be added to any other allotment or allotments of such State under such subsection for such year, the Secretary shall promptly (but after application of subsection (b) of this section) adjust the allotments of such State in accordance with such request and shall notify the State agency; except that the aggregate of the portions so transferred from an allotment for a fiscal year pursuant to this paragraph may not exceed the amount specified with respect such allotment in clause (A), (B), (C), or (D), as the case may be, of subsection (b)(1) of this section which is applicable to such State.

(2) In addition to the transfer of portions of allotments under paragraph (1), upon the request of any State that a specified portion of any allotment of such State under subsection (a) of this section, other than an allotment for grants for the construction of public or other nonprofit rehabilitation facilities, be added to another allotment of such State under such subsection, other than an allotment for grants for the construction of public or other nonprofit hospitals and public health centers, and upon simultaneous certification to the Secretary by the State agency in such State to the effect that—

(A) it has afforded a reasonable opportunity to make applications for the portion so specified and there have been no approvable applications for such portion, or

(B) in the case of a request to transfer a portion of an allotment for grants for the construction of public or other nonprofit hospitals and public health centers, use of such portion as requested by such State agency will better carry out the purposes of this title,

the Secretary shall promptly (but after application of subsection (b) of this section) adjust the allotments of such State in accordance with such request and shall notify the State agency.

(3) In addition to the transfer of portions of allotments under paragraph (1) or (2), upon the request of any State that a specified portion of an allotment of such State under paragraph (2) of subsection (a) of this section be added to an allotment of such State under paragraph (1) of such subsection for grants for the construction of public or other nonprofit hospitals and public health centers, and upon simultaneous certification by the State agency in such State to the effect that the need for new public or other nonprofit hospitals and public health centers is substantially greater than the need for modernization of facilities referred to in paragraph (a) or (b) of section 291a of this title, the Secretary shall promptly (but after application of subsection (b) of this section) adjust the allotments of such State in accordance with such request and shall notify the State agency.

(4) After adjustment of allotments of any State, as provided in paragraph (1), (2), or (3) of this subsection, the allotments as so adjusted shall be deemed to be the State's allotments under this section.

(f) Request by State to transfer portion of allotment

In accordance with regulations, any State may file with the Surgeon General a request that a specified portion of an allotment to it under this part for grants for construction of any type of facility, or for modernization of facilities, be added to the corresponding allotment of another State for the purpose of meeting a portion of the Federal share of the cost of a project for the construction of a facility of that type in such other State, or for modernization of a facility in such other State, as the case may be. If it is found by the Surgeon General (or, in the case of a rehabilitation facility, by the Surgeon General and the Secretary) that construction or modernization of the facility with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of such State's allotment, as requested by it, would assist in carrying out the purposes of this subchapter, such portion of such State's allotment shall be added to the corresponding allotment of the other State, to be used for the purpose referred to above.

(July 1, 1944, ch. 373, title VI, § 602, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 448, and amended Oct. 15, 1968, Pub. L. 90-574, title IV, § 402(a), 82 Stat. 1011; June 30, 1970, Pub. L. 91-296, title I, §§ 103(a), (b), 104, 116(a), 119(a)-(c), 122, 84 Stat. 338, 341, 343, 344.)

PRIOR PROVISIONS

A prior section 291b, act July 1, 1944, ch. 373, title VI, § 612, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, related to a State application for funds, its requirements and its approval prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291c, act July 1, 1944, ch. 373, title VI, § 624, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, related to subject matter similar to this section prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291g, act July 1, 1944, ch. 373, title VI, § 624, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 29, 1948, ch. 728, § 1, 62 Stat. 1103; Oct. 25, 1949, ch. 722, §§ 3(b), 7, 63 Stat. 899, 901; Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(3), 76 Stat. 587, related to subject matter similar to this section prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291i(a) to (d), act July 1, 1944, ch. 373, title VI, § 631, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 19, 1948, ch. 544, 62 Stat. 531; Aug. 1, 1956, ch. 852, § 19(a), (b), 70 Stat. 911; June 25, 1959, Pub. L. 86-70, § 31(c), 73 Stat. 149; July 12, 1960, Pub. L. 86-624, § 29(d), 74 Stat. 419; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(2), 76 Stat. 587, related to subject matter similar to this section prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291n-1, act July 1, 1944, ch. 373, title VI, § 637, formerly § 654(c), as added July 12, 1954, ch. 471, § 3, 68 Stat. 463, renumbered and amended Aug. 14, 1959, Pub. L. 86-158, title II, § 201, 73 Stat. 349, related to subject matter similar to this section prior to the general amendment of this subchapter, by Pub. L. 88-443.

A prior section 291r, act July 1, 1944, ch. 373, title VI, § 648, as added July 12, 1954, ch. 471, § 2, 68 Stat. 462, related to subject matter similar to this section prior to the general amendment of this subchapter, by Pub. L. 88-443.

A prior section 291t, act July 1, 1944, ch. 373, title VI, § 652, as added July 12, 1954, ch. 471, § 3, 68 Stat. 462, and amended Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Oct. 5, 1961, Pub. L. 87-395, § 3(b), 75 Stat. 825; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(3), 76 Stat. 587, related to subject matter similar to this section prior to the general amendment of this subchapter, by Pub. L. 88-443.

A prior section 291v(b), act July 1, 1944, ch. 373, title VI, § 654, as added July 12, 1954, ch. 471, § 3, 68 Stat. 463, related to subject matter similar to this section prior to the general amendment of this subchapter, by Pub. L. 88-443.

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91-296, § 103(a), substituted "sums appropriated for such year" for "new hospital portion of the sums appropriated for such year" and struck out provision setting out a formula for determining the new hospital portion of the sums appropriated pursuant to section 291a(b) of this title.

Subsec. (a)(2). Pub. L. 91-296, § 103(a), substituted "Secretary" for "Surgeon General", and substituted reference to sums appropriated for such year under section 291a(c) of this title for reference to the remainder of the sums appropriated pursuant to section 291a(b) of this title (which portion was to be available for grants for modernization of facilities referred to in paragraphs (a) and (b) of section 291a of this title).

Subsec. (b)(1)(A). Pub. L. 91-296, §§ 103(b)(1), 119(a)(1), substituted "$50,000" and "$100,000" for "$25,000" and "$50,000", respectively, and inserted reference to the Trust Territory of the Pacific Islands.

Subsec. (b)(1)(B). Pub. L. 91-296, §§ 103(b)(2), 116(a), 119(a)(1), substituted "$100,000" and "$200,000" for "$50,000" and "$100,000", respectively, substituted "outpatient facilities" for "diagnostic or treatment centers", and inserted reference to the Trust Territory of the Pacific Islands.

Subsec. (b)(1)(C). Pub. L. 91-296, §§ 103(b)(3), 119(a)(1), substituted "$200,000" and "$300,000" for "$100,000" and "$200,000", respectively, and inserted reference to the Trust Territory of the Pacific Islands.

Subsec. (b)(1)(D). Pub. L. 91-296, § 103(b)(4), added subsec. (b)(1)(D).

Subsec. (b)(2). Pub. L. 91-296, § 119(a)(2), inserted reference to the Trust Territory of the Pacific Islands.

Subsec. (c)(1). Pub. L. 91-296, § 119(b), inserted reference to the Trust Territory of the Pacific Islands.

Subsec. (d)(1). Pub. L. 91-296, §§ 119(c), 122, inserted reference to the Trust Territory of the Pacific Islands and substituted two years for one year as the time span following a year in which allotted sums remaining unobligated at the end thereof during which such unobligated funds remain available.

Subsec. (d)(2). Pub. L. 91-296, § 119(c), inserted references to the Trust Territory of the Pacific Islands.

Subsec. (e). Pub. L. 91-296, § 104, authorized any state to make transfers of any amount up to the minimum amount allotted to any state for a particular category and authorized all amounts above such minimums to be transferred from one category of assistance to another without restriction on the amounts with the exception that no funds could be transferred from the rehabilitation facilities category or to the new hospital construction category and that all transfers be justified on the basis that either there are no approvable applications in the category from which funds are transferred or, in the case of transfers from the new hospital construction category, the purposes of the program would be better served by the transfer, and authorized transfers to new hospital construction from the modernization category if the need is greater.

1968—Subsec. (a)(1). Pub. L. 90-574, § 402(b)(1), added the provision for two-thirds of the sums appropriated in the case of the fifth fiscal year thereafter.

Subsec. (e)(2)(E). Pub. L. 90-574, § 402(b)(2), added subsec. (e)(2)(E).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 103(a) of Pub. L. 91-296 provided in part that the amendment by section 103(a) of Pub. L. 91-296 [amending subsec. (a) of this section] shall be effective with respect to appropriations made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

Section 103(b) of Pub. L. 91-296 provided in part that the amendment by section 103(b) of Pub. L. 91-296 [increasing the allotments in subsec. (b)(1)(A) to (C) and adding subsec. (b)(1)(D) of this section] shall be effective with respect to allotments from appropriations made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

Section 119(e) of Pub. L. 91-296 provided that: "The amendments made by this section [amending subsecs. (b)(1)(A) to (C), (2), (c)(1), and (d) of this section and section 291o(a) of this title] shall apply with respect to allotments (and grants therefrom) under part A of title VI of the Public Health Service Act [this part] for fiscal years ending after June 30, 1970, and with respect to loan guarantees and loans under part B of such title [part B of this subchapter] made after June 30, 1970."

Section 122 of Pub. L. 91-296 provided in part that amendment by section 122 of Pub. L. 91-296 [amending subsec. (d)(1) of this section] shall be effective with respect to allotments made from appropriations under section 291a of this title for fiscal years beginning after June 30, 1970.

Section 104 of Pub. L. 91-296 provided in part that the amendment by section 104 of Pub. L. 91-296 [amending subsec. (e) of this section] shall be effective with respect to allotments made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

AVAILABILITY OF FUNDS FOR OBLIGATION FROM ALLOTMENT FOR ADMINISTRATION OF PLAN

Pub. L. 93-641, § 5(b), Jan. 4, 1975, 88 Stat. 2274, provided that any State having in the fiscal year ending June 30, 1975 or the next fiscal year funds available

for obligation from its allotments under section 291a et seq. of this title, may in such fiscal year use for the proper and eient administration during such year of its State plan an amount of such funds not exceeding 4 percentum of such funds or $100,000, whichever is less.

ALLOTMENT STUDY; REPORT TO CONGRESS

Section 103(c) of Pub. L. 91-296 provided for a study by the Secretary of the effects of the formula specified in subsec. (a)(1) of this section for allotment among the States for construction of health facilities, the results of such study together with recommendations for change to be reported to Congress on May 15, 1972.

APPROVAL OF APPLICATION FOR MODERNIZATION PRIOR TO JULY 1, 1965, OR BEFORE APPROVAL OF A STATE PLAN

Section 3(b)(5) of Pub. L. 88-443 providing that no application for modernization of any facility may be approved for purposes of receiving funds before the approval of a State plan, as well as other requirements, is set out as an Effective Date note under section 291 of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291o of this title.

§ 291c. General regulations

The Surgeon General, with the approval of the Federal Hospital Council and the Secretary of Health, Education, and Welfare, shall by general regulations prescribe—

(a) Priority of projects; determination

the general manner in which the State agency shall determine the priority of projects based on the relative need of different areas lacking adequate facilities of various types for which assistance is available under this part, giving special consideration—

(1) in the case of projects for the construction of hospitals, to facilities serving areas with relatively small financial resources and, at the option of the State, rural communities;

(2) in the case of projects for the construction of rehabilitation facilities, to facilities operated in connection with a university teaching hospital which will provide an integrated program of medical, psychological, social, and vocational evaluation and services under competent supervision;

(3) in the case of projects for modernization of facilities, to facilities serving densely populated areas;

(4) in the case of projects for construction or modernization of outpatient facilities, to any outpatient facility that will be located in, and provide services for residents of, an area determined by the Secretary to be a rural or urban poverty area;

(5) to projects for facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

(6) to facilities which will provide training in health or allied health professions; and

(7) to facilities which will provide to a significant extent, for the treatment of alcoholism;

(b) Standards of construction and equipment

general standards of construction and equipment for facilities of different classes and in different types of location, for which assistance is available under this part;

(c) Criteria for determining needs for beds, hospitals and other facilities; plans for distribution of beds and facilities

criteria for determining needs for general hospital and long-term care beds, and needs for hospitals and other facilities for which aid under this part is available, and for developing plans for the distribution of such beds and facilities;

(d) Criteria for determining need for modernization

criteria for determining the extent to which existing facilities, for which aid under this part is available, are in need of modernization; and

(e) State plan requirements; assurances necessary for approval of application

that the State plan shall provide for adequate hospitals, and other facilities for which aid under this part is available, for all persons residing in the State, and adequate hospitals (and such other facilities) to furnish needed services for persons unable to pay therefor. Such regulations may also require that before approval of an application for a project is recommended by a State agency to the Surgeon General for approval under this part, assurance shall be received by the State from the applicant that (1) the facility or portion thereof to be constructed or modernized will be made available to all persons residing in the territorial area of the applicant; and (2) there will be made available in the facility or portion thereof to be constructed or modernized a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.

(July 1, 1944, ch. 373, title VI, § 603, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 451, and amended Sept. 4, 1964, Pub. L. 88-581, § 3(b), 78 Stat. 919; June 30, 1970, Pub. L. 91-296, title I, § 110, 84 Stat. 339.)

PRIOR PROVISIONS

A prior section 291c, act July 1, 1944, ch. 373, title VI, § 613, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, related to allotments to States, the determination of their amount, and the disposition of unexpended funds prior to the general amendment of this subchapter by Pub. L. 88-443. See section 291(a), (b) and (d) of this title.

Provisions similar to those comprising this section were contained in a prior section 291e, act July 1, 1944, ch. 373, title VI, § 622, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, prior to the general amendment of this subchapter by Pub. L. 88-443.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-296 struck out from cl. (1) provisions requiring that states give special consideration for projects for hospitals serving rural areas but added provisions making such preference optional with each state and added cls. (4) to (7).

1964—Subsec. (a)(4). Pub. L. 88-581 deleted cl. (4) relating to hospital facilities which "will include new or expanded facilities for nurse training".

EFFECTIVE DATE OF 1970 AMENDMENT

Section 110 of Pub. L. 91-296 provide in part that the amendment by section 110 of Pub. L. 91-296 [amending subsec. (a) of this section] shall be effective with respect to applications approved under this subchapter after June 30, 1970.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 3(b) of Pub. L. 88-581 provided that the amendments to this section, and sections 291o and 293c(b) to (d) of this title, shall be effective with respect to applications for grants from appropriations for fiscal years beginning after June 30, 1965.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291d, 291e, 291j-3 of this title.

§ 291d. State plans

(a) Submission; requirements

Any State desiring to participate in this part may submit a State plan. Such plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) of this subsection will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include (A) representatives of nongovernmental organizations or groups, and of public agencies, concerned with the operation, construction, or utilization of hospital or other facilities for diagnosis, prevention, or treatment of illness or disease, or for provision of rehabilitation services, and representatives particularly concerned with education or training of health professions personnel, and (B) an equal number of representatives of consumers familiar with the need for the services provided by such facilities, to consult with the State agency in carrying out the plan, and provide, if such council does not include any representatives of nongovernmental organizations or groups, or State agencies, concerned with rehabilitation, for consultation with organizations, groups, and State agencies so concerned;

(4) set forth, in accordance with criteria established in regulations prescribed under section 291c of this title and on the basis of a statewide inventory of existing facilities, a survey of need, and (except to the extent provided by or pursuant to such regulations) community, area, or regional plans—

(A) the number of general hospital beds and long-term care beds, and the number and types of hospital facilities and facilities for long-term care, needed to provide adequate facilities for inpatient care of people residing in the State, and a plan for the distribution of such beds and facilities in service areas throughout the State;

(B) the public health centers needed to provide adequate public health services for people residing in the State, and a plan for the distribution of such centers throughout the State;

(C) the outpatient facilities needed to provide adequate diagnostic or treatment services to ambulatory patients residing in the State, and a plan for distribution of such facilities throughout the State;

(D) the rehabilitation facilities needed to assure adequate rehabilitation services for disabled persons residing in the State, and a plan for distribution of such facilities throughout the State: and

(E) effective January 1, 1966, the extent to which existing facilities referred to in section 291a(a) or (b) of this title in the State are in need of modernization;

(5) set forth a construction and modernization program conforming to the provisions set forth pursuant to paragraph (4) of this subsection and regulations prescribed under section 291c of this title and providing for construction or modernization of the hospital or long-term care facilities, public health centers, outpatient facilities, and rehabilitation facilities which are needed, as determined under the provisions so set forth pursuant to paragraph (4) of this subsection;

(6) set forth, with respect to each of such types of medical facilities, the relative need, determined in accordance with regulations prescribed under section 291c of this title, for projects for facilities of that type, and provide for the construction or modernization, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

(7) provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of facilities providing inpatient care which receive aid under this part and, effective July 1, 1966, provide for enforcement of such standards with respect to projects approved by the Surgeon General under this part after June 30, 1964;

(8) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Surgeon General shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Surgeon General to be necessary for the proper and efficient operation of the plan;

(9) provide for affording to every applicant for a construction or modernization project

an opportunity for a hearing before the State agency;

(10) provide that the State agency will make such reports, in such form and containing such information, as the Surgeon General may from time to time reasonably require, and will keep such records and afford such access thereto as the Surgeon General may find necessary to assure the correctness and verification of such reports;

(11) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (10) of this subsection;

(12) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Surgeon General any modifications thereof which it considers necessary; and

(13) Effective July 1, 1971, provide that before any project for construction or modernization of any general hospital is approved by the State agency there will be reasonable assurance of adequate provision for extended care services (as determined in accordance with regulations) to patients of such hospital when such services are medically appropriate for them, with such services being provided in facilities which (A) are structurally part of, physically connected with, or in immediate proximity to, such hospital, and (B) either (i) are under the supervision of the professional staff of such hospital or (ii) have organized medical staffs and have in effect transfer agreements with such hospital; except that the Secretary may, at the request of the State agency, waive compliance with clause (A) or (B), or both such clauses, as the case may be, in the case of any project if the State agency has determined that compliance with such clause or clauses in such case would be inadvisable.

(b) Approval by Surgeon General; hearing after disapproval

The Surgeon General shall approve any State plan and any modification thereof which complies with the provisions of subsection (a) of this section. If any such plan or modification thereof shall have been disapproved by the Surgeon General for failure to comply with subsection (a) of this section, the Federal Hospital Council shall, upon request of the State agency, afford it an opportunity for hearing. If such Council determines that the plan or modification complies with the provisions of such subsection, the Surgeon General shall thereupon approve such plan or modification.

(July 1, 1944, ch. 373, title VI, § 604, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 452, and amended June 30, 1970, Pub. L. 91-296, title I, §§ 115, 116(b), (c), 123, 84 Stat. 341, 342, 344.)

PRIOR PROVISIONS

A prior section 291d, act July 1, 1944, ch. 373, title VI, § 621, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 2(a), 63 Stat. 898; July 27, 1953, ch. 243, 67 Stat. 196; Aug. 2, 1956, ch. 871, title IV, § 401, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85-664, § 1(a), 72 Stat. 616, authorized appropriations for construction of hospitals and related facilities prior to the general amendment of this subchapter by Pub. L. 88-443. See section 291a of this title.

Provisions similar to those comprising this section were contained in a prior section 291f(a), (b), act July 1, 1944, ch. 373, title VI, § 623, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, prior to the general amendment of this subchapter by Pub. L. 88-443.

AMENDMENTS

1970—Subsec. (a)(3). Pub. L. 91-296, § 115, inserted requirement that state advisory councils include representatives particularly concerned with education or training of health professions personnel.

Subsec. (a)(4)(C). Pub. L. 91-296, § 116(b), substituted "outpatient facilities" for "diagnostic or treatment centers" and "such facilities" for "such centers".

Subsec. (a)(5). Pub. L. 91-296, § 116(c), substituted "outpatient facilities" for "diagnostic or treatment centers".

Subsec. (a)(13). Pub. L. 91-296, § 123, added subsec. (a)(13).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 115 of Pub. L. 91-296 provided in part that the amendment by section 115 of Pub. L. 91-296 [amending subsec. (a)(3) of this title] shall be effective July 1, 1970.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(8) of this section, insofar as relates to the prescription of personnel standards on a merit basis, transferred to United States Civil Service Commission, see section 4728(a)(3)(C) of this title.

FUNDS FOR MODERNIZATION PROJECTS; CONDITIONS TO BE MET BEFORE APPROVAL

Section 3(b)(5) of Pub. L. 88-443 provided that no application with respect to a modernization project may be approved for purposes of receiving funds from an allotment under section 291(a)(2) of this title before July 1, 1965, or before a State plan has been approved, as well as certain other requirements. See effective date note under section 291 of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transfered to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291e, 291g, 291i, 291j-3, 291j-9, 291l, 291o, 1320a-1, 4728 of this title; title 12 sections 1715w, 1715-7; title 21 section 1173.

§ 291e. Projects for construction or modernization

(a) Application; contents

For each project pursuant to a State plan approved under this part, there shall be submitted to the Surgeon General, through the State agency, an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the project, the application may be filed by one or more of such agencies. Such application shall set forth—

(1) a description of the site for such project;

(2) plans and specifications therefor in accordance with regulations prescribed under section 291c of this title;

(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or other non-profit agency which is to operate the facility on completion of the project;

(4) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed;

(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of construction or modernization on the project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended [40 U.S.C. 276a et seq.] and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of title 40;

(6) a certification by the State agency of the Federal share for the project.

(b) Approval by Surgeon General; requisites; additional approval by Secretary of Health, Education, and Welfare

The Surgeon General shall approve such application if sufficient funds to pay the Federal share of the cost of such project are available from the appropriate allotment to the State, and if the Surgeon General finds (1) that the application contains such reasonable assurance as to title, financial support, and payment of prevailing rates of wages; (2) that the plans and specifications are in accord with the regulations prescribed pursuant to section 291c of this title; (3) that the application is in conformity with the State plan approved under section 291d of this title and contains an assurance that in the operation of the project there will be compliance with the applicable requirements of the regulations prescribed under section 291c(e) of this title, and with State standards for operation and maintenance; and (4) that the application has been approved and recommended by the State agency, opportunity has been provided, prior to such approval and recommendation, for consideration of the project by the public or nonprofit private agency or organization which has developed the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 246(b) of this title covering the area in which such project is to be located or, if there is no such agency or organization, by the State agency administering or supervising the administration of the State plan approved under section 246(a) of this title, and the application is for a project which is entitled to priority over other projects within the State in accordance with the regulations prescribed pursuant to section 291c(a) of this title. Notwithstanding the preceding sentence, the Surgeon General may approve such an application for a project for construction or modernization of a rehabilitation facility only if it is also approved by the Secretary of Health, Education, and Welfare.

(c) Opportunity for hearing required prior to disapproval

No application shall be disapproved until the Surgeon General has afforded the State agency an opportunity for a hearing.

(d) Amendments subject to same approval as original applications

Amendment of any approved application shall be subject to approval in the same manner as an original application.

(e) Outpatient facilities; requirements of applicants

Notwithstanding any other provision of this subchapter, no application for an outpatient facility shall be approved under this section unless the applicant is (1) a State, political subdivision, or public agency, or (2) a corporation or association which owns and operates a nonprofit hospital (as defined in section 291o of this title) or which provides reasonable assurance that the services of a general hospital will be available to patients of such facility who are in need of hospital care.

(July 1, 1944, ch. 373, title VI, § 605, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 453, and amended June 30, 1970, Pub. L. 91-296, title I, §§ 111(a), 116(e), 84 Stat. 340, 342.)

References in Text

The Davis-Bacon Act, referred to in subsec. (a)(5), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to section 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a)(5) of this section, is set out in the Appendix to Title 5, Government Organization and Employees.

Prior Provisions

A prior section 291e, act July 1944, ch. 373, title VI, § 622, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, authorized the Surgeon General to prescribe general regulations prior to the general amendment of this subchapter by Pub. L. 88-443. See section 291c of this title.

A prior section 291h(a), (c), act July 1, 1944, ch. 373, title VI, § 625, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 8, 63 Stat. 901, related to subject matter similar to this section prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291v(d), act July 1, 1944, ch. 373, title VI, § 654, as added July 12, 1954, ch. 471, § 3, 68 Stat. 463, related to subject matter similar to this section prior to the general amendment of this subchapter by Pub. L. 88-443.

Amendments

1970—Subsec. (b)(4). Pub. L. 91-296, § 111(a), added provisions requiring that the appropriate area wide health planning agency be given an opportunity to consider the project for which an application is made before approval is given.

Subsec. (e). Pub. L. 91-296, § 116(e), substituted "an outpatient facility" for "a diagnostic or treatment center" and added provisions extending coverage to include corporations and associations which, although not owning or operating hospitals offer services of a general hospital to patients in need of hospital care.

Effective Date of 1970 Amendment

Section 111(a) of Pub. L. 91-296 provided in part that the amendment by section 111(a) of Pub. L. 91-

296 [amending subsec. (b)(4) of this section] shall be effective with respect to applications approved under this subchapter after June 30, 1970.

Amendment by section 116(e) of Pub. L. 91-296 applicable with respect to applications approved under this subchapter after June 30, 1970, see section 116(g) of Pub. L. 91-296, set out as an Effective Date of 1970 Amendment note under section 291o of this title.

APPLICATIONS APPROVED PRIOR TO AUG. 18, 1964

Section 3(b)(1) of Pub. L. 88-443 providing that applications approved, and allotments appropriated prior to Aug. 18, 1964, shall be governed by this subchapter as in effect prior to such date, is set out as an Effective Date note under section 291 of this title.

FUNDS FOR MODERNIZATION PROJECTS; CONDITIONS TO BE MET BEFORE APPROVAL

Section 3(b)(5) of Pub. L. 88-443 provided that no application with respect to a modernization project may be approved for purposes of receiving funds from an allotment under section 291(a)(2) of this title before July 1, 1965, or before a State plan has been approved, as well as certain other requirements. See effective date note under section 291 of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

CROSS REFERENCES

Additional payments in cases of amended applications, see section 291f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291f, 291g, 291h, 291i, 291j-3, 293a, 293c of this title.

§ 291f. Payments for construction or modernization

(a) Certification of work by Surgeon General; conditions affecting payments

Upon certification to the Surgeon General by the State agency, based upon inspection by it, that work has been performed upon a project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, or if the State so requests, the payment shall be made directly to the applicant, (2) if the Surgeon General, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 291g of this title, payment may, after he has given the State agency notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (3) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

(b) Additional payments in cases of amended applications

In case an amendment to an approved application is approved as provided in section 291e of this title or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(c) Administration expenses; use of portion of allotments to defray; manner of payment

(1) At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Surgeon General for the proper and efficient administration during such year of the State plan approved under this part; except that not more than 4 per centum of the total of the allotments of such State for a year, or $100,000, whichever is less, shall be available for such purpose for such year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Surgeon General may determine.

(2) Any amount paid under paragraph (1) of this subsection to any State for any fiscal year shall be paid on condition that there shall be expended from State sources for such year for administration of the State plan approved under this part not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1970.

(July 1, 1944, ch. 373, title VI, § 606, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 454, and amended June 30, 1970, Pub. L. 91-296, title I, § 112, 84 Stat. 340.)

PRIOR PROVISIONS

A prior section 291f, act July 1, 1944, ch. 373, title VI, § 623, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 19, 1948, ch. 554, 62 Stat. 536; Oct. 25, 1949, ch. 722, § 3(a), 63 Stat. 899, related to State plans, their submission and their requirements prior to the general amendment of this subchapter by Pub. L. 88-443. See section 291d of this title.

Provisions similar to those comprising subsec. (a) of this section were contained in former section 291h(b), acts July 1, 1944, ch. 373, title VI, § 625, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 3(b), 63 Stat. 899, prior to the general amendment of this subchapter by Pub. L. 88-443.

AMENDMENTS

1970—Subsec. (c)(1). Pub. L. 91-296, § 112(1), substituted "4 per centum" for "2 per centum" and "$100,000 for $50,000".

Subsec. (c)(2). Pub. L. 91-296, § 112(2), substituted "June 30, 1970" for "June 30, 1964".

EFFECTIVE DATE OF 1970 AMENDMENT

Section 112 of Pub. L. 91-296 provided in part that the amendment by section 112 of Pub. L. 91-296 [amending this section] shall be effective with respect to expenditures under a state plan approved under this subchapter which are made for administration of such plan during any fiscal year beginning after June 30, 1970.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291i, 3338 of this title.

§ 291g. Withholding of payments; noncompliance with requirements

Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the State agency designated as provided in section 291d(a)(1) of this title, finds—

(a) that the State agency is not complying substantially with the provisions required by section 291d of this title to be included in its State plan; or

(b) that any assurance required to be given in an application filed under section 291e of this title is not being or cannot be carried out; or

(c) that there is a substantial failure to carry out plans and specifications approved by the Surgeon General under section 291e of this title; or

(d) that adequate State funds are not being provided annually for the direct administration of the State plan,

the Surgeon General may forthwith notify the State agency that—

(e) no further payments will be made to the State under this part, or

(f) no further payments will be made from the allotments of such State from appropriations under any one or more subparagraphs or paragraphs of section 291a of this title, or for any project or projects, designated by the Surgeon General as being affected by the action or inaction referred to in paragraph (a), (b), (c), or (d) of this section,

as the Surgeon General may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments may be withheld, in whole or in part, until there is no longer any failure to comply (or carry out the assurance or plans and specifications or provide adequate State funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

(July 1, 1944, ch. 373, title VI, § 607, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 455.)

PRIOR PROVISIONS

A prior section 291g, act July 1, 1944, ch. 373, title VI, § 624, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 29, 1948, ch. 728, § 1, 62 Stat. 1103; Oct. 25, 1949, ch. 722, §§ 3(b), 7, 63 Stat. 899, 901; Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(3), 76 Stat. 587, authorized allotments to States for construction, specified their amount, and provided for availability for unexpended funds prior to the general amendment of this subchapter by Pub. L. 88-443. See section 291b of this title.

Provisions similar to those comprising this section were contained in former section 291j(a), acts July 1, 1944, ch. 373, title VI, § 632, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 4, 63 Stat. 900; July 12, 1954, ch. 471, § 4(g), 68 Stat. 466, prior to the general amendment of this subchapter by Pub. L. 88-443.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291f, 291h of this title.

§ 291h. Judicial review

(a) Refusal to approve application; procedure; jurisdiction of court of appeals

If the Surgeon General refuses to approve any application for a project submitted under section 291e of this title or section 291j of this title, the State agency through which such application was submitted, or if any State is dissatisfied with his action under section 291g of this title such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Surgeon General, or any officer designated by him for that purpose. The Surgeon General shall thereupon file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Surgeon General or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Surgeon General may modify or set aside his order.

(b) Conclusiveness of Surgeon General's findings; remand; new or modified findings

The findings of the Surgeon General as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Surgeon General to take further evidence, and the Surgeon General may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Review by Supreme Court; stay of Surgeon General's action

The judgment of the court affirming or setting aside, in whole or in part, any action of the Surgeon General shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Surgeon General's action.

(July 1, 1944, ch. 373, title VI, § 608, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 456.)

PRIOR PROVISIONS

A prior section 291h, act July 1, 1944, ch. 373, title VI, § 625, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, §§ 3(b-d), 8, 63 Stat. 899, 901; July 12, 1954, ch. 471, § 4(b), 68 Stat. 464, related to projects for construction, the application required and its contents and approval by the Surgeon General, and provided for a hearing prior to disapproval of the application prior to the general amendment of this subchapter by Pub. L. 88-443. See section 291e of this title.

Provisions similar to those comprising this section were contained in former section 291j(b), act July 1,

1944, ch. 373, title VI, § 632, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 28, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; July 12, 1954, ch. 471, § 4(g), 68 Stat. 466; Aug. 28, 1958, Pub. L. 85-791, § 27, 72 Stat. 950, prior to the general amendment of this subchapter by Pub. L. 88-443.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

§ 291i. Recovery of expenditures under certain conditions; no lien prior to judgment

If any facility with respect to which funds have been paid under section 291f of this title shall, at any time within twenty years after the completion of construction—

(a) be sold or transferred to any person, agency, or organization (1) which is not qualified to file an application under section 291e of this title, or (2) which is not approved as a transferee by the State agency designated pursuant to section 291d of this title, or its successor, or

(b) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility, unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from this obligation,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction or modernization under such project or projects. Such right of recovery shall not constitute a lien upon said facility prior to judgment.

(July 1, 1944, ch. 373, title VI, § 609, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 456, and amended June 30, 1970, Pub. L. 91-296, title I § 116(d), 84 Stat. 342.)

PRIOR PROVISIONS

A prior section 291i, act July 1, 1944, ch. 373, title VI, § 631, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 19, 1948, ch. 544, 62 Stat. 531; Oct. 25, 1949, ch. 722, § 9, 63 Stat. 901; July 12, 1954, ch. 471, § 4(c)-(f), 68 Stat. 465, 466; Aug. 1, 1956, ch. 852, § 19(a), (b), 70 Stat. 911; June 25, 1959, Pub. L. 86-70, § 31(c), 73 Stat. 149; July 12, 1960, Pub. L. 86-624, § 29(d), 74 Stat. 419; Oct. 5, 1961, Pub. L. 87-395, § 5, 75 Stat. 826; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(2), 76 Stat. 587, which related to allotment percentages, and contained various definitions, was omitted in the general amendment of this subchapter by Pub. L. 88-443. See now section 291b of this title.

Provisions similar to those comprising this section were contained in section 291h(e) of this title, act July 1, 1944, ch. 373, title VI, § 625, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 3(c), 63 Stat. 899, 901; July 12, 1954, ch. 471, § 4(b), 68 Stat. 464, prior to the general amendment of this subchapter by Pub. L. 88-443.

AMENDMENTS

1970—Cl. (b). Pub. L. 91-296 substituted "outpatient facility" for "diagnostic or treatment center".

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j of this title.

§ 291j. Loans

(a) Authorization; conditions

In order further to assist the States in carrying out the purposes of this subchapter, the Surgeon General is authorized to make a loan of funds to the applicant for any project for construction or modernization which meets all of the conditions specified for a grant under this part.

(b) Approval; payments to applicants

Except as provided in this section, an application for a loan with respect to any project under this part shall be submitted, and shall be approved by the Surgeon General, in accordance with the same procedures and subject to the same limitations and conditions as would be applicable to the making of a grant under this part for such project. Any such application may be approved in any fiscal year only if sufficient funds are available from the allotment for the type of project involved. All loans under this section shall be paid directly to the applicant.

(c) Terms

(1) The amount of a loan under this part shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Where a loan and a grant are made under this part with respect to the same project, the aggregate amount of such loan and such grant shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Each loan shall bear interest at the rate arrived at by adding one-quarter of 1 per centum per annum to the rate which the Secretary of the Treasury determines to be equal to the current average yield on all outstanding marketable obligations of the United States as of the last day of the month preceding the date the application for the loan is approved and by adjusting the result so obtained to the nearest one-eighth of 1 per centum. Each loan made under this part shall mature not more than forty years after the date on which such loan is made, except that nothing in this part shall prohibit the payment of all or part of the loan at any time prior to the maturity date. In addition to the terms and conditions provided for, each loan under this part shall be made subject to such terms, conditions, and covenants relating to repayment of principal payment of interest, and other mat-

ters as may be agreed upon by the applicant and the Surgeon General.

(2) The Surgeon General may enter into agreements modifying any of the terms and conditions of a loan made under this part whenever he determines such action is necessary to protect the financial interest of the United States.

(3) If, at any time before a loan for a project has been repaid in full, any of the events specified in clause (a) or clause (b) of section 291i of this title occurs with respect to such project, the unpaid balance of the loan shall become immediately due and payable by the applicant, and any transferee of the facility shall be liable to the United States for such repayment.

(d) Funds; miscellaneous receipts

Any loan under this part shall be made out of the allotment from which a grant for the project concerned would be made. Payments of interest and repayments of principal on loans under this part shall be deposited in the Treasury as miscellaneous receipts.

(July 1, 1944, ch. 373, title VI, § 610, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 457.)

PRIOR PROVISIONS

A prior section 291j, act July 1, 1944, ch. 373, title VI, § 632, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Oct. 25, 1949, ch. 722, § 4, 63 Stat. 900; July 12, 1954, ch. 471, § 4(g), 68 Stat. 466; Aug. 28, 1958, Pub. L. 85-791, § 27, 72 Stat. 950, which related to withholding of certification for noncompliance with requirements, appeal, conclusiveness of findings, the jurisdiction of the courts of appeals and to review by the Supreme Court was omitted in the general amendment of this subchapter by Pub. L. 88-443. See sections 291g and 291h of this title.

Provisions similar to those comprising this section were contained in sections 291w to 291z of this title, prior to the general amendment of this subchapter by Pub. L. 88-443.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by Section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291h of this title.

PART B—LOAN GUARANTEES AND LOANS FOR MODERNIZATION AND CONSTRUCTION OF HOSPITALS AND OTHER MEDICAL FACILITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 12 section 1717.

§ 291j-1. Loan guarantees and loans

(a) Authority of Secretary

(1) In order to assist nonprofit private agencies to carry out needed projects for the modernization or construction of nonprofit private hospitals, facilities for long-term care, outpatient facilities, and rehabilitation facilities, the Secretary, during the period July 1, 1970, through June 30, 1974, may, in accordance with the provisions of this part, guarantee to non-Federal lenders making loans to such agencies for such projects, payment of principal of and interest on loans, made by such lenders, which are approved under this part.

(2) In order to assist public agencies to carry out needed projects for the modernization or construction of public health centers, and public hospitals, facilities for long-term care, outpatient facilities, and rehabilitation facilities, the Secretary, during the period July 1, 1970, through June 30, 1974, may, in accordance with the provisions of this part, make loans to such agencies which shall be sold and guaranteed in accordance with section 291j-7 of this title.

(b) Cost limitations

(1) No loan guarantee under this part with respect to any modernization or construction project may apply to so much of the principal amount thereof as, when added to the amount of any grant or loan under part A of this subchapter with respect to such project, exceeds 90 per centum of the cost of such project.

(2) No loan to a public agency under this part shall be made in an amount which, when added to the amount of any grant or loan under part A of this subchapter with respect to such project, exceeds 90 per centum of the cost of such project.

(c) Administrative assistance

The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof.

(July 1, 1944, ch. 373, title VI, § 621, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 344, and amended June 18, 1973, Pub. L. 93-45, title I, § 108(b)(1), 87 Stat. 93.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-45 extended termination date of guarantee and loan making period in pars. (1) and (2) from June 30, 1973, to June 30, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j-2 of this title.

§ 291j-2. Allocation among States

(a) Allotment regulations

For each fiscal year, the total amount of principal of loans to nonprofit private agencies which may be guaranteed or loans to public agencies which may be directly made under this part shall be allotted by the Secretary among the States, in accordance with regulations, on the basis of each State's relative population, financial need, need for construction of the facilities referred to in section 291j-1(a) of this title, and need for modernization of such facilities.

(b) Reallotment

Any amount allotted under subsection (a) of this section to a State for a fiscal year ending before July 1, 1973, and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made,

for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for each of such next two fiscal years; except that, with the consent of any such State, any such amount remaining unobligated at the end of the first of such next fiscal year may be reallotted (on such basis as the Secretary deems equitable and consistent with the purposes of this subchapter) to other States which have need therefor. Any amounts so reallotted to a State shall be available for the purposes for which made until the close of the second such next two fiscal years and shall be in addition to the amount allotted and available to such State for the same period.

(c) Time of availability of amounts for subsequent allotment

Any amount allotted or reallotted to a State under this section for a fiscal year shall not, until the expiration of the period during which it is available for obligation, be considered as available for allotment for a subsequent fiscal year.

(d) Modernization or construction commenced on or after January 1, 1968

The allotments of any State under subsection (a) of this section for the fiscal year ending June 30, 1971, and the succeeding fiscal year shall also be available to guarantee loans with respect to any project, for modernization or construction of a nonprofit private hospital or other health facility referred to in section 291j-1(a)(1) of this title if the modernization or construction of such facility was not commenced earlier than January 1, 1968, and if the State certifies and the Secretary finds that without such guaranteed loan such facility could not be completed and begin to operate or could not continue to operate, but with such guaranteed loan would be able to do so: *Provided*, That this subsection shall not apply to more than two projects in any one State.

(July 1, 1944, ch. 373, title VI, § 622, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 345.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j-3 of this title.

§ 291j-3. Applications and conditions

(a) Contents of applications

For each project for which a guarantee of a loan to a nonprofit private agency or a direct loan to a public agency is sought under this part, there shall be submitted to the Secretary, through the State agency designated in accordance with section 291d of this title, an application by such private nonprofit agency or by such public agency. If two or more private nonprofit agencies, or two or more public agencies, join in the project, the application may be filed by one or more such agencies. Such application shall (1) set forth all of the descriptions, plans, specifications, assurances, and information which are required by the third sentence of section 291e(a) of this title (other than clause (6) thereof) with respect to applications submitted under that section, (2) contain such other information as the Secretary may require to carry out the purposes of this part, and (3) include a certification by the State agency of the total cost of the project and the amount of the loan for which a guarantee is sought under this part, or the amount of the direct loan sought under this part, as the case may be.

(b) Conditions for approval

The Secretary may approve such application only if—

(1) there remains sufficient balance in the allotment determined for such State pursuant to section 291j-2 of this title to cover the amount of the loan for which a guarantee is sought, or the amount of the direct loan sought (as the case may be), in such application,

(2) he makes each of the findings which are required by clauses (1) through (4) of section 291e(b) of this title for the approval of applications for projects thereunder (except that, in the case of the finding required under such clause (4) of entitlement of a project to a priority established under section 291c(a) of this title; such finding shall be made without regard to the provisions of clauses (1) and (3) of such section),

(3) he finds that there is compliance with section 291e(e) of this title,

(4) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require, and

(5) he also determines, in the case of a loan for which a guarantee is sought, that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

(c) Hearing

No application under this section shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

(d) Amendment of approved applications

Amendment of an approved application shall be subject to approval in the same manner as an original application.

(e) Recovery rights; terms and conditions

(1) In the case of any loan to a nonprofit private agency, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to any guarantee of such loan under this part, unless the Secretary for good cause waives its right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) Guarantees of loans to nonprofit private agencies under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that

the purposes of this part will be achieved, and, to the extent permitted by subsection (f) of this section, any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(f) Incontestable guarantee

Any guarantee of a loan to a nonprofit private agency made by the Secretary pursuant to this part shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

(July 1, 1944, ch. 373, title VI, § 623, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 346.)

§ 291j-4. Payment of interest on guaranteed loans

(a) Subject to the provisions of subsection (b) of this section, in the case of a guarantee of any loan to a nonprofit private agency under this part with respect to a hospital or other medical facility, the Secretary shall pay, to the holder of such loan and for and on behalf of such hospital or other medical facility amounts sufficient to reduce by 3 per centum per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan, to a nonprofit private agency, which is guaranteed under this part shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

(b) Contracts to make the payments provided for in this section shall not carry an aggregate amount greater than such amount as may be provided in appropriations Acts.

(July 1, 1944, ch. 373, title VI, § 624, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 347.)

§ 291j-5. Limitation on amounts of loans guaranteed or directly made

The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, under this part may not exceed the lesser of—

(1) such limitations as may be specified in appropriations Acts, or

(2) in the case of loans covered by allotments for the fiscal year ending June 30, 1971, $500,000,000; for the fiscal year ending June 30, 1972, $1,000,000,000; and for each of the fiscal years ending June 30, 1973, and June 30, 1974, $1,500,000,000.

(July 1, 1944, ch. 373, title VI, § 625, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 347, and amended June 18, 1973, Pub. L. 93-45, title I, § 108(b)(2), 87 Stat. 93.)

AMENDMENTS

1973—Pub. L. 93-45 provided for a limitation of $1,500,000,000 on amount of loans outstanding in the case of loans covered by allotments for fiscal year ending June 30, 1974.

§ 291j-6. Loan guarantee and loan fund

(a)(1) There is hereby established in the Treasury a loan guarantee and loan fund (hereinafter in this section referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriations Acts, (i) to enable him to discharge his responsibilities under guarantees issued by him under this part, (ii) for payment of interest on the loans to nonprofit agencies which are guaranteed, (iii) for direct loans to public agencies which are sold and guaranteed, (iv) for payment of interest with respect to such loans, and (v) for repurchase by him of direct loans to public agencies which have been sold and guaranteed. There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to provide capital required for the fund. To the extent authorized from time to time in appropriation Acts, there shall be deposited in the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other moneys, property, or assets derived by him from his operations under this part, including any moneys derived from the sale of assets.

(2) Of the moneys in the fund, there shall be available to the Secretary for the purpose of making of direct loans to public agencies only such sums as shall have been appropriated for such purpose pursuant to section 291j-7 of this title or sums received by the Secretary from the sale of such loans (in accordance with such section) and authorized in appropriations Acts to be used for such purpose.

(b) If at any time the moneys in the fund are insufficient to enable the Secretary to discharge his responsibilities under this part—

(i) to make payments of interest on loans to nonprofit private agencies which he has guaranteed under this part;

(ii) to otherwise comply with guarantees under this part of loans to nonprofit private agencies;

(iii) to make payments of interest subsidies with respect to loans to public agencies which he has made, sold, and guaranteed under this part;

(iv) in the event of default by public agencies to make payments of principal and interest on loans which the Secretary has made, sold, and guaranteed, under this part, to make such payments to the purchaser of such loan;

(v) to repurchase loans to public agencies which have been sold and guaranteed under this part,

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriations Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable matu-

rities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

(July 1, 1944, ch. 373, title VI, § 626, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 347.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (b), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j-7 of this title.

§ 291j-7. Loans to public facilities

(a) Interest rates; security; equitable geographical distribution

(1) Any loan made by the Secretary to a public agency under this part for the modernization or construction of a public hospital or other health facility shall require such public agency to pay interest thereon at a rate comparable to the current rate of interest prevailing with respect to loans, to nonprofit private agencies, which are guaranteed under this part, for the modernization or construction of similar facilities in the same or similar areas, minus 3 per centum per annum.

(2)(A) No loan to a public agency shall be made under this part unless—

(i) the Secretary is reasonably satisfied that such agency will be able to make payments of principal and interest thereon when due, and

(ii) such agency provides the Secretary with reasonable assurances that there will be available to such agency such additional funds as may be necessary to complete the project with respect to which such loan is requested.

(B) Any loan to a public agency shall have such security, have such maturity date, be repayable in such installments, and be subject to such other terms and conditions (including provision for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of this part while adequately protecting the financial interests of the United States.

(3) In making loans to public agencies under this part, the Secretary shall give due regard to achieving an equitable geographical distribution of such loans.

(b) Sale

(1) The Secretary shall from time to time, but with due regard to the financial interests of the United States, sell loans referred to in subsection (a)(1) of this section either on the private market or to the Federal National Mortgage Association in accordance with section 1717 of title 12.

(2) Any loan so sold shall be sold for an amount which is equal (or approximately equal) to the amount of the unpaid principal of such loan as of the time of sale.

(c) Agreements

(1) The Secretary is authorized to enter into an agreement with the purchaser of any loan sold under this part under which the Secretary agrees—

(A) to guarantee to such purchaser (and any successor in interest to such purchaser) payment of the principal and interest payable under such loan, and

(B) to pay as an interest subsidy to such purchaser (and any successor in interest of such purchaser) amounts which when added to the amount of interest payable on such loan, are equivalent to a reasonable rate of interest on such loan as determined by the Secretary, after taking into account the range of prevailing interest rates in the private market on similar loans and the risks assumed by the United States.

(2) Any such agreement—

(A) may provide that the Secretary shall act as agent of any such purchaser, for the purpose of collecting from the public agency to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such agency under such loan;

(B) may provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement;

(C) shall provide that, in the event of any default by the public agency to which such loan was made in payment of principal and interest due on such loan, the Secretary shall, upon notification to the purchaser (or to the successor in interest of such purchaser), have the option to close out such loan (and any obligations of the Secretary with respect thereto) by paying to the purchaser (or his successor in interest) the total amount of outstanding principal and interest due thereon at the time of such notification; and

(D) shall provide that, in the event such loan is closed out as provided in subparagraph (C), or in the event of any other loss incurred by the Secretary by reason of the failure of such public agency to make payments of principal and interest on such loan, the Secretary shall be subrogated to all rights of such purchaser for recovery of such loss from such public agency.

(d) Right of recovery; waiver

The Secretary may, for good cause, waive any right of recovery which he has against a public

agency by reason of the failure of such agency to make payments of principal and interest on a loan made to such agency under this part.

(e) Interest and interest subsidies as gross income under Internal Revenue Code of 1954

After any loan to a public agency under this part has been sold and guaranteed, interest paid on such loan and any interest subsidy paid by the Secretary with respect to such loan which is received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of title 26.

(f) Sales proceeds; deposit and use

Amounts received by the Secretary as proceeds from the sale of loans under this section shall be deposited in the loan fund established by section 291j-6 of this title, and shall be available to the Secretary for the making of further loans under this part in accordance with the provisions of subsection (a)(2) of such section.

(g) Authorization of appropriations

There is authorized to be appropriated to the Secretary, for deposit in the loan fund established by section 291j-6 of this title, $30,000,000 to provide initial capital for the making of direct loans by the Secretary to public agencies for the modernization or construction of facilities referred to in subsection (a)(1) of this section.

(July 1, 1944, ch. 373, title VI, § 627, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 349.)

COMMITMENTS FOR DIRECT LOANS TO PUBLIC AGENCIES

Pub. L. 91-667, title II, § 200, Jan. 11, 1971, 84 Stat. 2007, provided: That the Secretary is authorized to issue commitments for direct loans to public agencies in accordance with section 627 of the Public Health Service Act [this section] which shall constitute contractual obligations of the United States, the total of such outstanding commitments not to exceed $30,000,000 at any given time; to sell obligations received pursuant to such commitments as provided in section 627 [this section], and the proceeds of any such sale shall be used to make a direct loan pursuant to the outstanding commitment under which the obligations were received."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291j-1, 291j-6 of this title.

PART C—CONSTRUCTION OR MODERNIZATION OF EMERGENCY ROOMS

§ 291j-8. Authorization of appropriations

In order to assist in the provision of adequate emergency room service in various communities of the Nation for treatment of accident victims and handling of other medical emergencies through special project grants for the construction or modernization of emergency rooms of general hospitals, there are authorized to be appropriated $20,000,000 each for the fiscal year ending June 30, 1971, and the next two fiscal years.

(July 1, 1944, ch. 373, title VI, § 631, as added June 30, 1970, Pub. L. 91-296, title III, § 301, 84 Stat. 351.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j-9 of this title.

§ 291j-9. Eligibility for grants

Funds appropriated pursuant to section 291j-8 of this title shall be available for grants by the Secretary for not to exceed 50 per centum of the cost of construction or modernization of emergency rooms of public or nonprofit general hospitals, including provision or replacement of medical transportation facilities. Such grants shall be made by the Secretary only after consultation with the State agency designated in accordance with section 291d(a)(1) of this title. In order to be eligible for a grant under this part, the project, and the applicant therefor, must meet such criteria as may be prescribed by regulations. Such regulations shall be so designed as to provide aid only with respect to projects for which adequate assistance is not readily available from other Federal, State, local, or other sources, and to assist in providing modern, efficient, and effective emergency room service needed to care for victims of highway, industrial, agricultural, or other accidents and to handle other medical emergencies, and to assist in providing such service in geographical areas which have special need therefor.

(July 1, 1944, ch. 373, title VI, § 632, as added June 30, 1970, Pub. L. 91-296, title III, § 301, 84 Stat. 351.)

§ 291j-10. Payments

Grants under this part shall be paid in advance or by way of reimbursement, in such installments and on such conditions, as in the judgment of the Secretary will best carry out the purposes of this part.

(July 1, 1944, ch. 373, title VI, 633, as added June 30, 1970, Pub. L. 91-296, title III, § 301, 84 Stat. 351.)

PART D—GENERAL PROVISIONS

§ 291k. Federal Hospital Council

(a) Membership; qualifications

In administering this subchapter, the Surgeon General shall consult with a Federal Hospital Council consisting of the Surgeon General, who shall serve as Chairman ex officio, and twelve members appointed by the Secretary of Health, Education, and Welfare. Six of the twelve appointed members shall be persons who are outstanding in fields pertaining to medical facility and health activities, and three of these six shall be authorities in matters relating to the operation of hospitals or other medical facilities, one of them shall be an authority in matters relating to the mentally retarded, and one of them shall be an authority in matters relating to mental health, and the other six members shall be appointed to represent the consumers of the services provided by such facilities and shall be persons familiar with the need for such services in urban or rural areas.

(b) Term of membership

Each appointed member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to

the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. An appointed member shall not be eligible to serve continuously for more than two terms (whether beginning before or after August 18, 1964) but shall be eligible for reappointment if he has not served immediately preceding his reappointment.

(c) Meetings; annual or by call of Surgeon General

The Council shall meet as frequently as the Surgeon General deems necessary, but not less than once each year. Upon request by three or more members, it shall be the duty of the Surgeon General to call a meeting of the Council.

(d) Advisory or technical committees

The Council is authorized to appoint such special advisory or technical committees as may be useful in carrying out its functions.

(July 1, 1944, ch. 373, title VI, § 641, formerly § 621, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 458, renumbered June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 344, and amended Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(b)(2), 84 Stat. 1311.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in subsec. (b) of a prior section 291k, act July 1, 1944, ch. 373, title VI, § 633, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 24, 1948, ch. 621, § 6(b), 62 Stat. 602; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, prior to the general amendment of this subchapter by Pub. L. 88-443.

AMENDMENTS

1970—Subsec. (e). Pub. L. 91-515 struck out subsec. (e) which related to the payment of compensation and travel expenses of appointed Council members and members of advisory or technical committees while serving on Council business.

TERMS OF FEDERAL HOSPITAL COUNCIL MEMBERS

Section 3(b)(3) of Pub. L. 88-443 providing that the terms of members serving on the Council prior to Aug. 18, 1964, shall expire on the date they would have expired had Pub. L. 88-443 not been enacted, is set out as an Effective Date note under section 291 of this title.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

§ 291*l*. Conference of State agencies

Whenever in his opinion the purposes of this subchapter would be promoted by a conference, the Surgeon General may invite representatives of as many State agencies, designated in accordance with section 291d of this title, to confer as he deems necessary or proper. A conference of the representatives of all such State agencies shall be called annually by the Surgeon General. Upon the application of five or more of such State agencies, it shall be the duty of the Surgeon General to call a conference of representatives of all State agencies joining in the request.

(July 1, 1944, ch. 373, title VI, § 642, formerly § 622, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 458, and renumbered June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 344.)

PRIOR PROVISIONS

A prior section 291*l*, act July 1, 1944, ch. 373, title VI, § 634, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, contained provisions similar to this section prior to the general amendment of this subchapter by Pub. L. 88-443.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

§ 291m. State control of operations

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this subchapter.

(July 1, 1944, ch. 373, title VI, § 643, formerly 623, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 458, and renumbered June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 344.)

PRIOR PROVISIONS

A prior section 291m, act July 1, 1944, ch. 373, title VI, § 635, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended July 12, 1954, ch. 471, § 4(h), 68 Stat. 467, contained provisions similar to this section prior to the general amendment of this subchapter by Pub. L. 88-443.

§ 291m-1. Loans for certain hospital experimentation projects

(a) Other public or private sources unavailable for alleviation of hardship due to increased construction costs

In order to alleviate hardship on any recipient of a grant under section 291n of this title (as in effect immediately before August 18, 1964) for a project for the construction of an experimental or demonstration facility having as its specific purpose the application of novel means for the reduction of hospital costs with respect to which there has been a substantial increase in the cost of such construction (over the estimated cost of such project on the basis of which such grant was made) through no fault of such recipient, the Secretary is authorized to make a loan to such recipient not exceeding 66⅔ per centum of such increased costs, as determined by the Secretary, if the Secretary determines that such recipient is unable to obtain such an amount for such purpose from other public or private sources.

(b) Application; form; information

Any such loan shall be made only on the basis of an application submitted to the Secretary in such form and containing such information and assurances as he may prescribe.

(c) Interest; repayment period

Each such loan shall bear interest at the rate of 2½ per centum per annum on the unpaid balance thereof and shall be repayable over a period determined by the Secretary to be appropriate, but not exceeding fifty years.

(d) Authorization of appropriation

There are hereby authorized to be appropriated $3,500,000 to carry out the provisions of this section.

(July 1, 1944, ch. 373, title VI, § 643A, formerly § 623A, as added Dec. 5, 1967, Pub. L. 90-174, § 11, 81 Stat. 541, and renumbered June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 344.)

REFERENCES IN TEXT

Section 291n of this title, referred to in subsec. (a), was repealed by Pub. L. 90-174, § 3(b)(1), Dec. 5, 1967, 81 Stat. 535.

DEFINITION OF "SECRETARY"

Term "Secretary" used in this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90-174, set out as a note under section 201 of this title.

§ 291n. Repealed. Pub. L. 90-174, § 3(b)(1), Dec. 5, 1967, 81 Stat. 535

Section, act July 1, 1944, ch. 373, title VI, § 644, formerly § 624, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 459, and renumbered June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 344, provided for research, experiments and demonstrations in utilization of medical facilities, authorization, grants-in-aid, amounts, payment, conditions, authorization of appropriations, and right of recovery of United States Government, and is now covered by section 242b of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective with respect to appropriations for fiscal year ending after June 30, 1967, see section 3(b) of Pub. L. 90-174, set out as an Effective Date of 1967 Amendment note under section 246 of this title.

§ 291n-1. Omitted

A prior section 291n-1, act July 1, 1944, ch. 373, title VI, § 637, formerly § 654(c), ad added July 12, 1954, ch. 471, § 3, 68 Stat. 463, renumbered and amended Aug. 14, 1959, Pub. L. 86-158, title II, § 201, 73 Stat. 349, which related to transfers of allotments between States, was omitted in the general amendment of this subchapter by Pub. L. 88-443, Aug. 18, 1964, 78 Stat. 447. See section 291b of this title.

§ 291o. Definitions

For the purposes of this subchapter—

(a) The term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

(b)(1) The term "Federal share" with respect to any project means the proportion of the cost of such project to be paid by the Federal Government under this subchapter.

(2) With respect to any project in any State for which a grant is made from an allotment from an appropriation under section 291a of this title, the Federal share shall be the amount determined by the State agency designated in accordance with section 291d of this title, but not more than 66⅔ per centum or the State's allotment percentage, whichever is the lower, except that, if the State's allotment percentage is lower than 50 per centum, such allotment percentage shall be deemed to be 50 per centum for purposes of this paragraph.

(3) Prior to the approval of the first project in a State during any fiscal year the State agency designated in accordance with section 291d of this title shall give the Secretary written notification of the maximum Federal share established pursuant to paragraph (2) of this subsection for projects in such State to be approved by the Secretary during such fiscal year and the method for determining the actual Federal share to be paid with respect to such projects; and such maximum Federal share and such method of determination for projects in such State approved during such fiscal year shall not be changed after such approval.

(4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, the Federal share shall, at the option of the State agency, be equal to the per centum provided under such paragraphs plus an incentive per centum (which when combined with the per centum provided under such paragraphs shall not exceed 90 per centum) specified by the State agency in the case of (A) projects that will provide services primarily for persons in an area determined by the Secretary to be a rural or urban poverty area, and (B) projects that offer potential for reducing health care costs through shared services among health care facilities, through interfacility cooperation, or through the construction or modernization of free-standing outpatient facilities.

(c) The term "hospital" includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professions personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(d) The term "public health center" means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(e) The term "nonprofit" as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) The term "outpatient facility" means a facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of am-

bulatory patients (including ambulatory inpatients)—

(1) which is operated in connection with a hospital, or

(2) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or, in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State; or

(3) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties, and which provides to its patients a reasonably full-range of diagnostic and treatment services.

(g) The term "rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

(1) medical evaluation and services, and

(2) psychological, social, or vocational evaluation and services, under competent professional supervision, and in the case of which—

(3) the major portion of the required evaluation and services is furnished within the facility; and

(4) either (A) the facility is operated in connection with a hospital, or (B) all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(h) The term "facility for long-term care" means a facility (including an extended care facility) providing in-patient care for convalescent or chronic disease patients who require skilled nursing care and related medical services—

(1) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculosis patients) or is operated in connection with a hospital, or

(2) in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(i) The term "construction" includes construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities) and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

(j) The term "cost" as applied to construction or modernization means the amount found by the Surgeon General to be necessary for construction and modernization respectively, under a project, except that such term, as applied to a project for modernization of a facility for which a grant or loan is to be made from an allotment under section 291b(a)(2) of this title, does not include any amount found by the Surgeon General to be attributable to expansion of the bed capacity of such facility.

(k) The term "modernization" includes alteration, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

(*l*) The term "title", when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Surgeon General finds sufficient to assure for a period of not less than fifty years' undisturbed use and possession for the purposes of construction and operation of the project.

(July 1, 1944, ch. 373, title VI, § 645, formerly § 625, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 460, amended Sept. 4, 1964, Pub. L. 88-581, § 3(b), 78 Stat. 919, and renumbered and amended June 30, 1970, Pub. L. 91-296, title I, §§ 113, 114(a), 116(f), 117, 118, 119(d), title II, § 201, 84 Stat. 340, 341, 342, 343, 344.)

Prior Provisions

A prior section 291o, act July 1, 1944, ch. 373, title VI, § 641, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461, related to a declaration of purpose with respect to diagnostic or treatment centers, chronic disease hospitals, rehabilitation facilities, and nursing homes was omitted in the general amendment of this subchapter by Pub. L. 88-443. See now section 291 of this title.

Provisions similar to those comprising this section were contained in section 291i(d) to (o), act July 1, 1944, ch. 373, title VI, § 631, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 19, 1948, ch. 544, § 1(b), 62 Stat. 531; Oct. 25, 1949, ch. 722, § 9, 63 Stat. 901; July 12, 1954, ch. 471, § 4(c) to (f), 68 Stat. 465, 466; Aug. 1, 1956, ch. 852, § 19(b), 70 Stat. 911; June 25, 1959, Pub. L. 86-70, § 31(c), 73 Stat. 149; July 12, 1960, Pub. L. 86-624, § 29(d), 74 Stat. 419; Oct. 5, 1961, Pub. L. 87-395, § 5, 75 Stat. 826; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(2), 76 Stat. 587, prior to the general amendment of this subchapter by Pub. L. 88-443.

Amendments

1970—Subsec. (a). Pub. L. 91-296, § 119(d), inserted reference to the Trust Territory of the Pacific Islands.

Subsec. (b). Pub. L. 91-296, § 113, provided that the federal share of any project be in such amount, not in excess of two-thirds, as the state agency determined and authorized a higher federal share of up to 90 per centum, in the case of rural or urban poverty projects, and facilities which might reduce health costs through shared services, interfacility cooperation, and free-standing ambulatory care centers.

Subsec. (c). Pub. L. 91-296, § 114(a), inserted references to extended care facilities, facilities related to programs for home health services, and self-care units operated in connection with hospitals and education or training facilities for health professions personnel operated as an integral part of a hospital.

Subsec. (f). Pub. L. 91-296, § 116(f), substituted "outpatient facility" for "diagnostic or treatment center", inserted "(located in or apart from a hospital)" after "means at facility", inserted "(including ambulatory inpatients)" after "ambulatory patients", and added par. (3).

Subsec. (h). Pub. L. 91-296, § 117, inserted "(including an extended care facility)" following "means a facility".

Subsec. (i). Pub. L. 91-296, § 118, inserted reference to equipment of any buildings in cases in which such equipment will help to provide a service not previously provided in the community.

1964—Subsec. (c). Pub. L. 88-581 substituted "nurses' home facilities" for "nurses' home and training facilities".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 119(d) of Pub. L. 91-296 [amending subsec. (a) of this section] applicable with respect to allotments and grants therefrom under part A of this subchapter for fiscal years ending after June 30, 1970, and with respect to loan guarantees and loans under part B of this subchapter made after June 30, 1970, see section 119(e) of Pub. L. 91-296, set out as an Effective Date of 1970 Amendment note under section 291b of this title.

Section 113 of Pub. L. 91-296 provided in part that the amendment by section 113 of Pub. L. 91-296 [amending subsec. (b) of this section] shall be effective with respect to projects approved under this subchapter after June 30, 1970.

Section 114(a) of Pub. L. 91-296, provided in part that the amendment by section 114(a) of Pub. L. 91-296 [amending subsec. (c) of this section] shall be effective with respect to applications approved under this subchapter after June 30, 1970.

Section 116(g) of Pub. L. 91-296 provided that: "The amendments made by subsection (e) [amending subsec. (f) of this section] and paragraphs (2) and (3) of subsection (f) of this section [amending section 291e(e) of this title] shall apply with respect to applications approved under title VI of such Act [this subchapter] after June 30, 1970."

Section 117 of Pub. L. 91-296 provided in part that the amendment by section 117 of Pub. L. 91-296 [amending subsec. (h) of this section] shall be effective with respect to applications approved under this subchapter after June 30, 1970.

Section 118 of Pub. L. 91-296 provided in part that the amendment by section 118 of Pub. L. 91-296 [amending subsec. (i) of this section] shall be effective with respect to projects approved under this subchapter after June 30, 1970.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of subsec. (c) by Pub. L. 88-581 effective with respect to applications for grants from appropriations for fiscal years beginning after June 30, 1965, see section 3(b) of Pub. L. 88-581, set out as an Effective Date of 1964 Amendment note under section 291c of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291e, 292a, 293a of this title; title 29 section 771.

§ 291o-1. Financial statements

In the case of any facility for which a grant, loan, or loan guarantee has been made under this subchapter, the applicant for such grant, loan, or loan guarantee (or, if appropriate, such other person as the Secretary may prescribe) shall file at least annually with the State agency for the State in which the facility is located a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

(1) the financial operations of the facility, and

(2) the costs to the facility of providing health services in the facility and the charges made by the facility for providing such services,

during the period with respect to which the statement is filed.

(July 1, 1944, ch. 373, title VI, § 646, as added June 30, 1970, Pub. L. 91-296, title I, § 121, 84 Stat. 343.)

PERIOD OF JULY 1, 1975 THROUGH SEPTEMBER 30, 1976, CONSIDERED AS ONE YEAR

Period of July 1, 1975, through Sept. 30, 1976, considered as one year for purposes of this section, see section 206(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 394, set out as a note under section 1176 of Title 21, Food and Drugs.

§§ 291p to 291z. Omitted

CODIFICATION

Section 291p, act July 1, 1944, ch. 373, title VI, § 646, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461, which related to appropriations to States for carrying out purposes of section 291o(a) of this title, was omitted in the general amendment of this subchapter by Pub. L. 88-443, Aug. 18, 1964, 78 Stat. 447.

Section 291q, act July 1, 1944, ch. 373, title VI, § 647, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461, which related to State application for funds for carrying out the purposes of section 291o(a) of this title, was omitted in the general amendment of this subchapter by Pub. L. 88-443, Aug. 18, 1964, 78 Stat. 447.

Section 291r, act July 1, 1944, ch. 373, title VI, § 648, as added July 12, 1954, ch. 471, § 2, 68 Stat. 462, which related to allotments to States of appropriations made pursuant to section 291p of this title, was omitted in the general amendment of this subchapter by Pub. L. 88-443, Aug. 18, 1964, 78 Stat. 447.

Section 291s, act July 1, 1944, ch. 373, title VI, § 651, as added July 12, 1954, ch. 471, § 3, 68 Stat. 462, and amended Aug. 2, 1956, ch. 871, title IV, § 402, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85-664, § 1(b), 72 Stat. 616; Oct. 5, 1961, Pub. L. 87-395, § 3(a), 75 Stat. 825, which related to appropriations for assistance to States in carrying out purposes of section 291o(b) of this title, was omitted in the general amendment of this subchapter by Pub. L. 88-443, Aug. 18, 1964, 78 Stat. 447.

Section 291t, act July 1, 1944, ch. 373, title VI, 652, as added July 12, 1954, ch. 471, § 3, 68 Stat. 462, and amended Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Oct. 5, 1961, Pub. L. 87-395, § 3(b), 75 Stat. 825; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(3), 76 Stat. 587, which related to allotments to States of sums appropriated under section 291s of this title, was omitted in the general amendment of this subchapter by Pub. L. 88-443, Aug. 18, 1964, 78 Stat. 447.

Section 291u, act July 1, 1944, ch. 373, title VI, § 653, as added July 12, 1954, ch. 471, § 3, 68 Stat. 463, which related to revision of regulations and State plans to cover benefits of sections 291s to 291v of this title, was omitted in the general amendment of this subchapter by Pub. L. 88-443, Aug. 18, 1964, 78 Stat. 447.

Section 291v, act July 1, 1944, ch. 373, title VI, § 654, as added July 12, 1954, ch. 471, § 3, 68 Stat. 463, and amended Aug. 14, 1959, Pub. L. 86-158, title II, § 201, 73 Stat. 349, which related to applications and payments for projects under sections 291s to 291v of this title, was omitted in the general amendment of this subchapter by Pub. L. 88-443, Aug. 18, 1964, 78 Stat. 447.

Section 291w, act July 1, 1944, ch. 373, title VI, § 661, as added Aug. 1, 1958, Pub. L. 85-589, 72 Stat. 489, and amended Oct. 5, 1961, Pub. L. 87-395, § 6, 75 Stat. 826, which related to an authorization of the Surgeon General to make loans for construction, was omitted in the general amendment of this subchapter by Pub. L. 88-443, Aug. 18, 1964, 78 Stat. 447.

Section 291x, act July 1, 1944, ch. 373, title VI, § 662, as added Aug. 1, 1958, Pub. L. 85-589, 72 Stat. 489, which related to approval of construction loans by the Surgeon General, was omitted in the general amendment of this subchapter by Pub. L. 88-443, Aug. 18, 1964, 78 Stat. 447.

Section 291y, act July 1, 1944, ch. 373, title VI, § 663, as added Aug. 1, 1958, Pub. L. 85-589, 72 Stat. 489, which related to the terms of the loans with respect to sections 291w to 291z of this title, was omitted in the general amendment of this subchapter by Pub. L. 88-443, Aug. 18, 1964, 78 Stat. 447.

Section 291z, act July 1, 1944, ch. 373, title VI, § 664, as added Aug. 1, 1958, Pub. L. 85-589, 72 Stat. 490, which related to the allotment of funds for loans under this subchapter, was omitted in the general amendment of this subchapter by Pub. L. 88-443, Aug. 18, 1964, 78 Stat. 447.

SUBCHAPTER V—HEALTH RESEARCH AND TEACHING FACILITIES AND TRAINING OF PROFESSIONAL HEALTH PERSONNEL

Amendments

1963—Pub. L. 88-129, § 2(a), Sept. 24, 1963, 77 Stat. 164, substituted "Health Research and Teaching Facilities and Training of Professional Health Personnel" for "Health Research Facilities".

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 235, 300d-5, 300l-2 of this title; title 38 section 5070.

Part A—General Provisions

Amendments

1976—Pub. L. 94-484, title II, § 201(d)(1), (2), Oct. 12, 1976, 90 Stat. 2247, substituted Part A heading "GENERAL PROVISIONS" for "GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES" and repealed heading "PART H—GENERAL PROVISIONS" preceding section 295h-8 of this title, now covered by Part A.

1963—Pub. L. 88-129, § 2(a), Sept. 24, 1963, 77 Stat. 164, substituted "Health Research and Teaching Facilities and Training of Professional Health Personnel" for "Health Research Facilities", in the subchapter heading, and added the heading of Part A.

Part Referred to in Other Sections

This part is referred to in section 293 of this title.

§ 292. Limitation on use of appropriations

(a) Notwithstanding any other provisions of law, with respect to any fiscal year beginning after September 30, 1977, no funds appropriated for such fiscal year may be made available for obligation or expenditure for the purpose of carrying out any provision of this subchapter if the sum of the amounts appropriated for such fiscal year for scholarships under subpart IV of part C (relating to National Health Service Corps scholarships) and for the purpose of making grants under section 294z of this title (relating to scholarships for first-year students of exceptional financial need) is less than the lesser of—

(1) the sum of the amounts authorized to be appropriated for such fiscal year under such subpart and section, or

(2) 50 percent of the sum of the amounts appropriated for such fiscal year under this subchapter.

(b) Subsection (a) of this section shall not apply with respect to a fiscal year if less than 75 percent of the sum of the amounts authorized to be appropriated for such fiscal year under paragraphs (1), (2), and (3) of section 295f(e) of this title (relating to capitation grants for medical, osteopathic, and dental schools) is appropriated for such fiscal year under such paragraphs.

(July 1, 1944, ch. 373, title VII, § 700, as added Oct. 12, 1976, Pub. L. 94-484, title II, § 201(b), 90 Stat. 2246.)

References in Text

Subpart IV of Part C, referred to in subsec. (a), is classified to section 294t et seq. of this title.

Prior Provisions

A prior section 292, act July 1, 1944, ch. 373, title VII, § 701, as added July 30, 1956, ch. 779, § 2, 70 Stat. 717, and amended Sept. 24, 1963, Pub. L. 88-129, § 2(a), 77 Stat. 164, stated Congressional findings and declaration of policy respecting grants for construction of health research facilities, and was repealed by Pub. L. 94-484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

Congressional Findings and Declaration of Policy: Health Professions Personnel for Delivery of High Quality Health Care and Primary Care; Preferential Admission of Alien Physicians and Surgeons Unnecessary

Section 2 of Pub. L. 94-484 provided that:

"(a) The Congress finds and declares that—

"(1) the availability of high quality health care to all Americans is a national goal;

"(2) the availability of high quality health care is, to a substantial extent, dependent upon—

"(A) the availability of qualified health professions personnel; and

"(B) the availability of adequate numbers of physicians engaged in the delivery of primary care, including family practice, general internal medicine, and general pediatrics, and in the various specialties, but numbers which do not exceed the need for physicians in such specialties;

"(3) there are many areas in the United States which are unable to attract adequate numbers of health professions personnel to meet their health care needs; and

"(4) physician specialization has resulted in inadequate numbers of physicians engaged in the delivery of primary care.

"(b) The Congress further finds and declares that—

"(1) health professions personnel are a national health resource and the Federal Government shares the responsibility of assuring that such qualified personnel are available to meet the health care needs of the American people;

"(2) it is therefore appropriate to provide support for the education and training of such personnel; and

"(3) at the same time it is appropriate to provide such support in a manner which will assure the availability of health professions personnel to all of the American people.

"(c) The Congress further finds and declares that there is no longer an insufficient number of physicians and surgeons in the United States such that there is no further need for affording preference to alien physicians and surgeons in admission to the United States under the Immigration and Nationality Act [see Short Title note set out under section 1101 of Title 8, Aliens and Nationality]."

§ 292a. Definitions

For purposes of this subchapter—

(1) The terms "construction" and "cost of construction" include (A) the construction of new buildings, the expansion of existing buildings, and the acquisition, remodeling, replacement, renovation, major repair (to the extent permitted by regulations), or alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and (B) initial equip-

ment of new buildings and of the expanded, remodeled, repaired, renovated, or altered part of existing buildings; but such term shall not include the construction or cost of construction of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship.

(2) The term "nonprofit school" means a school owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(3) The term "affiliated hospital or affiliated outpatient facility" means a hospital or outpatient facility, as defined in section 291*o* of this title, which is not owned by, but is affiliated (to the extent and in the manner determined in accordance with regulations) with, a school of medicine, osteopathy, or dentistry which meets the eligibility conditions set forth in section 293a(b)(1) of this title.

(4) The terms "school of medicine", "school of dentistry", "school of osteopathy", "school of pharmacy", "school of optometry", "school of podiatry", "school of veterinary medicine", and "school of public health" mean a school which provides training leading, respectively, to a degree of doctor of medicine, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or an equivalent degree, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatry or an equivalent degree, a degree of doctor of veterinary medicine or an equivalent degree, and a graduate degree in public health or an equivalent degree, and including advanced training related to such training provided by any such school.

(5) The term "teaching facilities" means areas dedicated for use by students, faculty, or administrative or maintenance personnel for clinical purposes, research activities, libraries, classrooms, offices, auditoriums, dining areas, student activities, or other related purposes necessary for, and appropriate to, the conduct of comprehensive programs of education. Such term includes interim facilities but does not include off-site improvements or living quarters.

(6) The term "interim facilities" means teaching facilities designed to provide teaching space on a short-term (less than ten years) basis while facilities of a more permanent nature are being planned and constructed.

(7)(A) The term "program for the training of physician assistants" means an educational program which (i) has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to effectively provide health care under the supervision of a physician and (ii) meets regulations prescribed by the Secretary in accordance with subparagraph (B).

(B) After consultation with appropriate professional organizations, the Secretary shall (within 180 days after October 12, 1976) prescribe regulations for programs for the training of physician assistants. Such regulations shall, as a minimum, require that such a program—

(i) extend for at least one academic year and consist of (I) supervised clinical practice, and (II) at least four months (in the aggregate) of classroom instruction, directed toward preparing students to deliver health care; and

(ii) have an enrollment of not less than eight students.

(8)(A) The term "program for the training of expanded function dental auxiliaries" means an educational program which (i) has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to assist in the provision of dental care under the supervision of a dentist and (ii) meets regulations prescribed by the Secretary in accordance with subparagraph (B).

(B) After consultation with appropriate professional organizations, the Secretary shall (within 180 days after October 12, 1976) prescribe regulations for programs for the training of expanded function dental auxiliaries. Such regulations shall, as a minimum, require that such a program—

(i) extend for at least one academic year and consist of

(I) supervised clinical practice, and

(II) at least four months (in the aggregate) of classroom instruction,

directed toward preparing students to deliver dental care; and

(ii) have an enrollment of not less than eight students.

(9) The term "State" includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(10) The term "Department" means the Department of Health, Education, and Welfare.

(July 1, 1944, ch. 373, title VII, § 701, formerly § 724, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 169, amended Oct. 22, 1965, Pub. L. 89-290, § 2(b), 79 Stat. 1056; Nov. 2, 1966, Pub. L. 89-709, § 2(c), 80 Stat. 1103; Aug. 16, 1968, Pub. L. 90-490, title I, § 105(c), 82 Stat. 774; Nov. 18, 1971, Pub. L. 92-157, title I, § 102(c)(1)-(4), (f)(2)(B), 85 Stat. 431, 432, 435, and renumbered and amended Oct. 12, 1976, Pub. L. 94-484, title II, § 201(c), (e), 90 Stat. 2247.)

Codification

Section was formerly classified to section 293d of this title.

Prior Provisions

A prior section 292a, act July 1, 1944, ch. 373, title VII, § 702, as added July 30, 1956, ch. 779, § 2, 70 Stat. 717, and amended Sept. 24, 1963, Pub. L. 88-129, § 2(a), 77 Stat. 164, defined "Council", "construction", "cost of construction", "nonprofit institution", and "sciences related to health" as applicable to grants for construction of health research facilities, and was repealed by Pub. L. 94-484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

Amendments

1976—Pub. L. 94-484, § 201(e)(1), substituted introductory text "For purposes of this subchapter" for "As used in this part and parts C, E, and F of this subchapter".

Par. (4). Pub. L. 94-484, § 201(e)(2), substituted "graduate degree in public health or an equivalent degree" for "graduate degree in public health".

Pars. (7) to (10). Pub. L. 94-484, § 201(e)(3), added pars. (7) to (10).

1971—Par. (1). Pub. L. 92-157, § 102(c)(1), (4), defined terms "construction" and "cost of construction" to include in cl. (A) the acquisition of existing buildings and substituted a period for a semicolon as the end punctuation, respectively.

Par. (2). Pub. L. 92-157, § 102(c)(4), substituted a period for a semicolon as the end punctuation.

Par. (3). Pub. L. 92-157, § 102(f)(2)(B), included definition for "affiliated outpatient facility", substituted reference to section "291o" for "291l" of this title, and included affiliation with a school of dentistry.

Par. (4). Pub. L. 92-157, § 102(c)(3), (4), substituted "an equivalent degree" for "doctor of pharmacy" and "doctor of surgical chiropody" appearing following "bachelor of science in pharmacy" and "doctor of podiatry", and substituted a period for a semicolon as the end punctuation, deleting "and" following the punctuation, respectively.

Par. (5). Pub. L. 92-157, § 102(c)(2), substituted definition of "teaching facilities" for definition of "school of nursing".

Par. (6). Pub. L. 92-157, § 102(c)(2), added par. (6).

1968—Par. (4). Pub. L. 90-490 inserted "and including advanced training related to such training provided by any such school".

1966—Par. (4). Pub. L. 89-709 included school of veterinary medicine and defined such term to mean a school which provides training leading to a degree of doctor of veterinary medicine or an equivalent degree.

1965—Pub. L. 89-290 substituted "As used in this part and parts C, E, and F", for "As used in this part".

Effective Date of 1968 Amendment

Amendment by Pub. L. 90-490 applicable in the case of projects for which grants are made under this part from appropriations for fiscal years ending after June 30, 1969, see section 105(d) of Pub. L. 90-490, set out as an Effective Date of 1968 Amendment note under section 293a of this title.

Section Referred to in Other Sections

This section is referred to in sections 201, 295e-3, 4588 of this title; title 20 section 1132e-1.

§ 292b. National Advisory Council on Education for Health Professions

(a) Establishment; composition; selection of members

There is established in the Public Health Service a National Advisory Council on Health Professions Education (hereafter in this section referred to as the "Council"), consisting of the Secretary (or his delegate), who shall be Chairman of the Council, and twenty members appointed by the Secretary (without regard to the provisions of title 5 relating to appointments in the competitive service) from persons who because of their education, experience, or training are particularly qualified to advise the Secretary with respect to the programs of assistance authorized by parts B, C, D, E, F, and G of this subchapter. Of the appointed members of the Council (1) twelve shall be representatives of the health professions schools assisted under programs authorized by this subchapter, including at least six persons experienced in university administration and at least four representatives of schools of veterinary medicine, optometry, pharmacy, podiatry, and public health, and entities which may receive a grant under section 295h of this title, (2) two shall be full-time students enrolled in health professions schools, and (3) six shall be members of the general public.

(b) Functions

The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this subchapter (other than subpart II of part G thereof).

(c) Administration

The Secretary may use the services of any member or members of the Council in connection with matters related to the Administration of this subchapter (other than subpart II of part G thereof), for such periods, in addition to conference periods, as he may determine.

(d) Termination of council

Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.

(July 1, 1944, ch. 373, title VII, § 702, formerly § 725, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 169, amended Sept. 4, 1964, Pub. L. 88-581, § 3(c), 78 Stat. 919; Nov. 2, 1966, Pub. L. 89-709, § 2(d), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89-751, § 3(a), 80 Stat. 1230; Dec. 5, 1967, Pub. L. 90-174, § 12(c), 81 Stat. 541; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(b)(2), 84 Stat. 1311; Nov. 18, 1971, Pub. L. 92-157, title I, § 108(a), 85 Stat. 460, and renumbered and amended Oct. 12, 1976, Pub. L. 94-484, title II, §§ 201(c), 202(a)(1), (2), (b), 90 Stat. 2247, 2248.)

References in Text

The provisions of title 5 relating to appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

Subpart II of Part G of this subchapter, referred to in subsecs. (b) and (c), is classified to section 295h-4 et seq. of this title.

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (d), is set out in the Appendix to title 5.

Codification

Section was formerly classified to section 293e of this title.

Prior Provisions

A prior section 292b, act July 1, 1944, ch. 373, title VII, § 703, as added July 30, 1956, ch. 779, § 2, 70 Stat. 717, and amended Sept. 24, 1963, Pub. L. 88-129, § 2(a), 77 Stat. 164; Aug. 16, 1968, Pub. L. 90-490, title IV, § 403, 82 Stat. 789; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(a)(1), (b)(2), 84 Stat. 1310, 1311; Nov. 18, 1971, Pub. L. 92-157, title I, § 102(k)(2)(A), 85 Stat. 437, which related to the National Advisory Council on Health Research Facilities, providing for its establishment, composition, selection of members; its functions; and use of its services in the administration of grants for construction of health research facilities, was repealed by Pub. L. 94-484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

Amendments

1976—Subsec. (a). Pub. L. 94-484, § 202(a)(1), (b)(1), added provision designated item (1), incorporated existing text in provision designated item (2), and incorporated existing text in provision designated item (3), increasing the number of public members to six from four; and inserted reference to part G of this subchapter, respectively.

Subsecs. (b), (c). Pub. L. 94-484, § 202(b)(2), substituted in parenthetical text "subpart II of part G" for "parts A and G".

Subsec. (d). Pub. L. 94-484, § 202(a)(2), added subsec. (d).

1971—Subsec. (a). Pub. L. 92-157 substituted "National Advisory Council on Health Professions Education" for "National Advisory Council on Education for Health Professions", "Secretary (or his delegate)" for "Surgeon General", eliminated ex officio status of the Surgeon General and the Commissioner of Education, increased membership from seventeen to twenty, substituted provision respecting appointments because of education, experience, or training of the appointees for prior provisions for selection from leading authorities in the fields of higher education, nine of whom to be particularly concerned with training in medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health professions, and spelling out certain factors such as experience in planning, constructing, financing, or administration of schools and familiarity with need for teaching facilities in all areas of the Nation, and provided for two appointees from among full-time students enrolled in health professions schools.

Subsec. (b). Pub. L. 92-157 substituted "Secretary" for "Surgeon General" and "administration of this subchapter (other than parts A and G thereof)" for "administration of this part" and eliminated provision respecting advisory function in reviewing applications under this part.

Subsec. (c). Pub. L. 92-157 substituted "Secretary" for "Surgeon General", and "administration of this subchapter (other than parts A and G thereof)" for "administration of this part" and eliminated sentence for consultation between and coordination of work of Council and National Advisory Council on Health Research Facilities relating to matters of this part.

Subsec. (d). Pub. L. 92-157 struck out subsec. (d) compensation and travel expenses provisions. Such subsec. (d) had previously been repealed by Pub. L. 91-515. See 1970 Amendment note set out below.

1970—Subsec. (d). Pub. L. 91-515 struck out subsec. (d) which related to the payment of compensation and travel expenses of appointed members of the Council.

1967—Subsec. (a). Pub. L. 90-174 increased the number of Council members appointed from among leading authorities in fields of higher education from twelve to thirteen.

1966—Subsec. (a). Pub. L. 89-709 substituted "seventeen members" for "sixteen members" and "at least nine of whom" for "at least eight of whom", and inserted words "veterinary medicine," after "podiatry," in two instances.

Subsec. (d). Pub. L. 89-751 substituted "$100" for "50".

1964—Subsec. (a). Pub. L. 88-581 eliminated references to "nursing" to conform to the enactment of subchapter VI of this chapter by Pub. L. 88-581 which relates to nurse training.

Effective Date of 1976 Amendment

Section 202(a)(3) of Pub. L. 94-484 provided that: "The amendment made by paragraph (1) [to subsec. (a) of this section] with respect to the composition of the National Advisory Council on Health Professions Education shall apply with respect to appointments made to the Council after October 1, 1976, and the Secretary of Health, Education, and Welfare shall make appointments to the Council after such date in a manner which will bring about, at the earliest feasible time, the Council composition prescribed by the amendment [to subsec. (a) of this section]."

Effective Date of 1964 Amendment

Section 3(c) of Pub. L. 88-581 provided that the amendment to subsec. (a) of this section by Pub. L. 88-581 shall be effective with respect to appointments to the National Advisory Council on Education for Health Professions made after Sept. 4, 1964.

Transfer of Functions

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

Termination of Advisory Committees

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

Applicability of Reorg. Plan No. 3 of 1966

Section 9 of Pub. L. 89-751 provided that: "The amendments made by this Act [enacting prior sections 295h to 295h-5 and 298c to 298c-8 of this title, amending sections 292b, 294d, 294n to 294p, 296, 297c to 297f and 298 of this title, and section 1717 of Title 12, Banks and Banking, and enacting provisions set out as notes under a prior section 294, section 294d, and prior sections 297c and 297f of this title] shall be subject to the provisions of Reorganization Plan Numbered 3 of 1966 [set out as a note under section 202 of this title]."

Section Referred to in Other Sections

This section is referred to in sections 293a, 295f-5, 295g of this title.

§ 292c. Advance funding

(a) An appropriation under an authorization of approprations for grants or contracts under this subchapter for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under such authorization for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation for such grants or contracts before the fiscal year for which such appropriation is authorized.

(b) Subsection (a) of this section shall not apply with respect to grants under section 295f of this title (relating to capitation).

(July 1, 1944, ch. 373, title VII, § 703, formerly § 799, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 206, 84 Stat. 1354, amended Nov. 18, 1971, Pub. L. 92-157, title I, § 109, 85 Stat. 461, and renumbered and amended Oct. 12, 1976, Pub. L. 94-484, title II, §§ 201(c), 203, 90 Stat. 2247, 2248.)

Codification

Section was formerly classified to section 295h-8 of this title.

Prior Provisions

A prior section 292c, act July 1, 1944, ch. 373, title VII, § 704, as added July 30, 1956, 779, § 2, 70 Stat. 718, and amended Aug. 27, 1958, Pub. L. 85-777, § 1(a), 72 Stat. 933; Oct. 5, 1961, Pub. L. 87-395, § 8(a), (d), 75 Stat. 827; Oct. 17, 1962, Pub. L. 87-838, § 4(a), 76 Stat. 1074; Aug. 9, 1965, Pub. L. 89-115, § 2(a), 79 Stat. 448; Aug. 16, 1968, Pub. L. 90-490, title IV, § 401(a), 82 Stat. 789 related to authorization of appropriations and availability of funds for grants for construction of health research facilities, and was repealed by Pub. L. 94-484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

Amendments

1976—Subsec. (a). Pub. L. 94-484, § 203, designated existing provisions as subsec. (a) and substituted "An appropriation under an authorization of appropriations for grants or contracts under this subchapter

for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under such authorization for another fiscal year;" for "Any appropriation Act which appropriates funds for any fiscal year for grants, contracts, or other payments under this subchapter, section 242d, or section 242g of this title may also appropriate for the next fiscal year the funds that are authorized to be appropriated for such payments for such next fiscal year;" and "from any appropriation under such authorization for obligation for such grants or contracts before the fiscal year for which such appropriation is authorized" for "therefrom for obligation for such payments before the fiscal year for which such funds are authorized to be appropriated".

Subsec. (b). Pub. L. 94-484, § 203, added subsec. (b).

1971—Pub. L. 92-157 substituted "this subchapter, section 242d, or section 242g of this title" for "this part".

STUDY OF FEDERAL HEALTH FACILITIES CONSTRUCTION COSTS; REPORT TO CONGRESS

Section 204 of Pub. L. 92-157 provided that the Comptroller General conduct a study of health facilities construction costs and submit a report on such study by Nov. 18, 1972.

STUDY OF COSTS OF EDUCATING STUDENTS OF VARIOUS HEALTH PROFESSIONS; REPORTS; NATIONAL UNIFORM STANDARDS; ARRANGEMENT WITH NATIONAL ACADEMY OF SCIENCES OR OTHER NONPROFIT PRIVATE GROUPS OR ASSOCIATIONS

Section 205 of Pub. L. 92-157 provided that the Secretary of Health, Education, and Welfare arrange for the conduct of a study or studies to determine the national average annual per student education cost of various health professions and submit a final report on such study or studies by Jan. 1, 1974.

REPORTS TO CONGRESS ON ADMINISTRATION OF SUBCHAPTER V (OTHER THAN PARTS A AND G)

Section 206 of Pub. L. 92-157 provided that the Secretary prepare a report on the administration of this subchapter other than parts A and G thereof and submit such report by June 30, 1974.

§ 292d. Discrimination on basis of sex prohibited

The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this subchapter to, or for the benefit of, any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health or any training center for allied health personnel unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school or training center will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this subchapter with any such school or training center unless the school or training center furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs. In the case of a school of medicine which—

(1) on July 12, 1974, is in the process of changing its status as an institution which admits only female students to that of an institution which admits students without regard to their sex, and

(2) is carrying out such change in accordance with a plan approved by the Secretary,

the provisions of the preceding sentences of this section shall apply only with respect to a grant, contract, loan guarantee, or interest subsidy to, or for the benefit of such a school for a fiscal year beginning after June 30, 1979.

(July 1, 1944, ch. 373, title VII, § 704, formerly § 799A, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 207, 84 Stat. 1355, amended Nov. 18, 1971, Pub. L. 92-157, title I, § 110(2), 85 Stat. 461; July 12, 1974, Pub. L. 93-348, title I, § 105, 88 Stat. 347, and renumbered Oct. 12, 1976, Pub. L. 94-484, title II, § 201(c), 90 Stat. 2247.)

CODIFICATION

Section was formerly classified to section 295h-9 of this title.

PRIOR PROVISIONS

A prior section 292d, act July 1, 1944, ch. 373, title VII, § 705, as added July 30, 1956, ch. 779, § 2, 70 Stat. 718, and amended Aug. 27, 1958, Pub. L. 85-777, § 1(b), 72 Stat. 933; Oct. 5, 1961, Pub. L. 87-395, § 8(b), (d), 75 Stat. 827; Oct. 17, 1962, Pub. L. 87-838, § 4(b), 76 Stat. 1074; Sept. 24, 1963, Pub. L. 88-129, §§ 2(a), 3(a), 77 Stat. 164, 173; Aug. 9, 1965, Pub. L. 89-115, § 2(b), 79 Stat. 448; Aug. 16, 1968, Pub. L. 90-490, title IV, § 401(b), 82 Stat. 789; Nov. 18, 1971, Pub. L. 92-157, title I, § 102(k)(1), (2)(A), 85 Stat. 437, related to applications for grants for construction of health research facilities, providing for time of filing, eligibility, recommendation and approval and requirement of findings, conditional approval, and matters considered, and was repealed by Pub. L. 94-484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

AMENDMENTS

1974—Pub. L. 93-348 added provision respecting application of sex discrimination prohibition to a medical school benefiting from a grant, contract, loan guarantee, or interest subsidy for a fiscal year beginning after June 30, 1979, and in the process of changing its status as an institution admitting only female students to that of an institution admitting students without regard to their sex.

1971—Pub. L. 92-157 substituted provisions prohibiting discrimination on basis of sex for provisions respecting submission, prior to July 1, 1971, of a licensure report identifying major problems associated with licensure, certification, and other qualifications for practice or employment of health personnel, including recommendations for steps to be taken toward the solution of the problems.

§ 292e. Records and audits

(a) Establishment and maintenance of records; regulation; contents

Each entity which receives a grant, loan, loan guarantee, or interest subsidy or which enters into a contract with the Secretary under this subchapter, shall establish and maintain such records as the Secretary shall by regulation or order require. Such records shall include, among other things, records which completely disclose the amount and disposition of the total amount of funds received by such entity, the total cost of any project or undertaking for which funds were received, and the total amount of that portion of the total cost of any project or undertaking received by or allocated to such entity from other sources, and such other records as will facilitate an audit conducted in accordance with generally accepted auditing standards.

(b) Annual financial audits; report to Secretary

Each entity which received a grant or entered into a contract under this subchapter shall have an annual financial audit of any books, ac-

counts, financial records, files, and other papers and property which relate to the disposition or use of any funds received under such grant or contract and such other funds received by or allocated to any project or undertaking for which any funds received under this chapter were used, and any other funds received under this chapter. Each such entity shall be responsible for providing and paying for such audit. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted by and certified to be accurate by an independent certified public accountant utilizing generally accepted auditing standards. A report of each such audit shall be filed with the Secretary at such time and in such manner as he may require.

(c) Form and manner of establishment and maintenance of records

The Secretary may specify, by regulation, the form and manner in which such records, required by subsection (a) of this section, shall be established and maintained.

(d) Exception

A student recipient of a scholarship, traineeship, loan, or loan guarantee under this subchapter shall not be required to establish or maintain the records required under subsection (a) of this section or provide for an audit required under subsection (b) of this section.

(e) Availability of records

(1) Each entity which is required to establish and maintain records or to provide for an audit under this section shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefor.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to carry out the purposes of this subsection.

(July 1, 1944, ch. 373, title VII, § 705, as added Oct. 12, 1976, Pub. L. 94-484, title II, § 204, 90 Stat. 2249.)

PRIOR PROVISIONS

A prior section 292e, act July 1, 1944, ch. 373, title VII, § 706, as added July 30, 1956, 779, § 2, 70 Stat. 719, and amended Oct. 5, 1961, Pub.L. 87-395, § 8(c), (d), 75 Stat. 827; Sept. 24, 1963, Pub. L. 88-129, § 2(a), 77 Stat. 164; Aug. 16, 1968, Pub. L. 90-490, title IV, § 402, 82 Stat. 789; Nov. 18, 1971, Pub. L. 92-157, title I, § 102(k)(2)(A), (B), 85 Stat. 437, limited amount of grant available for construction of health research facilities, including provisions relating to its maximum, reservation of amount, manner of payment, and exclusion of amounts granted by certain other funds, and was repealed by Pub. L. 94-484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

§ 292f. Contracts

Contracts authorized by this subchapter may be entered into without regard to section 529 of title 31 and section 5 of title 41.

(July 1, 1944, ch. 373, title VII, § 706, as added Oct. 12, 1976, Pub. L. 94-484, title II, § 205, 90 Stat. 2250.)

PRIOR PROVISIONS

A prior section 292f, act July 1, 1944, ch. 373, title VII, § 707, as added July 30, 1956, ch. 779, § 2, 70 Stat. 720, and amended Oct. 5, 1961, Pub. L. 87-395, § 8(d), 75 Stat. 827; Sept. 24, 1963, Pub. L. 88-129, § 2(a), 77 Stat. 164; Nov. 18, 1971, Pub. L. 92-157, title I, § 102(k)(2)(A), 85 Stat. 437, provided for recapture of payments relating to grants for construction of health research facilities, and was repealed by Pub. L. 94-484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

§ 292g. Delegation of authority

The Secretary may delegate the authority to administer any program authorized by this subchapter to the administrator of a central or regional office or offices of the Department, except that the authority—

(1) to review, and prepare comments on the merit of, any application for a grant or contract under any such program for purposes of presenting such application to the National Advisory Council on Health Professions Education, and

(2) to make such a grant or enter into such a contract, shall not be delegated to any administrator of, or officer in, a regional office or offices of the Department.

(July 1, 1944, ch. 373, title VII, § 707, as added Oct. 12, 1976, Pub. L. 94-484, title II, § 205, 90 Stat. 2250.)

PRIOR PROVISIONS

A prior section 292g, act July 1, 1944, ch. 373, title VII, § 708, as added July 30, 1956, ch. 779, § 2, 70 Stat. 720, and amended Oct. 5, 1961, Pub. L. 87-395, § 8(d), 75 Stat. 827; Sept. 24, 1963, Pub. L. 88-129, § 2(a), 77 Stat. 164, prohibited Federal interference with administration of institutions where grants were made for construction of health research facilities, and was repealed by Pub. L. 94-484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

§ 292h. Health professions data

(a) Uniform reporting system; scope of information

The Secretary shall establish a program, including a uniform health professions data reporting system, to collect, compile, and analyze data on health professions personnel which shall initially include data respecting all physicians and dentists in the United States and its territories and possessions. The Secretary is authorized to expand the program to include, whenever he determines it necessary, the collection, compilation, and analysis of data respecting pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, health care administration personnel, nurses, allied health personnel, medical technologists, and any other health personnel in States designated by the Secretary to be included in the program. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional), place or places of practice, professional specialty, practice characteristics, place and date of birth, sex, and socio-economic background of health professions personnel and such other demographic

information regarding health professions personnel as the Secretary may require.

(b) Sources of information; studies; grant and contract authority; amount and scope; application: submission, contents

(1) In carrying out subsection (a) of this section, the Secretary shall collect available information from appropriate local, State, and Federal agencies and other appropriate sources.

(2) The Secretary shall conduct or enter into contracts for the conduct of analytic and descriptive studies of the health professions, including evaluations and projections of the supply of, and requirements for, the health professions by specialty and geographic location.

(3) The Secretary is authorized to make grants and to enter into contracts with States (or an appropriate nonprofit private entity in any State) for the purpose of participating in the program established under subsection (a) of this section. The Secretary shall determine the amount and scope of any such grant or contract. To be eligible for a grant or contract under this paragraph a State or entity shall submit an application in such form and manner and containing such information as the Secretary shall require. Such application shall include reasonable assurances, satisfactory to the Secretary, that—

(A) such State (or nonprofit entity within a State) will establish a program of mandatory annual registration of the health professions personnel described in subsection (a) of this section who reside or practice in such State and of health institutions licensed by such State, which registration shall include such information as the Secretary shall determine to be appropriate;

(B) such State or entity shall collect such information and report it to the Secretary in such form and manner as the Secretary shall prescribe; and

(C) such State or entity shall comply with the requirements of subsection (e) of this section.

(c) Report to Secretary of Health, Education, and Welfare

For purposes of providing the Secretary with information under this section, each school which receives financial support under section 295f of this title shall annually report to the Secretary information, determined to be appropriate by the Secretary, respecting the students who attend such school. The Secretary may collect such additional data respecting students of the health professions as he determines to be appropriate.

(d) Report to President and Congress

The Secretary shall assemble and submit to the President and Congress not later than September 1 of each year a report on the status of health professions personnel in the United States, which report shall include a description and analysis of the data collected pursuant to this section. Such report may be included as part of the report made under section 242m(a)(2)(C) of this title.

(e) Personal data; consent for transfer; disclosure; program entity

(1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as "personal data") for purposes of this section—

(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity, as the case may be, of providing or not providing such data;

(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

(C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the programs under this section.

(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

(3)(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity under this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

(4) For purposes of this subsection, the term "program entity" means any public or private entity which collects, compiles, or analyzes health professions data under a grant, contract, or other arrangement with the Secretary under this section.

(f) Secretary not subject to provisions for coordination of Federal reporting services

In carrying out his responsibilities under this section, the Secretary shall not be subject to the provisions of chapter 35 of title 44.

(g) Technical assistance

The Secretary shall provide technical assistance to the States and political subdivisions thereof in the development of systems (including model laws) concerning confidentiality and comparability of data collected pursuant to this section.

(July 1, 1944, ch. 373, title VII, § 708, as added Oct. 12, 1976, Pub. L. 94-484, title II, § 206, 90 Stat. 2250.)

PRIOR PROVISIONS

A prior section 292h, act July 1, 1944, ch. 373, title VII, § 709, as added July 30, 1956, ch. 779, § 2, 70 Stat. 720, and amended Sept. 24, 1963, Pub. L. 88-129, § 2(a), 77 Stat. 164; Nov. 18, 1971, Pub. L. 92-157, title I, § 102(k)(2)(C), 85 Stat. 437, provided for issuance of general, administrative, and other regulations for implementation of grants for construction of health research facilities, and was repealed by Pub. L. 94-484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

CHIROPRACTIC HEALTH PROFESSIONS; STUDY

Section 903 of Pub. L. 94-484 provided that:

"(a)(1) The Secretary of Health, Education, and Welfare shall arrange for the conduct of a study to determine the national average annual per student educational cost of providing education programs which lead to a degree of doctor of chiropractics.

"(2) Such study shall be completed and an interim report thereon submitted not later than March 30, 1978, and a final report not later than January 1, 1979, to the Secretary, the Committee on Labor and Public Welfare of the Senate [now Committee on Human Resources of the Senate], and the Committee on Interstate and Foreign Commerce of the House of Representatives.

"(3) Such study shall develop methodologies for ascertaining the average annual cost of chiropractic education, and the factors that affect any variation among schools with respect to their average annual per student educational costs. The study shall employ the most recent data available from the chiropractic schools in the United States at the time of the study.

"(4) The study shall also determine the current demand for chiropractic services throughout the United States and shall develop methodologies for determining if current supply of chiropractors is sufficient to meet this demand.

"(5) The study shall include an analysis of the current costs of chiropractic services by type of service and shall include an analysis of such costs over the past five years.

"(b) The Secretary shall enter into an agreement with an appropriate nonprofit group or association to conduct such a study under an arrangement in which the Secretary reimburses such group or association for actual expenses incurred by such group or association in conducting such a study.

"(c) The provisions of this section shall take effect on the date of enactment of this Act [Oct. 12, 1976]."

STUDIES OF TRAINING IN BILINGUAL AND BICULTURAL AWARENESS AND OF ADMISSIONS EXAMINATIONS OF PERSONS FROM POPULATION GROUPS OF LIMITED ENGLISH-SPEAKING ABILITY

Section 904 of Pub. L. 94-484 provided that the Secretary of Health, Education, and Welfare conduct studies of the adequacy of the efforts of health professions schools to provide training in clinical facilities which serve populations of limited English-speaking ability and studies to determine the effectiveness of health training institution admissions examinations in evaluating the ability and potential of limited English-speaking applicants and submit a report on such studies by Oct. 12, 1977.

§ 292i. Shared schedule residency training positions

(a) Number of shared schedule positions

Any entity which—

(1) maintains a medical residency training program in family practice, general internal medicine, general pediatrics, or general obstetrics and gynecology, and

(2) receives any Federal assistance,

shall establish or restructure and maintain, to the maximum extent feasible, a reasonable number of physician training positions in such program as shared schedule positions.

(b) Report to Congress

The Secretary shall report to Congress not later than January 1, 1979, on entities' compliance with subsection (a) of this section and shall include in such report recommendations for legislation to ensure compliance with such subsection.

(c) "Shared schedule position" defined

For purposes of subsection (a) of this section, the term "shared schedule position" means a physician training position in a medical residency training program which is shared by two individuals and in which each individual—

(1) engages in at least two-thirds but not more than three-fourths of the total training prescribed for such position,

(2) receives for each year in such position an amount of credit for certification in the medical specialty for which the position provides training which is equal to the amount of training engaged in in such year,

(3) receives at least one-half of the salary for such position, and

(4) receives all applicable employee benefits.

(July 1, 1944, ch. 373, title VII, § 709, as added Oct. 12, 1976, Pub. L. 94-484, title II, § 207, 90 Stat. 2252.)

PRIOR PROVISIONS

A prior section 292i, act July 1, 1944, ch. 373, title VII, § 710, as added July 30, 1956, ch. 779, § 2, 70 Stat. 720, and amended Sept. 24, 1963, Pub. L. 88-129, § 2(a), 77 Stat. 164; Nov. 18, 1971, Pub. L. 92-157, title I, § 102(k)(2)(A), 85 Stat. 437, related to preparation and submission of annual reports to the Congress through the President, including its contents, as to grants for construction of health research facilities, and was repealed by Pub. L. 94-484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

§ 292j. Payment under grants

Grants made under this subchapter may be paid (1) except for grants under section 295f of this title, in advance or by way of reimbursement, (2) at such intervals and on such conditions as the Secretary may find necessary, and (3) with appropriate adjustments on account of overpayments or underpayments previously made.

(July 1, 1944, ch. 373, title VII, § 710, as added Oct. 12, 1976, Pub. L. 94-484, title II, § 208, 90 Stat. 2252.)

PRIOR PROVISIONS

A prior section 292j, act July 1, 1944, ch. 373, title VII, § 711, as added Sept. 24, 1963, Pub. L. 88-129, § 3(b), 77 Stat. 173, and amended Nov. 18, 1971, Pub. L. 92-157, title I, § 102(k)(2)(A), 85 Stat. 437, provided for

technical assistance in connection with grants for construction of health research facilities, and was repealed by Pub. L. 94-484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

§ 292k. Payment for tuition and other educational costs

The Secretary shall by regulation establish criteria for determining allowable increases in tuition and other educational costs for which he shall be responsible for payment under any provision of this subchapter after October 12, 1976.

(July 1, 1944, ch. 373, title VII, § 711, as added Oct. 12, 1976, Pub. L. 94-484, title II, § 209, 90 Stat. 2253.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 294t of this title.

PART B—GRANTS AND LOAN GUARANTEES AND INTEREST SUBSIDIES FOR CONSTRUCTION OF TEACHING FACILITIES FOR MEDICAL, DENTAL, AND OTHER HEALTH PERSONNEL

AMENDMENTS

1971—Pub. L. 92-157, title I, § 102(j)(6), Nov. 18, 1971, 85 Stat. 437, included a reference to "Loan Guarantees and Interest Subsidies" in the heading of Part B.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 292b of this title.

§ 293. Grant authority; "ambulatory primary care teaching facilities" defined; authorization of appropriations

(a)(1) The Secretary may make grants to assist in the construction of teaching facilities for the training of physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, and professional public health personnel.

(2)(A) The Secretary may make grants to public and nonprofit private entities to assist in the construction of ambulatory, primary care teaching facilities for the training of physicians and dentists.

(B) For purposes of this section, the term "ambulatory, primary care teaching facilities" means areas dedicated for the training of students in the diagnosis and treatment of ambulatory patients and primarily in the specialties of family practice, general pediatrics, general internal medicine, general dentistry, and pedodontics. Such areas may include examination rooms, clinical laboratories, libraries, classrooms, offices, and other areas for clinical or research purposes necessary for, and appropriate to, the conduct of comprehensive ambulatory, primary care training of physicians and dentists in such specialties.

(b) For payments under grants under this part there is authorized to be appropriated $40,000,000 for the fiscal year ending September 30, 1978, $40,000,000 for the fiscal year ending September 30, 1979, and $40,000,000 for the fiscal year ending September 30, 1980. Of the sums appropriated under this subsection for any fiscal year 50 percent of such sums shall be obligated for grants under subsection (a)(1) and 50 percent of such sums shall be obligated for grants under subsection (a)(2) of this section.

(July 1, 1944, ch. 373, title VII, § 720, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 164, and amended Sept. 4, 1964, Pub. L. 88-581, § 3(a), 78 Stat. 919; Oct. 22, 1965, Pub. L. 89-290, § 3(a), 79 Stat. 1056; Nov. 2, 1966, Pub. L. 89-709, § 2(a), 80 Stat. 1103; Aug. 16, 1968, Pub. L. 90-490, title I, § 101(a), (b)(1), 82 Stat. 773; Nov. 18, 1971, Pub. L. 92-157, title I, § 102(a), 85 Stat. 431; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(c), title III, § 302, 90 Stat. 2244, 2253.)

AMENDMENTS

1976—Pub. L. 94-484, § 302, incorporated existing text in provisions designated as subsec. (a)(1), added subsecs. (a)(2) and (b), and deleted authorization of appropriations in amounts of $225,000,000; $250,000,000; $275,000,000; $275,000,000; $275,000,000; and $103,000,000 for fiscal years ending June 30, 1972, through 1976, and Sept. 30, 1977, for Part A grants for construction of health research facilities and for grants for construction of teaching facilities for training of physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, and professional public health personnel.

Pub. L. 94-484, § 101(c) authorized appropriations, for Part A grants for construction of health research facilities and for grants for construction of teaching facilities for training of physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, and professional public health personnel, of $275,000,000; $275,000,000; and $103,000,000 for fiscal years ending June 30, 1975, and 1976, and Sept. 30, 1977.

1971—Pub. L. 92-157 authorized appropriations of $225,000,000, $250,000,000, and $275,000,000 for fiscal years ending June 30, 1972, 1973, and 1974, respectively, for grants under part A of this subchapter for construction of health research facilities and for grants to assist in construction of teaching facilities for training of physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, and professional public health personnel.

1968—Pub. L. 90-490 authorized appropriations of $170,000,000 and $225,000,000 for fiscal years ending June 30, 1970, and 1971, respectively, and substituted provisions making appropriations for any fiscal year available for obligations through the close of the next fiscal year for former provisions for availability of appropriations until expended, respectively.

1966—Pub. L. 89-709 included veterinarians in clauses (1) and (3).

1965—Pub. L. 89-290 generally amended this section and, among other changes, extended for 3 fiscal years (fiscal years 1967, 1968, and 1969) the program of grants for construction of teaching facilities for medical, dental, and other health personnel, and authorized the appropriation of $480,000,000 for this 3-year period of which not more than $160,000,000 would be available for grants before July 1, 1967, and not more than $320,000,000 would be available for grants before July 1, 1968.

1964—Pub. L. 88-581 eliminated references to "nurses" to conform to the enactment of subchapter VI of this chapter by Pub. L. 88-581 which relates to nurse training.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 307(a) of Pub. L. 94-484 provided that: "The amendments made by sections 302 through 305 [to sections 293, 293a(b) to (e), (g), 293b, and 293c of this title] shall apply with respect to grants made under part B of title VII of the Public Health Service Act [this part] from appropriations under section 720 of such Act [this section] for fiscal years beginning after September 30, 1977."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 101(b)(2) of Pub. L. 90-490 provided that: "The amendments made by this subsection [as to fiscal year availability of appropriations] shall apply only with respect to appropriations for fiscal years ending after June 30, 1969."

EFFECTIVE DATE OF 1965 AMENDMENT

Section 3(a) of Pub. L. 89-290 provided in part that the amendment by Pub. L. 89-290 shall be effective with respect to appropriations for fiscal years beginning after June 30, 1966.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 3(a) of Pub. L. 88-581 provided in part that the amendment by Pub. L. 88-581 shall be effective with respect to appropriations for fiscal years beginning after June 30, 1965.

STUDY OF SCHOOL AID AND STUDENT AID PROGRAMS

Section 131 of Pub. L. 90-490 provided that the Secretary, in consultation with the Advisory Council established by sections 293e and 295f-4 of this title, prepare a report on the administration of parts B, C, E, and F of this subchapter, an appraisal of the programs under such parts, and his recommendations as a result thereof, and submit such report to the President and the Congress by July 1, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293a, 293b, 293c, 293f of this title.

§ 293a. Applications

(a) Filing dates

The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this part for any fiscal year must be filed.

(b) Eligibility

(1) To be eligible to apply for a grant under section 293(a)(1) of this title to assist in the construction of any facility under this part, the applicant must be (A) a public or other nonprofit school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, and (B) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that a new school which (by reason of no, or an insufficient period of operation), is not, at the time of application for a grant to construct a facility under this part, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this part if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies (i) prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or (ii) if later, upon completion of the project for which assistance is requested and other projects (if any) under construction or planned and to be commenced with a reasonable time, or (C) any combination of schools which are described in clause (A) and which meet the requirements of clause (B).

(2) Notwithstanding paragraph (1), in the case of an affiliated hospital or affiliated outpatient facility, an application for a grant under section 293(a)(1) of this title which is approved by the school of medicine, osteopathy, or dentistry with which the hospital or outpatient facility is affiliated and which otherwise complies with the requirements of this part may be filed by any public or other nonprofit agency qualified to file an application under section 291e of this title.

(3) In the case of any application, whether filed by a school or, in the case of an affiliated hospital or affiliated outpatient facility, by any other public or other nonprofit agency, for a grant under section 293(a)(1) of this title to assist in the construction of a hospital or outpatient facility, as defined in section 291o of this title—

(A) if the hospital or outpatient facility is needed in connection with a new school, only that portion of the project to construct the hospital or outpatient facility which the Secretary determines to be reasonably attributable to the need of such school for the facility for teaching purposes,

(B) if the construction is in connection with expansion of the training capacity of an existing school, only that portion of the project to construct the hospital or outpatient facility which the Secretary determines to be reasonably attributable to the need of such school for the facility in order to expand its training capacity, or

(C) if the construction is in connection with renovation or rehabilitation of a hospital or outpatient facility used by an existing school, only that portion of the project which the Secretary determines to be reasonably attributable to the need of such school for the hospital or outpatient facility in order to prevent curtailment of enrollment or quality of training of the school or to meet an increase in student enrollment,

shall be regarded as the project with respect to which payments may be made under section 293b of this title.

(c) Approval by Secretary; enrollment increase requirement; advice of Council

A grant under section 293(a)(1) of this title may be made only if the application therefor is approved by the Secretary upon his determination that—

(1) the applicant meets the eligibility conditions set forth in subsection (b) of this section;

(2) the application contains or is supported by reasonable assurances that (A) the facility is intended to be used for the purposes for which the application has been made, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed, and (D) in the case of an application for construction to expand the training capacity of an existing school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, the first-year enrollment at such school during the first full school year after the completion of the construction and for each of the next nine school

years thereafter will exceed the highest first-year enrollment at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest first-year enrollment, or by five students, whichever is greater, and the requirements of this clause (D) shall be in addition to the requirements of section 295f-1 of this title, where applicable.

(3)(A) in the case of an application for a grant to assist in the construction of new teaching facilities, such application is for aid in the construction of a new school of medicine, osteopathy, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or public health, or construction which will expand the training capacity of an existing school of medicine, osteopathy, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or public health, or (B) in the case of an application for a grant to assist in the replacement or rehabilitation of existing teaching facilities, such application is for aid in construction which will replace or rehabilitate facilities of, or used by, an existing school of medicine, osteopathy, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or public health, which facilities either are so obsolete as to require the school to curtail substantially either its enrollment or the quality of the training provided (and, for purposes of this part, expansion or curtailment of capacity for continuing education shall also be considered expansion and curtailment, respectively, of training capacity) or are required to meet an increase in student enrollment;

(4) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment;

(5) if the application requests aid in construction of a facility which is a hospital or outpatient facility as defined in section 291o of this title, an application with respect thereto has been filed under subchapter IV of this chapter and has been denied thereunder because (A) the project has no insufficient priority, or (B) funds are not available for the project from the State's allotments under subchapter IV of this chapter;

(6) in the case of an application for a project for the construction of a facility intended, at least in part, for the provision of health services, an opportunity has been provided for comment on the project by (A) the State agency administering or supervising the administration of the State plan approved under section 246(a) of this title, and (B) the public or nonprofit private agency or organization responsible for the plan or plans referred to in section 246(b) of this title and covering the area in which such project is to be located or if there is no such agency, such other public or nonprofit private agency or organization (if any) as performs, as determined in accordance with criteria of the Secretary, similar functions; and

(7) the application contains or is supported by adequate assurance that any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act).

The Secretary of Labor shall have, with respect to the labor standards specified in paragraph (7), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 276c of title 40.

Before approving or disapproving an application under this part, the Secretary shall secure the advice of the National Advisory Council on Health Professions Education established by section 292b of this title (hereinafter in this part referred to as the "Council").

(d) Matters considered

In considering applications for a grant under section 293(a)(1) of this title the Council and the Secretary shall take into account—

(1)(A) in the case of a project for a new school or for expansion of the facilities of, or used by, an existing school, (other than a project for facilities for continuing education) the relative effectiveness of the proposed facilities in expanding the capacity for the training of first-year students of medicine, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or osteopathy (or, in the case of a two-year school which is expanding to a four-year school, expanding the capacity for four-year training of students in the field), or for the training of professional public health personnel, and in promoting an equitable geographical distribution of opportunities for such training (giving due consideration to population, available physicians, pharmacists, optometrists, podiatrists, veterinarians, dentists, or professional public health personnel, and available resources in various areas of the Nation for training such persons); or

(B) in the case of a project for replacement or rehabilitation of existing facilities of, or used by, a school, (other than a project for facilities for continuing education) the relative need for such replacement or rehabilitation to prevent curtailment of the school's enrollment or deterioration of the quality of the training provided by the school, and the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training (giving consideration to the factors mentioned above in paragraph (A)); and

(2) in the case of an applicant in a State which has in existence a State planning agency, or which participates in a regional or other interstate planning agency, described in section 293h of this title, the relationship of the application to the construction or training program which is being developed by such agency with respect to such State and, if such agency has reviewed such application, any comment thereon submitted by such agency.

(e) Special consideration for certain projects

In the case of applications for a grant under section 293(a)(1) of this title to aid in the construction of new schools of medicine, osteop-

athy, or dentistry, the Secretary shall give special consideration to those applications which contain or are reasonably supported by assurances that, because of the use that will be made of existing facilities (including Federal medical or dental facilities), the school will be able to accelerate the date on which it will begin its teaching program. In considering applications submitted for a grant under section 293(a)(1) of this title for the cost of construction of teaching facilities for the training of physicians, the Secretary shall give special consideration to projects in States which have no such facilities.

(f) Regional health professions programs; definition

(1) An application for a grant under subsection (a) of this section for the fiscal year ending September 30, 1977, for an affiliated clinical facility for the establishment or expansion of a regional health professions program may be filed by any public or other nonprofit agency if the application is approved by the school of veterinary medicine, optometry, podiatry, or pharmacy with which the facility is affiliated. Only that portion of the project to construct such a facility which the Secretary determines to be reasonably attributable to the need of the regional health professions program for the facility for teaching purposes shall be regarded as the project with respect to which payments may be made under section 293b of this title.

(2) In considering applications for grants under subsection (a) of this section for the fiscal year ending September 30, 1977, the Secretary shall give special consideration to applications for facilities for the establishment or expansion of regional health professions programs.

(3) For the purposes of this subsection, the term "regional health professions program" refers to an interstate program (A) in which a State with an existing degree-granting school of veterinary medicine, optometry, podiatry, or pharmacy sets up a cooperative program with another State (or other States) which does not have such a school, and (B) which provides for (i) a shared curriculum between two or more schools, or (ii) a single campus which is cooperatively financed and controlled by two or more States.

(g) Approval by Secretary; labor standards; special consideration for certain entities

(1) A grant under section 293(a)(2) of this title may be made only if the application therefor is approved by the Secretary upon his determination that—

(A) the application contains or is supported by reasonable assurances that (i) the facility is intended to be used for purposes for which the application has been made, (ii) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, and (iii) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed;

(B) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment; and

(C) the application contains or is supported by adequate assurance that any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards specified in subparagraph (C) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 276c of title 40.

(2) In making grants to entities under section 293(a)(2) of this title the Secretary shall give special consideration to entities which have been awarded grants or received contracts under section 295g-1, 295g-4, or 295g-6 of this title (relating to area health education centers, general internal medicine and general pediatrics, and family medicine and the general practice of dentistry).

(July 1, 1944, ch. 373, title VII, § 721, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 165, and amended Sept. 4, 1964, Pub. L. 88-581, § 3(b), 78 Stat. 919; Oct. 22, 1965, Pub. L. 89-290, §§ 3(b), (c), 5(a), 79 Stat. 1056—1058; Nov. 2, 1966, Pub. L. 89-709, § 2(b), 80 Stat. 1103; Aug. 16, 1968, Pub. L. 90-490, title I, §§ 103(a)(3), 105(a), (b), 82 Stat. 774; Nov. 18, 1971, Pub. L. 92-157, title I, §§ 102(e), (f)(1), (2)(A), (g), (h), (j)(2), (3), (7)(A), 108(b)(1), 85 Stat. 434-437, 461; Oct. 12, 1976, Pub. L. 94-484, title III, §§ 301, 303, 308(a), 90 Stat. 2253, 2254, 2256.)

REFERENCES IN TEXT

Subchapter IV of this chapter, referred to in subsec. (c)(5), is classified to section 291 et seq. of this title.

Reorganization Plan Numbered 14 of 1950, referred to in subsecs. (c)(7), (g)(1), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-484, § 303(a)(1) to (3), substituted "grant under section 293(a)(1) of this title" for "grant" preceding "to assist" in par. (1), "application for a grant under section 293(a)(1) of this title" for "application" preceding "which is approved" in par. (2), and "grant under section 293(a)(1) of this title" for "grant under this part" in par. (3).

Subsec. (c). Pub. L. 94-484, § 303(a)(3), substituted "grant under section 293(a)(1) of this title" for "grant under this part".

Subsec. (c)(2). Pub. L. 94-484, § 308(a)(1), (2), substituted "section 295f—1 of this title" for "section 295f(f) of this title" and deleted provision respecting waiver of enrollment increase requirement.

Subsec. (c)(5). Pub. L. 94-484, § 308(a)(3), redesignated former par. (6) as (5) and deleted prior par. (5) provisions respecting prevailing wage rates for employees of contractors or subcontractors and labor standards, now covered in par. (7) and penultimate sentence following such par. (7).

Subsec. (c)(6). Pub. L. 94-484, § 308(a)(3), redesignated former par. (7) as (6). Former par. (6) redesignated (5).

Subsec. (c)(7). Pub. L. 94-484, § 308(a)(4), added par. (7), incorporating provisions of first sentence of former par. (5). Former par. (7) redesignated (6).

Subsec. (c) foll. (7). Pub. L. 94-484, § 308(a)(4), (5), added penultimate sentence, incorporating provisions of second sentence of former par. (5), and substituted in the last sentence "section 292b of this title" for "section 293e of this title".

Subsec. (d). Pub. L. 94-484, § 303(a)(4), substituted in introductory text "applications for a grant under section 293(a)(1) of this title" for "applications for grants".

Subsec. (e). Pub. L. 94-484, § 303(a)(5), (c), substituted "applications for a grant under section 293(a)(1) of this title to aid" for "applications to aid" and provided that in considering applications under section 293(a)(1) of this title for the cost of construction of teaching facilities for the training of physicians, the Secretary give special consideration to projects in States which have no such facilities.

Subsec. (f). Pub. L. 94-484, § 301, added subsec. (f).

Subsec. (g). Pub. L. 94-484, § 303(b), added subsec. (g).

1971—Subsec. (a). Pub. L. 92-157, § 102(j)(7)(A), substituted "Secretary" for "Surgeon General".

Subsec. (b)(1)(C). Pub. L. 92-157, § 102(f)(1), added cl. (C).

Subsec. (b)(2). Pub. L. 92-157, § 102(f)(2)(A), made provision applicable to affiliated outpatient facility, provided for approval of application by school of dentistry, and substituted section "291e" for "291h" of this title.

Subsec. (b)(3). Pub. L. 92-157, § 102(f)(2)(A), made provision applicable to affiliated outpatient facility, substituted section "291o" for "291i" of this title in opening text and "Secretary" for "Surgeon General" in cls. (A)-(C), and inserted cl. (C) provision making projects which are needed to meet an increase in enrollment eligible for payments.

Subsec. (c). Pub. L. 92-157, §§ 102(j)(7)(A), 108(b)(1), substituted "Secretary" for "Surgeon General" in the text preceding par. (1) and last sentence following par. (7) and also in such sentence National Advisory Council on "Health Professions Education" for "Education for Health Professions", respectively.

Subsec. (c)(2). Pub. L. 92-157, § 102(h), added provision respecting waiver of enrollment increase requirement and substituted section "295f(f)" for "295f-1(b)" of this title, respectively.

Subsec. (c)(3). Pub. L. 92-157, § 102(j)(2), incorporated in cl. (A) provisions of former cl. (B) respecting schools of dentistry, redesignated former cl. (C) as (B), provided in such cl. (B) for facilities required to meet increase in student enrollment, and deleted former provision of cl. (A), former cl. (B), and former cl. (C) respecting grants from funds appropriated pursuant to cls. (1), (2), and (3) of section 293 of this title.

Subsec. (c)(6). Pub. L. 92-157, § 102(j)(3), substituted "which is a hospital or outpatient facility, as defined in section 291o of this title" for "which is a hospital or diagnostic or treatment center, as defined in section 291i of this title".

Subsec. (c)(7). Pub. L. 92-157, § 102(g), added par. (7).

Subsec. (d). Pub. L. 92-157, § 102(j)(7)(A), substituted "Secretary" for "Surgeon General" in opening text.

Subsec. (e). Pub. L. 92-157, § 102(e), added subsec. (e).

1968—Subsec. (c)(2)(A). Pub. L. 90-490, § 103(a)(3), substituted "the facility is intended to be used for the purposes for which the application has been made" for "for not less than ten years after construction, the facility will be used for the purposes of the teaching for which it is to be constructed".

Subsec. (c)(3). Pub. L. 90-490, § 105(a), provided that for the purposes of this part expansion or curtailment of capacity for continuing education shall also be considered expansion and curtailment of training capacity.

Subsec. (d)(1)(A), (B). Pub. L. 90-490, § 105(b), inserted "(other than a project for facilities for continuing education)" after "an existing school" in par. (A) and after "a school" in par. (B).

1966—Subsec. (b). Pub. L. 89-709 § 2(b)(1), included schools of veterinary medicine.

Subsec. (c). Pub. L. 89-709, § 2(b)(1), included schools of veterinary medicine in pars. (2) and (3).

Subsec. (d). Pub. L. 89-709, § 2(b), inserted words "veterinary medicine" and "veterinarians".

1965—Subsec. (a). Pub. L. 89-290, § 3(b), substituted provisions permitting the Surgeon General from time to time to set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this part for any fiscal year must be filed, for provisions which prohibited any application for a grant under this part to be approved unless submitted to the Surgeon General prior to July 1, 1965.

Subsec. (b)(1)(B). Pub. L. 89-290, § 5(a), struck out "upon completion of such facility" preceding "meet the accreditation", and added cl. (B) (i) and (ii).

Subsec. (c)(2)(D). Pub. L. 89-290, § 3(c), inserted "and the requirements of this clause (D) shall be in addition to the requirements of section 295f-1(b) of this title".

1964—Subsecs. (b), (c), (d). Pub. L. 88-581 eliminated references to "nursing" and "nurses" to conform to the enactment of subchapter VI of this chapter by Pub. L. 88-581 which relates to nurse training.

Effective Date of 1976 Amendment

Amendment of subsecs. (b) to (e) and (g) of this section by Pub. L. 94-484 applicable with respect to grants made under this part from appropriations under section 293 of this title for fiscal years beginning after Sept. 30, 1977, see section 307(a) of Pub. L. 94-484, set out as an Effective Date of 1976 Amendment note under section 293 of this title.

Effective Date of 1968 Amendment

Section 105(d) of Pub. L. 90-490 provided that: "The amendments made by this section [to subsecs. (c)(3) and (d)(1) of this section and section 293d(4) of this title] shall apply in the case of projects for which grants are made under part B of title VII of the Public Health Service Act [this part] from appropriations for fiscal years ending after June 30, 1969."

Amendment of subsec. (c)(2)(A) by section 103(a)(3) of Pub. L. 90-490 applicable in the case of assurances given after Aug. 16, 1968, under this part, see section 103(b) of Pub. L. 90-490, set out as an Effective Date of 1968 Amendment note under section 293c of this title.

Effective Date of 1964 Amendment

Amendment of subsecs. (b), (c), and (d) of this section by Pub. L. 88-581 effective with respect to applications for grants from appropriations for fiscal years beginning after June 30, 1965, see section 3(b) of Pub. L. 88-581 set out as an Effective Date note under section 291c of this title.

Abolition of Office of Surgeon General

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

Section Referred to in Other Sections

This section is referred to in sections 292a, 294m, 294z, 295e-2 of this title.

§ 293b. Amount of grant

(a) Maximum payments

(1) The amount of any grant under section 293(a)(1) of this title for construction of a project shall be such amount as the Secretary determines to be appropriate after obtaining advice from the Council, except that no grant for any project may exceed 80 percent of the necessary costs of construction, as determined by the Secretary, of such project.

(2) The amount of any grant under section 293(a)(2) of this title for construction of a facility shall be such amount as the Secretary de-

termines to be appropriate, except that no grant for any facility may exceed the lesser of—

(A) 50 percent of the total cost of such facility, or

(B) $1,000,000.

(b) Reservation of amount of grants; manner of payments

Upon approval of any application, for a grant under this part, the Secretary shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a) of this section; the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Secretary may determine. The Secretary's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) Exclusion of amounts granted by certain other funds

In determining the amount of any grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this part, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(d) Grants for multipurpose facilities

In the case of a project for construction of facilities which are primarily (as determined in accordance with regulations of the Secretary) for teaching purposes and for which a grant may be made under section 293(a)(1) of this title but which also are for research purposes, or research and related purposes, in the sciences related to health or for medical library purposes (within the meaning of part J of subchapter II of this chapter), the project shall, insofar as all such purposes are involved, be regarded as a project for facilities with respect to which a grant may be made under this part.

(July 1, 1944, ch. 373, title VII, § 722, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 168, and amended Aug. 16, 1968, Pub. L. 90-490, title I, §§ 102(a), 104(a), 82 Stat. 773, 774; Nov. 18, 1971, Pub. L. 92-157, title I, § 102(b), (j)(4), (7), 85 Stat. 431, 436, 437; Oct. 12, 1976, Pub. L. 94-484, title III, § 304, 90 Stat. 2255.)

REFERENCES IN TEXT

Part J of subchapter II of this chapter, referred to in subsec. (d), is classified to section 280b et seq. of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-484, § 304(a), in revising the text, deleted from par. (1) the specific application of the percentage limitation to grants for: a project for a new school, new facilities for an existing school, and a project for a major remodeling or renovation of an existing facility where the project is required to meet an increase in student enrollment and provision for a 70 per centum limitation for other grants, with allowance of 80 per centum under unusual circumstances such as need for a school located in a geographical area with a critical shortage of health professions manpower and substituted par. (2) provision for grants for construction of facilities under section 293(a)(2) of this title for provision with a 75 per centum limitation of necessary cost of construction of a project with respect to a school of public health.

Subsec. (d). Pub. L. 94-484, § 304(b), substituted "section 293(a)(1) of this title" for "this part" and deleted "(within the meaning of part A of this subchapter)" following "sciences related to health".

1971—Pub. L. 92-157, § 102(j)(7)(A), substituted "Secretary" for "Surgeon General" wherever appearing in subsecs. (a)(1), (a)(1)(A), (a)(2), and (b) of this section.

Subsec. (a)(1)(A). Pub. L. 92-157, § 102(b)(1), inserted item "(i)" designation before "for a project," substituted item "(ii)" designation for "and in the case of a grant", added item "(iii)", and increased percentage payments from "66⅔" to "80".

Subsec. (a)(1)(B). Pub. L. 92-157, § 102(b)(2), increased percentage payments from "50" to "70" and the upper limits from "66⅔" to "80" per centum, and identified an unusual circumstances as being one "(such as a school located in a geographical area of the United States with a critical shortage of health profession manpower)".

Subsec. (b). Pub. L. 92-157, § 102(j)(7)(B), substituted "Secretary's" for "Surgeon General's".

Subsec. (d). Pub. L. 92-157, § 102(j)(4), substituted "medical library purposes (within the meaning of part J of subchapter II of this chapter)" for "medical library purposes (within the meaning of part I of subchapter II of this chapter)".

1968—Subsec. (a)(1). Pub. L. 90-490, § 102(a), substituted "such amount may not, except where the Secretary determines that unusual circumstances make a larger percentage (which in no case may exceed 66⅔ per centum) necessary in order to effectuate the purpose of this part, exceed 50 per centum" for "such amount may not exceed 50 per centum".

Subsec. (d). Pub. L. 90-490, § 104(a), added subsec. (d).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-484 applicable with respect to grants made under this part from appropriations under section 293 of this title for fiscal years beginning after Sept. 30, 1977, see section 307(a) of Pub. L. 94-484, set out as an Effective Date of 1976 Amendment note under section 293 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 102(b) of Pub. L. 90-490 provided that: "The amendment made by this section [to subsec. (a)(1) of this section] shall apply in the case of projects for which grants are made from appropriations for fiscal years ending after June 30, 1969."

Section 104(b) of Pub. L. 90-490 provided that: "The amendment made by subsection (a) [adding subsec. (d) of this section] shall apply in the case of projects for which grants are made under part B of title VII of the Public Health Service Act [this part] from appropriations for fiscal years ending after June 30, 1969."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293a, 293c of this title.

§ 293c. Recapture of payments

(a) If, within twenty years (or in the case of interim facilities, within such shorter period as the Secretary shall by regulation prescribe) after completion of any construction for which funds have been[1] under a grant under section 293(a)(1) of this title—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit school or, in case the facility was an affiliated

[1] So in original.

hospital or outpatient facility, the applicant or other owner of the facility ceases to be a public or other nonprofit agency qualified to file an application under section 291e of this title, or

(2) the facility shall cease to be used for the teaching purposes (and the other purposes permitted under section 293b of this title) for which it was constructed, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so, or

(3) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(b) If, within 20 years after completion of any construction for which funds have been paid under a grant under section 293(a)(2) of this title—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit entity;

(2) the facility shall cease to be used for the training purposes for which such funds were provided, unless the Secretary determines, in accordance with regulations which he shall promulgate, that there is a significant public purpose and good cause for releasing the applicant or other owner from the obligation to do so; or

(3) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(July 1, 1944, ch. 373, title VII, § 723, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 168, and amended Aug. 16, 1968, Pub. L. 90-490, title I, § 103(a)(1), (2), 82 Stat. 773; Nov. 18, 1971, Pub. L. 92-157, title I, § 102(c)(5), (f)(2)(C), (j)(1), (5), 85 Stat. 432, 435-437; Oct. 12, 1976, Pub. L. 94-484, title III, § 305, 90 Stat. 2255.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-484, § 305(1) to (3), substituted "under a grant under section 293(a)(1) of this title" for "paid under this part", designated existing provisions as subsec. (a), and redesignated as pars. (1) to (3) former pars. (a) to (c).

Subsec. (b). Pub. L. 94-484, § 305(4), added subsec. (b).

1971—Pub. L. 92-157, § 102(c)(5), inserted in introductory text following "twenty years" the parenthetical phrase "(or in the case of interim facilities, within such shorter period as the Secretary shall be regulation prescribe)".

Subsec. (a). Pub. L. 92-157, § 102(f)(2)(C), (j)(1), inserted "or outpatient facility" following "affiliated hospital" and substituted section "291e" for "291h" of this title, respectively.

Subsec. (b). Pub. L. 92-157, § 102(j)(5), inserted "or" at the end of the text.

1968—Pub. L. 90-490, § 103(a)(2), substituted "twenty" for "ten" in the introductory text.

Subsec. (b). Pub. L. 90-490, § 103(a)(1), provided for recapture of payments when the facility is not used for the purposes permitted under section 293b of this title and substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-484 applicable with respect to grants made under this part from appropriations under section 293 of this title for fiscal years beginning after Sept. 30, 1977, see section 307(a) of Pub. L. 94-484, set out as an Effective Date of 1976 Amendment note under section 293 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 103(b) of Pub. L. 90-490 provided that: "The amendments made by subsection (a)(1) and (2) [to subsec. (b) and text preceding subsec. (a) of this section] shall apply in the case of facilities for which a grant has been or is in the future made under part B of title VII of the Public Health Service Act [this part]. The amendment made by subsection (a)(3) [to section 293a(c)(2)(A) of this title] shall apply in the case of assurances given after the date of enactment of this Act [Aug. 16, 1968] under such part B [this part]."

§ 293d. Regulations

(a) The Secretary, after consultation with the Council, shall prescribe general regulations for this part covering the eligibility of entities, the order of priority in approving applications, the terms and conditions for approving applications, determinations of the amounts of grants, and minimum standards of construction and equipment for various types of entities.

(b) The Secretary may make such other regulations as he finds necessary to carry out the provisions of this part.

(July 1, 1944, ch. 373, title VII, § 724, formerly § 727, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 170, amended Nov. 18, 1971, Pub. L. 92-157, title I, § 102(j)(7)(B), 85 Stat. 437, and renumbered and amended Oct. 12, 1976, Pub. L. 94-484, title III, § 308(c), (d), 90 Stat. 2257.)

CODIFICATION

Section was formerly classified to section 293g of this title.

PRIOR PROVISIONS

A prior section 293d, act July 1, 1944, ch. 373, title VII, § 701, formerly § 724, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 169, and amended Oct. 22, 1965, Pub. L. 89-290, § 2(b), 79 Stat. 1056; Nov. 2, 1966, Pub. L. 89-709, § 2(c), 80 Stat. 1103; Aug. 16, 1968, Pub. L. 90-490, title I, § 105(c), 82 Stat. 774; Nov. 18, 1971, Pub. L. 92-157, title I, § 102(c)(1) to (4), (f)(2)(B), 85 Stat. 431, 432, 435, which related to definitions, was transferred to section 292a of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-484, § 308(c), substituted "entities" for "institutions" in two instances.

1971—Subsec. (a). Pub. L. 92-157 substituted "The Secretary, after consultation with the Council" for "The Surgeon General, after consultation with the Council and with the approval of the Secretary".

Subsec. (b). Pub. L. 92-157 substituted "The Secretary may make" for "The Surgeon General is authorized to make, with the approval of the Secretary".

§ 293e. Technical assistance

The Secretary may provide technical assistance (1) to applicants under this part and other public or nonprofit private schools, agencies, organizations, and institutions, and combinations thereof, in designing and planning the construction of any facility for which financial assistance may be provided under this part, and (2) to State or interstate planning agencies established to plan programs for relieving shortages of training capacity for health personnel.

(July 1, 1944, ch. 373, title VII, § 725, formerly § 728, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 170, amended Sept. 4, 1964, Pub. L. 88-581, § 3(d), 78 Stat. 919; Nov. 18, 1971, Pub. L. 92-157, title I, § 102(i), 85 Stat. 436, and renumbered Oct. 12, 1976, Pub. L. 94-484, title III, § 308(d), 90 Stat. 2257.)

CODIFICATION

Section was formerly classified to section 293h of this title.

PRIOR PROVISIONS

A prior section 293e, act July 1, 1944, ch. 373, title VII, § 702, formerly § 725, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 169, and amended Sept. 4, 1964, Pub. L. 88-581, § 3(c), 78 Stat. 919; Nov. 2, 1966, Pub. L. 89-709, § 2(d), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89-751, § 3(a), 80 Stat. 1230; Dec. 5, 1967, Pub. L. 90-174, § 12(c), 81 Stat. 541; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(b)(2), 84 Stat. 1311; Nov. 18, 1971, Pub. L. 92-157, title I, § 108(a), 85 Stat. 460, was transferred to section 292b of this title.

AMENDMENTS

1971—Pub. L. 92-157, in revising the text, authorized the Secretary, rather than the Surgeon General, to provide technical assistance, provided for the assistance to applicants under this part and other public or nonprofit private schools, agencies, organizations, and institutions, and combinations thereof and to State or interstate planning agencies, formerly limited to State or interstate planning agencies, substituted provision respecting planning of programs for relieving shortages of training capacity for health personnel for former provision for relieving such shortages in the fields of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, and public health, and substituted provision for assistance in designing and planning the construction of facilities for former provision for assistance through constructing teaching facilities, providing adequate financial support to schools, or otherwise.

1964—Pub. L. 88-581 deleted "nursing" following "podiatry".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295f-2 of this title.

§ 293f. Loan guarantees and interest subsidies

(a) Eligibility of private entity; commitments; percentage limitation

To assist nonprofit private entities to carry out approved construction projects for teaching facilities, the Secretary may, during the period beginning July 1, 1971, and ending with the close of September 30, 1980, guarantee (in accordance with this section and subject to subsection (f) of this section) to any non-Federal lender or the Federal Financing Bank which makes a loan to such an entity for such a project payment when due of the principal of and interest on such loan if such entity is eligible (as determined under regulations of the Secretary) for a grant under this part for such project. The Secretary may make commitments, on behalf of the United States, to make such loan guarantees prior to the making of such loans. No such loan guarantee may, except under special circumstances and under such conditions as are prescribed by regulations, apply to any amount which, when added to any grant under this part or any other law of the United States, exceeds 90 percent of the cost of the construction of the project.

(b) Amount of interest subsidy

In the case of any nonprofit private entity which is eligible (as determined under regulations of the Secretary) for a grant under this part to assist it in carrying out an approved construction project for teaching facilities after June 30, 1971, and to whom a loan has been made by a non-Federal lender or the Federal Financing Bank to assist it in carrying out such project, the Secretary, during the period beginning July 1, 1971, and ending with the close of September 30, 1980, may, subject to subsection (f) of this section, pay to the holder of such loan (and for and on behalf of the entity which received such loan) amounts sufficient to reduce by not to exceed 3 per centum per annum the net effective interest rate otherwise payable on such loan.

(c) Application; contents; approval by Secretary; terms, conditions, security, and repayments schedule; interest rate; loan not otherwise available.

A loan guarantee or interest subsidy payment may be made under this section only upon an application (submitted in such manner and containing such information as the Secretary may by regulations require) approved by the Secretary. The Secretary may not approve an application for a loan guarantee or interest subsidy payment unless he determines that the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may not approve an application for a loan guarantee, unless he determines that the loan would not be available on reasonable terms and conditions without the guarantee under this section.

(d) Recovery right; waiver; subrogation; modification of terms and conditions; incontestability: fraud or misrepresentation exceptions

(1) The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) To the extent permitted by paragraph (3), any terms and conditions applicable to a loan guarantee under this section may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(3) Any loan guarantee made by the Secretary pursuant to this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

(e) Loan guarantee and interest subsidy fund; establishment; fiscal year availability; sources of moneys: appropriations authorization; operations under section; notes or obligations: issuance by Secretary, forms and denominations, maturities, terms and conditions, interest rate, purchase and sale by Secretary of Treasury: conditions and restrictions, redemption

There is established in the Treasury a loan guarantee and interest subsidy fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, (1) to enable him to discharge his responsibilities under guarantees issued by him under this section, and (2) for interest subsidy payments authorized by this section. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund; except that the amount appropriated for interest subsidy payments may not exceed $8,000,000 in the fiscal year ending June 30, 1972, $16,000,000 in the fiscal year ending June 30, 1973, $24,000,000 in the fiscal year ending June 30, 1974, or in any of the next three fiscal years, $2,000,000 in the fiscal year ending September 30, 1978, $3,000,000 in the fiscal year ending September 30, 1979, and $3,000,000 in the fiscal year ending September 30, 1980. There shall also be deposited in the fund amounts received by the Secretary or other property or assets derived by him from his operations under this section, including any money derived from the sale of assets. If at any time the sums in the fund are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this section or to make interest subsidy payments authorized by this section, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(f) Limitations

(1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

(2) In any fiscal year no loan guarantee may be made under subsection (a) of this section and no agreement to make interest subsidy payments may be entered into under subsection (b) of this section if the making of such guarantee or the entering into of such agreement would cause the cumulative total of—

(A) the principal of the loans guaranteed under subsection (a) of this section in such fiscal year, and

(B) the principal of the loans for which no guarantee has been made under subsection (a) of this section and with respect to which an agreement to make interest subsidy payments is entered into under subsection (b) of this section in such fiscal year,

to exceed the amount of grant funds obligated under this part in such fiscal year; except that this paragraph shall not apply if the amount of grant funds obligated under this part in such fiscal year equals the sums appropriated for such fiscal year under section 293 of this title.

(g) Administrative assistance

The Secretary, with the consent of the Secretary of Housing and Urban Development, may obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this section as will promote efficiency and economy thereof.

(July 1, 1944, ch. 373, title VII, § 726, formerly § 729, as added Nov. 18, 1971, Pub. L. 92-157, title I, § 102(d), 85 Stat. 432, and renumbered and amended Oct. 12, 1976, Pub. L. 94-484, title I, § 101(d), title III, §§ 306, 308(d), 90 Stat. 2244, 2256, 2257.)

REFERENCES IN TEXT

The Second Liberty Bond Act and that Act, referred to in subsec. (e), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance and Tables volume.

CODIFICATION

Section was formerly classified to section 293i of this title.

PRIOR PROVISIONS

A prior section 293f, act July 1, 1944, ch. 373, title VII, § 726, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 170, which provided for noninterference with administration of institutions, was repealed by Pub. L. 94-484, title III, § 308(b), Oct. 12, 1976, 90 Stat. 2257.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-484, §§ 101(d)(1), 306(a), (c), (d), extended the period during which loan guarantees may be made from close of June 30, 1974, to Sept. 30, 1977, and then to Sept. 30, 1980, deleted prohibition against application of the loan guarantee to more than 90 per centum of the loss of principal of and interest on the loan, and guaranteed loans made by the Federal Financing Bank.

Subsec. (b). Pub. L. 94-484, §§ 101(d)(1), 306(a), (d), extended the period during which interest subsidy payments may be made from close of June 30, 1974, to Sept. 30, 1977, and then to Sept. 30, 1980, and inserted provision respecting the making of loans by the Federal Financing Bank.

Subsec. (e). Pub. L. 94-484, §§ 101(d)(2), 306(b), limited amount appropriated for interest subsidy payments to $24,000,000 in any one of the three fiscal years following fiscal year ending June 30, 1974, and to $2,000,000; $3,000,000; and $3,000,000 in fiscal years ending Sept. 30, 1978, 1979, and 1980, respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 307(b) of Pub. L. 94-484 provided that: "The amendment made by section 306(c) [to third sentence of subsec. (a) of this section] shall apply with respect to loans guaranteed under section 729(a) of the Public Health Service Act (redesignated section 726(a) by section 308(d) of this Act) [subsec. (a) of this section] after September 30, 1977."

§§ 293g to 293i. Transferred

CODIFICATION

Section 293g, act July 1, 1944, ch. 373, title VII, § 724, formerly § 727, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 170, and amended Nov. 18, 1971, Pub. L. 92-157, title I, § 102(j)(7)(B), 85 Stat. 437, which related to regulations, was transferred to section 293d of this title.

Section 293h, act July 1, 1944, ch. 373, title VII, § 725, formerly § 728, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 170, and amended Sept. 4, 1964, Pub. L. 88-581, § 3(d), 78 Stat. 919; Nov. 18, 1971, Pub. L. 92-157, title I, § 102(i), 85 Stat. 436, which related to technical assistance, was transferred to section 293e of this title.

Section 293i, act July 1, 1944, ch. 373, title VII, § 726, formerly § 729, as added Nov. 18, 1971, Pub. L. 92-157, title I, § 102(d), 85 Stat. 432, which related to loan guarantees and interest subsidies, was transferred to section 293f of this title.

PART C—STUDENT ASSISTANCE

AMENDMENTS

1976—Pub. L. 94-484, title IV, § 401(b)(1), Oct. 12, 1976, 90 Stat. 2257, substituted "Assistance" for "Loans".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 292b of this title.

SUBPART I—FEDERAL PROGRAM OF INSURED LOANS TO GRADUATE STUDENTS IN HEALTH PROFESSIONS SCHOOLS

AMENDMENTS

1976—Pub. L. 94-484, title IV, § 401(b)(3), Oct. 12, 1976, 90 Stat. 2257, added heading "Subpart I—Federal Program of Insured Loans to Graduate Students in Health Professions Schools". Former subpart I redesignated II.

§ 294. Statement of purpose; authorization of appropriations

(a) The purpose of this subpart is to enable the Secretary to provide a Federal program of student loan insurance for students in eligible institutions.

(b) For the purpose of carrying out this subpart there are authorized to be appropriated (1) for the fiscal year ending September 30, 1978, to the student loan insurance fund (established by section 294g of this title) the sum of $1,500,000 and of such further sums, if any, as may become necessary for the adequacy of student loan insurance fund and for the purpose of administering this subpart; and (2) for fiscal years thereafter such sums as may be necessary for the purpose of administering this subpart. Sums appropriated under this subsection shall remain available until expended.

(July 1, 1944, ch. 373, title VII, § 727, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 401(b)(3), 90 Stat. 2257.)

PRIOR PROVISIONS

A prior section 294, act July 1, 1944, ch. 373, title VII, § 740, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 170, and amended Oct. 13, 1964, Pub. L. 88-654, § 1(a), (b), 78 Stat. 1086; Oct. 22, 1965, Pub. L. 89-290, §§ 2(b), 4(a), (f)(1), (2), 79 Stat. 1056 to 1058; Nov. 2, 1966, Pub. L. 89-709, § 3(a), (b), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89-751, § 5(c)(1), 80 Stat. 1232; Aug. 16, 1968, Pub. L. 90-490, title I § 121(a)(1), (2), (5)(B), 82 Stat. 777, 778; Nov. 18, 1971, Pub. L. 92-157, title I, § 105(e)(1), (4), (f)(2), 85 Stat. 451; Aug. 23, 1974, Pub. L. 93-385, § 2(b), 88 Stat. 741; Apr. 22, 1976, Pub. L. 94-278, title XI, 1105(b), 90 Stat. 416; Oct. 12, 1976, Pub. L. 94-484, title IV, § 402, 90 Stat. 2266, which related to loan agreements for the establishment of student loan funds, was transferred to section 294m of this title.

EFFECTIVE DATE

Section 401(b) of Pub. L. 94-484 provided in part that enactment of sections 294 to 294*l* of this title by section 401(b)(3) of Pub. L. 94-484 shall be effective Oct. 1, 1977.

§ 294a. Federal loan insurance program

(a) Scope and duration

The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 294j of this title) to students covered by Federal loan insurance under this subpart shall not exceed $500,000,000 for the fiscal year ending September 30, 1978; $510,000,000 for the fiscal year ending September 30, 1979; and $520,000,000 for the fiscal year ending September 30, 1980. Thereafter, Federal loan insurance pursuant to this subpart may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this subpart, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 1982.

(b) Loan insurance quotas; assignment by Secretary

The Secretary may, if necessary to assure an equitable distribution of the benefits of this subpart, assign, within the maximum amounts specified in subsection (a) of this section, Federal loan insurance quotas applicable to eligible

lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

(c) Student Loan Marketing Association; right to deal in student loans

The Student Loan Marketing Association, established under part B of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.], is authorized to make advances on the security of, purchase, service, sell, or otherwise deal in, student loans which are insured by the Secretary under this subpart.

(July 1, 1944, ch. 373, title VII, § 728, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 401(b)(3), 90 Stat. 2257.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (c), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Part B of title IV of the Higher Education Act of 1965 is classified generally to part B (§ 1071 et seq.) of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables volume.

PRIOR PROVISIONS

A prior section 294a, act July 1, 1944, ch. 373, title VII, § 741, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 171, and amended Oct. 13, 1964, Pub. L. 88-654, § 1(c), (d), 78 Stat. 1086; Oct. 22, 1965, Pub. L. 89-290, § 4(b), (f)(3), (4), (g)(1), 79 Stat. 1057, 1058; Nov. 2, 1966, Pub. L. 89-709, § 3(c), (d), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89-751, § 4, 80 Stat. 1230; Aug. 16, 1968, Pub. L. 90-490, title I, § 121(a)(3), (4), (5)(A), 82 Stat. 777; Nov. 18, 1971, Pub. L. 92-157, title I, § 105(b) to (d), (e)(4), (f)(2), 85 Stat. 449 to 451; Oct. 27, 1972, Pub. L. 92-585, § 4, 86 Stat. 1293; Oct. 12, 1976, Pub. L. 94-484, title IV, §§ 403(a), (b), (d), 407(d)(1), 90 Stat. 2266, 2279, which related to loan provisions, was transferred to section 294n of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 401(b) of Pub. L. 94-484, set out in part as an Effective Date note under section 294 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294e, 294m of this title.

§ 294b. Limitations on individually insured loans and loan insurance

(a) The total of the loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this subpart may not exceed $10,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health, and $7,500 in the case of a student enrolled in a school of pharmacy. The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed $50,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health, and $37,500 in the case of a student enrolled in a school of pharmacy. The annual insurable limit per student shall not be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

(b) The insurance liability on any loan insured by the Secretary under this subpart shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 294f or 294k of this title.

(July 1, 1944, ch. 373, title VII, § 729, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 401(b)(3), 90 Stat. 2258.)

PRIOR PROVISIONS

A prior section 294b, act July 1, 1944, ch. 373, title VII, § 742, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 172, and amended Oct. 22, 1965, Pub. L. 89-290, § 4(c), 79 Stat. 1057; Nov. 2, 1966, Pub. L. 89-709, § 3(e), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89-751, § 5(b), 80 Stat. 1232; Aug. 16, 1968, Pub. L. 90-490, title I, § 121(b), 82 Stat. 778; July 9, 1971, Pub. L. 92-52, § 1(a), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92-157, title I, § 105(a), (f)(2), 85 Stat. 449, 451; Aug. 23, 1974, Pub. L. 93-385, § 2(a), 88 Stat. 741; Apr. 22, 1976, Pub. L. 94-278, title XI, § 1105(a), 90 Stat. 416; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(e), title IV, §§ 404, 406(d), 90 Stat. 2244, 2267, 2268, which related to the authorization of appropriations was transferred to section 294o of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 401(b) of Pub. L. 94-484, set out in part as an Effective Date note under section 294 of this title.

§ 294c. Sources of funds

Loans made by eligible lenders in accordance with this subpart shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

(July 1, 1944, ch. 373, title VII, § 730, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 401(b)(3), 90 Stat. 2258.)

PRIOR PROVISIONS

A prior section 294c, act July 1, 1944, ch. 373, title VII, § 743, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 172, and amended Oct. 22, 1965, Pub. L. 89-290, § 4(d), 79 Stat. 1057; Nov. 3, 1966, Pub. L. 89-751, § 5(c)(2), (3), 80 Stat. 1233; Aug. 16, 1968, Pub. L. 90-490, title I, § 121(c), 82 Stat. 778; July 9, 1971, Pub. L. 92-52, § 1(b), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92-157, title I, § 105(e)(2), (f)(2), 85 Stat. 451; Oct. 12, 1976, Pub. L. 94-484, title IV, §§ 405, 406(e), 90 Stat. 2267, 2268, which related to the distribution of assets from loan funds, was transferred to section 294p of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 401(b) of Pub. L. 94-484, set out in part as an Effective Date note under section 294 of this title.

§ 294d. Student borrowers

(a) Eligibility; terms of insured student loans

A loan by an eligible lender shall be insurable by the Secretary under the provisions of this subpart only if—

(1) made to a student who—

(A) has been accepted for enrollment at an eligible institution;

(B) is in good standing at an eligible institution as determined by the institution;

(C) is pursuing a full-time course of study at an eligible institution;

(D) in the case of a student in a school of medicine, osteopathy, or dentistry, has been authorized by the institution in accordance with section 294*l*(b)(2) of this title to receive a loan under this subpart;

(E) has agreed that all funds received under such loan shall be used solely for tuition and other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by such student;

(F) for the school year for which such loan is made, receives no funds from a loan insured under a Federal, State, or nonprofit program provided or assisted under part B of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.]; and

(G) in the case of a pharmacy student, has satisfactorily completed three years of training; and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, an endorsement may be required;

(B) provides for repayment of the principal amount of the loan in installments over a period of not less than 10 years (unless sooner repaid) nor more than 15 years beginning not earlier than 9 months after the date on which the student completes his internship or residency training, and not later than the earlier of 12 months after such date or of 3 years after the date he ceases to carry, at an eligible institution, the normal full-time academic workload as determined by the institution, except (i) as provided in clause (C) below, (ii) that the period of the loan may not exceed 23 years from the date of execution of the note or written agreement evidencing it, and (iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made;

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, (ii) not in excess of three years during which the borrower is a participant in an accredited internship or residency program, (iii) not in excess of three years, during which the borrower is a member of the Armed Forces of the United States, (iv) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.], (v) not in excess of three years during which the borrower is a member of the National Health Service Corps, or (vi) not in excess of three years during which the borrower is in service as a full-time volunteer under title I of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4951 et seq.], and any such period shall not be included in determining the 15-year period or the 23-year period provided in clause (B) above;

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b) of this section) on a national, regional, or other appropriate basis, which interest shall be compounded semiannually and payable in installments over the period of the loan;

(E) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan; and

(F) contains such other terms and conditions consistent with the provisions of this subpart and with the regulations issued by the Secretary pursuant to this subpart, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay to the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan.

(b) Maximum rate of interest

No maximum rate of interest prescribed and defined by the Secretary for the purpose of paragraph (2)(D) of subsection (a) of this section may exceed 10 percent per annum on the unpaid principal balance of the loan.

(c) Minimum payment

The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this subpart shall not be less than the annual interest on the outstanding principal.

(July 1, 1944, ch. 373, title VII, § 731, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 401(b)(3), 90 Stat. 2258.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(1)(F), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Part B of title IV of the Higher Education Act of 1965 is classified generally to part B (§ 1071 et seq.) of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables volume.

The Peace Corps Act, referred to in subsec. (a)(2)(C), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables volume.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(2)(C), is Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 394, which is classified principally to chapter 66 (§ 4951 et seq.) of this title. Title I of such Act is classified generally to subchapter I (§ 4951 et seq.) of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4951 of this title and Tables volume.

PRIOR PROVISIONS

A prior section 294d, act July 1, 1944, ch. 373, title VII, § 744, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 173, and amended Oct. 22, 1965, Pub. L. 89-290, § 4(e), 79 Stat. 1057; Nov. 3, 1966, Pub. L. 89-751, § 5(a), 80 Stat. 1230; Aug. 16, 1968, Pub. L. 90-490, title I, § 121(d), 82 Stat. 778; July 9, 1971, Pub. L. 92-52, § 1(c), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92-157, title I, § 105(e)(3), (f)(2), 85 Stat. 451, provided for loans to schools to capitalize health professions student loan funds, relating in subsec. (a) to fiscal year availability, terms, conditions, and limitations, institutional contributions, and interest; subsec. (b) to payments to schools to cover certain costs incurred in making student loans from borrowed funds, and authorization of appropriations; subsec. (c) to limitation on loans from revolving fund; and subsec. (d) to health professions education revolving fund, including authorization of appropriations, and was repealed by Pub. L. 94-484, title IV, § 406(a)(1), Oct. 12, 1976, 90 Stat. 2268.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 401(b) of Pub. L. 94-484, set out in part as an Effective Date note under section 294 of this title.

CONVERSION OF FEDERAL CAPITAL CONTRIBUTION TO A LOAN UNDER THIS SECTION

Pub. L. 89-751, § 5(d)(2), Nov. 3, 1966, 80 Stat. 1231, authorized the Secretary of Health, Education, and Welfare, when requested by any institution, to take such steps as are necessary to convert a federal capital contribution to a student loan fund of such institution, made under this subchapter from funds appropriated pursuant to this subchapter for the fiscal year ending June 30, 1967, to a loan under this section prior to its repeal by Pub. L. 94-484.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 294f of this title.

§ 294e. Certificate of loan insurance

(a) Effective date of insurance

(1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this subpart, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) of this section shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) of this section by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c) of this section.

(3) An application submitted pursuant to subsection (a)(1) of this section shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c) of this section, and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

(b) Application for certificate of insurance by lender; contents; comprehensive insurance coverage certificate; loans payable beyond cutoff date in certificate

(1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a) of this section, the Secretary may, in accordance with regulations consistent with section 294a of this title, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this subpart, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 294a of this title, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) of this section or by inclusion of such insurance in comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

(c) Premium charge for insurance payable in advance; premium not payable or refundable after default; notice; request for payment

The Secretary shall, pursuant to regulations, charge for insurance on each loan under this subpart a premium in an amount not to exceed 2 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or become totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 294f(a) of this title.

(d) Assignment of rights by lender; limitations

The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

(e) Loan consolidation by student borrower; effect on loan insurance

The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a) of this section, the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation. If the loans thus consolidated are covered by a single comprehensive certificate issued under subsection (b) of this section, the Secretary may amend that certificate accordingly.

(July 1, 1944, ch. 373, title VII, § 732, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 401(b)(3), 90 Stat. 2260.)

PRIOR PROVISIONS

A prior section 294e, act July 1, 1944, ch. 373, title VII, § 744, formerly § 745, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 173, and amended Nov. 18, 1971, Pub. L. 92-157, title I, § 105(f)(2), 85 Stat. 451, renumbered Oct. 12, 1976, Pub. L. 94-484, title IV, § 406(a)(2), 90 Stat. 2268, which related to administrative provisions, was transferred to section 294q of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 401(b) of Pub. L. 94-484, set out in part as an Effective Date note under section 294 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 294f of this title.

§ 294f. Default by student borrower under loan insurance program

(a) Substantial collection effort by lender; notice to Secretary; payment of loss

Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this subpart, and after a substantial collection effort (including, if appropriate, commencement of a suit) as determined under regulations of the Secretary, the insurance beneficiary shall promptly notify the Secretary and the Secretary shall, if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined.

(b) Subrogation of rights upon payment of loss; assignment of note or other evidence of loan; recovery in excess of loss paid over to insured

Upon payment by the Secretary of the amount of the loss pursuant to subsection (a) of this section, the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured.

(c) Forbearance for benefit of student borrower

Nothing in this section or in this subpart shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance.

(d) Lender's failure to exercise reasonable care and diligence in making loans; notice and hearing; disqualification of lender

Nothing in this section or in this subpart shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making of loans under the provisions of this subpart and from exercising a substantial effort in the collection of loans under the provisions of this subpart. If the Secretary, after reasonable notice and opportunity for hearing to an eligible lender, finds that the lender has failed to exercise such care and diligence, to exercise such substantial efforts, to make the reports and statements required under section 294e(a)(3) of this title, or to pay the required Federal loan insurance premiums, he shall disqualify that lender from obtaining further Federal insurance on loans granted pursuant to this subpart until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence, exercise substantial effort, or comply with such requirements, as the case may be.

(e) Definitions

As used in this section—

(1) the term "insurance beneficiary" means the insured or its authorized assignee in accordance with section 294e(d) of this title;

(2) the term "amount of the loss" means, with respect to a loan, the unpaid balance of the principal amount and interest on such loan; and

(3) the term "default" includes only such defaults as have existed for (A) 120 days in the case of a loan which is repayable in monthly installments, or (B) 180 days in the case of a loan which is repayable in less frequent installments.

(f) Default by borrowers; reduction in reimbursements or payments for health services; notice and hearing

The Secretary may, after notice and opportunity for a hearing, cause to be reduced Federal reimbursements or payments for health services under any Federal law to borrowers who are practicing their professions and have defaulted on their loans insured under this subpart in amounts up to the remaining balance of such loans.

(g) Discharge in bankruptcy; release of debt; limitation

A debt which is a loan insured under the authority of this subpart may be released by a discharge in bankruptcy under title 11 only if such discharge is granted after the expiration of the five-year period beginning on the first date, as specified in section 294d(a)(2)(B) of this title, when repayment of such loan is required.

(July 1, 1944, ch. 373, title VII, § 733, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 401(b)(3), 90 Stat. 2262.)

PRIOR PROVISIONS

A prior section 294f, act July 1, 1944, ch. 373, title VII, § 746, as added Aug. 16, 1968, Pub. L. 90-490, title I, § 121(e), 82 Stat. 778, and amended Nov. 18, 1971, Pub. L. 92-157, title I, §§ 105(f)(2), 106(b)(5), 85 Stat. 451, 453, provided for transfer of funds to scholarships in relation to loans to students studying in United States, and was repealed by Pub. L. 94-484, title IV, § 406(a)(1), Oct. 12, 1976, 90 Stat. 2268.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 401(b) of Pub. L. 94-484, set out in part as an Effective Date note under section 294 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294b, 294e of this title.

§ 294g. Student loan insurance fund; establishment

(a) There is hereby established a student loan insurance fund (hereinafter in this section referred to as the "fund") which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by him under this subpart. All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with his operations under this subpart, and any other moneys, property, or assets derived by the Secretary from his operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this subpart shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this subpart, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

(July 1, 1944, ch. 373, title VII, § 734, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 401(b)(3), 90 Stat. 2263.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (b), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

PRIOR PROVISIONS

A prior section 294g, act July 1, 1944, ch. 373, title VII, § 747, as added Nov. 18, 1971, Pub. L. 92-157, title I, § 105(f)(4), 85 Stat. 451, and amended Oct. 12, 1976, Pub. L. 94-484, title I, § 101(f), 90 Stat. 2244, provided for student loans to citizens of United States who were full-time students in schools of medicine located outside United States, and was repealed by Pub. L. 94-484, title IV, § 401(a), Oct. 12, 1976, 90 Stat. 2257, effective Oct. 1, 1976.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 401(b) of Pub. L. 94-484, set out in part as an Effective Date note under section 294 of this title.

HEALTH PROFESSIONS EDUCATION FUND; AVAILABILITY OF FUND; DEPOSIT IN FUND OF: INTEREST PAYMENTS OR REPAYMENTS OF PRINCIPAL ON LOANS; TRANSFER OF EXCESS MONEYS TO GENERAL FUND OF THE TREASURY; AUTHORIZATION OF APPROPRIATIONS FOR PAYMENTS UNDER AGREEMENTS

See section 406(b) and (c) of Pub. L. 94-484, set out as a note under section 294q of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 294k of this title.

§ 294h. Responsibilities of Secretary

(a) Functions, powers, and duties

In the performance of, and with respect to, the functions, powers, and duties vested in him by this subpart, the Secretary may—

(1) prescribe such regulations as may be necessary to carry out the purposes of this subpart;

(2) sue and be sued in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this subpart without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office. No attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this subpart from the application of sections 517 and 547 of title 28;

(3) include in any contract for Federal loan insurance such terms, conditions, and convenants [1] relating to repayment of principal and payment of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this subpart will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this subpart may be modified by the Secretary if he determines that modification is necessary to protect the financial interest of the United States;

(4) subject to the specific limitations in the subpart, consent to the modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by him under this subpart; and

(5) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right or redemption.

(b) Budget program; annual preparation and submission; maintenance of accounts

The Secretary shall, with respect to the financial operations arising by reason of this subpart—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act [31 U.S.C. 841 et seq.]; and

(2) maintain with respect to insurance under this subpart an integral set of accounts.

(c) Contract to assume repayment obligation of borrower; service in National Health Service Corps or in health manpower shortage area in lieu of repayment; limitations; damages for breach of contract by borrower; death of borrower; waiver or suspension of payment because of impossibility, hardship, or unconscionability

(1) The Secretary may enter into a written contract with a borrower under which the Secretary agrees to assume the obligation of paying an amount, not to exceed $10,000 in any 12-month period, toward the principal and interest due on any loan made to the borrower and insured under this subpart and the borrower agrees to serve, either as a member of the National Health Service Corps or in private practice pursuant to section 294v of this title (as determined by the Secretary), in a health manpower shortage area (designated under section 254e of this title), which is described in clauses (A) and (B) of section 294v(a)(2) of this title for a continuous period of (A) not less than 12 months for each 12-month period the Secretary assumes such obligation under the agreement, or (B) 24 months, whichever is greater.

(2) Except as provided in paragraphs (3) and (4), if an individual, who has entered into a written contract under paragraph (1), for any reason breaches his contract obligations with respect to serving in a health manpower shortage area for the period specified in the agreement, the United States shall be entitled to recover damages from such individual in an amount equal to three times the amount paid by the Secretary under the agreement to or on behalf of such individual. Any amount of damages which the United States is entitled to recover under this paragraph shall be paid to the United States not later than one year after the date of the breach of such contract obligations.

(3) The United States shall not be entitled to recover any damages from an individual under paragraph (2) upon the death of the individual.

(4) The Secretary shall by regulation provide for the waiver or suspension of payment of any or all of the damages to which the United States is entitled under paragraph (2) whenever the Secretary determines that compliance by an individual with the agreement which was breached is impossible or would involve extreme hardship to the individual and that recovery of such damages with respect to the individual would be unconscionable.

(July 1, 1944, ch. 373, title VII, § 735, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 401(b)(3), 90 Stat. 2263.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in subsec. (b)(1), is act Dec. 6, 1945, ch. 557, 59 Stat. 597, as amended, which is classified generally to chapter 14 (§ 841 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see

[1] So in original. Should be "covenants".

Short Title note set out under section 841 of Title 31 and Tables volume.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 401(b) of Pub. L. 94-484, set out in part as an Effective Date note under section 294 of this title.

§ 294i. Participation by Federal credit unions in Federal, State, and private student loan insurance programs

Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions, have power to make insured loans to eligible students in accordance with the provisions of this subpart relating to Federal insured loans.

(July 1, 1944, ch. 373, title VII, § 736, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 401(b)(3), 90 Stat. 2265.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 401(b) of Pub. L. 94-484, set out in part as an Effective Date note under section 294 of this title.

§ 294j. Definitions

As used in this subpart:

(1) The term "eligible institution" means, with respect to a fiscal year, a school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, and public health within the United States that is receiving, or the Secretary determines is eligible to receive, a grant under section 295f of this title for such fiscal year.

(2) The term "school of medicine, osteopathy, or dentistry, optometry, pharmacy, podiatry, veterinary medicine, and public health" means any school legally authorized within a State to train members of the professions indicated and accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that a new school which (by reason of no, or an insufficient, period of operation) is not, at the time of application for insurance for a loan under this subpart, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this part if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school.

(3) The term "eligible lender" means an eligible institution, an agency or instrumentality of a State, a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State, or a pension fund approved by the Secretary for this purpose.

(4) The term "line of credit" means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(July 1, 1944, ch. 373, title VII, § 737, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 401(b)(3), 90 Stat. 2265.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 401(b) of Pub. L. 94-484, set out in part as an Effective Date note under section 294 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 294a of this title.

§ 294k. Loans of deceased or disabled borrowers; repayment by Secretary from student loan insurance fund

If a student borrower who has received a loan dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan from the fund established under section 294g of this title.

(July 1, 1944, ch. 373, title VII, § 738, as added Oct. 12, 1976, title IV, § 401(b)(3), 90 Stat. 2265.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 401(b) of Pub. L. 94-484, set out in part as an Effective Date note under section 294 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 294b of this title.

§ 294l. Eligibility of institutions; authority to prescribe regulations

(a) Notwithstanding any other provision of this subpart, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

(1) a fiscal audit of an eligible institution with regard to any funds obtained from a student who has received a loan insured under this subpart;

(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this subpart; and

(3) the limitation, suspension, or termination of the eligibility under this subpart of any otherwise eligible institution, whenever the Secretary has determined, after notice and affording an opportunity for hearing, that such institution has violated or failed to carry out any regulation prescribed under this subpart.

(b) The Secretary shall by regulation—

(1) require an eligible institution to record, and make available to a lender and to the Secretary upon request, the name, address, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart; and

(2) in the case of an eligible institution which is a school of medicine, osteopathy, or dentistry, require such institution to establish procedures to insure that no more than 50 percent of the students in each class in the institution are authorized to have loans insured under this subpart.

(July 1, 1944, ch. 373, title VII, § 739, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 401(b)(3), 90 Stat. 2266.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 401(b) of Pub. L. 94-484, set out in part as an Effective Date note under section 294 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 294d of this title.

SUBPART II—STUDENT LOANS

AMENDMENTS

1976—Pub. L. 94-484, title IV, § 401(b)(2), Oct. 12, 1976, 90 Stat. 2257 redesignated Subpart I heading, formerly set out preceding former section 294 of this title, as Subpart II and substituted therein "Student Loans" for "Loans to Students Studying in United States".

1971—Pub. L. 92-157, title I, § 105(f)(1), Nov. 18, 1971, 85 Stat. 451, added heading as subpart I.

PRIOR PROVISIONS

"Subpart II—Student Loans by Secretary to Citizens of United States Who Are Full-Time Students in Schools of Medicine Located Outside United States" heading which was added by Pub. L. 92-157, title I, § 105(f)(4), Nov. 18, 1971, 85 Stat. 451, preceding prior section 294g of this title, was repealed by Pub. L. 94-484, title IV, § 401(a), Oct. 12, 1976, 90 Stat. 2257, effective Oct. 1, 1976.

§ 294m. Loan agreements for establishment of student loan funds

(a) Authority of Secretary

The Secretary is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this subpart with any public or other nonprofit school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine which is located in a State and is accredited as provided in section 293a(b)(1)(B) of this title.

(b) Terms and conditions

Each agreement entered into under this section shall—

(1) provide for establishment of a student loan fund by the school;

(2) provide for deposit in the fund of (A) the Federal capital contributions to the fund, (B) an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such institution, (C) collections of principal and interest on loans made from the fund, (D) collections pursuant to section 294a(j) of this title, and (E) any other earnings of the fund;

(3) provide that the fund shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

(4) provide that loans may be made from such fund only to students pursuing a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or doctor of pharmacy, doctor of podiatry or doctor of surgical chiropody, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree;

(5) provide that the school shall advise, in writing, each applicant for a loan from the student loan fund of the provisions of section 294n of this title under which outstanding loans from the student loan fund may be paid (in whole or in part) by the Secretary; and

(6) contain such other provisions as are necessary to protect the financial interests of the United States.

(July 1, 1944, ch. 373, title VII, § 740, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 170, and amended Oct. 13, 1964, Pub. L. 88-654, § 1(a), (b), 78 Stat. 1086; Oct. 22, 1965, Pub. L. 89-290, §§ 2(b), 4 (a), (f)(1), (2), 79 Stat. 1056-1058; Nov. 2, 1966, Pub. L. 89-709, § 3(a), (b), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89-751, § 5(c)(1), 80 Stat. 1232; Aug. 16, 1968, Pub. L. 90-490, title I, § 121(a)(1), (2), (5)(B), 82 Stat. 777, 778; Nov. 18, 1971, Pub. L. 92-157, title I, § 105(e)(1), (4), (f)(2), 85 Stat. 451; Aug. 23, 1974, Pub. L. 93-385, § 2(b), 88 Stat. 741; Apr. 22, 1976, Pub. L. 94-278, title XI, § 1105(b), 90 Stat. 416; Oct. 12, 1976, Pub. L. 94-484, title IV, § 402, 90 Stat. 2266.)

CODIFICATION

Section was formerly classified to section 294 of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-484, § 402(1), deleted following "Secretary" the phrase "of Health, Education, and Welfare".

Subsec. (b)(2), (3). Pub. L. 94-484, § 402(2), deleted phrase, ", except as provided in section 294f of this title," in par. (2) following "in the fund" and in par. (3) following "fund".

Subsec. (b)(4). Pub. L. 94-484, § 402(3), deleted prohibition against a student in attendance at a professional school before July 1, 1975, from receiving a loan from a fund established under section 424 of title 20 while a loan agreement between the Secretary and the educational institution for the establishment of a student loan fund remains in effect.

Pub. L. 94-278 substituted "1976" for "1975".

Subsec. (b)(5). Pub. L. 94-484, § 402(4), added par. (5) and redesignated former par. (5) as (6).

Subsec. (b)(6). Pub. L. 94-484, § 402(4), redesignated former par. (5) as (6).

1974—Subsec. (b)(4). Pub. L. 93-385 substituted "1975" for "1974".

1971—Subsec. (a). Pub. L. 92-157, § 105(f)(2), substituted "this subpart" for "this part".

Subsec. (b)(4). Pub. L. 92-157, § 105(e)(1), (4), substituted "1974" for "1971" and "an equivalent degree" for "doctor of pharmacy" and "doctor of surgical chiropody" appearing following "bachelor of science in pharmacy" and "doctor of podiatry", respectively.

1968—Subsec. (b)(2). Pub. L. 90-490, § 121(a)(1), (5)(B), inserted ", except as provided in section 294f of this title," after "fund" where first appearing and added cl. (D) and redesignated former cl. (D) as (E), respectively.

Subsec. (b)(3). Pub. L. 90-940, § 121(a)(1), inserted ", except as provided in section 294f of this title," after "fund" where first appearing.

Subsec. (b)(4). Pub. L. 90-490, § 121(a)(2), substituted "1971" for "1969".

1966—Subsec. (a). Pub. L. 89-709, § 3(a), included schools of veterinary medicine.

Subsec. (b)(2). Pub. L. 89-751 substituted "(A) the Federal capital contributions to the fund, (B) an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such institution" for "(A) the amounts allocated under this part to the school by the Secretary, (B) an additional amount from other sources equal to not less than one-ninth of amounts deposited pursuant to clause (A)".

Subsec. (b)(4). Pub. L. 89-709, § 3(b), included students pursuing a full-time course leading to a degree of doctor of veterinary medicine or an equivalent degree.

1965—Subsec. (a). Pub. L. 89-290, §§ 2(b), 4(f)(1), struck out "(as defined in section 293d of this title)" following "optometry", and inserted "pharmacy, podiatry".

Subsec. (b)(4). Pub. L. 89-290, § 4(a), (f)(2), substituted "July 1, 1969" for "July 1, 1966", and inserted "bachelor of science in pharmacy or doctor of pharmacy, doctor of podiatry or doctor of surgical chiropody".

1964—Subsec. (a). Pub. L. 88-654, § 1(a), included schools of optometry.

Subsec. (b)(4). Pub. L. 88-654, § 1(b), inserted doctor of optometry or an equivalent degree.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 121(f) of Pub. L. 90-490 provided that: "The amendments made by subsections (a)(1), (b)(3), and (e) [enacting prior section 294f of this title and amending subsec. (b)(2)(3) of this section and section 294o of this title] shall apply with respect to appropriations for fiscal years ending after June 30, 1969. The amendment made by subsection (a)(3) [to section 294n(c) of this title] shall apply (1) with respect to all loans made under an agreement under part (C) of title VII of the Public Health Service Act [this part] after June 30, 1969, and (2) with respect to loans made thereunder before July 1, 1969, to the extent agreed to by the school which made the loans and the Secretary (but, then, only as to years beginning after June 30, 1969). The amendment made by subsection (a)(4) [to section 294n(c) of this title] and (5) shall apply with respect to loans made after June 30, 1969."

EFFECTIVE DATE OF 1966 AMENDMENT

Section 5(d)(1) of Pub. L. 89-751 provided that: "The amendments made by this section [to this section and sections 294o and 294p of this title] shall be effective in the case of payments to student loan funds made after the enactment of this Act [Nov. 3, 1966], except in the case of payments pursuant to commitments (made prior to enactment of this Act [Nov. 3, 1966]) to make loans under section 744 of the Public Health Service Act [prior section 294d of this title] as in effect prior to the enactment of this Act [Nov. 3, 1966]."

EFFECTIVE DATE OF 1965 AMENDMENT

Section 4(f)(5) of Pub. L. 89-290 provided that: "The amendments made by paragraphs (1), (2), (3), and (4) of this subsection [to subsecs. (a) and (b)(4) of this section and subsecs. (b) and (c) of section 294n of this title] shall be effective with respect to periods beginning on or after July 1, 1966."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294n, 294o, 294p of this title.

§ 294n. Loan provisions

(a) School year limitation

Loans from a student loan fund (established under an agreement with a school under section 294m of this title) may not exceed for any student for each school year (or its equivalent) the sum of—

(1) the cost of tuition for such year at such school, and

(2) $2,500.

(b) School determination of terms and conditions; needy students eligible

Any such loans shall be made on such terms and conditions as the school may determine, but may be made only to a student in need of the amount thereof to pursue a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of podiatry or an equivalent degree, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree.

(c) Repayment in periodic installments; acceleration; commencement and duration of period; exclusions from period

Such loans shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins one year after the student ceases to pursue a full-time course of study at a school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine excluding from such ten-year period all periods (up to three years) of (1) active duty performed by the borrower as a member of a uniformed service, or (2) service as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.]; and periods of advanced professional training including internships and residencies)[1].

(d) Cancellation of liability for repayment

The liability to repay the unpaid balance of such a loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled.

(e) Interest

Such loans shall bear interest, on the unpaid balance of the loan, computed only for periods for which the loan is repayable, at the rate of 7 percent per year.

(f) Payment of principal and interest for practice in physician etc. shortage areas; limitation; liability for reimbursement; election of loan cancellation under amended or original provisions

(1) In the case of any individual—

(A) who has received a degree of doctor of medicine, doctor of osteopathy, doctor of dentistry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, doctor of optometry or an equivalent degree, bachelor of science in pharmacy or an equivalent degree, or doctor of podiatry or an equivalent degree;

(B) who obtained one or more loans from a loan fund established under this subpart; and

(C) who enters into an agreement with the Secretary to practice his profession (as a member of the National Health Service Corps or otherwise) for a period of at least two years in an area in a State in a health manpower shortage area designated under section 254e of this title;

[1] So in original. There is no opening parenthesis.

the Secretary shall make payments in accordance with paragraph (2), for and on behalf of that individual, on the principal of and interest on any loan of his described in subparagraph (B) of this paragraph which is outstanding on the date he begins the practice specified in the agreement described in subparagraph (C) of this paragraph.

(2) The payments described in paragraph (1) shall be made by the Secretary as follows:

(A) Upon completion by the individual for whom the payments are to be made of the first year of the practice specified in the agreement he entered into with the Secretary under paragraph (1), the Secretary shall pay 30 per centum of the principal of, and the interest on each loan of such individual described in paragraph (1)(B) which is outstanding on the date he began such practice.

(B) Upon completion by that individual of the second year of such practice, the Secretary shall pay another 30 per centum of the principal of, and the interest on each such loan.

(C) Upon completion by that individual of a third year of such practice, the Secretary shall pay another 25 per centum of the principal of, and the interest on each such loan.

(3) Notwithstanding the requirement of completion of practice specified in paragraph (2), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of practice for which the borrower may receive payments under this subsection, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then engaged as described by paragraph (1) or (2)(C), and that he will continue to be so engaged for the period required (in the absence of this paragraph) to entitle him to have made the payments provided by this subsection for such period; except that not more than 85 per centum of the principal of any such loan shall be paid pursuant to this paragraph.

(4) A borrower who fails to fulfill an agreement with the Secretary entered into under paragraph (1) shall be liable to reimburse the Secretary for any payments made pursuant to paragraph (2)(A) or paragraph (3) in consideration of such agreement.

(5) Notwithstanding the amendment made by section 105(b)(1) of the Comprehensive Health Manpower Training Act of 1971 to this subsection—

(A) any person who obtained one or more loans from a loan fund established under this part, who before the date of the enactment of such Act became eligible for cancellation of all or part of such loans (including accrued interest) under this subsection (as in effect on the day before such date), and who on such date was not engaged in a practice for which loan cancellation was authorized under this subsection (as so in effect), may at any time elect to receive such cancellation in accordance with this subsection (as so in effect); and

(B) in the case of any person who obtained one or more loans from a loan fund established under this part and who on such date was engaged in a practice for which cancellation of all or part of such loans (including accrued interest) was authorized under this subsection (as so in effect), this subsection (as so in effect) shall continue to apply to such person for purposes of providing such loan cancellation until he terminates such practice.

Nothing in this paragraph shall be construed to prevent any person from entering into an agreement for loan cancellation under this subsection (as amended by section 105(b)(1) of such Act).

(g) Security or endorsement; minor borrowers

Loans shall be made under this subpart without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required.

(h) Transfer or assignment of evidences of loans

No note or other evidence of a loan made under this subpart may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the program under this subpart such note or other evidence of a loan may be transferred to such other school.

(i) Payments to school upon cancellation of loans or interest

Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

(j) Penalty for late payment

Subject to regulations of the Secretary, a school may assess a charge with respect to a loan made under this subpart for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (c) of this section or cancellation of part or all of the loan under subsection (f) of this section, for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(k) Minimum monthly repayment

A school may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this subpart payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

(*l*) Repayment by Secretary after determination of compliance with certain conditions

Upon application by a person who received, and is under an obligation to repay, any loan made to such person as a health professions student to enable him to study medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, the Secretary may undertake to repay (without liability to the applicant) all or any part of such loan, and any interest or portion thereof outstanding thereon, upon his determination, pursuant to regulations establishing criteria therefor, that the applicant—

(1) failed to complete such studies leading to his first professional degree;

(2) is in exceptionally needy circumstances;

(3) is from a low-income or disadvantaged family as those terms may be defined by such regulations; and

(4) has not resumed, or cannot reasonably be expected to resume, the study of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, within two years following the date upon which he terminated such studies.

(July 1, 1944, ch. 373, title VII, § 741, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 171, and amended Oct. 13, 1964, Pub. L. 88-654, § 1(c), (d), 78 Stat. 1086; Oct. 22, 1965, Pub. L. 89-290, § 4(b), (f)(3), (4), (g)(1), 79 Stat. 1057, 1058; Nov. 2, 1966, Pub. L. 89-709, § 3(c), (d), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89-751, § 4, 80 Stat. 1230; Aug. 16, 1968, Pub. L. 90-490, title I, § 121(a)(3), (4), (5)(A), 82 Stat. 777; Nov. 18, 1971, Pub. L. 92-157, title I, § 105(b)-(d), (e)(4), (f)(2), 85 Stat. 449-451; Oct. 27, 1972, Pub. L. 92-585, § 4, 86 Stat. 1293; Oct. 12, 1976, Pub. L. 94-484, title IV, §§ 403(a), (b), (d), 407(d)(1), 90 Stat. 2266, 2279.)

References in Text

The Peace Corps Act, referred to in subsec. (c)(2), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables volume.

Amendment made by section 105(b)(1) of the Comprehensive Health Manpower Training Act of 1971 and of such Act, referred to in subsec. (f)(5), opening and closing provisions, is amendment made by Pub. L. 92-157. See 1971 Amendment note to subsec. (f) set out below.

Date of enactment of such Act, referred to in subsec. (f)(5)(A), means Nov. 18, 1971, the date of approval of Pub. L. 92-157.

Codification

Section was formerly classified to section 294a of this title.

Amendments

1976—Subsec. (a). Pub. L. 94-484, § 403(a), increased limitation on amount of a student's loan, substituting provision for a loan for any student for each school year (or its equivalent) not exceeding sum of (1) the cost of tuition for the year at the school, and (2) $2,500 payable from a student loan fund established under an agreement with a school under section 294m of this title for provision for a loan from a loan fund established under this part limited to $3,500 for any student for any academic year or its equivalent.

Subsec. (e). Pub. L. 94-484, § 403(b), increased the rate of interest to "7 percent" from "3 per centum".

Subsec. (f)(1)(B). Pub. L. 94-484, § 403(d), deleted cl. (i) designation for existing provision, substituted "this subpart" for "this part" and deleted cl. (ii) provision relating to an individual obtaining any other educational loan for his costs at a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry.

Subsec. (f)(1)(C). Pub. L. 94-484, § 407(d)(1), substituted "in a health manpower shortage area designated under section 254e of this title" for "designated under section 254b(b) of this title or otherwise determined by the Secretary, after consultation with the appropriate State health authority (as determined by the Secretary by regulations), to have a shortage of and need for persons trained in his profession".

1972—Subsec. (f)(1)(C). Pub. L. 92-585 added references to members of the National Health Service Corps or otherwise and areas in a State designated under section 254b(b) of this title.

1971—Pub. L. 92-157, § 105(f)(2), substituted "this subpart" for "this part" wherever appearing in subsecs. (a), (g), (h), (j), and (k).

Subsec. (a). Pub. L. 92-157, § 105(c), increased academic year limitation from $2,500 to $3,500 and struck out second sentence provisions for preference in grant of loans to persons who entered as first-year students after June 30, 1963.

Subsec. (b). Pub. L. 92-157, § 105(e)(4), substituted "an equivalent degree" for "doctor of pharmacy" and "doctor of surgical chiropody" appearing following "bachelor of science in pharmacy" and "doctor of podiatry", respectively.

Subsec. (c). Pub. L. 92-157, § 105(d), struck out "(up to five years)" preceding "of advanced professional training".

Subsec. (f). Pub. L. 92-157, § 105(b)(1), revised loan repayment and forgiveness provisions substantially, and among other changes, extended the benefits to doctor of veterinary medicine, bachelor of science in pharmacy, doctor of podiatry, and equivalent degrees for professions listed, made provisions more certain in their application to doctor of osteopathy, made individuals eligible for payments limited to 85 per centum, 30 for first and second and 25 third years, in physician shortage areas, and allowed election of benefits under new provisions or coverage under prior provisions which permitted 10 per centum up to maximum of 50 in physician shortage areas and authorized 15 per centum per year up to an additional 50 per centum for total of 100 per centum in rural areas with low family income.

Subsec. (*l*). Pub. L. 92-357, § 105(b)(2), added subsec. (*l*).

1968—Subsec. (c). Pub. L. 90-490, § 121(a)(3), provided for commencement of repayment one year, rather than three, after student ceases to pursue full-time course of study and excluded from ten-year repayment periods (up to five years) of advanced professional training including internships and residencies.

Subsec. (e). Pub. L. 90-490, § 121(a)(4), struck out provisions for an interest rate which is the greater of 3 per centum or the going Federal rate at time loan is made, defining going Federal rate, and making rate determined for first loan applicable to any subsequent loan.

Subsecs. (j), (k). Pub. L. 90-490, § 121(a)(5)(A), added subsecs. (j) and (k).

1966—Subsec. (b). Pub. L. 89-709, § 3(c), included students pursuing a full time course leading to a degree of doctor of veterinary medicine or an equivalent degree.

Subsec. (c). Pub. L. 89-709, § 3(d), included schools of veterinary medicine.

Subsec. (f). Pub. L. 89-751 inserted provisions requiring, in the case of a physician, dentist, or optometrist, that the rate shall be 15 per centum (rather than 10 per centum) for each year of such practice in an area in a State which for purposes of this subsection and for that year has been determined by the Secretary to

be a rural area characterized by low family income; and, for the purpose of any cancellation pursuant to these provisions, an amount equal to an additional 50 per centum of the total amount of such loans plus interest is authorized to be canceled.

1965—Subsec. (a). Pub. L. 89-290, § 4(b)(1), substituted "may not exceed $2,500" for "may not exceed $2,000".

Subsec. (b). Pub. L. 89-290, § 4(f)(3), inserted "bachelor of science in pharmacy or doctor of pharmacy, doctor of podiatry or doctor of surgical chiropody".

Subsec. (c). Pub. L. 89-290, § 4(f)(4), inserted "pharmacy, podiatry".

Subsec. (e). Pub. L. 89-290, § 4(g)(1), applied the rate of interest for the first loan obtained by a student from a loan fund established under this part to any subsequent loan to such student from such fund during his course of study.

Subsec. (f). Pub. L. 89-290, § 4(b)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsecs. (g) to (i). Pub. L. 89-290, § 4(b)(2), redesignated former subsec. (f) to (h) as (g) to (i), respectively.

1964—Subsec. (b). Pub. L. 88-654, § 1(c), inserted doctor of optometry or an equivalent degree.

Subsec. (c). Pub. L. 88-654, § 1(d), included schools of optometry.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 403(c) of Pub. L. 94-484 provided that: "The amendments made by subsections (a) and (b) [to subsecs. (a) and (e) of this section] shall apply with respect to loans made after September 30, 1977, from student loan funds established under section 740 of the Public Health Service Act [section 294m of this title]."

Section 407(d)(2) of Pub. L. 94-484 provided that: "The amendment made by paragraph (1) [to subsec. (f)(1)(C) of this section] shall apply with respect to agreements entered into under section 741(f) of the Public Health Service Act [subsec. (f) of this section] after September 30, 1977."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (c) applicable with respect to all loans made under an agreement under this part after June 30, 1969, and with respect to loans thereunder before July 1, 1969, to extent agreed to by the school which made the loans and the Secretary (but only as to years beginning after June 30, 1969, and amendment of subsec. (e) and enactment of subsecs. (j) and (k) applicable with respect to loans made after June 30, 1969, see section 121(f) of Pub. L. 90-490, set out as an Effective Date of 1968 Amendment note under section 294m of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsecs. (b) and (c) of this section by Pub. L. 89-290 effective with respect to periods beginning on or after July 1, 1966, see section 4(f)(5) of Pub. L. 89-290, set out as an Effective Date of 1965 Amendment note under section 294m of this title.

APPLICATION BY JANUARY 1, 1977, FOR SUBSEC. (f)(2) PAYMENTS DEEMED AGREEMENT TO PRACTICE IN HEALTH MANPOWER SHORTAGE AREA DURING PERIOD BETWEEN NOVEMBER 18, 1971, AND OCTOBER 11, 1976

Section 403(e) of Pub. L. 94-484 provided that: "in the case of any individual who, on or after November 18, 1971, and before the date of enactment of this Act [Oct. 12, 1976], met the requirements of subparagraphs (A) and (B) of section 741(f)(1) of the Public Health Service Act [subpars. (A) and (B) of subsec. (f)(1) of this section], and who practiced his profession in an area described in subparagraph (C) of such section (as in effect before the date of the enactment of this Act [Oct. 12, 1976]) as a member of the National Health Service Corps or as an officer of the Regular or Reserve Corps of the Public Health Service or as a civilian employee of the Public Health Service, the individual shall, for purposes of section 741(f) of such Act [subsec. (f) of this section], be deemed to have entered into the agreement required by such subparagraph (C) with respect to that practice if such individual makes application to the Secretary, not later than January 1, 1977, for payment by the Secretary under section 741(f)(2) of such Act [subsec. (f)(2) of this section]."

EXCEPTIONAL FINANCIAL NEED REQUIREMENT FOR MEDICAL OR OSTEOPATHIC SCHOOL STUDENTS FOR LOANS AFTER OCTOBER 1, 1977, WHEN GRADUATING AFTER JUNE 30, 1979

Section 403(f) of Pub. L. 94-484 provided that: "A student in a school of medicine or osteopathy who will graduate from such school after June 30, 1979, shall be eligible to receive a loan under section 741 of the Public Health Service Act [this section] after October 1, 1977 only if such student is of exceptional financial need (as defined by regulations of the Secretary)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254d, 294m, 3505d of this title.

§ 294o. Authorization of appropriations

(a) Availability for school loan funds

For the purpose of making Federal capital contributions into the student loan funds of schools which have established such funds under section 294m of this title, there are authorized to be appropriated $26,000,000 for the fiscal year ending September 30, 1978, $27,000,000 for the fiscal year ending September 30, 1979, and $28,000,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981, and each of the two succeeding fiscal years, there are authorized to be appropriated to the Secretary such sums as may be necessary to enable students who have received a loan under this part for any academic year ending before October 1, 1980, to continue or complete their education.

(b) Time for applications for capital contributions; reduction of allotments; reallotments; allotment of excess funds; payments in installments to prevent accumulations

(1) The Secretary shall from time to time set dates by which schools must file applications for Federal capital contributions.

(2) If the total of the amounts requested for any fiscal year in such applications exceeds the amounts appropriated under this section for that fiscal year, the allotment to the loan fund of each such school shall be reduced to whichever of the following is the smaller: (A) the amount requested in its application or (B) an amount which bears the same ratio to the amounts appropriated as the number of students estimated by the Secretary to be enrolled in such school during such fiscal year bears to the estimated total number of students in all such schools during such year. Amounts remaining after allotment under the preceding sentence shall be reallotted in accordance with clause (B) of such sentence among schools whose applications requested more than the amounts so allotted to their loan funds, but with such adjustments as may be necessary to prevent the total allotted to any such school's loan fund from exceeding the total so requested by it.

(3) Funds available in any fiscal year for payment to schools under this subpart which are in excess of the amount appropriated pursuant to

this section for that year shall be allotted among schools in such manner as the Secretary determines will best carry out the purposes of this subpart.

(4) Allotments to a loan fund of a school shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

(July 1, 1944, ch. 373, title VII, § 742, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 172, and amended Oct. 22, 1965, Pub. L. 89-290, § 4(c), 79 Stat. 1057; Nov. 2, 1966, Pub. L. 89-709, § 3(e), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89-751, § 5(b), 80 Stat. 1232; Aug. 16, 1968, Pub. L. 90-490, title I, § 121(b), 82 Stat. 778; July 9, 1971, Pub. L. 92-52, § 1(a), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92-157, title I, § 105(a), (f)(2), 85 Stat. 449, 451; Aug. 23, 1974, Pub. L. 93-385, § 2(a), 88 Stat. 741; Apr. 22, 1976, Pub. L. 94-278, title XI, § 1105(a), 90 Stat. 416; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(e), title IV, §§ 404, 406(d), 90 Stat. 2244, 2267, 2268.)

Codification

Section was formerly classified to section 294b of this title.

Amendments

1976—Subsec. (a). Pub. L. 94-484, § 404, substituted "For the purpose of making Federal capital contributions into the student loan funds of schools which have established such funds under section 294m of this title" for "For the purpose of—

"(1) making Federal capital contributions into the loan funds of schools which have established loan funds under this part,

"(2) making payments into the fund established by section 294d(d) of this title, and

"(3) making transfers under section 294f of this title"; authorized appropriations of $26,000,000; $27,000,000;

and $28,000,000 for fiscal years ending Sept. 30, 1978, through 1980, and for fiscal years ending Sept. 30, 1981, through 1983, necessary sums to enable students who received a loan for any academic year ending before Oct. 1, 1980, to continue or complete their education; and deleted appropriations authorization of $50,000,000; $55,000,000; $60,000,000; $60,000,000; $60,000,000; and $39,100,000 for fiscal years ending June 30, 1972, through 1976, and fiscal year ending Sept. 30, 1977, and for fiscal years ending June 30, 1975, through 1977, necessary sums to enable students who received a loan for any academic year ending before July 1, 1974, to continue or complete their education.

Pub. L. 94-484, § 101(e), authorized appropriations of $39,100,000 for fiscal year ending Sept. 30, 1977.

Pub. L. 94-278 authorized appropriations of $60,000,000 for the fiscal year ending June 30, 1976.

Subsec. (b)(1), (3). Pub. L. 94-484, § 406(d)(1), (2), deleted from par. (1) ", and for loans pursuant to section 294d of this title" following "Federal capital contributions" and from par. (3) the phrase "(whether as Federal capital contributions or as loans to schools under section 294d of this title)" preceding "which".

1974—Subsec. (a). Pub. L. 93-385 authorized appropriations of $60,000,000 for the fiscal year ending June 30, 1975.

1971—Subsec. (a). Pub. L. 92-157, § 105(a), authorized appropriations of $55,000,000 and $60,000,000 for fiscal years ending June 30, 1973, and 1974, increased appropriation for fiscal year ending June 30, 1972, from $35,000,000 to $50,000,000; substituted authorization for fiscal year ending June 30, 1975, and two succeeding fiscal, years for students receiving loans for academic years ending before July 1, 1974, to continue or complete their education for former provision for necessary funds for fiscal year ending June 30, 1973, and two succeeding years for students receiving loans for academic years ending before July 1, 1972, and eliminated as executed appropriations authorization for fiscal years June 30, 1964, through 1971, of $5,100,000 (1964), $10,200,000 (1965), $15,400,000 (1966), $25,000,000 (1967, 1968, and 1969), $35,000,000 (1970 and 1971), respectively, and separate appropriation of half-million, million, and million-and-half dollars for students of veterinary medicine for fiscal years ending June 30, 1967, 1968, and 1969.

Pub. L. 92-52 substituted "the next two fiscal years" for "the next fiscal year", "1973" for "1972" and "1972" for "1971".

Subsec. (b)(3). Pub. L. 92-157, § 105(f)(2), substituted "this subpart" for "this part" in two instances.

1968—Subsec. (a). Pub. L. 90-490 authorized appropriations of $35,000,000 each for the fiscal year ending June 30, 1970, and the next fiscal year, and necessary sums for fiscal year ending June 30, 1972, rather than 1970, and two succeeding fiscal years for loans to students receiving loan for any academic year ending before July 1, 1971, rather than 1969, and made appropriations available for transfers pursuant to section 294f of this title, respectively.

1966—Subsec. (a). Pub. L. 89-751, § 5(b)(1), substituted "Sums appropriated under this section for the fiscal year ending June 30, 1967, or any subsequent fiscal year shall be available to the Secretary (1) for payments into the fund established by section 294d(d) of this title, and (2) for making Federal capital contributions into loan funds at schools which have established loan funds under this part" for "Sums appropriated pursuant to this subsection shall be allotted among loan funds at schools which have established loan funds under this part."

Pub. L. 89-709 authorized appropriations for the fiscal years ending June 30, 1967, June 30, 1968, and June 30, 1969, which sums shall be available for carrying out this part (other than section 294d of this title) solely with respect to students of veterinary medicine.

Subsec. (b)(1). Pub. L. 89-751, § 5(b)(2), substituted "schools must file applications for Federal capital contributions, and for loans pursuant to section 294d of this title" for "schools with which he has in effect agreements under this part must file applications for allotments to their loan funds".

Subsec. (b)(2). Pub. L. 89-751, § 5(b)(3), substituted "appropriated under this section" for "appropriated under this part".

Subsec. (b)(3). Pub. L. 89-751, § 5(b)(4), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b)(4). Pub. L. 89-751, § 5(b)(4), redesignated former par. (3) as (4).

1965—Subsec. (a). Pub. L. 89-290 inserted "(other than section 744)", which for purposes of codification has been changed to "(other than section 294d of this title)", and substituted provisions authorizing the appropriation of $25,000,000 each for the fiscal year ending June 30, 1967, and the two succeeding fiscal years, and authorizing the appropriation of such sums for the fiscal year ending June 30, 1970, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan under this part for any academic year ending before July 1, 1969, to continue or complete their education for provisions which authorized the appropriation of such sums for the fiscal year ending June 30, 1967, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan for any academic year ending before July 1, 1966, to continue or complete their education.

Effective Date of 1976 Amendment

Section 404 of Pub. L. 94-484 provided in part that amendment of subsec. (a) by section 404 of Pub. L. 94-484 shall be effective Oct. 1, 1977.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a) by section 121(b)(3) of Pub. L. 90-490, making appropriations available for transfers pursuant to section 294f of this title, applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 121(f) of Pub. L. 90-490, set out as an Effective Date of 1968 Amendment note under section 294m of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of section by Pub. L. 89-751 effective in the case of payments to student loan funds made after Nov. 3, 1966, except in the case of payments pursuant to commitments (made prior to Nov. 3, 1966) to make loans under section 294d of this title as in effect prior to Nov. 3, 1966, see section 5(d)(1) of Pub. L. 89-751, set out as an Effective Date of 1966 Amendment note under section 294m of this title.

§ 294p. Distribution of assets from loan funds

(a) After September 30, 1983, and not later than December 31, 1983, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to section 294m(b) of this title by each school as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of September 30, 1983, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 294m(b)(2)(A) of this title bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 294m(b)(2)(B) of this title.

(2) The remainder of such balance shall be paid to the school.

(b) After September 30, 1977, each school with which the Secretary has made an agreement under this subpart shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after June 30, 1977, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement as was determined for the Secretary under subsection (a) of this section.

(July 1, 1944, ch. 373, title VII, § 743, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 172, and amended Oct. 22, 1965, Pub. L. 89-290, § 4(d), 79 Stat. 1057; Nov. 3, 1966, Pub. L. 89-751, § 5(c)(2), (3), 80 Stat. 1233; Aug. 16, 1968, Pub. L. 90-490, title I, § 121(c), 82 Stat. 778; July 9, 1971, Pub. L. 92-52, § 1(b), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92-157, title I, § 105(e)(2), (f)(2), 85 Stat. 451; Oct. 12, 1976, Pub. L. 94-484, title IV, §§ 405, 406(e), 90 Stat. 2267, 2268.)

CODIFICATION

Section was formerly classified to section 294c of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-484, § 405, substituted introductory phrase "After September 30, 1983, and not later than December 31, 1983" for "After June 30, 1977, and not later than September 30, 1977" and in par. (1) "close of September 30, 1983" for "close of June 30, 1977".

Subsec. (b). Pub. L. 94-484, §§ 405, 406(e), substituted "After December 31, 1983" for "After September 30, 1977" and "after September 30, 1983" for "after June 30, 1977" and deleted "(other than so much of such fund as relates to payments from the revolving fund established by section 294d(d) of this title)" following "loan fund established pursuant to such agreement".

1971—Pub. L. 92-157 substituted "1977" for "1975" wherever appearing and "this subpart" for "this part" in subsec. (b), respectively.

Pub. L. 92-52 substituted "1975" for "1974" in five places.

1968—Pub. L. 90-490 substituted "1974" for "1972" wherever appearing.

1966—Subsec. (a). Pub. L. 89-751, § 5(c)(2), substituted "section 294(b) of this title" for "this part" in the opening provisions, and in par. (1) substituted "such balance" for "the balance" and "total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 294(b)(2)(A) of this title bears to the total amount in such fund derived from such Federal capital contributions" for "total amount of the allotments to such fund by the Secretary under this part bears to the total amounts in such fund derived from such allotments".

Subsec. (b). Pub. L. 89-751, § 5(c)(3), inserted parenthetical phrase "(other than so much of such fund as relates to payments from the revolving fund established by section 294d(d) of this title)".

1965—Subsec. (a). Pub. L. 89-290 substituted "1972" for "1969" wherever appearing.

Subsec. (b). Pub. L. 89-290 substituted "1972" for "1969" wherever appearing.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of section by Pub. L. 89-751 effective in the case of payments to student loan funds made after Nov. 3, 1966, except in the case of payments pursuant to commitments (made prior to Nov. 3, 1966) to make loans under section 294d of this title as in effect prior to Nov. 3, 1966, see section 5(d)(1) of Pub. L. 89-751, set out as an Effective Date of 1966 Amendment note under section 294m of this title.

§ 294q. Administrative provisions

The Secretary may agree to modifications of agreements, or loans made under this subpart and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this subpart.

(July 1, 1944, ch. 373, title VII, § 744, formerly § 745, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 173, amended Nov. 18, 1971, Pub. L. 92-157, title I, § 105(f)(2), 85 Stat. 451, and renumbered Oct. 12, 1976, Pub. L. 94-484, title IV, § 406(a)(2), 90 Stat. 2268.)

CODIFICATION

Section was formerly classified to section 294e of this title.

AMENDMENTS

1971—Pub. L. 92-157 substituted "this subpart" for "this part" in two instances.

HEALTH PROFESSIONS EDUCATION FUND; AVAILABILITY OF FUND; DEPOSIT IN FUND OF: INTEREST PAYMENTS OR REPAYMENTS OF PRINCIPAL ON LOANS; TRANSFER OF EXCESS MONEYS TO GENERAL FUND OF THE TREASURY; AUTHORIZATION OF APPROPRIATIONS FOR PAYMENTS UNDER AGREEMENTS

Subsecs. (b) and (c) of section 406 of Pub. L. 94-484 provided that:

"(b) The health professions education fund created within the Treasury by section 744(d)(1) of the Public Health Service Act (as in effect before the date of enactment of this Act) [former section 294d(d)(1) of this title] shall remain available to the Secretary of Health, Education, and Welfare for the purpose of meeting his responsibilities respecting participations in obligations acquired under such section. The Secre-

tary shall continue to deposit in such fund all amounts received by him as interest payments or repayments of principal on loans under such section 744 [former section 294d of this title]. If at any time the Secretary determines the moneys in the fund exceed the present and any reasonable prospective future requirements of such fund, such excess may be transferred to the general fund of the Treasury.

"(c) There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable the Secretary to make payments under agreements entered into under section 744(b) [former section 294d(b) of this title] of the Public Health Service Act before September 30, 1977."

SUBPART III—TRAINEESHIPS FOR STUDENTS IN SCHOOLS OF PUBLIC HEALTH AND OTHER GRADUATE PROGRAMS

AMENDMENTS

1976—Pub. L. 94-484, title IV, § 408(a), Oct. 12, 1976, 90 Stat. 2279, added heading "Subpart III—Traineeships for Students in Schools of Public Health and Other Graduate Programs".

§ 294r. Traineeships for students in schools of public health

(a) Grants to accredited schools

The Secretary may make grants to accredited schools of public health for traineeships to train students enrolled in such schools.

(b) Application; stipends allowances; use of funds

(1) No grant for traineeships may be made under subsection (a) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

(2) Traineeships awarded under grants made under subsection (a) shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

(3) In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least the percent specified in paragraph (4) of the funds received under this section shall go to individuals who—

(A)(i) have previously received a postbaccalaureate degree, or

(ii) have three years of work experience in health services; and

(B) are pursuing a course of study in—

(i) biostatistics or epidemiology,

(ii) health administration, health planning, or health policy analysis and planning,

(iii) environmental or occupational health, or

(iv) dietetics or nutrition.

(4) The percent referred to in paragraph (3) is—

(A) 45 percent for grants made for the fiscal year ending September 30, 1978,

(B) 55 percent for grants made for the fiscal year ending September 30, 1979, and

(C) 65 percent for grants made for the fiscal year ending September 30, 1980, and in succeeding fiscal years.

(c) Authorization of appropriation

For payments under grants under subsection (a) of this section, there are authorized to be appropriated $7,500,000 for the fiscal year ending September 30, 1978; $8,000,000 for the fiscal year ending September 30, 1979; and $9,000,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title VII, § 748, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 408(a), 90 Stat. 2279.)

EFFECTIVE DATE

Section 408(a) of Pub. L. 94-484 provided in part that enactment of this subpart III by Pub. L. 94-484 shall be effective Oct. 1, 1977.

§ 294s. Traineeships for students in other graduate programs

(a) Grants to educational entities other than accredited schools of public health

The Secretary may make grants to public or nonprofit private educational entities, including graduate schools of social work but excluding accredited schools of public health, which offer a program in health administration, hospital administration, or health policy analysis and planning, which program is accredited by a body or bodies approved for such purpose by the Commissioner of Education and which meets such other quality standards as the Secretary by regulation may prescribe, for traineeships to train students enrolled in such a program.

(b) Application; stipends and allowances; use of funds

(1) No grant for traineeships may be made under subsection (a) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

(2) Traineeships awarded under grants made under subsection (a) of this section shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

(3) In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least 80 percent of the funds received under this section shall go to individuals who (A) have previously received a postbaccalaureate degree, or (B) have three years of work experience in health services.

(c) Authorization of appropriations

For payments under grants under subsection (a) of this section, there are authorized to be appropriated $2,500,000 for the fiscal year ending September 30, 1978; $2,500,000 for the fiscal year ending September 30, 1979; and $2,500,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title VII, § 749, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 408(a), 90 Stat. 2280.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(a) of Pub. L. 94-484, set out in part as an Effective Date note under section 294r of this title.

SUBPART IV—NATIONAL HEALTH SERVICE CORPS SCHOLARSHIPS

AMENDMENTS

1976—Pub. L. 94-484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2281, added heading "Subpart IV—National Health Service Corps Scholarships".

§ 294t. National Health Service Corps Scholarship Program

(a) Establishment

The Secretary shall establish the National Health Service Corps Scholarship Program (hereinafter in this subpart referred to as the "Scholarship Program") to assure an adequate supply of trained physicians, dentists, and nurses for the National Health Service Corps (hereinafter in this subpart referred to as the "Corps") and, if needed by the Corps, podiatrists, optometrists, pharmacists, graduates of schools of veterinary medicine, graduates of schools of public health, graduates of programs in health administration, graduates of programs for the training of physician assistants, expanded function dental auxiliaries, and nurse practitioners (as defined in section 296m of this title), and other health professionals.

(b) Eligibility; application; written contract

To be eligible to participate in the Scholarship Program, an individual must—

(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Secretary) educational institution in a State and (B) in a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathy, dentistry, or other health profession;

(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps;

(3) submit an application to participate in the Scholarship Program; and

(4) sign and submit to the Secretary, at the time of submittal of such application, a written contract (described in subsection (f) of this section) to accept payment of a scholarship and to serve (in accordance with this subpart) for the applicable period of obligated service in a health manpower shortage area.

(c) Review and evaluation of information and forms by prospective applicant

In disseminating application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Secretary shall include with such forms—

(1) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under section 294w of this title in the case of the individual's breach of the contract; and

(2) such other information as may be necessary for the individual to understand the individual's prospective participation in the Scholarship Program and service in the Corps.

The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the Scholarship Program. The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to insure that such individuals have adequate time to carefully review and evaluate such forms and information.

(d) Priority in approval of applications and acceptance of contracts

In determining which applications under the Scholarship Program to approve (and which contracts to accept), the Secretary shall give priority—

(1) first, to applications made (and contracts submitted) by individuals who have previously received scholarships under the Scholarship Program or under section 294z of this title; and

(2) second, to applications made (and contracts submitted)—

(A) in the school year ending in the fiscal year beginning October 1, 1977, by individuals who are entering their first or second year of study in a course of study or program described in subsection (b)(1)(B) of this section in such school year; and

(B) in each school year thereafter, by individuals who are entering their first year of study in a course of study or program described in subsection (b)(1)(B) of this section in such school year.

(e) Commencement of participation in Scholarship Program; notice

(1) An individual becomes a participant in the Scholarship Program only upon the Secretary's approval of the individual's application submitted under subsection (b)(3) of this section and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4) of this section.

(2) The Secretary shall provide written notice to an individual promptly upon the Secretary's approving, under paragraph (1), of the individual's participation in the Scholarship Program.

(f) Written contract; contents

The written contract (referred to in this subpart) between the Secretary and an individual shall contain—

(1) an agreement that—

(A) subject to paragraph (2), the Secretary agrees (i) to provide the individual with a scholarship (described in subsection (g) of this section) in each such school year or years for a period of years (not to exceed four school years) determined by the individual, during which period the individual is pursuing a course of study described in subsection (b)(1)(B) of this section, and (ii) to accept (subject to the availability of appropriated funds for carrying out subpart II of part C of subchapter II of this chapter) the

individual into the Corps (or for equivalent service as otherwise provided in this subpart); and

(B) subject to paragraph (2), the individual agrees—

(i) to accept provision of such a scholarship to the individual;

(ii) to maintain enrollment in a course of study described in subsection (b)(1)(B) of this section until the individual completes the course of study;

(iii) while enrolled in such course of study, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study); and

(iv) to serve for a time period (hereinafter in the subpart referred to as the "period of obligated service") equal to—

(I) one year for each school year for which the individual was provided a scholarship under the Scholarship Program, or

(II) two years,

whichever is greater, in a health manpower shortage area (designated under section 254e of this title) to which he is assigned by the Secretary as a member of the Corps, or as otherwise provided in this subpart;

(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subpart and to carry out the purposes of subpart II of part C of subchapter II of this chapter;

(3) a statement of the damages to which the United States is entitled, under section 294w of this title, for the individual's breach of the contract; and

(4) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this subpart.

(g) Scholarship provisions; contract with educational institution; increase in monthly stipend

(1) A scholarship provided to a student for a school year under a written contract under the Scholarship Program or under section 294z of this title (relating to scholarships for first-year students of exceptional financial need), shall consist of—

(A) payment to, or (in accordance with paragraph (2)) on behalf of, the student of the amount (except as provided in section 292k of this title) of—

(i) the tuition of the student in such school year; and

(ii) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the student in such school year; and

(B) payment to the student of a stipend of $400 per month (adjusted in accordance with paragraph (3)) for each of the 12 consecutive months beginning with the first month of such school year.

(2) The Secretary may contract with an educational institution, in which a participant in the Scholarship Program is enrolled, for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A). Payment to such an educational institution may be made without regard to section 529 of title 31.

(3) The amount of the monthly stipend, specified in paragraph (1)(B) and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Secretary for each school year ending in a fiscal year beginning after September 30, 1978, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5303 of title 5) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

(h) Employment ceiling of Department unaffected

Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department.

(i) Annual report to Congress; contents

The Secretary shall report to Congress on December 1 of each year—

(1) the number, and type of health profession training, of students receiving scholarships under the Scholarship Program;

(2) the educational institutions at which such students are receiving their training;

(3) the number of applications filed under this section in the school year beginning in such year and in prior school years; and

(4) the amount of tuition paid in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

(j) Consultation and participation of schools

The administrative unit which administers section 295f of this title shall—

(1) participate in the development of regulations, funding priorities, and application forms, and

(2) be consulted by, and may make recommendations to, the Secretary in the review of applications for scholarships and grants,

with respect to the Scholarship Program.

(July 1, 1944, ch. 373, title VII, § 751, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 408(b)(1), 90 Stat. 2281.)

REFERENCES IN TEXT

Subpart II of part C of subchapter II of this chapter, referred to in subsec. (f)(1)(A), is classified to section 254d et seq. of this title.

EFFECTIVE DATE

Section 408(b)(1) of Pub. L. 94-484 provided that enactment of this subpart IV and repeal of section 234 of this title by Pub. L. 94-484 shall be effective Oct. 1, 1977.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1976, TOWARDS SERVICE OBLIGATION

Section 408(b)(2) of Pub. L. 94-484 provided that:

"(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) of this subsection [enacting this subpart and repealing section 234 of this title] shall apply with respect to scholarships awarded under the National Health Service Corps Scholarship Program from appropriations for such Program for fiscal years beginning after September 30, 1977.

"(B) The provisions of section 225(f)(1) of the Public Health Service Act (as in effect on September 30, 1977) [former section 234(f)(1) of this title] prescribing the financial obligation of a participant in the Public Health and National Health Service Corps Scholarship Program who fails to complete an active duty service obligation incurred under that Program shall apply to any individual who received a scholarship under such Program for any school year ending before September 30, 1977, irrespective of whether such individual received such a scholarship after that date.

"(C) Periods of internship or residency served before September 30, 1976, in a facility of the National Health Service Corps or other facility of the Public Health Service in accordance with an agreement entered into under section 225(b) of the Public Health Service Act (as in effect before that date) [former section 234(b) of this title] shall be creditable in satisfying a service obligation incurred under the Public Health and National Health Service Corps Scholarship Program as revised by this subsection [enacting this subpart and repealing section 234 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254d, 294u, 294w, 294z of this title.

§ 294u. Obligated service under contract

(a) Service in full-time clinical practice

Except as provided in section 294v of this title, each individual who has entered into a written contract with the Secretary under section 294t of this title shall provide service in the full-time clinical practice of such individual's profession as a member of the Corps for the period of obligated service provided in such contract.

(b) Notice to individual; information for informed decision; eligibility; notice to Secretary; qualification and appointment as commissioned officer; appointment as civilian member; deferment of obligated service

(1) The Secretary shall notify each individual required to provide service under the Scholarship Program, not later than 60 days before the date described in paragraph (5), of the opportunity of such individual to serve in the full-time clinical practice of his profession either as a commissioned officer in the Regular or Reserve Corps of the Service or as a civilian member of the Corps. The Secretary shall include in such notice sufficient information regarding the advantages and disadvantages to each alternative to enable an individual to make a decision on an informed basis.

(2) To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than 30 days before the date described in paragraph (5), of the individual's desire to provide such service as such an officer.

(3) If an individual who has notified the Secretary under paragraph (2) qualifies for an appointment as such an officer, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint the individual as a commissioned officer of the Regular or Reserve Corps and of the Service and shall designate the individual as a member of the Corps. If an individual who has notified the Secretary under paragraph (2) does not so qualify, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint such individual in accordance with paragraph (4).

(4) Except as provided in paragraph (3) and in section 294v of this title, the Secretary shall appoint each individual, as soon as possible after the date described in paragraph (5), to serve in the full-time clinical practice of his profession as a civilian member of the Corps.

(5)(A) With respect to an individual receiving a degree from a school of medicine, osteopathy, or dentistry, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes the training required for such degree, except that the Secretary shall, at the request of such individual, defer such date until the end of the period of time (not to exceed three years) required for the individual to complete an internship, residency, or other advanced clinical training. No such period of internship, residency, or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subpart.

(B) With respect to an individual receiving a degree from an institution other than a school of medicine, osteopathy, or dentistry, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes his academic training leading to such degree.

(c) Obligated service period; commencement

An individual shall be considered to have begun serving a period of obligated service—

(1) on the date such individual is appointed as an officer in a Regular or Reserve Corps of the Service or as a member of the Corps, or

(2) in the case of an individual who has entered into an agreement with the Secretary under section 294v of this title, on the date specified in such agreement,

whichever is earlier.

(d) Assignment of personnel

The Secretary shall assign individuals performing obligated service in accordance with a written contract under the Scholarship Program to health manpower shortage areas in accordance with subpart II of part C of subchapter II of this chapter. If the Secretary determines that there is no need in a health manpower shortage area (designated under section 254e of this title) for a member of the profession in which an individual is obligated to provide service under a written contract, the Secretary may detail such individual to serve his period of obligated service as a full-time member of such profession in such unit of the Department as the Secretary may determine.

(e) Service under National Research Service Award program; persons exhibiting exceptional promise in medical research

Notwithstanding any other provision of this subchapter, if the Secretary determines that an individual who is or has been a participant in the Scholarship Program demonstrates exceptional promise for medical research, the Secretary may permit such individual to perform his service obligation under the National Research Service Award program established under section 289*l*-1 of this title.

(July 1, 1944, ch. 373, title VII, § 752, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 408(b)(1), 90 Stat. 2284.)

REFERENCES IN TEXT

Subpart II of part C of subchapter II of this chapter, referred to in subsec. (d), is classified to section 254d et seq. of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94-484, set out in part as an Effective Date note under section 294t of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1976, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94-484, set out as a note under section 294t of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294v, 294w of this title.

§ 294v. Private practice; application for release; conditions; written agreement; contents; regulations

(a) The Secretary shall release an individual from all or part of his service obligation under section 294u(a) of this title if the individual applies for such a release under this section and enters into a written agreement with the Secretary under which the individual agrees to engage for a period equal to the remaining period of his service obligation in the full-time private clinical practice (including service as a salaried employee in an entity directly providing health services) of his health profession—

(1) in the case of an individual who is performing obligated service as a member of the Corps in a health manpower shortage area on the date of his application for such a release, in the health manpower shortage area in which such individual is serving on such date; or

(2) in the case of any other individual, in a health manpower shortage area (designated under section 254e of this title) which (A) has a priority for the assignment of Corps members under section 254f(c) of this title, and (B) has a sufficient financial base to sustain such private practice and to provide the individual with income of not less than the income of members of the Corps.

In the case of an individual described in paragraph (1), the Secretary shall release the individual from his service obligation under this subsection only if the Secretary determines that the area in which the individual is serving meets the requirement of clause (B) of paragraph (2).

(b) The written agreement described in subsection (a) of this section shall—

(1) provide that during the period of private practice by an individual pursuant to the agreement—

(A) any person who receives health services provided by the individual in connection with such practice will be charged for such services at the usual and customary rate prevailing in the area in which such services are provided, except that if such person is unable to pay such charge, such person shall be charged at a reduced rate or not charged any fee; and

(B) the individual in providing health services in connection with such practice shall not discriminate against any person on the basis of such person's ability to pay for such services or because payment for the health services provided to such person will be made under the insurance program established under part A or B of title XVIII of the Social Security Act [42 U.S.C. 1395c et seq. and 1395j et seq.] or under a State plan for medical assistance approved under title XIX of such Act [42 U.S.C. 1396 et seq.]; and

(2) contain such additional provisions as the Secretary may require to carry out the purposes of this section.

For purposes of paragraph (1)(A), the Secretary shall by regulation prescribe the method for determining a person's ability to pay a charge for health services and the method of determining the amount (if any) to be charged such person based on such ability.

(July 1, 1944, ch. 373, title VII, § 753, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 408(b)(1), 90 Stat. 2285.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(1)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts A and B of title XVIII of the Social Security Act are classified generally to parts A (§ 1395c et seq.) and B (§ 1395j et seq.) of subchapter XVIII of chapter 7 of this title. Title XIX of such Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables volume.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94-484, set out in part as an Effective Date note under section 294t of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1976, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94-484, set out as a note under section 294t of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294h, 294u, 294w, 294x of this title.

§ 294w. Breach of scholarship contract

(a) Failure to accept payment; liability

An individual (other than an individual described in subsection (b) of this section) who has entered into a written contract with the Secretary under section 294t of this title and who fails to accept payment, or instructs the

educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, shall, in addition to any service or other obligation or liability under the contract, be liable to the United States for the amount of $1,500 as liquidated damages.

(b) Failure to maintain academic standing; dismissal from institution; voluntary termination; liability

An individual who has entered into a written contract with the Secretary under section 294t of this title and who—

(1) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

(2) is dismissed from such educational institution for disciplinary reasons, or

(3) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract, before the completion of such training,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

(c) Failure to commence or complete service obligation; formula to determine liability; payment to United States

If an individual breaches his written contract by failing (for any reason) either to begin such individual's service obligation in accordance with section 294u or 294v of this title or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula

$$A=3\phi([t-s/t])$$

in which "A" is the amount the United States is entitled to recover, "ϕ" is the sum of the amount paid under this subpart to or on behalf of the individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; "t" is the total number of months in the individual's period of obligated service; and "s" is the number of months of such period served by him in accordance with section 294u of this title or a written agreement under section 294v of this title. Any amount of damages which the United States is entitled to recover under this subsection shall, within the one year period beginning on the date of the breach of the written contract, be paid to the United States.

(d) Cancellation of obligation upon death of individual; waiver or suspension of obligation for impossibility, hardship, or unconsionability; release of debt by discharge in bankruptcy, time limitation

(1) Any obligation of an individual under the Scholarship Program (or a contract thereunder) for service or payment of damages shall be canceled upon the death of the individual.

(2) The Secretary shall by regulation provide for the waiver or suspension of any obligation of service or payment by an individual under the Scholarship Program (or a contract thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

(3) Any obligation of an individual under the Scholarship Program (or a contract thereunder) for payment of damages may be released by a discharge in bankruptcy under title 11 only if such discharge is granted after the expiration of the five-year period beginning on the first date that payment of such damages is required.

(July 1, 1944, ch. 373, title VII, § 754, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 408(b)(1), 90 Stat. 2286.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94-484, set out in part as an Effective Date note under section 294t of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1976, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94-484, set out as a note under section 294t of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294t, 294x of this title.

§ 294x. Special grants for former Corps member to enter private practice

(a) Written agreement; conditions

The Secretary may make one grant to an individual (other than an individual who has entered into an agreement under section 294v of this title)

(1) who has completed his period of obligated service in the Corps, and

(2) who has agreed in writing—

(A) to engage in the private full-time clinical practice of his profession in a health manpower shortage area (designated under section 254e of this title and described in paragraphs (1) and (2) of section 294v(a) of this title) for a period (beginning not later than one year after the date he completed his period of obligated service in the Corps) of not less than one year;

(B) to conduct such practice in accordance with the provisions of section 294v(b)(1) of this title; and

(C) to such additional conditions as the Secretary may require to carry out the purposes of this section;

to assist such individual in meeting the costs of beginning the practice of such individual's profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. Such grant may not be used for the purchase or construction of any building.

(b) Amount of grant

The amount of the grant under subsection (a) of this section to an individual shall be—

(1) $12,500 if the individual agrees to practice his profession in accordance with the

agreement for a period of at least one year, but less than two years; or

(2) $25,000 if the individual agrees to practice his profession in accordance with the agreement for a period of at least two years.

(c) Application for grant; submission and approval

The Secretary may not make a grant under this section unless an application therefor has been submitted to, and approved by, the Secretary.

(d) Breach of agreement; notice; determination of liability

If the Secretary determines that an individual has breached a written agreement entered into under subsection (a) of this section, he shall, as soon as practicable after making such determination, notify the individual of such determination. If within 120 days after the date of giving such notice, such individual is not practicing his profession in accordance with the agreement under such subsection and has not provided assurances satisfactory to the Secretary that he will not knowingly violate such agreement again, the United States shall be entitled to recover from such individual an amount determined under section 294w(c) of this title, except that in applying the formula contained in such section, "ϕ" shall be the sum of the amount of the grant made under subsection (a) of this section to such individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, "t" shall be the number of months that such individual agreed to practice his profession under such agreement, and "s" shall be the number of months that such individual practices his profession in accordance with such agreement.

(July 1, 1944, ch. 373, title VII, § 755, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 408(b)(1), 90 Stat. 2287.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94-484, set out in part as an Effective Date note under section 294t of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1976, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94-484, set out as a note under section 294t of this title.

§ 294y. Authorization of appropriations

(a) There are authorized to be appropriated for scholarships under this subpart $75,000,000 for the fiscal year ending September 30, 1978, $140,000,000 for the fiscal year ending September 30, 1979, and $200,000,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981, and for each of the two succeeding fiscal years, there are authorized to be appropriated such sums as may be necessary to continue to make scholarship awards to students who have entered into written contracts under the Scholarship Program before October 1, 1980.

(b) Of the sums appropriated under this section (1) 90 percent shall be obligated for scholarships for medical, osteopathic, and dental students, and (2) 10 percent of such 90 percent shall be obligated for scholarships for dental students.

(July 1, 1944, ch. 373, title VII, § 756, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 408(b)(1), 90 Stat. 2288.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94-484, set out in part as an Effective Date note under section 294t of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1976, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94-484, set out as a note under section 294t of this title.

SUBPART V—OTHER SCHOLARSHIPS

AMENDMENTS

1976—Pub. L. 94-484, title IV, § 408(c), Oct. 12, 1976, 90 Stat. 2289 added heading "Subpart V—Other Scholarships".

§ 294z. Scholarships for first year students of exceptional financial need

(a) Grants to schools

The Secretary shall make grants to a public or nonprofit school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, or veterinary medicine which is accredited as provided in section 293a(b)(1)(B) of this title, for scholarships to be awarded by the school to full-time students thereof who are of exceptional financial need and who are in their first year of study at such school in the school year ending in the fiscal year in which such grant is made.

(b) Scholarships to full-time students in first year of study; first year of study defined

(1) Scholarships may be awarded by a school from a grant under subsection (a) of this section only to individuals who have been accepted by it for enrollment as full-time students in their first year of study at such school.

(2) A scholarship awarded to a student for a school year under a grant made under subsection (a) of this section shall be the scholarship described in section 294t(g) of this title.

(3) For purposes of this section, the term "first year of study" means, with respect to a student of a school other than a school of pharmacy, the student's first year of postbaccalaureate study at such school.

(c) Priority in distribution of grants

The Secretary shall distribute grants under this section among all schools of the health professions, but shall give priority in distributing such grants to schools of medicine, osteopathy, and dentistry.

(d) Authorization of appropriations

For the purpose of making grants under this section, there is authorized to be appropriated $16,000,000 for the fiscal year ending September 30, 1978, $17,000,000 for the fiscal year ending September 30, 1979, and $18,000,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title VII, § 758, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 408(c), 90 Stat. 2289.)

EFFECTIVE DATE

Section 408(c) of Pub. L. 94-484 provided that enactment of this subpart V by Pub. L. 94-484 shall be effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 294t of this title.

§ 294aa. Lister Hill scholarship program; grants for family practice of medicine; authorization of appropriation

(a) The Secretary annually shall make grants to at least 10 individuals (to be known as Lister Hill scholars) for scholarships of up to $8,000 per year for up to four years of medical school if such individuals agree to enter into the family practice of medicine in a health manpower shortage area in accordance with this section. Grants made under this section shall be made only from funds appropriated under subsection (b) of this section.

(b) There are authorized to be appropriated to carry out the purposes of this section $80,000 for the fiscal year ending September 30, 1977, $160,000 for the fiscal year ending September 30, 1978, $240,000 for the fiscal year ending September 30, 1979, and $320,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981 and for each succeeding fiscal year, there are authorized to be appropriated such sums as may be necessary to continue to make such grants to students who (prior to October 1, 1980) have received such a grant under this section during such succeeding fiscal year.

(July 1, 1944, ch. 373, title VII, § 759, as added Oct. 12, 1976, Pub. L. 94-484, title IV, § 408(c), 90 Stat. 2289.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(c) of Pub. L. 94-484, set out in part as an Effective Date note under section 294z of this title.

PART D—GRANTS FOR FAMILY MEDICINE, TRAINING, TRAINEESHIPS, AND FELLOWSHIPS AND COMPUTER TECHNOLOGY HEALTH CARE DEMONSTRATION PROGRAMS

AMENDMENTS

1971—Pub. L. 92-157, title I, § 107(a), Nov. 18, 1971, 85 Stat. 457, substituted as the heading of Part D "Grants for Family Medicine, Training, Traineeships, and Fellowships and Computer Technology Health Care Demonstration Programs" for "Grants for Construction of Mental Retardation Research Facilities".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 292b of this title.

§ 295. Congressional declaration of purpose

It is the purpose of this part to provide for the making of grants to assist—

(1) public and private nonprofit medical schools—

(A) to operate, as an integral part of their medical education program, separate and distinct departments devoted to providing teaching and instruction (including continuing education) in all phases of family practice;

(B) to construct such facilities as may be appropriate to carry out a program of training in the field of family medicine whether as a part of a medical school or as separate outpatient or similar facility;

(C) to operate, or participate in, special training programs for paramedical personnel in the field of family medicine; and

(D) to operate, or participate in, special training programs to teach and train medical personnel to head departments of family practice or otherwise teach family practice in medical schools; and

(2) public and private nonprofit hospitals which provide training programs for medical students, interns, or residents—

(A) to operate, as an integral part of their medical training programs, special professional training programs (including continuing education) in the field of family medicine for medical students, interns, residents, or practicing physicians;

(B) to construct such facilities as may be appropriate to carry out a program of training in the field of family medicine whether as a part of a hospital or as a separate outpatient or similar facility;

(C) to provide financial assistance (in the form of scholarships, fellowships, or stipends) to interns, residents, or other medical personnel who are in need thereof, who are participants in a program of such hospital which provides special training (accredited by a recognized body or bodies approved for such purposes by the Commissioner of Education) in the field of family medicine, and who plan to specialize or work in the practice of family medicine; and

(D) to operate, or participate in, special training programs for paramedical personnel in the field of family medicine.

(July 1, 1944, ch. 373, title VII, § 761, as added Dec. 25, 1970, Pub. L. 91-696, § 101, 84 Stat. 2080-1.)

PRIOR PROVISIONS

A prior section 295, act July 1, 1944, ch. 373, title VII, § 761, as added Oct. 31, 1963, Pub. L. 88-164, title I, § 101, 77 Stat. 282, which related to authorization of appropriations respecting grants for construction of mental retardation facilities, was eliminated in the general amendment of Part A of Pub. L. 88-164, title I, by section 125 of Pub. L. 94-103, title I, Oct. 4, 1975, 89 Stat. 496, which enacted a new Part A relating to General Provisions, classified to section 6001 et seq. of this title.

FEASIBILITY STUDY COVERING ESTABLISHMENT OF COURSES DEALING WITH NUTRITION AND PROBLEMS RELATED TO MALNUTRITION

Section 201 of Pub. L. 91-696 required the Secretary of Health, Education, and Welfare to conduct a study of the feasibility and desirability of establishing courses dealing with malnutrition at health professional schools, authorized him to make grants to such schools for the purposes of such study, and required him to report the results and recommendations to the President and the Congress by July 1, 1972.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 295b, 295d, 295d-1 of this title.

§ 295a. Authorization of appropriations

(a) For the purpose of making grants to carry out the purposes of this part, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1971, $75,000,000 for the fiscal year ending June 30, 1972, and $100,000,000 for the fiscal year ending June 30, 1973.

(b) Sums appropriated pursuant to subsection (a) of this section for any fiscal year shall remain available for the purpose for which appropriated until the close of the fiscal year which immediately follows such year.

(July 1, 1944, ch. 373, title VII, § 762, as added Dec. 25, 1970, Pub. L. 91-696, § 101, 84 Stat. 2080-2.)

PRIOR PROVISIONS

A prior section 295a, act July 1, 1944, ch. 373, title VII, § 762, as added Oct. 31, 1963, Pub. L. 88-164, title I, § 101, 77 Stat. 282, which related to applications for grants for construction of mental retardation facilities, including their approval by Surgeon General and consideration of certain matters, was eliminated in the general amendment of Part A of Pub. L. 88-164, title I, by section 125 of Pub. L. 94-103, title I, Oct. 4, 1975, 89 Stat. 496, which enacted a new Part A relating to General Provisions, classified to section 6001 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 295b, 295d-1 of this title.

§ 295b. Grants by Secretary

(a) Authority

From the sums appropriated pursuant to section 295a of this title, the Secretary is authorized to make grants, in accordance with the provisions of this part, to carry out the purposes of section 295 of this title.

(b) Application for grant

No grant shall be made under this part unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall have prescribed by regulations which have been promulgated by him and published in the Federal Register not later than six months after December 25, 1970.

(c) Limitations and conditions

Grants under this part shall be in such amounts and subject to such limitations and conditions as the Secretary may determine to be proper to carry out the purposes of this part.

(d) Protection of financial interests of United States

In the case of any application for a grant any part of which is to be used for major construction or remodeling of any facility, the Secretary shall not approve the part of the grant which is to be so used unless the recipient of such grant enters into appropriate arrangements with the Secretary which will equitably protect the financial interests of the United States in the event such facility ceases to be used for the purpose for which such grant or part thereof was made prior to the expiration of the twenty-year period which commences on the date such construction or remodeling is completed.

(e) Use of grant funds; method of payment

Grants made under this part shall be used only for the purpose for which made and may be paid in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

(July 1, 1944, ch. 373, title VII, § 763, as added Dec. 25, 1970, Pub. L. 91-696, § 101, 84 Stat. 2080-2.)

PRIOR PROVISIONS

A prior section 295b, act July 1, 1944, ch. 373, title VII, § 763, as added Oct. 31, 1963, Pub. L. 88-164, title I, § 101, 77 Stat. 283, which related to amount of grants for construction of mental retardation facilities, including maximum payments, advances or reimbursement, installments, conditions, and nonduplication of grants, was eliminated in the general amendment of Part A of Pub. L. 88-164, title I, by section 125 of Pub. L. 94-103, title I, Oct. 4, 1975, 89 Stat. 496, which enacted a new Part A relating to General Provisions, classified to section 6001 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295d of this title.

§ 295c. Eligibility for grants

(a) In order for any medical school to be eligible for a grant under this part, such school—

(1) must be a public or other nonprofit school of medicine; and

(2) must be accredited as a school of medicine by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirements of this clause shall be deemed to be satisfied, if (A) in the case of a school of medicine which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

(b) In order for any hospital to be eligible for a grant under this part, such hospital—

(1) must be a public or private nonprofit hospital; and

(2) must conduct or be prepared to conduct in connection with its other activities (whether or not as an affiliate of a school of medicine) one or more programs of medical training for medical students, interns, or residents, which is accredited by a recognized body or bodies, approved for such purpose by the Commissioner of Education.

(July 1, 1944, ch. 373, title VII, § 764, as added Dec. 25, 1970, Pub. L. 91-696, § 101, 84 Stat. 2080-2.)

CODIFICATION

Prior section 295c, act July 1, 1944, ch. 373, title VII, § 764, as added Oct. 31, 1963, Pub. L. 88-164, title I, § 101, 77 Stat. 283, which related to recovery of ex-

penditures under certain conditions respecting grants for construction of mental retardation facilities, was eliminated in the general amendment of Part A of Pub. L. 88-164, title I, by section 125 of Pub. L. 94-103, title I, Oct. 4, 1975, 89 Stat. 496, which enacted a new Part A relating to General Provisions, classified to section 6001 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295d of this title.

§ 295d. Approval of grants

(a) Requisites for approval

The Secretary, upon the recommendation of the Advisory Council on Family Medicine, is authorized to make grants under this part upon the determination that—

(1) the applicant meets the eligibility requirements set forth in section 295c of this title;

(2) the applicant has complied with the requirements of section 295b of this title;

(3) the grant is to be used for one or more of the purposes set forth in section 295 of this title;

(4) it contains such information as the Secretary may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this part;

(5) it provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require (pursuant to regulations which shall have been promulgated by him and published in the Federal Register) to assure proper disbursement of and accounting for all Federal funds paid to the applicant under this part; and

(6) the application contains or is supported by adequate assurances that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended [40 U.S.C. 276a et seq.]. The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 65 Stat. 1267) and section 276c of title 40.

(b) Establishment of separate medical school departments of family medicine; establishment of special hospital programs of family medicine

The Secretary shall not approve any grant to—

(1) a school of medicine to establish or operate a separte department devoted to the teaching of family medicine unless the Secretary is satisfied that—

(A) such department is (or will be, when established) of equal standing with the other departments within such school which are devoted to the teaching of other medical specialty disciplines; and

(B) such department will, in terms of the subjects offered and the type and quality of instruction provided, be designed to prepare students thereof to meet the standards established for specialists in the specialty of family practice by a recognized body approved by the Commissioner of Education; or

(2) a hospital to establish or operate a special program for medical students, interns, or residents in the field of family medicine unless the Secretary is satisfied that such program will, in terms of the type of training provided, be designed to prepare participants therein to meet the standards established for specialists in the field of family medicine by a recognized body approved by the Commissioner of Education.

(c) Supplementing of non-Federal funds

The Secretary shall not approve any grant under this part unless the applicant therefor provides assurances satisfactory to the Secretary that funds made available through such grant will be so used as to supplement and, to the extent practical, increase the level of non-Federal funds which would, in the absence of such grant, be made available for the purpose for which such grant is requested.

(July 1, 1944, ch. 373, title VII, § 765, as added Dec. 25, 1970, Pub. L. 91-696, § 101, 84 Stat. 2080-3.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (a)(6), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a)(6), is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 295d, act July 1, 1944, ch. 373, title VII, § 765, as added Oct. 31, 1963, Pub. L. 88-164, title I, § 101, 77 Stat. 284, which related to noninterference with administration of institutions respecting grants for construction of mental retardation facilities, was eliminated in the general amendment of Part A of Pub. L. 88-164, title I, by section 125 of Pub. L. 94-103, title I, Oct. 4, 1975, 89 Stat. 496, which enacted a new Part A relating to General Provisions, classified to section 6001 et seq. of this title.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 295d-1. Planning and developmental grants

(a) For the purpose of assisting medical schools and hospitals (referred to in section 295 of this title) to plan or develop programs or projects for the purpose of carrying out one or more of the purposes set forth in such section, the Secretary is authorized for any fiscal year (prior to the fiscal year which ends June 30, 1973) to make planning and developmental grants in such amounts and subject to such conditions as the Secretary may determine to be proper to carry out the purposes of this section.

(b) From the amounts appropriated in any fiscal year (prior to the fiscal year ending June 30, 1973) pursuant to section 295a(a) of this title, the Secretary may utilize such amounts as he deems necessary (but not in excess of $8,000,000 for any fiscal year) to make the planning and developmental grants authorized by subsection (a) of this section.

(July 1, 1944, ch. 373, title VII, § 766, as added Dec. 25, 1970, Pub. L. 91-696, § 101, 84 Stat. 2080-4.)

PRIOR PROVISIONS

A prior section 295d-1, act July 1, 1944, ch. 373, title VII, § 766, as added Oct. 31, 1963, Pub. L. 88-164, title I, § 101, 77 Stat. 284, which related to definitions in connection with grants for construction of mental retardation research facilities, was eliminated in the general amendment of Part A of Pub. L. 88-164, title I, by section 125 of Pub. L. 94-103, title I, Oct. 4, 1975, 89 Stat. 496, which enacted a new Part A relating to General Provisions, classified to section 6001 et seq. of this title.

§ 295d-2. Advisory Council on Family Medicine

(a) Appointment; membership

The Secretary shall appoint an Advisory Council on Family Medicine (hereinafter in this section referred to as the "Council"). The Council shall consist of twelve members, four of whom shall be physicians engaged in the practice of family medicine, four of whom shall be physicians engaged in the teaching of family medicine, three of whom shall be representatives of the general public, and one of whom shall, at the time of his appointment, be an intern in family medicine. Members of the Council shall be individuals who are not otherwise in the regular full-time employ of the United States.

(b) Term of office

(1) Except as provided in paragraph (2), each member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, three at the end of the first year, three at the end of the second year, three at the end of the third year, and three at the end of the fourth year, after the date of appointment.

(2) The member of the Council appointed as an intern in family medicine shall serve for one year.

(3) A member of the Council shall not be eligible to serve continuously for more than two terms.

(c) Compensation

Members of the Council shall be appointed by the Secretary without regard to the provisions of title 5 governing appointments in the competitive service. Members of the Council, while attending meetings and conferences thereof or otherwise serving on business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service, employed intermittently.

(d) Duties and functions of Council

The Council shall advise and assist the Secretary in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this part. The Council shall consider all applications for grants under this part and shall make recommendations to the Secretary with respect to approval of applications for, and of the amount of, grants under this part.

(July 1, 1944, ch. 373, title VII, § 767, as added Dec. 25, 1970, Pub. L. 91-696, § 101, 84 Stat. 2080-4.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (c), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

CODIFICATION

Another section 767 of act July 1, 1944, is set out as section 295e-1 of this title.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 295e. Definitions

For purposes of this part—

(1) the term "nonprofit" as applied to any hospital or school of medicine means a school of medicine or hospital which is owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(2) the term "family medicine" means those certain principles and techniques and that certain body of medical, scientific, administrative, and other knowledge and training, which especially equip and prepare a physician to engage in the practice of family medicine;

(3) the term "practice of family medicine" and the term "practice", when used in connection with the term "family medicine", mean the practice of medicine by a physician (licensed to practice medicine and surgery by the State in which he practices his profession) who specializes in providing to families (and members thereof) comprehensive, continuing, professional care and treatment of the type necessary or appropriate for their general health maintenance; and

(4) the term "construction" includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, including architects' fees, but excluding the cost of acquisition of lands or offsite improvements.

(July 1, 1944, ch. 373, title VII, § 768, as added Dec. 25, 1970, Pub. L. 91-696, § 101, 84 Stat. 2080-5.)

CODIFICATION

Another section 768 of act July 1, 1944, is set out as section 295e-2 of this title.

PRIOR PROVISIONS

A prior section 295e consisted of section 766 of Act July 1, 1944. The classification of section 766 of act July 1, 1944, has been changed to section 295d-1 of this title for purposes of codification.

§ 295e-1. Grants for training, traineeships, and fellowships in family medicine; authorization of appropriations

There are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1972, $35,000,000 for the fiscal year ending June 30, 1973, $40,000,000 each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $39,000,000 for the fiscal year ending September 30, 1977, for grants by the Secretary to any public or nonprofit private hospital—

(1) to plan, develop, and operate, or participate in, an approved professional training program (including continuing education and approved residency programs in family practice) in the field of family medicine for medical students, interns, residents, or practicing physicians;

(2) to provide financial assistance (in the form of traineeships and fellowships) to medical students, interns, residents, practicing physicians, or other medical personnel, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of family medicine; and

(3) to plan, develop, and operate, or participate in, other approved training programs in the field of family medicine.

(July 1, 1944, ch. 373, title VII, § 767, as added Nov. 18, 1971, Pub. L. 92-157, title I, § 107(b), 85 Stat. 457, and amended Oct. 12, 1976, Pub. L. 94-484, title I, § 101(g), 90 Stat. 2244.)

CODIFICATION

Another section 767 of act July 1, 1944, is set out as section 295d-2 of this title.

AMENDMENTS

1976—Pub. L. 94-484 authorized appropriations of $40,000,000; $40,000,000; and $39,000,000 for fiscal years ending June 30, 1975, June 30, 1976, and Sept. 30, 1977, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295e-5 of this title.

§ 295e-2. Grants for support of postgraduate training programs for physicians and dentists

(a) Authorization of appropriations

There are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1973, and $15,000,000 each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, for grants under subsection (b) of this section.

(b) Shortage of qualified physicians or dentists in primary care and other health care areas; amount of grant for fiscal year; computation of grant where total of grants exceeds appropriation

(1) The Secretary shall make annual grants in accordance with this section to—

(A) public or nonprofit private schools of medicine, osteopathy, or dentistry, which are accredited as provided in section 293a(b)(1) of this title, and which have approved applications, and

(B) public or nonprofit private hospitals which are not affiliated with an accredited school of medicine, osteopathy, or dentistry, and which have approved applications,

to assist in meeting the educational costs of the first three years of full-time approved graduate training programs in the area of primary care or in any other area of health care (designated under subsection (c)(3)(B) of this section) in which there is a shortage of qualified physicians or dentists.

(2) The amount of grant under this subsection for any fiscal year to any school or hospital shall be equal to $3,000 for each physician or dentist enrolled in a graduate training program (A) described in paragraph (1) of this subsection, and (B) in the case of a grant to a school, conducted in clinical facilities of such schools or with which such school has a written agreement of affiliation, or, in the case of a grant to a hospital, conducted in such hospital; except that if the total of the grants to be made under this subsection for any fiscal year to schools and hospitals with approved applications exceeds the amounts appropriated under subsection (a) of this section for such grants, the amount of the grant for that fiscal year to each such school or hospital shall be an amount which bears the same ratio to the amount determined for the school or hospital for that fiscal year under the preceding sentence as the total of the amounts appropriated under subsection (a) of this section for that year bears to the amount required to make grants to each school in accordance with such sentence.

(3) For purposes of paragraph (2), the Secretary shall—

(A) in the case of a grant in the fiscal year ending June 30, 1973, count only the number of first-year physicians and dentists enrolled in graduate training programs described in paragraph (1), and

(B) in the case of a grant in the fiscal year ending June 30, 1974, or in the next two fiscal years, count only the number of first-and second-year physicians and dentists enrolled in graduate training programs described in paragraph (1).

(c) Applications for grants; filing date; eligibility; contents; consultation with Council; definition of "primary health care"; designation of other health care areas; guidelines for applicants

(1) The Secretary may from time to time set dates (not earlier than the fiscal year preceding the year for which a grant is sought) by which applicants for grants under subsection (b) of this section for any fiscal year must be filed.

(2) A grant under subsection (b) of this section may be made only if the application therefor—

(A) is approved by the Secretary upon his determination that the applicant meets the eligibility conditions set forth in paragraph (1) of such subsection.

(B) contains a specific program or programs which such applicant has undertaken to encourage physicians and dentists to enroll in graduate training programs described in paragraph (1) of this subsection;

(C) contains or is supported by assurances that such applicant will increase the number of graduate training positions open to physicians and dentists in such graduate training programs;

(D) provides for such fiscal control and accounting procedures, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for any such grant;

(E) contains a statement in such detail as the Secretary may determine necessary, describing the manner in which any grant made under subsection (b) of this section will be applied to meet the educational costs of the graduate training program for which the grant is made, including any payments from a grant proposed to be made by an applicant which is a school to any clinical facility which participates in such training program under a written agreement of affiliation with the applicant and which shares in the payment of the educational costs of such program; and

(F) contains such additional information as the Secretary may require to make the determinations required of him under this section, and such assurances as he may find necessary.

(3) The Secretary—

(A) shall not approve or disapprove any application for a grant under subsection (b) of this section except after consultation with the National Advisory Council on Health Professions Education;

(B) shall define in consultation with such Council, those health care fields included within the term "primary health care" and shall designate any other areas of health care in which there is a shortage of qualified physicians and dentists; and

(C) shall, on an annual basis, establish guidelines specifying such absolute or percentage increases in the numbers of physicians or dentists receiving full-time graduate training which any applicant receiving a grant under subsection (b) of this section as may be required to meet as a condition of such a grant.

(July 1, 1944, ch. 373, title VII, § 768, as added Nov. 18, 1971, Pub. L. 92-157, title I, § 107(b), 85 Stat. 458, and amended Oct. 12, 1976, Pub. L. 94-484, title I, § 101(h), 90 Stat. 2244.)

CODIFICATION

Another section 768 of act July 1, 1944, is set out as section 295e of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-484, § 101(h)(1), authorized appropriations of $15,000,000 for fiscal years ending June 30, 1975, and 1976.

Subsec. (b)(3)(B). Pub. L. 94-484, § 101(h)(2), made the provision applicable to grants in the two fiscal years after fiscal year ending June 30, 1974.

§ 295e-3. Grants for training, traineeships, and fellowships for health professions teaching personnel

(a) Authorization of appropriations

There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1972, $15,000,000 for the fiscal year ending June 30, 1973, and $20,000,000 each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, for grants under this section.

(b) Authority of Secretary

The Secretary may make grants under this section to public and nonprofit private schools of medicine, dentistry, osteopathy, podiatry, optometry, pharmacy, and veterinary medicine (as such schools are defined in section 292a of this title) for training (at such schools or elsewhere), and traineeships and fellowships for the advanced training, of individuals to enable them to teach, or improve their teaching skills, in the medical, dental, osteopathic, podiatric, optometric, pharmaceutical, or veterinary medicine fields.

(c) Percentage limitation for traineeships and fellowships

Not less than 75 per centum of any grant under this section to any school shall be used by the school for traineeships and fellowships.

(July 1, 1944, ch. 373, title VII, § 769, as added Nov. 18, 1971, Pub. L. 92-157, title I, § 107(b), 85 Stat. 459, and amended Oct. 12, 1976, Pub. L. 94-484, title I, § 101(i), 90 Stat. 2245.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-484 authorized appropriations of $20,000,000 for fiscal years ending June 30, 1975 and 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295e-5 of this title.

§ 295e-4. Grants for computer technology health care demonstration programs; authorization of appropriations

There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1972, $10,000,000 for the fiscal year ending June 30, 1973, and $15,000,000 each for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and September 30, 1977, for grants by the Secretary to public or nonprofit private schools, agencies, organizations, or institutions, and combinations thereof, to—

(1) plan and develop free-standing or university-based computer laboratories which would establish computer-based systems, including compatible languages, standard terminologies, communication networks, and decisionmaking strategies, to enable the utilization of modern computer technologies by physicians and other health personnel in the provision of health services and in the pro-

cessing of biomedical information relating to the provision of such services; and

(2) research through computer technology the functions performed by physicians to determine which functions could be appropriately transferred and performed by other appropriately trained personnel.

(July 1, 1944, ch. 373, title VII, § 769A, as added Nov. 18, 1971, Pub. L. 92-157, title I, § 107(b), 85 Stat. 459, and amended Oct. 12, 1976, Pub. L. 94-484, title I, § 101(j), 90 Stat. 2245.)

AMENDMENTS

1976—Pub. L. 94-484 authorized appropriations of $15,000,000 for fiscal years ending June 30, 1975, June 30, 1976 and Sept. 30, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295e-5 of this title.

§ 295e-5. General provisions

(a) Applications for grants: submission, approval by Secretary, regulations

No grant may be made under sections 295e-1, 295e-3, and 295e-4 of this title unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(b) Payments limitation for traineeships and fellowships

Payments by recipients of grants under sections 295e-1 and 295e-4 of this title for (1) traineeships shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the trainees; and (2) fellowships shall be limited to such amounts as the Secretary finds necessary to cover the cost of advanced study by, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the fellows.

(c) Amount of grant; determination by Secretary; payments: advances or reimbursement, intervals, conditions

The amount of any grant under sections 295e-1, 295e-3, or 295e-4 of this title shall be determined by the Secretary. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

(July 1, 1944, ch. 373, title VII, § 769B, as added Nov. 18, 1971, Pub. L. 92-157, title I, § 107(b), 85 Stat. 460.)

PART E—GRANTS TO IMPROVE QUALITY OF SCHOOLS OF MEDICINE, OSTEOPATHY, DENTISTRY, PUBLIC HEALTH, VETERINARY MEDICINE, OPTOMETRY, PHARMACY, AND PODIATRY

AMENDMENTS

1976—Pub. L. 94-484, title V, § 501(e), Oct. 12, 1976, 90 Stat. 2293, effective Oct. 1, 1977, in Part E heading, inserted reference to "Public Health," following "Dentistry," and deleted "and Contracts" and "; Health Manpower Education Initiative Awards" following "Grants" and "Podiatry".

1971—Pub. L. 92-157, title I, § 104, Nov. 18, 1971, 85 Stat. 437, substituted as the heading of Part E "Grants and Contracts to Improve Quality of Schools of Medicine, Osteopathy, Dentistry, Veterinary Medicine, Optometry, Pharmacy, and Podiatry: Health Manpower Education Initiative Awards" for "Institutional and Special Project Grants for Training of Health Professions Personnel".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 292b of this title.

§ 295f. Capitation grants

(a) Grant computation

The Secretary shall make annual grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry for the support of the education programs of such schools. The amount of the annual grant to each such school with an approved application shall be computed for each fiscal year as follows:

(1) Each school of medicine, osteopathy, and dentistry shall receive—

(A) for the fiscal year ending September 30, 1978, $2,000 for each full-time student enrolled in such school in the school year beginning in such fiscal year,

(B) for the fiscal year ending September 30, 1979, $2,050 for each full-time student enrolled in such school in the school year beginning in such fiscal year, and

(C) for the fiscal year ending September 30, 1980, $2,100 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

(2)(A) Each school of public health shall receive for the fiscal year ending September 30, 1978, and for each of the next two fiscal years an amount equal to the product of—

(i) $1,400, and

(ii) the sum of (I) the number of full-time students enrolled in such school in the school year beginning in such fiscal year, and (II) the number of full-time equivalents of part-time students, determined pursuant to subparagraph (B), for such school for such school year.

(B) For purposes of subparagraph (A) the number of full-time equivalents of part-time students for a school of public health for any school year is a number equal to—

(i) the total number of credit hours of instruction in such year for which part-time students of such school, who are pursuing a course of study leading to a graduate degree in public health or an equivalent degree, have enrolled, divided by

(ii) the greater of (I) the number of credit hours of instruction which a full-time student of such school was required to take in such year, or (II) 9,

rounded to the next highest whole number.

(3) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of veterinary medicine shall receive $1,450 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

(4) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of optometry shall receive

$765 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

(5) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of pharmacy (other than a school of pharmacy with a course of study of more than four years) shall receive $695 for each full-time student enrolled in such school in the school year beginning in such fiscal year. Each school of pharmacy with a course of study of more than four years shall receive $695 for each full-time student enrolled in the last four years of such school. For purposes of section 295f-1 of this title, a student enrolled in the first year of the last four years of such school shall be considered a first-year student.

(6) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of podiatry shall receive $965 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

(b) Apportionment of appropriations

Notwithstanding subsection (a) of this section, if the aggregate of the amounts of the grants to be made in accordance with such subsection for any fiscal year to schools of either medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry with approved applications exceeds the total of the amounts appropriated for such category of schools under the appropriate paragraph of subsection (e) of this section for such grants, the amount of a school's grant with respect to which such excess exists shall for such fiscal year be an amount which bears the same ratio to the amount determined for the school under subsection (a) of this section as the total of the amounts appropriated for that year under the appropriate paragraph of subsection (e) of this section for grants to schools of the same category as such school bears to the amount required to make grants in accordance with subsection (a) of this section to each of the schools of that category with approved applications.

(c) Enrollment determinations; "full-time students"

(1) For purposes of this section, regulations of the Secretary shall include provisions relating to the determination of the number of students enrolled in a school or in a particular year-class in a school on the basis of estimates, on the basis of the number of students who in an earlier year were enrolled in a school or in a particular year-class, or on such other basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

(2) For purposes of this section, the term "full-time students" (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor or master of science in pharmacy or an equivalent degree, doctor of optometry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, or doctor of podiatry or an equivalent degree or to a graduate degree in public health or equivalent degree. In the case of a training program of a school designed to permit the students enrolled in such program to complete, within six years after completing secondary school, the requirements for degree of doctor of medicine, doctor of dentistry or an equivalent degree, or doctor of osteopathy, the term "full-time students" shall only include students enrolled on a full-time basis in the last four years of such program and for purposes of section 295f-1 of this title, students enrolled in the first of the last four years of such program shall be considered as first-year students.

(d) Applications for new schools

In the case of a new school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry, which applies for a grant under this section in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment for purposes of subsection (a) of this section shall be the number of full-time students which the Secretary determines, on the basis of assurances provided by the school, will be enrolled in the school, in the fiscal year after the fiscal year in which the grant is made.

(e) Authorization of appropriations

(1) There are authorized to be appropriated $124,182,000 for the fiscal year ending September 30, 1978, $131,683,800 for the fiscal year ending September 30, 1979, and $139,400,100 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of medicine.

(2) There are authorized to be appropriated $8,680,000 for the fiscal year ending September 30, 1978, $9,337,750 for the fiscal year ending September 30, 1979, and $10,159,800 for the fiscal year ending September 30, 1980, for payments under grants under this section for schools of osteopathy.

(3) There are authorized to be appropriated $43,798,000 for the fiscal year ending September 30, 1978, $45,409,550 for the fiscal year ending September 30, 1979, and $46,909,800 for the fiscal year ending September 30, 1980, for payments under grants under this section for schools of dentistry.

(4) There are authorized to be appropriated $9,739,800 for the fiscal year ending September 30, 1978, $10,462,200 for the fiscal year ending September 30, 1979, and $11,060,000 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of public health.

(5) There are authorized to be appropriated $10,219,600 for the fiscal year ending September 30, 1978, $10,548,750 for the fiscal year ending September 30, 1979, and $10,705,350 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of veterinary medicine.

(6) There are authorized to be appropriated $3,204,585 for the fiscal year ending September 30, 1978, $3,272,670 for the fiscal year ending September 30, 1979, and $3,366,000 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of optometry.

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(7) There are authorized to be appropriated $16,989,970 for the fiscal year ending September 30, 1978, $17,110,205 for the fiscal year ending September 30, 1979, and $17,368,050 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of pharmacy.

(8) There are authorized to be appropriated $2,267,750 for the fiscal year ending September 30, 1978, $2,270,645 for the fiscal year ending September 30, 1979, and $2,285,120 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of podiatry.

(July 1, 1944, ch. 373, title VII, § 770, as added Oct. 22, 1965, Pub. L. 89-290, § 2(a), 79 Stat. 1052, and amended Aug. 16, 1968, Pub. L. 90-490, title I, § 111(a), 82 Stat. 774; Nov. 18, 1971, Pub. L. 92-157, title I, § 104, 85 Stat. 437; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(k), title V, § 501(a)-(c), 90 Stat. 2245, 2290, 2291.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-484, § 501(a), in revising the text, authorized grants to schools of public health, substituted provisions for grants to listed health professions schools for fiscal years ending Sept. 30, 1978, through 1980, based on number of full-time enrolled students for prior general provision for such grants for any fiscal year, deleted concluding sentence providing that part of a grant to any school computed on the number of enrollment bonus students enrolled in such school may not exceed $150,000 for each class in which such students are enrolled, and made other changes as described hereunder.

Subsec. (a)(1). Pub. L. 94-484, § 501(a), substituted provision for grants to schools of medicine, osteopathy, and dentistry in amount of $2,000; $2,050; and $2,100 per student for fiscal years ending Sept. 30, 1978, through 1980, for prior provisions for grants to four year schools in amount of $2,500 for first three years and $4,000 for graduating students; three year schools in amount of $2,500 for first two years and $6,000 for graduating students; six year program schools in amount of $2,500 for last three years and $6,000 for graduating students; and grant of $1,000 per student for training of physicians' assistants or dental therapists, and grant of $1,000 for each enrollment bonus student.

Subsec. (a)(2). Pub. L. 94-484, § 501(a), added provisions for grant to schools of public health and deleted provisions for grant to two-year schools of medicine in amount of $2,500 per student in the last two years of the schools' training program, $1,000 for each enrollment bonus student, and $1,000 per student in program for training of physicians' assistants.

Subsec. (a)(3). Pub. L. 94-484, § 502(a), decreased grant to schools of veterinary medicine to $1,450 from $1,750 per student and deleted provision for receipt of $700 for each enrollment bonus student.

Subsec. (a)(4). Pub. L. 94-484, § 501(a), decreased grant to schools of optometry to $765 from $800 per student and deleted provision for receipt of $320 for each enrollment bonus student.

Subsec. (a)(5). Pub. L. 94-484, § 501(a), decreased grant to schools of pharmacy, whether having a four year or more than four year course of study, to $695 from $800 and deleted provision for receipt of $320 for each enrollment bonus student.

Subsec. (a)(6). Pub. L. 94-484, § 501(a), increased grant to schools of podiatry to $965 from $800 per student and deleted provision for receipt of $320 for each enrollment bonus student.

Subsec. (b). Pub. L. 94-484, § 501(b), substituted apportionment of appropriations provision for prior provision for payment of an additional $50,000 to a school of medicine, osteopathy, or dentistry having a first-year student enrollment of not more than fifty in a fiscal year (beginning after June 30, 1971) for the fiscal year of such enrollment and the succeeding fiscal year.

Subsec. (c). Pub. L. 94-484, § 501(c)(2)(A), (B), redesignated former subsec. (h) as (c), and in par. (1), substituted "this section" for "this part and Part F of this subchapter" and deleted provision for determination of number of graduates on basis of number of graduates in an earlier year, and in par. (2), substituted "this section" for "this part and Part F of this subchapter" and defined "full-time students" to include study leading to master of science in pharmacy or an equivalent degree, graduate degree in public health or an equivalent degree, and listed professional degrees where enrolled in a six year training program. Pub. L. 94-484, § 501(c)(1), repealed subsec. (c) provisions respecting apportionment of appropriations, now covered in subsec. (b) of this section.

Subsec. (d). Pub. L. 94-484, § 501(c)(3)(A)-(C), made the provision applicable to application for a grant by a new school of public health, deleted reference to subsec. (b) of this section, and redesignated such amended former subsec. (i) as subsec. (d), respectively. Pub. L. 94-484, § 501(c)(1), repealed subsec. (d) provisions respecting definition of enrollment bonus student.

Subsec. (e). Pub. L. 94-484, § 501(c)(4), redesignated former subsec. (j), as amended by Pub. L. 94-484, § 101(k)(1), (2), as subsec. (e), and substituted pars. (1) through (8) appropriations authorizations for fiscal years ending Sept. 30, 1978, through 1980, for grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry, respectively, for former subsec. (j) appropriations authorizations of $200,000,000; $213,000,000; $238,000,000; $238,000,000; $238,000,000; and $133,700,000 for par. (1) grants to schools of medicine, osteopathy, and dentistry and $34,000,000; $37,000,000; $41,000,000; $41,000,000; $41,000,000; and $29,300,000 for par. (2) grants to schools of veterinary medicine, optometry, pharmacy, and podiatry, for fiscal years ending June 30, 1972, through 1976, and Sept. 30, 1977, respectively. Pub. L. 94-484, § 501(c)(1), repealed subsec. (e) provisions respecting class size and application requirements for bonus enrollment students, par. (1) concerning itself with school year 1971-1972, and par. (2) with school years after school year 1971-1972.

Subsecs. (f), (g). Pub. L. 94-484, § 501(c)(1), repealed provisions of subsec. (f) relating to maintenance of effort and enrollment increase requirements and subsec. (g) relating to plan requirement, on-site inspections, and reports to congressional committees.

Subsec. (h). Pub. L. 94-484, § 501(c)(2)(A), redesignated former subsec. (h) as (c).

Subsec. (i). Pub. L. 94-484, § 501(c)(3)(C), redesignated former subsec. (i) as (d).

Subsec. (j). Pub. L. 94-484, § 101(k)(1), (2), authorized par. (1) appropriations authorization of $238,000,000 for fiscal years ending June 30, 1975, and 1976, and $133,700,000 for fiscal year ending Sept. 30, 1977, for grants to schools of medicine, osteopathy, and dentistry and par. (2) appropriations authorization of $41,000,000 for fiscal years ending June 30, 1975, and 1976, and $29,300,000 for fiscal year ending Sept. 30, 1977, for grants to schools of veterinary medicine, optometry, pharmacy, and podiatry. Pub. L. 94-484, § 501(c)(4), redesignated such amended former subsec. (j) as subsec. (e).

1971—Pub. L. 92-157, in revising the text, substituted provisions incorporated in subsecs. (a)-(j) respecting capitation grants for provisions respecting authorization of appropriations of $117,000,000 and $168,000,000 for fiscal years ending June 30, 1970, and 1971, respectively, for institutional grants and special project grants under former provisions of sections 295f-1 and 295f-2 of this title.

1968—Pub. L. 90-490 substituted appropriations authorization of $117,000,000 and $168,000,000 for fiscal years ending June 30, 1970, and 1971, respectively for institutional and special project grants under sections

295f-1 and 295f-2 of this title to be apportioned for grants under each such section by the Secretary for appropriations authorization of $20,000,000; $40,000,000; $60,000,000; and $80,000,000 for fiscal years ending June 30, 1966, 1967, 1968, and 1969, respectively, for grants to improve quality of educational programs in schools of medicine, dentistry, osteopathy, optometry, and podiatry.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 501(f) of Pub. L. 94-484 provided that: "The amendments made by subsections (a), (b), and (c) [to this section] shall apply with respect to appropriations under section 770 of the Public Health Service Act [this section], and grants under that section [this section], for fiscal years beginning after September 30, 1977."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 111(d) of Pub. L. 90-490 provided that: "The amendments made by this section [to this section and sections 295f-1 to 295f-4 and 295g(d) of this title] shall apply with respect to appropriations for fiscal years ending after June 30, 1969."

AUTHORIZATION OF APPROPRIATIONS

Section 501(d) of Pub. L. 94-484 provided that: "For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, there are authorized to be appropriated such sums as may be necessary to continue to make annual grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, and podiatry under section 770(a) of the Public Health Service Act (as in effect on September 30, 1977) [subsec. (a) of this section] based on the number of enrollment bonus students (determined in accordance with subsections (d) and (e) of section 770 of such Act (as so in effect) [subsecs. (d) and (e) of this section]) enrolled in such schools who were first-year students in such schools for school years ending before September 30, 1977, except that the amount of any grant made to such a school from sums appropriated under this subsection may not exceed the amount of the grant the school received in the fiscal year ending September 30, 1977, based on the number of such students enrolled in it."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254d, 292c, 292h, 292j, 294j, 294t, 295f-1, 295f-2 of this title.

§ 295f-1. Eligibility for capitation grants

(a) General requirements

The Secretary shall not make a grant under section 770 to any school in a fiscal year beginning after September 30, 1977, unless the application for the grant contains, or is supported by, assurances satisfactory to the Secretary that—

(1) the first-year enrollment of full-time students in the school in the school year beginning in the fiscal year in which the grant applied for is to be made will not be less than the first-year enrollment of such students in the school in the preceding school year or in the school year beginning in the fiscal year ending September 30, 1976, whichever is greater; and

(2) the applicant will expend in carrying out its functions as a school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry, as the case may be, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought.

(b) Medical schools

(1) To be eligible for a grant under section 295f of this title each school of medicine shall, in addition to the requirements of subsection (a), meet the applicable requirements of paragraphs (2) and (3).

(2)(A)(i) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15, 1977, in direct or affiliated medical residency training programs in primary care is at least 35 percent of the number of filled first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 295f of this title for the fiscal year ending September 30, 1978, a school of medicine shall have on July 15, 1978, at least 35 percent of its filled first year positions, as determined under subparagraphs (C) and (D), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

(ii) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15, 1978, in direct or affiliated medical residency training programs in primary care is at least 40 percent of the number of filled first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 770 for the fiscal year ending September 30, 1979, a school of medicine shall have on July 15, 1979, at least 40 percent of its filled first year positions, as determined under subparagraphs (C) and (D), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

(iii) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15 of any year (beginning with 1979) in direct or affiliated medical residency training programs in primary care is at least 50 percent of the number of filled first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 295f of this title for the fiscal year ending on September 30 of the following year, a school of medicine shall have on July 15 of such following year at least 50 percent of its filled first year positions, as determined under subparagraphs (C) and (D), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

(B) The Secretary shall determine what percent of all the positions filled, as of July 15, 1977, and July 15 of each subsequent year, in all direct or affiliated medical residency training programs are filled positions in such programs in primary care. In determining the number of such positions in primary care on July 15, 1977, or on July 15 of a subsequent year, the Secretary shall deduct from such number a number equal to the number of individuals who were in a first year position in any direct or affiliated medical residency training

program in primary care as of July 15 of the previous year and who on the date for which the determination is to be made were not in any direct or affiliated medical residency training program in primary care. Each determination under this subparagraph shall, not later than 45 days after the date for which the determination is made, be published in the Federal Register and reported in writing to each school of medicine in the States and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Human Resources of the Senate.

(C) In determining if a school of medicine meets an applicable requirement of clause (i), (ii), or (iii) of subparagraph (A) for a fiscal year, the number of filled first year positions in direct or affiliated medical residency training programs of such school in primary care on July 15 in such fiscal year shall be reduced by the number of individuals who were in a first year position in a direct or affiliated medical residency training program of such school in primary care on July 15 in the previous fiscal year and who on July 15 in the fiscal year to which the requirement applies were not in a direct or affiliated medical residency training program of such school in primary care. Each determination, with respect to a school, under this subparagraph shall, not later than 45 days after the date on which the determination is made, be reported in writing to such school and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Human Resources of the Senate.

(D) The requirement under subparagraph (A) that a school of medicine have a particular percent of its filled first-year positions in its direct or affiliated medical residency training programs in primary care on a date in order to be eligible for a grant under section 295f of this title shall be waived by the Secretary if he determines that (i) such school has made a good faith effort to comply with such requirement, and (ii) such school has at least 98 percent of such percent of such positions in primary care on such date.

(E) The Secretary shall not make any grant under section 295f of this title to a school of medicine for any fiscal year if the Secretary, after providing notice and opportunity for a hearing, determines that in the fiscal year such school—

(i) terminated or failed to renew an affiliation with a medical residency training program for the purpose of meeting the requirements of this paragraph, and

(ii) after such a termination or failure to renew, provided support for such medical residency training program (including any interchange of medical residents, students, or faculty between the school and such program, the offering of any faculty position at such school to any individual on the staff of such entity who has any responsibility for such program, or the provision or receipt by such school of any funds for such program).

(F) For purposes of this paragraph:

(i) The term "direct or affiliated medical residency training program" means a medical residency training program with which a school of medicine is affiliated or has a similar arrangement (including any arrangement which provides for any interchange of medical residents, students, or faculty between the school and such program, the offering of any faculty position at such school to any individual on the staff of such entity who has any responsibility for such program, or the provision or receipt by such school of any funds for such program), as determined under regulations of the Secretary, or which is primarily conducted in facilities owned by a school of medicine.

(ii) The term "primary care" means general internal medicine, family medicine, or general pediatrics.

(iii) The term "medical residency training program" means a program which trains graduates of schools of medicine and schools of osteopathy in a medical specialty and which provides the graduate education required by the appropriate specialty board for certification in such specialty. Such term does not include a residency training program in an osteopathic hospital.

(3)(A) To be eligible for a grant under section 295f of this title a school of medicine shall, in its application for such grant, give assurances satisfactory to the Secretary that, except as provided in subparagraphs (C) and (D), the school will reserve positions, in the school year beginning immediately before the fiscal year for which such grant is applied for, for students described in subparagraph (B).

(B) No later than August 15, 1977, and August 15 of each of the next two years, the Secretary shall identify the citizens of the United States who, before October 12, 1976, were students in a school of medicine not in a State and who by the date of the identification made under this subparagraph—

(i) successfully completed at least two years in such school of medicine, and

(ii) successfully completed part I of the National Board of Medical Examiners' examination (or any successor to such examination).

The Secretary shall equitably apportion a number of positions adequate to fill the needs of students described in subparagraph (B) among the schools of medicine in the States.

(C) A school of medicine shall not be required to enroll a student described in subparagraph (B) if—

(i) the individual does not meet, as determined under guidelines established by the Secretary by regulation, the entrance requirements of the school (other than requirements related to academic qualifications or to place of residence), or

(ii) enrollment of such individual will, as determined by the Secretary after consultation with the appropriate accreditation body, result in the school's not meeting the accreditation standards of such body.

(D) The Secretary may waive the requirements of this paragraph upon a finding that, because of the inadequate size of the population served by the hospital or clinical facility in which such school conducts its clinical training, compliance by such school with such assurances will prevent such school from providing high quality clinical training for the students

added by the application of this paragraph to such school.

(c) Schools of osteopathy

(1) To be eligible for a grant under section 295f of this title for a fiscal year beginning after September 30, 1977, a school of osteopathy shall, in addition to the requirements of subsection (a), submit to the Secretary and have approved by him before the grant applied for is made, a plan to train full-time students in ambulatory care settings, in the school year beginning in the fiscal year for which the grant is made and in each school year thereafter beginning in a fiscal year for which such a grant is made, either in areas geographically remote from the main site of the teaching facilities of the applicant (or any other school of osteopathy which has joined with the applicant in the submission of the plan) or in areas in which medically underserved populations reside.

(2) More than one applicant may join in the submission of a plan described in paragraph (1). No plan may be approved by the Secretary unless—

(A) the application for a grant under section 295f of this title of each school which has joined in the submission of the plan contains or is supported by assurances satisfactory to the Secretary that all of the full-time students who will graduate from such school will upon graduation have received at least 6 weeks (at least 3 of which shall be consecutive) of clinical training in an area which is geographically remote from the main site of the training facilities of such school or in which medically underserved populations reside;

(B) the plan contains a list of the areas where the training under such plan is to be conducted, a detailed description of the type and amount of training to be given in such areas, and provision for periodic review by experts in osteopathic education of the desirability of providing training in such areas and of the quality of training rendered in such areas;

(C) the plan contains a specific program for the appointing, as members of the faculty of the school or schools submitting the plan, of practicing physicians to serve as instructors in the training program in such areas; and

(D) the plan contains a plan for frequent counseling and consultation between the faculty of the school or schools at the main site of their training facilities and the instructors in the training program in such areas.

(d) Schools of dentistry

(1) To be eligible for a grant under section 295f of this title for a fiscal year beginning after September 30, 1977, a school of dentistry shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) and of paragraph (3) or (4).

(2) In the school year beginning in the fiscal year ending September 30, 1978, and in each school year thereafter beginning in a fiscal year for which a grant under section 295f of this title is applied for, at least 70 percent of a school of dentistry's filled positions in dental specialty programs which are in excess of the number of filled positions in its programs in the school year beginning in the fiscal year ending September 30, 1977, shall be positions in dental specialty programs in general dentistry or pedodontics.

(3) A school of dentistry shall maintain an enrollment of full-time first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 295f of this title is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

(A) by 10 percent of such number if such number was not more than 100, or

(B) by 5 percent of such number, or 10 students, whichever is greater, if such number was more than 100.

(4)(A) A school of dentistry shall submit to the Secretary and have approved by him before the grant applied for is made, a plan to train full-time students in ambulatory care settings, in the school year beginning in the fiscal year for which the grant is made and in each school year thereafter beginning in a fiscal year for which such a grant is made, either in areas geographically remote from the main site of the teaching facilities of the applicant (or any other school of dentistry which has joined with the applicant in the submission of the plan) or in areas in which medically underserved populations reside.

(B) More than one applicant may join in the submission of a plan described in subparagraph (A). No plan may be approved by the Secretary unless—

(i) the application for a grant under section 295f of this title of each school which has joined in the submission of the plan contains or is supported by assurances satisfactory to the Secretary that all of the full-time students who will graduate from such school will upon graduation have received at least 6 weeks (in the aggregate) of clinical training in an area which is geographically remote from the main site of the training facilities of such school or in which medically underserved populations reside;

(ii) the plan contains a list of the areas where the training under such plan is to be conducted, a detailed description of the type and amount of training to be given in such areas, and provision for periodic review by experts in dental education of the desirability of providing training in such areas and of the quality of training rendered in such areas;

(iii) the plan contains a specific program for the appointing, as members of the faculty of the school or schools submitting the plan, of practicing dentists to serve as instructors in the training program in such areas; and

(iv) the plan contains a plan for frequent counseling and consultation between the faculty of the school or schools at the main site of their training facilities and the instructors in the training program in such areas.

(e) Schools of public health

(1) To be eligible for a grant under section 295f of this title for a fiscal year beginning after September 30, 1977, a school of public

health shall, in addition to the requirements of subsection (a), maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 295f of this title is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

(A) by 5 percent of such number if such number was not more than 100, or

(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

(2) The Secretary may waive (in whole or in part) application to a school of public health of the requirement of paragraph (1) if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Commissioner of Education) that compliance by such school with such requirement will prevent it from maintaining its accreditation.

(f) Schools of veterinary medicine

(1) To be eligible for a grant under section 295f of this title for a fiscal year beginning after September 30, 1977, a school of veterinary medicine shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) and paragraph (3) or (4).

(2) An application of a school of veterinary medicine for a grant under section 295f of this title shall contain or be supported by assurances satisfactory to the Secretary that the clinical training of the school shall emphasize predominantly care to food-producing animals or to fibre-producing animals, or to both types of animals.

(3) A school of veterinary medicine shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 295f of this title is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

(A) by 5 percent of such number if such number was not more than 100, or

(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

(4) An application of a school of veterinary medicine shall contain or be supported by assurances satisfactory to the Secretary that for the school year beginning in the fiscal year for which a grant is made under section 295f of this title at least 30 percent of the enrollment of full-time, first-year students in such school will be comprised of students who are residents of States in which there are no accredited schools of veterinary medicine.

(g) Schools of optometry

(1) To be eligible for a grant under section 295f of this title for a fiscal year beginning after September 30, 1977, a school of optometry shall, in addition to the requirements of subsection (a), meet the requirement of paragraph (2) or (3).

(2) A school of optometry shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 295f of this title is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

(A) by 5 percent of such number if such number was not more than 100, or

(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

(3) An application of a school of optometry shall contain or be supported by assurances satisfactory to the Secretary that for the school year beginning in the fiscal year for which a grant is made under section 295f of this title at least 25 percent (or 50 percent if the applicant is a nonprofit private school of optometry) of the first-year enrollment of full-time students in such school will be comprised of students who are residents of States in which there are no accredited schools of optometry.

(h) Schools of podiatry

(1) To be eligible for a grant under section 295f of this title for a fiscal year beginning after September 30, 1977, a school of podiatry shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) or (3).

(2) A school of podiatry shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 295f of this title is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

(A) by 5 percent of such number if such number was not more than 100, or

(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

(3) An application of a school of podiatry shall contain or be supported by assurances satisfactory to the Secretary that, for the school year beginning in the fiscal year for which a grant is made under section 295f of this title, at least 40 percent of the enrollment of full-time, first-year students in such school will be comprised of students who are residents of States in which there are no accredited schools of podiatry.

(i) Schools of pharmacy

To be eligible for a grant under section 295f of this title for a fiscal year beginning after September 30, 1977, a school of pharmacy's application for such a grant shall, in addition to the assurances required by subsection (a), contain or be supported by assurances that each student who is enrolled in the school will before graduation undergo a training program in clinical pharmacy, which shall include (1) an inpatient and outpatient clerkship experience

in a hospital, extended care facility, or other clinical setting; (2) interaction with physicians and other health professionals; (3) training in the counseling of patients with regard to the appropriate use of and reactions to drugs; and (4) training in drug information retrieval and analysis in the context of actual patient problems.

(July 1, 1944, ch. 573, title VII, § 771, as added Oct. 12, 1976, Pub. L. 94-484, title V, § 502, 90 Stat. 2293; S. Res. 4, Feb. 4, 1977.)

PRIOR PROVISIONS

A prior section 295f-1, act July 1, 1944, ch. 373, title VII, § 771, as added Oct. 22, 1965, Pub. L. 89-290, § 2(a), 79 Stat. 1052, and amended Aug. 16, 1968, Pub. L. 90-490, title I, § 111(a), 82 Stat. 775; Nov. 2, 1970, Pub. L. 91-519, title I, § 101(a), 84 Stat. 1343; Nov. 18, 1971, Pub. L. 92-157, title I, § 104, 85 Stat. 443; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(*l*), 90 Stat. 2245, authorized start-up assistance, providing in: subsec. (a) for eligibility of new schools, conditions, amount of grant, new school status, payments, advance or reimbursement, intervals: conditions, authorization of appropriations of $10,000,000 for fiscal years ending June 30, 1972, through 1976, and $5,100,000 for fiscal year ending Sept. 30, 1977; and subsec. (b) for two-year schools of medicine with prospective accredited status, amount of grant, year of expenditure, limitation of funds, submission of applications by Oct. 1, 1977, approval by Secretary, enrollment date for third-year students no later than school year beginning in fiscal year ending Sept. 30, 1978, payments, advances or reimbursement, and intervals: conditions, and was repealed by Pub. L. 94-484, title V, § 502, Oct. 12, 1976, 90 Stat. 2293, effective with respect to fiscal years beginning after Sept. 30, 1977, as provided in Effective Date note set out below.

CHANGE OF NAME

The Committee on Labor and Public Welfare of the Senate was abolished and replaced by the Committee on Human Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE

Section 502 of Pub. L. 94-484 provided in part that enactment of this section and repeal of sections 771 to 774 of act July 1, 1944, ch. 373, title VII, as added Oct. 22, 1965, Pub. L. 89-290, § 2(a), 79 Stat. 1052-1054, and later amended [formerly classified to sections 295f-1 to 295f-4 of this title] shall be effective with respect to fiscal years beginning after Sept. 30, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293a, 295f, 295f-2, 295f-3 of this title.

§ 295f-2. Applications for capitation, start-up, special project, and financial distress grants

(a) Filing dates

The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under section 295f of this title for any fiscal year must be filed.

(b) Eligibility conditions

To be eligible for a grant under section 295f of this title or subsection (a) or (b) of section 778 the applicant must (1) be a public or other nonprofit school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry, and (2) be accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirement of this clause shall be deemed to be satisfied if (A) in the case of a school which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the Secretary makes a final determination as to approval of the application, or (B) in the case of any other school, the Commissioner finds after such consultation and after consultation with the Secretary that there is reasonable ground to expect that, with the aid of a grant (or grants) under those sections, having regard for the purposes of the grant for which application is made, such school will meet such accreditation standards within a reasonable time.

(c) Consultation with Council

The Secretary shall not approve or disapprove any application for a grant under section 295f of this title except after consultation with the National Advisory Council on Health Professions Education (established by section 293e of this title).

(d) Approval by Secretary; contents

A grant under section 295f of this title may be made only if the application therefor—

(1) is approved by the Secretary upon his determination that the applicant (and its application) meet the applicable eligibility conditions prescribed by section 295f of this title or subsection (b) of this section;

(2) contains such additional information as the Secretary may require to make the determinations required of him under the section authorizing the grant for which the application is made and such assurances as he may find necessary to carry out the purposes of such section; and

(3) provides for such fiscal control and accounting procedures and reports, including the use of such standard procedures for the recording and reporting of financial information, as the Secretary may prescribe, and access to the records of the applicant, as the Secretary may require to enable him to determine the costs to the applicant of its program for the education or training of students.

(July 1, 1944, ch. 373, title VII, § 772, formerly § 775, as added Nov. 18, 1971, Pub. L. 92-157, title I, § 104, 85 Stat. 448, renumbered and amended Oct. 12, 1976, Pub. L. 94-484, title V, § 503(a), 90 Stat. 2300.)

REFERENCES IN TEXT

Subsection (a) or (b) of section 778, referred to in subsec. (b), means subsection (a) or (b) of section 778 of the Public Health Service Act. No section 778 of such act, however, has been enacted.

CODIFICATION

Section was formerly classified to section 295f-5 of this title.

PRIOR PROVISIONS

A prior section 295f-2, act July 1, 1944, ch. 373, title VII, § 772, as added Oct. 22, 1965, Pub. L. 89-290, § 2(a), 79 Stat. 1053, and amended Aug. 16, 1968, Pub. L. 90-490, title I, § 111(a), (e), 82 Stat. 776, 777; Nov. 2, 1970, Pub. L. 91-519, title I, § 102(a), 84 Stat. 1343; Nov. 18, 1971, Pub. L. 92-157, title I, § 104, 85 Stat. 444; Nov. 16, 1973, Pub. L. 93-154, § 3(b), 87 Stat. 604; July 12, 1974, Pub. L. 93-348, title II, § 215, 88 Stat. 354; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(m), 90 Stat. 2245, provided special project grants and contracts, subsec. (a) containing a description of programs, subsec. (b) relating to additional related uses, subsec. (c) to contract authority, and subsec. (d) to authorization of appropriations in amounts of $118,000,000; $138,000,000; $156,000,000; $156,000,000; $156,000,000; and $40,850,000 for fiscal years ending June 30, 1972, through 1976, and Sept. 30, 1977, and was repealed by Pub. L. 94-484, title V, § 502, Oct. 12, 1976, 90 Stat. 2293, effective with respect to fiscal years beginning after Sept. 30, 1977, as provided in Effective Date note set out under section 295f-1 of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-484, § 503(a)(1), substituted "section 295f of this title" for "section 295f, 295f-1, 295f-2, or 295f-3 of this title".

Subsec. (b). Pub. L. 94-484, § 503(a)(1), (2), substituted "section 295f of this title or subsection (a) or (b) of section 778" for "section 295f, 295f-1, 295f-2, or 295f-3 of this title" and authorized an applicant to be a public or other nonprofit school of public health.

Subsec. (c). Pub. L. 94-484, § 503(a)(3), substituted "section 295f of this title" for "this part".

Subsec. (d). Pub. L. 94-484, § 503(a)(1), substituted in introductory text "section 295f of this title" for "section 295f, 295f-1, 295f-2, or 295f-3 of this title".

Subsec. (d)(1). Pub. L. 94-484, § 503(a)(4), substituted "section 295f of this title" for "section 295f, 295f-1, or 295f-3 of this title".

Subsec. (d)(3). Pub. L. 94-484, § 503(a)(5), inserted "including the use of such standard procedures for the recording and reporting of financial information," following "procedures and reports," and substituted "Secretary may require to enable him to determine the costs to the applicant of its program for the education or training of students" for "Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under such grant".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 503(c) of Pub. L. 94-484 provided that: "The amendments made by this section [amending this section and repealing sections 244-1 and 245a of this title] shall take effect October 1, 1977.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295f-3 of this title.

§§ 295f-3, 295f-4. Repealed. Pub. L. 94-484, title V, § 502, Oct. 12, 1976, 90 Stat. 2293

Section 295f-3, act July 1, 1944, ch. 373, title VII, § 773, as added Oct. 22, 1965, Pub. L. 89-290, § 2(a), 79 Stat. 1053, and amended Aug. 16, 1968, Pub. L. 90-490, title I, § 111(b), 82 Stat. 776; Nov. 18, 1971, Pub. L. 92-157, title I, § 104, 85 Stat. 446; July 12, 1974, Pub. L. 93-348, title I, § 106, 88 Stat. 347; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(n), 90 Stat. 2245, authorized grants to assist health professions schools which were in financial distress, providing in: subsec. (a) authorization of appropriations of $20,000,000; $15,000,000; $15,000,000; $15,000,000; $15,000,000; $15,000,000; and $5,400,000 for fiscal years ending June 30, 1972, through 1976, and Sept. 30, 1977; subsec. (b) authority of Secretary; subsec. (c) terms and conditions, and subsec. (d) requisite assurances.

Section 295f-4, act July 1, 1944, ch. 373, title VII, § 774, as added Oct. 22, 1965, Pub. L. 89-290, § 2(a), 79 Stat. 1054, and amended Aug. 16, 1968, Pub. L. 90-490, title I, § 111(c)(1), (2), 82 Stat. 777; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(b)(2), 84 Stat. 1311; Nov. 18, 1971, Pub. L. 92-157, title I, § 104, 85 Stat. 446; Nov. 16, 1973, Pub. L. 93-154, § 3(c), 87 Stat. 605; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(o), 90 Stat. 2245, authorized health manpower education initiative awards, providing in: subsec. (a) description of projects, additional related uses, and contract authority; subsec. (b) description of special projects and limitation of funds; subsec. (c) applications, approval by Secretary and regulations, amount of grant, payments: advances or reimbursement, intervals, conditions; subsec. (d) coordination with regional medical program; and subsec. (e) authorization of appropriations of $45,000,000; $90,000,000; $135,000,000; $135,000,000; $135,000,000; and $41,170,000 for fiscal years ending June 30, 1972, through 1976, and Sept. 30, 1977.

EFFECTIVE DATE OF REPEAL

Sections repealed effective with respect to fiscal years beginning after Sept. 30, 1977, see section 502 of Pub. L. 94-484, set out in part as a note under section 295f-1 of this title.

§§ 295f-5, 295f-6. Transferred

CODIFICATION

Section 295f-5, act July 1, 1944, ch. 373, title VII, § 772, formerly § 775, as added Nov. 18, 1971, Pub. L. 92-157, title I, § 104, 85 Stat. 448, renumbered by Pub. L. 94-484, title V, § 503(a), Oct. 12, 1976, 90 Stat. 2300, which related to applications for capitation, start-up, special project, and financial distress grants, was transferred to section 295f-2 of this title.

Section 295f-6, act July 1, 1944, ch. 373, title VII, § 789, formerly § 776, as added Nov. 16, 1973, Pub. L. 93-154, § 3(a), 87 Stat. 604, renumbered by Pub. L. 94-484, title VIII, § 801(b), Oct. 12, 1976, 90 Stat. 2322, which related to training in emergency medical services, was transferred to section 295g-9 of this title.

PART F—GRANTS AND CONTRACTS FOR PROGRAMS AND PROJECTS

AMENDMENTS

1976—Pub. L. 94-484, title VIII, § 801(a), Oct. 12, 1976, 90 Stat. 2311, substituted Part F heading "Grants and Contracts for Programs and Projects" for "Scholarship Grants" and deleted headings: "Subpart I—Grants for Scholarships to Students Studying in United States" preceding section 295g of this title, "Subpart II—Scholarships by Secretary to Citizens of United States Who Are Full-Time Students in Schools of Medicine Located Outside United States" preceding section 295g-11 of this title, and "Subpart III—Physician Shortage Area Scholarship Program" preceding section 295g-21 of this title.

1971—Pub. L. 92-157, title I, § 106(b)(1), (2), Nov. 18, 1971, 85 Stat. 453, added the heading of subpart I and struck out from the heading of Part F following "Scholarship Grants" the words "to Schools of Medicine, Osteopathy, Dentistry, Optometry, Podiatry, Pharmacy, or Veterinary Medicine".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 292b of this title.

§ 295g. Project grants for establishment of departments of family medicine

(a) Authority of Secretary

The Secretary may make grants to schools of medicine and osteopathy to meet the costs of projects to establish and maintain academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in family medicine.

(b) Application; contents

The Secretary may not approve an application for a grant under subsection (a) of this section unless such application contains—

(1) assurance satisfactory to the Secretary that the academic administrative unit with respect to which the application is made will (A) be comparable to academic administrative units for other major clinical specialties offered by the applicant, (B) be responsible for directing an amount of the curriculum for each member of the student body engaged in an education program leading to the awarding of the degree of doctor of medicine or doctor of osteopathy which amount is determined by the Secretary to be comparable to the amount of curriculum required for other major clinical specialties in the school, (C) have a number of full-time faculty which is determined by the Secretary to be sufficient to conduct the instruction required by clause (B) and to be comparable to the number of faculty assigned to other major clinical specialties in the school, and (D) have control over a three-year approved or provisionally approved residency training program in family practice or its equivalent as determined by the Secretary which shall have the capacity to enroll a total of no less than twelve interns or residents per year; and

(2) such other information as the Secretary shall by regulation prescribe.

(c) Authorization of appropriations

There are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1978, $15,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980, for payments under grants under subsection (a) of this section.

(July 1, 1944, ch. 373, title VII, § 780, as added Oct. 12, 1976, Pub. L. 94-484, title VIII, § 801(a), 90 Stat. 2311.)

PRIOR PROVISIONS

A prior section 295g, act July 1, 1944, ch. 373, title VII, § 780, as added Oct. 22, 1965, Pub. L. 89-290, § 2(a), 79 Stat. 1055, and amended Aug. 16, 1968, Pub. L. 90-490, title I, §§ 111(c)(4), 122(a) to (c), 82 Stat. 777, 779; July 9, 1971, Pub. L. 92-52, § 2, 85 Stat. 144; Nov. 18, 1971, Pub. L. 92-157, title I, §§ 106(a), (b)(3), (4), 108(b)(2), title III, § 301(g), 85 Stat. 452, 453, 461, 464; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(p), 90 Stat. 2245, which related to scholarship grants for study in United States: subsec. (a) authorizing grants to professional educational institutions for annual award of scholarships to their students; subsec. (b) prescribing amount of grants for fiscal years ending June 30, 1972, through June 30, 1976, and fiscal years ending Sept. 30, 1977, through Sept. 30, 1979, for awards to students who initially received awards from grants to schools for fiscal years ending before July 1, 1976; subsec. (c) providing for eligibility of scholarship recipients for fiscal years ending June 30, 1972, through June 30, 1976, and enrolled and in good standing as full-time students and in receipt of initial scholarship awards out of grants for fiscal years ending prior to July 1, 1976, for awards from grants for fiscal years ending Sept. 30, 1977, through Sept. 30, 1979, and limiting the awards to $3,500 per year to students of exceptional financial need; subsec. (d) prescribing regulations for making grants issued by the Secretary after consultation with the National Advisory Council on Health Professions Education; and subsec. (e) respecting manner of making grant payments, was repealed by section 409(a) of Pub. L. 94-484, title IV, Oct. 12, 1976, 90 Stat. 2311.

EFFECTIVE DATE

Section 801(a) of Pub. L. 94-484 provided in part that enactment of sections 295g to 295g-8 of this title by such section 801(a) shall be effective Oct. 1, 1976.

SCHOLARSHIP GRANTS BETWEEN OCTOBER 1, 1976, AND SEPTEMBER 30, 1979, FOR SCHOLARSHIP AWARDS TO FULL-TIME STUDENTS IN GOOD STANDING AND TO MEDICAL STUDENTS IN GOOD STANDING, AND RECIPIENTS OF AWARDS PRIOR TO OCTOBER 1, 1976

Section 409(b) of Pub. L. 94-484 provided that: "The Secretary of Health, Education, and Welfare during the period beginning October 1, 1976, and ending September 30, 1979, may (1) make grants under section 780 of the Public Health Service Act (as in effect before October 1, 1976) [formerly classified to section 295g of this title] to public and nonprofit private schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, and pharmacy to enable such schools to continue making payments under scholarship awards to individuals enrolled and in good standing as full-time students who initially received such awards out of grants made to the schools under such section 780 [formerly classified to section 295g of this title] for fiscal years ending before October 1, 1976, and (2) make scholarship grants under section 784 of such Act (as in effect before October 1, 1976) [formerly classified to section 295g-21 of this title] to individuals enrolled and in good standing as medical students who initially received such grants before October 1, 1976."

§ 295g-1. Area health education centers

(a) Authority of Secretary; contracts for centers

For the purpose of improving the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system and for the purpose of encouraging the regionalization of educational responsibilities of health professions schools, the Secretary may enter into contracts for projects to assist in the planning, development, and operation of area health education center programs.

(b) Cooperative program

An area health education center program shall be a cooperative program of one or more medical or osteopathic schools and one or more nonprofit private or public area health education centers.

(c) Activities of the participating schools

Each medical or osteopathic school participating in an area health education center program shall—

(1) provide for the active participation in such program by individuals who are associated with the administration of the school and each of the departments (or specialties if the school has no such departments) of internal medicine, pediatrics, obstetrics and gynecology, surgery, psychiatry, and family medicine;

(2) provide that no less than 10 percent of all undergraduate medical or osteopathic clinical education of the school will be conducted in an area health education center and at locations under the sponsorship of such center;

(3) be responsible for, or conduct, a program for the training of physician assistants (as defined in section 292a(7) of this title) or nurse practitioners (as defined in section 296m of this title) which gives special consideration to the enrollment of individuals from, or intending to practice in, the area served by the area health education center of the program; and

(4) provide for the active participation of at least 2 schools or programs of other health professions (including a school of dentistry if there is one affiliated with the university with which the school of medicine or osteopathy is affiliated) in the educational program conducted in the area served by the area health education center.

(d) Area served by the center; activities of the center

(1) Each area health education center shall specifically designate a geographic area in which it will serve, or shall specifically designate a medically underserved population it will serve (such area or population with respect to such center in this section referred to as "the area served by the center"), which area or population is in a location remote from the main site of the teaching facilities of the school or schools which participate in the program with such center.

(2) Each area health education center shall—

(A) provide for or conduct training in health education services, including education in nutrition evaluation and counseling, in the area served by the center;

(B) assess the health manpower needs of the area served by the center and assist in the planning and development of training programs to meet such needs;

(C) provide for or conduct a medical residency training program in family medicine or general internal medicine in which no fewer than six individuals are enrolled in first-year positions in such program;

(D) provide opportunities for continuing medical education (including education in disease prevention) to all physicians and other health professionals (including allied health personnel) practicing within the area served by the center;

(E) provide continuing medical education and other support services to the National Health Service Corps members serving within the area served by the center;

(F) encourage the utilization of nurse practitioners and physician assistants within the area served by the center and the recruitment of individuals for training in such professions at the participating medical or osteopathic schools;

(G) arrange and support educational opportunities for medical and other students at health facilities, ambulatory care centers, and health agencies throughout the area served by the center; and

(H) have an advisory board of which at least 75 percent of the members shall be individuals, including both health service providers and consumers, from the area served by the center.

Any area health education center which is participating in an area health education center program in which another center has a medical residency training program described in subparagraph (C) need not provide for or conduct such a medical residency training program.

(e) Authority of Secretary; contracts for area health education center programs; contract limitations

The Secretary is authorized to enter into contracts with medical and osteopathic schools, which have cooperative arrangements with area health education centers, for the planning, development, and operation of area health education center programs. In entering into contracts under this section the Secretary shall assure that—

(1) at least 75 percent of the total funds provided to any school shall be expended by an area health education center program in the area health education centers;

(2) not more than 75 percent of the total operating funds of a program in any year shall be provided by the Secretary; and

(3) no contract shall provide funds solely for the planning or development of such a program for a period of longer than two years.

(f) Area health education center program

For the purpose of this section the term "area health education center program" means a program which is organized and operated in a manner described in subsection (b) of this section and which is capable, as determined by the Secretary, of performing each of the functions described in subsection (d)(2) of this section. The Secretary shall, by regulation, establish standards and criteria for the requirements of this section.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the fiscal year ending September 30, 1979, and $40,000,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title VII, § 781, as added Oct. 12, 1976, Pub. L. 94-484, title VIII, § 801(a), 90 Stat. 2312.)

PRIOR PROVISIONS

A prior section 295g-1, act July 1, 1944, ch. 373, title VII, § 781, as added Aug. 16, 1968, Pub. L. 90-490, title I, § 122(d), 82 Stat. 779, and amended Nov. 18, 1971, Pub. L. 92-157, title I, §§ 105(f)(3), 106(b)(4), 85 Stat. 451, 453, provided for transfer of monies to student loan fund, and was repealed by Pub. L. 94-484, title IV, § 409(a), Oct. 12, 1976, 90 Stat. 2290, effective Oct. 1, 1976, as provided in section 409(a) of Pub. L. 94-484.

TRANSITIONAL PROVISIONS AND REPORT ON AREA HEALTH EDUCATION CENTERS; REPORT TO CONGRESS

Section 802 of Pub. L. 94-484 provided that:

"(a) For the fiscal year ending September 30, 1978, and for the next fiscal year there are authorized to be appropriated such sums as may be necessary to continue payments to entities under contracts entered into under section 774 of the Public Health Service Act (as in effect on September 30, 1977) [section 295f-4 of this title] for projects for area health education centers,

except that no payment shall be made to an entity under such a contract in the fiscal year ending September 30, 1979, unless the entity provides assurances satisfactory to the Secretary that not later than September 30, 1979, the project for which the payment is to be made will be a project described in subsection (a) of section 781 of such Act (as added by this Act) [section 295g-1 of this title] and the entity, and its application will meet the requirements of subsections (b), (c), and (d) of such section. Such payments may only be made from such sums for the periods and amounts specified in such contracts.

"(b) After October 1, 1978, the Secretary of Health, Education, and Welfare shall assess the program of contracts under section 781 of the Public Health Service Act (as so added) [section 295g-1 of this title] to determine the effect of the projects funded under such contracts on the distribution of health manpower and on the access to and the quality of health care in the areas in which such projects are located. Not later than September 30, 1979, the Secretary shall submit to the Congress a report on the assessment conducted under this subsection."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293a of this title.

§ 295g-2. Education of returning United States students from foreign medical schools

(a) Authority of Secretary; education grants; description of costs

The Secretary may make grants to schools of medicine and osteopathy in the States to plan, develop, and operate programs—

(1) to train United States citizens who were students in medical schools in foreign countries before October 12, 1976, to enable them to meet the requirements for enrolling in schools of medicine or osteopathy in the States as full-time students with advanced standing; or

(2) to train United States citizens who have transferred from medical schools in foreign countries in which they were enrolled before October 12, 1976, and who have enrolled in schools of medicine or osteopathy in the States as full-time students with advanced standing.

The costs for which a grant under this subsection may be made may include the costs of identifying deficiencies in the medical school education of the United States citizens who were students in foreign medical schools, the development of materials and methodology for correcting such deficiencies, and specialized training designed to prepare such United States citizens for enrollment in schools of medicine or osteopathy in the States as full-time students with advanced standing.

(b) Joint applications

More than one school of medicine or osteopathy may join in the submission of an application for a grant under subsection (a) of this section.

(c) Reports to Secretary; analysis and evaluation of information to Congress

Any school of medicine or osteopathy which receives a grant under this subsection in the fiscal year ending September 30, 1978, shall submit to the Secretary before June 30, 1979, a report on the deficiencies (if any) identified by the school in the foreign medical education of the students trained by such school under the program for which such grant was made. The Secretary shall compile the reports submitted under the preceding sentence, and before September 30, 1979 submit to the Congress his analysis and evaluation of the information contained in such reports.

(d) Authorization of appropriations

There are authorized to be appropriated for the purposes of this section $2,000,000 for the fiscal year ending September 30, 1977, $2,000,000 for the fiscal year ending September 30, 1978, $3,000,000 for the fiscal year ending September 30, 1979, and $4,000,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title VII, § 782, as added Oct. 12, 1976, Pub. L. 94-484, title VIII, § 801(a), 90 Stat. 2314.)

§ 295g-3. Programs for physician assistants, expanded function dental auxiliaries and dental team practice

(a) Authority of Secretary; grants and contracts for specified projects

The Secretary may make grants to and enter into contracts with public or nonprofit private schools of medicine, osteopathy, and dentistry and other public or nonprofit private entities to meet the costs of projects to—

(1) plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 292a(7) of this title);

(2) plan, develop, and operate or maintain programs for the training of expanded function dental auxiliaries (as defined in section 292a(8) of this title); and

(3) plan, develop, and operate or maintain a program to train dental students in the organization and management of multiple auxiliary dental team practice in accordance with regulations of the Secretary.

(b) Application; contents

No grant or contract may be made under subsection (a) of this section unless the application therefor contains or is supported by assurances satisfactory to the Secretary that the school or entity receiving the grant or contract has appropriate mechanisms for placing graduates of the training program with respect to which the application is submitted, in positions for which they have been trained.

(c) Integration of programs

The Secretary shall ensure that the making of grants and entering into contracts under this section shall be integrated with the making of grants and entering into contracts under section 297 of this title.

(d) Description of costs

The costs for which a grant or contract under this section may be made include costs of preparing faculty members to teach in programs for the training of physician assistants and expanded function dental auxiliaries.

(e) Authorization of appropriations

For payments under grants and contracts under this section, there is authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the

fiscal year ending September 30, 1979, and $35,000,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title VII, § 783, as added Oct. 12, 1976, Pub. L. 94-484, title VIII, § 801(a), 90 Stat. 2314.)

§ 295g-4. Grants and contracts for training, traineeships, and fellowships in general internal medicine and general pediatrics

(a) Authority of Secretary

The Secretary may make grants to and enter into contracts with schools of medicine and osteopathy to meet the costs of projects—

(1) to plan, develop, and operate approved residency training programs in internal medicine or pediatrics, which emphasize the training of residents for the practice of general internal medicine or general pediatrics (as defined by the Secretary in regulations); and

(2) which provide financial assistance (in the form of traineeships and fellowships) to residents who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics.

(b) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year ending September 30, 1977, $15,000,000 for the fiscal year ending September 30, 1978, $20,000,000 for the fiscal year ending September 30, 1979, and $25,000,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title VII, § 784, as added Oct. 12, 1976, Pub. L. 94-484, title VIII, § 801(a), 90 Stat. 2315.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293a of this title.

§ 295g-5. Occupational health training and education centers

(a) Authority of Secretary; grants for centers; eligibility of applicants; description of activities

(1) The Secretary shall, by grants, assist public or private nonprofit colleges or universities to establish, operate, and administer occupational health training and education centers through cooperative arrangements between schools of medicine and schools of public health (or other qualified departments or schools within such colleges or universities which are qualified to participate in carrying out activities set forth in this section).

(2) To be eligible for a grant under this section, the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the field of occupational health and support from other faculty members trained in the occupational health sciences and other relevant disciplines and medical and public health specialties and that it will substantially carry out occupational health training and education activities including, but not limited to—

(A) the establishment and operation of a new graduate training program or, where appropriate, the substantial expansion of an existing graduate training program in the field of occupational health;

(B) the development of curricula and operation of continuing education for physicians, nurses, industrial hygienists, and other professionals who practice full- or part-time in the field of occupational health in order to upgrade their proficiency in delivering such services;

(C) the establishment and operation of projects designed to increase admissions to and enrollment in occupational health programs of individuals who by virtue of their background and interests are likely to engage in the delivery of occupational health services;

(D) the establishment of traineeships for industrial hygiene students;

(E) the establishment and operation of medical residencies in the field of occupational health at a level of financial support comparable to that provided to individuals undergoing training in medical residencies in other medical specialties;

(F) the establishment and operation of traineeships in the field of occupational health for medical students, residents, nursing students, nurses, physicians, sanitarians, and students and professionals in related fields;

(G) the establishment and operation of short-term traineeships for continuing education in the field of occupational health for health professionals dealing with problems of occupational health; and

(H) the appointment of full-time staff for the center, who have training, experience and demonstrated capacity for leadership in the field of occupational health.

(b) Number and regional location of centers

To the extent feasible, the Secretary shall approve, at least 10 such centers and at least one of which shall be located in each region of the Department.

(c) Authorization of appropriations

For the purpose of making grants to carry out this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, $8,000,000 for the fiscal year ending September 30, 1979, and $10,000,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title VII, § 785, as added Oct. 12, 1976, Pub. L. 94-484, title VIII, § 801(a), 90 Stat. 2315.)

§ 295g-6. Family medicine and general practice of dentistry; authority of Secretary

(a) Grants and contracts for specified family medicine programs

The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school of medicine or osteopathy, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

(1) to plan, develop, and operate, or participate in, an approved professional training program (including a continuing education program or an approved residency or intern-

ship program) in the field of family medicine for medical and osteopathic students, interns (including interns in internships in osteopathic medicine), residents, or practicing physicians;

(2) to provide financial assistance (in the form of traineeships and fellowships) to medical and osteopathic students, interns (including interns in internships in osteopathic medicine), residents, practicing physicians, or other medical personnel, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of family medicine;

(3) to plan, develop, and operate a program for the training of physicians who plan to teach in family medicine training programs; and

(4) to provide financial assistance (in the form of traineeships and fellowships) to physicians who are participants in any such program and who plan to teach in a family medicine training program.

(b) Grants for specified general practice of dentistry programs

The Secretary may make grants to any public or nonprofit private school of dentistry or accredited postgraduate dental training institution—

(1) to plan, develop, and operate an approved residency program in the general practice of dentistry; and

(2) to provide financial assistance (in the form of traineeships and fellowships) to residents in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry.

(c) Percentage of appropriations available for subsection (b) grants

Not less than 10 percent of the amount appropriated in each fiscal year to make grants under this section shall be made available for grants under subsection (b) of this section.

(d) Authorization of appropriations

There are authorized to be appropriated to make grants under this section $45,000,000 for the fiscal year ending September 30, 1978, $45,000,000 for the fiscal year ending September 30, 1979, and $50,000,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title VII, § 786, as added Oct. 12, 1976, Pub. L. 94-484, title VIII, § 801(a), 90 Stat. 2316.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293a of this title.

§ 295g-7. Educational assistance to individuals from disadvantaged backgrounds

(a) Authority of Secretary; grants and contracts for specified undertakings

(1) For the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake education to enter a health profession, the Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, and podiatry and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).

(2) A grant or contract under paragraph (1) may be used by the health or educational entity to meet the cost of—

(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds, as so determined, for education and training in a health profession,

(B) facilitating the entry of such individuals into such a school,

(C) providing counseling or other services designed to assist such individuals to complete successfully their education at such a school,

(D) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education, and

(E) publicizing existing sources of financial aid available to students in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program.

(b) Authorization of appropriations

There are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1978, $20,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980, for payments under grants and contracts under subsection (a) of this section.

(July 1, 1944, ch. 373, title VII, § 787, as added Oct. 12, 1976, Pub. L. 94-484, title VIII, § 801(a), 90 Stat. 2317.)

§ 295g-8. Project grant authority for start-up assistance, financial distress interdisciplinary training, and curriculum development

(a) Grants for new schools; amount; applications; submission; approval by Secretary; priority of certain specified applications; special considerations; new school status

(1) In the case of any new school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry which begins instruction after July 1, 1974, the Secretary may, after taking into account—

(A) the ability of such school to use a grant under this subsection to (i) accelerate the date it will begin instruction, or (ii) increase the number of students in its entering class, and

(B) the other resources available to such school,

make a grant to such school for each year such school is a new school (as determined under paragraph (5)). No school may receive a grant under this subsection unless the Secretary estimates that the number of full-time students enrolled in its first school year of operation will exceed twenty-three.

(2) The Secretary shall determine the amount of any grant under this subsection; but no such grant to any school may exceed—

(A) in the case of the year preceding the first year in which such school has students enrolled, an amount equal to the product of $10,000 and the number of full-time students which the Secretary estimates will enroll in such school in such first year;

(B) in the case of the first year in which such school has students enrolled, an amount equal to the product of $7,500 and the number of full-time students enrolled in such school in such year;

(C) in the case of the second year in which such school has students enrolled, an amount equal to the product of $5,000 and the number of full-time students enrolled in such school in such year; and

(D) in the case of the third year in which such school has students enrolled, an amount equal to the product of $2,500 and the number of full-time students enrolled in such school in such year.

Estimates by the Secretary under this subsection of the number of full-time students enrolled in a school may be made on the basis of assurances provided by the school.

(3) A grant may not be made under this subsection unless an application for such grant is submitted to, and approved by, the Secretary. The Secretary shall give priority to applications which provide for projects which—

(A) assist in the planning, development, or initial operation of a new school of medicine, osteopathy, or dentistry (i) which will conduct exceptionally innovative programs for training students in ambulatory primary care in cooperation with accredited psychiatric practitioners or programs, as appropriate, or (ii) which will have as a major objective the provision of training opportunities for individuals from disadvantaged backgrounds;

(B) assist in the planning, development, expansion, or initial operation of a regional health profession school granting a degree in one or more of the following professions: medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health; or

(C) the Secretary determines will meet a national or regional need for members of the profession to be trained in the new school for which the application is submitted.

(4) The Secretary shall give special consideration to each application of a school for a grant under this subsection—

(A) which application contains or is reasonably supported by assurances that, because of the use that the school will make of existing facilities (including Federal medical or dental facilities), such school will be able to accelerate the date on which it will begin its teaching program;

(B) which school will be located in a health manpower shortage area (designated under section 254e of this title), or

(C) which school is a school of medicine or osteopathy which will be located in a State which has no other such school.

(5) For purposes of this subsection, any school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry shall be considered a new school for any year if such year is the year preceding the first year in which such school has students enrolled, such first year, and the next two years.

(b) Grants and contracts for specified purposes; terms, conditions, and requirements; application; funds from non-Federal sources; limitation of amount; technical assistance; administration report

(1) The Secretary may make grants to, and enter into contracts with, schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health for the purposes of assisting in—

(A)(i) meeting the costs of operation of any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and public health if they are in serious financial distress, or

(ii) meeting accreditation requirements, if they have a special need to be assisted in meeting such requirements, and

(B) carrying out appropriate operational, managerial, and financial reforms on the basis of information obtained in a comprehensive cost analysis study or on the basis of other relevant information.

(2) Any grant under this subsection may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree—

(A) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that school's financial distress,

(B) to conduct a comprehensive cost analysis study in cooperation with the Secretary, and

(C) to carry out appropriate operational, managerial, and financial reforms (as the Secretary may require), including the securing of increased financial support from State or local governmental units or the increasing of tuition on the basis of information obtained in the course of a comprehensive cost analysis study or on the basis of other relevant information.

(3) An application for a grant under this subsection must contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its function as a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health, as the case may be, during the fiscal year for which such grant is sought an amount of funds (other than funds for construction, as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such training in the preceding two years.

(4) In the case of a school which has received a grant under this subsection in the immediately preceding fiscal year, the amount granted to that school under this subsection in any fiscal year may not exceed 75 percent of the amount granted to that school under this subsection in that immediately preceding fiscal year.

(5) The Secretary may provide to any school eligible for a grant under this subsection tech-

nical assistance to enable the school to conduct a comprehensive cost analysis study of its operations, to identify operational inefficiencies, and to develop or carry out appropriate operational, managerial, and financial reforms.

(6) The Secretary shall prepare and submit on or before September 30, 1978, a report on the administration of this subsection. Such report shall give special emphasis to a description of the results of any comprehensive cost analysis study carried out under paragraph (2)(B) and any operational, managerial, and financial reforms instituted under paragraph (2)(C).

(c) Grants for cooperative interdisciplinary training

The Secretary may make grants to any health profession, allied health profession, or nurse training institution, or to any other public or nonprofit private entity for the development of programs for cooperative interdisciplinary training among schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, nursing, public health, and allied health, which emphasize—

(1) the use of the team approach to the delivery of health services,

(2) the training of physician assistants and nurse practitioners with physicians and expanded function dental auxiliaries with dentists, and

(3) the training of physicians, dentists, nurses, and other health professionals in the organization, management, and effective utilization of such assistants, practitioners, and auxiliaries.

(d) Grants and contracts for health manpower projects and specified programs

The Secretary may make grants to and enter into contracts with any health profession, allied health profession, or nurse training institution, or any other public or nonprofit private entity for health manpower projects and programs such as—

(1) speech pathology, audiology, bioanalysis, and medical technology;

(2) establishing humanism in health care centers;

(3) biomedical combined educational programs;

(4) cooperative human behavior and psychiatry in medical and dental education and practice;

(5) bilingual health clinical training centers;

(6) curriculum development in schools of optometry, pharmacy and podiatry;

(7) social work in health care;

(8) health manpower development;

(9) environmental health education and preventive medicine;

(10) the special medical problems related to women;

(11) the development or expansion of regional health professions schools;

(12) training of citizens of the United States from foreign health professions schools to enable them to enroll in residency programs in the States;

(13) psychology training programs;

(14) ethical implications of biomedical research;

(15) establishment of dietetic residencies;

(16) regional systems of continuing education;

(17) computer technology;

(18) training of professional standards review organization staff;

(19) training of health professionals in human nutrition and its application to health;

(20) health manpower development for the Trust Territories and incorporated Trust Territories of the United States; and

(21) training in the diagnosis, treatment, and prevention of the diseases and related medical and behavioral problems of the aged.

(e) Authorization of appropriations

(1) There are authorized to be appropriated to carry out the provisions of this section (other than the provisions of subsections (f) and (g) of this section) $25,000,000 for the fiscal year ending September 30, 1978, $25,000,000 for the fiscal year ending September 30, 1979, and $25,000,000 for the fiscal year ending September 30, 1980.

(2) From the sums authorized to be appropriated under paragraph (1) not more than—

(A) $5,000,000 may be obligated or expended for the purposes of subsection (a) of this section, and

(B) $5,000,000 may be obligated or expended for the purposes of subsection (b) of this section.

(f) Grants for costs of planning projects for training of advanced students in certain other training facilities; requirements; authorization of appropriations

(1) The Secretary may make grants to any school of medicine to meet the planning costs for projects for the training of students, enrolled in the last two years of such school, in facilities—

(A) which are other than the principal teaching facilities of such school and which are existing Federal health care facilities or are other public or private health care facilities; and

(B) which are located in a health manpower shortage area (designated under section 254e of this title).

No grant may be made under this paragraph with respect to any project unless before the fiscal year for which the grant is to be made the project has received at least $100,000 from non-Federal sources and has been approved by the legislature of the State in which it is located.

(2) For payments under grants under paragraph (1), there are authorized to be appropriated $400,000 for the fiscal year ending September 30, 1977.

(g) Grants to assist initial operation of schools of medicine; application; contents; approval or disapproval dependent on consultations of Secretary with accrediting body; limitation to one grant; authorization of appropriations; report to Congress: improved access to health care for residents of geographical regions with clinical training programs

(1) The Secretary may make grants to public and nonprofit private institutions of higher education and hospitals and other health care delivery facilities which are engaged in the de-

velopment of new schools of medicine to assist such institutions and facilities in meeting the costs of employing faculty, acquiring equipment, and taking such other action related to the initial operation of a school of medicine as may be necessary for the proposed schools to meet the eligibility requirements for a grant under subsection (a) of this section.

(2) No application for a grant under paragraph (1) may be approved by the Secretary unless the application contains or is supported by assurances satisfactory to the Secretary that—

(A) with the assistance provided under the grant applied for the applicant will be able to accelerate the date on which the school of medicine being developed by the applicant will be able to begin its teaching program,

(B) there is a reasonable indication of non-Federal financial resources for development and operation of such school, and

(C) the school of medicine will emphasize training programs in family medicine and will improve access to health care for residents of the geographical regions in which such training programs are located.

The Secretary may not approve or disapprove an application submitted under this subsection unless he has consulted with the body recognized by the Commissioner of Education as the accrediting body for schools of medicine respecting approval of the application.

(3) No institution or facility may receive more than one grant under this subsection. For payment under grants under this subsection, there is authorized to be appropriated $1,500,000 for the fiscal year ending September 30, 1977 and $1,500,000 for the fiscal year ending September 30, 1978.

(4) Upon graduation of the second class from each school of medicine for which a grant was made under this subsection, the Secretary shall report to the Congress on the ability of the school of medicine to improve access to health care for residents of the geographical regions in which the clinical training programs of the school are located.

(July 1, 1944, ch. 373, title VII, § 788, as added Oct. 12, 1976, Pub. L. 94-484, title VIII, § 801(a), 90 Stat. 2318.)

§ 295g-9. Training in emergency medical services

(a) Authority of Secretary; grants to and contracts with appropriate educational and public entities

(1) The Secretary may make grants to and enter into contracts with hospitals having training programs which meet requirements established by the Secretary, schools of medicine, dentistry, osteopathy, and nursing, training centers for allied health professions, other appropriate educational entities, and other appropriate public entities (as defined in paragraph (2)) to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services (including the skills required in connection with the provision of ambulance service) and to assist in meeting the cost of training, and establishment of programs for the training, of physicians in emergency medicine, especially training programs affording clinical experience in emergency medical services systems receiving assistance under subchapter X of this chapter.

(2) For the purposes of paragraph (1), the term "other appropriate public entity" means a State, unit of general local government, or any other public entity which—

(A) has established an emergency medical services system (as defined in section 300d(1) of this title), and

(B) except with respect to the basic training of emergency medical technicians, has entered into an agreement with an appropriate educational entity for a training program under this section.

(b) Applicants and applications; eligible entities; requirements

No grant or contract may be made or entered into under this section unless (1) the applicant is a public or nonprofit private entity, and (2) an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(c) Amount of grant or contract; determination by Secretary; payments: advances or reimbursement, intervals, conditions; reports of grantees and contractees

The amount of any grant or contract under this section shall be determined by the Secretary. Payments under grants and contracts under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary. Grantees and contractees under this section shall make such reports at such intervals, and containing such information, as the Secretary may require.

(d) Prohibitions and restrictions inapplicable

Contracts may be entered into under this section without regard to section 529 of title 31 and section 5 of title 41.

(e) Participation of administrative unit

No regulation, guideline, funding priority, or application form shall be established with respect to this section without the full participation in the development of such regulation, guideline, priority, or form, by the administrative unit described in section 300d-7 of this title.

(f) Uniform funding cycle

To the maximum extent practicable, the Secretary shall establish a uniform funding cycle so as to coordinate the submission and review of applications for grants and contracts under subchapter X of this chapter and under this section and to coordinate funding policies among programs carried out under such authorities.

(g) Authorization of appropriations; minimum expenditures for training physicians in emergency medicine

(1) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1974, and each of the next five fiscal years.

(2) Not less than 30 percent of the funds appropriated under paragraph (1) for any fiscal year shall be used in that fiscal year to assist in

meeting the cost of training, and of establishment of programs for the training, of physicians in emergency medicine.

(July 1, 1944, ch. 373, title VII, § 789, formerly § 776, as added Nov. 16, 1973, Pub. L. 93-154, § 3(a), 87 Stat. 604, renumbered Oct. 12, 1976, Pub. L. 94-484, title VIII, § 801(b), 90 Stat. 2322, and amended Oct. 21, 1976, Pub. L. 94-573, § 12, 90 Stat. 2717.)

REFERENCES IN TEXT

Subchapter X of this chapter, referred to in subsecs. (a)(1) and (f), is classified to section 300d et seq. of this title.

CODIFICATION

Section was formerly classified to section 295f-6 of this title.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-573, § 12(a)(1) to (5), designated existing provisions as par. (1), authorized the Secretary to make grants to and enter into contracts with hospitals having training programs which meet requirements established by the Secretary and with other appropriate public entities (as defined in paragraph (2)) and authorized the Secretary to assist in meeting the cost of training, and establishment of programs for the training of physicians in emergency medicine.

Subsec. (a)(2). Pub. L. 94-573, § 12(a)(6), added par. (2).

Subsec. (e). Pub. L. 94-573, § 12(b)(1), (2), redesignated former subsec. (e) as (g) and added subsec. (e), respectively.

Subsec. (f). Pub. L. 94-573, § 12(b)(2), added subsec. (f).

Subsec. (g). Pub. L. 94-573, § 12(b)(1)(A) to (C), redesignated former subsec. (e) as (g), designated such provision as par. (1), authorized appropriations of $10,000,000 for each of the next five fiscal years following fiscal year ending June 30, 1974, and added par. (2), respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-573 inapplicable to grants made or contracts entered into before Oct. 21, 1976, see section 20 of Pub. L. 94-573, set out as an Effective Date of 1976 Amendment note under section 300d of this title.

EFFECTIVE DATE

Section 801(b) of Pub. L. 94-484 provided in part that renumbering of this section and substitution of reference to section 295g-9 of this title [section 789 of act July 1, 1944, classified to this section] for section 295f-6 of this title [section 776 of act July 1, 1944, formerly classified to section 295f-6 of this title] in other provisions of subchapter X of this chapter [title XII of act July 1, 1944] classified to section 300d-7(b)(3), (4), (7) of this title shall be effective Nov. 1, 1976.

§ 295g-10. General provisions

Except as otherwise provided in this part:

(1) Applications; submission; approval by Secretary; regulations; consultation requirement

No grant may be made or contract entered into under this part unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary may not approve or disapprove any application for a grant or contract under this part except after consultation with the National Advisory Council on Health Professions Education.

(2) Traineeships and fellowships; payments limitation

Payments by recipients of grants or contracts under this part for (A) traineeships shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees; and (B) fellowships shall be limited to such amounts as the Secretary finds necessary to cover the cost of advanced study by, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the fellows.

(3) Amount of award: determination; contract authority

The amount of any grant or contract under this part shall be determined by the Secretary. Contracts may be entered into under this part without regard to section 529 of title 31 and section 5 of title 41.

(July 1, 1944, ch. 373, title VII, § 790, as added Oct. 12, 1976, Pub. L. 94-484, title VIII, § 801(c), 90 Stat. 2322.)

EFFECTIVE DATE

Section 801(c) of Pub. L. 94-484 provided in part that enactment of this section by such section 801(c) shall be effective Oct. 1, 1976.

§ 295g-11. Repealed. Pub. L. 94-484, title IV, § 409(a), Oct. 12, 1976, 90 Stat. 2290

Section, act July 1, 1944, ch. 373, title VII, § 785, as added Nov. 18, 1971, Pub. L. 92-157, title I, § 106(b)(6), 85 Stat. 453, and amended Oct. 12, 1976, Pub. L. 94-484, title I, § 101(q), 90 Stat. 2245, provided scholarship grants for study abroad, subsec. (a) relating to authority of Secretary, subsec. (b) to financial need of the student, domestic medical practice agreement, and maximum amount of scholarships, subsec. (c) to regulations issued, after consultation with the National Advisory Council on Health Professions Education, subsec. (d) to eligibility of scholarship recipients, and subsec. (e) authorizing appropriations in annual amounts of $150,000 for fiscal years ending June 30, 1972, through 1976, and for fiscal year ending Sept. 30, 1977, and next two fiscal years such amounts necessary to continue making grants to students who received grants from funds made available for fiscal years ending before July 1, 1976.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1976, see section 409(a) of Pub. L. 94-484.

§§ 295g-21 to 295g-23. Repealed. Pub. L. 94-484, title IV, § 409(a), Oct. 12, 1976, 90 Stat. 2290

Section 295g-21, act July 1, 1944, ch. 373, title VII, § 784, as added Nov. 18, 1971, Pub. L. 92-157, title I, § 106(c), 85 Stat. 455, provided scholarship grants in relation to physician shortage area scholarship program, subsec. (a) being concerned with eligible students and defining "physician shortage area" and "primary care", subsec. (b) providing the grants for academic year period, maximum amount of grant to an individual, and order of priority for awards, and subsec. (c) prescribing the conditions, recovery upon breach of conditions, accrued interest, cancellation of liability for repayment, and waiver or suspension of obligation.

Section 295g-22, act July 1, 1944, ch. 373, title VII, § 785, as added Nov. 18, 1971, Pub. L. 92-157, title I,

§ 106(c), 85 Stat. 457, related to administration of and contractual arrangements for implementation of the physician shortage area scholarship program.

Section 295g-23, act July 1, 1944, ch. 373, title VII, § 786, as added Nov. 18, 1971 Pub. L. 92-157, title I, § 106(c), 85 Stat. 457, and amended April 22, 1976, Pub. L. 94-278, title XI, § 1104, 90 Stat. 416; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(r), 90 Stat. 2246, authorized appropriations for physician shortage area scholarships in amount of $2,500,000; $3,000,000; $3,500,000; $3,500,000; and $2,000,000 for fiscal years ending June 30, 1972, through 1976, and for fiscal years ending Sept. 30, 1977, and thereafter such sums necessary to continue making grants to students who prior to July 1, 1976, received grants and were eligible for grants during the succeeding fiscal year.

EFFECTIVE DATE OF REPEAL

Sections repealed effective Oct. 1, 1976, see section 409(a) of Pub. L. 94-484.

PART G—PROGRAMS FOR PERSONNEL IN HEALTH ADMINISTRATION AND IN ALLIED HEALTH

AMENDMENTS

1976—Pub. L. 94-484, title VII, § 701(a), Oct. 12, 1976, 90 Stat. 2303, substituted PART G heading "Programs for Personnel in Health Administration and in Allied Health" for "Training in Allied Health Professions".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 292b of this title.

SUBPART I—PUBLIC HEALTH PERSONNEL

AMENDMENTS

1976—Pub. L. 94-484, title VII, 701(a), Oct. 12, 1976, 90 Stat. 2303, added heading "Subpart I—Public Health Personnel".

§ 295h. Grants for graduate programs in health administration

(a) Eligible educational entities

From funds appropriated under subsection (d) of this section, the Secretary shall make annual grants to public or nonprofit private educational entities (including schools of social work and excluding accredited schools of public health) to support the graduate educational programs of such entities in health administration, hospital administration, and health planning.

(b) Amount of grant

The amount of the grant for any fiscal year under subsection (a) of this section to an educational entity with an application approved under subsection (c) of this section shall be equal to the amount appropriated under subsection (d) of this section for such fiscal year divided by the number of educational entities which have applications for grants for such fiscal year approved under subsection (c) of this section.

(c) Applications; submission; approval by Secretary; regulations; waiver

(1) No grant may be made under subsection (a) of this section unless an application therefor has been submitted to the Secretary before such time as he shall by regulation prescribe and has been approved by the Secretary. Such application shall be in such form, and submitted in such manner, as the Secretary shall by regulation, prescribe.

(2) The Secretary may not approve an application submitted under paragraph (1) unless—

(A) such application—

(i) contains assurances satisfactory to the Secretary that in the school year (as defined in regulations of the Secretary) beginning in the fiscal year for which the applicant receives a grant under subsection (a) of this section that—

(I) at least 25 individuals will complete the graduate educational programs of the entity for which such application is submitted; and

(II) such entity shall expend or obligate at least $100,000 in funds from non-Federal sources to conduct such programs;

(ii) contains assurances satisfactory to the Secretary that such entity shall maintain a first-year enrollment of full-time students in the programs, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under this section is applied for, which exceeds the number of full-time, first-year students enrolled in such programs in the school year beginning in the fiscal year ending September 30, 1976—

(I) by 5 percent of such number if such number was not more than 100, or

(II) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100; and

(iii) contains such other information as the Secretary may by regulation prescribe; and

(B) the program for which such application was submitted has been accredited for the training of individuals for health administration, hospital administration, or health planning by a recognized body or bodies approved for such purpose by the Commissioner of Education and meets such other quality standards as the Secretary shall by regulation prescribe.

(3) The Secretary may waive (in whole or in part) the requirements of clause (ii) of paragraph (2)(A) with respect to any school upon written notification by the appropriate accreditation body or bodies that compliance with the assurances required by such paragraph will prevent such school from meeting the accreditation standards of such body or bodies.

(4) The Secretary may not approve or disapprove an application submitted under paragraph (1) except after consultation with the National Advisory Council on Health Professions Education.

(d) Authorization of appropriations

There are authorized to be appropriated for payments under grants under this section $3,250,000 for the fiscal year ending September 30, 1978, $3,500,000 for the fiscal year ending September 30, 1979, and $3,750,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title VII, § 791, as added Oct. 12, 1976, Pub. L. 94-484, title VII, § 701(a), 90 Stat. 2303.)

PRIOR PROVISIONS

A prior section 295h, act July 1, 1944, ch. 373, title VII, § 791, as added Nov. 3, 1966, Pub. L. 89-751, § 2, 80

Stat. 1222, and amended Aug. 16, 1968, Pub. L. 90-490, title III, § 301(a)(1), 82 Stat. 788; Nov. 2, 1970, Pub. L. 91-519, title II, § 201, 84 Stat. 1344, prior to its omission in the general amendment of this part by Pub. L. 94-484, title VII, § 701(a), Oct. 12, 1976, 90 Stat. 2303, provided for grants for construction of teaching facilities of allied health professions personnel, and in: subsec. (a) authorization of appropriations; subsec. (b) approval of applications for construction grants; subsec. (c) amount of construction grants and payments; and subsec. (d) recapture of payments.

EFFECTIVE DATE

Section 701(a) of Pub. L. 94-484 provided in part that enactment of this Part G and omission of prior sections 295h to 295h-2, 295h-3a to 295h-3d, 295h-4, 295h-5, and 295h-7 of this title in general amendment of this part by section 701(a) of Pub. L. 94-484 shall be effective Oct. 1, 1977.

§ 295h-1. Special projects for accredited schools of public health and graduate programs in health administration

(a) Grants for specified programs

The Secretary may make grants to assist accredited schools of public health in meeting the costs of special projects to develop new programs or to expand existing programs in—

(1) biostatistics or epidemiology,

(2) health administration, health planning, or health policy analysis and planning,

(3) environmental or occupational health, or

(4) dietetics and nutrition.

(b) Grants for educational entities with accredited programs for specified programs; accredited program

(1) The Secretary may make grants to assist those public or non-profit educational entities (including graduate schools of social work) which have accredited programs described in paragraph (2) in meeting the costs of special projects to develop new programs or to expand existing programs in—

(A) biostatistics or epidemiology,

(B) health administration, health planning or health policy analysis and planning,

(C) environmental or occupational health, or

(D) dietetics and nutrition.

(2) For purposes of this subsection, an accredited program is a graduate program which is accredited for the training of individuals in health administration, health planning, or health policy analysis and planning by a recognized body or bodies approved by the Commissioner of Education and which meets such other quality standards as the Secretary may by regulation prescribe.

(c) Authorization of appropriations

There are authorized for the purpose of making payments under grants under this section $5,000,000 for the fiscal year ending September 30, 1978; $5,500,000 for the fiscal year ending September 30, 1979; and $6,000,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title VII, § 792, as added Oct. 12, 1976, Pub. L. 94-484, title VII, § 701(a), 90 Stat. 2304.)

PRIOR PROVISIONS

A prior section 295h-1, act July 1, 1944, ch. 373, title VII, § 792, as added Nov. 3, 1966, Pub. L. 89-751, § 2, 80 Stat. 1226, and amended Aug. 16, 1968, Pub. L. 90-490, title III, § 301(a)(2), 82 Stat. 788; Nov. 2, 1970, Pub. L. 91-519, title II, § 202(a), (b), 84 Stat. 1344, 1345; June 18, 1973, Pub. L. 93-45, title I, § 109(a), (b), 87 Stat. 93; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(s)(1), (2), 90 Stat. 2246, prior to its omission in the general amendment of this part by Pub. L. 94-484, title VII, § 701(a), Oct. 12, 1976, 90 Stat. 2304, provided for grants to improve quality of training centers for allied health professions, and in: subsec. (a) basic improvement grants; subsec. (b) special improvement grants in amounts of $15,000,000; $20,000,000; $30,000,000; $20,000,000; $20,000,000; $20,000,000, and $11,400,000 for fiscal years ending June 30, 1971, through 1976, and Sept. 30, 1977; subsec. (c) special projects for experimentation, demonstration, and institutional improvement in amounts of $10,000,000; $20,000,000; $30,000,000; $18,245,000; $18,245,000; $18,245,000; and $15,400,000 for fiscal years ending June 30, 1971, through 1976, and Sept. 30, 1977; and subsec. (d) application for grants.

§ 295h-2. Statistics and annual report

(a) Scope of information

The Secretary shall, in coordination with the National Center for Health Statistics (established under section 242k of this title), continuously develop, publish, and disseminate on a nationwide basis statistics and other information respecting public and community health personnel, including—

(1) detailed descriptions of the various types of activities in which public and community health personnel are engaged,

(2) the current and anticipated needs for the various types of public and community health personnel, and

(3) the number, employment, geographic locations, salaries, and surpluses and shortages of public and community health personnel, the educational and licensure requirements for the various types of such personnel, and the cost of training such personnel.

(b) Personal data; consent for transfer; disclosure; program entity

(1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as "personal data") for purposes of this section—

(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity as the case may be, of providing or not providing such data;

(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

(C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the activities conducted under this section.

(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity to use such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

(3)(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity for purposes of this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

(4) For purposes of this subsection, the term "program entity" means any public or private entity which collects, compiles, or analyzes health professions data under an arrangement with the Secretary for purposes of this section.

(c) Report to congressional committees; legislative recommendations

The Secretary shall submit annually to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Human Resources of the Senate a report on—

(1) the statistics and other information developed pursuant to subsection (a) of this section, and

(2) the activities conducted under this subpart, including an evaluation of such activities.

Such report shall contain such recommendations for legislation as the Secretary determines are needed to improve the programs authorized under this subpart. The Office of Management and Budget may review such report before its submission to such Committees, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission and may submit to such Committees its comments respecting such report. The first report under this subsection shall be submitted not later than December 1, 1978.

(d) Public and community health personnel

For purposes of this section, the term "public and community health personnel" means individuals who are engaged in—

(1) the planning, development, monitoring, or management of health care or health care institutions, organizations, or systems,

(2) research on health care development and the collection and analysis of health statistics, data on the health of population groups, and any other health data,

(3) the development and improvement of individual and community knowledge of health (including environmental health and preventive medicine) and the health care system, or

(4) the planning and development of a healthful environment and control of environmental health hazards.

(July 1, 1944, ch. 373, title VII, § 793, as added Oct. 12, 1976, Pub. L. 94-484, title VII, § 701(a), 90 Stat. 2305; S. Res. 4, Feb. 4, 1977.)

PRIOR PROVISIONS

A prior section 295h-2, act July 1, 1944, ch. 373, title VII, § 793, as added Nov. 3, 1966, Pub. L. 89-751, § 2, 80 Stat. 1228, and amended Aug. 16, 1968, Pub. L. 90-490, title III, § 301(a)(3), 82 Stat. 788; Nov. 2, 1970, Pub. L. 91-519, title II, § 203, 84 Stat. 1436; June 18, 1973, Pub. L. 93-45, title I, § 109(c), 87 Stat. 93; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(s)(3), 90 Stat. 2246, prior to its omission in the general amendment of this part by Pub. L. 94-484, title VII, § 701(a), Oct. 12, 1976, 90 Stat. 2305, provided traineeships for advanced training of allied health professions personnel, including authorization of appropriations in amounts of $1,500,000; $2,500,000; $3,500,000; $5,000,000; $8,000,000; $10,000,000; $12,000,000; $6,000,000; $6,000,000; $6,000,000; and $3,900,000 for fiscal years ending June 30, 1967, through 1976, and Sept. 30, 1977.

CHANGE OF NAME

The Committee on Labor and Public Welfare of the Senate was abolished and replaced by the Committee on Human Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

§ 295h-3. Repealed. Pub. L. 91-519, title II, § 202(d), Nov. 2, 1970, 84 Stat. 1345

Section, act July 1, 1944, ch. 373, title VII, § 794, as added Nov. 3, 1966, Pub. L. 89-751, § 2, 80 Stat. 1228, and amended Aug. 16, 1968, Pub. L. 90-490, title III, § 301(a)(4), (b), 82 Stat. 788, authorized appropriations of $750,000 for the fiscal year ending June 30, 1967, $2,250,000 for the fiscal year ending June 30, 1968, $3,000,000 for the fiscal year ending June 30, 1969, and $4,500,000 for the fiscal year ending June 30, 1970, for grants to public or nonprofit private agencies, institutions, and organizations for projects to develop, demonstrate, or evaluate curriculums and methods for the training of health technologists.

EFFECTIVE DATE OF REPEAL

Section 202(d) of Pub. L. 91-519 provided in part that the repeal of this section was effective with respect to the fiscal year beginning July 1, 1970.

§§ 295h-3a to 295h-3d. Omitted

CODIFICATION

Section 295h-3a, act July 1, 1944, ch. 373, title VII, § 794A, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 204, 84 Stat. 1346, and amended June 18, 1973, Pub. L. 93-45, title I, § 109(d), 87 Stat. 93; Oct. 12, 1976, Pub. L. 94-484, title I, § 101(s)(4), 90 Stat. 2246, prior to its omission in the general amendment of this part by Pub. L. 94-484, title VII, § 701(a), Oct. 12, 1976, 90 Stat. 2303, provided for grants and contracts to encourage full utilization of educational talent for allied health professions, authorizing appropriations in amounts of $750,000; $1,000,000; $1,250,000; $100,000; $100,000; $100,000; and $109,010 for fiscal years ending June 30, 1971, through 1976, and Sept. 30, 1977.

Section 295h-3b, act July 1, 1944, ch. 373, title VII, § 794B, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 204, 84 Stat. 1346, prior to its omission in the general amendment of this part by Pub. L. 94-484, title VII,

§ 701(a), Oct. 12, 1976, 90 Stat. 2303, provided for scholarship grants for training in allied health professions, as follows: subsec. (a) grants to public or private agencies, institutions, and organizations; subsec. (b) financial need; subsec. (c) method of payment of grant; subsec. (d) maximum scholarship to an individual; subsec. (e) approval by Secretary and assurances of applicant; and subsec. (f) authorization of appropriations of $4,000,000; $5,000,000; and $6,000,000 for fiscal years ending June 30, 1971, through 1973.

Section 295h-3c, act July 1, 1944, ch. 373, title VII, § 794C, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 204, 84 Stat. 1347, prior to its omission in the general amendment of this part by Pub. L. 94-484, title VII, § 701(a), Oct. 12, 1976, 90 Stat. 2303, provided for work-study programs in training in allied health professions, as follows: subsec. (a) agreements with public or nonprofit private agencies, institutions, and organizations; subsec. (b) contents of agreements; subsec. (c) approval by Secretary; subsec. (d) funds and limitation; and subsec. (e) authorization of appropriations of $2,000,000; $4,000,000; and $6,000,000 for fiscal years ending June 30, 1971, through 1973.

Section 295h-3d, act July 1, 1944, ch. 373, title VII, § 794D, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 204, 84 Stat. 1349, and amended Nov. 18, 1971, Pub. L. 92-157, title III, § 301(e), 85 Stat. 464, prior to its omission in the general amendment of this part by Pub. L. 94-484, title VII, § 701(a), Oct. 12, 1976, 90 Stat. 2303, provided for loans for students of allied health professions, as follows: subsec. (a) agreements with public or private nonprofit agency, institution, or organization and establishment of a student loan fund; subsec. (b) loan provisions: maximum amount, terms and conditions, repayment in periodic installments, commencement and duration of period, exclusions from period, cancellation of part of loan and interest thereon; cancellation of loan upon death, interest, security or endorsement, minor borrowers, penalty for late payment, and minimum monthly repayment; subsec. (c) authorization of appropriations for Federal capital contributions to student loan funds of $3,500,000; $5,000,000; $10,000,000; for fiscal years ending June 30, 1971, through 1973, and for fiscal years ending June 30, 1974, through 1976, necessary sums to enable students receiving loans for any academic year ending before July 1, 1973, to continue or complete their education; subsec. (d) allotment of funds, applications, and payments; subsec. (e) capital distribution of balance of loan fund; subsec. (f) loans from revolving loan fund, terms and conditions, limitation, expenses, and allied professions training fund; and subsec. (g) waiver in discretion of Secretary.

SUBPART II—ALLIED HEALTH PERSONNEL

AMENDMENTS

1976—Pub. L. 94-484, title VII, § 701(a), Oct. 12, 1976, 90 Stat. 2306, added heading "Subpart II—Allied Health Personnel".

§ 295h-4. Definitions

For purposes of this subpart:

(1) The term "allied health personnel" means individuals with training and responsibilities for (A) supporting, complementing, or supplementing the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or (B) assisting environmental engineers and other personnel in environmental health control and preventive medicine activities.

(2) The term "training center for allied health professions" means a junior college, college, or university—

(A) which provides, or can provide, programs of education leading to a baccalaureate or associate degree (or to the equivalent of either) or to a higher degree in medical technology, optometric technology, dental hygiene, or in any of such other of the allied health professions curricula as are specified by regulation, or which, if in a junior college, provides a program (i) leading to an associate or an equivalent degree, (ii) of education in optometric technology, dental hygiene, or such other curricula as are specified by regulation, and (iii) acceptable for full credit toward a baccalaureate or equivalent degree in the allied health professions or designed to prepare the student to work as a technician in a health occupation specified by regulations of the Secretary,

(B) which provides training for not less than a total of twenty persons in such curricula,

(C) which, if in a college or university which does not include a teaching hospital or in a junior college, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a hospital, and

(D) which is (or is in a college or university which is) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, or which is in a junior college which is accredited by the regional accrediting agency for the region in which it is located or there is satisfactory assurance afforded by such accrediting agency to the Secretary that reasonable progress is being made toward accreditation by such junior college,

except that an applicant for a grant under this subpart which does not at the time of application meet the requirement of subparagraph (B) shall be deemed to meet such requirement if the Secretary finds there is reasonable assurance that the unit will meet the requirement of subparagraph (B) prior to the beginning of the academic year following the normal graduation date of the first entering class in such unit.

(3) The term "nonprofit" as applied to any training center for allied health professions means such a training center which is an entity, or is owned and operated by an entity, no part of the net earnings of which inures or may lawfully inure, to the benefit of any private shareholder or individual; and as applied to any entity means an entity no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

(July 1, 1944, ch. 373, title VII, § 795, as added Oct. 12, 1976, Pub. L. 94-484, title VII, § 701(a), 90 Stat. 2306.)

PRIOR PROVISIONS

A prior section 295h-4, act July 1, 1944, ch. 373, title VII, § 795, as added Nov. 3, 1966, Pub. L. 89-751, § 2, 80 Stat. 1228, and amended Dec. 5, 1967, Pub. L. 90-174, § 12(e), 81 Stat. 542; Nov. 2, 1970, Pub. L. 91-519, title II, § 202(c), 84 Stat. 1344; Nov. 18, 1971, Pub. L. 92-157, title III, § 301(f), 85 Stat. 464, prior to its omission in the general amendment of this part by Pub. L. 94-484, title VII, § 701(a), Oct. 12, 1976, 90 Stat. 2306, defined in pars. (1) to (4) the terms "training center for allied health professions"; "full-time student"; "nonprofit";

"construction" and "cost of construction"; and "affiliated hospital".

STUDIES AND STATISTICAL REPORT ON ALLIED HEALTH PERSONNEL; PERSONAL DATA: CONSENT FOR TRANSFER, DISCLOSURE, PROGRAM ENTITY; REPORTS TO CONGRESSIONAL COMMITTEES: LEGISLATIVE RECOMMENDATIONS; "ALLIED HEALTH PERSONNEL" DEFINED

Section 702 of Pub. L. 94-484 provided that:

"(a) The Secretary of Health, Education, and Welfare shall conduct and complete, not later than two years after the date of enactment of this Act [Oct. 12, 1976], studies—

"(1) to identify the various types of allied health personnel and the activities in which such personnel are engaged and the various training programs currently offered for allied health personnel;

"(2) to establish classifications of allied health personnel on the basis of their activities, responsibilities, and training;

"(3) using appropriate methodologies, to determine the cost of educating and training allied health personnel in each such classification; and

"(4) to identify the classifications in which there are a critical shortage of such personnel and the training programs which should be assisted to meet that shortage.

"(b) In addition, the Secretary shall, in coordination with the National Center for Health Statistics (established under section 306 of the Public Health Service Act [section 242k of this title]), develop, publish, and disseminate on a nationwide basis a report containing statistics and other information respecting allied health personnel, including—

"(1) detailed descriptions of the various types of such personnel and the activities in which such personnel are engaged.

"(2) the current and anticipated needs for the various types of such health personnel, and

"(3) the number, employment, geographic locations, salaries, and surpluses and shortages of such personnel.

"(c)(1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as 'personal data') for purposes of this section—

"(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences known to the Secretary or program entity, as the case may be, of providing or not providing such data;

"(B) upon request, inform, any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

"(C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

"(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the studies made or information collected under this section.

"(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

"(3)(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity for purposes of this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

"(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

"(4) For purposes of this subsection, the term 'program entity' means any public or private entity which collects, compiles, or analyzes health professions data under an arrangement with the Secretary for purposes of this section.

"(d) The Secretary shall submit, not later than two years after the date of enactment of this Act [Oct. 12, 1976], to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare [now Committee on Human Resources] of the Senate—

"(1) a report on the results of the studies conducted under subsection (a);

"(2) the report developed under subsection (b); and

"(3) a report on, including an evaluation of, activities conducted under subpart II of part G of title VII of the Public Health Service Act (relating to allied health personnel) [section 295h-4 et seq. of this title].

The report described in paragraph (3) shall contain such recommendations for legislation as the Secretary determines are needed to improve the programs authorized under such subpart. The Office of Management and Budget may review such report before its submission to such Committees, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission and may submit to such Committees its comments respecting such report.

"(e) For the purposes of this section, the term 'allied health personnel' means individuals with training and responsibilities for (1) supporting, complementing, or supplementing the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or (2) assisting environmental engineers and other personnel in environmental health control and preventive medicine activities."

§ 295h-5. Project grants and contracts with eligible entities

(a) Description of specific projects

The Secretary shall make grants to and enter into contracts with eligible entities to assist them in meeting the costs of planning, developing, demonstrating, operating, and evaluating projects relating to:

(1) Establishment of regional or State systems for the coordination and management of education and training at various levels for allied health personnel and nurses within and among educational institutions and their clinical affiliates for the purpose of assuring that the needs of such region or State for allied health personnel and nurses are substantially met.

(2) Establishment of new roles and functions for allied health personnel and methods for increasing the efficiency of health manpower through more effective utilization of allied health personnel in various practice settings.

(3) Establishment of new or improved methods of credentialing allied health personnel, including techniques for appropriate recogni-

tion (through equivalency and proficiency testing or otherwise) of previously acquired training or experience, developed in coordination with the Secretary's program under section 1320a-2 of this title.

(4) Establishment of methods of recruitment, training, and retraining of allied health personnel.

(5) Establishment of meaningful career ladders and programs of advancement for practicing allied health personnel.

(6) Establishment of continuing education programs for practicing allied health personnel.

(b) Applications; submission; approval by Secretary; regulations; amount of grant

(1) No grant may be made or contract entered into under subsection (a) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(2) The amount of any grant under subsection (a) of this section shall be determined by the Secretary.

(c) Eligible entities

For purposes of subsection (a) of this section, the term "eligible entities" means entities which are—

(1) schools, universities, or other educational entities which provide for allied health personnel education and training and which meet such standards as the Secretary may by regulation prescribe;

(2) States, political subdivisions of States, or regional and other public bodies representing States or political subdivisions of States or both; or

(3) entities which have a working arrangement (meeting such requirements as the Secretary may by regulation prescribe) with an entity described in paragraph (1).

(d) Authorization of appropriations; funds for training centers

(1) For the purpose of making payments under grants and contracts under subsection (a) of this section, there are authorized to be appropriated $22,000,000 for the fiscal year ending September 30, 1978; $24,000,000 for the fiscal year ending September 30, 1979; and $26,000,000 for the fiscal year ending September 30, 1980.

(2) In each fiscal year for which funds are authorized to be appropriated under this subsection, not less than 50 percent of the funds appropriated shall be reserved for award to training centers for allied health professions.

(July 1, 1944, ch. 373, title VII, § 796, as added Oct. 12, 1976, Pub. L. 94-484, title VII, § 701(a), 90 Stat. 2307.)

PRIOR PROVISIONS

A prior section 295h-5, act July 1, 1944, ch. 373, title VII, § 796, as added Nov. 3, 1966, Pub. L. 89-751, § 2, 80 Stat. 1230, prior to its omission in the general amendment of this part by Pub. L. 94-484, title VII, § 701(a), Oct. 12, 1976, 90 Stat. 2307, provided for keeping of records and audits in relation to training in allied health professions.

§ 295h-6. Traineeships for advanced training of allied health personnel

(a) Grants for advanced training for teaching, administrative, or supervisory positions

The Secretary may make grants to public and nonprofit private entities for traineeships provided by such entities for the advanced training of allied health personnel to teach in training programs for such personnel or to serve in administrative or supervisory positions.

(b) Applications; submission; approval by Secretary; regulations; amount of grant

(1) No grant may be made under subsection (a) of this section unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

(2) Payments under such grants shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the trainees.

(c) Authorization of appropriations

For the purposes of making payments under grants under subsection (a) of this section, there are authorized to be appropriated $4,500,000 for the fiscal year ending September 30, 1978; $5,000,000 for the fiscal year ending September 30, 1979; and $5,500,000 for the fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title VII, § 797, as added Oct. 12, 1976, Pub. L. 94-484, title VII, § 701(a), 90 Stat. 2308.)

PRIOR PROVISIONS

A prior section 295h-6, act July 1, 1944, ch. 373, title VII, § 797, as added Aug. 16, 1968, Pub. L. 90-490, title III, § 301(c), 82 Stat. 788, authorized the use of up to one-half of one per centum of appropriated funds for evaluation of programs covered thereby, was repealed by Pub. L. 91-296, title IV, § 401(b)(1)(E), June 30, 1970, 84 Stat. 352, section 401(b)(1) such Pub. L. 91-296 also providing in part that repeal of such prior section 295h-6 shall be effective with respect to appropriations for fiscal years beginning after June 30, 1970.

§ 295h-7. Educational assistance to disadvantaged individuals in allied health training

(a) Grants to and contracts with schools, agencies, or entities to meet certain described costs

(1) For the purpose of assisting individuals who, due to socioeconomic factors, are financially or otherwise disadvantaged (including individuals who are veterans of the Armed Forces with military training or experience in the health field) to undertake education to enter the allied health professions, the Secretary may make grants to and enter into contracts with schools of allied health, State and local educational agencies, and other public or private nonprofit entities to assist in meeting the costs described in paragraph (2).

(2) A grant or contract under paragraph (1) may be used by the school, agency, or entity to meet the costs of—

(A) identifying, recruiting, and selecting such disadvantaged individuals who have a

potential for education or training in the allied health professions;

(B) facilitating the entry of such individuals into such a school, agency, or entity;

(C) providing counseling or other services designed to assist such individuals to complete successfully their education at such school, agency, or entity;

(D) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, agency, or entity, preliminary education designed to assist them to complete successfully such regular course of education at such a school, agency, or entity, or referring such individuals to institutions providing such preliminary education; and

(E) publicizing existing sources of financial aid available to persons enrolled in the education program of such a school, agency, or entity or who are undertaking training necessary to qualify them to enroll in such a program.

(b) Applications; submission; approval by Secretary; regulations; amount of grant

(1) No grant may be made or contract entered into under subsection (a) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(2) The amount of any grant under subsection (a) of this section shall be determined by the Secretary.

(c) Authorization of appropriations

For payments under grants and contracts under subsection (a) of this section there are authorized to be appropriated $1,000,000 for fiscal year ending September 30, 1978, $1,000,000 for fiscal year ending September 30, 1979, and $1,000,000 for fiscal year ending September 30, 1980.

(July 1, 1944, ch. 373, title VII, § 798, as added Oct. 12, 1976, Pub. L. 94-484, title VII, § 701(a), 90 Stat. 2309.)

PRIOR PROVISIONS

A prior section 295h-7, act July 1, 1944, ch. 373, title VII, § 798(a), as added Aug. 16, 1968, Pub. L. 90-490, title III, § 301(d), 82 Stat. 788, and amended Nov. 2, 1970, Pub. L. 91-519, title II, § 205, 84 Stat. 1354, prior to its omission in the general amendment of this part by Pub. L. 94-484, title VII, § 701(a), Oct. 12, 1976, 90 Stat. 2309, required the Secretary to conduct a study of the allied health programs.

§§ 295h-8, 295h-9. Transferred

CODIFICATION

Section 295h-8, act July 1, 1944, ch. 373, title VII, § 703, formerly § 799, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 206, 84 Stat. 1354, amended Nov. 18, 1971, Pub. L. 92-157, title I, § 109, 85 Stat. 461, and renumbered Pub. L. 94-484, title II, § 201(c), Oct. 12, 1976, 90 Stat. 2247, which related to advance funding, was transferred to section 292c of this title.

Section 295h-9, act July 1, 1944, ch. 373, title VII, § 704, formerly § 799A, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 207, 84 Stat. 1355, § 704, amended Nov. 18, 1971, Pub. L. 92-157, title I, § 110(2), 85 Stat. 461; July 12, 1974, Pub. L. 93-348, title I, § 105, 88 Stat. 347, and renumbered Pub. L. 94-484, title II, § 201(c), Oct. 12, 1976, 90 Stat. 2247, which related to sexual discrimination, was transferred to section 292d of this title.

ADMINISTRATION OF TITLE VIII OF THE PUBLIC HEALTH SERVICE ACT

Pub. L. 92-157, title II, § 206, Nov. 18, 1971, 85 Stat. 463, authorized the Secretary of Health, Education, and Welfare to prepare and submit to Congress no later than June 30, 1974, a final report on the administration of this subchapter, other than parts A and G.

SUBCHAPTER VI—NURSE TRAINING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 235, 300d-5, 300l-2 of this title; title 38 section 5070.

PART A—ASSISTANCE FOR EXPANSION AND IMPROVEMENT OF NURSE TRAINING

SUBPART I—CONSTRUCTION ASSISTANCE

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 298, 298b of this title.

§ 296. Authorization of appropriations for construction grants

There are authorized to be appropriated for grants to assist in the construction of new facilities for collegiate, associate degree, or diploma schools of nursing, and for grants to assist in the replacement or rehabilitation of existing facilities for such schools, $35,000,000 for the fiscal year ending June 30, 1972, $40,000,000 for the fiscal year ending June 30, 1973, $45,000,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, $20,000,000 for fiscal year 1976, $20,000,000 for fiscal year 1977, and $20,000,000 for fiscal year 1978.

(July 1, 1944, ch. 373, title VIII, § 801 as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 908, and amended Nov. 3, 1966, Pub. L. 89-751, § 8(a), 80 Stat. 1236; Aug. 16, 1968, Pub. L. 90-490, title II, § 201(a), 82 Stat. 780; Nov. 18, 1971, Pub. L. 92-158, § 2(a), 85 Stat. 465; July 29, 1975, Pub. L. 94-63, title IX, §§ 902(a), 910(a)(1), 89 Stat. 354, 355.)

AMENDMENTS

1975—Pub. L. 94-63 authorized appropriations of $45,000,000 for the fiscal year ending June 30, 1975, and $20,000,000 for fiscal years 1976, 1977, 1978.

1971—Pub. L. 92-158 designated subsec. (a) as entire section, and as so designated substituted "and for grants to assist in the" for "or" preceding "replacement", substituted authorization of appropriations of $35,000,000, $40,000,000, and $45,000,000, for the fiscal years ending June 30, 1972, 1973, and 1974, respectively, for authorization of appropriations of $25,000,000, and $35,000,000, for the fiscal years ending June 30, 1970, and 1971, respectively, and deleted subsec. (b) which provided that sums appropriated pursuant to former subsec. (a) of this section for a fiscal year were to remain available for obligation through the close of the next fiscal year.

1968—Subsec. (a). Pub. L. 90-490 substituted authorization of appropriations of $25,000,000 and $35,000,000 for fiscal years ending June 30, 1970, and 1971, respectively, for construction, replacement, or rehabilitation of facilities for collegiate, associate degree, or diploma schools of nursing for former provisions which authorized appropriations for collegiate schools of nursing in amounts of $5,000,000 and $10,000,000 for fiscal year ending June 30, 1966, and next three fiscal years and for associate degree or diploma schools in amounts of $10,000,000 and

$15,000,000 also for such fiscal years and authorized such additional sum for such fiscal years as represented the excess of the total of sums authorized for previous years over the aggregate of appropriations thereunder for such years.

Subsec. (b). Pub. L. 90-490 substituted provisions that appropriations remain available for obligation rather than for grant and eliminated authorization for transfer of unused funds for collegiate schools of nursing and for associate degree or diploma schools when such funds can be used for the other of such purposes, now covered in the combined form in subsec. (a) of this section.

1966—Pub. L. 89-751 authorized the Surgeon General, notwithstanding any other provision of this title, whenever he determines that any part of any amount appropriated, for any fiscal year, to carry out the purposes of either paragraph (1) or paragraph (2) of subsection (a) of this section will not likely be utilized for such purposes during such year, to transfer such part to the amounts which are appropriated to carry out the purposes of the other such paragraph, if he has reason to believe that such part can be used for such purposes.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 905 of Pub. L. 94-63 provided that: "Except as may otherwise be specifically provided, the amendments made by this part [enacting sections 296j to 296m of this title, amending sections 296, 296a, 296d, 296e, 297 to 297c, 297e, and 297j of this title, repealing sections 296d, 296g, 296i, 297f, and 298c-7 of this title, and enacting provisions set out as notes under sections 296, 296a, 296d, 296e, 296m, 297, 297b, and 297f of this title] shall take effect July 1, 1975. The amendments made by this part to provisions of title VIII of the Public Health Service Act [this subchapter] (hereinafter in this part referred to as the 'Act') are made to such provisions as amended by part A of this title [amending sections 296, 296d, 296e, 296g, 296i, 297j, and 298c-7 of this title]."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 205 of Pub. L. 90-490 provided that: "The amendments made by sections 201 [to this section and section 296a(a) of this title] and 204 [to section 298b(c) of this title] shall apply with respect to appropriations for fiscal years ending after June 30, 1969."

SHORT TITLE

For Short Title of Pub. L. 88-581, which enacted this subchapter, see Short Title of 1964 Amendments note set out under section 201 of this title.

INFORMATION RESPECTING SUPPLY AND DISTRIBUTION OF AND REQUIREMENTS FOR NURSES; DETERMINATION PROCEDURES; SURVEYS AND COLLECTION OF DATES; ANNUAL REPORT TO CONGRESS ON DETERMINATIONS, ETC.; REVIEW BY OFFICE OF MANAGEMENT AND BUDGET OF REPORT PRIOR TO SUBMISSION

Section 951 of Pub. L. 94-63 provided that:

"(a)(1) Using procedures developed in accordance with paragraph (3), the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary') shall determine on a continuing basis—

"(A) the supply (both current and projected and within the United States and within each State) of registered nurses, licensed practical and vocational nurses, nurse's aides, registered nurses with advanced training or graduate degrees, and nurse practitioners;

"(B) the distribution within the United States and within each State, of such nurses so as to determine (i) those areas of the United States which are oversupplied or undersupplied, or which have an adequate supply of such nurses in relation to the population of the area, and (ii) the demand for the services which such nurses provide; and

"(C) the current and future requirements for such nurses, nationally and within each State.

"(2) The Secretary shall survey and gather data, on a continuing basis, on—

"(A) the number and distribution of nurses, by type of employment and location of practice;

"(B) the number of nurses who are practicing full time and those who are employed part time, within the United States and within each State;

"(C) the average rates of compensation for nurses, by type of practice and location of practice;

"(D) the activity status of the total number of registered nurses within the United States and within each State;

"(E) the number of nurses with advanced training or graduate degrees in nursing, by specialty, including nurse practitioners, nurse clinicians, nurse researchers, nurse educators, and nurse supervisors and administrators; and

"(F) the number of registered nurses entering the United States annually from other nations, by country of nurse training and by immigrant status.

"(3) Within six months of the date of the enactment of this Act [July 29, 1975], the Secretary shall develop procedures for determining (on both a current and projected basis) the supply and distribution of and requirements for nurses within the United States and within each State.

"(b) Not later than February 1, 1977, and February 1 of each succeeding year, the Secretary shall report to the Congress—

"(1) his determinations under subsection (a)(1) and the data gathered under subsection (a)(2);

"(2) an analysis of such determination and data; and

"(3) recommendations for such legislation as the Secretary determines, based on such determinations and data, will achieve (A) an equitable distribution of nurses within the United States and within each State, and (B) adequate supplies of nurses within the United States and within each State.

"(c) The Office of Management and Budget may review the Secretary's report under subsection (b) before its submission to the Congress, but the Office may not revise the report or delay its submission, and it may submit to the Congress its comments (and those of other departments or agencies of the Government) respecting such report."

NURSE MANPOWER IN THE UNITED STATES

Section 12 of Pub. L. 92-158 authorized the Secretary of Health, Education, and Welfare to prepare and submit to the Congress prior to June 30, 1974, a final report on the administration and impact of title VIII of the Public Health Service Act, this subchapter, on nurse manpower in the United States.

STUDY OF SCHOOL AID AND STUDENT AID PROGRAMS

Section 232 of Pub. L. 90-490 authorized the Secretary of Health, Education, and Welfare to prepare and submit to the President and the Congress prior to July 1, 1970 a report on the administration and impact of title VIII of the Public Health Service Act, this subchapter, on school aid and student aid programs developed to meet the long-term need for nurses in the United States.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 296d of this title.

§ 296a. Applications for construction grants

(a) Time of submission

The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this subpart for any fiscal year must be filed.

(b) Approval of application; prerequisite determinations

A grant for a construction project under this subpart may be made only if the application therefor is approved by the Secretary upon his determination that—

(1) the applicant is a public or nonprofit private school of nursing providing an accredited program of nursing education;

(2) the application contains or is supported by reasonable assurances that (A) for not less than twenty years (or in the case of interim facilities, within such shorter period as the Secretary shall by regulation prescribe) after completion of construction, the facility will be used for the purposes of the training for which it is to be constructed, and will not be used for sectarian instruction or as a place for religious worship, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed and (D) in the case of an application for a grant for construction to expand the training capacity of a school of nursing, the first-year enrollment at such school during the first full school year after the completion of the construction and for each of the nine years thereafter will exceed the highest first-year enrollment at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest first-year enrollment, or by five students, whichever is greater, and the requirements of this clause (D) shall be in addition to the requirements of section 296e(c) of this title, where applicable;

(3)(A) in the case of an application for a grant for construction of a new facility, such application is for aid in the construction of a new school of nursing, or construction which will expand the training capacity of an existing school of nursing, or (B) in the case of an application for a grant to assist in the replacement or rehabilitation of existing facilities, such application is for aid in construction which will replace or rehabilitate facilities of, or used by, an existing school of nursing, which facilities either are so obsolete as to require the school to curtail substantially either its enrollment or the quality of the training provided or are required to meet an increase in student enrollment;

(4) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment; and

(5) the application contains or is supported by adequate assurances that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a-5, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 276c of title 40.

Before approving or disapproving an application for a construction project under this subpart, the Secretary shall secure the advice of the National Advisory Council on Nurse Training established by section 298 of this title.

(c) Considerations

In considering applications for grants, the Council and the Secretary shall take into account—

(1)(A) in the case of a project for a new school or for expansion of the facilities of an existing school, the relative effectiveness of the proposed facilities (i) in expanding the capacity for the training of first-year students of nursing in the field involved and in promoting an equitable geographical distribution of opportunities for such training (giving due consideration to population, relative unavailability of nurses of the kind to be trained by such school, and available resources in various areas of the Nation for training such nurses), or (ii) in expanding the capacity of the school to provide graduate training; or

(B) in the case of a project for replacement or rehabilitation of existing facilities of a school, the relative need for such replacement or rehabilitation to prevent curtailment of the school's enrollment or deterioration of the quality of the training provided by the school, and the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training in the field of nursing involved (giving consideration to the factors mentioned in subparagraph (A)); and

(2) in the case of an applicant in a State which has in existence a State or local area agency involved with planning for nurse training facilities, or which participates in a regional or other interstate agency involved with planning for nurse training facilities, the relationship of the application to the construction or training program which is being developed by such agency or agencies and, if such agency or agencies have reviewed such application, any comment thereon submitted by them.

(July 1, 1944, ch. 373, title VIII, § 802, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 909, and amended Aug. 16, 1968, Pub. L. 90–490, title II, § 201(b), 82 Stat. 780; Nov. 18, 1971, Pub. L. 92–158, §§ 2(d)(3), (e), (f), 13, 85 Stat. 468, 480; July 29, 1975, Pub. L. 94–63, title IX, §§ 910(a)(2), 941(a), 89 Stat. 355, 363.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–63, § 941(a)(1)(A), substituted "subpart" for "part".

Subsec. (b). Pub. L. 94–63, § 941(a)(1)(A), (D), (E), substituted "subpart" for "part" in material preceding cl. (1) and following cl. (5), and in such following material, struck out "(hereinafter in this part referred to as the "Council)" following "section 298 of this title" and provisions relating to waiver by the Secretary of enrollment increase requirements of applicants for construction project grants.

Subsec. (b)(2). Pub. L. 94–63, § 941(a)(1)(B), substituted "section 296e(c) of this title" for "subsection (e) of section 296e of this title".

Subsec. (b)(5). Pub. L. 94-63, § 941(a)(1)(C), substituted provisions relating to required assurances for all laborers and mechanics employed on a project, for provisions relating to required assurances for any laborer or mechanic employed on construction of the facility.

Subsec. (c)(1)(A). Pub. L. 94-63, § 910(a)(2), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (c)(1)(B). Pub. L. 94-63, § 941(a)(1)(F), substituted "in subparagraph (A)" for "above in paragraph (A)".

1971—Subsec. (a). Pub. L. 92-158, § 2(e)(1), substituted "The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this part for any fiscal year must be filed" for "No application for a grant for a construction project under this part may be approved unless submitted to the Surgeon General prior to July 1, 1970".

Subsec. (b). Pub. L. 92-158, §§ 2(d)(3), (e)(2), (f)(2), 13, in par. (2)(A), set time limit for use of facility as nonsectarian training facility, in the case of interim facilities, as a shorter period than 20 years as the Secretary prescribes, in par. (2)(D), added "and the requirements of this clause (D) shall be in addition to the requirements of subsection (e) of section 296e of this title, where applicable", in par. (3)(B), substituted "to assist in the" for "for" preceding "replacement", included within this clause facilities used by, as well as, facilities of, an existing school of nursing and added as a criteria of application approval a need for replacement or rehabilitation of facilities necessary to meet a required increase in student enrollment, added at the end of this subsec. a provision permitting the waiver by the Secretary, after consultation with the National Advisory Council on Nurse Training, of enrollment increase provisions of par. (2)(D) of this subsec. if school is not required to meet, in the fiscal year of application, the enrollment increase prescribed by section 296e(e) of this title because of limitations of facilities, if application contains satisfactory assurances that enrollment of first year students enrolled during the first full school year after completion of the project and for each of the next 9 school years thereafter would conform to enrollment requirements under section 296e(e) of this title, without regard to par. (2) thereof, for a grant under subsec. (a) of such section, and substituted "Secretary" for "Surgeon General" in two places within this subsec.

Subsec. (c). Pub. L. 92-158, § 13, substituted "Secretary" for "Surgeon General".

1968—Subsec. (a). Pub. L. 90-490 substituted "July 1, 1970" for "July 1, 1968".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 942 of Pub. L. 94-63 provided that: "The amendments made by section 941 [enacting section 298b-3 of this title, amending sections 296a to 296d, 296f, 297a to 297e, 297g to 297k, 298, and 298b of this title and repealing section 298c-8 of this title] shall take effect July 1, 1975. Except as otherwise specifically provided, the amendments made by section 941 to provisions of title VIII of the Act [this subchapter] are made to such provisions as in effect July 1, 1975, and as amended by part B of this title [see Effective Date of 1975 Amendment note set out under section 296 of this title]."

Section 910(a)(2) of Pub. L. 94-63 provided in part that amendment to subsec. (c)(1)(A) by section 910(a)(2) of Pub. L. 94-63 shall be effective with respect to grants for construction projects under this part made from appropriations under section 296 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 2(f)(1) of Pub. L. 92-158 provided in part that the amendment to subsec. (b)(2)(D) of this section by section 2(f)(1) of Pub. L. 92-158 shall be effective in the case of grants made after Nov. 18, 1971.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 205 of Pub. L. 90-490, set out as an Effective Date of 1968 Amendment note under section 296 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING OCTOBER 1, 1976

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning Oct. 1, 1976, for purposes of subsec. (a) of this section, see section 205(24) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 394, set out as a note under section 5532 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 296e of this title.

§ 296b. Amount of construction grant

(a) Determination

The amount of any grant for a construction project under this subpart shall be such amount as the Secretary determines to be appropriate after obtaining the advice of the National Advisory Council on Nurse Training; except that—

(1) in the case of a grant—

(A) for a project for a new school,

(B) for a project for new facilities for an existing school in cases where such facilities are of particular importance in providing a major expansion of training capacity, as determined in accordance with regulations, or

(C) for a project for major remodeling or renovation of an existing facility where such project is required to meet an increase in student enrollment,

the amount of such grant may not exceed 75 per centum of the necessary cost of construction, as determined by the Secretary, of such project; and

(2) in the case of a grant for any other project, the amount of such grant may not, except where the Secretary determines that unusual circumstances make a larger percentage (which may in no case exceed 75 per centum) necessary in order to effectuate the purposes of this subpart, exceed 67 per centum of the necessary cost of construction, as so determined, of the project with respect to which the grant is made.

(b) Reservation of funds

Upon approval of any application for a grant for a construction project under this subpart, the Secretary shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a) of this section; the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress as the Secretary may determine. The Secretary's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) Exclusions

In determining the amount of any such grant under this subpart, there shall be excluded

from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this subpart, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(July 1, 1944, ch. 373, title VIII, § 803, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 911, and amended Aug. 16, 1968, Pub. L. 90-490, title II, § 202, 82 Stat. 780; Nov. 18, 1971, Pub. L. 92-158, §§ 2(b), 13, 85 Stat. 465, 480; July 29, 1975, Pub. L. 94-63, title IX, § 941(b), 89 Stat. 364.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-63, § 941(b)(1), substituted provisions relating to determination of amount of grant for a construction project under this subpart, for provisions relating to determination of amount of grant for a construction project under this part.

Subsecs. (b), (c). Pub. L. 94-63, § 941(b)(2) substituted "subpart" for "part" wherever appearing therein.

1971—Subsec. (a). Pub. L. 92-158, §§ 2(b), 13, substituted "Secretary" for "Surgeon General" in two places within this subsection, altered clause (A) by adding to material after "(A) in the case of a grant" the designation "(i)", substituted "(ii)" for "and in the case of a grant", added a new subclause (iii), substituted "75 per centum" for "66⅔ per centum" and in Clause (B) substituted "75 per centum" and "67 per centum" for "66⅔ per centum" and "50 per centum", respectively.

Subsec. (b). Pub. L. 92-158, § 13, substituted "Secretary" for "Surgeon General" in two places and substituted "Secretary's" for "Surgeon General's".

1968—Subsec. (a)(B). Pub. L. 90-490 authorized construction grants exceeding 50 per centum, but not exceeding 66⅔ per centum, of construction costs where Secretary determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of this part.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-63, effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

§ 296c. Recovery of payments

If, within twenty years (or in the case of interim facilities, within such shorter period as the Secretary shall by regulation prescribe) after completion of any construction for which funds have been paid under this subpart—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private school, or

(2) the facility shall cease to be used for the training purposes for which it was constructed (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so), or

(3) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(July 1, 1944, ch. 373, title VIII, § 804, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 911, and amended Nov. 18, 1971, Pub. L. 92-158, §§ 2(d)(3), 13, 85 Stat. 468, 480; July 29, 1975, Pub. L. 94-63, title IX, § 941(c), 89 Stat. 364.)

AMENDMENTS

1975—Pub. L. 94-63 substituted "subpart" for "part" and redesignated pars. (a), (b) and (c) as (1), (2) and (3), respectively.

1971—Pub. L. 92-158, in material preceding subsec. (a), added "(or in the case of interim facilities, within such shorter period as the Secretary shall by regulation prescribe)" following "twenty years" and in subsec. (b), substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-63 effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

§ 296d. Loan guarantees and interest subsidies for construction of training facilities by nonprofit nursing schools

(a) Eligible applicants; amount of loan guarantee

In order to assist nonprofit private schools of nursing to carry out construction projects for training facilities, the Secretary may, during the period beginning July 1, 1971, and ending with the close of September 30, 1978, guarantee (in accordance with this section and subject to subsection (f) of this section) to non-Federal lenders or the Federal Financing Bank making loans to such schools for such construction projects payment when due of the principal of and interest on any loan for construction of such facilities if the loan was made to a school which is eligible (as determined under regulations of the Secretary) for a grant under this subpart to assist a construction project for such facilities. The Secretary may make commitments, on behalf of the United States, to make such loan guarantees prior to the making of such loans. No such loan guarantee may, except under such special circumstances and under such conditions as are prescribed by regulations, apply to any amount which, when added to any grant for construction under this subpart or any other law of the United States, exceeds 90 per centum of the cost of construction of the project.

(b) Restrictions on interest subsidy payments

In the case of any nonprofit private school of nursing which is eligible (as determined under regulations of the Secretary) for a grant under this subpart to assist a construction project for training facilities, and to whom a loan has been made by a non-Federal lender or the Federal Financing Bank to assist it in carrying out such project, the Secretary, during the period beginning July 1, 1971, and ending with the close of September 30, 1978, may, subject to subsection (f) of this section, pay to the holder of such loan (and for and on behalf of the school which received such loan) amounts sufficient to reduce by not to exceed 3 per centum per annum the net effective interest rate otherwise payable on such loan.

(c) Submission and approval of applications for loan guarantees or interest subsidy payments

A loan guarantee or interest subsidy payment may be made under this section only upon an application (submitted in such manner and containing such information as the Secretary may by regulations require) approved by the Secretary. The Secretary may not approve an application for a loan guarantee or interest subsidy payment unless he determines that the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may not approve an application for a loan guarantee, unless he determines that the loan would not be available on reasonable terms and conditions without the guarantee under this section.

(d) Recovery by United States; modification of terms and conditions by Secretary; incontestability of loan guarantee except for fraud or misrepresentation

(1) The United States shall be entitled to recover from any school of nursing for whom a loan guarantee was made under this section the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) To the extent permitted by paragraph (3), any terms and conditions applicable to a loan guarantee under this section may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(3) Any loan guarantee made by the Secretary pursuant to this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

(e) Establishment of loan guaranty and interest subsidy fund; authorization of appropriations; insufficient sums in fund

There is established in the Treasury a loan guarantee and interest subsidy fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, (1) to enable him to discharge his responsibilities under guarantees issued by him under this section, and (2) for interest subsidy payments authorized by this section. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund; except that the amount appropriated for interest subsidy payments may not exceed $1,000,000 in the fiscal year ending June 30, 1972, $2,000,000 in the fiscal year ending June 30, 1973, $4,000,000 in the fiscal year ending June 30, 1974, or in the next fiscal year, $1,000,000 in fiscal year 1976, $1,000,000 in fiscal year 1977, and $1,000,000 in fiscal year 1978. There shall also be deposited in the fund amounts received by the Secretary or other property or assets derived by him from his operations under this section, including any money derived from the sale of assets. If at any time the sums in the fund are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this section or to make interest subsidy payments authorized by this section, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(f) Limitation on cumulative total of principal of loans governed by amounts specified in appropriation acts

(1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

(2) In any fiscal year no loan guarantee may be made under subsection (a) of this section and no agreement to make interest subsidy payments may be entered into under subsection (b) of this section if the making of such guarantee or the entering into of such agreement would cause the cumulative total of—

(A) the principal of the loans guaranteed under subsection (a) of this section in such fiscal year, and

(B) the principal of the loans for which no guarantee has been made under subsection (a) of this section and with respect to which

an agreement to make interest subsidy payments is entered into under subsection (b) of this section in such fiscal year,

to exceed the amount of grant funds obligated under this subpart in such fiscal year for construction grants; except that this paragraph shall not apply if the amount of grant funds so obligated in such fiscal year equals the sums appropriated for such fiscal year under section 296 of this title.

(g) Administrative assistance from the Department of Housing and Urban Development

The Secretary, with the consent of the Secretary of Housing and Urban Development, may obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this section as will promote efficiency and economy thereof.

(July 1, 1944, ch. 373, title VIII, § 805, formerly § 809, as added Nov. 18, 1971, Pub. L. 92-158, § 2(c), 85 Stat. 465, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, §§ 902(d), 910(b)(1)(A), (B)(i), (2), (c), 911(b), 941(d), 89 Stat. 355, 356, 364.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (e), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

CODIFICATION

Provisions of this section were formerly classified to section 296h of this title prior to reorganization and amendment of this subchapter by Pub. L. 94-63.

PRIOR PROVISIONS

A prior section 296d, act July 1, 1944, ch. 373, title VIII, § 805, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 912, and amended Aug. 16, 1968, Pub. L. 90-490, title II, §§ 211, 215, 82 Stat. 780, 783; Nov. 18, 1971, Pub. L. 92-158, § 3(b), 85 Stat. 469, relating to special project grants and contracts for nurse training programs, was repealed by Pub. L. 94-63, title IX, § 922, July 29, 1975, 89 Stat. 359, eff. July 1, 1975.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-63, §§ 902(d)(1), 910(b)(1)(A), (B)(i), (c)(1), 941(d), extended period authorizing guarantees from June 30, 1974 to September 30, 1978, added reference to the Federal Financing Bank, substituted "subpart" for "part" wherever appearing therein, and struck out "(1)" and provisions of cl. (2) relating to guarantees applying to more than 90 per centum of the loss of principal of and interest on the loan.

Subsec. (b). Pub. L. 94-63, §§ 902(d)(1), 910(b)(1)(A), (c)(2), 941(d), extended period from the close of June 30, 1974, to the close of September 30, 1978, added reference to the Federal Financing Bank, and substituted "subpart" for "part".

Subsec. (e). Pub. L. 94-63, §§ 902(d)(2), 910(b)(2), authorized appropriations of $4,000,000 for fiscal year 1975, and $1,000,000 for fiscal years 1976, 1977, and 1978.

Subsec. (f). Pub. L. 94-63, § 941(d), substituted "subpart" for "part".

1968—Subsec. (a). Pub. L. 90-490, § 211, substituted provisions which authorized grants to public or nonprofit private agency, organization, or institution for provisions which made public and nonprofit private diploma, collegiate and associate degree schools of nursing eligible for grants, reenacted provision to strengthen, improve, and expand programs of nursing education, and substituted provisions for special projects, including statement of additional objectives, for fiscal years ending June 30, 1970, and 1971, for provisions which authorized appropriations of $2,000,000, $3,000,000, and $4,000,000 for fiscal years ending June 3, 1965, 1966, and 1967-1969, respectively, and necessary sums for each of the four succeeding fiscal years to complete projects for which a grant was made from funds appropriated for fiscal year ending June 30, 1969, or any preceding year.

Subsec. (a). Pub. L. 90-490, § 215, made appropriations for improvement in nurse training also available for planning special projects for which grants are authorized under this section, as amended by section 211 of Pub. L. 90-490. See such amendment note under this section.

Subsec. (b). Pub. L. 90-490, § 211, substituted provisions enumerating criteria for determining priority of projects by the Secretary in the order of need for financial assistance to continue operation of school or avoid curtailing enrollment or reduction in quality of training, in connection with mergers, and to maintain or provide for accreditation, and increased enrollment of students for provisions under which Surgeon General considered contributions of the projects to general improvement in teaching and training of nurses, extent to which the projects attain a wider geographical distribution of high quality schools, and need in area in which school is situated and surrounding areas for nurses.

Subsec. (c). Pub. L. 90-490, § 211, eliminated provision which prohibited grants for projects for any period after grants have been made for such projects for five fiscal years.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 910(b)(1)(B)(ii) of Pub. L. 94-63 provided that: "The amendment made by clause (i) [amending provisions of subsec. (a) of this section relating to amount of loan guarantees] shall apply with respect to loans guaranteed under subpart I of part A of title VIII of the Act [this subpart] after the date of the enactment of this Act [July 29, 1975]."

Amendment by section 910(b)(1)(A), (2), (c) of Pub. L. 94-63, relating to period of loan guarantees and authorizing appropriations, effective July 1, 1975, see section 905 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296 of this title.

Amendment by section 941(d) of Pub. L. 94-63, substituting references to subpart for references to part, effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 211 of Pub. L. 90-490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 214 of Pub. L. 90-490, set out as an Effective Date note under section 296f of this title.

Amendment by section 215 of Pub. L. 90-490 effective only with respect to appropriations for fiscal year ending June 30, 1969, under provisions of such section 215.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (f)(2) of this section, see section 204(1) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 298 of this title.

SUBPART II—CAPITATION GRANTS

§ 296e. Grants for institutional support

(a) Computation

The Secretary shall make annual grants to schools of nursing for the support of the education programs of such schools. The amount of the annual grant to each such school with an approved application shall be computed as follows:

(1) Each collegiate school of nursing shall receive $400 for each undergraduate full-time student enrolled in each of the last two years of such school in such year.

(2) Each associate degree school of nursing shall receive (A) the product of $275 and one-half of the number of full-time students enrolled in the first year of such school in such year, and (B) $275 for each full-time student enrolled in the last year of such school in such year.

(3) Each diploma school of nursing shall receive $250 for each full-time student enrolled in such school in such year.

(b) Apportionment of appropriations

If the total of the grants to be made under subsection (a) of this section for any fiscal year to schools with approved applications exceeds the amounts appropriated under subsection (f) of this section for such grants, the amount of the grant for that fiscal year to each such school shall be an amount which bears the same ratio to the amount determined for the school for that fiscal year under subsection (a) of this section as the total of the amounts appropriated under subsection (f) of this section for that year bears to the amount required to make grants to each school in accordance with subsection (a) of this section.

(c) Requirements

(1) The Secretary shall not make a grant under subsection (a) of this section to any school of nursing in a fiscal year beginning after June 30, 1975, unless the application for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that—

(A) the first-year enrollment of full-time students in the school in the school year beginning after the fiscal year in which the grant applied for is to be made will not be less than the first-year enrollment of such students in the school in the preceding school year; and

(B) that the school will expend in carrying out its function as a school of nursing, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such purposes (excluding expenditures of a nonrecurring nature) in the three fiscal years immediately preceding the fiscal year for which such grant is sought.

The requirement of subparagraph (A) shall be in addition to the requirements of section 296a(b)(2)(D) of this title, where applicable.

(2) The Secretary shall not make a grant under subsection (a) of this section to any school of nursing in a fiscal year beginning after June 30, 1975, unless one of the following requirements is met:

(A) The application for such grant shall contain or be supported by reasonable assurances satisfactory to the Secretary that for the school year beginning after the close of the fiscal year in which such grant is to be made and for each school year thereafter beginning in a fiscal year in which such a grant is made the first year enrollment of full-time students in such school will exceed the number of such students enrolled in the school year beginning during the fiscal year ending June 30, 1975—

(i) by 10 per centum of such number if such number was not more than one hundred, or

(ii) by 5 per centum of such number, or ten students, whichever is greater, if such number was more than one hundred.

(B) The school has provided reasonable assurance satisfactory to the Secretary that it will carry out, in accordance with a plan submitted by the school to the Secretary and approved by him, at least two of the following programs in the school year beginning after the close of the fiscal year in which such grant is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made:

(i) In the case of collegiate schools of nursing, a program for the training of nurse practitioners (as defined in section 296m of this title).

(ii) A program under which students enrolled in a school of nursing will receive a significant portion of their clinical training in community health centers, long-term care facilities, and ambulatory care facilities geographically remote from the main site of the teaching facilities of the school.

(iii) A program for the continuing education of nurses which meets needs identified by appropriate State, regional, or local health or educational entities (including health systems agencies).

(iv) A program to identify, recruit, enroll, retain, and graduate individuals from disadvantaged backgrounds (as determined in accordance with criteria prescribed by the Secretary) under which program at least 10 per centum of each year's entering class (or ten students, whichever is greater) is comprised of such individuals.

(d) Enrollment and graduation determinations; full-time students defined

(1) For purposes of this part and part D, regulations of the Secretary shall include provisions relating to determination of the number of students enrolled in a school, or in a particular year-class in a school, or the number of graduates, as the case may be, on the basis of estimates or on the basis of the number of students who were enrolled in a school, or in a particular year-class in a school, or were graduates, in an earlier year, as the case may be, or on such basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a

year-class was not in existence in an earlier year at a school.

(2) For purposes of this part and part D, the term "full-time students" (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study in an accredited program in a school of nursing.

(e) Applications for new schools

In the case of a new school of nursing which applies for a grant under this section in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment for purposes of subsection (a) of this section shall be the number of full-time students which the Secretary determines, on the basis of assurances provided by the school, will be enrolled in the school, in the fiscal year after the fiscal year in which the grant is made.

(f) Authorization of appropriations

(1) There are authorized to be appropriated $78,000,000 for the fiscal year ending June 30, 1972, $82,000,000 for the fiscal year ending June 30, 1973, $88,000,000 each for the fiscal years ending June 30, 1974 and June 30, 1975, $50,000,000 for fiscal year 1976, $55,000,000 for fiscal year 1977, and $55,000,000 for fiscal year 1978 for grants under this section.

(2) No funds appropriated under any provision of this chapter (other than this subsection) may be used to make grants under this section.

(July 1, 1944, ch. 373, title VIII, § 810, formerly § 806, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 912, amended Dec. 5, 1967, Pub. L. 90-174, § 12(a), 81 Stat. 541; Aug. 16, 1968, Pub. L. 90-490, title II, § 211, 82 Stat. 781; Nov. 18, 1971, Pub. L. 92-158, § 4(a), 85 Stat. 470, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, §§ 902(b), 915(a)-(c), 916(a), (b), 941(e), 89 Stat. 354, 356, 358, 365.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-63, § 915(a), in par. (1) substituted provisions relating to collegiate schools of nursing, for provisions relating to schools of nursing, in par. (2) substituted provisions relating to associate degree schools of nursing, for provisions relating to schools of nursing with training programs for nurse midwives, etc., and added par. (3).

Subsec. (b). Pub. L. 94-63, § 916(b), substituted references to subsec. (f) of this section for references to subsec. (i) of this section.

Subsec. (c). Pub. L. 94-63, § 915(b), added subsec. (c). Former subsec. (c), which set forth criteria for determination of an enrollment bonus student, was struck out.

Subsec. (d). Pub. L. 94-63, §§ 915(b), 916(a), redesignated former subsec. (g) as (d). Former subsec. (d), which set out class size and application requirements for grants for bonus enrollment students, was struck out.

Subsec. (e). Pub. L. 94-63, §§ 915(b), 916(a), redesignated former subsec. (h) as (e). Former subsec. (e), which set out maintenance of effort and enrollment increase requirements and waiver authority for such requirements, was struck out.

Subsec. (f). Pub. L. 94-63, §§ 902(b), 915(b), (c), 916(a), redesignated former subsec. (i) as (f) and, as so redesignated, authorized appropriations of $88,000,000 for the fiscal year ending June 30, 1975, $50,000,000 for fiscal year 1976, and $55,000,000 for fiscal years 1977 and 1978. Former subsec. (f), which set out requirements for plans, gathering of information and surveys of schools, and reports to Congress was struck out.

Subsecs. (g) to (i). Pub. L. 94-63, § 916(a), redesignated former subsecs. (g) to (i) as (d) to (f), respectively.

1971—Subsec. (a). Pub. L. 92-158 substituted provisions relating to the computation of capitation grants for institutional support, for provisions relating to the distribution and computations of institutional grants.

Subsec. (b). Pub. L. 92-158 substituted provisions relating to apportionment of appropriations for capitation grants for institutional support, for provisions relating to an enrollment increase requirement and the waiver of such requirement with regard to institutional grants.

Subsec. (c). Pub. L. 92-158 substituted the definition of an enrollment bonus student, for provisions relating to the determination of the number of students enrolled and defining full-time students.

Subsecs. (d) to (i). Pub. L. 92-158 added subsecs. (d) to (i).

1968—Subsec. (a). Pub. L. 90-490 substituted provisions for distribution and computation of institutional grants for fiscal years ending June 30, 1970, and 1971, for provisions authorizing appropriations of $4,000,000, $7,000,000, and $10,000,000 for fiscal years ending June 30, 1965, 1966, and 1967-1969, respectively, to defray portion of cost of training students of nursing in public and nonprofit private diploma schools of nursing.

Subsec. (b). Pub. L. 90-490 substituted enrollment increase requirement and waiver thereof for provisions for payments by Surgeon General to public or nonprofit private diploma schools of nursing for each fiscal year in five-year period beginning July 1, 1964, and ending June 30, 1969, an amount equal to product of $250 and sum of number of federally-sponsored students in such school during such year and the number by which the full-time enrollment in such school during such year exceeds the average of full-time enrollments during fiscal years ending June 30, 1962, 1963, and 1964, except that no such school shall receive in any fiscal year an amount in excess of product of $100 and the full-time enrollment in such school during the year.

Subsec. (c). Pub. L. 90-490 substituted provisions for determination of number of students enrolled and defining "full-time students" for provisions which defined a "federally-sponsored student" and provided for determination of full-time enrollment and number of federally-sponsored students as of Feb. 15 of each fiscal year.

1967—Subsec. (c)(1). Pub. L. 90-174 defined "federally-sponsored student" to include a school of nursing student receiving a loan the source of which is the nurse training revolving fund or a nursing educational opportunity grant.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 917 of Pub. L. 94-63 provided that: "The amendments made by this subpart [amending subsecs. (a)(1) to (3), (b), (c) and (f) of this section, redesignating subsecs (g) to (i) as (d) to (f) of this section, respectively, and repealing subsecs. (c) to (f) of this section] shall take effect with respect to grants made under section 806 (redesignated as section 810 by part C of this title) [this section] of the Act from appropriations under such section for fiscal years beginning after June 30, 1975."

EFFECTIVE DATE OF 1971 AMENDMENT

Section 4(a) of Pub. L. 92-158 provided in part that the amendment by section 4(a) of Pub. L. 92-158 shall be effective with respect to appropriations for the fiscal years beginning after June 30, 1971.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 214 of Pub. L. 90-490, set out as an Effective Date note under section 296f of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 12(f) of Pub. L. 90-174 provided that: "The amendment made by subsection (a) [to subsec. (c)(1) of this section] shall be effective as of November 3, 1966."

DEFINITION OF "SECRETARY"

Term "Secretary" used in subsec. (e)(1) of this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90-174, set out as a note under section 201 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR 1977; APPLICABILITY TO AMOUNT OF EXPENDITURES

Pub. L. 94-274, title I, § 125, Apr. 21, 1976, 90 Stat. 390, provided that: "For the purposes of section 810(c)(1) of the Public Health Service Act (42 U.S.C. 296e(c)(1)) [subsec. (c)(1) of this section] the period July 1, 1976, through September 30, 1976, shall be considered part of fiscal year 1977, but that period shall not be considered in the calculation of average expenditures for any fiscal year, and the amount which a school must expend during that fifteen-month period is increased 125 per centum of the average of non-Federal expenditures in the preceding three fiscal years."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING OCTOBER 1, 1976

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning Oct. 1, 1976, for purposes of subsecs. (b), (c)(2), and (e) of this section, see section 205(24) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 394, set out as a note under section 5532 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 296a, 298b of this title.

§ 296f. Applications for grants

(a) Filing date

The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications under this subpart for any fiscal year must be filed.

(b) Consultation with Council

The Secretary shall not approve or disapprove any application for a grant under this subpart except after consultation with the National Advisory Council on Nurse Training.

(c) Eligibility; contents

A grant under this subpart may be made only if the application therefor—

(1) is from a public or nonprofit private school of nursing;

(2) contains such additional information as the Secretary may require to make the determinations required of him under this subpart and such assurances as he may fined necessary to carry out the purposes of this subpart; and

(3) provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subpart.

(July 1, 1944, ch. 373, title VIII, § 811, formerly § 807, as added Aug. 16, 1968, Pub. L. 90-490, title II, § 212, 82 Stat. 782, amended Nov. 18, 1971, Pub. L. 92-158, § 4(c), 85 Stat. 475, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, § 941(f), 89 Stat. 365.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-63, § 941(f)(1), substituted reference to this subpart for reference to section 296d, 296e, or 296i of this title.

Subsec. (b). Pub. L. 94-63, § 941(f)(2), substituted "subpart" for "part".

Subsec. (c). Pub. L. 94-63, § 941(f)(3), (4), in introductory material substituted reference to this subpart for reference to section 296d, 296e, or 296i of this title, in par. (1) struck out applicability to grants under section 296d or 296i of this title, and in pars. (2) and (3) substituted "this subpart" for "those sections" wherever appearing therein.

1971—Subsec. (a). Pub. L. 92-158, § 4(c)(1), substituted "section 296d, 296e, or 296i of this title" for "section 296d or 296e of this title".

Subsec. (c). Pub. L. 92-158, § 4(c)(1), substituted "section 296d, 296e, or 296i of this title" for "section 296d or 296e of this title".

Subsec. (c)(1). Pub. L. 92-158, § 4(c)(2), added "or 296i" following "section 296d".

Subsec. (c)(2). Pub. L. 92-158, § 4(c)(3), (4), deleted former par. (2) which permitted a grant under section 296d or 296e of this title only if the application contained assurances that the applicant would expend an amount of funds from non-Federal sources to carry out its functions as a school of nursing, during the fiscal year for which the grant was sought, which were at least as great as the average amount of funds expended by such applicant for such purpose in the three fiscal years immediately preceding the fiscal year for which such grant was sought, and redesignated former par. (3) as par. (2) and as so redesignated, substituted "those sections" for "this part" in two places.

Subsec. (c)(3). Pub. L. 92-158, § 4(c)(3), (4), redesignated former par. (4) as par. (3) and as so redesignated, substituted "those sections" for "this part". Former par. (3) redesignated par. (2).

Subsec. (c)(4). Pub. L. 92-158, § 4(c)(4), redesignated former par. (4) as par. (3).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-63 effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

EFFECTIVE DATE

Section 214 of Pub. L. 90-490 provided that: "The amendments made by the preceding provisions of this part [enacting sections 296f and 296g of this title and amending sections 296d, 296e, and 298b(f)(2) of this title] shall apply with respect to appropriations for fiscal years ending after June 30, 1969."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING OCTOBER 1, 1976

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning Oct. 1, 1976, for purposes of subsec. (a) of this section, see section 205(24) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 394, set out as a note under section 5532 of Title 5, Government Organization and Employees.

§ 296g. Repealed. Pub. L. 94-63, title IX, § 922, July 29, 1975, 89 Stat. 359

Section, act July 1, 1944, ch. 373, title VIII, § 808, as added Aug. 16, 1968, Pub. L. 90-490, title II § 212, 82 Stat. 783, and amended Nov. 18, 1971, Pub. L. 92-158, § 3(a), 85 Stat. 469; July 29, 1975, Pub. L. 94-63, title

IX, § 902(c), 89 Stat. 354, authorized appropriations for special project grants and contracts and financial distress grants from the fiscal year ending June 30, 1972 through the fiscal year ending June 30, 1975.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 1, 1975, see section 905 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296 of this title.

§ 296h. Transferred

CODIFICATION

Section, act July 1, 1944, ch. 373, title VIII, § 805, formerly § 809, as added Nov. 18, 1971, Pub. L. 92-158, § 2(c), 85 Stat. 465, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, §§ 902(d), 910(b)(1)(A), (B)(i), (2), (c), 911(b), 941(d), 89 Stat. 355, 356, 364, related to loan guarantees and interest subsidies for construction of training facilities by nonprofit nursing schools, and has been transferred to section 296d of this title pursuant to the reorganization and amendment of this subchapter by Pub. L. 94-63, title IX, July 29, 1975, 89 Stat. 354.

§ 296i. Repealed. Pub. L. 94-63, title IX, § 931(b), July 29, 1975, 89 Stat. 362

Section, act July 1, 1944, ch. 373, title VIII, § 810, as added Nov. 18, 1971, Pub. L. 92-158, § 4(b), 85 Stat. 474, and amended July 29, 1975, Pub. L. 94-63, title IX, § 902(e), 89 Stat. 355, authorized grants for start-up programs for new nurse training programs, and set out presequisites, etc.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 1, 1975, see section 905 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296 of this title.

SUBPART III—FINANCIAL DISTRESS GRANTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 298 of this title.

§ 296j. Grants for operational costs or meeting accreditation requirements

(a) Authorization; terms and conditions

The Secretary may make grants to assist public or non-profit private schools of nursing which are in serious financial straits to meet operational costs required to maintain quality educational programs or which have special need for financial assistance to meet accreditation requirements. Any such grant may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree (1) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that school's financial distress, (2) to conduct a comprehensive cost analysis study in cooperation with the Secretary, and (3) to carry out appropriate operational and financial reforms on the basis of information obtained in the course of the comprehensive cost analysis study or on the basis of other relevant information.

(b) Submission and approval of application; contents or required assurances of application; waiver

(1) No grant may be made under subsection (a) of this section unless an application therefor is submitted to and approved by the Secretary. The Secretary may not approve or disapprove such an application except after consultation with the National Advisory Council on Nurse Training.

(2) An application for a grant under subsection (a) of this section must contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its functions as a school of nursing, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the three fiscal years immediately preceding the fiscal year for which such grant is sought. The Secretary may, after consultation with the National Advisory Council on Nurse Training, waive the requirement of the preceding sentence with respect to any school if he determines that the application of such requirement to such school would be inconsistent with the purposes of subsection (a) of this section.

(c) Authorization of appropriations

For payments under grants under this section there are authorized to be appropriated $5,000,000 for fiscal year 1976, $5,000,000 for fiscal year 1977, and $5,000,000 for fiscal year 1978.

(July 1, 1944, ch. 373, title VIII, § 815, as added July 29, 1975, Pub. L. 94-63, title IX, § 921, 89 Stat. 358.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR 1976; APPLICABILITY TO AMOUNT OF EXPENDITURES

Pub. L. 94-274, title I, § 126, Apr. 21, 1976, 90 Stat. 390, provided that: For the purposes of section 815 of the Public Health Service Act (42 U.S.C. 926j) [42 U.S.C. 296j] the period of July 1, 1976, through September 30, 1976, shall be considered part of fiscal year 1976, but that period shall not be considered in the calculation of average expenditures for any fiscal year for assurances required by section 815(b)(2) (42 U.S.C. 296j(b)(2)), and the amount which a school must expend during that fifteen-month period is increased to 125 per centum of the average of non-Federal expenditures in the preceding three fiscal years."

SUBPART IV—SPECIAL PROJECTS

§ 296k. Grants and contracts for special projects

(a) Covered costs; nonapplicability of statutory provisions to contracts

The Secretary may make grants to public and nonprofit private schools of nursing and other public or nonprofit private entities, and enter into contracts with any public or private entity, to meet the costs of special projects to—

(1) assist in—

(A) mergers between hospital training programs or between hospital training programs and academic institutions, or

(B) other cooperative arrangements among hospitals and academic institutions,

leading to the establishment of nurse training programs;

(2)(A) plan, develop, or establish new nurse training programs or programs of research in nursing education, or

(B) significantly improve curricula of schools of nursing (including curriculums of

pediatric nursing and geriatric nursing) or modify existing programs of nursing education:

(3) increase nursing education opportunities for individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, by—

(A) identifying, recruiting, and selecting such individuals,

(B) facilitating the entry of such individuals into schools of nursing,

(C) providing counseling or other services designed to assist such individuals to complete successfully their nursing education.[1]

(D) providing, for a period prior to the entry of such individuals into the regular course of education at a school of nursing, preliminary education designed to assist them to complete successfully such regular course of education,

(E) paying such stipends (including allowances for travel and dependents) as the Secretary may determine for such individuals for any period of nursing education, and

(F) publicizing, especially to licensed vocational or practical nurses, existing sources of financial aid available to persons enrolled in schools of nursing or who are undertaking training necessary to qualify them to enroll in such schools;

(4) provide continuing education for nurses;

(5) provide appropriate retraining opportunities for nurses who (after periods of professional inactivity) desire again actively to engage in the nursing profession;

(6) help to increase the supply or improve the distribution by geographic area or by specialty group of adequately trained nursing personnel (including nursing personnel who are bilingual) needed to meet the health needs of the Nation, including the need to increase the availability of personal health services and the need to promote preventive health care;

(7) provide training and education to upgrade the skills of licensed vocational or practical nurses, nursing assistants, and other paraprofessional nursing personnel; or

(8) assist in meeting the costs of developing short-term (not to exceed 6 months) in-service training programs for nurses aides and orderlies for nursing homes, which programs emphasize the special problems of geriatric patients and include training for monitoring the well-being and feeding and cleaning of the patients in nursing homes, emergency procedures, drug properties and interactions, and fire safety techniques.

Contracts may be entered into under this subsection without regard to section 529 of title 31 and section 5 of title 41.

(b) Encouragement and assistance in utilization of medical facilities by Federal departments and agencies for nurse training programs

The Secretary may, with the advice of the National Advisory Council on Nurse Training, provide assistance to the heads of other departments and agencies of the Government to encourage and assist in the utilization of medical facilities under their jurisdiction for nurse training programs.

(c) Submission and approval of application; required contents of application

No grant or contract may be made under this section unless an application therefor has been submitted to and approved by the Secretary. The Secretary may not approve or disapprove such an application except after consultation with the National Advisory Council on Nurse Training. Such an application shall provide for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section.

(d) Authorization of appropriations

For payments under grants and contracts under this section there are authorized to be appropriated $15,000,000 for fiscal year 1976, $15,000,000 for fiscal year 1977, and $15,000,000 for fiscal year 1978. Not less than 10 per centum of the funds appropriated under this subsection for any fiscal year shall be used for payments under grants and contracts to meet the costs of the special projects described in subsection (a)(3) of this section.

(July 1, 1944, ch. 373, title VIII, § 820, as added July 29, 1975, Pub. L. 94-63, title IX, § 931(a), 89 Stat. 359.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (d) of this section, see section 201(17) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 391, set out as a note under section 343 of Title 7, Agriculture.

§ 296l. Grants and contracts for advanced nurse training programs; covered costs; authorization of appropriations

(a)(1)[1] The Secretary may make grants to and enter into contracts with public and nonprofit private collegiate schools of nursing to meet the costs of projects to—

(A) plan, develop, and operate,

(B) significantly expand, or

(C) maintain existing,

programs for the advanced training of professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other professional nursing specialties (including service as nurse clinicians) determined by the Secretary to require advanced training.

(b) For payments under grants and contracts under this section there are authorized to be appropriated $15,000,000 for fiscal year 1975, $20,000,000 for fiscal year 1977, and $25,000,000 for fiscal year 1978.

(July 1, 1944, ch. 373, title VIII, § 821, as added July 29, 1975, Pub. L. 94-63, title IX, § 931(a), 89 Stat. 361.)

[1]So in original. Period should be a comma.

[1]So in original. No subsection (a)(2) has been enacted.

§ 296m. Grants and contracts for nurse practitioner training programs

(a) Covered costs; priorities for applications; definition; guidelines for programs; minimum requirements for guidelines

(1) The Secretary may make grants to and enter into contracts with public or nonprofit private schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other public or nonprofit private entities to meet the cost of projects to—

(A) plan, develop, and operate,

(B) significantly expand, or

(C) maintain existing,

programs for the training of nurse practitioners. The Secretary shall give special consideration to applications for grants or contracts for programs for the training of nurse practitioners which emphasize training respecting the special problems of geriatric patients and training to meet the particular needs of nursing home patients.

(2)(A) For purposes of this section, the term "programs for the training of nurse practitioners" means educational programs for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) which meet guidelines prescribed by the Secretary in accordance with subparagraph (B) and which have as their objective the education of nurses (including pediatric and geriatric nurses) who will, upon completion of their studies in such programs, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities, and other health care institutions.

(B) After consultation with appropriate educational organizations and professional nursing and medical organizations, the Secretary shall prescribe guidelines for programs for the training of nurse practitioners. Such guidelines shall, as a minimum, require that such a program—

(i) extend for at least one academic year and consist of—

(I) supervised clinical practice, and

(II) at least four months (in the aggregate) of classroom instruction,

directed toward preparing nurses to deliver primary health care; and

(ii) have an enrollment of not less than eight students.

(b) Required assurances in applications

No grant may be made or contract entered into for a project to plan, develop, and operate a program for the training of nurse practitioners unless the application for the grant or contract contains assurances satisfactory to the Secretary that the program will upon its development meet the guidelines which are in effect under subsection (a)(2)(B) of this section; and no grant may be made or contract entered into for a project to expand or maintain such a program unless the application for the grant or contract contains assurances satisfactory to the Secretary that the program meets the guidelines which are in effect under such subsection.

(c) Additional covered costs

The costs for which a grant or contract under this section may be made may include costs of preparation of faculty members in order to conform to the guidelines established under subsection (a)(2)(B) of this section.

(d) Authorization of appropriations

For payments under grants and contracts under this section there are authorized to be appropriated $15,000,000 for fiscal year 1976, $20,000,000 for fiscal year 1977, and $25,000,000 for fiscal year 1978.

(July 1, 1944, ch. 373, title VIII, § 822, as added July 29, 1975, Pub. L. 94-63, title IX, § 931(a), 89 Stat. 361.)

GUIDELINES FOR NURSE PRACTITIONER TRAINING PROGRAMS

Section 932 of Pub. L. 94-63 required the Secretary of Health, Education, and Welfare to prescribe guidelines for nurse practitioner programs specified in subsec. (a) of this section, within ninety days after July 29, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294t, 296e, 297 of this title.

PART B—ASSISTANCE TO NURSING STUDENTS

SUBPART I—TRAINEESHIPS

§ 297. Grants to cover costs of traineeships for training of professional nurses

(a) Authority of Secretary; special considerations; preferences; payments; limitations

(1) The Secretary may make grants to public or private nonprofit institutions to cover the costs of traineeships for the training of professional nurses—

(A) to teach in the various fields of nurse training (including practical nurse training),

(B) to serve in administrative or supervisory capacities,

(C) to serve as nurse practitioners, or

(D) to serve in other professional nursing specialties determined by the Secretary to require advanced training.

(2) In making grants for traineeships under this subsection, the Secretary shall give special consideration to applications for traineeship programs (A) for the training of nurse practitioners who will practice in health manpower shortage areas (designated under section 254e of this title), and (B) for traineeship programs which conform to guidelines established by the Secretary under section 296m(a)(2)(B) of this title.

(3) Payments to institutions under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees.

(b) Grants and contracts for establishment and operation of traineeship programs for residents of health manpower shortage areas; amount of award; service commitment in health manpower shortage area

(1) The Secretary may make grants to and enter into contracts with schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other nonprofit entities to establish and operate traineeship programs to train nurse practitioners who are residents of a health manpower shortage area (designated under section 254e of this title).

(2) Traineeships funded under this subsection shall include 100 percent of the costs of tuition, reasonable living and moving expenses (including stipends), books, fees, and necessary transportation.

(3) A traineeship funded under this subsection shall not be awarded unless the recipient enters into a commitment with the Secretary to practice as a nurse practitioner in a health manpower shortage area (designated under section 254e of this title).

(c) Authorization of appropriations

There are authorized to be appropriated for the purposes of this section $15,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending September 30, 1977, and $25,000,000 for the fiscal year ending September 30, 1978.

(July 1, 1944, ch. 373, title VIII, § 830, formerly § 821, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 913, amended Aug. 16, 1968, Pub. L. 90-490, title II, § 221, 82 Stat. 783; July 9, 1971, Pub. L. 92-52, § 5, 85 Stat. 145; Nov. 18, 1971, Pub. L. 92-158, §§ 5, 13, 85 Stat. 475, 480, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, §§ 935, 941(g)(2), 89 Stat. 362, 365; Oct. 12, 1976, Pub. L. 94-484, title IX, § 901, 90 Stat. 2323.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-484, § 901(1), (2), designated existing provisions as par. (1), incorporated first sentence provisions of former subsec. (b) in the introductory text reading "The Secretary may make grants to public or private nonprofit institutions", deleted former introductory appropriations authorization provision for $15,000,000; $20,000,000; and $25,000,000 for fiscal years 1976, 1977, and 1978, now incorporated in subsec. (c), and redesignated as subpars. (A) through (D) former pars. (1) through (4), respectively.

Subsec. (a)(2). Pub. L. 94-484, § 901(3), added cl. (A) provisions and incorporated second sentence provisions of former subsec. (b) in provisions designated as cl. (B)

Subsec. (a)(3). Pub. L. 94-484, § 901(4), (5), substituted "subsection" for "section" and redesignated such amended former subsec. (c) as par. (3).

Subsec. (b). Pub. L. 94-484, § 901(6), added subsec. (b). Pub. L. 94-484, § 901(3), deleted provisions of former subsec. (b), the first sentence reading "Traineeships under this section shall be awarded by the Secretary through grants to public or nonprofit private institutions providing the training." and now covered in subsec. (a)(1), and the second sentence reading "In making grants for traineeships under this section, the Secretary shall give special consideration to applications for traineeship programs which conform to guidelines established by the Secretary under section 296m(a)(2)(B) of this title." and now covered in subsec. (a)(2)(B) of this section.

Subsec. (c). Pub. L. 94-484, § 901(6), incorporated introductory appropriations authorization provision of former subsec. (a) in provision designated as subsec. (c), substituted provision making the appropriations available for fiscal years ending June 30, 1976, Sept. 30, 1977, and Sept. 30, 1978, for provision making the appropriations available for fiscal years 1976, 1977, and 1978, respectively. Former subsec. (c) redesignated (a)(3).

1975—Subsec. (a). Pub. L. 94-63, § 935(a), substituted provisions relating to authorization of appropriations for fiscal years 1976 through 1978, for provisions relating to authorization of appropriations for the fiscal year ending June 30, 1965 through the fiscal year ending June 30, 1975, and added provision authorizing use of funds for training nurses to serve as nurse practitioners.

Subsec. (b). Pub. L. 94-63, § 935(b), added provision relating to preference to application conforming to guidelines under section 296m(a)(2)(B) of this title.

1971—Subsec. (a). Pub. L. 92-158, §§ 5, 13, authorized appropriations of $20,000,000, $22,000,000, and $24,000,000 for the fiscal years ending June 3, 1972, 1973, and 1974, respectively and substituted "Secretary" for "Surgeon General".

Pub. L. 92-52 substituted "each for the fiscal year ending June 30, 1971, and the next fiscal year" for "for the fiscal year ending June 30, 1971".

Subsec. (b). Pub. L. 92-158, § 13, substituted "Secretary" for "Surgeon General".

Subsec. (c). Pub. L. 92-158, § 13, substituted "Secretary" for "Surgeon General" in two places.

1968—Subsec. (a). Pub. L. 90-490 authorized appropriations of $15,000,000 and $19,000,000 for fiscal years ending June 30, 1970, and 1971, respectively.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 935(b) of Pub. L. 94-63 provided in part that the amendment of subsec. (b) by Pub. L. 94-63 is effective with respect to grants under this section from appropriations under this section for fiscal years beginning after June 30, 1975.

Amendment by section 935(a) of Pub. L. 94-63 effective July 1, 1975, see section 905 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296 of this title.

SUBPART II—STUDENT LOANS

§ 297a. Loan agreements; student loan fund; provisions of agreements

(a) The Secretary is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this subpart with any public or nonprofit private school of nursing which is located in a State.

(b) Each agreement entered into under this section shall—

(1) provide for establishment of a student loan fund by the school;

(2) provide for deposit in the fund, except as provided in section 297h of this title, of (A) the Federal capital contributions paid from allotments under section 297d of this title to the school by the Secretary, (B) an additional amount from other sources equal to not less than one-ninth of such Federal capital contributions, (C) collections of principal and interest on loans made from the fund, (D) collections pursuant to section 297b(f) of this title, and (E) any other earnings of the fund;

(3) provide that the fund except as provided in section 297h of this title, shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

(4) provide that loans may be made from such fund only to students pursuing a full-time or half-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree or a diploma in nursing, or to a graduate degree in nursing, and that while the agreement remains in effect no such student who has attended such school before October 1, 1978, shall receive a loan from a loan fund established under section 424 of title 20, and

(5) contain such other provisions as are necessary to protect the financial interests of the United States.

(July 1, 1944, ch. 373, title VIII, § 835, formerly § 822, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 913, amended Aug. 16, 1968, Pub. L. 90-490, title II, § 222(a), (c)(2), 82 Stat. 783, 784; Nov. 18, 1971, Pub. L. 92-158, § 6(d)(3), (e), 85 Stat. 478; Aug. 23, 1974, Pub. L. 93-385, § 3(b), 88 Stat. 741, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, §§ 936(a), 941(h)(1)-(3), (i)(1), (2), 89 Stat. 362, 365, 366.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-63, § 941(h)(1), (2), substituted "subpart" for "part" and struck out "of Health, Education, and Welfare" following "Secretary".

Subsec. (b). Pub. L. 94-63, §§ 936(a), 941(h)(3), (i)(2), in cl. (2) substituted "from allotments under section 297d of this title" for "under this part", in cl. (4) substituted "October 1, 1978" for "July 1, 1975", and in cls. (2) and (3) substituted references to sections 836 and 841 of the Act for references to sections 823 and 829, which had previously been translated as sections 297b and 297h of this title, respectively, requiring no further translations in the text as a result of the renumbering of the Public Health Service Act.

1974—Subsec. (b)(4). Pub. L. 93-385 substituted "1975" for "1974".

1971—Subsec. (b)(4). Pub. L. 92-158 substituted "full-time or half-time course of study" for "full-time course of study" and "1974" for "1971".

1968—Subsec. (b)(2). Pub. L. 90-490, § 222(a)(1), (c)(2), inserted ", except as provided in section 297h of this title," after "fund" where first appearing and added cl. (D) and redesignated former cl. (D) as (E), respectively.

Subsec. (b)(3). Pub. L. 90-490, § 222(a)(1), inserted ", except as provided in section 297h of this title" after "fund" where first appearing and authorized the cancellation of an additional 50 per centum of a nursery student loan.

Subsec. (b)(4). Pub. L. 90-490, § 222(a)(2), substituted "1971" for "1969".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 936(a) of Pub. L. 94-63, extending applicability to October 1, 1978, effective July 1, 1975, see section 905 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296 of this title.

Amendment by section 941(h)(1) to (3), and (i)(2) of Pub. L. 94-63, substituting references to subpart for references to part, etc., effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (b)(2) by section 222(c)(2) of Pub. L. 90-490 applicable with respect to loans made after June 30, 1969, see section 222(i) of Pub. L. 90-490, set out as an Effective Date of 1968 Amendment note under section 297b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 296e, 297c, 297e, 297h, 297k, 298b of this title.

§ 297b. Loan provisions

(a) Maximum amount per individual per year; preference to first year students

The total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by schools of nursing from loan funds established pursuant to agreements under this subpart may not exceed $2,500 in the case of any student. The aggregate of the loans for all years from such funds may not exceed $10,000 for any student. In the granting of such loans, a school shall give preference to licensed practical nurses and to persons who enter as first-year students after enactment of this subchapter.

(b) Terms and conditions

Loans from any such student loan fund by any school shall be made on such terms and conditions as the school may determine; subject, however, to such conditions, limitations, and requirements as the Secretary may prescribe (by regulation or in the agreement with the school) with a view to preventing impairment of the capital of such fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that—

(1) such a loan may be made only to a student who (A) is in need of the amount of the loan to pursue a full-time or half-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree, or a diploma in nursing, or a graduate degree in nursing, and (B) is capable, in the opinion of the school, of maintaining good standing in such course of study;

(2) such a loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins nine months after the student ceases to pursue a full-time or half-time course of study at a school of nursing, excluding from such 10-year period all (A) periods (up to three years) of (i) active duty performed by the borrower as a member of a uniformed service, or (ii) service as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.], and (B) periods (up to five years) during which the borrower is pursuing a full-time course of study at a collegiate school of nursing leading to baccalaureate degree in nursing or an equivalent degree, or to graduate degree in nursing, or is otherwise pursuing advanced professional training in nursing (or training to be a nurse anesthetist);

(3) an amount up to 85 per centum of any such loan (plus interest thereon) shall be canceled for full-time employment as a professional nurse (including teaching in any of the fields of nurse training and service as an administrator, supervisor, or consultant in any of the fields of nursing) in any public or nonprofit private agency, institution, or organization (including neighborhood health centers), at the rate of 15 per centum of the amount of such loan (plus interest) unpaid on the first

day of such service for each of the first, second, and third complete year of such service, and 20 per centum of such amount (plus interest) for each complete fourth and fifth year of such service;

(4) the liability to repay the unpaid balance of such loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled;

(5) such a loan shall bear interest on the unpaid balance of the loan, computed only for periods during which the loan is repayable, at the rate of 3 per centum per annum;

(6) such a loan shall be made without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required;

(7) no note or other evidence of any such loan may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the program under this subpart such note or other evidence of a loan may be transferred to such other school.

(c) Cancellation

Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

(d) Installments

Any loan for any year by a school from a student loan fund established pursuant to an agreement under this subpart shall be made in such installments as may be provided in regulations of the Secretary or such agreement and, upon notice to the Secretary by the school that any recipient of a loan is failing to maintain satisfactory standing, any or all further installments of his loan shall be withheld, as may be appropriate.

(e) Availability to eligible students in need

An agreement under this subpart with any school shall include provisions designed to make loans from the student loan fund established thereunder reasonably available (to the extent of the available funds in such fund) to all eligible students in the school in need thereof.

(f) Penalty for late payment

Subject to regulations of the Secretary, a school may assess a charge with respect to a loan from the loan fund established pursuant to an agreement under this subpart for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (b)(2) of this section or cancellation of part or all of the loan under subsection (b)(3) of this section, for any failure to file timely and satisfactory evidence for such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(g) Minimum monthly repayment

A school may provide in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this subpart payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

(h) Shortage area; service agreement; reimbursement

(1) In the case of any individual—

(A) who has received a baccalaureate or associate degree in nursing (or an equivalent degree), a diploma in nursing, or a graduate degree in nursing;

(B) who obtained (A) one or more loans from a loan fund established under this subpart, or (B) any other educational loan for nurse training costs; and

(C) who enters into an agreement with the Secretary to serve as a nurse for a period of at least two years in an area in a State determined by the Secretary, after consultation with the appropriate State health authority (as determined by the Secretary by regulations), to have a shortage of and need for nurses;

the Secretary shall make payments in accordance with paragraph (2), for and on behalf of that individual, on the principal of and interest on any loan of that individual described in subparagraph (B) of this paragraph which is outstanding on the date the individual begins the service specified in the agreement described in subparagraph (C) of this paragraph.

(2) The payments described in paragraph (1) shall be made by the Secretary as follows:

(A) Upon completion by the individual for whom the payments are to be made of the first year of the service specified in the agreement entered into with the Secretary under paragraph (1), the Secretary shall pay 30 per centum of the principal of, and the interest on each loan of such individual described in paragraph (1)(B) which is outstanding on the date he began such practice.

(B) Upon completion by that individual of the second year of such service, the Secretary shall pay another 30 per centum of the principal of, and the interest on each such loan.

(C) Upon completion by that individual of a third year of such service, the Secretary shall pay another 25 per centum of the principal of, and the interest on each such loan.

(3) Notwithstanding the requirement of completion of practice specified in paragraph (2), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of service for which the borrower may receive payments under this subsection, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and

supported by such other evidence as the Secretary may reasonably require), that the borrower is then engaged as described by paragraph (1) or paragraph (2)(C), and that the borrower will continue to be so engaged for the period required (in the absence of this paragraph) to entitle the borrower to have made the payments provided by this subsection for such period; except that not more than 85 per centum of the principal of any such loan shall be paid pursuant to this paragraph.

(4) A borrower who fails to fulfill an agreement with the Secretary entered into under paragraph (1) or assurances provided pursuant to paragraph (2)(C) shall be liable to reimburse the Secretary for any payments made pursuant to paragraph (2)(A) or paragraph (3) in consideration of such agreement.

(i) Loan cancellation

Notwithstanding the amendment made by section 6(b) of the Nurse Training Act of 1971 to this section—

(A) any person who obtained one or more loans from a loan fund established under this subpart, who before November 18, 1971, became eligible for cancellation of all or part of such loans (including accrued interest) under this section (as in effect on the day before such date), and who on such date was not engaged in a service for which loan cancellation was authorized under this section (as so in effect), may at any time elect to receive such cancellation in accordance with this subsection (as so in effect); and

(B) in the case of any person who obtained one or more loans from a loan fund established under this subpart and who on such date was engaged in a service for which cancellation of all or part of such loans (including accrued interest) was authorized under this section (as so in effect), this section (as so in effect) shall continue to apply to such person for purposes of providing such loan cancellation until he terminates such service.

Nothing in this subsection shall be construed to prevent any person from entering into an agreement for loan cancellation under subsection (h) of this section (as amended by section 6(b)(2) of the Nurse Training Act of 1971).

(j) Loan repayment

Upon application by a person who received, and is under an obligation to repay, any loan made to such person as a nursing student, the Secretary may undertake to repay (without liability to the applicant) all or any part of such loan, and any interest or portion thereof outstanding thereon, upon his determination, pursuant to regulations establishing criteria therefor, that the applicant—

(1) failed to complete the nursing studies with respect to which such loan was made;

(2) is in exceptionally needy circumstances;

(3) is from a low-income or disadvantaged family as those terms may be defined by such regulations; and

(4) has not resumed, or cannot reasonably be expected to resume, such nursing studies within two years following the date upon which the applicant terminated the studies with respect to which such loan was made.

(July 1, 1944, ch. 373, title VIII, § 836, formerly § 823, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 914, amended Oct. 22, 1965, Pub. L. 89-290, § 4(g)(2), 79 Stat. 1058; Aug. 16, 1968, Pub. L. 90-490, title II, § 222(b), (c)(1), 82 Stat. 783, 784; Nov. 18, 1971, Pub. L. 92-158, § 6(a), (b)(1), (e), 85 Stat. 475-478, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, §§ 936(b), 941(h)(1), (2), (5), (i)(1), 89 Stat. 363, 365.)

References in Text

The Peace Corps Act, referred to in subsec. (b)(2), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables volume.

Section 6(b) of the Nurse Training Act of 1971, referred to in subsec. (i), is section 6(b) of Pub. L. 92-158, Nov. 18, 1971, 85 Stat. 477. Section 6(b)(1) amended subsec. (b)(3) of this section, added subsec. (h) of this section, and enacted the provisions editorially classified to subsec. (i) of this section. Section 6(b)(2) enacted section 297i of this title which was transferred and redesignated as subsec. (j) of this section pursuant to section 941(h)(5) of Pub. L. 94-63.

Codification

Provisions of subsec. (i) of this section were, in the original, enacted without directory language with respect to classification in the Code and have been editorially set out as subsec. (i) as the probable intent of Congress.

Amendments

1975—Subsec. (a). Pub. L. 94-63, § 941(h)(1), substituted "subpart" for "part".

Subsec. (b). Pub. L. 94-63, § 941(h)(2), struck out "of Health, Education, and Welfare" following "Secretary".

Subsec. (b)(2)(B). Pub. L. 94-63, § 936(b), added "(or training to be a nurse anesthetist)" following "professional training in nursing".

Subsec. (b)(7). Pub. L. 94-63, § 941(h)(1), substituted "subpart" for "part".

Subsec. (c). Pub. L. 94-63, § 941(h)(2), struck out "of Health, Education, and Welfare" following "Secretary".

Subsecs. (d) to (i). Pub. L. 94-63, § 941(h)(1), substituted "subpart" for "part" whenever appearing therein.

Subsec. (j). Pub. L. 94-63, § 941(h)(5), added subsec. (j), formerly classified as section 297i of this title pursuant to enactment as section 830 of act July 1, 1944, ch. 373. Section 941(h)(5)(A) of Pub. L. 94-63 transferred such former section to this section and section 941(h)(5)(B) redesignated provision as subsec. (j).

1971—Subsec. (a). Pub. L. 92-158, § 6(a), substituted "$2,500" for "$1,500" and "$10,000" for "$60,000".

Subsec. (b)(1). Pub. L. 92-158, § 6(e), substituted "full-time or half-time course of study" for "full-time course of study".

Subsec. (b)(2). Pub. L. 92-158, § 6(e), in material preceding clause (A), substituted "full-time or half-time course of study" for "full-time course of study".

Subsec. (b)(3). Pub. L. 92-158, § 6(b)(1)(A), substituted provisions cancelling up to 85% of loan, for provisions cancelling up to 50% of loan, where borrower holds full-time employment as a professional nurse, added to areas of possible employment under this par. by inserting reference to any public or nonprofit organization including neighborhood health centers, substituted, with regard to the rate of cancellation of loan, the rate of 15% of the amount unpaid on the first day of service, continuing at such rate with each of the first, second and third complete years of such service and 20% of such amount with each complete

fourth and fifth year of service for the rate of 10% of the amount unpaid on the first day of service and to continue with each complete year of service, and struck out reference to 15% rate of cancellation per complete year of service plus, for the purpose of such higher rate, the cancellation of an additional 50% of such loan where such service is in a public or nonprofit hospital in any area which is determined, in accordance with the regulations of the Secretary, to be in an area having a substantial shortage of such nurses at such hospitals.

Subsec. (h). Pub. L. 92-158, § 6(b)(1)(B), added subsec. (h).

1968—Subsec. (a). Pub. L. 90-490, § 222(b)(1), increased limitation on amount of annual loans per student from $1,000 to $1,500, required preferences in the granting of loans to licensed practical nurses, and limited the aggregate of loans for all years to any one student to $6,000.

Subsec. (b)(2). Pub. L. 90-490, § 222(b)(2), provided for commencement of repayment nine months, rather than one year, after student ceases to pursue full-time course of study, excluded from ten-year repayment period periods (up to three years) of active duty as member of a uniformed service or Peace Corps volunteer service and periods (up to five years) as undergraduate or graduate degree student in nursing, including advanced professional training in nursing, and struck out prohibition against accrual of interest on loans.

Subsec. (b)(3). Pub. L. 90-490, § 222(b)(3), authorized cancellation of an additional 50 per centum of a nursing student loan (plus interest) at rate of 15 per centum for each complete year of service in a public or other nonprofit hospital in an area with a substantial shortage of nurses.

Subsec. (b)(5). Pub. L. 90-490, § 222(b)(4), struck out provisions for an interest rate which is the greater of 3 per centum or the going Federal rate at time loan is made, defining going Federal rate, and making rate determined for first loan applicable to any subsequent loan.

Subsecs. (f), (g). Pub. L. 90-490, § 222(c)(1), added subsecs. (f) and (g).

1965—Subsec. (b)(5). Pub. L. 89-290 applied the rate of interest for the first loan obtained by a student from a loan fund established under this part to any subsequent loan to such student from such fund during his course of study.

Effective Date of 1975 Amendment

Section 936(b) of Pub. L. 94-63 provided in part that the amendment of subsec. (b)(2)(B) by Pub. L. 94-63 is effective with respect to periods of training to be a nurse anesthetist undertaken on or after July 29, 1975.

Amendment by section 941(h)(1), (2), (5) of Pub. L. 94-63, substituting references to subpart for references to part, etc., effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

Effective Date of 1971 Amendment

Section 6(a)(1) of Pub. L. 92-158 provided in part that the amendment to subsec. (a) by section 6(a)(1) of Pub. L. 92-158 shall be effective with respect to academic years (or their equivalent as determined under regulations of the Secretary of Health, Education, and Welfare under this section) beginning after June 30, 1971.

Effective Date of 1968 Amendment

Section 222(i) of Pub. L. 90-490 provided that: "The amendments made by subsection (b)(1) and (2) [to subsecs. (a) and (b)(2) of this section] shall apply with respect to all loans made after June 30, 1969, and with respect to loans made from a student loan fund established under an agreement pursuant to section 822 [section 297a of this title], before July 1, 1969, to the extent agreed to by the school which made the loans and the Secretary (but then only for years beginning after June 30, 1968). The amendments made by subsection (b)(4) [to subsec. (b)(5) of this section] and subsection (c) [adding subsecs. (f) and (g) to this section and amending section 297a(b)(2) of this title] shall apply with respect to loans made after June 30, 1969. The amendment made by subsection (h) [adding section 297h of this title] shall apply with respect to appropriations for fiscal years beginning after June 30, 1969. The amendment made by subsection (b)(3) [to subsec. (b)(3) of this section] shall apply with respect to service, specified in section 823(b)(3) of such Act [subsec. (b)(3) of this section] performed during academic years beginning after the enactment of this Act, whether the loan was made before or after such enactment [Aug. 16, 1968]."

Section Referred to in Other Sections

This section is referred to in section 297a of this title.

§ 297c. Authorization of appropriations for student loan funds

There are authorized to be appropriated for allotments under section 297d of this title to schools of nursing for Federal capital contributions to their student loan funds established under section 297a of this title, $25,000,000 for fiscal year 1976, $30,000,000 for fiscal year 1977, and $35,000,000 for fiscal year 1978. For fiscal year 1979, and for each of the next two succeeding fiscal years there are authorized to be appropriated such sums as may be necessary to enable students who have received a loan for any academic year ending before October 1, 1978, to continue or complete their education.

(July 1, 1944, ch. 373, title VIII, § 837, formerly § 824, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 915, amended Nov. 3, 1966, Pub. L. 89-751, § 6(b), 80 Stat. 1235; Aug. 16, 1968, Pub. L. 90-490, title II, § 222(d), 82 Stat. 784; July 9, 1971, Pub. L. 92-52, § 3(a), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92-158, § 6(c), 85 Stat. 477; Aug. 23, 1974, Pub. L. 93-385, § 3(a), 88 Stat. 741, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, §§ 936(c), 941(i)(1), (3), 89 Stat. 363, 365, 366.)

Amendments

1975—Pub. L. 94-63, §§ 936(c), 941(i)(3), substituted provisions authorizing appropriations for allotments for schools of nursing for Federal capital contributions to their student loan funds for fiscal years 1976 to 1978 and for fiscal 1979 and the next two succeeding fiscal years additional necessary sums, for provisions authorizing appropriations for capital contributions for the fiscal year ending June 30, 1965 through the fiscal year ending June 30, 1974, and for the fiscal year ending June 30, 1975 and the next two succeeding fiscal years additional necessary sums, and substituted references to sections 838 and 835 of the Act for references to sections 825 and 822, respectively, which for purposes of codification were translated as sections 297d and 297a of this title.

1974—Pub. L. 93-385 authorized appropriations of $35,000,000 for the fiscal year ending June 30, 1975.

1971—Pub. L. 92-158 substituted authorized appropriations of $21,000,000, $25,000,000, $30,000,000 and $35,000,000 for the fiscal years ending June 30, 1971, 1972, 1973, and 1974, respectively, plus such sums for the fiscal year ending June 30, 1975, and each of the two succeeding fiscal years as may be necessary to enable students receiving a loan for any academic year ending before July 1, 1974 to continue or complete their education, for an authorized appropriation of $21,000,000 each for the fiscal years ending June 30, 1971 and 1972, plus such sums for the fiscal year ending June 30, 1973, and each of the two succeeding fiscal years as may be necessary to enable students re-

ceiving a loan for any academic year ending before July 1, 1972, to continue or complete their education.

Pub. L. 92-52 substituted "each for the fiscal year ending June 30, 1971, and the next fiscal year" for "for the fiscal year ending June 30, 1971", "1973" for "1972" and "July 1, 1972" for "July 1, 1971".

1968—Pub. L. 90-490 authorized appropriations of $20,000,000 and $21,000,000 for fiscal years ending June 30, 1970, and 1971, respectively, and necessary sums for fiscal year ending June 31, 1972, rather than 1970, and two succeeding fiscal years for loans to students receiving loan for any academic year ending before July 1, 1971, rather than 1969; and made appropriations available for transfers pursuant to section 297h of this title, respectively.

1966—Pub. L. 89-751 authorized availability of appropriations for payments into the fund established by section 297f(d) of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 936(c) of Pub. L. 94-63, relating to authorization of appropriations, effective July 1, 1975, see section 905 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296 of this title.

Amendment by section 941(i)(3) of Pub. L. 94-63, revising designations of sections in text, effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 6(e)(1) of Pub. L. 89-751 provided that: "The amendments made by this section [to sections 297c to 297f of this title] shall be effective in the case of payments to student loan funds made after the enactment of this Act [Nov. 3, 1966], except in the case of payments pursuant to commitments (made prior to enactment of this Act [Nov. 3, 1966]) to make loans under section 827 of the Public Health Service Act [section 297f of this title] as in effect prior to the enactment of this Act [Nov. 3, 1966]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 297d of this title.

§ 297d. Allotments and payments of Federal capital contributions

(a) Determination of amount of allotment

From the sums appropriated pursuant to section 297c of the title for any fiscal year, the Secretary shall allot to each school an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in such school bears to the total number of persons enrolled on a full-time basis in all schools of nursing in all the States. The number of persons enrolled on a full-time basis in schools of nursing for purposes of this section shall be determined by the Secretary for the most recent year for which satisfactory data are available to him. For purposes of allotments under this section, a school of nursing also includes any school with which the Secretary has, prior to the time the allotment is made, entered into an agreement for establishment of a student loan fund under this subpart. Funds available in any fiscal year for payment to schools under this subpart which are in excess of the amount appropriated pursuant to section 297c of this title for that year shall be allotted among States and among schools within States in such manner as the Secretary determines will best carry out the purposes of this subpart.

(b) Application for allotment; adjustment or reduction of amount requested in application; reallotment of amount

(1) The Secretary shall from time to time set dates by which schools of nursing in a State must file applications for Federal capital contributions from the allotment of such State under the first two sentences of subsection (a) of this section.

(2) If the total of the amounts requested for any fiscal year in such applications which are made by schools in a State exceeds the amount of the allotment of such State for that fiscal year, the amounts to be paid to the loan fund of each such school shall be reduced to whichever of the following is the smaller: (A) the amount requested in its application or (B) an amount which bears the same ratio to the amount of the allotment of such State as the number of students who will be enrolled full time in such school during such fiscal year bears to the total number of students who will be enrolled full time in all such schools in such State during such year. Amounts remaining after allotment under the preceding sentence shall be redistributed in accordance with clause (B) of such sentence among schools which in their applications requested more than the amounts so paid to their loan funds, but with such adjustments as may be necessary to prevent the total paid to any such school's loan fund from exceeding the total so requested by it. If the total of the amounts requested for any fiscal year in such applications which are made by schools in a State is less than the amount of the allotment of such State for that fiscal year, the Secretary may reallot the remaining amount from time to time, on such date or dates as he may fix, to other States in proportion to the original allotments to such States under subsection (a) of this section for such year. For the purpose of this section, the number of students who graduated from secondary schools in each State during a fiscal year and the number of students who will be enrolled full time in schools of nursing in each State shall be estimated by the Secretary on the basis of the best information available to him; and in making such estimates, the number of students enrolled full time in any collegiate school of nursing shall be deemed to be twice their actual number.

(c) Manner of payment

The Federal capital contributions to a loan fund of a school under this subpart shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

(July 1, 1944, ch. 373, title VIII, § 938, formerly § 825, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 915, amended Nov. 3, 1966, Pub. L. 89-751, § 6(c), 80 Stat. 1235; Aug. 16, 1968, Pub. L. 90-490, title II, § 222(e), 82 Stat. 785, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, § 941(h)(1), (2), (4)(A), (i)(1), (4), 89 Stat. 365, 366.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-63, § 941(h)(1), (4)(A)(i), (i)(4), substituted "subpart" for "part" wherever appearing therein, struck out "(whether as Feder-

al capital contributions or as loans to schools under section 297f of this title)" preceding "which are in excess", and substituted references to section 847 of the Act for references to section 824, which had previously been translated as section 297c of this title, requiring no further translations in the text as a result of the renumbering of the Public Health Service Act.

Subsec. (b)(1). Pub. L. 94-63, § 941(h)(4)(A)(ii), struck out ", and for loans pursuant to section 297f of this title," following "contributions".

Subsec. (b)(2). Pub. L. 94-63, § 941(h)(2), struck out "of Health, Education, and Welfare" following "Secretary".

Subsec. (c). Pub. L. 94-63, § 941(h)(1), substituted "subpart" for "part".

1968—Subsec. (a). Pub. L. 90-490 substituted a new formula for distribution of Federal funds among schools of nursing by providing for allotment of funds among the schools entirely on the basis of their relative enrollments for former provisions which allocated funds among the States, 50 per centum on the basis of relative number of high school graduates, and 50 per centum on the basis of relative number of students enrolled in schools of nursing, and provided for determination of number of persons enrolled in such schools for most recent year for which satisfactory data are available to the Secretary.

1966—Subsec. (a). Pub. L. 89-751, § 6(c)(1), authorized the allotment of appropriations for payment as Federal capital contributions or as loans to schools under section 297f of this title, and directed that funds available in any fiscal year for payment to schools under this part (whether as Federal capital contributions or as loans to schools under section 297f of this title) which are in excess of the amount appropriated pursuant to section 297c of this title for that year shall be allotted among States and among schools within States in such manner as the Secretary determinates will best carry out the purposes of this part.

Subsec. (b)(1). Pub. L. 89-751, § 6(c)(2), substituted "schools of nursing in a State must file applications for Federal capital contributions, and for loans pursuant to section 297f of this title, from the allotment of such State under the first two sentences of subsection (a) of this section" for "schools of nursing with which he has in effect agreements under this part must file applications for Federal capital contributions to their loan funds pursuant to section 297a(b)(2)(A) of this title".

Effective Date of 1975 Amendment

Amendment by Pub. L. 94-63 effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

Effective Date of 1966 Amendment

Amendment by Pub. L. 89-751 effective in the case of payments to student loan funds made after Nov. 3, 1966, except in the case of payments pursuant to commitments (made prior to Nov. 3, 1966) to make loans under section 297f of this title as in effect prior to Nov. 3, 1966, see section 6(e)(1) of Pub. L. 89-751, set out as an Effective Date of 1966 Amendment note under section 297c of this title.

Fiscal Year Transition Period of July 1, 1976 through September 30, 1976, Deemed Fiscal Year

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsecs. (a) and (b)(2) of this section, see section 201(17) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 391, set out as a note under section 343 of Title 7, Agriculture.

Section Referred to in Other Sections

This section is referred to in sections 297a, 297c, 298b of this title.

§ 297e. Distribution of assets from loan funds

(a) After September 30, 1980, and not later than December 31, 1980, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to section 297a of this title by each school as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of September 30, 1980, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 297a(b)(2)(A) of this title bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 297a(b)(2)(A) of this title.

(2) The remainder of such balance shall be paid to the school.

(b) After December 31, 1980, each school with which the Secretary has made an agreement under this subpart shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after September 30, 1980, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement as was determined for the Secretary under subsection (a) of this section.

(July 1, 1944, ch. 373, title VIII, § 839, formerly § 826, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 916, amended Nov. 3, 1966, Pub. L. 89-751, § 6(d), 80 Stat. 1235; Aug. 16, 1968, Pub. L. 90-490, title II, § 222(f), 82 Stat. 785; July 9, 1971, Pub. L. 92-52, § 3(b), 85 Stat. 145; Nov. 18, 1971, Pub. L. 92-158, § 6(d)(1), 85 Stat. 478, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, §§ 936(d), 941(h)(1), (2), (4)(B), (i)(1), (5), 89 Stat. 363, 365, 366.)

Codification

"December 31, 1980" has been editorially substituted for "September 30, 1977" in subsec. (a) of this section in order to conform to the probable intent of Congress evidenced by amendment of subsec. (b) of this section to similar and related provisions.

Amendments

1975—Subsec. (a). Pub. L. 94-63, §§ 936(d), 941(h)(2), (i)(5), substituted "September 30, 1980" for "June 30, 1977" wherever appearing therein, struck out "of Health, Education, and Welfare" following "Secretary", and substituted references to section 835 of the Act for references to section 822, which had previously been translated as section 297a of this title, requiring no further translations in the text as a result of the renumbering of the Public Health Service Act.

Subsec. (b). Pub. L. 94-63, §§ 936(d), 941(h)(1), (4)(B), substituted "subpart" for "part", "September 30, 1980" for "June 30, 1977", and "December 31, 1980" for "September 30, 1977" and struck out provisions relating to payments from the revolving fund established by section 297f(d) of this title.

1971—Pub. L. 92-158 substituted "1977" for "1975" wherever appearing.

Pub. L. 92-52 substituted "1975" for "1974" in five places.

1968—Pub. L. 90-490 substituted "1974" for "1972" wherever appearing.

1966—Subsec. (a). Pub. L. 89-751, § 6(d)(1), (2), substituted "an agreement pursuant to section 297a(b) of this title" for "this part" in the opening provisions, and in par. (1) substituted "such balance" for "the balance".

Subsec. (b). Pub. L. 89-751, § 6(d)(3), inserted parenthetical phrase "(other than so much of such fund as

relates to payments from the revolving fund established by section 297f(d) of this title)".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 936(d) of Pub. L. 94-63, extending applicability of provisions, effective July 1, 1975, see section 905 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296 of this title.

Amendment by section 941(h)(1)(2), (4)(B), (i)(5) of Pub. L. 94-63, substituting references to subpart for references to part, etc., effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-751 effective in the case of payments to student loan funds made after Nov. 3, 1966, except in the case of payments pursuant to commitments (made prior to Nov. 3, 1966) to make loans under section 297f of this title as in effect prior to Nov. 3, 1966, see section 6(e)(1) of Pub. L. 89-751, set out as an Effective Date of 1966 Amendment note under section 297c of this title.

§ 297f. Repealed. Pub. L. 94-63, title IX, § 936(e)(1), July 29, 1975, 89 Stat. 363

Section, act July 1, 1944, ch. 373, title VIII, § 827, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 917, and amended Nov. 3, 1966, Pub. L. 89-751, § 6(a), 80 Stat. 1233; Aug. 16, 1968, Pub. L. 90-490, title II, § 222(g), 82 Stat. 785; July 9, 1971, Pub. L. 92-52, § 3(c), 85 Stat. 145; Nov. 18, 1971, Pub. L. 92-158, § 6(d)(2), 85 Stat. 478, set out provisions relating to terms, conditions, limitations, manner of payment, etc., of loans to schools of nursing to capitalize student loan funds.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 1, 1975, see section 905 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296 of this title.

AVAILABILITY OF NURSE TRAINING REVOLVING FUND FOR PAYMENT OF OBLIGATIONS DEPOSITS INTO FUND; TRANSFER OF EXCESS AMOUNTS TO GENERAL FUND OF TREASURY AUTHORIZATION OF APPROPRIATIONS.

Section 936(e)(2), (3), of Pub. L. 94-63 provided that:

"(2) The nurse training fund created within the Treasury by section 827(d)(1) of the Act [section 297f(d)(1) of this title] shall remain available to the Secretary of Health, Education, and Welfare for the purpose of meeting his responsibilities respecting participations in obligations acquired under section 827 of the Act [this section]. The Secretary shall continue to deposit in such fund all amounts received by him as interest payments or repayments of principal on loans under such section 27[827]. If at any time the Secretary determines the moneys in the funds exceed the present and any reasonable prospective further requirements of such fund, such excess may be transferred to the general fund of the Treasury.

"(3) There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable the Secretary to make payments under agreements entered into under section 827(b) of the Act [section 297f(b) of this title] before the date of the enactment of this Act [July 29, 1975]."

CONVERSION OF FEDERAL CAPITAL CONTRIBUTION TO A LOAN UNDER SECTION 297f OF THIS TITLE

Pub. L. 89-751, § 6(e)(2), Nov. 3, 1966, 80 Stat. 1236, authorized the Secretary of Health, Education, and Welfare to convert a Federal capital contribution to a student loan fund of a particular institution, made under this subchapter, from funds appropriated pursuant thereto for the fiscal year ending June 30, 1967, to a loan under section 297f of this title.

§ 297g. Modification of agreements; compromise, waiver or release

The Secretary may agree to modifications of agreements made under this subpart, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this subpart.

(July 1, 1944, ch. 373, title VIII, § 840, formerly § 828, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 917, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, § 941(h)(1), (4)(C), (i)(1), 89 Stat. 365.)

AMENDMENTS

1975—Pub. L. 94-63, § 941(h)(1), (4)(C), substituted "subpart" for "part" wherever appearing therein and struck out "or loans" following "agreements".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-63 effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

§ 297h. Transfers to scholarship program

Not to exceed 20 per centum of the amount paid to a school from the appropriation for any fiscal year for Federal capital contributions under an agreement under this part, or such larger percentage thereof as the Secretary may approve, may be transferred to the sums available to the school under subpart III of this part to be used for the same purpose as such sums. In the case of any such transfer, the amount of any funds which the school deposited in its student loan fund pursuant to section 297a(b)(2)(B) of this title with respect to the amount so transferred may be withdrawn by the school from such fund.

(July 1, 1944, ch. 373, title VIII, § 841, formerly § 829, as added Aug. 16, 1968, Pub. L. 90-490, title II, § 222(h), 82 Stat. 785, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, § 941(i)(1), (6), 89 Stat. 365, 366.)

AMENDMENTS

1975—Pub. L. 94-63, § 941(i)(6), substituted "subpart III of this part" for "part D" and reference to section 835 of the Act for reference to section 822, which had previously been translated as section 297a of this title, requiring no further translation in the text as a result of the renumbering of the Public Health Service Act.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-63 effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this section, see section 201(17) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 391, set out as a note under section 343 of Title 7, Agriculture.

§ 297i. Transferred

CODIFICATION

Section, act July 1, 1944, ch. 373, title VIII, § 830, as added Nov. 18, 1971, Pub. L. 92-158, § 6(b)(2), 85 Stat. 477, relating to loan forgiveness, was transferred to and redesignated as subsec. (j) of section 297b of this

title by Pub. L. 94-63, title IX, § 941(h)(5), July 29, 1975, 89 Stat. 365.

SUBPART III—SCHOLARSHIP GRANTS TO SCHOOLS OF NURSING

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 297h of this title.

§ 297j. Scholarship grants

(a) Eligible schools of nursing; annual award of scholarships to students

The Secretary shall make grants as provided in this section to each public or other nonprofit school of nursing for scholarships to be awarded annually by such school to students thereof.

(b) Amount of grants

The amount of the grant under subsection (a) of this section for the fiscal year ending June 30, 1976, and for each of the next two fiscal years to each such school shall be equal to $3,000 multiplied by one-tenth of the number of full-time students of such school. For the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, the grant under subsection (a) of this section shall be such amount as may be necessary to enable such school to continue making payments under scholarship awards to students who initially received such awards out of grants made to the school for fiscal years ending before October 1, 1978.

(c) Recipients of scholarships; uses of funds; limitation on amount of scholarship

(1) Scholarships may be awarded by schools from grants under subsection (a) of this section—

(A) only to individuals who have been accepted by them for enrollment, and individuals enrolled and in good standing, as full-time or half-time students, in the case of awards from such grants for the fiscal year ending June 30, 1976, and the next two fiscal years; and

(B) only to individuals enrolled and in good standing as full-time or half-time students who initially received scholarship awards out of such grants for a fiscal year ending prior to October 1, 1978, in the case of awards from such grants for the fiscal year ending September 30, 1979, and each of the two succeeding fiscal years.

(2) Scholarships from grants under subsection (a) of this section for any school year shall be awarded only to students of exceptional financial need who need such financial assistance to pursue a course of study at the school for such year. Any such scholarship awarded for a school year shall cover such portion of the student's tuition, fees, books, equipment, and living expenses at the school making the award, but not to exceed $2,000 for any year in the case of any student, as such school may determine the student needs for such year on the basis of his requirements and financial resources.

(d) Regulations

Grants under subsection (a) of this section shall be made in accordance with regulations prescribed by the Secretary after consultation with the National Advisory Council of Nurse Training.

(e) Manner of payment

Grants under subsection (a) of this section may be paid in advance or by way of reimbursement, and at such intervals as the Secretary may find it necessary; and with appropriate adjustments on account of overpayments or underpayments previously made.

(July 1, 1944, c. 373, title VIII, § 845, formerly § 860, as added Aug. 16, 1968, Pub. L. 90-490, title II, § 223(a), 82 Stat. 785, amended July 9, 1971, Pub. L. 92-52, § 4, 85 Stat. 145; Nov. 18, 1971, Pub. L. 92-158, § 7, 85 Stat. 478, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, §§ 902(f), 937, 941(j)(1), (2), 89 Stat. 355, 363, 366.)

CODIFICATION

Section was formerly classified to section 298c of this title.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-63, § 941(j)(2), substituted "section" for "part".

Subsec. (b). Pub. L. 94-63, §§ 902(f)(1) to (3), 937, extended authorization for grants from the fiscal year ending June 30, 1972 and for each of the next two fiscal years to the fiscal year ending June 30, 1976, and for each of the next two fiscal years, and extended from the fiscal year ending June 30, 1975 to the fiscal year ending September 30, 1979 authorization for continuation of necessary grants received by schools and basis of computation to fiscal years ending before October 1, 1978 from fiscal years ending before July 1, 1974.

Subsec. (c)(1)(A). Pub. L. 94-63, §§ 902(f)(4), 937(l), extended authorization for awards from the fiscal year ending June 30, 1972, and the next two fiscal years to the fiscal year ending June 30, 1976, and the next two fiscal years.

Subsec. (c)(1)(B). Pub. L. 94-63, §§ 902(f)(5), (6), 937(2), (3), extended authorization for awards from the fiscal year ending June 30, 1975, and each of the two succeeding fiscal years to the fiscal year ending September 30, 1979, and each of the two succeeding fiscal years and basis of computation from fiscal year ending prior to July 1, 1974 to fiscal year ending prior to October 1, 1978.

1971—Subsec. (b). Pub. L. 92-158, § 7(1), substituted "1972" for "1970", added "for each of" preceding "the next two fiscal years", substituted "$3,000" for "$2,000", "1975" for "1973", "two succeeding fiscal years" for "three succeeding fiscal years" and "ending before July 1, 1974" for "ending prior to July 1, 1972".

Pub. L. 92-52, § 4(a), substituted "the next two fiscal years" for "the next fiscal year", "1973" for "1972" and "1972" for "1971".

Subsec. (c)(1). Pub. L. 92-158, § 7(2), (4), in cl. (A), substituted "1972, and the next two fiscal years" for "1970, and the next two fiscal years" and added "or half-time" preceding "students", and, in cl. (B), added "or half-time" preceding "students", and substituted "1974" for "1972" and "1975, and each of the two" for "1973, and each of the three".

Pub. L. 92-52, § 4(b)(1), (2), in cl. (A), substituted "the next two fiscal years" for "the next fiscal year", and in cl. (B), substituted "1972" for "1971" and "1973" for "1972".

Subsec. (c)(2). Pub. L. 92-158, § 7(3), substituted "$2,000" for "$1,500".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 937 of Pub. L. 94-63, extending authorization of appropriations, effective July 1, 1975, see section 905 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296 of this title.

Amendment by section 941(j)(2) of Pub. L. 94-63 effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 7 of Pub. L. 92-158 provided in part that the amendments to subsecs. (b) and (c) by section 7(1) to (4) of Pub. L. 92-158 shall be effective with respect to scholarship grants made under subsec. (a) of this section for the fiscal years beginning after June 30, 1971.

EFFECTIVE DATE

Section 223(b) of Pub. L. 90-490 provided that: "The amendment made by subsection (a) [enacting this section and section 297k of this title and omitting sections 298c-2 to 298c-6 of this title] shall apply with respect to appropriations for fiscal years ending after June 30, 1969."

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 106(a), Apr. 21, 1976, 90 Stat. 386, provided that:

"(a) For the purposes of sections 845(b) and (c)(1)(A), 1516(c)(2), 1525(b), 1610(b), and 1640(b) of the Public Health Service Act [subsecs. (b) and (c)(1)(A) of this section, and sections 300*l*-5(c)(2), 300m-4(b), 300p(b), and 300t(b) of this title, respectively], the period of July 1, 1976, through September 30, 1976, shall be considered a fiscal year and the exercise of authority pursuant to those provisions for the period shall be subject to the conditions stated in the following paragraphs:

"(1) the amount of $3,000 specified in section 845(b) (42 U.S.C. 297j(b)) shall be reduced to $750 for that period, and the regulations regarding scholarships in section 845(c)(1)(A) (42 U.S.C. 297j(c)(1)(A)) for fiscal year 1977 shall apply to that period;

"(2) notwithstanding the provisions in the exception clause in section 1516(c)(2) (42 U.S.C. 300*l*-5(c)(2)), the amount of $175,000 specified shall be reduced to $43,750 for that period;

"(3) notwithstanding the provisions of the exception clause in section 1525(b) (42 U.S.C. 300m-4(b)) the amount concerning which assurances are required in respect to the period shall be 75 per centum less than the amount specified, and funds expended in previous years shall not, for the purposes of that clause, include funds expended during that period;

"(4) notwithstanding the provisions in section 1610(b)(1) (42 U.S.C. 300p(b)(1)) the amounts of $1,000,000 and $500,000 specified shall be decreased to $250,000 and $125,000, respectively, for that period; and

"(5) notwithstanding the provisions of section 1640(b)(2) (42 U.S.C. 300t(b)(2)) the amount of $1 specified in section 1640(b)(2) [section 300t(b)(2) of this title] shall be decreased to 25 cents for that period."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 297k of this title.

§ 297k. Transfers to student loan program

Not to exceed 20 per centum of the amount paid to a school from the appropriation for any fiscal year for scholarships under section 297j of this title, or such larger percentage thereof as the Secretary may approve for such school for such year, may be transferred to the student loan fund of the school established under an agreement under section 297a of this title. Funds transferred under this section to such a student loan fund shall be considered as part of the Federal capital contributions to such fund.

(July 1, 1944, ch. 373, title VIII, § 846, formerly § 861, as added Aug. 16, 1968, Pub. L. 90-490, title II, § 223(a), 82 Stat. 786, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, § 941(j)(1), (3), 89 Stat. 366.)

CODIFICATION

Section was formerly classified to section 298c-1 of this title.

AMENDMENTS

1975—Pub. L. 94-63, § 941(j)(3), substituted "section 297j of this title" for "this part", and provisions relating to transfers to the student loan fund of the school, for provisions relating to transfers to the sums available to the school for Federal capital contributions.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-63 effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

EFFECTIVE DATE

Section applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 223(b) of Pub. L. 90-490, set out as an Effective Date note under section 297j of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this section, see section 201(17) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 391, set out as a note under section 343 of Title 7, Agriculture.

PART C—GENERAL

§ 298. National Advisory Council on Nurse Training

(a) There is hereby established a National Advisory Council on Nurse Training, consisting of the Secretary (or his delegate), who shall be Chairman, and the Commissioner of Education, both of whom shall be ex officio members, and nineteen members appointed by the Secretary without regard to the civil service laws. Three of the appointed members shall be selected from full-time students enrolled in schools of nursing, four of the appointed members shall be selected from the general public and twelve shall be selected from among leading authorities in the various fields of nursing, higher, and secondary education, and from representatives of hospitals and other institutions and organizations which provide nursing services. The student members of the Council shall be appointed for terms of one year and shall be eligible for reappointment to the Council.

(b) The Council shall advise the Secretary (or his delegate) in the preparation of general regulations and with respect to policy matters arising in the administration of this subchapter, and in the review of applications for construction projects under subpart I of part A of this subchapter, of applications under section 296d of this title and of applications under subpart III of part A of this subchapter.

(July 1, 1944, ch. 373, title VIII, § 851, formerly § 841, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 917, amended Nov. 3, 1966, Pub. L. 89-751, § 3(b), 80 Stat. 1230; Oct. 30, 1970, Pub. L.

91-515, title VI, § 601(b)(2), 84 Stat. 1311; Nov. 18, 1971, Pub. L. 92-158, §§ 9, 13, 85 Stat. 479, 480, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, § 941(k)(1), (2), 89 Stat. 366.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

Provisions formerly comprising subsec. (b), which provided for the appointment of a committee to review programs and make recommendations in a report to be submitted not later than November 1, 1967, at which time the committee ceased to exist, have been omitted as executed.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-63, § 941(k)(2)(C), redesignated former subsec. (a)(1) as (a). Former subsec. (a)(2) was redesignated (b).

Subsec. (b). Pub. L. 94-63, § 941(k)(2)(A), (B), (D), redesignated former subsec. (a)(2) as (b), and, as so redesignated, added "subpart I of" following "projects under" and "and of applications under subpart III of part A of this subchapter" following "296d of this title,". Former subsec. (b), which related to appointment, membership, etc., of review committees, was omitted.

1971—Subsec. (a)(1). Pub. L. 92-158, §§ 9, 13, substituted "nineteen members" for "sixteen members", and "Three of the appointed members shall be selected from full-time students enrolled in schools of nursing, four" for "Four", added "The student-members of the Council shall be appointed for terms of one year and shall be eligible for reappointment to the Council." and substituted "Secretary (or his delegate)" for "Surgeon General".

Subsec. (a)(2). Pub. L. 92-158, § 13, substituted "Secretary (or his delegate)" for "Surgeon General".

1970—Subsec. (c). Pub. L. 91-515 struck out subsec. (c) which related to the payment of compensation and travel expenses of appointed members of the Council or the review committee who are not regular full-time employees of the United States.

1966—Subsec. (c). Pub. L. 89-751 substituted "$100" for "$75".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-63 effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

TERMINATION OF ADVISORY COUNCILS

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 298a. Noninterference with administration of institutions

Nothing contained in this subchapter shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the personnel, curriculum, methods of instruction, or administration of any institution.

(July 1, 1944, ch. 373, title VIII, § 852, formerly § 842, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 918, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, § 941(k)(1), 89 Stat. 366.)

§ 298b. Definitions

For the purposes of this subchapter—

(1) The term "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(2) The term "school of nursing" means a collegiate, associate degree, or diploma school of nursing.

(3) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college, or university is accredited.

(4) The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college or university is accredited.

(5) The term "diploma school of nursing" means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited.

(6) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies, or by a State Agency, approved for such purpose by the Commissioner of Education, and when applied to a hospital, school, college, or university (or unit thereof) means a hospital, school, college, or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Commissioner of Education, except that a program, or a hospital, school, college, or university (or a unit thereof), which is not, at the time of the application under this subchapter, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this subchapter in the following cases if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the program, or the hospital, school, college, or university (or unit thereof), will meet the accreditation standards of such body or bodies (A) in the case of an applicant under subpart I of part A of this subchapter for a grant for a project for construc-

tion of a new school (which shall include a school that has not had a sufficient period of operation to be eligible for accreditation), (i) upon completion of such project and other construction projects (if any) then under construction or planned and to be commenced within a reasonable time, or (ii) if later, then prior to the beginning of the first academic year following the normal graduation date of the first entering class in such school; (B) in the case of a school applying for a grant under section 296e of this title for any fiscal year, prior to the beginning of the first academic year following the normal graduation date of the class which is the entering class for such fiscal year (or is the first such class in such year if there is more than one); and (C) in the case of a school seeking an agreement under section 297a of this title for establishment of a student loan fund, prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the agreement with such school is made under section 297a of this title; except that the provisions of this clause (3) shall not apply for purposes of section 297d of this title. For the purpose of this paragraph, the Commissioner of Education shall publish a list of recognized accrediting bodies, and of State agencies, which he determines to be reliable authority as to the quality of training offered.

(7) The term "nonprofit" as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(8) The term "secondary school" means a school which provides secondary education, as determined under State law except that it does not include any education provided beyond grade 12.

(9) The terms "construction" and "cost of construction" include (A) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land (except in the case of acquisition of an existing building), off-site improvements, living quarters, or patient-care facilities, and (B) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered. For the purposes of this paragraph, the term "buildings" includes interim facilities.

(10) The term "interim facilities" means teaching facilities designed to provide teaching space on a short-term (less than ten years) basis while facilities of a more permanent nature are being planned and constructed.

(July 1, 1944, ch. 373, title VIII, § 853, formerly § 843, as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 918, amended Oct. 22, 1965, Pub. L. 89-290, § 5(b), 79 Stat. 1058; Aug. 16, 1968, Pub. L. 90-490, title II, §§ 203, 204, 213, 231, 82 Stat. 780, 783, 787; Nov. 18, 1971, Pub. L. 92-158, § 2(d)(1), (2), 85 Stat. 467, 468, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, § 941(k)(1), (3), 89 Stat. 366, 367.)

AMENDMENTS

1975—Subsecs. (1) to (5). Pub. L. 94-63, § 941(k)(3)(E), redesignated former subsecs. (a) to (e) as (1) to (5), respectively.

Subsec. (6). Pub. L. 94-63, § 941(k)(3)(A) to (G), redesignated former subsec. (f) as (6) and, as so redesignated, added "subpart I of" following "the case of an applicant under", redesignated cls. (1) to (3) as (A) to (C) and subcls. (A) and (B) as (i) and (ii), substituted "section 297a of this title" for "part B of this subchapter" wherever appearing therein, and substituted references to sections 810 and 838 of the Act for references to sections 806 and 825, which had previously been translated as sections 296e and 297d of this title, respectively, requiring no further translations in the text as a result of the renumbering of the Public Health Service Act.

Subsecs. (7), (8). Pub. L. 94-63, § 941(k)(3)(E), redesignated former subsecs. (g) and (h) as (7) and (8), respectively.

Subsec. (9). Pub. L. 94-63, § 941(k)(3)(E), (H), redesignated former subsec. (i) as (9) and, as so redesignated, substituted "(A)" for "(1)" and "(B)" for "(2)".

Subsec. (10). Pub. L. 94-63, § 941(k)(3)(E), redesignated former subsec. (j) as (10).

1971—Subsec. (i). Pub. L. 92-158, § 2(d)(1), defined the term "buildings" as including interim facilities.

Subsec. (j). Pub. L. 92-158, § 2(d)(2), added subsec. (j).

1968—Subsec. (a). Pub. L. 90-490, § 203, included the Trust Territory of the Pacific Islands in the term "State".

Subsec. (c). Pub. L. 90-490, §§ 204, 231(a), (c), defined "collegiate school of nursing" as one also providing advanced training related to the program of education provided by such school, substituted "a program" for "an accredited program", and required that the program, unit, college, or university be accredited, respectively.

Subsec. (d). Pub. L. 90-490, § 231(b), (d), substituted "a two-year program" for "an accredited two-year program" and required that the program, unit, college, or university be accredited, respectively.

Subsec. (e). Pub. L. 90-490, § 231(a), (e), substituted "a program" for "an accredited program" and required that the program, affiliated school, hospital, university, or independent school be accredited, respectively.

Subsec. (f). Pub. L. 90-490, § 231(f), (g), amended text preceding cl. (1) to authorize program accreditation by a State agency, to define "accredited" when applied to a hospital, school, college, or university, struck out "or a program accredited for the purpose of this subchapter by the Commissioner of Education" preceding ", except that a program" and "by the school which provides or will provide such programs" preceding ", eligible for accreditation", and inserted ", or a hospital, school, college, or university (or a unit thereof)," after "except that a program" and ", or the hospital, school, college, or university (or a unit thereof)," after "reasonable assurance that the program"; and added end sentence requiring the Commissioner to publish a list of recognized accrediting bodies, and of State agencies, which he determines to be reliable authority as to quality of training offered, respectively.

Subsec. (f)(2). Pub. L. 90-490, § 213, substituted "section 296e of this title for any fiscal year, prior to the beginning of the first academic year following the normal graduation date of the class which is the entering class for such fiscal year (or is the first such class in such year if there is more than one)" for "section 296d of this title for a project to strengthen, improve, or expand its programs to teach and train nurses, prior to or upon completion of the project with respect to which the application is filed".

1965—Subsec. (f). Pub. L. 89-290 inserted "or a program accredited for the purpose of this subchapter by the Commissioner of Education", and substituted "new school (which shall include a school that has not had a sufficient period of operation to be eligible for accreditation), (A) upon completion of such project

and other construction projects (if any) then under construction or planned and to be commenced within a reasonable time, or (B) if later, then prior to the beginning of the first academic year following the normal graduation date of the first entering class in such school" for "new school, prior to or upon completion of the facility with respect to which the application is filed".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-63 effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (c) by section 204 of Pub. L. 90-490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 205 of Pub. L. 90-490, set out as an Effective Date of 1968 Amendment note under section 296 of this title.

Amendment of subsec. (f)(2) by section 213 of Pub. L. 90-490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 214 of Pub. L. 90-490, set out as an Effective Date note under section 296f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 1132e-1.

§ 298b-1. Advance funding

Any appropriation Act which appropriates funds for any fiscal year for grants, contracts, or other payments under this subchapter may also appropriate for the next fiscal year the funds that are authorized to be appropriated for such payments for such next fiscal year; but no funds may be made available therefrom for obligation for such payments before the fiscal year for which such funds are authorized to be appropriated.

(July 1, 1944, ch. 373, title VIII, § 854, formerly § 844, as added Nov. 18, 1971, Pub. L. 92-158, § 10, 85 Stat. 479, and renumbered July 29, 1975, Pub. L. 94-63, title IX, § 941(k)(1), 89 Stat. 366.)

§ 298b-2. Prohibition against discrimination by schools on the basis of sex

The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this subchapter to, or for the benefit of, any school of nursing unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this subchapter with any school unless the school furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs.

(July 1, 1944, ch. 373, title VIII, § 855, formerly, § 845, as added Nov. 18, 1971, Pub. L. 92-158, § 11, 85 Stat. 479, and renumbered July 29, 1975, Pub. L. 94-63, title IX, § 941(k)(1), 89 Stat. 366.)

§ 298b-3. Delegation of authority to administer programs; exceptions

The Secretary may delegate the authority to administer any program authorized by this subchapter to the administrator of a central or regional office or offices in the Department of Health, Education, and Welfare, except that the authority—

(1) to review, and prepare comments on the merit of, any application for a grant or contract under any program authorized by this subchapter for purposes of presenting such application to the National Advisory Council on Nurse Training, or

(2) to make such a grant or enter into such a contract,

shall not be further delegated to any administrator of, or officer in, any regional office or offices in the Department.

(July 1, 1944, ch. 373, title VIII, § 856, as added July 29, 1975, Pub. L. 94-63, title IX, § 941(k)(4), 89 Stat. 367.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

PART D—SCHOLARSHIP GRANTS TO SCHOOLS OF NURSING

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 296e of this title.

§§ 298c, 298c-1. Transferred

CODIFICATION

Section 298c, act July 1, 1944, ch. 373, title VIII, § 845, formerly § 860, as added Aug. 16, 1968, Pub. L. 90-490, title II, § 223(a), 82 Stat. 785, amended July 9, 1971, Pub. L. 92-52, § 4, 85 Stat. 145; Nov. 18, 1971, Pub. L. 92-158, § 7, 85 Stat. 478, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, §§ 902(f), 937, 941(j)(1), (2), 89 Stat. 355, 363, 366, relating to scholarship grants, was transferred to section 297j of this title pursuant to the reorganization and amendment of this subchapter by Pub. L. 94-63.

A prior section 298c, act July 1, 1944, ch. 373, title VIII, § 861, as added Nov. 3, 1966, Pub. L. 89-751, § 8(b), 80 Stat. 1236, stated the purposes of opportunity grants for nursing education and authorized appropriations of $3,000,000, $5,000,000, and $7,000,000 for fiscal years ending June 30, 1967, 1968, and 1969, respectively, to be available for payments to institutions until close of fiscal year succeeding fiscal year for which appropriated.

Section 298c-1, act July 1, 1944, ch. 373, title VIII, § 846, formerly § 861, as added Aug. 16, 1968, Pub. L. 90-490, title II, § 223(a), 82 Stat. 786, and renumbered and amended July 29, 1975, Pub. L. 94-63, title IX, §§ 941(j)(1), (3), 89 Stat. 366, relating to transfers to the student loan program, was transferred to section 297k of this title pursuant to the reorganization and amendment of this subchapter by Pub. L. 94-63.

A prior section 298c-1, act July 1, 1944, ch. 373, title VIII, § 862, as added Nov. 3, 1966, Pub. L. 89-751, § 8(b), 80 Stat. 1237, prescribed the amount of nursing educational opportunity grant and provided for its annual determination.

§§ 298c-2 to 298c-6. Omitted

CODIFICATION

Section 298c-2, act July 1, 1944, ch. 373, title VIII, § 863, as added Nov. 3, 1966, Pub. L. 89-751, § 8(b), 80 Stat. 1237, relating to the duration of a nursing educational opportunity grant, was omitted from the Code in the reorganization and amendment of this subchapter by Pub. L. 90-490, title II, § 223, Aug. 16, 1968, 82 Stat. 785

Section 298c-3, act July 1, 1944, ch. 373, title VIII, § 864, as added Nov. 3, 1966, Pub. L. 89-751, § 8(b), 80

Stat. 1238, relating to the selection of recipients of nursing educational opportunity grants, was omitted from the Code in the reorganization and amendment of this subchapter by Pub. L. 90-490, title II, § 223, Aug. 16, 1968, 82 Stat. 785.

Section 298c-4, act July 1, 1944, ch. 373, title VIII, § 865, as added Nov. 3, 1966, Pub. L. 89-751, § 8(b), 80 Stat. 1238, relating to the allotment of nursing educational opportunity grant funds among States, was omitted from the Code in the reorganization and amendment of this subchapter by Pub. L. 90-490, title II, § 223, Aug. 16, 1968, 82 Stat. 785.

Section 298c-5, act July 1, 1944, ch. 373, title VIII, § 866, as added Nov. 3, 1966, Pub. L. 89-751, § 8(b), 80 Stat. 1238, relating to the allocation of allotted funds to schools of nursing, was omitted from the Code in the reorganization and amendment of this subchapter by Pub. L. 90-490, title II, § 223, Aug. 16, 1968, 82 Stat. 785.

Section 298c-6, act July 1, 1944, ch. 373, title VIII, § 867, as added Nov. 3, 1966, Pub. L. 89-751, § 8(b), 80 Stat. 1239, relating to agreements with schools of nursing, was omitted from the Code in the reorganization and amendment of this subchapter by Pub. L. 90-490, title II, § 223, Aug. 16, 1968, 82 Stat. 785.

§ 298c-7. Repealed. Pub. L. 94-63, title IX, § 931(b), July 29, 1975, 89 Stat. 362

Section, act July 1, 1944, ch. 373, title VIII, § 868, as added Nov. 3, 1966, Pub. L. 89-751, § 8(b), 80 Stat. 1239, and amended Nov. 18, 1971, Pub. L. 92-158, § 8, 85 Stat. 478; July 29, 1975, Pub. L. 94-63, title IX, § 902(g), 89 Stat. 355, authorized grants and contracts to encourage full utilization of educational talent for nursing profession and authorized appropriations from fiscal year ending June 30, 1972 through fiscal year ending June 30, 1975 for implementation.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 1, 1975, see section 905 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296 of this title.

§ 298c-8. Repealed. Pub. L. 94-63, title IX, § 941(j)(4), July 29, 1975, 89 Stat. 366

Section, act, July 1, 1944, ch. 373, title VIII, § 869, as added Nov. 3, 1966, Pub. L. 89-751, § 8(b), 80 Stat. 1240, defined the term "academic year".

EFFECTIVE DATE OF REPEAL

Section repealed effective July 1, 1975, see section 942 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 296a of this title.

SUBCHAPTER VII—EDUCATION, RESEARCH, TRAINING, AND DEMONSTRATIONS IN HEART DISEASE, CANCER, STROKE, AND RELATED DISEASES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 235, 236, 300*l*, 300*l*-3, 300*l*-4 of this title; title 38 section 5070.

§ 299. Congressional declaration of purpose

The purposes of this subchapter are—

(a) through grants and contracts, to encourage and assist in the establishment of regional cooperative arrangements among medical schools, research institutions, and hospitals for research and training (including continuing education), for medical data exchange, and for demonstrations of patient care in the fields of heart disease, cancer, stroke, and kidney disease, and other related diseases;

(b) to afford to the medical profession and the medical institutions of the Nation, through such cooperative arrangements, the opportunity of making available to their patients the latest advances in the prevention, diagnosis, and treatment and rehabilitation to persons suffering from these diseases;

(c) to promote and foster regional linkages among health care institutions and providers so as to strengthen and improve primary care and the relationship between specialized and primary care; and

(d) by these means, to improve generally the quality and enhance the capacity of the health manpower and facilities available to the Nation and to improve health services for persons residing in areas with limited health services, and to accomplish these ends without interfering with the patterns, or the methods of financing, of patient care or professional practice, or with the administration of hospitals, and in cooperation with practicing physicians, medical center officials, hospital administrators, and representatives from appropriate voluntary health agencies.

(July 1, 1944, ch. 373, title IX, § 900, as added Oct. 6, 1965, Pub. L. 89-239, § 2, 79 Stat. 926, and amended Oct. 30, 1970, Pub. L. 91-515, title I, § 102, 84 Stat. 1297.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-515 added the provisions authorizing the making of contracts, the encouragement and assistance of medical data exchange programs through grants and contracts, and the applicability of grants and contracts to kidney disease programs.

Subsec. (b). Pub. L. 91-515 added the provisions affording to the medical profession and medical institutions the opportunity of making available to their patients the latest advances in prevention and rehabilitation.

Subsec. (c). Pub. L. 91-515 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 91-515 redesignated former subsec. (c) as (d), and, as so redesignated, substituted "the quality and enhance the capacity of the health manpower and facilities available to the Nation and to improve health services for persons residing in areas with limited health services" for "the health manpower and facilities available to the Nation".

SHORT TITLE OF 1970 AMENDMENTS

For Short Title of Pub. L. 91-515, which substantially amended this subchapter, see Short Title of 1970 Amendments note set out under section 201 of this title.

SHORT TITLE

For Short Title of Pub. L. 89-239, which enacted this subchapter, see Short Title of 1965 Amendments note set out under section 201 of this title.

§ 299a. Authorization of appropriations

(a) There are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1966, $90,000,000 for the fiscal year ending June 30, 1967, $200,000,000 for the fiscal year ending June 30, 1968, $65,000,000 for the fiscal year ending June 30, 1969, $120,000,000 for the next fiscal year, $125,000,000 for the fiscal year ending June 30, 1971, $150,000,000 for the fiscal year ending June 30, 1972, $250,000,000 for the fiscal year ending June 30, 1973, and $159,000,000 for the fiscal year ending June 30, 1974, for grants to assist public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private

institutions and agencies in planning, in conducting feasibility studies, and in operating pilot projects for the establishment, of regional medical programs of research, training, and demonstration activities for carrying out the purposes of this subchapter and for contracts to carry out the purposes of this subchapter. Of the sums appropriated under this section for the fiscal year ending June 30, 1971, not more than $15,000,000 shall be available for activities in the field of kidney disease. Of the sums appropriated under this section for any fiscal year ending after June 30, 1970, not more than $5,000,000 may be made available in any such year for grants for new construction.

(b) A grant under this subchapter shall be for part or all of the cost of the planning or other activities with respect to which the application is made, except that any such grant with respect to construction of, or provision of built-in (as determined in accordance with regulations) equipment for, any facility may not exceed 90 per centum of the cost of such construction or equipment.

(c) Funds appropriated pursuant to this subchapter shall not be available to pay the cost of hospital, medical, or other care of patients except to the extent it is, as determined in accordance with regulations, incident to those research, training, or demonstration activities which are encompassed by the purposes of this subchapter. No patient shall be furnished hospital, medical, or other care at any facility incident to research, training, or demonstration activities carried out with funds appropriated pursuant to this subchapter, unless he has been referred to such facility by a practicing physician or, where appropriate, a practicing dentist.

(d) Grants under this subchapter to any agency or institution, or combination thereof, for a regional medical program, may be used by it to assist in meeting the cost of participation in such program by any Federal hospital.

(e) At the request of any recipient of a grant under this subchapter, the payments to such recipient may be reduced by the fair market value of any equipment, supplies, or services furnished by the Secretary to such recipient and by the amount of the pay, allowance, traveling expenses, and any other costs in connection with the detail of an officer or employee of the Government to the recipient when such furnishing or such detail, as the case may be, is for the convenience of and at the request of such recipient and for the purpose of carrying out the regional medical program to which the grant under this subchapter is made.

(July 1, 1944, ch. 373, title IX, § 901, as added Oct. 6, 1965, Pub. L. 89-239, § 2, 79 Stat. 926, and amended Oct. 15, 1968, Pub. L. 90-574, title I, §§ 101, 102, 107, 82 Stat. 1005, 1006; June 30, 1970, Pub. L. 91-296, title IV, § 401(b)(1)(F), 84 Stat. 352; Oct. 30, 1970, Pub. L. 91-515, title I, § 103, 84 Stat. 1298; June 18, 1973, Pub. L. 93-45, title I, § 110, 87 Stat. 93.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-45 authorized appropriations of $159,000,000 for fiscal year ending June 30, 1974.

1970—Subsec. (a). Pub. L. 91-515, § 103(a), added provisions authorizing appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, provisions authorizing the expenditure of appropriations pursuant to contracts carrying out the purposes of this subchapter, and provisions restricting availability of sums for activities in the field of kidney disease and for grants for new construction and struck out provisions making available for grants until the end of the fiscal year followed the fiscal year for which appropriated, sums appropriated under this section for any fiscal year.

Subsec. (e). Pub. L. 91-515, § 103(b), added subsec. (e).

Pub. L. 91-296 struck out provisions authorizing the use of up to 1 per centum of appropriated funds under this subchapter for evaluation of the program authorized.

1968—Subsec. (a). Pub. L. 90-574, §§ 101, 102, added provisions authorizing appropriations of $65,000,000 for the fiscal year ending June 30, 1969, and $120,000,000 for the next fiscal year, and provisions authorizing the Secretary, for any fiscal year ending after June 30, 1969, to make available from funds appropriated pursuant to this section, but not exceeding 1%, an amount for evaluation of the programs authorized by this subchapter.

Subsec. (c). Pub. L. 90-574, § 107(a), added "or, where appropriate, a practicing dentist" following "a practicing physician".

Subsec. (d). Pub. L. 90-574, § 107(b), added subsec. (d).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 401(b)(1) of Pub. L. 91-296 provided in part that the amendment by section 401(b)(1)(F) of Pub. L. 91-296 [amending subsec. (a) of this section] would be effective with respect to appropriations for fiscal years beginning after June 30, 1970.

USE OF "SECRETARY" TO MEAN SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Section 507 of Pub. L. 90-574 provided that: "As used in the amendments made by this Act [which enacted sections 229a, 299j, 2688e to 2688q, and 2697a of this title, amended sections 210g, 242h, 291a, 291b, 299a to 299e, 2693, and 3259 of this title, repealed section 3442 of this title, and enacted provisions set out as notes under section 291a, 2688e, 3442 of this title, section 278 of Title 22, Foreign Relations and Intercourse, and section 1781 of Title 38, Veterans' Benefits], the term 'Secretary' means the Secretary of Health, Education, and Welfare."

§ 299b. Definitions

For the purposes of this subchapter—

(a) The term "regional medical program" means a cooperative arrangement among a group of public or nonprofit private institutions or agencies engaged in research, training, prevention, diagnosis, treatment, and rehabilitation relating to heart disease, cancer, stroke, or kidney disease and, at the option of the applicant, other related diseases; but only if such group—

(1) is situated within a geographic area, composed of any part or parts of any one or more States (which for purposes of this subchapter includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands), which the Secretary determines, in accordance with regulations, to be appropriate for carrying out the purposes of this subchapter;

(2) consists of one or more medical centers, one or more clinical research centers, and one or more hospitals; and

(3) has in effect cooperative arrangements among its component units which the Secretary finds will be adequate for effectively carrying out the purposes of this subchapter.

(b) The term "medical center" means a medical school or other medical institution involved in post-graduate medical training and one or more hospitals affiliated therewith for teaching, research, and demonstration purposes.

(c) The term "clinical research center" means an institution (or part of an institution) the primary function of which is research, training of specialists, and demonstrations and which, in connection therewith, provides specialized, high-quality diagnostic and treatment services for inpatients and out-patients.

(d) The term "hospital" means a hospital as defined in section 291o(c) of this title or other health facility in which local capability for diagnosis and treatment is supported and augmented by the program established under this subchapter.

(e) The term "nonprofit" as applied to any institution or agency means an institution or agency which is owned and operated by one or more non-profit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) The term "construction" means new construction of facilities for demonstrations, research, and training when necessary to carry out regional medical programs, alteration, major repair (to the extent permitted by regulations), remodeling and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

(July 1, 1944, ch. 373, title IX, § 902, as added Oct. 6, 1965, Pub. L. 89-239, § 2, 79 Stat. 927, and amended Oct. 15, 1968, Pub. L. 90-574, title I, § 103, 82 Stat. 1005; Oct. 30, 1970, Pub. L. 91-515, title I, §§ 104, 111(b), 84 Stat. 1299, 1301.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-515, § 104(a), expanded term "regional medical program" to include prevention and rehabilitation programs and added kidney disease to the list of enumerated diseases.

Subsec. (a)(1), (3). Pub. L. 91-515, § 111(b), substituted "Secretary" for "Surgeon General" wherever appearing therein.

Subsec. (f). Pub. L. 91-515, § 104(b), substituted "means new construction of facilities for demonstrations, research, and training when necessary to carry out regional medical programs" for "includes".

1968—Subsec. (a)(1). Pub. L. 90-574 added "(which for purposes of this subchapter includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands)" following "States".

REGIONAL MEDICAL PROGRAM

A reference in any law or regulation to a regional medical program assisted under this subchapter shall be considered as a reference to a State health planning development agency, if the program is located in a State for which such an agency has been designated under section 300m of this title, see section 5(c)(3) of Pub. L. 93-641, Jan. 4, 1975, 88 Stat. 2242, set out as a note under section 300m of this title.

§ 299c. Planning grants

(a) Development of regional medical programs

The Secretary, upon the recommendation of the National Advisory Council on Regional Medical Programs established by section 299e of this title (hereafter in this subchapter referred to as the "Council"), is authorized to make grants to public or nonprofit private universities medical schools, research institutions, and other public or nonprofit private agencies and institutions, and combinations thereof, to assist them in planning the development of regional medical programs.

(b) Requisite assurances

Grants under this section may be made only upon application therefor approved by the Secretary. Any such application may be approved only if it contains or is supported by—

(1) reasonable assurances that Federal funds paid pursuant to any such grant will be used only for the purposes for which paid and in accordance with the applicable provisions of this subchapter and the regulations thereunder;

(2) reasonable assurances that the applicant will provide for such fiscal control and fund accounting procedures as are required by the Secretary to assure proper disbursement of and accounting for such Federal funds;

(3) reasonable assurances that the applicant will make such reports, in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(4) a satisfactory showing that the applicant has designated an advisory group, to advise the applicant (and the institutions and agencies participating in the resulting regional medical program) in formulating and carrying out the plan for the establishment and operation of such regional medical program, which advisory group includes practicing physicians, medical center officials, hospital administrators, representatives from appropriate medical societies, voluntary or official health agencies, health planning agencies, and representatives of other organizations, institutions, and agencies concerned with activities of the kind to be carried on under the program (including as an ex officio member, if there is located in such region one or more hospitals or other health facilities of the Veterans' Administration, the individual whom the Administrator of Veterans' Affairs shall have designated to serve on such advisory group as the representative of the hospitals or other health care facilities of such Administration which are located in such region) and members of the public familiar with the need for and financing of the services provided under the program, and which advisory group shall be sufficient in number to insure adequate community orientation (as determined by the Secretary).

(July 1, 1944, ch. 373, title IX, § 903, as added Oct. 6, 1965, Pub. L. 89-239, § 2, 79 Stat. 927, and amended Oct. 15, 1968, Pub. L. 90-574, title

I, § 104, 82 Stat. 1005; Oct. 30, 1970, Pub. L. 91-515, title I, §§ 105, 111(b), 84 Stat. 1299, 1301.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-515, § 111(b), substituted "Secretary" for "Surgeon General".

Subsec. (b). Pub. L. 91-515, § 111(b), substituted "Secretary" for "Surgeon General" in opening provisions.

Subsec. (b)(2), (3). Pub. L. 91-515, § 111(b), substituted "Secretary" for "Surgeon General" wherever appearing therein.

Subsec. (b)(4). Pub. L. 91-515, § 105, expanded the advisory group to include representatives from official health agencies and health planning agencies, authorized an ex officio member on the advisory group, and required the advisory group to be sufficient in number to insure adequate community orientation (as determined by the Secretary).

1968—Subsec. (a). Pub. L. 90-574 added ", and combinations thereof," following "agencies and institutions".

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 299d of this title.

§ 299d. Grants for establishment and operation of regional medical programs

(a) Construction and equipment of facilities

The Secretary, upon the recommendation of the Council, is authorized to make grants to public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private agencies and institutions, and combinations thereof, to assist in establishment and operation of regional medical programs, including construction and equipment of facilities in connection therewith.

(b) Requisite assurances

Grants under this section may be made only upon application therefor approved by the Secretary. Any such application may be approved only if it is recommended by the advisory group described in section 299c(b)(4) of this title, if opportunity has been provided, prior to such recommendation, for consideration of the application by each public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan area, or other local area plan referred to in section 246(b) of this title covering any area in which the regional medical program for which the application is made will be located, and if the application contains or is supported by reasonable assurances that—

(1) Federal funds paid pursuant to any such grant (A) will be used only for the purposes for which paid and in accordance with the applicable provisions of this subchapter and the regulations thereunder, and (B) will not supplant funds that are otherwise available for establishment or operation of the regional medical program with respect to which the grant is made;

(2) the applicant will provide for such fiscal control and fund accounting procedures as are required by the Secretary to assure proper disbursement of and accounting for such Federal funds;

(3) the applicant will make such reports, in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(4) any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of title 40.

(July 1, 1944, ch. 373, title IX, § 904, as added Oct. 6, 1965, Pub. L. 89-239, § 2, 79 Stat. 928, and amended Oct. 15, 1968, Pub. L. 90-574, title I, § 104, 82 Stat. 1005; Oct. 30, 1970, Pub. L. 91-515, title I, §§ 106, 111(b), 84 Stat. 1299, 1301.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), referred to in subsec. (b)(4), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176), referred to in subsec. (b)(4), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-515, § 111(b), substituted "Secretary" for "Surgeon General".

Subsec. (b). Pub. L. 91-515, §§ 106, 111(b), added the provisions requiring that, prior to recommendation for approval by the advisory group of the application, opportunity for consideration of the application be given to each public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan area, or other local area plan referred to in section 246(b) of this title, covering any area involved in the application, and substituted "Secretary" for "Surgeon General".

Subsec. (b)(2), (3). Pub. L. 91-515, § 111(b), substituted "Secretary" for "Surgeon General" wherever appearing therein.

1968—Subsec. (a). Pub. L. 90-574 added ", and combinations thereof," following "agencies and institutions".

§ 299e. National Advisory Council on Regional Medical Programs

(a) Establishment; composition; appointment of members

The Secretary may appoint, without regard to the civil service laws, a National Advisory Council on Regional Medical Programs. The Council shall consist of the Assistant Secretary of Health, Education, and Welfare for Health

and Scientific Affairs, who shall be the Chairman, the Chief Medical Director of the Veterans' Administration who shall be an ex officio member, and twenty members, not otherwise in the regular full-time employ of the United States, who are leaders in the fields of the fundamental sciences, the medical sciences, health care administration, or public affairs. At least two of the appointed members shall be practicing physicians, one shall be outstanding in the study or health care of persons suffering from heart disease, one shall be outstanding in the study or health care of persons suffering from cancer, one shall be outstanding in the study or health care of persons suffering from stroke, one shall be outstanding in the study or health care of persons suffering from kidney disease, two shall be outstanding in the field of prevention of heart disease, cancer, stroke, or kidney disease, and four shall be members of the public.

(b) Term of office; two term limit

Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment four at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

(c) Functions of Council

The Council shall advise and assist the Secretary in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this subchapter. The Council shall consider all applications for grants under this subchapter and shall make recommendations to the Secretary with respect to approval of applications for and the amounts of grants under this subchapter.

(July 1, 1944, ch. 373, title IX, § 905, as added Oct. 6, 1965, Pub. L. 89-239, § 2, 79 Stat. 929, and amended Oct. 15, 1968, Pub. L. 90-574, title I, § 105, 82 Stat. 1005; Oct. 30, 1970, Pub. L. 91-515, title I, §§ 107(a), 111(b), title VI, § 601(b)(2), (4), 84 Stat. 1299, 1301, 1311.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-515, § 107(a), generally reorganized the Council by providing for the appointment of the Council by the Secretary in place of the Surgeon General, dropping the Surgeon General from membership in the Council, appointing as a member, and as the chairman in place of the Surgeon General, the Assistant Secretary of Health, Education, and Welfare for Health and Scientific Affairs, appointing as an ex officio member the Chief Medical Director of the Veterans Administration, increasing the membership from sixteen to twenty, authorizing membership for leaders in the field of health care administration, requiring members to be outstanding in the health care of the enumerated diseases instead of outstanding in their diagnosis, or treatment, requiring membership for a specialist in the study or health care of persons suffering from kidney disease and two specialists in the field of prevention of heart disease, cancer, stroke, or kidney disease, and requiring four members to be members of the public.

Subsec. (b). Pub. L. 91-515, § 111(b), substituted "Secretary" for "Surgeon General".

Subsec. (c). Pub. L. 91-515, §§ 111(b), 601(b)(2), (4), redesignated former subsec. (d) as (c), and, as so redesignated, substituted "Secretary" for "Surgeon General" wherever appearing therein. Former subsec. (c), which related to the payment of compensation and travel expenses of appointed members of the Council, was struck out.

Subsec. (d). Pub. L. 91-515, § 601(b)(4) redesignated former subsec. (d) as (c).

1968—Subsec. (a). Pub. L. 90-574, § 105(a), increased from twelve to sixteen the number of members on the Council.

Subsec. (b). Pub. L. 90-574, § 105(b), added the provision for the expiration of the terms of office of four members at the end of the fourth year after the date of appointment.

TERM OF OFFICE OF THE FOUR ADDITIONAL MEMBERS OF COUNCIL

Section 107(b) of Pub. L. 91-515 provided that:

"Of the persons first appointed under section 905(a) of the Public Health Service Act [subsec. (a) of this section] to serve as the four additional members of the National Advisory Council on Regional Medical Programs authorized by the amendment made by subsection (a) of this section [amending subsec. (a) of this section]—

"(1) one shall serve for a term of one year,

"(2) one shall serve for a term of two years,

"(3) one shall serve for a term of three years, and

"(4) one shall serve for a term of four years,

as designated by the Secretary of Health, Education, and Welfare at the time of appointment."

CONTINUATION IN OFFICE FOR APPOINTED TERMS OF MEMBERS OF NATIONAL ADVISORY COUNCIL ON REGIONAL MEDICAL PROGRAMS IN OFFICE ON OCTOBER 30, 1970

Section 107(c) of Pub. L. 91-515 provided that: "Members of the National Advisory Council on Regional Medical Programs (other than the Surgeon General) in office on the date of enactment of this Act [Oct. 30, 1970] shall continue in office in accordance with the term of office for which they were last appointed to the Council."

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 299c of this title.

§ 299f. Rules and regulations

The Secretary, after consultation with the Council, shall prescribe general regulations covering the terms and conditions for approving applications for grants under this subchapter and the coordination of programs assisted under this subchapter with programs for training, research, and demonstrations relating to the same diseases assisted or authorized under other subchapters of this chapter or other Acts of Congress.

(July 1, 1944, ch. 373, title IX, § 906, as added Oct. 6, 1965, Pub. L. 89-239, § 2, 79 Stat. 930, and amended Oct. 30, 1970, Pub. L. 91-515, title I, § 111(b), 84 Stat. 1301.)

AMENDMENTS

1970—Pub. L. 91-515 substituted "Secretary" for "Surgeon General".

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 299g. Information on special treatment and training centers; availability of information to interested parties

The Secretary shall establish, and maintain on a current basis, a list or lists of facilities in the United States equipped and staffed to provide the most advanced methods and techniques in the diagnosis and treatment of heart disease, cancer, stroke, or kidney disease, together with such related information, including the availability of advanced specialty training in such facilities, as he deems useful, and shall make such list or lists and related information readily available to licensed practitioners and other persons requiring such information. To the end of making such list or lists and other information most useful, the Secretary shall from time to time consult with interested national professional organizations.

(July 1, 1944, ch. 373, title IX, § 907, as added Oct. 6, 1965, Pub. L. 89-239, § 2, 79 Stat. 930, and amended Oct. 30, 1970, Pub. L. 91-515, title I, §§ 108, 111(b), 84 Stat. 1300, 1301.)

AMENDMENTS

1970—Pub. L. 91-515 added reference to kidney disease, and substituted "Secretary" for "Surgeon General" wherever appearing therein.

§ 299h. Omitted

CODIFICATION

Section, act July 1, 1944, ch. 373, title IX, § 908, as added Oct. 6, 1965, Pub. L. 89-239, § 2, 79 Stat. 930, called for a report to the President and the Congress on or before June 30, 1967, by the Surgeon General concerning activities under this subchapter with required statements, appraisals, and recommendations, and has been omitted as executed.

§ 299i. Records and audit

(a) Requisite records

Each recipient of a grant or contract under this subchapter shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

(b) Accessibility of records

The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant under this subchapter which are pertinent to any such grant.

(July 1, 1944, ch. 373, title IX, § 909, as added Oct. 6, 1965, Pub. L. 89-239, § 2, 79 Stat. 930, and amended Oct. 30, 1970, Pub. L. 91-515, title I, §§ 109, 111(b), 84 Stat. 1300, 1301.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-515 added reference to contracts wherever appearing therein, and substituted "Secretary" for "Surgeon General".

§ 299j. Utilization of funds for health services delivery programs

(a) Grants and contracts for multiprogram services

To facilitate interregional cooperation, and develop improved national capability for delivery of health services, the Secretary is authorized to utilize funds appropriated under this subchapter to make grants to public or nonprofit private agencies or institutions or combinations thereof and to contract for—

(1) programs, services, and activities of substantial use to two or more regional medical programs;

(2) development, trial, or demonstration of methods for control of heart disease, cancer, stroke, kidney disease, or other related diseases;

(3) the collection and study of epidemiologic data related to any of the diseases referred to in paragraph (2);

(4) development of training specifically related to the prevention, diagnosis, or treatment of any of the diseases referred to in paragraph (2), or to the rehabilitation of persons suffering from any of such diseases; and for continuing programs of such training where shortage of trained personnel would otherwise limit application of knowledge and skills important to the control of any of such diseases; and

(5) the conduct of cooperative clinical field trials.

(b) Costs of special projects

The Secretary is authorized to assist in meeting the costs of special projects for improving or developing new means for the delivery of health services concerned with the diseases with which this subchapter is concerned.

(c) Support of research, studies, investigations, training, and demonstrations

The Secretary is authorized to support research, studies, investigations, training, and demonstrations designed to maximize the utilization of manpower in the delivery of health services.

(July 1, 1944, ch. 373, title IX, § 910, as added Oct. 15, 1968, Pub. L. 90-574, title I, § 106, 82 Stat. 1005, and amended Oct. 30, 1970, Pub. L. 91-515, title I, § 110, 84 Stat. 1300.)

AMENDMENTS

1970—Pub. L. 91-515 designated existing provisions as subsec. (a), and, as so designated, substantially expanded authority of Secretary to utilize funds appro-

priated under this subchapter, and added subsec. (b) and (c).

SUBCHAPTER VIII—POPULATION RESEARCH AND VOLUNTARY FAMILY PLANNING PROGRAMS

§ 300. Project grants and contracts for family planning services

(a) Authority of Secretary

The Secretary is authorized to make grants to and enter into contracts with public or nonprofit private entities to assist in the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods (including natural family planning methods).

(b) Factors determining awards; establishment and preservation of rights of local and regional entities

In making grants and contracts under this section the Secretary shall take into account the number of patients to be served, the extent to which family planning services are needed locally, the relative need of the applicant, and its capacity to make rapid and effective use of such assistance. Local and regional entities shall be assured the right to apply for direct grants and contracts under this section, and the Secretary shall by regulation fully provide for and protect such right.

(c) Authorization of appropriations

For the purpose of making grants and contracts under this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971; $60,000,000 for the fiscal year ending June 30, 1972; $111,500,000 for the fiscal year ending June 30, 1973, $111,500,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; $115,000,000 for fiscal year 1976; and $115,000,000 for fiscal year 1977.

(July 1, 1944, ch. 373, title X, § 1001, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1506, and amended Sept. 30, 1972, Pub. L. 92-449, title IV, § 301, 86 Stat. 754; June 18, 1973, Pub. L. 93-45, title I, § 111(a), 87 Stat. 93; July 29, 1975, Pub. L. 94-63, title II, §§ 202(a), 204(a), (b), title VII, § 701(d), 89 Stat. 306-308, 352.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-63, § 204(a) added provision relating to scope of family planning projects to be offered.

Subsec. (b). Pub. L. 94-63, § 204(b), added provision relating to direct grants and contracts for local and regional entities.

Subsec. (c). Pub. L. 94-63, §§ 202(a), 701(d), authorized appropriations of $111,500,000 for the fiscal year ending June 30, 1975, and $115,000,000 for fiscal years 1976 and 1977.

1973—Subsec. (c). Pub. L. 93-45 authorized appropriations of $111,500,000 for fiscal year ending June 30, 1974.

1972—Subsec. (c). Pub. L. 92-449 increased appropriations authorization for fiscal year ending June 30, 1973, to $111,500,000 from $90,000,000.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by sections 202(a), 204(a) and 204(b) of Pub. L. 94-63, adding provisions relating to planning projects, direct grants and contracts, and appropriations for fiscal years 1976 and 1977, effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

CONGRESSIONAL DECLARATION OF PURPOSE

Section 2 of Pub. L. 91-572 provided that:

"It is the purpose of this Act [see Short Title of 1970 Amendment note set out under section 201 of this title]—

"(1) to assist in making comprehensive voluntary family planning services readily available to all persons desiring such services;

"(2) to coordinate domestic population and family planning research with the present and future needs of family planning programs;

"(3) to improve administrative and operational supervision of domestic family planning services and of population research programs related to such services;

"(4) to enable public and nonprofit private entities to plan and develop comprehensive programs of family planning services;

"(5) to develop and make readily available information (including educational materials) on family planning and population growth to all persons desiring such information;

"(6) to evaluate and improve the effectiveness of family planning service programs and of population research;

"(7) to assist in providing trained manpower needed to effectively carry out programs of population research and family planning services; and

"(8) to establish an Office of Population Affairs in the Department of Health, Education, and Welfare as a primary focus within the Federal Government on matters pertaining to population research and family planning, through which the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the 'Secretary') shall carry out the purposes of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300a-1 of this title.

§ 300a. Formula grants to States for family planning services

(a) Authority of Secretary; prerequisites

The Secretary is authorized to make grants, from allotments made under subsection (b) of this section, to State health authorities to assist in planning, establishing, maintaining, coordinating, and evaluating family planning services. No grant may be made to a State health authority under this section unless such authority has submitted, and had approved by the Secretary, a State plan for a coordinated and comprehensive program of family planning services.

(b) Factors determining amount of State allotments

The sums appropriated to carry out the provisions of this section shall be allotted to the States by the Secretary on the basis of the population and the financial need of the respective States.

(c) Definitions

For the purposes of this section, the term "State" includes the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, the District of Columbia, and the Trust Territory of the Pacific Islands.

(d) Authorization of appropriations

For the purpose of making grants under this section, there are authorized to be appropriated

$10,000,000 for the fiscal year ending June 30, 1971; $15,000,000 for the fiscal year ending June 30, 1972; and $20,000,000 for the fiscal year ending June 30, 1973.

(July 1, 1944, ch. 373, title X, § 1002, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1506, and amended Oct. 12, 1976, Pub. L. 94-484, title IX, § 905(b)(1), 90 Stat. 2325.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-484 defined "State" to include the Northern Mariana Islands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300a-1 of this title.

§ 300a-1. Training grants and contracts; authorization of appropriations

(a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contract with public or private entities and individuals to provide the training for personnel to carry out family planning service programs described in section 300 or 300a of this title.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971; $3,000,000 for the fiscal year ending June 30, 1972; $4,000,000 for the fiscal year ending June 30, 1973; $3,000,000 each for the fiscal years ending June 30, 1974 and June 30, 1975; $4,000,000 for fiscal year ending 1976; and $5,000,000 for fiscal year 1977.

(July 1, 1944, ch. 373, title X, § 1003, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1507, and amended June 18, 1973, Pub. L. 93-45, title I, § 111(b), 87 Stat. 93; July 29, 1975, Pub. L. 94-63, title II, § 202(b), title VII, § 701(d), 89 Stat. 306, 352.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94-63 authorized appropriations of $3,000,000 for the fiscal year ending June 30, 1975, $4,000,000 for fiscal year 1976 and $5,000,000 for fiscal year 1977.

1973—Subsec. (b). Pub. L. 93-45 authorized appropriations of $3,000,000 for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 202(b) of Pub. L. 94-63, authorizing appropriations for fiscal years 1976 and 1977, effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

§ 300a-2. Research activities, grants and contracts; authorization of appropriations; availability of appropriated funds

(a) The Secretary may—

(1) conduct, and

(2) make grants to public or nonprofit private entities and enter into contracts with public or private entities and individuals for projects for,

research in the biomedical, contraceptive development, behavioral, and program implementation fields related to family planning and population.

(b)(1) To carry out subsection (a) of this section there are authorized to be appropriated $55,000,000 for fiscal year 1976, and $60,000,000 for fiscal year 1977.

(2) No funds appropriated under any provision of this chapter (other than this subsection) may be used to conduct or support the research described in subsection (a) of this section.

(July 1, 1944, ch. 373, title X, § 1004, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1507, and amended June 18, 1973, Pub. L. 93-45, title I, § 111(c), 87 Stat. 93; July 29, 1975, Pub. L. 94-63, title II, § 202(c), title VII, § 701(d), 89 Stat. 306, 352.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-63, § 202(c), revised structure of provisions and, as so revised, added authorization for Secretary to conduct research and struck out authority for grants and contracts in research training in the specified fields.

Subsec. (b). Pub. L. 94-63, §§ 202(c), 701(d), revised structure of provisions and, as so revised, substituted provisions relating to authorization of appropriations for fiscal years 1976 and 1977 and availability of appropriated funds, for provisions authorizing appropriations for fiscal years ending June 30, 1971 through the fiscal year ending June 30, 1975.

1973—Subsec. (b). Pub. L. 93-45 authorized appropriations of $2,615,000 for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 202(c) of Pub. L. 94-63, generally revising provisions, effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

§ 300a-3. Informational and educational materials development grants and contracts; authorization of appropriations

(a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals to assist in developing and making available family planning and population growth information (including educational materials) to all persons desiring such information (or materials).

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; $1,250,000 for the fiscal year ending June 30, 1973; $909,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; $2,000,000 for fiscal year 1976; and $2,500,000 for fiscal year 1977.

(July 1, 1944, ch. 373, title X, § 1005, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1507, and amended June 18, 1973, Pub. L. 93-45, title I, § 111(d), 87 Stat. 93; July 29, 1975, Pub. L. 94-63, title II, § 202(d), title VII, § 701(d), 89 Stat. 307, 352.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94-63 authorized appropriations of $909,000 for the fiscal year ending June 30, 1975, $2,000,000 for fiscal year 1976 and $2,500,000 for fiscal year 1977.

1973—Subsec. (b). Pub. L. 93-45 authorized appropriations of $909,000 for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 202(d) of Pub. L. 94-63, authorizing appropriations for fiscal years 1976 and 1977, effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

§ 300a-4. Grants and contracts

(a) Promulgation of regulations governing execution; amount of grants

Grants and contracts made under this subchapter shall be made in accordance with such regulations as the Secretary may promulgate. The amount of any grant under any section of this subchapter shall be determined by the Secretary; except that no grant under any such section for any program or project for a fiscal year beginning after June 30, 1975, may be made for less than 90 per centum of its costs (as determined under regulations of the Secretary) unless the grant is to be made for a program or project for which a grant was made (under the same section) for the fiscal year ending June 30, 1975, for less than 90 per centum of its costs (as so determined), in which case a grant under such section for that program or project for a fiscal year beginning after that date may be made for a percentage which shall not be less than the percentage of its costs for which the fiscal year 1975 grant was made.

(b) Payment of grants

Grants under this subchapter shall be payable in such installments and subject to such conditions as the Secretary may determine to be appropriate to assure that such grants will be effectively utilized for the purposes for which made.

(c) Prerequisites; definition

A grant may be made or contract entered into under section 300 or 300a of this title for a family planning service project or program only upon assurances satisfactory to the Secretary that—

(1) priority will be given in such project or program to the furnishing of such services to persons from low-income families; and

(2) no charge will be made in such project or program for services provided to any person from a low-income family except to the extent that payment will be made by a third party (including a government agency) which is authorized or is under legal obligation to pay such charge.

For purposes of this subsection, the term "low-income family" shall be defined by the Secretary in accordance with such criteria as he may prescribe so as to insure that economic status shall not be a deterrent to participation in the programs assisted under this subchapter.

(July 1, 1944, ch. 373, title X, § 1006, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1507, and amended July 29, 1975, Pub. L. 94-63, title II, § 204(c), (d), 89 Stat. 308.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-63, § 204(c), added provisions relating to amount of grants authorized pursuant to sections of this subchapter.

Subsec. (c). Pub. L. 94-63, § 204(d), added provision relating to economic status as part of the criteria to be included within the definition of "low-income family".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-63 effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

§ 300a-5. Voluntary participation by individuals; participation not prerequisite for eligibility or receipt of other services and information

The acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistance under this subchapter (whether by grant or contract) shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program of the entity or individual that provided such service or information.

(July 1, 1944, ch. 373, title X, § 1007, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1508.)

§ 300a-6. Prohibition against funding programs using abortion as family planning method

None of the funds appropriated under this subchapter shall be used in programs where abortion is a method of family planning.

(July 1, 1944, ch. 373, title X, § 1008, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1508.)

§ 300a-6a. Plans and reports

(a) Submission of report to Congress; purposes of plan

Not later than seven months after the close of each fiscal year, the Secretary shall make a report to the Congress setting forth a plan to be carried out over the next five fiscal years for—

(1) extension of family planning services to all persons desiring such services,

(2) family planning and population research programs,

(3) training of necessary manpower for the programs authorized by this subchapter and other Federal laws for which the Secretary has responsibility and which pertain to family planning, and

(4) carrying out the other purposes set forth in this subchapter and the Family Planning Services and Population Research Act of 1970.

(b) Minimum requirements for plan

Such a plan shall, at a minimum, indicate on a phased basis—

(1) the number of individuals to be served by family planning programs under this subchapter and other Federal laws for which the Secretary has responsibility, the types of family planning and population growth information and educational materials to be developed under such laws and how they will be made available, the research goals to be reached under such laws, and the manpower to be trained under such laws;

(2) an estimate of the costs and personnel requirements needed to meet the purposes of this subchapter and other Federal laws for which the Secretary has responsibility and which pertain to family planning programs; and

(3) the steps to be taken to maintain a systematic reporting system capable of yielding comprehensive data on which service figures and program evaluations for the Department of Health, Education, and Welfare shall be based.

(c) Contents of report

Each report submitted under subsection (a) of this section shall—

(1) compare results achieved during the preceding fiscal year with the objectives established for such year under the plan contained in the previous such report;

(2) indicate steps being taken to achieve the objectives during the fiscal years covered by the plan contained in such report and any revisions to plans in previous reports necessary to meet these objectives; and

(3) make recommendations with respect to any additional legislative or administrative action necessary or desirable in carrying out the plan contained in such report.

(July 1, 1944, ch. 373, title X, § 1009, as added July 29, 1975, Pub. L. 94-63, title II, § 203(a), 89 Stat. 307.)

REFERENCES IN TEXT

The Family Planning Services and Population Research Act of 1970, referred to in subsec. (a), is Pub. L. 91-572, Dec. 24, 1970, 84 Stat. 1504, which enacted sections 300 to 300a-6 and 3505a to 3505c of this title, amended sections 211a and 212a of this title and section 763c of Title 33, Navigation and Navigable Waters, and enacted provisions set out as notes under sections 201, 222, and 300 of this title. For complete classification of this Act to the Code, see Tables volume.

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

§ 300a-7. Sterilization or abortion

(a) Prohibition of public officials and public authorities from imposition of certain requirements contrary to religious beliefs or moral convictions

The receipt of any grant, contract, loan, or loan guarantee under the Public Health Service Act [42 U.S.C. 201 et seq.] the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.], or the Developmental Disabilities Services and Facilities Construction Act [42 U.S.C. 6001 et seq.] by any individual or entity does not authorize any court or any public official or other public authority to require—

(1) such individual to perform or assist in the performance of any sterilization procedure or abortion if his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions; or

(2) such entity to—

(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions, or

(B) provide any personnel for the performance or assistance in the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedures or abortion by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

(b) Discrimination prohibition

(1) No entity which receives a grant, contract, loan, or loan guarantee under the Public Health Service Act [42 U.S.C. 201 et seq.], the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.], or the Developmental Disabilities Services and Facilities Construction Act [42 U.S.C. 6001 et seq.] after June 18, 1973, may—

(A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

(B) discriminate in the extension of staff or other privileges to any physician or other health care personnel,

because he performed or assisted in the performance of a lawful sterilization procedure or abortion, because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions respecting sterilization procedures or abortions.

(2) No entity which receives after July 12, 1974, a grant or contract for biomedical or behavioral research under any program administered by the Secretary of Health, Education, and Welfare may—

(A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

(B) discriminate in the extension of staff or other privileges to any physician or other health care personnel,

because he performed or assisted in the performance of any lawful health service or research activity, because he refused to perform or assist in the performance of any such service or activity on the grounds that his performance or assistance in the performance of such service or activity would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions respecting any such service or activity.

(c) Individual rights respecting certain requirements contrary to religious beliefs or moral convictions

No individual shall be required to perform or assist in the performance of any part of a health service program or research activity funded in whole or in part under a program administered by the Secretary of Health, Education, and Welfare if his performance or assistance in the performance of such part of such program or activity would be contrary to his religious beliefs or moral convictions.

(Pub. L. 93-45, title IV, § 401(b)-(d), June 18, 1973, 87 Stat. 95; Pub. L. 93-348, title II, § 214, July 12, 1974, 88 Stat. 353.)

REFERENCES IN TEXT

Public Health Service Act, referred to in subsecs. (a) and (b), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to this chapter (§ 201 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

The Community Mental Health Centers Act, referred to in subsecs. (a) and (b), is Pub. L. 88-164, title II, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309, which is classified principally to subchapter III (§ 2689 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2689 of this title and Tables volume.

The Developmental Disabilities Services and Facilities Construction Act, referred to in subsecs. (a) and (b), is Pub. L. 88-164, title I, as added Pub. L. 94-103, Oct. 4, 1975, 89 Stat. 496, which is classified generally to chapter 75 (§ 6001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title and Tables volume.

CODIFICATION

Section was enacted as part of Health Programs Extension Act of 1973, and not as part of Public Health Services Act which comprises this chapter.

Provisions, which is the original constituted subsecs. (b) and (c) of section 401 of Pub. L. 93-45, were redesignated (a) and (b) for codification purposes.

Provisions which in the original constituted subsec. (d) of section 401 of Pub. L. 93-45, as added by section 214(b) of Pub. L. 93-348, were redesignated (c) for codification purposes.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-348, § 214(a)(1) to (3), designated existing provisions as par. (1), redesignated pars. (1) and (2) of such provisions as subpars. (A) and (B), and added par. (2), respectively.

Subsec. (c). Pub. L. 93-348, § 214(b), added Subsec. (c).

§ 300a-8. Penalty for United States, etc., officer or employee coercing or endeavoring to coerce procedure upon beneficiary of Federal program

Any—

(1) officer or employee of the United States,

(2) officer or employee of any State, political subdivision of a State, or any other entity, which administers or supervises the administration of any program receiving Federal financial assistance, or

(3) person who receives, under any program receiving Federal financial assistance, compensation for services,

who coerces or endeavors to coerce any person to undergo an abortion or sterilization procedure by threatening such person with the loss of, or disqualification for the receipt of, any benefit or service under a program receiving Federal financial assistance shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(Pub. L. 94-63, title II, § 205, July 29, 1975, 89 Stat. 308.)

CODIFICATION

Section was enacted as part of the Family Planning and Population Research Act of 1975, and not as part of the Public Health Service Act which comprises this chapter.

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

SUBCHAPTER IX—GENETIC DISEASES, HEMOPHILIA PROGRAMS, AND SUDDEN INFANT DEATH SYNDROME

AMENDMENTS

1976—Pub. L. 94-278, title IV, § 403(b)(3), Apr. 22, 1976, 90 Stat. 409, in subchapter heading, substituted "Genetic Diseases" for "Genetic Blood Disorders" and included reference to Hemophilia Programs.

1974—Pub. L. 93-270, § 3(b), Apr. 22, 1974, 88 Stat. 92, included reference to Sudden Infant Death Syndrome in subchapter heading.

1972—Pub. L. 92-414, § 4(1), Aug. 29, 1972, 86 Stat. 652, substituted "Genetic Blood Disorders" for "Sickle Cell Anemia Program" as subchapter heading and designated former subchapter heading as Part A, substituting "Programs" for "Program".

PART A—GENETIC DISEASES

AMENDMENTS

1976—Pub. L. 94-278, title IV, § 403(a), Apr. 22, 1976, 90 Stat. 407, substituted "Genetic Diseases" for "Sickle Cell Anemia Programs" in Part A heading.

§ 300b. Testing and counseling programs and information and education programs

(a)(1) The Secretary, through an identifiable administrative unit within the Department of Health, Education, and Welfare, may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects to establish and operate voluntary genetic testing and counseling programs primarily in conjunction with other existing health programs, including programs assisted under title V of the Social Security Act [42 U.S.C. 701 et seq.].

(2) The Secretary shall carry out, through an identifiable administrative unit within the Department of Health, Education, and Welfare, a program to develop information and educational materials relating to genetic diseases and to disseminate such information and materials to persons providing health care, to teachers and students, and to the public generally in order to

most rapidly make available the latest advances in the testing, diagnosis, counseling, and treatment of individuals respecting genetic diseases. The Secretary may, under such program, make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the development and dissemination of such materials.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $30,000,000 for fiscal year 1976, $30,000,000 for fiscal year 1977, and $30,000,000 for fiscal year 1978.

(July 1, 1944, ch. 373, title XI, § 1101, as added Apr. 22, 1976, Pub. L. 94-278, title IV, § 403(a), 90 Stat. 407.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title V of the Social Security Act is classified generally to subchapter V (§ 701 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

PRIOR PROVISIONS

A prior section 300b, act July 1, 1944, ch. 373, title XI, § 1101, as added May 16, 1972, Pub. L. 92-294, § 3(c), 86 Stat. 137, and amended Aug. 29, 1972, Pub. L. 92-414, § 4(2), 86 Stat. 652, authorizing Secretary to make grants and enter contracts with public and nonprofit private entities with respect to establishment of voluntary sickle cell anemia screening and counseling programs and to develop and disseminate informational and educational materials relating to sickle cell anemia, was omitted as part of the revision of this part by Pub. L. 94-278 and is now covered by this section.

EFFECTIVE DATE

Section 403(c) of Pub. L. 94-278 provided that: "The amendments made by subsections (a) and (b) [see section 401 of Pub. L. 94-278 set out as a Short Title of 1976 Amendment note under section 201 of this title] shall take effect July 1, 1976."

SHORT TITLE OF 1976 AMENDMENTS

For Short Title of title IV of Pub. L. 94-278, which enacted this Part, omitted former Part B of this subchapter, redesignated former Parts C and D of this subchapter as Parts B and C of this subchapter, respectively, see Short Title of 1976 Amendments note set out under section 201 of this title.

CONGRESSIONAL DECLARATION OF PURPOSE

Section 402 of Pub. L. 94-278 provided that: In order to preserve and protect the health and welfare of all citizens, it is the purpose of this title [see section 401 of Pub. L. 94-278, set out as a Short Title of 1976 Amendment note under section 201 of this title] to establish a national program to provide for basic and applied research, research training, testing, counseling, and information and education programs with respect to genetic diseases, including sickle cell anemia, Cooley's anemia, Tay-Sachs disease, cystic fibrosis, dysautonomia, hemophilia, retinitis pigmentosa, Huntington's chorea, and muscular dystrophy."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300b-3 of this title.

§ 300b-1. Research project grants and contracts

In carrying out section 241 of this title, the Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for (1) basic or applied research leading to the understanding, diagnosis, treatment, and control of genetic diseases, (2) planning, establishing, demonstrating, and developing special programs for the training of genetic counselors, social and behavioral scientists, and other health professionals, (3) the development of programs to educate practicing physicians, other health professionals, and the public regarding the nature of genetic processes, the inheritance patterns of genetic diseases, and the means, methods, and facilities available to diagnose, control, counsel, and treat genetic diseases, and (4) the development of counseling and testing programs and other programs for the diagnosis, control, and treatment of genetic diseases. In making grants and entering into contracts for projects described in clause (1) of the preceding sentence, the Secretary shall give priority to applications for such grants or contracts which are submitted for research on sickle cell anemia and for research on Cooley's anemia.

(July 1, 1944, ch. 373, title XI, § 1102, as added Apr. 22, 1976, Pub. L. 94-278, title IV, § 403(a), 90 Stat. 408.)

PRIOR PROVISIONS

A prior section 300b-1, act July 1, 1944, ch. 373, title XI, § 1102, as added May 16, 1972, Pub. L. 92-294, § 3(c), 86 Stat. 138, authorizing Secretary to make grants and enter contracts with public and private entities and individuals for projects concerned with research, research training in diagnosis, treatment and control of sickle cell anemia, informational and educational programs with respect to sickle cell anemia and development of counseling and testing programs, was omitted as part of the revision of this part by Pub. L. 94-278 and is now covered by this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300b-3 of this title.

§ 300b-2. Voluntary participation by individuals

The participation by any individual in any program or portion thereof under this part shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

(July 1, 1944, ch. 373, title XI, § 1103, as added Apr. 22, 1976, Pub. L. 94-278, title IV, § 403(a), 90 Stat. 408.)

PRIOR PROVISIONS

A prior section 300b-2, act July 1, 1944, ch. 373, title XI, § 1103, as added May 16, 1972, Pub. L. 92-294, § 3(c), 86 Stat. 138, and amended Aug. 29, 1972, Pub. L. 92-414, § 4(3), 86 Stat. 652, was identical to this section.

§ 300b-3. Application for grants and contracts

(a) Manner of submission; contents

A grant or contract under this part may be made upon application submitted to the Secretary at such time, in such manner, and containing and accompanied by such information, as the Secretary may require. Each applicant shall—

(1) provide that the programs and activities for which assistance under this part is sought will be administered by or under the supervision of the applicant;

(2) provide for strict confidentiality of all test results, medical records, and other information regarding testing, diagnosis, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) gives informed consent to be released, or (B) statistical data compiled without reference to the identity of any such patient;

(3) provide for community representation where appropriate in the development and operation of voluntary genetic testing or counseling programs funded by a grant or contract under this part;

(4) in the case of an applicant for a grant or contract under section 300b(a)(1) of this title for the delivery of services, provide assurances satisfactory to the Secretary that (A) the services for community-wide testing and counseling to be provided under the program for which the application is made (i) will take into consideration widely prevalent diseases with a genetic component and high-risk population groups in which certain genetic diseases occur, and (ii) where appropriate will be directed especially but not exclusively to persons who are entering their child-producing years, and (B) appropriate arrangements will be made to provide counseling to persons found to have a genetic disease and to persons found to carry a gene or chromosome which may cause a deleterious effect in their offspring; and

(5) establish fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of Federal funds paid to the applicant under this part.

(b) Considerations for grants and contracts under section 300b of this title

In making any grant or entering into any contract for testing and counseling programs under section 300b of this title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons who will benefit from and are in need of the services provided under such programs.

(c) Considerations for grants and contracts under section 300b-1 of this title

In making grants and entering into contracts for any fiscal year under section 241 of this title for projects described in section 300b-1 of this title or under section 300b of this title the Secretary shall give special consideration to applications from entities that received grants from, or entered into contracts with, the Secretary for the preceding fiscal year for the conduct of comprehensive sickle cell centers or sickle cell screening and education clinics.

(July 1, 1944, ch. 373, title XI, § 1104, as added Apr. 22, 1976, Pub. L. 94-278, title IV, § 403(a), 90 Stat. 408.)

PRIOR PROVISIONS

A prior section 300b-3, act July 1, 1944, ch. 373, title XI, § 1104, as added May 16, 1972, Pub. L. 92-294, § 3(c), 86 Stat. 138, and amended Aug. 29, 1972, Pub. L. 92-414, § 4(3), 86 Stat. 652, authorizing grants to be made upon application to Secretary and requiring supervision of programs by applicant, confidentiality of test results, medical records and other information obtained from treated person, community representation in programs, assurances by applicant that priority will be given to persons of child bearing years, and demonstration by applicant of proper fiscal control and accounting procedures, was omitted as part of the revision of this part by Pub. L. 94-278 and is now covered by this section.

§ 300b-4. Public Health Service facilities

The Secretary shall establish a program within the Service to provide voluntary testing, diagnosis, counseling, and treatment of individuals respecting genetic diseases. Services under such program shall be made available through facilities of the Service to persons requesting such services, and the program shall provide appropriate publicity of the availability and voluntary nature of such services.

(July 1, 1944, ch. 373, title XI, § 1105, as added Apr. 22, 1976, Pub. L. 94-278, title IV, § 403(a), 90 Stat. 409.)

PRIOR PROVISIONS

A prior section 300b-4, act July 1, 1944, ch. 373, title XI, § 1105, as added May 16, 1972, Pub. L. 92-294, § 3(c), 86 Stat. 139, authorized Secretary to establish a program within the Public Health Service with respect to sickle cell anemia and such program will be made available through the facilities of the Public Health Service, was omitted as part of the revision of this part by Pub. L. 94-278 and is now covered by this section.

§ 300b-5. Annual report to President and Congress

(a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this part.

(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.

(July 1, 1944, ch. 373, title XI, § 1106, as added Apr. 22, 1976, Pub. L. 94-278, title IV, § 403(a), 90 Stat. 409.)

PRIOR PROVISIONS

A prior section 300b-5, act July 1, 1944, ch. 373, title XI, § 1106, as added May 16, 1972, Pub. L. 92-294, § 3(c), 86 Stat. 139, and amended Aug. 29, 1972, Pub. L. 92-414, § 4(3), 86 Stat. 652, was identical to this section.

§§ 300c to 300c-4. Omitted

CODIFICATION

Section 300c, act July 1, 1944, ch. 373, title XI, § 1111, as added Aug. 29, 1972, Pub. L. 92-414, § 3, 86 Stat. 650, which authorized the Secretary to make grants and enter contracts with public and private entities for the establishment of screening, treatment, and counseling programs with respect to Cooley's Anemia, was omitted by Pub. L. 94-278, title IV, § 403(a), Apr. 22, 1976, 90 Stat. 407, and is now covered by sections 300b and 300b-2 of this title.

Section 300c-1, act July 1, 1944, ch. 373, title XI, § 1112, as added Aug. 29, 1972, Pub. L. 92-414, § 3, 86 Stat. 651, which required that any participation by an individual in any Cooley's Anemia programs should be

on a purely voluntary basis, was omitted by Pub. L. 94-278, title IV, § 403(a), Apr. 22, 1976, 90 Stat. 407, and is now covered by section 300b-2 of this title.

Section 300c-2, act July 1, 1944, ch. 373, title XI, § 1113, as added Aug. 29, 1972, Pub. L. 92-414, § 3, 86 Stat. 651, which provided for the making of grant upon application to the Secretary and listed certain requirements to be met by the applicant, was omitted by Pub. L. 94-278, title IV, § 403(a), Apr. 22, 1976, 90 Stat. 407, and is now covered by section 300b-3 of this title.

Section 300c-3, act July 1, 1944, ch. 373, title XI, § 1114, as added Aug. 29, 1972, Pub. L. 92-414, § 3, 86 Stat. 652, which authorized the Secretary to establish a program with the Public Health Service to provide for screening, counseling, and treatment with respect to Cooley's Anemia, was omitted by Pub. L. 94-278, title IV, § 403(a), Apr. 22, 1976, 90 Stat. 407, and is now covered by section 300b-4 of this title.

Section 300c-4, act July 1, 1944, ch. 373, title XI, § 1115, as added Aug. 29, 1972, Pub. L. 92-414, § 3, 86 Stat. 652, which provided for the Secretary's submission of a report to the President for transmittal to Congress annually, was omitted by Pub. L. 94-278, title IV, § 403(a), Apr. 22, 1976, 90 Stat. 407, and is now covered by 300b-5 of this title.

PART B—SUDDEN INFANT DEATH SYNDROME

AMENDMENTS

1976—Pub. L. 94-278, title IV, § 403(b)(2), Apr. 22, 1976, 90 Stat. 409, redesignated Part C heading as Part B.

§ 300c-11. Sudden infant death syndrome counseling, information, educational, and statistical programs

(a) Statement of purpose

The Secretary, through the Assistant Secretary for Health, shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome and to disseminate such information and materials to persons providing health care, to public safety officials, and to the public generally.

(b) Grants and contracts for projects; applications: approval by Secretary, form, contents; payments: advances or reimbursement, intervals and conditions; provisions of section 529 of title 31 and section 5 of title 41 inapplicable to contracts; authorization of appropriations

(1) The Secretary may make grants to public and nonprofit private entities, and enter into contracts with public and private entities, for projects which include both—

(A) the collection, analysis, and furnishing of information (derived from post mortem examinations and other means) relating to the causes of sudden infant death syndrome; and

(B) the provision of information and counseling to families affected by sudden infant death syndrome.

(2) No grant may be made or contract entered into under this subsection unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. Each application shall—

(A) provide that the project for which assistance under this subsection is sought will be administered by or under supervision of the applicant;

(B) provide for appropriate community representation in the development and operation of such project;

(C) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subsection; and

(D) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

(3) Payments under grants under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

(4) Contracts under this subsection may be entered into without regard to section 529 of title 31 and section 5 of title 41.

(5) For the purpose of making payments pursuant to grants and contracts under this subsection there are authorized to be appropriated $2,000,000 for the fiscal year 1975, $3,000,000 for the fiscal year 1976, and $4,000,000 for the fiscal year 1977.

(c) Report to Congressional committees

The Secretary shall submit, not later than January 1, 1976, a comprehensive report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives respecting the administration of this section and the results obtained from the programs authorized by it.

(July 1, 1944, ch. 373, title XI, § 1121, as added Apr. 22, 1974, Pub. L. 93-270, § 3(a), 88 Stat. 91, and amended Apr. 22, 1976, Pub. L. 94-278, title IV, § 403(b)(1), 90 Stat. 409; S. Res. 4, Feb. 4, 1977.)

AMENDMENTS

1976—Subsec. (b)(5). Pub. L. 94-278 struck out "ending June 30," wherever appearing.

SHORT TITLE

For Short Title of Pub. L. 93-270, which enacted this Part, see Short Title of 1974 Amendments note set out under section 201 of this title.

CHANGE OF NAME

The Committee on Labor and Public Welfare of the Senate was abolished and replaced by the Committee on Human Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly known as the "Committee Systems Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsec. (b)(5) by Pub. L. 94-278 effective July 1, 1976, see section 403(c) of Pub. L. 94-278, set out as an Effective Date note under section 300b of this title.

PART C—HEMOPHILIA PROGRAMS

AMENDMENTS

1976—Pub. L. 94-278, title IV, § 403(b)(2), Apr. 22, 1976, 90 Stat. 409, redesignated Part D heading as Part C.

§ 300c-21. Comprehensive hemophilia diagnostic and treatment centers

(a) Grants and contracts with public and nonprofit private entities for projects for establishment; services required to be provided by centers

The Secretary may make grants to and enter into contracts with public and nonprofit private entities for projects for the establishment of comprehensive hemophilia diagnostic and treatment centers. A center established under this subsection shall provide—

(1) access to the services of the center for all individuals suffering from hemophilia who reside within the geographic area served by the center;

(2) programs for the training of professional and paraprofessional personnel in hemophilia research, diagnosis, and treatment;

(3) a program for the diagnosis and treatment of individuals suffering from hemophilia who are being treated on an outpatient basis;

(4) a program for association with providers of health care who are treating individuals suffering from hemophilia in areas not conveniently served directly by such center but who are more conveniently (as determined by the Secretary) served by it than by the next geographically closest center;

(5) programs of social and vocational counseling for individuals suffering from the hemophilia; and

(6) individualized written comprehensive care programs for each individual treated by or in association with such center.

(b) Approval of application as prerequisite for grant or contract; form, manner of submission and contents of application

No grant or contract may be made under subsection (a) of this section unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(c) Required assurances of application

An application for a grant or contract under subsection (a) of this section shall contain assurances satisfactory to the Secretary that the applicant will serve the maximum number of individuals that its available and potential resources will enable it to effectively serve.

(d) Criteria for approval of application

In considering applications for grants and contracts under subsection (a) of this section for projects to establish hemophilia diagnostic and treatment centers, the Secretary shall—

(1) take into account the number of persons to be served by the programs to be supported by such centers and the extent to which rapid and effective use will be made by such centers of funds under such grants and contracts, and

(2) give priority to projects for centers which will operate in areas which the Secretary determines have the greatest number of persons in need of the services provided by such centers.

(e) Nonapplicability of statutory provisions to contracts

Contracts may be entered into under subsection (a) of this section without regard to section 529 of title 31 and section 5 of title 41.

(f) Authorization of appropriations

There are authorized to be appropriated to make payments under grants and contracts under subsection (a) of this section $3,000,000 for fiscal year 1976, and $4,000,000 for fiscal year 1977.

(July 1, 1944, ch. 373, title XI, § 1131, as added July 29, 1975, Pub. L. 94-63, title VI, § 606, 89 Stat. 350.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

§ 300c-22. Blood-separation centers

(a) Grants and contracts with public and nonprofit private entities for projects to develop and expand existing facilities; definitions

The Secretary may make grants to and enter into contracts with public and nonprofit private entities for projects to develop and expand, within existing facilities, blood-separation centers to separate and make available for distribution blood components to providers of blood services and manufacturers of blood fractions. For purposes of this section—

(1) the term "blood components" means those constituents of whole blood which are used for therapy and which are obtained by physical separation processes which result in licensed products such as red blood cells, platelets, white blood cells, AHF-rich plasma, fresh-frozen plasma, cryoprecipitate, and single unit plasma for infusion; and

(2) the term "blood fractions" means those constituents of plasma which are used for therapy and which are obtained by licensed fractionation processes presently used in manufacturing which result in licensed products such as normal serum albumin, plasma, protein fraction, prothrombin complex, fibrinogen, AHF concentrate, immune serum globulin, and hyperimmune globulins.

(b) Grants for alleviation of insufficient supplies of blood fractions

In the event the Secretary finds that there is an insufficient supply of blood fractions available to meet the needs for treatment of persons suffering from hemophilia, and that public and other nonprofit private centers already engaged in the production of blood fractions could alleviate such insufficiency with assistance under this subsection, he may make grants not to exceed $500,000 to such centers for the purposes of alleviating the insufficiency.

(c) Approval of application as prerequisite for grant or contract; form, manner of submission, and contents of application

No grant or contract may be made under subsection (a) or (b) of this section unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such

manner, and contain such information as the Secretary shall by regulation prescribe.

(d) Nonapplicability of statutory provisions to contracts

Contracts may be entered into under subsection (a) of this section without regard to section 529 of title 31 and section 5 of title 41.

(e) Authorization of appropriations

For the purpose of making payments under grants and contracts under subsections (a) and (b) of this section, there are authorized to be appropriated $4,000,000 for fiscal year 1976, and $5,000,000 for fiscal year 1977.

(July 1, 1944, ch. 373, title XI, § 1132, as added July 29, 1975, Pub. L. 94-63, title VI, § 606, 89 Stat. 351.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

SUBCHAPTER X—EMERGENCY MEDICAL SERVICES SYSTEMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 295g-9 of this title.

PART A—ASSISTANCE FOR EMERGENCY MEDICAL SERVICES SYSTEMS

AMENDMENTS

1976—Pub. L. 94-573, § 14(1), Oct. 21, 1976, 90 Stat. 2718, added heading reading "Part A—Assistance for Emergency Medical Services Systems".

§ 300d. Definitions

For purposes of this part:

(1) The term "emergency medical services system" means a system which provides for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery in an appropriate geographical area of health care services under emergency conditions (occurring either as a result of the patient's condition or of natural disasters or similar situations) and which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration of the system.

(2) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(3) The term "modernization" means the alteration, major repair (to the extent permitted by regulations), remodeling, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

(4) The term "section 300m State health planning and development agency" means the agency of a State designated under section 300m(b)(3) of this title.

(5) The term "section 300*l*-4 health systems agency" means a health systems agency designated under section 300*l*-4 of this title, and the term "health systems plan" means a health systems plan referred to in section 300*l*-2(b)(2) of this title.

(July 1, 1944, ch. 373, title XII, § 1201, as added Nov. 16, 1973, Pub. L. 93-154, § 2(a), 87 Stat. 594, and amended Oct. 12, 1976, Pub. L. 94-484, title IX, § 905(b)(1), 90 Stat. 2325; Oct. 21, 1976, Pub. L. 94-573, §§ 2, 14(2), 90 Stat. 2709, 2718.)

AMENDMENTS

1976—Pub. L. 94-573, § 14(2), substituted in introductory phrase "part" for "subchapter".

Par. (2). Pub. L. 94-484 defined "State" to include the Northern Mariana Islands.

Par. (4). Pub. L. 94-573, § 2, substituted definition of "section 300m State health planning and development agency" as meaning the agency of a State designated under section 300m(b)(3) of this title for definition of "section 314(a) State health planning agency" as meaning the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 246(a) of this title.

Par. (5). Pub. L. 94-573, § 2, substituted definitions of "section 300*l*-4 health systems agency" as meaning a health systems agency designated under section 300*l*-4 of this title and "health systems plan" as meaning a health systems plan referred to in section 300*l*-2(b)(2) of this title for definitions of "section 314(b) areawide health planning agency" as meaning a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 246(b) of this title and "section 314(b) plan" as meaning a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 246(b) of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 20 of Pub. L. 94-573 provided that: "Amendments and repeals made to the Public Health Service Act by this Act [enacting section 300d-21 of this title, amending sections 295f-6, 300d, 300d-1, 300d-2, 300d-3, and 300d-4 to 300d-9 of this title, enacting provisions set out as notes under sections 242b, 300d, 300d-7, and 300d-9 of this title, and amending provisions set out as notes under sections 218, 289c-1, and 289*l*-1 of this title] shall not apply with respect to grants made or contracts entered into before the date of enactment of this Act [Oct. 21, 1976], except that the amendments made by sections 4(3) and 5 of this Act with respect to adding a new subsection (f) to section 1203 [section 300d-2(f) of this title] and a new subsection (e) to section 1204 [section 300d-3(e) of this title], respectively, of the Public Health Service Act shall apply to grants made and contracts entered into after June 1, 1976."

SHORT TITLE OF 1976 AMENDMENTS

For Short Title of Pub. L. 94-573, which enacted section 300d-21 of this title and amended sections 300d to 300d-9 of this title, see Short Title of 1976 Amendments note set out under section 201 of this title.

SHORT TITLE

For Short Title of Pub. L. 93-154, which enacted this subchapter, see Short Title of 1973 Amendments note set out under section 201 of this title.

STUDY OF LEGAL BARRIERS TO DELIVERY OF EMERGENCY MEDICAL SERVICES; UNIFORM CONFLICT OF LAWS RULE FOR SUCH SERVICES IN COURSE OF INTERSTATE TRAVELS ON COMMON CARRIERS; REPORT TO CONGRESS

Section 4 of Pub. L. 93-154 provided that the Secretary of Health, Education, and Welfare conduct a study to determine the legal barriers to the effective delivery of medical care under emergency conditions and submit a report to the Congress on the results of such study by Nov. 16, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 201 of this title.

§ 300d-1. Grants and contracts for feasibility studies and planning

(a) Authority of Secretary; eligible entities; geographical area limitation

(1) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 300d-5(a) of this title) for projects which include both studying the feasibility of and planning (A) the establishment and operation of an emergency medical services system, (B) the expansion and improvement of such a system, or (C) both.

(2) If the Secretary makes a grant or enters into a contract under paragraph (1) for a study and planning project respecting an emergency medical services system for a particular geographical area, the Secretary may not make any other grant or enter into any other contract under paragraph (1) for such project, and he may not make a grant or enter into a contract under paragraph (1) for any other study and planning project respecting an emergency medical services system for the same area or for an area which includes (in whole or substantial part) such area.

(b) Advanced life-support techniques; updating systems serving medically underserved populations; limitation

(1) The Secretary may make a grant to or enter into a contract with an eligible entity (as defined in section 300d-5(a) of this title) with respect to an emergency medical services system for the purpose of enabling the entity—

(A) to study the feasibility of, or plan for, the expansion and improvement of such system to provide for the use in such system of advanced life-support techniques, or

(B) if such system is the system of a State for which system a study and planning grant or contract has been made or entered into under subsection (a) of this section and if the entity is that State, to update the plan of such system to improve the delivery of emergency medical services in rural areas and to medically underserved populations of the State.

(2) If the Secretary makes a grant or enters into a contract under paragraph (1) respecting an emergency medical services system for a particular geographical area, the Secretary may not make any other grant or enter into any other contract under paragraph (1) respecting such system, or respecting any other such system for the same area or for an area which includes (in whole or substantial part) such area.

(c) Reports to Secretary and Interagency Committee

An eligible entity which has received a grant from or entered into a contract with the Secretary under this section shall submit to the Secretary and the Interagency Committee on Emergency Medical Services (established under section 300d-8 of this title) a report on the results of such grant or contract at such intervals as the Secretary may prescribe, and shall submit to the Secretary and such Committee a final report on the results of such grant or contract not later than one year after the date the grant was made or the contract was entered into, as the case may be.

(d) Application requirements

An application for a grant or contract under this section shall—

(1) demonstrate to the satisfaction of the Secretary the need of the area for the emergency medical services system for which the application is made;

(2) contain assurances satisfactory to the Secretary that the applicant is qualified to plan an emergency medical services system for such area; and

(3) contain assurances satisfactory to the Secretary that the planning will be conducted in cooperation (A) with each section 300*l*-4 health systems agency whose health systems plan covers or will cover (in whole or in part) such area, and (B) with any emergency medical services council or other entity responsible for review and evaluation of the provision of emergency medical services in such area.

(e) Amount of grant; determination by Secretary

The amount of any grant under this section shall be determined by the Secretary.

(f) Maximum yearly obligations and expenditures

The Secretary may not obligate or expend in any fiscal year for grants and contracts made or entered into under subsection (b)(1) of this section an amount greater than 50 per centum of the sums appropriated in such year for grants and contracts made or entered into under this section.

(July 1, 1944, ch. 373, title XII, § 1202, as added Nov. 16, 1973, Pub. L. 93-154, § 2(a), 87 Stat. 595, and amended Oct. 21, 1976, Pub. L. 94-573, § 3, 90 Stat. 2709.)

REFERENCES IN TEXT

For definition of "section 300*l*-4 health systems agency", referred to in subsec. (d)(3), see section 300d of this title.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-573, § 3(a)(1), (2), designated existing provisions as par. (1) and substituted "projects which include both studying the feasibility of and planning (A) the establishment and operation of an emergency medical services system, (B) the expansion and improvement of such a system, or (C) both" for "projects which include both (1) studying the feasibility of establishing (through expansion or improvement of existing services or otherwise) and operating an emergency medical services system, and (2) planning the establishment and operation of such a system".

Subsec. (a)(2). Pub. L. 94-573, § 3(a)(3), (4), redesignated former subsec. (b) as par. (2) and substituted "paragraph (1)" for "this section" in three instances.

Subsec. (b). Pub. L. 94-573, § 3(a)(3), (5), redesignated former subsec. (b) as subsec. (a)(2) and added subsec. (b), respectively.

Subsec. (c). Pub. L. 94-573, § 3(b)(1), substituted requirement that the eligible entity receiving a grant from or entering into a contract with the Secretary submit the report on the result of the grant or contract for prior requirement of submission of reports of any study and planning project assisted under this section and substituted provision for submission of a final report on the results of the grant or contract not later than one year after the date the grant was made or the contract was entered into for prior provision for submission of a final report of the results not later than one year from the date the grant was made or the contract entered into.

Subsec. (d)(1). Pub. L. 94-573, § 3(b)(2), substituted "the need of the area for the emergency medical ser-

vices system for which the application is made" for "the need of the area for which the study and planning will be done for an emergency medical services system".

Subsec. (d)(3)(A). Pub. L. 94-573, § 3(b)(3), substituted "with each section 300*l*-4 health systems agency whose health systems plan covers or will cover" for "with each section 314(b) areawide health planning agency whose section 314(b) plan covers".

Subsec. (f). Pub. L. 94-573, § 3(b)(4), added subsec. (f).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-573 inapplicable to grants made or contracts entered into before Oct. 21, 1976, see section 20 of Pub. L. 94-573 set out as an Effective Date of 1976 Amendment note under section 300d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d-5, 300d-6 of this title.

§ 300d-2. Grants and contracts for establishing and initial operation of emergency medical services system

(a) Authority of Secretary; eligible entities

The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 300d-5(a) of this title) for the establishment and initial operation of emergency medical services systems.

(b) Coordination with statewide system

Special consideration shall be given to applications for grants and contracts for systems which will coordinate with statewide emergency medical services system.

(c) Modernization of emergency facilities; additional grant or contract; limitations; eligible entities, costs; rural area system, financial assistance

(1) Grants and contracts under this section may be used for the modernization of facilities for emergency medical services systems and other costs of establishment and initial operation.

(2) Each grant or contract under this section shall be made for costs of establishment and operation in the year for which the grant or contract is made. If a grant or contract is made under this section for a system, the Secretary may make one additional grant or contract for that system if he determines, after a review of the first at least nine months' activities of the applicant carried out under the first grant or contract, that the applicant is satisfactorily progressing in the establishment and operation of the system in accordance with the plan contained in its application (pursuant to section 300d-5(b)(4) of this title) for the first grant or contract.

(3) No grant or contract may be made under this section for the fiscal year ending September 30, 1979, to an entity which did not receive a grant or contract under this section for the preceding fiscal year.

(4) Subject to section 300d-5(f) of this title—

(A) the amount of the first grant or contract under this section for an emergency medical services system may not exceed (i) 50 per centum of the establishment and operation costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs for such year; and

(B) the amount of the second grant or contract under this section for a system may not exceed (i) 25 per centum of the establishment and operation costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 50 per centum of such costs for such year.

(5) In considering applications which demonstrate exceptional need for financial assistance, the Secretary shall give special consideration to applications submitted for emergency medical services systems for rural areas (as defined in regulations of the Secretary).

(d) Participation and support of essential public, private, and voluntary organizations

A grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless the entity submits with its application for such grant or contract assurances of the participation in and support of the system by the public, private, and volunteer organizations and entities which are associated with and involved in activities essential to the effective provision of emergency medical services in the system's service area.

(e) Executive and legislative governmental support and cooperation; prerequisites for additional grants or contracts

(1) A first grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless the entity submits with its application for such grant or contract assurances, from the executive or legislative governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, of each such bodies' support of and cooperation with the system.

(2) A second grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless—

(A) the Secretary has made the required determination under subsection (c)(2) of this section;

(B) the application for such grant or contract includes specific plans for the step-by-step achievement of compliance with each of the requirements of section 300d-5(b)(4)(C) of this title within the period specified in section 300d-5(b)(4)(B)(i) of this title; and

(C) the application for such grant or contract includes assurances, evidenced by copies of formal resolutions, proclamations, or other acts of the executive or legislative governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, of such bodies'—

(i) continued support and cooperation with the system, and

(ii) financial support of the system, in the year after the conclusion of the period of support under the grant or contract, sufficient to maintain the system at the level at which such system is to be maintained during the period of the grant or contract.

(f) Reports to the Secretary and Interagency Committee; additional grants or contracts

An eligible entity which has received a grant from or has entered into a contract with the Secretary under this section shall submit to the Secretary and the Interagency Committee on Emergency Medical Services (established under section 300d-8 of this title) a report on the results of such grant or contract at such intervals as the Secretary may prescribe, and shall submit to the Secretary and such Committee a final report on the results of grants made to or contracts entered into with the entity under this section not later than one year after the completion of the second such grant or contract under this section.

(July 1, 1944, ch. 373, title XII, § 1203, as added Nov. 16, 1973, Pub. L. 93-154, § 2(a), 87 Stat. 596, and amended Oct. 21, 1976, Pub. L. 94-573, § 4, 90 Stat. 2710.)

AMENDMENTS

1976—Subsec. (c)(2). Pub. L. 94-573, § 4(1), inserted "at least" preceding "nine months'" and substituted "its application" for "his application".

Subsec. (c)(3). Pub. L. 94-573, § 4(2), substituted "September 30, 1979" for "June 30, 1976".

Subsecs. (d) to (f). Pub. L. 94-573, § 4(3), added subsecs. (d) to (f).

EFFECTIVE DATE OF 1976 AMENDMENT

Enactment of subsecs. (d) and (e) and amendment of subsec. (c)(2) and (3) by Pub. L. 94-573 inapplicable to grants made or contracts entered into before Oct. 21, 1976; and enactment of subsec. (f) by Pub. L. 94-573 applicable to grants made or contracts entered into after June 1, 1976, see section 20 of Pub. L. 94-573, set out as an Effective Date of 1976 Amendment note under section 300d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d-5 to 300d-8 of this title.

§ 300d-3. Grants and contracts for expansion and improvements

(a) Authority of Secretary; eligible entities

The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 300d-5(a) of this title) for projects for the expansion and improvement of emergency medical services systems, including the acquisition of equipment and facilities, the modernization of facilities, and other projects to expand and improve such systems.

(b) Eligible costs; award of additional grant or contract; maximum amounts

(1) Each grant or contract for a project under this section shall be made for the project's costs of expansion and improvement in the year for which the grant or contract is made or entered into. If a grant or contract is made or entered into under this section for a system, the Secretary may make one additional grant or contract for that system if he determines, after a review of at least the first nine months' activities of the applicant carried out under the first grant or contract, that the applicant is satisfactorily progressing in the expansion and improvement of the system in accordance with the plan contained in its application (pursuant to section 300d-5(b)(4) of this title) for the first grant or contract.

(2) Subject to section 300d-5(f) of this title—

(A) the amount of the first grant or contract under this section for an emergency medical services system may not exceed (i) 50 per centum of the expansion and improvement costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs for such year; and

(B) the amount of the second grant or contract under this section for a system may not exceed (i) 25 per centum of the expansion and improvement costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 50 per centum of such costs for such year.

(c) Participation and support of essential public, private, and voluntary organizations

A grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless the entity submits with its application for such grant or contract assurances of the participation and support of the system by the public, private, and volunteer organizations and entities which are associated with and involved in activities essential to the effective provision of emergency medical services in the system's service area.

(d) Prerequisites for first and second grants or contracts

(1) A grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless—

(A) the application for such grant or contract includes specific plans for the step-by-step achievement of compliance with each of the requirements of section 300d-5(b)(4)(C) of this title within the period specified in section 300d-5(b)(4)(B)(i) of this title; and

(B) the application for such grant or contract includes assurances, evidenced by copies of formal resolutions, proclamations, or other acts of the executive or legislative governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, of such bodies'—

(i) support and cooperation with the system, and

(ii) endorsement and support of a specific financial plan which provides for the maintenance of the financial support of the system, after the conclusion of the period of the grant or contract, at the level required to maintain the level of expanded or improved activity to be achieved during the period of the grant or contract.

(2) A second grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless—

(A) the Secretary has made the required determination under subsection (b)(1) of this section, and

(B) the application for such grant or contract includes assurances, of the executive or legislative governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, that substantial progress is being made toward achieving the financial support to implement the plan described in paragraph (1)(B)(ii).

(e) Reports to Secretary and Interagency Committees

An eligible entity which has received a grant from or has entered into a contract with the Secretary under this section shall submit to the Secretary and the Interagency Committee on Emergency Medical Services (established under section 300d-8 of this title) a report on the results of such grant or contract at such intervals as the Secretary may prescribe, and shall submit to the Secretary and such Committee a final report on the results of grants made to or contracts entered into with the entity under this section not later than one year after the completion of the second such grant or contract under this section.

(July 1, 1944, ch. 373, title XII, § 1204, as added Nov. 16, 1973, Pub. L. 93-154, § 2(a), 87 Stat. 597, and amended Oct. 21, 1976, Pub. L. 94-573, § 5, 90 Stat. 2711.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-573 added par. (1); incorporated existing provisions in par. (2)(A), substituting "for an emergency medical services system may not exceed (i) 50 per centum of the expansion and improvement costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs for such year;" for "for a project shall not exceed (i) 50 per centum of the cost of that project (as determined pursuant to regulations of the Secretary), or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs."; and added subpar. (B).

Subsecs. (c) to (e). Pub. L. 94-573 added subsecs. (c) to (e).

EFFECTIVE DATE OF 1976 AMENDMENT

Enactment of subsecs. (c) and (d) and amendment of subsec. (b) by Pub. L. 94-573 inapplicable to grants made or contracts entered into before Oct. 21, 1976; and enactment of subsec. (e) by Pub. L. 94-573 applicable to grants made or contracts entered into after June 1, 1976, see section 20 of Pub. L. 94-573, set out as an Effective Date of 1976 Amendment note under section 300d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d-5 to 300d-8 of the title.

§ 300d-4. Grants and contracts for research

(a) Authority of Secretary; eligible entities; special consideration for rural area systems

The Secretary may make grants to and enter into contracts with public or private nonprofit entities, and enter into contracts with private entities and individuals, for the support of research in emergency medical techniques, methods, devices, and delivery. The Secretary shall give special consideration to applications for grants or contracts for research relating to the delivery of emergency medical services in rural areas and especially research which emphasizes the identification and utilization of techniques and methods to apply the results of such research to improve the delivery of emergency medical services in such areas.

(b) Cost limitation; application requirements

No grant may be made or contract entered into under this section for amounts in excess of $35,000 unless the application therefor has been recommended for approval by an appropriate peer review panel designated or established by the Secretary. Any application for a grant or contract under this section shall be submitted in such form and manner, and contains such information, as the Secretary shall prescribe in regulations.

(c) Reports to Secretary; contents

The recipient of a grant or contract under this section shall make such reports to the Secretary as the Secretary may require. Such reports shall contain recommendations and a plan of action for applying the results of the research assisted by such grant or contract to improve the delivery of emergency medical services.

(d) Consultation with administrative unit

(1) Before any grant or contract may be made or entered into by the Secretary under this section the Secretary shall consult, concerning such grant or contract, with the identifiable administrative unit described in section 300d-7 of this title.

(2) No regulation, guideline, funding priority, or application form shall be established under this section without the full participation in the development of such regulation, guideline, priority, or form, by the identifiable administrative unit described in section 300d-7 of this title.

(July 1, 1944, ch. 373, title XII, § 1205, as added Nov. 16, 1973, Pub. L. 93-154, § 2(a), 87 Stat. 597, and amended Oct. 21, 1976, Pub. L. 94-573, § 6, 90 Stat. 2713.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-573, § 6(1), (2), authorized the Secretary to enter into contracts with public or private nonprofit entities and to give special consideration to applications for research which emphasizes the identification and utilization of techniques and methods to apply the results of such research to improve the delivery of emergency medical services in rural areas.

Subsec. (c). Pub. L. 94-573, § 6(3), required the reports to contain recommendations and a plan of action for applying the results of the research assisted by the grant or contract to improve the delivery of emergency medical services.

Subsec. (d). Pub. L. 94-573, § 6(4), added subsec. (d).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-573 inapplicable to grants made or contracts entered into before Oct. 21, 1976, see section 20 of Pub. L. 94-573 set out as an Effective Date of 1976 Amendment note under section 300d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300d-6 of this title.

§ 300d-5. General provisions respecting grants and contracts

(a) Eligible entity defined

For purposes of sections 300d-1, 300d-2, and 300d-3 of this title, the term "eligible entity" means—

(1) a State,

(2) a unit of general local government,

(3) a public entity administering a compact or other regional arrangement or consortium, or

(4) any other public entity and any nonprofit private entity.

(b) Applications, submission and approval; maximum assistance period; approval requirements; grant or contract period; alternate plans, submission; emergency medical services system requirements; standards and criteria; technical assistance

(1)(A) No grant or contract may be made under this part unless an application therefor has been submitted to, and approved by, the Secretary.

(B) No applicant may receive more than a total of five years of grant or contract assistance under this part, except that, in determining the number of years of grant or contract assistance which an applicant received under this part, the Secretary shall not include any period during which the applicant received grant or contract assistance under section 300d-1(b)(1) or section 300d-4 of this title.

(2) In considering applications submitted under this part, the Secretary shall give priority to applications submitted by the entities described in clauses (1), (2), and (3) of subsection (a) of this section.

(3) No application for a grant or contract under section 300d-1 of this title may be approved unless—

(A) the application meets the application requirements of such section;

(B) in the case of an application submitted by a public entity administering a compact or other regional arrangement or consortium, the compact or other regional arrangement or consortium includes each unit of general local government of each standard metropolitan statistical area (as determined by the Office of Management and Budget) located (in whole or in part) in the service area of the emergency medical services system for which the application is submitted;

(C) in the case of an application submitted by an entity described in clause (4) of subsection (a) of this section, such entity has provided a copy of its application to each entity described in clauses (1), (2), and (3) of such subsection which is located (in whole or in part) in the service area of the emergency medical services system for which the application is submitted and has provided each such entity a reasonable opportunity to submit to the Secretary comments on the application;

(D) the—

(i) section 300m State health planning and development agency of each State in which the service area of the emergency medical services system for which the application is submitted will be located, and

(ii) section 300*l*-4 health systems agency whose health systems plan covers or will cover (in whole or in part) the service area of such system,

have had not less than thirty days (measured from the date a copy of the application was submitted to the agency by the applicant) in which to comment on the application;

(E) the applicant agrees to maintain such records and make such reports to the Secretary as the Secretary determines are necessary to carry out the provisions of this part; and

(F) the application is submitted in such form and such manner and contains such information (including specification of applicable provisions of law or regulations which restrict the full utilization of the training and skills of health professions and allied and other health personnel in the provision of health care services in such a system) as the Secretary shall prescribe in regulations.

(4)(A) No application for a grant or contract under section 300d-2 or 300d-3 of this title may be approved by the Secretary unless (i) the application meets the requirements of the respective section and of subparagraphs (B) through (F) of paragraph (3), and (ii) except as provided in subparagraph (B)(ii), the applicant (I) demonstrates to the satisfaction of the Secretary that the emergency medical services system for which the application is submitted will, within the period specified in subparagraph (B)(i), meet each of the emergency medical services system requirements specified in subparagraph (C), and (II) provides in the application a plan satisfactory to the Secretary for the system to meet each such requirement within such period.

(B)(i) The period within which an emergency medical services system must meet each of the requirements specified in subparagraph (C) is the total period of eligibility for assistance under the section for which the application for assistance is made; except that if the applicant demonstrates to the satisfaction of the Secretary the inability of the applicant's emergency medical services system to meet one or more of such requirements within such period, the period (or periods) within which the system must meet such requirement (or requirements) is such period (or periods) as the Secretary may require.

(ii) If an applicant submits an application for a grant or contract under section 300d-2 or 300d-3 of this title and demonstrates to the satisfaction of the Secretary the inability of the system for which the application is submitted to meet one or more of the requirements specified in subparagraph (C) within any specific period of time, the demonstration and plan prerequisites prescribed by clause (ii) of subparagraph (A) shall not apply with respect to such requirement (or requirements) and the applicant shall provide in his application a plan, satisfactory to the Secretary, for achieving appropriate alternatives to such requirement (or requirements).

(C) An emergency medical services system shall—

(i) include an adequate number of health professions, allied health professions, and other health personnel with appropriate training and experience;

(ii) provide for its personnel appropriate training (including clinical training) and continuing education programs which (I) are coordinated with other programs in the system's service area which provide similar training and education, and (II) emphasize recruitment and necessary training of veterans of the Armed Forces with military training and experience in health care fields and of appropriate public safety personnel in such area;

(iii) join the personnel, facilities, and equipment of the system by a central communications system so that requests for emergency health care services will be handled by a communications facility which (I) utilizies emergency medical telephonic screening, (II) utilizes or, within such period as the Secretary prescribes will utilize, the universal emergency telephone number 911, (III) will have direct communication connections and interconnections with the personnel, facilities, and equipment of the system and with other appropriate emergency medical services systems, (IV) will have the capability to communicate with individuals having auditory handicaps and to communicate in the language of the predominant population groups with limited English-speaking ability in the system's service area, and (V) makes maximum use of communications equipment and systems acquired under any highway safety program approved under chapter 4 of title 23, and of such equipment and system acquired under title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.).

(iv) include (making maximum use of vehicles acquired under any highway safety program approved under chapter 4 of title 23) an adequate number of necessary ground, air, and water vehicles and other transportation facilities to meet the individual characteristics of the system's service area—

(I) which vehicles and facilities meet appropriate standards relating to location, design, performance, and equipment, and

(II) the operators and other personnel for which vehicles and facilities meet appropriate training and experience requirements;

(v) include an adequate number of easily accessible emergency medical services facilities which are collectively capable for providing services on a continuous basis, which have approprite nonduplicative and categorized capabilities, which meet appropriate standards relating to capacity, location, personnel, and equipment, and which are coordinated with other health care facilities of the system;

(vi) provide access (including appropriate transportation) to specialized critical medical care units in the system's service area, or, if there are no such units or an inadequate number of them in such area, provide access to such units in neighboring areas if access to such units is feasible in terms of time and distance;

(vii) provide for the effective utilization of the appropriate personnel, facilities, and equipment of each public safety agency providing emergency services in the system's service area;

(viii) be organized in a manner that provides persons who reside in the system's service area and who have no professional training or financial interest in the provision of health care with an adequate opportunity to participate in the making of policy for the system;

(ix) provide, without prior inquiry as to ability to pay, necessary emergency medical services to all patients requiring such services;

(x) provide for transfer of patients to facilities and programs which offer such followup care and rehabilitation as is necessary to effect the maximum recovery of the patient;

(xi) provide for a coordinated patient recordkeeping system meeting appropriate standards established by the Secretary, which records shall cover the treatment of the patient from initial entry into the system through his discharge from it, and shall be consistent with ensuing patient records used in followup care and rehabilitation of the patient;

(xii) provide programs of public education and information in the system's service area (taking into account the needs of visitors to, as well as residents of, that area to know or be able to learn immediately the means of obtaining emergency medical services) which programs stress the general dissemination of information regarding appropriate methods of medical self-help and first-aid and regarding the availability of first-aid training programs in the area;

(xiii) provide the Secretary with such information as he may require to conduct periodic, comprehensive, and independent reviews and evaluations of the extent and quality of the emergency health care services provided in the system's service area, and submit to the Secretary the results of any review or evaluation which may be conducted by such system of the extent and quality of the emergency health care services provided in the system's service area;

(xiv) have a plan to assure that the system will be capable of providing emergency medical services in the system's service area during mass casualties, natural disasters, or national emergencies; and

(xv) provide for the establishment of appropriate arrangements with emergency medical services systems or similar entities serving neighboring areas for the provision of emergency medical services on a reciprocal basis where access to such services would be more appropriate and effective in terms of the services available, time, and distance.

The Secretary shall by regulations prescribe standards and criteria for the requirements prescribed by this subparagraph. In prescribing such standards and criteria, the Secretary shall consider relevant standards and criteria prescribed by other public agencies and by private organizations.

(5) The Secretary shall provide technical assistance, as appropriate, to eligible entities as

necessary for the purpose of their preparing applications or otherwise qualifying for or carrying out grants or contracts under sections 300d-1, 300d-2, or 300d-3 of this title, with special consideration for applicants in rural areas.

(c) Payments; advances or reimbursement; installments; conditions

Payments under grants and contracts under this subchapter may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary determines will most effectively carry out this subchapter.

(d) Prohibitions and restrictions inapplicable

Contracts may be entered into under this subchapter without regard to section 529 of title 31 and section 5 of title 41.

(e) New grants or contracts; use of funds; definition

No funds appropriated under any provision of this chapter other than section 241 of this title, subchapter III of this chapter, subchapter V of this chapter, section 300d-6 of this title, or section 300d-21 of this title may be used to make a new grant or contract in any fiscal year for a purpose for which a grant or contract is authorized by this part unless (1) all the funds authorized to be appropriated by section 300d-6(a) of this title for such fiscal year have been appropriated and made available for obligation in such fiscal year, and (2) such new grant or contract is made in accordance with the requirements of this part that would be applicable to such grant or contract if it was made under this part. For purposes of this subsection, the term "new grant or contract" means a grant or contract for a program or project for which an application was first submitted after the date of the enactment of the Act which makes the first appropriations under the authorizations contained in section 300d-6 of this title.

(f) Amount of grant or contract; considerations; conditions for use of funds; filing requirement

(1) In determining the amount of any grant or contract under section 300d-2 or 300d-3 of this title, the Secretary shall take into consideration the amount of funds available to the applicant from Federal grant or contract programs under laws other than this chapter for any activity which the applicant proposes to undertake in connection with the establishment and operation or expansion and improvement of an emergency medical services system and for which the Secretary may authorize the use of funds under a grant or contract under sections 300d-2 and 300d-3 of this title.

(2) The Secretary may not authorize the recipient of a grant or contract under section 300d-2 or 300d-3 of this title to use funds under such grant or contract for any training program (other than basic training of emergency medical technicians, training of paramedics, and short-term specialized training or retraining of physicians, nurses, and other health care professionals) in connection with an emergency medical services system unless the applicant (A) has filed an application (as appropriate) under subchapter V or VI of this chapter for a grant or contract for such program and such application was not approved or was approved but for which no or inadequate funds were made available under such subchapter, or (B) has demonstrated to the satisfaction of the Secretary that the filing of such an application would be futile or unreasonably burdensome.

(July 1, 1944, ch. 373, title XII, § 1206, as added Nov. 16, 1973, Pub. L. 93-154, § 2(a), 87 Stat. 598, and amended Oct. 21, 1976, Pub. L. 94-573, §§ 7, 14(2), 90 Stat. 2713, 2718.)

References in Text

For definitions of "section 300m State health planning and development agency" and "section 300*l*-4 health systems agency", referred to in subsec. (b)(3)(D), see section 300d of this title.

The Omnibus Crime Control and Safe Streets Act of 1968, referred to in subsec. (b)(4)(C)(iii), is Pub. L. 90-351, June 19, 1968, 82 Stat. 197. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is classified principally to chapter 46 (§ 3701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

Subchapters III, V, and VI, of this chapter, referred to in subsecs. (e) and (f)(2), are classified to sections 281 et seq., 292 et seq., and 296 et seq. of this title.

Amendments

1976—Subsec. (b)(1). Pub. L. 94-573, §§ 7(1), (2), 14(2), designated existing provisions as subpar. (A), added subpar. (B), and in subpar. (A) substituted "part" for "subchapter".

Subsec. (b)(2). Pub. L. 94-573, § 14(2), substituted "part" for "subchapter".

Subsec. (b)(3). Pub. L. 94-573, §§ 7(3), 14(2), substituted in subpar. (D)(i) "section 300m State health planning and development agency" for "section 314(a) State health planning agency" and in subpar. (D)(ii) "section 300*l*-4 health systems agency whose health systems plan covers or will cover" for "section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers", and in subpar. (E) "part" for "subchapter", respectively.

Subsec. (b)(4)(A). Pub. L. 94-573, § 7(4), (5), substituted introductory "No" for "An" and "may be approved" for "may not be approved" and in cl. (i) "requirements of the respective section and of subparagraphs" for "requirements of subparagraphs".

Subsec. (b)(4)(B)(i). Pub. L. 94-573, § 7(6), (7), substituted "subparagraph (C) is the total period of eligibility for assistance under the section for which the application for assistance is made" for "subparagraph (A) is the period of the grant or contract for which application is made".

Subsec. (b)(4)(C)(iii). Pub. L. 94-573, § 7(8), added items (IV) and (V).

Subsec. (b)(4)(C)(iv). Pub. L. 94-573, § 7(9), inserted parenthetical text "(making maximum use of vehicles acquired under any highway safety program approved under chapter 4 of title 23)" following "include".

Subsec. (b)(4)(C)(xi). Pub. L. 94-573, § 7(10), substituted "coordinated" for "standardized".

Subsec. (b)(4)(C)(xiii). Pub. L. 94-573, § 7(11), substituted requirement that the emergency medical services system provide the Secretary with the information he may require to conduct reviews and evaluations of the emergency health care services in the system's service area for item (I) requirement that the system provide for review and evaluation of such services provided in the system's service area and substituted requirement of submission to the Secretary of results of any review or evaluation which may be conducted by such system of the extent and quality of the emergency health care services provided in the system's service area for item (II) requirement of submission to the Secretary of the reports of each such review and evaluation.

Subsec. (e). Pub. L. 94-573, §§ 7(12), (13), 14(2), substituted in first sentence: "section 241 of this title, subchapter III of this chapter, subchapter V of this chap-

ter, section 300d-6 of this title, or section 300d-21 of this title" for "section 300d-6 of this title or subchapter V of this chapter", in clause (1) "section 300d-6(a) of this title" for "section 300d-6 of this title", and "this part" for "this subchapter" in three instances, respectively.

Subsec. (f)(2). Pub. L. 94-573, § 7(14) to (16), inserted following "training program" parenthetical text reading "(other than basic training of emergency medical technicians, training of paramedics, and short-term specialized training or retraining of physicians, nurses, and other health care professionals)", substituted "unless the applicant (A) has filed" for "unless the applicant filed" and added item (B), respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-573 inapplicable to grants made or contracts entered into before Oct. 21, 1976, see section 20 of Pub. L. 94-573 set out as an Effective Date of 1976 Amendment note under section 300d of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (e) of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d-1 to 300d-3 of this title.

§ 300d-6. Authorization of appropriations

(a)(1) For the purpose of making payments pursuant to grants and contracts under sections 300d-1, 300d-2, and 300d-3 of this title, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1974, $60,000,000 for the fiscal year ending June 30, 1975, $35,000,000 for the fiscal year ending June 30, 1976, $5,083,000 for the period beginning July 1, 1976, and ending September 30, 1976, $45,000,000 for the fiscal year ending September 30, 1977, and $55,000,000 for the fiscal year ending September 30, 1978; and for the purpose of making payments pursuant to grants and contracts under sections 300d-2 and 300d-3 of this title, there are authorized to be appropriated $70,000,000 for the fiscal year ending September 30, 1979.

(2) Of the sums appropriated under paragraph (1) for any fiscal year, not less than 20 per centum shall be made available for grants and contracts under this subchapter for such fiscal year for emergency medical services systems which serve or will serve rural areas (as defined in regulations of the Secretary under section 300d-2(c)(5) of this title).

(3) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1974, or the succeeding fiscal year—

(A) 15 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 300d-1 of this title (relating to feasibility studies and planning) for such fiscal year;

(B) 60 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 300d-2 of this title (relating to establishment and initial operation) for such fiscal year; and

(C) 25 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 300d-3 of this title (relating to expansion and improvement) for such fiscal year.

(4) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1976—

(A) 75 per centum of such sums shall be made available only for grants and contracts under section 300d-2 of this title for such fiscal year, and

(B) 25 per centum of such sums shall be made available only for grants and contracts under section 300d-3 of this title for such fiscal year.

(5)(A) Of the sums appropriated under paragraph (1) for the fiscal year ending September 30, 1977, and for the succeeding fiscal year, at least 2½ per centum but not more than 5 per centum of such sums for each such fiscal year shall be used for grants and contracts under section 300d-1 of this title.

(B) Of the sums appropriated under paragraph (1) for the fiscal year ending September 30, 1977, and for each of the two succeeding fiscal years, (i) not less than 20 per centum of such sums for each such fiscal years shall be used for grants and contracts under section 300d-2 of this title, and (ii) not less than 20 per centum of such sums for each such fiscal year shall be used for grants and contracts under section 300d-3 of this title.

(b) For the purpose of making payments pursuant to grants and contracts under section 300d-4 of this title (relating to research), there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1974, and for each of the next five fiscal years.

(July 1, 1944, ch. 373, title XII, § 1207, as added Nov. 16, 1973, Pub. L. 93-154, § 2(a), 87 Stat. 602, and amended Oct. 21, 1976, Pub. L. 94-573, § 8, 90 Stat. 2714.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-573, § 8(a)(1), (2), authorized appropriation of: $35,000,000 for fiscal year ending June 30, 1976; $5,083,000 for period beginning July 1, 1976, and ending Sept. 30, 1976; and $45,000,000 and $55,000,000 for fiscal years ending Sept. 30, 1977, and 1978; and substituted appropriations authorization of $70,000,000 for fiscal year ending Sept. 30, 1979, for authorization of such sum for fiscal year ending June 30, 1976, respectively.

Subsec. (a)(5). Pub. L. 94-573, § 8(a)(3), added par. (5).

Subsec. (b). Pub. L. 94-573, § 8(b), increased appropriations authorization from an additional period of "two" to "five" fiscal years.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-573 inapplicable to grants made or contracts entered into before Oct. 21, 1976, see section 20 of Pub. L. 94-573 set out as an Effective Date of 1976 Amendment note under section 300d of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (a)(2) of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 290, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300d-5 of this title.

§ 300d-7. Administration

(a) Emergency medical services administrative unit

The Secretary shall administer the program of grants and contracts (except for grants and contracts under section 300d-4 of this title) authorized by this part through an identifiable administrative unit specializing in emergency medical services within the Department of Health, Education, and Welfare.

(b) Powers and responsibilities

Such administrative unit shall—

(1) be responsible for collecting, analyzing, cataloging, and disseminating all data useful in the development and operation of emergency medical services systems, including data derived from reviews and evaluations of emergency medical services systems assisted under sections 300d-1, 300d-2, and 300d-3 of this title;

(2) publish suggested criteria for collecting necessary information for the evaluation of projects and programs funded under this subchapter;

(3) participate fully in the development of regulations, guidelines, funding priorities, and application forms relating to activities carried out under sections 295g-9, 300d-4, and 300d-21 of this title;

(4) be consulted in advance of the awarding of grants and contracts under sections 295g-9, 300d-4, and 300d-21 of this title;

(5) be consulted in advance of the issuance of regulations, guidelines, and funding priorities relating to research or training in the area of emergency medical services carried out under any other authority of this chapter;

(6) provide technical assistance (with special consideration for applicants in rural areas) and monitoring with respect to grant and contract activites under sections 300d-1, 300d-2, 300d-3, and 300d-21 of this title; and

(7) provide for periodic, independent evaluations of the effectiveness of, and coordination between, the programs carried out under this part and the programs carried out under sections 295g-9 and 300d-21 of this title.

(c) Additional responsibilities; reports to Congress

In addition, such administrative unit shall, through the Interagency Committee on Emergency Medical Services (established under section 300d-8 of this title)—

(1) study on a continuing basis (including evaluating the adequacy, technical soundness, and redundancy of) the roles, resources, and responsibilities of all Federal programs and activities relating to emergency medical services;

(2) annually update (A) the Federal emergency medical services funding and resource-sharing plan, (B) the description of sources of Federal support, and (C) the recommended uniform standards with respect to emergency medical services equipment and training, all initially developed and published by the Committee under section 300d-8(b) of this title;

(3) make recommendations to the Secretary respecting steps he might take, using the authorities available to him, to encourage States to implement the recommended uniform standards described in paragraph (2)(C); and

(4) make recommendations to the Secretary respecting the administration of, and regulations under, the programs of grants and contracts under this subchapter.

Such unit shall report to the Congress the results of studies made under paragraph (1). The first such report shall be made not later than June 15, 1977, the second such report shall be made not later than February 1, 1978, and subsequent reports shall be made not later than February 1 of each year after 1978.

(July 1, 1944, ch. 373, title XII, § 1208, as added Nov. 16, 1973, Pub. L. 93-154, § 2(a), 87 Stat. 602, and amended Oct. 12, 1976, Pub. L. 94-484, title VIII, § 801(b), 90 Stat. 2322; Oct. 21, 1976, Pub. L. 94-573, § 9, 90 Stat. 2715.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-573 designated provisions of existing first sentence as subsec. (a), excepted grants and contracts under section 300d-4 of this title, substituted "part" for "subchapter", and required that the administrative unit be one specializing in emergency medical services.

Subsec. (b). Pub. L. 94-573 designated provisions of existing second sentence as subsec. (b)(1), substituted reference to "sections 300d-1, 300d-2, and 300d-3 of this title" for "section 300d-2 or 300d-3 of this title", and added pars. (2) to (7).

Subsec. (b)(3), (4), (7). Pub. L. 94-484 substituted reference to section "295g-9" for "295f-6" of this title.

Subsec. (c). Pub. L. 94-573 added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94-573 inapplicable to grants made or contracts entered into before Oct. 21, 1976, see section 20 of Pub. L. 94-573 set out as an Effective Date of 1976 Amendment note under section 300d of this title.

Amendment by Pub. L. 94-484 effective Nov. 1, 1976, see section 801(b) of Pub. L. 94-484, set out in part as an Effective Date of 1976 Amendment note under section 295g-9 of this title.

EXPENSES OF ADMINISTRATION; REPORT TO CONGRESSIONAL COMMITTEES

Section 13 of Pub. L. 94-573 provided that: "Not later than 60 days after the date of enactment of the annual appropriations Act making appropriations for the programs under title XII of the Public Health Service Act [this subchapter] for each fiscal year ending after September 30, 1976, the Secretary of Health, Education, and Welfare shall allocate an amount of expenditures and a number of personnel positions sufficient for the identifiable administrative unit (described in section 1208 of such Act [this section]) to—

"(1) provide support (including salaries of unit personnel and costs of administration, data gathering and dissemination, technical assistance, monitoring, and independent evaluation) for it to carry out its functions under title XII of such Act [this subchapter] for such fiscal year; and

"(2) provide support for the Interagency Committee on Emergency Medical Services established under section 1209 of such Act [section 300d-8 of this title] for such fiscal year,

and shall immediately report to the appropriate Committees of Congress a statement of the amount of expenditures and the number of personnel positions so allocated for such fiscal year."

§ 300d-8. Interagency Committee on Emergency Medical Services

(a) Establishment; functions

The Secretary shall establish an Interagency Committee on Emergency Medical Services. The Committee shall coordinate and provide for the communication and exchange of information among all Federal programs and activities relating to emergency medical services, and shall carry out its responsibilities under section 300d-7(c) of this title.

(b) Funding and resource-sharing plan; sources of support; standards of quality, health, and safety

The Committee shall, not later than July 1, 1977, develop and publish:

(1) A coordinated, comprehensive Federal emergency medical services funding and resource-sharing plan, designed to promote the coordination between, and enhance the effectiveness of, Federal, State, and local funding and operation of programs and agencies relating to emergency medical services and related activities (including communication and transportation systems of public safety agencies).

(2) A description of sources of Federal support for the purchase of vehicles and communications equipment and for training activities related to emergency medical services.

(3) Recommended uniform standards of quality, health, and safety with respect to all equipment (including communications and transportation equipment) and training related to emergency medical services.

The plan described in paragraph (1) shall include a report containing recommendations for any legislation which would enhance the capability of Federal, State, and local governments to provide an integrated response in medical emergencies. The description described in paragraph (2) shall be disseminated to the regional offices of Federal agencies which provide financial support in the purchase of vehicles and equipment or in training activities related to emergency medical services for distribution to appropriate entities and the public.

(c) Chairman of Committee; membership representative of Federal agencies and offices and general public; meetings

The Secretary or his designee shall serve as Chairman of the Committee, the membership of which shall include (1) appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, the National Science Foundation, the Federal Communications Commission, and such other Federal agencies and offices (including appropriate agencies and offices of the Department of Health, Education, and Welfare) and from the National Academy of Sciences, as the Secretary determines administer programs directly affecting the functions or responsibilities of emergency medical services systems, and (2) five individuals from the general public appointed by the President from individuals who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Committee shall meet at the call of the Chairman, but not less often than four times a year.

(d) Term of office; vacancies; service after expiration of term

Each appointed member of the Committee shall be appointed for a term of four years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed, two shall be appointed for a term of four years, two shall be appointed for a term of three years, and one shall be appointed for a term of one year, as designated by the President at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

(e) Compensation and travel expenses

Appointed members of the Committee shall receive for each day they are engaged in the performance of the functions of the Committee compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(f) Staff, information, and other assistance

The Secretary shall make available to the Committee such staff, information (including copies of reports of reviews and evaluations of emergency medical services systems assisted under section 300d-1, 300d-2 or 300d-3 of this title), and other assistance as it may require to carry out its activities effectively.

(July 1, 1944, ch. 373, title XII, § 1209, as added Nov. 16, 1973, Pub. L. 93-154, § 2(a), 87 Stat. 602, and amended Oct. 21, 1976, Pub. L. 94-573, § 10, 90 Stat. 2716.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (e), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-573, § 10(a), substituted the second sentence "The Committee shall coordinate and provide for the communication and exchange of information among all Federal programs and activities relating to emergency medical services, and shall carry out its responsibilities under section 300d-7(c) of this title." for "The Committee shall evaluate the adequacy and technical soundness of all Federal programs and activities which relate to emergency medical services and provide for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and shall make recommendations to the Secretary respecting the administration of the program of grants and contracts under this subchapter (including the making of regulations for such program)."

Subsec. (b). Pub. L. 94-573, § 10(d), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c). Pub. L. 94-573, § 10(b), (d), deleted "the National Academy of Sciences," following "the Federal Communications Commission," and inserted "and from the National Academy of Sciences" following "Department of Health, Education, and Welfare)", redesignated former subsec. (b), as so amended, as subsec. (c) and former subsec. (c) as (d).

Subsec. (d). Pub. L. 94-573, § 10(d), redesignated former subsec. (c) as (d) and former subsec. (d) as (e).

Subsec. (e). Pub. L. 94-573, § 10(d), redesignated former subsec. (d) as (e) and former subsec. (e) as (f).

Subsec. (f). Pub. L. 94-573, § 10(c), (d), included reference to section 300d-1 of this title and redesignated subsec. (e), as so amended, as subsec. (f).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-573 inapplicable to grants made or contracts entered into before Oct. 21, 1976, see section 20 of Pub. L. 94-573 set out as an Effective Date of 1976 Amendment note under section 300d of this title.

§ 300d-9. Annual report to Congress

The Secretary shall prepare and submit annually to the Congress a report on the administration of this subchapter. Each report shall include an evaluation of the adequacy of the provision of emergency medical services in the United States during the period covered by the report, and evaluation of the extent to which the needs for such services are being adequately met through assistance provided under this subchapter, and his recommendations for such legislation as he determines is required to provide emergency medical services at a level adequate to meet such needs. The first report under this section shall be submitted not later than September 30, 1974, and shall cover the fiscal year ending June 30, 1974. The report under this section covering the fiscal year ending June 30, 1976, shall also cover the period beginning July 1, 1976, and ending September 30, 1976, and shall be submitted to Congress not later than February 1, 1977. The report under this section covering the fiscal year ending September 30, 1977, and each report covering each subsequent fiscal year, shall be submitted to Congress not later than February 1, in the fiscal year following each such fiscal year.

(July 1, 1944, ch. 373, title XII, § 1210, as added Nov. 16, 1973, Pub. L. 93-154, § 2(a), 87 Stat. 603, and amended Oct. 21, 1976, Pub. L. 94-573, § 11, 90 Stat. 2717.)

AMENDMENTS

1976—Pub. L. 94-573 added provision for submission of reports to Congress not later than Feb. 1, 1977, covering fiscal year ending June 30, 1976, and including period beginning July 1, and ending Sept. 30, 1976, and not later than Feb. 1, of the following fiscal year, covering fiscal years ending Sept. 30, 1977, and subsequent fiscal years ending Sept. 30.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-573 inapplicable to grants made or contracts entered into before Oct. 21, 1976, see section 20 of Pub. L. 94-573 set out as an Effective Date of 1976 Amendment note under section 300d of this title.

UNIFORM PATIENT REPORTING SYSTEM; STUDIES; REPORT TO CONGRESS

Section 16 of Pub. L. 94-573 provided that: "The Secretary of Health, Education, and Welfare shall conduct studies to identify the categories of patients which should be included in a uniform reporting system to be used to evaluate the effectiveness of emergency medical services systems and burn injury programs supported under title XII of the Public Health Service Act [this subchapter] in reducing death and disability. Not later than 18 months after the date of enactment of this Act [Oct. 21, 1976], the Secretary shall report to the Congress the results of such studies. Such report shall include such recommendations for legislation relating to such a uniform reporting system as the Secretary determines are appropriate."

PERIOD OF JULY 1, 1975, THROUGH SEPTEMBER 30, 1976, CONSIDERED AS ONE YEAR

Period of July 1, 1975, through Sept. 30, 1976, considered as one year for purposes of this section, see section 206(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 394, set out as a note under section 1176 of Title 21, Food and Drugs.

PART B—BURN INJURIES

§ 300d-21. Programs relating to burn injuries

(a) Public or private nonprofit entities; individuals

(1) The Secretary may make grants to, and enter into contracts with, public or private nonprofit entities for the support of, and may conduct, programs for the establishment, operation, and improvement of activities to (A) demonstrate the effectiveness of different methods for the treatment and rehabilitation of individuals injured by burns, (B) conduct research in the treatment and rehabilitation of such individuals, and (C) provide training in such treatment and rehabilitation and in such research.

(2) The Secretary may enter into contracts with entities and individuals for the support of research in the treatment and rehabilitation of individuals injured by burns.

(b) Submission and approval of applications; priority applications

No grant or contract may be made or entered into under subsection (a) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be submitted in such form and manner and contain such information as the Secretary may require. In considering applications under this section, the Secretary shall give priority to applications for programs which (1) will provide services within a geographical area in which services are not currently being adequately provided, and (2) are in or accessible to the service area of an emergency medical services system (as defined in section 300d(1) of this title).

(c) Authorization of appropriations

For purposes of carrying out subsection (a) of this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1977, $7,500,000 for the fiscal year ending September 30, 1978, and $10,000,000 for the fiscal year ending September 30, 1979.

(July 1, 1944, ch. 373, title XII, § 1221, as added Oct. 21, 1976, Pub. L. 94-573, § 14(3), 90 Stat. 2718.)

EFFECTIVE DATE

Section inapplicable to grants made or contracts entered into before Oct. 21, 1976, see section 20 of Pub.

L. 94-573, set out as an Effective Date of 1976 Amendment note under section 300d of this title.

SUBCHAPTER XI—HEALTH MAINTENANCE ORGANIZATIONS

Subchapter Referred to in Other Sections

This subchapter is referred to in section 300n-1 of this title; title 12 section 1721.

§ 300e. Requirements of health maintenance organizations

(a) Definition of health maintenance organization

For purposes of this subchapter, the term "health maintenance organization" means a legal entity which (1) provides basic and supplemental health services to its members in the manner prescribed by subsection (b) of this section, and (2) is organized and operated in the manner prescribed by subsection (c) of this section.

(b) Manner of supplying basic and supplemental health services to members

A health maintenance organization shall provide, without limitations as to time or cost other than those prescribed by or under this subchapter, basic and supplemental health services to its members in the following manner:

(1) Each member is to be provided basic health services for a basic health services payment which (A) is to be paid on a periodic basis without regard to the dates health services (within the basic health services) are provided; (B) is fixed without regard to the frequency, extent, or kind of health service (within the basic health services) actually furnished; (C) is fixed under a community rating system; and (D) may be supplemented by additional nominal payments which may be required for the provision of specific services (within the basic health services), except that such payments may not be required where or in such a manner that they serve (as determined under regulations of the Secretary) as a barrier to the delivery of health services. Such additional nominal payments shall be fixed in accordance with the regulations of the Secretary. A health maintenance organization may include a health service, defined as a supplemental health service by section 300e-1(2) of this title, in the basic health services provided its members for a basic health services payment described in the first sentence. In the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 300e-9(d) of this title) provided comprehensive health services on a prepaid basis, the requirement of clause (C) shall not apply to such entity until the expiration of the forty-eight month period beginning with the month following the month in which the entity became such a qualified health organization.

(2) For such payment or payments (hereinafter in this subchapter referred to as "supplemental health services payments") as the health maintenance organization may require in addition to the basic health services payment, the organization may provide to each of its members any of the health services which are included in supplemental health services (as defined in section 300e-1(2) of this title). Supplemental health services payments which are fixed on a prepayment basis shall be fixed under a community rating system except that, in the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 300e-9(d) of this title) provided comprehensive health services on a prepaid basis, the requirement of this sentence shall not apply to such entity during the forty-eight month period beginning with the month following the month in which the entity became such a qualified health maintenance organization.

(3) The services of health professionals which are provided as basic health services shall be provided through health professionals who are members of the staff of the health maintenance organization, through a medical group (or groups), through an individual practice association (or associations), through health professionals who have contracted with the health maintenance organization for the provision of such services, or through any combination of such staff, medical group (or groups), individual practice association (or associations), or health professionals under contract with the organization except that this paragraph shall not apply in the case of (A) health professionals' services which the organization determines, in conformity with regulations of the Secretary, are unusual or infrequently used, or (B) any basic health service provided a member of the health maintenance organization other than by such a health professional because it was medically necessary that the service be provided to the member before he could have it provided by such a health professional. A health maintenance organization may also, during the thirty-six month period beginning with the month following the month in which the organization becomes a qualified health maintenance organization (within the meaning of section 300e-9(d) of this title), provide basic and supplemental health services through an entity which but for the requirement of section 300e-1(4)(C)(i) of this title would be a medical group for purposes of this subchapter. After the expiration of such period, the organization may provide basic or supplemental health services through such an entity only if authorized by the Secretary in accordance with regulations which take into consideration the unusual circumstances of such entity. A health maintenance organization may not, in any of its fiscal years, enter into contracts with health professionals or entities other than medical groups or individual practice associations if the amounts paid under such contracts for basic and supplemental health services exceed fifteen percent of the total amount to be paid in such fiscal year by the health maintenance organization to physicians for the provision of basic and supplemental health services, or, if the health maintenance organization principally serves a rural area, thirty percent of such amount, except that this sentence does not apply to the entering into of contracts for the purchase of basic and supplemental health

services through an entity which but for the requirements of section 300e-1(4)(C)(i) of this title would be a medical group for purposes of this subchapter. Contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services shall include such provisions as the Secretary may require (including provisions requiring appropriate continuing education). For purposes of this paragraph, the term "health professionals" means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health services as the Secretary may by regulation designate.

(4) Basic health services (and only such supplemental health services as members have contracted for) shall within the area served by the health maintenance organization be available and accessible to each of its members promptly as appropriate and in a manner which assures continuity, and when medically necessary be available and accessible twenty-four hours a day and seven days a week. A member of a health maintenance organization shall be reimbursed by the organization for his expenses in securing basic or supplemental health services other than through the organization if it was medically necessary that the services be provided before he could secure them through the organization.

(c) Organization, practices, and activities

Each health maintenance organization shall—

(1) have a fiscally sound operation and adequate provision against the risk of insolvency which is satisfactory to the Secretary;

(2) assume full financial risk on a prospective basis for the provision of basic health services, except that a health maintenance organization may obtain insurance or make other arrangements (A) for the cost of providing to any member basic health services the aggregate value of which exceeds $5,000 in any year, (B) for the cost of basic health services provided to its members other than through the organization because medical necessity required their provision before they could be secured through the organization, and (C) for not more than 90 per centum of the amount by which its costs for any of its fiscal years exceed 115 per centum of its income for such fiscal year;

(3) enroll persons who are broadly representative of the various age, social, and income groups within the area it serves, except that in the case of a health maintenance organization which has a medically underserved population located (in whole or in part) in the area it serves, not more than 75 per centum of the members of that organization may be enrolled from the medically underserved population unless the area in which such population resides is also a rural area (as designated by the Secretary);

(4) have an open enrollment period in accordance with the provisions of subsection (d) of this section;

(5) not expel or refuse to re-enroll any member because of his health status or his requirements for health services;

(6) be organized in such a manner that assures that (A) at least one-third of the membership of the policymaking body of the health maintenance organization will be members of the organization, and (B) there will be equitable representation on such body of members from medically underserved populations served by the organization;

(7) be organized in such a manner that provides meaningful procedures for hearing and resolving grievances between the health maintenance organization (including the medical group or groups and other health delivery entities providing health services for the organization) and the members of the organization;

(8) have organizational arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for its health services which program (A) stresses health outcomes, and (B) provides review by physicians and other health professionals of the process followed in the provision of health services;

(9) provide medical social services for its members and encourage and actively provide for its members health education services, education in the appropriate use of health services, and education in the contribution each member can make to the maintenance of his own health;

(10) provide, or make arrangements for, continuing education for its health professional staff; and

(11) provide, in accordance with regulations of the Secretary (including safeguards concerning the confidentiality of the doctor-patient relationship), an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, statistics and other information (which the Secretary shall publish and disseminate on an annual basis and which the health maintenance organization shall disclose, in a manner acceptable to the Secretary, to its members and the general public) relating to (A) the cost of its operations, (B) the patterns of utilization of its services, (C) the availability, accessibility, and acceptability of its services, (D) to the extent practical, developments in the health status of its members, and (E) such other matters as the Secretary may require.

(d) Open enrollment period; requirements; waiver

(1)(A) A health maintenance organization which—

(i) has for at least 5 years provided comprehensive health services on a prepaid basis, or

(ii) has an enrollment of at least 50,000 members,

shall have at least once during each fiscal year next following a fiscal year in which it did not have a financial deficit an open enrollment period (determined under subparagraph (B)) during which it shall accept individuals for membership in the order in which they apply for enrollment and, except as provided in paragraph (2), without regard to preexisting illness, medical condition, or degree of disability.

(B) An open enrollment period for a health maintenance organization shall be the lesser of—

(i) 30 days, or

(ii) the number of days in which the organization enrolls a number of individuals at least equal to 3 percent of its total net increase in enrollment (if any) in the fiscal year preceding the fiscal year in which such period is held.

For the purpose of determining the total net increase in enrollment in a health maintenance organization, there shall not be included any individual who is enrolled in the organization through a group which had a contract for health care services with the health maintenance organization at the time that such health maintenance organization was determined to be a qualified health maintenance organization under section 300e-9 of this title.

(2) Notwithstanding the requirements of paragraph (1) a health maintenance organization shall not be required to enroll individuals who are confined to an institution because of chronic illness, permanent injury, or other infirmity which would cause economic impairment to the health maintenance organization if such individual were enrolled.

(3) A health maintenance organization may not be required to make the effective date of benefits for individuals enrolled under this subsection less than 90 days after the date of enrollment.

(4) The Secretary may waive the requirements of this subsection for a health maintenance organization which demonstrates that compliance with the provisions of this subsection would jeopardize its economic viability in its service area.

(July 1, 1944, ch. 373, title XIII, § 1301, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 914, and amended Oct. 8, 1976, Pub. L. 94-460, title I, §§ 101, 102(a), 103, 105(a), 90 Stat. 1945-1947.)

AMENDMENTS

1976—Subsec. (b)(1). Pub. L. 94-460, §§ 101(a), 105(a)(1), provided that a health maintenance organization may include a health service, defined as a supplemental health service by section 300e-1(2) of this title, in the basic health services provided its members for a basic health service payment described in the first sentence, and also provided that, in the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 300e-9(d) of this title) provided comprehensive health services on a prepaid basis, the requirement of clause (C) would not apply to such entity until the expiration of the forty-eight month period beginning with the month following the month in which the entity became such a qualified health organization.

Subsec. (b)(2). Pub. L. 94-460, §§ 101(b), 105(a)(2), substituted "the organization may provide to each of its members any of the health services which are included in supplemental health services (as defined in section 300e-1(2) of this title)" for "the organization shall provide to each of its members each health service (A) which is included in supplemental health services (as defined in section 300e-1(2) of this title), (B) for which the required health manpower are available in the area served by the organization, and (C) for the provision of which the member has contracted with the organization" and added "except that, in the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 300e-9(d) of this title) provided comprehensive health services on a prepaid basis, the requirement of this sentence shall not apply to such entity during the forty-eight month period beginning with the month following the month in which the entity became such a qualified health maintenance organization" following "Supplemental health services payments which are fixed on a prepayment basis shall be fixed under a community rating system".

Subsec. (b)(3). Pub. L. 94-460, § 102(a), added references to health professionals who have contracted with the health maintenance organization for the provision of such services and to the combination of staff, medical groups, individual practice associations, or health professionals under contract with the health maintenance organization, and added provisions allowing a health maintenance organization, during the thirty-six month period beginning with the month following the month in which the organization becomes a qualified health maintenance organization (within the meaning of section 300e-9(d) of this title), to provide basic and supplemental health services through an entity which but for the requirement of section 300e-1(4)(C)(i) of this title would be a medical group for purposes of this subchapter, directing that after the expiration of such period, the organization may provide basic or supplemental health services through such an entity only if authorized by the Secretary in accordance with regulations which take into consideration the unusual circumstances of such entity, directing that a health maintenance organization may not, in any of its fiscal years, enter into contracts with health professionals or entities other than medical groups or individual practice associations if the amounts paid under such contracts for basic and supplemental health services exceed fifteen percent of the total amount to be paid in such fiscal year by the health maintenance organization to physicians for the provision of basic and supplemental health services, or, if the health maintenance organization principally serves a rural area, thirty percent of such amount, except that the sentence would not apply to the entering into of contracts for the purchase of basic and supplemental health services through an entity which but for the requirements of section 300e-1(4)(C)(i) of this title would be a medical group for purposes of this subchapter, and directing that contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services include such provisions as the Secretary may require (including provisions requiring appropriate continuing education).

Subsec. (b)(4). Pub. L. 94-460, § 101(c), substituted "and only such supplemental health services as members have contracted for" for "and supplemental health services in the case of the members who have contracted therefor".

Subsec. (c)(4). Pub. L. 94-460, § 103(a), substituted provisions making a simple reference to an open enrollment period in accordance with the provisions of subsec. (d) of this section for provisions spelling out in detail the requirements for a health maintenance organization with regard to an open enrollment period.

Subsec. (d). Pub. L. 94-460, § 103(b), added subsec. (d).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 118 of Pub. L. 94-460 provided that:

"(a) Except as provided in subsection (b), the amendments made by this title [enacting section 300e-15 of this title and amending sections 300e to 300e-11, 300e-13, and 300n-1 of this title, and section 8902 of Title 5, Government Organization and Employees] shall take effect on the date of the enactment of this Act [Oct. 8, 1976].

"(b)(1) The amendments made by sections 101 [amending subsec. (b)(1), (2), and (4) of this section], 102 [amending subsec. (b)(3) of this section and section 300e-1(4)(C), (5)(B) of this title], 103 [amending subsec. (c)(4) and enacting subsec. (d) of this section], 104 [amending section 300e-1(1), (2) of this title], and 106 [amending section 300e-1(4)(C) of this title] shall (A) apply with respect to grants, contracts, loans, and loan guarantees made under sections 1303, 1304, and 1305 of the Public Health Service Act [sections 300e-2, 300e-3, and 300e-4 of this title] for fiscal years begin-

ning after September 30, 1976, (B) apply with respect to health benefit plans offered under section 1310 of such Act [section 300e-9 of this title] after such date, and (C) for purposes of section 1312 [section 300e-11 of this title] take effect October 1, 1976.

"(2) Subsection (d) of section 1301 of the Public Health Service Act [subsec. (d) of this section] (added by section 103(b) of this Act) shall take effect with respect to fiscal years of health maintenance organizations beginning on or after the date of the enactment of this Act [Oct. 8, 1976].

"(3) The amendments made by section 107 [amending sections 300e-2(e), 300e-3(b)(1)(A), (2)(A), and 300e-4(a)(1), (2) of this title] shall apply with respect to grants, contracts, loans, and loan guarantees made under sections 1303, 1304, and 1305 of the Public Health Service Act [sections 300e-2, 300e-3 and 300e-4 of this title] for fiscal years beginning after September 30, 1976.

"(4) The amendments made by sections 109(a)(1) [amending section 300e-4(a)(1), (2) of this title] and 109(c) [amending section 300e-7(a)(1)(A), (b)(2)(D) of this title] shall apply with respect to loan guarantees made under section 1305 of the Public Health Service Act [section 300e-4 of this title] after September 30, 1976.

"(5) The amendment made by section 109(e) [amending section 300e-3(b)(2)(D) of this title] shall apply with respect to projects assisted under section 1304 of the Public Health Service Act [section 300e-3 of this title] after September 30, 1976.

"(6) The amendments made by paragraphs (1) and (2) of section 110(a) [amending section 300e-9(a), (b)(1), (2) of this title] shall apply with respect to calendar quarters which begin after the date of the enactment of this Act [Oct. 8, 1976].

"(7) The amendments made by paragraphs (3) and (4) of section 110 [amending subsec. (c) and enacting subsecs. (e) to (h) of section 300e-9 of this title] shall apply with respect to failures of employers to comply with section 1310(a) of the Public Health Service Act [section 300e-9 of this title] after the date of the enactment of this Act [Oct. 8, 1976].

"(8) The amendment made by section 111 [amending subsecs. (a) and (b) and enacting subsec. (c) of section 300e-11 of this title] shall apply with respect to determinations of the Secretary of Health, Education, and Welfare described in section 1312(a) of the Public Health Service Act [section 300e-11(a) of this title] and made after the date of the enactment of this Act [Oct. 8, 1976]."

Short Title of 1976 Amendments

For Short Title of Pub. L. 94-460 which substantially amended this subchapter, see Short Title of 1976 Amendments note set out under section 201 of this title.

Short Title

For Short Title of Pub. L. 93-222, which enacted this subchapter, see Short Title of 1973 Amendments note set out under section 201 of this title.

Health Care Quality Assurance Programs Study

Section 4 of Pub. L. 93-222 provided that the Secretary of Health, Education, and Welfare contract for the conduct of a study of health care quality assurance Programs with a nonprofit private organization and submit a final report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare (now the Committee on Human Resources) of the Senate on the results of such study by Jan. 31, 1976.

Section Referred to in Other Sections

This section is referred to in sections 300e-5, 300e-6, 300e-9 to 300e-11, 300e-13, 300e-14, 1396b of this title.

§ 300e-1. Definitions

For purposes of this subchapter:

(1) The term "basic health services" means—

(A) physician services (including consultant and referral services by a physician);

(B) inpatient and outpatient hospital services;

(C) medically necessary emergency health services;

(D) short-term (not to exceed twenty visits), outpatient evaluative and crisis intervention mental health services;

(E) medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs;

(F) diagnostic laboratory and diagnostic and therapeutic radiologic services;

(G) home health services; and

(H) preventive health services (including (i) immunizations, (ii) well-child care from birth, (iii) periodic health evaluations for adults, (iv) voluntary family planning services, (v) infertility services, and (vi) children's eye and ear examinations conducted to determine the need for vision and hearing correction).

If a service of a physician described in the preceding sentence may also be provided under applicable State law by a dentist, optometrist, podiatrist, or other health care personnel, a health maintenance organization may provide such service through a dentist, optometrist, podiatrist, or other health care personnel (as the case may be) licensed to provide such service. For purposes of this paragraph, the term "home health services" means health services provided at a member's home by health care personnel, as prescribed or directed by the responsible physician or other authority designated by the health maintenance organization. A health maintenance organization is authorized, in connection with the prescription of drugs, to maintain, review, and evaluate (in accordance with regulations of the Secretary) a drug use profile of its members receiving such service, evaluate patterns of drug utilization to assure optimum drug therapy, and provide for instruction of its members and of health professionals in the use of prescription and non-prescription drugs.

(2) The term "supplemental health services" means—

(A) services of facilities for intermediate and long-term care;

(B) vision care not included as a basic health service;

(C) dental services not included as a basic health service;

(D) mental health services not included as a basic health service under paragraph (1)(D);

(E) long-term physical medicine and rehabilitative services (including physical therapy);

(F) the provision of prescription drugs prescribed in the course of the provision by the health maintenance organization of a basic health service or a service described in the preceding subparagraphs of this paragraph; and

(G) other health services which are not included as basic health services and which

have been approved by the Secretary for delivery as supplemental health services.

If a service of a physician described in the preceding sentence may also be provided under applicable State law by a dentist, optometrist, podiatrist, or other health care personnel, a health maintenance organization may provide such service through an optometrist, dentist, podiatrist, or other health care personnel (as the case may be) licensed to provide such service. A health maintenance organization is authorized, in connection with the prescription or provision of prescription drugs, to maintain, review, and evaluate (in accordance with regulations of the Secretary) a drug use profile of its members receiving such services, evaluate patterns of drug utilization to assure optimum drug therapy, and provide for instruction of its members and of health professionals in the use of prescription and non-prescription drugs.

(3) The term "member" when used in connection with a health maintenance organization means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with the organization under which the organization assumes the responsibility for the provision to such individual of basic health services and of such supplemental health services as may be contracted for.

(4) The term "medical group" means a partnership, association, or other group—

(A) which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, optometrists, and podiatrists) as are necessary for the provision of health services for which the group is responsible;

(B) a majority of the members of which are licensed to practice medicine or osteopathy; and

(C) the members of which (i) as their principal professional activity engage in the coordinated practice of their profession and as a group responsibility have substantial responsibility for the delivery of health services to members of a health maintenance organization; (ii) pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other similar plan unrelated to the provision of specific health services; (iii) share medical and other records and substantial portions of major equipment and of professional, technical, and administrative staff; (iv) arrange for and encourage continuing education in the field of clinical medicine and related areas for the members of the group; and (v) establish an arrangement whereby a member's enrollment status is not known to the health professional who provides health services to the member.

(5) The term "individual practice association" means a partnership, corporation, association, or other legal entity which has entered into a services arrangement (or arrangements) with persons who are licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, or other health profession in a State and a majority of whom are licensed to practice medicine or osteopathy. Such an arrangement shall provide—

(A) that such persons shall provide their professional services in accordance with a compensation arrangement established by the entity; and

(B) to the extent feasible (i) for the sharing by such persons of medical and other records, equipment, and professional, technical, and administrative staff, and (ii) for the arrangement and encouragement of the continuing education of such persons in the field of clinical medicine and related areas.

(6) The term "health systems agency" means an entity which is designated in accordance with section 300*l*-4 of this title.

(7) The term "medically underserved population" means the population of an urban rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services. Such a designation may be made by the Secretary only after consideration of the comments (if any) of (A) each State health planning and development agency which covers (in whole or in part) such urban or rural area or the area in which such population group resides, and (B) each health systems agency designated for a health service area which covers (in whole or in part) such urban or rural area or the area in which such population group resides.

(8) The term "community rating system" means a system of fixing rates of payments for health services. Under such a system rates of payments may be determined on a per-person or per-family basis and may vary with the number of persons in a family, but except as otherwise authorized in the next sentence, such rates must be equivalent for all individuals and for all families of similar composition. The following differentials in rates of payments may be established under such system:

(A) Nominal differentials in such rates may be established to reflect differences in marketing costs and the different administrative costs of collecting payments from the following categories of members:

(i) Individual members (including their families).

(ii) Small groups of members (as determined under regulations of the Secretary).

(iii) Large groups of members (as determined under regulations of the Secretary).

(B) Nominal differentials in such rates may be established to reflect the compositing of the rates of payment in a systematic manner to accommodate group purchasing practices of the various employers.

(C) Differentials in such rates may be established for members enrolled in a health maintenance organization pursuant to a contract with a governmental authority under section 1079 or 1086 of title 10 or under any other governmental program (other than the health benefits program authorized by chapter 89 of title 5) or any health benefits program for employees of States, political subdivisions of States, and other public entities.

(9) The term "non-metropolitan area" means an area no part of which is within an area des-

ignated as a standard metropolitan statistical area by the Office of Management and Budget and which does not contain a city whose population exceeds fifty thousand individuals.

(July 1, 1944, ch. 373, title XIII, § 1302, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 917, and amended Oct. 8, 1976, Pub. L. 94-460, title I, §§ 102(b), 104, 105(b), (c), 106, 117(b)(1), (2), 90 Stat. 1946-1948, 1955.)

AMENDMENTS

1976—Par. (1). Pub. L. 94-460, § 104(a), substituted reference to immunization, well-child care from birth, periodic health evaluations for adults, and children's ear examinations conducted to determine need for hearing correction for reference to preventive dental care for children in (H) and, in the provisions following subpar. (H), added reference to "other health care personnel".

Par. (2). Pub. L. 94-460, § 104(b), substituted "basic health service" for "basic health service under paragraph (1)(A) or (1)(H)" in subpars. (B) and (C), added subpar. (G), and inserted reference to "other health care personnel" in the provisions following subpar. (G).

Par. (4)(C). Pub. L. 94-460, §§ 102(b)(1), 106, substituted "as their principal professional activity engage in the coordinated practice of their profession and as a group responsibility have substantial responsibility for the delivery of health services to members of a health maintenance organization" for "as their principal professional activity and as a group responsibility engage in the coordinated practice of their profession for a health maintenance organization" in cl. (i), substituted "similar plan unrelated to the provision of specific health services" for "plan" in cl. (ii), struck out former cl. (iv) which covered the utilization of additional professional personnel, allied health professions personnel, and other health personnel as are available and appropriate for the effective and efficient delivery of the services of the members of the group, redesignated former cl. (v) as (iv), and added cl. (v).

Par. (5)(B). Pub. L. 94-460, § 102(b)(2), struck out former cl. (i) which covered the utilization of additional professional personnel, allied health professions personnel, and other personnel as are available and appropriate for the effective and efficient delivery of the services of the persons who are parties to the arrangement, and redesignated former cls. (ii) and (iii) as (i) and (ii), respectively.

Par. (6). Pub. L. 94-460, § 117(b)(1), substituted provisions defining "health systems agency" for provisions defining "section 314(a) State health planning agency" and "section 314(b) areawide health planning agency".

Par. (7). Pub. L. 94-460, § 117(b)(2), substituted "State health planning and development agency which" for "section 314(a) State health planning agency whose section 314(a) plan" and "health systems agency designated for a health service area which" for "section 314(b) areawide health planning agency whose section 314(b) plan".

Par. (8). Pub. L. 94-460, § 105(b), (c), substituted "to reflect differences in marketing costs and the different administrative costs" for "to reflect the different administrative costs" in subpar. (A) preceding cl. (i), added subpar. (B), and redesignated former subpar. (B) as (C).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, except that amendment of pars. (1) and (2) of this section by section 104 of Pub. L. 94-460 and the amendment of pars. (4)(C) and (5)(B) of this section by sections 102 and 106 of Pub. L. 94-460 shall apply with respect to grants, contracts, loans, and loan guarantees made under sections 300e-2, 300e-3, and 300e-4 of this title for fiscal years beginning after Sept. 30, 1976, shall apply with respect to health benefit plans offered under section 300e-9 of this title after Sept. 30, 1976, and shall take effect for purposes of section 300e-11 of this title on Oct. 1, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

REPORTS RESPECTING MEDICALLY UNDERSERVED AREAS AND POPULATION GROUPS AND NON-METROPOLITAN AREAS

Section 5 of Pub. L. 93-222 provided that the Secretary of Health, Education, and Welfare report to Congress the criteria used in the designation of medically underserved areas and population groups for purposes of par. (7) of this section by Dec. 29, 1973, and report to Congress the areas and population groups designated under par. (7) of this section, the comments of State and areawide health planning agencies, and areas which meet the definitional standards of par. (9) of this section for non-metropolitan areas by Dec. 29, 1974, and that the Office of Management and Budget may review such reports before their submission to Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289*l*-1, 300e of this title.

§ 300e-2. Grants and contracts for feasibility surveys

(a) Authorization

The Secretary may make grants to and enter into contracts with public or nonprofit private entities for projects for surveys or other activities to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations.

(b) Application for grant or contract

An application for a grant or contract under this section shall contain—

(1) assurances satisfactory to the Secretary that in conducting surveys or other activities with assistance under a grant or contract under this section, the applicant will (A) cooperate with each health systems agency designated for a health service area which covers (in whole or in part) the area for which the survey or other activity will be conducted, and (B) notify the medical society serving such area of such surveys or other activities; and

(2) such other information as the Secretary may by regulation prescribe.

(c) Priority applications

In considering applications for grants and contracts under this section, the Secretary shall give priority to an application which contains or is supported by assurances satisfactory to the Secretary that at the time the health maintenance organization for which such application or proposal is submitted first becomes operational not less than 30 per centum of its members will be members of a medically underserved population.

(d) Limitations

(1) Except as provided in paragraph (2), the following limitations apply with respect to grants and contracts made under this section:

(A) If a project has been assisted with a grant or contract under subsection (a) of this section, the Secretary may not make any other grant or enter into any other contract under this section for such project.

(B) Any project for which a grant is made or contract entered into must be completed

within twelve months from the date the grant is made or contract entered into.

(2) The Secretary may make not more than one additional grant or enter into not more than one additional contract for a project for which a grant has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

(e) Determination of amount

The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) of this section shall be determined by the Secretary, except that (1) the amount to be paid by the United States under any single grant or contract for any project may not exceed $75,000, and (2) the aggregate of the amounts to be paid by the United States for any project under such subsection under grants or contracts, or both, may not exceed the greater of (A) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (B) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants and contracts for such project should be determined by such greater percentage.

(f) Methods and time of payments

Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

(g) Government contract requirements lifted

Contracts may be entered into under this section without regard to section 529 of title 31 and section 5 of title 41.

(h) Payments from appropriated funds

Payments under grants and contracts under this section shall be made from appropriations made under section 300e-8(a) of this title.

(i) Non-metropolitan areas

Of the sums appropriated for any fiscal year under section 300e-8(a) of this title for grants and contracts under this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (1) to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations which the Secretary determines may reasonably be expected to have after their development or expansion not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (2) the applications for which meet the requirements of this subchapter for approval. Sums set aside in any fiscal year for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under this section in the succeeding fiscal year for any project, with priority being given to projects described in clause (1) of such sentence.

(July 1, 1944, ch. 373, title XIII, § 1303, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 920, and amended Oct. 8, 1976, Pub. L. 94-460, title I, §§ 107(a), 109(d)(1), 117(b)(3), 90 Stat. 1948, 1950, 1955.)

AMENDMENTS

1976—Subsec. (b)(1). Pub. L. 94-460, § 117(b)(3), substituted "each health systems agency designated for a health service area which" for "section 314(b) areawide health planning agency (if any) whose section 314(b) plan".

Subsec. (e). Pub. L. 94-460, § 107(a), substituted "$75,000" for "$50,000".

Subsec. (i). Pub. L. 94-460, § 109(d)(1), substituted "any fiscal year" for "the fiscal year ending June 30, 1974, or June 30, 1975," and "for any project, with priority being given to projects described in clause (1) of such sentence" for "for projects other than those described in clause (1) of such sentence".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, except that amendment of subsec. (e) of this section by section 107(a) of Pub. L. 94-460 shall apply with respect to grants, contracts, loans, and loan guarantees made under sections 300e-2, 300e-3, and 300e-4 of this title for fiscal years beginning after Sept. 30, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (i) of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e-5, 300e-6, 300e-8, 300e-13 of this title.

§ 300e-3. Grants, contracts, and loan guarantees for planning and for initial development costs

(a) Authorization

The Secretary may—

(1) make grants to and enter into contracts with public or nonprofit private entities for planning projects for the establishment of health maintenance organizations or for the significant expansion of the membership of, or areas served by, health maintenance organizations; and

(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

(A) nonprofit private entities for planning projects for the establishment or expansion of health maintenance organizations, or

(B) other private entities for such projects for health maintenance organizations which will serve medically underserved populations.

Planning projects assisted under this subsection shall include development of plans for the marketing of the services of the health maintenance organization.

(b) Initial development of health organizations

(1) The Secretary may—

(A) make grants to and enter into contracts with public or nonprofit private entites for

projects for the initial development of health maintenance organizations; and

(B) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

(i) nonprofit private entities for projects for the initial development of health maintenance organizations, or

(ii) other private entities for such projects for health maintenance organizations which will serve medically underserved populations.

(2) For purposes of this section, the term "initial development" when used to describe a project for which assistance is authorized by this subsection includes significant expansion of the membership of, or the area served by, a health maintenance organization. Funds under grants and contracts under this subsection and under loans guaranteed under this subsection may only be utilized for such purposes as the Secretary may prescribe in regulations. Such purposes may include (A) the implementation of an enrollment campaign for such an organization, (B) the detailed design of and arrangements for the health services to be provided by such an organization, (C) the development of administrative and internal organizational arrangements, including fiscal control and fund accounting procedures, and the development of a capital financing program, (D) the recruitment of personnel who will engage in practice principally for the health maintenance organization and the conduct of training activities for such personnel, and (E) the payment of architects' and engineers' fees.

(3) A grant or contract under this subsection may only be made or entered into for initial development costs in the one-year period beginning on the first day of the first month in which such grant or contract is made or entered into. The number of grants made for any initial development project under this subsection when added to the number of contracts entered into for such project under this subsection may not exceed three. A loan guarantee under this subsection may only be made for a loan (or loans) for such costs incurred in a period not to exceed three years.

(c) Application for grant, contract, or loan guarantee

(1) An application for a grant, contract, or loan guarantee under subsection (a) of this section for a planning project shall contain assurances satisfactory to the Secretary that in carrying out the planning project for which the grant, contract, or loan guarantee is sought, the applicant will (A) cooperate with each health systems agency designated for a health service area which covers (in whole or in part) the area proposed to be served by the health maintenance organization for which the planning project will be conducted, and (B) notify the medical society serving such area of the planning project.

(2) If the Secretary makes a grant or loan guarantee or enters into a contract under subsection (a) of this section for a planning project for a health maintenance organization, he may, within the period in which the planning project must be completed, make a grant or loan guarantee or enter into a contract under subsection (b) of this section for the initial development of that health maintenance organization; but no grant or loan guarantee may be made or contract entered into under subsection (b) of this section for initial development of a health maintenance organization unless the Secretary determines that (A) sufficient planning for its establishment or expansion (as the case may be) has been conducted by the applicant for the grant, contract, or loan guarantee, and (B) the feasibility of establishing and operating, or of expanding, the health maintenance organization has been established by the applicant.

(d) Priority applications

In considering applications for grants and contracts under this section, the Secretary shall give priority to an application which contains or is supported by assurances satisfactory to the Secretary that at the time the health maintenance organization for which such application is submitted first becomes operational not less than 30 per centum of its members will be members of a medically underserved population. In considering applications for loan guarantees under this section, the Secretary shall give special consideration to applications for projects for health maintenance organizations which will serve medically underserved populations.

(e) Limitations

(1) Except as provided in paragraph (2), the following limitations apply with respect to grants, loan guarantees, and contracts made under subsection (a) of this section:

(A) If a planning project has been assisted with grant, loan guarantee, or contract under subsection (a) of this section, the Secretary may not make any other planning grant or loan guarantee or enter into any other planning contract for such project under this section.

(B) Any project for which a grant or loan guarantee is made or contract entered into must be completed within twelve months from the date the grant or loan guarantee is made or contract entered into.

(2) The Secretary may not make more than one additional grant or loan guarantee or enter into not more than one additional contract for a planning project for which a grant or loan guarantee has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant, loan guarantee, or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

(f) Payments

(1) The amount to be paid by the United States under a grant made or contract entered into, under subsection (a) of this section for a planning project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for a planning project which may be guaranteed under such subsection, shall be determined by the Secretary, except that (A) the amount to be paid by the United States under any single grant or contract, and the amount of principal of any single loan guaran-

teed under such subsection, may not exceed $200,000 and (B) the aggregate of the amounts to be paid for any project by the United States under grants or contracts, or both, under such subsection, and the aggregate amount of principal of loans guaranteed under such subsection for any project, may not exceed the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

(2) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (b) of this section for an initial development project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for an initial development project which may be guaranteed under such subsection, shall be determined by the Secretary; except that the amounts to be paid by the United States for any initial development project under grants or contracts, or both; under such subsection, and the aggregate amount of principal of loans guaranteed under such subsection for any project, may not exceed the lesser of—

(A) $1,000,000, or, in the case of a project for a health maintenance organization which will provide services to an additional service area (as defined by the Secretary) or which will provide services in one or more areas which are not contiguous, $1,600,000, or

(B) an amount equal to the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

(3) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

(g) Methods and time of payment

Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

(h) Government contract requirements lifted

Contracts may be entered into under this section without regard to section 529 of title 31 and section 5 of title 41.

(i) Payments from appropriated funds

Payments under grants and contracts under this section shall be made from appropriations under section 300e-8(a) of this title.

(j) Time limits on loan guarantees

Loan guarantees under subsection (a)(2) of this section for planning projects may be made through September 30, 1978; and loan guarantees under subsection (b)(1)(B) of this section for initial development projects may be made through the fiscal year ending September 30, 1979.

(k) Non-metropolitan areas

(1) Of the sums appropriated for any fiscal year under section 300e-8(a) of this title for grants and contracts under subsection (a) of this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (A) to plan the establishment or expansion of health maintenance organizations which the Secretary determines may reasonably be expected to have after their establishment or expansion not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (B) the applications for which meet the requirements of this subchapter for approval. Sums set aside in any fiscal year for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under subsection (a) of this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under such subsection in the succeeding fiscal year for any project, with priority being given to projects described in clause (A) of such sentence.

(2) Of the sums appropriated for any fiscal year under section 300e-8(a) of this title for grants and contracts under subsection (b) of this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (A) for the initial development of health maintenance organizations which the Secretary determines may reasonably be expected to have after their initial development not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (B) the applications for which meet the requirements of this subchapter for approval. Sums set aside in any fiscal year for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under subsection (b) of this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under such subsection in the succeeding fiscal year for any project, with priority being given to projects described in clause (A) of such sentence.

(July 1, 1944, ch. 373, title XIII, § 1304, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 921, and amended Apr. 21, 1976, Pub. L. 94-273, § 40, 90 Stat. 381; Oct. 8, 1976, Pub. L. 94-460, title I, §§ 107(b), 108(a), (b), (d)(1), 109(d)(2), (3), (e), 113(a), 117(b)(4), 90 Stat. 1948-1950, 1953, 1955.)

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-460, § 108(a), substituted reference to loans made to nonprofit private entities for planning projects for the establishment or expansion of health maintenance organizations or to other private entities for such projects for health maintenance organizations which will serve medically underserved populations for reference to loans made

to private entities (other than nonprofit private entities) for planning projects for the establishment or expansion of health maintenance organizations to serve medically underserved populations.

Subsec. (b)(1)(B). Pub. L. 94-460, § 108(b), substituted reference to loans made to nonprofit private entities for projects for the initial development of health maintenance organizations or to other private entities for such projects for health maintenance organizations which will serve medically underserved populations for reference to loans to any private entity (other than a nonprofit private entity) for a project for the initial development of a health maintenance organization which would serve a medically underserved population.

Subsec. (b)(2)(D). Pub. L. 94-460, § 109(e), substituted "who will engage in practice principally for the health maintenance organization" for "for such an organization".

Subsec. (c)(1). Pub. L. 94-460, § 117(b)(4), substituted "each health systems agency designated for a health service area which" for "the section 314(b) areawide health planning agency (if any) whose section 314(b) plan".

Subsec. (d). Pub. L. 94-460, § 108(d)(1), provided that in considering applications for loan guarantees under this section, the Secretary give special consideration to applications for projects for health maintenance organizations which will serve medically underserved populations.

Subsec. (f)(1)(A). Pub. L. 94-460, § 107(b)(1), substituted "$200,000" for "$125,000".

Subsec. (f)(2)(A). Pub. L. 94-460, § 107(b)(2), substituted "$1,000,000 or, in the case of a project for a health maintenance organization which will provide services at an additional service area (as defined by the Secretary) or which will provide services in one or more areas which are not contiguous, $1,600,000, or" for "$1,000,000, or".

Subsec. (j). Pub. L. 94-460, § 113(a), substituted "September 30, 1978" for "September 30, 1976" and "September 30, 1979" for "September 30, 1977".

Pub. L. 94-273 substituted "September 30, 1976" for "the fiscal year ending June 30, 1976" and "September 30, 1977" for "June 30, 1977".

Subsec. (k)(1). Pub. L. 94-460, § 109(d)(2), substituted "any fiscal year" for "the fiscal year ending June 30, 1974, or June 30, 1975" and "for any project, with priority being given to projects described in clause (A) of such sentence" for "for projects other than those described in clause (A) of such sentence".

Subsec. (k)(2). Pub. L. 94-460, § 109(d)(3), substituted "any fiscal year" for "the fiscal year ending June 30, 1974, or in either of the next two fiscal years" and "for any project, with priority being given to projects described in clause (A) of such sentence" for "for projects other than those described in clause (A) of such sentence".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, except that the amendment of subsec. (b)(2)(D) of this section by section 109(e) of Pub. L. 94-460 shall apply with respect to projects assisted under this section after Sept. 30, 1976, and except that the amendment of subsec. (f)(1)(A), (2)(A) of this section by section 107 of Pub. L. 94-460 shall apply with respect to grants, contracts, loans, and loan guarantees made under this section and sections 300e-2 and 300e-4 of this title for fiscal years beginning after Sept. 30, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (k) of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e-5, 300e-6, 300e-8, 300e-13 of this title.

§ 300e-4. Loans and loan guarantees for initial operation costs

(a) Authority

The Secretary may—

(1) make loans to public or nonprofit private health maintenance organizations to assist them in meeting the amount by which their operating costs during a period not to exceed the first sixty months of their operation exceed their revenues in that period;

(2) make loans to public or nonprofit private health maintenance organizations to assist them in meeting the amount by which their operating costs, which the Secretary determine are attributable to significant expansion in their membership or area served and which are incurred during a period not to exceed the first sixty months of their operation after such expansion, exceed their revenues in that period which the Secretary determines are attributable to such expansion; and

(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

(A) nonprofit private health maintenance organizations for the amounts referred to in paragraph (1) or (2), or

(B) other private health maintenance organizations for such amounts but only if the health maintenance organization will serve a medically underserved population.

No loan or loan guarantee may be made under this subsection for the operating costs of a health maintenance organization unless the Secretary determines that the organization has made all reasonable attempts to meet such costs.

(b) Limitations

(1) Except as provided in paragraph (2), the aggregate amount of principal of loans made or guaranteed, or both, under this section for a health maintenance organization may not exceed $2,500,000. In any fiscal year the amount disbursed to a health maintenance organization under this section (either directly by the Secretary or by an escrow agent under the terms of an escrow agreement or by a lender under a loan guaranteed under this section) may not exceed $1,000,000.

(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made, or with respect to which guarantees have been issued, under subsection (a) of this section may not exceed such limitations as may be specified in appropriation Acts.

(c) Source of loan funds

Loans under this section shall be made from the fund established under section 300e-7(e) of this title.

(d) Time limit on loans and loan guarantees

No loan may be made or guaranteed under this section after September 30, 1980.

(e) Non-metropolitan areas

Of the sums used for loans under this section in any fiscal year from the loan fund established under section 300e-7(e) of this title, not less than 20 per centum shall be used for loans for projects (1) for the initial operation of health maintenance organizations which the Secretary determines have not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (2) the applications for which meet the requirements of this subchapter for approval.

(f) Medically underserved populations

In considering applications for loan guarantees under this section, the Secretary shall give special consideration to applications for health maintenance organizations which will serve medically underserved populations.

(July 1, 1944, ch. 373, title XIII, § 1305, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 924, and amended Jan. 4, 1975, Pub. L. 93-641, § 8, 88 Stat. 2276; Apr. 21, 1976, Pub. L. 94-273, § 2(21), 90 Stat. 376; Oct. 8, 1976, Pub. L. 94-460, title I, §§ 107(c), 108(c), (d)(2), 109(a)(1), (2), 113(b), 90 Stat. 1949, 1953.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-460, §§ 107(c), 109(a)(1), substituted "during a period not to exceed the first sixty months" for "in the period of the first thirty-six months".

Subsec. (a)(2). Pub. L. 94-460, §§ 107(c), 109(a)(1), substituted "during a period not to exceed the first sixty months" for "in the period of the first thirty-six months".

Subsec. (a)(3). Pub. L. 94-460, § 108(c), substituted reference to loans made to nonprofit private health maintenance organizations for the amounts referred to in paragraph (1) or (2), or to other private health maintenance organizations for such amounts but only if the health maintenance organization will serve a medically underserved population for reference to loans made to any private health maintenance organization (other than a private nonprofit health maintenance organization) for the amounts referred to in paragraph (1) or (2), but only if such health maintenance organization will serve a medically underserved population.

Subsec. (b)(1). Pub. L. 94-460, § 109(a)(2), substituted "In any fiscal year the amount disbursed to a health maintenance organization under this section (either directly by the Secretary or by an escrow agent under the terms of an escrow agreement or by a lender under a loan guaranteed under this section) may not exceed $1,000,000" for "In any fiscal year, the amount disbursed under a loan or loans made or guaranteed under this section for a health maintenance organization may not exceed $1,000,000,000".

Subsec. (d). Pub. L. 94-460, § 113(b), substituted "No loan may be made or guaranteed under this section after September 30, 1980" for "A loan or loan guarantee may be made under this section through the fiscal year ending June 30, 1978".

Pub. L. 94-273 substituted "September" for "June".

Subsec. (f). Pub. L. 94-460, § 108(d)(2), added subsec. (f).

1975—Subsec. (b)(1). Pub. L. 93-641 substituted provisions that the amount disbursed under a loan or loans made or guaranteed under this section for a health maintenance organization may not exceed $1,000,000,000 for provisions that the principal amount of any loan made or guaranteed under subsec. (a) of this section for a health maintenance organization may not exceed $1,000,000.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, except that the amendment of subsec. (a)(1), (2) of this section by section 107(c) of Pub. L. 94-460 [which substituted "first sixty months" for "first thirty-six months"] shall apply with respect to grants, contracts, loans, and loan guarantees made under this section and sections 300e-2 and 300e-3 of this title for fiscal years beginning after Sept. 30, 1976, and except that the Amendment of subsec. (a)(1), (2) of this section by section 109(a)(1) of Pub. L. 94-460 [which substituted "during a period not to exceed" for "in the period of"] shall apply with respect to loan guarantees made under this section after Sept. 30, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (e) of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 390e of Title 7, Agriculture.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975; AMOUNT OF LIMITATIONS

Pub. L. 94-274, title I, § 106(f), Apr. 21, 1976, 90 Stat. 386, provided that: "For the purposes of section 1305(b)(1) of the Public Health Service Act (42 U.S.C. 300e-4(b)(1)), the period of July 1, 1976, through September 30, 1976, shall be considered part of the fiscal year beginning July 1, 1975, and the limitation specified in the second sentence of section 1305(b)(1) shall be $1,250,000 for the period beginning July 1, 1975, and ending September 30, 1976."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300e-13 of this title.

§ 300e-5. Application requirements

(a) Submission to and approval by Secretary required for making grants, loans, contracts, and loan guarantees

No grant, contract, loan, or loan guarantee may be made under this subchapter unless an application therefor has been submitted to, and approved by, the Secretary.

(b) Application contents

The Secretary may not approve an application for a grant, contract, loan, or loan guarantee under this subchapter unless—

(1) in the case of an application for assistance under section 300e-2 or 300e-3 of this title, such application meets the application requirements of such section and in the case of an application for a loan or loan guarantee, such application meets the requirements of section 300e-7 of this title;

(2) he determines that the applicant making the application would not be able to complete the project or undertaking for which the application is submitted without the assistance applied for;

(3) the application contains satisfactory specification of the existing or anticipated (A) population group or groups to be served by the proposed or existing health maintenance organization described in the application, (B) membership of such organization, (C) meth-

ods, terms, and periods of the enrollment of members of such organization, (D) estimated costs per member of the health and educational services to be provided by such organization and the nature of such costs, (E) sources of professional services for such organization, and organizational arrangements of such organization for providing health and educational services, (F) organizational arrangements of such organization for an ongoing quality assurance program in conformity with the requirements of section 300e(c) of this title, (G) sources of prepayment and other forms of payment for the services to be provided by such organization, (H) facilities, and additional capital investments and sources of financing therefor, available to such organization to provide the level and scope of services proposed, (I) administrative, managerial, and financial arrangements and capabilities of such organization, (J) role for members in the planning and policymaking for such organization, (K) grievance procedures for members of such organization, and (L) evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or affected thereby;

(4) contains or is supported by assurances satisfactory to the Secretary that the applicant making the application will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll, and maintain an enrollment of the maximum number of members that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve;

(5) each health systems agency designated for a health service area which covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted;

(6) in the case of an application made for a project which previously received a grant, contract, loan, or loan guarantee under this subchapter, such application contains or is supported by assurances satisfactory to the Secretary that the applicant making the application has the financial capability to adequately carry out the purposes of such project and has developed and operated such project in accordance with the requirements of this subchapter and with the plans contained in previous applications for such assistance;

(7) the application contains such assurances as the Secretary may require respecting the intent and the ability of the applicant to meet the requirements of paragraphs (1) and (2) of section 300e(b) of this title respecting the fixing of basic health services payments and supplemental health services payments under a community rating system; and

(8) the application is submitted in such form and manner, and contains such additional information, as the Secretary shall prescribe in regulations.

An organization making multiple applications for more than one grant, contract, loan, or loan guarantee under this subchapter, simultaneously or over the course of time, shall not be required to submit duplicate or redundant information but shall be required to update the specifications (required by paragraph (3)) respecting the existing or proposed health maintenance organization in such manner and with such frequency as the Secretary may by regulation prescribe.

(c) Regulations

The Secretary shall by regulation establish standards and procedures for health systems agencies to follow in reviewing and commenting on applications for grants, contracts, loans, and loan guarantees under this subchapter.

(July 1, 1944, ch. 373, title XIII, § 1306, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 925, and amended Oct. 8, 1976, Pub. L. 94-460, title I, §§ 105(a)(3), 117(b)(5), (6), 90 Stat. 1948, 1955.)

AMENDMENTS

1976—Subsec. (b)(5). Pub. L. 94-460, § 117(b)(5), substituted "each health systems agency designated for a health service area which covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted;" for "the section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted, or if there is no such agency, the section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, has, in accordance with regulations of the Secretary under subsection (c) of this section, been provided an opportunity to review the application and to submit to the Secretary for his consideration its recommendations respecting approval of the application or if under applicable State law such an application may not be submitted without the approval of the section 314(b) areawide health planning agency or the section 314(a) State health planning agency, the required approval has been obtained;".

Subsec. (b)(7). Pub. L. 94-460, § 105(a)(3), added subsec. (b)(7). Former subsec. (b)(7) redesignated (b)(8).

Subsec. (b)(8). Pub. L. 94-460, § 105(a)(3), redesignated former subsec. (b)(7) as (b)(8).

Subsec. (c). Pub. L. 94-460, § 117(b)(6), substituted "health systems agencies" for "section 314(b) areawide health planning agencies and section 314(a) State health planning agencies".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300e-6 of this title.

§ 300e-6. Administration of assistance programs

(a) Recordkeeping; audit and examination

(1) Each recipient of a grant, contract, loan, or loan guarantee under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of the grant, contract, or loan (directly made or guaranteed), the total cost of the undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the undertaking sup-

plied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of a grant, contract, loan, or loan gurantee under this subchapter which relate to such assistance.

(b) Report upon expiration of period

Upon expiration of the period for which a grant, contract, loan, or loan guarantee was provided an entity under this subchapter such entity shall make a full and complete report to the Secretary in such manner as he may by regulation prescribe. Each such report shall contain, among such other matters as the Secretary may by regulation require, descriptions of plans, developments, and operations relating to the matters referred to in section 300e-5(b)(3) of this title.

(c) Priority applications

If in any fiscal year the funds appropriated under section 300e-8 of this title are insufficient to fund all applications approved under this subchapter for that fiscal year, the Secretary shall, after applying the applicable priorities under sections 300e-2 and 300e-3 of this title, give priority to the funding of applications for projects which the Secretary determines are the most likely to be economically viable.

(d) Other entities considered health maintenance organizations

An entity which provides health services to a defined population on a prepaid basis and which has members who are entitled to insurance benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] or to medical assistance under a State plan approved under title XIX of such Act [42 U.S.C. 1396 et seq.] may be considered as a health maintenance organization for purposes of receiving assistance under this subchapter if—

(1) with respect to its members who are entitled to such insurance benefits or to such medical assistance it (A) provides health services in accordance with section 300e(b) of this title, except that (i) it does not furnish to those members the health services (within the basic health services) for which it may not be compensated under such title XVIII [42 U.S.C. 1395 et seq.] or such State plan, and (ii) it does not fix the basic or supplemental health services payment for such members under a community rating system, and (B) is organized and operated in the manner prescribed by section 300e(c) of this title, except that it does not assume full financial risk on a prospective basis for the provision to such members of basic or supplemental health services with respect to which it is not required under such title XVIII or such State plan to assume such financial risk; and

(2) with respect to its other members it provides health services in accordance with section 300e(b) of this title and is organized and operated in the manner prescribed by section 300e(c) of this title.

An entity which provides health services to a defined population on a prepaid basis and which has members who are enrolled under the health benefits program authorized by chapter 89 of title 5, may be considered as a health maintenance organization for purposes of receiving assistance under this subchapter if with respect to its other members it provides health services in accordance with section 300e(b) of this title and is organized and operated in the manner prescribed by section 300e(c) of this title.

(e) Cumulative total of loan guarantees in any fiscal year limited by amount of grant and contract funds obligated

In any fiscal year no loan guarantee may be made for a private health maintenance organization (other than a private nonprofit health maintenance organization) under this subchapter if the making of such guarantee would cause the cumulative total of the principal of the loans guaranteed for private health maintenance organizations (other than private nonprofit health maintenance organizations) under this subchapter in such fiscal year to exceed the amount of grant and contract funds obligated under this subchapter in such fiscal year; except that this subsection shall not apply if the amount of grant and contract funds obligated under this subchapter in such fiscal year equals the sums appropriated under section 300e-8 of this title for grants and contracts for such fiscal year.

(July 1, 1944, ch. 373, title XIII, § 1307, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 926, and amended Oct. 8, 1976, Pub. L. 94-460, title I, §§ 109(b)(1), 112, 90 Stat. 1950, 1953.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-460, § 112, added provisions following par. (2) setting conditions upon which an entity providing health services to a defined population on a prepaid basis may be considered as a health maintenance organization for purposes of receiving assistance under this subchapter.

Subsec. (e). Pub. L. 94-460, § 109(b)(1), added "for a private health maintenance organization (other than a private nonprofit health maintenance organization)" after "may be made", and "for private health maintenance organizations (other than private nonprofit health maintenance organizations)" after "guaranteed".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

§ 300e-7. General provisions relating to loan guarantees and loans

(a) Conditions

(1) The Secretary may not approve an application for a loan guarantee under this subchapter unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to

the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for loans with similar maturities, terms, conditions, and security and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this subchapter.

(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this subchapter the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this subchapter (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this subchapter shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this subchapter shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this subchapter will be achieved.

(b) Application requirements

(1) The Secretary may not approve an application for a loan under this subchapter unless—

(A) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this subchapter shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to marketable obligations of the United States of comparable maturities, adjusted to provide, for appropriate administrative charges, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of this subchapter while adequately protecting the financial interests of the United States.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reason of the failure of a borrower to make payments of principal of and interest on a loan made under this subchapter except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c) Sale of loans

(1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this subchapter.

(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan. Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or as otherwise appropriate. Any such agreement may (A) provide that the Secretary shall act as agent of any such purchaser for the purpose of collecting from the borrower to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such organization under such loan; and (B) provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this paragraph.

(3) After any loan under this subchapter to a public health maintenance organization has been sold and guaranteed under this subsection, interest paid on such loan which is received by the purchaser thereof (or his successor in interest) shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purpose of chapter 1 of title 26.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the loan fund established under subsection (e) of this section.

(5) Any reference in this subchapter (other than in this subsection and in subsection (d) of this section) to a loan guarantee under this subchapter does not include a loan guarantee made under this subsection.

(d) Loan guarantee fund

(1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to discharge his responsibilities under loan guarantees issued by him under this subchapter. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for

the fund. To the extent authorized in appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary in connection with loan guarantees under this subchapter and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

(2) If at any time the sums in the funds are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this subchapter, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(e) Loan fund

There is established in the Treasury a loan fund (hereinafter in this subsection referred to as the "fund") which shall be availble to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to make loans under this subchapter. There shall also be deposited in the fund amounts received by the Secretary as interest payments and repayment of principal on loans made under this subchapter and other property or assets derived by him from his operations respecting such loans, from the sale of loans under subsection (c) of this section, or from the sale of assets.

(July 1, 1944, ch. 373, title XIII, § 1308, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 927, and amended Oct. 8, 1976, Pub. L. 94-460, title I, § 109(b)(2), (c), 90 Stat. 1950.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (d)(2), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

AMENDMENTS

1976—Subsec. (a)(1)(A). Pub. L. 94-460, § 109(c)(1), substituted "for loans with similar maturities, terms, conditions, and security" for "for similar loans".

Subsec. (b)(2)(D). Pub. L. 94-460, § 109(c)(2), substituted "marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges" for "loans guaranteed under this subchapter".

Subsec. (c)(5). Pub. L. 94-460, § 109(b)(2), added subsec. (c)(5).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, except that the amendment of subsecs. (a)(1)(A) and (b)(2)(D) of this section by section 109(c) of Pub. L. 94-460 shall apply with respect to loan guarantees made under section 300e-4 of this title after Sept. 30, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e-4, 300e-5, 300e-8 of this title.

§ 300e-8. Authorization of appropriations

(a) For the purpose of making payments under grants and contracts under sections 300e-2, 300e-3(a), and 300e-3(b) of this title, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1974, $55,000,000 for the fiscal year ending June 30, 1975, $40,000,000 for the fiscal year ending June 30, 1976, $45,000,000 for the fiscal year ending September 30, 1977, and $45,000,000 for the fiscal year ending September 30, 1978; and for the purpose of making payments under grants and contracts under section 300e-3(b) of this title for the fiscal year ending September 30, 1977, there is authorized to be appropriated $50,000,000.

(b) There is authorized to be appropriated to the loan fund established under section 300e-7(e) of this title $75,000,000 in the aggregate for the fiscal years ending June 30, 1974, and June 30, 1975.

(July 1, 1944, ch. 373, title XIII, § 1309, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 930, and amended Oct. 8, 1976, Pub. L. 94-460, title I, § 113(c), 90 Stat. 1954.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-460 substituted "$40,000,000 for the fiscal year ending June 30, 1976, $45,000,000 for the fiscal year ending September 30, 1977, and $45,000,000 for the fiscal year ending September 30, 1978;" for "and $85,000,000 for the fiscal year ending June 30, 1976;" and "for the fiscal year ending September 30, 1977, there is authorized to be appropriated $50,000,000" for "for the fiscal year ending June 30, 1977, there is authorized to be appropriated $85,000,000".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e-2, 300e-3, 300e-6 of this title.

§ 300e-9. Employees' health benefits plans

(a) Regulations; membership option; acceptance of offer

(1) In accordance with regulations which the Secretary shall prescribe—

(A) each employer—

(i) which is now or hereafter required during any calendar quarter to pay its employees the minimum wage prescribed by section 206 of title 29 (or would be required to pay its employees such wage but for section 213(a) of title 29), and

(ii) which during such calendar quarter employed an average number of employees of not less than 25, shall include in any health benefits plan, and

(B) any State and each political subdivision thereof which during any calendar quarter employed an average number of employees of not less than 25, as a condition of the payment to the State of funds under section 246(d), 247b, 247c, 300a, 300m-4, or 300p-3 of this title, shall include in any health benefits plan,

offered to such employees in the calendar year beginning after such calendar quarter the option of membership in qualified health maintenance organizations which are engaged in the provision of basic health services in health maintenance organization service areas in which at least 25 of such employees reside.

(2) If any of the employees of an employer or State or political subdivision thereof described in paragraph (1) are represented by a collective bargaining representative or other employee representative designated or selected under any law, offer of membership in a qualified health maintenance organization required by paragraph (1) to be made in a health benefits plan offered to such employees (A) shall first be made to such collective bargaining representative or other employee representative, and (B) if such offer is accepted by such representative, shall then be made to each such employee.

(b) Basic health service requirement

If there is more than one qualified health maintenance organization which is engaged in the provision of basic and supplemental health services in the area in which the employees of an employer subject to subsection (a) of this section reside and if—

(1) one or more of such organizations provides basic health services (A) without the use of an individual practice association and (B) without the use of contracts (except for contracts for unusual or infrequently used services) with health professionals, and

(2) one or more of such organizations provides basic health services through (A) an individual practice association (or associations), (B) health professionals who have contracted with the health maintenance organization for the provision of such services, or (C) a combination of such association (or associations) or health professionals under contract with the organization,

then of the qualified health maintenance organizations included in a health benefits plan of such employer pursuant to subsection (a) of this section at least one shall be an organization which provides basic health services as described in clause (1) and at least one shall be an organization which provides basic health services as described in clause (2).

(c) Effect on costs

No employer shall be required to pay more for health benefits as a result of the application of this section than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract for the provision of health benefits between the employer and its employees.

(d) "Qualified health maintenance organization" defined

For purposes of this section, the term "qualified health maintenance organization" means (1) a health maintenance organization which has provided assurances satisfactory to the Secretary that it provides basic and supplemental health services to its members in the manner prescribed by section 300e(b) of this title and that it is organized and operated in the manner prescribed by section 300e(c) of this title, and (2) an entity which proposes to become a health maintenance organization and which the Secretary determines will when it becomes operational provide basic and supplemental health services to its members in the manner prescribed by section 300e(b) of this title and will be organized and operated in the manner prescribed by section 300e(c) of this title.

(e) Civil penalty; notice and presentation of views; review

(1) Any employer who knowingly does not comply with one or more of the requirements of subsection (a) of this section shall be subject to a civil penalty of not more than $10,000. If such noncompliance continues, a civil penalty may be assessed and collected under this subsection for each thirty-day period such noncompliance continues. Such penalty may be assessed by the Secretary and collected in a civil action brought by the United States in a United States district court.

(2) In any proceeding by the Secretary to assess a civil penalty under this subsection, no penalty shall be assessed until the employer charged shall have been given notice and an opportunity to present its views on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the Secretary shall consider the gravity of the noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification by the Secretary of a noncompliance.

(3) In any civil action brought to review the assessment of a civil penalty assessed under this subsection, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty and in any civil action to collect such a civil penalty, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty unless in a prior civil action to review the assessment of such penalty the court held a trial de novo on such assessment.

(f) "Employer" defined

For purposes of this section, the term "employer" does not include (1) the Government of

the United States, the government of the District of Columbia or any territory or possession of the United States, a State or any political subdivision thereof, or any agency or instrumentality (including the United States Postal Service and Postal Rate Commission) of any of the foregoing; or (2) a church, convention or association of churches, or any organization operated, supervised or controlled by a church, convention or association of churches which organization (A) is an organization described in section 501(c)(3) of title 26, and (B) does not discriminate (i) in the employment, compensation, promotion, or termination of employment of any personnel, or (ii) in the extension of staff or other privileges to any physician or other health personnel, because such persons seek to obtain or obtained health care, or participate in providing health care, through a health maintenance organization.

(g) Termination of payment for failure to comply

If the Secretary, after reasonable notice and opportunity for hearing to a State, finds that it or any of its political subdivisions has failed to comply with one or more of the requirements of subsection (a) of this section, the Secretary shall terminate payments to such State under sections 246(d), 247b, 247c, 300a, 300m-4, and 300p-3 of this title and notify the Governor of such State that further payments under such sections will not be made to the State until the Secretary is satisfied that there will no longer be any such failure to comply.

(h) Duties and functions of Secretary

The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a qualified health maintenance organization within the meaning of subsection (d) of this section, shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions shall be integrated with the administration of section 300e-11(a) of this title.

(July 1, 1944, ch. 373, title XIII, § 1310, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 930, and amended Oct. 8, 1976, Pub. L. 94-460, title I, § 110(a), 90 Stat. 1950.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-460, § 110(a)(1), substituted reference to each employer which is now or hereafter required for reference to each employer which is required, reference to basic health services in health maintenance organization service areas in which at least 25 of such employees reside for reference to basic and supplemental health services in the areas in which such employees reside, and added provisions requiring certain States and political subdivisions thereof to include in any health benefits plan the option of membership in qualified health maintenance organizations as a condition of payment to the State of funds under section 246(d), 247b, 247c, 300a, 300m-4, or 300p-3 of this title, and that the offer of membership in such an organization be first made to the employees' representative, if any, and then be made to each employee if the offer is accepted by the representative.

Subsec. (b)(1). Pub. L. 94-460, § 110(a)(2), substituted "(A) without the use of an individual practice association and (B) without the use of contracts (except for contracts for unusual or infrequently used services) with health professionals" for "through professionals who are members of the staff of the organization or a medical group (or groups)".

Subsec. (b)(2). Pub. L. 94-460, § 110(a)(2), substituted "basic health services through (A) an individual practice association (or associations), (B) health professionals who have contracted with the health maintenance organization for the provision of such services, or (C) a combination of such association (or associations) or health professionals under contract with the organization" for "such services through an individual practice association (or associations)".

Subsec. (c). Pub. L. 94-460, § 110(a)(3), struck out provision that failure of any employer to comply with the requirements of subsection (a) of this section be considered a willful violation of section 215 of title 29.

Subsecs. (e) to (h). Pub. L. 94-460, § 110(a)(4), added subsecs. (e) to (h).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsecs. (a) and (b)(1), (2) of this section by section 110(a)(1), (2) of Pub. L. 94-460 applicable with respect to calendar quarters which began after Oct. 8, 1976, and amendment of subsec. (c) and enactment of subsecs. (e) to (h) of this section by section 110(a)(3), (4) of Pub. L. 94-460 applicable with respect to failures of employers to comply with section 300e-9 of this title after Oct. 8, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e-10, 300e-11, 300e-13, 300e-14, 300*l*-1 of this title; title 5 section 8902.

§ 300e-10. Restrictive State laws and practices

(a) Entities operating as health maintenance organizations

In the case of any entity—

(1) which cannot do business as a health maintenance organization in a State in which it proposes to furnish basic and supplemental health services because that State by law, regulation, or otherwise—

(A) requires as a condition to doing business in that State that a medical society approve the furnishing of services by the entity,

(B) requires that physicians constitute all or a percentage of its governing body,

(C) requires that all physicians or a percentage of physicians in the locale participate or be permitted to participate in the provision of services for the entity, or

(D) requires that the entity meet requirements for insurers of health care services doing business in that State respecting initial capitalization and establishment of financial reserves against insolvency, and

(2) for which a grant, contract, loan, or loan guarantee was made under this subchapter or which is a qualified health maintenance organization for purposes of section 300e-9 of this title (relating to employees' health benefits plans),

such requirements shall not apply to that entity so as to prevent it from operating as a health maintenance organization in accordance with section 300e of this title.

(b) Advertising

No State may establish or enforce any law which prevents a health maintenance organization for which a grant, contract, loan, or loan

guarantee was made under this subchapter or which is a qualified health maintenance organization for purposes of section 300e-9 of this title (relating to employees' health benefits plans), from soliciting members through advertising its services, charges, or other nonprofessional aspects of its operation. This subsection does not authorize any advertising which identifies, refers to, or makes any qualitative judgement concerning, any health professional who provides services for a health maintenance organization.

(c) Digest of State laws, regulations, and practices; legal consultative assistance

The Secretary shall, within 6 months after October 8, 1976, develop a digest of State laws, regulations, and practices pertaining to development, establishment, and operation of health maintenance organizations which shall be updated at least quarterly and relevant sections of which shall be provided to the Governor of each State annually. Such digest shall indicate which State laws, regulations, and practices appear to be inconsistent with the operation of this section. The Secretary shall also insure that appropriate legal consultative assistance is available to the States for the purpose of complying with the provisions of this section.

(July 1, 1944, ch. 373, title XIII, § 1311, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 931, and amended Oct. 8, 1976, Pub. L. 94-460, title I, § 114, 90 Stat. 1954.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-460 added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

§ 300e-11. Continued regulation of health maintenance organizations

(a) Determination of deficiency

If the Secretary determines that an entity which received a grant, contract, loan, or loan guarantee under this subchapter as a health maintenance organization or which was included in a health benefits plan offered to employees pursuant to section 300e-9 of this title—

(1) fails to provide basic and supplemental services to its members,

(2) fails to provide such services in the manner prescribed by section 300e(b) of this title, or

(3) is not organized or operated in the manner prescribed by section 300e(c) of this title,

the Secretary may take the action authorized by subsection (b) of this section.

(b) Action by Secretary upon determination

(1) If the Secretary makes, with respect to any entity which provided assurances to the Secretary under section 300e-9(d)(1) of this title, a determination described in subsection (a) of this section, the Secretary shall notify the entity in writing of the determination. Such notice shall specify the manner in which the entity has not complied with such assurances and direct that the entity initiate (within 30 days of the date the notice is issued by the Secretary or within such longer period as the Secretary determines is reasonable) such action as may be necessary to bring (within such period as the Secretary shall prescribe) the entity into compliance with the assurances. If the entity fails to initiate corrective action within the period prescribed by the notice or fails to comply with the assurances within such period as the Secretary prescribes (A) the entity shall not be a qualified health maintenance organization for purposes of section 300e-9 of this title until such date as the Secretary determines that it is in compliance with the assurances, and (B) each employer which has offered membership in the entity in compliance with section 300e-9 of this title, each lawfully recognized collective bargaining representative or other employee representative which represents the employees of each such employer, and the members of such entity shall be notified by the entity that the entity is not a qualified health maintenance organization for purposes of such section. The notice required by clause (B) of the preceding sentence shall contain, in readily understandable language, the reasons for the determination that the entity is not a qualified health maintenance organization. The Secretary shall publish in the Federal Register each determination referred to in this paragraph.

(2) If the Secretary makes, with respect to an entity which has received a grant, contract, loan, or loan guarantee under this subchapter, a determination described in subsection (a) of this section, the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with the assurances it furnished respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made in connection with its application under this subchapter, for the grant, contract, loan, or loan guarantee.

(c) Administration in Office of Assistant Secretary for Health

The Secretary, acting through the Assistant Secretary for Health, shall administer subsections (a) and (b) of this section in the Office of the Assistant Secretary for Health.

(July 1, 1944, ch. 373, title XIII, § 1312, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 931, and amended Oct. 8, 1976, Pub. L. 94-460, title I, § 111, 90 Stat. 1952.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-460, § 111(a), substituted "the Secretary may take the action authorized by subsection (b) of this section" for "the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with any assurances it furnished him respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made under section 300e-9 of this title or when application was made under this subchapter for a grant, contract, loan, or loan guarantee".

Subsec. (b). Pub. L. 94-460, § 111(b), added subsec. (b). Former subsec. (b) redesignated (c) and amended.

Subsec. (c). Pub. L. 94-460, § 111(c), redesignated former subsec. (b) as (c) and in subsec. (c) as so redesignated substituted "acting through the Assistant Secretary for Health, shall administer subsections (a) and (b) of this section" for "through the Assistant Secretary for Health, shall administer subsection (a) of this section".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 applicable with respect to determinations of the Secretary of Health, Education, and Welfare described in subsec. (a) of this section and made after Oct. 8, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1396b of this title.

§ 300e-12. Limitation on source of funding for health maintenance organizations

No funds appropriated under any provision of this chapter other than this subchapter may be used—

(1) for grants or contracts for surveys or other activities to determine the feasibility of developing or expanding health maintenance organizations or other entities which provide, directly or indirectly, health services to a defined population on a prepaid basis;

(2) for grants or contracts, or for payments under loan guarantees, for planning projects for the establishment or expansion of such organizations or entities;

(3) for grants or contracts, or for payments under loan guarantees, for projects for the initial development or expansion of such organizations or entities; or

(4) for loans, or for payments under loan guarantees, to assist in meeting the costs of the initial operation after establishment or expansion of such organizations or entities.

(July 1, 1944, ch. 373, title XIII, § 1313, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 932.)

§ 300e-13. Program evaluation

(a) Operation of health maintenance organizations; report to Congress

The Comptroller General shall evaluate the operations of at least ten or one-half (whichever is greater) of the health maintenance organizations for which assistance was provided under sections 300e-2, 300e-3, and 300e-4 of this title, and which, by December 31, 1976, have been designated by the Secretary under section 300e-9(d) of this title as qualified health maintenance organizations. The Comptroller General shall report to the Congress the results of the evaluation by June 30, 1978. Such report shall contain findings—

(1) with respect to the ability of the organizations evaluated to operate on a fiscally sound basis without continued Federal financial assistance,

(2) with respect to the ability of such organizations to meet the requirements of section 300e(c) of this title respecting their organization and operation,

(3) with respect to the ability of such organizations to provide basic and supplemental health services in the manner prescribed by section 300e(b) of this title,

(4) with respect to the ability of such organizations to include indigent and high-risk individuals in their membership, and

(5) with respect to the ability of such organizations to provide services to medically underserved populations.

(b) Study

The Comptroller General shall also conduct a study of the economic effects on employers resulting from their compliance with the requirements of section 300e-9 of this title. The Comptroller General shall report to the Congress the results of such study not later than thirty-six months after December 29, 1973.

(c) Comparison of health maintenance organizations

The Comptroller General shall evaluate (1) the operations of distinct categories of health maintenance organizations in comparison with each other, (2) health maintenance organizations as a group in comparison with alternative forms of health care delivery, and (3) the impact that health maintenance organizations, individually, by category, and as a group, have on the health of the public. The Comptroller General shall report to the Congress the results of such evaluation not later than thirty-six months after December 29, 1973.

(July 1, 1944, ch. 373, title XIII, § 1314, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 932, and amended Oct. 8, 1976, Pub. L. 94-460, title I, § 115, 90 Stat. 1954.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-460 substituted "The Comptroller General shall evalute the operations of at least ten or one-half (whichever is greater) of the health maintenance organizations for which assistance was provided under sections 300e-2, 300e-3, and 300e-4 of this title, and which, by December 31, 1976, have been designated by the Secretary under section 300e-9(d) of this title as qualified health maintenance organizations" for "The Comptroller General shall evaluate the operations of at least fifty of the health maintenance organizations for which assistance was provided under section 300e-2, 300e-3, or 300e-4 of this title" and "The Comptroller General shall report to the Congress the results of the evaluation by June 30, 1978" for "The Comptroller General shall report to the Congress the results of the evaluation not later than ninety days after at least fifty of such health maintenance organizations have been in operation for at least thirty-six months" and struck out provision that the period of operation of evaluated organizations be not less than thirty-six months.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

§ 300e-14. Annual report

(a) The Secretary shall periodically review the programs of assistance authorized by this subchapter and make an annual report to the Congress of a summary of the activities under each program. The Secretary shall include in such summary—

(1) a summary of each grant, contract, loan, or loan guarantee made under this subchapter in the period covered by the report and a list of the health maintenance organizations which during such period became

qualified health maintenance organizations for purposes of section 300e-9 of this title;

(2) the statistics and other information reported in such period to the Secretary in accordance with section 300e(c)(11) of this title;

(3) findings with respect to the ability of the health maintenance organizations assisted under this subchapter—

(A) to operate on a fiscally sound basis without continued Federal financial assistance,

(B) to meet the requirements of section 300e(c) of this title respecting their organization and operation,

(C) to provide basic and supplemental health services in the manner prescribed by section 300e(b) of this title,

(D) to include indigent and high-risk individuals in their membership, and

(E) to provide services to medically underserved populations; and

(4) findings with respect to—

(A) the operation of distinct categories of health maintenance organizations in comparison with each other,

(B) health maintenance organizations as a group in comparison with alternative forms of health care delivery, and

(C) the impact that health maintenance organizations, individually, by category, and as a group, have on the health of the public.

(b) The Office of Management and Budget may review the Secretary's report under subsection (a) of this section before its submission to the Congress, but the Office may not revise the report or delay its submission, and it may submit to the Congress its comments (and those of other departments or agencies of the Government) respecting such report.

(July 1, 1944, ch. 373, title XIII, § 1315, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 933.)

PERIOD OF JULY 1, 1975, THROUGH SEPTEMBER 30, 1976, CONSIDERED AS ONE YEAR

Period of July 1, 1975, through Sept. 30, 1976, considered as one year for purposes of this section, see section 206(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 394, set out as a note under section 1176 of Title 21, Food and Drugs.

§ 300e-14a. Health services for Indians and domestic agricultural migratory and seasonal workers

The Secretary of Health, Education, and Welfare in connection with existing authority (except section 247d of this title) for the provisions of health services to domestic agricultural migratory workers to persons who perform seasonal agricultural services similar to the services performed by such workers and to the families of such workers and persons, is authorized to arrange for the provision of health services to such workers and persons and their families through health maintenance organizations. In carrying out this section the Secretary may only use sums appropriated after December 29, 1973.

(Pub. L. 93-222, § 6(b), Dec. 29, 1973, 87 Stat. 936.)

REFERENCES IN TEXT

Section 247d of this title, referred to in text, was in the original a reference to section 310 of the Public Health Service Act. Such section 310 was renumbered as section 319 by Pub. L. 93-353, title I, § 102(d), July 23, 1974, 88 Stat. 362, and is classified to section 247d of this title.

CODIFICATION

Section was enacted as part of the Health Maintenance Organization Act of 1973, and not as part of the Public Health Service Act which comprises this chapter.

§ 300e-15. Administration of programs

The Secretary shall administer this subchapter (other than sections 300e-9 and 300e-11 of this title) through a single identifiable administrative unit of the Department.

(July 1, 1944, ch. 373, title XIII, § 1316, as added Oct. 8, 1976, Pub. L. 94-460, title I, § 116, 90 Stat. 1954.)

EFFECTIVE DATE

Section effective Oct. 8, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

SUBCHAPTER XII—SAFETY OF PUBLIC WATER SYSTEMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 300s-3, 6909 of this title.

PART A—DEFINITIONS

§ 300f. Definitions

For purposes of this subchapter:

(1) The term "primary drinking water regulation" means a regulation which—

(A) applies to public water systems;

(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

(C) specifies for each such contaminant either—

(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 300g-1 of this title; and

(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

(2) The term "secondary drinking water regulation" which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary accordingly to geographic and other circumstances.

(3) The term "maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

(4) The term "public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (A) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

(5) The term "supplier of water" means any person who owns or operates a public water system.

(6) The term "contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(7) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(8) The term "Agency" means the Environmental Protection Agency.

(9) The term "Council" means the National Drinking Water Advisory Council established under section 300j-5 of this title.

(10) The term "municipality" means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

(11) The term "Federal agency" means any department, agency, or instrumentality of the United States.

(12) The term "person" means an individual, corporation, company, association, partnership, State, or municipality.

(13) The term "State" includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(July 1, 1944, ch. 373, title XIV, § 1401, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1661, and amended June 23, 1976, Pub. L. 94-317, title III, § 301(b)(2), 90 Stat. 707; Oct. 12, 1976, Pub. L. 94-484, title IX, § 905(b)(1), 90 Stat. 2325.)

AMENDMENTS

1976—Par. (13). Pub. L. 94-484 defined "State" to include the Northern Mariana Islands.

Pub. L. 94-317 added par. (13).

SHORT TITLE

For Short Title of Pub. L. 93-523, which enacted this subchapter, see Short Title of 1974 Amendments note set out under section 201 of this title.

RURAL WATER SURVEY; REPORT TO PRESIDENT AND CONGRESS; AUTHORIZATION OF APPROPRIATIONS

Section 3 of Pub. L. 93-523 provided that:

"(a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

"(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

"(2) presently having limited or otherwise inadequate access to drinking water;

"(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and

"(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence of inadequacy of a drinking water supply system.

"(b) Such survey shall be completed within eighteen months of the date of enactment of this Act [Dec. 16, 1974] and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Congress. Such report shall include recommendations for improving rural water supplies.

"(c) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1975; $2,000,000 for the fiscal year ending June 30, 1976; and $1,000,000 for the fiscal year ending June 30, 1977."

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 300g-4, 300g-5 of this title.

PART B—PUBLIC WATER SYSTEMS

§ 300g. Coverage

Subject to sections 300g-4 and 300g-5 of this title, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(3) which does not sell water to any person; and

(4) which is not a carrier which conveys passengers in interstate commerce.

(July 1, 1944, ch. 373, title XIV, § 1411, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1662.)

§ 300g-1. National drinking water regulations

(a) Interim primary regulations; publication of proposed regulations; promulgation; effective date; amendments

(1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after December 16, 1974. Within 180 days after December 16, 1974, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on December 16, 1974.

(3) The interim primary regulations first promulgated under paragraph (1) shall take effect eighteen months after the date of their promulgation.

(b) Recommended maximum contaminant levels and list of contaminants with adverse effect but of undetermined levels: publication of proposals in Federal Register and establishment of recommended levels and list; revised primary regulations: publication of proposed regulations in Federal Register, promulgation, requirements, "feasible" defined, amendments, triennial review, effective date, supersedure of interim primary regulations

(1)(A) Within 10 days of the date the report on the study conducted pursuant to subsection (e) of this section is submitted to Congress, the Administrator shall publish in the Federal Register, and provide opportunity for comment on, the—

(i) proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and

(ii) list in the report of contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

(B) Within 90 days after the date the Administrator makes the publication required by subparagraph (A), he shall by rule establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report on the study conducted pursuant to subsection (e) of this section, may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall, on the basis of the report on the study conducted pursuant to subsection (e) of this section, list in the rules under this subparagraph any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. Based on information available to him, the Administrator may by rule change recommended levels established under this subparagraph or change such list.

(2) On the date the Administrator establishes pursuant to paragraph (1)(B) recommended maximum contaminant levels he shall publish in the Federal Register proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.

(3) Revised national primary drinking water regulations promulgated under paragraph (2) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is established or which is listed in a rule under paragraph (1)(B). The maximum contaminant level specified in a revised national primary drinking water regulation for a contaminant shall be as close to the recommended maximum contaminant level established under paragraph (1)(B) for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been established under paragraph (1)(B) shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (1)(B) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the term "feasible" means feasible with the use of the best technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).

(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 3 years.

(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect eighteen months after the date of their promulgation. Regulations under subsection (a) of this section shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

(6) No national primary drinking water regulation may require the addition of any substance for preventive health care purposes unrelated to contamination of drinking water.

(c) Secondary regulations; publication of proposed regulations; promulgation; amendments

The Administrator shall publish proposed national secondary drinking water regulations within 270 days after December 16, 1974. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

(d) Regulations; public hearings; administrative consultations

Regulations under this section shall be prescribed in accordance with section 553 of title 5 (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

(e) Study; maximum contaminant level determination; adverse effect of contaminants of undetermined levels; report to Congress; funds

(1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangements cannot be made with such Academy) to conduct a study to determine (A) the maximum contaminant levels which should be recommended under subsection (b)(2) of this section in order to protect the health of persons from any known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

(2) The result of the study shall be reported to Congress no later than 2 years after December 16, 1974. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; and (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

(3) In developing its proposals for recommended maximum contaminant levels under paragraph (2)(D) the National Academy of Sciences (or other organization preparing the report) shall evaluate and explain (separately and in composite) the impact of the following considerations:

(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

(C) Synergistic effects resulting from exposure to or interaction by two or more contaminants.

(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

(4) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

(5) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

(6) Of the funds authorized to be appropriated to the Administrator by this subchapter, such amounts as may be required shall be available to carry out the study and to make the report directed by paragraph (2) of this subsection.

(July 1, 1944, ch. 373, title XIV, § 1412, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1662.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300f, 300g-2, 300g-3, 300g-4, 300g-5, 300j-1, 300j-2, 300j-3, 300j-4, 300j-6, 300j-7 of this title; title 21 section 349.

§ 300g-2. State primary enforcement responsibility; regulations; notice and hearing; publication in Federal Register; applications

(a) For purposes of this subchapter, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b) of this section) that such State—

(1) has adopted drinking water regulations which (A) in the case of the period beginning on the date the national interim primary drinking water regulations are promulgated under section 300g-1 of this title and ending on the date such regulations take effect are no less stringent than such regulations, and (B) in the case of the period after such effective date are no less stringent than the interim and revised national primary drinking water regulations in effect under such section;

(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation;

(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in which variances and exemptions may be granted under sections 300g-4 and 300g-5 of this title;

(5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

(b)(1) The Administrator shall, by regulation (proposed within 180 days of December 16, 1974), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) of this section are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are met or are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this subchapter when it is determined to have primary enforcement responsibility for public water systems.

(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) deny the application and notify the applicant in writing of the reasons for his denial.

(July 1, 1944, ch. 373, title XIV, § 1413, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1665.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g-3, 300j-2, 300j-7 of this title.

§ 300g-3. Failure of State to assure enforcement of drinking water regulations

(a) Notice to State; public notice; civil action, conditions

(1)(A) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 300g-2(a) of this title) that any public water system—

(i) for which a variance under section 300g-4 or an exemption under section 300g-5 of this title is not in effect, does not comply with any national primary drinking water regulation in effect under section 300g-1 of this title, or

(ii) for which a variance under section 300g-4 or an exemption under section 300g-5 of this title is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

he shall so notify the State and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance with such regulation or requirement by the earliest feasible time.

(B) If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of the notice given pursuant to subparagraph (A), he shall give public notice of such finding and request the State to report within fifteen days from the date of such public notice as to the steps being taken to bring the system into compliance (including reasons for anticipated steps to be taken to bring the system into compliance and for any failure to take steps to bring the system into compliance). If—

(i) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to subparagraph (A); and

(ii)(α) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence; or

(β) the State submits such report within such period but the Administrator, after considering the report, determines that the State abused its discretion in carrying out primary enforcement responsibility for public water systems by both—

(I) failing to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time, and

(II) failing to assure by such day the provision through alternative means of safe drinking water by the earliest feasible time;

the Administrator may commence a civil action under subsection (b) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

(A) for which a variance under section 300g-4(a)(2) or an exemption under section 300g-5(f) of this title is not in effect, does not comply with any national primary drinking water regulation in effect under section 300g-1 of this title, or

(B) for which a variance under section 300g-4(a)(2) or an exemption under section 300g-5(f) of this title is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

he may commence a civil action under subsection (b) of this section.

(b) Judicial determinations in appropriate Federal district courts; civil penalties, separate violations

The Administrator may bring a civil action in the appropriate United States district court to require compliance with a national primary drinking water regulation or with any schedule or other requirement imposed pursuant to a variance or exemption granted under section 300g-4 or 300g-5 of this title if—

(1) authorized under paragraph (1) or (2) of subsection (a) of this section, or

(2) if requested by (A) the chief executive officer of the State in which is located the

public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter, in an action brought under this subsection, such judgement as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies; and, if the court determines that there has been a willful violation of the regulation or schedule or other requirement with respect to which the action was brought, the court may, taking into account the seriousness of the violation, the population at risk, and other appropriate factors, impose on the violator a civil penalty of not to exceed $5,000 for each day in which such violation occurs.

(c) Notice of owner or operator of public water system to persons served; regulations for form and manner of notice; penalties

Each owner or operator of a public water system shall give notice to the persons served by it—

(1) of any failure on the part of the public water system to—

(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

(B) perform monitoring required by section 300j-4(a) of this title, and

(2) if the public water system is subject to a variance granted under section 300g-4(a)(1)(A) or 300g-4(a)(2) of this title for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 300g-5 of this title, of—

(A) the existence of such variance or exemption, and

(B) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

The Administrator shall by regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), shall be furnished to the other communications media serving such area, and shall be furnished to the communications media as soon as practicable after the discovery of the violation with respect to which the notice is required. If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than $5,000.

(d) Notice of noncompliance with secondary drinking water regulations

Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

(e) State authority to adopt or enforce laws or regulations respecting drinking water regulations or public water systems unaffected

Nothing in this subchapter shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems, but no such law or regulation shall relieve any person of any requirement otherwise applicable under this subchapter.

(f) Notice and public hearing; availability of recommendations transmitted to State and public water system

If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1) of this section) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulation or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media.

(July 1, 1944, ch. 373, title XIV, § 1414, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1666.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g-4, 300g-5, 300j-7 of this title.

§ 300g-4. Variances

(a) Characteristics of raw water sources; specific treatment technique; notice to Administrator, reasons for variance; compliance, enforcement; approval or revision of schedules and revocation of variances; review of variances and schedules; publication in Federal Register, notice and results of review; notice to State; considerations respecting abuse of discretion in granting variances or failing to prescribe schedules; State corrective action; authority of Administrator in a State without primary enforcement responsibility; alternative treatment techniques

Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

(1)(A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the best technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). Before a State may grant a variance under this subparagraph, the State must find that the variance will not result in an unreasonable risk to health. If a State grants a public water system a variance under this subparagraph, the State shall prescribe within one year of the date the variance is granted, a schedule for—

(i) compliance (including increments of progress) by the public water system with each containment level requirement with respect to which the variance was granted, and

(ii) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subparagraph may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice. A schedule prescribed pursuant to this subparagraph for a public water system granted a variance shall require compliance by the system with each contaminant level requirement with respect to which the variance was granted as expeditiously as practicable (as the State may reasonably determine).

(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of the national primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance (and in the case of a variance under subparagraph (A), the basis for the finding required by that subparagraph before the granting of the variance) and documentation of the need for the variance.

(D) Each public water system's variance granted by a State under subparagraph (A) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to that subparagraph. The requirements of each schedule prescribed by a State pursuant to that subparagraph shall be enforceable by the State under its laws. Any requirement of a schedule on which a variance granted under that subparagraph is conditioned may be enforced under section 300g-3 of this title as if such requirement was part of a national primary drinking water regulation.

(E) Each schedule prescribed by a State pursuant to subparagraph (A) shall be deemed approved by the Administrator unless the variance for which it was prescribed is revoked by the Administrator under subparagraph (G) or the schedule is revised by the Administrator under such subparagraph.

(F) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the variances granted under subparagraph (A) (and schedules prescribed pursuant thereto) and under subparagraph (B) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of variances and schedules as he deems necessary to carry out the purposes of this subchapter, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (i) provide information respecting the location of data and other information respecting the variances to be reviewed (including data and other infor-

mation concerning new scientific matters bearing on such variances), and (ii) advise of the opportunity to submit comments on the variances reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

(G)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to prescribe schedules in accordance with subparagraph (A), the Administrator shall notify the State of his findings. In determining if a State has abused its discretion in granting variances in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the variances and if the requirements applicable to the granting of the variances were complied with. A notice under this clause shall—

(I) identify each public water system with respect to which the finding was made,

(II) specify the reasons for the finding, and

(III) as appropriate, propose revocations of specific variances or propose revised schedules or other requirements for specific public water systems granted variances, or both.

(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised schedules or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a schedule or other requirement for a variance and if, before a revocation of such variance or a revision of such schedule or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or schedule or other requirement which the Administrator determines makes his finding inapplicable to such variance or schedule or other requirement, the Administrator shall rescind the application of his finding to that variance on schedule or other requirement. No variance revocation or revised schedule or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule or other requirement was proposed.

(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

(b) Enforcement of schedule or other requirement

Any schedule or other requirement on which a variance granted under paragraph (1)(B) or (2) of subsection (a) of this section is conditioned may be enforced under section 300g-3 of this title as if such schedule or other requirement was part of a national primary drinking water regulation.

(c) Applications for variances; regulations: reasonable time for acting

If an application for a variance under subsection (a) of this section is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

(d) "Treatment technique requirement" defined

For purposes of this section, the term "treatment technique requirement" means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 300f(1)(C)(ii) of this title) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 300g-1(b)(3) of this title.

(July 1, 1944, ch. 373, title XIV, § 1415, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1669.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g, 300g-2, 300g-3, 300j-2, 300j-7, 300j-8 of this title.

§ 300g-5. Exemptions

(a) Requisite findings

A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement.

(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement, and

(3) the granting of the exemption will not result in an unreasonable risk to health.

(b) Compliance schedule and implementation of control measures; notice and hearing; dates for compliance with schedule; compliance, enforcement; approval or revision of schedules and revocation of exemptions

(1) If a State grants a public water system an exemption under subsection (a) of this section, the State shall prescribe, within one year of the date the exemption is granted, a schedule for—

(A) compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and

(B) implementation by the public water system of such control measures as the State may require for each contaminent, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) of this section shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations promulgated under section 300g-1(a) of this title, not later than January 1, 1981; and

(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, not later than seven years after the date such requirement takes effect.

(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, 1983; and

(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect.

(3) Each public water system's exemption granted by a State under subsection (a) of this section shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 300g-3 of this title as if such requirement was part of a national primary drinking water regulation.

(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) of this section or the schedule is revised by the Administrator under such subsection.

(c) Notice to Administrator; reasons for exemption

Each State which grants an exemption under subsection (a) of this section shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption (including the basis for the finding required by subsection (a)(3) of this section before the exemption may be granted) and document the need for the exemption.

(d) Review of exemptions and schedules; publication in Federal Register, notice and results of review; notice to State; considerations respecting abuse of discretion in granting exemptions or failing to prescribe schedules; State corrective action

(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this subchapter, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (A) provide information respecting the location of data and other information respecting the exemptions to be reviewed (including data and other information concerning new scientific matters bearing on such exemptions), and (B) advise of the opportunity to submit comments on the exemptions reviewed and on the need for continuing them. Upon completion of

any such review, the Administrator shall publish in the Federal Register the results of his review, together with findings responsive to comments submitted in connection with such review.

(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) of this section or failed to prescribe schedules in accordance with subsection (b) of this section, the Administrator shall notify the State of his findings. In determining if a State has abused its discretion in granting exemptions in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the exemptions and if the requirements applicable to the granting of the exemptions were complied with. A notice under this subparagraph shall—

(i) identify each exempt public water system with respect to which the finding was made,

(ii) specify the reasons for the finding, and

(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

(e) "Treatment technique requirement" defined

For purposes of this section, the term "treatment technique requirement" means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 300f(1)(C)(ii) of this title) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 300g-1(b)(3) of this title.

(f) Authority of Administrator in a State without primary enforcement responsibility

If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

(g) Applications for exemptions; regulations; reasonable time for acting

If an application for an exemption under this section is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

(July 1, 1944, ch. 373, title XIV, § 1416, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1672.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g, 300g-2, 300g-3, 300j-2, 300j-7, 300j-8 of this title.

PART C—PROTECTION ON UNDERGROUND SOURCES OF DRINKING WATER

§ 300h. Regulations for State programs

(a) Publication of proposed regulations; promulgation; amendments; public hearings; administrative consultations.

(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after December 16, 1974. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

(2) Any regulation under this section shall be proposed and promulgated in accordance with section 553 of title 5 (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested State entities.

(b) Minimum requirements; restrictions

(1) Regulations under subsection (a) of this section for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2) of this section. Such regulations shall require that a State program, in order to be approved under section 300h-1 of this title—

(A) shall prohibit, effective three years after December 16, 1974, any underground injection in such State which is not authorized

by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers drinking water sources;

(C) shall include inspection, monitoring, recordkeeping, and reporting requirements; and

(D) shall apply (i) as prescribed by section 300j-6(b) of this title, to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

(2) Regulations of the Administrator under this section for State underground injection control programs may not prescribe requirements which interfere with or impede—

(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

(c) Temporary permits; notice and hearing

(1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i) of this section) temporary permits for underground injection which may be effective until the, expiration of four years after December 16, 1974, if—

(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i) of this section), but after reasonable notice and hearing, one or more temporary permits each of which is applicable to a particular injection well and to the underground injection of a particular fluid and which may be effective until the expiration of four years after December 16, 1974, if the State finds, on the record of such hearing—

(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.

(d) "Underground injection" defined; underground injection endangerment of drinking water sources

For purposes of this part:

(1) The term "underground injection" means the subsurface emplacement of fluids by well injection.

(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

(July 1, 1944, ch. 373, title XIV, § 1421, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1674.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h-1, 300j-2, 300j-7 of this title.

§ 300h-1. State primary enforcement responsibility

(a) List of States in need of a control program; amendment of list

Within 180 days after December 16, 1974, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

(b) State applications; notice to Administrator of compliance with revised or added requirements; approval or disapproval by Administrator; duration of State primary enforcement responsibility; public hearing

(1)(A) Each State listed under subsection (a) of this section shall within 270 days after the date of promulgation of any regulation under section 300h of this title (or, if later, within 270 days after such State is first listed under subsection (a) of this section) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which

meets the requirements of regulations in effect under section 300h of this title; and

(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

(B) Within 270 days of any amendment of a regulation under section 300h of this title revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) of this section shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

(c) Program by Administrator for State without primary enforcement responsibility; restrictions

If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2) of this section, if the Administrator determines under subsection (b)(3) of this section that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A) of this section, or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1) of this section, the Administrator shall by regulation within 90 days after the date of such disapproval, determination, or expiration (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 300h(b) of this title. Such program may not include requirements which interfere with or impede—

(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

(d) "Applicable underground injection control program" defined

For purposes of this subchapter, the term "applicable underground injection control program" with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b) of this section, or (2) which has been prescribed by the Administrator under subsection (c) of this section.

(July 1, 1944, ch. 373, title XIV, § 1422, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1676.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h, 300h-2, 300j-2, 300j-4 of this title.

§ 300h-2. Failure of State to assure enforcement of program

(a) Notice to State and violator; public notice; civil action, conditions

(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 300h-1(b)(3) of this title) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such findings and request the State to report within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

(B)(i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b)(1) of this section.

(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may com-

mence a civil action under subsection (b)(1) of this section.

(b) Judicial determinations in appropriate Federal district courts; civil penalties; separate violations; penalties for willful violations

(1) When authorized by subsection (a) of this section, the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed $5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a)(1) of this section.

(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the States does not have primary enforcement responsibility for underground water sources (A) shall be subject to a civil penalty of not more than $5,000 for each day of such violation, or (B) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (B), be fined not more than $10,000 for each day of such violation.

(c) State authority to adopt or enforce laws or regulations respecting underground injection unaffected

Nothing in this subchapter shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this subchapter.

(July 1, 1944, ch. 373, title XIV, § 1423, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1677.)

§ 300h-3. Interim regulation of underground injections

(a) Necessity for well operation permit; designation of one aquifer areas

(1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b) of this section. The Administrator may so designate an area within a State if he finds that the area has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

(b) Well operation permits; publication in Federal Register; notice and hearing; issuance or denial; conditions for issuance

(1) During the period beginning on the date an area is designated under subsection (a) of this section and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) of this section only, if he finds that the operation of such well will not cause contamination of the aquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the aquifer of the designated area in which the well is located so as to create a significant hazard to public health.

(c) Civil penalties; separate violations; penalties for willful violations; temporary restraining order or injunction

Any person who operates a new underground injection well in violation of subsection (b) of this section, (1) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs, or (2) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (1), be fined not more than $10,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b) of this section, he may petition the United States district court to issue a temporary restraining order or injunc-

tion (including a mandatory injunction) to enforce such subsection.

(d) "New underground injection well" defined

For purposes of this section, the term "new underground injection well" means an underground injection well whose operation was not approved by appropriate State and Federal agencies before December 16, 1974.

(e) Areas with one aquifer; publication in Federal Register; commitments for Federal financial assistance

If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

(July 1, 1944, ch. 373, title XIV, § 1424, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1678.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j-4 of this title.

PART D—EMERGENCY POWERS

§ 300i. Emergency powers

(a) Actions authorized against imminent and substantial endangerment to health

Notwithstanding any other provision of this subchapter the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. To the extent he determines it to be practicable in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taking. The action which the Administrator may take may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

(b) Penalties for violations; separate offenses

Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) of this section may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $5,000 for each day in which such violation occurs or failure to comply continues.

(July 1, 1944, ch. 373, title XIV, § 1431, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1680.)

PART E—GENERAL PROVISIONS

§ 300j. Assurances of availability of adequate supplies of chemicals necessary for treatment of water

(a) Certification of need application

If any person who uses chlorine, activated carbon, lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when required for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a "certification of need") that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

(b) Application requirements; publication in Federal Register; waiver; certification, issuance or denial

(1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.

(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The requirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding with a brief statement of reasons therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

(3) Within 30 days after—

(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

(B) the date on which such application is received if as authorized by the second sen-

tence of such paragraph no notice is published with respect to such application,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

(c) Certification of need; issuance; executive orders; implementation of orders; equitable apportionment of orders; factors considered

(1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufactures, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors, and repackagers of chlorine, the President or his delegate shall, in carrying out the requirements of the preceding sentence, consider—

(A) the geographical relationships and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producer to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

(3) Subject to subsection (f) of this section, any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

(d) Breach of contracts; defense

There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c)(1) of this section, that such delay or failure was caused solely by compliance with such order.

(e) Penalties for noncompliance with orders; temporary restraining orders and preliminary or permanent injunctions

(1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c)(1) of this section shall be fined not more than $5,000 for each such failure to comply.

(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) of this section shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.

(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)(1) of this section, he may petition a United States district court to issue a temporary restraining order or preliminary or permanent injunction (including a mandatory injunction) to enforce the provision of such order.

(f) Termination dates

No certification of need or order issued under this section may remain in effect—

(1) for more than one year, or

(2) after June 30, 1977, whichever occurs first.

(July 1, 1944, ch. 373, title XIV, § 1441, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1680.)

EX. ORD. NO. 11879. DELEGATION OF FUNCTIONS TO SECRETARY OF COMMERCE RELATING TO ORDERS FOR PROVISION OF CHEMICALS OR SUBSTANCES NECESSARY FOR TREATMENT OF WATER

Ex. Ord. No. 11879, Sept. 17, 1975, 40 F.R. 43197, provided:

By virtue of the authority vested in me by Section 1441 of the Public Health Service Act, as amended by the Safe Drinking Water Act (88 Stat. 1680, 42 U.S.C. 300j), and as President of the United States, the Secretary of Commerce is hereby delegated, with power to redelegate to agencies, officers and employees of the Government, the functions of the President contained in said section 1441 [this section]. Those functions shall be administered under regulations or agreements which are identical or compatible with other regulations and agreements, including those provided pursuant to Executive Order No. 10480, as amended [set out as a note under section 2153 of Title 50, Appendix, War and National Defense], for the allocation of similar chemicals or substances.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j-4 of this title.

§ 300j-1. Research, technical assistance, information, training of personnel

(a) Specific powers and duties of Administrator

(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

(B) improved methods to identify and measure the health effects of contaminants in drinking water;

(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

(E) improved methods of protecting underground water sources of public water systems from contamination.

(2) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 300j-2(c)(1) of this title).

(3) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 300g-1 of this title.

(4) The Administrator shall conduct a survey and study of—

(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

(B) means of control of such waste disposal.

Not later than one year after December 16, 1974, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after December 16, 1974, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate.

(b) Other powers and duties of Administrator

In carrying out this subchapter, the Administrator is authorized to—

(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this subchapter;

(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this subchapter (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 300j-2(d) of this title)).

(c) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

(July 1, 1944, ch. 373, title XIV, § 1442, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1682.)

§ 300j-2. Grants for State programs

(a) Public water system supervision programs; applications for grants; allotment of sums; authorization of appropriations

(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for public water systems within the State.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

(4) In each fiscal year the Administrator shall, in accordance, with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. No State shall receive less than 1 per centum of the annual appropriation for grants under paragraph (1): *Provided,* That the Administrator may, by regulation, reduce such percentage in accordance with the criteria specified in this paragraph: *And provided further,* That such percentage shall not apply to grants allotted to Guam, American Samoa, or the Virgin Islands.

(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977.

(b) Underground water source protection programs; applications for grants; allotment of sums; authorization of appropriations

(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

(A) has established or will establish within two years from the date of such grant an underground water source protection, and

(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for underground water sources within the State.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's cost (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, and underground water source protection program.

(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, and other relevant factors.

(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, and $7,500,000 for the fiscal year ending June 30, 1977.

(c) Definitions

For purposes of this section:

(1) The term "public water system supervision program" means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 300g-4 and 300g-5 of this title) which are no less stringent than the national primary drinking water regulations under section 300g-1 of this title, and for keeping records and making reports required by section 300g-2(a)(3) of this title.

(2) The term "underground water source protection program" means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 300h of this title and for keeping records and making reports required by section 300h-1(b)(1)(A)(ii) of this title.

(July 1, 1944, ch. 373, title XIV, § 1443, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1684.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j-1 of this title.

§ 300j-3. Special project grants and guaranteed loans

(a) Special study and demonstration project grants

The Administrator may make grants to any person for the purposes of—

(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology, for providing a dependably safe supply of drinking water to the public; and

(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate

health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

(b) Limitations

Grants made by the Administrator under this section shall be subject to the following limitations:

(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

(c) Authorization of appropriations

For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.

(d) Loan guarantees to public water systems; conditions; indebtedness limitation; regulations

The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 300g-1 of this title. No such guarantee may be made with respect to a system unless (1) such system cannot reasonably obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranted with respect to any system may not exceed $50,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $50,000,000. The Administrator shall prescribe regulations to carry out this subsection.

(July 1, 1944, ch. 373, title XIV, § 1444, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1685.)

§ 300j-4. Records and inspections

(a) Persons subject to requirements

Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 300g-1 of this title or to an applicable underground injection control program (as defined in section 300h-1(c) of this title), who is or may be subject to the permit requirement of section 300h-3 of this title, or to an order issued under section 300j of this title, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this subchapter, in determining whether such person has acted or is acting in compliance with this subchapter or in administering any program of financial assistance under this subchapter.

(b) Entry of establishments, facilities, or other property; inspections; conduct of certain tests; audit and examination of records; entry restrictions; prohibition against informing of a proposed entry

(1) Except as provided in paragraph (2), the Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to a national primary drinking water regulation prescribed under section 300g-1 of this title or applicable underground injection control program (or person in charge of any of the propertay of such supplier or other person), is authorized to enter any establishment, facility, or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this subchapter, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) of this section or which are pertinent to any financial assistance under this subchapter.

(2) No entry may be made under the first sentence of paragraph (1) in an establishment, facility, or other property of a supplier of water or other person subject to a national primary drinking water regulation if the establishment, facility, or other property is located in a State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental

to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry. No State agency which receives notice under this paragraph of an entry proposed to be made under paragraph (1) may use the information contained in the notice to inform the person whose property is proposed to be entered of the proposed entry; and if a State agency so uses such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency has provided him satisfactory assurances that it will no longer so use information contained in a notice under this paragraph.

(c) Penalty

Whoever fails or refuses to comply with any requirement of subsection (a) of this section or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) of this section may be fined not more than $5,000.

(d) Confidential information; trade secrets and secret processes; information disclosure; "information required under this section" defined

(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

(2) Any information required under this section (A) may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this subchapter or to committees of the Congress, or when relevant in any proceeding under this subchapter, and (B) shall be disclosed to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term "information required under this section" means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

(e) "Grantee" and "person" defined

For purposes of this section, (1) the term "grantee" means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this subchapter, and (2) the term "person" includes a Federal agency.

(July 1, 1944, ch. 373, title XIV, § 1445, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1686.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300g-3 of this title.

§ 300j-5. National Drinking Water Advisory Council

(a) Establishment; membership; representation of interests; term of office, vacancies; reappointment

There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) the terms of the members first taking office shall expire as follows: Five shall expire three years after December 16, 1974, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

(b) Functions

The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this subchapter.

(c) Compensation and allowances; travel expenses

Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5.

(d) Advisory committee termination provision inapplicable

Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

(July 1, 1944, ch. 373, title XIV, § 1446, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1688.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (c), is set out under section 5332 of Title 5, Government Organization and Employees.

Section 5703 of title 5, referred to in subsec. (c), was amended generally by Pub. L. 94-22, § 4, May 19, 1975,

89 Stat. 85, and as so amended does not contain a subsec. (b).

Section 14(a) of the Federal Advisory Committee Act, referred to in subsec. (d), is set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300f of this title.

§ 300j-6. Federal agencies

(a) Compliance with national primary drinking water regulations; applicable underground injection control programs: compliance with programs, recordkeeping, and reports

Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 300g-1 of this title, and each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

(b) Waiver; national security; records available in judicial proceedings; publication in Federal Register; notice to Congressional Committees

The Administrator shall waive compliance with subsection (a) of this section upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this subchapter. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

(July 1, 1944, ch. 373, title XIV, § 1447, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1688.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300h of this title.

§ 300j-7. Judicial review

(a) Courts of appeals; petition for review: actions respecting regulations; filing period; grounds arising after expiration of filing period; exclusiveness of remedy

A petition for review of—

(1) action of the Administrator in promulgating any national primary drinking water regulation under section 300g-1 of this title, any regulation under section 300g-2(b)(1) of this title, any regulation under section 300g-3(c) of this title, any regulation for State underground injection control programs under section 300h of this title, or any general regulation for the administration of this subchapter may be filed only in the United States Court of Appeals for the District of Columbia Circuit; and

(2) action of the Administrator in promulgating any other regulation under this subchapter, issuing any order under this subchapter, or making any determination under this subchapter may be filed only in the United States court of appeals for the appropriate circuit.

Any such petition shall be filed within the 45-day period beginning on the date of the promulgation of the regulation or issuance of the order with respect to which review is sought or on the date of the determination with respect to which review is sought, and may be filed after the expiration of such 45-day period if the petition is based solely on grounds arising after the expiration of such period. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

(b) District courts; petition for review: actions respecting variances or exemptions; filing period; grounds arising after expiration of filing period; exclusiveness of remedy

The United States district courts shall have jurisdiction of actions brought to review (1) the granting of, or the refusing to grant, a variance or exemption under section 300g-4 or 300g-5 of this title or (2) the requirements of any schedule prescribed for a variance or exemption under such section or the failure to prescribe such a schedule. Such an action may only be brought upon a petition for review filed with the court within the 45-day period beginning on the date the action sought to be reviewed is taken or, in the case of a petition to review the refusal to grant a variance or exemption or the failure to prescribe a schedule, within the 45-day period beginning on the date action is required to be taken on the variance, exemption, or schedule, as the case may be. A petition for such review may be filed after the expiration of such period if the petition is based solely on grounds arising after the expiration of such period. Action with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

(c) Judicial order for additional evidence before Administrator; modified or new findings; recommendation for modification or setting aside of original determination

In any judicial proceeding in which review is sought of a determination under this subchapter required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that such additional evidence is mate-

rial and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such term and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

(July 1, 1944, ch. 373, title XIV, § 1448, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1689.)

§ 300j-8. Citizen's civil action

(a) Persons subject to civil action; jurisdiction of enforcement proceedings

Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any requirement prescribed by or under this subchapter, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this subchapter which is not discretionary with the Administrator.

No action may be brought under paragraph (1) against a public water system for a violation of a requirement prescribed by or under this subchapter which occurred within the 27-month period beginning on the first day of the month in which this subchapter is enacted. The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce in an action brought under this subsection any requirement prescribed by or under this subchapter or to order the Administrator to perform an act or duty described in paragraph (2), as the case may be.

(b) Conditions for commencement of civil action; notice

No civil action may be commenced—

(1) under subsection (a)(1) of this section respecting violation of a requirement prescribed by or under this subchapter—

(A) prior to sixty days after the plaintiff has given notice of such violation (i) to the Administrator, (ii) to any alleged violator of such requirement and (iii) to the State in which the violation occurs, or

(B) if the Administrator, the Attorney General, or the State has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with such requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator.

Notice required by this subsection shall be given in such manner as the Administrator shall prescribe by regulation. No person may commence a civil action under subsection (a) of this section to require a State to prescribe a schedule under section 300g-4 or 300g-5 of this title for a variance or exemption, unless such person shows to the satisfaction of the court that the State has in a substantial number of cases failed to prescribe such schedules.

(c) Intervention of right

In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) Costs; attorney fees; expert witness fees; filing of bond

The court, in issuing any final order in any action brought under subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Statutory or common law or other relief available

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any requirement prescribed by or under this subchapter or to seek any other relief.

(July 1, 1944, ch. 373, title XIV, § 1449, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1690.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (d), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 300j-9. General provisions

(a) Regulations; delegation of functions

(1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this subchapter.

(2) The Administrator may delegate any of his functions under this subchapter (other than prescribing regulations) to any officer or employee of the Agency.

(b) Utilization of officers and employees of Federal agencies

The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this subchapter.

(c) Assignment of Agency personnel to State or interstate agencies

Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate

agency for the purposes of carrying out the provisions of this subchapter.

(d) Payments of grants; adjustments; advances; reimbursement; installments; conditions; eligibility for grants; "nonprofit agency or institution" defined

(1) The Administrator may make payments of grants under this subchapter (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term "nonprofit agency or institution" means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

(e) Labor standards

The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40.

(f) Appearance and representation of Administrator through Attorney General or attorney appointees

The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this subchapter to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

(g) Authority of Administrator under other provisions unaffected

The provisions of this subchapter shall not be construed as affecting any authority of the Administrator under part G of subchapter II of this chapter.

(h) Reports to Congressional Committees; review by Office of Management and Budget: submittal of comments to Congressional Committees

Not later than April 1 of each year, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report respecting the activities of the Agency under this subchapter and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this subchapter. The Office of Management and Budget may review any report required by this subsection before its submission to such committees of Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to such committees of Congress its comments respecting any such report.

(i) Discrimination prohibition; filing of complaint; investigation; orders of Secretary; notice and hearing; settlements; attorneys' fees; judicial review; filing of petition; procedural requirements; stay of orders; exclusiveness of remedy; civil actions for enforcement of orders; appropriate relief; expedition of proceedings; mandamus proceedings; prohibition inapplicable to undirected but deliberate violations

(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

(A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this subchapter or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State,

(B) testified or is about to testify in any such proceeding, or

(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this subchapter.

(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines

that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28.

(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this subchapter.

(July 1, 1944, ch. 373, title XIV, § 1450, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1691, and amended S. Res. 4, Feb. 4, 1977.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), referred to in subsec. (e), is set out in the Appendix to Title 5, Government Organization and Employees.

Part C of subchapter II of this chapter, referred to in subsec. (g), is classified to section 264 of this title.

CHANGE OF NAME

The Committee on Commerce of the Senate was abolished and replaced by the Committee on Commerce, Science, and Transportation of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

SUBCHAPTER XIII—NATIONAL HEALTH PLANNING AND DEVELOPMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 300s-3, 300u of this title.

§ 300k. Congressional findings

(a) The Congress makes the following findings:

(1) The achievement of equal access to quality health care at a reasonable cost is a priority of the Federal Government.

(2) The massive infusion of Federal funds into the existing health care system has contributed to inflationary increases in the cost of health care and failed to produce an adequate supply or distribution of health resources, and consequently has not made possible equal access for everyone to such resources.

(3) The many and increasing responses to these problems by the public sector (Federal, State, and local) and the private sector have not resulted in a comprehensive, rational approach to the present—

(A) lack of uniformly effective methods of delivering health care;

(B) maldistribution of health care facilities and manpower; and

(C) increasing cost of health care.

(4) Increases in the cost of health care, particularly of hospital stays, have been uncontrollable and inflationary, and there are presently inadequate incentives for the use of appropriate alternative levels of health care, and for the substitution of ambulatory and intermediate care for inpatient hospital care.

(5) Since the health care provider is one of the most important participants in any health care delivery system, health policy must address the legitimate needs and concerns of the provider if it is to achieve meaningful results; and, thus, it is imperative that the provider be encouraged to play an active role in developing health policy at all levels.

(6) Large segments of the public are lacking in basic knowledge regarding proper personal health care and methods for effective use of available health services.

(b) In recognition of the magnitude of the problems described in subsection (a) of this section and the urgency placed on their solution, it is the purpose of this Act to facilitate the development of recommendations for a national health planning policy, to augment areawide and State planning for health service, manpower, and facilities, and to authorize financial assistance for the development of resources to further that policy.

(Pub. L. 93-641, § 2, Jan. 4, 1975, 88 Stat. 2226.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 93-641, Jan. 4, 1975, 88 Stat. 2225, and is known as the National Health Planning and Resources Development Act of 1974. For complete classification of this Act to the Code, see Short Title of 1975 Amendment note set out under section 201 of this title and Tables volume.

CODIFICATION

Section was enacted as part of the National Health Planning and Resources Development Act of 1974, and not as part of the Public Health Service Act which comprises this chapter.

SHORT TITLE

For Short Title of Pub. L. 93-641, which enacted this subchapter, see Short Title of 1975 Amendments note set out under section 201 of this title.

PART A—NATIONAL GUIDELINES FOR HEALTH PLANNING

§ 300k-1. Guidelines for national health policy

(a) Issuance by Secretary

The Secretary shall, within eighteen months after January 4, 1975, by regulation issue guidelines concerning national health planning policy and shall, as he deems appropriate, by regulation revise such guidelines. Regulations under this subsection shall be promulgated in accordance with section 553 of title 5.

(b) Contents

The Secretary shall include in the guidelines issued under subsection (a) of this section the following:

(1) Standards respecting the appropriate supply, distribution, and organization of health resources.

(2) A statement of national health planning goals developed after consideration of the priorities, set forth in section 300k-2 of this title, which goals, to the maximum extent practicable, shall be expressed in quantitative terms.

(c) Consultation with other agencies

In issuing guidelines under subsection (a) of this section the Secretary shall consult with and solicit recommendations and comments from the health systems agencies designated under part B of this subchapter, the State health planning and development agencies designated under part C of this subchapter, the State wide Health Coordinating Councils established under part C of this subchapter, associations and specialty societies representing medical and other health care providers, and the National Council on Health Planning and Development established by section 300k-3 of this title.

(July 1, 1944, ch. 373, title XV, § 1501, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2227.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300k-3, 300l-2, 300n-2 of this title.

§ 300k-2. National health priorities

The Congress finds that the following deserve priority consideration in the formulation of national health planning goals and in the development and operation of Federal, State, and area health planning and resources development programs:

(1) The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas.

(2) The development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric, emergency medical, intensive and coronary care, and radiation therapy services).

(3) The development of medical group practices (especially those whose services are appropriately coordinated or integrated with institutional health services), health maintenance organizations, and other organized systems for the provision of health care.

(4) The training and increased utilization of physician assistants, especially nurse clinicians.

(5) The development of multi-institutional arrangements for the sharing of support services necessary to all health service institutions.

(6) The promotion of activities to achieve needed improvements in the quality of health services, including needs identified by the review activities of Professional Standards Review Organizations under part B of title XI of the Social Security Act. [42 U.S.C. 1320c et seq.].

(7) The development by health service institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographically integrated basis.

(8) The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services.

(9) The adoption of uniform cost accounting, simplified reimbursement, and utilization reporting systems and improved management procedures for health service institutions.

(10) The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services.

(July 1, 1944, ch. 373, title XV, § 1502, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2227.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (6), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part B of title XI of the Social Security Act is classified generally to part B (§ 1320c et seq.) of subchapter XI of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300l-2, 300n-2, 300u of this title.

§ 300k-3. National Council on Health Planning and Development

(a) Establishment; functions

There is established in the Department of Health, Education, and Welfare an advisory council to be known as the National Council on Health Planning and Development (hereinafter in this section referred to as the "Council"). The Council shall advise, consult with, and make recommendations to, the Secretary with respect to (1) the development of national guidelines under section 300k-1 of this title, (2) the implementation and administration of this subchapter and subchapter XIV of this chapter, and (3) an evaluation of the implications of

new medical technology for the organization, delivery, and equitable distribution of health care services.

(b) Composition; terms of office of members

(1) The Council shall be composed of fifteen members. The Chief Medical Director of the Veterans' Administration, the Assistant Secretary for Health and Environment of the Department of Defense, and the Assistant Secretary for Health of the Department of Health, Education, and Welfare shall be nonvoting ex officio members of the Council. The remaining members shall be appointed by the Secretary and shall be persons who, as a result of their training, experience, or attainments, are exceptionally well qualified to assist in carrying out the functions of the Council. Of the voting members, not less than five shall be persons who are not providers of health services, not more than three shall be officers or employees of the Federal Government, not less than three shall be members of governing bodies of health systems agencies designated under part B of this subchapter, and not less than three shall be members of Statewide Health Coordinating Councils under section 300m-3 of this title. The two major political parties shall have equal representation among the voting members on the Council.

(2) The term of office of voting members of the Council shall be six years, except that—

(A) of the members first appointed to the Council, four shall be appointed for terms of two years and four shall be appointed for terms of four years, as designated by the Secretary at the time of appointment; and

(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

A member may serve after the expiration of his term until his successor has taken office.

(3) The chairman of the Council shall be selected by the voting members from among their number. The term of office of the chairman of the Council shall be the lesser of three years or the period remaining in his term of office as a member of the Council.

(c) Compensation; travel expenses

(1) Except as provided in paragraph (2), the members of the Council shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council.

(2) Members of the Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Council.

(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5.

(d) Services of experts and consultants

The Council may appoint, fix the pay of, and prescribe the functions of such personnel as are necessary to carry out its functions. In addition, the Council may procure the services of experts and consultants as authorized by section 3109 of title 5, but without regard to the last sentence of such section.

(e) Federal Advisory Committee Act not applicable

The provisions of section 14(a) of the Federal Advisory Committee Act shall not apply with respect to the Council.

(July 1, 1944, ch. 373, title XV, § 1503, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2228.)

REFERENCES IN TEXT

Subchapter XIV of this chapter, referred to in subsec. (a), is classified to section 300o et seq. of this title.

Part B of this subchapter, referred to in subsec. (b)(1), is classified to section 300l et seq. of this title.

The General Schedule, referred to in subsec. (c)(1), is set out in section 5332 of Title 5, Government Organization and Employees.

Section 5703 of title 5, referred to in subsec. (c)(3), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

Section 14(a) of the Federal Advisory Committee Act, referred to in subsec. (e), is set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254j, 300k-1, 300o-1 of this title.

PART B—HEALTH SYSTEMS AGENCIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300k-1, 300k-3, 300l of this title.

§ 300l. Health service areas

(a) Requirements; factors considered in establishing boundaries

There shall be established, in accordance with this section, health service areas throughout the United States with respect to which health systems agencies shall be designated under section 300l-4 of this title. Each health service area shall meet the following requirements:

(1) The area shall be a geographic region appropriate for the effective planning and development of health services, determined on the basis of factors including population and the availability of resources to provide all necessary health services for residents of the area.

(2) To the extent practicable, the area shall include at least one center for the provision of highly specialized health services.

(3) The area, upon its establishment, shall have a population of not less than five hundred thousand or more than three million; except that—

(A) the population of an area may be more than three million if the area includes a standard metropolitan statistical area (as determined by the Office of Management and Budget) with a population of more than three million, and

(B) the population of an area may—

(i) be less than five hundred thousand if the area comprises an entire State which has a population of less than five hundred thousand, or

(ii) be less than—

(I) five hundred thousand (but not less than two hundred thousand) in unusual circumstances (as determined by the Secretary), or

(II) two hundred thousand in highly unusual circumstances (as determined by the Secretary),

if the Governor of each State in which the area is located determines, with the approval of the Secretary, that the area meets the other requirements of this subsection.

(4) To the maximum extent feasible, the boundaries of the area shall be appropriately coordinated with the boundaries of areas designated under section 1320c-1 of this title for Professional Standards Review Organizations, existing regional planning areas, and State planning and administrative areas.

The boundaries of a health service area shall be established so that, in the planning and development of health services to be offered within the health service area, any economic or geographic barrier to the receipt of such services in nonmetropolitan areas is taken into account. The boundaries of health service areas shall be established so as to recognize the differences in health planning and health services development needs between non-metropolitan and metropolitan areas. Each standard metropolitan statistical area shall be entirely within the boundaries of one health service area, except that if the Governor of each State in which a standard metropolitan statistical area is located determines, with the approval of the Secretary, that in order to meet the other requirements of this subsection a health service area should contain only part of the standard metropolitan statistical area, then such statistical area shall not be required to be entirely within the boundaries of such health service area.

(b) Notice to state governors; publication in Federal Register; boundary designations; revision; review by Secretary; adoption of comprehensive area plans already developed

(1) Within thirty days following January 4, 1975, the Secretary shall simultaneously give to the Governor of each State written notice of the initiation of proceedings to establish health service areas throughout the United States. Each notice shall contain the following:

(A) A statement of the requirement (in subsection (a) of this section) of the establishment of health service areas throughout the United States.

(B) A statement of the criteria prescribed by subsection (a) of this section for health service areas and the procedures prescribed by this subsection for the designation of health service area boundaries.

(C) A request that the Governor receiving the notice (i) designate the boundaries of health services areas within his State, and, where appropriate and in cooperation with the Governors of adjoining States, designate the boundaries within his State of health service areas located both in his State and in adjoining States, and (ii) submit (in such form and manner as the Secretary shall specify) to the Secretary, within one hundred and twenty days of January 4, 1975, such boundary designations together with comments, submitted by the entities referred to in paragraph (2), with respect to such designations.

At the time such notice is given under this paragraph to each Governor, the Secretary shall publish as a notice in the Federal Register a statement of the giving of his notice to the Governor and the criteria and procedures contained in such notice.

(2) Each State's Governor shall in the development of boundaries for health service areas consult with and solicit the views of the chief executive officer or agency of the political subdivisions within the State, the State agency which administers or supervises the administration of the State's health planning functions under a State plan approved under section 246(a) of this title, each entity within the State which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 246(b) of this title, and each regional medical program established in the State under subchapter VII of this chapter.

(3)(A) Within two hundred and ten days after January 4, 1975, the Secretary shall publish as a notice in the Federal Register the health service area boundary designations. The boundaries for health service areas submitted by the Governors shall, except as otherwise provided in subparagraph (B), constitute upon their publication in the Federal Register the boundaries for such health service areas.

(B)(i) If the Secretary determines that a boundary submitted to him for a health service area does not meet the requirements of subsection (a) of this section, he shall, after consultation with the Governor who submitted such boundary, make such revision in the boundary for such area (and as necessary, in the boundaries for adjoining health service areas) as may be necessary to meet such requirements and publish such revised boundary (or boundaries); and the revised boundary (or boundaries) shall upon publication in the Federal Register constitute the boundary (or boundaries) for such health service area (or areas). The Secretary shall notify the Governor of each State in which is located a health service area whose boundary is revised under this clause of the boundary revision and the reasons for such revision.

(ii) In the case of areas of the United States not included within the boundaries for health service areas submitted to the Secretary as requested under the notice under paragraph (1), the Secretary shall establish and publish in the Federal Register, health service area boundaries which include such areas. The Secretary shall notify the Governor of each State in which is located a health service area the boundary for which is established under this

clause of the boundaries established. In carrying out the requirement of this clause, the Secretary may make such revisions in boundaries submitted under subparagraph (A) as he determines are necessary to meet the requirement of subsection (a) of this section for the establishment of health service areas throughout the United States.

(4) The Secretary shall review on a continuing basis and at the request of any Governor or designated health systems agency the appropriateness of the boundaries of the health service areas established under paragraph (3) and, if he determines that a boundary for a health service area no longer meets the requirements of subsection (a) of this section, he may revise the boundaries in accordance with the procedures prescribed by paragraph (3)(B)(ii) for the establishment of boundaries of health service areas which include areas not included in boundaries submitted by the Governors. If the Secretary acts on his own initiative to revise the boundaries of any health service area, he shall consult with the Governor of the appropriate State or States, the entities referred to in paragraph (2), the appropriate health systems agency or agencies designated under part B of this subchapter and the appropriate Statewide Health Coordinating Council established under part C of this subchapter. A request for boundary revision shall be made only after consultation with the Governor of the appropriate State or States, the entities referred to in paragraph (2), the appropriate designated health systems agencies. and the appropriate established Statewide Health Coordinating Council and shall include the comments concerning the revision made by the entities consulted in requesting the revision.

(5) Within one year after January 4, 1975, the Secretary shall complete the procedures for the initial establishment of the boundaries of health service areas which (except as provided in section 300n-5 of this title) include the geographic area of all the States.

(c) Waiver of requirements

Notwithstanding any other requirement of this section, an area—

(1) for which has been developed a comprehensive regional, metropolitan area, or other local area plan referred to in section 246(b) of this title, and

(2) which otherwise meets the requirements of subsection (a) of this section,

shall be designated by the Secretary as a health service area unless the Governor of any State in which such area is located, upon a findings that another area is a more appropriate region for the effective planning and development of health resources, waives such requirement.

(July 1, 1944, ch. 373, title XV, § 1511, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2229, and amended Apr. 22, 1976, Pub. L. 94-278, title XI, § 1106(a), 90 Stat. 416.)

REFERENCES IN TEXT

Subchapter VII of this chapter, referred to in subsec. (b)(2), is classified to section 299 et seq. of this title.

Parts B and C of this subchapter, referred to in subsec. (b)(4), are classified to sections 300*l* et seq. and 300m et seq. of this title.

AMENDMENTS

1976—Subsec. (b)(5). Pub. L. 94-278 substituted "300n-5" for "300n-4".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*-4, 4577 of this title.

§ 300*l*-1. Health systems agency

(a) Definition

For purposes of this subchapter, the term "health systems agency" means an entity which is organized and operated in the manner described in subsection (b) of this section and which is capable, as determined by the Secretary, of performing each of the functions described in section 300*l*-2 of this title. The Secretary shall by regulation establish standards and criteria for the requirements of subsection (b) of this section and section 300*l*-2 of this title.

(b) Legal structure; staff; governing body; responsibilities; composition; limitation of individual liability; acceptance of contributions; reports

(1) A health systems agency for a health service area shall be—

(A) a nonprofit private corporation (or similar legal mechanism such as a public benefit corporation) which is incorporated in the State in which the largest part of the population of the health service area resides, which is not a subsidiary of, or otherwise controlled by, any other private or public corporation or other legal entity, and which only engages in health planning and development functions;

(B) a public regional planning body if (i) it has a governing board composed of a majority of elected officials of units of general local government or it is authorized by State law (in effect before January 4, 1975) to carry out health planning and review functions such as those described in section 300*l*-2 of this title, and (ii) its planning area is identical to the health service area; or

(C) a single unit of general local government if the area of the jurisdiction of that unit is identical to the health service area.

A health systems agency may not be an educational institution or operate such an institution.

(2)(A) A health systems agency shall have a staff which provides the agency with expertise in at least the following: (i) Administration, (ii) the gathering and analysis of data, (iii) health planning, and (iv) development and use of health resources. The functions of planning and of development of health resources shall be conducted by staff with skills appropriate to each function.

(B) The size of the professional staff of any health systems agency shall be not less than five, except that if the quotient of the population (rounded to the next highest one hundred thousand) of the health service area which the agency serves divided by one hundred thousand is greater than five, the minimum size of the professional staff shall be the lesser of (i) such quotient, or (ii) twenty-five. The members of the staff shall be selected, paid, promoted, and discharged in accordance with such system as the agency may establish, except that the rate of pay for any position shall not be less than the rate of pay prevailing in the health service

area for similar positions in other public or private health service entities. If necessary for the performance of its functions, a health systems agency may employ consultants and may contract with individuals and entities for the provision of services. Compensation for consultants and for contracted services shall be established in accordance with standards established by regulation by the Secretary.

(3)(A) A health systems agency which is a public regional planning body or unit of general local government shall, in addition to any other governing body, have a governing body for health planning, which is established in accordance with subparagraph (C), which shall have the responsibilities prescribed by subparagraph (B), and which has exclusive authority to perform for the agency the functions described in section 300*l*-2 of this title. Any other health systems agency shall have a governing body composed, in accordance with subparagraph (C), of not less than ten members and of not more than thirty members, except that the number of members may exceed thirty if the governing body has established another unit (referred to in this paragraph as an "executive committee") composed, in accordance with subparagraph (C), of not more than twenty-five members of the governing body and has delegated to that unit the authority to take such action (other than the establishment and revision of the plans referred to in subparagraph (B)(ii)) as the governing body is authorized to take.

(B) The governing body—

(i) shall be responsible for the internal affairs of the health systems agency, including matters relating to the staff of the agency, the agency's budget, and procedures and criteria (developed and published pursuant to section 300n-1 of this title) applicable to its functions under subsections (e), (f), and (g) of section 300*l*-2 of this title;

(ii) shall be responsibile for the establishment of the health systems plan and annual implementation plan required by section 300*l*-2(b) of this title;

(iii) shall be responsible for the approval of grants and contracts made and entered into under section 300*l*-2(c)(3) of this title;

(iv) shall be responsible for the approval of all actions taken pursuant to subsections (e), (f), (g), and (h), of section 300*l*-2 of this title;

(v) shall (I) issue an annual report concerning the activities of the agency, (II) include in that report the health systems plan and annual implementation plan developed by the agency, and a listing of the agency's income, expenditures, assets, and liabilities, and (III) make the report readily available to the residents of the health service area and the various communications media serving such area;

(vi) shall reimburse its members for their reasonable costs incurred in attending meetings of the governing body;

(vii) shall meet at least once in each calendar quarter of a year and shall meet at least two additional times in a year unless its executive committee meets at least twice in that year; and

(viii) shall (I) conduct its business meetings in public, (II) give adequate notice to the public of such meetings, and (III) make its records and data available, upon request, to the public.

The governing body (and executive committee (if any)) of a health systems agency shall act only by vote of a majority of its members present and voting at a meeting called upon adequate notice to all of its members and at which a quorum is in attendance. A quorum for a governing body and executive committee shall be not less than one-half of its members.

(C) The membership of the governing body and the executive committee (if any) of an agency shall meet the following requirements:

(i) A majority (but not more than 60 per centum of the members) shall be residents of the health service area served by the entity who are consumers of health care and who are not (nor within the twelve months preceding appointment been) providers of health care and who are broadly representative of the social, economic, linguistic and racial populations, geographic areas of the health service area, and major purchasers of health care.

(ii) The remainder of the members shall be residents of the health service area served by the agency who are providers of health care and who represent (I) physicians (particularly practicing physicians) dentists, nurses, optometrists, and other health professionals, (II) health care institutions (particularly hospitals, long-term care facilities, substance abuse treatment facilities, and health maintenance organizations), (III) health care insurers, (IV) health professional schools, and (V) the allied health professions. Not less than one-third of the providers of health care who are members of the governing body or executive committee of a health systems agency shall be direct providers of health care (as described in section 300n(3) of this title).

(iii) The membership shall—

(I) include (either through consumer or provider members) public elected officials and other representatives of governmental authorities in the agency's health service area and representatives of public and private agencies in the area concerned with health,

(II) include a percentage of individuals who reside in nonmetropolitan areas within the health service area which percentage is equal to the percentage of residents of the area who reside in nonmetropolitan areas, and

(III) if the health systems agency serves an area in which there is located one or more hospitals or other health care facilities of the Veterans' Administration, include, as an ex officio member, an individual whom the Chief Medical Director of the Veterans' Administration shall have designated for such purpose, and if the agency serves an area in which there is located one or more qualified health maintenance organizations (within the meaning of section 300e-9 of this title), include at least one member who is representative of such organizations.

(iv) If, in the exercise of its functions, a governing body or executive committee appoints

a subcommittee of its members or an advisory group, it shall, to the extent practicable, make its appointments to any such subcommittee or group in such a manner as to provide the representation on such subcommittee or group described in this subparagraph.

(4) No individual who, as a member or employee of a health system agency, shall, by reason of his performance of any duty, function, or activity required of, or authorized to be undertaken by, the agency under this subchapter be liable for the payment of damages under any law of the United States or any State (or political subdivision thereof) if he has acted within the scope of such duty, function, or activity, has exercised due care, and has acted, with respect to that performance, without malice toward any person affected by it.

(5) No health systems agency may accept any funds or contributions of services or facilities from any individual or private entity which has a financial, fiduciary, or other direct interest in the development, expansion, or support of health resources, unless, in the case of an entity, it is an organization described in section 509(a) of title 26 and is not directly engaged in the provision of health care in the health service area of the agency. For purposes of this paragraph, an entity shall not be considered to have such an interest solely on the basis of its providing (directly or indirectly) health care for its employees.

(6) Each health system agency shall—

(A) make such reports, in such form and containing such information, concerning its structure, operations, performance of functions, and other matters as the Secretary may from time to time require, and keep such records and afford such access thereto as the Secretary may find necessary to verify such reports;

(B) provide for such fiscal control and fund accounting procedures as the Secretary may require to assure proper disbursement of, and accounting for, amounts received from the Secretary under this subchapter and section 300t of this title; and

(C) permit the Secretary and the Comptroller General of the United States, or their representatives, to have access for the purpose of audit and examination to any books, documents, papers, and records pertinent to the disposition of amounts received from the Secretary under this subchapter and section 300t of this title.

(c) Subarea councils

A health systems agency may establish subarea advisory councils representing parts of the agencies' health service area to advise the governing body of the agency on the performance of its functions. The composition of a subarea advisory council shall conform to the requirements of subsection (b)(3)(C) of this section.

(July 1, 1944, ch. 373, title XV, § 1512, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2232, and amended Mar. 19, 1976, Pub. L. 94-237, § 14(b), 90 Stat. 249; Oct. 12, 1976, Pub. L. 94-484, title IX, § 902(a), 90 Stat. 2324.)

Amendments

1976—Subsec. (b)(3)(C)(ii)(I). Pub. L. 94-484 inserted reference to "optometrists," following "nurses,".

Subsec. (b)(3)(C)(ii)(II). Pub. L. 94-237 inserted ", substance abuse treatment facilities" after "long-term care facilities".

Effective Date of 1976 Amendment

Section 902(c) of Pub. L. 94-484 provided that: "The amendments made by subsections (a) and (b) [to subsec. (b)(3)(C)(ii)(I) of this section and section 300n(3)(A) of this title] shall take effect on the date of enactment of this Act [Oct. 12, 1976]."

Section Referred to in Other Sections

This section is referred to in sections 300*l*-3, 300*l*-4, 300n-2, 300n-4, 300t of this title.

§ 300*l*-2. Functions of health systems agencies

(a) Health planning as primary responsibility

For the purpose of—

(1) improving the health of residents of a health service area,

(2) increasing the accessibility (including overcoming geographic, architectural, and transportation barriers), acceptability, continuity, and quality of the health services provided them,

(3) restraining increases in the cost of providing them health services, and

(4) preventing unnecessary duplication of health resources,

each health systems agency shall have as its primary responsibility the the[1] provision of effective health planning for its health service area and the promotion of the development within the area of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of the agency. To meet its primary responsibility, a health systems agency shall carry out the functions described in subsections (b) through (g) of this section.

(b) Health Systems and Annual Implementation Plans; establishment; review

In providing health planning and resources development for its health service area, a health systems agency shall perform the following functions:

(1) The agency shall assemble and analyze data concerning—

(A) the status (and its determinants) of the health of the residents of its health service area,

(B) the status of the health care delivery system in the area and the use of that system by the residents of the area,

(C) the effect the area's health care delivery system has on the health of the residents of the area,

(D) the number, type, and location of the area's health resources, including health services, manpower, and facilities,

(E) the patterns of utilization of the area's health resources, and

(F) the environmental and occupational exposure factors affecting immediate and long-term health conditions.

In carrying out this paragraph, the agency shall to the maximum extent practicable use

[1] So in original.

existing data (including data developed under Federal health programs) and coordinate its activities with the cooperative system provided for under section 242k(e) of this title.

(2) The agency shall, after appropriate consideration of the recommended national guidelines for health planning policy issued by the Secretary under section 300k-1 of this title, the priorities set forth in section 300k-2 of this title, and the data developed pursuant to paragraph (1), establish, annually review, and amend as necessary a health systems plan (hereinafter in this subchapter referred to as the "HSP") which shall be a detailed statement of goals (A) describing a healthful environment and health systems in the area which, when developed, will assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable cost, for all residents of the area; (B) which are responsive to the unique needs and resources of the area; and (C) which take into account and is consistent with the national guidelines for health planning policy issued by the Secretary under section 300k-1 of this title respecting supply, distribution, and organization of health resources and services. Before establishing an HSP, a health systems agency shall conduct a public hearing on the proposed HSP and shall give interested persons an opportunity to submit their views orally and in writing. Not less than thirty days prior to such hearing, the agency shall publish in at least two newspapers of general circulation throughout its health service area a notice of its consideration of the proposed HSP, the time and place of the hearing, the place at which interested persons may consult the HSP in advance of the hearing, and the place and period during which to submit written comments to the agency on the HSP.

(3) The agency shall establish, annually review, and amend as necessary an annual implementation plan (hereinafter in this subchapter referred to as the "AIP") which describes objectives which will achieve the goals of the HSP and priorities among the objectives. In establishing the AIP, the agency shall give priority to those objectives which will maximally improve the health of the residents of the area, as determined on the basis of the relation of the costs of attaining such objectives to their benefits, and which are fitted to the special needs of the area.

(4) The agency shall develop and publish specific plans and projects for achieving the objectives established in the AIP.

(c) Implementation of Plans; grants and contracts; restrictions

A health systems agency shall implement its HSP and AIP, and in implementing the plans it shall perform at least the following functions:

(1) The agency shall seek, to the extent practicable, to implement its HSP and AIP with the assistance of individuals and public and private entities in its health service area.

(2) The agency may provide, in accordance with the priorities established in the AIP, technical assistance to individuals and public and private entities for the development of projects and programs which the agency determines are necessary to achieve the health systems described in the HSP, including assistance in meeting the requirements of the agency prescribed under section 300n-1(b) of this title.

(3) The agency shall, in accordance with the priorities established in the AIP, make grants to public and nonprofit private entities and enter into contracts with individuals and public and nonprofit private entities to assist them in planning and developing projects and programs which the agency determines are necessary for the achievement of the health systems described in the HSP. Such grants and contracts shall be made from the Area Health Services Development Fund of the agency established with funds provided under grants made under section 300t of this title. No grants or contract under this subsection may be used (A) to pay the costs incurred by an entity or individual in the delivery of health services (as defined in regulations of the Secretary), or (B) for the cost of construction or modernization of medical facilities. No single grant or contract made or entered into under this paragraph shall be available for obligation beyond the one year period beginning on the date the grant or contract was made or entered into. If an individual or entity receives a grant or contract under this paragraph for a project or program, such individual or entity may receive only one more such grant or contract for such project or program.

(d) Coordination of activities with other agencies

Each health systems agency shall coordinate its activities with—

(1) each Professional Standards Review Organization (designated under section 1320c-1 of this title),

(2) entities referred to in paragraphs (1) and (2) of section 3334(a) of this title and regional and local entities the views of which are required to be considered under regulations prescribed under section 4233 of this title to carry out section 4231(b) of this title,

(3) other appropriate general or special purpose regional planning or administrative agencies, and

(4) any other appropriate entity,

in the health system agency's health service area. The agency shall, as appropriate, secure data from them for use in the agency's planning and development activities, enter into agreements with them which will assure that actions taken by such entities which alter the area's health system will be taken in a manner which is consistent with the HSP and the AIP in effect for the area, and, to the extent practicable, provide technical assistance to such entities.

(e) Approval of use of federal funds

(1)(A) Except as provided in subparagraph (B), each health systems agency shall review and approve or disapprove each proposed use within its health service area of Federal funds—

(i) appropriated under this chapter, the Community Mental Health Centers Act, [42 U.S.C. 2689 et seq.], sections 409 and 410 of the Drug Abuse Office and Treatment Act [21

U.S.C. 1176 and 1177], or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [42 U.S.C. 4541 et seq.] for grants, contracts, loans, or loan guarantees for the development, expansion, or support of health resources; or

(ii) made available by the State in which the health service area is located (from an allotment to the State under an Act referred to in clause (i)) for grants or contracts for the development, expansion, or support of health resources.

(B) A health systems agency shall not review and approve or disapprove the proposed use within its health service area of Federal funds appropriated for grants or contracts under subchapter III, V, or VI of this chapter unless the grants or contracts are to be made, entered into, or used to support the development of health resources intended for use in the health service area or the delivery of health services. In the case of a proposed use within the health service area of a health systems agency of Federal funds described in subparagraph (A) by an Indian tribe or inter-tribal Indian organization for any program or project which will be located within or will specifically serve—

(i) a federally-recognized Indian reservation.

(ii) any land area in Oklahoma which is held in trust by the United States for Indians or which is a restricted Indian-owned land area, or

(iii) a Native Village in Alaska (as defined in section 1602(c) of title 43),

a health systems agency shall only review and comment on such proposed use.

(2) Notwithstanding any other provision of this chapter or any other Act referred to in paragraph (1), the Secretary shall allow a health systems agency sixty days to make the review required by such paragraph. If an agency disapproves a proposed use in its health service area of Federal funds described in paragraph (1), the Secretary may not make such Federal funds available for such use until he has made, upon request of the entity making such proposal, a review of the agency decision. In making any such review of any agency decision, the Secretary shall give the appropriate State health planning and development agency an opportunity to consider the decision of the health systems agency and to submit to the Secretary its comments on the decision. The Secretary, after taking into consideration such State agency's comments (if any), may make such Federal funds available for such use, notwithstanding the disapproval of the health systems agency. Each such decision by the Secretary to make funds available shall be submitted to the appropriate health systems agency and State health planning and development agency and shall contain a detailed statement of the reasons for the decision.

(3) Each health systems agency shall provide each Indian tribe or inter-tribal Indian organization which is located within the agency's health service area information respecting the availability of the Federal funds described in the first sentence of this subsection.

(f) Recommendations for new institutional health services

To assist State health planning and development agencies in carrying out their functions under paragraphs (4) and (5) of section 300m-2(a) of this title each health systems agency shall review and make recommendations to the appropriate State health planning and development agency respecting the need for new institutional health services proposed to be offered or developed in the health service area of such health systems agency.

(g) Institutional health services, review

(1) Except as provided in paragraph (2), each health systems agency shall review on a periodic basis (but at least every five years) all institutional health services offered in the health service area of the agency and shall make recommendations to the State health planning and development agency designated under section 300m of this title for each State in which the health systems agency's health service area is located respecting the appropriateness in the area of such services.

(2) A health systems agency shall complete its initial review of existing institutional health services within three years after the date of the agency's designation under section 300l-4(c) of this title.

(h) Recommendations of projects to state health planning and development agencies

Each health systems agency shall annually recommend to the State health planning and development agency designated for each State in which the health systems agency's health service area is located (1) projects for the modernization, construction, and conversion of medical facilities in the agency's health service area which projects will achieve the HSP and AIP of the health systems agency, and (2) priorities among such projects.

(July 1, 1944, ch. 373, title XV, § 1513, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2235, and amended Mar. 19, 1976, Pub. L. 94-237, § 14(a), 90 Stat. 249.)

REFERENCES IN TEXT

The Community Mental Health Centers Act, referred to in subsec. (e)(1)(A)(i), is Pub. L. 88-164, title II, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309, which is classified principally to subchapter III (§ 2689 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see Short Title note under section 2689 of this title and Tables volume.

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, referred to in subsec. (e)(1)(A)(i), is Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, which is classified principally to chapter 60 (§ 4541 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of this title and Tables volume.

Subchapters III, V, and VI of this chapter, referred to in subsec. (e)(1)(B), are classified to sections 281 et seq., 292 et seq., and 296 et seq. of this title.

AMENDMENTS

1976—Subsec. (e)(1)(A)(i). Pub. L. 94-237 inserted "sections 409 and 410 of the Drug Abuse Office and Treatment Act".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300l-1, 300l-3, 300l-4, 300m-1, 300m-2, 300n-1 to 300n-5, 300o-3, 300p, 300t of this title.

§ 300l-3. Assistance to entities desiring to be designated as health systems agencies

The Secretary may provide all necessary technical and other nonfinancial assistance (including the preparation of prototype plans of organization and operation) to nonprofit private entities (including entities presently receiving financial assistance under section 246(b) of this title or subchapter VII of this chapter or as experimental health service delivery systems under section 242b of this title) which—

(1) express a desire to be designated as health systems agencies, and

(2) the Secretary determines have a potential to meet the requirements of a health systems agency specified in sections 300l-1 and 300l-2 of this title,

to assist such entities in developing applications to be submitted to the Secretary under section 300l-4 of this title and otherwise in preparing to meet the requirements of this part for designation as a health systems agency.

(July 1, 1944, ch. 373, title XV, § 1514, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2239.)

REFERENCES IN TEXT

Subchapter VII of this chapter, referred to in text, is classified to section 299 et seq. of this title.

§ 300l-4. Designation of health systems agencies

(a) Agreements; time limitation

At the earliest practicable date after the establishment under section 300l of this title of health service areas (but not later than eighteen months after January 4, 1975) the Secretary shall enter into agreements in accordance with this section for the designation of health systems agencies for such areas.

(b) Conditional designation

(1) The Secretary may enter into agreements with entities under which the entities would be designated as the health systems agencies for health service areas on a conditional basis with a view to determining their ability to meet the requirements of section 300l-1(b) of this title, and their capacity to perform the functions prescribed by section 300l-2 of this title.

(2) During any period of conditional designation (which may not exceed 24 months), the Secretary may require that the entity conditionally designated meet only such of the requirements of section 300l-1(b) of this title and perform only such of the functions prescribed by section 300l-2 of this title as he determines such entity to be capable of meeting and performing. The number and type of such requirements and functions shall, during the period of conditional designation, be progressively increased as the entity conditionally designated becomes capable of added responsibility so that, by the end of such period, the agency may be considered for designation under subsection (c) of this section.

(3) Any agreement under which any entity is conditionally designated as a health systems agency may be terminated by such entity upon ninety days notice to the Secretary or by the Secretary upon ninety days notice to such entity.

(4) The Secretary may not enter into an agreement with any entity under paragraph (1) for conditional designation as a health systems agency for a health service area until—

(A) the entity has submitted an application for such designation which contains assurances satisfactory to the Secretary that upon completion of the period of conditional designation the applicant will be organized and operated in the manner described in section 300l-1(b) of this title and will be qualified to perform the functions prescribed by section 300l-2 of this title;

(B) a plan for the orderly assumption and implementation of the functions of a health systems agency has been received from the applicant and approved by the Secretary; and

(C) the Secretary has consulted with the Governor of each State in which such health service area is located and with such other State and local officials as he may deem appropriate, with respect to such designation.

In considering such applications, the Secretary shall give priority to an application which has been recommended for approval by each entity which has developed a plan referred to in section 246(b) of this title for all or part of the health service area with respect to which the application was submitted, and each regional medical program established in such area under subchapter VII of this chapter.

(c) Agreements on a determination of capability; period of designation; renewal

(1) The Secretary shall enter into an agreement with an entity for its designation as a health systems agency if, on the basis of an application under paragraph (2) (and, in the case of an entity conditionally designated, on the basis of its performance during a period of conditional designation under subsection (b) of this section as a health systems agency for a health service area), the Secretary determines that such entity is capable of fulfilling, in a satisfactory manner, the requirements and functions of a health systems agency. Any such agreement under this subsection with an entity may be renewed in accordance with paragraph (3), shall contain such provisions respecting the requirements of sections 300l-1(b) and 300l-2 of this title and such conditions designed to carry out the purpose of this subchapter, as the Secretary may prescribe, and shall be for a term of not to exceed twelve months; except that, prior to the expiration of such term, such agreement may be terminated—

(A) by the entity at such time and upon such notice to the Secretary as he may by regulation prescribe, or

(B) by the Secretary, at such time and upon such notice to the entity as the Secretary may by regulation prescribe, if the Secretary determines that the entity is not complying with or effectively carrying out the provisions of such agreement.

(2) The Secretary may not enter into an agreement with any entity under paragraph (1) for designation as a health systems agency for a health service area unless the entity has sub-

mitted an application to the Secretary for designation as a health systems agency, and the Governor of each State in which the area is located has been consulted respecting such designation of such entity. Such an application shall contain assurances satisfactory to the Secretary that the applicant meets the requirements of section 300*l*-1(b) of this title and is qualified to perform or is performing the functions prescribed by section 300*l*-2 of this title. In considering such applications, the Secretary shall give priority to an application which has been recommended for approval by (A) each entity which has developed a plan referred to in section 246(b) of this title for all or part of the health service area with respect to which the application was submitted, and (B) each regional medical program established in such area under subchapter VII of this chapter.

(3) An agreement under this subsection for the designation of a health systems agency may be renewed by the Secretary for a period not to exceed twelve months if upon review (as provided in section 300n-4 of this title) of the agency's operation and performance of its functions, he determines that it has fulfilled, in a satisfactory manner, the functions of a health systems agency prescribed by section 300*l*-2 of this title and continues to meet the requirements of section 300*l*-1(b) of this title.

(d) Substitution on termination of agreements

If a designation under subsection (b) or (c) of this section of a health systems agency for a health service area is terminated before the date prescribed for its expiration, the Secretary shall, upon application and in accordance with subsection (b) or (c) of this section (as the Secretary determines appropriate), enter into a designation agreement with another entity to be the health system agency for such area.

(July 1, 1944, ch. 373, title XV, § 1515, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2239.)

REFERENCES IN TEXT

Subchapter VII of this chapter, referred to in subsecs. (b)(3) and (c)(2), is classified to section 299 et seq. of this title.

AUTHORIZATION OF APPROPRIATIONS

Section 5(a)(2) of Pub. L. 93-641 provided that: "There are authorized to be appropriated for the fiscal year ending June 30, 1975, and the next fiscal year such sums as may be necessary to make grants under section 304 of the Public Health Service Act [section 242b of this title] for experimental health services delivery systems, section 314(b) of such Act, and title IX of such Act [section 246(b) of this title, and subchapter VII of this chapter], except that no grant made with funds appropriated under this paragraph shall be available for obligation beyond the later of (A) June 30, 1976, or (B) three months after the date on which a health systems agency has been designated under section 1415 of such Act [probably refers to section 1515 of such Act which is classified to this section] for a health service area which includes the area of the entity for which a grant is made under such section 304, 314(b), or title IX [section 242b, 246(b), or subchapter VII of this chapter]."

REFERENCE TO AGENCY OR ORGANIZATION WHICH DEVELOPED A COMPREHENSIVE REGIONAL, METROPOLITAN OR OTHER LOCAL AREA PLAN OR PLANS

Section 5(c)(2) of Pub. L. 93-641 provided that:

"(c) A reference in any law or regulation—

* * * * *

"(2) to an agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) of the Public Health Service Act [section 246(b) of this title] shall if all or part of the area covered by such plan or plans is within a health service area established under section 1511 of the Public Health Service Act [section 300*l* of this title] be considered a reference to the health systems agency designated under section 1515 of such Act [this section] for such health service area; and".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254e, 254f, 254j, 300*l*, 300*l*-2, 300*l*-3, 300*l*-5, 300t of this title.

§ 300*l*-5. Planning grants

(a) Conditions; restriction on use of funds

The Secretary shall make in each fiscal year a grant to each health systems agency with which there is in effect a designation agreement under subsection (b) or (c) of section 300*l*-4 of this title. A grant under this subsection shall be made on such conditions as the Secretary determines is appropriate, shall be used by a health systems agency for compensation of agency personnel, collection of data, planning, and the performance of the functions of the agency, and shall be available for obligation for a period not to exceed the period for which its designation agreement is entered into or renewed (as the case may be). A health systems agency may use funds under a grant under this subsection to make payments under contracts with other entities to assist the health systems agency in the performance of its functions; but it shall not use funds under such a grant to make payments under a grant or contract with another entity for the development or delivery of health services or resources.

(b) Maximum and minimum grants

(1) The amount of any grant under subsection (a) of this section to a health systems agency designated under section 300*l*-4(b) of this title shall be determined by the Secretary. The amount of any grant under subsection (a) of this section to any health systems agency designated under section 300*l*-4(c) of this title shall be the lesser of—

(A) the product of $0.50 and the population of the health service area for which the agency is designated, or

(B) $3,750,000,

unless the agency would receive a greater amount under paragraph (2) or (3).

(2)(A) If the application of a health systems agency for such a grant contains assurances satisfactory to the Secretary that the agency will expend or obligate in the period in which such grant will be available for obligation non-Federal funds meeting the requirements of subparagraph (B) for the purposes for which such grant may be made, the amount of such grant shall be the sum of—

(i) the amount determined under paragraph (1), and

(ii) the lesser of (I) the amount of such non-Federal funds with respect to which the assurances were made, or (II) the product of

$0.25 and the population of the health service area for which the agency is designated.

(B) The non-Federal funds which an agency may use for the purpose of obtaining a grant under subsection (a) of this section which is computed on the basis of the formula prescribed by subparagraph (A) shall—

(i) not include any funds contributed to the agency by any individual or private entity which has a financial, fiduciary, or other direct interest in the development, expansion, or support of health resources, and

(ii) be funds which are not paid to the agency for the performance of particular services by it and which are otherwise contributed to the agency without conditions as to their use other than the condition that the funds shall be used for the purposes for which a grant made under this section may be used.

(3) The amount of a grant under subsection (a) of this section to a health systems agency designated under section 300*l*-4(c) of this title may not be less than $175,000.

(c) Authorization of appropriations

(1) For the purpose of making payments pursuant to grants made under subsection (a) of this section, there are authorized to be appropriated $60,000,000 for the fiscal year ending June 30, 1975, $90,000,000 for the fiscal year ending June 30, 1976, and $125,000,000 for the fiscal year ending June 30, 1977.

(2) Notwithstanding subsection (b) of this section, if the total of the grants to be made under this section to health systems agencies for any fiscal year exceeds the total of the amounts appropriated under paragraph (1) for that fiscal year, the amount of the grant for that fiscal year to each health systems agency shall be an amount which bears the same ratio to the amount determined for that agency for that fiscal year under subsection (b) of this section as the total of the amounts appropriated under paragraph (1) for that fiscal year bears to the total amount required to make grants to all health systems agencies in accordance with the applicable provision of subsection (b) of this section; except that the amount of any grant to a health systems agency for any fiscal year shall not be less than $175,000, unless the amount appropriated for that fiscal year under paragraph (1) is less than the amount required to make such a grant to each health systems agency.

(July 1, 1944, ch. 373, title XV, § 1516, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2241.)

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, under subsec. (c)(2) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 106(a) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 396, set out as a note under section 297j of this title.

REDUCTION OF AMOUNTS FOR GRANTS FOR THE FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 106(e), Apr. 21, 1976, 90 Stat. 386, provided that: "Notwithstanding the provisions of section 1516(b) of the Public Health Service Act (42 U.S.C. 300*l*-5(b)), the amounts specified in sections 1516(b)(1)(A), 1516(b)(1)(B), 1516(b)(2)(A)(i), 1516(b)(2)(A)(ii)(II), and 1516(h)(3) [subsecs. (b)(1)(A), (b)(1)(B), (b)(2)(A)(i), (b)(2)(A)(ii)(II), and (b)(3) of this section, respectively] for purposes of grants made under section 1516 [this section] in the period of July 1, 1976, through September 30, 1976, shall be reduced by 75 per centum."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (a) of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300m-3, 300n-5 of this title.

PART C—STATE HEALTH PLANNING AND DEVELOPMENT

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300k-1, 300*l* of this title.

§ 300m. Designation of State health planning and development agencies

(a) Authority of Secretary to enter into agreements

For the purpose of the performance within each State of the health planning and development functions prescribed by section 300m-2 of this title, the Secretary shall enter into and renew agreements (described in subsection (b) of this section) for the designation of a State health planning and development agency for each State other than a State for which the Secretary may not under subsection (d) of this section enter into, continue in effect, or renew such an agreement.

(b) State administrative program; Governor as the authority to select agency; requirements; conditional designation; period of agreement; termination; designation of State agency for the State; termination and renewal

(1) A designation agreement under subsection (a) of this section is an agreement with the Governor of a State for the designation of an agency (selected by the Governor) of the government of that State as the State health planning and development agency (hereinafter in this part referred to as the "State Agency") to administer the State administrative program prescribed by section 300m-1 of this title and to carry out the State's health planning and development functions prescribed by section 300m-2 of this title. The Secretary may not enter into such an agreement with the Governor of a State unless—

(A) there has been submitted by the State a State administrative program which has been approved by the Secretary,

(B) an application has been made to the Secretary for such an agreement and the application contains assurances satisfactory to the Secretary that the agency selected by the

Governor for designation as the State Agency has the authority and resources to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 300m-2 of this title, and

(C) in the case of an agreement entered into under paragraph (3), there has been established for the State a Statewide Health Coordinating Council meeting the requirements of section 300m-3 of this title.

(2)(A) The agreement entered into with a Governor of a State under subsection (a) of this section may provide for the designation of a State Agency on a conditional basis with a view to determining the capacity of the designated State Agency to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 300m-2 of this title. The Secretary shall require as a condition to the entering into of such an agreement that the Governor submit on behalf of the agency to be designated a plan for the agency's orderly assumption and implementation of such functions.

(B) The period of an agreement described in subparagraph (A) may not exceed twenty-four months. During such period the Secretary may require that the designated State Agency perform only such of the functions of a State Agency prescribed by section 300m-2 of this title as he determines it is capable of performing. The number and type of such functions shall, during such period, be progressively increased as the designated State Agency becomes capable of added responsibility, so that by the end of such period the designated State Agency may be considered for designation under paragraph (3),

(C) Any agreement with a Governor of a State entered into under subparagraph (A) may be terminated by the Governor upon ninety day's notice to the Secretary or by the Secretary upon ninety days' notice to the Governor.

(3) If, on the basis of an application for designation as a State Agency (and, in the case of an agency conditionally designated under paragraph (2), on the the basis of its performance under an agreement with a Governor of a State entered into under such paragraph), the Secretary determines that the agency is capable of fulfilling, in a satisfactory manner, the responsibilities of a State Agency, he shall enter into an agreement with the Governor of the State designating the agency as the State Agency for the State. No such agreement may be made unless an application therefor is submitted to, and approved by, the Secretary. Any such agreement shall be for a term of not to exceed twelve months, except that, prior to the expiration of such term, such agreement may be terminated—

(A) by the Governor at such time and upon such notice to the Secretary as he may by regulation prescribe, or

(B) by the Secretary, at such time and upon such notice to the Governor as the Secretary may by regulation prescribe, if the Secretary determines that the designated State Agency is not complying with or effectively carrying out the provisions of such agreement.

An agreement under this paragraph shall contain such provisions as the Secretary may require to assure that the requirements of this part respecting State Agencies are complied with.

(4) An agreement entered into under paragraph (3) for the designation of a State Agency may be renewed by the Secretary for a period not to exceed twelve months if he determines that it has fulfilled, in a satisfactory manner, the responsibilities of a State Agency during the period of the agreement to be renewed and if the applicable State administrative program continues to meet the requirements of section 300m-1 of this title.

(c) Agreements for substitution

If a designation agreement with the Governor of a State entered into under subsection (b)(2) or (b)(3) of this section is terminated before the date prescribed for its expiration, the Secretary shall, upon application and in accordance with subsection (b)(2), or (b)(3) of this section (as the Secretary determines appropriate), enter into another agreement with the Governor for the designation of a State Agency.

(d) Suspension of grants

If, upon the expiration of the fourth fiscal year which begins after 1975, an agreement under this section for the designation of a State Agency for a State is not in effect, the Secretary may not make any allotment, grant, loan, or loan guarantee, or enter into any contract, under this chapter, the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.], or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [42 U.S.C. 4541 et seq.] for the development, expansion, or support of health resources in such State until such time as such an agreement is in effect.

(July 1, 1944, ch. 373, title XV, § 1521, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2242.)

REFERENCES IN TEXT

The Community Mental Health Centers Act, referred to in subsec. (d), is Pub. L. 88-164, title II, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309, which is classified principally to subchapter III (§ 2689 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2689 of this title and Tables volume.

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, referred to in subsec. (d), is Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, which is classified principally to chapter 60 (§ 4541 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of this title and Tables volume.

REFERENCE TO STATE AGENCY ADMINISTERING OR SUPERVISING ADMINISTRATION OF STATE'S HEALTH PLANNING FUNCTIONS UNDER APPROVED STATE PLAN

Section 5(c)(1) of Pub. L. 93-641 provided that:

"A reference in any law or regulation—

"(1) to the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) of the Public Health Service Act [246(a) of this title] shall in the case of a State for which a State Health planning and development agency has been designated under section 1521 of such Act [this sec-

tion] be considered a reference to the State agency designated under such section 1521."

REFERENCE TO REGIONAL MEDICAL PROGRAM ASSISTED FOR RESEARCH ETC., IN HEART DISEASE, CANCER, STROKE, AND RELATED DISEASES

Section 5(c)(3) of Pub. L. 93-641 provided that:
"(c) A reference in any law or regulation—

* * * * *

"(3) to a regional medical program assisted under title IX of the Public Health Service Act [subchapter VII of this chapter] shall if the program is located in a State for which a State health planning and development agency has been designated under section 1521 of the Public Health Service Act [this section] be considered a reference to such State agency."

AUTHORIZATION OF APPROPRIATIONS

Section 5(a)(1) of Pub. L. 93-641 authorized appropriations for the fiscal year ending June 30, 1975, and the next fiscal year of such sums as may be necessary to make grants under section 246(a) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254e, 254f, 254j, 300*l*-2, 300m-2, 300m-3, 300m-4, 300m-5, 300n-5, 2689u of this title.

§ 300m-1. State administrative program

(a) Conditions for approval by Secretary

A State administrative program (hereinafter in this section referred to as the "State Program") is a program for the performance within the State by its State Agency of the functions prescribed by section 300m-2 of this title. The Secretary may not approve a State Program for a State unless it—

(1) meets the requirements of subsection (b) of this section;

(2) has been submitted to the Secretary by the Governor of the State at such time and in such detail, and contains or is accompanied by such information, as the Secretary deems necessary; and

(3) has been submitted to the Secretary only after the Governor of the State has afforded to the general public of the State a reasonable opportunity for a presentation of views on the State Program.

(b) Requisite features of program

The State Program of a State must—

(1) provide for the performance within the State (after the designation of a State Agency and in accordance with the designation agreement) of the functions prescribed by section 300m-2 of this title and specify the State Agency of the State as the sole agency for the performance of such functions (except as provided in subsection (b) of such section) and for the administration of the State Program;

(2) contain or be supported by satisfactory evidence that the State Agency has under State law the authority to carry out such functions and the State Program in accordance with this part and contain a current budget for the operation of the State Agency;

(3) provide for adequate consultation with, and authority for, the Statewide Health Coordinating Council (prescribed by section 300m-3 of this title), in carrying out such functions and the State Program;

(4)(A) set forth in such detail as the Secretary may prescribe the qualifications for personnel having responsibilities in the performance of such functions and the State Program, and require the State Agency to have a professional staff for planning and a professional staff for development, which staffs shall be of such size and meet such qualifications as the Secretary may prescribe;

(B) provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient administration of such functions and the State Program, including methods relating to the establishment and maintenance of personnel standards on a merit basis consistent with such standards as are or may be established by the Civil Service Commission under section 4728(a) of this title, but the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with the methods relating to personnel standards on a merit basis established and maintained in conformity with this paragraph;

(5) require the State Agency to perform its functions in accordance with procedures and criteria established and published by it, which procedures and criteria shall conform to the requirements of section 300n-1 of this title;

(6) require the State Agency to (A) conduct its business meetings in public, (B) give adequate notice to the public of such meetings, and (C) make its records and data available, upon request, to the public;

(7)(A) provide for the coordination (in accordance with regulations of the Secretary) with the cooperative system provided for under section 242k(e) of this title of the activities of the State Agency for the collection, retrieval, analysis, reporting, and publication of statistical and other information related to health and health care, and (B) require providers of health care doing business in the State to make statistical and other reports of such information to the State Agency;

(8) provide, in accordance with methods and procedures prescribed or approved by the Secretary, for the evaluation, at least annually, of the performance by the State Agency of its functions and of their economic effectiveness;

(9) provide that the State Agency will from time to time, and in any event not less often than annually, review the State Program and submit to the Secretary required modifications;

(10) require the State Agency to make such reports, in such form and containing such information, concerning its structure, operations, performance of functions, and other matters as the Secretary may from time to time require, and keep such records and afford such access thereto as the Secretary may find necessary to verify such reports;

(11) require the State Agency to provide for such fiscal control and fund accounting procedures as the Secretary may require to assure proper disbursement of, and accounting for, amounts received from the Secretary under this subchapter;

(12) permit the Secretary and the Comptroller General of the United States, or their representatives, to have access for the pur-

pose of audit and examination to any books, documents, papers, and records of the State Agency pertinent to the disposition of amounts received from the Secretary under this subchapter; and

(13) provide that if the State Agency makes a decision in the performance of a function under paragraph (3), (4), (5), or (6) of section 300m-2(a) of this title or under subchapter XIV of this chapter which is inconsistent with a recommendation made under subsection (f), (g), or (h) of section 300*l*-2 of this title by a health systems agency within the State—

(A) such decision (and the record upon which it was made) shall, upon request of the health systems agency, be reviewed, under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies, by an agency of the State (other than the State health planning and development agency) designated by the Governor,and

(B) the decision of the reviewing agency shall for purposes of this subchapter and subchapter XIV of this chapter be considered the decision of the State health planning and development agency.

(c) Review by Secretary

The Secretary shall approve any State Program and any modification thereof which complies with subsections (a) and (b) of this section. The Secretary shall review for compliance with the requirements of this part the specifications of and operations under each State Program approved by him. Such review shall be conducted not less often than once each year.

(July 1, 1944, ch. 373, title XV, § 1522, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2244.)

REFERENCES IN TEXT

Subchapter XIV of this chapter, referred to in subsec. (b)(13), is classified to section 300o et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300m, 300m-5, 300n-2, 300n-4, 300o-2 of this title.

§ 300m-2. State health planning and development functions

(a) Performance by State agency of a State designated under section 300m(b)(3) of this title.

Each State Agency of a State designated under section 300m(b)(3) of this title shall, except as authorized under subsection (b) of this section, perform within the State the following functions:

(1) Conduct the health planning activities of the State and implement those parts of the State health plan (under section 300m-3(c)(2) of this title) and the plans of the health systems agencies within the State which relate to the government of the State.

(2) Prepare and review and revise as necessary (but at least annually) a preliminary State health plan which shall be made up of the HSP's of the health systems agencies within the State. Such preliminary plan may, as found necessary by the State Agency, contain such revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with state-wide health needs. Such preliminary plan shall be submitted to the State wide Health Coordinating Council of the State for approval or disapproval and for use in developing the State health plan referred to in section 300m-3(c) of this title.

(3) Assist the State-wide Health Coordinating Council of the State in the review of the State medical facilities plan required under section 300o-2 of this title, and in the performance of its functions generally.

(4)(A) Serve as the designated planning agency of the State for the purposes of section 1320a-1 of this title if the State has made an agreement pursuant to such section, and (B) administer a State certificate of need program which applies to new institutional health services proposed to be offered or developed within the State and which is satisfactory to the Secretary. Such program shall provide for review and determination of need prior to the time such services, facilities, and organizations are offered or developed or substantial expenditures are undertaken in preparation for such offering or development, and provide that only those services, facilities, and organizations found to be needed shall be offered or developed in the State. In performing its functions under this paragraph the State Agency shall consider recommendations made by health systems agencies under section 300*l*-2(f) of this title.

(5) After consideration of recommendations submitted by health systems agencies under section 300*l*-2(f) of this title respecting new institutional health services proposed to be offered within the State, make findings as to the need for such services.

(6) Review on a periodic basis (but not less often than every five years) all institutional health services being offered in the State and, after consideration of recommendations submitted by health systems agencies under section 300*l*-2(g) of this title respecting the appropriateness of such services, make public its findings.

(b) Performance by other State agencies

(1) Any function described in subsection (a) of this section may be performed by another agency of the State government upon request of the Governor under an agreement with the State Agency satisfactory to the Secretary.

(2) The requirement of paragraph (4)(B) of subsection (a) of this section shall not apply to a State Agency of a State until the expiration of the first regular session of the legislature of such State which begins after January 4, 1975.

(3) A State Agency shall complete its findings with respect to the appropriateness of any existing institutional health service within one year after the date of a health systems agency has made its recommendation under section 300*l*-2(g) of this title with respect to the appropriateness of the service.

(c) Statement

If a State Agency makes a decision in carrying out a function described in paragraph (4), (5), (6), or (7) of subsection (a) of this section which is not consistent with the goals of the applicable HSP or the priorities of the applicable AIP, the State Agency shall submit to the ap-

propriate health systems agency a detailed statement of the reasons for the inconsistency.

(July 1, 1944, ch. 373, title XV, § 1523, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2246.)

CODIFICATION

Section 300l-2(f) of this title, referred to in subsec. (a)(5), was, in the original, section 1413(f) which has been translated editorially as 300l-2(f) as the probable intent of Congress, since Congress did not enact a section 1413, and such translation conforms to House Report No. 93-640, p. 26.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300l-2, 300m, 300m-1, 300m-3, 300m-4, 300n-1 to 300n-5, 300o-2 of this title.

§ 300m-3. Statewide Health Coordinating Council

(a) Advisory function

A State health planning and development agency designated under section 300m of this title shall be advised by a Statewide Health Coordinating Council (hereinafter in this section referred to as the "SHCC") which (1) is organized in the manner described by subsection (b) of this section, and (2) performs the functions listed in subsection (c) of this section.

(b) Membership; chairman; conduct of meetings

(1) A SHCC of a State shall be composed in the following manner:

(A)(i) A SHCC shall have no fewer than sixteen representatives appointed by the Governor of the State from lists of at least five nominees submitted to the Governor by each of the health systems agencies designated for health service areas which fall, in whole or in part, within the State.

(ii) Each such health systems agency shall be entitled to the same number of representatives on the SHCC.

(iii) Each such health systems agency shall be entitled to at least two representatives on the SHCC. Of the representatives of a health systems agency, not less than one-half shall be individuals who are consumers of health care and who are not providers of health care.

(B) In addition to the appointments made under subparagraph (A), the Governor of the State may appoint such persons (including State officials, public elected officials, and other representatives of governmental authorities within the State) to serve on the SHCC as he deems appropriate; except that (i) the number of persons appointed to the SHCC under this subparagraph may not exceed 40 per centum of the total membership of the SHCC, and (ii) a majority of the persons appointed by the Governor shall be consumers of health care who are not also providers of health care.

(C) Not less than one-third of the providers of health care who are members of a SHCC shall be direct providers of health care (as described in section 300n(3) of this title).

(D) Where two or more hospitals or other health care facilities of the Veterans' Administration are located in a State, the SHCC shall, in addition to the appointed members, include, as an ex officio member, an individual whom the Chief Medical Director of the Veterans' Administration shall have designated as a representative of such facilities.

(2) The SHCC shall select from among its members a chairman.

(3) The SHCC shall conduct all of its business meetings in public, and shall meet at least once in each calendar quarter of a year.

(c) Other functions

A SHCC shall perform the following functions:

(1) Review annually and coordinate the HSP and AIP of each health systems agency within the State and report to the Secretary, for purposes of his review under section 300n-4(c) of this title, its comments on such HSP and AIP.

(2)(A) Prepare and review and revise as necessary (but at least annually) a State health plan which shall be made up of the HSP's of the health systems agencies within the State. Such plan may, as found necessary by the SHCC, contain revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide health needs. Each health systems agency which participates in the SHCC shall make available to the SHCC its HSP for each year for integration into the State health plan and shall, as required by the SHCC, revise its HSP to achieve appropriate coordination with the HSP's of the other agencies which participate in the SHCC or to deal more effectively with statewide health needs.

(B) In the preparation and revision of the State health plan, the SHCC shall review and consider the preliminary State health plan submitted by the State agency under section 300m-2(a)(2) of this title, and shall conduct a public hearing on the plan as proposed and shall give interested persons an opportunity to submit their views orally and in writing. Not less than thirty days prior to any such hearing, the SHCC shall publish in at least two newspapers of general circulation in the State a notice of its consideration of the proposed plan, the time and place of the hearing, the place at which interested persons may consult the plan in advance of the hearing, and the place and period during which to direct written comment to the SHCC on the plan.

(3) Review annually the budget of each such health systems agency and report to the Secretary, for purposes of his review under section 300n-4(a) of this title, its comments on such budget.

(4) Review applications submitted by such health systems agencies for grants under sections 300l-5 and 300t of this title and report to the Secretary its comments on such applications.

(5) Advise the State Agency of the State generally on the performance of its functions.

(6) Review annually and approve or disapprove any State plan and any application (and any revision of a State plan or application) submitted to the Secretary as a condition to the receipt of any funds under allotments made to States under this chapter, the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.], or the Comprehensive Al-

cohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [42 U.S.C. 4541 et seq.]. Notwithstanding any other provision of this chapter or any other Act referred to in the preceding sentence, the Secretary shall allow a SHCC sixty days to make the review required by such sentence. If a SHCC disapproves such a State plan or application, the Secretary may not make Federal funds available under such State plan or application until he has made, upon request of the Governor of the State which submitted such plan or application or another agency of such State, a review of the SHCC decision. If after such review the Secretary decides to make such funds available, the decision by the Secretary to make such funds available shall be submitted to the SHCC and shall contain a detailed statement of the reasons for the decision.

(July 1, 1944, ch. 373, title XV, § 1524, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2247.)

REFERENCES IN TEXT

The Community Mental Health Centers Act, referred to in subsec. (c)(6), is Pub. L. 88-164, title II, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309, which is classified principally to subchapter III (§ 2689 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2689 of this title and Tables volume.

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, referred to in subsec. (c)(6), is Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, which is classified principally to chapter 60 (§ 4541 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 246, 254j, 300k-3, 300m, 300m-1, 300m-2, 300n-4, 300n-5, 300o-2, 300s-1, 2689t of this title.

§ 300m-4. Grants for State health planning and development

(a) Limitation

The Secretary shall make grants to State health planning and development agencies designated under subsection (b)(2) or (b)(3) of section 300m of this title to assist them in meeting the costs of their operation. Any grant made under this subsection to a State Agency shall be available for obligation only for a period not to exceed the period for which its designation agreement is entered into or renewed. The amount of any grant made under this subsection shall be determined by the Secretary, except that no grant to a designated State Agency may exceed 75 per centum of its operation costs (as determined under regulations of the Secretary) during the period for which the grant is available for obligation.

(b) Terms and conditions

Grants under subsection (a) of this section shall be made on such terms and conditions as the Secretary may prescribe; except that the Secretary may not make a grant to a State Agency unless he receives satisfactory assurances that the State Agency will expend in performing the functions prescribed by section 300m-2 of this title during the fiscal year for which the grant is sought an amount of funds from non-Federal sources which is at least as great as the average amount of funds expended, in the three years immediately preceding the fiscal year for which such grant is sought, by the State, for which such State Agency has been designated, for the purposes for which funds under such grant may be used (excluding expenditures of a nonrecurring nature).

(c) Authorization of appropriations

For the purpose of making payments under grants under subsection (a) of this section, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1975, $30,000,000 for the fiscal year ending June 30, 1976, and $35,000,000 for the fiscal year ending June 30, 1977.

(July 1, 1944, ch. 373, title XV, § 1525, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2249.)

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, under subsec. (b) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 106(a) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 396, set out as a note under section 297j of this title.

§ 300m-5. Grants for rate regulation

(a) Limitation

For the purpose of demonstrating the effectiveness of State Agencies regulating rates for the provision of health care, the Secretary may make to a State Agency designated, under an agreement entered into under section 300m(b)(3) of this title, for a State which (in accordance with regulations prescribed by the Secretary) has indicated an intent to regulate (not later than six months after January 4, 1975) rates for the provision of health care within the State. Not more than six State Agencies may receive grants under this subsection.

(b) Requirements

(1) A State Agency which receives a grant under subsection (a) of this section shall—

(A) provide the Secretary satisfactory evidence that the State Agency has under State law the authority to carry out rate regulation functions in accordance with this section and provide the Secretary a current budget for the performance of such functions by it;

(B) set forth in such detail as the Secretary may prescribe the qualifications for personnel having responsibility in the performance of such functions, and shall have a professional staff for rate regulation, which staff shall be headed by a Director;

(C) provide for such methods of administration as found by the Secretary to be necessary for the proper and efficient administration of such functions;

(D) perform its functions in accordance with procedures established and published by it, which procedures shall conform to the requirements of section 300n-1 of this title;

(E) comply with the requirements prescribed by paragraphs (6) through (12) of section 300m-1(b) of this title with respect to the functions prescribed by subsection (a) of this section;

(F) provide for the establishment of a procedure under which the State Agency will obtain the recommendation of the appropriate health systems agency prior to conducting a review of the rates charged or proposed to be charged for services; and

(G) meet such other requirements as the Secretary may prescribe.

(2) In prescribing requirements under paragraph (1) of this subsection, the Secretary shall consider the manner in which a State Agency shall perform its functions under a grant under subsection (a) of this section, including whether the State Agency should—

(A) permit those engaged in the delivery of health services to retain savings accruing to them from effective management and cost control.

(B) create incentives at each point in the delivery of health services for utilization of the most economical modes of services feasible,

(C) document the need for and cost implications of each new service for which a determination of reimbursement rates is sought, and

(D) employ for each type or class of person engaged in the delivery of health services—

(i) a unit for determining the reimbursement rates, and

(ii) a base for determining rates of change in the reimbursement rates,

which unit and base are satisfactory to the Secretary.

(c) Terms and conditions

Grants under subsection (a) of this section shall be made on such terms and conditions as the Secretary may prescribe, except that (1) such a grant shall be available for obligation only during the one-year period beginning on the date such grant was made, and (2) no State Agency may receive more than three grants under subsection (a) of this section.

(d) Reports

Each State Agency which receives a grant under subsection (a) of this section shall report to the Secretary (in such form and manner as he shall prescribe) on the effectiveness of the rate regulation program assisted by such grant. The Secretary shall report annually to the Congress on the effectiveness of the programs assisted by the grants authorized by subsection (a) of this section.

(e) Authorization of appropriations

There are authorized to be appropriated to make payments under grants under subsection (a) of this section $4,000,000 for the fiscal year ending June 30, 1975, $5,000,000 for the fiscal year ending June 30, 1976, and $6,000,000 for the fiscal year ending June 30, 1977.

(July 1, 1944, ch. 373, title XV, § 1526, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2249.)

PART D—GENERAL PROVISIONS

§ 300n. Definitions

For purposes of this subchapter:

(1) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(2) The term "Governor" means the chief executive officer of a State or his designee.

(3) The term "provider of health care" means an individual—

(A) who is a direct provider of health care (including a physician, dentist, nurse, podiatrist, optometrist, or physician assistant) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including hospitals, long-term care facilities, substance abuse treatment facilities, outpatient facilities, and health maintenance organizations) in which such care is provided and, when required by State law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration; or

(B) who is an indirect provider of health care in that the individual—

(i) holds a fiduciary position with, or has a fiduciary interest in, any entity described in subclause (II) or (IV) of clause (ii);

(ii) receives (either directly or through his spouse) more than one-tenth of his gross annual income from any one or combination of the following:

(I) Fees or other compensation for research into or instruction in the provision of health care.

(II) Entities engaged in the provision of health care or in such research or instruction.

(III) Producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care.

(IV) Entities engaged in producing drugs or such other articles.

(iii) is a member of the immediate family of an individual described in subparagraph (A) or in clause (i), (ii), or (iv) of subparagraph (B); or

(iv) is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.

(4) The term "health resources" includes health services, health professions personnel, and health facilities, except that such term does not include Christian Science sanatoriums operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

(5) The term "institutional health services" means the health services provided through health care facilities and health maintenance organizations (as such facilities and organizations are defined in regulations prescribed under section 1320a-1 of this title) and includes the entities through which such services are provided.

(July 1, 1944, ch. 373, title XV, § 1531, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2250, and amended Mar. 19, 1976, Pub. L. 94-237, § 14(c), 90 Stat. 249; Oct. 12, 1976, Pub. L. 94-484, title IX, § 902(b), 90 Stat. 2324.)

AMENDMENTS

1976—Par. (3)(A). Pub. L. 94-484 defined "provider of health care" to include an optometrist.

Pub. L. 94-237 added ", substance abuse treatment facilities" after "long-term care facilities".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-484 effective on Oct. 12, 1976, see section 902(c) of Pub. L. 94-484, set out as an Effective Date of 1976 Amendment note under section 300*l*-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 254j, 300*l*-1, 300m-3 of this title.

§ 300n-1. Procedures and criteria for review of proposed health system changes

(a) Development and publication

In conducting reviews pursuant to subsections (e), (f), and (g) of section 300*l*-2 of this title or in conducting any other reviews of proposed or existing health services, each health systems agency shall (except to the extent approved by the Secretary) follow procedures, and apply criteria, developed and published by the agency in accordance with regulations of the Secretary; and in performing its review functions under section 300m-2 of this title, a State Agency shall (except to the extent approved by the Secretary) follow procedures, and apply criteria, developed and published by the State Agency in accordance with regulations of the Secretary. Procedures and criteria for reviews by health systems agencies and States Agencies may vary according to the purpose for which a particular review is being conducted or the type of health services being reviewed.

(b) Minimum procedures

Each health systems agency and State Agency shall include in the procedures required by subsection (a) of this section at least the following:

(1) Written notification to affected persons of the beginning of a review.

(2) Schedules for reviews which provide that no review shall, to the extent practicable, take longer than ninety days from the date the notification described in paragraph (1) is made.

(3) Provision for persons subject to a review to submit to the agency or State Agency (in such form and manner as the agency or State Agency shall prescribe and publish) such information as the agency or State Agency may require concerning the subject of such review.

(4) Submission of applications (subject to review by a health systems agency or a State Agency) made under this chapter or other provisions of law for Federal financial assistance for health services to the health systems agency or State Agency at such time and in such manner as it may require.

(5) Submission of periodic reports by providers of health services and other persons subject to agency or State Agency review respecting the development of proposals subject to review.

(6) Provision for written findings which state the basis for any final decision or recommendation made by the agency or State Agency.

(7) Notification of providers of health services and other persons subject to agency or State Agency review of the status of the agency or State Agency review of the health services or proposals subject to review, findings made in the course of such review, and other appropriate information respecting such review.

(8) Provision for public hearings in the course of agency or State Agency review if requested by persons directly affected by the review; and provision for public hearings, for good cause shown, respecting agency and State Agency decisions.

(9) Preparation and publication of regular reports by the agency and State Agency of the reviews being conducted (including a statement concerning the status of each such review) and of the reviews completed by the agency and State Agency (including a general statement of the findings and decisions made in the course of such reviews) since the publication of the last such report.

(10) Access by the general public to all applications reviewed by the agency and State Agency and to all other written materials pertinent to any agency or State Agency review.

(11) In the case of construction projects, submission to the agency and State Agency by the entities proposing the projects of letters of intent in such detail as may be necessary to inform the agency and State Agency of the scope and nature of the projects at the earliest possible opportunity in the course of planning of such construction projects.

(c) Minimum criteria

Criteria required by subsection (a) of this section for health systems agency and State Agency review shall include consideration of at least the following:

(1) The relationship of the health services being reviewed to the applicable HSP and AIP.

(2) The relationship of services reviewed to the long-range development plan (if any) of the person providing or proposing such services.

(3) The need that the population served or to be served by such services has for such services.

(4) The availability of alternatives, less costly, or more effective methods of providing such services.

(5) The relationship of services reviewed to the existing health care system of the area in which such services are provided or proposed to be provided.

(6) In the case of health services proposed to be provided, the availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of such services and the availability of alternative uses of such resources for the provision of other health services.

(7) The special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professions schools, multidisciplinary clinics, specialty centers, and such other entities as the Secretary may by regulation prescribe.

(8) The special needs and circumstances of health maintenance organizations for which assistance may be provided under subchapter XI of this chapter.

(9) In the case of a construction project—

(A) the costs and methods of the proposed construction, and

(B) the probable impact of the construction project reviewed on the costs of providing health services by the person proposing such construction project.

The criteria established by any health systems agency or State Agency under paragraph (8) shall be consistent with the standards and procedures established by the Secretary under section 300e-5(c) of this title.

(July 1, 1944, ch. 373, title XV, § 1532, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2251, and amended Oct. 8, 1976, Pub. L. 94-460, title I, § 117(a), 90 Stat. 1954.)

REFERENCES IN TEXT

Subchapter XI of this chapter, referred to in subsec. (c)(8), is classified to section 300e et seq. of this title.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-460 added provision following par. (9) that the criteria established by any health systems agency or State Agency under par. (8) be consistent with the standards and procedures established by the Secretary under section 300e-5(c) of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, see section 118 of Pub. L. 94-460, set out as an Effective Date of 1976 Amendment note under section 300e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*-1, 300*l*-2, 300m-1, 300m-5 of this title.

§ 300n-2. Technical assistance

(a) Designated health systems agencies and State agencies

The Secretary shall provide (directly or through grants or contracts, or both) to designated health systems agencies and State Agencies (1) assistance in developing their health plans and approaches to planning various types of health services, (2) technical materials, including methodologies, policies, and standards appropriate for use in health planning, and (3) other technical assistance as may be necessary in order that such agencies may properly perform their functions.

(b) Data; planning methodologies; guidelines

The Secretary shall include in the materials provided under subsection (a) of this section the following:

(1)(A) Specification of the minimum data needed to determine the health status of the residents of a health service area and the determinants of such status.

(B) Specification of the minimum data needed to determine the status of the health resources and services of a health service area.

(C) Specification of the minimum data needed to describe the use of health resources and services within a health service area.

(2) Planning approaches, methodologies, policies, and standards which shall be consistent with the guidelines established by the Secretary under section 300k-1 of this title for appropriate planning and development of health resources, and which shall cover the priorities listed in section 300k-2 of this title.

(3) Guidelines for the organization and operation of health systems agencies and State Agencies including guidelines for—

(A) the structure of a health systems agency, consistent with section 300*l*-1(b) of this title, and of a State Agency, consistent with section 300m-1 of this title;

(B) the conduct of the planning and development processes;

(C) the performance of health systems agency functions in accordance with section 300*l*-2 of this title; and

(D) the performance of State Agency functions in accordance with section 300m-2 of this title.

(c) National health planning information center, establishment

In order to facilitate the exchange of information concerning health services, health resources, and health planning and resources development practice and methodology, the Secretary shall establish a national health planning information center to support the health planning and resources development programs of health systems agencies, State Agencies, and other entities concerned with health planning and resources development; to provide access to current information on health planning and resources development; and to provide information for use in the analysis of issues and problems related to health planning and resources development.

(d) Operation cost system; cost accounting system; system for calculation of rates; classification system; reporting system

The Secretary shall establish the following within one year of January 4, 1975:

(1) A uniform system for calculating the aggregate cost of operation and the aggregate volume of services provided by health services institutions as defined by the Secretary in regulations. Such system shall provide for the calculation of the aggregate volume to be based on:

(A) The number of patient days;

(B) The number of patient admissions;

(C) The number of out-patient visits; and

(D) Other relevant factors as determined by the Secretary.

(2) A uniform system for cost accounting and calculating the volume of services provided by health services institutions. Such system shall:

(A) Include the establishment of specific cost centers and, where appropriate, subcost centers.

(B) Include the designation of an appropriate volume factor for each cost center.

(C) Provide for an appropriate application of such system in the different types of institutions (including hospitals, nursing homes, and other types of health services institutions), and different sizes of such types of institutions.

(3) A uniform system for calculating rates to be charged to health insurers and other health institutions payors by health service institutions. Such system shall:

(A) Be based on an all-inclusive rate for various categories of patients (including, but not limited to individuals receiving medical, surgical, pediatric, obstetric, and psychiatric institutional health services).

(B) Provide that such rates reflect the true cost of providing services to each such category of patients. The system shall provide that revenues derived from patients in one category shall not be used to support the provision of services to patients in any other category.

(C) Provide for an appropriate application of such system in the different types of institutions (including hospitals, nursing homes, and other types of health service institutions) and different sizes of such types of institutions.

(D) Provide that differences in rates to various classes of purchasers (including health insurers, direct service payors, and other health institution payors) be based on justified and documented differences in the costs of operation of health service institutions made possible by the actions of such purchasers.

(4) A classification system for health services institutions. Such classification system shall quantitatively describe and group health services institutions of the various types. Factors included in such classification system shall include—

(A) the number of beds operated by an institution;

(B) the geographic location of an institution;

(C) the operation of a postgraduate physician training program by an institution; and

(D) the complexity of services provided by an institution.

(5) A uniform system for the reporting by health services institutions of—

(A) the aggregate cost of operation and the aggregate volume of services, as calculated in accordance with the system established by the Secretary under paragraph (1);

(B) the costs and volume of services at various cost centers, and subcost centers, as calculated in accordance with the system established by the Secretary under paragraph (2); and

(C) rates, by category of patient and class of purchaser, as calculated in accordance with the system established by the Secretary under paragraph (3).

Such system shall provide for an appropriate application of such system in the different types of institutions (including hospitals, nursing homes, and other types of health services institutions) and different sizes of such institutions.

(July 1, 1944, ch. 373, title XV, § 1533, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2253.)

§ 300n-3. Centers for health planning

(a) Technical and consulting assistance

For the purposes of assisting the Secretary in carrying out this subchapter, providing such technical and consulting assistance as health systems agencies and State Agencies may from time to time require, conducting research, studies and analyses of health planning and resources development, and developing health planning approaches, methodologies, policies, and standards, the Secretary shall by grants or contracts, or both, assist public or private nonprofit entities in meeting the costs of planning and developing new centers, and operating existing and new centers, for multidisciplinary health planning development and assistance. To the extent practicable, the Secretary shall provide assistance under this section so that at least five such centers will be in operation by June 30, 1976.

(b) Requirements

(1) No grant or contract may be made under this section for planning or developing a center unless the Secretary determines that when it is operational it will meet the requirements listed in paragraph (2) and no grant or contract may be made under this section for operation of a center unless the center meets such requirements.

(2) The requirements referred to in paragraph (1) are as follows:

(A) There shall be a full-time director of the center who possesses a demonstrated capacity for substantial accomplishment and leadership in the field of health planning and resources development, and there shall be such additional professional staff as may be appropriate.

(B) The staff of the center shall represent a diversity of relevant disciplines.

(C) Such additional requirements as the Secretary may by regulation prescribe.

(c) Dissemination of planning approaches and methodologies

Centers assisted under this section (1) may enter into arrangements with health systems agencies and State Agencies for the provision of such services as may be appropriate and necessary in assisting the agencies and State Agencies in performing their functions under section 300*l*-2 or 300m-2 of this title, respectively, and (2) shall use methods (satisfactory to the Secretary) to disseminate to such agencies and State Agencies such planning approaches, methodoligies,[1] policies and standards as they develop.

(d) Authorization of appropriations

For the purpose of making payments pursuant to grants and contracts under subsection (a) of this section there are authorized to be ap-

[1] So in original. Probably should be "methodologies".

propriated $5,000,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 30, 1976, and $10,000,000 for the fiscal year ending June 30, 1977.

(July 1, 1944, ch. 373, title XV, § 1534, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2255.)

§ 300n-4. Review by the Secretary

(a) Approval of budget

The Secretary shall review and approve or disapprove the annual budget of each designated health systems agency and State Agency. In making such review and approval or disapproval the Secretary shall consider the comments of Statewide Health Coordinating Councils submitted under section 300m-3(c)(3) of this title. Information submitted to the Secretary by a health systems agency or a State Agency in connection with the Secretary's review under this subsection shall be made available by the Secretary, upon request, to the appropriate committees (and their subcommittees) of the Congress.

(b) Performance standards

The Secretary shall prescribe performance standards covering the structure, operation, and performance of the functions of each designated health systems agency and State Agency, and he shall establish a reporting system based on the performance standards that allows for continuous review of the structure, operation, and performance of the functions of such agencies.

(c) Structure, operation, and performance of designated health systems agencies

The Secretary shall review in detail at least every three years the structure, operation, and performance of the functions of each designated health systems agency to determine—

(1) the adequacy of the HSP of the agency for meeting the needs of the residents of the area for a healthful environment and for accessible, acceptable and continuous quality health care at reasonable costs, and the effectiveness of the AIP in achieving the system described in the HSP;

(2) if the structure, operation, and performance of the functions of the agency meet the requirements of sections 300*l*-1(b) and 300*l*-2 of this title;

(3) the extent to which the agency's governing body (and executive committee (if any)) represents the residents of the health service area for which the agency is designated;

(4) the professional credentials and competence of the staff of the agency;

(5) the appropriateness of the data assembled pursuant to section 300*l*-2(b)(1) of this title and the quality of the analyses of such data;

(6) the extent to which technical and financial assistance from the agency have been utilized in an effective manner to achieve goals and objectives of the HSP and the AIP; and

(7) the extent to which it may be demonstrated that—

(A) the health of the residents in the agency's health service area has been improved;

(B) the accessibility, acceptability, continuity, and quality of health care in such area has been improved; and

(C) increases in costs of the provision of health care have been restrained.

(d) Structure, operation, and performance of designated State agencies

The Secretary shall review in detail at least every three years the structure, operation, and performance of the functions of each designated State Agency to determine—

(1) the adequacy of the State health plan of the Statewide Health Coordinating Council prepared under section 300m-3(c)(2) of this title in meeting the needs of the residents of the State for a healthful environment and for accessible, acceptable, and continuous quality health care at reasonable costs;

(2) if the structure, operation, and performance of the functions of the State Agency meet the requirements of sections 300m-1 and 300m-2 of this title;

(3) the extent to which the Statewide Health Coordinating Council has a membership meeting, and has performed in a manner consistent with, the requirements of section 300m-3 of this title;

(4) the professional credentials and competence of the staff of the State Agency;

(5) the extent to which financial assistance provided under subchapter XIV of this chapter by the State Agency has been used in an effective manner to achieve the State's health plan under section 300m-3(c)(2) of this title; and

(6) the extent to which it may be demonstrated that—

(A) the health of the residents of the State has been improved;

(B) the accessibility, acceptability, continuity, and quality of health care in the State has been improved; and

(C) increases in costs of the provision of health care have been restrained.

(July 1, 1944, ch. 373, title XV, § 1535, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2256.)

REFERENCES IN TEXT

Subchapter IV of this chapter, referred to in subsec. (d)(5), is classified to section 300o et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*, 300*l*-4, 300m-3, 300o-2, 300t of this title.

§ 300n-5. Special provisions for certain States and territories

(a) Any State which—

(1) has no county or municipal public health institution or department, and

(2) has, prior to January 4, 1975, maintained a health planning system which substantially complies with the purposes of this subchapter,

and the Virgin Islands, Guam, the Trust Territories in the Pacific Islands, and American Samoa shall each be considered in accordance with subsection (b) of this section to be a State for purposes of this subchapter.

(b) In the case of an entity which under subsection (a) of this section is to be considered a State for purposes of this subchapter—

(1) no health service area shall be established within it,

(2) no health systems agency shall be designated for it,

(3) the State Agency designated for it under section 300m of this title may, in addition to the functions prescribed by section 300m-2 of this title, perform the functions prescribed by section 300*l*-2 of this title and shall be eligible to receive grants authorized by sections 300*l*-5 and 300t of this title, and

(4) the chief executive office shall appoint the Statewide Health Coordinating Council prescribed by section 300m-3 of this title in accordance with the regulation of the Secretary.

(July 1, 1944, ch. 373, title XV, § 1536, as added Jan. 4, 1975, Pub. L. 93-641, § 3, 88 Stat. 2257.)

SUBCHAPTER XIV—HEALTH RESOURCES DEVELOPMENT

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 300k-3, 300m-1, 300n-4, 300u, 3188a of this title; title 38 section 5056; title 40 App. section 214.

Part A—Purpose, State Plan, and Project Approval

§ 300*o*. Statement of purpose

It is the purpose of this subchapter to provide assistance, through allotments under part B of this subchapter, and loans and loan guarantees and interest subsidies under part C of this subchapter, for projects for—

(1) modernization of medical facilities;

(2) construction of new outpatient medical facilities;

(3) construction of new inpatient medical facilities in areas which have experienced (as determined under regulations of the Secretary) recent rapid population growth; and

(4) conversion of existing medical facilities for the provision of new health services,

and to provide assistance, through grants under part D of this subchapter, for construction and modernization projects designed to prevent or eliminate safety hazards in medical facilities or to avoid noncompliance by such facilities with licensure or accreditation standards.

(July 1, 1944, ch. 373, title XVI, § 1601, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2258.)

References in Text

Parts B, C, and D of this subchapter, referred to in text, are classified to sections 300p et seq., 300q et seq., and 300r et seq. of this title.

Section Referred to in Other Sections

This section is referred to in sections 300*o*-2, 300*o*-3, 300p, 300q-1 of this title.

§ 300*o*-1. Promulgation of regulations; required provisions

The Secretary shall by regulation—

(1) prescribe the general manner in which the State Agency of each State shall determine for the State medical facilities plan under section 300*o*-2 of this title the priority among projects within the State for which assistance is available under this subchapter, based on the relative need of different areas within the State for such projects and giving special consideration—

(A) to projects for medical facilities serving areas with relatively small financial resources and for medical facilities serving rural communities,

(B) in the case of projects for modernization of medical facilities, to projects for facilities serving densely populated areas,

(C) in the case of projects for construction of outpatient medical facilities, to projects that will be located in, and provide services for residents of, areas determined by the Secretary to be rural or urban poverty areas,

(D) to projects designed to (i) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or (ii) avoid noncompliance with State or voluntary licensure or accreditation standards, and

(E) to projects for medical facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

(2) prescribe for medical facilities projects assisted under this subchapter general standards of construction, modernization, and equipment for medical facilities of different classes and in different types of location;

(3) prescribe criteria for determining needs for medical facility beds and needs for medical facilities, and for developing plans for the distribution of such beds and facilities;

(4) prescribe criteria for determining the extent to which existing medical facilities are in need of modernization;

(5) require each State medical facilities plan under section 300k-3 of this title to provide for adequate medical facilities for all persons residing in the State and adequate facilities to furnish needed health services for persons unable to pay therefor; and

(6) prescribe the general manner in which each entity which receives financial assistance under this subchapter or has received financial assistance under this subchapter or subchapter IV of this chapter shall be required to comply with the assurances required to be made at the time such assistance was received and the means by which such entity shall be required to demonstrate compliance with such assurances.

An entity subject to the requirements prescribed pursuant to paragraph (6) respecting compliance with assurances made in connection with receipt of financial assistance shall submit periodically to the Secretary data and information which reasonably supports the entity's compliance with such assurances. The Secretary may not waive the requirement of the preceding sentence.

(July 1, 1944, ch. 373, title XVI, § 1602, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2258.)

REFERENCES IN TEXT

Reference to section "300k-3" of this title in par. (5) covering State medical facilities plans was probably intended to read section "300o-2" of this title in view of the content of the sections involved.

Subchapter IV of this chapter, referred to in par. (6), is classified to section 291 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300o-2, 300o-3 of this title.

§ 300o-2. State medical facilities plan; submission and approval as prerequisite for approval of project assistance application; required provisions; procedure upon disapproval of plan

(a) Before an application for assistance under this subchapter (other than part D) for a medical facility project described in section 300o of this title may be approved, the State Agency of the State in which such project is located must have submitted to the Secretary and had approved by him a State medical facilities plan. To be approved by the Secretary a State medical facilities plan for a State must—

(1) prescribe that the State Agency of the State shall administer or supervise the administration of the plan and contain evidence satisfactory to the Secretary that the State Agency has the authority to carry out the plan in conformity with this subchapter;

(2) prescribe that the Statewide Health Coordinating Council of the State shall advise and consult with the State Agency in carrying out the plan;

(3) be approved by the Statewide Health Coordinating Council as consistent with the State health plan developed pursuant to section 300m-3(c)(2) of this title;

(4) set forth, in accordance with criteria established in regulations prescribed under section 300o-1(a) of this title and on the basis of a statewide inventory of existing medical facilities, a survey of need, and the plans of health systems agencies within the State—

(A) the number and type of medical facility beds and medical facilities needed to provide adequate inpatient care to people residing in the State, and a plan for the distribution of such beds and facilities in health services areas throughout the State,

(B) the number and type of outpatient and other medical facilities needed to provide adequate public health services and outpatient care to people residing in the State, and a plan for the distribution of such facilities in health service areas throughout the State, and

(C) the extent to which existing medical facilities in the State are in need of modernization or conversion to new uses;

(5) set forth a program for the State for assistance under this subchapter for projects described in section 300o of this title, which program shall indicate the type of assistance which should be made available to each project and shall conform to the assessment of need set forth pursuant to paragraph (4) and regulations promulgated under section 300o-1(a) of this title;

(6) set forth (in accordance with regulations promulgated under section 300o-1(a) of this title) priorities for the provision of assistance under this subchapter for projects in the program set forth pursuant to paragraph (4);

(7) provide minimum requirements (to be fixed in the discretion of the State Agency) for the maintenance and operation of facilities which receive assistance under this subchapter, and provide for enforcement of such standards;

(8) provide for affording to every applicant for assistance for a medical facilities project under this subchapter an opportunity for a hearing before the State Agency; and

(9) provide that the State Agency will from time to time, but not less often than annually, review the plan and submit to the Secretary any modifications thereof which it considers necessary.

(b) The Secretary shall approve any State medical facilities plan and any modification thereof which complies with the provisions of subsection (a) of this section if the State Agency, as determined under the review made under section 300n-4(d) of this title, is organized and operated in the manner prescribed by section 300m-1 of this title and is carrying out its functions under section 300m-2 of this title in a manner satisfactory to the Secretary. If any such plan or modification thereof shall have been disapproved by the Secretary for failure to comply with subsection (a) of this section, the Secretary shall, upon request of the State Agency, afford it an opportunity for hearing.

(July 1, 1944, ch. 373, title XVI, § 1603, as added Jan. 2, 1975, Pub. L. 93-641, § 4, 88 Stat. 2259.)

REFERENCES IN TEXT

Part D, referred to in subsec. (a), is classified to section 300r et seq. of this title.

Reference to section 300o-1(a) of this title in subsecs. (a)(4), (a)(5), and (a)(6) was probably intended as a simple reference to section 300o-1 of this title since section 300o-1 is not divided into lettered subsections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300m-2, 300o-1, 300o-3, 300p-2 of this title.

§ 300o-3. Medical facility project applications

(a) Submissions

For each project described in section 300o of this title and included within a State's State medical facilities plan approved under section 300o-2 of this title there shall be submitted to the Secretary, through the State's State Agency, an application. An application for a grant under section 300r of this title shall be submitted directly to the Secretary. Except as provided in section 300r of this title, the applicant under such an application may be a State, a political subdivision of a State or any other public entity, or a private nonprofit entity. If two or more entities join in a project, an application for such project may be filed by any of such entities or by all of them.

(b) Required provisions; waiver; projects subject to requirements

(1) Except as authorized under paragraph (2), an application for any project shall set forth—

(A) in the case of a modernization project for a medical facility for continuation of ex-

isting health services, a finding by the State Agency of a continued need for such services, and, in the case of any other project for a medical facility, a finding by the State Agency of the need for the new health services to be provided through the medical facility upon completion of the project;

(B) a description of the site of such project;

(C) plans and specifications therefor which meet the requirements of the regulations prescribed under section 300o-1(a) of this title;

(D) reasonable assurance that title to such site is or will be vested in one or more of the entities filing the application or in a public or other nonprofit entity which is to operate the facility on completion of the project;

(E) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed, and, for the purposes of determining if the requirements of this subparagraph are met, Federal assistance provided directly to a medical facility which is located in an area determined by the Secretary to be an urban or rural poverty area or through benefits provided individuals served at such facility shall be considered as financial support;

(F) the type of assistance being sought under this subchapter for the project;

(G) except in the case of a project under section 300r of this title, a certification by the State Agency of the Federal share for the project;

(H) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 276c of title 40;

(I) in the cast[1] of a project for the construction or modernization of an outpatient facility, reasonable assurance that the services of a general hospital will be available to patients at such facility who are in need of hospital care; and

(J) reasonable assurance that at all times after such application is approved (i) the facility or portion thereof to be constructed, or modernized, or converted will be made available to all persons residing or employed in the area served by the facility, and (ii) there will be made available in the facility or portion thereof to be constructed, modernized, or converted a reasonable volume of services to persons unable to pay therefor and the Secretary, in determining the reasonableness of the volume of services provided, shall take into consideration the extent to which compliance is feasible from a financial viewpoint.

(2)(A) The Secretary may waive—

(i) the requirements of subparagraph (C) of paragraph (1) for compliance with modernization and equipment standards prescribed pursuant to section 300o-1(a)(2) of this title, and

(ii) the requirement of subparagraph (D) of paragraph (1) respecting title to a project site,

in the case of an application for a project described in subparagraph (B).

(B) A project referred to in subparagraph (A) is a project—

(i) for the modernization of an outpatient medical facility which will provide general purpose health services, which is not part of a hospital, and which will serve a medically underserved population as defined in section 300s-3 of this title or as designated by a health systems agency, and

(ii) for which the applicant seeks (I) not more than $20,000 from the allotments made under part B of this subchapter to the State in which it is located, or (II) a loan under part C of this subchapter the principal amount of which does not exceed $20,000.

(c) Criteria for approval

The Secretary shall approve an application submitted under subsection (b) of this section (other than an application for a grant under section 300r of this title) if—

(1) in the case of a project to be assisted from an allotment made under part B of this subchapter, there are sufficient funds in such allotment to pay the Federal share of the project; and

(2) the Secretary finds that—

(A) the application (i) is in conformity with the State medical facilities plan approved under section 300o-2 of this title, (ii) has been approved and recommended by the State Agency, (iii) is for a project which is entitled to priority over other projects within the State as determined in accordance with the approved State medical facilities plan, and (iv) contains the assurances required by subsection (b) of this section; and

(B) the plans and specifications for the project meet the requirements of the regulations prescribed pursuant to section 300o-1(a) of this title.

(d) Procedure for disapproval

No application (other than an application for a grant under section 300r of this title) shall be disapproved until the Secretary has afforded the State Agency an opportunity for a hearing.

(e) Amendment of approved applications

Amendment of any approved application shall be subject to approval in the same manner as an original application.

(f) Review by health systems agencies

Each application shall be reviewed by health systems agencies in accordance with section 300*l*-2(e) of this title.

(July 1, 1944, ch. 373, title XVI, § 1604, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2260.)

REFERENCES IN TEXT

Reference in subsecs. (b)(1)(C) and (c)(2)(B) of this section to section 300o-1(a) of this title was probably intended as a simple reference to section 300o-1 of this

[1] So in original. Probably should be "case".

title since section 300o-1 of this title is not divided into lettered subsections.

Part C of this subchapter, referred to in subsec. (b)(2)(B)(ii), is classified to section 300q et seq. of this title.

Part B of this subchapter, referred to in subsec. (c)(1), is classified to section 300p et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300p-1, 300p-2, 300q, 300r, 300s, 300s-1, 300s-3, 300s-5 of this title.

PART B—ALLOTMENTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300o, 300o-3, 300s-3 of this title.

§ 300p. Allotments for States

(a) Authorization; criteria

For each fiscal year, the Secretary shall, in accordance with regulations, make from sums appropriated for such fiscal year under section 300l-2 of this title allotments among the States on the basis of the population, the financial need, and need for medical facilities projects described in section 300o of this title of the respective States. The population of the States shall be determined on the basis of the latest figures certified by the Secretary of Commerce.

(b) Minimum amounts; reductions in appropriations

(1) The allotment to any State (other than Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands) for any fiscal year shall be not less than $1,000,000; and the allotment to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands for any fiscal year shall be not less than $500,000 each.

(2) Notwithstanding paragraph (1), if the amount appropriated under section 300p-3 of this title for any fiscal year is less than the amount required to provide allotments in accordance with paragraph (1), the amount of the allotment to any State for such fiscal year shall be an amount which bears the same ratio to the amount prescribed for such State by paragraph (1) as the amount appropriated for such fiscal year bears to the amount of appropriations needed to make allotments to all the States in accordance with paragraph (1).

(c) Availability of unobligated amounts; reallotment

Any amount allotted to a State for a fiscal year under subsection (a) of this section and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the amounts allotted to such State for such purposes for such next two fiscal years; except that any such amount which is unobligated at the end of the first of such next two years and which the Secretary determines will remain unobligated at the close of the second of such next two years may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this subchapter. Any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

(July 1, 1944, ch. 373, title XVI, § 1610, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2262.)

REFERENCES IN TEXT

Reference in subsec. (a) to section 300l-2 of this title was probably intended to be a reference to section 300p-3 of this title in view of the subject matter of the sections involved.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (a) of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (c) of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, under subsec. (b) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 106(a) of Pub. L. 94-274, set out as a note under section 297j of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300p-2, 300p-3 of this title.

§ 300p-1. Payments to States for projects

(a) Authorization; certification by State Agency

If with respect to any medical facility project approved under section 300o-3 of this title the State Agency certifies (upon the basis of inspection by it) to the Secretary that, in accordance with approved plans and specifications, work has been performed upon the project or purchases have been made for it and that payment from the applicable allotment of the State in which the project is located is due for the project, the Secretary shall, except as provided in subsection (b) of this section, make such payment to the State.

(b) Withholding of amounts; maximum amounts

The Secretary is authorized to not make payments to a State pursuant to subsection (a) of this section in the following circumstances:

(1) If such State is not authorized by law to make payments for an approved medical facility project from the payment to be made by the Secretary pursuant to subsection (a) of this section, or if the State so requests, the Secretary shall make the payment from the State allotment directly to the applicant for such project.

(2) If the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 300p-2 of this title,

payment by the Secretary may, after he has given the State Agency notice and opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing.

In no event may the total of payments made under subsection (a) of this section with respect to any project exceed an amount equal to the Federal share of such project.

(c) Additional amounts

In case an amendment to an approved application is approved as provided in section 300o-3 of this title or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(d) Obligation of amounts

In any fiscal year—

(1) not more than 20 per centum of the amount of a State's allotment available for obligation in that fiscal year may be obligated for projects in the State for construction of new facilities for the provision of inpatient health care to persons residing in areas of the State which have experienced recent rapid population growth; and

(2) not less than 25 per centum of the amount of a State's allotment available for obligation in that fiscal year shall be obligated for projects for outpatient facilities which will serve medically underserved populations.

In the administration of this part, the Secretary shall seek to assure that in each fiscal year at least one half of the amount obligated for projects pursuant to paragraph (2) shall be obligated for projects which will serve rural medically underserved populations.

(July 1, 1944, ch. 373, title XVI, § 1611, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2262.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (c) of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (d) of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

§ 300p-2. Compliance provisions

(a) Finding of noncompliance with plan, etc., requirements

Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Agency concerned finds—

(1) that the State Agency is not complying substantially with the provisions required by section 300o-2 of this title to be included in its State medical facilities plan,

(2) that any assurance required to be given in an application filed under section 300o-3 of this title is not being or cannot be carried out, or

(3) that there is a substantial failure to carry out plans and specifications approved by the Secretary under section 300o-3 of this title,

the Secretary shall take the action authorized by subsection (b) of this section unless, in the case of compliance with assurances, the Secretary requires compliance by other means authorized by law.

(b) Withholding of payments

(1) Upon a finding described in subsection (a) of this section and after notice to the State Agency concerned, the Secretary may—

(A) withhold from all projects within the State with respect to which the finding was made further payments from the State's allotment under section 300p of this title, or

(B) withhold from the specific projects with respect to which the finding was made further payments from the applicable State allotment under section 300p of this title.

(2) Payments may be withheld, in whole or in part, under paragraph (1)—

(A) until the basis for the finding upon which the withholding was made no longer exists, or

(B) if corrective action to make such finding inapplicable cannot be made, until the State concerned repays or arranges for the repayment of Federal funds paid under this part for projects which because of the finding are not entitled to such funds.

(c) Investigation of recipients for compliance with assurances; remedies available for finding of noncompliance

The Secretary shall investigate and ascertain, on a periodic basis, with respect to each entity which is receiving financial assistance under this subchapter or which has received financial assistance under subchapter IV of this chapter or this subchapter, the extent of compliance by such entity with the assurances required to be made at the time such assistance was received. If the Secretary finds that such an entity has failed to comply with any such assurance, the Secretary shall take the action authorized by subsection (b) of this section or take any other action authorized by law (including an action for specific performance brought by the Attorney General upon request of the Secretary) which will effect compliance by the entity with such assurances. An appropriate action to effectuate compliance with any such assurance may be brought by a person other than the Secretary only if a complaint has been filed by such person with the Secretary and the Secretary has dismissed such complaint or the Attorney General has not brought a civil action for compliance with such assurance within 6 months after the date on which the complaint was filed with the Secretary.

(July 1, 1944, ch. 373, title XVI, § 1612, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2263.)

REFERENCES IN TEXT

Subchapter IV of this chapter, referred to in subsec. (c), is classified to section 291 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300p-1, 300s of this title.

§ 300p-3. Authorization of appropriations

Except as provided in section 300r(d) of this title, there are authorized to be appropriated for allotments under section 300p of this title $125,000,000 for the fiscal year ending June 30, 1975, $130,000,000 for the fiscal year ending June 30, 1976, and $135,000,000 for the fiscal year ending June 30, 1977.

(July 1, 1944, ch. 373, title XVI, § 1613, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2264, and amended Apr. 22, 1976, Pub. L. 94-278, title XI, § 1106(b), 90 Stat. 416.)

AMENDMENTS

1976—Pub. L. 94-278 substituted "1610" for "1510" classified in the Code to section 300p of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300p, 300r of this title.

PART C—LOANS AND LOAN GUARANTEES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300o, 300o-3, 300s-3 of this title.

§ 300q. Loan and loan guarantee authority

(a) Loan authority for payment of Federal share of approved projects; duration

The Secretary, during the period beginning July 1, 1974, and ending September 30, 1977, may, in accordance with this part, make loans from the fund established under section 300q-2(d) of this title to pay the Federal share of projects approved under section 300o-3 of this title.

(b) Loan guarantee authority for payment of principal and interest on loans for approved projects; duration; payments for reduction of interest rate

(1) The Secretary, during the period beginning July 1, 1974, and ending September 30, 1977, may, in accordance with this part, guarantee to—

(i) non-Federal lenders for their loans to nonprofit private entities for medical facilities projects, and

(ii) the Federal Financing Bank for its loans to nonprofit private entities for such projects,

payment of principal and interest on such loans if applications for assistance for such projects under this subchapter have been approved under section 300o-3 of this title.

(2) In the case of a guarantee of any loan to a nonprofit private entity under this subchapter, the Secretary shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made amounts sufficient to reduce by 3 per centum per annum the net effective interest rate otherwise payable on such loan. Each holder of such a loan which is guaranteed under this subchapter shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

(c) Limitation on cumulative total of principal of outstanding loans

The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed such limitations as may be specified in appropriation Acts.

(d) Administrative assistance of Department of Housing and Urban Development

The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof.

(July 1, 1944, ch. 373, title XVI, § 1620, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2264, and amended Apr. 21, 1976, Pub. L. 94-273, § 2(21), 90 Stat. 376.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-273 substituted "September" for "June".

Subsec. (b)(1). Pub. L. 94-273 substituted "September" for "June".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300q-2 of this title.

§ 300q-1. Allocation among States of total amount of principal; criteria; availability of unobligated amounts; reallotment

(a) For each fiscal year, the total amount of principal of—

(1) loans to nonprofit private entities which may be guaranteed, or

(2) loans which may be directly made,

under this part shall be allotted by the Secretary among the States, in accordance with regulations, on the basis of the population, financial need, and need for medical facilities projects described in section 300o of this title of the respective States. The population of the States shall be determined on the basis of the latest figures certified by the Secretary of Commerce.

(b) Any amount allotted to a State for a fiscal year under subsection (a) of this section and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the amounts allotted to such State for such purposes for such next two fiscal years; except that any such amount which is unobligated at the end of the first of such next two years and which the Secretary determines will remain unobligated at the close of the second of such next two years may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this subchapter. Any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

(July 1, 1944, ch. 373, title XVI, § 1621, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2265.)

Fiscal Year Transition Period of July 1, 1976, through September 30, 1976, Deemed Part of Fiscal Year Beginning July 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

§ 300q-2. General provisions

(a) Loan guarantees; criteria for approval; recovery of payments by United States; modification, etc., of terms and conditions; incontestability

(1) The Secretary may not approve a loan guarantee for a project under this part unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this part.

(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this part the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this part (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this part shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this subchapter will be achieved.

(b) Loans; criteria for approval; terms and conditions; waiver of recovery of payments by United States

(1) The Secretary may not approve a loan under this part unless—

(A) the Secretary is reasonably satisfied that the applicant under the project for which the loan would be made will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this part shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this part, minus 3 per centum per annum, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this subchapter while adequately protecting the financial interests of the United States.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reasons of the failure of a borrower to make payments of principal of and interest on a loan made under this part, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c) Sale of loans; authority; amount; agreements with purchasers; deposit of proceeds

(1) The Secretary shall from time to time, but with due regard to the financial interests of the United States, sell loans made under this part either on the private market or to the Federal National Mortgage Association in accordance with section 1717 of title 12 or to the Federal Financing Bank.

(2) Any loan so sold shall be sold for an amount which is equal (or approximately equal) to the amount of the unpaid principal of such loans as of time of sale.

(3)(A) The Secretary is authorized to enter into an agreement with the purchaser of any loan sold under this part under which the Secretary agrees—

(i) to guarantee to such purchaser (and any successor in interest to such purchaser) payments of the principal and interest payable under such loan, and

(ii) to pay as an interest subsidy to such purchaser (and any successor in interest of such purchaser) amounts which, when added to the amount of interest payable on such loan, are equivalent to a reasonable rate of interest on such loan as determined by the Secretary after taking into account the range of prevailing interest rates in the private market on similar loans and the risks assumed by the United States.

(B) Any agreement under subparagraph (A)—

(i) may provide that the Secretary shall act as agent of any such purchaser, for the purpose of collecting from the entity to which such loan was made and paying over to such purchaser any payments of principal and interest payable by such entity under such loan;

(ii) may provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement;

(iii) shall provide that, in the event of any default by the entity to which such loan was made in payment of principal or interest due on such loan, the Secretary shall, upon notification to the purchaser (or to the successor in interest of such purchaser), have the option to close out such loan (and any obligations of the Secretary with respect thereto) by paying to the purchaser (or his successor in interest) the total amount of outstanding principal and interest due thereon at the time of such notification; and

(iv) shall provide that, in the event such loan is closed out as provided in clause (iii), or in the event of any other loss incurred by the Secretary by reason of the failure of such entity to make payments of principal or interest on such loan, the Secretary shall be subrogated to all rights of such purchaser for recovery of such loss from such entity.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the fund established under subsection (d) of this section.

(d) Loan and loan guarantee fund; establishment; amounts authorized to be appropriated; issuance, purchase, and sale of notes, obligations, etc.; interest rates; public debt transactions

(1) There is established in the Treasury a loan and loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriations Acts—

(A) to enable him to make loans under this part,

(B) to enable him to discharge his responsibilities under loan guarantees issued by him under this part,

(C) for payment of interest under section 300q(b)(2) of this title on loans guaranteed under this part,

(D) for repurchase of loans under subsection (c)(3)(B) of this section, and

(E) for payment of interest on loans which are sold and guaranteed.

There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Secretary in connection with loans and loan guarantees under this part and other property or assets derived by him from his operations respecting such loans and loan guarantees, including any money derived from the sale of assets.

(2) If at any time the sums in the funds are insufficient to enable the Secretary—

(A) to make payments of interest under section 300q(b)(2) of this title,

(B) to otherwise comply with guarantees under this part of loans to nonprofit private entities,

(C) in the case of a loan which was made, sold, and guaranteed under this part, to make to the purchaser of such loan payments of principal and interest on such loan after default by the entity to which the loan was made, or

(D) to repurchase loans under subsection (c)(3)(B) of this section, and

(E) to make payments of interest on loans which are sold and guaranteed,

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(e) Transfers to and additional capitalization of loan and loan guarantee fund

(1) The assets, commitments, obligations, and outstanding balances of the loan guarantee and loan fund established in the Treasury by section 291j-6 of this title shall be transferred to the fund established by subsection (d) of this section.

(2) To provide additional capitalization for the fund established under subsection (d) of this section there are authorized to be appropriated to the fund, such sums as may be necessary for the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.

(July 1, 1944, ch. 373, title XVI, § 1622, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2265.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (d), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300q of this title.

PART D—PROJECT GRANTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300o, 300o-2, 300s-3 of this title.

§ 300r. Grants for construction or modernization projects

(a) Authority; projects subject to grants

The Secretary may make grants for construction or modernization projects designed to (1) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or (2) avoid noncompliance with State or voluntary licensure or accreditation standards. A grant under this subsection may only be made to a State or political subdivision of a State, including any city, town, county, borough, hospital district authority, or public or quasi-public corporation, for a project described in the preceding sentence for any medical facility owned or operated by it.

(b) Criteria for approval of applications

An application for a grant under subsection (a) of this section may not be approved under section 300o-3 of this title unless it contains assurances satisfactory to the Secretary that the applicant making the application would not be able to complete the project for which the application is submitted without the grant applied for.

(c) Maximum amounts

The amount of any grant under subsection (a) of this section may not exceed 75 per centum of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 per centum of such costs.

(d) Amount of appropriations available for fiscal year

Of the sums appropriated under section 300p-3 of this title for a fiscal year, there shall be made available for grants under subsection (a) of this section for such fiscal year 22 per centum of such sums.

(July 1, 1944, ch. 373, title XVI, § 1625, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2268.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of this section, see section 204(1) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300o-3, 300p-3 of this title.

PART E—GENERAL PROVISIONS

§ 300s. Judicial review; petition; jurisdiction; record; review by Supreme Court

If—

(1) the Secretary refuses to approve an application for a project submitted under section 300o-3 of this title, the State Agency through which such application was submitted, or

(2) any State is dissatisfied with, or any entity will be adversely affected by, the Secretary's action under section 300p-2 of this title, such State or entity,

may appeal to the United States court of appeals for the circuit in which such State Agency, State, or entity is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28. The commencement of proceedings under this section shall not, unless so specifically ordered by the Court, operate as a stay of the Secretary's action.

(July 1, 1944, ch. 373, title XVI, § 1630, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2269.)

§ 300s-1. Recovery by United States of proceeds from sale or transfer or termination of use of facility constructed, modernized, or converted with project funds; amount recoverable; waiver

(a) If any facility constructed, modernized, or converted with funds provided under this subchapter is, at any time within twenty years after the completion of such construction, modernization, or conversion with such funds—

(1) sold or transferred to any person or entity (A) which is not qualified to file an application under section 300o-3 of this title or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor; or

(2) not used as a medical facility, and the Secretary has not determined that there is good cause for termination of such use,

the United States shall be entitled to recover from either the transferor or the transferee in the case of a sale or transfer or from the owner in the case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction, modernization, or conversion of such project or projects. Such

right of recovery shall not constitute a lien upon such facility prior to judgment.

(b) The Secretary may waive the recovery rights of the United States under subsection (a) of this section with respect to a facility in any State—

(1) if (as determined under regulations prescribed by the Secretary) the amount which could be recovered under subsection (a) of this section with respect to such facility is applied to the development, expansion, or support of another medical facility located in such State which has been approved by the Statewide Health Coordinating Council for such State as consistent with the State health plan established pursuant to section 300m-3(c) of this title; or

(2) if the Secretary determines, in accordance with regulations, that there is good cause for waiving such requirement with respect to such facility.

If the amount which the United States is entitled to recover under subsection (a) of this section exceeds 90 per centum of the total cost of the construction or modernization project for a facility, a waiver under this subsection shall only apply with respect to an amount which is not more than 90 per centum of such total cost.

(July 1, 1944, ch. 373, title XVI, § 1631, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2269, and amended Apr. 22, 1976, Pub. L. 94-278, title XI, § 1106(c), 90 Stat. 416.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-278 struck out "The Secretary may not waive a right of recovery which arose one year before January 4, 1975", in the last sentence of the provisions following par. (2).

§ 300s-2. State supervision or control of operations of facilities receiving funds

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee, the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this subchapter.

(July 1, 1944, ch. 373, title XVI, § 1632, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2270.)

§ 300s-3. Definitions

For the purposes of this subchapter—

(1) The term "State" includes the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

(2) The term "Federal share" means the proportion of the cost of a medical facilities project which the State Agency determines the Federal Government will provide under allotment payments or a loan or loan guarantee under this subchapter, except that—

(A) in the case of a modernization project—

(i) described in section 300o-3(b)(2)(B) of this title, and

(ii) the application for which received a waiver under section 300o-3(b)(2)(A) of this title,

the proportion of the cost of such project to be paid by the Federal Government under allotment payments or a loan may not exceed $20,000 and may not exceed 100 per centum of the first $6,000 of the cost of such project and 66⅔ per centum of the next $21,000 of such cost,

(B) in the case of a project (other than a project described in subparagraph (A)) to be assisted from an allotment made under part B of this subchapter, the proportion of the cost of such project to be paid by the Federal Government may not exceed 66⅔ unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the proportion of the cost of such project to be paid by the Federal Government may be 100 per centum, and

(C) in the case of a project (other than a project described in subparagraph (A)) to be assisted with a loan or loan guarantee made under part C of this subchapter, the principal amount of the loan directly made or guaranteed for such project, when added to any other assistance provided the project under this subchapter, may not exceed 90 per centum of the cost of such project unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the principal amount, when added to other assistance under this subchapter, may cover up to 100 per centum of the cost of the project.

(3) The term "hospital" includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professonal[1] personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(4) The term "public health center" means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(5) The term "nonprofit" as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(6) The term "outpatient medical facility" means a medical facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients)—

(A) which is operated in connection with a hospital,

(B) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or in the case of dental diagnosis or treatment,

[1] So in original. Probably should be "professional".

under the professional supervision of persons licensed to practice dentistry in the State; or

(C) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties, and which provides to its patients a reasonably full-range of diagnostic and treatment services.

(7) The term "rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

(A) medical evaluation and services, and

(B) psychological, social, or vocational evaluation and services,

under competent professional supervision, and in the case of which the major portion of the required evaluation and services is furnished within the facility; and either the facility is operated in connection with a hospital, or all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(8) The term "facility for long-term care" means a facility (including a skilled nursing or intermediate care facility) providing in-patient care for convalescent or chronic disease patients who required skilled nursing or intermediate care and related medical services—

(A) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculous patients) or is operated in connection with a hospital, or

(B) in which such care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(9) The term "construction" means construction of new buildings and initial equipment of such buildings and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

(10) The term "cost" as applied to construction, modernization, or conversion means the amount found by the Secretary to be necessary for construction, modernization, or conversion, respectively, under a project, except that, in the case of a modernization project or a project assisted under part D of this subchapter, such term does not include any amount found by the Secretary to be attributable to expansion of the bed capacity of any facility.

(11) The term "modernization" includes the alteration, expansion, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and the replacement of obsolete equipment of existing buildings.

(12) The term "title," when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than twenty-five years' undisturbed use and possession for the purposes of construction, modernization, or conversion and operation of the project for a period of not less than (A) twenty years in the case of a project assisted under an allotment or grant under this subchapter, or (B) the term of repayment of a loan made or guaranteed under this subchapter in the case of a project assisted by a loan or loan guarantee.

(13) The term "medical facility" means a hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, or other facility (as may be designated by the Secretary) for the provision of health care to ambulatory patients.

(14) The term "State Agency" means the State health planning and development agency of a State designated under subchapter XII of this chapter.

(15) The term "urban or rural poverty area" means an urban or rural geographical area (as defined by the Secretary) in which a percentage (as defined by the Secretary in accordance with the next sentence) of the residents of the area have incomes below the poverty level (as defined by the Secretary of Commerce). The percentage referred to in the preceding sentence shall be defined so that the percentage of the population of the United States residing in urban and rural poverty areas is—

(A) not more than the percentage of the total population of the United States with incomes below the poverty level (as so defined) plus five per centum, and

(B) not less than such percentage minus five per centum.

(16) The term "medically underserved population" means the population of an urban or rural area designated by the Secretary as an area with a shortage of health facilities or a population group designated by the Secretary as having a shortage of such facilities.

(July 1, 1944, ch. 373, title XVI, § 1633, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2270, and amended Oct. 12, 1976, Pub. L. 94-484, title IX, § 905(b)(1), 90 Stat. 2325.)

REFERENCES IN TEXT

Reference to subchapter XII of this chapter in par. (14) was probably intended as a reference to subchapter XIII of this chapter in view of the content of the subchapters involved. For designation provisions, see section 300m of this title.

AMENDMENTS

1976—Par. (1). Pub. L. 94-484 defined "State" to include the Northern Mariana Islands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 300o-3, 4581 of this title.

§ 300s-4. Reporting and audit requirements for recipients

(a) Filing of financial statement with appropriate State Agency; form and contents

In the case of any facility for which an allotment payment, grant, loan, or loan guarantee has been made under this subchapter, the applicant for such payment, grant, loan, or loan guarantee (or, if appropriate, such other person as the Secretary may prescribe) shall file at

least annually with the State Agency for the State in which the facility is located a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

(1) the financial operations of the facility, and

(2) the costs of the facility of providing health services in the facility and the charges made by the facility for providing such services,

during the period with respect to which the statement is filed.

(b) Maintenance of records; access to books, etc., for audit and examination

(1) Each entity receiving Federal assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such entity of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such entities which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the assistance referred to in paragraph (1).

(c) Filing of financial statement with Secretary; form and contents

Each such entity shall file at least annually with the Secretary a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

(1) the financial operations of the facility constructed or modernized with such assistance, and

(2) the costs to such facility of providing health services in such facility, and the charges made for such services, during the period with respect to which the statement is filed.

(July 1, 1944, ch. 373, title XVI, § 1634, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2273.)

§ 300s-5. Availability of technical and other nonfinancial assistance to eligible applicants

The Secretary shall provide (either through the Department of Health, Education, and Welfare or by contract) all necessary technical and other nonfinancial assistance to any public or other nonprofit entity which is eligible to apply for assistance under this subchapter to assist such entity in developing applications to be submitted to the Secretary under section 300o-3 of this title. The Secretary shall make every effort to inform eligible applicants of the availability of assistance under this subchapter.

(July 1, 1944, ch. 373, title XVI, § 1635, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2273.)

PART F—AREA HEALTH SERVICES DEVELOPMENT FUNDS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 38 section 5056.

§ 300t. Development grants for health systems agencies

(a) Eligible recipients; purpose of grants

The Secretary shall make in each fiscal year a grant to each health system agency—

(1) with which there is in effect a designation agreement under section 300*l*-4(c) of this title,

(2) which has in effect an HSP and AIP reviewed by the Statewide Health Coordinating Council, and

(3) which, as determined under the review made under section 300n-4(c) of this title, is organized and operated in the manner prescribed by section 300*l*-1(b) of this title and is performing its functions under section 300*l*-2 of this title in a manner satisfactory to the Secretary,

to enable the agency to establish and maintain an Area Health Service Development Fund from which it may make grants and enter into contracts in accordance with section 300*l*-2(c)(3) of this title.

(b) Determination of amounts; maximum amounts

(1) Except as provided in paragraph (2), the amount of any grant under subsection (a) of this section shall be determined by the Secretary after taking into consideration the population of the health service area for which the health systems agency is designated, the average family income of the area, and the supply of health services in the area.

(2) The amount of any grant under subsection (a) of this section to a health systems agency for any fiscal year may not exceed the product of $1 and the population of the health service area for which such agency is designated.

(c) Applications; submission and approval as prerequisite; form and contents

No grant may be made under subsection (a) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may require.

(d) Authorization of appropriations

For the purpose of making payments pursuant to grants under subsection (a) of this section, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1975, $75,000,000 for the fiscal year ending June 30, 1976, and $120,000,000 for the fiscal year ending June 30, 1977.

(July 1, 1944, ch. 373, title XVI, § 1640, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2273.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (a) of this section, see section 201(17) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, under subsec. (b) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 106(a) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 386, set out as a note under section 297j of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300l-1, 300l-2, 300m-3, 300n-5 of this title.

SUBCHAPTER XV—HEALTH INFORMATION AND HEALTH PROMOTION

§ 300u. General authority of Secretary

(a) Development, support, and implementation of programs, activities, etc.

The Secretary shall—

(1) formulate national goals, and a strategy to achieve such goals, with respect to health information and health promotion, preventive health services, and education in the appropriate use of health care;

(2) analyze the necessary and available resources for implementing the goals and strategy formulated pursuant to paragraph (1), and recommend appropriate educational and quality assurance policies for the needed manpower resources identified by such analysis;

(3) undertake and support necessary activities and programs to—

(A) incorporate appropriate health education components into our society, especially into all aspects of education and health care,

(B) increase the application and use of health knowledge, skills, and practices by the general population in its patterns of daily living, and

(C) establish systematic processes for the exploration, development, demonstration, and evaluation of innovative health promotion concepts;

(4) undertake and support research and demonstrations respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

(5) undertake and support appropriate training in, and undertake and support appropriate training in the operation of programs concerned with, health information and health promotion, preventive health services, and education in the appropriate use of health care;

(6) undertake and support, through improved planning and implementation of tested models and evaluation of results, effective and efficient programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

(7) foster the exchange of information respecting, and foster cooperation in the conduct of, research, demonstration, and training programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

(8) provide technical assistance in the programs referred to in paragraph (7); and

(9) use such other authorities for programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care as are available and coordinate such use with programs conducted under this subchapter.

The Secretary shall administer this subchapter in a manner consistent with the national health priorities set forth in section 300k-2 of this title and with health planning and resource development activities undertaken under subchapters XIII and XIV of this chapter.

(b) Authorization of appropriations

For payments under grants and contracts under this subchapter there are authorized to be appropriated $7,000,000 for the fiscal year ending September 30, 1977, $10,000,000 for the fiscal year ending September 30, 1978, and $14,000,000 for the fiscal year ending September 30, 1979.

(c) Application; submission and approval as prerequisite; form and contents

No grant may be made or contract entered into under this subchapter unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may prescribe. Contracts may be entered into under this subchapter without regard to section 529 of title 31 and section 5 of title 41.

(July 1, 1944, ch. 373, title XVII, § 1701, as added June 23, 1976, Pub. L. 94-317, title I, § 102, 90 Stat. 695.)

REFERENCES IN TEXT

Subchapters XIII and XIV of this chapter, referred to in subsec. (a), are classified to sections 300k et seq. and 300o et seq. of this title.

SHORT TITLE

For Short Title of title I of Pub. L. 94-317, which enacted this subchapter, see Short Title of 1976 Amendments note set out under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300u-4 of this title.

§ 300u-1. Grants and contracts for research programs; authority of Secretary; review of applications; additional functions; periodic public survey

(a) The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) research in health information and health promotion, preventive health services, and education in the appropriate use of health care. Applications for grants and contracts under this section shall be subject to appropriate peer review. The Secretary shall also—

(1) provide consultation and technical assistance to persons who need help in preparing research proposals or in actually conducting research;

(2) determine the best methods of disseminating information concerning personal health behavior, preventive health services and the appropriate use of health care and of affecting behavior so that such information is applied to maintain and improve health, and prevent disease, reduce its risk, or modify its course or severity;

(3) determine and study environmental, occupational, social, and behavioral factors which affect and determine health and ascertain those programs and areas for which educational and preventive measures could be implemented to improve health as it is affected by such factors;

(4) develop (A) methods by which the cost and effectiveness of activities respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, can be measured, including methods for evaluating the effectiveness of various settings for such activities and the various types of persons engaged in such activities, (B) methods for reimbursement or payment for such activities, and (C) models and standards for the conduct of such activities, including models and standards for the education, by providers of institutional health services, of individuals receiving such services respecting the nature of the institutional health services provided the individuals and the symptoms, signs, or diagnoses which led to provision of such services;

(5) develop a method for assessing the cost and effectiveness of specific medical services and procedures under various conditions of use, including the assessment of the sensitivity and specificity of screening and diagnostic procedures; and

(6) enumerate and assess, using methods developed under paragraph (5), preventive health measures and services with respect to their cost and effectiveness under various conditions of use.

(b) The Secretary shall make a periodic survey of the needs, interest, attitudes, knowledge, and behavior of the American public regarding health and health care. The Secretary shall take into consideration the findings of such surveys and the findings of similar surveys conducted by national and community health education organizations, and other organizations and agencies for formulating policy respecting health information and health promotion, preventive health services, and education in the appropriate use of health care.

(July 1, 1944, ch. 373, title XVII, § 1702, as added June 23, 1976, Pub. L. 94-317, title I, § 102, 90 Stat. 696.)

§ 300u-2. Grants and contracts for community health programs

(a) Authority of Secretary; particular activities

The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) new and innovative programs in health information and health promotion, preventive health services, and education in the appropriate use of health care, and may specifically—

(1) support demonstration and training programs in such matters which programs (A) are in hospitals, ambulatory care settings, home care settings, schools, day care programs for children, and other appropriate settings representative of broad cross sections of the population, and include public education activities of voluntary health agencies, professional medical societies, and other private nonprofit health organizations, (B) focus on objectives that are measurable, and (C) emphasize the prevention or moderation of illness or accidents that appear controllable through individual knowledge and behavior;

(2) provide consultation and technical assistance to organizations that request help in planning, operating, or evaluating programs in such matters;

(3) develop health information and health promotion materials and teaching programs including (A) model curriculums for the training of educational and health professionals and paraprofessionals in health education by medical, dental, and nursing schools, schools of public health, and other institutions engaged in training of educational or health professionals, (B) model curriculums to be used in elementary and secondary schools and institutions of higher learning, (C) materials and programs for the continuing education of health professionals and paraprofessionals in the health education of their patients, (D) materials for public service use by the printed and broadcast media, and (E) materials and programs to assist providers of health care in providing health education to their patients; and

(4) support demonstration and evaluation programs for individual and group self-help programs designed to assist the participant in using his individual capacities to deal with health problems, including programs concerned with obesity, hypertension, and diabetes.

(b) Grants to States and other public and nonprofit private entities; costs of demonstrating and evaluating programs; development of models

The Secretary is authorized to make grants to States and other public and nonprofit private entities to assist them in meeting the costs of demonstrating and evaluating programs which provide information respecting the costs and quality of health care or information respecting health insurance policies and prepaid health plans, or information respecting both. After the development of models pursuant to section 300u-3(4) and 300u-3(5) of this title for such information, no grant may be made under this subsection for a program unless the information to be provided under the program is provided in accordance with one of such models applicable to the information.

(c) Private nonprofit entities; limitation on amount of grant or contract

The Secretary is authorized to support by grant or contract (and to encourage others to support) private nonprofit entities working in health information and health promotion, preventive health services, and education in the appropriate use of health care. The amount of any grant or contract for a fiscal year begin-

ning after September 30, 1978, for an entity may not exceed 25 per centum of the expenses of the entity for such fiscal year for health information and health promotion, preventive health services, and education in the appropriate use of health care.

(July 1, 1944, ch. 373, title XVII, § 1703, as added June 23, 1976, Pub. L. 94-317, title I, § 102, 90 Stat. 697.)

§ 300u-3. Grants and contracts for information programs; authority of Secretary; particular activities

The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) such activities as may be required to make information respecting health information and health promotion, preventive health services, and education in the appropriate use of health care available to the consumers of medical care, providers of such care, schools, and others who are or should be informed respecting such matters. Such activities may include at least the following:

(1) The publication of information, pamphlets, and other reports which are specially suited to interest and instruct the health consumer, which information, pamphlets, and other reports shall be updated annually, shall pertain to the individual's ability to improve and safeguard his own health; shall include material, accompanied by suitable illustrations, on child care, family life and human development, disease prevention (particularly prevention of pulmonary disease, cardiovascular disease, and cancer), physical fitness, dental health, environmental health, nutrition, safety and accident prevention, drug abuse and alcoholism, mental health, management of chronic diseases (including diabetes and arthritis), and venereal diseases; and shall be designed to reach populations of different languages and of different social and economic backgrounds.

(2) Securing the cooperation of the communications media, providers of health care, schools, and others in activities designed to promote and encourage the use of health maintaining information and behavior.

(3) The study of health information and promotion in advertising and the making to concerned Federal agencies and others such recommendations respecting such advertising as are appropriate.

(4) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others (except individual health practitioners) of information for use by the public respecting the cost and quality of health care, including information to enable the public to make comparisons of the cost and quality of health care.

(5) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others of information for use by the public respecting health insurance policies and prepaid health plans, including information on the benefits provided by the various types of such policies and plans, the premium charges for such policies and plans, exclusions from coverage or eligibility for coverage, cost sharing requirements, and the ratio of the amounts paid as benefits to the amounts received as premiums and information to enable the public to make relevant comparisons of the costs and benefits of such policies and plans.

(6) Assess, with respect to the effectiveness, safety, cost, and required training for and conditions of use, of new aspects of health care, and new activities, programs, and services designed to improve human health and publish in readily understandable language for public and professional use such assessments and, in the case of controversial aspects of health care, activities, programs, or services, publish differing views or opinions respecting the effectiveness, safety, cost, and required training for and conditions of use, of such aspects of health care, activities, programs, or services.

(July 1, 1944, ch. 373, title XVII, § 1704, as added June 23, 1976, Pub. L. 94-317, title I, § 102, 90 Stat. 698.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300u-2 of this title.

§ 300u-4. Status reports to President and Congress; study of health education and preventive health services with respect to insurance coverage

(a) The Secretary shall, not later than two years after June 23, 1976, and annually thereafter, submit to the President for transmittal to Congress a report on the status of health information and health promotion, preventive health services, and education in the appropriate use of health care. Each such report shall include—

(1) a statement of the activities carried out under this subchapter since the last report and the extent to which each such activity achieves the purposes of this subchapter;

(2) an assessment of the manpower resources needed to carry out programs relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, and a statement describing the activities currently being carried out under this subchapter designed to prepare teachers and other manpower for such programs;

(3) the goals and strategy formulated pursuant to section 300u(a)(1) of this title, the models and standards developed under this subchapter, and the results of the study required by subsection (b) of this section; and

(4) such recommendations as the Secretary considers appropriate for legislation respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, including recommendations for revisions to and extension of this subchapter.

(b) The Secretary shall conduct a study of health education services and preventive health services to determine the coverage of such services under public and private health insurance programs, including the extent and nature of such coverage and the cost sharing requirements required by such programs for coverage of such services.

(July 1, 1944, ch. 373, title XVII, § 1705, as added June 23, 1976, Pub. L. 94-317, title I, § 102, 90 Stat. 699.)

§ 300u-5. Office of Health Information and Health Promotion; establishment; powers, duties, etc.

The Secretary shall establish within the Office of the Assistant Secretary for Health an Office of Health Information and Health Promotion which shall—

(1) coordinate all activities within the Department which relate to health information and health promotion, preventive health services, and education in the appropriate use of health care;

(2) coordinate its activities with similar activities of organizations in the private sector; and

(3) establish a national information clearinghouse to facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, to facilitate access to such information, and to assist in the analysis of issues and problems relating to such matters.

(July 1, 1944, ch. 373, title XVII, § 1706, as added June 23, 1976, Pub. L. 94-317, title I, § 102, 90 Stat. 700.)

CHAPTER 7—SOCIAL SECURITY

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 242c, 2932, 3195, 4636 of this title; title 20 section 1070a; title 25 sections 459e, 639, 640d-21, 1264, 1407; title 26 sections 162, 412, 1402; title 29 section 1082; title 31 sections 1351, 1352; title 45 sections 231, 231a, 231b, 231c, 231d, 231e, 231f, 231q, 231r; title 50 App. section 1291.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 47-1567g of the District of Columbia Code.

SUBCHAPTER I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE AND MEDICAL ASSISTANCE FOR THE AGED

REPEAL OF SUBCHAPTER I OF THIS CHAPTER; INAPPLICABILITY OF REPEAL TO PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this subchapter is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1960—Pub. L. 86-778, title VI, § 601(a), Sept. 13, 1960, 74 Stat. 987, included medical assistance for the aged in the heading of the subchapter.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 428, 602, 1301, 1306a, 1308, 1309, 1311, 1315, 1316, 1318, 1319, 1382, 1395v, 1395z, 1396a, 1396b, 1396d, 1397b of this title; title 7 section 2012; title 29 section 981; title 31 section 665.

§ 301. Authorization of Appropriations

For the purpose (a) of enabling each State, as far as practicable under the conditions in such State, to furnish financial assistance to aged needy individuals, (b) of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of aged individuals who are not recipients of old-age assistance but whose income and resources are insufficient to meet the costs of necessary medical services, and (c) of encouraging each State, as far as practicable under the conditions in such State, to furnish rehabilitation and other services to help individuals referred to in clause (a) or (b) to attain or retain capability for self-care, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary"), State plans for old-age assistance, or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged.

(Aug. 14, 1935, ch. 531, title I, § 1, 49 Stat. 620; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(a), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 311(a), 70 Stat. 848; Sept. 13, 1960, Pub. L. 86-778, title VI, § 601(b), 74 Stat. 987; July 25, 1962, Pub. L. 87-543, title I, § 104(c)(1), 76 Stat. 185.)

REPEAL OF SECTION

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1962—Pub. L. 87-543 eliminated from clause (a) the provision relating to the purpose of encouraging each State, as far as practicable under the conditions in the State, to help aged needy individuals attain self-care, and added clause (c) incorporating the eliminated provision.

1960—Pub. L. 86-778 authorized appropriations for the purpose of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of aged individuals who are not recipients of old-age assistance but whose income and resources are insufficient to meet the costs of necessary medical services.

1956—Act Aug. 1, 1956, eliminated the specific appropriation for the fiscal year ending June 30, 1956, and inserted provisions relating to attainment of self-care by individuals.

1950—Act Aug. 28, 1950, § 361(a), substituted "Federal Security Administrator (hereinafter referred to as the 'Administrator')" for "Social Security Board established by subchapter I of this chapter (hereinafter referred to as the 'Board')".

EFFECTIVE DATE OF 1960 AMENDMENT

Section 604 of Pub. L. 86-778 provided that: "The amendments made by section 601 of this Act [to sections 301, 302, 303(a), (b)(2)(B), 304 and 306 of this title] shall take effect October 1, 1960, and the amendments made by section 602 [to section 1308 of this title] shall be effective with respect to fiscal years ending after 1960."

SHORT TITLES

For Short Title of this chapter and of amendments thereto, see section 1305 of this title and Short Title notes set out thereunder.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

DECLARATION OF PURPOSE OF TITLE III OF ACT AUGUST 1, 1956

Section 300 of act Aug. 1, 1956, provided that: "It is the purpose of this title [adding sections 906 and 1310

of this title, and amending sections 301, 302(a)(11), 303(a), 601, 602(a)(13), 603(a), 606, 1201, 1202(a)(13), 1203(a), 1301(a)(1), 1308, 1351, 1352(a)(12), and 1353(a) of this title] (a) to promote the health of the Nation by assisting States to extend and broaden their provisions for meeting the costs of medical care for persons eligible for public assistance by providing for separate matching of assistance expenditures for medical care, (b) to promote the well-being of the Nation by encouraging the States to place greater emphasis on helping to strengthen family life and helping needy families and individuals attain the maximum economic and personal independence of which they are capable, (c) to assist in improving the administration of public assistance programs (1) through making grants and contracts, and entering into jointly financed cooperative arrangements, for research or demonstration projects and (2) through Federal-State programs of grants to institutions and traineeships and fellowships so as to provide training of public welfare personnel, thereby securing more adequately trained personnel, and (d) to improve aid to dependent children."

DEFINITION OF "SECRETARY"

Section 201 of Pub. L. 87-543 provided that: "As used in this Act and in the provisions of the Social Security Act amended by this act [see Short Title of 1962 Amendment note under section 1305 of this title], the term 'Secretary', unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

Section 709 of Pub. L. 86-778 provided that: "As used in this Act and the provisions of the Social Security Act amended by this Act [see Short Title of 1960 Amendment note under section 1305 of this title] the term 'Secretary', unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Pub. L. 92-603, title III, § 303(b), Oct. 30, 1972, 86 Stat. 1484, provided that: "The amendments made by sections 301 [enacting sections 1381 to 1383c of this title] and 302 [enacting sections 801 to 805 of this title] and the repeals made by subsection (a) [repealing sections 301 to 306, 1201 to 1206 and 1351 to 1355 of this title] shall not be applicable in the case of Puerto Rico, Guam, and the Virgin Islands."

CROSS REFERENCES

Railway labor, see notes under section 151 of Title 45, Railroads.

§ 302. State old-age and medical assistance plans

(a) Contents

A State plan for old-age assistance, or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged must—

(1) except to the extent permitted by the Secretary with respect to services, provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide (A) for granting an opportunity for a fair hearing before the State agency to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing;

(5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;

(8) provide that all individuals wishing to make application for assistance under the plan shall have opportunity to do so, and that such assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide, if the plan includes assistance for or on behalf of individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(10) if the State plan includes old-age assistance—

(A) provide that the State agency shall, in determining need for such assistance, take into consideration any other income and resources of an individual claiming old-age assistance, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination, (i) the State agency may disregard not more than $7.50 per month of any income and (ii) of the first $80 per month of additional income which is earned the State agency may disregard not more than the first $20 thereof plus one-half of the remainder;

(B) include reasonable standards, consistent with the objectives of this subchapter,

for determining eligibility for and the extent of such assistance; and

(C) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational arrangement it finds appropriate for this purpose) to applicants for and recipients of such assistance to help them attain self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

(11) if the State plan includes medical assistance for the aged—

(A) provide for inclusion of some institutional and some noninstitutional care and services;

(B) provide that no enrollment fee, premium, or similar charge will be imposed as a condition of any individual's eligibility for medical assistance for the aged under the plan;

(C) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulations) with respect to the furnishing of such assistance to individuals who are residents of the State but are absent therefrom;

(D) include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of such assistance; and

(E) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance for the aged paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual), and that there shall be no adjustment or recovery (except, after the death of such individual and his surviving spouse, if any, from such individual's estate) of any medical assistance for the aged correctly paid on behalf of such individual under the plan;

(12) if the State plan includes assistance to or in behalf of individuals who are patients in institutions for mental diseases—

(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and, where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities, for furnishing information, and for making reports;

(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interest, including, to that end, assurances that there will be initial and periodic review of this medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodic determination of his need for continued treatment in the institution;

(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients who would otherwise need care in such institutions, including appropriate medical treatment and other assistance: for services referred to in section 303(a)(4)(A) (i) and (ii) of this title which are appropriate for such recipients and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out; and

(D) provide methods of determining the reasonable cost of institutional care for such patients; and

(13) if the State plan includes assistance to or in behalf of patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing homes, and other alternatives to care in public institutions for mental diseases.

(b) Approval by Secretary

The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes as a condition of eligibility for assistance under the plan—

(1) an age requirement of more than sixty-five years; or

(2) any residence requirement which (A) in the case of applicants for old-age assistance, excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for old-age assistance and has resided therein continuously for one year immediately preceding the application, and (B) in the case of applicants for medical assistance for the aged, excludes any individual who resides in the State; or

(3) any citizenship requirement which excludes any citizen of the United States.

At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this subchapter.

(c) Limitation on number of plans

Nothing in this subchapter shall be construed to permit a State to have in effect with respect to any period more than one State plan approved under this subchapter.

(Aug. 14, 1935, ch. 531, title I, § 2, 49 Stat. 620; Aug. 10, 1939, ch. 666, title I, § 101, 53 Stat.

1360; Aug. 28, 1950, ch. 809, title III, pt. 1, § 301(a), (b), pt. 6, § 361(c), (d), 64 Stat. 548, 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 311(b), 70 Stat. 848; Aug. 28, 1958, Pub. L. 85-840, title V, § 510, 72 Stat. 1051; Sept. 13, 1960, Pub. L. 86-778, title VI, § 601(b), 74 Stat. 987; July 25, 1962, Pub. L. 87-543, title I, §§ 106(a)(1), 157, 76 Stat. 188, 207; July 30, 1965, Pub. L. 89-97, title II, § 221(a)(3), title IV, § 403(a), 79 Stat. 357, 418; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 210(a)(1), 213(a)(1), 81 Stat. 895, 898; Oct. 30, 1972, Pub. L. 92-603, title IV, §§ 405(a), 406(a), 407(a), 410(a), 413(a), 86 Stat. 1488, 1489, 1491, 1492.)

Repeal of Section

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

Amendments

1972—Subsec. (a)(1). Pub. L. 92-603, § 410(a), added "except to the extent permitted by the Secretary with respect to services" preceding "provide".

Subsec. (a)(4). Pub. L. 92-603, § 407(a), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (a)(7). Pub. L. 92-603, § 413(a), substituted provisions permitting the use or disclosure of information concerning applicants or recipients to public officials requiring such information in connection with their official duties and to other persons for purposes directly connected with the administration of the State plan, for provisions restricting the use or disclosure of such information to purposes directly connected with the administration of the State plan.

Subsec. (a)(10)(C). Pub. L. 92-603, § 405(a), added provision relating to the use of whatever internal organizational arrangement found appropriate.

Subsec. (b). Pub. L. 92-603, § 406(a), added provision relating to the furnishing of manuals and other policy issuances to persons without charge and at the option of the State.

1968—Subsec. (a)(5). Pub. L. 90-248, § 210(a)(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(10)(A)(i). Pub. L. 90-248, § 213(a)(1), increased from $5 to $7.50 limitation on amount of any income which the State may disregard in making its determination of need.

1965—Subsec. (a)(10)(A). Pub. L. 89-97, § 403(a), placed a ceiling of $5 on the amount of any income which the state may disregard in making its determination of need and substituted "$80" and "$20" for "$50" and "$10" respectively.

Subsec. (a)(12), (13). Pub. L. 89-97, § 221(a)(3), added clauses (12) and (13).

1962—Subsec. (a)(10)(A). Pub. L. 87-543 added, "as well as any expenses reasonably attributable to the earning of any such income" and the exception provision.

1960—Subsec. (a). Pub. L. 86-778 inserted provisions relating to plans for medical assistance, and required plans that include old-age assistance to include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of such assistance.

Subsec. (b). Pub. L. 86-778 substituted "eligibility for assistance under the plan" for "eligibility for old-age assistance under the plan" in the opening provisions, eliminated provisions from cl. (1) which permitted the plan to impose an age requirement of as much as 70 years until Jan. 1, 1940, and inserted provisions in cl. (2) requiring the Secretary to disapprove any plan, in the case of applicants for medical assistance for the aged, which excludes any individual who resides in the State.

Subsec. (c). Pub. L. 86-778 added subsec. (c).

1958—Subsec. (a). Pub. L. 85-840 inserted provisions in cl. (11) requiring the State plan to include a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services.

1956—Subsec. (a). Act Aug. 1, 1956, added clause (11).

1950—Subsec. (a). Act Aug. 28, 1950, substituted "provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for old-age assistance is denied or is not acted upon with reasonable promptness" for "provide for granting to any individual, whose claim for old-age assistance is denied, an opportunity for a fair hearing before such State agency" in subsec. (a)(4), "Administrator" for "Board" wherever appearing, and "he", "him", or "his" for "it" or "its" wherever appearing, and added subsec. (a)(9) and (10).

1939—Subsec. (a). Act Aug. 10, 1939, amended subsec. (a) generally commencing with cl. (5).

Effective Date of 1968 Amendment

Section 210(b) of Pub. L. 90-248 provided that: "Each of the amendments made by subsection (a) [to sections 302(a)(5), 602(a)(5), 1202(a)(5), 1352(a)(5), 1382(a)(5) and 1396a(a)(4) of this title] shall become effective July 1, 1969, or, if earlier (with respect to a State's plan approved under title [subchapter] I, X, XIV, XVI, or XIX, or part A of title IV [of this chapter]) on the date as of which the modification of the State plan to comply with such amendment is approved."

Effective Date of 1965 Amendment

Section 403(a) of Pub. L. 89-97 provided that the amendment of subsec. (a)(10)(A) of this section by said section was effective Oct. 1, 1965.

Section 221(e) of Pub. L. 89-97 provided that: "The amendments made by this section [sections 302, 303, 306, 1206, 1355, 1382, 1383, and 1385 of this title] shall apply in the case of expenditures made after December 31, 1965, under a State plan approved under title I, X, XIV, or XVI of the Social Security Act [subchapter I, X, XIV, or XVI of this chapter]."

Effective Date of 1962 Amendment

Section 202(a) of Pub. L. 87-543 provided that: "The amendments made by sections 102(b)(1), 103, 106, and 134 [adding section 602(a)(13) and amending sections 302(a)(10)(A), 602(a)(7), 607(3), section 723(a) and sections 1202(a)(8) and 1352(a)(8) of this title] shall become effective July 1, 1963."

Effective Date of 1960 Amendment

Amendment by Pub. L. 86-778 effective Oct. 1, 1960, see section 604 of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 301 of this title.

Effective Date of 1958 Amendment

Amendment of subsec. (a)(11) by Pub. L. 85-840 effective Oct. 1, 1958, see section 512 of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 303 of this title.

Effective Date of 1956 Amendment

Section 314 [315] of act Aug. 1, 1956 provided that: "The amendments made by sections 311(b), 312(b), 313(b), and 314(b) [to sections 302(a)(11), 602(a)(13), 1202(a)(13), and 1352(a)(12) of this title] shall become effective July 1, 1957."

EFFECTIVE DATE OF 1950 AMENDMENT

Section 301(c) of act Aug. 28, 1950 provided that the amendment of subsec. (a) shall take effect as of July 1, 1951.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(5)(A) of this section, insofar as relates to the prescription of personnel standards on a merit basis, transferred to United States Civil Service Commission, see section 4728 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

DISREGARDING OF INCOME OF OASDI RECIPIENTS IN DETERMINING NEED FOR PUBLIC ASSISTANCE

Section 306 of Pub. L. 92-603 provided that: "In addition to the requirements imposed by law as a condition of approval of a State plan to provide aid or assistance in the form of money payments to individuals under title I, X, XIV, or XVI of the Social Security Act [subchapters I, X, XIV, or XVI of this chapter], there is hereby imposed the requirement (and the plan shall be deemed to require) that, in the case of any individual receiving aid or assistance for any month after October 1972, or, at the option of the State, September 1972, and before January 1974 who also receives in such month a monthly insurance benefit under title II of such Act [subchapter II of this chapter] which was increased as a result of the enactment of Public Law 92-336, the sum of the aid or assistance received by him for such month, plus the monthly insurance benefit received by him in such month (not including any part of such benefit which is disregarded under such plan), shall exceed the sum of the aid or assistance which would have been received by him for such month under such plan as in effect for October 1972, plus the monthly insurance benefit which would have been received by him in such month, by an amount equal to $4 or (if less) to such increase in his monthly insurance benefit under such title II (whether such excess is brought about by disregarding a portion of such monthly insurance benefit or otherwise)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 303, 304, 306, 602, 1202, 1315, 1352, 4728 of this title; title 25 sections 683, 686, 689, 996.

§ 303. Payments to States

(a) Computation of amounts

From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has a plan approved under this subchapter, for each quarter, beginning with the quarter commencing October 1, 1960—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarter as old-age assistance under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) 31/37 of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of $37 multiplied by the total number of recipients of old-age assistance for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received old-age assistance in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as old-age assistance in the form of medical or any other type of remedial care); plus

(B) the larger of the following:

(i)(I) the Federal percentage (as defined in section 1301(a)(8) of this title) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of recipients of old-age assistance for such month, plus (II) 15 per centum of the total expended during such month as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect to such month as exceeds the product of $15 multiplied by the total number of recipients of old-age assistance for such month, or

(ii)(I) the Federal medical percentage (as defined in section 306(c) of this title) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditures with respect to such month as exceeds (a) the product of $52 multiplied by the total number of such recipients of old-age assistance for such month, or (b) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product of $37 multiplied by such total number of such recipients, plus (II) the Federal percentage of the amount by which the total expended during such month as old-age assistance under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B)(ii), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of such recipients of old-age assistance for such month;

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as old-age assistance under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for indi-

viduals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of old-age assistance for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of $45 multiplied by the total number of such recipients of old-age assistance for such month, or (II) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product of $37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of $7.50 multiplied by the total number of such recipients of old-age assistance for such month;

(3) in the case of any State, an amount equal to the Federal medical percentage (as defined in section 306(c) of this title) of the total amounts expended during such quarter as medical assistance for the aged under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof); and

(4) in the case of any State whose State plan approved under section 302 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c)(1) of this section and are provided (in accordance with the next sentence) to applicants for or recipients of assistance under the plan to help them attain or retain capability for self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c)(1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of assistance under the plan, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of assistance under the plan, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such assistance; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this subchapter shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervis-

ing the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(5) in the case of any State whose State plan approved under section 302 of this title does not meet the requirements of subsection (c)(1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (4) and provided in accordance with the provisions of such paragraph.

(b) Method of computing and paying amounts

The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of aged individuals in the State, and (C) such other investigation as the Secretary of Health, Education, and Welfare may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) of this section for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to assistance furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c) Eligibility; failure to comply

(1) In order for a State to qualify for payments under paragraph (4) of subsection (a) of this section, its State plan approved under section 302 of this title must provide that the State agency shall make available to applicants for or recipients of old-age assistance under such State plan at least those services to help them attain or retain capability for self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (4) of subsection (a) of this section until he is satisfied that there will not longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (4) of subsection (a) of this section but shall instead be made, subject to the other provisions of this subchapter, under paragraph (5) of such subsection.

(d) Limitation

Notwithstanding the preceding provisions of this section, the amount determined under such provisions for any State for any quarter which is attributable to expenditures with respect to patients in institutions for mental diseases shall be paid only to the extent that the State makes a showing satisfactory to the Secretary that total expenditures in the State from Federal, State, and local sources for mental health services (including payments to or in behalf of individuals with mental health problems) under State and local public health and public welfare programs for such quarter exceed the average of the total expenditures in the State from such sources for such services under such programs for each quarter of the fiscal year ending June 30, 1965. For purposes of this subsection, expenditures for such services for each quarter in the fiscal year ending June 30, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the first determination by him under this subsection for

such State; and expenditures for such services for any quarter beginning after December 31, 1965, in the case of any State shall be determined on the basis of the latest data satisfactory to the Secretary, available to him at the time of the determination under this subsection for such State for such quarter; and determinations so made shall be conclusive for purposes of this subsection.

(Aug. 14, 1935, ch. 531, title I, § 3, 49 Stat. 621; Aug. 10, 1939; ch. 666, title I, § 102, 53 Stat. 1361; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; Aug. 10, 1946, ch. 951, title V, § 501, 60 Stat. 991; June 14, 1948, ch. 468, § 3(a), 62 Stat. 439; Aug. 28, 1950, ch. 809, title III, pt. 1, § 302(a), pt. 6, § 361(c), (d), 64 Stat. 548, 558; July 18, 1952, ch. 945, § 8(a), 66 Stat. 778; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title III, § 303, 68 Stat. 1097; Aug. 1, 1956, ch. 836, title III, §§ 301, 311(c), 341, 70 Stat. 846, 848, 852; Aug. 28, 1958, Pub. L. 85-840, title V, § 501, 72 Stat. 1047; Sept. 13, 1960, Pub. L. 86-778, title VI, § 601(c), (d), 74 Stat. 989, 990; May 8, 1961, Pub. L. 87-31, § 5(a), (b), 75 Stat. 77; June 30, 1961, Pub. L. 87-64, title III, § 303(a), 75 Stat. 143; July 25, 1962, Pub. L. 87-543, title I, §§ 101(a)(1), (b)(1), 132(a), 76 Stat. 173, 179, 193; July 30, 1965, Pub. L. 89-97, title I, § 122, title II, § 221(a)(4), title IV, § 401(a), 79 Stat. 353, 357, 414; Jan. 2, 1968, Pub. L. 90-248, title II, § 212(a), 81 Stat. 897; Oct. 20, 1972, Pub. L. 92-512, title III, § 301(b), (d), 86 Stat. 946, 947; Jan. 4, 1975, Pub. L. 93-647, §§ 3(e)(2), 5(a), 88 Stat. 2349, 2350.)

Repeal of Section

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

References in Text

Part B of subchapter XVIII of this chapter, referred to in subsec. (a)(1) and (2)(A), is classified to section 1395j et seq. of this title.

The Vocational Rehabilitation Act, referred to in subsec. (a)(4)(D), (E), is act June 2, 1920, ch. 219, 41 Stat. 735, as amended, which was classified generally to chapter 4 (§ 31 et seq.) of Title 29, Labor, and was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 357. The Rehabilitation Act of 1973 is classified to chapter 16 (§ 701 et seq.) of Title 29. Section 500(a), classified to section 790 of Title 29, in part provided that references to the Vocational Rehabilitation Act in any other provision of law be deemed references to the Rehabilitation Act of 1973.

Amendments

1975—Subsec. (a). Pub. L. 93-647, § 3(e)(2), struck out "(subject to section 1320b of this title)" after "the Secretary of the Treasury shall".

Subsec. (a)(4)(A)(iv). Pub. L. 93-647, § 5(a), added "(including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions)" after "training".

1972—Subsec. (a). Pub. L. 92-512, § 301(d), substituted "shall (subject to section 1320b of this title) pay" for "shall pay" in the text preceding par. (1).

Subsec. (a)(4)(E). Pub. L. 92-512, § 301(b), substituted "under conditions which shall be" for "subject to limitations".

1968—Subsec. (a)(4)(D). Pub. L. 90-248 inserted ", except to the extent specified by the Secretary" following "shall" in the introductory text to subpar. (D).

1965—Subsec. (a)(1). Pub. L. 89-97, §§ 122, 401(a), inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase appearing in so much of par. (1) as precedes clause (A); and changed the first step of the formula for determining federal payments to states with approved plans for old-age assistance under this subchapter, contained in clause (A), by providing federal sharing in $^{3}/_{37}$ths of the first $37 of the average monthly assistance payment instead of $^{29}/_{35}$ths of the first $35 of the average monthly assistance payment, extended the application of the federal percentage in the second step of the formula to an additional $38 of the state's average payment, restated the formula for the second and third steps by eliminating clause (C) and combining such steps in clause (B) and making provision therein to give recognition to the state's expenditures for medical care before applying the federal percentage to the remaining expenditures for which federal participation is available, respectively.

Subsec. (a)(2)(A). Pub. L. 89-97, § 122, inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase.

Subsec. (d). Pub. L. 89-97, § 221(a)(4), added subsec. (d).

1962—Subsec. (a)(1). Pub. L. 87-543, § 132(a), substituted "$^{29}/_{35}$" and "$35" for "four-fifths" and "$31", respectively, in subpar. (A), "$70" for "$66" in subpar. (B), and "$85" and "$70" for "$81" and "$66", respectively, in subpar. (C).

Subsec. (a)(2). Pub. L. 87-543, § 132(a), substituted "$37.50" for "$35.50", in subpar. (A) and "$45" and "$37.50" for "$43" and "$35.50", respectively, in subpar. (B).

Subsec. (a)(4). Pub. L. 87-543, § 101(a)(1), (b)(1)(A), inserted in the opening provisions "whose State plan approved under section 302 of this title meets the requirements of subsection (c) of this section" following "any State", and substituted provisions which increased the Federal share of expenses of administration of State public assistance plans by providing quarterly payments of the sum of 75 per centum of the quarterly expenses for certain prescribed services to help attain and retain capability for self-care, services likely to prevent or reduce dependency, and services appropriate for individuals who were or are likely to become applicants for or recipients of assistance and request such services, and training of State or local public assistance personnel administering such plans and one-half of other administrative expenses for other services, permitted State health or vocational rehabilitation or other appropriate State agencies to furnish such services, except vocational rehabilitation services, and required the determination of the portion of expenses covered by the 75 and 50 per centum provisions in accordance with methods and procedures permitted by the Secretary for former provisions requiring quarterly payments of one-half of quarterly expenses of administration of State plans, including staff services of State or local public assistance agencies to applicants for and recipients of old-age assistance to help them attain self-care.

Subsec. (a)(5). Pub. L. 87-543, § 101(b)(1)(B), added subsec. (a)(5).

Subsec. (c). Pub. L. 87-543, § 101(b)(1)(C), added subsec. (c).

1961—Subsec. (a)(1). Pub. L. 87-64, § 303(a)(1), substituted "$31" for "$30" in subpar. (A), "$66" for "$65" in subpar. (B), and "$81" for "$80" and "$66" for "$65" in subpar. (C).

Pub. L. 87-31, § 5(a), substituted "$80" and "$15" for "$77" and "$12", respectively, in subpar. (C).

Subsec. (a)(2). Pub. L. 87-64, § 303(a)(2), substituted "$35.50" for "$35" in subpar. (A), and "$35.50" for "$35" and "$43" for "$42.50" in subpar. (B).

Pub. L. 87-31, § 5(b), substituted "$42.50" and "$7.50" for "$41" and "$6", respectively, in subpar. (B).

1960—Subsec. (a). Pub. L. 86-778, § 601(c), added para. (1)(C), (2)(B), and (3).

Subsec. (b)(2). Pub. L. 86-778, § 601(d), substituted "assistance furnished under the State plan" for "old-age assistance furnished under the State plan" in cl. (B).

1958—Subsec. (a). Pub. L. 85-840 increased the payments to the States to four-fifths of the first $30 of the average monthly payment per recipient, including assistance in the form of money payments and in the form of medical or any other type of remedial care, plus the Federal percentage of the amount by which the expenditures exceed the maximum which may be counted under cl. (A), but excluding that part of the average monthly payment per recipient in excess of $65, increased the average monthly payment to Puerto Rico and the Virgin Islands from $30 to $35, excluded Guam from the provisions which authorize an average monthly payment of $65 and included Guam within the provisions which authorize an average monthly payment of $35, and permitted the counting of individuals with respect to whom expenditures were made as old-age assistance in the form of medical or any other type of remedial care in determining the total number of recipients.

1956—Subsec. (a). Act Aug. 1, 1956, § 301, substituted "during such quarter as old-age assistance in the form of money payments under the State plan" for "during such quarter as old-age assistance under the State plan" in clauses (1) and (2), "who received old-age assistance in the form of money payments for such month" for "who received old-age assistance for such month" in par. (A) of clause (1), and inserted clause (4).

Act Aug. 1, 1956, § 311(c), eliminated ", which shall be used exclusively as old-age assistance," following "the Virgin Islands, an amount" in clauses (1) and (2), and substituted "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of old-age assistance to help them attain self-care" for "which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose" in clause (3).

Act Aug. 1, 1956, § 341, substituted "October 1, 1956" for "October 1, 1952", eliminated ", which shall be used exclusively as old-age assistance," following "the Virgin Islands, an amount", and substituted "$60" for "$55", in clause (1), substituted "the product of $30" for "the product of $25" in par. (A) of clause (1), and "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of old-age assistance to help them attain self-care" for "which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose" in clause (3).

1954—Subsec. (b). Act Sept. 1, 1954, § 303(b), substituted "subsection (a)" for "clause (1) of subsection (a)", wherever appearing, substituted "such subsection" for "such clause" in par. (1), and struck out "increased by five per centum" at the end of par. (3).

Subsec. (b)(1). Act Sept. 1, 1954, § 303(a), substituted the words "the State's proportionate share" for "one-half".

1952—Subsec. (a). Act July 18, 1952, increased the Federal share of the State's average monthly payment to four-fifths of the first $25 plus one-half of the remainder within individual maximums of $55, and changed formulas for computing the Federal share of public assistance for Puerto Rico and Virgin Islands.

1950—Act Aug. 28, 1950 substituted "Administrator" for "Board", and "he", "him" or "his" for "it", or "its" wherever appearing and in subsec. (a) changed the basis for computation of the Federal portion of old-age assistance.

1948—Subsec. (a). Act June 14, 1948, substituted $50 for $45 and $20 for $15.

1946—Subsec. (a). Act Aug. 10, 1946, § 501(a), increased the maximum monthly State expenditure for an individual to which the Federal Government will contribute from $40 to $45, increased the Federal contribution for assistance from one-half the State's expenditure to two-thirds the State's expenditure up to $15 monthly per individual plus one-half the State's expenditure over $15 and changed the Federal contribution for administration from 5 percent of the Federal contribution for assistance to one-half the State expenditure for administration.

Subsec. (b). Act Aug. 10, 1946, § 501(b), changed references to clause (1) of subsec. (a) to refer to the entire subsection, substituted "the State's proportionate share" for "one-half" in par. (1) and struck out "increased by 5 per centum" at end of par. (3).

1939—Act Aug. 10, 1939, amended section generally, including the substitution of $40 for $30 in subsec. (a).

Effective Date of 1975 Amendment

Amendment by section 5 of Pub. L. 93-647 effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

Effective Date of 1972 Amendment

Section 301(e) of Pub. L. 92-512 provided that: "The amendments made by this section (other than by subsection (b)) [enacting section 1320b of this title and amending text preceding par. (1) of sections 303(a), 603(a), 1203(a), 1253(a), and 1383(a), and amending section 603(a)(5) of this title] shall be effective July 1, 1972, and the amendments made by subsection (b) [to sections 303(a)(4)(E), 603(a)(3)(D), 1203(a)(3)(E), 1353(a)(3)(E), and 1383(a)(4)(E) of this title] shall be effective January 1, 1973."

Effective Date of 1968 Amendment

Section 212(e) of Pub. L. 90-248 provided that: "The amendments made by the preceding subsections of this section [to sections 303(a)(4)(D), 1203(a)(3)(D), 1353(a)(3)(D), and 1383(a)(4)(D) of this title] shall take effect January 1, 1968."

Effective Date of 1965 Amendment

Amendment by section 221 of Pub. L. 89-97 applicable in the case of expenditures made after Dec. 31, 1965, under a State plan approved under this subchapter, see section 221(e) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 302 of this title.

Section 401(f) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (a)(1) of this section and sections 603(a)(1), 1203(a)(1), 1353(a)(1), and 1383(a)(1) of this title] shall apply in the case of expenditures made after December 31, 1965, under a State plan approved under title I, IV, X, XIV, or XVI of the Social Security Act [subchapter I, IV, X, XIV, or XVI of this chapter]."

Effective Date of 1962 Amendment

Section 202(d) of Pub. L. 87-543 provided that: "The amendments made by sections 109 and 132 (other than subsections (d) and (e) thereof) [amending sections 303(a)(1), (2), 606(b), 1203(a)(1), (2) and 1353(a)(1), (2) of this title] shall be applicable in the case of expenditures, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapter I, IV, X, or XIV of this chapter], as the case may be, made after September 30, 1962."

Section 202(f) of Pub. L. 87-543 provided that: "The amendments made by section 101(a) [amending sections 303(a)(4), 603(a)(1) to (3), 1203(a)(3) and 1353(a)(3) of this title] shall be applicable in the case

of expenditures, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapters I, IV, X, or XIV of this chapter], as the case may be, made after August 31, 1962. The amendments made by section 101(b) [adding sections 303(a)(5), (c), 603(a)(4), (c), 1203(a)(4), (c) and 1353(a)(4), (c) of this title and amending sections 303(a)(4), 603(a)(3), 608(d), 609(b), 1203(a)(3) and 1353(a)(3) of this title] shall be applicable in the case of expenditures, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapters I, IV, X, or XIV of this chapter], as the case may be, made after June 30, 1963."

Effective Date of 1961 Amendments

Section 303(e) of Pub. L. 87-64, as amended by Pub. L. 87-543, title I, § 132(e), provided that: "The amendments made by subsections (a), (b), and (c) of this section [to subsec. (a) of this section and sections 1203(a) and 1353(a) of this title] shall apply only in the case of expenditures made after September 30, 1961, and before October 1, 1962, under a State plan approved under title I, X, or XIV, as the case may be, of the Social Security Act [subchapters I, X or XIV of this chapter]."

Section 5(c) of Pub. L. 87-31 provided that: "The amendments made by subsections (a) and (b) [to subsecs. (a)(1)(C) and (a)(2)(B) of this section] shall apply in the case of expenditures made after June 30, 1961, under a State plan approved under title I of the Social Security Act [this subchapter]."

Effective Date of 1960 Amendment

Amendment of subsecs. (a) and (b)(2)(B) by Pub. L. 86-778 effective Oct. 1, 1960, see section 604 of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 301 of this title.

Effective Date of 1958 Amendment

Section 512 of Pub. L. 85-840 provided that:

"Notwithstanding the provisions of sections 305 and 345 of the Social Security Amendments of 1956, as amended [set out below], the amendments made by sections 501, 502, 503, 504, 505, and 506 [to subsec. (a) of this section and sections 603(a), 1203(a), 1301(a)(1), (8) and 1353(a) of this title] shall be effective—

"(1) in the case of money payments, under a State plan approved under title I, IV, X, or XIV of the Social Security Act, for months after September 1958, and

"(2) in the case of assistance in the form of medical or any other type of remedial care, under such a plan, with respect to expenditures made after September 1958. The amendment made by section 506 [to section 1301(a)(1) of this title] shall also become effective, for purposes of title V of the Social Security Act [subchapter V of this chapter], for fiscal years ending after June 30, 1959. The amendments made by section 507 [to section 1308 of this title] shall be effective for fiscal years ending after June 30, 1958. The amendment made by section 508 [to section 1304 of this title] shall be effective for fiscal years ending after June 30, 1959. The amendment made by section 510 shall become effective October 1, 1958."

Effective and Termination Date of 1956 Amendment

Section 345 of part V of title III of act Aug. 1, 1956, provided that: "The amendments made by this part [by sections 341 to 344 of act Aug. 1, 1956, to sections 303(a), 603(a), 1203(a), and 1353(a) of this title] shall be effective for the period beginning October 1, 1956, and ending with the close of June 30, 1959, and after such amendments cease to be in effect any provision of law amended thereby shall be in full force and effect as though this part had not been enacted."

Effective Date of 1956 Amendment

Section 305 of part I of title III of act Aug. 1, 1956, as amended by Pub. L. 85-110, July 17, 1957, 71 Stat. 308, provided that:

"(a) Except as provided in subsection (b), the amendments made by this part [to subsec. (a) of this section and sections 603(a), 1203(a) and 1353(a) of this title] shall become effective July 1, 1957.

"(b) The amendments made by any section of this part shall not apply to any State (as defined in section 1101 of the Social Security Act [section 1301 of this title] for purposes of title I thereof [subchapter I of this chapter]) for any fiscal year for which there is in effect an election by it not to have the amendments made by such section apply to it. Any such election shall be in effect for a fiscal year only if notice of the election has been filed with the Secretary of Health, Education, and Welfare at some time prior to May 16 of the preceding fiscal year, except that any such election shall be in effect for the fiscal year beginning July 1, 1957, if notice of the election is filed with the Secretary prior to August 1, 1957. An election by a State under this subsection shall continue in effect until the close of any fiscal year designated in a notice of termination of such election which is filed with the Secretary of Health, Education, and Welfare prior to May 16 of such year. Elections hereunder shall be made, and notices thereof and notices of termination shall be filed, on such form or forms and in such manner as the Secretary of Health, Education, and Welfare may prescribe."

Effective and Termination Date of 1952 Amendment

Section 8(e) of act July 18, 1952, as amended by act Sept. 1, 1954, title III, § 301, provided that: "The amendments made by this section [to sections 303(a), 603(a), 1203(a), and 1353(a) of this title] shall be effective for the period beginning October 1, 1952, and ending with the close of September 30, 1956, and after such amendments cease to be in effect any provision of law amended thereby shall be in full force and effect as though this Act [July 18, 1952] had not been enacted."

Effective Date of 1950 Amendment

Section 302(a) of act Aug. 28, 1950, provided that the amendment of subsec. (a) shall take effect as of Oct. 1, 1950.

Effective Date of 1948 Amendment

Section 3(d) of act June 14, 1948, provided that the amendment of subsec. (a) by section 3(a) of act June 14, 1948, shall become effective on Oct. 1, 1948.

Termination Date of 1946 Amendment

Section 504 of act Aug. 10, 1946, as amended by act Aug. 6, 1947, ch. 510, § 3, 61 Stat. 794, provided that amendments to this section and sections 603 and 1203 of this title by sections 501, 502, and 503 of that act shall be effective with respect to the period commencing Oct. 1, 1946, and ending on June 30, 1950.

Effective Date of 1939 Amendment

Amendment by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 102 of act Aug. 10, 1939.

Transfer of Functions

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of the Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by section 1(a) of Reorg. Plan No. III set out in the Appendix to Title 5, Government Organization and Employees.

NONDUPLICATION OF PAYMENTS TO STATES: PROHIBITION OF PAYMENTS AFTER DECEMBER 31, 1969

Prohibition of payments under this subchapter to States with respect to aid or assistance in form of medical or other type of remedial care for any period for which States received payments under subchapter XIX of this chapter or for any period after Dec. 31, 1969, see section 121(b) of Pub. L. 89-97, set out as a note under section 1396b of this title.

CROSS REFERENCES

Navajo and Hopi Indians, additional Federal contributions in connection with rehabilitation program, see section 639 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302, 643, 1306a, 1315, 1318, 1319, 1396a, 1397a of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 3-217 of the District of Columbia Code.

§ 304. Stopping payment on deviation from required provisions of plan or failure to comply therewith

In the case of any State plan which has been approved under this subchapter by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any age, residence, or citizenship requirement prohibited by section 302(b) of this title, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 302(a) of this title to be included in the plan;

the Secretary of Health, Education, and Welfare shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

(Aug. 14, 1935, ch. 531, title I, § 4, 49 Stat. 622; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 13, 1960, Pub. L. 86-778, title VI, § 601(e), 74 Stat. 991; Jan. 2, 1968, Pub. L. 90-248, title II, § 245, 81 Stat. 918.)

REPEAL OF SECTION

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1968—Pub. L. 90-248 inserted "(or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure)" after "further payments will not be made to the State" and substituted in last sentence "further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure)" for "further certification to the Secretary of the Treasury with respect to such State".

1960—Pub. L. 86-778 substituted "State plan which has been approved under this subchapter" for "State plan for old-age assistance which has been approved".

1950—Act Aug. 28, 1950 substituted "Administrator" for "Board", and "he", "him", or "his" for "it", or "its", wherever appearing.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-778 effective Oct. 1, 1960, see section 604 of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 301 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1316 of this title.

§ 305. Omitted

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title I, § 5, 49 Stat. 622, made an appropriation for the fiscal year ending June 30, 1936 and was omitted from the Code as executed.

§ 306. Definitions

(a) For the purposes of this subchapter, the term "old-age assistance" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for assistance) medical care in behalf of or any type of remedial care recognized under State law in behalf of, needy individuals who are 65 years of age or older, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution). Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 302 of this title includes provision for—

(1) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, there-

fore, it is necessary to provide such assistance through payments described in this sentence;

(2) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of old-age assistance to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(3) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(4) periodic review by such State agency of the determination under paragraph (1) of this subsection to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that such action will best serve the interests of such needy individual; and

(5) opportunity for a fair hearing before the State agency on the determination referred to in paragraph (1) of this subsection for any individual with respect to whom it is made.

At the option of a State (if its plan approved under this subchapter so provides), such term (i) need not include money payments to an individual who has been absent from such State for a period in excess of 90 consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for 30 consecutive days in the case of such an individual who has maintained his residence in such State during such period or 90 consecutive days in the case of any other such individual, and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of assistance under such plan.

(b) For purposes of this subchapter, the term "medical assistance for the aged" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals sixty-five years of age or older who are not recipients of old-age assistance (except, for any month, for recipients of old-age assistance who are admitted to or discharged from a medical institution during such month) but whose income and resources are insufficient to meet all of such cost—

(1) inpatient hospital services;

(2) skilled nursing-home services;

(3) physicians' services;

(4) outpatient hospital or clinic services;

(5) home health care services;

(6) private duty nursing services;

(7) physical therapy and related services;

(8) dental services;

(9) laboratory and X-ray services;

(10) prescribed drugs, eyeglasses, dentures, and prosthetic devices;

(11) diagnostic, screening, and preventive services; and

(12) any other medical care or remedial care recognized under State law;

except that such term does not include any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution).

(c) For purposes of this subchapter, the term "Federal medical percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (i) the Federal medical percentage shall in no case be less than 50 per centum or more than 80 per centum, and (ii) the Federal medical percentage for Puerto Rico, the Virgin Islands, and Guam shall be 50 per centum. The Federal medical percentage for any State shall be determined and promulgated in accordance with the provisions of subparagraph (B) of section 1301(a)(8) of this title (other than the proviso at the end thereof); except that the Secretary shall, as soon as possible after September 13, 1960, determine and promulgate the Federal medical percentage for each State—

(1) for the period beginning October 1, 1960, and ending with the close of June 30, 1961, which promulgation shall be based on the same data with respect to per capita income as the data used by the Secretary in promulgating the Federal percentage (under section 1301(a)(8) of this title) for such State for the fiscal year ending June 30, 1961 (which promulgation of the Federal medical percentage shall be conclusive for such period), and

(2) for the period beginning July 1, 1961, and ending with the close of June 30, 1963, which promulgation shall be based on the same data with respect to per capita income as the data used by the Secretary in promulgating the Federal percentage (under section 1301(a)(8) of this title) for such State for such period (which promulgation of the Federal medical percentage shall be conclusive for such period).

(Aug. 14, 1935, ch. 531, title I, § 6, 49 Stat. 622; Aug. 10, 1939, ch. 666, title I, § 103, 53 Stat. 1362; Aug. 28, 1950, ch. 809, title III, pt. 1, § 303(a), 64 Stat. 549; Sept. 13, 1960, Pub. L. 86-778, title VI, § 601(f), 74 Stat. 991; July 25, 1962, Pub. L. 87-543, title I, § 156(a), 76 Stat. 207; July 30, 1965, Pub. L. 89-97, title II, §§ 221(a)(1), (2), 222(a), title IV, § 402(a), 79 Stat. 356, 360, 415; Oct. 30, 1972, Pub. L. 92-603, title IV, §§ 408(a), 409(a), 86 Stat. 1489, 1490.)

REPEAL OF SECTION

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective January 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-603 authorized the State, at its option, to include within the term "old-age assistance" provisions relating to money payments to an individual absent from such State for more than

90 consecutive days, and provisions relating to rent payments made directly to a public housing agency.

1965—Subsec. (a). Pub. L. 89-97, § 221(a)(1), deleted from the definition of "old-age assistance" the exclusion of (1) payments to or medical care in behalf of any individual who is a patient in an institution for tuberculosis or mental diseases, or (2) payments to any individual who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof, or (3) medical care in behalf of any individual, who is a patient in a medical institution as a result of a diagnosis that he has tuberculosis or psychosis, with respect to any period after the individual has been a patient in such an institution, as a result of such diagnosis, for forty-two days.

Pub. L. 89-97, § 402(a), extended the definition of "old-age assistance" to include payments made on behalf of the recipient to an individual who (as determined in accordance with the standards prescribed by the Secretary) is interested in or concerned with the welfare of the recipient and added an enumeration of the five characteristics required of state plans under which such payments can be made, including provision for finding of inability to manage funds, payment to meet all needs, special efforts to protect welfare, periodic review, and opportunity for fair hearing.

Subsec. (b). Pub. L. 89-97, §§ 221(a)(2), 222(a), deleted from the provision at end of clause (12) excluding certain payments from definition of "medical assistance for the aged" payments with respect to care or services for any individual who is a patient in an institution for tuberculosis or mental diseases or for any individual who is a patient in a medical institution as a result of a diagnosis of tuberculosis or psychosis, with respect to any period after the individual has been a patient in such an institution, for forty-two days and inserted in the text preceding clause (1) "(except, for any month, for recipients of old-age assistance who are admitted to or discharged from a medical institution during such month)" following "who are not recipients of old-age assistance", respectively.

1962—Subsec. (a). Pub. L. 87-543, § 156(a)(1), inserted "(if provided in or after the third month before the month in which the recipient makes application for assistance)" preceding "medical care".

Subsec. (b). Pub. L. 87-543, § 156(a)(2), inserted "(if provided in or after the third month before the month in which the recipient makes application for assistance)" following "care and services".

1960—Subsec. (a). Pub. L. 86-778, § 601(f)(1), (2), designated existing provisions as subsec. (a), and inserted provisions therein excluding from the definition "old-age assistance" any care in behalf of any individual, who is a patient in a medical institution as a result of a diagnosis that he has tuberculosis or psychosis, with respect to any period after the individual has been a patient in an institution, as a result of such diagnosis, for forty-two days.

Subsecs. (b), (c). Pub. L. 86-778, § 601(f)(2), added subsecs. (b) and (c).

1950—Act Aug. 28, 1950, redefined "old-age assistance".

1939—Act Aug. 10, 1939, inserted "needy" preceding "individuals who".

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 221 of Pub. L. 89-97 applicable in the case of expenditures made after Dec. 31, 1965, under a State plan approved under this subchapter, see section 221(e) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 302 of this title.

Section 222(c) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (b) of this section and section 1385(b) of this title] shall apply in the case of expenditures under a State plan approved under title I or XVI of the Social Security Act [subchapter I or XVI of this chapter] with respect to care and services provided under such plan after June 1965."

Section 402(e) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (a) of this section and sections 1206, 1355, and 1385(a) of this title] shall apply in the case of expenditures made after December 31, 1965, under a State plan approved under title I, X, XIV or XVI of the Social Security Act [subchapter I, X, XIV, or XVI of this chapter]."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 156(e) of Pub. L. 87-543 provided that: "The amendments made by this section [to sections 306(a), (b), 606(b), 1206 and 1355 of this title] shall apply in the case of applications made after September 30, 1962, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapter I, IV, X, or XIV of this chapter]."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-778 effective Oct. 1, 1960, see section 604 of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 303(b) of act Aug. 28, 1950, provided that: "The amendment made by subsection (a) [to this section] shall take effect October 1, 1950, except that the exclusion of money payments to needy individuals described in clause (a) or (b) of section 6 of the Social Security Act as so amended [clauses (a) or (b) of this section] shall, in the case of any of such individuals who are not patients in a public institution, be effective July 1, 1952."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 303 of this title.

SUBCHAPTER II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

AMENDMENTS

1956—Act Aug. 1, 1956, ch. 836, title I, § 103(i), 70 Stat. 824, included disability insurance benefits in subchapter heading.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 907, 1320b-1, 1382c, 1382f, 1383, 1395c, 1395v, 1395gg, 1395ll, 1395oo, 1396a, 5055 of this title; title 5 sections 8141, 8311, 8345; title 10 section 1451; title 14 section 760; title 26 sections 401, 404, 411, 3121; title 29 sections 206, 926, 1026, 1054, 1056; title 30 sections 922, 923; title 38 sections 412, 415, 503, 3005; title 45 sections 231b, 231c, 231f, 231n, 231r, 354; title 50 App. section 36.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 31-725, 46-307 of the District of Columbia Code.

§ 401. Trust Funds

(a) Federal Old-Age and Survivors Insurance Trust Fund

There is created on the books of the Treasury of the United States a trust fund to be known as the "Federal Old-Age and Survivors Insurance Trust Fund". The Federal Old-Age and Survivors Insurance Trust Fund shall consist of the securities held by the Secretary of the Treasury for the Old-Age Reserve Account and the amount standing to the credit of the Old-Age Reserve Account on the books of the Treasury on January 1, 1940, which securities and amount the Secretary of the Treasury is authorized and directed to transfer to the Federal Old-Age and Survivors Insurance Trust

Fund, and, in addition, such gifts and bequests as may be made as provided in subsection (i)(1) of this section, and such amounts as may be appropriated to, or deposited in, the Federal Old-Age and Survivors Insurance Trust Fund as hereinafter provided. There is appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1941, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) the taxes (including interest, penalties, and additions to the taxes) received under subchapter A of chapter 9 of the Internal Revenue Code of 1939 (and covered into the Treasury), which are deposited into the Treasury by collectors of internal revenue before January 1, 1951; and

(2) the taxes certified each month by the Commissioner of Internal Revenue as taxes received under subchapter A of chapter 9 of the Internal Revenue Code of 1939 which are deposited into the Treasury by collectors of internal revenue after December 31, 1950, and before January 1, 1953, with respect to assessments of such taxes made before January 1, 1951; and

(3) the taxes imposed by subchapter A of chapter 9 of the Internal Revenue Code of 1939 with respect to wages (as defined in section 1426 of such Code), and by chapter 21 (other than sections 3101(b) and 3111(b)) of the Internal Revenue Code of 1954 with respect to wages (as defined in section 3121 of such Code), reported to the Commissioner of Internal Revenue pursuant to section 1420(c) of the Internal Revenue Code of 1939, after December 31, 1950, or to the Secretary of the Treasury or his delegates pursuant to subtitle F of the Internal Revenue Code of 1954, after December 31, 1954, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such subchapter or chapter 21 (other than sections 3101(b) and 3111(b)) to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports, less the amounts specified in clause (1) of subsection (b) of this section; and

(4) the taxes imposed by subchapter E of chapter 1 of the Internal Revenue Code of 1939, with respect to self-employment income (as defined in section 481 of such Code), and by chapter 2 (other than section 1401(b)) of the Internal Revenue Code of 1954, with respect to self-employment income (as defined in section 1402 of such Code) reported to the Commissioner of Internal Revenue on tax returns under such subchapter or to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such subchapter or chapter (other than section 1401(b)) to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns, less the amounts specified in clause (2) of subsection (b) of this section.

The amounts appropriated by clauses (3) and (4) of this subsection shall be transferred from time to time from the general fund in the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund, and the amounts appropriated by clauses (1) and (2) of subsection (b) of this section shall be transferred from time to time from the general fund in the Treasury to the Federal Disability Insurance Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in clauses (3) and (4) of this subsection, paid to or deposited in to the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such clauses (3) and (4) of this subsection.

(b) Federal Disability Insurance Trust Fund

There is created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund shall consist of such gifts and bequests as may be made as provided in subsection (i)(1) of this section, and such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1)(A) one-half of 1 per centum of the wages (as defined in section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1956, and before January 1, 1966, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, (B) 0.70 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and before January 1, 1968, and so reported, (C) 0.95 of 1 per centum of the wages (as so defined) paid after December 31, 1967, and before January 1, 1970, and so reported, (D) 1.10 per centum of the wages (as so defined) paid after December 31, 1969, and before January 1, 1973, and so reported, (E) 1.1 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, 1974, and so reported, (F) 1.15 per centum of the wages (as so defined) paid after December 31, 1973, and before January 1, 1978, and so reported, (G) 1.2 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1981, and so reported, (H) 1.3 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1986, and so reported, (I) 1.4 per centum of the wages (as so defined) paid after December 31, 1985, and before January 1, 2011, and so reported, and (J) 1.7 per centum of the wages (as so defined) paid after December 31, 2010, and so reported, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages es-

tablished and maintained by such Secretary in accordance with such reports; and

(2)(A) three-eighths of 1 per centum of the amount of self-employment income (as defined in section 1402 of the Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, and before January 1, 1966, (B) 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965, and before January 1, 1968, (C) 0.7125 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1967, and before January 1, 1970, (D) 0.825 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1969, and before January 1, 1973, (E) 0.795 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1972, and before January 1, 1974, (F) 0.815 of 1 per centum of the amount of self-employment income (as so defined) as reported for any taxable year beginning after December 31, 1973, and before January 1, 1978, (G) 0.850 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1981, (H) 0.920 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1986, (I) 0.990 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1985, and before January 1, 2011, and (J) 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2010, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

(c) Board of Trustees; duties; reports to Congress

With respect to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (hereinafter in this subchapter called the "Trust Funds") there is created a body to be known as the Board of Trustees of the Trust Funds (hereinafter in this subchapter called the "Board of Trustees") which Board of Trustees shall be composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this subchapter called the "Managing Trustee"). The Commissioner of Social Security shall serve as Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Funds;

(2) Report to the Congress not later than the first day of April of each year on the operation and status of the Trust Funds during the preceding fiscal year and on their expected operation and status during the next ensuing five fiscal years;

(3) Report immediately to the Congress whenever the Board of Trustees is of the opinion that the amount of either of the Trust Funds is unduly small;

(4) Recommend improvements in administrative procedures and policies designed to effectuate the proper coordination of the old-age and survivors insurance and Federal-State unemployment compensation program; and

(5) Review the general policies followed in managing the Trust Funds, and recommend changes in such policies, including necessary changes in the provisions of the law which govern the way in which the Trust Funds are to be managed.

The report provided for in paragraph (2) of this subsection shall include a statement of the assets of, and the disbursements made from, the Trust Funds during the preceding fiscal year, an estimate of the expected future income to, and disbursements to be made from, the Trust Funds during each of the next ensuing five fiscal years, and a statement of the actuarial status of the Trust Funds. Such report shall also include an actuarial analysis of the benefit disbursements made from the Federal Old-Age and Survivors Insurance Trust Fund with respect to disabled beneficiaries. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(d) Investments

It shall be the duty of the Managing Trustee to invest such portion of the Trust Funds as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are extended to authorize the issuance at par of public-debt obligation for purchase by the Trust Funds. Such obligations issued for purchase by the Trust Funds shall have maturities fixed with due regard for the needs of the Trust Funds and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate

of interest of such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(e) Sale of acquired obligations

Any obligations acquired by the Trust Funds (except public-debt obligations issued exclusively to the Trust Funds) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(f) Proceeds from sale or redemption of obligations; interest

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be credited to and form a part of the Federal Old-Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund, respectively.

(g) Payments into Treasury

(1)(A) The Managing Trustee of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by subchapter XVIII of this chapter) is directed to pay from the Trust Funds into the Treasury—

(i) the amounts estimated by him and the Secretary of Health, Education, and Welfare which will be expended, out of moneys appropriated from the general fund in the Treasury, during a three-month period by the Department of Health, Education, and Welfare and the Treasury Department for the administration of subchapters II, XVI, and XVIII of this chapter and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954, less

(ii) the amounts estimated (pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection) by the Secretary of Health, Education, and Welfare which will be expended, out of moneys made available for expenditures from the Trust Funds, during such three-month period to cover the cost of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i).

Such payments shall be carried into the Treasury as the net amount of repayments due the general fund account for reimbursement of expenses incurred in connection with the administration of subchapters II, XVI, and XVIII of this chapter and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954. A final accounting of such payments for any fiscal year shall be made at the earliest practicable date after the close thereof. There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this subchapter, subchapter XVI, and subchapter XVIII of this chapter for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i) of the first sentence of this subparagraph.

(B) After the close of each fiscal year the Secretary of Health, Education, and Welfare shall determine the portion of the costs, incurred during such fiscal year, of administration of this subchapter, subchapter XVI, and subchapter XVIII of this chapter and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury and the portion of such costs which should have been borne by each of the Trust Funds; except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 432 of this title shall be made pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection. After such determination has been made, the Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other of such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treasury, in order to insure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, for the part of the administration of this subchapter, subchapter XVI, and subchapter XVIII of this chapter for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.

(2) The Managing Trustee is directed to pay from time to time from the Trust Funds into the Treasury the amount estimated by him as taxes imposed under section 3101(a) which are subject to refund under section 6413(c) of the Internal Revenue Code of 1954 with respect to wages (as defined in section 1426 of the Internal Revenue Code of 1939 and section 3121 of the Internal Revenue Code of 1954) paid after

December 31, 1950. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Commissioner of Internal Revenue pursuant to section 1420(c) of the Internal Revenue Code of 1939 and to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary shall furnish the Managing Trustee such information as may be required by the Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections. Payments pursuant to the first sentence of this paragraph shall be made from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in the ratio in which amounts were appropriated to such Trust Funds under clause (3) of subsection (a) of this section and clause (1) of subsection (b) of this section.

(3) Repayments made under paragraph (1) or (2) of this subsection shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under either such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(4) The Board of Trustees shall prescribe before January 1, 1981, the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds deem such action advisable they may modify the method so determined.

(h) Benefit payments

Benefit payments required to be made under section 423 of this title, and benefit payments required to be made under subsection (b), (c), or (d) of section 402 of this title to individuals entitled to benefits on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, shall be made only from the Federal Disability Insurance Trust Fund. All other benefit payments required to be made under this subchapter (other than section 426 of this title) shall be made only from the Federal Old-Age and Survivors Insurance Trust Fund.

(i) Gifts and bequests

(1) The Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to any one or more of such Trust Funds or to the Department of Health, Education, and Welfare, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds.

(2) Any such gift accepted pursuant to the authority granted in paragraph (1) of this subsection shall be deposited in—

(A) the specific trust fund designated by the donor or

(B) if the donor has not so designated, the Federal Old-Age and Survivors Insurance Trust Fund.

(Aug. 14, 1935, ch. 531, title II, § 201, 49 Stat. 622; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; Feb. 25, 1944, ch. 63, title IX, § 902, 58 Stat. 93; Aug. 28, 1950, ch. 809, title I, § 109(a), 64 Stat. 521; Aug. 1, 1956, ch. 836, title I, § 103(e), 70 Stat. 819; Aug. 28, 1958, Pub. L. 85-840, title II, § 205(a), 72 Stat. 1021; Sept. 22, 1959, Pub. L. 86-346, title I, § 104(2), 73 Stat. 622; Sept. 13, 1960, Pub. L. 86-778, title VII, § 701(a)-(e), 74 Stat. 992; July 30, 1965, Pub. L. 89-97, title I, § 108(a), title III, §§ 305, 327, 79 Stat. 338, 370, 400; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 110, 169, 81 Stat. 837, 875; Dec. 30, 1969, Pub. L. 91-172, title X, § 1005, 83 Stat. 741; July 1, 1972, Pub. L. 92-336, title II, § 205, 86 Stat. 422; Oct. 30, 1972, Pub. L. 92-603, title I, §§ 132(a)-(c), 136, title III, § 305(a), 86 Stat. 1360, 1364, 1484; Dec. 31, 1973, Pub. L. 93-233, § 7, 87 Stat. 955; Jan. 2, 1976, Pub. L. 94-202, § 8(d), 89 Stat. 1137.)

References in Text

Subchapter A of chapter 9 of the Internal Revenue Code of 1939, referred to in subsecs. (a)(1), (2), (3), (g)(1), was comprised of sections 1400 to 1432, and was repealed (subject to certain exceptions) by section 7851(a)(3) of the Internal Revenue Code of 1954.

Sections 1426 and 1420(c) of the Internal Revenue Code of 1939, referred to in subsecs. (a)(3), (g)(2), were a part of subchapter A of chapter 9 of the 1939 Code. See above.

Subchapter E of chapter 1 of the Internal Revenue Code of 1939, referred to in subsecs. (a)(4), (g), was comprised of sections 480 to 482, and was repealed (subject to certain exceptions) by section 7851(a)(1)(A) of the Internal Revenue Code of 1954.

Section 481 of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), was a part of subchapter E of chapter 1 of the 1939 Code. See above.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provision of the 1954 Code, see section 7852(b) if the 1954 Code. For table of comparisons of the 1939 Code to the 1954 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 is classified generally to Title 26.

The Second Liberty Bond Act, as amended, referred to in subsec. (d), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

Amendments

1976—Subsec. (g)(1). Pub. L. 94-202, § 8(d)(1), incorporated changes in the operations and responsibilities of the Managing Trustee of the Trust Funds and the Secretary of Health, Education, and Welfare occasioned by changes in the annual method of reporting wages for social security purposes, by directing that estimated amounts paid from the Trust Funds into the Treasury, to replace amounts expended from the general fund in the Treasury, be estimated by both the Managing Trustee and the Secretary and that the

Secretary determine the portion of costs attributable to the general fund in the Treasury and the portion attributable to the Trust Funds at the close of the fiscal year, by deleting reference to section 1381 of this title, and by adding reference to par. (4) of this section, section 432 of this title, and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, where appearing therein.

Subsec. (g)(4). Pub. L. 94-202, § 8(d)(2), added subsec. (g)(4).

1973—Subsec. (b)(1)(E) to (J). Pub. L. 93-233, § 7(a), substituted in: cl. (E) "January 1, 1974" for "January 1, 1978"; cl. (F) "December 31, 1973" and "January 1, 1978" for "December 31, 1977" and January 1, 2011"; cl. (G) "1.2" for "1.5" per centum and "paid after December 31, 1977, and before January 1, 1981" for "paid after December 31, 2010," and added cls. (H) to (J).

Subsec. (b)(2)(E) to (J). Pub. L. 93-233, § 7(b), substituted in: cl. (E) "January 1, 1974" for January 1, 1978"; cl. (F) "0.815 of 1 per centum" for "0.84 per centum" and "as reported for any taxable year beginning after December 31, 1973, and before January 1, 1978" for "so reported for any taxable year beginning after December 31, 1977, and before January 1, 2011"; cl. (G) "0.850 of 1 percentum" for "0.895 per centum" and "taxable year beginning after December 31, 1977, and before January 1, 1981" for "taxable year beginning after December 31, 2010"; and added cls. (H) to (J).

1972—Subsec. (a). Pub. L. 92-603, § 132(a), inserted "such gifts and bequests as may be made as provided in subsection (i)(1) of this section, and" following "in addition," in the provisions preceding par. (1).

Subsec. (b). Pub. L. 92-603, § 132(b), inserted "such gifts and bequests as may be made as provided in subsection (i)(1) of this section, and" following "consist of" in the provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 92-603, § 136(a), substituted "1.1" for "1.0" in cl. (E), "1.15" for "1.1" in cl. (F), and "1.5" for "1.4" in cl. (G).

Pub. L. 92-336, § 205(a), struck out "and" preceding "(D)", inserted reference to wages paid before January 1, 1973 in cl. (D), and added cls. (E), (F), and (G).

Subsec. (b)(2). Pub. L. 92-603, § 136(b), substituted "0.795" for "0.75" in cl. (E), "0.84" for "0.825" in cl. (F), and "0.895" for "0.915" in cl. (G).

Pub. L. 92-336, § 205(b), struck out "and" preceding "(D)", inserted reference to self-employment income before January 1, 1973 in cl. (D), and added cls. (E), (F), and (G).

Subsec. (g)(1)(A). Pub. L. 92-603, § 305(a), added references to subchapter XVI of this chapter and provisions relating to the general revenues of the United States with respect to subchapter XVI of this chapter and to the appropriations made pursuant to section 1381 of this title.

Subsec. (i). Pub. L. 92-603, § 132(c), added subsec. (i).

1969—Subsec. (b)(1). Pub. L. 91-172, § 1005(a), inserted reference to wages paid before Jan. 1, 1969, and added provision for the appropriation of amounts equal to 1.10 per centum of wages paid after Dec. 31, 1969.

Subsec. (b)(2). Pub. L. 91-172, § 1005(b), inserted reference to self-employment income before Jan. 1, 1970, and added provision for the appropriation of 0.825 of 1 percent of the amount of self-employment income for taxable years beginning after Dec. 31, 1969.

1968—Subsec. (b)(1). Pub. L. 90-248, § 110(a) designated existing provisions as cls. (A) and (B), inserted "and before January 1, 1968," after "1965," in cl. (B), and added Cl. (C).

Subsec. (b)(2). Pub. L. 90-248, § 110(b), designated existing provisions as cls. (A) and (B), inserted "and before January 1, 1968, and" after "1965," in cl. (B), and added cl. (C).

Subsec. (c)(2). Pub. L. 90-248, § 169(a), substituted "April" for "March".

Subsec. (c). Pub. L. 90-248, § 169(b), added penultimate sentence for inclusion in reports of board of trustees to Congress of an actuarial analysis of the benefit disbursements made from the Federal Old-Age and Survivors Insurance Trust Fund with respect to disabled beneficiaries.

1965—Subsec. (a)(3). Pub. L. 89-97, § 108(a)(1), inserted "(other than sections 3101(b) and 3111(b)) following "chapter 21" in two instances.

Subsec. (a)(4). Pub. L. 89-97, § 108(a)(2), inserted "(other than section 1401(b))" following "chapter 2" and "such subchapter or chapter".

Subsec. (b)(1). Pub. L. 89-97, § 305(a), inserted "and before January 1, 1966," following "December 31, 1956," and "and 0.70 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and so reported," following "1954,".

Subsec. (b)(2). Pub. L. 89-97, § 305(b), inserted after "December 31, 1956," the following "and before January 1, 1966, and 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965,".

Subsec. (c). Pub. L. 89-97, § 327, extended from once each six months to once each calendar year the minimum number of times the Board of Trustees must meet.

Subsec. (g)(1). Pub. L. 89-97, § 108(a)(3), included the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund among the Trust Funds available for reimbursement of the Treasury for administrative costs of this subchapter and subchapter XVIII of this chapter, deleted references to administrative costs of subchapter VIII of this chapter and subchapter E of chapter 1 and subchapter 9 of the Internal Revenue Code of 1939, and also provided for adjustment among the Trust Funds during each fiscal year so that the Funds bear the proportionate share of the administration costs.

Subsec. (g)(2). Pub. L. 89-97, § 108(a)(4), inserted "imposed under section 3101(a)" following "the amount estimated by him as taxes".

Subsec. (h). Pub. L. 89-97, § 108(a)(5), inserted "(other than section 426 of this title)" following "this subchapter".

1960—Subsec. (c). Pub. L. 86-778, § 701(a) to (c), required the Board of Trustees to meet not less frequently than once each six months, eliminated provisions from cl. (3) which required the Board to report immediately to the Congress whenever the Board is of the opinion that during the ensuing five fiscal years either of the Trust Funds will exceed three times the highest annual expenditures from such Trust Fund anticipated during that five-fiscal-year period, and added cl. (5).

Subsec. (d). Pub. L. 86-778, § 701(d), substituted "shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month" for "bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt that are not due or callable until after the expiration of five years from the date of original issue", and substituted provisions authorizing the purchase of other interest-bearing obligations when the Managing Trustee determines that it is in the public interest for provisions which authorized the issuance of obligations by the Trust Funds only if the Managing Trustee determined that the purchase of other obligations was not in the public interest.

Subsec. (e). Pub. L. 86-778, § 701(e), substituted "public-debt obligations" for "special obligations" in two instances.

1959—Subsec. (d). Pub. L. 86-346 substituted "on original issue at the issue price" for "on original issue at par".

1958—Subsec. (h). Pub. L. 85-840 provided that benefit payments required to be made under subsection (b),

(c), or (d) of section 402 of this title to individuals entitled to benefits on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits be made only from the Federal Disability Insurance Trust Fund.

1956—Act Aug. 1, 1956, amended section generally by inserting references to taxes imposed by the Internal Revenue Code of 1954, substituting "Secretary of Health, Education, and Welfare" for "Federal Security Administrator," creating the Federal Disability Insurance Trust Fund, requiring obligations issued for purchase by the Trust Funds to have maturities fixed with due regard for the needs of the Trust Funds, authorizing to be made available for expenditure out of the Trust Funds such amounts as Congress deems necessary to pay costs of administration of subchapter, and requiring the Secretary of Health, Education, and Welfare to analyze costs of administration so that each Trust Fund may be charged with its proper share.

1950—Subsec. (a). Act Aug. 28, 1950, § 109(a)(1) to (3), substituted "such amounts as may be appropriated to, or deposited in, the Trust Fund" for "such amounts as may be appropriated to the Trust Fund" in the second sentence, simplified the accounting and collection processes required for determining the amounts appropriated to the trust fund, as set out in the third sentence, and struck out the fourth sentence authorizing the appropriation of additional funds.

Subsec. (b). Act Aug. 28, 1950, § 109(a)(4) to (8), substituted "Federal Security Administrator" for "Chairman of the Social Security Board", changed the filing date for the annual report from the first day of each regular session of Congress to March 1 of each year, added par. (4), added sentence to require the report to be printed as a House document, and made Commissioner of Social Security the Secretary of the Board of Trustees.

Subsec. (f). Act. Aug. 28, 1950, § 109(a)(9), changed reference in text from Title II of the Federal Insurance Contributions Act to subchapter A of chapter 9 and subchapter E of chapter 1 of the Internal Revenue Code of 1939 to avoid confusion and to include the new provisions of such Code relating to the collection of taxes from the self-employed.

1944—Subsec. (a). Act Feb. 25, 1944, added a sentence authorizing the appropriation of additional funds.

1939—Act Aug. 10, 1939, amended section generally.

Effective Date of 1972 Amendment

Section 132(f) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsecs. (a) and (b) and enacting subsec. (i) of this section and amending sections 1395l and 1395t(a) of this title] shall apply with respect to gifts and bequests received after the date of enactment of this Act [Oct. 30, 1972]."

Section 305(c) of Pub. L. 92-603 provided that: "The provisions of this section [amending subsec. (g)(1)(A) of this section and enacting provisions set out as a note under this section] shall become effective on the date of enactment of this Act [Oct. 30, 1972]."

Effective Date of 1960 Amendment

Section 701(f) of Pub. L. 86-778 provided that: "The amendments made by this section [to subsecs. (c), (d) and (e) of this section] shall take effect on the first day of the first month beginning after the date of the enactment of this Act [Sept. 13, 1960]."

Effective Date of 1958 Amendment

Amendment of subsec. (h) by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207(a) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 416 of this title.

Effective Date of 1939 Amendment

Amendment by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of such act.

Transfer of Functions

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Fiscal Year Transition Period of July 1, 1976, through September 30, 1976, Deemed Fiscal Year

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsecs. (a), (b), and (g)(1) of this section, see section 201(12) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

Fiscal Year Transition Period of July 1, 1976, through September 30, 1976, Deemed Part of Fiscal Year Beginning July 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (c) of this section, see section 204(7) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

Appointment and Compensation of Individuals Necessary to Assist the Board of Trustees

Section 8(e) of Pub. L. 94-202 provided that: "Any persons the Board of Trustees finds necessary to employ to assist it in performing its functions under section 201(g)(4) of the Social Security Act [subsec. (g)(4) of this section] may be appointed without regard to the civil service or classification laws, shall be compensated, while so employed at rates fixed by the Board of Trustees, but not exceeding $100 per day, and while away from their homes or regular places of business, they may be allowed traveling expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently."

Method of Determining Costs Prescribed by the Board of Trustees Certification and Transfer of Funds

Section 8(f) of Pub. L. 94-202 provided that: "The Secretary shall not make any estimates pursuant to section 201(g)(1)(A)(ii) of the Social Securjty Act [subsec. (g)(1)(A)(ii) of this section] before the Board of Trustees prescribes the method of determining costs as provided in section 201(g)(4) of such Act [subsec. (g)(4) of this section]. The determination pursuant to section 201(g)(1)(B) of the Social Security Act [subsec. (g)(1)(B) of this section] with respect to the carrying out of the functions of the Department of Health, Education, and Welfare specified in section 232 of such Act [section 432 of this title], which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of section 201(g)(1)(A) of the Social Security Act [subsec. (g)(1)(A) of this section]), during fiscal years ending before the Board of Trustees prescribes the method of making such determinations, shall be made after the Board of Trustees has prescribed such method. The Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts that should be transferred from the general fund in the Treasury to the Trust Funds (as referred to in section 201(g)(1)(A) of the Social Security Act [subsec. (g)(1)(A) of this section]) to insure that the general fund in the Treasury bears its proper share of the costs of carrying out such

functions in such fiscal years. The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made."

ADVANCES FROM TRUST FUNDS FOR ADMINISTRATIVE EXPENSES

Section 305(b) of Pub. L. 92-603 provided that:

"(1) Sums appropriated pursuant to section 1601 of the Social Security Act [section 1381 of this title] shall be utilized from time to time, in amounts certified under the second sentence of section 201(g)(1)(A) of such Act [subsec. (g)(1)(A) of this section], to repay the Trust Funds for expenditures made from such Funds in any fiscal year under section 201(g)(1)(A) of such Act (as amended by subsection (a) of this section) [amending subsec. (g)(1)(A) of this section] on account of the costs of administration of title XVI of such Act (as added by section 301 of this Act) [subchapter XVI of this chapter].

"(2) If the Trust Funds have not theretofore been repaid for expenditures made in any fiscal year (as described in paragraph (1)) to the extent necessary on account of—

"(A) expenditures made from such Funds prior to the end of such fiscal year to the extent that the amount of such expenditures exceeded the amount of the expenditures which would have been made from such Funds if subsection (a) had not been enacted,

"(B) the additional administrative expenses, if any, resulting from the excess expenditures described in subparagraph (A), and

"(C) any loss in interest to such Funds resulting from such excess expenditures and such administrative expenses,

in order to place each such Fund in the same position (at the end of such fiscal year) as it would have been in if such excess expenditures had not been made, the amendments made by subsection (a) shall cease to be effective at the close of the fiscal year following such fiscal year.

"(3) As used in this subsection, the term 'Trust Funds' has the meaning given it in section 201(g)(1)(A) of the Social Security Act [subsec. (g)(1)(A) of this section]."

ADVANCES FROM TRUST FUNDS FOR ADMINISTRATIVE PURPOSES; FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of section 305(b) of Pub. L. 92-603, set out as a note above, relating to advances from trust funds for administrative purposes, see section 201(11) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

GIFTS AND BEQUESTS FOR THE USE OF THE UNITED STATES AND FOR EXCLUSIVELY PUBLIC PURPOSES

Section 132(g) of Pub. L. 92-603 provided that: "For the purpose of Federal income, estate, and gift taxes, any gift or bequest to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund, or to the Department of Health, Education, and Welfare, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through any of such Funds, which is accepted by the Managing Trustee of such Trust Funds under the authority of section 201(i) of the Social Security Act [subsec. (i) of this section], shall be considered as a gift or bequest to or for the use of the United States and as made for exclusively public purposes."

TAXES ON SERVICES RENDERED BY EMPLOYEES OF INTERNATIONAL ORGANIZATIONS PRIOR TO JAN. 1, 1946

Section 5(b) of act Dec. 29, 1945, ch. 652, title I, 59 Stat. 669, prohibited collection of tax under title VIII or IX of the Social Security Act or under the Federal Insurance Contributions Act or the Federal Unemployment Tax Act with respect to services rendered prior to January 1, 1946, which were described in paragraph (16) of sections 1426(b) and 1607(c) of the Internal Revenue Code of 1939, and authorized refund of taxes collected.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 417, 418, 421, 1320b-1, 1395i, 1395t of this title; title 26 section 3121.

§ 401a. Omitted

CODIFICATION

Section, acts Aug. 1, 1956, ch. 836, title I, § 116, 70 Stat. 833; Sept. 13, 1966, Pub. L. 86-778, title VII, § 704, 74 Stat. 994; July 30, 1965, Pub. L. 89-97, title I, § 109(b), 79 Stat. 340, which established an initial Advisory Council on Social Security Financing to review the status of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in relation to long term commitments to old-age, survivors, and disability insurance programs, appointed personnel and provided for their compensation, required a report of the findings and recommendations of the Council to be submitted to the Secretary of the Board of Trustees of the abovementioned Trust Funds not later than Jan. 1, 1959, at which time the Council terminated, provided for subsequent Advisory Councils to be appointed in 1963, 1966, and every fifth year thereafter and to submit reports to Congress, and required additional information be included in these reports, was omitted from the Code in view of the termination of the initial Advisory Council on submission of their report not later than Jan. 1, 1959, the repeal of subsec. (e) by Pub. L. 89-97, title I, § 109(b), July 30, 1965, 79 Stat. 340, which provided for the subsequent Advisory Councils, and the obsolescence of subsec. (f), which provided for additional information in reports to Congress, upon the repeal of subsec. (e).

§ 402. Old-age and survivors insurance benefit payments

(a) Old-age insurance benefits

Every individual who—

(1) is a fully insured individual (as defined in section 414(a) of this title),

(2) has attained age 62, and

(3) has filed application for old-age insurance benefits or was entitled to disability insurance benefits for the month preceding the month in which he attained the age of 65,

shall be entitled to an old-age insurance benefit for each month, beginning with the first month after August 1950 in which such individual becomes so entitled to such insurance benefits and ending with the month preceding the month in which he dies. Except as provided in subsection (q) and subsection (w) of this section, such individual's old-age insurance benefit for any month shall be equal to his primary insurance amount (as defined in section 415(a) of this title) for such month.

(b) Wife's insurance benefits

(1) The wife (as defined in section 416(b) of this title) and every divorced wife (as defined in section 416(d) of this title) of an individual entitled to old-age or disability insurance benefits, if such wife or such divorced wife—

(A) has filed application for wife's insurance benefits,

(B) has attained age 62 or (in the case of a wife) has in her care individually or jointly with such individual) at the time of filing such application a child entitled to a child's insurance benefit on the basis of the wages and self-employment income of such individual,

(C) in the case of a divorced wife, is not married, and

(D) is not entitled to old-age or disability insurance benefits, or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of such individual,

shall (subject to subsection (s) of this section) be entitled to a wife's insurance benefit for each month, beginning with the first month in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs—

(E) she dies,

(F) such individual dies,

(G) in the case of a wife, they are divorced and either (i) she has not attained age 62, or (ii) she has attained age 62 but has not been married to such individual for a period of 20 years immediately before the date the divorce became effective,

(H) in the case of a divorced wife, she marries a person other than such individual,

(I) in the case of a wife who has not attained age 62, no child of such individual is entitled to a child's insurance benefit.

(J) she becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

(K) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(L) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(2) Except as provided in subsection (q) of this section, such wife's insurance benefit for each month shall be equal to one-half of the primary insurance amount of her husband (or, in the case of a divorced wife, her former husband) for such month.

(3) In the case of any divorced wife who marries—

(A) an individual entitled to benefits under subsection (f) or (h) of this section, or

(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d) of this section,

such divorced wife's entitlement to benefit under this subsection shall, notwithstanding the provisions of paragraph (1) (but subject to subsection (s) of this section), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) of this section unless he ceases to be so entitled by reason of his death.

(c) Husband's insurance benefits

(1) The husband (as defined in section 416(f) of this title) of an individual entitled to old-age or disability insurance benefits, if such husband—

(A) has filed application for husband's insurance benefits.

(B) has attained age 62,

(C) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual—

(i) if she had a period of disability which did not end prior to the month in which she became entitled to old-age or disability insurance benefits, at the beginning of such period or at the time she became entitled to such benefits, or

(ii) if she did not have such a period of disability, at the time she became entitled to such benefits,

and filed proof of such support within two years after the month in which she filed application with respect to such period of disability or after the month in which she became entitled to such benefits, as the case may be, or, if she did not have such a period, two years after the month in which she became entitled to such benefits, and

(D) is not entitled to old-age or disability insurance benefits, or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of his wife,

shall be entitled to a husband's insurance benefit for each month, beginning with the first month after August 1950 in which he becomes so entitled to such insurance benefits and ending with the month preceding the month in which any of the following occurs: he dies, his wife dies, they are divorced, he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of his wife, or his wife is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(2) The provisions of subparagraph (C) of paragraph (1) of this subsection shall (subject to subsection (s) of this section) not be applicable in the case of any husband who—

(A) in the month prior to the month of his marriage to such individual was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h) of this section;

(B) in the month prior to the month of his marriage to such individual had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of this section; or

(C) in the month prior to the month of his marriage to such individual he was entitled to, or on application therefor and attainment of the required age (if any) would have been

entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity section 5 of the Railroad Retirement Act of 1937, as amended [45 U.S.C. 228e].

(3) Except as provided in subsection (q) of this section, such husband's insurance benefit for each month shall be equal to one-half of the primary insurance amount of his wife for such month.

(d) Child's insurance benefits

(1) Every child (as defined in section 416(e) of this title) of an individual entitled to old-age or disability insurance benefits or of an individual who dies a fully or currently insured individual, if such child—

(A) has filed application for child's insurance benefits,

(B) at the time such application was filed was unmarried and (i) either had not attained the age of 18 or was a full-time student and had not attained the age of 22, or (ii) is under a disability (as defined in section 423(d) of this title) which began before he attained the age of 22, and

(C) was dependent upon such individual—

(i) if such individual is living, at the time such application was filed,

(ii) if such individual has died, at the time of such death, or

(iii) if such individual had a period of disability which continued until he became entitled to old-age or disability insurance benefits, or (if he has died) until the month of his death, at the beginning of such period of disability or at the time he became entitled to such benefits,

shall be entitled to a child's insurance benefit for each month, beginning with the first month after August 1950 in which such child becomes so entitled to such insurance benefits and ending with the month preceding whichever of the following first occurs—

(D) the month in which such child dies or marries,

(E) the month in which such child attains the age of 18, but only if he (i) is not under a disability (as so defined) at the time he attains such age, and (ii) is not a full-time student during any part of such month,

(F) if such child was not under a disability (as so defined) at the time he attained the age of 18, the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22,

but only if he was not under a disability (as so defined) in such earlier month; or

(G) if such child was under a disability (as so defined) at the time he attained the age of 18, or if he was not under a disability (as so defined) at such time but was under a disability (as so defined) at or prior to the time he attained (or would attain) the age of 22, the third month following the month in which he ceases to be under such disability or (if later) the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22,

but only if he was not under a disability (as so defined) in such earlier month.

Entitlement of any child to benefits under this subsection on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits shall also end with the month before the first month for which such individual is not entitled to such benefits unless such individual is, for such later month, entitled to old-age insurance benefits or unless he dies in such month. No payment under this paragraph may be made to a child who would not meet the definition of disability in section 423(d) of this title except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity.

(2) Such child's insurance benefit for each month shall, if the individual on the basis of whose wages and self-employment income the child is entitled to such benefit has not died prior to the end of such month, be equal to one-half of the primary insurance amount of such individual for such month. Such child's insurance benefit for each month shall, if such individual has died in or prior to such month, be equal to three-fourths of the primary insurance amount of such individual.

(3) A child shall be deemed dependent upon his father or adopting father or his mother or adopting mother at the time specified in paragraph (1)(C) of this subsection unless, at such time, such individual was not living with or contributing to the support of such child and—

(A) such child is neither the legitimate nor adopted child of such individual, or

(B) such child has been adopted by some other individual.

For purposes of this paragraph, a child deemed to be a child of a fully or currently insured individual pursuant to section 416(h)(2)(B) or section 416(h)(3) of this title shall be deemed to be the legitimate child of such individual.

(4) A child shall be deemed dependent upon his stepfather or a stepmother at the time specified in paragraph (1)(C) of this subsection, if, at such time, the child was living with or was receiving at least one-half of his support from such stepfather or stepmother.

(5) In the case of a child who has attained the age of eighteen and who marries—

(A) an individual entitled to benefits under subsection (a), (b), (e), (f), (g), or (h) of this section or under section 423(a) of this title, or

(B) another individual who has attained the age of eighteen and is entitled to benefits under this subsection,

such child's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection but subject to subsection (s) of this section, not be terminated by reason of such marriage; except that, in the case of such a marriage to a male individual entitled to benefits under section 423(a) of this title or this subsection, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 423(a) of this title or this subsection unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to

benefits under section 423(a) of this title, he is entitled, for the month following such last month, to benefits under subsection (a) of this section.

(6) A child whose entitlement to child's insurance benefits on the basis of the wages and self-employment income of an insured individual terminated with the month preceding the month in which such child attained the age of 18, or with a subsequent month, may again become entitled to such benefits (provided no event specified in paragraph (1)(D) has occurred) beginning with the first month thereafter in which he—

(A)(i) is a full-time student or is under a disability (as defined in section 423(d) of this title), and (ii) had not attained the age of 22, or

(B) is under a disability (as so defined) which began before the close of the 84th month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under such disability,

but only if he has filed application for such reentitlement. Such reentitlement shall end with the month preceding whichever of the following first occurs:

(C) the first month in which an event specified in paragraph (1)(D) occurs;

(D) the earlier of (i) the first month during no part of which he is a full-time student or (ii) the month in which he attains the age of 22, but only if he is not under a disability (as so defined) in such earlier month; or

(E) if he was under a disability (as so defined), the third month following the month in which he ceases to be under such disability or (if later) the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22.

(7) For the purposes of this subsection—

(A) A "full-time student" is an individual who is in full-time attendance as a student at an educational institution, as determined by the Secretary (in accordance with regulations prescribed by him) in the light of the standards and practices of the institutions involved, except that no individual shall be considered a "full-time student" if he is paid by his employer while attending an educational institution at the request, or pursuant to a requirement, of his employer.

(B) Except to the extent provided in such regulations, an individual shall be deemed to be a full-time student during any period of nonattendance at an educational institution at which he has been in full-time attendance if (i) such period is 4 calendar months or less, and (ii) he shows to the satisfaction of the Secretary that he intends to continue to be in full-time attendance at an educational institution immediately following such period. An individual who does not meet the requirement of clause (ii) with respect to such period of nonattendance shall be deemed to have met such requirement (as of the beginning of such period) if he is in full-time attendance at an educational institution immediately following such period.

(C) An "educational institution" is (i) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or (ii) a school or college or university which has been approved by a State or accredited by a State-recognized or nationally-recognized accrediting agency or body, or (iii) a nonaccredited school or college or university whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

(D) A child who attains age 22 at a time when he is a full-time student (as defined in subparagraph (A) of this paragraph and without application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a degree from a four-year college or university shall be deemed (for purposes of determining whether his entitlement to benefits under this subsection has terminated under paragraph (1)(F) and for purposes of determining his initial entitlement to such benefits under clause (i) of paragraph (1)(B) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time, (or, if the educational institution (as defined in this paragraph) in which he is enrolled is not operated on a quarter or semester system, until the first day of the first month following the completion of the course in which he is so enrolled or until the first day of the third month beginning after such time, whichever first occurs).

(8) In the case of—

(A) an individual entitled to old-age insurance benefits (other than an individual referred to in subparagraph (B)), or

(B) an individual entitled to disability insurance benefits, or an individual entitled to old-age insurance benefits who was entitled to disability insurance benefits for the month preceding the first month for which he was entitled to old-age insurance benefits,

a child of such individual adopted after such individual became entitled to such old-age or disability insurance benefits shall be deemed not to meet the requirements of clause (i) or (iii) of paragraph (1)(C) unless such child—

(C) is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual), or

(D)(i) was legally adopted by such individual in an adoption decreed by a court of competent jurisdiction within the United States,

(ii) was living with such individual in the United States and receiving at least one-half of his support from such individual (I) if he is an individual referred to in subparagraph (A), for the year immediately before the month in which such individual became entitled to old-age insurance benefits or, if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, the month in which such

period of disability began, or (II) if he is an individual referred to in subparagraph (B), for the year immediately before the month in which began the period of disability of such individual which still exists at the time of adoption (or, if such child was adopted by such individual after such individual attained age 65, the period of disability of such individual which existed in the month preceding the month in which he attained age 65), or the month in which such individual became entitled to disability insurance benefits, or (III) if he is an individual referred to in either subparagraph (A) or subparagraph (B) and the child is the grandchild of such individual or his or her spouse, for the year immediately before the month in which such child files his or her application for child's insurance benefits, and

(iii) had not attained the age of 18 before he began living with such individual.

In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of birth of such child.

(9)(A) A child who is a child of an individual under clause (3) of the first sentence of section 416(e) of this title and is not a child of such individual under clause (1) or (2) of such first sentence shall be deemed not to be dependent on such individual at the time specified in subparagraph (1)(C) of this subsection unless (i) such child was living with such individual in the United States and receiving at least one-half of his support from such individual (I) for the year immediately before the month in which such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or (II) if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, or disability insurance benefits, or died, for the year immediately before the month in which such period of disability began, and (ii) the period during which such child was living with such individual began before the child attained age 18.

(B) In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of such child's birth.

(e) Widow's insurance benefits

(1) The widow (as defined in section 416(c) of this title) and every surviving divorced wife (as defined in section 416(d) of this title) of an individual who died a fully insured individual, if such widow or such surviving divorced wife—

(A) is not married,

(B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 423(d) of this title) which began before the end of the period specified in paragraph (5),

(C)(i) has filed application for widow's insurance benefits, or was entitled to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which he died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) of this section or section 423 of this title, or

(ii) was entitled, on the basis of such wages and self-employment income, to mother's insurance benefits for the month preceding the month in which she attained age 65, and

(D) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of such deceased individual,

shall be entitled to a widow's insurance benefit for each month, beginning with—

(E) if she satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which she becomes so entitled to such insurance benefits, or

(F) if she satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after her waiting period (as defined in paragraph (6)) in which she becomes so entitled to such insurance benefits, or

(ii) the first month during all of which she is under a disability and in which she becomes so entitled to such insurance benefits, but only if she was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (5) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: she remarries, dies, becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount of such deceased individual, or, if she became entitled to such benefits before she attained age 60, the third month following the month in which her disability ceases (unless she attains age 65 on or before that last day of such third month).

(2)(A) Except as provided in subsection (q) of this section, paragraph (4) of this subsection, and subparagraph (B) of this paragraph, such widow's insurance benefit for each month shall be equal to the primary insurance amount of such deceased individual.

(B) If the deceased individual (on the basis of whose wages and self-employment income a widow or surviving divorced wife is entitled to widow's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q) of this section, the widow's insurance benefit of such widow or surviving divorced wife for any month shall, if

the amount of the widow's insurance benefit of such widow or surviving divorced wife (as determined under subparagraph (A) and after application of subsection (q) of this section) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased individual would have been entitled (after application of subsection (q) of this section) for such month if such individual were still living, and

(ii) 82½ percent of the primary insurance amount of such deceased individual. be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

(3) In the case of a widow or surviving divorced wife who marries—

(A) an individual entitled to benefits under subsection (f) or (h) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

such widow's or surviving divorced wife's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection, but subject to subsection (s) of this section, not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) of this section unless he ceases to be so entitled by reason of his death.

(4) If a widow, after attaining the age of 60, marries an individual (other than one described in subparagraph (A) or (B) of paragraph (3) of this subsection), such marriage shall, for purposes of paragraph (1) of this subsection, be deemed not to have occurred; except that, notwithstanding the provisions of paragraph (2) of this subsection and subsection (q) of this section, such widow's insurance benefit for the month in which such marriage occurs and each month thereafter prior to the month in which the husband dies or such marriage is otherwise terminated, shall be equal to one-half of the primary insurance amount of the deceased individual on whose wages and self-employment income such benefit is based.

(5) The period referred to in paragraph (1)(B)(ii), in the case of any widow or surviving divorced wife, is the period beginning with whichever of the following is the latest:

(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income her benefits are or would be based, or

(B) the last month for which she was entitled to mother's insurance benefits on the basis of the wages and self-employment income of such individual, or

(C) the month in which a previous entitlement to widow's insurance benefits on the basis of such wages and self-employment income terminated because her disability had ceased,

and ending with the month before the month in which she attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

(6) The waiting period referred to in paragraph (1)(F), in the case of any widow or surviving divorced wife, is the earliest period of five consecutive calendar months—

(A) throughout which she has been under a disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the seventeenth month before the month in which her application is filed, or (ii) the first day of the fifth month before the month in which the period specified in paragraph (5) begins.

(7) In the case of an individual entitled to monthly insurance benefits payable under this section for any month prior to January 1973 whose benefits were not redetermined under section 102(g) of the Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 415(i)(3) of this title) or any increase in benefits made under or pursuant to section 415(i) of this title, including for this purpose the increase provided effective for March 1974, as though such redetermination had been made.

(f) Widower's insurance benefits

(1) The widower (as defined in section 416(g) of this title) of an individual who died a fully insured individual, if such widower—

(A) has not remarried,

(B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 423(d) of the title) which began before the end of the period specified in paragraph (6).

(C) has filed application for widower's insurance benefits or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) of this section or section 423 of this title,

(D)(i) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual at the time of her death, or if such individual had a period of disability which did not end prior to the month in which she died, at the time such period began or at the time of her death, and filed proof of such support within two years after the date of such death, or, if she had such a period of disability, within two years after the month in which she filed application with respect to such period of disability or two years after the date of such death, as the case may be, or (ii) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual at the time she became entitled to old-age or disability insurance benefits or, if such individual had a period of disability which did not end prior to the month in

which she became so entitled, at the time such period began or at the time she became entitled to such benefits, and filed proof of such support within two years after the month in which she became entitled to such benefits or, if she had such a period of disability, within two years after the month in which she filed application with respect to such period of disability or two years after the month in which she became entitled to such benefits, as the case may be, and

(E) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of his deceased wife,

shall be entitled to a widower's insurance benefit for each month, beginning with—

(F) if he satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which he becomes so entitled to such insurance benefits, or

(G) if he satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after his waiting period (as defined in paragraph (7)) in which he becomes so entitled to such insurance benefits, or

(ii) the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (6) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: he remarries, dies, or becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount of his deceased wife, or, if he became entitled to such benefits before he attained age 60, the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month).

(2) The provisions of subparagraph (D) of paragraph (1) of this subsection shall (subject to subsection (s) of this section) not be applicable in the case of any individual who—

(A) in the month prior to the month of his marriage to such individual was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under this subsection or subsection (h) of this section;

(B) in the month prior to the month of his marriage to such individual had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of this section; or

(C) in the month prior to the month of his marriage to such individual he was entitled to, or on application therefor and attainment of the required age (if any), would have been entitled to, a widower's child (after attainment of age 18), or parent's insurance annuity under section 5 of the Railroad Retirement Act of 1937, as amended [45 U.S.C. 228e].

(3)(A) Except as provided in subsection (q) of this section, paragraph (5) of this subsection, and subparagraph (B) of this paragraph, such widower's insurance benefit for each month shall be equal to the primary insurance amount of his deceased wife.

(B) If the deceased wife (on the basis of whose wages and self-employment income a widower is entitled to widower's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q) of this section, the widower's insurance benefit of such widower for any month shall, if the amount of the widower's insurance benefit of such widower (as determined under subparagraph (A) and after application of subsection (q) of this section) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased wife would have been entitled (after application of subsection (q) of this section) for such month if such wife were still living; and

(ii) 82½ percent of the primary insurance amount of such deceased wife;

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

(4) In the case of a widower who marries—

(A) an individual entitled to benefits under subsection (b), (e), (g), or (h) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

such widower's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection but subject to subsection (s) of this section, not be terminated by reason of such marriage.

(5) If a widower, after attaining the age of 60, marries an individual (other than one described in subparagraph (A) or (B) of paragraph (4) of this subsection), such marriage shall, for purposes of paragraph (1) of this subsection, be deemed not to have occurred; except that, notwithstanding the provisions of paragraph (3) of this subsection and subsection (q) of this section, such widower's insurance benefit for the month in which such marriage occurs and each month thereafter prior to the month in which the wife dies or such marriage is otherwise terminated, shall be equal to one-half of the primary insurance amount of the deceased individual on whose wages and self-employment income such benefit is based.

(6) The period referred to in paragraph (1)(B)(ii), in the case of any widower, is the period beginning with whichever of the following is the latest:

(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income his benefits are or would be based, or

(B) the month in which a previous entitlement to widower's insurance benefits on the basis of such wages and self-employment income terminated because his disability had ceased,

and ending with the month before the month in which he attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

(7) The waiting period referred to in paragraph (1)(G), in the case of any widower, is the earliest period of five consecutive calendar months—

(A) throughout which he has been under a disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the seventeenth month before the month in which his application is filed, or (ii) the first day of the fifth month before the month in which the period specified in paragraph (6) begins.

(8) In the case of an individual entitled to monthly insurance benefits payable under this section for any month prior to January 1973 whose benefits were not redetermined under section 102(g) of the Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 415(i)(3) of this title) or any increase in benefits made under or pursuant to section 415(i) of this title, including for this purpose the increase provided effective for March 1974, as though such redetermination had been made.

(g) Mother's insurance benefits

(1) The widow and every surviving divorced mother (as defined in section 416(d) of this title) of an individual who died a fully or currently insured individual, if such widow or surviving divorced mother—

(A) is not married,

(B) is not entitled to a widow's insurance benefit,

(C) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of such individual,

(D) has filed application for mother's insurance benefits, or was entitled to wife's insurance benefits on the basis of the wages and self-employment income of such individual for the month preceding the month in which he died,

(E) at the time of filing such application has in her care a child or such individual entitled to a child's insurance benefit, and

(F) in the case of a surviving divorced mother—

(i) the child referred to in subparagraph (E) is her son, daughter, or legally adopted child, and

(ii) the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income,

shall (subject to subsection (s) of this section) be entitled to a mother's insurance benefit for each month, beginning with the first month after August 1950 in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child's insurance benefit, such widow or surviving divorced mother becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, she becomes entitled to a widow's insurance benefit, she remarries, or she dies. Entitlement to such benefits shall also end, in the case of a surviving divorced mother, with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such surviving divorced mother is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased individual.

(2) Such mother's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

(3) In the case of a widow or surviving divorced mother who marries—

(A) an individual entitled to benefits under subsection (a), (f), or (h) of this section, or under section 423(a) of this title, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

the entitlement of such widow or surviving divorced mother to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection but subject to subsection (s) of this section, not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under section 423(a) of this title or subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 423(a) of this title or subsection (d) of this section unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 423(a) of this title, he is entitled, for the month following such last month, to benefits under subsection (a) of this section.

(h) Parent's insurance benefits

(1) Every parent (as defined in this subsection) of an individual who died a fully insured individual, if such parent—

(A) has attained age 62,

(B)(i) was receiving at least one-half of his support from such individual at the time of such individual's death or, if such individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death, and (ii) filed proof of such support within two years after the date of such death, or, if such individual had such a period of disability, within two years after the month in which such individual filed application with respect to such period of disability or two years after the date of such death, as the case may be,

(C) has not married since such individual's death,

(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than 82½ percent of the primary insurance amount of such

deceased individual if the amount of the parent's insurance benefit for such month is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case), and

(E) has filed application for parent's insurance benefits,

shall be entitled to a parent's insurance benefit for each month beginning with the first month after August 1950 in which such parent becomes so entitled to such parent's insurance benefits and ending with the month preceding the first month in which any of the following occurs: such parent dies, marries, or becomes entitled to an old-age insurance benefit equal to or exceeding 82½ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for such month is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case).

(2)(A) Except as provided in subparagraphs (B) and (C), such parent's insurance benefit for each month shall be equal to 82½ percent of the primary insurance amount of such deceased individual.

(B) For any month for which more than one parent is entitled to parent's insurance benefits on the basis of such deceased individual's wages and self-employment income, such benefit for each such parent for such month shall (except as provided in subparagraph (C) be equal to 75 percent of the primary insurance amount of such deceased individual.

(C) In any case in which—

(i) any parent is entitled to a parent's insurance benefit for a month on the basis of a deceased individual's wages and self-employment income, and

(ii) another parent of such deceased individual is entitled to a parent's insurance benefit for such month on the basis of such wages and self-employment income, and on the basis of an application filed after such month and after the month in which the application for the parent's benefits referred to in clause (i) was filed,

the amount of the parent's insurance benefit of the parent referred to in clause (i) for the month referred to in such clause shall be determined under subparagraph (A) instead of subparagraph (B) and the amount of the parent's insurance benefit of a parent referred to in clause (ii) for such month shall be equal to 150 percent of the primary insurance amount of the deceased individual minus the amount (before the application of section 403(a) of this title) of the benefit for such month of the parent referred to in clause (i).

(3) As used in this subsection, the term "parent" means the mother or father of an individual, a stepparent of an individual by a marriage contracted before such individual attained the age of sixteen, or an adopting parent by whom an individual was adopted before he attained the age of sixteen.

(4) In the case of a parent who marries—

(A) an individual entitled to benefits under this subsection or subsection (b), (e), (f), or (g) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

such parent's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection but subject to subsection (s) of this section, not be terminated by reason of such marriage; except that, in the case of such a marriage to a male individual entitled to benefits under subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) of this section unless he ceases to be so entitled by reason of his death.

(i) Lump-sum death payments

Upon the death, after August 1950, of an individual who died a fully or currently insured individual, an amount equal to three times such individual's primary insurance amount, or an amount equal to $255, whichever is the smaller, shall be paid in a lump sum to the person, if any, determined by the Secretary to be the widow or widower of the deceased and to have been living in the same household with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid—

(1) if all or part of the burial expenses of such insured individual which are incurred by or through a funeral home or funeral homes remains unpaid, to such funeral home or funeral homes to the extent of such unpaid expenses, but only if (A) any person who assumed the responsibility for the payment of all or any part of such burial expenses files an application, prior to the expiration of two years after the date of death of such insured individual, requesting that such payment be made to such funeral home or funeral homes, or (B) at least 90 days have elapsed after the date of death of such insured individual and prior to the expiration of such 90 days no person has assumed responsibility for the payment of any of such burial expenses;

(2) if all of the burial expenses of such insured individual which were incurred by or through a funeral home or funeral homes have been paid (including payments made under clause (1)), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such burial expenses;

(3) if the body of such insured individual is not available for burial but expenses were incurred with respect to such individual in connection with a memorial service, a memorial marker, a site for the marker, or any other item of a kind for which expenses are customarily incurred in connection with a death and such expenses have been paid, to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such expenses; or

(4) if any part of the amount payable under this subsection remains after payments have been made pursuant to clauses (1), (2), and (3), to any person or persons, equitably entitled thereto, to the extent and in the propor-

tions that he or they shall have paid other expenses in connection with the burial of such insured individual, in the following order of priority: (A) expenses of opening and closing the grave of such insured individual, (B) expenses of providing the burial plot of such insured individual, and (C) any remaining expenses in connection with the burial of such insured individual.

No payment (except a payment authorized pursuant to clause (1)(A) of the preceding sentence) shall be made to any person under this subsection unless application therefor shall have been filed, by or on behalf of such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual, or unless such person was entitled to wife's or husband's insurance benefits, on the basis of the wages and self-employment income of such insured individual, for the month preceding the month in which such individual died. In the case of any individual who died outside the forty-eight States and the District of Columbia after December 1953 and before January 1, 1957, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa for interment or reinterment, the provisions of the preceding sentence shall not prevent payment to any person under the second sentence of this subsection if application for a lump sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment. In the case of any individual who died outside the fifty States and the District of Columbia after December 1956 while he was performing service, as a member of a uniformed service, to which the provisions of section 410(*l*)(1) of this title are applicable, and who is returned to any State, or to any Territory or possession of the United States, for interment or reinterment, the provisions of the third sentence of this subsection shall not prevent payment to any person under the second sentence of this subsection if application for a lump sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment.

(j) Application for monthly insurance benefits

(1) An individual who would have been entitled to a benefit under subsections (a) to (g), or (h) of this section for any month after August 1950 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to the end of the twelfth month immediately succeeding such month. Any benefit under this subchapter for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Secretary has certified for payment for such prior month.

(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application. If upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month.

(3) Notwithstanding the provisions of paragraph (1), an individual may, at his option, waive entitlement to any benefit referred to in paragraph (1) for any one or more consecutive months (beginning with the earliest month for which such individual would otherwise be entitled to such benefit) which occur before the month in which such individual files application for such benefit; and, in such case, such individual shall not be considered as entitled to such benefits for any such month or months before such individual filed such application. An individual shall be deemed to have waived such entitlement for any such month for which such benefit would, under the second sentence of paragraph (1), be reduced to zero.

(k) Simultaneous entitlement to benefits

(1) A child, entitled to child's insurance benefits on the basis of the wages and self-employment income of an insured individual, who would be entitled, on filing application, to child's insurance benefits on the basis of the wages and self-employment income of some other insured individual, shall be deemed entitled, subject to the provisions of paragraph (2) of this subsection, to child's insurance benefits on the basis of the wages and self-employment income of such other individual if an application for child's insurance benefits on the basis of the wages and self-employment income of such other individual has been filed by any other child who would, on filing application, be entitled to child's insurance benefits on the basis of the wages and self-employment income of both such insured individuals.

(2)(A) Any child who under the preceding provisions of this section is entitled for any month to child's insurance benefits on the wages and self-employment income of more than one insured individual shall, notwithstanding such provisions, be entitled to only one of such child's insurance benefits for such month. Such child's insurance benefits for such month shall be the benefit based on the wages and self-employment income of the insured individual who has the greatest primary insurance amount, except that such child's insurance benefits for such month shall be the largest benefit to which such child could be entitled under subsection (d) of this section (without the application of section 403(a) of this title) or subsection (m) of this section if entitlement to such benefit would not, with respect to any person, result in a benefit lower (after the application of section 403(a) of this title) than the benefit which would be applicable if such child were entitled on the wages and self-employment income of the individual with the greatest

primary insurance amount. Where more than one child is entitled to child's insurance benefits pursuant to the preceding provisions of this paragraph, each such child who is entitled on the wages and self-employment income of the same insured individuals shall be entitled on the wages and self-employment income of the same such insured individual.

(B) Any individual (other than an individual to whom subsection (e)(4) or (f)(5) of this section applies) who, under the preceding provisions of this section and under the provisions of section 423 of this title is entitled for any month to more than one monthly insurance benefit (other than an old-age or disability insurance benefit) under this subchapter shall be entitled to only one such monthly benefit for such month, such benefit to be the largest of the monthly benefits to which he (but for this subparagraph) would otherwise be entitled for such month. Any individual who is entitled for any month to more than one widow's or widower's insurance benefit to which subsection (e)(4) or (f)(5) of this section applies shall be entitled to only one such benefit for such month, such benefit to be the largest of such benefits.

(3)(A) If an individual is entitled to an old-age or disability insurance benefit for any month and to any other monthly insurance benefit for such month, such other insurance benefit for such month, after any reduction under subsection (q), subsection (e) (2) or (f)(3) of this section, and any reduction under section 403(a) of this title, shall be reduced, but not below zero, by an amount equal to such old-age or disability insurance benefit (after reduction under such subsection (q) of this section).

(B) If an individual is entitled for any month to a widow's or widower's insurance benefit to which subsection (e)(4) or (f)(5) of this section applies and to any other monthly insurance benefit under this section (other than an old-age insurance benefit), such other insurance benefit for such month, after any reduction under subparagraph (A) of this paragraph, any reduction under subsection (q) of this section, and any reduction under section 403(a) of this title, shall be reduced, but not below zero, by an amount equal to such widow's or widower's insurance benefit after any reduction or reductions under such subparagraph (A) and such section 403(a).

(4) Any individual who, under this section and section 423 of this title, is entitled for any month to both an old-age insurance benefit and a disability insurance benefit under this subchapter shall be entitled to only the larger of such benefits for such month, except that, if such individual so elects, he shall instead be entitled to only the smaller of such benefits for such month.

(l) Entitlement to survivor benefits under railroad retirement provisions

If any person would be entitled, upon filing application therefor to an annuity under section 2 of the Railroad Retirement Act of 1974 [45 U.S.C. 231a], or to a lump-sum payment under section 6(b) of such Act [45 U.S.C. 231e(b)], with respect to the death of an employee (as defined in such Act) no lump-sum death payment, and no monthly benefit for the month in which such employee died or for any month thereafter, shall be paid under this section to any person on the basis of the wages and selfemployment income of such employee.

(m) Minimum survivor's benefit

(1) In any case in which an individual is entitled to a monthly benefit under this section on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without the application of subsection (j)(1) of this section) entitled to a monthly benefit under this section for such month on the basis of such wages and self-employment income, such individual's benefit amount for such month, prior to reduction under subsection (k)(3) of this section, shall be not less than the first amount appearing in column IV of the table in (or deemed to be in) section 415(a) of this title, except as provided in paragraph (2).

(2) In the case of any such individual who is entitled to a monthly benefit under subsection (e) or (f) of this section, such individual's benefit amount, after reduction under subsection (q)(1) of this section, shall be not less than—

(A) $84.50, if his first month of entitlement to such benefit is the month in which such individual attained age 62 or a subsequent month, or

(B) $84.50 reduced under subsection (q)(1) of this section as if retirement age as specified in subsection (q)(6)(A)(ii) of this section were age 62 instead of the age specified in subsection (q)(9) of this section, if his first month of entitlement to such benefit is before the month in which he attained age 62.

(3) In the case of any individual whose benefit amount was computed (or recomputed) under the provisions of paragraph (2) and such individual was entitled to benefits under subsection (e) or (f) of this section for a month prior to any month after 1972 for which a general benefit increase under this subchapter (as defined in section 415(i)(3) of this title) or a benefit increase under section 415(i) of this title becomes effective, the benefit amount of such individual as computed under paragraph (2) without regard to the reduction specified in subparagraph (B) thereof shall be increased by the percentage increase applicable for such benefit increase, prior to the application of subsection (q)(1) of this section pursuant to paragraph (2)(B) and subsection (q)(4) of this section.

(n) Termination of benefits upon deportation of primary beneficiary

(1) If any individual is (after September 1, 1954) deported under paragraphs (1), (2), (4) to (7), (10) to (12), (14) to (17), or (18) of section 1251(a) of title 8 then, notwithstanding any other provisions of this subchapter—

(A) no monthly benefit under this section or section 423 of this title shall be paid to such individual, on the basis of his wages and self-employment income, for any month occurring (i) after the month in which the Secretary is notified by the Attorney General that such individual has been so deported, and (ii) before the month in which such individual is thereafter lawfully admitted to the United States for permanent residence.

(B) if no benefit could be paid to such individual (or if no benefit could be paid to him if he were alive) for any month by reason of subparagraph (A), no monthly benefit under this section shall be paid, on the basis of his wages and self-employment income, for such month to any other person who is not a citizen of the United States and is outside the United States for any part of such month, and

(C) no lump-sum death payment shall be made on the basis of such individual's wages and self-employment income if he dies (i) in or after the month in which such notice is received, and (ii) before the month in which he is thereafter lawfully admitted to the United States for permanent residence.

Section 403(b), (c), and (d) of this title shall not apply with respect to any such individual for any month for which no monthly benefit may be paid to him by reason of this paragraph.

(2) As soon as practicable after the deportation of any individual under any of the paragraphs of section 1251(a) of title 8 enumerated in paragraph (1) in this subsection, the Attorney General shall notify the Secretary of such deportation.

(o) Application for benefits by survivors of members and former members of the uniformed services

In the case of any individual who would be entitled to benefits under subsection (d), (e), (g), or (h) of this section upon filing proper application therefor, the filing with the Administrator of Veterans' Affairs by or on behalf of such individual of an application for such benefits, on the form described in section 3005 of title 38, shall satisfy the requirement of such subsection (d), (e), (g), or (h) that an application for such benefits be filed.

(p) Extension of period for filing proof of support and applications for lump-sum death payment

In any case in which there is a failure—

(1) to file proof of support under subparagraph (C) of subsection (c)(1) of this section, clause (i) or (ii) of subparagraph (D) of subsection (f)(1) of this section, or subparagraph (B) of subsection (h)(1) of this section, or under clause (B) of subsection (f)(1) of this section as in effect prior to the Social Security Act Amendments of 1950, within the period prescribed by such subparagraph or clause, or

(2) to file, in the case of a death after 1946, application for a lump-sum death payment under subsection (i) of this section, or under subsection (g) of this section as in effect prior to the Social Security Act Amendments of 1950, within the period prescribed by such subsection,

any proof or application, as the case may be, which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof or application within such period. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Secretary.

(q) Reduction of benefit amounts for certain beneficiaries

(1) If the first month for which an individual is entitled to an old-age, wife's, husband's, widow's, or widower's insurance benefit is a month before the month in which such individual attains retirement age, the amount of such benefit for such month and for any subsequent month shall, subject to the succeeding paragraphs of this subsection, be reduced by—

(A) 5/9 of 1 percent of such amount if such benefit is an old-age insurance benefit, 25/36 of 1 percent of such amount is such benefit is a wife's or husband's insurance benefit, or 19/40 of 1 percent of such amount if such benefit is a widow's or widower's insurance benefit, multiplied by—

(B)(i) the number of months in the reduction period for such benefit (determined under paragraph (6)(A)), if such benefit is for a month before the month in which such individual attains retirement age, or

(ii) if less, the number of such months in the adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is (I) for the month in which such individual attains age 62, or (II) for the month in which such individual attains retirement age;

and in the case of a widow or widower whose first month of entitlement to a widow's or widower's insurance benefit is a month before the month in which such widow or widower attains age 60, such benefit, reduced pursuant to the preceding provisions of this paragraph (and before the application of the second sentence of paragraph (8)), shall be further reduced by—

(C) 43/240 of 1 percent of the amount of such benefit, multiplied by—

(D)(i) the number of months in the additional reduction period for such benefit (determined under paragraph (6)(B)), if such benefit is for a month before the month in which such individual attains age 62, or

(ii) if less, the number of months in the additional adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is for the month in which such individual attains age 62 or any month thereafter.

(2) If an individual is entitled to a disability insurance benefit for a month after a month for which such individual was entitled to an old-age insurance benefit, such disability insurance benefit, for each month shall be reduced by the amount such old-age insurance benefit would be reduced under paragraphs (1) and (4) for such month had such individual attained age 65 in the first month for which he most recently became entitled to a disability insurance benefit.

(3)(A) If the first month for which an individual both is entitled to a wife's, husband's, widow's, or widower's insurance benefit and has attained age 62 (in the case of a wife's or husband's insurance benefit) or age 50 (in the case of a widow's or widower's insurance benefit) is a month for which such individual is also entitled to—

(i) an old-age insurance benefit (to which such individual was first entitled for a month before he attains age 65), or

(ii) a disability insurance benefit,

then in lieu of any reduction under paragraph (1) (but subject to the succeeding paragraphs of this subsection) such wife's, husband's, widow's, or widower's insurance benefit for each month shall be reduced as provided in subparagraph (B), (C), or (D).

(B) For any month for which such individual is entitled to an old-age insurance benefit and is not entitled to a disability insurance benefit, such individual's wife's or husband's insurance benefit shall be reduced by the sum of—

(i) the amount by which such old-age insurance benefit is reduced under paragraph (1) for such month, and

(ii) the amount by which such wife's or husband's insurance benefit would be reduced under paragraph (1) for such month, if it were equal to the excess of such wife's or husband's insurance benefit (before reduction under this subsection) over such old-age insurance benefit (before reduction under this subsection).

(C) For any month for which such individual is entitled to a disability insurance benefit, such individual's wife's, husband's, widow's, or widower's insurance benefit shall be reduced by the sum of—

(i) the amount by which such disability insurance benefit is reduced under paragraph (2) for such month (if such paragraph applied to such benefit), and

(ii) the amount by which such wife's, husband's, widow's, or widower's insurance benefit would be reduced under paragraph (1) for such month if it were equal to the excess of such wife's, husband's, widow's, or widower's insurance benefit (before reduction under this subsection) over such disability insurance benefit (before reduction under this subsection).

(D) For any month for which such individual is entitled neither to an old-age insurance benefit nor to a disability insurance benefit, such individual's wife's, husband's, widow's, or widower's insurance benefit shall be reduced by the amount by which it would be reduced under paragraph (1).

(E) If the first month for which an individual is entitled to an old-age insurance benefit (whether such first month occurs before, with, or after the month in which such individual attains the age of 65) is a month for which such individual is also (or would, but for subsection (e)(1) of this section in the case of a widow or surviving divorced wife or subsection (f)(1) of this section in the case of a widower, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she attained retirement age, then such old-age insurance benefit shall be reduced by whichever of the following is the larger:

(i) the amount by which (but for this subparagraph) such old-age insurance benefit would have been reduced under paragraph (1), or

(ii) the amount equal to the sum of (I) the amount by which such widow's or widower's insurance benefit would be reduced under paragraph (1) if the period specified in paragraph (6)(A) ended with the month before the month in which she or he attained age 62 and (II) the amount by which such old-age insurance benefit would be reduced under paragraph (1) if it were equal to the excess of such old-age insurance benefit (before reduction under this subsection) over such widow's or widower's insurance benefit (before reduction under this subsection).

(F) If the first month for which an individual is entitled to a disability insurance benefit (when such first month occurs with or after the month in which such individual attains the age of 62) is a month for which such individual is also (or would, but for subsection (e)(1) of this section in the case of a widow or surviving divorced wife or subsection (f)(1) of this section in the case of a widower, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she or he attained retirement age, then such disability insurance benefit for each month shall be reduced by whichever of the following is larger:

(i) the amount by which (but for this subparagraph) such disability insurance benefit would have been reduced under paragraph (2), or

(ii) the amount equal to the sum of (I) the amount by which such widow's or widower's insurance benefit would be reduced under paragraph (1) if the period specified in paragraph (6)(A) ended with the month before the month in which she or he attained age 62 and (II) the amount by which such disability insurance benefit would be reduced under paragraph (2) if it were equal to the excess of such disability insurance benefit (before reduction under this subsection) over such widow's or widower's insurance benefit (before reduction under this subsection).

(G) If the first month for which an individual is entitled to a disability insurance benefit (when such first month occurs before the month in which such individual attains the age of 62) is a month for which such individual is also (or would, but for subsection (e)(1) of this section in the case of a widow or surviving divorced wife or subsection (f)(1) of this section in the case of a widower, be) entitled to a widow's insurance benefit, then such disability insurance benefit for each month shall be reduced by the amount such widow's or widower's insurance benefit would be reduced under paragraphs (1) and (4) for such month as if the period specified in paragraph (6)(A) (or, if such paragraph does not apply, the period specified in paragraph (6)(B)) ended with the month before the first month for which he most recently became entitled to a disability insurance benefit.

(H) Notwithstanding subparagraph (A) of this paragraph, if the first month for which an individual is entitled to a widow's or widower's insurance benefit is a month for which such individual is also entitled to an old-age insurance benefit to which such individual was first entitled for a month before she or he became entitled to a widow's or widower's benefit, the re-

duction in such widow's or widower's insurance benefit shall be determined under paragraph (1).

(4) If—

(A) an individual is or was entitled to a benefit subject to reduction under paragraph (1) or (3) of this subsection, and

(B) such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based,

then the amount of the reduction of such benefit for each month shall be computed separately (under paragraph (1) or (3), whichever applies) for the portion of such benefit which constitutes such benefit before any increase described in subparagraph (B), and separately (under paragraph (1) or (3), whichever applies to the benefit being increased) for each such increase. For purposes of determining the amount of the reduction under paragraph (1) or (3) in any such increase, the reduction period and the adjusted reduction period shall be determined as if such increase were a separate benefit to which such individual was entitled for and after the first month for which such increase is effective.

(5)(A) No wife's insurance benefits shall be reduced under this subsection—

(i) for any month before the first month for which there is in effect a certificate filed by her with the Secretary, in accordance with regulations prescribed by him, in which she elects to receive wife's insurance benefits reduced as provided in this subsection, or

(ii) for any month in which she has in her care (individually or jointly with the person on whose wages and self-employment income her wife's insurance benefit is based) a child of such person entitled to child's insurance benefits.

(B) Any certificate described in subparagraph (A)(i) shall be effective for purposes of this subsection (and for purposes of preventing deductions under section 403(c)(2) of this title)—

(i) for the month in which it is filed and for any month thereafter, and

(ii) for months, in the period designated by the woman filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which she attains age 62, nor shall it be effective for any month to which subparagraph (A)(ii) applies.

(C) If a woman does not have in her care a child described in subparagraph (A)(ii) in the first month for which she is entitled to a wife's insurance benefit, and if such first month is a month before the month in which she attains age 65, she shall be deemed to have filed in such first month the certificate described in subparagraph (A)(i).

(D) No widow's insurance benefit for a month in which she has in her care a child of her deceased husband (or deceased former husband) entitled to child's insurance benefits shall be reduced under this subsection below the amount to which she would have been entitled had she been entitled for such month to mother's insurance benefits on the basis of her deceased husband's (or deceased former husband's) wages and self-employment income.

(6) For the purposes of this subsection—

(A) the "reduction period" for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the period—

(i) beginning—

(I) in the case of an old-age or husband's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit, or

(II) in the case of a wife's insurance benefit, with the first day of the first month for which a certificate described in paragraph (5)(A)(i) is effective, or

(III) in the case of a widow's or widower's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit or the first day of the month in which such individual attains age 60, whichever is the later, and

(ii) ending with the last day of the month before the month in which such individual attains retirement age; and

(B) the "additional reduction period" for an individual's widow's or widower's insurance benefit is the period—

(i) beginning with the first day of the first month for which such individual is entitled to such benefit, but only if such individual has not attained age 60 in such first month, and

(ii) ending with the last day of the month before the month in which such individual attains age 60.

(7) For purposes of this subsection the "adjusted reduction period" for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the reduction period prescribed in paragraph (6)(A) for such benefit, and the "additional adjusted reduction period" for an individual's, widow's, or widower's insurance benefit is the additional reduction period prescribed by paragraph (6)(B) for such benefit, excluding from each such period—

(A) any month in which such benefit was subject to deductions under section 403(b), 403(c)(1), 403(d)(1), or 422(b) of this title,

(B) in the case of wife's insurance benefits, any month in which she had in her care (individually or jointly with the person on whose wages and self-employment income such benefit is based) a child of such person entitled to child's insurance benefits,

(C) in the case of wife's or husband's insurance benefits, any month for which such individual was not entitled to such benefits because the spouse on whose wages and self-employment income such benefits were based ceased to be under a disability,

(D) in the case of widow's insurance benefits, any month in which the reduction in the amount of such benefit was determined under paragraph (5)(D),

(E) in the case of widow's or widower's insurance benefits, any month before the month in which she or he attained age 62, and also for any later month before the

month in which he attained retirement age, for which she or he was not entitled to such benefit because of the occurrence of an event that terminated her or his entitlement to such benefits, and

(F) in the case of old-age insurance benefits, any month for which such individual was entitled to a disability insurance benefit.

(8) This subsection shall be applied after reduction under section 403(a) of this title and after application of section 415(g) of this title. If the amount of any reduction computed under paragraph (1), (2), or (3) is not a multiple of $0.10, it shall be reduced to the next lower multiple of $0.10.

(9) For purposes of this subsection, the term "retirement age" means age 65.

(r) Presumed filing of application by individuals eligible for old-age insurance benefits and for wife's or husband's insurance benefits

(1) If the first month for which an individual is entitled to an old-age insurance benefit is a month before the month in which such individual attains age 65, and if such individual is eligible for a wife's or husband's insurance benefit for such first month, such individual shall be deemed to have filed an application in such month for wife's or husband's insurance benefits.

(2) If the first month for which an individual is entitled to a wife's or husband's insurance benefit reduced under subsection (q) of this section is a month before the month in which such individual attains age 65, and if such individual is eligible (but for subsection (k)(4) of this section) for an old-age insurance benefit for such first month such individual shall be deemed to have filed an application for old-age insurance benefits—

(A) in such month, or

(B) if such individual is also entitled to a disability insurance benefit for such month, in the first subsequent month for which such individual is not entitled to a disability insurance benefit.

(3) For purposes of this subsection, an individual shall be deemed eligible for a benefit for a month if, upon filing application therefor in such month, he would be entitled to such benefit for such month.

(s) Child aged 18 or over attending school

(1) For the purposes of subsections (b)(1), (g)(1), (q)(5), and (d)(7) of this section and paragraphs (2), (3), and (4) of section 403(c) of this title, a child who is entitled to child's insurance benefits under subsection (d) of this section for any month, and who has attained the age of 18 but is not in such month under a disability (as defined in section 423(d) of this title), shall be deemed not entitled to such benefits for such month, unless he was under such a disability in the third month before such month.

(2) Subsection (f)(4), and so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4) of this section as precedes the semicolon, shall not apply in the case of any child unless such child, at the time of the marriage referred to therein, was under a disability (as defined in section 423(d) of this title) or had been under such a disability in the third month before the month in which such marriage occurred.

(3) Subsections (c)(2)(B) and (f)(2)(B) of this section, so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4) of this section as follows the semicolon, the last sentence of subsection (c) of section 403 of this title, subsection (f)(1)(C) of section 403 of this title, and subsections (b)(3)(B), (c)(6)(B), (f)(3)(B), and (g)(6)(B) of section 416 of this title shall not apply in the case of any child with respect to any month referred to therein unless in such month or the third month prior thereto such child was under a disability (as defined in section 423(d) of this title).

(t) Suspension of benefits of aliens who are outside the United States

(1) Notwithstanding any other provision of this subchapter, no monthly benefits shall be paid under this section or under section 423 of this title to any individual who is not a citizen or national of the United States for any month which is—

(A) after the sixth consecutive calendar month during all of which the Secretary finds, on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention, that such individual is outside the United States, and

(B) prior to the first month thereafter for all of which such individual has been in the United States.

For purposes of the preceding sentence, after an individual has been outside the United States for any period of thirty consecutive days he shall be treated as remaining outside the United States until he has been in the United States for a period of thirty consecutive days.

(2) Paragraph (1) of this subsection shall not apply to any individual who is a citizen of a foreign country which the Secretary finds has in effect a social insurance or pension system which is of general application in such country and under which—

(A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and

(B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

(3) Paragraph (1) of this subsection shall not apply in any case where its application would be contrary to any treaty obligation of the United States in effect on August 1, 1956.

(4) Paragraph (1) of this subsection shall not apply to any benefit for any month if—

(A) not less than forty of the quarters elapsing before such month are quarters of coverage for the individual on whose wages and self-employment income such benefit is based, or

(B) the individual on whose wages and self-employment income such benefit is based has, before such month, resided in the United States for a period or periods aggregating ten years or more, or

(C) the individual entitled to such benefit is outside, the United States while in the active military or naval service of the United States, or

(D) the individual on whose wages and self-employment income such benefit is based died, before such month, either (i) while on active duty or inactive duty training (as those terms are defined in section 410(*l*) (2) and (3) of this title) as a member of a uniformed service (as defined in section 410(m) of this title), or (ii) as the result of a disease or injury which the Administrator of Veterans' Affairs determines was incurred or aggravated in line of duty while on active duty (as defined in section 410(*l*)(2) of this title), or an injury which he determines was incurred or aggravated in line of duty while on inactive duty training (as defined in section 410(*l*)(3) of this title), as a member of a uniformed service (as defined in section 410(m) of this title), if the Administrator determines that such individual was discharged or released from the period of such active duty or inactive duty training under conditions other than dishonorable, and if the Administrator certifies to the Secretary his determinations with respect to such individual under this clause, or

(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this chapter pursuant to the provisions of section 5(k)(1) of the Railroad Retirement Act [45 U.S.C. 228(k)(1)];

except that subparagraphs (A) and (B) of this paragraph shall not apply in the case of any individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies subparagraph (A) but not subparagraph (B) of paragraph (2), or who is a citizen of a foreign country that has no social insurance or pension system of general application if at any time within five years prior to the month in which the Social Security Amendments of 1967 are enacted (or the first month thereafter for which his benefits are subject to suspension under paragraph (1)) payments to individuals residing in such country were withheld by the Treasury Department under section 123 of title 31.

(5) No person who is, or upon application would be, entitled to a monthly benefit under this section for December 1956 shall be deprived, by reason of paragraph (1) of this subsection, of such benefit or any other benefit based on the wages and self-employment income of the individual on whose wages and self-employment income such monthly benefit for December 1956 is based.

(6) If an individual is outside the United States when he dies and no benefit may, by reason of paragraph (1) or (10) of this subsection, be paid to him for the month preceding the month in which he dies, no lump-sum death, payment may be made on the basis of such individual's wages and self-employment income.

(7) Subsection (b), (c), and (d) of section 403 of this title shall not apply with respect to any individual for any month for which no monthly benefit may be paid to him by reason of paragraph (1) of this subsection.

(8) The Attorney General shall certify to the Secretary such information regarding aliens who depart from the United States to any foreign country (other than a foreign country which is territorially contiguous to the continental United States) as may be necessary to enable the Secretary to carry out the purposes of this subsection and shall otherwise aid, assist, and cooperate with the Secretary in obtaining such other information as may be necessary to enable the Secretary to carry out the purposes of this subsection.

(9) No payments shall be made under part A of subchapter XVIII of this chapter with respect to items or services furnished to an individual in any month for which the prohibition in paragraph (1) against payment of benefits to him is applicable (or would be if he were entitled to any such benefits).

(10) Notwithstanding any other provision of this subchapter, no monthly benefits shall be paid under this section or under section 423 of this title, for any month beginning after June 30, 1968, to an individual who is not a citizen or national of the United States and who resides during such month in a foreign country if payments for such month to individuals residing in such country are withheld by the Treasury Department under section 123 of title 31.

(u) Conviction of subversive activities, etc.

(1) If any individual is convicted of any offense (committed after August 1, 1956) under—

(A) chapter 37 (relating to espionage and censorship), chapter 105 (relating to sabotage), or chapter 115 (relating to treason, sedition, and subversive activities) of title 18, or

(B) section 783, 822, or 823 of title 50,

then the court may, in addition to all other penalties provided by law, impose a penalty that in determining whether any monthly insurance benefit under this section or section 423 of this title is payable to such individual for the month in which he is convicted or for any month thereafter, in determining the amount of any such benefit payable to such individual for any such month, and in determining whether such individual is entitled to insurance benefits under part A of subchapter XVIII of this chapter for any such month, there shall not be taken into account—

(C) any wages paid to such individual or to any other individual in the calendar quarter in which such conviction occurs or in any prior calendar quarter, and

(D) any net earnings from self-employment derived by such individual or by any other individual during a taxable year in which such conviction occurs or during any prior taxable year.

(2) As soon as practicable after an additional penalty has, pursuant to paragraph (1) of this subsection, been imposed with respect to any individual, the Attorney General shall notify the Secretary of such imposition.

(3) If any individual with respect to whom an additional penalty has been imposed pursuant to paragraph (1) of this subsection is granted a pardon of the offense by the President of the United States, such additional penalty shall not

apply for any month beginning after the date on which such pardon is granted.

(v) Waiver of benefits

Notwithstanding any other provisions of this subchapter, in the case of any individual who files a waiver pursuant to section 1402(h) of the Internal Revenue Code of 1954 and is granted a tax exemption thereunder, no benefits or other payments shall be payable under this subchapter to him, no payments shall be made on his behalf under part A of subchapter XVIII of this chapter, and no benefits or other payments under this subchapter shall be payable on the basis of his wages and self-employment income to any other person, after the filing of such waiver; except that, if thereafter such individual's tax exemption under such section 1402(h) ceases to be effective, such waiver shall cease to be applicable in the case of benefits and other payments under this subchapter and part A of subchapter XVIII of this chapter to the extent based on his self-employment income for and after the first taxable year for which such tax exemption ceases to be effective and on his wages for and after the calendar year (if any) which begins in or with the beginning of such taxable year.

(w) Increase in old-age insurance benefit amounts on account of delayed retirement

(1) If the first month for which an old-age insurance benefit becomes payable to an individual is not earlier than the month in which such individual attains age 65 (or his benefit payable at such age is not reduced under subsection (q) of this section), the amount of the old-age insurance benefit (other than a benefit based on a primary insurance amount determined under section 415(a)(3) of this title) which is payable without regard to this subsection to such individual shall be increased by—

(A) $\frac{1}{12}$ of 1 percent of such amount, multiplied by

(B) the number (if any) of the increment months for such individual.

(2) For purposes of this subsection, the number of increment months for any individual shall be a number equal to the total number of the months—

(A) which have elapsed after the month before the month in which such individual attained age 65 or (if later) December 1970 and prior to the month in which such individual attained age 72, and

(B) with respect to which—

(i) such individual was a fully insured individual (as defined in section 414(a) of this title), and

(ii) such individual was not entitled to an old-age insurance benefit or suffered deductions under section 403(b) or 403(c) of this title in amounts equal to the amount of such benefit.

(3) For purposes of applying the provisions of paragraph (1), a determination shall be made under paragraph (2) for each year, beginning with 1972, of the total number of an individual's increment months through the year for which the determination is made and the total so determined shall be applicable to such individual's old-age insurance benefits beginning with benefits for January of the year following the year for which such determination is made; except that the total number applicable in the case of an individual who attains age 72 after 1972 shall be determined through the month before the month in which he attains such age and shall be applicable to his old-age insurance benefit beginning with the month in which he attains such age.

(4) This subsection shall be applied after reduction under section 403(a) of this title.

(5) If an individual's primary insurance amount is determined under paragraph (3) of section 415(a) of this title and, as a result of this subsection, he would be entitled to a higher old-age insurance benefit if his primary insurance amount were determined under section 415(a) of this title without regard to such paragraph, such individual's old-age insurance benefit based upon his primary insurance amount determined under such paragraph shall be increased by an amount equal to the difference between such benefit and the benefit to which he would be entitled if his primary insurance amount were determined under such section without regard to such paragraph.

(Aug. 14, 1935, ch. 531, title II, § 202, 49 Stat. 623; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, §§ 402, 403(a), 404(a), 405(a), 60 Stat. 986, 987; Aug. 28, 1950, ch. 809, title I, § 101(a), 64 Stat. 482; 1953 Reorg. Plan No. 1, §§ 5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 14, 1953, ch. 483, § 2, 67 Stat. 580; Sept. 1, 1954, ch. 1206, title I, §§ 102(i), 105(a), 107, 110(a)-(c), 68 Stat. 1073, 1079, 1083, 1085; Aug. 9, 1955, ch. 685, § 2, 69 Stat. 621; Aug. 1, 1956, ch. 836, title I, §§ 101(a)-(c), 102(c), (d)(1)-(10), 103(c)(1)-(3), 113, 114(a), 118(a), 121(a), 70 Stat. 807, 810-814, 818, 831, 832, 835, 838; Aug. 1, 1956, ch. 837, title IV, §§ 403(a), 407, 70 Stat. 871, 876; Aug. 30, 1957, Pub. L. 85-238, §§ 1, 3(a)-(g), 71 Stat. 518; Aug. 28, 1958, Pub. L. 85-798, § 1, 72 Stat. 964; Aug. 28, 1958, Pub. L. 85-840, title I, § 101(e), title II, § 205(b)-(i), title III, §§ 301(a)(1), (b)(1), (c)(1), 303, 304(a)(1), 305(a), 306(a), 307(a)-(e), 72 Stat. 1017, 1021-1024, 1026, 1027, 1029-1032; Sept. 2, 1958, Pub. L. 85-857, § 13(i)(1), 72 Stat. 1265; Sept. 6, 1958, Pub. L. 85-927, § 301, 72 Stat. 1783; June 25, 1959, Pub. L. 86-70, § 32(c)(1), 73 Stat. 149; July 12, 1960, Pub. L. 86-624, § 30(c)(1), 74 Stat. 420; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(a)(1), (j)(2)(C), (D), title II, §§ 201(a), (b), 202(a), 203(a), 205(a), (b), 208(d), 211(i)-(*l*), title III, § 301(a), title IV, § 403(d), 74 Stat. 936, 937, 946, 947, 949, 952, 957-959, 1969; June 30, 1961, Pub. L. 87-64, title I, §§ 102(a), (b), (1), (2)(A), (3), (e), 104(a)-(d), 75 Stat. 131, 134, 136, 138, 139; July 30, 1965, Pub. L. 89-97, title I, § 104(a), title III, §§ 303(d), 304(a)-(j), 306(a), (b), (c)(1)-(9), 307(a), (b), 308(a), (b), (d)(1), (2)(A), (3)-(5), (12), (13), 319(d), 323(a), 324(a), 328(a), 333(a)-(c), 334(e), (f), 339(b), 343(a), 79 Stat. 334, 367-379, 392, 397, 398, 400, 403-405, 410, 412; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 103(a)-(d), 104(a)-(c), 112(a), 151(a)-(d), (1), (2), 157(a), (b), 158(c)(1), (2), 162(a)(1), (b)(1), (c)(1), (2), 81 Stat. 828-832, 838, 860, 867, 868, 871; Dec. 30, 1969, Pub. L. 91-172, title X, § 1004(a)-(c), 83 Stat. 741; Dec. 28, 1971, Pub. L. 92-223, § 1, 85 Stat. 802; Oct. 30, 1972, Pub. L. 92-603, title I,

§§ 102(a), (b), (d)–(f), 103(a), (b), 107(a), 108(a)–(e), 109(a), 110(a), 111(a), 112(a), 113(b), 114(a)–(c), 116(b), (c), 86 Stat. 1335, 1336, 1338–1340, 1343–1348, 1350; July 9, 1973, Pub. L. 93–66, title II, § 240(a), 87 Stat. 161; Dec. 31, 1973, Pub. L. 93–233, §§ 1(f), (g), 18(b), 87 Stat. 947, 948, 967; Oct. 16, 1974, Pub. L. 93–445, title III, § 301, 88 Stat. 1357.)

REFERENCES IN TEXT

Section 102(g) of the Social Security Amendments of 1972, referred to in subsecs. (e)(7) and (f)(8), is section 102(g) of Pub. L. 92–603, Oct. 30, 1972, 86 Stat. 1329, which is set out as a Redetermination of Widow's and Widower's Benefits note under this section.

"Clause (B) of subsection (f)(1) of this section as in effect prior to the Social Security Act Amendments of 1950", and "subsection (g) of this section as in effect prior to the Social Security Act Amendments of 1950", referred to in subsec. (p), means such subsections as in effect prior to September 1, 1950, which was the effective date of section 101(a) of act Aug. 28, 1950. See section 101(b), (1), (3) of act Aug. 28, 1950, set out as an Effective Date of 1950 Amendment note below.

The Railroad Retirement Act, referred to in subsec. (t)(4)(E), probably refers to the Railroad Retirement Act of 1937, act Aug. 29, 1935, ch. 812, 49 Stat. 867, as amended generally by act June 24, 1937, ch. 382, part I, 50 Stat. 307, and which was classified principally to subchapter III (§ 228a et seq.) of chapter 9 of Title 45, Railroads. The Railroad Retirement Act of 1937 was amended generally and redesignated the Railroad Retirement Act of 1974 by Pub. L. 93–445, title I, Oct. 16, 1974, 88 Stat. 1305. The Railroad Retirement Act of 1974 is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45. For complete classification of these Acts to the Code, see Tables volume.

Sections 822 and 823 of title 50, referred to in subsec. (u)(1)(B), were repealed by Pub. L. 92–128, § 2(a), Sept. 25, 1971, 85 Stat. 348.

The month in which the Social Security Amendments of 1967 were enacted, referred to in the exception provision following (t)(4)(E), is Jan. 1968, date of approval of Pub. L. 90–248.

AMENDMENTS

1974—Subsec. (*l*). Pub. L. 93–445 substituted "annuity under section 2 of the Railroad Retirement Act of 1974, or to a lump-sum payment under section 6(b) of such Act, with respect to the death of an employee (as defined in such Act)" for "annuity under section 5 of the Railroad Retirement Act of 1937 or to a lump-sum payment under subsection (f)(1) of such section with respect to the death of an employee (as defined in such Act)".

1973—Subsec. (d)(8)(D)(ii). Pub. L. 93–66 added item (III).

Subsec. (e)(7). Pub. L. 93–233, § 1(f), added par. (7).

Subsec. (f)(8). Pub. L. 93–233, § 1(g), added par. (8).

Subsec. (w)(5). Pub. L. 93–233, § 18(b), added par. (5).

1972—Subsec. (a). Pub. L. 92–603, § 103(b), inserted reference to subsection (w) of this section.

Subsec. (b)(1). Pub. L. 92–603, § 114(a), struck out subpar. (D) which covered support aspects involved with a divorced wife and redesignated subpars. (E) through (L) and subpars. (D) through (K), respectively.

Subsec. (d)(1). Pub. L. 92–603, §§ 108(a) to (c), 112(a), substituted "age of 22" for "age of eighteen" in subpar. (B)(ii), struck out provisions covering adoption in subpar. (D), inserted "but only if he was not under a disability (as so defined) in such earlier month" in subpar. (F), substituted "age of 18, or if he was not under a disability (as so defined) at such time but was under a disability (as so defined) at or prior to the time he attained (or would attain) the age of 22" for "age of 18" and inserted "but only if he was not under a disability (as so defined) in such earlier month" following "attains the age of 22" in subpar. (G), and added provision prohibiting payments under par. (1) to a child who would not meet the definition of disability in section 423(d) of this title except for par. (1)(B) thereof for any month in which he engages in substantial gainful activity.

Subsec. (d)(6). Pub. L. 92–603, § 108(d), designated existing provisions as subpars. (A), (C), and (D), added subpars. (B) and (E), inserted "or is under a disability (as defined in section 423(d) of this title)" in subpar. (A)(i) as so redesignated, and inserted "but only if he is not under a disability (as so defined) in such earlier month" in subpar. (D)(ii) as so redesignated.

Subsec. (d)(7). Pub. L. 92–603, § 109(a), added subpar. (D).

Subsec. (d)(8). Pub. L. 92–603, § 111(a), combined into subsec. (d)(8) the provisions formerly set out in both subsecs. (d)(8) and (d)(9) covering adoptions by disability and old-age insurance beneficiaries and struck out provisions covering supervision of an adoption by a public or private child placement agency and provisions covering a special category of adoptions during the 24-month period beginning with the month after the month in which the individual most recently became entitled to disability insurance benefits or became entitled to old-age insurance benefits.

Subsec. (d)(9). Pub. L. 92–603, § 113(b), added subsec. (d)(9). Former subsec. (d)(9) incorporated, as amended, into subsec. (d)(8).

Subsec. (e)(1). Pub. L. 92–603, §§ 102(a)(1), 114(b)(1), struck out subpar. (D) which covered support aspects involved with a surviving divorced wife and redesignated subpars. (E) through (G) as subpars. (D) through (F), respectively, substituted "the primary insurance amount" for "82½ percent of the primary insurance amount" in subpar. (D) and in the provisions following subpar. (F), substituted "entitled to wife's insurance benefits," for "entitled, after attainment of age 62, to wife's insurance benefits," in subpar. (C)(i), inserted "and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) of this section or section 423 of this title," at the end of subpar. (C)(i), and substituted "age 65" for "age 62" in subpar. (C)(ii) and in the provisions following subpar. (F).

Subsec. (e)(2). Pub. L. 92–603, § 102(a)(2), designated existing provisions as subpar. (A) and added subpar. (B) and in subpar. (A) as so designated added reference to subpar. (B) of this par. and substituted "the primary insurance amount" for "82½ percent of the primary amount".

Subsec. (e)(6). Pub. L. 92–603, §§ 114(b)(2), 116(b), substituted "five", "seventeenth", and "fifth" for "six", "eighteenth", and "sixth", respectively, and "paragraph (1)(F)" for "paragraph (1)(G)".

Subsec. (f)(1). Pub. L. 92–603, §§ 102(b)(1), 107(a)(1), (2), substituted "age 60" for "age 62" in subpar. (B), substituted "the primary insurance amount" for "82½ percent of the primary insurance amount" in subpar. (E) and the provisions following subpar. (G), inserted "and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) of this section or section 423 of this title," at the end of subpar. (C), and substituted "age 65" for "age 62" and inserted ", if he became entitled to such benefits before he attained age 60," preceding "the third month" in the provisions following subpar. (G).

Subsec. (f)(3). Pub. L. 92–603, § 102(b)(2), designated existing provisions as subpar. (A) and added subpar. (B) and in subpar. (A) as so designated added reference to subpar. (B) of this par. and substituted "the primary insurance amount" for "82½ percent of the primary amount".

Subsec. (f)(5). Pub. L. 92–603, § 107(a)(3), substituted "the age of 60" for "the age of 62".

Subsec. (f)(6). Pub. L. 92–603, § 107(a)(1), substituted "age 60" for "age 62".

Subsec. (f)(7). Pub. L. 92–603, § 116(c), substituted "five", "seventeenth", and "fifth" for "six", "eighteenth", and "sixth", respectively.

Subsec. (g)(1)(F). Pub. L. 92–603, § 114(c), struck out cl. (i) covering the support aspects of a surviving divorced mother and redesignated cl. (ii) and (iii) as cl. (i) and (ii), respectively.

Subsec. (k)(2)(A). Pub. L. 92-603, § 110(a), inserted provisions establishing exceptions to the rule that a child's benefits in the case where the child is entitled on more than one wage record shall be based on the wages and self-employment of the insured individual with the greatest primary insurance amount.

Subsec. (k)(3)(A). Pub. L. 92-603, § 102(d), inserted reference to subsection (e)(2) or (f)(3) of this section.

Subsec. (m). Pub. L. 92-603, § 102(f), amended subsec. generally to increase the minimums on survivor's benefits.

Subsec. (q)(1). Pub. L. 90-603, § 102(e)(1), generally provided for an increase in widow's and widower's insurance benefits through the insertion of provisions covering such benefits in subpar. (A), and in the provisions preceding subpar. (C), and through the substitution of a $^{43}/_{240}$ fraction in subpar. (C) for a $^{43}/_{195}$ fraction.

Subsec. (q)(3). Pub. L. 92-603, § 102(e)(2)(5), redesignated existing provisions of subpars. (E)(ii) and (F)(ii) as subclauses (I) and (II) and in subclauses (I) of each such subpar. as so redesignated substituted "would be reduced under paragraph (1) if the period specified in paragraph (6)(A) ended with the month before the month in which she or he attained age 62" for "was reduced for the month in which such individual attained retirement age", substituted in subpar. (G) "as if the period specified in paragraph (6)(A) (or, if such paragraph does not apply, the period specified in paragraph (6)(B)) ended with the month before" for "had such individual attained age 62 in", and added subpar. (H).

Subsec. (q)(7). Pub. L. 92-603, § 102(e)(3), divided existing source references for "adjusted reduction period" and "additional adjusted reduction period" into separate references to subpars. (A) and (B) of par. (6) in the provisions preceding subpar. (A) and, in subpar. (E), substituted "attained age 62, and also for any later month before the month in which he attained retirement age," for "attained retirement age".

Subsec. (q)(9). Pub. L. 92-603, § 102(e)(4), struck out provisions which had set age 62 as the meaning of the term "retirement age" with respect to a widow's and widower's insurance benefits.

Subsec. (s). Pub. L. 92-603, § 108(e), struck out "which began before he attained such age" following "disability (as defined in section 423(d) of this title)" in par. (1) and struck out "which began before such child attained the age of 18" following "disability (as defined in section 423(d) of this title)" in pars. (2) and (3).

Subsec. (w). Pub. L. 92-603, § 103(a), added subsec. (w).

1971—Subsec. (i)(3). Pub. L. 92-223, § 1(a), added cl. (3).

Subsec. (i)(4). Pub. L. 92-223, § 1(a), (b), redesignated former cl. (3) as (4) and included reference to cl. (3) in the second sentence.

1969—Subsec. (b)(2). Pub. L. 91-172, § 1004(a), removed the $105 ceiling on the insurance benefits of wives.

Subsec. (c)(3). Pub. L. 91-172, § 1004(b), removed the $105 ceiling on the insurance benefits of husbands.

Subsec. (e)(4). Pub. L. 91-172, § 1004(c), removed the $105 ceiling on the insurance benefits of widows.

Subsec. (f)(5). Pub. L. 91-172, § 1004(c), removed the $105 ceiling on the insurance benefits of widowers.

1968—Subsec. (b)(2). Pub. L. 90-248, § 103(a), provided that a wife's insurance benefit may not exceed $105.

Subsec. (c)(1). Pub. L. 90-248, § 157(a)(1), substituted in text preceding subpar. (A) "an individual" for "a currently insured individual (as defined in section 414(b) of this title)".

Subsec. (c)(2). Pub. L. 90-248, § 157(a)(2), substituted in text preceding subpar. (A) "The provisions of subparagraph (C) of paragraph (1) of this subsection" for "The requirement in paragraph (1) of this subsection that the individual entitled to old-age or disability insurance benefits be a currently insured individual, and the provisions of subparagraph (C) of such paragraph".

Subsec. (c)(3). Pub. L. 90-248, § 103(b), provided that a husband's insurance benefit may not exceed $105.

Subsec. (d)(1)(B). Pub. L. 90-248, § 158(c)(1), substituted "section 423(d)" for "section 423(c)".

Subsec. (d)(3). Pub. L. 90-248, § 151(a), inserted in first sentence "or his mother or adopting mother" after "adopting father", and deleted in second sentence, "if such individual is the child's father," following "title shall".

Subsec. (d)(4). Pub. L. 90-248, § 151(b), inserted, "or stepmother" after "stepfather" in two instances.

Subsec. (d)(5) to (8). Pub. L. 90-248, § 151(c), deleted former par. (5) which provided that (1) a child is deemed dependent on his mother or adopting mother if she is currently insured, and (2) a child is deemed dependent on a mother who is not currently insured only if she is contributing one-half of the child's support or, if the child is not living with his father nor being supported by him, only if she is then living with or supporting the child, and redesignated former pars. (6) to (9) as (5) to (8), respectively.

Subsec. (d)(8). Pub. L. 90-248, §§ 112(a), 151(c), added subpar. (E) and redesignated former par. (9) as (8), respectively. Former par. (8) redesignated (7).

Subsec. (d)(9). Pub. L. 90-248, § 151(c), (d)(1), redesignated former par. (10) as (9) and substituted therein "paragraph (8)" for "paragraph (9)". Former par. (9) redesignated (8).

Subsec. (d)(10). Pub. L. 90-248, § 151(c), redesignated former par. (10) as (9).

Subsec. (e)(1). Pub. L. 90-248, § 104(a)(2), set out part of text formerly following subpar. (E) after subpar. (G) and inserted therein: "or, if she became entitled to such benefits before she attained age 60, the third month following the month in which her disability ceases (unless she attains age 62 on or before the last day of such third month)".

Subsec. (e)(1)(B). Pub. L. 90-248, § 104(a)(1), provided that a widow or surviving divorced wife may become entitled to widow's insurance benefits if she is disabled and her disability began within the period specified in subsec. (e)(5) even though she has not attained age 60.

Subsec. (e)(1)(F). Pub. L. 90-248, § 104(a)(2), designated part of material formerly following subpar. (E) as subpar. (F) and added provision requiring satisfaction with subpar. (B) clause (i).

Subsec. (e)(1)(G). Pub. L. 90-248, § 104(a)(2), added subpar. (G).

Subsec. (e)(4). Pub. L. 90-248, § 103(c), provided that a remarried widow's insurance benefit may not exceed $105.

Subsec. (e)(5), (6). Pub. L. 90-248, § 104(a)(3), added pars. (5) and (6).

Subsec. (f)(1). Pub. L. 90-248, § 157(b)(1), deleted in text preceding subpar. (A) "and currently" preceding "insured individual" and in clause (ii) of subpar. (D) ", and she was a currently insured individual," following "from such individual".

Subsec. (f)(1)(B). Pub. L. 90-248, § 104(b)(1), provided that a dependent widower may become entitled to widower's insurance benefits if he is disabled and his disability began within the specified period even though such individual has not attained age 62.

Subsec. (f)(1). Pub. L. 90-238, § 104(b)(2), set out part of text formerly following subpar. (E) after subpar. (G) and inserted therein: "or the third month following the month in which his disability ceases (unless he attains age 62 on or before the last day of such third month)".

Subsec. (f)(1)(F). Pub. L. 90-248, § 104(b)(2), designated part of text formerly following subpar. (F) as subpar. (F) and added provision requiring satisfaction with subpar. (B) clause (i).

Subsec. (f)(1)(G). Pub. L. 90-248, § 104(b)(2), added subpar. (G).

Subsec. (f)(2). Pub. L. 90-248, § 157(b)(2), substituted in text preceding subpar. (A) "The provisions of subparagraph (D) of paragraph (1) of this subsection" for "The requirement in paragraph (1) of this subsection that the deceased fully insured individual also be a

currently insured individual, and the provisions of subparagraph (D) of such paragraph,".

Subsec. (f)(3). Pub. L. 90-248, § 104(b)(3), added reference to subsec. (q).

Subsec. (f)(5). Pub. L. 90-248, § 103(d), provided that a remarried widower's insurance benefit may not exceed $105.

Subsec. (f)(6), (7). Pub. L. 90-248, § 104(b)(4), added pars. (6) and (7).

Subsec. (q). Pub. L. 90-248, § 104(c)(1), substituted "Reduction of benefit amounts for certain beneficiaries" for "Reduction of old-age, disability, wife's, husband's, or widow's insurance benefit amounts" in catchline.

Subsec. (q)(1). Pub. L. 90-248, § 104(c)(2) to (4), substituted "widow's, or widower's" for "or widow's" in text preceding subpar. (A), ", widow's, or widower's" for "or widow's" in subpar. (A), and added subpar. (C) and (D) provisions for further reduction of a widow's or widower's insurance benefit.

Subsec. (q)(3)(A). Pub. L. 90-248, § 104(c)(5), substituted "widow's, or widower's" for "or widow's" wherever appearing, "50" for "60", and inserted "or widower's" after "(in the case of a widow's)".

Subsec. (q)(3)(C). Pub. L. 90-248, § 104(c)(6), substituted "widow's, or widower's" for "or widow's" wherever appearing.

Subsec. (q)(3)(D). Pub. L. 90-248, § 104(c)(7), substituted "widow's, or widower's" for "or widow's".

Subsec. (q)(3)(E). Pub. L. 90-248, § 104(c)(8), inserted "in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower" after "(e)(1) of this section", and "or he" after "she", and substituted "widow's or widower's" for "widow's" wherever appearing.

Subsec. (q)(3)(F). Pub. L. 90-248, § 104(c)(9), inserted "in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower" after "(e)(1) of this section", and "or he" after "she", and substituted "widow's or widower's" for "widow's".

Subsec. (q)(3)(G). Pub. L. 90-248, § 104(c)(10), inserted "in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower" before "(e)(1) of this section", and "she or" before "he", and substituted "window's or widower's" for "widow's" wherever appearing.

Subsec. (q)(6). Pub. L. 90-248, § 104(c)(11), extended definition of "reduction period" to apply to widower's insurance benefit, added second alternative in subpar. (A)(i)(III) that the reduction period for a widow's or widower's insurance benefit begins with the "first day of the month in which such individual attains age 60, whichever is the later", substituted paragraph "(5)" for "(4)" in item (II) of subpar. (A)(i), and added subpar. (B).

Subsec. (q)(7). Pub. L. 90-248, § 104(c)(12), in text preceding subpar. (A), inserted "or 'additional adjusted reduction period' " after "the 'adjusted reduction period' ", "or additional reduction period (as the case may be)" after "the reduction period", and substituted "widow's, or widower's" for "or widow's", and in subpar. (E) substituted "widow's or widower's", "she or he", and "her or his" for "widow's", "she", and "her", respectively.

Subsec. (q)(9). Pub. L. 90-248, § 104(c)(13), added reference to widowers.

Subsec. (s). Pub. L. 90-248, § 158(c)(2), substituted "section 423(d)" for "section 423(c)" in pars. (1) to (3).

Subsec. (s)(2), (3). Pub. L. 90-248, § 151(d)(2), substituted "(d)(5)" for "(d)(6)" in pars. (2), (3).

Subsec. (t)(1). Pub. L. 90-248, § 162(a)(1), provided that "For purposes of the preceding sentence, after an individual has been outside the United States for any period of thirty consecutive days he shall be treated as remaining outside the United States until he has been in the United States for a period of thirty consecutive days."

Subsec. (t)(4). Pub. L. 90-248, § 162(b)(1), provided for exception to application of subpars. (A) and (B) of par. (4).

Subsec. (t)(6). Pub. L. 90-248, § 162(c)(2), included reference to par. (10).

Subsec. (t)(10). Pub. L. 90-248, § 162(c)(1), added par. (10).

1965—Subsec. (b)(1). Pub. L. 89-97, § 308(a), made provisions applicable to divorced wife by inclusion of references to divorced wife in provisions preceding subpar. (A), substituted "such individual" for "her husband" in subpars. (B), (E), (G), (J) to (L); inserted in subpar. (B) "(in the case of a wife)" following "age 62 or"; added subpars. (C) and (D); redesignated former subpar. (C) as (E); in the provisions following subpar. (E), inserted "(subject to subsection (s) of this section)" and deleted "after August 1950" following "beginning with the first month"; designated existing provisions as subpars. (F), (G), (J) to (L); and substituted provisions designated as subpars. (H) and (I) for former provisions reading "they are divorced from vinculo matrimonii".

Subsec. (b)(2). Pub. L. 89-97, § 308(a), inserted "(or, in the case of a divorced wife, her former husband)".

Subsec. (b)(3). Pub. L. 89-97, § 308(a), added par. (3).

Subsec. (c)(1). Pub. L. 89-97, § 308(d)(1), substituted "divorced" for "divorced a vinculo matrimonii" in the provisions following subpart (D).

Subsec. (c)(2). Pub. L. 89-97, §§ 306(c)(2), 334(e) inserted in the text preceding subpar. (A) "(subject to subsection (s) of this section)" following "shall", and added subpar. (C).

Subsec. (d)(1). Pub. L. 89-97, §§ 306(a), (b)(1), (2), 323(a)(1), 343(a), inserted in subpar. (B) (i) and (ii) "or was a full-time student and had not attained the age of 22" and "which began before he attained the age of 22", respectively, and substituted "is" for "was" in clause (ii) substituted "preceding whichever of the following first occurs" for "preceding the first month in which any of the following occurs" following provisions of subpar. (C), incorporated existing provisions in subpar. (D) and (E), substituting in such subpar. (E) "but only if he (i) is not under a disability (as so defined) at the time he attains such age, and (ii) is not a full-time student during any part of such month" for former provision and is not under a disability (as defined in section 423(c) of this title), which began before he attained such age", added subpars. (F) and (G), and repealed the second sentence which provided for the termination of entitlement of any child to benefits under this subsection with the month preceding the third month following the month in which he ceases to be under a disability after the month in which he attains age eighteen; struck out the last sentence which related to adoptions by disabled workers; and substituted "uncle, brother, or sister" for "or uncle" in subpar. (D), respectively.

Subsec. (d)(3). Pub. L. 89-97, § 339(b), inserted "or section 416(h)(3)" after "section 416(h)(2)(B)".

Subsec. (d)(6). Pub. L. 89-97, § 306(c)(3), inserted in the text following subpar. (B) "but subject to subsection (s) of this section" following "notwithstanding the provisions of paragraph (1) of this subsection".

Subsec. (d)(6)(A). Pub. L. 89-97, § 308(d)(2)(A), inserted reference to subsec. (b) of this section.

Subsec. (d)(7), (8). Pub. L. 89-97, § 306(b)(3), added pars. (7) and (8).

Subsec. (d)(9), (10). Pub. L. 89-97, § 323(a)(2), added pars. (9) and (10).

Subsec. (e)(1). Pub. L. 89-97, §§ 307(a)(1), 308(b)(1), substituted "age 60" for "age 62" in subpar. (B); and inserted references to surviving divorced wife in the provisions preceding subpar. (A), substituted in subpar. (A) "is not married" for "has not remarried", added subpar. (D), redesignated former subpar. (D) as (E) substituted in subpar. (E) and the following provision "such deceased individual" "her deceased husband", and deleted from provisions following subpar. (E) "after August 1950" following "beginning with the first month", respectively.

Subsec. (e)(2). Pub. L. 89-97, §§ 307(a)(2), 308(b)(1), 333(a)(2), inserted the introductory phrase "Except as provided in subsection (q) of this section"; substituted "such deceased individual" for "her deceased husband"; and inserted "and paragraph (4) of this subsection" immediately preceding the comma, respectively.

Subsec. (e)(3). Pub. L. 89-97, §§ 306(c)(4), 308(b)(2), (3), inserted "but subject to subsection (s) of this section" after "notwithstanding the provisions of paragraph (1)" following subpar. (B); repealed former par. (3) which provided for reinstatement of benefits to a widow if she married a person who died within one year and was not a fully insured individual; and redesignated former par. (4) as (3), and substituted therein "widow or surviving divorced wife" and "widow's or surviving divorced wife's" for "widow" and "widow's", respectively.

Subsec. (e)(4). Pub. L. 89-97, § 333(a)(1), added par. (4). Former par. (4) redesignated (3).

Subsec. (f)(2). Pub. L. 89-97, §§ 306(c)(5), 334(f), inserted in the text preceding subpar. (A) "(subject to subsection (s) of this section)" following "shall", and added subpar. (C).

Subsec. (f)(3). Pub. L. 89-97, § 333(b)(2), substituted "Except as provided in paragraph (5), such" for "Such".

Subsec. (f)(4). Pub. L. 89-97, § 306(c)(6), inserted in the text following subpar. (B) "but subject to subsection (s) of this section" following "notwithstanding the provisions of paragraph (1) of this subsection".

Subsec. (f)(4)(A). Pub. L. 89-97, § 308(d)(2)(A), inserted reference to subsec. (b) of this section.

Subsec. (f)(5). Pub. L. 89-97, § 333(b)(1), added par. (5).

Subsec. (g)(1). Pub. L. 89-97, §§ 306(c)(7), 308(d)(3)-(5), inserted "(subject to subsection (s) of this section)" after "shall in the provisions following subpar. (F); substituted in subpar. (A) "is not married" for "has not remarried"; in subpar. (F), substituted "surviving divorced mother" for "former wife divorced", incorporated existing provisions in clauses (i) (other than (I) to (III)), (ii), and (iii), and substituted provisions of clause (i) (I) to (III) for receipt of one-half of support under administrative regulations and substantial contributions pursuant to written agreement or court order for former provision for receipt of one-half of support pursuant to agreements or court order; and substituted "surviving divorced mother" for "former wife divorced" twice in provisions before subpar. (A) and thrice in provisions following subpar. (F), respectively.

Subsec. (g)(3). Pub. L. 89-97, §§ 306(c)(8), 308(d)(5), (13), inserted "but subject to subsection (s) of this section" after "notwithstanding the provisions of paragraph (1)" following subpar. (B), substituted "surviving divorced mother" for "former wife divorced" in two instances, and redesignated former par. (4) as (3), respectively. Pub. L. 89-97, § 308(d)(12), repealed former par. (3) which had provided that:

"In the case of any widow or former wife divorced of an individual—

"(A) who marries another individual, and

"(B) whose marriage to the individual referred to in subparagraph (A) is terminated by his death but she is not, and upon filing application therefor in the month in which he died would not be, entitled to benefits for such month on the basis of his wages and self-employment income,

the marriage to the individual referred to in clause (A) shall, for purpose of paragraph (1), be deemed not to have occurred. No benefits shall be payable under this subsection by reason of the preceding sentence for any month prior to whichever of the following is the latest: (i) the month in which the death referred to in subparagraph (B) of the preceding sentence occurs, (ii) the twelfth month before the month in which such widow or former wife divorced files application for purposes of this paragraph or (ii) September 1958."

Subsec. (g)(4). Pub. L. 89-97, § 308(d)(13), redesignated former par. (4) as (3).

Subsec. (h)(4). Pub. L. 89-97, § 306(c)(9), inserted in the text following subpar. (B) "but subject to subsection (s) of this section" following "notwithstanding the provisions of paragraph (1) of this subsection".

Subsec. (h)(4)(A). Pub. L. 89-97, § 308(d)(2)(A), inserted reference to subsec. (b) of this section.

Subsec. (j)(1). Pub. L. 89-97, § 303(d), inserted "under this subchapter" following "any benefit".

Subsec. (j)(2). Pub. L. 89-97, § 328(a), provided that an application for monthly benefits filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and that the application shall be deemed to have been filed in the first month if the applicant is found to satisfy the requirements for entitlement.

Subsec. (k)(2)(B). Pub. L. 89-97, § 333(c)(1), inserted "(other than an individual to whom subsection (e)(4) or (f)(5) of this section applies)" after "Any individual" and added provision limiting to the largest of such benefits any individual who is entitled for any month to more than one widow's or widower's benefits to which subsections (e)(4) or (f)(5) of this section applies.

Subsec. (k)(3). Pub. L. 89-97, § 333(c)(2), denominated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (k)(4). Pub. L. 89-97, § 304(a), added par. (4).

Subsec. (p). Pub. L. 89-97, § 324(a), removed the 2-year limit on the allowed extension during which, for good cause shown, applications or proof may be filed and still be deemed filed within the prescribed period for filing applications or proof.

Subsec. (q). Pub. L. 89-97, § 304(b), changed the catchline to "Reduction of old-age, disability, wife's, husband's, or widow's insurance benefit amounts" from "Adjustment of old-age, wife's or husband's insurance benefit amounts in accordance with age of beneficiary".

Subsec. (q)(1). Pub. L. 89-97, § 307(b)(1), made the provisions preceding subpar. (A) and the ⅚ of 1 percent reduction in subpar. (A) applicable to widow's insurance benefit, substituted "retirement age" for "age 65" in the provisions preceding subpar. (A) and subpar. (B) (i) and (ii), substituted "(6)" and "(7)" for "(5)" and "(6)" in subpar. (B) (i) and (ii) and "any month" for "any other month" in subpar. (B)(ii).

Subsec. (q)(2). Pub. L. 89-97, § 304(c), added par. (2) and redesignated former par. (2) as (3).

Subsec. (q)(3)(A). Pub. L. 89-97, §§ 304(c), 307(b)(2) redesignated former par. (2) as (3), and made the provisions of subpar. (A) applicable to widow's insurance benefit and inserted "(in the case of a wife's or husband's insurance benefit) or age 60 (in the case of a widow's insurance benefit)" following "age 62", respectively. Former par. (3) redesignated (4).

Subsec. (q)(3)(B). Pub. L. 89-97, § 304(c), (d), redesignated former par. (2) as (3), and substituted "benefit and is not entitled to a disability insurance benefit" for "benefit" the first time it appeared and inserted in clauses (i) and (ii) "for such month" following "paragraph (1)", respectively. Former par. (3) redesignated (4).

Subsec. (q)(3)(C). Pub. L. 89-97, § 304(c), (e), redesignated former par. (2) as (3), and made the provisions of subpar. (C) applicable to widow's insurance benefit, inserted therein clause (i), incorporated existing provisions in clause (ii), and inserted in such clause (ii) "for such month" and "(before reduction under this subsection)" following "disability insurance benefit", respectively. Former par. (3) redesignated (4).

Subsec. (q)(3)(D), (E). Pub. L. 89-97, §§ 304(c), 307(b), (3), (4), redesignated former par. (2) as (3), made the provisions of subpar. (D) applicable to widow's insurance benefit, and added subpar. (E), respectively. Former par. (3) redesignated (4).

Subsec. (q)(3)(F), (G). Pub. L. 89-97, § 304(c), (f), redesignated former par. (2) as (3) and added subpars. (F) and (G), respectively. Former par. (3) redesignated (4).

Subsec. (q)(4). Pub. L. 89-97, § 304 (c), (g), redesignated former par. (3) as (4) and renumbered in the text following subpar. (B) the cross references to par. (2) as (3) in three instances, and substituted in subpar. (A) "under paragraph (1) or (3) of this subsection" for

"under this subsection", respectively. Former par. (4) redesignated (5).

Subsec. (q)(5)(D). Pub. L. 89-97, §§ 304(c), 307(b)(5), redesignated former par. (4) as (5) and added subpar. (D), respectively. Former par. (5) redesignated (6).

Subsec. (q)(6). Pub. L. 89-97, §§ 304(c), 307(b)(6), redesignated former par. (5) as (6) and renumbered in subpar. (A)(ii) the cross reference to par. (4) as (5), and made the provisions preceding subpar. (A) and the provisions of subpar. (A)(i) applicable to widow's insurance benefit and substituted in subpar. (B) "retirement age" for "age 65", respectively. Former par. (6) redesignated (7).

Subsec. (q)(7). Pub. L. 89-97, §§ 304 (c), (h), 307(b)(7), redesignated former par. (6) as (7) and renumbered in the text preceding subpar. (A) the cross reference to par. (5) as (6), added subpar. (F), and made the provisions preceding subpar. (A) applicable to widow's insurance benefit and added subpars. (D), (E), respectively. Former par. (7), redesignated (8).

Subsec. (q)(8). Pub. L. 89-97, § 304 (c), (i), redesignated former par. (7) and (8) and renumbered therein cross reference to par. (2) as (3), and substituted "(1), (2)," for "(1)", respectively.

Subsec. (q)(9). Pub. L. 89-97, § 307(b)(8), added par. (9).

Subsec. (r)(2). Pub. L. 89-97, § 304(j), inserted "(but for subsection (k)(4) of this section)" following "eligible".

Subsec. (s). Pub. L. 89-97, § 306(c)(1), added subsec. (s).

Subsec. (t)(9). Pub. L. 89-97, § 104(a)(1), added par. (9).

Subsec. (u). Pub. L. 89-97, § 104(a)(2), inserted "in determining whether such individual is entitled to insurance benefits under part A of subchapter XVII of this chapter for any such month,".

Subsec. (v). Pub. L. 89-97, § 319(d), added subsec. (v).

1961—Subsec. (a)(2). Pub. L. 87-64, § 102(a), substituted "has attained age 62" for "has attained retirement age (as defined in section 416(a) of this title)".

Subsec. (b)(1). Pub. L. 87-64, § 102 (a), (e), (1), (2), substituted "age 62" for "retirement age" in two instances, "less than one-half of the primary insurance amount of her husband" for "less than one-half of an old-age or disability insurance benefit of her husband", and "equal to or exceeds one-half of the primary insurance amount of her husband" for "equal to or exceeds one-half of an old-age or disability insurance benefit of her husband".

Subsec. (b)(2). Pub. L. 87-64, § 102(e)(3), substituted "primary insurance amount" for "old-age or disability insurance benefit."

Subsec. (c)(1). Pub. L. 87-64, § 102(a), (e), (4), (5), substituted "has attained age 62" for "has attained retirement age" in cl. (B), "based on a primary insurance amount which is less than one-half" for "each of which is less than one-half" in cl. (D), and "based on a primary insurance amount which is equal to or exceeds one-half" for "equal to or exceeding one-half" in the closing provisions.

Subsec. (c)(2)(A). Pub. L. 87-64, § 102(a), substituted "attainment of age 62" for "attainment of retirement age".

Subsec. (c)(3). Pub. L. 87-64, § 102(e)(6), substituted "Except as provided in subsection (q) of this section, such" for "Such".

Subsec. (e)(1). Pub. L. 87-64, §§ 102(a), 104(d)(1), substituted "has attained age 62" for "has attained retirement age" in subpar. (B), "attainment of age 62" for "attainment of retirement age" and "attained age 62" for "attained retirement age" in subpar. (C), and "82½ percent" for "three-fourths" in subpar. (D) and in the closing provisions.

Subsec. (e)(2). Pub. L. 87-64, § 104(a), substituted "82½ percent" for "three-fourths".

Subsec. (f)(1). Pub. L. 87-64, §§ 102(a), 104(d)(1), substituted "has attained age 62" for "has attained retirement age" in subpar. (B), and "82½ percent" for "three-fourths" in subpar. (E) and in the closing provisions.

Subsec. (f)(2)(A). Pub. L. 87-64, § 102(a), substituted "attainment of age 62" for "attainment of retirement age".

Subsec. (f)(3). Pub. L. 87-64, § 104(b), substituted "82½ percent" for "three-fourths".

Subsec. (h)(1). Pub. L. 87-64, §§ 102(a), 104(d)(2), substituted "has attained age 62" for "has attained retirement age" in subpar. (A), and "82½ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for such month is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case)" for "three-fourths of the primary insurance amount of such deceased individual" in subpar. (D) and in the closing provisions.

Subsec. (h)(2). Pub. L. 87-64, § 104(c), designated existing provisions as subpar. (A), increased the benefit from three-fourths to 82½ percent of the primary insurance amount, and added subpars. (B) and (C).

Subsec. (j). Pub. L. 87-64, § 102(b)(3), extended provisions which formerly authorized waiver of old-age benefits or wife's benefits by a woman to permit waiver of any benefit by any individual.

Subsec. (q). Pub. L. 87-64, § 102(b)(1), among other changes, authorized adjustment of the old-age insurance benefits for men and of the husband's insurance benefits for months prior to the month in which the individual attains age 65, simplified the formula for reducing benefits, and, in cases where an individual is entitled to a reduced benefit and such benefit is increased by reason of an increase in the primary insurance amount, required separate computation of the increase for and after the first month for which such increase is effective.

Subsec. (r). Pub. L. 87-64, § 102(b)(1), extended application of the subsection to men, and provided in cases where an individual is entitled to a disability insurance benefit for the same month for which an application for a reduced wife's or husband's insurance benefit is effective, that the individual will be deemed to have filed an application for old-age insurance benefit in the first subsequent month for which the individual is not entitled to a disability insurance benefit.

Subsec. (s). Pub. L. 87-64, § 102(b)(2)(A), repealed subsec. (s) which related to female disability insurance beneficiaries.

1960—Subsec. (d)(1). Pub. L. 86-778, §§ 201 (a), (b), 205(a), 403(d), among other changes, eliminated words, "after 1939" which followed "fully or currently insured individual" in the opening clause, substituted "a period of disability which continued until he became entitled to old-age or disability insurance benefits, or (if he has died) until the month of his death, at the beginning of such period of disability or at the time he became entitled to such benefits" for "a period of disability which did not end prior to the month in which he became entitled to old-age or disability insurance benefits or (if he has died) prior to the month in which he died, at the beginning of such period or at the time he became entitled to such benefits or died)" in subpar. (C), and inserted provisions making subpar. (C)(1) inapplicable, in the case of an individual entitled to disability insurance benefits, to a child of such individual unless he is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual) or was legally adopted by such individual before the end of the 24-month period beginning with the month after the month in which such individual most recently became entitled to disability insurance benefits, and substituted provisions authorizing the payment of benefits until the month preceding the third month following the month in which a child ceases to be under a disability (as so defined) after the month in which he attains age 18 for provisions which authorized payment of benefits until the child ceases to be under a disability (as so defined) on or after the day on which he attains age 18.

Subsec. (d)(2). Pub. L. 86-778, § 301(a), eliminated provisions which required each child's insurance benefit, if there is more than one child entitled to benefits on the basis of an individual's wages and self-employ-

ment income, to be equal to the sum of (A) one-half of the primary insurance amount of the individual, and (B) one-fourth of the primary insurance amount divided by the number of such children.

Subsec. (d)(3). Pub. L. 86-778, §§ 202(a), 208(d), inserted provisions requiring that for purposes of such paragraph, a child deemed to be a child of a fully or currently insured individual pursuant to section 416(h)(2)(B) of this title, shall, if such individual is the child's father, be deemed to be the legitimate child of such individual, and eliminated subpar. (C) which related to a child living with and receiving more than one-half of his support from his stepfather.

Subsec. (e)(1). Pub. L. 86-778, § 205(a), eliminated words "after 1939" which followed "died a fully insured individual" in the opening clause.

Subsec. (f)(1). Pub. L. 86-778, § 205(b), eliminated words "after August 1950" which followed "died a fully and currently insured individual" in the opening clause.

Subsec. (g)(1). Pub. L. 86-778, § 205(a), eliminated words "after 1939" which followed "died a fully or currently insured individual" in the opening clause.

Subsec. (h)(1). Pub. L. 86-778, § 205(a), eliminated words "after 1939" which followed "died a fully insured individual" in the opening clause.

Subsec. (i). Pub. L. 86-778, §§ 103(a), (j)(2)(C), 203(a), amended the second and third sentences to require payment to the funeral home to the extent of the unpaid expenses if all or part of the burial expenses remain unpaid, and to prescribe the manner of payment of any balance that may remain after the funeral home and the persons equitably entitled thereto have received payment, and substituted "the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa" for "Puerto Rico, or the Virgin Islands", "section 410(*l*)(1) of this title" for "section 410(m)(1) of this title", and "is returned to any State" for "is returned to any of such States, or the District of Columbia".

Pub. L. 86-624 substituted "fifty States" for "forty-nine States".

Subsec. (n). Pub. L. 86-778, § 211(i), substituted "Section 403(b), (c), and (d) of this title" for "Section 403 (b) and (c) of this title" in the last sentence of cl. (1).

Subsec. (q)(5). Pub. L. 86-778, § 211(j), substituted "under section 403(b) of this title or paragraph (1) of section 403(c) of this title" for "under paragraph (1) or (2) of section 403(b) of this title" in cl. (A), and "section 403(b), under section 403(c)(1), under section 403(d)(1), or under section 422(b) of this title" for "paragraph (1) or (2) of section 403(b) of this title, under section 403(c) of this title, or under section 422(b) of this title" in cl. (B).

Subsec. (q)(6). Pub. L. 86-778, § 211(k), substituted "section 403(b), under section 403(c)(1), under section 403(d)(1), or under section 422(b) of this title" for "section 403(b) (1) or (2), under section 403(c), or under section 422(b) of this title" in cl. (A), and "under section 403(b) of this title or paragraph (1) of section 403(c) of this title" for "under paragraph (1) or (2) of section 403(b) of this title" in cl. (D).

Subsec. (t)(4)(D). Pub. L. 86-778, § 103(j)(2)(D), substituted "section 410(*l*)(2)" for "section 410(m)(2)", "section 410(*l*)(3)" for "section 410(m)(3)", and "section 410(m)" for "section 410(n)", wherever appearing.

Subsec. (t)(7). Pub. L. 86-778, § 211(*l*), substituted "Subsections (b), (c), and (d) of section 403 of this title" for "Subsections (b) and (c) of section 403 of this title".

1959—Subsec. (i). Pub. L. 86-70 substituted "forty-nine States" for "forty-eight States".

1958—Subsec. (b). Pub. L. 85-840, § 205(b), substituted "old-age or disability insurance" for "old-age insurance" in seven instances, and inserted provisions terminating the wife's insurance benefit the month preceding the first month in which her husband is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

Subsec. (c)(1). Pub. L. 85-840, § 205(c), substituted "old-age or disability insurance" for "old-age insurance" wherever appearing, inserted provisions in subpar. (C) entitling the husband to an insurance benefit if he was receiving at least one-half of his support from the individual if she had a period of disability which did not end prior to the month in which she became entitled to old-age or disability insurance benefits, at the beginning of such period or at the time she became entitled to such benefits provided he filed proof of such support within two years after the month in which she filed application with respect to such period of disability or after the month in which she became entitled to such benefits, and added provisions terminating the husband's insurance benefit the month preceding the first month in which his wife is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

Subsec. (c)(2). Pub. L. 85-840, § 301(a)(1), added new subsec. (c)(2) and redesignated former subsec. (c)(2) as (c)(3).

Subsec. (c)(3). Pub. L. 85-840, § 301(a)(1), redesignated former subsec. (c)(2) as (c)(3).

Subsec. (d)(1). Pub. L. 85-840, § 205(d), inserted provisions entitling the child of an individual entitled to disability insurance benefits to insurance benefits if the child was dependent upon such individual if such individual had a period of disability which did not end prior to the month in which he became entitled to old-age or disability insurance benefits or (if he has died) prior to the month in which he died, at the beginning of such period or at the time he became entitled to such benefits or died, and providing that the benefits to a child of a disability insurance beneficiary shall cease with the month before the first month for which the individual is not entitled to such benefits unless such individual is, for such later month, entitled to old-age insurance benefits or unless he dies in such month.

Subsec. (d)(3). Pub. L. 85-840, § 306(a), eliminated words "who has not attained the age of eighteen" following "A child".

Subsec. (d)(4). Pub. L. 85-840, § 306(a), eliminated words "who has not attained the age of eighteen" following "A child".

Subsec. (d)(5). Pub. L. 85-840, § 306(a), eliminated words "who has not attained the age of eighteen" following "A child" in two instances.

Subsec. (d)(6). Pub. L. 85-840, § 307(a), added subsec. (d)(6), and Pub. L. 85-840, § 306(a), repealed former subsec. (d)(6), which related to dependency of a child who has attained the age of eighteen and who is under a disability which began before he attained the age of eighteen.

Subsec. (e)(3)(B). Pub. L. 85-840, § 301(b)(1), substituted "which occurs within one year after such marriage and he did not die a fully insured individual" for "but she is not his widow (as defined in section 416(c) of this title)".

Subsec. (e)(4). Pub. L. 85-840, § 307(b), added subsec. (e)(4).

Subsec. (f)(1)(D). Pub. L. 85-840, § 205(e), inserted provisions entitling a widower to an insurance benefit if he was receiving at least one-half of his support from the individual, if the individual had a period of disability which did not end prior to the month in which she died, at the time such period began, or at the time of her death, or at the time she became entitled to old-age or disability insurance benefits, and he filed proof of such support within two years after the month in which she filed application with respect to the period of disability or two years after the date of her entitlement to old-age or disability insurance benefits or her death.

Subsec. (f)(2). Pub. L. 85-840, § 301(c)(1), added subsec. (f)(2) and redesignated former subsec. (f)(2) as (f)(3).

Subsec. (f)(3). Pub. L. 85-840, § 301(c)(1), redesignated former subsec. (f)(2) as (f)(3).

Subsec. (f)(4). Pub. L. 85-840, § 307(c), added subsec. (f)(4).

Subsec. (g)(1)(F). Pub. L. 85-840, § 205(f), inserted provisions entitling a former wife divorced to an insur-

ance benefit, if she was receiving at least one-half of her support from an individual, if the individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of his death.

Subsec. (g)(3). Pub. L. 85-840, § 303(a), added subsec. (g)(3). Another subsec. (g)(3), which was added by Pub. L. 85-798, was repealed by Pub. L. 85-840, § 303(b), effective with respect to benefits payable for any month following August 1958.

Subsec. (g)(4). Pub. L. 85-840, § 307(d), added subsec. (g)(4).

Subsec. (h)(1). Pub. L. 85-840, § 304(a)(1), eliminated from the opening clause provisions which prevented payment of a parent's benefit if the deceased individual left a widow who met the conditions in subsec. (e)(1)(D) of this section, a widower who met the conditions in subsec. (f)(1)(D) of this section, an unmarried child under the age of eighteen deemed dependent on such individual under subsec. (d)(3), (4), or (5) of this section, or an unmarried child who had attained the age of eighteen and was under a disability which began before he attained such age and who is deemed dependent on such individual under subsec. (d)(6) of this section.

Subsec. (h)(1)(B). Pub. L. 85-840, § 205(g), inserted provisions entitling a parent to an insurance benefit if the parent was receiving at least one-half of his support from the individual, if the individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death, and the parent filed proof of such support within two years after the month in which the individual filed application with respect to such period of disability or two years after the date of such death.

Subsec. (h)(4). Pub. L. 85-840, § 307(e), added subsec. (h)(4).

Subsec. (i). Pub. L. 85-840, § 305(a), required a widow or widower to be living in the same household with the deceased at the time of death in order to receive a lump-sum death payment.

Subsec. (k). Pub. L. 85-840, § 205(h), substituted "old-age or disability insurance" for "old-age insurance" wherever appearing.

Subsec. (m). Pub. L. 85-840, § 101(e), substituted "less than the first figure in column IV of the table in section 415(a) of this title" for "less than $30", and "increased to the first figure in column IV of the table in section 415(a) of this title" for "increased to $30".

Subsec. (o). Pub. L. 85-857, substituted "described in section 3005 of Title 38" for "prescribed under section 601 of the Servicemen's and Veterans' Survivor Benefits Act".

Subsec. (q)(5). Pub. L. 85-840, § 205(i)(1), (2), inserted a reference to section 422(b) of this title in subpar. (B), added subpar. (D), and substituted "clauses (A), (B), (C), and (D)" for "clauses (A), (B), and (C)" in the closing provisions.

Subsec. (q)(6). Pub. L. 85-840, § 205(i)(3), (4), inserted a reference to section 422(b) of this title in subpar. (A), added subpar. (C), redesignated former subpar. (C) as (D), and substituted "clauses (A), (B), (C), and (D))" for "clauses (A), (B), and (C)" in the closing provisions.

Subsec. (t)(4)(E). Pub. L. 85-927, added subsec. (t)(4)(E).

1957—Subsec. (b)(1). Pub. L. 85-238, § 3(a), redesignated subpar. (D) as (C), and repealed former subpar. (C), which required the wife to be living with her husband at the time the application for benefits was filed.

Subsec. (c)(1). Pub. L. 85-238, § 3(b), redesignated subpars. (D) and (E) as (C) and (D), respectively, and repealed former subpar. (C), which required the husband to be living with his wife at the time the application for benefits was filed.

Subsec. (e)(1). Pub. L. 85-238, § 3(c), redesignated subpar. (E) as (D), and repealed former subpar. (D), which required the widow to be living with her husband at the time of his death.

Subsec. (f)(1). Pub. L. 85-238, § 3(d), redesignated subpars. (E) and (F) as (D) and (E), respectively, and repealed former subpar. (D), which required the widower to be living with his wife at the time of her death.

Subsec. (g)(1)(F). Pub. L. 85-238, § 3(e), eliminated provisions which required the widow to be living with her husband at the time of his death.

Subsec. (h)(1). Pub. L. 85-238, § 3(f), eliminated references to subpar. (E) of subsec. (e)(1) of this section and to subpar. (F) of subsec. (f)(1) of this section.

Subsec. (p)(1). Pub. L. 85-238, § 3(g), substituted "subparagraph (C) of subsection (c)(1)" for "subparagraph (D) of subsection (c)(1)" and "subparagraph (D) of subsection (f)(1)" for "subparagraph (E) of subsection (f)(1)".

Subsec. (t)(4)(D). Pub. L. 85-238, § 1, added subsec. (t)(4)(D).

1956—Subsec. (a). Act Aug. 1, 1956, ch. 836, § 102(d)(1), inserted "Except as provided in subsection (q) of this section".

Subsec. (a)(3). Act Aug. 1, 1956, ch. 836, § 103(c)(1), included an individual entitled to disability insurance benefits for the month preceding the month in which he attained the age of 65.

Subsec. (b)(1). Act Aug. 1, 1956, ch. 836, § 102(d)(2), (3), substituted "old-age insurance benefits based on a primary insurance amount which" for "old-age insurance benefits each of which" in clause (D), and "old-age insurance benefit based on a primary insurance amount which is equal to or exceeds" for "old-age insurance benefit equal to or exceeding" in the provisions following clause (D).

Subsec. (b)(2). Act Aug. 1, 1956, ch. 836, § 102(d)(4), inserted "Except as provided in subsection (q) of this section".

Subsec. (c)(1). Act. Aug. 1, 1956, ch. 836, § 102(d)(5), (6), substituted "the primary insurance amount of his wife" for "an old-age insurance benefit of his wife" in clause (E), and in the provisions following clause (E).

Subsec. (c)(2). Act Aug. 1, 1956, ch. 836, § 102(d)(7), substituted "primary insurance amount" for "old-age insurance benefit".

Subsec. (d)(1). Act Aug. 1, 1956, ch. 836, § 101(a), authorized child's insurance benefit for children, who at the time of filing application, are under a disability which began before they attained the age of 18, and permitted payment of such benefit until such disability ceases.

Subsec. (d)(2). Act Aug. 1, 1956, ch. 836, § 102(d)(7), substituted "primary insurance amount" for "old-age insurance benefit".

Subsec. (d)(3) to (5). Act Aug. 1, 1956, ch. 836, § 101(b)(1), substituted "A child who has not attained the age of eighteen" for "A child" wherever appearing in such paragraphs.

Subsec. (d)(6). Act Aug. 1, 1956, ch. 836, § 101(b)(2), added subsec. (d)(6).

Subsec. (e)(3). Act Aug. 1, 1956, ch. 836, § 113, added subsec. (e)(3).

Subsec. (h)(1). Act Aug. 1, 1956, ch. 836, § 101(c), precluded payment of parent's benefit if an individual dies leaving an unmarried child over 18 who is under a disability which began before the age of 18 and who is deemed dependent on such individual.

Subsec. (i). Act Aug. 1, 1956, ch. 837, § 403(a), substituted "January 1, 1957" for "April 1956", and inserted provisions authorizing payment of lumpsum death payment in the case of any individual who died outside the United States and the District of Columbia after December 1956 while performing service, as a member of a uniformed service, to which the provisions of section 410(m)(1) of this title are applicable.

Subsec. (j)(3). Act Aug. 1, 1956, ch. 836, § 102(d)(8), added subsec. (j)(3).

Subsec. (k)(2)(B). Act Aug. 1, 1956, ch. 836, § 103(c)(2), inserted reference to section 423 of this title.

Subsec. (k)(3). Act Aug. 1, 1956, ch. 836, § 102(d)(9), inserted provisions requiring reduction under subsection (q) of this section, and provided that the reduction should be not below zero.

Subsec. (m). Act Aug. 1, 1956, ch. 836, § 102(d)(10), inserted references to subsection (q) of this section.

Subsec. (n)(1)(A). Act Aug. 1, 1956, ch. 836, § 103(c)(3), inserted reference to section 423 of this title.

Subsec. (o). Act Aug. 1, 1956, ch. 837, § 407, added subsec. (o).

Subsec. (p). Act Aug. 1, 1956, ch. 836, § 114(a), added subsec. (p).

Subsecs. (q) to (s). Act Aug. 1, 1956, ch. 836, § 102(c), added subsecs. (q) to (s).

Subsecs. (t), (u). Act Aug. 1, 1956, ch. 836, §§ 118(a) and 121(a), added subsecs. (t) and (u) respectively.

1955—Subsec. (i). Act Aug. 9, 1955, made subsection applicable to cases of deaths occurring before April 1956.

1954—Subsec. (e)(1)(C). Act Sept. 1, 1954, § 110(a), provided that applications for widow's insurance benefits would not be required if the widow was entitled to a mother's insurance benefit in the month prior to the month in which she attained retirement age.

Subsec. (g)(1)(D). Act Sept. 1, 1954, § 110(b), provided that applications for mother's insurance benefits would not be required if the widow was entitled to a wife's insurance benefit for the month preceding the month in which the insured individual died.

Subsec. (i). Act Sept. 1, 1954, §§ 102(i)(2), 110(c), inserted the words ", or an amount equal to $255, whichever is the smaller" after "primary insurance amount.", and provided that an application for a lump-sum death payment would not be required from an individual who was entitled to wife's or husband's insurance benefits for the month preceding the month in which the insured individual died.

Subsec. (j)(1). Act Sept. 1, 1954, § 105(a), substituted the word "twelfth" for "sixth".

Subsec. (m). Act Sept. 1, 1954, § 102(i)(1), added subsec. (m).

Subsec. (n). Act Sept. 1, 1954, § 107, added subsec. (n).

1953—Subsec. (i). Act Aug. 14, 1953, made subsec. applicable to cases of deaths occurring before July 1955.

1950—Subsec. (a). Act Aug. 28, 1950, changed the name of the benefit provided by this subsection from "primary insurance benefit" to "old-age insurance benefit", and continued the conditions under which an individual becomes entitled to the benefits.

Subsec. (b). Act Aug. 28, 1950, continued the conditions required for the wife to be entitled to benefits.

Subsec. (c). Act Aug. 28, 1950, provided benefits for the dependent husband of a female old-age insurance beneficiary who was currently insured at the time of her entitlement to the old-age insurance benefit.

Subsec. (d). Act Aug. 28, 1950, increased the total amount of the family benefits in a survivor family in which there is at least one entitled child by one-fourth of the worker's old-age benefit and restates the circumstances under which a child is deemed dependent upon an individual.

Subsec. (e). Act Aug. 28, 1950, permitted a wife entitled to wife's insurance benefits to become entitled to widow's insurance benefits upon the husband's death without filing a new application.

Subsec. (f). Act Aug. 28, 1950, provided benefits for the dependent widower of a woman who is fully and currently insured at the time of her death.

Subsec. (g). Act Aug. 28, 1950, changed title of widow's current insurance benefits to mother's insurance benefits and provided for payment of such benefits to the divorced wife of a deceased insured worker if she had been receiving at least half her support from the worker, and if she is caring for her son, daughter, or legally adopted child who is receiving benefits on the worker's wage record.

Subsec. (h). Act Aug. 28, 1950, changed the requirement that a parent must have been chiefly dependent upon and supported by the wage earner to the requirement that the parent only need have been receiving one-half his support in order for the parent to be found a dependent.

Subsec. (i). Act Aug. 28, 1950, limited the amount of the lump-sum death payment to three times the worker's primary insurance amount instead of six times the amount.

Subsec. (j). Act Aug. 28, 1950, increased from 3 to 6 the number of months for which benefits may be paid retroactively to individuals who failed to file their applications as soon as they were otherwise eligible.

Subsecs. (k), (l). Act Aug. 28, 1950, added subsecs. (k) and (l).

1946—Subsec. (c). Act Aug. 10, 1946, § 402, changed par. (1) to prevent termination of benefits on adoption by a stepparent, grandparent, aunt or uncle and changed par. (3)(C) to omit qualification as to the time of such individual's death and to require the child to be chiefly supported by the stepfather.

Subsec. (f)(1). Act Aug. 10, 1946, § 403(a), provided that benefit payments to parents are prevented only if the individual leaves a widow or child who could become entitled to benefits and required parents to be chiefly instead of wholly dependent.

Subsec. (g). Act Aug. 10, 1946, § 404(a), required that a widow or widower must have been living with deceased at time of death to be entitled to a lump sum payment and provided that if there was no such spouse, the payment will be made to the person or persons equitably entitled thereto in the proportion and to the extent that he or they have paid the burial expenses.

Subsec. (h). Act Aug. 10, 1946, § 405(a), extended the provision for payment of benefits retroactively for three months to the primary beneficiary and provided that retroactive benefits shall be reduced so as not to render erroneous any benefit previously paid.

1939—Act Aug. 10, 1939, amended section generally.

Effective Date of 1974 Amendment

Section 603 of Pub. L. 93-445 provided that: "The provision of title II of this Act [set out as a note under section 231 of Title 45, Railroads] and the amendments made by title III and title IV of this Act [amending sections 402, 405, 410, 416, 426, 1395s, 1395u, 1395v, 1395gg, 1395kk of this title and sections 352, 354, 360, 361, and 362 of Title 45] shall become effective on January 1, 1975."

Effective Date of 1973 Amendment

Section 240(b) of Pub. L. 93-66 provided that: "The amendment made by subsection (a) [enacting item (III) of subsec. (d)(8)(D)(ii) of this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted [July 1973] on the basis of applications for such benefits filed in or after the month in which this Act is enacted [July 1973]."

Effective Date of 1972 Amendment

Section 102(i) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsecs. (e), (f), (k), (m), and (q) of this section and section 403 (c) and (f) of this title and enacting provisions set out as notes under this section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1972."

Section 103(d) of Pub. L. 92-603 provided that: "The amendments made by this section [enacting subsec. (w) of this section and amending subsec. (a) of this section and section 403(a)(2)(C) of this title] shall be applicable with respect to old-age insurance benefits payable under title II of the Social Security Act [this subchapter] for months beginning after 1972."

Section 107(c) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsec. (f) of this section and sections 403(c), (f)(1)(D), 422(b)(1), (d)(1)(D), and 425 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1972, except that in the case of an individual who was not entitled to a monthly benefit under title II of such Act [this subchapter] for December 1972 such amendments shall apply only on the basis of an application filed in or after the month in which this Act is enacted [Oct. 1972]."

Section 108(f) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsecs. (d)(1)(6), and (s) of this section] shall apply only with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1972 except that in the case of an individual who was not entitled to a monthly benefit under such section 202 [this section] for December 1972 such amendments shall apply only on the basis of an application filed after September 30, 1972."

Section 109(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [adding subsec. (d)(7)(D) of this section] shall apply only with respect to benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972."

Section 110(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [amending subsec. (k)(2)(A) of this section] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1972."

Section 111(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [amending subsec. (d)(8) of this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after December 1967 on the basis of an application filed in or after the month in which this Act is enacted [Oct. 1972], except that such amendments shall not apply with respect to benefits for any month before the month in which this Act is enacted [Oct. 1972] unless such application is filed before the close of the sixth month after the month in which this Act is enacted [Oct. 1972]."

Section 112(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [striking out provisions covering this subchapter] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months beginning with the month in which this Act is enacted [Oct. 1972]."

Section 113(c) of Pub. L. 92-603 provided that: "The amendments made by this section [enacting subsec. (d)(9) of this section and amending section 416(e) of this title] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972, but only on the basis of applications filed on or after the date of the enactment of this Act [Oct. 30, 1972]."

Section 114(d) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsecs. (b)(1), (e)(1), (6), and (g)(1)(F) of this section to eliminate support requirements as condition of benefits] shall apply only with respect to benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972 on the basis of applications filed on or after the date of enactment of this Act [Oct. 30, 1972]."

Amendment of subsecs. (e)(6) and (f)(7) by section 116 (b), (c), of Pub. L. 92-603 effective with respect to applications for widow's and widower's insurance benefits based on disability under this section filed in or after Oct. 1972 or before Oct. 1972 under specified conditions, see section 116(e) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 423 of this title.

Effective Date of 1971 Amendment

Section 2 of Pub. L. 92-223 provided that: "The amendments made by the first section of this Act [enacting subsec. (i)(3) and amending subsec. (i)(4) of this section] shall be effective only in the case of lump-sum death payments under title II of the Social Security Act [this subchapter] made with respect to deaths which occur after December 31, 1970."

Effective Date of 1969 Amendment

Section 1004(d) of Pub. L. 91-172 provided that: "The amendments made by subsections (a), (b), and (c) [amending this section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1969."

Effective Date of 1968 Amendment

Section 103(e) of Pub. L. 90-248 provided that: "The amendments made by subsections (a), (b), (c), and (d) [to subsecs. (b)(2), (c)(3), (e)(4) and (f)(5) of the section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968."

Section 104(e) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsecs. (e)(1), (5), (6), (f)(1), (3), (6), (7), (q), (q)(1), (3), (6), (7), (9) of this section and sections 403(c), (f)(1), (2), (4), 416(i)(1), 422(a), (b)(1), (d)(1) and 425 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for and after the month of February 1968, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted [Jan. 1968]."

Section 112(b) of Pub. L. 90-248 provided that: "The amendments made by subsection (a) [to subsec. (d)(8) of this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after January 1968, but only on the basis of applications filed after the date of enactment of this Act [Jan. 2, 1968]."

Section 151(e) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsecs. (d) (3) to (10), (s)(2), (3) of this section and section 228e(*l*)(1) of Title 45, Railroads] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] (and annuities accruing under the Railroad Retirement Act of 1937 [section 228a et seq. of Title 45]) for months after January 1968, but only on the basis of applications filed in or after the month in which this Act is enacted [Jan. 1968]."

Section 157(d) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsecs. (c)(1), (2), (f)(1), (2) of this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after January 1968, but only on the basis of applications filed in or after the month in which this Act is enacted [Jan. 1968]."

Amendment of subsecs. (d), (s) by section 158(c) (1), (2) of Pub. L. 90-248, applicable with respect to applications for disability insurance benefits under section 423 of this title and to disability determinations under section 416(i) of this title, see section 158(e) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 423 of this title.

Section 162(a)(2) of Pub. L. 90-248 provided that: "The amendment made by paragraph (1) [to subsec. (t)(1) of this section] shall apply only with respect to six-month periods (within the meaning of section 202(t)(1)(A) of the Social Security Act [subsec. (t)(1)(A) of this section]) which begin after the date of the enactment of this Act [Jan. 2, 1968]."

Section 162(b)(2) of Pub. L. 90-248 provided that: "The amendment made by paragraph (1) [to subsec. (t)(4) of this section] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months beginning after June 30, 1968."

Effective Date of 1965 Amendment

Amendment of subsec. (j)(1) by section 303(d) of Pub. L. 89-97 effective with respect to applications for disability insurance benefits under section 423 of this title, and for disability determinations under section 416(i) of this title, filed in or after July 1965 or before July 1965, if the applicant has not died before such month and notice of final administrative decision has not been given to the applicant before such month, see section 303(f)(1), of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 423 of this title.

Section 304(o) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsecs. (k)(4), (q), and (r)(2) of this section and sections 415(a)(4), 416(i)(2), and 423(a) of this title] shall apply with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] for and after the second month following the month [July 1965] in which this Act [Pub. L. 89-97] is enacted, but only on the basis of applications filed in or after the month [July 1965] in which this Act [Pub. L. 89-97] is enacted."

Section 306(d) of Pub. L. 89-97 provided that:

"The amendments made by this section [to subsecs. (c) to (h), (s) of this section and sections 403(c), (f)(1), 416 (b), (c), (f), (g), 422(b) and 425 of this title] shall apply with respect to monthly insurance benefits under section 202 of the Social Security Act [this section] for months after December 1964; except that—

"(1) in the case of an individual who was not entitled to a child's insurance benefit under subsection (d) of such section [subsec. (d) of this section] for the month in which this Act is enacted [July 1965], such amendments shall apply only on the basis of an application filed in or after the month in which this Act is enacted [July 1965], and

"(2) no monthly insurance benefit shall be payable for any month before the second month following the month in which this Act is enacted [July 1965] by reason of section 202(d)(1)(B)(ii) of the Social Security Act [subsec. (d)(1)(B)(ii) of this section] as amended by this section."

Section 307(c) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsecs. (e)(1)(B), (2), and (q) of this section] shall apply with respect to monthly insurance benefits under section 202 of the Social Security Act [this section] for and after the second month following the month [July 1965] in which this Act [Pub. L. 89-97] is enacted, but only on the basis of applications filed in or after the month [July 1965] in which this Act [Pub. L. 89-97] is enacted."

Section 308(e) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsecs. (b), (c)(1), (d)(6)(A), (e), (f)(4)(A), (g) and (h)(4)(A) of this section and sections 403 (a)(3), (c)(4), (d)(1), 405 (b), (c)(1), (C), 416 (b) to (d) and 422(b)(3) of this title] shall be applicable with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] beginning with the second month following the month in which this Act is enacted [July 1965]; but, in the case of an individual who was not entitled to a monthly insurance benefit under section 202 of such Act [this section] for the first month following the month in which this Act is enacted [July 1965], only on the basis of an application filed in or after the month in which this Act is enacted [July 1965]."

Amendment by section 319 of Pub. L. 89-97 applicable with respect to taxable years beginning after December 31, 1950, see section 319(e) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 1402 of Title 26.

Section 323(b) of Pub. L. 89-97 provided that: "The amendments made by subsection (a) of this section [striking out the last sentence of par. (1) of subsec. (d) of this section and adding pars. (9) and (10) to subsec. (d) of this section] shall be applicable to persons who file applications, or on whose behalf applications are filed, for benefits under section 202(d) of the Social Security Act [subsec. (d) of this section] on or after the date this section is enacted [July 30, 1965]. The time limit provided by section 202(d)(10)(B) of such Act [subsec. (d)(10)(B) of this section] as amended by this section for legally adopting a child shall not apply in the case of any child who is adopted before the end of the 12-month period following the month in which this section is enacted."

Section 324(b) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (p) of this section] shall be effective with respect to (1) applications for lump-sum death payments filed in or after the month [July 1965] in which this Act is enacted, and (2) monthly benefits based on applications filed in or after such month."

Amendment of subsec. (j)(2) by section 328 of Pub. L. 89-97 applicable with respect to applications filed on or after July 30, 1965, applications as to which the Secretary has not made a final decision before July 30, 1965, and, if a civil action with respect to a final decision of the Secretary has been commenced under section 405(g) of this title before July 30, 1965, applications as to which there has been no final judicial decision before July 30, 1965, see section 328(d) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 416 of this title.

Section 333(d) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsecs. (e), (f) and (k) of this section] shall apply with respect to monthly insurance benefits under section 202 of the Social Security Act [this section]beginning with the second month following the month in which this Act is enacted [July 1965]; but, in the case of an individual who was not entitled to a monthly insurance benefit under section 203 (e) or (f) of such Act [subsec. (e) or (f) of this section] for the first month following the month in which this Act is enacted, only on the basis of an application filed in or after the month in which this Act is enacted."

Section 334(g) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsecs. (c)(2) and (f)(2) of this section and section 416 (b), (c), (f), and (g) of this title] shall be applicable only with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] beginning with the second month following the month in which this Act is enacted [July 1965], but only on the basis of applications filed in or after the month in which this Act is enacted [July 1965]."

Amendment of subsec. (d)(3) by section 339 of Pub. L. 89-97 applicable with respect to monthly insurance benefits under subchapter II of this chapter beginning with September 1965 but only on the basis of an application filed in or after July 1965, see section 339(c) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 416 of this title.

Section 343(b) of Pub. L. 89-97 provided that: "The amendment made by subsection (a) [to subsec. (d)(1)(D) of this section] shall apply only with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted [July 1965]; except that, in the case of an individual who was not entitled to child's insurance benefits under section 202(d) of such Act [subsec. (d) of this section] for the month in which this Act was enacted [July 1965], such amendment shall apply only on the basis of an application filed in or after the month in which this Act is enacted [July 1965]."

Effective Date of 1961 Amendment

Section 109 of Pub. L. 87-64 provided that: "Except as otherwise provided, the effective date of this title is the first day of the first calendar month which begins on or after the 30th day after the date of the enactment of this Act [June 30, 1961]."

Effective Date of 1960 Amendments

Section 201(c) of Pub. L. 86-778 provided that: "The amendments made by this section [to par. (c) and the last sentence of subsec. (d)(1) of this section] shall apply as though this Act had been enacted on August 28, 1958, and with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after August 1958 based on applications for such benefits filed on or after August 28, 1958."

Amendment of subsec. (d)(1) by Pub. L. 86-778 applicable only with respect to benefits under subsec. (d) of this section or section 423(a) of this title for months after Sept. 1960, in the case of individuals who, without regard to such amendment, would have been entitled to such benefits for Sept. 1960, or for any succeeding month, see section 403(e) of Pub. L. 86-778, set out

as an Effective Date of 1965 Amendment note under section 422 of this title.

Section 205(d) of Pub. L. 86-778 provided that: "The preceding provisions of this section and the amendments made thereby [to the opening clauses of subsecs. (d)(1), (e)(1), (f)(1), (g)(1) and (h)(1) of this section] shall apply only in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted [Sept. 1960], on the basis of applications filed in or after such month."

Section 301(b) of Pub. L. 86-778 provided that: "The amendment made by this section [to subsec. (d)(2) of this section] shall apply only with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after the second month following the month in which this Act is enacted [Sept. 1960]."

Amendment of subsec. (d)(3) by Pub. L. 86-778, § 208(d), which added sentence following subpar. (B), applicable (1) with respect to monthly benefits under this subchapter for months beginning with Sept. 1960 on the basis of an application filed in or after such month, and (2) in the case of a lump-sum death payment under this subchapter based on an application filed in or after Sept. 1960, but only if no person, other than the person filing such application, has filed an application for a lump-sum death payment under this subchapter prior to Sept. 13, 1960 with respect to the death of the same individual, see section 208(f) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 416 of this title.

Section 202(b) of Pub. L. 86-778 provided that: "The amendments made by subsection (a) [which eliminated subpar. (C) of subsec. (d)(3) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning with the month in which this Act is enacted [Sept. 1960], but only if an application for such benefits is filed in or after such month."

Section 203(b) of Pub. L. 86-778 provided that:

"The amendment made by subsection (a) [to the second and third sentences of subsec. (i) of this section] shall apply—

"(1) in the case of the death of an individual occurring on or after the date of the enactment of this Act [Sept. 13, 1960], and

"(2) in the case of the death of an individual occurring prior to such date, but only if no application for a lump-sum death payment under section 202(i) of the Social Security Act [subsec. (i) of this section] is filed on the basis of such individual's wages and self-employment income prior to the third calendar month beginning after such date."

Section 103(v) of Pub. L. 86-778 provided that:

"(1) The amendments made by subsection (a) [to last two sentences of subsec. (i) of this section and to notes under this section] shall apply only with respect to reinterments after the date of the enactment of this Act [Sept. 13, 1960]. The amendments made by subsections (b), (e), and (f) [to sections 403(k) and 410 (h), (i) of this title] shall apply only with respect to service performed after 1960; except that insofar as the carrying on of a trade or business (other than performance of service as an employee) is concerned, such amendments shall apply only in the case of taxable years beginning after 1960. The amendments made by subsections (d), (l), (o), and (p) [adding section 410(a)(18) of this title and section 3121(b)(18) of Title 26 and amending section 418(b)(1) of this title and section 3121(e) of Title 26] shall apply only with respect to service performed after 1960. The amendments made by subsections (h) and (l) [to section 411(b) of this title and section 1402(b) of Title 26] shall apply only in the case of taxable years beginning after 1960. The amendments made by subsections (c), (n), (q), and (r) [adding sections 3125, 6205(a)(3), 6413(a)(3) and 6413(c)(2)(D), (E) of Title 26, and amending section 410(a)(7) of this title and section 3121(b)(7) of Title 26] shall apply only with respect to (1) service in the employ of the Government of Guam or any political subdivision thereof, or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of Guam that legislation has been enacted by the Government of Guam expressing its desire to have the insurance system established by title II of the Social Security Act [this subchapter] extended to the officers and employees of such Government and such political subdivisions and instrumentalities, and (2) service in the employ of the Government of American Samoa or any political subdivision thereof or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to have the insurance system established by such title II extended to the officers and employees of such Government and such political subdivisions and instrumentalities. The amendments made by subsections (g) and (k) [to section 411(a)(7), (8) of this title and section 1402(a)(8), (9) of Title 26, Internal Revenue Code] shall apply only in the case of taxable years beginning after 1960, except that, insofar as they involve the nonapplication of section 932 of the Internal Revenue Code of 1954 [section 932 of Title 26] to the Virgin Islands for purposes of chapter 2 of such Code and section 211 of the Social Security Act [section 411 of this title], such amendments shall be effective in the case of all taxable years with respect to which such chapter 2 (and corresponding provisions of prior law) and such section 211 [section 411 of this title] are applicable. The amendments made by subsections (j), (s), and (t) [adding section 7213(d) of Title 26, amending subsecs. (i) (last sentence), and (t)(4)(D) of this section and sections 405(p)(1), 409(j), 409 (last par.), 410(j)-(n), 411(a)(6), 415(h)(1), 417(e)(1) and 418(c)(6)(C) of this title and section 7701(a)(12) of Title 26, and repealing section 419 of this title] shall take effect on the date of the enactment of this Act [Sept. 13, 1960]; and there are authorized to be appropriated such sums as may be necessary for the performance by any officer or employee of functions delegated to him by the Secretary of the Treasury in accordance with the amendment made by such subsection (t) [to section 7701(a)(12) of Title 26].

"(2) The amendments made by subsections (c) and (n) [to section 410(a)(7) of this title and section 3121(b)(7) of Title 26] shall have application only as expressly provided therein, and determinations as to whether an officer or employee of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, is an employee of the United States or any agency or instrumentality thereof within the meaning of any provision of law not affected by such amendments, shall be made without any inferences drawn from such amendments.

"(3) The repeal (by subsection (j)(1)) of section 219 of the Social Security Act [section 419 of this title], and the elimination (by subsections (e), (f), (h), (j)(2), and (j)(3)) of other provisions of such Act [from sections 410(h)-(j) and 411(a)(6), (b) of this title] making reference to such section 219 [section 419 of this title], shall not be construed as changing or otherwise affecting the effective date specified in such section for the extension to the Commonwealth of Puerto Rico of the insurance system under title II of such Act [this subchapter], the manner or consequences of such extension, or the status of any individual with respect to whom the provisions so eliminated are applicable."

Section 47(e) of Pub. L. 86-624 provided that: "The amendment made by section 30(c)(1) [amending subsec. (i) of this section] shall be applicable in the case of deaths occurring on or after August 21, 1959."

Amendment of subsecs. (n)(1), (q)(5), (6) and (t)(7) by Pub. L. 86-778 effective in the manner provided in section 211(p) and (q) of Pub. L. 86-778, see section

211(p) to (s) of Pub. L. 86-778 set out as an Effective Date of 1960 Amendment note under section 403 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 47(e) of Pub. L. 86-70 provided that: "The amendment made by paragraph (1) of subsection (c) of section 32 [to subsec. (i) of this section] shall apply in the case of deaths occurring on or after January 3, 1959."

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment of subsecs. (b), (c)(1), (d)(1), (f)(1)(D), (g)(1)(F), (h)(1)(B), (k), and (q)(5), (6) by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207(a) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 416 of this title.

Section 301(f) of Pub. L. 85-840 provided that: "The amendments made by this section [to subsecs. (c)(2), (3), (e)(3)(B) and (f)(2), (3) of this section, and section 416(b) to (d), (f), (g) of this title] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [August 28, 1958], but only if an application for such benefits is filed on or after such date."

Section 306(b) of Pub. L. 85-840 provided that: "The amendments made by this section [to subsecs. (d)(3) to (6) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [August 28, 1958], but only if an application for such benefits is filed on or after such date."

Section 307(h)(1) of Pub. L. 85-840 provided that: "The amendments made by this section (other than by subsections (f) and (g) [adding subsecs. (d)(6), (e)(4), (f)(4), and (h)(4) to this section]) shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months following the month in which this Act is enacted [August 1958]; except that in any case in which benefits were terminated with the close of the month in which this Act is enacted [August 1958] or any prior month and, if the amendments made by this section had been in effect for such month, such benefits would not have been terminated, the amendments made by this section shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [August 28, 1958], but only if an application for such benefits is filed after such date."

Section 304(a)(2) of Pub. L. 85-840 provided that: "The amendment made by this subsection [to the opening provisions of subsec. (h)(1) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [Aug. 28, 1958], but only if an application for such benefits is filed on or after such date."

Section 305(c) of Pub. L. 85-840 provided that: "The amendments made by this section [to the first sentence of subsec. (i) of this section, and section 416(h)(3) of this title] shall apply in the case of lump-sum death payments under such section 202(i) [subsec. (i) of this section] on the basis of the wages and self-employment income of any individual who dies after the month in which this Act is enacted [August 1958]."

Amendment of subsec. (m) by Pub. L. 85-840 applicable in the case of monthly benefits under subchapter II of this chapter for months after December 1958, and in the case of lump-sum death payments under subchapter II of this chapter, with respect to deaths occurring after such month, see section 101(g) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 415 of this title.

Amendment of subsec. (o) by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as an Effective Date note preceding section 101 of Title 38, Veterans' Benefits.

Section 302 of Pub. L. 85-927 provided that: "The amendments made by section 301 of this Act [adding subsec. (t)(4)(E) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1956, and with respect to lump-sum death payments under such section 202 [this section] in the case of deaths occurring after December 1956."

EFFECTIVE DATE OF 1957 AMENDMENT

Section 2 of Pub. L. 85-238 provided that: "The amendments made by the first section of this Act [adding subsec. (t)(4)(D)] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1956, and with respect to lump-sum death payments under such section 202 [this section] in the case of deaths occurring after December 1956."

Section 3(i) of Pub. L. 85-238 provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [to subsecs. (b), (c), (e)—(h) and (p) of this section and section 416(h) of this title] shall apply in the case of monthly benefits under section 202 of the Social Security Act [this section] for months after the month in which this Act is enacted [Aug. 1957].

"(2) The amendment made by subsection (f) [to subsec. (h)(1) of this section] shall not apply in the case of benefits under section 202(h) of the Social Security Act [subsec. (h) of this section], based on the wages and self-employment income of a deceased individual who died in or prior to the month in which this Act is enacted [August 1957] for any parent who files the proof of support, required by such section 202(h) [subsec. (h) of this section], in or prior to the month in which this Act is enacted [August 1957]; and the amendment to section 216(h)(1) of such Act [section 416(h)(1) of this title] made by subsection (h) of this section shall not operate to deprive any such parent of benefits to which he would otherwise be entitled under section 202(h) of such Act [subsec. (h) of this section]."

EFFECTIVE DATE OF 1956 AMENDMENTS

Section 403(b) of act Aug. 1, 1956, ch. 837, provided that: "The amendment made by subsection (a) [to subsec. (i) of this section] shall be effective as though it had been enacted on March 31, 1956."

Section 101(h) of act Aug. 1, 1956, ch. 836, provided that:

"(1) The amendments made by this section [to sections 402(d)(1), (3) to (5), (6), (h)(1), and 403(a), (b), (d), (h) of this title], other than subsection (c) [to subsec. (h)(1) of this section], shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1956, but only, except as provided in paragraph (2), on the basis of an application filed after September 1956. For purposes of title II of the Social Security Act, as amended by this Act [this subchapter], an application for wife's, child's, or mother's insurance benefits under such title II filed, by reason of this paragraph, by an individual who was entitled to benefits prior to, but not for, December 1956 and whose entitlement terminated as a result of a child's attainment of age eighteen shall be treated as the application referred to in subsection (b), (d), and (g), respectively, of section 202 of such Act [subsec. (b), (d), and (g) of this section].

"(2) In the case of an individual who was entitled, without the application of subsection (j)(1) of such section 202 [subsec. (j)(1) of this section], to a child's insurance benefit under subsection (d) of such section [subsec. (d) of this section] for December 1956, such amendments shall apply with respect to benefits under such section 202 [this section] for months after December 1956.

"(3) The amendment made by subsection (c) [to subsec. (h)(1) of this section] shall apply in the case of benefits under section 202(h) of the Social Security Act [subsec. (h) of this section] based on the wages and self-employment income of an individual who dies after August 1956."

Section 114(b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) [adding subsec. (p) of this section] shall apply in the case of lump-sum death payments under title II of the Social Security Act [this subchapter], and monthly benefits under such title for months after August 1956, based on applications filed after August 1956."

Section 118(b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) [adding subsec. (t) of this section] shall apply in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1956 and in the case of lump-sum death payments under section 202(i) of such Act [subsec. (i) of this section] with respect to deaths occurring after December 1956."

Effective Date of 1954 Amendment

Section 105(b) of act Sept. 1, 1954, provided that: "The amendment [to subsec. (j)(1)] made by subsection (a) shall be applicable only in the case of applications for monthly benefits under section 202 of the Social Security Act [this section] filed after August 1954; except that no individual shall, by reason of such amendment, be entitled to any benefit for any month prior to February 1954."

Effective Date of 1950 Amendment

Section 101(b)(1), (3), of act Aug. 28, 1950, provided that all amendments of the subsections of this section by section 101(a) of act Aug. 28, 1950, shall be effective as of Sept. 1, 1950, except that subsection (j)(2) of this section shall be effective as of Aug. 28, 1950.

Effective Date of 1946 Amendment

Section 403(b) of act Aug. 10, 1946, provided that the amendment to subsec. (f) by section 403(a) of act Aug. 10, 1946, shall be applicable only in cases of applications for benefits under that act filed after December 31, 1946.

Section 404(b) of act Aug. 10, 1946, provided that the amendment to subsec. (g) by section 404(a) of act Aug. 10, 1946, shall be applicable only in cases where the death of the insured individual occurs after December 31, 1946.

Subsec. 405(b) of act Aug. 10, 1946, provided that the amendment to subsec. (h) by section 405(a) of act Aug. 10, 1946, shall be applicable only in cases of applications for benefits filed under sections 401 to 410 of this title, filed after Dec. 31, 1946.

Effective Date of 1939 Amendment

Amendment by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

Transfer of Functions

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

"Administrator" was substituted for "Board" in subsec. (g) by section 4 of Reorg. Plan No. 2 of 1946. See note under section 902 of this title.

Special $50 Payment Under Tax Reduction Act of 1975

Pub. L. 94-12, title VII, § 702, Mar. 29, 1975, 89 Stat. 66, provided that the Secretary of the Treasury, at the earliest practicable date after Mar. 29, 1975, make a $50 payment to each individual, who for the month of March, 1975, was entitled, without regard to subsec. (j)(1) of this section, section 423(b) of this title, or section 231d(a)(ii) of Title 45, Railroads, to a monthly insurance benefit payable under this subchapter, a monthly annuity or pension payment under the Railroad Retirement Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974, or a benefit under the supplemental security income benefits program under subchapter XVI of this title, except that payment be made only to individuals who were paid a benefit for March 1975 in a check issued no later than Aug. 31, 1975, that no payment be made to any individual who is not a resident of the United States as defined in section 410(i) of this title, and if an individual is entitled under two or more programs, this individual receive only one $50 payment, and that this payment received not be considered as income, or for the calendar year 1975, as a resource, for purposes of any Federal or State program which undertakes to furnish aid or assistance to individuals or families, where eligibility for the program is based upon need of the individual or family involved or as income for federal income tax purposes.

March Through May 1974 Monthly Insurance Benefit for Only Individual Entitled to Benefit on Basis of Wages and Self-Employment Income of Deceased Individual

Section 1(i) of Pub. L. 93-233 provided that: "In the case of an individual to whom monthly benefits are payable under title II of the Social Security Act [this subchapter] for February 1974 (without the application of section 202(j)(1) or 223(b) of such Act [subsec. (j)(1) of this section or section 423(b) of this title]), and to whom section 202(m) of such Act [subsec. (m) of this section] is applicable for such month, such section [this section] shall continue to be applicable to such benefits for the months of March through May 1974 for which such individual remains the only individual entitled to a monthly benefit on the basis of the wages and self-employment income of the deceased insured individual."

Cost-of-Living Increase in Social Security Benefits; Effective Date; Consumer Price Index Percentage

Section 201 of Pub. L. 93-66, as amended by Pub. L. 93-233, § 1(a) to (e), Dec. 30, 1973, 87 Stat. 947, provided that:

"(a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary') shall, in accordance with the provisions of this section, increase the monthly benefits and lump-sum death payments payable under title II of the Social Security Act [this subchapter] by 7 per centum.

"(2) The provisions of this section (and the increase in benefits made hereunder) shall be effective, in the case of monthly benefits under title II of the Social Security Act [this subchapter] only for months after February 1974 and prior to June 1974, and, in the case of lump-sum death payments under such title [this subchapter], only with respect to deaths which occur after February 1974 and prior to June 1974.

"(b) The increase in social security benefits authorized under this section shall be provided, and any determinations by the Secretary in connection with the provision of such increase in benefits shall be made, in the manner prescribed in section 215(i) of the Social Security Act [section 415(i) of this title] for the implementation of cost-of-living increases authorized under title II of such Act [this subchapter] except that—

"(1) the amount of such increase shall be 7 per centum,

"(2) in the case of any individual entitled to monthly insurance benefits payable pursuant to section 202(e) of such Act [subsec. (e) of this section] for February 1974 (without the application of section 202(j)(1) or 223(b) of such Act [subsec. (j)(1) of this section or section 423(f) of this title]), including such benefits based on a primary insurance amount determined under section 215(a)(3) of such Act as

amended by this section [section 415(a)(3) of this title], such increase shall be determined without regard to paragraph (2)(B) of such section 202(e) [subsec. (e) of this section], and

"(3) in the case of any individual entitled to monthly insurance benefits payable pursuant to section 202(f) of such Act [subsec. (f) of this section] for February 1974 (without the application of section 202(j)(1) or 223(b) of such Act [subsec. (j)(1) of this section or section 423(f) of this title]), including such benefits based on a primary insurance amount determined under section 215(a)(3) of such Act as amended by this section [section 415(a)(3) of this title], such increase shall be determined without regard to paragraph (3)(B) of such section 202(f) [subsec. (f) of this section].

"(c) The increase in social security benefits provided by this section shall—

"(1) not be considered to be an increase in benefits made under or pursuant to section 215(i) of the Social Security Act [section 415(i) of this title], and

"(2) not (except for purposes of section 203(a)(2) of such Act [section 403(a)(2) of this title], as in effect after February 1974) be considered to be a 'general benefit increase under this title' [this subchapter] (as such term is defined in section 215(i)(3) of such Act) [section 415(i)(3) of this title];

and nothing in this section shall be construed as authorizing any increase in the 'contribution and benefit base' (as that term is employed in section 230 of such Act) [section 430 of this title], or any increase in the 'exempt amount' (as such term is used in section 203(f)(8) of such Act [section 403(f)(8) of this title]).

"(d) Nothing in this section shall be construed to authorize (directly or indirectly) any increase in monthly benefits under title II of the Social Security Act [this subchapter] for any month after May 1974, or any increase in lump-sum death payments payable under such title in the case of deaths occurring after May 1974. The recognition of the existence of the increase in benefits authorized by the preceding subsections of this section (during the period it was in effect) in the application, after May 1974, of the provisions of sections 202(q) and 203(a) of such Act [subsec. (q) of this section and section 403(a) of this title] shall not, for purposes of the preceding sentence, be considered to be an increase in a monthly benefit for a month after May 1974."

Redetermination of Widow's and Widower's Benefits for December 1972 and After to Provide for 1972 Increases

Section 102(g) of Pub. L. 92-603 provided that:

"(1) In the case of an individual who is entitled to widow's or widower's insurance benefits for the month of December 1972 the Secretary shall, if it would increase such benefits, redetermine the amount of such benefits for months after December 1972 under title II of the Social Security Act [this subchapter] as if the amendments made by this section [amending this section and section 403 of this title] had been in effect for the first month of such individual's entitlement to such benefits.

"(2) For purposes of paragraph (1)—

"(A) any deceased individual on whose wages and self-employment income the benefits of an individual referred to in paragraph (1) are based, shall be deemed not to have been entitled to benefits if the record, of insured individuals who were entitled to benefits, that is readily available to the Secretary contains no entry for such deceased individual; and

"(B) any deductions under subsections (b) and (c) of section 203 of such Act [section 403 of this title], applicable to the benefits of an individual referred to in paragraph (1) for any month prior to September 1965, shall be disregarded in applying the provisions of section 202(q)(7) of such Act [subsec. (q)(7) of this section] (as amended by this Act) [Pub. L. 92-603]."

Adjustment of Benefits Based on Disability Which Began Between Age 18 and 22

Section 108(g) of Pub. L. 92-603 provided that:

"Where—

"(1) one or more persons are entitled (without the application of sections 202(j)(1) and 223(b) of the Social Security Act) [subsec. (j)(1) of this section and section 423(b) of this title] to monthly benefits under section 202 or 223 of such Act [this section or section 423 of this title] for December 1972 on the basis of the wages and self-employment income of an insured individual, and

"(2) one or more persons (not included in paragraph (1)) are entitled to monthly benefits under such section 202 or 223 [this section or section 423 of this title] for January 1973 solely by reason of the amendments made by this section on the basis of such wages and self-employment income, and

"(3) the total of benefits to which all persons are entitled under such sections 202 and 223 [this section and section 423 of this title] on the basis of such wages and self-employment income for January 1973 is reduced by reason of section 203(a) of such Act [section 403(a) of this title] as amended by this Act [Pub. L. 92-603], or would, but for the penultimate sentence of such section 203(a) [section 403(a) of this title], be so reduced),

then the amount of the benefit to which each person referred to in paragraph (1) of this subsection is entitled for months after December 1972 shall be adjusted, after the application of such section 203(a) [section 403(a) of this title], to an amount no less than the amount it would have been if the person or persons referred to in paragraph (2) of this subsection were not entitled to a benefit referred to in such paragraph (2)."

Termination of Child's Insurance Benefits by Reason of Adoption

Section 112(c) of Pub. L. 92-603 provided that:

"Any child—

"(1) whose entitlement to child's insurance benefits under section 202(d) of the Social Security Act [subsec. (d) of this section] was terminated by reason of his adoption, prior to the date of the enactment of this Act [Oct. 30, 1972], and

"(2) who, except for such adoption, would be entitled to child's insurance benefits under such section for a month after the month in which this Act is enacted [Oct. 30, 1972],

may, upon filing application for child's insurance benefits under the Social Security Act after the date of enactment of this Act [Oct. 30, 1972], become reentitled to such benefits; except that no child shall, by reason of the enactment of this section, become reentitled to such benefits for any month prior to the month after the month in which this Act is enacted [Oct. 1972]."

1961 Increase in Monthly Benefits; Effective Date

Section 102(f) of Pub. L. 87-64 provided that:

"(1) The amendments made by subsection (a) [substituting "age 62" for "retirement age" and "retirement age (as defined in section 416(a) of this title)" in subsecs. (a) to (c), (e), (f) and (h) of this section] shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see effective date note under this section] based on applications filed in or after March 1961.

"(2)(A) Except as provided in subparagraphs (B), (C), and (D), section 202(q) of such Act [subsec. (q) of this section], as amended by subsection (b)(1), shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see effective date note under this section].

"(B) Section 202(q)(3) of such Act [subsec. (q)(3) of this section], as amended by subsection (b)(1), shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see note under this section], but only if the increase de-

scribed in such section 202(q)(3) [subsec. (q)(3) of this section]—

"(i) is not effective for any month beginning before the effective date of this title [see effective date note under this section], or

"(ii) is based on an application for a recomputation filed on or after the effective date of this title [see Effective Date of 1961 Amendment note above].

"(C) In the case of any individual who attained age 65 before the effective date of this title [see, Effective Date of 1961 Amendment note above], the adjustment in such individual's reduction period provided for in section 202(q)(6) of such Act [subsec. (q)(6) of this section], as amended by subsection (b)(1), shall not apply to such individual unless the total of the months specified in subparagraphs (A), (B), and (C) of such section 202(q)(6) [subsec. (q)(6) of this section] is not less than 3.

"(D) In the case of any individual entitled to a monthly benefit for the last month beginning before the effective date of this title [see effective date note under this section], if the amount of such benefit for any month thereafter is, solely by reason of the change in section 202(q) of such Act [subsec. (q) of this section] made by subsection (b)(1), lower than the amount of such benefit for such last month, then it shall be increased to the amount of such benefit for such last month.

"(3) Section 202(r) of such Act [subsec. (r) of this section], as amended by subsection (b)(1), shall apply only with respect to monthly benefits for months beginning on or after the effective date of this title [see effective date note under this section], except that subparagraph (B) of section 202(r)(2) [subsec. (r)(2) of this section] (as so amended) shall apply only if the first subsequent month described in such subparagraph (B) is a month beginning on or after the effective date of this title [see effective date note under this section].

"(4) The amendments made by subsection (b)(2) [adding subsec. (a)(3) to section 423 of this title, amending sections 416(i)(2) and 423(a)(1) of this title, and repealing subsec. (s) of this section] shall take effect on the effective date of this title [see Effective Date of 1961 Amendment note above].

"(5) The amendments made by subsection (b)(3) [to subsec. (j)(3) of this section] shall apply with respect to applications for monthly benefits filed on or after the effective date of this title [see Effective Date of 1961 Amendment note above].

"(6) The amendments made by subsections (c) and (d)(1) and (2) [amending sections 409(i), 413(a), 415(a)(4), (b)(3), 416(b), (c), (f), (g), (i)(3)(A), and 423(a)(2), (c)(1)(A) of this title, and repealing subsec. (a) of section 416 of this title] shall apply with respect to—

"(A) monthly benefits for months beginning on or after the Effective Date of this title [see effective date of 1961 Amendment note above] based on applications filed in or after March 1961, and

"(B) lump-sum death payments under title II of the Social Security Act [this subchapter] in the case of deaths on or after the effective date of this title [see Effective Date of 1961 Amendment note above].

"(7) The amendment made by subsection (d)(3) [adding subsec. (f)(7) to section 415 of this title] shall take effect on the effective date of this title [see effective date note under this section].

"(8) The amendments made by subsection (e) [to subsecs. (b)(1), (2), (c)(1), (3) of this section] shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see Effective Date of 1961 Amendment note above].

"(9) For purposes of this subsection, the term 'monthly benefits' means monthly insurance benefits under title II of the Social Security Act [this subchapter]."

1961 Increase in Widow's, Widower's, and Parent's Insurance Benefits; Effective Date

Section 104(e) of Pub. L. 87-64 provided that: "The amendments made by this section [to subsecs. (e)(1), (2), (f)(1), (3), and (h)(1), (2) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning on or after the effective date of this title [see Effective Date of 1961 Amendment note above].

Prohibition on Reduction of Benefits for Certain Persons Deemed To Be Wife, Husband, Widow, Widower, Child, or Stepchild

Section 208(e) of Pub. L. 86-778 provided that: "Where—

"(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [subsec. (j)(1) of this section]) to monthly benefits under section 202 of such Act [this section] for the month before the month in which this Act is enacted [Sept. 1960] on the basis of the wages and self-employment income of an individual; and

"(2) any person is entitled to benefits under subsection (b), (c), (d), (e), (f), or (g) of section 202 of the Social Security Act [subsec. (b), (c), (d), (e), (f), or (g) of this section] for any subsequent month on the basis of such individual's wages and self-employment income and such person would not be entitled to such benefits but for the enactment of this section; and

"(3) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act [this section] on the basis of such individual's wages and self-employment income for such subsequent month is reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title],

then the amount of the benefit to which each person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall not, after the application of such section 203(a) [section 403(a) of this title], be less than the amount it would have been (determined without regard to section 301 [section 501 of this title]) if no person referred to in paragraph (2) of this subsection was entitled to a benefit referred to in such paragraph for such subsequent month on the basis of such wages and self-employment income of such individual."

Prohibition on Reduction of Benefits to Widow, Widower, or Parent in Certain Cases Where Family Maximum Applies

Section 301(c) of Pub. L. 86-778 provided that: "Where—

"(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [subsec. (j)(1) of this section]) to monthly benefits under section 202 of such Act [this section] for the second month following the month in which this Act is enacted [Sept. 1960] on the basis of the wages and self-employment income of a deceased individual (but not including any person who became so entitled by reason of section 208 of this Act [section 408 of this title]); and

"(2) no person, other than (i) those persons referred to in paragraph (1) of this subsection (ii) those persons who are entitled to benefits under section 202(d), (e), (f), or (g) of the Social Security Act [subsecs. (d), (e), (f), or (g) of this section] but would not be so entitled except for the enactment of section 208 of this Act [section 408 of this title], is entitled to benefits under such section 202 [this section] on the basis of such individual's wages and self-employment income for any subsequent month or for any month after the second month following the month in which this Act is enacted [Sept. 1960] and prior to such subsequent month; and

"(3) the total of the benefits to which all persons referred to in paragraph (1) of this subsection are entitled under section 202 of the Social Security Act

[this section] on the basis of such individual's wages and self-employment income for such subsequent month exceeds the maximum of benefits payable, as provided in section 203(a) of such Act [section 403(a) of this title], on the basis of such wages and self-employment income,

then the amount of the benefit to which each such person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be determined—

"(4) in case such person is entitled to benefits under section 202(e), (f), (g), or (h) [subsecs. (e), (f), (g), or (h) of this section], as though this section and section 208 [section 408 of this title] had not been enacted, or

"(5) in case such person is entitled to benefits under section 202(d) [subsec. (d) of this section], as though (i) no person is entitled to benefits under section 202(e), (f), (g), or (h) [subsecs. (e), (f), (g), or (h) of this section] for such subsequent month, and (ii) the maximum of benefits payable, as described in paragraph (3), is such maximum less the amount of each person's benefit for such month determined pursuant to paragraph (4)."

PROHIBITION ON REDUCTION OF BENEFITS BECAUSE OF PARENT'S ENTITLEMENT

Section 304(b) of Pub. L. 85-840 provided that:

"Where—

"(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [subsec. (j)(1) of this section]) to monthly benefits under section 202 of such Act [this section] for the month in which this Act is enacted [August 1958] on the basis of the wages and self-employment income of an individual; and

"(2) a person is entitled to a parent's insurance benefit under section 202(h) of the Social Security Act [subsec. (h) of this section] for any subsequent month on the basis of such wages and self-employment income and such person would not be entitled to such benefit but for the enactment of this section; and

"(3) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act [this section] on the basis of such wages and self-employment income for such subsequent month are reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title].

then the amount of the benefit to which each such person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be increased, after the application of such section 203(a) [section 403(a) of this title], to the amount it would have been if no person referred to in paragraph (2) of this subsection was entitled to a parent's insurance benefit for such subsequent month on the basis of such wages and self-employment income."

SAVINGS PROVISIONS; WIDOW'S AND WIDOWER'S BENEFITS FOR DECEMBER 1972 AND JANUARY 1973

Section 102(h) of Pub. L. 92-603 provided that:

"Where—

"(1) two or more persons are entitled to monthly benefits under section 202 of the Social Security Act [this section] for December 1972 on the basis of the wages and self-employment income of a deceased individual, and one or more of such persons is so entitled under subsection (e) or (f) of such section 202 [subsec. (e) or (f) of this section] and

"(2) one or more of such persons is entitled on the basis of such wages and self-employment income to monthly benefits under subsection (e) or (f) of such section 202 [subsec. (e) or (f) of this section] (as amended by this section) for January 1973, and

"(3) the total of benefits to which all persons are entitled under section 202 of such Act [this section] on the basis of such wages and self-employment income for January 1973 is reduced by reason of section 203(a) of such Act [section 403(a) of this title], as amended by this Act [Pub. L. 92-603] (or would, but for the penultimate sentence of such section 203(a) [section 403(a) of this title], be so reduced),

then the amount of the benefit to which each such person referred to in paragraph (1) is entitled for months after December 1972 shall in no case be less after the application of this section and such section 203(a) [section 403(a) of this title] than the amount it would have been without the application of this section."

SAVINGS PROVISIONS FOR BENEFITS AS SURVIVING DIVORCED MOTHER; ADJUSTMENT OF BENEFITS

Section 114(e) of Pub. L. 92-603 provided that:

"Where—

"(1) one or more persons are entitled (without the application of sections 202(j)(1) and 223(b) of the Social Security Act) [subsec. (j)(1) of this section and section 423(b) of this title] to monthly benefits under section 202 or 223 of such Act [this section or section 423 of this title] for December 1972 on the basis of the wages and self-employment income of an insured individual, and

"(2) one or more persons (not included in paragraph (1)) are entitled to monthly benefits under such section 202(g) [subsec. (g) of this section] as a surviving divorced mother (as defined in section 216(d)(3) [section 416(d)(3) of this title]) for a month after December 1972 on the basis of such wages and self-employment income, and

"(3) the total of benefits to which all persons are entitled under such section 202 and 223 [this section and section 423 of this title] on the basis of such wages and self-employment income for any month after December 1972 is reduced by reason of section 203(a) of such Act [section 403(a) of this title] as amended by this Act [Pub. L. 92-603] (or would, but for the penultimate sentence of such section 203(a) [section 403(a) of this title], be so reduced)

then the amount of the benefit to which each person referred to in paragraph (1) of this subsection is entitled beginning with the first month after December 1972 for which any person referred to in paragraph (2) becomes entitled shall be adjusted, after the application of such section 203(a) [section 403(a) of this title], to an amount no less than the amount it would have been if the person or persons referred to in paragraph (2) of this subsection were not entitled to a benefit referred to in such paragraph (2)."

SAVINGS PROVISIONS; WIDOW'S, WIDOWER'S AND PARENT'S BENEFITS

Section 104(f) of Pub. L. 87-64 provided that:

"Where—

"(1) two or more persons were entitled (without the application of subsection (j)(1) of section 202 of the Social Security Act [subsec. (j)(1) of this section]) to monthly benefits under such section 202 [this section] for the last month beginning before the effective date of this title [see Effective Date of 1961 Amendment note above] on the basis of the wages and self-employment income of a deceased individual, and one or more of such persons is entitled to a monthly insurance benefit under subsection (e), (f), or (h) of such section 202 [subsec. (e), (f), or (h) of this section] for such last month; and

"(2) no person, other than the persons referred to in paragraph (1) of this subsection, is entitled to benefits under such section 202 [this section] on the basis of such individual's wages and self-employment income for a subsequent month or for any month after such last month and before such subsequent month; and

"(3) the total of the benefits to which all persons are entitled under such section 202 [this section] on the basis of such individual's wages and self-employment income for such subsequent month is reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title],

then the amount of the benefit to which each such person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be determined without regard to this Act if, after the application of this Act, such benefit for such month is less than the amount of such benefit for such last month. The preceding provisions of this subsection shall not apply to any monthly benefit of any person for any month beginning after the effective date of this title [see Effective Date note of 1961 Amendment note above] unless paragraph (3) also applies to such benefit for the month beginning on such effective date (or would so apply but for the next to the last sentence of section 203(a) of the Social Security Act [section 403(a) of this title])."

BENEFITS OF PARENT, WIDOW, WIDOWER, OR MOTHER; SAVINGS PROVISIONS

Section 5 of Pub. L. 85-238 provided that:

"Where—

"(a) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [subsec. (j)(1) of this section]) to parent's insurance benefits under section 202(h) of such Act [subsec. (h) of this section] for the month in which this Act [August 1957] is enacted on the basis of the wages and self-employment income of an individual;

"(b) a person becomes entitled to a widow's, widower's or mother's insurance benefit under section 202(e), (f), or (g) of the Social Security Act [subsec. (e), (f), or (g) of this section] for any subsequent month on the basis of such wages and self-employment income;

"(c) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act [this section], on the basis of such wages and self-employment income for such subsequent month are reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title];

then the amount of the benefit to which each such person referred to in paragraph (a) or (b) is entitled for such subsequent month shall be increased, after the application of such section 203(a) [section 403(a) of this title], to the amount it would have been—

"(d) if, in the case of a parent's insurance benefit, the person referred to in paragraph (b) was not entitled to the benefit referred to in such paragraph, or

"(e) if, in the case of a benefit referred to in paragraph (b), no person was entitled to a parent's insurance benefit for such subsequent month on the basis of such wages and self-employment income."

PROOF OF SUPPORT BY HUSBAND OR WIDOWER IN CERTAIN CASES

Section 113 of act Sept. 1, 1954, provided that:

"(a) For the purpose of determining the entitlement of any individual to husband's insurance benefits under subsection (c) of section 202 of the Social Security Act [subsec. (c) of this section] on the basis of his wife's wages and self-employment income, the requirements of paragraph (1)(D) of such subsection shall be deemed to be met if—

"(1) such individual was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary of Health, Education, and Welfare, from his wife on the first day of the first month (A) for which she was entitled to a monthly benefit under subsection (a) of such section 202 [subsec. (a) of this section], and (B) in which an event described in paragraph (1) or (2) of section 203(b) of such Act [section 403(b) of this title] (as in effect before or after the enactment of this Act [Sept. 1, 1954]) did not occur.

"(2) such individual has filed proof of such support within two years after such first month, and

"(3) such wife was, without the application of subsection (j)(1) of such section 202 [subsec. (j)(1) of this section], entitled to a primary insurance benefit under such Act for August 1950.

"(b) For the purpose of determining the entitlement of any individual to widower's insurance benefits under subsection (f) of section 202 of the Social Security Act [subsec. (f) of this section] on the basis of his deceased wife's wages and self-employment income, the requirements of paragraph (1)(E)(ii) of such subsection shall be deemed to be met if—

"(1) such individual was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary of Health, Education, and Welfare, from his wife, and she was a currently insured individual, on the first day of the first month (A) for which she was entitled to a monthly benefit under subsection (a) of such section 202 [subsec. (a) of this section], and (B) in which an event described in paragraph (1) or (2) of section 203(b) of such Act [section 403(b) of this title] (as in effect before or after the enactment of this Act [Sept. 1, 1954]) did not occur.

"(2) such individual has filed proof of such support within two years after such first month, and

"(3) such wife was, without the application of subsection (j)(1) of such section 202 [subsec. (j)(1) of this section], entitled to a primary insurance benefit under such Act for August 1950.

"(c) For purposes of subsection (b)(1) of this section, and for purposes of section 202(c)(1) of the Social Security Act [subsec. (c)(1) of this section] in cases to which subsection (a) of this section is applicable, the wife of an individual shall be deemed a currently insured individual if she had not less than six quarters of coverage (as determined under section 213 of the Social Security Act) [section 413 of this title] during the thirteen-quarter period ending with the calendar quarter in which occurs the first month (1) for which such wife was entitled to a monthly benefit under section 202(a) of such Act [subsec. (a) of this section], and (2) in which an event described in paragraph (1) or (2) of section 203(b) of such Act [subsec. (b)(1) or (2) of this section] (as in effect before or after the enactment of this Act [Sept. 1, 1954]) did not occur.

"(d) This section shall apply only with respect to husband's insurance benefits under section 202(c) of the Social Security Act [subsec. (c) of this section], and widower's insurance benefits under section 202(f) of such Act [subsec. (f) of this section], for months after August 1954, and only with respect to benefits based on applications filed after such month."

SAVING PROVISIONS FOR PERSONS RECEIVING BENEFITS PRIOR TO SEPTEMBER 1, 1950

Section 101(c) of act Aug. 28, 1950, provided that:

"(1) Any individual entitled to primary insurance benefits or widow's current insurance benefits under section 202 of the Social Security Act [this section] as in effect prior to its amendment by this Act who would, but for the enactment of this Act, be entitled to such benefits for September 1950 shall be deemed to be entitled to old-age insurance benefits or mother's insurance benefits (as the case may be) under section 202 of the Social Security Act [this section], as amended by this Act, as though such individual became entitled to such benefits in such month.

"(2) Any individual entitled to any other monthly insurance benefits under section 202 of the Social Security Act [this section] as in effect prior to its amendment by this Act who would, but for the enactment of this Act, be entitled to such benefits for September 1950 shall be deemed to be entitled to such benefits under section 202 of the Social Security Act, as amended by this Act, as though such individual became entitled to such benefits in such month.

"(3) Any individual who files application after August 1950 for monthly benefits under any subsection of section 202 of the Social Security Act [this section] who would, but for the enactment of this Act, be entitled to benefits under such subsection (as in effect prior to such enactment) for any month prior to September 1950 shall be deemed entitled to such benefits for such month prior to September 1950 to the same extent and in the same amounts as though this Act had not been enacted."

FILING OF PROOF OF SUPPORT BY HUSBAND OR WIDOWER

Section 157(c) of Pub. L. 90-248 provided that: "In the case of any husband who would not be entitled to husband's insurance benefits under section 202(c) of the Social Security Act [subsec. (c) of this section] or any widower who would not be entitled to widower's insurance benefits under section 202(f) of such Act [subsec. (f) of this section] except for the enactment of this section, the requirement in section 202(c)(1)(C) or 202(f)(1)(D) of such Act [subsec. (c)(1)(C) or (f)(1)(D) of this section] relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month following the month in which this Act is enacted [Jan. 1968]."

EXTENSION OF FILING PERIOD FOR HUSBAND'S, WIDOWER'S, OR PARENT'S BENEFITS IN CERTAIN CASES

Section 210 of Pub. L. 86-778 provided that:

"(a) In the case of any husband who would not be entitled to husband's insurance benefits under section 202(c), of the Social Security Act [subsec. (c) of this section] except for the enactment of this Act, the requirement in section 202(c)(1)(C) of the Social Security Act [subsec. (c)(1)(C) of this section] relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month in which this Act is enacted [Sept. 1960].

"(b) In the case of any widower who would not be entitled to widower's insurance benefits under section 202(f) of the Social Security Act [subsec. (f) of this section] except for the enactment of this Act, the requirement in section 202(f)(1)(D) of the Social Security Act [subsec. (f)(1)(C) of this section] relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month in which this Act is enacted [Sept. 1960].

"(c) In the case of any parent who would not be entitled to parent's insurance benefits under section 202(h) of the Social Security Act except for the enactment of this Act, the requirement in section 202(h)(1)(B) of the Social Security Act [subsec. (h)(1)(B) of this section] relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month in which this Act is enacted [Sept. 1960]."

PROOF OF SUPPORT BY CERTAIN WIDOWERS OR PARENTS

Section 103(c) of Pub. L. 87-64 provided that: "In the case of any widower or parent who would not be entitled to widower's insurance benefits under section 202(f) [subsec. (f) of this section], or parent's insurance benefits under section 202(h) [subsec. (h) of this section], of the Social Security Act except for the enactment of this Act (other than this subsection), the requirement in sections 202(f)(1)(D) and 202(h)(1)(B) [subsecs. (f)(1)(D) and (h)(1)(B) of this section], respectively, of the Social Security Act relating to the time within which proof of support must be filed shall not apply if such proof of support is filed before the close of the 2-year period which begins on the effective date of this title [see Effective Date of 1961 Amendment note above]."

FILING OF PROOF OF SUPPORT BY HUSBAND, WIDOWER OR PARENT

Section 207(b) of Pub. L. 85-840 provided that: "In the case of any husband, widower, or parent who would not be entitled to benefits under section 202(c), section 202(f), and section 202(h), respectively, of the Social Security Act [subsecs. (c), (f) and (h) of this section] except for the enactment of section 205 of this Act [amending subsecs. (b), (c)(1), (d)(1), (f)(1)(D), (g)(1)(F), (h)(1)(B), (k), and (q)(5), (6) of this section and sections 401(h), 403(c), (h), 414(b), 415(g), 422(b)(3) and 425 of this title], the requirement in such section 202(c), section 202(f), or section 202(h), [subsec. (c), (f) or (h) of this section], as the case may be, that proof of support be filed within a two-year period shall not apply if such proof is filed within two years after the month in which this Act is enacted [August 1958]."

FILING OF PROOF OF SUPPORT BY PARENT

Section 304(c) of Pub. L. 85-840 provided that: "In the case of any parent who would not be entitled to parent's benefits under section 202(h) of the Social Security Act [subsec. (h) of this section] except for the enactment of this section, the requirement in such section 202(h) [subsec. (h) of this section] that proof of support be filed within two years of the date of death of the insured individual referred to therein shall not apply if such proof is filed within the two-year period beginning with the first day of the month after the month in which this Act is enacted [August 1958]."

DISREGARDING OASDI BENEFIT INCREASES AND CHILD'S INSURANCE BENEFIT PAYMENTS BEYOND AGE 18 TO THE EXTENT ATTRIBUTABLE TO RETROACTIVE EFFECTIVE DATE OF 1965 AMENDMENTS

Authorization to disregard, in determining need for aid or assistance under an approved State plan, amounts paid under this subchapter for months occurring after December 1964 and before October 1965 to the extent to which payment is attributable to the payment of child's insurance benefits under the old-age, survivors, and disability insurance system after attainment of age 18, in the case of individuals attending school, resulting from enactment of section 306 of Pub. L. 89-97, see section 406 of Pub. L. 89-97, set out as a note under section 415 of this title.

LUMP-SUM PAYMENTS WHERE DEATH OCCURRED PRIOR TO SEPTEMBER 1, 1950

Section 101(d) of act Aug. 28, 1950, as amended July 18, 1952, ch. 945, § 5(e)(1), 66 Stat. 775; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(a)(2), 74 Stat. 936, provided that: "Lump-sum death payments shall be made in the case of individuals who died prior to September 1950 as though this Act had not been enacted; except that in the case of any individual who died outside the forty-eight States and the District of Columbia after December 6, 1941, and prior to August 10, 1946, the last sentence of section 202(g) of the Social Security Act [subsec. (g) of this section] as in effect prior to the enactment of this Act shall not be applicable if application for a lump-sum death payment is filed prior to September 1952, and except that in the case of any individual who died outside the forty-eight States and the District of Columbia on or after June 25, 1950, and prior to September 1950, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa for interment or reinterment, the last sentence of section 202(g) of the Social Security Act [subsec. (g) of this section] as in effect prior to the enactment of this Act [July 18, 1952] shall not prevent payment to any person under the second sentence thereof [subsec. (g) of this section] if application for a lump-sum death payment under such section with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment."

LUMP-SUM PAYMENTS FOR DEATHS BEFORE 1940; TIME LIMITATION

Lump-sum payments of 3½ percent of total wages paid with respect to employment after Dec. 31, 1936 and before reaching the age of 65 were provided for persons who were not qualified individuals upon reaching that age by section 204 of act Aug. 14, 1935, before amendment in 1939. Such lump-sum payments, except to the estate of an individual who died prior to

Jan. 1, 1940, were prohibited after Aug. 10, 1939, by section 902(g) of act Aug. 10, 1939. Section 415 of act Aug. 10, 1946, provided that no lump-sum payments shall be made under section 204 of the 1935 act or section 902(g) of the 1939 act unless application therefor has been filed prior to the expiration of six months after Aug. 10, 1946.

DEATH OUTSIDE U.S.; EXTENSION OF FILING TIME FOR LUMP-SUM PAYMENTS

Section 5(e)(2) of act July 18, 1952, ch. 945, 66 Stat. 775, as amended by Pub. L. 86-778, title I, § 103(a)(2), Sept. 13, 1960, 74 Stat. 936, provided that: "In the case of any individual who died outside the forty-eight States and the District of Columbia after August 1950 and prior to January 1954, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa for interment or reinterment, the last sentence of section 202(i) of the Social Security Act [subsec. (i) of this section] shall not prevent payment to any person under the second sentence thereof if application for a lump-sum death payment with respect to such deceased individual is filed under such section by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment."

PAYMENT OF ANNUITIES TO OFFICERS AND EMPLOYEES OF THE UNITED STATES CONVICTED OF CERTAIN OFFENSES

Section 121(b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) of this section [adding subsec. (u) of this section] shall not be construed to restrict or otherwise affect any of the provisions of the Act entitled 'An Act to prohibit payments of annuities to officers and employees of the United States convicted of certain offenses, and for other purposes', approved September 1, 1954 (Public Law 769, Eighty-third Congress) [sections 2281 to 2288 of former Title 5, Executive Departments and Government Officers and Employees, and now covered by section 8311 et seq. of Title 5, Government Organization and Employees]."

APPLICATION FOR BENEFITS BY SURVIVORS OF MEMBERS AND FORMER MEMBERS OF UNIFORMED SERVICES

Forms for use by survivors of members and former members of the uniformed services in filing applications for benefits under this subchapter to be prescribed jointly by the Administrator of Veterans' Affairs and the Secretary of Health, Education, and Welfare, see section 3005 of Title 38, Veterans' Benefits.

PAYMENTS OF ALIENS' BENEFITS WITHHELD UNDER FOREIGN DELIVERY RESTRICTION OF CHECKS AGAINST FEDERAL FUNDS

Section 162(c)(3) of Pub. L. 90-248 provided that:

"Whenever benefits which an individual who is not a citizen or national of the United States was entitled to receive under title II of the Social Security Act [this subchapter] are, on June 30, 1968, being withheld by the Treasury Department under the first section of the Act of October 9, 1940 (31 U.S.C. 123), any such benefits, payable to such individual for months after the month in which the determination by the Treasury Department that the benefits should be so withheld was made, shall not be paid—

"(A) to any person other than such individual, or, if such individual dies before such benefits can be paid, to any person other than an individual who was entitled for the month in which the deceased individual died (with the application of section 202(j)(1) of the Social Security Act [subsec. (j)(1) of this section]) to a monthly benefit under title II of such Act [this subchapter] on the basis of the same wages and self-employment income as such deceased individual, or

"(B) in excess of the equivalent of the last twelve months' benefits that would have been payable to such individual."

STUDY OF RETIREMENT TEST AND OF DRUG STANDARDS AND COVERAGE

Section 405 of Pub. L. 90-248 authorized the Secretary of Health, Education, and Welfare to make a study of the existing retirement test and proposals for the modification of the test, the quality and cost standards for drugs for which payments are made under this chapter, and the coverage of drugs under part B of subchapter XVIII of this chapter, and submit a report to the President and to Congress concerning his findings and recommendations on or before Jan. 1, 1969.

DEFINITION OF "SECRETARY"

Section 304 of Pub. L. 87-64 provided that: "As used in this title and title I, and in the provisions of the Social Security Act amended thereby [see section 1 of Pub. L. 87-64 set out as a Short Title of 1961 Amendment note under section 1305 of this title], the term 'Secretary', unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

Section 702 of Pub. L. 85-840 provided that: "As used in the provisions of the Social Security Act amended by this Act, [subsecs. (c)(1)(C) and (f)(1)(D) of this section and sections 403(g)(1), 417(h), 418(d)(6), (f)(2), 702(a)(2), 712(a)(2), 721 to 725, 1301(a)(8), 1306(b), and 1308 of this title], the term "Secretary", unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

"Secretary" as used in this section means the Secretary of Health, Education, and Welfare. See section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

CROSS REFERENCES

Survivor benefits under Railroad Retirement Act of 1974 correlation with payments under this chapter, see section 231e of Title 45, Railroads.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 403, 405, 415, 416, 417, 422, 423, 424a, 425, 426, 426a, 427, 428, 1320b-1, 1395i-1, 1395p, 1395s of this title; title 5 section 8332; title 30 sections 902, 922; title 38 sections 412, 422; title 45 sections 231a, 231c, 231e, 231f.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 4-523, 47-1557a of the District of Columbia Code.

§ 403. Reduction of insurance benefits

(a) Maximum benefits

Whenever the total of monthly benefits to which individuals are entitled under sections 402 and 423 of this title for a month on the basis of the wages and self-employment income of an insured individual is greater than the amount appearing in column V of the table in or deemed to be in section 415(a) of this title on the line on which appears in column IV such insured individual's primary insurance amount, such total of benefits shall be reduced to such amount; except that—

(1) when any of such individuals so entitled would (but for the provisions of section 402(k)(2)(A) of this title) be entitled to child's insurance benefits on the basis of the wages and self-employment income of one or more other insured individuals, such total of benefits shall not be reduced to less than the smaller

of: (A) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or (B) the last figure in column V of the table appearing in section 415(a) of this title, or

(2) when two or more persons were entitled (without the application of section 402(j)(1) of this title and section 423(b) of this title) to monthly benefits under section 402 or 423 of this title for January 1971 or any prior month on the basis of the wages and self-employment income of such insured individual and the provisions of this subsection as in effect for any such month were applicable in determining the benefit amount of any persons on the basis of such wages and self-employment income, the total of benefits for any month after January 1971 shall not be reduced to less than the larger of—

(A) the amount determined under the subsection without regard to this paragraph,

(B) the largest amount which has been determined for any month under this subsection for persons entitled to monthly benefits on the basis of such insured individual's wages and self-employment income, or

(C) if any persons are entitled to benefits on the basis of such wages and self-employment income for the month before the effective month (after September 1972) of a general benefit increase under this subchapter (as defined in section 415(i)(3) of this title) or a benefit increase under the provisions of section 415(i) of this title, an amount equal to the sum of amounts derived by multiplying the benefit amount determined under this subchapter (excluding part thereof determined under section 402(w) of this title) for the month before such effective month (including this subsection, but without the application of section 422(b) of this title, section 402(q) of this title, and subsections (b), (c), and (d) of this section), for each such person for such month, by a percentage equal to the percentage of the increase provided under such benefit increase (with any such increased amount which is not a multiple of $0.10 being rounded to the next higher multiple of $0.10);

but in any such case (i) paragraph (1) of this subsection shall not be applied to such total of benefits after the application of subparagraph (B) or (C), and (ii) if section 402(k)(2)(A) of this title was applicable in the case of any such benefits for a month, and ceases to apply for a month after such month, the provisions of subparagraph (B) or (C) shall be applied, for and after the month in which section 402(k)(2)(A) of this title ceases to apply, as though paragraph (1) had not been applicable to such total of benefits for the last month for which subparagraph (B) or (C) was applicable, or

(3) when any of such individuals is entitled to monthly benefits as a divorced wife under section 402(b) of this title or as a surviving divorced wife under section 402(e) of this title for any month, the benefit to which she is entitled on the basis of the wages and self-employment income of such insured individual for such month shall be determined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 402 of this title on the wages and self-employment income of such insured individual shall be determined as if no such divorced wife or surviving divorced wife were entitled to benefits for such month,

(4) notwithstanding any other provision of law, when—

(A) two or more persons are entitled to monthly benefits for a particular month on the basis of the wages and self-employment income of an insured individual and (for such particular month) the provisions of this subsection and section 402(q) of this title are applicable to such monthly benefits, and

(B) such individual's primary insurance amount is increased for the following month under any provision of this subchapter,

then the total of monthly benefits for all persons on the basis of such wages and self-employment income for such particular month, as determined under the provisions of this subsection, shall for purposes of determining the total monthly benefits for all persons on the basis of such wages and self-employment income for months subsequent to such particular month to be considered to have been increased by the smallest amount that would have been required in order to assure that the total of monthly benefits payable on the basis of such wages and self-employment income for any such subsequent month will not be less (after the application of the other provisions of this subsection and section 402(q) of this title) than the total of monthly benefits (after the application of the other provisions of this subsection and section 402(q) of this title) payable on the basis of such wages and self-employment income for such particular month, or

(5) whenever the monthly benefits of such individuals are based on an insured individual's primary insurance amount which is determined under section 415(a)(3) of this title and such primary insurance amount does not appear in column IV of the table in (or deemed to be in) section 415(a) of this title, the applicable maximum amount in column V of such table shall be the amount in such column that appears on the line on which the next higher primary insurance amount appears in column, IV, or, if larger, the largest amount determined for such persons under this subsection for any month prior to October 1972.

In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, such reduction shall be made after any deductions under this section and after any deductions under section 422(b) of this title. Whenever a reduction is made under this subsection in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment

income of an insured individual, each such benefit other than the old-age or disability insurance benefit shall be proportionately decreased; except that if such total of benefits for such month includes any benefit or benefits under section 402(d) of this title which are payable solely by reason of section 416(h)(3) of this title, the reduction shall be first applied to reduce (proportionately where there is more than one benefit so payable) the benefits so payable (but not below zero).

(b) Deductions on account of work

Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this subchapter to which an individual is entitled, and from any payment or payments to which any other persons are entitled on the basis of such individual's wages and self-employment income, until the total of such deductions equals—

(1) such individual's benefit or benefits under section 402 of this title for any month, and

(2) if such individual was entitled to old-age insurance benefits under section 402(a) of this title for such month, the benefit or benefits of all other persons for such month under section 402 of this title based on such individual's wages and self-employment income,

if for such month he is charged with excess earnings, under the provisions of subsection (f) of this section, equal to the total of benefits referred to in clauses (1) and (2). If the excess earnings so charged are less than such total of benefits, such deductions with respect to such month shall be equal only to the amount of such excess earnings. If a child who has attained the age of 18 and is entitled to child's insurance benefits, or a person who is entitled to mother's insurance benefits, is married to an individual entitled to old-age insurance benefits under section 402(a) of this title, such child or such person, as the case may be, shall, for the purposes of this subsection and subsection (f) of this section, be deemed to be entitled to such benefits on the basis of the wages and self-employment income of such individual entitled to old-age insurance benefits. If a deduction has already been made under this subsection with respect to a person's benefit or benefits under section 402 of this title for a month, he shall be deemed entitled to payments under such section for such month for purposes of further deductions under this subsection, and for purposes of charging of each person's excess earnings under subsection (f) of this section, only to the extent of the total of his benefits remaining after such earlier deductions have been made. For purposes of this subsection and subsection (f) of this section—

(A) an individual shall be deemed to be entitled to payments under section 402 of this title equal to the amount of the benefit or benefits to which he is entitled under such section after the application of subsection (a) of this section, but without the application of ae penultimate sentence thereof; and

(B) if a deduction is made with respect to an individual's benefit or benefits under section 402 of this title because of the occurrence in any month of an event specified in subsection (c) or (d) of this section or in section 422(b) of this title, such individual shall not be considered to be entitled to any benefits under such section 402 for such month.

(c) Deductions on account of noncovered work outside the United States or failure to have child in care

Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this subchapter to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under section 402 of this title for any month—

(1) in which such individual is under the age of seventy-two and or seven or more different calendar days of which he engaged in noncovered remunerative activity outside the United States; or

(2) in which such individual, if a wife under age sixty-five entitled to a wife's insurance benefit, did not have in her care (individually or jointly with her husband) a child of her husband entitled to a child's insurance benefit and such wife's insurance benefit for such month was not reduced under the provisions of section 402(q) of this title; or

(3) in which such individual, if a widow entitled to a mother's insurance benefit, did not have in her care a child of her deceased husband entitled to a child's insurance benefit; or

(4) in which such individual, if a surviving divorced mother entitled to a mother's insurance benefit, did not have in her care a child of her deceased former husband who (A) is her son, daughter, or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of her deceased former husband.

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which paragraph (1) of section 402(s) of this title applies or an event specified in section 422(b) of this title occurs with respect to such child. Subject to paragraph (3) of such section 402(s), no deduction shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month; nor shall any deduction be made under this subsection from any widow's insurance benefits for any month in which the widow or surviving divorced wife is entitled and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 60).

(d) Deductions from dependent's benefits on account of noncovered work outside the United States by old-age insurance beneficiary

(1) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to old-age insurance benefits, to which a wife, divorced wife, husband, or

child is entitled, until the total of such deductions equals such wife's, husband's, or child's insurance benefit or benefits under section 402 of this title for any month in which such individual is under the age of seventy-two and on seven or more different calendar days of which he engaged in noncovered remunerative activity outside the United States.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled, or from any mother's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or mother's insurance benefit or benefits under section 402 of this title for any month in which such child or person entitled to mother's insurance benefits is married to an individual who is entitled to old-age insurance benefits and on seven or more different calendar days of which such individual engaged in noncovered remunerative activity outside the United States.

(e) Occurrence of more than one event

If more than one of the events specified in subsections (c) and (d) of this section and section 422(b) of this title occurs in any one month which would occasion deductions equal to a benefit for such month, only an amount equal to such benefit shall be deducted.

(f) Months to which earnings are charged

For purposes of subsection (b) of this section—

(1) The amount of an individual's excess earnings (as defined in paragraph (3) shall be charged to months as follows: There shall be charged to the first month of such taxable year an amount of his excess earnings equal to the sum of the payments to which he and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum), and the balance, if any, of such excess earnings shall be charged to each succeeding month in such year to the extent, in the case of each such month, of the sum of the payments to which such individual and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged. Where an individual is entitled to benefits under section 402(a) of this title and other persons are entitled to benefits under section 402(b), (c), or (d) of this title on the basis of the wages and self-employment income of such individual, the excess earnings of such individual for any taxable year shall be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Notwithstanding the preceding provisions of this paragraph but subject to section 402(s) of this title, no part of the excess earnings of an individual shall be charged to any months (A) for which such individual was not entitled to a benefit under this subchapter, (B) in which such individual was age seventy-two or over, (C) in which such individual, if a child entitled to child's insurance benefits, has attained the age of 18, (D) for which such individual is entitled to widow's insurance benefits and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or widower's insurance benefits and has not attained age 65 (but only if he became so entitled prior to attaining age 60), or (E) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than $200 or the exempt amount as determined under paragraph (8).

(2) As used in paragraph (1), the term "first month of such taxable year" means the earliest month in such year to which the charging of excess earnings described in such paragraph is not prohibited by the application of clauses (A), (B), (C), (D), and (E) thereof.

(3) For purposes of paragraph (1) and subsection (h) of this section, an individual's excess earnings for a taxable year shall be 50 per centum of his earnings for such year in excess of the product of $200 or the exempt amount as determined under paragraph (8), multiplied by the number of months in such year, except that, in determining an individual's excess earnings for the taxable year in which he attains age 72, there shall be excluded any earnings of such individual for the month in which he attains such age and any subsequent month (with any net earnings or net loss from self-employment in such year being prorated in an equitable manner under regulations of the Secretary). The excess earnings as derived under the preceding sentence, if not a multiple of $1, shall be reduced to the next lower multiple of $1.

(4) For purposes of clause (E) of paragraph (1)—

(A) An individual will be presumed, with respect to any month, to have been engaged in self-employment in such month until it is shown to the satisfaction of the Secretary that such individual rendered no substantial services in such month with respect to any trade or business the net income or loss of which is includible in computing (as provided in paragraph (5) of this subsection) his net earnings or net loss from self-employment for any taxable year. The Secretary shall by regulations prescribe the methods and criteria for determining whether or not an individual has rendered substantial services with respect to any trade or business.

(B) an individual will be presumed, with respect to any month, to have rendered services for wages (determined as provided in paragraph (5) of this subsection) of more than $200 or the exempt amount as determined under paragraph (8) until it is shown to the satisfaction of the Secretary that such individual did not render such services in such month for more than such amount.

(5)(A) An individual's earnings for a taxable year shall be (i) the sum of his wages for services rendered in such year and his net earnings from self-employment for such year, minus (ii) any net loss from self-employment for such year.

(B) For purposes of this section—

(i) an individual's net earnings from self-employment for any taxable year shall be determined as provided in section 411 of this title, except that paragraphs (1), (4), and (5) of section 411(c) of this title shall not apply and the gross income shall be computed by excluding the amounts provided by subparagraph (D) of this paragraph, and

(ii) an individual's net loss from self-employment for any taxable year is the excess of the deductions (plus his distributive share of loss described in section 702(a)(9) of the Internal Revenue Code of 1954 taken into account under clause (i) over the gross income (plus his distributive share of income so described) taken into account under clause (i).

(C) For purposes of this subsection, an individual's wages shall be computed without regard to the limitations as to amounts of remuneration specified in subsections (a), (g)(2), (g)(3), (h)(2), and (j) of section 409 of this title; and in making such computation services which do not constitute employment as defined in section 410 of this title, performed within the United States by the individual as an employee or performed outside the United States in the active military or naval service of the United States, shall be deemed to be employment as so defined if the remuneration for such services is not includible in computing his net earnings or net loss from self-employment.

(D) In the case of an individual—

(i) who has attained the age of 65 on or before the last day of the taxable year, and

(ii) who shows to the satisfaction of the Secretary that he is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he attained the age of 65 and that the property to which the copyright or patent relates was created by his own personal efforts,

there shall be excluded from gross income any such royalties.

(6) For purposes of this subsection, wages (determined as provided in paragraph (5)(C)) which, according to reports received by the Secretary, are paid to an individual during a taxable year shall be presumed to have been paid to him for services performed in such year until it is shown to the satisfaction of the Secretary that they were paid for services performed in another taxable year. If such reports with respect to an individual show his wages for a calendar year, such individual's taxable year shall be presumed to be a calendar year for purposes of this subsection until it is shown to the satisfaction of the Secretary that his taxable year is not a calendar year.

(7) Where an individual's excess earnings are charged to a month and the excess earnings so charged are less than the total of the payments (without regard to such charging) to which all persons are entitled under section 402 of this title for such month on the basis of his wages and self-employment income, the difference between such total and the excess so charged to such month shall be paid (if it is otherwise payable under this subchapter) to such individual and other persons in the proportion that the benefit to which each of them is entitled (without regard to such charging, without the application of section 402(k)(3) of this title, and prior to the application of section 403(a) of this title) bears to the total of the benefits to which all of them are entitled.

(8)(A) Whenever the Secretary pursuant to section 415(i) of this title increases benefits effective with the month of June following a cost-of-living computation quarter he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increase is effective, with respect to such individual's taxable year which ends, upon his death, during such year).

(B) The exempt amount for each month of a particular taxable year shall be whichever of the following is the larger—

(i) the exempt amount which was in effect with respect to months in the taxable year in which the determination under subparagraph (A) was made, or

(ii) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subparagraph (A) was made to (II) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973, or, if later, the calendar year preceding the most recent calendar year in which an increase in the exempt amount was enacted or a determination resulting in such an increase was made under subparagraph (A), with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case. For purposes of this clause (ii), the average of the wages for the calendar year 1978 (or any prior calendar year) shall, in the case of determinations made under subparagraph (A) prior to December 31, 1979, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.

Whenever the Secretary determines that the exempt amount is to be increased in any year under this paragraph, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance within 30 days after the close of the base quarter (as defined in section 415(i)(1)(A) of this title) in

such year of the estimated amount of such increase, indicating the new exempt amount, the actuarial estimates of the effect of the increase, and the actuarial assumptions and methodology used in preparing such estimates.

(C) Notwithstanding the determination of a new exempt amount by the Secretary under subparagraph (A) (and notwithstanding any publication thereof under such subparagraph or any notification thereof under the last sentence of subparagraph (B)), such new exempt amount shall not take effect pursuant thereto if during the calendar year in which such determination is made a law increasing the exempt amount is enacted.

(g) Penalty for failure to report certain events

Any individual in receipt of benefits subject to deduction under subsection (c) of this section, (or who is in receipt of such benefits on behalf of another individual), because of the occurrence of any event specified therein who fails to report such occurrence to the Secretary prior to the receipt and acceptance of an insurance benefit for the second month following the month in which such event occurred, shall suffer deductions in addition to those imposed under subsection (c) of this section as follows:

(1) if such failure is the first one with respect to which an additional deduction is imposed by this subsection, such additional deduction shall be equal to his benefit or benefits for the first month of the period for which there is a failure to report even though such failure is with respect to more than one month;

(2) if such failure is the second one with respect to which an additional deduction is imposed by this subsection, such additional deduction shall be equal to two times his benefit or benefits for the first month of the period for which there is a failure to report even though such failure is with respect to more than two months; and

(3) if such failure is the third or a subsequent one for which an additional deduction is imposed under this subsection, such additional deduction shall be equal to three times his benefit or benefits for the first month of the period for which there is a failure to report even though the failure to report is with respect to more than three months;

except that the number of additional deductions required by this subsection shall not exceed the number of months in the period for which there is a failure to report. As used in this subsection, the term "period for which there is a failure to report" with respect to any individual means the period for which such individual received and accepted insurance benefits under section 402 of this title without making a timely report and for which deductions are required under subsection (c) of this section.

(h) Report of earnings to Secretary

(1)(A) If an individual is entitled to any monthly insurance benefit under section 402 of this title during any taxable year in which he has earnings or wages, as computed pursuant to paragraph (5) of subsection (f) of this section, in excess of the product of $200 or the exempt amount as determined under subsection (f)(8) of this section times the number of months in such year, such individual (or the individual who is in receipt of such benefit on his behalf) shall make a report to the Secretary of his earnings (or wages) for such taxable year. Such report shall be made on or before the fifteenth day of the fourth month following the close of such year, and shall contain such information and be made in such manner as the Secretary may by regulations prescribe. Such report need not be made for any taxable year (i) beginning with or after the month in which such individual attained the age of 72, or (ii) if benefit payments for all months (in such taxable year) in which such individual is under age 72 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection. The Secretary may grant a reasonable extension of time for making the report of earnings required in this paragraph if he finds that there is valid reason for a delay, but in no case may the period be extended more than three months.

(B) If the benefit payments of an individual have been suspended for all months in any taxable year under the provisions of the first sentence of paragraph (3) of this subsection, no benefit payment shall be made to such individual for any such month in such taxable year after the expiration of the period of three years, three months, and fifteen days following the close of such taxable year unless within such period the individual, or some other person entitled to benefits under this subchapter on the basis of the same wages and self-employment income, files with the Secretary information showing that a benefit for such month is payable to such individual.

(2) If an individual fails to make a report required under paragraph (1) of this subsection, within the time prescribed by or in accordance with such paragraph, for any taxable year and any deduction is imposed under subsection (b) of this section by reason of his earnings for such year, he shall suffer additional deductions as follows:

(A) if such failure is the first one with respect to which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 402 of this title, except that if the deduction imposed under subsection (b) of this section by reason of his earnings for such year is less than the amount of his benefit (or benefits) for the last month of such year for which he was entitled to a benefit under section 402 of this title, the additional deduction shall be equal to the amount of the deduction imposed under subsection (b) of this section but not less than $10;

(B) if such failure is the second one for which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to two times his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 402 of this title;

(C) if such failure is the third or a subsequent one for which an additional deduction is imposed under this paragraph, such addi-

tional deduction shall be equal to three times his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 402 of this title;

except that the number of the additional deductions required by this paragraph with respect to a failure to report earnings for a taxable year shall not exceed the number of months in such year for which such individual received and accepted insurance benefits under section 402 of this title and for which deductions are imposed under subsection (b) of this section by reason of his earnings. In determining whether a failure to report earnings is the first or a subsequent failure for any individual, all taxable years ending prior to the imposition of the first additional deduction under this paragraph, other than the latest one of such years, shall be disregarded.

(3) If the Secretary determines, on the basis of information obtained by or submitted to him, that it may reasonably be expected that an individual entitled to benefits under section 402 of this title for any taxable year will suffer deductions imposed under subsection (b) of this section by reason of his earnings for such year, the Secretary may, before the close of such taxable year, suspend the total or less than the total payment for each month in such year (or for only such months as the Secretary may specify) of the benefits payable on the basis of such individual's wages and self-employment income; and such suspension shall remain in effect with respect to the benefits for any month until the Secretary has determined whether or not any deduction is imposed for such month under subsection (b) of this section. The Secretary is authorized, before the close of the taxable year of an individual entitled to benefits during such year, to request of such individual that he make, at such time or times as the Secretary may specify, a declaration of his estimated earnings for the taxable year and that he furnish to the Secretary such other information with respect to such earnings as the Secretary may specify. A failure by such individual to comply with any such request shall in itself constitute justification for a determination under this paragraph that it may reasonably be expected that the individual will suffer deductions imposed under subsection (b) of this section by reason of his earnings for such year. If, after the close of a taxable year of an individual entitled to benefits under section 402 of this title for such year, the Secretary requests such individual to furnish a report of his earnings (as computed pursuant to paragraph (5) of subsection (f) of this section) for such taxable year or any other information with respect to such earnings which the Secretary may specify, and the individual fails to comply with such request, such failure shall in itself constitute justification for a determination that such individual's benefits are subject to deductions under subsection (b) of this section for each month in such taxable year (or only for such months thereof as the Secretary may specify) by reason of his earnings for such year.

(i) Circumstances under which deductions not required

In the case of any individual, deductions by reason of the provisions of subsection (b), (c), (g), or (h) of this section, or the provisions of section 422(b) of this title, shall, notwithstanding such provisions, be made from the benefits to which such individual is entitled only to the extent that such deductions reduce the total amount which would otherwise be paid, on the basis of the same wages and self-employment income, to such individual and the other individuals living in the same household.

(j) Attainment of age seventy-two

For the purposes of this section, an individual shall be considered as seventy-two years of age during the entire month in which he attains such age.

(k) Noncovered remunerative activity outside the United States

An individual shall be considered to be engaged in noncovered remunerative activity outside the United States if he performs services outside the United States as an employee and such services do not constitute employment as defined in section 410 of this title, and are not performed in the active military or naval service of the United States or if he carries on a trade or business outside the United States (other than the performance of service as an employee) the net income or loss of which (1) is not includible in computing his net earnings from self-employment for a taxable year and (2) would not be excluded from net earnings from self-employment, if carried on in the United States, by any of the numbered paragraphs of section 411(a) of this title. When used in the preceding sentence with respect to a trade or business (other than the performance of service as an employee), the term "United States" does not include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa in the case of an alien who is not a resident of the United States (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa); and the term "trade or business" shall have the same meaning as when used in section 162 of the Internal Revenue Code of 1954.

(*l*) Good cause for failure to make reports required

The failure of an individual to make any report required by subsection (g) or (h)(1)(A) of this section within the time prescribed therein shall not be regarded as such a failure if it is shown to the satisfaction of the Secretary that he had good cause for failing to make such report within such time. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Secretary.

(Aug. 14, 1935, ch. 531, title II, § 203, 49 Stat. 623; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; Aug. 10, 1946, ch. 951, title IV, § 406, 60 Stat. 988; Aug. 28, 1950, ch. 809, title I, §§ 102(a), 103(a), 64 Stat. 489; July 18, 1952, ch. 945, §§ 2(b)(2), 4(a)-(d), 66 Stat. 768, 773; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, §§ 102(e)(7), 103(a)-(h), (i)(3), 112(a), 68 Stat. 1070, 1073, 1078, 1085; Aug. 1, 1956, ch.

836, title I, §§ 101(d)-(g), 102(d)(11), 107(a), 112 (a), (b), 70 Stat. 808, 814, 829, 831; Aug. 28, 1958, Pub. L. 85-840, title I, § 101(f), title II, § 205(j), (k), title III, §§ 307(f), 308(a)-(e), 72 Stat. 1017, 1024, 1032, 1033; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(b), title II, §§ 209(a), 211(a)-(h), title III, § 302(a), 74 Stat. 936, 953-955, 957, 960; June 30, 1961, Pub. L. 87-64, title I, § 108(a), 75 Stat. 140; July 30, 1965, Pub. L. 89-97, title III, §§ 301(c), 306(c)(10)-(12), 308(d) (6)-(8), 310(a), 325(a), 79 Stat. 363, 373, 378-380, 399; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 101(b), 104(d)(1), 107(a), 160, 161(a), (b), 163(a)(1), 81 Stat. 826, 832, 834, 870, 872; Dec. 30, 1969, Pub. L. 91-172, title X, § 1002(b)(1), 83 Stat. 739; Mar. 17, 1971, Pub. L. 92-5, title II, § 201(b), 85 Stat. 8; July 1, 1972, Pub. L. 92-336, title II, §§ 201(b), (h)(1), 202(a)(2)(A), (B), 86 Stat. 410, 411, 415; Oct. 30, 1972, Pub. L. 92-603, title I, §§ 101(b), 102(c), 103(c), 105(a), (b), 106(a), 107(b)(1), (2), 144(a)(2), (3), 86 Stat. 1334, 1336, 1340-1343, 1370; July 9, 1973, Pub. L. 93-66, title II, § 202(a)-(c), 87 Stat. 153; Dec. 31, 1973, Pub. L. 93-233, §§ 3(k), 18(a), 87 Stat. 953, 967; Jan. 2, 1976, Pub. L. 94-202, § 8(i), 89 Stat. 1140.)

References in Text

The Internal Revenue Code of 1954, referred to in subsecs. (f)(5)(B)(ii), (k), is classified generally to Title 26, Internal Revenue Code.

Amendments

1976—Subsec. (f)(8)(B)(ii). Pub. L. 94-202 substituted "wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year" for "taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year" in cl. (I), substituted "wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973, or, if later, the calendar year preceding" for "taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1973, or, if later, the first calendar quarter of" in cl. (II), and directed that the average wages for calendar year 1978, or any prior calendar year, be deemed equal to 400% of the average wages reported for the first quarter of that year.

1973—Subsec. (f). Pub. L. 93-66, § 202(a), (b) substituted in pars. (1), (3), first sentence, and (4)(B), "$200" for "$175".

Subsec. (f)(8)(A). Pub. L. 93-233, § 3(k)(1), substituted: "with the month of June following" for "with the first month of the calendar year following", "which ends after the calendar year in which such benefit increase is effective" for "which ends with the close of or after the calendar year with the first month of which such benefit increase is effective", and "during the calendar year after the calendar year in which the benefit increase is effective" for "during such calendar year"; and deleted after "such quarter occurs" and preceding "a new exempt amount" the parenthetical text "(along with the publication of such benefit increased as required by section 415(i)(2)(D) of this title)".

Subsec. (f)(8)(B)(ii). Pub. L. 93-233, § 18(a), substituted "exempt amount" for "contribution and benefit base" and "subparagraph (A)" for "section 430(a) of this title", respectively.

Subsec. (f)(8)(B) foll. (ii). Pub. L. 93-233, § 3(k)(2), substituted "within 30 days after the close of the base quarter (as defined in section 415(i)(1)(A) of this title) in such year" for "no later than August 15 of such year".

Subsec. (f)(8)(C). Pub. L. 93-233, § 3(k)(3), struck out after "law increasing the exempt amount" the words "or providing a general benefit increase under this subchapter (as defined in section 415(i)(3) of this title)".

Subsec. (h)(1)(A). Pub. L. 93-66, § 202(c), substituted "$200" for "$175".

1972—Subsec. (a). Pub. L. 92-336, § 202(a)(2)(A), added "in or deemed to be" following "the table".

Subsec. (a)(2). Pub. L. 92-336, § 202(a)(2)(B), as amended by Pub. L. 92-603, §§ 103(c), 144(a)(3), substituted provisions relating to the reduction in the total benefits for any month after January 1971 where two or more persons were entitled to monthly benefits under section 402 or 423 of this title for January 1971 or any prior month, for provisions relating to the reduction in the total of benefits for September 1972 or any subsequent month where two or more persons were entitled to monthly benefits under section 402 or 423 of this title for August, 1972.

Pub. L. 92-336, § 201(b), substituted provisions relating to the reduction in the total of benefits for September 1972 or any subsequent month where two or more persons were entitled to monthly benefits under section 402 or 423 of this title for August 1972, for provisions relating to the reduction in the total of benefits for January 1971 or any subsequent month where two or more persons were entitled to monthly benefits under section 402 or 423 of this title for January 1971.

Subsec. (a)(2)(B). Pub. L. 92-603, § 144(a)(2), added "such" preceding "person".

Subsec. (a)(4). Pub. L. 92-336, § 201(h)(1), added subsec. (a)(4).

Subsec. (a)(5). Pub. L. 92-603, § 101(b), added subsec. (a)(5).

Subsec. (c). Pub. L. 92-603, §§ 102(c)(1), 107(b)(1), substituted "attained age 65 (but only if she became so entitled prior to attaining age (60), or from any widower's insurance benefit for any month in which the widower is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 60)" for "attained age 62 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower is entitled and has not attained age 62".

Subsec. (f)(1). Pub. L. 92-603, §§ 102(c)(2), 105(a)(1), 107(b)(2), substituted "attained age 65 (but only if she became so entitled prior to attaining age 60), or widower's insurance benefits and has not attained age 65 (but only if she became so entitled prior to attaining age 60)" for "attained age 62 (but only if she became so entitled prior to attaining age 60), or widower's insurance benefits and has not attained age 62" in cl. (D) and substituted "$175 or the exempt amount as determined under paragraph (8)" for "$140" in cl. (E).

Subsec. (f)(3). Pub. L. 92-603, §§ 105(a)(3), 106(a), substituted "shall be 50 per centum of his earnings for such year in excess of the product of $175 or the exempt amount as determined under paragraph (8)," for "shall be his earnings for such year in excess of the product of $140" and struck out ", except that of the first $1,200 of such excess (or all of such excess if it is less than $1,200), an amount equal to one-half thereof shall not be included" following "number of months in such year" and added provisions for the exclusion of certain earnings in the year of attaining age 72.

Subsec. (f)(4)(B). Pub. L. 92-603, § 105(a)(1), substituted "$175 or the exempt amount as determined under paragraph (8)" for "$140".

Subsec. (f)(8). Pub. L. 92-603, § 105(b), added par. (8).

Subsec. (h)(1)(A). Pub. L. 92-603, § 105(a)(2), substituted "$175 or the exempt amount as determined under subsection (f)(8) of this section" for "$140".

1971—Subsec. (a)(2). Pub. L. 92-5 substituted references to January 1971 for references to January 1970, substituted "December 1970" for "December 1969", and, in subpar. (B), substituted "prior to March 17, 1971" for "prior to December 30, 1969 (and prior to January 1, 1970)", and lowered the multiple of the benefit amount from 115 percent to 110 percent.

1969—Subsec. (a)(2). Pub. L. 91-172 substituted references to January 1970 for references to February 1968, and, in subpar. (B), substituted "prior to December 30, 1969 (and prior to January 1, 1970)" for "prior to February 1968", and raised the multiple of the benefit amount from 113 percent to 115 percent.

1968—Subsec. (a). Pub. L. 90-248, § 163(a)(1), provided for reduction of benefits in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual and that where such total of benefits for such month includes any benefit or benefits under section 402(d) of this title which are payable solely by reason of section 416(h)(3) of this title, the reduction shall be first applied to reduce (proportionately where there is more than one benefit so payable) the benefits so payable (but not below zero).

Subsec. (a)(2). Pub. L. 90-248, § 101(b), substituted references to February 1968 for former references to December 1964 and for former references to the enactment of the Social Security Amendments of 1965, increased the multiple of the benefit amount from 107 to 113 percent, and deleted former clause (ii) which provided that the total of monthly benefits shall not be reduced to less than the larger of the amount determined under subpar. (A) or with respect to any month after the month in which the Social Security Amendments of 1965 are enacted, an amount equal to the sum of the amounts derived by multiplying the benefit amount determined under this subchapter (including subsection (a) of this section, but without the application of section 422(b) of this title, section 402(q) of this title, and subsections (b), (c) and (d) of this section), as in effect prior to the enactment of such Amendments, for each such person (other than a person who would not be entitled to such benefits for such month without the application of the amendments made by section 306 of the Social Security Amendments of 1965) for the month of enactment, by 107 percent and raising each such increased amount, if it is not a multiple of $0.10, to the next higher multiple of $0.10.

Subsec. (c). Pub. L. 90-248, § 104(d)(1)(A), inserted after "any subsequent month" in third sentence "; nor shall any deduction be made under this subsection from any widow's insurance benefit for any month in which the widow or surviving divorced wife is entitled and has not attained age 62 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower is entitled and has not attained age 62".

Subsec. (f)(1). Pub. L. 90-248, §§ 104(d)(1)(B), 107(a)(1), added in third sentence subpar. (D) and redesignated existing provisions as subpar. (E), and substituted "$140" for "125".

Subsec. (f)(2). Pub. L. 90-248, § 104(d)(1)(C), substituted "(D), and (E)" for "and (D)".

Subsec. (f)(3). Pub. L. 90-248, § 107(a)(1), substituted "$140" for "$125".

Subsec. (f)(4). Pub. L. 90-248, § 104(d)(1)(D), substituted "(E)" for "(D)".

Subsec. (f)(4)(B). Pub. L. 90-248, § 107(a)(1), substituted "$140" for "$125".

Subsec. (g). Pub. L. 90-248, § 161(b), substituted provisions that the penalty for the first failure to report will equal one month's benefit, for the second failure to report—two month's benefits, for the third or a subsequent failure to report—three month's benefits but in no case will the penalty exceed the number of months in the period for which there is a failure to report, and defining "period for which there is a failure to report" for present provisions that the penalty for the first failure to report is one month's benefit and for subsequent failures, the penalty is an amount equal to the total amount of the benefits for all the months in which the event occurred but was not reported within the prescribed time.

Subsec. (h)(1)(A). Pub. L. 90-248, §§ 107(a)(2), 160(a), added last sentence authorizing the Secretary to extend time to report earnings up to three months if there is a valid reason for delay, and substituted "$140" for "$125".

Subsec. (h)(2). Pub. L. 90-248, § 160(b), substituted in text preceding subpar. (A) "by or in accordance with such paragraph" for "therein".

Subsec. (h)(2)(A). Pub. L. 90-248, § 161(a), inserted exception provision that if the deduction is less than the amount of his benefits for the last month for which he was entitled to benefits, the additional deduction will be the amount of the deduction under subsec. (b) but not less than ten dollars.

1965—Subsec. (a)(2). Pub. L. 89-97, § 301(c), substituted provisions to assure an increase in the family benefits for families who were on the benefit rolls after December 1964 and whose benefits were determined under former provisions by providing that the maximum family benefit of each month after December 1964 will be the larger of (1) the family maximum specified in column V of the new table or (2) the sum of all family members' benefits after each such benefit has been increased by seven percent (and rounded to the next higher ten cents if it is not already a multiple of ten cents), for former provisions restricting the reduction of total benefits to individuals entitled to monthly benefits under section 402 or 423 of this title for December 1958.

Subsec. (a)(3). Pub. L. 89-97, §§ 301(c), 308(d)(6), struck out former par. (3) which was a special saving clause for maximum family benefits of people who became disabled before 1959 since families whose benefits were determined under such par. (3) are now covered by subsec. (a)(2) of this section, and added par. (3), respectively.

Subsec. (c). Pub. L. 89-97, § 306(c)(10), (11), inserted in the next to last sentence "paragraph (1) of section 402(s) of this title applies or" following "for any month in which" and in the last sentence the introductory phrase "Subject to paragraph (3) of such section 402(s)", respectively.

Subsec. (c)(4). Pub. L. 89-97, § 308(d)(7), substituted "surviving divorced mother" for "former wife divorced".

Subsec. (d)(1). Pub. L. 89-97, § 308(d)(8), inserted "divorced wife," following "wife,".

Subsec. (f)(1). Pub. L. 89-97, §§ 306(c)(12), 310(a)(1), inserted "but subject to section 402(s) of this title" following "Notwithstanding the preceding provisions of this paragraph" in the last sentence and substituted "$125" for "$100", respectively.

Subsec. (f)(3). Pub. L. 89-97, § 310(a)(1), (2), substituted "$125" for "$100" and "$1,200" for "$500" in two instances respectively.

Subsec. (f)(4)(B). Pub. L. 89-97, § 310(a)(1), substituted "$125" for "$100".

Subsec. (f)(5)(B). Pub. L. 89-97, § 325(a)(1), broke down existing provisions into clauses (i) and (ii), provided, in clause (ii), for exclusion from gross income of amounts provided by subpar. (D) of this par., and, in clause (ii), inserted reference to distributive share of loss described in section 702(a)(9) of Title 26.

Subsec. (f)(5)(D). Pub. L. 89-97, § 325(a)(2), added subpar. (D).

Subsec. (h)(1)(A). Pub. L. 89-97, § 310(a)(3), substituted "$125" for "$100".

1961—Subsec. (f)(3). Pub. L. 87-64 substituted "$500" for "$300" in two instances.

1960—Subsec. (a)(3). Pub. L. 86-778, § 302(a), substituted ", then such total of benefits shall not be reduced to less than $99.10 if such primary insurance amount is $66, to less than $102.40 if such primary insurance amount is $67, to less than $106.50 if such primary insurance amount is $68, or, if such primary insurance amount is higher than $68, to less than the smaller of" for "and is not less than $68, then such total of benefits shall not be reduced to less than the smaller of" in the provisions following cl. (B), and "the amount determined under this subsection without regard to this paragraph, or $206.60, whichever is larger" for "the last figure in column V of the table appearing in section 415(a) of this title" in cl. (C).

Subsec. (b). Pub. L. 86-778, § 211(a), amended subsec. (b) generally, and among other changes, authorized deductions from payments to which any other persons are entitled on the basis of an individual's wages and self-employed income, substituted provisions requiring deductions for months in which an individual is charged with excess earnings under the provisions of subsec. (f) of this section for provisions which required

deductions for months in which an individual is charged with any earnings under the provisions of subsec. (e) of this section, and inserted the second, third, fourth and fifth sentences. Former clauses (2)–(5) and the closing paragraph of subsec. (b) are now covered by subsec. (c) of this section.

Subsec. (c). Pub. L. 86-778, § 211(b), redesignated the opening provisions, clauses (2) to (5) and the closing provisions of former subsec. (b) of this section as the opening provisions, clauses (1) to (4) and the closing provisions of subsec. (c), respectively. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 86-778, § 211(c), added subsec. (d) and redesignated former subsec. (d) as (e). Provisions of subsec. (d) were formerly contained in subsec. (c) of this section.

Subsec. (e). Pub. L. 86-778, § 211(c), (d), redesignated former subsec. (d) as (e), substituted "subsections (c) and (d) of this section" for "subsections (b) and (c) of this section", and eliminated provisions which required the charging of any earnings to any month to be treated as an event occurring in such month. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 86-778, § 211(c), (e), redesignated former subsec. (e) as (f), and amended such subsection by inserting pars. (3) and (7), substituting provisions requiring an amount of an individual's excess earnings equal to the sum of the payments to which he and all other persons are entitled for the month under section 402 of this title on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum) to be charged to the first month of the taxable year, and the balance, if any, of such excess earnings to be charged to each succeeding month in such year to the extent, in the case of each month, of the sum of the payments to which such individual and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged, for provisions which required the first $80 of earnings in excess of $1,200 to be charged to the first month of the taxable year, and the balance, if any, at the rate of $80 per month to each succeeding month in such year until all of the balance has been applied, and adding provisions requiring the excess earnings of an individual for any taxable year, where an individual is entitled to benefits under section 402(a) of this title and other persons are entitled to benefits under section 402 (b), (c), or (d) of this title on the basis of the wages and self-employment income of such individual, to be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 86-778, §§ 209(a), 211(c), redesignated former subsec. (f) as (g), and substituted therein "subsection (c) of this section" for "subsection (b) or (c) of this section" in two instances, and eliminated words "(other than an event specified in subsection (b)(1) or (c)(1) of this section)" which followed "of an event specified therein." Former subsec. (g) was redesignated (h).

Subsec. (h). Pub. L. 86-778, § 211(c), (f), redesignated former subsec. (g) as (h), and substituted therein "paragraph (5) of subsection (f) of this section" for "paragraph (4) of subsection (e) of this section" in two instances, "paragraph (3) of this subsection" for "paragraph (3) of subsection (g) of this section", "subsection (b) of this section" for "subsection (b)(1) of this section" in five instances, and "suspend the total or less than the total payment" for "suspend the payment." Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 86-778, § 211(c), (g), redesignated former subsec. (h) as (i) and substituted therein "subsection (b), (c), (g), or (h) of this section" for "subsection (b), (f), or (g) of this section." Former subsec. (i) was repealed by Act Sept. 1, 1954, ch. 1206, title I, § 112(a), 68 Stat. 1085.

Subsec. (k). Pub. L. 86-778, § 103(b), substituted "the Commonwealth of Puerto Rico, the Virgin Islands, Guam or American Samoa" for "Puerto Rico or the Virgin Islands", and "the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa" for "Puerto Rico and the Virgin Islands".

Subsec. (*l*). Pub. L. 86-778, § 211(h), substituted "subsection (g) or (h)(1)(A) of this section" for "subsection (f) or (g)(1)(A) of this section".

1958—Subsec. (a). Pub. L. 85-840, § 101(f), substituted provisions limiting the total of monthly benefits under sections 402 and 423 of this title to the amount provided in column V of the table in section 415(a) of this title for provisions which limited the total of monthly benefits under section 402 of this title to $50, or 80% of the average monthly wage, or one and one-half times the primary insurance amount, whichever is greater, with a maximum amount of $200 and inserted provisions limiting the reduction for individuals who were entitled to monthly benefits under section 402 or 423 of this title for December 1958, and for individuals entitled to monthly benefits with respect to whom a period of disability began prior to January 1959 and continued until he became entitled to benefits under section 402 or 423 of this title, or he died, whichever first occurred.

Subsec. (c). Pub. L. 85-840, § 205(j), inserted ", based on the wages and self-employment income of an individual entitled to old-age insurance benefits," preceding "to which a wife" in the opening provisions of par. (1), and Pub. L. 85-840, § 307(f), designated existing provisions of subsec. (c) as par. (1), redesignated subpars. (1) and (2) of par. (1) as subpars. (A) and (B), substituted in subpar. (B) of par. (1) "subparagraph (A)" for "paragraph (1)", and added par. (2).

Subsec. (e)(2). Pub. L. 85-840, § 308(a), (c), substituted "first month" for "last month" and "succeeding month" for "preceding month" wherever appearing, and "$100" for "$80" in cl. (D).

Subsec. (e)(3). Pub. L. 85-840, § 308(b), (c), substituted "the term 'first month of such taxable year' means the earliest month" for "the term 'last month of such taxable year' means the latest month" in cl. (A), and "$100" for "$80" in cl. (B)(ii).

Subsec. (g)(1). Pub. L. 85-840, § 308(d), designated existing provisions thereof as subpar. (A) and inserted provisions therein dispensing with the need for a report for any taxable year if benefit payments for all months (in such taxable year) in which such individual is under age 72 have been suspended under the provisions of the first sentence of par. (3) of this subsection, and added subpar. (B).

Subsec. (h). Pub. L. 85-840, § 205(k), eliminated provisions that related to reductions by reason of the provisions of section 424 of this title.

Subsec. (*l*). Pub. L. 85-840, § 308(e), substituted "(g)(1)(A) of this section" for "(g) of this section".

1956—Subsec. (a). Act Aug. 1, 1956, § 101(d), inserted "after any deductions under section 422(b) of this title, and after any reduction under section 424 of this title" in two instances.

Subsec. (b). Act Aug. 1, 1956, § 101(e), inserted paragraph providing that a child should not be considered to be entitled to a child's insurance benefit for any month in which an event specified in section 422(b) of this title occurs with respect to such child, and prohibiting any deduction from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of 18 or any subsequent month.

Subsec. (b)(3). Act Aug. 1, 1956, § 102(d)(11), substituted "age 65" for "retirement age" and inserted "any such wife's insurance benefit for such month was not reduced under the provisions of section 402(q) of this title".

Subsec. (d). Act Aug. 1, 1956, § 101(f), included events specified in section 422(b) of this title.

Subsec. (e)(4)(C). Act Aug. 1, 1956, § 112(a), inserted "or performed outside the United States in the active military or naval service of the United States" after "performed within the United States by the individual as an employee".

Subsec. (g)(1). Act Aug. 1, 1956, § 107(a), permitted reports to be made on or before the fifteenth day of the fourth month following the close of the year.

Subsec. (h). Act Aug. 1, 1956, § 101(g), included deductions by reason of the provisions of section 422(b) of this title, and reductions by reason of the provisions of section 424 of this title.

Subsec. (k). Act Aug. 1, 1956, § 112(b), inserted "and are not performed in the active military or naval service of the United States" following "section 410 of this title".

1954—Subsec. (a). Act Sept. 1, 1954, § 102(e)(7), increased maximum limitations on the total monthly amount of benefits.

Subsec. (b)(1), (2). Act Sept. 1, 1954, § 103(a), (i)(3), put into effect an annual retirement test for beneficiaries whether they have wage or self-employment earnings, or both, added a provision for making deductions on account of nonrecovered remunerative activity outside the United States, and provided that deductions because of such provisions be made from an individual's benefits only for months in which he is under the age of 72, rather than 75.

Subsec. (c). Act Sept. 1, 1954, § 103(b), (i)(3), provided that deductions be made from a dependent's benefits for any month in which the primary beneficiary was under the age of 72, and for which he was charged with any earnings for work deduction purposes under subsec. (e) or on 7 or more different calendar days of which he engaged in noncovered remunerative activity outside the United States.

Subsec. (d). Act Sept. 1, 1954, § 103(c), provided that the charging of earnings shall be treated as an event occurring in the month to which such earnings are charged.

Subsec. (e)(1), (2). Act Sept. 1, 1942, § 103(d)(1), (2), (i)(3), provided a method for charging earnings to particular months of the year for purposes of determining the deductions required under subsecs. (b) and (c).

Subsec. (e)(3)(B). Act Sept. 1, 1954, § 103(d)(3), provided authority to presume, for purposes of charging earnings to calendar months, that an individual rendered services for wages of more than $80 in any month.

Subsec. (e)(4), (5). Act Sept. 1, 1954, § 103(d)(4), added subsec. (e)(4), (5).

Subsec. (f). Act Sept. 1, 1954, § 103(e), clarified the penalty provisions.

Subsec. (g). Act Sept. 1, 1954, § 103(f)(1), amended catchline.

Subsec. (g)(1). Act Sept. 1, 1954, § 103(f)(2), (3), provided that if an individual entitled to any monthly benefit in a taxable year has earnings or wages in excess of $100 times the number of months in such year, he must make a report to the Secretary of his earnings for such taxable year, and substituted "seventy-two" for "seventy-five".

Subsec. (g)(2). Act Sept. 1, 1954, § 103(f)(4), provided a schedule of penalty deductions for failure to make required reports within the time prescribed by subsec. (g)(1) if any deduction is imposed because of earnings in such year.

Subsec. (g)(3). Act Sept. 1, 1954, § 103(f)(5), substituted "subsection (b)(1)" for "subsection (b)(2)", "earnings" for "net earnings from self-employment", and "such earnings" for "such net earnings", and added a new sentence at the end.

Subsec. (i). Act Sept. 1, 1954, § 112(a), repealed subsec. (i), effective Sept. 1, 1954, and also provided that no deductions should be made pursuant to such subsec. (i) from any benefits for any month after August 1954.

Subsec. (j). Act Sept. 1, 1954, § 103(f)(6), (i)(3), substituted "seventy-two" for "seventy-five".

Subsec. (k). Act Sept. 1, 1954, § 103(g), added subsec. (k).

Subsec. (l). Act Sept. 1, 1954, § 103(h), added subsec. (l).

1952—Subsec. (a). Act July 18, 1952, § 2(b)(2), increased the maximum and minimum monthly benefits payable a family.

Subsecs. (b)(1), (2), (c)(1), (2), (e), and (g). Act July 18, 1952, § 4(a) to (d), substituted $75 for $50 wherever appearing.

1950—Subsec. (a). Act Aug. 28, 1950, § 102(a), amended subsec. (a) generally to consolidate provisions of former subsecs. (a) to (c) of this section and to liberalize the maximum amount of monthly benefits payable.

Subsec. (b). Act Aug. 28, 1950, § 103(a), provided that deductions are to be made from benefits for any month in which a beneficiary is under age 75 and either renders services for wages of more than $50, or is charged with net earnings from self-employment of more than $50, and provided that deductions are to be made for any month in which a wife, widow or divorced wife does not have in her care a child or her husband or former husband entitled to a child's insurance benefit.

Subsec. (c). Act Aug. 28, 1950, § 103(a), provided for the making of deductions from dependents benefits for any month in which the old-age beneficiary suffers a reduction in his benefit.

Subsec. (d). Act Aug. 28, 1950, § 103(a), added second sentence.

Subsec. (e). Act Aug. 28, 1950, § 103(a), provided the method for charging net earnings from self-employment to the particular months of the taxable year for the purpose of determining deductions under subsecs. (b)(2) and (c)(2) of this section.

Subsec. (f). Act Aug. 28, 1950, § 103(a), continued provisions requiring the reporting of any event which causes a deduction from benefits.

Subsec. (g). Act Aug. 28, 1950, § 103(a), outlined circumstances under which beneficiaries with net earnings from self-employment are required to file report with the Federal Security Administrator.

Subsec. (h). Act Aug. 28, 1950, § 103(a), pointed out circumstances under which deductions otherwise required under subsecs. (b), (f), and (g) of this section will not be made.

Subsecs. (i), (j). Act Aug. 28, 1950, § 103(a), added subsecs. (i) and (j).

1946—Subsec. (g). Act Aug. 10, 1946, § 406(b), added exception limiting the first deduction for failure to report to one month's benefit.

Subsec. (d)(2). Act Aug. 10, 1946, § 406(a), which related to deductions for failure to attend school.

1939—Act Aug. 10, 1939, amended section generally.

Effective Date of 1973 Amendment

Section 202(d) of Pub. L. 93-66 provided that: "The amendments [of subsecs. (f)(1), (3), (4)(B) and (h)(1)(A) of this section] made by this section shall be effective with respect to taxable years beginning after December 31, 1973."

Effective Date of 1972 Amendments

Amendment of subsec. (a) by section 101(b) of Pub. L. 92-603 applicable with respect to monthly insurance benefits under this subchapter for months after Dec. 1972 and with respect to lump-sum death payments under this subchapter in the case of deaths occurring after such month, see section 101(g) of Pub. L. 92-603, set out as Effective Date of 1972 Amendments note under section 415 of this title.

Section 202(a)(2)(A) of Pub. L. 92-336 provided in part that the amendment to subsec. (a) shall take effect Jan. 1, 1974.

Section 202(a)(2)(B) of Pub. L. 92-336 provided in part that the amendment to subsec. (a)(2) shall take effect Jan. 1, 1974.

Amendment of subsec. (a)(2) by section 201(b) of Pub. L. 92-336 applicable with respect to monthly benefits under subchapter II of this chapter for months after August 1972 and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after such month, see section 201(i) of Pub. L. 92-336, set out as an Effective Date of 1972 Amendments note under section 415 of this title.

Section 144(b) of Pub. L. 92-603 provided that: "The amendments made by each of the paragraphs in sub-

section (a) [amending subsec. (a)(2)(B) of this section and subsec. (a)(2)(C), eff. Jan. 1, 1974, and sections 415(a) and 430(b)(2) of this title] shall be effective in like manner as if such amendment had been included in title II of Public Law 92-336 in the particular provision of such title referred to in such paragraph."

Amendment of subsec. (a)(4) by section 201(h)(1) of Pub. L. 92-336 applicable with respect to monthly benefits under subchapter II of this chapter for months after December 1971, see section 201(i) of Pub. L. 92-336, set out as an Effective Date of 1972 Amendments note under section 415 of this title.

Amendment of subsecs. (c) and (f) by section 102(c) of Pub. L. 92-603 applicable with respect to monthly benefits under this subchapter for months after Dec. 1972, see section 102(i) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 402 of this title.

Amendment of subsecs. (c) and (f)(1)(D) by section 107(b)(1), (2) of Pub. L. 92-603 applicable with respect to monthly benefits under this subchapter for months after Dec. 1972, with specified exceptions, see section 107(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 402 of this title.

Section 105(c) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsecs. (f) and (h) of this section] shall apply with respect to taxable years ending after December 1972."

Section 106(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [amending subsec. (f)(3) of this section to provide for the exclusion of certain earnings in year of attaining age 72] shall apply with respect to taxable years ending after December 1972."

Effective Date of 1971 Amendment

Amendment by Pub. L. 92-5 applicable with respect to monthly benefits under subchapter II of this chapter for months after Dec. 1970 and with respect to lump-sum death payments under such subchapter in the case of deaths occurring in and after March 1971, see section 201(e) of Pub. L. 92-5, set out as an Effective Date of 1971 Amendment note under section 415 of this title.

Effective Date of 1969 Amendment

Amendment of subsec. (a)(2) by Pub. L. 91-172 applicable with respect to monthly benefits under this subchapter for months after Dec. 1969 and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after December 1969, see section 1002(e) of Pub. L. 91-172, set out as an Effective Date of 1969 Amendment note under section 415 of this title.

Effective Date of 1968 Amendment

Amendment of subsec. (a)(2) by section 101(b) of Pub. L. 90-248 applicable with respect to monthly benefits and lump-sum death benefits in the case of deaths occurring after January 1968, under this subchapter for months after January 1968, see section 101(e) of Pub. L. 90-248 set out as an Effective Date of 1968 Amendment note under section 415 of this title.

Amendment of subsecs. (c), (f)(1), (2), (4) by section 104 of Pub. L. 90-248 applicable with respect to monthly benefits under this subchapter for and after the month of February 1968, but only on the basis of applications for such benefits filed in or after January 1968, see section 104(e) of Pub. L. 90-248 set out as an Effective Date of 1968 Amendment note under section 402 of this title.

Section 107(b) of Pub. L. 90-248 provided that: "The amendments made by subsection (a) [to subsecs. (f)(1), (3), (4)(B), and (h)(1)(A) of this section] shall apply with respect to taxable years ending after December 1967."

Section 163(a)(2) of Pub. L. 90-248 provided that: "The amendment made by paragraph (1) [to subsec. (a) of this section] shall apply only with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] with respect to individuals who become entitled to benefits under section 202(d) of such Act [section 402(d) of this title] solely by reason of section 216(h)(3) of such Act [section 416(h)(3) of this title] in or after January 1968 (but without regard to section 202(j)(1) of such Act [section 402(j)(1) of this title]). The provisions of section 170 of this Act [set out as Savings Provisions note below] shall not apply with respect to any such individual."

Effective Date of 1965 Amendment

Amendment of subsec. (a) by section 301(c) of Pub. L. 89-97 applicable with respect to monthly benefits under this subchapter for months after December 1964 and with respect to lump-sum death benefits payments under this subchapter in the case of deaths occurring in or after July 1965, see section 301(d) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 415 of this title.

Amendment of subsec. (a)(3), (c)(4), and (d)(1) by section 308 of Pub. L. 89-97 applicable with respect to monthly insurance benefits under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 402 of this title.

Section 310(b) of Pub. L. 89-97 provided that: "The amendments made by subsection (a) [to subsecs. (f)(1), (3), (4)(B) and (h)(1)(A) of this section] shall apply with respect to taxable years ending after December 31, 1965."

Section 325(b) of Pub. L. 89-97 provided that: "The amendments made by subsection (a) [to subsec. (f)(5)(B), (D) of this section] shall apply with respect to the computation of net earnings from self-employment and the net loss from self-employment for taxable years beginning after 1964."

Effective Date of 1961 Amendment

Section 108(b) of Pub. L. 87-64 provided that: "The amendment made by subsection (a) [to subsec. (f)(3) of this section] shall apply in the case of taxable years ending after the enactment of this Act [June 30, 1961]."

Effective Date of 1960 Amendment

Section 302(b) of Pub. L. 86-778 provided that: "The amendments made by subsection (a) [to subsec. (a)(3) of this section] shall apply only in the case of monthly benefits under section 202 or section 223 of the Social Security Act [section 402 or section 423 of this title] for months after the month following the month in which this Act is enacted [Sept. 1960], and then only (1) if the insured individual on the basis of whose wages and self-employment income such monthly benefits are payable became entitled (without the application of section 202(j)(1) or section 223(b) of such Act [section 402(j)(1) or section 423(b) of this title]) to benefits under section 202(a) or section 223 of such Act [section 402(a) or section 423 of this title] after the month following the month in which this Act is enacted [Sept. 1960], or (2) if such insured individual died before becoming so entitled and no person was entitled (without the application of section 202(j)(1) or section 223(b) of such Act [section 402(j)(1) or section 423(b) of this title]) on the basis of such wages and self-employment income to monthly benefits under title II of the Social Security Act [this subchapter] for the month following the month in which this Act is enacted [Sept. 1960] or any prior month."

Section 211(p) to (s) of Pub. L. 86-778 provided that:

"(p) Section 203(c), (d), (e), (g), and (i) of the Social Security Act as amended by this Act [subsecs. (c), (d), (e), (g), and (i) of this section] shall be effective with respect to monthly benefits for months after December 1960.

"(q) Section 203(b), (f), and (h) of the Social Security Act as amended by this Act [subsecs. (b) (f) and (h) of this section] shall be effective with respect to taxable years beginning after December 1960.

"(r) Section 203(*l*) of the Social Security Act as amended by this Act [subsec. (*l*) of this section], to the extent that it applies to section 203(g) of the Social Security Act as amended by this Act [subsec. (g) of this section], shall be effective with respect to monthly benefits for months after December 1960 and, to the extent that it applies to section 203(h)(1)(A) of the Social Security Act as amended by this Act [subsec. (h)(1)(A) of this section], shall be effective with respect to taxable years beginning after December 1960.

"(s) The amendments made by subsections (i), (j), (k), (*l*), (m), (n), and (o) [to sections 402(n)(1), (q)(5), (6), (t)(7), 408(a)(3), and 415(g) of this title and sections 228c and 228e of Title 45], to the extent that they make changes in references to provisions of section 203 of the Social Security Act [this section], shall take effect in the manner provided in subsections (p) and (q) of this section for the provisions of such section 203 to which the respective references so changed relate."

Amendment of subsec. (k) by Pub. L. 86-778 applicable only with respect to service performed after 1960, except that insofar as the carrying on of a trade or business (other than performance of service as an employee) is concerned, the amendment shall be applicable only in the case of taxable years beginning after 1960, see section 103(v)(1) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendments note under section 402 of this title.

Effective Date of 1958 Amendments

Amendment of subsec. (a) by Pub. L. 85-840 applicable in the case of monthly benefits under subchapter II of this chapter for months after December 1958, and in the case of lump-sum death payments under subchapter II of this chapter, with respect to deaths occurring after such month, see section 101(g) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 415 of this title.

Amendment of subsec. (c) by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207(a) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 416 of this title.

Section 307(h)(2) of Pub. L. 85-840 provided that: "The amendments made by subsection (f) [to subsec. (c)(1), (2) of this section] shall apply with respect to monthly benefits under subsection (d) or (g) of section 202 of the Social Security Act [subsec. (d) or (g) of section 402 of this title] for months in any taxable year, of the individual to whom the person entitled to such benefits is married, beginning after the month in which this Act is enacted [August 1958]."

Section 308(f) of Pub. L. 85-840 provided that: "The amendments made by this section [to subsecs. (e)(2), (3), (g)(1) and (*l*) of this section] shall be applicable with respect to taxable years beginning after the month in which this Act is enacted [August 1958]."

Amendment of subsec. (h) by section 205(k) of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for August 1958 and succeeding months, see section 207(a) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 416 of this title.

Effective Date of 1956 Amendment

Amendment of subsecs. (a), (b), (d), and (h) by section 101(d) to (g) of act Aug. 1, 1956, applicable with respect to monthly benefits under section 402 of this title for months after December 1956, but only on the basis of an application filed after September 1956, see section 101(h) of act Aug. 1, 1956, set out as an Effective Date of 1956 Amendment note under section 402 of this title.

Section 107(a) of act Aug. 1, 1956, provided in part that the amendment to subsec. (g)(1) shall be applicable in the case of monthly benefits under this subchapter for months in any taxable year (of the individual entitled to such benefits) beginning after 1954.

Section 112(c) of act Aug. 1, 1956, provided that: "The amendments made by subsections (a) and (b) [to subsecs. (e)(4)(C) and (k) of this section] shall be applicable with respect to taxable years ending after 1955."

Effective Date of 1954 Amendment

Section 103(i)(1) and (2) of act Sept. 1, 1954, provided that:

"(1) The amendments [to subsecs. (g) and (b)(1)] made by subsection (f) and by paragraph (1) of subsection (a) of this section shall be applicable in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months in any taxable year (of the individual entitled to such benefits) beginning after December 1954. The amendments [to subsec. (c)(1)] made by paragraph (1) of subsection (b) of this section shall be applicable in the case of monthly benefits under such title II for months in any taxable year (of the individual on the basis of whose wages and self-employment income such benefits are payable) beginning after December 1954. The amendments [to subsecs. (f), (k), (b)(2), and (c)(2)] made by subsections (e) and (g), and by paragraph (2) of subsection (a) and paragraph (2) of subsection (b), shall be applicable in the case of monthly benefits under such title II for months after December 1954. The remaining amendments made by this section (other than [the adding of subsec. (*l*) by] subsection (h)) shall be applicable, insofar as they are related to the monthly benefits of an individual which are based on his wages and self-employment income, in the case of monthly benefits under such title II for months in any taxable year (of such individual) beginning after December 1954 and, insofar as they are related to the monthly benefits of an individual which are based on the wages and self-employment income of someone else, in the case of monthly benefits under such title II for months in any taxable year (of the individual on whose wages and self-employment income such benefits are based) beginning after December 1954.

"(2) No deduction shall be imposed on or after the date of the enactment of this Act [Sept. 1, 1954] under subsection (f) or (g) of section 203 of the Social Security Act [subsecs. (f) or (g) of this section], as in effect prior to such date, on account of failure to file a report of an event described in subsection (b)(1), (b)(2), or (c)(1) of such section [this section] (as in effect prior to such date); and no such deduction imposed prior to such date shall be collected after such date. In determining whether, under section 203(g)(2) of the Social Security Act, as amended by this Act [subsec. (g)(2) of this section], a failure to file a report is a first or subsequent failure, any failure with respect to a taxable year which began prior to January 1955 shall be disregarded."

Amendment to subsec. (a) by act Sept. 1, 1954, § 102(e)(7), applicable in the case of lump-sum death payments under section 402 of this title with respect to deaths occurring, and in the case of monthly benefits under such section for months after, August 1954, see the Effective Date of 1954 Amendment note set out under section 415 of this title.

Subsecs. (b)(1), (b)(2), (c), (e) and (j) as in effect prior to Sept. 1, 1954, to the extent that they were in effect with respect to months after 1954, were each amended by act Sept. 1, 1954, § 103(i)(3), which substituted "seventy-two" for "seventy-five", but only with respect to such months after 1954.

Effective Date of 1952 Amendment

For effective date of amendment of subsec. (a) by act July 18, 1952, see note set out under section 415 of this title.

Section 4(e) of act July 18, 1952, provided that: "The amendments made by subsection (a) [to subsecs. (b)(1)

and (c)(1) of this section] shall apply in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after August 1952. The amendments made by subsection (b) [to subsec. (b)(2) of this section] shall apply in the case of monthly benefits under such title II [this subchapter] for months in any taxable year (of the individual entitled to such benefits) ending after August 1952. The amendments made by subsection (c) [to subsec. (c)(2) of this section] shall apply in the case of monthly benefits under such title II [this subchapter] for months in any taxable year (of the individual on the basis of whose wages and self-employment income such benefits are payable) ending after August 1952. The amendments made by subsection (d) [to subsecs. (e), (g) of this section] shall apply in the case of taxable years ending after August 1952. As used in this subsection, the term "taxable year" shall have the meaning assigned to it by section 211(e) of the Social Security Act [section 411(e) of this title]."

Effective Date of 1950 Amendment

Section 102(b) of act Aug. 28, 1950, provided that the amendment of subsection (a) by said act Aug. 28, 1950, should be applicable with respect to benefits for months after August 1950.

Section 103(b) of act Aug. 28, 1950, provided that: "The amendments made by this section shall take effect September 1, 1950, except that the provisions of subsections (d), (e), and (f) of section 203 of the Social Security Act [subsections (d) to (f) of this section] as in effect prior to the enactment of this Act [Aug. 28, 1950] shall be applicable for months prior to September 1950."

Effective Date of 1939 Amendment

Amendment by act Aug. 10, 1939, effective Jan. 1, 1940, see section 201 of act Aug. 10, 1939.

Savings Provisions

Section 201(h)(2) of Pub. L. 92-336 provided that: "In any case in which the provisions of section 1002(b)(2) of the Social Security Amendments of 1969 [set out as a note under this section] were applicable with respect to benefits for any month in 1970, the total of monthly benefits as determined under section 203(a) of the Social Security Act [subsec. (a) of this section] shall, for months after 1970, be increased to the amount that would be required in order to assure that the total of such monthly benefits (after the application of section 202(q) of such Act [section 402(q) of this title]) will not be less than the total of monthly benefits that was applicable (after the application of such sections 203(a) and 202(q) for the first month for which the provisions of such section 1002(b)(2) applied."

Section 1002(b)(2) of Pub. L. 91-172 provided that: "Notwithstanding any other provisions of law, when two or more persons are entitled to monthly insurance benefits under title II of the Social Security Act [this subchapter] for any month after 1969 on the basis of the wages and self-employment income of an insured individual (and at least one of such persons was so entitled for a month before January 1971 on the basis of an application filed before 1971), the total of the benefits to which such persons are entitled under such title of such month (after the application of sections 203(a) and 202(q) of such Act [sections 403(a) and 402(q) of this title]) shall be not less than the total of the monthly insurance benefits to which such persons would be entitled under such title for such month (after the application of such sections 203(a) and 202(q) [sections 403(a) and 402(q) of this title]) without regard to the amendment made by subsection (a) of this section [amending tables set out in section 415(a) of this title]."

Section 170 of Pub. L. 90-248 provided that:

"Where—

"(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to monthly benefits under section 202 or 223 of such Act [section 402 or 423 of this title] for January 1968 on the basis of the wages and self-employment income of an individual, and

"(2) one or more persons (not included in paragraph (1)) become entitled to monthly benefits under such section 202 [section 402 of this title] for February 1968 on the basis of such wages and self-employment by reason of the amendments made to such Act [this chapter] by sections 104 [to sections 402(e)(1)(B), foll. (E), (F), (G), 5, 6, (f)(1)(B), (F), (G), 3, 6, 7, (q), (q)(1)(A), (C), (D), 3(A), (C) to (G), 6, 7, 9, 403(c), (f)(1), (2), (4), 416(i)(1), 422(a), (b)(1), (d)(1)(C), (D), and 425 of this title], 112 [to section 402(d)(8)(E) of this title], 150 [to section 416(e) second sent. of this title], 151 [to section 402(d)(3) to (10), (s)(2), (3) of this title and section 228(e)(I)(1) of Title 45, Railroads], 156 [to section 416(c)(5), (e) first sent., (g)(5), (k) of this title], and 157 of this Act [to section 402(c)(1), (2), (f)(1), (2), and 402 note of this title], and

"(3) the total of benefits to which all persons are entitled under such section 202 or 223 [section 402 or 423 of this title] on the basis of such wages and self-employment for February 1968 are reduced by reason of section 203(a) of such Act [subsec. (a) of this section], as amended by this Act (or would, but for the penultimate sentence of such section 203(a) [subsec. (a) of this section], be so reduced),

then the amount of the benefit to which each such person referred to in paragraph (1) is entitled for months after January 1968 shall be increased, after the application of such section 203(a) [subsec. (a) of this section], to the amount it would have been if the person or persons referred to in paragraph (2) were not entitled to a benefit referred to in such paragraph."

Section 102(h) of act Sept. 1, 1954, provided that:

"(1) Where—

"(A) an individual was entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to an old-age insurance benefit under title II of such Act [this subchapter] for August 1954;

"(B) one or more other persons were entitled (without the application of such section 202(j)(1) [section 402(j)(1) of this title]) to monthly benefits under such title for such month on the basis of the wages and self-employment income of such individual; and

"(C) the total of the benefits to which all persons are entitled under such title on the basis of such individual's wages and self-employment income for any subsequent month for which he is entitled to an old-age insurance benefit under such title, would (but for the provisions of this paragraph) be reduced by reason of the application of section 203(a) of the Social Security Act, as amended by this Act [subsec. (a) of this section],

then the total of benefits referred to in clause (C) for such subsequent month shall be reduced to whichever of the following is the larger—

"(D) the amount determined pursuant to section 203(a) of the Social Security Act, as amended by this Act [subsec. (a) of this section]; or

"(E) the amount determined pursuant to such section, as in effect prior to the enactment of this Act [Sept. 1, 1954], for August 1954 plus the excess of (i) the amount of his old-age insurance benefit for such month computed as if the amendments [to section 415 of this title and subsec. (a) of this section] made by the preceding subsections of this section had been applicable in the case of such benefit for such month over (ii) the amount of his old-age insurance benefit for such month, or

"(F) the amount determined pursuant to section 2(d)(1) of the Social Security Act Amendments of 1952 [set out as a note under section 415 of this title] for August 1954 plus the excess of (i) the amount of his old-age insurance benefit for such month computed as if the amendments made by the

preceding subsections of this section had been applicable in the case of such benefit for such month over (ii) the amount of his old-age insurance benefit for such month.

"(2) Where—

"(A) two or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to monthly benefits under title II of such Act [this subchapter] for August 1954 on the basis of the wages and self-employment income of a deceased individual; and

"(B) to total of the benefits to which all such persons are entitled on the basis of such deceased individual's wages and self-employment income for any subsequent month would (but for the provisions of this paragraph) be reduced by reason of the application of the first sentence of section 203(a) of the Social Security Act, as amended by this Act [subsec. (a) of this section],

then, notwithstanding any other provision in title II of the Social Security Act [this subchapter], such deceased individual's average monthly wage shall, for purposes of such section 203(a) [subsec. (a) of this section], be whichever of the following is the larger:

"(C) his average monthly wage determined pursuant to section 215 of such Act, as amended by this Act [section 415 of this title]; or

"(D) his average monthly wage determined under such section 215, as in effect prior to the enactment of this Act [Sept. 1, 1954], plus $7."

Transfer of Functions

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953 set out under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Retirement Test Exempt Amount for 1976

By notice of the Secretary of Health, Education, and Welfare, Oct. 22, 1975, 40 F.R. 50556, it was determined and announced that, pursuant to authority contained in subsec. (f)(8) of this section, the monthly exempt amount under the retirement test would be $230 with respect to taxable years ending in calendar year 1976.

Cost-of-Living Increase in Benefits

For purposes of subsec. (f)(8) of this section, the increase in benefits provided by section 2 of Pub. L. 93-233, revising benefits table of section 415(a) of this title and amending sections 427(a), (b) and 428(b)(1), (2), (c)(3)(A), (B) of this title considered an increase under section 415(i) of this title, see section 3(i) of Pub. L. 93-233, set out as a note under section 415 of this title.

Penalties for Failure to File Timely Reports of Earnings and Other Events

Section 161(c) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsecs. (h)(2)(A) and (g) of this section] shall apply with respect to any deductions imposed on or after the date of the enactment of this Act [Jan. 2, 1968] under subsections (g) and (h) of section 203 of the Social Security Act [subsecs. (g) and (h) of this section] on account of failure to make a report required thereby."

Computation of Benefits for Certain Children

Section 163(b) of Pub. L. 90-248 provided that:

"Where—

"(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to monthly benefits under section 202 or 223 of such Act [section 402 or 423 of this title] for January 1968 on the basis of the wages and self-employment income of an individual, and

"(2) one or more persons became entitled to monthly benefits before January 1968 under section 202(d) of such Act [section 402(d) of this title] by reason of section 216(h)(3) of such Act [section 416(h)(3) of this section] (but without regard to section 202(j)(1) [section 402(j)(1) of this title]), on the basis of such wages and self-employment income and are so entitled for January 1968, and

"(3) the total of benefits to which all persons are entitled under such section 202 or 223 of such Act [section 402 or 423 of this title] on the basis of such wages and self-employment for January 1968 are reduced by reason of section 203(a) of such Act [subsec. (a) of this section], as amended by this Act (or would, but for the penultimate sentence of such section 203(a) [subsec. (a) of this section], be so reduced),

then the amount of the benefit to which each such person referred to in paragraph (1) above (but not including persons referred to in paragraph (2) above) is entitled for months after January 1968 shall be increased, after the application of such section 203(a) [subsec. (a) of this section], to the amount it would have been if the person or persons referred to in paragraph (2) were not entitled to a benefit referred to in such paragraph (2)."

Prohibition on Imposition of Deduction for Failure To File Certain Reports of Events

Section 209(b) of Pub. L. 86-778 provided that: "No deduction shall be imposed on or after the date of the enactment of this Act [Sept. 13, 1960] under section 203(f) of the Social Security Act [subsec. (f) of this section], as in effect prior to such date, on account of failure to file a report of an event described in section 203(c) of such Act [subsec. (c) of this section], as in effect prior to such date; and no such deduction imposed prior to such date shall be collected after such date."

Prohibition on Payment of Benefits to Certain Spouses or Children

Section 211(t) of Pub. L. 86-778 provided that:

"In any case where—

"(1) an individual has earnings (as defined in section 203(e)(4) of the Social Security Act [subsec. (e)(4) of this section] as in effect prior to the enactment of this Act [Sept. 13, 1960]) in a taxable year which begins before 1961 and ends in 1961 (but not on December 31, 1961), and

"(2) such individual's spouse or child entitled to monthly benefits on the basis of such individual's self-employment income has excess earnings (as defined in section 203(f)(3) of the Social Security Act as amended by this Act [subsec. (f)(3) of this section]) in a taxable year which begins after 1960, and

"(3) one or more months in the taxable year specified in paragraph (2) are included in the taxable year specified in paragraph (1),

then, if a deduction is imposed against the benefits payable to such individual with respect to a month described in paragraph (3), such spouse or child, as the case may be, shall not, for purposes of subsections (b) and (f) of section 203 of the Social Security Act as amended by this Act [subsecs. (b) and (f) of this section], be entitled to a payment for such month."

Definition of "Secretary"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

"Secretary" as used in this section means the Secretary of Health, Education, and Welfare, see note set out under section 416 of this title.

CROSS REFERENCES

Computation of primary insurance amount, see section 415 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 408, 415, 424a, 1382a of this title; title 10 section 1451; title 26 section 1402; title 30 section 922; title 45 sections 231a, 231q.

§ 404. Overpayments and underpayments

(a) Procedure for adjustment or recovery

Whenever the Secretary finds that more or less than the correct amount of payment has been made to any person under this subchapter, proper adjustment or recovery shall be made, under regulations prescribed by the Secretary, as follows:

(1) With respect to payment to a person more than the correct amount, the Secretary shall decrease any payment under this subchapter to which such overpaid person is entitled, or shall require such overpaid person or his estate to refund the amount in excess of the correct amount, or shall decrease any payment under this subchapter payable to his estate or to any other person on the basis of the wages and self-employment income which were the basis of the payments to such overpaid person, or shall apply any combination of the foregoing. A payment made under this subchapter on the basis of an erroneous report of death by the Department of Defense of an individual in the line of duty while he is a member of the uniformed services (as defined in section 410(m) of this title) on active duty (as defined in section 410(*l*) of this title) shall not be considered an incorrect payment for any month prior to the month such Department notifies the Secretary that such individual is alive.

(2) With respect to payment to a person of less than the correct amount, the Secretary shall make payment of the balance of the amount due such underpaid person, or, if such person dies before payments are completed or before negotiating one or more checks representing correct payments, disposition of the amount due shall be made in accordance with subsection (d) of this section.

(b) No recovery from persons without fault

In any case in which more than the correct amount of payment has been made, there shall be no adjustment of payments to, or recovery by the United States from, any person who is without fault if such adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience.

(c) Nonliability of certifying and disbursing officers

No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person where the adjustment or recovery of such amount is waived under subsection (b) of this section, or where adjustment under subsection (a) of this section is not completed prior to the death of all persons against whose benefits deductions are authorized.

(d) Payment to survivors or heirs when eligible person is deceased

If an individual dies before any payment due him under this subchapter is completed, payment of the amount due (including the amount of any unnegotiated checks) shall be made—

(1) to the person, if any, who is determined by the Secretary to be the surviving spouse of the deceased individual and who either (i) was living in the same household with the deceased at the time of his death or (ii) was, for the month in which the deceased individual died, entitled to a monthly benefit on the basis of the same wages and self-employment income as was the deceased individual;

(2) if there is no person who meets the requirements of paragraph (1), or if the person who meets such requirements dies before the payment due him under this subchapter is completed, to the child or children, if any, of the deceased individual who were, for the month in which the deceased individual died, entitled to monthly benefits on the basis of the same wages and self-employment income as was the deceased individual (and, in case there is more than one such child, in equal parts to each such child);

(3) if there is no person who meets the requirements of paragraph (1) or (2), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the parent or parents, if any, of the deceased individual who were, for the month in which the deceased individual died, entitled to monthly benefits on the basis of the same wages and self-employment income as was the deceased individual (and, in case there is more than one such parent, in equal parts to each such parent);

(4) if there is no person who meets the requirements of paragraph (1), (2), or (3), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the person, if any, determined by the Secretary to be the surviving spouse of the deceased individual;

(5) if there is no person who meets the requirements of paragraph (1), (2), (3), or (4), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the person or persons, if any, determined by the Secretary to be the child or children of the deceased individual (and, in case there is more than one such child, in equal parts to each such child);

(6) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), or (5), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the parent or parents, if any, of the deceased individual (and, in case there is more than one such parent, in equal parts to each such parent); or

(7) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), (5), or (6), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the legal representative of the estate of the deceased individual, if any.

(Aug. 14, 1935, ch. 531, title II, § 204, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; Aug. 28, 1950, ch. 809, title I, § 109(b)(1), 64 Stat. 523; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat.

631; Sept. 1, 1954, ch. 1206, title I, § 111(a), 68 Stat. 1085; July 30, 1965, Pub. L. 89-97, title III, § 329, 79 Stat. 401; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 152, 153(a), 154(a), 81 Stat. 860, 861.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-248, § 152(a), incorporated in text preceding par. (1) part of existing provisions and broadened the Secretary's authority to include recovery of overpayments.

Subsec. (a)(1). Pub. L. 90-248, § 153(a), added last sentence which provided that payments made on an erroneous report by the Defense Department of the death, in the line of duty, of a member of the uniformed services on active duty are not to be deemed incorrect payments until the Department notifies the Secretary that he is alive.

Subsec. (a)(2). Pub. L. 90-248, § 152(a), incorporated in par. (2) part of existing provisions and broadened Secretary's authority to provide that in the case of underpayments, the Secretary is to pay the balance due the underpaid person but if he dies before receiving the full amount due him or before negotiating checks representing the correct payments, the balance due or the amount for which the checks were issued but not negotiated are to be paid under subsec. (d) of this section.

Subsec. (b). Pub. L. 90-248, § 152(b), authorized the Secretary to waive adjustment or recovery of overpayments from any person who is without fault, even where he is not the overpaid person and the latter is at fault, whereas heretofore a condition for waiver was that the overpaid person be without fault.

Subsec. (d). Pub. L. 90-248, § 154(a), deleted, in text preceding par. (1), provision excepting subsec. (d) from subsec. (a) and provision that the total amount due at the time of death may not exceed the amount of the monthly insurance benefit to which an individual was entitled for the month preceding the month in which he died, added clause (ii) in par. (1), added pars. (2) to (6), designated existing provisions as par. (7) and inserted therein references to pars. (1) to (6).

1965—Subsec. (d). Pub. L. 89-97 added subsec. (d).

1954—Subsec. (a). Act Sept. 1, 1954, added in the second sentence the words "and self-employment income" after "wages".

1950—Act Aug. 28, 1950, substituted "Administrator" for "board".

1939—Act Aug. 10, 1939, omitted former provisions relating to payments to aged individuals not qualified for benefits and substituted the present section relating to overpayments and underpayments.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 153(b) of Pub. L. 90-248 provided that: "The amendment made by this section [to subsec. (a)(1) of this section] shall apply with respect to benefits under title II of the Social Security Act [this subchapter] if the individual to whom such benefits were paid would have been entitled to such benefits in or after the month in which this Act was enacted [Jan. 1968] if the report mentioned in the amendment made by subsection (a) of this section had been correct (but without regard to the provisions of section 202(j)(1) of such Act [section 402(j)(1) of this title])."

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 405 of this title; title 30 section 923.

§ 405. Evidence, procedure, and certification for payments

(a) Rules and regulations; procedures

The Secretary shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this subchapter, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

(b) Administrative determination of entitlement to benefits; findings of fact; hearings; investigations

The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this subchapter. Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such a decision must be filed within sixty days after notice of such decision is received by the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this subchapter. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

(c) Wage records

(1) For the purposes of this subsection—

(A) The term "year" means a calendar year when used with respect to wages and a taxable year (as defined in section 411(e) of this title) when used with respect to self-employment income.

(B) The term "time limitation" means a period of three years, three months, and fifteen days.

(C) The term "survivor" means an individual's spouse, surviving divorced wife, surviving divorced mother, child, or parent, who survives such individual.

(2)(A) On the basis of information obtained by or submitted to the Secretary, and after such verification thereof as he deems necessary, the Secretary shall establish and maintain records of the amounts of wages paid to, and the amounts of self-employment income de-

rived by, each individual and of the periods in which such wages were paid and such income was derived and, upon request, shall inform any individual or his survivor, or the legal representative of such individual or his estate, of the amounts of wages and self-employment income of such individual and the periods during which such wages were paid and such income was derived, as shown by such records at the time of such request.

(B)(i) In carrying out his duties under subparagraph (A), the Secretary shall take affirmative measures to assure that social security account numbers will, to the maximum extent practicable, be assigned to all members of appropriate groups or categories of individuals by assigning such numbers (or ascertaining that such numbers have already been assigned):

(I) to aliens at the time of their lawful admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States and to other aliens at such time as their status is so changed as to make it lawful for them to engage in such employment;

(II) to any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from Federal funds including any child on whose behalf such benefits are claimed by another person; and

(III) to any other individual when it appears that he could have been but was not assigned an account number under the provisions of subclauses (I) or (II) but only after such investigation as is necessary to establish to the satisfaction of the Secretary, the identity of such individual, the fact that an account number has not already been assigned to such individual, and the fact that such individual is a citizen or a non-citizen who is not, because of his alien status, prohibited from engaging in employment;

and, in carrying out such duties, the Secretary is authorized to take affirmative measures to assure the issuance of social security numbers:

(IV) to or on behalf of children who are below school age at the request of their parents or guardians; and

(V) to children of school age at the time of their first enrollment in school.

(ii) The Secretary shall require of applicants for social security account numbers such evidence as may be necessary to establish the age, citizenship, or alien status, and true identity of such applicants, and to determine which (if any) social security account number has previously been assigned to such individual.

(iii) In carrying out the requirements of this subparagraph, the Secretary shall enter into such agreements as may be necessary with the Attorney General and other officials and with State and local welfare agencies and school authorities (including non-public school authorities).

(C)(i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Secretary for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Secretary.

(ii) If and to the extent that any provision of Federal law heretofore enacted is inconsistent with the policy set forth in clause (i) of this subparagraph, such provision shall, on and after October 4, 1976, be null, void, and of no effect.

(iii) For purposes of clause (i) of this subparagraph, an agency of a State (or political subdivision thereof) charged with the administration of any general public assistance, driver's license, or motor vehicle registration law which did not use the social security account number for identification under a law or regulation adopted before January 1, 1975, may require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in clause (i) above and for the purpose of responding to requests for information from an agency operating pursuant to the provisions of part A or D of subchapter IV of this chapter.

(iv) For purposes of this subparagraph, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

(3) The Secretary's records shall be evidence for the purpose of proceedings before the Secretary or any court of the amounts of wages paid to, and self-employment income derived by, an individual and of the periods in which such wages were paid and such income was derived. The absence of an entry in such records as to wages alleged to have been paid to, or as to self-employment income alleged to have been derived by, an individual in any period shall be evidence that no such alleged wages were paid to, or that no such alleged income was derived by, such individual during such period.

(4) Prior to the expiration of the time limitation following any year the Secretary may, if it is brought to his attention that any entry of wages or self-employment income in his records for such year is erroneous or that any item of wages or self-employment income for such year has been omitted from such records, correct such entry or include such omitted item in his records, as the case may be. After the expiration of the time limitation following any year—

(A) the Secretary's records (with changes, if any, made pursuant to paragraph (5) of this subsection) of the amounts of wages paid to, and self-employment income derived by, an individual during any period in such year shall be conclusive for the purposes of this subchapter;

(B) the absence of an entry in the Secretary's records as to the wages alleged to have been paid by an employer to an individual during any period in such year shall be pre-

sumptive evidence for the purposes of this subchapter that no such alleged wages were paid to such individual in such period; and

(C) the absence of an entry in the Secretary's records as to the self-employment income alleged to have been derived by an individual in such year shall be conclusive for the purposes of this subchapter that no such alleged self-employment income was derived by such individual in such year unless it is shown that he filed a tax return of his self-employment income for such year before the expiration of the time limitation following such year, in which case the Secretary shall include in his records the self-employment income of such individual for such year.

(5) After the expiration of the time limitation following any year in which wages were paid or alleged to have been paid to, or self-employment income was derived or alleged to have been derived by, an individual, the Secretary may change or delete any entry with respect to wages or self-employment income in his records of such year for such individual or include in his records of such year for such individual any omitted item of wages or self-employment income but only—

(A) if an application for monthly benefits or for a lump-sum death payment was filed within the time limitation following such year; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon the application for monthly benefits or lump-sum death payment;

(B) if within the time limitation following such year an individual or his survivor makes a request for a change or deletion, or for an inclusion of an omitted item, and alleges in writing that the Secretary's records of the wages paid to or the self-employment income derived by, such individual in such year are in one or more respect, erroneous; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon such request. Written notice of the Secretary's decision on any such request shall be given to the individual who made the request;

(C) to correct errors apparent on the face of such records;

(D) to transfer items to records of the Railroad Retirement Board if such items were credited under this subchapter when they should have been credited under the Railroad Retirement Act, or to enter items transferred by the Railroad Retirement Board which have been credited under the Railroad Retirement Act when they should have been credited under this subchapter;

(E) to delete or reduce the amount of any entry which is erroneous as a result of fraud;

(F) to conform his records to—

(i) tax returns or portions thereof (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act [42 U.S.C. 1001 et seq.], under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939, under chapter 2 or 21 of the Internal Revenue Code of 1954, or under regulations made under authority of such title, subchapter, or chapter;

(ii) wage reports filed by a State pursuant to an agreement under section 418 of this title or regulations of the Secretary thereunder; or

(iii) assessments of amounts due under an agreement pursuant to section 418 of this title, if such assessments are made within the period specified in subsection (q) of such section, or allowances of credits or refunds of overpayments by a State under an agreement pursuant to such section;

except that no amount of self-employment income of an individual for any taxable year (if such return or statement was filed after the expiration of the time limitation following the taxable year) shall be included in the Secretary's records pursuant to this subparagraph;

(G) to correct errors made in the allocation, to individuals or periods, of wages or self-employment income entered in the records of the Secretary;

(H) to include wages paid during any period in such year to an individual by an employer if there is an absence of an entry in the Secretary's records of wages having been paid by such employer to such individual in such period;

(I) to enter items which constitute remuneration for employment under subsection (o) of this section, such entries to be in accordance with certified reports of records made by the Railroad Retirement Board pursuant to section 5(k)(3) of the Railroad Retirement Act of 1937 [45 U.S.C. 228e(k)(3)]; or

(J) to include self-employment income for any taxable year, up to, but not in excess of, the amount of wages deleted by the Secretary as payments erroneously included in such records as wages paid to such individual, if such income (or net earnings from self-employment), not already included in such records as self-employment income, is included in a return or statement (referred to in subparagraph (F) of this subsection) filed before the expiration of the time limitation following the taxable year in which such deletion of wages is made.

(6) Written notice of any deletion or reduction under paragraph (4) or (5) of this subsection shall be given to the individual whose record is involved or to his survivor, except that (A) in the case of a deletion or reduction with respect to any entry of wages such notice shall be given to such individual only if he has previously been notified by the Secretary of the amount of his wages for the period involved, and (B) such notice shall be given to such survivor only if he or the individual whose record is involved has previously been notified by the Secretary of the amount of such individual's wages and self-employment income for the period involved.

(7) Upon request in writing (within such period, after any change or refusal of a request for a change of his records pursuant to this subsection, as the Secretary may prescribe), opportunity for hearing with respect to such change or refusal shall be afforded to any indi-

vidual or his survivor. If a hearing is held pursuant to this paragraph the Secretary shall make findings of fact and a decision based upon the evidence adduced at such hearing and shall include any omitted items, or change or delete any entry, in his records as may be required by such findings and decision.

(8) Decisions of the Secretary under this subsection shall be reviewable by commencing a civil action in the United States district court as provided in subsection (g) of this section.

(d) Issuance of subpenas in administrative proceedings

For the purpose of any hearing, investigation, or other proceeding authorized or directed under this subchapter, or relative to any other matter within his jurisdiction hereunder, the Secretary shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the Secretary. Such attendance of witnesses and production of evidence at the designated place of such hearing, investigation, or other proceeding may be required from any place in the United States or in any Territory or possession thereof. Subpenas of the Secretary shall be served by anyone authorized by him (1) by delivering a copy thereof to the individual named therein, or (2) by registered mail or by certified mail addressed to such individual at his last dwelling place or principal place of business. A verified return by the individual so serving the subpena setting forth the manner of service, or in the case of service by registered mail, or by certified mail, the return post-office receipt therefor signed by the individual so served, shall be proof of service. Witnesses so subpenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(e) Judicial enforcement of subpenas; contempt

In case of contumacy by, or refusal to obey a subpena duly served upon, any person, any district court of the United States for the judicial district in which said person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Secretary, shall have jurisdiction to issue on[1] order requiring such person to appear and give testimony, or to appear and produce evidence, or both; any failure to obey such order of the court may be punished by said court as contempt thereof.

(f) Repealed. Pub. L. 91-452, title II, § 236, Oct. 15, 1970, 84 Stat. 930

(g) Judicial review

Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the United States District Court for the District of Columbia. As part of his answer the Secretary shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the cause for a rehearing. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Secretary or a decision is rendered under subsection (b) of this section which is adverse to an individual who was a party to the hearing before the Secretary, because of failure of the claimant or such individual to submit proof in conformity with any regulation prescribed under subsection (a) of this section, the court shall review only the question of conformity with such regulations and the validity of such regulations. The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary, and the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or its decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which his action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(h) Finality of Secretary's decision

The findings and decisions of the Secretary after a hearing shall be binding upon all individuals who were parties to such hearing. No findings of fact or decision of the Secretary shall be reviewed by any person, tribunal, or governmental agency except as herein provided. No action against the United States, the Secretary, or any officer or employee thereof shall be brought under sections 1331 or 1346 of title 28 to recover on any claim arising under this subchapter.

(i) Certification for payment

Upon final decision of the Secretary or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this subchapter, the Secretary shall certify to the Managing Trustee the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments

[1]So in original. Probably should read "an".

should be made, and the Managing Trustee, through the Division of Disbursement of the Treasury Department, and prior to any action thereon by the General Accounting Office, shall make payment in accordance with the certification of the Secretary (except that in the case of (A) an individual who will have completed ten years of service creditable under the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.] or the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.], (B) the wife or husband of such an individual, (C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to an annuity under section 2 of the Railroad Retirement Act of 1974 [45 U.S.C. 231a], and (D) any other person entitled to benefits under section 202 of this Act [42 U.S.C. 402] on the basis of the wages and self-employment income of such an individual (except a survivor of such an individual where such individual did not have a current connection with the railroad industry, as defined in the Railroad Retirement Act of 1974, at the time of his death), such certification shall be made to the Railroad Retirement Board which shall provide for such payment or payments to such person on behalf of the Managing Trustee in accordance with the provisions of the Railroad Retirement Act of 1974): *Provided*, That where a review of the Secretary's decision is or may be sought under subsection (g) of this section the Secretary may withhold certification of payment pending such review. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Secretary.

(j) Direct or indirect certification

When it appears to the Secretary that the interest of an applicant entitled to a payment would be served thereby, certification of payment may be made, regardless of the legal competency or incompetency of the individual entitled thereto, either for direct payment to such applicant, or for his use and benefit to a relative or some other person.

(k) Payments to incompetents

Any payment made after December 31, 1939, under conditions set forth in subsection (j) of this section, any payment made before January 1, 1940, to, or on behalf of, a legally incompetent individual, and any payment made after December 31, 1939, to a legally incompetent individual without knowledge by the Secretary of incompetency prior to certification of payment, if otherwise valid under this subchapter, shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

(*l*) Delegation of powers and duties by Secretary

The Secretary is authorized to delegate to any member, officer, or employee of the Department of Health, Education, and Welfare designated by him any of the powers conferred upon him by this section, and is authorized to be represented by his own attorneys in any court in any case or proceeding arising under the provisions of subsection (e) of this section.

(m) Repealed. Aug. 28, 1950, ch. 809, title I, § 101(b)(2), 64 Stat. 488

(n) Joint payments

The Secretary may, in his discretion, certify to the Managing Trustee any two or more individuals of the same family for joint payment of the total benefits payable to such individuals for any month, and if one of such individuals dies before a check representing such joint payment is negotiated, payment of the amount of such unnegotiated check to the surviving individual or individuals may be authorized in accordance with regulations of the Secretary of the Treasury; except that appropriate adjustment or recovery shall be made under section 404(a) of this title with respect to so much of the amount of such check as exceeds the amount to which such surviving individual or individuals are entitled under this subchapter for such month.

(o) Crediting of compensation under Railroad Retirement Act

If there is no person who would be entitled, upon application therefor, to an annuity under section 5 of the Railroad Retirement Act of 1974 [45 U.S.C. 231a] or to a lump-sum payment under section 6(b) of such Act [45 U.S.C. 231e(b)], with respect to the death of an employee (as defined in such Act), then, notwithstanding section 410(a)(10) of this title, compensation (as defined in such Railroad Retirement Act, but excluding compensation attributable as having been paid during any month on account of military service creditable under section 3(i) of such Act [45 U.S.C. 231b(i)] if wages are deemed to have been paid to such employee during such month under subsection (a) or (e) of section 417 of this title) of such employee shall constitute remuneration for employment for purposes of determining (A) entitlement to and the amount of any lump-sum death payment under this subchapter on the basis of such employee's wages and self-employment income and (B) entitlement to and the amount of any monthly benefit under this subchapter, for the month in which such employee died or for any month thereafter, on the basis of such wages and self-employment income. For such purposes, compensation (as so defined) paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee rendered services for such compensation.

(p) Special rules in case of federal service

(1) With respect to service included as employment under section 410 of this title which is performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, including service, performed as a member of a uniformed service to which the provisions of subsection (*l*)(1) of such section are applicable, and including service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act [22 U.S.C. 2501 et seq.], to which the provisions of section 410(*o*) of this title are applicable, the Secretary shall not make determinations as to whether an individual has performed such service, the periods of such service,

the amounts of remuneration for such service which constitute wages under the provisions of section 409 of this title, or the periods in which or for which such wages were paid, but shall accept the determinations with respect thereto of the head of the appropriate Federal agency or instrumentality, and of such agents as such head may designate, as evidenced by returns filed in accordance with the provisions of section 1420(e) of the Internal Revenue Code of 1939, and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

(2) The head of any such agency or instrumentality is authorized and directed, upon written request of the Secretary, to make certification to him with respect to any matter determinable for the Secretary by such head or his agents under this subsection, which the Secretary finds necessary in administering this subchapter.

(3) The provisions of paragraphs (1) and (2) of this subsection shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of paragraphs (1) and (2) of this subsection the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of paragraphs (1) and (2) shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of paragraphs (1) and (2) the Secretary of the Treasury shall be deemed to be the head of such instrumentality.

(q) Expedited benefit payments

(1) The Secretary shall establish and put into effect procedures under which expedited payment of monthly insurance benefits under this subchapter will, subject to paragraph (4) of this subsection, be made as set forth in paragraphs (2) and (3) of this subsection.

(2) In any case in which—

(A) an individual makes an allegation that a monthly benefit under this subchapter was due him in a particular month but was not paid to him, and

(B) such individual submits a written request for the payment of such benefit—

(i) in the case of an individual who received a regular monthly benefit in the month preceding the month with respect to which such allegation is made, not less than 30 days after the 15th day of the month with respect to which such allegation is made (and in the event that such request is submitted prior to the expiration of such 30-day period, it shall be deemed to have been submitted upon the expiration of such period), and

(ii) in any other case not less than 90 days after the later of (I) the date on which such benefit is alleged to have been due, or (II) the date on which such individual furnished the last information requested by the Secretary (and such written request will be deemed to be filed on the day on which it was filed, or the ninetieth day after the first day on which the Secretary has evidence that such allegation is true, whichever is later),

the Secretary shall, if he finds that benefits are due, certify such benefits for payment, and payment shall be made within 15 days immediately following the date on which the written request is deemed to have been filed.

(3) In any case in which the Secretary determines that there is evidence, although additional evidence might be required for a final decision, that an allegation described in paragraph (2)(A) is true, he may make a preliminary certification of such benefit for payment even though the 30-day or 90-day periods described in paragraph (2)(B)(i) and (B)(ii) have not elapsed.

(4) Any payment made pursuant to a certification under paragraph (3) of this subsection shall not be considered an incorrect payment for purposes of determining the liability of the certifying or disbursing officer.

(5) For purposes of this subsection, benefits payable under section 428 of this title shall be treated as monthly insurance benefits payable under this subchapter. However, this subsection shall not apply with respect to any benefit for which a check has been negotiated, or with respect to any benefit alleged to be due under either section 423 of this title, or section 402 of this title to a wife, husband, or child of an individual entitled to or applying for benefits under section 423 of this title, or to a child who has attained age 18 and is under a disability, or to a widow or widower on the basis of being under a disability.

(Aug. 14, 1935, ch. 531, title II, § 205, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; June 25, 1948, ch. 646, § 32(b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 28, 1950, ch. 809, title I, §§ 101(b)(2), 108(a)-(c), 109(b), 64 Stat. 488, 518, 523; July 18, 1952, ch. 945, § 5(b), 66 Stat. 775; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, § 101(c)(3), 68 Stat. 1054; Aug. 1, 1956, ch. 836, title I, §§ 107(b), 111(a), 117, 70 Stat. 829, 831, 834; Aug. 1, 1956, ch. 837, title IV, § 402(b), 70 Stat. 871; June 11, 1960, Pub. L. 86-507, § 1(35), 74 Stat. 202; Sept. 13, 1960, Pub. L. 86-778, title I, §§ 102(f)(2), 103(j)(2)(E), title VII, § 702(a), 74 Stat. 933, 938, 993; Sept. 21, 1961, Pub. L. 87-293, title II, § 202(b)(3), 75 Stat. 626; July 30, 1965, Pub. L. 89-97, title III, §§ 308(d)(9)(10), 330, 79 Stat. 379, 401, Jan. 2, 1968, Pub. L. 90-248, title I, § 171(a), 81 Stat. 876; Oct. 15, 1970, Pub. L. 91-452, title II, § 236, 84 Stat. 930; Oct. 30, 1972, Pub. L. 92-603, title I, § 137, 86 Stat. 1364; Oct. 16, 1974, Pub. L. 93-445, title III,

§§ 302(a), 303, 88 Stat. 1358; Jan. 2, 1976, Pub. L. 94-202, § 4, 89 Stat. 1136; Oct. 4, 1976, Pub. L. 94-455, title XII, § 1211(b), 89 Stat. 1711.)

REFERENCES IN TEXT

Parts A and D of subchapter IV of this chapter, referred to in subsec. (c)(2)(C)(iii), are classified to sections 601 et seq. and 651 et seq. of this title.

The Railroad Retirement Act, referred to in subsecs. (c)(5)(D), (o), probably means act Aug. 29, 1935, ch. 812, 49 Stat. 867, known as the Railroad Retirement Act of 1935. The Railroad Retirement Act of 1935 was amended generally by act June 24, 1937, ch. 382, part I, 50 Stat. 307, and was known as the Railroad Retirement Act of 1937. The Railroad Retirement Act of 1937 was amended generally and redesignated the Railroad Retirement Act of 1974 by Pub. L. 93-445, title I, Oct. 16, 1974, 88 Stat. 1305 and is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. For complete classification of this Act to the Code, see Tables volume.

Title VIII of the Social Security Act, referred to in subsec. (c)(5)(F)(i), was classified to subchapter VIII (§ 1001 et seq.) of this chapter, and has been omitted from the Code as superseded by the provisions of the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954.

Subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, referred to in subsec. (c)(5)(F)(i), were comprised of sections 480 to 482 and 1400 to 1432, respectively, and were repealed (subject to certain exceptions) by section 7851(a)(1)(A), (3) of the Internal Revenue Code of 1954.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1954 Code, see section 7852(b) of the 1954 Code. For table of comparisons of the 1939 Code to the 1954 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 is classified generally to Title 26.

Section 1308 of title 19, referred to in subsec. (h), was repealed by Pub. L. 87-456, title III, § 301(a), May 24, 1962, 76 Stat. 75.

The Railroad Retirement Act of 1937, referred to in subsec. (l), is act Aug. 29, 1935, ch. 812, 49 Stat. 867, as amended generally by act June 24, 1937, ch. 382, part I, 50 Stat. 307, and which was classified principally to subchapter III (§ 228a et seq.) of chapter 9 of Title 45, Railroads. The Railroad Retirement Act of 1937 was amended generally and redesignated the Railroad Retirement Act of 1974 by Pub. L. 93-445, title I, Oct. 16, 1974, 88 Stat. 1305. The Railroad Retirement Act of 1974 is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45. For complete classification of these acts to the Code, see Tables volume.

The Peace Corps Act, referred to in subsec. (p)(1), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables volume.

Section 1420(e) of the Internal Revenue Code of 1939, referred to in subsec. (p)(1), was a part of subchapter A of chapter 9 of the 1939 Code. See above.

CODIFICATION

In subsec. (g), act June 25, 1948, as amended by act May 24, 1949, substituted United States District Court for the District of Columbia, for District Court of the United States for the District of Columbia.

In subsec. (h), "sections 1331 or 1346 of title 28" was substituted for "section 24 of the Judicial Code of the United States" on authority of act June 25, 1948, ch. 646, 62 Stat. 869, section 1 of which enacted Title 28, Judiciary and Judicial Procedure. Prior to the enactment of Title 28, section 24 of the Judicial Code was classified to section 41 of Title 28.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-202 substituted provisions that a request for a hearing following the decision of the Secretary be made within sixty days after notice of such decision is received for provisions which authorized the Secretary to prescribe by regulation the period within which to file a request, including the limitation that the period so prescribed be not less than six months after notice of the decision was mailed.

Subsec. (c)(2)(C). Pub. L. 94-455 added subsec. (c)(2)(C).

1974—Subsec. (l). Pub. L. 93-445, § 302(a), added parenthetical provision covering service under the Railroad Retirement Acts of 1937 and 1974 and certification to the Railroad Retirement Board and payment on behalf of the Managing Trustee in accordance with the provisions of the Railroad Retirement Act of 1974.

Subsec. (o). Pub. L. 93-445, § 303, substituted "annuity under section 5 of the Railroad Retirement Act of 1974, or to a lump-sum payment under section 6(b) of such Act with respect to the death of an employee (as defined in such Act), then, notwithstanding section 210(a) of this Act, compensation (as defined in such Railroad Retirement Act, but excluding compensation attributable as having been paid during any month on account of military service creditable under section 3(i) of such Act" for "annuity under section 228e of Title 45, or to a lump-sum payment under subsection (f)(1) of section 228e of title 45 with respect to the death of an employee (as defined in sections 228 to 228c-1, 228e to 228s-1 of title 45), then, notwithstanding section 410(a)(10) of this title, compensation (as defined in sections 228 to 228c-1, 228e to 228s-1 of title 45, but excluding compensation attributable as having been paid during any month on account of military service creditable under section 228c-1 of title 45".

1972—Subsec. (c)(2). Pub. L. 92-603 designated existing provisions as par. (A) and added par. (B).

1970—Subsec. (f). Pub. L. 91-452 struck out subsec. (f) which related to the immunity from prosecution of any person compelled to testify or produce evidence after claiming his privilege against self-incrimination.

1968—Subsec. (q). Pub. L. 90-248, § 171(a), added subsec. (q).

1965—Subsec. (b). Pub. L. 89-97, § 308(d)(9), substituted in the second sentence "wife, divorced wife, widow, surviving divorced wife, surviving divorced mother," for "wife, widow, former wife divorced,".

Subsec. (c)(1)(C). Pub. L. 89-97, § 308(d)(10), substituted "surviving divorced wife, surviving divorced mother," for "former wife divorced,".

Subsec. (n). Pub. L. 89-97, § 330, provided that the Secretary of the Treasury may authorize the surviving payee or payees of a combined benefit check to cash one or more such checks which were not negotiated before one of the payees died, provided that the part of the proceeds from each check that represents an overpayment is to be adjusted or recovered as provided in section 404(a) of this title.

1961—Subsec. (p)(1). Pub. L. 87-293 provided that the head of the Federal agency having control of the service or such agents as the head may designate would make the determinations with respect to employment and wages in the case of service performed by volunteers and volunteer leaders in the Peace Corps.

1960—Subsec. (c)(5)(F). Pub. L. 86-778, § 102(f)(2), authorized the Secretary to add, change or delete entries to conform his records to assessments of amounts due under an agreement pursuant to section 418 of this title, if such assessments are made within the period specified in subsection (q) of such section, or allowances of credits or refunds of overpayments by a State under an agreement pursuant to such section, and inserted references to chapters 2 and 21 of the Internal Revenue Code of 1954.

Subsec. (d). Pub. L. 86-507 inserted "or by certified mail" following "registered mail" in two instances.

Subsec. (g). Pub. L. 86-778, § 702(a), inserted sentence providing that any action instituted in accord-

ance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

Subsec. (p)(1). Pub. L. 86-778, § 103(j)(2)(E), substituted "subsection (l)(1)" for "subsection (m)(1)."

1956—Subsec. (b). Act Aug. 1, 1956, ch. 836, § 111(a), required requests with respect to decisions to be filed within such period as the Secretary prescribes by regulation, which period may not be less than six months after notice of the decision is mailed.

Subsec. (c)(1)(B). Act Aug. 1, 1956, ch. 836, § 107(b), substituted "three months" for "two months".

Subsec. (c)(5)(F). Act Aug. 1, 1956, ch. 836, § 117, eliminated provisions prohibiting inclusion in records of amount of self-employment income in excess of the amount which had been deleted as payments erroneously included in such records as wages paid to such individual in such taxable year, which provisions are now covered by subsec. (c)(5)(J) of this section.

Subsec. (c)(5)(J). Act Aug. 1, 1956, ch. 836, § 117, added subsec. (c)(5)(J).

Subsec. (p)(1). Act Aug. 1, 1956, ch. 837, provided for determinations with respect to service performed as a member of a uniformed service to which the provisions of section 410(m)(1) of this title are applicable.

1954—Subsec. (p)(3). Act Sept. 1, 1954, added provisions making subsec. (p) (1) and (2) applicable to services performed by a civilian employee in the Coast Guard Exchanges or certain other activities at Coast Guard installations.

1952—Subsec. (o). Act July 18, 1952, substituted "subsection (a) or (e) of section 417 of this title" for "section 417(a) of this title".

1950—Act Aug. 28, 1950, § 109(b)(1), substituted "Administrator" for "Board", "Administrator's" for "Board's", "he", "him", and "his" for "it", and "its", wherever appearing.

Subsec. (b). Act Aug. 28, 1950, § 108(a), inserted "former wife divorced, husband, widower," after "widow".

Subsec. (c). Act Aug. 28, 1950, § 108(b), amended subsec. (c) generally to include definitions, to provide for the maintaining of records of self-employed persons, to allow for the revision of the Administrator's record, to authorize corrections after the times limitations if an application for monthly benefits or a lump-sum death payment is filed within the time limitation and no final decision has been made on it, to continue the requirement that written notice of any deletion or reduction of wages be given to the individual whose record is involved, to give the Administrator discretion to prescribe the period, after any change or refusal to change his records, within which an individual may be granted a hearing, and to provide for judicial review.

Subsec. (l). Act Aug. 28, 1950, § 109(b)(2), amended subsec. (l) generally.

Subsecs. (o), (p). Act Aug. 28, 1950, § 108(c), added subsecs. (o) and (p).

1939—Act Aug. 10, 1939, omitted former section 405, relating to payments of $500 or less to estates, and added subsecs. (a) to (n).

Effective Date of 1976 Amendment

Section 5 of Pub. L. 94-202 provided that: "The amendments made by the first two sections of this Act [amending section 1383 of this title], and the provisions of section 3 [set out as a note under section 1383 of this title], shall take effect on the date of the enactment of this Act [Jan. 2, 1976]. The amendment made by section 4 of this Act [amending subsec. (b) of this section] shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, after February 29, 1976. The amendment made by the first section of this Act [amending subsec. (c) of section 1383 of this title], to the extent that it changes the period within which hearings must be requested, shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, on or after the date of the enactment of this Act [Jan. 2, 1976]."

Effective Date of 1974 Amendment

Section 302(b) of Pub. L. 93-445 provided that: "The amendment made by this section [amending subsec. (i) of this section] shall apply only with respect to benefits payable to individuals who first become entitled to benefits under title II of the Social Security Act [this subchapter] after 1974."

Amendment of subsec. (o) of this section by section 303 of Pub. L. 93-445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as an Effective Date of 1974 Amendment note under section 402 of this title.

Effective Date of 1970 Amendment

Amendment by Pub. L. 91-452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provisions note under section 6001 of Title 18, Crimes and Criminal Procedure.

Effective Date of 1968 Amendment

Section 171(b) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) of this section [enacting subsec. (q) of this section] shall be effective with respect to written requests filed under section 205(q) of the Social Security Act [subsec. (q) of this section] after June 30, 1968."

Effective Date of 1965 Amendment

Amendment of subsecs. (b) and (c)(1)(C) by Pub. L. 89-97 applicable with respect to monthly insurance benefits under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 402 of this title.

Effective Date of 1961 Amendment

Amendment by Pub. L. 87-293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87-293, set out as an Effective Date of 1961 Amendment note under section 3121 of Title 26, Internal Revenue Code.

Effective Date of 1960 Amendments

Amendment of subsec. (c)(5)(F) by Pub. L. 86-778 effective on the first day of the second calendar year following 1960, see section 102(f)(3) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 418 of this title.

Section 702(b) of Pub. L. 86-778 provided that: "The amendment made by subsection (a) [to subsec. (g) of this section] shall apply to actions which are pending in court on the date of the enactment of this Act or are commenced after such date."

Amendment of subsec. (p)(1) by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 402 of this title.

Effective Date of 1956 Amendments

Section 111(b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) [to subsec. (b) of this section] shall be effective upon enactment [August 1, 1956]; except that the period of time prescribed by the Secretary pursuant to the third sentence of section 205(b) of the Social Security Act, as amended by subsection (a) of this section [subsec. (b) of this section], with respect to decisions notice of which has been mailed by him to any individual prior to the enactment of this Act [August 1, 1956] may not terminate for such individual less than six months

after the date of enactment of this Act [August 1, 1956]."

Amendment of subsec. (p)(1) by act Aug. 1, 1956, ch. 837, effective Jan. 1, 1957.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 101(n) of act Sept. 1, 1954, provided in part that the amendment to subsec. (p)(3) made by section 101(c)(3) of act Sept. 1, 1954, shall become effective January 1, 1955.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 108(d) of act Aug. 28, 1950, provided that: "The amendments made by subsections (a) and (c) of this section [amending subsecs. (b), (o) of this section] shall take effect on September 1, 1950. The amendment made by subsection (b) of this section [amending subsec. (c) of this section] shall take effect January 1, 1951, except that, effective on September 1, 1950, the husband or former wife divorced of an individual shall be treated the same as a parent of such individual, and the legal representative of an individual or his estate shall be treated the same as the individual, for purposes of section 205(c) of the Social Security Act [subsec. (c) of this section] as in effect prior to the enactment of this Act [Aug. 28, 1950]."

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

REPEALS: AMENDMENTS AND APPLICATION OF AMENDMENTS UNAFFECTED

Section 202(b)(3) of Pub. L. 87-293 repealed by Pub. L. 89-572, § 5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulation, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89-572, set out as a note under section 2515 of Title 22, Foreign Relations and Intercourse.

Subsec. (m), relating to filing of application for benefits under this subchapter, repealed by act Aug. 28, 1950, § 101(b)(2), to be effective with respect to monthly payments under section 402 of this title for the months after August 1950.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

SAVINGS PROVISIONS

Amendment by Pub. L. 91-452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provisions note under section 6001 of Title 18, Crimes and Criminal Procedure.

INCLUSION OF SELF-EMPLOYMENT INCOME IN RECORDS OF SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Section 331(c) of Pub. L. 89-97 provided that: "Notwithstanding any provision of section 205(c)(5)(F) of the Social Security Act [subsec. (c)(5)(F) of this section], the Secretary of Health, Education, and Welfare may conform, before April 16, 1970, his records to tax returns or statements of earnings which constitute self-employment income solely by reason of the filing of a certificate which is effective under section 1402(e)(5) of such Code [section 1402(e)(5) of Title 26, Internal Revenue Code]."

Section 101(e) of Pub. L. 86-778 provided that: "The provisions of section 205(c)(5)(F) of the Social Security Act [subsec. (c)(5)(F) of this section], insofar as they prohibit inclusion in the records of the Secretary of Health, Education, and Welfare of self-employment income for a taxable year when the return or statement including such income is filed after the time limitation following such taxable year, shall not be applicable to earnings which are derived in any taxable year ending before 1960 and which constitute self-employment income solely by reason of the filing of a certificate which is effective under section 1402(e)(3)(B) or (5) of the Internal Revenue Code of 1954 [section 1402(e)(3)(B) or (5) of Title 26]."

DEFINITION OF "SECRETARY"

"Secretary" as used in this section means the Secretary of Health, Education, and Welfare. See section 119 of act Aug. 1, 1956, set out as a Definition of "Secretary" note under section 416 of this title.

CROSS REFERENCES

Criminal contempt, see sections 401, 402, 3285, 3691, 3771, and 3772 of Title 18, Crimes and Criminal Procedure.

Final disability decisions of Secretary, review of, see section 421 of this title.

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Jurisdiction of court of appeals, see section 1291 of Title 28, Judiciary and Judicial Procedure.

Per diem and mileage of witnesses generally, see section 1821 of Title 28.

Venue generally, see section 1391 et seq. of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406, 408, 415, 418, 421, 424a, 602, 1320c-8, 1320c-9, 1383, 1395y, 1395ff, 1395ii, 1395mm, 1395oo of this title; title 5 section 8503; title 19 section 2312; title 26 sections 1402, 6109; title 30 section 923.

§ 405a. Regulations pertaining to frequency or due dates of payments and reports under voluntary agreements covering state and local employees; effective date

Notwithstanding any other provision of law, no regulation and no modification of any regulation, promulgated by the Secretary of Health, Education, and Welfare, after January 2, 1976, shall become effective prior to the end of the eighteen-month period which begins with the first day of the first calendar month which begins after the date on which such regulation or modification of a regulation is published in the Federal Register, if and insofar as such regulation or modification of a regulation pertains, directly or indirectly, to the frequency or due dates for payments and reports required under section 418(e) of this title.

(Pub. L. 94-202, § 7, Jan. 2, 1976, 89 Stat. 1137.)

CODIFICATION

Section was not enacted as part of the Social Security Act which comprises this chapter.

§ 406. Representation of claimants before the Secretary

(a) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys as hereinafter provided, representing claimants before the Secretary, and may require of such agents or other persons, before being recognized as

representatives of claimants that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this section for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this subchapter, and any agreement in violation of such rules and regulations shall be void. Whenever the Secretary, in any claim before him for benefits under this subchapter, makes a determination favorable to the claimant, he shall, if the claimant was represented by an attorney in connection with such claim, fix (in accordance with the regulations prescribed pursuant to the preceding sentence) a reasonable fee to compensate such attorney for the services performed by him in connection with such claim. If as a result of such determination, such claimant is entitled to past-due benefits under this subchapter, the Secretary shall, notwithstanding section 405(i) of this title, certify for payment (out of such past-due benefits) to such attorney an amount equal to whichever of the following is the smaller: (A) 25 per centum of the total amount of such past-due benefits, (B) the amount of the attorney's fee so fixed, or (C) the amount agreed upon between the claimant and such attorney as the fee for such attorney's services. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this subchapter by word, circular, letter or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement, directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.

(b)(1) Whenever a court renders a judgment favorable to a claimant under this subchapter who was represented before the court by an attorney, the court may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment, and the Secretary may, notwithstanding the provisions of section 405(i) of this title, certify the amount of such fee for payment to such attorney out of, and not in addition to, the amount of such past-due benefits. In case of any such judgment, no other fee may be payable or certified for payment for such representation except as provided in this paragraph.

(2) Any attorney who charges, demands, receives, or collects for services rendered in connection with proceedings before a court to which paragraph (1) of this subsection is applicable any amount in excess of that allowed by the court thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500, or imprisonment for not more than one year, or both.

(Aug. 14, 1935, ch. 531, title II, § 206, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; Aug. 28, 1950, ch. 809, title I, § 109(b)(1), 64 Stat. 523; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 28, 1958, Pub. L. 85-840, title III, § 309, 72 Stat. 1034; July 30, 1965, Pub. L. 89-97, title III, § 332, 79 Stat. 403; Jan. 2, 1968, Pub. L. 90-248, title I, § 173, 81 Stat. 877.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-248 provided for fixing of attorneys fees for claimants and for certification of amount for payment out of past-due benefits.

1965—Pub. L. 89-97 designated existing provisions as subsec. (a) and added subsec. (b).

1958—Pub. L. 85-840 eliminated provisions which required attorneys to file a certificate of their right to practice.

1950—Act Aug. 28, 1950, substituted "Administrator" for "Board" and "Administrator's" for "Board's".

1939—Act Aug. 10, 1939, substituted the provisions of this section for former provisions relating to overpayments during life, now covered by section 404 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395ll of this title; title 30 section 923.

§ 407. Assignment

The right of any person to any future payment under this subchapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

(Aug. 14, 1935, ch. 531, title II, § 207, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362.)

AMENDMENTS

1939—Act Aug. 10, 1939, amended section generally by incorporating provisions of former section 408 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment by act Aug. 10, 1939, effective Jan. 1, 1940, see section 201 of act Aug. 10, 1939.

CROSS REFERENCES

Assignment of claims void, see section 203 of Title 31, Money and Finance.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.
Seizure of person or property, see rule 64.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1383 of this title; title 30 section 923.

§ 408. Penalties

Whoever—

(a) for the purpose of causing an increase in any payment authorized to be made under this subchapter, or for the purpose of causing any payment to be made where no payment is authorized under this subchapter, shall make or cause to be made any false statement or representation (including any false statement or representation in connection with any matter arising under subchapter E of chapter 1, or subchapter A or E of chapter 9 of the Internal Revenue Code of 1939, or chapter 2 or 21 or subtitle F of the Internal Revenue Code of 1954) as to—

(1) whether wages were paid or received for employment (as said terms are defined in this subchapter and the Internal Revenue Code), or the amount of wages or the period during which paid or the person to whom paid; or

(2) whether net earnings from self-employment (as such term is defined in this subchapter and in the Internal Revenue Code) were derived, or as to the amount of such net earnings or the period during which or the person by whom derived; or

(3) whether a person entitled to benefits under this subchapter had earnings in or for a particular period (as determined under section 403(f) of this title for purposes of deductions from benefits), or as to the amount thereof; or

(b) makes or causes to be made any false statement or representation of a material fact in any application for any payment or for a disability determination under this subchapter; or

(c) at any time makes or causes to be made any false statement or representation of a material fact for use in determining rights to payment under this subchapter; or

(d) having knowledge of the occurrence of any event affecting (1) his initial or continued right to any payment under this subchapter, or (2) the initial or continued right to any payment of any other individual in whose behalf he has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure payment either in a greater amount than is due or when no payment is authorized; or

(e) having made application to receive payment under this subchapter for the use and benefit of another and having received such a payment, knowingly and willfully converts such a payment, or any part thereof, to a use other than for the use and benefit of such other person; or

(f) willfully, knowingly, and with intent to deceive the Secretary as to his true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Secretary with respect to any information required by the Secretary in connection with the establishment and maintenance of the records provided for in section 405(c)(2) of this title; or

(g) for the purpose of causing an increase in any payment authorized under this subchapter (or any other program financed in whole or in part from Federal funds), or for the purpose of causing a payment under this subchapter (or any such other program) to be made when no payment is authorized thereunder, or for the purpose of obtaining (for himself or any other person) any payment or any other benefit to which he (or such other person) is not entitled, or for any other purpose—

(1) willfully, knowingly, and with intent to deceive, uses a social security account number, assigned by the Secretary (in the exercise of his authority under section 405(c)(2) of this title to establish and maintain records) on the basis of false information furnished to the Secretary by him or by any other person; or

(2) with intent to deceive, falsely represents a number to be the social security account number assigned by the Secretary to him or to another person, when in fact such number is not the social security account number assigned by the Secretary to him or to such other person; or

(h) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States;

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(Aug. 14, 1935, ch. 531, title II, § 208, 49 Stat. 625; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; Aug. 28, 1950, ch. 809, title I, § 109(c), 64 Stat. 523; Sept. 1, 1954, ch. 1206, title I, § 111(b), 68 Stat. 1085; Aug. 28, 1958, Pub. L. 85-840, title III, § 310, 72 Stat. 1034; Sept. 13, 1960, Pub. L. 86-778, title II, § 211(m), 74 Stat. 958; Oct. 30, 1972, Pub. L. 92-603, title I, § 130(a), 86 Stat. 1359; Oct. 4, 1976, Pub. L. 94-455, title XII, § 1211(a), (d), 90 Stat. 1711, 1712.)

REFERENCES IN TEXT

Subchapter E of chapter 1 and subchapters A and E of chapter 9 of the Internal Revenue Code of 1939, referred to in subsec. (a), were comprised of sections 480 to 482, 1400 to 1432, and 1630 to 1636, respectively, and were repealed (subject to certain exceptions) by section 7851(a)(1)(A), (3) of the Internal Revenue Code of 1954.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1954 Code, see section 7852(b) of the 1954 Code. For table of comparisons of the 1939 Code to the 1954 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 is classified generally to Title 26.

Chapters 2 and 21 and subtitle F of the Internal Revenue Code of 1954, referred to in subsec. (a), are classified to sections 1401 et seq., 3101 et seq., and 6001 et seq., respectively, of Title 26.

AMENDMENTS

1976—Subsec. (g). Pub. L. 94-455, § 1211(a), inserted preceding cl. (1) ", or for any other purpose" following "entitled".

Subsec. (h). Pub. L. 94-455, § 1211(d)(1), added subsec. (h).

1972—Subsecs. (f), (g). Pub. L. 92-603 added subsecs. (f) and (g).

1960—Subsec. (a). Pub. L. 86-778 substituted "section 403(f) of this title" for "section 403(e) of this title" in cl. (3).

1958—Pub. L. 85-840 amended section generally, by, among other changes, inserting references to the Internal Revenue Code of 1954, and making penalty provisions applicable to cases (1) where false statements or representations as to whether wages were paid or received for employment, or whether net earnings from self-employment were derived, or whether a person entitled to benefits under this subchapter had earnings in or for a particular period, or as to the amount thereof, are made for the purpose of obtaining or increasing benefits; (2) where false statements or representations are made in any application for disability determination; (3) where a person intentionally conceals or fails to disclose knowledge of any event affecting his or another's initial or continued right to payment, and (4) where a person converts a payment that he received for the use and benefit of another.

1954—Act Sept. 1, 1954, made it clear that the penalty provisions of the section extend to cases of false statements or representations as to the amount of net earnings from self-employment derived or the period during which derived.

1950—Act Aug. 28, 1950, substituted "subchapter E of chapter 1, or subchapter A or E of chapter 9 of the Internal Revenue Code of 1939" for "the Federal Insurance Contributions Act".

1939—Act Aug. 10, 1939, amended section generally by incorporating provisions of section 409 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 130(b) of Pub. L. 92-603 provided that: "The amendments made by subsection (a) [adding subsecs. (f) and (g) of this section] shall apply with respect to information furnished to the Secretary after the date of the enactment of this Act [Oct. 30, 1972]."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (a)(3) by Pub. L. 86-778 effective in the manner provided in section 211 (p) and (q) of Pub. L. 86-778, section 211(s) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 403 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment by act Aug. 10, 1939, effective Jan. 1, 1940, see section 201 of act Aug. 10, 1939.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 923.

§ 409. Definition of wages

For the purposes of this subchapter, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this subchapter under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(a)(1) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $3,600 with respect to employment has been paid to an individual during any calendar year prior to 1955, is paid to such individual during such calendar year;

(2) That part of remuneration, which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $4,200 with respect to employment has been paid to an individual during any calendar year after 1954 and prior to 1959, is paid to such individual during such calendar year;

(3) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $4,800 with respect to employment has been paid to an individual during any calendar year after 1958 and prior to 1966, is paid to such individual during such calendar year;

(4) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $6,600 with respect to employment has been paid to an individual during any calendar year after 1965 and prior to 1968, is paid to such individual during such calendar year;

(5) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $7,800 with respect to employment has been paid to an individual during any calendar year after 1967 and prior to 1972, is paid to such individual during such calendar year;

(6) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $9,000 with respect to employment has been paid to an individual during any calendar year after 1971 and prior to 1973, is paid to such individual during any such calendar year;

(7) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $10,800 with respect to employment has been paid to an individual during any calendar year after 1972 and prior to 1974, is paid to such individual during such calendar year;

(8) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $13,200 with respect to employment has been paid to an individual during any calendar year after 1973 and prior to 1975, is paid to such individual during such calendar year;

(9) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this

section) equal to the contribution and benefit base (determined under section 430 of this title) with respect to employment has been paid to an individual during any calendar year after 1974 with respect to which such contribution and benefit base is effective, is paid to such individual during such calendar year;

(b) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of (1) retirement, or (2) sickness or accident disability, or (3) medical or hospitalization expenses in connection with sickness or accident disability, or (4) death;

(c) Any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(d) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer;

(e) Any payment made to, or on behalf of, an employee or his beneficiary (1) from or to a trust exempt from tax under section 165(a) of the Internal Revenue Code of 1939 at the time of such payment or, in the case of a payment after 1954, under sections 401 and 501(a) of the Internal Revenue Code of 1954, unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (2) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165(a), (3), (4), (5), and (6) of the Internal Revenue Code of 1939 or, in the case of a payment after 1954 and prior to 1963, the requirements of section 401(a), (3), (4), (5), and (6) of the Internal Revenue Code of 1954, or (3) under or to an annuity plan which, at the time of any such payment after 1962, is a plan described in section 403(a) of the Internal Revenue Code of 1954, or (4) under or to a bond purchase plan which, at the time of any such payment after 1962, is a qualified bond purchase plan described in section 405(a) of the Internal Revenue Code of 1954;

(f) The payment by an employer (without deduction from the remuneration of the employee) (1) of the tax imposed upon an employee under section 1400 of the Internal Revenue Code of 1939, or (2) of any payment required from an employee under a State unemployment compensation law;

(g)(1) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(2) Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than $50. As used in this paragraph, the term "domestic service in a private home of the employer" does not include service described in section 410(f)(5) of this title;

(3) Cash remuneration paid by an employer in any calendar quarter to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than $50. As used in this paragraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in section 410(f)(5) of this title;

(h)(1) Remuneration paid in any medium other than cash for agricultural labor;

(2) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless (A) the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or (B) the employee performs agricultural labor for the employer on twenty days or more during such year for cash remuneration computed on a time basis;

(i) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains age 62, if he did not work for the employer in the period for which such payment is made. As used in this subsection, the term "sick pay" includes remuneration for service in the employ of a State, a political subdivision (as defined in section 418(b)(2) of this title) of a State, or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness;

(j) Remuneration paid by an employer in any quarter to an employee for service described in section 410(j)(3)(C) of this title (relating to home workers), if the cash remuneration paid in such quarter by the employer to the employee for such service is less an $50;

(k) Remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 of the Internal Revenue Code of 1954;

(l)(1) Tips paid in any medium other than cash;

(2) Cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is $20 or more;

(m) Any payment or series of payments by an employer to an employee or any of his dependents which is paid—

(1) upon or after the termination of an employee's employment relationship be-

cause of (A) death, (B) retirement for disability, or (C) retirement after attaining an age specified in the plan referred to in paragraph (2) or in a pension plan of the employer, and

(2) under a plan established by the employer which makes provision for his employees generally or a class or classes of his employees (or for such employees or class or classes of employees and their dependents),

other than any such payment or series of payments which would have been paid if the employee's employment relationship had not been so terminated;

(n) Any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died; or

(o) Any payment made by an employer to an employee, if at the time such payment is made such employee is entitled to disability insurance benefits under section 423(a) of this title and such entitlement commenced prior to the calendar year in which such payment is made, and if such employee did not perform any services for such employer during the period for which such payment is made.

For purposes of this subchapter, in the case of domestic service described in subsection (g)(2) of this section, any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this title, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to $1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (g)(2) of this section.

For purposes of this subchapter, in the case of an individual performing service, as a member of a uniformed service, to which the provisions of section 410(*l*)(1) of this title are applicable, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only his basic pay as described in sections 401(1) and 403 of title 38.

For purposes of this subchapter, in the case of an individual performing service, as a volunteer or volunteer leader within the meaning of the Peace Corps Act [22 U.S.C. 2501 et seq.], to which the provisions of section 410(*o*) of this title are applicable, (1) the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only amounts certified as payable pursuant to section 5(c) or 6(1) of the Peace Corps Act [22 U.S.C. 2504(c) or 2505(1)], and (2) any such amount shall be deemed to have been paid to such individual at the time the service, with respect to which it is paid, is performed.

For purposes of this subchapter, tips received by an employee in the course of his employment shall be considered remuneration for employment. Such remuneration shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or (if no statement including such tips is so furnished) at the time received.

For purposes of this subchapter, in any case where an individual is a member of a religious order (as defined in section 3121(r)(2) of the Internal Revenue Code of 1954) performing service in the exercise of duties required by such order, and an election of coverage under section 3121(r) of such Code is in effect with respect to such order or with respect to the autonomous subdivision thereof to which such member belongs, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service the fair market value of any board, lodging, clothing, and other perquisites furnished to such member by such order or subdivision thereof or by any other person or organization pursuant to an agreement with such order or subdivision, except that the amount included as such individual's remuneration under this paragraph shall not be less than $100 a month.

(Aug. 14, 1935, ch. 531, title II, § 209, 49 Stat. 625; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; Mar. 24, 1943, ch. 26, § 1(b)(2), 57 Stat. 47; Apr. 4, 1944, ch. 161, § 2, 58 Stat. 188; Oct. 23, 1945, ch. 433, § 7(b), 59 Stat. 548; Dec. 29, 1945, ch. 652, title I, § 5(a), 59 Stat. 671; Aug. 10, 1946, ch. 951, title IV, §§ 407(a), 408(a), 409(a), 410, 411, 414, 60 Stat. 988, 989, 990; Apr. 20, 1948, ch. 222, § 1(a), 62 Stat. 195; Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492; Sept. 1, 1954, ch. 1206, title I, §§ 101(a)(1)-(3), 104(a), 68 Stat. 1052, 1078; Aug. 1, 1956, ch. 836, title I, § 105(a), 70 Stat. 828; Aug. 1, 1956, ch. 837, title IV, § 401, 70 Stat. 869; Aug. 27, 1958, Pub. L. 85-786, § 1, 72 Stat. 938; Aug. 28, 1958, Pub. L. 85-840, title I, § 102(a), 72 Stat. 1019; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(j)(2)(C), (F), 74 Stat. 937; June 30, 1961, Pub. L. 87-64, title I, § 102(c)(3)(A), 75 Stat. 134; Sept. 22, 1961, Pub. L. 87-293, title II, § 202(b)(2), 75 Stat. 626; Feb. 26, 1964, Pub. L. 88-272, title II, § 220(c)(3), 78 Stat. 63; Oct. 13, 1964, Pub. L. 88-650, § 4(a), 78 Stat. 1077; July 30, 1965, Pub. L. 89-97, title III, §§ 313(a), 320(a)(1), 79 Stat. 382, 393; Jan. 2, 1968, Pub. L. 90-248, title I, § 108(a)(1), title V, § 504(c), 81 Stat. 834, 935; Mar. 17, 1971, Pub. L. 92-5, title II, § 203(a)(1), 85 Stat. 10; July 1, 1972, Pub. L. 92-336, title II, § 203(a)(1), 86 Stat. 417; Oct. 30, 1972, Pub. L. 92-603, title I, §§ 104(g), 122(a), 123(c)(1), 138(a), 86 Stat. 1341, 1354, 1356, 1365; July 9, 1973, Pub. L. 93-66, title II, § 203(a)(1), 87 Stat. 153; Dec. 31, 1973, Pub. L. 93-233, § 5(a)(1), 87 Stat. 953.)

References in Text

Sections 165 and 1400 of the Internal Revenue Code of 1939, referred to in subsecs. (e) and (f), were a part of chapters 1 and 9, respectively, of the 1939 Code, and were repealed by section 7851(a)(1)(A), (3) of the Internal Revenue Code of 1954.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1954 Code, see section

7852(b) of the 1954 Code. For table of comparisons of the 1939 Code to the 1954 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 is classified generally to Title 26.

The Peace Corps Act, referred to in text, is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables volume.

CODIFICATION

"Section 401(1) and 403 of title 38" was substituted for "section 102(10) of the Servicemen's and Veterans' Survivor Benefit Act" on authority of section 5(a) of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1262, section 1 of which enacted Title 38, Veterans' Benefits.

AMENDMENTS

1973—Subsec. (a)(8). Pub. L. 93-233 substituted "$13,200" for "$12,600".

Pub. L. 93-66 substituted "$12,600" for "$12,000".

1972—Subsec. (a)(6). Pub. L. 92-336, § 203(a)(1)(A), added "and prior to 1973" after "1971".

Subsec. (a)(7) to (9). Pub. L. 92-336, § 203(a)(1)(B), added subsec. (a)(7) to (9).

Subsec. (i). Pub. L. 92-603, § 104(g), struck out "(if a woman) and age 65 (if a man)" following "attains age 62."

Subsec. (n). Pub. L. 92-603, § 122(a), added subsec. (n).

Subsec. (o). Pub. L. 92-603, § 138(a), added subsec. (o).

Pub. L. 92-603, § 123(c)(1), added paragraph at the end defining "wages" in the case of members of a religious order when an election under section 3121(r) of the Internal Revenue Code of 1954 is in effect.

1971—Subsec. (a)(5). Pub. L. 92-5, § 203(a)(1)(A), added "and prior to 1972" after "1967".

Subsec. (a)(6). Pub. L. 92-5, § 203(a)(1)(B), added subsec. (a)(6).

1968—Subsec. (a)(4), (5). Pub. L. 90-248, § 108(a)(1)(A), (B) inserted "and prior to 1968" after "1965" and added par. (5), respectively.

Subsec. (m). Pub. L. 90-248, § 504(c), added subsec. (m).

1965—Subsec. (a)(3). Pub. L. 89-97, § 320(a)(1)(A), inserted "and prior to 1966" after "1958".

Subsec. (a)(4). Pub. L. 89-97, § 320(a)(1)(B), added par. (4).

Subsec. (l). Pub. L. 89-97, § 313(a)(1), added subsec. (l).

Pub. L. 89-97, § 313(a)(2), added paragraph at the end providing that tips be considered remuneration and that such remuneration be deemed paid as of the filing of a written statement or as of the time received.

1964—Subsec. (e). Pub. L. 88-272 included as "wages" payments after 1954 under or to trust exempt under sections 401 and 501(a), I.R.C. 1954, under annuity plans after 1954 and prior to 1963, under section 401(a)(3), (4), (5), and (6), I.R.C. 1954, under or to annuity plans which at time of payment after 1962, are described in section 403(a), I.R.C. 1954, and under or to a bond purchase plan which at time of any payment after 1962, is a qualified bond purchase plan described in section 405(a), I.R.C. 1954.

Subsec. (k). Pub. L. 88-650 added subsec. (k).

1961—Subsec. (i). Pub. L. 87-64 substituted "attains age 62 (if a woman) or age 65 (if a man)" for "attains retirement age (as defined in section 416(a) of this title)."

Pub. L. 87-293 added last paragraph providing for computation of wages for Peace Corps volunteer service.

1960—Subsec. (j). Pub. L. 86-778, § 103(j)(2)(F), substituted "section 410(j)(3)(C)" for "section 410(k)(3)(C)."

Pub. L. 86-778, § 103(j)(2)(C), substituted "section 410(l)(1) of this title" for "section 410(m)(1) of this title" in the next to last paragraph.

1958—Subsec. (a). Pub. L. 85-840 inserted "and prior to 1959" following "any calendar year after 1954" incl. (2), and added cl. (3).

Subsec. (i). Pub. L. 85-786 inserted sentence to include remuneration for service in State employment paid to employee for period he was absent for illness in the term "sick pay".

1956—Subsec. (h)(2). Act Aug. 1, 1956, ch. 836, included within the definition of wages cash remuneration of $150 or more, and cash remuneration computed on a time basis where the employee performs agricultural labor for the employer on 20 days or more during the calendar year.

Act Aug. 1, 1956, ch. 837, added next to last par. to define "wages" in the case of an individual performing service, as a member of a uniformed service, to which the provisions of section 410(m)(1) of this title are applicable.

1954—Subsec. (a). Act Sept. 1, 1954, § 104(a), provided that for years after 1954 the term "wages" would exclude any remuneration in excess of $4,200 paid to an individual with respect to employment during a calendar year.

Subsec. (g)(2). Act Sept. 1, 1954, § 101(a)(1), made coverage of domestic service depend solely on receipt by the employee, in a quarter, of $50 in cash remuneration from one employer for such service.

Subsec. (g)(3). Act Sept. 1, 1954, § 101(a)(2), added subsec. (g)(3).

Subsec. (h). Act Sept. 1, 1954, § 101(a)(3), redesignated subsection as cl. (1) and added cl. (2).

1950—Act Aug. 28, 1950, amended section generally.

1948—Subsec. (b)(15). Act Apr. 20, 1948, inserted subpar. (B).

1946—Subsec. (a). Act Aug. 10, 1946, § 414, in amending former subsec. (a), made pars. (1) and (2) applicable only to payments before Jan. 1, 1947, added a new par. (3), applicable to payments after that date, and renumbered former pars. (3) to (6) to be pars. (4) to (7), respectively.

Subsec. (h). Act Aug. 10, 1946, § 407(a), in amending former subsec. (h), required a currently insured individual to have not less than six quarters of coverage during the period consisting of the quarter in which he died and the twelve preceding quarters.

Subsec. (i). Act Aug. 10, 1946, § 408(a), in amending former subsec. (i), required only that a wife be married to the insured individual for 36 months instead of requiring that they be married before Jan. 1, 1939, or before he became 60 years of age, as was formerly the case.

Subsec. (k). Act Aug. 10, 1946, § 409(a), in amending former subsec. (k), changed requirement that a stepchild or adopted child must have been such before the individual reached age 60 to require, in the case of a living individual, that the child must have been a stepchild or adopted child for 36 months.

Subsec. (q). Act Aug. 10, 1946, § 410, added former subsec. (q).

Subsec. (r). Act Aug. 10, 1946, § 411, added former subsec. (r).

1945—Subsec. (b)(16). Act. Dec. 29, 1945, added former subsec. (b)(16).

Subsec. (p). Act Oct. 23, 1945, added former subsec. (p).

1944—Subsec. (o)(1). Act Apr. 4, 1944, § 2, added "but shall not include any such service performed (1) under a contract entered into without the United States and during the performance of which the vessel does not touch at a port in the United States, or (2) on a vessel documented under the laws of any foreign country and bareboat chartered to the War Shipping Administration".

1943—Subsec. (o). Act Mar. 24, 1943, added former subsec. (o).

1939—Act Aug. 10, 1939, amended section generally.

EFFECTIVE DATE OF 1973 AMENDMENTS

Section 5(e) of Pub. L. 93-233 provided that: "The amendments made by this section [to sections 409(a)(8), 411(b)(1)(H), 413(a)(2)(ii), (iii), and 430(c) of this title and sections 3121(a), 3122, 3125(a) to (c), 6413(c)(1), (2)(A), and 6654(d)(2)(B)(ii) of Title 26], except subsection (a)(4), shall apply only with respect to remuneration paid after, and taxable years beginning after, 1973. The amendments made by subsection (a)(4) [to section 415(e)(1) of this title] shall apply with respect to calendar years after 1973."

Section 203(e) of Pub. L. 93-66 provided that: "The amendments made by this section [to sections 409(a)(8), 411(b)(1)(H), 415(a)(2)(ii), (iii) and 430(c) of this title and sections 3121(a), 3122, 3125(a) to (c), 6413(c)(1), (2)(A), and 6654(d)(2)(B)(ii) of Title 26, Internal Revenue Code] except subsection (a)(4), shall apply only with respect to remuneration paid after, and taxable years beginning after, 1973. The amendments made by subsection (a)(4) [to section 415(e)(1) of this title] shall apply with respect to calendar years after 1973."

EFFECTIVE DATE OF 1972 AMENDMENTS

Section 203(c) of Pub. L. 92-336 provided that: "The amendments made by subsections (a)(1) [amending subsec. (a)(6) to (9) of this section] and (a)(3)(A) [amending section 413(a)(2)(ii) of this title], and the amendments made by subsection (b) [amending sections 3121(a)(1), 3122, 3125, 6413(c)(1), and 6413(c)(2)(A) of Title 26] (except paragraphs (1) and (7) thereof), shall apply only with respect to remuneration paid after December 1972. The amendments made by subsections (a)(2) [section 411(b)(1) (F) to (I) of this title], (a)(3)(B) [section 413(a)(2)(iii) of this title], (b)(1) [section 1402(b)(1) (F) to (I) of Title 26, Internal Revenue Code], and (b)(7) [section 6654(d)(2)(B)(ii) of title 26] shall apply only with respect to taxable years beginning after 1972. The amendment made by subsection (a)(4) [section 415(e)(1) of this title] shall apply only with respect to calendar years after 1972."

Amendment of subsec. (i) by section 104(g) of Pub. L. 92-603 applicable only with respect to payments after 1974, see section 104(j) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 414 of this title.

Section 122(c) of Pub. L. 92-603 provided that: "The amendments made by this section [enacting subsec. (n) of this section and section 3121(a)(14) of Title 26, Internal Revenue Code] shall apply in the case of any payment made after December 1972."

Section 138(c) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsec. (o) of this section and section 3121(a)(15) of Title 26, Internal Revenue Code] shall apply in the case of any payment made after December 1972."

EFFECTIVE DATE OF 1971 AMENDMENT

Section 203(c) of Pub. L. 92-5 provided that: "The amendments made by subsections (a)(1) [amending this section] and (a)(3)(A) [amending section 413(a)(2)(ii) of this title], and the amendments made by subsection (b) (except paragraphs (1) and (7) thereof) [amending sections 3121, 3122, 3125 and 6413 of Title 26, Internal Revenue Code], shall apply only with respect to remuneration paid after December 1971. The amendments made by subsections (a)(2), (a)(3)(B), (b)(1), and (b)(7) [amending sections 411 and 413(a)(2)(iii) of this title and sections 1402 and 6654 of title 26] shall apply only with respect to taxable years beginning after 1971. The amendment made by subsection (a)(4) [amending section 415 of this title] shall apply only with respect to calendar years after 1971."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 108(c) of Pub. L. 90-248 provided that: "The amendment made by subsections (a)(1) [to subsecs. (a)(4), (5) of this section] and (a)(3)(A) [to section 423(a)(2)(ii) of this title], and the amendments made by subsection (b) (except paragraph (1) thereof) [to sections 1402(b)(1)(E), 3121(a)(1), 3122, 3125 and 6413(c)(1), (2)(A) of Title 26], shall apply only with respect to remuneration paid after December 1967. The amendments made by subsections (a)(2) [to section 411(b)(1)(D), (E) of this title], (a)(3)(B) [to section 413(a)(2)(iii) of this title], and (b)(1) [to section 1402(b)(1)(D) of Title 26, Internal Revenue Code] shall apply only with respect to taxable years ending after 1967. The amendment made by subsection (a)(4) [to section 415(e)(1) of this title] shall apply only with respect to calendar years after 1967."

Subsec. (m) of this section applicable with respect to remuneration paid after Jan. 2, 1968, see section 504(d) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 3121 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 313 of Pub. L. 89-97 applicable only with respect to tips received by employees after 1965, see section 313(f) of Pub. L. 89-97, set out as an Effective Date note under section 6053 of Title 26, Internal Revenue Code.

Amendment by section 320 of Pub. L. 89-97 applicable with respect to remuneration paid after December 1965, see section 320(c) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 3121 of Title 26.

EFFECTIVE DATE OF 1964 AMENDMENTS

Amendment of subsec. (e) by Pub. L. 88-272 applicable to taxable years ending after Dec. 31, 1962, see section 220(d) of Pub. L. 88-272, set out as an Effective Date note under section 406 of Title 26, Internal Revenue Code.

Subsec. (k) of this section applicable with respect to remuneration paid on or after the first day of the first calendar month which begins more than ten days after Oct. 13, 1964, see section 4(c) of Pub. L. 88-650, set out as an Effective Date of 1964 Amendments note under section 3121 of Title 26.

EFFECTIVE DATE OF 1961 AMENDMENTS

Amendment of subsec. (i) by Pub. L. 87-64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961, based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as 1961 Increase in Monthly Benefits; Effective Date, and Effective Date of 1961 Amendment notes, respectively, under section 402 of this title.

Amendment by Pub. L. 87-293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87-293, set out as Effective Date of 1961 Amendments note under section 3121 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (j) and the last paragraph of this section by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendments note under section 402 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85-786 provided that: "The amendment made by section 1 [amending subsec. (i) of this section] shall be applicable to remuneration paid after the enactment of this Act [August 27, 1958], except that, in the case of any coverage group which is included under the agreement of a State under section 218 of the Social Security Act [section 418 of this title], the amendment made by section 1 [amending

subsec. (l) of this section] shall also be applicable to remuneration for any member of such coverage group with respect to services performed after the effective date, specified in such agreement, for such coverage group, if such State has paid or agrees, prior to January 1, 1959, to pay, prior to such date, the amounts which under section 218(e) [section 418(e) of this title] would have been payable with respect to remuneration of all members of such coverage group had the amendment made by section 1 [amending subsec. (l) of this section] been in effect on and after January 1, 1951. Failure by a State to make such payments prior to January 1, 1959, shall be treated the same as failure to make payments when due under section 218(e) [section 418(e) of this title]."

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 1, 1956, ch. 837, effective Jan. 1, 1957.

Section 105(d) of act Aug. 1, 1956, provided that: "The amendment made by subsection (a) of this section [to subsec. (h)(2) of this section] shall apply with respect to remuneration paid after 1956, and the amendment made by subsection (b) of this section [to section 410(o) of this title] shall apply with respect to service performed after 1956."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 101(n) of act Sept. 1, 1954, provided in part that the amendments to subsecs. (g)(2), (3), and (h)(1), (2) by section 101(a)(1), (2), (3), of act Sept. 1, 1954 shall be applicable only with respect to remuneration paid after 1954.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 104(b) of act Aug. 28, 1950, provided that: "The amendment made by subsection (a) shall take effect January 1, 1951, except that sections 214, 215, and 216 of the Social Security Act [sections 414–416 of this title] shall be applicable (1) in the case of monthly benefits for months after August 1950, and (2) in the case of lump-sum death payments with respect to deaths after August 1950."

EFFECTIVE DATE OF 1948 AMENDMENT

Section 1(b) of act Apr. 20, 1948, provided in part that: "The amendment made by subsection (a) to section 209(b)(15) of the Social Security Act [former subsection (b)(15) of this section] shall be applicable with respect to services performed after the date of the enactment of this Act [Apr. 20, 1948].

EFFECTIVE DATE OF 1946 AMENDMENT

Amendments to former subsecs. (h), (l) and (k) of this section by sections 407(a), 408(a) and 409(a) of act Aug. 10, 1946, were made applicable only in cases of applications for benefits under sections 401 to 410 of this title filed after December 31, 1946, by sections 407(b), 408(b) and 409(b) of act Aug. 10, 1946.

EFFECTIVE DATE OF 1945 AMENDMENT

Amendment of former subsec. (b) by act Dec. 29, 1945, § 5(a), was made effective Jan. 1, 1946, by section 5(a) thereof.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of former subsecs. (a) to (n) by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of such act.

REPEALS: AMENDMENTS AND APPLICATION OF AMENDMENTS UNAFFECTED

Section 202(b)(2) of Pub. L. 87-293 repealed by Pub. L. 89-572, § 5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89-572, set out as a note under former section 2515 of Title 22, Foreign Relations and Intercourse.

SERVICES FOR COOPERATIVES PRIOR TO 1951

Section 110 of act Aug. 28, 1950, provided that: "In any case in which—

"(1) an individual has been employed at any time prior to 1951 by organizations enumerated in the first sentence of section 101(12) of the Internal Revenue Code [1939].

"(2) the service performed by such individual during the time he was so employed constituted agricultural labor as defined in section 209(l) of the Social Security Act [former subsec. (l) of this section] and section 1426(h) of the Internal Revenue Code [1939], as in effect prior to the enactment of this Act [Aug. 28, 1950], and such service would, but for the provisions of such sections, have constituted employment for the purposes of title II of the Social Security Act [this subchapter] and subchapter A of chapter 9 of such Code [1939].

"(3) the taxes imposed by sections 1400 and 1410 of the Internal Revenue Code [1939] have been paid with respect to any part of the remuneration paid to such individual by such organization for such service and the payment of such taxes by such organization has been made in good faith upon the assumption that such service did not constitute agricultural labor as so defined, and

"(4) no refund of such taxes has been obtained, the amount of such remuneration with respect to which such taxes have been paid shall be deemed to constitute remuneration for employment as defined in section 209(b) of the Social Security Act [former subsec. (b) of this section] as in effect prior to the enactment of this Act [Aug. 28, 1950] (but it shall not constitute wages for purposes of deductions under section 203 of such Act [section 403 of this title] for months for which benefits under title II of such Act [this subchapter] have been certified and paid prior to the enactment of this act [Aug. 28, 1950]."

REFUNDS OR CREDITS FOR OVERPAYMENTS

Section 3 of act Apr. 20, 1948, provided that: "If any amount paid prior to the date of the enactment of this Act [Apr. 20, 1948] constitutes an overpayment of tax solely by reason of an amendment made by this Act [to this section], no refund or credit shall be made or allowed with respect to the amount of such overpayment."

CROSS REFERENCES

Correlation of payments under Railroad Retirement Act and crediting railroad industry service under this subchapter in certain cases, see sections 231b, 231q, 231r of Title 45, Railroads.

Definitions under Internal Revenue Code, see section 7701 of Title 26, Internal Revenue Code.

Taxes on services rendered by employees of international organizations prior to Jan. 1, 1945, see note set out under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 405, 417, 418, 424a, 430 of this title; title 5 section 5901; title 22 sections 288, 288e, 288f, 288f-1, 288f-2; title 29 section 206; title 45 sections 231, 231b, 231e.

§ 410. Definitions relating to employment

For the purposes of this subchapter—

(a) Employment

The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this subchapter under the law applicable to the period

in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee (i) of an American employer (as defined in subsection (e) of this section), or (ii) of a foreign subsidiary (as defined in section 3121(*l*) of the Internal Revenue Code of 1954) of a domestic corporation (as determined in accordance with section 7701 of the Internal Revenue Code of 1954) during any period for which there is in effect an agreement, entered into pursuant to section 3121(*l*) of the Internal Revenue Code of 1954, with respect to such subsidiary; except that, in the case of service performed after 1950, such term shall not include—

(1) Service performed by foreign agricultural workers (A) under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended, or (B) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3)(A) Service performed by an individual in the employ of his spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service if—

(i) the employer is a surviving spouse or a divorced individual and has not remarried, or has a spouse living in the home who has a mental or physical condition which results in such spouse's being incapable of caring for a son, daughter, stepson, or stepdaughter (referred to in clause (ii)) for at least 4 continuous weeks in the calendar quarter in which the service is rendered, and

(ii) a son, daughter, stepson, or stepdaughter of such employer is living in the home, and

(iii) the son, daughter, stepson, or stepdaughter (referred to in clause (ii)) has not attained age 18 or has a mental or physical condition which requires the personal care and supervision of an adult for at least 4 continuous weeks in the calendar quarter in which the service is rendered;

(4) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if (A) the individual is employed on and in connection with such vessel or aircraft when outside the United States and (B)(i) such individual is not a citizen of the United States or (ii) the employer is not an American employer;

(5) Service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 1410 of the Internal Revenue Code of 1939, by virtue of any provision of law which specifically refers to such section in granting such exemption;

(6)(A) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States;

(B) Service performed by an individual in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 of the Internal Revenue Code of 1939, on December 31, 1950, and if such service is covered by a retirement system established by such instrumentality; except that the provisions of this subparagraph shall not be applicable to—

(i) service performed in the employ of a corporation which is wholly owned by the United States;

(ii) service performed in the employ of a Federal land bank, a Federal intermediate credit bank, a bank for cooperatives, a Federal land bank association, a production credit association, a Federal Reserve Bank, a Federal Home Loan Bank, or a Federal Credit Union;

(iii) service performed in the employ of a State, county, or community committee under the Production and Marketing Administration;

(iv) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; or

(v) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard;

(C) Service performed in the employ of the United States or in the employ of any instru-

mentality of the United States, if such service is performed—

(i) as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner of or to the Congress;

(ii) in the legislative branch;

(iii) in a penal institution of the United States by an inmate thereof;

(iv) by any individual as an employee included under section 5351(2) of title 5, other than as a medical or dental intern or a medical or dental resident in training;

(v) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency; or

(vi) by any individual to whom subchapter III of chapter 83 of title 5 does not apply because such individual is subject to another retirement system (other than the retirement system of the Tennessee Valley Authority);

(7) Service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, except that this paragraph shall not apply in the case of—

(A) service included under an agreement under section 418 of this title,

(B) service which, under subsection (k) of this section, constitutes covered transportation service, or

(C) service in the employ of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, performed by an officer or employee thereof (including a member of the legislature of any such Government or political subdivision), and, for purposes of this subchapter—

(i) any person whose service as such an officer or employee is not covered by a retirement system established by a law of the United States shall not, with respect to such service, be regarded as an officer or employee of the United States or any agency or instrumentality thereof, and

(ii) the remuneration for service described in clause (i) (including fees paid to a public official) shall be deemed to have been paid by the Government of Guam or the Government of American Samoa or by a political subdivision thereof or an instrumentality of any one or more of the foregoing which is wholly owned thereby, whichever is appropriate;

(D) service performed in the employ of the District of Columbia or any instrumentality which is wholly owned thereby, if such service is not covered by a retirement system established by a law of the United States; except that the provisions of this subparagraph shall not be applicable to service performed—

(i) in a hospital or penal institution by a patient or inmate thereof;

(ii) by any individual as an employee included under section 5351(2) of title 5, other than as a medical or dental intern or as a medical or dental resident in training;

(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency; or

(iv) by a member of a board, committee, or council of the District of Columbia, paid on a per diem, meeting, or other fee basis, or

(E) service performed in the employ of the Government of Guam (or any instrumentality which is wholly owned by such Government) by an employee properly classified as a temporary or intermittent employee, if such service is not covered by a retirement system established by a law of Guam; except that (i) the provisions of this subparagraph shall not be applicable to services performed by an elected official or a member of the legislature or in a hospital or penal institution by a patient or inmate thereof, and (ii) for purposes of this subparagraph, clauses (i) and (ii) of subparagraph (C) shall apply;

(8)(A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, except that this subparagraph shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under section 3121(r) of the Internal Revenue Code of 1954 is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs;

(B) Service performed in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954, which is exempt from income tax under section 501(a) of such Code, but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to section 3121(k) of the Internal Revenue Code of 1954 (or deemed to have been so filed under paragraph (4) or (5) of such section 3121(k)), is in effect if such service is performed by an employee—

(i) whose signature appears on the list filed (or deemed to have been filed) by such organization under such section 3121(k),

(ii) who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii)) was filed, (or deemed to have been filed), or,

(iii) who, after the calendar quarter in which the certificate was filed (or deemed to have been filed) with respect to a group described in paragraph (1)(E) of such section 3121(k), became a member of such group,

except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in

such paragraph (1)(E) with respect to which no certificate is (or is deemed to be) in effect;

(9) Service performed by an individual as an employee or employee representative as defined in section 1532 of the Internal Revenue Code of 1939;

(10)(A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 101 of the Internal Revenue Code of 1939, if the remuneration for such service is less than $50;

(B) Service performed in the employ of—

(i) a school, college, or university, or

(ii) an organization described in section 509(a)(3) of the Internal Revenue Code of 1954 if the organization is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university, unless it is a school, college, or university of a State or a political subdivision thereof and the services in its employ performed by a student referred to in section 418(c)(5) of this title are covered under the agreement between the Secretary of Health, Education, and Welfare and such State entered into pursuant to section 418 of this title;

if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university;

(11) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(12) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(13) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school charted or approved pursuant to State law.

(14)(A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(15) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669) [22 U.S.C. 288 et seq.];

(16) Service performed by an individual under an arrangement with the owner or tenant of land pursuant to which—

(A) such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and furbearing animals and wildlife) on such land,

(B) the agricultural or horticultural commodities produced by such individual, or the proceeds therefrom, are to be divided between such individual and such owner or tenant, and

(C) the amount of such individual's share depends on the amount of the agricultural or horitcultural commodities produced;

(17) Service in the employ of any organization which is performed (A) in any quarter during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended [50 U.S.C. 781 et seq.], as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956;

(18) Service performed in Guam by a resident of the Republic of the Philippines while in Guam on a temporary basis as a nonimmigrant alien admitted to Guam pursuant to section 1101(a)(15)(H)(ii) of title 8;

(19) Service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 1101(a)(15) of title 8, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be; or

(20) Service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which—

(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),

(B) such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and

(C) the amount of such individual's share depends on the amount of the boat's (or boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals.

(b) Included and excluded service

If the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by paragraph (9) of subsection (a) of this section.

(c) American vessel

The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

(d) American aircraft

The term "American aircraft" means an aircraft registered under the laws of the United States.

(e) American employer

The term "American employer" means an employer which is (1) the United States or any instrumentality thereof, (2) a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing, (3) an individual who is a resident of the United States, (4) a partnership, if two-thirds or more of the partners are residents of the United States, (5) a trust, if all of the trustees are residents of the United States, or (6) a corporation organized under the laws of the United States or of any State.

(f) Agricultural labor

The term "agricultural labor" includes all service performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 1141j(g) of title 12, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(4)(A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed.

(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A) of this paragraph, but only if such operators produced all of the commodity with respect to which such service is performed. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than twenty at any time during the calendar quarter in which such service is performed.

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

The provisions of subparagraphs (A) and (B) of paragraph (4) of this subsection shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(g) Farm

The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(h) State

The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(i) United States

The term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(j) Employee

The term "employee" means—

(1) any officer of a corporation; or

(2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

(3) any individual (other than an individual who is an employee under paragraph (1) or (2) of this subsection) who performs services for remuneration for any person—

(A) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services, for his principal;

(B) as a full-time life insurance salesman;

(C) as a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him; or

(D) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;

if the contract of service contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term "employee" under the provisions of this paragraph if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the person for whom the services are performed.

(k) Covered transportation service

(1) Except as provided in paragraph (2) of this subsection, all service performed in the employ of a State or political subdivision in connection with its operation of a public transportation system shall constitute covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951.

(2) Service performed in the employ of a State or political subdivision in connection with the operation of its public transportation system shall not constitute covered transportation service if—

(A) any part of the transportation system was acquired from private ownership after 1936 and prior to 1951, and substantially all service in connection with the operation of the transportation system is, on December 31, 1950, covered under a general retirement system providing benefits which, by reason of a provision of the State constitution dealing specifically with retirement systems of the State or political subdivisions thereof, cannot be diminished or impaired; or

(B) no part of the transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951;

except that if such State or political subdivision makes an acquisition after 1950 from private ownership of any part of its transportation system, then, in the case of any employee who—

(C) became an employee of such State or political subdivision in connection with and at the time of its acquisition after 1950 of such part, and

(D) prior to such acquisition rendered service in employment in connection with the operation of such part of the transportation system acquired by the State or political subdivision,

the service of such employee in connection with the operation of the transportation system shall constitute covered transportation service, commencing with the first day of the third calendar quarter following the calendar quarter in which the acquisition of such part took place, unless on such first day such service of such employee is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees described in subparagraph (C) of this paragraph.

(3) All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system shall constitute covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition (after 1950) from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

(4) For the purposes of this subsection—

(A) The term "general retirement system" means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term shall not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

(B) A transportation system or a part thereof shall be considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or part thereof acquired constituted employment under this subchapter, and some of such employees became employees of the State or political subdivision in connection with and at the time of such acquisition.

(C) The term "political subdivision" includes an instrumentality of (i) a State, (ii) one or more political subdivisions of a State, or (iii) a State and one or more of its political subdivisions.

(*l*) Service in the uniformed services

(1) Except as provided in paragraph (4) of this subsection, the term "employment" shall, notwithstanding the provisions of subsection (a) of this section, include service performed after December 1956 by an individual as a

member of a uniformed service on active duty; but such term shall not include any such service which is performed while on leave without pay.

(2) The term "active duty" means "active duty" as described in section 101 of title 38, except that it shall also include "active duty for training" as described in such section.

(3) The term "inactive duty training" means "inactive duty training" as described in such section 101 of title 38.

(4)(A) Paragraph (1) of this subsection shall not apply in the case of any service, performed by an individual as a member of a uniformed service, which is creditable under section 231b(i) of title 45. The Railroad Retirement Board shall notify the Secretary of Health, Education, and Welfare with respect to all such service which is so creditable.

(B) In any case where benefits under this subchapter are already payable on the basis of such individual's wages and self-employment income at the time such notification (with respect to such individual) is received by the Secretary, the Secretary shall certify no further benefits for payment under this subchapter on the basis of such individual's wages and self-employment income, or shall recompute the amount of any further benefits payable on the basis of such wages and self-employment income, as may be required as a consequence of subparagraph (A) of this paragraph. No payment of a benefit to any person on the basis of such individual's wages and self-employment income, certified by the Secretary prior to the end of the month in which he receives such notification from the Railroad Retirement Board, shall be deemed by reason of this subparagraph to have been an erroneous payment or a payment to which such person was not entitled. The Secretary shall, as soon as possible after the receipt of such notification from the Railroad Retirement Board, advise such Board whether or not any such benefit will be reduced or terminated by reason of subparagraph (A) of this paragraph, and if any such benefit will be so reduced or terminated, specify the first month with respect to which such reduction or termination will be effective.

(m) Member of a uniformed service

The term "member of a uniformed service" means any person appointed, enlisted, or inducted in a component of the Army, Navy, Air Force, Marine Corps, or Coast Guard (including a reserve component of a uniformed service as defined in section 101(27) of title 38), or in one of those services without specification of component, or as a commissioned officer of the National Oceanic and Atmospheric Administration or the Regular or Reserve Corps of the Public Health Service, and any person serving in the Army or Air Force under call or conscription. The term includes—

(1) a retired member of any of those services;

(2) a member of the Fleet Reserve or Fleet Marine Corps Reserve;

(3) a cadet at the United States Military Academy, a midshipman at the United States Naval Academy, and a cadet at the United States Coast Guard Academy or United States Air Force Academy;

(4) a member of the Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps, or the Air Force Reserve Officers' Training Corps, when ordered to annual training duty for fourteen days or more, and while performing authorized travel to and from that duty; and

(5) any person while enroute to or from, or at, a place for final acceptance or for entry upon active duty in the military or naval service—

(A) who has been provisionally accepted for such duty; or

(B) who, under the Universal Military Training and Service Act [50 App. U.S.C. 451 et seq.], has been selected for active military or naval service;

and has been ordered or directed to proceed to such place.

The term does not include a temporary member of the Coast Guard Reserve.

(n) Crew leader

The term "crew leader" means an individual who furnishes individuals to perform agricultural labor for another person, if such individual pays (either on his own behalf or on behalf of such person) the individuals so furnished by him for the agricultural labor performed by them and if such individual has not entered into a written agreement with such person whereby such individual has been designated as an employee of such person; and such individuals furnished by the crew leader to perform agricultural labor for another person shall be deemed to be the employees of such crew leader. A crew leader shall, with respect to services performed in furnishing individuals to perform agricultural labor for another person and service performed as a member of the crew, be deemed not to be an employee of such other person.

(o) Peace Corps volunteer service

The term "employment" shall, notwithstanding the provisions of subsection (a) of this section, include service performed by an individual as a volunteer or volunteer leader within the meaning of the Peace Corps Act [22 U.S.C. 2501 et seq.].

(Aug. 14, 1935, ch. 531, title II, § 210, as added Aug. 10, 1946, ch. 951, title II, § 201, 60 Stat. 979, and amended, Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492; Oct. 31, 1949, ch. 792, title V, § 506(a), formerly § 505(a), as added July 12, 1951, ch. 223, 65 Stat. 120, and renumbered Oct. 3, 1961, Pub. L. 87-345, § 3, 75 Stat. 761; Sept. 1, 1954, ch. 1206, title I, § 101(a)(4), (5), (b), (c)(1), (2), (e), (f), (m), 68 Stat. 1052, 1061; Aug. 1, 1956, ch. 836, title I, §§ 104(a), (b), (c)(1), 105(b), 121(c), 70 Stat. 824, 828, 839; Aug. 1, 1956, ch. 837, title IV, § 402(a), 70 Stat. 870; Aug. 28, 1958, Pub. L. 85-840, title III, § 311(a), 312(a), 72 Stat. 1035; June 25, 1959, Pub. L. 86-70, § 32(c)(2), 73 Stat. 149; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), title II, § 202(a), 73 Stat. 387, 389; July 12, 1960, Pub. L. 86-624, § 30(c)(2), 74 Stat. 420; Sept. 13, 1960, Pub. L. 86-778, title I, §§ 103(c)-(f), (j)(2)(A), (B), 104(a), 74 Stat. 936, 937, 942; Sept. 21, 1961, Pub. L. 87-256, § 110(e)(2), 75 Stat. 537; Sept. 22, 1961, Pub. L. 87-293, title II, § 202(b)(1), 75 Stat. 626; July 30, 1965, Pub. L.

89-97, title III, §§ 311(a)(3), (4), 317(a), 79 Stat. 380, 381, 388; Jan. 2, 1968, Pub. L. 90-248, title I, § 123(a), title IV, § 403(a), 81 Stat. 844, 931; Oct. 30, 1972, Pub. L. 92-603, title I, §§ 123(a)(1), 128(a), 129(a)(1), 86 Stat. 1354, 1358, 1359; Oct. 16, 1974, Pub. L. 93-445, title III, § 311, 88 Stat. 1359; Oct. 4, 1976, Pub. L. 94-455, title XII, § 1207(e)(2)(A), 90 Stat. 1707; Oct. 19, 1976, Pub. L. 94-563, § 1(a), 90 Stat. 2655.)

References in Text

The Agricultural Act of 1949, as amended, referred to in subsec. (a)(1), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended. Title V of the Agricultural Act of 1949 was classified generally to subchapter IV (§ 1461 et seq.) of chapter 35A of Title 7, Agriculture, and was omitted from the Code. For further details, see Codification note set out under section 1461 of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 7 and Tables volume.

Sections 1410 and 1532 of the Internal Revenue Code of 1939, referred to in subsec. (a)(5), (6)(B), (9), were a part of chapter 9 of the 1939 Code, and were repealed (subject to certain exceptions) by section 7851(a)(3) of the Internal Revenue Code of 1954.

Section 101 of the Internal Revenue Code of 1939, referred to in subsec. (a)(10), was a part of chapter 1 of the 1939 Code, and was repealed by section 7851(a)(1)(A) of the Internal Revenue Code of 1954.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1954 Code, see section 7852(b) of the 1954 Code. For table of comparisons of the 1939 Code to the 1954 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 is classified generally to Title 26.

The International Organizations Immunities Act, referred to in subsec. (a)(15), is act Dec. 29, 1945, ch. 652, title I, 59 Stat. 669, as amended, which is classified principally to subchapter XVIII (§ 288 et seq.) of chapter 7 of Title 22, Foreign Relations and Intercourse. For complete classification of that Act to the Code, see Short Title note set out under section 288 of Title 22 and Tables volume.

The Internal Security Act of 1950, as amended, referred to in subsec. (a)(17), is act Sept. 23, 1950, ch. 1024, 64 Stat. 987, which is classified principally to chapter 23 (§ 781 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 781 of Title 50, and Tables volume.

The Universal Military Training and Service Act, referred to in subsec. (m)(5)(B), renamed the "Military Selective Service Act of 1967", by Pub. L. 90-40, § 1(1), June 30, 1967, 81 Stat. 100, is act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to section 451 et seq. of Title 50, App., War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 451 of Title 50, App., and Tables volume.

The Peace Corps Act, referred to in subsec. (o), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of that Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables volume.

Codification

"Section 101 of title 38" was substituted for "section 102 of the Servicemen's and Veterans' Survivor Benefits Act" and for "such section 102" in subsec. (*l*)(2) and (3), respectively, and "section 101(27) of title 38" was substituted for "section 102(3) of the Servicemen's and Veterans' Survivor Benefits Act" in subsec. (m) on authority of section 5(a) of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1261, section 1 of which enacted Title 38, Veterans' Benefits.

Amendments

1976—Subsec. (a)(8)(B). Pub. L. 94-563 inserted "(or deemed to have been so filed under paragraph (4) or (5) of such section 3121(k))" following "section 3121(k) of the Internal Revenue Code of 1954" in the provisions preceding cl. (i), inserted "(or deemed to have been filed)" following "filed" in cls. (i), (ii), and (iii), and substituted "is (or is deemed to be) in effect" for "is in effect" in the provisions following cl. (iii).

Subsec. (a)(20). Pub. L. 94-455 added par. (20).

1974—Subsec. (*l*)(4)(A). Pub. L. 93-445 substituted "section 231b(i) of title 45" for "section 228c-1 of title 45" and struck out ", as provided in section 228c-1(p)(2) of title 45,' following "notify the Secretary of Health, Education, and Welfare".

1972—Subsec. (a)(7). Pub. L. 92-603, § 128(a), added subpar. (E).

Subsec. (a)(8)(A). Pub. L. 92-603, § 123(a)(1), inserted provisions referring to the election of coverage under section 3121(r) of the Internal Revenue Code of 1954.

Subsec. (a)(10)(B). Pub. L. 92-603, § 129(a)(1), designated existing provisions as cl. (i) and added cl. (ii).

1968—Subsec. (a)(3)(B). Pub. L. 90-248, § 123(a), added the exception provision including clauses (i) to (iii).

Subsec. (a)(6)(C)(iv). Pub. L. 90-248, § 403(a)(1), substituted reference to section 5351(2) of title 5 for former section 1052 of title 5.

Subsec. (a)(6)(C)(vi). Pub. L. 90-248, § 403(a)(2), substituted "subchapter III of chapter 83 of title 5" for "the Civil Service Retirement Act".

Subsec. (a)(7)(D)(ii). Pub. L. 90-248, § 403(a)(3), substituted reference to section 5351(2) of title 5 for former section 1052 of title 5.

1965—Subsec. (a)(6)(C)(iv). Pub. L. 89-97, § 311(a)(3), inserted ", other than as a medical or dental intern or a medical or dental resident in training".

Subsec. (a)(7)(D). Pub. L. 89-97, § 317(a)(3), added subpar. (D).

Subsec. (a)(13). Pub. L. 89-97, § 311(a)(4), struck out from the definition of employment the exclusion of service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to State law.

1961—Subsec. (a)(19). Pub. L. 87-256 added subsec. (a)(19).

Subsec. (o). Pub. L. 87-293 added subsec. (o).

1960—Subsec. (a)(3). Pub. L. 86-778, § 104(a), designated existing provisions as cl. (A) and eliminated therein provisions which related to service performed by an individual in the employ of his son or daughter, and added cl. (B).

Subsec. (a)(7). Pub. L. 86-778, § 103(c), excluded service in the employ of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, performed by an officer or employee thereof.

Subsec. (a)(18). Pub. L. 86-778, § 103(d), added subsec. (a)(18).

Subsec. (h). Pub. L. 86-778, § 103(e), included Guam and American Samoa.

Pub. L. 86-624 substituted "includes the District of Columbia and" for "includes Hawaii, the District of Columbia, and".

Subsec. (i). Pub. L. 86-778, § 103(f), included Guam and American Samoa.

Pub. L. 86-624 eliminated "Hawaii," preceding "the District of Columbia."

Subsec. (j). Pub. L. 86-778, § 103(j)(2)(A), (B), redesignated former subsec. (k) as (j) and repealed former subsec. (j) which related to citizens of Puerto Rico.

Subsecs. (k) to (n). Pub. L. 86-778, § 103(j)(2)(B), redesignated former subsecs. (*l*) to (o) as (k) to (n).

1959—Subsec. (a)(6)(B)(ii). Pub. L. 86-168 substituted "Federal land bank association" for "national farm loan association", and included service in the employ of Federal land banks, Federal intermediate credit banks and banks for cooperatives.

Subsec. (h). Pub. L. 86-70 eliminated "Alaska," preceding "Hawaii".

Subsec. (i). Pub. L. 86-70 eliminated "Alaska," preceding "Hawaii".

1958—Subsec. (a)(1). Pub. L. 85-840, § 311(a), eliminated provisions which excluded from coverage service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 1141j(g) of title 12.

Subsec. (a)(8)(B). Pub. L. 85-840, § 312(a), substituted references to the Internal Revenue Code of 1954 for references to the Internal Revenue Code of 1939, and inserted provisions making subparagraph inapplicable to service performed during the period for which a certificate is in effect if such service is performed by an employee who, after the calendar quarter in which the certificate was filed with respect to a group described in section 3121(k)(1)(E) of the Internal Revenue Code of 1954 became a member of such group, and making subparagraph applicable with respect to service performed by an employee as a member of a group described in section 3121(k)(1)(E) with respect to which no certificate is in effect.

1956—Subsec. (a)(1)(B). Act Aug. 1, 1956, ch. 836, § 104(a), excluded from coverage service performed by foreign agricultural workers lawfully admitted on a temporary basis from any foreign country or possession thereof.

Subsec. (a)(6)(B)(ii). Act Aug. 1, 1956, ch. 836, § 104(b)(1), included service performed in the employ of a Federal Home Loan Bank.

Subsec. (a)(6)(C)(vi). Act Aug. 1, 1956, ch. 836, § 104(b)(2), substituted "Civil Service Retirement Act" for "Civil Service Retirement Act of 1930", and inserted "(other than the retirement system of the Tennessee Valley Authority)" following "retirement system".

Subsecs. (a)(16), (17). Act Aug. 1, 1956, ch. 836, §§ 104(c)(1), 121(c), added subsecs. (a)(16), (17).

Subsecs. (m), (n). Act Aug. 1, 1956, ch. 837, added subsecs. (m) and (n).

Subsec. (o). Act Aug. 1, 1956, ch. 836, § 105(b), added subsec. (o).

1954—Subsec. (a)(B). Act Sept. 1, 1954, § 101(m), included within the definition of "employment" service performed outside the United States by citizens of the United States as employees for foreign subsidiaries of domestic corporations under certain conditions.

Subsec. (a)(1). Act Sept. 1, 1954, § 101(a)(4), removed the specific exception from employment of services performed in connection with the ginning of cotton, and added an exception for services performed by West Indian agricultural workers lawfully admitted to the United States on a temporary basis.

Subsec. (a)(3). Act Sept. 1, 1954, § 101(a)(5), redesignated former par. (4) as (3), and deleted former par. (3).

Subsec. (a)(4). Act Sept. 1, 1954, § 101(b), redesignated former par. (5) as (4), and made the exclusion with respect to services on non-American vessels or aircraft applicable only if the individual is not a United States citizen or the employer is not an American employer. Former par. (4) redesignated (3).

Subsec. (a)(5). Act Sept. 1, 1954, § 101(a)(5), redesignated former par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (a)(6)(B). Act Sept. 1, 1954, § 101(a)(5), redesignated former par. (7) as (6). Act Sept. 1, 1954, § 101(c)(1)(A), inserted "by an individual" after "Service performed" and "and if such service is covered by a retirement system established by such instrumentality;" after "December 31, 1950."

Subsec. (a)(6)(B)(v). Act Sept. 1, 1954, § 101(a)(5), redesignated former par. (7) as (6). Act Sept. 1, 1954, § 101(C)(1)(B), added cl. (v).

Subsec. (a)(6)(C). Act Sept. 1, 1954, § 101(a)(5), redesignated former par. (7) as (6). Act Sept. 1, 1954, § 101(C)(2), deleted the exception from coverage for services in the following categories; temporary employees in the Post Office Department field service; temporary census-taking employees of the Bureau of the Census; Federal employees paid on a contract or fee basis; Federal employees receiving compensation of $12 a year or less; certain consular agents; individuals employed under Federal unemployment relief programs; and members of State, county, or community committees under the Production and Marketing Administration and similar bodies, unless such bodies are composed exclusively of full-time Federal employee and limited the exclusion of inmates or patients of United States institutions to inmates of penal institutions.

Subsec. (a)(7) to (13). Act Sept. 1, 1954, § 101(a)(5), redesignated former pars. (8) to (14) as (7) to (13), respectively.

Subsec. (a)(14). Act Sept. 1, 1954, § 101(e), redesignated former par. (16) as (14). Former par. (14) redesignated (13).

Subsec. (a)(15). Act Sept. 1, 1954, § 101(e), redesignated former par. (17) as (15), and deleted former par. (15).

Subsec. (k)(3)(C). Act Sept. 1, 1954, § 101(f), eliminated the requirement that the services of homeworkers be subject to State licensing laws in order to constitute covered employment.

1951—Subsec. (a)(1). Act Oct. 31, 1949, § 505(a), as added by act July 12, 1951, added subparagraph "(C)".

1950—Act Aug. 28, 1950, substituted a new section 410 for former section 410.

Change of Name

The Coast and Geodetic Survey was consolidated with the National Weather Bureau in 1965 to form the Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioned Officer Corps of the Environmental Science Services Administration was changed to the Commissioned Officer Corps of the National Oceanic and Atmospheric Administration, see Reorg. Plan No. 4 of 1970, § 4(d), eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5.

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-563 applicable with respect to services performed after 1950, to the extent covered by waiver certificates filed or deemed to have been filed under section 3121(k)(4) or (5) of Title 26, see section 1(d) of Pub. L. 94-563, set out as an Effective Date of 1976 Amendment note under section 3121 of Title 26, Internal Revenue Code.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as an Effective Date of 1974 Amendment note under section 402 of this title.

Effective Date of 1972 Amendment

Section 128(c) of Pub. L. 92-603 provided that: "The amendments made by this section [enacting subsec. (a)(7)(E) of this section and section 3121(b)(7)(D) of Title 26] shall apply with respect to service performed on and after the first day of the first calendar quarter which begins on or after the date of the enactment of this Act [Oct. 30, 1972]."

Section 129(b) of Pub. L. 92-603 provided that: "The amendments made by subsection (a) [amending subsec. (a)(10)(B) of this section and section 3121(b)(10)(B) of Title 26] shall apply to services performed after December 31, 1972."

Effective Date of 1968 Amendment

Section 123(c) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsec. (a)(3)(B) of this section and section 3121(b)(3)(B) of Title 26, Internal Revenue Code] shall apply with respect to services performed after December 31, 1967."

EFFECTIVE DATE OF 1965 AMENDMENT

Section 311(c) of Pub. L. 89-97 provided that: "The amendments made by paragraphs (1) and (2) of subsection (a) [to section 411(c) of this title], and by paragraphs (1), (2), and (3) of subsection (b) [to section 1402(c), (e)(1), (e)(2)(A) of Title 26], shall apply only with respect to taxable years ending on or after December 31, 1965. The amendments made by paragraphs (3) and (4) of subsection (a) [to subsec. (a)(6)(C)(iv) and (a)(13) of this section], and by paragraphs (4) and (5) of subsection (b) [to section 3121(b)(6)(C)(iv), (b)(13) of Title 26], shall apply only with respect to services performed after 1965."

Section 317(g) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (a)(7) of this section and sections 3121(b)(7), 3125, 6205(a)(4), and 6413(a)(4), (c)(2) of Title 26, Internal Revenue Code] shall apply with respect to service performed after the calendar quarter in which this section is enacted [quarter ending Sept. 30, 1965] and after the calendar quarter in which the Secretary of the Treasury receives a certification from the Commissioners of the District of Columbia expressing their desire to have the insurance system established by title II (and part A of title XVIII) of the Social Security Act [this subchapter and part A of subchapter XVIII of this chapter] extended to the officers and employees coming under the provisions of such amendments."

EFFECTIVE DATE OF 1961 AMENDMENTS

Amendment by Pub. L. 87-293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87-293, set out as an Effective Date of 1961 Amendments note under section 3121 of Title 26, Internal Revenue Code.

Amendment by Pub. L. 87-256 applicable with respect to service performed after Dec. 31, 1961, see section 110(h)(3) of Pub. L. 87-256, set out as an Effective Date of 1961 Amendments note under section 3121 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 104(c) of Pub. L. 86-778 provided that: "The amendments made by subsections (a) and (b) [to subsec. (a)(3) of this section and section 3121(b)(3) of Title 26, Internal Revenue Code] shall apply only with respect to services performed after 1960."

Amendment of subsec. (a)(7) of this section by Pub. L. 86-778 applicable only with respect to (1) service in the employ of the Government of Guam or any political subdivision thereof, or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of Guam that legislation has been enacted by the Government of Guam expressing its desire to have the insurance system established by Title II of the Social Security Act, this subchapter, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, and (2) service in the employ of the Government of American Samoa or any political subdivision thereof or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to have the insurance system established by this subchapter extended to the officers and employees of such Government and such political subdivisions and instrumentalities, see section 103(v)(1), (2) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendments note under section 402 of this title.

Subsec. (a)(18) of this section applicable only with respect to service performed after 1960, see section 103(v)(1) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendments note under section 402 of this title.

Amendment of subsecs. (h) and (i) by Pub. L. 86-778 applicable only with respect to service performed after 1960, except that insofar as the carrying on of a trade or business (other than performance of service as an employee) is concerned, the amendment shall be applicable only in the case of taxable years beginning after 1960, see section 103(v)(1), (3) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendments note under section 402 of this title.

Amendment of subsecs. (h) and (i) by Pub. L. 86-624 effective on Aug. 21, 1959, see section 47(f) of Pub. L. 86-624, set out as an Effective Date of 1960 Amendment note under section 645 of Title 20, Education.

Repeal of former subsec. (j) and redesignation of subsecs. (k) to (o) as subsecs. (j) to (n) by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1), (3) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendments note under section 402 of this title.

EFFECTIVE DATE OF 1959 AMENDMENTS

Amendment by Pub. L. 86-168 effective Jan. 1, 1960, see section 203(c) of Pub. L. 86-168.

Amendment by Pub. L. 86-70 effective on Jan. 3, 1959, see section 47(d) of Pub. L. 86-70.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 311(b) of Pub. L. 85-840 provided that: "The amendment made by subsection (a) [to subsec. (a)(1) of this section] shall apply with respect to service performed after 1958."

Section 312(b) of Pub. L. 85-840 provided that: "The amendment made by subsection (a) [to subsec. (a)(8)(B) of this section] shall apply with respect to certificates filed under section 3121(k)(1) of the Internal Revenue Code of 1954 [section 3121(k)(1) of Title 26, Internal Revenue Code] after the date of enactment of this Act [Aug. 28, 1958]."

EFFECTIVE DATE OF 1956 AMENDMENTS

Section 104(i) of act Aug. 1, 1956, ch. 836, as amended by Pub. L. 92-603, title I, § 125(b), Oct. 30, 1972, 86 Stat. 1357, provided that:

"(1) The amendment made by subsection (a) [to subsec. (a)(1)(B) of this section] shall apply with respect to service performed after 1956. The amendments made by paragraph (1) of subsection (c) [to subsec. (a)(16) of this section] shall apply with respect to service performed after 1954. The amendment made by paragraph (2) of subsection (c) [to section 411(a)(1) of this title] shall apply with respect to taxable years ending after 1955. The amendment made by paragraph (3) of subsection (c) [to section 411(c)(2) of this title] shall apply with respect to taxable years ending after 1954. The amendment made by subsection (d) [to section 411(c)(5) of this title] shall apply with respect to taxable years ending after 1955. The amendment made by subsection (h) [to section 411(a)(7)(B) of this title] shall apply with respect to the same taxable years with respect to which the amendment made by section 201(g) of this Act [to section 1402(a)(8)(B) of Internal Revenue Code of 1954] applies.

"(2)(A) Except as provided in subparagraphs (B) and (C), the amendments made by subsection (b) [to subsecs. (a)(B)(ii) and (a)(6)(C)(vi) of this section] shall apply only with respect to service performed after June 30, 1957, and only if—

"(i) [Repealed]

"(ii) in the case of the amendment made by paragraph (2) of such subsection [to subsec. (a)(6)(C)(vi) of this section], the conditions prescribed in subparagraph (C) are met.

"(B) [Repealed]

"(C) The amendment made by paragraph (2) of subsection (b) [to subsec. (a)(6)(C)(vi) of this section] shall be effective only if—

"(i) the Board of Directors of the Tennessee Valley Authority submits to the Secretary of Health, Education, and Welfare, and the Secretary approves,

before July 1, 1957, a plan, with respect to employees of the Tennessee Valley Authority, for the coordination, on an equitable basis, of the benefits provided by the retirement system applicable to such employees with the benefits provided by title II of the Social Security Act [this subchapter]; and

"(ii) such plan specifies, as the effective date of the plan, July 1, 1957, or the first day of a prior calendar quarter beginning not earlier than January 1, 1956. If the plan specifies as the effective date of the plan a day before July 1, 1957, the amendment made by paragraph (2) of subsection (b) [to subsec. (a)(6)(C)(vi) of this section] shall apply with respect to service performed on or after such effective date; except that, if such effective date is prior to the day on which the Secretary approves the plan, such amendment shall not apply with respect to service performed, prior to the day on which the Secretary approves the plan, by an individual who is not an employee of the Tennessee Valley Authority on such day.

"(D) The Secretary of Health, Education, and Welfare shall, on or before July 31, 1957, submit a report to the Congress setting forth the details of any plan approved by him under subparagraph (B) or (C)."

Subsecs. (m) and (n) effective Jan. 1, 1957.

Subsec. (o) of this section, added by section 105(b) of act Aug. 1, 1956, ch. 836, as applicable with respect to service performed after 1956, see section 105(d) of such act Aug. 1, 1956, set out as a note under section 409 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 101(n) of act Sept. 1, 1954, provided in part that the amendments to subsec. (a) by section 101(a)(4), (5), of act Sept. 1, 1954 shall be applicable only with respect to services (whether performed after 1954 or prior to 1955) for which the remuneration is paid after 1954.

Section 101(n) of act Sept. 1, 1954, provided in part that the amendments to subsecs. (a)(4), (6)(B) and (C), (14) and (15), and (k)(3)(C) made by section 101(b), (c)(1) and (2), (e) and (f) of act Sept. 1, 1954 shall be applicable only with respect to services performed after 1954.

EFFECTIVE DATE OF 1950 AMENDMENT

Section as added by section 104(a) to be effective Jan. 1, 1951, see note set out under section 409 of this title. Section 410 was stricken out effective Sept. 1, 1950, by section 105 of act Aug. 28, 1950.

REPEALS: AMENDMENTS AND APPLICATION OF AMENDMENTS UNAFFECTED

Section 202(b)(1) of Pub. L. 87-293 repealed by Pub. L. 89-572, § 5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89-572, set out as a note under section 2515 of Title 22, Foreign Relations and Intercourse.

COVERAGE OF FEDERAL HOME LOAN BANK EMPLOYEES

Section 125(a) of Pub. L. 92-603 provided that:

"The provisions of section 210(a)(6)(B)(ii) of the Social Security Act [subsec. (a)(6)(B)(ii) of this section] and section 3121(b)(6)(B)(ii) of the Internal Revenue Code of 1954 [section 3121(b)(6)(B)(ii) of Title 26, Internal Revenue Code], insofar as they relate to service performed in the employ of a Federal home loan bank, shall be effective—

"(1) with respect to all service performed in the employ of a Federal home loan bank on and after the first day of the first calendar quarter which begins on or after the date of the enactment of this Act [Oct. 30, 1972]; and

"(2) in the case of individuals who are in the employ of a Federal home loan bank on such first day, with respect to any service performed in the employ of a Federal home loan bank after the last day of the sixth calendar year preceding the year in which this Act is enacted [1972]; but this paragraph shall be effective only if an amount equal to the taxes imposed by sections 3101 and 3111 of such Code [sections 3101 and 3111 of Title 26, Internal Revenue Code] with respect to the services of all such individuals performed in the employ of Federal home loan banks after the last day of the sixth calendar year preceding the year in which this Act is enacted [1972] are paid under the provisions of section 3122 of such Code [section 3122 of Title 26] by July 1, 1973, or by such later date as may be provided in an agreement entered into before such date with the Secretary of the Treasury or his delegate for purposes of this paragraph."

COVERED EMPLOYMENT NOT COUNTED UNDER OTHER FEDERAL RETIREMENT SYSTEMS

Section 115 of act Sept. 1, 1954, which prohibited counting employment under other Federal retirement systems in determining eligibility for benefits under this subchapter, was repealed by Pub. L. 91-630, § 1, Dec. 31, 1970, 84 Stat. 1875. Section 2 of Pub. L. 91-630 provided that such repeal shall not apply in the case of a person who, on Dec. 31, 1970, is receiving or is entitled to receive benefits under any retirement system established by th United States or any instrumentality thereof unless he requests, in writing, the office which administers his retirement system to apply it in this case, and that any additional benefits payable pursuant to such request shall commence on January 1, 1971.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 403, 404, 405, 409, 411, 415, 416, 417, 418, 426a, 429, 1395x of this title; title 10 section 1451; title 20 section 125; title 26 section 3121; title 33 section 857; title 45 section 231q.

§ 410a. Transferred

CODIFICATION

Section, act Aug. 29, 1935, ch. 812, § 17, as added June 24, 1937, ch. 382, Pt. I, § 1, 50 Stat. 317, and amended Oct. 30, 1951, ch. 632, § 24, 65 Stat. 690, was transferred to section 228q of Title 45, Railroads.

§ 411. Definitions relating to self-employment

For the purposes of this subchapter—

(a) Net earnings from self-employment

The term "net earnings from self-employment" means the gross income, as computed under chapter 1 of the Internal Revenue Code of 1939, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such chapter which are attributable to such trade or business, plus his distributive share (whether or not distributed) of the ordinary net income or loss, as computed under section 183 of the Internal Revenue Code of 1939, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive

share of partnership ordinary net income or loss—

(1) There shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares), together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) with respect to any such agricultural or horticultural commodity;

(2) There shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof), unless such dividends and interest (other than interest described in section 25(a) of the Internal Revenue Code of 1939) are received in the course of a trade or business as a dealer in stocks or securities;

(3) There shall be excluded any gain or loss (A) which is considered under chapter 1 of the Internal Revenue Code of 1939, as gain or loss from the sale or exchange of a capital asset, (B) from the cutting of timber, or the disposal of timber, coal, or iron ore, if section 631 of the Internal Revenue Code of 1954, applies to such gain or loss, or (C) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither (i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor (ii) property held primarily for sale to customers in the ordinary course of the trade or business;

(4) The deduction for net operating losses provided in section 23(s) of the Internal Revenue Code of 1939, shall not be allowed:

(5)(A) If any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which cases all of such gross income and deductions shall be treated as the gross income and deductions of the wife;

(B) If any portion of a partner's distributive share of the ordinary net income or loss from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(6) A resident of the Commonwealth of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to the provisions of section 933 of the Internal Revenue Code of 1954;

(7) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c)(4) of this section without regard to section 107 (relating to rental value of parsonages), section 119 (relating to meals and lodging furnished for the convenience of the employer), section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States) of the Internal Revenue Code of 1954;

(8) The term "possession of the United States" as used in sections 931 (relating to income from sources within the possessions of the United States) and 932 (relating to citizens of possessions of the United States) of the Internal Revenue Code of 1954, shall be deemed not to include the Virgin Islands, Guam, or American Samoa;

(9) There shall be excluded amounts received by a partner pursuant to a written plan of the partnership, which meets such requirements as are prescribed by the Secretary of the Treasury or his delegate, and which provides for payments on account of retirement, on a periodic basis, to partners generally or to a class or classes of partners, such payments to continue at least until such partner's death, if—

(A) such partner rendered no services with respect to any trade or business carried on by such partnership (or its successors) during the taxable year of such partnership (or its successors), ending within or with his taxable year, in which such amounts were received, and

(B) no obligation exists (as of the close of the partnership's taxable year referred to in subparagraph (A)) from the other partners to such partner except with respect to retirement payments under such plan, and

(C) such partner's share, if any, of the capital of the partnership has been paid to him in full before the close of the partnership's taxable year referred to in subparagraph (A); and

(10) In the case of an individual who has been a resident of the United States during the entire taxable year, the exclusion from

gross income provided by section 911(a)(2) of the Internal Revenue Code of 1954 shall not apply.

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based upon the ordinary net income or loss of the partnership for any taxable year of the partnership (even though beginning prior to 1951) ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 410(f) of this title—

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than $2,400, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than $2,400 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than $1,600, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be $1,600; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of the Internal Revenue Code of 1954, applies) is not more than $2,400, his distributive share of income described in section 702(a)(9) of the Internal Revenue Code of 1954, derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of the Internal Revenue Code of 1954, applies) is more than $2,400 and his distributive share (whether or not distributed) of income described in section 702(a)(9) of such Code, derived from such trade or business (computed under this subsection without regard to this sentence) is less than $1,600, his distributive share of income described in such section 702(a)(9) derived from such trade or business may, at his option, be deemed to be $1,600.

For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraph (1) through (6) and paragraph (8) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

The preceding sentence and clauses (i) through (iv) of the second preceding sentence shall also apply in the case of any trade or business (other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (g) of this section, or by a partnership of which an individual is a member on a regular basis as defined in subsection (g) of this section, but only if such individual's net earnings from self-employment in the taxable year as determined without regard to this sentence are less than $1,600 and less than 66⅔ percent of the sum (in such taxable year) of such individual's gross income derived from all trades or businesses carried on by him and his distributive share of the income or loss from all trades or businesses carried on by all the partnerships of which he is a member; except that this sentence shall not apply to more than 5 taxable years in the case of any individual, and in no case in which an individual elects to determine the amount of his net earnings from self-employment for a taxable year under the provisions of the two preceding sentences with respect to a trade or business to which the second preceding sentence applies and with respect to a trade or business to which this sentence applies shall such net earnings for such year exceed $1,600.

(b) Self-employment income

The term "self-employment income" means the net earnings from self-employment derived by an individual (other than a nonresident alien individual) during any taxable year beginning after 1950; except that such term shall not include—

(1) That part of the net earnings from self-employment which is in excess of—

(A) For any taxable year ending prior to 1955, (i) $3,600, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(B) For any taxable year ending after 1954 and prior to 1959, (i) $4,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(C) For any taxable year ending after 1958 and prior to 1966, (i) $4,800 minus (ii)

the amount of the wages paid to such individual during the taxable year; and

(D) For any taxable year ending after 1965 and prior to 1968, (i) $6,600, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(E) For any taxable year ending after 1967 and beginning prior to 1972, (i) $7,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(F) For any taxable year beginning after 1971 and prior to 1973, (i) $9,000, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(G) For any taxable year beginning after 1972 and prior to 1974, (i) $10,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(H) For any taxable year beginning after 1973 and prior to 1975, (i) $13,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(I) For any taxable year beginning in any calendar year after 1974, (i) an amount equal to the contribution and benefit base (as determined under section 430 of this title) which is effective for such calendar year, minus (ii) the amount of the wages paid to such individual during such taxable year; or

(2) The net earnings from self-employment, if such net earnings for the taxable year are less than $400.

An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for the purpose of this subsection, be considered to be a nonresident alien individual.

(c) Trade or business

The term "trade or business", when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 23 of the Internal Revenue Code of 1939, except that such term shall not include—

(1) The performance of the functions of a public office, other than the functions of a public office of a State or a political subdivision thereof with respect to fees received in any period in which the functions are performed in a position compensated solely on a fee basis and in which such functions are not covered under an agreement entered into by such State and the Secretary pursuant to section 418 of this title;

(2) The performance of service by an individual as an employee, other than—

(A) service described in section 410(a)(14)(B) of this title performed by an individual who has attained the age of eighteen,

(B) service described in section 410(a)(16) of this title,

(C) service described in section 410(a)(11), (12), or (15) of this title performed in the United States by a citizen of the United States,

(D) service described in paragraph (4) of this subsection, and

(E) service performed by an individual as an employee of a State or a political subdivision thereof in a position compensated solely on a fee basis with respect to fees received in any period in which such service is not covered under an agreement entered into by such State and the Secretary pursuant to section 418 of this title; and

(F) service described in section 410(a)(20) of this title;

(3) The performance of service by an individual as an employee or employee representative as defined in section 1532 of the Internal Revenue Code of 1939;

(4) The performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(5) The performance of service by an individual in the exercise of his profession as a Christian Science practitioner; or

(6) The performance of service by an individual during the period for which an exemption under section 1402(h) of the Internal Revenue Code of 1954, is effective with respect to him.

The provisions of paragraph (4) or (5) shall not apply to service (other than service performed by a member of a religious order who has taken a vow of poverty as a member of such order) performed by an individual unless an exemption filed by him under section 1402(e) of the Internal Revenue Code of 1954, is effective with respect to him.

(d) Partnership and partner

The term "partnership" and the term "partner" shall have the same meaning as when used in supplement F of chapter 1 of the Internal Revenue Code of 1939.

(e) Taxable year

The term "taxable year" shall have the same meaning as when used in chapter 1 of the Internal Revenue Code of 1939; and the taxable year of any individual shall be a calendar year unless he has a different taxable year for the purposes of chapter 1 of the Internal Revenue Code of 1939, in which case his taxable year for the purposes of this subchapter shall be the same as his taxable year under chapter 1 of the Internal Revenue Code of 1939.

(f) Partner's taxable year ending as result of death

In computing a partner's net earnings from self-employment for his taxable year which ends as a result of his death (but only if such taxable year ends within, and not with, the taxable year of the partnership), there shall be included so much of the deceased partner's distributive share of the partnership's ordinary income or loss for the partnership taxable year as is not attributable to an interest in the partnership during any period beginning on or after the first day of the first calendar month following the month in which such partner died. For purposes of this subsection—

(1) in determining the portion of the distributive share which is attributable to any period specified in the preceding sentence, the ordinary income or loss of the partnership shall be treated as having been realized

or sustained ratably over the partnership taxable year; and

(2) the term "deceased partner's distributive share" includes the share of his estate or of any other person succeeding, by reason of his death, to rights with respect to his partnership interest.

(g) Regular basis

An individual shall be deemed to be self-employed on a regular basis in a taxable year, or to be a member of a partnership on a regular basis in such year, if he had net eanings from self-employment, as defined in the first sentence of subsection (a) of this section, of not less than $400 in at least two of the three consecutive taxable years immediately preceding such taxable year from trades or businesses carried on by such individual or such partnership.

(Aug. 14, 1935, ch. 531, title II, § 211, as added Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492, and amended Sept. 23, 1950, ch. 994, title II, § 221(j)(2), 64 Stat. 947; Sept. 1, 1954, ch. 1206, title I, §§ 101(d), (g), 104(b), 68 Stat. 1054, 1078; Aug. 1, 1956, ch. 836, title I, §§ 104(c)(2), (3), (d), (h), 106(a), 70 Stat. 824-826, 828; Aug. 30, 1957, Pub. L. 85-239, § 5(a), 71 Stat. 523; Aug. 28, 1958, Pub. L. 85-840, title I, § 102(b), title III, § 313(a), 72 Stat. 1019, 1036; Sept. 13, 1960, Pub. L. 86-778, title I, §§ 103(g), (h), (j)(3), 106(a), 74 Stat. 937, 938, 945; Feb. 26, 1964, Pub. L. 88-272, title II, § 227(b)(7), 78 Stat. 98; July 30, 1965, Pub. L. 89-97, title III, §§ 311(a)(1), (2), 312(a), 319(b), 320(a)(2), 79 Stat. 380, 381, 391, 393; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 108(a)(2), 115(a), 118(b), 122(a), 81 Stat. 834, 839, 841, 843; Mar. 17, 1971, Pub. L. 92-5, title II, § 203(a)(2), 85 Stat. 10; July 1, 1972, Pub. L. 92-336, title II, § 203(a)(2), 86 Stat. 418; Oct. 30, 1972, Pub. L. 92-603, title I, §§ 121(a), 124(a), 140(a), 86 Stat. 1353, 1357, 1366; July 9, 1973, Pub. L. 93-66, title II, § 203(a)(2), 87 Stat. 153; Dec. 31, 1973, Pub. L. 93-233, § 5(a)(2), 87 Stat. 953; Aug. 7, 1974, Pub. L. 93-368, § 10(a), 88 Stat. 422; Oct. 4, 1976, Pub. L. 94-455, title XII, § 1207(e)(2)(B), 90 Stat. 1707.)

References in Text

Chapter 1 of the Internal Revenue Code of 1939, referred to in subsecs. (a), (a)(3), (e), was comprised of sections 1 to 482, and was repealed by section 7851(a)(1)(A) of the Internal Revenue Code of 1954.

Sections 23, 25, and 183 of the Internal Revenue Code of 1939, referred to in subsecs. (a), (a)(2), (a)(4), were a part of chapter 1 of the 1939 Code. See above.

Section 1532 of the Internal Revenue Code of 1939, referred to in subsec. (c)(3), was a part of chapter 9 of the 1939 Code, and was repealed by section 7851(a)(3) of the Internal Revenue Code of 1954.

Supplement F of chapter 1 of the Internal Revenue Code of 1939, referred to in subsec. (d), was comprised of sections 181 to 191, and was repealed by section 7851(a)(1)(A) of the Internal Revenue Code of 1939.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1954 Code, see section 7852(b) of the 1954 Code. For table of comparisons of the 1939 Code to the 1954 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 is classified generally to Title 26.

Amendments

1976—Subsec. (c)(2)(F). Pub. L. 94-455 added subpar. (F).

1974—Subsec. (a)(1). Pub. L. 93-368 inserted "(as determined without regard to any activities of an agent of such owner or tenant)" after "material participation by the owner or tenant" wherever appearing.

1973—Subsec. (b)(1)(H). Pub. L. 93-233 substituted "$13,200" for "$12,600".

Pub. L. 93-66 substituted "$12,600" for "$12,000".

1972—Subsec. (a). Pub. L. 92-603, §§ 121(a)(1), 124(a), 140(a), struck out provisions of par. (7) relating to citizens of the United States performing the specified services as an employee of an American employer (as defined in section 410(e) of this title) or as a minister in a foreign country who has a congregation composed predominantly of United States citizens, and added provisions in par. (7) relating to the applicability of sections 911 and 931 of Title 26 and added par. (10) and provisions for an optional method for determining self-employment earnings.

Subsec. (b)(1)(F). Pub. L. 92-336, § 203(a)(2)(A), added "and prior to 1973" after "1971".

Subsec. (b)(1)(G) to (I). Pub. L. 92-336, § 203(a)(2)(B), added subsec. (b)(1)(G) to (I).

Subsec. (g). Pub. L. 92-603, § 121(a)(2), added subsec. (g).

1971—Subsec. (b)(1)(E). Pub. L. 92-5, § 203(a)(2)(A), added "and beginning prior to 1972" after "1967".

Subsec. (b)(1)(F). Pub. L. 92-5, § 203(a)(2)(B), added subsec. (b)(1)(F).

1968—Subsec. (a). Pub. L. 90-248, § 118(b), added par. (9).

Subsec. (b)(1)(D), (E). Pub. L. 90-248, § 108(a)(2)(A) and (B) inserted "and prior to 1968" after "1965" and added subpar. (E), respectively.

Subsec. (c). Pub. L. 90-248, § 115(a), substituted in the last sentence "unless an exemption under section 1402(e) of the Internal Revenue Code of 1954 is effective with respect to him" for "during the period for which a certificate filed by him under section 1402(e) of the Internal Revenue Code of 1954 is in effect".

Subsec. (c)(1). Pub. L. 90-248, § 122(a)(1), included in the term "trade or business" functions of a public office of a State or political subdivision thereof with respect to fees received in a position compensated solely on a fee basis and which position is not covered under a State social security coverage agreement.

Subsec. (c)(2)(E). Pub. L. 90-248, § 122(a)(2), added subpar. (E).

1965—Subsec. (a). Pub. L. 89-97, § 312(a), substituted "$2,400" for "$1,800" in clauses (i) to (iv), and "$1,600" for "$1,200" in clauses (ii) and (iv) of second sentence following par. (8), wherever appearing.

Subsec. (b)(1)(C). Pub. L. 89-97, § 320(a)(2)(A), inserted "and prior to 1966" after "1958" and substituted "and" for "or" after the semicolon.

Subsec. (b)(1)(D). Pub. L. 89-97, § 320(a)(2)(B), added subpar. (D).

Subsec. (c). Pub. L. 89-97, § 311(a)(1), (2), deleted from par. (5) "doctor of medicine or" preceding and "; or the performance of such service by a partnership" following "Christian Science practitioner" and consolidated into one sentence former last two sentences.

Subsec. (c)(6). Pub. L. 89-97, § 319(b), added par. (6).

1964—Subsec. (a)(3)(B). Pub. L. 88-272 substituted ", coal, or iron ore, if section 631 of the Internal Revenue Code of 1954 applies" for "or coal, if section 117(j) of the Internal Revenue Code of 1954 is applicable".

1960—Subsec. (a)(6). Pub. L. 86-778, § 103(j)(3), substituted "section 933 of the Internal Revenue Code of 1954" for "section 116(1) of the Internal Revenue Code of 1954", and eliminated provisions which defined the term "possession of the United States" in the case of taxable years beginning before the effective date specified in former section 419 of this title.

Subsec. (a)(8). Pub. L. 86-778, § 103(g), added par. (8), and inserted a reference to paragraph (8) in cls. (v) and (vi) of the last sentence.

Subsec. (b). Pub. L. 86-778, § 103(h), provided that individuals who are not citizens of the United States but who are residents of Guam or American Samoa shall not, for the purposes of this subsection, be considered to be nonresident alien individuals, and elimi-

nated provisions which related to individuals who were citizens of Puerto Rico prior to the effective date specified in section 419 of this title.

Subsec. (c)(2). Pub. L. 86-778, § 106(a), excluded service described in section 410(a)(11), (12), or (15) of this title performed in the United States by a citizen of the United States.

1958—Subsec. (b)(1). Pub. L. 85-840, § 102(b), inserted "and prior to 1959" following "year ending after 1954" in cl. (B), and added cl. (C).

Subsec. (f). Pub. L. 85-840, § 313(a), added subsec. (f).

1957—Subsec. (a)(7). Pub. L. 85-239 permitted computation of net earnings without regard to sections 107 and 119 of the Internal Revenue Code of 1954.

1956—Subsec. (a). Act Aug. 1, 1956, § 106(a), amended generally the last two sentences to include those businesses in which the income is computed under an accrual method, and partnerships, to change the method of computation of net earnings for individuals by permitting those whose gross income is not more than $1,800 to deem their net earnings to be 66⅔ percent of such gross income, and those whose gross income is more than $1,800 and the net earnings are less than $1,200, to deem the net earnings to be $1,200, and to provide for the computation of net earnings for members of partnerships.

Subsec. (a)(1). Act Aug. 1, 1956, § 104(c)(2), eliminated from the exclusion, income derived by an owner or tenant to land if such income is derived under an arrangement with another individual for the production by such other individual of agricultural or horticultural commodities if such arrangement provides for material participation by the owner or tenant in the production or the management of the production of such commodities, and there is material participation by the owner or tenant with respect to any such commodity.

Subsec. (a)(7)(B). Act Aug. 1, 1956, § 104(h), included citizens of the United States who are ministers in foreign countries and have congregations composed predominantly of citizens of the United States.

Subsec. (c)(2). Act Aug. 1, 1956, § 104(c)(3), included within the term "trade or business" service described in section 410(a)(16) of this title.

Subsec. (c)(5). Act Aug. 1, 1956, § 104(d), eliminated the exclusion from coverage in the case of lawyers, dentists, osteopaths, veterinarians, chiropractors, naturopaths, and optometrists.

1954—Subsec. (a)(1). Act Sept. 1, 1954, § 101(g)(2), made it clear that rentals paid in crop shares would be excluded as being rentals from real estate.

Subsec. (a)(2). Act Sept. 1, 1954, § 101(g)(1), redesignated former par. (3) as (2), and deleted former par. (2).

Subsec. (a)(3). Act Sept. 1, 1954, § 101(g)(3), redesignated former par. (4) as (3), and excluded from "net earnings from self-employment" the gain or loss derived from coal royalties under certain conditions.

Subsec. (a)(4) to (6). Act Sept. 1, 1954, § 101(g)(1), redesignated former pars. (5) to (7) as (4) to (6), respectively.

Subsec. (a)(7). Act Sept. 1, 1954, § 101(d)(3), added par. (7).

Subsec. (a). Act Sept. 1, 1954, § 101(g)(1), added two new sentences at the end of the subsection.

Subsec. (b)(1). Act Sept. 1, 1954, § 104(b), excluded from self-employment income, for taxable years after 1954 any amount in excess of $4,200 minus the amount of the wages paid to an individual during the taxable year.

Subsec. (c). Act Sept. 1, 1954, § 101(d)(2), added two new sentences at the end thereof making the provisions of par. (4) inapplicable to service performed during the period for which a certificate filed under section 1402(e) of Title 26, Internal Revenue Code of 1954, is in effect.

Subsec. (c)(2). Act Sept. 1, 1954, 101(d)(1), inserted after the word "eighteen", the words "and other than service described in paragraph (4) of this subsection."

Subsec. (c)(5). Act Sept. 1, 1954, § 101(g)(4), eliminated the exclusion from coverage in the case of architects, certified public accountants, accountants registered or licensed as accountants under State or municipal law, full-time practicing public accountants, funeral directors, or professional engineers.

1950—Subsec. (a)(7). Act Sept. 23, 1950, made provisions applicable to Puerto Rico, and provided the basis for computation of net earnings.

Effective Date of 1974 Amendment

Section 10(c) of Pub. L. 93-368 provided that: "The amendments made by this section [to subsec. (a)(1) of this section and section 1402(a)(1) of Title 26, Internal Revenue Code] shall apply with respect to taxable years beginning after December 31, 1973."

Effective Date of 1973 Amendments

Amendment by Pub. L. 93-233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendments note under section 409 of this title.

Amendment by Pub. L. 93-66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93-66, set out as an Effective Date of 1973 Amendments note under section 409 of this title.

Effective Date of 1972 Amendments

Section 121(c) of Pub. L. 92-603 provided that: "The amendments made by this section [enacting subsec. (g) of this section and amending subsecs. (a) of this section and section 1402 of Title 26, Internal Revenue Code] shall apply only with respect to taxable years beginning after December 31, 1972."

Section 124(c) of Pub. L. 92-603 provided that: "The amendments made by this section [enacting subsec. (a)(10) of this section and section 1402(a)(11) of Title 26] shall apply with respect to taxable years beginning after December 31, 1972."

Section 140(c) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsec. (a)(7) of this section and section 1402(a)(8) of Title 26, Internal Revenue Code] shall apply with respect to taxable years beginning after December 31, 1972."

Amendment by Pub. L. 92-336 applicable only with respect to taxable years beginning after 1972, see section 203(c) of Pub. L. 92-336, set out as an Effective Date of 1972 Amendments note under section 409 of this title.

Effective Date of 1971 Amendment

Amendment by Pub. L. 92-5 applicable only with respect to taxable years beginning after 1971, see section 203(c) of Pub. L. 92-5, set out as an Effective Date of 1971 Amendment note under section 409 of this title.

Effective Date of 1968 Amendment

Enactment of subsec. (a)(9) by section 118(b) of Pub. L. 90-248 applicable only with respect to taxable years ending on or after Dec. 31, 1967, see section 118(c) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1402 of Title 26, Internal Revenue Code.

Amendment of subsec. (b)(1)(D), (E) by section 108(a)(2) of Pub. L. 90-248 applicable only with respect to taxable years ending after 1967, see section 108(c) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 409 of this title.

Amendment of subsec. (c) by section 115(a) of Pub. L. 90-248 applicable only with respect to taxable years ending after 1967, see section 115(c) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1402 of Title 26, Internal Revenue Code.

Amendment of subsec. (c)(1), (2) by section 122(a)(1), (2) of Pub. L. 90-248 applicable with respect to fees received after 1967 and with respect to election to exempt fees from coverage as self-employment income, see section 122(c) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1402 of Title 26.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 312(c) of Pub. L. 89-97 provided that: "The amendments made by this section [amending subsec. (a) of this section and subsec. (a) of section 1402 of Title 26 Internal Revenue Code] shall apply only with respect to taxable years beginning after December 31, 1965."

Amendment of subsec. (b)(1)(C), (D), by section 320 of Pub. L. 89-97 applicable with respect to taxable years ending after 1965, see section 320(c) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 3121 of Title 26.

Amendment of subsec. (c) by Pub. L. 89-97 applicable only with respect to taxable years ending on or after Dec. 31, 1965, see section 311(c) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 410 of this title.

Amendment of subsec. (c) by section 319 of Pub. L. 89-97 applicable with respect to taxable years beginning after December 31, 1950, see section 319(e) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 1402 of Title 26.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable with respect to amounts received or accrued in taxable years beginning after Dec. 31, 1963, attributable to iron ore mined in such years, see section 227(c) of Pub. L. 88-272, set out as an Effective Date of 1964 Amendment note under section 272 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (a)(6) by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1), (3) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 402 of this title.

Enactment of subsec. (a)(8) applicable only in the case of taxable years beginning after 1960, except that, insofar as such enactment involves the nonapplication of section 932 of Title 26, Internal Revenue Code, to the Virgin Islands for purposes of sections 1401 et seq. of Title 26 and this section, such enactment shall be effective in the case of all taxable years with respect to which such sections 1401 et seq. (and corresponding provisions of prior law) and this section are applicable, see section 103(v)(1) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 402 of this title.

Amendment of subsec. (b) by Pub. L. 86-778 applicable only in the case of taxable years beginning after 1960, see section 103(v)(1), (3) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 402 of this title.

Section 106(c) of Pub. L. 86-778 provided that: "The amendments made by this section [to subsec. (c)(2) of this section and section 1402(c)(2) of Title 26, Internal Revenue Code] shall apply only with respect to taxable years ending on or after December 31, 1960; except that for purposes of section 203 of the Social Security Act [section 403 of this title], the amendment made by subsection (a) [to subsec. (c)(2) of this section] shall apply only with respect to taxable years (of the individual performing the service involved) beginning after the date of the enactment of this Act [Sept. 13, 1960]."

EFFECTIVE DATE OF 1958 AMENDMENT

Section 313(b) of Pub. L. 85-840 provided that:

"The amendment made by subsection (a) [adding subsec. (f) of this section] shall apply—

"(1) with respect to individuals who die after the date of the enactment of this Act [Aug. 28, 1958], and

"(2) with respect to any individual who died after 1955 and on or before the date of the enactment of this Act [Aug. 28, 1958], but only if the requirements of section 403(b)(2) of this Act [section 603(b)(2) of this title] are met."

EFFECTIVE DATE OF 1957 AMENDMENT

Amendment of subsec. (a)(7) by Pub. L. 85-239 applicable, except for purposes of section 403 of this title, only with respect to taxable years ending on or after December 31, 1957, see section 5(c) of Pub. L. 85-239, set out as an Effective Date of 1957 Amendment note under section 1402 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of subsecs. (a)(1) and (c)(5) by section 104(c)(2), (d) of act Aug. 1, 1956, applicable with respect to taxable years ending after 1955, see section 104(i) of such act Aug. 1, 1956, set out as an Effective Date of 1956 Amendment note under section 410 of this title.

Amendment of subsec. (a)(7)(B) by section 104(h) of act Aug. 1, 1956, applicable with respect to the same taxable years with respect to which the amendment to section 3121(k)(1) of Title 26, Internal Revenue Code, applies, see section 104(i) of act Aug. 1, 1956, set out as an Effective Date of 1956 Amendment note under section 410 of this title, and section 201(m)(2) of such act Aug. 1, 1956, set out as an Effective Date of 1956 Amendment note under section 3121 of Title 26.

Amendment of subsec. (c)(2) by section 104(c)(3) of act Aug. 1, 1956, applicable with respect to taxable years ending after 1954, see section 104(i) of act Aug. 1, 1956, set out as an Effective Date of 1956 Amendment note under section 410 of this title.

Section 106(b) of act Aug. 1, 1956, provided that: "The amendment made by subsection (a) [to the last two sentences of subsec. (a) of this section] shall be effective with respect to taxable years ending on or after December 31, 1956."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 101(n) of act Sept. 1, 1954, provided in part that the amendment to subsec. (a)(3) by section 101(g)(3) of act Sept. 1, 1954 shall be applicable only with respect to taxable years beginning after 1950 and that the amendments to subsecs. (a) and (c) by section 101(d), (g)(1), (2), (4), of act Sept. 1, 1954 should be applicable only with respect to taxable years ending after 1954.

Section 101(n) of act Sept. 1, 1954, also provided in part that: "For purposes of section 203 of the Social Security Act [section 403 of this title], the amendments [to subsecs. (a) and (c) of this section] made by paragraphs (1), (2), and (4) of subsection (g) and by subsection (d) [of said section 101] shall be effective with respect to net earnings from self-employment derived after 1954. The amount of net earnings from self-employment derived during any taxable year ending in, and not with the close of, 1955 shall be credited equally to the calendar quarter in which such taxable year ends and to each of the three or fewer preceding quarters any part of which is in such taxable year; and, for purposes of the preceding sentence of this subsection, net earnings from self-employment so credited to calendar quarters in 1955 shall be deemed to have been derived after 1954."

EFFECTIVE DATE OF 1950 AMENDMENT

Amendment by act Sept. 23, 1950, was applicable with respect to taxable years beginning after Dec. 31, 1950.

TREATY OBLIGATIONS

Section 214 of act Sept. 23, 1950, provided that: "No amendment made by this Act [act Sept. 23, 1950] shall apply in any case where its application would be contrary to any treaty obligation of the United States."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 405, 413, 424a, 430, 1382a of this title; title 45 sections 231b, 231e.

§ 412. Self-employment income credited to calendar quarters

For the purposes of determining average monthly wage and quarters of coverage the amount of self-employment income derived during any taxable year shall be credited to calendar quarters as follows:

(a) In the case of a taxable year which is a calendar year the self-employment income of such taxable year shall be credited equally to each quarter of such calendar year.

(b) In the case of any other taxable year the self-employment income shall be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year.

(Aug. 14, 1935, ch. 531, title II, § 212, as added Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 413, 415 of this title.

§ 413. Quarter and quarter of coverage

(a) Definitions

For the purposes of this subchapter—

(1) The term "quarter", and the term "calendar quarter", means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(2) The term "quarter of coverage" means a quarter in which the individual has been paid $50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 412 of this title) with $100 or more of self-employment income, except that—

(i) no quarter after the quarter in which such individual died shall be a quarter of coverage, and no quarter any part of which was included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

(ii) if the wages paid to any individual in any calendar year equal $3,000 in the case of a calendar year before 1951, or $3,600 in the case of a calendar year after 1950 and before 1955, or $4,200 in the case of a calendar year after 1954 and before 1959, or $4,800 in the case of a calendar year after 1958 and before 1966, or $6,600 in the case of a calendar year after 1965 and before 1968, or $7,800 in the case of a calendar year after 1967 and before 1972, or $9,000 in the case of a calendar year after 1971 and before 1973, or $10,800 in the case of a calendar year after 1972 and before 1974, or $13,200 in the case of a calendar year after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 430 of this title) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective, each quarter of such year shall (subject to clause (i)) be a quarter of coverage;

(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals $3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or $4,200 in the case of a taxable year ending after 1954 and before 1959, or $4,800 in the case of a taxable year ending after 1958 and before 1966, or $6,600 in the case of a taxable year ending after 1965 and before 1968, or $7,800 in the case of a taxable year ending after 1967 and beginning before 1972, or $9,000 in the case of a taxable year beginning after 1971 and before 1973, or $10,800 in the case of a taxable year beginning after 1972 and before 1974, or $13,200 in the case of a taxable year beginning after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 430 of this title) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974, each quarter any part of which falls in such year shall (subject to clause (i)) be a quarter of coverage;

(iv) if an individual is paid wages for agricultural labor in a calendar year after 1954, then, subject to clause (i), (a) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed $100 but are less than $200; (b) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $200 but are less than $300; (c) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $300 but are less than $400; and (d) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are $400 or more; and

(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter.

If, in the case of any individual who has attained age 62 or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954, the requirements for insured status in subsection (a) or (b) of section 414 of this title, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 416(i) of this title are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. If, in the case of an individual who did not die prior to January 1, 1955, and who attained age 62 (if a woman) or age 65 (if a man) or died before July 1, 1957, the requirements for insured status in section 414(a)(3) of this title are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages

were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.

(b) Crediting of wages paid in 1937

With respect to wages paid to an individual in the six-month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than $100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than $100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained.

(c) Alternative method for determining quarters of coverage with respect to wages in the period from 1937 to 1950

For purposes of section 414(a) of this title, an individual shall be deemed to have one quarter of coverage for each $400 of his total wages prior to 1951 (as defined in section 415(d)(1)(C) of this title), except where—

(1) such individual is not a fully insured individual on the basis of the number of quarters of coverage so derived plus the number of quarters of coverage derived from the wages and self-employment income credited to him for periods after 1950, or

(2) such individual's elapsed years (for purposes of section 414(a)(1) of this title) are less than 7.

(Aug. 14, 1935, ch. 531, title II, § 213, as added Aug. 28, 1950, ch. 809, title I, 104(a), 64 Stat. 492, and amended July 18, 1952, ch. 945, §§ 3(a), 66 Stat. 770; Sept. 1, 1954, ch. 1206, title I, §§ 104(c), 106(a), 108(b), 68 Stat. 1078, 1084; Aug. 1, 1956, ch. 836, title I, § 105(c), 70 Stat. 828; Aug. 28, 1958, Pub. L. 85-840, title I, § 102(c), 72 Stat. 1019; Apr. 22, 1960, Pub. L. 86-442, § 3, 74 Stat. 82; Sept. 13, 1960, Pub. L. 86-778, title II, § 206(a), 74 Stat. 949; June 30, 1961, Pub. L. 87-64, title I, § 102(c)(2)(A), (3)(B), 75 Stat. 134, 135; July 30, 1965, Pub. L. 89-97, title III, § 320(a)(3), 79 Stat. 393; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 108(a)(3), 155(b)(1), 81 Stat. 834, 865; Mar. 17, 1971, Pub. L. 92-5, title II, § 203(a)(3), 85 Stat. 10; July 1, 1972, Pub. L. 92-336, title II, § 203(a)(3), 86 Stat. 418; July 9, 1973, Pub. L. 93-66, title II, § 203(a)(3), 87 Stat. 153; Dec. 31, 1973, Pub. L. 93-233, § 5(a)(3), 87 Stat. 953.)

AMENDMENTS

1973—Subsec. (a)(2)(ii), (iii). Pub. L. 93-233 substituted "$13,200" for "$12,600".

Pub. L. 93-66 substituted "$12,600" for "$12,000", in clauses (ii) and (iii).

1972—Subsec. (a)(2)(ii). Pub. L. 92-336, § 203(a)(3)(A), added provisions for determining a quarter of coverage based on amounts earned as wages after 1971 and before 1975, and amounts equal to the contribution and benefit base in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective.

Subsec. (a)(2)(iii). Pub. L. 92-336, § 203(a)(3)(B), added provisions for determining a quarter of coverage based on amounts earned as wages after 1971 and before 1975, and amounts equal to the contribution and benefit base which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974.

1971—Subsec. (a)(2)(ii). Pub. L. 92-5, § 203(a)(3)(A), substituted "after 1967 and before 1972, or $9,000 in the case of a calendar year after 1971" for "after 1967".

Subsec. (a)(2)(iii). Pub. L. 92-5, § 203(a)(3)(B), substituted "after 1967 and beginning before 1972, or $9,000 in the case of a taxable year beginning after 1971" for "after 1967".

1968—Subsec. (a)(2)(ii). Pub. L. 90-248, § 108(a)(3)(A), inserted "and before 1968, or $7,800 in the case of a calendar year after 1967" after "1965".

Subsec. (a)(2)(iii). Pub. L. 90-248, § 108(a)(3)(B), inserted "and before 1968, or $7,800 in the case of a taxable year ending after 1967" after "1965".

Subsec. (c). Pub. L. 90-248, § 155(b)(1), added subsec. (c).

1965—Subsec. (a)(2)(ii). Pub. L. 89-97, § 320(a)(3)(A), substituted "after 1958 and before 1966, or $6,600 in the case of a calendar year after 1965" for "after 1958".

Subsec. (a)(2)(iii). Pub. L. 89-97, § 320(a)(3)(B), substituted "after 1958 and before 1966, or $6,600 in the case of a taxable year ending after 1965" for "after 1958".

1961—Subsec. (a). Pub. L. 87-64 substituted "has attained age 62" for "has attained retirement age", and "who attained age 62 (if a woman) or age 65 (if a man)" for "who attained retirement age".

1960—Subsec. (a)(2). Pub. L. 86-778 required each quarter of a calendar year before 1951 to be counted as a quarter of coverage if the individual received wages equal to $3,000 in the calendar year.

Pub. L. 86-442 added sentence in cl. (B) to permit the quarters of coverage in a calendar year to be determined on the basis of the periods during which wages were earned in the case of individuals who did not die prior to Jan. 1, 1955, and who attained retirement age or died before July 1, 1957, who did not meet the requirements for insured status because of having too few quarters of coverage but who would meet the requirements if the quarters of coverage in the first calendar year in which they had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid.

1958—Subsec. (a)(2)(B). Pub. L. 85-840 inserted "and before 1959, or $4,800 in the case of a calendar year after 1958" following "after 1954" in cl. (ii), and "and before 1959, or $4,800 in the case of a taxable year ending after 1958" following "after 1954" in cl. (iii).

1956—Subsec. (a)(2)(B)(iv). Act Aug. 1, 1956, substituted "if such wages equal or exceed $100 but are less than $200" for "if such wages are less than $200".

1954—Subsec. (a)(2)(A). Act Sept. 1, 1954, § 106(a)(1), redefined "quarter of coverage," in the case of quarters occurring before 1951, to exclude any quarter any part of which was included in a period of disability, other than the initial quarter of such period, and which provided that any quarter any part of which was included in a period of disability, other than the first quarter of such period, could not be counted as a quarter of coverage in a calendar year in which wages of $3,000 or more were paid.

Subsec. (a)(2)(B). Act Sept. 1, 1954, § 104(c), provided that for calendar years after 1954 an individual shall be credited with a quarter of coverage for each quarter of the year if his wages for the year equal $4,200 and he shall be credited with a quarter of coverage for each quarter of a taxable year ending after 1954 in which the sum of his wages and self-employment income equal $4,200.

Act Sept. 1, 1954, § 108(b), provided for crediting quarters of coverage on the basis of annual amounts of wages received for agricultural labor.

Subsec. (a)(2)(B)(i). Act Sept. 1, 1954, § 106(a)(2), redefined "quarter of coverage", for quarters occurring after 1950, to exclude any quarter any part of which was included in a period of disability, other than the first and last quarters of such period.

1952—Subsec. (a)(2)(A). Act July 18, 1952, § 3(a)(1), redefined the term "quarter of coverage".

Subsec. (a)(2)(B)(i). Act July 18, 1952, § 3(a)(2), added "and no quarter any part of which was included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage".

Subsec. (a)(2)(B)(iii). Act July 18, 1952, § 3(a)(3), substituted "shall (subject to clause (i) of this subparagraph) be a quarter of coverage" for "shall be a quarter of coverage".

Effective Date of 1973 Amendments

Amendment by Pub. L. 93-233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 409 of this title.

Amendment by Pub. L. 93-66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93-66, set out as an Effective Date of 1973 Amendment note under section 409 of this title.

Effective Date of 1972 Amendments

Amendment of subsec. (a)(2)(ii) by section 203(a)(3)(A) of Pub. L. 92-336 applicable only with respect to remuneration paid after December 1972, see section 203(c) of Pub. L. 92-336, set out as an Effective Date of 1972 Amendment note under section 409 of this title.

Amendment of subsec. (a)(2)(iii) by section 203(a)(3)(B) of Pub. L. 92-336 applicable only with respect to taxable years beginning after 1972, see section 203(c) of Pub. L. 92-336, set out as an Effective Date of 1972 Amendment note under section 409 of this title.

Effective Date of 1971 Amendment

Amendment of subsec. (a)(2)(ii) by section (a)(3)(A) of Pub. L. 92-5 applicable only with respect to remuneration paid after December 1971, see section 203(c) of Pub. L. 92-5, set out as an Effective Date of 1971 Amendment note under section 409 of this title.

Amendment of subsec. (a)(2)(iii) by section (a)(3)(B) of Pub. L. 92-5 applicable only with respect to taxable years beginning after 1971, see section 203(c) of Pub. L. 92-5, set out as an Effective Date of 1971 Amendment note under section 409 of this title.

Effective Date of 1968 Amendment

Amendment of subsec. (a)(2)(ii) by section 108(a)(3)(A) of Pub. L. 90-248 applicable only with respect to remuneration paid after December 1967, and amendment of subsec. (a)(2)(iii) by section 108(a)(3)(B) applicable only with respect to taxable years ending after 1967, see section 108(c) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 409 of this title.

Section 155(b)(2) of Pub. L. 90-248 provided that: "The amendment made by paragraph (1) [enacting subsec. (c) of this section] shall apply only in the case of an individual who applies for benefits under section 202(a) of the Social Security Act [section 402(a) of this title] after the date of the enactment of this Act [Jan. 2, 1968], or who dies after such date without being entitled to benefits under section 202(a) or 223 of the Social Security Act [section 402(a) or 423 of this title]."

Effective Date of 1965 Amendment

Amendment of subsec. (a)(2)(ii) by section 320(a)(3)(A) of Pub. L. 89-97 applicable with respect to remuneration paid after December, 1965, see section 320(c) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 3121 of Title 26, Internal Revenue Code.

Amendment of subsec. (a)(2)(iii) by section 320(a)(3)(B) of Pub. L. 89-97 applicable with respect to taxable years ending after 1965, see section 320(c) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 3121 of title 26.

Effective Date of 1961 Amendment

Amendment of subsec. (a) by Pub. L. 87-64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961 based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

Effective Date of 1960 Amendment

Section 206(b) of Pub. L. 86-778 provided that:

"(1) Except as provided in paragraph (2), the amendment made by subsection (a) [to subsec. (a)(2) of this section] shall apply only in the case of monthly benefits under title II of the Social Security Act [this subchapter], and the lump-sum death payment under section 202 of such Act [section 402 of this title], based on the wages and self-employment income of an individual—

"(A) who becomes entitled to benefits under section 202(a) or 223 of such Act [section 402(a) or 423 of this title] on the basis of an application filed in or after the month in which this Act is enacted [Sept. 1960]; or

"(B) who is (or would, but for the provisions of section 215(f)(6) of the Social Security Act [section 415(b)(6) of this section], be) entitled to a recomputation of his primary insurance amount under section 215(f)(2)(A) of such Act [section 415(f)(2)(A) of this title] on the basis of an application filed in or after the month in which this Act is enacted [Sept. 1960]; or

"(C) who dies without becoming entitled to benefits under section 202(a) or 223 of the Social Security Act [section 402(a) or 423 of this title], and (unless he dies a currently insured individual but not a fully insured individual (as those terms are defined in section 214 of such Act [section 414 of this title])) without leaving any individual entitled (on the basis of his wages and self-employment income) to survivor's benefits or a lump-sum death payment under section 202 of such Act [section 402 of this title] on the basis of an application filed prior to the month in which this Act is enacted [Sept. 1960]; or

"(D) who dies in or after the month in which this Act is enacted [Sept. 1960] and whose survivors are (or would, but for the provisions of section 215(f)(6) of the Social Security Act [section 415(f)(6) of this title], be) entitled to a recomputation of his primary insurance amount under section 215(f)(4)(A) of such Act [section 415(f)(4)(A) of this title]; or

"(E) who dies prior to the month in which this Act is enacted [Sept. 1960] and (i) whose survivors are (or would, but for the provisions of section 215(f)(6) of the Social Security Act [section 415(f)(6) of this title], be) entitled to a recomputation of his primary insurance amount under section 215(f)(4)(A) of such Act [section 415(f)(4)(A) of this title], and (ii) on the basis of whose wages and self-employment income no individual was entitled to survivor's benefits or a lump-sum death payment under section 202 of such Act [section 402 of this title] on the basis of an application filed prior to the month in which this Act is enacted [Sept. 1960] (and no individual was entitled to such a benefit, without the filing of an application, for any month prior to the month in which this Act is enacted [Sept. 1960]); or

"(F) who files an application for a recomputation under section 102(f)(2)(B) of the Social Security Amendments of 1954 [set out as a note under section

415 of this title] in or after the month in which this Act is enacted [Sept. 1960] and is (or would, but for the fact that such recomputation would not result in a higher primary insurance amount, be) entitled to have his primary insurance amount recomputed under such subparagraph; or

"(G) who dies and whose survivors are (or would, but for the fact that such recomputation would not result in a higher primary insurance amount for such individual, be) entitled, on the basis of an application filed in or after the month in which this Act [Sept. 1960] is enacted, to have his primary insurance amount recomputed under section 102(f)(2)(B) of the Social Security Amendments of 1954 [set out as a note under section 415 of this title].

"(2) The amendment made by subsection (a) [to subsec. (a)(2) of this section] shall also be applicable in the case of applications for disability determination under section 216(i) of the Social Security Act [section 416(i) of this title] filed in or after the month in which this Act is enacted [Sept. 1960].

"(3) Notwithstanding any other provisions of this subsection, in the case of any individual who would not be a fully insured individual under section 214(a) of the Social Security Act [section 414(a) of this title] except for the enactment of this section, no benefits shall be payable on the basis of his wages and self-employment income for any month prior to the month in which this Act is enacted [Sept. 1960]."

Section 3 of Pub. L. 86-442 provided in part that: "This amendment [to subsec. (a)(2)(B)] shall be applicable in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after June 1957, and in the case of the lump-sum death payments under such title, with respect to deaths occurring after such month; the requirements for filing applications for such benefits and payments within certain time limits, as prescribed in sections 202(i) and 202(j) of such title [sections 402(i) and 402(j) of this title], shall not apply if an application is filed within the one-year period beginning with the first day of the month after the month in which this Act is enacted [April 1960]."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 106(h) of act Sept. 1, 1954, provided in part that notwithstanding the provisions of section 415(f) of this title, the amendments to subsec. (a) made by section 106(a) of act Sept. 1, 1954, shall apply with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415(f) of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 3(f) of act July 18, 1952, provided that: "Notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title], the amendments made by subsections (a), (b), (c), and (d) of this section [to sections 413 to 416, 420, and 421 of this title] shall apply to monthly benefits under title II of the Social Security Act [subchapter II of this chapter] for months after June 1953, and to lump-sum death payments under such title in the case of deaths occurring after June 1953; but no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 215(f) of the Social Security Act [section 415(f) of this title]."

TERMINATION DATE OF 1952 AMENDMENT

Section 3(g) of act July 18, 1952, provided that: "Notwithstanding the preceding provisions of this section and the amendments made thereby [to sections 413 to 416, 420, and 421 of this title], such provisions and amendments shall cease to be in effect at the close of June 30, 1953, and after such amendments cease to be in effect any provision of law amended thereby shall be in full force and effect as though this Act [act July 18, 1952] had not been enacted."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 430, 607 of this title.

§ 414. Insured status for purposes of old-age and survivors insurance benefits

For the purposes of this subchapter—

(a) Fully insured individual

The term "fully insured individual" means any individual who had not less than—

(1) one quarter of coverage (whenever acquired) for each calendar year elapsing after 1950 (or, if later, the year in which he attained age 21) and before the year in which he died or (if earlier) the year in which he attained age 62, except that in no case shall an individual be a fully insured individual unless he has at least 6 quarters of coverage; or

(2) 40 quarters of coverage; or

(3) in the case of an individual who died before 1951, 6 quarters of coverage;

not counting as an elapsed year for purposes of paragraph (1) any year any part of which was included in a period of disability (as defined in section 416(i) of this title).

(b) Currently insured individual

The term "currently insured individual" means any individual who had not less than six quarters of coverage during the thirteen-quarter period ending with (1) the quarter in which he died, (2) the quarter in which he became entitled to old-age insurance benefits, (3) the quarter in which he became entitled to primary insurance benefits under this subchapter as in effect prior to August 28, 1950, or (4) in the case of any individual entitled to disability insurance benefits, the quarter in which he most recently became entitled to disability insurance benefits, not counting as part of such thirteen-quarter period any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage.

(Aug. 14, 1935, ch. 531, title II, § 214, as added Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492, and amended July 18, 1952, ch. 945, § 3(b), 66 Stat. 770; Sept. 1, 1954, ch. 1206, title I, §§ 106(b), 108(a), 68 Stat. 1079, 1083; Aug. 1, 1956, ch. 836, title I, § 108, 70 Stat. 830; Aug. 28, 1958, Pub. L. 85-840, title II, § 205(*l*), 72 Stat. 1025; Sept. 13, 1960, Pub. L. 86-778, title II, § 204(a), 74 Stat. 948; June 30, 1961, Pub. L. 87-64, title I, § 103(a), 75 Stat. 137; Oct. 30, 1972, Pub. L. 92-603, title I, § 104(a), 86 Stat. 1340.)

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92-603 struck out provisions setting a separate age computation point for women and reduced from age 65 to age 62 the age computation point for men.

1961—Subsec. (a). Pub. L. 87-64 required one quarter of coverage for each calendar year elapsing after 1950 (or after the year in which the individual attained age 21, if that was later than 1950) instead of one quarter of coverage for each three of the quarters elapsing after 1950, and eliminated words "unless such quarter was a quarter of coverage" which followed "a period of disability (as defined in section 411(i) of this title)".

1960—Subsec. (a). Pub. L. 86-778 changed the provisions which required an individual to have one quarter

of coverage for each two quarters to provide that an individual is fully insured if he has not less than one quarter of coverage for each three quarters elapsing after Dec. 31, 1950, or, if later, December 31 of the year in which he attained the age of 21 years, and inserted provisions defining fully insured in the case of an individual who died prior to 1951 as one who had six quarters of coverage.

1958—Subsec. (b). Pub. L. 85-840 included within the definition of "currently insured individual" an individual entitled to disability insurance benefits who has not less than six quarters of coverage during the thirteen-quarter period ending with the quarter in which he most recently became entitled to disability insurance benefits.

1956—Subsec. (a)(3). Act Aug. 1, 1956, provided that an individual who had at least six quarters of coverage after 1954 would be fully insured if all but four of the quarters elapsing after 1954 and prior to July 1, 1957, or if later, the quarter in which he attained retirement age or died, whichever first occurred, are quarters of coverage.

1954—Subsec. (a)(2)(B). Act Sept. 1, 1954, § 106(b)(1), excluded from the elapsed period under subsec. (a)(2)(A) any quarter any part of which was included in a period of disability, unless such quarter was a quarter of coverage.

Subsec. (a)(3), (4). Act Sept. 1, 1954, § 108(a), redesignated par. (3) as par. (4) and added a new par. (3).

Subsec. (b). Act Sept. 1, 1954, § 106(b)(2), added at the end the words ", not counting as part of such thirteen-quarter period any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage."

1952—Subsec. (a)(2)(B). Act July 18, 1952, § 3(b)(1), added "not counting as an elapsed quarter for purposes of subparagraph (A) any quarter any part of which was included in a period of disability (as defined in section 416(i) of this title unless such quarter was a quarter of coverage".

Subsec. (b). Act July 18, 1952, § 3(b)(2), added "not counting as part of such thirteen-quarter period any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage" following "August 28, 1950".

Effective Date of 1972 Amendment

Section 104(j) of Pub. L. 92-603 provided that:

"(1) The amendments made by this section [amending subsec. (a)(1) of this section, sections 415(b)(3), 416(i)(3)(A), 423(a)(2), (c)(1)(A), and 427(a), (b) of this title and provisions set out as a note under section 415 of this title] (except the amendment made by subsection (i), and the amendment made by subsection (g) to section 209(i) of the Social Security Act) shall apply only in the case of a man who attains (or would attain) age 62 after December 1974. The amendment made by subsection (i), and the amendment made by subsection (g) to section 209(i) of the Social Security Act [amending section 409(4) of this title and section 3121(a)(9) of Title 26, Internal Revenue Code], shall apply only with respect to payments after 1974.

"(2) In the case of a man who attains age 62 prior to 1975, the number of his elapsed years for purposes of section 215(b)(3) of the Social Security Act [section 415(b)(3) of this title] shall be equal to (A) the number determined under such section as in effect on September 1, 1972, or (B) if less, the number determined as though he attained age 65 in 1975, except that monthly benefits under title II of the Social Security Act [this subchapter] for months prior to January 1973 payable on the basis of his wages and self-employment income shall be determined as though this section had not been enacted.

"(3)(A) In the case of a man who attains or will attain age 62 in 1973, the figure '65' in sections 214(a)(1), 223(c)(1)(A), and 216(i)(3)(A) of the Social Security Act [subsec. (a)(1) of this section and sections 423(c)(1)(A) and 416(i)(3)(A) of this title] shall be deemed to read '64'."

"(B) In the case of a man who attains or will attain age 62 in 1974, the figure '65' in sections 214(a)(1), 223(c)(1)(A), and 216(i)(3)(A) of the Social Security Act [subsec. (a)(1) of this section and sections 423(c)(1)(A) and 416(i)(3)(A) of this title] shall be deemed to read '63'."

Effective Date of 1961 Amendment

Section 103(b) of Pub. L. 87-64 provided that:

"The amendment made by subsection (a) [to subsec. (a) of this section] shall apply—

"(1) in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months beginning on or after the effective date of this title [see note under section 402 of this title], based on applications filed in or after March 1961,

"(2) in the case of lump-sum death payments under such title [this subchapter] with respect to deaths on or after the effective date of this title [see note under section 402 of this title], and

"(3) in the case of an application for a disability determination (with respect to a period of disability, as defined in section 216(i) of such Act [section 416(i) of this title]) filed in or after March 1961."

Effective Date of 1960 Amendment

Section 204(d)(1) of Pub. L. 86-778 provided that: "The amendments made by subsections (a) and (b) of this section [to subsec. (a) of this section and to section 109(b) of Act Sept. 1, 1954, set out as a note under section 415 of this title] shall be applicable (A) in the case of monthly benefits under title II of the Social Security Act [this subchapter], for months after the month in which this Act is enacted [Sept. 1960], on the basis of applications filed in or after such month, (B) in the case of lump-sum death payments under such title with respect to deaths occurring after such month, and (C) in the case of an application for a disability determination with respect to a period of disability (as defined in section 216(i) of the Social Security Act [section 416(i) of this title]) filed after such month."

Effective Date of 1958 Amendment

Amendment of subsec. (b) by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207(a) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 416 of this title.

Effective Date of 1954 Amendment

Section 106(h) of act Sept. 1, 1954, provided in part that notwithstanding the provisions of section 415(f) of this title, the amendments to subsecs. (a)(2)(B) and (b) made by section 106(b) of act Sept. 1, 1954 shall apply with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415(f) of this title.

Effective and Termination Date of 1952 Amendment

For effective and termination dates of amendment by act July 18, 1952, see sections 3(f) and 3(g) of act July 18, 1952, set out as Effective Date of 1952 Amendment and Termination Date of 1952 Amendment notes, respectively, under section 413 of this title.

Determination of Entitlement to Monthly Benefits for Sept. 1960 and Prior Months and Individual's Closing Date Prior to 1960

Section 204(d)(2) of Pub. L. 86-778 provided that the provisions of subsec. (a) of this section in effect prior to Sept. 13, 1960, and the provisions of section 109 of act Sept. 1, 1954, ch. 1206, 68 Stat. 1084, set out as a

note under section 415 of this title, as in effect prior to such date were to apply for purposes of determining entitlement to monthly benefits under this subchapter for Sept. 1960 and prior months with respect to wages and self-employment income of an individual and for purposes of determining an individual's closing date prior to 1960 under section 415(b)(3)(B) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 413, 416, 423, 426, 427 of this title; title 38 section 412; title 45 section 231.

§ 415. Computation of primary insurance amount

For the purposes of this subchapter—

(a) Primary insurance amount

The primary insurance amount of an insured individual shall be determined as follows:

(1) Subject to the conditions specified in subsections (b), (c), and (d) of this section and except as provided in paragraphs (2) and (3) of this subsection, such primary insurance amount shall be whichever of the following amounts is the largest:

(A) the amount in column IV of the following table (or, if larger, the amount in column IV of the latest table deemed to be such table under subsection (i)(2)(D) of this section) on the line on which in column III of such table appears his average monthly wage (as determined under subsection (b) of this section);

(B) the amount in column IV of such table on the line on which in column II appears his primary insurance amount (as determined under subsection (c) of this section); or

(C) the amount in column IV of such table on the line on which in column I appears his primary insurance benefit (as determined under subsection (d) of this section).

(2) In the case of an individual who was entitled to disability insurance benefit for the month before the month in which he died, became entitled to old-age insurance benefits, or attained age 65, such primary insurance amount shall be—

(A) the amount in column IV of such table which is equal to the primary insurance amount upon which such disability insurance benefit is based; except that if such individual was entitled to a disability insurance benefit under section 423 of this title for the month before the effective month of a new table (whether enacted by another law or deemed to be such table under subsection (i)(2)(D) of this section) and in the following month became entitled to an old-age insurance benefit, or he died in such following month, then his primary insurance amount for such following month shall be the amount in column IV of the new table on the line on which in column II of such table appears his primary insurance amount for the month before the effective month of the table (as determined under subsection (c) of this section) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based. For purposes of this paragraph, the term "primary insurance amount" with respect to any individual means only a primary insurance amount determined under paragraph (1) (and such individual's benefits shall be deemed to be based upon the primary insurance amount as so determined); or

(B) an amount equal to the primary insurance amount upon which such disability insurance benefit is based if such primary insurance amount was determined under paragraph (3).

(3) Such primary insurance amount shall be an amount equal to $9.00 multiplied by the individual's years of coverage in excess of 10 in any case in which such amount is higher than the individual's primary insurance amount as determined under paragraph (1) or (2).

For purposes of paragraph (3), an individual's "years of coverage" is the number (not exceeding 30) equal to the sum of (i) the number (not exceeding 14 and disregarding any fraction) determined by dividing the total of the wages credited to him (including wages deemed to be paid prior to 1951 to such individual under section 417 of this title, compensation under the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.] prior to 1951 which is creditable to such individual pursuant to this subchapter and wages deemed to be paid prior to 1951 to such individual under section 431 of this title) for years after 1936 and before 1951 by $900, plus (ii) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b)(2)(C) of this section) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 417 of this title, compensation under the Railroad Retirement Act of 1937 which is creditable to such individual pursuant to this subchapter, and wages deemed to be paid to such individual under section 429 of this title) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e) of this section, may be counted for such year.

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I (Primary insurance benefit under 1939 act, as modified)		II (Primary insurance amount effective for September 1972)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 402(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
.....	$16.20	$84.50	.....	$76	$93.80	$140.80
$16.21	16.84	85.80	$77	78	96.30	143.00
16.85	17.60	87.80	79	80	97.50	146.30
17.61	18.40	89.40	81	81	99.30	149.00
18.41	19.24	91.00	82	83	101.10	151.70
19.25	20.00	92.90	84	85	103.20	154.80
20.01	20.64	94.60	86	87	106.10	157.70
20.65	21.28	96.20	88	89	106.80	160.20
21.29	21.88	98.10	90	90	108.90	163.40
21.89	22.28	99.80	91	92	110.80	166.20
22.29	22.68	101.40	93	94	112.60	169.00
22.69	23.08	103.00	95	96	114.40	171.60
23.09	23.44	104.90	97	97	116.50	174.80
23.45	23.76	106.70	98	99	118.50	177.80
23.77	24.20	108.80	100	101	120.80	181.20
24.21	24.60	110.30	102	102	122.50	183.80
24.61	25.00	112.10	103	104	124.50	186.80
25.01	25.48	114.20	105	106	126.80	190.20
25.49	25.92	116.00	107	107	128.80	193.20
25.93	26.40	117.90	108	109	130.90	196.40
26.41	26.94	119.70	110	113	132.90	199.40
26.95	27.46	121.40	114	118	134.80	202.20
27.47	28.00	123.30	119	122	136.90	205.40
28.01	28.68	125.10	123	127	138.90	208.40
28.69	29.25	127.10	128	132	141.10	211.70
29.26	29.68	128.80	133	136	143.00	214.50
29.69	30.36	130.50	137	141	144.90	217.40
30.37	30.92	132.50	142	146	147.10	220.70
30.93	31.36	134.30	147	150	149.10	223.70
31.37	32.00	136.00	151	155	151.00	226.50
32.01	32.60	138.00	156	160	153.20	229.80
32.61	33.20	139.70	161	164	155.10	232.70
33.21	33.88	141.60	165	169	157.20	235.80
33.89	34.50	143.40	170	174	159.20	238.90
34.51	35.00	145.20	175	178	161.20	241.80
35.01	35.80	147.20	179	183	163.40	245.10
35.81	36.40	148.80	184	188	165.20	247.80
36.41	37.08	150.90	189	193	167.50	251.40
37.09	37.60	152.70	194	197	169.50	254.40
37.61	38.20	154.40	198	202	171.40	257.10
38.21	39.12	156.40	203	207	173.70	260.60
39.13	39.68	158.20	208	211	175.70	263.60
39.69	40.33	159.80	212	216	177.40	266.10
40.34	41.12	161.80	217	221	179.60	269.40
41.13	41.76	163.60	222	225	181.60	272.40
41.77	42.44	165.50	226	230	183.80	275.70
42.45	43.20	167.30	231	235	185.80	278.70
43.21	43.76	169.40	236	239	188.10	282.20
43.77	44.44	171.00	240	244	189.90	286.20
44.45	44.88	172.70	245	249	191.70	292.10
44.89	45.60	174.80	250	253	194.10	296.80
		176.60	254	258	196.10	302.60
		178.10	259	263	197.70	308.40
		180.20	264	267	200.10	313.10
		182.00	268	272	202.10	319.00
		183.90	273	277	204.20	324.80
		185.70	278	281	206.20	329.50
		187.50	282	286	208.20	335.40

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I (Primary insurance benefit under 1939 act, as modified)		II (Primary insurance amount effective for September 1972)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 402(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$189.50	$287	$291	$210.40	$341.30
		191.10	292	295	212.20	345.90
		193.10	296	300	214.40	351.70
		194.90	301	305	216.40	357.60
		196.60	306	309	218.30	362.40
		198.60	310	314	220.50	368.20
		200.30	315	319	222.40	374.10
		202.00	320	323	224.30	378.80
		204.00	324	328	226.50	384.70
		205.80	329	333	228.50	390.50
		207.90	334	337	230.80	395.20
		209.40	338	342	232.50	401.00
		211.20	343	347	234.50	406.90
		213.30	348	351	236.80	411.50
		215.00	352	356	238.70	417.40
		217.00	357	361	240.90	423.30
		218.70	362	365	242.80	428.00
		220.40	366	370	244.70	433.80
		222.40	371	375	246.90	439.60
		224.20	376	379	248.90	444.50
		226.20	380	384	251.10	450.30
		227.80	385	389	252.90	456.10
		229.60	390	393	254.90	460.80
		231.60	394	398	257.10	466.70
		233.30	399	403	259.00	472.60
		235.40	404	407	261.30	477.20
		236.90	408	412	263.00	483.10
		238.60	413	417	264.90	488.90
		240.30	418	421	266.80	493.60
		242.20	422	426	268.90	499.40
		243.80	427	431	270.70	505.30
		245.40	432	436	272.40	511.20
		247.40	437	440	274.70	513.50
		248.90	441	445	276.30	516.50
		250.60	446	450	278.20	519.40
		252.50	451	454	280.30	521.70
		254.10	455	459	282.10	524.60
		255.80	460	464	284.00	527.50
		257.40	465	468	285.80	530.00
		259.40	469	473	288.00	532.80
		260.90	474	478	289.60	535.80
		262.60	479	482	291.50	538.20
		264.50	483	487	293.60	541.20
		266.10	488	492	295.40	544.10
		267.80	493	496	297.30	546.40
		269.70	497	501	299.40	549.30
		271.20	502	506	301.10	552.20
		272.90	507	510	303.00	554.60
		274.60	511	515	304.90	557.50
		276.40	516	520	306.90	560.50
		278.10	521	524	308.70	562.70
		279.80	525	529	310.60	565.70
		281.70	530	534	312.70	568.60
		283.20	535	538	314.40	571.00
		284.90	539	543	316.30	573.90
		286.80	544	548	318.40	576.80
		288.40	549	553	320.20	579.80
		290.10	554	556	322.10	581.50
		291.50	557	560	323.60	583.90
		293.10	561	563	325.40	585.70
		294.60	564	567	327.10	588.00
		296.20	568	570	328.80	589.80
		297.60	571	574	330.40	592.00
		299.20	575	577	332.20	593.90
		300.60	578	581	333.70	596.10
		302.20	582	584	335.50	597.90

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I (Primary insurance benefit under 1939 act, as modified)		II (Primary insurance amount effective for September 1972)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 402(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$303.60	$585	$588	$337.00	$600.30
		305.30	589	591	338.90	602.00
		306.80	592	595	340.60	604.40
		308.30	596	598	342.30	606.10
		309.80	599	602	343.90	608.60
		311.30	603	605	345.60	610.30
		312.80	606	609	347.30	612.50
		314.40	610	612	349.00	614.40
		315.90	613	616	350.70	616.70
		317.40	617	620	352.40	619.10
		318.90	621	623	354.00	620.80
		320.40	624	627	355.70	623.20
		321.90	628	630	357.40	625.30
		323.40	631	634	359.00	628.40
		325.00	635	637	360.80	631.30
		326.60	638	641	362.60	634.40
		328.00	642	644	364.10	637.20
		329.60	645	648	365.90	640.30
		331.00	649	652	367.50	643.10
		332.00	653	656	368.60	645.00
		332.90	657	660	369.60	646.70
		334.10	661	665	370.90	649.10
		335.30	666	670	372.20	651.40
		336.50	671	675	373.60	653.70
		337.70	676	680	374.90	656.10
		338.90	681	685	376.20	658.40
		340.10	686	690	377.60	660.70
		341.30	691	695	378.90	663.10
		342.50	696	700	380.20	665.40
		343.70	701	705	381.60	667.70
		344.90	706	710	382.90	670.00
		346.10	711	715	384.20	672.40
		347.30	716	720	385.60	674.70
		348.50	721	725	386.90	677.00
		349.70	726	730	388.20	679.40
		350.90	731	735	389.50	681.70
		352.10	736	740	390.90	684.00
		353.30	741	745	392.20	686.40
		354.50	746	750	393.50	688.70
		355.50	751	755	394.70	690.70
		356.50	756	760	395.80	692.60
		357.50	761	765	396.90	694.60
		358.50	766	770	398.00	696.50
		359.50	771	775	399.10	698.50
		360.50	776	780	400.20	700.30
		361.50	781	785	401.30	702.30
		362.50	786	790	402.40	704.20
		363.50	791	795	403.50	706.20
		364.50	796	800	404.60	708.10
		365.50	801	805	405.80	710.10
		366.50	806	810	406.90	712.00
		367.50	811	815	408.00	714.00
		368.50	816	820	409.10	715.90
		369.50	821	825	410.20	717.90
		370.50	826	830	411.30	719.80
		371.50	831	835	412.40	721.80
		372.50	836	840	413.50	723.70
		373.50	841	845	414.60	725.70
		374.50	846	850	415.70	727.50
		375.50	851	855	416.90	729.50
		376.50	856	860	418.00	731.40
		377.50	861	865	419.10	733.40
		378.50	866	870	420.20	735.30
		379.50	871	875	421.30	737.30
		380.50	876	880	422.40	739.20
		381.50	881	885	423.50	741.20

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I (Primary insurance benefit under 1939 act, as modified)		II (Primary insurance amount effective for September 1972)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 402(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$382.50	$886	$890	$424.60	$743.10
		383.50	891	895	425.70	745.10
		384.50	896	900	426.80	747.00
		385.50	901	905	428.00	749.00
		386.50	906	910	429.10	750.90
		387.50	911	915	430.20	752.90
		388.50	916	920	431.30	754.70
		389.50	921	925	432.40	756.70
		390.50	926	930	433.50	758.60
		391.50	931	935	434.60	760.60
		392.50	936	940	435.70	762.50
		393.50	941	945	436.80	764.50
		394.50	946	950	437.90	766.40
		395.50	951	955	439.10	768.40
		396.50	956	960	440.20	770.30
		397.50	961	965	441.30	772.30
		398.50	966	970	442.40	774.20
		399.50	971	975	443.50	776.20
		400.50	976	980	444.60	778.00
		401.50	981	985	445.70	780.00
		402.50	986	990	446.80	781.90
		403.50	991	995	447.90	783.90
		404.50	996	1,000	449.00	785.80
			1,001	1,005	450.00	787.50
			1,006	1,010	451.00	789.30
			1,011	1,015	452.00	791.00
			1,016	1,020	453.00	792.80
			1,021	1,025	454.00	794.50
			1,026	1,030	455.00	796.30
			1,031	1,035	456.00	798.00
			1,036	1,040	457.00	799.80
			1,041	1,045	458.00	801.50
			1,046	1,050	459.00	803.30
			1,051	1,055	460.00	805.00
			1,056	1,060	461.00	806.80
			1,061	1,065	462.00	808.50
			1,066	1,070	463.00	810.30
			1,071	1,075	464.00	812.00
			1,076	1,080	465.00	813.80
			1,081	1,085	466.00	815.50
			1,086	1,090	467.00	817.30
			1,091	1,095	468.00	819.00
			1,096	1,100	469.00	820.80

(b) Average monthly wage

(1) For the purposes of column III of the table appearing in subsection (a) of this section, an individual's "average monthly wage" shall be the quotient obtained by dividing—

(A) the total of his wages paid in and self-employment income credited to his "benefit computation years" (determined under paragraph (2)), by

(B) the number of months in such years.

(2)(A) The number of an individual's "benefit computation years" shall be equal to the number of elapsed years (determined under paragraph (3) of this subsection), reduced by five; except that the number of an individual's benefit computation years shall in no case be less than two.

(B) An individual's "benefit computation years" shall be those computation base years, equal in number to the number determined under subparagraph (A), for which the total of his wages and self-employment income is the largest.

(C) For purposes of subparagraph (B), "computation base years" include only calendar years in the period after 1950 and prior to the earlier of the following years—

(i) the year in which occurred (whether by reason of section 402(j)(1) of this title or otherwise) the first month for which the individual was entitled to old-age insurance benefits, or

(ii) the year succeeding the year in which he died.

Any calendar year all of which is included in a period of disability shall not be included as a computation base year.

(3) For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, the year in which he attained age 21) and before the year in which he died, or if it occurred earlier but after 1960, the year in which he attained age 62. For purposes of the preceding sentence, any calendar year any part of which was included in a period of disability shall not be included in such number of calendar years.

(4) The provisions of this subsection shall be applicable only in the case of an individual—

(A) who becomes entitled to benefits under section 402(a) or section 423 of this title in or after the month in which a new table that appears in (or is deemed by subsection (1)(2)(D) of this section to appear in) subsection (a) of this section becomes effective; or

(B) who dies in or after the month in which such table becomes effective without being entitled to benefits under section 402(a) or section 423 of this title; or

(C) whose primary insurance amount is required to be recomputed under subsection (f)(2) of this section.

(c) Primary insurance amount under prior provisions

(1) For the purposes of column II of the latest table that appears in (or is deemed to appear in) subsection (a) of this section an individual's primary insurance amount shall be computed on the basis of the law in effect prior to the month in which the latest such table became effective.

(2) The provisions of this subsection shall be applicable only in the case of an individual who became entitled to benefits under section 402(a) or section 423 of this title, or who died, before such effective month.

(d) Primary insurance benefit under 1939 Act

(1) For purposes of column I of the table appearing in subsection (a) of this section, an individual's primary insurance benefit shall be computed as follows:

(A) The individual's average monthly wage shall be determined as provided in subsection (b) (but without regard to paragraph (4) thereof) of this section, except that for purposes of paragraph (2)(C) and (3) of such subsection, 1936 shall be used instead of 1950.

(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) of this section, an individual whose total wages prior to 1951 (as defined in subparagraph (C) of this subsection)—

(i) do not exceed $27,000 shall be deemed to have been paid such wages in equal parts in nine calendar years after 1936 and prior to 1951;

(ii) exceed $27,000 and are less than $42,000 shall be deemed to have been paid (I) $3,000 in each of such number of calendar years after 1936 and prior to 1951 as is equal to the integer derived by dividing such total wages by $3,000, and (II) the excess of such total wages over the product of $3,000 times such integer, in an additional calendar year in such period; or

(iii) are at least $42,000 shall be deemed to have been paid $3,000 in each of the fourteen calendar years after 1936 and prior to 1951.

(C) For the purposes of subparagraph (B), "total wages prior to 1951" with respect to an individual means the sum of (i) remuneration credited to such individual prior to 1951 on the records of the Secretary, (ii) wages deemed paid prior to 1951 to such individual under section 417 of this title, (iii) compensation under the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.] prior to 1951 creditable to him pursuant to this subchapter, and (iv) wages deemed paid prior to 1951 to such individual under section 431 of this title.

(D) The individual's primary insurance benefit shall be 45.6 per centum of the first $50 of his average monthly wage as computed under this subsection, plus 11.4 per centum of the next $200 of such average monthly wage.

(2) The provisions of this subsection shall be applicable only in the case of an individual—

(A) with respect to whom at least one of the quarters elapsing prior to 1951 is a quarter of coverage;

(B) except as provided in paragraph (3), who attained age 22 after 1950 and with respect to whom less than six of the quarters elapsing after 1950 are quarters of coverage, or who attained such age before 1951; and

(C)(i) who becomes entitled to benefits under section 402(a) or 423 of this title after January 2, 1968, or

(ii) who dies after such date without being entitled to benefits under section 402(a) or 423 of this title, or

(iii) whose primary insurance amount is required to be recomputed under subsection (f)(2) or (6) of this section or section 431 of this title.

(3) The provisions of this subsection as in effect prior to January 2, 1968, shall be applicable in the case of an individual—

(A) who attained age 21 after 1936 and prior to 1951, or

(B) who had a period of disability which began prior to 1951, but only if the primary insurance amount resulting therefrom is higher than the primary insurance amount resulting from the application of this section (as amended by the Social Security Amendments of 1967) and section 420 of this title.

(e) Certain wages and self-employment income not to be counted

For the purposes of subsections (b) and (d) of this section—

(1) in computing an individual's average monthly wage there shall not be counted the excess over $3,600 in the case of any calendar year after 1950 and before 1955, the excess over $4,200 in the case of any calendar year after 1954 and before 1959, the excess over $4,800 in the case of any calendar year after 1958 and before 1966, the excess over $6,600 in the case of any calendar year after 1965 and before 1968, and the excess over $7,800 in the case of any calendar year after 1967 and before 1972, the excess over $9,000 in the case of any calendar year after 1971 and before 1973, the excess over $10,800 in the case of any calendar year after 1972 and before 1974,

the excess over $13,200 in the case of any calendar year after 1973 and before 1975, and the excess over an amount equal to the contribution and benefit base (as determined under section 430 of this title) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective (A) the wages paid to him in such year, plus (B) the self-employment income credited to such year (as determined under section 412 of this title);

(2) if an individual's average monthly wage computed under subsection (b) of this section or for the purposes of subsection (d) of this section is not a multiple of $1, it shall be reduced to the next lower multiple of $1.

(f) Recomputation of benefits

(1) After an individual's primary insurance amount has been determined under this section, there shall be no recomputation of such individual's primary insurance amount except as provided in this subsection or, in the case of a World War II veteran who died prior to July 27, 1954, as provided in section 417(b) of this title.

(2) If an individual has wages or self-employment income for a year after 1965 for any part of which he is entitled to old-age insurance benefits, the Secretary shall, at such time or times and within such period as he may by regulations prescribe, recompute such individual's primary insurance amount with respect to each such year. Such recomputation shall be made as provided in subsections (a)(1)(A) and (C) and (a)(3) of this section as though the year with respect to which such recomputation is made is the last year of the period specified in subsection (b)(2)(C) of this section. A recomputation under this paragraph with respect to any year shall be effective—

(A) in the case of an individual who did not die in such year, for monthly benefits beginning with benefits for January of the following year; or

(B) in the case of an individual who died in such year, for monthly benefits beginning with benefits for the month in which he died.

(3) In the case of any individual who became entitled to old-age insurance benefits in 1952 or in a taxable year which began in 1952 (and without the application of section 402(j)(1) of this title), or who died in 1952 or in a taxable year which began in 1952 but did not become entitled to such benefits prior to 1952, and who had self-employment income for a taxable year which ended within or with 1952 or which began in 1952, then upon application filed by such individual after the close of such taxable year and prior to January 1961 or (if he died without filing such application and such death occurred prior to January 1961) by a person entitled to monthly benefits on the basis of such individual's wages and self-employment income, the Secretary shall recompute such individual's primary insurance amount. Such recomputation shall be made in the manner provided in the preceding subsections of this section (other than subsection (b)(4)(A) of this section) for computation of such amount, except that (A) the self-employment income closing date shall be the day following the quarter with or within which such taxable year ended, and (B) the self-employment income for any subsequent taxable year shall not be taken into account. Such recomputation shall be effective (A) in the case of an application filed by such individual, for and after the first month in which he became entitled to old-age insurance benefits, and (B) in the case of an application filed by any other person, for and after the month in which such person who filed such application for recomputation became entitled to such monthly benefits. No recomputation under this paragraph pursuant to an application filed after such individual's death shall affect the amount of the lump-sum death payment under subsection (i) of section 402 of this title, and no such recomputation shall render erroneous any such payment certified by the Secretary prior to the effective date of the recomputation.

(4) Any recomputation under this subsection shall be effective only if such recomputation results in a higher primary insurance amount.

(5) In the case of a man who became entitled to old-age insurance benefits and died before the month in which he attained age 65, the Secretary shall recompute his primary insurance amount as provided in subsection (a) of this section as though he became entitled to old-age insurance benefits in the month in which he died; except that (i) his computation base years referred to in subsection (b)(2) of this section shall include the year in which he died, and (ii) his elapsed years referred to in subsection (b)(3) of this section shall not include the year in which he died or any year thereafter. Such recomputation of such primary insurance amount shall be effective for and after the month in which he died.

(6) Upon the death after 1967 of an individual entitled to benefits under section 402(a) or section 423 of this title, if any person is entitled to monthly benefits or a lump-sum death payment, on the wages and self-employment income of such individual, the Secretary shall recompute the decedent's primary insurance amount, but only if the decedent during his lifetime was paid compensation which was treated under section 405(*o*) of this title as remuneration for employment.

(g) Rounding of benefits

The amount of any primary insurance amount and the amount of any monthly benefit computed under section 402 or 423 of this title which (after reduction under section 403(a) of this title and deductions under section 403(b) of this title) is not a multiple of $0.10 shall be raised to the next higher multiple of $0.10.

(h) Election of benefits by Public Health Service Reserve Officers

(1) Notwithstanding the provisions of subchapter III of chapter 83 of title 5, remuneration paid for service to which the provisions of section 410(*l*)(1) of this title are applicable and which is performed by an individual as a commissioned officer of the Reserve Corps of the Public Health Service prior to July 1, 1960, shall not be included in computing entitlement to or the amount of any monthly benefit under this subchapter, on the basis of his wages and self-employment income, for any month after

June 1960, and prior to the first month with respect to which the Civil Service Commission certifies to the Secretary that, by reason of a waiver filed as provided in paragraph (2), no further annuity will be paid to him, his wife, and his children, or, if he has died, to his widow and children, under subchapter III of chapter 83 of title 5 on the basis of such service.

(2) In the case of a monthly benefit for a month prior to that in which the individual, on whose wages and self-employment income such benefit is based, dies, the waiver must be filed by such individual; and such waiver shall be irrevocable and shall constitute a waiver on behalf of himself, his wife, and his children. If such individual did not file such a waiver before he died, then in the case of a benefit for the month in which he died or any month thereafter, such waiver must be filed by his widow, if any, and by or on behalf of all his children, if any; and such waivers shall be irrevocable. Such a waiver by a child shall be filed by his legal guardian or guardians, or, in the absence thereof, by the person (or persons) who has the child in his care.

(i) Cost-of-living increases in benefits

(1) For purposes of this subsection—

(A) the term "base quarter" means (i) the calendar quarter ending on March 31 in each year after 1974, or (ii) any other calendar quarter in which occurs the effective month of a general benefit increase under this subchapter;

(B) the term "cost-of-living computation quarter" means a base quarter, as defined in subparagraph (A)(i), in which the Consumer Price Index prepared by the Department of Labor exceeds, by not less than 3 per centum, such Index in the later of (i) the last prior cost-of-living computation quarter which was established under this subparagraph, or (ii) the most recent calendar quarter in which occurred the effective month of a general benefit increase under this subchapter; except that there shall be no cost-of-living computation quarter in any calendar year if in the year prior to such year a law has been enacted providing a general benefit increase under this subchapter or if in such prior year such a general benefit increase becomes effective; and

(C) the Consumer Price Index for a base quarter, a cost-of-liying computation quarter, or any other calendar quarter shall be the arithmetical mean of such index for the 3 months in such quarter.

(2)(A)(i) The Secretary shall determine each year beginning with 1975 (subject to the limitation in paragraph (1)(B)) whether the base quarter (as defined in paragraph (1)(A)(i)) in such year is a cost-of-living computation quarter.

(ii) If the Secretary determines that the base quarter in any year is a cost-of-living computation quarter, he shall, effective with the month of June of such year as provided in subparagraph (B), increase the benefit amount of each individual who for such month is entitled to benefits under section 427 or 428 of this title, and the primary insurance amount of each other individual under this subchapter (but not including a primary insurance amount determined under subsection (a)(3) of this section), by an amount derived by multiplying each such amount (including each such individual's primary insurance amount or benefit amount under section 427 or 428 of this title as previously increased under this subparagraph) by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for such cost-of-living computation quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1)(B). Any such increased amount which is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

(B) The increase provided by subparagraph (A) with respect to a particular cost-of-living computation quarter shall apply in the case of monthly benefits under this subchapter for months after May of the calendar year in which occurred such cost-of-living computation quarter, and in the case of lump-sum death payments with respect to deaths occurring after May of such calendar year.

(C)(i) Whenever the level of the Consumer Price Index as published for any month exceeds by 2.5 percent or more the level of such index for the most recent base quarter (as defined in paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter, the Secretary shall (within 5 days after such publication) report the amount of such excess to the House Committee on Ways and Means and the Senate Committee on Finance.

(ii) Whenever the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance of such determination within 30 days after the close of such quarter, indicating the amount of the benefit increase to be provided, his estimate of the extent to which the cost of such increase would be met by an increase in the contribution and benefit base under section 430 of this title and the estimated amount of the increase in such base, the actuarial estimates of the effect of such increase, and the actuarial assumptions and methodology used in preparing such estimates.

(D) If the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall publish in the Federal Register within 45 days after the close of such quarter a determination that a benefit increase is resultantly required and the percentage thereof. He shall also publish in the Federal Register at that time (along with the increased benefit amounts which shall be deemed to be the amounts appearing in sections 427 and 428 of this title) a revision of the table of benefits contained in subsection (a) of this section (as it may have been most recently revised by another law or pursuant to this paragraph); and such revised table shall be deemed to be the table appearing in such subsection (a). Such revision shall be determined as follows:

(i) The headings of the table shall be the same as the headings in the table immediate-

ly prior to its revision, except that the parenthetical phrase at the beginning of column II shall reflect the year in which the primary insurance amounts set forth in column IV of the table immediately prior to its revision were effective.

(ii) The amounts on each line of column I and column III, except as otherwise provided by clause (v) of this subparagraph, shall be the same as the amounts appearing in each such column in the table immediately prior to its revision.

(iii) The amount on each line of column II shall be changed to the amount shown on the corresponding line of column IV of the table immediately prior to its revision.

(iv) The amounts on each line of column IV and column V shall be increased from the amounts shown in the table immediately prior to its revision by increasing each such amount by the percentage specified in subparagraph (A)(ii) of this paragraph. The amount on each line of column V shall be increased, if necessary, so that such amount is at least equal to one and one-half times the amount shown on the corresponding line in column IV. Any such increased amount which is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

(v) If the contribution and benefit base (determined under section 430 of this title) for the calendar year in which the table of benefits is revised is lower than such base for the following calendar year, columns III, IV, and V of such table shall be extended. The amounts on each additional line of column III shall be the amounts on the preceding line increased by $5 until in the last such line of column III the second figure is equal to one-twelfth of the new contribution and benefit base for the calendar year following the calendar year in which such table of benefits is revised. The amount on each additional line of column IV shall be the amount on the preceding line increased by $1.00, until the amount on the last line of such column is equal to the last line of such column as determined under clause (iv) plus 20 percent of one-twelfth of the excess of the new contribution and benefit base for the calendar year following the calendar year in which such table of benefits is revised (as determined under section 430 of this title) over such base for the calendar year in which the table of benefits is revised. The amount in each additional line of column V shall be equal to 1.75 times the amount on the same line of column IV. Any such increased amount which is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

(3) As used in this subsection, the term "general benefit increase under this subchapter" means an increase (other than an increase under this subsection) in all primary insurance amounts on which monthly insurance benefits under this subchapter are based.

(Aug. 14, 1935, ch. 531, title II, § 215, as added Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492, and amended July 18, 1952, ch. 945, §§ 2(a), (b)(1), 3(c), 6(a), (b), 66 Stat. 767, 768, 770, 771, 776; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, §§ 102 (a)-(d), (e) (1)-(4), 104(d), 106(c), 68 Stat. 1062, 1078, 1079; Aug. 1, 1956, ch. 836, title I, §§ 103(c) (4), (5), 109(a), 115 (a)-(c), 70 Stat. 818, 830, 832; Aug. 28, 1958, Pub. L. 85-840, title I, §§ 101(a)-(d), 102(d), title II, § 205(m), 72 Stat. 1013, 1020, 1025; Apr. 8, 1960, Pub. L. 86-415, § 7, 74 Stat. 35; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(j)(2)(C), title II, § 211(n), title III, §§ 303(a)-(e), 304(a), 74 Stat. 937, 958, 960, 966; June 30, 1961, Pub. L. 87-64, title I, §§ 101(a), 102(d), 75 Stat. 131, 135; July 30, 1965, Pub. L. 89-97, title III, §§ 301(a), (b), 302(a)-(d), 303(e), 304(k), 320(a)(4), 79 Stat. 361, 363-365, 367, 370, 393; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 101(a), (c), (d), 108(a)(4), 155(a)(1)-(6), title IV, § 403(b), 81 Stat. 824, 827, 834, 864, 865, 931; Dec. 30, 1969, Pub. L. 91-172, title X, § 1002(a), (c), (d), 83 Stat. 737, 740; Mar. 17, 1971, Pub. L. 92-5, title II, §§ 201(a), (c), (d), 203(a)(4), 85 Stat. 6, 9, 10; July 1, 1972, Pub. L. 92-336, title II, §§ 201(a), (c)-(f), 202(a)(1), (3), 203(a)(4), 86 Stat. 406, 410-412, 416, 418; Oct. 30, 1972, Pub. L. 92-603, title I, §§ 101(a), (c)-(e), 104(b), 134, 142(b), (c), 144(a)(1), 86 Stat. 1333, 1334, 1340, 1362, 1368, 1369; July 9, 1973, Pub. L. 93-66, title II, § 203(a)(4), 87 Stat. 153; Dec. 31, 1973, Pub. L. 93-233, §§ 1(h)(1), 2(a), (d), 3(a)-(h), 5(a)(4), 87 Stat. 948, 952, 953.)

References in Text

The Railroad Retirement Act of 1937, referred to in subsecs. (a) and (d)(1)(C), is act Aug. 29, 1935, ch. 812, 49 Stat. 867, as amended generally by act June 24, 1937, ch. 382, part I, 50 Stat. 307, and which was classified principally to subchapter III (§ 228a et seq.) of chapter 9 of Title 45, Railroads. The Railroad Retirement Act of 1937 was amended generally and redesignated the Railroad Retirement Act of 1974 by Pub. L. 93-445, title I, Oct. 16, 1974, 88 Stat. 1305. The Railroad Retirement Act of 1974 is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45. For complete classification of these acts to the Code, see Tables volume.

The 1939 Act, referred to in subsecs. (a) and (d), probably means act Aug. 10, 1939, ch. 666, 53 Stat. 1360, known as the Social Security Act Amendments of 1939, which enacted sections 901a, 1306 and 1307 of this title, amended sections 302, 303, 306, 401, 402 to 409, 502, 503, 602, 603, 606, 701, 702, 703, 711, 712, 713, 714, 721, 801, 1011, 1202, 1203, 1206, 1301, of this title, section 642 of Title 7, Agriculture, section 1464 of Title 12, Banks and Banking, section 1601 of former Title 26, Internal Revenue Code of 1939, section 45b of Title 29, Labor, and enacted provisions set out as notes under section 363 of Title 45, Railroads. For complete classification of this Act to the Code, see Tables volume.

The Social Security Amendments of 1967, referred to in subsec. (d)(3)(B), means Pub. L. 90-248, Jan. 2, 1968, 81 Stat. 821. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1305 of this title and Tables volume.

Amendments

1973—Subsec. (a). Pub. L. 93-233, § 2(a), in revising the benefits table: in column II, substituted "Primary insurance amount effective for September 1972" for "Primary insurance amount under 1971 Act" and increased benefit amounts to $84.50-$404.50 from $70.40-$295.40; in column III, increased benefit amounts to $76 to $1,096-$1,100 from $76 to $996-$1,000; in column IV, increased benefit amounts to $93.80-$469.00 from $84.50-$404.50; and in column V, increased benefit amounts to $140.80-$820.80 from $126.80-$707.90.

Subsec. (a)(3). Pub. L. 93-233, § 1(h)(1), substituted "$9.00" for "$8.50".

Subsec. (e)(1). Pub. L. 93-233, § 5(a)(4), substituted "$13,200" for "$12,600".

Pub. L. 93-66 substituted "$12,600" for "$12,000".

Subsec. (i)(1)(A)(i). Pub. L. 93-233, § 3(a), substituted "calendar quarter ending on March 31 in each year after 1974" for calendar quarter ending on June 30 in each year after 1972".

Subsec. (i)(1)(B)(ii). Pub. L. 93-233, § 3(b), substituted in the exception provision "if in the year prior to such year a law has been enacted providing a general benefit increase under this subchapter or if in such prior year such a general benefit increase becomes effective" for "in which a law has been enacted providing a general benefit increase under this subchapter or in which such a benefit increase becomes effective".

Subsec. (i)(2)(A)(i). Pub. L. 93-233, § 3(c), substituted "1975" for "1974" and struck out "and to subparagraph (E) of this paragraph" following "paragraph (1)(B)" in the parenthetical text.

Subsec. (i)(2)(A)(ii). Pub. L. 93-233, § 3(d)(1)-(3), substituted "the base quarter in any year" and "June of such year" for "such base quarter" and "January of the next calendar year" and struck out "(subject to subparagraph (E))" preceding "as provided in subparagraph (B)", respectively.

Subsec. (i)(2)(B). Pub. L. 93-233, § 3(e), substituted "May" for "December" in two instances and struck out "(subject to subparagraph (E))" following "shall apply".

Subsec. (i)(2)(C)(ii). Pub. L. 93-233, § 3(f), substituted "within 30 days after the close of such quarter" for "on or before August 15 of such calendar year".

Subsec. (i)(2)(D). Pub. L. 93-233, § 3(g), substituted "within 45 days after the close of such quarter" for "on or before November 1 of such calendar year".

Subsec. (i)(2)(E). Pub. L. 93-233, § 3(h), struck out subpar. (E) providing that "Notwithstanding a determination by the Secretary under subparagraph (A) that a base quarter in any calendar year is a cost-of-living computation quarter (and notwithstanding any notification or publication thereof under subparagraph (C) or (D)), no increase in benefits shall take effect pursuant thereto, and such quarter shall be deemed not to be a cost-of-living computation quarter, if during the calendar year in which such determination is made a law providing a general benefit increase under this subchapter is enacted or becomes effective."

1972—Subsec. (a). Pub. L. 92-336, § 202(a)(3)(A), added "(or, if larger, the amount in column IV of the latest table deemed to be such table under subsection (i)(2)(D))" following "the following table" in par. (1)(A), and "(whether enacted by another law or deemed to be such table under subsection (i)(2)(D))" following "effective month of a new table" in par. (2).

Pub. L. 92-336, § 201(a), revised the benefits table by substituting "Primary insurance amount under 1971 Act" for "Primary insurance amount under 1969 Act" and $70.40-$295.40 for $64.00 or less—$250.70 in column II, adding $751-$996 under minimum average monthly wage subcolumn of column III, adding $755-$1000 under maximum average monthly wage subcolumn of column III, substituting $84.50-$404.50 for $70.40-$295.40 in column IV, and $126.80-$707.90 for $105.60-$517.00 in column V.

Pub. L. 92-336, § 201(c), added "The primary insurance amount of an insured individual shall be determined as follows:" following "(a)", redesignated introductory material and pars. (1) to (3) as par. (1) and subpars. (A) to (C) respectively, and as so redesignated, in par. (1) added provision relating to exception in par. (2) and in subpars. (A) to (C) made changes in phraseology, and redesignated par. (4) as par. (2) and as so redesignated, added provisions relating to determination of primary insurance amount where individual was entitled to disability insurance benefits under section 423 of this title.

Subsec. (a)(1). Pub. L. 92-603, § 101(a)(1), inserted reference to paragraph (3) in the provisions preceding subpar. (A).

Subsec. (a)(2). Pub. L. 92-603, § 101(c), designated existing provisions as subpar. (A) and added subpar. (B) and in subpar. (A) as so designated inserted "(whether enacted by another law or deemed to be such table under subsection (i)(2)(D) of this section)".

Subsec. (a)(3). Pub. L. 92-603, § 101(a)(2), added subsec. (a)(3) and provisions following such subsec. (a)(3) covering the individual's "years of coverage" for purposes of subsec. (a)(3).

Pub. L. 92-603, § 144(a)(1), substituted in column II "254.40" for "251.40" and in column III "696" for "699".

Subsec. (b)(3). Pub. L. 92-603, § 104(b), struck out provisions setting a separate age computation point for women and reduced from age 65 to age 62 the age computation point for men.

Subsec. (b)(4). Pub. L. 92-336, § 202(a)(3)(B), substituted provisions relating to an individual who becomes entitled to benefits in or after the month in which a new table that appears in (or is deemed by subsec. (i)(2)(D) to appear in) subsec. (a) becomes effective for provisions relating to an individual who becomes entitled to benefits after August 1972 in subpar. (A), substituted provisions relating to an individual who dies in or after the month in which such table becomes effective for provisions relating to an individual who dies after August 1972 in subpar. (B), and added subpar. (C).

Pub. L. 92-336, § 201(d), substituted "August 1972" for "December 1970" in two places.

Subsec. (c). Pub. L. 92-336, § 202(a)(3)(C), substituted provisions relating to the computation of an individual's primary insurance amount based on the law in effect prior to the month in which the latest table appearing in (or is deemed to be appearing in) subsec. (a) of this section becomes effective, for provisions relating to the computation of an individual's primary insurance amount based on the law in effect prior to September 1972 in subpar. (1), and substituted ", or who died, before such effective month" for "before September 1972, or who died before such month" in subpar. (2).

Pub. L. 92-336, § 201(e), substituted "September 1972" for "March 17, 1971" in two places, and "month" for "date".

Subsec. (d)(1)(C)(iv). Pub. L. 92-603, § 142(b), added subsec. (d)(1)(C)(iv).

Subsec. (d)(2). Pub. L. 92-603, §§ 134(b), 142(c), added references to subsec. (f)(6) of this section and section 431 of this title.

Subsec. (e)(1). Pub. L. 92-336, § 203(a)(4), added provisions eliminating from the computation of an individual's average monthly wage excess amounts in calendar years after 1971 and before 1975, and excess over amounts equal to the contribution and benefit base in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective.

Subsec. (f)(2). Pub. L. 92-603, §§ 101(d), 134(a)(1), inserted reference to subsec. (a)(3) of this section in the provisions preceding subpar. (A) and in subpar. (B) struck out provision relating to any individual whose increase in his primary insurance amount is attributable to compensation which, upon his death, is treated as remuneration for employment under section 405(o) of this title.

Pub. L. 92-336, § 201(f), substituted "subsection (a)(1) (A) and (C) of this section" for "subsection (a) (1) and (3) of this section."

Subsec. (f)(6). Pub. L. 92-603, § 134(a)(2), added par. (6).

Subsec. (i). Pub. L. 92-336, § 202(a)(1), added subsec. (i).

Subsec. (i)(2)(A)(ii). Pub. L. 92-603, § 101(e), inserted "(but not including a primary insurance amount determined under subsection (a)(3) of this section)" after "under this subchapter".

1971—Subsec. (a). Pub. L. 92-5, § 201(a), revised the benefits table by: substituting "Primary insurance amount under 1969 Act" for "Primary insurance amount under 1967 Act" and $64.00 or less—$250.70

for $55.40 or less—$218.00 in column II, adding $653-$746 under minimum average monthly wage subcolumn of column III, striking out $650 and adding $652-$750 under maximum average monthly wage subcolumn of column III, substituting $70.40-$295.40 for $64.00-$250.70 in column IV, and $105.60-$517.00 for $96.00-$434.40 in column V.

Subsec. (b)(4). Pub. L. 92-5, § 201(c), substituted "December 1970" for "December 1969" in two places.

Subsec. (c). Pub. L. 92-5, § 201(d), substituted "prior to March 17, 1971" for "prior to December 30, 1969" in subpar. 1, and substituted "before March 17, 1971, or who died before such date" for "before January 1970, or who died before such month" in subpar. 2.

Subsec. (e)(1). Pub. L. 92-5, § 203(a)(4), substituted "the excess over $7,800 in the case of any calendar year after 1967 and before 1972, and the excess over $9,000 in the case of any calendar year after 1971" for "and the excess over $7,800 in the case of any calendar year after 1967".

1969—Subsec. (a). Pub. L. 91-172, § 1002(a), revised the benefits table to increase: the primary insurance amount limits to $64.00-$250.70 for people whose average monthly wage is $76.00 or less for the minimum, and $650.00 for the maximum, the primary insurance amounts of retired workers on the benefit rolls from $48.00 or less to $55.40 at the minimum, and from $168.00 to $218.00 at the maximum, and the family benefits limits to $96.00-$434.40 from $82.50-$434.40.

Subsec. (b)(4). Pub. L. 91-172, § 1002(c), substituted references to December 1969 for references to January 1968.

Subsec. (c). Pub. L. 91-172, § 1002(d), substituted "December 30, 1969" for "January 2, 1968" in subpar. (1), and "January 1970" for "February 1968" in subpar. (2).

1968—Subsec. (a). Pub. L. 90-248, § 101(a), revised the benefits table to increase: the primary insurance amount limits to $55.00—$218.00 for people whose average monthly wage is $74.00 or less for the minimum and $650.00 for the maximum, the primary insurance amounts of retired workers on the benefit rolls from $48.00 or less to $55.00 at the minimum and from $168.00 to $189.90 at the maximum, and the family benefit limits to $82.50-$434.40 from $66.00-$368.00.

Subsec. (b)(4). Pub. L. 90-248, § 101(c)(1), substituted "January 1968" for "December 1965" in subpar. (A) and (B), deleted", as amended by the Social Security Amendments of 1965;" from end of subpar. (C), and struck out the exception provision that the subsection would not apply to any individual described therein for purposes of monthly benefits for months before January 1966.

Subsec. (b)(5). Pub. L. 90-248, § 101(c)(2), repealed par. (5) which preserved the method in effect before the enactment of the 1965 amendments of computing average monthly earnings for people who become entitled to benefits or a recomputation of benefits before 1966.

Subsec. (c). Pub. L. 90-248, § 101(d), substituted "1965 Act" for "1958 Act, as modified" in subsection catchline and "on the basis of the law in effect prior to the enactment of the Social Security Amendments of 1967" for "as provided in, and subject to the limitations specified in, (A) this section as in effect prior to July 30, 1965 and (B) the applicable provisions of the Social Security Amendments of 1960" in par. (1) and "the month of February 1968, or who died before such month" for "July 30, 1965 or who died before such date" in par. (2).

Subsec. (d)(1). Pub. L. 90-248, § 155(a)(1), substituted:

"(d)(1) For purposes of column I of the table appearing in subsection (a) of this section, an individual's primary insurance benefit shall be computed as follows:

"(A) The individual's average monthly wage shall be determined as provided in subsection (b) (but without regard to paragraph (4) thereof) of this section, except that for purposes of paragraph (2)(C) and (3) of such subsection, 1936 shall be used instead of 1950.

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) of this section, an individual whose total wages prior to 1951 (as defined in subparagraph (C) of this subsection)—

"(i) do not exceed $27,000 shall be deemed to have been paid such wages in equal parts in nine calendar years after 1936 and prior to 1951;

"(ii) exceed $27,000 and are less than $42,000 shall be deemed to have been paid (I) $3,000 in each of such number of calendar years after 1936 and prior to 1951 as is equal to the integer derived by dividing such total wages by $3,000, and (II) the excess of such total wages over the product of $3,000 times such integer, in an additional calendar year in such period; or

"(iii) are at least $42,000 shall be deemed to have been paid $3,000 in each of the fourteen calendar years after 1936 and prior to 1951.

"(C) For the purposes of subparagraph (B) of this paragraph, 'total wages prior to 1951' with respect to an individual means the sum of (i) remuneration credited to such individual prior to 1951 on the records of the Secretary, (ii) wages deemed paid prior to 1951 to such individual under section 417 of this title, and (iii) compensation under the Railroad Retirement Act of 1937 prior to 1951 creditable to him pursuant to this subchapter.

"(D) The individual's primary insurance benefit shall be 45.6 per centum of the first $50 of his average monthly wage as computed under this subsection, plus 11.4 per centum of the next $200 of such average monthly wage." for

"(d)(1) For the purposes of column I of the table appearing in subsection (a) of this section. An individual's primary insurance benefit shall be computed as provided in this subchapter as in effect prior to August 28, 1950, except that—

"(A) In the computation of such benefit, such individual's average monthly wage shall (in lieu of being determined under section 409(f) of this title as in effect prior to August 28, 1950) be determined as provided in subsection (b) of this section (but without regard to paragraphs (4) and (5) thereof), except that for the purposes of paragraphs (2)(C) and (3) of subsection (b) of this section, 1936, shall be used instead of 1950.

"(B) For purposes of such computation, the date he became entitled to old-age insurance benefits shall be deemed to be the date he became entitled to primary insurance benefits.

"(C) The 1 per centum addition provided for in section 409(e)(2) of this title as in effect prior to August 28, 1950 shall be applicable only with respect to calendar years prior to 1951, except that any wages paid in any year prior to such year all of which was included in a period of disability shall not be counted.

"(D) The provisions of subsection (e) of this section shall be applicable to such computation."

Subsec. (d)(2)(B), (C). Pub. L. 90-248, § 155(a)(2), eliminated former subpar. (B), redesignated former subpar. (C) as (B), inserted exception phrase at beginning of subpar. (B), and added subpar. (C).

Subsec. (d)(3). Pub. L. 90-248, § 155(a)(3), substituted:

"(3) The provisions of this subsection as in effect prior to January 2, 1968 shall be applicable in the case of an individual—

"(A) who attained age 21 after 1936 and prior to 1951, or

"(B) who had a period of disability which began prior to 1951, but only if the primary insurance amount resulting therefrom is higher than the primary insurance amount resulting from the application of this section (as amended by the Social Security Amendments of 1967) and section 420 of this title." for

"(3) The provisions of this subsection as in effect prior to September 13, 1960 shall be applicable in the case of an individual who meets the requirements of subsection (b)(5) of this section (as in effect after September 13, 1965)."

Subsec. (e)(1). Pub. L. 90-248, § 108(a)(4), substituted "the excess over $6,600 in the case of any calendar year after 1965 and before 1968, and the excess over $7,800 in the case of any calendar year after 1967" for "and the excess over $6,600 in the case of any calendar year after 1965".

Subsec. (f)(2). Pub. L. 90-248, § 155(a)(4), (5), eliminated former subpars. (A) to (D) and text preceding (A) by substituting provisions that if an individual has wages or self-employment income for a year after 1965 for any part of which he is entitled to old-age insurance benefits, the Secretary is to recompute his primary insurance amount with respect to each such year, and that such recomputation shall be made as provided in subsec. (a)(1) and (3) as though the year with respect to which such recomputation is made is the last year of the period specified in subsec. (b)(2)(C) for former provisions for a recomputation with respect to each year after Dec. 31, 1964, and for any part of which an individual was entitled to old-age insurance benefits, that such recomputation was to be made as provided in subsec. (a)(1) and (3) if such year was either the year in which he became entitled to such old-age insurance benefits or the preceding year or as provided in subsec. (a)(1) in any other case, and that in all cases such recomputation was to be made as though the year with respect to which it was to be made was the last year of the period specified in subsec. (b)(2)(C); and redesignated former subpars. (E), (F) as (A), (B).

Subsec. (f)(5). Pub. L. 90-248, § 155(a)(6) added par. (5).

Subsec. (h)(1). Pub. L. 90-248, § 403(b), substituted "subchapter III of chapter 83 of title 5" for "the Civil Service Retirement Act" in two instances.

1965—Subsec. (a). Pub. L. 89-97, § 301(a), revised the benefits table to increase: the primary insurance amount limits to $44-$168 for people whose average monthly wage is $67 or less for the minimum and $550 for the maximum from $40-$127 for people whose average monthly wage is $67 or less for the minimum and $400 for the maximum (representing an increase of 7-percent for average monthly wages of $400 or less with minimum increase of $4); the primary insurance amounts of retired workers on the benefit rolls from $40 to $44 at the minimum and from $127 to $135.90 at the maximum; and the family benefit limits to $66-$368 from $60-$254 (determined on basis of new formula and representing minimum increase of $6).

Subsec. (a)(4). Pub. L. 89-97, §§ 303(e), 304(k), substituted "In the case of an individual who was entitled to a disability insurance benefit for the month before the month in which he died, became entitled to old-age insurance benefits, or attained age 65," for:

"In the case of—

"(A) a woman who was entitled to a disability insurance benefit for the month before the month in which she died or became entitled to old-age insurance benefits, or

"(B) a man who was entitled to a disability insurance benefit for the month before the month in which he died or attained age 65," and

"the primary insurance amount upon which such disability insurance benefit is based" for "such disability insurance benefit", respectively.

Subsec. (b)(2)(C). Pub. L. 89-97, § 302(a)(1), excluded from an insured individual's computation base years the year in which he became entitled to benefits and included in his computation base years (for purposes of survivors' benefits) the year in which he died to make an individual's computation base years the calendar years occurring after 1950 and up to the year in which his first month of entitlement to a benefit occurred or the year after the year in which he died.

Subsec. (b)(3)(A) to (C). Pub. L. 89-97, § 302(a)(2), substituted in: clause (A) ", if it occurred earlier but after 1960, the year in which she attained age 62," for "(if earlier) the first year after 1960 in which she both was fully insured and had attained age 62."; clause (B) ", if it occurred earlier but after 1960, the year in which he attained age 65" for "(if earlier) the first year after 1960 in which he both was fully insured and had attained age 65"; and clause (C) "the year occurring after 1960 in which he attained (or would attain) age 65" for "the first year after 1960 in which he attained (or would attain) age 65 or (if later) the first year in which he was fully insured".

Subsec. (b)(4). Pub. L. 89-97, § 302(a)(3), substituted "The provisions of this subsection shall be applicable only in the case of an individual—

"(A) who becomes entitled, after December 1965, to benefits under section 402(a) or section 423 of this title; or

"(B) who dies after December 1965 without being entitled to benefits under section 402(a) or section 423 of this title; or

"(C) whose primary insurance amount is required to be recomputed under subsection (f)(2) of this section, as amended by the Social Security Amendments of 1965;

except that it shall not apply to any such individual for purposes of monthly benefits for months before January 1966." for

"The provisions of this subsection shall be applicable only in the case of an individual with respect to whom not less than six of the quarters elapsing after 1950 are quarters of coverage, and—

"(A) who becomes entitled to benefits after December 1960 under section [section 402(a) or section 423 of this title]; or

"(B) who dies after December 1960 without being entitled to benefits under section [section 402(a) or section 423 of this title]; or

"(C) who files an application for a recomputation under subsection (f)(2)(A) of this section after December 1960 and is (or would, but for the provisions of subsection (f)(6) of this section, be) entitled to have his primary insurance amount recomputed under subsection (f)(2)(A) of this section; or

"(D) who dies after December 1960 and whose survivors are (or would, but for the provisions of subsection (f)(6) of this section, be) entitled to a recomputation of his primary insurance amount under subsection (f)(4) of this section."

Subsec. (b)(5). Pub. L. 89-97, § 302(a)(3), substituted "For the purpose of column III of the table appearing in subsection (a) of this section, the provisions of this subsection, as in effect prior to July 30, 1965, shall apply—

"(A) in the case of an individual to whom the provisions of this subsection are not made applicable by paragraph (4), but who, on or after July 30, 1965 and prior to 1966, met the requirements of this paragraph or paragraph (4), as in effect prior to July 30, 1965, and

"(B) with respect to monthly benefits for months before January 1966, in the case of an individual to whom the provisions of this subsection are made applicable by paragraph (4)", for

"In the case of any individual—

"(A) to whom the provisions of this subsection are not made applicable by paragraph (4), but

"(B)(i) prior to 1961, met the requirements of this paragraph (including subparagraph (E) thereof) as in effect prior to the enactment of the Social Security Amendments of 1960, or (ii) after 1960, meets the conditions of subparagraph (E) of this paragraph as in effect prior to such enactment,

then the provisions of this subsection as in effect prior to such enactment shall apply to such individual for the purposes of column III of the table appearing in subsection (a) of this section."

Subsec. (c). Pub. L. 89-97, § 301(b), substituted in par. (1)(A) "prior to the enactment of the Social Security Amendments of 1965" and executed in the Code "prior to July 30, 1965" for "prior to the enactment of the Social Security Amendments of 1958" and executed in the Code "prior to August 28, 1958"; in par. (1)(B) "Social Security Amendments of 1960" for "Social Security Amendments of 1954"; in par. (2), formerly designated (2)(A), "before July 30, 1965 or who died before such date" for "or died prior to January

1959"; and deleted par. (2)(B) making the provisions of the subsection applicable only in the case of an individual "to whom the provisions of neither paragraph (4) nor paragraph (5) of subsection (b) of this section are applicable."

Subsec. (d)(1)(A). Pub. L. 89-97, § 302(b)(1), substituted "(2)(C) and (3)" for "(2)(C)(i) and (3)(A)(i)", "1936" for "December 31, 1936," and "1950" for "December 31, 1950".

Subsec. (d)(3). Pub. L. 89-97, § 302(b)(2), substituted "1965" for "1960" in two instances and struck out at the end of the par. "but without regard to whether such individual has six quarters of coverage after 1950".

Subsec. (e)(1). Pub. L. 89-97, § 320(a)(4), substituted "the excess over $4,800 in the case of any calendar year after 1958 and before 1966, and the excess over $6,600 in the case of any calendar year after 1965" for "and the excess over $4,800 in the case of any calendar year after 1958".

Subsec. (e)(3). Pub. L. 89-97, § 302(c), struck out par. (3) which had provided that for the purposes of subsecs. (b) and (d) of this section, if an individual had self-employment income in a taxable year which began prior to the calendar year in which he became entitled to old-age insurance benefits and ended after the last day of the month preceding the month in which he became so entitled, his self-employment income in such taxable year should not be counted in determining his benefit computation years, except as provided in subsection (f)(3)(C) of this section.

Subsec. (f)(2). Pub. L. 89-97, § 302(d)(1), substituted provisions for annual automatic recomputation of benefits, taking into account any earnings the person had in or after the year in which he became entitled to benefits, and effective in the case of a living beneficiary with January of the year following the year in which the earnings were received and in death cases for survivors' benefits beginning with the month of death for former provisions which required an application for the recomputation to include earnings in a year after entitlement and that the person have six quarters of coverage after 1950 to qualify for the recomputation and was not available unless the person had earnings of more than $1,200 for the year.

Subsec. (f)(3). Pub. L. 89-97, § 302(d)(2), redesignated former par. (5) as (3) and repealed former par. (3) which provided for a recomputation of benefits to include earnings in the year of entitlement to benefits or in the year in which an individual's benefits were recomputed on account of additional earnings and is now covered by the annual automatic recomputation of benefits provision of subsec. (f)(2) of this section.

Subsec. (f)(4). Pub. L. 89-97, § 302(d)(2), redesignated former par. (6) as (4) and repealed former par. (4) which provided for a recomputation of benefits for the purpose of paying benefits to survivors of an individual who died after 1960 and who had been entitled to old-age insurance benefits and is now covered by the annual automatic recomputation of benefits provision of subsec. (f)(2) of this section.

Subsec. (f)(5), (6). Pub. L. 89-97, § 302(d)(2) redesignated former pars. (5) and (6) as (3) and (4), respectively.

Subsec. (f)(7). Pub. L. 89-97, § 302(d)(2), repealed former par. (7) which provided for recomputation at age 65 of the benefits of an individual who became entitled to benefits before that age and is now covered by the annual automatic recomputation of benefits provision of subsec. (f)(2) of this section.

1961—Subsec. (a). Pub. L. 87-64, §§ 101(a), 102(d)(1), increased the minimum primary insurance amount from $33 to $40, and the minimum family benefit from $53 to $60, and in the case of a man, limited the provisions which permit the primary insurance amount to be equal to the disability insurance benefit for the month before the month in which the man became entitled to old-age insurance benefits only if the man first became entitled to old-age insurance benefits at age 65.

Subsec. (b)(3). Pub. L. 87-64, § 102(d)(2), substituted "For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, the year in which he attained age 21) and before—

"(A) in the case of a woman, the year in which she died or (if earlier) the first year after 1960 in which she both was fully insured and had attained age 62,

"(B) in the case of a man who has died, the year in which he died or (if earlier) the first year after 1960 in which he both was fully insured and had attained age 65, or

"(C) in the case of a man who has not died, the first year after 1960 in which he attained (or would attain) age 65 or (if later) the first year in which he was fully insured"

for the following provisions: "For the purposes of paragraph (2), an individual's 'elapsed years' shall be the number of calendar years—

"(A) after (i) December 31, 1950, or (ii) if later, December 31 of the year in which he attained the age of twenty-one, and

"(B) prior to (i) the year in which he died, or (ii) if earlier, the first year after December 31, 1960, in which he both was fully insured and had attained retirement age."

Subsec. (f)(7). Pub. L. 87-64, § 102(d)(3), added subsec. (f)(7).

1960—Subsec. (b)(1). Pub. L. 86-778, § 303(a), substituted provisions defining the term "average monthly wage" as the quotient obtained by dividing (A) the total of an individual's wages paid in and self-employment income credited to his benefit computation years, by (B) the number of months in such years, for provisions which defined the term as the quotient obtained by dividing the total of his wages and self-employment income after his starting date and prior to his closing date by the number of months elapsing after such starting date and prior to such closing date, excluding the months in any year prior to the year in which the individual attained the age of 22 if less than two quarters of such prior years were quarters of coverage and the months in any year any part of which was included in a period of disability except the months in the year in which such period of disability began if their inclusion will result in a higher primary insurance amount.

Subsec. (b)(2). Pub. L. 86-778, § 303(a), substituted provisions relating to benefit computation years and to computation base years for provisions which defined an individual's starting date as December 31, 1950, or if later, the last day of the year in which he attains the age of 21, whichever results in the higher primary insurance amount.

Subsec. (b)(3). Pub. L. 86-778, § 303(a), substituted provisions defining an individual's elapsed years for provisions which defined an individual's closing date as the first day of the year in which he died or became entitled to old-age insurance benefits, whichever first occurred, or the first day of the first year in which he both was fully insured and had attained retirement age, whichever results in the higher primary insurance amount.

Subsec. (b)(4). Pub. L. 86-778, § 303(a), substituted provisions prescribing the applicability of subsec. (f) for provisions which required the Secretary to determine the five or fewer calendar years after an individual's starting date and prior to his closing date which, if the months of such years and his wages and self-employment income for such years were excluded in computing his average monthly wage, would produce the highest primary insurance amount, and which required exclusion of such months and such wages and self-employment income for purposes of computing an individual's average monthly wage.

Subsec. (b)(5). Pub. L. 86-778, § 303(a), substituted provisions making subsec. (f) applicable in the case of an individual to whom the provisions of subsec. (f) are not made applicable by par. (4) but prior to 1961, met the requirements of this paragraph as in effect prior to Sept. 13, 1960, or, after 1960, meets the conditions of subpar. (E) of this paragraph as in effect prior to Sept. 13, 1960, for provisions which prescribed the ap-

plicability of subsec. (f) of this section. Former provisions of subsec. (b)(5) are now covered by subsec. (b)(4) of this section.

Subsec. (c)(2)(B). Pub. L. 86-778, § 303(b), substituted "to whom the provisions of neither paragraph (4) nor paragraph (5) of subsection (b) of this section are applicable" for "to whom the provisions of paragraph (5) of subsection (b) of this section are not applicable".

Subsec. (d)(1)(A). Pub. L. 86-778, § 303(c)(1), substituted "be determined as provided in subsection (b) of this section (but without regard to paragraphs (4) and (5) thereof), except that for the purposes of paragraphs (2)(C)(i) and (3)(A)(i) of subsection (b) of this section, December 31, 1936, shall be used instead of December 31, 1950" for "be determined as provided in subsection (b) of this section (but without regard to paragraph (5) thereof), except that his starting date shall be December 31, 1936".

Subsec. (d)(1)(C). Pub. L. 86-778, § 303(c)(2), substituted "all of which was included" for "any part of which was included", and eliminated provisions which required the wages paid in the year in which the period of disability began to be counted if the counting of such wages would result in a higher primary insurance amount.

Subsec. (d)(2)(B). Pub. L. 86-778, § 303(c)(3), substituted "paragraph (4) of subsection (b) of this section" for paragraph (5) of subsection (b) of this section."

Subsec. (d)(3). Pub. L. 86-778, § 303(c)(4), added subsec. (d)(3).

Subsec. (e)(3). Pub. L. 86-778, § 303(d)(1), substituted "if an individual has self-employment income in a taxable year which begins prior to the calendar year in which he becomes entitled to old-age insurance benefits and ends after the last day of the month preceding the month in which he becomes so entitled, his self-employment income in such taxable year shall not be counted in determining his benefit computation years" for "if an individual's closing date is determined under paragraph (3)(A) of subsection (b) of this section and he has self-employment income in a taxable year which begins prior to such closing date and ends after the last day of the month preceding the month in which he becomes entitled to old-age insurance benefits, there shall not be counted, in determining his average monthly wage, his self-employment income in such taxable year".

Subsec. (e)(4). Pub. L. 86-778, § 303(d)(2), eliminated former subsec. (e)(4), which prohibited, in computing an individual's average monthly wage, the counting of any wages paid such individual in any year any part of which was included in a period of disability, or any self-employment income of such individual credited pursuant to section 412 of this title to any year any part of which was included in a period of disability, unless the months of such year are included as elapsed months pursuant to subsec. (b)(1)(B) of this section.

Subsec. (f)(2)(A). Pub. L. 86-778, § 303(e)(1), substituted "1960" for "1954" in the opening provisions, and "filed such application after such calendar year" for "filed such application no earlier than six months after such calendar year" in cl. (iii).

Subsec. (f)(2)(B). Pub. L. 86-778, § 303(e)(2), substituted provisions requiring a recomputation pursuant to subpar. (A) to be made only as provided in subsec. (a)(1) of this section, if the provisions of subsec. (b) of this section, as amended by Pub. L. 86-778, were applicable to the last previous computation of the individual's primary insurance amount, or as provided in subsec. (a)(1) and (3) of this section in all other cases for provisions which required a recomputation to be made only as provided in subsec. (a) of this section, inserted provisions requiring the computation base years, if cl. (i) of this subparagraph is applicable to such recomputation, to include only calendar years occurring prior to the year in which he filed his application for such recomputation, and eliminated provisions which prescribed the method of making the recomputation if subsec. (b)(4) of this section were applicable to the previous computation.

Subsec. (f)(3)(A). Pub. L. 86-778, § 303(e)(3), substituted "December 1960" for "August 1954" in two instances, eliminated provisions which related to applications by individuals whose primary insurance amount was recomputed under section 102(e)(5) or 102(f)(2)(B) of the Social Security Amendments of 1954, and substituted "except that such individual's computation base years referred to in subsection (b)(2) of this section shall include the calendar year referred to in the preceding sentence" for "except that his closing date for purposes of subsection (b) of this section shall be the first day of the year following the year in which he became entitled to old-age insurance benefits or in which he filed his application for the last recomputation (to which he was entitled) of his primary insurance amount under any provision of law referred to in clause (ii) or (iii) of the preceding sentence, whichever is later".

Subsec. (f)(3)(B). Pub. L. 86-778, § 303(e)(3), substituted "December 1960" for "August 1954" in three instances, eliminated provisions which related to individuals whose primary insurance amount was recomputed under section 102(e)(5) or section 102(f)(2) of the Social Security Amendments of 1954, and individuals with respect to whom the last previous computation or recomputation of their primary insurance amount was based upon a closing date determined under subpar. (A) or (B) of subsec. (b)(3) of this section, and substituted "except that such individual's computation base years referred to in subsection (b)(2) of this section shall include the calendar year in which he died in the case of an individual who was not entitled to old-age insurance benefits at the time of death or whose primary insurance amount was recomputed under paragraph (4) of this subsection, or in all other cases, the calendar year in which he filed his application for the last previous computation of his primary insurance amount" for "except that his closing date for purposes of subsection (b) of this section shall be the day following the year of death in case he died without becoming entitled to old-age insurance benefits, or in case he was entitled to old-age insurance benefits, the day following the year in which was filed the application for the last previous computation of his primary insurance amount, or in which the individual died, whichever first occurred".

Subsec. (f)(3)(C). Pub. L. 86-778, § 303(e)(3), substituted "In the case of an individual who becomes entitled to old-age insurance benefits in a calendar year after 1960, if such individual has self-employment income in a taxable year which begins prior to such calendar year and ends after the last day of the month preceding the month in which he became so entitled, the Secretary shall recompute such individual's primary insurance amount after the close of such taxable year and shall take into account in determining the individual's benefit computation years only such self-employment income in such taxable year as is credited, pursuant to section 412 of this title, to the year preceding the year in which he became so entitled" for "If an individual's closing date is determined under paragraph (3)(A) of subsection (b) of this section and he has self-employment income in a taxable year which begins prior to such closing date and ends after the last day of the month preceding the month in which he became entitled to old-age insurance benefits, the Secretary shall recompute his primary insurance amount after the close of such taxable year, taking into account only such self-employment income in such taxable year as is, pursuant to section 412 of this title, allocated to calendar quarters prior to such closing date."

Subsec. (f)(4). Pub. L. 86-778, § 303(e)(4), eliminated words "(without the application of clause (iii) thereof)" following "paragraph (2)(A)" in cl. (A), eliminated provisions from the second sentence which required, if the recomputation is permitted by subpar. (A), to include in such recomputation any compensation (described in section 405(o) of this title) paid to him prior to the closing date which would have been applicable under such paragraph, and substituted "which were considered in the last previous computation of his primary insurance amount and the compensation (de-

scribed in section 405(o) of this title) paid to him in the years in which such wages were paid or to which such self-employment income was credited" for "which were taken into account in the last previous computation of his primary insurance amount and the compensation (described in section 405(o) of this title) paid to him prior to the closing date applicable to such computation" in the third sentence.

Subsec. (f)(5). Pub. L. 86-778, § 304(a), substituted "then upon application filed by such individual after the close of such taxable year and prior to January 1961 or (if he died without filing such application and such death occurred prior to January 1961)" for "then upon application filed after the close of such taxable year by such individual (or if he died without filing such application)".

Subsec. (g). Pub. L. 86-778, § 211(n), inserted "and deductions under section 403(b) of this title."

Subsec. (h). Pub. L. 86-778, § 103(j)(2)(C), substituted "section 410(*l*)(1) of this title" for "section 410(m)(1) of this title", in par. (1).

Pub. L. 86-415 added subsec. (h).

1958—Subsec. (a). Pub. L. 85-840, § 101(a), amended subsec. (a) generally, and, among other changes, substituted a new method for computing the primary insurance amount of an individual for provisions which established the primary insurance amount as either 55% of the first $110 of an individual's average monthly wage, plus 20% of the next $240, or the amount determined by use of the conversion table under former subsec. (c) of this section, whichever was larger.

Subsec. (b)(1). Pub. L. 85-840, § 101(b)(1), substituted "for the purposes of column III of the table appearing in subsection (a) of this section, an" for "An".

Subsec. (b)(5). Public L. 85-840, § 101(b)(2), added par. (5).

Subsec. (c). Pub. L. 85-840, § 101(c), amended subsec. (c) generally, and, among other changes, substituted provisions for computation of the primary insurance amount of an individual under the 1954 Act for provisions which related to determinations made by use of the conversion table.

Subsec. (d). Pub. L. 85-840, § 101(d), substituted provisions for computation of the primary insurance benefit under the 1939 Act for provisions which related to determination of the primary insurance benefit and primary insurance amount for purposes of the conversion table in former subsec. (c) of this section.

Subsec. (e). Pub. L. 85-840, § 102(d), substituted "(d) of this section" for "(d)(4) of this section" in the opening provisions and in cl. (2), and inserted "and before 1959, and the excess over $4,800 in the case of any calendar year after 1958" following "after 1954", in cl. (1).

Subsec. (g). Pub. L. 85-840, § 205(m), eliminated provisions which related to reduction under section 424 of this title.

1956—Subsec. (a)(3). Act Aug. 1, 1956, § 103(c)(4), added par. (3).

Subsec. (b)(1). Act Aug. 1, 1956, § 115(a), excluded from the computation of an individual's average wage the months in any year any part of which was included in a period of disability, except the months in any year in which a period of disability began if their inclusion would result in a higher primary insurance amount.

Subsec. (b)(4). Act Aug. 1, 1956, § 109(a), substituted "five" for "four", and eliminated provisions which required the maximum number of calendar years determined under this clause to be five in the case of any individual who has not less than 20 quarters of coverage.

Subsec. (d)(5). Act Aug. 1, 1956, § 115(b), excluded from the computation all quarters in any year prior to 1951 any part of which was included in a period of disability, except the quarters in the year in which a period of disability began if the inclusion of such quarters would result in a higher primary insurance amount.

Subsec. (e)(4). Act Aug. 1, 1956, § 115(c), excluded any wages paid to an individual in any year any part of which was included in a period of disability, and any self-employment income credited to such year unless the months of such year are included as elapsed months.

Subsec. (g). Act Aug. 1, 1956, § 103(c)(5), inserted references to sections 423 and 424 of this title.

1954—Subsec. (a). Act Sept. 1, 1954, § 102(a), provided a new benefit formula, for computing primary insurance amount for certain individuals, of 55 percent of the first $110 of average monthly wage plus 20 percent of the next $240 and provided that other individuals have their primary insurance amount computed under subsection (c) of this section.

Subsec. (b). Act Sept. 1, 1954, § 102(b), provided standard end-of-the-year starting and beginning-of-the-year closing dates, applicable to both wage earners and self-employed individuals, for computation of the average monthly wage, and provided for the exclusion of up to 5 years in which earnings were lowest (or nonexistent) from the average monthly wage computation.

Subsec. (b)(1). Act Sept. 1, 1954, § 106(c)(1), inserted after "quarters of coverage" the words "and any month in any quarter any part of which was included in a period of disability (as defined in section 416(i) of this title) unless such quarter was a quarter of coverage."

Subsec. (c). Act Sept. 1, 1954, § 102(c), provided a new conversion table with increased benefits for individuals already on the rolls and computed the primary insurance amount of certain individuals who come on the rolls after the enactment of the act.

Subsec. (d). Act. Sept. 1, 1954, § 102(d), added provisions for computation of a primary insurance amount for purposes of the conversion table.

Subsec. (d)(5). Act Sept. 1, 1954, § 106(c)(2), added subsec. (d)(5). Former subsec. (d)(5), which was added by act July 18, 1952, § 3(c)(3), ceased to be in effect at the close of June 30, 1953. See termination date note set out under section 413 of this title.

Subsec. (d)(6). Act Sept. 1, 1954, § 102(d)(4), added subsec. (d)(6).

Subsec. (e). Act Sept. 1, 1954, § 104(d), provided that earnings up to $4,200, in any calendar year after 1954, shall be used in the computation of an individual's average monthly wage.

Subsec. (e)(3). Act Sept. 1, 1954, § 102(e)(1), added subsec. (e)(3).

Subsec. (e)(4). Act Sept. 1, 1954, § 106(c)(3), added subsec. (e)(4).

Subsec. (f)(2). Act Sept. 1, 1954, § 102(e)(2), substituted a new test for determining eligibility for a recomputation to take into account additional earnings after entitlement.

Subsec. (f)(3)(A), (B). Act Sept. 1, 1954, § 102(e)(3)(A), amended provisions generally.

Subsec. (f)(3)(C). Act Sept. 1, 1954, § 102(e)(3)(B), added subsec. (f)(3)(C).

Subsec. (f)(4). Act Sept. 1, 1954, § 102(e)(4), provided for the recomputation of the primary insurance on the death after 1954 of an old-age insurance beneficiary, if any person is entitled to monthly survivors benefits or to a lump-sum death payment on the basis of his wages and self-employment income.

1952—Subsec. (a)(1). Act July 18, 1952, § 2(b)(1), provided a new benefit formula for the computation of benefits based entirely on wages paid and self-employment income derived after 1950 of 55 percent of the first $100 of average monthly wage and 15 percent of next $200 and increased the primary insurance amount.

Subsec. (b)(1). Act July 18, 1952, § 3(c)(1), added "and any month in any quarter any part of which was included in a period of disability (as defined in section 416(i) of this title) unless such quarter was quarter of coverage" following "not a quarter of coverage."

Subsec. (b)(4). Act July 18, 1952, § 3(c)(2), added provisions of subparagraphs (B) and (C).

Subsec. (c)(1). Act July 18, 1952, § 2(a)(1), inserted a new conversion table and increased amounts.

Subsec. (c)(2). Act July 18, 1952, § 2(a)(2), provided that individuals, whose primary insurance amounts

are governed by regulations, shall have the same increase as is provided for individuals governed by the new conversion table.

Subsec. (c)(4). Act July 18, 1952, § 2(a)(3), added subsec. (c)(4).

Subsec. (d)(5). Act July 18, 1952, § 3(c)(3), added subsec. (d)(5).

Subsec. (f)(2). Act July 18, 1952, § 6(a), provided that upon application an individual will have his benefit recomputed by the new formula prescribed in subsec. (a)(1) of this section under certain conditions.

Subsec. (f)(5). Act July 18, 1952, § 6(b), added subsec. (f)(5). Former subsec. (f)(5) redesignated (f)(6).

Subsec. (f)(6). Act July 18, 1952, § 6(b), redesignated former par. (5) as (6).

Effective Date of 1973 Amendments

Section 1(h)(2) of Pub. L. 93-233 provided that: "The amendment made by paragraph (1) [to subsec. (a)(3) of this section] shall be effective with respect to benefits payable for months after February 1974."

Section 2(c) of Pub. L. 93-233 provided that: "The amendment made by subsections (a) and (b) [revising subsec. (a) benefits table of this section, amending sections 427(a), (b) and 428(b)(1)(2), (c)(3)(A), (B) of this title, and repealing section 202(a)(4) of Pub. L. 92-336, title II, July 1, 1972, 86 Stat. 416] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after May 1974, and with respect to lump-sum death payments under section 202(i) of such Act [section 402(i) of this title] in the case of deaths occurring after such month."

Amendment by section 5(a)(4) of Pub. L. 93-233 applicable with respect to calendar years after 1973, see section 5(e) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 409 of this title.

Amendment Pub. L. 93-66 applicable with respect to calendar years after 1973, see section 203(e) of Pub. L. 93-66, set out as an Effective Date of 1973 Amendment note under section 409 of this title.

Effective Date of 1972 Amendments

Section 101(g) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsecs. (a), (f), and (i) of this section and section 403(a) of this title] shall apply with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] for months after December 1972 (without regard to when the insured individual became entitled to such benefits or when he died) and with respect to lump-sum death payments under such title [subchapter] in the case of deaths occurring after such month."

Amendment of subsec. (b)(3) by section 104(b) of Pub. L. 92-603 applicable only in the case of a man who attains (or would attain) age 62 after Dec. 1974, with provision for the determination of the number of elapsed years for purposes of subsec. (b)(3) of this section in the case of a man who attains age 62 prior to 1975, see section 104(j) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 414 of this title.

Amendment by section 144(a)(1) of Pub. L. 92-603 effective in like manner as if such amendment had been included in title II of Pub. L. 92-336, see section 144(b) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 403 of this title.

Section 201(i) of Pub. L. 92-336 provided that: "The amendments made by this section [amending subsecs. (a), (b)(4), (c), and (f)(2) of this section and section 403(a)(2) of this title] (other than the amendments made by subsections (g) and (h)) shall apply with respect to monthly benefits under title II of the Social Security Act [this chapter] for months after August 1972 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month. The amendments made by subsection (g) [amending sections 427 and 428 of this title] shall apply with respect to monthly benefits under title II of such Act for months after August 1972. The amendments made by subsection (h)(1) [amending section 403(a)(4) of this title] shall apply with respect to monthly benefits under title II of such Act for months after December 1971."

Section 202(a)(3)(A) to (C) of Pub. L. 92-336, as amended by Pub. L. 93-233, § 2(d), Dec. 31, 1973, 87 Stat. 952, provided in part that amendment of subsecs. (a)(1)(A), (2), (b)(4), and (c) by section 202(a)(3)(A)(i), (ii), (B), (C) of Pub. L. 92-336 shall be effective June 1, 1974.

Amendment of subsec. (e)(1) by section 203(a)(4) of Pub. L. 92-336 applicable only with respect to calendar years after 1972, see section 203(c) of Pub. L. 92-336, set out as an Effective Date of 1971 Amendment note under section 409 of this title.

Effective Date of 1971 Amendment

Section 201(e) of Pub. L. 92-5 provided that: "The amendments made by this section [amending subsecs. (a), (b)(4), and (c) of this section and section 403 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [subchapter II of this chapter] for months after December 1970 and with respect to lump-sum death payments under such title in the case of deaths occurring in and after the month in which this Act is enacted [March 1971]."

Amendment of subsec. (e)(1) by Pub. L. 92-5 applicable only with respect to calendar years after 1971, see section 203(c) of Pub. L. 92-5, set out as an Effective Date of 1971 Amendment note under section 409 of this title.

Effective Date of 1969 Amendment

Section 1002(e) of Pub. L. 91-172 provided that: "The amendments made by this section [amending this section and section 403(a)(2) of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1969 and with respect to lump-sum death payments under such title in the case of deaths occurring after December 1969."

Effective Date of 1968 Amendment

Section 101(e) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsecs. (a), (b)(4) and (5), and (c) of this section and to section 403(a)(2) of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968 and with respect to lump-sum death payments under such title [this subchapter] in the case of deaths occurring after January 1968."

Amendment of subsec. (e)(1) by section 108(a)(4) of Pub. L. 90-248 applicable only with respect to calendar years after 1967, see section 108(c) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 409 of this title.

Effective Date of 1965 Amendment

Section 301(d) of Pub. L. 89-97 provided that: "The amendments made by subsections (a), (b), and (c) of this section [to subsecs. (a) and (c) of this section and section 403(a) of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1964 and with respect to lump-sum death payments under such title [this subchapter] in the case of deaths occurring in or after the month in which this Act is enacted [July 1965]."

Section 302(d)(2) of Pub. L. 89-97 provided in part that the repeal of former pars. (3), (4), and (7) of subsec. (f) and the redesignation of pars. (5) and (6) as (3) and (4) of such subsec. (f) shall be effective Jan. 2, 1966.

Section 302(f)(1) to (5) of Pub. L. 89-97 provided as follows:

"(1) The amendments made by subsection (c) [repealing subsec. (e)(3)] shall apply only to individuals

who become entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] after 1965.

"(2) Any individual who would, upon filing an application prior to January 2, 1966, be entitled to a recomputation of his monthly benefit amount for purposes of title II of the Social Security Act [this subchapter] shall be deemed to have filed such application on the earliest date on which such application could have been filed, or on the day on which this Act is enacted [July 30, 1965], whichever is the later.

"(3) In the case of an individual who died after 1960 and prior to 1966 and who was entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] at the time of his death, the provisions of sections 215(f)(3)(B) and 215(f)(4) of such Act [subsec. (f)(3)(B) and (f)(4) of this section] as in effect before the enactment of this Act [July 30, 1965] shall apply.

"(4) In the case of a man who attains age 65 prior to 1966, or dies before such year, the provisions of section 215(f)(7) of the Social Security Act [subsec. (f)(7) of this section] as in effect before the enactment of this Act [July 30, 1965] shall apply.

"(5) The amendments made by subsection (e) of this section [to section 423(a)(2) of this title] shall apply in the case of individuals who become entitled to disability insurance benefits under section 223 of the Social Security Act [section 423 of this title] after December 1965."

Section 303(f)(2) of Pub. L. 89-97 provided that: "The amendment made by subsection (e) [to subsec. (a)(4) of this section] shall apply in the case of the primary insurance amounts of individuals who attain age 65 after the date of enactment of this Act [July 30, 1965]."

Amendment of subsec. (a)(4) by section 304 of Pub. L. 89-97 applicable with respect to monthly insurance benefits under this subchapter for and after the second month following July 1965 but only on the basis of applications filed in or after July 1965, see section 304(o) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 402 of this title.

Amendment by section 320 of Pub. L. 89-97 applicable with respect to calendar years after 1965, see section 320(c) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 3121 of Title 26, Internal Revenue Code.

Effective Date of 1961 Amendment

Section 101(b) of Pub. L. 87-64 provided that: "The amendment made by subsection (a) [amending subsec. (a)] shall apply only in the case of monthly insurance benefits under title II of the Social Security Act [this subchapter] for months beginning on or after the effective date of this title [see note under section 402 of this title], and in the case of lump-sum death payments under such title [this subchapter] with respect to deaths on or after such effective date."

Amendment of subsecs. (a)(4) and (b)(3) by Pub. L. 87-64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961 based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

Effective Date of 1960 Amendments

Section 303(d)(1) of Pub. L. 86-778 provided in part that the amendment of subsec. (e)(3) by Pub. L. 86-778 shall be effective with respect to individuals who become entitled to benefits under section 402(a) of this title after 1960.

Section 303(d)(2) of Pub. L. 86-778 provided in part that the elimination of par. (4) of subsec. (e) shall be effective with respect to individuals who meet any of the subparagraphs of paragraph (4) of subsec. (b) of this section, as amended by Pub. L. 86-778.

Section 303(e)(1) of Pub. L. 86-778 provided in part that the amendment of subsec. (f)(2)(A) by Pub. L. 86-778, which substituted "1960" for "1954" in the opening provisions, and "filed such application after such calendar year" for "filed such application no earlier than six months after such calendar year" in cl. (iii), shall be effective with respect to applications for recomputation under subsec. (f)(2) of this section filed after 1960.

Section 303(e)(4)(B) of Pub. L. 86-778 provided in part that the amendment of subsec. (f)(4) by Pub. L. 86-778, which eliminated words "(without the application of clause (iii) thereof)" following "paragraph (2)(A)" in cl. (A), shall be effective in the case of deaths occurring on or after Sept. 13, 1960.

Amendment of subsec. (g) by Pub. L. 86-778 effective in the manner provided in section 211(p) and (q) of Pub. L. 86-778, see section 211(p) to (s) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 403 of this title.

Amendment of subsec. (h)(1) by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 402 of this title.

Effective Date of 1958 Amendment

Section 101(g) of Pub. L. 85-840 provided that: "The amendments made by this section [to subsecs. (a), (b)(1), (b)(5), (c) and (d) of this section, and sections 402(m) and 403(a) of this title] shall be applicable in the case of monthly benefits under title II of the Social Security Act [this subchapter], for months after December 1958, and in the case of the lump-sum death payments under such title, with respect to deaths occurring after such month."

Amendment of subsec. (g) by section 205(m) of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for August 1958 and succeeding months, see section 207(a) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 416 of this title.

Effective Date of 1956 Amendment

Section 115(d) of act Aug. 1, 1956, provided that: "The amendments made by this section [to subsecs. (b)(1), (d)(5), and (e)(4) of this section] shall apply in the case of an individual (1) who becomes entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to benefits under section 202(a) of such Act [section 402(a) of this title] after the date of enactment of this Act [August 1, 1956], or (2) who dies without becoming entitled to benefits under such section 202(a) [section 402(a) of this title] and on the basis of whose wages and self-employment income an application for benefits or a lump-sum death payment under section 202 of such Act [section 402 of this title] is filed after the date of enactment of this Act [August 1, 1956], or (3) who becomes entitled to benefits under section 223 of such Act [section 423 of this title], or (4) who files, after the date of enactment of this Act [August 1, 1956], an application for a disability determination which is accepted as an application for purposes of section 216(i) of such Act [section 416(i) of this title]."

Section 109(b) of act Aug. 1, 1956, provided that: "The amendment made by subsection (a) [to subsec. (b)(4) of this section] shall apply in the case of monthly benefits under section 202 of the Social Security Act [section 402 of this title], and the lump-sum death payment under such section, based on the wages and self-employment income of an individual—

"(1) who becomes entitled to benefits under subsection (a) of such section on the basis of an application filed on or after the date of enactment of this Act [Aug. 1, 1956]; or

"(2) who is (but for the provisions of subsection (f)(6) of section 215 of the Social Security Act [section 415(f)(6) of this title]) entitled to a recomputation of his primary insurance amount under subsection (f)(2)(A) of such section 215 [section 415(f)(2)(A) of

this title] based on an application filed on or after the date of enactment of this Act [Aug. 1, 1956]; or

"(3) who dies without becoming entitled to benefits under subsection (a) of such section 202 [section 402(a) of this title] and no individual was entitled to survivor's benefits and no lump-sum death payment was payable under such section 202 [section 402 of this title] on the basis of an application filed prior to such date of enactment [Aug. 1, 1956]; or

"(4) who dies on or after such date of enactment [Aug. 1, 1956] and whose survivors are (but for the provisions of subsection (f)(6) of such section 215 [section 415(f)(6) of this title]) entitled to a recomputation of his primary insurance amount under subsection (f)(4)(A) of such section 215 [section 415(f)(4)(A) of this title]; or

"(5) who dies prior to such date of enactment [Aug. 1, 1956] and (A) whose survivors are (but for the provisions of subsection (f)(6) of such section 215 [section 415(f)(6) of this title]) entitled to a recomputation of his primary insurance amount under subsection (f)(4)(A) of such section 215 [section 415(f)(4)(A) of this title], and (B) on the basis of whose wages and self-employment income no individual was entitled to survivor's benefits under such section 202 [section 402 of this title], and no lump-sum death payment was payable under such section, on the basis of an application filed prior to such date of enactment and no individual was entitled to such a benefit, without the filing of an application for the month in which this Act is enacted [August, 1956] or any month prior thereto."

Effective Date of 1954 Amendment

Section 102(f) of act Sept. 1, 1954, as amended by Pub. L. 86-778, title II, § 303(k), Sept. 13, 1960, 74 Stat. 966; Pub. L. 89-97, title III § 302(f)(7), July 30, 1965, 79 Stat. 366, provided that:

"(1) The amendments [to subsecs. (a), (c), and (d) and to section 403(a) of this title] made by the preceding subsections, other than subsection (b) and paragraphs (1), (2), (3), and (4) of subsection (e), shall (subject to the provisions of paragraph (2) and notwithstanding the provisions of section 215(f)(1) of the Social Security Act [subsec. (f)(1) of this section]) apply in the case of lump-sum death payments under section 202 of such Act [section 402 of this title] with respect to deaths occurring after, and in the case of monthly benefits under such section for months after, August 1954.

"(2)(A) The amendment [to subsec. (b)(4)] made by subsection (b)(2) shall be applicable only in the case of monthly benefits for months after August 1954, and the lump-sum death payment in the case of death after August 1954, based on the wages and self-employment income of an individual (i) who does not become eligible for benefits under section 202(a) of the Social Security Act [section 402(a) of this title] until after August 1954, or (ii) who dies after August 1954, and without becoming eligible for benefits under such section 202(a) [section 402(a) of this title], or (iii) who is or has been entitled to have his pri-mary insurance amount recomputed under section 215(f)(2) of the Social Security Act, as amended by subsection (e)(2) of this section [subsec. (f)(2) of this section], or under subsection (e)(5)(B) of this section [set out as a note under this section], or (iv) with respect to whom not less than six of the quarters elapsing after June 1953 are quarters of coverage (as defined in such Act), or (v) who files an application for a disability determination which is accepted as an application for purposes of section 216(i) of such Act [section 416(i) of this title], or (vi) who dies after August 1954, and whose survivors are (or would, but for the provisions of section 215(f)(6) of such Act [subsec. (f)(6) of this section], be) entitled to a recomputation of his primary insurance amount under section 215(f)(4)(A) of such Act, as amended by this Act [subsec. (f)(4)(A) of this section]. For purposes of the preceding sentence an individual shall be deemed eligible for benefits under section 202(a) of the Social Security Act [section 402(a) of this title] for any month if he was, or would upon filing application therefor in such month have been, entitled to such benefits for such month.

"(B) [Repealed. Pub. L. 89-97, title III, § 302(f)(7), July 30, 1965, 79 Stat. 366, eff. Jan. 2, 1966.]

"(3) The amendments [to subsecs. (b)(1) to (3), (e), (f)(3)(B)] made by subsections (b)(1), (e)(1), and (e)(3)(B) shall be applicable only in the case of monthly benefits based on the wages and self-employment income of an individual who does not become entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] until after August 1954, or who dies after August 1954 without becoming entitled to such benefits, or who files an application after August 1954 and is entitled to a recomputation under paragraph (2) or (4) of section 215(f) of the Social Security Act, as amended by this Act [subsec. (f)(2) or (4) of this section], or who is entitled to a recomputation under paragraph (2)(B) of this subsection, or who is entitled to a recomputation under paragraph (5) of subsection (e) [set out as a note under this section].

"(4) The amendments [to subsec. (f)(2)] made by subsection (e)(2) shall be applicable only in the case of applications for recomputation filed after 1954. The amendment to subsec. (f)(4) made by subsection (e)(4) shall be applicable only in the case of deaths after 1954.

"(5) The amendments [to subsec. (f)(3)(A), (B)] made by subparagraph (A) of subsection (e)(3) shall be applicable only in the case of applications for recomputation filed, or deaths occurring, after August 1954.

"(6) No increase in any benefit by reason of the amendments made by this section (other than subsection (e)) or by reason of subparagraph (B) of paragraph (2) of this subsection shall be regarded as a recomputation for purposes of section 215(f) of the Social Security Act [subsec. (f) of this section]."

Section 106(h) of act Sept. 1, 1954 provided in part that notwithstanding the provisions of subsec. (f) of this section, the amendments to subsec. (b)(1), (d)(5) and (e)(4) made by section 106(c) of said act shall apply with respect to monthly benefits under this subchapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments should be regarded as a recomputation for purposes of subsec. (f) of this section.

Effective and Termination Date of 1952 Amendments

For effective and termination dates of amendment by act July 18, 1952, see sections 3(f) and 3(g) of act July 18, 1952, set out as Effective Date of 1952 Amendment and Termination Date of 1952 Amendment notes, respectively, under section 413 of this title.

Effective Date for Increase in Benefits Derived From Conversion Table

Subsec. (c)(1) of section 2 of act July 18, 1952, provided that: "The amendments made by subsection (a) [to subsec. (c)(1), (2), (4) of this section] shall, subject to the provisions of paragraph (2) of this subsection and notwithstanding the provisions of section 215(f)(1) of the Social Security Act [subsec. (f)(1) of this section], apply in the case of lump-sum death payments under section 202 of such Act [section 402 of this title] with respect to deaths occurring after, and in the case of monthly benefits under such section for any month after, August 1952."

Effective Date for Revised Benefit Formula and for New Minimum and Maximum Benefits

Subsec. (c)(3) of section 2 of act July 18, 1952, provided that: "The amendments made by subsection (b) [to sections 403(a) and 415(a)(1) of this title] shall (notwithstanding the provisions of section 215(f)(1) of the Social Security Act [subsec. (f)(1) of this section]) apply in the case of lump-sum death payments under section 202 of such Act [section 402 of this title] with

respect to deaths occurring after August 1952, and in the case of monthly benefits under such section for months after August 1952."

SAVINGS PROVISIONS OF PUB. L. 86-778 FOR RECOMPUTATIONS UNDER SUBSECS. (f)(2) AND (f)(4)

Section 303(i) of Pub. L. 86-778 provided that in the case of an application for recomputation under subsec. (f)(2) of this section, the provisions of subsec. (f)(2) as in effect prior to Sept. 13, 1960, were to apply where the application was filed after 1954 and before 1961, and that in the case of an individual who died after 1954 and before 1961 and who was entitled to an old-age insurance benefit under section 402(a) of this title, the provisions of subsec. (f)(4) as in effect prior to Sept. 13, 1960 were to apply.

SAVINGS PROVISIONS OF PUB. L. 85-840

Section 101(i) of Pub. L. 85-840 provided that: "In the case of any individual to whom the provisions of subsection (b)(5) of section 215 of the Social Security Act [subsec. (b)(5) of this section], as amended by this Act, are applicable and on the basis of whose wages and self-employment income benefits are payable for months prior to January 1959, his primary insurance amount for purposes of benefits for such prior months shall, if based on an application for such benefits or for a recomputation of such amount, as the case may be, filed after December 1958, be determined under such section 215 [this section], as in effect prior to the enactment of this Act [August 28, 1958], and, if such individual's primary insurance amount as so determined is larger than the primary insurance amount determined for him under section 215 [this section] as amended by this Act, such larger primary insurance amount (increased to the next higher dollar if it is not a multiple of a dollar) shall, for months after December 1958, be his primary insurance amount for purposes of such section 215 (and of the other provisions) of the Social Security Act [this section] as amended by this Act in lieu of the amount determined without regard to this subsection."

SAVINGS PROVISIONS OF ACT JULY 18, 1952

Subsec. (d) of section 2 of act July 18, 1952, provided that:

"(1) Where—

"(A) an individual was entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to an old-age insurance benefit under title II of such Act [this subchapter] for August 1952;

"(B) two or more other persons were entitled (without the application of such section 202(j)(1) [section 402(j)(1) of this title]) to monthly benefits under such title for such month on the basis of the wages and self-employment income of such individual; and

"(C) the total of the benefits to which all persons are entitled under such title [this subchaper] on the basis of such individual's wages and self-employment income for any subsequent month for which he is entitled to an old-age insurance benefit under such title [this subchapter], would (but for the provisions of this paragraph) be reduced by reason of the application of section 203(a) of the Social Security Act, as amended by this Act [section 403(a) of this title],

then the total of benefits, referred to in clause (C), for such subsequent month shall be reduced to whichever of the following is the larger:

"(D) the amount determined pursuant to section 203(a) of the Social Security Act, as amended by this Act [section 403(a) of this title]; or

"(E) the amount determined pursuant to such section, as in effect prior to the enactment of this Act [July 18, 1952], for August 1952 plus the excess of (i) the amount of his old-age insurance benefit for August 1952 computed as if the amendments made by the preceding subsections of this section had been applicable in the case of such benefit for August 1952, over (ii) the amount of his old-age insurance benefit for August 1952.

"(2) No increase in any benefit by reason of the amendments made by this section or by reason of paragraph (2) of subsection (c) of this section shall be regarded as a recomputation for purposes of section 215(f) of the Social Security Act [subsec. (f) of this section]."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out in the Appendix to Title 5, Government Organization and Employees.

COST-OF-LIVING INCREASE IN BENEFITS

Section 3(i) of Pub. L. 93-233 provided that: "For purposes of section 203(f)(8) [section 403(f)(8) of this title], so much of section 215(i)(1)(B) [subsec. (i)(1)(B) of this section] as follows the semicolon, and section 230(a) of the Social Security Act [section 430(a) of this title], the increase in benefits provided by section 2 of this Act [revising benefits table of subsec. (a) of this section and amending sections 427(a), (b) and 428(b)(1), (2), (c)(3)(A), (B) of this title] shall be considered an increase under section 215(i) of the Social Security Act [subsec. (i) of this section]."

INCREASE OF OLD-AGE OR DISABILITY INSURANCE BENEFITS FOLLOWING INCREASE IN PRIMARY INSURANCE AMOUNT OR ENTITLEMENT TO BENEFITS ON A HIGHER AMOUNT

Section 101(f) of Pub. L. 92-603 provided that: "Whenever an insured individual is entitled to benefits for a month which are based on a primary insurance amount under paragraph (1) or paragraph (3) of section 215(a) of the Social Security Act [subsec. (a)(1) or (3) of this section] and for the following month such primary insurance amount is increased or such individual becomes entitled to benefits on a higher primary insurance amount under a different paragraph of such section 215(a) [subsec. (a) of this section], such individual's old-age or disability insurance benefit (beginning with the effective month of the increased primary insurance amount) shall be increased by an amount equal to the difference between the higher primary insurance amount and the primary insurance amount on which such benefit was based for the month prior to such effective month, after the application of section 202(q) of such Act [section 402(q) of this title] where applicable, to such difference."

TABLE MODIFICATION AND EXTENSION; EFFECTIVE DATE; PUBLICATION IN FEDERAL REGISTER

Section 203(f) of Pub. L. 93-66 provided that: "Effective June 1, 1974, the Secretary of Health, Education, and Welfare, shall prescribe and publish in the Federal Register such modifications and extensions in the table contained in section 215(a) of the Social Security Act [subsec. (a) of this section] (which shall be determined in the same manner as the revisions in such table provided for under section 215(i)(2)(D) of such Act [subsec. (i)(2)(D) of this section]) as may be necessary to reflect the amendments [to sections 409(a)(8), 411(b)(1)(H), 413(a)(2) (ii), (iii), 415(e)(1), and 430(c) of this title and sections 1402(h)(1)(H), 3121(a)(1), 3122, 3125, 6413(c) (1), (2)(A), and 6654(d)(2)(B)(ii) of Title 26, Internal Revenue Code] made by this section; and such modified and extended table shall be deemed to be the table appearing in such section 215(a) [subsec. (a) of this section]."

CONVERSION OF DISABILITY INSURANCE BENEFITS TO OLD-AGE INSURANCE BENEFITS

Section 201(f) of Pub. L. 92-5 provided that: "If an individual was entitled to a disability insurance benefit

under section 223 of the Social Security Act [section 423 of this title] for December 1970 on the basis of an application filed in or after the month in which this Act is enacted [March 1971], and became entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title] for January 1971, then, for purposes of section 215(a)(4) of the Social Security Act [subsec. (a)(4)] (if applicable), the amount in column IV of the table appearing in such section 215(c) [probably means section 215(a) which is subsec. (a) of this section] for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act [subsec. (c) of this section]) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based."

Section 1002(f) of Pub. L. 91-172 provided that: "If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for December 1969 and became entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title] for January 1970, or he died in such month, then, for purposes of section 215(a)(4) of the Social Security Act [subsec. (a)(4) of this section] (if applicable), the amount in column IV of the table appearing in such section 215(a) [subsec. (a) of this section] for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act [subsec. (c) of this section]) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based."

Section 101(f) of Pub. L. 90-248 provided that: "If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for the month of January 1968 and became entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title] for the month of February 1968, or who died in such month, then, for purposes of section 215(a)(4) of the Social Security Act [subsec. (a)(4) of this section] (if applicable) the amount in column IV of the table appearing in such section 215(a) [subsec. (a) of this section] for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act [subsec. (c) of this section]) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based."

Section 301(e) of Pub. L. 89-97 provided that: "If an individual is entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for December 1964 on the basis of an application filed after enactment of this Act [July 30, 1965] and is entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title] for January 1965, then, for purposes of section 215(a)(4) of the Social Security Act [subsec. (a)(4) of this section] (if applicable) the amount in column IV of the table appearing in such section 215(a) [subsec. (a) of this section] for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act [subsec. (a) of this section]) instead of the amount in column IV equal to his disability insurance benefit."

Section 101(h) of Pub. L. 85-840 provided that: "If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for December 1958, and became entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title], or died, in January 1959, then, for purposes of paragraph (4) of section 215(a) of the Social Security Act [subsec. (a)(4) of this section], as amended by this Act, the amount in column IV of the table appearing in such section 215(a) [subsec. (a) of this section] for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under subsection (c) of such section 215 [subsec. (c) of this section]) instead of the amount in column IV equal to his disability insurance benefit."

Computation of Primary Insurance Amount for Persons Entitled to Benefits After January 2 and Before February 1968

Section 155(a)(7) to (9) of Pub. L. 90-248 provided in part that:

"(7)(A) The amendments made by paragraphs (4) and (5) [to subsec. (f)(2) of this section] shall apply with respect to recomputations made under 215(f)(2) of the Social Security Act [subsec. (f)(2) of this section] after the date of the enactment of this Act [Jan. 2, 1968].

"(B) The amendments made by paragraph (6) [enacting subsec. (f)(5) of this section] shall apply with respect to individuals who die after the date of enactment of this Act [Jan. 2, 1968].

"(8) In any case in which—

"(A) any person became entitled to a monthly benefit under section 202 or 223 of the Social Security Act [section 402 or 423 of this title] after the date of enactment of this Act [Jan. 2, 1968] and before February 1968, and

"(B) the primary insurance amount on which the amount of such benefit is based was determined by applying section 215(d) of the Social Security Act [subsec. (d) of this section] as amended by this Act,

such primary insurance amount shall, for purposes of section 215(c) of the Social Security Act [subsec. (c) of this section], as amended by this Act, be deemed to have been computed on the basis of the Social Security Act [this chapter] in effect prior to the enactment of this Act [Jan. 2, 1968].

"(9) The amendment made by paragraphs (1) and (2) [amending subsecs. (d)(1) and (2) of this section] shall not apply with respect to monthly benefits for any month prior to January 1967."

Computation of Primary Insurance Amount for Certain Individuals Who Were Fully Insured and Had Attained Retirement Age Prior to 1961

Section 303(g)(1) of Pub. L. 86-778, as amended by Pub. L. 87-64, title I, § 103(d), June 30, 1961, 75 Stat. 138; Pub. L. 89-97, title III, § 302(f)(6), July 30, 1965, 79 Stat. 366; Pub. L. 90-248, title I, § 155(c), Jan. 2, 1968, 81 Stat. 866; Pub. L. 92-603, title I, § 104(h), Oct. 30, 1972, 86 Stat. 1341, provided that: "In the case of any individual who both was fully insured and had attained retirement age prior to 1961 and (A) who becomes entitled to old-age insurance benefits after 1960, or (B) who dies after 1960 without being entitled to such benefits, then, notwithstanding the amendments made by the preceding subsections of this section [to subsecs. (b), (c)(2), (d)(1), (3), (e)(2) to (4) and (f)(2) to (4) of this section and section 423(a)(2) of this title], or the amendments made by the Social Security Amendments of 1965, 1967, 1969, and 1972 (and by Public Law 92-5) [See Tables volume for distribution in the Code of Pub. L. 89-97, July 30, 1965, 79 Stat. 286, Pub. L. 90-248, Jan. 2, 1968, 81 Stat. 821, Pub. L. 91-172, title X, Dec. 30, 1969, 83 Stat. 737, Pub. L. 92-603, Oct. 30, 1972, 86 Stat. 1329, Pub. L. 92-5, Mar. 17, 1971, 85 Stat. 5] the Secretary shall also compute such individual's primary insurance amount on the basis of such individual's average monthly wage determined under the provisions of section 215 of the Social Security Act [this section] in effect prior to the enactment of this Act with a closing date determined under section 215(b)(3)(B) of such Act [subsec. (b)(3)(B) of this section] as then in effect, but only if such closing date would have been applicable to such computation had this section not been enacted. If the primary insurance amount resulting from the use of such an average monthly wage is higher than the primary insurance amount resulting from the use of an average monthly wage determined pursuant to the provisions

of section 215 of the Social Security Act [this section], as amended by the Social Security Amendments of 1960 [Pub. L. 86-778], or (if such individual becomes entitled to old-age insurance benefits after the date of enactment of the Social Security Amendments of 1972 [Oct. 30, 1972], or dies after such date without becoming so entitled) as amended by the Social Security Amendments of 1972 [Pub. L. 92-603], such higher primary insurance amount shall be the individual's primary insurance amount for purposes of such section 215 [this section]. The terms used in this subsection shall have the meaning assigned to them by title II of the Social Security Act [this subchapter]; except that the terms 'fully insured' and 'retirement age' shall have the meaning assigned to them by such title II [this subchapter] as in effect on September 13, 1960."

DISREGARDING OF RETROACTIVE PAYMENT OF OASDI BENEFIT INCREASE AND OF RAILROAD RETIREMENT BENEFIT INCREASE

Section 201(g) of Pub. L. 92-5 provided that: "Notwithstanding the provisions of sections 2(a)(10), 402(a)(7), 1002(a)(8), 1402(a)(8), and 1602(a)(13) and (14) of the Social Security Act [sections 302(a)(10), 602(a)(7), 1202(a)(8), 1352(a)(8), and 1382(a)(13) and (14) of this title] each State, in determining need for aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, of such Act [subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter], may disregard (and the plan may be deemed to require the State to disregard), in addition to any other amounts which the State is required or permitted to disregard in determining such need, any amount paid to an individual under title II of such Act [subchapter II of this chapter] (or under the Railroad Retirement Act of 1937 [section 228a et seq. of Title 45, Railroads] by reason of the first proviso in section 3(e) thereof [section 228c(e) of title 45]), in any month after the month in which this Act is enacted [March 1971], to the extent that (1) such payment is attributable to the increase in monthly benefits under the old-age, survivors, and disability insurance system for January, February, March, or April 1971 resulting from the enactment of this title, and (2) the amount of such increase is paid separately from the rest of the monthly benefit of such individual for January, February, March, or April 1971."

Section 1006 of Pub. L. 91-172, as amended by Pub. L. 91-306, § 2(a)(1), July 6, 1970, 84 Stat. 407, provided that: "Notwithstanding the provisions of sections 2(a)(10) [section 302(a)(10) of this title], 402(a)(7) [section 602(a)(7) of this title], 1002(a)(8) [section 1202(a)(8) of this title], 1402(a)(8) [section 1352(a)(8) of this title], and 1602(a)(13) and (14) of the Social Security Act [subsecs. (a)(13) and (14) of section 1382 of this title], each State, in determining need for aid or assistance under a State plan approved under title I, X, XIV, or XVI [subchapters I, X, XIV, or XVI of this chapter], or part A of title IV, of such Act [part A of subchapter IV of this chapter], shall disregard (and the plan shall be deemed to require the State to disregard), in addition to any other amounts which the State is required or permitted to disregard in determining such need, any amount paid to any individual (1) under title II of such Act [this subchapter] (or under the Railroad Retirement Act of 1937 [section 228a et seq. of Title 45, Railroads] by reason of the first proviso in section 3(e) thereof [section 228c(e) of Title 45]), in any month after December 1969, to the extent that (A) such payment is attributable to the increase in monthly benefits under the old-age, survivors, and disability insurance system for January or February 1970 resulting from the enactment of this title [this chapter], and (B) the amount of such increase is paid separately from the rest of the monthly benefit of such individual for January or February 1970; or (2) as annuity or pension under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935, if such amount is paid in a lump-sum to carry out any retroactive increase in annuities or pensions payable under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935 [section 215 et seq. of Title 45] brought about by reason of the enactment (after May 30, 1970 and prior to December 31, 1970) of any Act which increases, retroactively, the amount of such annuities or pensions."

DISREGARDING OF INCOME OF OASDI RECIPIENTS AND RAILROAD RETIREMENT RECIPIENTS IN DETERMINING NEED FOR PUBLIC ASSISTANCE

Section 1007 of Pub. L. 92-172, as amended by Pub. L. 91-306, § 2(b)(1), July 6, 1970, 84 Stat. 408; Pub. L. 91-669, Jan. 11, 1971, 84 Stat. 2038; Pub. L. 92-223, § 5, Dec. 28, 1971, 85 Stat. 810; Pub. L. 92-603, title III, § 304, Oct. 30, 1972, 86 Stat. 1484, eff. Oct. 30, 1972, provided a minimum aid requirement in addition to the requirements imposed by law as conditions of approval of State plans for aid to individuals under subchapters I, X, XIV, or XVI of this chapter, in the case of any individual found eligible for aid for any month after Mar. 1970 and before Jan. 1974 who also received a monthly insurance benefit under this subchapter, and in the case of such an individual who also received a monthly annuity or pension under the Railroad Retirement Acts of 1935 or 1937, set out in sections 215 et seq. and 228a et seq., respectively, of Title 45, Railroads.

DISREGARDING OASDI BENEFIT INCREASES AND CHILD'S INSURANCE BENEFIT PAYMENTS BEYOND AGE 18 TO THE EXTENT ATTRIBUTABLE TO RETROACTIVE EFFECTIVE DATE OF 1965 AMENDMENTS

Section 406 of Pub. L. 89-97 authorized a State to disregard, in determining the need for aid or assistance under State plans approved under subchapter I, IV, X, XIV, or XVI of this chapter, any amount paid to an individual under subchapter II of this chapter or the Railroad Retirement Act of 1937, section 228a et seq. of Title 45, Railroads, by reason of the amendments made by section 326(a) of Pub. L. 89-97 to sections 228a(q) and 228e(1)(9) of title 45, for months occurring after Dec. 1964 and before the third month following July 1965, in certain instances.

COMPUTATION OF AVERAGE MONTHLY WAGE FOR CERTAIN INDIVIDUALS ENTITLED TO DISABILITY INSURANCE BENEFITS PRIOR TO 1961

Section 303(g)(2) of Pub. L. 86-778 provided that: "Notwithstanding the amendments made by the preceding subsections of this section [to subsecs. (b), (c)(2), (d)(1), (3), (e)(2) to (4) and (f)(2) to (4) of this section and section 423(a)(2) of this title], in the case of any individual who was entitled (without regard to the provisions of section 223(b) of the Social Security Act [section 423(b) of this title]) to a disability insurance benefit under such section 223 [section 423 of this title] for the month before the month in which he became entitled to an old-age insurance benefit under section 202(a) of such Act [section 402(a) of this title], or in which he died, and such disability insurance benefit was based upon a primary insurance amount determined under the provisions of section 215 of the Social Security Act [this section] in effect prior to the enactment of this Act, the Secretary shall, in applying the provisions of such section 215(a) [subsec. (a) of this section] (except paragraph (4) thereof), for purposes of determining benefits payable under section 202 of such Act [section 402 of this title] on the basis of such individual's wages and self-employment income, determine such individual's average monthly wage under the provisions of section 215 of the Social Security Act [this section] in effect prior to the enactment of this Act. The provisions of this paragraph shall not apply with respect to any such individual, entitled to such old-age insurance benefits, (i) who applies, after 1960, for a recomputation (to which he is entitled) of his primary insurance amount under section 215(f)(2) of such Act [subsec. (f)(2) of this section], or (ii) who dies after 1960 and meets the conditions for a recomputation of his primary insurance amount under section 215(f)(4) of such Act [subsec. (f)(4) of this section]."

AVERAGE MONTHLY WAGE FOR CERTAIN INDIVIDUALS ENTITLED TO MONTHLY BENEFITS OR TO RECOMPUTATION OF PRIMARY INSURANCE AMOUNT FOR MONTHS PRIOR TO JANUARY 1961

Section 303(j) of Pub. L. 86-778 provided that:

"In the case of an individual whose average monthly wage is computed under the provisions of section 215(b) of the Social Security Act [subsec. (b) of this section], as amended by this Act, and—

"(1) who is entitled, by reason of the provisions of section 202(j)(1) or section 223(b) of the Social Security Act [section 402(j)(1) or 423(b) of this title], to a monthly benefit for any month prior to January 1961, or

"(2) who is (or would, but for the fact that such recomputation would not result in a higher primary insurance amount for such individual, be) entitled, by reason of section 215(f) of the Social Security Act [subsec. (f) of this section], to have his primary insurance amount recomputed effective for a month prior to January 1961,

his average monthly wage as determined under the provisions of such section 215(b) [subsec. (b) of this section] shall be his average monthly wage for the purposes of determining his primary insurance amount for such prior month."

LAG RECOMPUTATION PRESERVED FOR CERTAIN INDIVIDUALS ELIGIBLE OR DEAD PRIOR TO SEPT. 1954

Section 102(e)(8) of act Sept. 1, 1954, as amended by Pub. L. 86-778, title III, § 304(c), Sept. 13, 1960, 74 Stat. 966, provided that:

"In the case of an individual who became (without the application of section 202(j)(1) [section 402(j)(1) of this title]) entitled to old-age insurance benefits or died prior to September 1954, the provisions of section 215(f)(3) [subsec. (f)(3) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] shall be applicable as though this Act had not been enacted but only if such individual files the application referred to in subparagraph (A) of such section prior to January 1961 or (if he dies without filing such application) his death occurred prior to January 1961."

RIGHT TO RECOMPUTATION UNDER LAW PRIOR TO ENACTMENT OF ACT SEPT. 1, 1954

Section 102(e)(5) of act Sept. 1, 1954, as amended by Pub. L. 86-778, title III, § 304(b), Sept. 13, 1960, 74 Stat. 966, provided that:

"(A) In the case of any individual who, upon filing application therefor before September 1954, would (but for the provisions of section 215(f)(6) of the Social Security Act [subsec. (f)(6) of this section]) have been entitled to a recomputation under subparagraph (A) or (B) of section 215(f)(2) of such Act [subsec. (f)(2) (A) or (B) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954], the Secretary shall recompute such individual's primary insurance amount, but only if he files an application therefor or, in case he died before filing such application, an application for monthly benefits or a lump-sum death payment on the basis of his wages and self-employment income is filed. Such recomputation shall be made only as provided in subsection (a)(2) of section 215 of the Social Security Act, as amended by this Act [subsec. (a)(2) of this section], through the use of a primary insurance amount determined under subsection (d)(6) of such section in the same manner as for an individual to whom subsection (a)(1) of such section, as in effect prior to the enactment of this Act [Sept. 1, 1954], is applicable; and such recomputation shall take into account only such wages and self-employment income as would be taken into account under section 215(b) of the Social Security Act [section 415(b) of this title] if the month in which the application for recomputation is filed, or if the individual died without filing the application for recomputation, the month in which he died, were deemed to be the month in which he became entitled to old-age insurance benefits. In the case of monthly benefits, such recomputation shall be effective for and after the month in which such application for recomputation is filed or, if the individual has died without filing the application, for and after the month in which the person filing the application for monthly survivor benefits becomes entitled to such benefits.

"(B) In the case of—

"(i) any individual who is entitled to a recomputation under subparagraph (A) of section 215(f)(2) of the Social Security Act [subsec. (f)(2)(A) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of an application filed after August 1954, or who died after such month leaving any survivors entitled to a recomputation under section 215(f)(4) of the Social Security Act [subsec. (f)(4) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of his wages and self-employment income, and whose sixth quarter of coverage after 1950 was acquired after August 1954 or with respect to whom the twelfth month referred to in such subparagraph (A) occurred after such month, and

"(ii) any individual who is entitled to a recomputation under section 215(f)(2)(B) of the Social Security Act [subsec. (f)(2)(B) of this section] as is in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of an application filed after August 1954, or who died after August 1954 leaving any survivors entitled to a recomputation under section 215(f)(4) of the Social Security Act [subsec. (f)(4) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of his wages and self-employment income, and whose sixth quarter of coverage after 1950 was acquired after August 1954 or who did not attain the age of seventy-five prior to September 1954, the recomputation of his primary insurance amount shall be made in the manner provided in section 215 of the Social Security Act, as amended by this Act [this section], for computation of such amount, except that his closing date, for purposes of subsection (b) of such section 215, shall be determined as though he became entitled to old-age insurance benefits in the month in which he filed such application for or, if he has died, in the month in which he died. In the case of monthly benefits, such recomputation shall be effective for and after the month in which such application for recomputation is filed or, if the individual has died without filing the application, for and after the month in which the person filing the application for monthly survivors benefits becomes entitled to such benefits.

"(C) An individual or, in case of his death, his survivors entitled to a lump-sum death payment or to monthly benefits under section 202 of the Social Security Act on the basis of his wages and self-employment income shall be entitled to a recomputation of his primary insurance amount under section 215(f)(2) or section 215(f)(4) of the Social Security Act [subsec. (f)(2), (4), of this section] as in effect prior to the date of enactment of this Act [Sept. 1, 1954] only if (i) he had not less than six quarters of coverage in the period after 1950 and prior to January 1, 1955, and (ii) either the twelfth month referred to in subparagraph (A) of such section 215(f)(2) occurred prior to January 1, 1955, or he attained the age of 75 prior to 1955, and (iii) he meets the other conditions of entitlement to such a recomputation. No individual shall be entitled to a computation under subparagraph (A) or (B) of this paragraph if his primary insurance amount has previously been recomputed under either of such subparagraphs.

"(D) Notwithstanding the provisions of subparagraphs (A), (B), and (C), the primary insurance amount of an individual shall not be recomputed under such provisions unless such individual files the application referred to in subparagraph (A) or (B) prior to January 1961 or, if he dies without filing such application, his death occurred prior to January 1961."

RECOMPUTATION OF PRIMARY INSURANCE AMOUNT IN CERTAIN CASES WHERE APPLICATION FOR RECOMPUTATION IS FILED ON OR AFTER SEPT. 13, 1960

Section 303(h) of Pub. L. 86-778 provided that:

"In any case where application for recomputation under section 215(f)(3) of the Social Security Act [subsec. (f)(3) of this section] is filed on or after the date of the enactment of this Act [Sept. 13, 1960] with respect to an individual for whom the last previous computation of the primary insurance amount was based on an application filed prior to 1961, or who died before 1961, the provisions of section 215 of such Act [this section] as in effect prior to the enactment of this Act shall apply except that—

"(1) such recomputation shall be made as provided in section 215(a) of the Social Security Act [subsec. (a) of this section] (as in effect prior to the enactment of this Act) and as though such individual first became entitled to old-age insurance benefits in the month in which he filed his application for such recomputation or died without filing such an application, and his closing date for such purposes shall be as specified in such section 215(f)(3) [subsec. (f)(3) of this section]; and

"(2) the provisions of section 215(b)(4) of the Social Security Act [subsec. (b)(4) of this section] (as in effect prior to the enactment of this Act) shall apply only if they were applicable to the last previous computation of such individual's primary insurance amount, or would have been applicable to such computation if there had been taken into account—

"(A) his wages and self-employment income in the year in which he became entitled to old-age insurance benefits or filed application for the last previous recomputation of his primary insurance amount, where he is living at the time of the application for recomputation under this subsection, or

"(B) his wages and self-employment income in the year in which he died without becoming entitled to old-age insurance benefits, or (if he was entitled to such benefits) the year in which application was filed for the last previous computation of his primary insurance amount or in which he died, whichever first occurred, where he has died at the time of the application for such recomputation.

If the primary insurance amount of an individual was recomputed under section 215(f)(3) of the Social Security Act [subsec. (f)(3) of this section] as in effect prior to the enactment of this Act, and such amount would have been larger if the recomputation had been made under such section as modified by this subsection, then the Secretary shall recompute such primary insurance amount under such section as so modified, but only if an application for such recomputation is filed on or after the date of the enactment of this Act [Sept. 13, 1960]. A recomputation under the preceding sentence shall be effective for and after the first month for which the last previous recomputation of such individual's primary insurance amount under such section 215 [this section] was effective, but in no event for any month prior to the twenty-fourth month before the month in which the application for a recomputation is filed under the preceding sentence."

SPECIAL STARTING AND CLOSING DATES FOR CERTAIN INDIVIDUALS FOR COMPUTATION OF 1957 BENEFIT AMOUNTS

Section 110 of act Aug. 1, 1956, provided that: "In the case of an individual who died or became (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) entitled to old-age insurance benefits in 1957 and with respect to whom not less than six of the quarters elapsing after 1955 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his primary insurance amount shall be computed under section 215(a)(1)(A) of such Act [subsec. (a)(1)(A) of this section], with a starting date of December 31, 1955, and a closing date of July 1, 1957, but only if it would result in a higher primary insurance amount. For the purposes of section 215(f)(3)(C) of such Act [subsec. (f)(3)(C) of this section], the determination of an individual's closing date under the preceding sentence shall be considered as a determination of the individual's closing date under section 215(b)(3)(A) of such Act [subsec. (b)(3)(A) of this section] and the recomputation provided for by such section 215(f)(3)(C) [subsec. (f)(3)(C) of this section] shall be made using July 1, 1957, as the closing date, but only if it would result in a higher primary insurance amount. In any such computation on the basis of a July 1, 1957, closing date, the total of his wages and self-employment income after December 31, 1956, shall, if it is in excess of $2,100, be reduced to such amount."

SPECIAL STARTING AND CLOSING DATES FOR CERTAIN INDIVIDUALS FOR COMPUTATION OF 1966 BENEFIT AMOUNTS

Section 102(e)(6) of act Sept. 1, 1954, provided that: "In the case of an individual who died or became (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) entitled to old-age insurance benefits in 1956 and with respect to whom not less than six of the quarters elapsing after 1954 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his primary insurance amount shall be computed under section 215(a)(1)(A) of such Act, as amended by this Act [subsec. (a)(1)(A) of this section], with a starting date of December 31, 1954, and a closing date of July 1, 1956, but only if it would result in a higher primary insurance amount. For the purposes of section 215(f)(3)(C) of such Act [subsec. (f)(3)(C) of this section], the determination of an individual's closing date under the preceding sentence shall be considered as a determination of the individual's closing date under section 215(b)(3)(A) of such Act [subsec. (b)(3)(A) of this section], and the recomputation provided for by such section 215(f)(3)(C) [subsec. (f)(3)(C) of this section] shall be made using July 1, 1956, as the closing date, but only if it would result in a higher primary insurance amount. In any such computation on the basis of a July 1, 1956 closing date, the total of his wages and self-employment income after December 31, 1955, shall, if it is in excess of $2,100, be reduced to such amount."

STUDY OF FEASIBILITY OF INCREASING BENEFITS

Section 404 of act Sept. 1, 1954, authorized the Secretary of Health, Education, and Welfare to conduct a feasibility study with a view toward increasing the minimum old-age insurance benefit under this subchapter to $55, $60, or $75 per month and required him to report the results of his study to the Congress at the earliest practicable date.

CHANGE OF WAGE CLOSING DATE OF CERTAIN INDIVIDUALS DEAD OR ELIGIBLE IN 1952 TO THE FIRST WAY OF THE QUARTER OF DEATH OR ENTITLEMENT

Subsec. (c) of section 6 of act July 18, 1952, provided that: "In the case of an individual who died or became (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) entitled to old-age insurance benefits in 1952 and with respect to whom not less than six of the quarters elapsing after 1950 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his wage closing date shall be the first day of such quarter of death or entitlement instead of the day specified in section 215(b)(3) of such Act [subsec. (b)(3) of this section], but only if it would result in a higher primary insurance amount for such individual. The terms used in this paragraph shall have the same meaning as when used in title II of the Social Security Act [this subchapter]."

COMPUTATION OF INCREASED BENEFITS TO INDIVIDUALS ENTITLED THERETO FOR AUGUST 1952

Section 6(e) of act July 18, 1952, provided that: "In case the benefit of any individual for any month after August 1952 is computed under section 2(c)(2)(A) of this Act [set out as a note under this section] through use of a benefit (after the application of sections 203 and 215(g) of the Social Security Act [sections 403 and 415(g) of this title] as in effect prior to the enactment of this Act [July 18, 1952]) for August 1952 which could have been derived from either of two (and not more than two) primary insurance amounts, and such primary insurance amounts differ from each other by not more than $0.10, then the benefit of such individual for such month of August 1952 shall, for the purposes of the last sentence of such section 2(c)(2)(A) [set out as a note under this section], be deemed to have been derived from the larger of such two primary insurance amounts."

COMPUTATION OF INCREASED BENEFITS FOR DEPENDENTS AND SURVIVORS ON BENEFIT ROLLS FOR AUGUST 1952

Subsec. (c)(2) of section 2 of act July 18, 1952, as amended by act Sept. 1, 1954, § 102(g), eff. Sept. 1, 1954, provided that:

"(A) In the case of any individual who is (without the application of section 202(j)(1) of the Social Security Act) [section 402(j)(1) of this title] entitled to a monthly benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of such section 202 [section 402 of this title] for August 1952, whose benefit for such month is computed through use of a primary insurance amount determined under paragraph (1) or (2) of section 215(c) of such Act [subsec. (c) of this section], and who is entitled to such benefit for any succeeding month on the basis of the same wages and self-employment income, the amendments made by this section shall not (subject to the provisions of subparagraph (B) of this paragraph) apply for purposes of computing the amount of such benefit for such succeeding month. The amount of such benefit for such succeeding month shall instead be equal to the larger of (i) 112½ per centum of the amount of such benefit (after the application of sections 203(a) and 215(g) of the Social Security Act [sections 403(a) and 415(g) of this title] as in effect prior to the enactment of this Act [July 18, 1952]) for August 1952, increased, if it is not a multiple of $0.10, to the next higher multiple of $0.10, or (ii) the amount of such benefit (after the application of sections 203(a) and 215(g) of the Social Security Act [sections 403(a) and 415(g) of this title] as in effect prior to the enactment of this Act [July 18, 1952]) for August 1952, increased by an amount equal to the product obtained by multiplying $5 by the fraction applied to the primary insurance amount which was used in determining such benefit, and further increased, if such product is not a multiple of $0.10, to the next higher multiple of $0.10. The provisions of section 203(a) of the Social Security Act, as amended by this section [section 403(a) of this title] (and, for purposes of such section 203(a) [section 403(a) of this title], the provisions of section 215(c)(4) of the Social Security Act, as amended by this section [subsec. (c)(4) of this section]), shall apply to such benefit as computed under the preceding sentence of this subparagraph, and the resulting amount, if not a multiple of $0.10, shall be increased to the next higher multiple of $0.10.

"(B) The provisions of subparagraph (A) shall cease to apply to the benefit of any individual under title II of the Social Security Act [this subchapter] for any month after August 1954."

DETERMINATION OF PRIMARY INSURANCE AMOUNT OF INDIVIDUALS WHO DIED AFTER 1939 AND PRIOR TO 1951

Section 204(b) of Pub. L. 86-778 provided that: "The primary insurance amount (for purposes of title II of the Social Security Act [this subchapter]) of any individual who died after 1939 and prior to 1951 shall be determined as provided in section 215(a)(2) of such Act [subsec. (a)(2) of this section]."

BENEFITS IN CERTAIN CASES OF DEATHS BEFORE SEPTEMBER 1950

Section 109 of act Sept. 1, 1954, as amended by Pub. L. 86-778, title II, § 204(c), Sept. 13, 1960, 74 Stat. 948, provided that in the case of an individual who died prior to Sept. 1, 1950, and was not a fully insured individual when he died and who had at least six quarters of coverage under this subchapter, such individual was generally to be deemed to have died fully insured, his primary insurance amount was to be deemed to be computed under subsec. (a)(2) of this section, the proof of support requirement in section 402(h) of this title was not to be applicable where such proof was filed before Sept. 1956, and that the provisions of this section were to apply to monthly benefits under section 402 of this title for months after Aug. 1954 and in or prior to Sept. 1960.

COMPUTATION OF PRIMARY INSURANCE AMOUNT OF INDIVIDUALS WHO DIED PRIOR TO 1940

Section 205(c) of Pub. L. 86-778 provided that: "The primary insurance amount (for purposes of title II of the Social Security Act [this subchapter]) of any individual who died prior to 1940, and who had not less than six quarters of coverage (as defined in section 213 of such Act [section 413 of this title]), shall be computed under section 215(a)(2) of such Act [subsec. (a)(2) of this section]."

Section 205(c) of Pub. L. 86-778 as applicable only in the case of monthly benefits under this subchapter for months after September 1960, on the basis of applications filed in or after such month, see section 205(d) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 402 of this title.

DEFINITION OF "SECRETARY"

"Secretary" as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1958, set out as a note under section 416 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 403, 413, 417, 423, 427, 428, 430, 431, 1382f, 1395r of this title; title 26 section 415; title 45 sections 231b, 231c.

§ 416. Additional definitions

For the purposes of this subchapter—

(a) Repealed. Pub. L. 87-64, title I, § 102(c)(1), June 30, 1961, 75 Stat. 134

(b) Wife

The term "wife" means the wife of an individual, but only if she (1) is the mother of his son or daughter, (2) was married to him for a period of not less than one year immediately preceding the day on which her application is filed, or (3) in the month prior to the month of her marriage to him (A) was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (b), (e), or (h) of section 402 of this title, (B) had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) was entitled to, or upon application therefor and attainment of the required age (if any) would have been entitled to, a widow's, child's (after attainment of age 18), or parent's insurance annuity under section 231a of title 45.

(c) Widow

The term "widow" (except when used in section 402(i) of this title) means the surviving

wife of an individual, but only if (1) she is the mother of his son or daughter, (2) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (3) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (4) she was married to him at the time both of them legally adopted a child under the age of eighteen, (5) she was married to him for a period of not less than nine months immediately prior to the day on which he died, or (6) in the month prior to the month of her marriage to him (A) she was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (b), (e), or (h) of section 402 of this title, (B) she had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) she was entitled to, or upon application therefor and attainment of the required age (if any) would have been entitled to, a widow's, child's (after attainment of age 18), or parent's insurance annuity under section 231a of title 45.

(d) Divorced wives; divorce

(1) The term "divorced wife" means a woman divorced from an individual, but only if she had been married to such individual for a period of 20 years immediately before the date the divorce became effective.

(2) The term "surviving divorced wife" means woman divorced from an individual who has died, but only if she had been married to the individual for a period of 20 years immediately before the date the divorce became effective.

(3) The term "surviving divorced mother" means a woman divorced from an individual who has died, but only if (A) she is the mother of his son or daughter, (B) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of 18, (C) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of 18, or (D) she was married to him at the time both of them legally adopted a child under the age of 18.

(4) The term "divorce" and "divorced" refer to a divorce a vinculo matrimonii.

(e) Child

The term "child" means (1) the child or legally adopted child of an individual, (2) a stepchild who has been such stepchild for not less than one year immediately preceding the day on which application for child's insurance benefits is filed or (if the insured individual is deceased) not less than nine months immediately preceding the day on which such individual died, and (3) a person who is the grandchild or stepgrandchild of an individual or his spouse, but only if (A) there was no natural or adoptive parent (other than such a parent who was under a disability, as defined in section 423(d) of this title) or such person living at the time (i) such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or (ii) if such individual had a period of disability which continued until such individual became entitled to old-age insurance benefits or disability insurance benefits, or died, at the time such period of disability began, or (B) such person was legally adopted after the death of such individual by such individual's surviving spouse in an adoption that was decreed by a court of competent jurisdiction within the United States and such person's natural or adopting parent or stepparent was not living in such individual's household and making regular contributions toward such person's support at the time such individual died. For purposes of clause (1), a person shall be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if such person was at the time of such individual's death living in such individual's household and was legally adopted by such individual's surviving spouse after such individual's death but only if (A) proceedings for the adoption of the child had been instituted by such individual before his death, or (B) such child was adopted by such individual's surviving spouse before the end of two years after (i) the day on which such individual died or (ii) August 28, 1958; except that this sentence shall not apply if at the time of such individual's death such person was receiving regular contributions toward his support from someone other than such individual or his spouse, or from any public or private welfare organization which furnishes services or assistance for children. For purposes of clause (2), a person who is not the stepchild of an individual shall be deemed the stepchild of such individual if such individual was not the mother or adopting mother or the father or adopting father of such person and such individual and the mother or adopting mother, or the father or adopting father, as the case may be, of such person went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of subsection (h)(1)(B) of this section, would have been a valid marriage.

(f) Husband

The term "husband" means the husband of an individual, but only if (1) he is the father of her son or daughter, (2) he was married to her for a period of not less than one year immediately preceding the day on which his application is filed, or (3) in the month prior to the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) he was entitled to, or upon application therefor and attainment of the required age (if any) he would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 231a of title 45.

(g) Widower

The term "widower" (except when used in section 402(i) of this title) means the surviving husband of an individual, but only if (1) he is

the father of her son or daughter, (2) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (3) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (4) he was married to her at the time both of them legally adopted a child under the age of eighteen, (5) he was married to her for a period of not less than nine months immediately prior to the day on which she died, or (6) in the month before the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) he was entitled to, or on application therefor and attainment of the required age (if any) he would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 231a of title 45.

(h) Determination of family status

(1)(A) An applicant is the wife, husband, widow or widower of a fully or currently insured individual for purposes of this subchapter if the courts of the State in which such insured individual is domiciled at the time such applicant files and application, or, if such insured individual is dead, the courts of the State in which he was domiciled at the time of death, or, if such insured individual is or was not so domiciled in any State, the courts of the District of Columbia, would find that such applicant and such insured individual were validly married at the time such applicant files such application or, if such insured individual is dead, at the time he died. If such courts would not find that such applicant and such insured individual were validly married at such time, such applicant shall, nevertheless be deemed to be the wife, husband, widow, or widower, as the case may be, of such insured individual if such applicant would, under the laws applied by such courts in determining the devolution of intestate personal property, have the same status with respect to the taking of such property as a wife, husband, widow, or widower of such insured individual.

(B) In any case where under subparagraph (A) an applicant is not (and is not deemed to be) the wife, widow, husband, or widower of a fully or currently insured individual, or where under subsection (b), (c), (f), or (g) of this section such applicant is not the wife, widow, husband, or widower of such individual, but it is established to the satisfaction of the Secretary that such applicant in good faith went through a marriage ceremony with such individual resulting in a purported marriage between them which, but for a legal impediment not known to the applicant at the time of such ceremony, would have been a valid marriage, and such applicant and the insured individual were living in the same household at the time of the death of such insured individual or (if such insured individual is living) at the time such applicant files the application, then, for purposes of subparagraph (A) and subsections (b), (c), (f), and (g) of this section, such purported marriage shall be deemed to be a valid marriage. The provisions of the preceding sentence shall not apply (i) if another person is or has been entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 402 of this title on the basis of the wages and self-employment income of such insured individual and such other person is (or is deemed to be) a wife, widow, husband, or widower of such insured individual under subparagraph (A) at the time such applicant files the application, or (ii) if the Secretary determines, on the basis of information brought to his attention, that such applicant entered into such purported marriage with such insured individual with knowledge that it would not be a valid marriage. The entitlement to a monthly benefit under subsection (b), (c), (e), (f), or (g) of section 402 of this title, based on the wages and self-employment income of such insured individual, of a person who would not be deemed to be a wife, widow, husband, or widower of such insured individual but for this subparagraph, shall end with the month before the month (i) in which the Secretary certifies, pursuant to section 405(i) of this title, that another person is entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 402 of this title on the basis of the wages and self-employment income of such insured individual, if such other person is (or is deemed to be) the wife, widow, husband, or widower of such insured individual under subparagraph (A), or (ii) if the applicant is entitled to a monthly benefit under subsection (b) or (c) of section 402 of this title, in which such applicant entered into a marriage, valid without regard to this subparagraph, with a person other than such insured individual. For purposes of this subparagraph, a legal impediment to the validity of a purported marriage includes only an impediment (i) resulting from the lack of dissolution of a previous marriage or otherwise arising out of such previous marriage or its dissolution, or (ii) resulting from a defect in the procedure followed in connection with such purported marriage.

(2)(A) In determining whether an applicant is the child or parent of a fully or currently insured individual for purposes of this subchapter, the Secretary shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or, if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a child or parent shall be deemed such.

(B) If an applicant is a son or daughter of a fully or currently insured individual but is not (and is not deemed to be) the child of such insured individual under subparagraph (A), such applicant shall nevertheless be deemed to be the child of such insured individual if such insured individual and the mother or father, as the case may be, of such applicant went

through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of paragraph (1)(B), would have been a valid marriage.

(3) An applicant who is the son or daughter of a fully or currently insured individual, but who is not (and is not deemed to be) the child of such insured individual under paragraph (2) of this subsection, shall nevertheless be deemed to be the child of such insured individual if:

(A) in the case of an insured individual entitled to old-age insurance benefits (who was not, in the month preceding such entitlement, entitled to disability insurance benefits)—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his son or daughter,

(II) has been decreed by a court to be the father of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his son or daughter,

and such acknowledgment, court decree, or court order was made not less than one year before such insured individual became entitled to old-age insurance benefits or attained age 65, whichever is earlier; or

(ii) such insured individual is shown by evidence satisfactory to the Secretary to be the father of the applicant and was living with or contributing to the support of the applicant at the time such insured individual became entitled to benefits or attained age 65, whichever first occurred;

(B) in the case of an insured individual entitled to disability insurance benefits, or who was entitled to such benefits in the month preceding the first month for which he was entitled to old-age insurance benefits—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his son or daughter,

(II) has been decreed by a court to be the father of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his son or daughter,

and such acknowledgment, court decree, or court order was made before such insured individual's most recent period of disability began; or

(ii) such insured individual is shown by evidence satisfactory to the Secretary to be the father of the applicant and was living with or contributing to the support of that applicant at the time such period of disability began;

(C) in the case of a deceased individual—

(i) such insured individual—

(I) had acknowledged in writing that the applicant is his son or daughter,

(II) had been decreed by a court to be the father of the applicant, or

(III) had been ordered by a court to contribute to the support of the applicant because the applicant was his son or daughter,

and such acknowledgment, court decree, or court order was made before the death of such insured individual, or

(ii) such insured individual is shown by evidence satisfactory to the Secretary to have been the father of the applicant, and such insured individual was living with or contributing to the support of the applicant at the time such insured individual died.

(i) Disability; period of disability

(1) Except for purposes of sections 402(d), 402(e), 402(f), 423 and 425 of this title, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of 20/200 or less. The provisions of paragraphs (2)(A), (3), (4), and (5) of section 423(d) of this title shall be applied for purposes of determining whether an individual is under a disability within the meaning of the first sentence of this paragraph in the same manner as they are applied for purposes of paragraph (1) of such section. Nothing in this subchapter shall be construed as authorizing the Secretary or any other officer or employee of the United States to interfere in any way with the practice of medicine or with relationships between practitioners of medicine and their patients, or to exercise any supervision or control over the administration or operation of any hospital.

(2)(A) The term "period of disability" means a continuous period (beginning and ending as hereinafter provided in this subsection) during which an individual was under a disability (as defined in paragraph (1)), but only if such period is of not less than five full calendar months' duration or such individual was entitled to benefits under section 423 of this title for one or more months in such period.

(B) No period of disability shall begin as to any individual unless such individual files an application for a disability determination with respect to such period; and no such period shall begin as to any individual after such individual attains the age of 65. In the case of a deceased individual, the requirement of an application under the preceding sentence may be satisfied by an application for a disability determination filed with respect to such individual within 3 months after the month in which he died.

(C) A period of disability shall begin—

(i) on the day the disability began, but only if the individual satisfies the requirements of paragraph (3) on such day; or

(ii) if such individual does not satisfy the requirements of paragraph (3) on such day, then on the first day of the first quarter thereafter in which he satisfies such requirements.

(D) A period of disability shall end with the close of whichever of the following months is the earlier: (i) the month preceding the month in which the individual attains age 65, or (ii) the second month following the month in which the disability ceases.

(E) Except as is otherwise provided in subparagraph (F), no application for a disability determination which is filed more than 12 months after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraph (B) and this subparagraph) shall be accepted as an application for purposes of this paragraph.

(F) An application for a disability determination which is filed more than 12 months after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraphs (B) and (E)) shall be accepted as an application for purposes of this paragraph if—

(i) in the case of an application filed by or on behalf of an individual with respect to a disability which ends after January 1968, such application is filed not more than 36 months after the month in which such disability ended, such individual is alive at the time the application is filed, and the Secretary finds in accordance with regulations prescribed by him that the failure of such individual to file an application for a disability determination within the time specified in subparagraph (E) was attributable to a physical or mental condition of such individual which rendered him incapable of executing such an application, and

(ii) in the case of an application filed by or on behalf of an individual with respect to a period of disability which ends in or before January 1968,

(I) such application is filed not more than 12 months after January 1968,

(II) a previous application for a disability determination has been filed by or on behalf of such individual (1) in or before January 1968, and (2) not more than 36 months after the month in which his disability ended, and

(III) the Secretary finds in accordance with regulations prescribed by him, that the failure of such individual to file an application within the then specified time period was attributable to a physical or mental condition of such individual which rendered him incapable of executing such an application.

In making a determination under this subsection, with respect to the disability or period of disability of any individual whose application for a determination thereof is accepted solely by reason of the provisions of this subparagraph (F), the provisions of this subsection (other than the provisions of this subparagraph) shall be applied as such provisions are in effect at the time such determination is made.

(G) An application for a disability determination filed before the first day on which the applicant satisfies the requirements for a period of disability under this subsection shall be deemed a valid application only if the applicant satisfies the requirements for a period of disability before the Secretary makes a final decision on the application. If upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed on such first day.

(3) The requirements referred to in clauses (i) and (ii) of paragraph (2)(C) of this subsection are satisfied by an individual with respect to any quarter only if—

(A) he would have been a fully insured individual (as defined in section 414 of this title) had he attained age 62 and filed application for benefits under section 402(a) of this title on the first day of such quarter; and

(B)(i) he had not less than twenty quarters of coverage during the forty-quarter period which ends with such quarter, or

(ii) if such quarter ends before he attains (or would attain) age 31 not less than one-half (and not less than 6) of the quarters during the period ending with such quarter and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage;

except that the provisions of subparagraph (B) of this paragraph shall not apply in the case of an individual who is blind (within the meaning of "blindness" as defined in paragraph (1)).

(j) Periods of limitation ending on nonwork days

Where this subchapter, any provision of another law of the United States (other than the Internal Revenue Code of 1954) relating to or changing the effect of this subchapter, or any regulation issued by the Secretary pursuant thereto provides for a period within which an act is required to be done which affects eligibility for or the amount of any benefit or payment under this subchapter or is necessary to establish or protect any rights under this subchapter, and such period ends on a Saturday, Sunday, or legal holiday, or on any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order, then such act shall be considered as done within such period if it is done on the first day thereafter which is not a Saturday, Sunday, or legal holiday or any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order. For purposes of this subsection, the day on which a period ends shall include the day on which an extension of such period, as authorized by law or by the Secretary pursuant to law, ends. The provisions of this subsection shall not extend the period during which benefits under this subchapter may (pursuant to section 402(j)(1) or 423(b) of this title) be paid for months prior to the day application for such benefits is filed, or during which an application for benefits under this subchapter may (pursuant to section 402(j)(2) or 423(b) of this title) be accepted as such.

(k) Waiver of nine-month requirement for widow, stepchild, or widower in case of accidental death or in case of serviceman dying in line of duty, or in case of remarriage to the same individual

The requirement in clause (5) of subsection (c) of this section or clause (5) of subsection (g) of this section that the surviving spouse of an individual have been married to such individual for a period of not less than nine months immediately prior to the day on which such individual died in order to qualify as such individual's widow or widower, and the requirement in subsection (e) of this section that the stepchild of a deceased individual have been such stepchild for not less than nine months immediately preceding the day on which such individual died in order to qualify as such individual's child, shall be deemed to be satisfied, where such individual dies within the applicable nine-month period, if—

(1) his death—

(A) is accidental, or

(B) occurs in line of duty while he is a member of a uniformed service serving on active duty (as defined in section 410(*l*)(2) of this title), unless the Secretary determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months, or

(2)(A) the widow or widower of such individual had been previously married to such individual and subsequently divorced and such requirement would have been satisfied at the time of such divorce if such previous marriage had been terminated by the death of such individual at such time instead of by divorce; or

(B) the stepchild of such individual had been the stepchild of such individual during a previous marriage of such stepchild's parent to such individual which ended in divorce and such requirement would have been satisfied at the time of such divorce if such previous marriage had been terminated by the death of such individual at such time instead of by divorce;

except that paragraph (2) of this subsection shall not apply if the Secretary determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months. For purposes of paragraph (1)(A) of this subsection, the death of an individual is accidental if he receives bodily injuries solely through violent, external, and accidental means and, as a direct result of the bodily injuries and independently of all other causes, loses his life not later than three months after the day on which he receives such bodily injuries.

(Aug. 14, 1935, ch. 531, title II, § 216, as added Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492, and amended July 18, 1952, ch. 945, § 3(d), 66 Stat. 771; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, § 106(d), 68 Stat. 1080; Aug. 1, 1956, ch. 836, title I, §§ 102(a), (d)(12), 103(c)(6), 70 Stat. 809, 815, 818; July 17, 1957, Pub. L. 85-109, § 1, 71 Stat. 308; Aug. 30, 1957, Pub. L. 85-238, § 3(h), 71 Stat. 519; Aug. 28, 1958, Pub. L. 85-840, title II, §§ 201, 203, 204(a), title III, §§ 301(a)(2), (b)(2), (c)(2), (d), (e), 302(a), 305(b), 72 Stat. 1020, 1021, 1026-1028, 1030; Sept. 13, 1960, Pub. L. 86-778, title II, §§ 207(a)-(c), 208(a)-(c), title IV, §§ 402(e), 403(c), title VII, § 703, 74 Stat. 950-952, 968, 969, 994; June 30, 1961, Pub. L. 87-64, title I, §§ 102(b)(2)(D), (c)(1), (2)(B), (3)(C), 105, 75 Stat. 134, 135, 139; Oct. 13, 1964, Pub. L. 88-650, § 1(a)-(c), 78 Stat. 1075; July 30, 1965, Pub. L. 89-97, title III, §§ 303(a)(1), (b)(1), (2), 304(*l*), 306(c)(13), 308(c), (d)(2)(B), 328(b), 334(a)-(d), 339(a), 344(a), 79 Stat. 366, 367, 370, 373, 377, 378, 400, 404, 405, 409, 412; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 104(d)(2), 105(a), 111(a), 150(a), 156(a)-(d), 158(d), 172(a), (b), 81 Stat. 832, 837, 860, 866, 869, 877; Oct. 30, 1972, Pub. L. 92-603, title I, §§ 104(g), 113(a), 115(b), 116(d), 117(a), 118(b), 145(a), 86 Stat. 1341, 1347, 1349-1351, 1370; Oct. 16, 1974, Pub. L. 93-445, title III, § 304, 88 Stat. 1358.)

REFERENCES IN TEXT

The Internal Revenue Code of 1954, referred to in subsec. (j), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-445 substituted "section 231a of title 45" for "section 228e of title 45".

Subsec. (c). Pub. L. 93-445 substituted "section 231a of title 45" for "section 228e of title 45".

Subsec. (f). Pub. L. 93-445 substituted "section 231a of title 45" for "section 228e of title 45".

Subsec. (g). Pub. L. 93-445 substituted "section 231a of title 45" for "section 228e of title 45".

1972—Subsec. (e). Pub. L. 92-603, § 113(a), extended the definition of "child" to include grandchildren and stepgrandchildren of an individual or his spouse.

Subsec. (i)(2)(A). Pub. L. 92-603, § 116(d), substituted "five" for "6".

Subsec. (i)(2)(B). Pub. L. 92-603, § 118(b), provided for the filing of an application for a disability determination after the death of the insured individual.

Subsec. (i)(3). Pub. L. 92-603, §§ 104(g), 117(a), struck out "(if a woman) or age 65 (if a man)" following "attained age 62" in subpar. (A) and substituted provisions eliminating the disability insured status requirement of substantial recent covered work in the case of individuals who are blind for provisions excepting the provisions of subpar. (A) in the case of an individual with respect to whom a period of disability would, but for such subpar., begin before 1951 on the provisions following subpar. (B).

Subsec. (k). Pub. L. 92-603, §§ 115(b), 145(a), designated existing pars. (1) and (2) as subpars. (A) and (B) of par. (1), added par. (2), in par. (1), as so redesignated, substituted "unless the Secretary determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months" for "and he would satisfy such requirement if a three-month period were substituted for the nine-month period", and in material following par. (2) substituted "except that paragraph (2) of this subsection shall not apply" for "except that this subsection shall not apply".

1968—Subsec. (c)(5). Pub. L. 90-248, § 156(a), substituted "not less than nine months" for "not less than one year".

Subsec. (e). Pub. L. 90-248, §§ 150(a), 156(b), inserted in the first sentence "not less than nine months immediately preceding" preceding "the day on which such individual died", and added, in the second sentence, clause (A) and incorporated existing provisions in clause (B).

Subsec. (g)(5). Pub. L. 90-248, § 156(c), substituted "not less than nine months" for "not less than one year".

Subsec. (i)(1). Pub. L. 90-248, §§ 104(d)(2), 158(d), 172(a), (b), inserted "402(e), 402(f)," after "402(d),", re-

defined "blindness" to mean central visual acuity of 20/200 rather than 5/200 or less in the better eye and substituted provision deeming an eye accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees as having a central visual acuity of 20/200 or less for former provision deeming an eye in which visual field is reduced to five degrees or less concentriccontraction as having a central visual acuity of 5/200 or less, respectively, and deleted former third sentence which provided that an individual was not deemed under a disability unless he furnished proof as required and added third sentence making section 423(d)(2)(A), (3), (4), and (5) of this title applicable to determine if an individual is under a disability.

Subsec. (i)(2)(E) to (G). Pub. L. 90-248, § 111(a), inserted introductory exception phrase, added subpar. (F), and redesignated former subpar. (F) as (G).

Subsec. (i)(3)(B)(ii). Pub. L. 90-248, § 105(a), deleted from clause (ii) "and he is under a disability by reason of blindness (as defined in paragraph (1) of this subsection)" following "age 31".

Subsec. (k). Pub. L. 90-248, § 156(d), added subsec. (k).

1965—Subsec. (b). Pub. L. 89-97, §§ 306(c)(13), 308(d)(2)(B), 334(a), inserted "(subject, however, to section 402(s) of this title)", included reference to subsec. (b) of section 402 of this title, and added clause (3)(C), respectively.

Subsec. (c). Pub. L. 89-97, §§ 306(c)(13), 308(d)(2)(B), 334(b), inserted "(subject, however, to section 402(s) of this title)", included reference to subsec. (b) of section 402 of this title, and added clause (6)(C), respectively.

Subsec. (d). Pub. L. 89-97, § 308(c), added pars. (1), (2), and (4), defining "divorced wife", "surviving divorced wife", and "divorce" and "divorced", and incorporated the definition of "former wife divorced" in par. (3), inserting "who has died" following "individual" and redesignating clauses (1) to (4) as (A) to (D).

Subsec. (f). Pub. L. 89-97, §§ 306(c)(13), 334(c), inserted "(subject, however, to section 402(s) of this title)" and added clause (3)(C), respectively.

Subsec. (g). Pub. L. 89-97, §§ 306(c)(13), 334(d), inserted "(subject, however, to section 402(s) of this title)" and added clause (6)(C), respectively.

Subsec. (h). Pub. L. 89-97, § 339(a), added par. (3).

Subsec. (i)(1)(A). Pub. L. 89-97, § 303(a)(1), substituted "or has lasted or can be expected to last for a continuous period of not less than 12 months" for "or to be of long-continued and indefinite duration".

Subsec. (i)(2). Pub. L. 89-97, § 303(b)(1), deleted former sixth sentence which had provided that: "Any application for a disability determination which is filed within such three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, as the case may be."

Subsec. (i)(2)(A). Pub. L. 89-97, § 303(b)(1), designated the first sentence as subpar. (A).

Subsec. (i)(2)(B). Pub. L. 89-97, § 303(b)(1), designated the second sentence as subpar. (B), substituted therein "No period of disability" for "No such disability", and deleted therefrom ", while under such disability," following "unless such individual".

Subsec. (i)(2)(C). Pub. L. 89-97, §§ 303(b)(1), 304(*l*), designated the third sentence as subpar. (C), deleted "(subject to section 423(a)(3) of this title)" preceding "begin", and redesignated clauses (A) and (B) thereof as (i) and (ii); and again deleted "(subject to section 423(a)(3) of this title)" preceding "begin", respectively.

Subsec. (i)(2)(D). Pub. L. 89-97, § 303(b)(1), designated the fourth sentence as subpar. (D), substituted "the close of whichever of the following months is the earlier: (i) the month preceding the month in which the individual attains age 65, or (ii) the second month following the month in which the disability ceases" for "the close of the last day of the month preceding which of the following months is the earlier: the month in which the individual attains age sixty-five or the third month following the month in which the disability ceases".

Subsec. (i)(2)(E). Pub. L. 89-97, § 303(b)(1), designated the fifth sentence as subpar. (E), substituted "12 months" for "three months" and "after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraph (B) and this subparagraph)" for "before the first day on which a period of disability can begin (as determined under this paragraph), or, in any case in which clause (ii) of section 423(a)(1) of this title is applicable, more than six months before the first month for which such applicant becomes entitled to benefits under section 423 of this title,", and deleted ", and no such application which is filed prior to January 1, 1955, shall be accepted" following "for purposes of this paragraph".

Subsec. (i)(2)(F). Pub. L. 89-97, § 328(b), added subpar. (F).

Subsec. (i)(3). Pub. L. 89-97, §§ 303(b)(2), 344(a), substituted "clauses (i) and (ii) of paragraph (2)(C)" for "clauses (A) and (B) of paragraph (2)"; and removal from existing subpar. (B) provision prohibiting the inclusion, as part of such 40-quarter period, of any quarter any part of which was included in a prior period of disability unless such quarter was a quarter of coverage, and designated such subpar., as so amended, as subpar. (B)(i), added subpar. (B)(ii), and, in the material following subpar. (B)(ii), added provision prohibiting inclusion of any quarter as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage and calling for reduction by one of the number of quarters in any period whenever such number of quarters is an odd number, respectively.

1964—Subsec. (i)(2). Pub. L. 88-650, § 1(a), eliminated provisions which directed that a period of disability shall begin if the individual satisfies the requirements of par. (3) of this subsection on such day, on the first day of the eighteen-month period which ends with the day before the day on which the individual files such application.

Subsec. (i)(3). Pub. L. 88-650, § 1(b), substituted "paragraph (2) of this subsection" for "paragraphs (2) and (4) of this subsection".

Subsec. (i)(4). Pub. L. 88-650, § 1(c), repealed subsec. (i)(4) which related to the beginning of the period of disability for individuals who filed an application for a disability determination after Dec. 1954, and before July 1962, with respect to a disability which began before January 1961.

1961—Subsec. (a). Pub. L. 87-64, § 102(c)(1), repealed subsec. (a) which defined retirement age.

Subsec. (b). Pub. L. 87-64, § 102(c)(2)(B), substituted "attainment of age 62" for "attainment of retirement age".

Subsec. (c). Pub. L. 87-64, § 102(c)(2)(B), substituted "attainment of age 62" for "attainment of retirement age".

Subsec. (f). Pub. L. 87-64, § 102(c)(2)(B), substituted "attainment of age 62" for "attainment of retirement age".

Subsec. (g). Pub. L. 87-64, § 102(c)(2)(B), substituted "attainment of age 62" for "attainment of retirement age".

Subsec. (i)(2). Pub. L. 87-64, § 102(b)(2)(D), substituted "a period of disability shall (subject to section 423(a)(3) of this title) begin" for "a period of disability shall begin" in the third sentence.

Subsec. (i)(3)(A). Pub. L. 87-64, § 102(c)(3)(C), substituted "attainment age 62 (if a woman) or age 65 (if a man)" for "attained retirement age".

Subsec. (i)(4). Pub. L. 87-64, § 105, substituted "July 1962" for "July 1961", and "January 1961" for "July 1960".

1960—Subsec. (b). Pub. L. 86-778, § 207(a), substituted "one year" for "three years".

Subsec. (e). Pub. L. 86-778, §§ 207(b), 208(c), in the first sentence, reduced the period for eligibility of a stepchild of a living individual from three years immediately preceding the day on which application for child's benefits is filed to one year immediately preceding the day on which application for child's bene-

fits is filed, and inserted the last sentence requiring, for purposes of clause (2), that a person who is not the stepchild of an individual shall be deemed the stepchild of such individual if such individual was not the mother or adopting mother or the father or adopting father of such person and such individual and the mother or adopting mother, or the father or adopting father, as the case may be, of such person went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of subsec. (h)(1)(B) of this section, would have been a valid marriage.

Subsec. (f). Pub. L. 86-778, § 207(c), substituted "one year" for "three years".

Subsec. (h)(1). Pub. L. 86-778, § 208(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (h)(2). Pub. L. 86-778, § 208(b), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (i)(2). Pub. L. 86-778, §§ 402(e), 403(c), redefined the term "period of disability" to include a period of less than six full calendar months' duration if the individual was entitled to benefits under section 423 of this title for one or more months in such period, prohibited acceptance of an application, in any case in which clause (ii) of section 423(a) of this title is applicable, filed more than six months before the first month for which the applicant becomes entitled to benefits under section 423 of this title, substituted provisions requiring a period of disability to end with the close of the last day of the month preceding whichever of the following months is the earlier: the month in which the individual attains age 65 or the third month following the month in which the disability ceases, for provisions which required a period of disability to end with the close of the last day of the first month in which either the disability ceases or the individual attains the age of 65, and inserted sentence providing that any application for a disability determination which is filed within such three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, as the case may be.

Subsec. (j). Pub. L. 86-778, § 703, added subsec. (j).

1958—Subsec. (b). Pub. L. 85-840, § 301(d), included within the definition of "wife" a woman who, in the month prior to the month of her marriage, was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (e) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (c). Pub. L. 85-840, § 301(b)(2) included within the definition of "widow" a woman whose husband had legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, and a woman who, in the month prior to the month of her marriage, was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (e) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (d). Pub. L. 85-840, § 301(e), included within the definition of "former wife divorced" a woman whose husband legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen.

Subsec. (e). Pub. L. 85-840, § 302(a), eliminated the requirement that an adopted child of a living individual must have been adopted for not less than three years immediately preceding the day on which application for child's benefits is filed, and inserted provisions requiring a child to be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if the child was living in the decedent's household at the time of his death and was legally adopted by the surviving spouse after the individual's death but before the end of two years after the day on which the individual died or Aug. 28, 1958, and the child was not receiving regular contributions toward his support from someone other than the individual or his spouse, or from any public or private welfare organization.

Subsec. (f). Pub. L. 85-840, § 301(a)(2), included within the definition of "husband" a person who in the month prior to the month of his marriage was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, or who had attained age eighteen and was entitled to, or on application therefor would have been entitled to benefits under subsection (d) of section 402 of this title.

Subsec. (g). Pub. L. 85-840, § 301(c)(2), included within the definition of "widower" a person whose wife had legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen, and a person who, in the month before the month of his marriage, was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (h)(3). Pub. L. 85-840, § 305(b), repealed subsec. (h)(3), which defined "living with" for purposes of section 402(i) of this title.

Subsec. (i)(2). Pub. L. 85-840, § 201, substituted "while under such disability" for "while under a disability" in the opening provisions, and "eighteen-month period" for "one-year period" in cl. (A)(ii).

Subsec. (i)(3). Pub. L. 85-840, § 204(a), eliminated provisions that required, for a period of disability to begin with respect to any quarter, an individual to have not less than six quarters of coverage during the thirteen-quarter period which ends with such quarter, and inserted provisions requiring an individual to be fully insured.

Subsec. (i)(4). Pub. L. 85-840, § 203, substituted "July 1961" for "July 1958" and "July 1960" for "July 1957", and eliminated provisions which required the applicant to be alive on July 1, 1955.

1957—Subsec. (h). Pub. L. 85-238, amended subsec. (h) generally to provide that the applicant is the wife, husband, widow, or widower if there is a finding that the applicant and the insured individual were validly married at the time the application for benefits is filed, or at the time the insured individual died, and to eliminate provisions which prescribed certain conditions under which a wife or husband would be deemed to have been living with his or her spouse, and which related to determination of status of parent.

Subsec. (i)(4). Pub. L. 85-109, substituted "July 1958" for "July 1957" and "July 1957" for "July 1956".

1956—Subsec. (a). Act Aug. 1, 1956, § 102(a), reduced the retirement age in the case of a woman from age sixty-five to age sixty-two.

Subsec. (i)(1). Act Aug. 1, 1956, § 103(c)(6), inserted "Except for purposes of sections 402(d), 423, and 425 of this title".

Subsec. (i)(2). Act Aug. 1, 1956, § 102(d)(12), substituted "the age of sixty-five" for "retirement age" in two instances.

1954—Subsec. (i). Act Sept. 1, 1954, § 106(d), added subsec. (i). Former subsec. (i), which was added by act July 18, 1952, § 3(d), ceased to be in effect at the close of June 30, 1953. See termination date note under section 413 of this title.

1952—Subsec. (i). Act July 18, 1952, added subsec. (i).

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as an

Effective Date of 1974 Amendment note under section 402 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (e) by section 113(a) of Pub. L. 92-603 applicable with respect to monthly benefits payable under this subchapter for months after Dec. 1972, but only on the basis of applications filed on or after Oct. 30, 1972, see section 113(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 402 of this title.

Amendment of subsec. (i)(2)(A) by section 116(d) of Pub. L. 92-603 effective with respect to applications for disability determinations under subsec. (i) of this section filed on or after Oct. 1972 or before Oct. 1972 under specified conditions, see section 116(e) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 423 of this title.

Section 118(c) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsec. (j)(2)(B) of this section and section 423(a)(1), (a)(2), (b), and (c)(2)(A) of this title] shall apply in the case of deaths occurring after December 31, 1969. For purposes of such amendments (and for purposes of sections 202(j)(1) and 223(b) of the Social Security Act [sections 402(j)(1) and 423(b) of this title], any application with respect to an individual whose death occurred after December 31, 1969, but before the date of the enactment of this Act [Oct. 30, 1972] which is filed in, or within 3 months after the month in which this Act is enacted [Oct. 1972] shall be deemed to have been filed in the month in which such death occurred."

Amendment of subsec. (i)(3) by section 117(a) of Pub. L. 92-603 effective with respect to applications for disability determinations under subsec. (i) of this section filed in or after Oct. 1972 or before Oct. 1972 under specified conditions, see section 117(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 423 of this title.

Amendment of subsec. (i)(3)(A) by section 104(g) of Pub. L. 92-603 applicable only in the case of a man who attains (or would attain) age 62 after Dec. 1974, with the figure "65" in subsec. (i)(3)(A) of this section to be deemed to read "64" in the case of a man who attains age 62 in 1973, and deemed to read "63" in the case of a man who attains age 62 in 1974, see section 104(j) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 414 of this title.

Section 115(c) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsec. (k) of this section] shall apply only with respect to benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972 on the basis of applications filed in or after the month in which this Act is enacted [Oct. 1972]."

Section 145(b) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsec. (k) of this section] shall apply only with respect to benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972 on the basis of applications filed in or after the month in which this Act is enacted [Oct. 1972]."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 105(c) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) [which deleted "and he is under a disability by reason of blindness (as defined in paragraph (1))" from subsec. (i)(3)(B)(ii) of this section] shall apply only with respect to applications for disability determinations filed under section 216(i) of the Social Security Act [subsec. (i) of this section] in or after the month in which this Act is enacted [Jan. 1968]. The amendments made by subsection (b) [to section 423(c)(1)(B)(ii) of this title] shall apply with respect to monthly benefits under title II of such Act [this subchapter] for months after January 1968, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted [Jan. 1968]."

Section 111(b) of Pub. L. 90-248 provided that: "No monthly insurance benefits under title II of the Social Security Act [this subchapter] shall be payable or increased for any month before the month in which this Act is enacted [Jan. 1968] by reason of amendments made by subsection (a) [to subsec. (i)(2) of this section]."

Section 150(b) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) [to subsec. (e) of this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after January 1968, but only on the basis of an application filed in or after the month in which this Act is enacted [Jan. 1968]."

Section 156(e) of Pub. L. 90-248 provided that: "The amendments made by this section [enacting subsec. (k) of this section and amending subsecs. (c)(5), (e) and (g) of this section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968, but only on the basis of applications filed in or after the month in which this Act is enacted [Jan. 1968]."

Section 172(c) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsec. (i)(1) of this section] shall be effective with respect to benefits under section 223 of the Social Security Act [section 423 of this title] for months after January 1968 based on applications filed after the date of enactment of this Act [Jan. 2, 1968] and with respect to disability determinations under section 216(i) of the Social Security Act [subsec. (i) of this section] based on applications filed after the date of enactment of this Act [Jan. 2, 1968]."

Amendment of subsec. (i)(1) by section 158(d) of Pub. L. 90-248 applicable with respect to applications for disability insurance benefits under section 423 of this title and to disability determinations under subsec. (i) of this section, see section 158(e) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 423 of this title.

Amendment of subsec. (i)(1) by section 104 of Pub. L. 90-248 applicable with respect to monthly benefits under this subchapter for and after the month of February 1968, but only on the basis of applications for such benefits filed in or after January 1968, see section 104(e) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 402 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsecs. (b) to (d) by Pub. L. 89-97 applicable with respect to monthly insurance benefits under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 402 of this title.

Amendment of subsecs. (b), (c), (f) and (g) by section 334 of Pub. L. 89-97 applicable only with respect to monthly insurance benefits under section 401 et seq. of this title beginning with September 1965 but only on the basis of applications filed in or after July 1965, see section 334(g) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 402 of this title.

Section 339(c) of Pub. L. 89-97 provided that: "The amendments made by subsections (a) and (b) [to subsec. (h)(3) of this section and section 402(d)(3) of this title] shall be applicable with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] beginning with the second month following the month in which this Act is enacted [July 1965] but only on the basis of an application filed in or after the month in which this Act is enacted [July 1965]."

Amendment of subsec. (i)(1)(A), (2) by Pub. L. 89-97 effective with respect to applications for disability insurance benefits under section 423 of this title, and for

disability determinations under subsec. (i) of this section, filed in or after July 1965 or before July 1965, if the applicant has not died before such month, and notice of final administrative decision has not been given to the applicant before such month, except that monthly insurance benefits under this subchapter shall not be payable or increased by reason of amendments to subsecs. (i)(1)(A), (2), (3) of this section for months before the second month following July 1965, see section 303(f)(1) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 423 of this title.

Amendment of subsec. (i)(2) by section 304 of Pub. L. 89-97 applicable with respect to monthly insurance benefits under this subchapter for and after the second month following July 1965 but only on the basis of applications filed in or after July 1965, see section 304(o) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 402 of this title.

Section 328(d) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (i)(2)(F) of this section and sections 402(j)(2) and 423(b) of this title] shall apply with respect to (1) applications filed on or after the date of enactment of this Act [July 30, 1965], (2) applications as to which the Secretary has not made a final decision before the date of enactment of this Act [July 30, 1965], and (3) if a civil action with respect to final decision by the Secretary has been commenced under section 205(g) of the Social Security Act [section 405(g) of this title] before the date of enactment of this Act [July 30, 1965], applications as to which there has been no final judicial decision before the date of enactment of this Act [July 30, 1965]."

Section 344(e) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (i)(3) of this section and section 423 (a)(1), (c)(1), and (c)(2)(B) of this title] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after the first month following the month in which this Act is enacted [July 1965], on the basis of applications for such benefits filed in or after the month in which this Act is enacted [July 1965]."

EFFECTIVE DATE OF 1964 AMENDMENT

Section 1(d) of Pub. L. 88-650 provided that:

"(1) The amendments made by subsections (a), (b), and (c) [to subsec. (i) of this section] shall apply in the case of applications for disability determinations under section 216(i) of the Social Security Act [subsec. (i) of this section] filed after the month following the month in which this Act is enacted [Oct. 1964].

"(2) Except as provided in the succeeding paragraphs, such amendments shall also apply, and as though such amendments had been enacted on July 1, 1962, in the case of applications for disability determinations filed under section 216(i) of the Social Security Act [subsec. (i) of this section] during the period beginning July 1, 1962, and ending with the close of the month following the month in which this Act is enacted [Oct. 1964], by an individual who—

"(A) has been under a disability (as defined in such section 216(i) [subsec. (i) of this section]) continuously since he filed such application and up to (i) the first day of the second month following the month in which this Act is enacted [Oct. 1964] or (ii) if earlier, the first day of the month in which he attained the age of 65, and

"(B) is living on the day specified in subparagraph (A)(i).

"(3) In the case of an individual to whom paragraph (2) applies and who filed an application for disability insurance benefits under section 223 of the Social Security Act [section 423 of this title] during the period specified in such paragraph—

"(A) if such individual was under a disability (as defined in section 223(c) of such Act [section 423(c) of this title]) throughout such period and was not entitled to disability insurance benefits under such section 223 [section 423 of this title] for any month in such period (except for the amendments made by this section), such application and any application filed during such period for benefits under section 202 of the Social Security Act [section 402 of this title] on the basis of the wages and self-employment income of such individual shall, notwithstanding section 202(j)(2) [section 402(j)(2) of this title] and the first sentence of section 223(b) [section 423(b) of this title], be deemed an effective application, or

"(B) if such individual was entitled (without the application of this section) to disability insurance benefits under section 223 [section 423 of this title] for a continuous period of months immediately preceding—

"(i) the second month following the month in which this Act was enacted [Oct. 1964], or

"(ii) if earlier, the month in which he became entitled to benefits under section 202(a) [section 402(a) of this title],

his primary insurance amount shall be recomputed, but only if such amount would be increased solely by reason of the enactment of this section.

"(4) No monthly insurance benefits, and no increase in monthly insurance benefits, may be paid under title II of the Social Security Act [this subchapter] by reason of the enactment of this section for any month before the eleventh month before the month in which this Act is enacted [Oct. 1964].

"(5) In the case of an individual (A) who is entitled under section 202 of the Social Security Act [section 402 of this title] (but without the application of subsection (j)(1) of such section) to a widow's, widower's, or parent's insurance benefit, or to an old-age, wife's or husband's insurance benefit which is reduced under section 202(q) of such Act [section 402(q) of this title], for any month in the period referred to in paragraph (2) of this subsection, (B) who was under a disability (as defined in section 223(c) of the Social Security Act [section 423(c) of this title]) which began prior to the sixth month before the first month for which the benefits referred to in clause (A) are payable and which continued through the month following the month in which this Act is enacted [Oct. 1964], and (C) who files an application for disability insurance benefits under section 223(a)(1) of the Social Security Act [section 423(a)(1) of this title]—

"(i) subsection (a)(3) of section 223 of the Social Security Act [section 423(a)(3) of this title] shall not prevent him from being entitled to such disability insurance benefits;

"(ii) the provisions of subsection (a)(1) of such section 223 [section 423(a)(1) of this title] terminating entitlement to disability insurance benefits by reason of entitlement to old-age insurance benefits shall not apply with respect to him unless and until he again becomes entitled to such old-age insurance benefits under the provisions of section 202 of such Act [section 402 of this title];

"(iii) such individual shall, for any month for which he is thereby entitled to both old-age insurance benefits and disability insurance benefits, be entitled only to such disability insurance benefits; and

"(iv) in case the benefits reduced under subsection (q) of section 202 of such Act [section 402(q) of this title] are old-age insurance benefits (I) such old-age insurance benefits for the months in the period referred to in paragraph (2) of this subsection shall not be recomputed solely by reason of the enactment of this section, and, if otherwise recomputed, the provisions of and amendments made by this section shall not apply to such recomputation; and (II) the months for which he received such old-age insurance benefits before or during the period for which he becomes entitled, by reason of such enactment, to disability insurance benefits under such section 223 [section 423 of this title] and the months for which he received such disability insurance benefits shall be excluded from the 'reduction period' and the 'adjusted reduction period', as defined in paragraphs (5) and (6), respectively, of such subsection (q) for pur-

poses of determining the amount of the old-age insurance benefits to which he may subsequently become entitled.

"(6) The entitlement of any individual to benefits under section 202 of the Social Security Act [section 402 of this title] shall not be terminated solely by reason of the enactment of this section, except where such individual is entitled to benefits under section 202(a) or 223 of such Act [sections 402(a) or 423 of this title] in an amount which (but for this subsection) would have required termination of such benefits under such section 202 [sections 402 of this title]."

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subsecs. (b), (c), (f), (g), and (i)(3)(A) and repeal of subsec. (a) applicable with respect to monthly benefits for months beginning on or after August 1, 1961, based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as Effective Date of 1961 Amendment notes under section 402 of this title.

Amendment of subsec. (i)(2) by Pub. L. 87-64 effective August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as Effective Date of 1961 Amendment notes under section 402 of this title.

Section 105 of Pub. L. 87-64 provided in part that the amendment of subsec. (i)(4) by Pub. L. 87-64 shall be effective with respect to applications for disability determinations filed on or after July 1, 1961.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 207(d) of Pub. L. 86-778 provided that: "The amendments made by this section [to subsecs. (b) and (f) of this section and to the first sentence of subsec. (e) of this section] shall apply only with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months beginning with the month in which this Act is enacted [Sept. 1960], on the basis of applications filed in or after such month."

Section 208(f) of Pub. L. 86-778 provided that: "The amendments made by the preceding provisions of this section [amending subsecs. (h)(1) and (h)(2) of this section, adding sentence following section 402(d)(3)(B) of this title, and adding the last sentence to subsec. (e) of this section] shall be applicable (1) with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months beginning with the month in which this Act is enacted [Sept. 1960] on the basis of an application filed in or after such month, and (2) in the case of a lump-sum death payment under such title [this subchapter] based on an application filed in or after such month, but only if no person, other than the person filing such application, has filed an application for a lump-sum death payment under such title [this subchapter] prior to the date of the enactment of this Act [Sept. 13, 1960] with respect to the death of the same individual."

Amendment of subsec. (i)(2) by section 402(e) of Pub. L. 86-778, which redefined the term "period of disability" and inserted provisions relating to the acceptance of applications and providing that any application for a disability determination which is filed within the three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, applicable only in the case of individuals who become entitled to benefits under section 423 of this title in or after Sept. 1960, see section 402(f) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 423 of this title.

Amendment of subsec. (i)(2) by section 403(c) of Pub. L. 86-778, which required a period of disability to end with the close of the last day of the month preceding whichever of the following months is the earlier: the month in which the individual attains age sixty-five or the third month following the month in which the disability ceases, applicable only in the case of individuals who have a period of disability (as defined in subsec. (i) of this section) beginning on or after Sept. 13, 1960, or beginning before Sept. 13, 1960 and continuing, without regard to such amendment, beyond the end of Sept. 1960, see section 403(e) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 422 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsecs. (b) to (d), (f) and (g) by Pub. L. 85-840 applicable with respect to monthly benefits under section 402 of this title for months beginning after Aug. 28, 1958, but only if an application for such benefits is filed on or after such date, see section 301(f) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 402 of this title.

Section 302(b) of Pub. L. 85-840 provided that: "The amendment made by this section [to subsec. (e) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months beginning after the date of enactment of this Act [Aug. 28, 1958], but only if an application for such benefits is filed on or after such date."

Repeal of subsec. (h)(3) by section 305(b) of Pub. L. 85-840 applicable in the case of lump-sum death payments under section 402(i) of this title on the basis of the wages and self-employment income of any individual who dies after August 1958, see section 305(c) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 402 of this title.

Section 207(a) of Pub. L. 85-840 provided that: "The amendments made by section 201 [to subsec. (i)(2) of this section] shall apply with respect to applications for a disability determination under section 216(i) of the Social Security Act [subsec. (i) of this section] filed after June 1961. The amendments made by section 202 [to subsecs. (b) and (c)(3) of section 423 of this title] shall apply with respect to applications for disability insurance benefits under section 223 of such Act [section 423 of this title] filed after December 1957. The amendments made by section 203 [to subsec. (i)(4) of this section] shall apply with respect to applications for a disability determination under such section 216(i) [subsec. (i) of this section] filed after June 1958. The amendments made by section 204 [to subsec. (i)(3) of this section and section 423(c)(1)(A) of this title] shall apply with respect to (1) applications for disability insurance benefits under such section 223 [section 423 of this title] or for a disability determination under such section 216(i) [subsec. (i) of this section] filed on or after the date of enactment of this Act [Aug. 28, 1958], and (2) applications for such benefits or for such a determination filed after 1957 and prior to such date of enactment [Aug. 28, 1958] if the applicant has not died prior to such date of enactment [Aug. 28, 1958] and if notice to the applicant of the Secretary's decision with respect thereto has not been given to him on or prior to such date, except that (A) no benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted [August 1958] or any prior month shall be payable or increased by reason of the amendments made by section 204 of this Act, and (B) the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title] shall not prevent recomputation of monthly benefits under section 202 of such Act [section 402 of this title] (but no such recomputation shall be regarded as a recomputation for purposes of section 215(f) of such Act [section 415(f) of this title]). The amendments made by section 205 (other than by subsections (k) and (m)) [to sections 401(h), 402(b), (c)(1), (d)(1), (f)(1)(D), (g)(1)(F), (g)(5), (6), (h)(1)(B), (k), 403(3), 414(b), 422(b)(3), and 425 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted [August 1958], but only if an application for such benefits is filed on or after the date of enactment of this Act [Aug. 28, 1958]. The amendments made by section 206 [repealing section 424 of this title] and by subsections (k) and (m) of section 205 [to sections 403(h) and 415(g) of this title] shall apply with respect

to monthly benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted [August 1958] and succeeding months."

EFFECTIVE DATE OF 1957 AMENDMENT

Amendment of subsec. (h) by Pub. L. 85-238 applicable to monthly benefits under section 402 of this title for months after August 1957, see section 3(i) of Pub. L. 85-238, set out as an Effective Date of 1957 Amendment note under section 402 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 102(b) of act Aug. 1, 1956, provided that:

"(1) The amendment made by subsection (a) [to subsec. (a) of this section] shall apply in the case of benefits under subsection (e) of section 202 of the Social Security Act [section 402(e) of this title] for months after October 1956, but only, except in the case of an individual who was entitled to wife's or mother's insurance benefits under such section 202 [section 402 of this title] for October 1956, or any month thereafter, on the basis of applications filed after the date of enactment of this Act [Aug. 1, 1956]. The amendment made by subsection (a) shall apply in the case of benefits under subsection (h) of such section 202 [section 402(h) of this title] for months after October 1956 on the basis of applications filed after the date of enactment of this Act [Aug. 1, 1956].

"(2) Except as provided in paragraphs (1) and (4), the amendment made by subsection (a) shall apply in the case of lump-sum death payments under section 202(i) of the Social Security Act [section 402(i) of this title] with respect to deaths after October 1956, and in the case of monthly benefits under title II of such Act [this subchapter] for months after October 1956 on the basis of applications filed after the date of enactment of this Act [Aug. 1, 1956].

"(3) For purposes of section 215(b)(3)(B) of the Social Security Act [section 415(b)(3)(B) of this title] (but subject to paragraphs (1) and (2) of this subsection)—

"(A) a woman who attains the age of sixty-two prior to November 1956 and who was not eligible for old-age insurance benefits under section 202 of such Act [section 402 of this title] (as in effect prior to the enactment of this Act [Aug. 1, 1956]) for any month prior to November 1956 shall be deemed to have attained the age of sixty-two in 1956 or, if earlier, the year in which she died;

"(B) a woman shall not, by reason of the amendment made by subsection (a), be deemed to be a fully insured individual before November 1956 or the month in which she died, whichever month is the earlier; and

"(C) the amendment made by subsection (a) shall not be applicable in the case of any woman who was eligible for old-age insurance benefits under such section 202 [section 402 of this title] for any month prior to November 1956.

A woman shall, for purposes of this paragraph, be deemed eligible for old-age insurance benefits under section 202 of the Social Security Act [section 402 of this title] for any month if she was or would have been, upon filing application therefor in such month, entitled to such benefits for such month.

"(4) For purposes of section 209(i) of such Act [section 409(i) of this title], the amendment made by subsection (a) shall apply only with respect to remuneration paid after October 1956."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 106(h) of act Sept. 1, 1954, provided in part that notwithstanding the provisions of section 415(f) of this title, the amendments to subsec. (i) made by section 106(d) of act Sept. 1, 1954, shall apply with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415(f) of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

For effective and termination date, see section 3(f) and (g) of act July 18, 1952, set out as Effective and Termination Date of 1952 Amendment notes under section 413 of this title.

EFFECTIVE DATE

Section applicable (1) in case of monthly benefits for months after August 1950, and (2) in the case of lump-sum death payments with respect to deaths after August 1950, see section 104(b) of act Aug. 28, 1950, set out as an Effective Date of 1950 Amendment note under section 409 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

DEFINITION OF "SECRETARY"

Section 114 of act Sept. 1, 1954, provided that: "As used in the provisions of the Social Security Act [sections 402, 403, 415 and 421 of this title] amended by this title, the term 'Secretary' means the Secretary of Health, Education, and Welfare."

Section 119 of act Aug. 1, 1956, ch. 836, provided that: "As used in this Act and in the provisions of the Social Security Act set forth in this Act [sections 401a, 402(p), (q), (t), (u), 405(b), (c)(5)(J), 421(e), 422, 424, 425, 906 and 1310 of this title], the term 'Secretary' means the Secretary of Health, Education, and Welfare."

BENEFITS OF PARENTS

Amendment of subsec. (h)(1) by Pub. L. 85-238 not operative to deprive any parent of benefits to which he would otherwise be entitled under section 402(h) of this title, see section 3(i)(2) of Pub. L. 85-238, set out as a note under section 402 of this title.

SPECIAL INSURED STATUS TEST IN CERTAIN CASES FOR DISABILITY PURPOSES

Section 404 of Pub. L. 86-778 provided that:

"(a) In the case of any individual who does not meet the requirements of section 216(i)(3) of the Social Security Act [subsec. (i)(3) of this section] with respect to any quarter, or who is not insured for disability insurance benefits as determined under section 223(c)(1) of such Act [section 423(c)(1) of this title] with respect to any month in a quarter, such individual shall be deemed to have met such requirements with respect to such quarter or to be so insured with respect to such month of such quarter, as the case may be, if—

"(1) he had a total of not less than twenty quarters of coverage (as defined in section 213 of such Act [section 413 of this title]) during the period ending with the close of such quarter, and

"(2) all of the quarters elapsing after 1950 and up to but excluding such quarter were quarters of coverage with respect to him and there were not fewer than six such quarters of coverage.

"(b) Subsection (a) shall apply only in the case of applications for disability insurance benefits under section 223 of the Social Security Act [section 423 of this title], or for disability determinations under section 216(i) of such Act [subsec. (i) of this section], filed in or after the month in which this Act is enacted [Sept. 1960], and then only with respect to an individual who, but for such subsection (a), would not meet the requirements for a period of disability under section 216(i) [subsec. (i) of this section] with respect to the quarter in which this Act is enacted or any prior quarter and would not meet the requirements for

benefits under section 223 [section 423 of this title] with respect to the month in which this Act is enacted [Sept. 1960] or any prior month. No benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted [Sept. 1960] or any prior month shall be payable or increased by reason of the amendment made by such subsection."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 403, 413, 414, 417, 421, 422, 423, 428, 429, 431, 1382c, 1395ii of this title; title 5 section 8311; title 30 section 902; title 45 sections 231a, 231b, 231e, 231q.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 4-523 of the District of Columbia Code.

§ 417. Benefits for veterans

(a) Determination of benefits

(1) For purposes of determining entitlement to and the amount of any monthly benefit for any month after August 1950, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, payable under this subchapter on the basis of the wages and self-employment income of any World War II veteran, and for purposes of section 416(i)(3) of this title, such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of $160 in each month during any part of which he served in the active military or naval service of the United States during World War II. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran during World War II is determined by any agency or wholly owned instrumentality of the United States (other than the Veterans' Administration) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) of this paragraph shall not apply in the case of any monthly benefit or lump-sum death payment under this subchapter if its application would reduce by $0.50 or less the primary insurance amount (as computed under section 415 of this title prior to any recomputation thereof pursuant to section 415(f) of this title) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) of this paragraph shall also not apply for purposes of section 416(i)(3) of this title.

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any World War II veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran during World War II, a benefit described in clause (B) of paragraph (1) of this subsection has been determined by such agency or instrumentality to be payable by it. If he has not been so notified, the Secretary of Health, Education, and Welfare shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) of this subsection is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on military or naval service during World War II shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any veteran, such information as the Secretary deems necessary to carry out his functions under paragraph (2) of this subsection.

(b) Determination of insurance status

(1) Any World War II veteran who died during the period of three years immediately following his separation from the active military or naval service of the United States shall be deemed to have died a fully insured individual whose primary insurance amount is the amount determined under section 415(c) of this title. Notwithstanding section 415(d) of this title, the primary insurance benefit (for purposes of section 415(c) of this title) of such veteran shall be determined as provided in this subchapter as in effect prior to August 28, 1950, except that the 1 per centum addition provided for in section 409(e)(2) of this title as in effect prior to August 28, 1950 shall be applicable only with respect to calendar years prior to 1951. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application;

(B) any pension or compensation is determined by the Veterans' Administration to be payable by it on the basis of the death of such veteran;

(C) the death of the veteran occurred while he was in the active military or naval service of the United States; or

(D) such veteran has been discharged or released from the active military or naval service of the United States subsequent to July 26, 1951.

(2) Upon an application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any World War II veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to paragraph (1)(B) of this sub-

section unless he has been notified by the Veterans' Administration that pension or compensation is determined to be payable by the Veterans' Administration by reason of the death of such veteran. The Secretary of Health, Education, and Welfare shall thereupon report such decision to the Veterans' Administration. If the Veterans' Administration in any such case has made an adjudication or thereafter makes an adjudication that any pension or compensation is payable under any law administered by it, it shall notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment, or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection. Any payments theretofore certified by the Secretary of Health, Education, and Welfare on the basis of paragraph (1) of this subsection to any individual, not exceeding the amount of any accrued pension or compensation payable to him by the Veterans' Administration, shall (notwithstanding the provisions of section 3101 of title 38) be deemed to have been paid to him by such Administration on account of such accrued pension or compensation. No such payment certified by the Secretary of Health, Education, and Welfare, and no payment certified by him for any month prior to the first month for which any pension or compensation is paid by the Veterans' Administration shall be deemed by reason of this subsection to have been an erroneous payment.

(c) Filing proof of support

In the case of any World War II veteran to whom subsection (a) of this section is applicable, proof of support required under section 402(h) of this title may be filed by a parent at any time prior to July 1951 or prior to the expiration of two years after the date of the death of such veteran, whichever is the later.

(d) Definitions

For the purposes of this section—

(1) The term "World War II" means the period beginning with September 16, 1940, and ending at the close of July 24, 1947.

(2) The term "World War II veteran" means any individual who served in the active military or naval service of the United States at any time during World War II and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

(e) Determination based on wages and self-employment

(1) For purposes of determining entitlement to and the amount of any monthly benefit or lump-sum death payment payable under this subchapter on the basis of wages and self-employment income of any veteran (as defined in paragraph (4) of this subsection), and for purposes of section 416(i)(3) of this title, such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of $160 in each month during any part of which he served in the active military or naval service of the United States on or after July 25, 1947, and prior to January 1, 1957. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, is determined by any agency or wholly owned instrumentality of the United States (other than the Veterans' Administration) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) of this paragraph shall not apply in the case of any monthly benefit or lump-sum death payment under this subchapter if its application would reduce by $0.50 or less the primary insurance amount (as computed under section 415 of this title prior to any recomputation thereof pursuant to subsection (f) of section 415 of this title) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) of this paragraph shall also not apply for purposes of section 416(i)(3) of this title. In the case of monthly benefits under this subchapter for months after December 1956 (and any lump-sum death payment under this subchapter with respect to a death occurring after December 1956) based on the wages and self-employment income of a veteran who performed service (as a member of a uniformed service) to which the provisions of section 410(*l*)(1) of this title are applicable, wages which would, but for the provisions of clause (B) of this paragraph, be deemed under this subsection to have been paid to such veteran with respect to his active military or naval service performed after December 1950 shall be deemed to have been paid to him with respect to such service notwithstanding the provisions of such clause, but only if the benefits referred to in such clause which are based (in whole or in part) on such service are payable solely by the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration Survey or Public Health Service.

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, a benefit described in clause (B) of paragraph (1) of this subsection has been determined by such agency or instrumentality to be payable by it. If he has

not been so notified, the Secretary of Health, Education, and Welfare shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) of this subsection is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on military or naval service on or after July 25, 1947, and prior to January 1, 1957, shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any veteran, such information as the Secretary deems necessary to carry out his functions under paragraph (2) of this subsection.

(4) For the purposes of this subsection, the term "veteran" means any individual who served in the active military or naval service of the United States at any time on or after July 25, 1947, and prior to January 1, 1957, and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

(f) Right to annuity; waiver

(1) In any case where a World War II veteran (as defined in subsection (d)(2) of this section) or a veteran (as defined in subsection (e)(4) of this section) has died or shall hereafter die, and his widow or child is entitled under subchapter III of chapter 83 of title 5; to an annuity in the computation of which his active military or naval service was included, clause (B) of subsection (a)(1) of this section or clause (B) of subsection (e)(1) of this section shall not operate (solely by reason of such annuity) to make such subsection inapplicable in the case of any monthly benefit under section 402 of this title which is based on his wages and self-employment income; except that no such widow or child shall be entitled under section 402 of this title to any monthly benefit in the computation of which such service is included by reason of this subsection (A) unless such widow or child after December 1956 waives his or her right to receive such annuity, or (B) for any month prior to the first month with respect to which the Civil Service Commission certifies to the Secretary of Health, Education, and Welfare that (by reason of such waiver) no further annuity will be paid to such widow or child under such subchapter III, on the basis of such veteran's military or civilian service. Any such waiver shall be irrevocable.

(2) Whenever a widow waives her right to receive such annuity such waiver shall constitute a waiver on her own behalf; a waiver by a legal guardian or guardians, or, in the absence of a legal guardian, the person (or persons) who has the child in his care, of the child's right to receive such annuity shall constitute a waiver on behalf of such child. Such a waiver with respect to an annuity based on a veteran's service shall be valid only if the widow and all children, or, if there is no widow, all the children, waive their rights to receive annuities under subchapter III of chapter 83 of title 5, based on such veteran's military or civilian service.

(g) Trust Funds and Federal Hospital Insurance Trust Fund

(1) In September of 1965, 1970, and 1975, and in October 1980 and in every fifth October thereafter up to and including October 2010, the Secretary shall determine the amount which, if paid in equal installments at the beginning of each fiscal year in the period beginning—

(A) with July 1, 1965, in the case of the first such determination, and

(B) with the beginning of the first fiscal year commencing after the determination in the case of all other such determinations,

and ending with the close of September 30, 2015, would accumulate, with interest compounded annually, to an amount equal to the amount needed to place each of the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position at the close of September 30, 2015, as he estimates they would otherwise be in at the close of that date if section 410 of this title as in effect prior to the Social Security Act Amendments of 1950, and this section, had not been enacted. The rate of interest to be used in determining such amount shall be the rate determined under section 401(d) of this title for public-debt obligations which were or could have been issued for purchase by the Trust Funds in the June preceding the September in which the determinations in 1965, 1970, and 1975 are made and in the September preceding the October in which all other determinations are made.

(2) There are authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund—

(A) for the fiscal year ending June 30, 1966, an amount equal to the amount determined under paragraph (1) of this subsection in September 1965, and

(B) for each fiscal year in the period beginning with July 1, 1966, and ending with the close of September 30, 2015, an amount equal to the annual installment for such fiscal year under the most recent determination under paragraph (1) of this subsection which precedes such fiscal year.

(3) For the fiscal year ending September 30, 2016, there is authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund such sums as the Secretary determines would place the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position in which they would have been at the close of September 30, 2015, if section 410 of this title as in effect prior to the

Social Security Act Amendments of 1950, and this section, had not been enacted.

(4) There are authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund annually, as benefits under this subchapter and part A of subchapter XVIII of this chapter are paid after September 30, 2015, such sums as the Secretary determines to be necessary to meet the additional costs, resulting from subsections (a), (b), and (e) of this section, of such benefits (including lump-sum death payments).

(h) Determination of veterans status

(1) For the purposes of this section, any individual who the Secretary finds—

(A) served during World War II (as defined in subsection (d)(1) of this section) in the active military or naval service of a country which was on September 16, 1940, at war with a country with which the United States was at war during World War II;

(B) entered into such active service on or before December 8, 1941;

(C) was a citizen of the United States throughout such period of service or lost his United States citizenship solely because of his entrance into such service;

(D) had resided in the United States for a period or periods aggregating four years during the five-year period ending on the day of, and was domiciled in the United States on the day of, such entrance into such active service; and

(E)(i) was discharged or released from such service under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty, or

(ii) died while in such service,

shall be considered a World War II veteran (as defined in subsection (d)(2) of this section) and such service shall be considered to have been performed in the active military or naval service of the United States.

(2) In the case of any individual to whom paragraph (1) applies, proof of support required under section 402(f) or (h) of this title may be filed at any time prior to the expiration of two years after the date of such individual's death or August 28, 1958, whichever is the later.

(Aug. 14, 1935, ch. 531, title II, § 217, as added Aug. 28, 1950, ch. 809, title I, § 105, 64 Stat. 512, and amended July 18, 1952, ch. 945, § 5(a), (d)(1), 66 Stat. 773, 775; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 14, 1953, ch. 483, § 1, 67 Stat. 580; Sept. 1, 1954, ch. 1206, title I, § 106(e), 68 Stat. 1081; Aug. 9, 1955, ch. 685, § 1, 69 Stat. 621; Aug. 1, 1956, ch. 837, title IV, §§ 404(a), (b), 406, 70 Stat. 872, 875; Aug. 28, 1958, Pub. L. 85-840, title III, § 314(a), (b), 72 Stat. 1036; Sept. 2, 1958, Pub. L. 85-857, § 13(i)(2), 72 Stat. 1265; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(j)(2)(c), 74 Stat. 937; July 30, 1965, Pub. L. 89-97, title III, § 322, 79 Stat. 396; Jan. 2, 1968, Pub. L. 90-248, title IV, § 403(c), 81 Stat. 932; Apr. 21, 1976, Pub. L. 94-273, §§ 2(23), 16, 90 Stat. 376, 379.)

References in Text

The Social Security Act Amendments of 1950, referred to in subsec. (g), is act Aug. 28, 1950, ch. 809, 64 Stat. 477. For complete classification of this Act to the Code, see Short Title of 1950 Amendment note set out under section 1305 of this title and Tables volume.

Amendments

1976—Subsec. (g)(1). Pub. L. 94-273, § 16, substituted provisions relating to determination of the required amount for payment in September of 1965, 1970, and 1975, and in October 1980 and in every fifth October thereafter up to and including October 2010, and ending with the close of September 30, 2015, for provisions relating to determination of the required amount for payment in September 1965, and in every fifth September thereafter up to and including September 2010, and ending with the close of June 30, 2015, and added provisions relating to the rate of interest for the determination of the required amount in the Septembers preceding the Octobers for all the other determinations subsequent to the 1975 determination.

Subsec. (g)(2)(B), (3), (4). Pub. L. 94-273, § 2(23), substituted "September" for "June" wherever appearing therein.

1968—Subsec. (f)(1). Pub. L. 90-248, § 403(c)(1), substituted "subchapter III of chapter 83 of title 5" and "such subchapter III" for "the Civil Service Retirement Act of May 29, 1930, as amended," and "such Act of May 29, 1930, as amended,", respectively.

Subsec. (f)(2). Pub. L. 90-248, § 403(c)(2), substituted "subchapter III of chapter 83 of title 5" for "the Civil Service Retirement Act of May 29, 1930, as amended".

1965—Subsec. (g)(1). Pub. L. 89-97 substituted provisions requiring the Secretary to determine, in September 1965, and every fifth September thereafter, up to and including September 2010, the amount necessary to place each of the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position at the close of June 30, 2015, as they would otherwise have been in at the close of that date if section 410 of this title, as in effect prior to the Social Security Act Amendments of 1950, and this section had not been enacted and providing for determination of interest in accordance with section 401(d) of this title, for provisions authorizing the appropriation of sums necessary to meet additional costs resulting from payment of benefits after June 1956 under subsecs. (a), (b), and (e), including lump-sum death payments.

Subsec. (g)(2). Pub. L. 89-97 substituted provisions authorizing appropriation to the Trust Funds and the Federal Hospital Insurance Trust Fund in the fiscal years ending with the close of June 30, 2015, for provisions requiring the Secretary to determine before October 1, 1958, the amount necessary to place the Federal Old-Age and Survivors Insurance Trust Fund in the same position it would have been at the close of June 30, 1956, if section 410 of this title, as in effect prior to the Social Security Act Amendments of 1950, and this section had not been enacted and authorizing appropriations during the first ten years beginning after such determination had been made aggregating the sum so determined plus interest.

Subsec. (g)(3), (4). Pub. L. 89-97 added pars. (3) and (4).

1960—Subsec. (e)(1). Pub. L. 86-778 substituted "section 410(*l*)(1) of this title" for "section 410(m)(1) of this title".

1958—Subsec. (b)(2). Pub. L. 85-857, substituted "section 3101 of title 38" for "section 454a of title 38".

Subsec. (g). Pub. L. 85-840, § 314(b), substituted "Trust Funds" for "Trust Fund" in par. (1), and "the Federal Old-Age and Survivors Insurance Trust Fund in" for "the Trust Fund in", "such Trust Fund annually", for "the Trust Fund annually", and "such Trust Fund during" for "the Trust Fund during", in par. (2).

Subsec. (h). Pub. L. 85-840, § 314(a), added subsec. (h).

1956—Subsec. (e). Act Aug. 1, 1956, § 404(a), substituted "January 1, 1957" for "April 1, 1956" in five instances, and inserted provisions in par. (1) relating to

monthly benefits for months after December 1956 and any lump-sum death payment under this subchapter with respect to a death occurring after December 1956.

Subsecs. (f), (g). Act Aug. 1, 1956, §§ 404(b), 406, added subsecs. (f) and (g), respectively.

1955—Subsec. (e). Act Aug. 9, 1955, substituted "April 1, 1956" for "July 1, 1955" wherever appearing.

1954—Subsec. (a)(1). Act Sept. 1, 1954, § 106(e)(1), (3), added in the first sentence after "World War II veteran" the words "and for purposes of section 416(i)(3) of this title", and added a new sentence at the end.

Subsec. (e)(1). Act Sept. 1, 1954, § 106(e)(2), (3), added after "veteran (as defined in paragraph (4) of this subsection)" the words "and for purposes of section 416(i)(3) of this title" and added a new sentence at the end.

1953—Subsec. (e). Act Aug. 14, 1953, substituted "July 1, 1955" for "January 1, 1954" wherever appearing.

1952—Act July 18, 1952, § 5(a), eliminated reference to World War II veterans in the catchline.

Subsec. (a)(1). Act July 5, 1952, § 5(d)(1), added following cl. (B) provision that cl. (B) not apply in the case of any monthly benefits or lump-sum death payments under this subchapter.

Subsec. (e). Act July 18, 1952, § 5(a), added subsec. (e).

Effective Date of 1960 Amendment

Amendment of subsec. (e)(1) by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 402 of this title.

Effective Date of 1958 Amendments

Amendment of subsec. (b)(2) by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as an Effective Date note preceding Part I of Title 38, Veterans' Benefits.

Section 314(c)(1) of Pub. L. 85-840 provided that: "The amendment made by subsection (a) [adding subsec. (h) of this section] shall apply only with respect to (A) monthly benefits under sections 202 and 223 of the Social Security Act [sections 402 and 423 of this title] for months after the month in which this Act is enacted [August 1958], (B) lump-sum death payments under such section 202 [section 402 of this title] in the case of deaths occurring after the month in which this Act is enacted [August 1958], and (C) periods of disability under section 216(i) [section 416(i) of this title] in the case of applications for a disability determination filed after the month in which this Act is enacted [August 1958]."

Effective Date of 1956 Amendment

Section 404(d) of act Aug. 1, 1956, provided that: "Except for the last sentence of section 217(e)(1) of the Social Security Act as amended by subsection (a) of this section [subsec. (e)(1) of this section], the amendments made by such subsection (a) [to subsecs. (e) and (f) of this section] shall be effective as though they had been enacted on March 31, 1956. Such last sentence of section 217(e)(1) of the Social Security Act shall become effective January 1, 1957."

Subsec. (g) effective Jan. 1, 1957.

Effective Date of 1954 Amendment

Section 106(h) of act Sept. 1, 1954, provided in part that notwithstanding the provisions of section 415(f) of this title, the amendments to subsecs. (a)(1) and (e)(1) made by section 106(e) of act Sept. 1, 1954, shall apply with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415(f) of this title.

Effective Date of 1952 Amendment

Section 5(c) of act of July 18, 1952, as amended by Pub. L. 86-778, title III, § 304(d), Sept. 13, 1960, 74 Stat. 966, provided that:

"(1) The amendments made by subsections (a) and (b) [to sections 417(e) and 405(o) of this title] shall apply with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months after August 1952, and with respect to lump-sum death payments in the case of deaths occurring after August 1952, except that, in the case of any individual who is entitled, on the basis of the wages and self-employment income of any individual to whom section 217(e) of the Social Security Act [subsec. (e) of this section] applies, to monthly benefits under such section 202 for August 1952 [section 402 of this title], such amendments shall apply (A) only if an application for recomputation by reason of such amendments is filed by such individual, or any other individual, entitled to benefits under such section 202 [section 402 of this title] on the basis of such wages and self-employment income, and (B) only with respect to such benefits for months after whichever of the following is the later: August 1952 of the seventh month before the month in which such application was filed. Recomputations of benefits as required to carry out the provisions of this paragraph shall be made notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title]; but no such recomputation shall be regarded as a recomputation for purposes of section 215(f) of such act [section 415(f) of this title]. Notwithstanding the preceding provisions of this paragraph, the primary insurance amount of an individual shall not be recomputed under such provisions unless such individual files the application referred to in clause (A) of the first sentence of this paragraph prior to January 1961 or, if he dies without filing such application, his death occurred prior to January 1961.

"(2) In the case of any veteran (as defined in section 217(e)(4) of the Social Security Act [subsec. (e)(4) of this section]) who died prior to September 1952, the requirement in subsections (f) and (h) of section 202 of the Social Security Act [section 402(f), (h) of this title] that proof of support be filed within two years of the date of such death shall not apply if such proof is filed prior to September 1954."

Section 5(d)(2) of act July 18, 1952, provided that: "The amendment made by paragraph (1) of this subsection [to subsec. (a)(1)(B) of this section] shall apply only in the case of applications for benefits under section 202 of the Social Security Act [section 402 of this title] filed after August 1952."

Effective Date

Section 105 of act Aug. 28, 1950, provided in part that this section shall be effective Sept. 1, 1950.

Change of Name

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, abolished the Environmental Science Services Administration, established the National Oceanic and Atmospheric Administration, and redesignated the Commissioned Officer Corps of ESSA as the Commissioned Officer Corps of NOAA. For further details, see Transfer of Functions note set out under section 851 of Title 33, Navigation and Navigable Waters.

Transfer of Functions

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of

the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

RECOMPUTATION OF PRIMARY INSURANCE AMOUNT OF CERTAIN INDIVIDUALS

Section 314(c)(2) of Pub. L. 85-840 provided that:

"In the case of any individual—

"(A) who is a World War II veteran (as defined in section 217(d)(2) of the Social Security Act [subsec. (d)(2) of this section]) wholly or partly by reason of service described in section 217(h)(1)(A) of such Act [subsec. (h)(1)(A) of this section]; and

"(B) who (i) became entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] or to disability insurance benefits under section 223 of such Act [section 423 of this title] prior to the first day of the month following the month in which this Act is enacted [August 1958], or (i) died prior to such first day, and whose widow, former wife divorced, widower, child, or parent is entitled for the month in which this Act is enacted [August 1958], on the basis of his wages and self-employment income, to a monthly benefit under section 202 of such Act [section 402 of this title]; and

"(C) any part of whose service described in section 217(h)(1)(A) of the Social Security Act [subsec. (h)(1)(A) of this section] was not included in the computation of his primary insurance amount under section 215 of such Act [section 415 of this title] but would have been included in such computation if the amendment made by subsection (a) of this section had been effective prior to the date of such computation,

the Secretary of Health, Education, and Welfare shall, notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title], recompute the primary insurance amount of such individual upon the filing of an application, after the month in which this Act is enacted [August 1958], by him or (if he has died without filing such an application) by any person entitled to monthly benefits under section 202 of the Social Security Act [section 402 of this title] on the basis of his wages and self-employment income. Such recomputation shall be made only in the manner provided in title II of the Social Security Act [this subchapter] as in effect at the time of the last previous computation or recomputation of such individual's primary insurance amount, and as though application therefor was filed in the month in which application for such last previous computation or recomputation was filed. No recomputation made under this subsection shall be regarded as a recomputation under section 215(f) of the Social Security Act [section 415(f) of this title]. Any such recomputation shall be effective for and after the twelfth month before the month in which the application is filed, but in no case for the month in which this Act is enacted [August 1958] or any prior month."

RECOMPUTATION OF SOCIAL SECURITY BENEFITS OF WIDOWS AND CHILDREN WHO WAIVE RIGHT TO ANNUITY UNDER CIVIL SERVICE RETIREMENT ACT

Section 404(c) of act Aug. 1, 1956, provided that:

"In the case of any deceased individual—

"(1) who is a World War II veteran (as defined in section 217(d)(2) of the Social Security Act [subsec. (d)(2) of this section]) or a veteran (as defined in section 217(e)(4) of such Act [subsec. (e)(4) of this section]); and

"(2) whose widow or child is entitled under the Civil Service Retirement Act of May 29, 1930, as amended [see section 8301 et seq. of Title 5, Government Organization and Employees], to an annuity in the computation of which his active military or naval service after September 15, 1940, and before January 1, 1957, was included; and

"(3) whose widow or child is entitled under section 202 of the Social Security Act [section 402 of this title], on the basis of his wages and self-employment income, to a monthly benefit in the computation of which such active military or naval service was excluded (under clause (B) of subsection (a)(1) or (e)(1) of section 217 of such Act [this section]) solely by reason of the annuity described in the preceding paragraph; and

"(4) whose widow or child is entitled by reason of section 217(f) of the Social Security Act [subsec. (f) of this section] to have such active military or naval service included in the computation of such monthly benefit,

the Secretary of Health, Education, and Welfare shall, notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title], recompute the primary insurance amount of such individual upon the filing of an application, after December 1956, by or on behalf of such widow or child. Such recomputation shall be made only in the manner provided in title II of the Social Security Act [this subchapter] as in effect at the time of such individual's death, and as though application therefor was filed in the month in which he died. No recomputation made under this subsection shall be regarded as a recomputation under section 215(f) of the Social Security Act [section 415(f) of this title]. Any such recomputation shall be effective for and after the twelfth month before the month in which the application is filed, but in no case for any month before the first month with respect to which such widow or child is entitled by reason of section 217(f) of the Social Security Act [subsec. (f) of this section] to have such active military or naval service included in the computation of such monthly benefits. The terms used in this subsection shall have the same meaning as when used in title II of the Social Security Act [this subchapter]."

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 213, 405, 415, 429 of this title; title 33 section 857; title 45 section 231b.

§ 418. Voluntary agreements for coverage of State and local employees

(a) Purpose of agreement

(1) The Secretary of Health, Education, and Welfare shall, at the request of any State, enter into an agreement with such State for the purpose of extending the insurance system established by this subchapter to services performed by individuals as employees of such State or any political subdivision thereof. Each such agreement shall contain such provisions, not inconsistent with the provisions of this section, as the State may request.

(2) Notwithstanding section 410(a) of this title, for the purposes of this subchapter the term "employment" includes any service included under an agreement entered into under this section.

(b) Definitions

For the purposes of this section—

(1) The term "State" does not include the District of Columbia, Guam, or American Samoa.

(2) The term "political subdivision" includes an instrumentality of (A) a State, (B) one or more political subdivisions of a State, or (C) a State and one or more of its political subdivisions.

(3) The term "employee" includes an officer of a State or political subdivision.

(4) The term "retirement system" means a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

(5) The term "coverage group" means (A) employees of the State other than those engaged in performing service in connection with a proprietary function; (B) employees of a political subdivision of a State other than those engaged in performing service in connection with a proprietary function; (C) employees of a State engaged in performing service in connection with a single proprietary function; or (D) employees of a political subdivision of a State engaged in performing service in connection with a single proprietary function. If under the preceding sentence an employee would be included in more than one coverage group by reason of the fact that he performs service in connection with two or more proprietary functions or in connection with both a proprietary function and a nonproprietary function, he shall be included in only one such coverage group. The determination of the coverage group in which such employee shall be included shall be made in such manner as may be specified in the agreement. Persons employed under section 709 of title 32, who elected under section 6 of the National Guard Technicians Act of 1968 to remain covered by an employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, shall, for the purposes of this chapter, be employees of the State or the Commonwealth of Puerto Rico, and (notwithstanding the preceding provisions of this paragraph), shall be deemed to be a separate coverage group. For purposes of this section, individuals employed pursuant to an agreement, entered into pursuant to section 1624 of title 7 or section 499n of title 7, between a State and the United States Department of Agriculture to perform services as inspectors of agricultural products may be deemed, at the option of the State, to be employees of the State and (notwithstanding the preceding provisions of this paragraph) shall be deemed to be a separate coverage group.

(c) Services covered

(1) An agreement under this section shall be applicable to any one or more coverage groups designated by the State.

(2) In the case of each coverage group to which the agreement applies, the agreement must include all services (other than services excluded by or pursuant to subsection (d) or paragraphs (3), (5), or (6) of this subsection) performed by individuals as members of such group.

(3) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any one or more of the following:

(A) All services in any class or classes of (i) elective positions, (ii) part-time positions, or (iii) positions the compensation for which is on a fee basis;

(B) All services performed by individuals as members of a coverage group in positions covered by a retirement system on the date such agreement is made applicable to such coverage group, but only in the case of individuals who, on such date (or, if later, the date on which they first occupy such positions), are not eligible to become members of such system and whose services in such positions have not already been included under such agreement pursuant to subsection (d)(3) of this section.

(4) The Secretary of Health, Education, and Welfare shall, at the request of any State, modify the agreement with such State so as to (A) include any coverage group to which the agreement did not previously apply, or (B) include, in the case of any coverage group to which the agreement applies, services previously excluded from the agreement; but the agreement as so modified may not be inconsistent with the provisions of this section applicable in the case of an original agreement with a State. A modification of an agreement pursuant to clause (B) of the preceding sentence may apply to individuals to whom paragraph (3)(B) of this subsection is applicable (whether or not the previous exclusion of the service of such individuals was pursuant to such paragraph), but only if such individuals are, on the effective date specified in such modification, ineligible to be members of any retirement system or if the modification with respect to such individuals is pursuant to subsection (d)(3) of this section.

(5) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any agricultural labor, or service performed by a student, designated by the State. This paragraph shall apply only with respect to service which is excluded from employment by any provision of section 410(a) of this title other than paragraph (7) of such section and service the remuneration for which is excluded from wages by paragraph (2) of section 409(h) of this title.

(6) Such agreement shall exclude—

(A) service performed by an individual who is employed to relieve him from unemployment,

(B) service performed in a hospital, home, or other institution by a patient or inmate thereof,

(C) covered transportation service (as determined under section 410(k) of this title),

(D) service (other than agricultural labor or service performed by a student) which is excluded from employment by any provision of

section 410(a) of this title other than paragraph (7) of such section, and

(E) service performed by an individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency.

(7) No agreement may be made applicable (either in the original agreement or by any modification thereof) to service performed by any individual to whom paragraph (3)(B) of this subsection is applicable unless such agreement provides (in the case of each coverage group involved) either that the service of any individual to whom such paragraph is applicable and who is a member of such coverage group shall continue to be covered by such agreement in case he thereafter becomes eligible to be a member of a retirement system, or that such service shall cease to be so covered when he becomes eligible to be a member of such a system (but only if the agreement is not already applicable to such system pursuant to subsection (d)(3) of this section), whichever may be desired by the State.

(8) Notwithstanding any other provision of this section, the agreement with any State entered into under this section may at the option of the State be modified on or after January 1, 1968, to exclude service performed by election officials or election workers if the remuneration paid in a calendar quarter for such service is less than $50. Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed after an effective date, specified in such modification, which shall not be earlier than the last day of the calendar quarter in which the modification is mailed or delivered by other means to the Secretary.

(d) Positions covered by retirement systems

(1) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system either (A) on the date such agreement is made applicable to such coverage group, or (B) on September 1, 1954 (except in the case of positions which are, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to September 1, 1954, no longer covered by a retirement system on the date referred to in clause (A), and except in the case of positions excluded by paragraph (5)(A) of this subsection). The preceding sentence shall not be applicable to any service performed by an employee as a member of any coverage group in a position (other than a position excluded by paragraph (5)(A) of this subsection) covered by a retirement system on the date an agreement is made applicable to such coverage group if, on such date (or, if later, the date on which such individual first occupies such position), such individual is ineligible to be a member of such system.

(2) It is declared to be the policy of the Congress in enacting the succeeding paragraphs of this subsection that the protection afforded employees in positions covered by a retirement system on the date an agreement under this section is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

(3) Notwithstanding paragraph (1) of this subsection, an agreement with a State may be made applicable (either in the original agreement or by any modification thereof) to service performed by employees in positions covered by a retirement system (including positions specified in paragraph (4) of this subsection but not including positions excluded by or pursuant to paragraph (5)), if the governor of the State, or an official of the State designated by him for the purpose, certifies to the Secretary of Health, Education, and Welfare that the following conditions have been met:

(A) A referendum by secret written ballot was held on the question of whether service in positions covered by such retirement system should be excluded from or included under an agreement under this section;

(B) An opportunity to vote in such referendum was given (and was limited) to eligible employees;

(C) Not less than ninety days' notice of such referendum was given to all such employees;

(D) Such referendum was conducted under the supervision of the governor or an agency or individual designated by him; and

(E) A majority of the eligible employees voted in favor of including service in such positions under an agreement under this section.

An employee shall be deemed an "eligible employee" for purposes of any referendum with respect to any retirement system if, at the time such referendum was held, he was in a position covered by such retirement system and was a member of such system and if he was in such a position at the time notice of such referendum was given as required by clause (C) of the preceding sentence; except that he shall not be deemed an "eligible employee" if, at the time the referendum was held, he was in a position to which the State agreement already applied, or if he was in a position excluded by or pursuant to paragraph (5). No referendum with respect to a retirement system shall be valid for purposes of this paragraph unless held within the two-year period which ends on the date of execution of the agreement or modification which extends the insurance system established by this subchapter to such retirement system, nor shall any referendum with respect to a retirement system be valid for purposes of this paragraph if held less than one year after the last previous referendum held with respect to such retirement system.

(4) For the purposes of subsection (c) of this section, the following employees shall be deemed to be a separate coverage group—

(A) all employees in positions which were covered by the same retirement system on the date the agreement was made applicable to such system (other than employees to whose services the agreement already applied on such date);

(B) all employees in positions which became covered by such system at any time after such date; and

(C) all employees in positions which were covered by such system at any time before such date and to whose services the insurance system established by this subchapter has not been extended before such date because the positions were covered by such retirement system (including employees to whose services the agreement was not applicable on such date because such services were excluded pursuant to subsection (c)(3)(B) of this section).

(5)(A) Nothing in paragraph (3) of this subsection shall authorize the extension of the insurance system established by this subchapter to service in any policeman's or fireman's position.

(B) At the request of the State, any class or classes of positions covered by a retirement system which may be excluded from the agreement pursuant to paragraph (3) or (5) of subsection (c) of this section, and to which the agreement does not already apply, may be excluded from the agreement at the time it is made applicable to such retirement system; except that, notwithstanding the provisions of paragraph (3)(B) of such subsection, such exclusion may not include any services to which such paragraph (3)(B) is applicable. In the case of any such exclusion, each such class so excluded shall, for purposes of this subsection, constitute a separate retirement system in case of any modification of the agreement thereafter agreed to.

(6)(A) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. Where a retirement system covering positions of employees of a State and positions of employees of one or more political subdivisions of the State, or covering positions of employees of two or more political subdivisions of the State, is not divided into separate retirement systems pursuant to the preceding sentence or pursuant to subparagraph (C), then the State may, for purposes of subsection (f) of this section only, deem the system to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned.

(B) If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this subparagraph, the term "institutions of higher learning" includes junior colleges and teachers colleges. If a retirement system covers positions of employees of a hospital which is an integral part of a political subdivision, then, for purposes of the preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of such hospital.

(C) For the purposes of this subsection, any retirement system established by the State of Alaska, California, Connecticut, Florida, Georgia, Illinois, Massachusetts, Minnesota, Nevada, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Wisconsin, or Hawaii, or any political subdivision of any such State, which, on, before, or after August 1, 1956, is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. If, in the case of a separate retirement system which is deemed to exist by reason of subparagraph (A) and which has been divided into two divisions or parts pursuant to the first sentence of this subparagraph, individuals become members of such system by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, the positions of such individuals who become members of such retirement system by reason of the action so taken shall be included in the division or part of such system composed of positions of members who do not desire such coverage if (i) such individuals, on the day before becoming such members, were in the division or part of another separate retirement system (deemed to exist by reason of subparagraph (A)) composed of positions of members of such system who do not desire coverage under an agreement under this section, and (ii) all of the positions in the separate retirement system of which such individuals so become members and all of the positions in the separate retirement system referred to in clause (i) would have been covered by a single retirement system if the State had not taken action to provide for separate retirement systems under this paragraph.

(D)(i) The position of any individual which is covered by any retirement system to which subparagraph (C) is applicable shall, if such individual is ineligible to become a member of such system on August 1, 1956, or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under

the insurance system established under this subchapter.

(ii) Notwithstanding clause (i), the State may, pursuant to subsection (c)(4)(B) of this section and subject to the conditions of continuation or termination of coverage provided for in subsection (c)(7) of this section, modify its agreement under this section to include services performed by all individuals described in clause (i) other than those individuals to whose services the agreement already applies. Such individuals shall be deemed (on and after the effective date of the modification) to be in positions covered by the separate retirement system consisting of the positions of members of the division or part who desire coverage under the insurance system established under this subchapter.

(E) An individual who is in a position covered by a retirement system to which subparagraph (C) is applicable and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection (other than paragraph (8) of this subsection), be regarded as a member of such system; except that, in the case of any retirement system a division or part of which is covered under the agreement (either in the original agreement or by a modification thereof), which coverage is agreed to prior to 1960, the preceding provisions of this subparagraph shall apply only if the State so requests and any such individual referred to in such preceding provisions shall, if the State so requests, be treated, after division of the retirement system pursuant to such subparagraph (C), the same as individuals in positions referred to in subparagraph (F).

(F) In the case of any retirement system divided pursuant to subparagraph (C), the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of positions of members who desire such coverage if it is so provided in a modification of such agreement which is mailed, or delivered by other means, to the Secretary prior to 1970 or, if later, the expiration of two years after the date on which such agreement, or the modification thereof making the agreement applicable to such separate retirement system, as the case may be, is agreed to, but only if, prior to such modification or such later modification, as the case may be, the individual occupying such position files with the State a written request for such transfer. Notwithstanding subsection (f)(1) of this section, any such modification or later modification, providing for the transfer of additional positions within a retirement system previously divided pursuant to subparagraph (C) to the separate retirement system composed of positions of members who desire coverage, shall be effective with respect to services performed after the same effective date as that which was specified in the case of such previous division.

(G) For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or Hawaii which covers positions of employees of such State who are compensated in whole or in part from grants made to such State under subchapter III of this chapter, there shall be deemed to be, if such State so desires, a separate retirement system with respect to any of the following:

(i) the positions of such employees;

(ii) the positions of all employees of such State covered by such retirement system who are employed in the department of such State in which the employees referred to in clause (i) are employed; or

(iii) employees of such State covered by such retirement system who are employed in such department of such State in positions others than those referred to in clause (i).

(7) The certification by the governor (or an official of the State designated by him for the purpose) required under paragraph (3) of this subsection shall be deemed to have been made, in the case of a division or part (created under subparagraph (C) of paragraph (6) of this subsection or the corresponding provision of prior law) consisting of the positions of members of a retirement system who desire coverage under the agreement under this section, if the governor (or the official so designated) certifies to the Secretary of Health, Education, and Welfare that—

(A) an opportunity to vote by written ballot on the question of whether they wish to be covered under an agreement under this section was given to all individuals who were members of such system at the time the vote was held;

(B) not less than ninety days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;

(C) the vote was conducted under the supervision of the governor or an agency or individual designated by him; and

(D) such system was divided into two parts or divisions in accordance with the provisions of subparagraphs (C) and (D) of paragraph (6) of this subsection or the corresponding provision of prior law.

For purposes of this paragraph, an individual in a position to which the State agreement already applied or in a position excluded by or pursuant to paragraph (5) of this subsection shall not be considered a member of the retirement system.

(8)(A) Notwithstanding paragraph (1) of this subsection, if under the provisions of this subsection an agreement is, after December 31, 1958, made applicable to service performed in positions covered by a retirement system, service performed by an individual in a position covered by such a system may not be excluded from the agreement because such position is also covered under another retirement system.

(B) Subparagraph (A) shall not apply to service performed by an individual in a position covered under a retirement system if such individual, on the day the agreement is made applicable to service performed in positions covered by such retirement system, is not a member of such system and is a member of another system.

(C) If an agreement is made applicable, prior to 1959, to service in positions covered by any retirement system, the preceding provisions of this paragraph shall be applicable in the case of

such system if the agreement is modified to so provide.

(D) Except in the case of agreements with the States named in subsection (p) of this section and agreements with interstate instrumentalities, nothing in this paragraph shall authorize the application of an agreement to service in any policeman's or fireman's position.

(e) Payments and reports by States; limitation on States' liability for contributions

(1) Each agreement under this section shall provide—

(A) that the State will pay to the Secretary of the Treasury, at such time or times as the Secretary of Health, Education, and Welfare may be regulations prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 1400 and 1410 of the Internal Revenue Code of 1939, if the services of employees covered by the agreement constituted employment as defined in section 1426 of the Internal Revenue Code of 1939; and

(B) that the State will comply with such regulations relating to payments and reports as the Secretary of Health, Education, and Welfare may prescribe to carry out the purposes of this section.

(2) Where—

(A) an individual in any calendar year performs services to which an agreement under this section is applicable (i) as the employee of two or more political subdivisions of a State or (ii) as the employee of a State and one or more political subdivisions of such State; and

(B) such State provides all of the funds for the payment of those amounts referred to in paragraph (1)(A) of this subsection which are equivalent to the taxes imposed by section 3111 of the Internal Revenue Code of 1954 with respect to wages paid to such individual for such services; and

(C) the political subdivision or subdivisions involved do not reimburse such State for the payment of such amounts or, in the case of services described in subparagraph (A)(ii), for the payment of so much of such amounts as is attributable to employment by such subdivision or subdivisions;

then, notwithstanding paragraph (1) of this subsection, the agreement under this section with such State may provide (either in the original agreement or by a modification thereof) that the amounts referred to in paragraph (1)(A) of this subsection may be computed as though the wages paid to such individual for the services referred to in clause (A) of this paragraph were paid by one political subdivision for services performed in its employ; but the provisions of this paragraph shall be applicable only where such State complies with such regulations as the Secretary may prescribe to carry out the purposes of this paragraph. The preceding sentence shall be applicable with respect to wages paid after an effective date specified in such agreement or modification, but in no event with respect to wages paid before (i) January 1, 1957, in the case of an agreement or modification which is mailed or delivered by other means to the Secretary before January 1, 1962, or (ii) the first day of the year in which the agreement or modification is mailed or delivered by other means to the Secretary, in the case of an agreement or modification which is so mailed or delivered on or after January 1, 1962.

(f) Effective date of agreement; retroactive coverage

(1) Except as provided in subsection (e)(2) of this section, any agreement or modification of an agreement under this section shall be effective with respect to services performed after an effective date specified in such agreement or modification; except that such date may not be earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification, as the case may be, is agreed to by the Secretary and the State.

(2) In the case of service performed by members of any coverage group—

(A) to which an agreement under this section is made applicable, and

(B) with respect to which the agreement, or modification thereof making the agreement so applicable, specifies an effective date earlier than the date of execution of such agreement and such modification, respectively,

the agreement shall, if so requested by the State, be applicable to such services (to the extent the agreement was not already applicable) performed before such date of execution and after such effective date by any individual as a member of such coverage group if he is such a member on a date, specified by the State, which is earlier than such date of execution, except that in no case may the date so specified be earlier than the date such agreement or such modification, as the case may be, is mailed, or delivered by other means, to the Secretary.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, in the case of services performed by individuals as members of any coverage group to which an agreement under this section is made applicable, and with respect to which there were timely paid in good faith to the Secretary of the Treasury amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954, had such services constituted employment for purposes of chapter 21 of such Code at the time they were performed, and with respect to which refunds were not obtained, such individuals may, if so requested by the State, be deemed to be members of such coverage group on the date designated pursuant to paragraph (2).

(g) Termination of agreement

(1) Upon giving at least two years' advance notice in writing to the Secretary of Health, Education, and Welfare, a State may terminate, effective at the end of a calendar quarter specified in the notice, its agreement with the Secretary of Health, Education, and Welfare either—

(A) in its entirety, but only if the agreement has been in effect from its effective date for not less than five years prior to the receipt of such notice; or

(B) with respect to any coverage group designated by the State, but only if the agreement has been in effect with respect to such

coverage group for not less than five years prior to the receipt of such notice.

(2) If the Secretary of Health, Education, and Welfare, after reasonable notice and opportunity for hearing to a State with whom he has entered into an agreement pursuant to this section, finds that the State has failed or is no longer legally able to comply substantially with any provision of such agreement or of this section, he shall notify such State that the agreement will be terminated in its entirety, or with respect to any one or more coverage groups designated by him, at such time, not later than two years from the date of such notice, as he deems appropriate, unless prior to such time he finds that there no longer is any such failure or that the cause for such legal inability has been removed.

(3) If any agreement entered into under this section is terminated in its entirety, the Secretary of Health, Education, and Welfare and the State may not again enter into an agreement pursuant to this section. If any such agreement is terminated with respect to any coverage group, the Secretary of Health, Education, and Welfare and the State may not thereafter modify such agreement so as to again make the agreement applicable with respect to such coverage group.

(h) Deposits in trust fund; adjustments

(1) All amounts received by the Secretary of the Treasury under an agreement made pursuant to this section shall be deposited in the Trust Funds and the Federal Hospital Insurance Trust Fund in the ratio in which amounts are appropriated to such Funds pursuant to subsection (a)(3) of section 401 of this title, subsection (b)(1) of such section, and subsection (a)(1) of section 1395i of this title, respectively.

(2) If more or less than the correct amount due under an agreement made pursuant to this section is paid with respect to any payment of remuneration, proper adjustments with respect to the amounts due under such agreement shall be made, without interest, in such manner and at such times as may be prescribed by regulations of the Secretary of Health, Education, and Welfare.

(3) If an overpayment cannot be adjusted under paragraph (2) of this subsection, the amount thereof and the time or times it is to be paid shall be certified by the Secretary of Health, Education, and Welfare to the Managing Trustee, and the Managing Trustee, through the Fiscal Service of the Treasury Department and prior to any action thereon by the General Accounting Office, shall make payment in accordance with such certification. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Secretary of Health, Education, and Welfare.

(i) Regulations

Regulations of the Secretary of Health, Education, and Welfare to carry out the purposes of this section shall be designed to make the requirements imposed on States pursuant to this section the same, so far as practicable, as those imposed on employers pursuant to this subchapter and subchapter A or E of chapter 9 of the Internal Revenue Code of 1939.

(j) Failure to make payments

In case any State does not make, at the time or times due, the payments provided for under an agreement pursuant to this section, there shall be added, as part of the amounts due, interest at the rate of 6 per centum per annum from the date due until paid, and the Secretary of Health, Education, and Welfare may, in his discretion, deduct such amounts plus interest from any amounts certified by him to the Secretary of the Treasury for payment to such State under any other provision of this chapter. Amounts so deducted shall be deemed to have been paid to the State under such other provision of this chapter. Amounts equal to the amounts deducted under this subsection are appropriated to the Trust Funds in the ratio in which amounts are deposited in such Funds pursuant to subsection (h)(1) of this section.

(k) Instrumentalities of two or more States

(1) The Secretary of Health, Education, and Welfare may, at the request of any instrumentality of two or more States, enter into an agreement with such instrumentality for the purpose of extending the insurance system established by this subchapter to services performed by individuals as employees of such instrumentality. Such agreement, to the extent practicable, shall be governed by the provisions of this section applicable in the case of an agreement with a State.

(2) In the case of any instrumentality of two or more States, if—

(A) employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and

(B) such retirement system is (on, before, or after August 30, 1957) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended,

then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such division or part. An individual who is in a position covered by a retirement system divided pursuant to the preceding sentence and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection, be regarded as a member of such system. Coverage under the agreement of any such individual shall be provided under the same conditions, to the extent practicable, as are applicable in the case of the States to which the provisions of subsection (d)(6)(C) of this section apply. The position of any employee of any such instrumentality which is covered by any retirement system to which the first

sentence of this paragraph is applicable shall, if such individual is ineligible to become a member of such system on August 30, 1957, or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this subchapter. Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable, with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to subparagraph (C) of subsection (d)(6) of this section or the corresponding provision of prior law (and consisting of the positions of members who desire coverage under such agreement).

(3) Any agreement with any instrumentality of two or more States entered into pursuant to this chapter may, notwithstanding the provisions of subsection (d)(5)(A) of this section and the references thereto in subsections (d)(1) and (d)(3) of this section, apply to service performed by employees of such instrumentality in any policeman's or fireman's position covered by a retirement system, but only upon compliance, to the extent practicable, with the requirements of subsection (d)(3) of this section. For the purpose of the preceding sentence, a retirement system which covers positions of policemen or firemen or both, and other positions shall, if the instrumentality concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(*l*) Delegation of functions

The Secretary of Health, Education, and Welfare is authorized, pursuant to agreement with the head of any Federal agency, to delegate any of his functions under this section to any officer or employee of such agency and otherwise to utilize the services and facilities of such agency in carrying out such functions, and payment therefor shall be in advance or by way of reimbursement, as may be provided in such agreement.

(m) Wisconsin retirement fund

(1) Notwithstanding paragraph (1) of subsection (d) of this section, the agreement with the State of Wisconsin may, subject to the provisions of this subsection, be modified so as to apply to service performed by employees in positions covered by the Wisconsin retirement fund.

(2) All employees in positions covered by the Wisconsin retirement fund at any time on or after January 1, 1951, shall, for the purposes of subsection (c) only, be deemed to be a separate coverage group; except that there shall be excluded from such separate coverage group all employees in positions to which the agreement applies without regard to this subsection.

(3) The modification pursuant to this subsection shall exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) service performed by any individual during any period before he is included under the Wisconsin retirement fund.

(4) The modification pursuant to this subsection shall, if the State of Wisconsin requests it, exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) all service performed in policemen's positions, all service performed in firemen's positions, or both.

(n) Certain positions no longer covered by retirement systems

Notwithstanding subsection (d) of this section, an agreement with any State entered into under this section prior to September 1, 1954 may, prior to January 1, 1958, be modified pursuant to subsection (c)(4) of this section so as to apply to services performed by employees, as members of any coverage group to which such agreement already applies (and to which such agreement applied on September 1, 1954), in positions (1) to which such agreement does not already apply, (2) which were covered by a retirement system on the date such agreement was made applicable to such coverage group, and (3) which, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to September 1, 1954, are no longer covered by a retirement system on the date such agreement is made applicable to such services.

(o) Certain employees of the State of Utah

Notwithstanding the provisions of subsection (d) of this section, the agreement with the State of Utah entered into pursuant to this section may be modified pursuant to subsection (c)(4) of this section so as to apply to services performed for any of the following, the employees performing services for each of which shall constitute a separate coverage group: Weber Junior College, Carbon Junior College, Dixie Junior College, Central Utah Vocational School, Salt Lake Area Vocational School, Center for the Adult Blind, Union High School (Roosevelt, Utah), Utah High School Activities Association, State Industrial School, State Training School, State Board of Education, and Utah School Employees Retirement Board. Any modification agreed to prior to January 1, 1955, may be made effective with respect to services performed by employees as members of any of such coverage groups after an effective date specified therein, except that in no case may any such date be earlier than December 31, 1950.

(p) Policemen and firemen in certain States

(1) Any agreement with the State of Alabama, California, Florida, Georgia, Hawaii, Idaho, Kansas, Maine, Maryland, Montana, New York, North Carolina, North Dakota, Oregon, Puerto Rico, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, or Washington entered into pursuant to this section prior to August 1, 1956, may, notwithstanding the provisions of subsection (d)(5)(A) of this section and the references thereto in subsections (d)(1) and (d)(3) of this section, be modified pursuant to subsection (c)(4) of this section to apply to service performed by employees of such State or any political subdivi-

sion thereof in any policeman's or fireman's position covered by a retirement system in effect on or after August 1, 1956, but only upon compliance with the requirements of subsection (d)(3) of this section. For the purposes of the preceding sentence, a retirement system which covers positions of policemen or firemen, or both, and other positions shall, if the State concerned so desire, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(2) A State, not otherwise listed by name in paragraph (1), shall be deemed to be a State listed in such paragraph for the purpose of extending coverage under this subchapter to service in firemen's positions covered by a retirement system, if the governor of the State, or an official of the State designated by him for the purpose, certifies to the Secretary of Health, Education, and Welfare that the overall benefit protection of the employees in such positions would be improved by reason of the extension of such coverage to such employees. Notwithstanding the provisions of the second sentence of such paragraph (1), such firemen's positions shall be deemed a separate retirement system and no other positions shall be included in such system.

(q) Time limitation on assessments

(1) Where a State is liable for an amount due under an agreement pursuant to this section, such State shall remain so liable until the Secretary is satisfied that the amount due has been paid to the Secretary of the Treasury.

(2) Notwithstanding paragraph (1) of this subsection, a State shall not be liable for an amount due under an agreement pursuant to this section, with respect to the wages paid to individuals, after the expiration of the latest of the following periods—

(A) three years, three months, and fifteen days after the year in which such wages were paid, or

(B) three years after the date on which such amount became due, or

(C) three years, three months, and fifteen days after the year following the year in which this subsection is enacted,

unless prior to the expiration of such period the Secretary makes an assessment of the amount due.

(3) For purposes of this subsection and section 405(c) of this title, an assessment of an amount due is made when the Secretary mails or otherwise delivers to the State a notice stating the amount he has determined to be due under an agreement pursuant to this section and the basis for such determination.

(4) An assessment of an amount due made by the Secretary after the expiration of the period specified in paragraph (2) of this subsection shall nevertheless be deemed to have been made within such period if—

(A) before the expiration of such period (or, if it has previously been extended under this paragraph, of such period as so extended), the State and the Secretary agree in writing to an extension of such period (or extended period) and, subject to such conditions as may be agreed upon, the Secretary makes the assessment prior to the expiration of such extension; or

(B) within the 365 days immediately preceding the expiration of such period (or extended period) the State pays to the Secretary of the Treasury less than the correct amount due under an agreement pursuant to this section with respect to wages paid to individuals in any calendar quarters as members of a coverage group, and the Secretary of Health, Education, and Welfare makes the assessment, adjusted to take into account the amount paid by the State, no later than the 365th day after the day the State made payment to the Secretary of the Treasury; but the Secretary of Health, Education, and Welfare shall make such assessment only with respect to the wages paid to such individuals in such calendar quarters as members of such coverage group; or

(C) pursuant to subparagraph (A) or (B) of section 405(c)(5) of this title he includes in his records an entry with respect to wages for an individual, but only if such assessment is limited to the amount due with respect to such wages and is made within the period such entry could be made in such records under such subparagraph.

(5) If the Secretary allows a claim for a credit or refund of an overpayment by a State under an agreement pursuant to this section, with respect to wages paid or alleged to have been paid to an individual in a calendar year for services as a member of a coverage group, and if as a result of the facts on which such allowance is based there is an amount due from the State, with respect to wages paid to such individual in such calendar year for services performed as a member of a coverage group, for which amount the State is not liable by reason of paragraph (2) of this subsection, then notwithstanding paragraph (2) of this subsection the State shall be liable for such amount due if the Secretary makes an assessment of such amount due at the time of or prior to notification to the State of the allowance of such claim. For purposes of this paragraph and paragraph (6) of this subsection, interest as provided for in subsection (j) of this section shall not be included in determining the amount due.

(6) The Secretary shall accept wage reports filed by a State under an agreement pursuant to this section or regulations of the Secretary thereunder, after the expiration of the period specified in paragraph (2) of this subsection or such period as extended pursuant to paragraph (4) of this subsection, with respect to wages which are paid to individuals performing services as employees in a coverage group included in the agreement and for payment in connection with which the State is not liable by reason of paragraph (2) of this subsection, only if the State—

(A) pays to the Secretary of the Treasury the amount due under such agreement with respect to such wages, and

(B) agrees in writing with the Secretary of Health, Education, and Welfare to an extension of the period specified in paragraph (2) of this subsection with respect to wages paid to all individuals performing services as employees in such coverage group in the calen-

dar quarters designated by the State in such wage reports as the periods in which such wages were paid. If the State so agrees, the period specified in paragraph (2) of this subsection, or such period as extended pursuant to paragraph (4) of this subsection, shall be extended until such time as the Secretary notifies the State that such wage reports have been accepted.

(7) Notwithstanding the preceding provisions of this subsection, where there is an amount due by a State under an agreement pursuant to this section and there has been a fraudulent attempt on the part of an officer or employee of the State or any political subdivision thereof to defeat or evade payment of such amount due, the State shall be liable for such amount due without regard to the provisions of paragraph (2) of this subsection, and the Secretary may make an assessment of such amount due at any time.

(r) Time limitation on credits and refunds

(1) No credit or refund of an overpayment by a State under an agreement pursuant to this section with respect to wages paid or alleged to have been paid to an individual as a member of a coverage group in a calendar quarter shall be allowed after the expiration of the latest of the following periods—

(A) three years, three months, and fifteen days after the year in which occurred the calendar quarter in which such wages were paid or alleged to have been paid, or

(B) three years after the date the payment which included such overpayment became due under such agreement with respect to the wages paid or alleged to have been paid to such individual as a member of such coverage group in such calendar quarter, or

(C) two years after such overpayment was made to the Secretary of the Treasury, or

(D) three years, three months, and fifteen days after the year following the year in which this subsection is enacted,

unless prior to the expiration of such period a claim for such credit or refund is filed with the Secretary of Health, Education, and Welfare by the State.

(2) A claim for a credit or refund filed by a State after the expiration of the period specified by paragraph (1) of this subsection shall nevertheless be deemed to have been filed within such period if—

(A) before the expiration of such period (or, if it has previously been extended under this subparagraph, of such period as so extended) the State and the Secretary agree in writing to an extension of such period (or extended period) and the claim is filed with the Secretary by the State prior to the expiration of such extension; but any claim for a credit or refund valid because of this subparagraph shall be allowed only to the extent authorized by the conditions provided for in the agreement for such extension, or

(B) the Secretary delegates from his records an entry with respect to wages of an individual pursuant to the provisions of subparagraph (A), (B), or (E) of section 405(c)(5) of this title, but only with respect to the entry so deleted.

(s) Review by Secretary

Where the Secretary has made an assessment of an amount due by a State under an agreement pursuant to this section, disallowed a State's claim for a credit or refund of an overpayment under such agreement, or allowed a State a credit or refund of an overpayment under such agreement, he shall review such assessment, disallowance, or allowance if a written request for such review is filed with him by the State within 90 days (or within such further time as he may allow) after notification to the State of such assessment, disallowance, or allowance. On the basis of the evidence obtained by or submitted to the Secretary, he shall render a decision affirming, modifying, or reversing such assessment, disallowance, or allowance. In notifying the State of his decision, the Secretary shall state the basis therefor.

(t) Judicial review

(1) Notwithstanding any other provision of this subchapter any State, irrespective of the amount in controversy, may file, within two years after the mailing to such State of the notice of any decision by the Secretary pursuant to subsection (s) of this section affecting such State, or within such further time as the Secretary may allow, a civil action for a redetermination of the correctness of the assessment of the amount due, the disallowance of the claim for a refund or credit, or the allowance of the refund or credit, as the case may be, with respect to which the Secretary has rendered such decision. Such action shall be brought in the district court of the United States for the judicial district in which is located the capital of such State, or, if such action is brought by an instrumentality of two or more States, the principal office of such instrumentality. The judgment of the court shall be final, except that it shall be subject to review in the same manner as judgments of such court in other civil actions. Any action filed under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(2) Notwithstanding the provisions of section 2411 of title 28, no interest shall accrue to a State after final judgment with respect to a credit or refund of an overpayment made under an agreement pursuant to this section.

(3) The first sentence of section 2414 of title 28 shall not apply to final judgments rendered by district courts of the United States in civil actions filed under this subsection. In such cases, the payment of amounts due to States pursuant to such final judgments shall be adjusted in accordance with the provisions of this section and with regulations promulgated by the Secretary.

(u) Positions compensated solely on a fee basis

(1) Notwithstanding any other provision in this section, an agreement entered into under this section may be made applicable to service performed after 1967 in any class or classes of positions compensated solely on a fee basis to which such agreement did not apply prior to 1968 only if the State specifically requests that its agreement be made applicable to such service in such class or classes of positions.

(2) Notwithstanding any other provision in this section, an agreement entered into under this section may be modified, at the option of the State, at any time after 1967, so as to exclude services performed in any class or classes of positions compensation for which is solely on a fee basis.

(3) Any modification made under this subsection shall be effective with respect to services performed after the last day of the calendar year in which the modification is agreed to by the Secretary and the State.

(4) If any class or classes of positions have been excluded from coverage under the State agreement by a modification agreed to under this subsection, the Secretary and the State may not thereafter modify such agreement so as to again make the agreement applicable with respect to such class or classes of positions.

(Aug. 14, 1935, ch. 531, title II, § 218, as added Aug. 28, 1950, ch. 809, title I, § 106, 64 Stat. 514, and amended June 28, 1952, ch. 483, 66 Stat. 285; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 15, 1953, ch. 504, § 1, 67 Stat. 587; Sept. 1, 1954, ch. 1206, title I, § 101(a)(5), (6), (h)(1)–(8), (i)(1), (2), (j), 68 Stat. 1055, 1059; Aug. 1, 1956, ch. 836, title I, §§ 103(f), (g), 104(e), (g), 70 Stat. 823, 825, 826; Aug. 30, 1957, Pub. L. 85-226, §§ 1–3, 71 Stat. 511, 512; Aug. 30, 1957, Pub. L. 85-227, § 1, 71 Stat. 512; Aug. 30, 1957, Pub. L. 85-229, 71 Stat. 513; Aug. 27, 1958, Pub. L. 85-787, §§ 1, 2, 72 Stat. 939; Aug. 28, 1958, Pub. L. 85-798, §§ 2, 3, 72 Stat. 964, 965; Aug. 28, 1958, Pub. L. 85-840, title III, § 315(a), (b), (c)(1), 72 Stat. 1038–1040; Sept. 16, 1959, Pub. L. 86-284, § 2, 73 Stat. 566; July 12, 1960, Pub. L. 86-624, § 30(e), (f), 74 Stat. 420; Sept. 13, 1960, Pub. L. 86-778, title I, §§ 102(a), (b)(1), (c)(1), (2), (d), (e), (f)(1), (g), (l), 103(i), (j)(2)(G), 74 Stat. 928–930, 934, 936–938; June 30, 1961, Pub. L. 87-64, title I, §§ 106, 107, 75 Stat. 139, 140; Oct. 24, 1962, Pub. L. 87-878, § 2, 76 Stat. 1202; July 2, 1964, Pub. L. 88-350, § 2, 78 Stat. 240; July 23, 1964, Pub. L. 88-382, 78 Stat. 335; July 30, 1965, Pub. L. 89-97, title I, § 108(b), title III, §§ 314, 315, 79 Stat. 338, 385; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 116(a)–(b)(2), (c), (d), 117, 119(a), 120(a), 121, 122(d), 81 Stat. 840–844; Aug. 13, 1968, Pub. L. 90-486, § 7, 82 Stat. 759; Oct. 30, 1972, Pub. L. 92-603, title I, § 126, 86 Stat. 1358; Dec. 31, 1974, Priv. L. 93-107, § 2, 88 Stat. 2386.)

References in Text

Section 6 of the National Guard Technicians Act of 1968, referred to in subsec. (b)(5), is section 6 of Pub. L. 90-486, which is set out as a note under section 709 of Title 32, National Guard.

Sections 1400, 1410, and 1426 of the Internal Revenue Code of 1939, referred to in subsec. (e)(1), were a part of chapter 9 of the 1939 Code. See below.

Subchapters A and E of chapter 9 of the Internal Revenue Code of 1939, referred to in subsec. (i), were comprised of sections 1400 to 1432 and 1631 to 1636, respectively, and were repealed (subject to certain exceptions) by section 7851(a)(3) of the Internal Revenue Code of 1954.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1954 Code, see section 7852(b) of the 1954 Code. For table of comparisons of the 1939 Code to the 1954 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 is classified generally to Title 26.

The year following the year in which this subsection is enacted, referred to in subsecs. (q)(2)(C) and (r)(1)(D), means the year following Sept. 13, 1960, which is the date of enactment of subsecs. (q) and (r) of this section.

Amendments

1974—Subsec. (p)(1). Priv. L. 93-107 inserted "Montana," after "Maryland,".

1972—Subsec. (p)(1). Pub. L. 92-603 inserted "Idaho," after "Hawaii,".

1968—Subsec. (b)(5). Pub. L. 90-486 substituted provisions pertaining to the coverage of persons employed under section 709 of title 32, who elected under section 6 of the National Guard Technicians Act of 1968 to remain covered by an employee retirement system of, or plan sponsored by, a state or the Commonwealth of Puerto Rico, such persons, for the purposes of this chapter, to be considered employees of the state or the Commonwealth of Puerto Rico, for provisions pertaining to the coverage of civilian employees of National Guard units of a state who are employed pursuant to section 42 of title 32, and who are paid from funds allotted to such units by the Department of the Defense, such persons, for the purposes of this section, to be deemed employees of the state.

Subsec. (c)(3). Pub. L. 90-248, § 116(b)(1)(A), deleted former subpar. (A) which provided for the exclusion of any service of an emergency nature and redesignated former subpars. (B) and (C) as (A) and (B), respectively.

Subsec. (c)(4). Pub. L. 90-248, § 116(b)(1)(B), substituted "(3)(B)" for "(3)(C)".

Subsec. (c)(6)(E). Pub. L. 90-248, § 116(b)(2), added subpar. (E).

Subsec. (c)(7). Pub. L. 90-248, § 116(b)(1)(B), substituted "(3)(B)" for "(3)(C)".

Subsec. (c)(8). Pub. L. 90-248, § 116(c), added par. (8).

Subsec. (d)(4)(C). Pub. L. 90-248, § 116(b)(1)(C), substituted "(c)(3)(B)" for "(c)(3)(C)".

Subsec. (d)(5)(B). Pub. L. 90-248, § 116(b)(1)(B), substituted "(3)(B)" for "(3)(C)" wherever appearing.

Subsec. (d)(6)(C). Pub. L. 90-248, § 117, inserted "Illinois," after "Georgia,".

Subsec. (d)(6)(D). Pub. L. 90-248, § 116(a), designated existing provisions as clause (i) and added clause (ii).

Subsec. (d)(6)(F). Pub. L. 90-248, § 116(d), substituted "1970" for "1967".

Subsec. (f)(3). Pub. L. 90-248, § 121, added par. (3).

Subsec. (p). Pub. L. 90-248, §§ 119(a), 120(a), designated existing provisions as par. (1), inserted "Puerto Rico," after "Oregon,", and added par. (2).

Subsec. (u). Pub. L. 90-248, § 122(d), added subsec. (u).

1965—Subsec. (d)(6)(C). Pub. L. 89-97, § 314, inserted "Alaska," before "California".

Subsec. (d)(6)(F). Pub. L. 89-97, § 315, substituted "1967" for "1963".

Subsec. (h)(1). Pub. L. 89-97, § 108(b), substituted "Trust Funds and the Federal Hospital Insurance Trust Fund in the ratio in which amounts are appropriated to such Funds pursuant to subsection (a)(3) of section 401 of this title, subsection (b)(1) of such section, and subsection (a)(1) of section 1395i of this title, respectively" for "Trust Funds in the ratio in which amounts are appropriated to such Funds pursuant to subsections (a)(3) and (b)(1) of section 401 of this title".

1964—Subsec. (d)(6)(C). Pub. L. 88-382 included retirement systems established by Nevada.

Subsec. (p). Pub. L. 88-350 inserted Texas.

1962—Subsec. (p). Pub. L. 87-878 included the State of Maine.

1961—Subsec. (d)(6)(C). Pub. L. 87-64, § 107, included retirement system established by the State of New Mexico.

Subsec. (d)(6)(F). Pub. L. 87-64, § 106, substituted "prior to 1963 or, if later, the expiration of two years after the date" for "prior to 1960 or, if later the expi-

ration of one year after the date", and inserted sentence providing that any such modification or later modification, providing for the transfer of additional positions within a retirement system previously divided pursuant to subpar. (C) to the separate retirement system composed of positions of members who desire coverage, shall be effective with respect to services performed after the same effective date as that which was specified in the case of such previous division.

1960—Subsec. (b)(1). Pub. L. 86-778, § 103(i), excluded Guam and American Samoa from the definition of the term "State".

Subsec. (c)(6)(C). Pub. L. 86-778, § 103(j)(2)(G), substituted "section 410(k)" for "section 410(*l*)".

Subsec. (d)(3). Pub. L. 86-778, § 102(a)(1), authorized certification by an official of the State designated by the Governor for that purpose.

Subsec. (d)(6). Pub. L. 86-624, § 30(e), substituted "Hawaii" for "the Territory of Hawaii" in cl. (C) and (G), and eliminated words "or Territory" which followed "State" in two instances in cl. (C) and in seven instances in cl. (G).

Subsec. (d)(6)(A). Pub. L. 86-778, § 102(c)(2), authorized a State, where a retirement system covering positions of employees of a State and positions of employees of one or more political subdivisions of the State, or covering positions of employees of two or more political subdivisions of the State, is not divided into separate retirement systems, to deem the system, for purposes of subsec. (f) of this section, to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or any one or more of the political subdivisions concerned.

Subsec. (d)(6)(B). Pub. L. 86-778, § 102(g), inserted sentences providing that if a retirement system covers positions of employees of a hospital which is an integral part of a political subdivision, then, for purposes of the preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of such hospital.

Subsec. (d)(6)(C). Pub. L. 86-778, § 102(b)(1), (*l*) inserted sentence requiring the positions of individuals, who become members of a separate retirement system which has been divided into two divisions or parts by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, to be included in the division or part of such system composed of positions of members who do not desire such coverage if such individuals, on the day before becoming such members, were in the division or part of another separate retirement system composed of positions of members who do not desire coverage under an agreement and all of the positions in the system of which such individuals so become members and all of the positions in the separate retirement system would have been covered by a single retirement system if the State had not taken action to provide for separate retirement systems, and included retirement systems established by the State of Texas.

Subsec. (d)(7). Pub. L. 86-778, § 102(a)(2), included certifications made by an official of the State designated by the Governor for that purpose.

Subsec. (e). Pub. L. 86-778, § 102(e)(1), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), and added par. (2).

Subsec. (f)(1). Pub. L. 86-778, § 102(c)(1), (e)(2), inserted the exception to subsection (e)(2) of this section, and substituted provisions restricting the effective date of any agreement of modification to a date not earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification is agreed to by the Secretary and the State for provisions which specified the effective date of agreements or modifications entered into prior to 1960 and which limited the effective date of agreements or modifications entered into after 1959 to a date not earlier than the last day of the calendar year preceding the year in which such agreement or modification is agreed to by the Secretary and the State.

Subsec. (p). Pub. L. 86-778, § 102(d), included the State of Virginia.

Pub. L. 86-624, § 30(f), substituted "Hawaii" for "Territory of Hawaii".

Subsecs. (q) to (t). Pub. L. 86-778, § 102(f)(1), added subsecs. (q) to (t).

1959—Subsec. (p). Pub. L. 86-284 included California, Kansas, North Dakota, and Vermont.

1958—Subsec. (d)(6). Pub. L. 85-840, § 315(a)(1), designated the first sentence as subpar. (A), the second and third sentences as subpar. (B), the fourth sentence as subpar. (C), the fifth sentence as subpar. (D), and the sixth sentence as subpar. (G), added subpars. (E) and (F), and amended subpar. (C) to include retirement systems established by the States of Massachusetts and Vermont.

Pub. L. 85-787 added Massachusetts and Vermont to States authorized to divide their retirement systems into two parts, and added sentence permitting transfer, in cases of divided retirement system, of members not desiring coverage to system of members desiring coverage.

Subsec. (d)(7). Pub. L. 85-840, § 315(a)(2), substituted "(created under subparagraph (C) of paragraph (6) of this subsection or the corresponding provision of prior law)" for "(created under the fourth sentence of paragraph (6) of this subsection)", and "subparagraphs (C) and (D) of paragraph (6) of this subsection or the corresponding provision of prior law" for "the fourth and fifth sentences of paragraph (6) of this subsection".

Subsec. (d)(8). Pub. L. 85-840, § 315(b), added subsec. (d)(8).

Subsec. (f). Pub. L. 85-840, § 315(c)(1), designated existing provisions thereof as par. (1), redesignated cl. (1) to (4) of par. (1) as cl. (A) to (D), and added par. (2).

Subsec. (k)(2). Pub. L. 85-840, § 315(a)(3), inserted provisions requiring an individual who is in a position covered by a retirement system divided pursuant to the first sentence of subsec. (k)(2) and who is not a member of such system but is eligible to become a member thereof to be regarded, for the purposes of this subsection, as a member of such system, and providing for coverage under the agreement of any such individual.

Subsec. (k)(3). Pub. L. 85-798, § 2, added subsec. (k)(3).

Subsec. (p). Pub. L. 85-798, § 3, included agreements with the State of Washington.

1957—Subsec. (d)(6). Pub. L. 85-227 authorized the States of California, Connecticut, Minnesota, and Rhode Island, or any political subdivisions thereof, to divide their retirement system into two divisions or parts.

Subsec. (d)(7). Pub. L. 85-229 added subsec. (d)(7).

Subsec. (f)(3). Pub. L. 85-226, § 3, added subsec. (f)(3). Former subsec. (f)(3) redesignated (f)(4).

Subsec. (f)(4). Pub. L. 85-226, § 3, redesignated former subsec. (f)(3) as (f)(4), and substituted "1959" for "1957".

Subsec. (k). Pub. L. 85-226, § 1 redesignated existing provisions as par. (1) and added par. (2).

Subsec. (p). Pub. L. 85-226, § 2, included agreements with the States of Alabama, Georgia, Maryland, New York, and Tennessee, or the Territory of Hawaii.

1956—Subsec. (d)(6). Act Aug. 1, 1956, § 104(e), authorized the State of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, or the Territory of Hawaii, or any political subdivision thereof, to divide their retirement system into two divisions or parts, and provided for a separate retirement system with respect to employees of the States of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or the Territory of Hawaii who are compensated in whole or in part from grants under subchapter III of this chapter.

Subsec. (h)(1). Act Aug. 1, 1956, § 103(f), required amounts to be deposited in the Trust Funds in the

ratio in which amounts are appropriated to such Funds pursuant to section 401(a)(3), (b)(1), of this title.

Subsec. (j). Act Aug. 1, 1956, § 103(g), substituted "Secretary of Health, Education, and Welfare" for "Administrator", and provided for appropriation of amounts in the ratio in which amounts are deposited in the Trust Funds pursuant to subsection (h)(1) of this section.

Subsec. (p). Act Aug. 1, 1956, § 104(g), added subsec. (p).

1954—Subsec. (b)(5). Act Sept. 1, 1954, § 101(i)(1), (2), added at the end a new sentence relating to civilian employees of State National Guard units and a new sentence relating to certain State inspectors of agricultural products.

Subsec. (c)(3). Act Sept. 1, 1954, § 101(h)(3), added an additional optional exclusion with respect to all services performed by individuals as members of any coverage group who are in positions covered by a retirement system on the date when the group is brought under the agreement if these individuals are not eligible to become members of the system on that date, or on any later date when they first occupy the positions, and if they have not already been included under the agreement by means of a referendum.

Subsec. (c)(4). Act Sept. 1, 1954, § 101(h)(4), added a new sentence at the end.

Subsec. (c)(5). Act Sept. 1, 1954, § 101(a)(5), (6), substituted "paragraph (7)" for "paragraph (8)," and added at the end thereof the words "and service the remuneration for which is excluded from wages by paragraph (2) of section 209(h)."

Subsec. (c)(6)(D). Act Sept. 1, 1954, § 101(a)(5), substituted "paragraph (7)" for "paragraph (8)".

Subsec. (c)(7). Act Sept. 1, 1954, § 101(h)(5), added subsec. (c)(7).

Subsec. (d). Act Sept. 1, 1954, § 101(h)(1)(A), struck out "Exclusion of" in the heading, redesignated the subsection as (d)(1), and added a new sentence at the end.

Subsec. (d)(1). Act Sept. 1, 1954, § 101(h)(1)(B), added a provision in the first sentence making the prohibition inapplicable to service in positions which though covered by a retirement system on the enactment date, were, by reason of action taken prior to the enactment date by the appropriate governmental unit, no longer covered by a retirement system when the coverage group which included employees in such positions was brought under an agreement.

Subsec. (d)(2) to (6). Act Sept. 1, 1954, § 101(h)(2), added subsec. (d)(2) to (6).

Subsec. (f). Act Sept. 1, 1954, § 101(h)(6), permitted agreements or modifications entered into during 1955, 1956, and 1957 to be made retroactive to a date not earlier than December 31, 1954.

Subsec. (m)(1). Act Sept. 1, 1954, § 101(h)(7), substituted "paragraph (1) of subsection (d)" for the words "subsection (d)".

Subsec. (n). Act Sept. 1, 1954, § 101(h)(8), added subsec. (n).

Subsec. (o). Act Sept. 1, 1954, § 101(j), added subsec. (l).

1953—Subsec. (m). Act Aug. 15, 1953, added subsec. (m).

1952—Subsec. (f). Act June 28, 1952, substituted "January 1, 1954" for "January 1, 1953".

Effective Date of 1968 Amendments

Amendment by Pub. L. 90-486 effective Jan. 1, 1968, except that no deductions or withholding from salary which result therefrom shall commence before the first day of the first pay period that begins on or after Jan. 1, 1968, see section 11 of Pub. L. 90-486, set out as an Effective Date of 1968 Amendment note under section 709 of Title 32, National Guard.

Section 116(b)(3) of Pub. L. 90-248 provided that: "The amendments made by this subsection [to subsecs. (c)(3), (4), (6), (7), (d)(4)(C), (5)(B) of this section] shall be effective with respect to services performed on or after January 1, 1968."

Section 120(c) of Pub. L. 90-248 provided that: "The amendment made by this section [to subsec. (p) of this section] shall apply in the case of any State with respect to modifications of such State agreement under section 218 of the Social Security Act [this section] made after the date of enactment of this Act [Jan. 2, 1968]."

Effective Date of 1961 Amendment

Amendment by Pub. L. 87-64 effective Aug. 1, 1961, see section 109 of Pub. L. 87-64, set out as an Effective Date of 1961 Amendment note under section 402 of this title.

Effective Date of 1960 Amendment

Amendments of subsec. (b)(1) by Pub. L. 86-778 applicable only with respect to service performed after 1960, see section 103(v)(1) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 402 of this title.

Amendment of subsec. (c)(6)(C) of this section by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 402 of this title.

Section 102(b)(2) of Pub. L. 86-778 provided that: "The amendment made by paragraph (1) [to subsec. (d)(6)(C) of this section] shall apply in the case of transfers of positions (as described therein) which occur on or after the date of enactment of this Act [Sept. 13, 1960]. Such amendment shall also apply in the case of such transfers in any State which occurred prior to such date, but only upon request of the Governor (or other official designated by him for the purpose) filed with the Secretary of Health, Education, and Welfare before July 1, 1961; and, in the case of any such request, such amendment shall apply only with respect to wages paid on and after the date on which such request is filed."

Section 102(c)(3) of Pub. L. 86-778 provided that: "The amendment made by paragraph (1) [to subsec. (f)(1) of this section] shall apply in the case of any agreement or modification of an agreement under section 218 of the Social Security Act [this section] which is agreed to on or after January 1, 1960; except that in the case of any such agreement or modification agreed to before January 1, 1961, the effective date specified therein shall not be earlier than December 31, 1955. The amendment made by paragraph (2) [to subsec. (d)(6)(A) of this section] shall apply in the case of any such agreement or modification which is agreed to on or after the date of the enactment of this Act [Sept. 13, 1960]."

Section 102(f)(3) of Pub. L. 86-778 provided that:

"(A) The amendments made by paragraphs (1) and (2) [adding subsecs. (q) to (t) of this section and amending subsec. (c)(5)(F) of section 405 of this title] shall become effective on the first day of the second calendar year following the year in which this Act is enacted [1960].

"(B) In any case in which the Secretary of Health, Education, and Welfare has notified a State prior to the beginning of such second calendar year that there is an amount due by such State, that such State's claim for a credit or refund of an overpayment is disallowed, or that such State has been allowed a credit or refund of an overpayment, under an agreement pursuant to section 218 of the Social Security Act [this section], then the Secretary shall be deemed to have made an assessment of such amount due as provided in section 218(q) of such Act [subsec. (q) of this section] or notified the State of such allowance or disallowance, as the case may be, on the first day of such second calendar year. In such a case the 90-day limitation in section 218(s) of such Act [subsec. (s) of this section] shall not be applicable with respect to the assessment so deemed to have been made or the notification of allowance or disallowance so deemed to have been given the State. However, the preceding sentences of this subparagraph shall not apply if the Secretary makes an assessment of such amount due or no-

tifies the State of such allowance or disallowance on or after the first day of the second calendar year following the year in which this Act is enacted [1960] and within the period specified in section 218(q) of the Social Security Act [subsec. (q) of this section] or the period specified in section 218(r) of such Act [subsec. (r) of this section], as the case may be."

Effective Date of 1958 Amendment

Section 315(c)(2) of Pub. L. 85-840 provided that: "The amendment made by this subsection (to subsec. (f) of this section] shall apply in the case of any agreement, or modification of an agreement, under section 218 of the Social Security Act [this section], which is executed after the date of enactment of this Act [Aug. 28, 1958]."

Effective Date of 1954 Amendment

Section 101(h)(9) of act Sept. 1, 1954, provided that the amendments to subsecs. (c), (d), (f), (m), and (n) by that subsection, except that made to subsec. (d)(1) by par. (1)(B), shall take effect January 1, 1955.

Section 101(i)(1) of act Sept. 1, 1954, which added a new sentence, relating to civilian employees of State National Guard units, to subsec. (b)(5) provided that the amendment shall be effective as of January 1, 1951.

Section 101(i)(2) of act Sept. 1, 1954, which added to subsec. (b)(5) provisions relating to certain State inspectors of agricultural products, provided in part that the amendment shall be effective as of January 1, 1955.

Section 101(i)(3) of act Sept. 1, 1954, provided that: "In the case of any coverage group to which the amendment made by paragraph (1) [to subsec. (b)(5) of this section] is applicable, any agreement or modification of an agreement agreed to prior to January 1, 1956, may, notwithstanding section 218(f) of the Social Security Act [subsec. (f) of this section], be made effective with respect to services performed by employees as members of such coverage group after any effective date specified therein, but in no case may such effective date be earlier than December 31, 1950."

Section 101(j) of act Sept. 1, 1954, which added subsec. (o), provided in part that it shall be effective as of January 1, 1951.

Section 101(n) of act Sept. 1, 1954, provided in part that the amendments to subsecs. (c)(5) and (c)(6)(D) by section 101(a)(5), (6) of act Sept. 1, 1954, shall be applicable only with respect to services (whether performed after 1954 or prior to 1955) for which the remuneration is paid after 1954.

Effective Date of 1953 Amendment

Section 2 of act Aug. 15, 1953, provided that for the purposes of subsec. (f) of this section this amendment shall take effect January 1, 1951.

Transfer of Functions

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Modification of Reporting Procedures in Effect December 1, 1975, Under Federal-State Agreements

Pub. L. 94-202, § 8(k), Jan. 2, 1976, 89 Stat. 1140, provided that: "Notwithstanding the provisions of section 218(i) of the Social Security Act [subsec. (i) of this section], nothing contained in the amendments made by the preceding provisions of this section [enacting section 432 of this title, and amending sections 401, 403, 424a, and 430 of this title and section 6103 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under sections 401 and 432 of this title] shall be construed to authorize or require the Secretary, in promulgating regulations or amendments thereto under such section 218(i) [subsec. (i) of this section], substantially to modify the procedures, as in effect on December 1, 1975, for the reporting by States to the Secretary of the wages of individuals covered by social security pursuant to Federal-State agreements entered into pursuant to section 218 of the Social Security Act [this section]."

Modification of Agreement With West Virginia With Respect to Certain Policemen and Firemen

Pub. L. 94-202, § 6, Jan. 2, 1976, 89 Stat. 1136, provided that:

"(a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act [subsec. (d)(5)(A) of this section] and the references thereto in subsections (d)(1) and (d)(3) of such section 218 [subsec. (d)(1) and (d)(3) of this section], the agreement with the State of West Virginia heretofore entered into pursuant to such section 218 [this section] may, at any time prior to 1977, be modified pursuant to subsection (c)(4) of such section 218 [subsec. (c)(4) of this section] so as to apply to services performed in policemen's or firemen's positions covered by a retirement system on the date of the enactment of this Act [Jan. 2, 1976] by individuals as employees of any class III or class IV municipal corporation (as defined in or under the laws of the State) if the State of West Virginia has at any time prior to the date of the enactment of this Act [Jan. 2, 1976] paid to the Secretary of the Treasury, with respect to any of the services performed in such positions by individuals as employees of such municipal corporation, the sums prescribed pursuant to subsection (e)(1) of such section 218 [subsec. (e)(1) of the section]. For purposes of this subsection, a retirement system which covers positions of policemen or firemen, or both, and other positions, shall, if the State of West Virginia so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

"(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act [subsec. (f) of this section], any modification in the agreement with the State of West Virginia under subsection (a) of this section, to the extent it involves services performed by individuals as employees of any class III or class IV municipal corporation, may be made effective with respect to—

"(1) all services performed by such individual, in any policemen's or firemen's position to which the modification relates, on or after the date of the enactment of this Act [Jan. 2, 1976]; and

"(2) all services performed by such individual in such a position before such date of enactment [Jan. 2, 1976] with respect to which the State of West Virginia has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 [subsec. (e)(1) of this section] at the time or times established pursuant to such subsection (e)(1) [subsec. (e)(1) of this section] if and to the extent that—

"(A) no refund of the sums so paid has been obtained, or

"(B) a refund of part or all of the sums so paid has been obtained but the State of West Virginia repays to the Secretary of the Treasury the amount of such refund within ninety days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare."

Section 143 of Pub. L. 92-603 provided that:

"(a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act [subsec. (d)(5)(A) of this section] and the references thereto in subsections (d)(1) and (d)(3) of such section 218 [subsecs. (d)(1) and (d)(3) of this section] the agreement with the State of West Virginia heretofore entered into pursuant to such section 218 [this section] may, at any time prior to 1974, be modified pur-

suant to subsection (c)(4) of such section 218 [subsec. (c)(4) of this section] so as to apply to services performed in policemen's or firemen's positions covered by a retirement system on the date of the enactment of this Act [Oct. 30, 1972] by individuals as employees of any class III or class IV municipal corporation (as defined in or under the laws of the State) if the State of West Virginia has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions by individuals as employees of such municipal corporation, the sums prescribed pursuant to subsection (e)(1) of such section 218 [subsec. (e)(1) of this section]. For purposes of this subsection, a retirement system which covers positions of policemen or firemen, or both, and other positions, shall, if the State of West Virginia so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

"(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act [subsec. (f) of this section], any modification in the agreement with the State of West Virginia under subsection (a) of this section, to the extent it involves services performed by individuals as employees of any class III or class IV municipal corporation, may be made effective with respect to—

"(1) all services performed by such individual, in any policeman's or fireman's position to which the modification relates, on or after the date of the enactment of this Act [Oct. 30, 1972]; and

"(2) all services performed by such individual in such a position before such date of enactment with respect to which the State of West Virginia has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 [subsec. (e)(1) of this section] at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

"(A) no refund of the sums so paid has been obtained, or

"(B) a refund of part or all of the sums so paid has been obtained but the State of West Virginia repays to the Secretary of the Treasury the amount of such refund within ninety days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare."

Modification of Existing Agreement With New Mexico to Cover Certain Hospital Employees

Section 127 of Pub. L. 92-603 provided that: "Notwithstanding any provisions of section 218 of the Social Security Act [this section], the Agreement with the State of New Mexico heretofore entered into pursuant to such section may at the option of such State be modified at any time prior to the first day of the fourth month after the month in which this Act is enacted [Oct. 1972], so as to apply to the services of employees of a hospital which is an integral part of a political subdivision to which an agreement under this section has not been made applicable, as a separate coverage group within the meaning of section 218(b)(5) of such Act [subsec. (b)(5) of this section], but only if such hospital has prior to 1966 withdrawn from a retirement system which had been applicable to the employees of such hospital."

Modification of Agreement With Louisiana With Respect to Voter Registrars

Section 139 of Pub. L. 92-603 provided that:

"(a) Notwithstanding the provisions of section 218(g)(1) of the Social Security Act [subsec. (g)(1) of this section], the Secretary may, under such conditions as he deems appropriate, permit the State of Louisiana to modify its agreement entered into under section 218 of such Act [this section] so as to terminate the coverage of all employees who are in positions under the Registrars of Voters Employees' Retirement System, effective after December 1975, but only if such State files with him notice of termination on or before December 31, 1973.

"(b) If the coverage of such employees in positions under such retirement system is terminated pursuant to subsection (a), coverage cannot later be extended to employees in positions under such retirement system."

Modification of Agreements With States With Respect to Certain Students and Part-Time Employees

Section 141 of Pub. L. 92-603 provided that:

"(a) Notwithstanding any provision of section 218 of the Social Security Act [this section], the agreement with any State (or any modification thereof) entered into pursuant to such section may, at the option of such State, be modified at any time prior to January 1, 1974, so as to exclude either or both of the following:

"(1) service in any class or classes of part-time positions; or

"(2) service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

"(b) Any modification of such agreement pursuant to this section shall be effective with respect to services performed after the end of the calendar quarter following the calendar quarter in which such agreement is modified.

"(c) If any such modification terminates coverage with respect to service in any class or classes of part-time positions in any coverage group, the Secretary of Health, Education, and Welfare and the State may not thereafter modify such agreement so as to again make the agreement applicable to service in such positions in such coverage group; if such modification terminates coverage with respect to service performed in the employ of a school, college, or university, by a student who is enrolled and regularly attending classes at such school, college, or university, the Secretary of Health, Education, and Welfare and the State may not thereafter modify such agreement so as to again make the agreement applicable to such service performed in the employ of such school, college, or university."

Modification of Agreement With Massachusetts With Respect to Employees of the Massachusetts Turnpike Authority

Section 124 of Pub. L. 90-248 provided that:

"(a) Notwithstanding the provisions of section 218(g)(1) of the Social Security Act [subsec. (g)(1) of this section] the Secretary may, under such conditions as he deems appropriate, permit the State of Massachusetts to modify its agreement entered into under section 218 of such Act [this section] so as to terminate the coverage of the employees of the Massachusetts Turnpike Authority effective at the end of any calendar quarter within the two years next following the date on which such agreement is so modified.

"(b) If the coverage of employees of the Massachusetts Turnpike Authority is terminated pursuant to subsection (a), coverage cannot later be extended to the employees of such Authority."

Modification of Agreements With North Dakota and Iowa With Respect to Certain Students

Section 338 of Pub. L. 89-97 provided that: "Notwithstanding any provision of section 218 of the Social Security Act [this section], the agreements with the States of North Dakota and Iowa entered into pursuant to such section may, at the option of the State, be modified so as to exclude service performed in any calendar quarter in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university and if the remuneration for such service is less than $50. Any modification of either of such agreements pursuant to this Act shall be effective with respect to services performed after an effective date specified in such modification, except that such date shall not be earlier than the date of enactment of this Act [July 30, 1965]."

MODIFICATION OF AGREEMENT WITH STATE OF NEBRASKA FOR EXCLUSION OF SERVICES PERFORMED BY JUSTICES OF THE PEACE AND CONSTABLES

Section 102(i) of Pub. L. 86-778 provided that: "Notwithstanding any provision of section 218 of the Social Security Act [this section], the agreement with the State of Nebraska entered into pursuant to such section may, at the option of such State, be modified so as to exclude services performed within such State by individuals as justices of the peace or constables, if such individuals are compensated for such services on a fee basis. Any modification of such agreement pursuant to this subsection shall be effective with respect to services performeed after an effective date specified in such modification, except that such date shall not be earlier than the date of enactment of this Act [Sept. 13, 1960]."

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF CALIFORNIA PRIOR TO FEBRUARY, 1966

Section 102(k) of Pub. L. 86-778, as amended by Pub. L. 89-79, title III, § 318, July 30, 1965, 79 Stat. 390, provided that:

"(1) Notwithstanding any provision of section 218 of the Social Security Act [this section], the agreement with the State of California heretofore entered into pursuant to such section may at the option of such State be modified, at any time prior to 1962, pursuant to subsection (c)(4) of such section 218 [subsec. (c)(4) of this section], so as to apply to services performed by any individual who, on or after January 1, 1957, and on or before December 31, 1959, was employed by such State (or any political subdivision thereof) in any hospital employee's position which, on September 1, 1954, was covered by a retirement system, but which, prior to 1960, was removed from coverage by such retirement system if, prior to July 1, 1960, there have been paid in good faith to the Secretary of the Treasury, with respect to any of the services performed by such individual in any such position, amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 [sections 3101 and 3111 of Title 26, Internal Revenue Code] if such services had constituted employment for purposes of chapter 21 of such Code [section 3101 et seq. of Title 26] at the time they were performed. Notwithstanding the provisions of subsection (f) of such section 218 [subsec. (f) of this section] such modification shall be effective with respect to (1) all services performed by such individual in any such position on or after January 1, 1960, and (2) all such services, performed before such date, with respect to which amounts equivalent to such taxes have, prior to the date of enactment of this subsection [Sept. 13, 1960], been paid.

"(2) Such agreement, as modified pursuant to paragraph (1), may at the option of such State be further modified, at any time prior to the seventh month after the month [July 1965] in which this paragraph is enacted, so as to apply to services performed for any hospital affected by such earlier modification by any individual who after December 31, 1959, is or was employed by such State (or any political subdivision thereof) in any position described in paragraph (1). Such modification shall be effective with respect to (A) all services performed by such individual in any such position on or after January 1, 1962, and (B) all such services, performed before such date, with respect to which amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 [sections 3101 and 3111 of Title 26] if such services had constituted employment for purposes of chapter 21 of such Code at the time they were performed have, prior to the date of the enactment of this paragraph [July 30, 1965], been paid."

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF OKLAHOMA PRIOR TO 1962

Section 3 of Pub. L. 86-284 provided that: "Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act [subsec. (d)(5)(A) of this section] and the references thereto in subsections (d)(1) and (d)(3) of such section 218 [subsecs. (d)(1) and (d)(3) of this section], the agreement with the State of Oklahoma heretofore entered into pursuant to such section 218 [this section] may, at any time prior to 1962, be modified pursuant to subsection (c)(4) of such section 218 [subsec. (c)(4) of this section] so as to apply to services performed by any individual employed by such State (or any political subdivision thereof) in any policeman's position covered by a retirement system in effect on the date of enactment of this Act [Sept. 16, 1959] if (1) in the case of an individual performing such services on such date, such individual is ineligible to become a member of such retirement system, or, in the case of an individual who prior to such date has ceased to perform such services, such individual was, on the last day he did perform such services, ineligible to become a member of such retirement system, and (2) such State has, prior to 1959, paid to the Secretary of the Treasury, with respect to any of the services performed by such individual in any such position, the sums prescribed pursuant to subsection (e)(1) of such section 218 [subsec. (e)(1) of this section]. Notwithstanding the provisions of subsection (f) of such section 218 [subsec. (f) of this section], such modification shall be effective with respect to (i) all services performed by such individual in any such position on or after the date of enactment of this Act [Sept. 16, 1959], and (ii) all such services, performed before such date, with respect to which such State has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e) of such section 218 [subsec. (e) of this section], at the time or times established pursuant to such subsection."

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF MAINE PRIOR TO JULY 1, 1967

Section 316 of Pub. L. 85-840, as amended by Pub. L. 86-778, title I, § 102(j), Sept. 13, 1960, 74 Stat. 935; Pub. L. 88-350, § 1, July 2, 1964, 78 Stat. 240; Pub. L. 89-97, title III, § 337, July 30, 1965, 79 Stat. 409, eff. July 1, 1965, provided that: "For the purposes of any modification which might be made after the date of enactment of this Act [August 28, 1958] and prior to July 1, 1967, by the State of Maine of its existing agreement made under section 218 of the Social Security Act [this section], any retirement system of such State which covers positions of teachers and positions of other employees shall, if such State so desires, be deemed (notwithstanding the provisions of subsection (d) of such section [subsec. (d) of this section]) to consist of a separate retirement system with respect to the positions of such teachers and a separate retirement system with respect to the positions of such other employees; and for the purposes of this sentence, the term 'teacher' shall mean any teacher, principal, supervisor, school nurse, school dietitian, school secretary or superintendent employed in any public school, including teachers in unorganized territory."

MODIFICATION OF EXISTING AGREEMENTS WITH STATES OF CALIFORNIA, CONNECTICUT, MINNESOTA, OR RHODE ISLAND PRIOR TO 1960

Section 2 of Pub. L. 85-227 provided that: "Notwithstanding subsection (f) of section 218 of the Social Security Act [subsec. (f) of this section], any modification of the agreement with the State of California, Connecticut, Minnesota, or Rhode Island under such section which makes such agreement applicable to services performed in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d)(6) of such section (and consisting of the positions of members who desire coverage under the agreement) may, if such modification is agreed to prior to 1960, be made effective with respect to services performed in such positions after an effective date specified in such modification, except that in no case may such date be earlier than December 31, 1955."

MODIFICATION OF EXISTING AGREEMENTS WITH THE STATES OF FLORIDA, NEVADA, NEW MEXICO, MINNESOTA, OKLAHOMA, PENNSYLVANIA, TEXAS, WASHINGTON, OR HAWAII PRIOR TO JULY 1, 1962

Section 104(f) of act Aug. 1, 1956, as amended by Pub. L. 86-284, § 1, provided that: "Notwithstanding the provisions of subsection (d) of section 218 of the Social Security Act [subsection (d) of this section], any agreement under such section entered into prior to the date of enactment of this Act [Aug. 1, 1956] by the State of Florida, Nevada, New Mexico, Minnesota, Oklahoma, Pennsylvania, Texas, Washington, or the Territory of Hawaii shall if the State or Territory concerned so requests, be modified prior to July 1, 1962, so as to apply to services performed by employees of the respective public school districts of such State or Territory who, on the date such agreement is made applicable to such services, are not in positions the incumbents of which are required by State or Territorial law or regulation to have valid State or Territorial teachers' or administrators' certificates in order to receive pay for their services. The provisions of this subsection shall not apply to services of any such employees to which any such agreement applies without regard to this subsection."

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF ARIZONA PRIOR TO JANUARY 1, 1956

Section 101(k) of act Sept. 1, 1954, provided that: "If, prior to January 1, 1956, the agreement with the State of Arizona entered into pursuant to section 218 of the Social Security Act [this section] is modified pursuant to subsection (d)(3) of such section so as to apply to service performed by employees in positions covered by the Arizona Teachers' Retirement System the modification may, notwithstanding section 218(f) of the Social Security Act [subsec. (f) of this section], be made effective with respect to service performed in such positions after an effective date specified in the modification, but in no case may such effective date be earlier than December 31, 1950. For the purposes of any such modification, all employees in positions covered by the Arizona Teachers' Retirement System shall be deemed, notwithstanding the provisions of section 218(d)(6) of such Act [subsec. (d)(6) of this section], to constitute a separate coverage group."

VALIDATION OF COVERAGE FOR CERTAIN FIREMEN IN THE STATE OF NEBRASKA

Section 119(b) of Pub. L. 90-248 provided that:

"In any case in which—

"(1) an individual has performed services prior to the enactment of this Act [Jan. 2, 1968] in the employ of a political subdivision of the State of Nebraska in a fireman's position, and

"(2) amounts, equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 [sections 3101 and 3111 of Title 26, Internal Revenue Code] had such services constituted employment for purposes of section 21 of such Code [section 21 of title 26] at the time they were performed, were timely paid in good faith to the Secretary of the Treasury, and

"(3) no refunds of such amounts paid in lieu of taxes have been obtained,

the amount of the remuneration for such services with respect to which such amounts have been paid shall be deemed to constitute remuneration for employment as defined in section 209 of the Social Security Act [section 409 of this title]."

EXTENSION OF COVERAGE TO SERVICE IN FIREMEN'S POSITION

Section 120(b) of Pub. L. 90-248 provided that: "Nothing in the amendments made by subsection (a) [to subsec. (p) of this section] shall authorize the extension of the insurance system established by title II of the Social Security Act [this subchapter] under the provisions of section 218(d)(6)(C) of such Act [subsec. (d)(6)(C) of this section] to service in any fireman's position."

VALIDATION OF COVERAGE FOR CERTAIN EMPLOYEES OF AN INTEGRAL UNIT OF A POLITICAL SUBDIVISION OF ALASKA

Section 342 of Pub. L. 89-97 provided that: "For purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Alaska, or its predecessor the Territory of Alaska, where employees of an integral unit of a political subdivision of the State or Territory of Alaska have in good faith been included under the State or Territory's agreement as a coverage group on the basis that such integral unit of a political subdivision was a political subdivision, then such unit of the political subdivision shall, for purposes of section 218(b)(2) of such Act [subsec. (b)(2) of this section], be deemed to be a political subdivision, and employees performing services within such unit shall be deemed to be a coverage group, effective with the effective date specified in such agreement or modification of such agreement with respect to such coverage group and ending with the last day of the year in which this Act is enacted [1965]."

VALIDATION OF COVERAGE FOR DISTRICT ENGINEERING AIDES OF SOIL AND WATER CONSERVATION DISTRICTS OF OKLAHOMA

Pub. L. 88-650, § 3, Oct. 13, 1964, 78 Stat. 1077, provided that: "For purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Oklahoma, remuneration paid to district engineering aides of soil and water conservation districts of the State of Oklahoma which was reported by the State as amounts paid to such aides as employees of the State for services performed by them during the period beginning January 1, 1951, and ending with the close of June 30, 1962, shall be deemed to have been paid to such aides for services performed by them in the employ of the State."

VALIDATION OF COVERAGE FOR CERTAIN EMPLOYEES OF AN INTEGRAL UNIT OF A POLITICAL SUBDIVISION OF ARKANSAS

Section 1 of Pub. L. 87-878 provided: "That, for purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Arkansas, where employees of an integral unit of a political subdivision of the State of Arkansas have in good faith been included under the State's agreement as a coverage group on the basis that such integral unit of a political subdivision was a political subdivision, then such unit of the political subdivision shall, for purposes of section 218(b)(2) of such Act [subsec. (b)(2) of this section], be deemed to be a political subdivision, and employees performing services within such unit shall be deemed to be a coverage group, effective with the effective date specified in such agreement or modification of such agreement with respect to such coverage group and ending with the last day of the year in which this Act is enacted [1962]."

VALIDATION OF COVERAGE FOR CERTAIN MISSISSIPPI TEACHERS

Section 102(h) of Pub. L. 86-778 provided that:

"For purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Mississippi, services of teachers in such State performed after February 28, 1951, and prior to October 1, 1959, shall be deemed to have been performed by such teachers as employees of the State. The term 'teacher' as used in the preceding sentence means—

"(1) any individual who is licensed to serve in the capacity of teacher, librarian, registrar, supervisor, principal, or superintendent and who is principally engaged in the public elementary or secondary school system of the State in any one or more of such capacities;

"(2) any employee in the office of the county superintendent of education or the county school su-

pervisor, or in the office of the principal of any county or municipal public elementary or secondary school in the State; and

"(3) any individual licensed to serve in the capacity of teacher who is engaged in any educational capacity in any day or night school conducted under the supervision of the State department of education as a part of the adult education program provided for under the laws of Mississippi or under the laws of the United States."

PRESUMPTION OF WORK DEDUCTIONS FOR SERVICES PERFORMED PRIOR TO 1955 IN CASE OF CERTAIN RETROACTIVE STATE AGREEMENTS; RECOMPUTATION

Section 101(*l*) of act Sept. 1, 1954, provided that:

"(1) In the case of any services performed prior to 1955 to which an agreement under section 218 of the Social Security Act [this section] was made applicable, deductions which—

"(A) were not imposed under section 203 of such Act [section 403 of this title] with respect to such services performed prior to the date the agreement was agreed to or, if the original agreement was not applicable to such services, performed prior to the date the modification making such agreement applicable to such services was agreed to, and

"(B) would have been imposed under such section 203 [section 403 of this title] had such agreement, or modification, as the case may be, been agreed to on the date it became effective,

shall be deemed to have been imposed, but only for purposes of section 215(f)(2)(A) or section 215(f)(4)(A) of such Act [section 415(f)(2)(A) or section 415(f)(4)(A) of this title] as in effect prior to the enactment of this Act. An individual with respect to whose services the preceding sentence is applicable, or in the case of his death, his survivors entitled to monthly benefits under section 202 of the Social Security Act [section 402 of this title] on the basis of his wages and self-employment income, shall be entitled to a recomputation of his primary insurance amount under such section 215(f)(2)(A) or section 215(f)(4)(A) [section 415(f)(2)(A) or section 415(f)(4)(A) of this title], as the case may be, if the conditions specified therein are met and if, with respect to a recomputation under such section 215(f)(2)(A) [section 415(f)(2)(A) of this title], such individual files the application referred to in such section after August 1954 and prior to January 1956 or, with respect to a recomputation under such section 215(f)(4)(A) [section 415(f)(4)(A) of this title], such individual died prior to January 1956 and any of such survivors entitled to monthly benefits files an application, in addition to the application filed for such monthly benefits, for a recomputation under such section 215(f)(4)(A) [section 415(f)(4)(A) of this title].

"(2) For purposes of a recomputation made by reason of paragraph (1) of this subsection, the primary insurance amount of the individual who performed the services referred to in such paragraph shall be computed under subsection (a)(2) of section 215 of the Social Security Act, as amended by this Act [section 415(a)(2) of this title] (but, for such purposes, without application of subsection (d)(4) of such section, as in effect prior to the enactment of this Act or as amended by this Act [section 415(d)(4) of this title]) and as though he became entitled to old-age insurance benefits in whichever of the following months yields the highest primary insurance amount:

"(A) the month following the last month for which deductions are deemed, pursuant to paragraph (1) of this subsection, to have been made; or

"(B) the first month after the month determined under subparagraph (A) (and prior to September 1954) in which his benefits under section 202(a) of the Social Security Act [section 402(a) of this title] were no longer subject to deductions under section 203(b) of such Act [section 403(b) of this title]; or

"(C) the first month after the last month (and prior to September 1954) in which his benefits under section 202(a) of the Social Security Act [section 402(a) of this title] were subject to deductions under section 203(b) of such Act [section 403(b) of this title]; or

"(D) the month in which such individual filed his application for recomputation referred to in paragraph (1) of this subsection or, if he died without filing such application and prior to January 1, 1956, the month in which he died, and in any such case (but, if the individual is deceased, only if death occurred after August 1954) the amendments made by subsections (b)(1), (e)(1) and (e)(3)(B) of section 102 of this Act [to section 415(b), (e), and (f)(3) of this title] shall be applicable.

Such recomputation shall be effective for and after the month in which the application required by paragraph (1) of this subsection is filed. The provisions of this subsection shall not be applicable in the case of any individual if his primary insurance amount has been recomputed under section 215(f)(2) of the Social Security Act [section 415(f)(2) of this title] on the basis of an application filed prior to September 1954.

"(3) If any recomputation under section 215(f) of the Social Security Act [section 415(f) of this title] is made by reason of deductions deemed pursuant to paragraph (1) of this subsection to have been imposed with respect to benefits based on the wages and self-employment income of any individual, the total of the benefits based on such wages and self-employment income for months for which such deductions are so deemed to have been imposed shall be recovered by making, in addition to any other deductions under section 203 of such Act [section 403 of this title], deductions from any increase in benefits, based on such wages and self-employment income, resulting from such recomputation."

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 405, 405a, 409, 410, 411 of this title; title 26 sections 1402, 3121, 6413, 6511.

§ 419. Repealed. Pub. L. 86-778, title I, § 103(j)(1), Sept. 13, 1960, 74 Stat. 937

Section, act Aug. 14, 1950, ch. 531, title II, § 219, as added Aug. 28, 1950, ch. 809, title I, § 107, 64 Stat. 517, prescribed the effective date of this subchapter in Puerto Rico as January 1 of the first calendar year which begins more than 90 days after the date on which the President received a certification from the Governor of Puerto Rico.

EFFECTIVE DATE OF REPEAL

Repeal of section by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1), (3) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 402 of this title.

§ 420. Disability provisions inapplicable if benefit rights impaired

None of the provisions of this subchapter relating to periods of disability shall apply in any case in which their application would result in the denial of monthly benefits or a lump-sum death payment which would otherwise be payable under this subchapter; nor shall they apply in the case of any monthly benefit or lump-sum death payment under this subchapter if such benefit or payment would be greater without their application.

(Aug. 14, 1935, ch. 531, title II, § 220, as added Sept. 1, 1954, ch. 1206, title I, § 106(g), 68 Stat. 1081.)

PRIOR PROVISIONS

A prior section 420, act Aug. 14, 1935, ch. 531, title II, § 220, as added July 18, 1952, ch. 945, § 3(e), 66 Stat. 772, relating to the inapplicability of the disability provisions if benefits were reduced, ceased to be in effect at the close of June 30, 1953. See termination date note under section 413 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 415 of this title.

§ 421. Disability determinations

(a) State agencies

In the case of any individual, the determination of whether or not he is under a disability (as defined in section 416(i) or 423(d) of this title) and of the day such disability began, and the determination of the day on which such disability ceases, shall, except as provided in subsection (g) of this section, be made by a State agency pursuant to an agreement entered into under subsection (b) of this section. Except as provided in subsections (c) and (d) of this section, any such determination shall be the determination of the Secretary for purposes of this subchapter.

(b) Agreement between Secretary and State

The Secretary shall enter into an agreement with each State which is willing to make such an agreement under which the State agency or agencies administering the State plan approved under the Vocational Rehabilitation Act [29 U.S.C. 31 et seq.], or any other appropriate State agency or agencies, or both, will make the determinations referred to in subsection (a) of this section with respect to all individuals in such State, or with respect to such class or classes of individuals in the State as may be designated in the agreement at the State's request.

(c) Review of determination by Secretary

The Secretary may on his own motion review a determination, made by a State agency pursuant to an agreement under this section, that an individual is under a disability (as defined in section 416(i) or 423(d) of this title) and, as a result of such review, may determine that such individual is not under a disability (as so defined) or that such disability began on a day later than that determined by such agency, or that such disability ceased on a day earlier than that determined by such agency.

(d) Hearings and judicial review

Any individual dissatisfied with any determination under subsection (a), (c), or (g) of this section shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 405(b) of this title with respect to decisions of the Secretary, and to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title.

(e) State's right to cost from Trust Funds

Each State which has an agreement with the Secretary under this section shall be entitled to receive from the Trust Funds, in advance or by way of reimbursement, as may be mutually agreed upon, the cost to the State of carrying out the agreement under this section. The Secretary shall from time to time certify such amount as is necessary for this purpose to the Managing Trustee, reduced or increased, as the case may be, by any sum (for which adjustment hereunder has not previously been made) by which the amount certified for any prior period was greater or less than the amount which should have been paid to the State under this subsection for such period; and the Managing Trustee, prior to audit or settlement by the General Accounting Office, shall make payment from the Trust Funds at the time or times fixed by the Secretary, in accordance with such certification. Appropriate adjustments between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund with respect to the payments made under this subsection shall be made in accordance with paragraph (1) of subsection (g) of section 401 of this title (but taking into account any refunds under subsection (f) of this section) to insure that the Federal Disability Trust Fund is charged with all expenses incurred which are attributable to the administration of section 423 of this title and the Federal Old-Age and Survivors Insurance Trust Fund is charged with all other expenses.

(f) Use of funds

All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury of the United States for deposit in the Trust Funds.

(g) Regulations governing determinations in certain cases

In the case of individuals in a State which has no agreement under subsection (b) of this section, in the case of individuals outside the United States, and in the case of any class or classes of individuals not included in an agreement under subsection (b) of this section, the determinations referred to in subsection (a) of this section shall be made by the Secretary in accordance with regulations prescribed by him.

(Aug. 14, 1935, ch. 531, title II, § 221, as added Sept. 1, 1954, ch. 1206, title I, § 106(g), 68 Stat. 1081, and amended Aug. 1, 1956, ch. 836, title I, § 103(c)(7), (8), (h), 70 Stat. 818, 823; Jan. 2, 1968, Pub. L. 90-248, title I, § 158(c)(3), (4), 81 Stat. 869.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (b), is act June 2, 1920, ch. 219, 41 Stat. 735, as amended which was classified generally to chapter 4 (§ 31 et seq.) of Title 29, Labor, and was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 357. The Rehabilitation Act of 1973 is classified to chapter 16 (§ 701 et seq.) of Title 29. Section 500(a), classified to section 790 of Title 29, in part provided that references to the Vocational Rehabilitation Act in any other provision of law be deemed references to the Rehabilitation Act of 1973.

PRIOR PROVISIONS

A prior section 421, act Aug. 14, 1935, ch. 531, title II, § 221, as added July 18, 1952, ch. 945, § 3(e), 66 Stat. 772, and amended by 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, relating to dis-

ability determinations, ceased to be in effect at the close of June 30, 1953. See section 3(g) of act July 18, 1952, set out as a Termination Date of 1952 Amendment note under section 413 of this title.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-248, § 158(c)(3), substituted in first sentence reference to "423(d)" for "423(c)".

Subsec. (c). Pub. L. 90-248, § 158(c)(4), substituted reference to "423(d)" for "423(c)".

1956—Subsec. (a). Act Aug. 1, 1956, § 103(c)(7), inserted reference to section 423(c) of this title.

Subsec. (c). Act Aug. 1, 1956, § 103(c)(8), restricted disability to the definition of such term contained in section 416(i) or 423(c) of this title.

Subsec. (e). Act Aug. 1, 1956, § 103(h), substituted "Trust Funds" for "Trust Fund", and provided for adjustments between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund with respect to payments made under this subsection.

Subsec. (f). Act Aug. 1, 1956, § 103(h), substituted "Trust Funds" for "Trust Fund".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsecs. (a), (c) of this section by Pub. L. 90-248 applicable with respect to application for disability insurance benefits under section 423 of this title and to disability determinations under section 416(i) of this title, see section 158(e) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 423 of this title.

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, and section 114 of act Sept. 1, 1954, set out as notes under section 416 of this title.

TRAVEL EXPENSES FOR MEDICAL EXAMINATIONS, RECONSIDERATION INTERVIEWS, AND PROCEEDINGS BEFORE ADMINISTRATIVE LAW JUDGES

Pub. L. 94-439, title II, § 200, Sept. 30, 1976, 90 Stat. 1432, provided in part that: "Such amounts as are required shall be available to pay travel expenses either on an actual cost on commuted basis, to an individual for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico and the Virgin Islands to reconsideration interviews and to proceedings before administrative law judges under titles II, XVI, and XVIII of the Social Security Act [subchapters II, XVI, and XVIII of this chapter]."

Similar provisions were contained in the following acts: Jan. 28, 1976, Pub. L. 94-206, title II, § 200, 90 Stat. 17; Dec. 7, 1974, Pub. L. 93-517, title II, § 200, 88 Stat. 1645; Dec. 18, 1973, Pub. L. 93-192, title II, § 200, 87 Stat. 759; Aug. 10, 1971, Pub. L. 92-80, title II, § 200, 85 Stat. 296; Jan. 11, 1971, Pub. L. 91-667, title II, § 200, 84 Stat. 2013; Mar. 5, 1970, Pub. L. 91-204, title II, § 200, 84 Stat. 41; Oct. 11, 1968, Pub. L. 90-557, title II, § 200, 82 Stat. 988; Nov. 8, 1967, Pub. L. 90-132, title II, § 200, 81 Stat. 402; Nov. 7, 1966, Pub. L. 89-787, title II, § 200, 80 Stat. 1395; Aug. 31, 1965, Pub. L. 89-156, title II, § 200, 79 Stat. 604; Sept. 19, 1964, Pub. L. 88-605, title II, § 200, 78 Stat. 974; Oct. 11, 1963, Pub. L. 88-136, title II, § 200, 77 Stat. 239; Aug. 14, 1962, Pub. L. 87-582, title II, § 200, 76 Stat. 375; Sept. 22, 1961, Pub. L. 87-290, title II, § 201, 75 Stat. 604; Sept. 2, 1960, Pub. L. 86-703, title II, § 201, 74 Stat. 769; Aug. 14, 1959, Pub. L. 86-158, title II, § 201, 73 Stat. 352; Aug. 1, 1958, Pub. L. 85-580, title II, § 201, 72 Stat. 471; June 29, 1957, Pub. L. 85-67, title II, § 201, 71 Stat. 221; June 29, 1956, ch. 477, title II, § 201, 70 Stat. 434; Aug. 1, 1955, ch. 437, title II, § 201, 69 Stat. 408.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 425, 1383b of this title; title 30 section 923.

§ 422. Rehabilitation services

(a) Referral for rehabilitation services

It is declared to be the policy of the Congress that disabled individuals applying for a determination of disability, and disabled individuals who are entitled to child's insurance benefits, widow's insurance benefits, or widower's insurance benefits, shall be promptly referred to the State agency or agencies administering or supervising the administration of the State plan approved under the Vocational Rehabilitation Act [29 U.S.C. 31 et seq.] for necessary vocational rehabilitation services, to the end that the maximum number of such individuals may be rehabilitated into productive activity.

(b) Deductions on account of refusal to accept rehabilitation services

(1) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this subchapter to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under sections 402 and 423 of this title for any month in which such individual, if a child who has attained the age of eighteen and is entitled to child's insurance benefits, a widow, widower or surviving divorced wife who has not attained age 60, or an individual entitled to disability insurance benefits, refuses without good cause to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act [29 U.S.C. 31 et seq.]. Any individual who is a member or adherent of any recognized church or religious sect which teaches its members or adherents to rely solely, in the treatment and cure of any physical or mental impairment, upon prayer or spiritual means through the application and use of the tenets or teachings of such church or sect, and who, solely because of his adherence to the teachings or tenets of such church, or sect, refuses to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act, shall, for the purposes of the first sentence of this subsection, be deemed to have done so with good cause.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled or from any mother's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or such mother's insurance benefit or benefits under section 402 of this title for any month in which such child or person entitled to mother's insurance benefits is married to an individual who is entitled to disability insurance benefits and in which such individual refuses to accept rehabilitation services and a deduction, on account of such refusal, is imposed under paragraph (1) of this subsection. If both this paragraph and paragraph (3) of this subsection are applicable to a child's insurance benefit for any month, only an amount equal to such benefit shall be deducted.

(3) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to disability insurance bene-

fits, to which a wife, divorced wife, husband, or child is entitled, until the total of such deductions equal such wife's, husband's, or child's insurance benefit or benefits under section 402 of this title for any month in which the individual, on the basis of whose wages and self-employment income such benefit was payable, refuses to accept rehabilitation services and deductions, on account of such refusal, are imposed under paragraph (1) of this subsection.

(4) The provisions of paragraph (1) shall not apply to any child entitled to benefits under section 402(d) of this title, if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 402(d) of this title).

(c) Period of trial work

(1) The term "period of trial work," with respect to an individual entitled to benefits under section 423 or 402(d) of this title, means a period of months beginning and ending as provided in paragraphs (3) and (4).

(2) For purposes of sections 416(i) and 423 of this title, any services rendered by an individual during a period of trial work shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. For purposes of this subsection the term "services" means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

(3) A period of trial work for any individual shall begin with the month in which he becomes entitled to disability insurance benefits, or, in the case of an individual entitled to benefits under section 402(d) of this title who has attained the age of eighteen, with the month in which he becomes entitled to such benefits or the month in which he attains the age of eighteen, whichever is later. Notwithstanding the preceding sentence, no period of trial work may begin for any individual prior to the beginning of the month following September 1960; and no such period may begin for an individual in a period of disability of such individual in which he had a previous period of trial work.

(4) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

(A) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

(B) the month in which his disability (as defined in section 423(d) of this title) ceases (as determined after application of paragraph (2) of this subsection).

(5) In the case of an individual who becomes entitled to benefits under section 423 of this title for any month as provided in clause (ii) of subsection (a)(1) of such section, the preceding provisions of this subsection shall not apply with respect to services in any month beginning with the first month for which he is so entitled and ending with the first month thereafter for which he is not entitled to benefits under section 423 of this title.

(d) Cost of rehabilitation services from trust funds

(1) For the purpose of making vocational rehabilitation services more readily available to disabled individuals who are—

(A) entitled to disability insurance benefits under section 423 of this title, or

(B) entitled to child's insurance benefits under section 402(d) of this title after having attained age 18 (and are under a disability), or

(C) entitled to widow's insurance benefits under section 402(e) of this title prior to attaining age 60, or

(D) entitled to widower's insurance benefits under section 402(f) of this title prior to attaining age 60,

to the end that savings will result to the Trust Funds as a result of rehabilitating the maximum number of such individuals into productive activity, there are authorized to be transferred from the Trust Funds such sums as may be necessary to enable the Secretary to pay the costs of vocational rehabilitation services for such individuals (including (i) services during their waiting periods, and (ii) so much of the expenditures for the administration of any State plan as is attributable to carrying out this subsection); except that the total amount so made available pursuant to this subsection may not exceed—

(i) 1 percent in the fiscal year ending June 30, 1972,

(ii) 1.25 percent in the fiscal year ending June 30, 1973,

(iii) 1.5 percent in the fiscal year ending June 30, 1974, and thereafter,

of the total of the benefits under section 402(d) of this title for children who have attained age 18 and are under a disability, the benefits under section 402(e) of this title for widows and surviving divorced wives who have not attained age 60 and are under a disability, the benefits under section 402(f) of this title for widowers who have not attained age 60, and the benefits under section 423 of this title, which were certified for payment in the preceding year. The selection of individuals (including the order in which they shall be selected) to receive such services shall be made in accordance with criteria formulated by the Secretary which are based upon the effect the provision of services would have upon the Trust Funds.

(2) In the case of each State which is willing to do so, such vocational rehabilitation services shall be furnished under a State plan for vocational rehabilitation services which—

(A) has been approved under section 5 of the Vocational Rehabilitation Act [29 U.S.C. 35],

(B) provides that, to the extent funds provided under this subsection are adequate for the purpose, such services will be furnished to any individual in the State who meets the criteria prescribed by the Secretary pursuant to paragraph (1) of this subsection, with reasonable promptness and in accordance with the order of selection determined under such criteria, and

(C) provides that such services will be furnished to any individual without regard to (i) his citizenship or place of residence, (ii) his

needs for financial assistance except as provided in regulations of the Secretary in the case of maintenance during rehabilitation, or (iii) any order of selection which would otherwise be followed under the State plan pursuant to section 5(a)(4) of the Vocational Rehabilitation Act [29 U.S.C. 35(a)(4)].

(3) In the case of any State which does not have a plan which meets the requirements of paragraph (2) of this subsection, the Secretary may provide such services by agreement or contract with other public or private agencies, organizations, institutions, or individuals.

(4) Payments under this subsection may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(5) Money paid from the Trust Funds under this subsection to pay the costs of providing services to individuals who are entitled to benefits under section 423 of this title (including services during their waiting periods), or who are entitled to benefits under section 402(d) of this title on the basis of the wages and self-employment income of such individuals shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid out from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

(A) the total cost of the services provided under this subsection, and

(B) subject to the provisions of the preceding sentence, the amount of such cost which should be charged to each of such Trust Funds.

(6) For the purposes of this subsection the term "vocational rehabilitation services" shall have the meaning assigned to it in the Vocational Rehabilitation Act [29 U.S.C. 31 et seq.], except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purposes of this subsection.

(Aug. 14, 1935, ch. 531, title II, § 222, as added Sept. 1, 1954, ch. 1206, title I, § 106(g) 68 Stat. 1081, and amended Aug. 1, 1956, ch. 836, title I, § 103(b), 70 Stat. 817; Aug. 28, 1958, Pub. L. 85-840, title II, § 205(n), title III, § 307(g), 72 Stat. 1025, 1032; Sept. 13, 1960, Pub. L. 86-778, title IV, § 403(a), 74 Stat. 968; July 30, 1965, Pub. L. 89-97, title III, §§ 306(c)(14), 308(d)(11), 336, 79 Stat. 373, 379, 408; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 104(d)(3), (4), 158(c)(5), 81 Stat. 832, 869; Oct. 30, 1972, Pub. L. 92-603, title I, §§ 107(b)(3), (4), 131, 86 Stat. 1343, 1360.)

References in Text

The Vocational Rehabilitation Act, referred to in subsecs. (a), (b)(1), and (d)(6), is act June 2, 1920, ch. 219, 41 Stat. 735, which was classified generally to chapter 4 (§ 31 et seq.) of Title 29, Labor, and was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 357. The Rehabilitation Act of 1973 is classified to chapter 16 (§ 701 et seq.) of Title 29. Section 500(a), classified to section 790 of Title 29, in part provided that references to the Vocational Rehabilitation Act in any other provision of law be deemed references to the Rehabilitation Act of 1973.

Section 5 of the Vocational Rehabilitation Act, referred to in subsec. (d)(2), was classified to section 35 of Title 29, Labor, prior to its repeal by Pub. L. 93-112, title V, § 500(a), Sept. 26, 1973, 87 Stat. 390, and is now covered by sections 721 and 723 of Title 29.

Amendments

1972—Subsec. (b)(1). Pub. L. 92-603, § 107(b)(3), substituted "a widow, widower or surviving divorced wife who has not attained age 60" or "a widow or surviving divorced wife who has not attained age 60, a widower who has not attained age 62".

Subsec. (d)(1). Pub. L. 92-603, §§ 107(b)(4), 131, substituted "age 60" for "age 62", and added provisions increasing applicable percentages so that the total amount made available pursuant to subsec. (d) may not exceed 1.25 percent, in the fiscal year ending June 30, 1973, and 1.5 percent, in the fiscal year ending June 30, 1974, and thereafter, of the total of the benefits under section 402(d) of this title for children who have attained age 18 and are under a disability.

1968—Subsec. (a). Pub. L. 90-248, § 104(d)(3)(A), inserted "widow's insurance benefits, or widower's insurance benefits," after "benefits,".

Subsec. (b)(1). Pub. L. 90-248, § 104(d)(3)(B), substituted "child's insurance benefits, a widow or surviving divorced wife who has not attained age 60, a widower who has not attained age 62, or" for "child's insurance benefits or if".

Subsec. (c)(4)(B). Pub. L. 90-248, § 158(c)(5), substituted reference to "423(d)" for "423(c)(2)".

Subsec. (d)(1). Pub. L. 90-248, § 104(d)(4), added subpars. (C) and (D), and inserted "the benefits under section 402(e) of this title for widows and surviving divorced wives who have not attained age 60 and are under a disability, the benefits under section 402(f) of this title for widowers who have not attained age 62," after "disability," in text following subpar. (D).

1965—Subsec. (b)(3). Pub. L. 89-97, § 308(d)(11), inserted "divorced wife," following "wife,".

Subsec. (b)(4). Pub. L. 89-97, § 306(c)(14), added par. (4).

Subsec. (d). Pub. L. 89-97, § 336, added subsec. (d).

1960—Subsec. (c). Pub. L. 86-778 amended subsection generally by substituting provisions relating to period of trial work for provisions which related to services performed pursuant to a State-approved rehabilitation program.

1958—Subsec. (b). Pub. L. 85-840 designated existing provisions thereof as par. (1), and added pars. (2) and (3).

1956—Subsec. (a). Act Aug. 1, 1956, designated existing provisions as subsec. (a), authorized referral of disabled individuals who are entitled to child's insurance benefits, and substituted "rehabilitated into productive activity" for "restored to productive activity".

Subsecs. (b), (c). Act Aug. 1, 1956, added subsecs. (b) and (c).

Effective Date of 1972 Amendment

Amendment of subsecs. (b)(1) and (d)(1)(D) by section 107(b)(3), (4), of Pub. L. 92-603 applicable with respect to monthly benefits under this subchapter for months after Dec. 1972, with specified exceptions, see section 107(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 402 of this title.

Effective Date of 1968 Amendment

Amendment of subsecs. (a), (b)(1), (d)(1) by section 104 of Pub. L. 90-248 applicable with respect to monthly benefits under this subchapter for and after the month of February 1968, but only on the basis of applications for such benefits filed in or after January 1968, see section 104(e) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 402 of this title.

Amendment of subsec. (c)(4)(B) by section 158(c)(5) of Pub. L. 90-248 applicable with respect to applications for disability insurance benefits under section 423 of this title and to disability determinations under

section 416(i) of this title, see section 158(e) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 423 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsec. (b)(3) by Pub. L. 89-97 applicable with respect to monthly insurance benefits under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 402 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 403(e) of Pub. L. 86-778 provided that:

"(1) The amendment made by subsection (a) [to subsec. (c) of this section] shall be effective only with respect to months beginning after the month in which this Act is enacted [Sept. 1960].

"(2) The amendments made by subsections (b) and (d) [to sections 423(a)(1) and 402(d)(1) of this title] shall apply only with respect to benefits under section 223(a) or 202(d) of the Social Security Act [section 423 (a) or 402(d) of this title] for months after the month in which this Act is enacted [Sept. 1960] in the case of individuals who, without regard to such amendments, would have been entitled to such benefits for the month in which this Act is enacted [Sept. 13, 1960] or for any succeeding month.

"(3) The amendment made by subsection (c) [to section 416(i)(2) of this title] shall apply only in the case of individuals who have a period of disability (as defined in section 216(i) of the Social Security Act [section 416(i) of this title]) beginning on or after the date of the enactment of this Act [Sept. 13, 1960], or beginning before such date and continuing, without regard to such amendment, beyond the end of the month in which this Act is enacted [Sept. 1960]."

EFFECTIVE DATE OF 1958 AMENDMENT

Section 307(h)(3) of Pub. L. 85-840 provided that: "The amendments made by subsection (g) [adding subsec. (b)(2) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months, occurring after the month in which this Act is enacted [August 1958], in which a deduction is incurred under paragraph (1) of section 222(b) of the Social Security Act [Par. (1) of subsec. (b) of this section]."

Amendment of subsec. (b)(3) by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after Aug. 28, 1958, but only if an application for such benefits is filed on or after August 28, 1958, see section 207(a) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 416 of this title.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 101(a), Apr. 21, 1976, 90 Stat. 383, provided that:

"(a) For the purposes of sections 222(d)(1), 421, 506(d), 516, 705, 901(e)(2) and (f), 902, 905(b)(2), 1108, 1115, and 2002(a)(2) of the Social Security Act [subsec. (d)(1) of this section, and sections 621, 706(d) 716, 906(b), 1101(e)(2) and (f)(3)(A), 1102(a), 1105(b)(2)(B), 1308, 1315, and 1397a(a)(2) of this title, respectively] the term 'fiscal year' includes the period of July 1, 1976, through September 30, 1976, and the exercise of authority pursuant to these provisions for that period shall be subject to the conditions stated in the following paragraphs:

"(1) notwithstanding the provisions of section 222(d)(1) (42 U.S.C. 422(d)(1)), the amount authorized to be transferred from the trust funds pursuant to that section in the period beginning July 1, 1976, and ending September 30, 1976, may not exceed 1.5 per centum of the total of the benefits certified for payment in the first quarter of the fiscal year beginning July 1, 1975, and the amount authorized to be transferred from the Trust Funds in the fiscal year beginning October 1, 1976, may not exceed 1.5 per centum of the total of the benefits certified for payment in the preceding twelve months;

"(2) the fixed dollar allotment to each State under section 421 (42 U.S.C. 621) shall be $17,500;

"(3) the reduction required by section 506(d) (42 U.S.C. 706(d)) shall be the amount by which the sum expended from non-Federal sources for that period is less than one-fourth the sum expended from such sources for the fiscal year ending June 30, 1968;

"(4) the amount allotted to each State under section 516 (42 U.S.C. 716) shall be the excess of one-fourth the amount of the allotment for the State under sections 503 and 504 of the Social Security Act (42 U.S.C. 703 and 704) for the fiscal year ending June 30, 1973, plus the amount of any grants to the State under sections 508, 509, and 510 of that Act (42 U.S.C. 708, 709, and 710), over the amount of the allotment of the State under sections 503 and 504 of that Act for the period;

"(5) the limitation imposed by section 705(b) (42 U.S.C. 906(b)) on the amount that may be available for carrying out section 705(f) shall be $500,000 for that period;

"(6) the percentage referenced in the second sentence of section 901(e)(2) (42 U.S.C. 1101(e)(2)) shall be reduced to 10 per centum for the purpose of advances to be made in that period;

"(7) notwithstanding the provisions of section 901(f)(3)(A) (42 U.S.C. 1101(f)(3)(A)) for the fiscal year beginning October 1, 1976, the excess in the employment administration account shall be retained until the amount in such account is equal to 160 per centum of the amount of the total appropriation by the Congress out of the account for the period July 1, 1976, through September 30, 1976, and $37,500,000 or three thirty-seconds of the amount in the employment security administration account, whichever is the lesser, is authorized to be made available for that period under the conditions provided therein;

"(8) the determinative calendar year for the purpose of a transfer to the unemployment account pursuant to section 902(a) (42 U.S.C. 1102(a)) at the beginning of the fiscal year beginning October 1, 1976, shall be calendar year 1975;

"(9) the determinative calendar year for the purposes of a transfer to the extended unemployment compensation account pursuant to section 905(b)(2)(B) (42 U.S.C. 1105(b)(2)(B)) at the beginning of the fiscal year beginning October 1, 1976, shall be calendar year 1975;

"(10) the limitations imposed by section 1108 (42 U.S.C. 1308) on amounts certified by the Secretary shall be one-fourth of the limitations imposed by that section with respect to the fiscal year ending June 30, 1976;

"(11) the dollar limitation imposed by section 1115 (42 U.S.C. 1315) on the amount available for payments to the States for the cost of projects under that section shall be $1,000,000 of the aggregate amount appropriated for payments to the States for the period; and

"(12) notwithstanding the provisions of subparagraph (A) of section 2002(a)(2) (42 U.S.C. 1397a(a)(2)) the limitation imposed by that subparagraph on payments with respect to expenditures by a State for the period shall be one-fourth of the limitation imposed on such payments with respect to expenditures by the State for the fiscal year beginning July 1, 1975; and notwithstanding the provisions of subparagraph (D) of section 2002(a)(2), the maximum allotments under that subparagraph for the period shall be $3,750,000 for Puerto Rico, $125,000 for Guam, and $125,000 for the Virgin Islands, but nothing in this Act shall apply to the second sentence of section 2002(a)(2)(A)."

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 403, 423, 424a of this title; title 26 section 1402.

§ 423. Disability insurance benefit payments

(a) Disability insurance benefits

(1) Every individual who—

(A) is insured for disability insurance benefits (as determined under subsection (c)(1) of this section),

(B) has not attained the age of sixty-five,

(C) has filed application for disability insurance benefits, and

(D) is under a disability (as defined in subsection (d) of this section)

shall be entitled to a disability insurance benefit (i) for each month beginning with the first month after his waiting period (as defined in subsection (c)(2) of this section) in which he becomes so entitled to such insurance benefits, or (ii) for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability (as defined in section 416(i) of this title) which ceased, within the 60-month period preceding the first month in which he is under such disability, and ending with the month preceding whichever of the following months is the earliest: the month in which he dies, the month in which he attains age 65, or the third month following the month in which his disability ceases. No payment under this paragraph may be made to an individual who would not meet the definition of disability in subsection (d) of this section except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity, and no payment may be made for such month under subsection (b), (c), or (d) of section 402 of this title to any person on the basis of the wages and self-employment income of such individual. In the case of a deceased individual, the requirement of subparagraph (C) may be satisfied by an application for benefits filed with respect to such individual within 3 months after the month in which he died.

(2) Except as provided in section 402(q) of this title, such individual's disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 415 of this title as though he had attained age 62 in—

(A) the first month of his waiting period, or

(B) in any case in which clause (ii) of paragraph (1) of this subsection is applicable, the first month for which he becomes entitled to such disability insurance benefits,

and as though he had become entitled to old-age insurance benefits in the month in which the application for disability insurance benefits was filed and he was entitled to an old-age insurance benefit for each month for which (pursuant to subsection (b) of this section) he was entitled to a disability insurance benefit. For the purposes of the preceding sentence, in the case of an individual who attained age 62 in or before the first month referred to in subparagraph (A) or (B) of such sentence, as the case may be, the elapsed years referred to in section 415(b)(3) of this title shall not include the year in which he attained age 62, or any year thereafter.

(b) Filing application

An application for disability insurance benefits filed before the first month in which the applicant satisfies the requirements for such benefits (as prescribed in subsection (a)(1) of this section) shall be deemed a valid application only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application. If, upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month. An individual who would have been entitled to a disability insurance benefit for any month had he filed application therefore before the end of such month shall be entitled to such benefit for such month if such application is filed before the end of the 12th month immediately succeeding such month.

(c) Definitions; insured status; waiting period

For purposes of this section—

(1) An individual shall be insured for disability insurance benefits in any month if—

(A) he would have been a fully insured individual (as defined in section 414 of this title) had he attained age 62 and filed application for benefits under section 402(a) of this title on the first day of such month, and

(B)(i) he had not less than twenty quarters of coverage during the forty-quarter period which ends with the quarter in which such month occurred, or

(ii) if such month ends before the quarter in which he attains (or would attain) age 31 not less than one-half (and not less than 6) of the quarters during the period ending with the quarter in which such month occurred and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage; except that the provisions of subparagraph (B) of this paragraph shall not apply in the case of an individual who is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title). For purposes of subparagraph (B) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a period of disability unless such quarter was a quarter of coverage.

(2) The term "waiting period" means, in the case of any application for disability insurance benefits, the earliest period of five consecutive calendar months—

(A) throughout which the individual with respect to whom such application is filed has been under a disability and

(B)(i) which begins not earlier than with the first day of the seventeenth month before the month in which such application is filed if such individual is insured for disability insurance benefits in such seventeenth month, or (ii) if he is not so insured in such month, which begins not earlier than with the first day of the first month after such seventeenth month in which he is so insured.

Notwithstanding the preceding provisions of this paragraph, no waiting period may begin for any individual before January 1, 1957.

(d) Disability

(1) The term "disability" means—

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

(2) For purposes of paragraph (1)(A)—

(A) an individual (except a widow, surviving divorced wife, or widower for purposes of section 402(e) or (f) of this title) shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(B) A widow, surviving divorced wife, or widower shall not be determined to be under a disability (for purposes of section 402(e) or (f) of this title) unless his or her physical or mental impairment or impairments are of a level of severity which under regulations prescribed by the Secretary is deemed to be sufficient to preclude an individual from engaging in any gainful activity.

(3) For purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(4) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding the provisions of paragraph (2), an individual whose services or earnings meet such criteria shall, except for purposes of section 422(c) of this title, be found not to be disabled.

(5) An individual shall not be considered to be under a disability unless he furnishes such medical and other evidence of the existence thereof as the Secretary may require.

(Aug. 14, 1935, ch. 531, title II, § 223, as added Aug. 1, 1956, ch. 836, title I, § 103(a), 70 Stat. 815, and amended Aug. 26, 1958, Pub. L. 85-840, title II, §§ 202, 204(b), 72 Stat. 1020, 1021; Sept. 13, 1960, Pub. L. 86-778, title III, § 303(f), title IV, §§ 401(a), (b), 402(a), (c), (d), 403(b), 74 Stat. 964, 967, 969; June 30, 1961, Pub. L. 87-64, title I, § 102(b)(2)(B), (C), (c)(2)(C), (3)(D), (E), 75 Stat. 134, 135; July 30, 1965, Pub. L. 89-97, title III, §§ 302(e), 303(a)(2), (b)(3), (4), (c), 304(m), (n), 328(c), 344(b)-(d), 79 Stat. 366, 367, 370, 400, 413; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 105(b), 158(a), (b), (c)(6)-(8), 81 Stat. 833, 867-879; Oct. 30, 1972, Pub. L. 92-603, title I, §§ 104(c), (d), 116(a), 117(a), 118(a), 86 Stat. 1340, 1350, 1351.)

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92-603, § 118(a)(1), added provision for the filing of an application for disability insurance benefits after the death of the insured individual.

Subsec. (a)(2). Pub. L. 92-603, §§ 104(c), 118(a)(2), struck out "(if a woman) or age 65 (if a man)" following "attained age 62" and substituted "an individual" for "a woman", "in which he attained age 62" for "in which she attained age 62", and "the application for disability insurance benefits was filed and he was" for "he filed his application for disability insurance benefits and was".

Subsec. (b). Pub. L. 92-603, § 118(a)(3), substituted "if such application is filed" for "if he files such application".

Subsec. (c)(1). Pub. L. 92-603, §§ 104(d), 117(b), struck out "(if a woman) or age 65 (if a man)" following "attained age 62" in subpar. (A) and in the provisions following subpar. (B) added provisions eliminating the disability insured status requirement of substantial recent covered work in the case of individuals who are blind.

Subsec. (c)(2). Pub. L. 92-603, §§ 116(a), 118(a)(4), substituted "five consecutive calendar months" for "six consecutive calendar months" in the provisions preceding subpar. (A), substituted "with respect to whom such application is filed" for "who files such application" in subpar. (A), and substituted "seventeenth" for "eighteenth" in subpar. (B).

1968—Subsec. (a)(1). Pub. L. 90-248, § 158(c)(6)-(8), substituted in subpar. (D) reference to "subsection (d)" for "subsection (c)(2)", in text of first sentence following subpar. (D) reference to "subsection (c)(2)" for "subsection (c)(3)", and in last sentence following subpar. (D) reference to "subsection (d) except for paragraph (1)(B) thereof" for "subsection (c)(2) except for subparagraph (B) thereof", respectively.

Subsec. (c). Pub. L. 90-248, § 158(a), restricted catchline to definitions of "insured status" and "waiting period", struck out former par. (2) defining "disability" and requiring medical and other evidence of disability, now incorporated in subsec. (d)(1)(A), (5) of this section, and redesignated former par. (3) as (2).

Subsec. (c)(1)(B)(ii). Pub. L. 90-248, § 105(b), substituted in clause (ii) "before the quarter in which he attains" for "before he attains" and deleted "and he is

under a disability by reason of blindness (as defined in section 416(i)(1) of this title)" following "age 31".

Subsec. (d). Pub. L. 90-248, § 158(b), redesignated former first sentence of former subsec. (c)(2), comprising subpars. (A) and (B), as par. (1)(A), (B), added pars. (2) to (4), and redesignated former second sentence of former subsec. (c)(2) as par. (5).

1965—Subsec. (a)(1). Pub. L. 89-97, §§ 303(b)(3), 344(c), struck out from subpar. (D) "at the time such application is filed," following the parenthetical matter and from the provisions following subpar. (D) "the first month for which he is entitled to old-age insurance benefits" after "age 65,"; and prohibit payment to an individual who would not meet the definition of disability in subsec. (c)(2) except for subpar. (B) thereof for any month in which he engages in substantial gainful activity, and payment for such month under subsec. (b), (c), or (d) of section 402 of this title to any person on the basis of the wages and self-employment income of such individual, respectively.

Subsec. (a)(2). Pub. L. 89-97, §§ 302(e)(1), (2), 304(m), inserted in the first sentence "and was entitled to an old-age insurance benefit for each month for which (pursuant to subsection (b) of this section) he was entitled to a disability insurance benefit" and "Except as provided in section 402(q) of this title" and in the last sentence substituted "shall not include the year" for "shall not include the first year" and struck out the phrase "both was fully insured and had" preceding "attained age 62" in two instances, respectively.

Subsec. (a)(3). Pub. L. 89-97, § 304(n), repealed subsec. (a)(3), which prohibited an individual from becoming entitled to disability insurance benefits if he is entitled to a widow's, widower's, or parent's insurance benefit, or an old-age, wife's or husband's insurance benefit.

Subsec. (b). Pub. L. 89-97, §§ 303(c), 328(c), deleted from the last sentence "after June 1957" following "for any months" and substituted therein "before" for "prior to" where first appearing and "if he files such application before the end of the 12th month immediately succeeding such month" for "if he is continuously under a disability after such month and until he files application therefor and he files said application prior to the end of the twelfth month immediately succeeding such month"; and substituted provisions calling for an application for benefits filed before the first month in which the applicant satisfies the requirements for such benefits to be deemed a valid application only if the applicant satisfies the requirements before the Secretary makes a final decision on the application and calling for the application to be deemed filed in the first month if the applicant is found to satisfy the requirements for provisions placing an outer limit on the time prior to entitlement during which an application would be deemed filed during the first month prior to entitlement, respectively.

Subsec. (c)(1). Pub. L. 89-97, § 344(b), removed from existing subpar. (B) provision prohibiting the inclusion, as part of such 40-quarter period, of any quarter any part of which was included in a prior period of disability unless such quarter was a quarter of coverage, and designated such subpar., as so amended as subpar. (B)(i), added subpar. (B)(ii), and added the material following subpar. (B)(ii) prohibiting inclusion of any quarter as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage and calling for reduction by one of the number of quarters in any period whenever such number of quarters is an odd number.

Subsec. (c)(2)(A). Pub. L. 89-97, § 303(a)(2), designated existing provisions as subpar. (A) and substituted therein "which has lasted or can be expected to last for a continuous period of not less than 12 months; or" for "to be of long-continued and indefinite duration".

Subsec. (c)(2)(B). Pub. L. 89-97, § 344(d), added subpar. (B).

Subsec. (c)(3)(A). Pub. L. 89-97, § 303(b)(4), struck out "which continues until such application is filed" following "disability".

1961—Subsec. (a)(1). Pub. L. 87-64, § 102(b)(2)(C), substituted "the month in which he attains age 65, the first month for which he is entitled to old-age insurance benefits" for "the month in which he attains the age of sixty-five".

Subsec. (a)(2). Pub. L. 87-64, § 102(c)(2)(C), (3)(D), substituted "as though he had attained age 62 (if a woman) or age 65 (if a man)" for "as though he had attained retirement age", and "fully insured and had attained age 62" for "fully insured and had attained retirement age", in two instances.

Subsec. (a)(3). Pub. L. 87-64, § 102(b)(2)(B), added subsec. (a)(3).

Subsec. (c)(1)(A). Pub. L. 87-64, § 102(c)(3)(E), substituted "attained age 62 (if a woman) or age 65 (if a man)" for "attained retirement age".

1960—Subsec. (a)(1). Pub. L. 86-778, §§ 401(a), 402(a), 403(b), eliminated provisions from cl. (B) which required an individual to have attained the age of 50, inserted provisions authorizing payment of benefits to an individual for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability which ceased, within the 60-month period preceding the first month in which he is under such disability, and substituted provisions requiring benefits to end with the month preceding whichever of the following is the earliest: the month in which he dies, the month in which he attains the age of 65, or the third month following the month in which his disability ceases for provisions which required the benefits to end with the month preceding the first month in which any of the following occurs: his disability ceases, he dies, or he attains the age of 65.

Subsec. (a)(2). Pub. L. 86-778, § 303(f), required the benefit for any month to be equal to an individual's primary insurance amount for the month determined under section 415 of this title as though he had attained retirement age in (A) the first month of his waiting period, or (B) in any case in which clause (ii) of par. (1) of this subsection is applicable, the first month for which he becomes entitled to such disability insurance benefits, and as though he had become entitled to old-age insurance benefits in the month in which he filed his application for disability insurance benefits, and inserted sentence permitting exclusion from the elapsed years, in the case of a woman who both was fully insured and had attained retirement age in or before the first month referred to in subpar. (A) or (B), the first year in which she both was fully insured and had attained retirement age, or any year thereafter. For amendment of subsec. (a)(2) by section 402(b) of Pub. L. 86-778, see note under this section.

Subsec. (b). Pub. L. 86-778, § 402(c), (d), prohibited acceptance of an application, in any case in which clause (ii) of paragraph (1) of subsec. (a) of this section is applicable, if it is filed more than six months before the first month for which the applicant becomes entitled to benefits, inserted provisions requiring any application filed within the nine months' period or six months' period, as the case may be, to be deemed to have been filed in such first month, and substituted "if he is continuously under a disability after such month and until he files application therefor, and he files such application" for "if he files application therefor".

Subsec. (c)(3). Pub. L. 86-778, § 401(b), eliminated provisions which prohibited a waiting period for any individual from beginning before the first day of the sixth month before the month in which he attains the age of 50.

1958—Subsec. (b). Pub. L. 85-840, § 202(a), provided that individuals who would have been entitled to disability insurance benefits for any month after June 1957 had they filed application therefor prior to the end of such month shall be entitled to disability bene-

fits for such month if they file application therefor prior to the end of the twelfth month immediately succeeding such month.

Subsec. (c)(1). Pub. L. 85-840, § 204(b), substituted "fully insured" for "fully and currently insured" in cl. (A).

Subsec. (c)(3). Pub. L. 85-840, § 202(b), inserted "which continues until such application is filed" following "under a disability" in cl. (A), and substituted "eighteenth month" for "sixth month" in three instances in cl. (B).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsecs. (a)(2) and (c)(1)(A) of this section by section 104(c), (d) of Pub. L. 92-603 applicable only in the case of a man who attains (or would attain) age 62 after Dec. 1974, with the figure "65" in subsec. (c)(1)(A) of this section to be deemed to read "64" in the case of a man who attains age 62 in 1973, and deemed to read "63" in the case of a man who attains age 62 in 1974, see section 104(j) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 414 of this title.

Section 116(e) of Pub. L. 92-603 provided that:

"The amendments made by this section [amending subsec. (c)(2) of this section and sections 402(e)(6), (f)(7), and 416(i)(2)(A) of this title] shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act [this section], applications for widow's and widower's insurance benefits based on disability under section 202 of such Act [section 402 of this title], and applications for disability determinations under section 216(i) of such Act [section 416(i) of this title], filed—

"(1) in or after the month in which this Act is enacted [Oct. 1972], or

"(2) before the month in which this Act is enacted [Oct. 1972], if—

"(A) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month, or

"(B) the notice referred to in subparagraph (A) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act [section 405(g) of this title] (whether before, in, or after such month) and the decision in such civil action has not become final before such month;

except that no monthly benefits under title II of the Social Security Act [this subchapter] shall be payable or increased by reason of the amendments made by this section for any month before January 1973."

Section 117(c) of Pub. L. 92-603 provided that:

"The amendments made by this section [amending subsec. (c)(1) of this section and section 416(i)(3) of this title] shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act [this section], and for disability determinations under section 216(i) of such Act [section 416(i) of this title], filed—

"(1) in or after the month in which this Act is enacted [Oct. 1972], or

"(2) before the month in which this Act is enacted [Oct. 1972] if—

"(A) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month; or

"(B) the notice referred to in subparagraph (A) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act [section 405(g) of this title] (whether before, in, or after such month) and the decision in such civil action has not become final before such month;

except that no monthly benefits under title II of the Social Security Act [this subchapter] shall be payable or increased by reason of the amendments made by this section for months before January 1973."

Amendment of subsecs. (a)(1), (a)(2), (b), and (c)(2)(A) of this section by section 118(a) of Pub. L. 92-603 applicable in the case of deaths occurring after Dec. 31, 1969, with any applications with respect to an individual whose death occurred after Dec. 31, 1969, but before Oct. 30, 1972, to be deemed to have been filed in the month in which death occurred if filed in or within three months after Oct. 1972, see section 118(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 416 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (c)(1)(B) by section 105(b) of Pub. L. 90-248 applicable with respect to monthly benefits under this subchapter for months after January 1968, but only on the basis of applications for such benefits filed in or after January 1968, see section 105(c) of Pub. L. 90-248 set out as a note under section 416 of this title.

Section 158(e) of Pub. L. 90-248 provided that:

"The amendments made by this section [enacting subsec. (d) of this section and amending subsecs. (a)(1) and (c) of this section, and sections 402(d)(1), (s)(1)-(3), 416(i)(1), 421(a), (c), 422(c)(4) and 425 of this title] shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act [this section], and for disability determinations under section 216(i) of such Act [section 416(i) of this title], filed—

"(1) in or after the month in which this Act is enacted [Jan. 1968], or

"(2) before the month in which this Act [Jan. 1968], is enacted if the applicant has not died before such month and if—

"(A) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month; or

"(B) the notice referred to in subparagraph (A) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act [section 405(g) of this title] (whether before, in, or after such month) and the decision in such civil action has not become final before such month."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsec. (a)(2) by Pub. L. 89-97 applicable in the case of individuals who become entitled to disability insurance benefits under this section after December 1965, see section 302(f)(5) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 415 of this title.

Section 303(f)(1) of Pub. L. 89-97 provided that:

"The amendments made by subsection (a) [to subsec. (c)(2)(A) of this section and section 416(i)(1)(A) of this title], paragraphs (3) and (4) of subsection (b) [to subsecs. (a)(1) and (c)(3)(A) of this section], and subsections (c) and (d) [to subsec. (b) of this section and section 402(j)(1) of this title], and the provisions of subparagraphs (B) and (E) of section 216(i)(2) of the Social Security Act [section 416(i)(2) of this title] (as amended by subsection (b)(1) of this section), shall be effective with respect to applications for disability insurance benefits under section 223 [this section], and for disability determinations under section 216(i) [section 416(i) of this title], of the Social Security Act filed—

"(A) in or after the month in which this Act is enacted [July 1965], or

"(B) before the month in which this Act is enacted [July 1965], if the applicant has not died before such month and if—

"(i) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month; or

"(ii) the notice referred to in subparagraph (i) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security

Act [section 405(g) of this title] (whether before, in, or after such month) and the decision in such civil action has not become final before such month;

except that no monthly insurance benefits under title II of the Social Security Act [this subchapter] shall be payable or increased by reason of the amendments made by subsections (a) [to subsec. (c)(2)(A) of this section and section 416(i)(1)(A) of this title] and (b) [to subsecs. (a)(1) and (c)(3)(A) of this section and section 416 (i)(2), (3) of this title] for months before the second month following the month in which this Act is enacted [July 1965]. The preceding sentence shall also be applicable in the case of applications for monthly insurance benefits under title II of the Social Security Act [this subchapter] based on the wages and self-employment income of an applicant with respect to whose application for disability insurance benefits under section 223 of such Act [this section] such preceding sentence is applicable."

Amendment of subsec. (a)(2), (3) by section 304 of Pub. L. 89-97 applicable with respect to monthly insurance benefits under this subchapter for and after the second month following July 1965 but only on the basis of applications filed in or after July 1965, see section 304(o) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 402 of this title.

Amendment of subsec. (b) by section 328 of Pub. L. 89-97 applicable with respect to applications filed on or after July 30, 1965, applications as to which the Secretary has not made a final decision before July 30, 1965, and, if a civil action with respect to a final decision of the Secretary has been commenced under section 405(g) of this title before July 30, 1965, applications as to which there has been no final judicial decision before July 30, 1965, see section 328(d) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 416 of this title.

Amendment subsecs. (a)(1), (c)(1), and (c)(2)(B) by section 344 of Pub. L. 89-97 applicable only with respect to monthly benefits under subchapter II of this chapter for months after August 1965 on the basis of applications for such benefits filed in or after July 1965, see section 344(e) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 416 of this title.

Effective Date of 1961 Amendment

Amendment of subsecs. (a)(2) and (c)(1)(A) by Pub. L. 87-64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961, based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

Subsec. (a)(3) of this section and amendment of subsec. (a)(1) of this section by Pub. L. 87-64 effective August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

Effective Date of 1960 Amendments

Section 401(c) of Pub. L. 86-778 provided that: "The amendments made by this section [to subsecs. (a)(1)(B) and (c)(3) of this section] shall apply only with respect to monthly benefits under sections 202 and 223 of the Social Security Act [this section and section 402 of this title] for months after the month following the month in which this Act is enacted [Sept. 1960] which are based on the wages and self-employment income of an individual who did not attain the age of fifty in or prior to the month following the month in which this Act is enacted [Sept. 1960], but only where applications for such benefits are filed in or after the month in which this Act is enacted [Sept. 1960]."

Section 402(f) of Pub. L. 86-778 provided that: "The amendments made by subsections (a) and (b) [which inserted provisions in subsec. (a)(1) of this section authorizing payment of benefits to an individual for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability which ceased, within the 60-month period preceding the first month in which he is under such disability, and amended subsec. (a)(2) of this section as set out in the note under this section] shall apply only with respect to benefits under section 223 of the Social Security Act [this section] for the month in which this Act is enacted [Sept. 1960] and subsequent months. The amendment made by subsection (c) [to the first sentence of subsec. (b) of this section] shall apply only in the case of applications for benefits under such section 223 [this section] filed after the seventh month before the month in which this Act is enacted [Sept. 1960]. The amendment made by subsection (d) [to the second sentence of subsec. (b) of this section] shall apply only in the case of applications for benefits under such section 223 [this section] filed in or after the month in which this Act is enacted [Sept. 1960]. The amendment made by subsection (e) [which redefined the term period of disability in section 416(i)(2) of this title and inserted provisions in section 416(i)(2) of this title prohibiting acceptance of an application, in any case in which section 423(a)(ii) of this title is applicable, filed more than six months before the first month for which the applicant becomes entitled to benefits under this section and providing that any application for a disability determination which is filed within such three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, as the case may be] shall apply only in the case of individuals who become entitled to benefits under such section 223 [this section] in or after the month in which this Act is enacted [Sept. 1960]."

Amendment of subsec. (a)(1) by section 403(b) of Pub. L. 86-778, which substituted "whichever of the following months is the earliest: the month in which he dies, the month in which he attains the age of sixty-five, or the third month following the month in which his disability ceases" for "the first month in which any of the following occurs: his disability ceases, he dies, or he attains the age of sixty-five", applicable only with respect to benefits under subsec. (a) of this section or section 402(d) of this title for months after Sept. 1960, in the case of individuals who, without regard to such amendment, would have been entitled to such benefits for Sept. 1960, or for any succeeding month, see section 403(e) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 422 of this title.

Section 303(f) of Pub. L. 86-778 provided in part that the amendment of subsec. (a)(2) by section 303(f) of Pub. L. 86-778 shall be effective with respect to individuals who become entitled to benefits under this section after 1960.

Effective Date of 1958 Amendment

Amendment of subsecs. (b) and (c)(3) by section 202 of Pub. L. 85-840 applicable with respect to applications for disability insurance benefits under this section filed after December 1957, see section 207(a) of Pub. L. 85-840, set out as an Effective Date of 1960 Amendment note under section 416 of this title.

For applicability of subsec. (c)(1)(A) as amended by section 204 of Pub. L. 85-840, see section 207(a) of Pub. L. 85-840, set out as an Effective Date of 1960 Amendment note under section 416 of this title.

Effective Date

Section 103(d) of act Aug. 1, 1956, provided that:

"(1) The amendment made by subsection (a) [adding sections 423 to 425 of this title] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after June 1957.

"(2) For purposes of determining entitlement to a disability insurance benefit for any month after June

1957 and before December 1957, an application for disability insurance benefits filed by any individual after July 1957 and before January 1958 shall be deemed to have been filed during the first month after June 1957 for which such individual would (without regard to this paragraph) have been entitled to a disability insurance benefit had he filed application before the end of such month."

SPECIAL $50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of $50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March, 1975, was entitled to a monthly insurance benefit payable under this subchapter, see section 702 of Pub. L. 94-12, set out as a note under section 402 of this title.

LUMP SUM PAYMENT OF DISABILITY INSURANCE BENEFITS FOR PERIOD BEGINNING AFTER 1959 AND ENDING PRIOR TO 1964; FILING OF APPLICATION

Section 133 of Pub. L. 92-603 provided that:

"(a) If an individual would (upon the timely filing of an application for a disability determination under section 216(i) of the Social Security Act [section 416(i) of this title]) and of an application for disability insurance benefits under section 223 of such Act [this section]) have been entitled to disability insurance benefits under such section 223 for a period which began after 1959 and ended prior to 1964, such individual shall, upon filing application for disability insurance benefits under such section 223 with respect to such period not later than 6 months after the date of enactment of this section [Oct. 30, 1972], be entitled, notwithstanding any other provision of title II of the Social Security Act [this subchapter], to receive in a lump sum as disability insurance benefits payable under section 223, an amount equal to the total amounts of disability insurance benefits which would have been payable to him for such period if he had timely filed such an application for a disability determination and such an application for disability insurance benefits with respect to such period; but only if—

"(1) prior to the date of enactment of this section [Oct. 30, 1972] and after the date of enactment of the Social Security Amendments of 1967 [Jan. 2, 1968] such period was determined (under section 216(i) of the Social Security Act [section 416(i) of this title]) to be a period of disability as to such individual; and

"(2) the application giving rise to the determination (under such section 216(i) [section 416(i) of this title]) that such period is a period of disability as to such individual would not have been accepted as an application for such a determination except for the provisions of section 216(i)(2)(F) [section 416(i)(2)(F) of this title].

"(b) No payment shall be made to any individual by reason of the provisions of subsection (a) except upon the basis of an application filed after the date of enactment of this section [Oct. 30, 1972]."

COMPUTATION OF DISABILITY INSURANCE BENEFITS

Section 402(b) of Pub. L. 86-778 provided that:

"Section 223(a)(2) of such Act [subsec. (a)(2) of this section] is amended to read as follows:

"(2) Such individual's disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 215 [section 415 of this title] as though he became entitled to old-age insurance benefits in—

"(A) the first month of his waiting period, or

"(B) in any case in which clause (ii) of paragraph (1) of this subsection is applicable, the first month for which he becomes so entitled to such disability insurance benefits."

Amendment of subsec. (a)(2) of this section by section 402(b) of Pub. L. 86-778 applicable only with respect to benefits under this section for Sept. 1960, and subsequent months, see section 402(f) of Pub. L. 86-778, set out as a note under this section.

SPECIAL INSURED STATUS TEST IN CERTAIN CASES FOR DISABILITY PURPOSES

Individuals not insured for disability benefits as determined under subsec. (c)(1) of this section with respect to any month in a quarter deemed to have met such requirements in certain cases, see section 404 of Pub. L. 86-778, set out as a note under section 416 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 402, 403, 405, 409, 415, 416, 421, 422, 424a, 425, 426, 1320b-1, 1395p, 1395s, 1437a, 6862 of this title; title 26 section 3121; title 30 sections 902, 922, 923; title 45 sections 231b, 231c, 231f.

§ 424. Repealed. Pub. L. 85-840, title II, § 206, Aug. 28, 1958, 72 Stat. 1025.

Section, act Aug. 14, 1935, ch. 531, title II, § 224, as added Aug. 1, 1956, ch. 836, title I, § 103(a), 70 Stat. 816, and amended July 17, 1957, Pub. L. 85-109, § 2(a), 71 Stat. 308, related to reduction of benefits based on disability.

EFFECTIVE DATE OF REPEAL

Repeal of this section applicable with respect to monthly benefits under this subchapter for August 1958 and succeeding months, see section 207(a) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 416 of this title.

§ 424a. Reduction of disability benefits through receipt of workmen's compensation

(a) Conditions for reduction; computation

If for any month prior to the month in which an individual attains the age of 62—

(1) such individual is entitled to benefits under section 423 of this title, and

(2) such individual is entitled for such month, under a workmen's compensation law or plan of the United States or a State, to periodic benefits for a total or partial disability (whether or not permanent) and the Secretary has, in a prior month, received notice of such entitlement for such month,

the total of his benefits under section 423 of this title for such month and of any benefits under section 402 of this title for such month based on his wages and self-employment income shall be reduced (but not below zero) by the amount by which the sum of—

(3) such total of benefits under sections 423 and 402 of this title for such month, and

(4) such periodic benefits payable (and actually paid) for such month to such individual under the workmen's compensation law or plan,

exceeds the higher of—

(5) 80 percentum of his "average current earnings", or

(6) the total of such individual's disability insurance benefits under section 423 of this title for such month and of any monthly insurance benefits under section 402 of this title for such month based on his wages and self-employment income, prior to reduction under this section.

In no case shall the reduction in the total of such benefits under sections 423 and 402 of this title for a month (in a continuous period of months) reduce such total below the sum of—

(7) the total of the benefits under sections 423 and 402 of this title, after reduction

under this section, with respect to all persons entitled to benefits on the basis of such individual's wages and self-employment income for such month which were determined for such individual and such persons for the first month for which reduction under this section was made (or which would have been so determined if all of them had been so entitled in such first month), and

(8) any increase in such benefits with respect to such individual and such persons, before reduction under this section, which is made effective for months after the first month for which reduction under this section is made.

For purposes of clause (5), an individual's average current earnings means the largest of (A) the average monthly wage used for purposes of computing his benefits under section 423 of this title, (B) one-sixtieth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 409(a) and 411(b)(1) of this title) for the five consecutive calendar years after 1950 for which such wages and self-employment income were highest, or (C) one-twelfth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 409(a) and 411(b)(1) of this title) for the calendar year in which he had the highest such wages and income during the period consisting of the calendar year in which he became disabled (as defined in section 423(d) of this title) and the five years preceding that year. In any case where an individual's wages and self-employment income reported to the Secretary for a calendar year reach the limitations specified in sections 409(a) and 411(b)(1) of this title, the Secretary under regulations shall estimate the total of such wages and self-employment income for purposes of clauses (B) and (C) of the preceding sentence on the basis of such information as may be available to him indicating the extent (if any) by which such wages and self-employment income exceed such limitations.

(b) Reduction where benefits payable on other than monthly basis

If any periodic benefit under a workmen's compensation law or plan is payable on other than a monthly basis (excluding a benefit payable as a lump sum except to the extent that it is a commutation of, or a substitute for, periodic payments), the reduction under this section shall be made at such time or times and in such amounts as the Secretary finds will approximate as nearly as practicable the reduction prescribed by subsection (a) of this section.

(c) Reductions and deductions under other provisions

Reduction of benefits under this section shall be made after any reduction under subsection (a) of section 403 of this title but before deductions under such section and under section 422(b) of this title.

(d) Exception

The reduction of benefits required by this section shall not be made if the workmen's compensation law or plan under which a periodic benefit is payable provides for the reduction thereof when anyone is entitled to benefits under this subchapter on the basis of the wages and self-employment income of an individual entitled to benefits under section 423 of this title.

(e) Conditions for payment

If it appears to the Secretary that an individual may be eligible for periodic benefits under a workmen's compensation law or plan which would give rise to reduction under this section, he may require, as a condition of certification for payment of any benefits under section 423 of this title to any individual for any month and of any benefits under section 402 of this title for such month based on such individual's wages and self-employment income, that such individual certify (i) whether he has filed or intends to file any claim for such periodic benefits, and (ii) if he has so filed, whether there has been a decision on such claim. The Secretary may, in the absence of evidence to the contrary, rely upon such a certification by such individual that he has not filed and does not intend to file such a claim, or that he has so filed and no final decision thereon has been made, in certifying benefits for payment pursuant to section 405(i) of this title.

(f) Redetermination of reduction

(1) In the second calendar year after the year in which reduction under this section in the total of an individual's benefits under section 423 of this title and any benefits under section 402 of this title based on his wages and self-employment income was first required (in a continuous period of months), and in each third year thereafter, the Secretary shall redetermine the amount of such benefits which are still subject to reduction under this section; but such redetermination shall not result in any decrease in the total amount of benefits payable under this subchapter on the basis of such individual's wages and self-employment income. Such redetermined benefit shall be determined as of, and shall become effective with, the January following the year in which such redetermination was made.

(2) In making the redetermination required by paragraph (1) of this subsection, the individual's average current earnings (as defined in subsection (a) of this section) shall be deemed to be the product of his average current earnings as initially determined under subsection (a) of this section and the ratio of (i) the average of the taxable wages of all persons for whom taxable wages were reported to the Secretary for the first calendar quarter of the calendar year before the calendar year in which such redetermination is made, to (ii) the average of the taxable wages of such persons reported to the Secretary for the first calendar quarter of the taxable year before the calendar year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability). Any amount determined under the preceding sentence which is not a multiple of $1 shall be reduced to the next lower multiple of $1.

(g) Proportionate reduction; application of excess

Whenever a reduction in the total of benefits for any month based on an individual's wages and self-employment income is made under this section, each benefit, except the disability in-

surance benefit, shall first be proportionately decreased, and any excess of such reduction over the sum of all such benefits other than the disability insurance benefits shall then be applied to such disability insurance benefit.

(Aug. 14, 1935, ch. 531, title II, § 224, as added July 30, 1965, Pub. L. 89-97, title III, § 335, 79 Stat. 406, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 159(a), 81 Stat. 869; Oct. 30, 1972, Pub. L. 92-603, title I, § 119(a), (b), 86 Stat. 1352; Jan. 2, 1976, Pub. L. 94-202, § 8(j), 89 Stat. 1140.)

AMENDMENTS

1976—Subsec. (f)(2). Pub. L. 94-202 substituted "calendar year before the calendar year" for "calendar year" and "taxable year before the calendar year" for "taxable year".

1972—Subsec. (a). Pub. L. 92-603 added cl. (C) in provisions for the determination of an individual's average current earnings so as to introduce into the formula a factor of one-twelfth of the total wages and self-employment income for the calendar year in which he had the highest such wages and income during the year in which he became disabled and the five years preceding that year.

1968—Subsec. (a). Pub. L. 90-248 inserted in clause (B) of first sentence following par. (8) "(computed without regard to the limitations specified in sections 409(a) and 411(b)(1) of this title)" preceding "for the five", and added last sentence authorizing the Secretary, in certain cases, to estimate the total of wages and self-employment income for purposes of clause (B) indicating the extent such earnings exceed the limitations in sections 409(a) and 411(b)(1) of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 119(c) of Pub. L. 92-603 provided that: "The amendments made by subsections (a) and (b) [amending subsec. (a) of this section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1972."

EFFECTIVE DATE OF 1968 AMENDMENTS; DETERMINATION OF AVERAGE CURRENT EARNINGS UPON REDETERMINATION OF BENEFITS SUBJECT TO REDUCTION

Section 159(b) of Pub. L. 90-248 provided that:

"(1) The amendments made by subsection (a) [to subsec. (a) of this section] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968.

"(2) For purposes of any redetermination which is made under section 224(f) of the Social Security Act [subsec. (f) of this section] in the case of benefits subject to reduction under section 224 of such Act [this section], where such reduction as first computed was effective with respect to benefits for the month in which this Act is enacted [Jan. 1968] or a prior month, the amendments made by subsection (a) of this section [to subsec. (a) of this section] shall also be deemed to have applied in the initial determination of the 'average current earnings' of the individual whose wages and self-employment income are involved."

EFFECTIVE DATE

Section 335 of Pub. L. 89-97 made this section effective with respect to benefits under this subchapter for months after December 1965 based on the wages and self-employment income of individuals entitled to benefits under section 423 of this title whose period of disability (as defined in this subchapter) began after June 1, 1965.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 922.

§ 425. Suspension of benefits based on disability

If the Secretary, on the basis of information obtained by or submitted to him, believes that an individual entitled to benefits under section 423 of this title, or that a child who has attained the age of eighteen and is entitled to benefits under section 402(d) of this title, or that a widow or surviving divorced wife who has not attained age 60 and is entitled to benefits under section 402(e) of this title, or that a widower who has not attained age 60 and is entitled to benefits under section 402(f) of this title, may have ceased to be under a disability, the Secretary may suspend the payment of benefits under such section 402(d), 402(e), 402(f) or 423 of this title until it is determined (as provided in section 421 of this title) whether or not such individual's disability has ceased or until the Secretary believes that such disability has not ceased. In the case of any individual whose disability is subject to determination under an agreement with a State under section 421(b) of this title, the Secretary shall promptly notify the appropriate State of his action under this section and shall request a prompt determination of whether such individual's disability has ceased. For purposes of this section, the term "disability" has the meaning assigned to such term in section 423(d) of this title. Whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 402 of this title, on the basis of the wages and self-employment income of such individual, shall be suspended for such month. The first sentence of this section shall not apply to any child entitled to benefits under section 402(d) of this title, if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 402(d) of this title).

(Aug. 14, 1935, ch. 531, title II, § 225, as added Aug. 1, 1956, ch. 836, title I, § 103(a), 70 Stat. 817, and amended Aug. 28, 1958, Pub. L. 85-840, title II, § 205(o), 72 Stat. 1025; July 30, 1965, Pub. L. 89-97, title III, § 306(c)(15), 79 Stat. 373; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 104(d)(5), 158(c)(9), 81 Stat. 833, 869; Oct. 30, 1972, Pub. L. 92-603, title I, § 107(b)(5), 86 Stat. 1343.)

AMENDMENTS

1972—Pub. L. 92-603 substituted "age 60" for "age 62".

1968—Pub. L. 90-248 in first sentence inserted "or that a widow or surviving divorced wife who has not attained age 60 and is entitled to benefits under section 402(e) of this title, or that a widower who has not attained age 62 and is entitled to benefits under section 402(f) of this title," after "section 402(d) of this title," and substituted "402(d), 402(e), 402(f) or 423" for "423 or 402(d)", and substituted in third sentence reference to "423(d)" for "423(c)(2)".

1965—Pub. L. 89-97 inserted "The first sentence of this section shall not apply to any child entitled to benefits under section 402(d) of this title, if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 402(d) of this title)."

1958—Pub. L. 85-840 provided that whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the bene-

fits of any individual entitled thereto under subsection (b), (c), or (d) of section 402 of this title, on the basis of the wages and self-employment income of such individual, shall be suspended for such month.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-603 applicable with respect to monthly benefits under this subchapter for months after Dec. 1972, with specified exceptions, see section 107(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 402 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 104 of Pub. L. 90-248 applicable with respect to monthly benefits under this subchapter for and after the month of February 1968, but only on the basis of applications for such benefits filed in or after January 1968, see section 104(e) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 402 of this title.

Amendment by section 158(c)(9) of Pub. L. 90-248, applicable with respect to applications for disability insurance benefits under section 423 of this title and to disability determinations under section 416(i) of this title, see section 158(e) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 423 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 28, 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207(a) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 416 of this title.

EFFECTIVE DATE

Section applicable only with respect to monthly benefits under this subchapter for months after June 1957, see section 103(a) of act Aug. 1, 1956, set out as an Effective Date note under section 423 of this title.

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 416 of this title.

§ 426. Entitlement to hospital insurance benefits

(a) Individuals over 65 years

Every individual who—

(1) has attained age 65, and

(2) is entitled to monthly insurance benefits under section 402 of this title or is a qualified railroad retirement beneficiary,

shall be entitled to hospital insurance benefits under part A of subchapter XVIII of this chapter for each month for which he meets the condition specified in subparagraph (B), beginning with the first month after June 1966 for which he meets the conditions specified in subparagraphs (A) and (B).

(b) Individuals under 65 years

Every individual who—

(1) has not attained age 65, and

(2)(A) is entitled to, and has for 24 consecutive calendar months been entitled to, (i) disability insurance benefits under section 423 of this title or (ii) child's insurance benefits under section 402(d) of this title by reason of a disability (as defined in section 423(d) of this title) or (iii) widow's insurance benefits under section 402(e) of this title or widower's insurance benefits under section 402(f) of this title by reason of a disability (as defined in section 423(d) of this title), or (B) is, and has been for not less than 24 consecutive months a disabled qualified railroad retirement beneficiary, within the meaning of section 7(d) of the Railroad Act of 1974 [45 U.S.C. 231f(d)],

shall be entitled to hospital insurance benefits under part A of subchapter XVIII of this chapter for each month beginning with the later of (I) July 1973 or (II) the twenty-fifth consecutive month of his entitlement or status as a qualified railroad retirement beneficiary described in paragraph (2), and ending with the month following the month in which notice of termination of such entitlement to benefits or status as a qualified railroad retirement beneficiary described in paragraph (2) is mailed to him, or if earlier, with the month before the month in which he attains age 65.

(c) Conditions

For purposes of subsection (a) of this section—

(1) entitlement of an individual to hospital insurance benefits for a month shall consist of entitlement to have payment made under, and subject to the limitations in, part A of subchapter XVIII of this chapter on his behalf for inpatient hospital services, post-hospital extended care services, and post-hospital home health services (as such terms are defined in part C of subchapter XVIII of this chapter) furnished him in the United States (or outside the United States in the case of inpatient hospital services furnished under the conditions described in section 1395f(f) of this title) during such month; except that (A) no such payment may be made for post-hospital extended care services furnished before January 1967, and (B) no such payment may be made for post-hospital extended care services or post-hospital home health services unless the discharge from the hospital required to qualify such services for payment under part A of subchapter XVIII of this chapter occurred (i) after June 30, 1966, or on or after the first day of the month in which he attains age 65, whichever is later, or (ii) if he was entitled to hospital insurance benefits pursuant to subsection (b) of this section, at a time when he was so entitled; and

(2) an individual shall be deemed entitled to monthly insurance benefits under section 402 or section 423 of this title, or to be a qualified railroad retirement benefici- ary, for the month in which he died if he would have been entitled to such benefits, or would have been a qualified railroad retirement beneficiary, for such month had he died in the next month.

(d) Qualified railroad retirement beneficiary

For purposes of this section, the term "qualified railroad retirement beneficiary" means an individual whose name has been certified to the Secretary by the Railroad Retirement Board under section 7(d) of the Railroad Retirement Act of 1974 [45 U.S.C. 231f(d)]. An individual shall cease to be a qualified railroad retirement

beneficiary at the close of the month preceding the month which is certified by the Railroad Retirement Board as the month in which he ceased to meet the requirements of section 7(d) of the Railroad Retirement Act of 1974.

(e) Medicare eligibility on account of disability

Notwithstanding the foregoing provisions of this section, every individual who—

(1) has not attained the age of 65;

(2)(A) is fully or currently insured (as such terms are defined in section 414 of this title) or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.]) after December 31, 1936, were included in the term "employment" as defined in this chapter, or (B) is entitled to monthly insurance benefits under this subchapter or an annuity under the Railroad Retirement Act of 1974, or (C) is the spouse or dependent child (as defined in regulations) of an individual who is fully or currently insured or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included in the term "employment" as defined in this chapter, or (D) is the spouse or dependent child (as defined in regulations) of an individual entitled to monthly insurance benefits under this subchapter or an annuity under the Railroad Retirement Act of 1974; and

(3) is medically determined to have chronic renal disease and who requires hemodialysis or renal transplantation for such disease;

shall be deemed to be disabled for purposes of coverage under parts A and B of Medicare subject to the deductible, premium, and copayment provisions of subchapter XVIII of this chapter.

(f) Medicare eligibility on account of kidney failure

Medicare eligibility on the basis of chronic kidney failure shall begin with the third month after the month in which a course of renal dialysis is initiated and would end with the twelfth month after the month in which the person has a renal transplant or such course of dialysis is terminated.

(g) Reimbursement for kidney transplant and kidney treatment

The Secretary is authorized to limit reimbursement under Medicare for kidney transplant and dialysis to kidney disease treatment centers which meet such requirements as he may by regulation prescribe: *Provided*, That such requirements must include at least requirements for a minimal utilization rate for covered procedures and for a medical review board to screen the appropriateness of patients for the proposed treatment procedures.

(h) Benefits for widows and widowers

(1) For purposes of determining entitlement to hospital insurance benefits under subsection (b) of this section in the case of widows and widowers described in paragraph (2)(A)(iii) thereof—

(A) the term "age 60" in sections 402(e)(1)(B) (ii), 402(e)(5) of this title, 402(f)(1)(B)(ii) and 402(f)(6) of this title shall be deemed to read "age 65"; and

(B) the phrase "before she attained age 60" in the matter following subparagraph (F) of section 402(e)(1) of this title and the phrase "before he attained age 60" in the matter following subparagraph (G) of section 402(f)(1) of this title shall each be deemed to read "based on a disability".

(2) For purposes of determining entitlement to hospital insurance benefits under subsection (b) of this section in the case of an individual under age 65 who is entitled to benefits under section 402 of this title, and who was entitled to widow's insurance benefits or widower's insurance benefits based on disability for the month before the first month in which such individual was so entitled to old-age insurance benefits (but ceased to be entitled to such widow's or widower's insurance benefits upon becoming entitled to such old-age insurance benefits), such individuals shall be deemed to have continued to be entitled to such widow's insurance benefits or widower's insurance benefits for and after such first month.

(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b) of this section any disabled widow age 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits) shall, upon application, for such hospital insurance benefits be deemed to have filed for such widow's benefits and shall, upon furnishing proof of such disability prior to July 1, 1974, under such procedures as the Secretary may prescribe, be deemed to have been entitled to such widow's benefits as of the time she would have been entitled to such widow's benefits if she had filed a timely application therefor.

(i) Certain uninsured individuals

For entitlement to hospital insurance benefits in the case of certain uninsured individuals, see section 426a of this title.

(Aug. 14, 1935, ch. 531, title II, § 226, as added July 30, 1965, Pub. L. 89-97, title I, § 101, 79 Stat. 290, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 129(c)(1), 81 Stat. 847; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 201(b), 299I, 86 Stat. 1371, 1463; July 6, 1973, Pub. L. 93-58, § 3, 87 Stat. 142; Dec. 31, 1973, Pub. L. 93-233, § 18(f), 87 Stat. 969; Oct. 16, 1974, Pub. L. 93-445, title III, § 305, 88 Stat. 1358.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in text, is title I of Pub. L. 93-445, Oct. 16, 1974, 88 Stat. 1305, and is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. Such title I completely amended and revised the Railroad Retirement Act of 1937 (approved June 24, 1937, ch. 382, 50 Stat. 307), and as thus amended and revised, the 1937 Act was redesignated the Railroad Retirement Act of 1974. Previously, the 1937 Act had completely amended and revised the Railroad Retirement Act of 1935 (approved Aug. 29, 1935, ch. 812, 49 Stat. 967). Section 201 of the 1937 Act provided that the 1935 Act, as in force prior to amendment by the 1937 Act, may be cited as the Railroad Retirement Act of 1935; and that the 1935 Act, as amended by the 1937 Act may be cited as the Railroad Retirement Act of 1937. The Railroad Retirement Acts of 1935 and 1937 were classified to subchapter II (§ 215 et seq.) and subchapter III (§ 228a et seq.), respectively, of chapter 9 of Title 45.

CODIFICATION

Both subsecs. (h) and (i) were, in the original, subsec. (f) and were redesignated to accommodate the addition of subsecs. (f) and (g) by section 299I of Pub. L. 92-603.

AMENDMENTS

1974—Subsec. (b)(2). Pub. L. 93-445, § 305(a), substituted "section 7(d) of the Railroad Retirement Act of 1974" for "section 22 of the Railroad Retirement Act of 1937".

Subsec. (d). Pub. L. 93-445, § 305(b), substituted "section 7(d) of the Railroad Retirement Act of 1974" for section 21 or 22 of the Railroad Retirement Act of 1937", in two instances.

Subsec. (e). Pub. L. 93-445, § 305(c), substituted "Railroad Retirement Act of 1974" for "Railroad Retirement Act of 1937", wherever appearing.

1973—Subsec. (a). Pub. L. 93-233, § 18(f)(1)(A), redesignated subsec. (a)(1) as subsec. (a).

Subsec. (a)(1), (2). Pub. L. 93-233, § 18(f)(1)(B), redesignated cls. (A) and (B) as (1) and (2), respectively.

Subsec. (e)(2). Pub. L. 93-58, inserted in: item (2)(A) "or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term 'employment' as defined in this chapter" after "(as such terms are defined in section 414 of this title)"; item (2)(B) "or an annuity under the Railroad Retirement Act of 1937" after "this subchapter"; item (2)(C) "Or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term 'employment' as defined in this chapter" after "fully or currently insured"; and item (2)(D) "or annuity under the Railroad Retirement Act of 1937" after "this subchapter".

Subsec. (h). Pub. L. 93-233, § 18(f)(1)(C), (2)-(4), redesignated as subsec. (h) provisions originally enacted as subsec. (e) by section 201(b)(5) of Pub. L. 92-603 and redesignated as subsec. (f) by section 299I of Pub. L. 92-603, and in par. (1)(A) substituted ", 402(e)(5) of this title," for "and 402(e)(5) of this title, and the term age 62 in sections", in par. (1)(B) substituted "and the phrase 'before he attained age 60' in the matter following subparagraph (G) of section 402(f)(1) of this title shall each" for "shall", and in pars. (2) and (3) substituted "(b)" for "(a)(2)", respectively.

Subsec. (i). Pub. L. 93-233, § 18(f)(1)(C), redesignated as subsec. (i) provisions originally enacated as subsec. (d) by section 101 of Pub. L. 89-97 and redesignated as subsec. (f) by section 201(b)(5) of Pub. L. 92-603.

1972—Subsec. (a). Pub. L. 92-603, § 201(b)(1), incorporated provisions of former subsec. (a) and subsec. (a)(1), and redesignated pars. (1) and (2) as subpars. (A) and (B).

Subsec. (b). Pub. L. 92-603, § 201(b)(1), added subsec. (b). Former Subsec. (b) redesignated subsec. (c).

Subsec. (c)(1). Pub. L. 92-603, § 201(b)(2), (5), redesignated subsec. (b)(1) as subsec. (c)(1) and in subsec. (c)(1) as so redesignated, added reference to entitlement to hospital insurance benefits pursuant to subsec. (b) of this section. Former subsec. (c) redesignated subsec. (d).

Subsec. (c)(2). Pub. L. 92-603, § 201(b)(3), (5), redesignated subsec. (b)(2) as subsec. (c)(2) and, in subsec. (c)(2) as so redesignated, added reference to section 423 of this title. Former subsec. (c) redesignated subsec. (d).

Subsec. (d). Pub. L. 92-603, § 201(b)(4), (5), redesignated former subsec. (c) as subsec. (d) and, in subsec. (d) as so redesignated, added reference to section 22 of the Railroad Retirement Act of 1937. Former subsec. (d) redesignated subsec. (i).

Subsecs. (e) to (h). Pub. L. 92-603, §§ 201(b)(5), 299I, added subsecs. (e) to (h). See Codification note above.

Subsec. (i). Pub. L. 92-603, § 201(b)(5), redesignated former subsec. (d) as subsec. (i). See codification note above.

1968—Subsec. (b)(1). Pub. L. 90-248 eliminated outpatient hospital diagnostic services from services for which hospital insurance benefits are payable.

EFFECTIVE DATE OF 1974 AMENDMENT

Amended by Pub. L. 93-445, effective on Jan. 1, 1975, see section 603 of Pub. . 93-445, set out as on Effective Date of 1974 Amendment note under section 402 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 4(a) of Pub. L. 93-58 provided that: "The provisions of this Act [amending this section and sections 228c, 228e of Title 45, Railroads], except the provisions of section 1, shall be effective as of the date the corresponding provisions of Public Law 92-603 are effective as follows: clause (xi) [section 228c(e) (xi) of Title 45] effective with respect to services provided on and after July 1, 1973. The provisions of clauses (xi) and (xii), which are added by section 1 of this Act, shall be effective as follows: clause (xi) [section 228c (e) (xi) of Title 45] shall be effective with respect to calendar years after 1971 for annuities accruing after December 1972; and clause (xii) [section 228c(e) (xii) of Title 45 shall be effective as of the date the delayed retirement provision of Public Law 92-603 is effective [section 402(w) of this title applicable with respect to old-age insurance benefits payable under this subchapter for months beginning after 1972]."

EFFECTIVE DATE OF 1972 AMENDMENT

Section 299I of Pub. L. 92-603 provided in part that enactment of subsecs. (e) to (g) by section 299I of Pub. L. 92-603, is effective with respect to services provided on and after July 1, 1973.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-248 applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395d of this title.

ADOPTED CHILD'S REENLISTMENT TO ANNUITY

Section 4(b) of Pub. L. 93-58 provided that: "Any child (1) whose entitlement to an annuity under section 5(c) of the Railroad Retirement Act [section 228e (c) of Title 45, Railroads] was terminated by reason of his adoption prior to the enactment of this Act [July 6, 1973], and (2) who, except for such adoption, would be entitled to an annuity under such section for a month after the month in which this Act is enacted [July 1973], may, upon filing application for an annuity under the Railroad Retirement Act [section 228a et seq. of Title 45] after the date of enactment of this Act [July 6, 1973], become reentitled to such annuity; except that no child shall, by reason of the enactment of this Act [amending this section and sections 228c, 228e of Title 45] become reentitled to such annuity for any month prior to the effective date of the relevant amendments made by this Act to section 5(*l*)(1)(ii) of the Railroad Retirement Act [section 228e(*l*)(1)(ii)]."

SPECIAL $50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of $50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March, 1975, was entitled to a monthly insurance benefit payable under this subchapter, see section 702 of Pub. L. 94-12, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 426a, 1320b-1, 1395c, 1395e, 1395f, 1395h, 1395i-1, 1395i-2, 1395p, 1395u, 1395ff of this title; title 45 sections 231f, 231r.

§ 426a. Transitional provision of eligibility of uninsured individuals for hospital insurance benefits

(a) Entitlement to benefits

Anyone who—

(1) has attained the age of 65,

(2)(A) attained such age before 1968, or (B) has not less than 3 quarters of coverage (as defined in this subchapter or section 228e(*l*) of title 45), whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained such age,

(3) is not, and upon filing application for monthly insurance benefits under section 402 of this title would not be, entitled to hospital insurance benefits under section 426 of this title, and is not certifiable as a qualified railroad retirement beneficiary under section 228s-2 of title 45,

(4) is a resident of the United States (as defined in section 410(i) of this title), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United States (as so defined) continuously during the 5 years immediately preceding the month in which he files application under this section, and

(5) has filed an application under this section in such manner and in accordance with such other requirements as may be prescribed in regulations of the Secretary,

shall (subject to the limitations in this section) be deemed, solely for purposes of section 426 of this title, to be entitled to monthly insurance benefits under such section 402 for each month, beginning with the first month in which he meets the requirements of this subsection and ending with the month in which he dies, or, if earlier, the month before the month in which he becomes (or upon filing application for monthly insurance benefits under section 402 of this title would become) entitled to hospital insurance benefits under section 426 of this title or becomes certifiable as a qualified railroad retirement beneficiary. An individual who would have met the preceding requirements of this subsection in any month had he filed application under paragraph (5) hereof before the end of such month shall be deemed to have met such requirements in such month if he files such application before the end of the twelfth month following such month. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), (3), and (4) shall be accepted as an application for purposes of this section.

(b) Persons ineligible

The provisions of subsection (a) of this section shall not apply to any individual who—

(1) is, at the beginning of the first month in which he meets the requirements of subsection (a), a member of any organization referred to in section 410(a)(17) of this title,

(2) has, prior to the beginning of such first month, been convicted of any offense listed in section 402(u) of this title, or

(3)(A) at the beginning of such first month is covered by an enrollment in a health benefits plan under chapter 89 of title 5,

(B) was so covered on February 16, 1965, or

(C) could have been so covered for such first month if he or some other person had availed himself of opportunities to enroll in a health benefits plan under such chapter and to continue such enrollment (but this subparagraph shall not apply unless he or such other person was a Federal employee at any time after February 15, 1965).

Paragraph (3) shall not apply in the case of any individual for the month (or any month thereafter) in which coverage under such a health benefits plan ceases (or would have ceased if he had had such coverage) by reason of his or some other person's separation from Federal service, if he or such other person was not (or would not have been) eligible to continue such coverage after such separation.

(c) Authorization of appropriations

There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund (established by section 1395i of this title) from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

(1) payments made or to be made during such fiscal year from such Trust Fund under part A of subchapter XVIII of this chapter with respect to individuals who are entitled to hospital insurance benefits under section 426 of this title solely by reason of this section,

(2) the additional administrative expenses resulting or expected to result therefrom, and

(3) any loss in interest to such Trust Fund resulting from the payment of such amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year in which it would have been if the preceding subsections of this section had not been enacted.

(Pub. L. 89-97, title I, § 103, July 30, 1965, 79 Stat. 333; Pub. L. 90-248, title I, § 139, title IV, § 403(h), Jan. 2, 1968, 81 Stat. 854, 932.)

REFERENCES IN TEXT

Sections 228e(*l*) and 228s-2 of title 45, referred to in subsec. (a)(2) and (3), are references to sections 5(*l*) and 21 of the Railroad Retirement Act of 1937. That Act was amended in its entirety and completely revised by Pub. L. 93-445, Oct. 16, 1974, 88 Stat. 1305. That Act, as thus amended and revised, was redesignated the Railroad Retirement Act of 1974, and is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. Sections 228e and 228s-2 of title 45 are now covered by sections 231e and 231f of Title 45, respectively.

CODIFICATION

Section was not enacted as part of the Social Security Act which comprises this chapter.

AMENDMENTS

1968—Subsec. (a)(2)(B). Pub. L. 90-248, § 139, substituted "1966" for "1965".

Subsec. (b)(3)(A), (C). Pub. L. 90-248, § 403(h)(1), (2), substituted "chapter 89 of title 5" and "such chapter" for "the Federal Employees Health Benefits Act of 1959" and "such Act" in subpars. (A) and (C), respectively.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 20, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (c) of this section, see section 201(36) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 426, 1395i-2, 1395ff of this title.

§ 427. Transitional insured status for purposes of old-age and survivors benefits

(a) Determination of entitlement to benefits under section 402(a) and (b) of this title.

In the case of any individual who attains the age of 72 before 1969 but who does not meet the requirements of section 414(a) of this title, the 6 quarters of coverage referred to in paragraph (1) of section 414(a) of this title shall, instead, be 3 quarters of coverage for purposes of determining entitlement of such individual to benefits under section 402(a) of this title, and of his wife to benefits under section 402(b) of this title, but, in the case of such wife, only if she attains the age of 72 before 1969 and only with respect to wife's insurance benefits under section 402(b) of this title for and after the month in which she attains such age. For each month before the month in which any such individual meets the requirements of section 414(a) of this title, the amount of his old-age insurance benefit shall, notwithstanding the provisions of section 402(a) of this title, be the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title and the amount of the wife's insurance benefit of his wife shall, notwithstanding the provisions of section 402(b) of this title, be the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title.

(b) Determination of entitlement to widow's benefits under section 402(e) of this title

In the case of any individual who has died, who does not meet the requirements of section 414(a) of this title, and whose widow attains age 72 before 1969, the 6 quarters of coverage referred to in paragraph (3) of section 414(a) of this title and in paragraph (1) thereof shall, for purposes of determining her entitlement to widow's insurance benefits under section 402(e) of this title, instead be—

(1) 3 quarters of coverage if such widow attains the age of 72 in or before 1966,

(2) 4 quarters of coverage if such widow attains the age of 72 in 1967, or

(3) 5 quarters of coverage if such widow attains the age of 72 in 1968.

The amount of her widow's insurance benefit for each month shall, notwithstanding the provisions of section 402(e) of this title (and section 402(m) of this title), be the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title.

(c) Deceased individual entitled to benefits by reason of subsec. (a) deemed to meet requirements of subsec. (b)

In the case of any individual who becomes, or upon filing application therefor would become, entitled to benefits under section 402(a) of this title by reason of the application of subsection (a) of this section, who dies, and whose widow attains the age of 72 before 1969, such deceased individual shall be deemed to meet the requirements of subsection (b) of this section for purposes of determining entitlement of such widow to widow's insurance benefits under section 402(e) of this title.

(Aug. 14, 1935, ch. 531, title II, § 227, as added July 30, 1965, Pub. L. 89-97, title III, § 309(a), 79 Stat. 379, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 102(a), 81 Stat. 827; Dec. 30, 1969, Pub. L. 91-172, title X, § 1003(a), 83 Stat. 740; Mar. 17, 1971, Pub. L. 92-5, title II, § 202(a), 85 Stat. 10; July 1, 1972, Pub. L. 92-336, title II, § 201(g)(1), 86 Stat. 411; Oct. 30, 1972, Pub. L. 92-603, title I, § 104 (e), (f), 86 Stat. 1340; Dec. 31, 1973, Pub. L. 93-233, § 2(b)(1), 87 Stat. 952.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-233, § 2(b)(1), substituted "the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$58.00" and "the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$29.00".

Subsec. (b). Pub. L. 93-233, § 2(b)(1), substituted "the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$58.00".

1972—Subsec. (a). Pub. L. 92-336, § 201(g)(1)(A), substituted "$58.00" for "$48.30" and "$29.00" for "$24.20".

Subsec. (a)(1). Pub. L. 92-603, § 104(e), substituted "paragraph (1) of section 414(a) of this title" for "so much of paragraph (1) of section 414(a) of this title as follows clause (C)".

Subsec. (b). Pub. L. 92-336, § 201(g)(1)(B), substituted "$58.00" for "$48.30".

Subsec. (b)(1). Pub. L. 92-603, § 104(f), substituted "paragraph (1) thereof" for "so much of paragraph (1) thereof as follows clause (C)".

1971—Subsec. (a). Pub. L. 92-5, § 202(a)(1), substituted "$48.30" for "$46" and "$24.20" for "$23".

Subsec. (b). Pub. L. 92-5, § 202(a)(2), substituted "$48.30" for "$46".

1969—Subsec. (a). Pub. L. 91-172, § 1003(a)(1), substituted "$46" for "$40", and "$23" for "$20".

Subsec. (b). Pub. L. 91-172, § 1003(a)(2), substituted "$46" for "$40".

1968—Subsec. (a). Pub. L. 90-248, § 102(a)(1), substituted "$40" for "$35" and "$20" for "$17.50".

Subsec. (b). Pub. L. 90-248, § 102(a)(2), substituted "$40" for "$35".

EFFECTIVE DATE OF 1973 AMENDMENT

Section 2(b)(1) of Pub. L. 93-233 provided in part that amendment of subsecs. (a) and (b) of this section and section 428(b)(1), (2), (c)(3)(A), (B) of this title shall be effective June 1, 1974.

Amendment of subsecs. (a) and (b) by section 2(b)(1) of Pub. L. 93-233 applicable with respect to monthly benefits under this subchapter for months after May 1974, and with respect to lump-sum death payments under section 402(i) of this title, see section 2(c) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 415 of this title.

EFFECTIVE DATE OF 1972 AMENDMENTS

Amendment of subsecs. (a)(1) and (b)(1) by section 104(e), (f) of Pub. L. 92-603 applicable only in the case of a man who attains (or would attain) age 62 after Dec. 1974, see section 104(j) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 414 of this title.

Amendment by Pub. L. 92-336 applicable with respect to monthly benefits under subchapter II of this chapter for months after August 1972, see section 201(i) of Pub. L. 92-336, set out as an Effective Date of 1972 Amendment note under section 415 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 202(c) of Pub. L. 92-5 provided that: "The amendments made by subsections (a) and (b) [amend-

ing this section and section 428 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [subchapter II of this chapter] for months after December 1970."

EFFECTIVE DATE OF 1969 AMENDMENT

Section 1003(c) of Pub. L. 91-172 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 428 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1969."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 102(c) of Pub. L. 90-248 provided that: "The amendments made by subsections (a) and (b) [to subsecs. (a) and (b) of this section and to section 428(b)(1), (2), (c)(2), (3)(A), and (3)(B) of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968."

EFFECTIVE DATE

Section 309(b) of Pub. L. 89-97 provided that: "The amendment made by subsection (a) [adding this section] shall apply in the case of monthly benefits under title II of the Social Security Act [this subchapter] for and after the second month following the month [July 1965] in which this Act [Pub. L. 89-97] is enacted on the basis of applications filed in or after the month [July 1965] in which this Act [Pub. L. 89-97] is enacted."

REPEAL OF AMENDMENT OF SUBSECS. (a) AND (b) PRIOR TO EFFECTIVE DATE

Section 202(a)(4) of Pub. L. 92-336, title II, July 1, 1972, 86 Stat. 416, which, effective Jan. 1, 1975, substituted "the larger of $58.00 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$58.00" and "the larger of $29.00 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$29.00", was repealed prior to its effective date by Pub. L. 93-233, § 2(b)(2), Dec. 31, 1973, 87 Stat. 952, applicable with respect to monthly benefits under this subchapter for months after May 1974, and with respect to lump-sum death payments under section 402(i) of this title. See section 2(c) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 415 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 415 of this title.

§ 428. Benefits at age 72 for certain uninsured individuals

(a) Eligibility

Every individual who—

(1) has attained the age of 72,

(2)(A) attained such age before 1968, or (B) has not less than 3 quarters of coverage, whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained such age,

(3) is a resident of the United States (as defined in subsection (e) of this section), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United States (as defined in section 410(i) of this title) continuously during the 5 years immediately preceding the month in which he files application under this section, and

(4) has filed application for benefits under this section,

shall (subject to the limitations in this section) be entitled to a benefit under this section for each month beginning with the first month after September 1966 in which he becomes so entitled to such benefits and ending with the month preceding the month in which he dies. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), and (3) shall be accepted as an application for purposes of this section.

(b) Amount of benefits

(1) Except as provided in paragraph (2), the benefit amount to which an individual is entitled under this section for any month shall be the larger of $64.40 or the amount recently established in lieu thereof under section 415(i) of this title.

(2) If both husband and wife are entitled (or upon application would be entitled) to benefits under this section for any month, the amount of the husband's benefit for such month shall be the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title and the amount of the wife's benefit for such month shall be the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title.

(c) Reduction for government pension system benefits

(1) The benefit amount of any individual under this section for any month shall be reduced (but not below zero) by the amount of any periodic benefit under a governmental pension system for which he is eligible for such month.

(2) In the case of a husband and wife only one of whom is entitled to benefits under this section for any month, the benefit amount, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the spouse who is not entitled to benefits under this section is eligible for such month, over (B) the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title.

(3) In the case of a husband and wife both of whom are entitled to benefits under this section for any month—

(A) the benefit amount of the wife, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the husband is eligible for such month, over (ii) the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title, and

(B) the benefit amount of the husband, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the wife is eligible for such month, over (ii) the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title.

(4) For purposes of this subsection, in determining whether an individual is eligible for periodic benefits under a governmental pension system—

(A) such individual shall be deemed to have filed application for such benefits,

(B) to the extent that entitlement depends on an application by such individual's spouse, such spouse shall be deemed to have filed application, and

(C) to the extent that entitlement depends on such individual or his spouse having retired, such individual and his spouse shall be deemed to have retired before the month for which the determination of eligibility is being made.

(5) For purposes of this subsection, if any periodic benefit is payable on any basis other than a calendar month, the Secretary shall allocate the amount of such benefit to the appropriate calendar months.

(6) If, under the foregoing provisions of this section, the amount payable for any month would be less than $1, such amount shall be reduced to zero. In the case of a husband and wife both of whom are entitled to benefits under this section for the month, the preceding sentence shall be applied with respect to the aggregate amount so payable for such month.

(7) If any benefit amount computed under the foregoing provisions of this section is not a multiple of $0.10, it shall be raised to the next higher multiple of $0.10.

(8) Under regulations prescribed by the Secretary, benefit payments under this section to an individual (or aggregate benefit payments under this section in the case of a husband and wife) of less than $5 may be accumulated until they equal or exceed $5.

(d) Suspension for months in which cash payments are made under public assistance or in which supplemental security income benefits are payable

The benefit to which any individual is entitled under this section for any month shall not be paid for such month if—

(1) such individual receives aid or assistance in the form of money payments in such month under a State plan approved under subchapter I, X, XIV, or XVI of this chapter, or part A of subchapter IV of this chapter, or

(2) such individual's husband or wife receives such aid or assistance in such month, and under the State plan the needs of such individual were taken into account in determining eligibility for (or amount of) such aid or assistance,

unless the State agency administering or supervising the administration of such plan notifies the Secretary, at such time and in such manner as may be prescribed in accordance with regulations of the Secretary, that such payments to such individual (or such individual's husband or wife) under such plan are being terminated with the payment or payments made in such month and such individual is not an individual with respect to whom supplemental security income benefits are payable pursuant to subchapter XVI of this chapter or section 211 of Public Law 93-66 for the following month, nor shall such benefit be paid for such month if such individual is an individual with respect to whom supplemental security income benefits are payable pursuant to subchapter XVI of this chapter or section 211 of Public Law 93-66 for such month, unless the Secretary determines that such benefits are not payable with respect to such individual for the month following such month.

(e) Suspension where individual is residing outside the United States

The benefit to which any individual is entitled under this section for any month shall not be paid if, during such month, such individual is not a resident of the United States. For purposes of this subsection, the term "United States" means the 50 States and the District of Columbia.

(f) Treatment as monthly insurance benefits

For purposes of subsections (t) and (u) of section 402 of this title, and of section 1395s of this title, a monthly benefit under this section shall be treated as a monthly insurance benefit payable under section 402 of this title.

(g) Annual reimbursement of Federal Old-Age and Survivors Insurance Trust Fund

There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1969, and for each fiscal year thereafter, such sums as the Secretary of Health, Education, and Welfare deems necessary on account of—

(1) payments made under this section during the second preceding fiscal year and all fiscal years prior thereto to individuals who, as of the beginning of the calendar year in which falls the month for which payment was made, had less than 3 quarters of coverage.

(2) the additional administrative expenses resulting from the payments described in paragraph (1), and

(3) any loss in interest to such Trust Fund resulting from such payments and expenses,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if such payments had not been made.

(h) Definitions

For purposes of this section—

(1) The term "quarter of coverage" includes a quarter of coverage as defined in section 228e(*l*) of title 45.

(2) The term "governmental pension system" means the insurance system established by this title or any other system or fund established by the United States, a State, any political subdivision of a State, or any wholly owned instrumentality of any one or more of the foregoing which provides for payment of (A) pensions, (B) retirement or retired pay, or (C) annuities or similar amounts payable on account of personal services performed by any individual (not including any payment under any workmen's compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death).

(3) The term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(4) The determination of whether an individual is a husband or wife for any month shall be made under subsection (h) of section

416 of this title without regard to subsections (b) and (f) of section 416 of this title.

(Aug. 14, 1935, ch. 531, title II, § 228, as added Mar. 15, 1966, Pub. L. 89-368, title III, § 302(a), 80 Stat. 67, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 102(b), title II, § 241(a) 81 Stat. 827, 916; Dec. 30, 1969, Pub. L. 91-172, title X, § 1003(b), 83 Stat. 740; Mar. 17, 1971, Pub. L. 92-5, title II, § 202(b), 85 Stat. 10; July 1, 1972, Pub. L. 92-336, title II, § 201(g)(2), 86 Stat. 411; Dec. 31, 1973, Pub. L. 93-233, §§ 2(b)(1), 18(c), 87 Stat. 952, 968.)

References in Text

Section 211 of Pub. L. 93-66, referred to in subsec. (d), is set out as a note under section 1382 of this title.

Section 228e(*l*) of title 45, referred to in subsec. (h)(1), is a reference to section 5(*l*) of the Railroad Retirement Act of 1937. That Act was amended in its entirety and completely revised by Pub. L. 93-445, Oct. 16, 1974, 88 Stat. 1305. The Act, as thus amended and revised, was redesignated the Railroad Retirement Act of 1974, and is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. Section 228e of title 45 is now covered by section 231e of title 45.

Amendments

1973—Subsec. (b). Pub. L. 93-233, § 2(b)(1), substituted "the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$58.00" in pars. (1) and (2) and "the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$29.00" in par. (2).

Subsec. (c). Pub. L. 93-233, § 2(b)(1), substituted "the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$58.00" in par. (3), subpar. (A) and "the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$29.00" in par. (2) and par. (3) subpar. (B).

Subsec. (d). Pub. L. 93-233, § 18(c) provided for elimination of benefits at age 72 for uninsured individuals receiving supplemental security income benefits.

1972—Subsec. (b)(1). Pub. L. 92-336, § 201(g)(2)(A), substituted "$58.00" for "$48.30".

Subsec. (b)(2). Pub. L. 92-336, § 201(g)(2)(B), substituted "$58.00" for "$48.30" and "$29.00" for "$24.20".

Subsec. (c)(2). Pub. L. 92-336, § 201(g)(2)(C), substituted "$29.00" for "$24.20".

Subsec. (c)(3)(A). Pub. L. 92-336, § 201(g)(2)(D), substituted "$58.00" for "$48.30".

Subsec. (c)(3)(B). Pub. L. 92-336, § 201(g)(2)(E), substituted "$29.00" for "$24.20".

1971—Subsec. (b)(1). Pub. L. 92-5, § 202(b)(1), substituted "$48.30" for "$46".

Subsec. (b)(2). Pub. L. 92-5, § 202(b)(2), substituted "$48.30" for "$46" and "$24.20" for "$23".

Subsec. (c)(2). Pub. L. 92-5, § 202(b)(3), substituted "$24.20" for "$23".

Subsec. (c)(3)(A). Pub. L. 92-5, § 202(b)(4), substituted "$48.30" for "$46".

Subsec. (c)(3)(B). Pub. L. 92-5, § 202(b)(5), substituted "$24.20" for "$23".

1969—Subsec. (b)(1). Pub. L. 91-172, § 1003(b)(1), substituted "$46" for "$40".

Subsec. (b)(2). Pub. L. 91-172, § 1003(b)(2), substituted "$46" for "$40" and "$23" for "$20".

Subsec. (c)(2). Pub. L. 91-172, § 1003(b)(3), substituted "$23" for "$20".

Subsec. (c)(3)(A). Pub. L. 91-172, § 1003(b)(4), substituted "$46" for "$40".

Subsec. (c)(3)(B). Pub. L. 91-172, § 1003(b)(5), substituted "$23" for "$20".

1968—Subsec. (b)(1). Pub. L. 90-248, § 102(b)(1), substituted "$40" for "$35".

Subsec. (b)(2). Pub. L. 90-248, § 102(b)(2), substituted "$40" for "$35", and "$20" for $17.50".

Subsec. (c)(2). Pub. L. 90-248, § 102(b)(3), substituted "$20" for "$17.50".

Subsec. (c)(3)(A). Pub. L. 90-248, § 102(b)(4), substituted "$40" for "$35".

Subsec. (c)(3)(B). Pub. L. 90-248, § 102(b)(5), substituted "$20" for "$17.50".

Subsec. (d)(1). Pub. L. 90-248, § 241(a), deleted "IV," following "I," and inserted "or part A of subchapter IV of this chapter," after "XVI of this chapter,".

Effective Date of 1973 Amendment

Amendment of subsecs. (b)(1), (2) and (c)(3)(A), (B) by section 2(b)(1) of Pub. L. 93-233 effective June 1, 1974, see section 2(b)(1) of Pub. L. 93-233, set out in part as an Effective Date of 1973 Amendment note under section 427 of this title.

Amendment of subsecs. (b)(1), (2) and (c)(2), (3)(A), (B) by section 2(b)(1) of Pub. L. 93-233 applicable with respect to monthly benefits under this subchapter for months after May 1974, and with respect to lump-sum death payments under section 402(i) of this title, see section 2(c) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 415 of this title.

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-336 applicable with respect to monthly benefits under subchapter II of this chapter for months after August 1972, see section 201(i) of Pub. L. 92-336, set out as an Effective Date of 1972 Amendment note under section 415 of this title.

Effective Date of 1971 Amendment

Amendment by Pub. L. 92-5 applicable with respect to monthly benefits under subchapter II of this chapter for months after December 1970, see section 202(c) of Pub. L. 92-5, set out as an Effective Date of 1971 Amendment note under section 427 of this title.

Effective Date of 1969 Amendment

Amendment by Pub. L. 91-172 applicable for months after Dec. 1969, see section 1003(c) of Pub. L. 91-172, set out as an Effective Date of 1969 Amendment note under section 427 of this title.

Effective Date of 1968 Amendment

Amendment of subsecs. (b)(1), (2), (c)(2), (3)(A), (3)(B) by section 102(b)(1) to (5) of Pub. L. 90-248 applicable with respect to monthly benefits under this subchapter for months after January 1968, see section 102(c) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 427 of this title.

Repeal of Amendment of Subsecs. (b)(1), (2) and (c)(3)(A), (B) Prior to Effective Date

Section 202(a)(4) of Pub. L. 92-336, title II, July 1, 1972, 86 Stat. 416, which, effective Jan. 1, 1975, substituted "the larger of $58.00 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$58.00" and "the larger of $29.00 or the amount most recently established in lieu thereof under section 415(i) of this title" for "$29.00", was repealed prior to its effective date by Pub. L. 93-233, § 2(b)(2), Dec. 31, 1973, 87 Stat. 952, applicable with respect to monthly benefits under this subchapter for months after May 1974, and with respect to lump-sum death payments under section 402(i) of this title. See section 2(c) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 415 of this title.

Special $50 Payment Under Tax Reduction Act of 1975

Special payment of $50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March, 1975, was entitled to a monthly insurance benefit payable under this subchapter, see section 702 of Pub. L. 94-12, set out as a note under section 402 of this title.

APPLICATIONS FOR TRANSITIONAL COVERAGE OF UNINSURED INDIVIDUALS FOR HOSPITAL INSURANCE BENEFITS

Section 302(b) of Pub. L. 89-368 provided that: "For purposes of paragraph (4) of section 228(a) of the Social Security Act (added by subsection (a) of this section) [subsec. (a)(4) of this section], an application filed under section 103 of the Social Security Amendments of 1965 [set out as a note under section 426 of this title] before July 1966 shall be regarded as an application under such section 228 [this section] and shall, for purposes of such paragraph and of the last sentence of such section 228(a) [subsec. (a) of this section], be deemed to have been filed in July 1966, unless the person by whom or on whose behalf such application was filed notifies the Secretary that he does not want such application so regarded."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 405, 415, 1320b-1 of this title; title 48 section 1421q.

§ 429. Benefits in case of members of the uniformed services

(a) For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1972, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, payable under this subchapter on the basis of the wages and self-employment income of any individual, and for purposes of section 416(i)(3) of this title, such individual shall be deemed to have been paid, in each calendar quarter occurring after 1956 in which he was paid wages for service as a member of a uniformed service (as defined in section 410(m) of this title) which was included in the term "employment" as defined in section 410(a) of this title as a result of the provisions of section 410(*l*) of this title, wages (in addition to the wages actually paid to him for such service) of $300.

(b) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund annually, as benefits under this subchapter and part A of subchapter XVIII of this chapter are paid after December 1967, such sums as the Secretary determines to be necessary to meet (1) the additional costs, resulting from subsection (a) of this section, of such benefits (including lump-sum death payments), (2) the additional administrative expenses resulting therefrom, and (3) any loss in interest to such trust funds resulting from the payment of such amounts. Such additional costs shall be determined after any increases in such benefits arising from the application of section 417 of this title have been made.

(Aug. 14, 1935, ch. 531, title II, § 229, as added Jan. 2, 1968, Pub. L. 90-428, title I, § 106, 81 Stat. 833, and amended Oct. 30, 1972, Pub. L. 92-603, title I, § 120(a), 86 Stat. 1352.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-603 substituted "December 1972" for "December 1967" and "after 1956" for "after 1967" and struck out provisions limiting the wages deemed to have been paid an individual in addition to the wages actually paid him for his service to $100 if the wages actually paid to him in a quarter were $100 or less or to $200 if the wages actually paid to him in a quarter were more than $100 but not more than $200.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 120(b) of Pub. L. 92-603 provided that: "The amendments made by subsection (a) [amending subsec. (a) of this section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1972 and with respect to lump-sum death payments under such title [this subchapter] in the case of deaths occurring after December 1972 except that, in the case of any individual who is entitled, on the basis of the wages and self-employment income of any individual to whom section 229 of such Act [this section] applies, to monthly benefits under title II of such Act [this subchapter] for the month in which this Act is enacted [Oct. 1972], such amendments shall apply (1) only if a written request for a recalculation of such benefits (by reason of such amendments) under the provisions of section 215(b) and (d) of such Act [section 415(b) and (d) of this title], as in effect at the time such request is filed, is filed by such individual, or any other individual, entitled to benefits under such title II [this subchapter] on the basis of such wages and self-employment income, and (2) only with respect to such benefits for months beginning with whichever of the following is later: January 1973 or the twelfth month before the month in which such request was filed. Recalculations of benefits as required to carry out the provisions of this section shall be made notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title], and no such recalculation shall be regarded as a recomputation for purposes of section 215(f) of such Act [section 415(f) of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 415 of this title; title 45 section 231b.

§ 430. Adjustment of the contribution and benefit base

(a) Determination and publication by Secretary in Federal Register subsequent to cost-of-living benefit increase; effective date

Whenever the Secretary pursuant to section 415(i) of this title increases benefits effective with the June following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs the contribution and benefit base determined under subsection (b) of this section which shall be effective with respect to remuneration paid after the calendar year in which such quarter occurs and taxable years beginning after such year.

(b) Determination of amount

The amount of such contribution and benefit base shall be the amount of the contribution and benefit base in effect in the year in which the determination is made or, if larger, the product of—

(1) the contribution and benefit base which was in effect with respect to remuneration paid in (and taxable years beginning in) the calendar year in which the determination under subsection (a) of this section with respect to such particular calendar year was made, and

(2) the ratio of (A) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subsection (a) of this section with

respect to such particular calendar year was made to (B) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973 or, if later, the calendar year preceding the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a) of this section,

with such product, if not a multiple of $300, being rounded to the next higher multiple of $300 where such product is a multiple of $150 but not of $300 and to the nearest multiple of $300 in any other case. For purposes of this subsection, the average of the wages for the calendar year 1978 (or any prior calendar year) shall, in the case of determinations made under subsection (a) of this section prior to December 31, 1979, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.

(c) Amount of base for period prior to initial cost-of-living benefit increase

For purposes of this section, and for purposes of determining wages and self-employment income under sections 409, 411, 413, and 415 of this title and sections 1402, 3121, 3122, 3125, 6413, and 6654 of the Internal Revenue Code of 1954, the "contribution and benefit base" with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1973 and prior to the calendar year with the June of which the first increase in benefits pursuant to section 415(i) of this title becomes effective shall be $13,200 or (if applicable) such other amount as may be specified in a law enacted subsequent to the law which added this section.

(Aug. 14, 1935, ch. 531, title II, § 230, as added July 1, 1972, Pub. L. 92-336, title II, § 202(b)(1), 86 Stat. 416, and amended Oct. 30, 1972, Pub. L. 92-603, title I, § 144(a)(4), 86 Stat. 1370; July 9, 1973, Pub. L. 93-66, title II, § 203(c), 87 Stat. 153; Dec. 31, 1973, Pub. L. 93-233, §§ 3(j), 5(c), 87 Stat. 952, 954; Jan. 2, 1976, Pub. L. 94-202, § 8(h), 89 Stat. 1139.)

REFERENCES IN TEXT

"Subsequent to the law which added this section", referred to in subsec. (c), means subsequent to the enactment of Pub. L. 92-336, which was approved July 1, 1972.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-202 substituted "wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year" for "taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year" and "made to" for "made to the latest of" in cl. (A) of par. (2), substituted "wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973 or, if later, the calendar year preceding" for "taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1973 or the first calendar quarter of" in cl. (B) of par. (2), and added, following par. (2), provision directing that the average wages for the calendar year 1978, or any prior calendar year, be deemed equal to 400% of the average wages reported for the first quarter of that calendar year.

1973—Subsec. (a). Pub. L. 93-233, § 3(j)(1), substituted "with the June" for "with the first month of the calendar year" and struck out "(along with the publication of such benefit increase as required by section 415(i)(2)(D) of this title)" following "such quarter occurs" and "(unless such increase in benefits is prevented from becoming effective by section 415(i)(2)(E) of this title)" following "shall be effective", respectively.

Subsec. (c). Pub. L. 93-233, §§ 3(j)(2), 5(c), substituted "the June" for "the first month" and "$13,200" for "$12,600", respectively.

Pub. L. 93-66 substituted "$12,600" for "$12,000".

1972—Subsec. (b)(2)(A). Pub. L. 92-603 substituted "of" for "or".

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93-233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 409 of this title.

Amendment by Pub. L. 93-66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93-66, set out as an Effective Date of 1973 Amendment note under section 409 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-603 effective in like manner as if such amendment had been included in Title II of Pub. L. 92-336, see section 144(b) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 403 of this title.

SOCIAL SECURITY CONTRIBUTION AND BENEFIT BASE FOR 1977

By notice of the Secretary of Health, Education, and Welfare, Oct. 7, 1976, 41 F.R. 44878, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base with respect to remuneration paid in, and taxable years beginning in, 1977 is $16,500.

SOCIAL SECURITY CONTRIBUTION AND BENEFIT BASE FOR 1976

By notice of the Secretary of Health, Education, and Welfare, Oct. 22, 1975, 40 F.R. 50556, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base with respect to remuneration paid in, and taxable years beginning in, 1976 would be $15,300.

COST-OF-LIVING INCREASE IN BENEFITS

For purposes of subsec. (a) of this section, the increase in benefits provided by section 2 of Pub. L. 93-233, revising benefits table of section 415(a) of this title and amending sections 427(a), (b) and 428(b)(1), (2), (c)(3)(A), (B) of this title considered an increase under section 415(i) of this title, see section 3(i) of Pub. L. 93-233, set out as a note under section 415 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 409, 411, 413, 415 of this title; title 26 sections 1402, 6413, 6654; title 29 section 1322.

§ 431. Benefits for certain individuals interned by United States during World War II

(a) Definition

For the purpose of this section the term "internee" means an individual who was interned during any period of time from December 7, 1941, through December 31, 1946, at a place within the United States operated by the Gov-

ernment of the United States for the internment of United States citizens of Japanese ancestry.

(b) Applicability in determining entitlement to and amount of monthly benefits and lump-sum death payments, and period of disability; effect of payment of benefits by other agency or instrumentality of United States

(1) For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1972, or entitlement to and the amount of any lump-sum death payment in the case of a death after such month, payable under this subchapter on the basis of the wages and self-employment income of any individual, and for purposes of section 416(i)(3) of this title, such individual shall be deemed to have been paid during any period after he attained age 18 and for which he was an internee, wages (in addition to any wages actually paid to him) at a weekly rate of basic pay during such period as follows—

(A) in the case such individual was not employed prior to the beginning of such period, 40 multiplied by the minimum hourly rate or rates in effect at any such time under section 206(a)(1) of title 29, for each full week during such period; and

(B) in the case such individual who was employed prior to the beginning of such period, 40 multiplied by the greater of (i) the highest hourly rate received during any such employment, or (ii) the minimum hourly rate or rates in effect at any such time under section 206(a)(1) of title 29, for each full week during such period.

(2) This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump-sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon internment during any period from December 7, 1941, through December 31, 1946, at a place within the United States operated by the Government of the United States for the internment of United States citizens of Japanese ancestry, is determined by any agency or wholly owned instrumentality of the United States to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) shall not apply in the case of any monthly benefit or lump-sum death payment under this subchapter if its application would reduce by $0.50 or less the primary insurance amount (as computed under section 415 of this title prior to any recomputation thereof pursuant to subsection (f) of such section) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) shall also not apply for purposes of section 416(i)(3) of this title.

(3) Upon application for benefits, a recalculation of benefits (by reason of this section), or a lump-sum death payment on the basis of the wages and self-employment income of any individual who was an internee, the Secretary of Health, Education, and Welfare shall accept the certification of the Secretary of Defense or his designee concerning any period of time for which an internee is to receive credit under paragraph (1) and shall make a decision without regard to clause (B) of paragraph (2) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the period for which such individual was an internee, a benefit described in clause (B) of paragraph (2) has been determined by such agency or instrumentality to be payable by it. If the Secretary of Health, Education, and Welfare has not been so notified, he shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (2) is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by this section.

(4) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on any period for which any individual was an internee shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any individual who was an internee, such information as the Secretary deems necessary to carry out his functions under paragraph (3) of this subsection.

(c) Authorization of appropriations

There are authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund for the fiscal year ending June 30, 1978, such sums as the Secretary determines would place the Trust Funds and the Federal Hospital Insurance Trust Fund in the position in which they would have been if the preceding provisions of this section had not been enacted.

(Aug. 14, 1935, ch. 531, title II, § 231, as added Oct. 30, 1972, Pub. L. 92-603, title I, § 142(a), 86 Stat. 1367.)

SPECIAL $50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of $50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March, 1975, was entitled to a monthly insurance benefit payable under this subchapter, see section 702 of Pub. L. 94-12, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 415 of this title.

§ 432. Processing of tax data

The Secretary of the Treasury shall make available information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954, to the Secretary for the purposes of this sub-

chapter and subchapter XI of this chapter. The Secretary and the Secretary of the Treasury are authorized to enter into an agreement for the processing by the Secretary of information contained in returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954. Notwithstanding the provisions of section 6103(a) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall make available to the Secretary such documents as may be agreed upon as being necessary for purposes of such processing. The Secretary shall process any withholding tax statements or other documents made available to him by the Secretary of the Treasury pursuant to this section. Any agreement made pursuant to this section shall remain in full force and effect until modified or otherwise changed by mutual agreement of the Secretary and the Secretary of the Treasury.

(Aug. 14, 1935, ch. 531, title II, § 232, as added Jan. 2, 1976, Pub. L. 94-202, § 8(b), 89 Stat. 1137.)

EFFECTIVE DATE

Section 8(c) of Pub. L. 94-202 provided that: "Section 232 of the Social Security Act [this section], as added by subsection (b) of this section, shall be effective with respect to statements reporting income received after 1977."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title; title 26 section 6103.

SUBCHAPTER III—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 5 section 8505.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 46-313, 46-314 of the District of Columbia Code.

§ 501. Use of available funds

The amounts made available pursuant to section 1101(c)(1)(A) of this title for the purpose of assisting the States in the administration of their unemployment compensation laws shall be used as hereinafter provided.

(Aug. 14, 1935, ch. 531, title III, § 301, 49 Stat. 626; Apr. 19, 1939, ch. 73, 53 Stat. 581; Sept. 13, 1960, Pub. L. 86-778, title V, § 524(a), 74 Stat. 982.)

AMENDMENTS

1960—Pub. L. 86-778 eliminated provisions which prescribed specific sums for fiscal years 1936-1939 and for each fiscal year thereafter and inserted provisions relating to amounts made available pursuant to section 1101(c)(1)(A) of this title.

1939—Act Apr. 19, 1939, provided increased appropriation for fiscal year ending June 30, 1939, and for each fiscal year thereafter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 45 section 363.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 46-314 of the District of Columbia Code.

§ 502. Payments to States; computation of amounts

(a) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act, such amounts as the Secretary of Labor determines to be necessary for the proper and efficient administration of such law during the fiscal year for which such payment is to be made. The Secretary's determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and of the cost of proper and efficient administration of such law; and (3) such other factors as the Secretary of Labor finds relevant. The Secretary of Labor shall not certify for payment under this section in any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

(b) Out of the sums appropriated therefor the Secretary of the Treasury shall, upon receiving a certification under subsection (a) of this section, pay, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, to the State agency charged with the administration of such law the amount so certified.

(Aug. 14, 1935, ch. 531, title III, § 302, 49 Stat. 626; Aug. 10, 1939, ch. 666, title III, § 301, 53 Stat. 1378; 1940 Reorg. Plan No. III, § 1(a), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065.)

REFERENCES IN TEXT

The Federal Unemployment Tax Act, referred to in subsec. (a), comprised subchapter C (§§ 1600 to 1611) of chapter 9 of the Internal Revenue Code of 1939. Chapter 9 of the 1939 Code was repealed (subject to certain exceptions) by section 7851(a)(3) of the Internal Revenue Code of 1954. The Federal Unemployment Tax Act also comprises chapter 23 (§ 3301 et seq.) of the Internal Revenue Code of 1954.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1954 Code, see section 7852(b) of the 1954 Code. For table of comparisons of the 1939 Code to the 1954 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 is classified generally to Title 26.

AMENDMENTS

1939—Subsec. (a). Act Aug. 10, 1939, substituted "Federal Unemployment Tax Act" for "sections 1101-1110 of this title," and inserted the word "efficient" preceding "administration".

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of the Department of Labor, with certain exceptions, to the Secretary of Labor, with power to delegate, see Reorg. Plan No. 6 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of the Federal Security Administrator with respect to unemployment compensation were transferred to the Secretary of Labor by Reorg. Plan No. 2 of 1949, set out in the Appendix to Title 5.

Section 1 of Reorg. Plan No. 2 of 1949, also provided that the functions transferred by this section shall be

performed by the Secretary of Labor, or subject to his direction and control, by such officers, agencies, and employees of the Department of Labor as he shall designate.

"Administrator" was substituted for "Board" by section 4 of Reorg. Plan No. 2 of 1946, set out in the Appendix to Title 5. See note under section 902 of this title.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by section 1(a) of Reorg. Plan No. III of 1940, set out in the Appendix to Title 5.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (a) of this section, see section 201(12) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

CROSS REFERENCES

Withholding amounts from certification for payment, see note under section 363 of Title 45, Railroads.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 504 of this title; title 45 section 363.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 46-314 of the District of Columbia Code.

§ 503. State laws

(a) Provisions required

The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax Act, includes provision for—

(1) Such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary of Labor shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due; and

(2) Payment of unemployment compensation solely through public employment offices or such other agencies as the Secretary of Labor may approve; and

(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied; and

(4) The payment of all money received in the unemployment fund of such State (except for refunds of sums erroneously paid into such fund and except for refunds paid in accordance with the provisions of section 1606(b) of the Federal Unemployment Tax Act), immediately upon such receipt, to the Secretary of the Treasury to the credit of the unemployment trust fund established by section 1104 of this title; and

(5) Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 1606(b) of the Federal Unemployment Tax Act: *Provided*, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration: *Provided further*, That the amounts specified by section 1103(c)(2) of this title may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices; and

(6) The making of such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports; and

(7) Making available upon request to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of such recipient's rights to further compensation under such law; and

(8) Effective July 1, 1941, the expenditure of all moneys received pursuant to section 502 of this title solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of such State law; and

(9) Effective July 1, 1941, the replacement, within a reasonable time, of any moneys received pursuant to section 502 of this title, which, because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of such State law.

(b) Failure to comply; payments stopped

Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that in the administration of the law there is—

(1) a denial, in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law; or

(2) a failure to comply substantially with any provision specified in subsection (a) of this section;

the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such denial or failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State: *Provided*, That there shall be no finding under clause (1) until the question of entitlement shall have been decided by the highest judicial authority given jurisdiction under such State law: *Provided further*, That any costs may

be paid with respect to any claimant by a State and included as costs of administration of its law.

(c) Denial of certification; availability of records to Railroad Retirement Board; cooperation with federal agencies

The Secretary of Labor shall make no certification for payment to any State if he finds, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law—

(1) That such State does not make its records available to the Railroad Retirement Board, and furnish to the Railroad Retirement Board at the expense of the Railroad Retirement Board such copies thereof as the Railroad Retirement Board deems necessary for its purposes; or

(2) That such State is failing to afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

(Aug. 14, 1935, ch. 531, title III, § 303, 49 Stat. 626; June 25, 1938, ch. 680, § 13(g), 52 Stat. 1112; June 20, 1939, ch. 227, § 18, 53 Stat. 848; Aug. 10, 1939, ch. 666, title III, § 302, 53 Stat. 1378; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 416(c), 60 Stat. 991; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065; Aug. 28, 1950, ch. 809, title IV, § 405(b), 64 Stat. 560; Aug. 5, 1954, ch. 657, § 5(a)(1), 68 Stat. 673.)

REFERENCES IN TEXT

The Federal Unemployment Tax Act, referred to in subsec. (a), comprised subchapter C (§§ 1600 to 1611) of chapter 9 of the Internal Revenue Code of 1939. Chapter 9 of the 1939 Code was repealed (subject to certain exceptions) by section 7851(a)(3) of the Internal Revenue Code of 1954. The Federal Unemployment Tax Act also comprises chapter 23 (§ 3301 et seq.) of the Internal Revenue Code of 1954.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1954 Code, see section 7852(b) of the 1954 Code. For table of comparisons of the 1939 Code to the 1954 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 is classified generally to Title 26.

AMENDMENTS

1954—Subsec. (a)(5). Act Aug. 5, 1954, made it clear that the funds credited to the State account may, subject to certain restrictions, be used for administrative expenses of the State in connection with its unemployment compensation law.

1950—Subsec. (b). Act Aug. 28, 1950, added provisos.

1946—Subsec. (a)(5). Act Aug. 10, 1946, added proviso allowing payment of disability benefits.

1939—Subsec. (a). Act Aug. 10, 1939, substituted "Federal Unemployment Tax Act" for "sections 1101–1110 of this title", amended pars. (1), (4), and (5) generally, and added pars. (8) and (9).

Subsec. (c)(2). Act June 20, 1939, substituted "unemployment" for "employment".

1938—Subsec. (c). Act June 25, 1938, added subsec. (c).

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Labor under subsec. (a)(1) of this section, insofar as relates to the prescription of personnel standards on a merit basis, transferred to United States Civil Service Commission, see section 4728(a)(2)(B) of this title.

For transfer of functions of other officers, employees, and agencies of the Department of Labor, with certain exceptions, to the Secretary of Labor, with to delegate, see Reorg. Plan No. 6 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of the Federal Security Administrator with respect to unemployment compensation were transferred to the Secretary of Labor by section 1 of Reorg. Plan No. 2 of 1949 set out in the Appendix to Title 5.

Section 1 of Reorg. Plan No. 2 of 1949 also provided that the functions transferred by this section shall be performed by the Secretary of Labor, or subject to his direction and control, by such officers, agencies, and employees of the Department of Labor as he shall designate.

"Administrator" was substituted for "Board" by section 2 of Reorg. Plan No. 2 of 1946, set out in the Appendix to Title 5. See note under section 902 of this title.

CROSS REFERENCES

Withdrawal as breach of conditions, see note under section 363 of Title 45, Railroads.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 504, 1103, 4728 of this title; title 5 section 8506; title 29 section 49d; title 45 section 363.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 46-314 of the District of Columbia Code.

§ 504. Judicial review

(a) Finding by Secretary of Labor; petition for review; filing of record

Whenever the Secretary of Labor—

(1) finds that a State law does not include any provision specified in section 503(a) of this title, or

(2) makes a finding with respect to a State under subsection (b) or (c) of section 503 of this title,

such State may, within 60 days after the Governor of the State has been notified of such action, file with the United States court of appeals for the circuit in which such State is located or with the United States Court of Appeals for the District of Columbia, a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary of Labor. The Secretary of Labor thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28.

(b) Findings of fact by the Secretary of Labor; new or modified findings

The findings of fact by the Secretary of Labor, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary of Labor to take further evidence and the Secretary of Labor may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Affirmance or setting aside of Secretary's action; review by Supreme Court

The court shall have jurisdiction to affirm the action of the Secretary of Labor or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(d) Stay of Secretary's action

(1) The Secretary of Labor shall not withhold any certification for payment to any State under section 502 of this title until the expiration of 60 days after the Governor of the State has been notified of the action referred to in paragraph (1) or (2) of subsection (a) of this section or until the State has filed a petition for review of such action, whichever is earlier.

(2) The commencement of judicial proceedings under this section shall stay the Secretary's action for a period of 30 days, and the court may thereafter grant interim relief if warranted, including a further stay of the Secretary's action and including such other relief as may be necessary to preserve status or rights.

(e) Preference; expeditious determination

Any judicial proceedings under this section shall be entitled to, and, upon request of the Secretary or the State, shall receive a preference and shall be heard and determined as expeditiously as possible.

(Aug. 14, 1935, ch. 531, title III, § 304, as added Aug. 10, 1970, Pub. L. 91-373, title I, § 131(a), 84 Stat. 703.)

SUBCHAPTER IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

AMENDMENTS

1968—Pub. L. 90-248, title II, § 240(a), Jan. 2, 1968, 81 Stat. 911, provided for grants for child-welfare services in the heading of the subchapter.

1962—Pub. L. 87-543, title I, § 104(a)(1), July 25, 1962, 76 Stat. 185, substituted "Aid and Services to Needy Families with Children" for "Aid to Dependent Children" in the heading of the subchapter.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1301, 1306a, 6862 of this title; title 7 section 2019; title 20 section 241d-11; title 29 section 981; title 31 section 665.

PART A—AID TO FAMILIES WITH DEPENDENT CHILDREN

AMENDMENTS

1968—Pub. L. 90-248, title II, § 240(b), Jan. 2, 1968, 81 Stat. 911, added part A heading.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 405, 428, 603a, 622, 644, 653, 654, 657, 1306, 1309, 1311, 1315, 1316, 1318, 1319, 1382, 1395v, 1396a, 1396b, 1396d, 1397a, 1397b, 1397c, 3195, 5103 of this title; title 26 section 50B; title 29 sections 49b, 968; title 40 App., section 202.

§ 601. Authorization of Appropriations

For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for aid and services to needy families with children.

(Aug. 14, 1935, ch. 531, title IV, § 401, 49 Stat. 627; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 312(a), 70 Stat. 848; July 25, 1962, Pub. L. 87-543, title I, § 104(a)(4), (c)(2), 76 Stat. 185, 186; Jan. 2, 1968, Pub. L. 90-248, title II, § 241(b)(1), 81 Stat. 916.)

AMENDMENTS

1968—Pub. L. 90-248 substituted in first sentence "part" for "subchapter".

1962—Pub. L. 87-543 substituted in the second sentence "aid and services to needy families with children" for "aid to dependent children", and inserted in the first sentence "and rehabilitation" following "financial assistance" and "or retain capability for" following "attain".

1956—Act Aug. 1, 1956, restated the purpose to include encouragement of care of dependent children in their own homes or in the homes of relatives, and authorized services to needy dependent children and the parents or relatives to help maintain and strengthen family life and to help such parents or relatives to attain the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

"Administrator" was substituted for "Board" by section 2 of Reorg. Plan No. 2 of 1946, set out in the Appendix to Title 5. See note under section 902 of this title.

STATE PLANS IN EFFECT JAN. 1, 1968; AUTOMATIC CONFORMITY TO AMENDMENTS

Section 240(h) of Pub. L. 90-248 provided that: "Each State plan approved under title IV of the Social Security Act [this subchapter] as in effect on the day preceding the date of the enactment of this Act [Jan. 2, 1968] shall be deemed, without the necessity of any change in such plan, to have been conformed with the amendments made by subsections (a) and (b) of this section [amending subchapter IV and enacting part A heading]."

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

Section 104(b) of Pub. L. 87-543 provided that: "Each State plan approved under title IV of the Social Security Act [this subchapter] and in effect on the date of the enactment of this Act [July 25, 1962] shall be deemed for purposes of such title [this subchapter], without the necessity of any change in such plan, to have been conformed with the amendments made by subsection (a) of this section [to sections 601-604, 606-608, 1202 and 1352 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 603, 609 of this title.

§ 602. State plans for aid and services to needy families with children

(a) Contents

A State plan for aid and services to needy families with children must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to families with dependent children is denied or is not acted upon with reasonable promptness; (5) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan; and (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) except as may be otherwise provided in clause (8), provide that the State agency shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid, as well as any expenses reasonably attributable to the earning of any such income; (8) provide that, in making the determination under clause (7), the State agency—

(A) shall with respect to any month disregard—

(i) all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or part-time student who is not a full time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment, and

(ii) in the case of earned income of a dependent child not included under clause (i), a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $30 of the total of such earned income for such month plus one-third of the remainder of such income for such month (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 632(b)(2) and (3) of this title); and

(B)(i) may, subject to the limitations prescribed by the Secretary, permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child, and (ii) may, before disregarding the amounts referred to in subparagraph (A) and clause (i) of this subparagraph, disregard not more than $5 per month of any income;

except that, with respect to any month, the State agency shall not disregard any earned income (other than income referred to in subparagraph (B)) of—

(C) any one of the persons specified in clause (ii) of subparagraph (A) if such person—

(i) terminated his employment or reduced his earned income without good cause within such period (of not less than 30 days) preceding such month as may be prescribed by the Secretary; or

(ii) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after notification by him, to be a bona fide offer of employment; or

(D) any of such persons specified in clause (ii) of subparagraph (A) if with respect to such month the income of the persons so specified (within the meaning of clause (7)) was in excess of their need as determined by the State agency pursuant to clause (7) (without regard to clause (8)), unless, for any one of the four months preceding such month, the needs of such persons were met by the furnishing of aid under the plan;

(9) provide safeguards which restrict the use of[1] disclosure of information concerning applicants or recipients to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part B, C, or D of this subchapter or under subchapter I, X, XIV, XVI, XIX, or XX of this chapter, or the supple-

[1] So in original. Probably should read "or".

mental security income program established by subchapter XVI of this chapter, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, and (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body, of any information which identifies by name or address any such applicant or recipient; (10) provide, effective July 1, 1951, that all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so, and that aid to families with dependent children shall, subject to paragraphs (25) and (26), be furnished with reasonable promptness to all eligible individuals; (11) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency (established pursuant to part D of this subchapter) of the furnishing of aid to families with dependent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established); (12) provide, effective October 1, 1950, that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this title;

(13), (14) Repealed. Pub. L. 93-647, § 3(a)(2), Jan. 4, 1975, 88 Stat. 2348.

(15) provide as part of the program of the State for the provision of services under subchapter XX of this chapter (A) for the development of a program, for each appropriate relative and dependent child receiving aid under the plan and for each appropriate individual (living in the same home as a relative and child receiving such aid) whose needs are taken into account in making the determination under clause (7), for preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life, and for implementing such program by assuring that in all appropriate cases (including minors who can be considered to be sexually active) family planning services are offered to them, and are provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services but acceptance of family planning services provided under the plan shall be voluntary on the part of such members and individuals and shall not be a prerequisite to eligibility for or the receipt of any other service under the plan; and (B) to the extent that services provided under this clause or clause (14) are furnished by the staff of the State agency or the local agency administering the State plan in each of the political subdivisions of the State, for the establishment of a single organizational unit in such State or local agency, as the case may be, responsible for the furnishing of such services; (16) provide that where the State agency has reason to believe that the home in which a relative and child receiving aid resides is unsuitable for the child because of the neglect, abuse, or exploitation of such child it shall bring such condition to the attention of the appropriate court or law enforcement agencies in the State, providing such data with respect to the situation it may have;

(17), (18) Repealed. Pub. L. 93-647, § 101(c)(8), Jan. 4, 1975, 88 Stat. 2360.

(19) provide—

(A) that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, and employment as provided by regulations of the Secretary of Labor, unless such individual is—

(i) a child who is under age 16 or attending school full time;

(ii) a person who is ill, incapacitated, or of advanced age;

(iii) a person so remote from a work incentive project that his effective participation is precluded;

(iv) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(v) a mother or other relative of a child under the age of six who is caring for the child; or

(vi) the mother or other female caretaker of a child, if the father or another adult male relative is in the home and not excluded by clause (i), (ii), (iii), or (iv) of this subparagraph (unless he has failed to register as required by this subparagraph, or has been found by the Secretary of Labor under section 633(g) of this title to have refused without good cause to participate under a work incentive program or accept employment as described in subparagraph (F) of this paragraph);

and that any individual referred to in clause (v) shall be advised of her option to register, if she so desires, pursuant to this paragraph, and shall be informed of the child care services (if any) which will be available to her in the event she should decide so to register.

(B) that aid under the plan will not be denied by reason of such registration or the individual's certification to the Secretary of Labor under subparagraph (G) of this paragraph, or by reason of an individual's participation on a project under the program established by section 632(b)(2) or (3) of this title;

(C) for arrangements to assure that there will be made a non-Federal contribution to the work incentive programs established by part C by appropriate agencies of the State or private organizations of 10 per centum of the cost of such programs, as specified in section 635(b) of this title;

(D) that (i) training incentives authorized under section 634 of this title, and income derived from a special work project under the program established by section 632(b)(3) of this title shall be disregarded in determining the needs of an individual under section 602(a)(7) of this title, and (ii) in determining such individual's needs the additional expenses attributable to his participation in a program established by section 632(b)(2) or (3) of this title shall be taken into account;

(E) Repealed. Pub. L. 92-223, § 3(a)(5), Dec. 28, 1971, 85 Stat. 804.

(F) that if and for so long as any child, relative or individual (certified to the Secretary of Labor pursuant to subparagraph (G) has been found by the Secretary of Labor under section 633(g) of this title to have refused without good cause to participate under a work incentive program established by part C with respect to which the Secretary of Labor has determined his participation is consistent with the purposes of such part C, or to have refused without good cause to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined, after notification by him, to be a bona fide offer of employment—

(i) if the relative makes such refusal, such relative's needs shall not be taken into account in making the determination under clause (7), and aid for any dependent child in the family in the form of payments of the type described in section 606(b)(2) of this title (which in such a case shall be without regard to clauses (A) through (E) thereof) or section 608 of this title will be made;

(ii) aid with respect to a dependent child will be denied if a child who is the only child receiving aid in the family makes such refusal;

(iii) if there is more than one child receiving aid in the family, aid for any such child will be denied (and his needs will not be taken into account in making the determination under clause (7)) if that child makes such refusal; and

(iv) if such individual makes such refusal, such individual's needs shall not be taken into account in making the determination under clause (7);

except that the State agency shall, for a period of sixty days, make payments of the type described in section 606(b)(2) of this title (without regard to clauses (A) through (E) thereof) on behalf of the relative specified in clause (i), or continue aid in the case of a child specified in clause (ii) or (iii), or take the individual's needs into account in the case of an individual specified in clause (iv), but only if during such period such child, relative, or individual accepts counseling or other services (which the State agency shall make available to such child, relative, or individual) aimed at persuading such relative, child, or individual, as the case may be, to participate in such program in accordance with the determination of the Secretary of Labor; and

(G) that the State agency will have in effect a special program which (i) will be administered by a separate administrative unit and the employees of which will, to the maximum extent feasible, perform services only in connection with the administration of such program, (ii) will provide (through arrangements with others or otherwise) for individuals who have been registered pursuant to subparagraph (A), in accordance with the order of priority listed in section 633(a) of this title, such health, vocational rehabilitation, counseling, child care, and other social and supportive services as are necessary to enable such individuals to accept employment or receive manpower training provided under part C, and will, when arrangements have been made to provide necessary supportive services, including child care, certify to the Secretary of Labor those individuals who are ready for employment or training under part C, (iii) will participate in the development of operational and employability plans under section 633(b) of this title; and (iv) provides for purposes of clause (ii), that, when more than one kind of child care is available, the mother may choose the type, but she may not refuse to accept child care services if they are available;

(20) effective July 1, 1969, provide for aid to families with dependent children in the form of foster care in accordance with section 608 of this title;

(21), (22) Repealed. Pub. L. 93-647, § 101(c)(8), Jan. 4, 1975, 88 Stat. 2360.

(23) provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any maximums that the State imposes on the amount of aid paid to families will have been proportionately adjusted; (24) provide that if an individual is receiving benefits under subchapter XVI of this chapter, then, for the period for which such benefits are received, such individual shall not be regarded as a member of a family for purposes of determining the amount of the benefits of the family under this subchapter and his income and resources shall not be counted as income and resources of a family under this subchapter; (25) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ in the administration of such plan; (26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required—

(A) to assign the State any rights to support from any other person such applicant may have (i) in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and (ii) which have accrued at the time such assignment is executed,

(B) to cooperate with the State (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant or such child, unless (in either case) such applicant or recipient is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf aid is claimed; and that, if the relative with

whom a child is living is found to be ineligible because of failure to comply with the requirements of subparagraphs (A) and (B) of this paragraph, any aid for which such child is eligible will be provided in the form of protective payments as described in section 606(b)(2) of this title (without regard to subparagraphs (A) through (E) of such section);

(27) provide, that the State has in effect a plan approved under part D of this subchapter and operate a child support program in conformity with such plan; and (28) provide that, in determining the amount of aid to which an eligible family is entitled, any portion of the amounts collected in any particular month as child support pursuant to a plan approved under part D of this subchapter, and retained by the State under section 657 of this title, which (under the State plan approved under this part as in effect both during July 1975 and during that particular month) would not have caused a reduction in the amount of aid paid to the family if such amounts had been paid directly to the family, shall be added to the amount of aid otherwise payable to such family under the State plan approved under this part.

(b) Approval by Secretary

The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes as a condition of eligibility for aid to families with dependent children, a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within one year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the State for one year immediately preceding the birth.

(c) Compilation of data; publishing of findings; reports to Congress

The Secretary shall, on the basis of his review of the reports received from the States under clause (15) of subsection (a) of this section; compile such data as he believes necessary and from time to time publish his findings as to the effectiveness of the programs developed and administered by the States under such clause. The Secretary shall annually report to the Congress (with the first such report being made on or before July 1, 1970) on the programs developed and administered by each State under such clause (15).

(Aug. 14, 1935, ch. 531, title IV, § 402, 49 Stat. 627; Aug. 10, 1939, ch. 666, title IV, § 401, 53 Stat. 1379; Aug. 28, 1950, ch. 809, title III, pt. 2, § 321, pt. 6, § 361(c), (d), 64 Stat. 549, 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 312(b), 70 Stat. 849; July 25, 1962, Pub. L. 87-543, title I, §§ 103, 104(a)(2), (3)(A), (B), (5)(A), 106(b), 76 Stat. 185, 188; July 30, 1965, Pub. L. 89-97, title IV, §§ 403(b), 410, 79 Stat. 418, 423; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 201(a), (b), 202(a), (b), 204(b), (e), 205(a), 210(a)(2), 211(a), 213(b), 81 Stat. 877, 879, 881, 890, 892, 895, 896, 898; Dec. 28, 1971, Pub. L. 92-223, § 3(a)(1)-(7), 85 Stat. 803, 804; Oct. 30, 1972, Pub. L. 92-603, title II, § 299E(c), title IV, § 414(a), 86 Stat. 1462, 1492; Jan. 4, 1975, Pub. L. 93-647, §§ 3(a)(1), (2), (8), 101(c)(2)-(5), (8), 88 Stat. 2348, 2349, 2359, 2360; Aug. 9, 1975, Pub. L. 94-88, title II, §§ 202, 207, 208(a), 209, 89 Stat. 434, 436, 437.)

References in Text

Clause (14), referred to in subsec. (a) cl. (15), was repealed by Pub. L. 93-647, § 3(a)(2), Jan. 4, 1975, 88 Stat. 2348.

Codification

Amendment by section 299E(c) of Pub. L. 92-603 has been executed to subsec. (a)(15)(A) as the probable intent of Congress.

Amendments

1975—Subsec. (a)(5). Pub. L. 93-647, § 3(a)(1), struck out designation of provisions as "(A)" preceding "such methods of administration", and provisions of former subpar. (B) relating to training and use of paid subprofessional staff, with emphasis in full or part time employment of low income recipients, and use of nonpaid or partially paid volunteers in providing services to applicants and in assisting advisory committees.

Subsec. (a)(9). Pub. L. 94-88, § 207, substituted requirement that the state plan provide safeguards restricting the use or disclosure of information concerning applicants or recipients to purposes directly connected with the administration of state plan approved under this part, any plan or program under other parts of this subchapter, or subchapters I, X, XIV, XVI, XIX, or XX of this chapter, or the supplemental security income program established by subchapter XVI of this chapter, any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of such plan or program, and the administration of any other federal or federally assisted program which provides assistance directly to individuals on the basis of need, and that the safeguards so provided shall prohibit disclosure to any committee or a legislative body, of any information which identifies by name or address any such applicant or recipient, for requirement that the state plan provide safeguards which permit the use or disclosure of information concerning applicants or recipients only to public officials who require such information in connection with their official duties, or other persons for purposes directly connected with the administration of aid to families with dependent children.

Pub. L. 93-647, § 101(c)(2), substituted provisions permitting disclosure to public officials requiring such information in connection with their duties and other persons for purposes directly connected with the administration of aid to families with dependent children, for provisions restricting disclosure to purposes directly connected with the administration of aid to such families.

Subsec. (a)(10). Pub. L. 93-647, § 101(c)(3), added ", subject to paragraphs (25) and (26)," before "be furnished".

Subsec. (a)(11). Pub. L. 93-647, § 101(c)(4), substituted provisions relating to prompt notice to the State child support collection agency with respect to an abandoned or deserted child, for provisions relating to prompt notice to the appropriate law-enforcement officials.

Subsec. (a)(13), (14). Pub. L. 93-647, § 3(a)(2), repealed subsecs. (a)(13) and (14), relating to a description of services made available by State agency to strengthen family life, including steps taken to utilize other services, and relating to development and application of program for such family services and child welfare services for prevention of abuse, neglect, etc., of children, respectively.

Subsec. (a)(15). Pub. L. 93-647, § 3(a)(8), added "as part of the program of the State for the provision of services under subchapter XX of this chapter" after "provide".

Subsec. (a)(17), (18). Pub. L. 93-647, § 101(c)(8), repealed subsec. (a)(17) and (18), which provided for the development and implementation of a state agency program for support and establishment of paternity of children born out of wedlock or abandoned by their parents, a single organizational unit in the local agency to be responsible for administration of such program, and cooperative arrangements with courts and law enforcement officials to assist in the administration of the program.

Subsec. (a)(21), (22). Pub. L. 93-647, § 101(c)(8), repealed subsec. (a)(21) and (22), which provided for report by State agency to Secretary of names and social security numbers of unlocated parents with dependent children against whom an order of support has been issued, and for cooperation with State agency in administration of the plan of another State in locating and securing compliance with parents in another State with such support order.

Subsec. (a)(24). Pub. L. 93-647, § 101(c)(5)(B), added "provide that" after "(24)".

Subsec. (a)(25) to (27). Pub. L. 93-647, § 101(c)(5)(C), added subsec. (a)(25) to (27).

Subsec. (a)(26). Pub. L. 94-88, § 208(a), substituted in subpar. (B), "payments or property due such applicant or such child, unless (in either case) such applicant or recipient is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf aid is claimed;" for "payments or property due such applicant or such child".

Subsec. (a)(27). Pub. L. 94-88, §§ 202(2), 209, substituted "the State has in effect" for "the States have in effect", and added "and" at the end of the paragraph.

Subsec. (a)(28). Pub. L. 94-88, § 202(3), added par. (28).

1972—Subsec. (a)(15)(A). Pub. L. 92-603, § 299E(c), added "(including minors who can be considered sexually active)" following "in all appropriate cases," and "and are provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services" following "family planning services are offered to them".

Subsec. (a)(24). Pub. L. 92-603, § 414(a), added par. (24).

1971—Subsec. (a)(15). Pub. L. 92-223, § 3(a)(1), incorporated in subpar. (A) existing provisions of former subpars. (A)-(C), less cl. (i) of former subpar. (A) respecting assurance, to maximum extent possible, that relative, child, and individual will enter the labor force and accept employment so as to become self-sufficient and cl. (i) of former subpar. (B) respecting assurances that the relative, child, or individual who is referred to the Secretary of Labor pursuant to cl. (19) is furnished child-care services, struck out former subpar. (D) provisions for review of each program as may be necessary (as frequently as may be necessary, but at least once a year) to insure that it is being effectively implemented and former subpar. (E) provisions for furnishing the Secretary with such reports as he may specify showing the results of such programs, and redesignated as subpar. (B) provisions of former subpar. (F), substituting "services provided" and "are furnished by the staff" for "such programs" and "are developed and implemented by services furnished by the staff".

Subsec. (a)(19)(A). Pub. L. 92-223, § 3(a)(2), in revising subpar. (A), substituted provisions for registration for manpower services, training, and employment, as a condition of eligibility for aid under this part, for former provisions respecting prompt referral to the Secretary of Labor or his representative for participation under a work incentive program established by part C; incorporated in: cl. (i), provisions of former cl. (i) respecting "each appropriate child and relative who has attained age sixteen and is receiving aid to families with dependent children" and former cl. (vi); cl. (ii), provisions of former cl. (iv); cl. (iii), provisions of former cl. (v); cl. (iv), provisions of former cl. (vii) less requirement of presence in home on substantially continuous basis; added cls. (v) and (vi) and concluding sentence respecting advice of option to register and of availability of child care services; and struck out former cl. (ii) for referral to Secretary of each appropriate individual (living in the same home as a relative and child receiving such aid) who has attained such age (16) and whose needs are taken into account in making the determination under subsec. (a)(7) of this section and former cl. (iii) for such referral of any other person claiming aid under the plan (not included in cls. (i) and (ii)), who, after being informed of the work incentive program, requests such referral unless the State agency determines that participation in any of such programs would be inimical to the welfare of such person or the family.

Subsec. (a)(19)(B). Pub. L. 92-223, § 3(a)(3), substituted "by reason of such registration or the individual's certification to the Secretary of Labor under subparagraph (G) of this paragraph," for "by reason of such referral".

Subsec. (a)(19)(C). Pub. L. 92-223, § 3(a)(4), substituted "10 per centum" for "20 per centum".

Subsec. (a)(19)(E). Pub. L. 92-223, § 3(a)(5), struck out subpar. (E) provisions respecting participation in special work projects and State agency payments and supplementation of earnings, plus 20 per centum of individual's earnings from special work projects.

Subsec. (a)(19)(F). Pub. L. 92-223, § 3(a)(6), substituted parenthetical clause, "(certified to the Secretary of Labor pursuant to subparagraph (G)" for "(referred to the Secretary of Labor pursuant to subparagraph (A) (i) and (ii) and section 607(b)(2) of this title)" in text preceding cl. (i).

Subsec. (a)(19)(G). Pub. L. 92-223, § 3(a)(7), added subpar. (G).

1968—Subsec. (a)(5). Pub. L. 90-248, § 210(a)(2), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(7). Pub. L. 90-248, § 202(b), substituted introductory phrase "except as may be otherwise provided in clause (8)" for former concluding text that "except that, in making such determination, (A) the State agency may disregard not more than $50 per month of earned income of each dependent child under the age of 18 but not in excess of $150 per month of earned income of such dependent children in the same home, (B) the State agency may, subject to limitations prescribed by the Secretary, permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child, and (C) the State agency may, before disregarding the amounts referred to in clauses (A) and (B), disregard not more than $5 of any income" and required the consideration of other income and resources of any other individual (living in the same home as the child and relative) whose needs the State determined should be considered in determining the need of the child or relative claiming aid.

Subsec. (a)(8). Pub. L. 90-248, § 202(b), added par. (8). Former par. (8) redesignated (9).

Subsec. (a)(8)(A). Pub. L. 90-248, § 204(e), provided that clause (ii) shall not apply to earned income derived from participation on a project maintained under programs established by section 632(b)(2) and (3) of this title.

Subsec. (a)(9) to (12). Pub. L. 90-248, § 202(a), redesignated former pars. (8) to (11) as (9) to (12), respectively. Former pars. (9) to (12) redesignated (10) to (13), respectively.

Subsec. (a)(13). Pub. L. 90-248, §§ 201(a)(2), 202(a), struck out "(if any)" following "description of the services" and redesignated former par. (12) as (13), respectively. Former par. (13) redesignated (14).

Subsec. (a)(14). Pub. L. 90-248, § 201(a)(1), substituted "family services, as defined in section 606d of this title, and child-welfare services, as defined in section 625 of this title," for "welfare and related services" and "other needs of such child, relative, and individual to attain or retain capability for self-support and care and in order to maintain and strengthen family life and to foster child development" for "other needs of

such child, and provided for coordination of such programs, and any other services provided for children under the State plan, with the child-welfare services plan developed as provided in sections 721-728 of this title, with a view toward providing welfare and related services which will best promote the welfare of such child and his family" and extended the program to each relative and each appropriate individual (living in the same home as a relative and child receiving such aid whose needs are taken into account in making the determination under clause (7)).

Pub. L. 90-248, § 202(a), redesignated former par. (13) as (14).

Subsec. (a)(15) to (23). Pub. L. 90-248, §§ 201(a)(1)(C), 204(b), 205(a), 211(a), 213(b), added cls. (15) to (18), (19), (20), (21) and (22), and (23), respectively.

Subsec. (c). Pub. L. 90-248, § 201(b), added subsec. (c).

1965—Subsec. (a)(7). Pub. L. 89-97, §§ 403(b), 410, added clause (C) placing a ceiling of $5 upon the amount of any income which the state may disregard before disregarding the amounts referred to in (A) and (B); and designated as clause (B) the existing provision following the first semicolon which authorized the state agency, in making its determination, to permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child, and inserted, before such provision, clause (A) which authorized the state agency to disregard not more than $50 per month of earned income of each dependent child under the age of 18 but not in excess of $150 per month of earned income of such dependent children in the same home, respectively.

1962—Pub. L. 87-543, § 104(a)(2), substituted "aid and services to needy families with children" for "aid to dependent children" in the catchline.

Subsec. (a). Pub. L. 87-543, §§ 103, 104(a)(3)(A), (5)(A), 106(b), substituted "aid and services to needy families with children" for "aid to dependent children", in the opening provisions, and "aid to families with dependent children" for "aid to dependent children" wherever appearing in clauses (4), (7) to (10), added the provision respecting the consideration of expenses reasonably attributable to the earning of income and the exception provision in clause (7), and added clause (13).

Subsec. (b). Pub. L. 87-543, § 104(a)(3)(B), substituted "aid to families with dependent children" for "aid to dependent children".

1956—Subsec. (a). Act Aug. 1, 1956, added clause (12).

1950—Subsec. (a). Act Aug. 28, 1950, § 321(a), (b), substituted in cl. (4) "provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to dependent children is or is not acted upon with reasonable promptness" for "provide for granting to any individual, whose claim with respect to aid to a dependent child is denied," struck out "and" preceding cl. (8) and a semicolon after it, and added cls. (9) to (11).

Subsec. (b). Act Aug. 28, 1950, §§ 321(c), 361(c), (d), substituted "Administrator" for "Board", and "he", "him", or "his" for "it", or "its" wherever appearing, and prevented denial of aid in cases where the child of parents normally resident of a State happens to be born across the State line.

1939—Subsec. (a). Act Aug. 10, 1939, amended cl. (5) generally, and added cls. (7) and (8).

Effective Date of 1975 Amendments

Section 210 of Pub. L. 94-88 provided that: "The amendments made by this title [amending this section and sections 603, 654, and 655 of this title and enacting provisions set out as notes under this section and section 655 of this title] shall, unless otherwise specified therein, become effective August 1, 1975."

Amendment by section 3 of Pub. L. 93-647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, but not effective with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, see section 7(b) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

Amendment by section 101 of Pub. L. 93-647 effective August 1, 1975, see section 101(f) of Pub. L. 93-647, set out as an Effective Date note under section 651 of this title.

Effective Date of 1972 Amendment

Section 299E(c) of Pub. L. 92-603 provided in part that the amendment to subsec. (a)(15)(A) by section 299E(c) of Pub. L. 92-603 shall be effective Jan. 1, 1973.

Section 414(b) of Pub. L. 92-603 provided that: "The amendments made by subsection (a) [enacting subsec. (a)(24) of this section] shall be effective on and after January 1, 1973."

Effective Date of 1971 Amendment

Section 3(c) of Pub. L. 92-223 provided that: "The amendments made by this section [enacting subsec. (a)(19)(G) of this section and sections 603(c), (d), 631(b), (c), 632(f), and 634(b) of this title; amending subsec. (a)(15), (19)(A) to (C), (F) of this section and sections 607(b)(2)(A), (c), 630, 632(b)(1), (3), (d), 633(a), (b), (e)(1), (2)(A), (B), (f) to (h), 635(a), (b), 636(b), 638, 639, 641(a), 642, 643, and 644(a), (c)(1), (d) of this title; and repealing subsec. (a)(19)(E) of this section and section 633(e)(3) of this title] shall, except as otherwise specified herein, take effect on July 1, 1972."

Effective Date of 1968 Amendment

Section 201(g) of Pub. L. 90-248 provided that:

"(1) The amendments made by subsections (a), (b), (d), (e), and (f) of this section [to subsecs. (a)(13) to (18), (c) of this section and sections 603(a)(3), (c), 606(d) and 608(d) of this title] shall be effective July 1, 1968 (or earlier if the State plan so provides); except that (A) if on the date of enactment of this Act [Jan. 2, 1968] the agency of a State referred to in section 402(a)(3) of the Social Security Act [subsec. (a)(3) of this section] is different from the agency of such State responsible for administering the plan for child-welfare services developed pursuant to part B of title IV of the Social Security Act [part B of this subchapter] the provisions of section 402(a)(15)(F) of such Act [subsec. (a)(15)(F) of this section] (added thereto by subsection (a) of this section) shall not apply with respect to such agencies but only so long as such agencies of the State are different, and (B) if on such date the local agency administering the plan of a State under part A of title IV of such Act [part A of this subchapter] in a political subdivision is different from the local agency in such subdivision administering the State's plan for child-welfare services developed pursuant to part B of title IV of such Act [part B of this subchapter] the provisions of such section 402(a)(15)(F) [subsec. (a)(15)(F) of this section] shall not apply with respect to such agencies but only so long as such local agencies are different.

"(2) The amendment made by subsection (c) [to section 603(a)(3)(A) of this title], shall apply with respect to services furnished after June 30, 1968, or furnished after such earlier date as the State plan may provide with respect to the amendment made by paragraph (1) of this subsection."

Section 202(b) of Pub. L. 90-248 provided that amendment of subsec. (a)(7) and enactment of subsec. (a)(8) of this section by such section 202(b) shall be effective July 1, 1969.

Section 204(c)(1) of Pub. L. 90-248 provided that: "The amendment made by subsection (b) [enacting subsec. (a)(19) of this section] shall in the case of any State be effective on July 1, 1968, or if a statue of such State prevents it from complying with the requirements of such amendment on such date, such amendment shall with respect to such State be effective on July 1, 1969; except such amendment shall be effective earlier (in the case of any State), but not before April

1, 1968, if a modification of the State plan to comply with such amendment is approved on an earlier date."

Amendment of subsec. (a)(5) by section 210(a)(2) of Pub. L. 90-248 effective July 1, 1969, or, if earlier (with respect to a State's plan approved under part A of this subchapter) on the date as of which the modification of the State plan to comply with such amendment is approved, see section 210(b) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 302 of this title.

Section 211(a) of Pub. L. 90-248 provided in part that enactment of subsec. (a)(21) and (22) shall be effective Jan. 1, 1969.

Effective Date of 1965 Amendment

Section 403(b) of Pub. L. 89-97 provided that the amendment of subsec. (a)(7) by said section was effective October 1, 1965.

Section 410 of Pub. L. 89-97 provided that the amendment of subsec. (a)(7) by said section was effective July 1, 1965.

Effective Date of 1962 Amendment

Enactment of subsec. (a)(13) and amendment of subsec. (a)(7) by sections 103, 106 of Pub. L. 87-543 effective July 1, 1963, see section 202(a) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 302 of this title.

Effective Date of 1956 Amendment

Amendment of this section by act Aug. 1, 1956, effective July 1, 1957, see section 314 [315] of act Aug. 1, 1956, set out as an Effective Date of 1956 Amendment note under section 302 of this title.

Effective Date of 1950 Amendment

Subsecs. (a) and (c) of section 321 of act Aug. 28, 1950, provided in part that amendments of subsections (a) and (b) shall become effective as of July 1, 1951.

Effective Date of 1939 Amendment

Amendment by act Aug. 10, 1939, adding clauses (7) and (8) to subsec. (a) was made effective July 1, 1941, by section 401(b) of act Aug. 10, 1939. Clause (5) of such subsec. was amended by act Aug. 10, 1939 without specific provision as to effective date.

Transfer of Functions

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(5)(A) of this section, insofar as relates to the prescription of personnel standards on a merit basis, transferred to United States Civil Service Commission, see section 4728(a)(3)(D) of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Temporary Waivers of Certain Requirements for Certain States

Section 201(a), (b) of Pub. L. 94-88 provided that:

"(a) If the Governor of any State, which has an approved State plan under part A of title IV of the Social Security Act [this part], submits to the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary'), a request that any provision of section 402(a)(26) of the Social Security Act or section 402(a)(27) of such Act [subsec. (a)(26) or (a)(27) of this section] not be made applicable to such State prior to a date specified in the request (which shall not be later than June 30, 1976) and—

"(1) such request is accompanied by a certification, with respect to such provision, of the Governor that the State cannot implement such provision because of the lack of authority to do so under State law, and

"(2) such request fully explains the reasons why such provision cannot be implemented, and sets forth any provision of State law which impedes the implementation thereof,

the Secretary shall, if he is satisfied that such a waiver is justified, grant the waiver so requested.

"(b) During any period with respect to which a waiver, obtained under subsection (a) with respect to section 402(a)(26)(A) of the Social Security Act [subsec. (a)(26)(A) of this section], is in effect with respect to any State, the provisions of section 454 (4) and (5) of such Act [section 654 (4) and (5) of this title] shall be applied to such State in like manner as if the phrase 'with respect to whom an assignment under section 402(a)(26) of this title [subsec. (a)(26) of this section] is effective' did not appear therein, and the provisions of section 458 of such Act [section 658 of this title] shall be applied to such State in like manner as if the phrase 'support rights assigned under section 402(a)(26)' read 'child support obligation'."

Reports to Congressional Committees

Section 201(d) of Pub. L. 94-88 provided that: "The Secretary shall from time to time, submit to the Committee on Finance of the State and the Committee on Ways and Means of the House of Representatives, full and complete reports (the first of which shall not be later than September 15, 1975) regarding any requests which he has received for waivers under subsection (a) [set out as a note herein] and any waivers granted by him under such subsection, and such reports shall include copies of all such requests for such waivers and any supporting documents submitted with or in connection with any such requests."

Support Assignments by Recipients During Transmittal Period

Section 203 of Pub. L. 94-88 provided that, in the case of any State the law of which on Aug. 1, 1975 met the requirements of subsec. (a)(26)(A) of this section, those requirements were to be effective with respect to individuals who were recipients on Aug. 1, 1975, at such time as may be determined by the State agency, but not later than the first redetermination of eligibility required after Aug. 1, 1975, and in any event not later than Feb. 1, 1976, and for such States, the provisions of section 654(4) and (5) of this title were to be applied during the period beginning Aug. 1, 1975 and ending Dec. 31, 1975, with respect to all recipients of aid who have not made an assignment pursuant to subsec. (a)(26)(A) of this section and the provisions of section 658 of this title, during such period, were to be applied in the case of such State as if the phrase "support rights assigned under section 602(a)(26) read "child support obligations".

Submittal of Proposed Standards to Congress; Effective Date; Disapproval by Congress

Section 208(d) of Pub. L. 94-88 provided that:

"(1) The Secretary of Health, Education, and Welfare shall submit to the Congress any proposed standards authorized to be prescribed by him under section 402(a)(26)(B) of the Social Security Act (as added by the Social Services Amendments of 1974 and as amended by subsection (a) of this section) [subsec. (a)(26)(B) of this section]. Such standards shall take effect at the end of the period which ends 60 days after such proposed standards are so submitted to such committees unless, within such period, either House of the Congress, adopts a resolution of disapproval.

"(2) For purposes of this subsection, the term 'resolution' means only—

"(A) a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve the standards (as authorized under section 402(a)(26)(B) of the Social Security Act) [subsec.

(a)(26)(B) of this section] transmitted to the Congress on .', the blank space being filled with the appropriate date; and

"(B) a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That the does not approve the standards (as authorized under section 402(a)(26)(B) of the Social Security Act) [subsec. (a)(26)(B) of this section] transmitted to the Congress on .', with the first blank space being filled with the name of the resolving House, and the second blank space being filled with the appropriate date.

"(3) The provisions of subsection (b), (c), (d), (e), and (f) of section 152 of the Trade Act of 1974 [subsec. (b), (c), (d), (e), and (f) of section 1922 of Title 19, Customs Duties] shall be applicable to resolutions under this subsection, except that the '20 hours' referred to in subsections (d)(2) and (e)(2) of such section shall be deemed to read '4 hours'."

STATE PLANS TO DISREGARD CHILD SUPPORT PAYMENTS BEGINNING JULY 1, 1975

Section 101(c)(1) of Pub. L. 93-647 provided that notwithstanding the provisions of subsec. (a) of this section in addition to the amounts required to be disregarded under cl. (8)(A) of subsec. (a) of this section, a requirement was imposed that for the 15 months beginning July 1, 1975, in making determinations under cl. (7) of subsec. (a) of this section, the State agency was with respect to any month in such year and in addition to the amounts disregarded under cl. (8)(A) of subsec. (a) of this section, to disregard amounts payable under section 657(a)(1) of this title.

STATE PLANS COMPLIANCE WITH SUBSEC. (a)(7) REQUIREMENTS DURING PERIOD AFTER DEC. 31, 1967, AND PRIOR TO JULY 1, 1969

Section 202(c) of Pub. L. 90-248 provided that a State whose plan had been approved by the Secretary under this section was deemed to have substantially complied with the requirements of subsec. (a)(7) of this section, as in effect prior to July 1, 1969, for any period beginning after Dec. 31, 1967 and ending prior to July 1, 1969, if for this period the State agency disregarded earned income of the individuals involved in accordance with the requirements of subsec. (a)(7), (8) of this section as amended by Pub. L. 90-248.

STATE PLANS TO DISREGARD EARNED INCOME OF INDIVIDUALS IN DETERMINATION OF NEED FOR AID; EFFECTIVE DATE

Section 202(d) of Pub. L. 90-248 provided that: "Effective with respect to quarters beginning after June 30, 1968, in determining the need of individuals claiming aid under a State plan approved under part A of title IV of the Social Security Act [part A of this subchapter], the State shall apply the provisions of such part notwithstanding any provisions of law (other than such Act [this chapter]) requiring the State to disregard earned income of such individuals in determining need under such State plan."

DISREGARDING INCOME IN DETERMINATION OF NEED IN PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

Section 248(c) of Pub. L. 90-248 provided that: "Effective July 1, 1969, neither the provisions of clauses (A) through (C) of section 402(a)(7) of such Act [subsec. (a)(7) of this section] as in effect before the enactment of this Act [Jan. 2, 1968] nor the provisions of section 402(a)(8) of such Act [subsec. (a)(8) of this section] as amended by section 202(b) of this Act shall apply in the case of Puerto Rico, the Virgin Islands, or Guam. Effective no later than July 1, 1972, the State plans of Puerto Rico, the Virgin Islands, and Guam approved under section 402 of such Act [this section] shall provide for the disregarding of income in making the determination under section 402(a)(7) of such Act [subsec. (a)(7) of this section] in amounts (agreed to between the Secretary and to State agencies involved) sufficiently lower than the amounts specified in section 402(a)(8) of such Act [subsec. (a)(8) of this section] to reflect appropriately the applicable differences in income levels."

PUBLIC ACCESS TO STATE DISBURSEMENT RECORDS

Public access to State records of disbursements of funds and payments under this subchapter, see note under section 302 of this title.

STATE PLANS IN EFFECT JULY 25, 1962; AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962 deemed to have been conformed to amendment of opening provisions and clauses (4), (7) to (10) of subsec. (a) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 603, 604, 606, 607, 608, 609, 622, 631, 632, 633, 636, 643, 644, 654, 656, 658, 1202, 1308, 1315, 1352, 4728 of this title; title 25 sections 683, 686, 689, 996.

§ 603. Payments to States

(a) Computation of amounts

From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) five-sixths of such expenditures not counting so much of any expenditure with respect to any month as exceeds the product of $18 multiplied by the total number of recipients of aid to families with dependent children for such month (which total number, for purposes of this subsection means (i) the number of individuals with respect to whom such aid in the form of money payments is paid for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to families with dependent children in the form of medical or any other type of remedial care, plus (iii) the number of individuals, not counted under clause (i) or (ii), with respect to whom payments described in section 606(b)(2) of this title are made in such month and included as expenditures for purposes of this paragraph or paragraph (2)); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (i) the product of $32 multiplied by the total number of recipients of aid to families with dependent children (other than

such aid in the form of foster care) for such month, plus (ii) the product of $100 multiplied by the total number of recipients of aid to families with dependent children in the form of foster care for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $18 multiplied by the total number of recipients of such aid for such month; and

(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

(B) one-half of the remainder of such expenditures, except that no payment shall be made with respect to amounts expended in connection with the provision of any service described in section 1397a(a)(1) of this title other than services the provision of which is required by section 602 of this title to be included in the plan of the State; and

(4) Repealed. Pub. L. 90-248, title II, § 201(e)(3), Jan. 2, 1968, 81 Stat. 880.

(5) in the case of any State, an amount equal to 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children.

The number of individuals with respect to whom payments described in section 606(b)(2) of this title are made for any month, who may be included as recipients of aid to families with dependent children for purposes of paragraph (1) or (2), may not exceed 10 per centum of the number of other recipients of aid to families with dependent children for such month. In computing such 10 percent, there shall not be taken into account individuals with respect to whom such payments are made for any month in accordance with section 602(a)(19)(F) or section 602(a)(26) of this title.

(b) Method of computation and payment

The method of computing and paying such amounts shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which he finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to aid to families with dependent children furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c) Federal share of assistance payments

Notwithstanding any other provision of this chapter, the Federal share of assistance payments under this part shall be reduced with respect to any State for any fiscal year after June 30, 1973, by one percentage point for each percentage point by which the number of individuals certified, under the program of such State established pursuant to section 602(a)(19)(G) of this title, to the local employment office of the State as being ready for employment or training under part C, is less than 15 per centum of the average number of individuals in such State who, during such year, are required to be registered pursuant to section 602(a)(19)(A) of this title.

(d) Authorization of appropriations

(1) Notwithstanding subparagraph (A) of subsection (a)(3) of this section the rate specified in such subparagraph shall be 90 per centum (rather than 75 per centum) with respect to social and supportive services provided pursuant to section 602(a)(19)(G) of this title.

(2) Of the sums authorized by section 601 of this title to be appropriated for the fiscal year ending June 30, 1973, not more than $750,000,000 shall be appropriated to the Secre-

tary for payments with respect to services to which paragraph (1) applies.

(e) Repealed. Pub. L. 93-647, § 3(a)(4), Jan. 4, 1975, 88 Stat. 2348.

(f) Reduction in amount; family planning services; aid to families with dependent children

Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1973, be reduced by 1 per centum (calculated without regard to any reduction under subsection (g) of this section) of such amount if such State—

(1) in the immediately preceding fiscal year failed to carry out the provisions of section 602(a)(15)(B) of this title as pertain to requiring the offering and arrangement for provision of family planning services; or

(2) in the immediately preceding fiscal year (but, in the case of the fiscal year beginning July 1, 1972, only considering the third and fourth quarters thereof), failed to carry out the provisions of section 602(a)(15)(B) of this title with respect to any individual who, within such period or periods as the Secretary may prescribe, has been an applicant for or recipient of aid to families with dependent children under the plan of the State approved under this part.

(g) Reduction in amount; child health screening services

Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1974, be reduced by 1 per centum (calculated without regard to any reduction under subsection (f) of this section) of such amount if such State fails to—

(1) inform all families in the State receiving aid to families with dependent children under the plan of the State approved under this part of the availability of child health screening services under the plan of such State approved under subchapter XIX of this chapter,

(2) provide or arrange for the provision of such screening services in all cases where they are requested, or

(3) arrange for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment the need for which is disclosed by such child health screening services.

(h) Reduction in amount; child support plan

Notwithstanding any other provision of this chapter, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters beginning after December 31, 1976, be reduced by 5 per centum of such amount if such State is found by the Secretary as the result of the annual audit to have failed to have an effective program meeting the requirements of section 602(a)(27) of this title in any fiscal year beginning after September 30, 1976 (but, in the case of the fiscal year beginning October 1, 1976, only considering the second, third, and fourth quarters thereof).

(Aug. 14, 1935, ch. 531, title IV, § 403, 49 Stat. 628; Aug. 10, 1939, ch. 666, title IV, § 402, 53 Stat. 1380; 1940 Reorg. Plan No. III, § 1(a), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; Aug. 10, 1946, ch. 951, title V, §§ 502, 504, 60 Stat. 992, 993; Aug. 6, 1947, ch. 510, § 3, 61 Stat. 794; June 14, 1948, ch. 468, § 3(b), 62 Stat. 439; Aug. 28, 1950, ch. 809, title III, pt. 2, § 322(a), pt. 6, § 361(c), (d), 64 Stat. 550, 558; July 18, 1952, ch. 945, § 8(b), 66 Stat. 778; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title III, § 303(a), 68 Stat. 1097; Aug. 1, 1956, ch. 836, title III, §§ 302, 312(c), 342, 351(a), 70 Stat. 847, 849, 852, 854; Aug. 28, 1958, Pub. L. 85-840, title V, § 502, 72 Stat. 1048; July 25, 1962, Pub. L. 87-543, title I, §§ 101(a)(2), (b)(2)(A)-(C), 104(a)(3)(C), 108(b), (c), 76 Stat. 174, 180, 185, 190; July 30, 1965, Pub. L. 89-97, title I, § 122, title IV, § 401(c), 79 Stat. 353, 415; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 201 (c)-(e)(3), 205(b), 206(a), 207(b), 208, 241(b)(2), (3), 81 Stat. 879, 880, 892-894, 916; June 28, 1968, Pub. L. 90-364, title III, § 301, 82 Stat. 273; July 9, 1969, Pub. L. 91-41, § 3, 83 Stat. 45; Dec. 28, 1971, Pub. L. 92-223, § 3(a)(8), (9), 85 Stat. 805; Oct. 20, 1972, Pub. L. 92-512, title III, § 301(b)-(d), 86 Stat. 946, 947; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 299E(d), 299F, 86 Stat. 1462, 1463; Jan. 4, 1975, Pub. L. 93-647, §§ 3(a)(3), (4), (e)(2), 5(b), 101(c)(6)(A), 88 Stat. 2348-2350, 2360; Aug. 9, 1975, Pub. L. 94-88, title II, § 204, 89 Stat. 435.)

References in Text

Clause (14) of section 602(a) of this title referred to in subsec. (a)(3)(A)(i), (ii), was repealed by Pub. L. 93-647, § 3(a)(2), Jan. 4, 1975, 88 Stat. 2348.

Vocational Rehabilitation Act, referred to in subsec. (a)(3)(C), (D), is act June 2, 1920, ch. 219, 41 Stat. 735, as amended, which was classified generally to chapter 4 (§ 31 et seq.) of Title 29, Labor, and was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 357. The Rehabilitation Act of 1973 is classified to chapter 16 (§ 701 et seq.) of Title 29. Section 500(a), classified to section 790 of Title 29, provided in part that reference to the Vocational Rehabilitation Act in any other provision of law be deemed references to the Rehabilitation Act of 1973.

Amendments

1975—Subsec. (a). Pub. L. 94-88 substituted in provisions following par. (5), "section 602(a)(19)(F) or section 602(a)(26) of this title" for "section 602(a)(19)(F) of this title".

Pub. L. 93-647, § 3(e)(2), struck out "(subject to section 1320b of this title)" after "the Secretary of the Treasury shall".

Subsec. (a)(3)(A)(iii). Pub. L. 93-647, § 5(b), added "(including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions)" after "training".

Subsec. (e). Pub. L. 93-647, § 3(a)(4), repealed subsec. (e), which provided for payment to States of 90 per centum of amounts attributable to offering, arranging and furnishing of family planning services and supplies, directly or on contract basis.

Subsec. (h). Pub. L. 93-647, § 101(c)(6)(A), added subsec. (h).

1972—Subsec. (a). Pub. L. 92-512, § 301(d), substituted "shall (subject to section 1320b of this title) pay" for "shall pay" in the provisions preceding par. (1).

Subsec. (a)(3)(D). Pub. L. 92-512, § 301(b), substituted "under conditions which shall be" for "subject to limitations".

Subsec. (a)(5). Pub. L. 92-512, § 301(c), incorporated former subpar. (A) provisions in provisions designated as par. (5), and deleted at end thereof "in the form of payments or care specified in paragraph (1) of section 606(e) of this title" and former subpar. (B) provision which provided for inclusion in the amount 75 per centum of the total amount expended under the State plan during the quarter as emergency assistance to needy families with children in the form of services specified in par. (1) of section 606(e) of this title.

Subsecs. (e) to (g). Pub. L. 92-603 added subsecs. (e) to (g).

1971—Subsec. (c). Pub. L. 92-223, § 3(a)(8), added subsec. (c).

Subsec. (d). Pub. L. 92-223, § 3(a)(9), added subsec. (d).

1969—Subsec. (a). Pub. L. 91-41, § 3(b), struck out from the introductory text "(subject to subsection (d))" following "Secretary of the Treasury shall".

Subsec. (d). Pub. L. 91-41, § 3(a), repealed subsec. (d) which imposed, for any quarter after June 1969, certain limitations on the number of dependent children under eighteen who, because of a parent's absence, may receive aid to families with dependent children with Federal financial participation.

1968—Subsec. (a). Pub. L. 90-248, §§ 207(b), 208(a) increased the percentage limitation from 5 to 10 and provided for the computation of such 10 per centum without taking into account individuals with respect to whom payments are made for any month in accordance with section 602(a)(19)(F) of this title, and substituted "shall (subject to subsection (d) of this section) pay" for "shall pay" in the text preceding par. (1).

Subsec. (a)(1)(B). Pub. L. 90-248, § 205(b), designated existing provisions as cl. (i), inserted therein "(other than such aid in the form of foster care)" and added cl. (ii).

Subsec. (a)(3). Pub. L. 90-248, § 201(d)(4), (e)(2), struck out in the last sentence reference to subpar. (C) and from the introduction "whose State plan approved under section 602 of this title meets the requirements of subsection (c)(1) of this section" after "in the case of any State plan", respectively.

Subsec. (a)(3)(A). Pub. L. 90-248, § 201(c), substituted provisions of cls. (i) and (ii) for Federal payments for services described in section 602(a)(14) and (15) of this title to any child or relative who is receiving aid under the State plan, or to any other individual (living in the same home as such relative and child) or for such services to any child or relative who is applying for aid to families with dependent children or who has been or is likely to become an applicant for or recipient of such aid for former cls. (i)-(3) respecting such Federal payments for subsec. (c)(1) services to any relative with whom any dependent child (applying for or receiving aid) is living to help the relative attain or retain capability for self-support or self-care, or services to maintain and strengthen family life for such child; other services to prevent or reduce dependency; and such cl. (ii) and subsec. (c)(1) services as are appropriate for any relative with whom any child (who has been or is likely to become an applicant for or recipient of aid) is living, or as appropriate for such a child, if such services are requested by such relative, and redesignated former cl. (iv) as (3).

Subsec. (a)(3)(B). Pub. L. 90-248, § 201(c), (d)(1)(A), struck out former subpar. (B) provisions for Federal payments of one-half of expenditures (not included under subpar. (A)) for services provided any relative, with whom any child (who has been or is likely to become an applicant for or recipient of aid) is living, or to such child, if such services are requested by such relative or for services provided to any child who is an applicant for or recipient of such aid, or to any relative with whom such a child is living, and redesignated former subpar. (C) as (B), respectively.

Subsec. (a)(3)(C). Pub. L. 90-248, § 201(d)(1)(A), (B), (2), redesignated former subpar. (D) as (C), substituted therein reference to subpar. "(D)" for "(E)", and struck out in the introductory text to subpar. (C) reference to subpar. "(B)", respectively. Former subpar. (C) redesignated (B).

Subsec. (a)(3)(D). Pub. L. 90-248, §§ 201(d)(1)(A), (C), (3), 241(b)(2), redesignated former subpar. (E) as (D), substituted in the exception provision following subpar. (D) reference to subpar. "(C)" for "(D)", and added following subpar. (D) "; and except that, to the extent specified by the Secretary, child-welfare services, family planning services, and family services may be provided from sources other than those referred to in subparagraphs (C) and (D)", respectively. Former subpar. (D) redesignated (C), and substituted in proviso "part" for "subchapter".

Subsec. (a)(3)(E). Pub. L. 90-248, § 201(d)(1)(A), redesignated former subpar. (E) as (D).

Subsec. (a)(4). Pub. L. 90-248, § 201(e)(3), 81 Stat. 880, repealed par. (4) provisions respecting payments when approved State plan did not meet subsec. (c)(1) requirements in an amount equal to one-half of the total of sums expended during the quarter as found necessary by the Secretary for proper and efficient administration of the State plan.

Subsec. (a)(5). Pub. L. 90-248, § 206(a), added par. (5)

Subsec. (c). Pub. L. 90-248, § 201(e)(1), repealed subsec. (c) which set forth provisions respecting State qualification for subsec. (a)(3) payments when State plan required State agencies to provide services to maintain and strengthen family life for children and to help relatives with whom children (who are applicants for or recipients of aid) are living to attain capability for self-support or self-care and for stopping such subsec. (a)(3) payments after notice and hearing for noncompliance with such requirements in the administration and supervision of the State plan but providing subsec. (a)(4) payments instead.

Subsec. (c)(2). Pub. L. 90-248, § 241(b)(3), substituted in last sentence "part" for "subchapter".

Subsec. (d). Pub. L. 90-364 denominated existing provisions as par. (1) and in par. (1) as so denominated inserted "(except the succeeding paragraphs of this subsection)" immediately after "chapter" and substituted "June 30, 1969" for "June 30, 1968", and added pars. (2) and (3).

Pub. L. 90-248, § 208(b), added subsec. (d).

1965—Subsec. (a)(1). Pub. L. 89-97, §§ 122, 401(c), inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase appearing in so much of par. (1) as precedes clause (A); and changed the formula by which the federal share of aid to families with dependent children is determined by increasing the share of the average monthly assistance payment from 14/17ths of the first $17 to 5/6ths of the first $18 of such payment and raised the ceiling for federal participation from $30 to $32 a month per recipient, respectively.

Subsec. (a)(2). Pub. L. 89-97, § 122, inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase.

1962—Subsec. (a). Pub. L. 87-543, § 101(a)(2), substituted "aid and services to needy families with children" for "aid to dependent children", in opening provision.

Subsec. (a)(1). Pub. L. 87-543, §§ 101(a)(2), 108(c), substituted "aid to families with dependent children", in four instances, and "such aid" in subpar. (A)(i) for "aid to dependent children", and added subpar. (A)(iii).

Subsec. (a)(2). Pub. L. 87-543, § 101(a)(2), substituted "aid to families with dependent children" and "such aid" for "aid to dependent children".

Subsec. (a)(3). Pub. L. 87-543, § 101(a)(2), (b)(2)(A), inserted in the opening provisions "whose State plan approved under section 602 of this title meets the requirements of subsection (c)(1) of this section" following "any State", and substituted provisions which increased the Federal share of expenses of administration of State public assistance plans by providing quarterly payments of the sum of 75 per centum of the quarterly expenses for certain prescribed services to

help relatives attain and retain capability for self-support or self-care and to maintain and strengthen family life for dependent children, services likely to prevent or reduce dependency, and services appropriate for relatives and dependent children where such relatives request such services, and training of State or local public assistance personnel administering such plans and one-half of other administrative expenses for other services, permitted State health or vocational rehabilitation or other appropriate State agencies to furnish such services, except vocational rehabilitation services, and required the determination of the portion of expenses covered by the 75 and 50 per centum provisions in accordance with methods and procedures permitted by the Secretary for former provisions requiring quarterly payments of one-half of the quarterly expenses of administration of State plans, including staff services of State or local public assistance agencies to help relatives attain self-support or self-care and to maintain and strengthen family life for dependent children.

Subsec. (a)(4). Pub. L. 87-543, § 101(b)(2)(B), added subsec. (a)(4).

Subsec. (a), closing provisions. Pub. L. 87-543, § 108(b), limited to the number of individuals with respect to whom protective payments are made in any month who may be included as recipients of aid to families with dependent children to 5 per centum of the number of other recipients of such aid during the month.

Subsec. (b)(2)(B). Pub. L. 87-543, § 104(a)(3)(C), substituted "aid to families with dependent children" for "aid to dependent children".

Subsec. (c). Pub. L. 87-543, § 101(b)(2)(C), added subsec. (c).

1958—Subsec. (a). Pub. L. 85-840 substituted provisions authorizing the counting of the first $30 of expenditures multiplied by the total number of recipients for provisions which authorized the counting of the first $32 with respect to the first dependent child and the adult relative with whom the child is living and $23 with respect to each of the other dependent children in the home, inserted provisions permitting sums spent for insurance premiums for medical or any other type of remedial care or the cost thereof to be included within the expenditures, excluded Guam from the provisions which allow an average monthly payment of $30 and included Guam within the provisions which authorize an average monthly payment of $18, and permitted the counting of individuals with respect to whom expenditures were made as old-age assistance in the form of medical or any type of remedial care in determining the total number of recipients.

1956—Subsec. (a). Act Aug. 1, 1956, § 302, substituted "during such quarter as aid to dependent children in the form of money payments under the State plan" for "during such quarter as aid to dependent children under the State plan" in cls. (1) and (2), "with respect to whom aid to dependent children in the form of money payments is paid for such month" for "with respect to whom aid to dependent children is paid for such month" in par. (a) of cl. (1), and inserted cl. (4).

Act Aug. 1, 1956, § 312(c), eliminated ", which shall be used exclusively as aid to dependent children," following "the Virgin Islands, an amount" in cls. (1) and (2), and substituted "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision), to relatives with whom such children (applying for or receiving such aid) are living, in order to help such relatives attain self-support or self-care, or which are provided to maintain and strengthen family life for such children" for "which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose" in cl. (3).

Act Aug. 1, 1956, § 342, substituted "October 1, 1956" for "October 1, 1952", eliminated ", which shall be used exclusively as aid to dependent children," following "the Virgin Islands, an amount" in cls. (1) and (2), substituted "$32" for "$30" in three instances, "$23" for "$21", "$17" for "$15", and "fourteen-seventeenths" for "four-fifths", inserted "and not counting so much of such expenditure for any month with respect to a relative with whom any dependent child is living as exceeds $18" in cl. (2), and substituted "Secretary of Health, Education, and Welfare" for "Secretary", and "including services which are provided by the staff of the State plan, including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to relatives with whom such children (applying for or receiving such aid) are living, in order the help such relatives attain self-support or self-care, or which are provided to maintain and strengthen family life for such children" for "which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose" in cl. (3).

Act Aug. 1, 1956, § 351(a), inserted ", and not counting so much of such expenditure for any month with respect to a relative with whom any dependent child is living as exceeds $18" in cl. (2).

1954—Subsec. (b)(1). Act Sept. 1, 1954, substituted the words "the State's proportionate share" for "one-half".

1952—Subsec. (a). Act July 18, 1952, increased the Federal share of the State's average monthly payment to four-fifths of the first $25 plus one-half of the remainder within individual maximums of $55, and to change formulas for computing the Federal share of public assistance for Puerto Rico and the Virgin Islands.

1950—Subsec. (a). Act Aug. 28, 1950, § 322(a), changed the basis of computation of the Federal portion of aid to dependent children.

Subsec. (b). Act Aug. 28, 1950, § 361(c), (d), substituted "Administrator" for "Board" and "he", "him", or "his" for "it", or "its" wherever appearing.

1948—Subsec. (a). Act June 14, 1948, inserted $27 for $24 wherever appearing, $18 for $15, and $12 for $9.

1946—Subsec. (a). Act Aug. 10, 1946, § 502(a), increased the maximum monthly State expenditure to which the Federal Government will contribute from $18 for one dependent child and $12 each for other dependent children in the same family to $24 and $15, respectively, and increased the Federal contribution from one-half the State's expenditure for carrying out the State plan to a contribution to be used exclusively as aid to dependent children of two-thirds the State's expenditure up to $9 monthly per child plus one-half the State's expenditure over $9, and a contribution of one-half the State's expenditure for administration.

Subsec. (b). Act Aug. 10, 1946, § 502(b), substituted "the State's proportionate share" for "one-half".

1939—Subsec. (a). Act Aug. 10, 1939, substituted "one-half" for "one-third".

Subsec. (b). Act Aug. 10, 1939, substituted "one half" for "two thirds" in par. (1) and inserted in par. (2) provision reading: "(B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Board, of the net amount recovered during and prior quarter by the State or any political subdivision thereof with respect to aid to dependent children furnished under the state plan."

Effective Date of 1975 Amendments

Amendment by Pub. L. 94-88 effective Aug. 1, 1975, unless otherwise provided, see section 210 of Pub. L. 94-88, set out as an Effective Date of 1975 Amendment note under section 602 of this title.

Amendment by section 3 of Pub. L. 93-647 effective with respect to payments under this section for quarters commencing after Sept. 30, 1975, but with amendment of subsecs. (a)(3) and (e) by section 3 of Pub. L. 93-647 not effective with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, see section 7(b) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

Amendment by section 5 of Pub. L. 93-647 effective with respect to payments for quarters commencing

after Sept. 30, 1975, see section 7(a) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

Amendment by section 101 of Pub. L. 93-647 effective Aug. 1, 1975, see section 101(f) of Pub. L. 93-647, set out as an Effective Date note under section 651 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of provisions preceding par. (1) of subsec. (a) and subsec. (a)(5), and subsec. (a)(3)(D) of this section by Pub. L. 92-512 effective July 1, 1972, and Jan. 1, 1973, respectively, see section 301(e) of Pub. L. 92-512, set out as an Effective Date of 1972 Amendment note under section 303 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Enactment of subsecs. (c) and (d) of this section by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 205(e) of Pub. L. 90-248 provided that: "The amendments made by subsections (b) and (c) [to subsec. (a)(1)(B) of this section and section 608(a)(4) of this title] shall apply only with respect to foster care provided after December 1967."

Amendments of subsec. (a)(3), (a)(3)(B) to (D) and concluding text, and repeal of subsecs. (a)(4) and (c) of this section by section 201(d), (e) of Pub. L. 90-248 effective July 1, 1968 (or earlier if the State plan so provides) and provision for nonapplication of section 602(a)(15)(F) of this title when there are different State agencies for administration of services, and enactment of subsec. (a)(3)(A) of this section by section 201(c) of Pub. L. 90-248 applicable with respect to services furnished after June 30, 1968, or furnished after such earlier date as the State plan may provide, see section 201(g) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 602 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsec. (a)(1) by section 401 of Pub. L. 89-97 applicable in the case of expenditures made after December 31, 1965, under a state plan approved under subchapters I, IV, X, XIV, or XVI of this chapter, see section 401(f) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 303 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a)(1) to (3) by section 101(a)(2) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Aug. 31, 1962, and addition of subsecs. (a)(4) and (c) and amendment of subsec. (a)(3) of this section by section 101(b)(2)(A) to (C) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 303 of this title.

Section 202(e) of Pub. L. 87-543, as amended by Pub. L. 90-36, § 2, June 29, 1967, 81 Stat. 94; Pub. L. 90-248, title II, § 207(c), Jan. 2, 1968, 81 Stat. 894, provided that: "The amendments made by sections 105 (other than subsection (c)) and 108 [adding sections 603(a)(1)(A)(iii), 603(a) last par., and 609 of this title, amending section 606(b) of this title, and enacting provisions set out as notes under sections 603 and 609 of this title] shall be applicable in the case of expenditures under a State plan approved under title IV of the Social Security Act [this subchapter], made during the period beginning October 1, 1962."

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85-840, see section 512 of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1956 AMENDMENT

Amendment of subsec. (a) by section 342 of act Aug. 1, 1956, effective only for the period beginning Oct. 1, 1956, and ending with the close of June 30, 1959, see section 345 of act Aug. 1, 1956, set out as an Effective and Termination Date note under section 303 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 351(d) of act Aug. 1, 1956, provided that: "The amendments made by this section [to subsec. (a)(2) of this section and sections 606(b) and 1308 of this title] shall be effective with respect to the fiscal year ending June 30, 1957, and all succeeding fiscal years."

Amendment by section 302 of act Aug. 1, 1956, effective July 1, 1957, see section 305 of act Aug. 1, 1956, set out as an Effective Date of 1956 Amendment note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

Amendment of subsec. (a) effective for the period beginning Oct. 1, 1952, and ending Sept. 30, 1956, see section 8(e) of act July 18, 1952, set out as an Effective and Termination Date note under section 303 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 322(b) of act Aug. 28, 1950, provided that the amendment of subsec. (a) shall be effective Oct. 1, 1950.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 3(d) of act June 14, 1948, provided that the amendment of subsec. (a) by section 3(b) of act June 14, 1948, shall become effective on Oct. 1, 1948.

EFFECTIVE AND TERMINATION DATE OF 1946 AMENDMENT

Amendment by section 502 of act Aug. 10, 1946, effective only for the period beginning Oct. 1, 1946, and ending with the close of June 30, 1950, see paraphrase of section 504 of such act Aug. 10, 1946, as amended by act Aug. 6, 1947, set out as a Termination Date of 1946 Amendment note under section 303 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of subsec. (b) by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 402 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by Reorg. Plan No. III of 1940, set out in the Appendix to Title 5, Government Organization and Employees.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976 THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of

subsec. (g) of this section, see section 201(12) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsecs. (c) and (f) of this section, see section 204(7) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

NONDUPLICATION OF PAYMENTS TO STATES: PROHIBITION OF PAYMENTS AFTER DECEMBER 31, 1969

Prohibition of payments under this subchapter to States with respect to aid or assistance in form of medical or other type of remedial care for any period for which States received payments under subchapter XIX of this chapter or for any period after Dec. 31, 1969, see section 121(b) of Pub. L. 89-97, set out as a note under section 1396b of this title.

FEDERAL PERCENTAGE OF STATE EXPENDITURES FOR SECTION 602(a)(14), (15) SERVICES FROM JAN. 2, 1968, AND BEFORE JULY 1, 1969

Section 201(h) of Pub. L. 90-248 provided that notwithstanding subsec. (a)(3)(A) of this section, as amended by section 201(c) of Pub. L. 90-248, the rate specified in subsec. (a)(3)(A) of this section was to be 85 per centum, rather than 75 per centum, with respect to expenditures for services furnished pursuant to section 602(a)(14) and (15) of this title, made on or after Jan. 2, 1968, and prior to July 1, 1969.

RATE OF PAYMENTS FOR PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

Section 248(b) of Pub. L. 90-248 provided that: "Notwithstanding subparagraphs (A) and (B) of section 403(a)(3) of such Act (as amended by this Act) [subsec. (a)(3) of this section], the rate specified in such subparagraphs in the case of Puerto Rico, the Virgin Islands, and Guam shall be 60 per centum (rather than 75 or 85 per centum)."

REPORT TO PRESIDENT AND CONGRESS: RECOMMENDATIONS AS TO CONTINUATION AND MODIFICATION OF AMENDMENT

Section 108(d) of Pub. L. 87-543 provided that the Secretary submit to the President, for transmission to Congress prior to Jan. 1, 1967, a full report of the administration of the provisions of the amendments made by section 108 of Pub. L. 87-543 to this section and section 606 of this title, including the experiences of each of the States in making protective payments under the provisions of their respective State plans which are in accord with amendments to this section and section 606 of this title by section 108 of Pub. L. 87-543, together with his recommendations as to continuation and modification in these amendments.

Provision applicable in the case of expenditures under a State plan approved under this subchapter, made during the period beginning Oct. 1, 1962, and ending with the close of June 30, 1967, see section 202(e) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note above.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962, deemed to have been conformed to amendment of subsec. (b)(2)(B) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

CROSS REFERENCES

Navajo and Hopi Indians, additional Federal contributions in connection with rehabilitation program, see section 639 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 603a, 604, 608, 609, 643, 652, 1315, 1318, 1319, 1397a of this title; title 25 section 639.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 3-217 of the District of Columbia Code.

§ 603a. Reimbursement of expenses

For purposes of section 603 of this title, expenses incurred to reimburse State employment offices for furnishing information requested of such offices pursuant to the third sentence of section 49b(a) of title 29, by a State or local agency administering a State plan approved under part A of subchapter IV of this chapter shall be considered to constitute expenses incurred in the administration of such State plan; and for purposes of section 655 of this title, expenses incurred to reimburse State employment offices for furnishing information so requested by a State or local agency charged with the duty of carrying out a State plan for child support approved under part D of subchapter IV of this chapter shall be considered to constitute expenses incurred in the administration of such State plan.

(Pub. L. 94-566, title V, § 508(b), Oct. 20, 1976, 90 Stat. 2689.)

REFERENCES IN TEXT

Parts A and D of subchapter IV of this chapter, referred to in text, are classified to sections 601 et seq. and 651 et seq. of this title.

CODIFICATION

Section was not enacted as part of the Social Security Act which comprises this chapter.

§ 604. Deviation from plan

(a) Stoppage of payments

In the case of any State plan for aid and services to needy families with children which has been approved by the Secretary, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence requirement prohibited by section 602(b) of this title, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 602(a) of this title to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

(b) Compliance with State statute

No payment to which a State is otherwise entitled under this part for any period before September 1, 1962, shall be withheld by reason of any action taken pursuant to a State statute which requires that aid be denied under the State plan approved under this part with respect to a child because of the conditions in the home in which the child resides; nor shall any such payment be withheld for any period beginning on or after such date by reason of any action taken pursuant to such a statute if provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child.

(c) Good faith effort to comply

No State shall be found, prior to January 1, 1977, to have failed substantially to comply with the requirements of section 602(a)(27) of this title if, in the judgment of the Secretary, such State is making a good faith effort to implement the program required by such section.

(d) Reduction in amount payable

After December 31, 1976, in the case of any State which is found to have failed substantially to comply with the requirements of section 602(a)(27) of this title, the reduction in any amount payable to such State required to be imposed under section 603(h) of this title shall be imposed in lieu of any reduction, with respect to such failure, which would otherwise be required to be imposed under this section.

(Aug. 14, 1935, ch. 531, title IV, § 404, 49 Stat. 628; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; May 8, 1961, Pub. L. 87-31, § 4, 75 Stat. 77; July 25, 1962, Pub. L. 87-543, title I, §§ 104(a)(5)(B), 107(b), 76 Stat. 185, 189; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 241(b)(4), 245, 81 Stat. 916, 918; Jan. 4, 1975, Pub. L. 93-647, § 101(c)(6)(B), 88 Stat. 2360.)

AMENDMENTS

1975—Subsecs. (c), (d). Pub. L. 93-647 added subsecs. (c) and (d).

1968—Subsec. (a). Pub. L. 90-248, § 245, inserted "(or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure)" after "further payments will not be made to the State" and substituted in last sentence "further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure)" for "further certification to the Secretary of the Treasury with respect to such State".

Subsec. (b). Pub. L. 90-248, § 241(b)(4), substituted in two instances "part" for "subchapter".

1962—Subsec. (a). Pub. L. 87-543, § 104(a)(5)(B), substituted "aid and services to needy families with children" for "aid to dependent children".

Subsec. (b). Pub. L. 87-543, § 107(b), prohibited the withholding of payments from a State on and after Sept. 1, 1962 by reason of any action taken pursuant to a State statute where provision is made pursuant to a State statute for adequate care and assistance of the child.

1961—Pub. L. 87-31 designated existing provisions as subsec. (a) and added subsec. (b).

1950—Act Aug. 28, 1950 substituted "Administrator" for "Board" and "he", "him", or "his" for "it" or "its" wherever appearing.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-647 effective Aug. 1, 1975, see section 101(f) of Pub. L. 93-647, set out as an Effective Date note under section 651 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962 deemed to have been conformed to amendment of subsec. (a) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 605, 643, 1316 of this title.

§ 605. Use of payments for benefit of children

Whenever the State agency has reason to believe that any payments of aid to families with dependent children made with respect to a child are not being or may not be used in the best interests of the child, the State agency may provide for such counseling and guidance services with respect to the use of such payments and the management of other funds by the relative receiving such payments as it deems advisable in order to assure use of such payments in the best interests of such child, and may provide for advising such relative that continued failure to so use such payments will result in substitution therefore for protective payments as provided under section 606(b)(2) of this title, or in seeking appointment of a guardian or legal representative as provided in section 1311 of this title, or in the imposition of criminal or civil penalties authorized under State law if it is determined by a court of competent jurisdiction that such relative is not using or has not used for the benefit of the child any such payments made for that purpose; and the provision of such services or advice by the State agency (or the taking of the action specified in such advice) shall not serve as a basis for withholding funds from such State under section 604 of this title and shall not prevent such payments with respect to such child from being considered aid to families with dependent children.

(Aug. 14, 1935, ch. 531, title IV, § 405, 49 Stat. 629; July 25, 1962, Pub. L. 87-543, title I, § 107(a), 76 Stat. 188.)

AMENDMENTS

1962—Pub. L. 87-543 substituted provisions relating to use of payments for benefit of children for former provision appropriating $250,000 for fiscal year ending June 30, 1936, to defray expenses of former Social Security Board under sections 601 to 605 of this title.

§ 606. Definitions

When used in this part—

(a) The term "dependent child" means a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (2) who is (A) under the age of eighteen, or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment;

(b) The term "aid to families with dependent children" means money payments with respect to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, a dependent child or dependent children, and includes (1) money payments or medical care or any type of remedial care recognized under State law to meet the needs of the relative with whom any dependent child is living (and the spouse of such relative if living with him and if such relative is the child's parents and the child is a dependent child by reason of the physical or mental incapacity of a parent or is a dependent child under section 607 of this title), and (2) payments with respect to any dependent child (including payments to meet the needs of the relative, and the relative's spouse, with whom such child is living, and the needs of any other individual living in the same home if such needs are taken into account in making the determination under section 602(a)(7) of this title) which do not meet the preceding requirements of this subsection, but which would meet such requirements except that such payments are made to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such child or relative, or are made on behalf of such child or relative directly to a person furnishing food, living accommodations, or other goods, services, or items to or for such child, relative, or other individual, but only with respect to a State whose State plan approved under section 602 of this title includes provision for—

(A) determination by the State agency that the relative of the child with respect to whom such payments are made has such inability to manage funds that making payments to him would be contrary to the welfare of the child, and, therefore, it is necessary to provide such aid with respect to such child and relative through payments described in this clause (2);

(B) undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family;

(C) periodic review by such State agency of the determination under clause (A) to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1341 of this title, if and when it appears that the need for such payments is continuing, or is likely to continue, beyond a period specified by the Secretary;

(D) aid in the form of foster home care in behalf of children described in section 608(a) of this title; and

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) for any individual with respect to whom it is made;

(c) The term "relative with whom any dependent child is living" means the individual who is one of the relatives specified in subsection (a) of this section and with whom such child is living (within the meaning of such subsection) in a place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home.

(d) Repealed. Pub. L. 93-647, § 3(a)(5), Jan. 4, 1975, 88 Stat. 2348.

(e)(1) The term "emergency assistance to needy families with children" means any of the following, furnished for a period not in excess of 30 days in any 12-month period, in the case of a needy child under the age of 21 who is (or, within such period as may be specified by the Secretary, has been) living with any of the relatives specified in subsection (a)(1) of this section in a place of residence maintained by one or more of such relatives as his or their own home, but only where such child is without available resources, the payments, care, or services involved are necessary to avoid destitution of such child or to provide living arrangements in a home for such child, and such destitution or need for living arrangements did not arise because such child or relative refused without good cause to accept employment or training for employment—

(A) money payments, payments in kind, or such other payments as the State agency may specify with respect to, or medical care or any other type of remedial care recognized under State law on behalf of, such child or any other member of the household in which he is living, and

(B) such services as may be specified by the Secretary;

but only with respect to a State whose State plan approved under section 602 of this title includes provision for such assistance.

(2) Emergency assistance as authorized under paragraph (1) may be provided under the conditions specified in such paragraph to migrant workers with families in the State or in such part or parts thereof as the State shall designate.

(f) Notwithstanding the provisions of subsection (b) of this section, the term "aid to families with dependent children" does not mean payments with respect to a parent (or other individual whose needs such State determines should be considered in determining the need of the child or relative claiming aid under the plan of such State approved under this part) of

a child who fails to cooperate with any agency or official of the State in obtaining such support payments for such child. Nothing in this subsection shall be construed to make an otherwise eligible child ineligible for protective payments because of the failure of such parent (or such other individual) to so cooperate.

(Aug. 14, 1935, ch. 531, title IV, § 406, 49 Stat. 629; Aug. 10, 1939, ch. 666, title IV, § 403, 53 Stat. 1380; Aug. 28, 1950, ch. 809, title III, pt. 2, § 323(a), 64 Stat. 551; Aug. 1, 1956, ch. 836, title III, §§ 321, 322, 351(b), 70 Stat. 850, 855; July 25, 1962, Pub. L. 87-543, title I, §§ 104(a)(3)(D), 108(a), 109, 152, 156(b), 76 Stat. 185, 189, 190, 206, 207; Oct. 13, 1964, Pub. L. 88-641, § 2(a), 78 Stat. 1042; July 30, 1965, Pub. L. 89-97, title IV, § 409, 79 Stat. 422; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 201(f), 206(b), 207(a), 241(b)(5), 81 Stat. 880, 893, 916; Jan. 4, 1975, Pub. L. 93-647, §§ 3(a)(5), 101(c)(7), 88 Stat. 2348, 2360.)

AMENDMENTS

1975—Subsec. (d). Pub. L. 93-647, § 3(a)(5), repealed subsec. (d), which defined "family services".

Subsec. (f). Pub. L. 93-647, § 101(c)(7), added subsec. (f).

1968—Pub. L. 90-248, § 241(b)(5), substituted in text preceding subsec. (a) "part" for "subchapter".

Subsec. (b)(2). Pub. L. 90-248, § 207(a)(1), inserted ", and the needs of any other individual living in the same home if such needs are taken into account in making the determination under section 602(a)(7) of this title" and "or are made on behalf of such child or relative directly to a person furnishing food, living accommodations, or other goods, services, or items to or for such child, relative, or other individual".

Subsec. (b)(2)(B) to (F). Pub. L. 90-248, § 207(a)(2), struck out cl. (B) requirements that State plan include provision for making payments only when such payments will meet all the need of the individuals with respect to whom the payments are made, and redesignated former cls. (C) to (F) as (B) to (E), respectively.

Subsec. (d). Pub. L. 90-248, § 201(f), added subsec. (d).

Subsec. (e). Pub. L. 90-248, § 206(b), added subsec. (e).

1965—Subsec. (a). Pub. L. 89-97 substituted "(as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college, or university," for "(as determined in accordance with standards prescribed by the Secretary) a student regularly attending a high school in pursuance of a course of study leading to a high school diploma or its equivalent," in clause (2)(B).

1964—Subsec. (a). Pub. L. 88-641 included within the definition of "dependent child" one who is under the age of 21 and a student regularly attending a high school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational or technical training designed to fit him for gainful employment.

1962—Subsec. (b). Pub. L. 87-543, §§ 104(a)(3)(D), 156(b), substituted "aid to families with dependent children" for "aid to dependent children" and inserted "(if provided in or after the third month before the month in which the recipient makes application for aid)" preceding "medical care".

Pub. L. 87-543, §§ 108(a), 109, 152, designated existing provisions as par. (1) and added par. (2); inserted in par. (1) "(and the spouse of such relative if living with him and if such relative is the child's parent and the child is a dependent child by reason of the physical or mental incapacity of a parent or is a dependent child under section 607 of this title)" following "relative with whom any dependent child is living"; and deleted from par. (1) "for any month" and "if money payments have been made under the State plan with respect to such child for such month" preceding and following "to meet the needs of the relative with whom any dependent child is living".

1956—Subsec. (a). Act Aug. 1, 1956, §§ 321, 322, included first cousins, nephews, and nieces, as persons with whom a needy child may be living, and eliminated the requirement of school attendance for children between the ages of 16 and 18.

Subsec. (b). Act Aug. 1, 1956, § 351(b), eliminated "(except when used in clause (2) of section 603(a) of this title)" preceding "includes money payments or medical care".

1950—Subsec. (b). Act Aug. 28, 1950, redefined "aid to dependent children".

Subsec. (c). Act Aug. 28, 1950, added subsec. (c).

1939—Subsec. (a). Act Aug. 10, 1939, redefined "dependent child".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 101 of Pub. L. 93-647 effective Aug. 1, 1975, see section 101(f) of Pub. L. 93-647, set out as an Effective Date note under section 651 of this title.

Amendment by section 3 of Pub. L. 93-647 effective with the respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, but not effective with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, see section 7(b) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT; DIFFERENT STATE AGENCIES FOR ADMINISTRATION OF SERVICES

Addition of subsec. (d) by section 201(f) of Pub. L. 90-248 effective July 1, 1968 (or earlier if the State plan so provides) and provision for nonapplication of section 602(a)(15)(F) of this title when there are different State agencies for administration of services, see section 201(g)(1) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 602 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 202(c) of Pub. L. 87-543 provided that: "The amendments made by sections 102(b)(2) and (d), and 152 [enacting section 728 of this title and amending sections 606(b)(1), 721 and 723(a) of this title] shall be applicable in the case of expenditures, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapter I, IV, X, or XIV of this chapter] or developed as provided in part 3 of title V of such Act [sections 721 to 728 of this title], as the case may be, made after June 30, 1962."

Amendment of subsec. (b) by section 108(a) of Pub. L. 87-543 applicable in the case of expenditures under a State plan approved under this subchapter, made during the period beginning Oct. 1, 1962, and ending with the close of June 30, 1967, see section 202(e) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 603 of this title.

Amendment of subsec. (b) by section 109 of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Sept. 30, 1962, see section 202(d) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 303 of this title.

Amendment of subsec. (b) by section 156(b) of Pub. L. 87-543 applicable in the case of applications made after Sept. 30, 1962, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, see section 156(e) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 306 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 323 of part III of title III of act Aug. 1, 1956, provided that: "The amendments made by this part [to subsec. (a) of this section] shall become effective July 1, 1957."

Amendment of subsec. (b) by section 351(b) of act Aug. 1, 1956, effective with respect to the fiscal year

ending June 30, 1957, and all succeeding fiscal years, see section 351(d) of act Aug. 1, 1956, set out as an Effective Date of 1956 Amendment note under section 603 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 323(b) of act Aug. 28, 1950, provided that the amendment of subsection (b) and the addition of subsection (c) shall take effect as of Oct. 1, 1950.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962, deemed to have been conformed to amendment of subsec. (b) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 603, 605, 607, 608, 609, 610, 1396a, 1396d of this title.

§ 607. Dependent children of unemployed fathers

(a) Dependent child

The term "dependent child" shall, notwithstanding section 606(a) of this title, include a needy child who meets the requirements of section 606(a)(2) of this title who has been deprived of parental support or care by reason of the unemployment (as determined in accordance with standards prescribed by the Secretary) of his father, and who is living with any of the relatives specified in section 606(a)(1) of this title in a place of residence maintained by one or more of such relatives as his (or their) own home.

(b) Requirements of State plan

The provisions of subsection (a) of this section shall be applicable to a State if the State's plan approved under section 602 of this title—

(1) requires the payment of aid to families with dependent children with respect to a dependent child as defined in subsection (a) of this section when—

(A) such child's father has not been employed (as determined in accordance with standards prescribed by the Secretary) for at least 30 days prior to the receipt of such aid,

(B) such father has not without good cause, within such period (of not less than 30 days) as may be prescribed by the Secretary, refused a bona fide offer of employment or training for employment, and

(C)(i) such father has 6 or more quarters of work (as defined in subsection (d)(1) of this section) in any 13-calendar-quarter period ending within one year prior to the application for such aid or (ii) he received unemployment compensation under an unemployment compensation law of a State or of the United States, or he was qualified (within the meaning of subsection (d)(3) of this section) for unemployment compensation under the unemployment compensation law of the State, within one year prior to the application for such aid; and

(2) provides—

(A) for such assurances as will satisfy the Secretary that fathers of dependent children as defined in subsection (a) of this section will be certified to the Secretary of Labor as provided in section 602(a)(19) of this title within thirty days after receipt of aid with respect to such children;

(B) for entering into cooperative arrangements with the State agency responsible for administering or supervising the administration of vocational education in the State, designed to assure maximum utilization of available public vocational education services and facilities in the State in order to encourage the retraining of individuals capable of being retrained;

(C) for the denial of aid to families with dependent children to any child or relative specified in subsection (a) of this section—

(i) if and for so long as such child's father, unless exempt under section 602(a)(19)(A) of this title, is not registered pursuant to such section for the work incentive program established under part C of this subchapter, or, if he is exempt under such section by reason of clause (iii) thereof or no such program in which he can effectively participate has been established or provided under section 632(a) of this title, is not registered with the public employment offices in the State, and

(ii) with respect to any week for which such child's father qualifies for unemployment compensation under an unemployment compensation law of a State or of the United States, but refuses to apply for or accept such unemployment compensation; and

(D) for the reduction of the aid to families with dependent children otherwise payable to any child or relative specified in subsection (a) of this section by the amount of any unemployment compensation that such child's father receives under an unemployment compensation law of a State or of the United States.

(c) Exclusion of expenditures under this section from aid to families with dependent children

Notwithstanding any other provisions of this section, expenditures pursuant to this section shall be excluded from aid to families with dependent children (A) where such expenditures are made under the plan with respect to any dependent child as defined in subsection (a) of this section, (i) for any part of the 30-day period referred to in subparagraph (A) of subsection (b)(1) of this section, or (ii) for any period prior to the time when the father satisfies subparagraph (B) of such subsection, and (B) if, and for as long as, no action is taken (after the 30-day period referred to in subparagraph (A) of subsection (b)(2) of this section), under the program therein specified, to certify such father to the Secretary of Labor pursuant to section 602(a)(19) of this title.

(d) Quarter of work and calendar quarter; eligibility for State unemployment compensation

For purposes of this section—

(1) the term "quarter of work" with respect to any individual means a calendar quarter in which such individual received earned income of not less than $50 (or which is a "quarter of coverage" as defined in section 413(a)(2) of this title), or in which such individual participated in a community work and training pro-

gram under section 609 of this title or any other work and training program subject to the limitations in section 609 of this title, or the work incentive program established under part C;

(2) the term "calendar quarter" means a period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31; and

(3) an individual shall, for purposes of subsection (b)(1)(C) of this section, be deemed qualified for unemployment compensation under the State's unemployment compensation law if—

(A) he would have been eligible to receive such unemployment compensation upon filing application, or

(B) he performed work not covered under such law and such work, if it had been covered, would (together with any covered work he performed) have made him eligible to receive such unemployment compensation upon filing application.

(e) Agreement with States for simplification of procedures

The Secretary of Health, Education, and Welfare and the Secretary of Labor shall jointly enter into an agreement with each State which is able and willing to do so for the purpose of (1) simplifying the procedures to be followed by unemployed fathers and other unemployed persons in such State in registering pursuant to section 602(a)(19) of this title for the work incentive program established by part C of this subchapter and in registering with public employment offices (under this section and otherwise) or in connection with applications for unemployment compensation, by reducing the number of locations or agencies where such persons must go in order to register for such programs and in connection with such applications, and (2) providing where possible for a single registration satisfying this section and the requirements of both the work incentive program and the applicable unemployment compensation laws.

(Aug. 14, 1935, ch. 531, title IV, § 407, as added May 8, 1961, Pub. L. 87-31, § 1, 75 Stat. 75, and amended July 25, 1962, Pub. L. 87-543, title I, §§ 104(a)(3)(E), 131(a), 134, 76 Stat. 185, 193, 196; Oct. 13, 1964, Pub. L. 88-641, § 2(b), 78 Stat. 1042; June 29, 1967, Pub. L. 90-36, § 2, 81 Stat. 94; Jan. 2, 1968, Pub. L. 90-248, title II, § 203(a), 81 Stat. 882; June 28, 1968, Pub. L. 90-364, title III, § 302, 82 Stat. 273; Dec. 28, 1971, Pub. L. 92-223, § 3(a)(10), (11), 85 Stat. 805; Oct. 20, 1976, Pub. L. 94-566, title V, § 507(a), (b), (d), 90 Stat. 2688.)

REFERENCES IN TEXT

Part C of this subchapter, referred to in subsec. (e), is classified to section 630 et seq. of this title.

AMENDMENTS

1976—Subsec. (b)(2)(B). Pub. L. 94-566, § 507(a)(1), struck out "and" at the end of subsec. (b)(2)(B).

Subsec. (b)(2)(C)(i). Pub. L. 94-566, § 507(a)(2), substituted "such child's father, unless exempt under section 602(a)(19)(A) of this title, is not registered pursuant to such section for the work incentive program established under part C of this subchapter, or, if he is exempt under such section by reason of clause (iii) thereof or no such program in which he can effectively participate has been established or provided under section 632(a) of this title, is not registered with the public employment offices in the State, and" for "such child's father is not currently registered with the public employment offices in the State, and".

Subsec. (b)(2)(C)(ii). Pub. L. 94-566, § 507(a)(2), substituted "qualifies for unemployment compensation under an unemployment compensation law of a State or of the United States, but refuses to apply for or accept such unemployment compensation; and" for "receives unemployment compensation under an unemployment compensation law of a State or of the United States".

Subsec. (b)(2)(D). Pub. L. 94-566, § 507(a)(2), added subsec. (b)(2)(D).

Subsec. (d)(3). Pub. L. 94-566, § 507(b), inserted ", for purposes of subsection (b)(1)(C) of this section," preceding "be deemed".

Subsec. (e). Pub. L. 94-566, § 507(d), added subsec. (e).

1971—Subsec. (b)(2)(A). Pub. L. 92-223, § 3(a)(10), substituted "certified" for "referred".

Subsec. (c). Pub. L. 92-223, § 3(a)(11), substituted "certify such father" for "refer such father".

1968—Subsec. (a). Pub. L. 90-248, § 203(a), in provisions designated as subsec. (a), redefined definition of "dependent child" to provide for a definition of unemployment of a father under standards prescribed by the Secretary rather than unemployment of a parent as defined by the State.

Subsec. (b). Pub. L. 90-248, § 203(a), in provisions designated as subsec. (b), provided for requirements and contents of State plans, adding introductory text preceding subpar. (A) of par. (1), pars. (1)(A), (2)(A), and (2)(C)(i), and incorporating existing cl. (1) provision for inclusion of aid for any needy child in par. (1), existing cl. (3)(B) in par. (1)(B), existing cl. (3)(A) in par. (2)(B) (substituting "designed to assure maximum utilization" for "looking toward maximum utilization"), existing second sentence in par. (2)(C)(ii), and deleted former cl. (2)(B) respecting assurance of prohibition of aid as long as the unemployed parent refuses without good cause to accept employment offered through public employment offices or by an employer in good faith, now covered in section 602(a)(19)(F) of this title.

Subsec. (b)(2)(C). Pub. L. 90-364 added provisions prohibiting payment to a family on the basis of the father's unemployment with respect to any week for which the father receives unemployment compensation under State or Federal law.

Pub. L. 90-248, § 203(a), provided for application of the provisions to unemployed fathers rather than unemployed parents and eliminated effective period provision beginning May 1, 1961, and ending with the close of June 30, 1968.

Subsecs. (c), (d). Pub. L. 90-248, § 203(a), added subsecs. (c) and (d).

1967—Pub. L. 90-36 extended termination date from June 30, 1967, to June 30, 1968.

1964—Pub. L. 88-641 substituted "needy child who meets the requirements of section 606(a)(2) of this title, who" for "needy child under the age of eighteen who" and "section 606(a)(1) of this title" for "section 606(a) of this title".

1962—Pub. L. 87-543 extended termination date from June 30, 1962, to June 30, 1967, substituted "aid to families with dependent children" for "aid to dependent children" in clause (2)(B), designated existing provisions as clause (3)(A), and added clause (3)(B).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 507(c) of Pub. L. 94-566 provided that: "The amendments made by the preceding provisions of this section [to subsec. (b)(2) of this section] shall be effective with respect to months after (and weeks beginning in months after) the date of the enactment of this Act [Oct. 20, 1976]."

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsecs. (b)(2)(A) and (c) by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 203(c) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) shall be effective January 1, 1968; except that no State which had in operation a program of aid with respect to children of unemployed parents under section 407 of the Social Security Act [this section] (as in effect prior to such amendment) in the calendar quarter commencing October 1, 1967, shall be required to include any additional child or family under its State plan approved under section 402 of such Act [section 602 of this title], by reason of the enactment of such amendment, prior to July 1, 1969."

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of par. (3) by section 134 of Pub. L. 87-543 effective July 1, 1963, see section 202(a) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 302 of this title.

FATHER AS MEETING CERTAIN SUBSEC. (b)(1)(C) REQUIREMENTS OF MINIMUM QUARTERS OF WORK AND RECEIPT OF OR QUALIFICATION FOR UNEMPLOYMENT COMPENSATION

Section 203(b) of Pub. L. 90-248 provided that: "In the case of an application for aid to families with dependent children under a State plan approved under section 402 of such Act [section 602 of this title] with respect to a dependent child as defined in section 407(a) of such Act [subsec. (a) of this section] (as amended by this section) within 6 months after the effective date of the modification of such State plan which provides for payments in accordance with section 407 of such Act [this section] as so amended, the father of such child shall be deemed to meet the requirements of subparagraph (C) of section 407(b)(1) of such Act [subsec. (b)(1)(C) of this section] (as so amended) if at any time after April 1961 and prior to the date of application such father met the requirements of such subparagraph (C). For purposes of the preceding sentence, an individual receiving aid to families with dependent children (under section 407 of the Social Security Act [this section] as in effect before the enactment of this Act [Jan. 2, 1968]) for the last month ending before the effective date of the modification referred to in such sentence shall be deemed to have filed application for such aid under such section 407 [this section] (as amended by this section) on the day after such effective date."

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962, deemed to have been conformed to amendment of clause (2)(B) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 606, 608 of this title.

§ 608. Payment to States for foster home care of dependent children; definitions

Effective for the period beginning May 1, 1961—

(a) the term "dependent child" shall, notwithstanding section 606(a) of this title, also include a child (1) who would meet the requirements of such section 606(a) or of section 607 of this title except for his removal after April 30, 1961, from the home of a relative (specified in such section 606(a)) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, (2) whose placement and care are the responsibility of (A) the State or local agency administering the State plan approved under section 602 of this title, or (B) any other public agency with whom the State agency administering or supervising the administration of such State plan has made an agreement which is still in effect and which includes provision for assuring development of a plan, satisfactory to such State agency, for such child as provided in paragraph (f)(1) and such other provisions as may be necessary to assure accomplishment of the objectives of the State plan approved under section 602 of this title, (3) who has been placed in a foster family home or child-care institution as a result of such determination, and (4) who (A) received aid under such State plan in or for the month in which court proceedings leading to such determination were initiated, or (B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) in the case of a child who had been living with a relative specified in section 606(a) of this title within 6 months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month he had been living with (and removed from the home of) such a relative and application had been made therefor;

(b) the term "aid to families with dependent children" shall, notwithstanding section 606(b) of this title, include also foster care in behalf of a child described in paragraph (a) of this section—

(1) in the foster family home of any individual, whether the payment therefor is made to such individual or to a public or nonprofit private child-placement or child-care agency, or

(2) in a child-care institution, whether the payment therefor is made to such institution or to a public or nonprofit private child-placement or child-care agency, but subject to limitations prescribed by the Secretary with a view to including as "aid to families with dependent children" in the case of such foster care in such institutions only those items which are included in such term in the case of foster care in the foster family home of an individual.

(c) the number of individuals counted under clause (A) of section 603(a)(1) of this title for any month shall include individuals (not otherwise included under such clause) with respect to whom expenditures were made in such month as aid to families with dependent children in the form of foster care; and

(d) services described in paragraph (f)(2) of this section shall be considered as part of the administration of the State plan for purposes of section 603(a)(3) of this title;

but only with respect to a State whose State plan approved under section 602 of this title—

(e) includes aid for any child described in paragraph (a) of this section, and

(f) includes provision for (1) development of a plan for each such child (including periodic review of the necessity for the child's being in a foster family home or child-care institution) to assure that he receives proper care and that services are provided which are designed to improve the conditions in the home from which he was removed or to otherwise make possible his being placed in the home of a relative specified in section 606(a) of this title, and (2) use by the State or local agency administering the State plan, to the maximum extent practicable, in placing such a child in a foster family home or child-care institution, of the services of employees, of the State public-welfare agency referred to in section 722(a) of this title (relating to allotments to States for child welfare services under sections 721 to 728 of this title) or of any local agency participating in the administration of the plan referred to in such section, who perform functions in the administration of such plan.

For purposes of this section, the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing homes of this type, as meeting the standards established for such licensing; and the term "child-care institution" means a nonprofit private child-care institution which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing.

(Aug. 14, 1935, ch. 531, title IV, § 408, as added May 8, 1961, Pub. L. 87-31, § 2, 75 Stat. 76, and amended July 25, 1962, Pub. L. 87-543, title I, §§ 101(b)(2)(D), 104(a)(3) (F), (G), 131(b), 135(a)-(d), 155(a), 76 Stat. 180, 185, 193, 196, 197, 207; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 201(e)(4), 205(c), 81 Stat. 880, 892.)

References in Text

Section 722(a) of this title and section 721 to 728 of this title, referred to in par. (f)(2), were repealed by Pub. L. 90-248, title II, § 240 (e)(1), Jan. 2, 1968, 81 Stat. 915. See now sections 620 to 626 of this title.

Amendments

1968—Par. (a)(4)(A), (B). Pub. L. 90-248, § 205(c), designated existing provisions as (A) and added (B).

Par. (d). Pub. L. 90-248, § 201(e)(4), struck out the reference to section 603(a)(4) of this title in the introductory text.

1962—Pub. L. 87-543, § 131(b), deleted from the introductory phrase ", and ending with the close of June 30, 1962" following "May 1, 1963".

Par. (a)(2). Pub. L. 87-543, § 155(a), incorporated existing provisions in (A) and added (B).

Par. (a)(3). Pub. L. 87-543, § 135(a), inserted "or child-care institution" following "foster family home".

Par. (b). Pub. L. 87-543, §§ 104(a)(3)(F), 135(b), substituted "aid to families with dependent children" for "aid to dependent children" in provisions designated clause (1), and designated existing provisions as clause (1), added to such clause (1) "whether the payment therefor is made to such individual or to a public or nonprofit private child-placement or child-care agency, or" and added clause (2).

Par. (c). Pub. L. 87-543, § 104(a)(3)(G), substituted "aid to families with dependent children" for "aid to dependent children".

Par. (d). Pub. L. 87-543, § 101(b)(2)(D), inserted "and (4)" following "section 603(a)(3)".

Par. (f) (1), (2). Pub. L. 87-543, § 135(c), inserted "or child-care institution" following "foster family home".

Pub. L. 87-543, § 135(d), inserted provisions in last sentence defining "child-care institution".

Effective Date of 1968 Amendment

Amendment of subsec. (a)(4) by section 205(c) of Pub. L. 90-248 applicable only with respect to foster care provided after December 1967, see section 205(e) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 603 of this title.

Amendment of subsec. (d) by section 201(e) of Pub. L. 90-248 effective July 1, 1968 (or earlier if the State plan so provides), see section 201(g)(1) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 602 of this title.

Effective Date of 1962 Amendment

Section 135(e) of Pub. L. 87-543, as amended by Pub. L. 88-641, § 1, Oct. 13, 1964, 78 Stat. 1042; Pub. L. 90-36, § 2, June 29, 1967, 81 Stat. 94; Pub. L. 90-248, title II, § 205(d), Jan. 2, 1968, 81 Stat. 893, provided that: "The amendments made by the preceding provisions of this section [to this section] shall be effective only in the case of expenditures under a State plan approved under title IV of the Social Security Act [this subchapter] made during the period beginning October 1, 1962."

Amendment of par. (d) by section 101(b)(2)(D) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 303 of this title.

Effective Date of 1962 Amendment; Report to President and Congress; Recommendations as to Continuation and Modification of Amendment

Section 155(b) of Pub. L. 87-543, as amended by Pub. L. 88-48, June 29, 1963, 77 Stat. 70; Pub. L. 88-345, June 30, 1964, 78 Stat. 235; Pub. L. 90-36, § 2, June 29, 1967, 81 Stat. 94; Pub. L. 90-248, title II, § 205(d), Jan. 2, 1968, 81 Stat. 893, provided that: "The amendment made by subsection (a) [to par. (a)(2) of this section] shall apply only for the period beginning October 1, 1962. The Secretary shall submit to the President, for transmission to the Congress prior to December 31, 1963, a full report of the administration of the provisions of the amendment made by subsection (a) [to par. (a)(2) of this section], including the experiences of each of the States in arranging for foster care under the provisions of their respective State plans which are in accord with such amendment, together with his recommendations as to continuation of, and modifications in, such amendment."

Nonduplication of Payments to States: Prohibition of Payments After December 31, 1969

Prohibition of payments under this subchapter to States with respect to aid or assistance in form of medical or other type of remedial care for any period for which States received payments under subchapter XIX of this chapter or for any period after Dec. 31, 1969, see section 121(b) of Pub. L. 89-97, title I, July 30, 1965, 79 Stat. 352, set out at a note under section 1396b of this title.

State Plans in Effect July 25, 1962: Automatic Conformity to Amendments

State plans in effect July 25, 1962, deemed to have been conformed to amendment of pars. (b), (c) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 606, 1396b of this title.

§ 609. Community work and training programs

(a) For the purpose of assisting the States in encouraging, through community work and training programs of a constructive nature, the conservation of work skills and the development of new skills for individuals who have attained the age of 18 and are receiving aid to families with dependent children, under conditions which are designed to assure protection of the health and welfare of such individuals and the dependent children involved, expenditures (other than for medical or any other type of remedial care) for any month with respect to a dependent child (including payments to meet the needs of any relative or relatives, specified in section 606(a) of this title, with whom he is living) under a State plan approved under section 602 of this title shall not be excluded from aid to families with dependent children because such expenditures are made in the form of payments for work performed in such month by any one or more of the relatives with whom such child is living if such work is performed for the State agency or any other public agency under a program (which need not be in effect in all political subdivisions of the State) administered by or under the supervision of such State agency, if there is State financial participation in such expenditures, and if such State plan includes—

(1) provisions which, in the judgment of the Secretary, provide reasonable assurance that—

(A) appropriate standards for health, safety, and other conditions applicable to the performance of such work by such relatives are established and maintained;

(B) payments for such work are at rates not less than the minimum rate (if any) provided by or under State law for the same type of work and not less than the rates prevailing on similar work in the community;

(C) such work is performed on projects which serve a useful public purpose, do not result either in displacement of regular workers or in the performance by such relatives of work that would otherwise be performed by employees of public or private agencies, institutions, or organizations, and (except in cases of projects which involve emergencies or which are generally of a nonrecurring nature) are of a type which has not normally been undertaken in the past by the State or community, as the case may be;

(D) in determining the needs of any such relative, any additional expenses reasonably attributable to such work will be considered;

(E) any such relative shall have reasonable opportunities to seek regular employment and to secure any appropriate training or retraining which may be available;

(F) any such relative will, with respect to the work so performed, be covered under the State workmen's compensation law or be provided comparable protection; and

(G) aid under the plan will not be denied with respect to any such relative (or the dependent child) for refusal by such relative to perform any such work if he has good cause for such refusal;

(2) provision for entering into cooperative arrangements with the system of public employment offices in the State looking toward employment or occupational training of any such relatives performing work under such program, including appropriate provision for registration and periodic reregistration of such relatives and for maximum utilization of the job placement services and other services and facilities of such offices;

(3) provision for entering into cooperative arrangements with the State agency or agencies responsible for administering or supervising the administration of vocational education and adult education in the State, looking toward maximum utilization of available public vocational or adult education services and facilities in the State in order to encourage the training or retraining of any such relatives performing work under such program and otherwise assist them in preparing for regular employment;

(4) provision for assuring appropriate arrangements for the care and protection of the child during the absence from the home of any such relative performing work under such program in order to assure that such absence and work will not be inimical to the welfare of the child;

(5) provision that there will be no adjustment or recovery by the State or any political subdivision thereof on account of any payments which are correctly made for such work; and

(6) such other provisions as the Secretary finds necessary to assure that the operation of such program will not interfere with achievement of the objectives set forth in section 601 of this title.

(b) In the case of any State which makes expenditures in the form described in subsection (a) of this section under its State plan approved under section 602 of this title, the proper and efficient administration of the State plan for purposes of section 603(a)(3) and (4) of this title, may not include the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in subsection (a) of this section or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.

(Aug. 14, 1935, ch. 531, title IV, § 409, as added and amended July 25, 1962, Pub. L. 87-543, title I, §§ 101(b)(2)(E), 105(a), 76 Stat. 180, 186.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-543, § 101(b)(2)(E), inserted "and (4)" following "section 603(a)(3)".

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (b) by section 101(b)(2)(E) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87-

543, set out as an Effective Date of 1962 Amendment note under section 303 of this title.

EFFECTIVE DATE

Section applicable in the case of expenditures under a State plan approved under this subchapter, made during the period beginning Oct. 1, 1962, and ending with the close of June 30, 1967, see section 202(e) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 603 of this title.

PROVISIONS INAPPLICABLE TO ANY STATE WITH RESPECT TO ANY QUARTER BEGINNING AFTER JUNE 30, 1968

Pub. L. 90-248, title II, § 204(c)(2), Jan. 2, 1968, 81 Stat. 892, provided that: "The provisions of section 409 of the Social Security Act [this section] shall not apply to any State with respect to any quarter beginning after June 30, 1968."

REPORT TO PRESIDENT AND CONGRESS: RECOMMENDATIONS AS TO CONTINUATION AND MODIFICATION OF PROGRAMS

Section 105(b) of Pub. L. 87-543 provided that the Secretary submit to the President, for transmission to Congress prior to Jan. 1, 1967, a report of the administration of the provisions of this section, including the experiences of each State in paying for work under community work and training programs under the provisions of their respective State plans which are in accord with this section, together with his recommendations as to the continuation and modification of this section.

Provision applicable in the case of expenditures under a State plan approved under this subchapter, made during the period beginning Oct. 1, 1962, and ending with the close of June 30, 1967, see section 202(e) of Pub. L. 87-543, set out as Effective Date of 1962 Amendment note under section 603 of this title.

EXPENDITURES DEEMED MADE UNDER STATE PLANS AND CONSTITUTING AID TO DEPENDENT CHILDREN OR AID TO FAMILIES WITH DEPENDENT CHILDREN

Section 105(c) of Pub. L. 87-543 provided that expenditures, other than for medical or any other type of remedial care, made during the period between July 1, 1961 and Sept. 30, 1962, which would have been considered aid to dependent children or aid to families with dependent children under State plans approved under this subchapter, except that they were made in the form of payments for work performed by a relative with whom the dependent child is living, were to be deemed to have been made under the State plan and to constitute aid to dependent children or aid to families with dependent children if the expenditures were made under conditions which met the requirements of this section, other than subpars. (D) and (F) of subsec. (a)(1) of this section, and other than the requirement that the State agency administer or supervise the program under which the work was performed and, at the time the expenditures were made, the State plan met the requirements of section 607(1), (2), and (3) of this title.

§ 610. Food stamp program coupons

(a) Option to deduct charges from aid

Any State plan for aid and services to needy families with children may (but is not required under this subchapter or any other provision of Federal law to) provide for the institution of procedures, in any or all areas of the State, by the State agency administering or supervising the administration of such plan under which any household participating in the food stamp program established by the Food Stamp Act of 1964, as amended [7 U.S.C. 2011 et seq.], will be entitled, if it so elects, to have the charges, if any, for its coupon allotment under such program deducted from any aid, in the form of money payments, which is (or, except for the deduction of such charge, would be) payable to or with respect to such household (or any member or members thereof) under such plan and have its coupon allotment distributed to it with such aid.

(b) Deductions not considered payment

Any deduction made pursuant to an option provided in accordance with subsection (a) of this section shall not be considered to be a payment described in section 606(b)(2) of this title.

(c) Failure to adopt procedures

Notwithstanding any other provision of law, no agency which is designated as a State agency for any State under or pursuant to the Food Stamp Act of 1964, as amended [7 U.S.C. 2011 et seq.], shall be regarded as having failed to comply with any requirement imposed by or pursuant to such Act solely because of the failure, of the State agency administering or supervising the administration of the State plan (approved under this part) of such State, to institute or carry out a procedure, described in subsection (a) of this section.

(Aug. 14, 1935, ch. 531, title IV, § 410, as added Oct. 21, 1976, Pub. L. 94-585, § 1(a), 90 Stat. 2901.)

REFERENCES IN TEXT

The Food Stamp Act of 1964, as amended, referred to in subsecs. (a) and (c), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (§ 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables volume.

PRIOR PROVISIONS

A prior section 610, act Aug. 14, 1935, ch. 531, title IV, § 410, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 211(b), 81 Stat. 897, which provided for furnishing by Secretary to Secretary of the Treasury the names of parents contained in reports from State agencies, for ascertainment of addresses, and authorization for appropriations for such purpose, was repealed by Pub. L. 93-647, § 101(c)(8), Jan. 4, 1975, 88 Stat. 2360, eff. July 1, 1975.

FUNDS FOR ADMINISTRATIVE COSTS FOR DEDUCTION OF FOOD STAMP COUPONS FROM AMOUNT OF AID

Section 1(b) of Pub. L. 94-585 provided that: "Administrative costs incurred by a State plan for aid and services to needy families with children, approved under Part A of title IV of the Social Security Act [this part], in conducting procedures (described in section 410 of such Act [this section], as added by subsection (a) of this section) in connection with the food stamp program shall be paid from funds appropriated to carry out the Food Stamp Act of 1964, as amended [section 2011 et seq. of Title 7, Agriculture]."

PART B—CHILD-WELFARE SERVICES

AMENDMENTS

1968—Pub. L. 90-248, title II, § 240(c), Jan. 2, 1968, 81 Stat. 911, added part B heading.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1397b, 1397c, 3195, 5103 of this title; title 40 App. section 202.

§ 620. Authorization of appropriations

For the purpose of enabling the United States, through the Secretary, to cooperate

with State public welfare agencies in establishing, extending, and strengthening child-welfare services, the following sums are hereby authorized to be appropriated: $196,000,000 for the fiscal year ending June 30, 1973, $211,000,000 for the fiscal year ending June 30, 1974, $226,000,000 for the fiscal year ending June 30, 1975, $246,000,000 for the fiscal year ending June 30, 1976, and $266,000,000 for each fiscal year thereafter.

(Aug. 14, 1935, ch. 531, title IV, § 420, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 240(c), 81 Stat. 911, and amended Oct. 30, 1972, Pub. L. 92-603, title IV, § 412, 86 Stat. 1492.)

AMENDMENTS

1972—Pub. L. 92-603 substituted "$196,000,000 for the fiscal year ending June 30, 1973, $211,000,000 for the fiscal year ending June 30, 1974, $226,000,000 for the fiscal year ending June 30, 1975, $246,000,000 for the fiscal year ending June 30, 1976, and $266,000,000" for "$55,000,000 for the fiscal year ending June 30, 1968, $100,000,000 for the fiscal year ending June 30, 1969, and $110,000,000".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 412 provided in part that the amendment by Pub. L. 92-603 shall be effective with respect to fiscal years beginning after June 30, 1972.

EFFECTIVE DATE

Section 240(e)(2) of Pub. L. 90-248 provided that: "Part B of title IV of the Social Security Act (as added by subsection (c) of this section) [this part], and the amendments made by subsections (a) and (b) of this section [amending subchapter IV and enacting Part A heading] shall become effective on the date this Act is enacted [Jan. 2, 1968]."

STATE PLANS; DATE OF DEVELOPMENT; APPROPRIATIONS, ALLOTMENTS, AND REALLOTMENTS

Section 240(f)(1), (2) of Pub. L. 90-248 provided that: "In the case of any State which has a plan developed as provided in part 3 of title V of the Social Security Act [part 3 of this subchapter] as in effect prior to the enactment of this Act [Jan. 2, 1968]—

"(1) such plan shall be treated as a plan developed, as provided in part B of title IV of such Act [this part], on the date this Act is enacted [Jan. 2, 1968];

"(2) any sums appropriated, alloted, or reallotted pursuant to part 3 of title V [sections 721 to 728 of this title]; for the fiscal year ending June 30, 1968, shall be deemed appropriated, allotted, or realloted (as the case may be) under part B of title IV of such Act [this part] for such fiscal year;"

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 621 of this title.

§ 621. Allotments to States

The sum appropriated pursuant to section 620 of this title for each fiscal year shall be allotted by the Secretary for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary, as follows: He shall allot $70,000 to each State, and shall allot to each State an amount which bears the same ratio to the remainder of the sum so appropriated for such year as the product of (1) the population of such State under the age of 21 and (2) the allotment percentage of such State (as determined under section 623 of this title) bears to the sum of the corresponding products of all the States.

(Aug. 14, 1935, ch. 531, title IV, § 421, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 240(c), 81 Stat. 912.)

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 101(a) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 383, set out as a note under section 422 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 624, 1308 of this title.

§ 622. Payment to States

(a) Eligible States

From the sums appropriated therefor and the allotment available under this part, the Secretary shall from time to time pay to each State—

(1) that has a plan for child-welfare services which has been developed as provided in this part and which—

(A) provides that (i) the individual or agency designated pursuant to section 1397b(d)(1)(C) of this title to administer or supervise the administration of the State's services program will administer or supervise the administration of such plan for child-welfare services and (ii) to the extent that child-welfare services are furnished by the staff of the State agency or local agency administering such plan for child-welfare services, a single organizational unit in such State or local agency, as the case may be, will be responsible for furnishing such child-welfare services.

(B) provides for coordination between the services provided under such plan and the services provided for dependent children under the State plan approved under part A of this subchapter, with a view to provision of welfare and related services which will best promote the welfare of such children and their families, and

(C) provides with respect to day care services (including the provision of such care) provided under this subchapter—

(i) for cooperative arrangements with the State Health authority and the State agency primarily responsible for State supervision of public schools to assure maximum utilization of such agencies in the provision of necessary health services and education for children receiving day care,

(ii) for any advisory committee, to advise the State public welfare agency on the general policy involved in the provision of day care services under the plan, which shall include among its members representatives of other State agencies concerned with day care or services related thereto and persons representative of professional or civic or other public or nonprofit agencies, organizations, or groups concerned with the provision of day care,

(iii) for such safeguards as may be necessary to assure provision of day care

under the plan only in cases in which it is in the best interest of the child and the mother and only in cases in which it is determined, under criteria established by the State, that a need for such care exists; and, in cases in which the family is able to pay part or all of the costs of such care, for payment of such fees as may be reasonable in the light of such ability,

(iv) for giving priority, in determining the existence of need for such day care, to members of low-income or other groups in the population, and to geographical areas, which have the greatest relative need for extension of such day care, and

(v) that day care provided under the plan will be provided only in facilities (including private homes) which are licensed by the State, or approved (as meeting the standards established for such licensing) by the State agency responsible for licensing facilities of this type, and

(vi) for the development and implementation of arrangements for the more effective involvement of the parent or parents in the appropriate care of the child and the improvement of the health and development of the child, and

(2) that makes a satisfactory showing that the State is extending the provision of child-welfare services in the State, with priority being given to communities with the greatest need for such services after giving consideration to their relative financial need, and with a view to making available by July 1, 1975, in all political subdivisions of the State, for all children in need thereof, child-welfare services provided by the staff (which shall to the extent feasible be composed of trained child-welfare personnel) of the State public welfare agency or of the local agency participating in the administration of the plan in the political subdivision,

except that (effective July 1, 1969, or, if earlier, on the date as of which the modification of the State plan to comply with this requirement with respect to subprofessional staff is approved) such plan shall provide for the training and effective use of paid subprofessional staff with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan and for the use of non-paid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency, an amount equal to the Federal share (as determined under section 623 of this title) of the total sum expended under such plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child-welfare services, in developing State services for the encouragement and assistance of adequate methods of community child-welfare organization, in paying the costs of returning any runaway child who has not attained the age of eighteen to his own community in another State, and of maintaining such child until such return (for a period not exceeding fifteen days), in cases in which such costs cannot be met by the parents of such child or by any person, agency, or institution legally responsible for the support of such child. In developing such services for children, the facilities and experience of voluntary agencies shall be utilized in accordance with child-care programs and arrangements in the State and local communities as may be authorized by the State.

(b) Computation of amounts

The method of computing and paying such amounts shall be as follows:

(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of subsection (a) of this section.

(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such prior period under this section.

(c) Administrative agencies

If on December 1, 1974, the agency of a State administering its plan under this part was not the agency designated pursuant to section 602(a)(3) of this title, subsection (a)(1)(A) of this section shall not apply with respect to such agency but only so long as such agency is not the agency designated under section 1397b(d)(1)(C) of this title, and if on December 1, 1974, the local agency administering the plan of a State under this part in a subdivision of the State is not the local agency in such subdivision administering the plan of such State under part A of this subchapter, subsection (a)(1)(A) of this section shall not apply with respect to such local agency but only so long as such local agency is not the local agency administering the program of the State for the provision of services under subchapter XX of this chapter.

(Aug. 14, 1935, ch. 531, title IV, § 422, as added and amended Jan. 2, 1968, Pub. L. 90-248, title II, § 240(c), (d), 81 Stat. 912, 915; Jan. 4, 1975, Pub. L. 93-647, § 3(a)(6), (7), (h), 88 Stat. 2348, 2349.)

Amendments

1975—Subsec. (a)(1)(A)(i). Pub. L. 93-647, § 3(a)(6), substituted "the individual or agency designated pursuant to section 1397b(d)(1)(C) of this title to administer or supervise the administration of the State's services program" for "the State agency designated pursuant to section 602(a)(3) of this title to administer or supervise the administration of the plan of the State approved under part A of this subchapter".

Subsec. (a)(i)(A)(ii). Pub. L. 93-647, § 3(a)(7), substituted "a single organizational unit in such State or local agency, as the case may be," for "the organizational unit in such State or local agency established pursuant to section 602(a)(15) of this title".

Subsec. (c). Pub. L. 93-647, § 3(h), added subsec. (c).

1968—Subsec. (a)(1). Pub. L. 90-248, § 240(d), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

Effective Date of 1975 Amendment

Amendment by section 3 of Pub. L. 93-647 effective with respect to payments under sections 603 and 803

of this title for quarters commencing after Sept. 30, 1975, but with amendment of subsec. (a)(1)(A)(i), (ii) by section 3 Pub. L. 93-647 not effective with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, see section 7(b) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT; DIFFERENT STATE AGENCIES FOR ADMINISTRATION OF STATE PLANS UNDER PARTS A AND B

Section 240(e)(3) of Pub. L. 90-248 provided that: "The amendments made by paragraphs (1) and (2) of subsection (d) [enacting subsec. (a)(1)(A) and redesignating subpars. (A) and (B) as (B) and (C)] shall become effective July 1, 1969, except that (A) if on the date of enactment of this Act [Jan. 2, 1968] the agency of a State administering its plan for child-welfare services developed under part B of title IV of the Social Security Act [this part] is different from the agency of the State designated pursuant to section 402(a)(3) of such Act [section 602(a)(3) of this title], so much of paragraph (1) of section 422(a) of such Act [subsec. (a) of this section] as precedes subparagraph (B) (as added by paragraph (2) of such subsection (d)) shall not apply with respect to such agencies but only so long as such agencies of the State are different, and (B) if on such date the local agency administering the plan of a State for child-welfare services developed under part B of title IV of the Social Security Act [this part] is different from the local agency in such subdivision administering the plan of such State under part A of title IV of such Act [part A of this subchapter], so much of such paragraph (1) as precedes such subparagraph (B) shall not apply with respect to such local agencies but only so long as such local agencies are different."

OVERPAYMENTS OR UNDERPAYMENTS

Section 240(f)(3) of Pub. L. 90-248 provided that in the case of any State which has a plan developed as provided in part 3 of this subchapter as in effect prior to Jan. 2, 1968, sections 721 to 728 of this title, "any overpayment or underpayment which the Secretary determines was made to the State under section 523 of the Social Security Act [section 723 of this title] and with respect to which adjustment has not then already been made under subsection (b) of such section shall, for purposes of section 422 of such Act [this section], be considered an overpayment or underpayment (as the case may be) made under section 422 of such Act [this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1397a of this title.

§ 623. Allotment percentage and Federal share

(a) State allotment percentage

The "allotment percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

(b) Federal share

The "Federal share" for any State for any fiscal year shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (1) in no case shall the Federal share be less than 33⅓ per centum or more than 66⅔ per centum, and (2) the Federal share shall be 66⅔ per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

(c) Promulgation by Secretary

The Federal share and the allotment percentage for each State shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on the basis of the average per capital income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning October 1 next succeeding such promulgation: *Provided*, That the Federal shares and allotment percentages promulgated under section 724(c) of this title in 1966 shall be effective for purposes of this section for the fiscal years ending June 30, 1968, and June 30, 1969.

(d) United States

For purposes of this section, the term "United States" means the fifty States and the District of Columbia.

(Aug. 14, 1935, ch. 531, title IV, § 423, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 240(c), 81 Stat. 913, and amended Apr. 21, 1976, Pub. L. 94-273, § 22, 90 Stat. 379.)

REFERENCES IN TEXT

Section 724(c) of this title, referred to in subsec. (c), was repealed by Pub. L. 90-248, title II, § 241(e)(1), Jan. 2, 1968, 81 Stat. 915.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-273 substituted "October" for "July" wherever appearing therein and "November 30" for "August 31".

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (c) of this section, see section 204(7) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 621, 622 of this title.

§ 624. Reallotment of allotments to States

The amount of any allotment to a State under section 621 of this title for any fiscal year which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in such section shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so developed for sums in excess of those previously allotted to them under that section and (2) will be able to use such excess amounts during such fiscal year. Such reallotments shall be made on the basis of the State plans so developed, after taking into consideration the population under the age of twenty-one, and

the per capita income of each such State as compared with the population under the age of twenty-one, and the per capita income of all such States with respect to which such a determination by the Secretary has been made. Any amount so reallotted to a State shall be deemed part of its allotment under section 621 of this title.

(Aug. 14, 1935, ch. 531, title IV, § 424, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 240(c), 81 Stat. 914.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this section, see section 201(12) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

§ 625. "Child-welfare services" defined

For purposes of this subchapter, the term "child-welfare services" means public social services which supplement, or substitute for, parental care and supervision for the purpose of (1) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children, (2) protecting and caring for homeless, dependent, or neglected children, (3) protecting and promoting the welfare of children of working mothers, and (4) otherwise protecting and promoting the welfare of children, including the strengthening of their own homes where possible or, where needed, the provision of adequate care of children away from their homes in foster family homes or day-care or other child-care facilities.

(Aug. 14, 1935, ch. 531, title IV, § 425, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 240(c), 81 Stat. 914.)

§ 626. Research, training, or demonstration projects

(a) Authorization of appropriations

There are hereby authorized to be appropriated for each fiscal year such sums as the Congress may determine—

(1) for grants by the Secretary—

(A) to public or other nonprofit institutions of higher learning, and to public or other nonprofit agencies and organizations engaged in research or child-welfare activities, for special research or demonstration projects in the field of child welfare which are of regional or national significance and for special projects for the demonstration of new methods or facilities which show promise of substantial contribution to the advancement of child welfare;

(B) to State or local public agencies responsible for administering, or supervising the administration of, the plan under this part, for projects for the demonstration of the utilization of research (including findings resulting therefrom) in the field of child welfare in order to encourage experimental and special types of welfare services; and

(C) to public or other nonprofit institutions of higher learning for special projects for training personnel for work in the field of child welfare, including traineeship with such stipends and allowances as may be permitted by the Secretary; and

(2) for contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research, special projects, or demonstration projects relating to such matters.

(b) Payments; advances or reimbursements; installments; conditions

Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

(Aug. 14, 1935, ch. 531, title IV, § 426, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 240(c), 81 Stat. 915.)

APPROPRIATIONS OR GRANTS

Section 240(g) of Pub. L. 90-248 provided that any appropriations or grants made pursuant to section 726 of this title, as in effect prior to Jan. 2, 1968, were to be deemed to have been appropriated or made under this section.

PART C—WORK INCENTIVE PROGRAM FOR RECIPIENTS OF AID UNDER STATE PLAN APPROVED UNDER PART A

AMENDMENTS

1968—Pub. L. 90-248, title II, § 204(a), Jan. 2, 1968, 81 Stat. 884, added part C heading.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 602, 607, 644 of this title; title 29 sections 883, 954.

§ 630. Statement of purpose

The purpose of this part is to require the establishment of a program utilizing all available manpower services, including those authorized under other provisions of law, under which individuals receiving aid to families with dependent children will be furnished incentives, opportunities, and necessary services in order for (1) the employment of such individuals in the regular economy, (2) the training of such individuals for work in the regular economy, and (3) the participation of such individuals in public service employment, thus restoring the families of such individuals to independence and useful roles in their communities. It is expected that the individuals participating in the program established under this part will acquire a sense of dignity, self-worth, and confidence which will flow from being recognized as a wage-earning member of society and that the example of a working adult in these families will have beneficial effects on the children in such families.

(Aug. 14, 1935, ch. 531, title IV, § 430, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 884, and amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(1), 85 Stat. 805.)

AMENDMENTS

1971—Pub. L. 92-223 substituted "public service employment" for "special work projects".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

§ 631. Authorization of appropriations

(a) Transfer of moneys

There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare for each fiscal year a sum sufficient to carry out the purposes of this part. The Secretary of Health, Education, and Welfare shall transfer to the Secretary of Labor from time to time sufficient amounts, out of the moneys appropriated pursuant to this section, to enable him to carry out such purposes.

(b) On-the-job training and public service employment programs; percentage limitation

Of the amounts expended from funds appropriated pursuant to subsection (a) of this section for any fiscal year (commencing with the fiscal year ending June 30, 1973), not less than 33⅓ per centum thereof shall be expended for carrying out the program of on-the-job training referred to in section 632(b)(1)(B) of this title and for carrying out the program of public service employment referred to in section 632(b)(3) of this title.

(c) Allotment to States; percentage limitation; formula

Of the sums appropriated pursuant to subsection (a) of this section to carry out the provisions of this part for any fiscal year (commencing with the fiscal year ending June 30, 1973), not less than 50 percent shall be allotted among the States in accordance with a formula under which each State receives (from the total available for such allotment) an amount which bears the same ratio to such total as—

(1) in the case of the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, the average number of recipients of aid to families with dependent children in such State during the month of January last preceding the commencement of such fiscal year bears to the average number of such recipients during such month in all the States; and

(2) in the case of the fiscal year ending June 30, 1975, or in the case of any fiscal year thereafter, the average number of individuals in such State who, during the month of January last preceding the commencement of such fiscal year, are registered pursuant to section 602(a)(19)(A) of this title bears to the average number of individuals in all States who, during such month, are so registered.

(Aug. 14, 1935, ch. 531, title IV, § 431, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 884, and amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(2), 85 Stat. 805.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92-223 designated existing provisions as subsec. (a).

Subsecs. (b), (c). Pub. L. 92-223 added subsecs. (b) and (c).

EFFECTIVE DATE OF 1971 AMENDMENT

Enactment of subsecs. (b) and (c) by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this section, see section 201(12) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

§ 632. Establishment of programs

(a) State and political subdivisions as situs for programs

The Secretary of Labor (hereinafter in this part referred to as the Secretary) shall, in accordance with the provisions of this part, establish work incentive programs (as provided for in subsection (b) of this section) in each State and in each political subdivision of a State in which he determines there is a significant number of individuals who have attained age 16 and are receiving aid to families with dependent children. In other political subdivisions, he shall use his best efforts to provide such programs either within such subdivisions or through the provision of transportation for such persons to political subdivisions of the State in which such programs are established.

(b) Description of programs

Such programs shall include, but shall not be limited to, (1)(A) a program placing as many individuals as is possible in employment, and (B) a program utilizing on-the-job training positions for others, (2) a program of institutional and work experience training for those individuals for whom such training is likely to lead to regular employment, and (3) a program of public service employment for individuals for whom a job in the regular economy cannot be found.

(c) Grants to or agreements with agencies or organizations

In carrying out the purposes of this part the Secretary may make grants to, or enter into agreements with, public or private agencies or organizations (including Indian tribes with respect to Indians on a reservation), except that no such grant or agreement shall be made to or with a private employer for profit or with a private nonprofit employer not organized for a public purpose for purposes of the work experience program established by clause (2) of subsection (b) of this section.

(d) Use of authorities for providing manpower training and employment services and opportunities; use of funds; reimbursement of agencies for services

In providing the manpower training and employment services and opportunities required by this part, the Secretary of Labor shall, to the maximum extent feasible, assure that such services and opportunities are provided by using all authority available to him under this chapter or any other Act. In order to assure that the services and opportunities so required are provided, the Secretary of Labor shall use

the funds appropriated to him under this part to provide programs required by this part through such other Act, to the same extent and under the same conditions (except as regards the Federal matching percentage) as if appropriated under such other Act and, in making use of the programs of other Federal State, or local agencies (public or private), the Secretary of Labor may reimburse such agencies for services rendered to persons under this part to the extent such services and opportunities are not otherwise available on a nonreimbursable basis.

(e) Prohibition against reduction of other statutory manpower services

The Secretary shall take appropriate steps to assure that the present level of manpower services available under the authority of other statutes to recipients of aid to families with dependent children is not reduced as a result of programs under this part.

(f) Labor Market Advisory Council; establishment for appropriate geographic area; functions; representation of area interests; institutional training

(1) The Secretary of Labor shall establish in each State, municipality, or other appropriate geographic area with a significant number of persons registered pursuant to section 602(a)(19)(A) of this title a Labor Market Advisory Council the function of which will be to identify and advise the Secretary of the types of jobs available or likely to become available in the area served by the Council; except that if there is already located in any area an appropriate body to perform such function, the Secretary may designate such body as the Labor Market Advisory Council for such area.

(2) Any such Council shall include representatives of industry, labor, and public service employers from the area to be served by the Council.

(3) The Secretary shall not conduct, in any area, institutional training under any program established pursuant to subsection (b) of this section of any type which is not related to jobs of the type which are or are likely to become available in such area as determined by the Secretary after taking into account information provided by the Labor Market Advisory Council for such area.

(Aug. 14, 1935, ch. 531, title IV, § 432, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 884, and amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(3), 85 Stat. 806.)

AMENDMENTS

1971—Subsec. (b)(1). Pub. L. 92-223, § 3(b)(3)(A)(i), substituted "(1)(A)" and "and (B) a program utilizing" for "(1)" and "and utilizing".

Subsec. (b)(3). Pub. L. 92-223, § 3(b)(3)(A)(ii), substituted "public service employment" for "special work projects".

Subsec. (d). Pub. L. 92-223, § 3(b)(3)(B), substituted provisions for use of authorities for providing manpower training and employment services and opportunities, use of funds, and reimbursement of agencies for services, for former provisions for utilization of authority under Manpower Development and Training Act of 1962, the Act of June 6, 1933, as amended (48 Stat. 113), and other Acts, where such authority is not inconsistent with this chapter.

Subsec. (f). Pub. L. 92-223, § 3(b)(3)(C), added subsec. (f).

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsecs. (b)(1), (3) and (d), and enactment of subsec. (f) of this section by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. Advisory Councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTION

This section is referred to in sections 602, 607, 631, 633, 634, 636, 642 of this title; title 26 section 50B.

§ 633. Operation of program

(a) Testing and counseling program; selection of individuals

The Secretary shall provide a program of testing and counseling for all persons certified to him by a State, pursuant to section 602(a)(19)(G) of this title, and shall select those persons whom he finds suitable for the programs established by clauses (1) and (2) of section 632(b) of this title. Those not so selected shall be deemed suitable for the program established by clause (3) of such section 632(b) of this title unless the Secretary finds that there is good cause for an individual not to participate in such program. The Secretary, in carrying out such program for individuals certified to him under section 602(a)(19)(G) of this title, shall accord priority to such individuals in the following order, taking into account employability potential; first, unemployed fathers; second, mothers, whether or not required to register pursuant to section 602(a)(19)(A) of this title, who volunteer for participation under a work incentive program; third, other mothers, and pregnant women, registered pursuant to section 602(a)(19)(A) of this title, who are under 19 years of age; fourth, dependent children and relatives who have attained age 16 and who are not in school or engaged in work or manpower training; and fifth, all other individuals so certified to him.

(b) Statewide operational plan; employability plan

(1) For each State the Secretary shall develop jointly with the administrative unit of such State administering the special program referred to in section 602(a)(19)(G) of this title a statewide operational plan.

(2) The statewide operational plan shall prescribe how the work incentive program established by this part will be operated at the local

level, and shall indicate (i) for each area within the State the number and type of positions which will be provided for training, for on-the-job training, and for public service employment, (ii) the manner in which information provided by the Labor Market Advisory Council (established pursuant to section 632(f) of this title) for any such area will be utilized in the operation of such program, and (iii) the particular State agency or administrative unit thereof which will be responsible for each of the various activities and functions to be performed under such program. Any such operational plan for any State must be approved by the Secretary, the administrative unit of such State administering the special program referred to in section 602(a)(19)(G) of this title, and the regional joint committee (established pursuant to section 639) for the area in which such State is located,

(3) The Secretary shall develop an employability plan for each suitable person certified to him pursuant to section 602(a)(19)(G) of this title, which shall describe the education, training, work experience, and orientation which it is determined that such person needs to complete in order to enable him to become self-supporting.

(c) Utilization of and reimbursement for available services

The Secretary shall make maximum use of services available from other Federal and State agencies and, to the extent not otherwise available on a nonreimbursable basis, he may reimburse such agencies for services rendered to persons under this part.

(d) Work incentive programs

To the extent practicable and where necessary, work incentive programs established by this part shall include, in addition to the regular counseling, testing, and referral available through the Federal-State Employment Service System, program orientation, basic education, training in communications and employability skills, work experience, institutional training, on-the-job training, job development, and special job placement and followup services, required to assist participants in securing and retaining employment and securing possibilities for advancement.

(e) Public service employment

(1) In order to develop public service employment under the program established by section 632(b)(3) of this title, the Secretary shall enter into agreements with (A) public agencies, (B) private nonprofit organizations established to serve a public purpose, and (C) Indian tribes with respect to Indians on a reservation, under which individuals deemed suitable for participation in such a program will be provided work which serves a useful public purpose and which would not otherwise be performed by regular employees.

(2) Such agreements shall provide—

(A) for the payment by the Secretary to each employer, with respect to public service employment performed by any individual for such employer, of an amount not exceeding 100 percent of the cost of providing such employment to such individual during the first year of such employment, an amount not exceeding 75 percent of the cost of providing such employment to such individual during the second year of such employment, and an amount not exceeding 50 percent of the cost of providing such employment to such individual during the third year of such employment;

(B) the hourly wage rate and the number of hours per week individuals will be scheduled to work in public service employment for such employer;

(C) that the Secretary will have such access to the premises of the employer as he finds necessary to determine whether such employer is carrying out his obligations under the agreement and this part; and

(D) that the Secretary may terminate any agreement under this subsection at any time.

(3) Repealed. Pub. L. 92-223, § 3(b)(4)(C)(iv), Dec. 28, 1971, 85 Stat. 807.

(4) No wage rates provided under any agreement entered into under the subsection shall be lower than the applicable minimum wage for the particular work concerned.

(f) Assurances of working conditions and employment displacement

Before entering into a project under section 632(b)(3) of this title, the Secretary shall have reasonable assurances that—

(1) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on such project are established and will be maintained,

(2) such project will not result in the displacement of employed workers,

(3) with respect to such project the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant.

(4) appropriate workmen's compensation protection is provided to all participants.

(g) Refusal of employment

Where an individual, certified to the Secretary of Labor pursuant to section 602(a)(19)(G) of this title refuses without good cause to accept employment or participate in a project under a program established by this part, the Secretary of Labor shall (after providing opportunity for fair hearing) notify the State agency which certified such individual and submit such other information as he may have with respect to such refusal.

(h) Employment record review

With respect to individuals who are participants in public service employment under the program established by section 632(b)(3) of this title, the Secretary shall periodically (but at least once every six months) review the employment record of each such individual while on such special work project and on the basis of such record and such other information as he may acquire determine whether it would be feasible to place such individual in regular employment or on any of the projects under the programs established by section 632(b)(1) and (2) of this title.

(Aug. 14, 1935, ch. 531, title IV, § 433, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81

Stat. 885, and amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(4)(A)-(F), 85 Stat. 806, 807.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92-223, § 3(b)(4)(A), substituted "certified to him by a State, pursuant to section 602(a)(19)(G) of this title" for "referred to him by a State, pursuant to section 602 of this title" and prescribed order of priorities, taking into account employability potential.

Subsec. (b). Pub. L. 92-223, § 3(b)(4)(B), added pars. (1) and (2) and designated existing provisions as par. (3), substituting "certified to him pursuant to section 602(a)(19)(G) of this title" and "such person needs" for "referred to him under section 602 of this title" and "each such person needs".

Subsec. (e)(1). Pub. L. 92-223, § 3(b)(4)(C)(i), substituted "public service employment" for "special work projects".

Subsec. (e)(2)(A). Pub. L. 92-223, § 3(b)(4)(C)(ii), substituted provisions for payment by the Secretary to each employer, with respect to public service employment performed by any individual for such employer, 100, 75, and 50 percent of cost of providing such employment during first, second, and third years of such employment, for prior provision for payment of portion of wages to be paid by the employer to the individuals for the work performed.

Subsec. (e)(2)(B). Pub. L. 92-223, § 3(b)(4)(C)(iii), substituted "in public service employment for" for "on special work projects of".

Subsec. (e)(3). Pub. L. 92-223, § 3(b)(4)(C)(iv), repealed par. (3) provisions for establishment of accounts for special work projects for deposit of State agency payments, availability of moneys for certain payments, and return of unexpended amounts as overpayments.

Subsec. (f). Pub. L. 92-223, § 3(b)(4)(D), substituted "section 632(b)(3) of this title" for "any of the programs established by this part".

Subsec. (g). Pub. L. 92-223, § 3(b)(4)(E), substituted "certified to the Secretary of Labor pursuant to section 602(a)(19)(G) of this title" and "which certified such individual" for "referred to the Secretary of Labor pursuant to section 602(a)(19)(A) (i) and (ii) of this title" and "which referred such individual".

Subsec. (h). Pub. L. 92-223, § 3(b)(4)(F), substituted "public service employment" for "special work projects".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsecs. (a), (b), (e)(1), (2)(A), (B), and (f) to (h) and repeal of subsec. (e)(3) by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

PAYMENT OF WAGES FOR WORK FOR PUBLIC AGENCIES; TRANSFER INTO CERTAIN ACCOUNTS

Section 204(d) of Pub. L. 90-248 authorized the Secretary of Labor, during the fiscal year ending June 30, 1969, to pay all of the wages owed by employers to individuals for work performed for public agencies under special work projects established under section 632(b)(3) of this title and authorized the transfer into certain accounts established under subsec. (e)(3) of this section of whatever amounts were necessary.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. Advisory Councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 639, 642, 644 of this title.

§ 634. Incentive payments and allowances for transportation and other costs

(a) The Secretary is authorized to pay to any participant under a program established by section 632(b)(2) of this title an incentive payment of not more than $30 per month, payable in such amounts and at such times as the Secretary prescribes.

(b) The Secretary of Labor is also authorized to pay, to any member of a family participating in manpower training under this part, allowances for transportation and other costs incurred by such member, to the extent such costs are necessary to and directly related to the participation by such member in such training.

(Aug. 14, 1935, ch. 531, title IV, § 434, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 887, and amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(4)(G), 85 Stat. 808.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92-223, § 3(b)(4)(G)(i), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 92-223, § 3(b)(4)(G)(ii), added subsec. (b).

EFFECTIVE DATE OF 1971 AMENDMENT

Enactment of subsec. (b) by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 602 of this title.

§ 635. Federal assistance

(a) Federal assistance under this part shall not exceed 90 per centum of the costs of carrying out this part. Non-Federal contributions may be cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services.

(b) Costs of carrying out this part include costs of training, supervision, materials, administration, incentive payments, transportation, and other items as are authorized by the Secretary, but may not include any reimbursement for time spent by participants in work, training, or other participation in the program.

(Aug. 14, 1935, ch. 531, title IV, § 435, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 887, and amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(5), 85 Stat. 808.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92-223, § 3(b)(5)(A), substituted "90 per centum" for "80 per centum".

Subsec. (b). Pub. L. 92-223, § 3(b)(5)(B), struck out "; except that with respect to special work projects under the program established by section 632(b)(3) of this title, the costs of carrying out this part shall include only the costs of administration" following "participation in the program".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsecs. (a) and (b) by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 641, 643 of this title.

§ 636. Period of enrollment

(a) The program established by section 632(b)(2) of this title shall be designed by the Secretary so that the average period of enrollment under all projects under such program throughout any area of the United States will not exceed one year.

(b) Services provided under this part may continue to be provided to an individual for such period as the Secretary determines (in accordance with regulations prescribed jointly by him and the Secretary of Health, Education, and Welfare) is necessary to qualify him fully for employment even though his earnings disqualify him from aid under a State plan approved under section 602 of this title.

(Aug. 14, 1935, ch. 531, title IV, § 436, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 887, and amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(6), 85 Stat. 808.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 92-223 substituted "jointly by him and" for "by the Secretary after consultation with".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsec. (b) by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

§ 637. Relocation of participants

The Secretary may assist participants to relocate their place of residence when he determines such relocation is necessary in order to enable them to become permanently employable and self-supporting. Such assistance shall be given only to participants who concur in their relocation and who will be employed at their place of relocation at wage rates which will meet at least their full need as determined by the State to which they will be relocated. Assistance under this section shall not exceed the reasonable costs of transportation for participants, their dependents, and their household belongings plus such relocation allowance as the Secretary determines to be reasonable.

(Aug. 14, 1935, ch. 531, title IV, § 437, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 887.)

§ 638. Participants not Federal employees

Participants in programs established by this part shall be deemed not to be Federal employees and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(Aug. 14, 1935, ch. 531, title IV, § 438, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 887, and amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(7), 85 Stat. 808.)

AMENDMENTS

1971—Pub. L. 92-223 struck out words "projects under" preceding "programs".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

§ 639. Rules and regulations

The Secretary and the Secretary of Health, Education, and Welfare shall, not later than July 1, 1972, issue regulations to carry out the purposes of this part. Such regulations shall provide for the establishment, jointly by the Secretary and the Secretary of Health, Education, and Welfare, of (1) a national coordination committee the duty of which shall be to establish uniform reporting and similar requirements for the administration of this part, and (2) a regional coordination committee for each region which shall be responsible for review and approval of statewide operational plans developed pursuant to section 633(b) of this title.

(Aug. 14, 1935, ch. 531, title IV, § 439, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 888, and amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(8), 85 Stat. 808.)

AMENDMENTS

1971—Pub. L. 92-223 provided for issuance of regulations not later than July 1, 1972, to provide for establishment of a national coordination committee (to establish uniform reporting and similar requirements) and a regional coordination committee for each region (to review and approve statewide operational plans).

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 633 of this title.

§ 640. Annual report

The Secretary shall annually report to the Congress (with the first such report being made on or before July 1, 1970) on the work incentive programs established by this part.

(Aug. 14, 1935, ch. 531, title IV, § 440, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 888.)

§ 641. Evaluation and research

(a)[1] The Secretary shall (jointly with the Secretary of Health, Education, and Welfare) provide for the continuing evaluation of the work incentive programs established by this part, including their effectiveness in achieving stated goals and their impact on other related programs. He also may conduct research regarding ways to increase the effectiveness of such programs. He may, for this purpose, contract for independent evaluations of and research regarding such programs or individual projects under such programs. For purposes of sections 635 and 643 of this title, the costs of carrying out this section shall not be regarded as costs of carrying out work incentive programs established by this part. Nothing in this section shall be construed as authorizing the Secretary to enter into any contract with any organization after June 1, 1970, for the dissemination by such organization of information about programs authorized to be carried on under this part.

(Aug. 14, 1935, ch. 531, title IV, § 441, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 888, and amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(9), 85 Stat. 808.)

AMENDMENTS

1971—Pub. L. 92-223 provided that section shall not be construed to authorize the Secretary to enter into any contract, with any organization after June 1, 1970, for dissemination by such organization of information about programs authorized to be carried on under this part.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

§ 642. Technical assistance for providers of employment or training

The Secretary is authorized to provide technical assistance to providers of employment or training to enable them to participate in the establishment and operation of programs authorized to be established by section 632(b) of this title.

(Aug. 14, 1935, ch. 531, title IV, § 442, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 888, and amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(10), 85 Stat. 808.)

AMENDMENTS

1971—Pub. L. 92-223 substituted provisions respecting technical assistance for providers of employment or training, for former subsecs. (a) and (b) provisions respecting review of special work projects by a State panel.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

§ 643. Collection of State share

If a non-Federal contribution of 10 per centum of the costs of the work incentive programs established by this part is not made in any State (as specified in section 602(a) of this title), the Secretary of Health, Education, and Welfare may withhold any action under section 604 of this title because of the State's failure to comply substantially with a provision required by section 602 of this title. If the Secretary of Health, Education, and Welfare does withhold such action, he shall, after reasonable notice and opportunity for hearing to the appropriate State agency or agencies, withhold any payments to be made to the State under sections 303(a), 603(a), 1203(a), 1353(a), 1383(a), and 1396b(a) of this title until the amount so withheld (including any amounts contributed by the State pursuant to the requirements in section 602(a)(19)(C) of this title) equals 10 per centum of the costs of such work incentive programs. Such withholding shall remain in effect until such time as the Secretary has assurances from the State that such 10 per centum will be contributed as required by section 602 of this title. Amounts so withheld shall be deemed to have been paid to the State under such sections and shall be paid by the Secretary of Health, Education, and Welfare to the Secretary. Such payment shall be considered a non-Federal contribution for purposes of section 635 of this title.

(Aug. 14, 1935, ch. 531, title IV, § 443, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 888, and amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(11), 85 Stat. 808.)

AMENDMENTS

1971—Pub. L. 92-223 substituted "10 per centum" for "20 per centum" wherever appearing.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 641 of this title.

§ 644. Agreements with other agencies providing assistance to families of unemployed parents

(a) Authorization to enter into agreements

The Secretary is authorized to enter into an agreement (in accordance with the succeeding provisions of this section) with any qualified State agency (as described in subsection (b) of this section) under which the program established by the preceding sections of this part C will (except as otherwise provided in this section) be applicable to individuals certified by such State agency in the same manner, to the same extent, and under the same conditions as such program is applicable with respect to individuals certified to the Secretary by a State agency administering or supervising the administration of a State plan approved by the Secretary of Health, Education, and Welfare under part A of this subchapter.

(b) Qualified State agencies

A qualified State agency referred to in subsection (a) of this section is a State agency which is charged with the administration of a program—

[1] So in original. There was no subsec. (b) enacted.

(1) the purpose of which is to provide aid or assistance to the families of unemployed parents,

(2) which is not established pursuant to part A of this subchapter,

(3) which is financed entirely from funds appropriated by the Congress, and

(4) none of the financing of which is made available under any program established pursuant to title V of the Economic Opportunity Act [42 U.S.C. 2921 et seq.].

(c) Agreement provisions

(1) Any agreement under this section with a qualified State agency shall provide that such agency will, with respect to all individuals receiving aid or assistance under the program of aid or assistance to families of unemployed parents administered by such agency, comply with the requirements imposed by section 602(a)(19) of this title in the same manner and to the same extent as if (A) such qualified agency were the agency in such State administering or supervising the administration of a State plan approved under part A of this subchapter, and (B) individuals receiving aid or assistance under the program administered by such qualified agency were recipients of aid under a State plan which is so approved.

(2) Any agreement entered into under this section shall remain in effect for such period as may be specified in the agreement by the Secretary and the qualified State agency, except that, whenever the Secretary determines, after reasonable notice and opportunity for hearing to the qualified State agency, that such agency has failed substantially to comply with its obligations under such agreement, the Secretary may suspend operation of the agreement until such time as he is satisfied that the State agency will no longer fail substantially to comply with its obligations under such agreement.

(3) Any such agreement shall further provide that the agreement will be inoperative for any calendar quarter if, for the preceding calendar quarter, the maximum amount of benefits payable under the program of aid or assistance to families of unemployed parents administered by the qualified State agency which is a party to such agreement is lower than the maximum amount of benefits payable under such program for the quarter which ended September 30, 1967.

(d) Public service employment lists

The Secretary shall, at the request of any qualified State agency referred to in subsection (a) of this section and upon receipt from it of a list of the names of individuals referred to the Secretary, furnish to such agency the names of each individual on such list participating in public service employment under section 633(a)(3) of this title whom the Secretary determines should continue to participate in such employment. The Secretary shall not comply with any such request with respect to an individual on such list unless such individual has been certified to the Secretary by such agency under section 602(a)(19)(G) of this title for a period of at least six months.

(Aug. 14, 1935, ch. 531, title IV, § 444, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 204(a), 81 Stat. 889, and amended Dec. 28, 1971, Pub. L. 92-223, § 3(b)(12), 85 Stat. 809.)

REFERENCES IN TEXT

The preceding sections of this part C, referred to in subsec. (a), mean sections 630 to 643 of this title.

Part A of this subchapter, referred to in subsecs. (a), (b)(2), and (c)(1), is classified to section 601 et seq. of this title.

The Economic Opportunity Act, referred to in subsec. (b)(4), probably means the Economic Opportunity Act of 1964, Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508. Title V of the Economic Opportunity Act of 1964, known as the Headstart-Follow Through Act, is classified generally to subchapter V (§ 2921 et seq.) of chapter 34 of this title. For complete classification of title V to the Code, see section 2921 of this title and Tables volume.

AMENDMENTS

1971—Subsec. (a). Pub. L. 92-223, § 3(b)(12)(A), substituted "certified" for "referred" wherever appearing.

Subsec. (c)(1). Pub. L. 92-223, § 3(b)(12)(B), substituted "section 602(a)(19) of this title" for "section 602(a)(15) and section 602(a)(19)(F) of this title".

Subsec. (d). Pub. L. 92-223, § 3(b)(12)(C), substituted "public service employment" for "a special work project", "employment" for "project" at end of first sentence, and "certified to the Secretary by such agency under section 602(a)(19)(G) of this title" for "referred to the Secretary by such agency under such section 602(a)(15) of this title".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsecs. (a), (c)(1), and (d) by Pub. L. 92-223 effective on July 1, 1972, except as otherwise specified therein, see section 3(c) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 602 of this title.

PART D—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 405, 602, 603a, 1306 of this title; title 26 section 6103; title 29 section 49b.

§ 651. Authorization of appropriations

For the purpose of enforcing the support obligations owed by absent parents to their children, locating absent parents, establishing paternity, and obtaining child support, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part.

(Aug. 14, 1935, ch. 531, title IV, § 451, as added Jan. 4, 1975, Pub. L. 93-647, § 101(a), 88 Stat. 2351.)

EFFECTIVE DATE

Section 101(f) of Pub. L. 93-647, as amended by Pub. L. 94-46, § 2, June 30, 1975, 89 Stat. 245, provided that: "The amendments made by this section [enacting this part and section 6305 of Title 26, Internal Revenue Code, amending sections 602, 603, 604, 606, and 1306 of this title, repealing section 610 of this title, and enacting provisions set out as notes under this section and section 602 of this title] shall become effective on August 1, 1975, except that section 459 of the Social Security Act [section 659 of this title], as added by subsection (a) of this section shall become effective on January 1, 1975, and subsection (e) of this section [enacting provision set out as a note under this section] shall become effective upon the date of the enactment of this Act [Jan. 4, 1975]."

AUTHORIZATION OF APPROPRIATIONS

Subsec. 101(e) of Pub. L. 93-647 provided that: "There are authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary to plan and prepare for the implementation of the program established by this section [this part and section 6305 of Title 26, Internal Revenue Code]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 652 of this title.

§ 652. Duties of Secretary

(a) Establishment of separate organizational unit; duties

The Secretary shall establish, within the Department of Health, Education, and Welfare a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall—

(1) establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support as he determines to be necessary to assure that such programs will be effective;

(2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;

(3) review and approve State plans for such programs;

(4) evaluate the implementation of State programs established pursuant to such plan, conduct such audits of State programs established under the plan approved under this part as may be necessary to assure their conformity with the requirements of this part, and, not less often than annually, conduct a complete audit of the programs established under such plan in each State and determine for the purposes of the penalty provision of section 603(h) of this title whether the actual operation of such programs in each State conforms to the requirements of this part;

(5) assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State;

(6) maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of the costs incurred in collecting such amounts;

(7) provide technical assistance to the States to help them establish effective systems for collecting child support and establishing paternity;

(8) receive applications from States for permission to utilize the courts of the United States to enforce court orders for support against absent parents and, upon a finding that (A) another State has not undertaken to enforce the court order of the originating State against the absent parent within a reasonable time, and (B) that utilization of the Federal courts is the only reasonable method of enforcing such order, approve such applications;

(9) Operate the Parent Locator Service established by section 653 of this title; and

(10) not later than June 30 of each year beginning after December 31, 1975, submit to the Congress a report on all activities undertaken pursuant to the provisions of this part.

(b) Certification of child support obligations to Secretary of Treasury for collection

The Secretary shall, upon the request of any State having in effect a State plan approved under this part, certify the amount of any child support obligation assigned to such State to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954. No amount may be certified for collection under this subsection except the amount of the delinquency under a court order for support and upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse the United States for any costs involved in making the collection. The Secretary after consultation with the Secretary of the Treasury may, by regulation, establish criteria for accepting amounts for collection and for making certification under this subsection including imposing such limitations on the frequency of making such certifications under this subsection.

(c) Revolving fund; appropriations

(1) There is hereby established in the Treasury a revolving fund which shall be available to the Secretary without fiscal year limitation, to enable him to pay to the States for distribution in accordance with the provisions of section 657 of this title such amounts as may be collected and paid (subject to paragraph (2)) into such fund under section 6305 of the Internal Revenue Code of 1954.

(2) There is hereby appropriated to the fund, out of any money in the Treasury not otherwise appropriated, amounts equal to the amounts collected under section 6305 the Internal Revenue Code of 1954, reduced by the amounts credited or refunded as overpayments of the amounts so collected. The amounts appropriated by section 651 of this title shall be transferred at least quarterly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(Aug. 14, 1935, ch. 531, title IV, § 452, as added Jan. 4, 1975, Pub. L. 93-647, § 101(a), 88 Stat. 2351.)

REFERENCES IN TEXT

The Internal Revenue Code of 1954, referred to in subsecs. (b) and (c), is classified generally to Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 653, 660 of this title; title 26 section 6305.

§ 653. Parent Locator Service

(a) Establishment; purpose

The Secretary shall establish and conduct a Parent Locator Service, under the direction of the designee of the Secretary referred to in section 652(a) of this title, which shall be used to obtain and transmit to any authorized person (as defined in subsection (c) of this section) information as to the whereabouts of any absent

parent when such information is to be used to locate such parent for the purpose of enforcing support obligations against such parent.

(b) Disclosure of information to authorized persons

Upon request, filed in accordance with subsection (d) of this section of any authorized person (as defined in subsection (c) of this section) for the most recent address and place of employment of any absent parent, the Secretary shall, notwithstanding any other provision of law, provide through the Parent Locator Service such information to such person, if such information—

(1) is contained in any files or records maintained by the Secretary or by the Department of Health, Education, and Welfare; or

(2) is not contained in such files or records, but can be obtained by the Secretary, under the authority conferred by subsection (e) of this section, from any other department, agency, or instrumentality, or the United States or of any State.

No information shall be disclosed to any person if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. The Secretary shall give priority to requests made by any authorized person described in subsection (c)(1) of this section.

(c) Authorized persons

As used in subsection (a) of this section, the term "authorized person" means—

(1) any agent or attorney of any State having in effect a plan approved under this part, who has the duty or authority under such plans to seek to recover any amounts owed as child support (including, when authorized under the State plan, any official of a political subdivision);

(2) the court which has authority to issue an order against an absent parent for the support and maintenance of a child, or any agent of such court; and

(3) the resident parent, legal guardian, attorney, or agent of a child (other than a child receiving aid under part A of this subchapter) (as determined by regulations prescribed by the Secretary) without regard to the existence of a court order against an absent parent who has a duty to support and maintain any such child.

(d) Form and manner of request for information

A request for information under this section shall be filed in such manner and form as the Secretary shall by regulation prescribe and shall be accompanied or supported by such documents as the Secretary may determine to be necessary.

(e) Compliance with request; search of files and records by head of any department, etc., of United States; transmittal of information to Secretary; reimbursement for cost of search; fees

(1) Whenever the Secretary receives a request submitted under subsection (b) of this section which he is reasonably satisfied meets the criteria established by subsections (a), (b), and (c) of this section, he shall promptly undertake to provide the information requested from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States or of any State.

(2) Notwithstanding any other provision of law, whenever the individual who is the head of any department, agency, or instrumentality of the United States receives a request from the Secretary for information authorized to be provided by the Secretary under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the information requested, such individual shall immediately transmit such information to the Secretary, except that if any information is obtained the disclosure of which would contravene national policy or security interests of the United States or the confidentiality of census data, such information shall not be transmitted and such individual shall immediately notify the Secretary. If such search fails to disclose the information requested such individual shall immediately so notify the Secretary. The costs incurred by any such department, agency, or instrumentality of the United States or of any State in providing such information to the Secretary shall be reimbursed by him. Whenever such services are furnished to an individual specified in subsection (c)(3) of this section, a fee shall be charged such individual. The fee so charged shall be used to reimburse the Secretary or his delegate for the expense of providing such services.

(f) Arrangements and cooperation with State agencies

The Secretary, in carrying out his duties and functions under this section, shall enter into arrangements with State agencies administering State plans approved under this part for such State agencies to accept from resident parents, legal guardians, or agents of a child described in subsection (c)(3) of this section and, after determining that the absent parent cannot be located through the procedures under the control of such State agencies, to transmit to the Secretary requests for information with regard to the whereabouts of absent parents and otherwise to cooperate with the Secretary in carrying out the purposes of this section.

(Aug. 14, 1935, ch. 531, title IV, § 453, as added Jan. 4, 1975, Pub. L. 93-647, § 101(a), 88 Stat. 2353.)

REFERENCES IN TEXT

Part A of this subchapter, referred to in subsec. (c)(3), is classified to section 601 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 652 of this title.

§ 654. State plan for child support

A State plan for child support must—

(1) provide that it shall be in effect in all political subdivisions of the State;

(2) provide for financial participation by the State;

(3) provide for the establishment or designation of a single and separate organizational unit, which meets such staffing and organizational requirements as the Secretary may by regulation prescribe, within the State to administer the plan;

(4) provide that such State will undertake—

(A) in the case of a child born out of wedlock with respect to whom an assignment under section 602(a)(26) of this title is effective, to establish the paternity of such child, unless the agency administering the plan of the State under part A of this subchapter determines in accordance with the standards prescribed by the Secretary pursuant to section 602(a)(26)(B) of this title that it is against the best interests of the child to do so, and

(B) in the case of any child with respect to whom such assignment is effective, to secure support for such child from his parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States (unless the agency administering the plan of the State under part A of this subchapter determines in accordance with the standards prescribed by the Secretary pursuant to section 602(a)(26)(B) of this title that it is against the best interests of the child to do so), except that when such arrangements and other means have proven ineffective, the State may utilize the Federal courts to obtain or enforce court orders for support;

(5) provide that, in any case in which child support payments are collected for a child with respect to whom an assignment under section 602(a)(26) of this title is effective, such payments shall be made to the State for distribution pursuant to section 657 of this title and shall not be paid directly to the family except that this paragraph shall not apply to such payments (except as provided in section 657(c) of this title) for any month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A of this subchapter;

(6) provide that (A) the child support collection or paternity determination services established under the plan shall be made available to any individual not otherwise eligible for such services upon application filed by such individual with the State, (B) an application fee for furnishing such services may be imposed, except that the amount of any such application fee shall be reasonable, as determined under regulations of the Secretary, and (C) any costs in excess of the fee so imposed may be collected from such individual by deducting such costs from the amount of any recovery made;

(7) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the agency administering the plan, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the agency administering the plan;

(8) provide that the agency administering the plan will establish a service to locate absent parents utilizing—

(A) all sources of information and available records, and

(B) the Parent Locator Service in the Department of Health, Education, and Welfare;

(9) provide that the State will, in accordance with standards prescribed by the Secretary, cooperate with any other State—

(A) in establishing paternity, if necessary,

(B) in locating an absent parent residing in the State (whether or not permanently) against whom any action is being taken under a program established under a plan approved under this part in another State,

(C) in securing compliance by an absent parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State, and

(D) in carrying out other functions required under a plan approved under this part;

(10) provide that the State will maintain a full record of collection and disbursements made under the plan and have an adequate reporting system;

(11) provide that amounts collected as child support shall be distributed as provided in section 657 of this title;

(12) provide that any payment required to be made under section 656 or 657 of this title to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children; and

(13) provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating absent parents, establishing paternity, obtaining support orders, and collecting support payments.

(Aug. 14, 1935, ch. 531, title IV, § 454, as added Jan. 4, 1975, Pub. L. 93-647, § 101(a), 88 Stat. 2354, and amended Aug. 9, 1975, Pub. L. 94-88, title II, § 208(b), (c), 89 Stat. 436.)

AMENDMENTS

1975—Cl. (4)(A). Pub. L. 94-88, § 208(b), substituted "to establish the paternity of such child, unless the agency administering the plan of the State under part A of this subchapter determines in accordance with the standards prescribed by the Secretary pursuant to section 602(a)(26)(B) of this title that it is against the best interests of the child to do so" for "to establish the paternity of such child".

Cl. (4)(B). Pub. L. 94-88, § 208(c), substituted "reciprocal arrangements adopted with other States (unless the agency administering the plan of the State under part A of this subchapter determines in accordance with the standards prescribed by the Secretary pursuant to section 602(a)(26)(B) of this title that it is against the best interests of the child to do so)" for "reciprocal arrangements adopted with other States".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-88 effective Aug. 1, 1975, unless otherwise provided, see section 210 of Pub. L. 94-88, set out as an Effective Date of 1975 Amendment note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 655 of this title.

§ 655. Payments to States

(a) From the sums appropriated therefor, the Secretary shall pay to each State for each quarter, beginning with the quarter commencing July 1, 1975, an amount—

(1) equal to 75 percent of the total amounts expended by such State during such quarter for the operation of the plan approved under section 654 of this title, and

(2) equal to 50 percent of the total amounts expended by such State during such quarter for the operation of a plan which meets the conditions of section 654 of this title except as is provided by a waiver by the Secretary which is granted pursuant to specific authority set forth in the law;

except that no amount shall be paid to any State on account of furnishing child support collection or paternity determination services (other than the parent locator services) to individuals under section 654(6) of this title during any period beginning after June 30, 1977.

(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) of this section for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(Aug. 14, 1935, ch. 531, title IV, § 455, as added Jan. 4, 1975, Pub. L. 93-647, § 101(a), 88 Stat. 2355, and amended Aug. 9, 1975, Pub. L. 94-88, title II, §§ 201(c), 205, 89 Stat. 433, 435; July 14, 1976, Pub. L. 94-365, § 3, 90 Stat. 990.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-365 substituted "June 30, 1977" for "June 30, 1976".

1975—Subsec. (a). Pub. L. 94-88, §§ 201(c), 205, designated existing provisions as subsec. (a), and in subsec. (a) as so designated, added provisions authorizing the Secretary to pay to each state for each quarter beginning with the quarter commencing July 1, 1975, an amount equal to 50 per cent of the total amounts expended by such state during such quarter for the operation of a plan which meets the conditions of section 654 of this title except as is provided by a waiver by the Secretary which is granted pursuant to specific authority set forth in the law.

Subsec. (b). Pub. L. 94-88, § 205, added subsec. (b).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-88 effective Aug. 1, 1975, unless otherwise provided, see section 210 of Pub. L. 94-88, set out as an Effective Date of 1975 Amendment note under section 602 of this title.

PAYMENTS TO STATES FOR CERTAIN EXPENSES INCURRED DURING JULY 1975

Section 206 of Pub. L. 94-88 provided that amounts expended in good faith by any State during July 1975 in certain ways in preparation for or implementation of the child support program under this part were to be considered for purposes of this section, to the extent that payment for the expenses incurred would have been made under the terms of this section, had the amendment by section 101 of Pub. L. 93-647 been effective on July 1, 1975, to have been expended by the State for the operation of the State plan or for the conduct of activities specified in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 603a of this title.

§ 656. Support obligation as obligation to State; amount; discharge in bankruptcy

(a) The support rights assigned to the State under section 602(a)(26) of this title shall constitute an obligation owed to such State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable State and local processes.

(1) The amount of such obligation shall be—

(A) the amount specified in a court order which covers the assigned support rights, or

(B) if there is no court order, an amount determined by the State in accordance with a formula approved by the Secretary, and

(2) Any amounts collected from an absent parent under the plan shall reduce, dollar for dollar, the amount of his obligation under paragraphs (1)(A) and (B).

(b) A debt which is a child support obligation assigned to a State under section 602(a)(26) of this title is not released by a discharge in bankruptcy under the Bankruptcy Act [11 U.S.C. 1 et seq.].

(Aug. 14, 1935, ch. 531, title IV, § 456, as added Jan. 4, 1975, Pub. L. 93-647, § 101(a), 88 Stat. 2356.)

REFERENCES IN TEXT

The Bankruptcy Act, referred to in subsec. (b), is act July 1, 1898, ch. 541, 30 Stat. 544, which is classified generally to Title 11, Bankruptcy. For complete classification of this Act to the Code, see Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 654 of this title.

§ 657. Distribution of proceeds

(a) Amount collected during fifteen month period beginning July 1, 1975

The amounts collected as child support by a State pursuant to a plan approved under this part during the 15 months beginning July 1, 1975, shall be distributed as follows:

(1) 40 per centum of the first $50 of such amounts as are collected periodically which represent monthly support payments shall be

paid to the family without any decrease in the amount paid as assistance to such family during such month;

(2) such amounts as are collected periodically which are in excess of any amount paid to the family under paragraph (1) which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

(3) such amounts as are in excess of amounts retained by the State under paragraph (2) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

(4) such amounts as are in excess of amounts required to be distributed under paragraphs (1), (2), and (3) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

(b) Amount collected during any fiscal year beginning after September 30, 1976

The amounts collected as child support by a State pursuant to a plan approved under this part during any fiscal year beginning after September 30, 1976, shall be distributed as follows:

(1) such amounts as are collected periodically which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

(2) such amounts as are in excess of amounts retained by the State under paragraph (1) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

(3) such amounts as are in excess of amounts required to be distributed under paragraphs (1) and (2) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

(c) Collection after termination of assistance

Whenever a family for whom child support payments have been collected and distributed under the plan ceases to receive assistance under part A of this subchapter, the State may—

(1) continue to collect such support payments from the absent parent for a period of not to exceed three months from the month following the month in which such family ceased to receive assistance under part A of this subchapter, and pay all amounts so collected to the family; and

(2) at the end of such three-month period, if the State is authorized to do so by the individual on whose behalf the collection will be made, continue to collect such support payments from the absent parent and pay the net amount of any amount so collected to the family after deducting any costs incurred in making the collection from the amount of any recovery made.

(Aug. 14, 1935, ch. 531, title IV, § 457, as added Jan. 4, 1975, Pub. L. 93-647, § 101(a), 88 Stat. 2356.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 652, 654, 658 of this title.

§ 658. Incentive payments to State or political subdivision for enforcement and collection of support rights; allocation among jurisdictions

(a) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of the support rights assigned under section 602(a)(26) of this title (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent—

(1) an amount equal to 25 per centum of any amount collected (and required to be distributed as provided in section 657 of this title to reduce or repay assistance payments) which is attributable to the support obligation owed for 12 months; and

(2) an amount equal to 10 per centum of any amount collected (and required to be distributed as provided in section 657 of this title to reduce or repay assistance payments) which is attributable to the support obligation owed for any month after the first twelve months for which such collections are made.

(b) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under paragraphs (1) and (2) of subsection (a) of this section shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.

(Aug. 14, 1935, ch. 531, title IV, § 458, as added Jan. 4, 1975, Pub. L. 93-647, § 101(a), 88 Stat. 2357.)

§ 659. Consent by United States to garnishment and similar proceedings for enforcement of child support and alimony obligations

Notwithstanding any other provision of law, effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States (including any agency or instrumentality thereof and any wholly owned Federal corporation) to an individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the

United States were a private person, to legal process brought for the enforcement, against such individual of his legal obligations to provide child support or make alimony payments.

(Aug. 14, 1935, ch. 531, title IV, § 459, as added Jan. 4, 1975, Pub. L. 93-647, § 101(a), 88 Stat. 2357.)

EX. ORD. NO. 11881. DELEGATION OF AUTHORITY TO ISSUE REGULATIONS FOR IMPLEMENTATION OF SECTION

Ex. Ord. No. 11881, Oct. 3, 1975, 40 F.R. 46291, provided:

By virtue of the authority vested in me by the Constitution and the laws of the United States of America, and as President of the United States of America, and to further the implementation of section 459 of the Social Security Act, as added by the Social Services Amendments of 1974 (88 Stat. 2357, 42 U.S.C. 659), it is hereby ordered as follows:

SECTION 1. (a) This order is applicable to all executive agencies of the Federal Government which make any payment of money, the entitlement to which is based upon remuneration for employment, to any individual.

(b) "Executive agency" means all departments, independent establishments, wholly-owned Federal corporations, and all agencies, boards, commissions, councils, bodies, groups, entities, organizations or instrumentalities of the Federal Government, including advisory bodies, except those in the legislative or judicial branches of the Federal Government.

SEC. 2. The Civil Service Commission shall, in consultation with the Department of Justice, issue regulations for the uniform implementation by all executive agencies of section 459 of the Social Security Act [this section]. The regulations shall establish standards for determining what constitutes remuneration for employment, shall provide procedures to facilitate appropriate service of process upon an executive agency, and shall establish such other standards and procedures as are necessary or appropriate for the uniform implementation of this order and section 459 of the Social Security Act [this section]. Such regulations may require that executive agency regulations be issued as appendices thereto.

SEC. 3. Each executive agency shall issue such rules, regulations and directives, pursuant to and in accord with those issued by the Civil Service Commission pursuant to this order, as are necessary to implement the regulations of the Civil Service Commission, this order and section 459 of the Social Security Act [this section].

SEC. 4. Regulations issued pursuant to this order by the Civil Service Commission and all other executive agencies shall be made available to the public by publication in the FEDERAL REGISTER.

GERALD R. FORD.

§ 660. Civil action to enforce child support obligations; jurisdiction of district courts

The district courts of the United States shall have jurisdiction, without regard to any amount in controversy, to hear and determine any civil action certified by the Secretary of Health, Education, and Welfare under section 652(a)(8) of this title. A civil action under this section may be brought in any judicial district in which the claim arose, the plaintiff resides, or the defendant resides.

(Aug. 14, 1935, ch. 531, title IV, § 460, as added Jan. 4, 1975, Pub. L. 93-647, § 101(a), 88 Stat. 2358.)

SUBCHAPTER V—MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

CODIFICATION

This subchapter as added by Pub. L. 90-248, title III, § 301, Jan. 2, 1968, 81 Stat. 921, constitutes a general amendment of the provisions of a prior subchapter, as enacted Aug. 14, 1935, ch. 531, title V, 49 Stat. 629, and amended thereafter.

Such prior subchapter provided for maternal and child health and crippled children's services. Provisions of such prior subchapter related to the following subject matter:

Sections 701 to 705, maternal and child health services;

Sections 711 to 716, services for crippled children;

Sections 721 to 728, child-welfare services;

Sections 729, 729-1, 729a, maternity and infant care projects, projects for health of school and preschool children, and research projects; and

Section 731, administration.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 289h, 300b, 1301, 1320a-1, 1320c-7, 1320c-8, 1382d, 1395b-1, 1395x of this title.

§ 701. Authorization of appropriations

For the purpose of enabling each State to extend and improve (especially in rural areas and in areas suffering from severe economic distress), as far as practicable under the conditions in such State,

(1) services for reducing infant mortality and otherwise promoting the health of mothers and children; and

(2) services for locating, and for medical, surgical, corrective, and other services and care for and facilities for diagnosis, hospitalization, and aftercare for, children who are crippled or who are suffering from conditions leading to crippling, there are authorized to be appropriated $250,000,000 for the fiscal year ending June 30, 1969, $275,000,000 for the fiscal year ending June 30, 1970, $300,000,000 for the fiscal year ending June 30, 1971, $325,000,000 for the fiscal year ending June 30, 1972, and $350,000,000 for the fiscal year ending June 30, 1973, and each fiscal year thereafter.

(Aug. 14, 1935, ch. 531, title V, § 501, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 921.)

PRIOR PROVISIONS

A prior section 701, acts Aug. 14, 1935, ch. 531, title V, § 501, 49 Stat. 629; Aug. 10, 1939, ch. 666, title V, § 501, 53 Stat. 1380; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401(b)(1), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331(a), pt. 6, § 361(e), 64 Stat. 551, 558; Aug. 28, 1958, Pub. L. 85-840, title VI, § 602(a), 72 Stat. 1054; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(a)(1)(A), 74 Stat. 995; Oct. 24, 1963, Pub. L. 88-156, § 2(a), 77 Stat. 273; July 30, 1965, Pub. L. 89-97, title II, § 201(a), 79 Stat. 353, authorized appropriations, for maternal and child health services, of $25,000,000; $30,000,000; $35,000,000; $45,000,000; $50,000,000; $55,000,000; $55,000,000; and $60,000,000 for fiscal years ending June 30, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970 and each fiscal year thereafter, respectively prior to the general amendment of title V of the Social Security Act by Pub. L. 90-248, § 301.

Provisions similar to those comprising this section were contained in section 511 of act Aug. 14, 1935, ch.

531, title V, 49 Stat. 631, as amended (formerly classified to section 711 of this title, and sections 531(a), 532(a), and 533(a) (formerly 532(a)) of act Aug. 14, 1935, ch. 531, title V, as added Oct. 24, 1963, Pub. L. 88-156, § 4, 77 Stat. 274, amended July 30, 1965, Pub. L. 89-97, title II, § 205(3), 79 Stat. 354; Oct. 24, 1963, Pub. L. 88-156, § 4, 77 Stat. 274, and renumbered July 30, 1965, Pub. L. 89-97, title II, § 205(2), 79 Stat. 354 (formerly classified to sections 729(a), 729-1(a), and 729a(a) of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90-248, § 301.

EFFECTIVE DATE

Section 301 of Pub. L. 90-248 provided in part that this subchapter (as otherwise amended by Pub. L. 90-248) shall be effective with respect to fiscal years beginning after June 30, 1968.

SHORT TITLE

For Short Title of title III of Pub. L. 90-248, which enacted this subchapter, see Short Title of 1968 Amendment note set out under section 1305 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 704, 705, 713 of this title; title 26 section 883.

§ 702. Purposes for which funds are available

Appropriations pursuant to section 701 of this title shall be available for the following purposes in the following proportions:

(1) In the case of the fiscal year ending June 30, 1969, and each of the next 5 fiscal years, (A) 50 percent of the appropriation for such year shall be for allotments pursuant to sections 703 and 704 of this title; (B) 40 percent thereof shall be for grants pursuant to sections 708, 709, and 710 of this title; and (C) 10 percent thereof shall be for grants, contracts, or other arrangements pursuant to sections 711 and 712 of this title.

(2) In the case of the fiscal year ending June 30, 1975, and each fiscal year thereafter, (A) 90 percent of the appropriation for such years shall be for allotments pursuant to sections 703 and 704 of this title; and (B) 10 percent thereof shall be for grants, contracts, or other arrangements pursuant to sections 711 and 712 of this title.

Not to exceed 5 percent of the appropriation for any fiscal year under this section shall be transferred, at the request of the Secretary, from one of the purposes specified in paragraph (1) or (2) to another purpose or purposes so specified. For each fiscal year, the Secretary shall determine the portion of the appropriation, within the percentage determined above to be available for sections 703 and 704 of this title, which shall be available for allotment pursuant to section 703 of this title and the portion thereof which shall be available for allotment pursuant to section 704 of this title. Notwithstanding the preceding provisions of this section, of the amount appropriated for any fiscal year pursuant to section 701 of this title, not less than 6 percent of the amount appropriated shall be available for family planning services from allotments under section 703 of this title and for family planning services under projects under sections 708 and 712 of this title.

(Aug. 14, 1935, ch. 531, title V, § 502, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 921, and amended July 10, 1972, Pub. L. 92-345, § 1, 86 Stat. 456; July 1, 1973, Pub. L. 93-53, § 4(a)(1), (2), 87 Stat. 135.)

REFERENCES IN TEXT

Sections 708, 709, and 710 of this title, referred to in par. (1), have been omitted from the Code as executed.

PRIOR PROVISIONS

A prior section 702, acts Aug. 14, 1935, ch. 531, title V, § 502, 49 Stat. 629; Aug. 10, 1939, ch. 666, title V, § 502, 53 Stat. 1380; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401(b)(2), (3), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331(b), pt. 6, § 361(e), 64 Stat. 551, 558; Aug. 28, 1958, Pub. L. 85-840, title VI, § 602(b), (c), 72 Stat. 1055; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(a)(1)(B), (C), (b)(1)(A), 74 Stat. 995, 996; Oct. 24, 1963, Pub. L. 88-156, § 2(b), (c), 77 Stat. 273, provided for allotment to States for maternal and child health services, prior to the general amendment of title V of the Social Security Act by Pub. L. 90-248, § 301, and is now covered by section 703 of this title.

AMENDMENTS

1973—Pub. L. 93-53 substituted "5" for "4" in par. (1), and "June 30, 1975" for "June 30, 1974" in par. (2).

1972—Pub. L. 92-345 substituted "4" for "3" in par. (1) and "June 30, 1974" for "June 30, 1973" in par. (2).

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this section, see section 201(12) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 703, 704, 705, 711, 712, 1308 of this title.

§ 703. Allotments to States for maternal and child health services

The amount determined to be available pursuant to section 702 of this title for allotments under this section shall be allotted for payments for maternal and child health services as follows:

(1) One-half of such amount shall be allotted by allotting to each State $70,000 plus such part of the remainder of such one-half as he finds that the number of live births in such State bore to the total number of live births in the United States in the latest calendar year for which he has statistics.

(2) The remaining one-half of such amount shall (in addition to the allotments under paragraph (1)) be allotted to the States from time to time according to the financial need of each State for assistance in carrying out its State plan, as determined by the Secretary after taking into consideration the number of live births in such State, except that not more than 25 percent of such one-half shall be available for grants to State agencies (administering or supervising the administration of a State plan approved under section 705 of this title), and to public or other nonprofit institutions of higher learning (situated in any State), for special projects of regional or national significance which may contribute to the advancement of maternal and child health.

(Aug. 14, 1935, ch. 531, title V, § 503, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 922.)

PRIOR PROVISIONS

A prior section 703, acts Aug. 14, 1935, ch. 531, title V, § 503, 49 Stat. 630; Aug. 10, 1939, ch. 666, title V, § 503, 53 Stat. 1380; 1946 Reorg. Plan No. 2, §§ 1, 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809 title III, pt. 6, § 361(e), 64 Stat. 558; July 30, 1965, Pub. L. 89-97, title II, § 204(a) 79 Stat. 354, related to contents of State plans for maternal and child health services and their approval by the Administrator prior to the general amendment of title V of the Social Security Act by Pub. L. 90-248, § 301, and is now covered by section 705 of this title.

Provisions similar to those comprising this section were contained in section 502 of act Aug. 14, 1935, ch. 531, title V, 49 Stat. 629, as amended (formerly classified to section 702 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90-248, § 301.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 101(b), Apr. 21, 1976, 90 Stat. 384, provided that notwithstanding the provisions of sections 703 and 704 of this title, the fixed dollar allotment to each State under each of these sections for the period of July 1, 1976, through Sept. 30, 1976, was to be $17,500.

SPECIAL PROJECTS FOR MENTALLY RETARDED CHILDREN

Pub. L. 91-667, title II, § 200, Jan. 11, 1971, 84 Stat. 2006, provided in part that $4,750,000 of the amount available under par. (2) of this section was to be used only for special projects for mentally retarded children, and that $5,000,000 of the amount available under section 704(2) of this title was to be similarly allocated.

Similar provisions were contained in the following prior Appropriation Acts:

Mar. 5, 1970, Pub. L. 91-204, title II, § 200, 84 Stat. 39.

Oct. 11, 1968, Pub. L. 90-557, title II, § 200, 82 Stat. 987.

Nov. 8, 1967, Pub. L. 90-132, title II, § 200, 81 Stat. 403.

Nov. 7, 1966, Pub. L. 89-787, title II, § 200, 80 Stat. 1396.

Aug. 31, 1965, Pub. L. 89-156, title II, § 200, 79 Stat. 605.

Sept. 19, 1964, Pub. L. 88-605, title II, § 200, 78 Stat. 976.

Oct. 11, 1963, Pub. L. 88-136, title II, § 200, 77 Stat. 240.

Aug. 14, 1962, Pub. L. 87-582, title II, § 200, 76 Stat. 376.

Sept. 22, 1961, Pub. L. 87-290, title II, § 201, 75 Stat. 606.

Sept. 2, 1960, Pub. L. 86-703, title II, § 201, 74 Stat. 770.

Aug. 14, 1959, Pub. L. 86-158, title II, § 201, 73 Stat. 353.

Aug. 1, 1958, Pub. L. 85-580, title II, § 201, 72 Stat. 472.

June 29, 1957, Pub. L. 85-67, title II, § 201, 71 Stat. 222.

June 29, 1956, ch. 477, title II, § 201, 70 Stat. 434.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 704a, 706, 716, 1308 of this title.

§ 703a. Omitted

CODIFICATION

Section, Pub. L. 90-132, title II, § 200, Nov. 8, 1967, 81 Stat. 404, which provided for approval by the Secretary of any State plan which provided standards for professional obstetrical services in accordance with the laws of the State, was not repeated in the Department of Health, Education, and Welfare Appropriation Act, 1969.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

Nov. 7, 1966, Pub. L. 87-787, title II, § 200, 80 Stat. 1397.

Aug. 31, 1965, Pub. L. 89-156, title II, § 200, 79 Stat. 605.

Sept. 19, 1964, Pub. L. 88-605, title II, § 200, 78 Stat. 976.

Oct. 11, 1963, Pub. L. 88-136, title II, § 200, 77 Stat. 240.

Aug. 14, 1962, Pub. L. 87-582, title II, § 200, 76 Stat. 376.

Sept. 22, 1961, Pub. L. 87-290, title II, § 201, 75 Stat. 605.

Sept. 2, 1960, Pub. L. 86-703, title II, § 201, 74 Stat. 770.

Aug. 14, 1959, Pub. L. 86-158, title II, § 201, 73 Stat. 353.

Aug. 1, 1958, Pub. L. 85-580, title II, § 201, 72 Stat. 472.

June 29, 1957, Pub. L. 85-67, title II, § 201, 71 Stat. 222.

June 29, 1956, ch. 477, title II, § 201, 70 Stat. 434.

Aug. 1, 1955, ch. 437, title II, § 201, 69 Stat. 408.

July 2, 1954, ch. 457, title II, § 201, 68 Stat. 444.

July 31, 1953, ch. 296, title II, § 201, 67 Stat. 255.

July 5, 1952, ch. 575, title II, § 201, 66 Stat. 368.

Aug. 31, 1951, ch. 373, title II, § 201, 65 Stat. 219.

Sept. 6, 1950, ch. 896, ch. V, title II, § 201, 64 Stat. 653.

June 29, 1949, ch. 275, title II, § 201, 63 Stat. 284.

June 16, 1948, ch. 472, title I, § 101, 62 Stat. 447.

July 8, 1947, ch. 210, title II, § 201, 61 Stat. 273.

July 26, 1946, title I, § 101, 60 Stat. 681.

July 3, 1945, ch. 263, title I, § 101, 59 Stat. 363.

§ 704. Allotments to States for crippled children's services

The amount determined to be available pursuant to section 702 of this title for allotments under this section shall be allotted for payments for crippled children's services as follows:

(1) One-half of such amount shall be allotted by allotting to each State $70,000 and allotting the remainder of such one-half according to the need of each State as determined by him after taking into consideration the number of crippled children in such State in need of the services referred to in paragraph (2) of section 701 of this title and the cost of furnishing such services to them.

(2) The remaining one-half of such amount shall (in addition to the allotments under paragraph (1)) be allotted to the States from time to time according to the financial need of each State for assistance in carrying out its State plan, as determined by the Secretary after taking into consideration the number of crippled children in each State in need of the services referred to in paragraph (2) of section 701 of this title and the cost of furnishing such services to them; except that not more than 25 percent of such one-half shall be available for grants to State agencies (administering or supervising the administration of a State plan approved under section 705 of this title), and to public or other nonprofit institutions of higher learning (situated in any State), for special projects of regional or national significance which may contribute to

the advancement of services for crippled children.

(Aug. 14, 1935, ch. 531, title V, § 504, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 922.)

PRIOR PROVISIONS

A prior section 704, acts Aug. 14, 1935, ch. 531, title V, § 504, 49 Stat. 630; 1940 Reorg. Plan No. III, § 1(a), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e), 64 Stat. 558; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(b)(1)(B), 74 Stat. 996; July 30, 1965, Pub. L. 89-97, title II, § 201(b), 79 Stat. 353, provided for payment to States with an approved plan for maternal and child-health services and computation of amounts, and prescribed general availability of services by July 1, 1975, as requisite for payments for any period after June 30, 1966, prior to the general amendment of title V of the Social Security Act by Pub. L. 90-248, § 301, and is now covered by section 706 of this title.

Provisions similar to those comprising this section were contained in section 512 of act Aug. 14, 1935, ch. 531, title V, 49 Stat. 631, as amended (formerly classified to section 712 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90-248, § 301.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Allotment for Federal programs and activities during fiscal year transition period from July 1, 1976, through Sept. 30, 1976, see section 101(b) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 384, set out as a note under section 703 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 706, 716, 1308 of this title.

§ 704a. Omitted

CODIFICATION

Section, Pub. L. 92-80, title II, § 200, Aug. 10, 1971, 85 Stat. 290, which provided that certain allotments to States were not to be included in computing amounts expended or estimated to be expended by the State under subsecs. (a) and (b) of section 706 of this title, was not repeated in the Department of Health, Education and Welfare Appropriation Act, 1973.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

Mar. 5, 1970, Pub. L. 91-204, title II, § 200, 84 Stat. 39.

Oct. 11, 1968, Pub. L. 90-557, title II, § 200, 82 Stat. 987.

Nov. 8, 1967, Pub. L. 90-132, title II, § 200, 81 Stat. 403.

Nov. 7, 1966, Pub. L. 89-787, title II, § 200, 80 Stat. 1396.

Aug. 31, 1965, Pub. L. 89-156, title II, § 200, 79 Stat. 605.

Sept. 10, 1964, Pub. L. 88-605, title II, § 200, 78 Stat. 975.

Oct. 11, 1963, Pub. L. 88-136, title II, § 200, 77 Stat. 240.

Aug. 14, 1962, Pub. L. 87-582, title II, § 200, 76 Stat. 376.

Sept. 22, 1961, Pub. L. 87-290, title II, § 201, 75 Stat. 605.

Sept. 2, 1960, Pub. L. 86-703, title II, § 201, 74 Stat. 770.

Aug. 14, 1959, Pub. L. 86-158, title II, § 201, 73 Stat. 353.

Aug. 1, 1958, Pub. L. 85-580, title II, § 201, 72 Stat. 472.

June 29, 1957, Pub. L. 85-67, title II, § 201, 71 Stat. 222.

June 29, 1956, ch. 477, title II, § 201, 70 Stat. 434.

Aug. 1, 1955, ch. 437, title II, § 201, 69 Stat. 409.

July 2, 1954, ch. 457, title II, § 201, 68 Stat. 444.

July 31, 1953, ch. 296, title II, § 201, 67 Stat. 255.

July 5, 1952, ch. 575, title II, § 201, 66 Stat. 368.

Aug. 31, 1951, ch. 373, title II, § 201, 65 Stat. 219.

Sept. 6, ch. 896, ch. V, title II, § 201, 64 Stat. 653.

June 29, 1949, ch. 275, title II, § 201, 63 Stat. 284.

June 16, 1948, ch. 472, title I, § 101, 62 Stat. 447.

July 8, 1947, ch. 210, title II, § 201, 61 Stat. 273.

July 26, 1946, ch. 672, title I, § 101, 60 Stat. 681.

July 3, 1945, ch. 263, title I, 59 Stat. 364.

June 28, 1944, ch. 302, title I, 58 Stat. 550.

July 12, 1943, ch. 221, title I, § 1, 57 Stat. 497.

July 2, 1942, ch. 475, title I, 56 Stat. 565.

July 1, 1941, ch. 269, title I, 55 Stat. 469.

June 26, 1940, ch. 428, title I, 54 Stat. 578.

June 29, 1939, ch. 249, § 1, 53 Stat. 924.

Aug. 9, 1939, ch. 633, title I, § 1, 53 Stat. 1320.

Apr. 27, 1938, ch. 180, title IV, § 1, 52 Stat. 288.

June 16, 1937, ch. 359, § 1, title IV, 50 Stat. 301.

May 15, 1936, ch. 405, § 1, 49 Stat. 1350.

§ 704b. Nonavailability of allotments after close of fiscal year

No allotment for this or any succeeding fiscal year under this subchapter shall be available after the close of such fiscal year except as may be necessary to liquidate obligations incurred during such year.

(July 5, 1952, ch. 575, title II, § 201, 66 Stat. 368.)

CODIFICATION

Section is from act July 5, 1952, popularly known as the Federal Security Agency Appropriation Act, 1953, and is not a part of the Social Security Act which comprises this chapter.

§ 705. State plans; contents; approval by Secretary

(a) In order to be entitled to payments from allotments under section 702 of this title, a State must have a State plan for maternal and child health services and services for crippled children which—

(1) provides for financial participation by the State;

(2) provides for the administration of the plan by the State health agency or the supervision of the administration of the plan by the State health agency; except that in the case of those States which on July 1, 1967, provided for administration (or supervision thereof) of the State plan approved under section 713 of this title (as in effect on such date) by a State agency other than the State health agency, the plan of such State may be approved under this section if it would meet the requirements of this subsection except for provision of administration (or supervision thereof) by such other agency for the portion of the plan relating to services for crippled children, and, in each such case, the portion of such plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this subchapter;

(3) provides (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the

Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan and (B) provides for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of persons of low income, as community service aids, in the administration of the plan and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency;

(4) provides that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports;

(5) provides for cooperation with medical, health, nursing, educational, and welfare groups and organizations and, with respect to the portion of the plan relating to services for crippled children, with any agency in such State charged with administering State laws providing for vocational rehabilitation of physically handicapped children;

(6) provides for payment of the reasonable cost of inpatient hospital services provided under the plan, as determined in accordance with methods and standards, consistent with section 1320a-1 of this title, which shall be developed by the State and included in the plan, except that the reasonable cost of any such services as determined under such methods and standards shall not exceed the amount which would be determined under section 1395x(v) of this title as the reasonable cost of such services for purposes of subchapter XVIII of this chapter;

(7) provides, with respect to the portion of the plan relating to services for crippled children, for early identification of children in need of health care and services, and for health care and treatment needed to correct or ameliorate defects or chronic conditions discovered thereby, through provision of such periodic screening and diagnostic services, and such treatment, care and other measures to correct or ameliorate defects or chronic conditions, as may be provided in regulations of the Secretary;

(8) effective July 1, 1974, provides a program (carried out directly or through grants or contracts) of projects described in section 708 of this title which offers reasonable assurance, particularly in areas with concentrations of low-income families, of satisfactorily helping to reduce the incidence of mental retardation and other handicapping conditions caused by complications associated with child bearing and of satisfactorily helping to reduce infant and maternal mortality;

(9) effective July 1, 1974, provides a program (carried out directly or through grants or contracts) of projects described in section 709 of this title which offers reasonable assurance, particularly in areas with concentrations of low-income families, of satisfactorily promoting the health of children and youth of school or preschool age;

(10) effective July 1, 1974, provides a program (carried out directly or through grants or contracts) of projects described in section 710 of this title which offers reasonable assurance, particularly in areas with concentrations of low-income families, of satisfactorily promoting the dental health of children and youth of school or preschool age;

(11) provides for carrying out the purposes specified in section 701 of this title;

(12) provides for the development of demonstration services (with special attention to dental care for children and family planning services for mothers) in needy areas and among groups in special need,

(13) provides that, where payment is authorized under the plan for services which an optometrist is licensed to perform, the individual for whom such payment is authorized may, to the extent practicable, obtain such services from an optometrist licensed to perform such services except where such services are rendered in a clinic, or another appropriate institution, which does not have an arrangement with optometrists so licensed;

(14) provides that acceptance of family planning services provided under the plan shall be voluntary on the part of the individual to whom such services are offered and shall not be a prerequisite to eligibility for or the receipt of any service under the plan; and

(15) provides—

(A) that the State health agency, or other appropriate State medical agency, shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by appropriate professional health personnel of the appropriateness and quality of care and services furnished to recipients of services under the plan and, where applicable, for providing guidance with respect thereto to the other State agency referred to in paragraph (2); and

(B) that the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1395aa(a) of this title, or, if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform the function of determining whether institutions and agencies meet the requirements for participation in the program under the plan under this subchapter.

(b) The Secretary shall approve any plan which meets the requirements of subsection (a) of this section.

(Aug. 14, 1935, ch. 531, title V, § 505, as added and amended Jan. 2, 1968, Pub. L. 90-248, title III, §§ 301, 304(a), 81 Stat. 923, 929; July 10, 1972, Pub. L. 92-345, § 2(a)-(c), 86 Stat. 456, 457; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 221(c)(1), 232(b), 239(c), 86 Stat. 1389, 1411, 1417; July 1, 1973, Pub. L. 93-53, § 4(a)(3)-(5), 87 Stat. 135.)

REFERENCES IN TEXT

Section 708 of this title, referred to in subsec. (a)(8), has been omitted from the Code as executed.

Section 709 of this title, referred to in subsec. (a)(9), has been omitted from the Code as executed.

Section 710 of this title, referred to in subsec. (a)(10), has been omitted from the Code as executed.

PRIOR PROVISIONS

A prior section 705, acts Aug. 14, 1935, ch. 531, title V, § 505, 49 Stat. 631; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e), 64 Stat. 558, provided for stopping payment on failure to comply with plan for maternal and child health services prior to the general amendment of title V of the Social Security Act by Pub. l. 90-248, § 301, and is now covered by section 707 of this title.

Provisions similar to those comprising this section were contained in sections 503 and 513 of act Aug. 14, 1935, ch. 531, title V, 49 Stat. 630, 632, as amended (formerly classified to sections 703 and 713 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90-248, § 301.

AMENDMENTS

1973—Subsec. (a)(8). Pub. L. 93-53, § 4(a)(3), substituted "July 1, 1974" for "July 1, 1973".

Subsec. (a)(9). Pub. L. 93-53, § 4(a)(4), substituted "July 1, 1974" for "July 1, 1973".

Subsec. (a)(10). Pub. L. 93-53, § 4(a)(5), substituted "July 1, 1974" for "July 1, 1973".

1972—Subsec. (a)(6). Pub. L. 92-603, §§ 221(c)(1), 232(b), added provisions that the reasonable cost of inpatient hospital services shall not exceed the amount determined under section 1395x(v) of this title and inserted reference to the consistency of methods and standards with section 1320a-1 of this title for determining the reasonable cost of inpatient hospital services.

Subsec. (a)(8). Pub. L. 92-345, § 2(a), substituted "July 1, 1973" for "July 1, 1972".

Subsec. (a)(9). Pub. L. 92-345, § 2(b), substituted "July 1, 1973" for "July 1, 1972".

Subsec. (a)(10). Pub. L. 92-345, § 2(c), substituted "July 1, 1973" for "July 1, 1972".

Subsec. (a)(15). Pub. L. 92-603, § 239(c)(3), added par. (15).

1968—Subsec. (a)(3). Pub. L. 90-248, § 304(a), designated existing provisions as subpar. (A) and added subpar. (B).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 232(c) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsec. (a)(6) of this section and section 1396a(a)(13)(D) of this title] shall be effective July 1, 1972 (or earlier if the State plan so provides)."

Section 239(d) of Pub. L. 92-603 provided that: "The amendments made by this section [enacting subsec. (a)(15) of this section and amending section 1396a(a) of this title] shall be effective January 1, 1973 (or earlier if the State plan so provides)."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 304(b) of Pub. L. 90-248 provided that: "The amendment made by this section [amending this section] shall become effective July 1, 1969, or, if earlier (with respect to a State) on the date as of which the modification of the State plan to comply with such amendment is approved."

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(3)(A) of this section, insofar as relates to the prescription of personnel standards on a merit basis, transferred to United States Civil Service Commission, see section 4728(a)(3)(D) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 703, 704, 707, 716, 4728 of this title.

§ 706. Payments to States

(a) Authorization of payments; amount

From the sums appropriated therefor and the allotments available under section 703(1) or 704(1) of this title, as the case may be, the Secretary shall pay to each State which has a plan approved under this subchapter, for each quarter, beginning with the quarter commencing July 1, 1968, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan with respect to maternal and child health services and services for crippled children, respectively.

(b) Quarterly estimates; installment payments; obligation of appropriations

(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) of this section for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) Upon the making of an estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(c) Payments under certain grants, contracts or arrangements

The Secretary shall also from time to time make payments to the States from their respective allotments pursuant to section 703(2) or 704(2) of this title. Payments of grants under sections 703(2), 704(2), 708, 709, 710, and 711 of this title, and of grants, contracts, or other arrangements under section 712 of this title, may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the section involved.

(d) Reductions

The total amount determined under subsections (a) and (b) of this section and the first sentence of subsection (c) of this section for any fiscal year ending after June 30, 1968, shall be reduced by the amount by which the sum expended (as determined by the Secretary) from non-Federal sources for maternal and child health services and services for crippled children for such year is less than the sum ex-

pended from such sources for such services for the fiscal year ending June 30, 1968. In the case of any such reduction, the Secretary shall determine the portion thereof which shall be applied, and the manner of applying such reduction, to the amounts otherwise payable from allotments under section 703 or section 704 of this title.

(e) Extended availability of State program

Notwithstanding the preceding provisions of this section, no payment shall be made to any State thereunder from the allotments under section 703 or section 704 of this title for any period after June 30, 1968, unless the State makes a satisfactory showing that it is extending the provision of services, including services for dental care for children and family planning for mothers, to which such State's plan applies in the State with a view to making such services available by July 1, 1975, to children and mothers in all parts of the State.

(f) Limitation on payments

Notwithstanding the preceding provisions of this section, no payment shall be made to any State thereunder—

(1) with respect to any amount paid for items or services furnished under the plan after December 31, 1972, to the extent that such amount exceeds the charge which would be determined to be reasonable for such items or services under the fourth and fifth sentences of section 1395u(b)(3) of this title; or

(2) with respect to any amount paid for services furnished under the plan after December 31, 1972, by a provider or other person during any period of time, if payment may not be made under subchapter XVIII of this chapter with respect to services furnished by such provider or person during such period of time solely by reason of a determination by the Secretary under section 1395y(d)(1) of this title or under clause (D), (E), or (F) of section 1395cc(b)(2) of this title; or

(3) with respect to any amount expended for inpatient hospital services furnished under the plan to the extent that such amount exceeds the hospital's customary charges with respect to such services or (if such services are furnished under the plan by a public institution free of charge or at nominal charges to the public) exceeds an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such payment which the Secretary finds will provide fair compensation to such institution for such services; or

(4) with respect to any amount expended for services furnished under the plan by a hospital unless such hospital has in effect a utilization review plan which meets the requirement imposed by section 1395x(k) of this title for purposes of subchapter XVIII of this chapter; and if such hospital has in effect such a utilization review plan for purposes of subchapter XVIII of this chapter, such plan shall serve as the plan required by this subsection (with the same standards and procedures and the same review committee or group) as a condition of payment under this subchapter; the Secretary is authorized to waive the requirements of this paragraph in any State if the State agency demonstrates to his satisfaction that it has in operation utilization review procedures which are superior in their effectiveness to the procedures required under section 1395x(k) of this title.

(g) Federal limitation for capital expenditures

For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1320a-1 of this title.

(Aug. 14, 1935, ch. 531, title V, § 506, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 924, and amended Oct. 30, 1972, Pub. L. 92-603, title II, §§ 221(c)(2), 224(d), 229(d), 233(d), 237(b), 86 Stat. 1389, 1395, 1410, 1412, 1416.)

REFERENCES IN TEXT

Sections 708, 709, and 710 of this title, referred to in subsec. (c), have been omitted from the Code as executed.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in sections 504 and 514 of act Aug. 14, 1935, ch. 531, title V, 49 Stat. 630, 632, as amended (formerly classified to sections 704 and 714 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90-248, § 301.

AMENDMENTS

1972—Subsec. (f). Pub. L. 92-603, §§ 224(d), 229(d), 233(d), 237(b), added subsec. (f).

Subsec. (g). Pub. L. 92-603, § 221(c)(2), added subsec. (g).

EFFECTIVE DATE OF 1972 AMENDMENT

Enactment of subsec. (f)(3) by section 233(d) of Pub. L. 92-603 applicable with respect to services furnished by hospitals in accounting periods beginning after Dec. 31, 1972, see section 233(f) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395f of this title. See, also, Pub. L. 93-233, § 16, Dec. 31, 1973, 87 Stat. 967, set out as a note under section 1395f of this title.

Enactment of subsec. (f)(4) by section 237(b) of Pub. L. 92-603 applicable with respect to services furnished in calendar quarters beginning after June 30, 1973, see section 237(d)(1) of Pub. L. 92-603, set out as an Effective Date of 1973 Amendment note under section 1396b of this title.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, under subsec. (d) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 101(a) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 383, set out as a note under section 422 of this title.

§ 707. Operation of State plans

If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this subchapter, finds—

(1) that the plan has been so changed that it no longer complies with the provisions of section 705 of this title; or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affect by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

(Aug. 14, 1935, ch. 531, title V, § 507, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 925.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in sections 505 and 515 of act Aug. 14, 1935, ch. 531, title V, 49 Stat. 631, 633, as amended (formerly classified to sections 705 and 715 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90-248, § 301.

§§ 708 to 710. Omitted

CODIFICATION

Section 708, act Aug. 14, 1935, ch. 531, title V, § 508, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 926, and amended July 10, 1972, Pub. L. 92-345, § 2(d), 86 Stat. 457; July 1, 1973, Pub. L. 93-53, § 4(a)(6), 87 Stat. 135, relating to special project grants for infant and maternity care, was omitted from the Code as executed.

Provisions similar to those comprising section 708 were contained in section 531 of act Aug. 14, 1935, ch. 531, title V, as added Oct. 24, 1963, Pub. L. 88-156, § 4, 77 Stat. 274 (formerly classified to section 729 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90-248, § 301.

Section 709, act Aug. 14, 1935, ch. 531, title V, § 509, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 926, and amended July 10, 1972, Pub. L. 92-345, § 2(e), 86 Stat. 457; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 221(c)(3), 233(e), 86 Stat. 1389, 1412; July 1, 1973, Pub. L. 93-53, § 4(a)(7), 87 Stat. 135, relating to special project grants for health of school and preschool children, was omitted from the Code as executed.

Provisions similar to those comprising section 709, were contained in section 532 of act Aug. 14, 1935, ch. 531, title V, as added July 30, 1965, Pub. L. 89-97, title II, § 205(3), 79 Stat. 354 (formerly classified to section 729-1 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90-248, § 301.

Section 710, act Aug. 14, 1935, ch. 531, title V, § 510, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 927, and amended July 10, 1972, Pub. L. 92-345, § 2(f), 86 Stat. 457; July 1, 1973, Pub. L. 93-53, § 4(a)(8), 87 Stat. 136, relating to special project grants for dental health of children, was omitted from the Code as executed.

REPORT TO CONGRESS; EVALUATION OF PROGRAM

Pub. L. 89-97, title II, § 206, July 30, 1965, 79 Stat. 354 authorized the Secretary to submit to the President for transmission to the Congress before July 1, 1969, a full report of the administration of the provisions of section 729-1 of this title, now covered by sections 701, 702(1)(B), and 709 of this title, together with an evaluation of the program established thereby and his recommendations as to continuation of and modifications in that program.

§ 711. Training of personnel

From the sums available under clause (C) of paragraph (1) or clause (B) of paragraph (2) of section 702 of this title, the Secretary is authorized to make grants to public or nonprofit private institutions of higher learning for training personnel for health care and related services for mothers and children, particularly mentally retarded children and children with multiple handicaps. In making such grants, the Secretary shall give special attention to programs providing training at the undergraduate level.

(Aug. 14, 1935, ch. 531, title V, § 511, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 927.)

PRIOR PROVISIONS

A prior section 711, acts Aug. 14, 1935, ch. 531, title V, § 511, 49 Stat. 631; Aug. 10, 1939, ch. 666, title V, § 504, 53 Stat. 1380; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401(b)(4), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331(c), pt. 6, § 361(e), 64 Stat. 551, 558; Aug. 28, 1958, Pub. L. 85-840, title VI, § 603(a), 72 Stat. 1055; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(a)(2)(A), 74 Stat. 995; Oct. 24, 1963, Pub. L. 88-156, § 3(a), 77 Stat. 273; July 30, 1965, Pub. L. 89-97, title II, § 202(a), 79 Stat. 353, authorized appropriations, for services for crippled children, of $25,000,000; $30,000,000; $35,000,000; $45,000,000; $50,000,000; $55,000,000; and $60,000,000, for fiscal years ending June 30, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970 and thereafter respectively, prior to the general amendment of title V of the Social Security Act by Pub. L. 90-248, § 301, and is now covered by section 701 of this title.

Provisions similar to those comprising this section were contained in section 516 of act Aug. 14, 1935, ch. 531, title V, as added July 30, 1965, Pub. L. 89-97, title II, § 203(a), 79 Stat. 353 (formerly classified to section 716 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90-248, § 301.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 706 of this title.

§ 712. Research projects relating to maternal and child health services and crippled children's services

From the sums available under clause (C) of paragraph (1) or clause (B) of paragraph (2) of section 702 of this title, the Secretary is authorized to make grants to or jointly financed cooperative arrangements with public or other nonprofit institutions of higher learning, and public or nonprofit private agencies and organizations engaged in research or in maternal and child health or crippled children's programs, and contracts with public or nonprofit private agencies and organizations engaged in research or in such programs, for research projects relating to maternal and child health services or crippled children's services which show promise of substantial contribution to the advancement thereof. Effective with respect to grants made and arrangements entered into after June 30, 1968, (1) special emphasis shall be accorded to projects which will help in studying the need for, and the feasibility, costs, and effectiveness of, comprehensive health care programs in which maximum use is made of health personnel with varying levels of training, and in

studying methods of training for such programs, and (2) grants under this section may also include funds for the training of health personnel for work in such projects.

(Aug. 14, 1935, ch. 531, title V, § 512, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 927.)

PRIOR PROVISIONS

A prior section 712, acts Aug. 14, 1935, ch. 531, title V, § 512, 49 Stat. 631; Aug. 10, 1939, ch. 666, title V, § 505, 53 Stat. 1380; 1946 Reorg. Plan. No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401(b)(5), (6), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331(d), pt. 6, § 361(e), 64 Stat. 552, 558; Aug. 28, 1958, Pub. L. 85-840, title VI, § 603(b), (c), 72 Stat. 1055; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(a)(2)(B), (C), (b)(2)(A), 74 Stat. 996; Oct. 24, 1963, Pub. L. 88-156, § 3(b), (c), 77 Stat. 274, provided for allotment to States for services for crippled children, and is now covered by section 704 of this title.

Provisions similar to those comprising this section were contained in section 533, formerly section 532, of act Aug. 14, 1935, ch. 531, title V, as added Oct. 24, 1963, Pub. L. 88-156, § 4, 77 Stat. 274, and renumbered July 30, 1965, Pub. L. 89-97, title II, § 205(2), 79 Stat. 354 (formerly classified to section 729a of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90-248, § 301.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 706, 1308 of this title.

§ 713. Administration

(a) Studies and investigations

The Secretary of Health, Education, and Welfare shall make such studies and investigations as will promote the efficient administration of this subchapter.

(b) Program evaluations

Such portion of the appropriations for grants under section 701 of this title as the Secretary may determine, but not exceeding one-half of 1 percent thereof, shall be available for evaluation by the Secretary (directly or by grants or contracts) of the programs for which such appropriations are made and, in the case of allotments from any such appropriation, the amount available for allotments shall be reduced accordingly.

(c) Cooperation with State administrative agency

Any agency, institution, or organization shall, if and to the extent prescribed by the Secretary, as a condition to receipt of grants under this subchapter, cooperate with the State agency administering or supervising the administration of the State plan approved under subchapter XIX of this chapter in the provision of care and services, available under a plan or project under this subchapter, for children eligible therefor under such plan approved under subchapter XIX of this chapter.

(Aug. 14, 1935, ch. 531, title V, § 513, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 928.)

PRIOR PROVISIONS

A prior section 713, acts Aug. 14, 1935, ch. 531, title V, § 513, 49 Stat. 632; Aug. 10, 1939, ch. 666, title V, § 506, 53 Stat. 1381; 1946 Reorg. Plan No. 2, §§ 1, 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e), 64 Stat. 558; July 30, 1965, Pub. L. 89-97, title II, § 204(b), 79 Stat. 354, related to contents of State plans for services for crippled children and their approval by the Administrator prior to the general amendment of title V of the Social Security Act by Pub. L. 90-248, § 301, and is now covered by section 705 of this title.

Provisions similar to those comprising this section were contained in section 541 of act Aug. 14, 1935, ch. 531, title V, 49 Stat. 634, as amended (formerly classified to section 731 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90-248, § 301.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 705 of this title.

§ 714. "Crippled child" defined

For purposes of this subchapter, a crippled child is an individual under the age of 21 who has an organic disease, defect, or condition which may hinder the achievement of normal growth and development.

(Aug. 14, 1935, ch. 531, title V, § 514, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 928.)

PRIOR PROVISIONS

A prior section 714, acts Aug. 14, 1935, ch. 531, title V, § 514, 49 Stat. 632; Aug. 10, 1939, ch. 666, title V, § 507(a), (b), 53 Stat. 1381; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e), 64 Stat. 558; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(b)(2)(B), 74 Stat. 996; July 30, 1965, Pub. L. 89-97, title II, §§ 202(b), 203(b), 79 Stat. 353, 354, provided for payment to States with an approved plan for services for crippled children, computation of amounts, and prescribed general availability of services by July 1, 1975, as requisite for payments for any period after June 30, 1966 prior to the general amendment of title V of the Social Security Act by Pub. L. 90-248, § 301, and is now covered by section 706 of this title.

§ 715. Observance of religious beliefs

Nothing in this subchapter shall be construed to require any State which has any plan or program approved under, or receiving financial support under, this subchapter to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under such plan or program for any purpose (other than for the purpose of discovering and preventing the spread of infection or contagious disease or for the purpose of protecting environmental health), if such person objects (or, in case such person is a child, his parent or guardian objects) thereto on religious grounds.

(Aug. 14, 1935, ch. 531, title V, § 515, as added Jan. 2, 1968, Pub. L. 90-248, title III, § 301, 81 Stat. 928.)

PRIOR PROVISIONS

A prior section 715, acts Aug. 14, 1935, ch. 531, title V, § 515, 49 Stat. 633; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e), 64 Stat. 558, provided for stopping payment on failure to comply with State plan for services for crippled children prior to the general amendment of title V of the Social Security Act by Pub. L. 90-248, § 301, and is now covered by section 707 of this title.

§ 716. Supplemental allotments

(a) Amount; requirement of State arrangements for continuation of services to population groups

(1) For each fiscal year (commencing with the fiscal year ending June 30, 1975), there shall (subject to paragraph (2)) be allotted to each State (from funds appropriated for such fiscal year pursuant to subsection (b) of this section) an amount, which shall be in addition to and available for the same purposes as the allotments of such State (as determined under sections 703 and 704 of this title), equal to the excess (if any) of—

(A) the amount of the allotment of such State (as determined under sections 703 and 704 of this title) for the fiscal year ending June 30, 1973, plus the amounts of any grants to such States under sections 708, 709, and 710 of this title, over

(B) the amount of the allotment of such State (as determined under sections 703 and 704 of this title) for such fiscal year which commences after June 30, 1973.

(2) No State shall receive an allotment under this section for any fiscal year, unless such State (in the administration of its State plan, approved under section 705 of this title) has in effect arrangements which the Secretary finds will provide for the continuation of appropriate services to population groups previously receiving services from funds made available (for the fiscal year ending June 30, 1974) to such State pursuant to sections 708, 709, and 710 of this title.

(b) Authorization of appropriations; limitation; reduction of allotments

(1)(A) There are (subject to subparagraph (B)) hereby authorized to be appropriated for each fiscal year (commencing with the fiscal year ending June 30, 1975) such amounts as may be necessary to enable the Secretary to make the allotments authorized under subsection (a) of this section.

(B) Nothing contained in subparagraph (A) shall be construed to authorize, for any fiscal year, the appropriation under this subsection of any amount which is in excess of the amount by which—

(i) the amount authorized to be appropriated under section 701 of this title for such year exceeds

(ii) the total amounts appropriated pursuant to section 701 of this title for such year.

(2) If, for any fiscal years, the total amount appropriated pursuant to paragraph (1) is less than the total amount allotted to all States under subsection (a) of this section, then the amount of the allotment of each State (as determined under subsection (a) of this section) shall be reduced to an amount which bears the same ratio to the total amount appropriated pursuant to paragraph (1) for such fiscal year as the amount of the allotment of such State (as determined under subsection (a) of this section) bears to the total amount allotted to all States under subsection (a) of this section for such fiscal year.

(Aug. 14, 1935, ch. 531, title V, § 516, as added July 1, 1973, Pub. L. 93-53, § 4(b), 87 Stat. 136.)

REFERENCES IN TEXT

Sections 708, 709, and 710 of this title, referred to in subsec. (a)(1)(A), (2), have been omitted from the Code as executed.

PRIOR PROVISIONS

A prior section 716, act Aug. 14, 1935, ch. 531, title V, § 516, as added July 30, 1965, Pub. L. 89-97, title II, § 203(a), 79 Stat. 353, authorized appropriations for training of professional personnel for health and related care of crippled and mentally retarded children of $5,000,000, $10,000,000, and $17,500,000 for fiscal years ending June 30, 1967, 1968, 1969, and thereafter, respectively, and was omitted in the general amendment of title V of the Social Security Act by Pub. L. 90-248, § 301, and is now covered by sections 702 and 711 of this title.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 101(a) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 383, set out as a note under section 422 of this title.

SUPPLEMENTAL ALLOTMENTS FOR FISCAL YEAR ENDING JUNE 30, 1974

Section 4(c) of Pub. L. 93-53 authorized a State, for the fiscal year ending June 30, 1974, to receive an additional supplemental allotment to match the excess of the amount of the allotments which such State would have received under sections 703 and 704 of this title for such year if section 4(a) of Pub. L. 93-53 had not been enacted over the aggregate of the allotments which such State actually received under such sections plus the aggregate of the grants received under sections 708, 709, and 710 of this title for the fiscal year ending June 30, 1973, and authorized appropriations necessary for the supplemental allotments.

§§ 721 to 728. Repealed. Pub. L. 90-248, title II, § 240(e)(1), Jan. 2, 1968, 81 Stat. 915

Section 721, acts Aug. 14, 1935, ch. 531, title V, § 521, 49 Stat. 633; Aug. 10, 1939, ch. 666, title V, § 507(c), 53 Stat. 1381; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan. No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401(b)(7), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331(e), pt. 6, § 361(e), 64 Stat. 552, 558; Aug. 1, 1956, ch. 836, title IV, § 402, 70 Stat. 856; Aug. 28, 1958, Pub. L. 85-840, title VI, § 601, 72 Stat. 1052; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(a)(3)(A), 74 Stat. 996; July 25, 1962, Pub. L. 87-543, title I, § 102(a), (d)(1), 76 Stat. 182, 184; July 30, 1965, Pub. L. 89-97, title II, § 207, 79 Stat. 355, authorized appropriations for child-welfare services and is now covered by section 620 of this title.

Section 722, act Aug. 14, 1935, ch. 531, title V, § 522, as added Aug. 28, 1958, Pub. L. 85-840, title VI, § 601, 72 Stat. 1053, and amended Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(a)(3)(B), 74 Stat. 996; July 25, 1962, Pub. L. 87-543, title I, § 102(c)(1), 76 Stat. 183; July 30, 1965, Pub. L. 89-97, title II, § 208(b), 79 Stat. 355, provided for allotments to States and is now covered by section 621 of this title.

Section 723, act Aug. 14, 1935, ch. 531, title V, § 523, as added Aug. 28, 1958, Pub. L. 85-840, title VI, § 601, 72 Stat. 1053, and amended July 25, 1962, Pub. L. 87-543, title I, § 102(b), 76 Stat. 182; July 30, 1965, Pub. L. 89-97, title II, § 208(c), 79 Stat. 356, provided for payment to States and computation of amounts and is now covered by section 622 of this title.

Section 724, act Aug. 14, 1935, ch. 531, title V, § 524, as added Aug. 28, 1958, Pub. L. 85-840, title VI, § 601, 72 Stat. 1054, and amended June 25, 1959, Pub. L. 86-

70, § 32(b), 73 Stat. 149; July 12, 1960, Pub. L. 86-624, § 30(b), 74 Stat. 420, provided for allotment percentage and Federal share and is now covered by section 623 of this title.

Section 725, act Aug. 14, 1935, ch. 531, title V, § 525, as added Aug. 28, 1958, Pub. L. 85-840, title VI, § 601, 72 Stat. 1054, provided for reallotment of allotments to States and is now covered by section 624 of this title.

Section 726, act Aug. 14, 1935, ch. 531, title V, § 526, as added Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(b)(3), 74 Stat. 997, and amended July 25, 1962, Pub. L. 87-543, title I, § 123(d), 76 Stat. 193, provided for research, training, or demonstration projects and is now covered by section 626 of this title.

Section 727, act Aug. 14, 1935, ch. 531, title V, § 527, as added July 25, 1962, Pub. L. 87-543, title I, § 102(c)(2), 76 Stat. 183, provided for allotments and reallotment of allotments to States for day care services. Section had been previously repealed by Pub. L. 89-97, title II, § 208(a)(1), July 30, 1965, 79 Stat. 355, effective Jan. 1, 1966, under section 208(d) of Pub. L. 89-97.

Section 728, act Aug. 14, 1935, ch. 531, title V, § 528, as added July 25, 1962, Pub. L. 87-543, title I, § 102(d)(2), 76 Stat. 184, defined, child-welfare "services" and is now covered by section 625 of this title.

§§ 729 to 729a, 731. Omitted

CODIFICATION

Section 729, act Aug. 14, 1935, ch. 531, title V, § 531, as added Oct. 24, 1963, Pub. L. 88-156, § 4, 77 Stat. 274, and amended Jan. 2, 1968, Pub. L. 90-248, title III, § 303, 81 Stat. 929, related to maternity and infant care projects, authorized appropriations of $5,000,000; $15,000,000; $30,000,000; and $35,000,000 for fiscal years ending June 30, 1964, 1965, 1966 and 1967, and 1968, respectively; provided for grants to State health agencies, limitations on payments, scope of projects, health hazards, low-income families, other reasons for lack of health care; and provided for payments to States, adjustments, advances or reimbursement, installments, and conditions, prior to the general amendment of title V of the Social Security Act by Pub. L. 90-248, § 301, and is now covered by sections 701 and 702 of this title. Section 531 of act Aug. 14, 1935, as originally enacted, appropriated funds for vocational rehabilitation, and was classified to section 45b of Title 29, Labor. It was omitted as superseded by section 31 of Title 29.

Section 729-1, act Aug. 14, 1935, ch. 531, title V, § 532, as added July 30, 1965, Pub. L. 89-97, title II, § 205(3), 79 Stat. 354, provided for projects for health of school and preschool children, authorized appropriations of $15,000,000; $35,000,000; $40,000,000; $45,000,000; and $50,000,000 for fiscal years ending June 30, 1966, 1967, 1968, 1969, and 1970, respectively; provided for grants to State health agencies, medical and dental schools, and teaching hospitals, limitations on payments, eligibility for grants, comprehensive care and services; and provided for payments to States, adjustments, advances or reimbursement, installments, and conditions, prior to the general amendment of title V of the Social Security Act by Pub. L. 90-248, § 301, and is now covered by sections 701 and 702 of this title.

Section 729a, act Aug. 14, 1935, ch. 531, title V, § 533, formerly § 532, as added Oct. 24, 1963, Pub. L. 88-156, § 4, 77 Stat. 274, and renumbered July 30, 1965, Pub. L. 89-97, title II, § 205(2), 79 Stat. 354, provided for research projects relating to maternal and child health services and crippled children's services, authorized appropriations of $8,000,000 for fiscal year ending June 30, 1964, and each subsequent fiscal year; and provided for payments to eligible institutions, agencies, and organizations, adjustments, advances or reimbursements, installments, and conditions, prior to the general amendment of title V of the Social Security Act by Pub. L. 90-248, § 301, and is now covered by sections 701, 702, and 712 of this title.

Section 731, acts Aug. 14, 1935, ch. 531, title V, § 541, 49 Stat. 634; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401(b)(8), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e), title IV, § 402(a), 64 Stat. 558, required the Administrator to make studies and investigations to promote efficient administration of sections 701 to 703, 704, 705, 711 to 715, 721 to 729a, and 731 of this title, prior to the general amendment of title V of the Social Security Act by Pub. L. 90-248, § 301, and is now covered by section 713 of this title.

SUBCHAPTER VI—GRANTS TO STATES FOR SERVICES TO THE AGED, BLIND, OR DISABLED

§§ 801 to 805. Repealed. Pub. L. 93-647, § 3(b), Jan. 4, 1975, 88 Stat. 2349

Section 801, act Aug. 14, 1935, ch. 531, title VI, § 601, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 302, 86 Stat. 1478, authorized appropriations for encouraging States to furnish rehabilitation to needy individuals 65 years of age or older, and the blind or disabled.

A prior section 801, acts Aug. 14, 1935, ch. 531, title VI, § 601, 49 Stat. 634; Aug. 10, 1939, ch. 666, title V, § 509, 53 Stat. 1381, which provided appropriations for the purpose of assisting States and subdivisions in maintaining adequate public health services, was repealed by act July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714, and is now covered by section 246 of this title.

Section 802, act Aug. 14, 1935, ch. 531, title VI, § 602, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 302, 86 Stat. 1479, set out the necessary provisions for State plans for services to the aged, blind, or disabled.

A prior section 802, act Aug. 14, 1935, ch. 531, title VI, § 602, 49 Stat. 634, which provided for allotments to States by Surgeon General, was repealed by act July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714, and is now covered by section 246 of this title.

Section 803, act Aug. 14, 1935, ch. 531, title VI, § 603, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 302, 86 Stat. 1481, provided for payments to States under approved plans for services to the aged, blind, or disabled.

A prior section 803, act Aug. 14, 1935, ch. 531, title VI, § 603, 49 Stat. 635, which provided for allotments to States by appropriations for investigation of diseases by Public Health Service, was repealed by act July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714, and is now covered by section 246 of this title.

Section 804, act Aug. 14, 1935, ch. 531, title VI, § 604, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 302, 86 Stat. 1484, provided for notification to States and termination of payments in case of noncompliance with laws or State plan.

Section 805, act Aug. 14, 1935, ch. 531, title VI, § 605, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 302, 86 Stat. 1484, defined "services to the aged, blind or disabled".

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to payments under section 803 for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these prior sections 801, 802 and 803, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

SUBCHAPTER VII—ADMINISTRATION

AMENDMENTS

1950—Act Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(f), 64 Stat. 558, substituted "Administration" for "Social Security Board" as the subchapter heading.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1301 of this title.

§ 901. Omitted

CODIFICATION

Section, acts Aug. 14, 1935, ch. 531, title VII, § 701, 49 Stat. 635; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title IV, § 401(a), 64 Stat. 558, which provided for a Commissioner for Social Security in the Federal Security Agency, was omitted because of the abolition of that office by section 8 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Section 4 of Reorg. Plan No. 1 of 1953, established the office of Commissioner of Social Security in the Department of Health, Education, and Welfare.

§ 901a. Repealed. Aug. 28, 1950, ch. 809, title IV, § 401(b), 64 Stat. 558

Section, act Aug. 10, 1939, ch. 666, title IX, § 908, 53 Stat. 1402, placed the Social Security Board under the direction and supervision of the Federal Security Administrator.

§ 902. Duties of Secretary of Health, Education, and Welfare and the Secretary of Labor

The Secretary of Health, Education, and Welfare and the Secretary of Labor, respectively, shall perform the duties imposed upon them by this chapter. The Secretary of Health, Education, and Welfare shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters on administrative policy concerning old-age pensions and related subjects. The Secretary of Labor shall also have the duty of studying and making recommendations as to legislation and matters of administrative policy concerning unemployment compensation, accident compensation and related subjects.

(Aug. 14, 1935, ch. 531, title VII, § 702, 49 Stat. 636; 1949 Reorg. Plan No. II, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

Provisions relating to the Secretary of Labor were inserted in view of Reorg. Plan No. 19 of 1950, which transferred the Bureau of Employees' Compensation from the Federal Security Agency to the Department of Labor and the functions of the Federal Security Administrator with respect to the Bureau and to employees' compensation, including workmen's compensation, to the Secretary of Labor. See transfer of functions notes below.

AMENDMENTS

1950—Act Aug. 28, 1950, substituted "Administrator" for "Board" and "him" for "it".

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

The Bureau of Employees' Compensation of the Federal Security Agency, together with its functions, was transferred to the Department of Labor to be administered under the direction and supervision of the Secretary of Labor by section 1 of Reorg. Plan No. 19 of 1950, set out in the Appendix to Title 5, Government Organization and Employees.

The Bureau of Employment Security of the Federal Security Agency, together with its functions, was transferred to the Department of Labor, to be administered by the Secretary of Labor, by section 1 of Reorg. Plan No. 2 of 1949, set out in the Appendix to Title 5.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency by Reorg. Plan No. I of 1939, §§ 201 to 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424, set out in the Appendix to title 5. See sections 208 to 211 of that plan for provisions relating to transfer of records, property, funds, and personnel.

§ 903. Expenses of Secretary; appointment and compensation of officers and employees

The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures, as may be necessary for carrying out his functions under this chapter. Appointments of attorneys and experts may be made without regard to the civil-service laws.

(Aug. 14, 1935, ch. 531, title VII, § 703, 49 Stat. 636; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

REFERENCES IN TEXT

The civil-service laws referred to in the text, are classified generally to Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

AMENDMENTS

1950—Act Aug. 28, 1950, substituted "Administrator" for "Board" and "his" for "its".

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency, see Transfer of Functions note under section 902 of this title.

§ 904. Annual report to Congress

The Secretary shall make a full report to Congress, within one hundred and twenty days after the beginning of each regular session, of the administration of the functions with which

he is charged under this chapter. In addition to the number of copies of such report authorized by other law to be printed, there is authorized to be printed not more than five thousand copies of such report for use by the Secretary for distribution to Members of Congress and to State and other public or private agencies or organizations participating in or concerned with the social security program.

(Aug. 14, 1935, ch. 531, title VII, § 704, 49 Stat. 636; Aug. 28, 1950, ch. 809, title IV, § 402(b), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 21, 1976, Pub. L. 94-273, § 33, 90 Stat. 380.)

AMENDMENTS

1976—Pub. L. 94-273 substituted "within one hundred and twenty days after the beginning" for "at the beginning".

1950—Act Aug. 28, 1950, substituted "Administrator" for "Board" in first sentence and added second sentence.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency, see Transfer of Functions note under section 902 of this title.

§ 905. Working capital fund; establishment; amount; use; reimbursement

There is established a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of (1) a central reproduction service; (2) a central visual exhibit service; (3) a central supply service for supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department; (4) a central tabulating service; (5) telephone, mail, and messenger services; (6) a central accounting and payroll service; and (7) a central laborers' service: *Provided,* That any stocks of supplies and equipment on hand or on order shall be used to capitalize such fund: *Provided further,* That such fund shall be reimbursed in advance from funds available to bureaus, offices, and agencies for which such centralized services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and depreciation of equipment.

(July 5, 1952, ch. 575, title II, § 201, 66 Stat. 369; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 2, 1960, Pub. L. 86-703, title II, § 201, 74 Stat. 773.)

CODIFICATION

Section was enacted as a part of act July 5, 1952, popularly known as the Federal Security Agency Appropriation Act, 1953, and not as a part of act Aug. 14, 1935, ch. 531, 49 Stat. 620, known as the Social Security Act, which comprises this chapter.

AMENDMENTS

1960—Pub. L. 86-703 made the fund available for the maintenance and operation of a central visual exhibit service, telephone, mail and messenger services, a central accounting and payroll service, and a central laborers' service.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 905a. Additional use

The Working Capital Fund of the Department of Health, Education, and Welfare shall on and after August 10, 1971, be available for expenses necessary for common personnel support services in the Washington area.

(Pub. L. 92-80, title II, § 200, Aug. 10, 1971, 85 Stat. 297.)

CODIFICATION

Section was enacted as a part of section 200 of Pub. L. 92-80, popularly known as the Department of Health, Education, and Welfare Appropriation Act, 1972, and not as a part of act Aug. 14, 1935, ch. 531, 49 Stat. 620, known as the Social Security Act, which comprises this chapter.

§ 906. Training grants for public welfare personnel

(a) Authorization of appropriations

In order to assist in increasing the effectiveness and efficiency of administration of public assistance programs by increasing the number of adequately trained public welfare personnel available for work in public assistance programs, there are authorized to be appropriated for the fiscal year ending June 30, 1963, the sum of $3,500,000, and for each fiscal year thereafter the sum of $5,000,000.

(b) Allocation for carrying out direct grant programs

Such portion of the sums appropriated pursuant to subsection (a) of this section for any fiscal year as the Secretary may determine, but not in excess of $1,000,000 in the case of the fiscal year ending June 30, 1963, and $2,000,000 in the case of any fiscal year thereafter, shall be available for carrying out subsection (f) of this section. From the remainder of the sums so appropriated for any fiscal year, the Secretary shall make allotments to the States on the basis of (1) population, (2) relative need for trained public welfare personnel, particularly for personnel to provide self-support and self-care services, and (3) financial need.

(c) Payments to States for cost of grant programs to certain agencies and institutions

From each State's allotment under subsection (b) of this section, the Secretary shall from time to time pay to such State its costs of carrying out the purposes of this section through (1) grants to public or other nonprofit institutions of higher learning for training personnel employed or preparing for employment in public assistance programs, (2) special courses of study or seminars of short duration conducted for

such personnel by experts hired on a temporary basis for the purpose, and (3) establishing and maintaining, directly or through grants to such institutions, fellowships or traineeships for such personnel at such institutions, with such stipends and allowances as may be permitted under regulations of the Secretary.

(d) Advance payments to States

Payments pursuant to subsection (c) of this section shall be made in advance on the basis of estimates by the Secretary and adjustments may be made in future payments under this section to take account of overpayments or underpayments in amounts previously paid.

(e) Reallotments

The amount of any allotment to a State under subsection (b) of this section for any fiscal year which the State certifies to the Secretary will not be required for carrying out the purposes of this section in such State shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines have need in carrying out such purposes for sums in excess of those previously allotted to them under this section and will be able to use such excess amounts during such fiscal year; such reallotments to be made on the basis provided in subsection (b) of this section for the initial allotments to the States. Any amount so reallotted to a State shall be deemed part of its allotment under such subsection.

(f) Direct grants to certain agencies and institutions

(1) The portion of the sums appropriated for any fiscal year which is determined by the Secretary under the first sentence of subsection (b) of this section to be available for carrying out this subsection shall be available to enable him to provide (A) directly or through grants to or contracts with public or nonprofit private institutions of higher learning, for training personnel who are employed or preparing for employment in the administration of public assistance programs, (B) directly or through grants to or contracts with public or nonprofit private agencies or institutions, for special courses of study or seminars of short duration (not in excess of one year) for training of such personnel, and (C) directly or through grants to or contracts with public or nonprofit private institutions of higher learning, for establishing and maintaining fellowships or traineeships for such personnel at such institutions, with such stipends and allowances as may be permitted by the Secretary.

(2) Payments under paragraph (1) may be made in advance on the basis of estimates by the Secretary, or may be made by way of reimbursement, and adjustments may be made in future payments under this subsection to take account of overpayments or underpayments in amounts previously paid.

(3) The Secretary may, to the extent he finds such action to be necessary, prescribe requirements to assure that any individual will repay the amount of his fellowship or traineeship received under this subsection to the extent such individual fails to serve, for the period prescribed by the Secretary, with a State or political subdivision thereof, or with the Federal Government, in connection with administration of any State or local public assistance program. The Secretary may relieve any individual of his obligation to so repay, in whole or in part, whenever and to the extent that requirement of such repayment would, in his judgment, be inequitable or would be contrary to the purposes of any of the public welfare programs established by this chapter.

(Aug. 14, 1935, ch. 531, title VII, § 705, as added Aug. 1, 1956, ch. 836, title III, § 332, 70 Stat. 851, and amended May 8, 1961, Pub. L. 87-31, § 3, 75 Stat. 77; July 25, 1962, Pub. L. 87-543, title I, § 123 (a)-(c), 76 Stat. 192.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-543, § 123(a), substituted "for the fiscal year ending June 30, 1963, the sum of $3,500,000, and for each fiscal year thereafter the sum of $5,000,000" for "for the fiscal year ending June 30, 1958, the sum of $5,000,000, and for each of the five succeeding fiscal years such sums as the Congress may determine".

Subsec. (b). Pub. L. 87-543, § 123(b), required appropriated moneys to be made available for carrying out subsec. (f) of this section.

Subsec. (f). Pub. L. 87-543, § 123(c), added subsec. (f).

1961—Subsec. (a). Pub. L. 87-31, § 3(a), substituted "five" for "four".

Subsec. (c). Pub. L. 87-31, § 3(b), substituted "its costs of carrying out the purposes of this section" for "80 per centum of the total of its expenditures in carrying out the purposes of this section".

EFFECTIVE DATE OF 1962 AMENDMENT

Section 202(b) of Pub. L. 87-543 provided that: "The amendments made by sections 102(c), 123, and 132(d) [enacting section 727 of this title, amending sections 722, 726, and 906 of this title, and repealing credits to section 1308 of this title and notes set out under section 1308 of this title] shall be applicable in the case of fiscal years beginning after June 30, 1962."

EFFECTIVE DATE OF 1961 AMENDMENT

Section 3(b) of Pub. L. 87-31 provided in part that the amendment of subsec. (c) by such section 3(b) shall be effective with respect to payments from allotments from appropriations made for fiscal years beginning after June 30, 1961.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976 under subsec. (b) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 101(a) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 383, set out as a note under section 422 of this title.

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

§ 907. Advisory Council on Social Security

(a) Initial and quinquennial appointment; review of status of Funds, scope of coverage, adequacy of benefits, impact on public assistance, and other program aspects

During 1969 (but not before February 1, 1969) and every fourth year thereafter (but not before February 1 of such fourth year), the Secretary shall appoint an Advisory Council on

Social Security for the purpose of reviewing the status of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund in relation to the long-term commitments of the old-age, survivors, and disability insurance program and the programs under parts A and B of subchapter XVIII of this chapter, and of reviewing the scope of coverage and the adequacy of benefits under, and all other aspects of, these programs, including their impact on the public assistance programs under this chapter.

(b) Membership; Chairman; representation of interests

Each such Council shall consist of a Chairman and 12 other persons, appointed by the Secretary without regard to the provisions of title 5 governing appointments in the competitive service. The appointed members shall, to the extent possible, represent organizations of employers and employees in equal numbers, and represent self-employed persons and the public.

(c) Technical assistance; actuarial services; availability of assistance and data; compensation and travel expenses

(1) Any Council appointed hereunder is authorized to engage such technical assistance, including actuarial services, as may be required to carry out its functions, and the Secretary shall, in addition, make available to such Council such secretarial, clerical, and other assistance and such actuarial and other pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

(2) Appointed members of any such Council, while serving on business of the Council (inclusive of travel time), shall receive compensation at rates fixed by the Secretary, but not exceeding $100 per day and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government employed intermittently.

(d) Reports to Congress; termination of Council

Each such Council shall submit reports (including any interim reports such Council may have issued) of its findings and recommendations to the Secretary not later than January 1 of the second year after the year in which it is appointed, and such reports and recommendations shall thereupon be transmitted to the Congress and to the Board of Trustees of each of the Trust Funds. The reports required by this subsection shall include—

(1) a separate report with respect to the old-age, survivors, and disability insurance program under subchapter II of this chapter and of the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954,

(2) a separate report with respect to the hospital insurance program under part A of subchapter XVIII of this chapter and of the taxes imposed by sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954, and

(3) a separate report with respect to the supplementary medical insurance program established by part B of subchapter XVIII of this chapter and of the financing thereof.

After the date of the transmittal to the Congress of the reports required by this subsection, the Council shall cease to exist.

(Aug. 14, 1935, ch. 531, title VII, § 706, as added July 30, 1965, Pub. L. 89-97, title I, § 109(a), 79 Stat. 339, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 165, title IV, § 403(d), 81 Stat. 874, 932.)

REFERENCES IN TEXT

Parts A and B of subchapter XVIII of this chapter, referred to in subsecs. (a) and (d), are classified to sections 1395c et seq. and 1395j et seq. of this title.

The provisions of Title 5 governing appointments in the competitive service, referred to in subsec. (b), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The Internal Revenue Code of 1954, referred to in subsec. (d), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-248, § 165(a)(1), substituted "During" 1969 (but not before February 1, 1969) and every fourth year thereafter (but not before February 1 of such fourth year)" for "During 1968 and every fifth year thereafter".

Subsec. (b). Pub. L. 90-248, §§ 165(b), 403(d)(1), substituted "a Chairman" for "the Commissioner of Social Security, as Chairman,", and "provisions of Title 5, governing appointments in the competitive service" for "civil service laws".

Subsec. (c)(2). Pub. L. 90-248, § 403(d)(2), substituted reference to section 5703 for former section 73b-2 of title 5.

Subsec. (d). Pub. L. 90-248, § 165(a)(2), inserted "(including any interim reports such Council may have issued)" following "reports".

§ 908. Omitted

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title VII, § 707, as added Jan. 2, 1968, Pub. L. 90-248, title IV, § 401, 81 Stat. 930, related to grants for expansion and development of undergraduate and graduate programs in the fiscal year ending June 30, 1969, and each of the three succeeding fiscal years, and has been omitted from the Code as executed.

SUBCHAPTER VIII—TAXES WITH RESPECT TO EMPLOYMENT

§§ 1001 to 1011. Omitted

CODIFICATION

Sections, act Aug. 14, 1935, ch. 531, title VIII, §§ 801-811, 49 Stat. 636-639, related to taxes with respect to employment. Section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1, which act enacted Title 26, I. R. C. 1939, provided that all laws and parts of laws codified into the I. R. C. 1939, to the extent that they related exclusively to internal revenue laws, were repealed. Provisions of I. R. C. 1939 were generally repealed by section 7851 of Title 26, I. R. C. 1954 (act Aug. 16, 1954, ch. 736, 68A Stat. 3). See, also, section 7807 of said Title 26, I. R. C. 1954, respecting rules in effect upon enactment of I. R. C. 1954. The omitted sections were formerly and are now covered by certain sections in Title 26, I. R. C. 1939 and I. R. C. 1954, respectively, as follows:

Omitted sections	I. R. C. 1939	I. R. C. 1954
1001	1400	3101.
1002	1402	3102.
1003	1401	3502.
1004	1410	3111.
1005	1411	6205(a), 6413(a).
1006	1421	6205(b), 6413(b).
1007	1420, 1430	3501.
1008	1429	7805(a), (c).
1009	1423, 1424	6801 et seq.
1010	1425	7208(1), 7209.
1011 (as amended Aug. 10, 1939, ch. 666, title IX, § 905(a), 53 Stat. 1400).	1426	3121, 7701(a)(1).

Section 1001 related to income tax on employees.

Section 1002 related to deduction of tax from wages.

Section 1003 related to deductibility from income taxes.

Section 1004 related to excise tax on employers.

Section 1005 related to adjustment of employers' tax.

Section 1006 related to refunds and deficiencies.

Section 1007 related to collection and payment of taxes.

Section 1008 related to rules and regulations.

Section 1009 related to sale by postmasters of stamps or other devices for collection or payment of tax.

Section 1010 related to penalties.

Section 1011 related to definitions.

SUBCHAPTER IX—EMPLOYMENT SECURITY ADMINISTRATIVE FINANCING

Amendments

1954—Act Aug. 5, 1954, ch. 657, § 2, 68 Stat. 668, in amending this subchapter generally substituted subchapter heading "Employment Security Administrative Financing" for "Tax on Employment of Eight or More".

Prior Law; Tax on Employers of Eight or More

Former subchapter IX, sections 1101-1103, 1105-1110, act Aug. 14, 1935, ch. 531, title IX, §§ 901-903, 905-910, 49 Stat. 639-644, related to taxes on employers of eight or more. Section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1, which act enacted Title 26, I. R. C. 1939, provided that all laws and parts of laws codified into the I. R. C. 1939, to the extent that they related exclusively to internal revenue laws, were repealed. Provisions of I. R. C. 1939 were generally repealed by section 7851 of Title 26, I. R. C. 1954 (act Aug. 16, 1954, ch. 736, 68A Stat. 3). See, also, section 7807 of said Title 26, I. R. C. 1954, respecting rules in effect upon enactment of I. R. C. 1954. Said prior law sections were formerly and are now covered by certain sections in Title 26, I. R. C. 1939 and I. R. C. 1954, respectively, as follows:

Former sections	I. R. C. 1939	I. R. C. 1954
1101	1600	3301.
1102	1601(a)	3302.
1103	1603	3304.
1105	1604, 1605, 1610	3501, 6011(a), 6065, 6071, 6081(a), 6091(b)(1), (2), 6106, 6152(a)(3), (b), 6161(a)(1), 6313, 6601(a), (f)(1).
1106	1606	3305.
1107 (as amended act June 25, 1938, ch. 680, § 13(a), 52 Stat. 1110)	1607	3306, 7701(a)(1).
1108	1609	7805(a), (c).
1109	1601(b), (c)	3302.
1110	1602	3303.

Repair of 1938 Hurricane Damage

Act. Aug. 11, 1939, ch. 719, § 1, 53 Stat. 1420, provided that no special security taxes should be collected for work done prior to Jan. 1, 1940, in cleaning up debris and damage caused by the 1938 hurricane.

Credits Against Social Security Tax

Act Aug. 10, 1939, ch. 666, title IX, § 902 (a)-(d), (h), 53 Stat. 1399, provided for a credit against the social security tax of certain contributions made with respect to employment during calendar years 1936, 1937, or 1938. Said act Aug. 10, 1939, was affected by act Sept. 20, 1941, ch. 412, title VII, § 701(c), 55 Stat. 728.

Act May 28, 1938, ch. 289, § 810, 52 Stat. 576, related to credits against Social Security Tax for 1936. It was affected by act Sept. 20, 1941, ch. 412, title VII, § 701(c), 55 Stat. 728, relating to credit against Federal unemployment taxes.

Subchapter Referred to in Other Sections

This subchapter is referred to in section 1396d of this title.

Subchapter Referred to in D.C. Code

This subchapter is referred to in section 46-313 of the District of Columbia Code.

§ 1101. Employment Security Administration Account

(a) Establishment

There is established in the Unemployment Trust Fund an employment security administration account.

(b) Amount credited to the Account; transfer of funds; adjustments; repayment of internal revenue refunds

(1) There is hereby appropriated to the Unemployment Trust Fund for credit to the employment security administration account, out of any moneys in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1961, and for each fiscal year thereafter, an amount equal to 100 per centum of the tax (including interest, penalties, and additions to the tax) received during the fiscal year under the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.] and covered into the Treasury.

(2) The amount appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Unemployment Trust Fund and credited to the employment security administration account. Each such transfer shall be based on estimates made by the Secretary of the Treasury of the amounts received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred, to the extent prior estimates (including estimates for the fiscal year ending June 30, 1960) were in excess of or were less than the amounts required to be transferred.

(3) The Secretary of the Treasury is directed to pay from time to time from the employment security administration account into the Treasury, as repayments to the account for refunding internal revenue collections, amounts equal to all refunds made after June 30, 1960, of amounts received as tax under the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.] (including interest on such refunds).

(c) Administrative expenditures; necessary expenses; quarterly transfer of funds; adjustments; limitation; estimate of net receipts

(1) There are hereby authorized to be made available for expenditure out of the employment security administration account for the fiscal year ending June 30, 1971, and for each fiscal year thereafter—

(A) such amounts (not in excess of the applicable limit provided by paragraph (3) and, with respect to clause (ii), not in excess of the limit provided by paragraph (4)) as the Congress may deem appropriate for the purpose of—

(i) assisting the States in the administration of their unemployment compensation laws as provided in subchapter III of this chapter (including administration pursuant to agreements under any Federal unemployment compensation law),

(ii) the establishment and maintenance of systems of public employment offices in accordance with the Act of June 6, 1933, as amended (29 U.S.C., secs. 49–49n), and

(iii) carrying into effect section 2003 of title 38;

(B) such amounts (not in excess of the limit provided by paragraph (4) with respect to clause (iii)) as the Congress may deem appropriate for the necessary expenses of the Department of Labor for the performance of its functions under—

(i) this subchapter and subchapters III and XII of this chapter,

(ii) the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.],

(iii) the provisions of the Act of June 6, 1933, as amended [29 U.S.C. 49 et seq.],

(iv) chapter 41 (except section 2003) of title 38, and

(v) any Federal unemployment compensation law.

The term "necessary expenses" as used in this subparagraph (B) shall include the expense of reimbursing a State for salaries and other expenses of employees of such State temporarily assigned or detailed to duty with the Department of Labor and of paying such employees for travel expenses, transportation of household goods, and per diem in lieu of subsistence while away from their regular duty stations in the State, at rates authorized by law for civilian employees of the Federal Government.

(2) The Secretary of the Treasury is directed to pay from the employment security administration account into the Treasury as miscellaneous receipts the amount estimated by him which will be expended during a three-month period by the Treasury Department for the performance of its functions under—

(A) this subchapter and subchapters III and XII of this chapter, including the expenses of banks for servicing unemployment benefit payment and clearing accounts which are offset by the maintenance of balances of Treasury funds with such banks,

(B) the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.], and

(C) any Federal unemployment compensation law with respect to which responsibility for administration is vested in the Secretary of Labor.

If it subsequently appears that the estimates under this paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Secretary of the Treasury in future payments.

(3)(A) For purposes of paragraph (1)(A), the limitation on the amount authorized to be made available for any fiscal year after June 30, 1970, is, except as provided in subparagraph (B) and in the second sentence of subsection (f)(3)(A) of this section, an amount equal to 95 percent of the amount estimated and set forth in the budget of the United States Government for such fiscal year as the amount by which the net receipts during such year under the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.] will exceed the amount transferred under section 1105(b) of this title during such year to the extended unemployment compensation account.

(B) The limitation established by subparagraph (A) is increased by any unexpended amount retained in the employment security administration account in accordance with subsection (f)(2)(B) of this section.

(C) Each estimate of net receipts under this paragraph shall be based upon (i) a tax rate of 0.5 percent in the case of any calendar year for which the rate of tax under section 3301 of the Federal Unemployment Tax Act [26 U.S.C. 3301] is 3.2 percent, and (ii) a tax rate of 0.7 percent in the case of any calendar year for which the rate of tax under such section 3301 is 3.4 percent.

(4) For purposes of paragraphs (1)(A)(ii) and (1)(B)(iii) the amount authorized to be made available out of the employment security administration account for any fiscal year after June 30, 1972, shall reflect the proportion of the total cost of administering the system of public employment offices in accordance with the Act of June 6, 1933, as amended [29 U.S.C. 49 et seq.], and of the necessary expenses of the Department of Labor for the performance of its functions under the provisions of such Act, as the President determines is an appropriate charge to the employment security administration account, and reflects in his annual budget for such year. The President's determination, after consultation with the Secretary, shall take into account such factors as the relationship between employment subject to State laws and the total labor force in the United States, the number of claimants and the number of job applicants, and such other factors as he finds relevant.

(d) Additional tax attributable to reduced credits; transfer of funds

(1) The Secretary of the Treasury is directed to transfer from the employment security administration account—

(A) To the Federal unemployment account, an amount equal to the amount by which—

(i) 100 per centum of the additional tax received under the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.] with respect to any State by reason of the reduced credits provisions of section 3302(c)(3) of such Act [26 U.S.C. 3302(c)(3)] and covered

into the Treasury for the repayment of advances made to the State under section 1321 of this title, exceeds

(ii) the amount transferred to the account of such State pursuant to subparagraph (B) of this paragraph.

Any amount transferred pursuant to this subparagraph shall be credited against, and shall operate to reduce, that balance of advances, made under section 1321 of this title to the State, with respect to which employers paid such additional tax.

(B) To the account (in the Unemployment Trust Fund) of the State with respect to which employers paid such additional tax, an amount equal to the amount by which such additional tax received and covered into the Treasury exceeds that balance of advances, made under section 1321 of this title to the State, with respect to which employers paid such additional tax.

(2) Transfers under this subsection shall be as of the beginning of the month succeeding the month in which the moneys were credited to the employment security administration account pursuant to subsection (b)(2) of this section.

(e) Revolving fund; appropriations; advances to the Account; repayment; interest

(1) There is established in the Treasury a revolving fund which shall be available to make the advances authorized by this subsection. There are authorized to be appropriated, without fiscal year limitation, to such revolving fund such amounts as may be necessary for the purposes of this section.

(2) The Secretary of the Treasury is directed to advance from time to time from the revolving fund to the employment security administration account such amounts as may be necessary for the purposes of this section. If the net balance in the employment security administration account as of the beginning of any fiscal year equals 40 percent of the amount of the total appropriation by the Congress out of the employment security administration account for the preceding fiscal year, no advance may be made under this subsection during such fiscal year.

(3) Advances to the employment security administration account made under this subsection shall bear interest until repaid at a rate equal to the average rate of interest (computed as of the end of the calendar month next preceding the date of such advance) borne by all interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest shall be the multiple of one-eighth of 1 per centum next lower than such average rate.

(4) Advances to the employment security administration account made under this subsection, plus interest accrued thereon, shall be repaid by the transfer from time to time, from the employment security administration account to the revolving fund, of such amounts as the Secretary of the Treasury, in consultation with the Secretary of Labor, determines to be available in the employment security administration account for such repayment. Any amount transferred as a repayment under this paragraph shall be credited against, and shall operate to reduce, any balance of advances (plus accrued interest) repayable under this subsection.

(f) Determination of excess in the Account; limitation on amount to be retained; use of balance in the Account during certain fiscal years; net balance

(1) The Secretary of the Treasury shall determine as of the close of each fiscal year (beginning with the fiscal year ending June 30, 1961) the excess in the employment security administration account.

(2)(A) Except as provided in subparagraph (B), the excess in the employment security administration account as of the close of any fiscal year is the amount by which the net balance in such account as of such time (after the application of section 1102(b) of this title) and paragraph (3)(C) of this subsection exceeds the net balance in the employment security administration account as of the beginning of that fiscal year (including the fiscal year for which the excess is being computed) for which the net balance was higher than as of the beginning of any other such fiscal year.

(B) With respect to the fiscal years ending June 30, 1970, June 30, 1971, and June 30, 1972, the balance in the employment security administration account at the close of each such fiscal year shall not be considered excess but shall be retained in the account for use as provided in paragraph (1) of subsection (c) of this section.

(3)(A) The excess determined as provided in paragraph (2) as of the close of any fiscal year after June 30, 1972, shall be retained (as of the beginning of the succeeding fiscal year) in the employment security administration account until the amount in such account is equal to 40 percent of the amount of the total appropriation by the Congress out of the employment security administration account for the fiscal year for which the excess is determined. Three-eighths of the amount in the employment security administration account as of the beginning of any fiscal year after June 30, 1972, or $150 million, whichever is the lesser, is authorized to be made available for such fiscal year pursuant to subsection (c)(1) of this section for additional costs of administration due to an increase in the rate of insured unemployment for a calendar quarter of at least 15 percent over the rate of insured unemployment for the corresponding calendar quarter in the immediately preceding year.

(B) If the entire amount of the excess determined as provided in paragraph (2) as of the close of any fiscal year after June 30, 1972, is not retained in the employment security administration account, there shall be transferred (as of the beginning of the succeeding fiscal year) to the extended unemployment compensation account the balance of such excess or so much thereof as is required to increase the amount in the extended unemployment compensation account to the limit provided in section 1105(b)(2) of this title.

(C) If as of the close of any fiscal year after June 30, 1972, the amount in the extended unemployment compensation account exceeds the

limit provided in section 1105(b)(2) of this title, such excess shall be transferred to the employment security administration account as of the close of such fiscal year.

(4) For the purposes of this section, the net balance in the employment security administration account as of any time is the amount in such account as of such time reduced by the sum of—

(A) the amounts then subject to transfer pursuant to subsection (d) of this section, and

(B) the balance of advances (plus interest accrued thereon) then repayable to the revolving fund established by subsection (e) of this section.

The net balance in the employment security administration account as of the beginning of any fiscal year shall be determined after the disposition of the excess in such account as of the close of the preceding fiscal year.

(Aug. 14, 1935, ch. 531, title IX, § 901, as added Aug. 5, 1954, ch. 657, § 2, 68 Stat. 668, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 521, 74 Stat. 970; May 8, 1961, Pub. L. 87-31, § 7, 75 Stat. 78; May 29, 1963, Pub. L. 88-31, § 1, 77 Stat. 51; Aug. 7, 1969, Pub. L. 91-53, § 3, 83 Stat. 93; Aug. 10, 1970, Pub. L. 91-373, title III, § 303, 84 Stat. 713; Apr. 21, 1976, Pub. L. 94-273, § 39, 90 Stat. 381; Oct. 20, 1976, Pub. L. 94-566, title II, § 211(c)(1), 90 Stat. 2676.)

References in Text

The Federal Unemployment Tax Act, referred to in subsecs. (b)(1), (3), (c)(1)(B)(ii), (2)(B), (3)(A), (d)(1)(A)(i), is act Aug. 16, 1954, ch. 736, §§ 3301 to 3311, 68A Stat. 439, which is classified generally to chapter 23 (§ 3301 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3311 of Title 26 and Tables volume.

The Act of June 6, 1933, as amended (29 U.S.C. 49-49n), referred to in subsec. (c)(1)(A)(ii), (B)(iii), (4), probably means act June 6, 1933, ch. 49, 48 Stat. 113, which is classified principally to chapter 4B (§ 49 et seq.) of Title 29, Labor. Sections 49m and 49n were not part of act June 6, 1933. For complete classification of this Act to the Code, see Tables volume.

Prior Provisions

A prior section 1101, act Aug. 14, 1935, ch. 531, title IX, § 901, 49 Stat. 639, related to imposition of tax. For further details, see Prior Law note preceding this section.

Amendments

1976—Subsec. (c)(3)(C). Pub. L. 94-566 limited existing provisions by making them applicable only in the case of calendar years for which the rate of tax under section 3301 of the Federal Unemployment Tax Act is 3.2 percent, designated the existing provisions as so amended as cl. (i) and added cl. (ii).

Subsec. (f)(3)(A). Pub. L. 94-273 struck out "fiscal" following "immediately preceding".

1970—Subsec. (c)(1). Pub. L. 91-373, § 303(a)(1), substituted "fiscal year ending June 30, 1971" for "fiscal year ending June 30, 1964", added reference to par. (4), struck out reference to the Temporary Unemployment Compensation Act of 1958, as amended, and substituted "section 2003 of title 38" for "section 2012 of title 38".

Subsec. (c)(2). Pub. L. 91-373, § 303(a)(2), struck out provision for the exclusion of amounts attributable to the Temporary Unemployment Compensation Act of 1958, as amended.

Subsec. (c)(3). Pub. L. 91-373, § 303(a)(3), changed the ceiling on the amount in the employment security administration account authorized for appropriation for state grants by making it 95 percent of the amount set forth in the budget of the United States Government as the amount by which the net receipts during the fiscal year are estimated to exceed the amount transferred to the extended unemployment compensation account under section 1105(b) of this title.

Subsec. (c)(4). Pub. L. 91-373, § 303(a)(4), added subsec. (c)(4).

Subsec. (d). Pub. L. 91-373, § 303(b), struck out reference to section 3302(c)(2) of the Federal Unemployment Tax Act in par. (1)(A)(i), struck out provision for separate application of par. (1) in years in which there was both a balance described in sections 3302(c)(2) and 3302(c)(3) of the Federal Unemployment Tax Act, redesignated par. (3) as par. (2), and struck out former par. (2) covering the transfer of funds from the employment security administration account to the general fund of the Treasury and to the state account, with respect to which employers paid additional tax, received by reason of the reduced credit provisions of section 1400c of this title.

Subsec. (e)(2). Pub. L. 91-373, § 303(c), substituted "equals 40 percent of the amount of the total appropriation by the Congress out of the employment security administration account of the preceding fiscal year" for "is $250,000,000".

Subsec. (f)(2)(A). Pub. L. 91-373, § 303(d)(1), inserted reference to par. (3)(C) of this subsection.

Subsec. (f)(3). Pub. L. 91-373, § 303(d)(2), revised the provisions for the distribution of any excess in the employment security administration account at the end of any fiscal year after June 30, 1972.

1969—Subsec. (c)(3). Pub. L. 91-53, § 3(a), eliminated subpar. (A) provisions limiting expenditures for fiscal year ending June 30, 1964, to 95 percent of amount estimated by the Secretary of Treasury as the net receipts during such fiscal year under the Federal Unemployment Tax Act, redesignated subpar. (B) provisions as par. (3) without restricting their application to fiscal years ending after June 30, 1964, increased the expenditure limitation by unexpended amount retained in the employment security administration account in accordance with subsec. (f)(2)(B) of this section, reenacted provision for estimate of net receipts, and eliminated dated provisions requiring the Secretary of Treasury to report to Congress his estimate under subpar. (A) within thirty days after May 29, 1963, the date of enactment of Pub. L. 88-31, and providing for its printing as a House document.

Subsec. (f)(2). Pub. L. 91-53, § 3(b), designated existing provisions as subpar. (A), inserted the introductory text "Except as provided in subparagraph (B)", and added subpar. (B).

1963—Subsec. (c). Pub. L. 88-31 substituted "June 30, 1964" for "June 30, 1961" in par. (1), "(not in excess of the limit provided by paragraph (3))" for "(not in excess of $350,000,000 for any fiscal year)" in par. (1)(A), and added par. (3).

1961—Subsec. (c)(1)(B). Pub. L. 87-31 added the provision relating to necessary expenses.

1960—Subsec. (a). Pub. L. 86-778 substituted the provision establishing the employment security administration account for former provision making an appropriation to the Unemployment Trust Fund for fiscal year ending June 30, 1954 and for each fiscal year thereafter, providing for transfer of funds from the general fund in the Treasury to the Unemployment Trust Fund at the close of the fiscal year, and adjustments in the transfers, and requiring the Secretary of the Treasury to consult with the Secretary of Labor with respect to estimates of employment security administrative expenditures.

Subsec. (b). Pub. L. 86-778 substituted provisions crediting the employment security administration with funds, and requiring transfer of funds, adjustments and repayment of internal revenue refunds for former provisions defining the term "employment security administrative expenditures", now incorporated in subsec. (c)(1)(A), (B), (2)(A) of this section.

Subsecs. (c) to (f). Pub. L. 86-778 added subsecs. (c) to (f).

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EFFECTIVE DATE OF 1976 AMENDMENT

Section 211(d)(3) of Pub. L. 94-566 provided that: "The amendments made by subsection (c) [amending sections 1101(c)(3)(C) and 1105(b)(1) of this title and section 6157(b) of Title 26, Internal Revenue Code] shall take effect on the date of enactment of this Act [Oct. 20, 1976]."

EFFECTIVE DATE OF 1970 AMENDMENT

Section 303(a) of Pub. L. 91-373 provided in part that the amendment of subsec. (c) by section 303(a) of Pub. L. 91-373 is effective with respect to fiscal years after June 30, 1970.

Section 303(c) of Pub. L. 91-373 provided in part that the amendment of subsec. (e)(2) by section 303(c) of Pub. L. 91-373 is effective July 1, 1972.

Section 303(d) of Pub. L. 91-373 provided in part that the amendment of subsec. (f) by section 303(d) of Pub. L. 91-373 is effective with respect to fiscal years after June 30, 1972.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 4(b) of Pub. L. 91-53 provided that: "The amendments made by section 3 [to subsecs. (c)(3) and (f)(2) of this section] shall take effect upon enactment of this Act [Aug. 7, 1969]."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsecs. (b), (c), and (f) of this section, see section 201(12) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, under subsecs. (e)(2) and (f)(3)(A) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 101(a) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 383, set out as a note under section 422 of this title.

INCREASE IN ADMINISTRATIVE EXPENDITURES LIMITATION FOR FISCAL YEAR 1963

Section 4 of Pub. L. 88-31 provided that notwithstanding subsec. (c)(1)(A) of this section, the limitation on the amount authorized to be available for the fiscal year ending June 30, 1963, for the purposes specified in subsec. (c)(1)(A), was increased to $407,148,000.

Pub. L. 87-582, title I, § 101, Aug. 14, 1962, 76 Stat. 363, provided that notwithstanding subsec. (c)(1)(A) of this section, the limitation on the amount authorized to be available for the fiscal year ending June 30, 1963, for the purposes specified in subsec. (c)(1)(A), was increased to $400,000,000.

INCREASE IN ADMINISTRATIVE EXPENDITURES LIMITATION FOR FISCAL YEARS 1961 AND 1962

Pub. L. 87-6, § 15, Mar. 24, 1961, 75 Stat. 16, provided that notwithstanding subsec. (c)(1)(A) of this section, the limitation on the amount authorized to be available for the fiscal years ending June 30, 1961 and June 30, 1962, for the purposes specified in subsec. (c)(1)(A), was increased to $385,000,000 and $415,000,000, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1103, 1105, 1321, 1323 of this title.

§ 1102. Transfers between Federal Unemployment Account and Employment Security Administration Account

(a) Determination of excess; amount transferred

Whenever the Secretary of the Treasury determines pursuant to section 1101(f) of this title that there is an excess in the employment security administration account as of the close of any fiscal year and the entire amount of such excess is not retained in the employment security administration account or transferred to the extended unemployment compensation account as provided in section 1101(f)(3) of this title, there shall be transferred (as of the beginning of the succeeding fiscal year) to the Federal unemployment account the balance of such excess or so much thereof as is required to increase the amount in the Federal unemployment account to whichever of the following is the greater:

(1) $550 million, or

(2) the amount (determined by the Secretary of Labor and certified by him to the Secretary of the Treasury) equal to one-eighth of 1 percent of the total wages subject (determined without any limitation on amount) to contributions under all State unemployment compensation laws for the calendar year ending during the fiscal year for which the excess is determined.

(b) Unemployment account excesses

The amount, if any, by which the amount in the Federal unemployment account as of the close of any fiscal year exceeds the greater of the amounts specified in paragraphs (1) and (2) of subsection (a) of this section shall be transferred to the employment security administration account as of the close of such fiscal year.

(c) Report to Congress

Whenever the Secretary of Labor has reason to believe that in the next fiscal year the employment security administration account will reach the limit provided for such account in section 1101(f)(3)(A) of this title, and the Federal unemployment account will reach the limit provided for such account in subsection (a) of this section, and the extended unemployment compensation account will reach the limit provided for such account in section 1105(b)(2) of this title, he shall, after consultation with the Secretary of the Treasury, so report to the Congress with a recommendation for appropriate action by the Congress.

(Aug. 14, 1935, ch. 531, title IX, § 902, as added Aug. 5, 1954, ch. 657, § 2, 68 Stat. 669, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 521, 74 Stat. 974; Aug. 10, 1970, Pub. L. 91-373, title III, § 304(a), (b), 84 Stat. 715, 716.)

PRIOR PROVISIONS

A prior section 1102, act Aug. 14, 1935, ch. 531, title IX, § 902, 49 Stat. 639, related to credit against tax. For further details, see Prior Law note preceding section 1101 of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-373, § 304(a), inserted, in the material preceding par. (1), reference to the retention of the entire amount of the excess in the employment security administration account or the transfer to the extended unemployment compensation account as provided in section 1101(f)(3) of this title

and, in par. (2), substituted "one-eighth of 1 percent" for "four-tenths of 1 per centum".

Subsec. (c). Pub. L. 91-373, § 304(b), added subsec. (c).

1960—Pub. L. 86-778 substituted provisions for transfers between Federal unemployment account and employment security administration account for former provisions crediting the Federal unemployment account with funds and defining the term "adjusted balance".

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, under subsec. (a) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 101(a) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 383, set out as a note under section 422 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1103, 1323 of this title.

§ 1103. Amounts transferred to State accounts

(a) Determination and certification by Secretary of Labor

(1) If as of the close of any fiscal year after the fiscal year ending June 30, 1972, the amount in the extended unemployment compensation account has reached the limit provided in section 1105(b)(2) of this title and the amount in the Federal unemployment account has reached the limit provided in section 1102(a) of this title and all advances pursuant to section 1105(d) of this title and section 1323 of this title have been repaid, and there remains in the employment security administration account any amount over the amount provided in section 1101(f)(3)(A) of this title, such excess amount, except as provided in subsection (b) of this section, shall be transferred (as of the beginning of the succeeding fiscal year) to the accounts of the States in the Unemployment Trust Fund.

(2) Each State's share of the funds to be transferred under this subsection as of any October 1—

(A) shall be determined by the Secretary of Labor and certified by him to the Secretary of the Treasury before that date on the basis of reports furnished by the States to the Secretary of Labor before September 1, and

(B) shall bear the same ratio to the total amount to be so transferred as the amount of wages subject to contributions under such State's unemployment compensation law during the preceding calendar year which have been reported to the State before August 1 bears to the total of wages subject to contributions under all State unemployment compensation laws during such calendar year which have been reported to the States before August 1.

(b) Transfer of funds where State is ineligible

(1) If the Secretary of Labor finds that on October 1 of any fiscal year—

(A) a State is not eligible for certification under section 503 of this title, or

(B) the law of a State is not approvable under section 3304 of title 26,

then the amount available for transfer to such State's account shall, in lieu of being so transferred, be transferred to the Federal unemployment account as of the beginning of such October 1. If, during the fiscal year beginning on such October 1, the Secretary of Labor finds and certifies to the Secretary of the Treasury that such State is eligible for certification under section 503 of this title, that the law of such State is approvable under such section 3304, or both, the Secretary of the Treasury shall transfer such amount from the Federal unemployment account to the account of such State. If the Secretary of Labor does not so find and certify to the Secretary of the Treasury before the close of such fiscal year then the amount which was available for transfer to such State's account as of October 1 of such fiscal year shall (as of the close of such fiscal year) become unrestricted as to use as part of the Federal unemployment account.

(2) The amount which, but for this paragraph, would be transferred to the account of a State under subsection (a) of this section or paragraph (1) of this subsection shall be reduced (but not below zero) by the balance of advances made to the State under section 1321 of this title. The sum by which such amount is reduced shall—

(A) be transferred to or retained in (as the case may be) the Federal unemployment account, and

(B) be credited against, and operate to reduce—

(i) first, any balance of advances made before September 13, 1960 to the State under section 1321 of this title, and

(ii) second, any balance of advances made on or after September 13, 1960 to the State under section 1321 of this title.

(c) Use of funds

(1) Except as provided in paragraph (2), amounts transferred to the account of a State pursuant to subsections (a) and (b) of this section shall be used only in the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

(2) A State may, pursuant to a specific appropriation made by the legislative body of the State, use money withdrawn from its account in the payment of expenses incurred by it for the administration of its unemployment compensation law and public employment offices if and only if—

(A) the purposes and amounts were specified in the law making the appropriation,

(B) the appropriation law did not authorize the obligation of such money after the close of the two-year period which began on the date of enactment of the appropriation law,

(C) the money is withdrawn and the expenses are incurred after such date of enactment, and

(D) the appropriation law limits the total amount which may be obligated during a twelve-month period (as prescribed in the law of the State), or during a transitional period of less than twelve months caused by a change in the twelve-month period (as prescribed in the law of the State), to an amount which does not exceed the amount by which

(i) the aggregate of the amounts transferred to the account of such State pursuant to subsections (a) and (b) of this section during such twelve-month period or transitional period of less than twelve months and the twenty-four preceding twelve-month periods (including the transitional period of less than twelve months if it is within such twenty-four twelve-month periods) exceeds (ii) the aggregate of the amounts used by the State pursuant to this subsection and charged against the amounts transferred to the account of such State during such twenty-four twelve-month periods (and the transitional period of less than twelve months if it is within the twenty-four twelve-month periods).

For the purposes of subparagraph (D), amounts used by a State during any twelve-month period or transitional period of less than twelve months shall be charged against equivalent amounts which were transferred and which have not previously been so charged; except that no amount obligated for administration during any such period may be charged against any amount transferred during a twelve-month period or transitional period of less than twelve months earlier than the twenty-fourth preceding twelve-month period (including the transitional period of less than twelve months if it is within such twenty-four twelve-month periods).

(Aug. 14, 1935, ch. 531, title IX, § 903, as added Aug. 5, 1954, ch. 657, § 2, 68 Stat. 670, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 521, 74 Stat. 974; May 29, 1963, Pub. L. 88-31, § 3, 77 Stat. 51; July 26, 1968, Pub. L. 90-430, 82 Stat. 447; Aug. 10, 1970, Pub. L. 91-373, title III, § 305(b), 84 Stat. 717; Dec. 29, 1971, Pub. L. 92-224, § 1, title II, § 204(c), 85 Stat. 810, 814; June 30, 1972, Pub. L. 92-329, § 2(d), 86 Stat. 398; Aug. 7, 1974, Pub. L. 93-368, § 4(b), 88 Stat. 420; Apr. 21, 1976, Pub. L. 94-273, §§ 2(20), 3(23), 23, 41, 90 Stat. 375, 377, 379, 381.)

PRIOR PROVISIONS

A prior section 1103, act Aug. 14, 1935, ch. 531, title IX, § 903, 49 Stat. 640, related to approval and certification of State laws. For further details, see Prior Law note preceding section 1101 of this title.

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-273, § 3(23) substituted "October" for "July".

Subsec. (a)(2)(A). Pub. L. 94-273, § 2(20), substituted "September" for "June".

Subsec. (a)(2)(B). Pub. L. 94-273, § 23, substituted "August" for "May" wherever appearing.

Subsec. (b)(1). Pub. L. 94-273, § 3(23), substituted "October" for "July".

Subsec. (c)(2). Pub. L. 94-273, § 41, in subpar. (D) and material following substituted provisions relating to determination based on a twelve-month period (as prescribed in the law of the State), or during a transitional period of less than twelve months caused by a change in the twelve-month period (as prescribed in the law of the State), for provisions relating to determination based on a fiscal year period.

1974—Subsec. (b)(3). Pub. L. 93-368 struck out par. (3) which related to reductions in the amount transferable to the account of any State by reason of emergency compensation paid to any individual for a week of unemployment ending after June 30, 1972.

1972—Subsec. (b)(3). Pub. L. 92-329 added provisions relating to reductions in the amount transferable to the account of any State by reason of emergency compensation paid to any individual for a week of unemployment ending after June 30, 1972.

1971—Subsec. (b)(3). Pub. L. 92-224, § 204(c), added par. (3).

Subsec. (c)(2). Pub. L. 92-224, § 1, substituted "twenty-four preceding fiscal years" and "such twenty-five fiscal years" for "fourteen preceding fiscal years" and "such fifteen fiscal years" in subpar. (D) of first sentence and "twenty-fourth preceding fiscal year" for "fourteenth preceding fiscal year" in second sentence.

1970—Subsec. (a)(1). Pub. L. 91-373 inserted references to the limits provided in sections 1102(a) and 1105(b)(2) of this title, advances pursuant to section 1105(d) of this title, and the amount provided in section 1101(f)(3)(A) of this title.

1968—Subsec. (c). Pub. L. 90-430 substituted in par. (2)(D)(i) "fourteen" for "nine", in par. (2)(D)(ii) "fifteen" for "ten", and in material following par. (2)(D) "fourteenth" for "ninth".

1963—Subsec. (c)(2). Pub. L. 88-31 substituted "nine preceding fiscal years" for "four preceding fiscal years", "ten fiscal years" for "five fiscal years" in clause (D), and "ninth preceding fiscal year" for "fourth preceding fiscal year" in the last sentence.

1960—Subsec. (a). Pub. L. 86-778 substituted the provisions of par. (1) for the first sentence of the section which read "So much of any amount transferred to the Unemployment Trust Fund at the close of any fiscal year under section 1101(a) of this title as is not credited to the Federal unemployment account under section 1102 of this title shall be credited (as of the beginning of the succeeding fiscal year) to the accounts of the States in the Unemployment Trust Fund" and designated existing provisions of the second sentence as part (2), substituting "transferred" for "credited" therein, and deleting "on or" preceding "before" in subpar. (A).

Subsec. (b). Pub. L. 86-778 redesignated existing provisions as par. (1) and clauses (1) and (2) thereof as subpars. (A) and (B), substituted "section 3304 of title 26" for "section 1603 of title 26", in two instances, and "transfer to such States' account", "transferred", and "transfer" for "crediting to such States' account", "credited" and "credit", respectively, except where already reading "shall transfer", and added par. (2).

Subsec. (c). Pub. L. 86-778 substituted "transferred" for "credited", wherever appearing, "obligation" for "expenditure" in par. (2)(B), "obligated" for "so used" in par. (2)(D), and "obligated for administration" for "used" in concluding par., inserted references to subsection (b) in pars. (1) and (2)(D), and deleted "any of" preceding "such five fiscal years" in par. (2)(D).

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsecs. (a)(1) and (b)(1) of this section, see section 201(12) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 1321 of this title; title 26 sections 3304, 3306.

§ 1104. Unemployment Trust Fund

(a) Establishment

There is established in the Treasury of the United States a trust fund to be known as the "Unemployment Trust Fund", hereinafter in this subchapter called the "Fund." The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment fund, or by the Railroad Retirement Board to the credit of the railroad unemployment insurance account or the railroad un-

employment insurance administration fund, or otherwise deposited in or credited to the Fund or any account therein. Such deposit may be made directly with the Secretary of the Treasury, with any depositary designated by him for such purpose, or with any Federal Reserve Bank.

(b) Investments

It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such issue, borne by all interest-bearing obligations of the United States then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Obligations other than such special obligations may be acquired for the Fund only on such terms as to provide an investment yield not less than the yield which would be required in the case of special obligations if issued to the Fund upon the date of such acquisition. Advances made to the Federal unemployment account pursuant to section 1323 of this title shall not be invested.

(c) Sale or redemption of obligations

Any obligations acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Treatment of interest and proceeds

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) Separate book accounts

The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency, the employment security administration account, the Federal unemployment account, the railroad unemployment insurance account, and the railroad unemployment insurance administration fund and shall credit quarterly (on March 31, June 30, September 30, and December 31, of each year) to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date. For the purpose of this subsection, the average daily balance shall be computed—

(1) in the case of any State account, by reducing (but not below zero) the amount in the account by the balance of advances made to the State under section 1321 of this title, and

(2) in the case of the Federal unemployment account—

(A) by adding to the amount in the account the aggregate of the reductions under paragraph (1), and

(B) by subtracting from the sum so obtained the balance of advances made under section 1323 of this title to the account.

(f) Payment to State agencies and Railroad Retirement Board

The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly requisition, not exceeding the amount standing to the account of such State agency at the time of such payment. The Secretary of the Treasury is authorized and directed to make such payments out of the railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment.

(g) Federal Unemployment Account; establishment; appropriations; unemployment administrative expenditures

There is established in the Unemployment Trust Fund a Federal unemployment account. There is authorized to be appropriated to such Federal unemployment account a sum equal to (1) the excess of taxes collected prior to July 1, 1946, under title IX of this Act or under the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.], over the total unemployment administrative expenditures made prior to July 1, 1946, plus (2) the excess of taxes collected under the Federal Unemployment Tax Act after June 30, 1946, and prior to July 1, 1953, over the unemployment administrative expenditures made after June 30, 1946, and prior to July 1, 1953. As used in this subsection, the term "unemployment administrative expenditures" means expenditures for grants under subchapter III of this chapter, expenditures for the administration of that subchapter by the Secretary of Health, Education, and Welfare, or the Secretary of Labor, and expenditures for the administration of title IX of this Act, or of the Federal Unemployment Tax Act, by the Department of the Treasury, the Secretary of Health, Education, and Welfare, or the Secretary of Labor. For the purposes of this subsection, there shall be deducted from the total amount of taxes collected prior to July 1, 1943, under title IX of this Act, the sum of $40,561,886.43 which was authorized to be appropriated by the Act of August 24, 1937 (50 Stat. 754), and the sum of $18,451,846 which was authorized to be appropriated by section 361(b) of title 45.

(Aug. 14, 1935, ch. 531, title IX, § 904, 49 Stat. 640; June 25, 1938, ch. 680, § 10(e)-(g), 52 Stat. 1104, 1105; Oct. 3, 1944, ch. 480, title IV, § 401,

58 Stat. 789; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 6, 1947, ch. 510, § 5(a), 61 Stat. 794; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F.R. 5325, 63 Stat. 1065; Aug. 28, 1950, ch. 809, title IV, § 404(b), 64 Stat. 560; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 5, 1954, ch. 657, § 5(b)-(f), 68 Stat. 673; Sept. 6, 1958, Pub. L. 85-927, pt. II, § 204, 72 Stat. 1782; Sept. 22, 1959, Pub. L. 86-346, title I, § 104(3), 73 Stat. 622; Sept. 13, 1960, Pub. L. 86-778, title V, § 521, 74 Stat. 976.)

References in Text

The Second Liberty Bond Act, as amended, referred to in subsec. (b), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

Title IX of this Act, referred to in subsec. (g), is title IX of act Aug. 14, 1935, ch. 531, §§ 901-903 and 905 to 910, 49 Stat. 639, which was classified generally to this subchapter (§ 1101 et seq.) and was omitted from the Code, with the exception of this section, pursuant to section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. For further details, see Prior Law note preceding section 1101 of this title.

The Federal Unemployment Tax Act, referred to in subsec. (g), is act Aug. 16, 1954, ch. 736, §§ 3301 to 3311, 68A Stat. 439, as amended, which is classified generally to chapter 23 (§ 3301 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3311 of Title 26 and Tables volume.

The Act of Aug. 24, 1937 (50 Stat. 754), referred to in subsec. (g), is act Aug. 24, 1937, ch. 755, 50 Stat. 754, which is set out as a note below.

Amendments

1960—Subsec. (a). Pub. L. 86-778 substituted "with any depositary designated by him for such purpose, or with any Federal Reserve Bank" for "or with any Federal Reserve bank or member bank of the Federal Reserve System designated by him for such purpose".

Subsec. (b). Pub. L. 86-778 substituted "Second Liberty Bond Act, as amended" and "section 1323" for "section 752 of title 31" and "section 1322(c)", respectively, and inserted "made" following "Advances".

Subsec. (e). Pub. L. 86-778 provided for the maintenance of a separate book account for the employment security administration account and substituted "balance of advances made to the State under section 1321 of this title" for "aggregate of the outstanding advances under section 1321 of this title from the Federal unemployment account" in par. (1) and "balance of advances made under section 1323 of this title to the account" for "aggregate of the outstanding advances from the Treasury to the account pursuant to section 1322(c) of this title".

Subsec. (g). Pub. L. 86-778 redesignated former subsec. (h) as (g).

1959—Subsec. (b). Pub. L. 86-346 substituted "on original issue at the issue price" for "on original issue at par".

1958—Subsec. (a). Pub. L. 85-927, § 204(a), inserted "or the railroad unemployment insurance administration fund".

Subsec. (e). Pub. L. 85-927, § 204(b), substituted "the railroad unemployment insurance account, and the railroad unemployment insurance administration fund" for "and the railroad unemployment insurance account".

Subsec. (f). Pub. L. 85-927, § 204(c), substituted "railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment" for "fund as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the railroad unemployment insurance account at the time of such payment".

1954—Subsec. (a). Act Aug. 5, 1954, § 5(b), substituted "or otherwise deposited in or credited to the Fund or any account therein" for "or deposited pursuant to appropriations to the Federal unemployment account".

Subsec. (b). Act Aug. 5, 1954, § 5(c), added last sentence beginning "Advances to the Federal unemployment account pursuant to section 1323 of this title shall not be invested".

Subsec. (e). Act Aug. 5, 1954, § 5(d), added "For the purposes of this subsection, the average daily balance shall be computed—

"(1) in the case of any State account, by reducing (but not below zero) the amount in the account by the aggregate of the outstanding advances under section 1201 from the Federal unemployment account, and

"(2) in the case of the Federal unemployment account, (A) by adding to the amount in the account the aggregate of the reductions under paragraph (1), and (B) by subtracting from the sum so obtained the aggregate of the outstanding advances from the Treasury to the account pursuant to section 1202(c)."

Subsec. (g). Act Aug. 5, 1954, § 5(e), repealed subsec. (g), which authorized Secretary of Treasury to make transfers from Federal unemployment account to account of any State in Unemployment Trust Fund.

Subsec. (h). Act Aug. 5, 1954, § 5(f), substituted a new clause (2) in the second sentence and repealed the third sentence: "Any amounts in the Federal unemployment account on April 1952, and any amounts repaid to such account after such date, shall be covered into the general fund of the Treasury."

1950—Subsec. (h). Act Aug. 28, 1950, substituted "prior to July 1, 1951", for "prior to July 1, 1949", "on July 1, 1951, and ending on December 31, 1951" for "on July 1, 1949, and ending on December 31, 1949" in clause (2) of the second sentence, and "April 1, 1952" for "April 1, 1950" in the third sentence.

1947—Subsec. (h). Act Aug. 6, 1947, amended subsec. (h) generally, and, among other changes, changed the periods for which excess of tax collections over administrative expenditures could be appropriated to the unemployment account, limited authorized appropriations for the unemployment account to the excess collections for the period ending Dec. 31, 1949, provided for amounts in such account on Apr. 1, 1950, and any repayments to the account after such date be covered into the general fund of the Treasury, and provided for an additional deduction of $18,451,846 from the total amount of taxes collected prior to July 1, 1943.

1944—Subsec. (a). Act Oct. 3, 1944, § 401(a), inserted a comma and "or deposited pursuant to appropriations to the Federal unemployment account" immediately following "unemployment insurance account" in the second sentence.

Subsec. (e). Act Oct. 3, 1944, § 401(b), inserted a comma and "the Federal unemployment account" immediately following "a separate book account for each State agency".

Subsecs. (g), (h). Act Oct. 3, 1944, § 401(c), added subsecs. (g) and (h).

1938—Subsec. (a). Act June 25, 1938, § 10(e), inserted "or by the Railroad Retirement Board to the credit of the railroad unemployment insurance account".

Subsec. (e). Act June 25, 1938, § 10(f), inserted "and the railroad unemployment insurance account".

Subsec. (f). Act June 25, 1938, § 10(g), added the second sentence.

Effective Date of 1958 Amendment

Amendment of subsecs. (a), (e), and (f) by Pub. L. 85-927 effective Sept. 6, 1958, except as otherwise indi-

cated, see section 207(c) of Pub. L. 85-927, set out as an Effective Date of 1958 Amendment note under section 351 of Title 45, Railroads.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 404(c) of act Aug. 28, 1950, provided that the amendment of subsec. (h) shall be effective as of January 1, 1950.

TERMINATION DATE

Section 4 of act Aug. 6, 1947, provided: "Section 603 of the War Mobilization and Reconversion Act of 1944 [formerly set out as a note under section 1651 of Appendix to Title 50, War and National Defense] (terminating the provisions of such Act [sections 1651 to 1678 of Appendix to title 50] on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such Act [to sections 1666 and 1667 of Appendix to Title 50] to the Social Security Act [sections 1104 and 1321 of this title]."

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953 set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

All functions of the Federal Security Administrator with respect to unemployment compensation, together with certain functions under the Federal Unemployment Tax Act, sections 3301 et seq. of Title 26, Internal Revenue Code, were transferred to the Secretary of Labor by section 1 of Reorg. Plan No. 2 of 1949, set out in the Appendix to Title 5, Government Organization and Employees.

All functions of the Social Security Board were transferred to the Federal Security Administrator, and the Social Security Board was abolished by section 4 of Reorg. Plan No. 2 of 1946, set out in the Appendix to Title 5.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency, see Transfer of Functions note under section 902 of this title.

PAYMENTS TO STATES

Act Aug. 24, 1937, ch. 755, 50 Stat. 754, provided for payments to States of 90 per cent of proceeds of the unemployment tax collected prior to Jan. 31, 1938, where State had enacted an approved unemployment-compensation law during 1937.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 1105 of this title; title 26 sections 3304, 3306; title 45 sections 360, 361, 363a, 366a.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 46-306, 46-314 of the District of Columbia Code.

§ 1105. Extended Unemployment Compensation Account

(a) Establishment

There is hereby established in the Unemployment Trust Fund an extended unemployment compensation account. For the purposes provided for in section 1104(e) of this title, such account shall be maintained as a separate book account.

(b) Transfers to account

(1) Except as provided by paragraph (3), the Secretary of the Treasury shall transfer (as of the close of July 1970, and each month thereafter), from the employment security administration account to the extended unemployment compensation account established by subsection (a) of this section, an amount determined by him to be equal, in the case of any month before April 1972, to one-fifth, and in the case of any month after March 1972, to one-tenth, of the amount by which—

(A) transfers to the employment security administration account pursuant to section 1101(b)(2) of this title during such month, exceed

(B) payments during such month from the employment security administration account pursuant to section 1101(b)(3) and (d) of this title.

If for any such month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (A), proper adjustments shall be made in the amounts subsequently transferred. In the case of any month after March 1977 and before April of the first calendar year to which paragraph (2) of section 3301 of the Federal Unemployment Tax Act applies, the first sentence of this paragraph shall be applied by substituting "five-fourteenths" for "one-tenth".

(2) Whenever the Secretary of the Treasury determines pursuant to section 1101(f) of this title that there is an excess in the employment security administration account as of the close of any fiscal year beginning after June 30, 1972, there shall be transferred (as of the beginning of the succeeding fiscal year) to the extended unemployment compensation account the total amount of such excess or so much thereof as is required to increase the amount in the extended unemployment compensation account to whichever of the following is the greater:

(A) $750,000,000, or

(B) the amount (determined by the Secretary of Labor and certified by him to the Secretary of the Treasury) equal to one-eighth of 1 percent of the total wages subject (determined without any limitation on amount) to contributions under all State unemployment compensation laws for the calendar year ending during the fiscal year for which the excess is determined.

(3) The Secretary of the Treasury shall make no transfer pursuant to paragraph (1) as of the close of any month if he determines that the amount in the extended unemployment compensation account is equal to (or in excess of) the limitation provided in paragraph (2).

(c) Transfers to state accounts

Amounts in the extended unemployment compensation account shall be available for transfer to the accounts of the States in the Unemployment Trust Fund as provided in section 204(e) of the Federal-State Extended Unemployment Compensation Act of 1970.

(d) Advances to account; repayment

There are hereby authorized to be appropriated, without fiscal year limitation, to the extended unemployment compensation account, as repayable advances (without interest), such sums as may be necessary to carry out the purposes of the Federal-State Extended Unemployment Compensation Act of 1970. Amounts ap-

propriated as repayable advances shall be repaid, without interest, by transfers from the extended unemployment compensation account to the general fund of the Treasury, at such times as the amount in the extended unemployment compensation account is determined by the Secretary of the Treasury, in consultation with the Secretary of Labor, to be adequate for such purpose. Any amount transferred as a repayment under this subsection shall be credited against, and shall operate to reduce, any balance of advances repayable under this subsection.

(Aug. 14, 1935, ch. 531, title IX, § 905, as added Mar. 24, 1961, Pub. L. 87-6, § 13, 75 Stat. 14, and amended May 29, 1963, Pub. L. 88-31, § 2(c), 77 Stat. 51; Aug. 10, 1970, Pub. L. 91-373, title III, § 305(a), 84 Stat. 716; June 30, 1972, Pub. L. 92-329, § 2(c), 86 Stat. 398; Oct. 20, 1976, Pub. L. 94-566, title II, § 211(c)(2), 90 Stat. 2677.)

REFERENCES IN TEXT

Paragraph (2) of section 3301 of the Federal Unemployment Tax Act, referred to in subsec. (b)(1), is paragraph (2) of section 3301 of Title 26, Internal Revenue Code.

The Federal-State Extended Unemployment Compensation Act of 1970, referred to in subsec. (d), is Pub. L. 91-373, title II, Aug. 10, 1970, 84 Stat. 708, which is set out as a note under section 3304 of Title 26, Internal Revenue Code. Section 204(e) of the Federal-State Extended Unemployment Compensation Act of 1970, referred to in subsec. (c), is also set out as a note under section 3304 of Title 26. For complete classification of this Act to the Code, see Tables volume.

PRIOR PROVISIONS

A prior section 1105, act Aug. 14, 1935, ch. 531, title IX, § 905, 49 Stat. 641, related to administration, refunds and penalties. For further details, see Prior Law note preceding section 1101 of this title.

AMENDMENTS

1976—Subsec. (b)(1). Pub. L. 94-566 substituted "In the case of any month after March 1977 and before April of the first calendar year to which paragraph (2) of section 3301 of the Federal Unemployment Tax Act applies, the first sentence of this paragraph shall be applied by substituting 'five-fourteenths' for 'one-tenth' " for "In the case of any month after March 1973 and before April 1974, the first sentence of this paragraph shall be applied by substituting 'thirteen fifty-eighths' for 'one-tenth' ".

1972—Subsec. (b)(1). Pub. L. 92-329 added provisions for transfers in the case of any month after March 1973 and before April 1974.

1970—Pub. L. 91-373 substituted provisions for an extended unemployment compensation account for provisions for a Federal extended compensation account.

1963—Subsec. (b). Pub. L. 88-31 inserted "(with respect to the calendar year 1963), or 5/12 (with respect to the calendar year 1964),".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-566 effective on Oct. 20, 1976, see section 211(d)(3) of Pub. L. 94-566, set out as an Effective Date of 1976 Amendment note under section 1101 of this title.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, under subsec. (b)(2)(B) of this section and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 101(a) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 383, set out as a note under section 422 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1102, 1103 of this title; title 26 section 3301.

§ 1106. Unemployment compensation research program

(a) The Secretary of Labor shall—

(1) establish a continuing and comprehensive program of research to evaluate the unemployment compensation system. Such research shall include, but not be limited to, a program of factual studies covering the role of unemployment compensation under varying patterns of unemployment including those in seasonal industries, the relationship between the unemployment compensation and other social insurance programs, the effect of State eligibility and disqualification provisions, the personal characteristics, family situations, employment background and experience of claimants, with the results of such studies to be made public; and

(2) establish a program of research to develop information (which shall be made public) as to the effect and impact of extending coverage to excluded groups with first attention to agricultural labor.

(b) To assist in the establishment and provide for the continuation of the comprehensive research program relating to the unemployment compensation system, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and for each fiscal year thereafter, such sums, not to exceed $8,000,000, as may be necessary to carry out the purposes of this section. From the sums authorized to be appropriated by this subsection the Secretary may provide for the conduct of such research through grants or contracts.

(Aug. 14, 1935, ch. 531, title IX, § 906, as added Aug. 10, 1970, Pub. L. 91-373, title I, § 141, 84 Stat. 705.)

PRIOR PROVISIONS

A prior section 1106, act Aug. 14, 1935, ch. 531, title IX, § 906, 49 Stat. 642, related to excusing payment of tax by engaging in interstate commerce. For further details, see Prior Law note preceding section 1101 of this title.

§ 1107. Personnel training

(a) Creation of program

In order to assist in increasing the effectiveness and efficiency of administration of the unemployment compensation program by increasing the number of adequately trained personnel, the Secretary of Labor shall—

(1) provide directly, through State agencies, or through contracts with institutions of higher education or other qualified agencies, organizations, or institutions, programs and courses designed to train individuals to prepare them, or improve their qualifications, for service in the administration of the unemployment compensation program, including claims determinations and adjudication, with

such stipends and allowances as may be permitted under regulations of the Secretary;

(2) develop training materials for and provide technical assistance to the State agencies in the operation of their training programs;

(3) under such regulations as he may prescribe, award fellowships and traineeships to persons in the Federal-State employment security agencies, in order to prepare them or improve their qualifications for service in the administration of the unemployment compensation program.

(b) Repayment of costs

The Secretary may, to the extent that he finds such action to be necessary, prescribe requirements to assure that any person receiving a fellowship, traineeship, stipend or allowance shall repay the costs thereof to the extent that such person fails to serve in the Federal-State employment security program for the period prescribed by the Secretary. The Secretary may relieve any individual of his obligation to so repay, in whole or in part, whenever and to the extent that such repayment would, in his judgment, be inequitable or would be contrary to the purposes of any of the programs established by this section.

(c) Detail of federal and state employees

The Secretary, with the concurrence of the State, may detail Federal employees to State unemployment compensation administration and the Secretary may concur in the detailing of State employees to the United States Department of Labor for temporary periods for training or for purposes of unemployment compensation administration, and the provisions of section 869b of title 20 or any more general program of interchange enacted by a law amending, supplementing, or replacing section 869b of title 20 shall apply to any such assignment.

(d) Authorization of appropriations

There are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and for each fiscal year thereafter such sums, not to exceed $5,000,000, as may be necessary to carry out the purposes of this section.

(Aug. 14, 1935, ch. 531, title IX, § 907, as added Aug. 10, 1970, Pub. L. 91-373, title I, § 141, 84 Stat. 705.)

REFERENCES IN TEXT

Section 869b of title 20, referred to in subsec. (c), was repealed by Pub. L. 91-648, title IV, § 403, Jan. 5, 1971, 84 Stat. 1925. Provisions relating to assignment of personnel to and from State and local governments are covered by section 3371 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1107, acts Aug. 14, 1935, ch. 531, title IX, § 907, 49 Stat. 642; June 25, 1938, ch. 680, § 13(a), 52 Stat. 1110, related to definitions. For further details, see Prior Law note preceding section 1101 of this title.

§ 1108. Federal Advisory Council

(a) Establishment; membership

The Secretary of Labor shall establish a Federal Advisory Council, of not to exceed 16 members including the chairman, for the purpose of reviewing the Federal-State program of unemployment compensation and making recommendations to him for improvement of the system.

(b) Appointment

The Council shall be appointed by the Secretary without regard to the civil service laws and shall consist of men and women who shall be representatives of employers and employees in equal numbers, and the public.

(c) Executive Secretary; secretarial, clerical, and other assistance; data

The Secretary may make available to the Council an Executive Secretary and secretarial, clerical, and other assistance, and such pertinent data prepared by the Department of Labor, as it may require to carry out its functions.

(d) Compensation

Members of the Council shall, while serving on business of the Council, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 for persons in government service employed intermittently.

(e) State advisory councils

The Secretary shall encourage the organization of similar State advisory councils.

(f) Authorization of appropriations

There are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and for each fiscal year thereafter such sums, not to exceed $100,000, as may be necessary to carry out the purposes of this section.

(Aug. 14, 1935, ch. 531, title IX, § 908, as added Aug. 10, 1970, Pub. L. 91-373, title I, § 141, 84 Stat. 706.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (b), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

Section 5703 of title 5, referred to in subsec. (d), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

PRIOR PROVISIONS

A prior section 1108, act Aug. 14, 1935, ch. 531, title IX, § 908, 49 Stat. 643, related to rules and regulations. For further details, see Prior Law note preceding section 1101 of this title.

A prior section 1109, act Aug. 14, 1935, ch. 531, title IX, § 909, 49 Stat. 643, related to an additional credit against tax. For further details, see Prior Law note preceding section 1101 of this title.

A prior section 1110, act Aug. 14, 1935, ch. 531, title IX, § 910, 49 Stat. 644, related to conditions of additional credit allowance. For further details, see Prior Law note preceding section 1101 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by

law. Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER X—GRANTS TO STATES FOR AID TO THE BLIND

Repeal of Subchapter X of This Chapter; Inapplicability of Repeal to Puerto Rico, Guam, and Virgin Islands

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this subchapter is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 428, 602, 1301, 1306a, 1308, 1309, 1311, 1315, 1316, 1318, 1319, 1382, 1382c, 1395v, 1396a, 1396b, 1396d, 1397b of this title; title 7 section 2012; title 29 section 981; title 31 section 665.

§ 1201. Authorization of appropriations

For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are blind and of encouraging each State, as far as practicable under such conditions, to furnish rehabilitation and other services to help such individuals attain or retain capability for self-support or self-care, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid to the blind.

(Aug. 14, 1935, ch. 531, title X, § 1001, 49 Stat. 645; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(b), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 313(a), 70 Stat. 849; July 25, 1962, Pub. L. 87-543, title I, § 104(c)(3), 76 Stat. 186.)

Repeal of Section

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

Amendments

1962—Pub. L. 87-543 inserted "to furnish rehabilitation and other services" preceding "to help such individuals" and "or retain capability for" following "attain".

1956—Act Aug. 1, 1956, restated the purpose to include assistance to individuals to attain self-support or self-care.

1950—Act Aug. 28, 1950, substituted "Federal Security Administrator" for "Social Security Board".

Transfer of Functions

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency, see Transfer of Functions note under section 902 of this title.

§ 1202. State plans for aid to blind

(a) A State plan for aid to the blind must (1) except to the extent permitted by the Secretary with respect to services, provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide (A) for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the blind is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing; (5) provide (A) such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low-income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency; (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this title or aid to families with dependent children under the State plan approved under section 602 of this title; (8) pro-

vide that the State agency shall, in determining need, take into consideration any other income and resources of the individual claiming aid to the blind, as well as any expenses reasonably attributable to the earning of any such income, except that, in making such determination, the State agency (A) shall disregard the first $85 per month of earned income, plus one-half of earned income in excess of $85 per month, (B) shall, for a period not in excess of twelve months, and may, for a period not in excess of thirty-six months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, and (C) may, before disregarding the amounts referred to in clauses (A) and (B), disregard not more than $7.50 of any income; (9) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan; (10) provide that, in determining whether an individual is blind there shall be an examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (11) effective July 1, 1951, provide that all individuals wishing to make application for aid to the blind shall have opportunity to do so, and that aid to the blind shall be furnished with reasonable promptness to all eligible individuals; (12) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; and (13) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational arrangement it finds appropriate for this purpose) to applicants for and recipients of aid to the blind to help them attain self-support or self-care, including a description of the steps taken to assure, in the provisions of such services, maximum utilization of other agencies providing similar or related services.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

(2) Any citizenship requirement which excludes any citizen of the United States.

At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this subchapter. In the case of any State (other than Puerto Rico and the Virgin Islands) which did not have on January 1, 1949, a State plan for aid to the blind approved under this subchapter, the Secretary shall approve a plan of such State for aid to the blind for purposes of this subchapter, even though it does not meet the requirements of clause (8) of subsection (a) of this section, if it meets all other requirements of this subchapter for an approved plan for aid to the blind; but payments under section 1203 of this title shall be made, in the case of any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of section 1203 of this title under a plan approved under this section without regard to the provisions of this sentence.

(Aug. 14, 1935, ch. 531, title X, § 1002, 49 Stat. 645; Aug. 10, 1939, ch. 666, title VII, § 701, 53 Stat. 1397; Aug. 28, 1950, ch. 809, title III, pt. 4, § 341(a)-(e), pt. 6, § 361(c), (d), 64 Stat. 553, 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 313(b), 70 Stat. 849; Sept. 13, 1960, Pub. L. 86-778, title VII, § 710, 74 Stat. 997; July 25, 1962, Pub. L. 87-543, title I, §§ 104(a)(3)(H), 106(a)(2), 136(a), 154, 76 Stat. 185, 188, 197, 206; Oct. 13, 1964, Pub. L. 88-650, § 5(a), 78 Stat. 1078; July 30, 1965, Pub. L. 89-97, title IV, § 403(c), 79 Stat. 418; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 210(a)(3), 213(a)(2), 81 Stat. 895, 898; Oct. 30, 1972, Pub. L. 92-603, title IV, §§ 405(b), 406(b), 407(b), 410(b), 413(b), 86 Stat. 1488, 1491, 1492.)

Repeal of Section

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

Amendments

1972—Subsec. (a)(1). Pub. L. 92-603, § 410(b), added "except to the extent permitted by the Secretary with respect to services," preceding "provide".

Subsec. (a)(4). Pub. L. 92-603, § 407(b), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (a)(9). Pub. L. 92-603, § 413(b), substituted provisions permitting the use or disclosure of information concerning applicants or recipients to public officials requiring such information in connection with their official duties and to other persons for purposes directly connected with the administration of the State plan, for provisions restricting the use or disclosure of such information to purposes directly connected with the administration of aid to the blind.

Subsec. (a)(13). Pub. L. 92-603, § 405(b), added provision relating to the use of whatever internal organizational arrangement found appropriate.

Subsec. (b). Pub. L. 92-603, § 406(b), added provision relating to the furnishing of manuals and other policy issuances to persons without charge and at the option of the State.

1968—Subsec. (a)(5). Pub. L. 90-248, § 210(a)(3), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(8)(C). Pub. L. 90-248, § 213(a)(2), increased from $5 to $7.50 limitation on amount of any income which the State may disregard in making its determination of need.

1965—Subsec. (a)(8). Pub. L. 89-97 added clause (C).

1964—Subsec. (a)(8). Pub. L. 88-650 permitted the State agency, for a period not in excess of thirty-six

months to disregard such additional amounts of other income and resources.

1962—Subsec. (a)(7). Pub. L. 87-543, § 104(a)(3)(H), substituted "aid to families with dependent children" for "aid to dependent children".

Subsec. (a)(8). Pub. L. 87-543, §§ 106(a)(2), 154, inserted the words, ", as well as any expenses reasonably attributable to the earning of any such income", and amended the exception provision by eliminating "either (i) the first $50 per month of earned income, or" following "disregard", redesignating clause (ii) as subpar. (A) and adding subpar. (B).

Subsec. (b). Pub. L. 87-543, § 136(a), provided for approval of certain plans of States, without an approved plan on Jan. 1, 1949, meeting all but income and resources requirements, and payment of certain expenditures under such plans.

1960—Subsec. (a)(8). Pub. L. 86-778, § 710(b), eliminated provision that required the State agency to disregard, alternatively, the first $50 per month of earned income in considering claimant's income and resources in determining need.

Pub. L. 86-778, § 710(a), inserted provision that required the State agency to disregard, alternatively, the first $85 per month of earned income plus one-half of earned income in excess of $85 per month in considering claimant's income and resources in determining need.

1956—Subsec. (a)(13). Act Aug. 1, 1956, added cl. (13).

1950—Subsec. (a)(4). Act Aug. 28, 1950, § 341(a), substituted "provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the blind is denied or is not acted upon with reasonable promptness" for "provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency".

Subsec. (a)(7). Act Aug. 28, 1950, § 341(b), added "or aid to dependent children under the State plan approved under section 302 of this title".

Subsec. (a)(8). Act Aug. 28, 1950, § 341(c)(1), (d), added exception clause, and struck out "and" preceding subsec. (a)(9).

Subsec. (a)(9). Act Aug. 28, 1950, § 341(d), substituted a comma for a period at the end thereof.

Subsec. (a)(10) to (12). Act Aug. 28, 1950, § 341(d), added cls. (10) to (12).

Subsec. (b). Act Aug. 28, 1950, § 361(c), (d), substituted "Administrator" for "Board" and "he" for "it".

1939—Subsec. (a)(5). Act Aug. 10, 1939, § 701(a), inserted after "methods of administration" the phrase "(including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Board shall exercise no authority with respect)", and "proper" before "and efficient operation of the plan".

Subsec. (a)(8), (9). Act Aug. 10, 1939, § 701(b), added cls. (8) and (9).

Effective Date of 1968 Amendment

Amendment of subsec. (a)(5) by section 210(a)(3) of Pub. L. 90-248 effective July 1, 1969, or, if earlier (with respect to a State's plan approved under this subchapter) on the date as of which the modification of the State plan to comply with such amendment is approved, see section 210(b) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 302 of this title.

Effective Date of 1965 Amendment

Section 403(c) of Pub. L. 89-97 provided in part that the amendment of subsec. (a)(8) by said section was effective Oct. 1, 1965.

Effective Date of 1962 Amendment

Amendment of subsec. (a)(8) by section 106 of Pub. L. 87-543 effective July 1, 1963, see section 202(a) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 302 of this title.

Section 154 of Pub. L. 87-543 provided in part that the amendment of the exception provision of subsec. (a)(8) by section 154 shall be effective July 1, 1963.

Effective Date of 1960 Amendment

Section 710(a) of Pub. L. 86-778 provided that the amendment of subsec. (a)(8) by section 710(a) of Pub. L. 86-778 shall be effective for the period beginning with the first day of the calendar quarter which begins after Sept. 13, 1960, and ending with the close of June 30, 1962.

Section 710(b) of Pub. L. 86-778 provided in part that the amendment of subsec. (a)(8) by section 710(b) of Pub. L. 86-778 shall be effective July 1, 1962.

Effective Date of 1956 Amendment

Amendment by act Aug. 1, 1956, effective July 1, 1957, see section 314 [315] of act Aug. 1, 1956, set out as an Effective Date of 1956 Amendment note under section 302 of this title.

Effective and Termination Dates of 1950 Amendment

Section 341(f) of act Aug. 28, 1950, provided in part that the amendment of subsection (a)(4) shall take effect July 1, 1951, and the amendments of subsecs. (a)(7) and (a)(9) and the addition of subsecs. (a)(10) to (12) shall become effective Oct. 1, 1950.

Section 341(c)(2) of act Aug. 28, 1950, provided that effective July 1, 1952, subsec. (a)(8) is amended to read as follows: "(8) provide that the State agency shall, in determining need, take into consideration any other income and resources of the individual claiming aid to the blind; except that, in making such determination, the State agency shall disregard the first $50 per month of earned income;".

Section 341(c)(1) of act Aug. 28, 1950, provided in part that the amendment of subsection (a)(8) shall be effective for the period beginning Oct. 1, 1950, and ending June 30, 1952.

Section 341(e) of act Aug. 28, 1950, provided that effective July 1, 1952 subsection (a)(10) is amended to read as follows: "(10) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;".

Effective Date of 1939 Amendment

Amendment by act Aug. 10, 1939, adding cls. (8), (9) to subsec. (a), was made effective July 1, 1941, by section 701(b) of act Aug. 10, 1939. Subsec. (a)(5) was also amended by section 701(a) of act Aug. 10, 1939, but without any special provision regarding its effective date.

Transfer of Functions

Functions, powers, and duties of Secretary of Health, Education, and Welfare, under subsec. (a)(5)(A) of this section, insofar as relates to the prescription of personnel standards on a merit basis, transferred to United States Civil Service Commission, see section 4728(a)(3)(D) of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency, see Transfer of Functions note under section 902 of this title.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962, deemed to have been conformed to amendment of subsec. (a)(7) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

PUBLIC ACCESS TO STATE DISBURSEMENT RECORDS

Public access to State records of disbursements of funds and payments under this subchapter, see note under section 302 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1203, 1204, 1206, 1315, 1352, 1382a, 4728 of this title; title 25 sections 683, 686, 689, 996.

§ 1202a. Repealed. Pub. L. 87-543, title I, § 136(b), July 25, 1962, 76 Stat. 197

Section, act Aug. 28, 1950, ch. 809, title III, pt. 4, § 344(a), 64 Stat. 554, provided, in the case of any State without a plan for aid to the blind approved on Jan. 1, 1949, for approval of the plan of such a State conforming to all requirements except those relating to determination of need and consideration of resources but conditioned payments to the State meeting the excepted requirement.

EFFECTIVE AND TERMINATION DATES

Section 136(b) of Pub. L. 87-543 also repealed section 344(b) of act Aug. 28, 1950, as amended Sept. 1, 1954, ch. 1206, title III, § 302, 68 Stat. 1097; Apr. 25, 1957, Pub. L. 85-26, 71 Stat. 27; Aug. 28, 1958, Pub. L. 85-840, title V, § 509, 72 Stat. 1051; Sept. 13, 1960, Pub. L. 86-778, title VII, § 706, 74 Stat. 995, which provided that this section should become effective Oct. 1, 1950 and terminate June 30, 1964.

§ 1203. Payment to States

(a) Authorization of payments

From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $^{3}/_{37}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $37 multiplied by the total number of recipients of aid to the blind for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the blind in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the blind in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of $75 multiplied by the total number of such recipients of aid to the blind for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the blind for such month; and

(3) in the case of any State whose State plan approved under section 1202 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c)(1) of this section and are provided (in accordance with the next sentence) to applicants for or recipients of aid to the blind to help them attain or retain capability for self-support or self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c)(1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid to the blind, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid to the blind, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely

to become applicants for or recipients of such aid; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided,* That no funds authorized under this subchapter shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(4) in the case of any State whose State plan approved under section 1202 of this title does not meet the requirements of subsection (c)(1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (3) and provided in accordance with the provisions of such paragraph.

(b) Computation of amounts

The method of computing and paying such amounts shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of blind individuals in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which he finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) of this section for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during a prior quarter by the State or any political subdivision thereof with respect to aid to the blind furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided,* That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department, and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c) Eligible States

(1) In order for a State to qualify for payments under paragraph (3) of subsection (a) of this section, its State plan approved under section 1202 of this title must provide that the State agency shall make available to applicants for or recipients of aid to the blind at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency ad-

ministering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (3) of subsection (a) of this section until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (3) of subsection (a) of this section but shall instead be made, subject to the other provisions of this subchapter, under paragraph (4) of such subsection.

(Aug. 14, 1935, ch. 531, title X, § 1003, 49 Stat. 646; Aug. 10, 1939, ch. 666, title VII, § 702, 53 Stat. 1397; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; Aug. 10, 1946, ch. 951, title V, § 503, 60 Stat. 992; June 14, 1948, ch. 468, § 3(c), 62 Stat. 439; Aug. 28, 1950, ch. 809, title III, pt. 4, § 342(a), pt. 6, § 361(c), (d), 64 Stat. 553, 558; July 18, 1952, ch. 945, § 8(c), 66 Stat. 779; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title III, § 303(a), 68 Stat. 1097; Aug. 1, 1956, ch. 836, title III, §§ 303, 313(c), 343, 70 Stat. 847, 849, 853; Aug. 28, 1958, Pub. L. 85-840, title V, § 503, 72 Stat. 1049; June 30, 1961, Pub. L. 87-64, title III, § 303(b), 75 Stat. 143; July 25, 1962, Pub. L. 87-543, title I, §§ 101(a)(3), (b)(3), 132(b), 76 Stat. 176, 180, 195; July 30, 1965, Pub. L. 89-97, title I, § 122, title IV, § 401(d), 79 Stat. 353, 415; Jan. 2, 1968, Pub. L. 90-248, title II, § 212(b), 81 Stat. 897; Oct. 20, 1972, Pub. L. 92-512, title III, § 301(b), (d), 86 Stat. 946, 947; Jan. 4, 1975, Pub. L. 93-647, §§ 3(e)(2), 5(c), 88 Stat. 2349, 2350.)

Repeal of Section

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

References in Text

Part B of subchapter XVIII of this chapter, referred to in subsec. (a)(1), (2), is classified to section 1395j et seq. of this title.

The Vocational Rehabilitation Act, referred to in subsec. (a)(3)(D), (E), is act June 2, 1920, ch. 219, 41 Stat. 735, which was classified generally to chapter 4 (§ 31 et seq.) of this title and was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 357. The Rehabilitation Act of 1973 is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. Section 500(a), classified to section 790 of this title, provided in part that reference to the Vocational Rehabilitation Act in any other provision of law be deemed references to the Rehabilitation Act of 1973.

Amendments

1975—Subsec. (a). Pub. L. 93-647, § 3(e)(2), struck out "(subject to section 1320b of this title)" after "the Secretary of the Treasury shall".

Subsec. (a)(3)(A)(iv). Pub. L. 93-647, § 5(c), added "(including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions)" after "training".

1972—Subsec. (a). Pub. L. 92-512, § 301(d), substituted "shall (subject to section 1320b of this title) pay" for "shall pay" in the provisions preceding par. (1).

Subsec. (a)(3)(E). Pub. L. 92-512, § 301(b), substituted "under conditions which shall be" for "subject to limitations".

1968—Subsec. (a)(3)(D). Pub. L. 90-248 inserted ", except to the extent specified by the Secretary" following "shall" in the introductory text to subpar. (D).

1965—Subsec. (a)(1). Pub. L. 89-97, §§ 122, 401(d), inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase appearing in so much of par. (1) as precedes clause (A); and substituted "31/37" and "$37" for "29/35" and "$35" in subpar. (A) and "$75" for "$70" in subpar. (B), respectively.

Subsec. (a)(2). Pub. L. 89-97, § 122, inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase.

1962—Subsec. (a)(1). Pub. L. 87-543, § 132(b), substituted "29/35" and "$35" for "four-fifths" and "$31", respectively, in subpar. (A) and "$70" for "$66" in subpar. (B).

Subsec. (a)(2). Pub. L. 87-543, § 132(b), substituted "$37.50" for "$35.50".

Subsec. (a)(3). Pub. L. 87-543, § 101(a)(3), (b)(3)(A), inserted in the opening provisions "whose State plan approved under section 1202 of this title meets the requirements of subsection (c)(1) of this section" followed "any State", and substituted provisions which increased the Federal share of expenses of administration of State public assistance plans by providing quarterly payments of the sum of 75 per centum of the quarterly expenses for certain prescribed services to help attain and retain capability for self-support or self-care, services likely to prevent or reduce dependency, and services appropriate for individuals who were or are likely to become applicants for or recipients of aid to the blind and request such services, and training of State or local public assistance personnel administering such plans and one-half of other administrative expenses for other services, permitted State health or vocational rehabilitation or other appropriate State agencies to furnish such services, except vocational rehabilitation services, and required the determination of the portion of expenses covered by the 75 and 50 per centum provisions in accordance with methods and procedures permitted by the Secretary for former provisions requiring quarterly payments of one-half of quarterly expenses of administration of State plans, including staff service of State or local public assistance agencies to applicants for and recipients of aid to the blind to help them attain self-support or self-care.

Subsec. (a)(4). Pub. L. 87-543, § 101(b)(3)(B), added subsec. (a)(4).

Subsec. (c). Pub. L. 87-543, § 101(b)(3)(C), added subsec. (c).

1961—Subsec. (a). Pub. L. 87-64 substituted "$31" for "$30" and "$66" for "$65" in cl. (1), and "$35.50" for "$35" in cl. (2).

1958—Subsec. (a). Pub. L. 85-840 increased the payments to the States to four-fifths of the first $30 of the average monthly payment per recipient including assistance in the form of money payments and in the form of medical or any other type of remedial care, plus the Federal percentage of the amount by which the expenditures exceed the maximum which may be counted under cl. (A), but excluding that part of the average monthly payment per recipient in excess of $65, increased the average monthly payment to Puerto Rico and the Virgin Islands from $30 to $35, excluded Guam from the provisions which authorize an average monthly payment of $65 and included Guam within

the provisions which authorize an average monthly payment of $35, and permitted the counting of individuals with respect to whom expenditures were made as old-age assistance in the form of medical or any other type of remedial care in determining the total number of recipients.

1956—Subsec. (a). Act Aug. 1, 1956, § 303, substituted "during such quarter as aid to the blind in the form of money payments under the State plan" for "during such quarter as aid to the blind under the State plan" in cls. (1) and (2), "who received aid to the blind in the form of money payments for such month" for "who received aid to the blind for such month" in par. (a) of cl. (1), and inserted cl. (4).

Act Aug. 1, 1956, § 313(c), eliminated ", which shall be used exclusively as aid to the blind," following "the Virgin Islands, an amount" in cls. (1) and (2), and substituted "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of aid to the blind to help them attain self-support or self-care" for "which amount shall be used for paying the costs of administering the State plan or for aid to the blind, or both, and for no other purpose" in cl. (3).

Act Aug. 1, 1956, § 343, substituted "October 1, 1956" for "October 1, 1952", eliminated ", which shall be used exclusively as aid to the blind," following "the Virgin Islands, an amount" in cls. (1) and (2), substituted "$60" for "$55," "the product of $30" for "the product of $25", "Secretary of Health, Education, and Welfare" for "Secretary", and "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of aid to the blind to help them attain self-support or self-care" for "which amount shall be used for paying the costs of administering the State plan or for aid to the blind, or both, and for no other purpose".

1954—Subsec. (b)(1). Act Sept. 1, 1954, substituted "the State's proportionate share" for "one-half".

1952—Subsec. (a). Act July 18, 1952, increased the Federal share of the State's average monthly payment to four-fifths of the first $25 plus one-half of the remainder within individual maximums of $55, and changed formulas for computing the Federal share of public assistance for Puerto Rico and the Virgin Islands.

1950—Subsec. (a). Act Aug. 28, 1950, § 342(a), provided a new method of computation of the Federal portion of aid to the blind.

Subsec. (b). Act Aug. 28, 1950, § 361(c), (d), substituted "Administrator" for "Board".

1948—Subsec. (a). Act June 14, 1948, substituted "$50" for "$45" and "$20" for "$15".

1946—Subsec. (a). Act Aug. 10, 1946, § 503(a), increased the maximum monthly State expenditure to which the Federal government will contribute from $40 to $45 and increased the Federal contribution for aid to the blind from one-half the State's expenditure to two-thirds such expenditure up to $15 monthly per individual plus one-half the State's expenditure over $15.

Subsec. (b). Act Aug. 10, 1946, § 503(b), substituted "the State's proportionate share" for "one-half" in par. (1).

1939—Act Aug. 10. 1939, amended section generally.

Effective Date of 1975 Amendment

Amendment by section 3 of Pub. L. 93-647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

Amendment by section 5 of Pub. L. 93-647 effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

Effective Date of 1972 Amendment

Amendment of provisions prec. par. (1) of subsec. (a) and subsec. (a)(3)(E) by Pub. L. 92-512 effective July 1, 1972, and Jan. 1, 1973, respectively, see section 301(e) of Pub. L. 92-512, set out as a note under section 303 of this title.

Effective Date of 1968 Amendment

Amendment by Pub. L. 90-248 effective Jan. 1, 1968, see section 212(e) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 303 of this title.

Effective Date of 1965 Amendment

Amendment of subsec. (a)(1) by section 401 of Pub. L. 89-97 applicable in the case of expenditures made after December 31, 1965, under a State plan approved under subchapters I, IV, X, XIV, or XVI of this chapter, see section 401(f) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 303 of this title.

Effective Date of 1962 Amendment

Amendment of subsec. (a)(1), (2) by section 132(b) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Sept. 30, 1962, see section 202(d) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 303 of this title.

Amendment of subsec. (a)(3) by section 101(a)(3) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be made after Aug. 31, 1962, and addition of subsecs. (a)(4) and (c) and amendment of subsec. (a)(3) by section 101(b)(3)(A) to (C) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 303 of this title.

Effective Date of 1961 Amendment

Amendment of subsec. (a) by Pub. L. 87-64 applicable only in the case of expenditures made after Sept. 30, 1961, and before July 1, 1962, under a State plan approved under subchapters I, X, or XIV of this chapter, see section 303(e) of Pub. L. 87-64, set out as an Effective Date of 1961 Amendment note under section 303 of this title.

Effective Date of 1958 Amendment

For effective date of amendment by Pub. L. 85-840, see section 512 of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 303 of this title.

Effective and Termination Date of 1956 Amendment

Amendment of subsec. (a) by section 343 of act Aug. 1, 1956, effective only for the period beginning Oct. 1, 1956, and ending with the close of June 30, 1959, see section 345 of act Aug. 1, 1956, set out as an Effective and Termination Date of 1956 Amendment note under section 303 of this title.

Effective Date of 1956 Amendment

Amendment by section 303 of act Aug. 1, 1956, effective July 1, 1957, see section 305 of act Aug. 1, 1956, set out as an Effective Date of 1956 Amendment note under section 303 of this title.

Effective and Termination Date of 1952 Amendment

Amendment of subsec. (a) effective for the period beginning Oct. 1, 1952 and ending Sept. 30, 1958, see section 8(e) of act July 18, 1952, set out as an Effective and Termination Date of 1952 Amendment note under section 303 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 342(b) of act Aug. 28, 1950, provided that the amendment of subsec. (a) shall take effect as of Oct. 1, 1950.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 3(d) of act June 14, 1948, provided that the amendment of subsec. (a) by section 3(b) of act June 14, 1948, shall become effective on Oct. 1, 1948.

EFFECTIVE AND TERMINATION DATE OF 1946 AMENDMENT

Amendment by section 503 of act Aug. 10, 1946, effective only for the period beginning Oct. 1, 1946, and ending with the close of June 30, 1950, see paraphrase of section 504 of act Aug. 10, 1946, as amended by act Aug. 6, 1947, set out as a Termination Date of 1946 Amendment note under section 303 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 702 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency, see Transfer of Functions note under section 902 of this title.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by Reorg. Plan No. III of 1940, set out in the Appendix to Title 5, Government Organization and Employees.

NONDUPLICATION OF PAYMENTS TO STATES, PROHIBITION OF PAYMENTS AFTER DECEMBER 31, 1969

Prohibition of payments under this subchapter to States with respect to aid or assistance in form of medical or other type of remedial care for any period for which States received payments under subchapter XIX of this chapter or for any period after Dec. 31, 1969, see section 121(b) of Pub. L. 89-97, set out as a note under section 1396b of this title.

ELECTION OF PAYMENTS UNDER COMBINED STATE PLAN RATHER THAN SEPARATE PLANS

Payments to States under combined State plan under subchapter XVI of this chapter as precluding payment under State plan conforming to this subchapter, see section 141(b) of Pub. L. 87-543.

CROSS REFERENCES

Navajo and Hopi Indians, additional Federal contributions in connection with rehabilitation program, see section 639 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 643, 1202, 1315, 1318, 1319, 1397a of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 3-217 of the District of Columbia Code.

§ 1204. Operation of State plans

In the case of any State plan for aid to the blind which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1202(b) of this title, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1202 of this title to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

(Aug. 14, 1935, ch. 531, title X, § 1004, 49 Stat. 646; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Jan. 2, 1968, Pub. L. 90-248, title II, § 245, 81 Stat. 918.)

REPEAL OF SECTION

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1968—Pub. L. 90-248 inserted "(or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure)" after "further payments will not be made to the State" and substituted in last sentence "further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure)" for "further certification to the Secretary of the Treasury with respect to such State".

1950—Act Aug. 28, 1950, substituted "Administrator" for "Board" and "his" for "its".

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency, see Transfer of Functions note under section 902 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1316 of this title.

§ 1205. Omitted

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title X, § 1005, 49 Stat. 647, made available $30,000 for the fiscal year ending June 30, 1936, for expenses in administering sections 1201 to 1204 of this title.

REPEALS

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section was repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

§ 1206. "Aid to the blind" defined

For the purposes of this subchapter, the term "aid to the blind" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, blind individuals who are needy, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases. Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State, whose State plan approved under section 1202 of this title includes provision for—

(1) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(2) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the blind to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(3) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(4) periodic review by such State agency of the determination under paragraph (1) of this subsection to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that such action will best serve the interests of such needy individual; and

(5) opportunity for a fair hearing before the State agency on the determination referred to in paragraph (1) of this subsection for any individual with respect to whom it is made.

At the option of a State (if its plan approved under this subchapter so provides), such term (i) need not include money payments to an individual who has been absent from such State for a period in excess of 90 consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for 30 consecutive days in the case of such an individual who has maintained his residence in such State during such period or 90 consecutive days in the case of any other such individual, and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan.

(Aug. 14, 1935, ch. 531, title X, § 1006, 49 Stat. 647; Aug. 10, 1939, ch. 666, title VII, § 703, 53 Stat. 1398; Aug. 28, 1950, ch. 809, title III, pt. 4, § 343(a), 64 Stat. 554; July 25, 1962, Pub. L. 87-543, title I, § 156(c), 76 Stat. 207; July 30, 1965, Pub. L. 89-97, title II, § 221(b), title IV, § 402(c), 79 Stat. 358, 416; Oct. 30, 1972, Pub. L. 92-603, title IV, §§ 408(b), 409(b), 86 Stat. 1490.)

REPEAL OF SECTION

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1972—Pub. L. 92-603 authorized the State, at its option, to include within the term "aid to the blind" provisions relating to money payments to an individual absent from such State for more than 90 consecutive days, and provisions relating to rent payments made directly to a public housing agency.

1965—Pub. L. 89-97 deleted from the definition of "aid to the blind" the exclusion of payments to or medical care in behalf of any individual who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof; and extended the definition of "aid to the blind" to include payments made on behalf of the needy individual to another individual who (as determined in accordance with standards determined by the Secretary) is interested in or concerned with the welfare of such needy individual and enumerated the five characteristics required of State plans under which such payments can be made, including provision for finding of inability to manage funds, payment to meet all needs of the individual, special efforts to protect welfare, periodic review, and opportunity for fair hearing, respectively.

1962—Pub. L. 87-543 inserted "(if provided in or after the third month before the month in which the recipient makes application for aid)" preceding "medical care".

1950—Act Aug. 28, 1950, redefined term "aid to the blind".

1939—Act Aug. 10, 1939, redefined term "aid to the blind" to include those individuals who are needy.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 221 of Pub. L. 89-97 applicable in the case of expenditures made after Dec. 31, 1965, under a State plan approved under this subchapter, see section 221(e) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 302 of this title.

Amendment by section 402(c) of Pub. L. 89-97 applicable in the case of expenditures made after December 31, 1965, under a State plan approved under subchapters I, X, XIV, or XVI of this chapter, see section

402(e) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 306 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 156(c) of Pub. L. 87-543 applicable in the case of applications made after Sept. 30, 1962, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, see section 156(e) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 306 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 343(b) of act Aug. 28, 1950, provided that: "The amendment made by subsection (a) [to this section] shall take effect October 1, 1950, except that the exclusion of money payments to needy individuals described in clause (a) or (b) of section 1006 of the Social Security Act as so amended [clause (a) or (b) of this section] shall, in the case of any of such individuals who are not patients in a public institution, be effective July 1, 1952."

SUBCHAPTER XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 432 of this title.

PART A—GENERAL PROVISIONS

§ 1301. Definitions

(a) When used in this chapter—

(1) The term "State", except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico, and when used in subchapters IV, V, VII, XI, and XIX of this chapter includes the Virgin Islands and Guam. Such term when used in subchapters III, IX, and XII of this chapter also includes the Virgin Islands. Such term when used in subchapter V of this chapter also includes American Samoa and the Trust Territory of the Pacific Islands. In the case of Puerto Rico, the Virgin Islands, and Guam, subchapters I, X, and XIV, and subchapter XVI of this chapter (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972) shall continue to apply, and the term "State" when used in such subchapters (but not in subchapter XVI of this chapter as in effect pursuant to such amendment after December 31, 1973) includes Puerto Rico, the Virgin Islands, and Guam.

(2) The term "United States" when used in a geographical sense means, except where otherwise provided, the States.

(3) The term "person" means an individual, a trust or estate, a partnership or a corporation.

(4) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(5) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(6) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(7) The terms "physician" and "medical care" and "hospitalization" include osteopathic practitioners or the services of osteopathic practitioners and hospitals within the scope of their practice as defined by State law.

(8)(A) The "Federal percentage" for any State (other than Puerto Rico, the Virgin Islands, and Guam) shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the square of the per capita income of such State bears to the square of the per capita income of the United States; except that the Federal percentage shall in no case be less than 50 per centum or more than 65 per centum.

(B) The Federal percentage for each State (other than Puerto Rico, the Virgin Islands, and Guam) shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the eight quarters in the period beginning October 1 next succeeding such promulgation: *Provided*, That the Secretary shall promulgate such percentages as soon as possible after August 28, 1958, which promulgation shall be conclusive for each of the eleven quarters in the period beginning October 1, 1958, and ending with the close of June 30, 1961.

(C) The term "United States" means (but only for purposes of subparagraphs (A) and (B) of this paragraph) the fifty States and the District of Columbia.

(D) Promulgations made before satisfactory data are available from the Department of Commerce for a full year on the per capital income of Alaska shall prescribe a Federal percentage for Alaska of 50 per centum and, for purposes of such promulgations, Alaska shall not be included as part of the "United States". Promulgations made thereafter but before per capita income data for Alaska for a full three-year period are available from the Department of Commerce shall be based on satisfactory data available therefrom for Alaska for such one full year or, when such data are available for a two-year period, for such two years.

(b) The terms "includes" and "including" when used in a definition contained in this chapter shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(c) Whenever under this chapter or any Act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this chapter the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

(d) Nothing in this chapter shall be construed as authorizing any Federal official, agent, or representative, in carrying out any of the provisions of this chapter, to take charge of any child over the objection of either of the parents

of such child, or of the person standing in loco parentis to such child.

(Aug. 14, 1935, ch. 531, title XI, § 1101, 49 Stat. 647; Aug. 10, 1939, ch. 666, title VIII, § 801, 53 Stat. 1398; Aug. 10, 1946, ch. 951, title IV, § 401(a), 60 Stat. 986; June 14, 1948, ch. 468, § 2(a), 62 Stat. 438; Aug. 28, 1950, ch. 809, title IV, § 403(a)(1), (2), (b), 64 Stat. 559; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 16, 1956, ch. 836, title III, § 333, 70 Stat. 852; Aug. 28, 1958, Pub. L. 85-840, title V, §§ 505, 506, 72 Stat. 1050, 1051; June 25, 1959, Pub. L. 86-70, § 32(a), (d), 73 Stat. 149; July 12, 1960, Pub. L. 86-624, § 30(a), (d), 74 Stat. 419, 420; Sept. 13, 1960, Pub. L. 86-778, title V, § 541, 74 Stat. 985; July 25, 1962, Pub. L. 87-543, title I, § 153, 76 Stat. 206; July 30, 1965, Pub. L. 89-97, title I, § 121(c)(1), 79 Stat. 352; Oct. 30, 1972, Pub. L. 92-603, title II, § 272(a), 86 Stat. 1451; Dec. 31, 1973, Pub. L. 93-233, § 18(z-2)(1)(A), 87 Stat. 973; Apr. 21, 1976, Pub. L. 94-273, § 22, 90 Stat. 379; Oct. 20, 1976, Pub. L. 94-566, title I, § 116(a), 90 Stat. 2672.)

References in Text

Section 301 of the Social Security Amendments of 1972, referred to in subsec. (a)(1), is section 301 of Pub. L. 92-603, title III, Oct. 30, 1972, 86 Stat. 1465, which enacted sections 1381 to 1382e and 1383 to 1383c of this title.

Amendments

1976—Subsec. (a)(1). Pub. L. 94-566 inserted provision that the term "State", when used in subchapters III, IX, and XII of this chapter, also includes the Virgin Islands.

Subsec. (a)(8)(B). Pub. L. 94-273 substituted "October" for "July" in two places and "November 30" for "August 31".

1973—Subsec. (a)(1). Pub. L. 93-233 struck out in first sentence references to subchapters I, X, XIV, and XVI of this chapter and added third sentence respecting the case of Puerto Rico, the Virgin Islands, and Guam.

1972—Subsec. (a)(1). Pub. L. 92-603 extended the benefits of subchapter V of this chapter to American Samoa and the Trust Territory of the Pacific Islands.

1965—Subsec. (a)(1). Pub. L. 89-97 included subchapter XIX of this chapter.

1962—Subsec. (a)(1). Pub. L. 87-543, § 153(a), included in the enumeration subchapters XI and XVI of this chapter.

Subsec. (a)(2). Pub. L. 87-543, § 153(b), deleted ", the District of Columbia, and the Commonwealth of Puerto Rico" following "the States,".

1960—Subsec. (a)(1). Pub. L. 86-778 substituted "The term 'State', except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico" for "The term 'State' includes Hawaii, and the District of Columbia", and "includes the Virgin Islands and Guam" for "includes Puerto Rico, the Virgin Islands, and Guam".

Pub. L. 86-624, § 30(d)(1), eliminated words "Hawaii, and" preceding "the District of Columbia".

Subsec. (a)(2). Pub. L. 86-778 substituted "means, except where otherwise provided, the States, the District of Columbia, and the Commonwealth of Puerto Rico" for "means the States, Hawaii, and the District of Columbia".

Pub. L. 86-624, § 30(d)(2), eliminated ", Hawaii," preceding "and the District of Columbia".

Subsec. (a)(8)(A). Pub. L. 86-624, § 30(a)(1), (2), substituted "per capita income of the United States" for "per capita income of the continental United States (including Alaska)", and eliminated provisions which prescribed the Federal percentage for Hawaii as 50 per centum.

Subsec. (a)(8)(B). Pub. L. 86-624, § 30(a)(1), substituted "United States" for "continental United States (including Alaska)".

Subsec. (a)(8)(C), (D). Pub. L. 86-624, § 30(a)(3), added subpars. (C) and (D).

1959—Subsec. (a)(1). Pub. L. 86-70, § 32(d)(1), substituted "Hawaii and" for "Alaska, Hawaii, and".

Subsec. (a)(2). Pub. L. 86-70, § 32(d)(2), eliminated "Alaska," preceding "Hawaii".

Subsec. (a)(8). Pub. L. 86-70, § 32(a), substituted "(including Alaska)" for "(excluding Alaska)" in two instances, and "50 per centum for Hawaii" for "50 per centum for Alaska and Hawaii".

1958—Subsec. (a)(1). Pub. L. 85-840, § 506, included Guam within the definition of "State" when used in subchapters I, IV, V, VII, X, and XIV of this chapter.

Subsec. (a)(8). Pub. L. 85-840, § 505, added par. (8).

1956—Subsec. (a)(1). Act Aug. 1, 1956, inserted reference to subchapter VII of this chapter.

1950—Subsec. (a)(1). Act Aug. 28, 1950, § 403(a)(1), redefined the term "State".

Subsec. (a)(6). Act Aug. 28, 1950, § 403(a)(2), defined "Administrator".

Subsec. (a)(7). Act Aug. 28, 1950, § 403(b), added par. (7).

1948—Subsec. (a)(6). Act June 14, 1948, provided for the application of the usual common-law rules in determining whether a person is an employee.

1946—Subsec. (a)(1). Act Aug. 10, 1946, omitted exception of section 45b of title 29 and added the Virgin Islands.

1939—Subsec. (a)(1). Act Aug. 10, 1939, redefined the term "State".

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-566 effective on the later of Oct. 1, 1976, or the day after the day on which the Secretary of Labor approves under section 3304(a) of Title 26, Internal Revenue Code, an unemployment compensation law submitted to him by the Virgin Islands for approval, see section 116(f)(1) of Pub. L. 94-566, set out as an Effective Date of 1976 Amendment note under section 3304 of title 26.

Effective Date of 1973 Amendment

Section 18(z-2)(2) of Pub. L. 93-233 provided that: "The amendments made by this subsection [to subsec. (a)(1) of this section and sections 1315 and 1316(a)(1), (3), (b) and (d) of this title] shall be effective on and after January 1, 1974."

Effective Date of 1972 Amendment

Section 272(c) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsec. (a)(1) of this section and section 1308(d) of this title] shall apply with respect to fiscal years beginning after June 30, 1971."

Effective Date of 1965 Amendment

Section 121(c)(1) of Pub. L. 89-97 provided in part that the amendment of subsec. (a)(1) by Pub. L. 89-97 shall be effective Jan. 1, 1966.

Effective Date of 1960 Amendments

Section 541 of Pub. L. 86-778 provided in part that the amendment of subsec. (a) (1) and (2) by Pub. L. 86-778 shall be effective on and after Jan. 1, 1961.

Amendment of subsec. (a)(1), (2) by Pub. L. 86-624 effective on Aug. 21, 1959, see section 47(f) of Pub. L. 86-624, set out as an Effective Date of 1960 Amendment note under section 645 of Title 20, Education.

Amendment of subsec. (a)(8)(A) by Pub. L. 86-624, § 30(a)(1), which substituted "United States" for "continental United States (including Alaska)", and amendment of subsec. (a)(8)(B), and subsec. (a)(8)(C), (D), applicable in the case of promulgations or computations of Federal shares, allotment percentages, allotment ratios, and Federal percentages, as the case may be, made after Aug. 21, 1959, see section 47(a) of Pub. L. 86-624, set out as an Effective Date of 1960 Amendment note under section 442 of Title 20, Education.

Section 47(b) of Pub. L. 86-624 provided that: "The amendments made by paragraph (2) of section 30(a) [which eliminated provisions in subsec. (a)(8)(A)] shall be effective with the beginning of the calendar quarter in which this Act is enacted. The Secretary of Health, Education, and Welfare shall, as soon as possible after enactment of this Act [July 12, 1960], promulgate a Federal percentage for Hawaii determined in accordance with the provisions of subparagraph (B) of section 1101(a)(8) of the Social Security Act [subsec. (a)(8)(B) of this section], such promulgation to be effective for the period beginning with the beginning of the calendar quarter in which this Act is enacted and ending with the close of June 30, 1961."

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of subsec. (a)(1) and (a)(2) by Pub. L. 86-70 effective on Jan. 3, 1959, see section 47(d) of Pub. L. 86-70.

Amendment of subsec. (a)(8) by Pub. L. 86-70 applicable in the case of promulgations of Federal shares, allotment percentages, allotment ratios, and Federal percentages, as the case may be, made after satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska, see section 47(a) of Pub. L. 86-70, set out as an Effective Date of 1959 Amendment note under section 442 of Title 20, Education.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendments of subsec. (a)(1), (8) by Pub. L. 85-840, see section 512 of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 303 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 403(a)(3) of act Aug. 28, 1950, provided that: "The amendment made by paragraph (1) of this subsection [amendment of subsec. (a)(1) of this section] shall take effect October 1, 1950, and the amendment made by paragraph (2) of this subsection [amendment of subsec. (a)(6) of this section], insofar as it repeals the definition of 'employee', shall be effective only with respect to services performed after 1950."

Section 403(b) of act Aug. 28, 1950, provided in part that subsec. (a)(7) shall be effective as of Oct. 1, 1950.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 2(b) of act June 14, 1948, provided that: "The amendment made by subsection (a) shall have the same effect as if included in the Social Security Act [this chapter] on August 14, 1935, the date of its enactment, but shall not have the effect of voiding any (1) wage credits reported to the Bureau of Internal Revenue [now Internal Revenue Service] with respect to services performed prior to the enactment of this Act [June 14, 1948] or (2) wage credits with respect to services performed prior to the close of the first calendar quarter which begins after the date of the enactment of this Act [June 14, 1948] in the case of individuals who have attained age sixty-five or who have died, prior to the close of such quarter, and with respect to whom prior to the date of enactment of this Act [June 14, 1948] wage credits were established which would not have been established had the amendment made by subsection (a) been in effect on and after August 14, 1935."

EFFECTIVE DATE OF 1946 AMENDMENT

Section 401(a) of act Aug. 10, 1946, provided that the amendment to subsec. (a)(1) shall be effective Jan. 1, 1947.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 801 of act Aug. 10, 1939.

REPEALS

The provisions of subsecs. (a)(1), (3), (6), (c) of this section were incorporated into sections 1426(d) to (f), 1427, 1607(i) to (k), and 1608 of former Title 26, Internal Revenue Code of 1939 by act Feb. 10, 1939, ch. 2, 53 Stat. 1. Section 4 of the act of Feb. 10, 1939, provided that all laws and parts of laws codified into the Internal Revenue Code of 1939, to the extent that they related exclusively to internal revenue, were repealed. See enacting sections preceding section 1 of former Title 26.

Provisions of the Internal Revenue Code of 1939 were generally repealed by section 7851 of Title 26, Internal Revenue Code (act Aug. 16, 1954, ch. 736, 68A Stat. 3). See, also, section 7807 of said title 26, respecting rules in effect upon enactment of the Internal Revenue Code of 1954. Said repealed sections are now covered by sections 3121, 3123, 3306, 3307, 7701 of Title 26.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the Office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

PROMULGATION OF FEDERAL PERCENTAGES FOR THE PERIOD BEGINNING ON JULY 1, 1975, AND ENDING ON SEPTEMBER 30, 1977

Pub. L. 94-274, title I, § 101(c), Apr. 21, 1976, 90 Stat. 384, provided that notwithstanding the provisions of subsec. (a)(8)(B) of this section, the Federal percentages promulgated thereunder were to be conclusive for each of the nine quarters in the period beginning on July 1, 1975, and ending on Sept. 30, 1977.

DEFINITION OF "SECRETARY"

Pub. L. 90-248, title IV, § 404, Jan. 2, 1968, 81 Stat. 933, provided that: "As used in the amendments made by this Act [Social Security Amendments of 1967, see Short Title note under section 1305 of this title] (unless the context otherwise requires), the term 'Secretary' means the Secretary of Health, Education, and Welfare."

Section 110 of Pub. L. 89-97 provided that: "As used in this Act [Social Security Amendments of 1965, see Short Title note under section 1305 of this title], and in the provisions of the Social Security Act amended by this Act [this chapter], the term 'Secretary', unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

"Secretary" as used in amendments to this chapter by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

CROSS REFERENCES

Aid to the blind, see section 1206 of this title.

Aid to the permanently and totally disabled, see section 1355 of this title.

Employment security administrative expenses, see section 1101 of this title.

Governor, see section 1324 of this title.

Unemployment administrative expenses, see section 1104 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1396d of this title.

§ 1301-1. Omitted

CODIFICATION

Section, act Aug. 10, 1946, ch. 951, title II, § 202, 60 Stat. 981, which defined the term "Administrator" as used in certain sections of this chapter is now covered by section 1301 of this title.

§ 1301a. Omitted

CODIFICATION

Section, act June 26, 1940, ch. 428, title II, 54 Stat. 588, provided for reimbursement for official travel performed by employees of the Bureau of Old-Age Insurance, was from the Federal Security Agency Appropriation Act, 1941, and was not repeated in subsequent appropriations acts.

§ 1302. Rules and regulations

The Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, respectively, shall make and publish such rules and regulations, not inconsistent with this chapter, as may be necessary to the efficient administration of the functions with which each is charged under this chapter.

(Aug. 14, 1935, ch. 531, title XI, § 1102, 49 Stat. 647; 1949 Reorg. Plan No. II, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Aug. 28, 1950, ch. 809, title IV, § 403(c), 64 Stat. 559; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

Provisions relating to the Secretary of Labor were inserted in view of Reorg. Plan No. 19 of 1950, which transferred the Bureau of Employees' Compensation from the Federal Security Agency to the Department of Labor and the functions of the Federal Security Administrator with respect to the Bureau and to employees' compensation, including workmen's compensation, to the Secretary of Labor. See Transfer of Functions notes below.

AMENDMENTS

1950—Act Aug. 28, 1950, substituted "Federal Security Administrator" for "Social Security Board".

REPEALS

The provisions of this section were incorporated into sections 1429 and 1609 of former Title 26, Internal Revenue Code of 1939, by act Feb. 10, 1939, ch. 2, 53 Stat. 1. Section 4 of the act of Feb. 10, 1939, provided that all laws and parts of laws codified into the Internal Revenue Code of 1939, to the extent that they related exclusively to internal revenue, were repealed. Provisions of the Internal Revenue Code of 1939 were generally repealed by section 7851 of Title 26, Internal Revenue Code. See also, section 7807 of said Title 26, respecting rules in effect upon enactment of the Internal Revenue Code of 1954. The repealed sections are now covered by section 7805(a), (c) of Title 26.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

The Bureau of Employees' Compensation of the Federal Security Agency, together with its functions, was transferred to the Department of Labor to be administered under the direction and supervision of the Secretary of Labor by section 1 of Reorg. Plan No. 19 of 1950, set out in the Appendix to Title 5, Government Organization and Employees.

The Bureau of Employment Security of the Federal Security Agency, together with its functions, was transferred to the Department of Labor, to be administered by the Secretary of Labor, by section 1 of Reorg. Plan No. 2 of 1949, set out in the Appendix to Title 5.

§ 1303. Separability of provisions

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances shall not be affected thereby.

(Aug. 14, 1935, ch. 531, title XI, § 1103, 49 Stat. 648.)

§ 1304. Reservation of right to amend or repeal

The right to alter, amend, or repeal any provision of this chapter is reserved to the Congress.

(Aug. 14, 1935, ch. 531, title XI, § 1104, 49 Stat. 648.)

§ 1305. Short title of chapter

This chapter may be cited as the "Social Security Act".

(Aug. 14, 1935, ch. 531, title XI, § 1105, 49 Stat. 648.)

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-202, § 8(a), Jan. 2, 1976, 89 Stat. 1137, provided that: "This section [enacting section 432 of this title, amending sections 401, 403, 424a, and 430 of this title and section 6103 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under sections 401, 418, and 432 of this title] may be cited as the 'Combined Old-Age, Survivors, and Disability Insurance-Income Tax Reporting Amendments of 1975'."

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 93-647, § 1, Jan. 4, 1975, 88 Stat. 2337, provided: "That this Act [enacting subchapter XX of this chapter, sections 651 to 660 of this title, and section 6305 of Title 26, Internal Revenue Code, amending sections 303, 602, 603, 604, 606, 622, 1203, 1306, 1308, 1315, 1316, 1353, and 1383 note of this title, repealing sections 610, 801 to 805, and 1320b of this title, and enacting provisions set out as notes under sections 602, 651, 1320b, 1397, and 1397a of this title] may be cited as the 'Social Services Amendments of 1974'."

SHORT TITLE OF 1972 AMENDMENT

Pub. L. 92-603, § 1, Oct. 30, 1972, 86 Stat. 1329, provided in part that Pub. L. 92-603 [enacting sections 431, 801 to 805, 1320a-1, 1320a-2, 1320c to 1320c-19, 1381a, 1382a to 1382e, 1383a to 1383c, 1395l-2, 1395mm, 1395nn, 1395oo, 1395pp, 1396h, 1396i, and 3502a of this title, and section 228s-3 of Title 45, Railroads, amending sections 302, 306, 401, 402, 403, 405, 408, 409, 410, 410 note, 411, 414, 415, 416, 418, 422, 423, 424a, 425, 426, 427, 429, 430, 602, 603, 620, 705, 706, 709, 1202, 1206, 1301, 1306, 1308, 1352, 1355, 1381, 1382, 1383, 1385, 1395b-1, 1395c, 1395f, 1395h, 1395i, 1395j, 1395k, 1395l, 1395n, 1395o, 1395p, 1395q, 1395r, 1395s, 1395t, 1395u, 1395w, 1395x, 1395y, 1395z, 1395aa, 1395bb, 1395cc, 1395dd, 1395ff, 1395gg, 1395ii, 1395kk, 1395ll, 1395mm, 1395nn, 1396a, 1396b, 1396b-1, 1396d, 1396g, 1396h, and 1396i of this title, sections 5315 and 5316 of Title 5, Government Organization and Employees, sections 1431, 2012, 2019, and 2023 of Title 7, Agriculture, and sections 1401, 1402, 3101, 3111, 3121, 6051, and 6413 of Title 26, Internal Revenue Code, repealing sections 301 to 306, 1201 to 1206, 1351, 1352, 1353, 1354, 1355, and 1396e of this title and section 639 of Title 25, Indians, and enacting provisions set out as notes under sections 301, 302, 401, 402, 403, 408, 409, 410, 411, 414, 415, 416, 418, 423, 424a, 426, 429, 602, 620,

705, 801, 1301, 1306, 1308, 1320a-1, 1320b, 1381, 1382e, 1395f, 1395*l*, 1395n, 1395p, 1395q, 1395s, 1395u, 1395w, 1395x, 1395aa, 1395cc, 1395ff, 1395gg, 1395mm, 1395nn, 1395oo, 1395pp, 1396a, 1396b, 2396d, and 1396e of this title, section 5315 of Title 5, sections 1431 and 2012 of Title 7, section 639 of Title 25, and sections 1401, 6051, and 6413 of Title 26,] may be cited as the "Social Security Amendments of 1972".

SHORT TITLE OF 1969 AMENDMENT

Pub. L. 91-172, title X, § 1001, Dec. 30, 1969, 83 Stat. 737, provided that: "This title [amending sections 401, 402, 403, 414, 427 and 428 of this title, and enacting provisions set out as notes under sections 401, 402, 403, 415 and 427 of this title] may be cited as the 'Social Security Amendments of 1969'."

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90-248, § 1, Jan. 2, 1968, 81 Stat. 821, provided that this Act [which enacted sections 429, 610, 620 to 626, 630 to 644, 908, 1319-1320a, 1395b-1, and 1396e to 1396g of this title, amended sections 302 to 304, 401 to 406, 409 to 411, 413, 415 to 418, 421 to 423, 424a, 425, 426, 426a, 427, 428, 601 to 604, 606 to 608, 622, 701 to 715, 729, 907, 1202 to 1204, 1306, 1308 to 1311, 1313 to 1318, 1352 to 1354, 1361, 1382, 1383, 1395d to 1395f, 1395i, 1395k, 1395*l*, 1395n, 1395p to 1395y, 1395aa, 1395cc, 1395dd, 1395gg, 1395*ll*, 1396a, 1396b, and 1396d of this title, sections 1401, 1402, 3101, 3111, 3121, 3122, 3125, 3306, 6051, and 6413 of Title 26, Internal Revenue Code, and sections 228e and 228s-2 of Title 45, Railroads, repealed sections 721 to 728, 1317, and 1395ee of this title, enacted provisions set out as notes under sections 242b, 302, 303, 402 to 405, 409, 410, 413, 415, 416, 418, 423, 424a, 427, 601 to 603, 607, 609, 620, 622, 626, 633, 701, 705, 1301, 1308, 1319, 1395c to 1395f, 1395j to 1395*l*, 1395n, 1395p, 1395u, 1395x, 1395aa, 1395dd, 1396a, 1396b, 1396d, and 1396g of this title, and amended provisions set out as notes under sections 603 and 608 of this title and sections 1401, 1402, 3121, and 6051 of Title 26] may be cited as the "Social Security Amendments of 1967."

Pub. L. 90-248, title III, § 306, Jan. 2, 1968, 81 Stat. 921, provided that: "This title [enacting subchapter V of this chapter, amending sections 705, 729, 1396a, and 1396d of this title, enacting provisions set out as notes under section 705 of this title, and amending provisions set out as notes under section 242b of this title] may be cited as the 'Child Health Act of 1967'."

SHORT TITLE OF 1965 AMENDMENT

Pub. L. 89-97, § 1, July 30, 1965, 79 Stat. 285, provided that this Act [which enacted sections 424a, 426, 427, 716, 729-1, 907, 1316, 1317, 1318, 1395 to 1395dd, 1395ee, 1395gg to 1395*ll* and 1396 to 1396d of this title, section 6053 of Title 26, Internal Revenue Code, and section 228s-2 of Title 45, Railroads; amended sections 302, 303, 306, 401 to 406, 409 to 411, 413, 415 to 418, 422, 423, 425, 602, 603, 606, 701, 703, 704, 711, 713, 714, 721 to 723, 1202, 1203, 1206, 1301, 1306, 1308, 1309, 1312, 1315, 1352, 1353, 1355, 1382, 1383, 1385, 1391, 1392, and 1395kk of this title, sections 72, 79, 213, 401, 451, 1401, 1402, 3101, 3102, 3111, 3121, 3122, 3125, 3201, 3211, 3221, 3401, 3402, 6051, 6205, 6413, 6652, and 6674 of Title 26, and sections 228a, 228e, and 228s-2 of title 45, repealed section 727 of this title, enacted provisions set out as notes under sections 242b, 302, 303, 306, 402, 403, 405, 410, 411, 415, 416, 418, 423, 424a, 426, 427, 602, 722, 729-1, 1202, 1301, 1308, 1309, 1315, 1316, 1352, 1382, 1395*l*, 1395*o*, 1395p, 1396b, and 2981 of this title, sections 213, 1401, 1402, 3121, 3201, and 6053 of Title 26, and section 228s-2 of Title 45, and amended provisions set out as notes under sections 415 and 418 of this title and section 3121 of Title 26] may be cited as the "Social Security Amendments of 1965".

Pub. L. 89-97, § 100, July 30, 1965, 79 Stat. 286, provided that: "This title [which enacted subchapter XVIII of this chapter, sections 426, 907, and 1396 to 1396d of this title, and section 228s-2 of Title 45, Railroads, amended sections 303, 401, 401a, 402, 418, 603, 1203, 1301, 1306, 1309, 1315, 1353, 1383, and 1395kk of this title, sections 72, 79, 213, 401, 405, 1401, 3101, 3111, 3201, 3211, 3221, and 6051 of Title 26, Internal Revenue Code, and sections 228e and 228s-2 of Title 45, and enacted provisions set out as notes under sections 426, 1301, 1309, 1315, 1395*l*, 1395*o*, 1395p, and 1396b of this title, sections 213 and 3201 of Title 26, and section 228s-2 of Title 45] may be cited as the 'Health Insurance for the Aged Act'."

Pub. L. 89-97, title III, § 300, July 30, 1965, 79 Stat. 361, provided that: "This title [which enacted sections 424a and 427 of this title and section 6053 of Title 26, Internal Revenue Code, amended sections 401 to 406, 409 to 411, 413, 415 to 418, 422, 423, 425, and 1306 of this title, sections 451, 1401, 1402, 3101, 3102, 3111, 3121, 3122, 3125, 3401, 3402, 6051, 6205, 6413, 6652, and 6674 of Title 26, and sections 228a and 228e of Title 45, Railroads, enacted provisions set out as notes under sections 402, 403, 405, 410, 411, 415, 416, 418, 424, 424a, and 427 of this title and sections 1401, 1402, 3121, and 6053 of Title 26, and amended provisions set out as notes under sections 415 and 418 of this title and section 3121 of Title 26] may be cited as the 'Old-Age, Survivors, and Disability Insurance Amendments of 1965'."

SHORT TITLE OF 1963 AMENDMENT

Pub. L. 88-156, § 1, Oct. 24, 1963, 77 Stat. 273, provided: "That this Act [enacting subchapter XVII of this chapter, and sections 729 and 729a of this title, amending sections 701, 702(a), (b), 711 and 712(a), (b) of this title, and enacting provisions set out as a note under section 1391 of this title] may be cited as the 'Maternal and Child Health and Mental Retardation Planning Amendments of 1963'."

SHORT TITLE OF 1962 AMENDMENT

Pub. L. 87-543, § 1, July 25, 1962, 76 Stat. 172, provided in part that Pub. L. 87-543, which enacted sections 609, 727, 728, 1314, 1315 and 1381 to 1385 of this title, amended sections 301 to 303, 306, 601 to 609, sections 721 to 723 and 726, 906, 1201 to 1203, 1206, 1301, 1308, 1309, 1311, 1313, 1351 to 1353, and 1355 of this title, repealed section 1202a of this title and provisions set out as notes under sections 1202a and 1308 of this title, and enacted provisions set out as notes under sections 301 to 303, 306, 601, 603, 606, 608, 609, 722, 1202, 1308 and 1383 of this title, may be cited as the "Public Welfare Amendments of 1962."

SHORT TITLE OF 1961 AMENDMENT

Pub. L. 87-64, § 1, June 30, 1961, 75 Stat. 131 provided: "That this Act [enacting section 1313 of this title, amending this section and sections 303, 403, 409, 413, 414, 415, 416, 418, 423, 1203, 1308 and 1353 of this title, sections 1401, 1402, 3101 and 3111 of Title 26, Internal Revenue Code, and section 228a of Title 45, Railroads, and enacting provisions set out as notes under this section and sections 303, 403, 414, 415, 416 and 1308 of this title and under sections 1401 and 1402 of Title 26] may be cited as the 'Social Security Amendments of 1961.'"

SHORT TITLE OF 1960 AMENDMENT

Pub. L. 86-778, § 1, Sept. 13, 1960, 74 Stat. 924, provided that this Act [which enacted sections 726 and 1312 of this title and sections 3125 and 3308 of Title 26, Internal Revenue Code, amended sections 301 to 304, 306, 401, 401a, 402, 403, 405, 408 to 411, 413 to 416, 418, 422, 423, 501, 701, 702, 704, 711, 712, 714, 721, 722, 1101 to 1104, 1202, 1301, 1308, 1321 to 1324, 1361, 1363, 1364, 1367, 1371, and 1400c of this title, sections 1402, 1403, 3121, 3301, 3302, 3305, 3306, 6205, 6413, 7213, and 7701 of Title 26, section 49d of Title 29, Labor, sections 228a, 228c, and 228e of Title 45, Railroads, and section 1421h of Title 48, Territories and Insular Possessions, repealed section 419 of this title, and enacted provisions set out as notes under sections 301, 302, 401, 402, 403, 405, 410, 411, 413 to 418, 422, 423, 701, 1101, 1202, 1202a, 1301, 1321, 1362, 1363 and 1364 of this title, sections 1402, 3121, 3301, 3304, 3305, and 3306 of Title 26,

and section 49d of Title 29] may be cited as the "Social Security Amendments of 1960."

Pub. L. 86-778, title V, § 501, 74 Stat. 970 provided that: "This title [enacting section 3308 of Title 26, Internal Revenue Code, amending sections 501, 1101 to 1104, 1301, 1321 to 1324, 1361 to 1364, 1367, 1371 and 1400c of this title, sections 3301, 3302, 3305, 3306, and 3309 of Title 26, and section 49d of Title 29, Labor, and enacting provisions set out as notes under sections 1301, 1321, and 1362 to 1364 of this title, sections 3301, 3304, and 3305 of Title 26, and section 49d of Title 29] may be cited as the 'Employment Security Act of 1960'."

SHORT TITLE OF 1958 AMENDMENT

Pub. L. 85-840, § 1, Aug. 28, 1958, 72 Stat. 1013, provided that this Act [840, which enacted sections 722 to 725 and 1311 of this title, amended sections 302, 303, 401, 402, 403, 406, 408, 409 to 411, 413 to 418, 422, 423, 425, 603, 701, 702, 711, 712, 1203, 1301, 1306, 1308 and 1353 of this title, sections 1401, 1402, 3101, 3111, 3121, 3122, 6334 and 6413 of Title 26, Internal Revenue Code, and section 228a of Title 45, Railroads, repealed section 424 of this title, and enacted provisions set out as notes under sections 303, 402, 403, 410, 411, 415, 416, 417, 418, 422, 721, and 1202a of this title and sections 1401, 1402 and 3121 of Title 26] should be popularly known as the "Social Security Amendments of 1958".

SHORT TITLE OF 1956 AMENDMENT

Act Aug. 1, 1956, ch. 836, § 1, 70 Stat. 807, provided that act Aug. 1, 1956, which enacted sections 401a, 423, 424, 425, 906, and 1310 of this title and section 3113 of Title 26, Internal Revenue Code, amended sections 301 to 303, 401, 402, 403, 405, 409 to 411, 413 to 416, 418, 421, 422, 601 to 603, 606, 721(a), 1201 to 1203, 1301, 1308, and 1351 to 1353 of this title, sections 1401, 1402, 3101, 3102, 3111, and 3121 of title 26, and sections 228 and 228e of Title 45, Railroads, and amended provisions set out as notes under sections 1426 3121 of Title 26, shall be popularly known as the "Social Security Amendments of 1956".

SHORT TITLE OF 1954 AMENDMENT

Act Aug. 5, 1954, ch. 657, § 1, 68 Stat. 668, provided that: "This Act [enacting sections 1101 to 1103, 1322, and 1323 of this title, and amending sections 503, 1104, and 1321 of this title and sections 1601, 1603, and 1607 of former Title 26, Internal Revenue Code of 1939] may be cited as the 'Employment Security Administration Financing Act of 1954'."

SHORT TITLE OF 1952 AMENDMENT

Act July 18, 1952, ch. 945, § 1, 66 Stat. 767, provided that; "This Act [enacting prior sections 420, 421, and 1309 of this title, amending sections 303, 403, 405, 413, 414, 415, 416, 417, 603, 1203, and 1353 of this title, and sections 228a, 228e of Title 45, Railroads, and enacting provisions set out as notes under sections 303, 402, 403, 413, 415, and 417 of this title] may be cited as the 'Social Security Act Amendments of 1952'."

SHORT TITLE OF 1950 AMENDMENT

Act Aug. 28, 1950, ch. 809, § 1, 64 Stat. 477, provided that act Aug. 28, 1950, should be popularly known as the "Social Security Act Amendments of 1950". For complete classification of this Act to the Code, see Tables Volume.

§ 1306. Disclosure of information in possession of Department of Health, Education, and Welfare or Department of Labor

(a) Disclosure prohibited; exceptions

No disclosure of any return or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act [42 U.S.C. 1001 et seq.] or under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939; or under regulations made under authority thereof, which have been transmitted to the Secretary of Health, Education, and Welfare or to the Secretary of Labor, as the case may be, by the Commissioner of Internal Revenue, or of any file, record, report or other paper, or any information, obtained at any time by the Secretary of Health, Education, and Welfare, or the Secretary of Labor, or by any officer or employee of the Department of Health, Education, and Welfare or the Department of Labor in the course of discharging their respective duties under this chapter, and no disclosure of any such file, record, report or other paper, or information, obtained at any time by any person from the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, or from any officer or employee of the Department of Health, Education, and Welfare or the Department of Labor shall be made except as the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, may by regulations prescribe and except as provided in part D of subchapter IV of this chapter. Any person who shall violate any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

(b) Requests for information and services

Requests for information, disclosure of which is authorized by regulations prescribed pursuant to subsection (a) of this section, and requests for services, may, subject to such limitations as may be prescribed by the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, to avoid undue interference with their respective functions under this chapter, be complied with if the agency, person, or organization making the request agrees to pay for the information or services requested in such amount, if any (not exceeding the cost of furnishing the information or services), as may be determined by the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be. Payments for information or services furnished pursuant to this section shall be made in advance or by way of reimbursement, as may be requested by the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, and shall be deposited in the Treasury as a special deposit to be used to reimburse the appropriations (including authorizations to make expenditures from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund) for the unit or units of the Department of Health, Education, and Welfare or the Department of Labor, as the case may be, which furnished the information or services. Notwithstanding the preceding provisions of this subsection, requests for information made pursuant to the provisions of part D of subchapter IV of this chapter for the purpose of using Federal records for locating parents shall be complied with and the cost incurred in providing such information shall be paid for as

provided in such part D of subchapter IV of this chapter.

(c) Repealed. Pub. L. 93-647, § 101(d)(3), Jan. 4, 1975, 88 Stat. 2360

(d) Public inspection

Notwithstanding any other provision of this section the Secretary shall make available to each State agency operating a program under subchapter XIX of this chapter and shall, subject to the limitations contained in subsection (e) of this section, make available for public inspection in readily accessible form and fashion, the following official reports (not including, however, references to any internal tolerance rules and practices that may be contained therein, internal working papers or other informal memoranda) dealing with the operation of the health programs established by subchapters XVIII and XIX of this chapter—

(1) individual contractor performance reviews and other formal evaluations of the performance of carriers, intermediaries, and State agencies, including the reports of follow-up reviews;

(2) comparative evaluations of the performance of such contractors, including comparisons of either overall performance or of any particular aspect of contractor operation; and

(3) program validation survey reports and other formal evaluations of the performance of providers of services, including the reports of follow-up reviews, except that such reports shall not identify individual patients, individual health care practitioners, or other individuals.

(e) Opportunity for review

No report described in subsection (d) of this section shall be made public by the Secretary or the State subchapter XIX agency until the contractor or provider of services whose performance is being evaluated has had a reasonable opportunity (not exceeding 60 days) to review such report and to offer comments pertinent parts of which may be incorporated in the public report; nor shall the Secretary be required to include in any such report information with respect to any deficiency (or improper practice or procedures) which is known by the Secretary to have been fully corrected, within 60 days of the date such deficiency was first brought to the attention of such contractor or provider of services, as the case may be.

(Aug. 14, 1935, ch. 531, title XI, § 1106, as added Aug. 10, 1939, ch. 666, title VIII, § 802, 53 Stat. 1398, and amended 1949 Reorg. Plan No. II, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Aug. 28, 1950, ch. 809, title IV, § 403(d), 64 Stat. 559; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 28, 1958, Pub. L. 85-840, title VII, § 701, 72 Stat. 1055; July 30, 1965, Pub. L. 89-97, title I, § 108(c), title III, § 340, 79 Stat. 339, 411; Jan. 2, 1968, Pub. L. 90-248, title I, § 168, title II, § 241(c)(1), 81 Stat. 875, 917; Oct. 30, 1972, Pub. L. 92-603, title II, § 249C(a), 86 Stat. 1428; Jan. 4, 1975, Pub. L. 93-647, § 101(d), 88 Stat. 2360.)

References in Text

Title VIII of the Social Security Act, referred to in subsec. (a), was classified to subchapter VIII (§ 1001 et seq.) of this chapter, and has been omitted from the Code as superseded by the provisions of the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954.

Subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, referred to in subsec. (a), were comprised of sections 480 to 482 and 1400 to 1432, respectively, and were repealed (subject to certain exceptions) by section 7851(a)(1)(A), (3) of the Internal Revenue Code of 1954.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1954 Code, see section 7852(b) of the 1954 Code. For table of comparisons of the 1939 Code to the 1954 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 is classified generally to Title 26.

Part D of subchapter IV of this chapter, referred to in subsecs. (a) and (b), is classified to section 651 et seq. of this title. Subchapter XVIII of this chapter, referred to in subsec. (d), is classified to section 1395 et seq. of this title. Subchapter XIX of this chapter, referred to in subsecs. (d) and (e), is classified to section 1396 et seq. of this title.

Codification

Provisions relating to the Department of Labor and the Secretary of Labor were inserted in view of Reorg. Plan No. 19 of 1950, which transferred the Bureau of Employees' Compensation from the Federal Security Agency to the Department of Labor and the functions of the Federal Security Administrator with respect to the Bureau and to employees' compensation, including workmen's compensation, to the Secretary of Labor. See transfer of functions notes below.

Amendments

1975—Subsec. (a). Pub. L. 93-647, § 101(d)(1), added "and except as provided in part D of subchapter IV of this chapter," after "may by regulations prescribe".

Subsec. (b). Pub. L. 93-647, § 101(d)(2), added provision relating to compliance with requests for information made pursuant to the provisions of part D of subchapter IV of this chapter for the purpose of using Federal records to locate parents.

Subsec. (c). Pub. L. 93-647, § 101(d)(3), repealed subsec. (c), relating to requests by State or local agencies for the most recent address of any individual maintained pursuant to section 405 of this title, and the requirements for release of such information.

1972—Subsecs. (d), (e). Pub. L. 92-603 added subsecs. (d) and (e).

1968—Subsec. (c)(1). Pub. L. 90-248, § 241(c)(1), deleted "IV," following "I," and inserted "or part A of subchapter IV of this chapter," after "XIX of this chapter,".

Subsec. (c)(1)(A), (B). Pub. L. 90-248, § 168(a), designated existing provisions as subpar. (A), redesignated former subpars. (A) to (D) as cls. (i) to (iv) thereof, and added subpar. (B).

Subsec. (c)(2). Pub. L. 90-248, § 168(b)(1), substituted "(and, in the case of a request under paragraph (1)(A), shall be accompanied by a certified copy of the order referred to in clauses (i) and (iv) thereof)" for ", and shall be accompanied by a certified copy of the order referred to in paragraph (1)(A) of this subsection".

Subsec. (c)(3). Pub. L. 90-248, § 168(b)(2), substituted "authorized by subparagraph (A)(iv) or (B)" for "authorized by subparagraph (D)".

1965—Subsec. (b). Pub. L. 89-97, § 108(c), provided for use of special deposit in the Treasury (made up of payments for information and services furnished) to reimburse authorizations to make expenditures from the Federal Hospital Insurance Trust Fund and the Supplementary Medical Insurance Trust Fund.

Subsec. (c). Pub. L. 89-97, § 340, added subsec. (c).

1958—Subsec. (b). Pub. L. 85-840 authorized compliance with requests for services if the agency, person, or organization making the request agrees to pay for the services.

1950—Act Aug. 28, 1950, designated existing provisions as subsec. (a), substituted "under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939" for "the Federal Insurance Contributions Act," reflected the transfer of functions from the Social Security Board to the Federal Security Administrator and the Federal Security Agency, and added subsection (b).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-647 effective Aug. 1, 1975, see section 101(f) of Pub. L. 93-647, set out as an Effective Date note under section 651 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 249C(b) of Pub. L. 92-603 provided that: "The provisions of subsection (a) [enacting subsecs. (d) and (e) of this section] shall apply with respect to reports which are completed by the Secretary after the third calendar month following the enactment of this Act [Oct. 30, 1972]."

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

The Bureau of Employees' Compensation of the Federal Security Agency, together with its functions, was transferred to the Department of Labor to be administered under the direction and supervision of the Secretary of Labor by section 1 of Reorg. Plan No. 19 of 1950, formerly set out in the Appendix to Title 5, Government Organization and Employees.

The Bureau of Employment Security of the Federal Security Agency, together with its functions, was transferred to the Department of Labor, to be administered by the Secretary of Labor, by section 1 of Reorg. Plan No. II of 1949, set out in the Appendix to title 5.

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 1306a. Public access to State disbursement records

No State or any agency or political subdivision thereof shall be deprived of any grant-in-aid or other payment to which it otherwise is or has become entitled pursuant to subchapter I (other than section 303(a)(3) thereof), IV, X, XIV, or XVI (other than section 1383(a)(3) thereof) of this chapter, by reason of the enactment or enforcement by such State of any legislation prescribing any conditions under which public access may be had to records of the disbursement of any such funds or payments within such State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes.

(Oct. 20, 1951, ch. 521, title VI, § 618, 65 Stat. 569; Sept. 13, 1960, Pub. L. 86-778, title VI, § 603(a), 74 Stat. 992; July 25, 1962, Pub. L. 87-543, title I, § 141(e), 76 Stat. 205.)

CODIFICATION

Section was enacted as part of act Oct. 20, 1951, popularly known as the Revenue Act of 1951, and not as part of the Social Security Act which comprises this chapter.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 3-211 of the District of Columbia Code.

§ 1307. Penalty for fraud

(a) Whoever, with the intent to defraud any person, shall make or cause to be made any false representation concerning the requirements of this chapter, subchapter E of chapter 1 or subchapters A, C, or E of chapter 9 of the Internal Revenue Code of 1939, or of any rules or regulations issued thereunder, knowing such representations, to be false, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

(b) Whoever, with the intent to elicit information as to the date of birth, employment, wages, or benefits of any individual (1) falsely represents to the Secretary that he is such individual, or the wife, husband, widow, widower, former wife divorced, child, or parent of such individual, or the duly authorized agent of such individual, or of the wife, husband, widow, widower, former wife divorced, child, or parent of such individual, or (2) falsely represents to any person that he is an employee or agent of the United States, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

(Aug. 14, 1935, ch. 531, title XI, § 1107, as added Aug. 10, 1939, ch. 666, title VIII, § 802, 53 Stat. 1398, and amended Aug. 28, 1950, ch. 809, title IV, § 403(e), (f), 64 Stat. 560; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

REFERENCES IN TEXT

Subchapter E of chapter 1 and subchapters A, C, and E of chapter 9 of the Internal Revenue Code of 1939, referred to in subsec. (a), were comprised of sections 480 to 482, 1400 to 1432, 1600 to 1611, and 1631 to 1636, respectively, of the 1939 Code, and were repealed (subject to certain exceptions) by section 7851(a)(1)(A), (3) of the Internal Revenue Code of 1954.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1954 Code, see section 7852(b) of the 1954 Code. For table of comparisons of the 1939 Code to the 1954 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 is classified generally to Title 26.

AMENDMENTS

1950—Subsec. (a). Act Aug. 28, 1950, § 403(e), substituted "subchapter E of chapter 1 or subchapters A, C, or E of chapter 9 of the Internal Revenue Code of 1939," for "the Federal Insurance Contributions Act, or the Federal Unemployment Tax Act".

Subsec. (b). Act Aug. 28, 1950, § 403(f), substituted "Administrator" for "Board" and "wife, husband, widow, widower, former wife divorced, child, or parent" for "wife, parent, or child" wherever appearing.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 1308. Limitation on payments to Puerto Rico, Virgin Islands, Guam, American Samoa, and Trust Territory of Pacific Islands

(a) Total amount certified under subchapters I, X, XIV, XVI and part A of subchapter IV

Except as provided in section 1397a(a)(2)(D) of this title, the total amount certified by the Secretary of Health, Education, and Welfare under subchapter I, X, XIV, and XVI of this chapter, and under part A of subchapter IV of this chapter (exclusive of any amounts on account of services and items to which subsection (b) of this section applies)—

(1) for payment to Puerto Rico shall not exceed—

(A) $12,500,000 with respect to the fiscal year 1968,

(B) $15,000,000 with respect to the fiscal year 1969,

(C) $18,000,000 with respect to the fiscal year 1970,

(D) $21,000,000 with respect to the fiscal year 1971, or

(E) $24,000,000 with respect to the fiscal year 1972 and each fiscal year thereafter;

(2) for payment to the Virgin Islands shall not exceed—

(A) $425,000 with respect to the fiscal year 1968,

(B) $500,000 with respect to the fiscal year 1969,

(C) $600,000 with respect to the fiscal year 1970,

(D) $700,000 with respect to the fiscal year 1971, or

(E) $800,000 with respect to the fiscal year 1972 and each fiscal year thereafter; and

(3) for payment to Guam shall not exceed—

(A) $575,000 with respect to the fiscal year 1968,

(B) $690,000 with respect to the fiscal year 1969,

(C) $825,000 with respect to the fiscal year 1970,

(D) $960,000 with respect to the fiscal year 1971, or

(E) $1,100,000 with respect to the fiscal year 1972 and each fiscal year thereafter.

(b) Total amount certified for family planning services and manpower services

The total amount certified by the Secretary under part A of subchapter IV of this chapter, on account of family planning services and services provided under section 602(a)(19) of this title with respect to any fiscal year—

(1) for payment to Puerto Rico shall not exceed $2,000,000,

(2) for payment to the Virgin Islands shall not exceed $65,000, and

(3) for payment to Guam shall not exceed $90,000.

(c) Total amount certified under subchapter XIX

The total amount certified by the Secretary under subchapter XIX of this chapter with respect to any fiscal year—

(1) for payment to Puerto Rico shall not exceed $30,000,000,

(2) for payment to the Virgin Islands shall not exceed $1,000,000, and

(3) for payment to Guam shall not exceed $900,000.

(d) Allotment of smaller amounts

Notwithstanding the provisions of sections 702(a) and 712(a) of this title, and the provisions of sections 621, 703(1), and 704(1) of this title as amended by the Social Security Amendments of 1967, and until such time as the Congress may by appropriation or other law otherwise provide, the Secretary shall, in lieu of the initial allotment specified in such sections, allot such smaller amounts to Guam, American Samoa, and the Trust Territory of the Pacific Islands as he may deem appropriate.

(Aug. 14, 1935, ch. 531, title XI, § 1108, as added Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(g), 64 Stat. 558, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 351(c), 70 Stat. 855; Aug. 28, 1958, Pub. L. 85-840, title V, §§ 507, 508, 72 Stat. 1051; Sept. 13, 1960, Pub. L. 86-778, title VI, § 602, 74 Stat. 992; May 8, 1961, Pub. L. 87-31, § 6(a)(1), (2), (b), 75 Stat. 78; June 30, 1961, Pub. L. 87-64, title III, § 303(d), 75 Stat. 143; July 25, 1962, Pub. L. 87-543, title I, § 151, 76 Stat. 206; July 30, 1965, Pub. L. 89-97, title II, § 208(a)(2), title IV, § 408(a), 79 Stat. 355, 422; Jan. 2, 1968, Pub. L. 90-248, title II, § 248(a)(1), 81 Stat. 918; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 271(a), (b), 272(b), 86 Stat. 1451; Jan. 4, 1975, Pub. L. 93-647, § 3(i), 88 Stat. 2350.)

REFERENCES IN TEXT

The Social Security Amendments of 1967, referred to in subsec. (d), is Pub. L. 90-248, Jan. 2, 1968, 81 Stat. 821. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1305 of this title and Tables volume.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-647 substituted "Except as provided in section 1397a(a)(2)(D) of this title, the total amount" for "The total amount".

1972—Subsec. (c)(1). Pub. L. 92-603, § 271(a), substituted "$30,000,000" for "$20,000,000".

Subsec. (c)(2). Pub. L. 92-603, § 271(b), substituted "$1,000,000" for "$650,000".

Subsec. (d). Pub. L. 92-603, § 272(b), inserted ", American Samoa, and the Trust Territory of the Pacific Islands" after "allot such smaller amounts to Guam".

1968—Pub. L. 90-248 amended section generally and, among other changes, raised the present $9.8 million limit for Federal financial participation in the public assistance programs of Puerto Rico to $12.5 million for fiscal 1968 with further increases in succeeding fiscal years to a maximum of $24 million for fiscal 1972 and each fiscal year thereafter, increased the dollar maximums for the Virgin Islands from $330,000 to $800,000 for fiscal 1972 and thereafter and for Guam from $450,000 to $1.1 million for fiscal 1972 and thereafter, authorized payments for family planning services and services referred to in section 602(a)(19) of this title,

with respect to any fiscal year, of not more than $2 million for Puerto Rico, $65,000 for the Virgin Islands, and $90,000 for Guam, imposed a maximum on Federal payments for the medical assistance program under subchapter XIX of this chapter, with respect to any fiscal year, of $20 million for Puerto Rico, $650,000 for the Virgin Islands, and $900,000 for Guam, and provided that notwithstanding sections 702(a) and 712(a) of this title and sections 621, 703(1), and 704(1) of this title, as amended by the Social Security Amendments of 1967, and until Congress otherwise provides, the Secretary shall, in lieu of the initial allotments specified in such sections, allot smaller amounts to Guam as he deems appropriate.

1965—Pub. L. 89-97 substituted "and 722(a)" for "722(a) and 727(a)" and struck out "(or, in the case of section 727(a) of this title" following "in lieu of the initial", and removed the litigation requiring that, with respect to any fiscal year, $625,000 of the $9,800,000 certified for payments to Puerto Rico, $18,750 of the $330,000 certified for payments to the Virgin Islands, and $25,000 of the $450,000 certified for payments to Guam, be used only for payments with respect to section 303(a)(2)(B) or 1383(a)(2)(B) of this title.

1962—Pub. L. 87-543 substituted "$9,800,000", "$330,000", "$450,000", and "initial (or, in the case of section 727(a) of this title, the minimum) allotment" for "$9,500,000", "$320,000", $430,000", and "$60,000, $60,000 $60,000, respectively," and inserted references to subchapter "XVI (other than section 1383(a)(3) thereof)" of this chapter, section 1383(a)(2) in three instances and section 727(a) following section 722(a).

1961—Pub. L. 87-64, substituted "$9,500,000", "$320,000", and "$430,000" for "$9,425,000", "$318,750", and "$425,000", respectively. See Repeals note hereunder.

Pub. L. 87-31 increased the grant to Puerto Rico for fiscal year ending June 30, 1961, from $9,000,000 to $9,075,000 and for fiscal year ending June 30, 1962, to $9,425,000; the grants to Virgin Islands and Guam from $315,000 and $420,000 to $318,750 and $425,000, respectively; and payments under section 303(a)(2)(B) of this title to Puerto Rico, Virgin Islands and Guam from $500,000, $15,000 and $20,000 to $625,000, $18,750 and $25,000, respectively. See also Limitation on Payments note below.

1960—Pub. L. 86-778 substituted "$9,000,000, of which $500,000 may be used only for payments certified with respect to section 303(a)(2)(B) of this title" for "$8,500,000", "$315,000, of which $15,000 may be used only for payments certified in respect to section 303(a)(2)(B) of this title" for "$300,000", "$420,000, of which $20,000 may be used only for payments certified in respect to section 303(a)(2)(B) of this title" for "$400,000", and "subchapters I (other than section 303(a)(3) thereof)" for "subchapters I".

1958—Pub. L. 85-840, §§ 507, 508, amended section. Section 507(a) substituted "$8,500,000" for "$5,312,500" and "$300,000" for "$200,000", and limited the total amount certified for payment to Guam with respect to any fiscal year to not more than $400,000. Section 507(b) amended catchline to include Guam. Section 508 inserted provisions requiring the Secretary, in lieu of the allotments specified in sections 702(a)(2), 712(a)(2) and 722(a) of this title, to allot such smaller amounts as he may deem appropriate to Guam, notwithstanding the provisions of such sections and until such time as the Congress may by appropriation or other law otherwise provide.

1956—Act Aug. 1, 1956, substituted "$5,312,500" for "$4,250,000", and "$200,000" for "$160,000".

Effective Date of 1975 Amendment

Amendment by section 3 of Pub. L. 93-647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

Effective Date of 1972 Amendment

Section 271(c) of Pub. L. 92-603 provided that: "The amendments made by subsections (a) and (b) [amending subsec. (c) of this section] shall apply with respect to fiscal years beginning after June 30, 1971."

Amendment of subsec. (d) by section 272(b) of Pub. L. 92-603 applicable with respect to fiscal years beginning after June 30, 1971, see section 272(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1301 of this title.

Effective Date of 1968 Amendment

Section 248(a)(2) of Pub. L. 90-248 provided that: "The amendment made by paragraph (1) [to this section] shall apply with respect to fiscal years beginning after June 30, 1967."

Effective Date of 1965 Amendment

Amendment by section 208(a)(2) Pub. L. 89-97 effective Jan. 1, 1966, see section 208(d) of Pub. L. 89-97.

Section 408(b) of Pub. L. 89-97 provided that: "The amendments made by subsection (a) [to this section] shall be effective in the case of Puerto Rico, the Virgin Islands, or Guam with respect to fiscal years beginning on or after the date on which its plan under title XIX of the Social Security Act [section 1396 et seq. of this title] is approved."

Effective Date of 1962 Amendment

Section 151 of Pub. L. 87-543 provided in part that the amendment by Pub. L. 87-543 shall be effective for fiscal years ending after June 30, 1962.

Effective and Termination Dates of 1961 Amendments

Section 132(d) of Pub. L. 87-543 repealed section 303(d) of Pub. L. 87-64, which had provided that the amendment by section 303(d) of Pub. L. 87-64 shall be effective only for fiscal year ending June 30, 1962, and section 6 of Pub. L. 87-31, which had provided that the amendment by section 6(b) of Pub. L. 87-31 shall be effective for fiscal years ending after June 30, 1961. Such repeal applicable in the case of fiscal years beginning after June 30, 1962, see section 202(b) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 906 of this title.

Effective Date of 1960 Amendment

Amendment by Pub. L. 86-778 effective with respect to fiscal years ending after 1960, see section 604 of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 301 of this title.

Effective Date of 1958 Amendment

For effective date of amendments made by sections 507 and 508 of Pub. L. 85-840, see section 512 of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 303 of this title.

Effective Date of 1956 Amendment

Amendment by act Aug. 1, 1956, effective with respect to the fiscal year ending June 30, 1957, and all succeeding fiscal years, see section 351(d) of act Aug. 1, 1956, set out as an Effective Date of 1956 Amendment note under section 603 of this title.

Repeals: Effective Date

Section 132(d) of Pub. L. 87-543 repealed section 6 of Pub. L. 87-31, May 8, 1961, 75 Stat. 78, and section 303(d) of Pub. L. 87-64, title III, June 30, 1961, 75 Stat. 143, formerly credited to this section. Such repeal applicable in the case of fiscal years beginning after June 30, 1962, see section 202(b) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 906 of this title.

Limitation on Payments: Effective Date

Section 132(d) of Pub. L. 87-543 repealed section 6(a) of Pub. L. 87-31, May 8, 1961, 75 Stat. 78, which had

limited payments to Puerto Rico not to exceed $9,075,000 for fiscal year ending June 30, 1961, $9,425,000 for fiscal year ending June 30, 1962; and $9,125,000 for fiscal years ending after June 30, 1962. Such repeal applicable in the case of fiscal years beginning after June 30, 1962, see section 202(b) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 906 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 101(a) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 383, set out as a note under section 422 of this title.

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 1309. Amounts disregarded not to be taken into account in determining eligibility of other individuals

Any amount which is disregarded (or set aside for future needs) in determining the eligibility of and amount of the aid or assistance for any individual under a State plan approved under subchapter I, X, XIV, XVI, or XIX of this chapter, or part A of subchapter IV of this chapter, shall not be taken into consideration in determining the eligibility of and amount of aid or assistance for any other individual under a State plan approved under any other of such subchapters.

(Aug. 14, 1935, ch. 531, title XI, § 1109, as added July 18, 1952, ch. 945, § 7, 66 Stat. 778, and amended July 25, 1962, Pub. L. 87-543, title I, § 141(c), 76 Stat. 205; July 30, 1965, Pub. L. 89-97, title I, § 121(c)(2), 79 Stat. 352; Jan. 2, 1968, Pub. L. 90-248, title II, § 241(c)(2), 81 Stat. 917.)

AMENDMENTS

1968—Pub. L. 90-248 deleted "IV," following "I," and inserted ", or part A of subchapter IV of this chapter," after "XIX of this chapter".

1965—Pub. L. 89-97 substituted requirement that amounts disregarded be not taken into account in determining eligibility of other individuals, for former provisions which had provided that: "Notwithstanding the provisions of sections 302(a)(10)(A), 602(a)(7), 1202(a)(8), 1352(a)(8), and 1382(a)(14) of this title, a State plan approved under subchapter I, IV, X, XIV, or XVI of this chapter may until June 30, 1954, and thereafter shall provide that where earned income has been disregarded in determining the need of an individual receiving aid to the blind under a State plan approved under subchapter X of this chapter, the earned income so disregarded (but not in excess of the amount specified in section 1202(a)(8) of this title) shall not be taken into consideration in determining the need of any other individual for assistance under a State plan approved under subchapter I, IV, X, XIV, or XVI of this chapter".

1962—Pub. L. 87-543 substituted reference to section 302(a)(10)(A) for 302(a)(7) and inserted references to section 1382(a)(14) and subchapter XVI.

§ 1310. Cooperative research or demonstration projects

(a) Authorization of appropriations

There are authorized to be appropriated for the fiscal year ending June 30, 1957, $5,000,000 and for each fiscal year thereafter such sums as the Congress may determine for (1) making grants to States and public and other nonprofit organizations and agencies for paying part of the cost of research or demonstration projects such as those relating to the prevention and reduction of dependency, or which will aid in effecting coordination of planning between private and public welfare agencies or which will aid in effecting coordination of planning effectiveness of programs carried on or assisted under this chapter and programs related thereto, and (2) making contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research or demonstration projects relating to such matters.

(b) Advice and recommendations of specialists

No contract or jointly financed cooperative arrangement shall be entered into, and no grant shall be made, under subsection (a) of this section, until the Secretary obtains the advice and recommendations of specialists who are competent to evaluate the proposed projects as to soundness of their design, the possibilities of securing productive results, the adequacy of resources to conduct the proposed research or demonstrations, and their relationship to other similar research or demonstrations already completed or in process.

(c) Method of payment

Grants and payments under contracts or cooperative arrangements under subsection (a) of this section may be made either in advance or by way of reimbursement, as may be determined by the Secretary; and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purposes of this section.

(Aug. 14, 1935, ch. 531, title XI, § 1110, as added Aug. 1, 1956, ch. 836, title III, § 331, 70 Stat. 850, and amended Jan. 2, 1968, Pub. L. 90-248, title II, § 246, 81 Stat. 918.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-248 deleted in clause (2) "nonprofit" preceding "organizations".

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1315 of this title.

§ 1311. Public assistance payments to legal representatives

For purposes of subchapters I, X, XIV, and XVI of this chapter, and part A of subchapter IV of this chapter, payments on behalf of an individual, made to another person who has been judicially appointed, under the law of the State in which such individual resides, as legal representative of such individual for the purpose of receiving and managing such payments (whether or not he is such individual's legal representative for other purposes), shall be regarded as money payments to such individual.

(Aug. 14, 1935, ch. 531, title XI, § 1111, as added Aug. 28, 1958, Pub. L. 85-840, title V, § 511(a) 72 Stat. 1051, and amended July 25, 1962, Pub. L. 87-543, title I, § 141(d), 76 Stat. 205; Jan. 2, 1968, Pub. L. 90-248, title II, § 241(c)(3), 81 Stat. 917.)

AMENDMENTS

1968—Pub. L. 90-248 deleted "IV," following "I," and inserted "and part A of subchapter IV of this chapter," after "XVI of this chapter,".

1962—Pub. L. 87-543 inserted reference to subchapter XVI.

EFFECTIVE DATE

Section 511(b) of Pub. L. 85-840 provided that: "The amendment made by subsection (a) [adding this section] shall be applicable in the case of payments to legal representatives by any State made after June 30, 1958; and to such payments by any State made after December 31, 1955, and prior to July 1, 1958, if certifications for payment to such State have been made by the Secretary of Health, Education, and Welfare with respect thereto, or such State has presented to the Secretary a claim (and such other data as the Secretary may require) with respect thereto, prior to July 1, 1959."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 306, 605, 606, 1206, 1385 of this title.

§ 1312. Medical care guides and reports for public assistance and medical assistance

In order to assist the States to extend the scope and content, and improve the quality, of medical care and medical services for which payments are made to or on behalf of needy and low-income individuals under this chapter and in order to promote better public understanding about medical care and medical assistance for needy and low-income individuals, the Secretary shall develop and revise from time to time guides or recommended standards as to the level, content, and quality of medical care and medical services for the use of the States in evaluating and improving their public assistance medical care programs and their programs of medical assistance; shall secure periodic reports from the States on items included in, and the quantity of, medical care and medical services for which expenditures under such programs are made; and shall from time to time publish data secured from these reports and other information necessary to carry out the purposes of this section.

(Aug. 14, 1935, ch. 531, title XI, § 1112, as added Sept. 13, 1960, Pub. L. 86-778, title VII, § 705, 74 Stat. 995, and amended July 30, 1965, Pub. L. 89-97, title IV, § 408(c), 79 Stat. 422.)

AMENDMENTS

1965—Pub. L. 89-97 struck out "for the aged" following "medical assistance".

§ 1313. Assistance for United States citizens returned from foreign countries

(a) Authorization; reimbursement; utilization of facilities of public or private agencies and organizations

(1) The Secretary is authorized to provide temporary assistance to citizens of the United States and to dependents of citizens of the United States, if they (A) are identified by the Department of State as having returned, or been brought, from a foreign country to the United States because of the destitution of the citizen of the United States or the illness of such citizen or any of his dependents or because of war, threat of war, invasion, or similar crisis, and (B) are without available resources.

(2) Except in such cases or classes of cases as are set forth in regulations of the Secretary, provision shall be made for reimbursement to the United States by the recipients of the temporary assistance to cover the cost thereof.

(3) The Secretary may provide assistance under paragraph (1) directly or through utilization of the services and facilities of appropriate public or private agencies and organizations, in accordance with agreements providing for payment, in advance or by way of reimbursement, as may be determined by the Secretary, of the cost thereof. Such cost shall be determined by such statistical, sampling, or other method as may be provided in the agreement.

(b) Plans and arrangements for assistance; consultations

The Secretary is authorized to develop plans and make arrangements for provision of temporary assistance within the United States to individuals specified in subsection (a)(1) of this section. Such plans shall be developed and such arrangements shall be made after consultation with the Secretary of State, the Attorney General, and the Secretary of Defense. To the extent feasible, assistance provided under subsection (a) of this section shall be provided in accordance with the plans developed pursuant to this subsection, as modified from time to time by the Secretary.

(c) Definition of temporary assistance

For purposes of this section, the term "temporary assistance" means money payments, medical care, temporary billeting, transportation, and other goods and services necessary for the health or welfare of individuals (including guidance, counseling, and other welfare services) furnished to them within the United States upon their arrival in the United States and for such period after their arrival, not exceeding ninety days, as may be provided in regulations of the Secretary; except that assistance under this section may be furnished beyond such ninety-day period in the case of any citizen or dependent upon a finding by the Secretary that the circumstances involved necessitate or justify the furnishing of assistance beyond such period in that particular case.

(d) Maximum total amount of temporary assistance

The total amount of temporary assistance provided under this section shall not exceed—

(1) $8,000,000 during the fiscal years ending June 30, 1975, and June 30, 1976, and the succeeding calendar quarter, or

(2) $300,000 during any fiscal year beginning on or after October 1, 1976.

(Aug. 14, 1935, ch. 531, title XI, § 1113, as added June 30, 1961, Pub. L. 87-64, title III, § 302, 75 Stat. 142, and amended July 25, 1962, Pub. L. 87-543, title I, § 133, 76 Stat. 196; June 30, 1964, Pub. L. 88-347, 78 Stat. 236; June 29, 1967, Pub. L. 90-36, § 2, 81 Stat. 94; Jan. 2, 1968, Pub. L. 90-248, title V, § 503, 81 Stat. 934; July 9, 1969, Pub. L. 91-41, § 4, 83 Stat. 45; July 1, 1971, Pub. L. 92-40, 85 Stat. 96; June 28, 1975, Pub. L. 94-44, §§ 1, 2, 89 Stat. 235.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94-44, § 2, set a 90-day limit for assistance following arrival in the United States with provision for furnishing of assistance beyond the 90-day limit upon a finding by the Secretary that the circumstances involved necessitate or justify the furnishing of assistance in that particular case.

Subsec. (d). Pub. L. 94-44, § 1, substituted provisions setting the maximum total amount of temporary assistance provided under this section for provisions prohibiting temporary assistance after June 30, 1973.

1971—Subsec. (d). Pub. L. 92-40 extended termination date from June 30, 1971, to June 30, 1973.

1969—Subsec. (d). Pub. L. 91-41 extended termination date from June 30, 1969, to June 30, 1971.

1968—Subsec. (d). Pub. L. 90-248 extended termination date from June 30, 1968, to June 30, 1969.

1967—Subsec. (d). Pub. L. 90-36 extended termination date from June 30, 1967, to June 30, 1968.

1964—Subsec. (d). Pub. L. 88-347 extended termination date from June 30, 1964 to June 30, 1967.

1962—Subsec. (d). Pub. L. 87-543 extended termination date from June 30, 1962, to June 30, 1964.

§ 1314. Public advisory groups

(a) Advisory Council on Public Welfare; appointment and functions of initial Council

The Secretary shall, during 1964, appoint an Advisory Council on Public Welfare for the purpose of reviewing the administration of the public assistance and child welfare services programs for which funds are appropriated pursuant to this chapter and making recommendations for improvement of such administration, and reviewing the status of and making recommendations with respect to the public assistance programs for which funds are so appropriated, especially in relation to the old-age, survivors, and disability insurance program, with respect to the fiscal capacities of the States and the Federal Government, and with respect to any other matters bearing on the amount and proportion of the Federal and State shares in the public assistance and child welfare services programs.

(b) Membership and representation of interests on initial Council

The Council shall be appointed by the Secretary without regard to the provisions of title 5 governing appointments in the competitive service and shall consist of twelve persons who shall, to the extent possible, be representatives of employers and employees in equal numbers, representatives of State or Federal agencies concerned with the administration or financing of the public assistance and child welfare services programs, representatives of nonprofit private organizations concerned with social welfare programs, other persons with special knowledge, experience, or qualifications with respect to such programs, and members of the public.

(c) Technical and other assistance for initial Council; availability of data

The Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

(d) Termination of initial Council's existence on submission of report

The Council shall make a report of its findings and recommendations (including recommendations for changes in the provisions of this chapter) to the Secretary, such report to be submitted not later than July 1, 1966, after which date such Council shall cease to exist.

(e) Succeeding Councils; appointment; functions; membership; representation of interests; assistance and data; termination

The Secretary shall also from time to time thereafter appoint an Advisory Council on Public Welfare, with the same functions and constituted in the same manner as prescribed for the Advisory Council in the preceding subsections of this section. Each Council so appointed shall report its findings and recommendations, as prescribed in subsection (d) of this section, not later than July 1 of the second year after the year in which it is appointed, after which date such Council shall cease to exist.

(f) Advisory committees; functions; reports by Secretary

The Secretary may also appoint, without regard to the provisions of title 5 governing appointments in the competitive service, such advisory committees as he may deem advisable to advise and consult with him in carrying out any of his functions under this chapter. The Secretary shall report to the Congress annually on the number of such committees and on the membership and activities of each such committee.

(g) Compensation and travel expenses

Members of the Council or of any advisory committee appointed under this section who are not regular full-time employees of the United States shall, while serving on business of the Council or any such committee, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $75 per day, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(h) Exemption from conflict of interest laws of members of Council or advisory committees; exceptions

(1) Any member of the Council or any advisory committee appointed under this chapter, who is not a regular full-time employee of the United States, is exempted with respect to such

appointment, from the operation of sections 281, 283, and 1914 of title 18 and section 190 of the Revised Statutes (5 U.S.C. 99), except as otherwise specified in paragraph (2) of this subsection.

(2) The exemption granted by paragraph (1) shall not extend—

(A) to the receipt or payment of salary in connection with the appointee's Government service from any source other than the employer of the appointee at the time of his appointment, or

(B) during the period of such appointment, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter with which such person, during such period, is or was directly connected by reason of such appointment.

(Aug. 14, 1935, ch. 531, title XI, § 1114, as added July 25, 1962, Pub. L. 87-543, title I, § 121, 76 Stat. 190, and amended Jan. 2, 1968, Pub. L. 90-248, title IV, § 403(e), 81 Stat. 932.)

References in Text

The provisions of title 5 governing appointments in the competitive service, referred to in subsecs. (b), (f), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

Sections 281 and 283 of title 18, referred to in subsec. (h)(1), were repealed by Pub. L. 87-849, § 2, Oct. 23, 1962, 76 Stat. 1126, except as they may apply to retired officers of the armed forces of the United States, and were supplanted by sections 203 and 205 of Title 18, Crimes and Criminal Procedure. For further details, see "Exemptions" note set out under section 281 of Title 18.

Section 1914 of title 18, referred to in subsec. (h)(1), was repealed by Pub. L. 87-849, § 2, and was supplanted by section 209 of Title 18.

Section 190 of the Revised Statutes (5 U.S.C. 99), referred to in subsec. (h)(1), was repealed by Pub. L. 87-849, § 3. See section 207 of Title 18.

Amendments

1968—Subsec. (b). Pub. L. 90-248, § 403(e)(1), substituted "provisions of title 5, governing appointments in the competitive service" for "civil-service laws".

Subsec. (f). Pub. L. 90-248, § 403(e)(2), substituted "provisions of title 5, governing appointments in the competitive service" for "civil-service laws".

Subsec. (g). Pub. L. 90-248, § 403(e)(3), substituted "section 5703 of title 5" for "section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2)".

Termination of Advisory Committees

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1315. Demonstration projects; waiver of State plan requirements; costs regarded as State plan expenditures; availability of appropriations

In the case of any experimental, pilot, or demonstration project which, in the judgment of the Secretary, is likely to assist in promoting the objectives of subchapter I, VI, X, XIV, XVI, XIX, or XX of this chapter, or part A of subchapter IV of this chapter, in a State or States—

(a) the Secretary may waive compliance with any of the requirements of section 302, 602, 802, 1202, 1352, 1382, 1396a, 1397a, 1397b, or 1397c of this title, as the case may be, to the extent and for the period he finds necessary to enable such State or States to carry out such project, and

(b) costs of such project which would not otherwise be included as expenditures under section 303, 603, 803, 1203, 1353, 1383, 1396b, or 1397a of this title, as the case may be, and which are not included as part of the costs of projects under section 1310 of this title, shall, to the extent and for the period prescribed by the Secretary, be regarded as expenditures under the State plan or plans approved under such subchapter, or for administration of such State plan or plans, or expenditures with respect to which payment shall be made under section 1397a of this title, as may be appropriate.

In addition, not to exceed $4,000,000 of the aggregate amount appropriated for payments to States under such subchapters for any fiscal year beginning after June 30, 1967, shall be available, under such terms and conditions as the Secretary may establish, for payments to States to cover so much of the cost of such projects as is not covered by payments under such subchapters and is not included as part of the cost of projects for purposes of section 1310 of this title.

(Aug. 14, 1935, ch. 531, title XI, § 1115, as added July 25, 1962, Pub. L. 87-543, title I, § 122, 76 Stat. 192, and amended July 30, 1965, Pub. L. 89-97, title I, § 121(c)(3), 79 Stat. 352; June 29, 1967, Pub. L. 90-36, § 2, 81 Stat. 94; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 241(c)(4), 247, 81 Stat. 917, 918; Dec. 31, 1973, Pub. L. 93-233, § 18(z-2)(1)(B), 87 Stat. 973; Jan. 4, 1975, Pub. L. 93-647, § 3(c), 88 Stat. 2349.)

References in Text

Subchapter VI of this chapter, referred to in text, consisting of sections 801 to 805 of this title, was repealed by Pub. L. 93-647, § 3(b), Jan. 4, 1975, 88 Stat. 2349.

Sections 802 and 803 of this title, referred to in text, were repealed by Pub. L. 93-647, § 3(b), Jan. 4, 1975, 88 Stat. 2349.

Amendments

1975—Pub. L. 93-647, § 3(c)(1), substituted "XIX, or XX" for "or XIX".

Subsec. (a). Pub. L. 93-647, § 3(c)(2), added the references to sections 1397a, 1397b, and 1397c.

Subsec. (b). Pub. L. 93-647, § 3(c)(3), (4), substituted "1396b, or 1397a" for "1396b", and added "or expenditures with respect to which payment shall be made under section 1397a of this title" after "administration of such State plan or plans,".

1973—Pub. L. 93-233 inserted references: in text preceding subsec. (a) to subchapter VI of this chapter, in

subsec. (a) to section 802 of this title, and in subsec. (b) to section 803 of this title.

1968—Pub. L. 90-248, § 241(c)(4), in the opening phrase deleted "IV," following "I," and inserted ", or part A of subchapter IV of this chapter," after "XIX of this chapter".

Pub. L. 90-248, § 247, substituted in second sentence "$4,000,000" for "$2,000,000" and "beginning after June 30, 1967" for "ending prior to July 1, 1968".

1967—Pub. L. 90-36 substituted "July 1, 1968" for "July 1, 1967".

1965—Pub. L. 89-97 included in the enumeration in the opening phrase, and clauses (a) and (b), subchapter XIX of this chapter, and sections 1396a and 1396b of this title, respectively.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 3 of Pub. L. 93-647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-233 effective on and after Jan. 1, 1974, see section 18(z-2)(2) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 1301 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 121(c)(3) of Pub. L. 89-97 provided in part that the amendment by Pub. L. 89-97 shall be effective Jan. 1, 1966.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976 under subsec. (b) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 101(a) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 383, set out as a note under section 422 of this title.

CONTINUATION OF FEDERAL FINANCIAL PARTICIPATION IN EXPERIMENTAL, PILOT, OR DEMONSTRATION PROJECTS APPROVED BEFORE OCTOBER 1, 1973, FOR PERIOD ON-AND-AFTER DECEMBER 31, 1973, WITHOUT DENIAL OR REDUCTION ON ACCOUNT OF SUBCHAPTER XVI PROVISIONS FOR SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED; WAIVER OF SUBCHAPTER XVI RESTRICTIONS FOR INDIVIDUALS; FEDERAL PAYMENTS OF NON-FEDERAL SHARE AS SUPPLEMENTARY PAYMENTS

Section 11 of Pub. L. 93-233 provided that:

"(a) If any State (other than the Commonwealth of Puerto Rico, the Virgin Islands, or Guam) has any experimental, pilot, or demonstration project (referred to in section 1115 of the Social Security Act [this section])—

"(1) which (prior to October 1, 1973) has been approved by the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary'), for a period which ends on or after December 31, 1973, as being a project with respect to which the authority conferred upon him by subsection (a) or (b) of such section 1115 [subsec. (a) or (b) of this section] will be exercised, and

"(2) with respect to the costs of which Federal financial participation would (except for the provisions of this section) be denied or reduced on account of the enactment of section 301 of the Social Security Amendments of 1972 [enacting subchapter XVI of this chapter],

then, for any period (after December 31, 1973) with respect to which such project is approved by the Secretary, Federal financial participation in the costs of such project shall be continued in like manner as if—

"(3) such section 301 [enacting subchapter XVI of this chapter] had not been enacted, and

"(4) such State (for the month of January 1974 and any month thereafter) continued to have in effect the State plan (approved under title [subchapter] XVI [of this chapter]) which was in effect for the month of October 1973, or the State plans (approved under titles [subchapters] I, X, and XIV of the Social Security Act [this chapter]) which were in effect for such month, as the case may be.

"(b) With respect to individuals—

"(1) who are participants in any project to which the provisions of subsection (a) are applicable, and

"(2) with respect to whom supplemental security income benefits are (or would, except for their participation in such project, be) payable under title [subchapter] XVI of the Social Security Act [this chapter], or who meet the requirements for aid or assistance under a State plan approved under title [subchapter] I, X, XIV, or XVI of the Social Security Act [this chapter] of the State in which such project is conducted (as such State plan was in effect for July 1973),

the Secretary may waive such requirements of title [subchapter] XVI of such Act [this chapter] (as enacted by section 301 of the Social Security Amendments of 1972) to such extent as he determines to be necessary to the successful operation of such project.

"(c) In the case of any State which has entered into an agreement with the Secretary under section 1616 of the Social Security Act [section 1382e of this title] (or which is deemed, under section 212(d) of Public Law 93-66 [set out as a note under section 1382 of this title], to have entered into such an agreement), then, of the costs of any project of such State with respect to which there is (solely by reason of the provisions of subsection (a)) Federal financial participation, the non-Federal share thereof shall—

"(1) be paid, from time to time, to such State by the Secretary, and

"(2) shall, for purposes of section 1616(d) of the Social Security Act [section 1382e(d) of this title] and section 401 of the Social Security Amendments of 1972 [set out as a note under section 1382e of this title] be treated in like manner as if such non-Federal share were supplementary payments made by the Secretary on behalf of such State pursuant to such agreement."

§ 1316. Administrative and judicial review of public assistance determinations

(a) Determination of confirmity with requirements for approval; petition for reconsideration; hearing; time limitations; review by court of appeals

(1) Whenever a State plan is submitted to the Secretary by a State for approval under subchapter I, VI, X, XIV, XVI, XIX or XX of this chapter, or part A of subchapter IV of this chapter, he shall, not later than 90 days after the date the plan is submitted to him, make a determination as to whether it conforms to the requirements for approval under such subchapter. The 90-day period provided herein may be extended by written agreement of the Secretary and the affected State.

(2) Any State dissatisfied with a determination of the Secretary under paragraph (1) of this subsection with respect to any plan may, within 60 days after it has been notified of such determination, file a petition with the Secretary for reconsideration of the issue of whether such plan conforms to the requirements for approval under such subchapter. Within 30 days after receipt of such a petition, the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering such issue. Such hearing shall be

held not less than 20 days nor more than 60 days after the date notice of such hearing is furnished to such State, unless the Secretary and such State agree in writing to holding the hearing at another time. The Secretary shall affirm, modify, or reverse his original determination within 60 days of the conclusion of the hearing.

(3) Any State which is dissatisfied with a final determination made by the Secretary on such a reconsideration or a final determination of the Secretary under section 304, 604, 804, 1204, 1354, 1384, 1396c, or 1397b of this title may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which such State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his determination as provided in section 2112 of title 28.

(4) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(5) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(b) Amendment of plans

For the purposes of subsection (a) of this section, any amendment of a State plan approved under subchapter I, VI, X, XIV, XVI, XIX, or XX of this chapter, or part A of subchapter IV of this chapter, may, at the option of the State, be treated as the submission of a new State plan.

(c) Restitution when Secretary reverses his determination

Action pursuant to an initial determination of the Secretary described in subsection (a) of this section shall not be stayed pending reconsideration, but in the event that the Secretary subsequently determines that his initial determination was incorrect he shall certify restitution forthwith in a lump sum of any funds incorrectly withheld or otherwise denied.

(d) Items covered under other subchapters; disallowance

Whenever the Secretary determines that any item or class of items on account of which Federal financial participation is claimed under subchapter I, VI, X, XIV, XVI, or XIX, XX of this chapter, or part A of subchapter IV of this chapter, shall be disallowed for such participation, the State shall be entitled to and upon request shall receive a reconsideration of the disallowance.

(Aug. 14, 1935, ch. 531, title XI, § 1116, as added July 30, 1965, Pub. L. 89-97, title IV, § 404(a), 79 Stat. 419, and amended Jan. 2, 1968, Pub. L. 90-248, title II, § 241(c)(5), 81 Stat. 917; Dec. 31, 1973, Pub. L. 93-233, § 18(z-2)(1)(C), 87 Stat. 974; Jan. 4, 1975, Pub. L. 93-647, § 3(d), 88 Stat. 2349.)

REFERENCES IN TEXT

Subchapter VI of this chapter, referred to in subsecs. (a), (b), and (d), consisting of sections 801 to 805 of this title, was repealed by Pub. L. 93-647, § 3(b), Jan. 4, 1975, 88 Stat. 2349.

Section 804 of this title, referred to in subsec. (a)(3), was repealed by Pub. L. 93-647, § 3(b), Jan. 4, 1975, 88 Stat. 2349.

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 93-647, § 3(d)(1), substituted "XIX or XX" for "or XIX".

Subsec. (a)(3). Pub. L. 93-647, § 3(d)(2), substituted "1396c, or 1397b" for "or 1396c".

Subsec. (b). Pub. L. 93-647, § 3(d)(1), substituted "XIX or XX" for "or XIX".

Subsec. (d). Pub. L. 93-647, § 3(d)(3), added "XX" after "XIX".

1973—Subsec. (a). Pub. L. 93-233, § 18(z-2)(1)(C)(i), (ii), inserted references in par. (1) to subchapter VI of this chapter and in par. (3) to section 804 of this title.

Subsec. (b). Pub. L. 93-233, § 18(z-2)(1)(C)(iii), inserted reference to subchapter VI of this chapter.

Subsec. (d). Pub. L. 93-233, § 18(z-2)(1)(C)(iv), inserted reference to subchapter VI of this chapter.

1968—Subsec. (a)(1). Pub. L. 90-248, § 241(c)(5)(A), deleted "IV," following "I," and inserted "or part A of subchapter IV of this chapter," after "XIX of this chapter,".

Subsecs. (b), (d). Pub. L. 90-248, § 241(c)(5)(B), deleted "IV," following "I," and inserted ", or part A of subchapter IV of this chapter," after "XIX of this chapter".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 3 of Pub. L. 93-647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-233 effective on and after Jan. 1, 1974, see section 18(z-2)(2) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 1301 of this title.

EFFECTIVE DATE

Section 404(b) of Pub. L. 89-97 provided that: "The amendment made by subsection (a) [adding this section] shall apply only with respect to determinations made after December 31, 1965."

§ 1317. Repealed. Pub. L. 90-248, title II, § 221(d), Jan. 2, 1968, 81 Stat. 900

Section, act Aug. 14, 1935, ch. 531, title XI, § 1117, as added July 30, 1965, Pub. L. 89-97, title IV, § 405, 79 Stat. 420, and amended Jan. 2, 1968, Pub. L. 90-248, title II, §§ 221(a) to (c), 241(c)(6), 81 Stat. 899, 917, related to maintenance of State public assistance expenditures.

EFFECTIVE DATE OF REPEAL

Section 221(d) of Pub. L. 90-248 repealed provisions effective July 1, 1968.

§ 1318. Alternative Federal payment with respect to public assistance expenditures

In the case of any State which has in effect a plan approved under subchapter XIX of this

chapter for any calendar quarter, the total of the payments to which such State is entitled for such quarter, and for each succeeding quarter in the same fiscal year (which for purposes of this section means the 4 calendar quarters ending with September 30), under paragraphs (1) and (2) of sections 303(a), 603(a), 1203(a), 1353(a), and 1383(a) of this title shall, at the option of the State, be determined by application of the Federal medical assistance percentage (as defined in section 1396d of this title), instead of the percentages provided under each such section, to the expenditures under its State plans approved under subchapters I, X, XIV, and XVI of this chapter, and part A of subchapter IV of this chapter, which would be included in determining the amounts of the Federal payments to which such State is entitled under such sections, but without regard to any maximum on the dollar amounts per recipient which may be counted under such sections.

(Aug. 14, 1935, ch. 531, title XI, § 1118, as added July 30, 1965, Pub. L. 89-97, title IV, § 411, 79 Stat. 423, and amended Jan. 2, 1968, Pub. L. 90-248, title II, § 241(c)(7), 81 Stat. 917; Apr. 21, 1976, Pub. L. 94-273, § 2(23), 90 Stat. 376.)

AMENDMENTS

1976—Pub. L. 94-273 substituted "September" for "June".

1968—Pub. L. 90-248 deleted "IV," after "I," and inserted "and part A of subchapter IV of this chapter," after "XVI of this chapter".

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of this section, see section 204(7) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

§ 1319. Federal participation in payments for repairs to home owned by recipient of aid or assistance

In the case of an expenditure for repairing the home owned by an individual who is receiving aid or assistance, other than medical assistance to the aged, under a State plan approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter if—

(1) the State agency or local agency administering the plan approved under such subchapter has made a finding (prior to making such expenditure) that (A) such home is so defective that continued occupancy is unwarranted, (B) unless repairs are made to such home, rental quarters will be necessary for such individual, and (C) the cost of rental quarters to take care of the needs of such individual (including his spouse living with him in such home and any other individual whose needs were taken into account in determining the need of such individual) would exceed (over such time as the Secretary may specify) the cost of repairs needed to make such home habitable together with other costs attributable to continued occupancy of such home, and

(2) no such expenditures were made for repairing such home pursuant to any prior finding under this section,

the amount paid to any such State for any quarter under section 303(a), 603(a), 1203(a), 1353(a), or 1383(a) of this title shall be increased by 50 per centum of such expenditures, except that the excess above $500 expended with respect to any one home shall not be included in determining such expenditures.

(Aug. 14, 1935, ch. 531, title XI, § 1119, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 209(a), 81 Stat. 894.)

EFFECTIVE DATE

Section 209(b) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) [enacting this section] shall apply with respect to expenditures made after December 31, 1967."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 App. section 214.

§ 1320. Approval of certain projects; report to Congress

(a) No payment shall be made under this chapter with respect to any experimental, pilot, demonstration, or other project all or any part of which is wholly financed with Federal funds made available under this chapter (without any State, local, or other non-Federal financial participation) unless such project shall have been personally approved by the Secretary or Under Secretary of Health, Education, and Welfare.

(b) The Secretary shall submit an annual report to Congress setting forth a description of each project approved under subsection (a) of this section during the year preceding such report, including a statement of the purpose, probable cost, and expected duration of each such project.

(Aug. 14, 1935, ch. 531, title XI, § 1120, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 249, 81 Stat. 919, and amended Jan. 2, 1975, Pub. L. 93-608, § 2(5), 88 Stat. 1971.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 93-608 substituted provisions relating to an annual submission of the required report to the Congress by the Secretary for each approved project, for provisions relating to submission of the report as soon as possible after approval.

§ 1320a. Repealed. Pub. L. 92-223, § 4(c), Dec. 28, 1971, 85 Stat. 810

Section, act Aug. 14, 1935, ch. 531, title XI, § 1121, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 250(a), 81 Stat. 920, provided for assistance in the form of institutional services in intermediate care facilities, the subsecs. providing as follows: subsec. (a), modification of certain plans to include such benefit; subsec. (b), eligible individuals; subsec. (c), payments and Federal medical assistance percentage; subsec. (d), conditions, limitations, rights, and obligations applicable to modified plans; and subsec. (e), definition of "intermediate care facility", and is now covered in section 1396d(c) of this title.

CODIFICATION

Section was amended by Pub. L. 92-603, title II, § 278(a)(24), Oct. 30, 1972, 86 Stat. 1453, without reference to the earlier repeal of this section by Pub. L. 92-223.

EFFECTIVE DATE OF REPEAL

Section repealed by Pub. L. 92-223 effective Jan. 1, 1972, see section 4(d) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 1396a of this title.

§ 1320a-1. Limitation on use of Federal funds for capital expenditures

(a) Use of reimbursement for planning activities for health services and facilities

The purpose of this section is to assure that Federal funds appropriated under subchapters V, XVIII, and XIX of this chapter are not used to support unnecessary capital expenditures made by or on behalf of health care facilities or health maintenance organizations which are reimbursed under any of such subchapters and that, to the extent possible, reimbursement under such subchapters shall support planning activities with respect to health services and facilities in the various States.

(b) Agreement between Secretary and State for submission of proposed capital expenditures related to health care facilities or health maintenance organizations, and procedures for appeal from recommendations

The Secretary, after consultation with the Governor (or other chief executive officer) and with appropriate local public officials, shall make an agreement with any State which is able and willing to do so under which a designated planning agency (which shall be an agency described in clause (ii) of subsection (d)(1)(B) of this section that has a governing body or advisory board at least half of whose members represent consumer interests) will—

(1) make, and submit to the Secretary together with such supporting materials as he may find necessary, findings and recommendations with respect to capital expenditures proposed by or on behalf of any health care facility or health maintenance organization in such State within the field of its responsibilities.

(2) receive from other agencies described in clause (ii) of subsection (d)(1)(B) of this section, and submit to the Secretary together with such supporting material as he may find necessary, the findings and recommendations of such other agencies with respect to capital expenditures proposed by or on behalf of health care facilities or health maintenance organizations in such State within the fields of their respective responsibilities, and

(3) establish and maintain procedures pursuant to which a person proposing any such capital expenditure may appeal a recommendation by the designated agency and will be granted an opportunity for a fair hearing by such agency or person other than the designated agency as the Governor (or other chief executive officer) may designate to hold such hearings.

whenever and to the extent that the findings of such designated agency or any such other agency indicate that any such expenditure is not consistent with the standards, criteria, or plans developed pursuant to the Public Health Service Act [42 U.S.C. 201 et seq.] (or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963) [42 U.S.C. 2689 et seq. and 6001 et seq.]) to meet the need for adequate health care facilities in the area covered by the plan or plans so developed.

(c) Manner of payment to States for carrying out agreement

The Secretary shall pay any such State from the Federal Hospital Insurance Trust Fund, in advance or by way of reimbursement as may be provided in the agreements with it (and may make adjustments in such payments on account of overpayments or underpayments previously made), for the reasonable cost of performing the functions specified in subsection (b) of this section.

(d) Determination of amount of exclusions from Federal payments

(1) Except as provided in paragraph (2), if the Secretary determines that—

(A) neither the planning agency designated in the agreement described in subsection (b) of this section nor an agency described in clause (ii) of subparagraph (B) of this paragraph had been given notice of any proposed capital expenditure (in accordance with such procedure or in such detail as may be required by such agency) at least 60 days prior to obligation for such expenditure; or

(B)(i) the planning agency so designated or an agency so described had received such timely notice of the intention to make such capital expenditure and had, within a reasonable period after receiving such notice and prior to obligation for such expenditure, notified the person proposing such expenditure that the expenditure would not be in conformity with the standards, criteria, or plans developed by such agency or any other agency described in clause (ii) for adequate health care facilities in such State or in the area for which such other agency has responsibility, and

(ii) the planning agency so designated had, prior to submitting to the Secretary the findings referred to in subsection (b) of this section—

(I) consulted with, and taken into consideration the findings and recommendations of, the State planning agencies established pursuant to sections 314(a) and 604(a) of the Public Health Service Act [42 U.S.C. 246(a) and 291d(a)] (to the extent that either such agency is not the agency so designated) as well as the public or nonprofit private agency or organization responsible for the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 314(b) of the Public Health Service Act [42 U.S.C. 246(b)] and covering the area in which the health care facility or health maintenance organization proposing such capital expenditure is located (where such agency is not the agency designated in the agreement), or, if there is no such agency, such other public or nonprofit private agency or organization (if any) as performs, as determined in accordance with criteria included in regulations, similar functions, and

(II) granted to the person proposing such capital expenditure an opportunity for a fair hearing with respect to such findings;

then, for such period as he finds necessary in any case to effectuate the purpose of this section, he shall, in determining the Federal payments to be made under subchapters V, XVIII, and XIX of this chapter with respect to services furnished in the health care facility for which such capital expenditure is made, not include any amount which is attributable to depreciation, interest on borrowed funds, a return on equity capital (in the case of proprietary facilities), or other expenses related to such capital expenditure. With respect to any organization which is reimbursed on a per capita or a fixed fee or negotiated rate basis, in determining the Federal payments to be made under subchapters V, XVIII, and XIX of this chapter, the Secretary shall exclude an amount which in his judgment is a reasonable equivalent to the amount which would otherwise be excluded under this subsection if payment were to be made on other than a per capita or a fixed fee or negotiated rate basis.

(2) If the Secretary, after submitting the matters involved to the advisory council established or designated under subsection (i) of this section, determines that an exclusion of expenses related to any capital expenditure of any health care facility or health maintenance organization would discourage the operation or expansion of such facility or organization, or any facility of such organization, which has demonstrated to his satisfaction proof of capability to provide comprehensive health care services (including institutional services) efficiently, effectively, and economically, or would otherwise be inconsistent with the effective organization and delivery of health services or the effective administration of subchapter V, XVII, or XIX of this chapter, he shall not exclude such expenses pursuant to paragraph (1).

(e) Treatment of lease or comparable arrangement of any facility or equipment for a facility in determining amount of exclusions from Federal payments

Where a person obtains under lease or comparable arrangement any facility or part thereof, or equipment for a facility, which would have been subject to an exclusion under subsection (d) of this section if the person had acquired it by purchase, the Secretary shall (1) in computing such person's rental expense in determining the Federal payments to be made under subchapters V, XVIII, and XIX of this chapter with respect to services furnished in such facility, deduct the amount which in his judgment is a reasonable equivalent of the amount that would have been excluded if the person had acquired such facility or such equipment by purchase, and (2) in computing such person's return on equity capital deduct any amount deposited under the terms of the lease or comparable arrangement.

(f) Reconsideration by Secretary of determinations

Any person dissatisfied with a determination by the Secretary under this section may within six months following notification of such determination request the Secretary to reconsider such determination. A determination by the Secretary under this section shall not be subject to administrative or judicial review.

(g) Definition

For the purposes of this section, a "capital expenditure" is an expenditure which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and which (1) exceeds $100,000, (2) changes the bed capacity of the facility with respect to which such expenditure is made, or (3) substantially changes the services of the facility with respect to which such expenditure is made. For purposes of clause (1) of the preceding sentence, the cost of the studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of the plant and equipment with respect to which such expenditure is made shall be included in determining whether such expenditure exceeds $100,000.

(h) Applicability to Christian Science sanatoriums

The provisions of this section shall not apply to Christian Science sanatoriums operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

(i) National advisory council; establishment or designation of existing council; functions; consultations with other appropriate national advisory councils; composition; compensation and travel expenses

(1) The Secretary shall establish a national advisory council, or designate an appropriate existing national advisory council, to advise and assist him in the preparation of general regulations to carry out the purposes of this section and on policy matters arising in the administration of this section, including the coordination of activities under this section with those under other parts of this chapter or under other Federal or federally assisted health programs.

(2) The Secretary shall make appropriate provision for consultation between and coordination of the work of the advisory council established or designated under paragraph (1) and the Federal Hospital Council, the National Advisory Health Council, the Health Insurance Benefits Advisory Council, and other appropriate national advisory councils with respect to matters bearing on the purposes and administration of this section and the coordination of activities under this section with related Federal health programs.

(3) If an advisory council is established by the Secretary under paragraph (1), it shall be composed of members who are not otherwise in the regular full-time employ of the United States, and who shall be appointed by the Secretary without regard to the civil service laws from among leaders in the fields of the fundamental sciences, the medical sciences, and the organization, delivery, and financing of health care, and persons who are State or local officials or are active in community affairs or public or civic affairs or who are representative of minority groups. Members of such advisory council, while attending meetings of the council or otherwise serving on business of the council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the maximum rate specified at the time of such

service for grade GS-18 in section 5332 of title 5, including traveltime, and while away from their homes or regular places of business they may also be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of such title 5 for persons in the Government service employed intermittently.

(Aug. 14, 1935, ch. 531, title XI, § 1122, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 221(a), 86 Stat. 1386, and amended Dec. 31, 1973, Pub. L. 93-233, § 18(z), (z-1), 87 Stat. 973.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (b), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified principally to chapter 6A (201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, referred to in subsec. (b), is Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 284, as amended, which is classified principally to subchapter III (§ 2689 et seq.) of chapter 33 and chapter 75 (§ 6001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title and Tables volume.

The civil service laws, referred to in subsec. (i)(3), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

Section 5703 of title 5, referred to in subsec. (i)(3), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

AMENDMENTS

1973—Subsec. (d)(1). Pub. L. 93-233, § 18(z), inserted in last sentence "or a fixed fee or negotiated rate" following "per capita" wherever appearing.

Subsec. (d)(2). Pub. L. 93-233, § 18(z-1), substituted "exclude" for "include" where last appearing.

EFFECTIVE DATE

Section 221(b) of Pub. L. 92-603 provided that: The amendment made by subsection (a) [enacting this section] shall apply only with respect to a capital expenditure the obligation for which is incurred by or on behalf of a health care facility or health maintenance organization subsequent to whichever of the following is earlier: (A) December 31, 1972, or (B) with respect to any State or any part thereof specified by such State, the last day of the calendar quarter in which the State requests that the amendment made by subsection (a) of this section [enacting this section] apply in such State or such part thereof."

EXPENDITURES OR OBLIGATIONS OF HEALTH CARE FACILITIES PROVIDING HEALTH CARE SERVICES PRIOR TO DECEMBER 18, 1970; LIMITATIONS ON FEDERAL PARTICIPATION

Section 221(d) of Pub. L. 92-603 provided that: "In the case of a health care facility providing health care services as of December 18, 1970, which on such date is committed to a formal plan of expansion or replacement, the amendments made by the preceding provisions of this section [enacting this section and amending sections 705(a)(6), 706, 709(a), 1395x(v), 1396a(a)(13)(D), and 1396b(b) of this title] shall not apply with respect to such expenditures as may be made or obligations incurred for capital items included in such plan where preliminary expenditures toward the plan of expansion or replacement (including payments for studies, surveys, designs, plans, working drawings, specifications, and site acquisition, essential to the acquisition, improvement, expansion, or replacement of the health care facility or equipment concerned) of $100,000 or more, had been made during the three-year period ended December 17, 1970."

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. Advisory Councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300m-2, 300n, 705, 706, 709, 1395x, 1395mm, 1396a, 1396b of this title.

§ 1320a-2. Qualifications for health care personnel

(a) The Secretary, in carrying out his functions relating to the qualifications for health care personnel under subchapter XVIII of this chapter, shall develop (in consultation with appropriate professional health organizations and State health and licensure agencies) and conduct (in conjunction with State health and licensure agencies) until December 31, 1977, a program designed to determine the proficiency of individuals (who do not otherwise meet the formal educational, professional membership, or other specific criteria established for determining the qualifications of practical nurses, therapists, laboratory technicians, and technologists, and cytotechnologists, X-ray technicians, psychiatric technicians, or other health care technicians and technologists) to perform the duties and functions of practical nurses, therapists, laboratory technicians, technologists, and cytotechnologists, X-ray technicians, psychiatric technicians, or other health care technicians and technologists. Such program shall include (but not be limited to) the employment of procedures for the formal testing of the proficiency of individuals. In the conduct of such program, no individual who otherwise meets the proficiency requirements for any health care specialty shall be denied a satisfactory proficiency rating solely because of his failure to meet formal educational or professional membership requirements.

(b) If any individual has been determined, under the program established pursuant to subsection (a) of this section, to be qualified to perform the duties and functions of any health care specialty, no person or provider utilizing the services of such individual to perform such duties and functions shall be denied payment, under subchapter XVIII of this chapter or under any State plan approved under subchapter XIX of this chapter, for any health care services provided by such person on the grounds that such individual is not qualified to perform such duties and functions.

(Aug. 14, 1935, ch. 531, title XI, § 1123, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 241, 86 Stat. 1418.)

§ 1320b. Repealed. Pub. L. 93-647, § 3(e)(1), Jan. 4, 1975, 88 Stat. 2349

Section, act Aug. 14, 1935, ch. 531, title XI, § 1130, as added Oct. 20, 1972, Pub. L. 92-512, title III, § 301(a), 86 Stat. 945, and amended July 9, 1973, Pub. L. 93-66, title II, § 221, 87 Stat. 159; Dec. 31, 1973, Pub. L. 93-233, § 18(j), 87 Stat. 970, set out limitations on funds for certain social services.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93-647, set out as a note under section 1397 of this title.

SOCIAL SERVICES REGULATIONS POSTPONED

Pub. L. 93-233, § 12, Dec. 31, 1973, 87 Stat. 969, as amended by Pub. L. 93-647, § 3(g), Jan. 4, 1975, 88 Stat. 2349, provided that:

"(a) Subject to subsection (b), no regulation and no modification of any regulation, promulgated by the Secretary of Health, Education, and Welfare (hereinafter referred to as the 'Secretary') after January 1, 1973, shall be effective for any period which begins prior to October 1, 1975, if (and insofar as) such regulation or modification of a regulation pertains (directly or indirectly) to the provisions of law contained in section 3(a)(4)(A), 402(a)(19)(G), 403(a)(3)(A), 603(a)(1)(A), 1003(a)(3)(A), 1403(a)(3)(A), or 1603(a)(4)(A) of the Social Security Act [section 303(a)(4)(A), 602(a)(19)(G), 603(a)(3)(A), 803(a)(1)(A), 1203(a)(3)(A), 1353(a)(3)(A), or 1383(a)(4)(A) of this title].

"(b)(1) The provisions of subsection (a) shall not be applicable to any regulation relating to 'scope of programs', if such regulation is identical (except as provided in the succeeding sentence) to the provisions of section 221.0 of the regulations (relating to social services) proposed by the Secretary and published in the Federal Register on May 1, 1973. There shall be deleted from the first sentence of subsection (b) of such section 221.0 the phrase 'meets all the applicable requirements of this part and'.

"(2) The provisions of subsection (a) shall not be applicable to any regulation relating to 'limitations on total amount of Federal funds payable to States for services', if such regulation is identical (except as provided in the succeeding sentence) to the provisions of section 221.55 of the regulations so proposed and published on May 1, 1973. There shall be deleted from subsection (d)(1) of such section 221.55 the phrase '(as defined under day care services for children)'; and, in lieu of the sentence contained in subsection (d)(5) of such section 221.55, there shall be inserted the following: 'Services provided to a child who is under foster care in a foster family home (as defined in section 408 of the Social Security Act [section 608 of this title]) or in a childcare institution (as defined in such section [section 608 of this title]), or while awaiting placement in such a home or institution, but only if such services are needed by such child because he is under foster care.'.

"(3) The provisions of subsection (a) shall not be applicable to any regulation relating to 'rates and amounts of Federal financial participation for Puerto Rico, the Virgin Islands, and Guam', if such regulation is identical to the provisions of section 221.56 of the regulations so proposed and published on May 1, 1973.

"(4) The provisions of subsection (a) shall not be construed to preclude the Secretary from making any modification in any regulation (described in subsection (a)) if such modification is technically necessary to take account of the enactment of section 301 or 302 of the Social Security Amendments of 1972 [enacting subchapters XVI and VI of this chapter].

"(c) Notwithstanding the provisions of section 553(d) of title 5, United States Code, any regulation described in subsection (b) may become effective upon the date of its publication in the Federal Register."

Similar provisions were contained in the following prior act: Pub. L. 93-66, title II, § 220, July 9, 1973, 87 Stat. 158.

MODIFICATION OF SOCIAL SERVICES REGULATIONS

Section 3(g) of Pub. L. 93-647 provided in part that: "Notwithstanding the provisions of section 12(a) of Public Law 93-233 [set out as a note above], the Secretary may make any modification in any regulation described in that section if the modification is necessary to implement the provisions of this part."

ADJUSTMENT OF ALLOTMENT TO STATE FOR FISCAL YEAR ENDING JUNE 30, 1973

Pub. L. 92-603, title IV, § 403, Oct. 30, 1972, 86 Stat. 1487, provided for the computation of the allotment of each state for the fiscal year ending June 30, 1973.

§ 1320b-1. Notification of social security claimant with respect to deferred vested benefits

(a) Whenever—

(1) the Secretary makes a finding of fact and a decision as to—

(A) the entitlement of any individual to monthly benefits under section 402, 423, or 428 of this title,

(B) the entitlement of any individual to lump-sum death payment payable under section 402(i) of this title on account of the death of any person to whom such individual is related by blood, marriage, or adoption, or

(C) the entitlement under section 426 of this title of any individual to hospital insurance benefits under part A of subchapter XVIII of this chapter, or

(2) the Secretary is requested to do so—

(A) by any individual with respect to whom the Secretary holds information obtained under section 6057 of title 26, or

(B) in the case of the death of the individual referred to in subparagraph (A), by the individual who would be entitled to payment under section 404(d) of this title,

he shall transmit to the individual referred to in paragraph (1) or the individual making the request under paragraph (2) any information, as reported by the employer, regarding any deferred vested benefit transmitted to the Secretary pursuant to such section 6057 with respect to the individual referred to in paragraph (1) or (2)(A) or the person on whose wages and self-employment income entitlement (or claim of entitlement) is based.

(b)(1) For purposes of section 401(g)(1) of this title, expenses incurred in the administration of subsection (a) of this section shall be deemed to be expenses incurred for the administration of subchapter II of this chapter.

(2) There are hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for each fiscal year (commencing with the fiscal year ending June 30, 1974) such sums as the Secretary deems necessary on account of additional administrative expenses resulting from the enactment of the provisions of subsection (a) of this section.

(Aug. 14, 1935, ch. 531, title XI, § 1131, as added Sept. 2, 1974, Pub. L. 93-406, title II, § 1032, 88 Stat. 947.)

EFFECTIVE DATE

Section effective on Jan. 1, 1978, see section 1034 of Pub. L. 93-406, set out as an Effective Date note under section 6057 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 6103.

PART B—PROFESSIONAL STANDARDS REVIEW

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300k-2, 1395x of this title.

§ 1320c. Congressional declaration of purpose

In order to promote the effective, efficient, and economical delivery of health care services of proper quality for which payment may be made (in whole or in part) under this chapter and in recognition of the interests of patients, the public, practitioners, and providers in improved health care services, it is the purpose of this part to assure, through the application of suitable procedures of professional standards review, that the services for which payment may be made under this chapter will conform to appropriate professional standards for the provision of health care and that payment for such services will be made—

(1) only when, and to the extent, medically necessary, as determined in the exercise of reasonable limits of professional discretion; and

(2) in the case of services provided by a hospital or other health care facility on an inpatient basis, only when and for such period as such services cannot, consistent with professionally recognized health care standards, effectively be provided on an outpatient basis or more economically in an inpatient health care facility of a different type, as determined in the exercise of reasonable limits of professional discretion.

(Aug. 14, 1935, ch. 531, title XI, § 1151, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1429.)

§ 1320c-1. Professional Standards Review Organizations

(a) Designation

The Secretary shall (1) not later than January 1, 1974, establish throughout the United States appropriate areas with respect to which Professional Standards Review Organizations may be designated, and (2) at the earliest practicable date after designation of an area enter into an agreement with a qualified organization whereby such an organization shall be conditionally designated as the Professional Standards Review Organization for such area. If, on the basis of its performance during such period of conditional designation, the Secretary determines that such organization is capable of fulfilling, in a satisfactory manner, the obligations and requirements for a Professional Standards Review Organization under this part, he shall enter into an agreement with such organization designating it as the Professional Standards Review Organization for such area.

(b) Qualified organizations eligible for designation

For purposes of subsection (a) of this section, the term "qualified organization" means—

(1) when used in connection with any area—

(A) an organization (i) which is a nonprofit professional association (or a component organization thereof), (ii) which is composed of licensed doctors of medicine or osteopathy engaged in the practice of medicine or surgery in such area, (iii) the membership of which includes a substantial proportion of all such physicians in such area, (iv) which is organized in a manner which makes available professional competence to review health care services of the types and kinds with respect to which Professional Standards Review Organizations have review responsibilities under this part, (v) the membership of which is voluntary and open to all doctors of medicine or osteopathy licensed to engage in the practice of medicine or surgery in such area without requirement of membership in or payment of dues to any organized medical society or association, and (vi) which does not restrict the eligibility of any member for service as an officer of the Professional Standards Review Organization or eligibility for and assignment to duties of such Professional Standards Review Organization, or, subject to subsection (c)(1)[1] of this section,

(B) such other public, nonprofit private, or other agency or organization, which the Secretary determines, in accordance with criteria prescribed by him in regulations, to be of professional competence and otherwise suitable; and

(2) an organization which the Secretary, on the basis of his examination and evaluation of a formal plan submitted to him by the association, agency, or organization (as well as on the basis of other relevant data and information), finds to be willing to perform and capable of performing, in an effective, timely, and objective manner and at reasonable cost, the duties, functions, and activities of a Professional Standards Review Organization required by or pursuant to this part.

(c) Order of eligibility; renewal of agreements

(1) The Secretary shall not enter into any agreement under this part under which there is designated as the Professional Standards Review Organization for any area any organization other than an organization referred to in subsection (b)(1)(A) of this section prior to January 1, 1978, nor after such date, unless, in such area, there is no organization referred to in subsection (b)(1)(A) of this section which meets the conditions specified in subsection (b)(2) of this section.

(2) Whenever the Secretary shall have entered into an agreement under this part under which there is designated as the Professional Standards Review Organization for any area any organization other than an organization referred to in subsection (b)(1)(A) of this section, he shall not renew such agreements with such organization if he determines that—

[1] So in original.

(A) there is in such area an organization referred to in subsection (b)(1)(A) of this section which (i) has not been previously designated as a Professional Standards Review Organization, and (ii) is willing to enter into an agreement under this part under which such organization would be designated as the Professional Standards Review Organization for such area;

(B) such organization meets the conditions specified in subsection (b)(2) of this section; and

(C) the designation of such organization as the Professional Standards Review Organization for such area is anticipated to result in substantial improvement in the performance in such area of the duties and functions required of such organizations under this part.

(d) Agreement expiration; prior termination

Any such agreement under this part with an organization (other than an agreement established pursuant to section 1320c-3 of this title) shall be for a term of 12 months; except that, prior to the expiration of such term such agreement may be terminated—

(1) by the organization at such time and upon such notice to the Secretary as may be prescribed in regulations (except that notice of more than 3 months may not be required); or

(2) by the Secretary at such time and upon such reasonable notice to the organization as may be prescribed in regulations, but only after the Secretary has determined (after providing such organization with an opportunity for a formal hearing on the matter) that such organization is not substantially complying with or effectively carrying out the provisions of such agreement.

(e) Waiver of those review, certification, and similar activities now covered by Professional Standards Review Organizations

In order to avoid duplication of functions and unnecessary review and control activities, the Secretary is authorized to waive any or all of the review, certification, or similar activities otherwise required under or pursuant to any provision of this chapter (other than this part) where he finds, on the basis of substantial evidence of the effective performance of review and control activities by Professional Standards Review Organizations, that the review, certification, and similar activities otherwise so required are not needed for the provision of adequate review and control.

(f) Agreement notice; objection by doctors; poll

(1) In the case of agreements entered into prior to January 1, 1978, under this part under which any organization is designated as the Professional Standards Review Organization for any area, the Secretary shall, prior to entering into any such agreement with any organization for any area, inform (under regulations of the Secretary) the doctors of medicine or osteopathy who are in active practice in such area of the Secretary's intention to enter into such an agreement with such organization.

(2) If, within a reasonable period of time following the serving of such notice, more than 10 per centum of such doctors object to the Secretary's entering into such an agreement with such organization on the ground that such organization is not representative of doctors in such area, the Secretary shall conduct a poll of such doctors to determine whether or not such organization is representative of such doctors in such area. If more than 50 per centum of the doctors responding to such poll indicate that such organization is not representative of such doctors in such area the Secretary shall not enter into such an agreement with such organization.

(g) Statewide Professional Standards Review Organization; criteria for designation; nonapplicability

(1) In any case in which the Secretary has established, within a State, two or more appropriate areas with respect to which Professional Standards Review Organizations may be designated, he shall, prior to designating a Professional Standards Review Organization for any such area, conduct in each such area a poll in which the doctors of medicine and doctors of osteopathy engaged in active practice therein will be asked: "Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?". If, in each such area, more than 50 per centum of the doctors responding to such question respond in the affirmative, then the Secretary shall establish the entire State as a single Professional Standards Review Organization area.

(2) The provisions of paragraph (1) shall not be applicable with respect to the designation of Professional Standards Review Organization areas in any State, if, prior to December 31, 1975, the Secretary has entered into an agreement (on a conditional basis or otherwise) with an organization designating it as the Professional Standards Review Organization for any area in the State.

(Aug. 14, 1935, ch. 531, title XI, § 1152, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1430, and amended Dec. 31, 1975, Pub. L. 94-182, title I, §§ 105, 108(a), 89 Stat. 1052, 1053.)

AMENDMENTS

1975—Subsec. (c)(1). Pub. L. 94-182, § 108(a), substituted "January 1, 1978" for "January 1, 1976".

Subsec. (f)(1). Pub. L. 94-182, § 108(a), substituted "January 1, 1978" for "January 1, 1976".

Subsec. (g). Pub. L. 94-182, § 105, added subsec. (g).

NONAPPLICABILITY OF STARTUP DEADLINE TO DESIGNATED ORGANIZATIONS

Section 108(b) of Pub. L. 94-182 provided that:

"The amendments made by subsection (a) [amending subsecs. (c)(1) and (f)(1) of this section] shall not apply in any area designated in accordance with section 1152(a)(1) of the Social Security Act [subsec. (a)(1) of this section] where—

"(1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or

"(2) the organization proposed to be designated by the Secretary under section 1152 of such Act [this section] has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof [subsec. (f)(2) of this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*, 300*l*-2, 1320c-16, 1320c-18 of this title.

§ 1320c-2. Review pending designation of Professional Standards Review Organization

Pending the assumption by a Professional Standards Review Organization for any area, of full review responsibility, and pending a demonstration of capacity for improved review effort with respect to matters involving the provision of health care services in such area for which payment (in whole or in part) may be made, under this chapter, any review with respect to such services which has not been designated by the Secretary as the full responsibility of such organization, shall be reviewed in the manner otherwise provided for under law.

(Aug. 14, 1935, ch. 531, title XI, § 1153, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1432.)

§ 1320c-3. Trial period for Professional Standards Review Organizations

(a) Initial designation; plans for assumption and implementation of responsibilities

The Secretary shall initially designate an organization as a Professional Standards Review Organization for any area on a conditional basis with a view to determining the capacity of such organization to perform the duties and functions imposed under this part on Professional Standards Review Organizations. Such designation may not be made prior to receipt from such organization and approval by the Secretary of a formal plan for the orderly assumption and implementation of the responsibilities of the Professional Standards Review Organization under this part.

(b) Duties and functions during trial period

During any such trial period (which may not exceed 24 months), the Secretary may require a Professional Standards Review Organization to perform only such of the duties and functions required under this part of Professional Standards Review Organization as he determines such organization to be capable of performing. The number and type of such duties shall, during the trial period, be progressively increased as the organization becomes capable of added responsibility so that, by the end of such period, such organization shall be considered a qualified organization only if the Secretary finds that it is substantially carrying out in a satisfactory manner, the activities and functions required of Professional Standards Review Organizations under this part with respect to the review of health care services provided or ordered by physicians and other practitioners and institutional and other health care facilities, agencies, and organizations. Any of such duties and functions not performed by such organization during such period shall be performed in the manner and to the extent otherwise provided for under law.

(c) Termination of designation

Any agreement under which any organization is conditionally designated as the Professional Standards Review Organization for any area may be terminated by such organization upon 90 days notice to the Secretary or by the Secretary upon 90 days notice to such organization.

(Aug. 14, 1935, ch. 531, title XI, § 1154, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1432.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1320c-1 of this title.

§ 1320c-4. Duties and functions of Professional Standards Review Organizations

(a) Responsibility for review of professional activities; case criteria; patient profiles; physician review of hospital care; involvement of reviewing physicians

(1) Notwithstanding any other provision of law, but consistent with the provisions of this part, it shall (subject to the provisions of subsection (g) of this section) be the duty and function of each Professional Standards Review Organization for any area to assume, at the earliest date practicable, responsibility for the review of the professional activities in such area of physicians and other health care practitioners and institutional and noninstitutional providers of health care services in the provision of health care services and items for which payment may be made (in whole or in part) under this chapter for the purpose of determining whether—

(A) such services and items are or were medically necessary;

(B) the quality of such services meets professionally recognized standards of health care; and

(C) in case such services and items are proposed to be provided in a hospital or other health care facility on an inpatient basis, such services and items could, consistent with the provision of appropriate medical care, be effectively provided on an outpatient basis or more economically in an inpatient health care facility of a different type.

(2) Each Professional Standards Review Organization shall have the authority to determine, in advance, in the case of—

(A) any elective admission to a hospital, or other health care facility, or

(B) any other health care service which will consist of extended or costly courses of treatment,

whether such service, if provided, or if provided by a particular health care practitioner or by a particular hospital or other health care facility, organization, or agency, would meet the criteria specified in clauses (A) and (C) of paragraph (1).

(3) Each Professional Standards Review Organization shall, in accordance with regulations of the Secretary, determine and publish, from time to time, the types and kinds of cases (whether by type of health care or diagnosis involved, or whether in terms of other relevant criteria relating to the provision of health care services) with respect to which such organization will, in order most effectively to carry out the purposes of this part, exercise the authority conferred upon it under paragraph (2).

(4) Each Professional Standards Review Organization shall be responsible for the arrang-

ing for the maintenance of and the regular review of profiles of care and services received and provided with respect to patients, utilizing to the greatest extent practicable in such patient profiles, methods of coding which will provide maximum confidentiality as to patient identity and assure objective evaluation consistent with the purposes of this part. Profiles shall also be regularly reviewed on an ongoing basis with respect to each health care practitioner and provider to determine whether the care and services ordered or rendered are consistent with the criteria specified in clauses (A), (B), and (C) of paragraph (1).

(5) Physicians assigned responsibility for the review of hospital care may be only those having active hospital staff privileges in at least one of the participating hospitals in the area served by the Professional Standards Review Organization and (except as may be otherwise provided under subsection (e)(1) of this section) such physicians ordinarily should not be responsible for, but may participate in the review of care and services provided in any hospital in which such physicians have active staff privileges.

(6) No physician shall be permitted to review—

(A) health care services provided to a patient if he was directly or indirectly involved in providing such services, or

(B) health care services provided in or by an institution, organization, or agency, if he or any member of his family has, directly or indirectly, any financial interest in such institution, organization, or agency.

For purposes of this paragraph, a physician's family includes only his spouse (other than a spouse who is legally separated from him under a decree of divorce or separate maintenance), children (including legally adopted children), grandchildren, parents, and grandparents.

(b) Utilization of practitioners and specialists; examination of records; inspection of facilities

To the extent necessary or appropriate for the proper performance of its duties and functions, the Professional Standards Review Organization serving any area is authorized in accordance with regulations prescribed by the Secretary to—

(1) make arrangements to utilize the services of persons who are practitioners of or specialists in the various areas of medicine (including dentistry), or other types of health care, which persons shall, to the maximum extent practicable, be individuals engaged in the practice of their profession within the area served by such organization;

(2) undertake such professional inquiry either before or after, or both before and after, the provision of services with respect to which such organization has a responsibility for review under subsection (a)(1) of this section;

(3) examine the pertinent records of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under subsection (a)(1) of this section; and

(4) inspect the facilities in which care is rendered or services provided (which are located in such area) of any practitioner or provider.

(c) Utilization of services of unlicensed doctors of medicine or osteopathy

No Professional Standards Review Organization shall utilize the services of any individual who is not a duly licensed doctor of medicine or osteopathy to make final determinations in accordance with its duties and functions under this part with respect to the professional conduct of any other duly licensed doctor of medicine or osteopathy, or any act performed by any duly licensed doctor of medicine or osteopathy in the exercise of his profession.

(d) Familiarization of physicians with review functions of Professional Standards Review Organizations

In order to familiarize physicians with the review functions and activities of Professional Standards Review Organizations and to promote acceptance of such functions and activities by physicians patients, and other persons, each Professional Standards Review Organization, in carrying out its review responsibilities, shall (to the maximum extent consistent with the effective and timely performance of its duties and functions)—

(1) encourage all physicians practicing their profession in the area served by such Organization to participate as reviewers in the review activities of such Organizations;

(2) provide rotating physician membership of review committees on an extensive and continuing basis;

(3) assure that membership on review committees have the broadest representation feasible in terms of the various types of practice in which physicians engage in the area served by such Organization; and

(4) utilize, whenever appropriate, medical periodicals and similar publications to publicize the functions and activities of Professional Standards Review Organizations.

(e) Review committees of hospitals or other operating health care facilities or organizations

(1) Each Professional Standards Review Organization shall utilize the services of, and accept the findings of, the review committees of a hospital or other operating health care facility or organization located in the area served by such organization, but only when and only to the extent and only for such time that such committees in such hospital or other operating health care facility or organization have demonstrated to the satisfaction of such organization their capacity effectively and in timely fashion to review activities in such hospital or other operating health care facility or organization (including the medical necessity of admissions, types and extent of services ordered, and lengths of stay) so as to aid in accomplishing the purposes and responsibilities described in subsection (a)(1) of this section, except where the Secretary disapproves, for good cause, such acceptance.

(2) The Secretary may prescribe regulations to carry out the provisions of this subsection.

(f) Agreement requirements

(1) An agreement entered into under this part between the Secretary and any organization under which such organization is designated as the Professional Standards Review Organization for any area shall provide that such organization will—

(A) perform such duties and functions and assume such responsibilities and comply with such other requirements as may be required by this part or under regulations of the Secretary promulgated to carry out the provisions of this part; and

(B) collect such data relevant to its functions and such information and keep and maintain such records in such form as the Secretary may require to carry out the purposes of this part and to permit access to and use of any such records as the Secretary may require for such purposes.

(2) Any such agreement with an organization under this part shall provide that the Secretary make payments to such organization equal to the amount of expenses reasonably and necessarily incurred, as determined by the Secretary, by such organization in carrying out or preparing to carry out the duties and functions required by such agreement.

(g) Review of health care services limited to health care services provided by or in institutions unless otherwise requested

Notwithstanding any other provision of this part, the responsibility for review of health care services of any Professional Standards Review Organization shall be the review of health care services provided by or in institutions, unless such Organization shall have made a request to the Secretary that it be charged with the duty and function of reviewing other health care services and the Secretary shall have approved such request.

(Aug. 14, 1935, ch. 531, title XI, § 1155, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1433.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1320c-5, 1320c-8 of this title.

§ 1320c-5. Norms of health care services

(a) Development by Professional Standards Review Organizations

Each Professional Standards Review Organization shall apply professionally developed norms of care, diagnosis, and treatment based upon typical patterns of practice in its regions (including typical lengths-of-stay for institutional care by age and diagnosis) as principal points of evaluation and review. The National Professional Standards Review Council and the Secretary shall provide such technical assistance to the organization as will be helpful in utilizing and applying such norms of care, diagnosis, and treatment. Where the actual norms of care, diagnosis, and treatment in a Professional Standards Review Organization area are significantly different from professionally developed regional norms of care, diagnosis, and treatment approved for comparable conditions, the Professional Standards Review Organization concerned shall be so informed, and in the event that appropriate consultation and discussion indicate reasonable basis for usage of other norms in the area concerned, the Professional Standards Review Organization may apply such norms in such area as are approved by the National Professional Standards Review Council.

(b) Requisite contents of norms

Such norms with respect to treatment for particular illnesses or health conditions shall include (in accordance with regulations of the Secretary)—

(1) the types and extent of the health care services which, taking into account differing, but acceptable, modes of treatment and methods of organizing and delivering care are considered within the range of appropriate diagnosis and treatment of such illness or health condition, consistent with professionally recognized and accepted patterns of care;

(2) the type of health care facility which is considered, consistent with such standards, to be the type in which health care services which are medically appropriate for such illness or condition can most economically be provided.

(c) Data on regional norms; preparation, distribution, review, and revision; utilization of norms

(1) The National Professional Standards Review Council shall provide for the preparation and distribution, to each Professional Standards Review Organization and to each other agency or person performing review functions with respect to the provision of health care services under this chapter, of appropriate materials indicating the regional norms to be utilized pursuant to this part. Such data concerning norms shall be reviewed and revised from time to time. The approval of the National Professional Standards Review Council of norms of care, diagnosis, and treatment shall be based on its analysis of appropriate and adequate data.

(2) Each review organization, agency, or person referred to in paragraph (1) shall utilize the norms developed under this section as a principal point of evaluation and review for determining, with respect to any health care services which have been or are proposed to be provided, whether such care and services are consistent with the criteria specified in section 1320c-4(a)(1) of this title.

(d) Certification for further inpatient care

(1) Each Professional Standards Review Organization shall—

(A) in accordance with regulations of the Secretary, specify the appropriate points in time after the admission of a patient for inpatient care in a health care institution, at which the physician attending such patient shall execute a certification stating that further inpatient care in such institution will be medically necessary effectively to meet the health care needs of such patient; and

(B) require that there is included in any such certification with respect to any patient such information as may be necessary to enable such organization properly to evaluate the medical necessity of the further institutional health care recommended by the physician executing such certification.

(2) The points in time at which any such certification will be required (usually, not later than the 50th percentile of lengths-of-stay for patients in similar age groups with similar diagnoses) shall be consistent with and based on professionally developed norms of care and treatment and data developed with respect to length of stay in health care institutions of patients having various illnesses, injuries, or health conditions, and requiring various types of health care services or procedures.

(Aug. 14, 1935, ch. 531, title XI, § 1156, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1435.)

§ 1320c-6. Submission of reports by Professional Standards Review Organizations

If, in discharging its duties and functions under this part, any Professional Standards Review Organization determines that any health care practitioner or any hospital, or other health care facility, agency, or organization has violated any of the obligations imposed by section 1320c-9 of this title, such organization shall report the matter to the Statewide Professional Standards Review Council for the State in which such organization is located together with the recommendations of such Organization as to the action which should be taken with respect to the matter. Any Statewide Professional Standards Review Council receiving any such report and recommendation shall review the same and promptly transmit such report and recommendation to the Secretary together with any additional comments or recommendations thereon as it deems appropriate. The Secretary may utilize a Professional Standards Review Organization, in lieu of a program review team as specified in sections 1395y and 1395cc of this title, for purposes of subparagraph (C) of section 1395y(d)(1) of this title and subparagraph (F) of section 1395cc(b)(2) of this title.

(Aug. 14, 1935, ch. 531, title XI, § 1157, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1437.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1320c-9 of this title.

§ 1320c-7. Review approval as condition of payment of claims

(a) Except as provided for in section 1320c-8 of this title, no Federal funds appropriated under any subchapter of this chapter (other than subchapter V) for the provision of health care services or items shall be used (directly or indirectly) for the payment, under such subchapter or any program established pursuant thereto, of any claim for the provision of such services or items, unless the Secretary, pursuant to regulation determines that the claimant is without fault if—

(1) the provision of such services or items is subject to review under this part by any Professional Standards Review Organization, or other agency; and

(2) such organization or other agency has, in the proper exercise of its duties and functions under or consistent with the purposes of this part, disapproved of the services or items giving rise to such claim, and has notified the practitioner or provider who provided or proposed to provide such services or items and the individual who would receive or was proposed to receive such services or items of its disapproval of the provision of such services or items.

(b) Whenever any Professional Standards Review Organization, in the discharge of its duties and functions as specified by or pursuant to this part, disapproves of any health care services or items furnished or to be furnished by any practitioner or provider, such organization shall, after notifying the practitioner, provider, or other organization or agency of its disapproval in accordance with subsection (a) of this section, promptly notify the agency or organization having responsibility for acting upon claims for payment for or on account of such services or items.

(Aug. 14, 1935, ch. 531, title XI, § 1158, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1437.)

§ 1320c-8. Hearing and review

(a) Reconsideration by the Professional Standards Review Organization; review by state professional standards review council

Any beneficiary or recipient who is entitled to benefits under this chapter (other than subchapter V) or a provider or practitioner who is dissatisfied with a determination with respect to a claim made by a Professional Standards Review Organization in carrying out its responsibilities for the review of professional activities in accordance with paragraphs (1) and (2) of section 1320c-4(a) of this title shall, after being notified of such determination, be entitled to a reconsideration thereof by the Professional Standards Review Organization and, where the Professional Standards Review Organization reaffirms such determination in a State which has established a Statewide Professional Standards Review Council, and where the matter in controversy is $100 or more, such determination shall be reviewed by professional members of such Council and, if the Council so determined, revised.

(b) Hearing and decision by the Secretary; judicial review

Where the determination of the Statewide Professional Standards Review Council is adverse to the beneficiary or recipient (or, in the absence of such Council in a State and where the matter in controversy is $100 or more), such beneficiary or recipient shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 405(b) of this title, and, where the amount in controversy is $1,000 or more, to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title. The Secretary will render a decision only after appropriate professional consultation on the matter.

(c) Review and appeals in lieu of other proceedings

Any review or appeals provided under this section shall be in lieu of any review, hearing, or appeal under this chapter with respect to the same issue.

(Aug. 14, 1935, ch. 531, title XI, § 1159, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1437.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1320c-7 of this title.

§ 1320c-9. Obligations of health care practitioners and providers of health care services

(a) Enumeration of obligations

(1) It shall be the obligation of any health care practitioner and any other person (including a hospital or other health care facility, organization, or agency) who provides health care services for which payment may be made (in whole or in part) under this chapter, to assure that services or items ordered or provided by such practitioner or person to beneficiaries and recipients under this chapter—

(A) will be provided only when, and to the extent, medically necessary; and

(B) will be of a quality which meets professionally recognized standards of health care; and

(C) will be supported by evidence of such medical necessity and quality in such form and fashion and at such time as may reasonably be required by the Professional Standards Review Organization in the exercise of its duties and responsibilities;

and it shall be the obligation of any health care practitioner in ordering, authorizing, directing, or arranging for the provision by any other person (including a hospital or other health care facility, organization, or agency), of health care services for any patient of such practitioner, to exercise his professional responsibility with a view to assuring (to the extent of his influence or control over such patient, such person, or the provision of such services) that such services or items will be provided—

(D) only when, and to the extent, medically necessary; and

(E) will be of a quality which meets professionally recognized standards of health care.

(2) Each health care practitioner, and each hospital or other provider of health care services, shall have an obligation, within reasonable limits of professional discretion, not to take any action, in the exercise of his profession (in the case of any health care practitioner), or in the conduct of its business (in the case of any hospital or other such provider), which would authorize any individual to be admitted as an inpatient in or to continue as an inpatient in any hospital or other health care facility unless—

(A) inpatient care is determined by such practitioner and by such hospital or other provider, consistent with professionally recognized health care standards, to be medically necessary for the proper care of such individual; and

(B)(i) the inpatient care required by such individual cannot, consistent with such standards, be provided more economically in a health care facility of a different type; or

(ii) (in the case of a patient who requires care which can, consistent with such standards, be provided more economically in a health care facility of a different type) there is, in the area in which such individual is located, no such facility or no such facility which is available to provide care to such individual at the time when care is needed by him.

(b) Failure to comply with obligations; gross and flagrant violations; exclusion of practitioner or provider from eligibility; sanctions and penalties, hearing and review

(1) If after reasonable notice and opportunity for discussion with the practitioner or provider concerned, any Professional Standards Review Organization submits a report and recommendations to the Secretary pursuant to section 1320c-6 of this title (which report and recommendations shall be submitted through the Statewide Professional Standards Review Council, if such Council has been established, which shall promptly transmit such report and recommendations together with any additional comments and recommendations thereon as it deems appropriate) and if the Secretary determines that such practitioner or provider, in providing health care services over which such organization has review responsibility and for which payment (in whole or in part) may be made under this chapter, has—

(A) by failing, in a substantial number of cases, substantially to comply with any obligation imposed on him under subsection (a) of this section, or

(B) by grossly and flagrantly violating any such obligation in one or more instances,

demonstrated an unwillingness or a lack of ability substantially to comply with such obligations, he (in addition to any other sanction provided under law) may exclude (permanently for such period as the Secretary may prescribe) such practitioner or provider from eligibility to provide such services on a reimbursable basis.

(2) A determination made by the Secretary under this subsection shall be effective at such time and upon such reasonable notice to the public and to the person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of institutional health care services such determination shall be effective in the manner provided in subchapter XVIII of this chapter with respect to terminations of provider agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

(3) In lieu of the sanction authorized by paragraph (1), the Secretary may require that (as a condition to the continued eligibility of such practitioner or provider to provide such health care services on a reimbursable basis) such practitioner or provider pay to the United States, in case such acts or conduct involved the provision or ordering by such practitioner or provider of health care services which were medically improper or unnecessary, an amount not in excess of the actual or estimated cost of the medically improper or unnecessary services

so provided, or (if less) $5,000. Such amount may be deducted from any sums owing by the United States (or any instrumentality thereof) to the person from whom such amount is claimed.

(4) Any person furnishing services described in paragraph (1) who is dissatisfied with a determination made by the Secretary under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 405(b) of this title, and to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title.

(c) Duty of Review Organizations and Statewide Review Councils to assure compliance with obligations

It shall be the duty of each Professional Standards Review Organization and each Statewide Professional Standards Review Council to use such authority or influence it may possess as a professional organization, and to enlist the support of any other professional or governmental organization having influence or authority over health care practitioners and any other person (including a hospital or other health care facility, organization, or agency) providing health care services in the area served by such review organization, in assuring that each practitioner or provider (referred to in subsection (a) of this section) providing health care services in such area shall comply with all obligations imposed on him under subsection (a) of this section.

(Aug. 14, 1935, ch. 531, title XI, § 1160, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1438.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1320c-6, 1320c-10 of this title.

§ 1320c-10. Notice to practitioner or provider

Whenever any Professional Standards Review Organization takes any action or makes any determination—

(a) which denies any request, by a health care practitioner or other provider of health care services, for approval of a health care service or item proposed to be ordered or provided by such practitioner or provider; or

(b) that any such practitioner or provider has violated any obligation imposed on such practitioner or provider under section 1320c-9 of this title,

such organization shall, immediately after taking such action or making such determination, give notice to such practitioner or provider of such determination and the basis therefor, and shall provide him with appropriate opportunity for discussion and review of the matter.

(Aug. 14, 1935, ch. 531, title XI, § 1161, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1440.)

§ 1320c-11. Statewide Professional Standards Review Councils

(a) Establishment

In any State in which there are located three or more Professional Standards Review Organizations, the Secretary shall establish a Statewide Professional Standards Review Council.

(b) Membership

The membership of any such Council for any State shall be appointed by the Secretary and shall consist of—

(1) one representative from and designated by each Professional Standards Review Organization in the State;

(2) four physicians, two of whom may be designated by the State medical society and two of whom may be designated by the State hospital association of such State to serve as members on such Council; and

(3) four persons knowledgeable in health care from such State whom the Secretary shall have selected as representatives of the public in such State (at least two of whom shall have been recommended for membership on the Council by the Governor of such State).

(c) Duties

It shall be the duty and function of the Statewide Professional Standards Review Council for any State, in accordance with regulations of the Secretary, (1) to coordinate the activities of, and disseminate information and data among the various Professional Standards Review Organizations within such State including assisting the Secretary in development of uniform data gathering procedures and operating procedures applicable to the several areas in a State (including, where appropriate, common data processing operations serving several or all areas) to assure efficient operation and objective evaluation of comparative performance of the several areas and, (2) to assist the Secretary in evaluating the performance of each Professional Standards Review Organization, and (3) where the Secretary finds it necessary to replace a Professional Standards Review Organization, to assist him in developing and arranging for a qualified replacement Professional Standards Review Organization.

(d) Payments

The Secretary is authorized to enter into an agreement with any such Council under which the Secretary shall make payments to such Council equal to the amount of expenses reasonably and necessarily incurred, as determined by the Secretary, by such Council in carrying out the duties and functions provided in this section.

(e) Advisory groups

(1) The Statewide Professional Standards Review Council for any State (or in a State which does not have such Council, the Professional Standards Review Organizations in such State which have agreements with the Secretary) shall be advised and assisted in carrying out its functions by an advisory group (of not less than seven nor more than eleven members) which shall be made up of representatives of health care practitioners (other than physi-

cians) and hospitals and other health care facilities which provide within the State health care services for which payment (in whole or in part) may be made under any program established by or pursuant to this chapter.

(2) The Secretary shall by regulations provide the manner in which members of such advisory group shall be selected by the Statewide Professional Standards Review Council (or Professional Standards Review Organizations in States without such Councils).

(3) The expenses reasonably and necessarily incurred, as determined by the Secretary, by such group in carrying out its duties and functions under this subsection shall be considered to be expenses necessarily incurred by the Statewide Professional Standards Review Council served by such group.

(Aug. 14, 1935, ch. 531, title XI, § 1162, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1440.)

§ 1320c-12. National Professional Standards Review Council

(a) Establishment; membership

(1) There shall be established a National Professional Standards Review Council (hereinafter in this section referred to as the "Council") which shall consist of eleven physicians, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of title 5 governing appointments in the competitive service.

(2) Members of the Council shall be appointed for a term of three years and shall be eligible for reappointment.

(3) The Secretary shall from time to time designate one of the members of the Council to serve as Chairman thereof.

(b) Qualifications for membership

Members of the Council shall consist of physicians of recognized standing and distinction in the appraisal of medical practice. A majority of such members shall be physicians who have been recommended by the Secretary to serve on the Council by national organizations recognized by the Secretary as representing practicing physicians. The membership of the Council shall include physicians who have been recommended for membership on the Council by consumer groups and other health care interests.

(c) Consultants

The Council is authorized to utilize, and the Secretary shall make available, or arrange for, such technical and professional consultative assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical and other assistance and such pertinent data prepared by, for, or otherwise available to, the Department of Health, Education, and Welfare as the Council may require to carry out its functions.

(d) Compensation of members

Members of the Council, while serving on business of the Council, shall be entitled to receive compensation at a rate fixed by the Secretary (but not in excess of the daily rate paid under GS-18 of the General Schedule under section 5332 of title 5, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(e) Duties

It shall be the duty of the Council to—

(1) advise the Secretary in the administration of this part;

(2) provide for the development and distribution, among Statewide Professional Standards Review Councils and Professional Standards Review Organizations of information and data which will assist such review councils and organizations in carrying out their duties and functions;

(3) review the operations of Statewide Professional Standards Review Councils and Professional Standards Review Organizations with a view to determining the effectiveness and comparative performance of such review councils and organizations in carrying out the purposes of this part; and

(4) make or arrange for the making of studies and investigations with a view to developing and recommending to the Secretary and to the Congress measures designed more effectively to accomplish the purposes and objectives of this part.

(f) Reports

The National Professional Standards Review Council shall from time to time, but not less often than annually, submit to the Secretary and to the Congress a report on its activities and shall include in such report the findings of its studies and investigations together with any recommendations it may have with respect to the more effective accomplishment of the purposes and objectives of this part. Such report shall also contain comparative data indicating the results of review activities, conducted pursuant to this part, in each State and in each of the various areas thereof.

(Aug. 14, 1935, ch. 531, title XI, § 1163, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1441.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a)(1), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 1320c-13. Professional standards review requirements applicable to certain State programs

(a) In addition to the requirements imposed by law as a condition of approval of a State plan approved under any subchapter of this chapter under which health care services are paid for in whole or part, with Federal funds, there is hereby imposed the requirement that provisions of this part shall apply to the operation of such plan or program.

(b) The requirement imposed by subsection (a) of this section with respect to such State plans approved under this chapter shall apply—

(1) in the case of any such plan where legislative action by the State legislature is not necessary to meet such requirement, on and after January 1, 1974; and

(2) in the case of any such plan where legislative action by the State legislature is necessary to meet such requirement, whichever of the following is earlier—

(A) on and after July 1, 1974, or

(B) on and after the first day of the calendar month which first commences more than ninety days after the close of the first regular session of the legislature of such State which begins after December 31, 1973.

(Aug. 14, 1935, ch. 531, title XI, § 1164, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1442.)

§ 1320c-14. Correlation of functions between Professional Standards Review Organizations and administrative instrumentalities

The Secretary shall by regulations provide for such correlation of activities, such interchange of data and information, and such other cooperation consistent with economical, efficient, coordinated, and comprehensive implementation of this part (including, but not limited to, usage of existing mechanical and other data-gathering capacity) between and among—

(a)(1) agencies and organizations which are parties to agreements entered into pursuant to section 1395h of this title, (2) carriers which are parties to contracts entered into pursuant to section 1395u of this title, and (3) any other public or private agency (other than a Professional Standards Review Organization) having review or control functions, or proved relevant data-gathering procedures and experience, and

(b) Professional Standards Review Organizations, as may be necessary or appropriate for the effective administration of subchapter XVIII of this chapter, or State plans approved under this chapter.

(Aug. 14, 1935, ch. 531, title XI, § 1165, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1443.)

§ 1320c-15. Disclosure of information prohibited

(a) Any data or information acquired by any Professional Standards Review Organization, in the exercise of its duties and functions, shall be held in confidence and shall not be disclosed to any person except (1) to the extent that may be necessary to carry out the purposes of this part or (2) in such cases and under such circumstances as the Secretary shall by regulations provide to assure adequate protection of the rights and interests of patients, health care practitioners, or providers of health care.

(b) It shall be unlawful for any person to disclose any such information other than for such purposes, and any person violating the provisions of this section shall, upon conviction, be fined not more than $1,000, and imprisoned for not more than six months, or both, together with the costs of prosecution.

(Aug. 14, 1935, ch. 531, title XI, § 1166, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1443.)

§ 1320c-16. Limitation of liability

(a) Persons providing information to Professional Standards Review Organizations

Notwithstanding any other provision of law, no person providing information to any Professional Standards Review Organization shall be held, by reason of having provided such information, to have violated any criminal law, or to be civilly liable under any law, of the United States or of any State (or political subdivision thereof) unless—

(1) such information is unrelated to the performance of the duties and functions of such Organization, or

(2) such information is false and the person providing such information knew, or had reason to believe, that such information was false.

(b) Members and employees of Professional Standards Review Organizations

(1) No individual who, as a member or employee of any Professional Standards Review Organization or who furnishes professional counsel or services to such organization, shall be held by reason of the performance by him of any duty, function, or activity authorized or required of Professional Standards Review Organizations under this part, to have violated any criminal law, or to be civilly liable under any law, of the United States or of any State (or political subdivision thereof) provided he has exercised due care.

(2) The provisions of paragraph (1) shall not apply with respect to any action taken by any individual if such individual, in taking such action, was motivated by malice toward any person affected by such action.

(c) Health care practitioners and providers

No doctor of medicine or osteopathy and no provider (including directors, trustees, employees, or officials thereof) of health care services shall be civilly liable to any person under any law of the United States or of any State (or political subdivision thereof) on account of any action taken by him in compliance with or reliance upon professionally developed norms of care and treatment applied by a Professional Standards Review Organization (which has been designated in accordance with section 1320c-1(b)(1)(A) of this title) operating in the area where such doctor of medicine or osteopathy or provider took such action but only if—

(1) he takes such action (in the case of a health care practitioner) in the exercise of his profession as a doctor of medicine or osteopathy (or in the case of a provider of health care services) in the exercise of his functions as a provider of health care services, and

(2) he exercised due care in all professional conduct taken or directed by him and reasonably related to, and resulting from, the actions taken in compliance with or reliance upon such professionally accepted norms of care and treatment.

(Aug. 14, 1935, ch. 531, title XI, § 1167, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1443.)

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§ 1320c-17. Authorization for use of funds to administer professional review program; transfer of moneys between funds

Expenses incurred in the administration of this part shall be payable from—

(a) funds in the Federal Hospital Insurance Trust Fund;

(b) funds in the Federal Supplementary Medical Insurance Trust Fund; and

(c) funds appropriated to carry out the health care provisions of the several subchapters of this chapter;

in such amounts from each of the sources of funds (referred to in subsections (a), (b), and (c) of this section) as the Secretary shall deem to be fair and equitable after taking into consideration the costs attributable to the administration of this part with respect to each of such plans and programs. The Secretary shall make such transfers of moneys between the funds, referred to in clauses (a), (b), and (c) of the preceding sentence, as may be appropriate to settle accounts between them in cases where expenses properly payable from the funds described in one such clause have been paid from funds described in another of such clauses.

(Aug. 14, 1935, ch. 531, title XI, § 1168, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1444, and amended Dec. 31, 1975, Pub. L. 94-182, title I, § 112(c), 89 Stat. 1055.)

AMENDMENTS

1975—Pub. L. 94-182 added provisions authorizing Secretary to transfer moneys from funds specified in cls. (a), (b), or (c) in appropriate circumstances.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-182 effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after Dec. 31, 1975, see section 112(d) of Pub. L. 94-182, set out as an Effective Date of 1975 Amendment note under section 1395x of this title.

§ 1320c-18. Technical assistance to organizations desiring to be designated as Professional Standards Review Organizations

The Secretary is authorized to provide all necessary technical and other assistance (including the preparation of prototype plans of organization and operation) to organizations described in section 1320c-1(b)(1) of this title which—

(a) express a desire to be designated as a Professional Standards Review Organization; and

(b) the Secretary determines have a potential for meeting the requirements of a Professional Standards Review Organization;

to assist such organizations in developing a proper plan to be submitted to the Secretary and otherwise in preparing to meet the requirements of this part for designation as a Professional Standards Review Organization.

(Aug. 14, 1935, ch. 531, title XI, § 1169, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1444.)

§ 1320c-19. Exemptions of Christian Science sanatoriums

The provisions of this part shall not apply with respect to a Christian Science sanatorium operated, or listed and certified by the First Church of Christ, Scientist, Boston, Massachusetts.

(Aug. 14, 1935, ch. 531, title XI, § 1170, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249F(b), 86 Stat. 1445.)

SUBCHAPTER XII—ADVANCES TO STATE UNEMPLOYMENT FUNDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 26 section 3302.

§ 1321. Eligibility requirements for transfer of funds; reimbursement by State; application; certification; limitation

(a)(1) Advances shall be made to the States from the Federal unemployment account in the Unemployment Trust Fund as provided in this section, and shall be repayable, without interest, in the manner provided in sections 1101(d)(1), 1103(b)(2), and 1322 of this title. An advance to a State for the payment of compensation in any 3-month period may be made if—

(A) the Governor of the State applies therefor no earlier than the first day of the month preceding the first month of such 3-month period, and

(B) he furnishes to the Secretary of Labor his estimate of the amount of an advance which will be required by the State for the payment of compensation in each month of such 3-month period.

(2) In the case of any application for an advance under this section to any State for any 3-month period, the Secretary of Labor shall—

(A) determine the amount (if any) which he finds will be required by such State for the payment of compensation in each month of such 3-month period, and

(B) certify to the Secretary of the Treasury the amount (not greater than the amount estimated by the Governor of the State) determined under subparagraph (A).

The aggregate of the amounts certified by the Secretary of Labor with respect to any 3-month period shall not exceed the amount which the Secretary of the Treasury reports to the Secretary of Labor is available in the Federal unemployment account for advances with respect to each month of such 3-month period.

(3) For purposes of this subsection—

(A) an application for an advance shall be made on such forms, and shall contain such information and data (fiscal and otherwise) concerning the operation and administration of the State unemployment compensation law, as the Secretary of Labor deems necessary or relevant to the performance of his duties under this subchapter,

(B) the amount required by any State for the payment of compensation in any month shall be determined with due allowance for contingencies and taking into account all other amounts that will be available in the

State's unemployment fund for the payment of compensation in such month, and

(C) the term "compensation" means cash benefits payable to individuals with respect to their unemployment, exclusive of expenses of administration.

(b) The Secretary of the Treasury shall, prior to audit or settlement by the General Accounting Office, transfer in monthly installments from the Federal unemployment account to the account of the State in the Unemployment Trust Fund the amount certified under subsection (a) of this section by the Secretary of Labor (but not exceeding that portion of the balance in the Federal unemployment account at the time of the transfer which is not restricted as to use pursuant to section 1103(b)(1) of this title.) The amount of any monthly installment so transferred shall not exceed the amount estimated by the State to be required for the payment of compensation for the month with respect to which such installment is made.

(Aug. 14, 1935, ch. 531, title XII, § 1201, as added Oct. 3, 1944, ch. 480, title IV, § 402, 58 Stat. 790, and amended Aug. 6, 1947, ch. 510, § 5(b), 61 Stat. 794; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F.R. 5225, 63 Stat. 1065; Aug. 28, 1950, ch. 809, title IV, § 404(a), 64 Stat. 560; Aug. 5, 1954, ch. 657, § 3, 68 Stat. 671; Sept. 13, 1960, Pub. L. 86-778, title V, § 522(a), 74 Stat. 978; Oct. 20, 1976, Pub. L. 94-566, title II, § 213(a)-(c), 90 Stat. 2677.)

Amendments

1976—Subsec. (a)(1). Pub. L. 94-566, § 213(a), substituted "any 3-month period" for "any month" in the provisions preceding subpar. (A), "the month preceding the first month of such 3-month period" for "the preceding month" in subpar. (A), and "each month of such 3-month period" for "such month" in subpar. (B).

Subsec. (a)(2). Pub. L. 94-566, § 213(b), substituted "any 3-month period" for "any month" in the provisions preceding subpar. (A) and following subpar. (B), and "each month of such 3-month period" for "such month" in subpar. (A) and the provisions following subpar. (B).

Subsec. (b). Pub. L. 94-566, § 213(c), provided that the transfer of amounts by the Secretary of the Treasury from the Federal unemployment account to the account of the States in the Unemployment Trust Fund be made in monthly installments and that the amount of any monthly installment so transferred not exceed the amount estimated by the State to be required for the payment of compensation for the month with respect to which the installment is made.

1960—Subsec. (a). Pub. L. 86-778 substituted provisions relating to advances on a monthly basis upon application fo the Governor and the furnishing of an estimate of amount of requisite advance and determination and certification by the Secretary of Labor of the requisite amount limited to a sum which is available in the Federal unemployment account for advances for the month for former provisions relating to advances on a quarterly basis upon application of the Governor for a specified amount not to exceed the highest total compensation paid out under the unemployment compensation law of the State during any one of the four calendar quarters preceding the quarter in which the application is made, where the balance in the unemployment fund of the State in the Unemployment Trust Fund at the close of Sept. 30, 1953, or the last day in any ensuing calendar quarter is less than the total compensation paid out under the unemployment compensation law of the State during the twelve-month period at the close of such day; incorporated former provisions of subsec. (b), relating to repayment of advances, in par. (1), adding thereto provision for repayment under section 1103(b)(2) of this title, and provisions formerly designated as clauses (A) and (B) in par. (3)(A) and (C); and added par. (3)(B).

Subsec. (b). Pub. L. 86-778 eliminated provision for repayment of advances which is now incorporated in subsec. (a)(1) in the reference to repayment under sections 1101(d)(1) and 1322 of this title.

1954—Act Aug. 5, 1954, amended section generally to provide that: (1) the first condition of eligibility for an advance is that the balance in the State unemployment fund at the close of a calendar quarter be less than the total of cash payments made by the State to individuals during the 12-month period which ends with such quarter; (2) the Governor of the State must apply for an advance during the quarter following the quarter specified in paragraph (1) of this section; and (3) the total amount certified for any one application may not exceed the amount paid out by the State for cash benefits in that particular quarter.

1950—Subsec. (a). Act Aug. 28, 1950, substituted "January 1, 1952" for "January 1, 1950".

1947—Subsec. (a). Act Aug. 6, 1947, changed "June 30, 1945" to "June 30, 1947", and "July 1, 1947" to "January 1, 1950".

Effective Date of 1976 Amendment

Section 213(d) of Pub. L. 94-566 provided that: " The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 20, 1976]."

Effective Date of 1950 Amendment

Section 404(c) of act Aug. 28, 1950, provided that the amendment of subsec. (a) shall be effective Jan. 1, 1950.

Transfer of Functions

All functions of all other officers of the Department of Labor and functions of all agencies and employees of such Department were, with the exception of the functions vested by the Administrative Procedure Act (section 551 et seq. and section 701 et seq. of Title 5, Government Organization and Employees) in hearing examiners employed by such Department, transferred to the Secretary of Labor, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies and employees, by Reorg. Plan No. 6 of 1950, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5.

Functions of the Federal Security Administrator with respect to unemployment compensation were transferred to the Secretary of Labor by Reorg. Plan No. 2 of 1949, § 1, set out in the Appendix to Title 5.

Section 1 of Reorg. Plan No. 2 of 1949, also provides that the functions transferred by this section shall be performed by the Secretary of Labor, or subject to his direction and control, by such officers, agencies, and employees of the Department of Labor, as he shall designate.

Termination Date

Section 4 of act Aug. 6, 1947, provided: "Section 603 of the War Mobilization and Reconversion Act of 1944 [section 1651 note of Appendix to Title 50, War and National Defense] (terminating the provisions of such Act [sections 1651 to 1678 of Appendix to Title 50] on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such Act [sections 1666 and 1667 of Appendix to Title 50] to the Social Security Act [sections 1104 and 1321 of this title]."

Applications for Transfer of Funds Under Former Provisions of Section 1321(a); Limitations

Section 522(b) of Pub. L. 86-778 provided that:

"(1) No amount shall be transferred on or after the date of the enactment of this Act [Sept. 13, 1960] from

the Federal unemployment account to the account of any State in the Unemployment Trust Fund pursuant to any application made under section 1201(a) of the Social Security Act [subsec. (a) of this section] as in effect before such date; except that, if—

"(A) some but not all of an amount certified by the Secretary of Labor to the Secretary of the Treasury for transfer to the account of any State was transferred to such account before such date, and

"(B) the Governor of such State, after the date of the enactment of this Act [Sept. 13, 1960], requests the Secretary of the Treasury to transfer all or any part of the remainder to such account,

the Secretary of the Treasury shall, prior to audit or settlement by the General Accounting Office, transfer from the Federal unemployment account to the account of such State in the Unemployment Trust Fund the amount so requested or (if smaller) the amount available in the Federal unemployment account at the time of the transfer. No such amount shall be transferred under this paragraph after the one-year period beginning on the date of the enactment of this Act [Sept. 13, 1960].

"(2) For purposes of section 3302(c) of the Federal Unemployment Tax Act [section 3302(c) of Title 26, Internal Revenue Code] and titles IX and XII of the Social Security Act [subchapter IX and XII of this chapter], if any amount is transferred pursuant to paragraph (1) to the unemployment account of any State, such amount shall be treated as an advance made before the date of the enactment of this Act [Sept. 13, 1960]."

ADVANCES TO ALASKA

Act June 1, 1955, ch. 118, 69 Stat. 81, authorized the Governor of Alaska to obtain from the Federal Unemployment Fund such advances as the Territory of Alaska might qualify for and as might be necessary to obtain for the payment of unemployment compensation benefits to claimants entitled thereto under the Alaska employment security law and provided for the reimbursement of the general fund of the Territory of Alaska from which advances have been made for the payment of unemployment compensation benefits from advances made through the Governor of Alaska from the Federal Unemployment Fund.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1104, 1322 of this title.

§ 1322. Repayment by State; certification; transfer

The Governor of any State may at any time request that funds be transferred from the account of such State to the Federal unemployment account in repayment of part or all of that balance of advances, made to such State under section 1321 of this title, specified in the request. The Secretary of Labor shall certify to the Secretary of the Treasury the amount and balance specified in the request; and the Secretary of the Treasury shall promptly transfer such amount in reduction of such balance.

(Aug. 14, 1935, ch. 531, title XII, § 1202, as added Aug. 5, 1954, ch. 657, § 3, 68 Stat. 672, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 522(a), 74 Stat. 979.)

AMENDMENTS

1960—Pub. L. 86-778 designated provisions constituting subsec. (a) as entire section, substituted "that balance of advances, made to such State under section 1321 of this title, specified in the request" for "any remaining balance of advances made to such State under section 1321 of this title" and added "in reduction of such balance" and omitted subsecs. (b) and (c) pertaining to appropriations and repayable advances which are now incorporated in sections 1101(d)(1) and 1323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1321 of this title.

§ 1323. Repayable advances to Federal Unemployment Account

There are authorized to be appropriated to the Federal unemployment account, as repayable advances (without interest), such sums as may be necessary to carry out the purposes of this subchapter. Whenever, after the application of sections 1101(f)(3) and 1102(a) of this title with respect to the excess in the employment security administration account as of the close of any fiscal year, there remains any portion of such excess, so much of such remainder as does not exceed the balance of advances made pursuant to this section shall be transferred to the general fund of the Treasury and shall be credited against, and shall operate to reduce, such balance of advances.

(Aug. 14, 1935, ch. 531, title XII, § 1203, as added Aug. 5, 1954, ch. 657, § 3, 68 Stat. 672, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 522(a), 74 Stat. 979; Aug. 10, 1970, Pub. L. 91-373, title III, § 304(c), 84 Stat. 716.)

PRIOR PROVISIONS

Provisions similar to those comprising the first sentence of this section were contained in section 1322(c), act Aug. 14, 1935, ch. 531, title XII, § 1202(c), as added Aug. 5, 1954, ch. 657, § 3, 68 Stat. 672, prior to amendment by Pub. L. 86-778.

AMENDMENTS

1970—Pub. L. 91-373 inserted reference to section 1102(a) of this title.

1960—Pub. L. 86-778 substituted provisions relating to repayable advances to the Federal unemployment account for former provision defining "Governor" and now incorporated in section 1324 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this section, see section 201(12) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1103, 1104 of this title.

§ 1324. Definition

When used in this subchapter, the term "Governor" includes the Mayor of the District of Columbia.

(Aug. 14, 1935, ch. 531, title XII, § 1204, as added Sept. 13, 1960, Pub. L. 86-778, title V, § 522(a), 74 Stat. 979, and amended 1967 Reorg. Plan No. 3, § 401, eff. Nov. 3, 1967, 32 F.R. 11669, 81 Stat. 951; Dec. 24, 1973, Pub. L. 93-198, title IV, § 421, 87 Stat. 789.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1323, act Aug. 14, 1935, ch. 531, title XII, § 1203, as added Aug. 5, 1954, ch. 657, § 3, 68 Stat. 672, prior to amendment by Pub. L. 86-778.

TRANSFER OF FUNCTIONS

Except as otherwise provided in Reorg. Plan No. 3 of 1967, eff. Nov. 3, 1967 (in part), 32 F.R. 11669, 81 Stat. 948, all functions of the Board of Commissioners of the District of Columbia were transferred to the Commissioner of the District of Columbia by section 401 of Reorg. Plan No. 3 of 1967. The office of Commissioner of the District of Columbia, as established by Reorg. Plan No. 3 of 1967, was abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, and replaced by the office of Mayor of the District of Columbia by section 421 of Pub. L. 93-198; classified to section 1-161 of the District of Columbia Code. Accordingly, "Mayor" was substituted for "Commissioners".

SUBCHAPTER XIII—RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN

§§ 1331 to 1336. Omitted

CODIFICATION

Section 1331, act Aug. 14, 1935, ch. 531, title XIII, § 1301, as added Aug. 10, 1946, ch. 951, title III, § 306, 60 Stat. 982, and amended 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F.R. 5225, 63 Stat. 1065 which provided for the administration of this chapter by the Secretary of Labor, was omitted upon termination of the reconversion period on June 30, 1950, as set forth in section 1332(a) of this title.

Section 1332, act Aug. 14, 1935, ch. 531, title XIII, § 1302, as added Aug. 10, 1946, ch. 951, title III, § 306, 60 Stat. 982, and amended July 16, 1949, ch. 342, §§ 1-3, 63 Stat. 445, which defined the terms "reconversion period", "compensation", "Federal maritime service", and "Federal maritime wages" was omitted upon the termination of the reconversion period on June 30, 1950, as defined in this section.

Section 1333, act Aug. 14, 1935, ch. 531, title XIII, § 1303, as added Aug. 10, 1946, ch. 951, title III, § 306, 60 Stat. 982, and amended 1949 Reorg. Plan No. 2, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065, which related to compensation for seamen, agreements with states, payments in absence of agreements, wage information, and determination of wages, was omitted upon termination of the reconversion period on June 30, 1950, as set forth in section 1332(a) of this title.

Section 1334, act Aug. 14, 1935, ch. 531, title XIII, § 1304, as added Aug. 10, 1946, ch. 951, title III, § 306, 60 Stat. 982, and amended 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F.R. 5225, 63 Stat. 1065, which related to review of determinations and reports, was omitted upon termination of the reconversion period on June 30, 1950, as set forth in section 1332(a) of this title.

Section 1335, act Aug. 14, 1935, ch. 531, title XIII, § 1305, as added Aug. 10, 1946, ch. 951, title III, § 306, 60 Stat. 982, and amended 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F.R. 5225, 63 Stat. 1065, which related to payments to the states, certification of such payments by the Secretary of Labor to the Secretary of the Treasury, and return of unused funds, was omitted upon termination of the reconversion period on June 30, 1950, as set forth in section 1332(a) of this title.

Section 1336, act Aug. 14, 1935, ch. 531, title XIII, § 1306, as added Aug. 10, 1946, ch. 951, title III, § 306, 60 Stat. 982, and amended 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F.R. 5225, 63 Stat. 1065, which related to penalties, was omitted upon termination of the reconversion period on June 30, 1950, as set forth in section 1332(a) of this title.

SUBCHAPTER XIV—GRANTS TO STATES FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED

REPEAL OF SUBCHAPTER; INAPPLICABILITY OF REPEAL TO PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this subchapter is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 428, 602, 1301, 1306a, 1308, 1309, 1311, 1315, 1316, 1318, 1319, 1382, 1382c, 1395v, 1396a, 1396b, 1396d, 1397b of this title; title 7 section 2012.

§ 1351. Authorization of appropriations

For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals eighteen years of age and older who are permanently and totally disabled and of encouraging each State, as far as practicable under such conditions, to furnish rehabilitation and other services to help such individuals attain or retain capability for self-support or self-care, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for aid to the permanently and totally disabled.

(Aug. 14, 1935, ch. 531, title XIV, § 1401, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 314(a), 70 Stat. 849; July 25, 1962, Pub. L. 87-543, title I, § 104(c)(4), 76 Stat. 186.)

REPEAL OF SECTION

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1962—Pub. L. 87-543 inserted "to furnish rehabilitation and other services" preceding "to help such individuals" and "or retain capability for" following "attain".

1956—Act Aug. 1, 1956, restated purpose to include assistance to individuals to attain self-support of self-care.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 1352. State plans for aid to the permanently and totally disabled

(a) A State plan for aid to the permanently and totally disabled must (1) except to the extent permitted by the Secretary with respect to services, provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide (A) for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the permanently and totally disabled is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing; (5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency; (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this title, aid to families with dependent children under the State plan approved under section 602 of this title, or aid to the blind under the State plan approved under section 1202 of this title; (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of an individual claiming aid to the permanently and totally disabled, as well as any expenses reasonably attributable to the earning of such income; except that, in making such determination, (A) the State agency may disregard not more than $7.50 of any income, (B) of the first $80 per month of additional income which is earned the State agency may disregard not more than the first $20 thereof plus one-half of the remainder, and (C) the State agency may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, but only with respect to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation; (9) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan; (10) provide that all individuals wishing to make application for aid to the permanently and totally disabled shall have opportunity to do so, and that aid to the permanently and totally disabled shall be furnished with reasonable promptness to all eligible individuals; (11) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; and (12) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational arrangement it finds appropriate for this purpose) to applicants for and recipients of aid to the permanently and totally disabled to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the permanently and totally disabled under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid to the permanently and totally disabled and has resided therein continuously for one year immediately preceding the application;

(2) Any citizenship requirement which excludes any citizen of the United States.

At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this subchapter.

(Aug. 14, 1935, ch. 531, title XIV, § 1402, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 314(b), 70 Stat. 850; July 25, 1962, Pub. L. 87-543, title I, §§ 104(a)(3)(I), 106(a)(3), 76 Stat. 185, 188; July 30, 1965, Pub. L. 89-97, title IV, § 403(d) 79 Stat. 418; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 210(a)(4), 213(a)(3), 81 Stat. 896,

898; Oct. 30, 1972, Pub. L. 92-603, title IV, §§ 405(c), 406(c), 407(c), 410(c), 413(c), 86 Stat. 1488, 1489, 1491, 1492.)

REPEAL OF SECTION

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92-603, § 410(c), added "except to the extent permitted by the Secretary with respect to services" preceding "provide".

Subsec. (a)(4). Pub. L. 92-603, § 407(c), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (a)(9). Pub. L. 92-603, § 413(c), substituted provisions permitting the use or disclosure of information concerning applicants or recipients to public officials requiring such information in connection with their official duties and to other persons for purposes directly connected with the administration of the State plan, for provisions restricting the use or disclosure of such information to purposes directly connected with the administration of aid to the permanently and totally disabled.

Subsec. (a)(12). Pub. L. 92-603, § 405(c), added provision relating to the use of whatever internal organizational arrangement found appropriate.

Subsec. (b). Pub. L. 92-603, § 406(c), added provision relating to the furnishing of manuals and other policy issuances to persons without charge and at the option of the State.

1968—Subsec. (a)(5). Pub. L. 90-248, § 210(a)(4), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(8)(A). Pub. L. 90-248 § 213(a)(3), increased from $5 to $7.50 limitation on amount of any income which the State may disregard in making its determination of need.

1965—Subsec. (a)(8). Pub. L. 89-97 inserted exception prohibiting disregard by State in making its determination of need of more than $5 of any income or of more than the first $20 of the first $80 per month of additional income which is earned and allowing disregard, for a period not in excess of 36 months, of such additional amounts of other income and resources as may be necessary to the fulfillment of approved plan for achieving self-support but only as to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation.

1962—Subsec. (a)(7). Pub. L. 87-543, § 104(a)(3)(I), substituted "aid to families with dependent children" for "aid to dependent children".

Subsec. (a)(8). Pub. L. 87-543, § 106(a)(3), inserted the words ", as well as any expenses reasonably attributable to the earning of any such income".

1956—Subsec. (a). Act Aug. 1, 1956, added cl. (12).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a)(5) by section 210(a)(4) of Pub. L. 90-248 effective July 1, 1969, or, if earlier (with respect to a State's plan approved under this subchapter) on the date as of which the modification of the State plan to comply with such amendment is approved, see section 210(b) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 302 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 403(d) of Pub. L. 89-97 provided that the amendment of subsec. (a)(8) by said section was effective Oct. 1, 1965.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a)(8) by section 106 of Pub. L. 87-543 effective July 1, 1963, see section 202(a) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 302 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 1, 1956, effective July 1, 1957, see section 314 [315] of act Aug. 1, 1956, set out as an Effective Date of 1956 Amendment note under section 302 of this title.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(5)(A) of this section, in so far as relates to the prescription of personnel standards on a merit basis, transferred to United States Civil Service Commission, see section 4728(a)(3)(D) of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962 deemed to have been conformed to amendment of subsec. (a)(7) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

PUBLIC ACCESS TO STATE DISBURSEMENT RECORDS

Public access to State records of disbursements of funds and payments under this subchapter, see note under section 302 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1315, 1353, 1354, 1355, 1382a, 4728 of this title; title 25 section 996.

§ 1353. Payments to States; computation of amounts

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the permanently and totally disabled, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $^{3}/_{37}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $37 multiplied by the total number of recipients of aid to the permanently and totally disabled for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the permanently and totally disabled in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the permanently and totally disabled in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of $75 multiplied by the total number of such recipients of aid to the permanently and totally disabled for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the permanently and totally disabled for such month; and

(3) in the case of any State whose State plan approved under section 1352 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c)(1) of this section and are provided (in accordance with the next sentence) to applicants for or recipients of aid to the permanently and totally disabled to help them attain or retain capability for self-support or self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c)(1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid to the permanently and totally disabled, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid to the permanently and totally disabled, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this subchapter shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act [29 U.S.C. 31 et seq.] or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(4) in the case of any State whose State plan approved under section 1352 of this title does not meet the requirements of subsection (c)(1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (3) and provided in ac-

cordance with the provisions of such paragraph.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of subsection (a) of this section, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of permanently and totally disabled individuals in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which he finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) of this section for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during a prior quarter by the State or any political subdivision thereof with respect to aid to the permanently and totally disabled furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department, and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c)(1) In order for a State to qualify for payments under paragraph (3) of subsection (a) of this section, its State plan approved under section 1352 of this title must provide that the State agency shall make available to applicants for or recipients of aid to the permanently and totally disabled at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (3) of subsection (a) of this section until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (3) of subsection (a) of this section but shall instead be made subject to the other provisions of this subchapter, under paragraph (4) of such subsection.

(Aug. 14, 1935, ch. 531, title XIV, § 1403, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended July 18, 1952, ch. 945, § 8(d), 66 Stat. 779; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, §§ 304, 314(c), 344, 70 Stat. 847, 850, 854; Aug. 28, 1958, Pub. L. 85-840, title V, § 504, 72 Stat. 1049; June 30, 1961, Pub. L. 87-64, title III, § 303(c), 75 Stat. 143; July 25, 1962, Pub. L. 87-543, title I, §§ 101(a)(4), (b)(4), 132(c), 76 Stat. 178, 181, 195; July 30, 1965, Pub. L. 89-97, title I, § 122, title IV, § 401(e), 79 Stat. 353, 415; Jan. 2, 1968, Pub. L. 90-248, title II, § 212(c), 81 Stat. 897; Oct. 20, 1972, Pub. L. 92-512, title III, § 301(b), (d), 86 Stat. 946, 947; Jan. 4, 1975, Pub. L. 93-647, §§ 3(e)(2), 5(d), 88 Stat. 2349, 2350.)

REPEAL OF SECTION

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

REFERENCES IN TEXT

Vocational Rehabilitation Act, referred to in subsec. (a)(3)(D), (E), is act June 2, 1920, ch. 219, 41 Stat. 735, as amended, which was classified generally to chapter 4 (§ 31 et seq.) of Title 29, Labor, and was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 357. The Rehabilitation Act of 1973 is classified generally to chapter 16 (§ 701 et seq.) of Title 29. Section 500(a), classified to section 790 of Title 29, in part provided that references to the Vocational Rehabilitation Act in any other provision of law be deemed references to the Rehabilitation Act of 1973.

Such Act, referred to in subsec. (a)(3)(D), refers to the Vocational Rehabilitation Act.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-647, § 3(e)(2), struck out "(subject to section 1320b of this title)" after "the Secretary of the Treasury shall".

Subsec. (a)(3)(A)(iv). Pub. L. 93-647, § 5(d), added "(including both short- and long-term training at edu-

cational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions)" after "training".

1972—Subsec. (a). Pub. L. 92-512, § 301(d), substituted "shall (subject to section 1320b of this title) pay" for "shall pay" in the provisions preceding par. (1).

Subsec. (a)(3)(E). Pub. L. 92-512, § 301(b), substituted "under conditions which shall be" for "subject to limitations".

1968—Subsec. (a)(3)(D). Pub. L. 90-248 inserted, "except to the extent specified by the Secretary" following "shall" in the introductory text to subpar. (D).

1965—Subsec. (a)(1). Pub. L. 89-97, §§ 122, 401(e), inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase appearing in so much of par. (1) as precedes clause (A); and substituted "31/37" and "$37" for "29/35" and "$35" in subpar. (A) and "$75" for "$70" in subpar. (B), respectively.

Subsec. (a)(2). Pub. L. 89-97, § 122, inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase.

1962—Subsec. (a)(1). Pub. L. 87-543, § 132(c), substituted "29/35" and "$35" for "four-fifths" and "$31", respectively, in subpar. (A) and "$70" for "$66" in subpar. (B).

Subsec. (a)(2). Pub. L. 87-543, § 132(c), substituted "$37.50" for "$35.50".

Subsec. (a)(3). Pub. L. 87-543, § 101(a)(4), (b)(4)(A), inserted in the opening provisions "whose State plan approved under section 1352 of this title meets the requirements of subsection (c)(1) of this section" following "any State", and substituted provisions which increased the Federal share of expenses of administration of State public assistance plans by providing quarterly payments of the sum of 75 per centum of the quarterly expenses for certain prescribed services to help attain and retain capability for self-support or self-care, services likely to prevent or reduce dependency, and services appropriate for individuals who were or are likely to become applicants for or recipients of aid to the permanently and totally disabled and request such services, and training of State or local public assistance personnel administering such plans and one-half of other administrative expenses for other services, permitted State health or vocational rehabilitation or other appropriate State agencies to furnish such services, except vocational rehabilitation services, and required the determination of the portion of expenses covered by the 75 and 50 per centum provisions in accordance with methods and procedures permitted by the Secretary, for former provisions requiring quarterly payments of one-half of quarterly expenses of administration of State plans, including staff services of State or local public assistance agencies to applicants for and recipients of aid to the permanently and totally disabled to help them attain self-support or self-care.

Subsec. (a)(4). Pub. L. 87-543, § 101(b)(4)(B), added subsec. (a)(4).

Subsec. (c). Pub. L. 87-543, § 101(b)(4)(C), added subsec. (c).

1961—Subsec. (a). Pub. L. 87-64 substituted "$31" for "$30" and "$66" for "$65" in cl. (1), and "$35.50" for "$35" in cl. (2).

1958—Subsec. (a). Pub. L. 85-840, increased the payments to the States to four-fifths of the first $30 of the average monthly payment per recipient, including assistance in the form of money payments and in the form of medical or any other type of remedial care, plus the Federal percentage of the amount by which the expenditures exceed the maximum which may be counted under cl. (A), but excluding that part of the average monthly payment per recipient in excess of $65, increased the average monthly payment to Puerto Rico and the Virgin Islands from $30 to $35, excluded Guam from the provisions which authorize an average monthly payment of $65 and included Guam within the provisions which authorize an average monthly payment of $35, and permitted the counting of individuals with respect to whom expenditures were made as old-age assistance in the form of medical or any other type of remedial care in determining the total number of recipients.

1956—Subsec. (a). Act Aug. 1, 1956, § 304, substituted "during such quarter as aid to the permanently and totally disabled in the form of money payments under the State plan" for "during such quarter as aid to the permanently and totally disabled under the State plan" in cls. (1) and (2), "who received aid to the permanently and totally disabled in the form of money payments for each month" for "who received aid to the permanently and totally disabled for such month" in par. (A) of cl. (1), and inserted cl. (4).

Act Aug. 1, 1956, § 314(c), eliminated ", which shall be used exclusively as aid to the permanently and totally disabled," following "the Virgin Islands, an amount" in cls. (1) and (2), and substituted "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of such aid to help them attain self-support or self-care" for "which amount shall be used for paying the costs of administering the State plan or for aid to the permanently and totally disabled or both, and for no other purpose" in cl. (3).

Act Aug. 1, 1956, § 344, substituted "October 1, 1956" for "October 1, 1952", eliminated ", which shall be used exclusively as aid to the permanently and totally disabled," following "the Virgin Islands, an amount" in cls. (1) and (2), and substituted "$60" for "$55", "the product of "$30" for "the product of $25", "Secretary of Health, Education, and Welfare" for "Secretary", and "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of such aid to help them attain self-support or self-care" for "which amount shall be used for paying the costs of administering the State plan or for aid to the permanently and totally disabled, or both, and for no other purpose".

1952—Subsec. (a). Act July 18, 1952, increased the Federal share of the State's average monthly payment to four-fifths of the first $25 plus one-half of the remainder within individual maximums of $55, and changed formulas for computing the Federal share of public assistance for Puerto Rico and the Virgin Islands.

Effective Date of 1975 Amendment

Amendment by section 3 of Pub. L. 93-647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

Amendment by section 5 of Pub. L. 93-647 effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

Effective Date of 1972 Amendment

Amendment of text prec. par. (1) of subsec. (a) and subsec. (a)(3)(E) by Pub. L. 92-512 effective July 1, 1972, and Jan. 1, 1973, respectively, see section 301(e) of Pub. L. 92-512, set out as a note under section 303 of this title.

Effective Date of 1968 Amendment

Amendment by Pub. L. 90-248 effective Jan. 1, 1968, see section 212(e) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 303 of this title.

Effective Date of 1965 Amendment

Amendment of subsec. (a)(1) by section 401 of Pub. L. 89-97 applicable in the case of expenditures made

after December 31, 1965, under a State plan approved under subchapter I, IV, X, XIV, or XVI of this chapter, see section 401(f) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 303 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a)(1), (2) by section 132(c) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Sept. 30, 1962, see section 202(d) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 303 of this title.

Amendment of subsec. (a)(3) by section 101(a)(4) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Aug. 31, 1962, and addition of subsecs. (a)(4) and (c) and amendment of subsec. (a)(3) by section 101(b)(4)(A) to (C) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 303 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subsec. (a) by Pub. L. 87-64 applicable only in the case of expenditures made after Sept. 30, 1961, and before July 1, 1962, under a State plan approved under subchapters I, X, or XIV of this chapter, see section 303(e) of Pub. L. 87-64, set out as an Effective Date of 1961 Amendment note under section 303 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85-840, see section 512 of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1956 AMENDMENT

Amendment of subsec. (a) by section 344 of act Aug. 1, 1956, effective only for the period beginning Oct. 1, 1956, and ending with the close of June 30, 1959, see section 345 of such act Aug. 1, 1956, set out as an Effective and Termination Date of 1956 Amendment note under section 303 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by section 304 of act Aug. 1, 1956, effective July 1, 1957, see section 305 of act Aug. 1, 1956, set out as an Effective Date of 1956 Amendment note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

Amendment of subsec. (a) effective for the period beginning Oct. 1, 1952, and ending Sept. 30, 1956, see section 8(e) of act July 18, 1952, set out as an Effective and Termination Date of 1952 Amendment note set out under section 303 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the Office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

NONDUPLICATION OF PAYMENTS TO STATES: PROHIBITION OF PAYMENTS AFTER DECEMBER 31, 1969

Prohibition of payments under this subchapter to States with respect to aid or assistance in form of medical or other type of remedial care for any period for which States received payments under subchapter XIX of this chapter or for any period after Dec. 31, 1969, see section 21(b) of Pub. L. 89-97, set out as a note under section 1396b of this title.

ELECTION OF PAYMENTS UNDER COMBINED STATE PLAN RATHER THAN SEPARATE PLANS

Payments to States under combined State plan under subchapter XVI or this chapter as precluding payment under State plan conforming to this subchapter, see section 141(b) of Pub. L. 87-543, set out as a note under section 1383 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 643, 1315, 1318, 1319, 1397a of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 3-217 of the District of Columbia Code.

§ 1354. Operation of State plans

In the case of any State plan for aid to the permanently and totally disabled which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1352(b) of this title, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1352(a) of this title to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until he is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

(Aug. 14, 1935, ch. 531, title XIV, § 1404, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended 1953 Reorg. Plan No. 1, §§ 5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Jan. 2, 1968, Pub. L. 90-248, title II, § 245, 81 Stat. 918.)

REPEAL OF SECTION

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1968—Pub. L. 90-248 inserted "(or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure)" after "further payments will not be made to the State" and substituted in last sentence "further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure)" for "further certification to the Secretary of the Treasury with respect to such State".

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1316 of this title.

§ 1355. Definitions

For the purposes of this subchapter, the term "aid to the permanently and totally disabled" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of, or any type of remedial care recognized under State law in behalf of, needy individuals eighteen years of age or older who are permanently and totally disabled, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases. Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 1352 of this title includes provision for—

(1) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(2) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the permanently and totally disabled to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(3) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(4) periodic review by such State agency of the determination under paragraph (1) to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that such action will best serve the interests of such needy individual; and

(5) opportunity for a fair hearing before the State agency on the determination referred to in paragraph (1) for any individual with respect to whom it is made.

At the option of a State (if its plan approved under this subchapter so provides), such term (i) need not include money payments to an individual who has been absent from such State for a period in excess of ninety consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for thirty consecutive days in the case of such an individual who has maintained his residence in such State during such period or ninety consecutive days in the case of any other such individual, and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan.

(Aug. 14, 1935, ch. 531, title XIV, § 1405, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended July 25, 1962, Pub. L. 87-543, title I, § 156(d), 76 Stat. 207; July 30, 1965, Pub. L. 89-97, title II, § 221(c), title IV, § 402(d), 79 Stat. 358, 417; Oct. 30, 1972, Pub. L. 92-603, title IV, §§ 408(c), 409(c), 86 Stat. 1490, 1491.)

REPEAL OF SECTION

Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

1972—Pub. L. 92-603 authorized the State, at its option, to include within the term "aid to the permanently and totally disabled" provisions relating to money payments to an individual absent from such State for more than 90 consecutive days, and provisions relating to rent payments made directly to a public housing agency.

1965—Pub. L. 89-97 deleted from the definition of "aid to the permanently and totally disabled" the exclusion of payments to or medical care in behalf of any individual who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof; and extended the definition of "aid to the permanently and totally disabled" to include payments made on behalf of the needy individual to another individual who (as determined in accordance with standards determined by the Secretary) is interested in or concerned with the welfare of such needy individual and enumerated the five characteristics required of state plans under which such payments can be made, including provision for finding of inability to manage funds, payment to meet all needs of the individual, special efforts to protect welfare, periodic review, and opportunity for fair hearing, respectively.

1962—Pub. L. 87-543 inserted "(if provided in or after the third month before the month in which the

recipient makes application for aid)" preceding "medical care".

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 221 of Pub. L. 89-97 applicable in the case of expenditures made after Dec. 31, 1965, under a State plan approved under this subchapter, see section 221(e) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 303 of this title.

Amendment by section 402(d) of Pub. L. 89-97 applicable in the case of expenditures made after Dec. 31, 1965, under a state plan approved under subchapter I, X, XIV, or XVI of this chapter, see section 402(e) of Pub. L. 89-97, set out as an Effective Date of 1965 Amendment note under section 306 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 156(d) of Pub. L. 87-543 applicable in the case of applications made after Sept. 30, 1962, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, see section 156(e) of Pub. L. 87-543, set out as an Effective Date of 1962 Amendment note under section 306 of this title.

SUBCHAPTER XV—UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES

§§ 1361 to 1364. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 658, 660, 661

Section 1361, act Aug. 14, 1935, ch. 531, title XV, § 1501, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1130, and amended Aug. 28, 1958, Pub. L. 85-848, § 2, 72 Stat. 1087; July 12, 1960, Pub. L. 86-624, § 30(g), 74 Stat. 420; Sept. 13, 1960, Pub. L. 86-778, title V, §§ 531(e), 542(d), 74 Stat. 984, 986, defined terms used in this subchapter.

Pub. L. 90-248, title IV, § 403(f), Jan. 2, 1968, 81 Stat. 932, amended section 1361(a)(6), (9), without reference to repeal of such section by Pub. L. 89-554, § 8(a).

Section 1362, act Aug. 14, 1935, ch. 531, title XV, § 1502, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1131, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 543(b)(1)(A), 74 Stat. 985, provided for compensation of Federal employees under state agreements.

Section 1363, act Aug. 14, 1935, ch. 531, title XV, § 1503, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1132, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 543(b)(1)(B), (C), (c)(1), 74 Stat. 986, provided for compensation of Federal employees in absence of state agreement.

Section 1364, act Aug. 14, 1935, ch. 531, title XV, § 1504, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1133, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 542(b)(2), 74 Stat. 986, related to assignment to State of Federal service and wages.

§ 1365. Repealed. Pub. L. 86-442, § 1, Apr. 22, 1960, 74 Stat. 81

Section, act Aug. 14, 1935, ch. 531, title XV, § 1505, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1133, related to the status of a Federal employee who was performing Federal service at the time of his separation from employment by the United States.

EFFECTIVE DATE OF REPEAL

Repeal of section effective only with respect to benefit years which began more than thirty days after the date of enactment of Pub. L. 86-442 (Apr. 22, 1960).

§§ 1366 to 1371. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 658, 660, 661

Section 1366, act Aug. 14, 1935, ch. 531, title XV, § 1506, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1133, provided for payments to States.

Section 1367, act Aug. 14, 1935, ch. 531, title XV, § 1507, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1134, and amended Aug. 28, 1958, Pub. L. 85-848, § 4, 72 Stat. 1089; Sept. 13, 1960, Pub. L. 86-778, title V, § 531(f), 74 Stat. 984, provided for dissemination of information by both Federal and State agencies.

Section 1368, act Aug. 14, 1935, ch. 531, title XV, § 1508, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1135, related to penalties.

Section 1369, act Aug. 14, 1935, ch. 531, title XV, § 1509, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1135, related to rules and regulations.

Section 1370, act Aug. 14, 1935, ch. 531, title XV, § 1510, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1135, related to authorization of appropriations.

Section 1371, act Aug. 14, 1935, ch. 531, title XV, § 1511, as added Aug. 28, 1958, Pub. L. 85-848, § 3, 72 Stat. 1087, and amended Sept. 2, 1958, Pub. L. 85-857, § 13(l)(3), 72 Stat. 1265; Apr. 22, 1960, Pub. L. 86-442, § 2, 74 Stat. 82; Sept. 13, 1960, Pub. L. 86-778, title V, § 542(c), 74 Stat. 986, provided an ex-servicemen's unemployment compensation program.

SUBCHAPTER XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 401, 428, 602, 1301, 1306a, 1308, 1309, 1311, 1315, 1316, 1318, 1319, 1382, 1382c, 1395v, 1395z, 1396a, 1396b, 1396d, 1397a, 1397b, 1397c, 1397f, 6862 of this title; title 7 sections 1431, 2012; title 29 section 981; title 48 section 1421q.

§ 1381. Statement of purpose; authorization of appropriations

For the purpose of establishing a national program to provide supplemental security income to individuals who have attained age 65 or are blind or disabled, there are authorized to be appropriated sums sufficient to carry out this subchapter.

(Aug. 14, 1935, ch. 531, title XVI, § 1601, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 301, 86 Stat. 1465.)

PRIOR PROVISIONS

A prior section 1381, act Aug. 14, 1935, ch. 531, title XVI, § 1601, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 197, authorized appropriations for grants to States for aid to the aged, blind, or disabled, and for medical assistance for the aged, prior to the general amendment of title XVI of the Social Security Act by Pub. L. 92-603, § 301.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided in part that this section is to take effect Jan. 1, 1974.

CONTINUATION OF FEDERAL FINANCIAL PARTICIPATION IN EXPERIMENTAL, PILOT, OR DEMONSTRATION PROJECTS APPROVED BEFORE OCTOBER 1973, FOR PERIOD ON-AND-AFTER DECEMBER 31, 1973, WITHOUT DENIAL OR REDUCTION ON ACCOUNT OF SUBCHAPTER XVI PROVISIONS; WAIVER OF SUBCHAPTER XVI RESTRICTIONS FOR INDIVIDUALS; FEDERAL PAYMENTS OF NON-FEDERAL SHARE AS SUPPLEMENTARY PAYMENTS

Subchapter provisions without effect on Federal Financial Participation in Experimental, Pilot or Demonstration Projects approved before Oct. 1, 1973, for period on-and-after Dec. 31, 1973, see section 11 of Pub. L. 93-233, Dec. 31, 1973, 87 Stat. 958, set out as a note under section 1315 of this title.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of section 1601 of the Social Security Act [this section] by Pub. L. 92-603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92-603, set out as

a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1601 of the Social Security Act [this section] as it existed prior to reenactment by Pub. L. 92-603 continues to apply as follows:

§ 1381. Authorization of appropriations

For the purpose (a) of enabling each State, as far as practicable under the conditions in such State, to furnish financial assistance to needy individuals who are 65 years of age or over, are blind, or are 18 years of age or over and permanently and totally disabled, (b) of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of individuals who are 65 years of age or over and who are not recipients of aid to the aged, blind, or disabled but whose income and resources are insufficient to meet the costs of necessary medical services, and (c) of encouraging each State, as far as practicable under the conditions in such State, to furnish rehabilitation and other services to help individuals referred to in clause (a) or (b) to attain or retain capability for self-support or self-care, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made are available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid to the aged, blind, or disabled, or for aid to the aged, blind, or disabled and medical assistance for the aged.

(Aug. 14, 1935, ch. 531, title XVI, § 1601, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 197.)

PAYMENTS UNDER CHAPTER PROVISIONS IN EFFECT BEFORE JANUARY 1, 1974, FOR: ACTIVITIES CARRIED OUT THROUGH DECEMBER 31, 1973, UNDER STATE PLANS APPROVED UNDER SUBCHAPTER I, X, XIV, OR XVI PROVISIONS; AND FOR ADMINISTRATIVE ACTIVITIES AFTER JANUARY 1, 1974, CLOSING OUT SUCH ACTIVITIES

Pub. L. 93-233, § 19(b), Dec. 31, 1973, 87 Stat. 974, provided that: "Notwithstanding the provisions of section 301 of the Social Security Amendments of 1972 [enacting this subchapter], the Secretary of Health, Education, and Welfare shall make payments to the 50 States and the District of Columbia after December 31, 1973, in accordance with the provisions of the Social Security Act [this chapter] as in effect prior to January 1, 1974, for (1) activities carried out through the close of December 31, 1973, under State plans approved under title [subchapter] I, X, XIV, or XVI, of such Act [this chapter], and (2) administrative activities carried out after December 31, 1973, which such Secretary determines are necessary to bring to a close activities carried out under such State plans."

§ 1381a. Basic entitlement to benefits

Every aged, blind, or disabled individual who is determined under part A to be eligible on the basis of his income and resources shall, in accordance with and subject to the provisions of this subchapter, be paid benefits by the Secretary of Health, Education, and Welfare.

(Aug. 14, 1935, ch. 531, title XVI, § 1602, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 301, 86 Stat. 1465.)

PRIOR PROVISIONS

A prior section 1602 of act Aug. 14, 1935, ch. 531, title XVI, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 198, and amended Oct. 13, 1964, Pub. L. 88-650, § 5(b), 78 Stat. 1078; July 30, 1965, Pub. L. 89-97, title II, § 221(d)(3), title IV, § 403(e), 79 Stat. 358, 418; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 210(a)(5), 213(a)(4), 241(d), 81 Stat. 896, 898, 917, formerly classified to section 1382 of this title, set forth the required contents of state plans for aid to the aged, blind, or disabled, and for medical assistance for the aged, prior to the general amendment of title XVI of the Social Security Act by Pub. L. 92-603, § 301.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided in part that this section is to take effect Jan. 1, 1974.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

PART A—DETERMINATION OF BENEFITS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1381a of this title.

§ 1382. Eligibility for benefits

(a) Definition of eligible individual

(1) Each aged, blind, or disabled individual who does not have an eligible spouse and—

(A) whose income, other than income excluded pursuant to section 1382a(b) of this title, is at a rate of not more than $1,752 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974 or any calendar year thereafter, and

(B) whose resources, other than resources excluded pursuant to section 1382b(a) of this title, are not more than (i) in case such individual has a spouse with whom he is living, $2,250, or (ii) in case such individual has no spouse with whom he is living, $1,500,

shall be an eligible individual for purposes of this subchapter.

(2) Each aged, blind, or disabled individual who has an eligible spouse and—

(A) whose income (together with the income of such spouse), other than income excluded pursuant to section 1382a(b) of this title, is at a rate of not more than $2,628 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974, or any calendar year thereafter, and

(B) whose resources (together with the resources of such spouse), other than resources excluded pursuant to section 1382b(a) of this title, are not more than $2,250,

shall be an eligible individual for purposes of this subchapter.

(b) Amount of benefits

(1) The benefit under this subchapter for an individual who does not have an eligible spouse shall be payable at the rate of $1,752 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1382a(b) of this title, of such individual.

(2) The benefit under this subchapter for an individual who has an eligible spouse shall be payable at the rate of $2,628 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1382a(b) of this title, of such individual and spouse.

(c) Period for determination of benefits; redetermination of eligibility and amount of benefits; effective date of application

(1) An individual's eligibility for benefits under this subchapter and the amount of such benefits shall be determined for each quarter of a calendar year except that, if the initial application for benefits is filed in the second or third month of a calendar quarter, such determinations shall be made for each month in such quarter. Eligibility for and the amount of such benefits for any quarter shall be redetermined at such time or times as may be provided by the Secretary.

(2) For purposes of this subsection an application shall be considered to be effective as of the first day of the month in which it was actually filed.

(d) Limitation on amount of gross income earned; definition of gross income

The Secretary may prescribe the circumstances under which, consistently with the purposes of this subchapter, the gross income from a trade or business (including farming) will be considered sufficiently large to make an individual ineligible for benefits under this subchapter. For purposes of this subsection, the term "gross income" has the same meaning as when used in chapter 1 of the Internal Revenue Code of 1954.

(e) Limitation on eligibility of certain individuals

(1)(A) Except as provided in subparagraph (B) and (C), no person shall be an eligible individual or eligible spouse for purposes of this subchapter with respect to any month if throughout such month he is an inmate of a public institution.

(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month, in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under subchapter XIX of this chapter, the benefit under this subchapter for such individual for such month shall be payable—

(i) at a rate not in excess of $300 per year (reduced by the amount of any income not excluded pursuant to section 1382a(b) of this title) in the case of an individual who does not have an eligible spouse;

(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home or facility throughout such month, at a rate not in excess of the sum of—

(I) the rate of $300 per year (reduced by the amount of any income, not excluded pursuant to section 1382a(b) of this title, of the one who is in such hospital, home, or facility), and

(II) the applicable rate specified in subsection (b)(1) of this section (reduced by the amount of any income, not excluded pursuant to section 1382a(b) of this title, of the other); and

(iii) at a rate not in excess of $600 per year (reduced by the amount of any income not excluded pursuant to section 1382a(b) of this title) in the case of an individual who has an eligible spouse, if both of them are in such a hospital, home, or facility throughout such month.

(C) As used in subparagraph (A), the term "public institution" does not include a publicly operated community residence which serves no more than 16 residents.

(2) No person shall be an eligible individual or eligible spouse for purposes of this subchapter if, after notice to such person by the Secretary that it is likely that such person is eligible for any payments of the type enumerated in section 1382a(a)(2)(B) of this title, such person fails within 30 days to take all appropriate steps to apply for and (if eligible) obtain any such payments.

(3)(A) No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1382c(a)(3) of this title) shall be an eligible individual or eligible spouse for purposes of this subchapter with respect to any month if such individual is medically determined to be a drug addict or an alcoholic unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic (as the case may be) at an institution or facility approved for purposes of this paragraph by the Secretary (so long as such treatment is available) and demonstrates that he is complying with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under subparagraph (B).

(B) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this subchapter and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in subparagraph (A), in order to assure such compliance and to determine the extent to which the imposition of such requirement is contributing to the achievement of the purposes of this subchapter. The Secretary shall annually submit to the Congress a full and complete report on his activities under this paragraph.

(f) Individuals outside the United States; determination of status

Notwithstanding any other provision of this subchapter, no individual shall be considered an eligible individual for purposes of this subchapter for any month during all of which such individual is outside the United States (and no person shall be considered the eligible spouse of an individual for purposes of this subchapter with respect to any month during all of which such person is outside the United States). For purposes of the preceding sentence, after an individual has been outside the United States for any period of 30 consecutive days, he shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

(g) Individuals deemed to meet resources test

In the case of any individual or any individual and his spouse (as the case may be) who—

(1) received aid or assistance for December 1973 under a plan of a State approved under subchapter I, X, XIV, or XVI of this chapter.

(2) has, since December 31, 1973, continuously resided in the State under the plan of

which he or they received such aid or assistance for December 1973, and

(3) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or eligible spouse with respect to whom supplemental security income benefits are payable,

the resources of such individual or such individual and his spouse (as the case may be) shall be deemed not to exceed the amount specified in subsections (a)(1)(B) and (a)(2)(B) of this section during any period that the resources of such individual or individuals and his spouse (as the case may be) does not exceed the maximum amount of resources specified in the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973.

(h) Individuals deemed to meet income test

In determining eligibility for, and the amount of, benefits payable under this section in the case of any individual or any individual and his spouse (as the case may be) who—

(1) received aid or assistance for December 1973 under a plan of a State approved under subchapter X or XVI of this chapter,

(2) is blind under the definition of that term in the plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973,

(3) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

(4) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or an eligible spouse with respect to whom supplemental security income benefits are payable,

there shall be disregarded an amount equal to the greater of (A) the maximum amount of any earned or unearned income which could have been disregarded under the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973, and (B) the amount which would be required to be disregarded under section 1382a of this title without application of this subsection.

(Aug. 14, 1935, ch. 531, title XVI, § 1611, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 301, 86 Stat. 1466, and amended July 9, 1973, Pub. L. 93-66, title II, § 210(a), (b), 87 Stat. 154; Dec. 31, 1973, Pub. L. 93-233, §§ 4(b)(1), (2), 18(d), (e), 87 Stat. 953, 968; Aug. 7, 1974, Pub. L. 93-368, § 6(a), 88 Stat. 421; Oct. 20, 1976, Pub. L. 94-566, title V, §§ 502, 505(a), 90 Stat. 2685, 2686.)

Prior Provisions

A prior section 1382, act Aug. 14, 1935, ch. 531, title XVI, § 1602, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 198, and amended Oct. 13, 1964, Pub. L. 88-650, § 5(b), 78 Stat. 1078; July 30, 1965, Pub. L. 89-97, title II, § 221(d)(3), title IV, § 403(e), 79 Stat. 358, 418; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 210(a)(5), 213(a)(4), 241(d), 81 Stat. 896, 898, 917; Oct. 30, 1972, Pub. L. 92-603, title IV, §§ 405(d), 406(d), 407(d), 410(d), 413(d), 86 Stat. 1488, 1489, 1491, 1492, set forth the required contents of state plans for aid to the aged, blind, or disabled, and for medical assistance for the aged, prior to the general amendment of title XVI of the Social Security Act by Pub. L. 92-603, § 301.

Amendments

1976—Subsec. (e)(1)(A). Pub. L. 94-566, § 505(a), inserted reference to subparagraph (C).

Subsec. (e)(1)(B)(ii). Pub. L. 94-566, § 502, inserted "of the one who is in such hospital, home, or facility" following "section 1382a(b) of this title" in the parenthetical provisions that follow "the rate of $300 per year" and inserted "(reduced by the amount of any income, not excluded pursuant to section 1382a(b) of this title, of the other)" following "the applicable rate specified in subsection (b)(1) of this section".

Subsec. (e)(1)(C). Pub. L. 94-566, § 505(a), added subsec. (e)(1)(C).

1974—Pub. L. 93-368 inserted "(or, if greater, the amount determined under section 1382f of this title)" immediately after "$1,752" in subsecs. (a)(1)(A) and (b)(1) and "$2,628" in subsecs. (a)(2)(A) and (b)(2).

1973—Subsec. (a)(1)(A). Pub. L. 93-233, § 4(b)(1), substituted "$1,752" for "$1,680".

Pub. L. 93-66, § 210(a), substituted "$1,680" for "$1,560".

Subsec. (a)(2)(A). Pub. L. 93-233, § 4(b)(2), substituted "$2,628" for "$2,520".

Pub. L. 93-66, § 210(b), substituted "$2,520" for "$2,340".

Subsec. (b)(1). Pub. L. 93-233, § 4(b)(1), substituted "$1,752" for "$1,680".

Pub. L. 93-66, § 210(a), substituted "$1,680" for "$1,560".

Subsec. (b)(2). Pub. L. 93-233, § 4(b)(2), substituted "$2,628" for "$2,520".

Pub. L. 93-66, § 210(b), substituted "$2,520" for "$2,340".

Subsec. (g). Pub. L. 93-233, § 18(d), incorporated existing provisions in text designated as cl. (1), added cls. (2) and (3), and substituted final December "1973" for "1972".

Subsec. (h). Pub. L. 93-233, § 18(e), incorporated existing text in provisions designated as cls. (1) and (2), added cls. (3) and (4), redesignated former cls. (1) and (2) as items (A) and (B), and in item (A) inserted phrase "under which he or they received such aid or assistance for December 1973".

Effective Date of 1976 Amendment

Section 505(e) of Pub. L. 94-566 provided that: "The amendments [to sections 1382(e)(1) and 1382a(b)(6) of this title] and repeals [of prior section 1382e(e) of this title] made by this section, unless otherwise specified therein, shall take effect on October 1, 1976."

Effective Date of 1973 Amendments

Section 4(b) of Pub. L. 93-233 provided that amendment of subsecs. (a)(1)(A) and (b)(1) by section 4(b)(1), of subsecs. (a)(2)(A) and (b)(2) by section 4(b)(2), and of provisions set out as a note below by section 4(b)(3) of Pub. L. 93-233, shall be effective with respect to payments for months after June 1974.

Section 210(c) of Pub. L. 93-66, as amended Pub. L. 93-233, § 4(a)(1), Dec. 31, 1973, 87 Stat. 953 provided: "The amendments [of subsecs. (a)(1)(A), (2)(A) and (b)(1), (2) of this section] made by this section shall apply with respect to payments for months after December 1973."

Effective Date

Section 301 of Pub. L. 92-603 provided in part that this section is to take effect Jan. 1, 1974.

Assistance Paid Under Certain Housing Acts Not Considered in Determining Eligibility for Benefits Under This Subchapter; Effective Date

Pub. L. 94-375, § 2(h), Aug. 3, 1976, 90 Stat. 1068 provided that: "Notwithstanding any other provision of law, the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of

1937 [section 1437 et seq. of this title], the National Housing Act [section 1701 et seq. of Title 12, Banks and Banking], section 101 of the Housing and Urban Development Act of 1965 [section 1701s of title 12 and sections 1451 and 1465 of this title], or title V of the Housing Act of 1949 [section 1471 et seq. of this title] may not be considered as income or a resource for the purpose of determining the eligibility of, or the amount of the benefits payable to, any person living in such unit for assistance under title XVI of the Social Security Act [this subchapter]. This subsection shall become effective on October 1, 1976."

SPECIAL $50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of $50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March, 1975, was entitled to a benefit under the supplemental security income benefits program established by this subchapter, see section 702 of Pub. L. 94-12, set out as a note under section 402 of this title.

ADJUSTMENT OF INDIVIDUAL'S MONTHLY SUPPLEMENTAL SECURITY INCOME PAYMENTS; REGULATIONS; LIMITATIONS

Pub. L. 93-335, § 2(b)(2), July 8, 1974, 88 Stat. 291, provided that: "The Secretary of Health, Education, and Welfare is authorized to prescribe regulations for the adjustment of an individual's monthly supplemental security income payment in accordance with any increase to which such individual may be entitled under the amendment made by subsection (a) of this section [to section 212(a)(3)(B)(i) of Pub. L. 93-66, set out above]: *Provided*, That such adjustment in monthly payment, together with the remittance of any prior unpaid increments to which such individual may be entitled under such amendment, shall be made no later than the first day of the first month beginning more than sixty days after the date of the enactment of this Act [July 8, 1974]."

MEDICAID ELIGIBILITY FOR INDIVIDUALS RECEIVING MANDATORY STATE SUPPLEMENTARY PAYMENTS; EFFECTIVE DATE

Additional requirement for approval of subchapter XIX State plan for medical assistance respecting medicaid eligibility for individuals receiving mandatory State supplementary payments, see section 13(c) of Pub. L. 93-233, set out as a note under section 1396a of this title.

FEDERAL PROGRAM OF SUPPLEMENTAL SECURITY INCOME; SUPPLEMENTAL SECURITY INCOME BENEFITS FOR ESSENTIAL PERSONS; DEFINITIONS OF QUALIFIED INDIVIDUAL AND ESSENTIAL PERSON

Section 211 of Pub. L. 93-66, as amended by Pub. L. 93-233, § 4(a)(2), (b)(3), Dec. 31, 1973, 87 Stat. 953, provided that:

"(a)(1) In determining (for purposes of title XVI of the Social Security Act [this subchapter], as in effect after December 1973) the eligibility for and the amount of the supplemental security income benefit payable to any qualified individual (as defined in subsection (b)), with respect to any period for which such individual has in his home an essential person (as defined in subsection (c)—

"(A) the dollar amounts specified in subsection (a)(1)(A) and (2)(A), and subsection b(1) and (2), of section 1611 of such Act [this section], shall each be increased by $840 for each such essential person, and

"(B) the income and resources of such individual shall (for purposes of such title XVI [this subchapter]) be deemed to include the income and resources of such essential person;

except that the provisions of this subsection shall not, in the case of any individual, be applicable for any period which begins in or after the first month that such individual—

"(C) does not but would (except for the provisions of subparagraph (B)) meet—

"(i) the criteria established with respect to income in section 1611(a) of such Act [subsec. (a) of this section], or

"(ii) the criteria established with respect to resources by such section 1611(a) [subsec. (a) of this section] (or, if applicable, by section 1611(g) of such Act [subsec. (g) of this section]).

"(2) The provisions of section 1611(g) of the Social Security Act [subsec. (g) of this section] (as in effect after December 1973) shall, in the case of any qualified individual (as defined in subsection (b)), be applied so as to include, in the resources of such individual, the resources of any person (described in subsection (b)(2)) whose needs were taken into account in determining the need of such individual for the aid or assistance referred to in subsection (b)(1).

"(b) For purposes of this section, an individual shall be a 'qualified individual' only if—

"(1) for the month of December 1973 such individual was a recipient of aid or assistance under a State plan approved under title [subchapter] I, X, XIV, or XVI of the Social Security Act [this chapter], and

"(2) in determining the need of such individual for such aid or assistance for such month under such State plan, there were taken into account the needs of a person (other than such individual) who—

"(A) was living in the home of such individual, and

"(B) was not eligible (in his or her own right) for aid or assistance under such State plan for such month.

"(c) The term 'essential person', when used in connection with any qualified individual, means a person who—

"(1) for the month of December 1973 was a person (described in subsection (b)(2)) whose needs were taken into account in determining the need of such individual for aid or assistance under a State plan referred to in subsection (b)(1) as such State plan was in effect for June 1973,

"(2) lives in the home of such individual,

"(3) is not eligible (in his or her own right) for supplemental security income benefits under title XVI of the Social Security Act [this subchapter] (as in effect after December 1973), and

"(4) is not the eligible spouse (as that term is used in such title XVI [this subchapter]) of such individual or any other individual.

If for any month after December 1973 any person fails to meet the criteria specified in paragraph (2), (3), or (4) of the preceding sentence, such person shall not, for such month or any month thereafter be considered to be an essential person."

MANDATORY MINIMUM STATE SUPPLEMENTATION OF SUPPLEMENTAL SECURITY INCOME BENEFITS PROGRAM; DECEMBER 1973 INCOME; TITLE XVI BENEFIT PLUS OTHER INCOME; REDUCTION OF AMOUNT; ADMINISTRATION AGREEMENT; PAYMENTS TO SECRETARY; STATE CONSTITUTIONAL RESTRICTION

Section 212 of Pub. L. 93-66, as amended by Pub. L. 93-233, § 10, Dec. 31, 1973, 87 Stat. 957; Pub. L. 93-335, § 2(a), July 8, 1974, 88 Stat. 291, provided that:

"(a)(1) In order for any State (other than the Commonwealth of Puerto Rico, Guam, or the Virgin Islands) to be eligible for payments pursuant to title XIX [subchapter XIX of this chapter], with respect to expenditures for any quarter beginning after December 1973, such State must have in effect an agreement with the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary') whereby the State will provide to individuals residing in the State supplementary payments as required under paragraph (2).

"(2) Any agreement entered into by a State pursuant to paragraph (1) shall provide that each individual who—

"(A) is an aged, blind, or disabled individual (within the meaning of section 1614(a) of the Social Security Act, as enacted by section 301 of the Social Security Amendments of 1972 [section 1382c(a) of this title]), and

"(B) for the month of December 1973 was a recipient of (and was eligible to receive) aid or assistance (in the form of money payments) under a State plan of such State (approved under title [subchapter] I, X, XIV, or XVI, of the Social Security Act [this chapter]),

shall be entitled to receive, from the State, the supplementary payment described in paragraph (3) for each month, beginning with January 1974, and ending with whichever of the following first occurs:

"(C) the month in which such individual dies, or

"(D) the first month in which such individual ceases to meet the condition specified in subparagraph (A);

except that no individual shall be entitled to receive such supplementary payment for any month, if, for such month, such individual was ineligible to receive supplemental income benefits under title XVI of the Social Security Act [this chapter] by reason of the provisions of section 1611(e)(1)(A), (2), or (3) [subsec. (e)(1)(A), (2), or (3) of this section], 1611(f) [subsec. (f) of this section], or 1615(c) of such Act [section 1382d(c) of this title].

"(3)(A) The supplementary payment referred to in paragraph (2) which shall be paid for any month to any individual who is entitled thereto under an agreement entered into pursuant to this subsection shall (except as provided in subparagraphs (D) and (E) be an amount equal to (i) the amount by which such individual's 'December 1974 income' (as determined under subparagraph (B)) exceeds the amount of such individual's 'title XVI benefit plus other income' (as determined under subparagraph (C)) for such month, or (ii) if greater, such amount as the State may specify.

"(B) For purposes of subparagraph (A), an individual's 'December 1973 income' means an amount equal to the aggregate of—

"(i) the amount of the aid or assistance (in the form of money payments) which such individual would have received (including any part of such amount which is attributable to meeting the needs of any other person whose presence in such individual's home is essential to such individual's well-being) for the month of December 1973 under a plan (approved under title [subchapter] I, X, XIV, or XVI, of the Social Security Act [this chapter]) of the State entering into an agreement under this subsection, if the terms and conditions of such plan (relating to eligibility for and amount of such aid or assistance payable thereunder) were, for the month of December 1973, the same as those in effect, under such plan, for the month of June 1973, together with the bonus value of food stamps for January 1972, as defined in section 401(b)(3) of Public Law 92-603 [set out as a note under section 1382e of this title], if, for such month, such individual resides in a State which provides State supplementary payments (I) of the type described in section 1616(a) of the Social Security Act [section 1382e(a) of this title], and (II) the level of which has been found by the Secretary pursuant to section 8 of Public Law 93-233 [set out as notes under section 1382e of this title and sections 612c, 1431 and 2012 of Title 7, Agriculture] to have been specifically increased so as to include the bonus value of food stamps, and

"(ii) the amount of the income of such individual (other than the aid or assistance described in clause (i)) received by such individual in December 1973, minus any such income which did not result, but which if properly reported would have resulted in a reduction in the amount of such aid or assistance.

"(C) For purposes of subparagraph (A), the amount of an individual's 'title XVI benefit plus other income' for any month means an amount equal to the aggregate of—

"(i) the amount (if any) of the supplemental security income benefit to which such individual is entitled for such month under title XVI of the Social Security Act [this subchapter], and

"(ii) the amount of any income of such individual for such month (other than income in the form of a benefit described in clause (i)).

"(D) If the amount determined under subparagraph (B)(i)) includes, in the case of any individual, an amount which was payable to such individual solely because of—

"(i) a special need of such individual (including any special allowance for housing, or the rental value of housing furnished in kind to such individual in lieu of a rental allowance) which existed in December 1973, or

"(ii) any special circumstance (such as the recognition of the needs of a person whose presence in such individual's home, in December 1973, was essential to such individual's well-being),

and, if for any month after December 1973 there is a change with respect to such special need or circumstance which, if such change had existed in December 1973, the amount described in subparagraph (B)(i) with respect to such individual would have been reduced on account of such change, then, for such month and for each month thereafter the amount of the supplementary payment payable under the agreement entered into under this subsection to such individual shall (unless the State, at its option, otherwise specifies) be reduced by an amount equal to the amount by which the amount (described in subparagraph (B)(i)) would have been so reduced.

"(E)(i) In the case of an individual who, for December 1973 lived as a member of a family unit other members of which received aid (in the form of money payments) under a State plan of a State approved under part A of title [subchapter] IV of the Social Security Act [this chapter], such State at its option, may (subject to clause (ii)) reduce such individual's December 1973 income (as determined under subparagraph (B)) to such extent as may be necessary to cause the supplementary payment (referred to in paragraph (2)) payable to such individual for January 1974 or any month thereafter to be reduced to a level designed to assure that the total income of such individual (and of the members of such family unit) for any month after December 1973 does not exceed the total income of such individual (and of the members of such family unit) for December 1973.

"(ii) The amount of the reduction (under clause (i)) of any individual's December 1973 income shall not be in an amount which would cause the supplementary payment (referred to in paragraph (2)) payable to such individual to be reduced below the amount of such supplementary payment which would be payable to such individual if he had, for the month of December 1973 not lived in a family, members of which were receiving aid under part A of title [subchapter] IV of the Social Security Act, [this chapter], and had had no income for such month other than that received as aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act [subchapters I, X, XIV, or XVI of this chapter].

"(b)(1) Any State having an agreement with the Secretary under subsection (a) may enter into an administration agreement with the Secretary whereby the Secretary will, on behalf of such State, make the supplementary payments required under the agreement entered into under subsection (a).

"(2) Any such administration agreement between the Secretary and a State entered into under this subsection shall provide that the State will (A) certify to the Secretary the names of each individual who, for December 1973, was a recipient of aid or assistance (in the form of money payments) under a plan of such State approved under title I, X, XIV, or XVI of the Social Security Act [subchapters I, X, XIV, or XVI of this chapter], together with the amount of such assistance payable to each such individual and the amount of such individual's December 1973 income (as defined in subsection (a)(3)(B)), and (B) provide the Secretary with such additional data at such times as the Secretary may reasonably require in order properly, eco-

nomically, and efficiently to carry out such administration agreement.

"(3) Any State which has entered into an administration agreement under this subsection shall, at such times and in such installments as may be agreed upon between the Secretary and the State, pay to the Secretary an amount equal to the expenditures made by the Secretary as supplementary payments to individuals entitled thereto under the agreement entered into with such State under subsection (a).

"(c)(1) Supplementary payments made pursuant to an agreement entered into under subsection (a) shall be excluded under section 1612(b)(6) of the Social Security Act [section 1382a(b)(6) of this title] (as in effect after December 1973) in determining income of individuals for purposes of title XVI of such Act [this subchapter] (as so in effect).

"(2) Supplementary payments made by the Secretary (pursuant to an administration agreement entered into under subsection (b)) shall, for purposes of section 401 of the Social Security Amendments of 1972 [set out as a note under section 1382e of this title], be considered to be payments made under an agreement entered into under section 1616 of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972 [section 1382e of this title]); except that nothing in this paragrpah shall be construed to waive, with respect to the payments so made by the Secretary, the provisions of subsection (b) of such section 401 [set out as a note under section 1382e of this title].

"(d) For purposes of subsection (a)(1), a State shall be deemed to have entered into an agreement under subsection (a) of this section if such State has entered into an agreement with the Secretary under section 1616 of the Social Security Act [section 1382e of this title] under which—

"(1) individuals, other than individuals described in subsection (a)(2)(A) and (B), are entitled to receive supplementary payments, and

"(2) supplementary benefits are payable, to individuals described in subsection (a)(2)(A) and (B) at a level and under terms and conditions which meet the minimum requirements specified in subsection (a).

"(e) Except as the Secretary may by regulations otherwise provide, the provisions of title XVI of the Social Security Act [this subchapter] (as enacted by section 301 of the Social Security Amendments of 1972), including the provisions of part B of such title [section 1383 et seq. of this title], relating to the terms and conditions under which the benefits authorized by such title [this subchapter] are payable shall, where not inconsistent with the purposes of this section, be applicable to the payments made under an agreement under subsection (b) of this section; and the authority conferred upon the Secretary by such title [this subchapter] may, where appropriate, be exercised by him in the administration of this section.

"(f) The provisions of subsection (a)(1) shall not be applicable in the case of any State—

"(1) the Constitution of which contains provisions which make it impossible for such State to enter into and commence carrying out (on January 1, 1974) an agreement referred to in subsection (a), and

"(2) the Attorney General (or other appropriate State official) of which has, prior to July 1, 1973, made a finding that the State Constitution of such State contains limitations which prevent such State from making supplemental payments of the type described in section 1616 of the Social Security Act [section 1382e of this title]."

Section 2(b)(1) of Pub. L. 93-335, July 8, 1974, 88 Stat. 291 provided that amendment of section 212(a)(3)(B)(i) of Pub. L. 93-66 by section 2(a) of Pub. L. 93-335 shall take effect on Jan. 1, 1974.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of section 1602 of the Social Security Act [this section] by Pub. L. 92-603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1602 of the Social Security Act [this section] as it existed prior to reenactment by Pub. L. 92-603 continues to apply as follows:

§ 1382. State plans for aid to aged, blind, or disabled or for such aid and medical assistance for aged

(a) Contents

A State plan for aid to the aged, blind, or disabled, or for aid to the aged, blind, or disabled and medical assistance for the aged, must—

(1) except to the extent permitted by the Secretary with respect to services, provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) Provide (A) for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid or assistance under the plan is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing.

(5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;

(8) provide that all individuals wishing to make application for aid or assistance under the plan shall have opportunity to do so, and that such aid or assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide, if the plan includes aid or assistance to or on behalf of individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(10) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational management it finds appropriate for this purpose) to applicants for or recipients of aid or assistance under the plan to help them attain self-support or self-care, including a de-

scription of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

(11) provide that no aid or assistance will be furnished any individual under the plan with respect to any period with respect to which he is receiving assistance under the State plan approved under subchapter I of this chapter or aid under the State plan approved under part A of subchapter IV of this chapter or under subchapter X or XIV of this chapter;

(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(13) include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of aid or assistance under the plan;

(14) provide that the State agency shall, in determining need for aid to the aged, blind, or disabled, take into consideration any other income and resources of an individual claiming such aid, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination with respect to any individual—

(A) if such individual is blind, the State agency (i) shall disregard the first $85 per month of earned income plus one-half of earned income in excess of $85 per month, and (ii) shall, for a period not in excess of 12 months, and may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan,

(B) if such individual is not blind but is permanently and totally disabled, (i) of the first $80 per month of earned income, the State agency may disregard not more than the first $20 thereof plus one-half of the remainder, and (ii) the State agency may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, but only with respect to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation,

(C) if such individual has attained age 65 and is neither blind nor permanently and totally disabled, of the first $80 per month of earned income the State agency may disregard not more than the first $20 thereof plus one-half of the remainder, and

(D) the State agency may, before disregarding the amounts referred to above in this paragraph (14), disregard not more than $7.50 of any income;

(15) if the State plan includes medical assistance for the aged—

(A) provide for inclusion of some institutional and some noninstitutional care and services;

(B) provide that no enrollment fee, premium, or similar charge will be imposed as a condition of any individual's eligibility for medical assistance for the aged under the plan;

(C) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulations) with respect to the furnishing of such assistance to individuals who are residents of the State but are absent therefrom; and

(D) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance for the aged paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual), and that there shall be no adjustment or recovery (except after the death of such individual and his surviving spouse, if any, from such individual's estate) of any medical assistance for the aged correctly paid on behalf of such individual under the plan;

(16) if the State plan includes aid or assistance to or in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases—

(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and, where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities, for furnishing information, and for making reports;

(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodic determination of his need for continued treatment in the institution;

(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients 65 years of age or older who would otherwise need care in such institutions, including appropriate medical treatment and other aid or assistance; for services referred to in section 1383(a)(4)(A)(i) and (ii) of this title which are appropriate for such recipients and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out; and

(D) provide methods of determining the reasonable cost of institutional care for such patients; and

(17) if the State plan includes aid or assistance to or in behalf of individuals 65 years of age or older who are patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing homes, and other alternatives to care in public institutions for mental diseases.

Notwithstanding paragraph (3), if on January 1, 1962, and on the date on which a State submits its plan for approval under this subchapter, the State agency which administered or supervised the administration of the plan of such State approved under subchapter X of this chapter was different from the State agency which administered or supervised the administration of the plan of such State approved under subchapter I of this chapter and the State agency which administered or supervised the administration of the plan of such State approved under subchapter XIV of this chapter, the State agency which administered or supervised the administration of such plan approved under subchapter X of this chapter may be designated to administer or supervise the administration of portion of the State plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) which relates to blind individuals and a separate State agency may be established or designated to administer or supervise the administration of the test of such plan; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this subchapter.

(b) Approval by Secretary

The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid or assistance under the plan—

(1) an age requirement of more than sixty-five years; or

(2) any residence requirement which (A) in the case of applicants for aid to the aged, blind, or disabled excludes any resident of the State who has resided therein five years during the nine years immediately proceeding the application for such aid and has resided therein continuously for one year immediately preceding the application, and (B) in the case of applicants for medical assistance for the aged, excludes any individual who resides in the State; or

(3) any citizenship requirement which excludes any citizen of the United States. At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this subchapter.

In the case of any State to which the provisions of section 344 of the Social Security Act Amendments of 1950 were applicable on January 1, 1962, and to which the sentence of section 1202(b) of this title following paragraph (2) thereof is applicable on the date on which its State plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) was submitted for approval under this subchapter, the Secretary shall approve the plan of such State for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) for purposes of this subchapter, even though it does not meet the requirements of paragraph (14) of subsection (a) of this section. If it meets all other requirements of this subchapter for an approved plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged); but payments under section 1383 of this title shall be made, in the case of any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of section 1383 of this title under a plan approved under this section without regard to the provisions of this sentence.

(c) Limitation on number of plans

Subject to the last sentence of subsection (a) of this section, nothing in this subchapter shall be construed to permit a State to have in effect with respect to any period more than one State plan approved under this subchapter.

(Aug. 14, 1935, ch. 531, title XVI, § 1602, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 198, and amended Oct. 13, 1964, Pub. L. 88-650, § 5(b), 78 Stat. 1078; July 30, 1965, Pub. L. 89-97, title II, § 221(d)(3), title IV, § 403(e), 79 Stat. 358, 418; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 210(a)(5), 213(a)(4), 241(d), 81 Stat. 896, 898, 917; Oct. 30, 1972, Pub. L. 92-603, title IV, §§ 405(d), 406(d), 407(d), 410(d), 413(d), 86 Stat. 1488, 1489, 1491, 1492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1315, 1382a, 1382c, 1382f, 1383, 1385, 1396b, 4728 of this title.

§ 1382a. Income; definition of earned and unearned income; exclusions from income

(a) For purposes of this subchapter, income means both earned income and unearned income; and—

(1) earned income means only—

(A) wages as determined under section 403(f)(5)(C) of this title; and

(B) net earnings from self-employment, as defined in section 411 of this title (without the application of the second and third sentences following subsection (a)(10), and the last paragraph of subsection (a)), including earnings for services described in paragraphs (4), (5), and (6) of subsection (c); and

(2) unearned income means all other income, including—

(A) support and maintenance furnished in cash or kind; except that (i) in the case of any individual (and his eligible spouse, if any) living in another person's household and receiving support and maintenance in kind from such person, the dollar amounts otherwise applicable to such individual (and spouse) as specified in subsections (a) and (b) of section 1382 of this title shall be reduced by 33⅓ percent in lieu of including such support and maintenance in the unearned income of such individual (and spouse) as otherwise required by this subparagraph, (ii) in the case of any individual or his eligible spouse who resides in a nonprofit retirement home or similar nonprofit institution, support and maintenance shall not be included to the extent that it is furnished to such individual or such spouse without such institution receiving payment therefor (unless such institution has expressly undertaken an obligation to furnish full support and maintenance to such individual or spouse without any current or future payment therefor) or payment therefor is made by another nonprofit organization, and (iii) support and maintenance shall not be included and the provisions of clause (i) shall not be applicable in the case of any individual (and his eligible spouse, if any) for the period which begins with the month in which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in a residential facility (including a private household) maintained by another person and ends with the close of the month in which such individual (or such individual and his eligible spouse) ceases to receive support and maintenance while living in such a residential facility (or, if earlier, with the close of the seventeenth month following the month in which such period began), if, not more than 30 days prior to the date on which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in such a residential facility, (I) such individual (or such individual and his eligible spouse) were residing in a household maintained by such individual (or by such individual and others) as his or their own home, (II) there occurred within the area in which such household is located (and while such individual, or such individual and his spouse, were residing in the household referred to in subclause (I)) a catastrophe on account of which the President declared a major disaster to exist therein for purposes of the Disaster Relief Act of 1974 [42 U.S.C. 5121 et seq.], and (III) such individual declares that he (or he and his eligible spouse) ceased to continue living in the household referred to in subclause (II) because of such catastrophe;

(B) any payments received as an annuity, pension, retirement, or disability benefit, including veterans' compensation and pensions, workmen's compensation payments, old-age, survivors, and disability insurance benefits, railroad retirement, annuities and pensions, and unemployment insurance benefits;

(C) prizes and awards;

(D) the proceeds of any life insurance policy to the extent that they exceed the amount expended by the beneficiary for purposes of the insured individual's last illness and burial or $1,500, whichever is less;

(E) gifts (cash or otherwise), support and alimony payments, and inheritances; and

(F) rents, dividends, interest, and royalties.

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, if such individual is a child who is, as determined by the Secretary, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

(2)(A) the first $240 per year (or porportionately smaller amounts for shorter periods) of income (whether earned or unearned) other than income which is paid on the basis of the need of the eligible individual;

(B) Monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual;

(3)(A) the total unearned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed $60 in such quarter, and (B) the total earned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed $30 in such quarter;

(4)(A) if such individual (or such spouse) is blind (and has not attained age 65, or received benefits under this subchapter (or aid under a State plan approved under section 1202 or 1382 of this title) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, (ii) an amount equal to any expenses reasonably attributable to the earning of any income, and (iii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan,

(B) if such individual (or such spouse) is disabled but not blind ([1]and has not attained age 65, or received benefits under this subchapter (or aid under a State plan approved under section 1352 or 1382 of this title) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, and (ii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan, or

(C) if such individual (or such spouse) has attained age 65 and is not included under subparagraph (A) or (B), the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof;

(5) any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual (or such spouse);

(6) assistance, furnished to or on behalf of such individual (and spouse), which is based on need and furnished by any State or political subdivision of a State;

(7) any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution;

(8) home produce of such individual (or spouse) utilized by the household for its own consumption;

(9) if such individual is a child one-third of any payment for his support received from an absent parent;

(10) any amounts received for the foster care of a child who is not an eligible individual but who is living in the same home as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency; and

(11) assistance received under the Disaster Relief Act of 1974 [42 U.S.C. 5121 et seq.] or other assistance provided pursuant to a Federal statute on account of a catastrophe which is declared to be a major disaster by the President.

(Aug. 14, 1935, ch. 531, title XVI, § 1612, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 301, 86 Stat. 1468, and amended Oct. 26, 1974, Pub. L. 93-484, § 4, 88 Stat. 1460; Jan. 2, 1976, Pub. L. 94-202, § 9, 89 Stat. 1140; June 30, 1976, Pub. L. 94-331, §§ 2(a), 4(a), 90 Stat. 781, 782; Oct. 4, 1976, Pub. L. 94-455, title XXI, § 2125, 90 Stat. 1920; Oct. 20, 1976, Pub. L. 94-566, title V, § 505(b), 90 Stat. 2686.)

REFERENCES IN TEXT

The Disaster Relief Act of 1974, referred to in subsecs. (a)(2)(A), (b)(11), is Pub. L. 93-288, May 22, 1974,

[1]So in original. There is no closing parenthesis.

88 Stat. 143, which is classified principally to chapter 68 (§ 5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

Section 1382 of this title, referred to in subsec. (b)(4)(A) and (B), is a reference to section 1382 of this title as it existed prior to the general revision of this subchapter by Pub. L. 92-603, title III, § 301, Oct. 30, 1972, 86 Stat. 1465, eff. Jan. 1, 1974.

AMENDMENTS

1976—Subsec. (a)(2)(A)(iii). Pub. L. 94-455 substituted in parenthetical text "seventeenth month" for "fifth month".

Pub. L. 94-331, § 4(a)(2), added cl. (iii).

Subsec. (b)(2). Pub. L. 94-202 designated existing provisions as par. (A) and added par. (B).

Subsec. (b)(6). Pub. L. 94-566 substituted "assistance, furnished to or on behalf of such individual (and spouse), which" for "assistance described in section 1382e(a) of this title which".

Subsec. (b)(11). Pub. L. 94-331, § 2(a)(3), added subsec. (b)(11).

1974—Subsec. (a)(2)(A). Pub. L. 93-484 designated existing provisions as cl. (i) and added cl. (ii).

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94-566 effective Oct. 1, 1976, see section 505(e) of Pub. L. 94-566, set out as an Effective Date of 1976 Amendment note under section 1382 of this title.

Section 2(b) of Pub. L. 94-331 provided that: "The amendments made by this Act [amending subsec. (b)(11) of this section and sections 815, 3402, 6153, and 6154 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under sections 815 and 3402 of Title 26] shall be applicable only in the case of catastrophes which occur on or after June 1, 1976 and before December 31, 1976."

Section 4(b) of Pub. L. 94-331 provided that: "The amendments made by this Act [see Effective Date note above] shall be applicable only in the case of a catastrophes which occur on or after June 1, 1976 and before December 31, 1976."

EFFECTIVE DATE OF 1974 AMENDMENT

Section 4 of Pub. L. 93-484 provided in part that amendment of subsec. (a)(2)(A) by Pub. L. 93-484 is effective Jan. 1, 1974.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided in part that this section is to take effect Jan. 1, 1974.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1382, 1382e of this title.

§ 1382b. Resources; exclusions from resources; disposition of resources

(a) In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—

(1) the home (including the land that appertains thereto);

(2) household goods, personal effects, and an automobile, to the extent that their total value does not exceed such amounts as the Secretary determines to be reasonable;

(3) other property which, as determined in accordance with and subject to limitations prescribed by the Secretary, is so essential to the means of self-support of such individual (and such spouse) as to warrant its exclusion;

(4) such resources of an individual who is blind or disabled and who has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan; and

(5) in the case of Natives of Alaska, shares of stock held in a Regional or a Village Corporation, during the period of twenty years in which such stock is inalienable, as provided in section 1606(h) and section 1607(c) of title 43.

In determining the resources of an individual (or eligible spouse) an insurance policy shall be taken into account only to the extent of its cash surrender value; except that if the total face value of all life insurance policies on any person is $1,500 or less, no part of the value of any such policy shall be taken into account.

(b) The Secretary shall prescribe the period or periods of time within which, and the manner in which, various kinds of property must be disposed of in order not to be included in determining an individual's eligibility for benefits. Any portion of the individual's benefits paid for any such period shall be conditioned upon such disposal; and any benefits so paid shall (at the time of the disposal) be considered overpayments to the extent they would not have been paid had the disposal occurred at the beginning of the period for which such benefits were paid.

(Aug. 14, 1935, ch. 531, title XVI, § 1613, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 301, 86 Stat. 1470, and amended Oct. 20, 1976, Pub. L. 94-569, § 5, 90 Stat. 2700.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-569 struck out ", to the extent that its value does not exceed such amount as the Secretary determines to be reasonable" following "the home (including the land that appertains thereto)".

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided in part that this section is to take effect Jan. 1, 1974.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1382 of this title.

§ 1382c. Definitions

(a)(1) For purposes of this subchapter, the term "aged, blind, or disabled individual" means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B) is a resident of the United States, and is either (i) a citizen or (ii) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of

section 1153(a)(7) or section 1182(d)(5) of title 8).

(2) An individual shall be considered to be blind for purposes of this subchapter if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this subchapter if he is blind as defined under a State plan approved under subchapter X or XVI of this chapter as in effect for October 1972 and receive aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) An individual shall be considered to be disabled for purposes of this subchapter if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity).

(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(C) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(D) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria, except for purposes of paragraph (4), shall be found not to be disabled.

(E) Notwithstanding the provisions of subparagraphs (A) through (D), an individual shall also be considered to be disabled for purposes of this subchapter if he is permanently and totally disabled as defined under a State plan approved under subchapter XIV or XVI of this chapter as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973 (and for at least one month prior to July 1973), so long as he is continuously disabled as so defined.

(4)(A) For purposes of this subchapter, any services rendered during a period of trial work (as defined in subparagraph (B)) by an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection) shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. As used in this paragraph, the term "services" means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

(B) The term "period of trial work", with respect to an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection), means a period of months beginning and ending as provided in subparagraphs (C) and (D).

(C) A period of trial work for any individual shall begin with the month in which he becomes eligible for benefits under this subchapter on the basis of his disability; but no such period may begin for an individual who is eligible for benefits under this subchapter on the basis of a disability if he has had a previous period of trial work while eligible for benefits on the basis of the same disability.

(D) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

(i) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

(ii) the month in which his disability (as determined under paragraph (3) of this subsection) ceases (as determined after the application of subparagraph (A) of this paragraph).

(b) For purposes of this subchapter, the term "eligible spouse" means an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual and who has not been living apart from such other aged, blind, or disabled individual for more than six months. If two aged, blind, or disabled individuals are husband and wife as described in the preceding sentence, only one of them may be an "eligible individual" within the meaning of section 1382(a) of this title.

(c) For purposes of this subchapter, the term "child" means an individual who is neither married nor (as determined by the Secretary) the head of a household, and who is (1) under the age of eighteen, or (2) under the age of twenty-two and (as determined by the Secretary) a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment.

(d) In determining whether two individuals are husband and wife for purposes of this subchapter, appropriate State law shall be applied; except that—

(1) if a man and women[1] have been determined to be husband and wife under section 416(h)(1) of this title for purposes of subchapter II of this chapter they shall be considered (from and after the date of such determination or the date of their application for benefits under this subchapter, whichever is later) to be husband and wife for purposes of this subchapter, or

(2) if a man and woman are found to be holding themselves out to the community in which they reside as husband and wife, they shall be so considered for purposes of this subchapter notwithstanding any other provision of this section.

(e) For purposes of this subchapter, the term "United States," when used in a geographical sense, means the 50 States and the District of Columbia.

(f)(1) For purposes of determining eligibility for and the amount of benefits for any individual who is married and whose spouse is living with him in the same household but is not an eligible spouse, such individual's income and resources shall be deemed to include any income and resources of such spouse, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

(2) For purposes of determining eligibility for and the amount of benefits for any individual who is a child under age 21, such individual's income and resources shall be deemed to include any income and resources of a parent of such individual (or the spouse of such a parent) who is living in the same household as such individual, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

(Aug. 14, 1935, ch. 531, title XVI, § 1614, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 301, 86 Stat. 1471), and amended Dec. 31, 1973, Pub. L. 93-233, § 9, 87 Stat. 957.)

AMENDMENTS

1973—Subsec. (a)(3)(A). Pub. L. 93-233, § 9(1), struck out last sentence defining a disabled individual as one permanently and totally disabled as defined under a State plan approved under subchapter XIV or XVI of this chapter as in effect for 1972 and receiving aid under such plan (on the basis of disability for December 1973, so long as the individual is continuously disabled as so defined, provisions now covered in subsec. (a)(3)(E) of this section.

Subsec. (a)(3)(E). Pub. L. 93-233, § 9(2), incorporated provisions of last sentence of subpar. (A) in provisions designated as subpar. (E) and inserted introductory text "Notwithstanding the provisions of subparagraphs (A) through (D)" and parenthetical phrase "(and for at least one month prior to July 1973)" following "December 1973."

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided in part that this section is to take effect Jan. 1, 1974.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

[1]So in original. Probably should be "woman".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1382, 1383, 1383b, 1396a, 1396d, 6862 of this title.

§ 1382d. Rehabilitation services for blind and disabled individuals

(a) Referral by Secretary of eligible individuals to appropriate State agency; review by Secretary of individual's blindness or disability and need for services

In the case of any blind or disabled individual who—

(1) has not attained age 65, and

(2) is receiving benefits (or with respect to whom benefits are paid) under this subchapter,

the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act [29 U.S.C. 31 et seq.], or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.

(b) Criteria for approval of State plans

(1) The Secretary shall by regulation prescribe criteria for approval of State plans for—

(A) assuring appropriate counseling for disabled children referred pursuant to subsection (a) of this section and their families,

(B) establishment of individual service plans for such disabled children, and prompt referral to appropriate medical, educational, and social services,

(C) monitoring to assure adherence to such service plans, and

(D) provision for such disabled children who are 6 years of age and under, or who have never attended public school and require preparation to take advantage of public educational services, of medical, social, developmental, and rehabilitative services, in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

(2) Such criteria shall include—

(A) administration—

(i) by the agency administering the State plan for crippled children's services under subchapter V of this chapter, or

(ii) by another agency which administers programs providing services to disabled children and which the Governor of the State concerned has determined is capable of administering the State plan described in the first sentence of this subsection in a more efficient and effective manner than the agency described in clause (i) (with the reasons for such determination being set forth in the State plan described in the first sentence of this subsection);

(B) coordination with other agencies serving disabled children; and

(C) establishment of an identifiable unit within such agency which shall be responsible for carrying out the plan.

(c) Refusal by referred individuals to accept services

Every individual age 16 or over with respect to whom the Secretary is required to make provision for referral under subsection (a) of this section shall accept such services as are made available to him under the State plan for vocational and rehabilitation services approved under the Vocational Rehabilitation Act [29 U.S.C. 31 et seq.]; and no such individual shall be an eligible individual or eligible spouse for purposes of this subchapter if he refuses without good cause to accept services for which he is referred under subsection (a) of this section.

(d) Payment by Secretary to State agency of costs of providing services to referred individuals

The Secretary is authorized to pay to the State agency administering or supervising the administration of a State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act [29 U.S.C. 31 et seq.] the costs incurred under such plan in the provision of rehabilitation services to individuals referred for such services pursuant to subsection (a) of this section.

(e)[1][e] Payment for the period beginning after September 30, 1976, and ending prior to October 1, 1979

(1) The Secretary shall, subject to the limitations imposed by paragraphs (2) and (3), pay to the State agency administering a State plan of a State under subsection (b) of this section, the costs incurred each fiscal year which begins after September 30, 1976, and ends prior to October 1, 1979, in carrying out the State plan approved pursuant to such subsection (b).

(2)(A) Of the funds paid by the Secretary with respect to costs, incurred in any State, to which paragraph (1) applies, not more than 10 per centum thereof shall be paid with respect to costs incurred with respect to activities described in subsection (b)(1)(A), (B), and (C) of this section.

(B) Whenever there are provided pursuant to this section to any child services of a type which is appropriate for children who are not blind or disabled, there shall be disregarded for purposes of computing any payment with respect thereto under this subsection, so much of the costs of such services as would have been incurred if the child involved had not been blind or disabled.

(C) The total amount payable under this subsection for any fiscal year, with respect to services provided in any State, shall be reduced by the amount by which the sum of the public funds expended (as determined by the Secretary) from non-Federal sources for services of the type involved for such fiscal year is less than the sum of such funds expended from such sources for services of such type for the fiscal year ending June 30, 1976.

(3) No payment under this subsection with respect to costs incurred in providing services in any State for any fiscal year shall exceed an amount which bears the same ratio to $30,000,000 as the under age 7 population of such State (and for purposes of this section the District of Columbia shall be regarded as a State) bears to the under age 7 population of the fifty States and the District of Columbia. The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph on the basis of the most recent satisfactory data available from the Department of Commerce not later than 90 nor earlier than 270 days before the beginning of such year.

(Aug. 14, 1935, ch. 531, title XVI, § 1615, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 301, 86 Stat. 1474, and amended Oct. 20, 1976, Pub. L. 94-566, title V, § 501(a), 90 Stat. 2683.)

[1]So in original. Probably should read "(e)".

References in Text

Vocational Rehabilitation Act, referred to in subsecs. (a), (c), and (d), is act June 2, 1920, ch. 219, 41 Stat. 735, as amended, which was classified generally to chapter 4 (§ 31 et seq.) of Title 29, Labor and was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 357. The Rehabilitation Act of 1973 is classified generally to chapter 16 (§ 701 et seq.) of Title 29. Section 500(a), classified to section 790 of Title 29, provided in part that references to the Vocational Rehabilitation Act in any other provision of law be deemed references to the Rehabilitation Act of 1973.

Amendments

1976—Subsec. (a). Pub. L. 94-566 inserted "or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section," following "Vocational Rehabilitation Act," and substituted "need for and utilization of the services" for "need for and utilization of the rehabilitation services".

Subsec. (b). Pub. L. 94-566 added subsec. (b). Former subsec. (b) was split up and its parts were redistributed into subsecs. (c) and (d), respectively, and amended.

Subsec. (c). Pub. L. 94-566 combined into subsec. (c) the existing provisions of subsec. (c) covering the refusal by referred individuals to accept services and added thereto a part of former subsec. (b) covering the required acceptance of vocational and rehabilitation services by the referred individual, and in that provision substituted "Every individual age 16 or over" for "Every individual".

Subsec. (d). Pub. L. 94-566 redesignated as subsec. (d) the part of former subsec. (b) covering the payment by the Secretary to the State agency administering a State plan and in the provisions so redesignated substituted "administration of a State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act" for "administration of such State plan".

Subsec. [e]. Pub. L. 94-566 added subsec. (e), which, through a probable error, was shown in the original as "(c)". See footnote under this section.

Effective Date

Section 301 of Pub. L. 92-603 provided in part that this section is to take effect Jan. 1, 1974.

Publication of Criteria

Section 501(b) of Pub. L. 94-566 provided that: "The Secretary shall, within 120 days after the enactment of this subsection, publish criteria to be employed to determine disability (as defined in section 1614(a)(3) of the Social Security Act [section 1382c(a)(3) of this title]) in the case of persons who have not attained the age of 18."

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1382e. Supplementary assistance by State or subdivision to needy individuals

(a) Exclusion of cash payments in determination of income of individuals for purposes of eligibility for benefits; agreement by Secretary and State for Secretary to make supplementary payments on behalf of State or subdivision

Any cash payments which are made by a State (or political subdivision thereof) on a regular basis to individuals who are receiving benefits under this subchapter or who would but for their income be eligible to receive benefits under this subchapter, as assistance based on need in supplementation of such benefits (as determined by the Secretary), shall be excluded under section 1382a(b)(6) of this title in determining the income of such individuals for purposes of this subchapter and the Secretary and such State may enter into an agreement which satisfies subsection (b) of this section under which the Secretary will, on behalf of such State (or subdivision) make such supplementary payments to all such individuals.

(b) Agreement between Secretary and State; contents

Any agreement between the Secretary and a State entered into under subsection (a) of this section shall provide—

(1) that such payments will be made (subject to subsection (c) of this section) to all individuals residing in such State (or subdivision) who are receiving benefits under this subchapter, and

(2) such other rules with respect to eligibility for or amount of the supplementary payments, and such procedural or other general administrative provisions, as the Secretary finds necessary (subject to subsection (c) of this section) to achieve efficient and effective administration of both the program which he conducts under this subchapter and the optional State supplementation.

(c) Residence requirement by State or subdivision for supplementary payments; disregarding of amounts of certain income by State or subdivision in determining eligibility for supplementary payments

(1) Any State (or political subdivision) making supplementary payments described in subsection (a) of this section, may at its option impose as a condition of eligibility for such payments, and include in the State's agreement with the Secretary under such subsection, a residence requirement which excludes individuals who have resided in the State (or political subdivision) for less than a minimum period prior to application for such payments.

(2) Any State (or political subdivision), in determining the eligiblity of any individual for supplementary payments described in subsection (a) of this section, may disregard amounts of earned and unearned income in addition to other amounts which it is required or permitted to disregard under this section in determining such eligibility, and shall include a provision specifying the amount of any such income that will be disregarded, if any.

(d) Payment to Secretary by State of amount equal to expenditures by Secretary as supplementary payments; time and manner of payment by State

Any State which has entered into an agreement with the Secretary under this section which provides that the Secretary will, on behalf of the State (or political subdivision), make the supplementary payments to individuals who are receiving benefits under this subchapter (or who would but for their income be eligible to receive such benefits), shall, at such times and in such installments as may be agreed upon between the Secretary and such State, pay to the Secretary an amount equal to the expenditures made by the Secretary as such supplementary payments.

(e) State standards; establishment; annual public review; annual certification; payments to individuals

(1) Each State shall establish or designate one or more State or local authorities which shall establish, maintain, and insure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which (as determined by the State) a significant number of recipients of supplemental security income benefits is residing or is likely to reside. Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved, and shall govern such matters as admission policies, safety, sanitation, and protection of civil rights.

(2) Each State shall annually make available for public review, as a part of the services program planning procedures established pursuant to section 1397c of this title, a summary of the standards established pursuant to paragraph (1), and shall make available to any interested individual a copy of such standards, along with the procedures available in the State to insure the enforcement of such standards and a list of any waivers of such standards and any violations of such standards which have come to the attention of the authority responsible for their enforcement.

(3) Each State shall certify annually to the Secretary that it is in compliance with the requirements of this subsection.

(4) Payments made under this subchapter with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a) of this section) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedical care provided by an institution of the type described in paragraph (1) to such individual as a resident or an inpatient of such institution if such institution is not approved as meeting the standards described in such paragraph by the appropriate State or local authorities.

(Aug. 14, 1935, ch. 531, title XVI, § 1616, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 301, 86 Stat. 1474, and amended Dec. 31, 1973, Pub. L. 93-233, § 14, 87 Stat. 965; Oct. 20, 1976, Pub. L. 94-566, title V, § 505(c), (d), 90 Stat. 2687.)

AMENDMENTS

1976—Subsec. (e). Pub. L. 94-566 added subsec. (e). See Effective Date of 1976 Amendment note under this section for delayed effective date (Oct. 1, 1977) for subsec. (e) as so enacted. Former subsec. (e) was repealed. See Repeals note under this section for early effective date (Oct. 1, 1976) of such repeal.

1973—Subsec. (e). Pub. L. 93-233 added subsec. (e).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 505(d) of Pub. L. 94-566 provided in part that amendment of subsec. (e) by Pub. L. 94-566 shall be effective Oct. 1, 1977.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided in part that this section is to take effect Jan. 1, 1974.

REPEALS

Section 505(c) of Pub. L. 94-566 repealed subsec. (e) of this section providing for reduction of supplemental security income payments to individuals provided institutional medical or other remedial care, State financed under Federal grants for medical assistance, effective on Oct. 1, 1976, under provisions of Effective Date of 1976 Amendment note, set out under section 1382 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, APPLICABILITY TO SECTION 401 OF THE SOCIAL SECURITY AMENDMENTS OF 1972

Pub. L. 94-274, title I, § 102, Apr. 21, 1976, 90 Stat. 384, provided that: "For the purposes of section 401 of the Social Security Amendments of 1972 (42 U.S.C. 1382e note), the term 'fiscal year' includes the period of July 1, 1976, through September 30, 1976, and the limitations imposed by section 401(a) on the amount payable to the Secretary by a State shall be one-fourth of the non-Federal share of expenditures as aid or assistance for quarters in calendar year 1972, as determined under that section."

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING THE PERIOD ENDING JUNE 30, 1977

Section 8(c) of Pub. L. 93-233 provided that: "For purposes of the last sentence of section 3(e) of the Food Stamp Act of 1964 [section 2012(e) of Title 7, Agriculture] (as amended by subsection (a) of this section) [set out as a note under section 2012 of Title 7] and subsections (b)(3) and (f) of this section [set out as a note under section 612c of Title 7; there was no subsec. (f) enacted], the level of State supplementary payment under section 1616(a) [subsec. (a) of this section] shall be found by the Secretary to have been specifically increased so as to include the bonus value of food stamps (1) only if, prior to October 1, 1973, the State has entered into an agreement with the Secretary or taken other positive steps which demonstrate its intention to provide supplementary payments under section 1616(a) [subsec. (a) of this section] at a level which is at least equal to the maximum level which can be determined under section 401(b)(1) of the Social Security Amendments of 1972 [set out as a note under this section] and which is such that the limitation on State fiscal liability under section 401 [set out as a note under this section] does result in a reduction in the amount which would otherwise be payable to the Secretary by the State, and (2) only with respect to such months as the State may, at its option, elect."

PERMISSION FOR CALIFORNIA TO ELECT TO REMAIN A FOOD STAMP CASHOUT STATE UPON NONQUALIFICATION FOR HOLD HARMLESS TREATMENT UNDER SUPPLEMENTAL SECURITY INCOME PROGRAM

Section 8(d) of Pub. L. 93-233, as added by Pub. L. 94-379, § 1(a), Aug. 10, 1976, 90 Stat. 1111, provided that:

"Upon the request of the State of California the Secretary shall find, for purposes of the provisions specified in subsection (c) of this section, that the level of such State's supplementary payments of the type described in section 1616(a) of the Social Security Act [subsec. (a) of this section] has been specifically increased for any month after June 1976 so as to include the bonus value of food stamps if—

"(1) the State law as in effect for such month specifically provides for increases in such payments on account of increases in the level of benefits payable under title XVI of the Social Security Act [this subchapter] in a manner designed to assure that, whenever a cost-of-living increase in the level of benefits payable under such title XVI becomes effective for any month after June 1976, the amount of the State supplementary payment payable, for each month with respect to which such cost-of-living increase is effective, to any individual or to any individual with an eligible spouse, will be increased by such amount as is necessary to assure that—

"(A) the aggregate of (i) the amount payable for such month to such individual, or to such individual with an eligible spouse, under such title XVI [this subchapter], and (ii) the amount payable for such month to such individual, or to such individual with an eligible spouse, under the State's supplementary payments program.

will exceed, by an amount which is not less than the monthly amount of such cost-of-living increase (plus the monthly amount of any previous cost-of-living increases in the level of benefits payable under title XVI of the Social Security Act [this subchapter] which became effective for months after June 1976)—

"(B) the aggregate of the amounts which would otherwise have been payable, to such individual (or to such individual with an eligible spouse), under such title XVI [this subchapter] and under the State's supplementary payments program for such month under the law as in effect on June 1, 1976; and

"(2) such month is (A) the month of July 1976, or (B) a month thereafter which is in a period of consecutive months the first of which is July 1976 and each of which is a month with respect to which the conditions of paragraph (1) are met.

As used in this subsection, the term 'cost-of-living increase in the level of benefits payable under title XVI of the Social Security Act [this subchapter]' means an increase in benefits payable under such title XVI by reason of the operation of section 1617 of such Act [section 1382f of this title]; except that the cost-of-living increase in the level of benefits payable under such title XVI which became effective for the month of July 1976 shall be deemed (for purposes of determining the amount of the required excess referred to in the matter following subparagraph (A) and preceding subparagraph (B) in paragraph (1)) to have provided an increase of $3.00 per month in the case of an individual without an eligible spouse and $4.50 per month in the case of an individual with an eligible spouse."

ADJUSTED PAYMENT LEVEL; PAYMENT LEVEL MODIFICATION FOR THE PERIOD ENDING JUNE 30, 1977

Section 8(e), formerly 8(d) of Pub. L. 93-233, as renumbered by Pub. L. 94-379, § 1(a), Aug. 10, 1976, 90 Stat. 1111, provided that: "Section 401(b)(1) of the Social Security Amendments of 1972 [set out as a note below] is amended by striking out everything after the word 'exceed' and inserting in lieu thereof: 'a payment level modification (as defined in paragraph (2) of this subsection) with respect to such plans'."

Section 8(f), formerly 8(e), of Pub. L. 93-233, as amended by Pub. L. 93-335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2(2), July 14, 1976, 90 Stat. 990, and renumbered and amended by Pub. L. 94-379, § 1(a), (b), Aug. 10, 1976, 90 Stat. 1111, provided that: "The amendment made by subsection (e) [set out as a

note above] shall be effective only for the period ending June 30, 1977, except that such amendment shall not during such period, be effective in any State which provides supplementary payments of the type described in section 1616(a) of the Social Security Act [subsec. (a) of this section] the level of which has been found by the Secretary to have been specifically increased so as to include the bonus value of food stamps." [Amendment of section 8(f), formerly 8(e), of Pub. L. 93-233 by section 1(b) of Pub. L. 93-335, effective July 1, 1974, see section 1(c) of Pub. L. 93-335, set out as a note below.

Amendment of section 8(e) of Pub. L. 93-233 by section 1(b) of Pub. L. 93-335, effective July 1, 1974, see section 1(c) of Pub. L. 93-335, set out as a note below.

Section 1(c) of Pub. L. 93-335, July 8, 1974, 88 Stat. 291, provided that amendments by section 1(a) and (b) of Pub. L. 93-335 to section 8(a)(1), (2), (b)(1) to (3) and (e) of Pub. L. 93-233, Dec. 31, 1973, 87 Stat. 956, set out as notes under this section and sections 612c, 1431 and 2012 of Title 7, Agriculture, shall be effective as of July 1, 1974.

COMMODITY DISTRIBUTION PROGRAM: INDIVIDUAL RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS AS MEMBER OF HOUSEHOLD FOR ANY PURPOSE OF PROGRAM

Individual receiving supplemental security income benefits or payments as part of benefits or payments described in subsec. (a) of this section as member of a household for any purpose of the food distribution program, see section 4(c) of Pub. L. 93-86, set out as a note under section 612c of Title 7, Agriculture.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

LIMITATION ON FISCAL LIABILITY OF STATES FOR PAYMENT TO SECRETARY OF SUPPLEMENTARY PAYMENTS MADE BY SECRETARY PURSUANT TO AGREEMENT

Section 401 of Pub. L. 92-603, as amended by Pub. L. 93-233, § 18(h), Dec. 31, 1973, 87 Stat. 969; Pub. L. 94-566, title V, § 504(a), Oct. 20, 1976, 90 Stat. 2686; Pub. L. 94-585 § 2(b), Oct. 21, 1976, 90 Stat. 2902, provided that:

"(a)(1) The amount payable to the Secretary by a State for any fiscal year, other than fiscal year 1974, pursuant to its agreement or agreements under section 1616 of the Social Security Act [this section] shall not exceed the non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of the State approved under titles I, X, XIV, and XVI of the Social Security Act [subchapters I, X, XIV, and XVI of this chapter] (as defined in subsection (c) of this section), and the amount payable for fiscal year 1974 pursuant to such agreement or agreements shall not exceed one-half of the non-Federal share of such expenditures.

"(2) Paragraph (1) of this subsection shall only apply with respect to that portion of the supplementary payments made by the Secretary on behalf of the State under such agreements in any fiscal year which does not exceed in the case of any indivdual the difference between—

"(A) the adjusted payment level under the appropriate approved plan of such State as in effect for January 1972 (as defined in subsection (b) of this section), and

"(B) the benefits under title XVI of the Social Security Act [this subchapter] (subject to the second sentence of this paragraph), plus income not excluded under section 1612(b) of such Act [section 1382a(b) of this title] in determining such benefits, paid to such individual in such fiscal year,

and shall not apply with respect to supplementary payments to any individual who (i) is not required by section 1616 of such Act [this section] to be included in any such agreement administered by the Secretary and (ii) would have been ineligible (for reasons other than income) for payments under the appropriate approved State plan as in effect for January 1972. In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increase in such benefits under section 1617 of such Act [section 1382f of this title] (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977, and before July 1, 1979."

Amendment of section 401(a)(2)(B) of Pub. L. 92-603 inserting parenthetical text and enacting last sentence effective under provisions of Pub. L. 94-566, title V, § 504(b), Oct. 20, 1976, 90 Stat. 2686, with respect to benefits payable for months after June 1977.

Amendment by section 18(h) of Pub. L. 93-233 effective Jan. 1, 1974, see section 18(z-3)(1) of Pub. L. 93-233, set out as a note under section 1320b of this title.

TRANSITIONAL ADMINISTRATION OF PROGRAMS BY STATE PURSUANT TO AGREEMENT BETWEEN STATE AND SECRETARY

Section 402 of Pub. L. 92-603, as amended by Pub. L. 93-233, § 18(i), Dec. 31, 1973, 87 Stat. 970, provided that: "In order for a State to be eligible for any payments pursuant to title IV, V, XVI, or XIX of the Social Security Act [subchapter IV, V, XVI, or XIX of this chapter] with respect to expenditures for the third and fourth quarters in the fiscal year ending June 30, 1974, and any quarter in the fiscal year ending June 30, 1975, and for the purpose of providing an orderly transition from State to Federal administration of the Supplemental Security Income Program, such State shall enter into an agreement with the Secretary of Health, Education, and Welfare under which the State agencies responsible for administering or for supervising the administration of the plans approved under titles I, X, XIV, and XVI of the Social Security Act [subchapters I, X, XIV, and XVI of this chapter] will, on behalf of the Secretary, administer all or such part or parts of the program established by section 301 of this Act [enacting this subchapter], during such portion of the third and fourth quarters of the fiscal year ending June 30, 1974, and any quarter of the fiscal year ending June 30, 1975, as may be provided in such agreement."

ELECTION OF PAYMENTS UNDER COMBINED STATE PLAN RATHER THAN SEPARATE PLANS

Pub. L. 87-563, § 141(b), July 25, 1962, 76 Stat. 205, provided that: "No payment may be made to a State under title I, X, or XIV of the Social Security Act [subchapter I, X, or XIV of this chapter] for any period for which such State receives any payments under title XVI of such Act [this subchapter] or any period thereafter."

OVERPAYMENT OR UNDERPAYMENT ADJUSTMENTS

Pub. L. 87-543, § 141(f), July 25, 1962, 76 Stat. 205, provided that: "In the case of any State which has a State plan approved under title XVI of the Social Security Act [this subchapter], any overpayment or underpayment which the Secretary determines was made to such State under section 3, 1003, or 1403 of such Act [section 303, 1203, or 1353 of this title] with respect to a period before the approval of the plan under such title XVI [this subchapter], and with respect to which adjustment has not been already made under subsection (b) of such section 3, 1003, or 1403 [subsec. (b) of section 303, 1203, or 1353 of this title], shall, for purposes of section 1603(b) of such Act [section 1383(b) of this title prior to its omission on Oct. 30, 1972], be considered an overpayment or underpayment (as the case may be) made under section 1603 of

such Act [section 1383 of this title as it existed prior to Oct. 30, 1972]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1382g, 1383 of this title; title 7 section 2012.

§ 1382f. Cost of living adjustments in benefits

Whenever benefit amounts under subchapter II of this chapter are increased by any percentage effective with any month as a result of determination made under section 415(i) of this title, each of the dollar amounts in effect for such month under subsections (a)(1)(A), (a)(2)(A), (b)(1), (b)(2) of section 1382 of this title, and subsection (a)(1)(A) of section 211 of Public Law 93-66, as specified in such subsections or as previously increased under this section, shall be increased by the same percentage (and rounded, when not a multiple of $1.20, to the next higher multiple of $1.20), effective with respect to benefits for months after such month; and such dollar amounts as so increased shall be published in the Federal Register together with, and at the same time as, the material required by section 415(i)(2)(D) of this title to be published therein by reason of such determination.

(Aug. 14, 1935, ch. 531, title XVI, § 1617, as added Aug. 7, 1974, Pub. L. 93-368, § 6(b), 88 Stat. 421.)

REFERENCES IN TEXT

Section 211 of Pub. L. 93-66, referred to in text, is set out as Federal Program of Supplemental Security Income note under section 1382 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1382 of this title.

§ 1382g. Payments to State for operation of supplementation program eligibility, agreement with Secretary; levels of supplementary payments

(a) In order for any State which makes supplementary payments of the type described in section 1382e(a) of this title (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), on or after June 30, 1977, to be eligible for payments pursuant to subchapter XIX of this chapter with respect to expenditures for any calendar quarter which begins—

(1) after June 30, 1977, or, if later,

(2) after the calendar quarter in which it first makes such supplementary payments,

such State must have in effect an agreement with the Secretary whereby the State will—

(3) continue to make such supplementary payments, and

(4) maintain such supplementary payments at levels which are not lower than the levels of such payments in effect in December 1976, or, if no such payments were made in that month, the levels for the first subsequent month in which such payments were made.

(b) The Secretary shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) of this section with respect to the levels of its supplementary payments for a particular month or months if the State's expenditures for such payments in the twelve-month period (within which such month or months fall) beginning on the effective date of any increase in the level of supplemental security income benefits pursuant to section 1382 of this title are not less than its expenditures for such payments in the preceding twelve-month period.

(Aug. 14, 1935, ch. 531, title XVI, § 1618, as added Oct. 21, 1976, Pub. L. 94-585, § 2(a), 90 Stat. 2901.)

REFERENCES IN TEXT

Section 212(a) of Pub. L. 93-66, referred to in subsec. (a), is set out as a note under section 1382 of this title.

EFFECTIVE DATE

Section 2(c) of Pub. L. 94-585 provided that: "The provisions of this section [enacting this section and enacting a provision set out as a note under section 1382e of this title] shall be effective with respect to benefits payable for months after June 1977."

PART B—PROCEDURAL AND GENERAL PROVISIONS

§ 1383. Procedure for payment of benefits

(a) Time, manner, form, and duration of payments; promulgation of regulations

(1) Benefits under this subchapter shall be paid at such time or times and in such installments as will best effectuate the purposes of this subchapter, as determined under regulations (and may in any case be paid less frequently than monthly where the amount of the monthly benefit would not exceed $10).

(2) Payments of the benefit of any individual may be made to any such individual or to his eligible spouse (if any) or partly to each, or, if the Secretary deems it appropriate to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse). Notwithstanding the provisions of the preceding sentence, in the case of any individual or eligible spouse referred to in section 1382(e)(3)(A) of this title, the Secretary shall provide for making payments of the benefit to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse).

(3) The Secretary may by regulation establish ranges of incomes within which a single amount of benefits under this subchapter shall apply.

(4) The Secretary—

(A) may make to any individual initially applying for benefits under this subchapter who is presumptively eligible for such benefits and who is faced with financial emergency a cash advance against such benefits in an amount not exceeding $100; and

(B) may pay benefits under this subchapter to an individual applying for such benefits on the basis of disability or blindness for a period not exceeding 3 months prior to the determination of such individual's disability or blindness, if such individual is presumptively disabled or blind and is determined to be otherwise eligible for such benefits, and any benefits so paid prior to such determination shall in no event be considered overpayments for purposes of subsection (b) of this

section solely because such individual is determined not to be disabled or blind.

(5) Payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of blindness (as determined under section 1382c(a)(2) of this title) or disability (as determined under section 1382c(a)(3) of this title), and who ceases to be blind or to be under such disability shall continue (so long as such individual is otherwise eligible) through the second month following the month in which such blindness or disability ceases.

(b) Overpayments and underpayments; adjustment, recovery, or payment of amounts by Secretary

Whenever the Secretary finds that more or less than the correct amount of benefits has been paid with respect to any individual, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such individual or by recovery from or payment to such individual or his eligible spouse (or by recovery from the estate of either). The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount of benefits with respect to an individual with a view to avoiding penalizing such individual or his eligible spouse who was without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this subchapter, or be against equity or good conscience, or (because of the small amount involved) impede efficient or effective administration of this subchapter.

(c) Hearing to determine eligibility or amount of benefits; time within which to request hearing; time for determinations of Secretary pursuant to hearing; judicial review

(1) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for payment under this subchapter. The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this subchapter with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within sixty days after notice of such determination is received, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing affirm, modify, or reverse his findings of fact and such decision. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this subchapter. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under the rules of evidence applicable to court procedure.

(2) Determination on the basis of such hearing, except to the extent that the matter in disagreement involves a disability (within the meaning of section 1382c(a)(3) of this title), shall be made within ninety days after the individual requests the hearing as provided in paragraph (1).

(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 405(g) of this title to the same extent as the Secretary's final determinations under section 405 of this title.

(d) Procedures applicable; prohibition on assignment of payments; representation of claimants; maximum fees; penalties for violations

(1) The provisions of section 407 of this title and subsections (a), (d), (e), and (f) of section 405 of this title shall apply with respect to this part to the same extent as they apply in the case of subchapter II of this chapter.

(2) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys, as hereinafter provided, representing claimants before the Secretary under this subchapter, and may require of such agents or other persons, before being recognized as representatives of claimants, that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this paragraph for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this subchapter, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this subchapter by word, circular, letter, or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.

(e) Administrative requirements prescribed by Secretary; criteria; reduction of benefits to individual for noncompliance with requirements

(1)(A) The Secretary shall, subject to subparagraph (B), prescribe such requirements with respect to the filing of applications, the suspension or termination of assistance, the furnish-

ing of other data and material, and the reporting of events and changes in circumstances, as may be necessary for the effective and efficient administration of this subchapter.

(B) The requirements prescribed by the Secretary pursuant to subparagraph (A) shall require that eligibility for benefits under this subchapter will not be determined solely on the basis of declarations by the applicant concerning eligibility factors or other relevant facts, and that relevant information will be verified from independent or collateral sources and additional information obtained as necessary in order to assure that such benefits are only provided to eligible individuals (or eligible spouses) and that the amounts of such benefits are correct.

(2) In case of the failure by any individual to submit a report of events and changes in circumstances relevant to eligibility for or amount of benefits under this subchapter as required by the Secretary under paragraph (1), or delay by any individual in submitting a report as so required, the Secretary (in addition to taking any other action he may consider appropriate under paragraph (1)) shall reduce any benefits which may subsequently become payable to such individual under this subchapter by—

(A) $25 in the case of the first such failure or delay,

(B) $50 in the case of the second such failure or delay, and

(C) $100 in the case of the third or a subsequent such failure or delay,

except where the individual was without fault or good cause for such failure or delay existed.

(f) Furnishing of information by Federal agencies

The head of any Federal agency shall provide such information as the Secretary needs for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.

(g) Reimbursement to States for interim assistance payments; definitions; agreement; hearing provisions inapplicable to disagreements concerning payments

(1) Notwithstanding subsection (d)(1) of this section and subsection (b) of this section as it relates to the payment of less than the correct amount of benefits, the Secretary may, upon written authorization by an individual, withhold benefits due with respect to that individual and may pay to a State (or a political subdivision thereof if agreed to by the Secretary and the State) from the benefits withheld an amount sufficient to reimburse the State (or political subdivision) for interim assistance furnished on behalf of the individual by the State (or political subdivision).

(2) For purposes of this subsection, the term "benefits" with respect to any individual means supplemental security income benefits under this subchapter, and any State supplementary payments under section 1382e of this title or under section 212 of Public Law 93-66 which the Secretary makes on behalf of a State (or political subdivision thereof), that the Secretary has determined to be due with respect to the individual at the time the Secretary makes the first payment of benefits. A cash advance made pursuant to subsection (a)(4)(A) of this section shall not be considered as the first payment of benefits for purposes of the preceding sentence.

(3) For purposes of this subsection, the term "interim assistance" with respect to any individual means assistance financed from State or local funds and furnished for meeting basic needs during the period, beginning with the month in which the individual filed an application for benefits (as defined in paragraph (2)), for which he was eligible for such benefits.

(4) In order for a State to receive reimbursement under the provisions of paragraph (1), the State shall have in effect an agreement with the Secretary which shall provide—

(A) that if the Secretary makes payment to the State (or a political subdivision of the State as provided for under the agreement) in reimbursement for interim assistance (as defined in paragraph (3)) for any individual in an amount greater than the reimbursable amount authorized by paragraph (1), the State (or political subdivision) shall pay to the individual the balance of such payment in excess of the reimbursable amount as expeditiously as possible, but in any event within ten working days or a shorter period specified in the agreement; and

(B) that the State will comply with such other rules as the Secretary finds necessary to achieve efficient and effective administration of this subsection and to carry out the purposes of the program established by this subchapter, including protection of hearing rights for any individual aggrieved by action taken by the State (or political subdivision) pursuant to this subsection.

(5) The provisions of subsection (c) of this section shall not be applicable to any disagreement concerning payment by the Secretary to a State pursuant to the preceding provisions of this subsection nor the amount retained by the State (or political subdivision).

(Aug. 14, 1935, ch. 531, title XVI, § 1631, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 301, 86 Stat. 1475, and amended Dec. 31, 1973, Pub. L. 93-233, § 18(g), 87 Stat. 969; Aug. 7, 1974, Pub. L. 93-368, § 5, 88 Stat. 420; Jan. 2, 1976, Pub. L. 94-202, §§ 1, 2, 89 Stat. 1135; July 14, 1976, Pub. L. 94-365, § 1, 90 Stat. 990; Oct. 20, 1976, Pub. L. 94-569, § 4(a), 90 Stat. 2700.)

References in Text

Section 212 of Pub. L. 93-66, referred to in subsec. (g)(2), is set out as Mandatory Minimum State Supplementation of Supplemental Security Income Benefits Program note under section 1382 of this title.

Prior Provisions

A prior section 1383, act Aug. 14, 1935, ch. 531, title XVI, § 1603, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 200, and amended July 30, 1965, Pub. L. 89-97, title I, § 122, title II, § 221(d)(4), title IV, § 401(b), 79 Stat. 353, 359, 414; Jan. 2, 1968, Pub. L. 90-248, title II, § 212(d), 81 Stat. 898; Oct. 20, 1972, Pub. L. 92-512, title III, § 301(b), (d), (e), 86 Stat. 946, 947, related to the determination of amounts payable to the states, prior to the general amendment of title XVI of the Social Security Act by Pub. L. 92-603, § 301.

AMENDMENTS

1976—Subsec. (a)(4)(B). Pub. L. 94-569 inserted "or blindness" after "disability" and "or blind" after "disabled" wherever appearing.

Subsec. (c)(1). Pub. L. 94-202, § 1, increased the authority of the Secretary by permitting him to hold hearings on his own motion, to administer oaths, examine witnesses, and receive evidence at hearings, and increased the time within which a request for a hearing be made after notice of the Secretary's determination is received from thirty to sixty days.

Subsec. (c)(2). Pub. L. 94-202, § 1, reenacted subsec. (c)(2) without change.

Subsec. (c)(3). Pub. L. 94-202, § 1, deleted the exception to judicial review which made factual determinations by the Secretary, after a hearing as provided by subsec. (c)(1), final and conclusive.

Subsec. (d). Pub. L. 94-202, § 2, struck out par. (2), which related to the appointment of individuals to serve as hearing examiners without meeting the specific standards prescribed for hearing examiners, and redesignated par. (3) as par. (2).

Subsec. (g). Pub. L. 94-365 struck out par. (6) which provided that the provisions of this subsection were to expire on June 30, 1976, at least sixty days prior to which, the Secretary was to submit to Congress a report assessing the effects of actions taken pursuant to this subsection and including whatever recommendations the Secretary deemed appropriate.

1974—Subsec. (g). Pub. L. 93-368 added subsec. (g).

1973—Subsec. (a)(4)(B). Pub. L. 93-233 inserted "solely because such individual is determined not to be disabled."

EFFECTIVE DATE OF 1976 AMENDMENTS

Section 4(b) of Pub. L. 94-569 provided that: "The amendments made by this section [amending subsec. (a)(4)(B) of this section] shall apply with respect to months after the month following the month in which this Act is enacted [Oct. 1976]."

Amendment by Pub. L. 94-202 effective Jan. 2, 1976, with the amendment of subsec. (c), to the extent that it changes the period within which a hearing must be requested, applicable to any decision or determination which is received on or after Jan. 2, 1976, see section 5 of Pub. L. 94-202, set out as an Effective Date of 1976 Amendment note under section 405 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-233 effective Jan. 1, 1974, see section 18(z-3)(1) of Pub. L. 93-233.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided inpart that this section is to take effect Jan. 1, 1974.

HEARING EXAMINERS APPOINTED PRIOR TO JANUARY 2, 1976

Section 3 of Pub. L. 94-202 provided that: "The persons appointed under section 1631(d)(2) of the Social Security Act [subsec. (d)(2) of this section] (as in effect prior to the enactment of this Act) to serve as hearing examiners in hearings under section 1631(c) of such Act [subsec. (c) of this section] may conduct hearings under titles II, XVI, and XVIII of the Social Security Act [subchapters II, XVI, and XVIII of this chapter] if the Secretary of Health, Education, and Welfare finds it will promote the achievement of the objectives of such titles [subchapters], notwithstanding the fact that their appointments were made without meeting the requirements for hearing examiners appointed under section 3105 of title 5, United States Code but their appointments shall terminate not later than at the close of the period ending December 31, 1978, and during that period they shall be deemed to be hearing examiners appointed under such section 3105 and subject as such to subchapter II of chapter 5 of title 5, United States Code, to the second sentence of such section 3105, and to all of the other provisions of such title 5 which apply to hearing examiners appointed under such section 3105."

PRESUMPTIVE DISABILITY BENEFITS; TIME EXTENSION

Pub. L. 93-256, § 1, Mar. 28, 1974, 88 Stat. 52, provided: "That any individual who would be considered disabled under section 1614(a)(3)(E) of the Social Security Act [section 1382c(a)(3)(E) of this title] except that he did not receive aid under the appropriate State plan for at least one month prior to July 1973 may be considered to be presumptively disabled under section 1631(a)(4)(B) of that Act [subsec. (a)(4)(B) of this section] and may be paid supplemental security income benefits under title XVI of that Act [this subchapter] on the basis of such presumptive disability, and State supplementary payments under section 212 of Public Law 93-66 [set out as a note under section 1382 of this title] as though he had been determined to be disabled within the meaning of section 1614(a)(3) of the Social Security Act [section 1382c(a)(3) of this title], for any month in calendar year 1974 for which it has been determined that he is otherwise eligible for such benefits, without regard to the three-month limitation in section 1631(a)(4)(B) of that Act [subsec. (a)(4)(B) of this section] on the period for which benefits may be paid to presumptively disabled individuals, except that no such benefits may be paid on the basis of such presumptive disability for any month after the month in which the Secretary of Health, Education, and Welfare has made a determination as to whether such individual is disabled, as defined in section 1614(a)(3)(A) of that Act [section 1382c(a)(3)(A) of this title]".

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of section 1603 of the Social Security Act [this section] by Pub. L. 92-603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1603 of the Social Security Act [this section] as it existed prior to reenactment by Pub. L. 92-603 continues to apply as follows:

§ 1383. Payments to States; quarterly expenditures to exceed average of total expenditures for each quarter of fiscal year ending Juen 30, 1965

(a) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this subchapter for each quarter, beginning with the quarter commencing October 1, 1962—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) 31/37 of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of $37 multiplied by the total number of recipients of such aid for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received such aid in the form of money payments of such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care); plus

(B) the larger of the following:

(i)(I) the Federal percentage (as defined in section 1301(a)(8) of this title) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with respect to such month as exceeds the product of $38 multi-

plied by the total number of recipients of aid to the aged, blind, or disabled for such month, plus (II) 15 per centum of the total expended during such month as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect to such month as exceeds the product of $15 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, or

(ii)(I) the Federal medical percentage (as defined in section 306(c) of this title) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditures with respect to such month as exceeds (a) the product of $52 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (b) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of $37 multiplied by such total number of such recipients, plus (II) the Federal percentage of the amount by which the total expended during such month as aid to the aged, blind, or disabled under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B)(ii), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (1) the product of $45 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (II) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of $37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of $7.50 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(3) in the case of any State, an amount equal to the Federal medical percentage (as defined in section 300(c) of this title) of the total amounts expended during such quarter as medical assistance for the aged under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof); and

(4) In the case of any State whose State plan approved under section 1382 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c)(1) of this section and are provided (in accordance with the next sentence) to applicants for or recipients of aid or assistance under the plan to help them attain or retain capability for self-support or self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c)(1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid or assistance under the plan, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled at such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid or assistance under the plan, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid or assistance; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this subchapter shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies

administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(5) in the case of any State whose State plan approved under section 1382 of this title does not meet the requirements of subsection (c)(1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan including services referred to in paragraph (4) and provided in accordance with the provisions of such paragraph.

(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) of this section for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to aid or assistance furnished under the State plan, but excluding any amount of such aid or assistance recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased, shall be considered an overpayment to be adjusted under this subsection.

(4) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(c)(1) In order for a State to qualify for payments under paragraph (4) of subsection (a) of this section, its State plan approved under section 1382 of this title must provide that the State agency shall make available to applicants for or recipients of aid to the aged, blind, or disabled under such State plan at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (4) of subsection (a) of this section until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (4) of subsection (a) of this section but shall instead be made, subject to the other provisions of this subchapter, under paragraph (5) of such subsection.

(d) Notwithstanding the preceding provisions of this section, the amount determined under such provisions for any State for any quarter which is attributable to expenditures with respect to individuals 65 years of age or older who are patients in institutions for mental diseases shall be paid only to the extent that the State makes a showing satisfactory to the Secretary that total expenditures in the State from Federal, State, and local sources for mental health services (including payments to or in behalf of individuals with mental health problems) under State and local public health and public welfare programs for such quarter exceed the average of the total expenditures in the State from such sources for such services under such programs for each quarter of the fiscal year ending June 30, 1965. For purposes of this subsection, expenditures for such services for each quarter in the fiscal year ending June 30, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the first determination by him under this subsection for such State; and expenditures for such services for any quarter beginning after December 31, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the determination under this subsection for such State for such quarter; and determinations so made shall be conclusive for purposes of this subsection.

(Aug. 14, 1935, ch. 531, title XVI, § 1603, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 200, and amended July 30, 1965, Pub. L. 89-97, title I, § 122, title II, § 221(d)(4), title IV, § 401(b), 79 Stat. 353, 359, 414; Jan. 2, 1968, Pub. L. 90-248, title II, § 212(d), 81 Stat. 898; Oct. 20, 1972, Pub. L. 92-512, title III, § 301(b), (d), 86 Stat. 946, 947; Jan. 4, 1975, Pub. L. 93-647, §§ 3(e)(2), 5(e), 88 Stat. 2349, 2350.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 643, 1306a, 1318, 1319, 1396a of this title.

§ 1383a. Fraudulent acts; penalties

Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit under this subchapter,

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit,

(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit, or (B) the initial or continued right to any such benefit of any other individual in whose behalf he has applied for or is receiving such benefit, conceals or fails to disclose such event with an intent fraudulently to secure such benefit either in a greater amount or quantity than is due or when no such benefit is authorized, or

(4) having made application to receive any such benefit for the use and benefit of another and having received it, knowingly and willfully converts such benefit or any part

thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(Aug. 14, 1935, ch. 531, title XVI, § 1632, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 301, 86 Stat. 1478.)

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided in part that this section is to take effect Jan. 1, 1974.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1383b. Administration

(a) Subject to subsection (b) of this section, the Secretary may make such administrative and other arrangements (including arrangements for the determination of blindness and disability under section 1382c(a)(2) and (3) of this title in the same manner and subject to the same conditions as provided with respect to disability determinations under section 421 of this title) as may be necessary or appropriate to carry out his functions under this subchapter.

(b) In determining, for purposes of this subchapter, whether an individual is blind, there shall be an examination of such individual by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select.

(Aug. 14, 1935, ch. 531, title XVI, § 1633, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 301, 86 Stat. 1478, and amended July 9, 1973, Pub. L. 93-66, title II, § 214, 87 Stat. 158.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-66, § 214(1), (2), designated existing provisions as subsec. (a) and made the authority of the Secretary subject to subsec. (b) of this section.

Subsec. (b). Pub. L. 93-66, § 214(3), added subsec. (b).

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided in part that this section is to take effect Jan. 1, 1974.

FEDERAL PROGRAM OF SUPPLEMENTAL SECURITY INCOME; PREFERENCE FOR PRESENT STATE AND LOCAL EMPLOYEES

Section 213 of Pub. L. 93-66 provided that: "The Secretary of Health, Education, and Welfare, in the recruitment and selection for employment of personnel whose services will be utilized in the administration of the Federal program of supplemental security income for the aged, blind, and disabled (established by title XVI of the Social Security Act [this subchapter]), shall give a preference, as among applicants whose qualifications are reasonably equal (subject to any preferences conferred by law or regulation on individuals who have been Federal employees and have been displaced from such employment), to applicants for employment who are or were employed in the administration of any State program approved under title I, X, XIV, or XVI of such Act [subchapters I, X, XIV, or XVI of this chapter] and are or were involuntarily displaced from their employment as a result of the displacement of such State program by such Federal program."

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1383c. Eligibility for medical assistance of aged, blind, or disabled individuals under State's medical assistance plan; determination by Secretary pursuant to agreement between Secretary and State; costs

The Secretary may enter into an agreement with any State which wishes to do so under which he will determine eligibility for medical assistance in the case of aged, blind, or disabled individuals under such State's plan approved under subchapter XIX of this chapter. Any such agreement shall provide for payments by the State, for use by the Secretary in carrying out the agreement, of an amount equal to one-half of the cost of carrying out the agreement, but in computing such cost with respect to individuals eligible for benefits under this subchapter, the Secretary shall include only those costs which are additional to the costs incurred in carrying out this subchapter.

(Aug. 14, 1935, ch. 531, title XVI, § 1634, as added Oct. 30, 1972, Pub. L. 92-603, title III, § 301, 86 Stat. 1478.)

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided in part that this section is to take effect Jan. 1, 1974.

PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1384. Omitted

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title XVI, § 1604, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 204, which related to the operation of State plans, was omitted in the general revision of this subchapter by Pub. L. 92-603, Oct. 30, 1972, 86 Stat. 1465, eff. Jan. 1, 1974.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of Subchapter XVI of the Social Security Act [this subchapter] by section 301 of Pub. L. 92-603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1604 of the Social Security Act [this section] as it existed prior to reenactment of this subchapter by Pub. L. 92-603 continues to apply as follows:

§ 1384. Operation of State plans

If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this subchapter, finds—

(1) that the plan has been so changed that it no longer complies with the provisions of section 1332 of this title; or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure). (Aug. 14, 1935, ch. 531, title XVI, § 1604, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 204.)

§ 1385. Omitted

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title XVI, § 1605, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 204, and amended July 30, 1965, Pub. L. 89-97, title II, §§ 221(d)(1), (2), 222(b), title IV, § 402(b), 79 Stat. 358, 360, 416, which defined the terms "aid to the aged, blind, or disabled" and "medical assistance for the aged", was omitted in the general revision of this subchapter by Pub. L. 92-603, Oct. 30, 1972, 86 Stat. 1465, eff. Jan. 1, 1974.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of subchapter XVI of the Social Security Act [this subchapter] by section 301 of Pub. L. 92-603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1605 of the Social Security Act [this section] as it existed prior to reenactment of this subchapter by Pub. L. 92-603 continues to apply as follows:

§ 1385. Definitions

(a) For purposes of this subchapter, the term "aid to the aged, blind, or disabled" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, needy individuals who are 65 years of age or older, are blind, or are 18 years of age or over and permanently and totally disabled, but such term does not include—

(1) any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution); or

(2) any such payments to or care in behalf of any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases.

Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved, under section 1382 of this title includes provision for—

(A) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(B) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the aged, blind, or disabled to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(C) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(D) periodic review by such State agency of the determination under clause (A) of this subsection to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that such action will best serve the interests of such needy individual; and

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) of this subsection for any individual with respect to whom it is made.

At the option of a State (if its plan approved under this subchapter so provides), such term (i) need not include money payments ot an individual who has been absent from such State for a period in excess of ninety consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for thirty consecutive days in the case of such an individual who has maintained his residence in such State during such period or ninety consecutive days in the case of any other such individual, and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan.

(b) For purposes of this subchapter, the term "medical assistance for the aged" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals who are sixty-five years of age or older and who are not recipients of aid to the aged, blind, or disabled (except, for any month, for recipients of aid to the aged, blind, or disabled who are submitted to or discharged from a medical institution during such month) but whose income and resources are insufficient to meet all of such cost—

(1) inpatient hospital services;

(2) skilled nursing-home services;

(3) physicians' services;

(4) outpatient hospital or clinic services;

(5) home health care services;

(6) private duty nursing services;

(7) physical therapy and related services;

(8) dental services;

(9) laboratory and X-ray services;

(10) prescribed drugs, eyeglasses, dentures, and prosthetic devices;

(11) diagnostic, screening, and preventing services; and

(12) any other medical care or remedial care recognized under State law;

except that such term does not include any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution).

(Aug. 14, 1935, ch. 531, title XVI, § 1605, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 204, and amended July 30, 1965, Pub. L. 89-97, title II, §§ 221(d)(1), (2), 222(b), title IV, § 402(b), 79 Stat. 358, 360, 416; Oct. 30, 1972, Pub. L. 92-603, title IV, §§ 408(d), 409(d), 86 Stat. 1490, 1491.)

SUBCHAPTER XVII—GRANTS FOR PLANNING COMPREHENSIVE ACTION TO COMBAT MENTAL RETARDATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1320a-1 of this title.

§ 1391. Authorization of appropriations

For the purpose of assisting the States (including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa) to plan for and take other steps leading to comprehensive State and community action to combat mental

retardation, there is authorized to be appropriated the sum of $2,200,000. There are also authorized to be appropriated, for assisting such States in initiating the implementation and carrying out of planning and other steps to combat mental retardation, $2,750,000 for the fiscal year ending June 30, 1966, and $2,750,000 for the fiscal year ending June 30, 1967.

(Aug. 14, 1935, ch. 531, title XVII, § 1701, as added Oct. 24, 1963, Pub. L. 88-156, § 5, 77 Stat. 275, and amended July 30, 1965, Pub. L. 89-97, title II, § 211(a), 79 Stat. 356.)

AMENDMENTS

1965—Pub. L. 89-97 authorized appropriations of $2,750,000 for fiscal years ending June 30, 1966 and 1967 for implementation of mental retardation planning.

SHORT TITLE

For Short Title of Pub. L. 88-156, which enacted this subchapter, see Short Title of 1963 Amendment note set out under section 1305 of this title.

DEFINITION OF "SECRETARY"

Section 6 of Pub. L. 88-156 provided that: "As used in the amendments to the Social Security Act made by this Act [see Short Title note under section 1305 of this title], the term 'Secretary' means the Secretary of Health, Education, and Welfare."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1392 of this title.

§ 1392. Availability of funds during certain fiscal years; limitation on amount; utilization of grant

The sums appropriated pursuant to the first sentence of section 1391 of this title shall be available for grants to States by the Secretary during the fiscal year ending June 30, 1964, and the succeeding fiscal year; and the sums appropriated pursuant to the second sentence of such section for the fiscal year ending June 30, 1966, shall be available for such grants during such year and the next two fiscal years, and sums appropriated pursuant thereto for the fiscal year ending June 30, 1967, shall be available for such grants during such year and the succeeding fiscal year. Any such grant to a State, which shall not exceed 75 per centum of the cost of the planning and related activities involved, may be used by it to determine what action is needed to combat mental retardation in the State and the resources available for this purpose, to develop public awareness of the mental retardation problem and of the need for combating it, to coordinate State and local activities relating to the various aspects of mental retardation and its prevention, treatment, or amelioration, and to plan other activities leading to comprehensive State and community action to combat mental retardation.

(Aug. 14, 1935, ch. 531, title XVII, § 1702, as added Oct. 24, 1963, Pub. L. 88-156, § 5, 77 Stat. 275, and amended July 30, 1965, Pub. L. 89-97, title II, § 211(b), 79 Stat. 356.)

AMENDMENTS

1965—Pub. L. 89-97 inserted the provision making appropriations for fiscal year ending June 30, 1966 available for grants during such fiscal year and the next two fiscal years and the appropriation for fiscal year ending June 30, 1967 available for grants during such fiscal year and the succeeding fiscal year.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1393 of this title.

§ 1393. Applications; single State agency designation; essential planning services; plans for expenditure; final activities report and other necessary reports; records; accounting

In order to be eligible for a grant under section 1392 of this title, a State must submit an application therefor which—

(1) designates or establishes a single State agency, which may be an interdepartmental agency, as the sole agency for carrying out the purposes of this subchapter;

(2) indicates the manner in which provision will be made to assure full consideration of all aspects of services essential to planning for comprehensive State and community action to combat mental retardation, including services in the fields of education, employment, rehabilitation, welfare, health, and the law, and services provided through community programs for and institutions for the mentally retarded;

(3) sets forth its plans for expenditure of such grant, which plans provide reasonable assurance of carrying out the purposes of this subchapter;

(4) provides for submission of a final report of the activities of the State agency in carrying out the purposes of this subchapter, and for submission of such other reports, in such form and containing such information, as the Secretary may from time to time find necessary for carrying out the purposes of this subchapter and for keeping such records and affording such access thereto as he may find necessary to assure the correctness and verification of such reports; and

(5) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this subchapter.

(Aug. 14, 1935, ch. 531, title XVII, § 1703, as added Oct. 24, 1963, Pub. L. 88-156, § 5, 77 Stat. 275.)

§ 1394. Payments to States; adjustments; advances or reimbursement; installments; conditions

Payment of grants under this subchapter may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

(Aug. 14, 1935, ch. 531, title XVII, § 1704, as added Oct. 24, 1963, Pub. L. 88-156, § 5, 77 Stat. 276.)

SUBCHAPTER XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 247d, 254c, 254h, 300e-6, 401, 426, 705, 706, 1306, 1320a-1, 1320a-2,

1320c-9, 1320c-14, 1353, 1395x, 1395gg, 1396a, 1396b, 1396l, 1397a, 2689e of this title; title 12 section 1715w; title 38 sections 4108, 5053; title 45 section 231r.

§ 1395. Prohibition against any Federal interference

Nothing in this subchapter shall be construed to authorize any Federal officer or employee to exercise any supervision or control over the practice of medicine or the manner in which medical services are provided, or over the selection, tenure, or compensation of any officer or employee of any institution, agency, or person providing health services; or to exercise any supervision or control over the administration or operation of any such institution, agency, or person.

(Aug. 14, 1935, ch. 531, title XVIII, § 1801, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 291.)

SHORT TITLE

For Short Title of Pub. L. 89-97, which enacted this subchapter, see Short Title of 1965 Amendment note, set out under section 1305 of this title.

§ 1395a. Free choice by patient guaranteed

Any individual entitled to insurance benefits under this subchapter may obtain health services from any institution, agency, or person qualified to participate under this subchapter if such institution, agency, or person undertakes to provide him such services.

(Aug. 14, 1935, ch. 531, title XVIII, § 1802, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 291.)

§ 1395b. Option to individuals to obtain other health insurance protection

Nothing contained in this subchapter shall be construed to preclude any State from providing, or any individual from purchasing or otherwise securing, protection against the cost of any health services.

(Aug. 14, 1935, ch. 531, title XVIII, § 1803, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 291.)

§ 1395b-1. Incentives for economy while maintaining or improving quality in the provision of health services

(a) Grants and contracts to develop and engage in experiments and demonstration projects

(1) The Secretary of Health, Education, and Welfare is authorized, either directly or through grants to public or nonprofit private agencies, institutions, and organizations or contracts with public or private agencies, institutions, and organizations, to develop and engage in experiments and demonstration projects for the following purposes:

(A) to determine whether, and if so which, changes in methods of payment or reimbursement (other than those dealt with in section 222(a) of the Social Security Amendments of 1972) for health care and services under health programs established by this chapter, including a change to methods based on negotiated rates, would have the effect of increasing the efficiency and economy of health services under such programs through the creation of additional incentives to these ends without adversely affecting the quality of such services;

(B) to determine whether payments for services other than those for which payment may be made under such programs (and which are incidental to services for which payment may be made under such programs) would, in the judgment of the Secretary, result in more economical provision and more effective utilization of services for which payment may be made under such program, where such services are furnished by organizations and institutions which have the capability of providing—

(i) comprehensive health care services,

(ii) mental health care services (as defined by section 2691(c) of this title),

(iii) ambulatory health care services (including surgical services provided on an outpatient basis), or

(iv) institutional services which may substitute, at lower cost, for hospital care;

(C) to determine whether the rates of payment or reimbursement for health care services, approved by a State for purposes of the administration of one or more of its laws, when utilized to determine the amount to be paid for services furnished in such State under the health programs established by this chapter, would have the effect of reducing the costs of such programs without adversely affecting the quality of such services;

(D) to determine whether payments under such programs based on a single combined rate of reimbursement or charge for the teaching activities and patient care which residents, interns, and supervising physicians render in connection with a graduate medical education program in a patient facility would result in more equitable and economical patient care arrangements without adversely affecting the quality of such care;

(E) to determine whether coverage of intermediate care facility services and homemaker services would provide suitable alternatives to posthospital benefits presently provided under this subchapter; such experiment and demonstration projects may include:

(i) counting each day of care in an intermediate care facility as one day of care in a skilled nursing facility, if such care was for a condition for which the individual was hospitalized,

(ii) covering the services of homemakers for a maximum of 21 days, if institutional services are not medically appropriate,

(iii) determining whether such coverage would reduce long-range costs by reducing the lengths of stay in hospitals and skilled nursing facilities, and

(iv) establishing alternative eligibility requirements and determining the probable cost of applying each alternative, if the project suggests that such extensin of coverage would be desirable;

(F) to determine whether, and if so which type of, fixed price or performance incentive contract would have the effect of inducing to the greatest degree effective, efficient, and economical performance of agencies and organizations making payment under agreements

or contracts with the Secretary for health care and services under health programs established by this chapter;

(G) to determine under what circumstances payment for services would be appropriate and the most appropriate, equitable, and noninflationary methods and amounts of reimbursement under health care programs established by this chapter for services, which are performed independently by an assistant to a physician, including a nurse practitioner (whether or not performed in the office of or at a place at which such physician is physically present), and—

(i) which such assistant is legally authorized to perform by the State or political subdivision wherein such services are performed, and

(ii) for which such physician assumes full legal and ethical responsibility as to the necessity, propriety, and quality thereof;

(H) to establish an experimental program to provide day-care services, which consist of such personal care, supervision, and services as the Secretary shall by regulation prescribe, for individuals eligible to enroll in the supplemental medical insurance program established under part B of this subchapter and subchapter XIX of this chapter, in day-care centers which meet such standards as the Secretary shall by regulation establish; and

(I) to determine whether the services of clinical psychologists may be made more generally available to persons eligible for services under this subchapter and subchapter XIX of this chapter in a manner consistent with quality of care and equitable and efficient administration.

For purposes of this subsection, "health programs established by this chapter" means the program established by this subchapter, a program established by a plan of a State approved under subchapter XIX of this chapter, and a program established by a plan of a State approved under subchapter V of this chapter.

(2) Grants, payments under contracts, and other expenditures made for experiments and demonstration projects under paragraph (1) shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1395i of this title) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1395t of this title) and from funds appropriated under subchapters V and XIX of this chapter. Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each of such trust funds (and from funds appropriated under such subchapters V and XIX of this chapter) shall be determined by the Secretary, giving due regard to the purposes of the experiment or project involved.

(b) Waiver of certain payment or reimbursement requirements; advice and recommendations of specialists preceding experiments and demonstration projects

In the case of any experiment or demonstration project under subsection (a) of this section, the Secretary may waive compliance with the requirements of this subchapter and subchapters V and XIX of this chapter insofar as such requirements relate to reimbursement or payment on the basis of reasonable cost, or (in the case of physicians) on the basis of reasonable charge, or to reimbursement or payment only for such services or items as may be specified in the experiment; and costs incurred in such experiment or demonstration project in excess of the costs which would otherwise be reimbursed or paid under such subchapters may be reimbursed or paid to the extent that such waiver applies to them (with such excess being borne by the Secretary). No experiment or demonstration project shall be engaged in or developed under subsection (a) of this section until the Secretary obtains the advice and recommendations of specialists who are competent to evaluate the proposed experiment or demonstration project as to the soundness of its objectives, the possibilities of securing productive results, the adequacy of resources to conduct the proposed experiment or demonstration project, and its relationship to other similar experiments and projects already completed or in process.

(Pub. L. 90-248, title IV, § 402(a), (b), Jan. 2, 1968, 81 Stat. 930, 931; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 222(b), 278(b)(2), 86 Stat. 1391, 1453.)

References in Text

Section 222(a) of the Social Security Amendments of 1972, referred to in subsec. (a)(1)(A), is section 222(a) of Pub. L. 92-603, Oct. 30, 1972, 86 Stat. 1329, which is set out as a note under this section.

Section 2691(c) of this title, referred to in subsec. (a)(1)(B)(ii), was repealed by Pub. L. 94-103, title III, § 302(c), Oct. 4, 1975, 89 Stat. 507.

Codification

Section is comprised of subsecs. (a) and (b) of section 402 of Pub. L. 90-248. Subsec. (c) of such section 402 amended section 1395*ll*(b) of this title.

Section was enacted as a part of the Social Security Amendments of 1967, and not as a part of the Social Security Act which comprises this chapter.

Amendments

1972—Subsec. (a). Pub. L. 92-603, §§ 222(b)(1), 278(b)(2), substituted provisions spelling out in detail the purposes for which experiments and demonstration projects may be carried out for a general statement setting out the increase in efficiency and economy of health services as the purpose of experiments selected by the Secretary, added references to demonstration projects, and inserted references to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund.

Subsec. (b). Pub. L. 92-603, § 222(b)(2), added references to demonstration projects and inserted ", or to reimbursement or payment only for such services or items as may be specified in the experiment".

SCOPE OF GRANTS FOR EXPERIMENTS AND DEMONSTRATION Projects To Determine Methods for Prospective Payments to Hospitals, Skilled Nursing Facilities, and Other Providers of Services

Pub. L. 94-182, title I, § 107, Dec. 31, 1975, 89 Stat. 1053, provided that:

"Nothing contained in section 222(a) of Public Law 92-603 [set out as a note below] shall be construed to preclude or prohibit the Secretary of Health, Education, and Welfare from including in any grant otherwise authorized to be made under such section moneys which are to be used for payments, to a participant in a demonstration or experiment with respect to which the grant is made, for or on account of costs incurred or services performed by such participant for a period prior to the date that the project of such participant is placed in operation, if—

"(1) the applicant for such grant is a State or an agency thereof,

"(2) such participant is an individual practice association which has been in existence for at least 3 years prior to the date of enactment of this section [Dec. 31, 1975] and which has in effect a contract with such State (or an agency thereof), entered into prior to the date on which the grant is approved by the Secretary, under which such association will, for a period which begins before and ends after the date such grant is so approved, provide health care services for individuals entitled to care and services under the State plan of such State which is approved under title XIX of the Social Security Act [subchapter XIX of this chapter].

"(3) the purpose of the inclusion of the project of such association is to test the utility of a particular rate-setting methodology, designed to be employed in prepaid health plans, in an individual practice association operation, and

"(4) the applicant for such grant affirms that the use of moneys from such grant to make such payments to such individual practice association is necessary or useful in assuring that such association will be able to continue in operation and carry out the project described in clause (3)."

EXPERIMENTS AND DEMONSTRATION PROJECTS TO DETERMINE METHODS FOR PROSPECTIVE PAYMENTS TO HOSPITALS, SKILLED NURSING FACILITIES, AND OTHER PROVIDERS OF SERVICES FOR CARE AND SERVICES FURNISHED; SCOPE; WAIVER OF PAYMENT REQUIREMENTS; SOURCE AND MANNER OF PAYMENTS FOR GRANTS, ETC.; REPORTS TO CONGRESS

Section 222(a) of Pub. L. 92-603 provided that:

"(1) The Secretary of Health, Education, and Welfare, directly or through contracts with, or grants to, public or private agencies or organizations, shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of various alternative methods of making payment on a prospective basis to hospitals, skilled nursing facilities, and other providers of services for care and services provided by them under title XVIII of the Social Security Act [this subchapter] and under State plans approved under titles XIX and V of such Act [subchapters XIX and V of this chapter], including alternative methods for classifying providers, for establishing prospective rates of payment, and for implementing on a gradual, selective, or other basis the establishment of a prospective payment system, in order to stimulate such providers through positive (or negative) financial incentives to use their facilities and personnel more efficiently and thereby to reduce the total costs of the health programs involved without adversely affecting the quality of services by containing or lowering the rate of increase in provider costs that has been and is being experienced under the existing system of retroactive cost reimbursement.

"(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods of prospective payment under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the programs involved (without committing such programs to the adoption of any prospective payment system either locally or nationally).

"(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the requirements of titles XVIII, XIX, and V of the Social Security Act [this subchapter and subchapters XIX and V of this chapter] insofar as such requirements relate to methods of payment for services provided; and costs incurred in such experiment or project in excess of those which would otherwise be reimbursed or paid under such titles [subchapters] may be reimbursed or paid to the extent that such waiver applies to them (with such excess being borne by the Secretary). No experiment or demonstration project shall be developed or carried out under paragraph (1) until the Secretary obtains the advice and recommendations of specialists who are competent to evaluate the proposed experiment or project as to the soundness of its objectives, the possibilities of securing productive results, the adequacy of resources to conduct it, and its relationship to other similar experiments or projects already completed or in process; and no such experiment or project shall be actually placed in operation unless at least 30 days prior thereto a written report, prepared for purposes of notification and information only, containing a full and complete description thereof has been transmitted to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate.

"(4) Grants, payments under contracts, and other expenditures made for experiments and demonstration projects under this subsection shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act [section 1395i of this title]) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act [section 1395t of this title]) and from funds appropriated under titles V and XIX of such Act [subchapters V and XIX of this chapter]. Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this subsection. With respect to any such grant, payment, or other expenditure, the amount to be paid from each of such trust funds (and from funds appropriated under such titles V and XIX [subchapters V and XIX of this chapter]) shall be determined by the Secretary, giving due regard to the purposes of the experiment or project involved.

"(5) The Secretary shall submit to the Congress no later than July 1, 1974, a full report on the experiments and demonstration projects carried out under this subsection and on the experience of other programs with respect to prospective reimbursement together with any related data and materials which he may consider appropriate. Such report shall include detailed recommendations with respect to the specific methods which could be used in the full implementation of a system of prospective payment to providers of services under the programs involved."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395*ll* of this title.

PART A—HOSPITAL INSURANCE BENEFITS FOR THE AGED AND DISABLED

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 294v, 402, 417, 426, 426a, 429, 907, 1320b-1, 1395*l*, 1395o, 1395p, 1395u, 1395x, 1395y, 1395aa, 1395ff, 1395*ll*, 1395mm, 1395pp of this title; title 45 section 231f.

§ 1395c. Description of program

The insurance program for which entitlement is established by section 426 of this title provides basic protection against the costs of hospital and related posthospital services in accordance with this part for (1) individuals who are age 65 or over and are entitled to retirement benefits under subchapter II of this chapter or under the railroad retirement system and (2) individuals under age 65 who have been entitled for not less than 24 consecutive months to benefits under subchapter II of this chapter or under the railroad retirement system on the basis of a disability.

(Aug. 14, 1935, ch. 531, title XVIII, § 1811, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 291, and amended Oct. 30, 1972, Pub. L. 92-603, title II, § 201(a)(2), 86 Stat. 1371.)

AMENDMENTS

1972—Pub. L. 92-603 designated existing provisions as cl. (1) and added cl. (2).

ADVISORY COUNCIL TO STUDY COVERAGE OF DISABLED UNDER THIS SUBCHAPTER

Pub. L. 90-248, title I, § 140, Jan. 2, 1968, 81 Stat. 854, provided that the Secretary of Health, Education, and Welfare appoint an Advisory Council to study the need for coverage of the disabled under the health insurance programs of this subchapter, that the Council submit a report on such study to the Secretary by Jan. 1, 1969, and that the Secretary in turn transmit such report to the Congress, resulting in the termination of the Council's existence.

REIMBURSEMENT OF CHARGES UNDER PART A FOR SERVICES TO PATIENTS ADMITTED RIOR TO 1968 TO CERTAIN HOSPITALS

Pub. L. 90-248, title I, § 142, Jan. 2, 1968, 81 Stat. 855, provided that:

"(a) Notwithstanding any provision of title XVIII of the Social Security Act [this subchapter] an individual who is entitled to hospital insurance benefits under section 226 of such Act [section 426 of this title] may, subject to subsections (b) and (c), receive, on the basis of an itemized bill, reimbursement for charges to him for inpatient hospital services (as defined in section 1861 of such Act [section 1395x of this title], but without regard to subsection (e) of such section) furnished by, or under arrangements (as defined in section 1861(w) of such Act [section 1395x(w) of this title] with, a hospital if—

"(1) the hospital did not have an agreement in effect under section 1866 of such Act [section 1395cc of this title] but would have been eligible for payment under part A of title XVIII of such Act [this part] with respect to such services if at the time such services were furnished the hospital had such an agreement in effect;

"(2) the hospital (A) meets the requirements of paragraphs (5) and (7) of section 1861(e) of such Act [section 1395x(e) of this title], (B) is not primarily engaged in providing the services described in section 1961(j)(1)(A) of such Act [section 1395x(j)(1)(A) of this title], and (C) is primarily engaged in providing, by or under the supervision of individuals referred to in paragraph (1) of section 1861(r) of such Act [section 1395x(r) of this title], to inpatients (i) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (ii) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

"(3) the hospital did not meet the requirements that must be met to permit payment to the hospital under part A of title XVIII of such Act [this part]; and

"(4) an application is filed (submitted in such form and manner and by such person, and containing and supported by such information, as the Secretary shall by regulations prescribe) for reimbursement before January 1, 1969.

"(b) Payments under this section may not be made for inpatient hospital services (as described in subsection (a)) furnished to an individual—

"(1) prior to July 1, 1966,

"(2) after December 31, 1967, unless furnished with respect to an admission to the hospital prior to January 1, 1968, and

"(3) for more than—

"(A) 90 days in any spell of illness, but only if (i) prior to January 1, 1969, the hospital furnishing such services entered into an agreement under section 1866 of the Social Security Act [section 1395cc of this title] and (ii) the hospital's plan for utilization review, as provided for in section 1861(k) of such Act [section 1395x(k) of this title], has, in accordance with section 1814 of such Act [section 1395f of this title], been applied to the services furnished such individual, or

"(B) 20 days in any spell of illness, if the hospital did not meet the conditions of clauses (i) and (ii) of subparagraph (A).

"(c)(1) The amounts payable in accordance with subsection (a) with respect to inpatient hospital services shall, subject to paragraph (2) of this subsection, be paid from the Federal Hospital Insurance Trust Fund in amounts equal to 60 percent of the hospital's reasonable charges for routine services furnished in the accommodations occupied by the individual or in semi-private accommodations (as defined in section 1861(v)(4) of the Social Security Act [section 1395x(v)(4) of this title]) whichever is less, plus 80 percent of the hospital's reasonable charges for ancillary services. If separate charges for routine and ancillary services are not made by the hospital, reimbursement may be based on two-thirds of the hospital's reasonable charges for the services received but not to exceed the charges which would have been made if the patient had occupied semi-private accommodations (as so defined). For purposes of the preceding provisions of this paragraph, the term 'routine services' shall mean the regular room, dietary, and nursing services, minor medical and surgical supplies and the use of equipment and facilities for which a separate charge is not customarily made; the term 'ancillary services' shall mean those special services for which charges are customarily made in addition to routine services.

"(2) Before applying paragraph (1), payments made under this section shall be reduced to the extent provided for under section 1813 of the Social Security Act [section 1395e of this title] in the case of benefits payable to providers of services under part A of title XVIII of such Act [this part].

"(d) For the purposes of this section—

"(1) the 90-day period, referred to in subsection (b)(3)(A), shall be reduced by the number of days of inpatient hospital services furnished to such individual during the spell of illness, referred to therein, and with respect to which he was entitled to have payment made under part A of title XVIII of the Social Security Act [this part];

"(2) the 20-day period, referred to in subsection (b)(3)(B) shall be reduced by the number of days in excess of 70 days of inpatient hospital services furnished during the spell of illness, referred to therein, and with respect to which such individual was entitled to have payment made under such part A [this part];

"(3) the term 'spell of illness' shall have the meaning assigned to it by subsection (a) of section 1861 of such Act [section 1395x(a) of this title] except that the term 'inpatient hospital services' as it appears in such subsection shall have the meaning assigned to it by subsection (a) of this section."

§ 1395d. Scope of benefits

(a) Covered services

The benefits provided to an individual by the insurance program under this part shall consist of entitlement to have payment made on his behalf or, in the case of payments referred to in section 1395f(d)(2) of this title to him (subject to the provisions of this part) for—

(1) inpatient hospital services for up to 150 days during any spell of illness minus 1 day for each day of inpatient hospital services in excess of 90 received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless he specifies in accordance with regulations of the Secretary that he does not desire to have such payment made);

(2) post-hospital extended care services for up to 100 days during any spell of illness; and

(3) post-hospital home health services for up to 100 visits (during the one-year period described in section 1395x(n) of this title) after the beginning of one spell of illness and before the beginning of the next.

(b) Services not covered

Payment under this part for services furnished an individual during a spell of illness may not (subject to subsection (c) of this section) be made for—

(1) inpatient hospital services furnished to him during such spell after such services have been furnished to him for 150 days during such spell minus 1 day for each day of inpatient hospital services in excess of 90 received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless he specifies in accordance with regulations of the Secretary that he does not desire to have such payment made);

(2) post-hospital extended care services furnished to him during such spell after such services have been furnished to him for 100 days during such spell; or

(3) inpatient psychiatric hospital services furnished to him after such services have been furnished to him for a total of 190 days during his lifetime.

(c) Psychiatric services

If an individual is an inpatient of a psychiatric hospital on the first day of the first month for which he is entitled to benefits under this part, the days on which he was an inpatient of such a hospital in the 150-day period immediately before such first day shall be included in determining the number of days limit under subsection (b)(1) of this section insofar as such limit applies to (1) inpatient psychiatric hospital services, or (2) inpatient hospital services for an individual who is an inpatient primarily for the diagnosis or treatment of mental illness (but shall not be included in determining such number of days limit insofar as it applies to other inpatient hospital services or in determining the 190-day limit under subsection (b)(3) of this section).

(d) Post-hospital home health services

Payment under this part may be made for post-hospital home health services furnished an individual only during the one-year period described in section 1395x(n) of this title following his most recent hospital discharge which meets the requirements of such section, and only for the first 100 visits in such period. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items or services described in section 1395x(m) of this title, shall be determined in accordance with regulations.

(e) Services taken into account

For purposes of subsections (b), (c), and (d) of this section, inpatient hospital services, inpatient psychiatric hospital services, post-hospital extended care services, and post-hospital home health services shall be taken into account only if payment is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1395f(a) of this title, made with respect to such services under this part.

(f) "Spell of illness" defined

For definitions of "spell of illness", and for definitions of other terms used in this part, see section 1395x of this title.

(Aug. 14, 1935, ch. 531, title XVIII, § 1812, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 291, and amended Jan. 2, 1968, Pub. L. 90-248, title I, §§ 129(c)(2), 137(a), 138(a), 143(b), 146(a), 81 Stat. 847, 853, 854, 857, 859.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-248, § 143(b), inserted "or, in the case of payments referred to in section 1395f(d)(2) of this title to him" after "on his behalf" in text preceding par. (1).

Subsec. (a)(1). Pub. L. 90-248, § 137(a)(1), increased the maximum duration of benefits from 90 to 150 days minus 1 day for each day of inpatient hospital services in excess of 90 received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless he specifies that he does not desire to have such payment made).

Subsec. (a)(4). Pub. L. 90-248, § 129(c)(2), deleted former par. (4) which provided for payment for outpatient hospital diagnostic services.

Subsec. (b)(1). Pub. L. 90-248, § 137(a)(2), changed the limitation on payments from 90 to 150 days minus 1 day for each day of inpatient hospital services in excess of 90 received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless he specifies that he does not desire to have such payment made).

Subsec. (c). Pub. L. 90-248, § 138(a), increased the limit from 90 to 150 days so that if an individual was an inpatient of a psychiatric or tuberculosis hospital on the first day of the first month for which he is entitled to benefits, the days he was an inpatient in the 150-day period immediately before such first day are included in determining the limit under subsec. (b)(1) insofar as such limit applies to (1) inpatient psychiatric hospital services and inpatient tuberculosis hospital services, or (2) inpatient hospital services for an individual who is an inpatient primarily for the diagnosis or treatment of mental illness or tuberculosis (but are not included in determining such limit as it applies to other inpatient hospital services or in determining the 190-day limit under subsec. (b)(3)).

Pub. L. 90-248, § 146(a), provided that the limitation of allowable days of inpatient hospital services will not apply to services provided to an inpatient of a tuberculosis hospital.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 129(d) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsec. (a)(4) of this section and sections 426(b)(1), 1395e(a)(2) to (4), (b)(1), (2), 1395f(a), (d), 1395k(a)(2)(B), 1395l(b), (d), 1395n(a) to (c), 1395x(e), (p), (s)(2), (y)(3), 1395cc(a)(2) of this title, and section 228s-2(a) of Title 45, Railroads] shall apply with respect to services furnished after March 31, 1968, except that subsection (c)(5) of such section [amending section 1395f(a) of this title] shall become effective with respect to services furnished after the date of enactment of this Act [Jan. 2, 1968]."

Section 137(c) of Pub. L. 90-248 provided that: "The amendments made by subsections (a) and (b) [to subsecs. (a)(1) and (b)(1) of this section and section 1395e(a)(1) of this title] shall apply with respect to services furnished after December 31, 1967."

Section 138(b) of Pub. L. 90-248 provided that: "The amendments made by subsection (a) [to subsec. (c) of this section] shall apply with respect to payment for services furnished after December 31, 1967."

Section 143(d) of Pub. L. 90-248 provided that: "The provisions made by subsection (a) of this section [amending section 1395x(e) of this title] shall become effective as of July 1, 1966, and the provisions made by subsections (b) and (c) of this section [amending subsec. (a) of this section and section 1395f(d) of this title] shall apply to services furnished with respect to admissions occurring after December 31, 1967, and to outpatient hospital diagnostic services furnished after December 31, 1967, and before April 1, 1968."

Section 146(b) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) [to subsec. (c) of this section] shall apply with respect to payment for services furnished after December 31, 1967."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395f, 1395mm, 1396b of this title.

§ 1395e. Deductibles and coinsurance

(a) Inpatient hospital services; outpatient hospital diagnostic services; blood; post-hospital extended care services

(1) The amount payable for inpatient hospital services furnished an individual during any spell of illness shall be reduced by a deduction equal to the inpatient hospital deductible or, if less, the charges imposed with respect to such individual for such services, except that, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed. Such amount shall be further reduced by a coinsurance amount equal to—

(A) one-fourth of the inpatient hospital deductible for each day (before the 91st day) on which such individual is furnished such services during such spell of illness after such services have been furnished to him for 60 days during such spell; and

(B) one-half of the inpatient hospital deductible for each day (before the day following the last day for which such individual is entitled under section 1395d(a)(1) of this title to have payment made on his behalf for inpatient hospital services during such spell of illness) on which such individual is furnished such services during such spell of illness after such services have been furnished to him for 90 days during such spell;

except that the reduction under this sentence for any day shall not exceed the charges imposed for that day with respect to such individual for such services (and for this purpose, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed).

(2) The amount payable to any provider of services under this part for services furnished an individual during any spell of illness shall be further reduced by a deduction equal to the cost of the first three pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to him as part of such services during such spell of illness.

(3) The amount payable for post-hospital extended care services furnished an individual during any spell of illness shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day (before the 101st day) on which he is furnished such services after such services have been furnished to him for 20 days during such spell.

(b) Inpatient hospital deductible

(1) The inpatient hospital deductible which shall be applicable for the purposes of subsection (a) of this section shall be $40 in the case of any spell of illness beginning before 1969.

(2) The Secretary shall, between July 1 and October 1 of 1968, and of each year thereafter, determine and promulgate the inpatient hospital deductible which shall be applicable for the purposes of subsection (a) of this section in the case of any spell of illness beginning during the succeeding calendar year. Such inpatient hospital deductible shall be equal to $40 multiplied by the ratio of (A) the current average per diem rate for inpatient hospital services for the calendar year preceding the promulgation, to (B) the current average per diem rate for such services for 1966. Any amount determined under the preceding sentence which is not a multiple of $4 shall be rounded to the nearest multiple of $4 (or, if it is midway between two multiples of $4, to the next higher multiple of $4). The current average per diem rate for any year shall be determined by the Secretary on the basis of the best information available to him (at the time the determination is made) as to the amounts paid under this part on account of inpatient hospital services furnished during such year, by hospitals which have agreements in effect under section 1395cc of this title, to individuals who are entitled to hospital insurance benefits under section 426 of this title, plus the amount which would have been so paid but for subsection (a)(1) of this section.

(Aug. 14, 1935, ch. 531, title XVIII, § 1813, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 292, and amended Jan. 2, 1968, Pub. L. 90-248, title I, §§ 129(c)(3), (4), 135(a), 137(b), 81 Stat. 847, 848, 852, 854.)

AMENDMENTS

1968—Subsec. (a)(1). Pub. L. 90-248, § 137(b), designated existing provisions as subpar. (A), added subpar. (B) and the exception provision that the reduction for any day shall not exceed the charges for that day.

Subsec. (a)(2). Pub. L. 90-248, § 135(a), made the three pint deductible applicable also to equivalent quantities of packed red blood cells, as defined by the Secretary under regulations.

Subsec. (a)(2) to (4). Pub. L. 90-248, § 129(c)(3), deleted par. (2) which provided for the reduction of the

amount payable for outpatient hospital diagnostic services furnished an individual during a diagnostic study, and redesignated pars. (3) and (4) as (2) and (3), respectively.

Subsec. (b)(1), (2). Pub. L. 90-248, § 129(c)(4)(A), (B), eliminated diagnostic studies from the application of the inpatient hospital deductible.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsecs. (a)(2) to (4), (b)(1), (2) by section 129(c)(3), (4)(A), (B) of Pub. L. 90-248 applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395d of this title.

Section 135(d) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsec. (a)(2) of this section and sections 1395l(b) and 1395cc(a)(2) of this title] shall apply with respect to payment for blood (or packed red blood cells) furnished an individual after December 31, 1967."

Amendment of subsec. (a)(1) by section 137(b) of Pub. L. 90-248, applicable with respect to services furnished after December 31, 1967, see section 137(c) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395f, 1395i-2, 1395l, 1395x, 1395cc of this title.

§ 1395f. Conditions of and limitations on payment for services

(a) Requirement of requests and certifications

Except as provided in subsections (d) and (g) of this section and in section 1395mm of this title, payment for services furnished an individual may be made only to providers of services which are eligible therefor under section 1395cc of this title and only if—

(1) written request, signed by such individual, except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner, and by such person or persons as the Secretary may by regulation prescribe, no later than the close of the period of 3 calendar years following the year in which such services are furnished (deeming any services furnished in the last 3 calendar months of any calendar year to have been furnished in the succeeding calendar year) except that where the Secretary deems that efficient administration so requires, such period may be reduced to not less than 1 calendar year;

(2) a physician certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations, except that the first of such recertifications shall be required in each case of inpatient hospital services not later than the 20th day of such period) that—

(A) in the case of inpatient psychiatric hospital services, such services are or were required to be given on an inpatient basis by or under the supervision of a physician, for the psychiatric treatment of an individual; and (i) such treatment can or could reasonably be expected to improve the condition for which such treatment is or was necessary or (ii) inpatient diagnostic study is or was medically required and such services are or were necessary for such purposes;

(B) in the case of inpatient tuberculosis hospital services, such services are or were required to be given on an inpatient basis, by or under the supervision of a physician, for the treatment of an individual for tuberculosis; and such treatment can or could reasonably be expected to (i) improve the condition for which such treatment is or was necessary or (ii) render the condition noncommunicable;

(C) in the case of post-hospital extended care services, such services are or were required to be given because the individual needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services, which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis, for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (9) of section 1395x(e) of this title) prior to transfer to the skilled nursing facility or for a condition requiring such extended care services which arose after such transfer and while he was still in the facility for treatment of the condition or conditions for which he was receiving such inpatient hospital services;

(D) in the case of post-hospital home health services, such services are or were required because the individual is or was confined to his home (except when receiving items and services referred to in section 1395x(m)(7) of this title) and needed skilled nursing care on an intermittent basis, or physical or speech therapy, for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (9) of section 1395x(e) of this title) or post-hospital extended care services; a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician; and such services are or were furnished while the individual was under the care of a physician; or

(E) in the case of inpatient hospital services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such dental services;

(3) with respect to inpatient hospital services (other than inpatient psychiatric hospital services and inpatient tuberculosis hospital services) which are furnished over a period of time, a physician certifies that such services are required to be given on an inpatient basis for such individual's medical treatment, or that inpatient diagnostic study is medically required and such services are necessary for such purpose, except that (A) such

certification shall be furnished only in such cases, with such frequency, and accompanied by such supporting material, appropriate to the cases involved, as may be provided by regulations, and (B) the first such certification required in accordance with clause (A) shall be furnished no later than the 20th day of such period;

(4) in the case of inpatient psychiatric hospital services, the services are those which the records of the hospital indicate were furnished to the individual during periods when he was receiving (A) intensive treatment services, (B) admission and related services necessary for a diagnostic study, or (C) equivalent services;

(5) in the case of inpatient tuberculosis hospital services, the services are those which the records of the hospital indicate were furnished to the individual during periods when he was receiving treatment which could reasonably be expected to (A) improve his condition or (B) render it noncommunicable;

(6) with respect to inpatient hospital services furnished such individual after the 20th day of a continuous period of such services and with respect to post-hospital extended care services furnished after such day of a continuous period of such services as may be prescribed in or pursuant to regulations, there was not in effect, at the time of admission of such individual to the hospital or skilled nursing facility, as the case may be, a decision under section 1395cc(d) of this title (based on a finding that utilization review of long-stay cases is not being made in such hospital or facility); and

(7) with respect to inpatient hospital services or post-hospital extended care services furnished such individual during a continuous period, a finding has not been made (by the physician members of the committee or group, as described in section 1395x(k)(4) of this title, including any finding made in the course of a sample or other review of admissions to the institution) pursuant to the system of utilization review that further inpatient hospital services or further post-hospital extended care services, as the case may be, are not medically necessary; except that, if such a finding has been made, payment may be made for such services furnished before the 4th day after the day on which the hospital or skilled nursing facility, as the case may be, received notice of such finding.

To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where, at a later date, a physician makes certification of the kind provided in subparagraph (A), (B), (C), (D), or (E) of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations.

(b) Amount paid to provider of services

The amount paid to any provider of services with respect to services for which payment may be made under this part shall, subject to the provisions of section 1395e of this title, be—

(1) the lesser of (A) the reasonable cost of such services, as determined under section 1395x(v) of this title, or (B) the customary charges with respect to such services; or

(2) if such services are furnished by a public, provider of services free of charge or at nominal charges to the public, the amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such reasonable cost which the Secretary finds will provide fair compensation to such provider for such services.

(c) No payments to Federal providers of services

Subject to section 1395qq of this title, no payment may be made under this part (except under subsection (d) of this section) to any Federal provider of services, except a provider of services which the Secretary determines is providing services to the public generally as a community institution or agency; and no such payment may be made to any provider of services for any item or service which such provider is obligated by a law of, or a contract with, the United States to render at public expense.

(d) Payments for emergency hospital services

(1) Payments shall also be made to any hospital for inpatient hospital services furnished in a calendar year, by the hospital or under arrangements (as defined in section 1395x(w) of this title) with it, to an individual entitled to hospital insurance benefits under section 426 of this title even though such hospital does not have an agreement in effect under this subchapter if (A) such services were emergency services, (B) the Secretary would be required to make such payment if the hospital had such an agreement in effect and otherwise met the conditions of payment hereunder, and (C) such hospital has elected to claim payments for all such inpatient emergency services and for the emergency outpatient services referred to in section 1395n(b) of this title furnished during such year. Such payments shall be made only in the amounts provided under subsection (b) of this section and then only if such hospital agrees to comply, with respect to the emergency services provided, with the provisions of section 1395cc(a) of this title.

(2) Payment may be made on the basis of an itemized bill to an individual entitled to hospital insurance benefits under section 426 of this title for services described in paragraph (1) which are emergency services if (A) payment cannot be made under paragraph (1) solely because the hospital does not elect to claim such payment, and (B) such individual files application (submitted within such time and in such form and manner and by such person, and containing and supported by such information as the Secretary shall by regulations prescribe) for reimbursement.

(3) The amounts payable under the preceding paragraph with respect to services described therein shall, subject to the provisions of section 1395e of this title, be equal to 60 percent of the hospital's reasonable charges for routine services furnished in the accommodations occupied by the individual or in semiprivate accommodations (as defined in section 1395x(v)(4) of this title), whichever is less, plus 80 percent of

the hospital's reasonable charges for ancillary services. If separate charges for routine and ancillary services are not made by the hospital, reimbursement may be based on two-thirds of the hospital's reasonable charges for the services received but not to exceed the charges which would have been made if the patient had occupied semiprivate accommodations. For purposes of the preceding provisions of this paragraph, the term "routine services" shall mean the regular room, dietary, and nursing services, minor medical and surgical supplies and the use of equipment and facilities for which a separate charge is not customarily made; the term "ancillary services" shall mean those special services for which charges are customarily made in addition to routine services.

(e) Payment for inpatient hospital services prior to notification of noneligibility

Notwithstanding that an individual is not entitled to have payment made under this part for inpatient hospital services furnished by any hospital, payment shall be made to such hospital (unless it elects not to receive such payment or, if payment has already been made by or on behalf of such individual, fails to refund such payment within the time specified by the Secretary) for such services which are furnished to the individual prior to notification to such hospital from the Secretary of his lack of entitlement, if such payments are precluded only by reason of section 1395d of this title and if such hospital complies with the requirements and regulations under this subchapter with respect to such payments, has acted in good faith and without knowledge of such lack of entitlement, and has acted reasonably in assuming entitlement existed. Payment under the preceding sentence may not be made for services furnished an individual pursuant to any admission after the 6th elapsed day (not including as an elapsed day Saturday, Sunday, or a legal holiday) after the day on which such admission occurred.

(f) Payment for certain inpatient hospital services furnished outside the United States

(1) Payment shall be made for inpatient hospital services furnished to an individual entitled to hospital insurance benefits under section 426 of this title by a hospital located outside the United States, or under arrangements (as defined in section 1395x(w) of this title) with it, if—

(A) such individual is a resident of the United States, and

(B) such hospital was closer to, or substantially more accessible from, the residence of such individual than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury.

(2) Payment may also be made for emergency inpatient hospital services furnished to an individual entitled to hospital insurance benefits under section 426 of this title by a hospital located outside the United States if—

(A) such indivdual was physically present—

(i) in a place within the United States; or

(ii) at a place within Canada while traveling without unreasonable delay by the most direct route (as determined by the Secretary) between Alaska and another State;

at the time the emergency which necessitated such inpatient hospital services occurred, and

(B) such hospital was closer to, or substantially more accessible from, such place than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury.

(3) Payment shall be made in the amount provided under subsection (b) of this section to any hospital for the inpatient hospital services described in paragraph (1) or (2) furnished to an individual by the hospital or under arrangements (as defined in section 1395x(w) of this title) with it if (A) the Secretary would be required to make such payment if the hospital had an agreement in effect under this subchapter and otherwise met the conditions of payment hereunder, (B) such hospital elects to claim such payment, and (C) such hospital agrees to comply, with respect to such services, with the provisions of section 1395cc(a) of this title.

(4) Payment for the inpatient hospital services described in paragraph (1) or (2) furnished to an individual entitled to hospital insurance benefits under section 426 of this title may be made on the basis of an itemized bill to such individual if (A) payment for such services cannot be made under paragraph (3) solely because the hospital does not elect to claim such payment, and (B) such individual files application (submitted within such time and in such form and manner and by such person, and continuing and supported by such information as the Secretary shall by regulations prescribe) for reimbursement. The amount payable with respect to such services shall, subject to the provisions of section 1395e of this title, be equal to the amount which would be payable under subsection (d)(3) of this section.

(g) Payments to physicians for services rendered in teaching hospitals

For purposes of services for which the reasonable cost thereof is determined under section 1395x(v)(1)(D) of this title, payment under this part shall be made to such fund as may be designated by the organized medical staff of the hospital in which such services were furnished or, if such services were furnished in such hospital by the faculty of a medical school, to such fund as may be designated by such faculty, but only if—

(1) such hospital has an agreement with the Secretary under section 1395cc of this title, and

(2) the Secretary has received written assurances that (A) such payment will be used by such fund solely for the improvement of care of hospital patients or for educational or charitable purposes and (B) the individuals who were furnished such services or any other persons will not be charged for such servicez (or if charged, provision will be made for return of any moneys incorrectly collected).

(h) Payment for posthospital extended care services

(1) An individual shall be presumed to require the care specified in subsection (a)(2)(C) of this

section for purposes of making payment to a skilled nursing facility (subject to the provisions of section 1395d of this title) for posthospital extended care services which are furnished by such facility to such individual if—

(A) the certification referred to in subsection (a)(2)(C) of this section is submitted prior to or at the time of admission of such individual to such skilled nursing facility,

(B) such certification states that the medical condition of the individual is a condition designated in regulations,

(C) such certification is accompanied by a plan of treatment for providing such services, and

(D) there is compliance with such other requirements and procedures as may be specified in regulations,

but only for services furnished during such limited periods of time with respect to such conditions of the individual as may be prescribed in regulations by the Secretary, taking into account the medical severity of such conditions, the degree of incapacity, and the minimum length of stay in an institution generally needed for such conditions, and such other factors affecting the type of care to be provided as the Secretary deems pertinent.

(2) If the Secretary determines with respect to a physician that such physician is submitting with some frequency (A) erroneous certifications that individuals have conditions designated in regulations as provided in this subsection or (B) plans for providing services which are inappropriate, the provisions of paragraph (1) shall not apply, after the effective date of such determination, in any case in which such physician submits a certification or plan referred to in subparagraph (A), (B), or (C) of paragraph (1).

(i) Payment for posthospital home health services

(1) An individual shall be presumed to require the services specified in subsection (a)(2)(D) of this section for purposes of making payment to a home health agency (subject to the provisions of section 1395d of this title) for posthospital home health services furnished by such agency to such individual if—

(A) the certification and plan referred to in subsection (a)(2)(D) of this section are submitted in timely fashion prior to the first visit by such agency,

(B) such certification states that the medical condition of the individual is a condition designated in regulations, and

(C) there is compliance with such other requirements and procedures as may be specified in regulations,

but only for services furnished during such limited number of visits with respect to such conditions of the individual as may be prescribed in regulations by the Secretary, taking into account the medical severity of such conditions, the degree of incapacity, and the minimum period of home confinement generally needed for such conditions, and such other factors affecting the type of care to be provided as the Secretary deems pertinent.

(2) If the Secretary determines with respect to a physician that such physician is submitting with some frequency (A) erroneous certifications that individuals have conditions designated in regulations as provided in this subsection or (B) plans for providing services which are inappropriate, the provisions of paragraph (1) shall not apply, after the effective date of such determination, in any case in which such physician submits a certification or plan referred to in subparagraph (A) or (B) of paragraph (1).

(Aug. 14, 1935, ch. 531, title XVIII, § 1814, as added July 30, 1965, Pub. L. 89-87, title I, § 102(a), 79 Stat. 294, and amended Jan. 2, 1968, Pub. L. 90-248, title I, §§ 126(a), 129(c)(5), (6)(A), 143(c), 81 Stat. 846, 848, 857; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 211(a), 226(c)(1), 227(b), 228(a), 233(a), 234(g)(1), 238(a), 256(a), 278(a)(1)-(3), (b)(4), (17), 281(e), 86 Stat. 1382, 1404, 1405, 1407, 1411, 1413, 1416, 1425, 1447, 1453, 1454, 1456; Dec. 31, 1973, Pub. L. 93-233, § 18(k)(1), (2), 87 Stat. 970; Sept. 30, 1976, Pub. L. 94-437, title IV, § 401(a), 90 Stat. 1408.)

Amendments

1976—Subsec. (c). Pub. L. 94-437 substituted "Subject to section 1395qq of this title, no payment" for "No payment".

1973—Subsec. (a)(2)(E). Pub. L. 93-233, § 18(k)(1), substituted "the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such dental services" for "a dental procedure, the individual suffers from impairments of such severity as to require hospitalization".

Subsec. (a), last sentence. Pub. L. 93-233, § 18(k)(2), inserted reference to subpar. (E) of par. (2).

1972—Subsec. (a). Pub. L. 92-603, §§ 226(c)(1), 227(b)(1), added reference to subsec. (g) of this section and section 1395mm of this title in provisions preceding par. (1).

Subsec. (a)(1). Pub. L. 92-603, § 281(e), placed a 3-year time limitation on the time within which a written request for payment is filed, with provision for reduction of the limit to 1 year.

Subsec. (a)(2)(C). Pub. L. 92-603, §§ 234(g)(1), 247(a), 278(a)(1), substituted "because the individual needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services, which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis," for "on an inpatient basis because the individual needs or needed skilled nursing care on a continuing basis", "skilled nursing facility" for "extended care facility", and "paragraphs (6) and (9) of section 1395x(e) of this title" for "paragraphs (6) and (8) of section 1395x(e) of this title".

Subsec. (a)(2)(D). Pub. L. 92-603, § 234(g)(1), substituted reference to par. (9) of section 1395x(e) of this title for reference to par. (8) of section 1395x(e) of this title.

Subsec. (a)(2)(E). Pub. L. 92-603, § 256(a), added subsec. (a)(2)(E).

Subsec. (a)(6). Pub. L. 92-603, § 278(a)(2), substituted "skilled nursing facility" for "extended care facility".

Subsec. (a)(7). Pub. L. 92-603, §§ 238(a), 278(a)(3), inserted ", including any finding made in the course of a sample or other review of admissions to the institution" following "as described in section 1395x(k)(4) of this title" in the parenthetical provisions covering the finding not made by the committee or group, and substituted "skilled nursing facility" for "extended care facility".

Subsec. (b). Pub. L. 92-603, § 233(a), substituted pars. (1) and (2) for provisions describing the amount payable as the reasonable cost determined under section 1395x(v) of this title.

Subsec. (f). Pub. L. 92-603, § 211(a), designated existing provisions as par. (2) and added pars. (1) and (3) and in par. (2) as so redesignated inserted provisions covering individuals physically present at a place within Canada while traveling without unreasonable delay by the most direct route between Alaska and another State.

Subsec. (g). Pub. L. 92-603, § 227(b)(2), added subsec. (g).

Subsec. (h). Pub. L. 92-603, §§ 228(a), 278(b)(4), (17), added subsec. (h) and in subsec. (h) as added, substituted "skilled nursing facility" for "extended care facility".

Subsec. (i). Pub. L. 92-603, § 228(a), added subsec. (i).

1968—Subsec. (a). Pub. L. 90-248, §§ 126(a)(5), 129(c)(5)(B), omitted references to former subpars. (E) and (F) in last sentence.

Subsec. (a)(2)(A) to (E). Pub. L. 90-248, § 126(a)(1), (2), deleted former subpar. (A) which provided that there be a physician's certification of medical necessity for admissions to hospitals other than psychiatric or tuberculosis institutions, and redesignated former subpars. (B) to (E) as (A) to (D), respectively.

Subsec. (a)(2)(F). Pub. L. 90-248, § 129(c)(5)(A), deleted former subpar. (F) which provided that there be a physician's certification for services furnished to outpatients.

Subsec. (a)(3). Pub. L. 90-248, § 126(a)(3), (4), added a new subpar. (3). Former subpar. (3) redesignated (4).

Subsec. (a)(4) to (7). Pub. L. 90-248, § 126(a)(3), redesignated former pars. (3) to (6) as (4) to (7), respectively.

Subsec. (d). Pub. L. 90-248, § 129(c)(6)(A), eliminated outpatient hospital diagnostic services from provisions requiring payment for emergency hospital services.

Subsec. (d)(1) to (3). Pub. L. 90-248, § 143(c), designated existing provisions as par. (1), inserted "in a calendar year" after "furnished" in first sentence of par. (1), added subpar. (C) to par. (1), and added pars. (2) and (3).

Effective Date of 1973 Amendment

Section 18(z-3)(2) of Pub. L. 93-233 provided that: "The amendments made by subsection (k) [amending subsec. (a)(2)(E) and last sentence of subsec. (a) of this section and section 1395y(a)(12) of this title] shall be effective with respect to admissions subject to the provisions of section 1814(a)(2) of the Social Security Act [subsec. (a)(2) of this section] which occur after December 31, 1972."

Effective Date of 1972 Amendment

Section 211(d) of Pub. L. 92-603 provided that: "The amendments made by this section [amending sections 1395f(f), 1395l(a)(1), 1395u(b)(3)(B)(ii), 1395x(e) and (r), and 1395y(a)(4) [of this title] shall apply to services furnished with respect to admissions occurring after December 31, 1972."

Amendment by section 226(c)(1) of Pub. L. 92-603 effective with respect to services provided on or after July 1, 1973, see section 226(f) of Pub. L. 92-603, set out as an Effective Date note under section 1395mm of this title.

Amendment by section 227(b) of Pub. L. 92-603 applicable with respect to accounting periods beginning after June 30, 1973, see section 227(g) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395x of this title.

Section 228(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [adding subsecs. (h) and (i) to this section] and any regulations adopted pursuant to such amendment shall apply with respect to plans of care initiated on or after January 1, 1973, and with respect to admission to skilled nursing facilities and home health plans initiated on or after such date."

Section 233(f) of Pub. L. 92-603 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1395l of this title] shall apply to services furnished by hospitals, extended care facilities, and home health agencies in accounting periods beginning after December 31, 1972. The amendments made by subsections (c), (d), and (e) [amending sections 706, 709, and 1396b of this title] shall apply with respect to services furnished by hospitals in accounting periods beginning after December 31, 1972." See, also, section 16 of Pub. L. 93-233, set out as a note below.

Amendment of subsec. (a)(2)(C), (D) by section 234(g)(1) of Pub. L. 92-603 applicable with respect to providers of services for fiscal years beginning after the fifth month following October 1972, see section 234(i) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395x of this title.

Section 238(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [amending subsec. (a)(7) of this section] shall apply with respect to services furnished after the second month following the month in which this Act is enacted. [Oct. 1972]."

Section 247(c) of Pub. L. 92-603 provided that: "The amendments made by this section [enacting section 1396d(f) of this title and amending subsec. (a)(2)(C) of this section] shall be effective with respect to services furnished after December 31, 1972."

Section 256(d) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsec. (a)(2) of this section and sections 1395x(r) and 1395y(a)(12) of this title] shall apply with respect to admissions occurring after the second month following the month in which this Act is enacted [Oct. 1972]."

Amendment of subsec. (a)(1) by section 281(e) of Pub. L. 92-603 to apply in the case of services furnished (or deemed to have been furnished) after 1970, see section 281(g) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395gg of this title.

Effective Date of 1968 Amendment

Section 126(c) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsec. (a) of this section and section 1395n(a)(2)(B) of this title] shall apply with respect to services furnished after the date of the enactment of this Act [Jan. 2, 1968]."

Amendment of subsecs. (a), (d) by section 129(c)(5) and (6) of Pub. L. 90-248, applicable with respect to services furnished after Jan. 2, 1968, see section 129(d) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395d of this title.

Amendment of subsec. (d)(1) to (3) by section 143(c) of Pub. L. 90-248, applicable with respect to services furnished with respect to admissions occurring after Dec. 31, 1967, and to outpatient hospital diagnostic services furnished after Dec. 31, 1967, and before Apr. 1, 1968, see section 143(d) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395d of this title.

Medicare Payment Basis for Services Provided by Agencies and Providers; Effective Date

Section 16 of Pub. L. 93-233 provided that: "In the administration of titles [subchapters] V, XVIII, and XIX of the Social Security Act [this chapter], the amount payable under such title [subchapter] to any provider of services on account of services provided by such hospital, skilled nursing facility, or home health agency shall be determined (for any period with respect to which the amendments made by section 233 of Public Law 92-603 [sections 706, 709, 1395f, 1395l and 1396b of this title] would, except for the provisions of this section, be applicable) in like manner as if the date contained in the first and second sentences of subsection (f) of such section 233 [set out as an Effective Date of 1972 Amendment note above] were December 31, 1973, rather than December 31, 1972."

Section Referred to in Other Sections

This section is referred to in sections 426, 1395d, 1395l, 1395n, 1395x, 1395y, 1395cc, 1395gg, 1395mm, 1395qq of this title.

§ 1395g. Payments to providers of services; conditions; amount

(a) The Secretary shall periodically determine the amount which should be paid under this part to each provider of services with respect to the services furnished by it, and the provider of services shall be paid, at such time or times as the Secretary believes appropriate (but not less often than monthly) and prior to audit or settlement by the General Accounting Office, from the Federal Hospital Insurance Trust Fund, the amounts so determined, with necessary adjustments on account of previously made overpayments or underpayments; except that no such payments shall be made to any provider unless it has furnished such information as the Secretary may request in order to determine the amounts due such provider under this part for the period with respect to which the amounts are being paid or any prior period.

(b) No payment shall be made to a provider of services which is a hospital for or with respect to services furnished by it for any period with respect to which it is deemed, under section 1395x(w)(2) of this title, to have in effect an arrangement with a Professional Standards Review Organization for the conduct of utilization review activities by such organization unless such hospital has paid to such organization the amount due (as determined pursuant to such section) to such organization for the review activities conducted by it pursuant to such arrangements or such hospital has provided assurances satisfactory to the Secretary that such organization will promptly be paid the amount so due to it from the proceeds of the payment claimed by the hospital. Payment under this subchapter for utilization review activities provided by a Professional Standards Review Organization pursuant to an arrangement or deemed arrangement with a hospital under section 1395x(w)(2) of this title shall be calculated without any requirement that the reasonable cost of such activities be apportioned among the patients of such hospital, if any, to whom such activities were not applicable.

(Aug. 14, 1935, ch. 531, title XVIII, § 1815, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 297, and amended Dec. 31, 1975, Pub. L. 94-182, title I, § 112(a)(2), 89 Stat. 1055.)

AMENDMENTS

1975—Pub. L. 94-182 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-182 effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after Dec. 31, 1975, see section 112(d) of Pub. L. 94-182, set out as an Effective Date of 1975 Amendment note under section 1395x of this title.

§ 1395h. Use of public agencies or private organizations to facilitate payment ot providers of services

(a) Authority of Secretary to enter into agreements

If any group or association of providers of services wishes to have payments under this part to such providers made through a national, State, or other public or private agency or organization and nominates such agency or organization for this purpose, the Secretary is authorized to enter into an agreement with such agency or organization providing for the determination by such agency or organization (subject to the provisions of section 1395oo of this title and to such review by the Secretary as may be provided for by the agreement) of the amount of the payments required pursuant to this part to be made to such providers, and for the making of such payments by such agency or organization to such providers. Such agreement may also include provision for the agency or organization to do all or any part of the following: (1) to provide consultative services to institutions or agencies to enable them to establish and maintain fiscal records necessary for purposes of this part and otherwise to qualify as hospitals, extended care facilities, or home health agencies, and (2) with respect to the providers of services which are to receive payments through it (A) to serve as a center for, and communicate to providers, any information or instructions furnished to it by the Secretary, and serve as a channel of communication from providers to the Secretary; (B) to make such audits of the records of providers as may be necessary to insure that proper payments are made under this part; and (C) to perform such other functions as are necessary to carry out this subsection.

(b) Limitation

The Secretary shall not enter into an agreement with any agency or organization under this section unless (1) he finds (A) that to do so is consistent with the effective and efficient administration of this part, and (B) that such agency or organization is willing and able to assist the providers to which payments are made through it under this part in the application of safeguards against unnecessary utilization of services furnished by them to individuals entitled to hospital insurance benefits under section 426 of this title, and the agreement provides for such assistance, and (2) such agency or organization agrees to furnish to the Secretary such of the information acquired by it in carrying out its agreement under this section as the Secretary may find necessary in performing his functions under this part.

(c) Terms and conditions of agreements

An agreement with any agency or organization under this section may contain such terms and conditions as the Secretary finds necessary or appropriate, may provide for advances of funds to the agency or organization for the making of payments by it under subsection (a) of this section, and shall provide for payment of so much of the cost of administration of the agency or organization as is determined by the Secretary to be necessary and proper for carrying out the functions covered by the agreement.

(d) Nomination of agency or organization; withdrawal

If the nomination of an agency or organization as provided in this section is made by a group or association of providers of services, it shall not be binding on members of the group

or association which notify the Secretary of their election to that effect. Any provider may, upon such notice as may be specified in the agreement under this section with an agency or organization, withdraw its nomination to receive payments through such agency or organization. Any provider which has withdrawn its nomination, and any provider which has not made a nomination, may elect to receive payments from any agency or organization which has entered into an agreement with the Secretary under this section if the Secretary and such agency or organization agree to it.

(e) Termination of agreements

An agreement with the Secretary under this section may be terminated—

(1) by the agency or organization which entered into such agreement at such time and upon such notice to the Secretary, to the public, and to the providers as may be provided in regulations, or

(2) by the Secretary at such time and upon such notice to the agency or organization, to the providers which have nominated it for purposes of this section, and to the public, as may be provided in regulations, but only if he finds, after reasonable notice and opportunity for hearing to the agency or organization, that (A) the agency or organization has failed substantially to carry out the agreement, or (B) the continuation of some or all of the functions provided for in the agreement with the agency or organization is disadvantageous or is inconsistent with the efficient administration of this part.

(f) Surety bonds by officers or employees

An agreement with an agency or organization under this section may require any of its officers or employees certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in carrying out the agreement, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

(g) Liability of certifying or disbursing officers or agencies or organizations

(1) No individual designated pursuant to an agreement under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

(2) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by a certifying officer designated as provided in paragraph (1).

(3) No such agency or organization shall be liable to the United States for any payments referred to in paragraph (1) or (2).

(Aug. 14, 1935, ch. 531, title XVIII, § 1816, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 297, and amended Oct. 30, 1972, Pub. L. 92-603, title II, § 243(b), 86 Stat. 1422.)

Amendments

1972—Subsec. (a). Pub. L. 92-603 inserted reference to the provisions of section 1395*oo* of this title.

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-603 applicable with respect to cost reports of providers of services for accounting periods ending on or after June 30, 1973, see section 243(c) of Pub. L. 92-603, set out as an Effective Date note under section 1395*oo* of this title.

Section Referred to in Other Sections

This section is referred to in sections 1320c-14, 1395u, 1395mm, 1395*oo* of this title.

§ 1395i. Federal Hospital Insurance Trust Fund

(a) Creation; deposits; transfers from Treasury

There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Hospital Insurance Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 401(i)(1) of this title, and such amounts as may be deposited in, or appropriated to, such fund as provided in this part. There are hereby appropriated to the Trust Fund for the fiscal year ending June 30, 1966, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) the taxes imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1954 with respect to wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code after December 31, 1965, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with such reports; and

(2) the taxes imposed by section 1401(b) of the Internal Revenue Code of 1954 with respect to self-employment income reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such section to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of self-employment established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such sentence.

(b) Board of Trustees; composition; meetings; duties

With respect to the Trust Fund, there is hereby created a body to be known as the

Board of Trustees of the Trust Fund (hereinafter in this section referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the "Managing Trustee"). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Fund;

(2) Report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

(3) Report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

(4) Review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(c) Investment of Trust Fund by Managing Trustee

It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average marked yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(d) Authority of Managing Trustee to sell obligations

Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(e) Interest on and proceeds from sale or redemption of obligations

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(f) Payment of estimated taxes

(1) The Managing Trustee is directed to pay from time to time from the Trust Fund into the Treasury the amount estimated by him as taxes imposed under section 3101(b) which are subject to refund under section 6413(c) of the Internal Revenue Code of 1954 with respect to wages paid after December 31, 1965. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary of Health, Education, and Welfare shall furnish the Managing Trustee such information as may be required by the Managing Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections.

(2) Repayments made under paragraph (1) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(g) Transfers to other Funds

There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments (other than amounts so certified to the Railroad Retirement Board) pursuant to section 1395gg(b) of this title. There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Railroad Retirement Account amounts equivalent to the amounts not previously so

transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments to the Railroad Retirement Board pursuant to section 1395gg(b) of this title.

(h) Payments from Trust Fund amounts certified by Secretary

The Managing Trustee shall also pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses in accordance with section 401(g)(1) of this title.

(Aug. 14, 1935, ch. 531, title XVIII, § 1817, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 299, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 169(a), 81 Stat. 875; Oct. 30, 1972, Pub. L. 92-603, title I, § 132(d), 86 Stat. 1361.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (c), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-603 inserted "such gifts and bequests as may be made as provided in section 401(i)(1) of this title, and" following "consist of" and preceding "such amounts" in the provisions preceding par. (1).

1968—Subsec. (b)(2). Pub. L. 90-248 substituted "April" for "March".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-603 applicable with respect to gifts and bequests received after Oct. 30, 1972, see section 132(f) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 401 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (a) of this section, see section 201(12) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (b) of this section, see section 204(7) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 418, 426a, 1395b-1, 1395gg of this title.

§ 1395i-1. Authorization of appropriations

There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund (established by section 1395i of this title) from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

(1) payments made or to be made during such fiscal year from such Trust Fund, under this part with respect to individuals who are qualified railroad retirement beneficiaries (as defined in section 426(c) of this title) and who are not, and upon filing application for monthly insurance benefits under section 402 of this title would not be, entitled to such benefits if service as an employee (as defined in the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.]) after December 31, 1936, had been included in the term "employment" as defined in this chapter,

(2) the additional administrative expenses resulting or expected to result therefrom, and

(3) any loss of interest to such Trust Fund resulting from the payment of such amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year in which it would have been if the individuals described in paragraph (1) had not been entitled to benefits under this part.

(Pub. L. 89-97, title I, § 111(d), July 30, 1965, 79 Stat. 343.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1937, referred to in text, is act Aug. 29, 1935, ch. 812, 49 Stat. 867, as amended generally by act June 24, 1937, ch. 382, part I, 50 Stat. 307, and which was classified principally to subchapter III (§ 228a et seq.) of chapter 9 of Title 45, Railroads. The Railroad Retirement Act of 1937 was amended generally and redesignated the Railroad Retirement Act of 1974 by Pub. L. 93-445, title I, Oct. 16, 1974, 88 Stat. 1305. The Railroad Retirement Act of 1974 is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of title 45. For complete classification of these Acts to the Code, see Tables volume.

CODIFICATION

Section was enacted as a part of the Social Security Amendments of 1965 and as a part of the Health Insurance for the Aged Act, but not as part of the Social Security Act which comprises this chapter.

EFFECTIVE DATE

Section 111(e) of Pub. L. 89-97 provided that:

"(1) The amendments made by the preceding provisions of this section [enacting this section and section 228s-2 of Title 45, Railroads, and amending section 1395kk of this title, and sections 1401, 3101, 3111, 3201, 3211, and 3221 of Title 26, Internal Revenue Code, and section 228e of Title 45 shall apply to the calendar year 1966 or to any subsequent calendar year, but only if the requirement in paragraph (2) has been met with respect to such calendar year.

"(2) The requirement referred to in paragraph (1) shall be deemed to have been met with respect to any calendar year if, as of the October 1 immediately preceding such calendar year, the Railroad Retirement Tax Act [section 3101 et seq. of Title 26] provides that the maximum amount of monthly compensation taxable under such Act during all months of such calendar year will be an amount equal to one-twelfth of the maximum wages which the Federal Insurance Contributions Act [section 3201 et seq. of Title 26] provides may be counted for such calendar year."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this section, see section 201(36) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

CROSS REFERENCES

Definitions relating to employment, see section 410 of this title.

§ 1395i-2. Hospital insurance benefits for uninsured individuals not otherwise eligible

(a) Individuals eligible to enroll

Every individual who—

(1) has attained the age of 65,

(2) is enrolled under part B of this subchapter,

(3) is a resident of the United States, and is either (A) a citizen or (B) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment under this section, and

(4) is not otherwise entitled to benefits under this part,

shall be eligible to enroll in the insurance program established by this part.

(b) Time, manner, and form of enrollment

An individual may enroll under this section only in such manner and form as may be prescribed in regulations, and only during an enrollment period prescribed in or under this section.

(c) Period of enrollment; scope of coverage

The provisions of section 1395p of this title (except subsection (f) thereof), section 1395q of this title, subsection (c) of section 1395r of this title, and subsections (f) and (h) of section 1395s of this title shall apply to persons authorized to enroll under this section except that—

(1) individuals who meet the conditions of subsection (a)(1), (3), and (4) of this section on or before the last day of the seventh month after October 1972 may enroll under this part and (if not already so enrolled) may also enroll under part B during an initial general enrollment period which shall begin on the first day of the second month which begins after October 30, 1972, and shall end on the last day of the tenth month after the month in which this Act is enacted;

(2) in the case of an individual who first meets the conditions of eligibility under this section on or after the first day of the eighth month after October 1972, the initial enrollment period shall begin on the first day of the third month before the month in which he first becomes eligible and shall end 7 months later;

(3) in the case of an individual who enrolls pursuant to paragraph (1) of this subsection, entitlement to benefits shall begin on—

(A) the first day of the second month after the month in which he enrolls,

(B) July 1, 1973, or

(C) the first day of the first month in which he meets the requirements of subsection (a) of this section,

whichever is the latest;

(4) termination of coverage under this section by the filing of notice that the individual no longer wishes to participate in the hospital insurance program shall take effect at the close of the month following the month in which such notice is filed;

(5) an individual's entitlement under this section shall terminate with the month before the first month in which he becomes eligible for hospital insurance benefits under section 426 of this title or section 426a of this title; and upon such termination, such individual shall be deemed, solely for purposes of hospital insurance entitlement, to have filed in such first month the application required to establish such entitlement; and

(6) termination of coverage for supplementary medical insurance shall result in simultaneous termination of hospital insurance benefits for uninsured individuals who are not otherwise entitled to benefits under this chapter.

(d) Monthly premiums

(1) The monthly premium of each individual for each month in his coverage period before July 1974 shall be $33.

(2) The Secretary shall, during the last calendar quarter of each year, beginning in 1973, determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums for months occurring in the 12-month period commencing July 1 of the next year. Such amount shall be equal to $33, multiplied by the ratio of (A) the inpatient hospital deductible for such next year, as promulgated under section 1395e(b)(2) of this title, to (B) such deductible promulgated for 1973. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1, or if midway between multiples of $1 to the next higher multiple of $1.

(e) Contract or other arrangement for payment of monthly premiums

Payment of the monthly premiums on behalf of any individual who meets the conditions of subsection (a) of this section may be made by any public or private agency or organization under a contract or other arrangement entered into between it and the Secretary if the Secretary determines that payment of such premiums under such contract or arrangement is administratively feasible.

(f) Deposit of amounts into Treasury

Amounts paid to the Secretary for coverage under this section shall be deposited in the Treasury to the credit of the Federal Hospital Insurance Trust Fund.

(Aug. 14, 1935, ch. 531, title XVIII, § 1818, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 202, 86 Stat. 1374.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395p, 1395ff, 1395gg of this title.

PART B—SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED AND DISABLED

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 294v, 303, 426, 1395b-1, 1395i-2, 1395y, 1395ff, 1395ll, 1395mm, 1395pp, 1396a, 1396b of this title; title 26 section 213.

PART REFERRED TO IN D.C. CODE

This part is referred to in section 1-267 of the District of Columbia Code.

§ 1395j. Establishment of supplementary medical insurance program for the aged and disabled

There is hereby established a voluntary insurance program to provide medical insurance benefits in accordance with the provisions of this part for aged and disabled individuals who elect to enroll under such program, to be financed from premium payments by enrollees together with contributions from funds appropriated by the Federal Government.

(Aug. 14, 1935, ch. 531, title XVIII, § 1831, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 301, and amended Oct. 30, 1972, Pub. L. 92-603, title II, § 201(a)(3)(B), 86 Stat. 1371.)

AMENDMENTS

1972—Pub. L. 92-603 substituted "aged and disabled individuals" for "individuals 65 years of age or over".

STUDY REGARDING COVERAGE UNDER PART B OF MEDICARE FOR NONREIMBURSABLE SERVICES PROVIDED BY OPTOMETRISTS FOR PROSTHETIC LENSES FOR PATIENTS WITH APHAKIA

Pub. L. 94-182, title I, § 109, Dec. 31, 1975, 89 Stat. 1053, provided that the Secretary of Health, Education, and Welfare conduct a study on the appropriateness of reimbursement under the insurance program established by this part for services performed by optometrists with respect to the provision of prosthetic lenses for patients with aphakia and submit such study to Congress not later than 4 months after Dec. 31, 1975.

STUDY TO DETERMINE FEASIBILITY OF INCLUSION OF CERTAIN ADDITIONAL SERVICES UNDER PART B

Pub. L. 90-248, title I, § 141, Jan. 2, 1968, 81 Stat. 855, provided that the Secretary conduct a study relating to the inclusion under the supplementary medical insurance program under this part of services of additional types of licensed practitioners performing health services in independent practice and submit such study to the Congress prior to Jan. 1, 1969.

§ 1395k. Scope of benefits; definitions

(a) The benefits provided to an individual by the insurance program established by this part shall consist of—

(1) entitlement to have payment made to him or on his behalf (subject to the provisions of this part) for medical and other health services, except those described in paragraph (2)(B);

(2) entitlement to have payment made on his behalf (subject to the provisions of this part) for—

(A) home health services for up to 100 visits during a calendar year; and

(B) medical and other health services furnished by a provider of services or by others under arrangement with them made by a provider of services, excluding—

(i) physician services except where furnished by—

(I) a resident or intern of a hospital, or

(II) a physician to a patient in a hospital which has a teaching program approved as specified in paragraph (6) of section 1395x(b) of this title (including services in conjunction with the teaching programs of such hospital whether or not such patient is an inpatient of such hospital), unless either clause (A) or (B) of paragraph (7) of such section is met, and

(ii) services for which payment may be made pursuant to section 1395n(b)(2) of this title; and

(C) outpatient physical therapy services, other than services to which the next to last sentence of section 1395x(p) of this title applies.

(b) For definitions of "spell of illness", "medical and other health services," and other terms used in this part, see section 1395x of this title.

(Aug. 14, 1935, ch. 531, title XVIII, § 1832, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 302, and amended Jan. 2, 1968, Pub. L. 90-248, title I, §§ 129(c)(6)(B), 133(d), 81 Stat. 848, 851; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 227(e)(1), 251(a)(4), 86 Stat. 1406, 1445.)

PAYMENT FOR SERVICES OF PHYSICIANS RENDERED IN A TEACHING HOSPITAL; STUDIES, REPORTS AND ANALYSIS TO CONGRESSIONAL COMMITTEES; EFFECTIVE DATES

Pub. L. 93-233, § 15(a)(2), Dec. 31, 1973, 87 Stat. 966, provided;

"Notwithstanding any other provision of law, the provisions of section 1832(a)(2)(B)(i) of the Social Security Act [subsec. (a)(2)(B)(i) of this section] shall, subject to subsection (b) of this section [set out in italicized note under section 1395x of this title], for the period with respect to which this paragraph is applicable, be administered as if subclause II of such section reads as follows:

"'(II) a physician to a patient in a hospital which has a teaching program approved as specified in paragraph (6) of section 1861(b) [section 1395x(b)(6) of this title] (including services in conjunction with the teaching programs of such hospital whether or not such patient is an inpatient of such hospital), where the conditions specified in paragraph (7) of such section [section 1395x(b)(7) of this title] are met and'."

For provisions respecting studies, reports, and analysis to congressional committees, and effective dates, see section 15(b)-(d) of Pub. L. 93-233, as amended, set out in italicized note under section 1395x of this title.

AMENDMENTS

1972—Subsec. (a)(2)(B). Pub. L. 92-603, § 227(e)(1), added provisions relating to medical and other health services performed by a physician to a patient in a hospital which has an approved teaching program.

Subsec. (a)(2)(C). Pub. L. 92-603, § 251(a)(4), added ", other than services to which the next to last sentence of section 1395x(p) of this title applies".

1968—Subsec. (a)(2)(B). Pub. L. 90-248, § 129(c)(6)(B), inserted "and the services for which payment may be made pursuant to section 1395n(b)(2) of this title" after "hospital".

Subsec. (a)(2)(C). Pub. L. 90-248, § 133(d), added subpar. (C).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 251(a)(4) of Pub. L. 92-603 applicable with respect to services furnished on or after July 1, 1973, see section 251(d)(1) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395x of this title.

Amendment by section 227(e)(1) of Pub. L. 92-603 applicable with respect to accounting periods beginning after June 30, 1973, see section 227(g) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395x of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a)(2)(B) by section 129(c)(6)(B) of Pub. L. 90-248, applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395d of this title.

Section 133(g) of Pub. L. 90-248 provided that: "The amendments made by the preceding subsections of this section [to subsec. (a)(2) of this section and sections 1395n(a)(2), 1395x(p), (s)(2)(D)), 1395aa(a) and 1395cc(e) of this title] shall apply to services furnished after June 30, 1968."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395l, 1395n, 1395x, 1395gg, 1395mm of this title.

§ 1395l. Payment of benefits

(a) Amounts

Except as provided in section 1395mm of this title, and subject to the succeeding provisions of this section, there shall be paid from the Federal Supplementary Medical Insurance Trust Fund, in the case of each individual who is covered under the insurance program established by this part and incurs expenses for services with respect to which benefits are payable under this part, amounts equal to—

(1) in the case of services described in section 1395k(a)(1) of this title—80 percent of the reasonable charges for the services; except that (A) an organization which provides medical and other health services (or arranges for their availability) on a prepayment basis may elect to be paid 80 percent of the reasonable cost of services for which payment may be made under this part on behalf of individuals enrolled in such organization in lieu of 80 percent of the reasonable charges for such services if the organization undertakes to charge such individuals no more than 20 percent of such reasonable cost plus any amounts payable by them as a result of subsection (b) of this section, (B) with respect to expenses incurred for radiological or pathological services for which payment may be made under this part, furnished to an inpatient of a hospital by a physician in the field of radiology or pathology, the amounts paid shall be equal to 100 percent of the reasonable charges for such services, (C) with respect to expenses incurred for those physicians' services for which payment may be made under this part that are described in section 1395y(a)(4) of this title, the amounts paid shall be subject to such limitations as may be prescribed by regulations, and (D) with respect to diagnostic tests performed in a laboratory for which payment is made under this part to the laboratory, the amounts paid shall be equal to 100 percent of the negotiated rate for such tests (as determined pursuant to subsection (g) of this section); and

(2) in the case of services described in section 1395k(a)(2) of this title—with respect to home health services, 100 percent, and with respect to other services, 80 percent of—

(A) the lesser of (i) the reasonable cost of such services, as determined under section 1395x(v) of this title, or (ii) the customary charges with respect to such services; or

(B) if such services are furnished by a public provider of services free of charge or at nominal charges to the public, the amount determined in accordance with section 1395f(b)(2) of this title; or

(C) if such services are services to which the next to last sentence of section 1395x(p) of this title applies, the reasonable charges for such services.

(b) Deductible provision

Before applying subsection (a) of this section with respect to expenses incurred by an individual during any calendar year, the total amount of the expenses incurred by such individual during such year (which would, except for this subsection, constitute incurred expenses from which benefits payable under subsection (a) of this section are determinable) shall be reduced by a deductible of $60; except that (1) the amount of the deductible for such calendar year as so determined shall first be reduced by the amount of any expenses incurred by such individual in the last three months of the preceding calendar year and applied toward such individual's deductible under this section for such preceding year, and (2) such total amount shall not include expenses incurred for radiological or pathological services furnished to such individual as an inpatient of a hospital by a physician in the field of radiology or pathology. The total amount of the expenses incurred by an individual as determined under the preceding sentence shall, after the reduction specified in such sentence, be further reduced by an amount equal to the expenses incurred for the first three pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to the individual during the calendar year, except that such deductible for such blood shall in accordance with regulations be appropriately reduced to the extent that there has been a replacement of such blood (or equivalent quantities of packed red blood cells, as so defined); and for such purposes blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual shall be deemed replaced when the institution or other person furnishing such blood (or such equivalent quantities of packed red blood cells, as so defined) is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual with respect to which a deduction is made under this sentence.

(c) Mental disorders

Notwithstanding any other provision of this part, with respect to expenses incurred in any calendar year in connection with the treatment of mental, psychoneurotic, and personality disorders of an individual who is not an inpatient of a hospital at the time such expenses are incurred, there shall be considered as incurred expenses for purposes of subsections (a) and (b) of this section only whichever of the following amounts is the smaller:

(1) $312.50, or

(2) 62½ percent of such expenses.

(d) Nonduplication of payments

No payment may be made under this part with respect to any services furnished an individual to the extent that such individual is entitled (or would be entitled except for section 1395e of this title) to have payment made with respect to such services under part A of this subchapter.

(e) Information for determination of amounts due

No payment shall be made to any provider of services or other person under this part unless there has been furnished such information as may be necessary in order to determine the amounts due such provider or other person under this part for the period with respect to which the amounts are being paid or for any prior period.

(f) Payment for purchase and rental of durable medical equipment

(1) In the case of the purchase of durable medical equipment included under section 1395x(s)(6) of this title, by or on behalf of an individual, payment shall be made in such amounts as the Secretary determines to be equivalent to payments that would have been made under this part had such equipment been rented and over such period of time as the Secretary finds such equipment would be used for such individual's medical treatment, except that (A) payment may be made in a lump sum if the Secretary finds that such method of payment is less costly or more practical than periodic payments, and (B) with respect to purchases of used equipment the Secretary is authorized to waive the 20 percent coinsurance amount applicable under subsection (a) of this section whenever the purchase price of such equipment is at least 25 percent less than the reasonable charge for comparable new equipment.

(2) In the case of rental of durable medical equipment, the Secretary may, pursuant to agreements made with suppliers of such equipment, establish any reimbursement procedures (including payment on a lump-sum basis in lieu of prolonged rental payments) which he finds to be equitable, economical, and feasible.

(g) Physical therapy services

In the case of services described in the next to last sentence of section 1395x(p) of this title, with respect to expenses incurred in any calendar year, no more than $100 shall be considered as incurred expenses for purposes of subsections (a) and (b) of this section.

(h) Direct laboratory billing of patients

With respect to diagnostic tests performed in a laboratory for which payment is made under this part to the laboratory, the Secretary is authorized to establish a payment rate which is acceptable to the laboratory and which would be considered the full charge for such tests. Such negotiated rate shall be limited to an amount not in excess of the total payment that would have been made for the services in the absence of such a rate.

(Aug. 14, 1935, ch. 531, title XVIII, § 1833, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 302, and amended Jan. 2, 1968, Pub. L. 90-248, title I, §§ 129(c)(7), (8), 131(a), (b), 132(b), 135(c), 81 Stat. 848-850, 853; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 204(a), 211(c)(4), 226(c)(2), 233(b), 245(d), 251(a)(2), (3), 279, 299k(a), 86 Stat. 1377, 1384, 1404, 1411, 1424, 1445, 1454, 1464.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-603, § 226(c)(2), added reference to section 1395mm of this title in provisions preceding par. (1).

Subsec. (a)(1). Pub. L. 92-603, §§ 211(c)(4), 279(a), added cls. (C) and (D).

Subsec. (a)(2). Pub. L. 92-603, §§ 233(b), 251(a)(3), 299K(a), substituted subpars. (A) and (B) for provisions relating to the amount payable by reference to section 1395x(v) of this title, added subpar. (C), and in provisions preceding subpar. (A), added "with respect to home health services, 100 percent, and with respect to other services," preceding "80 percent".

Subsec. (b). Pub. L. 92-603, § 204(a), substituted "$60" for "$50".

Subsec. (f). Pub. L. 92-603, § 245(d), designated existing provisions as par. (1)(A) and added par. (1)(B) and (2).

Subsec. (g). Pub. L. 92-603, § 251(a)(2), added subsec. (g).

Subsec. (h). Pub. L. 92-603, § 279(b), added subsec. (h). Subsec. was in the original (g) and was changed to accommodate subsec. (g) as added by section 251(a)(2) of Pub. L. 92-603.

1968—Subsec. (a)(1). Pub. L. 90-248, § 131(a)(1), (2), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b). Pub. L. 90-248, §§ 129(c)(7), 131(b), deleted reference in clause (1) to expenses regarded under former clause (2) as incurred for services furnished in last three months of preceding year, deleted former clause (2) which provided that the amount of any deduction imposed by section 1395e(a)(2)(A) of this title for outpatient hospital diagnostic services furnished in any calendar year is to be regarded as an incurred expense for such year; and added clause (2).

Pub. L. 90-248, § 135(c), added last sentence providing that there shall be a deductible equal to the expenses incurred for the first three pints of whole blood (or equivalent quantities of packed red blood cells as defined under regulations) furnished to an individual during a calendar year which deductible is to be appropriately reduced to the extent that such blood has been replaced, and such blood will be deemed to have been replaced when the institution or person furnishing such blood is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells) furnished the individual to which the three pint deductible applies.

Subsec. (d). Pub. L. 90-248, § 129(c)(8), deleted reference to subsection (a)(2)(A) of section 1395e of this title.

Subsec. (f). Pub. L. 90-248, § 132(b), added subsec. (f).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 204(c) of Pub. 92-603 provided that: "The amendments made by this section [amending subsec. (b) of this section and section 1395n(c) of this title] shall be effective with respect to calendar years after 1972 (except that, for purposes of applying clause (1) of the first sentence of section 1833(b) of the Social Security Act [subsec. (b) of this section], such amendments shall be deemed to have taken effect on January 1, 1972)."

Amendment of subsec. (a)(1) by section 211(c)(4) of Pub. L. 92-603 applicable to services furnished with respect to admissions occurring after Dec. 31, 1972, see section 211(d) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395f of this title.

Amendment by section 226(c)(2) of Pub. L. 92-603 effective with respect to services provided on or after

July 1, 1973, see section 226(f) of Pub. L. 92-603, set out as an Effective Date note under section 1395mm of this title.

Amendment of subsec. (a)(2) by section 233(b) of Pub. L. 92-603 applicable to services furnished by hospitals, extended care facilities, and home health agencies in accounting periods beginning after Dec. 31, 1972, see section 233(f) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395f of this title. See, also, Pub. L. 93-233, § 16, Dec. 31, 1973, 87 Stat. 967, set out as a note under section 1395f of this title.

Amendment by section 251(a)(2), (3) of Pub. L. 92-603 applicable with respect to services furnished on or after July 1, 1973, see section 251(d)(1) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395x of this title.

Section 299K(b) provided that: "The amendment made by subsection (a) [amending subsec. (a)(2) of this section] shall apply to services furnished by home health agencies in accounting periods beginning after December 31, 1972."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsecs. (b) and (d) by section 129(c)(7), (8) of Pub. L. 90-248, applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395d of this title.

Section 131(c) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsecs. (a)(1) and (b) of this section] shall apply with respect to services furnished after March 31, 1968."

Section 132(c) of Pub. L. 90-248 provided that: "The amendments made by this section [enacting subsec. (f) of this section and amending section 1395x(s)(6) of this title] shall apply only with respect to items purchased after December 31, 1967."

Amendment of subsec. (b) by section 135(c) of Pub. L. 90-248, applicable with respect to payment for blood (or packed red blood cells) furnished an individual after December 31, 1967, see section 135(d) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395e of this title.

PROHIBITION AGAINST PAYMENTS IN CASES OF NONENTITLEMENT TO MONTHLY BENEFITS UNDER SUBCHAPTER II OR SUSPENSION OF BENEFITS OF ALIENS OUTSIDE THE UNITED STATES

Section 104(b)(1) of Pub. L. 89-97 provided that: "No payments shall be made under part B of title XVIII of the Social Security Act [this part] with respect to expenses incurred by an individual during any month for which such individual may not be paid monthly benefits under title II of such Act [subchapter II of this chapter] (or for which such monthly benefits would be suspended if he were otherwise entitled thereto) by reason of section 202(t) of such Act [section 402(t) of this title] (relating to suspension of benefits of aliens who are outside the United States)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395n, 1395cc, 1395mm of this title.

§ 1395m. Limitation on home health services

(a) Payment under this part may be made for home health services furnished an individual during any calendar year only for 100 visits during such year. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items and services described in section 1395x(m) of this title, shall be determined in accordance with regulations.

(b) For purposes of subsection (a) of this section, home health services shall be taken into account only if payment under this part is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1395n(a) of this title, made with respect to such services.

(Aug. 14, 1935, ch. 531, title XVIII, § 1834, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 303.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395n of this title.

§ 1395n. Procedure for payment of claims of providers of services

(a) Conditions for payment for services described in section 1395k(a)(2) of this title

Except as provided in subsections (b), (c), and (e) of this section, payment for services described in section 1395k(a)(2) of this title furnished an individual may be made only to providers of services which are eligible therefor under section 1395cc(a) of this title, and only if—

(1) written request, signed by such individual, except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner and by such person or persons as the Secretary may by regulation prescribe, no later than the close of the period of 3 calendar years following the year in which such services are furnished (deeming any services furnished in the last 3 calendar months of any calendar year to have been furnished in the succeeding calendar year) except that, where the Secretary deems that efficient administration so requires, such period may be reduced to not less than 1 calendar year; and

(2) a physician certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations) that—

(A) in the case of home health services (i) such services are or were required because the individual is or was confined to his home (except when receiving items and services referred to in section 1395x(m)(7) of this title) and needed skilled nursing care on an intermittent basis, or physical or speech therapy, (ii) a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician;

(B) in the case of medical and other health services, except services described in subparagraphs (B), (C), and (D) of section 1395x(s)(2) of this title, such services are or were medically required; and

(C) in the case of outpatient physical therapy services, (i) such services are or were required because the individual needed physical therapy services, (ii) a plan for furnishing such services has been established, and is periodically reviewed, by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician; and

(D) in the case of outpatient speech pathology services, (i) such services are or were required because the individual needed speech pathology services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.

To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where, at a later date, a physician makes a certification of the kind provided in subparagraph (A) or (B) of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations. For purposes of this section, the term "provider of services" shall include a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1395x(p)(4)(A) of this title, or if, in the case of a public health agency, such agency meets the requirements of section 1395x(p)(4)(B) of this title, but only with respect to the furnishing of outpatient physical therapy services (as therein defined).

(b) Conditions for payment for services described in section 1395x(s) of this title

(1) Payment may also be made to any hospital for services described in section 1395x(s) of this title furnished as an outpatient service by a hospital or by others under arrangements made by it to an individual entitled to benefits under this part even though such hospital does not have an agreement in effect under this subchapter if (A) such services were emergency services, (B) the Secretary would be required to make such payment if the hospital had such an agreement in effect and otherwise met the conditions of payment hereunder, and (C) such hospital has made an election pursuant to section 1395f(d)(1)(C) of this title with respect to the calendar year in which such emergency services are provided. Such payments shall be made only in the amounts provided under section 1395*l*(a)(2) of this title and then only if such hospital agrees to comply, with respect to the emergency services provided, with the provisions of section 1395cc(a) of this title.

(2) Payment may also be made on the basis of an itemized bill to an individual for services described in paragraph (1) of this subsection if (A) payment cannot be made under such paragraph (1) solely because the hospital does not elect, in accordance with section 1395f(d)(1)(C) of this title, to claim such payments and (B) such individual files application (submitted within such time and in such form and manner, and containing and supported by such information as the Secretary shall by regulations prescribe) for reimbursement. The amounts payable under this paragraph shall, subject to the provisions of section 1395*l* of this title, be equal to 80 percent of the hospital's reasonable charges for such services.

(c) Collection of charges from individuals for services specified in section 1395x(s) of this title

Notwithstanding the provisions of this section and sections 1395k, 1395*l*, and 1395cc(a)(1)(A) of this title, a hospital may, subject to such limitations as may be prescribed by regulations, collect from an individual the customary charges for services specified in section 1395x(s) of this title and furnished to him by such hospital as an outpatient, but only if such charges for such services do not exceed the applicable supplementary medical insurance deductible, and such customary charges shall be regarded as expenses incurred by such individual with respect to which benefits are payable in accordance with section 1395*l*(a)(1) of this title. Payments under this subchapter to hospitals which have elected to make collections from individuals in accordance with the preceding sentence shall be adjusted periodically to place the hospital in the same position it would have been had it instead been reimbursed in accordance with section 1395*l*(a)(2) of this title.

(d) Payment to Federal provider of services or other Federal agencies prohibited

Subject to section 1395qq of this title, no payment may be made under this part to any Federal provider of services or other Federal agency, except a provider of services which the Secretary determines is providing services to the public generally as a community institution or agency; and no such payment may be made to any provider of services or other person for any item or service which such provider or person is obligated by a law of, or a contract with, the United States to render at public expense.

(e) Payment to fund designated by medical staff or faculty of medical school

For purposes of services (1) which are inpatient hospital services by reason of paragraph (7) of section 1395x(b) of this title or for which entitlement exists by reason of clause (II) of section 1395k(a)(2)(B)(i) of this title, and (2) for which the reasonable cost thereof is determined under section 1395x(v)(1)(D) of this title, payment under this part shall be made to such fund as may be designated by the organized medical staff of the hospital in which such services were furnished or, if such services were furnished in such hospital by the faculty of a medical school, to such fund as may be designated by such faculty, but only if—

(1) such hospital has an agreement with the Secretary under section 1395cc of this title, and

(2) the Secretary has received written assurances that such payment will be used by such fund solely for the improvement of care to patients in such hospital or for educational or charitable purposes and (B) the individuals who were furnished such services or any other persons will not be charged for such services (or if charged provision will be made for return for any moneys incorrectly collected).

(Aug. 14, 1935, ch. 531, title XVIII, § 1835, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 303, and amended Jan. 2, 1968, Pub. L. 90-248, title I, §§ 126(b), 129(c)(9)(A),

(B), 130(a), (b), 133(e), 81 Stat. 846, 848, 849, 851; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 204(b), 227(e)(2), 251(b)(2), 281(b), 283(b), 86 Stat. 1377, 1406, 1445, 1456; Sept. 30, 1976, Pub. L. 94-437, title IV, § 401(b), 90 Stat. 1408.)

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-437 substituted "Subject to section 1395qq of this title, no payment" for "No payment".

1972—Subsec. (a). Pub. L. 92-603, § 227(e)(2)(A), added reference to subsec. (e) of this section in provisions preceding par. (1).

Subsec. (a)(1). Pub. L. 92-603, § 281(f), placed a 3-year time limitation on the time within which a written request for payment is filed, with provision for reduction of the limit to 1 year.

Subsec. (a)(2)(C). Pub. L. 92-603, § 251(b)(2), substituted "because the individual needed physical therapy services" for "because the individual needed physical therapy services on an outpatient basis".

Subsec. (a)(2)(D). Pub. L. 92-603, § 283(b), added subsec. (a)(2)(D).

Subsec. (c). Pub. L. 92-603, § 204(b), substituted "the applicable supplementary medical insurance deductible" for "$50".

Subsec. (e). Pub. L. 92-603, 227(e)(2)(B), added subsec. (e).

1968—Subsec. (a). Pub. L. 90-248, §§ 129(c)(9)(A), 130(a), inserted introductory exception phrase and included reference therein to subsec. (c), respectively.

Subsec. (a)(2). Pub. L. 90-248, § 133(e)(5), added last sentence defining the term "provider of services".

Subsec. (a)(2)(B). Pub. L. 90-248, §§ 126(b), 133(e)(4) inserted "except services described in subparagraphs (B) and (C) of section 1395x(s)(2) of this title," after "health services," and added reference to subpar. (d).

Subsec. (a)(2)(C). Pub. L. 90-248, § 133(e)(1) to (3), added subpar. (C).

Subsec. (b). Pub. L. 90-248, § 129(c)(9)(B), added subsec. (b). Former subsec. (b) redesignated (c), in turn redesignated (d).

Subsec. (c). Pub. L. 90-248, § 130(b), added subsec. (c). Former subsec. (c), previously designated (b), redesignated (d).

Subsec. (d). Pub. L. 90-248, §§ 129(c)(9)(B), 130(b), redesignated former subsec. (b) as (c), in turn as (d), respectively.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-603 effective with respect to calendar years after 1972, see section 204(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395l of this title.

Amendment by section 227(e)(2) of Pub. L. 92-603 applicable with respect to accounting periods beginning after June 30, 1973, see section 227(g) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395x of this title.

Amendment of subsec. (a)(2)(C) by section 251(b)(2) of Pub. L. 92-603 applicable with respect to services furnished on or after Oct. 30, 1972, see section 251(d)(2) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395x of this title.

Amendment of subsec. (a)(1) by section 281(f) of Pub. L. 92-603 to apply in the case of services furnished (or deemed to have been furnished) after 1970, see section 281(g) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395gg of this title.

Section 283(c) of Pub. L. 92-603 provided that: "The provisions of this section [enacting subsec. (a)(2)(D) of this section and amending section 1395x(p) of this title] shall apply with respect to services rendered after December 31, 1972."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a)(2)(B) by section 126(b) of Pub. L. 90-248 applicable with respect to services furnished after Jan. 2, 1968, see section 126(c) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395f of this title.

Amendment of subsecs. (a) to (c) of this section by section 129(c)(9)(A), (B) of Pub. L. 90-248 applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395d of this title.

Section 130(c) of Pub. L. 90-248 provided that: "The amendments made by this section [enacting subsec. (c) of this section] shall apply with respect to services furnished after March 31, 1968."

Amendment of subsec. (a) by section 133(e) of Pub. L. 90-248 applicable with respect to services furnished after June 30, 1968, see section 133(g) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395k of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395f, 1395k, 1395m, 1395x, 1395cc, 1395qq of this title.

§ 1395o. Eligible individuals

Every individual who—

(1) is entitled to hospital insurance benefits under part A, or

(2) has attained age 65 and is a resident of the United States, and is either (A) a citizen or (B) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment under this part,

is eligible to enroll in the insurance program established by this part.

(Aug. 14, 1935, ch. 531, title XVIII, § 1836, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 304, and amended Oct. 30, 1972, Pub. L. 92-603, title II, § 201(c)(1), 86 Stat. 1372.)

AMENDMENTS

1972—Pub. L. 92-603 designed former par. (2)(B) as par. (1), former par. (1) as introductory clause in par. (2), and former pars. (2)(A)(i) and (ii) as pars. (2)(A) and (B), and omitted "(A)" following "(2)".

PERSONS CONVICTED OF SUBVERSIVE ACTIVITIES

Section 104(b)(2) of Pub. L. 89-97 provided that: "An individual who has been convicted of any offense under (A) chapter 37 [section 792 et seq. of Title 18, Crimes and Criminal Procedure] (relating to espionage and censorship), chapter 105 [section 2151 et seq. of Title 18] (relating to sabotage), or chapter 115 [section 2381 et seq. of Title 18] (relating to treason, sedition, and subversive activities) of Title 18 of the United States Code, or (B) section 4, 112, or 113 of the Internal Security Act of 1950, as amended [section 783, 822, or 823 of Title 50, War and National Defense], may not enroll under part B of title XVIII of the Social Security Act [this part]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395p, 1395q, 1395r, 1395v of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 1-267 of the District of Columbia Code.

§ 1395p. Enrollment periods

(a) Generally; regulations

An individual may enroll in the insurance program established by this part only in such

manner and form as may be prescribed by regulations, and only during an enrollment period prescribed in or under this section.

(b) Limitations

No individual may enroll under this part more than twice.

(c) Initial general enrollment period; eligible individuals before March 1, 1966

In the case of individuals who first satisfy paragraph (1) or (2) of section 1395o of this title before March 1, 1966, the initial general enrollment period shall begin on the first day of the second month which begins after July 30, 1965 and shall end on May 31, 1966. For purposes of this subsection and subsection (d) of this section, an individual who has attained age 65 and who satisfies paragraph (1) of section 1395o of this title but not paragraph (2) of such section shall be treated as satisfying such paragraph (1) on the first day on which he is (or on filing application would have been) entitled to hospital insurance benefits under part A.

(d) Eligible individuals on or after March 1, 1966

In the case of an individual who first satisfies paragraph (1) or (2) of section 1395o of this title on or after March 1, 1966, his initial enrollment period shall begin on the first day of the third month before the month in which he first satisfies such paragraphs and shall end seven months later. Where the Secretary finds that an individual who has attained age 65 failed to enroll under this part during his initial enrollment period (based on a determination by the Secretary of the month in which such individual attained age 65), because such individual (relying on documentary evidence) was mistaken as to his correct date of birth, the Secretary shall establish for such individual an initial enrollment period based on his attaining age 65 at the time shown in such documentary evidence (with a coverage period determined under section 1395q of this title as though he had attained such age at that time).

(e) General enrollment period

There shall be a general enrollment period, after the period described in subsection (c) of this section, during the period beginning on January 1 and ending on March 31 of each year beginning with 1969.

(f) Individuals deemed enrolled in the medical insurance program

Any individual—

(1) who is eligible under section 1395o of this title to enroll in the medical insurance program by reason of entitlement to hospital insurance benefits as described in paragraph (1) of such section, and

(2) whose initial enrollment period under subsection (d) of this section begins after March 31, 1973, and

(3) who is residing in the United States, exclusive of Puerto Rico,

shall be deemed to have enrolled in the medical insurance program established by this part.

(g) Commencement of enrollment period

All of the provisions of this section shall apply to individuals satisfying subsection (f) of this section, except that—

(1) in the case of an individual who satisfies subsection (f) of this section by reason of entitlement to disability insurance benefits described in section 426(a)(2)(B) of this title, his initial enrollment period shall begin on the first day of the later of (A) April 1973 or (B) the third month before the 25th consecutive month of such entitlement, and shall reoccur with each continuous period of eligibility (as defined in section 1395r(e) of this title) and upon attainment of age 65;

(2)(A) in the case of an individual who is entitled to monthly benefits under section 402 or 423 of this title on the first day of his initial enrollment period or becomes entitled to monthly benefits under section 402 of this title during the first 3 months of such period, his enrollment shall be deemed to have occurred in the third month of his initial enrollment period, and

(B) in the case of an individual who is not entitled to benefits under section 402 of this title on the first day of his initial enrollment period and does not become so entitled during the first 3 months of such period, his enrollment shall be deemed to have occurred in the month in which he files the application establishing his entitlement to hospital insurance benefits provided such filing occurs during the last 4 months of his initial enrollment period; and

(3) in the case of an individual who would otherwise satisfy subsection (f) of this section but does not establish his entitlement to hospital insurance benefits until after the last day of his initial enrollment period (as defined in subsection (d) of this section), his enrollment shall be deemed to have occurred on the first day of the earlier of the then current or immediately succeeding general enrollment period (as defined in subsection (e) of this section).

(h) Waiver of enrollment period requirements where individual's rights were prejudiced by administrative error or inaction

In any case where the Secretary finds that an individual's enrollment or nonenrollment in the insurance program established by this part or part A pursuant to section 1395i-2 of this title is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Federal Government, or its instrumentalities, the Secretary may take such action (including the designation for such individual of a special initial or subsequent enrollment period, with a coverage period determined on the basis thereof and with appropriate adjustments of premiums) as may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction.

(Aug. 14, 1935, ch. 531, title XVIII, § 1837, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 304, and amended Apr. 8, 1966, Pub. L. 89-384, § 3(a), (b), 80 Stat. 105; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 136(a), 145(a), (b), 81 Stat. 853, 859; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 201(c)(2), 206(a), 259(a), 260, 86 Stat. 1372, 1378, 1448.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-603, § 260, struck out provisions preventing the enrollment under this part more than three years after the first opportunity for such enrollment.

Subsec. (c). Pub. L. 92-603, § 201(c)(2)(A), (B), substituted "paragraph (1) or (2)" for "paragraphs (1) and (2)", and substituted provisions relating to the treatment of an individual who has attained age 65 and who satisfies paragraph (1) of section 1395o of this title but not paragraph (2) of such section, for provisions relating to the treatment of an individual who satisfies paragraph (2) of section 1395o of this title solely by reason of subparagraph (B) thereof.

Subsec. (d). Pub. L. 92-603, § 201(c)(2)(C), substituted "paragraph (1) or (2)" for "paragraphs (1) and (2)".

Subsecs. (f), (g). Pub. L. 92-603, § 206(a), added subsecs. (f) and (g).

Subsec. (h). Pub. L. 92-603, § 259(a), added subsec. (h).

1968—Subsec. (b)(1). Pub. L. 90-248, § 145(a), permitted an individual enrolling in the supplementary medical insurance program for the first time to enroll at any time in a general enrollment period which begins within 3 years of the close of his initial enrollment period.

Subsec. (d). Pub. L. 90-248, § 136(a), added last sentence providing that if an individual who has attained age 65 failed to enroll in the program because, relying on erroneous documentary evidence, he was mistaken about his age, he may enroll using the date of attainment of age 65 that he alleges under the documentary evidence.

Subsec. (e). Pub. L. 90-248, § 145(b), provided for an annual general enrollment period for the supplementary medical insurance program beginning Jan. 1 and ending March 31 of each year, commencing in 1969.

1966—Subsec. (c). Pub. L. 89-384, § 3(a), delayed the eligibility date from January 1, 1966, to March 1, 1966, and the closing date for the enrollment period from March 31, 1966, to May 31, 1966.

Subsec. (d). Pub. L. 89-384, § 3(b), substituted March 1, 1966, for January 1, 1966.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 259(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [enacting subsec. (h) of this section] shall be effective as of July 1, 1966."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 136(b) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) [to subsec. (d) of this section] shall apply to individuals enrolling under part B of title XVIII [part B of this subchapter] in months beginning after the date of the enactment of this Act [Jan. 2, 1968]."

Section 145(e) of Pub. L. 90-248 provided that: "The amendments made by subsections (a), (b), and (c) [amending subsecs. (b)(1) and (e) of this section and section 1395q(b) of this title] shall become effective April 1, 1968. Notwithstanding the provisions of section 2 of Public Law 90-97, the amendments made by subsection (d) [to section 1395r(b) of this title] shall become effective December 1, 1968."

EXTENSION THROUGH MARCH 31, 1968 OF 1967 GENERAL ENROLLMENT PERIOD

Pub. L. 90-97, § 1, Sept. 30, 1967, 81 Stat. 249, extended the general enrollment period under subsec. (e) of this section, beginning Oct. 1, 1967, and ending Dec. 31, 1967, for purposes of enrolling in the insurance program established under part B of title XVIII of such Act [this part] and of terminating such enrollment as provided in section 1395q(b)(1) of this title, through Mar. 31, 1968.

ENROLLMENT BEFORE OCT. 1, 1966, OF ELIGIBLE INDIVIDUALS FAILING FOR GOOD CAUSE TO ENROLL BEFORE JUNE 1, 1966; COMMENCEMENT OF COVERAGE PERIOD

Section 102(b) of Pub. L. 89-97, as amended by section 3(c) of Pub. L. 89-384, provided that:

"If—

"(1) an individual was eligible to enroll under section 1837(c) of the Social Security Act [subsec. (c) of this section] before June 1, 1966, but failed to enroll before such date, and

"(2) it is shown to the satisfaction of the Secretary of Health, Education, and Welfare that there was good cause for such failure to enroll before June 1, 1966,

such individual may enroll pursuant to this subsection at any time before October 1, 1966. The determination of what constitutes good cause for purposes of the preceding sentence shall be made in accordance with regulations of the Secretary. In the case of any individual who enrolls pursuant to this subsection, the coverage period (within the meaning of section 1838 of the Social Security Act [section 1395q of this title]) shall begin on the first day of the 6th month after the month in which he enrolls."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395i-2, 1395q, 1395r, 1395v, 1395gg of this title.

§ 1395q. Coverage period

(a) Commencement

The period during which an individual is entitled to benefits under the insurance program established by this part (hereinafter referred to as his "coverage period") shall begin on whichever of the following is the latest:

(1) July 1, 1966 or (in the case of a disabled individual who has not attained age 65) July 1, 1973; or

(2)(A) in the case of an individual who enrolls pursuant to subsection (d) of section 1395p of this title before the month in which he first satisfies paragraph (1) or (2) of section 1395o of this title, the first day of such month, or

(B) in the case of an individual who enrolls pursuant to such subsection (d) in the month in which he first satisfies such paragraph, the first day of the month following the month in which he so enrolls, or

(C) in the case of an individual who enrolls pursuant to such subsection (d) in the month following the month in which he first satisfies such paragraph, the first day of the second month following the month in which he so enrolls, or

(D) in the case of an individual who enrolls pursuant to such subsection (d) more than one month following the month in which he satisfies such paragraph, the first day of the third month following the month in which he so enrolls, or

(E) in the case of an individual who enrolls pursuant to subsection (e) of section 1395p of this title, the July 1 following the month in which he so enrolls; or

(3)(A) in the case of an individual who is deemed to have enrolled on or before the last day of the third month of his initial enrollment period, the first day of the month in which he first meets the applicable requirements of section 1395o of this title or July 1, 1973, whichever is later, or

(B) in the case of an individual who is deemed to have enrolled on or after the first day of the fourth month of his initial enrollment period, as prescribed under subparagraphs (B), (C), (D), and (E) of paragraph (2) of this subsection.

(b) Continuation

An individual's coverage period shall continue until his enrollment has been terminated—

(1) by the filing of notice that the individual no longer wishes to participate in the insurance program established by this part, or

(2) for nonpayment of premiums.

The termination of a coverage period under paragraph (1) shall take effect at the close of the calendar quarter following the calendar quarter in which the notice is filed. The termination of a coverage period under paragraph (2) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period in which overdue premiums may be paid and coverage continued. The grace period determined under the preceding sentence shall not exceed 90 days; except that it may be extended to not to exceed 180 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 90-day period.

Where an individual who is deemed to have enrolled for medical insurance pursuant to section 1395p(f) of this title files a notice before the first day of the month in which his coverage period begins advising that he does not wish to be so enrolled, the termination of the coverage period resulting from such deemed enrollment shall take effect with the first day of the month the coverage would have been effective and such notice shall not be considered a disenrollment for the purposes of section 1395p(b) of this title. Where an individual who is deemed enrolled for medical insurance benefits pursuant to section 1395p(f) of this title files a notice requesting termination of his deemed coverage in or after the month in which such coverage becomes effective, the termination of such coverage shall take effect at the close of the calendar quarter following the calendar quarter in which the notice is filed.

(c) Termination

In the case of an individual satisfying paragraph (1) of section 1395o of this title whose entitlement to hospital insurance benefits under part A is based on a disability rather than on his having attained the age of 65, his coverage period (and his enrollment under this part) shall be terminated as of the close of the last month for which he is entitled to hospital insurance benefits.

(d) Payment of expenses incurred during coverage period

No payments may be made under this part with respect to the expenses of an individual unless such expenses were incurred by such individual during a period which, with respect to him, is a coverage period.

(Aug. 14, 1935, ch. 531, title XVIII, § 1838, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 305, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 145(c), 81 Stat. 859; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 201(c)(3), 206(b), (c), 257(a), 86 Stat. 1373, 1378, 1447.)

Amendments

1972—Subsec. (a)(1). Pub. L. 92-603, § 201(c)(3)(A), added "or (in the case of a disabled individual who has not attained age 65) July 1, 1973" following "July 1, 1966".

Subsec. (a)(2). Pub. L. 92-603, § 201(c)(3)(B), substituted in subpar. (A) "paragraph (1) or (2)" for "paragraphs (1) and (2)" and in subpars. (B) to (D) "paragraph" for "paragraphs".

Subsec. (a)(3). Pub. L. 92-603, § 206(b), added subsec. (a)(3).

Subsec. (b). Pub. L. 92-603, §§ 206(c), 257(a), added provisions relating to an individual who is deemed to have enrolled for medical insurance pursuant to section 1395p(f) of this title and an individual who is deemed enrolled for medical insurance benefits pursuant to section 1395p(f) of this title and struck out provisions limiting the allowable grace period to 90 days and added provision for the extension of such period of up to 180 days where failure to pay premiums is due to good cause.

Subsec. (c). Pub. L. 92-603, § 202(c)(3)(C), added subsec. (c). Former subsec. (c) was redesignated as (d).

Subsec. (d). Pub. L. 92-603, § 201(c)(3)(C), redesignated former subsec. (c) as (d).

1968—Subsec. (b). Pub. L. 90-248 deleted ", during a general enrollment period described in section 1395p(e) of this title," following "notice" in par. (1), and substituted in first sentence following par. (2) "the calendar quarter following the calendar quarter" for "December 31 of the year".

Effective Date of 1972 Amendment

Section 257(b) of Pub. L. 92-603 provided that: "The amendments made by subsection (a) [amending subsec. (b) of this section] shall apply with respect to nonpayment of premiums which become due and payable on or after the date of the enactment of this Act [Oct. 30, 1972] or which became payable within the 90-day period immediately preceding such date; and for purposes of such amendments any premium which became due and payable within such 90-day period shall be considered a premium becoming due and payable on the date of the enactment of this Act [Oct. 30, 1972]."

Effective Date of 1968 Amendment

Amendment by Pub. L. 90-248 effective Apr. 1, 1968, see section 145(e) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395p of this title.

Coverage Period; Termination Dates

Pub. L. 90-97, § 3(a), Sept. 30, 1967, 81 Stat. 249, provided that:

"In the case of any individual who, pursuant to section 1838(b)(1) of the Social Security Act [subsec. (b)(1) of this section], terminates his enrollment in the insurance program established under part B of title XVIII of such Act [this part], his coverage period (as defined in section 1838(a) of such Act) [subsec. (a) of this section]—

"(1) shall terminate at the close of December 31, 1967, if he filed his notice of termination before January 1, 1968, or

"(2) shall terminate at the close of March 31, 1968, if he filed his notice of termination after December 31, 1967, and before April 1, 1968.

An individual whose coverage period terminated pursuant to paragraph (1) at the close of December 31, 1967, may, notwithstanding section 1837(b)(2) of such Act [section 1395p(b)(2) of this title], enroll in such program before April 1, 1968, and for purposes of sections 1838(a)(2)(E) [subsec. (a)(2)(E) of this section] and 1837(b)(2) of such Act [section 1395p(b)(2) of this title] such enrollment shall be deemed an enrollment under section 1837(e) of such Act [section 1395p(e) of this title] and a second enrollment under such part."

EXTENSION OF 1967 GENERAL ENROLLMENT PERIOD THROUGH MARCH 31, 1968

Extension of the general enrollment period under section 1395p(e) of this title through March 31, 1968, see section 1 of Pub. L. 90-97, Sept. 30, 1967, 81 Stat. 249, set out as a note under section 1395p of this title.

COVERAGE PERIOD FOR INDIVIDUALS BECOMING ELIGIBLE IN MARCH 1966 WHO ENROLL IN MAY 1966

Pub. L. 89-384, § 3(d), Apr. 8, 1966, 80 Stat. 105, provided that: "In the case of an individual who first satisfies paragraphs (1) and (2) of section 1836 of the Social Security Act [section 1395o of this title] in March, 1966, and who enrolls pursuant to subsection (d) of section 1837 of such Act [section 1395p of this title] in May 1966, his coverage period shall, notwithstanding section 1838(a)(2)(D) of such Act [subsec. (a)(2)(D) of this section], begin on July 1, 1966."

COMMENCEMENT OF COVERAGE PERIOD OF CERTAIN ENROLLEES

Commencement of coverage period upon enrollment before Oct. 1, 1966 of eligible individuals failing for good cause to enroll before June 1, 1966, see section 102(b) of Pub. L. 89-97, set out as a note under section 1395p of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395i-2, 1395p of this title.

§ 1395r. Amount of premiums for individuals enrolled under this part

(a) Monthly premiums for each month before 1968

The monthly premium of each individual enrolled under this part for each month before 1968 shall be $3.

(b) Determination of monthly premiums for each month after 1967 and before July 1, 1973

(1) The monthly premium of each individual enrolled under this part for each month after 1967 and before July 1, 1973, shall be the amount determined under paragraph (2).

(2) The Secretary shall, during December 1968 and of each year ending on or before December 31, 1971, determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums for months occurring in the 12-month period commencing July 1 in each succeeding year. Such dollar amount shall be such amount as the Secretary estimates to be necessary so that the aggregate premiums for such 12-month period will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for such 12-month period. In estimating aggregate benefits payable for any period, the Secretary shall include an appropriate amount for a contingency margin. Whenever the Secretary, pursuant to the preceding sentence, promulgates the dollar amount which shall be applicable for premiums for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of premiums so promulgated.

(c) Monthly actuarial rates; determination of monthly premium for each month after June 1973

(1) The Secretary shall, during December of 1972 and of each year thereafter, determine the monthly actuarial rate for enrollees age 65 and over which shall be applicable for the 12-month period commencing July 1 in the succeeding year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such 12-month period with respect to those enrollees age 65 and over will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such 12-month period. In calculating the monthly actuarial rate, the Secretary shall include an appropriate amount for a contingency margin.

(2) The monthly premium of each individual enrolled under this part for each month after June 1973 shall, except as provided in subsection (d) of this section, be the amount determined under paragraph (3).

(3) The Secretary shall, during December of 1972 and of each year thereafter, determine and promulgate the monthly premium applicable for the individuals enrolled under this part for the 12-month period commencing July 1 in the succeeding year. The monthly premium shall be equal to the smaller of—

(A) the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that 12-month period, or

(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph or, in the case of the determination made in December 1971, such rate promulgated under subsection (b)(2) of this section multiplied by the ratio of (i) the amount in column IV of the table which, by reason of the law in effect at the time the promulgation is made, will be in effect as of May 1 next following such determination appears (or is deemed to appear) in section 415(a) of this title on the line which includes the figure "750" in column III of such table to (ii) the amount in column IV of the table which appeared (or was deemed to appear) in section 415(a) of this title on the line which included the figure "750" in column III as of May 1 of the year in which such determination is made.

Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees age 65 and over as provided in paragraph (1) and the derivation of the dollar amounts specified in this paragraph.

(4) The Secretary shall also, during December of 1972 and of each year thereafter, determine the monthly actuarial rate for disabled enrollees under age 65 which shall be applicable for the 12-month period commencing July 1 in the succeeding year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such 12-month period with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be incurred in the Federal Supplementary Medical Insurance Trust Fund for such 12-month period with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.

(d) Increase in monthly premiums

In the case of an individual whose coverage period began pursuant to an enrollment after his initial enrollment period (determined pursuant to subsection (c) or (d) of section 1395p of this title), the monthly premium determined under subsection (b) or (c) of this section shall be increased by 10 percent of the monthly premium so determined for each full 12 months (in the same continuous period of eligibility) in which he could have been but was not enrolled. For purposes of the preceding sentence, there shall be taken into account (1) the months which elapsed between the close of his initial enrollment period and the close of the enrollment period in which he enrolled, plus (in the case of an individual who enrolls a second time) (2) the months which elapsed between the date of the termination of his first coverage period and the close of the enrollment period in which he enrolled for the second time. Any increase in an individual's monthly premium under the first sentence of this subsection with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which such individual may have.

(e) Final computation

If any monthly premium determined under the foregoing provisions of this section is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.

(f) Definition

For purposes of subsection (d) of this section (and section 1395p(g)(1) of this title), an individual's "continuous period of eligibility" is the period beginning with the first day on which he is eligible to enroll under section 1395o of this title and ending with his death; except that any period during all of which an individual satisfied paragraph (1) of section 1395o of this title and which terminated in or before the month preceding the month in which he attained age 65 shall be a separate "continuous period of eligibility" with respect to such individual (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this section).

(Aug. 14, 1935, ch. 531, title XVIII, § 1839, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 305, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 145(d), 81 Stat. 859; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 201(c)(4), (5), 203 (a)-(d), 86 Stat. 1373, 1376, 1377; Dec. 31, 1975, Pub. L. 94-182, title I, § 104(a), 89 Stat. 1052.)

AMENDMENTS

1975—Subsec. (c)(3). Pub. L. 94-182 substituted "May 1" for "June 1" wherever appearing therein.

1972—Subsec. (b)(1). Pub. L. 92-603, § 203(a), added "and before July 1, 1973" following "1967".

Subsec. (b)(2). Pub. L. 92-603, § 203(b), substituted "ending on or before December 31, 1971" for "thereafter".

Subsec. (c). Pub. L. 92-603, § 203(c), added subsec. (c). Former subsec. (c) was redesignated as (d) and amended.

Subsec. (d). Pub. L. 92-603, §§ 201(c)(4), 203(c), (d)(1), redesignated former subsec. (c) as (d), and, as so redesignated, inserted reference to subsec. (c) following reference to subsec. (b), added "(in the same continuous period of eligibility)" following "for each full 12 months", and added provisions relating to any increase in an individual's monthly premium under the first sentence of this subsection. Former subsec. (d) was redesignated as (e).

Subsec. (e). Pub. L. 92-603, §§ 201(c)(5), 203(c), added subsec. (e) which has been redesignated as (f). Former subsec. (d) was redesignated as (e).

Subsec. (f). Pub. L. 92-603, § 203(c), (d)(2), redesignated former subsec. (e) as (f), and, as so redesignated, substituted "subsection (d)" for "subsection (c)".

1968—Subsec. (b)(2). Pub. L. 90-248 provided that the Secretary shall, during December of each year, beginning in 1968, determine and announce the amount (whether or not such amount was applicable for premiums for any prior month) of the supplementary medical insurance premium for the twelve month period beginning on July 1 of each following year, which premium is to be such that the aggregate premiums will equal one-half the estimated benefit and administrative expenses of the supplementary medical insurance program for such twelve month period, and that at the time of announcement of the premium amount, the Secretary must make public the actuarial assumptions and bases used in deciding the amount of the premium.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 104(b) of Pub. L. 94-182 provided that: "The amendments made by subsection (a) [amending subsec. (c)(3) of this section] shall apply with respect to determinations made under section 1839(c)(3) of the Social Security Act [subsec. (c)(3) of this section] after the date of the enactment of this Act [Dec. 31, 1975]."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-248 effective Dec. 1, 1968, see section 145(e) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395p of this title.

DETERMINATION OF PREMIUM AMOUNTS BY SECRETARY

Pub. L. 90-97, § 2, Sept. 30, 1967, 81 Stat. 249, provided that:

"Notwithstanding the provisions of section 1839(a) and (b) of the Social Security Act [subsecs. (a) and (b) of this section]—

"(1) the dollar amount applicable for premiums under part B of title XVIII of such Act [this part] for each month before April 1968 shall be $3, and

"(2) the Secretary of Health, Education, and Welfare may determine and promulgate such dollar amount for months after March 1968 and before January 1970 at any time on or before December 31, 1967."

PERSONS ENROLLING BEFORE APRIL 1, 1968, WHO DID NOT ENROLL DURING THEIR INITIAL ENROLLMENT PERIOD

Pub. L. 90-97, § 3(b), Sept. 30, 1967, 81 Stat. 250, provided that: "In the case of any individual who did not enroll in the insurance program established under part B of title XVIII of the Social Security Act [this part] in his initial enrollment period, but does so enroll before April 1, 1968, the enrollment period in which he so enrolls shall, for purposes of section 1839(c) of such Act [subsec. (c) of this section], be deemed to have closed on December 31, 1967."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395i-2, 1395p, 1395v, 1395w, 1395mm of this title.

§ 1395s. Payment of premiums

(a) Deductions from section 402 or 423 monthly benefits

(1) In the case of an individual who is entitled to monthly benefits under section 402 or 423 of this title, his monthly premiums under this part shall (except as provided in subsections (b)(1) and (c) of this section) be collected by deducting the amount thereof from the amount of such monthly benefits. Such deduction shall be made in such manner and at such times as the Secretary shall by regulation prescribe.

(2) The Secretary of the Treasury shall, from time to time, transfer from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates from benefits under section 402 or 423 of this title which are payable from such Trust Fund. Such transfer shall be made on the basis of a certification by the Secretary of Health, Education, and Welfare and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(b) Deductions from railroad retirement annuities or pensions

(1) In the case of an individual who is entitled to receive for a month an annuity under the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.] (whether or not such individual is also entitled for such month to a monthly insurance benefit under section 402 of this title), his monthly premiums under this part shall (except as provided in subsection (c) of this section) be collected by deducting the amount thereof from such annuity or pension. Such deduction shall be made in such manner and at such times as the Secretary shall by regulations prescribe. Such regulations shall be prescribed only after consultation with the Railroad Retirement Board.

(2) The Secretary of the Treasury shall, from time to time, transfer from the Railroad Retirement Account to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfers shall be made on the basis of a certification by the Railroad Retirement Board and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(c) Portion of monthly premium in excess of deducted amount

If an individual to whom subsection (a) or (b) of this section applies estimates that the amount which will be available for deduction under such subsection for any premium payment period will be less than the amount of the monthly premiums for such period, he may (under regulations) pay to the Secretary such portion of the monthly premiums for such period as he desires.

(d) Deductions from Civil Service retirement annuities

(1) In the case of an individual receiving an annuity under subchapter III of chapter 83 of title 5 or any other law administered by the Civil Service Commission providing retirement or survivorship protection, to whom neither subsection (a) nor subsection (b) of this section applies, his monthly premiums under this part (and the monthly premiums of the spouse of such individual under this part if neither subsection (a) nor subsection (b) of this section applies to such spouse and if such individual agrees) shall, upon notice from the Secretary of Health, Education, and Welfare to the Civil Service Commission, be collected by deducting the amount thereof from each installment of such annuity. Such deduction shall be made in such manner and at such times as the Civil Service Commission may determine. The Civil Service Commission shall furnish such information as the Secretary of Health, Education, and Welfare may reasonably request in order to carry out his functions under this part with respect to individuals to whom this subsection applies. A plan described in section 8903 of title 5 may reimburse each annuitant enrolled in such plan an amount equal to the premiums paid by him under this part if such reimbursement is paid entirely from funds of such plan which are derived from sources other than the contributions described in section 8906 of such title.

(2) The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer from the Civil Service Retirement and Disability Fund, or the account (if any) applicable in the case of such other law administered by the Civil Service Commission, to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfer shall be made on the basis of a certification by the Civil Service Commission and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(e) Manner and time of payment prescribed by Secretary

In the case of an individual who participates in the insurance program established by this part but with respect to whom none of the preceding provisions of this section applies, or with respect to whom subsection (c) of this section applies, the premiums shall be paid to the Secretary at such times, and in such manner, as the Secretary shall by regulations prescribe.

(f) Deposit of amounts in Treasury

Amounts paid to the Secretary under subsection (c) or (e) of this section shall be deposited

in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund.

(g) Premium payability period

In the case of an individual who participates in the insurance program established by this part, premiums shall be payable for the period commencing with the first month of his coverage period and ending with the month in which he dies or, if earlier, in which his coverage under such program terminates.

(h) Exempted monthly benefits

In the case of an individual who is enrolled under the program established by this part as a member of a coverage group to which an agreement with a State entered into pursuant to section 1395v of this title is applicable, subsections (a), (b), (c), and (d) of this section shall not apply to his monthly premium for any month in his coverage period which is determined under section 1395v(d) of this title.

(Aug. 14, 1935, ch. 531, title XVIII, § 1840, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 306, and amended Apr. 8, 1966, Pub. L. 89-384, § 4(c), 80 Stat. 106; Jan. 2, 1968, Pub. L. 90-248, title I, § 166, title IV, § 403(g), 81 Stat. 874, 932; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 201(c)(6), 263(a)-(c), (d)(1)-(3), 86 Stat. 1373, 1448, 1449; Oct. 16, 1974, Pub. L. 93-445, title III, § 306, 88 Stat. 1358.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in subsec. (b)(1), is title I of Pub. L. 93-445, Oct. 16, 1974, 88 Stat. 1305, and is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. Such title I completely amended and revised the Railroad Retirement Act of 1937 (approved June 24, 1937, ch. 382, 50 Stat. 307), and as thus amended and revised, the 1937 Act was redesignated the Railroad Retirement Act of 1974. Previously, the 1937 Act had completely amended and revised the Railroad Retirement Act of 1935 (approved Aug. 29, 1935, ch. 812, 49 Stat. 967). Section 201 of the 1937 Act provided that the 1935 Act, as in force prior to amendment by the 1937 Act, may be cited as the Railroad Retirement Act of 1935; and that the 1935 Act, as amended by the 1937 Act may be cited as the Railroad Retirement Act of 1937. The Railroad Retirement Acts of 1935 and 1937 were classified to subchapter II (§ 215 et seq.) and subchapter III (§ 228a et seq.), respectively, of chapter 9 of Title 45.

AMENDMENTS

1974—Subsec. (b)(1). Pub. L. 93-445 substituted "under the Railroad Retirement Act of 1974" for "or pension under the Railroad Retirement Act of 1937".

1972—Subsec. (a)(1). Pub. L. 92-603, §§ 201(c)(6)(A), 263(a), substituted "subsections (b)(1) and (c)" for "subsection (d)" and added reference to section 423 of this title.

Subsec. (a)(2). Pub. L. 92-603, § 201(c)(6)(B), added reference to section 423 of this title.

Subsec. (b)(1). Pub. L. 92-603, § 263(b), inserted "(whether or not such individual is also entitled for such month to a monthly insurance benefit under section 402 of this title)" after "1937" and substituted "subsection (c)" for "subsection (d)".

Subsec. (c). Pub. L. 92-603, § 263(c), struck out former subsec. (c) covering individuals entitled both to monthly benefits under section 402 of this title and to an annuity or pension under the Railroad Retirement Act of 1937 and redesignated former subsec. (d) as (c).

Subsec. (d). Pub. L. 92-603, § 263(c), redesignated former subsec. (e) as (d). Former subsec. (d) redesignated as (c).

Subsec. (e). Pub. L. 92-603, § 263(c), (d)(1), redesignated former subsec. (f) as (e) and in subsec. (e) as so redesignated, substituted "subsection (c)" for "subsection (d)". Former subsec. (e) redesignated as (d).

Subsec. (f). Pub. L. 92-603, § 263(c), (d)(2), redesignated former subsec. (g) as (f) and in subsec. (f) as so redesignated, substituted "subsections (c) or (e)" for "subsections (d) or (f)". Former subsec. (f) redesignated as (e) and amended.

Subsec. (g). Pub. L. 92-603, § 263(c), redesignated former subsec. (h) as (g). Former subsec. (g) redesignated as (f) and amended.

Subsec. (h). Pub. L. 92-603, § 263(c), (d)(3), redesignated former subsec. (i) as (h) and in subsec. (h) as so redesignated substituted "(c) and (d)" for "(c), (d), and (e)". Former subsec. (h) redesignated as (g).

Subsec. (i). Pub. L. 92-603, § 263(c), redesignated former subsec. (i) as subsec. (h).

1968—Subsec. (e). Pub. L. 90-248 provided for reimbursement of civil service retirement annuitants for certain premium payments under the supplementary medical insurance program, and substituted "subchapter III of chapter 83 of Title 5 or any other law" and "such other law" for "the Civil Service Retirement Act, or other Act" and "such other Act", in pars. (1) and (2), respectively.

1966—Subsec. (i). Pub. L. 89-384 added subsec. (i).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as an Effective Date of 1974 Amendment note under section 402 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 263(f) of Pub. L. 92-603 provided that: "The amendments made by this section [amending this section and sections 1395t and 1395u of this title] with respect to collection of premiums shall apply to premiums becoming due and payable after the fourth month following the month in which this Act is enacted [Oct. 1972]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 428, 1395i-2, 1395t of this title.

§ 1395t. Federal Supplementary Medical Insurance Trust Fund

(a) Creation; deposits

There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Supplementary Medical Insurance Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 401(i)(1) of this title, and such amounts as may be deposited in, or appropriated to, such fund as provided in this part.

(b) Board of Trustees; composition; meetings; duties

With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the "Managing Trustee"). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each

calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Fund;

(2) Report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

(3) Report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

(4) Review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(c) Investment of Trust Fund by Managing Trustee

It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(d) Authority of Managing Trustee to sell obligations

Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(e) Interest on or proceeds from sale or redemption of obligations

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(f) Transfers to other Funds

There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments (other than amounts so certified to the Railroad Retirement Board) pursuant to section 1395gg(b) of this title. There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Railroad Retirement Account amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments to the Railroad Retirement Board pursuant to section 1395gg(b) of this title.

(g) Payments from Trust Fund of amounts provided for by this part or with respect to administrative expenses

The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses in accordance with section 401(g)(1) of this title.

(h) Payments from Trust Fund of costs incurred by Civil Service Commission

The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to pay the costs incurred by the Civil Service Commission in making deductions pursuant to section 1395s(d) of this title. During each fiscal year, or after the close of such fiscal year, the Civil Service Commission shall certify to the Secretary the amount of the costs it incurred in making such deductions, and such certified amount shall be the basis for the amount of such costs certified by the Secretary to the Managing Trustee.

(i) Payments from Trust Fund of costs incurred by Railroad Retirement Board

The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to pay the costs incurred by the Railroad Retirement Board for services performed pursuant to section 1395s(b)(1) and section 1395u(g) of this title. During each fiscal year or after the close of such fiscal year, the Railroad Retirement Board shall certify to the

Secretary the amount of the costs it incurred in performing such services and such certified amount shall be the basis for the amount of such costs certified by the Secretary to the Managing Trustee.

(Aug. 14, 1935, ch. 531, title XVIII, § 1841, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 308, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 169(a), 81 Stat. 875; Oct. 30, 1972, Pub. L. 92-603, title I, § 132(e), title II, § 263(d)(4), (e), 86 Stat. 1361, 1449.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (c), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-603, § 132(e), inserted "such gifts and bequests as may be made as provided in section 401(i)(1) of this title, and" following "consist of" and preceding "such amounts".

Subsec. (h). Pub. L. 92-603, § 263(d)(4), substituted "1395s(d)" for "1395s(e)".

Subsec. (i). Pub. L. 92-603, § 263(e), added subsec. (i).

1968—Subsec. (b)(2). Pub. L. 90-248 substituted "April" for "March".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (a) by section 132(e) of Pub. L. 92-603 applicable with respect to gifts and bequests received after Oct. 30, 1972, see section 132(f) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 401 of this title.

Amendment by section 263(d)(4) and (e) of Pub. L. 92-603 with respect to collection of premiums applicable to premiums becoming due and payable after the fourth month following the month of enactment of Pub. L. 92-603 which was approved on Oct. 30, 1972, see section 263(f) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395s of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsecs. (h) and (i) of this section, see section 201(12) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (b) of this section, see section 204(7) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395b-1, 1395gg of this title.

§ 1395u. Use of carriers for administration of benefits

(a) Authority of Secretary to enter into contracts with carriers

In order to provide for the administration of the benefits under this part with maximum efficiency and convenience for individuals entitled to benefits under this part and for providers of services and other persons furnishing services to such individual, and with a view to furthering coordination of the administration of the benefits under part A and under this part, the Secretary is authorized to enter into contracts with carriers, including carriers with which agreements under section 1395h of this title are in effect, which will perform some or all of the following functions (or, to the extent provided in such contracts, will secure performance thereof by other organizations); and, with respect to any of the following functions which involve payments for physicians' services on a reasonable charge basis, the Secretary shall to the extent possible enter into such contracts:

(1)(A) make determinations of the rates and amounts of payments required pursuant to this part to be made to providers of services and other persons on a reasonable cost or reasonable charge basis (as may be applicable);

(B) receive, disburse, and account for funds in making such payments; and

(C) make such audits of the records of providers of services as may be necessary to assure that proper payments are made under this part;

(2)(A) determine compliance with the requirements of section 1395x(k) of this title as to utilization review; and

(B) assist providers of services and other persons who furnish services for which payment may be made under this part in the development of procedures relating to utilization practices, make studies of the effectiveness of such procedures and methods for their improvement, assist in the application of safeguards against unnecessary utilization of services furnished by providers of services and other persons to individuals entitled to benefits under this part, and provide procedures for and assist in arranging, where necessary, the establishment of groups outside hospitals (meeting the requirements of section 1395x(k)(2) of this title to make reviews of utilization;

(3) serve as a channel of communication of information relating to the administration of this part; and

(4) otherwise assist, in such manner as the contract may provide, in discharging administrative duties necessary to carry out the purposes of this part.

(b) Applicability of competitive bidding provisions; findings as to financial responsibility, etc., of carrier; contractual duties imposed by contract

(1) Contracts with carriers under subsection (a) of this section may be entered into without regard to section 5 of title 41 or any other provision of law requiring competitive bidding.

(2) No such contract shall be entered into with any carrier unless the Secretary finds that such carrier will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and to other matters as he finds pertinent.

(3) Each such contract shall provide that the carrier—

(A) will take such action as may be necessary to assure that, where payment under this part for a service is on a cost basis, the cost is reasonable cost (as determined under section 1395x(v) of this title;

(B) will take such action as may be necessary to assure that, where payment under this part for a service is on a charge basis, such charge will be reasonable and not higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier, and such payment will (except as otherwise provided in section 1395gg(f) of this title) be made—

(i) on the basis of an itemized bill; or

(ii) on the basis of an assignment under the terms of which (I) the reasonable charge is the full charge for the service and (II) the physician or other person furnishing such service agrees not to charge for such service if payment may not be made therefor by reason of the provisions of paragraph (1) of section 1395y of this title, and if the individual to whom such service was furnished was without fault in incurring the expenses of such service, and if the Secretary's determination that payment (pursuant to such assignment) was incorrect and was made subsequent to the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this subchapter (except in the case of physicians' services and ambulance service furnished as described in section 1395y(a)(4) of this title, other than for purposes of section 1395gg(f) of this title);

but (in the case of bills submitted, or requests for payment made, after March 1968) only if the bill is submitted, or a written request for payment is made in such other form as may be permitted under regulations, no later than the close of the calendar year following the year in which such service is furnished (deeming any service furnished in the last 3 months of any calendar year to have been furnished in the succeeding calendar year);

(C) will establish and maintain procedures pursuant to which an individual enrolled under this part will be granted an opportunity for a fair hearing by the carrier, in any case where the amount in controversy is $100 or more, when requests for payment under this part with respect to services furnished him are denied or are not acted upon with reasonable promptness or when the amount of such payment is in controversy;

(D) will furnish to the Secretary such timely information and reports as he may find necessary in performing his functions under this part; and

(E) will maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (D) and otherwise to carry out the purposes of this part;

and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appropriate. In determining the reasonable charge for services for purposes of this paragraph, there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services. No charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (i) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar services in the same locality in administering this part on December 31, 1970, or (ii) the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the twelve-month period (beginning July 1 of each year) in which the bill is submitted or the request for payment is made. In the case of physician services the prevailing charge level determined for purposes of clause (ii) of the preceding sentence for any twelve-month period (beginning after June 30, 1973) specified in clause (ii) of such sentence may not exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economic index data, that such higher level is justified by economic changes. In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under the circumstances specified by the Secretary. The requirement in subparagraph (B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation of an officer, employee, fiscal intermediary, carrier, or agent of the Department of Health, Education, and Welfare performing functions under this subchapter and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or misrepresentation is eliminated or corrected. Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such third and fourth sentences for the twelve-month period beginning on July 1, in any calendar year after 1974 shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.

(4) Each contract under this section shall be for a term of at least one year, and may be made automatically renewable from term to term in the absence of notice by either party of

intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the carrier involved as he may provide in regulations) if he finds that the carrier has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the insurance program established by this part.

(5) No payment under this part for a service provided to any individual shall (except as provided in section 1395gg of this title) be made to anyone other than such individual or (pursuant to an assignment described in subparagraph (B)(ii) of paragraph (3)) the physician or other person who provided the service, except that payment may be made (A) to the employer of such physician or other person if such physician or other person is required as a condition of his employment to turn over his fee for such service to his employer, or (B) (where the service was provided in a hospital, clinic, or other facility) to the facility in which the service was provided if there is a contractual arrangement between such physician or other person and such facility under which such facility submits the bill for such service.

(c) Advances of funds to carrier

Any contract entered into with a carrier under this section shall provide for advances of funds to the carrier for the making of payments by it under this part, and shall provide for payment of the cost of administration of the carrier, as determined by the Secretary to be necessary and proper for carrying out the functions covered by the contract.

(d) Surety bonds

Any contract with a carrier under this section may require such carrier or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

(e) Liability of certifying or disbursing officers or carriers

(1) No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

(2) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by a certifying officer designated as provided in paragraph (1) of this subsection.

(3) No such carrier shall be liable to the United States for any payments referred to in paragraph (1) or (2).

(f) "Carrier" defined

For purposes of this part, the term "carrier" means—

(1) with respect to providers of services and other persons, a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization; and

(2) with respect to providers of services only, any agency or organization (not described in paragraph (1) with which an agreement is in effect under section 1395h of this title.

(g) Authority of Railroad Retirement Board to enter into contracts with carriers

The Railroad Retirement Board shall, in accordance with such regulations as the Secretary may prescribe, contract with a carrier or carriers to perform the functions set out in this section with respect to individuals entitled to benefits as qualified railroad retirement beneficiaries pursuant to section 426(a) of this title and section 231f(d) of title 45.

(Aug. 14, 1935, ch. 531, title XVIII, § 1842, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 309, and amended Jan. 2, 1968, Pub. L. 90-248, title I, §§ 125(a), 154(d), 81 Stat. 845, 863; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 211(c)(3), 224(a), 227(e)(3), 236(a), 258(a), 262(a), 263(d)(5), 281(d), 86 Stat. 1384, 1395, 1407, 1414, 1447-1449, 1455; Oct. 16, 1974, Pub. L. 93-445, title III, § 307, 88 Stat. 1358; Dec. 31, 1975, Pub. L. 94-182, title I, § 101(a), 89 Stat. 1051; July 16, 1976, Pub. L. 94-368, §§ 2, 3(a), (b), 90 Stat. 997.)

AMENDMENTS

1976—Subsec. (b)(3). Pub. L. 94-368 substituted "for the twelve-month period beginning on July 1 in any calendar year after 1974" for "for the fiscal year beginning July 1, 1975,", "prior to the start of the twelve-month period (beginning July 1, of each year) in which the bill is submitted or the request for payment is made" for "prior to the start of the fiscal year in which the bill is submitted or the request for payment is made", and "for any twelve-month period (beginning after June 30, 1973) specified in clause (ii) of such sentence" for "for any fiscal year beginning after June 30, 1973,".

1975—Subsec. (b)(3). Pub. L. 94-182 added provisions relating to raising for the fiscal year beginning July 1, 1975 inadequate prevailing charge levels for services of physicians in certain localities.

1974—Subsec. (g). Pub. L. 93-445 substituted "section 231f(d) of title 45" for "section 228s-2(b) of title 45".

1972—Subsec. (a). Pub. L. 92-603, § 227(e)(3), substituted "which involve payments for physicians' services on a reasonable charge basis" for "which involve payments for physicians' services".

Subsec. (b)(3). Pub. L. 92-603, §§ 244(a), 258(a) added provisions relating to the determination of reasonableness of physician charges, medical services, supplies, and equipment and for the extension of time for filing claims for supplementary medical insurance benefits where the delay is due to administrative error, at the end of the paragraph.

Subsec. (b)(3)(B)(ii). Pub. L. 92-603, §§ 211(c)(3), 281(d), designated existing provisions as subcl. (I), added subcl. II, added exception in the case of services furnished as described in section 1395y(a)(4) of this title, other than for purposes of section 1395gg(f) of this title.

Subsec. (b)(3)(C). Pub. L. 92-603, § 262(a), added provisions setting a $100 minimum amount on claims to establish entitlement to a hearing.

Subsec. (b)(5). Pub. L. 92-603, § 236(a), added subsec. (b)(5).

Subsec. (g). Pub. L. 92-603, § 263(d)(5), added subsec. (g).

1968—Subsec. (b)(3)(B). Pub. L. 90-248 provided that payment be made on the basis of an itemized bill instead of a receipted bill as formerly required, and established a time limit within which payment may be requested, and inserted "(except as otherwise provided in section 1395gg(f) of this title)" after "payment will".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 4 of Pub. L. 94-368 provided that: "The amendments made by sections 2 and 3 of this Act [amending subsec. (b)(3) of this section and provisions set out as a note under section 390e of Title 7, Agriculture] shall be effective with respect to periods beginning after June 30, 1976; except that, for the twelve-month period beginning July 1, 1976, the amendments made by section 3 [amending subsec. (b)(3) of this section and provisions set out as a note under section 390e of Title 7, Agriculture] shall be applicable with respect to claims filed under part B of title XVIII of the Social Security Act [this part] (after June 30, 1976, and before July 1, 1977) with a carrier designated pursuant to section 1842 of such Act [this section], and processed by such carrier after the appropriate changes were made pursuant to such section 3 in the prevailing charge levels for such twelve-month period under the third and fourth sentences of section 1842(b)(3) of the Social Security Act [subsec. (b)(3) of this section]."

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as an Effective Date of 1974 Amendment note under section 402 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (b)(3)(B)(ii) by section 211(c)(3) of Pub. L. 92-603 applicable to services furnished with respect to admissions occurring after Dec. 31, 1972, see section 211(d) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395f of this title.

Amendment by section 227(e)(3) of Pub. L. 92-603 applicable with respect to accounting periods beginning after June 30, 1973, see section 227(g) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395x of this title.

Section 236(c) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [amending subsec. (b) of this section] shall apply with respect to bills submitted and requests for payments made after the date of the enactment of this Act [Oct. 30, 1972]. The amendments made by subsection (b) [amending section 1396a of this title] shall be effective January 1, 1973 (or earlier if the State plan so provides)."

Section 258(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [amending subsec. (b)(3) of this section] shall apply with respect to bills submitted and requests for payment made after March 1968."

Section 262(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [amending subsec. (b)(3)(C) of this section] shall apply with respect to hearings requested (under the procedures established under section 1842(b)(3)(C) of the Social Security Act [subsec. (b)(3)(C) of this section]) after the date of the enactment of this Act [Oct. 30, 1972]."

Amendment by section 263(d)(5) of Pub. L. 92-603 with respect to collection of premiums applicable to premiums becoming due and payable after the fourth month following the month of enactment of Pub. L. 92-603 which was approved on Oct. 30, 1972, see section 263(f) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395s of this title.

Amendment of subsec. (b)(3)(B)(ii) by section 282(d) of Pub. L. 92-603 to apply in the case of notices sent to individuals after 1968, see section 281(g) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395gg of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 125(b) of Pub. L. 90-248 provided that: "The amendments made by subsection (a) [to subsec. (b)(3)(B) of this section] shall apply with respect to claims on which a final determination has not been made on or before the date of enactment of this Act [Jan. 2, 1968]."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976 THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Provision of section 204(7) of Pub. L. 94-274, the Fiscal Year Transition Act, set out as a note under section 390e of Title 7, Agriculture, which authorized the treatment of the period of July 1, 1976, through Sept. 30, 1976, as part of the fiscal year beginning July 1, 1975, for purposes of subsec. (b)(3) of this section, was struck out by section 3(c) of Pub. L. 94-368, July 16, 1976, 90 Stat. 997.

PREVAILING CHARGE LEVELS FOR FISCAL YEAR BEGINNING JULY 1, 1975

Section 101(b) of Pub. L. 94-182 provided that: "The amendment made by subsection (a) [amending subsec. (b)(3) of this section] shall be applicable with respect to claims filed under part B of title XVIII of the Social Security Act [this part] with a carrier designated pursuant to section 1842 of such Act [this section] and processed by such carrier after the appropriate changes were made in the prevailing charge levels for the fiscal year beginning July 1, 1975, on the basis of economic index data under the third and fourth sentences of section 1822(b)(3) of such Act [subsec. (b)(3) of this section]; except that (1) if less than the correct amount was paid (after the application of subsection (a) of this section) on any claim processed prior to the enactment of this section [Dec. 31, 1975], the correct amount shall be paid by such carrier at such time (not exceeding 6 months after the date of the enactment of this section) [Dec. 31, 1975] as is administratively feasible, and (2) no such payment shall be made on any claim where the difference between the amount paid and the correct amount due is less than $1."

REPORT BY HEALTH INSURANCE BENEFITS ADVISORY COUNCIL ON METHODS OF REIMBURSEMENT OF PHYSICIANS FOR THEIR SERVICES

Section 224(b) of Pub. L. 92-603 provided that the Health Insurance Benefits Advisory Council conduct a study of the methods of reimbursement for physicians' services under Medicare with respect to fees, extent of assignments accepted by physicians, and the share of physician-fee costs which the Medicare program does not pay and submit such study to Congress by Jan. 1, 1973.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 1320c-14, 1395t, 1395v, 1395mm, 1395pp, 1396b of this title.

§ 1395v. Agreements with States

(a) Duty of Secretary; enrollment of eligible individuals

The Secretary shall, at the request of a State made before January 1, 1970, enter into an agreement with such State pursuant to which all eligible individuals in either of the coverage groups described in subsection (b) of this section (as specified in the agreement) will be enrolled under the program established by this part.

(b) Coverage of groups to which applicable

An agreement entered into with any State pursuant to subsection (a) of this section may be applicable to either of the following coverage groups:

(1) individuals receiving money payments under the plan of such State approved under subchapter I of this chapter or subchapter XVI of this chapter; or

(2) individuals receiving money payments under all of the plans of such State approved under subchapters I, X, XIV, and XVI of this chapter, and part A of subchapter IV of this chapter;

except as provided in subsection (g) of this section, there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under subchapter II of this chapter or who is entitled to receive an annuity under the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.]. Effective January 1, 1974, and subject to section 1396a(f) of this title, the Secretary shall, at the request of any State not eligible to participate in the State plan program established under subchapter XVI of this chapter, continue in effect the agreement entered into under this section with such State subject to such modification as the Secretary may by regulations provide to take account of the termination of any plans of such State approved under subchapters I, X, XIV, and XVI and the establishment of the supplemental security income program under subchapter XVI of this chapter.

(c) Eligible individuals

For purposes of this section, an individual shall be treated as an eligible individual only if he is an eligible individual (within the meaning of section 1395o of this title) on the date an agreement covering him is entered into under subsection (a) of this section or he becomes an eligible individual (within the meaning of such section) at any time after such date; and he shall be treated as receiving money payments described in subsection (b) of this section if he receives such payments for the month in which the agreement is entered into or any month thereafter.

(d) Monthly premiums; coverage periods

In the case of any individual enrolled pursuant to this section—

(1) the monthly premium to be paid by the State shall be determined under section 1395r of this title (without any increase under subsection (c) thereof);

(2) his coverage period shall begin on whichever of the following is the latest:

(A) July 1, 1966;

(B) the first day of the third month following the month in which the State agreement is entered into;

(C) the first day of the first month in which he is both an eligible individual and a member of a coverage group specified in the agreement under this section; or

(D) such date as may be specified in the agreement; and

(3) his coverage period attributable to the agreement with the State under this section shall end on the last day of whichever of the following first occurs:

(A) the month in which he is determined by the State agency to have become ineligible both for money payments of a kind specified in the agreement and (if there is in effect a modification entered into under subsection (h) of this section) for medical assistance, or

(B) the month preceding the first month for which he becomes entitled to monthly benefits under subchapter II of this chapter or to an annuity or pension under the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.].

(e) Subsec. (d)(3) terminations deemed resulting in section 1395p enrollment

Any individual whose coverage period attributable to the State agreement is terminated pursuant to subsection (d)(3) of this section shall be deemed for purposes of this part (including the continuation of his coverage period under this part) to have enrolled under section 1395p of this title in the initial general enrollment period provided by section 1395p(c) of this title.

(f) "Carrier" as including State agency; provisions facilitating deductions, coinsurance, etc., and leading to economy and efficiency of operation

With respect to eligible individuals receiving money payments under the plan of a State approved under subchapter I, X, XIV, or XVI of this chapter, or part A of subchapter IV of this chapter, or eligible to receive medical assistance under the plan of such State approved under subchapter XIX of this chapter, if the agreement entered into under this section so provides, the term "carrier" as defined in section 1395u(f) of this title also includes the State agency, specified in such agreement, which administers or supervises the administration of the plan of such State approved under subchapter I, XVI, or XIX of this chapter. The agreement shall also contain such provisions as will facilitate the financial transactions of the State and the carrier with respect to deductions, coinsurance, and otherwise, and as will lead to economy and efficiency of operation, with respect to individuals receiving money payments under plans of the State approved under subchapters I, X, XIV, and XVI of this chapter, and part A of subchapter IV of this chapter and individuals eligible to receive medical assistance under the plan of the State approved under subchapter XIX of this chapter.

(g) Subsec. (b) exclusions from coverage groups

(1) The Secretary shall, at the request of a State made before January 1, 1970, enter into a modification of an agreement entered into with such State pursuant to subsection (a) of this section under which the second sentence of subsection (b) of this section shall not apply with respect to such agreement.

(2) In the case of any individual who would (but for this subsection) be excluded from the applicable coverage group described in subsection (b) of this section by the second sentence of such subsection—

(A) subsections (c) and (d)(2) of this section shall be applied as if such subsections referred to the modification under this subsec-

tion (in lieu of the agreement under subsection (a) of this section),

(B) subsection (d)(3)(B) of this section shall not apply so long as there is in effect a modification entered into by the State under this subsection, and

(C) notwithstanding subsection (e) of this section, in the case of any termination described in such subsection, such individual may terminate his enrollment under this part by the filing of a notice, before the close of the third month which begins after the date of such termination, that he no longer wishes to participate in the insurance program established by this part (and in such a case, the termination of his coverage period under this part shall take effect as of the close of such third month).

(h) Modifications respecting subsec. (b) coverage groups

(1) The Secretary shall, at the request of a State made before January 1, 1970, enter into a modification of an agreement entered into with such State pursuant to subsection (a) of this section under which the coverage group described in subsection (b) of this section and specified in such agreement is broadened to include individuals who are eligible to receive medical assistance under the plan of such State approved under subchapter XIX of this chapter.

(2) For purposes of this section, an individual shall be treated as eligible to receive medical assistance under the plan of the State approved under subchapter XIX of this chapter if, for the month in which the modification is entered into under this subsection or for any month thereafter, he has been determined to be eligible to receive medical assistance under such plan. In the case of any individual who would (but for this subsection) be excluded from the agreement subsections (c) and (d)(2) of this section shall be applied as if they referred to the modification under this subsection (in lieu of the agreement under subsection (a) of this section), and subsection (d)(2)(C) of this section shall be applied by substituting "second month following the first month" for "first month".

(Aug. 14, 1935, ch. 531, title XVIII, § 1843, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 312, and amended Apr. 8, 1966, Pub. L. 89-384, § 4(a), (b), 80 Stat. 105; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 222(a), (b), (e), 241(e), 81 Stat. 900, 901, 917; Dec. 31, 1973, Pub. L. 93-233, § 18(*l*), 87 Stat. 970; Oct. 16, 1974, Pub. L. 93-445, title III, § 308, 88 Stat. 1358.)

References in Text

The Railroad Retirement Act of 1937, referred to in subsec. (d)(3)(B), is act Aug. 29, 1935, ch. 812, 49 Stat. 867, as amended generally by act June 24, 1937, ch. 382, part I, 50 Stat. 307, and which was classified principally to subchapter III (§ 228a et seq.) of chapter 9 of Title 45, Railroads. The Railroad Retirement Act of 1937 was amended generally and redesignated the Railroad Retirement Act of 1974 by Pub. L. 93-445, title I, Oct. 16, 1974, 88 Stat. 1305. The Railroad Retirement Act of 1974, referred to in subsec. (b), is classified generally to subchapter IV (§ 231 et seq.) of title 45. For complete classification of these Acts to the Code, see Tables volume.

Amendments

1974—Subsec. (b). Pub. L. 93-445 substituted "under the Railroad Retirement Act of 1974" for "or pension under the Railroad Retirement Act of 1937".

1973—Subsec. (b). Pub. L. 93-233 provided for continuation of State agreements for coverage of certain individuals in connection with establishment of supplemental security income program.

1968—Pub. L. 90-248, § 222(b)(4), added to the catchline "(or are eligible for medical assistance)".

Subsec. (a). Pub. L. 90-248, § 222(e)(1), substituted "1970" for "1968".

Subsec. (b)(2). Pub. L. 90-248, § 241(e)(1), deleted "IV," following "I," and inserted ", and part A of subchapter IV of this chapter" after "XVI of this chapter".

Subsec. (c). Pub. L. 90-248, § 222(e)(2), struck out "and before January 1, 1968" following "such date" and "before January 1968" following "thereafter" just before the period.

Subsec. (d)(2)(D). Pub. L. 90-248, § 222(e)(3), struck out "(not later than January 1, 1968)" following "such date".

Subsec. (d)(3)(A). Pub. L. 90-248, § 222(b)(1), substituted "ineligible both for money payments of a kind specified in the agreement and (if there is in effect a modification entered into under subsection (h) of this section) for medical assistance" for "ineligible for money payments of a kind specified in the agreement".

Subsec. (f). Pub. L. 90-248, § 222(b)(2), inserted "or eligible to receive medical assistance under the plan of such State approved under subchapter XIX of this chapter" and ", and individuals eligible to receive medical assistance under the plan of the State approved under subchapter XIX of this chapter" following "or part A of subchapter IV of this chapter" and ", and part A of subchapter IV of this chapter", respectively.

Pub. L. 90-248, § 241(e)(2), deleted "IV," preceding "X," in two instances, and inserted "or part A of subchapter IV of this chapter," after "XVI of this chapter," the first place it appears in the first sentence and ", and part A of subchapter IV of this chapter" after "XVI of this chapter" in the second sentence.

Subsec. (g)(1). Pub. L. 90-248, § 222(b)(3), substituted "1970" for "1968".

Subsec. (h). Pub. L. 90-248, § 222(a), added subsec. (h).

1966—Subsec. (b). Pub. L. 89-384, § 4(a), inserted a reference to subsec. (g) in the exclusionary provision.

Subsec. (g). Pub. L. 89-384, § 4(b), added subsec. (g).

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as an Effective Date of 1974 Amendment note under section 402 of this title.

Effective Date of 1973 Amendment

Amendment by Pub. L. 93-233 effective Jan. 1, 1974, see section 18(z-3)(1) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 1320b of this title.

District of Columbia; Agreement of Commissioner With Secretary for Supplementary Medical Insurance

Pub. L. 90-227, § 2, Dec. 27, 1967, 81 Stat. 745, provided that: "The Commissioner [now Mayor of District of Columbia] may enter into an agreement (and any modifications of such agreement) with the Secretary under section 1843 of the Social Security Act [this section] pursuant to which (1) eligible individuals (as defined in section 1836 of the Social Security Act) [section 1395o of this title] who are eligible to receive medical assistance under the District of Columbia's plan for medical assistance approved under title XIX of the Social Security Act [subchapter XIX of this chapter] will be enrolled in the supplementary

medical insurance program established under part B of title XVIII of the Social Security Act [this Part], and (2) provisions will be made for payment of the monthly premiums of such individuals for such program."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395s, 1396a of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 1-267 of the District of Columbia Code.

§ 1395w. Appropriations to cover Government contributions and contingency reserve

(a) There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Federal Supplementary Medical Insurance Trust Fund—

(1)(A) a Government contribution equal to the aggregate premiums payable for a month for enrollees age 65 and over under this part and deposited in the Trust Fund, multiplied by the ratio of—

(i) twice the dollar amount of the actuarially adequate rate per enrollee age 65 and over as determined under section 1395r(c)(1) of this title for such month minus the dollar amount of the premium per enrollee for such month, as determined under section 1395r(c)(3) of this title, to

(ii) the dollar amount of the premium per enrollee for such month, plus

(B) a Government contribution equal to the aggregate premiums payable for a month for enrollees under age 65 under this part and deposited in the Trust Fund, multiplied by the ratio of—

(i) twice the dollar amount of the actuarially adequate rate per enrollee under age 65 as determined under section 1395r(c)(4) of this title for such month minus the dollar amount of the premium per enrollee for such month, as determined under section 1395r(c)(3) of this title, to

(ii) the dollar amount of the premium per enrollee for such month.

(2) such sums as the Secretary deems necessary to place the Trust Fund, at the end of any fiscal year occurring after June 30, 1967, in the same position in which it would have been at the end of such fiscal year if (A) a Government contribution representing the excess of the premiums deposited in the Trust Fund during the fiscal year ending June 30, 1967, over the Government contribution actually appropriated to the Trust Fund during such fiscal year had been appropriated to it on June 30, 1967, and (B) the Government contribution for premiums deposited in the Trust Fund after June 30, 1967, had been appropriated to it when such premiums were deposited.

(b) In order to assure prompt payment of benefits provided under this part and the administrative expenses thereunder during the early months of the program established by this part, and to provide a contingency reserve, there is also authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, to remain available through the calendar year 1969 for repayable advances (without interest) to the Trust Fund, an amount equal to $18 multiplied by the number of individuals (as estimated by the Secretary), who could be covered in July 1966 by the insurance program established by this part if they had theretofore enrolled under this part.

(Aug. 14, 1935, ch. 531, title XVIII, § 1844, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 313, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 167, 81 Stat. 874; Oct. 30, 1972, Pub. L. 92-603, title II, § 203(e), 86 Stat. 1377.)

AMENDMENT

1972—Subsec. (a)(1). Pub. L. 92-603 designated existing provisions as subsec. (a)(1)(A), and, as so designated, substituted provisions relating to government contributions equal to the aggregate premiums payable for a month for enrollees age 65 and over under this part and deposited in the Trust Fund, and multiplied by the specified ratio, for provisions relating to government contributions equal to the aggregate premiums payable under this part and deposited in the Trust Fund, and added subsec. (a)(1)(B).

1968—Subsec. (a). Pub. L. 90-248, § 167(a), designated existing provisions as par. (1), provided therein for deposit of Government contribution in the Trust Fund, and added par. (2).

Subsec. (b). Pub. L. 90-248, § 167(b), substituted "1969" for "1967".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 203(e) of Pub. L. 92-603 provided in part that the amendment of subsec. (a)(1) by Pub. L. 92-603 shall be effective with respect to enrollee premiums payable for months after June 1973.

PART C—MISCELLANEOUS PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 426 of this title; title 45 section 231f.

§ 1395x. Definitions

For purposes of this subchapter.

(a) Spell of illness

The term "spell of illness" with respect to any individual means a period of consecutive days—

(1) beginning with the first day (not included in a previous spell of illness) (A) on which such individual is furnished inpatient hospital services or extended care services, and (B) which occurs in a month for which he is entitled to benefits under part A, and

(2) ending with the close of the first period of 60 consecutive days thereafter on each of which he is neither an inpatient of a hospital nor an inpatient of a skilled nursing facility.

(b) Inpatient hospital services

The term "inpatient hospital services" means the following items and services furnished to an inpatient of a hospital and (except as provided in paragraph (3)) by the hospital—

(1) bed and board;

(2) such nursing services and other related services, such use of hospital facilities, and such medical social services as are ordinarily furnished by the hospital for the care and treatment of inpatients, and such drugs, biologicals, supplies, appliances, and equipment, for use in the hospital, as are ordinarily fur-

nished by such hospital for the care and treatment of inpatients; and

(3) such other diagnostic or therapeutic items or services, furnished by the hospital or by others under arrangements with them made by the hospital, as are ordinarily furnished to inpatients either by such hospital or by others under such arrangements;

excluding, however—

(4) medical or surgical services provided by a physician, resident, or intern; and

(5) the services of a private-duty nurse or other private-duty attendant.

Paragraph (4) shall not apply to services provided in a hospital by—

(6) an intern or a resident-in-training under a teaching program approved by the Council on Medical Education of the American Medical Association or, in the case of an osteopathic hospital, approved by the Committee on Hospitals of the Bureau of Professional Education of the American Osteopathic Association, or, in the case of services in a hospital or osteopathic hospital by an intern or resident-in-training in the field of dentistry, approved by the Council on Dental Education of the American Dental Association, or in the case of services in a hospital or osteopathic hospital by an intern or resident-in-training in the field of podiatry, approved by the Council on Podiatry Education of the American Podiatry Association; or

(7) a physician where the hospital has a teaching program approved as specified in paragraph (6), unless (A) such inpatient is a private patient (as defined in regulations), or (B) the hospital establishes that during the two-year period ending December 31, 1967, and each year thereafter all inpatients have been regularly billed by the hospital for services rendered by physicians and reasonable efforts have been made to collect in full from all patients and payment of reasonable charges (including applicable deductibles and coinsurance) has been regularly collected in full or in substantial part from at least 50 percent of all inpatients.

(c) Inpatient psychiatric hospital services

The term "inpatient psychiatric hospital services" means inpatient hospital services furnished to an inpatient of a psychiatric hospital.

(d) Inpatient tuberculosis hospital services

The term "inpatient tuberculosis hospital services" means inpatient hospital services furnished to an inpatient of a tuberculosis hospital.

(e) Hospital

The term "hospital" (except for purposes of sections 1395f(d), 1395f(f), and 1395n(b) of this title, subsection (a)(2) of this section, paragraph (7) of this subsection, and subsections (i) and (n) of this section) means an institution which—

(1) is primarily engaged in providing, by or under the supervision of physicians, to inpatients (A) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

(2) maintains clinical records on all patients;

(3) has bylaws in effect with respect to its staff of physicians;

(4) has a requirement that every patient must be under the care of a physician;

(5) provides 24-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times; except that until January 1, 1979, the Secretary is authorized to waive the requirement of this paragraph for any one-year period with respect to any institution, insofar as such requirement relates to the provision of twenty-four-hour nursing service rendered or supervised by a registered professional nurse (except that in any event a registered professional nurse must be present on the premises to render or supervise the nursing service provided, during at least the regular daytime shift), where immediately preceding such one-year period he finds that—

(A) such institution is located in a rural area and the supply of hospital services in such area is not sufficient to meet the needs of individuals residing therein,

(B) the failure of such institution to qualify as a hospital would seriously reduce the availability of such services to such individuals, and

(C) such institution has made and continues to make a good faith effort to comply with this paragraph, but such compliance is impeded by the lack of qualified nursing personnel in such area;

(6) has in effect a hospital utilization review plan which meets the requirements of subsection (k) of this section;

(7) in the case of an institution in any State in which State or applicable local law provides for the licensing of hospitals, (A) is licensed pursuant to such law or (B) is approved, by the agency of such State or locality responsible for licensing hospitals, as meeting the standards established for such licensing;

(8) has in effect an overall plan and budget that meets the requirements of subsection (z) of this section; and

(9) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution.

For purposes of subsection (a)(2) of this section, such term includes any institution which meets the requirements of paragraph (1) of this subsection. For purposes of sections 1395f(d) and 1395n(b) of this title (including determination of whether an individual received inpatient hospital services or diagnostic services for purposes of such sections), section 1395f(f)(2) of this title, and subsections (i) and (n) of this section, such term includes any institution which (i) meets the requirements of paragraphs (5) and (7) of this subsection, (ii) is not primarily engaged in providing the services described in subsection (j)(1)(A) of this section and (iii) is primarily engaged in providing, by or under the supervision of individuals referred to in paragraph (1) of subsection (r) of this section, to in-

patients diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. For purposes of section 1395f(f)(1) of this title, such term includes an institution which (i) is a hospital for purposes of sections 1395f(d), 1395f(f)(2), and 1395n(b) of this title, and (ii) is accredited by the Joint Commission on Accreditation of Hospitals, or is accredited by or approved by a program of the country in which such institution is located if the Secretary finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of the Joint Commission on Accreditation of Hospitals. Notwithstanding the preceding provisions of this subsection, such term shall not, except for purposes of subsection (a)(2) of this section, include any institution which is primarily for the care and treatment of mental diseases or tuberculosis unless it is a tuberculosis hospital (as defined in subsection (g) of this section) or unless it is a psychiatric hospital (as defined in subsection (f) of this section). The term "hospital" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to items and services ordinarily furnished by such institution to inpatients, and payment may be made with respect to services provided by or in such an institution only to such extent and under such conditions, limitations, and requirements (in addition to or in lieu of the conditions, limitations, and requirements otherwise applicable) as may be provided in regulations. For provisions deeming certain requirements of this subsection to be met in the case of accredited institutions, see section 1395bb of this title.

(f) Psychiatric hospital

The term "psychiatric hospital" means an institution which—

(1) is primarily engaged in providing, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;

(2) satisfies the requirements of paragraphs (3) through (9) of subsection (e) of this section;

(3) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals entitled to hospital insurance benefits under part A;

(4) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

(5) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "psychiatric hospital" if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

(g) Tuberculosis hospital

The term "tuberculosis hospital" means an institution which—

(1) is primarily engaged in providing, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis;

(2) satisfies the requirements of paragraphs (3) through (9) of subsection (e) of this section;

(3) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals covered by the insurance program established by part A;

(4) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

(5) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "tuberculosis hospital" if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

(h) Extended care services

The term "extended care services" means the following items and services furnished to an inpatient of a skilled nursing facility and (except as provided in paragraphs (3) and (6)) by such skilled nursing facility—

(1) nursing care provided by or under the supervision of a registered professional nurse;

(2) bed and board in connection with the furnishing of such nursing care;

(3) physical, occupational, or speech therapy furnished by the skilled nursing facility or by others under arrangements with them made by the facility;

(4) medical social services;

(5) such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the skilled nursing facility, as are ordinarily furnished by such facility for the care and treatment of inpatients;

(6) medical services provided by an intern or resident-in-training of a hospital with which the facility has in effect a transfer agreement (meeting the requirements of subsection (*l*) of this section), under a teaching program of such hospital approved as provided in the last sentence of subsection (b) of this section, and other diagnostic or therapeutic services provided by a hospital with which the facility has such an agreement in effect; and

(7) such other services necessary to the health of the patients as are generally provided by skilled nursing facilities;

excluding, however, any item or service if it would not be included under subsection (b) of this section if furnished to an inpatient of a hospital.

(i) Post-hospital extended care services

The term "post-hospital extended care services" means extended care services furnished an individual after transfer from a hospital in which he was an inpatient for not less than 3 consecutive days before his discharge from the hospital in connection with such transfer. For purposes of the preceding sentence, items and services shall be deemed to have been furnished to an individual after transfer from a hospital, and he shall be deemed to have been an inpatient in the hospital immediately before transfer therefrom, if he is admitted to the skilled nursing facility (A) within 14 days after discharge from such hospital, or (B) within 28 days after such discharge, in the case of an individual who was unable to be admitted to a skilled nursing facility within such 14 days because of a shortage of appropriate bed space in the geographic area in which he resides, or (C) within such time as it would be medically appropriate to begin an active course of treatment, in the case of an individual whose condition is such that skilled nursing facility care would not be medically appropriate within 14 days after discharge from a hospital; and an individual shall be deemed not to have been discharged from a skilled nursing facility if, within 14 days after discharge therefrom, he is admitted to such facility or any other skilled nursing facility.

(j) Skilled nursing facility

The term "skilled nursing facility" means (except for purposes of subsection (a)(2) of this section) an institution (or a distinct part of an institution) which has in effect a transfer agreement (meeting the requirements of subsection (*l*) of this section) with one or more hospitals having agreements in effect under section 1395cc of this title and which—

(1) is primarily engaged in providing to inpatients (A) skilled nursing care and related services for patients who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

(2) has policies, which are developed with the advice of (and with provision of review of such policies from time to time by) a group of professional personnel, including one or more physicians and one or more registered professional nurses, to govern the skilled nursing care and related medical or other services it provides;

(3) has a physician, a registered professional nurse, or a medical staff responsible for the execution of such policies;

(4)(A) has a requirement that the health care of every patient must be under the supervision of a physician, and (B) provides for having a physician available to furnish necessary medical care in case of emergency;

(5) maintains clinical records on all patients;

(6) provides 24-hour nursing service which is sufficient to meet nursing needs in accordance with the policies developed as provided in paragraph (2), and has at least one registered professional nurse employed full time;

(7) provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

(8) has in effect a utilization review plan which meets the requirements of subsection (k) of this section;

(9) in the case of an institution in any State in which State or applicable local law provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing;

(10) has in effect an overall plan and budget that meets the requirements of subsection (z) of this section;

(11) supplies full and complete information to the Secretary or his delegate as to the identity (A) of each person who has any direct or indirect ownership interest of 10 per centum or more in such skilled nursing facility or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such skilled nursing facility, (B) in case a skilled nursing facility is organized as a corporation, of each officer and director of the corporation, and (C) in case a skilled nursing facility is organized as a partnership, of each partner; and promptly reports any changes which would affect the current accuracy of the information so required to be supplied;

(12) cooperates in an effective program which provides for a regular program of independent medical evaluation and audit of the patients in the facility to the extent required by the programs in which the facility participates (including medical evaluation of each patient's need for skilled nursing facility care);

(13) meets such provisions of the Life Safety Code of the National Fire Protection Association (23d edition, 1973) as are applicable to nursing homes; except that the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a nursing home, but only if such waiver will not adversely affect the health and safety of the patients; except that the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in nursing facilities; and

(15)[1] meets such other conditions relating to the health and safety of individuals who are furnished services in such institution or relating to the physical facilities thereof as the Secretary may find necessary (subject to the second sentence of section 1395z of this title), except that the Secretary shall not require as a condition of participation that medical social services be furnished in any such institution. Notwithstanding any other

[1]So in original. No par. (14) has been enacted. See 1972 Amendment note for subsec. (j).

provision of law, all information concerning skilled nursing facilities required by this subsection to be filed with the Secretary shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under subchapters XVIII and XIX of this chapter;

except that such term shall not (other than for purposes of subsection (a)(2) of this section) include any institution which is primarily for the care and treatment of mental diseases or tuberculosis. For purposes of subsection (a)(2) of this section, such term includes any institution which meets the requirements of paragraph (1) of this subsection. The term "skilled nursing facility" also includes an institution described in paragraph (1) of subsection (y) of this section, to the extent and subject to the limitations provided in such subsection. To the extent that paragraph (6) of this subsection may be deemed to require that any skilled nursing facility engage the services of a registered professional nurse for more than 40 hours a week, the Secretary is authorized to waive such requirement if he finds that—

(A) such facility is located in a rural area and the supply of skilled nursing facility services in such area is not sufficient to meet the needs of individuals residing therein.

(B) such facility has one full-time registered professional nurse who is regularly on duty at such facility 40 hours a week, and

(C) such facility (i) has only patients whose physicians have indicated (through physicians' orders or admission notes) that each such patient does not require the services of a registered nurse or a physician for a 48-hour period, or (ii) has made arrangements for a registered professional nurse or a physician to spend such time at such facility as may be indicated as necessary by the physician to provide necessary skilled nursing services on days when the regular full-time registered professional nurse is not on duty.

(k) Utilization review

A utilization review plan of a hospital or skilled nursing facility shall be considered sufficient if it is applicable to services furnished by the institution to individuals entitled to insurance benefits under this subchapter and if it provides—

(1) for the review, on a sample or other basis, of admissions to the institution, the duration of stays therein, and the professional services (including drugs and biologicals) furnished, (A) with respect to the medical necessity of the services, and (B) for the purpose of promoting the most efficient use of available health facilities and services;

(2) for such review to be made by either (A) a staff committee of the institution composed of two or more physicians, with or without participation of other professional personnel, or (B) a group outside the institution which is similarly composed and (i) which is established by the local medical society and some or all of the hospitals and skilled nursing facilities in the locality, or (ii) if (and for as long as) there has not been established such a group which serves such institution, which is established in such other manner as may be approved by the Secretary;

(3) for such review, in each case of inpatient hospital services or extended care services furnished to such an individual during a continuous period of extended duration, as of such days of such period (which may differ for different classes of cases) as may be specified in regulations, with such review to be made as promptly as possible, after each day so specified, and in no event later than one week following such day; and

(4) for prompt notification to the institution, the individual, and his attending physician of any finding (made after opportunity for consultation to such attending physician) by the physician members of such committee or group that any further stay in the institution is not medically necessary.

The review committee must be composed as provided in clause (B) of paragraph (2) rather than as provided in clause (A) of such paragraph in the case of any hospital or skilled nursing facility where, because of the small size of the institution, or (in the case of a skilled nursing facility) because of lack of an organized medical staff, or for such other reason or reasons as may be included in regulations, it is impracticable for the institution to have a properly functioning staff committee for the purposes of this subsection. If the Secretary determines that the utilization review procedures established pursuant to subchapter XIX of this chapter are superior in their effectiveness to the procedures required under this section, he may, to the extent that he deems it appropriate, require for purposes of this subchapter that the procedures established pursuant to subchapter XIX of this chapter be utilized instead of the procedures required by this section.

(*l*) Agreements for transfer between skilled nursing facilities and hospitals

A hospital and a skilled nursing facility shall be considered to have a transfer agreement in effect if, by reason of a written agreement between them or (in case the two institutions are under common control) by reason of a written undertaking by the person or body which controls them, there is reasonable assurance that—

(1) transfer of patients will be effected between the hospital and the skilled nursing facility whenever such transfer is medically appropriate as determined by the attending physician; and

(2) there will be interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the institutions, or in determining whether such individuals can be adequately cared for otherwise than in either of such institutions.

Any skilled nursing facility which does not have such an agreement in effect, but which is found by a State agency (of the State in which such facility is situated) with which an agreement under section 1395aa of this title is in effect (or, in the case of a State in which no such agency has an agreement under section 1395aa of this title, by the Secretary) to have attempted in good faith to enter into such an

agreement with a hospital sufficiently close to the facility to make feasible the transfer between them of patients and the informatin referred to in paragraph (2), shall be considered to have such an agreement in effect if and for so long as such agency (or the Secretary, as the case may be) finds that to do so is in the public interest and essential to assuring extended care services for persons in the community who are eligible for payments with respect to such services under this subchapter.

(m) Home health services

The term "home health services" means the following items and services furnished to an individual, who is under the care of a physician, by a home health agency or by others under arrangements with them made by such agency, under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician, which items and services are, except as provided in paragraph (7), provided on a visiting basis in a place of residence used as such indivdiual's home—

(1) part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

(2) physical, occupational, or speech therapy;

(3) medical social services under the direction of a physician;

(4) to the extent permitted in regulations, parttime or intermittent services of a home health aide;

(5) medical supplies (other than drugs and biologicals), and the use of medical appliances, while under such a plan;

(6) in the case of a home health agency which is affiliated or under common control with a hospital, medical services provided by an intern or resident-in-training of such hospital, under a teaching program of such hospital approved as provided in the last sentence of subsection (b) of this section; and

(7) any of the foregoing items and services which are provided on an outpatient basis, under arrangements made by the home health agency, at a hospital or skilled nursing facility, or at a rehabilitation center which meets such standards as may be prescribed in the regulations, and—

(A) the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in such place of residence, or

(B) which are furnished at such facility while he is there to receive any such item or service described in clause (A),

but not including transportation of the individual in connection with any such item or service;

excluding, however, any item or service if it would not be included under subsection (b) of this section if furnished to an inpatient of a hospital.

(n) Post-hospital home health services

The term "post-hospital home health services" means home health services furnished an individual within one year after his most recent discharge from a hospital of which he was an inpatient for not less than 3 consecutive days or (if later) within one year after his most recent discharge from a skilled nursing facility of which he was an inpatient entitled to payment under part A for post-hospital extended care services, but only if the plan covering the home health services (as described in subsection (m) of this section) is established within 14 days after his discharge from such hospital or skilled nursing facility.

(o) Home health agency

The term "home health agency" means a public agency or private organization, or a subdivision of such an agency or organization, which—

(1) is primarily engaged in providing skilled nursing services and other therapeutic services;

(2) has policies, established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services (referred to in paragraph (1)) which it provides, and provides for supervision of such services by a physician or registered professional nurse;

(3) maintains clinical records on all patients;

(4) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing;

(5) has in effect an overall plan and budget that meets the requirements of subsection (z) of this section; and

(6) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who furnished services by such agency or organization;

except that such term shall not include a private organization which is not a nonprofit organization exempt from Federal income taxation under section 501 of title 26 (or a subdivision of such organization) unless it is licensed pursuant to State law and it meets such additional standards and requirements as may be prescribed in regulations; and except that for purposes of part A such term shall not include any agency or organization which is primarily for the care and treatment of mental diseases.

(p) Outpatient physical therapy services

The term "outpatient physical therapy services" means physical therapy services furnished by a provider of services, a clinic, rehabilitation agency, or a public health agency, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency, or public health agency to an individual as an outpatient—

(1) who is under the care of a physician (as defined in subsection (r)(1) of this section), and

(2) with respect to whom a plan prescribing the type, amount, and duration of physical therapy services that are to be furnished such

individual has been established, and is periodically reviewed, by a physician (as so defined);

excluding, however—

(3) any item or service if it would not be included under subsection (b) of this section if furnished to an inpatient of a hospital; and

(4) any such service—

(A) if furnished by a clinic or rehabilitation agency, or by others under arrangements with such clinic or agency, unless such clinic or rehabilitation agency—

(i) provides an adequate program of physical therapy services for outpatients and has the facilities and personnel required for such program or required for the supervision of such a program, in accordance with such requirements as the Secretary may specify,

(ii) has policies, established by a group of professional personnel, including one or more physicians (associated with the clinic or rehabilitation agency) and one or more qualified physical therapists, to govern the services (referred to in clause (i)) it provides.

(iii) maintains clinical records on all patients,

(iv) if such clinic or agency is situated in a State in which State or applicable local law provides for the licensing of institutions of this nature, (I) is licensed pursuant to such law, or (II) is approved by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing; and

(v) meets such other conditions relating to the health and safety of individuals who are furnished services by such clinic or agency on an outpatient basis, as the Secretary may find necessary, or

(B) if furnished by a public health agency, unless such agency meets such other conditions relating to health and safety of individuals who are furnished services by such agency on an outpatient basis, as the Secretary may find necessary.

The term "outpatient physical therapy services" also includes physical therapy services furnished an individual by a physical therapist (in his office or in such individual's home) who meets licensing and other standards prescribed by the Secretary in regulations, otherwise than under an arrangement with and under the supervision of a provider of services, clinic, rehabilitation agency, or public health agency, if the furnishing of such services meets such conditions relating to health and safety as the Secretary may find necessary. In addition, such term includes physical therapy services which meet the requirements of the first sentence of this subsection except that they are furnished to an individual as an inpatient of a hospital or extended care facility. The term "outpatient physical therapy services" also includes speech pathology services furnished by a provider of services, a clinic, rehabilitation agency, or by a public health agency, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency, or public health agency to an individual as an outpatient, subject to the conditions prescribed in this subsection.

(q) Physicians' services

The term "physicians' services" means professional services performed by physicians, including surgery, consultation, and home, office, and institutional calls (but not including services described in subsection (b)(6) of this section).

(r) Physician

The term "physician", when used in connection with the performance of any function or action, means (1) a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which he performs such function or action (including a physician within the meaning of section 1301(a)(7) of this title), (2) a doctor of dentistry or of dental or oral surgery who is legally authorized to practice dentistry by the State in which he performs such function but only with respect to (A) surgery related to the jaw or any structure contiguous to the jaw or (B) the reduction of any fracture of the jaw or any facial bone, or (C) the certification required by section 1395f(a)(2)(E) of this title, (3) except for the purposes of section 1395f(a), section 1395n of this title, and subsections (j), (k), (m), and (o) of this section, a doctor of podiatry or surgical chiropody, but (unless clause (1) of this subsection also applies to him) only with respect to functions which he is legally authorized to perform as such by the State in which he performs them, (4) a doctor of optometry who is legally authorized to practice optometry by the State in which he performs such function, but only with respect to establishing the necessity for prosthetic lenses, or (5) a chiropractor who is licensed as such by the State (or in a State which does not license chiropractors as such, is legally authorized to perform the services of a chiropractor in the jurisdiction in which he performs such services), and who meets uniform minimum standards promulgated by the Secretary, but only for the purpose of subsections (s)(1) and (s)(2)(A) of this section and only with respect to treatment by means of manual manipulation of the spine (to correct a subluxation demonstrated by X-ray to exist) which he is legally authorized to perform by the State or jurisdiction in which such treatment is provided. For the purposes of section 1395y(a)(4) of this title and subject to the limitations and conditions provided in the previous sentence, such term includes a doctor of one of the arts, specified in such previous sentence, legally authorized to practice such art in the country in which the inpatient hospital services (referred to in such section 1395y(a)(4) of this title) are furnished.

(s) Medical and other health services

The term "medical and other health services" means any of the following items or services:

(1) physicians' services;

(2)(A) services and supplies (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) furnished as an incident to a physician's professional service, of kinds which are commonly furnished in physicians' offices

and are commonly either rendered without charge or included in the physicians' bills;

(B) hospital services (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) incident to physicians' services rendered to outpatients;

(C) diagnostic services which are—

(i) furnished to an individual as an outpatient by a hospital or by others under arrangements with them made by a hospital, and

(ii) ordinarily furnished by such hospital (or by others under such arrangements) to its outpatients for the purpose of diagnostic study; and

(D) outpatient physical therapy services;

(3) diagnostic X-ray tests (including tests under the supervision of a physician, furnished in a place of residence used as the patient's home, if the performance of such tests meets such conditions relating to health and safety as the Secretary may find necessary), diagnostic laboratory tests, and other diagnostic tests;

(4) X-ray, radium, and radioactive isotope therapy, including materials and services of technicians;

(5) surgical dressings, and splints, casts, and other devices used for reduction of fractures and dislocations;

(6) durable medical equipment, including iron lungs, oxygen tents, hospital beds, and wheelchairs used in the patient's home (including an institution used as his home other than an institution that meets the requirements of subsection (e)(1) or (j)(1) of this section), whether furnished on a rental basis or purchased;

(7) ambulance service where the use of other methods of transportation is contraindicated by the individual's condition, but only to the extent provided in regulations;

(8) prosthetic devices (other than dental) which replace all or part of an internal body organ (including colostomy bags and supplies directly related to colostomy care), including replacement of such devices; and

(9) leg, arm, back, and neck braces, and artificial legs, arms, and eyes, including replacements if required because of a change in the patient's physical condition.

No diagnostic tests performed in any laboratory which is independent of a physician's office or a hospital (which, for purposes of this sentence, means an institution considered a hospital for purposes of section 1395f(d) of this title) shall be included within paragraph (3) unless such laboratory—

(10) if situated in any State in which State or applicable local law provides for licensing of establishments of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing establishments of this nature, as meeting the standards established for such licensing; and

(11) meets such other conditions relating to the health and safety of individuals with respect to whom such tests are performed as the Secretary may find necessary.

There shall be excluded from the diagnostic services specified in paragraph (2)(C) any item or service (except services referred to in paragraph (1)) which—

(12) would not be included under subsection (b) of this section if it were furnished to an inpatient of a hospital; or

(13) is furnished under arrangements referred to in such paragraph (2)(C) unless furnished in the hospital or in other facilities operated by or under the supervision of the hospital or its organized medical staff.

None of the items and services referred to in the preceding paragraphs (other than paragraphs (1) and (2)(A)) of this subsection which are furnished to a patient of an institution which meets the definition of a hospital for purposes of section 1395f(d) of this title shall be included unless such other conditions are met as the Secretary may find necessary relating to health and safety of individuals with respect to whom such items and services are furnished.

(t) Drugs and biologicals

The term "drugs" and the term "biologicals", except for purposes of subsection (m)(5) of this section, include only such drugs and biologicals, respectively, as are included (or approved for inclusion) in the United States Pharmacopoeia, the National Formulary, or the United States Homeopathic Pharmacopoeia, or in New Drugs or Accepted Dental Remedies (except for any drugs and biologicals unfavorably evaluated therein), or as are approved by the pharmacy and drug therapeutics committee (or equivalent committee) of the medical staff of the hospital furnishing such drugs and biologicals for use in such hospital.

(u) Provider of services

The term "provider of services" means a hospital, skilled nursing facility, or home health agency, or, for purposes of section 1395f(g) and section 1395n(e) of this title, a fund.

(v) Reasonable cost; semi-private accommodations

(1)(A) The reasonable cost of any services shall be the cost actually incurred, excluding therefrom any part of incurred cost found to be unnecessary in the efficient delivery of needed health services, and shall be determined in accordance with regulations establishing the method or methods to be used, and the items to be included, in determining such costs for various types or classes of institutions, agencies, and services; except that in any case to which paragraph (2) or (3) applies, the amount of the payment determined under such paragraph with respect to the services involved shall be considered the reasonable cost of such services. In prescribing the regulations referred to in the preceding sentence, the Secretary shall consider, among other things, the principles generally applied by national organizations or established prepayment organizations (which have developed such principles) in computing the amount of payment, to be made by persons other than the recipients of services, to providers of services on account of services furnished to such recipients by such providers. Such regulations may provide for determination of the costs of services on a per diem, per unit, per capita, or

other basis, may provide for using different methods in different circumstances, may provide for the use of estimates of costs of particular items or services, may provide for the establishment of limits on the direct or indirect overall incurred costs or incurred costs of specific items or services or groups of items or services to be recognized as reasonable based on estimates of the costs necessary in the efficient delivery of needed health services to individuals covered by the insurance programs established under this subchapter, and may provide for the use of charges or a percentage of charges where this method reasonably reflects the costs. Such regulations shall (i) take into account both direct and indirect costs of providers of services (excluding therefrom any such costs, including standby costs, which are determined in accordance with regulations to be unnecessary in the efficient delivery of services covered by the insurance programs established under this subchapter) in order that, under the methods of determining costs, the necessary costs of efficiently delivering covered services to individuals covered by the insurance programs established by this subchapter will not be borne by individuals not so covered, and the costs with respect to individuals not so covered will not be borne by such insurance programs, and (ii) provide for the making of suitable retroactive corrective adjustments where, for a provider of services for any fiscal period, the aggregate reimbursement produced by the methods of determining costs proves to be either inadequate or excessive.

(B) Such regulations in the case of extended care services furnished by proprietary facilities shall include provision for specific recognition of a reasonable return on equity capital, including necessary working capital, invested in the facility and used in the furnishing of such services, in lieu of other allowances to the extent that they reflect similar items. The rate of return recognized pursuant to the preceding sentence for determining the reasonable cost of any services furnished in any fiscal period shall not exceed one and one-half times the average of the rates of interest, for each of the months any part of which is included in such fiscal period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.

(C) Where a hospital has an arrangement with a medical school under which the faculty of such school provides services at such hospital, an amount not in excess of the reasonable cost of such services to the medical school shall be included in determining the reasonable cost to the hospital of furnishing services—

(i) for which payment may be made under part A, but only if

(I) payment for such services as furnished under such arrangement would be made under part A to the hospital had such services been furnished by the hospital, and

(II) such hospital pays to the medical school at least the reasonable cost of such services to the medical school, or

(ii) for which payment may be made under part B, but only if such hospital pays to the medical school at least the reasonable cost of such services to the medical school.

(D) Where (i) physicians furnish services which are either inpatient hospital services (including services in conjunction with the teaching programs of such hospital by reason of paragraph (7) of subsection (b) of this section or for which entitlement exists by reason of clause (II) of section 1395k(a)(2)(B)(i) and (ii) of this title such hospital (or medical school under arrangement with such hospital) incurs no actual cost in the furnishing of such services, the reasonable cost of such services shall (under regulations of the Secretary) be deemed to be the cost such hospital or medical school would have incurred had it paid a salary to such physicians rendering such services approximately equivalent to the average salary paid to all physicians employed by such hospital (or if such employment does not exist, or is minimal in such hospital, by similar hospitals in a geographic area of sufficient size to assure reasonable inclusion of sufficient physicians in development of such average salary).

(E) Such regulations may, in the case of skilled nursing facilities in any State, provide for the uses of rates, developed by the State in which such facilities are located, for the payment of the cost of skilled nursing facility services furnished under the State's plan approved under subchapter XIX of this chapter (and such rates may be increased by the Secretary on a class or size of institution or on a geographical basis by a percentage factor not in excess of 10 percent to take into account determinable items or services or other requirements under this subchapter not otherwise included in the computation of such State rates), if the Secretary finds that such rates are reasonably related to (but not necessarily limited to) analyses undertaken by such State of costs of care in comparable facilities in such State; except that the foregoing provisions of this subparagraph shall not apply to any skilled nursing facility in such State if—

(i) such facility is a distinct part of or directly operated by a hospital, or

(ii) such facility operates in a close, formal satellite relationship (as defined in regulations of the Secretary) with a participating hospital or hospitals.

Notwithstanding the previous provisions of this paragraph in the case of a facility specified in clause (ii) of this subparagraph, the reasonable cost of any services furnished by such facility as determined by the Secretary under this subsection shall not exceed 150 percent of the costs determined by the application of this subparagraph (without regard to such clause (ii)).

(2)(A) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services is in accommodations more expensive than semi-private accommodations, the amount taken into account for purposes of payment under this subchapter with respect to such services may not exceed an amount equal to the reasonable cost of such services if furnished in such semi-private accommodations unless the more expensive accommodations were required for medical reasons.

(B) Where a provider of services which has an agreement in effect under this subchapter furnishes to an individual items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under part A or part B, as the case may be, the Secretary, shall take into account for purposes of payment to such provider of services only the equivalent of the reasonable cost of the items or services with respect to which such payment may be made.

(3) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services is in accommodations other than, but not more expensive than, semi-private accommodations and the use of such other accommodations rather than semi-private accommodations was neither at the request of the patient nor for a reason which the Secretary determines is consistent with the purposes of this subchapter, the amount of the payment with respect to such bed and board under part A shall be the reasonable cost of such bed and board furnished in semi-private accommodations (determined pursuant to paragraph (1)) minus the difference between the charge customarily made by the hospital or skilled nursing facility for bed and board in semi-private accommodations and the charge customarily made by it for bed and board in the accommodations furnished.

(4) If a provider of services furnishes items or services to an individual which are in excess of or more expensive than the items or services determined to be necessary in the efficient delivery of needed health services and charges are imposed for such more expensive items or services under the authority granted in section 1395cc(a)(2)(B)(ii) of this title, the amount of payment with respect to such items or services otherwise due such provider in any fiscal period shall be reduced to the extent that such payment plus such charges exceed the cost actually incurred for such items or services in the fiscal period in which such charges are imposed.

(5)(A) Where physical therapy services, occupational therapy services, speech therapy services, or other therapy services or services of other health-related personnel (other than physicians) are furnished under an arrangement with a provider of services or other organization, specified in the first sentence of subsection (p) of this section the amount included in any payment to such provider or other organization under this subchapter as the reasonable cost of such services (as furnished under such arrangements) shall not exceed an amount equal to the salary which would reasonably have been paid for such services (together with any additional costs that would have been incurred by the provider or other organization) to the person performing them if they had been performed in an employment relationship with such provider or other organization (rather than under such arrangement) plus the cost of such other expenses (including a reasonable allowance for traveltime and other reasonable types of expense related to any differences in acceptable methods of organization for the provision of such therapy) incurred by such person, as the Secretary may in regulations determine to be appropriate.

(B) Notwithstanding the provisions of subparagraph (A), if a provider of services or other organization specified in the first sentence of subsection (p) of this section requires the services of a therapist on a limited part-time basis, or only to perform intermittent services, the Secretary may make payment on the basis of a reasonable rate per unit of service, even though such rate is greater per unit of time than salary related amounts, where he finds that such greater payment is, in the aggregate, less than the amount that would have been paid if such organization had employed a therapist on a full- or part-time salary basis.

(6) For purposes of this subsection, the term, "semi-private accommodations" means two-bed, three-bed, or four-bed accommodations.

(7) For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1320a-1 of this title.

(w) Arrangements for certain services; payments pursuant to arrangements for utilization review activities

(1) The term "arrangements" is limited to arrangements under which receipt of payment by the hospital, skilled nursing facility, or home health agency (whether in its own right or as agent), with respect to services for which an individual is entitled to have payment made under this subchapter, discharges, the liability of such individual or any other person to pay for the services.

(2) Utilization review activities conducted, in accordance with the requirements of the program established under part B of subchapter XI of this chapter with respect to services furnished by a hospital to patients insured under part A of this subchapter or entitled to have payment made for such services under a State plan approved under subchapter V or XIX of this chapter, by a Professional Standards Review Organization designated for the area in which such hospital is located shall be deemed to have been conducted pursuant to arrangements between such hospital and such organization under which such hospital is obligated to pay to such organization, as a condition of receiving payment for hospital services so furnished under this part or under such a State plan, such amount as is reasonably incurred and requested (as determined under regulations of the Secretary) by such organization in conducting such review activities with respect to services furnished by such hospital to such patients.

(x) State and United States

The terms "State" and "United States" have the meaning given to them by subsections (h) and (i), respectively, of section 410 of this title.

(y) Post-hospital extended care in Christian Science skilled nursing facilities

(1) The term "skilled nursing facility" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only (except for purposes of subsection (a)(2) of this section) with respect to items and services

ordinarily furnished by such an institution to inpatients, and payment may be made with respect to services provided by or in such an institution only to such extent and under such conditions, limitations, and requirements (in addition to or in lieu of the conditions, limitations, and requirements otherwise applicable) as may be provided in regulations.

(2) Notwithstanding any other provision of this subchapter, payment under part A may not be made for services furnished an individual in a skilled nursing facility to which paragraph (1) applies unless such individual elects, in accordance with regulations, for a spell of illness to have such services treated as post-hospital extended care services for purposes of such part; and payment under part A may not be made for post-hospital extended care services—

(A) furnished an individual during such spell of illness in a skilled nursing facility to which paragraph (1) applies after—

(i) such services have been furnished to him in such a facility for 30 days during such spell, or

(ii) such services have been furnished to him during such spell in a skilled nursing facility to which such paragraph does not apply; or

(B) furnished an individual during such spell of illness in a skilled nursing facility to which paragraph (1) does not apply after such services have been furnished to him during such spell in a skilled nursing facility to which such paragraph applies.

(3) The amount payable under part A for post-hospital extended care services furnished an individual during any spell of illness in a skilled nursing facility to which paragraph (1) applies shall be reduced by a co-insurance amount equal to one-eighth of the inpatient hospital deductible for each day before the 31st day on which he is furnished such services in such a facility during such spell (and the reduction under this paragraph shall be in lieu of any reduction under section 1395e(a)(3) of this title).

(4) For purposes of subsection (i) of this section, the determination of whether services furnished by or in an institution described in paragraph (1) constitute post-hospital extended care services shall be made in accordance with and subject to such conditions, limitations, and requirements as may be provided in regulations.

(z) Institutional planning*

An overall plan and budget of a hospital, skilled nursing facility, or home health agency shall be considered sufficient if it—

(1) provides for an annual operating budget which includes all anticipated income and expenses related to items which would, under generally accepted accounting principles, be considered income and expense items (except that nothing in this paragraph shall require that there be prepared, in connection with any budget, an item-by-item identification of the components of each type of anticipated expenditure or income);

(2) provides for a capital expenditures plan for at least a 3-year period (including the year to which the operating budget described in subparagraph (1) is applicable) which includes and identifies in detail the anticipated sources of financing for, and the objectives of, each anticipated expenditure in excess of $100,000 related to the acquisition of land, the improvement of land, buildings, and equipment, and the replacement, modernization, and expansion of the buildings and equipment which would, under generally accepted accounting principles, be considered capital items;

(3) provides for review and updating at least annually; and

(4) is prepared, under the direction of the governing body of the institution or agency, by a committee consisting of representatives of the governing body, the administrative staff, and the medical staff (if any) of the institution or agency.

(Aug. 14, 1935, ch. 531, title XVIII, § 1861, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 313, and amended Nov. 2, 1966, Pub. L. 89-713, § 7, 80 Stat. 1111; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 127(a), 129(a), (b), (c)(9)(C), (10), (11), 132(a), 133, 134(a), 143(a), 144(a)-(d), 81 Stat. 846-850, 852, 857, 858; Jan. 12, 1971, Pub. L. 91-690, 84 Stat. 2074; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 211(b), (c)(2), 221(c)(4), 223(a)-(d), (f), 227(a), (c), (d)(1), (f), 234(a)-(f), 237(c), 244(c), 246(b), 248, 249(b), 251(a)(1), (b)(1), (c), 252(a), 256(b), 264(a), 265, 267, 273(a), 276(a), 278(a) (4)-(15), (b)(6), (10), (11), 283(a), 86 Stat. 1383, 1384, 1389, 1393, 1394, 1404-1407, 1412, 1413, 1416, 1423-1426, 1445-1447, 1449-1454, 1456; Dec. 31, 1975, Pub. L. 94-182, title I, §§ 102, 106(a), 112(a)(1), 89 Stat. 1051, 1052, 1055.)

Payment For Service of Physicians Rendered In A Teaching Hospital; Studies, Reports and Analysis To Congressional Committees, Effective Dates

Pub. L. 93-233, § 15(a)(1), (b)-(d), Dec. 31, 1973, 87 Stat. 965, as amended by Pub. L. 93-368, § 7, Aug. 7, 1974, 88 Stat. 422; Pub. L. 94-368, § 1, July 16, 1976, 90 Stat. 997, provided:

"(a)(1) Notwithstanding any other provision of law, the provisions of section 1861(b) of the Social Security Act [subsec. (b) of this section], shall, subject to subsection (b) of this section, for the period with respect to which this paragraph is applicable, be administered as if paragraph (7) of such section [subsec. (b)(7) of this section] read as follows:

"'(7) a physician where the hospital has a teaching program approved as specified in paragraph (6), if (A) the hospital elects to receive any payment due under this title [this subchapter] for reasonable costs of such services, and (B) all physicians in such hospital agree not to bill charges for professional services rendered in such hospital to individuals covered under the insurance program established by this title [this subchapter]'."

"(b) The provisions of subsection (a) [set out as italicized notes under this section and section 1395k of this title] shall not be deemed to render improper any determination of payment under title XVIII of the Social Security Act [this subchapter] for

any service provided prior to the enactment of this Act [Dec. 31, 1973].

"(c)(1) The Secretary of Health, Education, and Welfare shall arrange for the conduct of a study or studies concerning (A) appropriate and equitable methods of reimbursement for physicians' services under titles [subchapters] XVIII and XIX of the Social Security Act [this chapter] in hospitals which have a teaching program approved as specified in section 1861(b)(6) of such Act [subsec. (b)(6) of this section], (B) the extent to which funds expended under such titles [subchapters] are supporting the training of medical specialties which are in excess supply, (C) how such funds could be expended in ways which support more rational distribution of physician manpower both geographically and by specialty, (D) the extent to which such funds support or encourage teaching programs which tend to disproportionately attract foreign medical graduates, and (E) the existing and appropriate role that part of such funds which are expended to meet in whole or in part the cost of salaries of interns and residents in teaching programs approved as specified in section 1861(b)(6) of such Act [subsec. (b)(6) of this section].

"(2) The studies required by paragraph (1) shall be the subject of an interim report thereon submitted not later than March 1, 1975, and a final report not later than March 1, 1976. Such reports shall be submitted to the Secretary, the Committee on Finance of the Senate, and the Committee on Ways and Means of the House of Representatives, simultaneously.

"(3) The Secretary shall request the National Academy of Sciences to conduct such studies under an arrangement under which the actual expenses incurred by such Academy in conducting such studies will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such studies.

"(4) If the National Academy of Sciences is unwilling to conduct the studies required under this section, under such an arrangement with the Secretary, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations shall conduct such studies and prepare and submit the reports thereon as provided in paragraph (2).

"(5) The Social Security Administration shall study the interim report called for in paragraph (2) and shall submit its analysis of such interim report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than June 1, 1975. The Social Security Administration shall study and submit its analysis of the final report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives by June 1, 1976.

"(d) The provisions of subsection (a) [set out as italicized notes under this section and section 1395k of this title] shall apply with respect to cost accounting periods beginning after June 30, 1973, and prior to October 1, 1977."

AMENDMENTS

1975—Subsec. (e)(5). Pub. L. 94-182, § 102, substituted "January 1, 1979" for "January 1, 1976".

Subsec. (j)(13). Pub. L. 94-182, § 106(a), substituted "23d edition, 1973" for "21st edition, 1967".

Subsec. (w). Pub. L. 94-182, § 112(a)(1), designated existing provisions as par. (1) and added par. (2).

1972—Subsec. (a)(2). Pub. L. 92-603, § 278(a)(4), substituted "skilled nursing facility" for "extended care facility" and "a" for "an".

Subsec. (b)(6). Pub. L. 92-603, §§ 227(a), 276(a), redesignated existing provisions as subsec. (b)(6) and in subsec. (b)(6) as so designated inserted reference to services in a hospital or osteopathic hospital by an intern or resident-in-training in the field of podiatry, approved by the Council on Podiatry Education of the American Podiatry Association.

Subsec. (b)(7). Pub. L. 92-603, § 227(a), added par. (7).

Subsec. (e). Pub. L. 92-603, § 211(b), inserted reference to section 1395f(f) of this title in the provisions preceding par. (1), inserted reference to sections 1395f(f)(2) of this title following "For purposes of sections 1395f(d) and 1395n(b) of this title (including determination of whether an individual received inpatient hospital services or diagnostic services for purposes of such sections),", and added provisions for accreditation by the Joint Commission on Accreditation of Hospitals.

Subsec. (e)(8). Pub. L. 92-603, § 234(a) added subsec. (e)(8). Former par. (8) renumbered as par. (9).

Subsec. (e)(9). Pub. L. 92-603, §§ 234(a), 244(c), redesignated former subsec. (e)(8) as (e)(9) and struck out provisions requiring that other requirements not be higher than the comparable requirements prescribed for the accreditation of hospitals by the Joint Commission on Accreditation of Hospitals.

Subsec. (f)(2). Pub. L. 92-603, § 234(b), added reference to par. (9) of subsec. (e) of this section.

Subsec. (g)(2). Pub. L. 92-603, § 234(c), added reference to par. 9 of subsec. (e) of this section.

Subsec. (h). Pub. L. 92-603, § 278(a)(5), substituted "skilled nursing facility" for "extended care facility", "skilled nursing facilities" for "extended care facilities" and "a" for "an".

Subsec. (i). Pub. L. 92-603, §§ 248, 278(a)(6), (b)(10), extended the class of persons qualifying to be deemed as having been an inpatient in a hospital immediately before transfer therefrom by designating as clause (A) the existing requirement that the person have been admitted to the skilled nursing facility within 14 days after discharge from such hospital and adding clauses (B) and (C) and substituted "skilled nursing facility" for "extended care facility".

Subsec. (j). Pub. L. 92-603, § 278(a)(7), substituted "skilled nursing facility" for "extended care facility" in the provisions preceding par. (1).

Subsec. (j)(10). Pub. L. 92-603, § 234(d), added par. (10). Former par. (10) was redesignated par. (11) by section 234(d)(2) of Pub. L. 92-603 and again redesignated par. (15) by section 246(b)(2) of Pub. L. 92-603.

Subsec. (j)(11) to (13). Pub. L. 92-603, § 246(b)(3), added pars. (11) to (13).

Subsec. (j)(15). Pub. L. 92-603, §§ 234(d), 246(b)(2), (4), 265, 267, redesignated former par. (10) as par. (11), amended par. (11) as thus redesignated by the addition of provisions that the Secretary shall not require as a condition of participation that medical social services be furnished in any such institution, redesignated such par. (11) as thus amended as par. (15), and added provision that all information concerning skilled nursing facilities required to be filed with the Secretary be made available to Federal and state em-

ployees for purposes consistent with the effective administration of programs established under subchapters XVIII and XIX and added provision for the waiver of the registered nurse requirement in skilled nursing facilities in rural areas.

Subsec. (k). Pub. L. 92-603, §§ 237(c), 278(a)(8), added provisions authorizing the Secretary to utilize the procedures established under subchapter XIX of this chapter if such procedures were determined to be superior in their effectiveness and substituted "skilled nursing facility" for "extended care facility", "skilled nursing facilities" for "extended care facilities", and "a" for "an".

Subsec. (l). Pub. L. 92-603, § 278(a)(9), substituted "skilled nursing facility" for "extended care facility" and "a" for "an".

Subsec. (m)(7). Pub. L. 92-603, § 278(a)(10), substituted "skilled nursing facility" for "extended care facility".

Subsec. (n). Pub. L. 92-603, § 278(a)(11), substituted "skilled nursing facility" for "extended care facility" and "a" for "an".

Subsec. (o). Pub. L. 92-603, § 234(e), added par. (5), and redesignated former par. (5) as par. (6).

Subsec. (p). Pub. L. 92-603, §§ 251(a)(1), (b)(1), added provisions covering physical therapy services of a licensed physical therapist other than under an arrangement with and under the supervision of a provider of services, clinic, rehabilitation agency, or public health agency, added "In addition, such term includes physical therapy services which meet the requirements of the first sentence of this subsection except that they are furnished to an individual as an inpatient of a hospital or extended care facility", and extended the definition of "outpatient physical therapy services" to include outpatient speech pathology services.

Subsec. (q). Pub. L. 92-603, § 227(f), substituted "subsection (b)(6) of this section" for "the last sentence of subsection (b) of this section" in the parenthetical phrase.

Subsec. (r). Pub. L. 92-603, §§ 211(c)(2), 256(b), 264(a), 273(a), inserted "or (C) the certification required by section 1395x(a)(2)(E) of this title," added provision so as to include doctors in one of the specified arts legally authorized to practice such art in the country in which inpatient hospital services referred to in section 1395y(a)(4) are furnished, added clause (4) covering doctors of optometry who are legally authorized to practice optometry by the State in which they perform such functions, but only with respect to establishing the necessity for prosthetic lenses, and added clause (5) providing for the inclusion of chiropractor services.

Subsec. (s)(8). Pub. L. 92-603, § 252(a), inserted (including colostomy bags and supplies directly related to colostomy care)" after "organ".

Subsec. (u). Pub. L. 92-603, §§ 227(d)(1), 278(a)(12), substituted "skilled nursing facility, or home health agency, or, for purposes of sections 1395(g) and 1395n(e) of this title, a fund." for "extended care facility, or home health agency.".

Subsec. (v)(1). Pub. L. 92-603, §§ 223(a), (b), (c), (d), 227(c)(1), (2), (3), (4), 249(b), 278(b)(11), added definition of the costs of services, added provision that the regulation for the establishment of limits on the direct or indirect overall incurred costs or incurred costs of specific items or services or groups of items or services to be recognized as reasonably based on estimates of the costs necessary in the efficient delivery of needed health services to individuals covered by the insurance programs established under this subchapter, added parenthetical provisions covering exclusion of costs, substituted "the necessary costs of efficiently delivering covered services covered by the insurance programs" for "the costs with respect to individuals covered by the insurance programs", designated existing provisions as subpars. (A) and (B), and added subpars. (C), (D), and (E), and substituted "skilled nursing facilities" for "extended care facilities".

Subsec. (v)(3). Pub. L. 92-603, § 278(a)(13), substituted "skilled nursing facility" for "extended care facility".

Subsec. (v)(4). Pub. L. 92-603, § 223(f), added subsec. (v)(4). Former subsec. (v)(4) redesignated subsec. (v)(6).

Subsec. (v)(5). Pub. L. 92-603, § 251(c), added subsec. (v)(5).

Subsec. (v)(6). Pub. L. 92-603, §§ 223(f), 251(c), redesignated former subsec. (v)(4) as (v)(6).

Subsec. (v)(7). Pub. L. 92-603, §§ 221(c)(4), 223(b), 251(c), added subsec. (v)(7).

Subsecs. (w), (y). Pub. L. 92-603, § 278(a)(14), (15), substituted "skilled nursing facility" for "extended care facility" and "a" for "an".

Subsec. (z). Pub. L. 92-603, §§ 234(b), 278(b)(6), added subsec. (z) and in such subsec. (z) substituted "skilled nursing facility" for "extended care facility".

1971—Subsec. (e)(5). Pub. L. 91-690 authorized the Secretary, until January 1, 1976, to waive the requirement relating to the provision of 24 hour nursing service rendered or supervised by a registered professional nurse.

1968—Subsec. (e). Pub. L. 90-248, § 129(c)(9)(C), added reference to section 1395n(b) in first and third sentences and inserted "or diagnostic services" after "hospital services" in third sentence.

Pub. L. 90-248, § 143(a), in second sentence after par. (8), changed the definition of hospitals for purposes of making payments for emergency hospital services by deleting provision that hospital meet requirements of pars. (1) to (4), by requiring that such hospitals have full-time nursing services, be licensed as a hospital, and be primarily engaged in providing not nursing care and related services but medical or rehabilitative care by or under the supervision of a doctor of medicine or osteopathy.

Subsec. (p). Pub. L. 90-248, §§ 129(c)(10), 133(b), repealed definition of "outpatient hospital diagnostic services" and inserted definition of "outpatient physical therapy services", respectively.

Subsec. (r). Pub. L. 90-248, § 127(a), added clause (3).

Subsec. (s). Pub. L. 90-248, § 144(a) to (c), deleted "(unless they would otherwise constitute inpatient hospital services, extended care services, or home health services)" following "items or services" in text preceding par. (1), inserted after "hospital" in sentence following par. (9) "which, for purposes of this sentence, means an institution considered a hospital for purposes of section 1395f(d) of this title)", and added sentence following par. (13) providing that medical and other health services (other than physicians' services and services incident to physicians' services) furnished a patient of a facility which meets the definition of a hospital for emergency services will be covered under the medical insurance program only if such facility satisfies such health and safety requirements as are appropriate for the item or service furnished as the Secretary may determine are necessary.

Subsec. (s)(2)(A) to (C). Pub. L. 90-248, § 129(a), designated existing provisions as subpars. (A) and (B) and added subpar. (C).

Subsec. (s)(2)(D). Pub. L. 90-248, § 133(a), added subpar. (D).

Subsec. (s)(3). Pub. L. 90-248, § 134(a), included in medical and other health services diagnostic X-ray tests furnished in the patient's home under the supervision of a physician if the tests meet such health and safety conditions as the Secretary finds necessary.

Subsec. (s)(6). Pub. L. 90-248, § 132(a), provided that payments may be made with respect to expenses incurred in the purchase as well as in the rental of durable medical equipment.

Pub. L. 90-248, § 144(d), inserted after "home" in par. (6) "other than in institution that meets the requirements of subsection (e)(1) or (j)(1) of this section".

Subsec. (s)(12), (13). Pub. L. 90-248, § 129(b), added pars. (12) and (13) which excluded from the diagnostic services referred to in par. (2)(C) (other than physician's services) certain items or service.

Subsec. (y)(3). Pub. L. 90-248, § 129(c)(11), substituted "1395e(a)(3)" for "1395e(a)(4)".

1966—Subsec. (v)(1). Pub. L. 89-713 added provisions which required that, in the case of extended care services furnished by proprietary facilities, the regulations include provision for specific recognition of a reasonable return on equity capital and which placed a limitation on the rate of return of one and one-half times the average of the rates of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106(b) of Pub. L. 94-182 provided that: "Subject to subsection (c) [enacting provision set out as a note hereunder], the amendment made by subsection (a) [amending subsec. (j)(13) of this section] shall be effective on the first day of the sixth month which begins after the date of enactment of this Act [Dec. 31, 1975]."

Section 112(d) of Pub. L. 94-182 provided that: "The amendments made by this section [amending subsec. (w) of this section, sections 1320c-17, and 1395g of this title] shall be effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after the date of enactment of this Act [Dec. 31, 1975]."

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsecs. (e) and (r) by section 211(b) and (c)(2) of Pub. L. 92-603 applicable to services furnished with respect to admissions occurring after Dec. 31, 1972, see section 211(d) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395f of this title.

Section 223(h) of Pub. L. 92-603 provided that: "The amendments made by this section [amending this section and section 1395cc of this title] shall be effective with respect to accounting periods beginning after December 31, 1972."

Section 227(g) of Pub. L. 92-603 provided that: "The amendments made by this section [amending this section and sections 1395f, 1395k, 1395n, 1395u, and 1395cc of this title] shall apply with respect to accounting periods beginning after June 30, 1973."

Section 234(i) of Pub. L. 92-603 provided that: "The amendments made by this section [amending this section and sections 1395f, 1395z, and 1395bb of this title] shall apply with respect to any provider of services for fiscal years (of such provider) beginning after the fifth month following the month in which this Act is enacted [Oct. 1972]."

Section 246(c) of Pub. L. 92-603 provided that: "The amendments made by this section [adding pars. (11) to (13) of subsec. (j), redesignating former par. (11) of subsec. (j) as par. (15), and amending such par. (15), and section 1396(a)(28) of this title] shall be effective July 1, 1973."

Section 251(d) of Pub. L. 92-603, as amended by Pub. L. 93-233, § 17(a), Dec. 31, 1973, 87 Stat. 967, provided that:

"(1) The amendments made by subsection (a) [amending subsec. (p) of this section to cover physical therapy services of a licensed physical therapist other than under an arrangement with and under the supervision of a provider of services, clinic, rehabilitation agency, or public health agency, and amending sections 1395*l* and 1395k(a)(2)(C) of this title] shall apply with respect to services furnished on or after July 1, 1973.

"(2) The amendments made by subsection (b) [amending subsec. (p) of this section by adding provision for the inclusion of physical therapy services which meet the requirements of the first sentence except that they are furnished to an individual as an inpatient of a hospital or extended care facility, and amending section 1395n(a)(2)(C) of this title] shall apply with respect to services furnished on or after the date of enactment of this Act [Oct. 30, 1972].

"(3) The amendments made by subsection (c) [enacting par (5) of subsec. (v) of this section] shall be effective with respect to accounting periods beginning after the month in which there are promulgated, by the Secretary of Health, Education, and Welfare, final regulations implementing the provisions of section 1861(v)(5) of the Social Security Act [subsec. (v)(5) of this section]."

Section 252(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [amending subsec. (s)(8) of this section] shall apply only with respect to items furnished on or after the date of the enactment of this Act [Oct. 30, 1972]."

Amendment of subsec. (r) by section 256(b) of Pub. L. 92-603 applicable with respect to admissions occurring after the second month following the month of enactment of Pub. L. 92-603 which was approved on Oct. 30, 1972, see section 256(d) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395f of this title.

Section 264(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [adding cl. (4) to subsec. (r) of this section] shall apply only with respect to services performed on or after the date of the enactment of this Act [Oct. 30, 1972]."

Section 273(b) of Pub. L. 92-603 provided that: "The amendments made by this section [adding cl. (5) to subsec. (r) of this section] shall be effective with respect to services furnished after June 30, 1973."

Section 276(b) of Pub. L. 92-603 provided that: "The amendment made by this section [amending subsec. (b)(6) of this section] shall apply with respect to accounting periods beginning after December 31, 1972."

Amendment of subsec. (p) by section 283(a) of Pub. L. 92-603 to apply with respect to services rendered after Dec. 31, 1972, see section 283(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395n of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 127(c) of Pub. L. 90-248 provided that: "The amendments made by subsections (a) and (b) [to subsec. (r) of this section and section 1395y(a) of this title] shall apply with respect to services furnished after December 31, 1967."

Amendment of subsecs. (e), (p), (s), and (y) by section 129(a), (b), (c)(9), (10) and (11) of Pub. L. 90-248 applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395d of this title.

Amendment of subsec. (s)(6) by section 132(a) of Pub. L. 90-248 applicable with respect to items purchased after December 31, 1967, see section 132(c) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395*l* of this title.

Amendment of subsecs. (p) and (s) by section 133(a), (b) of Pub. L. 90-248 applicable with respect to services furnished after June 30, 1968, see section 133(g) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395k of this title.

Section 134(b) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) [to subsec. (s)(3) of this section] shall apply with respect to services furnished after December 31, 1967."

Amendment of subsec. (e) by section 143(a) of Pub. L. 90-248 effective as of July 1, 1966, see section 143(d) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395d of this title.

Section 144(e) of Pub. L. 90-248 provided that: "The amendments made by this section [amending subsec. (s) of this section] shall apply with respect to services furnished after March 31, 1968."

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-713 to take effect on the date of enactment of Pub. L. 89-713, which was approved on Nov. 2, 1966, see section 6 of Pub. L. 89-713, set out as an Effective Date of 1966 Amendment note under section 6091 of Title 26, Internal Revenue Code.

COMPLIANCE WITH THE LIFE SAFETY CODE OR STATE FIRE AND SAFETY CODE

Section 106(c) of Pub. L. 94-182 provided that: "Any institution (or part of an institution) which complied with the requirements of section 1861(j)(13) of the Social Security Act [subsec. (j)(13) of this section] on the day preceding the first day referred to in subsection (b) [enacting provisions set out as a note under this section] shall, so long as such compliance is maintained (either by meeting the applicable provisions of the Life Safety Code (21st edition, 1967), with or without waivers of specific provisions, or by meeting the applicable provisions of a fire and safety code imposed by State law as provided for in such section 1861(j)(13)), be considered (for purposes of titles XVIII and XIX of such Act) [subchapters XVIII and XIX of this chapter] to be in compliance with the requirements of such section 1861(j)(13), as it is amended by subsection (a) of this section [amending subsec. (j)(13) of this section]."

HOME HEALTH SERVICES; GRANTS FOR ESTABLISHMENT, OPERATION, STAFFING, ETC., OF PUBLIC AND NONPROFIT PRIVATE AGENCIES AND ENTITIES; PROCEDURES; PAYMENTS; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 94-63, title VI, § 602, July 29, 1975, 89 Stat. 346, as amended by Pub. L. 94-460, title III, § 302, Oct. 8, 1976, 90 Stat. 1960, provided that:

"(a)(1) For the purpose of demonstrating the establishment and initial operation of public and nonprofit private agencies (as defined in section 1861(o) of the Social Security Act) [subsec. o of this section] which will provide home health services (as defined in section 1861(m) of the Social Security Act) [subsec. (m) of this section] in areas in which such services are not otherwise available, the Secretary of Health, Education, and Welfare may, in accordance with the provisions of this section, make grants to meet the initial costs of establishing and operating such agencies and expanding the services available through existing agencies, and to meet the costs of compensating professional and paraprofessional personnel during the initial operation of such agencies or the expansion of services of existing agencies.

"(2) In making grants under this subsection, the Secretary shall consider the relative needs of the several States for home health services and preference shall be given to areas within a State in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or both.

"(3) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall prescribe by regulation.

"(4) Payment of grants under this subsection may be made in advance or by way of reimbursement or in installments as the Secretary may determine.

"(5) There are authorized to be appropriated $8,000,000 for fiscal year 1976, $2,000,000 for the period July 1, 1976, through September 30, 1976, $8,000,000 for the fiscal year ending September 30, 1977 for payments under grants under this subsection.

"(b)(1) The Secretary of Health, Education, and Welfare may make grants to public and nonprofit private entities to assist them in demonstrating the training of professional and paraprofessional personnel to provide home health services (as defined in section 1861(m) of the Social Security Act) [subsec. (m) of this section].

"(2) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulations, prescribe.

"(3) Payment of grants under this section may be made in advance or by way of reimbursement, or in installments, as the Secretary shall determine.

"(4) There is authorized to be appropriated $2,000,000 for fiscal year 1976, $1,000,000 for the period July 1, 1976, through September 30, 1976, and $4,000,000 for the fiscal year ending September 30, 1977 for payments under grants under this subsection."

EFFECT ON DETERMINATION OF PAYMENT UNDER THIS SUBCHAPTER

Section 15(b) of Pub. L. 93-233 provided that: "The provisions of subsection (a) [amending this section and section 1395k of this title] shall not be deemed to render improper any determination of payment under title XVIII of the Social Security Act [this subchapter] for any service provided prior to the enactment of this Act [Dec. 31, 1973]."

STUDIES CONCERNING PAYMENT FOR SERVICES OF PHYSICIANS RENDERED IN A TEACHING HOSPITAL; REPORTS AND ANALYSIS TO CONGRESSIONAL COMMITTEES

Section 15(c) of Pub. L. 93-233, as amended by Pub. L. 93-368, § 7(a), (b), Aug. 7, 1974, 88 Stat. 422, provided that the Secretary of Health, Education, and Welfare conduct a study or studies on methods of reimbursement for physicians' services, extent to which funds are supporting training of medical specialties which are in excess supply, extent to which funds might support teaching programs, etc., and submit an interim report on such study or studies by Mar. 1, 1975, and a final report on such study or studies by Mar. 1, 1976, and that the Social Security Administration study the interim report and submit its analysis to certain congressional committees by June 1, 1976.

PHYSICAL THERAPY SERVICES REQUIREMENTS; EFFECTIVE DATE POSTPONEMENT

Section 17(a) of Pub. L. 93-233 provided that: "In the administration of title XVIII of the Social Security Act [this subchapter], the amount payable thereunder with respect to physical therapy and other services referred to in section 1861(v)(5)(A) of such Act (as added by section 151(c) [should read 251(c)] of the Social Security Amendments of 1972) [subsec. (v)(5)(A) of this section] shall be determined (for the period with respect to which the amendment made by such section 151(c) [251(c)] would, except for the provisions of this section, be applicable) in like manner as if the 'December 31, 1972', which appears in such subsection (d)(3) of such section 151 [251(d)(3), set out as Effective Date of 1972 Amendment note above], read 'the month in which there are promulgated, by the Secretary of Health, Education, and Welfare, final regulations implementing the provisions of section 1861(v)(5) of the Social Security Act [subsec. (v)(5) of this section]'."

PAYMENT FOR DURABLE MEDICAL EQUIPMENT

Section 245(a) to (c) of Pub. L. 92-603 provided that:

"(a) The Secretary is authorized to conduct reimbursement experiments designed to eliminate unreasonable expenses resulting from prolonged rentals of durable medical equipment described in section 1861(s)(6) of the Social Security Act [subsec. (s)(6) of this section].

"(b) Such experiment may be conducted in one or more geographic areas, as the Secretary deems appropriate, and may, pursuant to agreements with suppliers, provide for reimbursement for such equipment on a lump-sum basis whenever it is determined (in accordance with guidelines established by the Secretary) that a lump-sum payment would be more economical than the anticipated period of rental payments. Such experiments may also provide for incentives to beneficiaries (including waiver of the 20 percent coinsurance amount applicable under section 1833 of the Social Security Act [section 1395l of this title]) to purchase used equipment whenever the purchase price is at least 25 percent less than the reasonable charge for new equipment.

"(c) The Secretary is authorized, at such time as he deems appropriate, to implement on a nationwide basis any such reimbursement procedures which he finds to be workable, desirable and economical and consistent with the purposes of this section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 247d, 254c, 705, 706, 1395d, 1395f, 1395g, 1395k, 1395l, 1395m, 1395n, 1395u, 1395z, 1395aa, 1395bb, 1395cc, 1395mm, 1395nn, 1395oo, 1396a, 1396b, 1396d, 2689e of this title; title 26 section 415.

§ 1395y. Exclusions from coverage

(a) Items or services specifically excluded

Notwithstanding any other provision of this subchapter, no payment may be made under part A or part B for any expenses incurred for items or services—

(1) which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member;

(2) for which the individual furnished such items or services has no legal obligation to pay, and which no other person (by reason of such individual's membership in a prepayment plan or otherwise) has a legal obligation to provide or pay for;

(3) which are paid for directly or indirectly by a governmental entity (other than under this chapter and other than under a health benefits or insurance plan established for employees of such an entity), except in such cases as the Secretary may specify;

(4) which are not provided within the United States (except for inpatient hospital services furnished outside the United States under the conditions described in section 1395f(f) of this title and, subject to such conditions, limitations, and requirements as are provided under or pursuant to this subchapter, physicians services and ambulance services furnished an individual in conjunction with such inpatient hospital services but only for the period during which such inpatient hospital services were furnished);

(5) which are required as a result of war, or of an act of war, occurring after the effective date of such individual's current coverage under such part;

(6) which constitute personal comfort items;

(7) where such expenses are for routine physical checkups, eyeglasses or eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, procedures performed (during the course of any eye examination) to determine the refractive state of the eyes, hearing aids or examinations therefor, or immunizations;

(8) where such expenses are for orthopedic shoes or other supportive devices for the feet;

(9) where such expenses are for custodial care;

(10) where such expenses are for cosmetic surgery or are incurred in connection therewith, except as required for the prompt repair of accidental injury or for improvement of the functioning of a malformed body members;

(11) where such expenses constitute charges imposed by immediate relative of such individual or members of his household;

(12) where such expenses are for services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, except that payment may be made under part A in the case of inpatient hospital services in connection with the provision of such dental services if the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such services; or

(13) where such expenses are for—

(A) the treatment of flat foot conditions and the prescription of supportive devices therefor,

(B) the treatment of subluxations of the foot, or

(C) routine foot care (including the cutting or removal of corns, warts, or calluses, the trimming of nails, and other routine hygienic care).

(b) Items or services paid, etc., under workmen's compensation laws

Payment under this subchapter may not be made with respect to any item or service to the extent that payment has been made, or can reasonably be expected to be made (as determined in accordance with regulations), with respect to such item or service, under a workmen's compensation law or plan of the United States or a State. Any payment under this subchapter with respect to any item or service shall be conditioned on reimbursement to the appropriate Trust Fund established by this subchapter when notice or other information is received that payment for such item or service has been made under such a law or plan.

(c) Repealed. Pub. L. 94-182, title I, § 103, Dec. 31, 1975, 89 Stat. 1051

(d) False statements, etc.; excessive bills or requests; excessive services or supplies; determination of Secretary

(1) No payment may be made under this subchapter with respect to any item or services furnished to an individual by a person where the Secretary determines under this subsection that such person—

(A) has knowingly and willfully made, or caused to be made, any false statement or representation of a material fact for use in an application for payment under this subchapter or for use in determining the right to a payment under this subchapter;

(B) has submitted or caused to be submitted (except in the case of a provider of services), bills or requests for payment under this subchapter containing charges (or in applicable cases requests for payment of costs to such person) for services rendered which the Secretary finds, with the concurrence of the appropriate program review team appointed pursuant to paragraph (4), to be substantially in excess of such person's customary charges (or in applicable cases substantially in excess of such person's costs) for such services, unless the Secretary finds there is good cause for such bills or requests containing such charges (or in applicable cases, such costs); or

(C) has furnished services or supplies which are determined by the Secretary, with the concurrence of the members of the appropriate program review team appointed pursuant to paragraph (4) who are physicians or other professional personnel in the health care field, to be substantially in excess of the

needs of individuals or to be harmful to individuals or to be of a grossly inferior quality.

(2) A determination made by the Secretary under this subsection shall be effective at such time and upon such reasonable notice to the public and to the person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of inpatient hospital services, posthospital extended care services, and home health services such determination shall be effective in the manner provided in section 1395cc(b)(3) and (4) of this title with respect to terminations of agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

(3) Any person furnishing services described in paragraph (1) who is dissatisfied with a determination made by the Secretary under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 405(b) of this title, and to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title.

(4) For the purposes of paragraph (1)(B) and (C) of this subsection, and clause (F) of section 1395cc(b)(2) of this title, the Secretary shall, after consultation with appropriate State and local professional societies, the appropriate carriers and intermediaries utilized in the administration of this subchapter, and consumer representatives familiar with the health needs of residents of the State, appoint one or more program review teams (composed of physicians, other professional personnel in the health care field, and consumer representatives) in each State which shall, among other things—

(A) undertake to review such statistical data on program utilization as may be submitted by the Secretary,

(B) submit to the Secretary periodically, as may be prescribed in regulations, a report on the results of such review, together with recommendations with respect thereto,

(C) undertake to review particular cases where there is a likelihood that the person or persons furnishing services and supplies to individuals may come within the provisions of paragraph (1)(B) and (C) of this subsection or clause (F) of section 1395cc(b)(2) of this title, and

(D) submit to the Secretary periodically, as may be prescribed in regulations, a report of cases reviewed pursuant to subparagraph (C) along with an analysis of, and recommendations with respect to, such cases.

(Aug. 14, 1935, ch. 531, title XVIII, § 1862, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 325, and amended Jan. 2, 1968, Pub. L. 90-248, title I, §§ 127(b), 128, 81 Stat. 846, 847; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 210, 211(c)(1), 229(a), 256(c), 86 Stat. 1382, 1384, 1408, 1447; Dec. 31, 1973, Pub. L. 93-233, § 18(k)(3), 87 Stat. 970; Oct. 26, 1974, Pub. L. 93-480, § 4(a), 88 Stat. 1454; Dec. 31, 1975, Pub. L. 94-182, title I, § 103, 89 Stat. 1051.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94-182 struck out subsec. (c) prohibiting payments to Federal employees under this subchapter unless a determination and certification by the Secretary of a modification of any health benefits plan under chapter 89 of Title 5 was made which would allow a Federal employee benefits under part A or B of this subchapter.

1974—Subsec. (c). Pub. L. 93-480 substituted "January 1, 1976" for "January 1, 1975".

1973—Subsec. (a)(12). Pub. L. 93-233 substituted "the provision of such dental services if the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such services" for "a dental procedure where the individual suffers from impairments of such severity as to require hospitalization".

1972—Subsec. (a)(4). Pub. L. 92-603, § 211(c)(1), inserted reference to physicians' services and ambulance services furnished an individual in conjunction with emergency inpatient hospital services.

Subsec. (a)(12). Pub. L. 92-603, § 256(c), authorized payment under part A in the case of inpatient hospital services in connection with a dental procedure where the individual suffers from impairments of such severity as to require hospitalization.

Subsec. (c). Pub. L. 92-603, § 210, added subsec. (c).

Subsec. (d). Pub. L. 92-603, § 229(a), added subsec. (d).

1968—Subsec. (a)(7). Pub. L. 90-248, § 128, prohibited payment for procedures performed (during the course of any eye examination) to determine the refractive state of the eyes.

Subsec. (a)(13). Pub. L. 90-248, § 127(b), added par. (13).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-233 effective with respect to admissions subject to the provisions of section 1395(a)(2) of this title which occur after Dec. 31, 1973, see section 18(z-3)(2) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 1395f of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (a)(4) by section 211(c)(1) of Pub. L. 92-603 applicable to services furnished with respect to admissions occurring after Dec. 31, 1972, see section 211(d) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395f of this title.

Amendment of subsec. (a)(12) by section 256(c) of Pub. L. 92-603 applicable with respect to admissions occurring after the second month following the month of enactment of Pub. L. 92-603 which was approved on Oct. 30, 1972, see section 256(d) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395f of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a)(11) to (13) by section 127(b) of Pub. L. 90-248, applicable with respect to services furnished after Dec. 31, 1967, see section 127(c) of Pub. L. 90-248 set out as an Effective Date of 1968 Amendment note under section 1395x of this title.

REPORT TO CONGRESSIONAL COMMITTEES ON IMPLEMENTATION OF CERTIFICATION REQUIREMENTS RELATING TO MODIFICATION OF HEALTH BENEFITS PLAN OR PROGRAM; FAILURE TO SUBMIT REPORT

Section 4(b) of Pub. L. 93-480 provided that the Civil Service Commission and the Secretary of Health, Education, and Welfare submit a report on or before Mar. 1, 1975, on the steps which have been taken, and the steps which are planned, to enable the Secretary to make the determination and certification referred to in former subsec. (c) of this section and that if such

report is not submitted by Mar. 1, 1975, the date specified in former subsec. (c) shall be deemed to be July 1, 1975, rather than Jan. 1, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 1320c-6, 1395*l*, 1395u, 1395x, 1395cc, 1395gg, 1395oo, 1395pp, 1396b of this title; title 45 section 231f.

§ 1395z. Consultation with State agencies and other organizations to develop conditions of participation for providers of services

In carrying out his functions, relating to determination of conditions of participation by providers of services, under subsections (e)(9), (f)(4), (g)(4), (j)(11), and (o)(6) of section 1395x of this title, the Secretary shall consult with the Health Insurance Benefits Advisory Council established by section 1395dd of this title, appropriate State agencies, and recognized national listing or accrediting bodies, and may consult with appropriate local agencies. Such conditions prescribed under any of such subsections may be varied for different areas or different classes of institutions or agencies and may, at the request of a State, provide higher requirements for such State than for other States; except that, in the case of any State or political subdivision of a State which imposes higher requirements on institutions as a condition to the purchase of services (or of certain specified services) in such institutions under a State plan approved under subchapter I, XVI, or XIX of this chapter, the Secretary shall impose like requirements as a condition to the payment for services (or for the services specified by the State or subdivision) in such institutions in such State or subdivision.

(Aug. 14, 1935, ch. 531, title XVIII, § 1863, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a). 79 Stat. 325, and amended; Oct. 30, 1972, Pub. L. 92-603, title II, § 234(g)(2), 86 Stat. 1413.)

AMENDMENTS

1972—Pub. L. 92-603 substituted "subsections (e)(9), (f)(4), (g)(4), (j)(11), and (o)(6) of section 1395x of this title" for "subsections (e)(8), (f)(4), (g)(4), (j)(10), and (o)(5) of section 1395x of this title".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-603 applicable with respect to providers of services for fiscal years beginning after the fifth month following October 1972, see section 234(i) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395x of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395x, 1395bb of this title; title 45 section 231f.

§ 1395aa. Agreements with States

(a) Use of State agencies to determine compliance by providers of services with conditions of participation

The Secretary shall make an agreement with any State which is able and willing to do so under which the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by him for the purpose of determining whether an institution therein is a hospital or skilled nursing facility, or whether an agency therein is a home health agency, or whether a laboratory meets the requirements of paragraphs (10) and (11) of section 1395x(s) of this title, or whether a clinic, rehabilitation agency, or public health agency meets the requirements of subparagraph (A) or (B), as the case may be, of section 1395x(p)(4) of this title. To the extent that the Secretary finds it appropriate, an institution or agency which such a State (or local) agency certifies is a hospital, skilled nursing facility, or home health agency (as those terms are defined in section 1395x of this title) may be treated as such by the Secretary. Any State agency which has such an agreement may (subject to approval of the Secretary) furnish to a skilled nursing facility, after proper request by such facility, such specialized consultative services (which such agency is able and willing to furnish in a manner satisfactory to the Secretary) as such facility may need to meet one or more of the conditions specified in section 1395x(j) of this title. Any such services furnished by a State agency shall be deemed to have been furnished pursuant to such agreement. Within 90 days following the completion of each survey of any health care facility, laboratory, clinic, agency, or organization by the appropriate State or local agency described in the first sentence of this subsection, the Secretary shall make public in readily available form and place the pertinent findings of each such survey relating to the compliance of each such health care facility, laboratory, clinic, agency, or organization with (1) the statutory conditions of participation imposed under this subchapter and (2) the major additional conditions which the Secretary finds necessary in the interest of health and safety of individuals who are furnished care or services by any such facility, laboratory, clinic, agency, or organization.

(b) Payment in advance or by way of reimbursement to State for performance of functions of subsec. (a)

The Secretary shall pay any such State, in advance or by way of reimbursement, as may be provided in the agreement with it (and may make adjustments in such payments on account of overpayments or underpayments previously made), for the reasonable cost of performing the functions specified in subsection (a) of this section, and for the Federal Hospital Insurance Trust Fund's fair share of the costs attributable to the planning and other efforts directed toward coordination of activities in carrying out its agreement and other activities related to the provision of services similar to those for which payment may be made under part A, or related to the facilities and personnel required for the

provision of such services, or related to improving the quality of such services.

(c) Use of State or local agencies to survey hospitals

The Secretary is authorized to enter into an agreement with any State under which the appropriate State or local agency which performs the certification function described in subsection (a) of this section will survey, on a selective sample basis (or where the Secretary finds that a survey is appropriate because of substantial allegations of the existence of a significant deficiency or deficiencies which would, if found to be present, adversely affect health and safety of patients), hospitals which have an agreement with the Secretary under section 1395cc of this title and which are accredited by the Joint Commission on the Accreditation of Hospitals. The Secretary shall pay for such services in the manner prescribed in subsection (b) of this section.

(Aug. 14, 1935, ch. 531, title XVIII, § 1864, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 326, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 133(f), title II, § 228(b), 81 Stat. 852, 904; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 244(a), 277, 278(a)(16), (b)(15), 299D(a), 86 Stat. 1422, 1452-1454, 1461.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-603, § 277, 278(a)(16), (b)(15), 299D(a), provided for the furnishing of specialized consultative services to skilled nursing facilities, authorized the Secretary to make public the pertinent findings of each survey within 90 days following the completion of each survey of any health care facility, etc., and substituted "skilled nursing facility" for "extended care facility".

Subsec. (c). Pub. L. 92-603, § 244(a) added subsec. (c).

1968—Subsec. (a). Pub. L. 90-248, § 133(f), added clause at end of first sentence for determining whether a clinic, rehabilitation agency, or public health agency meets the requirements of section 1395x(p)(4)(A) or (B) of this title.

Pub. L. 90-248, § 228(b), repealed last sentence providing for utilization of State facilities to provide consultative services to institutions furnishing medical care, now covered in section 1396a(a)(24) of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 299D(c) of Pub. L. 92-603 provided that: "The provisions of this section [which amended subsec. (a) of this section and section 1396a(a)(37) of this title] shall be effective beginning January 1, 1973, or within 6 months following the enactment of this Act [Oct. 30, 1972], whichever is later.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 133(f) of Pub. L. 90-248 applicable with respect to services furnished after June 30, 1968, see section 133(g) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395k of this title.

Section 228(b) of Pub. L. 90-248 provided in part that the repeal of the last sentence of subsec. (a) by such section 228(b) shall be effective July 1, 1969.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 705, 1395x, 1395bb, 1396a of this title; title 45 section 231f.

§ 1395bb. Effect of accreditation

(a) Except as provided in subsection (b) of this section and the second sentence of section 1395z of this title, if—

(1) an institution is accredited as a hospital by the Joint Commission on Accreditation of Hospitals, and

(2) such institution (if it is included within a survey described in section 1395aa(c) of this title) authorizes the Commission to release to the Secretary (on a confidential basis) upon his request (or such State agency as the Secretary may designate) a copy of the most current accreditation survey of such institution made by such Commission,

then, such institution shall be deemed to meet the requirements of the numbered paragraphs of section 1395x(e) of this title; except—

(3) paragraph (6) thereof, and

(4) any standard, promulgated by the Secretary pursuant to paragraph (9) thereof, which is higher than the requirements prescribed for accreditation by such Commission.

If such Commission, as a condition for accreditation of a hospital, requires a utilization review plan (or imposes another requirement which serves substantially the same purpose) or imposes a standard which the Secretary determines is at least equivalent to the standard promulgated by the Secretary as described in paragraph (4) of this subsection, the Secretary is authorized to find that all institutions so accredited by such Commission comply also with section 1395x(e)(6) of this title or the standard described in such paragraph (4), as the case may be. In addition, if the Secretary finds that accreditation of an institution or agency by the American Osteopathic Association or any other national accreditation body provides reasonable assurance that any or all of the conditions of section 1395x(e), (j) or (o) of this title, as the case may be, are met, he may, to the extent he deems it appropriate, treat such institution or agency as meeting the condition or conditions with respect to which he made such finding.

(b) Notwithstanding any other provision of this subchapter, if the Secretary finds following a survey made pursuant to section 1395aa(c) of this title that an institution has significant deficiencies (as defined in regulations pertaining to health and safety), such institution shall, after the date of notice of such finding to the hospital and for such period as may be prescribed in regulations, be deemed not to meet the requirements of the numbered paragraphs of section 1395x(e) of this title.

(Aug. 14, 1935, ch. 531, title XVIII, § 1865, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 326, and amended Oct. 30, 1972, Pub. L. 92-603, title II, §§ 234(h), 244(b), 86 Stat. 1413, 1423.)

AMENDMENTS

1972—Pub. L. 92-603 designated existing provisions as subsec. (a) and added subsec. (b) and in subsec. (a) as redesignated inserted reference to subsec. (b) of this section in the opening provisions, redesignated existing provisions as pars. (1) and (3) and added pars. (2) and (4) and in the provisions following par. (4) added provisions for the imposition of a standard which the Secretary determines is at least equivalent to the standard promulgated by the Secretary as described in par. (4).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 234(h) of Pub. L. 92-603 applicable with respect to providers of services for fiscal years beginning after the fifth month following October 1972, see section 234(i) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395x of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395x of this title.

§ 1395cc. Agreements with providers of services

(a) Filing of agreement; eligibility for payment; charges with respect to items and services

(a)(1) Any provider of services (except a fund designated for purposes of section 1395f(g) and section 1395n(e) of this title) shall be qualified to participate under this subchapter and shall be eligible for payments under this subchapter if it files with the Secretary an agreement—

(A) not to charge, except as provided in paragraph (2), any individual or any other person for items or services for which such individual is entitled to have payment made under this subchapter (or for which he would be so entitled if such provider of services had complied with the procedural and other requirements under or pursuant to this subchapter or for which such provider is paid pursuant to the provisions of section 1395f(e) of this title), and

(B) not to charge any individual or any other person for items or services for which such individual is not entitled to have payment made under this subchapter because payment for expenses incurred for such items or services may not be made by reason of the provisions of paragraph (1) or (9), but only if (i) such individual was without fault in incurring such expenses and (ii) the Secretary's determination that such payment may not be made for such items and services was made after the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this subchapter, and

(C) to make adequate provision for return (or other disposition, in accordance with regulations) of any moneys incorrectly collected from such individual or other person.

An agreement under this paragraph with a skilled nursing facility shall be for a term of not exceeding 12 months, except that the Secretary may extend such term for a period not exceeding 2 months, where the health and safety of patients will not be jeopardized thereby, if he finds that such extension is necessary to prevent irreparable harm to such facility or hardship to the individuals being furnished items or services by such facility or if he finds it impracticable within such 12-month period to determine whether such facility is complying with the provisions of this subchapter and regulations thereunder.

(2)(A) A provider of services may charge such individual or other person (i) the amount of any deduction or coinsurance amount imposed pursuant to section 1395e(a)(1) or (a)(3), section 1395*l*(b), or section 1395x(y)(3) of this title with respect to such items and services (not in excess of the amount customarily charged for such items and services by such provider), and (ii) an amount equal to 20 per centum of the reasonable charges for such items and services (not in excess of 20 per centum of the amount customarily charged for such items and services by such provider) for which payment is made under part B. In the case of items and services described in section 1395*l*(c) of this title, clause (ii) of the preceding sentence shall be applied by substituting for 20 percent the proportion which is appropriate under such section.

(B)(i) Where a provider of services has furnished, at the request of such individual, items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under this subchapter, such provider of services may also charge such individual or other person for such more expensive items or services to the extent that the amount customarily charged by it for the items or services furnished at such request exceeds the amount customarily charged by it for the items or services with respect to which payment may be made under this subchapter.

(ii) Where a provider of services customarily furnishes an individual items or services which are more expensive than the items or services determined to be necessary in the efficient delivery of needed health services under this subchapter and which have not been requested by such individual, such provider may (except with respect to emergency services) also charge such individual or other person for such more expensive items or services to the extent that the costs of (or, if less, the customary charges for) such more expensive items or services experienced by such provider in the second fiscal period immediately preceding the fiscal period in which such charges are imposed exceed the cost of such items or services determined to be necessary in the efficient delivery of needed health services, but only if—

(I) the Secretary has provided notice to the public of any charges being imposed on individuals entitled to benefits under this subchapter on account of costs in excess of the costs determined to be necessary in the efficient delivery of needed health services under this subchapter by particular providers of services in the area in which such items or services are furnished, and

(II) the provider of services has identified such charges to such individual or other person, in such manner as the Secretary may prescribe, as charges to meet costs in excess of the cost determined to be necessary in the efficient delivery of needed health services under this subchapter.

(C) A provider of services may in accordance with its customary practice also appropriately charge any such individual for any whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished him with respect to which a deductible is imposed under section 1395e(a)(2) of this title, except that (i) any excess of such charge over the cost to such provider for the blood (or equivalent quantities of packed red blood cells, as so defined) shall be deducted from any pay-

ment to such provider under this subchapter, (ii) no such charge may be imposed for the cost of administration of such blood (or equivalent quantities of packed red blood cells, as so defined), and (iii) such charge may not be made to the extent such blood (or equivalent quantities of packed red blood cells, as so defined) has been replaced on behalf of such individual or arrangements have been made for its replacement on his behalf. For purposes of this subparagraph, whole blood (or equivalent quantities of packed red blood cells, as so defined) furnished an individual shall be deemed replaced when the provider of services is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual with respect to which a deduction is imposed under section 1395e(a)(2) of this title.

(D) Where a provider of services customarily furnishes items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under this subchapter, such provider, notwithstanding the preceding provisions of this paragraph, may not, under the authority of subparagraph (B)(ii) of this paragraph, charge any individual or other person any amount for such items or services in excess of the amount of the payment which may otherwise be made for such items or services under this subchapter if the admitting physician has a direct or indirect financial interest in such provider.

(b) Termination of agreements

An agreement with the Secretary under this section may be terminated (and in the case of a skilled nursing facility, prior to the end of the term specified in subsection (a)(1) of this section)—

(1) by the provider of services at such time and upon such notice to the Secretary and the public as may be provided in regulations, except that notice of more than 6 months shall not be required, or

(2) by the Secretary at such time and upon such reasonable notice to the provider of services and the public as may be specified in regulations, but only after the Secretary has determined (A) that such provider of services is not complying substantially with the provisions of such agreement, or with the provisions of this subchapter and regulations thereunder, or (B) that such provider of services no longer substantially meets the applicable provisions of section 1395x of this title, or (C) that such provider of services has failed to provide such information as the Secretary finds necessary to determine whether payments are or were due under this subchapter and the amounts thereof, or has refused to permit such examination of its fiscal and other records by or on behalf of the Secretary as may be necessary to verify such information, or (D) that such provider has made, or caused to be made, any false statement or representation of a material fact for use in an application for payment under this subchapter or for use in determining the right to a payment under this subchapter, or (E) that such provider has submitted, or caused to be submitted, request for payment under this subchapter of amounts for rendering services substantially in excess of the costs incurred by such provider for rendering such services, or (F) that such provider has furnished services or supplies which are determined by the Secretary, with the concurrence of the members of the appropriate program review team appointed pursuant to section 1395y(d)(4) of this title who are physicians or other professional personnel in the health care field, to be substantially in excess of the needs of individuals or to be harmful to individuals or to be of a grossly inferior quality.

Any termination shall be applicable—

(3) in the case of inpatient hospital services (including tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services, with respect to services furnished after the effective date of such termination, except that payment may be made for up to thirty days with respect to inpatient institutional services furnished to any eligible individual who was admitted to such institution prior to the effective date of such termination,

(4)(A) with respect to home health services furnished to an individual under a plan therefor established on or after the effective date of such termination, or (B) if a plan is established before such effective date, with respect to such services furnished to such individual after the calendar year in which such termination is effective, and

(5) with respect to any other items and services furnished on or after the effective date of such termination.

(c) Refiling after termination; agreements with skilled nursing facilities

(1) Where an agreement filed under this subchapter by a provider of services has been terminated by the Secretary, such provider may not file another agreement under this subchapter unless the Secretary finds that the reason for the termination has been removed and that there is reasonable assurance that it will not recur.

(2) In the case of a skilled nursing facility participating in the programs established by this subchapter and subchapter XIX of this chapter, the Secretary may enter into an agreement under this section only if such facility has been approved pursuant to section 1396i of this title, and the term of any such agreement shall be in accordance with the period of approval of eligibility specified by the Secretary pursuant to such section.

(d) Decision to withhold payment for failure to review long-stay cases

If the Secretary finds that there is a substantial failure to make timely review in accordance with section 1395x(k) of this title of long-stay cases in a hospital or skilled nursing facility, he may, in lieu of terminating his agreement with such hospital or facility, decide that, with respect to any individual admitted to such hospital or facility after a subsequent date specified by him, no payment shall be made under this subchapter for inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) after the 20th day of a continuous period of

such services or for post-hospital extended care services after such day of a continuous period of such care as is prescribed in or pursuant to regulations, as the case may be. Such decision may be made effective only after such notice to the hospital, or (in the case of a skilled nursing facility) to the facility and the hospital or hospitals with which it has a transfer agreement, and to the public, as may be prescribed by regulations, and its effectiveness shall terminate when the Secretary finds that the reason therefor has been removed and that there is reasonable assurance that it will not recur. The Secretary shall not make any such decision except after reasonable notice and opportunity for hearing to the institution or agency affected thereby.

(e) "Provider of services" defined

For purposes of this section, the term "provider of services" shall include a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1395x(p)(4)(A) of this title, or if, in the case of a public health agency, such agency meets the requirements of section 1395x(p)(4)(B) of this title, but only with respect to the furnishing of outpatient physical therapy services (as therein defined).

(Aug. 14, 1935, ch. 531, title XVIII, § 1866, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 327, and amended Jan. 2, 1968, Pub. L. 90-248, title I, §§ 129(c)(12), 133(c), 135(b), 81 Stat. 849, 851, 852; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 223(e), (g), 227(d)(2), 229(b), 249A(b)-(d), 278(a)(17), (b)(18), 281(c), 86 Stat. 1394, 1406, 1409, 1427, 1453-1455.)

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92-603, §§ 227(d)(2), 249A(b), 278(a)(17), (b)(18), 281(c), substituted "Any provider of services (except a fund designated for purposes of section 1395f(g) and section 1395n(e) of this title)" for "Any provider of services", "skilled nursing facility" for "extended care facility", added provision that the agreement be for a term of not to exceed 12 months with an allowable extension of 2 months under specified circumstances, redesignated former subpar. (B) as (C) and added subpar. (B).

Subsec. (a)(2)(B). Pub. L. 92-603, § 223(e), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (a)(2)(C). Pub. L. 92-603, § 223(g)(2), substituted "this subparagraph" for "clause (iii) of the preceding sentence".

Subsec. (a)(2)(D). Pub. L. 92-603, § 223(g)(1), added subpar. (D).

Subsec. (b). Pub. L. 92-603, §§ 229(b), 249A(c), 278(a)(17), inserted "(and in the case of an extended care facility, prior to the end of the term specified in subsection (a)(1) of this section) in the provision preceding par. (1), in par. (2), added Subpart (D)-(F), and in par. (3), substituted "(including tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services, with respect to services furnished after the effective date of such termination, except that payment may be made for up to thirty days with respect to inpatient institutional services furnished to any eligible individual who was admitted to such institution prior to" for "(including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services, with respect to such services furnished to any individual who is admitted to the hospital or extended care facility furnishing such services on or after" and substituted "skilled nursing facility" for "extended care facility".

Subsec. (c). Pub. L. 92-603, § 249A(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 92-603, § 278(a)(17), substituted "skilled nursing facility" for "extended care facility" and "a" for "an".

1968—Subsec. (a)(2)(A). Pub. L. 90-248, § 129(c)(12)(A)(i), (ii), substituted "or (a)(3)" for ", (a)(2), or (a)(4)" in clause (i), and deleted "or, in the case of outpatient hospital diagnostic services, for which payment is made under part A" in clause (ii).

Subsec. (a)(2)(C). Pub. L. 90-248, § 129(c)(12)(B), substituted "1395e(a)(2)" for "1395e(a)(3)".

Pub. L. 90-248, § 135(b), authorized a provider of services to charge for blood in accordance with its customary practices, included, in addition to whole blood for which a provider of services may charge, equivalent quantities of packed red blood cells, and provided that blood furnished an individual will be deemed replaced when the provider is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells) furnished the individual to which the three pint deductible applies.

Subsec. (e). Pub. L. 90-248, § 133(c), added subsec. (e).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (a), by section 223(e), (g), of Pub. L. 92-603 effective with respect to accounting periods beginning after Dec. 31, 1972, see section 223(h) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395x of this title.

Amendment by section 227(d)(2) of Pub. L. 92-603 applicable with respect to accounting periods beginning after June 30, 1973, see section 227(g) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395x of this title.

Section 249A(e) of Pub. L. 92-603 provided that: "The provisions of this section [enacting section 1396 of this title and amending this section] shall be effective with respect to agreements filed with the Secretary under section 1866 of the Social Security Act [this section] by skilled nursing facilities (as defined in section 1861(j) of such Act [section 1395x(j) of this title]) before, on, or after the date of enactment of this Act [Oct. 30, 1972], but accepted by him on or after such date."

Amendment of subsec. (a)(1) by section 281(c) of Pub. L. 92-603 to apply in the case of notices sent to individuals after 1968, see section 281(g) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395gg of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a)(2)(A), (C) by section 129(c)(12)(A), (B) of Pub. L. 90-248, applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395d of this title.

Amendment of subsec. (a)(2)(C) by section 135(b) of Pub. L. 90-248, applicable with respect to payment for blood (or packed red blood cells) furnished an individual after December 31, 1967, see section 135(d) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395e of this title.

Amendment of subsec. (e) by section 133(c) of Pub. L. 90-248, applicable with respect to services furnished after June 30, 1968, see section 133(g) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 1395k of this title.

AGREEMENTS FILED AND ACCEPTED PRIOR TO OCT. 30, 1972, DEEMED TO BE FOR SPECIFIED TERM ENDING DEC. 31, 1973

Section 249A(f) of Pub. L. 92-603 provided that: "Notwithstanding any other provision of law, any agreement, filed by a skilled nursing facility (as defined in section 1861(j) of the Social Security Act [section 1395x(j) of this title]) with the Secretary under section 1866 of such Act [this section] and accepted by him prior to the date of enactment of this Act [Oct.

30, 1972], which was in effect on such date shall be deemed to be for a specified term ending on December 31, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 1320c-6, 1395e, 1395f, 1395n, 1395x, 1395y, 1395aa, 1395ff, 1396b of this title.

§ 1395dd. Health Insurance Benefits Advisory Council; creation; composition; appointment of members; Chairman; representative activities and interests; terms of office; compensation and travel expenses; meetings; functions

(a) There is hereby created a Health Insurance Benefits Advisory Council which shall consist of 19 persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of title 5 governing appointments in the competitive services. The Secretary shall from time to time appoint one of the members to serve as Chairman. The members shall include persons who are outstanding in fields related to hospital, medical, and other health activities, persons who are representative of organizations and associations of professional personnel in the field of medicine, and at least one person who is representative of the general public. Each member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. A member shall not be eligible to serve continuously for more than two terms. Members of the Advisory Council, while attending meetings or conferences thereof or otherwise serving on business of the Advisory Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently. The Advisory Council shall meet as the Secretary deems necessary, but not less than annually.

(b) It shall be the function of the Advisory Council to provide advice and recommendations for the consideration of the Secretary on matters of general policy with respect to this subchapter and subchapter XIX of this chapter.

(Aug. 14, 1935, ch. 531, title XVIII, § 1867, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 329, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 164(a), 81 Stat. 873; Oct. 30, 1972, Pub. L. 92-603, title II, § 288, 86 Stat. 1457.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive services, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-603, § 288(a), struck out provisions relating to the establishment of special advisory professional or technical committees and the compensation of members of such committees, and provisions requiring the Secretary to call a meeting of the Advisory Council upon the request of five or more members, and added provisions requiring meetings to be held at least annually.

Subsec. (b). Pub. L. 92-603, § 288(b), substituted provisions requiring the Advisory Council to provide advice and recommendations for the Secretary on matters of general policy with respect to this subchapter and subchapter XIX of this chapter, for provisions requiring the Advisory Council to advise the Secretary on matters of general policy in the administration of this subchapter and the formulation of regulations under this subchapter, to study and make recommendations with respect to the utilization of hospital and other medical care and services for which payment is made under this subchapter, and to make an annual report to the Secretary on the performance of its functions, including any recommendations with respect thereto.

Subsec. (c). Pub. L. 92-603, § 288(c), struck out subsec. (c), which authorized the Advisory Council to engage such technical assistance as necessary to carry out its functions and required the Secretary to make available to the Advisory Council secretarial and other assistance and such pertinent data as necessary.

1968—Subsec. (a). Pub. L. 90-248 designated existing provisions as subsec. (a), deleted subject matter now covered in subsec. (b)(1) of this section and respecting expiration of terms of office of members first taking office, as designated by the Secretary when appointed, four at end of first year, four at end of second year, four at end of third year, and four at end of fourth year after date of appointment, increased Council membership from 16 to 19 persons and number of members required to call meetings from 4 to 5 persons, substituted provision for appointments without regard to provisions of title 5, governing appointments in the competitive service for former provision to disregard the civil service laws and reference to section 5703 for section 73b-2 of title 5, and provided for representation of organizations and associations of professional personnel in the field of medicine.

Subsec. (b). Pub. L. 90-248 incorporated existing provisions in cl. (1) and added cl. (2) making it a Council function to study and recommend changes in use of hospital and other medical care and services and requirement of annual reports to the Secretary and Congress.

Subsec. (c). Pub. L. 90-248 added subsec. (c).

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

TERMS OF OFFICE; EXPIRATION

Section 164(b) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) [amending this section] shall not be construed as affecting the terms of office of the members of the Health Insurance Benefits Advisory Council in office on the date of the enactment of this Act [Jan. 2, 1968] or their successors. The terms of office of the three additional members of the Health Insurance Benefits Advisory Council first appointed pursuant to the increase in the membership of such Council provided by such amendment shall expire, as designated by the Secretary at the time of appointment, one at the end of the first year, one at the end of the second year, and one at the end of the third year after the date of appointment."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395z of this title; title 45 section 231f.

§ 1395ee. Repealed. Pub. L. 90-248, title I, § 164(c), Jan. 2, 1968, 81 Stat. 874

Section, act Aug. 14, 1935, ch. 531, title XVIII, § 1868, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 329, provided for creation of a National Medical Review Committee, functions of such Committee, including submission of annual reports to the Secretary and Congress, employment of technical assistance, and for availability of assistance and data, and is now covered by section 1395dd of this title.

§ 1395ff. Determinations of Secretary

(a) Entitlement to and amount of benefits

The determination of whether an individual is entitled to benefits under part A or part B, and the determination of the amount of benefits under part A, shall be made by the Secretary in accordance with regulations prescribed by him.

(b) Appeal by individuals

(1) Any individual dissatisfied with any determination under subsection (a) of this section as to—

(A) whether he meets the conditions of section 426 or section 426a of this title, or

(B) whether he is eligible to enroll and has enrolled pursuant to the provisions of part B of this subchapter, or section 1395i-2 of this title, or section 1819, or

(C) the amount of benefits under part A (including a determination where such amount is determined to be zero)

shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 405(b) of this title and to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title.

(2) Notwithstanding the provisions of subparagraph (C) of paragraph (1) of this subsection, a hearing shall not be available to an individual by reason of such subparagraph (C) if the amount in controversy is less than $100; nor shall judicial review be available to an individual by reason of such subparagraph (C) if the amount in controversy is less than $1,000.

(c) Appeal by institutions or agencies

Any institution or agency dissatisfied with any determination by the Secretary that it is not a provider of services, or with any determination described in section 1395cc(b)(2) of this title, shall be entitled to a hearing thereon by the Secretary (after reasonable notice and opportunity for hearing) to the same extent as is provided in section 405(b) of this title, and to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title.

(Aug. 14, 1935, ch. 531, title XVIII, § 1869, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 330, and amended Oct. 30, 1972, Pub. L. 92-603, title II, § 290o(a), 86 Stat. 1464.)

REFERENCES IN TEXT

Section 1819, referred to in subsec. (b)(1)(B), does not correspond to any enacted section of the Social Security Act.

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-603 redesignated existing provisions as par. (1), and, as so redesignated, generally amended the conditions under which a dissatisfied individual shall be entitled to a hearing by the Secretary and to judicial review of the final decision of the Secretary after such hearing, and added par. (2).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 299o(b) of Pub. L. 92-603 provided that:

"(1) The provisions of subparagraphs (A) and (B) of section 1869(b)(1) of the Social Security Act, as amended by subsection (a) of this section [subsec. (b)(1)(A), (B) of this section], shall be effective on the date of enactment of this Act [Oct. 30, 1972].

"(2) The provisions of paragraph (2) and subparagraph (C) of paragraph (1) of section 1869(b) of the Social Security Act, as amended by subsection (a) of this section [subsec. (b)(1)(C) and (b)(2) of this section], shall be effective with respect to any claims under part A of title XVIII of such Act [subchapter XVIII of this chapter], filed—

"(A) in or after the month in which this Act is enacted [Oct. 1972], or

"(B) before the month in which this Act is enacted [Oct. 1972], but only if a civil action with respect to a final decision of the Secretary of Health, Education, and Welfare on such claim has not been commenced under such section 1869(b) [subsec. (b) of this section] before such month."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395pp of this title; title 45 section 231f.

§ 1395gg. Payment on behalf of individuals

(a) Payments to providers of services or other person regarded as payment to individuals

Any payment under this subchapter to any provider of services or other person with respect to any items or services furnished any individual shall be regarded as a payment to such individual.

(b) Incorrect payments on behalf of individuals; payment adjustment

Where—

(1) more than the correct amount is paid under this subchapter to a provider of services or other person for items or services furnished an individual and the Secretary determines (A) that, within such period as he may specify, the excess over the correct amount cannot be recouped from such provider of services or other person, or (B) that such provider of services or other person was without fault with respect to the payment of such excess over the correct amount, or

(2) any payment has been made under section 1395f(e) of this title to a provider of services or other person for items or services furnished an individual,

proper adjustments shall be made, under regulations prescribed (after consultation with the Railroad Retirement Board) by the Secretary, by decreasing subsequent payments—

(3) to which such individual is entitled under subchapter II of this chapter or under the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.], as the case may be, or

(4) if such individual dies before such adjustment has been completed, to which any other individual is entitled under subchapter II of this chapter or under the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.], as

the case may be, with respect to the wages and self-employment income or the compensation constituting the basis of the benefits of such deceased individual under subchapter II of this chapter.

As soon as practicable after any adjustment under paragraph (3) or (4) is determined to be necessary, the Secretary, for purposes of this section, section 1395i(g) of this title, and section 1395t(f) of this title, shall certify (to the Railroad Retirement Board if the adjustment is to be made by decreasing subsequent payments under the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.]) the amount of the overpayment as to which the adjustment is to be made. For purposes of clause (B) of paragraph (1), such provider of services or such other person shall, in the absence of evidence to the contrary, be deemed to be without fault if the Secretary's determination that more than such correct amount was paid was made subsequent to the third year following the year in which notice was sent to such individual that such amount had been paid; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this subchapter.

(c) Exception to subsec. (b) payment adjustment

There shall be no adjustment as provided in subsection (b) of this section (nor shall there be recovery) in any case where the incorrect payment has been made (including payments under section 1395f(e) of this title) with respect to an individual who is without fault or where the adjustment (or recovery) would be made by decreasing payments to which another person who is without fault is entitled as provided in subsection (b)(4) of this section, if such adjustment (or recovery) would defeat the purposes of subchapter II or subchapter XVIII of this chapter or would be against equity and good conscience. Adjustment or recovery of an incorrect payment (or only such part of an incorrect payment as the Secretary determines to be inconsistent with the purposes of this subchapter) against an individual who is without fault shall be deemed to be against equity and good conscience if (A) the incorrect payment was made for expenses incurred for items or services for which payment may not be made under this subchapter by reason of the provisions of paragraph (1) or (9) of section 1395y of this title and (B) if the Secretary's determination that such payment was incorrect was made subsequent to the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this subchapter.

(d) Liability of certifying or disbursing officer for failure to recoup

No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any provider of services or other person where the adjustment or recovery of such amount is waived under subsection (c) of this section or where adjustment under subsection (b) of this section is not completed prior to the death of all persons against whose benefits such adjustment is authorized.

(e) Settlement of claims for benefits under this subchapter on behalf of deceased individuals

If an individual, who received services for which payment may be made to such individual under this subchapter, dies, and payment for such services was made (other than under this subchapter), and the individual died before any payment due him under this subchapter with respect to such services was completed, payment of the amount due (including the amount of any unnegotiated checks) shall be made—

(1) if the payment for such services was made (before or after such individual's death) by a person other than the deceased individual, to the person or persons determined by the Secretary under regulations to have paid for such services, or if the payment for such services was made by deceased individual before his death, to the legal representative of the estate of such deceased individual, if any;

(2) if there is no person who meets the requirements of paragraph (1), to the person, if any, who is determined by the Secretary to be the surviving spouse of the deceased individual and who was either living in the same household with the deceased at the time of his death or was, for the month in which the deceased individual died, entitled to a monthly benefit on the basis of the same wages and self-employment income as was the deceased individual;

(3) if there is no person who meets the requirements of paragraph (1) or (2), or if the person who meets such requirements dies before the payment due him under this subchapter is completed, to the child or children, if any, of the deceased individual who were, for the month in which the deceased individual died, entitled to monthly benefits on the basis of the same wages and self-employment income as was the deceased individual (and, in case there is more than one such child, in equal parts to each such child);

(4) if there is no person who meets the requirements of paragraph (1), (2), or (3), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the parent or parents, if any, of the deceased individual who were, for the month in which the deceased individual died, entitled to monthly benefits on the basis of the same wages and self-employment income as was the deceased individual (and, in case there is more than one such parent, in equal parts to each such parent);

(5) if there is no person who meets the requirements of paragraph (1), (2), (3), or (4), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the person, if any, determined by the Secretary to be the surviving spouse of the deceased individual;

(6) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), or (5), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the person or persons, if any, determined by the Secretary to be the child or children of the

deceased individual (and, in case there is more than one such child, in equal parts to each such child);

(7) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), (5), or (6), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the parent or parents, if any, of the deceased individual (and, in case there is more than one such parent, in equal parts to each such parent); or

(8) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), (5), (6), or (7), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the legal representatives of the estate of the deceased individual, if any.

(f) Settlement of claims for section 1395k benefits on behalf of deceased individuals

If an individual who received medical and other health services for which payment may be made under section 1395k(a)(1) of this title dies, and—

(1) no assignment of the right to payments was made by such individual before his death, and

(2) payment for such services has not been made,

payment for such services shall be made to the physician or other person who provided such services, but payment shall be made under this subsection only in such amount and subject to such conditions as would have been applicable if the individual who received the services had not died, and only if the person or persons who provided the services agrees that the reasonable charge is the full charge for the services.

(g) Refund of premiums for deceased individuals

If an individual, who is enrolled under section 1395i-2(c) of this title or under section 1395p of this title, dies, and premiums with respect to such enrollment have been received with respect to such individual for any month after the month of his death, such premiums shall be refunded to the person or persons determined by the Secretary under regulations to have paid such premiums or if payment for such premiums was made by the deceased individual before his death, to the legal representative of the estate of such deceased individual, if any. If there is no person who meets the requirements of the preceding sentence such premiums shall be refunded to the person or persons in the priorities specified in paragraphs (2) through (7) of subsection (e) of this section.

(Aug. 14, 1935, ch. 531, title XVIII, § 1870, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 331, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 154(b), (c), 81 Stat. 862; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 261(a), 266, 281(a), (b), 86 Stat. 1448, 1450, 1454, 1455; Oct. 16, 1974, Pub. L. 93-445, title III, § 309, 88 Stat. 1358.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in subsec. (b), is title I of Pub. L. 93-445, Oct. 16, 1974, 88 Stat. 1305, and is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. Such title I completely amended and revised the Railroad Retirement Act of 1937 (approved June 24, 1937, ch. 382, 50 Stat. 307), and as thus amended and revised, the 1937 Act was redesignated the Railroad Retirement Act of 1974. Previously, the 1937 Act had completely amended and revised the Railroad Retirement Act of 1935 (approved Aug. 29, 1935, ch. 812, 49 Stat. 967). Section 201 of the 1937 Act provided that the 1935 Act, as in force prior to amendment by the 1937 Act, may be cited as the Railroad Retirement Act of 1935; and that the 1935 Act, as amended by the 1937 Act may be cited as the Railroad Retirement Act of 1937. The Railroad Retirement Acts of 1935 and 1937 were classified to subchapter II (§ 215 et seq.) and subchapter III (§ 228a et seq.), respectively, of chapter 9 of Title 45.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-445 substituted "Railroad Retirement Act of 1974" for "Railroad Retirement Act of 1937", wherever appearing.

1972—Subsec. (b). Pub. L. 92-603, § 281(a), required that the provider of services or other person be without fault with respect to the payment of excess over the correct amount as a prerequisite to the adjustment or recovery of incorrect payments.

Subsec. (c). Pub. L. 92-603, §§ 261(a), 281(b), substituted "or where the adjustment (or recovery) would be made by decreasing payments to which another person who is without fault is entitled as provided in subsection (b)(4) of this section, if" for "and where", inserted reference to subchapter XVIII of this chapter, and added provisions covering the adjustment or recovery of incorrect payments against individuals who are without fault.

Subsec. (g). Pub. L. 92-603, § 266, added subsec. (g).

1968—Pub. L. 90-248, § 154(b), provided in the section catchline for the settlement of claims for benefits on behalf of deceased individuals.

Subsecs. (e), (f). Pub. L. 90-248, § 154(c), added subsecs. (e) and (f).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as an Effective Date of 1974 Amendment note under section 402 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 261(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [amending subsec. (c) of this section] shall apply with respect to waiver actions considered after the date of the enactment of this Act [Oct. 30, 1972]."

Section 281(g) of Pub. L. 92-603 provided that: "The provisions of subsection (a)(1) [enacting subsec. (b)(1)(B) of this section] shall apply with respect to notices of payment sent to individuals after the date of enactment of this Act [Oct. 30, 1972]. The provisions of subsections (a)(2), (b), (c), and (d) [amending subsecs. (b) and (c) of this section and sections 1395cc(a)(1) and 1395u(b)(3)(B)(ii) of this title] shall apply in the case of notices sent to individuals after 1968. The provisions of subsections (e) and (f) [amending sections 1395f(a)(1) and 1395n(a)(1) of this title] shall apply in the case of services furnished (or deemed to have been furnished) after 1970."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395i, 1395t, 1395u of this title.

§ 1395hh. Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the administration of the insurance programs under this subchapter. When used in this subchapter, the term "regulations" means, unless the con-

text otherwise requires, regulations prescribed by the Secretary.

(Aug. 14, 1935, ch. 531, title XVIII, § 1871, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a) 79 Stat. 331.)

§ 1395ii. Application of certain provisions of subchapter II

The provisions of sections 406 and 416(j) of this title, and of subsections (a), (d), (e), (f), (h), (i), (j), (k), and (l) of section 405 of this title, shall also apply with respect to this subchapter to the same extent as they are applicable with respect to subchapter II of this chapter.

(Aug. 14, 1935, ch. 531, title XVIII, § 1872, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 332, and amended Oct. 30, 1972, Pub. L. 92-603, title II, § 242(a), 86 Stat. 1419.)

AMENDMENTS

1972—Pub. L. 92-603 struck out reference to the provisions of section 408 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-603 not applicable to any acts, statements, or representations made or committed prior to Oct. 30, 1972, see section 242(d) of Pub. L. 92-603, set out as an Effective Date note under section 1395nn of this title.

§ 1395jj. Designation of organization or publication by name

Designation in this subchapter, by name, of any nongovernmental organization or publication shall not be affected by change of name of such organization or publication, and shall apply to any successor organization or publication which the Secretary finds serves the purpose for which such designation is made.

(Aug. 14, 1935, ch. 531, title XVIII, § 1873, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 332.)

§ 1395kk. Administration of insurance programs

(a) Functions of Secretary; performance directly or by contract

Except as otherwise provided in this subchapter and in the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.], the insurance programs established by this subchapter shall be administered by the Secretary. The Secretary may perform any of his functions under this subchapter directly, or by contract providing for payment in advance or by way of reimbursement, and in such installments, as the Secretary may deem necessary.

(b) Contracts to secure special data, actuarial information, etc.

The Secretary may contract with any person, agency, or institution to secure on a reimbursable basis such special data, actuarial information, and other information as may be necessary in the carrying out of his functions under this subchapter.

(c) Oaths and affirmations

In the course of any hearing, investigation, or other proceeding that he is authorized to conduct under this subchapter, the Secretary may administer oaths and affirmations.

(Aug. 14, 1935, ch. 531, title XVIII, § 1874, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 332, and amended July 30, 1965, Pub. L. 89-97, title I, § 111(a), 79 Stat. 340; Oct. 30, 1972, Pub. L. 92-603, title II, § 289, 86 Stat. 1457; Oct. 16, 1974, Pub. L. 93-445, title III, § 310, 88 Stat. 1359.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in subsec. (a), is title I of Pub. L. 93-445, Oct. 16, 1974, 88 Stat. 1305, and is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. Such title I completely amended and revised the Railroad Retirement Act of 1937 (approved June 24, 1937, ch. 382, 50 Stat. 307), and as thus amended and revised, the 1937 Act was redesignated the Railroad Retirement Act of 1974. Previously, the 1937 Act had completely amended and revised the Railroad Retirement Act of 1935 (approved Aug. 29, 1935, ch. 812, 49 Stat. 967). Section 201 of the 1937 Act provided that the 1935 Act, as in force prior to amendment by the 1937 Act, may be cited as the Railroad Retirement Act of 1935; and that the 1935 Act, as amended by the 1937 Act may be cited as the Railroad Retirement Act of 1937. The Railroad Retirement Acts of 1935 and 1937 were classified to subchapter II (§ 215 et seq.) and subchapter III (§ 228a et seq.), respectively, of chapter 9 of Title 45.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-445 substituted "Railroad Retirement Act of 1974" for "Railroad Retirement Act of 1937".

1972—Subsec. (c). Pub. L. 92-603 added subsec. (c).

1965—Subsec. (a). Pub. L. 89-97 inserted in the first sentence the reference to the Railroad Retirement Act of 1937.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective on Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as an Effective Date of 1974 Amendment note under section 402 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-97 applicable to calendar year 1966 or to any subsequent calendar year but only if by October 1 immediately preceding such calendar year the Railroad Retirement Tax Act provides for a maximum amount of monthly compensation taxable under such Act during all months of such calendar year equal to one-twelfth of maximum wages which Federal Insurance Contributions Act provides may be counted for such calendar year, see section 111(e) of Pub. L. 89-97.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 45 section 231f.

§ 1395ll. Studies and recommendations

(a) The Secretary shall carry on studies and develop recommendations to be submitted from time to time to the Congress relating to health care of the aged and the disabled, including studies and recommendations concerning (1) the adequacy of existing personnel and facilities for health care for purposes of the programs under parts A and B; (2) methods for encouraging the further development of efficient and economical forms of health care which are a constructive alternative to inpatient hospital care; and (3) the effects of the deductibles and coinsurance provisions upon beneficiaries, persons who provide health services, and the financing of the program.

(b) The Secretary shall make a continuing study of the operation and administration of the insurance programs under parts A and B (including a validation of the accreditation process of the Joint Commission on the Accreditation of Hospitals, the operation and administration of health maintenance organizations authorized by section 1395mm of this title, the experiments and demonstration projects authorized by section 1395b-1 of this title, and the experiments and demonstration projects authorized by section 222(a) of the Social Security Amendments of 1972), and shall transmit to the Congress annually a report concerning the operation of such programs.

(Aug. 14, 1935, ch. 531, title XVIII, § 1875, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 332, and amended Jan. 2, 1968, Pub. L. 90-248, title IV, § 402(c), 81 Stat. 931; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 201(c)(7), 222(c), 226(d), 244(d), 86 Stat. 1373, 1393, 1404, 1423.)

REFERENCES IN TEXT

Section 222(a) of the Social Security Amendments of 1972, referred to in subsec. (b), is section 222(a) of Pub. L. 92-603, which enacted provisions set out as note under section 1395b-1 of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-603, § 201(c)(7), added "and the disabled" following "aged".

Subsec. (b). Pub. L. 92-603, §§ 222(c), 226(d), 244(d), substituted "(including a validation of the accreditation process of the Joint Commission on the Accreditation of Hospitals, the operation and administration of health maintenance organizations authorized by section 1395mm of this title, the experiments and demonstration projects authorized by section 1395b-1 of this title, the experiments and demonstration projects authorized by section 222(a) of the Social Security Amendments of 1972)" for "(including the experimentation authorized by section 1395b-1 of this title)". Substitution of "1972" for "1971" effected by the amendment under section 222(c) of Pub. L. 92-603 was also accomplished by section 226(d)(2) of Pub. L. 92-603.

1968—Subsec. (b). Pub. L. 90-248 inserted "(including the experimentation authorized by section 1395b-1 of this title)" after "under parts A and B".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 226(d) of Pub. L. 92-603 effective with respect to services provided on or after July 1, 1973, see section 226(f) of Pub. L. 92-603, set out as an Effective Date note under section 1395mm of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 45 section 231f.

§ 1395mm. Payments to health maintenance organizations

(a) Rates and adjustments

(1) In lieu of amounts which would otherwise be payable pursuant to sections 1395f(b) and 1395l(a) of this title, the Secretary is authorized to determine, by actuarial methods, as provided in this section, but only with respect to a health maintenance organization with which he has entered into a contract under subsection (i) of this section, a per capital rate of payment—

(A) for services provided under parts A and B for individuals enrolled with such organization pursuant to subsection (e) of this section who are entitled to hospital insurance benefits under part A and enrolled for medical insurance benefits under part B, and

(B) for services provided under part B for individuals enrolled with such organization pursuant to subsection (e) of this section who are not entitled to benefits under part A but who are enrolled for benefits under part B.

(2) An interim per capita rate of payment for each health maintenance organization shall be determined annually by the Secretary on the basis of each organization's annual operating budget and enrollment forecast which shall be submitted (in such form and in such detail as the Secretary may prescribe) at least 90 days before the beginning of each contract year. Each interim rate shall be equal to the estimated per capita cost (based upon types and components of expenses otherwise reimbursable under this subchapter) of providing services defined in paragraph (3)(A)(iii). In the event that the data requested to be furnished by a health maintenance organization are not furnished timely, such reduction in interim payments may be made by the Secretary as is appropriate, until such time as a reasonable estimate of per capita costs can be made. Each month, the Secretary shall pay each organization its interim per capita rate, in advance, for each individual enrolled with it pursuant to subsection (e) of this section. Each such organization shall submit interim estimated cost reports and enrollment data on a quarterly basis in such form and manner satisfactory to the Secretary, and the Secretary shall adjust each interim per capita rate to the extent necessary to maintain interim payments at the level of current costs. Interim payments made under this paragraph shall be subject to retroactive adjustment at the end of each contract year as provided in paragraph (3).

(3)(A) With respect to any health maintenance organization which has entered into a risk sharing contract with the Secretary pursuant to subsection (i)(2)(A) of this section, payments made to such organization shall be subject to the following adjustments at the end of each contract year:

(i) if the Secretary determines that the per capita incurred cost of any such organization in any contract year for providing services described in paragraph (1) is less than the adjusted average per capita incurred cost (as defined herein) of providing such services, the resulting difference (hereinafter referred to as "savings") shall be apportioned following the close of a contract year for such year between such organization and the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (hereinafter collectively referred to as the "Medicare Trust Funds") as follows:

(I) savings up to 20 percent of the adjusted average per capita cost shall be apportioned equally between such organization and the Medicare Trust Funds;

(II) savings in excess of 20 percent of the adjusted average per capita cost shall be apportioned entirely to such Trust Funds;

(ii) if the Secretary determines that the per capita incurred cost of any such organization in any contract year for providing services described in paragraph (1) is greater than the adjusted average per capita incurred cost of providing such services, the resulting difference (hereinafter referred to as "losses"), shall be absorbed by such organization, and shall be carried forward and offset from savings realized in later years;

(iii) determination of any amounts payable at the close of the contract year to such organization or to the Trust Funds shall be made as follows:

(I) within 90 days after close of a contract year, interim determination of the amount of estimated savings and apportionment thereof shall be made, actuarially, on the basis of interim reports of costs incurred by an organization, and adjusted average per capita costs (as defined herein), and other evidence acceptable to the Secretary and one-half of any amounts deemed payable to such organization or the Trust Funds shall be paid by such organization or the Secretary as appropriate;

(II) final settlement and payment by the Secretary or organization, as appropriate, of any additional amounts due on basis of such final settlement will be made where adequate data for actuarial computation are available, in timely fashion following submission by such organization of reports specified in subparagraph (C) of this paragraph; and

(III) where such final settlement is reached more than 90 days following submission of reports specified in subparagraph (C) of this paragraph, any amount payable by the Secretary or organization shall be increased by an interest amount, accruing from the 91st day following submission of such report, equal to the average rate of interest payable on Federal obligations if issued on such 91st day for purchase by the Trust Funds.

(iv) The term "adjusted average per capita cost" means the average per capita amount that the Secretary determines (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in the geographic area served by a health maintenance organization or in a similar area, with appropriate adjustment to assure actuarial equivalence, including adjustments relating to age distribution, sex, race, institutional status, disability status, and any other relevant factors) would be payable in any contract year for services covered under this subchapter and types of expenses otherwise reimbursable under this subchapter (including administrative costs incurred by organizations described in sections 1395h and 1395u of this title) if such services were to be furnished by other than such health maintenance organization.

(B) With respect to any health maintenance organization which has entered into a reasonable cost reimbursement contract with the Secretary pursuant to subsection (i)(2)(B) of this section, payments made to such organization shall be subject to suitable retroactive corrective adjustments at the end of each contract year so as to assure that such organization is paid for the reasonable cost actually incurred (excluding therefrom any part of incurred cost found to be unnecessary in the efficient delivery of health services) for the types of expenses otherwise reimbursable under this subchapter for providing services covered under this subchapter to individuals described in paragraph (1).

(C) Any contract with a health maintenance organization under this subchapter shall provide that the Secretary shall require, at such time following the expiration of each accounting period of a health maintenance organization (and in such form and in such detail) as he may prescribe:

(i) that such health maintenance organization report to him in an independently certified financial statement its per capita incurred cost based on the types and components of expenses otherwise reimbursable under this subchapter for providing services described in paragraph (1), including therein, in accordance with accounting procedures prescribed by the Secretary, its methods of allocating costs between individuals enrolled under this section and other individuals enrolled with such organization;

(ii) that failure to report such information as may be required may be deemed to constitute evidence of likely overpayment on the basis of which appropriate collection action may be taken;

(iii) that in any case in which a health maintenance organization is related to another organization by common ownership or control, a consolidated financial statement shall be filed and that the allowable costs for such organization may not include costs for the types of expense otherwise reimbursable under this subchapter, in excess of those which would be determined to be reasonable in accordance with regulations (providing for limiting reimbursement to costs rather than charges to the health maintenance organization by related organizations and owners) issued by the Secretary in accordance with section 1395x(v) of this title; and

(iv) that in any case in which compensation is paid by a health maintenance organization substantially in excess of what is normally paid for similar services by similar practitioners (regardless of method of compensation), such compensation may as appropriate be considered to constitute a distribution of profits.

(4) The payments to health maintenance organizations under this subparagraph with respect to individuals described in subsection (a)(1)(A) of this section shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of such payment to such an organization for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

(A) the product of (i) the number of covered enrollees of such organization for such month (as described in paragraph (1)) who have attained age 65, and (ii) the monthly ac-

tuarial rate for supplementary medical insurance for such month as determined under section 1395r(c)(1) of this title, and

(B) the product of (i) the number of covered enrollees of such organization for such month (as described in paragraph (1)) who have not attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for such month as determined under section 1395r(c)(4) of this title.

The remainder of such payment shall be paid by the former trust fund. For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1320a-1 of this title.

(b) Definitions; duties and functions of the Secretary

(1) The term "health maintenance organization" means a legal entity which provides health services on a prepayment basis to individuals enrolled with such organizations and which—

(A) provides to its enrollees who are insured for benefits under parts A and B of this subchapter or for benefits under part B alone, through institutions, entities, and persons meeting the applicable requirements of section 1395x of this title, all of the services and benefits covered under such parts (to the extent applicable under subparagraph (A) or (B) of subsection (a)(1) of this section which are available to individuals residing in the geographic area served by the organization;

(B) provides such services in the manner prescribed by section 300e(b) of this title, except that solely for the purposes of this section—

(i) the term "basic health services" and references thereto shall be deemed to refer to the services and benefits included under parts A and B of this subchapter;

(ii) the organization shall not be required to fix the basic health services payment under a community rating system;

(iii) the additional nominal payments authorized by section 300e(b)(1)(D) of this title shall not exceed the limits applicable under subsection (g) of this section; and

(iv) payment for basic health services provided by the organization to its enrollees under this section or for services such enrollees receive other than through the organization shall be made as provided for by this subchapter;

(C) is organized and operated in the manner prescribed by section 300e(c) of this title, except that solely for the purposes of this section—

(i) the term "basic health services" and references thereto shall be deemed to refer to the services and benefits included under parts A and B of this subchapter;

(ii) the organization shall not be reimbursed for the cost of reinsurance except as permitted by subsection (i) of this section; and

(iii) the organization shall have an open enrollment period as provided for in subsection (k) of this section.

(2)(A) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a "health maintenance organization" within the meaning of paragraph (1), shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions shall be integrated with the administration of section 300e-11(a) and (b) of this title.

(B) Except as provided in subparagraph (A), the Secretary shall administer the provisions of this section through the Commissioner of Social Security.

(c) Benefits

The benefits provided under this section to enrollees of an organization which has entered into a risk sharing contract with the Secretary pursuant to subsection (i)(2)(A) of this section shall consist of—

(1) in the case of an individual who is entitled to hospital insurance benefits under part A and enrolled for medical insurance benefits under part B—

(A) entitlement to have payment made on his behalf for all services described in section 1395d and section 1395k of this title which are furnished to him by the health maintenance organization with which he is enrolled pursuant to subsection (e) of this section; and

(B) entitlement to have payment made by such health maintenance organization to him or on his behalf for (i) such emergency services (as defined in regulations), (ii) such urgently needed services (as defined in regulations) furnished to him during a period of temporary absence (as defined in regulations) from the geographic area served by the health maintenance organization with which he is enrolled, and (iii) such other services as may be determined, in accordance with subsection (f) of this section, to be services which the individual was entitled to have furnished by the health maintenance organization, as may be furnished to him by a physician, supplier, or provider of services, other than the health maintenance organization with which he is enrolled; and

(2) in the case of an individual who is not entitled to hospital insurance benefits under part A but who is enrolled for medical insurance benefits under part B, entitlement to have payment made for services described in paragraph (1), but only to the extent that such services are also described in section 1395k of this title.

(d) Enrollment in local health maintenance organizations

Subject to the provisions of subsection (e) of this section, every individual described in subsection (c) of this section shall be eligible to enroll with any health maintenance organization (as defined in subsection (b) of this section) which serves the geographic area in which such individual resides.

(e) Termination of enrollment

An individual may enroll with a health maintenance organization under this section, and may terminate such enrollment, as may be prescribed by regulations.

(f) Hearings; judicial review

Any individual enrolled with a health maintenance organization under this section who is dissatisfied by reason of his failure to receive without additional cost to him any health service to which he believes he is entitled shall, if the amount in controversy is $100 or more, be entitled to a hearing before the Secretary to the same extent as is provided in section 405(b) of this title and in any such hearing the Secretary shall make such health maintenance organization a party thereto. If the amount in controversy is $1,000 or more, such individual or health maintenance organization shall be entitled to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title.

(g) Limits on costs

(1) If the health maintenance organization provides its enrollees under this section only the services described in subsection (c) of this section, its premium rate or other charges for such enrollees shall not exceed the actuarial value of the deductible and coinsurance which would otherwise be applicable to such enrollees under part A and part B, if they were not enrolled under this section.

(2) If the health maintenance organization provides to its enrollees under this section services in addition to those described in subsection (c) of this section, election of coverage for such additional services shall be optional for such enrollees and such organization shall furnish such enrollees with information on the portion of its premium rate or other charges applicable to such additional services. The portion of its premium rate or other charges applicable to the services described in subsection (c) of this section shall not exceed the actuarial value of the deductible and coinsurance which would otherwise be applicable to such enrollees under part A and part B if they were not enrolled under this section.

(h) Enrollment of persons under age 65

(1) Except as provided in paragraph (2), each health maintenance organization with which the Secretary enters into a contract under this section shall have an enrolled membership at least half of which consists of individuals who have not attained age 65.

(2) The Secretary may waive the requirement imposed in paragraph (1) for a period of not more than three years from the date a health maintenance organization first enters into an agreement with the Secretary pursuant to subsection (i) of this section, but only for so long as such organization demonstrates to the satisfaction of the Secretary by the submission of its plan for each year that it is making continuous efforts and progress toward compliance with the provisions of paragraph (1) within such three-year period.

(i) Contract authority

(1) Subject to the limitations contained in subparagraphs (A) and (B) of paragraph (2), the Secretary is authorized to enter into a contract with any health maintenance organization which undertakes to provide, on an interim per capita prepayment basis, the services described in section 1395k of this title (and section 1395d of this title, in the case of individuals who are entitled to hospital insurance benefits under part A) to individuals enrolled with such organization pursuant to subsection (e) of this section.

(2)(A) If the health maintenance organization (i) has a current enrollment of not less than 25,000 members on a prepaid capitation basis and has been the primary source of health care of at least 8,000 persons in each of the two years immediately preceding the contract year, or (ii) serves a nonurban geographic area, has a current enrollment of not less than 5,000 members on a prepaid capitation basis and has been the primary source of health care for at least 1,500 persons in each of the three years immediately preceding the contract year, the Secretary may enter into a risk sharing contract with such organization pursuant to which any savings, as determined pursuant to subsection (a)(3)(A) of this section, are shared between such organization and the Medicare Trust Funds in the manner prescribed in such subsection. For purposes of this subparagraph, a health maintenance organization shall be considered to serve a nonurban geographic area if it is located in a nonmetropolitan county (that is, a county with fewer than 50,000 inhabitants), or if it has at least one such county in its normal service area, or if it is located outside of a metropolitan area and its facilities are within reasonable travel distance (as defined by the Secretary) of fewer than 50,000 individuals. No health maintenance organization which has entered into a risk-sharing contract with the Secretary under this subparagraph and has voluntarily terminated such contract may again enter into such a contract.

(B) If the health maintenance organization does not meet the requirements of subparagraph (A), or if the Secretary is not satisfied that the health maintenance organization has the capacity to bear the risk of potential losses as determined under clause (ii) of subsection (a)(3)(A) of this section, or if the health maintenance organization meeting the requirements of subparagraph (A) so elects, or if an organization does not fully meet the requirements of subsection (b) of this section but has demonstrated to the satisfaction of the Secretary that it is making reasonable efforts to meet, and is developing the capability to fully meet, such requirements, and that it fully meets such basic requirements as the Secretary shall prescribe in regulations, the Secretary may, if he is otherwise satisfied that the health maintenance organization or other organization is able to perform its contractual obligations effectively and efficiently, enter into a contract with such organization pursuant to which such organization is reimbursed on the basis of its reasonable cost (as defined in section 1395x(v) of this title) in the manner prescribed in subsection (a)(3)(B) of this section.

(3) Such contract may, at the option of such organization, provide that the Secretary (A) will reimburse hospitals and skilled nursing facilities for the reasonable cost (as determined under section 1395x(v) of this title) of services furnished to individuals enrolled with such organization pursuant to subsection (e) of this section, and (B) will deduct the amount of such reimbursement from payments which would

otherwise be made to such organization. If a health maintenance organization pays a hospital or skilled nursing facility directly, the amount paid shall not exceed the reasonable cost of the services (as determined under section 1395x(v) of this title) unless such organization demonstrates to the satisfaction of the Secretary that such excess payments are justified on the basis of advantages gained by the organization.

(4) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the health maintenance organization involved as he may provide in regulations), if he finds that the organization (A) has failed substantially to carry out the contract, (B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or (C) no longer substantially meets the applicable conditions of subsection (b) of this section.

(5) The effective date of any contract executed pursuant to this subsection shall be specified in such contract pursuant to the regulations.

(6) Each contract under this section—

(A) shall provide that the Secretary, or any person or organization designated by him—

(i) shall have the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under such contract; and

(ii) shall have the right to audit and inspect any books and records of such health maintenance organization which pertain to services performed and determinations of amounts payable under such contract;

(B) shall provide that no reinsurance costs (other than costs with respect to out-of-area services and, in the case of an organization which has entered into a risk-sharing contract with the Secretary pursuant to paragraph (2)(A), the cost of providing any member with basic health services the aggregate value of which exceeds $5,000 in any year) including any underwriting of risk relating to costs in excess of adjusted average per capita cost, as defined in clause (iii) of subsection (a)(3)(A) of this section, shall be allowed for purposes of determining payments authorized under this section; and

(C) shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary.

(j) Performance of contractual functions

The function vested in the Secretary by subsection (i) of this section may be performed without regard to such provisions of law or of other regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purposes of this subchapter.

(k) Open enrollment period

Each health maintenance organization with which the Secretary enters into a contract under this section shall have an open enrollment period at least every year under which it accepts up to the limits of its capacity and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (d) of this section in the order in which they apply for enrollment (unless to do so would result in failure to meet the requirements of subsection (h) of this section) or would result in enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the geographic area served by such health maintenance organization.

(Aug. 14, 1935, ch. 531, title XVIII, § 1876, as added and amended Oct. 30, 1972, Pub. L. 92-603, title II, §§ 226(a), 278(b)(3), 86 Stat. 1396, 1453; Dec. 31, 1973, Pub. L. 93-233, § 18(m), (n), 87 Stat. 970, 971; Oct. 8, 1976, Pub. L. 94-460, title II, § 201(a)-(d), 90 Stat. 1956, 1957.)

Amendments

1976—Subsec. (b). Pub. L. 94-460, § 201(a), struck out provisions defining a health maintenance organization as a public or private organization which provides physicians' services and a sufficient number of primary care and specialty care physicians, assures its members access to qualified practitioners in specialties available in area served by such organization, demonstrates financial responsibility and means to provide comprehensive health care services, has at least half of its enrolled members under age 65, assures prompt and qualified health service, and has an open enrollment period at least every year, and revised the definition and requirements of an health maintenance organization to conform to those set forth in the Public Health Service Act, except that the services which such an organization must provide are those covered in parts A and B of this subchapter rather than the basic health services defined in the Public Health Service Act, and added provisions requiring Secretary to administer determinations of whether an organization is a health maintenance organization through and in the office of the Assistant Secretary for Health, to integrate the administration of such functions and duties with the administration of provisions requiring the continued regulation of health maintenance organizations under the Public Health Service Act, and to administer other provisions of this section through the Commissioner of Social Security.

Subsec. (h). Pub. L. 94-460, § 201(b), substituted provisions that each health maintenance organization with which the Secretary enters into a contract under this section have an enrolled membership at least half of which consists of individuals who have not attained age 65, with the Secretary empowered to waive that requirement for a period of not more than three years from the date a health maintenance organization first enters into an agreement with the Secretary pursuant to subsection (i) of this section for provisions that such requirement not apply with respect to any health maintenance organization for such period not to exceed three years from the date such organization enters into an agreement with the Secretary pursuant to subsection (i) of this section, as the Secretary might permit.

Subsec. (i)(6)(B). Pub. L. 94-460, § 201(c), substituted "(other than costs with respect to out-of-area services and, in the case of an organization which has entered into a risk-sharing contract with the Secretary pursuant to paragraph (2)(A), the cost of providing any member with basic health services the aggregate value of which exceeds $5,000 in any year)" for "(Other than those with respect to out-of-area services)".

Subsec. (k). Pub. L. 94-460, § 201(d), added subsec. (k).

1973—Subsec. (a)(3)(A)(ii). Pub. L. 93-233, § 18(m), struck out end text reading ", with the apportionment of savings being proportional to the losses absorbed and not yet offset".

Subsec. (g)(2). Pub. L. 93-233, § 18(n), substituted "portion of its premium rate or other charges" for "portion" and "shall not exceed" for "may not exceed", and struck out cl. (i) designation preceding "the actuarial value" and provisions reading "less (ii) the actuarial value of other charges made in lieu of such deductible and coinsurance", respectively.

1972—Subsec. (i). Pub. L. 92-603, § 278(b)(3), substituted "skilled nursing facility" for "extended care facility" and "skilled nursing facilities" for "extended care facilities".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 201(e) of Pub. L. 94-460 provided that: "The amendments made by this section [amending this section] shall be effective with respect to contracts entered into between the Secretary and health maintenance organizations under section 1876 of the Social Security Act [this section] on and after the first day of the first calendar month which begins more than 30 days after the date of enactment of this Act [Oct. 8, 1976]."

EFFECTIVE DATE OF 1973 AMENDMENT

Section 18(z-3)(3) of Pub. L. 93-233 provided that: "The amendments made by subsections (m) and (n) [of subsecs. (a)(3)(A)(ii) and (g)(2) of this section] shall be effective with respect to services provided after June 30, 1973."

EFFECTIVE DATE

Section 226(f) of Pub. L. 92-603 provided that: "The amendments made by this section [enacting this section, amending sections 1395f, 1395*l*, 1395*ll* and 1396b of this title and enacting provisions set out as notes under this section] shall be effective with respect to services provided on or after July 1, 1973."

REIMBURSEMENT FOR SERVICES

Section 226(b) of Pub. L. 92-603 provided that:

"(1) Notwithstanding the provisions of section 1814 and section 1833 of the Social Security Act [sections 1395*f* and 1395*l* of this title], any health maintenance organization which has entered into a contract with the Secretary pursuant to section 1876 of such Act [this section] shall, for the duration of such contract, (except as provided in paragraph (2)) be entitled to reimbursement only as provided in section 1876 of such Act [this section] for individuals who are members of such organizations.

"(2) With respect to individuals who are members of organizations which have entered into a risk-sharing contract with the Secretary pursuant to subsection (i)(2)(A) [of this section] prior to July 1, 1973, and who, although eligible to have payment made pursuant to section 1876 of such Act [this section] for services rendered to them, chose (in accordance with regulations) not to have such payment made pursuant to such section, the Secretary shall, for a period not to exceed three years commencing on July 1, 1973, pay to such organization on the basis of an interim per capita rate, determined in accordance with the provisions of section 1876(a)(2) of such Act [subsec. (a)(2) of this section], with appropriate actuarial adjustments to reflect the difference in utilization of out-of-plan services, which would have been considered sufficiently reasonable and necessary under the rules of the health maintenance organization to be provided by that organization, between such individuals and individuals who are enrolled with such organization pursuant to section 1876 of such Act [this section]. Payments under this paragraph shall be subject to retroactive adjustment at the end of each contract year as provided in paragraph (3).

"(3) If the Secretary determines that the per capita cost of any such organization in any contract year for providing services to individuals described in paragraph (2), when combined with the cost of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such year for providing out-of-plan services to such individuals, is less than or greater than the adjusted average per capita cost (as defined in section 1876(a)(3) of such Act) [subsec. (a)(3) of this section] of providing such services, the resulting savings shall be apportioned between such organization and such Trust Funds, or the resulting losses shall be absorbed by such organization, in the manner prescribed in section 1876(a)(3) of such Act [subsec. (a)(3) of this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395*f*, 1395*l*, 1395*ll*, 1396b of this title.

§ 1395nn. Offenses and penalties

(a) Making or causing to be made false statements or representations

Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this subchapter.

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment,

(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) Kickbacks, bribes, or rebates of fees or charges

Whoever furnishes items or services to an individual for which payment is or may be made under this subchapter and who solicits, offers, or receives any—

(1) kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

(2) rebate of any fee or charge for referring any such individual to another person for the furnishing of such items or services,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) False statements or representations with respect to condition or operation of institutions

Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility or home health agency (as those terms are defined in section 1395x of this title), shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than 6 months, or both.

(Aug. 14, 1935, ch. 531, title XVIII, § 1877, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 242(b), 86 Stat. 1419.)

EFFECTIVE DATE

Section 242(d) of Pub. L. 92-603 provided that: "The provisions of amendments made by this section [enacting this section and section 1396h of this title and amending section 1395ii of this title] shall not be applicable to any acts, statements, or representations made or committed prior to the enactment of this Act [Oct. 30, 1972]."

§ 1395oo. Provider Reimbursement Review Board

(a) Establishment

Any provider of services which has filed a required cost report within the time specified in regulations may obtain a hearing with respect to such cost report by a Provider Reimbursement Review Board (hereinafter referred to as the "Board") which shall be established by the Secretary in accordance with subsection (h) of this section, if—

(1) such provider—

(A) is dissatisfied with a final determination of the organization serving as its fiscal intermediary pursuant to section 1395h of this title as to the amount of total program reimbursement due to the provider for the items and services furnished to individuals for which payment may be made under this subchapter for the period covered by such report,

(B) has not received such final determination from such intermediary on a timely basis after filing such report, where such report complied with the rules and regulations of the Secretary relating to such report, or

(C) has not received such final determination on a timely basis after filing a supplementary cost report, where such cost report did not so comply and such supplementary cost report did so comply,

(2) the amount in controversy is $10,000 or more, and

(3) such provider files a request for a hearing within 180 days after notice of the intermediary's final determination under paragraph (1)(A) or with respect to appeals pursuant to paragraph (1) (B) or (C), within 180 days after notice of such determination would have been received if such determination had been made on a timely basis.

(b) Appeals by groups

The provisions of subsection (a) of this section shall apply to any group of providers of services if each provider of services in such group would, upon the filing of an appeal (but without regard to the $10,000 limitation), be entitled to such a hearing, but only if the matters in controversy involve a common question of fact or interpretation of law or regulations and the amount in controversy is, in the aggregate, $50,000 or more.

(c) Right to counsel; rules of evidence

At such hearing, the provider of services shall have the right to be represented by counsel, to introduce evidence, and to examine and cross-examine witnesses. Evidence may be received at any such hearing even though inadmissable under rules of evidence applicable to court procedure.

(d) Decisions of Board

A decision by the Board shall be based upon the record made at such hearing, which shall include the evidence considered by the intermediary and such other evidence as may be obtained or received by the Board, and shall be supported by substantial evidence when the record is viewed as a whole. The Board shall have the power to affirm, modify, or reverse a final determination of the fiscal intermediary with respect to a cost report and to make any other revisions on matters covered by such cost report (including revisions adverse to the provider of services) even though such matters were not considered by the intermediary in making such final determination.

(e) Rules and regulations

The Board shall have full power and authority to make rules and establish procedures, not inconsistent with the provisions of this subchapter or regulations of the Secretary, which are necessary or appropriate to carry out the provisions of this section. In the course of any hearing the Board may administer oaths and affirmations. The provisions of subsections (d), (e), and (f) of section 405 of this title with respect to subpenas shall apply to the Board to the same extent as they apply to the Secretary with respect to subchapter II of this chapter.

(f) Finality of decision; judicial review; jurisdiction; venue; interest on amount in controversy

(1) A decision of the Board shall be final unless the Secretary, on his own motion, and within 60 days after the provider of services is notified of the Board's decision, reverses, affirms, or modifies the Board's decision. Providers shall have the right to obtain judicial review of any final decision of the Board, or of any reversal, affirmance, or modification by the Secretary, by a civil action commenced within 60 days of the date on which notice of any final decision by the Board or of any reversal, affirmance, or modification by the Secretary is received. Such action shall be brought in the district court of the United States for the judicial district in which the provider is located or in the District Court for the District of Columbia and shall be tried pursuant to the applicable provisions under chapter 7 of title 5 notwithstanding any other provisions in section 405 of this title.

(2) Where a provider seeks judicial review pursuant to paragraph (1), the amount in controversy shall be subject to annual interest beginning on the first day of the first month beginning after the 180-day period as determined pursuant to subsection (a)(3) of this section and equal to the rate of return on equity capital established by regulation pursuant to section 1395x(v)(1)(B) of this title and in effect at the time the civil action authorized under paragraph (1) is commenced, to be awarded by the reviewing court in favor of the prevailing party.

(3) No interest awarded pursuant to paragraph (2) shall be deemed income or cost for the purposes of determining reimbursement due providers under this chapter.

(g) Certain findings not reviewable

The finding of a fiscal intermediary that no payment may be made under this subchapter for any expenses incurred for items or services furnished to an individual because such items or services are listed in section 1395y of this title shall not be reviewed by the Board, or by any court, pursuant to an action brought under subsection (f) of this section.

(h) Composition and compensation

The Board shall be composed of five members appointed by the Secretary without regard to the provisions of title 5 governing appointments in the competitive services. Two of such members shall be representative of providers of services. All of the members of the Board shall be persons knowledgeable in the field of cost reimbursement, and at least one of them shall be a certified public accountant. Members of the Board shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate specified (at the time the service involved is rendered by such members) for grade GS-18 in section 5332 of title 5. The term of office shall be three years, except that the Secretary shall appoint the initial members of the Board for shorter terms to the extent necessary to permit staggered terms of office.

(i) Technical and clerical assistance

The Board is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Board such secretarial, clerical, and other assistance as the Board may require to carry out its functions.

(Aug. 14, 1935, ch. 531, title XVIII, § 1878, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 243(a), 86 Stat. 1420, and amended Oct. 26, 1974, Pub. L. 93-484, § 3(a), 88 Stat. 1459.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (h), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1974—Subsec. (f). Pub. L. 93-484 redesignated existing provisions as par. (1), and, as so redesignated, added provisions authorizing judicial review for providers of final decisions of the Board and judicial review of any affirmance by the Secretary, and added pars. (2) and (3).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3(b) of Pub. L. 93-484 provided that: "The amendment made by subsection (a) [amending subsec. (f) of this section] shall be applicable to cost reports of providers of services for accounting periods ending on or after June 30, 1973."

EFFECTIVE DATE

Section 243(c) of Pub. L. 92-603 provided that: "The amendments made by this section [enacting this section and amending section 1395h(a) of this title] shall apply with respect to cost reports of providers of services, as defined in title XVIII of the Social Security Act [this subchapter], for accounting periods ending on or after June 30, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395h of this title.

§ 1395pp. Limitation on liability where claims are disallowed

(a) Conditions prerequisite to payment for items and services notwithstanding determination of disallowance

Where—

(1) a determination is made that, by reason of section 1395y(a)(1) or (9) of this title, payment may not be made under part A or part B of this subchapter for any expenses incurred for items or services furnished an individual by a provider of services or by another person pursuant to an assignment under section 1395u(b)(3)(B)(ii) of this title, and

(2) both such individual and such provider of services or such other person, as the case may be, did not know, and could not reasonably have been expected to know, that payment would not be made for such items or services under such part A or part B,

then to the extent permitted by this subchapter, payment shall, notwithstanding such determination, be made for such items or services (and for such period of time as the Secretary finds will carry out the objectives of this subchapter), as though section 1395y(a)(1) and section 1395y(a)(9) of this title did not apply. In each such case the Secretary shall notify both such individual and such provider of services or such other person, as the case may be, of the conditions under which payment for such items or services was made and in the case of comparable situations arising thereafter with respect to such individual or such provider or such other person, each shall, by reason of such notice (or similar notices provided before the enactment of this section), be deemed to have knowledge that payment cannot be made for such items or services or reasonably comparable items or services.

(b) Knowledge of person or provider that payment could not be made; indemnification of individual

In any case in which the provisions of paragraphs (1) and (2) of subsection (a) of this section are met, except that such provider or such other person, as the case may be, knew, or could be expected to know, that payment for such services or items could not be made under such part A or part B, then the Secretary shall, upon proper application filed within such time as may be prescribed in regulations, indemnify the individual (referred to in such paragraphs),

subject to the deductible and coinsurance provisions of this subchapter, for any payments received from such individual by such provider or such other person, as the case may be, for such items or services. Any payments made by the Secretary as indemnification shall be deemed to have been made to such provider or such other person, as the case may be, and shall be treated as overpayments, recoverable from such provider or such other person, as the case may be, under applicable provisions of law. In each such case, the Secretary shall notify such individual of the conditions under which indemnification is made and in the case of comparable situations arising thereafter with respect to such individual, he shall, by reason of such notice (or similar notices provided before the enactment of this section), be deemed to have knowledge that payment cannot be made for such items or services.

(c) Knowledge of both provider and individual to whom items or services were furnished that payment could not be made

No payments shall be made under this subchapter in any cases in which the provisions of paragraph (1) of subsection (a) of this section are met, but both the individual to whom the items or services were furnished and the provider of service or other person, as the case may be, who furnished the items or services knew, or could reasonably have been expected to know, that payment could not be made for items or services under part A or part B by reason of section 1395y(a)(1) or (a)(9) of this title.

(d) Exercise of rights

In any case arising under subsection (b) of this section (but without regard to whether payments have been made by the individual to the provider or other person) or subsection (c) of this section, the provider or other person shall have the same rights that an individual has under section 1395ff(b) of this title (when the determination is under part A) or section 1395u(b)(3)(C) of this title (when the determination is under part B) when the amount of benefit or payments is in controversy, except that such rights may, under prescribed regulations, be exercised by such provider or other person only after the Secretary determines that the individual will not exercise such rights under such sections.

(Aug. 14, 1935, ch. 531, title XVIII, § 1879, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 213(a), 86 Stat. 1384.)

EFFECTIVE DATE

Section 213(b) of Pub. L. 92-603 provided that: "The amendments made by this section [enacting this section] shall be effective with respect to claims under part A or part B of title XVIII of the Social Security Act [this subchapter], filed with respect to items or services furnished after the date of the enactment of this Act [Oct. 30, 1972]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395h of this title.

§ 1395qq. Indian health service facilities

(a) Eligibility for payments; conditions and requirements

A hospital or skilled nursing facility of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 1603 of title 25), shall be eligible for payments under this subchapter, notwithstanding sections 1395f(c) and 1395n(d) of this title, if and for so long as it meets all of the conditions and requirements for such payments which are applicable generally to hospitals or skilled nursing facilities (as the case may be) under this subchapter.

(b) Eligibility based on submission of plan to achieve compliance with conditions and requirements; twelve month period

Notwithstanding subsection (a) of this section, a hospital or skilled nursing facility of the Indian Health Service which does not meet all of the conditions and requirements of this subchapter which are applicable generally to hospitals or skilled nursing facilities (as the case may be), but which submits to the Secretary within six months after September 30, 1976 an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for payments under this subchapter), without regard to the extent of its actual compliance with such conditions and requirements, during the first 12 months after the month in which such plan is submitted.

(c) Payments into special fund for improvements to achieve compliance with conditions and requirements; certification of compliance by Secretary

Notwithstanding any other provision of this subchapter, payments to which any hospital or skilled nursing facility of the Indian Health Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the hospitals and skilled nursing facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of this subchapter. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the hospitals and skilled nursing facilities of such Service in the United States are in compliance with such conditions and requirements.

(d) Report by Secretary; status of facilities in complying with conditions and requirements

The annual report of the Secretary which is required by section 1671 of title 25 (along with the matters specified in section 403 of such Act) a detailed statement of the status of the hospitals and skilled nursing facilities of the Service in terms of their compliance with the applicable conditions and requirements of this subchapter and of the progress being made by such hospitals and facilities (under plans submitted under subsection (b) of this section and otherwise) toward the achievement of such compliance.

(Aug. 14, 1935, ch. 531, title XVIII, § 1880, as added Sept. 30, 1976, Pub. L. 94-437, title IV, § 401(b), 90 Stat. 1408.)

REFERENCES IN TEXT

Section 403 of such Act, referred to in subsec. (d), is section 403 of the Indian Health Care Improvement Act, Pub. L. 94-437, which is set out as a note under section 1671 of Title 25, Indians.

MEDICARE PAYMENTS NOT CONSIDERED IN DETERMINING APPROPRIATIONS FOR INDIAN HEALTH CARE

Section 401(c) of Pub. L. 94-437 provided that: "Any payments received for services provided to beneficiaries hereunder [under this section] shall not be considered in determining appropriations for health care and services to Indians."

PREFERENCE IN SERVICES FOR INDIANS WITH MEDICARE COVERAGE NOT AUTHORIZED

Section 401(d) of Pub. L. 94-437 provided that: "Nothing herein authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended [this subchapter], in preference to an Indian beneficiary without such coverage."

SUBCHAPTER XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 247d, 254c, 254h, 294v, 300e-6, 602, 603, 713, 1301, 1306, 1308, 1309, 1315, 1316, 1318, 1319, 1320a-1, 1320a-2, 1382, 1382e, 1382g, 1383c, 1395b-1, 1395v, 1395x, 1395z, 1395cc, 1397a, 1397b, 1397c, 2689e, 3024, 3028 of this title; title 12 section 1715w; title 38 section 4108.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 1-266, 1-267 of the District of Columbia Code.

§ 1396. Appropriations

For the purpose of enabling each State, as far as practicable under the conditions in such State, to furnish (1) medical assistance on behalf of families with dependent children and of aged, blind, or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services, and (2) rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for medical assistance.

(Aug. 14, 1935, ch. 531, title XIX, § 1901, as added July 30, 1965, Pub. L. 89-97, title I, § 121(a), 79 Stat. 343, and amended Dec. 31, 1973, Pub. L. 93-233, § 13(a)(1), 87 Stat. 960.)

AMENDMENTS

1973—Pub. L. 93-233 substituted in item (1) "disabled individuals" for "permanently and totally disabled individuals".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-233 effective with respect to payments under section 1396b of this title for calendar quarters commencing after Dec. 31, 1973, see section 13(d) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 1396a of this title.

§ 1396a. State plans for medical assistance

(a) Contents

A State plan for medical assistance must—

(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State equal to not less than 40 per centum of the non-Federal share of the expenditures under the plan with respect to which payments under section 1396b of this title are authorized by this subchapter; and, effective July 1, 1969, provide for financial participation by the State equal to all of such non-Federal share or provide for distribution of funds from Federal or State sources, for carrying out the State plan, on an equalization or other basis which will assure that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan;

(3) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for medical assistance under the plan is denied or is not acted upon with reasonable promptness;

(4) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods, and including provision for utilization of professional medical personnel in the administration and, where administered locally, supervision of administration of the plan) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency;

(5) either provide for the establishment or designation of a single State agency to administer or to supervise the administration of the plan, or provide for the establishment or designation of a single State agency to administer or to supervise the administration of the plan, except that the determination of eligibility for medical assistance under the plan shall be made by the State or local agency administering the State plan approved under subchapter I or XVI of this chapter (insofar as it relates to the aged) if the State is eligible to participate in the State plan program established under subchapter XVI of this chapter, or by the agency or agencies admin-

istering the supplemental security income program established under subchapter XVI or the State plan approved under part A of subchapter IV of this chapter if the State is not eligible to participate in the State plan program established under subchapter XVI of this chapter.

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan;

(8) provide that all individuals wishing to make application for medical assistance under the plan shall have opportunity to do so, and that such assistance shall be furnished with reasonable promptness to all eligible individuals.

(9) provide—

(A) that the State health agency, or other appropriate State medical agency (whichever is utilized by the Secretary for the purpose specified in the first sentence of section 1395aa(a) of this title), shall be responsible for establishing and maintaining health standards for private or public institutions in which recipients of medical assistance under the plan may receive care or services, and

(B) for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards, other than those relating to health, for such institutions;

(10) provide—

(A) for making medical assistance available to all individuals receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter;

(B) that the medical assistance made available to any individual described in clause (A)—

(i) shall not be less in amount, duration, or scope than the medical assistance made available to any other such individual, and

(ii) shall not be less in amount, duration, or scope than the medical assistance made available to individuals not described in clause (A); and

(C) if medical assistance is included for any group of individuals who are not described in clause (A) and who do not meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under subchapter XVI of this chapter, as the case may be, as determined in accordance with standards prescribed by the Secretary—

(i) for making medical assistance available to all individuals who would, except for income and resources, be eligible for aid or assistance under any such State plan or to have paid with respect to them supplemental security income benefits under subchapter XVI of this chapter, and who have insufficient (as determined in accordance with comparable standards) income and resources to meet the costs of necessary medical and remedial care and services, and

(ii) that the medical assistance made available to all individuals not described in clause (A) shall be equal in amount, duration, and scope;

except that (I) the making available of the services described in paragraph (4), (14), or (16) of section 1396d(a) of this title to individuals meeting the age requirements prescribed therein shall not, by reason of this paragraph (10), require the making available of any such services, or the making available of such services of the same amount, duration, and scope, to individuals of any other ages, (II) the making available of supplementary medical insurance benefits under part B of subchapter XVIII of this chapter to individuals eligible therefor (either pursuant to an agreement entered into under section 1395v of this title or by reason of the payment of premiums under such subchapter by the State agency on behalf of such individuals), or provision for meeting part or all of the cost of deductibles, cost sharing, or similar charges under part B of subchapter XVIII of this chapter for individuals eligible for benefits under such part, shall not, by reason of this paragraph (10), require the making available of any such benefits, or the making available of services of the same amount, duration, and scope, to any other individuals, and (III) the making available of medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in clause (A) to any classification of individuals approved by the Secretary with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment shall not, by reason of this paragraph (10), require the making available of any such assistance, or the making available of such assistance of the same amount, duration, and scope, to any other individuals not described in clause (A);

(11)(A) provide for entering into cooperative arrangements with the State agencies responsible for administering or supervising the administration of health services and vocational rehabilitation services in the State looking toward maximum utilization of such services in the provision of medical assistance under the plan, and (B) effective July 1, 1969, provide, to the extent prescribed by the Secretary, for entering into agreements, with any agency, institution, or organization receiving payments for part or all of the cost of plans or projects under subchapter V of the chapter, (i) providing for utilizing such agency, institution, or organization in furnishing care and services which are available under such plan or project under subchapter V of this

chapter and which are included in the State plan approved under this section and (ii) making such provision as may be appropriate for reimbursing such agency, institution, or organization for the cost of any such care and services furnished any individual for which payment would otherwise be made to the State with respect to him under section 1396b of this title;

(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(13) provide—

(A)(i) for the inclusion of some institutional and some noninstitutional care and services, and

(ii) for the inclusion of home health services for any individual who, under the State plan, is entitled to skilled nursing facility services, and

(B) in the case of individuals receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter, for the inclusion of at least the care and services listed in clauses (1) through (5) of section 1396d(a) of this title, and

(C) in the case of individuals not included under subparagraph (B) for the inclusion of at least—

(i) the care and services listed in clauses (1) through (5) of section 1396d(a) of this title or

(ii)(I) the care and services listed in any 7 of the clauses numbered (1) through (16) of such section and (II) in the event the care and services provided under the State plan include hospital or skilled nursing facility services, physicians' services to an individual in a hospital or skilled nursing facility during any period he is receiving hospital services from such hospital or skilled nursing facility services from such facility, and

(D) for payment of the reasonable cost of inpatient hospital services provided under the plan, as determined in accordance with methods and standards, consistent with section 1320a-1 of this title, which shall be developed by the State and reviewed and approved by the Secretary and (after notice of approval by the Secretary) included in the plan, except that the reasonable cost of any such services as determined under such methods and standards shall not exceed the amount which would be determined under section 1395x(v) of this title as the reasonable cost of such services for purposes of subchapter XVIII of this chapter; and

(E) effective July 1, 1976, for payment of the skilled nursing facility and intermediate care facility services provided under the plan on a reasonable cost related basis, as determined in accordance with methods and standards which shall be developed by the State on the basis of cost-finding methods approved and verified by the Secretary;

(14) effective January 1, 1973, provide that—

(A) in the case of individuals receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter, or who meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under subchapter XVI of this chapter, as the case may be, and individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A)—

(i) no enrollment fee, premium, or similar charge, and no deduction, cost sharing, or similar charge with respect to the care and services listed in clauses (1) through (5) and (7) of section 1396d(a) of this title, will be imposed under the plan, and

(ii) any deduction, cost sharing, or similar charge imposed under the plan with respect to other care and services will be nominal in amount (as determined in accordance with standards approved by the Secretary and included in the plan), and

(B) with respect to individuals (other than individuals with respect to whom there is being paid, or who are eligible or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A)) who are not receiving aid or assistance under any such State plan and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter and who do not meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under subchapter XVI of this chapter, as the case may be—

(i) there may be imposed an enrollment fee, premium, or similar charge which (as determined in accordance with standards prescribed by the Secretary) is related to the individual's income, and

(ii) any deductible, cost-sharing, or similar charge imposed under the plan will be nominal;

(15) in the case of eligible individuals 65 years of age or older who are covered by either or both of the insurance programs established by subchapter XVIII of this chapter, provide where, under the plan, all of any deductible, cost sharing, or similar charge imposed with respect to such individual under the insurance program established by such subchapter is not met, the portion thereof which is met shall be determined on a basis

reasonably related (as determined in accordance with standards approved by the Secretary and included in the plan) to such individual's income or his income and resources;

(16) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulation) with respect to the furnishing of medical assistance under the plan to individuals who are residents of the State but are absent therefrom;

(17) include reasonable standards (which shall be comparable for all groups and may, in accordance with standards prescribed by the Secretary, differ with respect to income levels, but only in the case of applicants or recipients of assistance under the plan who are not receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter, based on the variations between shelter costs in urban areas and in rural areas) for determining eligibility for and the extent of medical assistance under the plan which (A) are consistent with the objectives of this subchapter, (B) provide for taking into account only such income and resources as are, as determined in accordance with standards prescribed by the Secretary, available to the applicant or recipient and (in the case of any applicant or recipient who would, except for income and resources, be eligible for aid or assistance in the form of money payments under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV, or to have paid with respect to him supplemental security income benefits under subchapter XVI of this chapter as would not be disregarded (or set aside for future needs) in determining his eligibility for such aid, assistance or benefits, (C) provide for reasonable evaluation of any such income or resources, and (D) do not take into account the financial responsibility of any individual for any applicant or recipient of assistance under the plan unless such applicant or recipient is such individual's spouse or such individual's child who is under age 21 or (with respect to States eligible to participate in the State program established under subchapter XVI of this chapter), is blind or permanently and totally disabled, or is blind or disabled as defined in section 1382c of this title (with respect to States which are not eligible to participate in such program); and provide for flexibility in the application of such standards with respect to income by taking into account, except to the extent prescribed by the Secretary, the costs (whether in the form of insurance premiums or otherwise) incurred for medical care or for any other type of remedial care recognized under State law;

(18) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual), and that there shall be no adjustment or recovery (except, in the case of an individual who was 65 years of age or older when he received such assistance, from his estate, and then only after the death of his surviving spouse, if any, and only at a time when he has no surviving child who is under age 21 or (with respect to States eligible to participate in the State program established under subchapter XVI of this chapter), is blind or permanently and totally disabled, or is blind or disabled as defined in section 1382c of this title with respect to States which are not eligible to participate in such program) of any medical assistance correctly paid on behalf of such individual under the plan;

(19) provide such safeguards as may be necessary to assure that eligibility for care and services under the plan will be determined, and such care and services will be provided, in a manner consistent with simplicity of administration and the best interests of the recipients;

(20) if the State plan includes medical assistance in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases—

(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and, where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities, for furnishing information, and for making reports;

(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodical determination of his need for continued treatment in the institution;

(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients 65 years of age or older who would otherwise need care in such institutions, including appropriate medical treatment and other aid or assistance; for services referred to in section 303(a)(4)(A)(i) and (ii), section 803(a)(1)(A)(i) and (ii), or section 1383(a)(4)(A)(i) and (ii) of this title which are appropriate for such recipients and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out; and

(D) provide methods of determining the reasonable cost of institutional care for such patients;

(21) if the State plan includes medical assistance in behalf of individuals 65 years of age or older who are patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing facilities, and other alternatives to care in public institutions for mental diseases;

(22) include descriptions of (A) the kinds and numbers of professional medical personnel and supporting staff that will be used in the administration of the plan and of the responsibilities they will have, (B) the standards, for private or public institutions in which recipients of medical assistance under the plan may receive care or services, that will be utilized by the State authority or authorities responsible for establishing and maintaining such standards, (C) the cooperative arrangements with State health agencies and State vocational rehabilitation agencies entered into with a view to maximum utilization of and coordination of the provision of medical assistance with the services administered or supervised by such agencies, and (D) other standards and methods that the State will use to assure that medical or remedial care and services provided to recipients of medical assistance are of high quality;

(23) except in the case of Puerto Rico, the Virgin Islands, and Guam, provide that any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services; and a State plan shall not be deemed to be out of compliance with the requirements of this paragraph or paragraph (1) or (10) solely by reason of the fact that the State (or any political subdivision thereof) has entered into a contract with an organization which has agreed to provide care and services in addition to those offered under the State plan to individuals eligible for medical assistance who reside in the geographic area served by such organization and who elect to obtain such care and services from such organization;

(24) effective July 1, 1969, provide for consultative services by health agencies and other appropriate agencies of the State to hospitals, nursing facilities, home health agencies, clinics, laboratories, and such other institutions as the Secretary may specify in order to assist them (A) to qualify for payments under this chapter, (B) to establish and maintain such fiscal records as may be necessary for the proper and efficient administration of this chapter, and (C) to provide information needed to determine payments due under this chapter on account of care and services furnished to individuals;

(25) provide (A) that the State or local agency administering such plan will take all reasonable measures to ascertain the legal liability of third parties to pay for care and services (available under the plan) arising out of injury, disease, or disability, (B) that where the State or local agency knows that a third party has such a legal liability such agency will treat such legal liability as a resource of the individual on whose behalf the care and services are made available for purposes of paragraph (17)(B), and (C) that in any case where such a legal liability is found to exist after medical assistance has been made available on behalf of the individual, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability;

(26) effective July 1, 1969, provide (A) for a regular program of medical review (including medical evaluation) of each patient's need for skilled nursing facility care or (in the case of individuals who are eligible therefor under the State plan) need for care in a mental hospital, a written plan of care, and, where applicable, a plan of rehabilitation prior to admission to a skilled nursing facility; (B) for periodic inspections to be made in all skilled nursing facilities and mental institutions (if the State plan includes care in such institutions) within the State by one or more medical review teams (composed of physicians and other appropriate health and social service personnel) of (i) the care being provided in such nursing facilities (and mental institutions, if care therein is provided under the State plan) to persons receiving assistance under the State plan, (ii) with respect to each of the patients receiving such care, the adequacy of the services available in particular nursing facilities (or institutions) to meet the current health needs and promote the maximum physical well-being of patients receiving care in such facilities (or institutions), (iii) the necessity and desirability of the continued placement of such patients in such nursing facilities (or institutions), and (iv) the feasibility of meeting their health care needs through alternative institutional or noninstitutional services; and (C) for the making by such team or teams of full and complete reports of the findings resulting from such inspections together with any recommendations to the State agency administering or supervising the administration of the State plan;

(27) provide for agreements with every person or institution providing services under the State plan under which such person or institution agrees (A) to keep such records as are necessary fully to disclose the extent of the services provided to individuals receiving assistance under the State plan, and (B) to furnish the State agency with such information, regarding any payments claimed by such person or institution for providing services under the State plan, as the State agency may from time to time request;

(28) provide that any skilled nursing facility receiving payments under such plan must satisfy all of the requirements contained in section 1395x(j) of this title, except that the exclusion contained therein with respect to institutions which are primarily for the care and treatment of mental diseases and tuberculosis shall not apply for purposes of this subchapter;

(29) include a State program which meets the requirements set forth in section 1396g of this title, for the licensing of administrators of nursing homes;

(30) provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1396b(i)(4) of this title) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments (including payments for any drugs provided under the plan) are not in excess of reasonable charges consistent with efficiency, economy, and quality of care;

(31) provide (A) for a regular program of independent professional review (including medical evaluation of each patient's need for intermediate care) and a written plan of service prior to admission or authorization of benefits in an intermediate care facility as determined under regulations of the Secretary; (B) for periodic on-site inspections to be made in all such intermediate care facilities (if the State plan includes care in such institutions) within the State by one or more independent professional review teams (composed of physicians or registered nurses and other appropriate health and social service personnel) of (i) the care being provided in such intermediate care facilities to persons receiving assistance under the State plan (ii) with respect to each of the patients receiving such care, the adequacy of the services available in particular intermediate care facilities to meet the current health needs and promote the maximum physical well-being of patients receiving care in such facilities, (iii) the necessity and desirability of the continued placement of such patients in such facilities, and (iv) the feasibility of meeting their health care needs through alternative institutional or non-institutional services; and (C) for the making by such team or teams of full and complete reports of the findings resulting from such inspections, together with any recommendations to the State agency administering or supervising the administration of the State plan;

(32) provide that no payment under the plan for any care or service to an individual by a physician, dentist, or other individual practitioner shall be made to anyone other than such individual or such physician, dentist, or practitioner, except that payment may be made (A) to the employer of such physician, dentist, or practitioner if such physician, dentist, or practitioner is required as a condition of his employment to turn over his fee for such care or service to his employer, or (B) (where the care or service was provided in a hospital, clinic, or other facility) to the facility in which the care or service was provided if there is a contractual arrangement between such physician, dentist, or practitioner and such facility under which such facility submits the bill for such care or service;

(33) provide—

(A) that the State health agency, or other appropriate State medical agency, shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by appropriate professional health personnel of the appropriateness and quality of care and services furnished to recipients of medical assistance under the plan in order to provide guidance with respect thereto in the administration of the plan to the State agency established or designated pursuant to paragraph (5) and, where applicable, to the State agency described in the penultimate sentence of this subsection; and

(B) that the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1395aa(a) of this title, or, if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform for the State agency administering or supervising the administration of the plan approved under this subchapter the function of determining whether institutions and agencies meet the requirements for participation in the program under such plan;

(34) provide that in the case of any individual who has been determined to be eligible for medical assistance under the plan, such assistance will be made available to him for care and services included under the plan and furnished in or after the third month before the month in which he made application (or application was made on his behalf in the case of deceased individual) for such assistance if such individual was (or upon application would have been) eligible for such assistance at the time such care and services were furnished;

(35) effective January 1, 1973, provide that any intermediate care facility receiving payments under such plan must supply to the licensing agency of the State full and complete information as to the identity (A) of each person having (directly or indirectly) an ownership interest of 10 per centum or more in such intermediate care facility or who is the owner (in whole or in part) of any mortgage, deed or trust, note, or other obligation secured (in whole or in part) by such intermediate care facility or any of the property or assets of such intermediate care facility, (B) in case an intermediate care facility is organized as a corporation, of each officer and director of the corporation, and (C) in case an intermediate care facility is organized as a partnership, of each partner; and promptly report any changes which would affect the current accuracy of the information so required to be supplied; and

(36) provide that within 90 days following the completion of each survey of any health care facility, laboratory, agency, clinic, or organization, by the appropriate State agency described in paragraph (9), such agency shall (in accordance with regulations of the Secretary) make public in readily available form and place the pertinent findings of each such survey relating to the compliance of each such health care facility, laboratory, clinic, agency, or organization with (A) the statutory conditions of participation imposed under this subchapter, and (B) the major additional

conditions which the Secretary finds necessary in the interest of health and safety of individuals who are furnished care or services by any such facility, laboratory, clinic, agency, or organization.

Notwithstanding paragraph (5), if on January 1, 1965, and on the date on which a State submits its plan for approval under this subchapter, the State agency which administered or supervised the administration of the plan of such State approved under subchapter X of this chapter (or subchapter XVI of this chapter, insofar as it relates to the blind) was different from the State agency which administered or supervised the administration of the State plan approved under subchapter I of this chapter (or subchapter XVI of this chapter, insofar as it relates to the aged), the State agency which administered or supervised the administration of such plan approved under subchapter X of this chapter (or subchapter XVI of this chapter, insofar as it relates to the blind) may be designated to administer or supervise the administration of the portion of the State plan for medical assistance which relates to blind individuals and a different State agency may be established or designated to administer or supervise the administration of the rest of the State plan for medical assistance; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this subchapter (except for purposes of paragraph (10)). For purposes of paragraphs (9)(A), (29), (31), and (33), and of section 1396b(i)(4) of this title, the terms "skilled nursing facility" and "nursing home" do not include a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

For purposes of paragraph (10) any individual who, for the month of August 1972, was eligible for or receiving aid or assistance under a State plan approved under subchapter I, X, XIV, or XVI, of this chapter, or part A of subchapter IV of this chapter and who for such month was entitled to monthly insurance benefits under subchapter II of this chapter shall for purposes of this subchapter only be deemed to be eligible for financial aid or assistance for any month thereafter if such individual would have been eligible for financial aid or assistance for such month had the increase in monthly insurance benefits under subchapter II of this chapter resulting from enactment of Public Law 92-336 not been applicable to such individual.

(b) Approval by Secretary

The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for medical assistance under the plan—

(1) an age requirement of more than 65 years; or

(2) effective July 1, 1967, any age requirement which excludes any individual who has not attained the age of 21 and is or would, except for the provisions of section 606(a)(2) of this title, be a dependent child under part A of subchapter IV of this chapter; or

(3) any residence requirement which excludes any individual who resides in the State; or

(4) any citizenship requirement which excludes any citizen of the United States.

(c) Same; reduction of aid or assistance under State plans under other subchapters

Notwithstanding subsection (b) of this section, the Secretary shall not approve any State plan for medical assistance if he determines that the approval and operation of the plan will result in a reduction in aid or assistance in the form of money payments (other than so much, if any, of the aid or assistance in such form as was, immediately prior to the effective date of the State plan under this subchapter, attributable to medical needs) provided for eligible individuals under a plan of such State approved under subchapter I, X, XIV, or XVI of this chapter, or part A of subchapter IV of this chapter.

(d) Repealed. Pub. L. 92-603, title II, § 231, Oct. 30, 1972, 86 Stat. 1410

(e) Continued eligibility of families determined ineligible because of income and resources or hours of work limitations of plan

Notwithstanding any other provision of this subchapter, effective January 1, 1974, each State plan approved under this subchapter must provide that each family which was receiving aid pursuant to a plan of the State approved under part A of subchapter IV of this chapter in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such aid because of increased hours of, or increased income from, employment, shall, while a member of such family is employed, remain eligible for assistance under the plan approved under this subchapter (as though the family was receiving aid under the plan approved under part A of subchapter IV of this chapter) for 4 calendar months beginning with the month in which such family became ineligible for aid under the plan approved under part A of subchapter IV of this chapter because of income and resources or hours of work limitations contained in such plan.

(f) Effective date of State plan as determinative of duty of State to provide medical assistance to aged, blind, or disabled individuals

Notwithstanding any other provision of this subchapter, except as provided in subsection (e) of this section, no State not eligible to participate in the State plan program established under subchapter XVI of this chapter shall be required to provide medical assistance to any aged, blind, or disabled individual (within the meaning of subchapter XVI of this chapter) for any month unless such State would be (or would have been) required to provide medical assistance to such individual for such month had its plan for medical assistance approved under this subchapter and in effect on January 1, 1972, been in effect in such month, except that for this purpose any such individual shall be deemed eligible for medical assistance under such State plan if (in addition to meeting such other requirements as are or may be imposed under the State plan) the income of any such

individual as determined in accordance with section 1396b(f) of this title (after deducting any supplemental security income payment and State supplementary payment made with respect to such individual, and incurred expenses for medical care as recognized under State law) is not in excess of the standard for medical assistance established under the State plan as in effect on January 1, 1972. In States which provide medical assistance to individuals pursuant to clause (10)(C) of subsection (a) of this section, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under clause (10)(A) of that subsection if that individual is, or is eligible to be (1) an individual with respect to whom there is payable a State supplementary payment on the basis of which similarly situated individuals are eligible to receive medical assistance equal in amount, duration, and scope to that provided to individuals eligible under clause (10)(A), or (2) an eligible individual or eligible spouse, as defined in subchapter XVI of this chapter, with respect to whom supplemental security income benefits are payable; otherwise that individual shall be considered to be an individual eligible for medical assistance under clause (10(C) of that subsection. In States which do not provide medical assistance to individuals pursuant to clause (10)(C) of that subsection, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under clause (10)(A) of that subsection.

(Aug. 14, 1935, ch. 531, title XIX, § 1902, as added July 30, 1965, Pub. L. 89-97, title I, § 121(a), 79 Stat. 344, and amended Jan. 2, 1968, Pub. L. 90-248, title II, §§ 210(a)(6), 223(a), 224(a), (c)(1), 227(a), 228(a), 229(a), 231, 234(a), 235(a), 236(a), 237, 238, 241(f)(1)-(4), title III, § 302(b), 81 Stat. 896, 901-906, 908, 911, 917, 929; Aug. 9, 1969, Pub. L. 91-56, § 2(c), (d), 83 Stat. 99; Dec. 28, 1971, Pub. L. 92-223, § 4(b), 85 Stat. 809; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 208(a), 209(a), (b)(1), 221(c)(5), 231, 232(a), 236(b), 237(a)(2), 239(a), (b), 240, 246(a), 249(a), 255(a), 268(a), 274(a), 278(a)(18), (19), (b)(14), 298, 299A, 299D(b), 86 Stat. 1381, 1389, 1410, 1415-1418, 1424, 1426, 1446, 1450, 1452-1454, 1460, 1462; Dec. 31, 1973, Pub. L. 93-233, §§ 13(a)(2)-(10), 18(*o*), (p), (q), (x)(1)-(4), 87 Stat. 960-962, 971, 972; Aug. 7, 1974, Pub. L. 93-368, § 9(a), 88 Stat. 422; July 1, 1975, Pub. L. 94-48, §§ 1, 2, 89 Stat. 247; Dec. 31, 1975, Pub. L. 94-182, title I, § 111(a), 89 Stat. 1054; Oct. 18, 1976, Pub. L. 94-552, § 1, 90 Stat. 2540.)

References in Text

Section 803 of this title, referred to in subsec. (a)(20)(C), was repealed by Pub. L. 93-647, § 3(b), Jan. 4, 1975, 88 Stat. 2349.

Section 1383(a)(4)(A) (i) and (ii) of this title, referred to in subsec. (a)(20)(C), was omitted in the general amendment of title XVI of the Social Security Act by Pub. L. 92-603, § 301.

Pub. L. 92-336, referred to in provisions following subsec. (a)(36), is Pub. L. 92-336, July 1, 1972, 86 Stat. 406, which amended sections 401, 403, 409, 411, 415, 427, 428, and 430 of this title and sections 165, 1401, 1402, 3101, 3111, 3121, 3122, 3125, 6413, and 6654 of Title 26, Internal Revenue Code, and enacted provisions set out as notes under sections 403, 409, 415, and 428 of this title and sections 165 and 1401 of Title 26.

Amendments

1976—Subsec. (g). Pub. L. 94-552 repealed subsec. (g) provisions for consent to suit and waiver of immunity by State.

1975—Subsec. (a)(23). Pub. L. 94-48, § 2, added "except in the case of Puerto Rico, the Virgin Islands, and Guam,".

Subsec. (a), foll. par. (36), Pub. L. 94-48, § 1, added provision relating to eligibility under this subchapter of any individual who was eligible for the month of August 1972, under a State plan approved under subchapters I, X, XIV, XVI, or part A of subchapter IV of this chapter if such individual would have been eligible for such month had the increase in monthly insurance benefits under subchapter II of this chapter resulting from enactment of Pub. L. 92-336 not been applicable to such individual.

Subsec. (g). Pub. L. 94-182 added subsec. (g).

1974—Subsec. (a)(14)(B)(i). Pub. L. 93-368 substituted "may" for "shall".

1973—Subsec. (a)(5). Pub. L. 93-233, § 13(a)(2)(A), (B), substituted "to administer or to supervise the administration of the plan" for "to administer the plan" and "to supervise the administration of the plan" in that order and added after the parenthetical phrase the conditional provision "if the State is eligible to participate in the State plan program established under subchapter XVI of this chapter, or by the agency or agencies administering the supplemental security income program established under subchapter XVI of this chapter or the State plan approved under part A of subchapter IV of this chapter if the State is not eligible to participate in the State plan program established under subchapter XVI of this chapter".

Subsec. (a)(10). Pub. L. 93-233, § 13(a)(3), incorporated existing text in provisions designated as cl. (A), providing therein for medical assistance to individuals with respect to whom supplemental security income benefits are paid; incorporated existing par. (A) in provisions designated as cl. (B); incorporated existing par. (B) in provisions designated as cl. (C), providing therein for individuals not meeting income and resources requirements of the supplemental security income program; substituted in cls. (B)(ii), (C), (C)(i)(ii) and "medical assistance" for "medical or remedial care and services" appearing in predecessor provisions and in cl. (C)(i) "except for income and resources" for "if needy" appearing in predecessor provision; and in the exception provisions included reference to par. (16) of section 1396(a) of this title in item (I), substituted "deductibles" for "the deductibles" in item (II), and added item (III).

Subsec. (a)(13)(B). Pub. L. 93-233, § 13(a)(4), substituted "any plan of the State approved" for "the State's plan approved" and inserted after "part A of subchapter IV of this chapter" text reading ", or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter".

Subsec. (a)(13)(C)(ii)(I). Pub. L. 93-233, § 18(x)(1), substituted reference to clause "16" for "14".

Subsec. (a)(14)(A). Pub. L. 93-233, § 13(a)(5), substituted "any plan of the State approved" for "a State plan approved" and "with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter, or who meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under subchapter XVI of this chapter, as the case may be, and individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance

made available to individuals described in paragraph (10)(A)" for "who meet the income and resources requirements of the one of such State plans which is appropriate".

Subsec. (a)(14)(B). Pub. L. 93-233, § 13(a)(6)(A)-(D), inserted after "with respect to individuals" the parenthetical provision "(other than individuals with respect to whom there is being paid, or who are eligible or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A))"; inserted after "any such State plan" the clause "and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter"; substituted "the appropriate State plan, or the supplemental security income program under subchapter XVI of this chapter, as the case may be," for "the one of such State plans which is appropriate"; and struck out "or who, after December 31, 1973, are included under the State plan for medical assistance pursuant to subsection (a)(10)(B) of this section approved under this subchapter" preceding the hyphen and cl. (i), respectively.

Subsec. (a)(17). Pub. L. 93-233, § 13(a)(7)(A)-(D), (8), substituted: "any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter" for "the State's plan approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter"; "except for income and resources" for "if he met the requirements as to need"; "any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, or to have paid with respect to him supplemental security income benefits under subchapter XVI of this chapter" for "a State plan approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter"; "such aid, assistance, or benefits" for "and amount of such aid or assistance under such plan"; and "(with respect to States eligible to participate in the State program established under subchapter XVI of this chapter), is blind or permanently and totally disabled, or is blind or disabled as defined in section 1382c of this title (with respect to States which are not eligible to participate in such program)" for "is blind or permanently and totally disabled".

Subsec. (a)(18). Pub. L. 93-233, § 13(a)(8), substituted "(with respect to States eligible to participate in the State program established under subchapter XVI of this chapter), is blind or permanently and totally disabled, or is blind or disabled as defined in section 1382c of this title (with respect to States which are not eligible to participate in such program)" for "is blind or permanently and totally disabled".

Subsec. (a)(20)(C). Pub. L. 93-233, § 13(a)(9), inserted reference to section 803(a)(1)(A)(i) and (ii) of this title.

Subsec. (a)(21). Pub. L. 93-233, § 18(x)(4) provided for substitution of "nursing facilities" for "nursing homes".

Subsec. (a)(24). Pub. L. 93-233, § 18(x)(4) provided for substitution of "nursing facilities" for "nursing homes".

Subsec. (a)(26)(B). Pub. L. 93-233, § 18(x)(4), provided for substitution of "nursing facility" and "nursing facilities" for "nursing home" and "nursing homes", changes already executed under 1972 Amendment by Pub. L. 92-603, § 278(a)(19).

Subsec. (a)(33)(A). Pub. L. 93-233, § 18(x)(2), substituted "penultimate sentence" for "last sentence".

Subsec. (a)(34). Pub. L. 93-233, § 18(o), inserted "(or application was made on his behalf in the case of a deceased individual)" following "he made application".

Subsec. (a)(35)(A). Pub. L. 93-233, § 18(p), required the intermediate care facility to supply full and complete information respecting the person who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the intermediate care facility or any of the property or assets of the intermediate care facility.

Subsec. (a)(35) to (37). Pub. L. 93-233, § 18(x)(3)(A), (B), substituted "; and" for "." at end of par. (35); and corrected numerical sequence of paragraphs, redesignating par. (37) as (36), the original subsec. (a) having been enacted without a par. (36).

Subsec. (e). Pub. L. 93-233, § 18(q), substituted "each family which was receiving aid pursuant to a plan of the State approved under part A" for "each family which was eligible for assistance pursuant to part A", "for such aid because of increased hours of, or increased income from, employment" for "for such assistance because of increased income from employment", and "remain eligible for assistance under the plan approved under this subchapter (as though the family was receiving aid under the plan approved under part A of subchapter IV of this chapter) for 4 calendar months beginning with the month in which such family became ineligible for aid under the plan approved under part A of subchapter IV of this chapter because of income and resources or hours of work limitations" for "remain eligible for such assistance for 4 calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of the income and resources limitations".

Subsec. (f). Pub. L. 93-233, § 13(a)(10)(A)-(D) substituted: "no State not eligible to participate in the State plan program established under subchapter XVI of this chapter" for "no State" and "any supplemental security income payment and State supplementary payment made with respect to such individual" for "such individual's payment under subchapter XVI of this chapter" and "as recognized under State law" for "as defined in section 213 of Title 26" in parenthetical text; and added two end sentences for consideration of certain individuals as eligible for medical assistance under cl. (10)(A) or (C) of subsec. (a) of this section or as eligible for such assistance under cl. (10)(A) in States not providing such assistance under cl. (10)(C), respectively.

1972—Subsec. (a). Pub. L. 92-603, §§ 268(a), 278(b)(14), added provisions exempting Christian Science sanatoriums from certain nursing facility and nursing home requirements.

Subsec. (a)(9). Pub. L. 92-603, § 239(a), added provisions to utilize state health agency for establishing and maintaining health standards for private or public institutions in which recipients of medical assistance under the plan may receive care or services.

Subsec. (a)(13)(A)(ii). Pub. L. 92-603, § 278(a)(18), (b)(14), substituted "skilled nursing facility" for "skilled nursing home".

Subsec. (a)(13)(C). Pub. L. 92-603, § 278(a)(18), (b)(14), substituted "skilled nursing facility" for "skilled nursing home".

Subsec. (a)(13)(D). Pub. L. 92-603, §§ 221(c)(5), 232(a), added provisions that the reasonable cost of inpatient hospital services shall not exceed the amount determined under section 1395x(v) of this title and inserted reference to the consistency of methods and standards with section 1320a-1 of this title for determining the reasonable cost of inpatient hospital services.

Subsec. (a)(13)(E). Pub. L. 92-603, § 249(a), added subpar. (E).

Subsec. (a)(14). Pub. L. 92-603, § 208(a), substituted a nominal amount for an amount reasonably related to the recipient's income as the amount of the deduction, cost sharing, or similar charge imposed under the plan and added provisions covering individuals who are not receiving aid or assistance under any state plan and who do not meet the income and resources requirements and covering individuals who are included under the state plan for medical assistance pursuant to subsec. (a)(10)(B) of this section approved under this subchapter.

Subsec. (a)(23). Pub. L. 92-603, § 240, added provisions allowing States to adopt comprehensive health

care programs while still complying with medicaid requirements.

Subsec. (a)(26). Pub. L. 92-603, §§ 274(a), 278(a)(19), (b)(14), substituted "evaluation)" for "evaluation" and "care" for "care)" and substituted "skilled nursing facility" and "skilled nursing facilities" for "skilled nursing home" and "skilled nursing homes".

Subsec. (a)(28). Pub. L. 92-603, § 246(a), substituted "skilled nursing facility" for "skilled nursing home" and substituted a simple reference to the requirements contained in section 1395x(j) of this title with a specified exception for provisions spelling out in detail the requirements for skilled nursing homes receiving payments.

Subsec. (a)(30). Pub. L. 92-603, § 237(a)(2), substituted "under the plan (including but not limited to utilization review plans as provided for in section 1396b(i)(4) of this title)" for "under the plan".

Subsec. (a)(31)(A). Pub. L. 92-603, § 298, struck out "which provides more than a minimum level of health care services" following "intermediate care facility".

Subsec. (a)(32). Pub. L. 92-603, § 236(b)(3), added par. (32).

Subsec. (a)(33). Pub. L. 92-603, § 239(b)(3), added par. (33).

Subsec. (a)(34). Pub. L. 92-603, § 255(a)(3), added par. (34).

Subsec. (a)(35). Pub. L. 92-603, § 299A(3), added par. (35).

Subsec. (a)(37). Pub. L. 92-603, § 299D(b)(3), added par. (37).

Subsec. (d). Pub. L. 92-603, § 231, repealed subsec. (d), which related to modification of state plans for medical assistance under certain circumstances.

Subsec. (e). Pub. L. 92-603, § 209(a), added subsec. (e).

Subsec. (f). Pub. L. 92-603, § 209(b)(1), added subsec. (f).

1971—Subsec. (a)(31). Pub. L. 92-223 added par. (31).

1969—Subsec. (c). Pub. L. 91-56, § 2(c), substituted "aid or assistance in the form of money payments (other than so much, if any, of the aid or assistance in such form as was, immediately prior to the effective date of the State plan under this subchapter, attributable to medical needs)" for "aid or assistance (other than so much of the aid or assistance as is provided for under the plan of the State approved under this subchapter)".

Subsec. (d). Pub. L. 91-56, § 2(d), added subsec. (d).

1968—Subsec. (a)(2). Pub. L. 90-248, § 231, changed the date on which State plans must meet certain financial participation requirements by substituting "July 1, 1969" for "July 1, 1970".

Subsec. (a)(4). Pub. L. 90-248, § 210(a)(6), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(10). Pub. L. 90-248, §§ 223(a), 241(f)(1), deleted "IV," after "I," and inserted ", and part A of subchapter IV of this chapter" after "XVI of this chapter", and designated existing provisions as item I and added item II.

Subsec. (a)(11). Pub. L. 90-248, § 302(b), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (a)(13). Pub. L. 90-248, § 224(a), designated existing provisions as subpar. (A), incorporated existing cl. (A) in provisions designated as subpars. (B) and (C)-(i), making subpar. (B) and (C) applicable to individuals receiving aid or assistance under an approved State plan and to individuals not covered under subpar. (B), respectively, added cl. (ii) of subpar. (C), redesignated former cl. (B) as subpar. (D), and deleted effective date of July 1, 1967, for former cls. (A) and (B).

Subsec. (a)(13)(A). Pub. L. 90-248, § 224(c)(1), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (a)(14)(A). Pub. L. 90-248, § 235(a)(1), inserted "in the case of individuals receiving aid or assistance under State plans approved under subchapters I, X, XIV, XVI, and part A of subchapter IV of this chapter,".

Subsec. (a)(14)(B). Pub. L. 90-248, § 235(a)(2), inserted "inpatient hospital services or" after "respect to" and substituted "to an individual" for "him".

Subsec. (a)(15). Pub. L. 90-248, § 235(a)(3), deleted subpar. (B) provision for meeting the full cost of any deductible imposed with respect to any such individual under the insurance program established by part A of such subchapter, deleted subpar. (B) designation preceding "where, under the plan", and substituted therein "established by such subchapter" for "established by part B of such subchapter".

Subsec. (a)(17). Pub. L. 90-248, § 238, inserted in the parenthetical expression "and may, in accordance with standards prescribed by the Secretary, differ with respect to income levels, but only in the case of applicants or recipients of assistance under the plan who are not receiving aid or assistance under the State's plan approved under subchapter I, X, XIV, or XVI of this chapter, or part A of subchapter IV of this chapter, based on the variations between shelter costs in urban areas and in rural areas" following "all groups".

Pub. L. 90-248, § 241(f)(2), in clause (B) deleted "IV," after "I," and inserted ", or part A of subchapter IV of this chapter" after "XVI of this chapter".

Subsecs. (a)(23) to (30). Pub. L. 90-248, §§ 227(a), 228(a), 229(a), 234(a), 236(a), 237, added pars. (23), (24), (25), (26)-(28), (29), (30), respectively.

Subsec. (b)(2). Pub. L. 90-248, § 241(f)(3), inserted "part A of" before "subchapter IV".

Subsec. (c). Pub. L. 90-248, § 241(f)(4), deleted "IV," after "I," and inserted ", or part A of subchapter IV of this chapter" after "XVI of this chapter".

Effective Date of 1976 Amendment

Section 2 of Pub. L. 94-552 provided that: "The amendments made by the first section [repealing subsec. (g) of this section and section 1396b(*l*) of this title] shall take effect as of January 1, 1976."

Effective Date of 1975 Amendment

Section 111(c) of Pub. L. 94-182 provided that: "The amendments made by this section [amending subsec. (g) of this section and section 1396b(*l*) of this title] shall (except as otherwise provided for therein) become effective January 1, 1976."

Effective Date of 1974 Amendment

Section 9(b) of Pub. L. 93-368 provided that: "The amendment made by subsection (a) [to subsec. (a)(14)(B)(i) of this section] shall be effective January 1, 1973."

Effective Date of 1973 Amendment

Section 13(d) of Pub. L. 93-233 provided that: "The amendments made by subsection (a) [to subsecs. (a)(5), (10), (13)(B), (14)(A), (B), (17), (18), (20)(C), and (f) of this section and sections 1396, 1396b(a)(1), (f)(4), and 1396(a), (a)(iv)-(vii), (j), and (k) of this title] shall be effective with respect to payments under section 1903 of the Social Security Act [section 1396b of this title] for calendar quarters commencing after December 31, 1973."

Section 18(z-3)(4) of Pub. L. 93-233 provided that: "The amendments made by subsections (o) and (u) [of subsec. (a)(3) of this section and section 1396b(b)(2) of this title] shall be effective July 1, 1973".

Effective Date of 1972 Amendment

Section 268(c) of Pub. L. 92-603 provided that: "The amendments made by this section [amending subsec. (a) of this section and section 1396g(g)(1) of this title] shall be effective on the date of the enactment of this Act [Oct. 30, 1972]."

Amendment of subsec. (a)(9) and (a)(33) by section 239(a), (b) of Pub. L. 92-603 to be effective Jan. 1, 1973 (or earlier if the state plan so provides), see section 239(d) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 705 of this title.

Amendment of subsec. (a)(13) by section 232(a) of Pub. L. 92-603 effective July 1, 1972 or earlier if the

State plan so provides, see section 232(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 705 of this title.

Section 208(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [amending subsec. (a)(14) of this section] shall be effective January 1, 1973 (or earlier if the State plan so provided)."

Amendment of subsec. (a)(28) by section 246(a) of Pub. L. 92-603 to be effective July 1, 1973, see section 246(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395x of this title.

Section 237(d)(2) of Pub. L. 92-603 provided that: "The amendment made by subsection (a)(2) [amending subsec. (a)(30) of this section] shall be effective July 1, 1973."

Amendment of subsec. (a)(32) by section 236(b) of Pub. L. 92-603 effective Jan. 1, 1973 or earlier if the state plan so provides, see section 236(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395u of this title.

Section 255(b) of Pub. L. 92-603 provided that: "The amendments made by subsection (a) [adding subsec. (a)(34) of this section] shall be effective July 1, 1973."

Amendment of subsec. (a)(37) by section 299D(b) of Pub. L. 92-603 effective beginning Jan. 1, 1973, or within 6 months following Oct. 30, 1972, whichever is later, see section 299D(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395aa of this title.

Section 209(b)(2) of Pub. L. 92-603 provided that: "The amendment made by this subsection [adding subsec. (f) of this section] shall become effective on January 1, 1974."

Effective Date of 1971 Amendment

Section 4(d) of Pub. L. 92-223, as amended by section 292 of Pub. L. 92-603, provided that: "The amendments made by this section [enacting subsec. (a)(31) of this section and section 1396d(a)(16), (c), (d) of this title and repealing section 1320a of this title] shall become effective January 1, 1972; except that the repeal made by subsection (c) [repealing section 1320a of this title], shall not become effective in the case of any State, which on January 1, 1972 did not have in effect a State plan approved under title XIX of the Social Security Act [this subchapter], until the first day of the first month (occurring after such date) that such State does have in effect a State plan approved under such title [this subchapter]."

Effective Date of 1968 Amendment

Amendment of subsec. (a)(4) by section 210(a)(6) of Pub. L. 90-248 effective July 1, 1969, or, if earlier (with respect to a State's plan approved under this subchapter) on the date as of which the modification of the State plan to comply with such amendment is approved, see section 210(b) of Pub. L. 90-248, set out as an Effective Date of 1968 Amendment note under section 302 of this title.

Section 223(b) of Pub. L. 90-248 provided that: "The amendments made by subsection (a) [to subsec. (a)(10) of this section] shall apply with respect to calendar quarters beginning after June 30, 1967."

Section 224(b) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) [to subsec. (a)(13) (other than (A)(ii)) of this section] shall apply with respect to calendar quarters beginning after December 31, 1967."

Section 224(c)(2) of Pub. L. 90-248 provided that: "The amendment made by paragraph (1) of this subsection [amending subsec. (a)(13)(A) of this section] shall apply with respect to calendar quarters beginning after June 30, 1970."

Section 227(b) of Pub. L. 90-248, as amended by section 271A of Pub. L. 92-603, effective from and after July 1, 1972, provided that: "The amendments made by this section [enacting subsec. (a)(23) of this section] shall apply with respect to calendar quarters beginning after June 30, 1969; except that such amendments shall apply in the case of Puerto Rico, the Virgin Islands, and Guam only with respect to calendar quarters beginning after June 30, 1975."

Section 229(b) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) [enacting subsec. (a)(25) of this section] shall apply with respect to legal liabilities of third parties arising after March 31, 1968."

Section 234(b) of Pub. L. 90-248 provided that: "The amendments made by subsection (a) of this section [enacting subsecs. (a)(26) to (28) of this section] (unless otherwise specified in the body of such amendments) shall take effect on January 1, 1969."

Section 235(b) of Pub. L. 90-248 provided that: "The amendments made by subsection (a) [to subsecs. (a)(14), (15) of this section] shall be effective in the case of calendar quarters beginning after December 31, 1967."

Enactment of subsec. (a)(29) by section 236(a) of Pub. L. 90-248 effective July 1, 1970, except as otherwise specified in the text thereof, see section 236(c) of Pub. L. 90-248, set out as an Effective Date note under section 1396g of this title.

Section 237 of Pub. L. 90-248 provided in part that enactment of subsec. (a)(30) by section 237 shall be effective Apr. 1, 1968.

Section 238 of Pub. L. 90-248 provided in part that amendment of subsec. (a)(17) by section 238 shall be effective July 1, 1969.

Transfer of Functions

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(4)(A) of this section insofar as relates to the prescription of personnel standards on a merit basis, transferred to United States Civil Service Commission, see section 4728(a)(3)(D) of this title.

Preservation of Medicaid Eligibility for Individuals Who Cease to be Eligible for Supplemental Security Income Benefits on Account of Cost-of-Living Increases in Social Security Benefits

Pub. L. 94-566, title V, § 503, Oct. 20, 1976, 90 Stat. 2685, provided that: "In addition to other requirements imposed by law as a condition for the approval of any State plan under title XIX of the Social Security Act [this subchapter], there is hereby imposed the requirement (and each such State plan shall be deemed to require) that medical assistance under such plan shall be provided to any individual, for any month after June 1977 for which such individual is entitled to a monthly insurance benefit under title II of such Act [subchapter II of this chapter] but is not eligible for benefits under title XVI of such Act [subchapter XVI of this chapter], in like manner and subject to the same terms and conditions as are applicable under such State plan in the case of individuals who are eligible for and receiving benefits under such title XVI [subchapter XVI of this chapter] for such month, if for such month such individual would be (or could become) eligible for benefits under such title XVI [subchapter XVI of this chapter] except for amounts of income received by such individual and his spouse (if any) which are attributable to increase in the level of monthly insurance benefits payable under title II of such Act [subchapter II of this chapter] which have occurred pursuant to section 215(i) of such Act [section 415(i) of this title], in the case of such individual, since the last month after April 1977 for which such individual was both eligible for (and received) benefits under such title XVI [subchapter XVI of this chapter] and was entitled to a monthly insurance benefit under such title II [subchapter II of this chapter], and, in the case of such individual's spouse (if any), since the last such month for which such spouse was both eligible for (and received) benefits under such title XVI [subchapter XVI of this chapter] and was entitled to a monthly insurance benefit under such title II [subchapter II of this chapter]. Solely for purposes of this section, payments of the type described in section 1616(a) of the Social Security Act [section 1382e(a) of this title] or of the type described

in section 212(a) of Pub. L. 93-66 [set out as note under section 1382 of this title] shall be deemed to be benefits under title XVI of the Social Security Act [subchapter XVI of this chapter]."

MEDICAID ELIGIBILITY FOR INDIVIDUALS RECEIVING MANDATORY STATE SUPPLEMENTARY PAYMENTS; EFFECTIVE DATE

Section 13(c) of Pub. L. 93-233 provided that:

"In addition to other requirements imposed by law as conditions for the approval of any State plan under title XIX of the Social Security Act [this subchapter], there is hereby imposed (effective January 1, 1974) the requirement (and each such State plan shall be deemed to require) that medical assistance under such plan shall be provided to any individual—

"(1) for any month for which there (A) is payable with respect to such individual a supplementary payment pursuant to an agreement entered into between the State and the Secretary of Health, Education, and Welfare under section 212(a) of Public Law 93-66 [set out as note under section 1382 of this title], and (B) would be payable with respect to such individual such a supplementary payment, if the amount of the supplementary payments payable pursuant to such agreement were established without regard to paragraph (3)(A)(ii) of such section 212(a) [set out as note under section 1382 of this title], and

"(2) in like manner, and subject to the same terms and conditions, as medical assistance is provided under such plan to individuals with respect to whom benefits are payable for such month under the supplementary security income program established by title [subchapter] XVI of the Social Security Act [this chapter].

Federal matching under title XIX of the Social Security Act [this subchapter] shall be available for the medical assistance furnished to individuals who are eligible for such assistance under this subsection."

COVERAGE OF ESSENTIAL PERSONS UNDER MEDICAID

Section 230 of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 159, provided that:

"In the case of any State plan (approved under title XIX of the Social Security Act [this subchapter]) which for December 1973 provided medical assistance to persons described in section 1905(a)(vi) of such Act [section 1396d(a)(vi) of this title], there is hereby imposed the requirement (and such State plan shall be deemed to require) that medical assistance under such plan be provided to each such person (who for December 1973 was eligible for medical assistance under such plan) for each month (after December 1973) that—

"(1) the individual (referred to in the last sentence of section 1905(a) of such Act [section 1396d(a) of this title]) with whom such person is living continues to meet the criteria (as in effect for December 1973) for aid or assistance under a State plan (referred to in such sentence), and

"(2) such person continues to have the relationship with such individual described in such sentence and meets the other criteria (referred to in such sentence) with respect to a State plan (so referred to) as such plan was in effect for December 1973.

Federal matching under title XIX of the Social Security Act [this subchapter] shall be available for the medical assistance furnished to individuals eligible for such assistance under this section."

PERSONS IN MEDICAL INSTITUTIONS

Section 231 of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 159, as amended by Pub. L. 93-233, § 13(b)(1), Dec. 31, 1973, 87 Stat. 964, provided that:

"For purposes of section 1902(a)(10) of the Social Security Act [subsec. (a)(10) of this section], any individual who, for all (or any part of) the month of December 1973—

"(1) was an inpatient in an institution qualified for reimbursement under title XIX of the Social Security Act [this subchapter], and

"(2)(A) received or would (except for his being an inpatient in such institution) have been eligible to receive aid or assistance under a State plan approved under title I, X, XIV, or XVI of such Act [subchapter I, X, XIV, or XVI of this chapter], and

"(B) on the basis of his status as described in subparagraph (A), was included as an individual eligible for medical assistance under a State plan approved under title XIX of such Act [this subchapter] (whether or not such individual actually received aid or assistance under a State plan referred to in subparagraph (A)),

shall be deemed to be receiving such aid or assistance for such month and for each succeeding month in a continuous period of months if, for each month in such period—

"(3) such individual continues to be (for all of such month) an inpatient in such an institution and would (except for his being an inpatient in such institution) continue to meet the conditions of eligibility to receive aid or assistance under such plan (as such plan was in effect for December 1973), and

"(4) such individual is determined (under the utilization review and other professional audit procedures applicable to State plans approved under title XIX of the Social Security Act [this subchapter]) to be in need of care in such an institution.

Federal matching under title XIX of the Social Security Act [this subchapter] shall be available for the medical assistance furnished to individuals eligible for such assistance under this section."

BLIND AND DISABLED MEDICALLY INDIGENT PERSONS

Section 232 of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 160, as amended by Pub. L. 93-233, § 13(b)(2), Dec. 31, 1973, 87 Stat. 964, provided that: "For purposes of section 1902(a)(10) of the Social Security Act [subsec. (a)(10) of this section], any individual who, for the month of December 1973 was eligible [subsec. (a)(10) of this section] for medical assistance by reason of his having been determined to meet the criteria for blindness or disability (established by a State plan approved under title I, X, XIV, or XVI of such Act [subchapter I, X, XIV, or XVI of this chapter]), shall be deemed for purposes of title XIX [this subchapter] to be an individual who is blind or disabled within the meaning of section 1614(a) of the Social Security Act [section 1382c(a) of this title] for each month in a continuous period of months (beginning with the month of January 1974), if, for each month in such period, such individual continues to meet the criteria for blindness or disability so established by such a State plan (as it was in effect for December 1973). Federal matching under title XIX of the Social Security Act [this subchapter] shall be available for the medical assistance furnished to individuals eligible for such assistance under this section, and the other conditions of eligibility contained in the plan of the State approved under title XIX [this subchapter] (as it was in effect in December 1973)."

IMPACT OF 1972 SOCIAL SECURITY BENEFITS INCREASE UNDER PUB. L. 92-336 UPON ELIGIBILITY FOR ASSISTANCE UNDER THIS SUBCHAPTER

Section 249E of Pub. L. 92-603, as amended by section 233 of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 160, provided that: "For purposes of section 1902(a)(10) of the Social Security Act [subsec. (a)(10) of this section] any individual who, for the month of August 1972, was eligible for or receiving aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV of such Act [subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter] and who for such month was entitled to monthly insurance benefits under title II of such Act [subchapter II of this chapter] shall be deemed to be eligible for such aid or assistance for any month thereafter prior to July 1975 if such individual would have been eligible for such aid or assistance for such month had the increase in monthly insurance benefits under title II of such Act [subchapter II of this chap-

ter] resulting from enactment of Pub. L. 92-336 [see Tables volume] not been applicable to such individual."

NURSING HOMES ELIGIBLE FOR MATCHING FUNDS FOR HOME SERVICES WHEN MEETING STATE LICENSURE REQUIREMENTS AFTER JUNE 30, 1968

Section 234(c) of Pub. L. 90-248 provided that: "Notwithstanding any other provision of law, after June 30, 1968, no Federal funds shall be paid to any State as Federal matching under title I, X, XIV, XVI, or XIX of the Social Security Act [subchapter I, X, XIV, XVI, or XIX of this chapter] for payments made to any nursing home or on account of any nursing home services provided by such nursing home for any period during which such nursing home is determined not to meet fully all requirements of the State for licensure as a nursing home, except that the Secretary may prescribe a reasonable period or periods of time during which a nursing home which has formerly met such requirements will be eligible for payments which include Federal participation if during such period or periods such home promptly takes all necessary steps to again meet such requirements."

DISTRICT OF COLUMBIA; PLAN FOR MEDICAL ASSISTANCE

Pub. L. 90-227, § 1, Dec. 27, 1967, 81 Stat. 744, provided:

"That (a) the Commissioner of the District of Columbia [now Mayor] (hereafter in this Act [enacting this note and material set out as a note under section 1395v of this title] referred to as the 'Commissioner') may submit under title XIX of the Social Security Act [this subchapter] to the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the 'Secretary') a plan for medical assistance (and any modifications of such plan) to enable the District of Columbia to receive Federal financial assistance under such title for a medical assistance program established by the Commissioner under such plan.

"(b)(1) Notwithstanding any other provision of law, the Commissioner may take such action as may be necessary to submit such plan to the Secretary and to establish and carry out such medical assistance program, except that in prescribing the standards for determining eligibility for and the extent of medical assistance under the District of Columbia's plan for medical assistance, the Commissioner may not (except to the extent required by title XIX of the Social Security Act) [this subchapter]—

"(A) prescribe maximum income levels for recipients of medical assistance under such plan which exceed (i) the title XIX maximum income levels if such levels are in effect, or (ii) the Commissioner's maximum income levels for the local medical assistance program if there are no title XIX maximum income levels in effect; or

"(B) prescribe criteria which would permit an individual or family to be eligible for such assistance if such individual or family would be ineligible, solely by reason of his or its resources, for medical assistance both under the plan of the State of Maryland approved under title XIX of the Social Security Act [this subchapter] and under the plan of the State of Virginia approved under such title.

"(2) For purposes of subparagraph (A) of paragraph (1) of this subsection—

"(A) the term 'title XIX maximum income levels' means any maximum income levels which may be specified by title XIX of the Social Security Act [this subchapter] for recipients of medical assistance under State plans approved under that title;

"(B) the term 'the Commissioner's maximum income levels for the local medical assistance program' means the maximum income levels prescribed for recipients of medical assistance under the District of Columbia's medical assistance program in effect in the fiscal year ending June 30, 1967; and

"(C) during any of the first four calendar quarters in which medical assistance is provided under such plan there shall be deemed to be no title XIX maximum income levels in effect if the title XIX maximum income levels in effect during such quarter are higher than the Commissioner's maximum income levels for the local medical assistance program."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1315, 1395v, 1396b, 1396d, 1396g, 1396i, 4728 of this title; title 21 section 1173.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 33-801 of the District of Columbia Code.

§ 1396b. Payment to States

(a) Computation of amount

From the sums appropriated therefor, the Secretary (except as otherwise provided in this section) shall pay to each State which has a plan approved under this subchapter, for each quarter, beginning with the quarter commencing January 1, 1966—

(1) an amount equal to the Federal medical assistance percentage (as defined in section 1396d(b) of this title, subject to subsections (g) and (h) of this section) of the total amount expended during such quarter as medical assistance under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter, for individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV, or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter, or (B) with respect to whom there is being paid a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1396a(a)(10)(A) of this title, and, except in the case of individuals sixty-five years of age or older and disabled individuals entitled to hospital insurance benefits under subchapter XVIII of this chapter who are not enrolled under part B of subchapter XVIII of this chapter, other insurance premiums for medical or any other type of remedial care or the cost thereof; plus

(2) an amount equal to 75 per centum of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to compensation or training of skilled professional medical personnel, and staff directly supporting such personnel, of the State agency or any other public agency; plus

(3) an amount equal to—

(A)(i) 90 per centum of so much of the sums expended during such quarter as are attributable to the design, development, or installation of such mechanized claims processing and information retrieval systems as the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of subchapter XVIII of this chapter, including the State's share of the

cost of installing such a system to be used jointly in the administration of such State's plan and the plan of any other State approved under this chapter, and

(ii) 90 per centum of so much of the sums expended during any such quarter in the fiscal year ending June 30, 1972, or the fiscal year ending June 30, 1973, as are attributable to the design, development, or installation of cost determination systems for State-owned general hospitals (except that the total amount paid to all States under this clause for either such fiscal year shall not exceed $150,000), and

(B) 75 per centum of so much of the sums expended during such quarter as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under a contract with the State) of the type described in subparagraph (A)(i) (whether or not designed, developed, or installed with assistance under such subparagraph) which are approved by the Secretary and which include provision for prompt written notice to each individual who is furnished services covered by the plan of the specific services so covered, the name of the person or persons furnishing the services, the date or dates on which the services were furnished, and the amount of the payment or payments made under the plan on account of the services; plus

(4) an amount equal to 100 per centum of the sums expended with respect to costs incurred during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) which are attributable to compensation or training of personnel (of the State agency or any other public agency) responsible for inspecting public or private institutions (or portions thereof) providing long-term care to recipients of medical assistance to determine whether such institutions comply with health or safety standards applicable to such institutions under this chapter; plus

(5) an amount equal to 90 per centum of the sums expended during such quarter which are attributable to the offering, arranging, and furnishing (directly or on a contract basis) of family planning services and supplies;

(6) an amount equal to 50 per centum of the remainder of the amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) Quarterly expenditures beginning after December 31, 1969

(1) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) of this section for any State for any quarter beginning after December 31, 1969, shall not take into account any amounts expended as medical assistance with respect to individuals aged 65 or over and disabled individuals entitled to hospital insurance benefits under subchapter XVIII of this chapter which would not have been so expended if the individuals involved had been enrolled in the insurance program established by part B of subchapter XVIII of this chapter, other than amounts expended under provisions of the plan of such State required by section 1396a(a)(34) of this title.

(2) For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1320a-1 of this title.

(c) Repealed. Pub. L. 93-233, § 18(y)(1)(A), Dec. 31, 1973, 87 Stat. 973

(d) Estimates of amount of State entitlement; installments; adjustments; overpayment; obligated appropriations

(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsections (a) and (b) of this section for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection. Expenditures for which payments were made to the State under subsection (a) of this section shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 1396a(a)(25) of this title.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

(4) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(e) Repealed. Pub. L. 92-603, title II, § 230, Oct. 30, 1972, 86 Stat. 1410

(f) Limitation on Federal participation in medical assistance

(1)(A) Except as provided in paragraph (4), payment under the preceding provisions of this section shall not be made with respect to any amount expended as medical assistance in a calendar quarter, in any State, for any member of a family the annual income of which exceeds

the applicable income limitation determined under this paragraph.

(B)(i) Except as provided in clause (ii) of this subparagraph, the applicable income limitation with respect to any family is the amount determined, in accordance with standards prescribed by the Secretary, to be equivalent to 133⅓ percent of the highest amount which would ordinarily be paid to a family of the same size without any income or resources, in the form of money payments, under the plan of the State approved under Part A of subchapter IV of this chapter.

(ii) If the Secretary finds that the operation of a uniform maximum limits payments to families of more than one size, he may adjust the amount otherwise determined under clause (i) to take account of families of different sizes.

(C) The total amount of any applicable income limitation determined under subparagraph (B) shall, if it is not a multiple of $100 or such other amount as the Secretary may prescribe, be rounded to the next higher multiple of $100 or such other amount, as the case may be.

(2) In computing a family's income for purposes of paragraph (1), there shall be excluded any costs (whether in the form of insurance premiums or otherwise) incurred by such family for medical care or for any other type of remedial care recognized under State law.

(3) For purposes of paragraph (1)(B), in the case of a family consisting of only one individual, the "highest amount which would ordinarily be paid" to such family under the State's plan approved under part A of subchapter IV of this chapter shall be the amount determined by the State agency (on the basis of reasonable relationship to the amounts payable under such plan to families consisting of two or more persons) to be the amount of the aid which would ordinarily be payable under such plan to a family without any income or resources) consisting of one person if such plan (without regard to section 608 of this title) provided for aid to such a family.

(4) The limitations on payment imposed by the preceding provisions of this subsection shall not apply with respect to any amount expended by a State as medical assistance for any individual—

(A) who is receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV or XVI, or part A of subchapter IV, or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter, or

(B) who is not receiving such aid or assistance and with respect to whom such benefits are not being paid, but (i) is eligible to receive such aid or assistance, or to have such benefits paid with respect to him, or (ii) would be eligible to receive such aid or assistance, or to have such benefits paid with respect to him if he were not in a medical institution, or

(C) with respect to whom there is being paid, or who is eligible, or would be eligible if he were not in a medical institution, to have paid with respect to him, a State supplementary payment and is eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1396a(a)(10)(A) of this title, but only if the income of such individual (as determined under section 1382a of this title, but without regard to subsection (b) thereof) does not exceed 300 percent of the supplemental security income benefit rate established by section 1382(b)(1) of this title,

at the time of the provision of the medical assistance giving rise to such expenditure.

(g) Decrease in Federal medical assistance percentage of amounts paid for services furnished under State plan after June 30, 1973

(1) With respect to amounts paid for the following services furnished under the State plan after June 30, 1973 (other than services furnished pursuant to a contract with a health maintenance organization as defined in section 1395mm of this title), the Federal medical assistance percentage shall be decreased as follows: After an individual has received care as an inpatient in a hospital (including an institution for tuberculosis), skilled nursing facility or intermediate care facility on 60 days, or in a hospital for mental diseases on 90 days (whether or not such days are consecutive), during any fiscal year, which for purposes of this section means the four calendar quarters ending with June 30, the Federal medical assistance percentage with respect to amounts paid for any such care furnished thereafter to such individual in the same fiscal year shall be decreased by 33⅓ per centum thereof unless the State agency responsible for the administration of the plan makes a showing satisfactory to the Secretary that, with respect to each calendar quarter for which the State submits a request for payment at the full Federal medical assistance percentage for amounts paid for inpatient hospital services (including tuberculosis hospitals), skilled nursing facility services, or intermediate care facility services furnished beyond 60 days (or inpatient mental hospital services furnished beyond 90 days), there is in operation in the State an effective program of control over utilization of such services; such a showing must include evidence that—

(A) in each case for which payment is made under the State plan, a physician certifies at the time of admission, or, if later, the time the individual applies for medical assistance under the State plan (and recertifies, where such services are furnished over a period of time, in such cases, at least every 60 days, and accompanied by such supporting material, appropriate to the case involved, as may be provided in regulations of the Secretary), that such services are or were required to be given on an inpatient basis because the individual needs or needed such services; and

(B) in each such case, such services were furnished under a plan established and periodically reviewed and evaluated by a physician;

(C) such State has in effect a continuous program of review of utilization pursuant to section 1396a(a)(30) of this title whereby each admission is reviewed or screened in accordance with criteria established by medical and other professional personnel who are not

themselves directly responsible for the care of the patient involved, and who do not have a significant financial interest in any such institution and are not, except in the case of a hospital, employed by the institution providing the care involved; and the information developed from such review or screening, along with the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel, shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, and any such sample may be of any size up to 100 per centum of all admissions and must be of sufficient size to serve the purpose of (i) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (ii) subjecting admissions to early or more extensive review where information indicates that such consideration is warranted; and

(D) such State has an effective program of medical review of the care of patients in mental hospitals, skilled nursing facilities, and intermediate care facilities pursuant to section 1396a(a) (26) and (31) of this title whereby the professional management of each case is reviewed and evaluated at least annually by independent professional review teams.

In determining the number of days on which an individual has received services described in this subsection, there shall not be counted any days with respect to which such individual is entitled to have payments made (in whole or in part) on his behalf under section 1395d of this title.

(2) The Secretary shall, as part of his validation procedures under this subsection, conduct sample onsite surveys of private and public institutions in which recipients of medical assistance may receive care and services under a State plan approved under this subchapter, and his findings with respect to such surveys (as well as the showings of the State agency required under this subsection) shall be made available for public inspection.

(h) Reduction by Secretary of amount otherwise considered as expenditures under State plan where reasonable cost differential between statewide average cost of skilled nursing facility services and statewide average cost of intermediate care facility services does not exist for any calendar quarter beginning after June 30, 1973

(1) If the Secretary determines for any calender quarter beginning after June 30, 1973, with respect to any State that there does not exist a reasonable cost differential between the statewide average cost of skilled nursing facility services and the statewide average cost of intermediate care facility services in such State, the Secretary may reduce the amount which would otherwise be considered as expenditures under the State plan by any amount which in his judgment is a reasonable equivalent of the difference between the amount of the expenditures by such State for intermediate care facility services and the amount that would have been expended by such State for such services if there had been a reasonable cost differential between the cost of skilled nursing facility services and the cost of intermediate care facility services.

(2) In determining whether any such cost differential in any State is reasonable the Secretary shall take into consideration the range of such cost differentials in all States.

(3) For the purposes of this subsection, the term "cost differential" for any State for any quarter means, as determined by the Secretary on the basis of the data for the most recent calendar quarter for which satisfactory data are available, the excess of—

(A) the average amount paid in such State (regardless of the source of payment) per inpatient day for skilled nursing facility services, over

(B) the average amount paid in such State (regardless of the source of payment) per inpatient day for intermediate care facility services.

(4) For purposes of this subsection, the term "cost" shall mean amounts reimbursable by the State under a State plan approved under this subchapter.

(i) Payment for services performed after December 31, 1972; restrictions

Payment under the preceding provisions of this section shall not be made—

(1) with respect to any amount paid for items or services furnished under the plan after December 31, 1972, to the extent that such amount exceeds the charge which would be determined to be reasonable for such items or services under the fourth and fifth sentences of section 1395u(b)(3) of this title; or

(2) with respect to any amount paid for services furnished under the plan after December 31, 1972, by a provider or other person during any period of time, if payment may not be made under subchapter XVIII of this chapter with respect to services furnished by such provider or person during such period of time solely by reason of a determination by the Secretary under section 1395y(d)(1) of this title or under clause (D), (E), or (F) of section 1395cc(b)(2) of this title; or

(3) with respect to any amount expended for inpatient hospital services furnished under the plan to the extent that such amount exceeds the hospital's customary charges with respect to such services or (if such services are furnished under the plan by a public institution free of charge or at nominal charges to the public) exceeds an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such payment which the Secretary finds will provide fair compensation to such institution for such services; or

(4) with respect to any amount expended for care or services furnished under the plan by a hospital or skilled nursing facility unless such hospital or skilled nursing facility has in effect a utilization review plan which meets the requirements imposed by section 1395x(k) of this title for purposes of subchapter XVIII of this chapter; and if such hospital or skilled

nursing facility has in effect such a utilization review plan for purposes of subchapter XVIII of this chapter, such plan shall serve as the plan required by this subsection (with the same standards and procedures and the same review committee or group) as a condition of payment under this subchapter, the Secretary is authorized to waive the requirements of this paragraph if the State agency demonstrates to his satisfaction that it has in operation utilization review procedures which are superior in their effectiveness to the procedures required under section 1395x(k) of this title.

(j) Order by Secretary for suspension of payment; grounds for issuance; procedure; effective date and duration of order

(1) Notwithstanding the preceding provisions of this section, no payment shall be made to a State (except as provided under this subsection) with respect to expenditures incurred by it for services provided by any institution during any period that an order for suspension of payment (as authorized by this subsection) is effective with respect to such institution.

(2) The Secretary may issue a suspension of payment order with respect to any institution if—

(A) such institution (i) does not (at the time such order is issued) have in effect an agreement with the Secretary which is entered into pursuant to section 1395cc of this title; and (ii) did (prior to the time such order is issued) have in effect such an agreement; and

(B)(i) the Secretary has been unable to collect (or make satisfactory arrangement for the collection of) amounts due on account of overpayments made to such institution under subchapter XVIII of this chapter; or

(ii) the Secretary has been unable to obtain from such institution the data and information necessary to enable him to determine the amount (if any) of the overpayments made to such institution under subchapter XVIII of this chapter.

(3) Whenever the Secretary issues any order for suspension of payment under this subsection with respect to any institution, he shall submit a notice of such order to the single State agency (referred to in section 1396a(a)(5) of this title) of each State which he has reason to believe does or may utilize the services of such institution in providing medical assistance under a plan approved under this subchapter.

(4) Any order for suspension of payment issued with respect to any institution under this subsection shall become effective, in the case of any state plan approved under this subchapter, on the 60th day after the date the State agency (referred to in section 1396a(a)(5) of this title) administering or supervising the administration of such plan receives notice of such order submitted pursuant to paragraph (3). Any such order shall cease to be effective at such time as the Secretary is satisfied that the institution is participating in substantial negotiations which seek to remedy the conditions which gave rise to his order of suspension of payments, or that the amounts (referred to in paragraph (2)) are no longer due from such institution or that a satisfactory arrangement has been made for the payment by such institution of any such amounts. Upon the determination of the Secretary that any such order with respect to any such institution shall cease to be effective, he shall forthwith notify each State agency to which he has theretofore submitted notice under paragraph (3) with respect to such institution.

(5) Whenever any order which has been issued by the Secretary under the preceding provisions of this subsection with respect to an institution ceases to be effective, any payment to which any State would (except for the preceding provisions of this subsection) have been entitled under this section on account of services provided by such institution shall be made to such State for the month in which such order ceases to be effective.

(k) Technical assistance to states

The Secretary is authorized to provide at the request of any State (and without cost to such State) such technical and actuarial assistance as may be necessary to assist such State to contract with any health maintenance organization which meets the requirements of section 1395mm of this title for the purpose of providing medical care and services to individuals who are entitled to medical assistance under this subchapter.

(*l*) Repealed. Pub. L. 94-552, § 1, Oct. 18, 1976, 90 Stat. 2540

(m) Definition; duties and functions of Secretary; payments to States; provisional determination of status by State

(1)(A) The term "health maintenance organization" means a legal entity which provides health services to individuals enrolled in such organization and which—

(i) provides to its enrollees who are eligible for benefits under this subchapter the services and benefits described in paragraphs (1), (2), (3), (4)(C), and (5) of section 1396d of this title, and, to the extent required by section 1396a(a)(13)(A)(ii) of this title to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1396d(a) of this title;

(ii) provides such services and benefits in the manner prescribed in section 300e(b) of this title (except that, solely for purposes of this paragraph, the term "basic health services" and references thereto, when employed in such section, shall be deemed to refer to the services and benefits described in paragraphs (1), (2), (3), (4)(C), and (5) of section 1396d(a) of this title, and, to the extent required by section 1396a(13)(A)(ii) of this title to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1396d(a) of this title); and

(iii) is organized and operated in the manner prescribed by section 300e(c) of this title (except that solely for purposes of this paragraph, the term "basic health services" and references thereto, when employed in such section shall be deemed to refer to the services and benefits described in section 1396d(a)(1), (2), (3), (4)(C), and (5) of this title, and to the extent required by section 1396a(a)(13)(A)(ii) of this title, to be provided

under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1396d(a) of this title).

(B) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a health maintenance organization within the meaning of subparagraph (A), shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions shall be integrated with the administration of section 300e-11(a) and (b) of this title.

(2)(A) Except as provided in subparagraphs (B) and (C), no payment shall be made under this subchapter to a State with respect to expenditures incurred by it for payment for services provided by any entity—

(i) which is responsible for the provision of—

(I) inpatient hospital services and any other service described in paragraph (2), (3), (4), (5), or (7) of section 1396d(a) of this title, or

(II) any three or more of the services described in such paragraphs,

when payment for such services is determined under a prepaid capitation risk basis or under any other risk basis;

(ii) which the Secretary (or the State as authorized by paragraph (3)) has not determined to be a health maintenance organization as defined in paragraph (1); and

(iii) more than one-half of the membership of which consists of individuals who are insured under parts A and B of subchapter XVIII or recipients of benefits under this subchapter.

(B) Subparagraph (A) does not apply with respect to payments under this subchapter to a State with respect to expenditures incurred by it for payment for services provided by an entity which—

(i)(I) received a grant of at least $100,000 in the fiscal year ending June 30, 1976, under section 247d(d)(1)(A) or 254c(d)(1) of this title, and (II) for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this subchapter has been the recipient of a grant under either such section; and

(II) provides to its enrollees, on a prepaid capitation risk basis or on any other risk basis, all of the services and benefits described in paragraphs (1), (2), (3), (4)(C), and (5) of section 1396d(a) of this title and, to the extent required by section 1396a(a)(13)(A)(ii) of this title to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of such section; or

(ii) is a nonprofit primary health care entity located in a rural area (as defined by the Appalachian Regional Commission)—

(I) which received in the fiscal year ending June 30, 1976, at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, and

(II) for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this subchapter either has been the recipient of a grant, subgrant, or subcontract under such Act or has provided services under a contract (initially entered into during a year in which the entity was the recipient of such a grant, subgrant, or subcontract) with a State agency under this subchapter on a prepaid capitation risk basis or on any other risk basis; or

(iii) which has contracted with the single State agency for the provision of services (but not including inpatient hospital services) to persons eligible under this subchapter on a prepaid risk basis prior to 1970.

(C) Subparagraph (A)(iii) shall not apply with respect to payments under this subchapter to a State with respect to expenditures incurred by it for payment for services by an entity during the three-year period beginning on October 8, 1976, or beginning on the date the entity enters into a contract with the State under this subchapter for the provision of health services on a prepaid risk basis, whichever occurs later, but only if the entity demonstrates to the satisfaction of the Secretary by the submission of plans for each year of such three-year period that it is making continuous efforts and progress toward achieving compliance with subparagraph (A)(iii).

(3) A State may, in the case of an entity which has submitted an application to the Secretary for determination that it is a health maintenance organization within the meaning of paragraph (1) and for which no such determination has been made within 90 days of the submission of the application, make a provisional determination for the purposes of this subchapter that such entity is such a health maintenance organization. Such provisional determination shall remain in force until such time as the Secretary makes a determination regarding the entity's qualification under paragraph (1).

(Aug. 14, 1935, ch. 531, title XIX, § 1903, as added July 30, 1965, Pub. L. 89-97, title I, § 121(a), 79 Stat. 349, and amended Jan. 2, 1968, Pub. L. 90-248, title II, §§ 220(a), 222(c), (d), 225(a), 229(c), 241(f)(5), 81 Stat. 898, 901, 902, 904, 917; June 28, 1968, Pub. L. 90-364, title III, § 303(a)(1), 82 Stat. 274; Aug. 9, 1969, Pub. L. 91-56, § 2(a), 83 Stat. 99; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 207(a), 221(c)(6), 224(c), 225, 226(e), 229(c), 230, 233(c), 235(a), 237(a)(1), 249B, 278(b)(1), (5), (16), 290, 295, 299E(a), 86 Stat. 1379, 1380, 1389, 1395, 1396, 1404, 1410, 1411, 1414, 1415, 1453, 1454, 1457, 1459, 1462; July 9, 1973, Pub. L. 93-66, title II, § 234(a), 87 Stat. 160; Dec. 31, 1973, Pub. L. 93-233, §§ 13(a)(11), (12), 18(r)-(v), (x)(5), (6), (y)(1), 87 Stat. 963, 971-973; Dec. 31, 1975, Pub. L. 94-182, title I, §§ 110(a), 111(b), 89 Stat. 1054; Oct. 8, 1976, Pub. L. 94-460, title II, § 202(a), 90 Stat. 1957; Oct. 18, 1976, Pub. L. 94-552, § 1, 90 Stat. 2540.)

REFERENCES IN TEXT

The Appalachian Regional Development Act of 1965, referred to in subsec. (m)(2)(B)(i)(II), is Pub. L. 89-4,

Mar. 9, 1965, 79 Stat. 5, as amended, which is set out in the Appendix to Title 40, Public Buildings, Property, and Works. For complete classification of this act to the Code, see Tables volume.

AMENDMENTS

1976—Subsec. (*l*). Pub. L. 94-552 repealed subsec. (*l*) provisions for reduction of amount of payments to States found not to be in compliance with section 1396a(g) of this title.

Subsec. (m). Pub. L. 94-460 added subsec. (m).

1975—Subsec. (g)(1)(C). Pub. L. 94-182, § 110(a), added provisions specifying the method by which the size and composition of the sample of admissions subject to review is to be established.

Subsec. (*l*). Pub. L. 94-182, § 111(b), added subsec. (*l*).

1973—Subsec. (a). Pub. L. 93-233, § 18(x)(5), struck out reference to section 1317 of this title in introductory parenthetical phrase.

Subsec. (a)(1). Pub. L. 93-233, §§ 13(a)(11), 18(r)(1), substituted "individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or part A of subchapter IV of this chapter, or with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter, or (B) with respect to whom there is being paid a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1396a(a)(10)(A) of this title" for "individuals who are recipients of money payments under a State plan approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter" and inserted after "individuals sixty-five years of age or older" text reading "and disabled individuals entitled to hospital insurance benefits under subchapter XVIII of this chapter," respectively.

Subsec. (a)(4). Pub. L. 93-233, § 18(s), substituted "sums expended with respect to costs incurred" for "sums expended".

Subsec. (a)(5). Pub. L. 93-233, § 18(t), struck out after "such quarter" parenthetical text reading "(as found necessary by the Secretary for the proper and efficient administration of the plan)".

Subsec. (b). Pub. L. 93-233, §§ 18(r)(2), (u), (x)(6), inserted in par. (2) after "individuals sixty-five years of age or older" text reading "and disabled individuals entitled to hospital insurance benefits under subchapter XVIII of this chapter" and end text reading ", other than amounts expended under provisions of the plan of such State required by section 1396a(a)(34) of this title," and redesignated pars. (2) and (3) as (1) and (2), respectively.

Subsec. (c). Pub. L. 93-233, § 18(y)(1)(A), struck out subsec. (c) providing for Federal medical assistance percentage and Federal share of State medical expenses during fiscal year ending June 30, 1965.

Subsec. (d)(1). Pub. L. 93-233, § 18(y)(1)(B), struck out reference to subsec. (c) of this section.

Subsec. (f)(4). Pub. L. 93-233, § 13(a)(12), in subpar. (A), made payment limitations inapplicable to individual with respect to whom supplemental security income benefits are being paid under subchapter XVI of this chapter; in subpar. (B), made payment limitations inapplicable to individual with respect to whom such benefits are not being paid, and in cls. (i) and (ii) inserted phrase "to have such benefits paid with respect to him", and added subpar. (C).

Subsec. (g)(1)(C). Pub. L. 93-233, § 18(v), substituted "directly responsible for the care of the patient or financially interested in any such institution or, except in the case of hospitals, employed by the institution" for "directly responsible for the care of the patient and who are not employed by or financially interested in any such institution".

Subsec. (j). Pub. L. 93-66 struck out provisions respecting skilled nursing facility services and intermediate care facility services.

1972—Subsec. (a)(1). Pub. L. 92-603, § 207(a)(2), added reference to subsecs. (g) and (h) and of this section.

Subsec. (a)(3) to (6). Pub. L. 92-603, §§ 235(a), 249B, 299E(a), added pars. (3) to (5). Former subsec. (a)(3) redesignated (a)(6).

Subsec. (b)(1). Pub. L. 92-603, § 295, struck out subsec. (b)(1), which related to the amount of quarterly expenditures exceeding the average of total expenditures for each quarter of fiscal year ending June 30, 1965.

Subsec. (b)(3). Pub. L. 92-603, § 221(c)(6), added par. (3).

Subsec. (e). Pub. L. 92-603, § 230, repealed subsec. (e), which related to furnishing for comprehensive care and services by July 1, 1977.

Subsec. (g). Pub. L. 92-603, §§ 207(a)(1), 278(b)(1), added subsec. (g) and substituted "skilled nursing facility" for "skilled nursing home" and "skilled nursing facilities" for "skilled nursing homes" wherever appearing therein.

Subsec. (h). Pub. L. 92-603, §§ 207(a)(1), 278(b)(1)(5), added subsec. (h) and substituted "skilled nursing facility" for "skilled nursing home" wherever appearing therein.

Subsec. (i). Pub. L. 92-603, §§ 224(c), 229(c), 233(c), 237(a)(1), 278(b)(7), added subsec. (i) and substituted "skilled nursing facility" for "skilled nursing home" wherever appearing therein.

Subsec. (j). Pub. L. 92-603, § 290, added subsec. (j), relating to orders for suspension of payment.

Pub. L. 92-603, §§ 225, 278(b)(16), added subsec. (j), relating to skilled nursing facilities services, and substituted "skilled nursing facility for "skilled nursing home" wherever appearing therein.

Subsec. (k). Pub. L. 92-603, § 226(e), added subsec. (k).

1969—Subsec. (e). Pub. L. 91-56 extended from July 1, 1975, to July 1, 1977, the date by which comprehensive care and services for eligible individuals must be made available for a State to be eligible for payments.

1968—Subsec. (a)(1). Pub. L. 90-248, § 222(d), substituted "and, except in the case of individuals sixty-five years of age or older who are not enrolled under part B of subchapter XVIII of this chapter, other insurance premiums" for "and other insurance premiums".

Pub. L. 90-248, § 241(f)(5), deleted "IV," after "I," and inserted "or part A of subchapter IV of this chapter," after "XVI of this chapter,".

Subsec. (a)(2). Pub. L. 90-248, § 225(a), substituted "of the State agency or any other public agency" for "of the State agency (or of the local agency administering the State plan in the political subdivision)".

Subsec. (b). Pub. L. 90-248, § 222(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(2). Pub. L. 90-364 substituted "1969" for "1967".

Subsec. (d)(2). Pub. L. 90-248, § 229(c), provided for treatment of expenditures for which payments were made to the State under subsec. (a) as an overpayment to the extent that the State or local agency administering the plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 1396a(a)(25) of this title.

Subsec. (f). Pub. L. 90-248, § 220(a), added subsec. (f).

EFFECTIVE DATE OF 1976 AMENDMENT

Repeal of subsec. (*l*) of this section by Pub. L. 94-552 effective Jan. 1, 1976, see section 2 of Pub. L. 94-552, set out as an Effective Date of 1976 Amendment note under section 1396a of this title.

Section 202(b) of Pub. L. 94-460 provided that: "The amendment made by subsection (a) [enacting subsec. (m) of this section] shall apply with respect to payments under title XIX of the Social Security Act [this subchapter] to States for services provided—

"(1) after the date of enactment of subsection (a) [Oct. 8, 1976] under contracts under such title entered into or renegotiated after such date, or

"(2) after the expiration of the 1-year period beginning on such date of enactment,
whichever occurs first."

EFFECTIVE DATE OF 1975 AMENDMENT

Section 110(b) of Pub. L. 94-182 provided that: "The amendment made by subsection (a) [amending subsec. (g)(1)(C) of this section] shall take effect on the first day of the first calendar month which begins not less than 90 days after the date of enactment of this Act [Dec. 31, 1975]."

Amendment by section 111(b) of Pub. L. 94-182 effective January 1, 1976 (except as otherwise provided therein), see section 111(c) of Pub. L. 94-182, set out as an Effective Date of 1975 Amendment note under section 1396a of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by section 13(a)(11), (12) of Pub. L. 93-233 effective with respect to payments under this section for calendar quarters commencing after Dec. 31, 1973, see section 13(d) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 1396a of this title.

Amendment of subsec. (b)(2) by section 18(u) of Pub. L. 93-233 effective July 1, 1973, see section 18(z-3)(4) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 1396a of this title.

Section 234(b) of Pub. L. 93-66 provided that: "The amendment made by subsection (a) [repealing subsec. (j) of this section] shall be applicable in the case of expenditures for skilled nursing services and for intermediate care facility services furnished in calendar quarters which begin after December 31, 1972."

EFFECTIVE DATE OF 1972 AMENDMENT

Section 207(b) of Pub. L. 92-603 provided that: "The amendments made by subsection (a) [amending subsecs. (a)(1), (g) and (h) of this section] shall, except as otherwise provided therein, be effective July 1, 1973."

Amendment of subsec. (k) by section 226(e) of Pub. L. 92-603 effective with respect to services provided on or after July 1, 1973, see section 226(f) of Pub. L. 92-603, set out as an Effective Date note under section 1395mm of this title.

Amendment of subsec. (i) by section 233(c) of Pub. L. 92-603 applicable with respect to services furnished by hospitals in accounting periods beginning after Dec. 31, 1972, see section 233(f) of Pub. L. 92-603, set out as a note under section 1395f of this title. See, also, section 16 of Pub. L. 93-233, set out as a note under section 1395f of this title.

Section 235(b) of Pub. L. 92-603 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to expenditures under State plans approved under title XIX of the Social Security Act [this subchapter], made after June 30, 1971."

Section 237(d)(1) of Pub. L. 92-603 provided that: "The amendments made by subsections (a)(1) and (b) [amending subsec. (i) of this section and section 706(f) of this title] shall apply with respect to services furnished in calendar quarters beginning after June 30, 1973."

Section 249B of Pub. L. 92-603, as amended by Pub. L. 93-368, § 8, Aug. 7, 1974, 88 Stat. 422, provided in part that the enactment of par. (4) of subsec. (a) and the concurrent redesignation of former par. (4) as par. (5) by section 249B of Pub. L. 92-603, and redesignation of such par. (5) as par. (6) by section 299E(a) of Pub. L. 92-603 shall be effective for the period beginning Oct. 1, 1972, and ending June 30, 1977.

EFFECTIVE DATE OF 1968 AMENDMENTS

Section 220(b) of Pub. L. 90-248 provided that:

"(b)(1) In the case of any State whose plan under title XIX of the Social Security Act [this subchapter] is approved by the Secretary of Health, Education, and Welfare under section 1902 [section 1396a of this title] after July 25, 1967, the amendment made by subsection (a) [enacting subsec. (f) of this section] shall apply with respect to calendar quarters beginning after the date of enactment of this Act [Jan. 2, 1968].

"(2) In the case of any State whose plan under title XIX of the Social Security Act [this subchapter] was approved by the Secretary of Health, Education, and Welfare under section 1902 of the Social Security Act [section 1396a of this title] prior to July 26, 1967, amendments made by subsection (a) [enacting subsec. (f) of this section] shall apply with respect to calendar quarters beginning after June 30, 1968, except that—

"(A) with respect to the third and fourth calendar quarters of 1968, such subsection shall be applied by substituting in subsection (f) of section 1903 of the Social Security Act [subsec. (f) of this section] 150 percent for 133⅓ percent each time such latter figure appears in such subsection (f), and

"(B) with respect to all calendar quarters during 1969, such subsection shall be applied by substituting in subsection (f) of section 1903 of such Act [subsec. (f) of this section] 140 percent for 133⅓ percent each time such latter figure appears in such subsection (f)."

Section 222(d) of Pub. L. 90-248, as amended by section 303(a)(2) of Pub. L. 90-364, provided in part that amendment of subsec. (a)(1) of this section by such section 222(d) shall be effective with respect to calendar quarters beginning after December 31, 1969.

Section 225(b) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) [to subsec. (a)(2) of this section] shall apply with respect to expenditures made after December 31, 1967."

Section 303(b) of Pub. L. 90-364 provided that: "The amendments made by subsection (a) [amending subsec. (b)(2) of this section] shall be effective with respect to calendar quarters beginning after December 31, 1967."

COMPREHENSIVE CARE AND SERVICES FOR ELIGIBLE INDIVIDUALS BY JULY 1, 1977; REQUIREMENT INAPPLICABLE FOR ANY PERIOD PRIOR TO JULY 1, 1971; REGULATIONS; ADVICE TO STATES

Section 2(b) of Pub. L. 91-56, which provided that subsection (e) of this section was inapplicable to the period prior to July 1, 1971, and which authorized the Secretary to issue regulations, was repealed by Pub. L. 92-603, title II, § 230, Oct. 30, 1972, 86 Stat. 1410.

EXEMPTION OF PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM FROM LIMITATIONS ON FEDERAL PAYMENTS FOR MEDICAL ASSISTANCE

Section 248(d) of Pub. L. 90-248 provided that: "The amendment made by section 220(a) of this Act [enacting subsec. (f) of this section] shall not apply in the case of Puerto Rico, the Virgin Islands, or Guam."

NONDUPLICATION OF PAYMENTS TO STATES; LIMITATION ON INSTITUTIONAL CARE

Section 121(b) of Pub. L. 89-97, as amended by section 249D of Pub. L. 92-603, provided that: "No payment may be made to any State under title I, IV, X, XIV, or XVI of the Social Security Act [subchapter I, IV, X, XIV, or XVI of this chapter] with respect to aid or assistance in the form of medical or any other type of remedial care for any period for which such State receives payments under title XIX of such Act [this subchapter], or for any period after December 31, 1969. After the date of enactment of the Social Security Amendments of 1972 [Oct. 30, 1972], Federal matching shall not be available for any portion of any payment by any State under title I, X, XIV, or XVI, or part A of title IV, of the Social Security Act [subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter] for or on account of any medical or any other type of remedial care provided by an institution to any individual as an inpatient thereof, in the case of any State which has a plan approved under title XIX of such Act [this subchapter], if such care is (or could be) provided under a State plan approved under title XIX of such Act [this subchapter] by an

institution certified under such title XIX [this subchapter]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 643, 1315, 1396a of this title.

§ 1396c. Operation of State plans

If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this subchapter, finds—

(1) that the plan has been so changed that it no longer complies with the provisions of section 1396a of this title; or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

(Aug. 14, 1935, ch. 531, title XIX, § 1904, as added July 30, 1965, Pub. L. 89-97, title I, § 121(a), 79 Stat. 351.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1316 of this title.

§ 1396d. Definitions

For purposes of this subchapter—

(a) Medical assistance

The term "medical assistance" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals, and, with respect to physicians' or dentists' services, at the option of the State, to individuals (other than individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1396a(a)(10)(A) of this title) not receiving aid or assistance under any plan of the State approved under subchapter IX, XIV, or XVI, or part A of subchapter IV, and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter, who are—

(i) under the age of 21,

(ii) relatives specified in section 606(b)(1) of this title with whom a child is living if such child, except for section 606(a)(2) of this title, is (or would, if needy, be) a dependent child under part A of subchapter IV of this chapter,

(iii) 65 years of age or older,

(iv) blind, with respect to States eligible to participate in the State plan program established under subchapter XVI of this chapter,

(v) 18 years of age or older and permanently and totally disabled, with respect to States eligible to participate in the State plan program established under subchapter XVI of this chapter.

(vi) persons essential (as described in the second sentence of this subsection) to individuals receiving aid or assistance under State plans approved under subchapter I, X, XIV, or XVI of this chapter, or

(vii) blind or disabled as defined in section 1382c of this title, with respect to States not eligible to participate in the State plan program established under subchapter XVI of this chapter,

but whose income and resources are insufficient to meet all of such cost—

(1) inpatient hospital services (other than services in an institution for tuberculosis or mental diseases);

(2) outpatient hospital services;

(3) other laboratory and X-ray services;

(4)(A) skilled nursing facility services (other than services in an institution for tuberculosis or mental diseases) for individuals 21 years of age or older (B) effective July 1, 1969, such early and periodic screening and diagnosis of individuals who are eligible under the plan and are under the age of 21 to ascertain their physical or mental defects, and such health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby, as may be provided in regulations of the Secretary; and (C) family planning services and supplies furnished (directly or under arrangements with others) to individuals of child-bearing age (including minors who can be considered to be sexually active) who are eligible under the State plan and who desire such services and supplies;

(5) physicians' services furnished by a physician (as defined in section 1395x(r)(1) of this title), whether furnished in the office, the patient's home, a hospital, or a skilled nursing facility, or elsewhere;

(6) medical care, or any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law;

(7) home health care services;

(8) private duty nursing services;

(9) clinic services;

(10) dental services;

(11) physical therapy and related services;

(12) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

(13) other diagnostic, screening, preventive, and rehabilitative services;

(14) inpatient hospital services, skilled nursing facility services, and intermediate care facility services for individuals 65 years of age or over in an institution for tuberculosis or mental diseases;

(15) intermediate care facility services (other than such services in an institution for tuberculosis or mental diseases) for individuals who are determined, in accordance with section 1396a(a)(31)(A) of this title, to be in need of such care;

(16) effective January 1, 1973, inpatient psychiatric hospital services for individuals under age 21, as defined in subsection (h) of this section; and

(17) any other medical care, and any other type of remedial care recognized under State law, specified by the Secretary;

except as otherwise provided in paragraph (16), such term does not include—

(A) any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution); or

(B) any such payments with respect to care or services for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases.

For purposes of clauses[1](vi) of the preceding sentence, a person shall be considered essential to another individual if such person is the spouse of and is living with such individual, the needs of such person are taken into account in determining the amount of aid or assistance furnished to such individual (under a State plan approved under subchapter I, X, XIV, or XVI of this chapter), and such person is determined, under such a State plan, to be essential to the well being of such individual.

(b) Federal medical assistance percentage" State percentage; Indian health care percentage

The term "Federal medical assistance percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, and (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, and Guam shall be 50 per centum. The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of subparagraph (B) of section 1301(a)(8) of this title. Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 1603 of title 25).

(c) Intermediate care facility

For purposes of this subchapter the term "intermediate care facility" means an institution which (1) is licensed under State law to provide, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities, (2) meets such standards prescribed by the Secretary as he finds appropriate for the proper provision of such care, and (3) meets such standards of safety and sanitation as are established under regulation of the Secretary in addition to those applicable to nursing facilities under State law. The term "intermediate care facility" also includes any skilled nursing facility or hospital which meets the requirements of the proceeding sentence. The term "intermediate care facility" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to institutional services deemed appropriate by the State. The term "intermediate care facility" also includes any institution which is located in a State or an Indian reservation and is certified by the Secretary as meeting the requirements of clauses (2) and (3) of this subsection and providing the care and services required under clauses (1). With respect to services furnished to individuals under age 65, the term "intermediate care facility" shall not include, except as provided in subsection (d) of this section, any public institution or distinct part thereof for mental diseases or mental defects.

(d) Intermediate care facility services

The term "intermediate care facility services" may include services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions if—

(1) the primary purpose of such institution (or distinct part thereof) is to provide health or rehabilitative services for mentally retarded individuals and which meet such standards as may be prescribed by the Secretary;

(2) the mentally retarded individual with respect to whom a request for payment is made under a plan approved under this subchapter is receiving active treatment under such a program; and

(3) the State or political subdivision responsible for the operation of such institution has agreed that the non-Federal expenditures in any calendar quarter prior to January 1, 1975, with respect to services furnished to patients in such institution (or distinct part thereof) in the State will not, because of payments made under this subchapter, be reduced below the average amount expended for such services in such institution in the four quarters immediately preceding the quarter in which the State in which such institution is located elected to make such services available under its plan approved under this subchapter.

(e) Physicians' services

In the case of any State the State plan of which (as approved under this subchapter)—

(1) does not provide for the payment of services (other than services covered under sec-

[1]So in original. Probably should be "clause".

tion 1396a(a)(12) of this title) provided by an optometrist; but

(2) at a prior period did provide for the payment of services referred to in paragraph (1);

the term "physicians' services" (as used in subsection (a)(5) of this section) shall include services of the type which an optometrist is legally authorized to perform where the State plan specifically provides that the term "physicians' services", as employed in such plan, includes services of the type which an optometrist is legally authorized to perform, and shall be reimbursed whether furnished by a physician or an optometrist.

(f) Skilled nursing facility services

For purposes of this subchapter, the term "skilled nursing facility services" means services which are or were required to be given an individual who needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis.

(g) Chiropractors' services

If the State plan includes provision of chiropractors' services, such services include only—

(1) services provided by a chiropractor (A) who is licensed as such by the State and (B) who meets uniform minimum standards promulgated by the Secretary under section 1395x(r)(5) of this title; and

(2) services which consist of treatment by means of manual manipulation of the spine which the chiropractor is legally authorized to perform by the State.

(h) Inpatient psychiatric hospital services for individuals under age 21

(1) For purposes of paragraph (16) of subsection (a) of this section, the term "inpatient psychiatric hospital services for individuals under age 21" includes only—

(A) inpatient services which are provided in an institution which is accredited as a psychiatric hospital by the Joint Commission on Accreditation of Hospitals;

(B) inpatient services which, in the case of any individual (i) involve active treatment which meets such standards as may be prescribed in regulations by the Secretary, and (ii) a team, consisting of physicians and other personnel qualified to make determinations with respect to mental health conditions and the treatment thereof, has determined are necessary on an inpatient basis and can reasonably be expected to improve the condition, by reason of which such services are necessary, to the extent that eventually such services will no longer be necessary; and

(C) inpatient services which, in the case of any individual, are provided prior to (A) the date such individual attains age 21, or (B) in the case of an individual who was receiving such services in the period immediately preceding the date on which he attained age 21, (i) the date such individual no longer requires such services, or (ii) if earlier, the date such individual attains age 22;

(2) Such term does not include services provided during any calendar quarter under the State plan of any State if the total amount of the funds expended, during such quarter, by the State (and the political subdivisions thereof) from non-Federal funds for inpatient services included under paragraph (1), and for active psychiatric care and treatment provided on an outpatient basis for eligible mentally ill children, is less than the average quarterly amount of the funds expended, during the 4-quarter period ending December 31, 1971, by the State (and the political subdivisions thereof) from non-Federal funds for such services.

(i) Skilled nursing facility

For purposes of this subchapter, the term "skilled nursing facility" also includes any institution which is located in a State on an Indian reservation and is certified by the Secretary as being a qualified skilled nursing facility by meeting the requirements of section 1395x(j) of this title.

(j) State supplementary payment

The term "State supplementary payment" means any cash payment made by a State on a regular basis to an individual who is receiving supplemental security income benefits under subchapter XVI of this chapter or who would but for his income be eligible to receive such benefits, as assistance based on need in supplementation of such benefits (as determined by the Secretary), but only to the extent that such payments are made with respect to an individual with respect to whom supplemental security income benefits are payable under subchapter XVI of this chapter, or would but for his income be payable under that subchapter.

(k) Supplemental security income benefits

Increased supplemental security income benefits payable pursuant to section 211 of Public Law 93-66 shall not be considered supplemental security income benefits payable under subchapter XVI of this chapter.

(Aug. 14, 1935, ch. 531, title XIX, § 1905, as added July 30, 1965, Pub. L. 89-97, title I, § 121(a), 79 Stat. 351, and amended Jan. 2, 1968, Pub. L. 90-248, title II, §§ 230, 233, 241(f)(6), 248(e), title III, § 302(a), 81 Stat. 905, 917, 919, 929; Dec. 28, 1971, Pub. L. 92-223, § 4(a), 85 Stat. 809; Oct. 30, 1972, Pub. L. 92-603, title II, §§ 212(a), 247(b), 275(a), 278(a)(21)-(23), 280, 297(a), 299, 299B, 299E(b), 299L, 86 Stat. 1384, 1425, 1452-1454, 1459-1462, 1464; Dec. 31, 1973, Pub. L. 93-233, §§ 13(a)(13)-(48), 18(w), (x)(7)-(10), (y)(2), 87 Stat. 963, 964, 972, 973; Sept. 30, 1976, Pub. L. 94-437, title IV, § 402(e), 90 Stat. 1410.)

References in Text

Section 211 of Pub. L. 93-66, referred to in subsec. (k), is section 211 of Pub. L. 93-66, July 9, 1973, 87 Stat. 152, as amended by Pub. L. 93-233, § 4(a)(2), (b)(3), Dec. 31, 1973, 87 Stat. 953, which is set out as a note under section 1382 of this title, entitled in part "Federal Program of Supplemental Security Income".

Amendments

1976—Subsec. (b). Pub. L. 94-437 inserted provision requiring that the federal medical assistance percentage be 100 per centum for services received through an Indian Health Service facility.

1973—Subsec. (a). Pub. L. 93-233, § 13(a)(13), substituted in introductory text "individuals (other than individuals with respect to whom there is being paid, or who are eligible or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1396a(a)(10)(A) of this title) not receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter" for "individuals not receiving aid or assistance under the State's plan approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter".

Subsec. (a)(iv). Pub. L. 93-233, § 13(a)(14), inserted "with respect to States eligible to participate in the State plan program established under subchapter XVI of this chapter," following "blind,".

Subsec. (a)(v). Pub. L. 93-233, § 13(a)(15), substituted "with respect to States eligible to participate in the State plan program established under subchapter XVI of this chapter," for "or".

Subsec. (a)(vi). Pub. L. 93-233, § 13(a)(16), inserted "or" at end of text.

Subsec. (a)(vii). Pub. L. 93-233, § 13(a)(17), added cl. (vii).

Subsec. (a)(16). Pub. L. 93-233, § 18(x)(7), substituted "under age 21, as defined in subsection (h) of this section; and" for "under 21, as defined in subsection (e) of this section;".

Subsec. (b). Pub. L. 93-233, § 18(y)(2), struck out "; except that the Secretary shall promulgate such percentage as soon as possible after July 30, 1965, which promulgation shall be conclusive for each of the six quarters in the period beginning January 1, 1966, and ending with the close of June 30, 1966" after "section 1301(a)(8) of this title".

Subsec. (c). Pub. L. 93-233, § 18(x)(8), substituted "skilled nursing facility" for "skilled nursing home" wherever appearing.

Subsec. (h)(1)(B). Pub. L. 93-233, § 18(w), substituted "(i) involve active treatment" for ", involves active treatment (i)"; struck out "pursuant to subchapter XVIII of this chapter" following "may be prescribed"; and substituted "(ii)" for "(ii) which", respectively.

Subsec. (h)(2). Pub. L. 93-233, § 18(x)(10), substituted "paragraph (1)" for "paragraph (e)(1)".

Subsec. (i). Pub. L. 93-233, § 18(x)(9), redesignated subsec. (h) as added by Pub. L. 92-603, § 299L(b), as subsec. (i).

Subsecs. (j), (k). Pub. L. 93-233, § 13(a)(18), added subsecs. (j) and (k).

1972—Subsec. (a). Pub. L. 92-603, § 299B(c), in material following redesignated subsec. (a)(17) substituted "as otherwise provided in paragraph (16)," for "that".

Subsec. (a)(4). Pub. L. 92-603, §§ 278(a)(21), 299E(b), substituted "skilled nursing facility" for "skilled nursing home" and added cl. (C).

Subsec. (a)(5). Pub. L. 92-603, §§ 278(a)(22), 280, substituted "skilled nursing facility" for "skilled nursing home" and inserted "furnished by a physician (as defined in section 1395x(r)(1) of this title) after "physicians' services".

Subsec. (a)(14). Pub. L. 92-603, §§ 278(a)(23), 297(a), substituted "skilled nursing facility" for "skilled nursing home" and added reference to intermediate care facility services.

Subsec. (a)(15) to (17). Pub. L. 92-603, § 299B(a), redesignated subsecs. (a)(15) as (a)(17) and (a)(16) as (a)(15), and added subsec. (a)(16).

Subsec. (c). Pub. L. 92-603, § 299L(a), added provision defining the term "intermediate care facility" with respect to any institution located in a State on an Indian reservation.

Subsec. (d)(3). Pub. L. 92-603, § 299, added provisions relating to the reduction of non-Federal expenditures in any calendar quarter prior to January 1, 1975.

Subsec. (e). Pub. L. 92-603, § 212(a), added subsec. (e).

Subsec. (f). Pub. L. 92-603, § 247(b), added subsec. (f).

Subsec. (g). Pub. L. 92-603, § 275(a), added subsec. (g).

Subsec. (h). Pub. L. 92-603, § 299B(b), added subsec. (h).

Subsec. (i). Pub. L. 92-603, § 299L(b), added subsec. (i).

1971—Subsec. (a)(16). Pub. L. 92-223, § 4(a)(1)(C), added cl. (16).

Subsecs. (c), (d). Pub. L. 92-223, § 4(a)(2), added subsecs. (c) and (d).

1968—Subsec. (a). Pub. L. 90-248, § 230, inserted after "for individuals" in the text preceding cl. (i) ", and with respect to physicians' or dentists' services, at the option of the State, to individuals not receiving aid or assistance under the State's plan approved under subchapter I, X, XIV, XVI of this chapter, or part A of subchapter IV of this chapter".

Pub. L. 90-248, § 233(b), added provision deeming, for purposes of cl. (vi) of the preceding sentence, a person as essential to another individual if such person is the spouse of and is living with such individual, the needs of such person are taken into account in determining the amount of aid or assistance furnished to such individual (under a State plan approved under subchapter I, X, XIV, or XV of this chapter, and such person is determined, under such a State plan, to be essential to the well being of such individual.

Subsec. (a)(ii). Pub. L. 90-248, § 241(f)(6), inserted "part A of" before "subchapter IV".

Subsec. (a)(vi). Pub. L. 90-248, § 233(a), added cl. (vi).

Subsec. (a)(4). Pub. L. 90-248, § 302(a), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (b). Pub. L. 90-248, § 248(e), substituted in clause (2) of first sentence "50" for "55".

Effective Date of 1973 Amendment

Amendment by section 13(a)(13) to (18) of Pub. L. 93-233 effective with respect to payments under section 1396b of this title for calendar quarters commencing after Dec. 31, 1973, see section 13(d) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 1396a of this title.

Effective Date of 1972 Amendment

Section 297(b) of Pub. L. 92-603 provided that: "The amendment made by this section [amending subsec. (a)(14) of this section] shall apply with respect to services furnished after December 31, 1972."

Section 212(b) of Pub. L. 92-603 provided that: "The provisions of subsection (e) of section 1905 of the Social Security Act [subsec. (e) of this section] (as added by subsection (a) of this section) shall be applicable in the case of services performed on or after the date of enactment of this Act [Oct. 30, 1972]."

Enactment of subsec. (f) by section 247(ee) of Pub. L. 92-603 effective with respect to services furnished after Dec. 31, 1972, see section 247(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395f of this title.

Section 275(b) of Pub. L. 92-603 provided that: "The amendment made by this section [enacting subsec. (g) of this section] shall be effective with respect to services furnished after June 30, 1973."

Effective Date of 1971 Amendment

Enactment of subsecs. (a)(16), (c), and (d) by Pub. L. 92-223, effective Jan. 1, 1972, see section 4(d) of Pub. L. 92-223, set out as an Effective Date of 1971 Amendment note under section 1396a of this title.

Effective Date of 1968 Amendment

Section 248(e) of Pub. L. 90-248 provided in part that amendment of subsec. (b) of this section by such section 248(e) shall be effective with respect to quarters after 1967.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1318, 1396a, 1396b of this title.

§ 1396e. Repealed. Pub. L. 92-603, title II, § 287(a), Oct. 30, 1972, 86 Stat. 1457

Section, act Aug. 14, 1935, ch. 531, title XIX, § 1906, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 226, 81 Stat. 903, created the Advisory Council on Medical Assistance, set forth the composition of the Council, term of membership of the members, and the purposes of the Council, and provided for the compensation of the members.

EFFECTIVE DATE OF REPEAL

Section 287(b) of Pub. L. 92-603 provided that: "The provisions of subsection (a) [which repealed this section] shall become effective on the first day of the third calendar month following the month in which this Act is enacted [Oct. 30, 1972]."

§ 1396f. Observance of religious beliefs

Nothing in this subchapter shall be construed to require any State which has a plan approved under this subchapter to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under such plan for any purpose (other than for the purpose of discovering and preventing the spread of infection or contagious disease or for the purpose of protecting environmental health), if such person objects (or, in case such person is a child, his parent or guardian objects) thereto on religious grounds.

(Aug. 14, 1935, ch. 531, title XIX, § 1907, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 232, 81 Stat. 905.)

§ 1396g. State programs for licensing of administrators of nursing homes

(a) Nature of State program

For purposes of section 1396a(a)(29) of this title, a "State program for the licensing of administrators of nursing homes" is a program which provides that no nursing home within the State may operate except under the supervision of an administrator licensed in the manner provided in this section.

(b) Licensing by State agency or board representative of concerned professions and institutions

Licensing of nursing home administrators shall be carried out by the agency of the State responsible for licensing under the healing arts licensing act of the State, or, in the absence of such act or such an agency, a board representative of the professions and institutions concerned with care of chronically ill and infirm aged patients and established to carry out the purposes of this section.

(c) Functions and duties of State agency or board

It shall be the function and duty of such agency or board to—

(1) develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(2) develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(3) issue licenses to individuals determined, after the application of such techniques, to meet such standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards;

(4) establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

(5) receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards; and

(6) conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the State with a view to the improvement of the standards imposed for the licensing of such administrators and procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.

(d) Waiver of standards other than good character or suitability standards

No State shall be considered to have failed to comply with the provisions of section 1396a(a)(29) of this title because the agency or board of such State (established pursuant to subsection (b) of this section) shall have granted any waiver, with respect to any individual who, during all of the three calendar years immediately preceding the calendar year in which the requirements prescribed in section 1396a(a)(29) of this title are first met by the State, has served as a nursing home administrator, of any of the standards developed, imposed, and enforced by such agency or board pursuant to subsection (c) of this section.

(e) Definitions

As used in this section, the term—

(1) "nursing home" means any institution or facility defined as such for licensing purposes under State law, or, if State law does not employ the term nursing home, the equivalent term or terms as determined by the Secretary, but does not include a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts; and

(2) "nursing home administrator" means any individual who is charged with the general administration of a nursing home whether or not such individual has an ownership interest in such home and whether or not his functions and duties are shared with one or more other individuals.

(Aug. 14, 1935, ch. 531, title XIX, § 1908, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 236(b), 81 Stat. 908, and amended Oct. 30,

1972, Pub. L. 92-603, title II, §§ 268(b), 269, 274(b), 86 Stat. 1451, 1452; Dec. 31, 1973, Pub. L. 93-233, § 18(y)(3), 87 Stat. 973.)

AMENDMENTS

1973—Subsec. (d). Pub. L. 93-233 struck out second sentence reading substantially the same as the first sentence but containing the following additional text reading "other than such standards as relate to good character or suitability if—

"(1) such waiver is for a period which ends after being in effect for two years or on June 30, 1972, whichever is earlier, and

"(2) there is provided in the State (during all of the period for which waiver is in effect), a program of training and instruction designed to enable all individuals with respect to whom any such waiver is granted, to attain the qualifications necessary in order to meet such standards" and also "calendar year" instead of "three calendar years" and reference to "subsection (c)(1) of this section" instead of "subsection (c) of this section".

Subsec. (e). Pub. L. 93-233 redesignated former subsec. (g) as (e) and repealed prior subsec. (e) relating to authorization of appropriations for fiscal years 1968 through 1972 and to limitation of grants.

Subsec. (f). Pub. L. 93-233 repealed subsec. (f) providing for creation of National Advisory Council on Nursing Home Administration and for its composition, appointment of members, the Chairman, representation of interests, functions and duties, compensation and travel expenses, technical assistance, availability of assistance and data, and termination date of Dec. 31, 1971.

Subsec. (g). Pub. L. 93-233, redesignated former subsec. (g) as (e).

1972—Subsec. (d). Pub. L. 92-603, §§ 269, 274(b), inserted references to the grant of waivers to individuals who, during all of the three calendar years immediately preceding the calendar year in which the requirements prescribed in section 1396a(a)(29) of this title are first met by the State, have served as nursing home administrators and substituted "subsection (c)(1)" for "subsection (b)(1)".

Subsec. (g)(1). Pub. L. 92-603, § 268(b), added ", but does not include a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts" after "Secretary".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (g)(1) by section 268(b) of Pub. L. 92-603 effective on Oct. 30, 1972, see section 268(c) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1396a of this title.

EFFECTIVE DATE

Section 236(c) of Pub. L. 90-248 provided that: "Except as otherwise specified in the text thereof, the amendments made by this section [enacting this section and section 1396a(a)(29) of this title] shall take effect on July 1, 1970."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1396a of this title.

§ 1396h. Offenses and penalties

(a) Making or causing to be made false statements or representations

Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a State plan approved under this subchapter,

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment,

(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) Kickbacks, bribes, or rebates of fees or charges

Whoever furnishes items or services to an individual for which payment is or may be made in whole or in part out of Federal funds under a State plan approved under this subchapter and who solicits, offers, or receives any—

(1) kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

(2) rebate of any fee or charge for referring any such individual to another person for the furnishing of such items or services

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) False statements or representations with respect to condition or operation of institutions

Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, intermediate care facility, or home health agency (as those terms are employed in this subchapter) shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than 6 months, or both.

(Aug. 14, 1935, ch. 531, title XIX, § 1909, as added and amended Oct. 30, 1972, Pub. L. 92-603, title II, §§ 242(c), 278(b)(9), 86 Stat. 1419, 1454.)

AMENDMENTS

1972—Subsec. (c). Pub. L. 92-603, § 278(b)(9), substituted "skilled nursing facility" for "skilled nursing home".

EFFECTIVE DATE

Section not applicable to any acts, statements, or representations made or committed prior to Oct. 30, 1972, see section 242(d) of Pub. L. 92-603, set out as an Effective Date note under section 1395nn of this title.

§ 1396i. Certification and approval of skilled nursing facilities

(a) Whenever the Secretary certifies an institution in a State to be qualified as a skilled nursing facility under subchapter XVIII of this chapter, such institution shall be deemed to meet the standards for certification as a skilled nursing facility for purposes of section 1396a(a)(28) of this title.

(b) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any institution which has applied for certification by him as a qualified skilled nursing facility.

(Aug. 14, 1935, ch. 531, title XIX, § 1910, as added Oct. 30, 1972, Pub. L. 92-603, title II, § 249A(a), 86 Stat. 1426.)

EFFECTIVE DATE

Section effective with respect to agreements filed with the Secretary under section 1395cc of this title by skilled nursing facilities before, on, or after Oct. 30, 1972, but accepted by him on or after such date, see section 249A(e) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395cc of this title.

§ 1396j. Indian health service facilities

(a) A facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility), whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 1603 of title 25), shall be eligible for reimbursement for medical assistance provided under a State plan if and for so long as it meets all of the conditions and requirements which are applicable generally to such facilities under this subchapter.

(b) Notwithstanding subsection (a) of this section, a facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) which does not meet all of the conditions and requirements of this title which are applicable generally to such facility, but which submits to the Secretary within six months after September 30, 1976, an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this subchapter), without regard to the extent of its actual compliance with such conditions and requirements, during the first twelve months after the month in which such plan is submitted.

(Aug. 14, 1935, ch. 531, title XIX, § 1911, as added Sept. 30, 1976, Pub. L. 94-437, title IV, § 402(a), 90 Stat. 1409.)

AGREEMENTS TO REIMBURSE STATE AGENCY FOR HEALTH CARE AND SERVICES PROVIDED BY AGENCY TO INDIANS

Section 402(b) of Pub. L. 94-437 provided that: "The Secretary is authorized to enter into agreements with the appropriate State agency for the purpose of reimbursing such agency for health care and services provided in Service facilities to Indians who are eligible for medical assistance under title XIX of the Social Security Act, as amended [this subchapter]."

PAYMENTS INTO SPECIAL FUND TO IMPROVE INDIAN HEALTH SERVICE FACILITIES TO ACHIEVE COMPLIANCE WITH CONDITIONS AND REQUIREMENTS; CERTIFICATION OF COMPLIANCE BY SECRETARY

Section 402(c) of Pub. L. 94-437 provided that: "Notwithstanding any other provision of law, payments to which any facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) is entitled under a State plan approved under title XIX of the Social Security Act [this subchapter] by reason of section 1911 of such Act [this section] shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title [this subchapter]. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the health facilities of such Service in the United States are in compliance with such conditions and requirements."

MEDICAID PAYMENTS NOT CONSIDERED IN DETERMINING APPROPRIATIONS FOR INDIAN HEALTH CARE

Section 402(d) of Pub. L. 94-437 provided that: "Any payments received for services provided recipients hereunder [under this section] shall not be considered in determining appropriations for the provision of health care and services to Indians."

SUBCHAPTER XX—GRANTS TO STATES FOR SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 602, 622, 1315, 1316, 3024, 3195 of this title; title 40 App. section 202.

§ 1397. Authorization of appropriations

For the purpose of encouraging each State, as far practicable[1] under the conditions in that State, to furnish services directed at the goal of—

(1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency,

(2) achieving or maintaining self-sufficiency, including reduction or prevention of dependency,

(3) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families,

(4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care, or

(5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions,

there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States under section 1397a of this title.

[1] So in original. Probably should be "as practicable".

(Aug. 14, 1935, ch. 531, title XX, § 2001, as added Jan. 4, 1975, Pub. L. 93-647, § 2, 88 Stat. 2337.)

EFFECTIVE DATE

Section 7 of Pub. L. 93-647, as amended by Pub. L. 94-120, § 3, Oct. 21, 1975, 89 Stat. 609; Pub. L. 94-401, § 2, Sept. 7, 1976, 90 Stat. 1215, eff. Feb. 1, 1976, provided that:

"(a)(1) The amendments made by sections 2 and 5 of this Act [enacting this subchapter and amending sections 303, 603, 1203, 1353, and 1383 note of this title] shall be effective with respect to payments for quarters commencing after September 30, 1975.

"(2) Notwithstanding the provisions of section 2004 of the Social Security Act, as amended by this Act [section 1397c of this title], the first services program year of each State shall begin on October 1, 1975, and end with the close of, at the option of the State—

"(A) the day in the twelve-month period beginning October 1, 1975, or

"(B) the day in the twelve-month period beginning October 1, 1976,

which is the last day of the twelve-month period established by the State as its services program year under that section. Notwithstanding the provisions of subsection (b) of section 2003 of the Social Security Act, as amended by this Act [section 1397b(b) of this title], the aggregate expenditures required by that subsection with respect to the first services program year of each State shall be the amount which bears the same ratio to the amount that would otherwise be required under that subsection as the number of months in the State's first services program year bears to twelve.

"(3) Notwithstanding paragraph (1) of this subsection or section 3(f) [set out as a note under section 1397a of this title], payments under title IV [subchapter IV of this chapter] or section 2002(a)(1) of the Social Security Act [section 1397a(a)(1) of this title] with respect to expenditures made prior to October 1, 1977, in connection with the provision of child day care services in day care centers and group day care homes, in the case of children between the ages of six weeks and six years, may be made without regard to the requirements relating to staffing standards which are imposed by or under section 2002(a)(9)(A)(ii) of such Act [section 1397a(a)(9)(A)(ii) of this title], so long as the staffing standards actually being applied in the provision of the services involved (A) comply with applicable State law (as in effect at the time the services are provided), (B) are no lower than the corresponding staffing standards which were imposed or required by applicable State law on September 15, 1975, and (C) are no lower, in the case of any day care center or group day care home, than the corresponding standards actually being applied in such center or home on September 15, 1975.

"(b) The amendments made by section 3 of this Act [amending sections 303, 602, 603, 606, 622, 1203, 1308, 1315, 1316, 1320b note, and 1383 note of this title, repealing sections 801 to 805 and 1320b of this title, and enacting provisions set out as notes under section 1320b and 1397a of this title] shall be effective with respect to payments under sections 403 and 603 of the Social Security Act [sections 603 and 803 of this title] for quarters commencing after September 30, 1975, except that the amendments made by section 3(a) [amending sections 602, 603, 606, and 623 of this title] shall not be effective with respect to the Commonwealth of Puerto Rico, the Virgin Islands, or Guam."

SHORT TITLE

For Short Title of Pub. L. 93-647, which enacted this subchapter, see Short Title of 1975 Amendment note set out under section 1305 of this title.

§ 1397a. Payments to States; computation of amounts

(a)(1) From the sums appropriated therefor, the Secretary shall, subject to the provisions of this section and section 1397b of this title, pay to each State, for each quarter, an amount equal to 90 per centum of the total expenditures during that quarter for the provision of family planning services and 75 per centum of the total expenditures during that quarter for the provision of other services directed at the goal of—

(A) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency,

(B) achieving or maintaining self-sufficiency, including reduction or prevention of dependency,

(C) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families,

(D) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care, or

(E) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions,

including expenditures for administration (including planning and evaluation) and personnel training and retraining directly related to the provision of those services (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions). Services that are directed at these goals include, but are not limited to, child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, and alcoholics and drug addicts.

(2)(A) No payment with respect to any expenditures other than expenditures for personnel training or retraining directly related to the provision of services may be made under this section to any State for any fiscal year in excess of an amount which bears the same ratio to $2,500,000,000 as the population of that State bears to the population of the fifty States and the District of Columbia. The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph prior to the first day of the third month of the preceding fiscal year, as determined on the basis of the most recent satisfactory data available from the Department of Commerce.

(B) Each State with respect to which a limitation is promulgated under subparagraph (A) for any fiscal year shall, at the earliest practicable date after the commencement of such fiscal year (and in accordance with regulations prescribed by the Secretary), certify to the Secretary whether the amount of its limitation is greater or less than the amount needed by the

State, for uses to which the limitation applies, for such fiscal year and, if so, the amount by which the amount of such limitation is greater or less than such need.

(C) If any State certifies, in accordance with subparagraph (B), that the amount of its limitation for any fiscal year is greater than its need for such year, then the amount of the limitation of such State for such year shall be reduced by the excess of its limitation amount over its need, and the amount of such reduction shall be available for allotment as provided in subparagraph (D).

(D) Of the amounts made available, pursuant to subparagraph (C), for allotment for any fiscal year, the Secretary (i) shall allot to the jurisdiction of Puerto Rico $15,000,000, to the jurisdiction of Guam $500,000, and to the jurisdiction of the Virgin Islands $500,000, which shall be available to each such jurisdiction in addition to amounts available under section 1308 of this title for purposes of matching the expenditures of such jurisdictions for services pursuant to sections 303(a)(4) and (5), 603(a)(3), 1203(a)(3) and (4), and 1353(a)(3) and (4) of this title and section 1603(a)(4) and (5): *Provided*, That if the amounts made available, pursuant to subparagraph (C), are insufficient to meet the requirements of this clause, then such amounts as are available shall be allotted to each of the three jurisdictions in proportion to their respective populations.

(3) No payment may be made under this section to any State with respect to any expenditure for the provision of any service to any individual unless—

(A) the State's services program planning meets the requirements of section 1397c of this title, and

(B) the final comprehensive annual services plan in effect when the service is provided to the individual includes the provision of that service to a category of individuals which includes that individual in the descriptions required by section 1397c(2)(B) and (C) of this title of the services to be provided under the plan and the categories of individuals to whom the services are to be provided.

The Secretary may not deny payment under this section to any State with respect to any expenditure on the ground that it is not an expenditure for the provision of a service or is not an expenditure for the provision of a service directed at a goal described in paragraph (1) of this subsection.

(4) So much of the aggregate expenditures with respect to which payment is made under this section to any State for any fiscal year as equals 50 per centum of the payment made under this section to the State for that fiscal year must be expended for the provision of services to individuals—

(A) who are receiving aid under the plan of the State approved under part A of subchapter IV of this chapter or who are eligible to receive such aid, or

(B) whose needs are taken into account in determining the needs of an individual who is receiving aid under the plan of the State approved under part A of subchapter IV of this chapter, or who are eligible to have their needs taken into account in determining the needs of an individual who is receiving or is eligible to receive such aid, or

(C) with respect to whom supplementary security income benefits under subchapter XVI of this chapter or State supplementary payments, as defined in section 1397f(1) of this title, are being paid, or who are eligible to have such benefits or payments paid with respect to them, or

(D) whose income and resources are taken into account in determining the amount of supplemental security income benefits or State supplementary payments, as defined in section 1397f(1) of this title, being paid with respect to an individual, or whose income and resources would be taken into account in determining the amount of such benefits or payments to be paid with respect to an individual who is eligible to have such benefits or payments paid with respect to him, or

(E) who are eligible for medical assistance under the plan of the State approved under subchapter XIX of this chapter.

In any case in which services are provided to individuals to whom the provisions of paragraph (14) are applied, the proportion of the expenditures for such services which are attributable to individuals described in the preceding sentence may be determined on the basis of generally accepted statistical sampling procedures.

(5) No payment may be made under this section to any State with respect to any expenditure for the provision of any service to any individual—

(A) who is receiving, or whose needs are taken into account in determining the needs of an individual who is receiving, aid under the plan of the State approved under part A of subchapter IV of this chapter, or with respect to whom supplemental security income benefits under subchapter XVI of this chapter or State supplementary payments, as defined in section 1397f(1) of this title, are being paid, or

(B) who is a member of a family the monthly gross income of which is less than the lower of—

(i) 80 per centum of the median income of a family of four in the State, or

(ii) the median income of a family of four in the fifty States and the District of Columbia,

adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of the family,

if any fee or other charge (other than a voluntary contribution) imposed on the individual for the provision of that service is not consistent with such requirements (including requirements prohibiting the imposition of any such fee or charge) as the Secretary shall prescribe.

(6) No payment may be made under this section to any State with respect to any expenditure for the provision of any service, other than an information or referral service, family planning services, or a service directed at the goal of preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, to any individual who is not an individual described in paragraph (5), and—

(A) who is a member of a family the monthly gross income of which exceeds 115 per centum of the median income of a family of four in the State, adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of the family, or

(B) who is a member of a family the monthly gross income of which—

(i) exceeds the lower of—

(I) 80 per centum of the median income of a family of four in the State, or

(II) the median income of a family of four in the fifty States and the District of Columbia,

adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of the family, and

(ii) does not exceed 115 per centum of the median income of a family of four in the State, adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of the family,

unless a fee or other charge reasonably related to income is imposed on the individual for the provision of the service.

The Secretary shall promulgate the median income of a family of four in each State and the fifty States and the District of Columbia applicable to payments with respect to expenditures in each fiscal year prior to the first day of the third month of the preceding fiscal year.

(7) No payment may be made under this section to any State with respect to any expenditure—

(A) for the provision of medical or any other remedial care, other than family planning services, unless it is an integral but subordinate part of a service described in paragraph (1) of this subsection and Federal financial participation with respect to the expenditure is not available under the plan of the State approved under subchapter XIX of this chapter; or

(B) for the purchase, construction, or major modification of any land, building or other facility, or fixed equipment; or

(C) which is in the form of goods or services provided in kind by a private entity; or

(D) which is made from donated private funds, unless such funds—

(i) are transferred to the State and are under its administrative control, and

(ii) are donated to the State, without restrictions as to use, other than restrictions as to the services with respect to which the funds are to be used imposed by a donor who is not a sponsor or operator of a program to provide those services, or the geographic area in which the services with respect to which the contribution is used are to be provided, and

(iii) do not revert to the donor's facility or use if the donor is other than a nonprofit organization; or

(E) for the provision of room or board (except as provided by paragraph (11)(C)) other than room or board provided for a period of not more than six consecutive months as an integral but subordinate part of a service described in paragraph (1) of this subsection.

(8) No payment may be made under this section with respect to any expenditure if payment is made with respect to that expenditure under section 603 or 622 of this title.

(9)(A) No payment may be made under this section with respect to any expenditure in connection with the provision of any child day care service, unless—

(i) in the case of care provided in the child's home, the care meets standards established by the State which are reasonably in accord with recommended standards of national standard-setting organizations concerned with the home care of children, or

(ii) in the case of care provided outside the child's home, the care meets the Federal interagency day care requirements as approved by the Department of Health, Education, and Welfare and the Office of Economic Opportunity on September 23, 1968; except that (I) subdivision III of such requirements with respect to educational services shall be recommended to the States and not required, and staffing standards for school-age children in day care centers may be revised by the Secretary, (II) the staffing standards imposed with respect to such care in the case of children under age 3 shall conform to regulations prescribed by the Secretary, (III) the staffing standards imposed with respect to such care in the case of children aged 10 to 14 shall require at least one adult for each 20 children, and in the case of school-aged children under age 10 shall require at least one adult for each 15 children, (IV) the State agency may waive the staffing standards otherwise applicable in the case of a day care center or group day care home in which not more than 20 per centum of the children in the facility (or, in the case of a day care center, not more than 5 children in the center) are children whose care is being paid for (wholly or in part) from funds made available to the State under this subchapter if such agency finds that it is not feasible to furnish day care for the children, whose care is so paid for, in a day care facility which complies with such staffing standards, and if the day care facility providing care for such children complies with applicable State standards, and (V) in determining whether applicable staffing standards are met in the case of day care provided in a family day care home, the number of children being cared for in such home shall include a child of the mother who is operating the home only if such child is under age 6,

except as provided in subparagraph (B).

(B) The Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives, after December 31, 1976, and prior to July 1, 1977, an evaluation of the appropriateness of the requirements imposed by subparagraph (A), together with any recommendations he may have for modification of those requirements. No earlier than ninety days after the submission of that report, the Secretary may, by regulation, make such modifications in the requirements imposed by subparagraph (A) as he determines are appropriate.

(C) The requirements imposed by this paragraph are in lieu of any requirements that

would otherwise be applicable under section 2932(d) of this title to child day care services with respect to which payment is made under this section.

(10) No payment may be made under this section with respect to any expenditure for the provision of any educational service which the State makes generally available to its residents without cost and without regard to their income.

(11) No payment may be made under this section with respect to any expenditure for the provision of any service to any individual living in any hospital, skilled nursing facility, or intermediate care facility (including any such hospital or facility for mental diseases or for the mentally retarded), any prison, or any foster family home except—

(A) any expenditure for the provision of a service that (i) is provided by other than the hospital, facility, prison, or foster family home in which the individual is living, and (ii) is provided, under the State's program for the provision of the services described in paragraph (1), to individuals who are not living in a hospital, skilled nursing facility, intermediate care facility, prison, or foster family home,

(B) any expenditure which is for the cost, in addition to the cost of basic foster care, of the provision, by a foster family home, to an individual living in that home, of a service which meets a special need of that individual, as determined under regulations prescribed by the Secretary, and

(C) any expenditure for the provision of emergency shelter provided to a child, for not in excess of thirty days, as a protective service.

(12) No payment may be made under this section with respect to any expenditure for the provision of cash payments as a service.

(13) No payment may be made under this section with respect to any expenditure for the provision of any service to any individual to the extent that the provider of the service or the individual receiving the service is eligible to receive payment under subchapter XVIII of this chapter with respect to the provision of the service.

(14)(A) For purposes of paragraphs (5) and (6), an individual shall, at the option of the State, be deemed to be an individual described in paragraph (5)(B) if, because of the geographic area in which any particular service is provided to him, the characteristics of the community to which it is provided, the nature of the service, the conditions (other than income) of eligibility to receive it, or other factors surrounding its provision, the State may reasonably conclude, without individual determinations of eligibility, that substantially all of the persons who receive the service are members of families with a monthly gross income which is not more than 90 per centum of the median income of a family of four in the State, adjusted (in accordance with regulations prescribed by the Secretary) to take into account the size of the family.

(B) The provisions of subparagraph (A) shall not be applicable to child day care services furnished to any child other than a child of a migratory agricultural worker.

(b)(1) Prior to the beginning of each quarter the Secretary shall estimate the amount to which a State will be entitled under this section for that quarter on the basis of a report filed by the State containing its estimate of the amount to be expended during that quarter with respect to which payment must be made under this section, together with an explanation of the bases for that estimate.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to the State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(Aug. 14, 1935, ch. 531, title XX, § 2002, as added Jan. 4, 1975, Pub. L. 93-647, § 2, 88 Stat. 2337, and amended Oct. 21, 1975, Pub. L. 94-120, § 4(b), 89 Stat. 609; Sept. 7, 1976, Pub. L. 94-401, §§ 1(a)-(c), 5(a), 90 Stat. 1215, 1218.)

References in Text

Section 1603(a)(4) and (5), referred to in subsec. (a)(2)(D), is section 1603(a)(4) and (5) of act Aug. 14, 1935, ch. 531, title XVI, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 200, and amended July 30, 1965, Pub. L. 89-97, title I, § 122, title II, § 221(d)(4), title IV, § 401(b), 79 Stat. 353, 359, 414; Jan. 2, 1968, Pub. L. 90-248, title II, § 212(d), 81 Stat. 898; Oct. 20, 1972, Pub. L. 92-512, title III, § 301(b), (d), 86 Stat. 946, 947, which was classified to a prior section 1383 of this title prior to the complete reorganization and amendment of title XVI of the Social Security Act by Pub. L. 92-603, title III, § 301, Oct. 30, 1972, 86 Stat. 1465. Section 1603 is now set out as a note under section 1383 of this title.

Amendments

1976—Subsec. (a)(4). Pub. L. 94-401, § 1(b), added provisions relating to applicability of par. (14).

Subsec. (a)(6). Pub. L. 94-401, § 1(c), added reference to family planning services.

Subsec. (a)(9)(A)(ii). Pub. L. 94-401, § 5(a), added cls. (IV) and (V). See section 5(b) of Pub. L. 94-401, set out as a note below for effective and termination dates of amendment by section 5(a) of Pub. L. 94-401.

Subsec. (a)(14). Pub. L. 94-401, § 1(a), added subsec. (a)(14).

1975—Pub. L. 94-120 made the following changes, effective only for period beginning Oct. 1, 1975, and ending Sept. 30, 1977, this section reading on and after Oct. 1, 1977, as if the amendments were not made under provision of section 4(c) of Pub. L. 94-120, set out as a note under this section: (1) added to subsec. (a)(7) an end sentence reading "With regard to ending the dependency of individuals who are alcoholics or drug addicts, the entire rehabilitative process for such individuals, including but not limited to initial detoxification, short term residential treatment, and subsequent outpatient counseling and rehabilitative services, whether or not such a process involves more than one provider of services, shall be the basis for determining whether standards imposed by or under subparagraph (A) or (E) of this paragraph have been met."; (2) added subsec. (a)(11)(D) reading "(D) any expenditure for the initial detoxification of an alcoholic or drug dependent individual, for a period not to exceed 7 days, if such detoxification is integral to the

further provision of services for which such individual would otherwise be eligible under this subchapter."; (3) inserted in subsec. (a)(7)(A) "(except as provided in paragraph (11)(D))" after "other remedial care"; and inserted in par. (a)(7)(E) "and paragraph (11)(D)" after "paragraph (11)(C)".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1(d) of Pub. L. 94-401 provided that: "The amendments made by this section [amending subsec. (a)(4), (6), and (14) of this section] shall be effective on and after October 1, 1975."

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Section 5(b) of Pub. L. 94-401 provided that: "The amendments made by subsection (a) [amending subsec. (a)(9)(A)(ii)(IV) and (V) of this section] shall, insofar as such amendments add a new clause (V) to section 2002(a)(9)(A)(ii) of the Social Security Act [subsec. (a)(9)(A)(ii)(V) of this section], be effective for the period beginning October 1, 1975, and ending September 30, 1977; and on and after October 1, 1977, section 2002(a)(9)(A)(ii) of the Social Security Act [subsec. (a)(9)(A)(ii) of this section] shall read as it would if such amendments had not been made."

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENT

Section 4(c) of Pub. L. 94-120 as amended by Pub. L. 94-401, § 6, eff. Feb. 1, 1976, provided that: "The amendments made by this section [amending this section and section 1397b of this title] shall be effective only for the period beginning October 1, 1975, and ending September 30, 1977; and, on and after October 1, 1977, sections 2002(a)(7) [subsec. (a)(7) of this section], 2002(a)(11) [subsec. (a)(11) of this section], and 2003 of the Social Security Act [section 1397b of this title] shall read as they would if such amendments [amending this section and section 1397b of this title] had not been made."

EFFECTIVE DATE

Section effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

PAYMENTS TO STATES FOR FISCAL PERIOD BEGINNING JULY 1, 1976, AND ENDING SEPTEMBER 30, 1976, AND FOR FISCAL YEAR ENDING SEPTEMBER 30, 1977; COMPUTATION AMOUNTS, LIMITATIONS, ETC.

Section 3 of Pub. L. 94-401 provided that:

"(a) For purposes of title XX of the Social Security Act [this subchapter], the amount of the limitation (imposed by section 2002(a)(2) of such Act) [subsec. (a)(2) of this section] which is applicable to any State for the fiscal period beginning July 1, 1976, and ending September 30, 1976, or which is applicable to any State for the fiscal year ending September 30, 1977, shall be deemed to be equal to whichever of the following is the lesser:

"(1) an amount equal to—

"(A) 106.4 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal period, or

"(B) 108 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal year ending September 30, 1977, or

"(2) an amount equal to (A) 100 per centum of such limitation for such fiscal period or fiscal year (as determined without regard to this section), plus (B) an amount equal to the sum of (i) 75 per centum (in the case of such fiscal period) or 100 per centum (in the case of such fiscal year) of the total amount of expenditures (I) which are made during such fiscal period or year in connection with the provision of any child day care service, and (II) with respect to which payment is authorized to be made to the State under such title [this subchapter], for such fiscal period or year, and (ii) the aggregate of the amounts of the grants, made by the State during such fiscal period or year, to which the provisions of subsection (c)(1) are applicable.

"(b) The additional Federal funds which become payable to any State for the fiscal period or fiscal year specified in subsection (a) by reason of the provisions of such subsection shall, to the maximum extent that the State determines to be feasible, be employed in such a way as to increase the employment of welfare recipients and other low-income persons in jobs related to the provision of child day care services.

"(c)(1) Subject to paragraph (2), sums granted by a State to a qualified provider of child day care services (as defined in paragraph (3)(A)) during the fiscal period or fiscal year specified in subsection (a), to assist such provider in meeting its Federal welfare recipient employment incentive expenses (as defined in paragraph (3)(B)) with respect to individuals employed in jobs related to the provision of child day care services in one or more child day care facilities of such provider, shall be deemed, for purposes of title XX of the Social Security Act [this subchapter], to constitute expenditures made by the State, in accordance with the requirements and conditions imposed by such Act [this chapter], for the provision of services directed at one or more of the goals set forth in clauses (A) through (E) of the first sentence of section 2002(a)(1) of such Act [subsec. (a)(1) of this section]. With respect to sums to which the preceding sentence is applicable (after application of the provisions of paragraph (2)), the figure '75' as contained in the first sentence of section 2002(a)(1) of such Act, shall be deemed to read '100'.

"(2) The provisions of paragraph (1) shall not be applicable—

"(A) to the amount, if any, by which the aggregate of the sums (as described in such paragraph) granted by any State during the fiscal period or fiscal year specified in subsection (a) exceeds the amount by which such State's limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such fiscal period or year, or

"(B) with respect to any grant made to a particular qualified provider of child day care services to the extent that (as determined by the Secretary) such grant is or will be used—

"(i) to pay wages to any employee at an annual rate in excess of $5,000, in the case of a public or nonprofit private provider, or

"(ii) to pay wages to any employee at an annual rate in excess of $4,000, or to pay more than 80 per centum of the wages of any employee, in the case of any other provider.

"(3) For purposes of this subsection—

"(A) the term 'qualified provider of child day care services', when used in reference to a recipient of a grant by a State, includes a provider of such services only if, of the total number of children receiving such services from such provider in the facility with respect to which the grant is made, at least 20 per centum thereof have some or all of the costs for the child day care services so furnished to them by such provider paid for under the State's services program conducted pursuant to title XX of the Social Security Act [this subchapter]; and

"(B) the term 'Federal welfare recipient employment expenses' means expenses of a qualified provider of child day care services which constitute Federal welfare recipient employment incentive expenses as defined in section 50B(a)(2) of the Internal Revenue Code of 1954 [section 50B of Title 26, Internal Revenue Code] or which would constitute Federal welfare recipient employment incentive expenses as so defined if the provider were a taxpayer entitled to a credit (with respect to the wages involved) under section 40 of such Code [section 40 of title 26].

"(d)(1) In the administration of title XX of the Social Security Act [this subchapter], the figure '75', as contained in the first sentence of section 2002(a)(1)

of such Act [subsec. (a)(1) of this section], shall, subject to paragraph (2), be deemed to read '100' for purposes of applying such sentence to expenditures made by a State for the provision of child day care services during the fiscal year ending September 30, 1977.

"(2) The total amount of Federal payments which may be paid to any State for such fiscal year under title XX of the Social Security Act [this subchapter] at the rate specified in paragraph (1) shall not exceed an amount equal to the excess (if any) of—

"(A) the amount by which such State's limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such year, over

"(B) the aggregate of the amounts of the grants, made by the State during such year, to which the provisions of subsection (c)(1) are applicable."

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976 THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, under subsec. (a)(2)(A) and (D) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 101(a) of Pub. L. 94-274, set out as a note under section 422 of this title.

REQUIREMENTS OF CHILD DAY CARE SERVICES

Section 3(f) of Pub. L. 93-647 provided that: "Any child day care service provided under any plan of a State approved under part A, or developed under part B, of title IV of the Social Security Act [subchapter IV of this chapter] must meet the requirements applicable, under subsection (a)(9) of section 2002 of the Social Security Act, as amended by this Act [subsec. (a)(9) of this section], to child day care services with respect to which payment is made under that section. The requirements imposed by this subsection are in lieu of any requirements that would otherwise be applicable under section 522(d) of the Economic Opportunity Act of 1964 [section 2932(d) of this title] to child day care services provided under any plan of a State approved under part A, or developed under part B, of title IV of the Social Security Act [subchapter IV of this chapter]."

STATE ALLOTMENTS AS LIMITING PAYMENTS TO STATES FOR FISCAL YEAR BEGINNING JULY 1, 1975

Section 3(j) of Pub. L. 93-647 providing that: "Notwithstanding the provisions of paragraph (2) of section 2002(a) of the Social Security Act, as amended by this Act [subsec. (a)(2) of this section], the limitation imposed by such paragraph (2) for the fiscal year beginning July 1, 1975, with respect to any State shall be the allotment of the State for that fiscal year as determined under section 1130 of the Social Security Act [former section 1320b of this title]. In determining, for the purposes of that limitation, the total amount of the payments made to any State with respect to expenditures during the fiscal year beginning July 1, 1975, there shall be included the amount of any payments made to the State that are chargeable against the allotment of the State for the fiscal year beginning July 1, 1975, under such section 1130."

REPORT TO CONGRESS BY JULY 1, 1977

Section 4 of Pub. L. 93-647 provided that: "Prior to July 1, 1977, the Secretary shall submit to the Congress a report on the effectiveness of the program established by title XX of the Social Security Act, as amended by this Act [this subchapter], during calendar years 1975 and 1976, together with recommendations, if any, for improvements in that program."

PAYMENTS FOR EXPENDITURES MADE PRIOR TO OCTOBER 1, 1977 IN CONNECTION WITH PROVISION OF CHILD DAY CARE SERVICES

Payments for expenditures made prior to Oct. 1, 1977, in connection with the provision of child day care services to be made without regard to the requirements relating to staffing standards imposed by or under subsec. (a)(9)(A)(ii) of this section, see section 7(a)(3) of Pub. L. 93-647, as amended, set out as an Effective Date note under section 1397 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 603, 1315, 1397, 1397b, 1397c, 1397d, 1397e of this title.

§ 1397b. State programs for social services assistance

(a) Reports

Each State which participates in the program established by this subchapter shall make such reports concerning its use of Federal social services funds as the Secretary may by regulation provide.

(b) Aggregate expenditures from appropriated funds from State and local subdivisions

Each State which participates in the program established by this subchapter shall assure that the aggregate expenditures from appropriated funds from the State and political subdivisions thereof for the provision of services during each services program year (as established under the requirements of section 1397a(a)(3) of this title) with respect to which payment is made under section 1397a of this title is not less than the aggregate expenditures from such appropriated funds for the provision of those services during the fiscal year ending June 30, 1973, or the fiscal year ending June 30, 1974, with respect to which payment was made under the plan of the State approved under subchapter I, VI, X, XIV, or XVI of this chapter, or part A of subchapter IV of this chapter, whichever is less, except that the requirements of this subsection shall not apply to any State for any services program year if the payment to the State under section 1397a of this title, for each fiscal year any part of which is included in that services program year, with respect to expenditures other than expenditures for personnel training or retraining directly related to the provision of services, equals the allotment of the State for that fiscal year under section 1397a(a)(2) of this title.

(c) Termination of payments on failure to comply

(1) If the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds that there is a substantial failure to comply with any of the requirements imposed by subsections (a) and (b) of this section, he shall, except as provided in paragraph (2), notify the State that further payments will not be made to the State under section 1397a of this title until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

(2) The Secretary may suspend implementation of any termination of payments under paragraph (1) for such period as he determines appropriate and instead reduce the amount otherwise payable to the State under section 1397a of this title for expenditures during that period by 3 per centum for each of subsections (a) and (b) of this section with respect to which there was a finding of substantial noncompliance and with respect to which he is not yet satisfied that there will no longer be any such failure to comply.

(d) Contents of State plans

(1) Each State which participates in the program established by this subchapter shall have a plan applicable to its program for the provision of the services described in section 1397a(a)(1) of this title which—

(A) provides that an opportunity for a fair hearing before the appropriate State agency will be granted to any individual whose claim for any service described in section 1397a(a)(1) of this title is denied or is not acted upon with reasonable promptness;

(B) provides that the use or disclosure of information obtained in connection with administration of the State's program for the provision of the services described in section 1397a(a)(1) of this title concerning applicants for and recipients of those services will be restricted to purposes directly connected with the administration of that program, the plan of the State approved under part A of subchapter IV of this chapter, the plan of the State developed under part B of that subchapter, the supplemental security income program established by subchapter XVI of this chapter, or the plan of the State approved under subchapter XIX of this chapter;

(C) provides for the designation, by the chief executive officer of the State or as otherwise provided by the laws of the State, of an appropriate agency which will administer or supervise the administration of the State's program for the provision of the services described in section 1397a(a)(1) of this title;

(D) provides that the State will, in the administration of its program for the provision of the services described in section 1397a(a)(1) of this title, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the program, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

(E) provides that no durational residency or citizenship requirement will be imposed as a condition to participation in the program of the State for the provision of the services described in section 1397a(a)(1) of this title;

(F) provides, if the State program for the provision of the services described in section 1397a(a)(1) of this title includes services to individuals living in institutions or foster homes, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions or homes which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admissions policies, safety, sanitation, and protection of civil rights;

(G) provides, if the State program for the provision of the services described in section 1397a(a)(1) of this title includes child day care services, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such services which are reasonably in accord with recommended standards of national organizations concerned with standards of such services, including standards related to admission policies for facilities providing such services, safety, sanitation, and protection of civil rights;

(H) provides that the State's program for the provision of the services described in section 1397a(a)(1) of this title will be in effect in all political subdivisions of the State; and

(I) provides for financial participation by the State in the provision of the services described in section 1397a(a)(1) of this title.

Notwithstanding clause (C), if on December 1, 1974, the State agency which administered or supervised the administration of the portion of the plan of the State for services to the aged, blind, or disabled approved under subchapter VI of this chapter which related to blind individuals was different from the agency which administered or supervised the administration of the rest of that plan, the State agency which administered or supervised the administration of the portion of the plan of the State for services to the aged, blind, or disabled related to blind individuals may be designated to administer or supervise the administration of the portion of the State's program for the provision of the services described in section 1397a(a)(1) of this title related to blind individuals and a separate State agency may be designated to administer or supervise the administration of the rest of the program; and in such case the part of the program which each agency administers, or the administration of which each agency supervises, shall be regarded as a separate program for the provision of the services described in section 1397a(a)(1) of this title for purposes of this subchapter. The date selected by the State pursuant to section 1397c(1) of this title as the beginning of the services program year for each of the separate programs shall be the same.

(2) The Secretary shall approve any plan which complies with the provisions of paragraph (1).

(e) Termination or suspension of payments

(1) No payment may be made under section 1397a of this title to any State which does not have a plan approved under subsection (g) of this section.

(2) In the case of any State plan which has been approved by the Secretary under subsection (d) of this section, if the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds—

(A) that the plan no longer complies with the provisions of subsection (d)(1) of this section, or

(B) that in the administration of the plan there is a substantial failure to comply with any such provision,

the Secretary shall, except as provided in paragraph (3), notify the State that further payments will not be made to the State under section 1397a of this title until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

(3) The Secretary may suspend implementation of any termination of payments under paragraph (2) for such period as he determines appropriate and instead reduce the amount otherwise payable to the State under section 1397a of this title for expenditures during that period by 3 percent for each clause of subsection (d)(1) of this section with respect to which there is a finding of noncompliance and with respect to which he is not yet satisfied that there will no longer be any such failure to comply.

(Aug. 14, 1935, ch. 531, title XX, § 2003, as added Jan. 4, 1975, Pub. L. 93-647, § 2, 88 Stat. 2343, and amended Oct. 21, 1975, Pub. L. 94-120, § 4(a), 89 Stat. 609.)

AMENDMENTS

1975—Subsec. (f). Pub. L. 94-120 added subsec. (f) text reading "The provisions of section 4582 of this title shall be applicable to services provided by any State pursuant to this subchapter with respect to individuals suffering from drug addiction or alcoholism.", effective only for period beginning Oct. 1, 1975, and ending Sept. 30, 1977, this section reading on and after Oct. 1, 1977, as if such enactment were not made under provisions of section 4(c) of Pub. L. 94-120, set out as a note under section 1397a of this title.

EFFECTIVE DATE

Section effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a)(1) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

Notwithstanding the provisions of subsec. (b) of this section, the aggregate expenditures required by subsec. (b) with respect to the first services program year of each State to be the amount which bears the same ratio to the amount that would otherwise be required under subsec. (b) as the number of months in the State's first services program year bears to twelve, see section 7(a)(2) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 622, 1315, 1316, 1397a, 1397c of this title.

§ 1397c. Services program planning

A State's services program planning meets the requirements of this section if, for the purpose of assuring public participation in the development of the program for the provision of the services described in section 1397a(a)(1) of this title within the State—

(1) the beginning of the fiscal year of either the Federal Government or the State government is established as the beginning of the State's services program year; and

(2) at least ninety days prior to the beginning of the State's services program year, the chief executive officer of the State, or such other official as the laws of the State provide, publishes and makes generally available (as defined in regulations prescribed by the Secretary after consideration of State laws governing notice of actions by public officials) to the public a proposed comprehensive annual services program plan prepared by the agency designated pursuant to the requirements of section 1397b(d)(1)(C) of this title and, unless the laws of the State provide otherwise, approved by the chief executive officer, which sets forth the State's plan for the provision of the services described in section 1397a(a)(1) of this title during that year, including—

(A) the objectives to be achieved under the program,

(B) the services to be provided under the program, including at least one service directed at at least one of the goals in each of the five categories of goals set forth in section 1397a(a)(1) of this title (as determined by the State) and including at least three types of services (selected by the State) for individuals who are recipients of supplemental security income benefits under subchapter XVI of this chapter and who are in need of such services, together with a definition of those services and a description of their relationship to the objectives to be achieved under the program and the goals described in section 1397a(a)(1) of this title,

(C) the categories of individuals to whom those services are to be provided, including any categories based on the income of individuals or their families,

(D) the geographic areas in which those services are to be provided, and the nature and amount of the services to be provided in each area,

(E) a description of the planning, evaluation, and reporting activities to be carried out under the program,

(F) the sources of the resources to be used to carry out the program,

(G) a description of the organizational structure through which the program will be administered, including the extent to which public and private agencies and volunteers will be utilized in the provision of services,

(H) a description of how the provision of services under the program will be coordinated with the plan of the State approved under part A of subchapter IV of this chapter, the plan of the State developed under part B of that subchapter, the supplemental security income program established by subchapter XVI of this chapter, the plan of the State approved under subchapter XIX of this chapter, and other programs for the provision of related human services within the State, including the steps taken to assure maximum feasible utilization of services under these programs to meet the needs of the low income population,

(I) the estimated expenditures under the program, including estimated expenditures with respect to each of the services to be provided, each of the categories of individuals to whom those services are to be provided, and each of the geographic areas in which those services are to be provided, and a comparison between estimated non-Federal expenditures under the program and non-Federal expenditures for the provision of the services described in section 1397a(a)(1) of this title in the State during the preceding services program year, and

(J) a description of the steps taken, or to be taken, to assure that the needs of all residents of, and all geographic areas in, the State were taken into account in the development of the plan; and

(3) public comment on the proposed plan is accepted for a period of at least forty-five days; and

(4) at least forty-five days after publication of the proposed plan and prior to the beginning of the State's services program year, the chief executive officer of the State, or such other official as the laws of the State provide, publishes a final comprehensive annual services program plan prepared by the agency designed pursuant to the requirements of section 1397b(d)(1)(C) of this title and, unless the laws of the State provide otherwise, approved by the chief executive officer, which sets forth the same information required to be included in the proposed plan, together with an explanation of the differences between the proposed and final plan and the reasons therefor; and

(5) any amendment to a final comprehensive services program plan is prepared by the agency designated pursuant to section 1397b(d)(1)(C) of this title, approved by the chief executive officer of the State unless the laws of the State provide otherwise, and published by the chief executive officer of the State, or such other official as the laws of the State provide, as a proposed amendment on which public comment is accepted for a period of at least thirty days, and then prepared by the agency designated pursuant to section 1397b(d)(1)(C) of this title, approved by the chief executive officer of the State unless the laws of the State provide otherwise, and published by the chief executive officer of the State, or such other official as the laws of the State provide, as a final amendment, together with an explanation of the differences between the proposed and final amendment and the reasons therefor.

(Aug. 14, 1935, ch. 531, title XX, § 2004, as added Jan. 4, 1975, Pub. L. 93-647, § 2, 88 Stat. 2346.)

EFFECTIVE DATE

Section effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a)(1) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

Notwithstanding the provisions of this section, the first services program year of each State to begin on October 1, 1975, and end with the close of, at the option of the State the day in the twelve-month period beginning October 1, 1975, or the day in the twelve-month period beginning October 1, 1976, which is the last day of the twelve-month period established by the State as its services program year under that section, see section 7(a)(2) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1315, 1397a, 1397b of this title.

§ 1397d. Effective date of regulations

No final regulation published by the Secretary under this subchapter shall be effective with respect to payments under section 1397a of this title for expenditures during any quarter commencing before the beginning of the first services program year established by the State under the requirements of section 1397a(a)(3) of this title which begins at least sixty days after the publication of the final regulation.

(Aug. 14, 1935, ch. 531, title XX, § 2005, as added Jan. 4, 1975, Pub. L. 93-647, § 2, 88 Stat. 2347.)

EFFECTIVE DATE

Section effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

§ 1397e. Program evaluation and assistance

(a) Continuing evaluation

The Secretary shall provide for the continuing evaluation of State programs for the provision of the services described in section 1397a(a)(1) of this title.

(b) Assistance in administration

The Secretary shall make available to the States assistance with respect to the content of their services program, and their services program planning, reporting, administration, and evaluation.

(c) Report to Congress

Within six months after the close of each fiscal year, the Secretary shall submit to the Congress a report on the operation of the program established by this subchapter during that year, including—

(1) the evaluations carried out under subsection (a) of this section and the results obtained therefrom, and

(2) the assistance provided under subsection (b) of this section during that year.

(Aug. 14, 1935, ch. 531, title XX, § 2006, as added Jan. 4, 1975, Pub. L. 93-647, § 2, 88 Stat. 2347.)

EFFECTIVE DATE

Section effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

REPORTING REQUIREMENTS FOR PROGRAM OPERATING DURING THE PERIOD OF JULY 1, 1976 THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 101(d), Apr. 21, 1976, 90 Stat. 384, provided that: "Notwithstanding the provisions of section 2006(c) of the Social Security Act (42 U.S.C. 1397e(c)), the report on the operation of the program established by title XX of that Act [this subchapter] during the fiscal year ending June 30, 1976, shall include the operation of that program during the period of July 1, 1976, through September 30, 1976, and shall be submitted to the Congress prior to April 1, 1977."

§ 1397f. Definitions

For purposes of this subchapter—

(1) the term "State supplementary payment" means any cash payment made by a State on a regular basis to an individual who is receiving supplemental security income benefits under subchapter XVI of this chapter or who would but for his income be eligible to receive such benefits, as assistance based on need in supplementation of such benefits, as determined by the Secretary, and

(2) the term "State" means the fifty States and the District of Columbia.

(Aug. 14, 1935, ch. 531, title XX, § 2007, as added Jan. 4, 1975, Pub. L. 93-647, § 2, 88 Stat. 2347.)

EFFECTIVE DATE

Section effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a) of Pub. L. 93-647, set out as an Effective Date note under section 1397 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1397a of this title.

CHAPTER 7A—TEMPORARY UNEMPLOYMENT COMPENSATION PROGRAM

§§ 1400 to 1400v. Omitted

Section 1400, Pub. L. 85-441, title I, § 101, June 4, 1958, 72 Stat. 171; Pub. L. 86-7, Mar. 31, 1959, 73 Stat. 14, which authorized the payment of temporary unemployment compensation under sections 1400 to 1400k of this title to persons who exhausted their rights under other unemployment compensation laws, was omitted from the Code as executed.

Section 1400a, Pub. L. 85-441, title I, § 102, June 4, 1958, 72 Stat. 172, which authorized the Secretary to enter into agreements with States for the payment of the temporary unemployment compensation provided for in sections 1400 to 1400k of this title, was omitted from the Code as executed.

Section 1400b, Pub. L. 85-441, title I, § 103, June 4, 1958, 72 Stat. 173, which made special provision for veterans and Federal employees and for fair hearing and review in the denial of such benefits, was omitted from the Code as executed.

Section 1400c, Pub. L. 85-441, title I, § 104, June 4, 1958, 72 Stat. 173; Pub. L. 86-778, title V, § 524(b), Sept. 13, 1960, 74 Stat. 982; Pub. L. 88-173, § 2, Nov. 7, 1963, 77 Stat. 306, which provided for the repayment of the amounts of any temporary unemployment compensation benefits, except benefits paid to veterans and Federal employees, paid under sections 1400 to 1400k of this title through the device of reduction of credits allowed under section 3302 of Title 26, was omitted from the Code as executed.

Section 1400d, Pub. L. 85-441, title II, § 201, June 4, 1958, 72 Stat. 174, which defined the terms "Secretary", "State", and "first claim" as used in sections 1400 to 1400k of this title, was omitted from the Code as executed.

Section 1400e, Pub. L. 85-441, title II, § 202, June 4, 1958, 72 Stat. 174, which provided for review by the appropriate State agency with respect to determinations of entitlement to temporary unemployment compensation under sections 1400 to 1400k of this title, was omitted from the Code as executed.

Section 1400f, Pub. L. 85-441, title II, § 203, June 4, 1958, 72 Stat. 174, which set out penalties for false statements or representations in connection with payments under sections 1400 to 1400k of this title and provided for the recovery of overpayments, was omitted from the Code as executed.

Section 1400g, Pub. L. 85-441, title II, § 204, June 4, 1958, 72 Stat. 175, which required each State to provide the Secretary with whatever information he might require in administering sections 1400 to 1400k of this title, was omitted from the Code as executed.

Section 1400h, Pub. L. 85-441, title II, § 205, June 4, 1958, 72 Stat. 175, which provided for the payments to States of funds for the benefits under sections 1400 to 1400k of this title, the posting of requisite bonds in connection therewith, and the liability of certifying and disbursing officers, was omitted from the Code as executed.

Section 1400i, Pub. L. 85-441, title II, § 206, June 4, 1958, 72 Stat. 176, which provided for the denial of benefits under sections 1400 to 1400k of this title to aliens employed by Communist governments or organizations, was omitted from the Code as executed.

Section 1400j, Pub. L. 85-441, title II, § 207, June 4, 1958, 72 Stat. 176, which authorized the promulgation of rules and regulations by the Secretary to carry out the provisions of sections 1400 to 1400k of this title, was omitted from the Code as executed.

Section 1400k, Pub. L. 85-441, title II, § 208, June 4, 1958, 72 Stat. 176, which authorized the appropriation of funds necessary to carry out sections 1400 to 1400k of this title, was omitted from the Code as executed.

Section 1400*l*, Pub. L. 87-6, § 2, Mar. 24, 1961, 75 Stat. 8, which defined the terms "compensation period", "first claim", "State unemployment compensation", "Secretary", "State", "State agency", "State law", "temporary extended unemployment compensation", "title XV", and "week" as they are used in sections 1400*l* to 1400v of this title, was omitted from the Code as executed.

Section 1400m, Pub. L. 87-6, § 3, Mar. 24, 1961, 75 Stat. 8, which provided for the payment of temporary extended unemployment conpensation benefits under sections 1400*l* to 1400v of this title for any period of unemployment between March 24, 1961 and June 30, 1962, was omitted from the Code as executed.

Section 1400n, Pub. L. 87-6, § 4, Mar. 24, 1961, 75 Stat. 9, which provided for the reimbursement by the Federal government of any State unemployment compensation paid under sections 1400*l* to 1400v of this title in excess of the formula amount, was omitted from the Code as executed.

Section 1400o, Pub. L. 87-6, § 5, Mar. 24, 1961, 75 Stat. 9, which placed limitations on total payments and reimbursements under sections 1400*l* to 1400v of this title, was omitted from the Code as executed.

Section 1400p, Pub. L. 87-6, § 6, Mar. 24, 1961, 75 Stat. 10, which set out the covered period for benefits under sections 1400*l* to 1400v of this title as Mar. 24, 1961, to June 30, 1962, was omitted from the Code as executed.

Section 1400q, Pub. L. 87-6, § 7, Mar. 24, 1961, 75 Stat. 10, which covered the agreements with States for the payment and reimbursement of temporary unemployment compensation under sections 1400*l* to 1400v of this title, the amendment, suspension, or termination of such an agreement, denial of benefits, review of determinations by State agencies, and the reduction of benefits in certain cases, was omitted from the Code as executed.

Section 1400r, Pub. L. 87-6, § 8, Mar. 24, 1961, 75 Stat. 12, which provided for the payment of benefits under sections 1400*l* to 1400v of this title to veterans and Federal employees, was omitted from the Code as executed.

Section 1400s, Pub. L. 87-6, § 9, Mar. 24, 1961, 75 Stat. 12, which set out penalties for making false statements or representations in connection with benefits under sections 1400*l* to 1400v of this title and provided for the recovery of overpayments, was omitted from the Code as executed.

Section 1400t, Pub. L. 87-6, § 10, Mar. 24, 1961, 75 Stat. 13, which required each State to furnish the Secretary with the information required to administer the program under sections 1400*l* to 1400v of this title, was omitted from the Code as executed.

Section 1400u, Pub. L. 87-6, § 11, Mar. 24, 1961, 75 Stat. 13, which made provision for payments to States under sections 1400*l* to 1400v of this title, certification by the Secretary to the Secretary of the Treasury for payment of sums to each State, surety bonds, liability of certifying and disbursing officers, and costs of administration, was omitted from the Code as executed.

Section 1400v, Pub. L. 87-6, § 12, Mar. 24, 1961, 75 Stat. 14, which authorized the promulgation by the Secretary of rules and regulations necessary to carry out sections 1400*l* to 1400v of this title, was omitted from the Code as executed.

CHAPTER 8—LOW-INCOME HOUSING

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Sec.
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(a) Preparation and submission of annual budget program; maintenance of accounts; annual audit by General Accounting Office.
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Sec.

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(g) Labor standards.

(h) Protection of guarantees issued by United States; inclusion by purchaser in gross income of interest paid on obligations issued by agencies.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1434, 1457, 1502, 1503, 1504, 1586, 1590, 1594c, 5153, 5515 of this title; title 12 sections 24, 84, 1701q, 1701z-3, 1715*l*; title 20 sections 244, 633, 635, 645; title 25 section 640d-14; title 40 section 484b.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 5-105, 5-112, 5-114, 5-116, 5-702 of the District of Columbia Code.

§§ 1401 to 1404. Omitted

Section 1401, acts Sept. 1, 1937, ch. 896, § 1, 50 Stat. 888; July 15, 1949, 338, title III, § 307(a), 63 Stat. 429; Sept. 23, 1959, Pub. L. 86-372, title V, § 501, 73 Stat. 679; Aug. 1, 1968, Pub. L. 90-448, title II, § 206(a), 82 Stat. 504; Dec. 31, 1970, Pub. L. 91-609, title II, § 211, 84 Stat. 1779, which set out declaration of policy, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now section 1437 of this title.

Section 1402, acts, Sept. 1, 1937, ch. 896, § 2, 50 Stat. 888; July 15, 1949, ch. 338, title III, §§ 302(b), 304(c), (i), 306, 307(b), 63 Stat. 424, 425, 429; Oct. 26, 1951, ch. 577, § 1, 65 Stat. 647; June 30, 1953, 170, § 24(c), 67 Stat. 128; Aug. 7, 1956, ch. 1029, title IV, § 404(a), 70 Stat. 1104; July 12, 1957, Pub. L. 85-104, title III, § 307, title IV, § 401(a), 71 Stat. 301; Sept. 23, 1959, Pub. L. 86-372, title V, §§ 502, 503(a), 504, 73 Stat. 680; June 30, 1961, Pub. L. 87-70, title II, § 202, 75 Stat. 163; Sept. 2, 1964, Pub. L. 88-560, title II, § 203(d), title IV, § 401(a), 78 Stat. 784, 794; Aug. 10, 1965, Pub. L. 89-117, title I, §§ 103(b), 104, 79 Stat. 457; Aug. 1, 1968, Pub. L. 90-448, title II, § 209(a), 82 Stat. 505; Dec. 24, 1969, Pub. L. 91-152, title II, § 213(a), title IV, § 403(a), 83 Stat. 389, 395; Dec. 31, 1970, Pub. L. 91-609, title II, § 208(a), title IX, § 903(c), 84 Stat. 1778, 1808; Dec. 22, 1971, Pub. L. 92-213, § 9, 85 Stat. 776, which defined applicable terms was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now section 1437a of this title.

Section 1403, acts Sept. 1, 1937, ch. 896, § 3, 50 Stat. 889; May 25, 1967, Pub. L. 90-19, § 2(b), 81 Stat. 20; Aug. 1, 1968, Pub. L. 90-448, title XVII, § 1719(a), 82 Stat. 610, which created the United States Housing Authority in the Department of Housing and Urban Development, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1404, acts Sept. 1, 1937, ch. 896, § 4, 50 Stat. 889; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; May 25, 1967, Pub. L. 90-19, § 2(a), (c), 81 Stat. 19, 20, which provided for assistance of officers, etc., of other agencies and transfer of property to the Authority, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

EFFECTIVE DATE OF 1969 AMENDMENT; APPLICABILITY

Section 213(b) of Pub. L. 91-152 provided that the rents fixed by public housing agencies not exceed one-fourth of a low-rent housing tenant's income be effective not later than ninety days after Dec. 24, 1969 and that the requirements not apply in any case in which the Secretary of Housing and Urban Development determined that limiting the rent of any tenant or class of tenants would have resulted in a deduction in the amount of welfare assistance which would otherwise have been provided to the tenant or class of tenants by a public agency.

§ 1404a. United States Housing Authority; right to sue; expenses

The United States Housing Authority may sue and be sued only with respect to its functions under this chapter, and sections 1501 to 1505 of this title. Funds made available for carrying out the functions, powers, and duties of the Authority (including appropriations therefor, which are authorized) shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Authority. Notwithstanding any other provisions of law except provisions of law enacted after August 10, 1948 expressly in limitation hereof, the United States Housing Authority, or any State or local public agency administering a low-rent housing project assisted pursuant to this chapter or sections 1501 to 1505 of the title, shall continue to have the right to maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action is authorized by the statute or regulations under which such housing accommodations are administered, and, in determining net income for the purposes of tenant eligibility with respect to low-rent housing projects assisted pursuant to this chapter and sections 1501 to 1505 of this title, the United States Housing Authority is authorized, where it finds such action equitable and in the public interest, to exclude amounts or portions thereof paid by the United States Government for disability or death occurring in connection with military service.

(Aug. 10, 1948, ch. 832, title V, § 502(b), 62 Stat. 1284; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; May 25, 1967, Pub. L. 90-19, § 5(d)(4)-(7), 81 Stat. 21.)

REFERENCES IN TEXT

Section 1502a of this title, contained in the reference in text to sections 1501 to 1505, was not enacted as part of title II of Public Law 671 (which comprises sec-

tions 1501, 1502, and 1503 to 1505 of this title) and was repealed by Pub. L. 85-861, § 36A, Sept. 2, 1958, 72 Stat. 1569.

CODIFICATION

Section was enacted as part of the Housing Act of 1948 and not as part of act Sept. 1, 1937, ch. 896, as added by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, known as the United States Housing Act of 1937, which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90-19 substituted "United States Housing Authority" for "Public Housing Administration" wherever appearing in first and fourth sentences, "Authority" for "Administration" wherever appearing in third sentence, and "may sue" for "shall sue" in the first sentence, and struck out former second sentence authorizing the Public Housing Commissioner to appoint necessary officers and employees subject to the civil-service and classification laws, to delegate his functions and powers, and to make rules and regulations, respectively.

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

REPEALS

Act Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972, set out in the credit of this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies in the Housing and Home Finance Agency by Reorg. Plan No. 3 of 1947, § 1, eff. July 27, 1947, 12 FR 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Section 4(a) of such Reorg. Plan provided that the Authority was to be known as the Public Housing Administration (which was within the Housing and Home Finance Agency) and transferred the functions of the Administrator of the United States Housing Authority to the Public Housing Commissioner.

Pub. L. 89-174, § 5(a), Sept. 9, 1965, 79 Stat. 669, set out as section 3534(a) of this title, transferred the functions of the Housing and Home Finance Agency and of the Public Housing Administration and of the heads thereof to the Secretary of Housing and Urban Development. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided for the lapse of the Housing and Home Finance Agency and the Public Housing Administration and that references to the Housing and Home Finance Agency or to any agency or officer therein were to be deemed to mean the Secretary of Housing and Urban Development.

CROSS REFERENCES

Additional powers and duties of Secretary of Housing and Urban Development, see section 1701c of Title 12, Banks and Banking.

Library membership, utilization of funds for, see section 1701 of Title 12.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1586 of this title.

§§ 1405, 1406. Omitted

Section 1405, acts Sept. 1, 1937, ch. 896, § 5, 50 Stat. 890; May 25, 1967, Pub. L. 90-19, § 2(d), (e), 81 Stat. 20, which enumerated miscellaneous powers and functions of the Authority, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1406, acts Sept. 1, 1937, ch. 896, § 6, 50 Stat. 890; July 15, 1949, ch. 338, title III, § 307(c), 63 Stat. 429; Oct. 31, 1951, ch. 654, § 1(112), 65 Stat. 705; May 25, 1967, Pub. L. 90-19, § 2(a), 81 Stat. 19, which enumerated financial provisions applicable to the Authority, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. Subsec. (b) of this section, which provided that section 5 of title 41 not apply to contracts for services or to purchases of supplies except when the aggregate amount involved was less than $300, was repealed by act Oct. 31, 1951, ch. 654, § 1(112), 65 Stat. 705.

§ 1406a. Expenses of management and operation of transferred projects as nonadministrative; payment

On and after May 10, 1939 all necessary expenses in connection with the management and operation of projects transferred to the Authority by Executive Order Numbered 7732 of October 27, 1937, as modified by Executive Order Numbered 7839 of March 12, 1938, may be considered as nonadministrative expenses, notwithstanding the provisions of section 712a of title 15, and be paid from the rents received from each transferred project.

(May 10, 1939, ch. 119, § 1, 53 Stat. 690.)

CODIFICATION

Section was not enacted as part of act Sept. 1, 1937, ch. 896, as added by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, known as the United States Housing Act of 1937, which comprises this chapter.

TRANSFER OF FUNCTIONS

For transfer of functions of the United States Housing Authority to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1404a of this title.

Executive Order No. 7732, Oct. 27, 1937, 2 FR 2324, 44 CFR 201.11, effective Nov. 1, 1937, transferred to the United States Housing Authority all right, interest, and title held by the Federal Emergency Administration of Public Works in any housing or slum-clearance projects constructed or in the process of construction on Sept. 1, 1937.

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in act June 25, 1938, ch. 681, title I, 52 Stat. 1129.

§ 1406b. Expenses of uncompensated advisers serving the United States Housing Authority away from home

On and after May 10, 1939, the funds made available for administrative expenses of the United States Housing Authority shall be available for the payment, when specifically authorized by the Administrator, of actual transportation expenses and not to exceed $10 per diem in lieu of subsistence and other expenses to persons serving, while away from their homes, without other compensation from the United States, in an advisory capacity to the Authority.

(May 10, 1939, ch. 119, § 1, 53 Stat. 690.)

CODIFICATION

Section was not enacted as part of act Sept. 1, 1937, ch. 896, as added by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, known as the United States Housing Act of 1937, which comprises this chapter.

TRANSFER OF FUNCTIONS

For transfer of functions of the United States Housing Authority and of the Administrator to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1404a of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act June 25, 1938, ch. 681, title I, 52 Stat. 1128.

§§ 1406c to 1411a. Omitted

CODIFICATION

Section 1406c, act June 27, 1942, ch. 450, § 1, 56 Stat. 410, which related to expenses for construction advisers on nonfederal projects, expired pursuant to its own terms on June 30, 1944. Prior similar provisions were contained in acts Apr. 5, 1941, ch. 40, § 1, 55 Stat. 111; Apr. 18, 1940, ch. 107, § 1, 54 Stat. 130.

Section 1407, acts Sept. 1, 1937, ch. 896, § 7, 50 Stat. 891; Aug. 2, 1954, ch. 649, title VIII, § 802(d), 68 Stat. 643; May 25, 1967, Pub. L. 90-19, § 2(f), 81 Stat. 20, which provided for publication of information and submission of annual report by the Authority, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1408, act Sept. 1, 1937, ch. 896, § 8, 50 Stat. 891, which authorized the promulgation of rules and regulations by the Authority, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1409, acts Sept. 1, 1937, ch. 896, § 9, 50 Stat. 891; July 15, 1949, ch. 338, title III, § 304(c), (d), 63 Stat. 425; Dec. 24, 1969, Pub. L. 91-152, title II, § 211, 83 Stat. 388, which authorized loans for low-rent-housing and slum clearance projects, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now section 1437b of this title.

Section 1410, acts Sept. 1, 1937, ch. 896, § 10, 50 Stat. 891; June 21, 1938, ch. 554, title VI, § 601, 52 Stat. 820; July 15, 1949, ch. 338, title III, §§ 302(a), 304 (a), (c), (e), (f), 305, 307(d), 63 Stat. 423 to 427, 430; Aug. 2, 1954, ch. 649, title IV, §§ 401(1), (2), 402, 403, 405, 406, 68 Stat. 630; June 30, 1955, ch. 251, § 3, 69 Stat. 225; Aug. 11, 1955, ch. 783, title I, § 108(b), 69 Stat. 638; Aug. 7, 1966, ch. 1029, title IV, §§ 401(a), 404(b), 70 Stat. 1103, 1104; Sept. 23, 1959, Pub. L. 86-372, title V, §§ 505(a), 507, 73 Stat. 680, 681; June 30, 1961, Pub. L. 87-70, title II, §§ 203, 204(a), (b), 205, 206(b), (c), 75 Stat. 163 to 165; Sept. 2, 1964, Pub. L. 88-560, title IV, §§ 401(b), 402 to 404, 78 Stat. 794, 795; Aug. 10, 1965, Pub. L. 89-117, title V, §§ 501 to 504, 507(b)(1), (2); 79 Stat. 486 to 488; May 25, 1967, Pub. L. 90-19, § 2(a), 81 Stat. 19; Aug. 1, 1968, Pub. L. 90-448, title II, §§ 203(a), 206(b), 209(b), 82 Stat. 503, 505; Dec. 24, 1969, Pub. L. 91-152, title II, §§ 212, 214, 217(b), 83 Stat. 388-390; Dec. 31, 1970, Pub. L. 91-609, title II, §§ 202, 203, 204(a)(2), 210, 84 Stat. 1776 to 1778; Oct. 18, 1972, Pub. L. 92-503, § 3 (1) to (3), 86 Stat. 906; Oct. 2, 1973, Pub. L. 93-117, § 2, 87 Stat. 422, which authorized annual contributions in assistance of low rentals for housing projects, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now section 1437c of this title. Subsec. (j) of this section, which related to self-liquidation of projects, was repealed by Pub. L. 87-70, title II, § 206(c), June 30, 1961, 75 Stat. 164.

Section 1411, acts Sept. 1, 1937, ch. 896, § 11, 50 Stat. 893; July 15, 1949, ch. 338, title III, § 307(d), 63 Stat. 430, which authorized capital grants to public housing agencies in assistance of low rentals, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1411a, act July 31, 1953, ch. 302, title I, § 101, 67 Stat. 306, which related to the prohibition of projects in localities where rejected by public vote or governing body, was from the Independent Offices Appropriation Act, 1954, and was omitted as not repeated in subsequent appropriation acts.

RETROACTIVE EFFECT OF REPEAL OF RIGHTS OF UNITED STATES RELATING TO SELF-LIQUIDATION OF PROJECTS

Section 206(c) of Pub. L. 87-70, as amended by Pub. L. 93-383, title II, § 205, Aug. 22, 1974, 88 Stat. 668, provided in part that: "The Secretary of Housing and Urban Development is authorized to agree with a public housing agency to the amendment of any annual contributions contract containing the provision prescribed in section 10(j) of the United States Housing Act of 1937 (as in effect prior to the enactment of the Housing and Community Development Act of 1974) [subsec. (j) of section 1410] so as to delete such provision and waive any rights of the United States that are accrued or may accrue under such provision."

§ 1411b. Repealed. Aug. 7, 1956, ch. 1029, title IV, § 401(b), 70 Stat. 1103

Section, acts July 5, 1952, ch. 578, title I, § 101, 66 Stat. 403; July 31, 1953 ch. 302 title I, § 101, 67 Stat. 307, limited number of housing units to be constructed during fiscal year.

§ 1411c. Omitted

CODIFICATION

Section, act July 31, 1953, ch. 302, title I, § 101, 67 Stat. 307, which barred subversives from occupancy of housing units and which provided for the enforcement of such prohibition and the affect of such prohibition on loans and contributions by the Public Housing Administration, was from the Independent Offices Appropriation Act, 1954, and was omitted from the Code as not repeated in subsequent appropriation acts.

§ 1411d. Repealed. Pub. L. 93-383, title II, § 204, Aug. 22, 1974, 88 Stat. 668

Section, act Aug. 2, 1954, ch. 649, title VIII, § 815, 68 Stat. 647, required the submission of specifications by applicants prior to the award of any contract for the construction of a project and the submission of data with respect to the acquisition of land prior to authorization to purchase such land.

§§ 1412 to 1416. Omitted

Section 1412, acts Sept. 1, 1937, ch. 896, § 12, 50 Stat. 894; Apr. 20, 1950, 94, title II, § 205(b), 64 Stat. 73; Aug. 7, 1956, ch. 1029, title IV, § 405, 70 Stat. 1104; Aug. 10, 1965, Pub. L. 89-117, title V, § 505, 79 Stat. 487, which authorized the disposal of low-rent-housing projects transferred to or acquired by the Authority, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1413, acts Sept. 1, 1937, ch. 896, § 13, 50 Stat. 894; July 15, 1949, ch. 338, title III, § 307(e), 63 Stat. 430; May 25, 1967, Pub. L. 90-19, § 2(g), 81 Stat. 20, which enumerated powers of the Authority, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1413a, acts July 31, 1947, ch. 418, § 2, 61 Stat. 705; Feb. 27, 1948, ch. 77, § 3, 62 Stat. 37; Mar. 30, 1948, ch. 161, title III, § 304, 62 Stat. 100, which postponed until April 1, 1949, the institution of any eviction actions or proceedings in connection with publicly operated housing accommodations, was omitted from the Code as executed.

Section 1414, acts Sept. 1, 1937, ch. 896, § 14, 50 Stat. 895; July 15, 1949, 338, title III, § 304(g), 63 Stat. 428; Dec. 24, 1969, Pub. L. 91-152, title II, § 213(c), 83 Stat.

389, which authorized the modification, amendment, or supersedure of contracts by the Authority, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now section 1437c of this title.

Section 1415, acts Sept. 1, 1937, ch. 896, § 15, 50 Stat. 895; July 31, 1947, 418, § 1, 61 Stat. 704; July 15, 1949, ch. 338, title III, §§ 301, 303, 304(j), 63 Stat. 422, 424, 427; Aug. 2, 1954, ch. 649, title IV, § 401(3), (4), 68 Stat. 631; Aug. 7, 1956, ch. 1029, title IV, § 404(c), 70 Stat. 1104; July 12, 1957, Pub. L. 85-104, title IV, § 401(b), (c), 71 Stat. 302; Sept. 23, 1959. Pub. L. 86-372, title V, §§ 503(b), 506, 507, 73 Stat. 680, 681; June 30, 1961, Pub. L. 87-70, title II, §§ 204(b), 205(b), 206(a), 75 Stat. 164; Sept. 2, 1964, Pub. L. 88-560, title IV, §§ 401(c), 405(a), 406, 78 Stat. 794, 795; Aug. 10, 1965, Pub. L. 89-117, title IV, § 404(c)(2), title V, §§ 506, 507(a), (b)(3), 79 Stat. 486-488; May 25, 1967, Pub. L. 90-19, § 2(a), 81 Stat. 19; Aug. 1, 1968, Pub. L. 90-448, title II, §§ 204, 205, 207, 82 Stat. 503, 504; Dec. 24, 1969, Pub. L. 91-152, title II, §§ 215, 216, 83 Stat. 389, 390; Dec. 31, 1970, Pub. L. 91-609, title II, §§ 207, 209(a), title IX, § 903(d), 84 Stat. 1777, 1778, 1809; Jan. 2, 1971, Pub. L. 91-646, title II, § 220(a)(6), 84 Stat. 1903, which set forth provisions relating to the preservation of low rents in housing projects, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now sections 1437c, 1437d, and 1437f of this title.

Section 1416, acts Sept. 1, 1937, ch. 896, § 16, 50 Stat. 896; July 15, 1949, 338, title III, § 307(f) 63 Stat. 430; Aug. 2, 1954, ch. 649, title IV, § 404, 68 Stat. 633; Nov. 3, 1966, Pub. L. 89-754, title X, § 1003, 80 Stat. 1284; May 25, 1967, Pub. L. 90-19, § 2(h), (i), 81 Stat. 20, which provided for application of labor standards to contracts, etc., involving Federal projects, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now section 1437; of this title.

APPLICATION FOR PRELIMINARY LOANS APPROVED PRIOR TO SEPTEMBER 2, 1964

Pub. L. 88-560, title IV, § 405(b), Sept. 2, 1964, 78 Stat. 795, provided that the amendments made by subsection (a) to subsec. (b)(7) of section 1415 of this title were not to be applicable to any project for which an application for a preliminary loan had been approved by the local governing body prior to Sept. 2, 1964.

TRANSFERRED FUNDS; AVAILABILITY FOR EXPENDITURE

Act Apr. 20, 1950, ch. 94, title II, § 205(c), 64 Stat. 73, provided that all unexpended receipts, notwithstanding any limitations contained in the second proviso of act May 26, 1947, ch. 82, title I, 61 Stat. 109, derived from the sale of labor supply centers, labor homes, labor camps, and facilities, and all other unexpended balances of funds available for the maintenance, operation, and liquidation of the properties transferred and for the administrative expenses of transfer were transferred to the Public Housing Administration, to be available until expended, in accordance with the provisions of this chapter.

§ 1417. Repealed. Pub. L. 90-448, title XVII, § 1719(b), Aug. 1, 1968, 82 Stat. 610

Section, act Sept. 1, 1937, ch. 896, § 17, 50 Stat. 897, related to capital stock of the Authority.

RETIREMENT OF CAPITAL STOCK

Section 1719(b) of Pub. L. 90-448 provided in part that the capital stock referred to in this section be retired and the sum of $1,000,000 represented by such stock returned to the Treasury of the United States.

§§ 1417a to 1422. Omitted

Section 1417a, act Sept. 1, 1937, ch. 896, § 17, as added Aug. 1, 1968, Pub. L. 90-448, title XVII, § 1719(c), 82 Stat. 610, which set forth additional functions, powers, and duties of the Secretary, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now section 1437h of this title.

Section 1418, act Sept. 1, 1937, ch. 896, § 18, 50 Stat. 897, which authorized all assets and receipts of the Authority to remain available until expended, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now section 1437h of this title.

Section 1419, act Sept. 1, 1937, ch. 896, § 19, 50 Stat. 897, which authorized the allocation of funds available for similar purposes to the Authority, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1420, acts Sept. 1, 1937, ch. 896, § 20, 50 Stat. 898; June 21, 1938, ch. 554, title VI, § 602, 52 Stat. 820; Oct. 30, 1941, ch. 467, 55 Stat. 759; July 15, 1949, ch. 338, title III, § 304(h), 63 Stat. 427; Aug. 1, 1968, Pub. L. 90-448, title II, § 203(b), 82 Stat. 503, which authorized the Authority to issue obligations for purchase and sale by the Secretary of the Treasury, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now section 1437b of this title.

Section 1421, acts Sept. 1, 1937, ch. 896, § 21, 50 Stat. 898; July 15, 1949, ch. 338, title III, § 307(g), 63 Stat. 431; Aug. 7, 1956, ch. 1029, title IV, § 403, 70 Stat. 1103; June 30, 1961, Pub. L. 87-70, title II, § 204(c), 75 Stat. 164, which set forth depository and other banking requirements applicable to the Authority, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now section 1437h of this title.

Section 1421a, act Sept. 1, 1937, ch. 896, § 22, as added July 15, 1949, ch. 338, title III, § 304(b), 63 Stat. 424, and amended June 30, 1961, Pub. L. 87-70, title III, § 302(b), 75 Stat. 166; Aug. 10, 1965, Pub. L. 89-117, title V, § 507(b)(4), 79 Stat. 489; May 25, 1967, Pub. L. 90-19, § 2(j), 81 Stat. 20, which set forth provisions for private financing of low-rent-housing projects, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now sections 1437d and 1437i of this title.

Section 1421b, act Sept. 1, 1937, ch. 896, § 23, as added Aug. 10, 1965, Pub. L. 89-117, title I, § 103(a), 79 Stat. 455, and amended Nov. 3, 1966, Pub. L. 89-754, title X, § 1002, 80 Stat. 1284; Aug. 1, 1968, Pub. L. 90-448, title II, §§ 208, 210, 82 Stat. 504, 505; Dec. 24, 1969, Pub. L. 91-152, title II, § 217(c), 83 Stat. 390; Dec. 31, 1970, Pub. L. 91-609, title II, § 204(a)(1), (b), 84 Stat. 1777, which set forth provisions authorizing low-rent housing in private accommodations, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now section 1437f of this title.

Section 1422, acts Sept. 1, 1937, ch. 896, § 24, formerly § 22, 50 Stat. 899, renumbered, § 23, July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, renumbered § 24, Aug. 10, 1965, Pub. L. 87-117, title I, § 103(a), 79 Stat. 455, which provided for applicability of all general penal statutes relating to larceny etc., of moneys and properties of the Authority, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

RETROACTIVE APPLICATION OF POLICIES OR PROCEDURES ESTABLISHED BY SECRETARY OF HOUSING AND URBAN DEVELOPMENT TO RIGHTS OF OWNERS OF LEASED HOUSING

Pub. L. 93-383, title II, § 208, Aug. 22, 1974, 88 Stat. 669, provided that: "Nothing in this title [for distribution of title II of Pub. L. 93-383, see Tables volume] or any other provision of law authorizes the Secretary of Housing and Urban Development to apply any policy or procedure established by him with respect to the rights of an owner under a lease entered into under section 23 of the United States Housing Act of 1937 [section 4121b of this title] if such lease was entered into prior to the effective date of such policy or procedure."

§§ 1423 to 1426. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862

Section 1423, act Sept. 1, 1937, ch. 896, § 24, formerly § 23, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, related to penalties for false entries and reports.

Section 1424, act Sept. 1, 1937, ch. 896, § 25, formerly § 24, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, related to penalties for defrauding or hindering the Authority.

Section 1425, act Sept. 1, 1937, ch. 896, § 26, formerly § 25, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, related to penalties for concealment of interest in property.

Section 1426, act Sept. 1, 1937, ch. 896, § 27, formerly § 26, 50 Stat. 899, renumbered July 15, 1949, ch. 388, title III, § 307(h), 63 Stat. 431, related to penalties for unlawful use of the name "United States Housing Authority".

Sections 1423 to 1426 of this title are now covered by section 1012 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective on Sept. 1, 1948, see section 20 of act June 25, 1948, set out as an Effective Date note preceding section 1 of Title 18, Crimes and Criminal Procedure.

§§ 1427 to 1431. Omitted

Section 1427, act Sept. 1, 1937, ch. 896, § 28, formerly § 27, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, which provided for application of provisions when conflicting with other laws relating to housing or slum clearance, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1428, act Sept. 1, 1937, ch. 896, § 29, formerly § 28, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, which made available funds for the District of Columbia, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1429, act Sept. 1, 1937, ch. 896, § 30, formerly § 29, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, which provided for separability of provisions, was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1430, act Sept. 1, 1937, ch. 896, § 31, formerly § 30, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, which set forth short title of provisions as "United States Housing Act of 1937", was omitted from the Code as superseded in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See now section 1 of act Sept. 1, 1937, as added by section 201(a) of Pub. L. 93-383, set out as a Short Title note under section 1437 of this title.

Section 1431, Pub. L. 91-556, title IV, § 401, Dec. 17, 1970, 84 Stat. 1463, which provided that the necessary expenses of providing representatives at sites of nonfederal projects in connection with construction of these projects by public housing agencies with aid under this chapter, be compensated by these agencies by payments of fixed fees, was from the Independent Offices and Department of Housing and Urban Development Appropriations Act, 1971, and was omitted from the Code as not repeated in subsequent appropriation acts.

Similar provisions were contained in the following prior appropriation acts:

Nov. 26, 1969, Pub. L. 91-126, title III, § 301, 83 Stat. 242.

Oct. 4, 1968, Pub. L. 90-550, title III, § 301, 82 Stat. 956.

Nov. 3, 1967, Pub. L. 90-121, title II, § 201, 81 Stat. 360.

Sept. 6, 1966, Pub. L. 89-555, title II, § 201, 80 Stat. 688.

Aug. 6, 1965, Pub. L. 89-128, title II, § 201, 79 Stat. 542.

Aug. 30, 1964, Pub. L. 88-507, title II, § 207, 78 Stat. 665.

Dec. 19, 1963, Pub. L. 88-215, title II, § 201, 77 Stat. 447.

Oct. 3, 1962, Pub. L. 87-741, title II, § 201, 76 Stat. 739.

Aug. 17, 1961, Pub. L. 87-141, title II, § 201, 75 Stat. 363.

July 12, 1960, Pub. L. 86-626, title II, § 201, 74 Stat. 444.

Sept. 14, 1959, Pub. L. 86-255, title II, § 201, 73 Stat. 517.

Aug. 28, 1958, Pub. L. 85-844, title II, § 201, 72 Stat. 1081.

June 29, 1957, Pub. L. 85-69, title II, § 201, 71 Stat. 241.

June 27, 1956, ch. 452, title II, § 201, 70 Stat. 355.

June 30, 1955, ch. 244, title II, § 201, 69 Stat. 215.

June 24, 1954, ch. 359, title II, § 201, 68 Stat. 297.

July 31, 1953, ch. 302, title II, § 201, 67 Stat. 315.

July 5, 1952, ch. 578, title III, § 301, 66 Stat. 417.

Aug. 31, 1951, ch. 376, title IV, § 401, 65 Stat. 299.

Sept. 6, 1950, ch. 896, ch. VIII, title II, § 201, 64 Stat. 723.

Aug. 24, 1949, ch. 506, title II, § 201, 63 Stat. 659.

June 30, 1948, ch. 773, title II, § 201, 62 Stat. 1190.

July 30, 1947, ch. 358, title II, § 201, 61 Stat. 579.

July 20, 1946, ch. 589, title II, 60 Stat. 592.

May 3, 1945, ch. 106, title I, § 1, 59 Stat. 124.

§ 1432. Repealed. July 15, 1949, ch. 338, title VI, § 606, 63 Stat. 441

Section, act Aug. 10, 1948, ch. 832, title V, § 503, 62 Stat. 1285, related to State low-rent or veterans' housing projects.

§ 1433. Omitted

CODIFICATION

Section, act July 15, 1949, ch. 338, title VI, § 606, 63 Stat. 440, which provided for conversion of state and local low-rent or veterans' housing projects to Federal projects if the contract for State financial assistance for such project was entered into on or after January 1, 1948, and prior to January 1, 1950, was omitted from the Code as executed.

§ 1434. Records; contents; examination and audit

Every contract between the Department of Housing and Urban Development and any person or local body (including any corporation or public or private agency or body) for a loan, advance, grant, or contribution under the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.], the Housing Act of 1949, as amended [42 U.S.C. 1441 et seq.], or

any other Act shall provide that such person or local body shall keep such records as the Department of Housing and Urban Development shall from time to time prescribe, including records which permit a speedy and effective audit and will fully disclose the amount and the disposition by such person or local body of the proceeds of the loan, advance, grant, or contribution, or any supplement thereto, the capital cost of any construction project for which any such loan, advance, grant, or contribution is made, and the amount of any private or other non-Federal funds used or grants-in-aid made for or in connection with any such project. No mortgage covering new or rehabilitated multifamily housing (as defined in section 1715r of title 12) shall be insured unless the mortgagor certifies that he will keep such records as are prescribed by the Secretary of Housing and Urban Development at the time of the certification and that they will be kept in such form as to permit a speedy and effective audit. The Department of Housing and Urban Development and the Comptroller General of the United States shall have access to and the right to examine and audit such records. This section shall become effective on the first day after the first full calendar month following the date of approval of the Housing Act of 1961.

(Aug. 2, 1954, ch. 649, title VIII, § 814, 68 Stat. 647; June 30, 1961, Pub. L. 87-70, title IX, § 908, 75 Stat. 191; May 25, 1967, Pub. L. 90-19, § 10(h), 81 Stat. 23.)

REFERENCES IN TEXT

The United States Housing Act of 1937, as amended, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to this chapter (§ 1437 et seq.). For complete classification of this Act to the Code, see Short Title note under section 1437 of this title and Tables volume.

The Housing Act of 1949, as amended, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (§ 1441 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables volume.

The first day after the first full calendar month following the date of approval of the Housing Act of 1961, referred to in the text, probably means Aug. 1, 1961, which is the first day after the first full calendar month following approval of Pub. L. 87-70, which was approved on June 30, 1961.

CODIFICATION

Section was not enacted as part of act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, known as the United States Housing Act of 1937, which comprises this chapter.

Section was formerly classified to section 1715s of Title 12, Banks and Banking.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" in the second sentence and "Department of Housing and Urban Development" for "Housing and Home Finance Agency (or any official or constituent thereof)" and "Housing and Home Finance Agency (or such official or constituent thereof)" in the first sentence and for "Housing and Home Finance Agency or any official or constituent agency thereof" in the third sentence, respectively.

1961—Pub. L. 87-70 required record keeping provisions in contracts under the Housing Act of 1949 and in contracts under any other act, prohibited insurance of mortgages covering new or rehabilitated multifamily housing unless the mortgagor certifies that he will keep records, and empowered the Comptroller General to examine and audit records, and substituted "Housing Act of 1961" for "Housing Act of 1954".

EFFECTIVE DATE

The fourth sentence of section 814 of act Aug. 2, 1954 [prior to the amendment by section 908 of act June 30, 1961] provided that this section should become effective on the first day after the first calendar month following the date of approval of the act (Aug. 2, 1954.)

§ 1435. Access to books, documents, etc., for purpose of audit

Every contract for loans or annual contributions under this chapter shall provide that the Secretary of Housing and Urban Development and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency entering into such contract that are pertinent to its operations with respect to financial assistance under this chapter.

(Aug. 2, 1954, ch. 649, title VIII, § 816, 68 Stat. 647; May 25, 1967, Pub. L. 90-19, § 10(i), 81 Stat. 23.)

CODIFICATION

Section was not enacted as part of act Sept. 1, 1937, ch. 896, as added by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, known as the United States Housing Act of 1937, which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Public Housing Commissioner".

§ 1436. Repealed. Pub. L. 91-609, title V, § 503(4), Dec. 31, 1970, 84 Stat. 1786

Section, Pub. L. 87-70, title II, § 207, June 30, 1961, 75 Stat. 165; Pub. L. 88-560, title II, § 203(e), title IV, § 407, Sept. 2, 1964, 78 Stat. 784, 796; Pub. L. 89-117, title XI, § 1105, Aug. 10, 1965, 79 Stat. 503; Pub. L. 90-19, § 18(a), May 25, 1967, 81 Stat. 25; Pub. L. 90-448, title XVII, § 1714(a), Aug. 1, 1968, 82 Stat. 607, provided for low-rent housing demonstration programs and development grants. See sections 1701z-1 to 1701z-4 of Title 12, Banks and Banking.

EFFECTIVE DATE OF REPEAL: SAVINGS PROVISIONS

Section 503 of Pub. L. 91-609 provided in part for repeal of sections 1701d—3, 1701e, 1701e note, and 1701f of Title 12, Banks and Banking, this section, note below, section 1452a, section 1456 note, and sections 3372, 3373 of this title, effective July 1, 1971, except that the repeal shall not affect contracts, commitments, reservations, or other obligations entered pursuant to such provisions prior to July 1, 1971.

REPORT OF SELF-HELP STUDIES AND DEMONSTRATIONS

Section 503(7) of Pub. L. 91-609 repealed Pub. L. 90-448, title XVII, § 1714(b), Aug. 1, 1968, 82 Stat. 607, providing for report to Congress within one year after Aug. 1, 1968, respecting self-help studies and demonstrations.

§ 1437. Declaration of policy

It is the policy of the United States to promote the general welfare of the Nation by employing its funds and credit, as provided in this chapter, to assist the several States and their political subdivisions to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of low income and, consistent with the objectives of this chapter, to vest in local public housing agencies the maximum amount of responsibility in the administration of their housing programs. No person should be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a low-income housing project.

(Sept. 1, 1937, ch. 896, § 2, as added Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 653.)

PRIOR PROVISIONS

A prior section 2 of act Sept. 1, 1937, ch. 896, 50 Stat. 888, relating to definitions, was classified to section 1402 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93-383.

Prior similar provisions were contained in section 1 of act Sept. 1, 1937, ch. 896, 50 Stat. 888, which was classified to section 1401 of this title prior to the revision of such act by Pub. L. 93-383.

EFFECTIVE DATE

Section 201(b) of Pub. L. 93-383 provided that: "The provisions of subsection (a) of this section [enacting sections 1437 to 1437j of this title] shall be effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after the date of the enactment of this Act [Aug. 22, 1974]; except that (1) all of the provisions of section 3(1) of the United States Housing Act of 1937, as amended by subsection (a) of this section [section 1437a(1) of this title], shall become effective on the same date, (2) all of the provisions of sections 5 and 9(c) of such Act as so amended [sections 1437c and 1437g(c) of this title] shall become effective on the same date, and (3) section 8 of such Act [section 1437f of this title] as so amended shall be effective not later than January 1, 1975."

Section 3(1) of the United States Housing Act of 1937, as amended, referred to hereinabove effective Sept. 26, 1975, see Effective Date note set out under section 1437a of this title.

SHORT TITLE

Section 1 of act Sept. 1, 1937, ch. 896, as added by section 201(a) of Pub. L. 93-383 provided that: "This Act [which enacted this chapter and provision set out as a note under this section] may be cited as the 'United States Housing Act of 1937'."

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.], National Housing Act [12 U.S.C. 1701 et seq.], United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], Housing Act of 1949 [see Short Title note under section 1441 of this title], Demonstration Cities and Metropolitan Development Act of 1966 [see Short Title note under section 3301 of this title], and Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93-383, set out as a note under section 5301 of this title.

§ 1437a. Definitions

When used in this chapter—

(1) The term, "low-income housing" means decent, safe, and sanitary dwellings within the financial reach of families of low income, and embraces all necessary appurtenances thereto. Except as otherwise provided in this section, income limits for occupancy and rents shall be fixed by the public housing agency and approved by the Secretary. The rental for any dwelling units shall not exceed one-fourth of the family's income as defined by the Secretary. Notwithstanding the preceding sentence, the rental for any dwelling unit shall not be less than the higher of (A) 5 per centum of the gross income of the family occupying the dwelling unit, and (B) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated. At least 20 per centum of the dwelling units in any project placed under annual contributions contracts in any fiscal year beginning after the effective date of this section shall be occupied by very low-income families. In defining the income of any family for the purpose of this chapter, the Secretary shall consider income from all sources of each member of the family residing in the household, except that there shall be excluded—

(A) the income of any family member (other than the head of the household or his spouse) who is under eighteen years of age or is a full-time student;

(B) the first $300 of the income of a secondary wage earner who is the spouse of the head of the household;

(C) an amount equal to $300 for each member of the family residing in the household (other than the head of the household or his spouse) who is under eighteen years of age or who is eighteen years of age or older and is disabled or handicapped or a full-time student;

(D) nonrecurring income, as determined by the Secretary;

(E) 5 per centum of the family's gross income (10 per centum in the case of elderly families);

(F) such extraordinary medical or other expenses as the Secretary approves for exclusion; and

(G) an amount equal to the sums received by the head of the household or his spouse from, or under the direction of, any public or private nonprofit child placing agency for the care and maintenance of one or more persons who are under eighteen years of age and were placed in the household by such agency.

(2) The term "low-income families" means families of low income who cannot afford to pay enough to cause private enterprise in their locality or metropolitan area to build an adequate supply of decent, safe, and sanitary dwellings for their use. The term "very low-income families" means families whose incomes do not exceed 50 per centum of the median family income for the area, as determined by

the Secretary with adjustments for smaller and larger families. The term "families" includes families consisting of a single person in the case of (A) a person who is at least sixty-two years of age or is under a disability as defined in section 423 of this title or in section 2691 of this title, or is handicapped, (B) a displaced person, (C) the remaining member of a tenant family and (D) other single persons in circumstances described in regulations of the Secretary: *Provided*, That in no event shall more than 10 percent of the units under the jurisdiction of any public housing agency be occupied by single persons under this clause (D): *Provided further*, That in determining priority for admission to housing under this chapter the Secretary shall give preference to those single persons who are elderly, handicapped, or displaced before those eligible under this clause (D); and the term "elderly families" means families whose heads (or their spouses), or whose sole members, are persons described in clause (A). A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impedes his ability to live independently, and (iii) is of such a nature that such ability could be improved by more suitable housing conditions. The term "displaced person" means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. Notwithstanding the preceding provisions of this paragraph, the term "elderly families" includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living with another person who is determined under regulations of the Secretary to be a person essential to their care or well being.

(3) The term "development" means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a low-income housing project. The term "development cost" comprises the cost incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project. Construction activity in connection with a low-income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

(4) The term "operation" means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a low-income housing project. The term also means the financing of tenant programs and services for families residing in low-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term "tenant programs and services" includes the development and maintenance of tenant organizations which participate in the management of low-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provisions of such services.

(5) The term "acquisition cost" means the amount prudently required to be expended by a public housing agency in acquiring a low-income housing project.

(6) The term "public housing agency" means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing.

(7) The term "state" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and Nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "low-income housing project" or "project" means (A) any low-income housing developed, acquired, or assisted by a public housing agency under this chapter, and (B) the improvement of any such housing.

(Sept. 1, 1937, ch. 896, § 3, as added Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 654, and amended Aug. 3, 1976, Pub. L. 94-375, § 2(f), 90 Stat. 1068.)

References in Text

For effective date of this section, referred to in par. (1), see Effective Date note below.

Prior Provisions

A prior section 3 of act Sept. 1, 1937, ch. 896, 50 Stat. 889, as amended, which established the United States Housing Authority, was classified to section 1403 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93-383.

Prior similar provisions were contained in section 2 of act Sept. 1, 1937, ch. 896, 50 Stat. 888, which was classified to section 1402 of this title prior to the revision of such act by Pub. L. 93-383.

Amendments

1976—Par. (2). Pub. L. 94-375 struck out "and" preceding (C), added cl. (D), and two provisos relating to the percentage of units to be occupied by single persons and the priority to be given to single persons who are elderly, handicapped, or displaced, following cl. (D).

Effective Date

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of par. (1) shall become effective on the same date, see section

201(b) of Pub. L. 93-383, set out as an Effective Date note under section 1437 of this title.

The Department of Housing and Urban Development adopted an interim rule, 24 CFR 860.409, Sept. 26, 1975, 40 F.R. 44326, which provides: "The effective date of section 3(1) of the United States Housing Act of 1937, as amended [par. (1) of this section], shall be the date that these regulations [sections 860.401 to 860.409 of Title 24, CFR] are published in the Federal Register (September 26, 1975)."

ESTABLISHMENT OF INCREASED MONTHLY RENTAL CHARGE FOR FAMILY OCCUPYING LOW-INCOME HOUSING UNIT; ADJUSTMENT FACTORS

Section 202 of Pub. L. 93-383 provided that: "To the extent that section 3(1) of the United States Housing Act of 1937, as amended by section 201(a) of this Act [par. (1) of this section], would require the establishment of an increased monthly rental charge for any family which occupies a low-income housing unit as of the effective date of such section 3(1) (other than by reason of the provisions relating to welfare assistance payments) [see Effective Date Note set out above], the required adjustment shall be made, in accordance with regulations of the Secretary, as follows: (A) the first adjustment shall not exceed $5 and shall become effective as of the month following the month of the first review of the family's income pursuant to section 6(c)(2) of such Act [section 1437d(c)(2) of this title] which occurs at least six months after the effective date of such section 3(1), and (B) subsequent adjustments, each of which shall not exceed $5, shall be made at six-month intervals over whatever period is necessary to effect the full required increase in the family's rental charge."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437c, 1437f of this title; title 12 section 1715z-9.

§ 1437b. Loans and commitments to make loans for low-income housing projects; authority of Secretary; interest rates; repayment date; use as security for obligations of public housing agency; issuance of obligations by Secretary; limitation on amounts; forms and denominations; terms and conditions; purchase, establishment of maturities and rates of interest, and sale by Secretary of Treasury

(a) The Secretary may make loans or commitments to make loans to public housing agencies to help finance or refinance the development, acquisition, or operation of low-income housing projects by such agencies. Any contract for such loans and any amendment to a contract for such loans shall provide that such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum. Such loans shall be secured in such manner and shall be repaid within such period not exceeding forty years, or not exceeding forty years from the date of the bonds evidencing the loan, as the Secretary may determine. The Secretary may require loans or commitments to make loans under this section to be pledged as security for obligations issued by a public housing agency in connection with a low-income housing project.

(b) The Secretary may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount which will not, unless authorized by the President, exceed $1,500,000,000. For the purpose of determining obligations incurred to make loans pursuant to this chapter against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreements then outstanding with public housing agencies. Such notes or other obligations shall be in such forms and denominations and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes or other obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(Sept. 1, 1937, ch. 896, § 4, as added Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 656.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (b), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 4 of act Sept. 1, 1937, ch. 896, 50 Stat. 889, as amended, which provided for assistance of officers, etc., of other agencies and transfer of property to the Authority, was classified to section 1404 of this title prior to revision of act Sept. 1, 1937 by Pub. L. 93-383.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1437c of this title.

§ 1437c. Annual contributions for low-income housing projects

(a) Contract authorization; amounts; use as security for obligations of public housing agency

The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the low-income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the low-income project in-

volved. The amount of annual contributions which would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this section for a project by such public housing agency which would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures which are suitable for low-income housing use and obtained in the local market. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed forty years.

(b) Maximum amount of contributions; regulations; criteria for rates of contribution

The Secretary may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition, or operation costs, number of dwelling units, number of persons housed, interest charges, or other appropriate factors.

(c) Limitation on aggregate contractual contributions; contracts for annual contributions for assistance to Indian tribes, bands, etc.; contracts for preliminary loans; payments of annual contributions

The Secretary is authorized to enter into contracts for annual contributions aggregating not more than $1,524,000,000 per annum, which limit shall be increased by $965,000,000 on July 1, 1974, by $662,300,000 on July 1, 1975, and by $850,000,000 on October 1, 1976, except that the additional authority to enter into contracts for annual contributions provided on or after July 1, 1975, shall be effective only in such amounts as may be approved in appropriation Acts. Of the additional authority to enter into contracts for annual contributions provided on October 1, 1976, and approved in appropriation Acts, the Secretary shall (A) make available at least $60,000,000 for the modernization of low-income housing projects, and (B) make available at least $140,000,000 to assist in financing low-income housing projects for ownership by public housing agencies other than under section 1437f of this title, of which not less than $100,000,000 shall be available only for the purpose of financing the construction or substantial rehabilitation of low-income housing projects. The Secretary, in utilizing the additional authority to enter into contracts for annual contributions provided on October 1, 1976, shall administer the programs authorized by this chapter to provide assistance for new, substantially rehabilitated, and existing units, to the maximum extent practicable and consistent with section 1439(d) of this title, in accordance with the goals of units of general local government for such types of housing as reflected in their housing assistance plans prepared pursuant to section 5304(a)(4) of this title. In addition, the Secretary shall enter into contracts for annual contributions, out of the aggregate amount of contracts for annual contributions authorized under this section to be entered into on or after July 1, 1974, aggregating at least $15,000,000 per annum, which amount shall be increased by not less than $15,000,000 per annum, on July 1, 1975, and by not less than $17,000,000 per annum on October 1, 1976, to assist in financing the development or acquisition cost of low-income housing for families who are members of any Indian tribe, band, pueblo, group, or community of Indians or Alaska Natives which is recognized by the Federal Government as eligible for service from the Bureau of Indian Affairs, or who are wards of any State government, except that none of the funds made available under this sentence shall be available for use under section 1437f of this title. For the purpose of the preceding sentence, the annual contributions for a project shall, notwithstanding any other provision of this chapter, be equal to the difference between the sum of the total debt service payment plus approved operating costs, and the rental payments that tenants are required to make under section 1437a(1) of this title. The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into. The faith of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments. All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this chapter when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 1437b(b) of this title (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions.

(d) Scope of contracts for loans or annual contributions

Any contract for loans or annual contributions, or both, entered into by the Secretary with a public housing agency, may cover one or more than one low-income housing project owned by such public housing agency; in the event the contract covers two or more projects, such projects may, for any of the purposes of this chapter and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

(e) Local determination of need as prerequisite for contracts for preliminary loans, and contracts for loans or annual contributions

In recognition that there should be local determination of the need for low-income housing to meet needs not being adequately met by private enterprise—

(1) the Secretary shall not make any contract with a public housing agency for preliminary loans (all of which shall be repaid out of any moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any low-income housing projects (i) unless the governing body of the locality involved has by resolution approved the application of the public housing agency for such preliminary loan; and (ii) unless the public housing agency has demonstrated to the satisfaction of the Secretary that there is need for such low-income housing which is not being met by private enterprise; and

(2) the Secretary shall not make any contract for loans (other than preliminary loans) or for annual contributions pursuant to this chapter unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by the Secretary pursuant to this chapter.

(f) Modification by Secretary of terms of contracts, etc.; limitations; amendment or supersedure of contracts for annual contributions or loans

Subject to the specific limitations or standards in this chapter governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever he deems it necessary or desirable in the fulfillment of the purposes of this chapter, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the low-income character of the project or projects involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract entered into by mutual agreement between the public housing agency and the Secretary. Contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the public housing agency involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

(g) Pledge of annual contributions as guarantee of payment of obligations issued by public housing agency; exception

In addition to the authority of the Secretary under subsection (a) of this section to pledge annual contributions as security for obligations issued by a public housing agency, the Secretary is authorized to pledge annual contributions as a guarantee of payment by a public housing agency of all principal and interest on obligations issued by it to assist the development or acquisition of the project to which the annual contributions relate, except that no obligation shall be guaranteed under this subsection if the income thereon is exempt from Federal taxation.

(h) Sale of project to low-income tenants by public housing agency; terms and conditions; commitment by Secretary to pay annual contribution unaffected

Notwithstanding any other provision of law, a public housing agency may sell a low-income housing project to its low-income tenants, on such terms and conditions as the agency may determine, without affecting the Secretary's commitment to pay annual contributions with respect to that project, but such contributions shall not exceed the maximum contributions authorized under subsection (a) of this section.

(Sept. 1, 1937, ch. 896, § 5, as added Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 656; and amended Aug. 3, 1976, Pub. L. 94-375, § 2(a), (b), 90 Stat. 1067.)

PRIOR PROVISIONS

A prior section 5 of act Sept. 1, 1937, ch. 896, 50 Stat. 890, as amended, which enumerated miscellaneous powers and functions of the Authority, was classified to section 1405 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93-383.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-375 substituted "$1,524,000,000 per annum, which limit shall be increased by $965,000,000 on July 1, 1974, by $662,300,000 on July 1, 1975, and by $850,000,000 on October 1, 1976, except that the additional authority to enter into contracts for annual contributions provided on or after July 1, 1975, shall be effective only in such amounts as may be approved in appropriation Acts" for "$1,199,250,000 per annum, which limit shall be increased by $225,000,000 on July 1, 1971, by $150,000,000 on July 1, 1972, by $400,000,000 on July 1, 1973, and by $965,000,000 on July 1, 1974", provision requiring the Secretary make available a total of at least $200,000,000 for modernization and financing of low-income housing projects under the additional authority to enter into contracts for annual contributions provided on Oct. 1, 1976, for provision which required the Secretary to enter into contracts for annual contributions of at least $150,000,000 to assist in financing the development or acquisition cost of low-income housing projects, inserted "and by not less than $17,000,000 per annum on October 1, 1976," following "not less than $15,000,000 per annum, on July 1, 1975", and struck out "to the amounts of contracts for annual contributions required to be entered into by the Secretary under the second sentence of this subsection" which followed "In addition".

EFFECTIVE DATE OF 1976 AMENDMENTS

Section 2(b)(1) of Pub. L. 94-375 provided in part that the amendment of subsec. (c), which required the Secretary to make available a total of $200,000,000 for modernization and financing of low-income housing, is effective on Oct. 1, 1976.

Section 2(b)(2) of Pub. L. 94-375 provided in part that the amendment of subsec. (c), which struck out reference to the amount of contracts the Secretary was required to enter into under the second sentence of this subsection, is effective Oct. 1, 1976.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of this section shall become effective on the same date, see section 201(b) of Pub. L. 93-383, set out as an Effective Date note under section 1437 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437d, 1437f, 1437g, 1437i of this title.

§ 1437d. Contract provisions and requirements; loans and annual contributions

(a) Conditions; playgrounds and elevators

Secretary may include in any contract for loans, annual contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this chapter, such convenants,[1] conditions, or provisions as he may deem necessary in order to insure the low-income character of the project involved. Any such contract may contain a condition requiring the maintenance of an open space or playground in connection with the housing project involved if deemed necessary by the Secretary for the safety or health of children. Any such contract shall require that, except in the case of housing predominantly for the elderly, high-rise elevator projects shall not be provided for families with children unless the Secretary makes a determination that there is no practical alternative.

(b) Cost of construction and equipment of project; prototype costs

Every contract made pursuant to this chapter for loans (other than preliminary loans) or annual contributions shall provide that the cost of construction and equipment of the project (excluding land, demolition, and nondwelling facilities) on which the computation of any annual contributions under this chapter may be based shall not exceed by more than 10 per centum the appropriate prototype cost for the area. The prototype costs shall be determined at least annually by the Secretary on the basis of his estimate of the construction costs of new dwelling units of various types and sizes in the area suitable for occupancy by persons assisted under this chapter. In making his determination the Secretary shall take into account (1) the extra durability required for safety and security and economical maintenance of such housing, (2) the provision of amenities designed to guarantee a safe and healthy family life and neighborhood environment, (3) the application of good design as an essential component of such housing for safety and security as well as other purposes, (4) the maintenance of quality in architecture to reflect the standards of the neighborhood and community, (5) the need for maximizing the conservation of energy for heating, lighting, and other purposes, (6) the effectiveness of existing cost limits in the area, and (7) the advice and recommendations of local housing producers. The prototype costs for any area shall become effective upon the date of publication in the Federal Register.

(c) Revision of maximum income limits; certification of compliance with requirements; notification of eligibility; informal hearing; compliance with procedures for sound management

Every contract for annual contributions shall provide that—

(1) the Secretary may require the public housing agency to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of this chapter;

(2) the public housing agency shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the public housing agency shall review the incomes of families living in the project at intervals of two years (or at shorter intervals where the Secretary deems it desirable);

(3) the public housing agency shall promptly notify (i) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (ii) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined; and

(4) the public housing agency shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to—

(A) the establishment of tenant selection criteria designed to assure that, within a reasonable period of time, the project will include families with a broad range of incomes and will avoid concentrations of low-income and deprived families with serious social problems, but this shall not permit maintenance of vacancies to await higher income tenants where lower income tenants are available;

(B) the establishment of satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent;

(C) the establishment of effective tenant-management relationships designed to assure that satisfactory standards of tenant security and project maintenance are formulated and that the public housing agency (together with tenant councils where they exist) enforces those standards fully and effectively; and

(D) the development by local housing authority managements of viable homeownership opportunity programs for low-income families capable of assuming the responsibilities of home-ownership.

(d) Exemption from personal and real property taxes; payments in lieu of taxes; cash contribution or tax remission

Every contract for annual contributions with respect to a low-income housing project shall provide that no annual contributions by the Secretary shall be made available for such project unless such project (exclusive of any portion thereof which is not assisted by annual contributions under this chapter) is exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision; and such contract shall require the public housing agency to make payments in lieu of taxes equal to 10 per centum of the sum of the annual shelter rents charged in such project, or such lesser amount as (i) is pre-

[1] So in original. Probably should be "covenants".

scribed by State law, or (ii) is agreed to by the local governing body in its agreement for local cooperation with the public housing agency required under section 1437c(e)(2) of this title, or (iii) is due to failure of a local public body or bodies other than the public housing agency to perform any obligation under such agreement. If any such project is not exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no annual contributions by the Secretary shall be made available for such project unless and until the State, city, county, or other political subdivision in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the annual shelter rents charged in such project.

(e) Excess funds

Every contract for annual contributions shall provide that whenever in any year the receipts of a public housing agency in connection with a low-income housing project exceed its expenditures (including debt service, operation, maintenance, establishment of reserves, and other costs and charges), an amount equal to such excess shall be applied, or set aside for application, to purposes, which, in the determination of the Secretary, will effect a reduction in the amount of subsequent annual contributions.

(f) Modification or closeout of project

Every contract for annual contributions shall provide that when the public housing agency and the Secretary mutually agree that a housing project is obsolete as to physical condition, or location, or other factors, making it unusable for housing purposes, a program of modifications or closeout shall be prepared. If it is mutually determined that such project can be returned to useful life, then the Secretary is authorized to utilize such annual contributions as are necessary to enable the local public housing agency to undertake an agreed-upon program of modifications. If it is mutually determined that no program of modification is feasible or that such a program would not return the housing to a useful life, then the Secretary is authorized to prepare a closeout program, utilizing such annual contributions as are necessary to accommodate the outstanding indebtedness on the project, the cost of demolition (if the physical improvements are not to be sold), and the cost of relocating displaced families into satisfactory replacement housing. The net closeout cost to the Federal Government shall take into consideration any receipts from the sale of physical improvements, land, or other assets, pursuant to the provisions of the annual contributions contract.

(g) Substantial default; conveyance of title and delivery of possession; reconveyance and redelivery; payments for outstanding obligations

Every contract for annual contributions (including contracts which amend or supersede contracts previously made) may provide that—

(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the public housing agency is subject (as such substantial default shall be defined in such contract), the public housing agency shall be obligated at the option of the Secretary either to convey title in any case where, in the determination of the Secretary (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this chapter, or to deliver to the Secretary possession of the project, as then constituted, to which such contract relates; and

(2) the Secretary shall be obligated to reconvey or redeliver possession of the project as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such contract, and as soon as practicable (i) after the Secretary is satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purposes of this chapter, thereafter be operated in accordance with the terms of such contract; or (ii) after the termination of the obligation to make annual contributions available unless there are any obligations or covenants of the public housing agency to the Secretary which are then in default. Any prior conveyances and reconveyances or deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Secretary pursuant to subparagraph (1) upon the subsequent occurrence of a substantial default.

Whenever such a contract for annual contributions includes provisions which the Secretary in such contract determines are in accordance with this subsection, and the portion of the annual contribution payable for debt service requirements pursuant to such contract has been pledged by the public housing agency as security for the payment of the principal and interest on any of its obligations, the Secretary (notwithstanding any other provisions of this chapter) shall continue to make such annual contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract that in any event such annual contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the project for the purpose at the time such annual contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the annual contributions provided for in the contract shall have been pledged as security. In no case shall such annual contributions be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract.

(Sept. 1, 1937, ch. 896, § 6, as added Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 659.)

PRIOR PROVISIONS

A prior section 6 of act Sept. 1, 1937, ch. 896, 50 Stat. 890, as amended, which enumerated financial provisions applicable to the Authority, was classified to sec-

tion 1406 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93-383.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1437f of this title; title 12 section 24.

§ 1437e. Congregate housing; design, development and acquisition for displaced or elderly families; limitation on amounts for contracts; definition; central dining facility costs

The Secretary shall encourage public housing agencies, in providing housing predominantly for displaced or elderly families, to design, develop, or otherwise acquire such housing to meet the special needs of the occupants and, wherever practicable, for use in whole or in part as congregate housing: *Provided*, That no more than 10 per centum of the total amount of contracts for annual contributions entered into any fiscal year pursuant to the new authority granted under section 202 of the Housing and Urban Development Act of 1970, or under any law subsequently enacted shall be entered into with respect to units in congregate housing. As used in this section the term "congregate housing" means low-income housing (A) in which some or all of the dwelling units do not have kitchen facilities, and (B) connected with which there is a central dining facility to provide wholesome and economical meals for elderly and displaced families under terms and conditions prescribed by the public housing agency to permit a generally self-supporting operation. Expenditures incurred by a public agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered one of the costs of operation of the project.

(Sept. 1, 1937, ch. 896, § 7, as added Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 662.)

REFERENCES IN TEXT

Section 202 of the Housing and Urban Development Act of 1970, referred to in text, is section 202 of Pub. L. 91-609, title II, Dec. 31, 1970, 84 Stat. 1776, which amended section 1410(e) of this title, and has been omitted in the general revision of this chapter by section 201(a) of Pub. L. 93-383.

PRIOR PROVISIONS

A prior section 7 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, which required publication of information and submission of annual report by the Authority, was classified to section 1407 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93-383.

§ 1437f. Lower-income housing assistance

(a) Authorization for assistance payments

For the purpose of aiding lower-income families in obtaining a decent place to live and of promoting economically mixed housing, assistance payments may be made with respect to existing, newly constructed, and substantially rehabilitated housing in accordance with the provisions of this section.

(b) Authorization for contracts for assistance payments

(1) The Secretary is authorized to enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to owners of existing dwelling units in accordance with this section. In areas where no public housing agency has been organized or where the Secretary determines that a public housing agency is unable to implement the provisions of this section, the Secretary is authorized to enter into such contracts and to perform the other functions assigned to a public housing agency by this section.

(2) To the extent of annual contributions authorizations under section 1437c(c) of this title, the Secretary is authorized to make assistance payments pursuant to contracts with owners or prospective owners who agree to construct or substantially rehabilitate housing in which some or all of the units shall be available for occupancy by lower-income families in accordance with the provisions of this section. The Secretary may also enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to such owners or prospective owners.

(c) Contents and purposes of contracts for assistance payments; amount and scope of monthly assistance payments

(1) An assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically but not less than annually for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the maximum monthly rent may exceed the fair market rental by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a local housing assistance plan as defined in section 1439(a)(5) of this title. Proposed fair market rentals for an area shall be published in the Federal Register with reasonable time for public comment, and shall become effective upon the date of publication in final form in the Federal Register.

(2)(A) The assistance contract shall provide for adjustment annually or more frequently in the maximum monthly rents for units covered by the contract to reflect changes in the fair market rentals established in the housing area for similar types and sizes of dwelling units or, if the Secretary determines, on the basis of a reasonable formula.

(B) The contract shall further provide for the Secretary to make additional adjustments in the maximum monthly rent for units under contract to the extent he determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs which are not adequately compensated for by the ad-

justment in the maximum monthly rent authorized by subparagraph (A).

(C) Adjustments in the maximum rents as hereinbefore provided shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by the Secretary.

(3) The amount of the monthly assistance payment with respect to any dwelling unit, in the case of a large very low-income family, a very large lower income family, or a family with exceptional medical or other expenses, as determined by the Secretary, shall be the difference between 15 per centum of one-twelfth of the annual income of the family occupying the dwelling unit and the maximum monthly rent which the contract provides that the owner is to receive for the unit. In the case of other families, the Secretary shall establish the amount of the assistance payment as the difference between not less than 15 per centum nor more than 25 per centum of the family's income and the maximum rent, taking into consideration the income of the family, the number of minor children in the household, and the extent of medical or other unusual expenses incurred by the family. Reviews of family income shall be made no less frequently than annually (except that such reviews may be made at intervals no longer than two years in the case of families who are elderly families).

(4) The assistance contract shall provide that assistance payments may be made only with respect to a dwelling unit under lease for occupancy by a family determined to be a lower income family at the time it initially occupied such dwelling unit, except that such payments may be made with respect to unoccupied units for a period not exceeding sixty days (A) in the event that a family vacates a dwelling unit before the expiration date of the lease for occupancy or (B) where a good faith effort is being made to fill an unoccupied unit, and, subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period (i) if the unoccupied unit is in a project insured under the National Housing Act [12 U.S.C. 1701 et seq.], except pursuant to section 244 of such Act [12 U.S.C. 1715z-9], or (ii) if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

(5) Assistance payments may be made with respect to up to 100 per centum of the dwelling units in any structure upon the application of the owner or prospective owner. Within the category of projects containing more than fifty units and designed for use primarily by nonelderly and nonhandicapped persons, the Secretary may give preference to applications for assistance involving not more than 20 per centum of the dwelling units in a project. In according any such preference, the Secretary shall compare applications received during distinct time periods not exceeding sixty days in duration.

(6) The Secretary shall take such steps as may be necessary, including the making of contracts for assistance payments in amounts in excess of the amounts required at the time of the initial renting of dwelling units, the reservation of annual contributions authority for the purpose of amending housing assistance contracts, or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts, to assure that assistance payments are increased on a timely basis to cover increases in maximum monthly rents or decreases in family incomes.

(7) At least 30 per centum of the families assisted under this section with annual allocations of contract authority shall be very low-income families at the time of the initial renting of dwelling units.

(8) To the extent authorized in contracts entered into by the Secretary with a public housing agency, such agency may purchase any structure containing one or more dwelling units assisted under this section for the purpose of reselling the structure to the tenant or tenants occupying units aggregating in value at least 80 per centum of the structure's total value. Any such resale may be made on the terms and conditions prescribed under section 1437c(h) of this title and subject to the limitation contained in such section.

(d) Required provisions and duration of contracts for assistance payments

(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

(A) the selection of tenants for such unit shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency;

(B) the agency shall have the sole right to give notice to vacate, with the owner having the right to make representation to the agency for termination of tenancy;

(C) maintenance and replacement (including redecoration) shall be in accordance with the standard practice for the building concerned as established by the owner and agreed to by the agency; and

(D) the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by them.

(2) Each contract for an existing structure entered into under this section shall be for a term of not less than one month nor more than one hundred and eighty months.

(e) Restrictions on contracts for assistance payments

(1) The Secretary shall not contract to make assistance payments with respect to a newly constructed or substantially rehabilitated dwelling unit for a term of less than one month or more than two hundred and forty months. In the case of a project owned by, or financed by a loan or loan guarantee from, a State or local agency or the Farmers' Home Administration, the term may not exceed four hundred and eighty months.

(2) The contract between the Secretary and the owner with respect to newly constructed or substantially rehabilitated dwelling units shall provide that all ownership, management, and maintenance responsibilities, including the selection of tenants and the termination of tenancy, shall be assumed by the owner (or any entity, including a public housing agency, approved by the Secretary, with which the owner may contract for the performance of such responsibilities).

(3) The construction or substantial rehabilitation of dwelling units to be assisted under this section shall be eligible for financing with mortgages insured under the National Housing Act [12 U.S.C. 1701 et seq.]. Assistance with respect to such dwelling units shall not be withheld or made subject to preferences by reason of the availability of mortgage insurance pursuant to section 224 of such Act [12 U.S.C. 1715z-9] or by reason of the tax-exempt status of the bonds or other obligations to be used to finance such construction or rehabilitation.

(4) Nothing in this chapter shall be deemed to prohibit an owner from pledging, or offering as security for any loan or obligation, a contract for assistance payments entered into pursuant to this section: *Provided*, That such security is in connection with a project constructed or rehabilitated pursuant to authority granted in this section, and the terms of the financing or any refinancing have been approved by the Secretary.

(f) Definitions

As used in this section—

(1) the term "lower income families" means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors;

(2) the term "very low-income families" means those families whose incomes do not exceed 50 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families;

(3) the term "income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary;

(4) the term "owner" means any private person or entity, including a cooperative, or a public housing agency, having the legal right to lease or sublease newly constructed or substantially rehabilitated dwelling units as described in this section;

(5) the terms "rent" or "rental" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative; and

(6) the term "debt service" means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this chapter.

(g) Regulations applicable for implementation of assistance payments

Notwithstanding any other provision of this chapter, assistance payments under this section may be provided, in accordance with regulations prescribed by the Secretary, with respect to some or all of the units in any project approved pursuant to section 1701q of title 12.

(h) Nonapplicability of inconsistent provisions to contracts for assistance payments

The provisions of sections 1437a(1), 1437c(e), and 1437d of this title, and any other provisions of this chapter, which are inconsistent with the provisions of this section shall not apply to contracts for assistance entered into under this section.

(Sept. 1, 1937, ch. 896, § 8, as added Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 662, and amended Aug. 3, 1976, Pub. L. 94-375, § 2(d), (e), (g), 90 Stat. 1068.)

REFERENCES IN TEXT

The National Housing Act, referred in subsecs. (c)(4) and (e)(3), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§ 1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

PRIOR PROVISIONS

A prior section 8 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, which authorized the promulgation of rules and regulations by the Authority, was classified to section 1408 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93-383.

AMENDMENTS

1976—Subsec. (c)(4). Pub. L. 94-375, § 2(d), added provision extending payments to newly constructed or substantially rehabilitated unoccupied units in an amount equal to the debt service of such unit for a period not to exceed one year, provided that a good faith effort is being made to fill the unit, the unit provides decent and safe housing, the unit is not insured under the National Housing Act, except pursuant to section 1715z-9 of title 12, and the revenues from the project do not exceed the cost.

Subsec. (e)(1). Pub. L. 94-375, § 2(g), inserted "or the Farmers' Home Administration" following "State or local agency".

Subsec. (f)(6). Pub. L. 94-375, § 2(e), added subsec. (f)(6).

EFFECTIVE DATE

Section effective not later than Jan. 1, 1975, see section 201(b) of Pub. L. 93-383, set out as an Effective Date note under section 1437 of this title.

RENTAL OR INCOME CONTRIBUTIONS; USE OF SPECIAL SCHEDULES OF REQUIRED PAYMENTS FOR PARTICIPANTS IN MUTUAL HELP PROJECTS CONTRIBUTING LABOR, ETC.

Section 203 of Pub. L. 93-383 provided that: "The rental or income contribution provisions of the United States Housing Act of 1937, as amended by section 201 of this Act [sections 1437 to 1437j of this title], shall not preclude the use of special schedules of required payments as approved by the Secretary for participants in mutual help housing projects who contribute labor, land, or materials to the development of such projects."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437c, 1437j of this title; title 12 section 1715l; title 26 section 1250; title 40 App. section 207.

§ 1437g. Annual contributions for operation of low-income housing projects

(a) Determination of amounts; contract authorization; standards for payments

In addition to the contributions authorized to be made for the purposes specified in section 1437c of this title, the Secretary may make annual contributions to public housing agencies for the operation of low-income housing projects. The contributions payable annually under this section shall not exceed the amounts which the Secretary determines are required (1) to assure the low-income character of the projects involved, and (2) to achieve and maintain adequate operating services and reserve funds. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment subject to the availability of funds. For purposes of making payments under this section, the Secretary shall establish standards for costs of operation and reasonable projections of income, taking into account the character and location of the project and characteristics of the families served, or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed project.

(b) Limitation on amount of aggregate rentals paid by families residing in dwelling units receiving annual contributions

The aggregate rentals required to be paid in any year by families residing in the dwelling units administered by a public housing agency receiving annual contributions under this section shall not be less than an amount equal to one-fifth of the sum of the incomes of all such families.

(c) Authorization of appropriation

There are authorized to be appropriated, for the purpose of providing annual contributions pursuant to this section not to exceed $535,000,000 on or after July 1, 1975, not to exceed $80,000,000 on or after July 1, 1976, and not to exceed $576,000,000 on or after October 1, 1976.

(Sept. 1, 1937, ch. 896, § 9, as added Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 666, and amended Aug. 3, 1976, Pub. L. 94-375, § 2(c), 90 Stat. 1068.)

PRIOR PROVISIONS

A prior section 9 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, which authorized loans for low-rent housing and slum clearance projects, was classified to section 1409 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93-383. Similar provisions are set out as section 1437b of this title.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-375 substituted provision authorizing appropriations for annual contributions not to exceed $535,000,000 on or after July 1, 1975, not to exceed $80,000,000 on or after July 1, 1976, and not to exceed $576,000,000 on or after October 1, 1976 for provision which authorized annual contributions for contracts entered into on or after July 1, 1974 of not more than $500,000,000 per annum, which amount was to be increased by $60,000,000 on July 1, 1975.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of subsec. (c) shall become effective on the same date, see section 201(b) of Pub. L. 93-383, set out as an Effective Date note under section 1437 of this title.

§ 1437h. Implementation of provisions by Secretary

(a) Preparation and submission of annual budget program; maintenance of accounts; annual audit by General Accounting Office

In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act, as amended [31 U.S.C. 841 et seq.]; and

(2) maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial transactions as provided by the Government Corporation Control Act, as amended [31 U.S.C. 841 et seq.], and no other audit shall be required.

(b) Availability of receipts and assets

All receipts and assets of the Secretary under this chapter shall be available for the purposes of this chapter until expended.

(c) Federal Reserve banks to act as depositories, custodians and fiscal agents; reimbursement for services

The Federal Reserve banks are authorized and directed to act as depositories, custodians, and fiscal agents for the Secretary in the general exercise of his powers under this chapter, and the Secretary may reimburse any such bank for its services in such manner as may be agreed upon.

(Sept. 1, 1937, ch. 896, § 10, as added Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 666.)

REFERENCES IN TEXT

The Government Corporation Control Act, as amended, referred to in subsec. (a), is act Dec. 6, 1945, ch. 557, 59 Stat. 597, as amended, which is classified generally to chapter 14 (§ 841 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 841 of Title 31 and Tables volume.

PRIOR PROVISIONS

A prior section 10 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, which authorized annual contributions in assistance of low rentals for housing projects, was classified to section 1410 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93-383. Similar provisions are set out as section 1437c of this title.

§ 1437i. Obligations of public housing agencies; contestability; full faith and credit of United States pledged as security; tax exemption

(a) Obligations issued by a public housing agency in connection with low-income housing projects which (1) are secured (A) by a pledge of a loan under any agreement between such

public housing agency and the Secretary, or (B) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary, or (C) by a pledge of both annual contributions under an annual contributions contract and a loan under an agreement between such public housing agency and the Secretary, and (2) bear, or are accompanied by, a certificate of the Secretary that such obligations are so secured, shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(b) Except as provided in section 1437c(g) of this title, obligations, including interest thereon, issued by public housing agencies in connection with low-income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such agencies or by the Secretary. The income derived by such agencies from such projects shall be exempt from all taxation now or hereafter imposed by the United States.

(Sept. 1, 1937, ch. 896, § 11, as added Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 667.)

PRIOR PROVISIONS

A prior section 11 of act Sept. 1, 1937, ch. 896, 50 Stat. 893, as amended, which authorized capital grants to public housing agencies in assistance of low rentals, was classified to section 1411 of this title prior to the revision of act Sept. 1, 1937, by Pub. L. 93-383.

§ 1437j. Labor protection; payment of wages prevailing in locality; certification of compliance

Any contract for loans, annual contributions, sale, or lease pursuant to this chapter shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the low-income housing project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act [40 U.S.C. 276a et seq.], shall be paid to all laborers and mechanics employed in the development of the project involved (including a project with nine or more units assisted under section 1437f of this title, where the public housing agency or the Secretary and the builder or sponsor enter into agreement for such use before construction or rehabilitation is commenced), and the Secretary shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(Sept. 1, 1937, ch. 896, § 12, as added Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 667.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

PRIOR PROVISIONS

A prior section 12 of act Sept. 1, 1937, ch. 896, 50 Stat. 894, as amended, which authorized the disposal of low-rent housing projects transferred to or acquired by the Authority, was classified to section 1412 of this title prior to the revision of act Sept. 1, 1937 by Pub. L. 93-383.

§ 1438. Special low income housing projects for elderly or handicapped; consultations; applicable design and equipment standards

The Secretary shall consult with the Secretary of Health, Education, and Welfare to insure that special projects for the elderly or the handicapped authorized pursuant to this chapter shall meet acceptable standards of design and shall provide quality services and management consistent with the needs of the occupants. Such projects shall be specifically designed and equipped with such "related facilities" (as defined in section 1701q(d)(8) of title 12) as may be necessary to accommodate the special environmental needs of the intended occupants and shall be in support of and supported by the applicable State plans for comprehensive services pursuant to section 2674 of this title or State and area plans pursuant to title III of the Older Americans Act of 1965 [42 U.S.C. 3021 et seq.].

(Pub. L. 93-383, title II, § 209, Aug. 22, 1974, 88 Stat. 669.)

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in text, is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, as amended. Title III of the Older Americans Act of 1965 is classified generally to subchapter III (§ 3021 et seq.) of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables volume.

CODIFICATION

Section was not enacted as part of act Sept. 1, 1937, ch. 896, as added by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, known as the United States Housing Act of 1937, which comprises this chapter.

§ 1439. Local housing assistance plan

(a) Applicability of approved plan to housing assistance application; procedure upon receipt of application by Secretary of Housing and Urban Development; definitions

(1) The Secretary of Housing and Urban Development, upon receiving an application for housing and assistance under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], section 1715z or 1715z-1 of title 12, section 1701s of title 12, or section 1701q of title 12, if the unit of general local government in which the proposed assistance is to be provided has an approved housing assistance plan, shall—

(A) not later than ten days after receipt of the application, notify the chief executive officer of such unit of general local government that such application is under consideration; and

(B) afford such unit of general local government the opportunity, during the thirty-day period beginning on the date of such notifica-

tion, to object to the approval of the application on the grounds that the application is inconsistent with its housing assistance plan.

(2) If the unit of general local government objects to the application on the grounds that it is inconsistent with its housing assistance plan, the Secretary may not approve the application unless he determines that the application is consistent with such housing assistance plan. If the Secretary determines, that such application is consistent with the housing assistance plan, he shall notify the chief executive officer of the unit of general local government of his determination and the reasons therefor in writing. If the Secretary concurs with the objection of the unit of local government, he shall notify the applicant stating the reasons therefor in writing.

(3) If the Secretary does not receive an objection by the close of the period referred to in paragraph (1)(B), he may approve the application unless he finds it inconsistent with the housing assistance plan. If the Secretary determines that an application is inconsistent with a housing assistance plan, he shall notify the applicant stating the reasons therefor in writing.

(4) The Secretary shall make the determinations referred to in paragraphs (2) and (3) within thirty days after he receives an objection pursuant to paragraph (1)(B) or within thirty days after the close of the period referred to in paragraph (1)(B), whichever is earlier.

(5) As used in this section, the term "housing assistance plan" means a housing assistance plan submitted and approved under section 5304 of this title or, in the case of a unit of general local government not participating under title I of this Act [42 U.S.C. 5301 et seq.], a housing plan approved by the Secretary as meeting the requirements of this section.

(b) Housing assistance applications subject to procedures

The provisions of subsection (a) of this section shall not apply to—

(1) applications for assistance involving 12 or fewer units in a single project or development;

(2) applications for assistance with respect to housing in new community developments approved under title IV of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.] or title VII of the Housing and Urban Development Act of 1970 [42 U.S.C. 4501 et seq.] which the Secretary determines are necessary to meet the housing requirements under such title; or

(3) applications for assistance with respect to housing financed by loans or loan guarantees from a State or agency thereof, except that the provisions of subsection (a) of this section shall apply where the unit of general local government in which the assistance is to be provided objects in its housing assistance plan to the exemption provided by this paragraph.

(c) Approval of housing assistance application for areas not subject to approved plan

For areas in which an approved local housing assistance plan is not applicable the Secretary shall not approve an application for housing assistance unless he determines that there is a need for such assistance, taking into consideration any applicable State housing plans, and that there is or will be available in the area public facilities and services adequate to serve the housing proposed to be assisted. The Secretary shall affort the unit of general local government in which the assistance is to be provided an opportunity, during a 30-day period following receipt of an application by him, to provide comments or information relevant to the determination required to be made by the Secretary under this subsection.

(d) Allocation and reservation of housing assistance funds; purposes

(1) In allocating financial assistance under the provisions of law specified in subsection (a) of this section, the Secretary, so far as practicable, shall consider the relative needs of different areas and communities as reflected in data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, or other objectively measurable conditions, subject to such adjustments as may be necessary to assist in carrying out activities designed to meet lower income housing needs as described in approved housing assistance plans submitted by units of general local government or combinations of such units assisted under section 5307(a)(2) of this title. The amount of assistance allocated to nonmetropolitan areas pursuant to this section in any fiscal year shall not be less than 20 nor more than 25 per centum of the total amount of such assistance.

(2) In order to facilitate the provision of, and long-range planning for, housing for persons of low-and moderate-income in new community developments approved under title IV of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.] and title VII of the Housing and Urban Development Act of 1970 [42 U.S.C. 4501 et seq.] the Secretary shall reserve such housing assistance funds as he deems necessary for use in connection with such new community developments.

(3) The Secretary may reserve such housing assistance funds as he deems appropriate for use by a State or agency thereof.

(Pub. L. 93-383, title II, § 213, Aug. 22, 1974, 88 Stat. 674.)

REFERENCES IN TEXT

The United States Housing Act of 1937, as amended, referred to in subsec. (a)(1) is act Sept. 1, 1937, ch. 896, as added Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to this chapter (§ 1437 et seq.). For complete classification of this Act to the Code, see Short Title note under section 1437 of this title and Tables volume.

This Act, referred to in subsec. (a)(5), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, known as the Housing and Community Development Act of 1974. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§ 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables volume.

The Housing and Urban Development Act of 1968, referred to in subsecs. (b)(2) and (d)(2), is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IV of the Housing and Urban Development Act of 1968 is classified principally to chapter 48 (§ 3901 et seq.) of this title. For complete classification of this Act to the

Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

The Housing and Urban Development Act of 1970, referred to in subsecs. (b)(2) and (d)(2), is Pub. L. 91-609, Dec. 31, 1970, 84 Stat. 1770, as amended. Title VII of the Housing and Urban Development Act of 1970, known as the Urban Growth and New Community Development Act of 1970, is classified principally to chapter 59 (§ 4501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

CODIFICATION

Section was not enacted as part of act Sept. 1, 1937, ch. 896, as added by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, known as the United States Housing Act of 1937, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437c, 1437f of this title.

§ 1440. State housing finance and development agencies

(a) Statement of purpose; participation by private and nonprofit developers in activities assisted

It is the purpose of this section to encourage the formation and effective operation of State housing finance agencies and State development agencies which have authority to finance, to assist in carrying out, or to carry out activities designed to (1) provide housing and related facilities through land acquisition, construction, or rehabilitation, for persons and families of low, moderate, and middle income, (2) promote the sound growth and development of neighborhoods through the revitalization of slum and blighted areas, (3) increase and improve employment opportunities for the unemployed and underemployed through the development and redevelopment of industrial, manufacturing, and commercial facilities, or (4) implement the development aspects of State land use and preservation policies, including the advance acquisition of land where it is consistent with such policies. The Secretary of Housing and Urban Development shall encourage maximum participation by private and nonprofit developers in activities assisted under this section.

(b) Determination of eligibility for assistance; definitions

(1) A State housing finance or State development agency is eligible for assistance under this section only if the Secretary determines that it is fully empowered and has adequate authority to at least carry out or assist in carrying out the purposes specified in clause (1) of subsection (a) of this section.

(2) For the purpose of this section—

(A) the term "State housing finance or State development agency" means any public body or agency, publicly sponsored corporation, or instrumentality of one or more States which is designated by the Governor (or Governors in the case of an interstate development agency) for purposes of this section;

(B) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

(C) the term "Secretary" means the Secretary of Housing and Urban Development.

(c) Guarantee of obligations issued by agencies; grants to agencies for interest payments on obligations; maximum amount of grants; prerequisites for guarantee; full faith and credit pledged for payment of guarantee; effect and validity of guarantee; fees and charges for guarantee; authorization of appropriations for grants; maximum amount of obligations guaranteed

(1) The Secretary is authorized to guarantee, and enter into commitments to guarantee, the bonds, debentures, notes, and other obligations issued by State housing finance or State development agencies to finance development activities as determined by him to be in furtherance of the purpose of clause (1) or (2) of subsection (a) of this section, except that obligations issued to finance activities solely in furtherance of the purpose of clause (1) of subsection (a) of this section may be guaranteed only if the activities are in connection with the revitalization of slum or blighted areas under title I of this Act [42 U.S.C. 5301 et seq.] or under any other program determined to be acceptable by the Secretary for this purpose.

(2) The Secretary is authorized to make, and to contract to make, grants to or on behalf of a State housing finance or State development agency to cover not to exceed 33⅓ per centum of the interest payable on bonds, debentures, notes, and other obligations issued by such agency to finance development activities in furtherance of the purposes of this section.

(3) No obligation shall be guaranteed or otherwise assisted under this section unless the interest income thereon is subject to Federal taxation as provided in subsection (h)(2) of this section, except that use of guarantees provided for in this subsection shall not be made a condition to nor preclude receipt of any other Federal assistance.

(4) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

(5) The Secretary is authorized to establish and collect such fees and charges for and in connection with guarantees made under this section as he considers reasonable.

(6) There are authorized to be appropriated such sums as may be necessary to make payments as provided for in contracts entered into by the Secretary under paragraph (2) of this subsection, and payments pursuant to such contracts shall not exceed $50,000,000 per annum prior to July 1, 1975, which maximum dollar amount shall be increased by $60,000,000 on July 1, 1975. The aggregate principal amount of the obligations which may be guaranteed under this section and outstanding at any one time shall not exceed $500,000,000.

(d) Requirements for guaranteed obligations

The Secretary shall take such steps as he considers reasonable to assure that bonds, debentures, notes, and other obligations which are guaranteed under subsection (c) of this section will—

(1) be issued only to investors approved by, or meeting requirements prescribed by, the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(2) bear interest at a rate satisfactory to the Secretary;

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by the Secretary relating to subrogation, liens, and releases of liens, payment of taxes, cost certification procedures, escrow or trusteeship requirements, or other matters.

(e) Revolving fund for payment of liabilities incurred pursuant to guarantees and payment of obligations issued to Secretary of Treasury; composition; availability, issuance of obligations to Secretary of Treasury for implementation of guarantees; amount, maturity, rate of interest, and purchase by Secretary of Treasury of obligations; payment of expenses and charges

(1) The Secretary is authorized to establish a revolving fund to provide for the timely payment of any liabilities incurred as a result of guarantees under subsection (c) of this section and for the payment of obligations issued to the Secretary of the Treasury under paragraph (2) of this subsection. Such revolving fund shall be comprised of (A) receipts from fees and charges; (B) recoveries under security, subrogation, and other rights; (C) repayments, interest income, and any other receipts obtained in connection with guarantees made under subsection (c) of this section; (D) proceeds of the obligations issued to the Secretary of the Treasury pursuant to paragraph (2) of this subsection; and (E) such sums, which are hereby authorized to be appropriated, as may be required for such purposes. Money in the revolving fund not currently needed for the purpose of this section shall be kept on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(2) The Secretary may issue obligations to the Secretary of the Treasury in an amount sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by subsection (c) of this section. The obligations issued under this paragraph shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations so issued, and for that purpose he is authorized to use a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include purchases of the obligations hereunder.

(3) Notwithstanding any other provision of law relating to the acquisition, handling, improvement, or disposal of real and other property by the United States, the Secretary shall have power, for the protection of the interests of the fund authorized under this subsection, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property, real or personal, acquired by him as a result of recoveries under security, subrogation, or other rights.

(f) Technical assistance to agencies for planning and execution of development activities

The Secretary is authorized to provide, either directly or by contract or other arrangements, technical assistance to State housing finance or State development agencies to assist them in connection with planning and carrying out development activities in furtherance of the purpose of this section.

(g) Labor standards

All laborers and mechanics employed by contractors or subcontractors in housing or development activities assisted under this section shall be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended [40 U.S.C. 276a et seq.]: *Provided*, That this section shall apply to the construction of residential property only if such property is designed for residential use for eight or more families. No assistance shall be extended under this section with respect to any development activities without first obtaining adequate assurance that these labor standards will be maintained upon the work involved in such activities. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), and section 276c of title 40.

(h) Protection of guarantees issued by United States; inclusion by purchaser in gross income of interest paid on obligations issued by agencies

(1) In the performance of, and with respect to, the functions, powers, and duties vested in him by this section, the Secretary, in addition to any authority otherwise vested to him, shall—

(A) have the power, notwithstanding any other provision of law, in connection with any guarantee under this section, whether before or after default, to provide by contract for the extinguishment upon default of any redemption, equitable, legal, or other right, title, or interest of a State housing finance or State development agency in any mortgage, deed, trust, or other instrument held by or on behalf of the Secretary for the protection of the security interests of the United States; and

(B) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon him by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which he has provided a guarantee pursuant to this section. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property. Notwithstanding

any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this section.

(2) With respect to any obligation issued by a State housing finance or State development agency for which the issuer has elected to receive the benefits of the assistance provided under this section, the interest paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of title 26.

(Pub. L. 93-383, title VIII, § 802(a)-(h), Aug. 22, 1974, 88 Stat. 722-725.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(1), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, as amended, known as the Housing and Community Development Act of 1974. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§ 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables volume.

The Second Liberty Bond Act, as amended, referred to in subsec. (e), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance.

The Davis-Bacon Act, as amended, referred to in subsec. (g), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (g), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was not enacted as part of act Sept. 1, 1937, ch. 896, as added by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, known as the United States Housing Act of 1937, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 sections 371, 1464.

CHAPTER 8A—SLUM CLEARANCE, URBAN RENEWAL, AND FARM HOUSING

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1434, 1441a, 2985c of this title; title 20 section 80g; title 48 sections 1408, 1408c.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1441. Congressional declaration of national housing policy

The Congress declares that the general welfare and security of the Nation and the health and living standards of its people require housing production and related community development sufficient to remedy the serious housing shortage, the elimination of substandard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family, thus contributing to the development and redevelopment of communities and to the advancement of the growth, wealth, and security of the Nation. The Congress further declares that such production is necessary to enable the housing industry to make its full contribution toward an economy of maximum employment, production, and purchasing power. The policy to be followed in attaining the national housing objective established shall be: (1) private enterprise shall be encouraged to serve as large a part of the total need as it can; (2) governmental assistance shall be utilized where feasible to enable private enterprise to serve more of the total need; (3) appropriate local public bodies shall be encouraged and assisted to undertake positive programs of encouraging and assisting the development of well-planned, integrated residential neighborhoods, the development and redevelopment of communities, and the production, at lower costs, of housing of sound standards of design, construction, livability, and size for adequate family life; (4) governmental assistance to eliminate substandard and other inadequate housing through the clearance of slums and blighted areas, to facilitate community development and redevelopment, and to provide adequate housing for urban and rural nonfarm families with incomes so low that they are not being decently housed in new or existing housing shall be extended to those localities which estimate their own needs and demonstrate that these needs are not being met through reliance solely upon private enterprise, and without such aid; and (5) governmental assistance for decent, safe, and sanitary farm dwellings and related facilities shall be extended where the farm owner demonstrates that he lacks sufficient resources to provide such housing on his own account and is unable to secure necessary credit for such housing from other sources on terms and conditions which he could reasonably be expected to fulfill. The Department of Housing and Urban Development, and any other departments or agencies of the Federal Government having powers, functions, or duties with respect to housing, shall exercise their powers, functions, and duties under this or any other law, consistently with the national housing policy declared by this Act and in such manner as will facilitate sustained progress in attaining the national housing objective hereby

established, and in such manner as will encourage and assist (1) the production of housing of sound standards of design, construction, livability, and size for adequate family life; (2) the reduction of the costs of housing without sacrifice of such sound standards; (3) the use of new designs, materials, techniques, and methods in residential construction, the use of standardized dimensions and methods of assembly of home-building materials and equipment, and the increase of efficiency in residential construction and maintenance; (4) the development of well-planned, integrated, residential neighborhoods and the development and redevelopment of communities; and (5) the stabilization of the housing industry at a high annual volume of residential construction.

(July 15, 1949, ch. 338, § 2, 63 Stat. 413; May 25, 1967, Pub. L. 90-19, § 6(a), 81 Stat. 21.)

REFERENCES IN TEXT

This Act, referred to in text is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, known as the Housing Act of 1949, which is classified principally to this chapter (§ 1441 et seq.). For complete classification of this Act to the Code, see Short Title note set out below and Tables volume.

AMENDMENTS

1967—Pub. L. 90-19 substituted "The Department of Housing and Urban Development" for "The Housing and Home Finance Agency and its constituent agencies".

SHORT TITLE

Section 1 of act July 15, 1949 provided: "That this Act [enacting this chapter, sections 1421a and 1433 of this title, and sections 1701d-1, 1701f-1, 1701h, and 1701i of Title 12, Banks and Banking, amending sections 1401, 1402, 1406, 1409 to 1411, 1413 to 1416, and 1422 to 1430 of this title and sections 1701e, 1701f, 1703, 1709, and 1738 of title 12, and amending a provision set out as a note under section 1701e of title 12] may be cited as the 'Housing Act of 1949'."

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.], National Housing Act [12 U.S.C. 1701 et seq.], United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], Housing Act of 1949 [see Short Title note set out above], Demonstration Cities, and Metropolitan Development Act of 1966 [see Short Title note set out under section 3301 of this title], and Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93-383, set out as a note under section 5301 of this title.

EQUAL OPPORTUNITY IN HOUSING

Executive order relating to equal opportunity in housing, see Ex. Ord. No. 11063, Nov. 20, 1962, 27 F.R. 11527, set out as a note under section 1982 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701t.

§ 1441a. National housing goals

(a) Congressional findings and reaffirmation of goals

The Congress finds that the supply of the Nation's housing is not increasing rapidly enough to meet the national housing goal, established in the Housing Act of 1949 [42 U.S.C. 1441 et seq.], of the "realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family". The Congress reaffirms this national housing goal and determines that it can be substantially achieved within the next decade by the construction or rehabilitation of twenty-six million housing units, six million of these for low and moderate income families.

(b) Additional Congressional findings

The Congress further finds that policies designed to contribute to the achievement of the national housing goal have not directed sufficient attention and resources to the preservation of existing housing and neighborhoods, that the deterioration and abandonment of housing for the Nation's lower income families has accelerated over the last decade, and that this acceleration has contributed to neighborhood disintegration and has partially negated the progress toward achieving the national housing goal which has been made primarily through new housing construction.

(c) Congressional declaration of purposes

The Congress declares that if the national housing goal is to be achieved, a greater effort must be made to encourage the preservation of existing housing and neighborhoods through such measures as housing preservation, moderate rehabilitation, and improvements in housing management and maintenance, in conjunction with the provision of adequate municipal services. Such an effort should concentrate, to a greater extent than it has in the past, on housing and neighborhoods where deterioration is evident but has not yet become acute.

(Pub. L. 90-448, title XVI, § 1601, Aug. 1, 1968, 82 Stat. 601; Pub. L. 93-383, title VIII, § 801(1), (2), Aug. 22, 1974, 88 Stat. 721.)

REFERENCES IN TEXT

The Housing Act of 1949, referred to in subsec. (a), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to this chapter (§ 1441 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables volume.

CODIFICATION

Section was not enacted as part of act July 15, 1949, ch. 338, 63 Stat. 413, as amended, known as the Housing Act of 1949, which comprises this chapter.

AMENDMENTS

1974—Pub. L. 93-383 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1441b of this title; title 12 section 1723e; title 40 section 461.

§ 1441b. Plan for elimination of all substandard housing and realization of national housing goal; report of the President to the Congress

Not later than January 15, 1969, the President shall make a report to the Congress setting forth a plan, to be carried out over a period of ten years (June 30, 1968, to June 30, 1978), for the elimination of all substandard housing and the realization of the goal referred to in section 1441a of this title. Such plan shall—

(1) indicate the number of new or rehabilitated housing units which it is anticipated

will have to be provided, with or without Government assistance, during each fiscal year of the ten-year period, in order to achieve the objectives of the plan, showing the number of such units which it is anticipated will have to be provided under each of the various Federal programs designed to assist in the provision of housing;

(2) indicate the reduction in the number of occupied substandard housing units which it is anticipated will have to occur during each fiscal year of the ten-year period in order to achieve the objectives of the plan;

(3) provide an estimate of the cost of carrying out the plan for each of the various Federal programs and for each fiscal year during the ten-year period to the extent that such costs will be reflected in the Federal budget;

(4) make recommendations with respect to the legislative and administrative actions necessary or desirable to achieve the objectives of the plan; and

(5) provide such other pertinent data, estimates, and recommendations as the President deems advisable.

Such report shall, in addition, contain a projection of the residential mortgage market needs and prospects during the coming year, including an estimate of the requirements with respect to the availability, need, and flow of mortgage funds (particularly in declining urban and rural areas) during such year, together with such recommendations as may be deemed appropriate for encouraging the availability of such funds.

(Pub. L. 90-448, title XVI, § 1602, Aug. 1, 1968, 82 Stat. 601.)

CODIFICATION

Section was not enacted as part of act July 15, 1949, ch. 338, 63 Stat. 413, as amended, known as the Housing Act of 1949, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1723e; title 40 section 461.

§ 1441c. Annual reports of the President to the Congress; contents

On February 15, 1970, and on each succeeding year through 1979, the President shall submit to the Congress a report which shall—

(1) compare the results achieved during the preceding fiscal year for the completion of new or rehabilitating housing units and the reduction in occupied substandard housing with the objectives established for such year under the plan;

(2) if the comparison provided under clause (1) shows a failure to achieve the objectives set for such year, indicate (A) the reasons for such failure; (B) the steps being taken to achieve the objectives of the plan during each of the remaining fiscal years of the ten-year period; and (C) any necessary revision in the objectives established under the plan for each such year;

(3) provide an assessment of development and progress during the preceding fiscal year with respect to the preservation of deteriorating housing and neighborhoods and indicate the efforts to be undertaken in future years to encourage such action;

(4) project residential mortgage market needs and prospects for the coming calendar year including an estimate of the requirements with respect to the availability, need, and flow of mortgage funds (particularly in declining urban and rural areas) during such period, in order to achieve the objectives of the plan;

(5) provide an analysis of the monetary and fiscal policies of the Government for the coming calendar year required to achieve the objectives of the plan and the impact upon the domestic economy of achieving the plan's objectives for such period;

(6) make recommendations with respect to any additional legislative or administrative action which is necessary or desirable to achieve the objectives of the plan; and

(7) provide such other pertinent data, estimates, and recommendations as the President deems advisable.

(Pub. L. 90-448, title XVI, § 1603, Aug. 1, 1968, 82 Stat. 602; Pub. L. 91-152, title IV, § 412(a), Dec. 24, 1969, 83 Stat. 398; Pub. L. 93-383, title VIII, § 801(3), Aug. 22, 1974, 88 Stat. 722.)

CODIFICATION

Section was not enacted as part of act July 15, 1949, ch. 338, 63 Stat. 413, as amended, known as the Housing Act of 1949, which comprises this chapter.

AMENDMENTS

1974—Cl. (3). Pub. L. 93-383 added cl. (3). Former cl. (3) redesignated (4).

Cls. (4) to (7). Pub. L. 93-383 redesignated cls. (3) to (6) as (4) to (7), respectively.

1969—Pub. L. 91-152 substituted "February 15, 1970" for "January 15, 1970".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1723e; title 40 section 461.

§ 1442. Repealed. Aug. 31, 1954, ch. 1158, § 7, 68 Stat. 1026

Section, act July 15, 1949, ch. 338, title VI, § 607, 63 Stat. 441, related to housing census and is now covered by section 141 of Title 13, Census.

§ 1443. Provisions as controlling over other laws

Insofar as the provisions of any other law are inconsistent with the provisions of this Act, the provisions of this Act shall be controlling.

(July 15, 1949, ch. 338, title VI, § 610, 63 Stat. 443.)

REFERENCES IN TEXT

This Act, referred to in text is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, known as the Housing Act of 1949, which is classified principally to this chapter (§ 1441 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables volume.

§ 1444. Separability of provisions

Except as may be otherwise expressly provided in this Act, all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. Notwithstanding any other evidences of the inten-

tion of Congress, it is declared to be the controlling intent of Congress that if any provisions of this Act, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its applications to other persons and circumstances, but shall be confined in its operation to the provision of this Act, or the application thereof to the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered.

(July 15, 1949, ch. 338, title VI, § 611, 63 Stat. 443.)

REFERENCES IN TEXT

This Act, referred to in text is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, known as the Housing Act of 1949, which is classified principally to this chapter (§ 1441 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables volume.

§ 1445. Repealed. Aug. 9, 1955, ch. 690, § 4(1), 69 Stat. 625

Section, act July 15, 1949, ch. 338, title VI, § 612, 63 Stat. 444, related to striking or subversive employees of the Housing and Home Finance Agency and the Department of Agriculture, withholding of their wages, and penalties, and is now covered by sections 3333 and 7311 of Title 5, Government Organization and Employees, and section 1918 of Title 18, Crimes and Criminal Procedure.

§ 1446. Transferred

CODIFICATION

Section, act Aug. 2, 1954, ch. 649, title VIII, § 814, 68 Stat. 647, as amended, which related to the keeping of records, provided for their contents, and authorized examination and audit thereof, was transferred to section 1434 of this title.

SUBCHAPTER II—SLUM CLEARANCE AND URBAN RENEWAL

TERMINATION

Section 5316 of this title has terminated the authority to make grants or loans under title I of the Housing Act of 1949, this subchapter, after Jan. 1, 1975.

CROSS REFERENCES

Cost of inspections and of providing representatives at site of projects being undertaken by local public agencies pursuant to this subchapter, see section 1749d of Title 12, Banks and Banking.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3307, 4637, 5305, 5306, 5312, 5316 of this title; title 12 sections 1715k, 1749d; title 48 sections 910, 1408c.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 5-703, 5-705, 5-717a, 5-724, 5-726, 5-736, 5-1003 of the District of Columbia Code.

PART A—URBAN RENEWAL PROJECTS, DEMOLITION PROGRAMS, AND CODE ENFORCEMENT PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1469a, 5306, 5312, 5316 of this title; title 26 section 7701.

§ 1450. Urban Renewal Fund

The authorizations, funds, and appropriations available pursuant to sections 1452 and 1453 of this title shall constitute a fund, to be known as the "Urban Renewal Fund", and shall be available for advances, loans, and grants to local public agencies for urban renewal projects in accordance with the provisions of this subchapter, and all contracts, obligations, assets, and liabilities existing under or pursuant to said sections prior to August 2, 1954 are transferred to said Fund.

(July 15, 1949, ch. 338, title I, § 100, as added Aug. 2, 1954, ch. 649, title III, § 302, 68 Stat. 622, and amended Sept. 23, 1959, Pub. L. 86-372, title IV, § 417(1), 73 Stat. 676.)

AMENDMENTS

1959—Pub. L. 86-372 substituted "advances, loans, and grants" for "advances, loans, and capital grants".

COMPLETION OF PROJECTS ENTERED INTO PRIOR TO AUGUST 2, 1954

Section 312 of act Aug. 2, 1954, as amended by Pub. L. 90-19, § 10(a), May 25, 1967, 81 Stat. 22, provided that: "Notwithstanding the amendments of this title to title I of the Housing Act of 1949, as amended [this subchapter], the Secretary, with respect to any project covered by any Federal aid contract executed, or prior approval granted, by him under said title I before the effective date of this Act [Aug. 2, 1954], upon request of the local public agency, shall continue to extend financial assistance for the completion of such project in accordance with the provisions of said title I in force immediately prior to the effective date of this Act."

§ 1451. Local programs

(a) Local responsibilities considered by Secretary in extending financial assistance

In entering into any contract for advances for surveys, plans, and other preliminary work for projects under this subchapter or for grants pursuant to section 1453(d) of this title, the Secretary shall give consideration to the extent to which appropriate local public bodies have undertaken positive programs (through the adoption, modernization, administration, and enforcement of housing, zoning, building and other local laws, codes and regulations relating to land use and adequate standards of health, sanitation, and safety for buildings, including the use and occupancy of dwellings) for (1) preventing the spread or recurrence in the community of slums and blighted areas, and (2) encouraging housing cost reductions through the use of appropriate new materials, techniques, and methods in land and residential planning, design, and construction, the increase of efficiency in residential construction, and the elimination of restrictive practices which unnecessarily increase housing costs.

(b) Encouragement of operations of local public agencies

In the administration of this subchapter, the Secretary shall encourage the operations of such local public agencies as are established on a State, or regional (within a State), or unified metropolitan basis or as are established on such other basis as permits such agencies to contribute effectively toward the solution of community development or redevelopment problems on

a State, or regional (within a State), or unified metropolitan basis. The Secretary shall particularly encourage the utilization of local public agencies established by the States to operate on a statewide basis in behalf of smaller communities within the State which are undertaking or propose to undertake urban renewal programs whenever that arrangement facilitates the undertaking of an urban renewal program by any such community, or provides an effective solution to community development or redevelopment problems in such communities, and is approved by resolution or ordinance of the governing bodies of the affected communities.

(c) Requirements; exceptions; minimum standards housing code

No contract shall be entered into for any loan or capital grant under this subchapter, and no mortgage shall be insured, and no commitment to insure a mortgage shall be issued, under section 1715k of title 12, unless (1) there is presented to the Secretary by the locality, a workable program for community improvement (which shall include an official plan of action, as it exists from time to time, for effectively dealing with the problem of urban slums and blight within the community and for the establishment and preservation of a well-planned community with well-organized residential neighborhoods of decent homes and suitable living environment for adequate family life) for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of, slums and urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of blighted, deteriorated, or slum areas, or to undertake such of the aforesaid activities or other feasible community activities as may be suitably employed to achieve the objectives of such a program, and (2) on the basis of his review of such program, the Secretary determines that such program meets the requirements of this subsection and certifies that the Federal assistance may be made available in such community: *Provided*, That this sentence shall not apply to the insurance of, or commitment to insure, a mortgage under section 1715k of title 12, if the mortgaged property is in an area referred to in clause (A)(i) of paragraph (1) of subsection (d) of said section, except that no such mortgage shall be insured, and no commitment to insure such a mortgage shall be issued, with respect to property in any community for which a workable program for community improvement was required and in effect at the time a contract for a loan or capital grant was entered into under this subchapter, unless there is a workable program for community improvement which meets the requirements of this subsection in effect in such community at the time of such insurance or commitment: *Provided further*, That commencing three years after September 2, 1964 or, in the case of an Indian tribe, band, or nation, commencing January 1, 1970, no workable program shall be certified or re-certified unless (A) the locality has had in effect, for at least six months prior to such certification or re-certification, a minimum standards housing code, related but not limited to health, sanitation, and occupancy requirements, which is deemed adequate by the Secretary, and (B) the Secretary is satisfied that the locality is carrying out an effective program of enforcement to achieve compliance with such housing code. Notwithstanding any other provision of law, in the case of a contract with an Indian tribe, band, or nation (or a public housing or other public agency for such tribe, band, or nation established under State or tribal law), the workable program and minimum standards housing code, referred to in the preceding sentence, may be presented to the Secretary by such tribe, band, or nation, and it shall be subject to the requirements of law with respect to such program and code only to the extent that such tribe, band, or nation has the legal jurisdiction and power to carry out such requirements.

(d) Facilities for furnishing urban renewal service and assembly of information

The Secretary is authorized to establish facilities (1) for furnishing to communities, at their request, an urban renewal service to assist them in the preparation of a workable program as referred to in the subsection (c) of this section and to provide them with technical and professional assistance for planning and developing local urban renewal programs (including rehabilitation projects requiring no additional assistance under this subchapter or self-liquidating redevelopment projects), and (2) for the assembly, analysis and reporting of information pertaining to such programs.

(e) Workable program requirements

No loan or grant contract may be entered into by the Secretary for an urban renewal project unless he determines that (1) the workable program for community improvement presented by the locality pursuant to subsection (c) of this section is of sufficient scope and content to furnish a basis for evaluation of the need for the urban renewal project; and (2) such project is in accord with the program.

(July 15, 1949, ch. 338, title I, § 101, 63 Stat. 414; Aug. 2, 1954, ch. 649, title III, § 303, 68 Stat. 623; Aug. 11, 1955, ch. 783, title I, § 108(a), 69 Stat. 638; Aug. 7, 1956, ch. 1029, title IV, § 402, 70 Stat. 1103; Sept. 23, 1959, Pub. L. 86-372, title I, § 110(a)(3), (4), title IV, §§ 401, 417(2), 73 Stat. 659, 670, 677; June 30, 1961, Pub. L. 87-70, title I, § 101(b), title III, § 314(a), 75 Stat. 153, 172; Sept. 2, 1964, Pub. L. 88-560, title III, §§ 301(a), 302, 78 Stat. 785; Aug. 10, 1965, Pub. L. 89-117, title I, § 101(f), title III, §§ 302(a)(1), (b), 305(b), 79 Stat. 453, 474, 476; Sept. 9, 1965, Pub. L. 89-174, § 7(d), 79 Stat. 670; May 25, 1967, Pub. L. 90-19, § 6(b), (c), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90-448, title V, § 513, 82 Stat. 525; Dec. 24, 1969, Pub. L. 91-152, title II, § 217(a), 83 Stat. 390.)

AMENDMENTS

1969—Subsec. (c). Pub. L. 91-152 struck out the provisions prohibiting any contract for annual contributions or capital grants pursuant to the United States Housing Act of 1937 for any project or projects not constructed or covered by a contract for annual contributions prior to Aug. 1, 1956, prohibiting mortgage insurance or commitment to insure a mortgage under section 1715*l*(d)(3) of title 12, authorizing mortgage insurance or commitment to insure a mortgage under section 1715*l*(d)(3) of title 12 if payments with respect to the mortgaged property are made or are to be made under section 1701s of title 12, and prohibiting mort-

gage insurance or commitment to insure a mortgage with respect to property in any community for which a workable program for community improvement was required and in effect at the time a contract for annual contributions or capital grants was entered into pursuant to the United States Housing Act of 1937.

1968—Subsec. (c). Pub. L. 90-448, § 513, inserted the phrase "or, in the case of an Indian tribe, band, or nation, commencing January 1, 1970" in the second proviso.

1967—Pub. L. 90-19, § 6(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) to (e) of this section.

Subsec. (c). Pub. L. 90-19, § 6(c), struck out "to the constituent agencies affected" following "certifies".

1965—Subsec. (c). Pub. L. 89-174 repealed the second proviso so that the Secretary could delegate or redelegate authority to approve the workable program of a locality for dealing with its overall problems of slum and blight, certify that Federal assistance to urban renewal work enumerated under subsec. (c) may be made available to a community, and determine that the relocation requirements of section 1455(c) of this title have been met.

Pub. L. 89-117, §§ 101(f), 302(b), 305(b), added cl. (ii) to the first proviso and the sentence permitting the workable program and minimum standards housing code to be presented to the Administrator by an Indian tribe, band, or nation, and subjecting such program and code to the requirements of law applicable only to the extent that such tribe, band, or nation has the legal jurisdiction and power to carry out such requirements, and substituted "section 105(c)(1)" for "section 105(c)" which for purposes of codification has been changed to "section 1455(c)(1) of this title".

Subsec. (e). Pub. L. 89-117, § 302(a)(1), added subsec. (e).

1964—Subsec. (c). Pub. L. 88-560, § 301(a), provided that three years after Sept. 2, 1964, no program shall be certified or recertified, unless the locality has had in effect for at least six months, a minimum standards housing code, and the administrator is satisfied that the locality is enforcing such code.

Subsec. (d). Pub. L. 88-560, § 302, included rehabilitation projects requiring no additional assistance under this subchapter or self-liquidating redevelopment projects.

1961—Subsec. (c). Pub. L. 87-70 substituted "under section 1715k or section 1715*l*(d)(3) of title 12" for "under section 1715k or 1715*l* of title 12", and "of subsection (d) of said section" for "of subsection (d) of said section, or under section 1715*l* of title 12, if the mortgaged property is in an area described in clause (3) of subsection (a) of said section, or in a community referred to in clause (2)(B) of said section", inserted words "for community improvement" following workable program" in cl. (1), and eliminated provisions which prohibited delegation or transfer of the authority vested in the Administrator to make the certifications as to the maximum number of dwelling units needed for the relocation of families to be displaced as a result of governmental action and who would be eligible to rent or purchase dwelling accommodations in properties covered by mortgage insurance under section 1715*l* of title 12.

1959—Subsec. (a). Pub. L. 86-372, § 417(2), inserted words "or for grants pursuant to section 1453(d) of this title" following "under this subchapter".

Subsec. (b). Pub. L. 86-372, § 401, required the Administrator to encourage the utilization of local public agencies established by the States to operate on a statewide basis in behalf of smaller communities which are undertaking or propose to undertake urban renewal programs whenever that arrangement facilitates the undertaking of an urban renewal program by any such community, or provides an effective solution to community development or redevelopment problems in such communities, and is approved by resolution or ordinance of the governing bodies of the affected communities.

Subsec. (c). Pub. L. 86-372, § 110(a)(3), (4), substituted "if the mortgaged property is in an area described in clause (3) of subsection (a) of said section, or in a community referred to in clause (2)(B) of said section" for "if the mortgaged property is in a community referred to in clause (2) of subsection (a) of said section", and eliminated words "in a community" following "as a result of governmental action" in the last proviso.

1956—Subsec. (c). Act Aug. 7, 1956, inserted after the first comma "or for annual contributions or capital grants pursuant to the United States Housing Act of 1937, as amended, for any project or projects not constructed or covered by a contract for annual contributions prior to August 1, 1956,".

1955—Subsec. (c). Act Aug. 11, 1955, eliminated the requirement that before a contract for annual contributions or capital grants can be entered into the community must have a workable program for the prevention and elimination of slums.

1954—Act Aug. 2, 1954, strengthened the requirements with respect to local responsibility and local action, restricted the delegation of certain final authorities vested in the Administrator, and established facilities for (1) an urban renewal service, and (2) the assembly, etc., of information pertaining to programs under this subchapter.

Effective Date of 1965 Amendments

Amendment of subsec. (c) by Pub. L. 89-174 effective upon expiration of first period of sixty calendar days following Sept. 9, 1965, or an earlier date specified by Executive order, see section 11(a) of Pub. L. 89-174 set out as an Effective Date note under section 3531 of this title.

Section 302(a)(2) of Pub. L. 89-117 provided that: "The requirements imposed by the amendment made by paragraph (1) [adding subsec. (e) of this section] shall not be applicable to any project which received Federal recognition prior to the date of the enactment of this Act [Aug. 10, 1965]."

Amendment of Contracts For Incorporation of Certain Cost Provisions

Section 301(d) of Pub. L. 88-560 provided that: "Any contract for a capital grant under title I of the Housing Act of 1949 [this subchapter], executed prior to the date of enactment of this Act [Sept. 2, 1964], may be amended to incorporate the provisions of subsection (c) [of section 1460 of this title] for costs incurred on or after such date."

Cross References

"Workable program" requirements of subsection (c) of this section not applicable to urban renewal in disaster area, see section 1462 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1452, 1452b, 1460, 1462, 1466, 1467, 1468, 1468a, 1469c of this title; title 12 section 1715k.

Section Referred to in D.C. Code

This section is referred to in section 5-717a of the District of Columbia Code.

§ 1451a. Repealed. Aug. 2, 1954, ch. 649, title III, § 313, 68 Stat. 629

Section, acts July 31, 1953, ch. 302, title I, § 101, 67 Stat. 305; June 24, 1954, ch. 359, title I, § 101, 68 Stat. 283, which provided that the authority under this subchapter should be used to the utmost in connection with slum rehabilitation needs, is now covered by other sections in this subchapter. See, particularly, sections 1451 and 1455 of this title.

§ 1452. Loans

(a) Temporary and definitive loans; amounts; interest rates; security; repayment

To assist local communities in the elimination of slums and blighted or deteriorated or deteriorating areas, in preventing the spread of slums, blight or deterioration, and in providing maximum opportunity for the redevelopment, rehabilitation, and conservation of such areas by private enterprise, the Secretary may make temporary and definitive loans to local public agencies in accordance with the provisions of this subchapter for the undertaking of urban renewal projects. Such loans (outstanding at any one time) shall be in such amounts not exceeding the estimated expenditures to be made by the local public agency for such purposes, bear interest at such rate (not less than the applicable going Federal rate), be secured in such manner, and be repaid within such period (not exceeding, in the case of definitive loans, forty years from the date of the bonds or other obligations evidencing such loans), as may be deemed advisable by the Secretary. In any case where, in connection with its undertaking and carrying out of an urban renewal project, a local public agency is authorized (under the circumstances in which the temporary loan herein provided is requested) to acquire real property in the urban renewal area, the Secretary, in addition to all other authority under this subchapter and notwithstanding any other provisions of this subchapter, regardless of the stage of development of the urban renewal plan and whether before or after the approval thereof, may make a temporary loan or loans to any such local public agency to finance the acquisition of such real property: *Provided,* That no loan for such purpose shall be made unless (1) the governing body of the locality involved shall have approved by resolution or ordinance the acquisition of real property in the urban renewal area, and (2) either (A) the Secretary shall have determined that such loan is reasonably secured by a first mortgage or other prior lien upon such real property or is otherwise reasonably secured, or (B) the governing body of the locality shall have assumed the responsibility to bear any loss that may arise as the result of such acquisition in the event that the property so acquired is not used for urban renewal purposes because the urban renewal plan for the project is not approved, or is amended to omit any of the acquired property, or is abandoned for any reason: *Provided further,* That the Secretary may, in his discretion and subject to such conditions as he may impose, permit any structure so acquired to be demolished and removed, and may include in any loan authorized by this section the cost of such demolition and removal, together with administrative, relocation, and other related costs and payments, if the approval of the local governing body extends to such demolition and removal: *And provided further,* That the loan contract shall provide that the local public agency shall not dispose of such real property (except in lieu of foreclosure) until the local governing body of the locality involved shall have either approved the urban renewal plan for the project or consented to the disposal of such real property. Notwithstanding any other provision of this subchapter, the Secretary may make a temporary loan, as described in the first two sentences of this subsection, for two or more urban renewal projects being carried out by the same local public agency. The principal amount of any such loan which is outstanding at any one time shall not exceed the estimated expenditures to be made by the local public agency for such projects.

(b) Projects on open or predominantly open land

In connection with any project on land which is open or predominantly open, the Secretary may make temporary loans to municipalities or other public bodies for the provision of public buildings or facilities necessary to serve or support the new uses of such land in the project area. Such temporary loans shall be in such amounts not exceeding the expenditures to be made for such purpose, bear interest at such rate (not less than the applicable going Federal rate), be secured in such manner, and be repaid within such period (not exceeding ten years from the date of the obligations evidencing such loans), as may be deemed advisable by the Secretary.

(c) Renegotiation of loans; supplemental grants; pledge of loan contract; payment of principal and interest; construction of contracts and other obligations; incontestability; full faith and credit

Loans made pursuant to subsection (a) or (b) of this section may be made subject to the condition that, if at any time or times or for any period or periods during the life of the loan contract the local public agency can obtain loan funds from sources other than the Federal Government, it may do so with the consent of the Secretary at such times and for such periods without waiving or surrendering any rights to loan funds under the contract for the remainder of the life of such contract, and, in any such case, the Secretary is authorized to consent to a pledge by the local public agency of the loan contract, and any or all of its rights thereunder, as security for the repayment of the principal of and the interest on the loan funds so obtained from other sources: *Provided,* That at any time during the undertaking of the project the Secretary may make a supplemental grant to the local public agency in the amount of the difference between the interest cost from a source other than the Federal Government and the interest cost at the contract rate or a supplemental grant in an amount which he determines is necessary to enable a local public agency to obtain funds from a source other than the Federal Government, and no part of the amount of any such grant shall be required to be contributed as a part of the local grant-in-aid. In connection with any such pledge of a loan contract, including loan payments thereunder, as security for the repayment of obligations of the local public agency held by other than the Federal Government, the Secretary is authorized to agree to pay, through operations of a paying agent or agents, and to pay or cause to be paid when due, from funds obtained pursuant to subsection (e) of this section, to the holders of such obligations (or to their agents or designees) the principal of and the interest of such obligations, subject to such conditions as the Secretary may deter-

mine but without regard to any other condition or requirement. Notwithstanding any other provision of law, any contract or other instrument executed by the Secretary which by its terms, includes an obligation of the Secretary to make payment pursuant to this subsection shall be construed by all officers of the United States separate and apart from the loan contract and shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary pursuant to this subsection.

(d) Advances for surveys and plans; repayment; interest rate; application; General Neighborhood Renewal Plans

The Secretary may make advances of funds to local public agencies for surveys of urban areas to determine whether the undertaking of urban renewal projects therein may be feasible and for surveys and plans for urban renewal projects which may be assisted under this subchapter, including, but not limited to, (i) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements, (ii) plans for the enforcement of State and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements, and (iii) appraisals, title searches, and other preliminary work necessary to prepare for the acquisition of land in connection with the undertaking of such projects. The contract for any such advance of funds shall be made upon the condition that such advance of funds shall be repaid, with interest at not less than the applicable going Federal rate, out of any moneys which become available to the local public agency for the undertaking of the project involved. No contract for any such advances of funds for surveys and plans for urban renewal projects which may be assisted under this subchapter shall be made unless the governing body of the locality involved has by resolution or ordinance approved the undertaking of such surveys and plans and the submission by the local public agency of an application for such advance of funds. Notwithstanding section 1460(h) of this title or the use in any other provision of this subchapter of the term "local public agency" or "local public agencies" the Secretary may make advances of funds under this subsection for surveys and plans for an urban renewal project (including General Neighborhood Renewal Plans as hereinafter defined) to a single local public body which has the authority to undertake and carry out a substantial portion, as determined by the Secretary, of the surveys and plans or the project respecting which such surveys and plans are to be made: *Provided,* That the application for such advances shows, to the satisfaction of the Secretary, that the filing thereof has been approved by the public body or bodies authorized to undertake the other portions of the surveys and plans or of the project which the applicant is not authorized to undertake.

In order to facilitate proper preliminary planning for the attainment of the urban renewal objectives of this subchapter, the Secretary may also make advances of funds (in addition to those authorized above) to local public agencies for the preparation of General Neighborhood Renewal Plans (as herein defined). A General Neighborhood Renewal Plan may be prepared for an area consisting of an urban renewal area or areas, together with any adjoining areas having specially related problems, and which is of such size that the urban renewal activities in the urban renewal area or areas may have to be initiated in stages, consistent with the capacity and resources of the respective local public agency or agencies, over an estimated period of not more than eight years. No contract for advances for the preparation of a General Neighborhood Renewal Plan may be made unless the Secretary has determined that:

(1) in the interest of sound community planning, it is desirable that the urban renewal activities proposed for the area be planned in their entirety;

(2) the local public agency proposes to undertake promptly an urban renewal project embracing at least 10 per centum of such area, upon completion of the General Neighborhood Renewal Plan and the preparation of an urban renewal plan for such project; and

(3) the governing body of the locality has by resolution or ordinance (i) approved the undertaking of the General Neighborhood Renewal Plan and the submission of an application for such advance and (ii) represented that such plan will be used to the fullest extent feasible as a guide for the provision of public improvements in such area and that the plan will be considered in formulating codes and other regulatory measures affecting property in the area and in undertaking other local governmental activities pertaining to the development, redevelopment, rehabilitation, and conservation of the area.

The contract for any such advance of funds for a General Neighborhood Renewal Plan shall be made upon the condition that such advance shall be repaid, with interest at not less than the applicable going Federal rate, out of any moneys which become available to the local public agency for the undertaking of the first urban renewal project in such area: *Provided,* That in the event of the undertaking of any other project or projects in such area an appropriate allocation of the amount of the advance, with interest, may be effected to the end that each such project may bear its proper allocable part, as determined by the Secretary, of the cost of the General Neighborhood Renewal Plan. As used herein, a General Neighborhood Renewal Plan means a preliminary plan (conforming, in the determination of the governing body of the locality, to the general plan of the locality as a whole and to the workable program of the community meeting the requirements of section 1451 of this title) which outlines the urban renewal activities proposed for the area involved, provides a framework for the preparation of urban renewal plans and indicates generally, to the extent feasible in preliminary planning, the land uses, population density, building coverage, prospective requirements for rehabilitation and improvement of property, and any portions of the area contemplated for clearance and redevelopment.

(e) Amount of funds outstanding for loans

The total amount of loan contracts outstanding at any one time under this subchapter shall not exceed the aggregate of the estimated expenditures to be made by local public agencies as part of the gross project cost of the projects assisted by such contracts. To obtain funds for advance and loan disbursements under this subchapter, the Secretary may issue and have outstanding at any one time notes and obligations for purchase by the Secretary of the Treasury in an amount which shall not, unless authorized by the President exceed $1,000,000,000. For the purpose of establishing unpaid obligations as of a given date against the authorization contained in the preceding sentence, the Secretary shall estimate the maximum amount to be required to be borrowed from the Treasury and outstanding at any one time with respect to loan commitments in effect on such date.

(f) Notes and obligations; form and denomination; maturity date; interest rate; purchase and sale by Treasury; public debt transaction

Notes or other obligations issued by the Secretary under this subchapter shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued under this subchapter and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(g) Tax exemption

Obligations, including interest thereon, issued by local public agencies for projects assisted pursuant to this subchapter, and income derived by such agencies from such projects, shall be exempt from all taxation now or hereafter imposed by the United States.

(July 15, 1949, ch. 338, title I, § 102, 63 Stat. 414; Aug. 2, 1954, ch. 649, title III, § 304, 68 Stat. 624; Aug. 7, 1956, ch. 1029, title III, §§ 301, 303, 70 Stat. 1097, 1099; Sept. 23, 1959, Pub. L. 86-372, title IV, §§ 402-404, 73 Stat. 671; June 30, 1961, Pub. L. 87-70, title III, §§ 302(a), 314(b), 75 Stat. 166, 172; Sept. 2, 1964, Pub. L. 88-560, title III, § 303(a), 78 Stat. 785; Aug. 10, 1965, Pub. L. 89-117, title III, § 303, 79 Stat. 475; May 25, 1967, Pub. L. 90-19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90-448, title V, § 507(a), 82 Stat. 522; Dec. 24, 1969, Pub. L. 91-152, title II, § 208, 83 Stat. 387.)

REFERENCES IN TEXT

The Second Liberty Bond Act, and such Act, referred to in subsec. (f), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

AMENDMENTS

1969—Subsec. (c). Pub. L. 91-152 substituted provisions that, at any time during the undertaking of the project, the Secretary is authorized to make a supplemental grant to the local public agency in an amount determined by the specified formula or an amount determined to be necessary by the Secretary to enable a local public agency to obtain funds from a source other than the Federal Government, for provisions that, if at any time during the undertaking of the project, the interest rate on a loan from a source other than the Federal Government was greater than the rate at which funds could be made available under the Federal loan contract, the Secretary could make a supplemental grant to the local public agency in an amount determined by the difference between the interest cost from such sources and the interest cost at the contract rate.

1968—Subsec. (c). Pub. L. 90-448 eliminated provisions which related to obtaining loan funds from sources other than the Federal Government at interest rates lower than provided in the loan contract, and inserted proviso permitting the Secretary to make a supplemental grant, if at any time during the undertaking of the project, the interest rate on a loan from a source other than the Federal Government is greater than the rate at which funds could be made available under the Federal loan contract.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) to (f) of this section.

1965—Subsec. (d). Pub. L. 89-117 deleted "for urban renewal areas of such scope that the urban renewal activities therein may have to be carried out in stages, consistent with the capacity and resources of the respective local public agency, over an estimated period of not more than ten years" following "(as herein defined)" in the first sentence of the second paragraph, added the second sentence of the second paragraph, and substituted "urban renewal activities proposed for the area be planned in their entirety" for "urban renewal area be planned for urban renewal purposes in its entirety" in the first numbered paragraph.

1964—Subsec. (a). Pub. L. 88-560 authorized the Administrator to make temporary loans for two or more urban renewal projects being carried out by the same local public agency, not exceeding at any one time, the estimated expenditures to be made by the local public agency for such projects.

1961—Subsec. (a). Pub. L. 87-70, § 314(b), inserted the words, "together with administrative, relocation, and other related costs and payments," following "the cost of such demolition and removal".

Subsec. (c). Pub. L. 87-70, § 302(a), authorized the Administrator, in connection with any pledge of a loan contract, including loan payments thereunder, as security for the repayment of obligations of the local public agency held by other than the Federal Government, to agree to pay, through operations of a paying agent or agents, and to pay or cause to be paid when due, to the holders of such obligations (or to their agents or designees) the principal and interest on such obligations, and inserted provisions requiring contracts or other instruments which include an obligation of the Administrator to make payment pursuant to this subsection to be construed separate and apart from the loan contract, which state that they are incontestable and which pledge the full faith and credit of the United States to the payment.

1959—Subsec. (a). Pub. L. 86-372, §§ 402(a), 403, substituted "for such purposes" for "as part of the gross project cost" in the second sentence, and inserted provisions authorizing the Administrator to make a temporary loan or loans to a local public agency to finance the acquisition of real property regardless of the stage of development of the urban renewal plan and whether before or after the approval thereof.

Subsec. (c). Pub. L. 86-372, § 402(b), substituted "repayment of the principal of and the interest on the loan funds" for "repayment of the loan funds".

Subsec. (e). Pub. L. 86-372, § 404, among other changes, inserted provisions limiting the total amount of loan contracts outstanding at any one time under this subchapter to not more than the aggregate of the estimated expenditures to be made by local public agencies as part of the gross project cost of the projects assisted by such contracts, and requiring the Administrator, for the purpose of establishing unpaid obligations as of a given date against the authorization, to estimate the maximum amount to be required to be borrowed from the Treasury and outstanding at any one time with respect to loan commitments in effect on such date, and eliminated provisions which authorized the limitation (subject to the total authorization of $1,000,000,000) to be increased by additional amounts aggregating not more than $250,000,000 upon a determination by the President, after receiving advice from the Council of Economic Advisers as to the general effect of such increase upon the conditions in the building industry and upon the national economy, that such action is in the public interest.

1956—Subsec. (d). Act Aug. 7, 1956, added provisions to permit Administrator to advance funds for surveys to agency authorized to carry out substantial portion of project respecting which surveys and plans are to be made, provided application for advances shows filing has been approved by public bodies authorized to undertake other portions of project which applicant is not authorized to undertake, added "surveys of urban areas to determine whether the undertaking of urban renewal projects therein may be feasible and for" following "The Administrator may make advances of funds to local public agencies for", and added provisions at the end relating to General Neighborhood Renewal Plans.

1954—Subsec. (a). Act Aug. 2, 1954, § 304(1), (2), in first sentence, redefined the areas to be eliminated, and redefined "projects" (referred to as urban renewal projects); and, in second sentence, substituted "estimated expenditures" for "expenditures", and substituted "bonds or other obligations" for "bonds".

Subsec. (b). Act Aug. 2, 1954, § 304(3), (4), near end of first sentence, inserted "such" before "land", and, in second sentence, substituted "at" for "as", before "such rate".

Subsec. (d). Act Aug. 2, 1954, § 304(5), included among the advances of funds (1) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements, (2) plans for enforcement of State and local laws, codes and regulations relating to the use and occupancy of buildings and improvements, and to the compulsory repair, demolition or removal of buildings and improvements, and (3) appraisals, title searches and other preliminary work necessary to prepare for the acquisition of land in connection with the undertaking of the projects referred to, and provided that no such advance could be made in connection with any urban renewal project unless the governing body of the locality involved has approved (by resolution or ordinance) the undertaking of the surveys and plans and the submission by the local public agency of an application for the advance of funds.

Amendment of Loan Contracts Outstanding on August 1, 1968

Section 507(b) of Pub. L. 90-448 provided that: "Loan contracts outstanding on the date of enactment of this section [Aug. 1, 1968] may be amended to incorporate the provisions authorized by the amendment contained in subsection (a) [to subsec. (c) of this section] without regard to the proviso in section 110(g) of the Housing Act of 1949 [section 1460(g) of this title]."

Temporary Relief from Interest Rate Conflict Between Federal and State Law

Pub. L. 91-351, title VII, § 702, July 24, 1970, 84 Stat. 462, provided that: "Notwithstanding any other law, from the date of enactment of this title [July 24, 1970] until July 1, 1972, loans to local public agencies under title I of the Housing Act of 1949 [this subchapter] and to local public housing agencies under the United States Housing Act of 1937 [section 1401 et seq. of this title] may, when determined by the Secretary of Housing and Urban Development to be necessary because of interest rate limitations of State laws, bear interest at a rate less than the applicable going Federal rate but not less than 6 per centum per annum."

Cross References

Blighted or deteriorated area requirement, urban renewal disaster area, see section 1462 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1450, 1453, 1460, 1462 of this title; title 26 section 103.

§ 1452a. Repealed. Pub. L. 91-609, title V, § 503(2), Dec. 31, 1970, 84 Stat. 1785

Section, acts Aug. 2, 1954, ch. 649, title III, § 314, 68 Stat. 629; Sept. 2, 1964, Pub. L. 88-560, title III, § 313, 78 Stat. 792; May 25, 1967, Pub. L. 90-19, § 14(a), (c), 81 Stat. 22; Aug. 1, 1968, Pub. L. 90-448, title XVII, § 1702, 82 Stat. 603, provided for grants for preventing and eliminating slums and urban blight; preferences; reports, summaries, and information material; aggregate amount; and advance or progress payments. See sections 1701z-1 to 1701z-4 of Title 12, Banks and Banking.

Effective Date of Repeal

Section 503 of Pub. L. 91-609 provided that the repeal of this section was effective July 1, 1971, except that such repeal shall not affect contracts, commitments, reservations, or other obligations entered into pursuant to this section prior to that date.

§ 1452b. Rehabilitation loans

(a) Considerations

The Secretary is authorized, through the utilization of local public and private agencies where feasible, to make loans as herein provided to the owners and tenants of property to finance the rehabilitation of such property. No loan shall be made under this section unless—

(1)(A) the property is situated in an urban renewal area or an area in which a program of concentrated code enforcement activity is being carried out pursuant to section 1468 of this title, and the rehabilitation is required to make the property conform to applicable code requirements or to carry out the objectives of the urban renewal plan for the area and, in addition, to generally improve the condition of the property; or

(B)(i) the property is in an area (other than an area described in subparagraph (A)[1] which the governing body of the locality has determined, and so certifies to the Secretary, contains a substantial number of structures in need of rehabilitation, (ii) there is in effect for the locality a workable program meeting

[1] So in original. Probably should have close parenthesis.

the requirements of section 1451(c) of this title; (iii) the property is residential and owner-occupied, (iv) the property is in need of rehabilitation and is in violation of the local minimum housing or similar code, and (v) the area is definitely planned for rehabilitation or concentrated code enforcement within a reasonable time, and the rehabilitation of such property is consistent with the plan for rehabilitation or code enforcement; or

(C)(i) the property has been determined to be uninsurable because of physical hazards after an inspection pursuant to a statewide property insurance plan approved by the Secretary under title XII of the National Housing Act [12 U.S.C. 1749bbb et seq.] and (ii) the loan is made to the owner or tenant of the property to finance rehabilitation which the Secretary determines to be necessary to make the property meet reasonable underwriting standards; or

(D) the rehabilitation is a part of, or is necessary or appropriate to the execution of, an approved community development program under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.] or an approved urban homestead program under section 809 of such Act [12 U.S.C. 1706e];

(2) the applicant is unable to secure the necessary funds from other sources upon comparable terms and conditions; and

(3) the loan is an acceptable risk taking into consideration the need for the rehabilitation, the security available for the loan, and the ability of the applicant to repay the loan.

In making loans with respect to residential property under this section, priority shall be given to applications made by persons whose annual income, as determined pursuant to criteria and procedures established by the Secretary, is within the limitations prescribed by the Secretary for occupants of projects financed with below-market interest rate mortgages insured (in the area involved) under section 221(d)(3) of the National Housing Act [12 U.S.C. 1715*l*(d)(3)].

(b) Definitions

For the purposes of this section—

(1) the term "rehabilitation" means the improvement or repair of a structure or facilities in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes, the urban renewal plan, or a statewide property insurance plan to be provided by the owner or tenant of the property;

(2) the term "urban renewal area" means a slum area or a blighted, deteriorated, or deteriorating area as defined in section 1460(a) of this title;

(3) the term "tenant" means a person or organization who is occupying a structure under a lease having a period to run at the time a rehabilitation loan is made under this section of not less than the term of the loan; and

(4) the term "Secretary" means the Secretary of Housing and Urban Development.

(c) Limitations

A rehabilitation loan made under this section shall be subject to the following limitations:

(1) The loan shall be subject to such terms and conditions as may be prescribed by the Secretary.

(2) The term of the loan may not exceed twenty years or three-fourths of the remaining economic life of the structure after rehabilitation, whichever is less.

(3) The loan shall bear interest at such rate as the Secretary determines to be appropriate but not to exceed 3 per centum per annum of the amount of the principal outstanding at any time, and the Secretary may prescribe such other charges as he finds necessary, including service charges and appraisal, inspection, and other fees.

(4) The amount of the loan may not exceed—

(A) in the case of residential property, the amount of a loan which could be insured by the Secretary of Housing and Urban Development under section 220(h) of the National Housing Act [12 U.S.C. 1715k(h)]: *Provided*, That, within the limitations otherwise applicable on the amount of a loan under such section, the loan may exceed the cost of rehabilitation in order to include an amount approved by the Secretary to refinance existing indebtedness secured by such property if such refinancing is necessary to enable the applicant to amortize, with a monthly payment of not more than 20 per centum of his average monthly income, such loan and any other indebtedness secured by his property; and

(B) in the case of nonresidential property, whichever of the following is the least: $50,000, or the cost of rehabilitation, or an amount which when added to any outstanding indebtedness related to the property securing the loan creates a total outstanding indebtedness that the Secretary determines could be reasonably secured by a first mortgage on the property.

(5) A loan shall be secured as determined by the Secretary.

(d) Authorization of appropriations; revolving fund

There is authorized to be appropriated not to exceed $150,000,000 for each fiscal year ending prior to July 1, 1975, not to exceed $100,000,000 for the fiscal year beginning on July 1, 1975, and not to exceed $100,000,000 for the fiscal year beginning on October 1, 1976, which shall constitute a revolving fund to be used by the Secretary in carrying out this section. All moneys in such revolving fund shall be available for necessary expenses of servicing loans made pursuant to this section, including reimbursement or payment for services and facilities of the Government National Mortgage Association and of any public or private agency for the servicing of such loans. The amount of commitments to make loans pursuant to this section entered into after August 22, 1976, shall not exceed amounts approved in appropriation Acts.

(e) Additional functions, powers and duties of Secretary

In the performance of, and with respect to, the functions, powers, and duties vested in him by this section, the Secretary shall have (in addition to any authority otherwise vested in

him) the functions, powers, and duties set forth in section 1749a of title 12 (except subsection (c)(2)).

(f) Use of Federal or local public or private agency or organization as agent of Secretary

The Secretary is authorized to delegate to or use as his agent any Federal or local public or private agency or organization to the extent he determines appropriate and desirable to carry out the objectives of this section in the area involved.

(g) Rules and regulations; requirements and conditions

The Secretary is authorized to issue such rules and regulations and impose such requirements and conditions (in addition to those specified in this section) as he determines to be desirable to carry out the objectives of this section, including limitations on the amount of a loan and restrictions on the use of the property involved.

(h) Termination date

No loan shall be made under this section after September 30, 1977, except pursuant to a contract, commitment, or other obligation entered into pursuant to this section prior to October 1, 1977.

(Pub. L. 88-560, title III, § 312, Sept. 2, 1964, 78 Stat. 790; Pub. L. 89-117, title III, §§ 311(e), 312, Aug. 10, 1965, 79 Stat. 479; Pub. L. 90-19, § 21(b), May 25, 1967, 81 Stat. 25; Pub. L. 90-448, title V, § 509, title VIII, § 807(b), Aug. 1, 1968, 82 Stat. 523, 544; Pub. L. 91-152, title II, § 207, Dec. 24, 1969, 83 Stat. 387; Pub. L. 93-85, § 4, Aug. 10, 1973, 87 Stat. 221; Pub. L. 93-117, § 10, Oct. 2, 1973, 87 Stat. 423; Pub. L. 93-383, title I, § 116(e), Aug. 22, 1974, 88 Stat. 652; Pub. L. 94-50, title III, § 301, July 2, 1975, 89 Stat. 256; Pub. L. 94-375, § 12, Aug. 3, 1976, 90 Stat. 1074.)

REFERENCE IN TEXT

The National Housing Act, referred to in subsec. (a)(1)(C)(i), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title XII of the National Housing Act, is title XII of act June 27, 1934, ch. 847, as added Pub. L. 90-448, title XI, § 1103, Aug. 1, 1968, 82 Stat. 556, which is classified generally to subchapter IX-C (§ 1749bbb et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

The Housing and Community Development Act of 1974, referred to in subsec. (a)(1)(D), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§ 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables volume.

CODIFICATION

The urban homestead program under section 809 of such Act, referred to in subsec. (a)(1)(D), is a reference to the urban homestead program under section 809 of the Housing and Community Development Act of 1974. Section 809 of such Act enacted section 1701j-2 of Title 12, Banks and Banking, which relates to the National Institute of Building Sciences. Section 810 of such Act, however, which is classified to section 1706e of Title 12, Banks and Banking, relates to urban homesteading. For purposes of classification reference has been editorially translated as section 1706e of Title 12 as the probable intent of Congress.

Section was not enacted as part of title I of the Housing Act of 1949, which comprises this chapter.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-375, § 12(a), authorized an amount not to exceed $100,000,000 for the fiscal year beginning on October 1, 1976 and restricted the amount of commitments to make loans entered into after August 22, 1976 to amounts approved in appropriation acts.

Subsec. (h). Pub. L. 94-375, § 12(b), substituted provision that no loan be made after September 30, 1977, except under contract, commitment, or obligation entered into prior to October 1, 1977 for provision that no loan be made after the close of a two-year period beginning on August 22, 1974, except under contract, commitment, or obligation entered into prior to the close of that period.

1975—Subsec. (d). Pub. L. 94-50, § 301(b), added "ending prior to July 1, 1975, and not to exceed $100,000,000 for the fiscal year beginning on July 1, 1975" after "each fiscal year".

Subsec. (h). Pub. L. 94-50, § 301(a), substituted "two-year" for "one-year".

1974—Subsec. (a)(1)(D). Pub. L. 93-383, § 116(e)(2), added subsec. (a)(1)(D).

Subsec. (h). Pub. L. 93-383, § 116(e)(1), extended authority from after Oct. 1, 1974 to after the close of the one year period beginning on Aug. 22, 1974.

1973—Subsec. (h). Pub. L. 93-117 extended the termination date from October 1, 1973, to October 1, 1974.

Pub. L. 93-85 extended the termination date from June 30, 1973 to October 1, 1973.

1969—Subsec. (a). Pub. L. 91-152 substituted provisions requiring that priority be given to applications made by persons whose annual income is within the limitations prescribed by the Secretary pursuant to established criteria and procedures for provisions requiring that no loan with respect to residential property be made to any person whose annual income exceeds the limits prescribed by the Secretary pursuant to established criteria and procedures, with the proviso that this limitation not apply to property in the area of an urban renewal project or a code enforcement project.

1968—Subsec. (a). Pub. L. 90-448, § 509(c), (d)(1), (e), empowered the Secretary to make loans if the property is in an area (other than an area described in subpar. (A)) which the governing body of the locality has determined contains a substantial number of structures in need of rehabilitation, there is in effect a working program meeting requirements of section 1451(c) of this title, the property is residential and owner-occupied, the property is in need of rehabilitation and is in violation of the local minimum housing or similar code, and the area is definitely planned for rehabilitation or concentrated code enforcement within a reasonable time, and the rehabilitation is consistent with the plan for rehabilitation or code enforcement, additionally authorized loans if the property has been determined to be uninsurable because of physical hazards and the loan is made to finance rehabilitation to make the property meet reasonable underwriting standards, prohibited loans with respect to residential property to any person whose annual income exceeds the limits prescribed for occupants of projects financed with below-market interest rate mortgages insured under section 1715*l*(d)(3) of title 12, and excepted from this prohibition property in the area of an urban renewal project or a code enforcement project for which the city or other local public body or agency is receiving financial assistance, if, prior to August 1, 1968, the local public body or agency specifically developed plans for such project in reliance upon the availability of loans.

Subsec. (b)(1). Pub. L. 90-448, § 509(d)(2), included the provision of such sanitary or other facilities as are required by a statewide property insurance plan.

Subsec. (d). Pub. L. 90-448, §§ 509(a), 807(b), substituted "$150,000,000" for "$100,000,000", and "Govern-

ment National Mortgage Association" for "Federal National Mortgage Association".

Subsec. (h). Pub. L. 90-448, § 509(b), extended the termination date from October 1, 1969, to June 30, 1973.

1967—Pub. L. 90-19, § 21(b)(1), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a), (c)(1), (3), (4)(A), (B), and (d) to (g) of this section.

Subsec. (a). Pub. L. 90-19, § 21(b)(2), substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator".

Subsec. (b)(4). Pub. L. 90-19, § 21(b)(3), substituted definition of "Secretary" meaning the Secretary of Housing and Urban Development for "Administrator" meaning the Housing and Home Finance Administrator.

Subsec. (c)(4)(A). Pub. L. 90-19, § 21(b)(4), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

1965—Subsec. (a). Pub. L. 89-117, §§ 311(e), 312(a), inserted "or an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 1468 of this title", and substituted "comparable" for "reasonable".

Subsec. (d). Pub. L. 89-117, § 312(b), substituted "$100,000,000 for each fiscal year" for "$50,000,000", and made all moneys in the revolving fund available for the necessary expenses of servicing loans made pursuant to this section, including reimbursement or payment for services and facilities of the Federal National Mortgage Association and of any public or private agency for the servicing of such loans.

Subsec. (h). Pub. L. 89-117, § 312(c), added subsec. (h).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 807(b) of Pub. L. 90-448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90-448, set out as an Effective Date note under section 1716b of Title 12, Banks and Banking.

ADMINISTRATIVE PRIORITY FOR APPLICATIONS RELATING TO ACTIVITIES IN AREAS AFFECTED BY BASE CLOSINGS

State or unit of local government or agency thereof affected by reduction in level of expenditure or employment at Department of Defense installation located in or near such State or unit of local government, priority in processing applications for assistance under this section, see section 1453a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453a, 1460, 5306 of this title; title 12 section 1701z-4.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 47-801a of the District of Columbia Code.

§ 1453. Grants for urban renewal projects

(a) Authorization; aggregate amount; limitation on grants for individual projects

(1) The Secretary may make capital grants to local public agencies in accordance with the provisions of this subchapter for urban renewal projects: *Provided*, That the Secretary shall not make any contract for capital grant with respect to a project which consists of open land (other than land within the purview of section 1460(c)(1)(v) of this title), except that he may contract for a grant in an amount not to exceed two-thirds of the difference between the proceeds from any land disposed of pursuant to section 1457 of this title and the fair value of the land without regard to such section.

(2) The aggregate of such capital grants with respect to all of the projects of a local public agency (or of two or more local public agencies in the same municipality) on which contracts for capital grants have been made under this subchapter shall not exceed the total of—

(A) two-thirds of the aggregate net project costs of all such projects to which neither subparagraph (B) nor subparagraph (C) applies, and

(B) three-fourths of the aggregate net project costs of any such projects which are located in (i) a municipality having a population of fifty thousand or less according to the most recent decennial census, or (ii) a municipality situated in a labor market area which, at the time the contract or contracts involved are entered into or at such earlier time as the Secretary may specify in order to avoid hardship, or at any time after such contract or contracts are entered into and prior to the time the final grant payment has been made pursuant thereto, is designated as a redevelopment area under the second sentence of section 2504(a) of this title or any other legislation enacted after August 10, 1965, containing standards for designation as a redevelopment area generally comparable to those set forth in the second sentence of section 2504(a) of this title, and

(C) three-fourths of the aggregate net project costs of any of such projects (not falling within subparagraph (B)) which the Secretary, upon request, may approve on a three-fourths capital grant basis.

(3) A capital grant with respect to any individual project shall not exceed the difference between the net project cost and the local grants-in-aid actually made with respect to the project.

(b) Limitation on aggregate amount of grants; authorization of appropriations; repayment of certain uncollectible loans

The Secretary may, with the approval of the President, contract to make grants under this subchapter aggregating not to exceed $7,600,000,000, which amount shall be increased by $1,400,000,000 on July 1, 1969, by $1,700,000,000 on July 1, 1970, by $1,500,000,000 on July 1, 1971, by $250,000,000 on July 1, 1972, and $664,000,000 on July 1, 1973, and by such sums as may be necessary thereafter. Not less than 35 per centum of the amounts available to the Secretary for grants under this subchapter during each of the fiscal years commencing after June 30, 1969 and ending prior to July 1, 1974, shall be for grants under part B. In addition to the authority to make grants provided in the first sentence of this subsection, the Secretary may contract to make grants under this subchapter, on or after July 1, 1967, in an amount not to exceed $600,000,000: *Provided*, That the authority to contract to make grants provided by this sentence shall be exercised only with respect to an urban renewal project which is identified and scheduled to be carried out as one of the projects or activities included within an approved comprehensive city demonstration program assisted under the provisions of section 3305(c) of this title. Such grants shall not be used for major long-term capital im-

provement: shall not exceed two-thirds of the cost, as determined or estimated by the Secretary, of the project for which the grant is made; and shall be subject to such other terms and conditions as he may prescribe. The Secretary is authorized, notwithstanding the provisions of section 529 of title 31, to make advance or progress payments on account of any grant contracted to be made pursuant to this section. The faith of the United States is solemnly pledged to the payment of all grants contracted for under this subchapter, and there are authorized to be appropriated out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments: *Provided,* That any amounts so appropriated shall also be available for repaying to the Secretary of the Treasury, for application to notes of the Secretary, the principal amounts of any funds advanced to local public agencies under this subchapter which the Secretary determines to be uncollectible because of the termination of activities for which such advances were made, together with the interest paid or accrued to the Secretary of the Treasury (as determined by him) attributable to notes given by the Secretary in connection with such advances, but all such repayments shall constitute a charge against the authorization to make contracts for grants contained in this section: *Provided further,* That no such determination of the Secretary shall be construed to prejudice the rights of the United States with respect to any such advance.

(c) Restriction on financial assistance to localities or local public agencies

Notwithstanding any other provision of this or any other Act, if financial assistance authorized by this subchapter to be made available to a locality or local public agency may be made available to any locality or local public agency within the limitations provided in subsection (b) of this section and sections 1452(e) and 1456(e) of this title, and the second paragraph following the paragraph numbered (6) of section 1460(c) of this title, the amount of such financial assistance made available to any locality or local public agency upon submission and processing of proper application therefor shall not otherwise be restricted except on the basis of (1) urgency of need, and (2) feasibility, as determined by the Secretary.

(d) Grants for preparation or completion of community renewal programs; requirements; approval by governing body; submission of application; limitation on amount of grants

The Secretary may contract to make grants for the preparation or completion of community renewal programs, which may include, without being limited to, (1) the identification of slum areas or blighted, deteriorated, or deteriorating areas in the community, (2) the measurement of the nature and degree of blight and blighting factors within such areas, (3) determination of the financial, relocation, and other resources needed and available to renew such areas, (4) the identification of potential project areas and, where feasible, types of urban renewal action contemplated within such areas, and (5) scheduling or programing of urban renewal activities. Such programs shall conform, in the determination of the governing body of the locality, to the general plan of the locality as a whole. The Secretary may establish reasonable requirements respecting the scope and content of such programs. No contract for a grant pursuant to this subsection shall be made unless the governing body of the locality involved has approved the preparation or completion of the community renewal program and the submission by the local public agency of an application for such a grant. Notwithstanding section 1460(h) of this title or the use in any other provision of this subchapter of the term "local public agency" or "local public agencies", the Secretary may make grants pursuant to this subsection for the preparation or completion of a community renewal program to a single local public body authorized to perform the planning work necessary to such preparation or completion. No grant made pursuant to this subsection shall exceed two-thirds of the cost (as such cost is determined or estimated by the Secretary) of the preparation or completion of the community renewal program for which such grant is made.

(July 15, 1949, ch. 338, title I, § 103, 63 Stat. 416; Aug. 2, 1954, ch. 649, title III, § 305, 68 Stat. 625; Aug. 11, 1955, ch. 783, title I, § 106(a), 69 Stat. 637; July 12, 1957, Pub. L. 85-104, title III, §§ 301, 302(1), 71 Stat. 299; Sept. 23, 1959, Pub. L. 86-372, title IV, §§ 405, 417(1), 73 Stat. 672, 676; June 30, 1961, Pub. L. 87-70, title III, §§ 301(a), 303, 75 Stat. 165, 166; Sept. 2, 1964, Pub. L. 88-560, title III, § 304, 78 Stat. 785; Aug. 10, 1965, Pub. L. 89-117, title III, §§ 304, 313(a), 79 Stat. 475, 479; Nov. 3, 1966, Pub. L. 89-754, title I, § 113, title VII, § 704, 80 Stat. 1260, 1281; May 25, 1967, Pub. L. 90-19, § 6(b), (d), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90-448, title V, §§ 502, 506, 82 Stat. 521, 522; Dec. 24, 1969, Pub. L. 91-152, title II, § 201, 83 Stat. 385; Dec. 31, 1970, Pub. L. 91-609, title II, § 201, title VII, § 741(a), 84 Stat. 1776, 1805; Oct. 18, 1972, Pub. L. 92-503, § 4, 86 Stat. 906; Oct. 2, 1973, Pub. L. 93-117, § 5, 87 Stat. 422; Aug. 22, 1974, Pub. L. 93-383, title I, § 116(c), 88 Stat. 652.)

REFERENCES IN TEXT

Section 2504 of this title, referred to in subsec. (a)(2)(B), has been omitted.

This Act, referred to in subsec. (c), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, known as the Housing Act of 1949, which is classified principally to this chapter (§ 1441 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables volume.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-383 added authorization for increases in grants by such sums as necessary thereafter.

1973—Subsec. (b). Pub. L. 93-117 added provision authorizing an increase by $664,000,000 on July 1, 1973, in the aggregate amount of grants.

1972—Subsec. (b). Pub. L. 92-503 added provision authorizing an increase by $250,000,000 on July 1, 1972 in the aggregate amount of grants.

1970—Subsec. (a)(1). Pub. L. 91-609, § 741(a), inserted in proviso after "open land" the words "(other than land within the purview of section 1460(c)(1)(v) of this title),".

Subsec. (b). Pub. L. 91-609, § 201, added the provision authorizing an increase by $1,500,000,000 on July 1, 1971, and substituted in second sentence "commencing

after June 30, 1969 and ending prior to July 1, 1974" for "beginning July 1, 1969, and July 1, 1970".

1969—Subsec. (b). Pub. L. 91-152 added the provisions authorizing an increase by $1,700,000,000 on July 1, 1970 and requiring that no less than 35 per centum of the amounts available to the Secretary for grants under this subchapter during each of the fiscal years beginning July 1, 1969, and July 1, 1970, be for grants under part B.

1968—Subsec. (a)(1). Pub. L. 90-448, § 506, empowered the Secretary to contract for a grant in an amount not to exceed two-thirds of the difference between the proceeds from any land disposed of pursuant to section 1457 of this title and the fair value of the land without regard to such section.

Subsec. (b). Pub. L. 90-448, § 502, authorized an increase in the aggregate amount of grants by $1,400,000,000 on July 1, 1969, and increased the authority to make grants on or after July 1, 1967, from $250,000,000 to $600,000,000.

1967—Pub. L. 90-19, § 6(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a)(1), (2)(B), (C) and (b) to (d) of this section.

Subsec. (b). Pub. L. 90-19, § 6(d), substituted "Secretary of the Treasury" for "Secretary" in the last sentence.

1966—Subsec. (a)(2)(B). Pub. L. 89-754, § 704, inserted "or at any time after such contract or contracts are entered into and prior to the time the final grant payment has been made pursuant thereto," following "to avoid hardships,".

Subsec. (b). Pub. L. 89-754, § 113, provided for grant authority, in an amount not to exceed $250,000,000, for urban renewal projects which are part of approved comprehensive city demonstration programs.

1965—Subsec. (a)(2)(B). Pub. L. 89-117, § 313(a), inserted "(i)" following "located in", deleted "(one hundred fifty thousand or less in the case of a municipality situated in an area which, at the time the contract or contracts involved are entered into or at such earlier time as the Administrator may specify in order to avoid hardship, is designated as a redevelopment area under the second sentence of section 2504(a) of this title)" preceding "according to the latest", and added cl. (ii).

Subsec. (b). Pub. L. 89-117, § 304, substituted "$4,700,000,000, which amount shall be increased by $675,000,000 on August 10, 1965, by $725,000,000 on July 1, 1966, and by $750,000,000 on July 1 in each of the years 1967 and 1968" for "$4,725,000,000", and deleted the proviso in the first sentence which prescribed the maximum aggregate amount available to make grants for mass transportation demonstration projects.

1964—Subsec. (b). Pub. L. 88-560 substituted "$4,725,000,000" for "$4,000,000,000".

1961—Subsec. (a). Pub. L. 87-70, § 301(a), designated existing provisions as par. (1), eliminated therein provisions which limited the aggregate of capital grants with respect to all the projects of a local public agency on which contracts for capital grants have been made under this subchapter to not more than two-thirds of the aggregate of the net project costs of nonexcluded projects, which permitted the aggregate of the capital grants to exceed two-thirds but not three-fourths of the aggregate net project costs of those projects which the Administrator might approve on such a three-fourths capital grant basis, and which provided that a capital grant with respect to any individual project shall not exceed the difference between the net project cost and the local grants-in-aid actually made with respect to the project, and added pars. (2) and (3).

Subsec. (b). Pub. L. 87-70, § 303, increased the contract authorization from $2,000,000,000 to $4,000,000,000, empowered the Administrator to contract to make grants aggregating not more than $25,000,000 for mass transportation demonstration projects, prohibited the use of such grants for major long-term capital improvements, limited the grants to not more than two-thirds of the cost of the project, and permitted the Administrator to make advance or progress payments.

1959—Subsec. (b). Pub. L. 86-372, §§ 405(1), (2), 417(1), increased the grant authorization by $350,000,000 on September 23, 1959, and by $300,000,000 on July 1, 1960, and provided that the appropriated funds shall also be available for repaying to the Secretary of the Treasury, for application to notes of the Administrator, the principal amounts of any funds advanced to local public agencies under this subchapter which the Administrator determines to be uncollectible because of the termination of activities for which such advances were made, together with the interest paid or accrued to the Secretary attributable to notes given by the Administrator in connection with such advances.

Subsecs. (c), (d). Pub. L. 86-372, § 405(3), added subsecs. (c) and (d).

1957—Subsec. (a). Pub. L. 85-104, § 302(1), provided that capital grants may exceed two-thirds but not three-fourths of the aggregate net costs of projects which the Administrator, at the request of local public agency, approves on such basis.

Subsec. (b). Pub. L. 85-104, § 301, substituted "$900,000,000, which limit shall be increased by $350,000,000 on July 12, 1957" for "$500,000,000, which limit shall be increased by further amounts of $200,000,000 on July 1 in each of the years 1955 and 1956, respectively".

1955—Subsec. (b). Act Aug. 11, 1955, authorized $200,000,000 on July 1, 1955 and July 1, 1956, for capital grants for slum clearance and urban renewal.

1954—Subsec. (a). Act Aug. 2, 1954, in the matter preceding the proviso, substituted "in accordance with the provisions of this subchapter for urban renewal projects" for "to enable such agencies to make land in project areas available for redevelopment at its fair value for the uses specified in the redevelopment plans".

Effective Date of 1965 Amendment to Subsec. (a)(2)(B)

Section 313(b) of Pub. L. 89-117, as amended by Pub. L. 90-19, § 22(a), May 25, 1967, 81 Stat. 26, provided that: "The amendment made by subsection (a) [amending subsec. (a)(2)(B) of this section] shall apply only with respect to urban renewal projects placed under contract for capital grant on or after the date of the enactment of this Act [Aug. 10, 1965], except that such amendment shall apply with respect to all urban renewal projects in the city of Providence, Rhode Island, placed under contract for capital grant during the period Providence was designated as a redevelopment area under section 5(a) of the Area Redevelopment Act [section 2504(a) of this title] (or at such earlier time as the Secretary may specify in order to avoid hardship) and not completed prior to the date of the enactment of this Act [Aug. 10, 1965]."

Administrative Priority for Applications Relating to Activities in Areas Affected by Base Closings

State or unit of local government or agency thereof affected by reduction in level of expenditure or employment at Department of Defense installation located in or near such State or unit of local government, priority in processing applications for assistance under this section, see section 1453a of this title.

Development of Inner City Areas; Statement of Purpose

Section 740 of Pub. L. 91-609 provided that: "It is the purpose of this part [amending subsec. (a)(1) of this section and section 1460(c)(7) of this title and enacting this provision] to provide our cities, which urgently need to augment their inventories of housing (particularly housing for low and moderate income families) and to find sites for essential public facilities and additional sources of employment, but have virtually no vacant land upon which to build, with a program which will make possible the more rational use of urban land and space that is currently occupied by industrial or commercial uses which though not physically blighted are functionally obsolete or uneconom-

ic, or of land and space that is not usable in its present state because of natural hazards or inadequate development, so that in appropriate cases major rebuilding projects (including new communities in town) may be undertaken without major residential clearance activities and with minimal displacement."

CRITERIA FOR GRANTS FOR HISTORIC PRESERVATION

Criteria for grants for historic preservation under urban renewal program commencing three years after Nov. 3, 1966, and comparable to those used in establishment of the National Register, see section 605(h) of Pub. L. 89-754, set out as a note under section 1500d-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1450, 1451, 1453a, 1456, 1460, 1466, 1467, 1468, 1468a, 1469a, 1469c of this title; title 31 section 711.

§ 1453a. Administrative priority for applications relating to activities in areas affected by base closings

The Secretary of Housing and Urban Development, in processing applications for assistance under section 103 of the Housing Act of 1949 [42 U.S.C. 1453], section 111 of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3311], section 708(a)(1) and (2) of the Housing and Urban Development Act of 1965 [42 U.S.C. 3108(a)(1), (2)] (for grants authorized under sections 702 and 703 of such Act) [42 U.S.C. 3102, 3103], section 312 of the Housing Act of 1964 [42 U.S.C. 1452b], section 701(b) of the Housing Act of 1954 [40 U.S.C. 461(b)], and section 708 of the Housing Act of 1961 [42 U.S.C. 1500d], shall give a priority to any State or unit of local government or agency thereof which is severely and adversely affected by a reduction in the level of expenditure or employment at any Department of Defense installation located in or near such State or unit of local government.

(Pub. L. 93-117, § 14, Oct. 2, 1973, 87 Stat. 423.)

CODIFICATION

Section was not enacted as part of title I of the Housing Act of 1949, which comprises this subchapter.

§ 1454. Requirements for local grants-in-aid

Every contract for capital grants under this subchapter shall require local grants-in-aid in connection with the project involved. Such local grants-in-aid, together with the local grants-in-aid to be provided in connection with all other projects of the local public agency (or two or more local public agencies in the same municipality) on which contracts for capital grants have theretofore been made, shall be at least equal to the total of one-third of the aggregate net project costs of such projects undertaken on a two-thirds capital grant basis and one-fourth of the aggregate net project costs of such projects undertaken on a three-fourths capital grant basis.

(July 15, 1949, ch. 338, title I, § 104, 63 Stat. 416; Aug. 2, 1954, ch. 649, title III, § 306, 68 Stat. 625; Aug. 7, 1956, ch. 1029, title III, § 306, 70 Stat. 1101; July 12, 1957, Pub. L. 85-104, title III, § 302(2), 71 Stat. 300; June 30, 1961, Pub. L. 87-70, title III, § 301(b), 75 Stat. 166.)

AMENDMENTS

1961—Pub. L. 87-70 inserted the parenthetical phrase "(or two or more local public agencies in the same municipality)" and substituted "shall be at least equal to the total of one-third of the aggregate net project costs of such projects undertaken on a two-thirds capital grant basis and one-fourth of the aggregate net project costs of such projects undertaken on a three-fourths capital grant basis" for "shall not be required in excess of one-third of the aggregate net project costs of all projects of the local public agency on which contracts for capital grants have been made on the two-thirds basis, or in excess of one-fourth of the aggregate net project costs of all projects of the local public agency on which contracts for capital grants have been made on the three-fourths basis".

1957—Pub. L. 85-104 inserted "on the two-thirds basis, or in excess of one-fourth of the aggregate net project costs of all projects of the local public agency on which contracts for capital grants have been made on the three-fourths basis".

1956—Act Aug. 7, 1956, stated provisions that local governments are not required to pay in excess of one-third of net project costs.

1954—Act Aug. 2, 1954, substituted "of the property" for "of land" before "in such projects".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1469b of this title.

§ 1455. Requirements for loan or capital grant contracts

Contracts for loans or capital grants shall be made only with a duly authorized local public agency and shall require that—

(a) Approval of urban renewal plan

The urban renewal plan for the urban renewal area be approved by the governing body of the locality in which the project is situated, and that such approval include findings by the governing body that (i) the financial aid to be provided in the contract is necessary to enable the project to be undertaken in accordance with the urban renewal plan; (ii) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the locality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise; and (iii) the urban renewal plan conforms to a general plan for the development of the locality as a whole; and (iv) the urban renewal plan gives due consideration to the provision of adequate park and recreational areas and facilities, as may be desirable for neighborhood improvement, with special consideration for the health, safety, and welfare of children residing in the general vicinity of the site covered by the plan;

(b) Obligations of purchasers, lessees, and assignees of property; and Federal agencies

When real property acquired or held by the local public agency in connection with the project is sold or leased, the purchasers or lessees and their assignees shall be obligated (i) to devote such property to the uses specified in the urban renewal plan for the project area; (ii) to begin within a reasonable time any improvements on such property required by the urban renewal plan; and (iii) to comply with such other conditions as the Secretary finds, prior to the execution of the contract for loan or capital grant pursuant to this subchapter, are necessary to carry out the purposes of this sub-

chapter: *Provided*, That clause (ii) of this subsection shall not apply to mortgagees and others who acquire an interest in such property as the result of the enforcement of any lien or claim thereon: *And provided further*, That, with respect to any improvements of a type which it is otherwise authorized to undertake, any Federal agency (as defined in section 472(b) of title 40, and also including the District of Columbia or any agency thereof) is authorized to become obligated in accordance with this subsection, except that clause (ii) of this subsection shall apply to such Federal agency only to the extent that it is authorized (and funds have been made available) to make the improvements involved;

(c) Temporary relocation of individuals and families displaced from urban renewal area; relocation assistance program; review of relocation plan

(1) There shall be a feasible method for the temporary relocation of individuals and families displaced from the urban renewal area, and there are or are being provided, in the urban renewal area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the individuals and families displaced from the urban renewal area, decent, safe, and sanitary dwellings equal in number to the number of and available to such displaced individuals and families and reasonably accessible to their places of employment. The Secretary shall issue rules and regulations to aid in implementing the requirements of this subsection and in otherwise achieving the objectives of this subchapter. Such rules and regulations shall require that there be established, at the earliest practicable time, for each urban renewal project involving the displacement of individuals, families, and business concerns occupying property in the urban renewal area, a relocation assistance program which shall include such measures, facilities, and services as may be necessary or appropriate in order (A) to determine the needs of such individuals, families, and business concerns for relocation assistance; (B) to provide information and assistance to aid in relocation and otherwise minimize the hardships of displacement, including information as to real estate agencies, brokers, and boards in or near the urban renewal area which deal in residential or business property that might be appropriate for the relocating of displaced individuals, families, and business concerns; and (C) to assure the necessary coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community which may affect the carrying out of the relocation program, particularly planned or proposed low-rent housing projects to be constructed in or near the urban renewal area.

(2) As a condition to further assistance after August 10, 1965, with respect to each urban renewal project involving the displacement of individuals and families, the Secretary shall require, within a reasonable time prior to actual displacement, satisfactory assurance by the local public agency that decent, safe, and sanitary dwellings as required by the first sentence of this subsection are available for the relocation of each such individual or family.

(3) Within one year after December 24, 1969, and every two years thereafter, the Secretary shall review each locality's relocation plan under this subsection and its effectiveness in carrying out such plan.

(d) Acquisition of land; public hearings

No land for any project to be assisted under this subchapter shall be acquired by the local public agency except after public hearing following notice of the date, time, place, and purpose of such hearing.

(e) Public disclosure by redevelopers

No understanding with respect to, or contract for, the disposition of land within an urban renewal area shall be entered into by a local public agency unless the local public agency shall have first made public, in such form and manner as may be prescribed by the Secretary, (1) the name of the redeveloper, together with the names of its officers and principal members, shareholders and investors, and other interested parties, (2) the redeveloper's estimate of the cost of any residential redevelopment and rehabilitation, and (3) the redeveloper's estimate of rentals and sales prices of any proposed housing involved in such redevelopment and rehabilitation: *Provided*, That nothing in this subsection shall constitute a basis for contesting the conveyance of, or title to, such land.

(f) Standard housing units for low and moderate income families or individuals; minimum number of units in projects; waiver of minimum number requirement; report to Congressional Committees

A majority of the housing units provided in each community's total of such approved urban renewal projects as will be redeveloped for predominantly residential uses and which receive Federal recognition after August 1, 1968, shall be standard housing units for low and moderate income families or individuals: *Provided*, That the units in each community's total of such approved urban renewal projects which are for low-income families or individuals shall constitute at least 20 per centum of the units in such projects, except that the Secretary may waive the requirement of this proviso in any community to the extent that units for low-income families and individuals are not needed. The Secretary shall promptly report any waiver under the proviso in the preceding sentence to the Committees on Banking and Currency of the Senate and the House of Representatives.

(g) Sewer systems in urban renewal areas

Consideration has been given to development of a sewer system to serve the urban renewal area which will, to the maximum extent feasible, provide for effective control of storm and sanitary wastes.

(h) Demolition or removal of residential structures in urban renewal projects; replacement with standard housing units; number of units; waiver of provisions

If any urban renewal project which receives Federal recognition after December 24, 1969 includes the demolition or removal of any residential structure or structures (whether or not it is a project taken into account for purposes of applying subsection (f) of this section), there shall be provided in the area within which the local public agency has jurisdiction (by con-

struction or rehabilitation) standard housing units for occupancy by low and moderate income families (including but not limited to units provided under Federal- or State-assisted housing programs and including units of low-rent housing in private accommodations assisted under section 23 of the United States Housing Act of 1937 [42 U.S.C. 1421b]) at least equal in number to the number of units occupied by such families prior to the demolition or removal of such structure or structures: *Provided*, That the Secretary shall have authority where he deems it appropriate to take into account suitable housing outside such area for purposes of meeting the requirement of this subsection. If the Secretary finds that the percentage of vacancies for all existing housing units in the area within which the local public agency has jurisdiction is 5 per centum or greater, he may waive the requirements of this subsection to the extent that he determines there are existing standard housing units in such area which will be available for occupancy by low and moderate income families who are being displaced by the urban renewal project.

(July 15, 1949, ch. 338, title I, § 105, 63 Stat. 416; Aug. 2, 1954, ch. 649, title III, § 307, 68 Stat. 625; Aug. 7, 1956, ch. 1029, title III, § 302(a)(1), 70 Stat. 1097; Sept. 23, 1959, Pub. L. 86-372, title IV, §§ 406, 407, 73 Stat. 673; June 30, 1961, Pub. L. 87-70, title III, § 315, 75 Stat. 172; Sept. 2, 1964, Pub. L. 88-560, title III, § 305(a)(1), (b), 78 Stat. 786; Aug. 10, 1965, Pub. L. 89-117, title III, § 305(a), 79 Stat. 475; Nov. 3, 1966, Pub. L. 89-754, title VII, §§ 703(a), 706, 80 Stat. 1281; May 25, 1967, Pub. L. 90-19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90-448, title V, § 512, 82 Stat. 524; Dec. 24, 1969, Pub. L. 91-152, title II, §§ 209, 210, 83 Stat. 388.)

References in Text

Section 23 of the United States Housing Act of 1937, referred to in subsec. (h), is a reference to section 23 of the Act prior to the general revision of the Act by Pub. L. 93-383. The Act as so revised is classified to section 1437 et seq. of this title. Provisions of former section 23 are now covered by section 8 of the Act which is classified to section 1437f of this title.

Amendments

1969—Subsec. (c). Pub. L. 91-152, § 209, added par. (3).

Subsec. (h). Pub. L. 91-152, § 210, added subsec. (h).

1968—Subsec. (f). Pub. L. 90-448 substituted provisions requiring a majority of the housing units provided in each community's total of approved projects as will be redeveloped for predominantly residential uses and which receive Federal recognition after August 1, 1968, to be standard housing units for low and moderate income families or individuals, directing that at least 20 per centum of the units shall be for low-income families or individuals, empowering the Secretary to waive the 20 per centum requirement in communities to the extent that units are not needed, and mandating the Secretary to report any such waiver, for provisions which stated that the redevelopment of an urban renewal area, unless for predominantly nonresidential uses, will provide a substantial number of units of standard housing of low and moderate cost and result in marked progress in serving the poor and disadvantaged people living in slum and blighted areas.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (b), (c) (1), (2), and (e) of this section.

1966—Subsec. (f). Pub. L. 89-754, § 703(a), added subsec. (f).

Subsec. (g). Pub. L. 89-754, § 706, added subsec. (g).

1965—Subsec. (c). Pub. L. 89-117 designated existing provisions as par. (1), inserted "including information as to real estate agencies, brokers, and boards in or near the urban renewal area which deal in residential or business property that might be appropriate for the relocating of displaced individuals, families, and business concerns" in cl. (B), inserted "particularly planned or proposed low-rent housing projects to be constructed in or near the urban renewal area" in cl. (C), and added par. (2).

1964—Subsec. (c). Pub. L. 88-560 substituted "individuals and families" for "families" wherever appearing, and provided that the Administrator shall require a relocation assistance program for each urban renewal project involving displacement of families, individuals and business concerns, to determine needs for assistance, provide information to minimize hardships, and to assure coordination of relocation activities with other project activities and governmental actions which may affect the relocation program.

1961—Subsec. (a). Pub. L. 87-70 added cl. (iv).

1959—Subsec. (b). Pub. L. 86-372, § 406, inserted proviso authorizing Federal agencies, with respect to any improvements of a type which they are otherwise authorized to undertake, to become obligated in accordance with this subsection.

Subsec. (e). Pub. L. 86-372, § 407, added subsec. (e).

1956—Subsec. (a). Act Aug. 7, 1956, eliminated "(including any redevelopment plan constituting a part thereof)" following the words "The urban renewal plan".

1954—Act Aug. 2, 1954, § 307(1), substituted "Contracts for loans or capital grants" for "Contracts for financial aid" in the opening clause.

Subsecs. (a), (b). Act Aug. 2, 1954, § 307(2), substituted references to "urban renewal plan" for "redevelopment plan" in certain places, thus embracing the additional rehabilitation and conservation activities authorized by this subchapter as amended by such act.

Subsec. (c). Act Aug. 2, 1954, § 307(3), (4), substituted "urban renewal" for "project" wherever the latter term appeared, and struck out the proviso which restricted the demolition of residential structures with respect to contracts entered into prior to July 1, 1951, "in view of the existing acute housing shortage".

Change of Name

The name of the Committee on Banking and Currency of the Senate was changed to Committee on Banking, Housing and Urban Affairs by Senate Resolution 4, approved Feb. 4, 1977.

The name of the Committee on Banking and Currency of the House of Representatives was changed to Committee on Banking, Finance and Urban Affairs, effective Jan. 4, 1977, by House Resolution 5, 95th Congress.

Effective Date of 1966 Amendment

Section 703(b) of Pub. L. 89-754 provided that: "The amendment made by subsection (a) [adding subsec. (f) of this section] shall apply only in the case of contracts for loans or capital grants which are made with respect to urban renewal projects undertaken pursuant to urban renewal plans approved after the date of the enactment of this Act [Nov. 3, 1966]."

Effective Date of 1965 Amendment

Section 305(c) of Pub. L. 89-117 provided that: "The requirements imposed by the amendment made by subsection (a) of this section [amending subsec. (c) of this section] shall not be applicable to any project which received Federal recognition prior to the date of the enactment of this Act [Aug. 10, 1965]."

Relocation of Displaced Individuals

Section 305(a)(2) of Pub. L. 88-560 provided that: "The requirement imposed by the amendments made

by paragraph (1) [which substituted "individuals and families" for "families" wherever appearing in subsec. (c)] shall not be applicable to any project receiving Federal recognition prior to the date of the enactment of this Act [Sept. 2, 1964]."

CROSS REFERENCES

"Public hearing" requirements of subsection (d) of this section as not applicable to disaster areas, see section 1462 of this title.

"Relocation" requirements of subsection (c) of this section not applicable to disaster areas, see section 1462 of this title.

Urban renewal plan, requirement of conformance to a general plan of the locality not applicable to disaster areas, see section 1462 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1462, 1464, 1469c, 3307 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 5-717a of the District of Columbia Code.

§ 1455a. Repealed. Pub. L. 93-383, title II, § 204, Aug. 22, 1974, 88 Stat. 668

Section, act Aug. 2, 1954, ch. 649, title VIII, § 815, 68 Stat. 647, required the submission of specifications by applicants prior to the award of any contract for the construction of a project and the submission of data with respect to the acquisition of land prior to authorization to purchase such land.

§ 1456. Secretary's powers and duties

(a) Preparation and submission of annual budget; maintenance and audit of accounts

In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act, as amended [31 U.S.C. 841 et seq.];

(2) maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial transactions as provided by the Government Corporation Control Act, as amended [31 U.S.C. 841 et seq.], and no other audit shall be required: *Provided*, That such financial transactions of the Secretary as the making of advances of funds, loans, or grants and vouchers approved by the Secretary in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

(b) Deposit of funds; use of assets and receipts

Funds made available to the Secretary pursuant to the provisions of this subchapter shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of his functions under this subchapter shall be available for any of the purposes of this subchapter (except for grants pursuant to section 1453 of this title), and all funds available for carrying out the functions of the Secretary under this subchapter (including appropriations therefor, which are authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions: *Provided*, That necessary expenses of inspections and audits, and of providing representatives at the site, of projects being planned or undertaken by local public agencies pursuant to this subchapter shall be compensated by such agencies by the payment of fixed fees which in the aggregate will cover the costs of rendering such services, and such expenses shall be considered nonadministrative; and for the purpose of providing such inspections and audits and of providing representatives at the sites, the Secretary may utilize any agency and such agency may accept reimbursement or payment for such services from such local public agencies or the Secretary, and credit such amounts to the appropriations or funds against which such charges have been made.

(c) Specific powers, duties, and liabilities

In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter, the Secretary, notwithstanding the provisions of any other law, may—

(1) sue and be sued;

(2) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any project or part thereof in connection with which he has made a loan or capital grant pursuant to this subchapter. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, dispose of, and otherwise deal with, such project or part thereof: *Provided*, That any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(3) enter into agreements to pay annual sums in lieu of taxes to any State or local taxing authority with respect to any real property so acquired or owned, and such sums shall approximate the taxes which would be paid upon such property to the State or local taxing authority, as the case may be, if such property were not exempt from taxation;

(4) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(5) obtain insurance against loss in connection with property and other assets held;

(6) subject to the specific limitations in this subchapter, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of grant, or any other term, of any contract or agreement to which he is a party or which has been transferred to him pursuant to this subchapter;

(7) include in any contract or instrument made pursuant to this subchapter such other

covenants, conditions, or provisions (including such covenants, conditions, or provisions as, in the determination of the Secretary, are necessary or desirable to prevent the payment of excessive prices for the acquisition of land in connection with projects assisted under this subchapter) as he may deem necessary to assure that the purposes of this subchapter will be achieved. No provision of this subchapter shall be construed or administered to permit speculation in land holding; and

(8) make advance or progress payments on account of any grant contracted to be made pursuant to this subchapter, notwithstanding the provisions of section 529 of title 31, or any other provisions of this subchapter.

(d) Repealed. Pub. L. 89-754, title X, § 1020(a), Nov. 3, 1966, 80 Stat. 1295

(e) Limitation on expenditures within one State

Not more than 12½ per centum of the grant funds provided for in this subchapter shall be expended in any one State: *Provided,* That the Secretary, without regard to such limitation, may enter into contracts for grants aggregating not to exceed $100,000,000 (subject to the total authorization provided in section 1453(b) of this title) with local public agencies in States where more than two-thirds of the maximum grants permitted in the respective State under this subsection has been obligated.

(f) Repealed. Pub. L. 88-560, title III, § 310(c), Sept. 2, 1964, 78 Stat. 790

(g) Construction of hotels and other transient housing

No provision permitting the new construction of hotels or other housing for transient use in the redevelopment of any urban renewal area under this subchapter shall be included in the urban renewal plan unless the community in which the project is located, under regulations prescribed by the Secretary, has caused to be made a competent independent analysis of the local supply of transient housing and as a result thereof has determined that there exists in the area a need for additional units of such housing.

(h) Redevelopment in accordance with urban renewal plan

Notwithstanding any other provision of this subchapter, no contract shall be entered into for any loan or capital grant under this subchapter with any local public agency establishes, by evidence satisfactory to the Secretary, that any urban renewal project with respect to which such local public agency has received a loan or capital grant under this subchapter has been, or will be, undertaken and carried out in substantial accordance with the urban renewal plan, and any amendments thereto, approved with respect to such project, and the terms of the contract for loan or capital grant covering such project.

(i) Early closeout of urban renewal projects; project completion prior to disposition of certain property; additional grant based on estimated disposition proceeds; approval of disposition; payment of net proceeds to Secretary

Upon determination of the Secretary that the local public agency does not expect to be able in the reasonably near future, due to circumstances beyond its control, to dispose of urban renewal project land acquired in accordance with the urban renewal plan and that all other project activities are completed except local grant-in-aid activities designated in the third proviso to section 1460(d) of this title under the conditions specified therein, and that a closeout of the urban renewal project pursuant to this subsection would be in the financial interest of the Federal Government, the urban renewal project may be deemed completed, net project cost may be computed, and the capital grant paid. To facilitate these actions, the Secretary may pay to the local public agency a grant, in addition to the capital grant otherwise payable, equal to one-third (or one-fourth in the case of projects funded on the three-fourths capital grant basis) of the estimated disposition proceeds of such land as accepted by the Secretary. No local grant-in-aid shall be required on account of this additional grant. The approval of the Secretary shall be obtained prior to the disposition of such land by the local public agency and net proceeds realized from the disposition of such land after project closeout shall be paid to the Secretary by the local public agency.

(July 15, 1949, ch. 338, title I, § 106, 63 Stat. 417; June 3, 1952, ch. 362, 66 Stat. 98; June 30, 1953, ch. 170, § 22, 67 Stat. 127; Aug. 2, 1954, ch. 649, title III, § 308, title VIII, § 802(e), 68 Stat. 625, 643; Aug. 11, 1955, ch. 783, title I, § 106(b), 69 Stat. 637; Aug. 7, 1956, ch. 1029, title III, § 304, 305, 70 Stat. 1100; July 12, 1957, Pub. L. 85-104, title III, §§ 303, 304, 71 Stat. 300; Sept. 23, 1959, Pub. L. 86-372, title IV, §§ 408, 409(a)(1), (b), 410, 417(1), 73 Stat. 673, 674, 676; June 30, 1961, Pub. L. 87-70, title III, § 304, 75 Stat. 167; Sept. 2, 1964, Pub. L. 88-560, title III, § 310(c), 78 Stat. 790; Aug. 10, 1965, Pub. L. 89-117, title III, § 306, 79 Stat. 476; Nov. 3, 1966, Pub. L. 89-754, title X, § 1020(a), 80 Stat. 1295; May 25, 1967, Pub. L. 90-19, § 6(b), (e), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90-448, title V, § 508(a), 82 Stat. 522; Dec. 31, 1970, Pub. L. 91-609, title II, § 213(a), 84 Stat. 1779.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in subsec. (a)(1), (2), is act Dec. 6, 1945, ch. 557, 59 Stat. 597, as amended, which is classified generally to chapter 14 (§ 841 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 841 of Title 31 and Tables volume.

AMENDMENTS

1970—Subsec. (i). Pub. L. 91-609 deleted provision respecting a determination that not more than 5 per centum of the total area of land acquired as part of an urban renewal project remains to be disposed of and that the local public agency has agreed to dispose of or retain the land for uses in accordance with the urban renewal plan, provided for early closeout of such urban renewal projects, required disposition in the "reasonably" near future, excepted local grant-in-aid activities designated in third proviso to section

1460(d) of this title under the conditions specified therein, provided for addition grant based on estimated disposition proceeds, required approval of Secretary for disposition of land, and payment of net proceeds to Secretary.

1968—Subsec. (i). Pub. L. 90-448 added subsec. (i).

1967—Pub. L. 90-19, § 6(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) to (c), (c)(2), (7), (e), (g), and (h) of this section.

Subsec. (a)(1) to (3). Pub. L. 90-19, § 6(e), struck out former par. (1) authorization for appointment of a Director to administer the provisions of this Subchapter and to be compensated at rate established for heads of constituent agencies of the Housing and Home Finance Agency and redesignated pars. (2) and (3) as (1) and (2), respectively.

1966—Subsec. (d). Pub. L. 89-754 repealed requirement that urban renewal contracts which exceed $1,000 may be made only after advertising for bids, now covered by section 5 of Title 41, Public Contracts.

1965—Subsec. (h). Pub. L. 89-117 added subsec. (h).

1964—Subsec. (f). Pub. L. 88-560 deleted subsec. (f) which related to relocation payments and to contract provisions.

1961—Subsec. (f)(2). Pub. L. 87-70 included payments to nonprofit organizations, substituted "$3,000 (or, if greater, the total certified actual moving expenses) in the case of a business concern or nonprofit organization" for "$3,000 in the case of a business concern," and inserted words "and actual direct losses of property" following "necessary moving expenses".

1959—Subsec. (a)(3). Pub. L. 86-372, § 417(1), substituted "or grants and vouchers" for "or capital grants and vouchers".

Subsec. (b). Pub. L. 86-372, § 417(1), substituted "except for grants" for "except for capital grants".

Subsec. (c)(6). Pub. L. 86-372, § 417(1), substituted "amount of grant" for "amount of capital grant".

Subsec. (c)(8). Pub. L. 86-372, § 417(1), substituted "any grant contracted" for "any capital grant contracted".

Subsec. (e). Pub. L. 86-372, §§ 408, 417(1), substituted "Not more than 12½ per centum of the grant funds provided for in this subchapter shall be expended" for "Not more than 12½ per centum of the funds provided for in this subchapter, either in the form of loans or grants, shall be expended", "contracts for grants" for "contracts for capital grants", and "maximum grants" for "maximum capital grants".

Subsec. (f)(2). Pub. L. 86-372, §§ 409(a)(1), (b), substituted provisions defining relocation payments as payments by a local public agency resulting from displacement from an urban renewal area made necessary by the acquisition of real property by a local public agency or by any other public body, by code enforcement activities undertaken in connection with an urban renewal project, or by a program of voluntary rehabilitation of buildings or other improvements in accordance with an urban renewal plan for provisions which defined relocation payments as payments by a local public agency resulting from displacement by an urban renewal project included in an urban renewal area respecting which a contract for capital grant has been executed under this subchapter, inserted proviso prohibiting such payments after completion of the project or if completion is deferred solely for the purpose of obtaining further relocation payments, and increased the maximum payments for individuals and families from $100 to $200 and for business concerns from $2,500 to $3,000.

Subsec. (g). Pub. L. 86-372, § 410, added subsec. (g).

1957—Subsec. (e). Pub. L. 85-104, § 303, substituted "12½ per centum" for "10 per centum".

Subsec. (f)(2). Pub. L. 85-104, § 304, increased maximum business relocation payments from $2,000 to $2,500 and authorized payments to individuals and families of fixed amounts in lieu of their reasonable moving expenses.

1956—Subsec. (e). Act Aug. 7, 1956, § 304, substituted "$100,000,000" for "$70,000,000".

Subsec. (f). Act Aug. 7, 1956, § 305, added subsec. (f).

1955—Subsec. (e). Act Aug. 11, 1955, increased the limitation on contracts for capital grants from $35,000,000, to $70,000,000.

1954—Subsec. (a)(4). Act Aug. 2, 1954, § 802(e), repealed provisions of par. (4), which related to submission of annual reports to the President and Congress. See now section 1701(o) of Title 12, Banks and Banking.

Subsec. (b). Act Aug. 2, 1954, § 308, added the proviso relating to necessary expenses of inspections and audits, and to providing representatives at the site, of projects.

1953—Subsec. (e). Act June 30, 1953, added the proviso.

1952—Subsec. (c)(8). Act June 3, 1952, added par. (8).

RELOCATION PAYMENTS FOR EXPENSES OR LOSSES INCURRED PRIOR TO SEPTEMBER 23, 1959

Section 409(a)(2) of Pub. L. 86-372 prohibited relocation payments under subsec. (f) of this section for expenses or losses incurred prior to Sept. 23, 1959, except to the extent that such payments were authorized by such section as it existed prior to such date.

STUDY OF HOUSING AND BUILDING CODES, ZONING, TAX POLICIES, AND DEVELOPMENT STANDARDS

Pub. L. 91-609, title V, § 503(5), Dec. 31, 1970, 84 Stat. 1786, repealed Pub. L. 89-117, title III, § 301, Aug. 10, 1965, 79 Stat. 474, as amended by Pub. L. 90-19, § 22(a), (d), May 25, 1967, 81 Stat. 26, 27; Pub. L. 90-118, Oct. 31, 1967, 81 Stat. 338, providing for study of housing and building codes, zoning, tax policies, and development standards, effective July 1, 1971.

FEDERAL RULES OF CIVIL PROCEDURE

Capacity to sue or be sued, see rule 17(b), Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453, 1468, 1468a, 1469c of this title; title 12 section 1701z-4.

§ 1457. Property to be used for public housing or housing for low or moderate income families or individuals

(a) Upon approval of the Secretary and subject to such conditions as he may determine to be in the public interest, any real property held as part of an urban renewal project may be made available to (1) a limited dividend corporation, nonprofit corporation or association, cooperative, or public body or agency or other approved purchaser or lessee, or (2) a purchaser or lessee who would be eligible for a mortgage insured under section 1715*l*(d)(3) or (d)(4), section 1715*l*(h)(1), section 1715z(j)(1), or section 1715z-1 of title 12, for purchase or lease at fair value for use by such purchaser or lessee in the provision of new or rehabilitated housing for occupancy by families or individuals of low or moderate income: *Provided*, That when property is made available under clause (1) to an approved purchaser or lessee other than a limited dividend corporation, nonprofit corporation or association, cooperative, or public body or agency, the Secretary shall assure that the benefits of this subsection will go to the occupant of the property rather than to such purchaser or lessee.

(b) When it appears in the public interest that real property acquired as part of an urban renewal project should be used in whole or in part for a low-rent housing project assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], or under a State or local program found by the Secretary to have

the same general purposes as the Federal program under such Act, the property shall be made available to the public housing agency undertaking the low-rent housing project at a price equal to its fair value, as determined in accordance with subsection (a) of this section, and such amount shall be included as part of the development cost of such low-rent housing project: *Provided*, That the local contribution in the form of tax exemption or tax remission required by section 10(h) of such Act [42 U.S.C. 1410(h)], or by analogous provisions in legislation authorizing such State or local program, with respect to the low-rent housing project into which such property was incorporated on or after September 23, 1959, shall (if covered by a contract which, in the determination of the Secretary of Housing and Urban Development, will assure that such local contribution will be made during the entire period that the project is used as low-rent housing within the meaning of such Act, or by provisions found by the Secretary to give equivalent assurance in the case of State or local programs) be accepted as a local grant-in-aid equal in amount, as determined by the Secretary, to one-half (or one-third in the case of an urban renewal project on a three-fourths capital grant basis) of the difference between the cost of such property (including costs of land, clearance, site improvements, and a share, prorated on an area basis, of administrative, interest, and other project costs) and its sales price, and shall be considered a local grant-in-aid furnished in a form other than cash within the meaning of section 1460(d) of this title.

(July 15, 1949, ch. 338, title I, § 107, 63 Stat. 419; Aug. 2, 1954, ch. 649, title III, § 309, 68 Stat. 626; Sept. 23, 1959, Pub. L. 86-372, title IV, § 411, 73 Stat. 674; June 30, 1961, Pub. L. 87-70, title III, § 306(a), 75 Stat. 168; Sept. 2, 1964, Pub. L. 88-560, title III, § 306, 78 Stat. 786; May 25, 1967, Pub. L. 90-19, § 6(b), (f), 81 Stat. 21, 22; Aug. 1, 1968, Pub. L. 90-448, title V, § 505, 82 Stat. 522.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (b), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables volume.

Section 10(h) of such Act, referred to in subsec. (b), is a reference to section 10(h) of the United States Housing Act of 1937 prior to the general revision of the Act by Pub. L. 93-383. Provisions of former section 10(h) are now covered by section 6(d) of the Act which is classified to section 1437(d) of this title.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-448 authorized real property to be made available to an approved purchaser or lessee, to a purchaser who would be eligible for a mortgage insured under sections 1715*l*(h)(1), 1715z(j)(1), or 1715z-1 of title 12, to a lessee who would be eligible for a mortgage insured under sections 1715*l*(d)(3), (4), (h)(1), 1715z(j)(1) or 1715z-1 of title 12, permitted such housing to be occupied by families or individuals of low income, directed the Secretary to assure that the benefits of this subsection will go to the occupant of the property rather than to such purchaser or lessee when property is made available under clause (1) to an approved purchaser or lessee other than a limited dividend corporation, nonprofit corporation or association, cooperative, or public body or agency, and eliminated provisions which related to new or rehabilitated rental or cooperative housing.

1967—Pub. L. 90-19, § 6(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

Subsec. (b). Pub. L. 90-19, § 6(f), substituted "Secretary of Housing and Urban Development" for "Public Housing Commissioner".

1964—Pub. L. 88-560 provided that property held as part of an urban renewal project may be made available to purchasers eligible for a mortgage insured under section 1715*l*(d)(3) of title 12, and that the price of property made available to a public housing agency undertaking the construction of a low-rent housing project shall be equal to its fair value as determined in accordance with subsec. (a) of this section, and eliminated provisions setting the price of the site to be made available to the public housing agency undertaking the low-rent housing project equal to the fair value of land to a private redeveloper who wants a site in the community for private rental housing with physical characteristics similar to those of the low-rent project and including such amount as part of the development cost of the low-rent project.

1961—Pub. L. 87-70 substituted "Property to be used for public housing or housing for moderate income families" for "Payment for land used in low-rent housing projects" in the section catchline, designated existing provisions as subsec. (a), substituted therein "land acquired as a part of an urban renewal project" for "land to be acquired as a part of an urban renewal project", and "was incorporated on or after September 23, 1959," for "is incorporated", and added subsec. (b).

1959—Pub. L. 86-372 substituted "When it appears in the public interest that land to be acquired as part of an urban renewal project should be used in whole or in part as a site for a low-rent housing project assisted under the United States Housing Act of 1937, as amended, or under a State or local program found by the Administrator to have the same general purposes as the Federal program under such Act, the site shall be made available to the public housing agency undertaking the low-rent housing project at a price equal to the fair value of land to a private redeveloper who wants to buy a site in the community for private rental housing with physical characteristics similar to those of the proposed low-rent housing project" for "If the land for a low-rent housing project assisted under the United States Housing Act of 1937, as amended, is made available from a project assisted under this subchapter, payment equal to the fair value of the land for the uses specified in accordance with the urban renewal plan shall be made therefor by the public housing agency undertaking the housing project", and inserted proviso relating to tax exemption and tax remission.

1954—Act Aug. 2, 1954, substituted "urban renewal plan" for "redevelopment plan".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453, 1460 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 5-717a of the District of Columbia Code.

§ 1458. Disposition of surplus Federal real property; sale at fair market value; disposition of net proceeds

The President may at any time in his discretion, transfer, or cause to be transferred, to the Secretary any right, title, or interest held by the Federal Government or any department or agency thereof in any land (including buildings thereon) which is surplus to the needs of the Government and which a local public agency

certifies will be within the area of a project being planned by it. When such land is sold to the local public agency by the Secretary, it shall be sold at a price equal to its fair market value, and the net proceeds from such sale shall be covered into the Treasury as miscellaneous receipts.

(July 15, 1949, ch. 338, title I, § 108, 63 Stat. 419; May 25, 1967, Pub. L. 90-19, § 6(b), 81 Stat. 21; Dec. 31, 1970, Pub. L. 91-609, title II, § 206, 84 Stat. 1777.)

AMENDMENTS

1970—Pub. L. 91-609 substituted "net proceeds" for "proceeds".

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

DELEGATION OF FUNCTIONS

Authority of the President under this section to transfer, or cause to be transferred, to the Secretary of Housing and Urban Development any right, title or interest held by the Federal Government or any department or agency thereof in any land (including buildings thereon) which is surplus to the needs of the Government and which a local public agency certifies will be within the area of a project being planned by it, delegated to the Administrator of General Services, see section 1(21) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

CROSS REFERENCES

Disposition of surplus property, see section 484 of Title 40, Public Buildings, Property, and Works.

Proceeds from transfer, sale, etc. of property, see section 485 of Title 40.

§ 1459. Protection of labor standards

In order to protect labor standards—

(a) any contract for loan or capital grant pursuant to this subchapter shall contain a provision requiring that not less than the salaries prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development of the project involved and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act [40 U.S.C. 276a et seq.], shall be paid to all laborers and mechanics, except such laborers or mechanics who are employees of municipalities or other local public bodies, employed in the development of the project involved for work financed in whole or in part with funds made available pursuant to this subchapter; and the Secretary shall require certification as to compliance with the provisions of this paragraph prior to making any payment under such contract; and

(b) the provisions of section 874 of title 18, and of section 276c of title 40, shall apply to work financed in whole or in part with funds made available for the development of a project pursuant to this subchapter.

(July 15, 1949, ch. 338, title I, § 109, 63 Stat. 419; Aug. 2, 1954, ch. 649, title III, § 310, 68 Stat. 626; May 25, 1967, Pub. L. 90-19, § 6(b), 81 Stat. 21.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in subsec. (a), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

1954—Subsec. (a). Act Aug. 2, 1954, made it clear that the labor standards apply only to development work financed in whole or in part with funds under this subchapter, and excepted from the prevailing wage requirements laborers or mechanics who are employees of municipalities or other local public bodies.

Subsec. (b). Act Aug. 2, 1954, substituted "work financed in whole or in part with funds made available for the development of a project pursuant to this subchapter" for "any project financed in whole or in part with funds made available pursuant to this subchapter".

Subsec. (c). Act Aug. 2, 1954, in a general amendment of the section, omitted subsec. (c) which required contractors to submit monthly reports to the Secretary of Labor.

ENFORCEMENT OF LABOR STANDARDS

Labor standards under provisions of this section to be prescribed and enforced by Secretary of Labor, see Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1460, 3310 of this title.

§ 1460. Definitions

The following terms shall have the meanings, respectively, ascribed to them below, and, unless the context clearly indicates otherwise, shall include the plural as well as the singular number:

(a) "Urban renewal area" means a slum area or a blighted, deteriorated, or deteriorating area in the locality involved which the Secretary approves as appropriate for an urban renewal project.

(b) "Urban renewal plan" means a plan, as it exists from time to time, for an urban renewal project, which plan (1) shall conform to the general plan of the locality as a whole and to the workable program referred to in section 1451 of this title and shall be consistent with definite local objective respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements; and (2) shall be sufficiently complete to indicate, to the extent required by the Secretary for the making of loans and grants under this subchapter, such lands acquisition, historic and architectural preservation, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, and building requirements.

(c) "Urban renewal project" or "project" may include undertakings and activities of a local public agency in an urban renewal area for the elimination and for the prevention of the devel-

opment or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof, in accordance with such urban renewal plan. Such undertakings and activities may include—

(1) acquisition of (i) a slum area or a deteriorated or deteriorating area, or (ii) land which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community, or (iii) open land necessary for sound community growth which is to be developed for predominantly residential uses, or (iv) air rights in an area consisting principally of land in highways, railway or subway tracks, bridge or tunnel entrances, or other similar facilities which have a blighting influence on the surrounding area and over which air rights sites are to be developed for the elimination of such blighting influences and for the provision of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income or, if the area is found by the local public agency to be unsuitable for use for low or moderate income housing, for use for the development of industrial or educational facilities, or (v) land or space which is vacant, unused, underused, or inappropriately used (including[1] infrequently used rail yards and rail storage facilities, and excessive or vacated railroad rights-of-way; air rights over streets, expressways, railroads, waterways, and similar locations; land which is occupied by functionally obsolete nonresidential buildings or is used for low-utility purposes or is covered by shallow water or is subject to periodic flooding or consists of unused or underused slips or dock areas or other waterfront property; which land or space the Secretary determines may be developed (at a cost reasonably related to the public purpose to be served) without major residential clearance activities, and with full consideration to the preservation of beneficial aspects of the urban and natural environment, for such uses as are consistent with emphasis on housing for low- and moderate-income families, including the provision of schools, hospitals, parks, and other essential public facilities, and, where appropriate, all uses associated with new communities in town or similar large scale undertakings related to inner city needs, including concentrated sources of employment: *Provided*, That the requirement in paragraph (a) of this section that the area be a slum area or a blighted, deteriorated or deteriorating area shall not be applicable in the case of projects under clauses (iii), (iv), and (v) hereof: *Provided further*, That the aggregate amount of capital grants for projects under clause (iv) shall not exceed 5 per centum of the aggregate amount of grants authorized by this subchapter to be contracted for after September 2, 1964;

(2) demolition and removal of buildings and improvements;

(3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, pedestrian malls and walkways (including in the case of an enclosed mall or walkway any necessary roofs, walls, columns, lighting, and climate control facilities), and other improvements necessary for carrying out in the urban renewal area the urban renewal objectives of this subchapter in accordance with the urban renewal plan;

(4) disposition of any property acquired in the urban renewal area (including sale, leasing or retention by the local public agency itself) at its fair value for uses in accordance with the urban renewal plan or as provided in section 1457 of the title;

(5) carrying out plans for programs of code enforcement or voluntary repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan;

(6) acquisition of any other real property in the urban renewal area where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses deterimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, to promote historic and architectural preservation, or to provide land for needed public facilities;

(7) construction of foundations and platforms necessary for the development of air rights sites in accordance with the provisions of clause (iv) or (v) of paragraph (1) of this subsection.

(8) acquisition and repair or rehabilitation for resale by the local public agency, of structures which are located in the urban renewal area and which, under the urban renewal plan, are to be repaired or rehabilitated for dwelling use or related facilities;

(9) relocation within or outside the project area of structures which will be restored and maintained for architectural or historic purposes; and

(10) restoration of acquired properties of historic or architectural value.

Notwithstanding any other provision of this subchapter, (A) no contract shall be entered into for any loan or capital grant under this subchapter for any project which provides for demolition and removal of buildings and improvements unless the Secretary determines that the objectives of the urban renewal plan could not be achieved through rehabilitation of the project area, and (B) not less than 10 per centum of the aggregate amount of (i) grants authorized to be contracted for under this subchapter by the Housing and Urban Development Act of 1965 and subsequent Acts, and (ii) loans authorized to be made under section 1452b of this title, shall be available for projects assisted with such grants or loans which involve primarily code enforcement and rehabilitation.

For the purposes of this subchapter, the term "project" shall not include (except as provided in paragraph (3) with respect to enclosed pedestrian malls and walkways and as provided in paragraphs (7), (8), (9), and (10) above) the construction or improvement of any building, and

[1]So in original. There is no closing parenthesis.

the term "redevelopment" and derivatives thereof shall mean development as well as redevelopment. For any of the purposes of section 1459 of this title, the term "project" shall not include any donations or provisions made as local grants-in-aid and eligible as such pursuant to clauses (2) and (3) of subsection 1460(d) of this title.

Financial assistance shall not be extended under this subchapter with respect to any urban renewal area which is not predominantly residential in character and which, under the urban renewal plan therefor, is not to be redeveloped for predominantly residential uses: *Provided,* That, if the governing body of the local public agency determines that the redevelopment of such an area for predominantly nonresidential uses is necessary for the proper development of the community, the Secretary may extend financial assistance under this subchapter for such a project: *Provided further,* That the aggregate amount of capital grants contracted to be made pursuant to this subchapter with respect to such projects after September 23, 1959 shall not exceed 30 per centum of the aggregate amount of grants authorized by this subchapter to be contracted for after such date: *And provided further,* That the aggregate amount of capital grants made available under this subchapter with respect to such projects after August 10, 1965, may be in an amount not to exceed (in addition to amounts previously available for such projects) 35 per centum of the amount of additional capital grants authorized under this subchapter by the Housing and Urban Development Act of 1965.

In addition to all other powers hereunder vested, where land within the purview of clause (1)(ii) or (1)(iii) of the first paragraph of this subsection (whether it be predominantly residential or nonresidential in character) is to be redeveloped for predominantly nonresidential uses, loans and advances under this subchapter may be extended therefor if the governing body of the local public agency determines that such redevelopment for predominantly nonresidential uses is necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives and to afford maximum opportunity for the redevelopment of the project area by private enterprise: *Provided,* That loans and outstanding advances to any local public agency pursuant to the authorization of this sentence shall not exceed 2½ per centum of the estimated gross project costs of the projects undertaken under other contracts with such local public agency pursuant to this subchapter.

(d) "Local grants-in-aid" shall mean assistance by a State, municipality, or other public body, or (in the case of cash grants or donations of land or other real property) any other entity, in connection with any project on which a contract for capital grant has been made under this subchapter, in the form of (1) cash grants to defray expenditures within the purview of subsection (e)(1) of this section; (2) donations, at cash value, of land or other real property (exclusive of land in streets, alleys, and other public rights-of-way which may be vacated in connection with the project, or of air rights over streets, alleys, and other public rights-of-way) in the urban renewal area, and demolition, removal, or other work or improvements in the urban renewal area, at the cost thereof, of the types described in clauses (2), (3), (7), (9), and (10) of the second sentence of subsection (c) of this section; and (3) the provision, at their cost, of public buildings or other public facilities (other than publicly owned housing and revenue producing public utilities the capital cost of which is wholly financed with local bonds or obligations payable solely out of revenues derived from service charges) which are necessary for carrying out in the area the urban renewal objectives of this subchapter in accordance with the urban renewal plan: *Provided,* That in any case where, in the determination of the Secretary, any park, playground, public building, or other public facility is of direct benefit both to the urban renewal area and to other areas, and the approximate degree of the benefit to such other areas is estimated by the Secretary at 20 per centum or more of the total benefits, the Secretary shall provide that, for the purpose of computing the amount of the local grants-in-aid for the project, there shall be included only such portion of the cost of such facility as the Secretary estimates to be proportionate to the approximate degree of the benefit of such facility to the urban renewal area: *Provided further,* That any publicly owned facility, the construction of which was begun not earlier than three years prior to November 3, 1966, shall be deemed to benefit an urban renewal project or projects to the extent of 25 per centum of the total benefits of such facility, or $3,500,000, whichever is less, if such facility (A)(i) is used, or is to be used, by the public predominantly for cultural, exhibition, or civic purposes, or is a city hall or a public safety building, or (ii) is a facility, constructed or rehabilitated by or on behalf of a public university, which is or will be devoted to the treatment of physical or mental disabilities and illness or to medical research; (B) is located within, adjacent to, or in the immediate vicinity of such urban renewal project or projects; (C) is found to contribute materially to the objectives of the urban renewal plan or plans for such project or projects; and (D) is not otherwise eligible as a local grant-in-aid: *And provided further,* That for the purpose of computing the amount of local grants-in-aid under this subsection with respect to any project covered by a Federal-aid contract under this subchapter, the estimated cost (as determined by the Secretary) of parks, playgrounds, public buildings, or other public facilities may be deemed to be the actual cost thereof if (i) the construction or provision thereof is not completed at the time of final disposition of land in the project to be acquired and disposed of under the urban renewal plan, and (ii) the Secretary has received assurances satisfactory to him that such park, playground, public building, or other public facility will be constructed or completed when needed and within a time prescribed by him: *And provided further,* That in any case where a public facility furnished as a local grant-in-aid is financed in whole or in part by special assessments against real property in the project area acquired by the local public agency as part of

the project, an amount equal to the total special assessments against such real property (or, in the case of a computation pursuant to the proviso immediately preceding, the estimated amount of such total special assessments) shall be deducted from the cost of such facility for the purpose of computing the amount of the local grants-in-aid for the project. With respect to any demolition or removal work, improvement or facility for which a State, municipality, or other public body has received or has contracted to receive any grant or subsidy from the United States, or any agency or instrumentality thereof, the portion of the cost thereof defrayed or estimated by the Secretary to be defrayed with such subsidy or grant shall not be eligible for inclusion as a local grant-in-aid.

Notwithstanding any other provision of this subsection (except the second sentence of this paragraph), no donation or provision of a public improvement or public facility of a type falling within the purview of this subsection shall be deemed to be ineligible as a local grant-in-aid for any project solely on the basis that the construction of such improvement of facility was commenced without notification to the Secretary or prior to Federal recognition of such project, if such construction was commenced not more than three years prior to the authorization by the Secretary of a contract for loan or capital grant for the project. In connection with any project for which an application is filed not later than December 24, 1969 and which has not received Federal recognition (other than a project to which clause (2) of the second sentence of section 1469b(a) of this title applies), the three-year period referred to above shall be extended to a period of four years prior to the authorization by the Secretary of a contract for loan or capital grant for the project.

Where a project in any municipality includes an area affected by an underground mine fire or by a coal mine subsidence and where it is necessary in such project to remove any underlying coal deposits in order to stabilize the soil or to control the underground mine fire, then any royalties received by the project from the removal and sale of such coal deposits shall be credited to the project as a local grant-in-aid made by such municipality.

(e) "Gross project cost" shall comprise (1) the amount of the expenditures by the local public agency with respect to any and all undertakings necessary to carry out the project (including the payment of carrying charges, but not beyond the point where the project is completed), and (2) the amount of such local grants-in-aid as are furnished in forms other than cash. There may be included as part of the gross project cost, under any contract for loan or grant heretofore or hereafter executed under this subchapter with respect to moneys of the local public agency which are actually expended and outstanding for undertakings (other than in the form of local grants-in-aid) necessary to carry out the project, in the absence of carrying charges on such moneys, an amount in lieu of carrying charges which might otherwise have been payable thereon for the period such moneys are expended and outstanding but not beyond the point where the project is completed, computed for each six-month period or portion thereof, at an interest rate to be determined by the Secretary after taking into consideration for each preceding six-month period the average interest rate borne by any obligations of local public agencies for short-term funds obtained from sources other than the Federal Government in the manner provided in section 1452(c) of this title: *Provided*, That such amount may be computed on the net total of all such moneys of the local public agency remaining expended and outstanding, less other moneys received from the project undertaken in excess of project expenditures, in all projects of the local public agency under this subchapter, and allocated, as the Secretary may determine, to each of such projects. With respect to a project for which a contract for capital grant has been executed on a three-fourths basis pursuant to section 1453(a)(2)(C) of this title, gross project cost shall include, in lieu of the amount specified in clause (1) above, the amount of the expenditures by the local public agency with respect to the following undertakings and activities necessary to carry out such project:

(i) acquisition of land (but only to the extent of the consideration paid to the owner and not title, appraisal, negotiating, legal, or any other expenditures of the local public agency incidental to acquiring land), disposition of land, staff services in connection with programs of code enforcement and voluntary rehabilitation and repair (including community organization), demolition and removal of buildings and improvements, and site preparation and improvements, all as provided in paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10) of subsection (c) of this section; and

(ii) the payment of carrying charges related to the undertakings in clause (i) (including amounts in lieu of carrying charges as determined above), exclusive of taxes and payments in lieu of taxes, but not beyond the point where such project is completed;

but not the cost of any other undertaking and activities (including, but without being limited to, the cost of surveys and plans, legal services of any kind, and all administrative and overhead expenses of the local public agency) with respect to such project. Where real property in the project area is acquired and is owned as part of the project by the local public agency and such property is not subject to ad valorem taxes by reason of its ownership by the local public agency and payments in lieu of taxes are not made on account of such property, there may (with respect to any project for which a contract of Federal assistance under this subchapter is in force or is hereafter executed, other than a project on which a contract for capital grant is made on a three-fourths basis pursuant to section 1453(a)(2)(C) of this title) be included, at the discretion of the Secretary, in gross project cost an amount equal to the ad valorem taxes which would have been levied upon such property if it had been subject to ad valorem taxes, but in all cases prorated for the period during which such property is owned by the local public agency as part of the project, and such amount shall also be considered a

cash local grant-in-aid within the purview of subsection (d) of this section. Such amount, and the amount of taxes or payments in lieu of taxes included in gross project cost, shall be subject to the approval of the Secretary and such rules, regulations, limitations, and conditions as he may prescribe.

Where a project includes the acquisition of property which has been damaged because of the collapse or subsidence of underlying coal mines, or underground mine fires, and the property is to be acquired from an individual, family, business concern, or nonprofit organization, which was the owner of such property at the time the damage first occurred, the amount otherwise allowable as the acquisition price of such property may be increased by an amount equal to so much of any diminution in the value of such property as is determined to be reasonably attributable to such damage and to represent an otherwise uncompensated and (but for such acquisition) uncompensable loss actually sustained by such owner.

(f) "Net project cost" shall mean the difference between the gross project cost and the aggregate of (1) the total sales prices of all land or other property sold, and (2) the total capital values (i) imputed, on a basis approved by the Secretary, to all land or other property leased, and (ii) used as a basis for determining the amounts to be transferred to the project from other funds of the local public agency to compensate for any land or other property retained by it for use in accordance with the urban renewal plan.

(g) "Going Federal rate" means (with respect to any contract for a loan or advance entered into after the first annual rate has been specified as provided in this sentence) the annual rate of interest which the Secretary of the Treasury shall specify as applicable to the six-month period (beginning with the six-month period ending December 31, 1953) during which the contract for loan or advance under this subchapter is authorized by the Secretary, which applicable rate for each six-month period shall be determined by the Secretary of the Treasury by estimating the average yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May or the month of November, as the case may be, next preceding such six-month period, on all outstanding marketable obligations of the United States having a maturity date of fifteen or more years from the first day of such month of May or November, and by adjusting such estimated average annual yield to the nearest one-eighth of 1 per centum. Any contract for a loan or advance, authorized by the Secretary after September 2, 1964, shall provide for a single interest rate which shall be applicable also to future amendments of the contract which provide additional funds thereunder, and shall further provide for a periodic revision of the interest rate on the balance outstanding or to be outstanding of such loan or advance based on the going Federal rate on the date of such revision: *Provided*, That any contract for a loan or advance authorized prior to September 2, 1964 shall be amended (with the first amendment to such contract authorized after September 2, 1964) to provide for such a single interest rate (based on the going Federal rate at the time such amendment is authorized) and for periodic revision thereof.

(h) "Local public agency" means any State, county, municipality, or other governmental entity or public body, or two or more such entities or bodies, authorized to undertake the project for which assistance is sought. The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the territories and possessions of the United States, and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

(i) "Land" means any real property, including improved or unimproved land, structures, improvements, easements, incorporeal hereditaments, estates, and other rights in land, legal or equitable.

(j) "Secretary" means the Secretary of Housing and Urban Development.

(k) "Federal recognition" means execution of any contract for financial assistance under this subchapter or concurrence by the Secretary in the commencement, without such assistance, of surveys and plans.

(July 15, 1949, ch. 338, title I, § 110, 63 Stat. 420; June 30, 1953, ch. 170, § 24(a), 67 Stat. 127; Aug. 2, 1954, ch. 649, title III, § 311, 68 Stat. 626; Aug. 11, 1955, ch. 783, title I, § 106(c), 69 Stat. 637; Aug. 7, 1956, ch. 1029, title III, 302(a)(2), (b)-(d), 70 Stat. 1097; July 12, 1957, Pub. L. 85-104, title III, §§ 302(3)-(5), 305, 306, 71 Stat. 300, 301; Sept. 23, 1959, Pub. L. 86-372, title IV, §§ 412-414(a), 415, 416, 417(3), 73 Stat. 675, 677; June 30, 1961, Pub. L. 87-70, title III, §§ 301(c), 306(b), 307, 308, 314(c), 75 Stat. 166, 168, 172; Sept. 2, 1964, Pub. L. 88-560, title III, §§ 301(b), (c), 303(b), 307-309, 311(a), 78 Stat. 785, 787, 788, 790; Aug. 10, 1965, Pub. L. 89-117, title III, §§ 307-309, 310(a), 311(b), 314(a), 79 Stat. 476-479; Nov. 3, 1966, Pub. L. 89-754, title VI, §§ 601, 602, title VII, §§ 701, 702, 80 Stat. 1278, 1280, 1281; May 25, 1967, Pub. L. 90-19, § 6(b), (g), 81 Stat. 21, 22; Aug. 1, 1968, Pub. L. 90-448, title V, §§ 504, 508(b), 511, title XVII, § 1722(a)-(c), 82 Stat. 521, 523, 524, 610; Dec. 24, 1969, Pub. L. 91-152, title II, §§ 202(a), 203(a), 204, 206, 83 Stat. 385-387; Dec. 31, 1970, Pub. L. 91-609, title II, § 213(b), title VII, § 741(c), title VIII, § 801(b), 84 Stat. 1779, 1805.)

References in Text

The Housing and Urban Development Act of 1965, referred to in provisions following par. (c)(10), is Pub. L. 89-117, Aug. 10, 1965, 79 Stat. 451, as amended. For complete classification of that Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

Codification

Another section 801(b) of Pub. L. 91-609 amended section 1484(a)(2) of this title.

Amendments

1970—Subsec. (c)(1). Pub. L. 91-609, § 801(b), addded cl. (v) and inserted in first proviso reference to such cl. (5).

Subsec. (c)(7). Pub. L. 91-609, § 741(c), substituted "Construction of foundations and platforms necessary for the development of air rights sites in accordance with the provisions of clause (iv) or (v) of paragraph (1) of this subsection" for "construction of founda-

tions and platforms necessary for the provision on air rights sites of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income, or construction of foundations and platforms necessary for the provision of air rights sites for the development of industrial or educational facilities".

Subsec. (f). Pub. L. 91-609, § 213(b), deleted "or for subsequent disposition or retention as provided under section 1456(i) of this title" following "urban renewal plan".

1969—Subsec. (c). Pub. L. 91-152, § 204, inserted reference to pedestrian malls and walkways in par. (3), and added the provision excepting par. (3), with respect to enclosed pedestrian malls and walkways, from the elements not to be included within the term "project".

Subsec. (d). Pub. L. 91-152, §§ 203(a), 206, added "or on behalf of" following "rehabilitated by", "(except the second sentence of this paragraph)" following "Notwithstanding any other provision of this subsection", and the provision extending the period of eligibility from three to four years of local grants-in-aid under the specified conditions.

Subsec. (h). Pub. L. 91-152, § 202(a), redefined the term "State" to include the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

1968—Subsec. (c)(1). Pub. L. 90-448, § 511(a), substituted "for use for the development of industrial or educational facilities" for "for use for industrial development" in cl. (iv).

Subsec. (c)(7). Pub. L. 90-448, § 511(b), substituted "for the development of industrial or educational facilities" for "for industrial development".

Subsec. (c)(8). Pub. L. 90-448, § 504, eliminated provisions which permitted acquisition and repair or rehabilitation for guidance purposes, and which prohibited the local public agency to acquire in any urban renewal area structures which contain or will contain more than one hundred dwelling units, or 5 per centum of the total number of dwelling units in such area which are to be repaired or rehabilitated, whichever is the lesser.

Subsec. (c). Pub. L. 90-448, § 1722(a), inserted paragraph following paragraph (10) in the parenthetical exception in the definition of project.

Subsec. (d). Pub. L. 90-448, § 1722(b), inserted a reference to paragraph (7) of the second sentence of subsection (c) of this section.

Subsec. (e). Pub. L. 90-448, § 1722(c), inserted a reference to paragraph (10) of subsection (c) of this section in cl. (i).

Subsec. (f). Pub. L. 90-448, § 508(b), inserted phrase "or for subsequent disposition or retention as provided under section 1456(i) of this title".

1967—Pub. L. 90-19, § 6(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a), (b), following (c)(10), (d) to (g), and (k) of this section.

Subsec. (j). Pub. L. 90-19, § 6(g), substituted definition of "Secretary" meaning the Secretary of Housing and Urban Development for "Administrator" meaning the Housing and Home Finance Administrator.

1966—Subsec. (b). Pub. L. 89-754, § 601(a), inserted "historic and architectural preservation," following "land acquisition,".

Subsec. (c)(1). Pub. L. 89-754, § 702(a), inserted in cl. (iv) provision, if area is found by local public agency to be unsuitable for use for low or moderate income housing, for use for industrial development.

Subsec. (c)(6). Pub. L. 89-754, § 601(b), inserted provision for promotion of historic and architectural preservation.

Subsec. (c)(7). Pub. L. 89-754, § 702(b), inserted provision for construction of foundations and platforms necessary for provision of air rights sites for industrial development.

Subsec. (c)(9). Pub. L. 89-754, § 601(c), substituted "relocation within or outside the project area of structures which will be restored and maintained for architectural or historic purposes" for "relocating within the project area a structure which the local public agency determines to be of historic value and which will be disposed of to a public body or a private nonprofit organization which will renovate and maintain such structure for historic purposes", now also covered in part by cl. (10) of this subsection.

Subsec. (c)(10). Pub. L. 89-754, § 601(c), added cl. (10).

Subsec. (d). Pub. L. 89-754, §§ 602, 701, included in cl. (2) references to cls. (9) and (10) of second sentence of subsec. (c) of this section, and authorized the Secretary of Housing and Urban Development to count as a local grant-in-aid credit 25 percent of expenditures for a publicly owned facility, the construction of which was begun not earlier than three years before Nov. 3, 1966, if such facility is to be used for cultural, exhibition, civic, or municipal purposes, is in or near the urban renewal project, contributes materially to the objectives of the urban renewal plan and is not otherwise eligible as a local grant-in-aid, respectively.

1965—Subsec. (c). Pub. L. 89-117, §§ 307, 308, 309(a), 311(b), deleted "or a program of code enforcement in an urban renewal area" preceding "or any combination" in the opening paragraph, struck out from par. (5) the proviso which prohibited programs of code enforcement to be included as part of urban renewal projects unless the locality agrees to increase its total expenditures for code enforcement, added par. (9), inserted "(A)" before "no contract" and added cl. (B) to the first unnumbered paragraph following the numbered paragraphs, substituted "paragraphs (7), (8), and (9)" for "paragraphs (7) and (8)" in the second unnumbered paragraph following the numbered paragraphs, and added the third proviso to the third unnumbered paragraph following the numbered paragraphs.

Subsec. (d). Pub. L. 89-117, § 314(a), added the last paragraph requiring local grant-in-aid credit for certain oil royalties.

Subsec. (e). Pub. L. 89-117, §§ 309(b), 310(a), inserted "staff services in connection with programs of code enforcement and voluntary rehabilitation and repair (including community organization)", and substituted "paragraphs (1), (2), (3), (4), (5), (6), (7), (8), and (9) of subsection (c) of this section" for "paragraphs (1), (2), (3), (4), (6), (7), and (8) of subsection (c) of this section".

1964—Subsec. (c). Pub. L. 88-560, §§ 301(b), (c), 307, 308(b), included a program of code enforcement in an urban renewal area within "urban renewal projects", the acquisition of air rights over areas such as highways, tracks, bridge and tunnel entrances, limited the grants for projects under clause (c)(1)(iv) to not exceeding 5 percent of the amount authorized by this subchapter to be contracted for after Sept. 2, 1964, substituted "projects under clauses (iii) and (iv) hereof" for "an open land project" in par. (c)(1), provided that no program of code enforcement shall be included as part of a project unless the locality agrees to increase its expenditures for code enforcement by an amount equal to the required local grants-in-aid, no contract shall be entered for any loan or grant for any project which provides for removal of buildings and improvements unless the Administrator determines that the objectives of the renewal plan could not be achieved through rehabilitation of the project area, redesignated par. (c)(7) as (c)(8) and added par. (7).

Subsec. (d). Pub. L. 88-560, § 308(c), inserted "or of air rights over streets, alleys, and other public rights-of-way".

Subsec. (e). Pub. L. 88-560, §§ 308(d), 311(a), inserted reference to par. (8) of subsec. (c) of this section, and provided that where a project includes the acquisition of property affected by coal mine subsidence or underground mine fires and the property is to be acquired from the owner at the time the damage occurred, the acquisition price may be increased equal to the diminution of such property as is reasonably attributable

to such damage and an otherwise uncompensated and uncompensable loss actually sustained by such owner.

Subsec. (g). Pub. L. 88-560, §§ 303(b), 309, provided that contracts authorized after Sept. 2, 1964, shall provide for a single interest rate applicable also to future contract amendments, for periodic revision of the interest rate on the outstanding balance based on the going Federal rate on the date of revision, and that contracts authorized prior to Sept. 2, 1964, shall be amended to provide for such single rate and for periodic revision thereof, deleted "for any project" preceding "under this subchapter is authorized by the Administrator", and provisions that contracts may be revised or superseded by later contracts so that the going Federal rate shall mean the going rate on the date the later contract is authorized.

1961—Subsec. (c). Pub. L. 87-70, §§ 306(b), 307(a), (b), 308, 314(c), struck out the word "initial" which preceded "leasing or retention" and inserted words "or as provided in section 1457 of this title" in par. (4), added par. (7), inserted the phrase "(except as provided in paragraph (7) above" in the third sentence, and substituted "30 per centum" for "20 per centum" in the second proviso of the fifth sentence.

Subsec. (e). Pub. L. 87-70, §§ 301(c), 307(c), substituted "pursuant to section 1453(a)(2)(C) of this title" for "pursuant to the proviso in the second sentence of section 1453(a) of this title" in the third and fourth sentences, and included par. (7) of subsec. (c) of this section in cl. (i).

1959—Subsec. (b). Pub. L. 86-372, § 412, inserted words ", to the extent required by the Administrator for the making of loans and grants under this subchapter," following "to indicate" in cl. (2).

Subsec. (c). Pub. L. 86-372, § 413, increased the limitation on the amount of capital grants for areas which are not predominantly residential from not more than 10 per centum to not more than 20 per centum of the aggregate amount of grants authorized, inserted provisions permitting assistance if the governing body of the local public agency determines that the redevelopment of such an area for predominantly nonresidential uses is necessary for the proper development of the community, and eliminated provisions which authorized assistance where an area which is not clearly predominantly residential in character contains a substantial number of slum, blighted, deteriorated, or deteriorating dwellings or other living accommodations, the elimination of which would tend to promote the public health, safety, and welfare in the locality involved and such area is not appropriate for predominantly residential uses.

Subsec. (d). Pub. L. 86-372, § 414(a), added paragraph providing that no donation or provision of a public improvement or public facility of a type falling within the purview of this subsection shall be deemed to be ineligible as a local grant-in-aid for any project solely on the basis that the construction of such improvement or facility was commenced without notification to the Administrator or prior to Federal recognition of such project, if such construction was commenced not more than three years prior to the authorization by the Administrator of a contract for loan or capital grant for the project.

Subsec. (e). Pub. L. 86-372, § 415, included as part of the gross project cost an amount in lieu of carrying charges which might otherwise have been payable thereon for the period moneys of the local public agency which are actually expended and outstanding for undertakings necessary to carry out the project are expended and outstanding but not beyond the point where the project is completed.

Subsec. (g). Pub. L. 86-372, § 416, substituted "for any project under this subchapter is authorized" for "is approved", "Any such contract" for "Any contract", and "later contract is authorized" for "contract is revised or superseded by such later contract".

Subsec. (k). Pub. L. 86-372, § 417(3), added subsec. (k).

1957—Subsec. (b). Pub. L. 85-104, § 305, inserted in (1), the words "and shall be consistent with definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements", and deleted from (2) the requirement of indicating the local objectives in the urban renewal plan itself.

Subsec. (d). Pub. L. 85-104, §§ 302(3), 306, inserted the words "to defray expenditures within the purview of subsection (e)(1) of this section" preceding the first semicolon, and inserted in the second proviso of the first sentence, the words "with respect to any project covered by a Federal-aid contract under this subchapter".

Subsec. (e). Pub. L. 85-104, § 302(4), (5), inserted proviso calculating gross project cost as the sum of expenditures by the local public agency to carry out the project, excluding expenditures for surveys, plans, legal services and administration, and inserted, in the second sentence, "other than a project on which a contract for capital grant is made on a three-fourths basis pursuant to the proviso in the second sentence of section 1453(a) of this title".

1956—Subsec. (b). Act Aug. 7, 1956, § 302(a)(2), inserted "and" after the semicolon at the end of clause (1), and eliminated "; and (3) shall include, for any part of the urban renewal area proposed to be acquired and redeveloped in accordance with clause (1) of the second sentence of subsection (c) of this section, a redevelopment plan approved by the governing body of the locality", substituting a period therefor.

Subsec. (c). Act Aug. 7, 1956, § 302(b)(1), consolidated provisions relating to slum clearance redevelopment with those relating to rehabilitation and conservation, and made applicable to an urban renewal area the requirement that an urban redevelopment area either be predominantly residential to begin with or else be redeveloped for predominantly residential uses.

Subsec. (d). Act Aug. 7, 1956, § 302(b)(2), (c), substituted in clause (2) of the first sentence, "the second sentence" for "either the second or third sentence", eliminated the phrase ", public facilities financed by special assessments against land in the project area," in clause (3) preceding "and revenue producing public utilities", and added proviso deducting from the cost of facilities, for the purpose of computing the local grant-in-aid, an amount equal to the special assessments against land in the project area which is acquired by the local public agency as part of the project.

Subsec. (e). Act Aug. 7, 1956, § 302(d), added provisions allowing communities which do not receive taxes or payments in lieu of taxes for land in the project area, to include in gross project cost an amount equal to the ad valorem taxes which would have been levied upon such property if it had been subject to ad valorem taxes, and that in calculating the amount allowable, the amount would be prorated for the period during which the property is owned by the local public agency as part of the project and inclusion of any such payments in gross project costs shall be subject to the approval of the Housing Administrator.

1955—Subsec. (c). Act Aug. 11, 1955, authorized loans and advances where land is to be redeveloped for predominantly nonresidential uses.

1954—Act Aug. 2, 1954, added more definitions, and redefined some of the terms used in this subchapter, in view of the general amendment of this subchapter by act Aug. 2, 1954.

1953—Subsec. (g). Act June 30, 1953, caused the minimum base interest rate, under the definition of "Going Federal rate", to:

1. Reflect market yields on Government bonds, instead of interest rates specified in the bonds when issued;

2. Reflect the yield on obligations of the United States having 15 years or more to run to maturity, instead of the rate on a bond which could have a maturity as low as 10 years;

3. Reflect the average yield during a full 1 month period on all outstanding obligations of the United States having 15 years or more to run to maturity, instead of the rate on a single recent issue of bonds;

4. Retain the base rate, once it was specified by the Secretary of the Treasury, instead of varying from month to month as new bonds are issued; and

5. Be adjusted to the nearest one-eighth of 1 percent.

TRANSFER OF FUNCTIONS

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103(a) of act June 30, 1949, ch. 288, title I, 63 Stat. 380. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103(b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works.

AMENDMENT OF CONTRACTS TO REFLECT 1965 AMENDMENT TO SUBSEC. (d)

Section 314(b) of Pub. L. 89-117 provided that: "Any contract under title I of the Housing Act of 1949 [this subchapter] executed prior to the date of the enactment of this Act [Aug. 10, 1965] shall, at the request of the municipality involved, be amended to reflect the amendment made by subsection (a) [amending subsec. (d) of this section]."

AMENDMENTS OF CONTRACTS EXECUTED PRIOR TO 1965 AMENDMENT TO SUBSEC. (e)

Section 310(b) of Pub. L. 89-117 provided that: "Any contract for a capital grant under title I of the Housing Act of 1949 [this subchapter], executed prior to the date of the enactment of this Act [Aug. 10, 1965], may be amended to incorporate the provisions of subsection (a) [amending subsec. (e) of this section] as to costs incurred on or after the date of the enactment of this Act [Aug. 10, 1965]."

AMENDMENT OF CONTRACTS EXECUTED PRIOR TO SEPTEMBER 2, 1964

Section 311(b) of Pub. L. 88-560 provided that: "Any contract under title I of the Housing Act of 1949 [this subchapter] executed prior to the date of enactment of the Housing Act of 1964 [Sept. 2, 1964] may be amended to provide for payment of the increased amounts authorized under the amendment made by subsection (a) [to subsec. (e) of this section] with respect to any uncompleted project if the project includes acquisitions which, under any State or local law in effect on such date, would involve expenditures by a local public agency that could not otherwise be included in the costs of such project."

WAIVER OF REQUIREMENTS OF SUBSECTION (d) OF THIS SECTION FOR CERTAIN ASSISTANCE PROVIDED DURING THE PERIOD FROM JULY 1, 1957, THROUGH DECEMBER 31, 1957

Section 414(b) of Pub. L. 86-372 provided that: "The requirement in section 110(d) of the Housing Act of 1949 [subsec. (d) of this section] that the assistance provided by a State, municipality, or other public body under that section, in order to qualify as a local grant-in-aid, shall be in connection with a project on which a contract for capital grant has been made under title I of that Act [this subchapter], shall not apply to assistance provided during the period from July 1, 1957, through December 31, 1957, in connection with urban renewal activities which were extended Federal recognition within sixty days after the provision of such assistance was initiated."

CROSS REFERENCES

Blighted or deteriorated area requirement, urban renewal disaster area, see section 1462 of this title.

General Services Administration, see section 751 of Title 40, Public Buildings, Property, and Works.

Residential area requirement for urban renewal assistance as not applicable to disaster area, see section 1462 of this title.

Urban renewal plan, requirement of conformance to a general plan of the locality not applicable to disaster areas, see section 1462 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1452, 1453, 1456, 1457, 1462, 1463, 1469b, 1469c of this title; title 12 sections 24, 84, 1464, 1701z-4, 1715k, 1715l; title 15 section 637; title 48 section 1408c.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 5-717a, 5-723 of the District of Columbia Code.

§ 1461. Repealed. Aug. 2, 1954, ch. 649, title III, § 313, 68 Stat. 629

Section, acts July 31, 1953, ch. 302, title I, § 101, 67 Stat. 305; June 24, 1954, ch. 359, title I, § 101, 68 Stat. 283, which related to conditions precedent to approval of local slum clearance programs, is now covered by other sections in this subchapter. See, particularly, sections 1451 and 1455 of this title.

§ 1462. Disaster areas; urban renewal assistance; nonapplicability of certain requirements

Where the local governing body certifies, and the Secretary finds, that an urban area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe which the President, pursuant to section 1855a(a) of this title, has determined to be a major disaster, or which the Secretary has determined is in need of such redevelopment or rehabilitation as a result of a riot or civil disorder, he is authorized to extend financial assistance under this subchapter for an urban renewal project with respect to such area without regard to the following:

(1) the "workable program" requirement in section 1451(c) of this title, except that any contract for temporary loan or capital grant pursuant to this section shall obligate the local public agency to comply with the "workable program" requirement in section 1451(c) of this title by a future date determined to be reasonable by the Secretary and specified in such contract;

(2) the requirements in section 1455(a)(iii) and section 1460(b)(1) of this title that the urban renewal plan conform to a general plan of the locality as a whole and to the workable program referred to in section 1451(c) of this title;

(3) the "relocation" requirements in section 1455(c) of this title: *Provided*, That the Secretary finds that the local public agency has presented a plan for the encouragement, to the maximum extent feasible, of the provision of dwellings suitable for the needs of families displaced by the catastrophe or by redevelopment or rehabilitation activities;

(4) the "public hearing" requirement in section 1455(d) of this title;

(5) the requirements in sections 1452 and 1460 of this title that the urban renewal area be a slum area or a blighted, deteriorated, or deteriorating area; and

(6) the requirements in section 1460 of this title with respect to the predominantly residential character or predominantly residential reuse of urban renewal areas.

In the preparation of the urban renewal plan with respect to a project aided under this sec-

tion, the local public agency shall give due regard to the removal or relocation of dwellings from the site of recurring floods or other recurring catastrophes in the project area.

(July 15, 1949, ch. 338, title I, § 111, as added Aug. 7, 1956, ch. 1029, title III, § 307(a), 70 Stat. 1101, and amended May 25, 1967, Pub. L. 90-19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90-448, title XI, § 1106(c), 82 Stat. 567.)

REFERENCES IN TEXT

Section 1855a of this title, referred to in text, was repealed by Pub. L. 91-606, title III, § 302(1), Dec. 31, 1970, 84 Stat. 1759.

AMENDMENTS

1968—Pub. L. 90-448 authorized the Secretary to extend financial assistance in an area which he has determined is in need of redevelopment or rehabilitation as a result of a riot or civil disorder.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in the introductory text and pars. (1), (3) of this section.

SECTION REFERRED TO IN OTHER SECTION

This section is referred to in title 12 section 1715k.

§ 1463. Financial assistance for urban renewal projects in areas involving colleges, universities, or hospitals

(a) Authorization; local grant-in-aid

In any case where an educational institution or a hospital is located in or near an urban renewal project area and the governing body of the locality determines that, in addition to the elimination of slums and blight from such area, the undertaking of an urban renewal project in such area will further promote the public welfare and the proper development of the community (1) by making land in such area available for disposition, for uses in accordance with the urban renewal plan, to such educational institution or hospital for redevelopment in accordance with the use or uses specified in the urban renewal plan, (2) by providing, through the redevelopment of the area in accordance with the urban renewal plan, a cohesive neighborhood environment compatible with the functions and needs of such educational institution or hospital, or (3) by any combination of the foregoing, the Secretary is authorized to extend financial assistance under this subchapter for an urban renewal project in such area without regard to the requirements in section 1460 of this title with respect to the predominantly residential character or predominantly residential reuse of urban renewal areas. The aggregate expenditures made by any such institution or hospital (directly or through a private redevelopment corporation or municipal or other public corporation) for the acquisition within, adjacent to, or in the immediate vicinity of the project area, of land, buildings, and structures to be redeveloped or rehabilitated by such institution for educational uses or by such hospital for hospital uses in accordance with the urban renewal plan (or with a development plan proposed by such institution, hospital, or corporation, found acceptable by the Secretary after considering the standards specified in section 1460(b) of this title, and approved under State or local law after public hearing) and for the demolition of such buildings and structures if, pursuant to such urban renewal or development plan, the land is to be cleared and redeveloped, and for the relocation of occupants from buildings and structures to be demolished or rehabilitated, as certified by such institution or hospital to the local public agency and approved by the Secretary, shall be a local grant-in-aid in connection with such urban renewal project: *Provided*, That no such expenditure shall be eligible as a local grant-in-aid in any case where the property involved is acquired by such educational institution or hospital from a local public agency which, in connection with its acquisition or disposition of such property, has received, or contracted to receive, a capital grant pursuant to this subchapter: *Provided further*, That no such expenditure shall be deemed ineligible as a local grant-in-aid in connection with an urban renewal project, to the extent that the expenditure is otherwise eligible, if the facilities, land, buildings, or structures with respect to which the expenditure is made are located within one mile of the project.

(b) Expenditures by educational institutions and hospitals; eligibility as a local grant-in-aid; extension of eligibility

Subject to the second sentence of this subsection, no expenditure made by any educational institution or hospital, as provided in subsection (a) of this section shall be deemed ineligible as a local grant-in-aid (1) in connection with any urban renewal project if made not more than seven years prior to the authorization by the Secretary of a contract for a loan or capital grant for such project, or (2) in connection with any such project for which the Secretary, prior to September 25, 1963, has authorized a loan or capital grant contract if made not more than five years prior to the submission of an application for financial assistance under this subchapter for such urban renewal project. In connection with any project for which an application is filed not later than December 24, 1969 and which has not received Federal recognition (other than a project to which clause (2) of the second sentence of section 1469b(a) of this title applies), the seven-year period referred to in clause (1) of the preceding sentence shall be extended to a period of eight years prior to the authorization by the Secretary of a contract for a loan or capital grant for the project.

(c) Aggregate expenditures by public authority deemed a local grant-in-aid

The aggregate expenditures made by any public authority, established by any State, for acquisition, demolition, and relocation in connection with land, buildings, and structures acquired by such public authority and leased to an educational institution for educational uses or to a hospital for hospital uses shall be deemed a local grant-in-aid to the same extent as if such expenditures had been made directly by such educational institution or hospital.

(d) Definitions

As used in this section—

(1) the term "educational institution" means any educational institution of higher learning, including any public educational institution or any private educational institution, no part of the net earnings of which

inures to the benefit of any private shareholder or individual; and

(2) the term "hospital" means any hospital licensed by the State in which such hospital is located, including any public hospital or any nonprofit hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(July 15, 1949, ch. 338, title I, § 112, as added Sept. 23, 1959, Pub. L. 86-372, title IV, § 418, 73 Stat. 677, and amended June 30, 1961, Pub. L. 87-70, title III, § 309, 75 Stat. 169; Nov. 3, 1966, Pub. L. 89-754, title VII, § 705, 80 Stat. 1281; May 25, 1967, Pub. L. 90-19, § 6(b), 81 Stat. 21; Dec. 24, 1969, Pub. L. 91-152, title II, § 203(b), 83 Stat. 386.)

AMENDMENTS

1969—Subsec. (b). Pub. L. 91-152 substituted "Subject to the second sentence of this subsection, no expenditure" for "No expenditure", and added the provision extending the period of eligibility from seven to eight years of local grants-in-aid under the specified conditions.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

1966—Subsec. (a). Pub. L. 89-754 authorized expenditures for facilities, land, buildings, or structures located within one mile of the project.

1961—Subsec. (a). Pub. L. 87-70 designated existing provisions as subsec. (a), authorized assistance to hospitals, provided that expenditures made through municipal or other public corporations shall be considered as local grant-in-aid, inserted the proviso stating that no expenditure shall be eligible as a local grant-in-aid in any case where the property involved is acquired by the educational institution or hospital from a local public agency which, in connection with its acquisition or disposition of such property, has received, or contracted to receive, a capital grant pursuant to this subchapter, eliminated provisions which provided that no expenditure shall be deemed ineligible as a local grant-in-aid in connection with any project if made not more than five years prior to the authorization of a contract for a loan or capital grant for such urban renewal project, and transferred the definition of "educational institution" to subsec. (d) of this section.

Subsecs. (b) to (d). Pub. L. 87-70 added subsecs. (b) to (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1469b of this title.

§ 1464. Redevelopment areas

(a) Urban renewal assistance

Whenever the Secretary of Commerce certifies to the Secretary (1) that any county, city, or other municipality (in this section referred to as a "municipality") is situated in an area designated under section 5 of the Area Redevelopment Act [42 U.S.C. 2504] as a redevelopment area, and (2) that there is a reasonable probability that with assistance provided under such Act [42 U.S.C. 2501 et seq.] and other undertakings the area will be able to achieve more than temporary improvement in its economy, the Secretary is authorized to provide financial assistance to a local public agency in any such municipality under this subchapter and the provisions of this section.

(b) Nonapplicability of certain requirements

Subject to the provisions of subsection (e) of this section, the Secretary may provide such financial assistance under this section without regard to the requirement or limitations of section 1460(c) of this title that the project area be predominantly residential in character or be redeveloped for predominantly residential uses under the urban renewal plan, and without regard to any of the limitations of that section on the undertaking of projects for predominantly nonresidential uses.

(c) Disposition of lands for industrial or commercial uses; fair value; obligations of purchasers, lessees, and assignees of property

Notwithstanding any other provision of this subchapter, a contract for financial assistance under this section may include provisions permitting the disposition of any land in the project area designated under the urban renewal plan for industrial or commercial uses to any public agency or nonprofit corporation for subsequent disposition as promptly as practicable by such public agency or corporation for the redevelopment of the land in accordance with the urban renewal plan: *Provided*, That any disposition of such land to such public agency or corporation under this section shall be made at its fair value for uses in accordance with the urban renewal plan: *And provided further*, That only the purchaser from or lessees of such public agency or corporation, and their assignees, shall be required to assume the obligations relating to the commencement of improvements imposed under section 1455(b) of this title.

(d) Completion of projects notwithstanding termination of area status

Following the execution of any contract for financial assistance under this section with respect to any project, the Secretary may exercise the authority vested in him under this section as well as other provisions of this subchapter for the completion of such projects, notwithstanding any determination made after the execution of such contract that the area in which the project is located is no longer a redevelopment area under the Area Redevelopment Act [42 U.S.C. 2501 et seq.].

(e) Limitation on expenditures; exclusion of expenditures from aggregate amount of capital grants for urban renewal projects

Not more than 10 per centum of the funds authorized for capital grants under section 1453 of this title after May 1, 1961, shall be used for the purpose of providing financial assistance under this section. Amounts used for such purpose shall not be taken into account for the purpose of the limitation contained in the second proviso of the fifth sentence of section 1460(c) of this title.

(July 15, 1949, ch. 338, title I, § 113, as added May 1, 1961, Pub. L. 87-27, § 14, 75 Stat. 57, and amended May 25, 1967, Pub. L. 90-19, § 6(b), 81 Stat. 21.)

REFERENCES IN TEXT

Such Act and the Area Redevelopment Act, referred to in subsecs. (a) and (d), mean Pub. L. 87-27, May 1, 1961, 75 Stat. 47, which was classified principally to former chapter 28 (§ 2501 et seq.) of this title, and omitted from the Code as executed, with the excep-

tion of sections 2513 and 2514 of this title, which were repealed by Pub. L. 89-15, § 9(b), Apr. 26, 1965, 79 Stat. 79. See now sections 3161 and 3162 of Title 42.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a), (b), and (d) of this section.

TERMINATION OF AUTHORITY

Termination of Pub. L. 87-27, which enacted this section, and authority thereunder at close of Aug. 31, 1965, see section 29(a) of Pub. L. 87-27, as amended, which was classified to section 2525 of this title.

§ 1465. Repealed. Pub. L. 91-646, title II, § 220(a)(5), Jan. 2, 1971, 84 Stat. 1903

Section, act July 15, 1949, ch. 338, title I, § 114, as added Sept. 2, 1964, Pub. L. 88-560, title III, § 310(a), 78 Stat. 788, and amended Aug. 10, 1965, Pub. L. 89-117, title I, § 101(i), title IV, § 404(b), (c)(1), 79 Stat. 453, 486; May 25, 1967, Pub. L. 90-19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90-448, title V, § 516, 82 Stat. 526; Dec. 31, 1970, Pub. L. 91-609, title II, § 212, 84 Stat. 1779, related to relocation assistance, providing as follows: subsec. (a), financial assistance to displaced individuals, families, businesses, and nonprofit organizations; subsec. (b), payments to business concerns or nonprofit organizations, considerations, and maximum amounts; subsec. (c), payments to individuals and families, considerations, computation of amount, maximum amounts, and restrictions; subsec. (d), payments to individuals, families, business concerns, and nonprofit organizations for recording fees, transfer taxes, incidental expenses, penalty costs, and pro rata taxes; and subsec. (e), rules and regulations, finality of administrative decisions, and promptness of payments. Subject matter is now covered by chapter 61 (section 4601 et seq.) of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section not applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91-646, set out as an Effective Date note under section 4601 of this title.

SAVINGS PROVISIONS

Any rights or liabilities existing under provisions repealed by section 220(a) of Pub. L. 91-646 as not affected by such repeal, see section 220(b) of Pub. L. 91-646, set out as a Savings Provisions note under section 4621 of this title.

§ 1466. Rehabilitation grants

(a) Grants by local public agencies; qualifications for and purposes of grant

(1) Notwithstanding any other provision of this subchapter, the Secretary may authorize a local public agency to make grants (and the urban renewal project may include the making of such grants) as prescribed in this section. Any such grant may be made only to an individual or family, as described in subsection (c) of this section, who owns and occupies real property in an urban renewal area, and only for the purpose of covering the cost of repairs and improvements necessary to make such real property conform to public standards for decent, safe, and sanitary housing as required by applicable codes or other requirements of the urban renewal plan for the area. Any contract for financial assistance under this subchapter shall provide that the capital grant otherwise payable for the project shall be increased by an amount equal to the total amount of the grants under this section and that no part of the total amount of such grants shall be required to be contributed as part of the local grant-in-aid.

(2) In addition to the authority conferred by paragraph (1), and notwithstanding any other provision of this subchapter, the Secretary is authorized, through the utilization of local public agencies where feasible, to make grants (payable from any grant funds provided under section 1453(b) of this title) to an individual or family, as described in subsection (b) of this section, to cover the cost of repairs and improvements necessary to make real property owned and occupied by such individual or family conform to public standards for decent, safe, and sanitary housing. No grants shall be made under this paragraph in the case of any property, unless (A) such property is in an area within a locality (other than an urban renewal or code enforcement area) which the governing body of the locality has determined, and so certifies to the Secretary, contains a substantial number of structures in need of such repairs and improvements, (B) there is in effect for the locality a workable program meeting the requirements of section 1451(c) of this title, and (C) the area is definitely planned for rehabilitation or concentrated code enforcement within a reasonable time, and such repairs and improvements to such property are consistent with the plan for rehabilitation or concentrated code enforcement.

(b) Grants for rehabilitation of uninsurable property

The Secretary is authorized to make grants (payable from any grant funds provided under section 1453(b) of this title), through the utilization of local public and private agencies where feasible, to an individual or family, as described in subsection (c) of this section, who owns and occupies real property which has been determined to be uninsurable because of physical hazards after an inspection pursuant to a statewide property insurance plan approved by the Secretary under title XII of the National Housing Act [12 U.S.C. 1749bbb et seq.]. Such grants may only be made to rehabilitate such property to the extent which the Secretary determines to be necessary to make it meet reasonable underwriting standards imposed by such plan.

(c) Amount of grant

A grant authorized by this section may be made to an individual or family whose income does not exceed $3,000 a year, and such grant may be in the amount which does not exceed the lesser of (1) the actual (and approved) cost of the repairs and improvements involved, or (2) $3,500. In case the income of the individual or family exceeds $3,000 a year, a grant may be made under this section, subject to the limitations specified in clauses (1) and (2) of the preceding sentence, but only in an amount not to exceed that portion of the cost of the repairs and improvements which cannot be paid for with any available loan that can be amortized as part of such individual's or family's monthly housing expense without requiring such monthly housing expense to exceed 25 per centum of such individual's or family's monthly income.

(July 15, 1949, ch. 338, title I, § 115, as added Aug. 10, 1965, Pub. L. 89-117, title I, § 106(a), 79 Stat. 457, and amended May 25, 1967, Pub. L. 90-19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90-448, title V, § 503, 82 Stat. 521; Dec. 24, 1969, Pub. L. 91-152, title II, § 205, 83 Stat. 387.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (b), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title XII of the National Housing Act is title XII of act June 27, 1934, ch. 847, as added by act Aug. 1, 1968, Pub. L. 90-448, title XI, 82 Stat. 556, which is classified generally to subchapter IX-C (§ 1749 bbb et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

AMENDMENTS

1969—Subsec. (c). Pub. L. 91-152 substituted "or (2) $3,500" for "or (2) $3,000".

1968—Subsec. (a)(1). Pub. L. 90-448, § 503(a), (c), (d)(2), designated existing provisions as par. (1), and substituted therein "real property" for "a structure", "such structure" and "subsection (c)" for "subsection (b)".

Subsec. (a)(2). Pub. L. 90-448, § 503(c), added par. (2).

Subsec. (b). Pub. L. 90-448, § 503(d)(1), added subsec. (b). Subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 90-448, § 503(b), (d)(1), redesignated subsec. (b) as (c), and substituted therein "$3,000" for "$1,500".

1967—Subsec. (a). Pub. L. 90-19 substituted "Secretary" for "Administrator".

AMENDMENT OF CONTRACTS EXECUTED PRIOR TO ENACTMENT OF SECTION

Section 106(b) of Pub. L. 89-117 provided that: "Any contract with a local public agency which was executed under title I of the Housing Act of 1949 [this subchapter] before the date of enactment of this Act [Aug. 10, 1965] may be amended to provide for grants authorized by section 115 of the Housing Act of 1949 [this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1468 of this title.

§ 1467. Grants to cities, other municipalities, counties, and Indian tribes, etc., for demolition of unsafe structures; authorization; maximum amount; conditions precedent

(a) Notwithstanding any other provision of this subchapter, the Secretary is authorized to enter into contracts to make, and to make, grants as provided in this section (payable from any grant funds provided under section 1453(b) of this title) to cities, other municipalities, counties, and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States to assist in financing the cost of demolishing structures which under State or local law have been determined to be structurally unsound, a harborage or potential harborage of rats, or unfit for human habitation, and which such city, municipality, or county has authority to demolish. The amount of any grant under this section shall not exceed two-thirds of the cost of the demolition of such structures.

(b) No grant shall be made under this section unless the structures to be demolished are located in an urban renewal area, or, in the case of structures outside an urban renewal area, (1) the locality involved has an approved workable program for community improvement in accordance with the requirements of section 1451(c) of this title, as determined by the Secretary, (2) the demolition to be assisted will be on a planned neighborhood basis and will further the over-all renewal objectives of such locality, or will be consistent with a systematic rodent control program being undertaken in the neighborhood, (3) there is in such locality a program of enforcement of existing local housing and related codes, (4) the structures to be demolished constitute a public nuisance and a serious hazard to the public health or welfare, and (5) the governing body of such locality has determined that other available legal procedures have been exhausted to secure remedial action by the owner of the structures involved and that demolition by governmental action is required.

(July 15, 1949, ch. 388, title I, § 116, as added Aug. 10, 1965, Pub. L. 89-117, title III, § 311(a), 79 Stat. 477, and amended May 25, 1967, Pub. L. 90-19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90-448, title V, § 510, 82 Stat. 524; Dec. 24, 1969, Pub. L. 91-152, title II, § 202(b), 83 Stat. 386.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91-152 extended applicability of provisions to include Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

1968—Subsec. (a). Pub. L. 90-448, § 510(a), included structures which are a harborage or potential harborage of rats.

Subsec. (b). Pub. L. 90-448, § 510(b), authorized grants where the demolition will be consistent with a systematic rodent control program being undertaken in the neighborhood.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

§ 1468. Grants to cities, other municipalities, counties, and Indian tribes, etc., for code enforcement; authorization; maximum amount; conditions precedent

Notwithstanding any other provision of this subchapter, the Secretary is authorized to enter into contracts to make, and to make, grants as provided in this section (payable from any grant funds provided under section 1453(b) of this title) to cities, other municipalities, counties, and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States for the purpose of assisting such localities in carrying out programs of concentrated code enforcement in deteriorated or deteriorating areas in which such enforcement, together with those public improvements to be provided by the locality, may be expected to arrest the decline of the area. Such grants shall not exceed two-thirds (or three-fourths in the case of any city, other municipality, or county having a population of 50,000 or less according to the most recent decennial census) of the cost of planning and carrying out such programs which may include the provision and repair of necessary streets, curbs, sidewalks, street lighting, tree planting, and similar improvements within such areas. The Secretary shall not make any grant under this section unless he has obtained adequate assurances (1) that the locality will maintain during

the period of the contract, in addition to its expenditures for planning and carrying out any program assisted under this section, a level of expenditures for code enforcement activities at not less than its normal expenditures for such activities prior to the execution of such contract, and (2) that the locality has a satisfactory program for the provision of all necessary public improvements for such areas. The provisions of sections 1451(c), 1456, 1465, and 1466 of this title, shall be applicable to activities and undertakings assisted under this section to the same extent as if such activities and undertakings were being carried out in an urban renewal area as part of an urban renewal project: *Provided,* That the Secretary may, in addition to authorizing a local public agency to make grants as prescribed in section 1466 of this title, make such grants through the utilization of local private nonprofit agencies.

(July 15, 1949, ch. 338, title I, § 117, as added Aug. 10, 1965, Pub. L. 89-117, title III, § 311(a), 79 Stat. 478, and amended May 25, 1967, Pub. L. 90-19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90-448, title V, § 515, 82 Stat. 525; Dec. 24, 1969, Pub. L. 91-152, title II, § 202(c), 83 Stat. 386.)

REFERENCES IN TEXT

Section 1465 of this title, referred to in text, was repealed by Pub. L. 91-646, title II, § 220(a)(5), Jan. 2, 1971, 84 Stat. 1903.

AMENDMENTS

1969—Pub. L. 91-152 extended applicability of provisions to include Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

1968—Pub. L. 90-448 authorized the Secretary, in addition to authorizing a local public agency to make grants as prescribed in section 1466 of this title, to make such grants through the utilization of local private nonprofit agencies.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1452b of this title ; title 12 section 1715k.

§ 1468a. Interim assistance for blighted areas; grants to cities, other municipalities, counties, and Indian tribes, etc.; encouragement of employment of unemployed or underemployed residents

Notwithstanding any other provision of this subchapter, the Secretary is authorized to enter into contracts (in an aggregate amount not to exceed $15,000,000 in any fiscal year) to make, and to make, grants as provided in this section (payable from any grant funds provided under section 1453(b) of this title) to cities, other municipalities, counties, and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States for the purpose of assisting such localities in carrying our[1] programs to alleviate harmful conditions in slum and blighted areas which are planned for substantial clearance, rehabilitation, or federally assisted code enforcement in the near future but in which some immediate public action is needed until clearance, rehabilitation, or code enforcement activities can be undertaken. Such grants shall not exceed two-thirds (or three-fourths in the case of any city, other municipality, or county having a population of fifty thousand or less according to the most recent decennial census) of the cost of planning and carrying out programs which may include (1) the repair of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings to meet needs consistent with the short-term continued use of the area prior to the undertaking of the contemplated clearance or upgrading activities, (2) the improvement of private properties to the extent needed to eliminate the most immediate dangers to public health and safety, (3) the demolition of structures determined to be structurally unsound or unfit for human habitation and which constitute a public nuisance and serious hazard to the public health and safety, (4) the establishment of temporary public playgrounds on vacant land within the area, and (5) the improvement of garbage and trash collection, street cleaning, and similar activities. The Secretary shall encourage, wherever feasible, the employment of otherwise unemployed or underemployed residents of the area in carrying out the activities and undertakings assisted under this section. The provisions of sections 1451(c), 1456, and 1465 of this title shall be applicable to activities and undertakings assisted under this section to the same extent as if such activities and undertakings were being carried out in an urban renewal area as part of an urban renewal project.

(July 15, 1949, ch. 338, title I, § 118, as added Aug. 1, 1968, Pub. L. 90-448, title V, § 514, 82 Stat. 525, and amended Dec. 24, 1969, Pub. L. 91-152, title II, § 202(d), 83 Stat. 386.)

REFERENCES IN TEXT

Section 1465 of this title, referred to in text, was repealed by Pub. L. 91-646, title II, § 220(a)(5), Jan. 2, 1971, 84 Stat. 1903.

AMENDMENTS

1969—Pub. L. 91-152 extended applicability of provisions to include Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

PART B—NEIGHBORHOOD DEVELOPMENT PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1453, 5306 of this title; title 26 section 7701.

PART REFERRED TO IN D.C. CODE

This part is referred to in section 5-719a of the District of Columbia Code.

§ 1469. Declaration of purpose

(a) Authorization for financial assistance to local public agencies

To facilitate more rapid renewal and development of urban areas on an effective scale, and to encourage more efficient and flexible utilization of public and private development opportunities by local communities in such areas, the Secretary is authorized to make financial assistance available under this subchapter to local public agencies for undertakings and activities which are carried out under a neighborhood de-

[1] So in original. Probably should be "out".

velopment program approved by him pursuant to this part.

(b) Extent of neighborhood development program

A neighborhood development program shall consist of urban renewal project undertakings and activities in one or more urban renewal areas which are planned and carried out on the basis of annual increments in accordance with the provisions of this subchapter for planning and carrying out urban renewal projects, except as modified by the provisions of this part.

(c) Conditions for approval of applications for financial assistance

No application for financial assistance in planning and carrying out a neighborhood development program shall be approved by the Secretary unless—

(1) the governing body of the locality has, by resolution or ordinance, approved the proposed program and the annual increment covered by the application and authorized the filing of the application for financial assistance; and

(2) the Secretary has concluded that there is the necessary capacity to carry out the undertakings and activities included under the program.

(July 15, 1949, ch. 338, title I, § 131, as added Aug. 1, 1968, Pub. L. 90-448, title V, § 501(b), 82 Stat. 518.)

NEIGHBORHOOD DEVELOPMENT PROGRAMS BY DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

Section 501(c) of Pub. L. 90-448 provided that: "Notwithstanding any requirement or condition to the contrary in section 6 or 20(i) of the District of Columbia Redevelopment Act of 1945 or in any other provision of law, the District of Columbia Redevelopment Land Agency may plan and undertake neighborhood development programs under part B of title I of the Housing Act of 1949 (as added by this section [sections 1469 to 1469c of this title], subject to all of the provisions of such Act of 1945 to the extent not inconsistent with such part B, and any such program shall be regarded as complying with the requirements of such sections 6 and 20(i) and of such other provision of law if it meets the applicable requirements established under such part B."

§ 1469a. Financing of undertakings and activities; payment of excess of sale price and imputed capital value of land or other property leased or retained over gross project cost

(a) Upon the approval of a neighborhood development program by the Secretary, the cost of any undertakings and activities authorized as part of the program shall be financed in accordance with the loan, capital grant, and project cost provisions of part A, except that—

(1) net project cost may be calculated on the basis of costs incurred and proceeds derived for the account of the program during a specified twelve-month period, and may be recalculated for succeeding periods of twelve months to reflect additional costs and additional proceeds since the date of the last computation or recomputation; and

(2) if property has been acquired but not disposed of prior to the computation or recomputation of net project cost, temporary loans made or secured under this subchapter to finance undertakings or activities included in the program may remain outstanding until the property has been disposed of and the proceeds thereof together with additional funds becoming available to the program, are sufficient to permit repayment of the loans.

(b) In the event that gross project cost as computed for a specified twelve-month period is exceeded, with respect to that period, by the sum of (1) the sales price of land or other property sold, and (2) the imputed capital value of land or other property leased or retained by the local public agency in accordance with the provisions of the urban renewal plan, the local public agency shall pay to the Secretary two-thirds of the excess (or three-fourths in the case of a program on a three-fourths grant basis), which amount shall be available to the Secretary for grant payments under section 1453 of this title.

(July 15, 1949, ch. 338, title I, § 132, as added Aug. 1, 1968, Pub. L. 90-448, title V, § 501(b), 82 Stat. 519.)

§ 1469b. Local grants-in-aid

(a) Determination of eligibility; extension of eligibility

Except as otherwise provided in this subsection, for the purpose of determining the eligibility of local grants-in-aid in connection with undertakings and activities carried out under a neighborhood development program, the three-year period referred to in the first sentence of the second paragraph of section 1460(d) of this title shall be deemed to be a period of three years prior to the authorization by the Secretary of the first contract for financial assistance under the program which includes the urban renewal area which is benefited by the public improvement or facility for which credit is claimed; and the seven-year period referred to in clause (1) of section 1463(b) of this title shall be deemed to be a period of seven years prior to the date of authorization by the Secretary of the first contract for financial assistance under the program which includes the urban renewal area which is benefited by the expenditures for which credit is claimed. In connection with any neighborhood development program for which an application is filed not later than December 24, 1969 and for which no contract for financial assistance under the program has been authorized by the Secretary, the three-year and seven-year periods referred to above shall be extended to periods of four and eight years, respectively, prior to authorization of (1) the first contract for financial assistance under the program which includes the urban renewal area benefited by the public improvement or facility (or the expenditures) for which credit is claimed, or (2) a contract for a loan or capital grant for an urban renewal project authorized after December 24, 1969 in an area which is benefited by the public improvement or facility (or the expenditures) for which credit is claimed and which was included in the neighborhood development program application.

(b) Cost of public improvement or facility

No portion of the cost of a public improvement or public facility (to the extent otherwise eligible) may be included as a local grant-in-aid

in computing the gross project cost of an approved program for any twelve-month period—

(1) prior to commencement of construction of the improvement or facility, or

(2) in excess of the amount actually expended or obligated by contract.

(c) Excess local grants-in-aid; inapplicability of pooling provisions

The provisions of section 1454 of this title with respect to the pooling of local grants-in-aid among the various projects undertaken by a local public agency shall not be applicable with respect to any excess local grants-in-aid resulting from the urban renewal projects contained in a neighborhood development program.

(July 15, 1949, ch. 338, title I, § 133, as added Aug. 1, 1968, Pub. L. 90-448, title V, § 501(b), 82 Stat. 519, and amended Dec. 24, 1969, Pub. L. 91-152, title II, § 203(c), 83 Stat. 386.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91-152 substituted "Except as otherwise provided in this subsection, for" for "For", added "the first sentence of" preceding "the second paragraph", and added the provisions extending the periods of eligibility of local grants-in-aid under the specified conditions from three and seven years to four and eight years, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1463 of this title.

§ 1469c. General provisions

(a) Workable program requirement; capital grants; relocation requirements; transient housing; demolition and removal of buildings and improvements

For purposes of this part—

(1) the workable program requirement in section 1451(c) of this title shall apply to the authorization, rather than the execution, of any contract for loans or capital grants;

(2) capital grants on a three-fourths basis may only be made under section 1453(a)(2)(B) of this title;

(3) the relocation requirements specified in section 1455(c) of this title shall apply to each annual increment of an approved program;

(4) section 1456(g) of this title (relating to transient housing) shall apply to activities undertaken under approved programs, except that the determination as to need for transient housing shall be made with respect to any sale or lease of land for construction of such housing prior to such sale or lease; and

(5) the requirement concerning demolition and removal of buildings and improvements stated in clause (A) of the sentence following paragraph (10) of section 1460(c) of this title shall apply to each annual increment of an approved program.

(b) Obligation to provide financial assistance for subsequent annual increments

The approval by the Secretary of financial assistance for one or more annual increments of a neighborhood development program shall not be considered as obligating him to provide financial assistance for any subsequent annual increments.

(c) Extent of urban renewal plan; modification; establishment of requirements prescribing scope and content of plan

The urban renewal plan referred to in section 1460(b) of this title may cover one or more of the urban renewal areas covered by a neighborhood development program and such plan may be modified from time to time to cover additional urban renewal areas added to the program. The Secretary may establish such requirements as he deems appropriate prescribing the scope and content of such plan, taking into consideration, among other matters, the degree of detail needed in the plan to properly and expeditiously carry out the activities and undertakings proposed in any annual increment of a neighborhood development program.

(July 15, 1949, ch. 338, title I, § 134, as added Aug. 1, 1968, Pub. L. 90-448, title V, § 501(b), 82 Stat. 520.)

SUBCHAPTER III—FARM HOUSING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 7 sections 1932, 1933; title 12 sections 84, 371, 1717, 1720, 1721, 2803; title 26 section 1250; title 38 section 1811.

§ 1471. Financial assistance by Secretary of Agriculture

(a) Authorization and purposes of assistance

The Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized, subject to the terms and conditions of this subchapter, to extend financial assistance, through the Farmers Home Administration, (1) to owners of farms in the United States and in the Territories of Alaska and Hawaii and in the Commonwealth of Puerto Rico, the Virgin Islands, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands, to enable them to construct, improve, alter, repair, or replace dwellings and other farm buildings on their farms, and to purchase buildings and land constituting a minimum adequate site, in order to provide them, their tenants, lessees, sharecroppers, and laborers with decent, safe, and sanitary living conditions and adequate farm buildings as specified in this subchapter, and (2) to owners of other real estate in rural areas for the construction, improvement, alteration, or repair of dwellings, related facilities, and farm buildings and to rural residents for such purposes and for the purchase of buildings and the purchase of land constituting a minimum adequate site, in order to enable them to provide dwellings and related facilities for their own use and buildings adequate for their farming operations, and (3) to elderly persons who are or will be the owners of land in rural areas for the construction, improvement, alteration, or repair of dwellings and related facilities, the purchase of dwellings and related facilities and the purchase of land constituting a minimum adequate site, in order to provide them with adequate dwellings and related facilities for their own use, and (4) to an owner described in clause (1), (2), or (3) for refinancing indebtedness which—

(A) was incurred for an eligible purpose described in such clause,

(B) if not refinanced, is likely to result at an early date in loss of the applicant's necessary dwelling or essential farm service buildings, or, if combined with a loan for improvements, rehabilitation, or repairs and not refinanced, is likely to cause a hardship for the applicant, and

(C) was incurred by the applicant at least five years prior to his applying for assistance under this subchapter.

(b) Definitions

(1) For the purpose of this subchapter, the term "farm" shall mean a parcel or parcels of land operated as a single unit which is used for the production of one or more agricultural commodities and which customarily produces or is capable of producing such commodities for sale and for home use of a gross annual value of not less than the equivalent of a gross annual value of $400 in 1944, as determined by the Secretary. The Secretary shall promptly determine whether any parcel or parcels of land constitute a farm for the purposes of this subchapter whenever requested to do so by any interested Federal, State, or local public agency, and his determination shall be conclusive.

(2) For the purposes of this subchapter, the terms "owner" and "mortgage" shall be deemed to include, respectively, the lessee of, and other security interest in, any leasehold interest which the Secretary determines has an unexpired term (A) in the case of a loan, for a period sufficiently beyond the repayment period of the loan to provide adequate security and a reasonable probability of accomplishing the objectives for which the loan is made, and (B) in the case of a grant for a period sufficient to accomplish the objectives for which the grant is made.

(3) For the purposes of this subchapter, the term "elderly persons" means persons who are 62 years of age or over.

(c) Conditions of eligibility

In order to be eligible for the assistance authorized by subsection (a) of this section, the applicant must show (1) that he is the owner of a farm which is without a decent, safe, and sanitary dwelling for himself and his family and necessary resident farm labor, or for the family of the operating tenant, lessee, or sharecropper, or without other farm buildings adequate for the type of farming in which he engages or desires to engage, or that he is the owner of other real estate in a rural area or a rural resident without an adequate dwelling or related facilities for his own use or buildings adequate for his farming operations, or that he is an elderly person in a rural area without an adequate dwelling or related facilities for his own use, or that he is the owner of a farm or other real estate in a rural area who needs refinancing of indebtedness described in clause (4) of subsection (a) of this section; (2) that he is without sufficient resources to provide the necessary housing and buildings on his own account; and (3) that he is unable to secure the credit necessary for such housing and buildings from other sources upon terms and conditions which he could reasonably be expected to fulfill. If an applicant is a State or local public agency—

(A) the provisions of clause (3) shall not apply to its application; and

(B) the applicant shall be eligible to participate in any program under this subchapter if the persons or families to be served by the applicant with the assistance being sought would be eligible to participate in such program.

(d) Additional definitions

As used in this subchapter (except in sections 1473 and 1474(b) of this title) the terms "farm", "farm dwelling", and "farm housing" shall include dwellings or other essential buildings of eligible applicants.

(e) Escrow account for taxes, insurance, and other expenses

The Secretary may establish procedures whereby borrowers under this subchapter may make periodic payments for the purpose of taxes, insurance, and such other necessary expenses as the Secretary may deem appropriate. Such payments shall be held in escrow by the Secretary and paid out by him at the appropriate time or times for the purposes for which such payments are made. The Secretary shall notify a borrower in writing when his loan payments are delinquent.

(July 15, 1949, ch. 338, title V, § 501, 63 Stat. 432; June 30, 1961, Pub. L. 87-70, title VIII, §§ 801(a), 803, 75 Stat. 186; Sept. 28, 1962, Pub. L. 87-723, § 4(a)(1), 76 Stat. 670; Aug. 10, 1965, Pub. L. 89-117, title X, § 1001, 79 Stat. 497; Nov. 3, 1966, Pub. L. 89-754, title VIII, §§ 801, 807, 80 Stat. 1282; Dec. 31, 1970, Pub. L. 91-609, title VIII, § 802, 84 Stat. 1806; Aug. 22, 1974, Pub. L. 93-383, title V, §§ 501-503, 505(a), 520, 88 Stat. 692, 693, 699.)

Amendments

1974—Subsec. (a)(1). Pub. L. 93-383, § 501, added references to the territories and possessions of the United States and the Trust Territory of the Pacific Islands.

Subsec. (a)(4)(B). Pub. L. 93-383, § 502(1) added provisions relating to combining of indebtedness with a loan for improvement, rehabilitation, or repairs.

Subsec. (a)(4)(C). Pub. L. 93-383, § 502(2), substituted provisions relating to incursion of indebtedness by the applicant at least five years prior to his applying under this clause for provisions relating to indebtedness not held or insured by the United States or any agency.

Subsec. (a)(4)(D). Pub. L. 93-383, § 502(2), struck out subsec. (a)(4)(D) which related to indebtedness incurred prior to enactment of clause.

Subsec. (b)(2). Pub. L. 93-383, § 503, substituted "this subchapter" for "sections 1472 and 1474 of this title".

Subsec. (c). Pub. L. 93-383, § 520, added provisions relating to applications of a State or local public agency.

Subsec. (e). Pub. L. 93-383, § 505(a), added subsec. (e).

1970—Subsec. (b)(2). Pub. L. 91-609 substituted "sections 1472 and 1473 of this title, the terms 'owner' and 'mortgage' shall be deemed to include, respectively, the lessee of" for "this subchapter, the terms 'owner', 'farm', and 'mortgage' shall be deemed to include, respectively, the lessee of, the land included in". The words ", the land included in" were improvidently omitted.

1966—Subsec. (a)(1) to (3). Pub. L. 89-754, § 801, struck out "previously occupied" preceding "buildings and land" in cl. (1), "buildings and the purchase of land" in cl. (2), and "dwellings and related facilities" in cl. (3).

Subsec. (a)(4). Pub. L. 89-754, § 807(a), added clause (4).

Subsec. (c)(1). Pub. L. 89-754, § 807(b), inserted as a condition of eligibility that the applicant be the owner of a farm or other real estate in a rural area who needs refinancing of indebtedness described in subsec. (a)(4) of this section.

1965—Subsec. (a). Pub. L. 89-117, § 1001(a), authorized the extension of formal assistance to owners of farms to purchase previously occupied buildings and land constituting a minimum adequate site, to owners of other real estate in rural areas for the construction, improvement, alteration, or repair of dwellings, related facilities, and farm buildings, and to rural residents for such purposes and for the purchase of previously occupied buildings and the purchase of land constituting a minimum adequate site.

Subsec. (c). Pub. L. 89-117, § 1001(b), inserted "or a rural resident" in cl. (1) after "or that he is the owner of other real estate in a rural area".

1962—Subsec. (a). Pub. L. 87-723, § 4(a)(1)(A), added cl. (3).

Subsec. (b). Pub. L. 87-723, § 4(a)(1)(B), added par. (3).

Subsec. (c). Pub. L. 87-723, § 4(a)(1)(C), inserted provisions in cl. (1) requiring the applicant for assistance to show in the alternative that he is an elderly person in a rural area without an adequate dwelling or related facilities for his own use.

1961—Subsec. (a). Pub. L. 87-70, § 803(a), authorized assistance to owners of other real estate in rural areas to enable them to provide dwellings and related facilities for their own use and buildings adequate for their farming operations.

Subsec. (b). Pub. L. 87-70, § 801(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 87-70, § 803(b), permitted the applicant to show that he is the owner of other real estate in a rural area without an adequate dwelling or related facilities for his own use or buildings adequate for his farming operations.

Subsec. (d). Pub. L. 87-70, § 803(c), added subsec. (d).

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of title 48.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1472, 1476, 1477, 1478 of this title; title 7 section 1933; title 38 section 1811.

§ 1472. Loans for housing and buildings on adequate farms

(a) Terms of loan

If the Secretary determines that an applicant is eligible for assistance as provided in section 1471 of this title and that the applicant has the ability to repay in full the sum to be loaned, with interest, giving due consideration to the income and earning capacity of the applicant and his family from the farm and other sources, and the maintenance of a reasonable standard of living for the owner and the occupants of said farm, a loan may be made by the Secretary to said applicant for a period of not to exceed thirty-three years from the making of the loan with interest, in the case of applicants described in clauses (1) and (2) of section 1471(a) of this title, at a rate not to exceed 5 per centum per annum on the unpaid balance of principal, and, in the case of applicants described in clause (3) of section 1471(a) of this title and applicants under sections 1473 and 1474 of this title, at a rate not to exceed 4 per centum per annum on such unpaid balance. Loans made or insured under this subchapter shall be conditioned on the borrower paying such fees and other charges as the Secretary may require and on the borrower prepaying to the Secretary as escrow agent, on terms and conditions prescribed by him, such taxes, insurance, and other expenses as the Secretary may require in accordance with section 1471(e) of this title. The Secretary may accept the personal liability of any person with adequate repayment ability who will cosign the applicant's note to compensate for any deficiency in the applicant's repayment ability.

(b) Provisions of loan instrument

The instruments under which the loan is made and the security given shall—

(1) provide for security upon the applicant's equity in the farm or such other security or collateral, if any, as may be found necessary by the Secretary reasonably to assure repayment of the indebtedness;

(2) provide for the repayment of principal and interest in accordance with schedules and repayment plans prescribed by the Secretary;

(3) contain the agreement of the borrower that he will, at the request of the Secretary, proceed with diligence to refinance the balance of the indebtedness through cooperative or other responsible private credit sources whenever the Secretary determines, in the light of the borrower's circumstances, including his earning capacity and the income from the farm, that he is able to do so upon reasonable terms and conditions;

(4) be in such form and contain such covenants as the Secretary shall prescribe to secure the payment of the loan with interest, protect the security, and assure that the farm will be maintained in repair and that waste and exhaustion of the farm will be prevented.

(July 15, 1949, ch. 338, title V, § 502, 63 Stat. 433; June 30, 1961, Pub. L. 87-70, title VIII, § 801(b), 75 Stat. 186; Sept. 28, 1962, Pub. L. 87-723, § 4(a)(2), 76 Stat. 671; Aug. 10, 1965, Pub. L. 89-117, title X, § 1002, 79 Stat. 497; Nov. 3, 1966, Pub. L. 89-754, title VIII, § 802, 80 Stat. 1282; Aug. 22, 1974, Pub. L. 93-383, title V, § 505(b), 88 Stat. 693.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383 added provisions relating to the borrower prepaying to the Secretary as escrow agent taxes, insurance, and other expenses required by the Secretary in accordance with section 1471(e) of this title.

1966—Subsec. (a). Pub. L. 89-754 substituted "The" for "In cases of applicants who are elderly persons, the" in the third sentence.

1965—Subsec. (a). Pub. L. 89-117 increased to 5 per centum the interest rate in the case of applicants described in clauses (1) and (2) of section 1471(a) of this title and also authorized the Secretary to charge fees on loans made or insured under this subchapter.

1962—Subsec. (a). Pub. L. 87-723 authorized the Secretary to accept, in the case of applicant's who are elderly persons, the personal liability of any person with

adequate repayment ability who will cosign the applicant's note to compensate for any deficiency in the applicant's repayment ability.

1961—Subsec. (b)(1). Pub. L. 87-70 substituted "or such other security" for "and such additional security".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1473, 1474, 1477, 1480, 1484, 1485, 1487, 1490a, 1490f of this title; title 7 section 1933; title 38 section 1811.

§ 1473. Loans for housing and buildings on potentially adequate farms; conditions and terms

If the Secretary determines (a) that, because of the inadequacy of the income of an eligible applicant from the farm to be improved and from other sources, said applicant may not reasonably be expected to make annual repayments of principal and interest in an amount sufficient to repay the loan in full within the period of time prescribed by the Secretary as authorized in this subchapter; (b) that the income of the applicant may be sufficiently increased within a period of not to exceed five years by improvement or enlargement of the farm or an adjustment of the farm practices or methods; and (c) that the applicant has adopted and may reasonably be expected to put into effect a plan of farm improvement, enlargement, or adjusted practices or production which, in the opinion of the Secretary, will increase the applicant's income from said farm within a period of not to exceed five years to the extent that the applicant may be expected thereafter to make annual repayments of principal and interest sufficient to repay the balance of the indebtedness less payments in cash and credits for the contributions to be made by the Secretary as hereinafter provided, the Secretary may make a loan in an amount necessary to provide adequate farm dwellings and buildings on said farm under the terms and conditions prescribed in section 1472 of this title. In addition, the Secretary may agree with the borrower to make annual contributions during the said five-year period in the form of credits on the borrower's indebtedness in an amount not to exceed the annual installment of interest and 50 per centum of the principal payments accruing during any installment year up to and including the fifth installment year, subject to the conditions that the borrower's income is, in fact, insufficient to enable the borrower to make payments in accordance with the plan or schedule prescribed by the Secretary and that the borrower pursues his plan of farm reorganization and improvements or enlargement with due diligence.

This agreement with respect to credits or principal and interest upon the borrower's indebtedness shall not be assignable nor accrue to the benefit of any third party without the written consent of the Secretary and the Secretary shall have the right, at his option, to cancel the agreement upon the sale of the farm or the execution or creation of any lien thereon subsequent to the line given to the Secretary, or to refuse to release the lien given to the Secretary except upon payment in cash of the entire original principal plus accrued interest thereon less actual cash payments of principal and interest when the Secretary determines that the release of the lien would permit the benefits of this section to accrue to a person not eligible to receive such benefits

(July 15, 1949, ch. 338, title V, § 503, 63 Stat. 434.)

CROSS REFERENCES

Assignments of claims void, see section 203 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471, 1472, 1474, 1477, 1480, 1482, 1483 of this title; title 38 section 1811.

§ 1474. Loans and grants for repairs or improvements of rural dwellings; purposes of repairs or improvements; maximum amount; terms; repayment

(a) In the event the Secretary determines that an eligible applicant cannot qualify for a loan under the provisions of sections 1472 and 1473 of this title and that repairs or improvements should be made to a rural dwelling occupied by him in order to make such dwelling safe and sanitary and remove hazards to the health of the occupant, his family, or the community, and that repairs should be made to farm buildings in order to remove hazards and make such buildings safe, the Secretary may make a grant or a combined loan and grant to the applicant to cover the cost of improvements or additions, such as repairing roofs, providing toilet facilities, providing a convenient and sanitary water supply, supplying screens, repairing or providing structural supports, or making similar repairs, additions, or improvements, including all preliminary and installation costs in obtaining central water and sewer service. No assistance shall be extended to any one individual under this subsection in the form of a loan, grant, or combined loan and grant in excess of $5,000. Any portion of the sums advanced to the borrower treated as a loan shall be secured and be repayable within twenty years in accordance with the principles and conditions set forth in this subchapter, except that a loan for less than $2,500 need be evidenced only by a promissory note. Sums made available by grant may be made subject to the conditions set forth in this subchapter for the protection of the Government with respect to contributions made on loans made by the Secretary.

(b) In order to encourage adequate family-size farms the Secretary may make loans under this section and section 1473 of this title to any applicant whose farm needs enlargement or development in order to provide income sufficient to support decent, safe, and sanitary housing and other farm buildings, and may use the funds made available under clause (b) of section 1483 of this title for such purposes.

(July 15, 1949, ch. 338, title V, § 504, 63 Stat. 434; Sept. 28, 1962, Pub. L. 87-723, § 4(c)(3), 76 Stat. 672; Nov. 3, 1966, Pub. L. 89-754, title VIII, § 803, 80 Stat. 1282; Dec. 31, 1970, Pub. L. 91-609, title VIII, § 803(a), 84 Stat. 1806; Aug. 22, 1974, Pub. L. 93-383, title V, § 504, 88 Stat. 693.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383 substituted provisions relating to repairs or improvements of a rural dwelling, scope of such repairs or improvements, limi-

tation of $5,000 as maximum amount of grant or loan, and requirement of a promissory note for loan less than $2,500, for provisions relating to repairs or improvements of a farm dwelling, scope of such repairs or improvements, and limitations of $2,500, or $3,500 in cases involving water or plumbing facilities, as maximum amount of grant or loan.

1970—Subsec. (a). Pub. L. 91-609 increased limitation on amount of assistance from "$1,500" to "$2,500" and provided for an alternative larger amount not exceeding $3,500 as Secretary determines to be necessary in case of repairs or improvements involving water supply, septic tank, or bathroom or kitchen plumbing facilities.

1966—Subsec. (a). Pub. L. 89-754 increased limitation on assistance from $1,000 to $1,500.

1962—Subsec. (a). Pub. L. 87-723 substituted "in the form of a loan, grant, or combined loan and grant in excess of $1,000" for "(1) in the form of a loan, or combined loan and grant, in excess of $1,000, or (2) in the form of a grant (whether or not combined with a loan) in excess of $500."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471, 1472, 1477, 1480, 1483 of this title; title 38 section 1811.

§ 1474a. Security for direct or insured rural housing loans to farmer applicants

On and after August 8, 1968, farmer applicants for direct or insured rural housing loans shall be required to provide only such collateral security as is required of owners of nonfarm tracts.

(Pub. L. 90-463, title II, § 201, Aug. 8, 1968, 82 Stat. 651.)

CODIFICATION

Section was enacted as a part of the Department of Agriculture and Related Agencies Appropriation Act, 1969, and not as a part of the Housing Act of 1949 which comprises this chapter. See also References in Text note under section 1441 of this title.

§ 1475. Moratorium on loan payments

During any time that any such loan is outstanding, the Secretary is authorized under regulations to be prescribed by him to grant a moratorium upon the payment of interest and principal on such loan for so long a period as he deems necessary, upon a showing by the borrower that due to circumstances beyond his control, he is unable to continue making payments of such principal and interest when due without unduly impairing his standard of living. In cases of extreme hardship under the foregoing circumstances, the Secretary is further authorized to cancel interest due and payable on such loans during the moratorium. Should any foreclosure of such a mortgage securing such a loan upon which a moratorium has been granted occur, no deficiency judgment shall be taken against the mortgagor if he shall have faithfully tried to meet his obligation.

(July 15, 1949, ch. 338, title V, § 505, 63 Stat. 434.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1480 of this title; title 38 section 1811.

§ 1476. Buildings and repairs

(a) Construction in accordance with plans and specifications; supervision and inspection; technical services and research

In connection with financial assistance authorized in this subchapter, the Secretary shall require that all new buildings and repairs financed under this subchapter shall be substantially constructed and in accordance with such building plans and specifications as may be required by the Secretary. Buildings and repairs constructed with funds advanced pursuant to this subchapter shall be supervised and inspected as required by the Secretary. In addition to the financial assistance authorized in this subchapter, the Secretary is authorized to furnish, through such agencies as he may determine, to any person, including a person eligible for financial assistance under this subchapter, without charge or at such charges as the Secretary may determine, technical services such as building plans, specifications, construction supervision and inspection, and advice and information regarding farm dwellings and other buildings.

(b) Research and technical studies for reduction of costs and adaptation and development of fixtures and appurtenances

The Secretary is further authorized to conduct research and technical studies including the development, demonstration, and promotion of construction of adequate farm dwellings and other buildings for the purpose of stimulating construction, improving the architectural design and utility of such dwellings and buildings, and utilizing new and native materials, economies in materials and construction methods, and new methods of production, distribution, assembly, and construction, with a view to reducing the cost of farm dwellings and buildings and adapting and developing fixtures and appurtenances for more efficient and economical farm use.

(c) Research, study, and analysis of farm housing

The Secretary is further authorized to carry out a program of research, study, and analysis of farm housing in the United States to develop data and information on—

(1) the adequacy of existing farm housing;

(2) the nature and extent of current and prospective needs for farm housing, including needs for financing and for improved design, utility, and comfort, and the best methods of satisfying such needs;

(3) problems faced by farmers and other persons eligible under section 1471 of this title in purchasing, constructing, improving, altering, repairing, and replacing farm housing;

(4) the interrelation of farm housing problems and the problems of housing in urban and suburban areas; and

(5) any other matters bearing upon the provision of adequate farm housing.

(d) Grants for research and study programs

The Secretary may carry out the research and study programs authorized by subsections (b) and (c) of this section through grants made by him, on such terms, conditions, and standards as he may prescribe, to land-grant colleges established pursuant to the Act of July 2, 1862

(7 U.S.C. 301-308), or (upon a finding by the Secretary that the research and study involved cannot feasibly be performed through the personnel and facilities of the Department of Agriculture or by land-grant colleges) to such other private or public organizations as he may select.

(e) Preparation and submission of estimates of housing needs

The Secretary of Agriculture shall prepare and submit to the President and to the Congress estimates of national rural housing needs and reports with respect to the progress being made toward meeting such needs and correlate and recommend proposals for such executive action or legislation necessary or desirable for the furtherance of the national housing objective and policy established by this Act with respect to rural housing, together with such other reports or information as may be required of the Secretary by the President or the Congress.

(July 15, 1949, ch. 338, title V, § 506, 63 Stat. 435; June 30, 1961, Pub. L. 87-70, title VIII, §§ 804(b)(1), 805(a), 75 Stat. 188; Sept. 28, 1962, Pub. L. 87-723, § 4(c)(2), 76 Stat. 672; Sept. 2, 1964, Pub. L. 88-560, title V, § 503(c), 78 Stat. 798; Aug. 10, 1965, Pub. L. 89-117, title X, § 1005(d), 79 Stat. 501; Aug. 22, 1974, Pub. L. 93-383, title V, §§ 506, 519(a), 88 Stat. 694, 699.)

REFERENCES IN TEXT

The Act of July 2, 1862, referred to in subsec. (d), is act July 2, 1862, ch. 130, 12 Stat. 503, popularly known as the "Morrill Act" and also as the "First Morrill Act", which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 301 of Title 7 and Tables volume.

"This Act", referred to in subsec. (e), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, known as the Housing Act of 1949, which is classified principally to this chapter (§ 1441 et seq.). For complete classification of that Act to the Code, see Short Title note set out under section 1441 of this title and Tables volume.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383, § 519(a), substituted "as required by the Secretary" for "as may be required by the Secretary, by competent employees of the Secretary".

Subsec. (d). Pub. L. 93-383, § 506(a), substituted provisions authorizing grants to such other private or public organizations as selected by the Secretary upon finding that required research and study could not be performed by personnel and facilities of Department of Agriculture or land-grant colleges, for provisions authorizing grants to such other agencies as selected by the Secretary.

Subsec. (e). Pub. L. 93-383, § 506(b), substituted "rural housing" for "farm housing" wherever appearing therein.

1965—Subsec. (a). Pub. L. 89-117 substituted "this subchapter" for "sections 1471 to 1474 and sections 1484 to 1486 of this title" wherever appearing.

1964—Subsec. (a). Pub. L. 88-560 inserted the reference to section 1486 of this title wherever appearing.

1962—Subsec. (a). Pub. L. 87-723 substituted "sections 1484 and 1485" for "section 1484", in two instances.

1961—Subsec. (a). Pub. L. 87-70, §§ 804(b)(1), 805(a)(1), inserted a reference to section 1484 of this title in two instances, and eliminated provisions which authorized the conduct of research and technical studies including the development, demonstration, and promotion of construction of adequate farm dwellings and other buildings for the purposes of stimulating construction, improving architectural design and utility, utilizing new and native materials, economies in materials and construction methods, and new methods of production, distribution, assembly, and construction, which provisions are now contained in subsec. (b) of this section.

Subsecs. (b) to (d). Pub. L. 87-70, § 805(a)(3), added subsecs. (b) to (d). Provisions of subsec. (b) were formerly contained in subsec. (a).

Subsec. (e). Pub. L. 87-70, § 805(a)(2), redesignated subsec. (b) as (e).

REPORT OF ESTIMATES OF NATIONAL FARM HOUSING NEEDS

Pub. L. 89-348, § 1(5), Nov. 8, 1965, 79 Stat. 1310, repealed provisions of subsec. (e) of this section which related to reports of the estimates of national farm housing needs and of progress toward meeting such needs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1483 of this title; title 38 section 1811.

§ 1477. Preferences for veterans and families of deceased servicemen

As between eligible applicants seeking assistance under sections 1471 to 1474, inclusive, of this title, the Secretary shall give preference to veterans and the families of deceased servicemen. As used herein, a "veteran" shall mean a person who served in the military forces of the United States during any war between the United States and any other nation or during the period beginning June 27, 1950, and ending on such date as shall be determined by Presidential proclamation or concurrent resolution of Congress, or during the period beginning after January 31, 1955, and ending on August 4, 1964, or during the Vietnam era (as defined in section 101(29) of title 38), and who was discharged or released therefrom on conditions other than dishonorable. "Deceased servicemen" shall mean persons who served in the military forces of the United States during any war between the United States and any other nation or during the period beginning June 27, 1950, and ending on such date as shall be determined by Presidential proclamation or concurrent resolution of Congress, or during the period beginning after January 31, 1955, and ending on August 4, 1964, or during the Vietnam era (as defined in section 101(29) of title 38), and who died in service before the termination of such war or such period.

(July 15, 1949, ch. 338, title V, § 507, 63 Stat. 435; June 30, 1953, ch. 174, § 3, 67 Stat. 132; June 30, 1961, Pub. L. 87-70, title VIII, § 804(b)(2), 75 Stat. 188; Aug. 22, 1974, Pub. L. 93-383, title V, § 507, 88 Stat. 694.)

AMENDMENTS

1974—Pub. L. 93-383 added references to the period beginning after Jan. 31, 1955 and ending on Aug. 4, 1964, or during the Vietnam era wherever appearing therein.

1961—Pub. L. 87-70 substituted "under sections 1471 to 1474, inclusive, of this title" for "under this subchapter."

1953—Act June 30, 1953, enlarged the definition of "veteran" and "deceased servicemen" to include members of the armed forces who have served during the Korean conflict.

PERIOD OF SERVICE IN MILITARY FORCES

Proc. No. 3080, Jan. 5, 1955, 20 F.R. 173, fixed Jan. 31, 1955, as the date ending the period during which persons must have served in the military forces in order that such persons come within the meaning of the terms "veteran" and "deceased servicemen", contained in this section, by reason of service during the period beginning June 27, 1950.

CONTINUATION OF PROVISIONS

Joint Res. July 3, 1952, ch. 570, § 1(a)(20), 66 Stat. 332, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, provided that qualification period should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F.R. 9029, set out as a note preceding section 1 of Appendix to Title 50, War and National Defense, or such earlier date or dates as may be provided for by Congress, but in no event beyond July 1, 1953. Section 7 of Joint Res. July 3, 1952, provided that it should become effective June 16, 1952.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54, as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 1811.

§ 1478. Local committees to assist Secretary

(a) Composition, appointment, and compensation; chairman; promulgation of procedural rules; forms and equipment

For the purposes of this subsection and subsection (b) of this section, the Secretary may use the services of any existing committee of farmers operating (pursuant to laws or regulations carried out by the Department of Agriculture) in any county or parish in which activities are carried on under this subchapter. In any county or parish in which activities are carried on under this subchapter and in which no existing satisfactory committee is available, the Secretary is authorized to appoint a committee composed of three persons residing in the county or parish. Each member of such existing or newly appointed committee shall be allowed compensation at the rate determined by the Secretary while engaged in the performance of duties under this subchapter and, in addition, shall be allowed such amounts as the Secretary may prescribe for necessary traveling and subsistence expenses. One member of the committee shall be designated by the Secretary as chairman. The Secretary shall prescribe rules governing the procedures of the committees, furnish forms and equipment necessary for the performance of their duties, and authorize and provide for the compensation of such clerical assistance as he deems may be required by any committee.

(b) Duties

The committees utilized or appointed pursuant to this section may examine applications of persons desiring to obtain the benefits of section 1471(a)(1) and (2) of this title as they relate to the successful operation of a farm, and may submit recommendations to the Secretary with respect to each applicant as to whether the applicant is eligible to receive such benefits, whether by reason of his character, ability, and experience he is likely successfully to carry out undertakings required of him under a loan under such section, and whether the farm with respect to which the application is made is of such character that there is a reasonable likelihood that the making of the loan requested will carry out the purposes of this subchapter. The committees may also certify to the Secretary with respect to the amount of any loan.

(July 15, 1949, ch. 338, title V, § 508, 63 Stat. 436; June 30, 1961, Pub. L. 87-70, title VIII, § 806, 75 Stat. 188; Dec. 31, 1970, Pub. L. 91-609, title VIII, § 803(b), 84 Stat. 1807; Aug. 22, 1974, Pub. L. 93-383, title V, § 508, 88 Stat. 694.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-383 substituted provisions relating to examination of applications under section 1471(a)(1) and (2) of this title, and certification to the Secretary with respect to amount of any loan, for provisions relating to examination of applications under provisions of this subchapter, certification to the Secretary with respect to the amount of the loan or grant, and requiring performance of such other duties as the Secretary requests.

1970—Subsec. (b). Pub. L. 91-609 substituted "may" for "shall" in first and second sentences where reading "shall examine", "shall submit", and "shall also certify".

1961—Subsec. (a). Pub. L. 87-70, § 806(a), substituted "at the rate determined by the Secretary" for "at the rate of $5 per day".

Subsec. (b). Pub. L. 87-70, § 806(b), substituted "certify to the Secretary as to the amount of the loan or grant" for "certify to the Secretary their opinions of the reasonable values of the farms".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 1811.

§ 1479. General powers of Secretary

(a) The Secretary, for the purposes of this subchapter, shall have the power to determine and prescribe the standards of adequate farm housing and other buildings, by farms or localities, taking into consideration, among other factors, the type of housing which will provide decent, safe, and sanitary dwelling for the needs of the family using the housing, the type and character of the farming operations to be conducted, and the size and earning capacity of the land.

(b) The Secretary may require any recipient of a loan or grant to agree that the availability of improvements constructed or repaired with the proceeds of the loan or grant under this subchapter shall not be a justification for directly or indirectly changing the terms or conditions of the lease or occupancy agreement with the occupants of such farms to the latter's disadvantage without the approval of the Secretary.

(July 15, 1949, ch. 338, title V, § 509, 63 Stat. 436.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 1811.

§ 1480. Administrative powers of Secretary

In carrying out the provisions of this subchapter, the Secretary shall have the power to—

(a) Service and supply contracts

make contracts for services and supplies without regard to the provisions of section 5 of title 41, when the aggregate amount involved is less than $300;

(b) Subordination, subrogation, and other agreements

enter into subordination, subrogation, or other agreements satisfactory to the Secretary;

(c) Compromise of claims and obligations

compromise claims and obligations arising out of sections 1472 to 1475 of this title and adjust and modify the terms of mortgages, leases, contracts, and agreements entered into as circumstances may require, including the release from personal liability, without payments of further consideration, of—

(1) borrowers who have transferred their farms to other approved applicants for loans who have agreed to assume the outstanding indebtedness to the Secretary under this subchapter; and

(2) borrowers who have transferred their farms to other approved applicants for loans who have agreed to assume that portion of the outstanding indebtedness to the Secretary under this subchapter which is equal to the earning capacity value of the farm at the time of the transfer, and borrowers whose farms have been acquired by the Secretary, in cases where the Secretary determines that the original borrowers have cooperated in good faith with the Secretary, have farmed in a workmanlike manner, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to their loans, to the best of their abilities;

(d) Collection of claims and obligations

collect all claims and obligations arising out of or under any mortgage, lease, contract, or agreement entered into pursuant to this subchapter and, if in his judgment necessary and advisable, to pursue the same to final collection in any court having jurisdiction: *Provided,* That the prosecution and defense of all litigation under this subchapter shall be conducted under the supervision of the Attorney General and the legal representation shall be by the United States attorneys for the districts, respectively, in which such litigation may arise and by such other attorney or attorneys as may, under law, be designated by the Attorney General;

(e) Purchase of pledged or mortgaged property at foreclosure or other sales; operation, sale or disposition of said property

bid for and purchase at any foreclosure or other sale or otherwise to acquire the property pledged or mortgaged to secure a loan or other indebtedness owing under this subchapter, to accept title to any property so purchased or acquired, to operate or lease such property for such period as may be necessary or advisable, to protect the interest of the United States therein and to sell or otherwise dispose of the property so purchased or acquired by such terms and for such considerations as the Secretary shall determine to be reasonable and to make loans as provided herein to provide adequate farm dwellings and buildings for the purchasers of such property;

(f) Processing of applications received prior to determination of nonrural status; assistance

continue processing as expeditiously as possible applications on hand received prior to the time an area has been determined by the Secretary not to be "rural" or a "rural area", as those terms are defined in section 1490 of this title, and make loans or grants to such applicants who are found to be eligible on the same basis as though the area were still rural;

(g) Assistance in connection with transfers and assumptions of property for nonrural areas

notwithstanding that an area ceases, or has ceased, to be "rural", in a "rural area", or an eligible area, make assistance under this subchapter available in connection with transfers and assumptions of property securing any loan made, insured, or held by the Secretary or in connection with any property held by the Secretary under this subchapter on the same basis as though the area were still rural;

(h) Utilization of indebtedness

utilize with respect to the indebtedness arising from loans and payments made under this subchapter, all the powers and authorities given to him under sections 1150 to 1150b of title 12;

(i) Rules and regulations

make such rules and regulations as he deems necessary to carry out the purposes of this subchapter.

(July 15, 1949, ch. 338, title V, § 510, 63 Stat. 437; Aug. 3, 1976, Pub. L. 94-375, § 25(c), 90 Stat. 1078.)

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-375 added subsec. (f), and redesignated former subsec. (f), relating to utilization of indebtedness from loans and payments, as subsec. (h).

Subsec. (g). Pub. L. 94-375 added subsec. (g), and redesignated former subsec. (g), relating to the authority of the Secretary to make rules and regulations, as subsec. (i).

Subsec. (h). Pub. L. 94-375 redesignated former subsec. (f) as subsec. (h).

Subsec. (i). Pub. L. 94-375 redesignated former subsec. (g) as subsec. (i).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 1811.

§ 1481. Issuance of notes and obligations for loan funds; amount; limitation; security; form and denomination; interest; purchase and sale by Treasury; public debt transaction

The Secretary may issue notes and other obligations for purchase by the Secretary of the Treasury for the purpose of making direct loans under this subchapter. The total principal amount of such notes and obligations issued pursuant to this section during the period beginning July 1, 1956, and ending October 1, 1969, shall not exceed $850,000,000. The notes and obligations issued by the Secretary shall be secured by the obligations of borrowers and the Secretary's commitments to make contributions under this subchapter and shall be repaid from the payment of principal and interest on the

obligations of the borrowers and from funds appropriated hereunder. The notes and other obligations issued by the Secretary shall be in such forms and denominations, shall have such maturities, and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Each such note or other obligation shall bear interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which such note or other obligation is issued, which are neither due nor callable for redemption for 15 years from their date of issue. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or obligations shall be treated as public debt transactions of the United States.

(July 15, 1949, ch. 338, title V, § 511, 63 Stat. 438; July 14, 1952, ch. 723, § 11(a), 66 Stat. 604; June 29, 1954, ch. 410, § 5(a), 68 Stat. 320; Aug. 2, 1954, ch. 649, title VIII, § 812(a), 68 Stat. 647; Aug. 11, 1955, ch. 783, title V, § 501(1), 69 Stat. 654; Aug. 7, 1956, ch. 1029, title VI, § 606(a), 70 Stat. 1114; June 30, 1961, Pub. L. 87-70, title VIII, §§ 801(c), 802, 75 Stat. 186; Sept. 28, 1962, Pub. L. 87-723, § 4(c)(1), 76 Stat. 672; Sept. 2, 1964, Pub. L. 88-560, title V, § 501(a), 78 Stat. 796; Aug. 10, 1965, Pub. L. 89-117, title X, § 1003(b), 79 Stat. 500.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in text is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

Such Act, as amended, referred to in text refers to the Second Liberty Bond Act.

AMENDMENTS

1965—Pub. L. 89-117 changed the purpose for which the Secretary may issue notes and other obligations for purchase by the Secretary of the Treasury from that of making loans under this subchapter (other than loans under section 1474(b) or 1485 of this title) to that of making direct loans under the entire subchapter, substituted "October 1969" for "September 30, 1965", eliminated reservation that, of the allowable $850,000,000 principal amount of notes and obligations, $50,000,000 be available exclusively for assistance to elderly persons under clause (3) of section 1471(a) of this title, and changed the method for setting the interest on notes and obligations from that of having the Secretary set a rate taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the notes or obligations to that of the Secretary setting a rate equal to the average rate payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which such note or other obligation is issued, which are neither due nor callable for redemption for 15 years from their date of issuance.

1964—Pub. L. 88-560 substituted "September 30, 1965" for "June 30, 1965", and "$850,000,000" for "$700,000,000".

1962—Pub. L. 87-723 substituted "1474(b) or 1485" for "1474(b)" and "$700,000,000, of which $50,000,000 shall be available exclusively for assistance to elderly persons as provided in clause (3) of section 1471(a) of this title" for "$650,000,000".

1961—Pub. L. 87-70 substituted "June 30, 1965" for "June 30, 1961", and "$650,000,000" for "$450,000,000".

1956—Act Aug. 7, 1956, authorized $450,000,000 for loans for the period beginning July 1, 1956, and ending June 30, 1961.

1955—Act Aug. 11, 1955, authorized an additional $100,000,000 on and after July 1, 1955.

1954—Act Aug. 2, 1954, substituted "$100,000,000" for the authorization of $8,500,000 (on and after July 1, 1954) which had been inserted by Act June 29, 1954.

Act June 29, 1954, authorized an additional $8,500,000 on and after July 1, 1954.

1952—Act July 14, 1952, authorized an additional $100,000,000 for fiscal year 1954.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 606(d) of act Aug. 7, 1956, provided that amendment of sections 1481, 1482, and 1483 of this title should take effect July 1, 1956.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1483 of this title; title 38 section 1811.

§ 1482. Contribution commitments

In connection with loans made pursuant to section 1473 of this title, the Secretary is authorized to make commitments for contributions aggregating not to exceed $10,000,000 during the period beginning July 1, 1956, and ending October 1, 1969.

(July 15, 1949, ch. 338, title V, § 512, 63 Stat. 438; July 14, 1952, ch. 723, § 11(b), 66 Stat. 604; June 29, 1954, ch. 410, § 5(b), 68 Stat. 320; Aug. 2, 1954, ch. 649, title VIII, § 812(b), 68 Stat. 647; Aug. 11, 1955, ch. 783, title V, § 501(2), 69 Stat. 654; Aug. 7, 1956, ch. 1029, title VI, § 606(b), 70 Stat. 1114; June 30, 1961, Pub. L. 87-70, title VIII, § 801(c), 75 Stat. 186; Sept. 4, 1964, Pub. L. 88-560, title V, § 501(b), 78 Stat. 796; Aug. 10, 1965, Pub. L. 89-117, title X, § 1005(a), 79 Stat. 501.)

AMENDMENTS

1965—Pub. L. 89-117 substituted "October 1, 1969" for "September 30, 1965".

1964—Pub. L. 88-560 substituted "September 30, 1965" for "June 30, 1965".

1961—Pub. L. 87-70 substituted "June 30, 1965" for "June 30, 1961".

1956—Act Aug. 7, 1956, authorized commitments for contributions not to exceed $10,000,000 from July 1, 1956, to June 30, 1961.

1955—Act Aug. 11, 1955, authorized an additional $2,000,000, on and after July 1, 1955.

1954—Act Aug. 2, 1954, substituted $2,000,000 for the authorization of $170,000 (available July 1, 1954) which had been inserted by act June 29, 1954.

Act June 29, 1954, provided an additional authorization available July 1, 1954.

1952—Act July 14, 1952, provided an additional authorization available July 1, 1953.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by Act Aug. 7, 1956, effective July 1, 1956, see section 606(d) of act Aug. 7, 1956, set out as

an Effective Date of 1956 Amendment note under section 1481 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 1811.

§ 1483. Appropriations

There is authorized to be appropriated to the Secretary (a) such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 1481 of this title equal to (i) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 1473 of this title, and (ii) the interests due on a similar sum represented by notes or other obligations issued by the Secretary; (b) not to exceed $80,000,000 for loans and grants pursuant to section 1474 of this title during the period beginning July 1, 1956, and ending June 30, 1977; (c) not to exceed $80,000,000 for financial assistance pursuant to section 1486 of this title for the period ending June 30, 1977; (d) not to exceed $250,000 per year for research and study programs pursuant to subsections (b), (c), and (d) of section 1476 of this title during the period beginning July 1, 1961, and ending June 30, 1974, and not to exceed $1,000,000 per year for such programs during the period beginning October 1, 1974, and ending June 30, 1977; (e) such further sums as may be necessary to enable the Secretary to carry out the provisions of this subchapter; and (f) such sums as may be required by the Secretary to administer the provisions of sections 1715z and 1715z-1 of title 12.

(July 15, 1949, ch. 338, title V, § 513, 63 Stat. 438; July 14, 1952, ch. 723, § 11(c), 66 Stat. 604; June 29, 1954, ch. 410, § 5(c), 68 Stat. 320; Aug. 2, 1954, ch. 649, title VIII, § 812(c), 68 Stat. 647; Aug. 11, 1955, ch. 783, title V, § 501(c), 69 Stat. 654; Aug. 7, 1956, ch. 1029, title VI, § 606(c), 70 Stat. 1115; June 30, 1961, Pub. L. 87-70, title VIII, §§ 801(c), 805(b), 75 Stat. 186, 188; Sept. 2, 1964, Pub. L. 88-560, title V, §§ 501(c), 503(b), 78 Stat. 796, 798; Aug. 10, 1965, Pub. L. 89-117, title X, § 1005(b), 79 Stat. 501; Aug. 1, 1968, Pub. L. 90-448, title X, § 1003, 82 Stat. 553; Sept. 30, 1969, Pub. L. 91-78, § 1, 83 Stat. 125; Dec. 24, 1969, Pub. L. 91-152, title IV, § 413(a), 83 Stat. 398; Oct. 2, 1973, Pub. L. 93-117, § 13(a), 87 Stat. 423; Aug. 22, 1974, Pub. L. 93-383, title V, § 509(a), 88 Stat. 694.)

AMENDMENTS

1974—Pub. L. 93-383 in cls. (b) and (c) increased amount from $50,000,000 to $80,000,000 and substituted "June 30, 1977" for "October 1, 1974", and in cl. (d) substituted "June 30, 1974" for "October 1, 1974" and added provisions authorizing not to exceed $1,000,000 per year during the period beginning October 1, 1974, and ending June 30, 1977.

1973—Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973" wherever appearing.

1969—Pub. L. 91-152 substituted "October 1, 1973" for "January 1, 1970" wherever appearing.

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969" wherever appearing.

1968—Pub. L. 90-448 authorized appropriations of such sums as may be required to administer the provisions of sections 1715z and 1715z-1 of title 12.

1965—Pub. L. 89-117 substituted "October 1, 1969" for "September 30, 1965" wherever appearing and "$50,000,000" for "$10,000,000" in clause (c) as the maximum allowable appropriation for financial assistance pursuant to section 1486 of this title.

1964—Pub. L. 88-560 substituted "September 30, 1965" for "June 30, 1965" wherever appearing, redesignated clauses (c) and (d) as (d) and (e), and added clause (c).

1961—Pub. L. 87-70 extended the period for grants and loans pursuant to section 1474 (a), (b) of this title from June 30, 1961, to June 30, 1965, and authorized appropriations of not more than $250,000 per year for research and study programs pursuant to subsections (b), (c), and (d) of section 1476 of this title for the period beginning July 1, 1961, and ending June 30, 1965.

1956—Act Aug. 7, 1956, authorized $50,000,000 for grants and loans from July 1, 1956, to June 30, 1961.

1955—Act Aug. 11, 1955, authorized an additional $10,000,000 on July 1, 1955.

1954—Act Aug. 2, 1954, substituted $10,000,000 for the authorization of $850,000 (available July 1, 1954) which had been authorized by act June 29, 1954.

Act June 29, 1954, authorized an appropriation of $850,000 to be available on July 1, 1954.

1952—Act July 14, 1952, authorized an appropriation of $10,000,000 to be available on July 1, 1953.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 7, 1956, effective July 1, 1956, see section 606(d) of act Aug. 7, 1956, set out as an Effective Date of 1956 Amendment note under section 1481 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1484, 1485 of this title; title 38 section 1811.

§ 1484. Insurance of loans for housing and related facilities for domestic farm labor

(a) Authorization; terms and conditions

The Secretary is authorized to insure and make commitments to insure loans made by lenders other than the United States to the owner of any farm or any association of farmers for the purpose of providing housing and related facilities for domestic farm labor, or to any State (or political subdivision thereof), or any broad-based public or private nonprofit organization or any nonprofit organization of farmworkers incorporated within the State for the purpose of providing housing and related facilities for domestic farm labor any place within the State where a need exists. All such loans shall be made in accordance with terms and conditions substantially identical with those specified in section 1472 of this title, except that—

(1) no such loan shall be insured in an amount in excess of the value of the farm involved less any prior liens in the case of a loan to an individual owner of a farm, or the total estimated value of the structures and facilities with respect to which the loan is made in the case of any other loan;

(2) no such loan shall be insured if it bears interest at a rate in excess of 1 per centum per annum;

(3) out of interest payments by the borrower the Secretary shall retain a charge in an amount not less than one-half of 1 percentum per annum of the unpaid principal balance of the loan;

(4) the insurance contracts and agreements with respect to any loan may contain provisions for servicing the loan by the Secretary or by the lender, and for the purchase by the

Secretary of the loan if it is not in default, on such terms and conditions as the Secretary may prescribe; and

(5) the Secretary may take mortgages creating a lien running to the United States for the benefit of the insurance fund referred to in subsection (b) of this section notwithstanding the fact that the note may be held by the lender or his assignee.

(b) Utilization of farm tenant mortgage insurance fund; additions to and deposits in fund; deposits in Treasury

The Secretary shall utilize the insurance fund created by section 1005a of title 7 and the provisions of section 1005c(a), (b), and (c) of title 7 to discharge obligations under insurance contracts made pursuant to this section, and

(1) the Secretary may utilize the insurance fund to pay taxes, insurance, prior liens, and other expenses to protect the security for loans which have been insured hereunder and to acquire such security property at foreclosure sale or otherwise;

(2) the notes and security therefor acquired by the Secretary under insurance contracts made pursuant to this section shall become a part of the insurance fund. Loans insured under this section may be held in the fund and collected in accordance with their terms or may be sold and reinsured. All proceeds from such collections, including the liquidation of security and the proceeds of sales, shall become a part of the insurance fund; and

(3) of the charges retained by the Secretary out of interest payments by the borrower, amounts not less than one-half of 1 per centum per annum of the unpaid principal balance of the loan shall be deposited in and become a part of the insurance fund. The remainder of such charges shall be deposited in the Treasury of the United States and shall be available for administrative expenses of the Farmers Home Administration, to be transferred annually to and become merged with any appropriation for such expenses.

(c) Insurance contract; obligation of the United States; incontestability

Any contract of insurance executed by the Secretary under this section shall be an obligation of the United States and incontestable except for fraud or misrepresentation of which the holder of the contract has actual knowledge.

(d) Maximum obligations

The aggregate amount of the principal obligations of the loans insured under this section shall not exceed $25,000,000 in any one fiscal year.

(e) Administrative expenses

Amounts made available pursuant to section 1483 of this title shall be available for administrative expenses incurred under this section.

(f) Definitions

As used in this section—

(1) the term "housing" means (A) new structures (including household furnishings) suitable for dwelling use by domestic farm labor, and (B) existing structures (including household furnishings) which can be made suitable for dwelling use by domestic farm labor by rehabilitation, alteration, conversion, or improvement; and

(2) the term "related facilities" means (A) new structures (including household furnishings) suitable for use as dining halls, community rooms or buildings, or infirmaries, or for other essential services facilities, and (B) existing structures (including household furnishings) which can be made suitable for the above uses by rehabilitation, alteration, conversion, or improvement and (C) land necessary for an adequate site; and

(3) the term "domestic farm labor" means persons who receive a substantial portion (as determined by the Secretary) of their income as laborers on farms situated in the United States and either (A) are citizens of the United States or (B) reside in the United States after being legally admitted for permanent residence therein.

(July 15, 1949, ch. 338, title V, § 514, as added June 30, 1961, Pub. L. 87-70, title VIII, § 804(a), 75 Stat. 186, and amended Sept. 2, 1964, Pub. L. 88-560, title V, § 502, 78 Stat. 796; Aug. 1, 1968, Pub. L. 90-448, title X, § 1004, 82 Stat. 553; Dec. 31, 1970, Pub. L. 91-609, title VIII, § 801(a)-(c), 84 Stat. 1805, 1806.)

References in Text

Sections 1005a and 1005c(a), (b), and (c) of title 7, referred to in subsec. (b), were repealed by section 341(a) of Pub. L. 87-128, title III, Aug. 8, 1961, 75 Stat. 318 (set out as a note under section 1921 of Title 7, Agriculture), which also provides that references in other laws to the Bankhead-Jones Farm Tenant Act shall be construed as referring to appropriate provisions of section 1921 et seq. of Title 7.

Codification

Another section 801(b) of Pub. L. 91-609 amended section 1460(c)(1) of this title.

Amendments

1970—Subsec. (a). Pub. L. 91-609, § 801(a), authorized insurance of loans to broad-based nonprofit organizations and nonprofit organizations of farmworkers incorporated within the State and provided for housing and related facilities for domestic farm labor any place within the State where need exists.

Subsec. (a)(2). Pub. L. 91-609, § 801(b), substituted "1" for "5" per centum.

Subsec. (f)(1), (2). Pub. L. 91-609, § 801(c), substituted "structures (including household furnishings)" for "structures" in cls. (A) and (B).

1968—Subsec. (f)(2). Pub. L. 90-448 included land necessary for an adequate site within the definition of "related facilities".

1964—Subsec. (f)(3). Pub. L. 88-560 included residents of the United States after being legally admitted for permanent residence.

Cross References

Agricultural Credit Insurance Fund as designation for farm tenant insurance fund, see section 1929 of Title 7, Agriculture.

Section Referred to in Other Sections

This section is referred to in sections 1487, 1490a of this title.

§ 1485. Housing and related facilities for elderly persons and families or other persons and families of low income

(a) Direct loans; authorization; terms and conditions; revolving fund; appropriation

The Secretary is authorized to make loans to private nonprofit corporations and consumer cooperatives to provide rental or cooperative housing and related facilities for elderly persons and elderly families of low or moderate income or other persons and families of low income in rural areas, in accordance with terms and conditions substantially identical with those specified in section 1472 of this title; except that—

(1) no such loan shall exceed the development cost or the value of the security, whichever is less;

(2) such loans shall bear interest at rates determined by the Secretary, not to exceed the maximum rate provided in section 1701q(a)(3) of title 12; and

(3) such a loan may be made for a period of up to fifty years from the making of the loan.

There is authorized to be appropriated not to exceed $50,000,000, which shall constitute a revolving fund to be used by the Secretary in carrying out this subsection.

(b) Insurance of loans; authorization; terms and conditions; utilization of Agricultural Credit Insurance Fund expiration date

The Secretary is authorized to insure and make commitments to insure loans made to any individual, corporation, association, trust, or partnership to provide rental or cooperative housing and related facilities for elderly persons and elderly families or other persons and families of moderate income in rural areas, in accordance with terms and conditions substantially identical with those specified in section 1472 of this title; except that—

(1) no such loan shall exceed the development cost or the value of the security, whichever is less;

(2) such loans shall bear interest at rates determined by the Secretary, not to exceed the maximum rate provided in section 1709(b)(5) of title 12;

(3) provide for complete amortization by periodic payments within such term as the Secretary may prescribe;

(4) for insuring such loans, the Secretary shall utilize the Agricultural Credit Insurance Fund subject to all the provisions of section 1929 of title 7 and the second and third sentences of section 1928 of title 7, including the authority in section 1929(f)(1) of title 7 to utilize the insurance fund to make, sell, and insure loans which could be insured under this subsection; but the aggregate of the principal amounts of such loans made by the Secretary and not disposed of shall not exceed $10,000,000 outstanding at any one time; and the Secretary may take liens running to the United States though the notes may be held by other lenders; and

(5) no loan shall be insured under this subsection after June 30, 1977.

(c) Construction requirements

No loan shall be made or insured under subsection (a) or (b) of this section unless the Secretary finds that the construction involved will be undertaken in an economical manner and will not be of elaborate or extravagant design or materials.

(d) Definitions

As used in this section—

(1) the term "housing" means new or existing housing suitable for dwelling use by occupants eligible under this section;

(2) the term "related facilities" includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service facilities;

(3) the term "elderly persons" means persons who are 62 years of age or over; and the term "elderly families" means families the head of which (or his spouse) is 62 years of age or over; and

(4) the term "development cost" means the costs of constructing, purchasing, improving, altering, or repairing new or existing housing and related facilities and purchasing and improving the necessary land, including necessary and appropriate fees and charges, and initial operating expenses up to 2 per centum of the aforementioned costs, approved by the Secretary. Such fees and charges may include payments of qualified consulting organizations or foundations which operate on a nonprofit basis and which render services or assistance to nonprofit corporations or consumer cooperatives who provide housing and related facilities for low or moderate income families.

(e) Administrative expenses

Amounts made available pursuant to section 1483 of this title shall be available for administrative expenses incurred under this section.

(July 15, 1949, ch. 338, title V, § 515, as added Sept. 28, 1962, Pub. L. 87-723, § 4(b), 76 Stat. 671, and amended June 30, 1964, Pub. L. 88-340, 78 Stat. 233; Sept. 2, 1964, Pub. L. 88-560, title V, § 501(d) 78 Stat. 796; Aug. 10, 1965, Pub. L. 89-117, title X, § 1005(c), 79 Stat. 501; Nov. 3, 1966, Pub. L. 89-754, title VIII, §§ 804, 805, 80 Stat. 1282; Sept. 30, 1969, Pub. L. 91-78, § 1, 83 Stat. 125; Dec. 24, 1969, Pub. L. 91-152, title IV, § 413(a), 83 Stat. 398; Dec. 31, 1970, Pub. L. 91-609, title VIII, § 803(c), 84 Stat. 1807; Oct. 2, 1973, Pub. L. 93-117, § 13(b), 87 Stat. 423; Aug. 22, 1974, Pub. L. 93-383, title V, §§ 509(b), 510, 88 Stat. 695.)

AMENDMENTS

1974—Subsec. (b)(1). Pub. L. 93-383, § 510(a), struck out "$750,000 or" following "exceed" and substituted "less" for "least".

Subsec. (b)(5). Pub. L. 93-383, § 509(b), substituted "June 30, 1977" for "October 1, 1974".

Subsec. (d)(4). Pub. L. 93-383, 510(b), added provisions including initial operating expenses up to 2 per centum of enumerated costs and requiring payments to be made to consultants rendering services to nonprofit corporations or consumer cooperatives providing housing and related facilities to low or moderate income families.

1973—Subsec. (b)(5). Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973".

1970—Subsec. (b)(1). Pub. L. 91-609 substituted "$750,000" for "$300,000".

1969—Subsec. (b)(5). Pub. L. 91-152 substituted "October 1, 1973" for "January 1, 1970".

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969".

1966—Subsec. (a). Pub. L. 89-754, §§ 804(a), 805(a), inserted "or other persons and families of low income" following "income" and substituted "rental or cooperative housing" for "rental housing", respectively.

Subsec. (b). Pub. L. 89-754, § 805(a), (b), substituted "rental or cooperative housing" for "rental housing" and inserted "or other persons and families of moderate income" following "families", respectively.

Subsec. (d)(1). Pub. L. 89-754, § 804(b), substituted in the definition of "housing" the words "occupants eligible under this section," for "elderly persons or elderly families".

Subsec. (d)(4). Pub. L. 89-754, § 805(c), defined fees and charges as used for purposes of "development cost" to include payments to qualified consulting organizations or foundations which operate on a nonprofit basis and which render services or assistance to nonprofit corporations or consumer cooperatives who provide housing and related facilities.

1965—Subsec. (b)(5). Pub. L. 89-117 substituted "October 1, 1969" for "September 30, 1965".

1964—Subsec. (b). Pub. L. 88-560 substituted "$300,000" for "$100,000" in cl. (1), and "1965" for "1964" in cl. (5).

Pub. L. 88-340 substituted "September 30, 1964" for "June 30, 1964" in cl. (5).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1486, 1487, 1490a, 1490f of this title; title 40 App. section 207.

§ 1486. Financial assistance to provide low-rent housing for domestic farm labor

(a) Application; considerations

Upon the application of any State or political subdivision thereof, or any broad-based public or private nonprofit organization incorporated within the State, or any nonprofit organization of farmworkers incorporated within the State, the Secretary is authorized to provide financial assistance for the provision of low-rent housing and related facilities (which may be located any place within the State) for domestic farm labor, if he finds that—

(1) the housing and related facilities for which financial assistance is requested will fulfill a pressing need in the area in which such housing and facilities will be located, and there is reasonable doubt that the same can be provided without financial assistance under this section;

(2) the applicant will contribute, from its own resources or from funds borrowed under section 1484 of this title or elsewhere, at least 10 per centum of the total development cost;

(3) the types of housing and related facilities to be provided are most practicable, giving due consideration to the purposes to be served thereby and the needs of the occupants thereof, and such housing and facilities shall be durable and suitable for year-around occupancy or use, unless the Secretary finds that there is no need for such year-around occupancy or use in that area; and

(4) the construction will be undertaken in an economical manner, and the housing and related facilities will not be of elaborate or extravagant design or material.

(b) Maximum amount of assistance

The amount of any financial assistance provided under this section for low-rent housing and related facilities shall not exceed 90 per centum of the total development cost thereof, as determined by the Secretary, less such amount as the Secretary determines can be practicably obtained from other sources (including a loan under section 1484 of this title).

(c) Prerequisite agreements; rentals; safety and sanitation standards; priority of domestic farm labor

No financial assistance for low-rent housing and related facilities shall be made available under this section unless, to any extent and for any periods required by the Secretary, the applicant agrees—

(1) that the rentals charged domestic farm labor shall not exceed such amounts as may be approved by the Secretary, giving due consideration to the income and earning capacity of the tenants, and the necessary costs of operating and maintaining such housing;

(2) that such housing shall be maintained at all times in a safe and sanitary condition in accordance with such standards as may be prescribed by State or local law, or, in the absence of such standards, in accordance with such minimum requirements as the Secretary shall prescribe; and

(3) an absolute priority will be given at all times in granting occupancy of such housing and facilities to domestic farm labor.

(d) Payments; contracts to specify uses of housing

The Secretary may make payments pursuant to any contract for financial assistance under this section at such times and in such manner, as may be specified in the contract. In each contract, the Secretary shall include such covenants, conditions, or provisions as he deems necessary to insure that the housing and related facilities, for which financial assistance is made available, be used only in conformity with the provisions of this section.

(e) Regulations for prevention of waste

The Secretary shall prescribe regulations to insure that Federal funds expended under this section are not wasted or dissipated.

(f) Wages; labor standards; waiver; authority and functions of Secretary

All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary which are undertaken by approved applicants under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). The Secretary shall not extend any financial assistance under this section for any project without first obtaining adequate assurance that these labor standards will be maintained on the construction work; except that compliance with such standards may be waived by the Secretary in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the person, corporation, association, organization, or other entity, undertaking the project. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14

of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 276c of title 40.

(g) Definitions

As used in this section—

(1) the term "low-rent housing" means rental housing within the financial reach of families of low income consisting of (A) new structures (including household furnishings) suitable for dwelling use by domestic farm labor, and (B) existing structures (including household furnishings) which can be made suitable for dwelling use by domestic farm labor by rehabilitation, alteration, conversion, or improvement;

(2) the terms "related facilities" and "domestic farm labor" shall have the meaning assigned to them in section 1484(f) of this title; and

(3) the term "development cost" shall have the meaning assigned to it in section 1485(d)(4) of this title.

(July 15, 1949, ch. 338, title V, § 516, as added Sept. 2, 1964, Pub. L. 88-560, title V, § 503(a), 78 Stat. 797, and amended Dec. 31, 1970, Pub. L. 91-609, title VIII, § 801(c), (d), 84 Stat. 1806.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (f), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (f), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-609, § 801(d)(1), authorized financial assistance for broad-based nonprofit organizations incorporated within the State and nonprofit organizations of farmworkers incorporated within the State and provided for low-rent housing and related facilities "(which may be located within the State)".

Subsec. (a)(2). Pub. L. 91-609, § 801(d)(2), substituted "10 per centum" for "one-third".

Subsec. (a)(3). Pub. L. 91-609, § 801(d)(3), inserted ", and such housing and facilities shall be durable and suitable for year-around occupancy or use, unless the Secretary finds that there is no need for such year-around occupancy or use in that area;".

Subsec. (b). Pub. L. 91-609, § 801(d)(4), substituted "90 per centum" for "two-thirds".

Subsec. (g)(1). Pub. L. 91-609, § 801(c), substituted "structures (including household furnishings)" for "structures" in cls. (A) and (B).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1483 of this title; title 20 section 244.

§ 1487. Rural Housing Insurance Fund

(a) Authority to make and insure loans for housing and buildings on adequate farms; restrictions

The Secretary may insure loans meeting the requirements of section 1472 of this title, and may make loans in accordance with the requirements of such section to be sold and insured; except that such loans shall—

(1) if the borrowers are persons of low or moderate income (as defined by the Secretary), (A) not exceed amounts necessary to provide adequate housing, modest in size, design, and cost (as determined by the Secretary), and (B) bear interest at a rate not to exceed 5 per centum per annum; but no loan under this paragraph shall be insured or made after June 30, 1977, except pursuant to a commitment entered into before that date; and

(2) if the borrowers are persons other than those described in clause (1), bear interest and provide for insurance or service charges at rates comparable to the combined rate of interest and premium charges in effect under section 1709 of title 12, as determined by the Secretary.

(b) Authority to make and insure loans for housing and related facilities for domestic farm labor and elderly persons; transfer of notes, contracts, and mortgages from Agricultural Credit Insurance Fund; compensation

The Secretary may insure loans in accordance with the requirements of section 1484 of this title (exclusive of subsections (a)(3), (a)(5), and (b) thereof), 1485 of this title (exclusive of subsections (a) and (b)(4) thereof), 1490d, and 1490f of this title, and may make loans meeting such requirements to be sold and insured. Upon the expiration of ninety days after the original capitalization of the Rural Housing Insurance Fund, created by subsection (e) of this section, no new loans shall be made or insured under section 1484 or 1485(b) of this title, except in conformity with this section. The notes held in the Agricultural Credit Insurance Fund (section 1929 of title 7) which evidence loans made or insured by the Secretary under section 1484 or 1485(b) of this title, the rights and liabilities of that Fund under insurance contracts relating to such loans held by insured investors, the mortgages securing the obligations of the borrowers under such loans held in the Fund or by insured investors, and all rights to subsequent collections on and proceeds of such notes, contracts, and mortgages, are hereby transferred to the Rural Housing Insurance Fund and for the purposes of this subchapter and any other Act shall be subject to the provisions of this section as if created pursuant thereto. The Rural Housing Insurance Fund shall compensate the Agricultural Credit Insurance Fund for the aggregate unpaid principal balance plus accrued interest of the notes so transferred.

(c) Use of funds from Rural Housing Insurance Fund for loans

The Secretary may use the Rural Housing Insurance Fund for the purpose of making loans to be sold and insured under this section.

(d) Authority to insure payment of interest and principal; liens; assignability of notes evidencing loans

The Secretary may, in conformity with subsections (a), (b), and (m) of this section, insure the payment of principal and interest on loans made by lenders other than the United States, and on loans made from or otherwise acquired by the Rural Housing Insurance Fund which are sold by the Secretary. Any contract of insurance executed by the Secretary hereunder shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or material

misrepresentation of which the holder has actual knowledge. In connection with loans insured under this section, the Secretary may take liens running to the United States notwithstanding the fact that the notes evidencing such loans may be held by lenders other than the United States. Notes evidencing such loans shall be freely assignable, but the Secretary shall not be bound by any such assignment until notice thereof is given to and acknowledged by him.

(e) Rural Housing Insurance Fund; creation; authorization of appropriations

There is hereby created the Rural Housing Insurance Fund (hereinafter referred to as the "Fund") which shall be used by the Secretary as a revolving fund for carrying out the provisions of this section. There are authorized to be appropriated to the Secretary such sums as may be necessary for the purposes of the Fund.

(f) Investment of excess Fund moneys

Money in the Fund not needed for current operations shall be invested in direct obligations of the United States or obligations guaranteed by the United States.

(g) Fund assets and liabilities; sale of loans; agreements for servicing and purchasing loans

All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the Fund; and all liabilities and obligations of such assets shall be liabilities and obligations of the Fund. Loans may be held in the Fund and collected in accordance with their terms or may be sold by the Secretary with or without agreements for insurance thereof. The Secretary is authorized to make agreements with respect to servicing loans held or insured by him under this section and purchasing such insured loans on such terms and conditions as he may prescribe.

(h) Issuance of notes; form and denominations; interest rate; purchase by Secretary of the Treasury; debt transactions

The Secretary is authorized to issue notes to the Secretary of the Treasury to obtain funds necessary for discharging obligations under this section and for authorized expenditures out of the Fund, but, except as may be authorized in appropriation Acts, not for the original or any additional capital of the Fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Each note shall bear interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which such note is issued, which are neither due nor callable for redemption for fifteen years from their date of issue. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and for that purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act are extended to include purchases of notes issued by the Secretary. All redemption, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States. The notes issued by the Secretary to the Secretary of the Treasury shall constitute obligations of the Fund.

(i) Retention of annual charge; administrative expenses; merger of funds

The Secretary may retain out of interest payments by the borrower an annual charge in an amount specified in the insurance or sale agreement applicable to the loan. Of the charges retained by the Secretary, if any, not to exceed 1 per centum per annum of the unpaid balance of the loan shall be deposited in the Fund. Any retained charges not deposited in the Fund shall be available for administrative expenses in carrying out the provisions of this subchapter, to be transferred annually, and become merged with any appropriation for administrative expenses of the Farmers Home Administration, when and in such amounts as may be authorized in appropriation Acts.

(j) Additional uses of Fund moneys

The Secretary may also utilize the Fund—

(1) to pay amounts to which the holder of the note is entitled in accordance with an insurance or sale agreement under this section accruing between the date of any payment by the borrower to the Secretary and the date of transmittal of any such payments to the holder of the note; and in the discretion of the Secretary, payments other than final payments need not be remitted to the holder until due or until the next agreed annual or semiannual remittance date;

(2) to pay the holder of any note insured under this section any defaulted installment or, upon assignment of the note to the Secretary at the Secretary's request, or pursuant to a purchase agreement, the entire balance outstanding on the note;

(3) to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, and other services customary in the industry, construction inspections, commercial appraisals, servicing of loans, and other related program services and expenses, and other expenses and advances to protect the security for loans which are insured under this section or held in the Fund, and to acquire such security property at foreclosure sale or otherwise; and

(4) to make assistance payments authorized by section 1490a(a)(2) of this title.

(k) Sale of loans as sale of assets

Any sale by the Secretary of loans individually or in blocks, pursuant to subsections (c) and (g) of this section, shall be treated as a sale of assets for the purposes of the Budget and Accounting Act, 1921 [31 U.S.C. 1 et seq.], notwithstanding the fact that the Secretary, under an agreement with the purchaser, holds the debt instruments evidencing the loans and holds or reinvests payments thereon as trustee and custodian for the purchaser.

(*l*) Commitments to make or insure loans to lenders, builders, or sellers; terms and conditions

The Secretary may also, upon the application of lenders, builders, or sellers and upon compliance with requirements specified by him, make commitments upon such terms and conditions as he shall prescribe to make or insure loans under this section to eligible applicants.

(m) Transfer of assets, liabilities, and authorizations of Rural Housing Direct Loan Account to Fund; abolition of Account; applicability of provisions

The assets and liabilities of, and authorizations applicable to, the Rural Housing Direct Loan Account are hereby transferred to the Fund, and such Account is hereby abolished. Such assets and their proceeds, including loans made out of the Fund pursuant to this section, shall be subject to all of the provisions of this section.

(July 15, 1949, ch. 338, title V, § 517, as added Aug. 10, 1965, Pub. L. 89-117, title X, § 1003(a), 79 Stat. 498, and amended Nov. 3, 1966, Pub. L. 89-754, title VIII, § 806, 80 Stat. 1282; Sept. 3, 1969, Pub. L. 91-78, § 1, 83 Stat. 125; Dec. 24, 1969, Pub. L. 91-152, title IV, § 413(a)-(e)(2), (f)(2), 83 Stat. 398-400; Dec. 31, 1970, Pub. L. 91-609, title VIII, § 803(d), 84 Stat. 1807; Oct. 2, 1973, Pub. L. 93-117, § 13(c), 87 Stat. 423; Aug. 22, 1974, Pub. L. 93-383, title V, §§ 505(c), 509(b), 514(c), 516(b), 517, 519(b), 88 Stat. 694-696, 698, 699.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (h), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

The Budget and Accounting Act, 1921, referred to in subsec. (k), is act June 10, 1921, ch. 18, 42 Stat. 20, as amended, which is classified principally to chapter 1 (§ 1 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see section 1 of Title 31 and Tables volume.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93-383, § 509(b), substituted "June 30, 1977" for "October 1, 1974".

Subsec. (b). Pub. L. 93-383, §§ 516(b), 517, added reference to section 1490f of this title and provisions relating to transfer of notes from and compensation for the Agricultural Credit Insurance Fund.

Subsec. (d). Pub. L. 93-383, § 505(c)(1), struck out "as it becomes due" following "principal and interest".

Subsec. (j). Pub. L. 93-383, §§ 505(c)(2), (3), 514(c), 519(b), in cl. (1) substituted "any payment" for "any prepayment" and "such payments" for "such prepayments" and added provision relating to next agreed annual or semiannual remittance date, in cl. (3) added provisions authorizing other services customary in the industry, etc., and added cl. (4).

1973—Subsec. (a)(1). Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973".

1970—Subsec. (j)(3). Pub. L. 91-609 authorized use of Fund moneys for expenses necessary to obtain credit reports on applicants or borrowers.

1969—Subsec. (a)(1). Pub. L. 91-152, § 413(a), substituted "October 1, 1973" for "January 1, 1970".

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969".

Subsec. (b). Pub. L. 91-152, § 413(f)(2), inserted reference to section 1490d of this title.

Subsec. (c). Pub. L. 91-152, § 413(b), struck out the provision which imposed a limit of not to exceed $100,000,000 on the aggregate amount of loans held by the Secretary at any one time.

Subsec. (d). Pub. L. 91-152, § 413(e)(2), inserted reference to subsec. (m) of this section, and added "or otherwise acquired by" following "loans made from".

Subsec. (k). Pub. L. 91-152, § 413(c), added subsec. (k).

Subsec. (*l*). Pub. L. 91-152, § 413(d), added subsec. (*l*).

Subsec. (m). Pub. L. 91-152, § 413(e)(1), added subsec. (m).

1966—Subsec. (a)(1). Pub. L. 89-754 substituted restriction against insurance or making of a loan under this par. after Oct. 1, 1969, except pursuant to a commitment entered into before that date for former clause (C) which provided that such loans shall not exceed in the aggregate of $300,000,000 of new loans made or insured in any one fiscal year.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1490a of this title; title 7 section 1933; title 12 section 1720.

§ 1488. Repealed. Pub. L. 91-152, title IV, § 413(e)(3), Dec. 24, 1969, 83 Stat. 399

Section, act July 15, 1949, ch. 338, title V, § 518, as added Aug. 10, 1965, Pub. L. 89-117, title X, § 1003(a), 79 Stat. 500, created the Rural Housing Direct Loan Account, set forth the composition of such Account, and authorized the issuance of notes to the Secretary of the Treasury.

§ 1489. Transfer of excess funds out of Rural Housing Insurance Fund

Any sums in the Rural Housing Insurance Fund which the Secretary determines are in excess of amounts needed to meet the obligations and carry out the purposes of such Fund shall be returned to miscellaneous receipts of the Treasury.

(July 15, 1949, ch. 338, title V, § 519, as added Aug. 10, 1965, Pub. L. 89-117, title X, § 1006, 79 Stat. 501, and amended Dec. 24, 1969, Pub. L. 91-152, title IV, § 413(e)(4), 83 Stat. 399.)

AMENDMENTS

1969—Pub. L. 91-152 eliminated applicability of provisions to the Rural Housing Direct Loan Account.

§ 1490. Definitions

As used in this subchapter, the terms "rural" and "rural area" mean any open country, or any place, town, village, or city which is not part of or associated with an urban area and which (1) has a population not in excess of 2,500 inhabitants, or (2) has a population in excess of 2,500 but not in excess of 10,000 if it is rural in character, or (3) has a population in excess of 10,000 but not in excess of 20,000, and (A) is not contained within a standard metropolitan statistical area, and (B) has a serious lack of mortgage credit for lower and moderate-income families, as determined by the Secretary and the Secretary of Housing and Urban Development.

(July 15, 1949, ch. 338, title V, § 520, as added Aug. 10, 1965, Pub. L. 89-117, title X, § 1007, 79 Stat. 502, and amended Dec. 31, 1970, Pub. L. 91-609, title VIII, § 803(e), 84 Stat. 1807; Aug. 22, 1974, Pub. L. 93-383, title V, § 511, 88 Stat. 695; Aug. 3, 1976, Pub. L. 94-375, § 25(b), 90 Stat. 1078.)

AMENDMENTS

1976—Cl. (3)(B). Pub. L. 94-375 inserted "for lower and moderate-income families" following "has a serious lack of mortgage credit".

1974—Pub. L. 93-383 added cl. (3).

1970—Pub. L. 91-609 substituted as upper population limit "10,000" for "5,500".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1480 of this title.

§ 1490a. Loans to provide occupant owned, rental, and cooperative housing for low and moderate income persons and families

(a) Interest rates; determination of eligibility; multifamily housing projects; assistance payments to owners; amount limitations; recordkeeping and payment requirements for owners

(1) Notwithstanding the provisions of sections 1472, 1487(a) and 1485 of this title, loans to persons of low or moderate income under section 1472 or 1487(a)(1) of this title, loans under section 1485 of this title to provide rental or cooperative housing and related facilities for persons and families of low or moderate income or elderly persons and elderly families and loans under section 1490f of this title to provide condominium housing for persons and families of low or moderate income, shall bear interest at a rate prescribed by the Secretary at not less than a rate determined by the Secretary of the Treasury upon the request of the Secretary taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less not to exceed the difference between the adjusted rate determined by the Secretary of the Treasury and 1 per centum per annum: *Provided,* That such a loan may be made only when the Secretary determines that the needs of the applicant for necessary housing cannot be met with financial assistance from other sources including assistance under section 1715z or 1715z-1 of title 12: *Provided further,* That interest on loans under section 1472 or 1487(a) of this title to victims of natural disaster shall not exceed the rate which would be applicable to such loans under section 1472 of this title without regard to this section.

(2)(A) The Secretary may make and insure loans under this section and sections 1484, 1485 and 1487 of this title to provide rental or cooperative housing and related facilities for persons and families of low income in multifamily housing projects, and may make, and contract to make, assistance payments to the owners of such rental housing in order to make available to low-income occupants of such housing rentals at rates commensurate to income and not exceeding 25 per centum of income. Such assistance payments shall be made on a unit basis and shall not be made for more than 20 per centum of the units in any one project, except that (i) when the project is financed by a loan under section 1485 of this title for elderly housing or by a loan under section 1484 of this title and a grant under section 1486 of this title, such assistance may be made for up to 100 per centum of the units, and (ii) when the Secretary determines such action is necessary or feasible, he may make such payments with respect to more than 20 per centum of the units.

(B) The owner of any project assisted under this paragraph shall be required to provide at least annually a budget of operating expenses and record of tenants' income which shall be used to determine the amount of assistance for each project.

(C) The project owner shall accumulate, safeguard, and periodically pay to the Secretary any rental charges collected in excess of basic rental charges as established by the Secretary in conformity with subparagraph (A). These funds may be credited to the appropriation and used by the Secretary for making such assistance payments through the end of the next fiscal year.

(b) Location in rural areas; inclusion of qualified nonrural residents who will become rural residents

Housing and related facilities provided with loans described in subsection (a) of this section shall be located in rural areas; and applicants eligible for such loans under section 1472, 1487(a)(1), or 1490f(a) of this title, or for occupancy of housing provided with such loans under section 1485 or 1490f(c) of this title, shall include otherwise qualified nonrural residents who will become rural residents.

(c) Reimbursement of Rural Housing Insurance Fund

There shall be reimbursed to the Rural Housing Insurance Fund by annual appropriations (1) the amounts by which nonprincipal payments made from the fund during each fiscal year to the holders of insured loans described in subsection (a)(1) of this section exceed interest due from the borrowers during each year, and (2) the amount of assistance payments described in subsection (a)(2) of this section. The Secretary may from time to time issue notes to the Secretary of the Treasury under section 1487(h) and of this title and section 1490f of this title to obtain amounts equal to such unreimbursed payments, pending the annual reimbursement by appropriation.

(July 15, 1949, ch. 338, title V, § 521, as added Aug. 1, 1968, Pub. L. 90-448, title X, § 1001, 82 Stat. 551, and amended Aug. 22, 1974, Pub. L. 93-383, title V, §§ 514(a), (b), 516(c), 88 Stat. 696, 698; Aug. 3, 1976, Pub. L. 94-375, § 25(a), 90 Stat. 1078.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-375 substituted "rate determined by the Secretary of the Treasury upon the request of the Secretary" for "rate determined annually by the Secretary of the Treasury".

1974—Subsec. (a)(1). Pub. L. 93-383, §§ 514(a), 516(c)(1) redesignated existing subsec. (a) as (a)(1) and, as so redesignated, substituted "loans under section 1485 of this title" for "and loans under section 1485 of this title" and added provisions relating to loans under section 1490f of this title to provide condominium housing for persons and families of low or moderate income.

Subsec. (a)(2). Pub. L. 93-383, § 514(a), added subsec. (a)(2).

Subsec. (b). Pub. L. 93-383, § 516(c)(2) added references to sections 1490f(a) and 1490f(c) of this title.

Subsec. (c). Pub. L. 93-383, §§ 514(b), 516(c)(3), reorganized structure of subsec. by designating existing

provisions as cl. (1) and, as so designated, substituted reference to subsec. (a)(1) of this section for reference to subsec. (a) of this section, added cl. (2), and made former second clause into second sentence, and, as so amended, added reference to section 1490f of this title and struck out "excess" following "unreimbursed".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1487, 1490c of this title.

§ 1490b. Housing for rural trainees

(a) Authorization; financial and technical assistance; selection of training sites and location of housing

Upon the application of any State or political subdivision thereof, or any public or private nonprofit organization, the Secretary is authorized, after consultation with the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, and the Director of the Community Services Administration, and after the Secretary determines that the housing and related facilities cannot reasonably be provided in any other way, to provide financial and technical assistance for the establishment, in rural areas, of housing and related facilities for trainees and their families who are residents of a rural area and have a rural background, while such trainees are enrolled and participating in training courses designed to improve their employment capability. The selection of training sites and location of housing shall be made with due regard to the economic viability of the area, and only after consideration of a labor area survey and full coordination among all Government agencies having primary responsibility for administering related programs.

(b) Quality of housing and related facilities; design and location

Housing and related facilities assisted under this section shall be safe and sanitary, constructed in the most economical manner, and of modest design, giving due consideration to the purposes to be served and the needs of the occupants, and may, in the discretion of the Secretary, include mobile family quarters. Design and location shall be such as to facilitate, as feasible, the use of such housing and related facilities for other purposes when no longer needed for the primary purpose.

(c) Contribution of land by applicant

The applicant shall contribute the necessary land, or funds to acquire such land, from its own resources, including land acquired by donation or from funds repayable under subsection (e) of this section or borrowed from other sources.

(d) Conditions precedent to grant of financial assistance

No financial assistance shall be made available under this section unless, to the extent and for the periods required by the Secretary, the applicant agrees that—

(1) such housing will be maintained at all times in a safe and sanitary condition in accordance with standards prescribed by State or local law, or, in the absence of such standards, with requirements prescribed by the Secretary;

(2) priority shall be given at all times, in granting occupancy of such housing and facilities, to the trainees and their families described in subsection (a) of this section; and

(3) rentals charged them shall not exceed amounts approved by the Secretary after considering the portion of the actual total family income which the family can afford to pay for rent while meeting its other immediate needs during occupancy.

(e) Advances; repayment; limitation on amount

The Secretary may make advances pursuant to any contract for financial assistance under this section at such times and in such manner as may be specified in the contract. Such advances for the purchase of land shall be repayable with interest and within a period not to exceed thirty-three years and may be made upon such security, if any, as the Secretary requires. Advances for other purposes may be made repayable with or without interest or nonrepayable, as determined by the Secretary on the basis of the anticipated income, and cost of operation of the housing and related facilities and the ability of each applicant to finance such facilities. Any advances shall be limited to cover the capital costs of constructing such facilities, plus interest on borrowings to cover such costs.

(f) Sale of housing and related facilities to ineligible transferee or diversion to use other than primary purpose; repayment of advances; return of property to original condition

Should housing and related facilities assisted pursuant to a contract under this section be sold to an ineligible transferee or diverted to a use other than its primary purpose within a period specified in the contract, all advances made under such contract shall be repaid to the Secretary, up to the amount of the sales price or the fair value of the property as determined by the Secretary, whichever is higher, with interest from the date of the sale or diversion. If no suitable alternate use of the property is available, as determined by the Secretary, after the purpose of this section can no longer be served, the property shall be returned to its original condition by the recipient of the assistance.

(g) Interest on advances

Interest charged on advances made under this section shall be at a rate, prescribed by the Secretary, which shall be not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less not to exceed the difference between the adjusted rate determined by the Secretary of the Treasury and 1 per centum per annum, as determined by the Secretary.

(h) Regulations

The Secretary shall prescribe regulations to insure that Federal funds expended under this section are not wasted or dissipated.

(i) Definitions

As used in this section (1) the term "related facilities" shall include any necessary community rooms or buildings, infirmaries, utilities, access roads, water and sewer services, and the minimum fixed or movable equipment determined by the Secretary to be necessary to make the housing reasonably habitable by trainees and their families; and (2) the term "trainee" means any person receiving training under any federally assisted training program.

(j) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(July 15, 1949, ch. 338, title V, § 522, as added Aug. 1, 1968, Pub. L. 90-448, title X, § 1002, 82 Stat. 551, and amended Jan. 4, 1975, Pub. L. 93-644, § 9(a), 88 Stat. 2310.)

CODIFICATION

Community Services Administration was substituted for Office of Economic Opportunity in subsec. (a), on the authority of section 9(a) of Pub. L. 93-644, Jan. 4, 1975, 88 Stat. 2310, which established the Community Services Administration as the successor to the Office of Economic Opportunity. See section 2941 of this title.

§ 1490c. Mutual and self-help housing

(a) Purpose

The purposes of this section are (1) to make financial assistance available on reasonable terms and conditions in rural areas and small towns to needy low-income individuals and their families who, with the benefit of technical assistance and overall guidance and supervision, participate in approved programs of mutual or self-help housing by acquiring and developing necessary land, acquiring building materials, providing their own labor, and working cooperatively with others for the provision of decent, safe, and sanitary dwellings for themselves, their families, and others in the area or town involved, and (2) to facilitate the efforts of both public and private nonprofit organizations providing assistance to such individuals to contribute their technical and supervisory skills toward more effective and comprehensive programs of mutual or self-help housing in rural areas and small towns wherever necessary.

(b) Contract authority; establishment of Self-Help Housing Land Development Fund; authorization to make loans; conditions of loan

In order to carry out the purposes of this section, the Secretary of Agriculture (in this section referred to as the "Secretary") is authorized—

(1)(A) to make grants to, or contract with, public or private nonprofit corporations, agencies, institutions, organizations, and other associations approved by him, to pay part or all of the costs of developing, conducting, administering, or coordinating effective and comprehensive programs of technical and supervisory assistance which will aid needy low-income individuals and their families in carrying out mutual or self-help housing efforts; and

(B) to establish the Self-Help Housing Land Development Fund, referred to herein as the Self-Help Fund, to be used by the Secretary as a revolving fund for making loans, on such terms and conditions and in such amounts as he deems necessary, to public or private nonprofit organizations for the acquisition and development of land as building sites to be subdivided and sold to families, nonprofit organizations, and cooperatives eligible for assistance under section 1715z or 1715z-1 of title 12 or section 1490a of this title. Such a loan, with interest at a rate not to exceed 3 percent per annum, shall be repaid within a period not to exceed two years from the making of the loan, or within such additional period as may be authorized by the Secretary in any case as being necessary to carry out the purposes hereof: *Provided*, That the Secretary may advance funds under this paragraph to organizations receiving assistance under clause (A) to enable them to establish revolving accounts for the purchase of land options and any such advances may bear interest at a rate determined by the Secretary and shall be repaid to the Secretary at the expiration of the period for which the grant to the organization involved was made; and

(2) to make loans, on such terms and conditions and in such amounts as he deems necessary, to needy low-income individuals participating in programs of mutual or self-help housing approved by him, for the acquisition and development of land and for the purchase of such other building materials as may be necessary in order to enable them, by providing substantially all of their own labor, and by cooperating with others participating in such programs, to carry out to completion the construction of decent, safe, and sanitary dwellings for such individuals and their families, subject to the following limitations:

(A) there is reasonable assurance of repayment of the loan;

(B) the amount of the loan, together with other funds which may be available, is adequate to achieve the purpose for which the loan is made;

(C) the credit assistance is not otherwise available on like terms or conditions from private sources or through other Federal, State, or local programs;

(D) the loan bears interest at a rate not to exceed 3 per centum per annum on the unpaid balance of principal, plus such additional charge, if any, toward covering other costs of the loan program as the Secretary may determine to be consistent with its purposes; and

(E) the loan is repayable within not more than thirty-three years.

(c) Considerations for financial assistance

In determining whether to extend financial assistance under paragraph (1) or (2) of subsection (b) of this section, the Secretary shall take into consideration, among other factors, the suitability of the area within which construction will be carried out to the type of dwelling which can be provided under mutual or self-help housing programs, the extent to which the assistance will facilitate the provision of more decent, safe, and sanitary housing conditions than presently exist in the area, the extent to which the assistance will be utilized efficiently

and expeditiously, the extent to which the assistance will effect an increase in the standard of living of low-income individuals participating in the mutual or self-help housing program, and whether the assistance will fulfill a need in the area which is not otherwise being met through other programs, including those carried out by other Federal, State, or local agencies.

(d) Definition

As used in this section, the term "construction" includes the erection of new dwellings, and the rehabilitation, alteration, conversion, or improvement of existing structures.

(e) Establishment of appropriate criteria and procedures for determining eligibility of applicants

The Secretary is authorized to establish appropriate criteria and procedures in order to determine the eligibility of applicants for the financial assistance provided under this section, including criteria and procedures with respect to the periodic review of any construction carried out with such financial assistance.

(f) Authorization of appropriations; termination date

There are hereby authorized to be appropriated for each fiscal year commencing after June 30, 1968, and ending prior to July 1, 1977, such sums, not in excess of $10,000,000 for any such fiscal year, as may be necessary to carry out the provisions of this section. No grant or loan may be made or contract entered into under the authority of this section after June 30, 1977, except pursuant to a commitment or other obligation entered into pursuant to this section before that date.

(g) Authorization of appropriations for purposes of subsection (b)(1)(B) of this section; deposit in Self-Help Fund; instruments and property acquired as assets of fund; deposit of repayments

There are hereby authorized to be appropriated for the purposes of subsection (b)(1)(B) of this section not to exceed $1,000,000 for the fiscal year ending June 30, 1969, and not to exceed $2,000,000 for the fiscal year ending June 30, 1970. Any amount so authorized to be appropriated for any fiscal year which is not appropriated may be appropriated for any succeeding fiscal year or years. Amounts appropriated under this subsection shall be deposited in the Self-Help Fund, which shall be available without fiscal year limitation for making loans under subsection (b)(1)(B) of this section. Instruments and property acquired by the Secretary in or as a result of making such loans shall be assets of the Self-Help Fund. Sums received from the repayment of such loans shall be deposited in and be a part of the Self-Help Fund.

(h) Rules and regulations

The Secretary shall issue rules and regulations for the orderly processing and review of applications under this section and rules and regulations protecting the rights of grantees under this section in the event he determines to end grant assistance prior to the termination date of any grant agreement.

(July 15, 1949, ch. 338, title V, § 523, as added Aug. 1, 1968, Pub. L. 90-448, title X, § 1005, 82 Stat. 553, and amended Oct. 2, 1973, Pub. L. 93-117, § 13(d), 87 Stat. 423; Aug. 22, 1974, Pub. L. 93-383, title V, § 512, 88 Stat. 695.)

AMENDMENTS

1974—Subsec. (b)(1). Pub. L. 93-383, § 512(a), added proviso relating to advance of funds by Secretary at end of cl. (B).

Subsec. (f). Pub. L. 93-383, § 512(b), substituted "1977" for "1974" wherever appearing therein and "$10,000,000" for "$5,000,000".

Subsec. (h). Pub. L. 93-383, § 512(c), added subsec. (h).

1973—Subsec. (f). Pub. L. 93-117 substituted "1974" for "1973" wherever appearing.

§ 1490d. Loans to nonprofit organizations to provide building sites for eligible families, nonprofit organizations, public agencies, and cooperatives; interest rates; factors determinative in making loan

(a) The Secretary may make loans, on such terms and conditions and in such amounts he deems necessary, to public or private nonprofit organizations for the acquisition and development of land as building sites to be subdivided and sold to families, nonprofit organizations, public agencies, and cooperatives eligible for assistance under any section of this subchapter or under any other law which provides financial assistance for housing low- and moderate-income families. Such a loan shall bear interest at a rate prescribed by the Secretary taking into consideration a rate determined annually by the Secretary of the Treasury as the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, and shall be repaid within a period not to exceed two years from the making of the loan or within such additional period as may be authorized by the Secretary in any case as being necessary to carry out the purposes of this section.

(b) In determining whether to extend financial assistance under this section, the Secretary shall take into consideration, among other factors, (1) the suitability of the area to the types of dwellings which can feasibly be provided, and (2) the extent to which the assistance will (i) facilitate providing needed decent, safe, and sanitary housing, (ii) be utilized efficiently and expeditiously, and (iii) fulfill a need in the area which is not otherwise being met through other programs, including those being carried out by other Federal, State, or local agencies.

(July 15, 1949, ch. 338, title V, § 524, as added Dec. 24, 1969, Pub. L. 91-152, title IV, § 413(f)(1), 83 Stat. 399, and amended Aug. 22, 1974, Pub. L. 93-383, title V, § 513, 88 Stat. 696.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383 provided for applicability to public agencies and substituted "any section of this subchapter or under any other law which provides financial assistance for housing low-and moderate-income families" for "section 1715z or 1715z-1 of title 12 or section 1490a of this title."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1487 of this title.

§ 1490e. Programs of technical and supervisory assistance for low-income individuals and families in rural areas

(a) Grants or contracts with public or private nonprofit corporations, etc., for assistance; preferential treatment of applications sponsored by governmental entity or public body

The Secretary may make grants to or enter into contracts with public or private nonprofit corporations, agencies, institutions, organizations, and other associations approved by him, to pay part or all of the cost of developing, conducting, administering or coordinating effective and comprehensive programs of technical and supervisory assistance which will aid needy low-income individuals and families in benefiting from Federal, State, and local housing programs in rural areas. In processing applications for such grants or contracts made by private nonprofit corporations, agencies, institutions, organizations, and other associations, the Secretary shall give preference to those which are sponsored (including assistance to the applicant in processing the application, implementing the technical assistance program, and carrying out the obligations of the grant or contract) by a State, county, municipality, or other governmental entity or public body.

(b) Loans to public or private nonprofit corporations, etc., for necessary planning and financing expenses; interest rates; factors determinative of amount; terms and conditions of repayment; cancellation

The Secretary is authorized to make loans to public or private nonprofit corporations, agencies, institutions, organizations, and other associations approved by him for the necessary expenses, prior to construction, of planning, and obtaining financing for, the rehabilitation or construction of housing for low-income individuals or families under any Federal, State, or local housing program which is or could be used in rural areas. Such loans shall be made without interest and shall be for the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing prior to the availability of financing, including but not limited to preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, and construction loan fees and discounts. The Secretary shall require repayment of loans made under this subsection, under such terms and conditions as he may require, upon completion of the housing or sooner, and may cancel any part or all of such loan if he determines that it cannot be recovered from the proceeds of any permanent loan made to finance the rehabilitation or construction of the housing.

(c) Authorization of appropriations; availability of amounts

There are authorized to be appropriated for the fiscal years ending June 30, 1975, and June 30, 1976, not to exceed $5,000,000 for the purposes of subsection (a) of this section and not to exceed $5,000,000 for the purposes of subsection (b) of this section. Any amounts so appropriated shall remain available until expended, and any amounts authorized for any fiscal year under this subsection but not appropriated may be appropriated for any succeeding fiscal year.

(d) Deposit of appropriated funds into low-income sponsor fund; availability; administration of fund as revolving fund; deposit of repayments

All funds appropriated for the purpose of subsection (b) of this section shall be deposited in a fund which shall be known as the low-income sponsor fund, and which shall be available without fiscal year limitation and be administered by the Secretary as a revolving fund for carrying out the purposes of that subsection. Sums received in repayment of loans made under subsection (b) of this section shall be deposited in such fund.

(July 15, 1949, ch. 338, title V, § 525, as added Aug. 22, 1974, Pub. L. 93-383, title V, § 515, 88 Stat. 697.)

§ 1490f. Loans and insurance of loans for condominium housing in rural areas

(a) Individual loans and insurance of loans to low or moderate income persons or families for purchase of units; terms and conditions

The Secretary is authorized, in his discretion and upon such terms and conditions (substantially identical insofar as may be feasible with those specified in section 1472 of this title) as he may prescribe, to make loans to persons and families of low or moderate income, and to insure and make commitments to insure loans made to persons and families of low or moderate income, to assist them in purchasing dwelling units in condominiums located in rural areas.

(b) Scope of individual loans and insurance of loans; condominium requirements

Any loan made or insured under subsection (a) of this section shall cover a one-family dwelling unit in a condominium, and shall be subject to such provisions as the Secretary determines to be necessary for the maintenance of the common areas and facilities of the condominium project and to such additional requirements as the Secretary deems appropriate for the protection of the consumer.

(c) Blanket loans and insurance of loans; terms and conditions; certification by borrower of future ownership of multifamily project; maximum amount of principal obligation

In addition to individual loans made or insured under subsection (a) of this section the Secretary is authorized, in his discretion and upon such terms and conditions (substantially identical insofar as may be feasible with those specified in section 1485 of this title) as he may prescribe, to make or insure blanket loans to a borrower who shall certify to the Secretary, as a condition of obtaining such loan or insurance, that upon completion of the multifamily project the ownership of the project will be committed to a plan of family unit ownership under which (1) each family unit will be eligible for a loan or insurance under subsection (a) of this section, and (2) the individual dwelling units in the project will be sold only on a condominium basis and only to purchasers eligible for a loan or insurance under subsection (a) of this section. The principal obligation of any blanket loan made or insured under this subsection shall in no case exceed the sum of the individual amounts of the loans which could be made or

insured with respect to the individual dwelling units in the project under subsection (a) of this section.

(d) Definitions

As used in this section, the term "condominium" means a multi-unit housing project which is subject to a plan of family unit ownership acceptable to the Secretary under which each dwelling unit is individually owned and each such owner holds an undivided interest in the common areas and facilities which serve the project.

(July 15, 1949, ch. 338, title V, § 526, as added Aug. 22, 1974, Pub. L. 93-383, title V, § 516(a), 88 Stat. 698.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1487, 1490a of this title.

§ 1490g. Mobile homes and mobile home sites; inclusion within application of term "housing" for provisions of subchapter; financing requirements; terms and conditions of loans

(a) As used in this subchapter, the term "housing" shall, notwithstanding any other provision of this subchapter and to the extent deemed practicable by the Secretary, include mobile homes and mobile home sites.

(b) With respect to mobile homes and mobile home sites financed under this subchapter, the Secretary shall—

(1) prescribe minimum property standards to assure the livability and durability of the mobile home and the suitability of the site on which it is to be located, and

(2) obtain assurances from the borrower that the mobile home will be placed on a site which complies with standards prescribed by the Secretary and with applicable local requirements.

Loans under this subchapter for the purchase of mobile homes and sites shall be made on the same terms and conditions as are applicable under section 1703 of title 12 to obligations financing the purchase of mobile homes and lots on which to place such homes.

(July 15, 1949, ch. 338, title V, § 527, as added Aug. 22, 1974, Pub. L. 93-383, title V, § 518, 88 Stat. 699.)

CHAPTER 8B—PUBLIC WORKS OR FACILITIES

Sec.
1491. Declaration of policy.
1492. Public projects.
(a) Purchase of securities or obligations; loans; payment of operating expenses.
(b) Restrictions and limitations; interest.
(c) Priority to applications of smaller municipalities.
(d) Loans for transportation facilities or equipment; termination date.
(e) Grants-in-aid to public entities to accelerate public works; restrictions and limitations.
(f) Assistance for cultural centers; restrictions and limitations.
1493. Notes and obligations; forms and denominations; maturities; terms and conditions; interest rate; revolving fund.
1494. Functions, powers and duties of Secretary; administrative expenses.
1495. Omitted.
1496. Definition of "States".
1497. Technical advisory services in budgeting, financing, planning and construction of community facilities; appropriations.

TERMINATION

Section 5316 of this title has terminated the authority to make grants or loans under Title II of the Housing Amendments of 1955, this chapter, after Jan. 1. 1975.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 3338, 3914, 5153, 5306, 5316 of this title; title 12 section 1749d.

§ 1491. Declaration of policy

It has been the policy of the Congress to assist wherever possible the States and their political subdivisions, and Indian tribes to provide the services and facilities essential to the health and welfare of the people of the United States.

The Congress finds that in many instances municipalities, or other political subdivisions of States, and Indian tribes, which seek to provide essential public works or facilities (including mass transportation facilities and equipment), are unable to raise the necessary funds at reasonable interest rates.

It is the purpose of this chapter (subject to the limitations contained herein) to authorize the extension of credit to assist in the provision of certain essential public works or facilities by States, municipalities, or other political subdivisions of States, and Indian tribes, where such credit is not otherwise available on reasonable terms and conditions.

(Aug. 11, 1955, ch. 783, title II, § 201, 69 Stat. 642; June 30, 1961, Pub. L. 87-70, title V, § 501(a), 75 Stat. 173; Oct. 15, 1962, Pub. L. 87-808, § 1, 76 Stat. 920.)

AMENDMENTS

1962—Pub. L. 87-808 inserted "and Indian tribes" in three places.

1961—Pub. L. 87-70 inserted phrases "(including mass transportation facilities and equipment)" in the second paragraph, and "(subject to the limitations contained herein)" in the third paragraph.

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and agencies and officers thereof under this chapter incidental to or necessary for the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968 insofar as functions hereunder involve assistance specifically authorized for mass transportation facilities or equipment, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1492. Public projects

(a) Purchase of securities or obligations; loans; payment of operating expenses

The Secretary of Housing and Urban Development is authorized (1) to purchase the securities and obligations of, or make loans to, municipalities and other political subdivisions and instrumentalities of one or more States (includ-

ing public agencies and instrumentalities of one or more municipalities or other political subdivisions of one or more States), and Indian tribes to finance specific projects for public works or facilities under State, municipal, or other applicable law, and (2) to purchase the securities and obligations of, or make loans to, States, municipalities and other political subdivisions of States, public agencies and instrumentalities of one or more States, municipalities and political subdivisions of States, and public corporations, boards, and commissions established under the laws of any State, to finance the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas, and for use in coordinating highway, bus, surface-rail, underground, parking and other transportation facilities in such areas. The facilities and equipment referred to in clause (2) may include land, but not public highways, and any other real or personal property needed for an economic efficient, and coordinated mass transportation system. No such purchase or loan shall be made for payment of ordinary governmental or nonproject operating expenses.

(b) Restrictions and limitations; interest

The powers granted in subsection (a) of this section shall be subject to the following restrictions and limitations:

(1) No financial assistance shall be extended under this section unless the financial assistance applied for is not otherwise available on reasonable terms, and all securities and obligations purchased and all loans made under this section shall be of such sound value or so secured as reasonably to assure retirement or repayment, and such loans may be made either directly or in cooperation with banks or other lending institutions through agreements to participate or by the purchase of participations or otherwise.

(2) No securities or obligations shall be purchased, and no loans shall be made, including renewals or extensions thereof, which have maturity dates in excess of forty years. Subject to such maximum maturity, the Secretary in his discretion may provide for the postponement of the payment of interest on not more than 50 per centum of any financial assistance extended to an applicant under this section for a period up to ten years where (A) such assistance does not exceed 50 per centum of the development cost of the project involved, and (B) it is determined by the Secretary that such applicant will experience above-average population growth and the project would contribute to orderly community development, economy, and efficiency; and any amounts so postponed shall be payable with interest in annual installments during the remaining maturity of such assistance.

(3) Financial assistance extended under this section shall bear interest at a rate determined by the Secretary which shall be not more than the higher of (A) 3 per centum per annum, or (B) the total of one-half of 1 per centum per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury as provided in section 1493(a) of this title.

(4)(A) No financial assistance shall be extended under clause (1) of subsection (a) of this section to any municipality or other political subdivision having a population of fifty thousand or more (one hundred fifty thousand or more in the case of a community situated in an area designated as a redevelopment area under the Area Redevelopment Act or any Act supplementary thereto, according to the most recent decennial census, or; (B) to any public agency or instrumentality serving one or more municipalities, political subdivisions, or unincorporated areas in one or more States, unless each municipality, political subdivision, or unincorporated area to be served by the specific public work or facility for which assistance is sought under this section has a population less than the applicable figure under clause (A) according to such census. This paragraph shall not apply to any financial assistance to be extended under subsection (a) of this section for the purpose of financing any project for public works or facilities (i) in a community in or near which is located a research or development installation of the National Aeronautics and Space Administration, or (ii) to be initiated or accelerated as the result of a grant-in-aid from an allocation made by the President under section 2642 of this title, or (iii) to be provided in connection with the establishment of a new community approved under section 1749cc-1 of title 12 or under title IV of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.] or under part B of the Urban Growth and New Community Development Act of 1970 [42 U.S.C. 4511 et seq.].

(c) Priority to applications of smaller municipalities

In the processing of applications for financial assistance under clause (1) of subsection (a) of this section the Secretary shall give priority to applications of smaller municipalities for assistance in the construction of basic public works (including works for the storage, treatment, purification, or distribution of water; sewage, sewage treatment, and sewer facilities; and gas distribution systems) for which there is an urgent and vital public need. As used in this section, a "smaller municipality" means an incorporated or unincorporated town, or other political subdivision of a State, which had a population of less than ten thousand inhabitants at the time of the last Federal census, or an Indian tribe. Notwithstanding any other provision of this chapter, the Secretary may extend financial assistance, as otherwise authorized by clause (1) of subsection (a) of this section, to any private nonprofit corporation to finance the construction of works for the storage, treatment, purification, or distribution of water or the construction of sewage, sewage treatment, and sewer facilities, if such works or facilities are needed to serve a smaller municipality or rural area, and there is no existing public body able to construct and operate such works or facilities.

(d) Loans for transportation facilities or equipment; termination date

No loans may be made for transportation facilities or equipment, pursuant to clause (2) of subsection (a) of this section, unless the Secre-

tary determines (1) that there is being actively developed (or has been developed) for the urban or other metropolitan area served by the applicant a program, meeting criteria established by him, for the development of a comprehensive and coordinated mass transportation system; (2) that the proposed facilities or equipment can reasonably be expected to be required for such a system; and (3) if such program has not been completed, that there is an urgent need for the provision of the facilities or equipment to be commenced prior to the time that the program could reasonably be expected to be completed: *Provided*, That no such loan shall be made, except under a prior commitment, after June 30, 1963.

(e) Grants-in-aid to public entities to accelerate public works; restrictions and limitations

The Secretary is authorized to make a grant-in-aid from any allocation made for such purpose by the President under section 2642 of this title to any public entity described in clause (1) of subsection (a) of this section of not to exceed 50 per centum of the cost of construction of any project for public works or facilities, if such project would be eligible (without regard to the restrictions and limitations of subsections (b) and (c) of this section) for financial assistance under clause (1) of subsection (a) of this section in accordance with the rules and regulations of the Secretary (as in effect on September 14, 1962) relating to the types of public works and facilities to which such assistance may be extended.

(f) Assistance for cultural centers; restrictions and limitations

The restrictions and limitations set forth in subsection (c) of this section shall not apply to assistance to municipalities, other political subdivisions and instrumentalities of one or more States, and Indian tribes, for specific projects for cultural centers, including but not limited to, museums, art centers and galleries, and theaters and other physical facilities for the performing arts, which would be of cultural, educational, and informational value to the communities and areas where the centers would be located.

(Aug. 11, 1955, ch. 783, title II, § 202, 69 Stat. 643; June 30, 1961, Pub. L. 87-70, title V, § 501(b)-(d)(1), (e)-(g), 75 Stat. 173, 174; Sept. 5, 1962, Pub. L. 87-634, 76 Stat. 435; Sept. 14, 1962, Pub. L. 87-658, § 5, 76 Stat. 543; Oct. 15, 1962, Pub. L. 87-808, § 2, 76 Stat. 920; Oct. 15, 1962, Pub. L. 87-809, 76 Stat. 920; Sept. 2, 1964, Pub. L. 88-560, title VI, § 601, 78 Stat. 798; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1107, 79 Stat. 503; Nov. 3, 1966, Pub. L. 89-754, title IV, § 407, title X, § 1009, 80 Stat. 1273, 1286; May 25, 1967, Pub. L. 90-19, § 12(b), (c), 81 Stat. 23; Aug. 1, 1968, Pub. L. 90-448, title IV, § 416(a), 82 Stat. 518; Dec. 31, 1970, Pub. L. 91-609, title VII, § 727(b), 84 Stat. 1802.)

REFERENCES IN TEXT

The Area Redevelopment Act, referred to in subsec. (b)(4), is Pub. L. 87-27, May 1, 1961, 75 Stat. 47, which was classified principally to former chapter 28 (§ 2501 et seq.) of this title, and was omitted from the Code as executed, with the exception of sections 2513 and 2514 of this title, which were repealed by Pub. L. 89-15, § 9(b), Apr. 26, 1965, 79 Stat. 79. See, now, sections 3161 and 3162 of this title.

Section 2642 of this title, referred to in subsecs. (b)(4) and (e) of this section, was, in the original, "section 9 of the Public Works Acceleration Act." As introduced in the Senate on May 28, 1962, S. 2965 contained a section 9, however, subsequent amendments to S. 2965 prior to its enactment as Pub. L. 87-658 eliminated section 9 from the bill. Provisions in section 3 of Pub. L. 87-658, which is classified to section 2642 of this title, seem to be identical to those contained in section 9 of the original bill, and therefore, for purposes of classification, "section 9 of the Public Works Acceleration Act" has been translated as "section 2642 of this title", since this appears to be the intent of Congress.

The Housing and Urban Development Act of 1968, referred to in subsec. (b)(4), is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IV of the Housing and Urban Development Act of 1968 is classified principally to chapter 48 (§ 3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

The Urban Growth and New Community Development Act of 1970, referred to in subsec. (b)(4), is Pub. L. 91-609, title VII, Dec. 31, 1970, 84 Stat. 1791. Part B of the Urban Growth and New Community Development Act of 1970 is classified generally to part B (§ 4511 et seq.) of chapter 59 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4501 of this title and Tables volume.

AMENDMENTS

1970—Subsec. (b)(4). Pub. L. 91-609 provided for establishment of a new community approved under part B of the Urban Growth and New Community Development Act of 1970.

1968—Subsec. (b)(4). Pub. L. 90-448 made paragraph inapplicable to financial assistance extended for the purpose of financing any project for public works or facilities to be provided in connection with the establishment of a new community approved under title IV of the Housing and Urban Development Act of 1968.

1967—Pub. L. 90-19, § 12(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (b)(2), (3) and (c) to (e) of this section.

Subsec. (a). Pub. L. 90-19, § 12(c), substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator".

1966—Subsec. (b)(4). Pub. L. 89-754, § 407, added item (iii) in the second sentence.

Subsec. (f). Pub. L. 89-754, § 1009, added subsec. (f).

1965—Subsec. (b)(4). Pub. L. 89-117, § 1107(b), removed the 150,000 population limit on the availability of public facilities loans to communities located in or near National Aeronautics and Space Administration research and development installations, making such loans available to such communities without regard to population.

Subsec. (c). Pub. L. 89-117, § 1107(a), authorized the extending of financial assistance to private nonprofit corporations for the construction of sewer and water works needed to serve a smaller municipality or rural area if there are no existing public bodies to construct the needed facilities.

1964—Subsec. (a). Pub. L. 88-560, § 601(a), substituted "instrumentalities of one or more States" for "instrumentalities of States", and "of one or more States" for "in the same State."

Subsec. (b)(4). Pub. L. 88-560, § 601(b), inserted "(A)" preceding "to any municipality", and substituted "2504 of this title" for "2504(a) of this title", and "; (B) to any public agency or instrumentality serving one or more municipalities, political subdivisions, or unincorporated areas in one or more States, unless each municipality, political subdivision, or unincorporated area to be served by the specific public work or facility for which assistance is sought under this sec-

tion has a population less than the applicable figure under clause (A) according to such census" for ", or to any public agency or instrumentality of one or more municipalities or other political subdivisions having a population (or an aggregate population) equal to or exceeding that figure according to such census. This paragraph shall not apply to any financial assistance to be extended under subsection (a) of this section for the purpose of financing any project for public works or facilities to be initiated or accelerated as the result of a grant-in-aid from an allocation made by the President under section 2642 of this title."

1962—Subsec. (a). Pub. L. 87-808 inserted "and Indian tribes".

Subsec. (b)(4). Pub. L. 87-658, § 5(a), provided that this paragraph shall not apply to assistance under subsec. (a) of this section for the purpose of financing any project to be started or accelerated as a result of a grant-in-aid under section 2642 of this title.

Pub. L. 87-634 prohibited financial assistance under subsec. (a)(1) of this section to a community with a population of 150,000 or more in or near which is located a research or development installation of the National Aeronautics and Space Administration.

Subsec. (c). Pub. L. 87-808 inserted ", or an Indian tribe".

Subsec. (d). Pub. L. 87-809 substituted "June 30, 1963" for "December 31, 1962".

Subsec. (e). Pub. L. 87-658, § 5(b), added subsec. (e).

1961—Subsec. (a). Pub. L. 87-70, § 501(b), eliminated provisions which required the Administrator to act through the Community Facilities Administration, inserted cl. (1), substituted "to finance the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas, and for use in coordinating highway, bus, surface-rail, underground, parking and other transportation facilities in such areas" for "to finance specific public projects under State or municipal law" in cl. (2), and inserted sentence which authorize facilities and equipment referred to in cl. (2) to include land, but not public highways, and any other real or personal property needed for an economic, efficient, and coordinated mass transportation system.

Subsec. (b)(2). Pub. L. 87-70, § 501(c), empowered the Administrator, subject to the maximum maturity, to provide for the postponement of the payment of interest on not more than 50 per centum of any financial assistance under this section for a period up to ten years where such assistance does not exceed 50 per centum of the development cost and it is determined that the applicant will experience above-average population growth and the project would contribute to orderly community development, economy, and efficiency.

Subsec. (b)(3). Pub. L. 87-70, § 501(d)(1), added subsec. (b)(3).

Subsec. (b)(4). Pub. L. 87-70, § 501(e), added subsec. (b)(4).

Subsec. (c). Pub. L. 87-70, § 501(f), substituted "under clause (1) of subsection (a) of this section" for "under this section".

Subsec. (d). Pub. L. 87-70, § 501(g), added subsec. (d).

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and agencies and officers thereof under this chapter incidental to or necessary for the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968 insofar as functions hereunder involve assistance specifically authorized for mass transportation facilities or equipment, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1493 of this title.

§ 1493. Notes and obligations; forms and denominations; maturities; terms and conditions; interest rate; revolving fund

(a) In order to finance activities under this chapter, the Secretary is authorized and empowered to issue to the Secretary of the Treasury, from time to time and to have outstanding at any one time, notes and other obligations in an amount not to exceed $650,000,000: *Provided*, That, of the funds obtained through the issuance of such notes and other obligations, $600,000,000 shall be available only for purchases and loans pursuant to clause (1) of section 1492(a) of this title and $50,000,000 shall be available only for purchases and loans pursuant to clause (2) of such section. Such obligations shall be in such forms and denominations, have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury which shall be not more than the higher of (1) 2½ per centum per annum, or (2) the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the issuance by the Secretary and adjusted to the nearest one-eighth of 1 per centum. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary to be issued hereunder and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(b) Funds borrowed under this section and any proceeds shall constitute a revolving fund which may be used by the Secretary in the exercise of his functions under this chapter.

(Aug. 11, 1955, ch. 783, title II, § 203, 69 Stat. 643; Sept. 14, 1960, Pub. L. 86-788, § 2(c), 74 Stat. 1028; June 30, 1961, Pub. L. 87-70, title V, § 501(d)(2), (h), (j), 75 Stat. 174, 175; May 25, 1967, Pub. L. 90-19, § 12(b), 81 Stat. 23.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (a), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

1961—Subsec. (a). Pub. L. 87-70, § 501(d)(2), (h), increased the maximum amount of notes and other obligations that may be outstanding at any one time from $150,000,000 to $650,000,000, restricted use of $600,000,000 for purchases and loans pursuant to cl. (1) of section 1492(a) of this title and $50,000,000 for purchases and loans pursuant to cl. (2) of such section, and substituted "a rate determined by the Secretary of the Treasury which shall be not more than the higher of (1) 2½ per centum per annum, or (2) the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the issuance by the Administrator and adjusted to the nearest one-eighth of 1 per centum" for "a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the issuance of such notes or other obligations".

Subsec. (d). Pub. L. 87-70, § 501(j), substituted "which may be used" for "which may used".

1960—Subsec. (a). Pub. L. 86-788 substituted "$150,000,000" for "$100,000,000".

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and agencies and officers thereof under this chapter incidental to or necessary for the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968 insofar as functions hereunder involve assistance specifically authorized for mass transportation facilities or equipment, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 1494. Functions, powers and duties of Secretary; administrative expenses

In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties set forth in section 1749a of title 12, except subsection (c)(2) of such section. Funds obtained or held by the Secretary in connection with the performance of his functions under this chapter shall be available for the administrative expenses of the Secretary in connection with the performance of such functions.

(Aug. 11, 1955, ch. 783, title II, § 204, 69 Stat. 644; May 25, 1967, Pub. L. 90-19, § 12(b), 81 Stat. 23.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and agencies and officers thereof under this chapter incidental to or necessary for the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968 insofar as functions hereunder involve assistance specifically authorized for mass transportation facilities or equipment, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1495. Omitted

CODIFICATION

Section, act Aug. 11, 1955, ch. 783, title II, § 205, 69 Stat. 644, prohibited the making of loans under section 459 of Title 40 after Aug. 11, 1955, except pursuant to an application for such loan filed prior to such date, and has been omitted as executed.

§ 1496. Definition of "States"

As used in this chapter, the term "States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Territories and possessions of the United States.

(Aug. 11, 1955, ch. 783, title II, § 206, as added Aug. 7, 1956, ch. 1029, title VI, § 603, 70 Stat. 1114, and amended Dec. 24, 1969, Pub. L. 91-152, title IV, § 403(b), 83 Stat. 395.)

AMENDMENTS

1969—Pub. L. 91-152 inserted reference to the Trust Territory of the Pacific Islands.

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and agencies and officers thereof under this chapter incidental to or necessary for the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968 insofar as functions hereunder involve assistance specifically authorized for mass transportation facilities or equipment, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1497. Technical advisory services in budgeting, financing, planning and construction of community facilities; appropriations

The Secretary is authorized to establish technical advisory services to assist municipalities and other political subdivisions and instrumentalities, and Indian tribes in the budgeting, financing, planning, and construction of community facilities. There are authorized to be appropriated such sums as may be necessary, together with any fees that may be charged, to cover the cost of such services.

(Aug. 11, 1955, ch. 783, title II, § 207, as added June 30, 1961, Pub. L. 87-70, title V, § 501(i), 75 Stat. 175, and amended Oct. 15, 1962, Pub. L. 87-808, § 3, 76 Stat. 920; May 25, 1967, Pub. L. 90-19, § 12(b), 81 Stat. 23.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator".

1962—Pub. L. 87-808 inserted ", and Indian tribes".

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and agencies and officers thereof under this chapter incidental to or necessary for the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968 insofar as functions hereunder involve assistance specifically authorized for mass transportation facilities or equipment, see section

1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 8C—OPEN-SPACE LAND

Sec.
1500. Congressional declaration of findings and purpose.
1500a. Grants to States and local public bodies for acquisition and for development of open-space land.
(a) Authorization; limitation on amount of grant; limitation on donations for non-Federal share.
(b) Restrictions on use of grants.
(c) Determination of further terms and conditions for assistance.
(d) Review of applications; consultation with Secretary of the Interior; exchange of information.
(e) Technical assistance.
1500b. Planning requirements.
1500c. Conversions to other uses.
1500c-1. Conversions of land involving historic or architectural purposes.
1500c-2. Acquisition of interests to guide urban development.
1500c-3. Labor standards.
1500d. Authorization of appropriations.
1500d-1. Definitions.

Termination

Section 5316 of this title has terminated the authority to make grants under title VII of the Housing Act of 1961, this chapter, after Jan. 1, 1975.

Chapter Referred to in Other Sections

This chapter is referred to in sections 3914, 4519, 5303, 5304, 5306, 5316 of this title; title 16 section 460*l*-8, 1247.

§ 1500. Congressional declaration of findings and purpose

(a) The Congress finds that the rapid expansion of the Nation's urban areas and the rapid growth of population within such areas has resulted in severe problems of urban and suburban living for the preponderant majority of the Nation's present and future population, including the lack of valuable open-space land for recreational and other purposes.

(b) The Congress further finds that there is a need for the additional provision of parks and other open space in the built-up portions of urban areas especially in low income neighborhoods and communities and a need for greater and better coordinated State and local efforts to make available and improve open-space land throughout entire urban areas.

(c) The Congress further finds that there is a need for timely action to preserve and restore areas, sites, and structures of historic or architectural value in order that these remaining evidences of our history and heritage shall not be lost or destroyed through the expansion and development of the Nation's urban areas.

(d) It is the purpose of this chapter to help curb urban sprawl and prevent the spread of urban blight and deterioration, to encourage more economic and desirable urban development, to assist in preserving areas and properties of historic or architectural value, and to help provide necessary recreational, conservation, and scenic areas by assisting State and local public bodies in taking prompt action to (1) provide, preserve, and develop open-space land in a manner consistent with the planned long-range development of the Nation's urban areas, (2) acquire, improve, and restore areas, sites, and structures of historic or architectural value, and (3) develop and improve open space and other public urban land, in accordance with programs to encourage and coordinate local public and private efforts toward this end.

(Pub. L. 87-70, title VII, § 701, June 30, 1961, 75 Stat. 183; Pub. L. 89-117, title IX, § 901(b), (c), Aug. 10, 1965, 79 Stat. 494; Pub. L. 89-754, title VI, § 605(b), (c), Nov. 3, 1966, 80 Stat. 1279; Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1781.)

Amendments

1970—Subsec. (a). Pub. L. 91-609 substituted "the rapid expansion of the Nation's urban areas and the rapid growth of population within such areas has resulted in severe problems of urban and suburban living for the preponderant majority of the Nation's present and future population, including the lack of valuable open-space land for recreational and other purposes" for "a combination of economic, social, governmental, and technological forces have caused a rapid expansion of the Nation's urban areas, which has created critical problems of service and finance for all levels of government and which, combined with a rapid population growth in such areas, threatens severe problems of urban and suburban living, including the loss of valuable open-space land in such areas, for the preponderant majority of the Nation's present and future population".

Subsec. (b). Pub. L. 91-609 substituted "a need for the additional provision of parks and other open space in the built-up portions of urban areas especially in low income neighborhoods and communities and a need for greater and better coordinated State and local efforts to make available and improve open-space land throughout entire urban areas" for "an urgent need both for the additional provision of parks and other open-space areas in the developed portions of the Nation's urban areas and for greater and better coordinated local efforts to beautify and improve open space and other public land throughout urban areas to facilitate their increased use and enjoyment by the Nation's urban population".

Subsec. (c). Pub. L. 91-609 deleted "past" from "past history and heritage".

Subsec. (d). Pub. L. 91-609 substituted "local public bodies" for "local governments", cl. (1) provision "open-space land in a manner consistent with the planned long-range development of the Nation's urban areas" for "open-space land which is essential to the proper long-range development and welfare of the Nation's urban areas, in accordance with plans for the allocation of such land for open-space uses", and cl. (3) term "develop" for "beautify".

1966—Subsec. (c). Pub. L. 89-754, § 605(b), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 89-754, § 605(b), (c), redesignated former subsec. (c) as (d), and stated an additional purpose of this chapter to be to assist in preserving areas and properties of historic or architectural value, added cl. (2), and redesignated former cl. (2) as (3), respectively.

1965—Subsec. (b). Pub. L. 89-117, § 901(b), redesignated former subsec. (b) as subsec. (c) and added subsec. (b).

Subsec. (c). Pub. L. 89-117, § 901(b), (c), redesignated former subsec. (b) as subsec. (c) and, in subsec. (c) as so redesignated, substituted "(1) provide, preserve, and develop" for "preserve" and "uses, and (2) beautify and improve open space and other public urban land, in accordance with programs to encourage and co-ordinate local public and private efforts toward this end" for "purposes".

EFFECTIVE DATE OF 1970 AMENDMENT

Section 401 of Pub. L. 91-609 provided in part that amendment by section 401 of Pub. L. 91-609 shall be effective July 1, 1971.

§ 1500a. Grants to States and local public bodies for acquisition and for development of open-space land

(a) Authorization; limitation on amount of grant; limitation on donations for non-Federal share

The Secretary is authorized to make grants to States and local public bodies to help finance (1) the acquisition of title to, or other interest in, open-space land in urban areas and (2) the development of open-space or other land in urban areas for open-space uses. The amount of any such grant shall not exceed 50 per centum of the eligible project cost, as approved by the Secretary, of such acquisition or development. Not more than 50 per centum of the non-Federal share of such eligible project cost may, to the extent authorized in regulations established by the Secretary, be made up by donations of land or materials.

(b) Restrictions on use of grants

No grants under this chapter shall be made to (1) defray ordinary State or local governmental expenses, (2) help finance the acquisition by a public body of land located outside the urban area for which it exercises (or participates in the exercise of) responsibilities consistent with the purpose of this chapter, (3) acquire and clear developed land in built-up urban areas unless the local governing body determines that adequate open-space land cannot be effectively provided through the use of existing undeveloped land, or (4) provide assistance for historic and architectural preservation purposes, except for districts, sites, buildings, structures, and objects which the Secretary of the Interior determines meet the criteria used in establishing the National Register.

(c) Determination of further terms and conditions for assistance

The Secretary may set such further terms and conditions for assistance under this chapter as he determines to be desirable.

(d) Review of applications; consultation with Secretary of the Interior; exchange of information

The Secretary shall consult with the Secretary of the Interior on the general policies to be followed in reviewing applications for grants under this chapter. To assist the Secretary in such review, the Secretary of the Interior shall furnish him (1) appropriate information on the status of national and statewide recreation and historic preservation planning as it affects the areas to be assisted with such grants, and (2) the current listing of any districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture which may be contained on a National Register maintained by the Secretary of the Interior pursuant to other provisions of law. The Secretary shall provide current information to the Secretary of the Interior from time to time on significant program developments.

(e) Technical assistance

The Secretary may provide such technical assistance to States and local public bodies as may be required to effectively carry out activities under this section.

(Pub. L. 87-70, title VII, § 702, June 30, 1961, 75 Stat. 184; Pub. L. 88-560, title X, § 1001, Sept. 2, 1964, 78 Stat. 806; Pub. L. 89-117, title IX, §§ 902(a), (b), 903, 904, 909(b), (c), Aug. 10, 1965, 79 Stat. 495, 497; Pub. L. 89-754, title VI, § 605(d), Nov. 3, 1966, 80 Stat. 1279; Pub. L. 90-19, § 18(c), (d), May 25, 1967, 81 Stat. 25; Pub. L. 90-448, title VI, § 606(a), Aug. 1, 1968, 82 Stat. 534; Pub. L. 91-152, title III, § 303, Dec. 24, 1969, 83 Stat. 391; Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1781.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-609 in revising the provisions deleted "to enter into contracts" preceding "to make grants", substituted "help finance (1) the acquisition of title to, or other interest in, open-space land in urban areas and (2) the development of open-space or other land in urban areas for open-space uses" for "help finance the acquisition of title to, or other permanent interests in, such land, and the development, for open-space uses, of land acquired under this chapter", prescribed limitation on donations for non-Federal share, and deleted full faith and credit provision respecting Federal pledging for payment of grants.

Subsec. (b). Pub. L. 91-609 redesignated former subsec. (c) as (b), inserted numbered designations, and added items (3) and (4). Former subsec. (b) authorization of appropriation provisions for $310,000,000 prior to July 1, 1969, and $460,000,000 prior to July 1, 1971, are now covered by section 1500d of this title.

Subsec. (c). Pub. L. 91-609 redesignated former subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub L. 91-609 redesignated former subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 91-609 incorporated technical assistance provisions of former section 1500d(a) of this title. Former subsec. (e) redesignated (d).

1969—Subsec. (b). Pub. L. 91-152 substituted "July 1, 1971" for "July 1, 1970".

1968—Subsec. (b). Pub. L. 90-448 authorized appropriations of not more than $460,000,000 prior to July 1, 1970, and eliminated provisions which permitted the Secretary to contract to make grants under section 1500c-1 of this title aggregating not more than $64,000,000, and grants under section 1500c-2 of this title aggregating not more than $36,000,000.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a), (b), and (d) of this section.

Subsec. (a). Pub. L. 90-19 substituted "Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary')" for "Housing and Home Finance Administrator (hereinafter referred to as the 'Administrator')".

1966—Subsec. (e). Pub. L. 89-754 substituted "Secretary" for "Administrator" wherever appearing, designated existing provisions as cl. (1), substituted therein "national and statewide recreation and historic preservation planning as it affects the areas to be assisted with such grants" for "recreational planning for the areas to be assisted with the grants", and added cl. (2).

1965—Subsec. (a). Pub. L. 89-117, §§ 902(a), 903, 909(b), inserted development of open space land as one of the purposes for which grants were to be made, added the development, for open space uses, of land acquired under this chapter as one of the uses to which granted funds could be put, raised from 20 percent to 50 percent of total cost the maximum grant allowable, removed the proviso increasing the maximum grant to 30 percent in the case of a grant to a public body exercising open space responsibility for all or a substantial part of the urban area, and struck out requirement that local public bodies to which funds were granted be acceptable to the Administrator as capable of carrying out the provisions of the chapter.

Subsec. (b). Pub. L. 89-117, § 904, substituted "$310,000,000" for "$75,000,000" and added proviso that, of that sum, no more than $64,000,000 could be for grants under section 1500c-1 of this title and no more than $36,000,000 could be for grants under section 1500c-2 of this title.

Subsec. (c). Pub. L. 89-117, § 902(b), removed development costs from the list of uses to which grants may not be put.

Subsec. (e). Pub. L. 89-117, § 909(c), substituted "assisted" for "served by the open-space land acquired".

1964—Subsec. (b). Pub. L. 88-560, substituted "$75,000,000" for "$50,000,000", and inserted "All funds so appropriated shall remain available until expended."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as an Effective Date of 1970 Amendment note under section 1500 of this title.

PLANNING AND ACQUISITION OF LAND

Coordinating planning and acquisition of land under outdoor recreation and open space programs, see Ex. Ord. No. 11237, July 27, 1965, 30 F.R. 9433, set out as a note under section 460*l*-8 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1500b, 1500c of this title.

§ 1500b. Planning requirements

The Secretary shall make grants under section 1500a of this title only if he finds that such assistance is needed for carrying out a unified, or officially coordinated program, meeting criteria established by him, for the provision and development of open-space land which is a part of, or is consistent with, the comprehensively planned development of the urban area.

(Pub. L. 87-70, title VII, § 703, June 30, 1961, 75 Stat. 184; Pub. L. 89-117, title IX, § 905, Aug. 10, 1965, 79 Stat. 495; Pub. L. 90-19, § 18(c), May 25, 1967, 81 Stat. 25; Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1782.)

AMENDMENTS

1970—Pub. L. 91-609 eliminated subsec. (a) designation for existing provisions, substituted "shall make grants under section 1500a of this title" for "shall enter into contracts to make grants under sections 1500a and 1500c-1 of this title", inserted "which is a part of, or is consistent with," preceding "the comprehensively planned development", and deleted subsec. (b) provisions for the taking of such action by the Secretary as to assure that local governing bodies are preserving maximum open-space land, with minimum of cost, through use of existing public land, use of special tax, zoning, and subdivision provisions, and continuation of appropriate private use of open-space land through acquisition of leaseback, acquisition of restrictive easements, and other available means.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

1965—Subsec. (a). Pub. L. 89-117 substituted provisions which required that, for grants under sections 1500a and 1500c-1 of this title, there be a unified or officially coordinated program for the provision and development of open-space land as part of the comprehensively planned development of the urban area for provisions which required only that, for grants for acquisition of land under the entire chapter, the use of the land for permanent open space be important and which limited the definition of comprehensive planning to the definition found in section 461(d) of title 40.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as an Effective Date of 1970 Amendment note under section 1500 of this title.

PLANNING AND ACQUISITION OF LAND

Coordinating planning and acquisition of land under outdoor recreation and open space programs, see Ex. Ord. No. 11237, July 27, 1965, 30 F.R. 9433, set out as a note under section 460*l*-8 of Title 16, Conservation.

§ 1500c. Conversions to other uses

No open-space land for the acquisition of which a grant has been made under section 1500a of this title shall be converted to uses not originally approved by the Secretary without his prior approval. Prior approval will be granted only upon satisfactory compliance with regulations established by the Secretary. Such regulations shall require findings that (1) there is adequate assurance of the substitution of other open-space land of as nearly as feasible equivalent usefulness, location, and fair market value at the time of the conversion; (2) the conversion and substitution are needed for orderly growth and development; and (3) the proposed uses of the converted and substituted land are in accord with the then applicable comprehensive plan for the urban area, meeting criteria established by the Secretary.

(Pub. L. 87-70, title VII, § 704, June 30, 1961, 75 Stat. 185; Pub. L. 89-117, title IX, § 909(d), Aug. 10, 1965, 79 Stat. 497; Pub. L. 90-19, § 18(c), May 25, 1967, 81 Stat 25; Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1782.)

AMENDMENTS

1970—Pub. L. 91-609 in revising the text substituted "section 1500a of this title" for "this chapter" and provisions for satisfactory compliance with certain findings prescribed by regulations for prior similar statutory provisions.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

1965—Pub. L. 89-117 limited the prohibition against conversion without the Administrator's approval by providing that such prohibition applied only to lands acquired with grant funds under this chapter.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as an Effective Date of 1970 Amendment note under section 1500 of this title.

§ 1500c-1. Conversions of land involving historic or architectural purposes

No open-space land involving historic or architectural purposes for which assistance has been granted under this chapter shall be converted to use for any other purpose without the prior approval of the Secretary of the Interior.

(Pub. L. 87-70, title VII, § 705, as added Pub. L. 89-117, title IX, § 906, Aug. 10, 1965, 79 Stat. 496, and amended Pub. L. 90-19, § 18(c), May 25, 1967, 81 Stat. 25; Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1782.)

AMENDMENTS

1970—Pub. L. 91-609 substituted requirement of Secretary's approval of conversions of land involving historic or architectural purposes for prior provisions for

grants, for provision of open-space land in built-up urban areas, now covered in section 1500a(a) of this title.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as an Effective Date of 1970 Amendment note under section 1500 of this title.

§ 1500c-2. Acquisition of interests to guide urban development

In order to encourage the acquisition of interests in undeveloped or predominantly undeveloped land which, if withheld from commercial, industrial, and residential development, would have special significance in helping to shape economic and desirable patterns of urban growth (including growth outside of existing urban areas which is directly related to the development of new communities or the expansion and revitalization of existing communities), the Secretary may make grants to State and local public bodies for the acquisition of such interests in an amount not to exceed 75 per centum of the cost of such acquisition. In the case of any interests acquired pursuant to this section, the Secretary may approve the subsequent conversion or disposition of the land involved without regard to other requirements of this chapter but subject to such terms and conditions as he determines equitable and appropriate with respect to the control of future use and the application or sharing of the proceeds or value realized upon sale or disposition.

(Pub. L. 87-70, title VII, § 706, as added Pub. L. 89-117, title IX, § 906, Aug. 10, 1965, 79 Stat. 496, and amended Pub. L. 89-754, title VI, § 605(e), Nov. 3, 1966, 80 Stat. 1280; Pub. L. 90-19, § 18(c), May 25, 1967, 81 Stat. 25; Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1783.)

AMENDMENTS

1970—Pub. L. 91-609 substituted provisions for acquisition of interests to guide urban development, for prior provisions for grants for urban beautification and improvement, now covered in section 1500a(a) of this title.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

1966—Pub. L. 89-754 struck out proviso which authorized the Administrator to use not to exceed $5,000,000 of the sum authorized for contracts under this section for the purpose of entering into contracts to make grants in amounts not to exceed 90 per centum of the cost of activities which he determined had special value in developing and demonstrating new and improved methods and materials for use in carrying out the purposes of this section, now covered by section 1500d(c) of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as an Effective Date of 1970 Amendment note under section 1500 of this title.

§ 1500c-3. Labor standards

(a) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of grants under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended [40 U.S.C. 276a et seq.]. The Secretary shall not approve any such grant without first obtaining adequate assurance that these labor standards will be maintained upon the construction work.

(b) The Secretary of Labor shall have, with respect to the labor standards specified in subsection (a) of this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 276c of title 40.

(Pub. L. 87-70, title VII, § 707, as added Pub. L. 89-117, title IX, § 907, Aug. 10, 1965, 79 Stat. 496, and amended Pub. L. 90-19, § 18(c), May 25, 1967, 81 Stat. 25; Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1783.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (a), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Pub. L. 91-609 reenacted provisions without change.

1967—Subsec. (a). Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as an Effective Date of 1970 Amendment note under section 1500 of this title.

§ 1500d. Authorization of appropriations

There are authorized to be appropriated for purposes of making grants under this chapter not to exceed $660,000,000 prior to September 30, 1972, plus not to exceed $63,000,000 for the fiscal year beginning July 1, 1973. Any amounts appropriated under this section shall remain available until expended.

(Pub. L. 87-70, title VII, § 708, formerly § 705, June 30, 1961, 75 Stat. 185, renumbered and amended Pub. L. 89-117, title IX, §§ 906, 908, Aug. 10, 1965, 79 Stat. 495, 497; Pub. L. 89-754, title VI, § 605(f), Nov. 3, 1966, 80 Stat. 1280; Pub. L. 90-19, § 18(c), May 25, 1967, 81 Stat, 25; Pub. L. 90-448, title VI, § 606(b), Aug. 1, 1968, 82 Stat. 534; Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1783; Pub. L. 92-213, § 8(b), Dec. 22, 1971, 85 Stat. 776; Pub. L. 92-335, § 5, July 1, 1972, 86 Stat. 405; Pub. L. 93-117, § 7, Oct. 2, 1973, 87 Stat. 422.)

AMENDMENTS

1973—Pub. L. 93-117 authorized appropriation of $63,000,000 for fiscal year beginning July 1, 1973.

1972—Pub. L. 92-335 substituted "September 30, 1972" for "July 1, 1972".

1971—Pub. L. 92-213 substituted "$660,000,000" for "$560,000,000".

1970—Pub. L. 91-609 substituted authorization of appropriations provisions (formerly covered in former section 1500a(b) of this title) for former subsecs. (a) to (c) relating to technical assistance, studies, and publication of information, now covered in section 1500a(e) of this title and sections 1701z-1 to 1701z-4 of title 12.

1968—Subsec. (b). Pub. L. 90-448 substituted "$125,000" for "$50,000".

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

1966—Pub. L. 89-754 designated existing provisions as subsecs. (a) and (b) and redesignated former proviso of section 1500c-2 of this title as subsec. (c), substituting therein "Secretary" and "$10,000,000" for "Administrator" and "$5,000,000", respectively.

1965—Pub. L. 89-117, § 908, substituted provision authorizing the Administrator to use during any fiscal year not to exceed $50,000 of the funds available for grants under this chapter for studies and publication of information for provision authorizing the appropriation, out of moneys in the Treasury not otherwise appropriated, of such amounts as may be necessary to provide for assistance, studies, and publication.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as an Effective Date of 1970 Amendment note under section 1500 of this title.

ADMINISTRATIVE PRIORITY FOR APPLICATIONS RELATING TO ACTIVITIES IN AREAS AFFECTED BY BASE CLOSINGS

State or unit of local government or agency thereof affected by reduction in level of expenditure or employment at Department of Defense installation located in or near such State or unit of local government, priority in processing applications for assistance under this section, see section 1453a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1453a of this title.

§ 1500d-1. Definitions

As used in this chapter—

(1) The term "open-space land" means any land located in an urban area which has value for (A) park and recreational purposes, (B) conservation of land and other natural resources, or (C) historic, architectural, or scenic purposes.

(2) The term "urban area" means any area which is urban in character, including those surrounding areas which, in the judgment of the Secretary, form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities.

(3) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States.

(4) The term "local public body" means any public body (including a political subdivision) created by or under the laws of a State or two or more States, or a combination of such bodies, and includes Indian tribes, bands, groups, and nations (including Alaska Indians, Aleuts, and Eskimos) of the United States.

(5) The term "open-space uses" means any use of open-space land for (A) park and recreational purposes, (B) conservation of land and other natural resources, or (C) historic, architectural or scenic purposes.

(Pub. L. 87-70, title VII, § 709, as added Pub. L. 89-754, title VI, § 605(g), Nov. 3, 1966, 80 Stat. 1280, and amended Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1783.)

PRIOR PROVISIONS

A prior section 1500e, Pub. L. 87-70, title VII, § 710, formerly § 706, June 30, 1961, 75 Stat. 185, renumbered § 709 and amended Pub. L. 89-117, title IX, §§ 902(c), 906, Aug. 10, 1965, 79 Stat. 495, renumbered § 710, Pub. L. 89-754, title VI, § 605(g), Nov. 3, 1966, 80 Stat. 1280, and amended Pub. L. 90-19, § 18(c), May 25, 1967, 81 Stat. 25, which defined "open-space land", "urban area", "State", and "open space uses", was omitted from the Code as superseded in the general amendment of this chapter by Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1781. See now this section.

AMENDMENTS

1970—Pub. L. 91-609 substituted provisions respecting definitions (formerly covered in former section 1500e of this title) for provisions relating to grants for historic preservation, now covered in section 1500a(a) of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as an Effective Date of 1970 Amendment note under section 1500 of this title.

CRITERIA FOR GRANTS FOR HISTORIC PRESERVATION

Section 605(h) of Pub. L. 89-754 provided that: "Commencing three years after the date of the enactment of this Act [Nov. 3, 1966], no grant shall be made (except pursuant to a contract or commitment entered into less than three years after such date) under section 709 of the Housing Act of 1961 [this section] or section 701(h) of the Housing Act of 1954 [section 461(h) of Title 40, Public Buildings, Property, and Works], or under section 103 of the Housing Act of 1949 [section 1453 of this title] to the extent that it is to be used for historic or architectural preservation, except with respect to districts, sites, buildings, structures, and objects which the Secretary of Housing and Urban Development finds meet criteria comparable to those used in establishing the National Register maintained by the Secretary of the Interior pursuant to other provisions of law."

CHAPTER 9—HOUSING OF PERSONS ENGAGED IN NATIONAL DEFENSE

SUBCHAPTER I—PROJECTS GENERALLY

Sec.
1501. Cooperation between departments; definitions; limitation of projects.
1502. Initiation and development of projects; jurisdiction; acquisition of property; fees of architects, engineers, etc.
1502a. Repealed.
1503. Development of projects by Secretary; financial assistance to public housing agencies.
1504. Rental rates; exemption from limitations of United States Housing Act of 1937.
1505. Funds of Secretary of Housing and Urban Development.
1506. Administration of utilities and utility services; granting of easements.
1507. Omitted.

SUBCHAPTER II—DEFENSE HOUSING

1521. Omitted.
1522. Definitions; actions to recover developed property.
1523. Omitted.

Sec.
1524. Declaration of policy; disposal of housing.

SUBCHAPTER III—DEFENSE PUBLIC WORKS

1531 to 1536. Omitted.

SUBCHAPTER IV—GENERAL PROVISIONS AFFECTING SUBCHAPTERS II TO VII

1541. Omitted.
1542. Transfer of funds from other Federal agencies to Secretary of Housing and Urban Development.
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1545. Omitted.
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1548. Rules and regulations; standards of safety, convenience, and health.
1549. Laborers and mechanics; wages; preference in employment.
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1551. Repealed.
1552. Powers of certain agencies designated to provide temporary shelter.
1553. Removal by Secretary of certain housing of temporary character; exceptions for local communities; report to Congress.

SUBCHAPTER V—DEFENSE HOUSING AND PUBLIC WORKS FOR DISTRICT OF COLUMBIA

1561 to 1563. Omitted.
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SUBCHAPTER VI—HOUSING FOR DISTRESSED FAMILIES OF SERVICEMEN AND VETERANS

1571 to 1573. Omitted.
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SUBCHAPTER VII—DISPOSAL OF WAR AND VETERANS' HOUSING

1581. Housing disposition.
(a) Mandatory transfers.
(b) Transfer to provide housing for parents of deceased World War II servicemen.
(c) Requests for relinquishment and transfer.
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1582. Temporary housing exempted from provisions of section 1553 of this title.
1583. Redetermination of demountable housing as temporary or permanent.
1584. Removal of all dwelling structures on land under Secretary's control; temporary housing exempted; preference in fulfilling vacancies.
1585. Acquisition of housing sites.
(a) Lease, condemnation or purchase; temporary housing.
(b) Land rentals.
(c) Reserve account; availability of moneys.
1586. Sale of specific housing projects.
(a) Conditions precedent.
(b) Projects as "low-rent housing".
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(d) Disposition of payments.
1587. Disposition of other permanent war housing.
(a) Public interest.
(b) Preference in sales to individuals.
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1588. Sale of vacant land to local housing authorities; sale of personal property.
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1589a. Extension by President of dates for disposal and other actions relating to housing under this subchapter.
1589b. Establishment of income limitations for occupancy of housing; effect on prior tenants.
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(a) Disposal to highest bidder; rejection of bids; disposal by negotiation.
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1591. Determination of critical areas by President; requisite conditions.
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SUBCHAPTER IX—DEFENSE HOUSING AND COMMUNITY FACILITIES AND SERVICES

1592. Authority of Secretary.
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1592b. Maximum construction costs; determinations by Secretary in certain condemnation proceedings.
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(a) Planning, acquisition, construction, etc.,
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1592f. Preservation of local civil and criminal jurisdiction, and civil rights; jurisdiction of State courts.
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1592i. Laborers and mechanics.
(a) Wages; overtime.
(b) Applicability of other laws.
(c) Stipulations in loan contracts as to wages; certification.
(d) Reports by contractors and subcontractors to Secretary of Labor.
(e) Prescription of standards, regulations, and procedures by Secretary of Labor.
1592j. Disposition of moneys derived from rentals, operation, and disposition of property.
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1594j. Repealed.
1594j-1. Inadequate quarters.
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SUBCHAPTER I—PROJECTS GENERALLY

Cross References

Provisions to expedite defense housing, see sections 1521 et seq., and 1541 et seq. of this title.

Subchapter Referred to in Other Sections

This subchapter is referred to in title 12 sections 1715n, 1745.

§ 1501. Cooperation between departments; definitions; limitation of projects

In connection with the national defense program, the Departments of the Navy, Army, and Air Force and the Secretary of Housing and Urban Development are authorized to cooperate in making necessary housing available for persons engaged in national defense activities, as provided in this subchapter. "Persons engaged in national defense activities" (as that term is used in this subchapter) shall include (i) enlisted men with families, who are in the naval and military service and officers of the Army, Air Force, and Marine Corps not above the grade of captain, and officers of the Navy and Coast Guard, not above the grade of lieutenant and employees of the Departments of the Navy, Army, and Air Force who are assigned to duty at naval or military reservations, posts, or bases, and (ii) workers with families, who are engaged or to be engaged in industries connected with and essential to the national defense program. No project shall be developed or assisted for the purposes of this subchapter except with the approval of the President and upon a determination by him that there is an acute shortage of housing in the locality involved which impedes the national defense program.

(June 28, 1940, ch. 440, title II, § 201, 54 Stat. 681; Oct. 26, 1942, ch. 626, § 1, 56 Stat. 988; 1947 Reorg. Plan No. 3, § 4(a), eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 955; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

Amendments

1942—Act Oct. 26, 1942, struck out parenthesis and the words "excluding officers" and inserted in lieu thereof the words "and officers of the Army and Marine Corps not above the grade of captain, and officers of the Navy and Coast Guard, not above the grade of lieutenant".

Change of Name

The Department of the Air Force was inserted to conform to section 207(a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, 502, and Secretary of Defense Transfer Orders No. 14, eff. July 1, 1948, and No. 40 [App. B (123)], July 22, 1949. The Department of War was designated the Department of the Army and the

title of the Secretary of War was changed to Secretary of the Army by section 205(a) of such act July 26, 1947. Sections 205(a) and 207(a), (f) of act July 26, 1947 were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956 enacted "Title 10, Armed Forces", which in sections 3010 to 3013 and 8010 to 8013 continued the Departments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

Short Title

Act Oct. 14, 1940, ch. 862, 54 Stat. 1125, which is classified to subchapters II to VII of this chapter, is popularly known as the "Lanham Public War Housing Act".

Short Title of 1951 Amendment

Act Sept. 1, 1951, ch. 378, § 1, 65 Stat. 294, provided: "That this Act [enacting sections 1507, 1589a, 1589b, and 1591 to 1593e of this title, sections 1701g-1 to 1701g-3, 1701i-1, 1715g, 1715h, 1716a, 1748g-1, 1750, 1750a, and 1750b to 1750g of Title 12, Banks and Banking, section 2136 of the Appendix to Title 50, War and National Defense, amended sections 1584 and 1585 of this title, sections 371, 1430, 1701g, 1701j, 1702, 1706, 1710, 1713, 1715c, 1715d, 1715f, 1716, 1743, 1747a, 1747f, and 1747l, 1748b of Title 12, section 2135 of Title 50, App., and enacted provisions set out as notes under section 1591 of this title and section 1748b of Title 12] may be cited as the 'Defense Housing and Community Facilities and Services Act'."

Transfer of Functions

The United States Housing Authority was consolidated into the Housing and Home Finance Agency by Reorg. Plan No. 3 of 1947, § 1, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees, and the name of the Authority was changed to the Public Housing Administration by section 4(a) of such Plan. Section 9 of Reorg. Plan No. 3 of 1947 abolished the office of Administrator of the United States Housing Authority, whose functions were transferred by section 4 of such Plan to the Public Housing Commissioner.

The functions of the Public Housing Administration and of the Housing and Home Finance Agency (of which the Public Housing Administration is a constituent agency) and of the heads thereof were transferred to the Secretary of Housing and Urban Development by Pub. L. 89-174, § 5(a), Sept. 9, 1965, 79 Stat. 669, set out as section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provides that references to the Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean the Secretary of Housing and Urban Development and that the Housing and Home Finance Agency and the Public Housing Administration have lapsed.

Delegation of Functions

Functions of the President under this section and sections 1502 to 1505, to determine that housing administered or assisted by the Public Housing Administration is no longer needed to assure the availability of dwellings for persons engaged in national defense activities, delegated to the Housing and Home Finance Administrator, see section 1(4) of Ex. Ord. No. 11196, Feb. 2, 1965, 30 F.R. 1171, set out as a note under section 1701c of Title 12, Banks and Banking.

Section Referred to in Other Sections

This section is referred to in sections 1404a, 1502 of this title.

§ 1502. Initiation and development of projects; jurisdiction; acquisition of property; fees of architects, engineers, etc.

(a) Projects may be initiated under this subchapter by the Department of the Navy or Army or the Air Force to provide dwellings on or near naval or military reservations, posts or bases for rental to the officers, enlisted men and employees of the Departments of the Navy, Army, and Air Force described in section 1501 of this title. Such projects shall be developed by the Department of the Navy or Army or the Air Force or by the Secretary of Housing and Urban Development, whichever the President determines is better suited to the fulfillment of the purposes of this subchapter with respect to any particular project. If the development of such project is to be undertaken by the Department of the Navy or Army or Air Force, the Secretary of Housing and Urban Development is authorized to aid the development of the project by furnishing technical assistance and by transferring to such Department the funds necessary for the development of the project. Any project developed for the purpose of this section shall be leased to the Department of the Navy or Army or Air Force by the Secretary of Housing and Urban Development (who shall have title to such project until repayment of the cost thereof to the Secretary of Housing and Urban Development as prescribed in such lease) upon such terms as shall be prescribed in the lease, which may be the same terms as are authorized by the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], with respect to leases to public housing agencies. All the provisions of said Act which apply to the development of projects by the Secretary of Housing and Urban Development shall (insofar as applicable and not inconsistent herewith) apply to the development of projects by the Department of the Navy or Army or Air Force. Notwithstanding other provisions of this or any other law, the Department leasing a project shall have the same jurisdiction over such project as it has over the reservation, post or base in connection with which the project is developed.

(b) The Department of the Navy or Army or Air Force, in connection with any project developed or leased by it, and the Secretary of Housing and Urban Development, in connection with any project developed or assisted by him, for the purposes of this subchapter, may acquire real or personal property or any interest therein by purchase, eminent domain, gift, lease or otherwise. The provisions of section 255 of title 40 shall not apply to the acquisition of any real property by the Department of the Navy or Army or Air Force or by the Secretary of Housing and Urban Development for the purposes of this subchapter or to the project developed thereon, and the provisions of section 303b of title 40, shall not apply to any lease of any project developed for the purposes of this subchapter or of any dwelling therein. Condemnation proceedings instituted by the Secretary of Housing and Urban Development shall be in the Secretary's own name and the practice and procedure governing such proceedings by the United States shall be followed, and the Secretary of Housing and Urban Development shall likewise be entitled to proceed in accordance

with the provisions of sections 258a to 258e and 361 to 386 of title 40. If the Secretary of Housing and Urban Development acquires land in connection with a project to be assisted for the purposes of this subchapter, the Secretary may convey such land to the public housing agency involved for a consideration equal to the cost of the land to the Secretary of Housing and Urban Development. The Departments of the Navy, Army, and Air Force and the Secretary of Housing and Urban Development may negotiate, contract and fix such fees as they determine are reasonable for the services of architects, engineers, surveyors, appraisers, title examiners and real estate negotiators in connection with specific projects developed by them under this subchapter. The Secretaries of Navy, Army, and Air Force are authorized to make available to the Secretary of Housing and Urban Development any land that is needed for a project to be developed by the Secretary of Housing and Urban Development and leased to the Department of the Navy or Army or Air Force and to execute such leases, agreements and other instruments with the Secretary of Housing and Urban Development as may be necessary to carry out the purposes of this subchapter.

(June 28, 1940, ch. 440, title II, § 202, 54 Stat. 682; Oct. 26, 1942, ch. 626, § 1, 56 Stat. 988; 1947 Reorg. Plan No. 3, § 4(a), eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 955; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

The United States Housing Act of 1937 and said Act, referred to in subsec. (a), are act Sept. 1, 1937, ch. 896, as revised generally Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables volume.

Sections 361 to 386 of title 40, referred to in subsec. (b), were repealed by Pub. L. 88-241, § 21(b), Dec. 23, 1963, 77 Stat. 627. See now section 16-1301 et seq. of the District of Columbia Code.

CODIFICATION

Appropriate changes were made in text to conform to the substitution of Secretary of Housing and Urban Development for the United States Housing Authority. See Transfer of Functions note set out below.

CHANGE OF NAME

The Department of the Air Force was inserted to conform to section 207(a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, 502, and Secretary of Defense Transfer Order No. 40 [App. A(75)], July 22, 1949. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of such act July 26, 1947. Sections 205(a) and 207(a), (f) of act July 26, 1947 were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 and 8010 to 8013 continued the Departments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

AMENDMENTS

1942—Act Oct. 26, 1942, inserted the word "officers" between the words "rental to the" and "enlisted men," in the first sentence.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1404a of this title.

§ 1502a. Repealed. Pub. L. 85-861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section, act July 15, 1955, ch. 368, title V, § 509, 69 Stat. 351, related to acquisition of housing units for military personnel and dependents, and is now covered by section 2678 of Title 10, Armed Forces.

§ 1503. Development of projects by Secretary; financial assistance to public housing agencies

In any localities where the President determines that there is an acute shortage of housing which impedes the national defense program and that the necessary housing would not otherwise be provided when needed for persons engaged in national defense activities, the Secretary of Housing and Urban Development may undertake the development and administration of projects to assure the availability of dwellings in such localities for such persons and their families, or the Secretary of Housing and Urban Development may extend financial assistance of public housing agencies for the development and administration of such projects. Such financial assistance to public housing agencies shall be extended (except as otherwise provided herein and not inconsistent herewith) under the provisions of, and in the same manner and forms as provided in, title I[1] of the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.], with respect to other housing projects.

(June 28, 1940, ch. 440, title II, § 203, 54 Stat. 683; 1947 Reorg. Plan No. 3, § 4(a), eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 955; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables volume.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1404a of this title.

§ 1504. Rental rates; exemption from limitations of United States Housing Act of 1937

Any contract made for financial assistance under the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.], may be re-

[1] So in original. Reference should probably be to entire "United States Housing Act of 1937" since such Act is not divided into titles. See section 1437 et seq. of this title.

vised so as to provide that the project involved will be assisted for any of the purposes of this subchapter. The Department of the Navy or Army or the Air Force or the Secretary of Housing and Urban Development, in the administration of any project developed for the purposes of this subchapter, shall fix rentals for persons engaged in national defense activities and their families which will be within their financial reach, and the Secretary of Housing and Urban Development, in any contract for financial assistance or any lease of such a project, shall require the fixing of such rentals. Projects developed by the Department of the Navy or Army or Air Force, or developed or assisted by the Secretary of Housing and Urban Development, for the purposes of this subchapter shall not be subject to the elimination requirements of sections 10(a) and 11(a) of said Act [42 U.S.C. 1410(a), 1411(a)], or to any provisions of section 9 of said Act [42 U.S.C. 1409] which would require any part of the development cost thereof to be met in any manner other than from funds loaned or furnished by the Secretary of Housing and Urban Development. Funds expended for the purposes of this subchapter shall be excluded in determining, for the purposes of section 21(d) of said Act [42 U.S.C. 1421(d)], the amounts expended within each State. Except as otherwise provided in this subchapter or as may be inconsistent with this subchapter, all the provisions of title I[1] of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] shall apply to this subchapter. During the period when the President determines that in any locality there is an acute need for housing to assure the availability of dwellings for persons engaged in national defense activities, dwellings in a project developed or assisted in said locality which are devoted to the purposes of providing housing for persons engaged in national defense activities shall not be subject to sections 2(1) and 2(2) of the United States Housing Act of 1937, as amended [42 U.S.C. 1402(1), (2)], and during such period such projects shall be deemed projects of a low-rent character for the purposes of any of the applicable provisions in Title I[1] of the United States Housing Act of 1937.

(June 28, 1940, ch. 440, title II, § 204, 54 Stat. 683; 1947 Reorg. Plan No. 3, § 4(a), eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 955; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note under section 1437 of this title and Tables Volume.

Sections 2, 9, 10(a), and 11(a) of the United States Housing Act of 1937, referred to in text, is a reference to sections of the Act prior to the general revision of the Act by Pub. L. 93-383. The Act as so revised is classified to section 1437 et seq. of this title. Provisions of former sections 2, 9, and 10(a) are now covered by sections 3, 4, and 5(a) of the Act which are classified to sections 1437a, 1437b, and 1437c(a) of this title.

Section 21(d) of said Act, referred to in text, was repealed by Pub. L. 87-70, title II, § 204(c), June 30, 1961, 75 Stat. 164.

CHANGE OF NAME

The Department of the Air Force was inserted to conform to section 207(a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, 502, and Secretary of Defense Transfer Orders No. 14, eff. July 1, 1948, and No. 40 [App. B(124)], July 22, 1949. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of such act July 26, 1947 Sections 205(a) and 207(a), (f) of act July 26, 1947, were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 and 8010 to 8013 continued the Departments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1404a of this title.

§ 1505. Funds of Secretary of Housing and Urban Development

The Secretary of Housing and Urban Development may use for the purposes of this subchapter any of the funds or authorizations heretofore or hereafter made available to it.

(June 28, 1940, ch. 440, title II, § 205, 54 Stat. 683; 1947 Reorg. Plan No. 3, § 4(a), eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 955; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1501 of this title.

PROVISIONS INAPPLICABLE TO THIS SUBCHAPTER

Section 205 of act June 28, 1940, contained the following sentence: "The provisions of title I of this Act shall not apply to this title [this subchapter]." The provisions of title I of act June 28, 1940 were incorporated in the Code as section 40 of Title 41, Public Contracts, and sections 1151 to 1162 of Appendix to Title 50, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1404a of this title.

§ 1506. Administration of utilities and utility services; granting of easements

(a) Any Federal agency (including any wholly owned Government corporation) administering utility installations connected to a utility system for housing under the jurisdiction of the Secretary of Housing and Urban Development is authorized—

(1) to continue to provide utilities and utility services to such housing as long as it is under the jurisdiction of the Secretary;

(2) to contract with the purchasers or transferees of such housing to continue the utility connection with such installations and fur-

[1] So in original. Reference should probably be to entire "United States Housing act of 1937" since such act was not divided into titles. See section 1437 et seq. of this title.

nish such utilities and services as may be available and needed in connection with such housing, for such period of time (not exceeding the period of Federal administration of such installations) and subject to such terms (including the payment of the pro rata cost to the Government or the market value of the utilities and services furnished, whichever is greater) as may be determined by the head of the agency;

(3) to dispose of such installations, when excess to the needs of the agency, and where not excess to grant an option to purchase, to the purchasers or transferees of such housing, for an amount not less than the appraised value of the installations and upon such terms and conditions as the head of the agency shall establish.

(b) Any Federal agency (including any wholly owned Government corporation) having under its jurisdiction lands across which run any part of a utility system for housing under the jurisdiction of the Secretary is authorized to grant to the Secretary, or to the purchasers or transferees of such housing, easements (which may be perpetual) on such land for utility purposes.

(June 28, 1948, ch. 688, § 2, 62 Stat. 1063; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

CODIFICATION

Section was not enacted as part of title II of act June 28, 1948, ch. 440, 54 Stat. 681, known as title II of the National Defense Expediting Act, which comprises this subchapter.

TRANSFER OF FUNCTIONS

The functions of the Public Housing Administration and of the Housing and Home Finance Agency (of which the Public Housing Administration is a constituent agency) and of the heads thereof were transferred to the Secretary of Housing and Urban Development by Pub. L. 89-174, § 5(a), Sept. 9, 1965, 79 Stat. 669, set out as section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provides that references to the Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean the Secretary of Housing and Urban Development and that the Housing and Home Finance Agency and the Public Housing Administration have lapsed.

§ 1507. Omitted

CODIFICATION

Section, act Sept. 1, 1954, ch. 378, title VI, § 616, 65 Stat. 317, which prohibited from Sept. 1, 1951 to June 30, 1953 the initiation of projects, and the waiver or suspension of the income limitations contained in the United States Housing Act of 1937, pursuant to the authorization therefor contained in sections 1501 and 1505 of this title, was omitted from the Code as executed.

SUBCHAPTER II—DEFENSE HOUSING

REVOLVING FUND

Establishment of revolving fund under which to account for assets and liabilities in connection with public war housing under sections 1521 to 1524 of this title, see section 1701g-5 of Title 12, Banks and Banking.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1542, 1544, 1546, 1547, 1548, 1549, 1550, 1553, 1564, 1581, 1582, 1584, 1585, 1586, 1588, 1589, 1589b, 1590 of this title; title 12 sections 1701g-5, 1715n, 1745.

§ 1521. Omitted

CODIFICATION

Section, acts Oct. 14, 1940, ch. 862, title I, § 1, 54 Stat. 1125; Apr. 29, 1941, ch. 80, § 1, 55 Stat. 147; June 28, 1941, ch. 260, § 2, 55 Stat. 361; Jan. 21, 1942, ch. 14, §§ 1, 11, 56 Stat. 11, 13; Ex. Ord. No. 9070, § 1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73, which related to the powers of the Housing and Home Administrator respecting defense housing, was omitted from the Code as executed pursuant to section 1(a)(12) of act July 3, 1952, ch. 570, 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, which provided that this section continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by Proc. No. 2914, 15 F.R. 9029, 64 Stat. A. 454, set out as a note preceding section 1 of the Appendix to Title 50, War and National Defense, or on such earlier date or dates as provided by Congress, but in no event beyond July 1, 1953.

§ 1522. Definitions; actions to recover developed property

As used in subchapters II to VII of this chapter, (a) the term "persons engaged in national-defense activities" shall include (1) enlisted men in the naval or military services of the United States; (2) employees of the United States in the Departments of the Navy, Army and Air Force assigned to duty at naval or military reservations, posts, or bases; (3) workers engaged or to be engaged in industries connected with and essential to the national defense; (4) officers of the Army, Air Force and Marine Corps not above the grade of captain, and officers of the Navy and Coast Guard, not above the grade of lieutenant, senior grade, assigned to duty at naval or military reservations, posts, or bases, or to duty at defense industries: *Provided*, That any proceedings for the recovery of possession of any property or project developed or constructed under this subchapter shall be brought by the Secretary of Housing and Urban Development in the courts of the States having jurisdiction of such causes and the laws of the States shall be applicable thereto; (b) the term "Federal agency" means any executive department or office (including the President), independent establishment, commission, board, bureau, division, or office in the executive branch of the United States Government, or other agency of the United States, including corporations in which the United States owns all or a majority of the stock, directly or indirectly.

(Oct. 14, 1940, ch. 862, title I, § 2, 54 Stat. 1126; Jan. 21, 1942, ch. 14, § 2, 56 Stat. 11; Ex. Ord. No. 9070, § 1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Subchapter III of this chapter, referred to in text, was comprised of sections 1531 to 1536 of this title. Section 1532 was omitted from the Code pursuant to the time limitation set out in act July 3, 1952, ch. 570, § 1(a)(12), 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18. Sections 1531, 1533, and 1534 were omitted from the Code upon the termination of section 1532. Section 1535 was omitted from the Code as executed. Section 1536 was omitted from

the Code as not having been repeated in subsequent appropriation acts.

Subchapter VI of this chapter, referred to in text, was comprised of sections 1571 to 1576 of this title. Sections 1571 and 1573 have been omitted from the Code pursuant to the time limitation set out in act July 3, 1952, ch. 570, § 1(a)(12), (21), 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18. Sections 1572 and 1575 were omitted upon the termination of sections 1571 and 1573. Section 1574 was repealed by act Oct. 31, 1951, ch. 654, § 1(113), 65 Stat. 706. Section 1576 was omitted from the Code as not having been repeated in subsequent appropriation acts.

CHANGE OF NAME

The Department of the Air Force was inserted under the authority of section 207(a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, 502. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of such act July 26, 1947. Sections 205(a) and 207(a), (f) of act July 26, 1947 were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956 enacted "Title 10, Armed Forces", which in sections 3010 to 3013 and 8010 to 8013 continued the Departments of the Army and Air Force under the administrative supervision of a secretary of the Army and a Secretary of the Air Force, respectively.

AMENDMENTS

1950—Act Apr. 20, 1950 substituted "Housing and Home Finance Administrator" for "National Housing Administrator".

1942—Act Jan. 21, 1942, inserted cl. (a)(4) and proviso.

TRANSFER OF FUNCTIONS

The functions of the Housing and Home Finance Agency were transferred to the Secretary of Housing and Urban Development by Pub. L. 89-174, § 5(a), Sept. 9, 1965, 79 Stat. 669, set out as section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provides that references to the Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean the Secretary of Housing and Urban Development and that the Housing and Home Finance Agency has lapsed.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

§ 1523. Omitted

CODIFICATION

Section, acts Oct. 14, 1940, ch. 862, title I, § 3, 54 Stat. 1126; Apr. 29, 1941, ch. 80, § 2, 55 Stat. 147; June 28, 1941, ch. 260, § 2, 55 Stat. 361; Jan. 21, 1942, ch. 14, § 3, 56 Stat. 12; Ex. Ord. No. 9070, § 1, eff. Feb 24, 1942, 7 F.R. 1529; Oct. 1, 1942, ch. 572, 56 Stat. 763; July 7, 1943, ch. 196, §§ 1, 2, 57 Stat. 387; July 1, 1944, ch. 374, 58 Stat. 720; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73, which related to authorization of apprpriations for the purpose of this subchapter, was omitted from the Code as obsolete in view of the omission of section 1521 of this title.

PRIOR ADDITIONAL APPROPRIATIONS

Joint Res. Oct. 14, 1940, ch. 857, 54 Stat. 1115, $75,000,000.

Acts Mar. 1, 1941, ch. 9, § 1, 55 Stat. 14, $5,000,000.

May 24, 1941, ch. 132, § 1, 55 Stat. 199, $150,000,000.

Dec. 17, 1941, ch. 591, title III, 55 Stat. 818, $300,000,000.

Dec. 23, 1941, ch. 621, 55 Stat. 855, $300,000,000.

July 12, 1943, ch. 229, title I, 57 Stat. 540, $50,000,000.

Dec. 23, 1943, ch. 380, title I, 57 Stat. 618, $50,000,000.

April 1, 1944, ch. 152, title I, § 1, 58 Stat. 153, $115,000,000.

June 28, 1944, ch. 304, title I, 58 Stat. 604.

Apr. 25, 1945, ch. 95 title I, 59 Stat. 82; July 5, 1945, ch. 271, title I, 59 Stat. 420, $84,373,000.

§ 1524. Declaration of policy; disposal of housing

It is declared to be the policy of this subchapter to further the national defense by providing housing in those areas where it cannot otherwise be provided by private enterprise when needed, and that such housing may be sold and disposed of as expeditiously as possible: *Provided,* That in disposing of said housing consideration shall be given to its full market value and said housing or any part thereof shall not, unless specifically authorized by Congress, be conveyed to any public or private agency organized for slum clearance or to provide subsidized housing for persons of low income: *Provided further,* That the Secretary of Housing and Urban Development may, in his discretion, upon the request of the Secretaries of the Army, Air Force or Navy transfer to the jurisdiction of the Army, Air Force or Navy Departments such housing constructed under the provisions of subchapters II to VII of this chapter as may be considered to be permanently useful to the Army, Air Force or Navy: *Provided further,* That whenever the Secretary of Housing and Urban Development disposes of any permanent house or structure containing not more than four family dwelling units under authority of this subchapter by offering such house or structure for sale on an individual basis, he shall, when the purchaser is a veteran buying for his own occupancy, sell any such house or structure (1) at a purchase price not in excess of the apportioned cost of such house or structure and of the land and appurtenances allocated thereto, together with the apportioned share of the cost of all utilities and other facilities provided for and common to the project of which such house or structure is a part, or (2) at a purchase price not in excess of such considered full market value of such house or structure and the land, appurtenances, utilities and facilities allocated thereto, whichever purchase price is the less: *Provided further,* That, for the purposes of this section, housing constructed or acquired under the provisions of Public Law 781, Seventy-sixth Congress, approved September 9, 1940, or Public Law 9, 73, or 353, Seventy-seventh Congress, approved, respectively, March 1, 1941, May 24, 1941, and December 17, 1941, shall be deemed to be housing constructed or acquired under subchapters II to VII of this chapter.

(Oct. 14, 1940, ch. 862, title I, § 4, as added Jan. 21, 1942, ch. 14, § 4, 56 Stat. 12, and amended Ex. Ord. No. 9070, § 1, eff. Feb. 24, 1942, 7 F.R.

1259; June 19, 1948, ch. 520, 62 Stat. 492; June 28, 1948, ch. 688, § 3, 62 Stat. 1064; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 of this title, and sections 1571 to 1576 of this title, respectively, and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

Public Law 781, Seventy-sixth Congress, approved September 9, 1940, referred to in text, is the Second Supplemental National Defense Appropriation Act, 1941, act Sept. 9, 1940, ch. 717, 54 Stat. 872. Section 201 thereof appropriated $100,000,000 to the President for allocation to the former "War" Department, and to the Navy Department, for the construction of housing necessary to the national defense program. This provision was not classified to the Code.

Public Laws 9, 73, or 353, Seventy-seventh Congress, referred to in text, refer to the following acts, respectively: Public Law 9, Urgent Deficiency Appropriation Act, 1941, act Mar. 1, 1941, ch. 9, 55 Stat. 14; Public Law 73, Additional Urgent Deficiency Appropriation Act, 1941, act May 24, 1941, ch. 132, 55 Stat. 197; and Public Law 353, Third Supplemental National Defense Appropriation Act, 1942, act Dec. 17, 1941, ch. 591, 55 Stat. 810. These three acts appropriated a total of $320,000,000 to the President for the purpose of providing housing necessary because of national defense activities and conditions arising out of World War II. These provisions were not classified to the Code, although all three acts are cited in a "Prior Additional Appropriations" note under section 1523 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950 substituted "Housing and Home Finance Administrator" for "National Housing Administrator", wherever appearing.

1948—Act June 19, 1948, added proviso to permit the sale of certain permanent war housing to veterans at a purchase price not in excess of the cost of construction.

Act June 28, 1948, added last proviso.

CHANGE OF NAME

The Department of the Air Force was inserted to conform to section 207(a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, 502, and Secretary of Defense Transfer Orders No. 14, eff. July 1, 1948, and No. 40 [App. B(126)], July 29, 1949. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of such act July 26, 1947. Sections 205(a) and 207(a), (f) of act July 26, 1947, were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 and 8010 to 8013 continued the Departments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1522 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

SUBCHAPTER III—DEFENSE PUBLIC WORKS

§§ 1531 to 1536. Omitted

CODIFICATION

Section 1531, act Oct. 14, 1940, ch. 862, title II, § 201, as added June 28, 1941, ch. 260, § 3, 55 Stat. 361, which declared the policy of this subchapter was to provide means by which public works were to be acquired, operated, and maintained in the areas described in section 1532 of this title, and defined public works, was omitted from the Code as obsolete in view of the omission of section 1532 of this title.

Section 1532, act Oct. 14, 1940, ch. 862, title II, § 202, as added June 28, 1941, ch. 260, § 3, 55 Stat. 362, and amended Ex. Ord. No. 9070, § 1, eff. Feb. 24, 1942, 7 F.R. 1529; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F.R. 3177, 64 Stat. 1269, which related to the powers of the Housing and Home Administrator respecting defense public works and defined private agency, was omitted from the Code as executed pursuant to section 1(a)(12) of act July 3, 1952, ch. 570, 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, which provided that this section continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by Proc. No. 2914, 15 F.R. 9029 64 Stat. A 454, set out as a note preceding section 1 of the Appendix to Title 50, War and National Defense, or on such earlier date or dates as provided by Congress, but in no event beyond July 1, 1953.

Section 1533, act Oct. 14, 1940, ch. 862, title II, § 203, as added June 28, 1941, ch. 260, § 3, 55 Stat. 362, and amended Ex. Ord. No. 9070, § 1, eff. Feb. 24, 1942, 7 F.R. 1259; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F.R. 3177, 64 Stat. 1269, which related to the terms to be observed in the application of this subchapter and restricted governmental supervision over schools and hospitals, was omitted from the Code as obsolete in view of the omission of section 1532 of this title.

Section 1534, act Oct. 14, 1940, ch. 862, title II, § 204, as added June 28, 1941, ch. 260, § 3, 55 Stat. 363, and amended Jan. 21, 1942, ch. 14, § 5, 56 Stat. 12; July 15, 1943, ch. 240, 57 Stat. 565; July 3, 1945, ch. 264, § 1, 59 Stat. 383, which authorized appropriations to carry out the purposes of this subchapter, was omitted from the Code as obsolete in view of the omission of section 1532 of this title.

Section 1535, act Oct. 14, 1940, ch. 862, title II, § 205, as added June 26, 1946, ch. 498, 60 Stat. 314, which authorized, for the fiscal year ending June 30, 1947, contributions for the operation and maintenance of school facilities in order to enable school authorities that were still over-burdened with war-incurred school enrollments to meet their needs during transition from war to peacetime conditions was omitted from the Code as executed.

Section 1536, act July 31, 1953, ch. 302, title I, § 101, 67 Stat. 305, which authorized the Administrator to transfer projects or facilities to other departments or agencies which request a transfer, was enacted as a part of the First Independent Offices Appropriation Act, 1954, and not as a part of title II of the Lanham Public War Housing Act which comprised this subchapter, and was omitted from the Code as not repeated in subsequent appropriation acts.

LIMITATION ON USE OF FUNDS

Act July 15, 1943, as amended by act July 3, 1945, provided in part that no funds be used for loans, grants, or contributions for the operation day care or extended school services for children of mothers employed in war areas if and when the War-Area-Child-Care Act of 1943 (S. 1130, Seventy-eighth Congress, first session), becomes law, no grant, loan, or contribution for the maintenance or operation of public

schools in any State be made without prior consultation with the State department of education and the United States Office of Education, and that none of the funds authorized herein be used to acquire public works already operated by public or private agencies, except where funds were allotted for substantial additions or improvements to such works with the consent of the owner, and that the total amount for contributions to public and private agencies for the maintenance and operation of public works after July 1, 1943, not exceed $120,000,000.

ADDITIONAL APPROPRIATIONS

Acts Apr. 25, 1945, ch. 95, title I, 59 Stat. 80; July 3, 1945, ch. 264, §§ 2, 3, 59 Stat. 383, provided in part for an additional $20,000,000 to enable the Federal Works Administrator to carry out the functions vested in him by sections 1531 to 1534 and 1541 of this title, which amount was to remain available during the continuance of the unlimited national emergency declared by the President on May 27, 1941 but which was not to be available for new projects after June 30, 1946 and of which amount $800,000 was to be available for administrative expenses, and the limitation of $80,000,000 in the First Supplemental Appropriation Act, 1945, act Mar. 31, 1945, ch. 47, 95 Stat. 46, on the total amount to be allocated for contributions to public and private agencies for the maintenance and operation of public works after July 1, 1943 be increased to $85,000,000, and that in making allocations from the funds herein appropriated for construction projects, priority be given to emergency projects involving an estimated cost to the Federal Government of less than $250,000.

SUBCHAPTER IV—GENERAL PROVISIONS AFFECTING SUBCHAPTERS II TO VII

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1522, 1524, 1581, 1582, 1584, 1585, 1586, 1588, 1589, 1589b, 1590 of this title; title 12 sections 1715m, 1745.

§ 1541. Omitted

Section, acts Oct. 14, 1940, ch. 862, title III, § 301, formerly § 4, 54 Stat. 1127, renumbered and amended June 28, 1941, ch. 260, § 4(a), 55 Stat. 363; Apr. 10, 1942, ch. 239, § 1, 56 Stat. 212, which provided that when the President declared that the emergency declared by him on Sept. 8, 1939, ceased to exist, the authority contained in sections 1521, 1532, 1561, and 1562 of this title terminate and that the property acquired or constructed under subchapters II to VII of this subchapter be disposed of as promptly as advantageous under the circumstances and in the public interest, was omitted from the Code as executed pursuant to section 1(a)(12) of act July 3, 1952, ch. 570, 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, which provided that this section continue in force until six months after the national emergency proclaimed by the President on Dec. 16, 1950 by Proc. No. 2914, 15 F.R. 9029, 64 Stat. A. 454 set out as a note preceding section 1 of the Appendix to Title 50, War and National Defense, or on such earlier date or dates as approved by Congress, but in no event beyond July 1, 1953.

§ 1542. Transfer of funds from other Federal agencies to Secretary of Housing and Urban Development

Where any Federal agency has funds for the provision of housing in connection with national-defense activities it may, in its discretion, make transfers of those funds, in whole or in part, to the Secretary of Housing and Urban Development, and the funds so transferred shall be available for, but only for, any or all of the objects and purposes of and in accordance with all the authority and limitations contained in subchapters II to VII of this chapter, and for administrative expenses in connection therewith.

(Oct. 14, 1940, ch. 862, title III, § 302, formerly § 5, 54 Stat. 1127, renumbered June 28, 1941, ch. 260, § 4(b), 55 Stat. 363, and amended Ex. Ord. No. 9070, § 1, eff. Feb 24, 1942, 7 F.R. 1529; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950 substituted "Housing and Home Finance Administrator" for "National Housing Administrator".

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1522 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

§ 1543. Omitted

CODIFICATION

Section, acts Oct. 14, 1940, ch. 862, title III, § 303, formerly § 6, 54 Stat. 1127, renumbered June 28, 1941, ch. 260, § 4(b), 55 Stat. 363, and amended Ex. Ord. No. 9070, § 1, eff. Feb. 24, 1942, 7 F.R. 1529; July 7, 1943, ch. 196, § 3, 57 Stat. 388; Feb. 18, 1946, ch. 30, title I, § 101, 60 Stat. 9; June 11, 1948, ch. 448, 62 Stat. 356; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73, which related to the disposition of moneys derived from rentals or operations of acquired or constructed property and to the establishment, limitations on, and termination of reserves, was omitted from the Code as obsolete in view of the omission of section 1541 of this title.

§ 1544. Power of Secretary of Housing and Urban Development to manage, convey, etc., housing properties

Notwithstanding any other provisions of law, whether relating to the acquisition, handling, or disposal of real or other property by the United States or to other matters, the Secretary of Housing and Urban Development, with respect to any property acquired or constructed under the provisions of subchapters II to VII of this chapter, is authorized by means of Government personnel, selected qualified private agencies, or public agencies (a) to deal with, maintain, operate, administer, and insure; (b) to pursue to final collection by way of compromise or otherwise, all claims arising therefrom; (c) to rent, lease, exchange, sell for cash or credit, and convey the whole or any part of such property and to convey without cost portions thereof to local municipalities for street or other public use: *Provided*, That any such transaction shall be upon such terms, including the period of any lease, as may be deemed by the Secretary of Housing and Urban Development to be in the public interest: *Provided further*, That the Secretary of Housing and Urban Development shall fix fair rentals, on projects devel-

oped pursuant to subchapters II to VII of this chapter, which shall be based on the value thereof as determined by him, with power during the emergency, in exceptional cases, to adjust the rent to the income of the persons to be housed, and that rentals to be charged for Army, Air Force, and Navy personnel shall be fixed by the Departments of the Army, Air Force, and Navy: *Provided further,* That any lease authorized hereunder shall not be subject to the provisions of section 303b of title 40. As used in this section the term "local municipalities" shall include the District of Columbia.

(Oct. 14, 1940, ch. 862, title III, § 304, formerly § 7, 54 Stat. 1127, renumbered June 28, 1941, ch. 260, § 4(b), 55 Stat. 363, and amended Jan. 21, 1942, ch. 14, § 6, 56 Stat. 12; Ex. Ord. No. 9070, § 1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 10, 1942, ch. 239, § 2, 56 Stat. 212; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950 substituted "Housing and Home Finance Administrator" for "National Housing Administrator" wherever appearing.

1942—Act Apr. 10, 1942, added last sentence. Act Jan. 21, 1942, amended second proviso.

CHANGE OF NAME

The Department of the Air Force was inserted to conform to section 207(a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, and Secretary of Defense Transfer Orders No. 14, eff. July 1, 1948, and No. 40 [App. B(129)], July 29, 1949. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of such act July 26, 1947. Sections 205(a) and 207(a), (f) of act July 26, 1947, were repealed by sections 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 and 8010 to 8013 continued the military Departments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1522 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

CROSS REFERENCES

Occupancy of government housing facilities by members of uniformed services and their dependents, see section 403 of Title 37, Pay and Allowances of the Uniformed Services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1552 of this title.

§ 1545. Omitted

CODIFICATION

Section, acts Oct. 14, 1940, ch. 862, title III, § 305, formerly § 8, 54 Stat. 1127, renumbered June 28, 1941, ch. 260, § 4(b), 55 Stat. 363, and amended Jan. 21, 1942, ch. 14, § 7, 56 Stat. 12; Ex. Ord. No. 9070, § 1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73, which related to utilization of Federal and local agencies and private services, was omitted from the Code as obsolete in view of the omission of section 1541 of this title.

§ 1546. Payment of annual sums to local authorities in lieu of taxes

The Secretary of Housing and Urban Development shall pay from rentals annual sums in lieu of taxes to any State and/or political subdivision thereof, with respect to any real property acquired and held by him under subchapters II to VII of this chapter, including improvements thereon. The amount so paid for any year upon such property shall approximate the taxes which would be paid to the State and/or subdivision, as the case may be, upon such property if it were not exempt from taxation, with such allowance as may be considered by him to be appropriate for expenditure by the Government for streets, utilities, or other public services to serve such property. As used in this section the term "State" shall include the District of Columbia.

(Oct. 14, 1940, ch. 862, title III, § 306, formerly § 9, 54 Stat. 1127, renumbered and amended June 28, 1941, ch. 260, § 4(b), 55 Stat. 363; Jan. 21, 1942, ch. 14, § 8, 56 Stat. 12; Ex. Ord. No. 9070, § 1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 10, 1942, ch. 239, § 3(a), 56 Stat. 212; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

CODIFICATION

Words "including any Territory or possession of the United States" appearing in text prior to amendment by act Jan. 21, 1942, were inserted upon authority of section 4(b) of act June 28, 1941, which provided that when used in this section the term "'State' includes any Territory or possession of the United States".

AMENDMENTS

1950—Act Apr. 20, 1950 substituted "Housing and Home Finance Administrator" for "National Housing Administrator".

1942—Act Apr. 10, 1942, added last sentence. Act Jan. 21, 1942, amended section generally.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1522 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1552, 1585 of this title.

§ 1547. Preservation of local civil and criminal jurisdiction and civil rights

Notwithstanding any other provision of law, the acquisition by the Secretary of Housing and Urban Development of any real property pursuant to subchapters II to VII of this chapter shall not deprive any State or political subdivision thereof, including any Territory or possession of the United States, of its civil and criminal jurisdiction in and over such property, or impair the civil rights under the State or local law of the inhabitants on such property. As used in this section the term "State" shall include the District of Columbia.

(Oct. 14, 1940, ch. 862, title III, § 307, formerly § 10, 54 Stat. 1128, renumbered and amended June 28, 1941, ch. 260, § 4(b), 55 Stat. 363; Ex. Ord. No. 9070, § 1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 10, 1942, ch. 239, § 3(b), 56 Stat. 212; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

CODIFICATION

Words "including any Territory or possession of the United States" were inserted upon authority of section 4(b) of act June 28, 1941, which provided that when used in this section the term "'State' includes any Territory or possession of the United States".

AMENDMENTS

1950—Act Apr. 20, 1950 substituted "Housing and Home Finance Administrator" for "National Housing Administrator".

1942—Act Apr. 10, 1942, added last sentence.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1522 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1552 of this title.

§ 1548. Rules and regulations; standards of safety, convenience, and health

The Secretary of Housing and Urban Development is authorized to make such rules and regulations as may be necessary to carry out the provisions of subchapters II to VII of this chapter, and shall establish reasonable standards of safety, convenience, and health.

(Oct. 14, 1940, ch. 862, title III, § 308, formerly § 11, 54 Stat. 1128, renumbered June 28, 1941, ch. 260, § 4(b), 55 Stat. 363, and amended Ex. Ord. No. 9070, § 1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950 substituted "Housing and Home Finance Administrator" and "Housing and Home Finance Agency" for "National Housing Administrator" and "National Housing Agency", respectively, wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1522 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

§ 1549. Laborers and mechanics; wages; preference in employment

Notwithstanding any other provision of law, the wages of every laborer and mechanic employed on any construction, repair or demolition work authorized by subchapters II to VII of this chapter shall be computed on a basic day rate of eight hours per day and work in excess of eight hours per day shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. Not less than the prevailing wages shall be paid in the construction of defense housing authorized herein. Preference in such employment shall be given to qualified local residents.

(Oct. 14, 1940, ch. 862, title III, § 309, formerly § 12, 54 Stat. 1128, renumbered June 28, 1941, ch. 260, § 4(b), 55 Stat. 363, and amended Jan. 21, 1942, ch. 14, § 9, 56 Stat. 12.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

AMENDMENTS

1942—Act Jan. 21, 1942, added last sentence.

§ 1550. Separability of provisions

If any provision of subchapters II to VII of this chapter, or the application thereof to any persons or circumstances, is held invalid, the remainder of said subchapters, or application of such provision to other persons or circumstances shall not be affected thereby.

(Oct. 14, 1940, ch. 862, title III, § 310, formerly § 13, 54 Stat. 1128, renumbered June 28, 1941, ch. 260, § 4(b), 55 Stat. 363.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

§ 1551. Repealed. Aug. 2, 1954, ch. 649, title VIII, § 802(b), 68 Stat. 642

Section, act Oct. 14, 1940, ch. 862, title III, § 311, formerly § 14, 54 Stat. 1128, renumbered June 28, 1941, ch. 260, § 4(b), 55 Stat. 363, which related to reports to Congress, is now covered by section 1701o of Title 12, Banks and Banking.

§ 1552. Powers of certain agencies designated to provide temporary shelter

Any agency designated by the President to provide temporary shelter under the provisions of Public Law Numbered 9, Seventy-seventh Congress, Public Law Numbered 73, Seventy-seventh Congress, or the Third Supplemental National Defense Appropriations Act, 1942, shall have the same powers with respect to the management, maintenance, operation, and administration of such temporary shelter as are granted to the Secretary of Housing and Urban Development under section 1544 and section 1546 of this title with respect to projects constructed hereunder, and the provisions of section 1547 of this title shall apply to such temporary shelter projects and the occupants thereof.

(Oct. 14, 1940, ch. 862, title III, § 312, as added Jan. 21, 1942, ch. 14, § 10, 56 Stat. 13, and amended Ex. Ord. No. 9070, § 1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

The provisions of Public Laws 9 and 73, referred to in text, were not classified to the Code. The Third Supplemental National Defense Appropriation Act, 1942, referred to in text, is Public Law 353, the relevant provisions of which were not classified to the Code. For further details, see References in Text note set out under section 1524 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950 substituted "Housing and Home Finance Administrator" for "National Housing Administrator".

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1522 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

§ 1553. Removal by Secretary of certain housing of temporary character; exceptions for local communities; report to Congress

Except as otherwise provided in subchapters II to VII of this chapter, the Secretary of Housing and Urban Development shall, as promptly as may be practicable and in the public interest, remove (by demolition or otherwise) all housing under his jurisdiction which is of a temporary character, as determined by him, and constructed under the provisions of this subchapter, Public Law 781, Seventy-sixth Congress, and Public Laws 9, 73, 353, Seventy-seventh Congress. Such removal shall, in any event, be accomplished not later than July 1, 1954 or by such later date as may be required because of extensions of time in accordance with section 1584 of this title, with the exception only of such housing as the Secretary of Housing and Urban Development, after consultation with local communities, finds is still urgently needed because of a particularly acute housing shortage in the area: *Provided*, That all such exceptions shall be reexamined annually by the Secretary of Housing and Urban Development and that all such exceptions and reexaminations shall be reported to the Congress. Notwithstanding any other provisions of law except provisions of law hereafter enacted expressly in limitation hereof, no Federal statute, or regulation thereunder, shall prohibit or restrict any action or proceeding to recover possession of any housing accommodations for the purpose of carrying out the provisions of this section or section 1584 of this title.

(Oct. 14, 1940, ch. 862, title III, § 313, as added July 7, 1943, ch. 196, § 4, 57 Stat. 388, and amended June 28, 1948, ch. 688, § 4, 62 Stat. 1064; Oct. 25, 1949, ch. 729, § 5, 63 Stat. 906; Apr. 20, 1950, ch. 94, title II, §§ 202, 204, 64 Stat. 72; Ex. Ord. No. 10385, Aug. 18, 1952, 17 F.R. 7525; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

The provisions of Public Law 781, and Public Laws 9, 73, 353, referred to in text, were not classified to the Code. For further details, see References in Text note set out under section 1524 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950, substituted "December 31, 1952 or by such later date as may be required because of extensions of time in accordance with section 1584 of this title, with the exception only of such housing as the Administrator, after consultation with local communities, finds is still urgently needed because of a particularly acute housing shortage in the area" for "January 1, 1951, with the exception only of such housing as the Administrator, after consultation with local communities finds is still needed in the interest of orderly demobilization of the war effort," and added last sentence.

1949—Act Oct. 25, 1949, inserted "January 1, 1951" for "January 1, 1950".

1948—Act June 28, 1948, struck out "two years after the President declares that the emergency declared by him on September 8, 1939, has ceased to exist" and inserted in lieu thereof "January 1, 1950".

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1522 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

EX. ORD. NO. 10385. EXTENSION OF TIME

Ex. Ord. No. 10385, Aug. 18, 1952, affected section by extending time for the removal of temporary housing from Dec. 31, 1952 to July 1, 1954.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1581, 1582, 1589a of this title.

SUBCHAPTER V—DEFENSE HOUSING AND PUBLIC WORKS FOR DISTRICT OF COLUMBIA

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1522, 1524, 1542, 1544, 1547, 1548, 1549, 1550, 1553, 1581, 1584, 1585, 1586, 1588, 1589, 1589b, 1590 of this title; title 12 sections 1715m, 1745.

§§ 1561 to 1563. Omitted

CODIFICATION

Section 1561, act Oct. 14, 1940, ch. 862, title IV, § 401, as added Apr. 10, 1942, ch. 239, § 4, 56 Stat. 212, and amended Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73, which authorized appropriations for housing of United States employees, was omitted from the Code as executed pursuant to section 1(a)(12) of act July 3, 1952, ch. 570, 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, which provided that this section and section 1562 of this title continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by Proc. No. 2914, 15 F.R. 9029, 64 Stat. A 454, set out as a note preceding section 1 of the Appendix to Title 50, War and National Defense, or on such earlier date or dates as provided by Congress, but in no event beyond July 1, 1953.

Section 1562, act Oct. 14, 1940, ch. 862, title IV, § 402, as added Apr. 10, 1942, ch. 239, § 4, 56 Stat. 213, and amended June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380, which authorized appropriations for public works projects, was omitted from the Code as executed. See section 1561 note.

Section 1563, act Oct. 14, 1940, ch. 862, title IV, § 403, as added Apr. 10, 1942, ch. 239, § 4, 56 Stat. 213, and amended June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380, which related to advancements to District of Columbia Commissioner for public works and reports to Congress, was omitted from the Code as obsolete in view of the omission of sections 1561 and 1562 of this title.

§ 1564. Definitions

As used in subchapters II to VII of this chapter the term "Federal Works Administrator" or "Administrator", or "Federal Works Agency" shall, with respect to housing, be deemed to refer to the Housing and Home Finance Administrator or the Housing and Home Finance Agency, as the case may be. Such terms shall, with respect to public works and equipment therefor, be deemed to refer to the Federal Works Administrator or the Federal Works Agency, as the case may be.

(Oct. 14, 1940, ch. 862, title IV, § 404, as added Apr. 10, 1942, ch. 239, § 4, 56 Stat. 213, and amended Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950, substituted "Housing and Home Finance Administrator" and "Housing and Home Finance Agency" for "National Housing Administrator" and "National Housing Agency", respectively.

TRANSFER OF FUNCTIONS

Functions of the Federal Works Administrator relating to defense housing had been consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070, § 1, eff. Feb. 24, 1942, 7 F.R. 1529.

Functions under sections 1531 to 1534 of this title were transferred from the Federal Works Administrator to the Administrator of General Services by act June 30, 1949, ch. 288, title I, § 103(a), 63 Stat. 380, and were transferred from the latter to Housing and Home Finance Administrator by Reorg. Plan No. 17 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3177, 64 Stat. 1269, set out in the Appendix to Title 5, Government Organization and Employees.

The functions of the Housing and Home Finance Agency were transferred to the Secretary of Housing and Urban Development by Pub. L. 89-174, § 5(a), Sept. 9, 1965, 79 Stat. 669, set out as section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provides that references to the Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean the Secretary of Housing and Urban Development and that the Housing and Home Finance Agency has lapsed.

SUBCHAPTER VI—HOUSING FOR DISTRESSED FAMILIES OF SERVICEMEN AND VETERANS

§§ 1571 to 1573. Omitted

CODIFICATION

Section 1571, act Oct. 14, 1940, ch. 862, title V, § 501, as added June 23, 1945, ch. 192, 59 Stat. 260, and amended Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73, related to the construction of temporary housing facilities, and was omitted from the Code as executed pursuant to section 1(a)(12) of act July 3, 1952, ch. 570, 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, which provided that this section and sections 1572, 1573, 1575, and 1576 of this title continue in force until six months after the termination of the National emergency proclaimed by the President on Dec. 16, 1950 by Proc. No. 2914, 15 F.R. 9029, 64 Stat. A 454, set out as a note preceding section 1 of the Appendix to Title 50, War and National Defense, or on such earlier date or dates as provided by Congress, but in no event beyond July 1, 1953.

Section 1572, act Oct. 14, 1940, ch. 862, title V, § 502, as added June 23, 1945, ch. 192, 59 Stat. 260, and amended Dec. 31, 1945, ch. 657, 59 Stat. 674; Mar. 28, 1946, ch. 118, §§ 1, 2, 60 Stat. 85; Aug. 8, 1946, ch. 917, § 1, 60 Stat. 958; May 31, 1947, ch. 91, § 1, 61 Stat. 128; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73, related to the availability of funds for purposes of this subchapter, and was omitted from the Code in view of the termination of sections 1571 and 1573 of this title.

Section 1573, act Oct. 14, 1940, ch. 862, title V, § 503, as added June 23, 1945, ch. 192, 59 Stat. 260, and amended June 30, 1953, ch. 174, § 1, 67 Stat. 132, related to definitions for purposes of this subchapter, and was omitted from the Code pursuant to the time limitation set out in act July 3, 1952, ch. 570, § 1(a)(21), 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18. See section 1571 of this title.

AVAILABILITY OF FUNDS

Act May 31, 1947, ch. 91, § 2, 61 Stat. 128, provided that there were to be additional funds available under sections 1571, 1572, and 1573 of this title for necessary expenses incurred in completing the provision of temporary housing pursuant to a contract in writing executed prior to May 31, 1947, for reimbursement of certain eligible organizations for particular expenditures, and for payments to meet certain actual expenses prior to Apr. 1, 1947.

§ 1574. Repealed. Oct. 31, 1951, ch. 654, § 1(113), 65 Stat. 706

Section, act Oct. 14, 1940, ch. 862, title V, § 504, as added Aug. 8, 1946, ch. 912, § 2, 60 Stat. 958, related to the use or reuse of structures or facilities of Federal agencies as educational facilities for persons receiving training courses or education under title II of the Servicemen's Readjustment Act of 1944, as amended (act June 22, 1944, ch. 268, title II, 58 Stat. 284).

§§ 1575, 1576. Omitted

CODIFICATION

Section 1575, act Oct. 14, 1940, ch. 862, title V, § 505, as added June 28, 1948, ch. 688, § 1, 62 Stat. 1062, and amended Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; Oct. 26, 1951, ch. 577, § 2, 65 Stat. 648, related to relinquishment of Government's rights in temporary housing on campuses or other educational lands, and was omitted from the Code as executed.

Section 1576, acts Aug. 24, 1949, ch. 506, title II, § 201, 63 Stat. 659; Sept. 6, 1950, ch. 896, ch. VIII, title II, § 201, 64 Stat. 723, which was not repeated in the Independent Offices Appropriation Act, 1952, act Aug. 31, 1951, ch. 376, 65 Stat. 268, provided that application for relinquishment had to be filed by Dec. 30, 1950. Section was enacted as a part of act Aug. 24, 1949, popularly known as the Independent Offices Appropriation Act, 1951, and not as a part of title V of the Lanham Public War Housing Act, act Oct. 14, 1940, ch. 862, as added June 23, 1945, ch. 192, 59 Stat. 260, which comprises this subchapter.

SUBCHAPTER VII—DISPOSAL OF WAR AND VETERANS' HOUSING

CROSS REFERENCES

Extension of dates for disposal and other actions relating to housing under this chapter, see section 1589a of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1522, 1524, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1553 of this title; title 12 sections 1715n, 1745.

§ 1581. Housing disposition

(a) Mandatory transfers

Upon the filing of a request therefor as herein prescribed, the Secretary of Housing and Urban Development shall (subject to the provisions of this section) relinquish and transfer, without monetary consideration, to any State or political subdivision thereof, local housing authority, local public agency, nonprofit organization, or educational institution, all contractual rights (including the right to revenues and other proceeds) and all property right, title, and interest of the United States in and with respect to (1) any temporary housing located on land owned or controlled by such transferee and in which the United States has no leasehold or other property interest, and (2) housing materials which have been made available to the transferee by the Secretary of Housing and Urban Development pursuant to section 1572 of this title.

(b) Transfer to provide housing for parents of deceased World War II servicemen

Upon the filing of a request therefor as herein prescribed, the Secretary of Housing and Urban Development may (subject to the provisions of this section) relinquish and transfer, without monetary consideration other than that specifically required by this subsection, to any State, county, municipality, or local housing authority, or to any educational institution where the housing involved is being operated for its student veterans or where the land underlying the housing is in the ownership of two or more educational institutions, or to any other local public agency or nonprofit organization where the housing involved has been made available by the United States to such agency or organization pursuant to section 1572 of this title or where the Secretary of Housing and Urban Development determines that the housing involved is urgently needed by parents of persons who served in the Armed forces at any time on or after September 16, 1940, and prior to July 26, 1947, or on or after June 27, 1950, and prior to such date thereafter as shall be determined by the President and died of service-connected illness or injury (in which case the preferences in subsection (d)(1) of this section shall not apply), all right, title, and interest of the United States in and with respect to any temporary housing (excluding commercial facilities which the Secretary of Housing and Urban Development determines are suitable for separate disposal and community facilities which the Secretary of Housing and Urban Development determines should be disposed of separately) located on land in which the United States has a property interest through ownership, lease, or otherwise, under the following conditions:

(1) If the land is owned by the United States and under the jurisdiction of the Secretary of Housing and Urban Development, the transferee shall have purchased such land from the Secretary of Housing and Urban Development at a price substantially equal to the cost to the United States of the land (including survey, title examination, and other similar expenses incident to acquisition but excluding the cost or value of all improvements thereto by the United States other than extraordinary fill), or, if the Secretary of Housing and Urban Development determines the amount of such cost to be nominal or not readily ascertainable, at a price which the Secretary of Housing and Urban Development determines to be fair and reasonable. Payment for such land shall be made in full at the time of sale or in not more than ten equal annual installments (the first of which shall be paid within one year from the date of conveyance) all of which shall be secured as determined by the Secretary of Housing and Urban Development with interest from the date of conveyance at the going Federal rate of interest at the time of conveyance.

(2) If the land is owned by the United States and not under the jurisdiction of the Secretary of Housing and Urban Development, the transferee shall have purchased such land from the Federal agency having jurisdiction thereof. The Federal agency having jurisdiction of any such land is authorized to sell and convey the same to any such transferee on the terms authorized herein except that the determinations required to be made by the Secretary of Housing and Urban Development shall be made by the agency having jurisdiction of such land.

(3) If the United States does not own the land but has an interest therein through lease or otherwise, the transferee shall (i) where it is not the landowner, obtain the right to possession of such land for a term satisfactory to the Secretary of Housing and Urban Development, (ii) obtain from the landowner a release (or, if the transferee is the landowner, furnish a release) of the United States from all liability in connection therewith, including any liability for removal of structures or restoration of the land, except for any rental or use payment due at the time of transfer, and (iii) reimburse the United States for the proportionate amount of any payments made by the United States for the right to use the land and for taxes or payments in lieu of taxes for any period extending beyond the time of the transfer, and (iv) if the interest of the United States is not under the jurisdiction of the Secretary of Housing and Urban Development, the transferee shall obtain a transfer or release of the interest of the United States from the Federal agency having jurisdiction, which transfers and releases by such Federal agencies are authorized on such terms as the head of the respective agency determines to be in the public interest.

(c) Requests for relinquishment and transfer

The filing of a request under subsections (a), (b), (g), or (h) of this section must be made on or before June 30, 1953, unless the Secretary of Housing and Urban Development shall, in any specific case, authorize the filing of a request subsequent to such date but on or before June 30, 1951,[1] and, in any such case, the Secretary of Housing and Urban Development may extend, for a specified period not beyond December 31, 1951, the time hereinafter prescribed for complying with all conditions to the relinquishment or transfer. Such request shall be in the form of a resolution adopted by the governing body of the applicant, except that, in the case of a State, such request may be in the form of a written request from the governor, and, in the case of a local housing authority (other than the Alaska Housing Authority), or a local public agency organized specifically and solely for the purpose of slum clearance and community redevelopment, shall be accompanied by a resolution of the governing body of the municipality or county approving the request for transfer. Such request shall be accompanied by either (1) a final opinion of the chief law officer or legal counsel of the applicant to the effect that it has legal authority to make the request, to accept the transfer of and operate any property involved, and to perform its obligations under this subchapter, or (2) a preliminary opinion of such officer or counsel concerning the legal authority of the applicant with respect to the proposed relinquishment or transfer including a statement of the reasons for not furnishing the final opinion with the request and the time required to furnish such opinion. If a request has been submitted as herein provided, the applicant shall comply with all conditions to the relinquishment or transfer (including the furnishing of the final legal opinion) on or before June 30, 1953: *Provided,* That, in any case where the applicant is unable to comply with all conditions to the relinquishment or transfer because of the need for the enactment of State legislation or charter amendment, such date shall be June 30, 1952,[1] and may be extended by the Secretary of Housing and Urban Development, upon request in a particular case, to December 31, 1952.[1] The Secretary of Housing and Urban Development shall act as promptly as practicable on any request which complies with the provisions of this section and is supported as herein required, and shall as promptly as practicable arrange for the making of any survey or the performance of other work necessary to the transfer: *Provided,* That, notwithstanding the provisions of this section, the Secretary of Housing and Urban Development may at any time, except with respect to housing for which a request has been or may be submitted under subsection (a) of this section, remove, dispose of, or retain any temporary housing, or part thereof, in accordance with any provision of subchapters II to VII of this chapter.

(d) Representations by transferee as to use of property; preferences

No relinquishment or transfer with respect to temporary housing shall be made under this section unless the transferee represents in its request therefor that it proposes, to the extent permitted by law:

(1) As among eligible applicants for occupancy in dwellings of given sizes and at specified rents, to extend the following preferences in the selection of tenants:

First, to families which are to be displaced by any low-rent housing project or by any public slum-clearance or redevelopment project initiated after January 1, 1947, or which were so displaced within three years prior to making application for admission to such housing; and as among such families first preference shall be given to families of disabled veterans whose disability has been determined by the Veterans' Administration to be service-connected, and second preference shall be given to families of deceased veterans and servicemen whose death has been determined by the Veterans' Administration to be service-connected, and third preference shall be given to families of other veterans and servicemen;

Second, to families of other veterans and servicemen; and as among such families first preference shall be given to families of disabled veterans whose disability has been determined by the Veterans' Administration to be service-connected, and second preference shall be given to families of deceased veterans and servicemen whose death has been determined by the Veterans' Administration to be service-connected: *Provided,* That if the transferee is an educational institution it may limit such preferences to student veterans and servicemen, and their families, and may, in lieu of such preferences, make available to veterans or servicemen and their families accommodations in any housing of the institution equal in number to the accommodations relinquished or transferred to it: *And provided*

[1] So in original.

further, That, notwithstanding such preferences, if the transferee is a State, political subdivision, local housing authority, or local public agency, it will, in filling vacancies in housing transferred under subsection (b) of this section, give such preferences to military personnel and persons engaged in national defense or mobilization activities as the Secretary of Defense or his designee prescribes to such transferee.

(2) Not to dispose of any right, title, or interest in the property (by sale, transfer, grant, exchange, mortgage, lease, release, termination of the leasehold, or any other relinquishment of interest) either (i) for housing use on the present site or on any other site except to a State or political subdivision thereof, local housing authority, a local public agency, or an educational or eleemosynary institution, or (ii) for any other use unless the governing body of the municipality or county shall have adopted a resolution determining that, on the basis of local need and acceptability, the structures involved are satisfactory for such use and need not be removed: *Provided,* That this representation will not apply to any disposal through demolition for salvage, lease to tenants for residential occupancy, or lease of nondwelling facilities for the continuance of a use existing on the date of transfer, or where such disposal is the result of a bona fide foreclosure or other proceeding to enforce rights given as security for a loan to pay for land under this section: *And provided further,* That nothing contained in this paragraph shall be construed as applicable to the disposition of any land or interest therein after the removal of the structures therefrom.

(3) To manage and operate the property involved in accordance with sound business practices, including the establishment of adequate reserves.

(4) Whenever the structures involved, or a substantial portion thereof, are terminated for housing use and are not to be used for a specific nonhousing use, to promptly demolish such structures terminated for housing use and clear the site thereof.

(e) Waiver of removal requirements

Any relinquishment or transfer by the Secretary of Housing and Urban Development under this section shall constitute a waiver of the requirements of section 1553 of this title (and any contractual obligations pursuant thereto) for removing the housing involved if the request for such relinquishment or transfer was made, as authorized herein, by the governing body of the municipality or county, or by the local housing authority, or, in other cases, if, prior to or within six months after the date of the relinquishment or transfer, there is filed with the Secretary of Housing and Urban Development a resolution of such governing body specifically approving (1) the unconditional waiver of such requirements or (2) the waiver of such requirements subject to conditions specified in the resolution. Any such conditions shall not affect the waiver of removal requirements hereunder, and the United States shall assume no responsibility for compliance therewith.

(f) Disposition of net revenue and proceeds; transfer charges

In any relinquishment or transfer under this section, the net revenues and other proceeds from such housing to which the United States is entitled on the basis of periodic settlements shall continue to accrue to the United States until the end of the month in which the relinquishment or transfer is made, and the obligation of the transferee to pay such accrued amounts shall not be affected by this section. The Secretary of Housing and Urban Development may charge to the transferee the cost to the United States of any survey, title information, or other item incidental to the transfer.

(g) Transfers for slum clearance and community redevelopment projects

Upon the filing of a request therefor as herein prescribed, the Secretary of Housing and Urban Development may (subject to the provisions of this section) relinquish and transfer, without monetary consideration other than payment for land involved as specifically required by subsection (b) of this section, to any local public agency organized specifically and solely for the purpose of slum clearance and community redevelopment in a municipality in which the total number of persons, who on December 31, 1948, were living in temporary family accommodations provided by the United States or any agency thereof since September 8, 1939, exceeded the total population of such municipality as shown by the 1940 census, all right, title, and interest of the United States in and with respect to any temporary housing located in such municipality under the conditions set forth in subsection (b) of this section. Notwithstanding the provisions of subsection (b) of this section, the Secretary of Housing and Urban Development shall not relinquish or transfer any right, title, or interest of the United States in and with respect to any temporary housing situated in such a municipality except as set forth in this subsection if at the time of the relinquishment or transfer there is in existence in such a municipality a local public agency organized specifically and solely for the purpose of slum clearance and community redevelopment.

(h) Transfers of temporary housing of masonry construction

Upon the filing of a request therefor as herein prescribed, the Secretary of Housing and Urban Development may (subject to the provisions of this section except the provisions of subsection (d) of this section) relinquish and transfer to any municipality, without monetary consideration other than payment for the land involved as specifically required by subsection (b) of this section, all right, title, and interest of the United States in and with respect to unoccupied temporary housing of masonry construction located in such municipality: *Provided,* That such housing has been wholly or partially stripped of trim and fixtures prior to April 20, 1950 and the municipality adopts a resolution determining that the structures, with proposed improvements, will be suitable for longterm housing use.

(Oct. 14, 1940, ch. 862, title VI, § 601, as added June 28, 1948, ch. 688, § 7, as added Apr. 20,

1950, ch. 94, title II, § 201, 64 Stat. 59, and amended Ex. Ord. No. 10284, §§ 1, 2, eff. Sept. 4, 1951, 16 F.R. 8971; Oct. 26, 1951, ch. 577, § 2, 65 Stat. 648; Ex. Ord. No. 10339, eff. Apr. 7, 1952, 17 F.R. 3012; Ex. Ord. No. 10395, eff. Sept. 19, 1952, 17 F.R. 8449; Ex. Ord. No. 10425, eff. Jan. 16, 1953, 18 F.R. 405; Feb. 15, 1956, ch. 35, 70 Stat. 15; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Section 1572 of this title, referred to in subsecs. (a) and (b), has been omitted from the Code as obsolete.

Subchapters III and VI of this chapter, referred to in subsec. (c), were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

AMENDMENTS

1956—Subsec. (g). Act Feb. 15, 1956, limited the restriction on transfer or relinquishment of temporary housing to a local public slum clearance agency to municipalities having such an agency at time of transfer or relinquishment.

1951—Subsec. (b). Act Oct. 26, 1951, struck out "during World War II" following "in the armed forces" and to substitute in lieu thereof "at any time on or after September 16, 1940, and prior to July 26, 1947, or on or after June 27, 1950, and prior to such date thereafter as shall be determined by the President" thus making section applicable to veterans of Korean war.

The functions of the Housing and Home Finance Agency and of the head thereof were transferred to the Secretary of Housing and Urban Development by Pub. L. 89-174, § 5(a), Sept. 9, 1965, 79 Stat. 669, set out as section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provides that references to the Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean the Secretary of Housing and Urban Development and that the Housing and Home Finance Agency and the Public Housing Administration have lapsed.

EXECUTIVE ORDER NO. 10284

Ex. Ord. 10284, Sept. 4, 1951, which extended the time for filing requests from Dec. 31, 1950, to Dec. 31, 1951, also extended the time for compliance with all conditions to relinquishments or transfers from June 30, 1951, to June 30, 1952. See note under section 1589a of this title.

EXECUTIVE ORDER NO. 10339

Ex. Ord. No. 10339, Apr. 7, 1952, set out as a note under section 1589a of this title, extended the time for filing requests under subsecs. (a), (b), and (g) from Dec. 31, 1951, to Dec. 31, 1952, and extended the time for compliance with all conditions to relinquishments or transfers under subsecs. (a), (b), and (g) from June 30, 1952, to June 30, 1953.

EXECUTIVE ORDER NO. 10395

Ex. Ord. No. 10395, Sept. 19, 1952, set out as a note under section 1589a of this title, extended the time for filing requests under subsec. (h) from Dec. 31, 1951, to Dec. 31, 1952 and extended the time for compliance with all conditions to relinquishments or transfers under subsec. (h) from June 30, 1952, to June 30, 1953.

EXECUTIVE ORDER NO. 10425

Ex. Ord. No. 10425, Jan. 16, 1953, set out as a note under section 1589a of this title, extended the time for filing requests under subsecs. (a), (b), (g), and (h) from Dec. 31, 1952, to June 30, 1953.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1582, 1584, 1585, of this title.

§ 1582. Temporary housing exempted from provisions of section 1553 of this title.

The requirements of section 1553 of this title shall not apply to any temporary housing—

(a) for which such requirements have been waived pursuant to section 1575 or section 1581 of this title;

(b) transferred by the Secretary of Housing and Urban Development to the jurisdiction of the Department of the Army, the Navy, or the Air Force pursuant to section 1524 of this title;

(c) disposed of by the Secretary of Housing and Urban Development under subchapter II or IV of this chapter for long-term housing or nonhousing use without any requirement for removal where the governing body of the municipality or county has adopted a resolution determining that, on the basis of local need and acceptability, the structures involved are (1) satisfactory for such long-term use or (2) satisfactory for such long-term use if conditions prescribed in such resolution, affecting the physical characteristics of the project, are met: *Provided,* That any such conditions shall not affect the disposal of any temporary housing hereunder, and the United States shall assume no responsibility for compliance with such conditions: *And provided further,* That any housing disposed of for housing use in accordance with this subsection shall thereafter be deemed to be housing accommodations, the construction of which was completed after June 30, 1947, within the meaning of section 1884 of Appendix to title 50, relating to preference or priority to veterans or their families; or

(d) disposed of or relinquished by the Secretary of Housing and Urban Development prior to April 20, 1950, subject to such requirements or contractual obligations pursuant thereto, where the governing body of the municipality or county on or before December 31, 1950, adopts a resolution as provided in subsection (c) of this section; and any contract obligations to the Federal Government for the removal of such housing shall be relinquished upon the filing of such a resolution with the Secretary of Housing and Urban Development.

(Oct. 14, 1940, ch. 862, title VI, § 602, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended Oct. 26, 1951, ch. 577, § 2, 65 Stat. 648; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Section 1575 of this title, referred to in subsec. (a), has been omitted from the Code as obsolete.

AMENDMENTS

1951—Subsec. (c). Act Oct. 26, 1951, struck "of World War II" thus making section applicable to veterans of Korean war.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1584 of this title.

§ 1583. Redetermination of demountable housing as temporary or permanent

With respect to any housing classified, prior to April 20, 1950, by the Secretary of Housing and Urban Development as demountable, the Secretary of Housing and Urban Development shall, as soon as practicable but not later in any event than December 31, 1950, and after consultation with the communities affected, redetermine (taking into consideration local standards and conditions) whether such housing is of a temporary or permanent character, and after such redetermination shall dispose of such housing in accordance with the provisions of this subchapter.

(Oct. 14, 1940, ch. 862, title VI, § 603, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1585 of this title.

§ 1584. Removal of all dwelling structures on land under Secretary's control; temporary housing exempted; preference in fulfilling vacancies

With respect to temporary housing remaining under the jurisdiction of the Secretary of Housing and Urban Development on land under his control, the Secretary of Housing and Urban Development shall (1) permit vacancies, occurring or continuing after July 1, 1953, to be filled only by transfer of tenants of other accommodations in the same locality being removed as required by subchapters II to VII of this chapter; (2) notify, on or before March 31, 1954, all tenants to vacate the premises prior to July 1, 1954; (3) promptly after July 1, 1954, cause actions to be instituted to evict any tenants still remaining; and (4) remove (by demolition or otherwise) all dwelling structures as soon as practicable after they become vacant: *Provided,* That in any case where a request for relinquishment or transfer has been filed pursuant to section 1581 of this title and where under the provisions of section 1581(c) of this title the date for compliance with all conditions to the relinquishment or transfer shall have been extended, each of the foregoing dates shall be extended for a period of time equal to the period of the extension under section 1581(c) of this title: *And provided further,* That nothing heretofore in this section shall apply (1) to any temporary housing in any municipality in which the total number of persons, who on December 31, 1948, were living in temporary family accommodations provided by the United States or any agency thereof since September 8, 1939, exceeds 30 per centum of the total population of such municipality as shown by the 1940 census, nor (2) to any temporary housing as to which the local governing body has adopted a resolution as provided in section 1582(c) of this title, nor (3) to any temporary housing for which a request has been submitted in accordance with section 1581(b) of this title, but which has not been relinquished or transferred solely because the applicant has been unable to obtain from the landowner the right to possession of the land on reasonable terms as determined by the Secretary of Housing and Urban Development: *Provided,* That, in filling vacancies in such housing, the preferences set forth in section 1581(d)(1) of this title shall be applicable and that families within such preference classes shall be eligible for admission to such housing, nor (4) to any temporary housing in which accommodations have been reserved, prior to the enactment of this section, for veterans attending an educational institution if (i) such institution certifies that the accommodations are urgently needed for such veterans and submits facts showing, to the satisfaction of the Secretary of Housing and Urban Development, that all reasonable efforts have been made by the institution to find other accommodations for them and (ii) such institution agrees to reimburse the Secretary of Housing and Urban Development for any financial loss to the Secretary of Housing and Urban Development in the operation of the accommodations after June 30, 1951.

(Oct. 14, 1940, ch. 862, title VI, § 604, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended June 30, 1951, ch. 197, 65 Stat. 110; Sept. 1, 1951, ch. 378, title VI, § 603(a), 65 Stat. 314; Ex. Ord. No. 10284, §§ 3-5, eff. Sept. 4, 1951, 16 F.R. 8971; Ex. Ord. No. 10339, eff. Apr. 7, 1952, 17 F.R. 3012; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

AMENDMENTS

1951—Act Sept. 1, 1951, repealed former fourth and fifth provisos which related to adjustments in rentals that might be set for Government-owned temporary housing.

Act June 30, 1951, substituted "August 15, 1951" for "July 1, 1951".

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

EXECUTIVE ORDER NO. 10284

Ex. Ord. No. 10284, Sept. 4, 1951, extended time for filling vacancies from Aug. 15, 1951 to July 1, 1952, for notices to vacate premises from Mar. 31, 1952 to Mar. 31, 1953, for time of vacating from July 1, 1952 to July 1, 1953, and for eviction from July 1, 1952 to July 1, 1953. See note set out under section 1589a of this title.

EXECUTIVE ORDER NO. 10339

Ex. Ord. No. 10339, Apr. 7, 1952, set out as a note under section 1589a of this title, extended time for filling vacancies from July 1, 1952 to July 1, 1953, for notices to vacate premises from Mar. 31, 1953, to Mar. 31,

1954, for time of vacating from July 1, 1953, to July 1, 1954, and for eviction from July 1, 1953, to July 1, 1954.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1553 of this title.

§ 1585. Acquisition of housing sites

(a) Lease, condemnation or purchase; temporary housing

The Secretary of Housing and Urban Development may continue by lease or condemnation any interest less than a fee simple in lands heretofore acquired by the Secretary of Housing and Urban Development for national defense or war housing or for veterans' housing (whether of permanent or temporary character), or held by any Federal agency in connection therewith, and may acquire, by purchase or condemnation, a fee simple title to or lesser interest in any such lands if the Secretary of Housing and Urban Development determines that the acquisition of such fee simple or lesser interest is necessary to protect the Government's investment or to maintain the improvements constructed thereon, or that the cost of fulfilling the Government's obligation to restore the property to its original condition would equal or exceed the cost of acquiring the title thereto.

In any city in which, on March 1, 1953, there were more than ten thousand temporary housing units held by the United States of America, or any two contiguous cities in one of which there were on such date more than ten thousand temporary housing units so held, the Secretary of Housing and Urban Development may acquire, by purchase or condemnation, a fee simple title to any or all lands in which the Secretary holds a leasehold interest, or other interest less than a fee simple, acquired by the Federal Government for national defense or war housing or for veteran's housing where (1) the Secretary of Housing and Urban Development finds that the acquisition by the Secretary of a fee simple title in the land will tend to expedite the orderly disposal or removal of temporary housing under the Secretary's jurisdiction by facilitating the availability of improved sites for privately owned housing needed to replace such temporary housing, and will tend to expedite the transition of the city from a war-affected community containing, as of said date, a large number of temporary houses to a community having additional permanent, well-planned, residential neighborhoods, (2) the local governing body of the city makes a like finding and requests the Secretary of Housing and Urban Development to acquire such title to the land, and (3) the city has furnished assurances satisfactory to the Secretary of Housing and Urban Development that no individual who is employed by, or is an official of, the government of the city in which the land is located, or any agency thereof, shall be permitted, directly or indirectly, to have any financial interest in the purchase or redevelopment of such land: *Provided*, That such acquisitions by the Secretary of Housing and Urban Development pursuant to this sentence shall be limited to not exceeding four hundred and twenty-five acres of land in the general area in which approximately one thousand five hundred units of temporary housing held by the United States of America were unoccupied on said date: *And provided further*, That funds for such acquisition by the Secretary of Housing and Urban Development, which are authorized, pursuant to subsection (c) of this section and title II of the Independent Offices Appropriation Act, 1955, to be expended from the revolving fund established by section 1701g-5 of title 12, shall be taken into consideration, to the extent that they are needed, in making any determination pursuant to the second proviso under that section. All or any part of any land so acquired by the Secretary of Housing and Urban Development may, during the five year period following the date of its acquisition, be sold by the Secretary, through negotiated sale, to such city or any local public agency where (1) the city or local public agency has represented to the Secretary of Housing and Urban Development that it is duly authorized under State law to purchase and resell such land, that such land will be made available to private enterprise for development in accordance with local zoning and other laws, and that the aggregate of such land and any other land in the same city previously sold under the authority of this paragraph to the city or a local public agency will be developed for predominantly residential use, and (2) the city or local public agency has agreed to pay the fair market value of the land as determined by the Secretary of Housing and Urban Development, after giving consideration, among other relevant information, to the cost to the Federal Government of acquiring the fee simple title and of holding the land pending sale (including estimated amounts to cover legal and overhead expenses of such acquisition and to cover interest costs to the Federal Government of monies invested in the land pending sale). Any such negotiated sale of land to the city or a local public agency shall be made upon terms which require (1) that the city or public agency shall pay in cash at least one third of the price of the land upon its conveyance and the entire price within one year after its conveyance and (2) that any portion of the entire price not paid upon such conveyance shall be represented by an indebtedness which shall bear interest on outstanding balances at a rate of 4 per centum per annum and which shall be secured by a first mortgage lien upon the land or such portion of the land as the Secretary of Housing and Urban Development deems adequate to protect the financial interest of the Federal Government. The Secretary of Housing and Urban Development may, at any time that the Secretary deems it to be in the public interest to do so, dispose, under authority of other provisions of subchapters II to VII of this chapter, of any land acquired by the Secretary pursuant to this paragraph. Any land acquired by the Secretary of Housing and Urban Development pursuant to this paragraph which has not been disposed of within five years after its acquisition shall be disposed of by the Secretary as expeditiously as possible in the public interest in accordance with other authority contained in subchapters II to VII of this chapter. Notwithstanding the provisions of section 1546

of this title or any other provisions of law, no payments in lieu of taxes shall be made for any tax year beginning subsequent to the date of the acquisition of title to the property by the Secretary of Housing and Urban Development.

(b) Land rentals

In any case in which the Secretary of Housing and Urban Development holds, on or after April 1, 1950, an interest in land acquired by the Federal Government for national defense, war housing, or veterans' housing and where (1) the term of such interest (as prescribed in the taking or in the lease or other instruments) is for the "duration of the emergency" or "duration of the war", or "duration of the emergency" or "duration of the war" plus a specific period thereafter, or for some similarly prescribed term, and (2) the rental, award, or other consideration which the Federal Government is obligated to pay or furnish for such interest gives the owner of the land less than an annual return, after payment of real estate taxes, of 6 per centum of the lowest value placed on such land by an independent appraiser, hired by the Government to make such appraisal based on the value of the land before the acquisition of the Government's interest therein, plus 100 per centum of such value, the Secretary of Housing and Urban Development shall, upon request of the owner of the land and, notwithstanding any existing contractual or other rights or obligations, increase the amount of future payments for such interest in order to give the owner of the land a return for the Government's use thereof not exceeding the 6 per centum annual return described in (2) of this subsection: *Provided,* That this subsection shall not affect any payment heretofore made or any future payment accepted by an obligee, nor shall this subsection limit the consideration which may be paid for the use of any land beyond the existing term of the Government's interest therein.

(c) Reserve account; availability of moneys

Notwithstanding any other provisions of law unless hereafter enacted expressly in limitation hereof, moneys shall be deposited in the reserve account established pursuant to subsections (a) and (b) of section 1543 of this title (which account is continued subject to the limitation as to amount specified in subsection (c) of section 1543 of this title) and all moneys deposited in such reserve account shall be and remain available for any or all of the purposes specified in said subsections (a) or (b) of section 1543 of this title or in this section without regard to the time prescribed in subsection (c) of section 1543 of this title with respect to covering moneys in such account into miscellaneous receipts. Moneys in such reserve accounts shall also be available for the payment of necessary expenses (which shall be considered nonadministrative expenses) in connection with administering (1) transfers pursuant to section 1581 of this title, (2) redeterminations of the temporary or permanent character of demountable housing pursuant to section 1583 of this title, (3) changes in land tenure and revisions in the consideration payable to landowners pursuant to subsections (a) and (b) of this section, and (4) transfers of permanent war housing for low-rent use pursuant to section 1586 of this title. Moneys in such reserve account shall also be available for the purpose of making improvements to, or alterations of, any permanent housing or part thereof if (1) the dwelling structures therein are designed for occupancy by not more than four families and are to be sold separately and (2) such improvement or alteration is requested by the local governing body as a condition to the acceptance of the dedication of streets or utilities or is necessary for compliance with local law or regulation relating to the continued operation or occupancy of the housing by a purchaser.

(Oct. 14, 1940, ch. 862, title VI, § 605, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended Sept. 1, 1951, ch. 378, title VI, § 603(b), (c), 65 Stat. 314; Aug. 2, 1954, ch. 649, title VIII, § 805(1), 68 Stat. 644; Aug. 11, 1955, ch. 783, title I, § 108(d), 69 Stat. 638; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Title II of the Independent Offices Appropriation Act, 1955, referred to in subsec. (a), is title II of act June 24, 1954, ch. 359, 68 Stat. 294. Provisions of title II that authorized funds for acquisition of housing sites were not classified to the Code.

Subchapters III and VI of this chapter, referred to in subsec. (a), were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

Section 1543 of this title, referred to in subsec. (c), was omitted from the Code as obsolete.

CODIFICATION

Appropriate changes were made in text to conform to the substitution of Secretary of Housing and Urban Development for the United States Housing Authority. See Transfer of Functions note set out below.

AMENDMENTS

1955—Subsec. (a). Act Aug. 11, 1955, authorized the Administrator to acquire a fee simple title to lands where he finds that such acquisition will tend to expedite the transition of the city from a war-affected community containing a large number of temporary houses to a community having additional permanent, well-planned, residential neighborhoods.

1954—Subsec. (a). Act Aug. 2, 1954, added second paragraph.

1951—Subsec. (b). Act Sept. 1, 1951, in clause (2), inserted "plus 100 per centum of such value", substituted "shall" for "is authorized" after "Administrator", and substituted "increase" for "to increase".

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1586. Sale of specific housing projects

(a) Conditions precedent

The Secretary of Housing and Urban Development is specifically authorized to convey the following housing projects to the following local public housing agencies respectively, if—

(1) on or before January 30, 1953, (i) the conveyance is requested by the governing body of the municipality or county and (ii) the public housing agency has demonstrated to the satisfaction of the Secretary of Housing and Urban Development that there is a

need for low-rent housing (as such term is defined in the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]) within the area of operation of such public housing agency which is not being met by private enterprise;

(2) the Secretary of Housing and Urban Development determines that the project requested will meet such need in whole or in part, and is suitable for low-rent housing use; and

(3) on or before June 30, 1953, the governing body of the municipality or county enters into an agreement with the public housing agency (satisfactory to the Secretary of Housing and Urban Development) providing for local cooperation and payments in lieu of taxes not in excess of the amount permitted by subsection (c)(5) of this section, and the public housing agency enters into an agreement with the Secretary of Housing and Urban Development (in accordance with subsection (c) of this section) or for the administration of the project:

State	*Project number*	*Local public housing agency*
Alabama	1041	Housing Authority of District of Birmingham.
	1061	Housing Authority of Greater Gadsden.
	1062	Housing Authority of Greater Gadsden.
	1031	Housing Board of Mobile.
	1033	Housing Board of Mobile.
	1034	Housing Board of Mobile.
	1035	Housing Board of Mobile.
	1036	Housing Board of Mobile.
	1101	Housing Board of Mobile.
	1102	Housing Board of Mobile.
	1072	Housing Authority of Sylacauga.
	1076	Housing Authority of Sylacauga.
	1073	Housing Authority of City of Talladega.
Arkansas	3023	Housing Authority of City of Conway.
California	4031	Housing Authority of City of Fresno.
	4161	Housing Authority of County of Kern.
	4141	Housing Authority of County of Kern.
	4103	Housing Authority of City of Los Angeles.
	4104	Housing Authority of City of Los Angeles.
	4108	Housing Authority of City of Los Angeles.
	4121	Housing Authority of City of Paso Robles.
	4171	Housing Authority of City of Richmond.
	4174	Housing Authority of City of Richmond.
Connecticut	6091	Housing Authority of City of Bristol.
	6024	Housing Authority of Town of East Hartford.
	6031	Housing Authority of City of New Britain.
	6032	Housing Authority of City of New Britain.
	6101	Housing Authority of City of New Haven.
	6041	Housing Authority of City of Waterbury.
	6213	Housing Authority of City of Waterbury.
District of Columbia	49012	National Capital Housing Authority.
	49017	National Capital Housing Authority.
	49044	National Capital Housing Authority.
Florida	8052	Housing Authority of City of Jacksonville.
	8121	Housing Authority of City of Lakeland.
	8062	Housing Authority of City of Miami.
	8011	Housing Authority of City of Orlando.
	8082	Housing Authority of City of Pensacola.
	8084	Housing Authority of City of Pensacola.
	8085	Housing Authority of City of Pensacola.
	8131	Housing Authority of City of Sebring.
	8041	Housing Authority of City of West Palm Beach.
Georgia	9071	Housing Authority of City of Albany.
	9061	Housing Authority of Macon.
	9063	Housing Authority of Macon.
	9041	Housing Authority of Savannah.
	9042	Housing Authority of Savannah.
	9043	Housing Authority of Savannah.
Illinois	11081	Madison County Housing Authority.
	11082	Madison County Housing Authority.
	11111	Winnebago County Housing Authority.
	11112	Winnebago County Housing Authority.
Indiana	12071	Housing Authority of City of Fort Wayne.
	12021	Housing Authority of City of South Bend.
Louisiana	16051	Housing Authority of Parish of East Baton Rouge.
Maryland	18095	Housing Authority of Baltimore City.
	18096	Housing Authority of Baltimore City.
	18097	Housing Authority of Baltimore City.
	18098	Housing Authority of Baltimore City.
Massachusetts	19051	Boston Housing Authority.
	19021	Chicopee Housing Authority.
	19022	Chicopee Housing Authority.
	19061	Pittsfield Housing Authority.
	19023	Springfield Housing Authority.
Michigan	20042	Housing Commission of Detroit.
Nevada	26021	Housing Authority of City of Las Vegas.
New Hampshire	27021	Housing Authority of City of Manchester.
New Jersey	28044	Housing Authority of City of Camden.
	28021	Housing Authority of City of Long Branch.
	28072	Housing Authority of City of Newark.
	28111	Housing Authority of Town of Phillipsburg.
New York	30031	Buffalo Municipal Housing Authority.
	30032	Buffalo Municipal Housing Authority.
	30042	Elmira Housing Authority.
	30033	Lackawanna Municipal Housing Authority.
	30039	Lackawanna Municipal Housing Authority.
	30034	Niagara Falls Housing Authority.
	30071	Niagara Falls Housing Authority.
	30082	Massena Housing Authority.
North Carolina	31023	Housing Authority of City of Wilmington.
	31024	Housing Authority of City of Wilmington.
Ohio	33031	Canton Metropolitan Housing Authority.
	33033	Canton Metropolitan Housing Authority.
	33021	Cincinnati Metropolitan Housing Authority.
	33071	Cleveland Metropolitan Housing Authority.
	33074	Cleveland Metropolitan Housing Authority.
	33075	Cleveland Metropolitan Housing Authority.
	33112	Lorain Metropolitan Housing Authority.
	33261	Lorain Metropolitan Housing Authority.
	33262	Lorain Metropolitan Housing Authority.
	33041	Warren Metropolitan Housing Authority.
	33043	Warren Metropolitan Housing Authority.
Oregon	35021	Housing Authority of Portland.
Pennsylvania	36051	Housing Authority of County of Beaver.
	36058	Housing Authority of County of Beaver.
	36041	Housing Authority of Bethlehem.
	36042	Housing Authority of Bethlehem.
	36044	Housing Authority of Bethlehem.
	36151	Allegheny County Housing Authority.
	36152	Allegheny County Housing Authority.
	36061	Housing Authority of County of Lawrence.
	36021	Housing Authority of City of Erie.
	36031	Housing Authority of County of Lycoming.
	36011	Housing Authority of Philadelphia.
	36012	Housing Authority of Philadelphia.
	36014	Housing Authority of Philadelphia.
	36015	Housing Authority of Philadelphia.
	36016	Housing Authority of Philadelphia.
	36101	Housing Authority of City of Pittsburgh.
	36212	Allegheny County Housing Authority.
	36295	Housing Authority of City of York.

State	Project number	Local public housing agency
Rhode Island	37013	Housing Authority of City of Newport.
South Carolina	38023	Housing Authority of City of Charleston.
	38061	Housing Authority of City of Charleston.
	38041	Housing Authority of City of Spartanburg.
	38042	Housing Authority of City of Spartanburg.
Tennessee	40022	Jackson Housing Authority.
	40023	Milan Housing Authority.
	40011	Nashville Housing Authority.
	40025	Trenton Housing Authority.
Texas	41064	Housing Authority of City of Corpus Christi.
	41065	Housing Authority of City of Corpus Christi.
	41133	Housing Authority of City of Freeport.
	41031	Housing Authority of City of Houston.
	41131	Housing Authority of City of Lake Jackson.
	41101	Housing Authority of City of Mineral Wells.
	41103	Housing Authority of City of Mineral Wells.
	41072	Housing Authority of City of Orange.
	41032	Housing Authority of City of Pasadena.
	41141	Housing Authority of City of Texarkana.
	41121	Housing Authority of City of Wichita Falls.
Virginia	44131	Alexandria Redevelopment and Housing Authority.
	44132	Alexandria Redevelopment and Housing Authority.
	44133	Alexandria Redevelopment and Housing Authority.
	44135	Alexandria Redevelopment and Housing Authority.
	44136	Alexandria Redevelopment and Housing Authority.
	44065	Newport News Redevelopment and Housing Authority.
	44074	Norfolk Redevelopment and Housing Authority.
	44086	Portsmouth Redevelopment and Housing Authority.
Washington	45043	Housing Authority of City of Bremerton.
	45277N	Housing Authority of County of Clallam.
	45315N	Housing Authority of County of Clallam.
	45133	Housing Authority of County of King.
	45052	Housing Authority of City of Seattle.
	45053	Housing Authority of City of Seattle.
	45054	Housing Authority of City of Seattle.
	45055	Housing Authority of City of Seattle.
	45056	Housing Authority of City of Seattle.
	45122	Housing Authority of City of Vancouver.

In addition to the authority of the Secretary of Housing and Urban Development under the first sentence of this subsection, the Secretary is specifically authorized to convey any permanent war housing project to a local public housing agency if requested in writing, within sixty days after April 20, 1950, by such agency or the executive head of the municipality (or of the county or parish if such project is not in a municipality) within which the project is located, or by the Governor of the State where an agency of the State has authority to operate the project: *Provided*, That any conveyance by the Secretary of Housing and Urban Development pursuant to this sentence shall be subject to the same conditions and requirements as provided in this section with respect to a project specifically designated herein.

(b) Projects as "low-rent housing"

Upon the conveyance by the Secretary of Housing and Urban Development of any such project pursuant to the provisions of this section, such project shall constitute and be deemed to be "low-rent housing" as that term is used and defined in the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] (and to be a low-rent housing project assisted pursuant to that Act, within the meaning of section 1404a(b) of this title). Any instrument of conveyance by the Administrator stating that it is executed under subchapters II to VII of this chapter shall be conclusive evidence of compliance therewith insofar as any title or other interest in the property is concerned.

(c) Conditions and requirements of agreements

The agreement between the public housing agency and the Secretary of Housing and Urban Development required by subsection (a) of this section shall contain the following conditions and requirements, and may contain such further conditions, requirements, and provisions as the Secretary determines—

(1) during a period of forty years following the conveyance the project shall be administered as low-rent housing in accordance with subsections 2(1) and 2(2) of the United States Housing Act of 1937 [42 U.S.C. 1402(1) and (2)]: *Provided*, That if at any time during such period the public housing agency and the Secretary of Housing and Urban Development agree that the project, or any part thereof, is no longer suitable for use as low-rent housing, the project, or part thereof, shall with the approval of the Secretary of Housing and Urban Development be sold by the public housing agency after which the agreement shall be deemed to have terminated with respect to such project or part thereof except that the proceeds from such sale, after payment of the reasonable expense thereof, shall be paid to the Secretary of Housing and Urban Development, or, with the Secretary's approval, used to finance the repair of rehabilition of a project or part thereof conveyed to the public housing agency under this section;

(2) the public housing agency shall, within six months following the conveyance, initiate a program for the removal of all families residing in the project on the date of conveyance who are ineligible under the provisions of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] for continued occupancy therein, and shall have required such ineligible tenants to vacate their dwellings within eighteen months after the initiation of such program: *Provided*, That military personnel as designated by the Secretary of Defense or his designee shall not be subject to such removal until eighteen months after the date of conveyance;

(3) annually during the term of such agreement, the public housing agency shall pay to the Secretary of Housing and Urban Development all income from the project remaining after deducting the amounts necessary (as determined pursuant to regulations of the Secretary of Housing and Urban Development) for (i) the payment of reasonable and proper costs of operating, maintaining, and approving such project, (ii) the payments in lieu of taxes authorized hereunder, (iii) the establishment and maintenance of reasonable and

proper reserves as approved by the Secretary of Housing and Urban Development, and (iv) the payment of currently maturing installments of principal of and interest on any indebtedness incurred by such public housing agency with the approval of the Secretary of Housing and Urban Development: *Provided*, That the provisions of this paragraph shall not be applicable to any project which is consolidated under a single contract with one or more low-rent projects being assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], and all income from any such project conveyed under this section may be commingled with funds of the project or projects with which it is consolidated and applied in accordance with the requirements of the consolidated contract and the provisions of section 10(c) of the said Act [42 U.S.C. 1410(c)];

(4) during the term of such agreement, the project shall be exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivisions;

(5) for the tax year in which the conveyance is made and the next succeeding tax year annual payments in lieu of taxes may be made to the State, city, county, or other political subdivisions in amounts not in excess of the real property taxes which would be paid to such State, city, county, or other political subdivisions if the project were not exempt from taxation; and thereafter, during the term of such agreement, payments in lieu of taxes with respect to the project may be made in annual amounts which do not exceed 10 per centum of the annual shelter rents charged in such project;

(6) in selecting tenants for such project, the public housing agency shall give such preferences as are prescribed by subsection 10(g) of the United States Housing Act of 1937 [42 U.S.C. 1410g], except that for one year after the date of conveyance of a project, the public housing agency shall, to the extent permitted by law, give such preferences, by allocation or otherwise, to military personnel as the Secretary of Defense or his designee prescribes to the public housing agency; and

(7) upon the occurrence of a substantial default in respect to the requirements and conditions to which the public housing agency is subject (as such substantial default shall be defined in such agreement), the public housing agency shall be obligated at the option of the Secretary of Housing and Urban Development, either to convey title in any case where, in the determination of the Secretary of Housing and Urban Development, (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this subchapter and the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], or to deliver possession to the Secretary of Housing and Urban Development of the project, as then constituted, to which such agreement relates: *Provided*, That in the event of such conveyance of title or delivery of possession, the Secretary of Housing and Urban Development may improve and administer such project as low-rent housing, and otherwise deal with such housing or parts thereof, subject, however, to the limitations contained in the applicable provisions of the United States Housing Act of 1937. The Secretary of Housing and Urban Development shall be obligated to reconvey or to redeliver possession of the project, as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such agreement and as soon as practicable after the Secretary of Housing and Urban Development shall be satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purposes of this subchapter and the United States Housing Act of 1937, thereafter be operated in accordance with the terms of such agreement. Any prior conveyances and reconveyances, deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Secretary of Housing and Urban Development pursuant to this paragraph upon the subsequent occurrence of a substantial default.

(d) Disposition of payments

At the end of each fiscal year, the total amount of payments during such year to the Secretary of Housing and Urban Development in accordance with subsection (c) of this section shall be covered into the Treasury as miscellaneous receipts.

(Oct. 14, 1940, ch. 862, title VI, § 606, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended by Ex. Ord. No. 10284, §§ 6, 7, eff. Sept. 4, 1951, 16 F.R. 8971; Ex. Ord. No. 10339, eff. Apr. 7, 1952, 17 F.R. 3012; Ex. Ord. No. 10425, eff. Jan. 16, 1953, 18 F.R. 405; Sept. 23, 1959, Pub. L. 86-372, title VIII, § 807, 73 Stat. 687; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669; Aug. 22, 1974, Pub. L. 93-383, title II, § 207, 88 Stat. 669.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsecs. (a)(1), (b), (c)(2), (3), (7), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note under section 1437 of this title and Tables volume.

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

Subsections 2(1) and 2(2) and section 10 of the United States Housing Act of 1937, referred to in subsec. (c)(1), (3), (6), are references to sections 2 and 10 of the Act prior to the general revision of the Act by Pub. L. 93-383. The Act as so revised is classified to section 1437 et seq. of this title. Provisions of former sections 2 and 10 are now covered by sections 3 and 5 of the Act which are classified to sections 1437a and 1437d of this title.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-383, § 207(a), struck out provisions relating to payment of capital grants or annual contributions to low-rent housing projects.

Subsec. (c)(1). Pub. L. 93-383, § 207(b), added provision relating to financing the repair or rehabilitation of a project or part of project conveyed to the public housing agency under this section.

1959—Subsec. (b). Pub. L. 86-372, § 807(1), provided that if any such project is consolidated under a single annual contributions contract with any low-rent project being assisted with annual contributions under the United States Housing Act of 1937, the payment of any annual contribution on account of any project so assisted shall not be deemed to be a capital grant or annual contribution with respect to any project conveyed hereunder.

Subsec. (c)(3). Pub. L. 86-372, § 807(2), inserted proviso making the provisions of subsec. (c)(3) inapplicable to any project which is consolidated under a single contract with one or more low-rent projects being assisted under the United States Housing Act of 1937, and permitting the commingling of income from such project with funds of the project or projects with which it is consolidated.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1501 of this title.

EXECUTIVE ORDER NO. 10284

Ex. Ord. No. 10284, Sept. 4, 1951, extended the time for request for conveyance of housing projects from Dec. 31, 1950 to Dec. 31, 1951, and extended the time for entering agreements with the Public Housing Administration from June 30, 1951 to June 30, 1952. See note set out under section 1589a of this title.

EXECUTIVE ORDER NO. 10339

Ex. Ord. No. 10339, Apr. 7, 1952, set out as a note under section 1589a of this title, extended the time for request for conveyance of housing projects from Dec. 31, 1951, to Dec. 31, 1952 and extended the time for entering agreements with the Public Housing Administration from June 30, 1952 to June 30, 1953.

EXECUTIVE ORDER NO. 10425

Ex. Ord. No. 10425, Jan. 16, 1953, set out as a note under section 1589a of this title, extended the time for request for conveyance of housing projects from Dec. 31, 1952, to June 30, 1953.

CROSS REFERENCES

Extension of dates for disposal and other actions relating to housing under this chapter, see section 1589a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1585, 1587 of this title.

§ 1587. Disposition of other permanent war housing

(a) Public interest

The Secretary of Housing and Urban Development shall, subject to the provisions of this section, dispose of permanent war housing, other than housing conveyed pursuant to section 1586 of this title, as promptly as practicable and in the public interest.

(b) Preference in sales to individuals

Preference in the purchase of any dwelling structure designed for occupancy by not more than four families and offered for separate sale shall be granted to occupants and to veterans over other prospective purchasers for such period as the Secretary of Housing and Urban Development may determine and in the following order:

(1) a veteran who occupies a unit in the dwelling structure to be sold and who intends to continue to occupy such unit;

(2) a nonveteran who occupies a unit in the dwelling structure to be sold and who intends to continue to occupy such unit;

(3) a veteran who intends to occupy a unit in the dwelling structure to be sold.

Subject to the above order of preference, the Secretary of Housing and Urban Development may establish subordinate preferences for any such dwelling structure. In the disposition of any dwellings under this section which were acquired by the United States from persons occupying the dwellings at the time of such acquisition, the Secretary of Housing and Urban Development may, notwithstanding the order of preference provided in this section, grant a first preference to such persons in the purchase of any of these dwellings for such period and under such conditions as the Secretary may determine to be appropriate and in the public interest. As used in this subsection, the term "veteran" shall include a veteran, a serviceman, or the family of a veteran or a serviceman, or the family of a deceased veteran or serviceman whose death has been determined by the Veterans' Administration to be service-connected.

(c) Preference in sales of projects

In the case of any housing project required by this section to be disposed of, which is not offered for separate sale of separate dwelling structures designed for occupancy by not more than four families, such project may be sold as a whole or in such portions as the Secretary of Housing and Urban Development may determine. On such sales of an entire project or portions thereof consisting of more than one dwelling structure or of an individual dwelling structure designed for occupancy by more than four families, first preference shall be given for such period not less than ninety days nor more than six months from the date of the initial offering of such project or portions thereof as the Secretary of Housing and Urban Development may determine, to groups of veterans organized on a mutual ownership or cooperative basis (provided that any such group shall accept as a member of its organization, on the same terms, subject to the same conditions, and with the same privileges and responsibilities, required of, and extended to other members of the group any tenant occupying a dwelling unit in such project, portion thereof or building, at any time during such period as the Secretary of Housing and Urban Development shall deem appropriate, starting on the date of the announcement by the Secretary of Housing and Urban Development of the availability of such project, portion thereof or building for sale), except that a first preference for said period of not less than ninety days nor more than six months shall be given to any group organized on a mutual or cooperative basis, which, with respect to its proposed purchase of a specific housing project or portions thereof, has, prior to August 1, 1949, been granted an exception by the Secretary of Housing and Urban Development from the

sales preference provisions of Public Regulation 1 of the Housing and Home Finance Agency and has been designated as a preferred purchaser.

(d) Equitable selection method for each preference class

The Secretary of Housing and Urban Development shall provide an equitable method of selecting the purchasers to apply when preferred purchasers (or groups of preferred purchasers) in the same preference class or containing members in the same preference class compete with each other.

(e) Veterans' preference

Any housing disposed of in accordance with this section shall after such disposal be deemed to be housing accommodations the construction of which was completed after June 30, 1947, within the meaning of section 1884 of Appendix to title 50, relating to preference or priority to veterans of World War II or their families.

(f) Terms of sales

Sales pursuant to this section shall be upon such terms as the Secretary of Housing and Urban Development shall determine: *Provided*, That full payment to the Government for the property sold shall be required within a period not exceeding twenty-five years with interest on unpaid balances at not less than 4 per centum per annum, except that in the case of projects initially programmed as mutual housing communities under the defense housing program, the terms of sale shall not require a down payment and shall provide for full payment to the United States over a period of forty-five years with interest on unpaid balances at not more than 3 per centum per annum.

(g) Disregard of preferences in certain cases

The Secretary of Housing and Urban Development may dispose of any permanent war housing without regard to the preferences in subsections (b) and (c) of this section when the Secretary determines that (1) such housing, because of design or lack of amenities, is unsuitable for family dwelling use, or (2) it is being used at the time of disposition for other than dwelling purposes, or (3) it was offered, with preferences substantially similar to those provided in the Housing Act of 1950, to veterans and occupants prior to April 20, 1950.

(Oct. 14, 1940, ch. 862, title VI, § 607, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended Mar. 10, 1954, ch. 61, 68 Stat. 26; Aug. 2, 1954, ch. 649, title VIII, § 805(2), 68 Stat. 644; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

The Housing Act of 1950, referred to in subsec. (g), is act Apr. 20, 1950, ch. 94, 64 Stat. 48, as amended. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Appropriate changes were made in text to conform to the substitution of Secretary of Housing and Urban Development for the United States Housing Authority. See Transfer of Functions note set out below.

AMENDMENTS

1954—Subsec. (b). Act Mar. 10, 1954, in last paragraph, inserted the sentence permitting the Administrator to give, in the disposition of dwellings under this section which were acquired by the United States from persons occupying the dwellings at the time of such acquisition, a first preference to such persons in the purchase thereof.

Subsec. (g). Act Aug. 2, 1954, added subsec. (g).

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

CROSS REFERENCES

Extension of dates for disposal and other actions relating to housing under this chapter, see section 1589a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1589d of this title.

§ 1588. Sale of vacant land to local housing authorities; sale of personal property

(a) Notwithstanding any other provision of law, any land acquired under subchapters II to VII of this chapter or any other Act in connection with war or veterans' housing, but upon which no dwellings are located at the time of sale, may be sold at fair value, as determined by the Secretary of Housing and Urban Development to any agency organized for slum clearance or to provide subsidized housing for persons of low income.

(b) Notwithstanding any other provision of law, any personal property held under subchapters II to VII of this chapter, and not sold with a project or building, may be sold at fair value, as determined by the Secretary of Housing and Urban Development to any agency organized for slum clearance or to provide subsidized housing for persons of low income. Any sale of personal property under this subsection shall be made on a cash basis, payable at the time of settlement.

(Oct. 14, 1940, ch. 862, title VI, § 608, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended Aug. 11, 1955, ch. 787, 69 Stat. 668; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in subsecs. (a) and (b), were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, designated existing provisions as subsec. (a), and added subsec. (b).

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1589. Conveyance of land and nondwelling structures thereon to States for National Guard purposes

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development is authorized to convey by quit claim deed, without consideration, to any State for National Guard purposes any land, together with any nondwelling structures thereon, held under subchapters II to VII of this chapter or any other Act in connection with war or veterans' housing: *Provided*, That the United States shall be saved harmless from or reimbursed for such costs incidental to the conveyance as the Secretary of Housing and Urban Development may deem proper: *Provided further*, That the conveyance of such land shall contain the express condition that if the grantee shall fail or cease to use such land for such purposes, or shall alienate (or attempt to alienate) such land, title thereto shall, at the option of the United States, revert to the United States.

(Oct. 14, 1940, ch. 862, title VI, § 609, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1589a. Extension by President of dates for disposal and other actions relating to housing under this subchapter

Notwithstanding any other provision of law, the President is authorized to extend, for such period or periods as he shall specify, the time within which any action is required or permitted to be taken by the Secretary of Housing and Urban Development or others under the provisions of this subchapter or section 1553 of this title (or any contract entered into pursuant thereto), upon a determination by him, after considering the needs of national defense and the effect of such extension upon the general housing situation and the national economy, that such extension is in the public interest.

(Oct. 14, 1940, ch. 862, title VI, § 611, as added Sept. 1, 1951, ch. 378, title VI, § 603(d), 65 Stat. 314, and amended July 14, 1952, ch. 723, § 6, 66 Stat. 603; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

AMENDMENTS

1952—Act July 14, 1952, inserted "or section 1553 of this title" immediately preceding the parenthetical clause, and substituted "thereto" for "of this subchapter" in the parenthetical clause.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

EX. ORD. NO. 10462. DELEGATION OF FUNCTIONS TO THE HOUSING AND HOME FINANCE ADMINISTRATOR

Ex. Ord. No. 10462, June 22, 1953, 18 F.R. 3613, provided:

1. The Housing and Home Finance Administrator is hereby designated and empowered to perform, without the approval, ratification, or other action by the President, the functions vested in the President by section 611 of the act entitled "An Act to expedite the provision of housing in connection with national defense, and for other purposes," approved October 14, 1940, as amended (42 U.S.C. 1589a).

2. The meaning of the terms "perform" and "functions" as used in this order shall be the same as the meaning of those terms as used in chapter 4 of title 3 of the United States Code.

EX. ORD. NO. 10425. EXTENSIONS OF TIME

Ex. Ord. No. 10425, Jan. 16, 1953, 18 F.R. 405, provided:

1. The time stipulated in subsection (c) of section 601 of the act [section 1581(c) of this title] on or before which requests must be filed under subsections (a), (b), (g), and (h) of that section is extended to June 30, 1953.

2. The time stipulated in section 606(a)(1) of the action or before which conveyance of the housing projects listed in section 606(a)(3) of the act [section 1586(2)(1) of this title] must be requested by the governing body of the municipality or county and on or before which the need for low-rent housing must be demonstrated to the satisfaction of the Administrator is extended to June 30, 1953.

This order supersedes paragraphs 1 and 6 of Executive Order No. 10339 of April 5, 1952 [set out as a note under this section], and paragraph 1 of Executive Order No. 10395 of September 18, 1952 [set out as a note under this section].

EX1. ORD. NO. 10395. EXTENSION OF TIME

Ex. Ord. No. 10395, Sept. 19, 1952, 17 F.R. 8449, provided:

1. The time stipulated in subsection (c) of section 601 of the Act [section 1581(c) of this title] on or before which requests must be filed under subsection (h) of that section is extended to December 31, 1952.

2. The time stipulated in subsection (c) of section 601 of the Act [section 1581(c) of this title] on or before which all conditions to relinquishments or transfers pursuant to requests made under subsection (h) of that section must be complied with is extended to June 30, 1953.

EX. ORD. NO. 10385. EXTENSION OF TIME RELATING TO THE REMOVAL OF CERTAIN TEMPORARY HOUSING

Ex. Ord. No. 10385, Aug. 18, 1952, 17 F.R. 7525, provided:

The time stipulated in section 313 of the said act approved October 14, 1940, as amended [section 1553 of this title], within which, subject to the qualifications stated in the said section 313 [section 1553 of this title], housing of a temporary character under the jurisdiction of the Housing and Home Finance Administrator and constructed under certain laws must be removed is hereby extended from December 31, 1952, to July 1, 1954.

EX. ORD. NO. 10339. EXTENSIONS OF TIME

Ex. Ord. No. 10339, Apr. 7, 1952, 17 F.R. 3012, provided:

1. The time stipulated in subsection (c) of section 601 of the Act [section 1581(c) of this title] on or before which requests must be filed under subsections (a), (b) and (g) of that section is extended to December 31, 1952.

2. The time stipulated in subsection (c) of section 601 of the Act [section 1581(c) of this title] on or before which all conditions to relinquishments or transfers pursuant to requests made under subsections

(a), (b) and (g) of that section must be complied with is extended to June 30, 1953.

3. The time stipulated in section 604 of the Act [section 1584 of this title] after which vacancies occurring or continuing in temporary housing remaining under the jurisdiction of the Housing and Home Finance Administrator on land under his control may be filled only by transfer of tenants of other accommodations in the same locality being removed as required by the Act is extended to July 1, 1953.

4. The time stipulated in section 604 of the Act [section 1584 of this title] on or before which all tenants must be notified to vacate the premises is extended to March 31, 1954; and the time required to be stipulated in such notices prior to which the premises must be vacated is extended to July 1, 1954.

5. The time stipulated in section 604 of the Act [section 1584 of this title] promptly after which actions must be instituted to evict any tenants still remaining is extended to July 1, 1954.

6. The time stipulated in section 606(a)(1) of the Act [section 1586(a)(1) of this title] on or before which conveyance of the housing projects listed in section 606(a)(3) of the Act [section 1586(a)(3) of this title] must be requested by the governing body of the municipality or county and on or before which the need for low-rent housing must be demonstrated to the satisfaction of the Administrator is extended to December 31, 1952.

7. The time stipulated in section 606(a)(3) of the Act [section 1586(a)(3) of this title] on or before which the governing body of the municipality or county must enter into an agreement with the public housing agency satisfactory to the Public Housing Administration providing for local cooperation and payments in lieu of taxes and on or before which the public housing agency must enter into an agreement with the Public Housing Administration for the administration of any project requested under section 606(a) of the Act [section 1586(a) of this title] is extended to June 30, 1953.

This order supersedes Executive Order 10284, dated September 1, 1951.

EXECUTIVE ORDER NO. 10284

Ex. Ord. No. 10284, Sept. 4, 1951, 16 F.R. 8971, was superseded by Ex. Ord. No. 10339, Apr. 7, 1952, 17 F.R. 3012.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1589d of this title.

§ 1589b. Establishment of income limitations for occupancy of housing; effect on prior tenants

The Secretary of Housing and Urban Development notwithstanding any other provisions of subchapters II to VII of this chapter or any other law except provisions hereafter enacted expressly in amendment hereof, is authorized to establish income limitations for occupancy of any housing held by him under subchapters II to VII of this chapter and, giving consideration to the ability of such tenants to obtain other housing accommodations, to require tenants, admitted to occupancy prior to the establishment of such income limitations and who have incomes in excess of limitations established by him, to vacate such housing.

(Oct. 14, 1940, ch. 862, title VI, § 612, as added Sept. 1, 1951, ch. 378, title VI, § 603(d), 65 Stat. 314, and amended Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1589c. Transfer of certain housing to Indians

Upon a certification by the Secretary of the Interior that any surplus housing, classified by the Secretary of Housing and Urban Development as demountable, in the area of San Diego, California, is needed to provide dwelling accommodations for members of a tribe of Indians in Riverside County or San Diego County or Imperial County, California, the Secretary of Housing and Urban Development is authorized, notwithstanding any other provision of law, to transfer and convey such housing without consideration to such tribe, the members thereof, or the Secretary of the Interior in trust therefor, as the Secretary may prescribe: *Provided*, That the term housing as used in this section shall not include land.

(Oct. 14, 1940, ch. 862, title VI, § 613, as added Aug. 2, 1954, ch. 649, title VIII, § 805(3), 68 Stat. 645, and amended Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1589d. Undisposed housing

(a) Disposal to highest bidder; rejection of bids; disposal by negotiation

Notwithstanding the provisions of this or any other law, (1) any housing to be sold on-site determined by the Secretary of Housing and Urban Development to be permanent, located on lands owned by the United States and under the jurisdiction of the Secretary, which is not relinquished, transferred, under contract of sale, sold, or otherwise disposed of by the Secretary under other provisions of this subchapter or under the provisions of other law by January 1, 1957, except housing which is determined by the Secretary by that date to be suitable for sale in accordance with section 1587(b) of this title; and (2) any permanent housing to be sold off-site which is not relinquished, transferred, under contract of sale, sold, or otherwise disposed of prior to August 7, 1956, shall be disposed of, as expeditiously as possible, on a competitive basis to the highest responsible bidder upon such terms and after such public advertisement as the Secretary of Housing and Urban Development may deem in the public interest; except that the Secretary of Housing and Urban Development may reject any bid which the Secretary deems less than the fair market value of the property and may thereafter dispose of the property by negotiation.

(b) Contracts; time for passage of title; termination of purchaser's rights

Notwithstanding the provisions of this or any other law, all contracts entered into after August 7, 1956 for the sale, transfer, or other

disposal of housing (other than housing subject to the provisions of section 1587(b) of this title) determined by the Secretary of Housing and Urban Development to be permanent, except contracts entered into pursuant to subsection (a) of this section, shall require that if title does not pass to the purchaser by April 1, 1957 (or within sixty days thereafter if such time is necessary to cure defects in title in accordance with the provisions of the contract), the rights of the purchaser shall terminate and thereafter the housing shall be sold under the provisions of subsection (a) of this section. For the purposes of this subsection, title shall be considered to have passed upon the execution of a conditional sales contract.

(c) Dates

The dates set forth in subsections (a) and (b) of this section shall not be subject to change by virtue of the provisions of section 1589a of this title.

(Oct. 14, 1940, ch. 862, title VI, § 614, as added Aug. 7, 1956, ch. 1029, title IV, § 407(a), 70 Stat. 1106, and amended Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

CODIFICATION

Subsecs. (b) to (e) of section 407 of act Aug. 7, 1956, were not classified to this Code.

Appropriate changes were made in text to conform to the substitution of Secretary of Housing and Urban Development for the Housing and Home Finance Administrator. See Transfer of Functions note set out below.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1590. Definitions

As used in this subchapter, the following terms shall have the meanings ascribed to them below, unless the context clearly indicates otherwise:

(a) The term "governing body of the municipality or county" means the governing body of the city, village, or other municipality having general governmental authority over the area in which the housing involved is located or, if the housing is not located in such a municipality, the term means the governing body of the county or parish in which the housing is located, or if the housing is located in the District of Columbia the term means the Council of the District of Columbia.

(b) The term "housing" means any housing under the jurisdiction of the Secretary of Housing and Urban Development (including trailers and other mobile or portable housing) constructed, acquired, or made available under subchapters II to VII of this chapter or Public Law 781, Seventy-sixth Congress, approved September 9, 1940, or Public Laws 9, 73, or 353, Seventy-seventh Congress, approved, respectively, March 1, 1941, May 24, 1941, and December 17, 1941, or any other law, and includes in addition to dwellings any structures, appurtenances, and other property, real or personal, acquired for or held in connection therewith.

(c) The term "temporary housing" means any housing (as defined in (b)) which the Secretary of Housing and Urban Development has determined to be "of a temporary character" pursuant to subchapters II to VII of this chapter and shall also include any such housing after rights thereto have been relinquished or transferred under this subchapter or section 1575 of this title.

(d) The terms "veteran" and "serviceman" mean "veteran" and "serviceman" as those terms are defined in the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.].

(e) The term "State" means any State, Territory, dependency, or possession of the United States, or the District of Columbia.

(f) The term "going Federal rate of interest" means "going Federal rate" as that term is defined in the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.].

(g) The term "United States Housing Act of 1937" [42 U.S.C. 1437 et seq.] means the provisions of that Act, including all amendments thereto, now or hereafter adopted, except provisions relating to the initial construction of a project or dwelling units.

(Oct. 14, 1940, ch. 862, title VI, § 610, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669; 1967 Reorg. Plan No. 3, § 402(432), eff. Nov. 3, 1967, 32 F.R. 11669, 81 Stat. 948; Dec. 24, 1973, Pub. L. 93-198, title IV, § 401, 87 Stat. 785.)

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in subsecs. (b) and (c), were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see References in Text notes set out under section 1522 of this title.

The provisions of Public Law 781, and Public Laws 9, 73, or 353, referred to in subsec. (b), were not classified to the Code. For further details, see References in Text note set out under section 1524 of this title.

The United States Housing Act of 1937, referred to in subsecs. (d), (f), (g), is act Sept. 1, 1937, ch. 896, as revised generally Aug. 22, 1974, Pub. L. 93-383, title II, § 201(a), 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables volume.

TRANSFER OF FUNCTIONS

In subsec. (a), "Council of the District of Columbia" was substituted for "District of Columbia Council" pursuant to section 401 of Pub. L. 93-198. The District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, was abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, classified to section 1-131 of the District of Columbia Code, and replaced by the Council of the District of Columbia, as provided by section 401 of Pub. L. 93-198, classified to section 1-141 of the District of Columbia Code.

Previously, reference to the Board of Commissioners of the District of Columbia had been changed to the District of Columbia Council pursuant to section 402(432) of Reorganization Plan No. 3 of 1967, 32 F.R. 11669, eff. Nov. 3, 1967, set out in the Appendix to Title 5, Government Organization and Employees, which transferred the regulatory and other functions of the Board of Commissioners relating to the functions under this subchapter previously vested in the Board of Commissioners pursuant to this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the

Plan. For provisions establishing the District of Columbia Council, see section 201 of the Reorg. Plan No. 3 of 1967.

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

SUBCHAPTER VIII—CRITICAL DEFENSE HOUSING AREAS

§ 1591. Determination of critical areas by President; requisite conditions

(a) Notwithstanding any other provisions of this Act, the authority contained in titles II or III of this Act shall not be exercised in any area unless the President shall have determined that such area is a critical defense housing area.

(b) No area shall be determined to be a critical defense housing area pursuant to this section unless the President finds that in such area all the following conditions exist:

(1) a new defense plant or installation has been or is to be provided, or an existing defense plant or installation has been or is to be reactivated or its operation substantially expanded;

(2) substantial in-migration of defense workers or military personnel is required to carry out activities at such plant or installation; and

(3) a substantial shortage of housing required for such defense workers or military personnel exists or impends which impedes or threatens to impede activities at such defense plant or installation, or that community facilities or services required for such defense workers or military personnel are not available or are insufficient, or both, as the case may be.

(Sept. 1, 1951, ch. 378, title I, § 101, 65 Stat. 293; June 30, 1953, ch. 170, § 15, 67 Stat. 125.)

References in Text

This Act, referred to in subsecs. (a), (c), (d), means act Sept. 1, 1951, ch. 378, 65 Stat. 293, known as the Defense Housing and Community Facilities and Services Act of 1951. Title II of this Act enacted sections 1750, 1750a, and 1750b to 1750g of Title 12, Banks and Banking, and amended sections 371, 1430, 1702, 1706, 1715c, 1715f, 1716, and 1743 of Title 12. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 1501 of this title and Tables volume.

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

Amendments

1953—Subsec. (a). Act June 30, 1953, substituted "titles II or III" for "titles II, III, or IV".

Inconsistent Laws

Section 617 of act Sept. 1, 1951, provides: "Insofar as the provisions of any other law are inconsistent with the provisions of this Act [see Short Title of 1951 amendment note under section 1501 of this title], the provisions of this Act shall be controlling".

Separability of Provisions

Act Sept. 1, 1951, § 618, second sentence, provides: "Notwithstanding any other evidence of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provisions of this Act [See Short Title of 1951 amendment note under section 1501 of this title], or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its application to other persons and circumstances, but shall be confined in its operation to the provisions of this Act or the application thereof to the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered."

Section Referred to in Other Sections

This section is referred to in sections 1591a, 1591b; title 12 section 1750b; title 50 App. section 1894a.

§ 1591a. Construction by private enterprise

In order to assure that private enterprise shall be afforded full opportunity to provide the defense housing needed wherever possible, in any area which the President, pursuant to the authority contained in section 1591 of this title, has declared to be a critical defense housing area—

(a) Publication of number of units needed

first, the number of permanent dwelling units (including information as to types, rentals, and general locations) needed for defense workers and military personnel in such critical defense housing area shall be publicly announced and printed in the Federal Register by the Secretary of Housing and Urban Development;

(b) Suspension of credit restrictions

second, residential credit restrictions under the Defense Production Act of 1950, as amended [50 App. U.S.C. 2061 et seq.], (1) as to housing to be sold at $12,000 or less per unit or to be rented at $85 or less per unit per month, shall be suspended with respect to the number and types of housing units at the sales prices or rentals which the President determines to be needed in such area for defense workers or military personnel, and (2) as to all other housing, shall be relaxed in such manner and to such extent as the President determines to be necessary and appropriate to obtain the production of such housing needed in such area for defense workers or military personnel;

(c) Mortgage insurance

third, the mortgage insurance aids provided under title II of this Act shall be made available to obtain the production of housing needed in such area for defense workers or military personnel; and

(d) Construction by Government as conditional

fourth, no permanent housing shall be constructed by the Federal Government under the provisions of subchapter IX of this chapter except to the extent that private builders or eligible mortgagees have not, within a period of not less than ninety days (as the Secretary of Housing and Urban Development shall specify) following public announcement of the availability of such mortgage insurance aids under title II of this Act, indicated through bona fide applications (which meet the requirements as to types, rentals, or sales prices, and general locations) for exceptions from such residential credit restrictions or for mortgage insurance or guaranty that they will provide the housing determined to be needed in such area for defense workers and military personnel and publicly an-

nounced as provided by subsection (a) of this section.

(Sept. 1, 1951, ch. 378, title I, § 102, 65 Stat. 294; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

The Defense Production Act of 1950, referred to in subsec. (b), is act Sept. 8, 1950, ch. 932, 64 Stat. 798, as amended, which enacted section 2061 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see section 2061 of Title 50, Appendix, and Tables volume.

This Act, referred to in subsecs. (c) and (d), means act Sept. 1, 1951, ch. 378, 65 Stat. 293, as amended, known as the Defense Housing and Community Facilities and Services Act of 1951. Title II of this Act enacted sections 1750, 1750a, 1750b to 1750g of Title 12, Banks and Banking, and amended sections 371, 1430, 1702, 1706, 1715c, 1715f, 1716, and 1743 of title 12. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 1501 of this title and Tables volume.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1592, 1592a of this title.

§ 1591b. Community facilities or services by local agencies

In order to assure that community facilities or services required in connection with national defense activities shall, wherever possible, be provided by the appropriate local agencies with local funds, in any area which the President, pursuant to the authority contained in section 1591 of this title, has declared to be a critical defense housing area—

(a) Certification of necessity for loan

no loan shall be made pursuant to subchapter IX of this chapter for the provision of community facilities or equipment therefor required in connection with national defense activities in such area unless the chief executive officer of the appropriate political subdivision certifies, and the Secretary of Housing and Urban Development finds, that such facilities or equipment could not otherwise be provided when needed,

(b) Certification of necessity for grants or other payments

no grant or other payment shall be made pursuant to subchapter IX of this chapter for the provision, or for the operation and maintenance, of community facilities or equipment therefor, or for the provision of community services, required in connection with national defense activities in such area unless the chief executive officer of the appropriate political subdivision certifies, and the Secretary of Housing and Urban Development finds, that such community facilities or services cannot otherwise be provided when needed, or operated and maintained, as the case may be, without the imposition of an increased excessive tax burden or an unusual or excessive increase in the debt limit of the appropriate local agency; and

(c) Maintenance and operation of facilities

no community facilities or services shall be provided, and no community facilities shall be maintained and operated, by the United States directly except where the appropriate local agency is demonstrably unable to provide such facilities and services, or to maintain or operate such community facilities and services adequately with its own personnel, with loans, grants, or payments authorized to be made pursuant to subchapter IX of this chapter.

For the purposes of this section, the term "chief executive officer of the appropriate political subdivision" shall mean appropriate principal executive officer or governing body having primary responsibility with respect to the community facility or service involved, but shall not, in any case, mean any public housing authority, or its governing body, or any of its officers, acting in such capacity.

(Sept. 1, 1951, ch. 378, title I, § 103, 65 Stat. 294; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1592m, 1592o of this title.

§ 1591c. Expiration date; exception

After June 30, 1953, no construction of permanent housing may be begun under subchapter IX of this chapter. After July 31, 1954, (a) no mortgage may be insured under title IX of the National Housing Act, as amended [12 U.S.C. 1750 et seq.] (except (i) pursuant to a commitment to insure issued on or before such date or (ii) after July 31, 1954, and until August 1, 1955, during such period, or for such project or projects, as the President may designate hereunder or (iii) pursuant to a commitment to insure issued pursuant to the preceding clause (ii)), (b) no agreement may be made to extend assistance for the provision of community facilities or services under subchapter IX of this chapter, and no construction of temporary housing or community facilities by the United States may be begun under such subchapter, except after July 31, 1954, and until August 1, 1955, during such period, or for such project or projects, as the President may designate hereunder: *Provided*, That to the extent necessary to assure the adequate completion of any facilities for which prior agreements have been made under subchapter IX of this chapter, the Secretary of Housing and Urban Development may, at any time after July 31, 1954, enter into amendatory agreements under such subchapter involving the expenditure of additional Federal funds within the balance available therefor on or before such date, (c) no loan may be made or obligations purchased by the Secretary of Housing and Urban Development under section 1701g-1 of title 12 (except pursuant to a commitment issued on or before June 30, 1953, or to refinance an existing loan or existing obligations held under such section by said Secretary on June 30, 1953).

(Sept. 1, 1951, ch. 378, title I, § 104, 65 Stat. 295; June 30, 1953, ch. 170, § 16, 67 Stat. 125; June 29, 1954, ch. 410, § 3, 68 Stat. 320; Aug. 2, 1954, ch. 649, title I, § 129, 68 Stat. 609; June 30, 1955, ch. 251, § 2, 69 Stat. 225; Aug. 11, 1955, ch. 783, title I, § 105, 69 Stat. 637; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

The National Housing Act, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title IX of the National Housing Act is title IX of act June 27, 1934, ch. 847, as added by act Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 295, which is classified generally to subchapter X (§ 1750 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

Section 1701g-1 of title 12, referred to in text, has been omitted from the Code.

AMENDMENTS

1955—Act Aug. 11, 1955, inserted item (iii) in clause (a).

Act June 30, 1955, substituted "August 1, 1955" for "July 1, 1955" in two instances in the second sentence.

1954—Act Aug. 2, 1954, gave President standby authority to use mortgage insurance authority under title IX of the National Housing Act and the provisions in subchapter IX of this chapter for Federal aid in providing defense housing and community facilities and services in critical defense areas, in substitution for provisions under which authority for new projects under these two programs would have expired on June 30, 1954, and authorized the Housing and Home Finance Administrator to enter into amendatory agreements after June 30, 1954, to provide additional Federal assistance with respect to defense community facilities undertaken on or before such date where he finds it necessary to do so to assure the adequate completion of such facilities.

Act June 29, 1954, substituted "July 31, 1954" for "June 30, 1954" at beginning of second sentence.

1953—Act June 30, 1953, inserted the sentence prohibiting the beginning of permanent housing construction under subchapter IX of this chapter, after June 30, 1953; substituted "June 30, 1954" for "June 30, 1953" at beginning of present second sentence and "temporary housing" for "housing" in clause (b) of present second sentence; struck a former clause (c) out of present second sentence, which provided that (after June 30, 1953) no land might be acquired by the Housing and Home Finance Administrator under subchapter X of this chapter; and relettered clause (d) as clause "(c)".

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1591d. Powers as cumulative and additional

Except as may be otherwise expressly provided in this Act, all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing.

(Sept. 1, 1951, ch. 378, title VI, § 618, 65 Stat. 317.)

REFERENCES IN TEXT

This Act, referred to in text, means act Sept. 1, 1951, ch. 378, 65 Stat. 293, as amended, known as the Defense Housing and Community Facilities and Services Act of 1951. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 1501 of this title and Tables volume.

CODIFICATION

Section constitutes the first sentence of section 618 of act Sept. 1, 1951. Remainder of section 618 is set out in Separability of Provisions note under section 1591 of this title.

SUBCHAPTER IX—DEFENSE HOUSING AND COMMUNITY FACILITIES AND SERVICES

REVOLVING FUND

Establishment of revolving fund under which to account for assets and liabilities in connection with community facilities or defense housing under sections 1592 to 1592o of this title, see section 1701g-5 of Title 12, Banks and Banking.

EXPIRATION DATE

For prohibition of construction of housing or community facilities by the United States under this subchapter, see section 1591c of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1591a, 1591b, 1591c of this title; title 12 section 1701g-5.

§ 1592. Authority of Secretary

Subject to the provisions and limitations of this subchapter and subchapter VIII of this chapter, the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to provide housing in any areas (subject to the provisions of section 1591 of this title) needed for defense workers or military personnel or to extend assistance for the provision of, or to provide, community facilities or services required in connection with national defense activities in any area which the President, pursuant to the authority contained in said section, has determined to be a critical defense housing area.

(Sept. 1, 1951, ch. 378, title III, § 301, 65 Stat. 303; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1592a. Construction of housing

(a) Types, sales, preferences in purchases, and payment

Consistent with other requirements of national defense, any permanent housing constructed pursuant to the authority of this subchapter shall consist of one- to four-family dwelling structures (including row houses) so arranged that they may be offered for separate sale. All housing of permanent construction which is constructed or acquired under the authority of this subchapter shall be sold as expeditiously as possible and in the public interest taking into consideration the continuation of the need for such housing by persons engaged in national defense activities. All dwelling structures of permanent construction designed for occupancy by not more than four families (including row houses) shall be offered for sale, and preference in the purchase of any such dwelling structure shall be granted to occupants and to veterans over other prospective purchasers. As among veterans, preference in the purchase of any

such dwelling structure shall be given to disabled veterans whose disability has been determined by the Veterans' Administration to be service-connected. All dwelling structures of permanent construction in any housing project which are designed for occupancy by more than four families (and other structures in such project which are not sold separately) shall be sold as an entity. On such sales first preference shall be given for such period not less than ninety days nor more than six months from the date of the initial offering of such project as the Secretary of Housing and Urban Development may determine, to groups of veterans organized on a mutual ownership or cooperative basis (provided that any such group shall accept as a member of its organization, on the same terms, subject to the same conditions, and with the same privileges and responsibilities, required of, and extended to, other members of the group any tenant occupying a dwelling unit in such project, at any time during such period as the Secretary of Housing and Urban Development shall deem appropriate, starting on the date of the announcement by the Secretary of Housing and Urban Development of the availability of such project). The Secretary of Housing and Urban Development shall provide an equitable method of selecting the purchasers when preferred purchasers (or groups of preferred purchasers) in the same preference class or containing members in the same preference class compete with each other. Sales pursuant to this section shall be for cash or credit, upon such terms as the Secretary of Housing and Urban Development shall determine, and at the fair value of the property as determined by the Secretary: *Provided,* That full payment to the Government for the property sold shall be required within a period of not exceeding twenty-five years with interest on unpaid balances at not less than 4 per centum per annum.

(b) Temporary housing

Where it is necessary to provide housing under this subchapter in locations where, in the determination of the Secretary of Housing and Urban Development, there appears to be no need for such housing beyond the period during which it is needed for housing persons engaged in national defense activities, the provisions of section 1591a of this title shall not be applicable and temporary housing which is of a mobile or portable character or which is otherwise constructed so as to be available for reuse at other locations or existing housing built or acquired by the United States under authority of any other law shall be provided. Any temporary housing constructed or acquired under this subchapter which the Secretary of Housing and Urban Development determines to be no longer needed for use under this subchapter shall, unless transferred to the Department of Defense pursuant to section 1592e of this title, or reported as excess to the Administrator of the General Services Administration pursuant to the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.], be sold as soon as practicable to the highest responsible bidder after public advertising, except that if one or more of such bidders is a veteran purchasing a dwelling unit for his own occupancy the sale of such unit shall be made to the highest responsible bidder who is a veteran so purchasing: *Provided,* That the Secretary of Housing and Urban Development may reject any bid for less than two-thirds of the appraised value as determined by him: *Provided further,* That the housing may be sold at fair value (as determined by the Secretary of Housing and Urban Development) to a public body for public use: *And provided further,* That the housing structures shall be sold for removal from the site, except that they may be sold for use on the site if the governing body of the locality has adopted a resolution approving use of such structures on the site.

(c) Preference in admission to occupancy pending ultimate disposition

When the Secretary of Housing and Urban Development determines that any housing provided under this subchapter is no longer required for persons engaged in national defense activities, preference in admission to occupancy thereof shall be given to veterans pending its ultimate sale or disposition in accordance with the provisions of this subchapter. As among veterans, preference in admission to occupancy shall be given to disabled veterans whose disability has been determined by the Veterans' Administration to be service-connected.

(Sept. 1, 1951, ch. 378, title III, § 302, 65 Stat. 303; July 14, 1952, ch. 723, § 5, 66 Stat. 602; Aug. 2, 1954, ch. 649, title VIII, § 806, 68 Stat. 645; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

References in Text

The Federal Property and Administrative Services Act of 1949 (63 Stat. 377), referred to in subsec. (b), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The surplus property provisions of that act are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of Title 40, and Tables volume.

Codification

Appropriate changes were made in text to conform to the substitution of Secretary of Housing and Urban Development for the Housing and Home Finance Administration. See Transfer of Functions note set out below.

Amendments

1954—Subsec. (b). Act Aug. 2, 1954, in second sentence, substituted provisions prescribing the disposition procedure, for former provisions that the housing should "be disposed of by the Administrator not later than the date, and subject to the conditions and requirements, hereafter prescribed by the Congress: Provided, that nothing in this sentence shall be construed as prohibiting the Administrator from removing any such housing by demolition or otherwise prior to the enactment of such legislation."

1952—Subsec. (b). Act July 14, 1952, inserted "or existing housing built or acquired by the United States under authority of any other law" following "for reuse at other locations".

Transfer of Functions

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1592b. Maximum construction costs; determinations by Secretary in certain condemnation proceedings

The cost per family dwelling unit for any housing project constructed under the authority of this subchapter shall not exceed an average of $9,000 for two-bedroom units in such project, $10,000 for three-bedroom units in such project, and $11,000 for four-bedroom units in such project: *Provided,* That the Secretary of Housing and Urban Development may increase any such dollar limitation by not exceeding $1,000 in any geographical area where he finds that cost levels so require: *Provided further,* That in the Territories and possessions of the United States the Secretary of Housing and Urban Development may increase any such dollar limitation by 50 per centum: *And provided further,* That for the purposes of this section the cost of any land acquired by the Secretary of Housing and Urban Development upon the filing of a declaration of taking in proceedings for the condemnation of fee title shall be considered to be the amount determined by the Secretary of Housing and Urban Development upon the basis of competent appraisal, to be the value thereof.

(Sept. 1, 1951, ch. 378, title III, § 303, 65 Stat. 305; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1592c. Loans or grants for community facilities or services; conditions; maximum amounts; annual adjustments

In furtherance of the purposes of this subchapter and subject to the provisions hereof, the Secretary of Housing and Urban Development may make loans or grants, or other payments, to public and nonprofit agencies for the provision, or for the operation and maintenance, of community facilities and equipment therefor, or for the provision of community services, upon such terms and in such amounts as the Secretary of Housing and Urban Development may consider to be in the public interest: *Provided,* That grants under this subchapter to any local agency for hospital construction may be made only after such action by the local agency to secure assistance under Public Law 725, Seventy-ninth Congress, approved August 13, 1946, as amended, or Public Law 380, Eighty-first Congress, approved October 25, 1949, as is determined to be reasonable under the circumstances, and only to the extent that the required assistance is not available to such local agency under said Public Law 725, or said Public Law 380, as the case may be: *Provided further,* That grants or payments for the provision, or for the maintenance and operation, of community facilities or services under this section shall not exceed the portion of the cost of the provision, or the maintenance and operation, of such facilities or services which the Secretary of Housing and Urban Development estimates to be attributable to the national defense activities in the area and not to be recovered by the public or nonprofit agency from other sources, including payments by the United States under any other provisions of this Act or any other law: *And provided further,* That any such continuing grant or payment shall be reexamined and adjusted annually upon the basis of the ability of the agency to bear a greater portion of the cost of such maintenance, operation, or services as a result of increased revenues made possible by such facility or by such defense activities.

(Sept. 1, 1951, ch. 378, title III, § 304, 65 Stat. 305; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

Public Law 725, Seventy-ninth Congress, approved Aug. 13, 1946, as amended, referred to in text, means act Aug. 13, 1946, ch. 958, 60 Stat. 1041, known as the Hospital Survey and Construction Act. For complete classification of this Act to the Code, see Tables volume.

Public Law 380, Eighty-first Congress, approved Oct. 25, 1949, referred to in text, means act Oct. 25, 1949, ch. 722, 63 Stat. 898, known as the Hospital Survey and Construction Amendments of 1949, which amended sections 291, 291d, 291f, 291g, 291h, 291i, 291j, 291n, and enacted provisions set out as notes under section 291 of this title. For complete classification of this Act to the Code, see Tables volume.

This act, referred to in text, means act Sept. 1, 1951, ch. 378, 65 Stat. 293, as amended, known as the Defense Housing and Community Facilities and Services Act of 1951. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 1501 of this Title and Tables volume.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

HOSPITAL CONSTRUCTION; REVIVAL AND EXTENSION OF LOAN AND GRANT AUTHORITY; EXPIRATION DATE; APPROPRIATION

Act Aug. 7, 1956, ch. 1029, § 605, 70 Stat. 1114, as amended by Pub. L. 86-372, title VIII, § 804, Sept. 23, 1959, 73 Stat. 687; Pub. L. 87-70, title IX, § 906, June 30, 1961, 75 Stat. 191, provided that notwithstanding section 1591c of this title, the authority under this section to make loans or grants, or other payments to public and non-profit agencies for the construction of hospitals was revived and extended with respect to public and nonprofit agencies which had, prior to June 30, 1953, applied under this section, for such loans or grants, or other payments for the construction of hospitals, and had been denied such loans or grants, or other payments solely because of the unavailability of funds for such purpose, provided that the authority granted by this section was to expire June 30, 1962, and authorized appropriations for fiscal years ending June 30, 1962.

§ 1592d. Secretary's powers with respect to housing, facilities, and services

(a) Planning, acquisition, construction, etc.

With respect to any housing or community facilities or services which the Secretary of Housing and Urban Development is authorized to provide, or any property which he is authorized to acquire, under this Act, the Secretary of Housing and Urban Development is authorized by contract or otherwise (without regard to sections 4774 and 9774 of title 10, section 5 of title 41, section 278a of title 40, the Federal Property and Administrative Services Act of 1949, as

amended [41 U.S.C. 251 et seq.], and prior to the approval of the Attorney General) to make plans, surveys, and investigations; to acquire (by purchase, donation, condemnation or otherwise), construct, erect, extend, remodel, operate, rent, lease, exchange, repair, deal with, insure, maintain, convey, sell for cash or credit, demolish, or otherwise dispose of any property, land, improvement, or interest therein; to provide approaches, utilities, and transportation facilities; to procure necessary materials, supplies, articles, equipment, and machinery; to make advance payments for leased property; to pursue to final disposition by way of compromise or otherwise, claims both for and against the United States (exclusive of claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials, and claims involving administrative expenses) which are not in litigation and which have not been referred to the Department of Justice; and to convey without cost to States and political subdivisions and instrumentalities thereof property for streets and other public thoroughfares and easements for public purposes: *Provided,* That any instrument executed by the Secretary of Housing and Urban Development and purporting to convey any right, title or interest in any property acquired pursuant to this subchapter or subchapter X of this chapter shall be conclusive evidence of compliance with the provisions thereof insofar as title or other interest of any bona fide purchasers, lessees or transferees of such property is concerned. Notwithstanding any provisions of this Act, housing or community facilities constructed by the United States pursuant to the authority contained herein shall conform to the requirements of State and local laws, ordinances, rules, or regulations relating to health and sanitation, and, to the maximum extent practicable, taking into consideration the availability of materials and the requirements of national defense, any housing or community facilities, except housing or community facilities of a temporary character, constructed by the United States pursuant to the authority contained herein shall conform to the requirements of State or local laws, ordinances, rules, or regulations relating to building codes.

(b) Condemnation

Before condemnation proceedings are instituted pursuant to this subchapter or subchapter X of this chapter an effort shall be made to acquire the property involved by negotiation unless, because of reasonable doubt as to the identity of the owner or owners, because of the large number of persons with whom it would be necessary to negotiate, or for other reasons, the effort to acquire by negotiation would involve, in the judgment of the Secretary of Housing and Urban Development, such delay in acquiring the property as to be contrary to the interest of national defense. In any condemnation proceeding instituted pursuant to this subchapter or subchapter X of this chapter, the court shall not order the party in possession to surrender possession in advance of final judgment unless a declaration of taking has been filed, and a deposit of the amount estimated to be just compensation has been made, under section 258a of title 40, providing for such declarations. Unless title is in dispute, the court, upon application, shall promptly pay to the owner at least 75 per centum of the amount so deposited, but such payment shall be made without prejudice to any party to the proceeding.

(c) Return to original owner in certain cases

If any real property acquired under this subchapter or subchapter X of this chapter is retained after June 30, 1954, without having been used for the purposes of this Act, the Secretary of Housing and Urban Development shall, if the original owner desires the property and pays the fair value thereof, return such property to the owner. In the event the Secretary of Housing and Urban Development and the original owner do not agree as to the fair value of the property, the fair value shall be determined by three appraisers, one of whom shall be chosen by the Secretary of Housing and Urban Development, one by the original owner, and the third by the first two appraisers; the expenses of such determination shall be paid in equal shares by the Government and the original owner.

(Sept. 1, 1951, ch. 378, title III, § 305, 65 Stat. 305; June 30, 1953, ch. 170, § 17, 67 Stat. 125; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (c), means act Sept. 1, 1951, ch. 378, 65 Stat. 293, as amended, known as the Defense Housing and Community Facilities and Services Act of 1951. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 1501 of this title and Tables volume.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that act relating to procurement contracts are classified to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40, Public Buildings, Property, and Works, and Tables volume.

Subchapter X of this chapter, referred to in subsecs. (a), (b), and (c), was in the original, title IV of this Act, meaning title IV of act Sept. 1, 1951, ch. 378, 65 Stat. 310, which enacted sections 1593 to 1593d of this title which were repealed by act June 30, 1953, ch. 170, § 19, 67 Stat. 126.

CODIFICATION

In subsec. (a), "sections 4774 and 9774 of title 10" was substituted for reference to section 1136 of the Revised Statutes, as amended, which had been classified to section 1339 of former Title 10, on authority of section 49(b) of act Aug. 10, 1956, ch. 1041, 70A Stat. 641, section 1 of which enacted Title 10, Armed Forces and section 509(c) and (e) of Pub. L. 93-166, Nov. 29 1973, 87 Stat. 677, 678.

AMENDMENTS

1953—Subsec. (c). Act June 30, 1953, substituted "June 30, 1954" for "June 30, 1953".

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1592e. Inter-agency transfers of property; application of rules and regulations

Any Federal agency may, upon request of the Secretary of Housing and Urban Development, transfer to his jurisdiction without reimbursement any lands, improved or unimproved, or other property real or personal, considered by the Secretary of Housing and Urban Development to be needed or useful for housing or community facilities, or both, to be provided under this subchapter, and the Secretary of Housing and Urban Development is authorized to accept any such transfers. The Secretary of Housing and Urban Development may also utilize any other real or personal property under his jurisdiction for the purpose of this subchapter without adjustment of the appropriations or funds involved. Any property so transferred or utilized, and any funds in connection therewith, shall be subject only to the authorizations and limitations of this subchapter. The Secretary of Housing and Urban Development may, in his discretion, upon request of the Secretary of Defense or his designee, transfer to the jurisdiction of the Department of Defense without reimbursement any land, improvements, housing, or community facilities constructed or acquired under the provisions of this subchapter and considered by the Department of Defense to be required for the purposes of the said Department. Upon the transfer of any such property to the jurisdiction of the Department of Defense, the laws, rules, and regulations relating to property of the Department of Defense shall be applicable to the property so transferred, and the provisions of this subchapter and the rules and regulations issued thereunder shall no longer apply.

(Sept. 1, 1951, ch. 378, title III, § 306, 65 Stat. 306; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1592a of this title.

§ 1592f. Preservation of local civil and criminal jurisdiction, and civil rights; jurisdiction of State courts

Notwithstanding any other provisions of law, the acquisition by the United States of any real property pursuant to this subchapter or subchapter X of this chapter shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property, or impair the civil or other rights under the State or local law of the inhabitants of such property. Any proceedings by the United States for the recovery of possession of any property or project acquired, developed, or constructed under this subchapter or subchapter X of this chapter may be brought in the courts of the States having jurisdiction of such causes.

(Sept. 1, 1951, ch. 378, title III, § 307, 65 Stat. 307.)

REFERENCES IN TEXT

Subchapter X of this chapter, referred to in text, was in the original, title IV of this Act, meaning title IV of act Sept. 1, 1951, ch. 378, 65 Stat. 310, which enacted sections 1593 to 1593d of this title which were repealed by act June 30, 1953, ch. 170, § 19, 67 Stat. 126.

§ 1592g. Payment of annual sums to local authorities in lieu of taxes

The Secretary of Housing and Urban Development shall pay from rentals annual sums in lieu of taxes and special assessments to any State and/or political subdivision thereof, with respect to any real property, including improvements thereon, acquired and held by the Secretary under this subchapter for residential purposes (or for commercial purposes incidental thereto), whether or not such property is or has been held in the exclusive jurisdiction of the United States. The amount so paid for any year upon such property shall approximate the taxes and special assessments which would be paid to the State and/or subdivision, as the case may be, upon such property if it were not exempt from taxation and special assessments, with such allowance as may be considered by the Secretary to be appropriate for expenditures by the Federal Government for the provision or maintenance of streets, utilities, or other public services to serve such property.

(Sept. 1, 1951, ch. 378, title III, § 308, 65 Stat. 307; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

CODIFICATION

Appropriate changes were made in text to conform to the substitution of Secretary of Housing and Urban Development for the Housing and Home Finance Administrator. See Transfer of Functions note set out below.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1592h. Conditions and requirements as to contracts; utilization of existing facilities; disposition of facilities constructed by United States

In carrying out this subchapter—

(a) notwithstanding any other provisions of this subchapter, so far as is consistent with emergency needs, contracts shall be subject to section 5 of title 41;

(b) the cost-plus-a-percentage-of-cost system of contracting shall not be used, but contracts may be made on a cost-plus-a-fixed-fee basis: *Provided,* That the fixed fee shall not exceed 6 per centum of the estimated cost;

(c) wherever practicable, existing private and public community facilities shall be utilized or such facilities shall be extended, enlarged, or equipped in lieu of constructing new facilities; and

(d) all right, title, and interest of the United States in and to any community facilities constructed by the United States pursuant to the authority contained in this subchapter shall (if such agency is willing to accept such facility and operate the same for the purpose for which it was constructed) be disposed of to

the appropriate State, city, or other local agency having responsibility for such type of facility in the area not later than one year after June 30, 1953, and subject to the conditions and requirements hereafter prescribed by the Congress.

(Sept. 1, 1951, ch. 378, title III, § 309, 65 Stat. 307.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1592m of this title.

§ 1592i. Laborers and mechanics

(a) Wages; overtime

Notwithstanding any other provision of law, the wages of every laborer and mechanic employed on any construction, maintenance, repair, or demolition work authorized by this subchapter shall be computed on a basic day rate of eight hours per day and work in excess of eight hours per day shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

(b) Applicability of other laws

The provisions of the Davis-Bacon Act (49 Stat. 1011), as amended [40 U.S.C. 276a et seq.]; of section 874 of title 18; and of section 276c of title 40, shall apply in accordance with their terms to work pursuant to this subchapter.

(c) Stipulations in loan contracts as to wages; certification

Any contract for loan or grant, or both, pursuant to this subchapter shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act, as amended, [40 U.S.C. 276a et seq.], shall be paid to all laborers and mechanics employed in the construction of the project at the site thereof; and the Secretary of Housing and Urban Development shall require certification as to compliance with the provisions of this subsection prior to making any payment under such contract.

(d) Reports by contractors and subcontractors to Secretary of Labor

Any contractor engaged in the development of any project financed in whole or in part with funds made available pursuant to this subchapter shall report monthly to the Secretary of Labor, and shall cause all subcontractors to report in like manner, within five days after the close of each month and on forms to be furnished by the United States Department of Labor, as to the number of persons on their respective payrolls on the particular project, the aggregate amount of such payrolls, the total man-hours worked, and itemized expenditures for materials. Any such contractor shall furnish to the Department of Labor the names and addresses of all subcontractors on the work at the earliest date practicable.

(e) Prescription of standards, regulations, and procedures by Secretary of Labor

The Secretary of Labor shall prescribe appropriate standards, regulations, and procedures, which shall be observed by the Secretary of Housing and Urban Development in carrying out the provisions of this subchapter (and cause to be made by the Department of Labor such investigations) with respect to compliance with and enforcement of the labor standards provisions of this section, as the Secretary deems desirable.

(Sept. 1, 1951, ch. 378, title III, § 310, 65 Stat. 307; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

The Davis-Bacon Act (49 Stat. 1011), as amended, referred to in subsecs. (b) and (c), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

CODIFICATION

Appropriate changes were made in text to conform to the substitution of Secretary of Housing and Urban Development for the Housing and Home Finance Administrator. See Transfer of Functions note set out below.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1592j. Disposition of moneys derived from rentals, operation, and disposition of property

Moneys derived from rentals, operation, or disposition of property acquired or constructed under the provisions of this subchapter shall be available for expenses of operation, maintenance, improvement, and disposition of any such property, including the establishment of necessary reserves therefor and administrative expenses in connection therewith: *Provided,* That such moneys derived from rentals, operation, or disposition may be deposited in a common fund account or accounts in the Treasury: *And provided further,* That the moneys in such common fund account or accounts shall not exceed $5,000,000 at any time, and all moneys in excess of such amount shall be covered into miscellaneous receipts.

(Sept. 1, 1951, ch. 378, title III, § 311, 65 Stat. 308.)

§ 1592k. Determination of fair rentals and classes of occupants by Secretary

The Secretary of Housing and Urban Development shall fix fair rentals based on the value thereof as determined by the Secretary which shall be charged for housing accommodations operated under this subchapter and may prescribe the class or classes of persons who may occupy such accommodations, preferences, or priorities in the rental thereof, and the terms, conditions, and period of such occupancy.

(Sept. 1, 1951, ch. 378, title III, § 312, 65 Stat. 308.)

CODIFICATION

Appropriate changes were made in text to conform to the substitution of Secretary of Housing and Urban Development for the Housing and Home Finance Administrator. See Transfer of Functions note set out below.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

§ 1592l. Authorization of appropriations

There are authorized to be appropriated—

(a) such sums, not exceeding $100,000,000, as may be necessary for carrying out the provisions and purposes of this subchapter relating to community facilities and services in critical defense housing areas; and

(b) such sums, not exceeding $100,000,000, as may be necessary for carrying out the provisions and purposes of this subchapter relating to housing in critical defense housing areas.

(Sept. 1, 1951, ch. 378, title III, § 313, 65 Stat. 308; July 14, 1952, ch. 723, § 4, 66 Stat. 602.)

AMENDMENTS

1952—Act July 14, 1952, increased the appropriation authorization in subsec. (a) from $60,000,000 to $100,000,000 and in subsec. (b) from $50,000,000 to $100,000,000.

§ 1592m. Transfer of functions and funds in certain cases

Subject to all of the limitations and restrictions of this Act, including, specifically, the requirements of subsection (c) of section 1591b of this title and of subsections (c) and (d) of section 1592h of this title, where any other officer, department, or agency is performing, or, in the determination of the President, has facilities adapted to the performance of, functions, powers and duties similar, or directly related, to any of the functions, powers and duties which the Secretary of Housing and Urban Development is authorized by this subchapter to perform with respect to the construction, maintenance or operation of community facilities for recreation, and daycare centers, or the provision of community services, the President may transfer to such other officer, department, or agency any of the functions, powers, and duties authorized by this subchapter to be performed with respect thereto if he finds that such transfer will assist the furtherance of national defense activities, and upon any such transfer, funds in such amount as the Director of the Office of Management and Budget shall determine, but in no event in excess of the balance of any moneys appropriated to the Secretary of Housing and Urban Development pursuant to the authorization therefor contained in this subchapter for the performance of the transferred functions, powers, and duties, may also be transferred by the President to such other officer, department, or agency: *Provided*, That the President, by Executive Order or otherwise, may prescribe or direct the manner in which any functions, powers, and duties, which the Secretary of Housing and Urban Development is authorized by this subchapter to perform with respect to assistance for the construction, or the construction of, any community facilities, shall be administered in coordination with other officers, departments, or agencies having functions or activities related thereto.

(Sept. 1, 1951, ch. 378, title III, § 314, 65 Stat. 308; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

This Act, referred to in text, means act Sept. 1, 1951, ch. 378, 65 Stat. 293, as amended, known as the Defense Housing and Community Facilities and Services Act of 1951. For complete classification of this Act to the Code, see Short Title of 1951 Amendment set out as a note under section 1501 of this title and Tables volume.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of Reorg. Plan. No. 2, of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2, of 1970, redesignated the Bureau of the Budget as the Office of Management and Budget.

EX. ORD. NO. 10296. PERFORMANCE OF DEFENSE HOUSING FUNCTIONS

Ex. Ord. No. 10296, Oct. 2, 1951, 16 F.R. 10103, as amended by Ex. Ord. No. 10461, June 17, 1953, 18 F.R. 3513; Ex. Ord. No. 10593, Jan. 27, 1955, 20 F.R. 599; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, provided:

1. The Director of the Office of Emergency Planning [now Administrator of General Services] is hereby designated and empowered to perform, without the approval, ratification, or other action of the President, the function vested in the President by section 101 of the said Defense Housing and Community Facilities and Services Act of 1951 [section 1591 of this title] of determining critical defense-housing areas and of making the findings relative to such determinations required by section 101(b) of the said Act [section 1591(b) of this title].

2. The Director of the Office of Emergency Planning is hereby designated and empowered to perform, without the approval, ratification, or other action of the President, the functions vested in the President by section 104 of the Defense Housing and Community Facilities and Services Act of 1951, as amended [section 1591c of this title] (which Act, as amended, is hereinafter referred to as the Act), relative to the designation of periods during which, and relative to the designation of projects for which:

(1) Mortgages may be insured under Title IX of the National Housing Act, as amended [sections 1750 to 1750g of Title 12].

(2) Agreements may be made to extend assistance for the provision of community facilities or services under Title III of the Act [sections 1592 to 1592o of this title.]

(3) The construction of temporary housing or community facilities may be begun by the United States under Title III of the Act [sections 1592 to 1592o of this title].

(a) The authority vested in the President by section 401 of the Act [section 1593 of this title] to define defense installations, and to make findings that in connection with any defense installation developed or to be developed in an isolated or relatively isolated area (1) housing or community facilities needed for such installation would not otherwise be provided when and where required or (2) there would otherwise be speculation or uneconomic use of land resources which would impair the efficiency of defense activities at such installation.

(b) The authority vested in the President by section 402 of the Act [section 1593a of this title] to make findings that it is necessary or desirable in the public interest that land shall be acquired by the Housing and Home Finance Administrator [now Secretary of Housing and Urban Development] not only for the purposes of section 401 of the Act [section 1593 of this title] but also for the defense installation to be served thereby.

3. The Housing and Home Finance Administrator is hereby designated and empowered to perform, without the approval, ratification, or other action of the President, the function vested in the President by section 102(b) of the Act [section 1591a(b) of this title], relative to the suspension and relaxation of residential credit restrictions under the Defense Production Act of 1950, as amended [50 App. §§ 2061 to 2166].

4. Except, as provided in paragraph 5 hereof, the functions authorized by Title III of the Act [sections 1592 to 1592o of this title] to be performed with respect to or in furtherance of the provision, maintenance, or operation of community facilities for, and with respect to or in furtherance of the provision of community services for, recreation and child day-care centers are hereby transferred to the Federal Security Administrator [now Secretary of Health, Education, and Welfare] and shall be performed by him or by such officers and units of the Federal Security Agency as he may determine.

5. There are hereby excluded from the transfers effected by paragraph 4 hereof (a) functions with respect to site selection and land acquisition for, and the construction (including the letting of construction contracts, the preparation and approval of plans and specifications, and the supervision of construction work and of expenditures therefor) of, projects approved by the Federal Security Administrator, whether such construction is performed on behalf of, or is aided by, the Federal Government, (b) the servicing of loans for the construction of projects so approved, and (c) the functions under the second and third provisos of section 304 of the Act [section 1592c of this title] and those under sections 103(a) and 103(b) of the Act [sections 1591b(a) and (b) of this title]: *Provided*, that (1), the Federal Security Administrator or his delegate shall determine the general layout, size, and special design features appropriate to the particular type of facility, and (2) that final plans and specifications shall conform to such determinations.

6. In the performance of functions with respect to roads and highways under the Act, the Housing and Home Finance Administrator shall from time to time consult with the Secretary of Commerce or his representative as to the relationship of road and highway projects under the said Act to road and highway programs under the jurisdiction of the said Secretary.

7. In the performance of functions under Title III of the Act [sections 1592 to 1592o of this title] in Territories there shall be consultation with the Secretary of the Interior or his representative as to the relationship of proposed facilities and services in Territories to Territorial programs of the Department of the Interior.

8. The Housing and Home Finance Administrator, in connection with the performance of the pertinent functions vested in him by Title III of the Act [sections 1592 to 1592o of this title], shall obtain the approval of the Surgeon General of the Public Health Service [now Secretary of Health, Education, and Welfare] or his representative with respect to the public health aspects of sources of water supply developed, utilized, or aided by the said Administrator, and shall consult with the Surgeon General or his representative with respect to the public health aspects of water distribution systems and sewerage systems constructed or aided by the Administrator.

9. Subject to the consent of the Housing and Home Finance Administrator, the Surgeon General of the Public Health Service shall utilize the facilities and services of the Housing and Home Finance Agency for the performance of the following aspects of the functions conferred upon him by section 316 of the Act [section 1592o of this title]: (a) the construction by the Federal Government of projects approved by the Surgeon General (including the letting of construction contracts, the preparation or review of plans and specifications, and the supervision of construction work and expenditures therefor), (b) land acquisition for projects to be so constructed, and (c) the obtaining of information required for the purpose of, and the furnishing of recommendations with respect to, (i) the findings provided for in sections 103(a) and 103(b) of the Act [sections 1591b(a) and (b) of this title], and (ii) the actions provided for in the second and third provisos of section 304 of the Act [section 1592c of this title]. The Surgeon General shall pay the Housing and Home Finance Agency for such utilization, either in advance or otherwise, out of funds available to him for the performance of such functions.

10. Subject to the consent of the Federal Security Administrator, the Housing and Home Finance Administrator shall utilize the facilities and services of the Federal Security Agency in connection with the providing of library facilities under Title III of the Act [sections 1592 to 1592o of this title] in such manner that the division of work with respect to library facilities as between the Housing and Home Finance Administrator and the Federal Security Administrator will be the same as that with respect to recreation and child day-care center facilities as indicated in paragraphs 4 and 5 of this order. The Housing and Home Finance Administrator shall pay the Federal Security Administrator for such utilization, either in advance or otherwise, out of funds available to the Housing and Home Finance Administrator for the performance of the functions involved.

11. Paragraphs 9 and 10 shall not be construed as a limitation upon the Surgeon General or the Housing and Home Finance Administrator, as the case may be, with respect to utilization or delegation other than that referred to in such paragraphs and not inconsistent with the provisions of such paragraphs, respectively, or as divesting either the Surgeon General or the Administrator of any function conferred upon him by the Act.

12. As used in this order the term "functions" embraces duties, powers, responsibilities, authority, or discretion, and the term "perform" may be construed to mean "exercise".

Change of Name

The name of the Office of Emergency Planning was changed to the Office of Emergency Preparedness by Pub. L. 90-608, c. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, with references in any other law to the Office of Emergency Planning to be deemed, after Oct. 21, 1968, references to the Office of Emergency Preparedness.

Functions of the Director of the Office of Emergency Preparedness under Ex. Ord. No. 10296, Oct. 2, 1951, 16 F.R. 10103, as amended [set out as a note above], transferred to the Administrator of General Services, see section 3(2) of Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, set out as a note under section 2271 of Title 50, Appendix, War and National Defense.

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1592n. Definitions

As used in this subchapter, the following terms shall have the meanings respectively ascribed to them below, and, unless the context clearly indicates otherwise, shall include the plural as well as the singular number:

(a) "State" shall mean the several States, the District of Columbia, and Territories, and possessions of the United States.

(b) "Federal agency" shall mean any executive department or officer (including the President), independent establishment, commission, board, bureau, division, or office in the executive branch of the United States Government, or other agency of the United States, including corporations in which the United States owns all or a majority of the stock, directly or indirectly.

(c) "Community facility" shall mean waterworks, sewers, sewage, garbage and refuse disposal facilities, police and fire protection facilities, public sanitary facilities, works for treatment and purification of water, libraries, hospitals and other places for the care of the sick, recreational facilities, streets and roads, and day-care centers.

(d) "Community service" shall mean the maintenance and operation of facilities for health, refuse disposal, sewage treatment, recreation, water purification, and day-care centers, and the provision of fire-protection.

(e) "National defense" shall mean (1) the operations and activities of the armed forces, the Atomic Energy Commission, or any other Government department or agency directly or indirectly and substantially concerned with the national defense, (2) other operations and activities directly or indirectly and substantially concerned with the operations and activities of the armed forces and the Atomic Energy Commission, (3) activities in connection with the Mutual Defense Assistance Act of 1949, as amended, or (4) the provision of community facilities or services necessary to the health, safety, or public welfare of the inhabitants of a town or community which has been relocated as a result of the acquisition (through eminent domain or purchase in lieu thereof) of its former site by or on behalf of the Atomic Energy Commission for national-defense activities.

(f) "Nonprofit agency" shall mean any agency no part of the net earnings of which inures to the benefit of any private stockholder or individual.

(g) "Project" shall mean housing or community facilities acquired, developed, or constructed with financial assistance pursuant to this subchapter.

(h) "Veteran" shall mean a person, or the family of a person, who has served in the active military or naval service of the United States at any time (i) on or after September 16, 1940, and prior to July 26, 1947, (ii) on or after April 6, 1917, and prior to November 11, 1918, or (iii) on or after June 27, 1950, and prior to such date thereafter as shall be determined by the President, and who shall have been discharged or released therefrom under conditions other than dishonorable or who shall be still serving therein. The term shall also include the family of a person who served in the active military or naval service of the United States within any such period and who shall have died of causes determined by the Veterans' Administration to have been service-connected.

(Sept. 1, 1951, ch. 378, title III, § 315, 65 Stat. 309; June 30, 1953, ch. 170, § 18, 67 Stat. 126.)

REFERENCES IN TEXT

The Mutual Defense Assistance Act of 1949, referred to in subsec. (e), is act Oct. 6, 1949, ch. 626, 63 Stat. 714, which was classified generally to chapter 20 (§ 1571 et seq.) of Title 22, Foreign Relations and Intercourse, prior to its repeal by act Aug. 26, 1954, ch. 937, title V, § 542(a)(5), (9) to (11), 68 Stat. 861. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1953—Subsec. (e). Act June 30, 1953, added clause (4).

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

§ 1592o. Powers of Surgeon General of Public Health Service

Notwithstanding any other provision of this subchapter, all functions, powers, and duties under this subchapter and section 1591b of this title with respect to health, refuse disposal, sewage treatment, and water purification shall be exercised by and vested in the Surgeon General of the Public Health Service: *Provided*, That the Surgeon General shall have power to delegate to any other Federal agency functions, powers, and duties with respect to construction.

(Sept. 1, 1951, ch. 378, title III, § 316, 65 Stat. 310.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan. No. 3, set out as a note under section 202 of this title.

SUBCHAPTER X—DEVELOPMENT SITES FOR ISOLATED DEFENSE INSTALLATIONS

EXPIRATION DATE

For expiration of authority of Housing and Home Administrator to act under this subchapter, see section 1591c of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1592d, 1592f of this title.

§§ 1593 to 1593d. Repealed. June 30, 1953, ch. 170, § 19, 67 Stat. 126

Section 1593, acts Sept. 1, 1951, ch. 378, title IV, § 401, 65 Stat. 310; July 14, 1952, ch. 723, § 10(d), 66 Stat. 604, related to the acquisition of land for housing and community facilities.

Section 1593a, act Sept. 1, 1951, ch. 378, title IV, § 402, 65 Stat. 310, related to the acquisition of land for defense installations.

Section 1593b, act Sept. 1, 1951, ch. 378, title IV, § 403, 65 Stat. 311, related to the payment of annual sums to local authorities in lieu of taxes.

Section 1593c, act Sept. 1, 1951, ch. 378, title IV, § 404, 65 Stat. 311, related to the use of Treasury moneys.

Section 1593d, act Sept. 1, 1951, ch. 378, title IV, § 405, 65 Stat. 311, related to the acquisition of land for privately financed defense housing.

§ 1593e. Housing of persons displaced by acquisition of property for defense installations or industries

Upon a finding by the Secretary of Housing and Urban Development that the acquisition of any real property for a defense installation or industry has resulted, or will result, in the displacement of persons from their homes on such property, he may (notwithstanding any other provision of this or any other law) issue regulations pursuant to which such persons may be permitted to occupy or purchase housing for which credit restrictions established pursuant to the Defense Production Act of 1950 [50 App. U.S.C. 2061 et seq.] have been relaxed or housing which has been provided or assisted under the provisions of this Act (including amendments to other Acts provided herein), subject to any conditions or requirements that he determines necessary for purposes of national defense.

(Sept. 1, 1951, ch. 378, title VI, § 611, 65 Stat. 316; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

The Defense Production Act of 1950, referred to in text, is act Sept. 8, 1950, ch. 932, 64 Stat. 798, as amended, which enacted section 2061 et seq. of Title 50, App., War and National Defense. For complete classification of this Act to the Code, see section 2061 of Title 50, App., and Tables volume.

"This Act" and "herein", referred to in text, mean act Sept. 1, 1951, ch. 378, 65 Stat. 293, as amended, known as the Defense Housing and Community Facilities and Services Act of 1951. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 1501 of this title and Tables volume.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of Housing and Urban Development, see Transfer of Functions note set out under section 1581 of this title.

SUBCHAPTER XI—HOUSING FOR MILITARY PERSONNEL

§ 1594. Contracts for construction

(a) Contract provisions; competitive bids

The Secretary of Defense or his designee is authorized to enter into contracts with any eligible bidder to provide for the construction of urgently needed housing on lands owned or leased by the United States and situated on or near a military reservation or installation for the purpose of providing suitable living accommodations for military personnel of the armed services assigned to duty at the military installation at or in the area where the housing is situated. Any such contract shall provide that each housing unit in the project shall be placed under the control of the Secretary of Defense, or his designee, as soon as the unit is available for occupancy as determined by the Secretary of Housing and Urban Development. Any such contract shall also provide that, except for stock held by the Secretary of Housing and Urban Development, the capital stock of the mortgagor (where the mortgagor is a corporation) be transferred to the Secretary of Defense, or his designee, when the housing has been completed as determined by the Secretary of Housing and Urban Development. Any such contract shall contain such terms and conditions as the Secretary of Defense may determine to be necessary to protect the interests of the United States. Any such contract shall provide for the furnishing by the contractor of a performance bond and a payment bond with a surety or sureties satisfactory to the Secretary of Defense, or his designee, and the furnishing of such bonds shall be deemed a sufficient compliance with the provisions of section 270a of title 40, and no additional bonds shall be required under such section. Before the Secretary of Defense shall enter into any contract as authorized by this section for the construction of housing, he shall invite the submission of competitive bids after advertising in the manner prescribed in section 2305 of title 10.

(b) Definition of "eligible bidder"

For the purposes of this subchapter, the term "eligible bidder" means a person, partnership, firm, or corporation determined by the Secretary of Defense after consultation with the Secretary of Housing and Urban Development (1) to be qualified by experience and financial responsibility to construct housing of the type described in subsection (a) of this section, and (2) to have submitted the lowest acceptable bid.

(c) Acquisition of capital stock of property covered by mortgage

Notwithstanding any other provision of law, the Secretary of Defense or his designee is authorized to acquire the capital stock of mortgagors holding property covered by a mortgage insured under title VIII of the National Housing Act as amended by the Housing Amendments of 1955 [12 U.S.C. 1748 et seq.], and to exercise the rights as holder of such capital stock during the life of such mortgage and, upon the termination of the mortgage, to dissolve the corporation; to guarantee the payment of notes or other legal instruments required by the Secretary of Housing and Urban Development of such mortgagors; to make payments thereon; and to guarantee and indemnify the Armed Services Housing Mortgage Insurance Fund against loss in cases where so required. All housing facilities placed under the control of the Secretary of Defense pursuant to the provisions of this subchapter shall be deemed to be housing facilities under the jurisdiction of the military department to which they are assigned.

(d) Opinion as to title to property; guarantee; title search and title insurance

On request by the Secretary of Defense, the Attorney General shall furnish to the Secretary of Defense, or his designee, an opinion as to the sufficiency of title to any property on which it is proposed to construct housing, or on which housing has been constructed, under this section. If the opinion of the Attorney General is that the title to any such property is good and sufficient, the Secretary of Defense is authorized to guarantee, or enter into a commitment to guarantee, the mortgagee, under a mortgage on such property which is insured under title VIII of the National Housing Act [12 U.S.C. 1748 et seq.], against any losses that

may thereafter arise from adverse claims to title. None of the proceeds of any mortgage loan hereafter insured under such title VIII shall be used for title search and title insurance costs: *Provided*, That if the Secretary of Defense, or his designee, determines in the case of any housing project, that the financing of the construction of such project is impossible unless title insurance is provided, the Secretary of Defense may provide for the payment of the reasonable costs necessary for obtaining title search and title insurance. Any payments by the Secretary of Defense hereunder shall be made from the revolving fund established under section 1594a(g) of this title. Any determination by the Secretary of Defense under the foregoing proviso shall be set forth in writing, together with the reasons therefor. The Committees on Armed Services of the Senate and House of Representatives shall be promptly notified of each such determination, and of the amount of any payment made by the Secretary of Defense for title search and title insurance costs.

(Aug. 11, 1955, ch. 783, title IV, § 403, 69 Stat. 651; Aug. 7, 1956, ch. 1029, title V, §§ 506(b)—(d), 507, 70 Stat. 1110; Aug. 10, 1959, Pub. L. 86-149, title IV, 415, 73 Stat. 323; May 25, 1967, Pub. L. 90-19, § 12(d), (h)(1)-(3), 81 Stat. 23, 24.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (c) and (d), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title VIII of the National Housing Act is classified generally to subchapter VIII (§ 1748 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

Section 1594a(g) of this title, referred to in subsec. (d), was repealed by Pub. L. 87-554, title V, § 501(d), July 27, 1962, 76 Stat. 237.

CODIFICATION

In subsec. (a), "section 2305 of title 10" was substituted for "section 3 of the Armed Forces Procurement Act of 1947" on authority of section 49(b) of act Aug. 10, 1956, ch. 1041, 70A Stat. 640, of which section enacted Title 10, Armed Forces. Prior to enactment of Title 10, section 3 of the Armed Forces Procurement Act of 1947 was classified to section 152 of Title 41, Public Contracts.

AMENDMENTS

1967—Pub. L. 90-19, § 12(d), substituted "Secretary of Housing and Urban Development" for "Commissioner" wherever appearing in subsecs. (a) to (c).

Subsec. (a). Pub. L. 90-19, § 12(h)(1), substituted "Secretary of Defense" for "Secretary" in the fourth and sixth sentences.

Subsec. (b). Pub. L. 90-19, § 12(h)(2), substituted "Secretary of Defense" for "Secretary".

Subsec. (d). Pub. L. 90-19, § 12(h)(3), substituted "Secretary of Defense" for "Secretary" in the last three sentences.

1959—Subsec. (d). Pub. L. 86-149 added subsec. (d).

1956—Subsec. (a). Act Aug. 7, 1956, §§ 506(b), (c), (d), and 507, substituted "eligible bidder" for "eligible builder" in the first sentence; substituted "the mortgagor" for "the builder" in two places in the third sentence; inserted provision before the last sentence, relating to furnishing by contractor of a performance bond and a payment bond with surety satisfactory to Secretary; and eliminated from last sentence, the words "with any builder" which followed words "Before the Secretary shall enter into any contract".

Subsec. (b). Act Aug. 7, 1956, § 506(b), substituted "eligible bidder" for "eligible builder".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1594d of this title; title 12 section 1748b.

§ 1594a. Acquisition of military housing financed under Armed Services Housing Mortgage Insurance Fund and rental housing at military bases

(a) Purchase price

Whenever the Secretary of Defense or his designee deems it necessary for the purpose of this subchapter, he may acquire, by purchase, donation, condemnation, or other means of transfer, any land or (with the approval of the Secretary of Housing and Urban Development) (1) any housing financed with mortgages insured under title VIII of the National Housing Act [12 U.S.C. 1748 et seq.] as in effect prior to August 11, 1955, or (2) any housing situated adjacent to a military installation which was (A) completed prior to July 1, 1952, (B) certified by the Department of Defense, prior to construction, as being necessary to meet an existing military family housing need and considered as military housing by the Secretary of Housing and Urban Development, and (C) financed with mortgages insured under section 207 of the National Housing Act [12 U.S.C. 1713], or (3) any housing situated on or adjacent to a military installation which was (A) completed prior to July 1, 1952, (B) considered by the Department of Defense, prior to construction, as being necessary to meet an existing military family housing need and considered as military housing by the Secretary of Housing and Urban Development, and (C) financed with mortgages insured under section 608 of the National Housing Act [12 U.S.C. 1743], including adjacent property constructed primarily to provide commercial facilities for the occupants of such housing. The purchase price of any such housing shall not exceed the Secretary of Housing and Urban Development's estimate of the replacement cost of such housing and related property (not including the value of any improvements installed or constructed with appropriated funds) as of the date of final endorsement for mortgage insurance reduced by an appropriate allowance representing the estimated cost of repairs and replacements necessary to restore the property to sound physical condition, as determined by the Secretary of Defense or his designee upon the advice of the Secretary of Housing and Urban Development: *Provided*, That in any case where the Secretary of Defense or his designee acquires a project held by the Secretary of Housing and Urban Development, the price paid shall not exceed the face value of the debentures (plus accrued interest thereon) which the Secretary of Housing and Urban Development issued in acquiring such project.

(b) Housing at or near a military installation

Notwithstanding any provision of subsection (a) of this section to the contrary, the Secretary of Defense or his designee shall, in the manner provided in subsection (a) of this section, acquire by purchase, donation, or other means of transfer or, if the parties cannot agree upon terms for acquisition by such means, by condemnation, any housing described in clause (1) or (2) of subsection (a) of this section which is located at or near a mili-

tary installation where the construction of housing under the Armed Services Housing Mortgage Insurance Program has been approved by the Secretary.

(c) Condemnation; procedures; deposit; payment; interest

(1) Condemnation proceedings instituted pursuant to this section shall be conducted in accordance with the provisions of section 257 of title 40, or any other applicable Federal statute. Before any such condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation. In any such condemnation proceedings, and in the interests of expedition, the issue of just compensation may be determined by a commission of three qualified, disinterested persons to be appointed by the court. Any commission appointed hereunder shall give full consideration to all elements of value in accordance with existing law, and shall have the powers of a master provided in subdivision (c) of rule 53 of the Federal Rules of Civil Procedure and proceedings before it shall be governed by the provisions of paragraphs (1) and (2) of subdivision (d) of such rule. Its action and report shall be determined by a majority and its findings and report shall have the effect, and be dealt with by the court in accordance with the practice prescribed in paragraph (2) of subdivision (e) of such rule. Trial of all issues, other than just compensation, shall be by the court.

(2) In any condemnation proceedings instituted to acquire any such housing, or interest therein, the court shall not order the party in possession to surrender possession in advance of final judgment unless a declaration of taking has been filed, and a deposit of the amount estimated to be just compensation has been made, under section 258a of title 40. The amount of such deposit for the purpose of this section shall not in any case be less than an amount equal to the actual cost of the housing (not including the value of any improvements installed or constructed with appropriated funds) as certified by the sponsor or owner of the project to the Secretary of Housing and Urban Development pursuant to any statute or any regulations issued by the Secretary of Housing and Urban Development, reduced by the amount of the principal obligation of the mortgage outstanding at the time possession is surrendered, but any such deposit shall not include any excess mortgage proceeds or "windfalls," kickbacks and rebates received in connection with the construction of said housing as determined by the Department of Defense, or any other Federal agency. The amount of such deposit in any case where the sponsor or owner has not certified the cost of the project to the Secretary of Housing and Urban Development at August 10, 1959, shall be determined by the Secretary of Defense, or his designee, in accordance with sections 258a to 258e of title 40, with a view toward accurately estimating the equity of the sponsor or owner: *Provided,* That in the event there is withdrawn from the registry of the court by the owner or sponsor a sum of money in excess of the final award of just compensation, this excess shall be repaid to the United States plus a sum equal to 4 per centum per annum on such excess from the time such sum is deposited in the registry of the court: *Provided further,* That any court in which money is deposited as provided in this section shall require the furnishing of security by the owner to protect the United States from any loss by reason of a final award of just compensation of less than the amount deposited: *And provided further,* That the deposit required to be made by this section shall be without prejudice to any party in the determination of just compensation. Unless title is in dispute, the court, upon application and subject to the foregoing provisions of this subsection, shall promptly pay to the owner at least 75 per centum of the amount so deposited, but such payment shall be made without prejudice to any party to the proceeding. In the event that condemnation proceedings are instituted in accordance with procedures under sections 258a to 258e of title 40, the court shall order that the amount deposited shall be paid in a lump sum or over a period not exceeding five years in accordance with stipulations executed by the parties in the proceedings. In connection with condemnation proceedings which do not utilize the procedures under such sections, the Secretary of Defense or his designee, after final judgment of the court, may pay or agree to pay in a lump sum or, in accordance with stipulations executed by the parties to the proceedings, over a period not exceeding five years the difference between the outstanding principal obligation, plus accrued interest, and the price for the property fixed by the court. Unless such payment is made in a lump sum, the unpaid balance thereof shall bear interest at the rate of 4 per centum per annum.

(d) Occupancy; use, or improvement of property before approval of title

Property acquired under this section may be occupied, used, and improved for the purposes of this section prior to the approval of title by the Attorney General as required by section 255 of title 40.

(e) Release of accrual requirements for replacement, taxes, and hazard insurance reserves

The Secretary of Defense or his designee may, in the case of any housing acquired or to be acquired under this section, make arrangements with the mortgage whereby such mortgage will agree to release and waive all requirements of accruals for reserves for replacement, taxes, and hazard insurance provided for under the corporate charter and indenture agreement with respect to such housing, upon the execution of a written agreement by the Secretary or his designee that the purposes for which such reserves and other funds were accrued will be carried out.

(f) Use as public quarters or lease of housing

Any housing acquired under this section may be (1) assigned as public quarters to military personnel and their dependents; or (2) leased to military and civilian personnel for occupancy by them and their dependents, upon such terms and conditions as will in the judgment of the Secretary of Defense or his designee be in the best interest of the United States, without loss to military personnel of their basic allowance for quarters or appropriate allotments.

(Aug. 11, 1955, ch. 783, title IV, § 404, 69 Stat. 652; Aug. 3, 1956, ch. 939, title IV, § 420, 70 Stat. 1019; Aug. 7, 1956, ch. 1029, title V, § 512, 70 Stat. 1111; July 12, 1957, Pub. L. 85-104, title V, § 504, 71 Stat. 303; Aug. 20, 1958, Pub. L. 85-685, title V, § 513(d), 72 Stat. 663; Aug. 10, 1959, Pub. L. 86-149, title IV, § 418, 73 Stat. 323; Sept. 23, 1959, Pub. L. 86-372, title VII, §§ 702(a), (b), 703, 73 Stat. 683; July 27, 1962, Pub. L. 87-554, title V, § 501(d), 76 Stat. 237; Sept. 2, 1964, Pub. L. 88-560, title X, § 1003, 78 Stat. 806; May 25, 1967, Pub. L. 90-19, § 12(e), (h)(4)-(6), 81 Stat. 23, 24.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title VIII of the National Housing Act is classified generally to subchapter VIII (§ 1748 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-19, § 12(e)(1)-(3), (h)(4), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" wherever appearing in the first sentence, "Secretary of Housing and Urban Development's" for "Federal Housing Commissioner's", "Secretary of Housing and Urban Development" for "Commissioner" wherever appearing in the second sentence, and "Secretary of Defense" for "Secretary" in the proviso, respectively.

Subsec. (c)(2). Pub. L. 90-19, § 12(e)(1), (h)(5), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" wherever appearing and "Secretary of Defense" for "Secretary" in the penultimate sentence, respectively.

Subsec. (e). Pub. L. 90-19, § 12(h)(6), substituted "Secretary of Defense" for "Secretary".

1964—Subsec. (a). Pub. L. 88-560 authorized the acquisition of housing on or adjacent to a military installation completed prior to July 1, 1952, considered necessary to meet existing military family need, considered military housing by the Federal Housing Commissioner, and financed with mortgages insured under section 608 of the National Housing Act, including adjacent property constructed primarily to provide commercial facilities for the occupants of such housing.

1962—Subsec. (f). Pub. L. 87-554 eliminated provision for deposit in the revolving fund of amounts equal to the quarters allowances or appropriate allotments of military personnel to whom housing is assigned as public quarters and rental charges for leasing of housing to military and civilian personnel.

Subsec. (g). Pub. L. 87-554 repealed subsec. (g) creating the revolving fund, enumerating uses of the fund and requiring the deposit in the fund of specified quarters allowances or allotments, rental charges and savings realized in operation of housing.

Subsec. (h). Pub. L. 87-554 repealed subsec. (h) requiring the establishment of the revolving fund on the books of the Treasury Department, limiting appropriation authorization for revolving fund capital to $50,000,000 and permitting the transfer of certain funds to provide adequate capital for the fund.

1959—Subsec. (a). Pub. L. 86-372, § 702(a), authorized the acquisition of any housing situated adjacent to a military installation which was completed prior to July 1, 1952, certified by the Department of Defense, prior to construction, as being necessary to meet an existing military family housing need and considered as military housing by the Federal Housing Commissioner, and financed with mortgages insured under section 207 of the National Housing Act.

Subsec. (b). Pub. L. 86-372, § 702(b), substituted "any housing described in clause (1) or (2) of subsection (a) of this section" for "any housing constructed under the mortgage insurance provisions of sections 1748 to 1748h of title 12 (as in effect prior to Aug. 11, 1955)".

Subsec. (c)(2). Pub. L. 86-372, § 703, required the amount of the deposit in any case where the sponsor or owner has not certified the cost of the project to be determined with a view toward accurately estimating the equity of the sponsor or owner.

Pub. L. 86-149 required the amount of the deposit to be not less than an amount equal to the actual cost of the housing as certified reduced by the amount of the principal obligation of the mortgage outstanding at the time possession is surrendered, provided for determination of amount of deposit in cases where cost has not been certified, and required payment of 4% interest where money has been withdrawn in excess of final award of just compensation.

1958—Subsec. (c). Pub. L. 85-685 inserted provisions authorizing the issue of just compensation to be determined by a commission of three qualified, disinterested persons to be appointed by the court, prescribing its powers, relating to its action and report, and requiring trial of all issues, other than just compensation, to be by the court.

1957—Subsec. (a). Pub. L. 85-104 substituted "representing the estimated cost of repairs and replacements necessary to restore the property to sound physical condition" for the words "for physical depreciation".

1956—Act Aug. 7, 1956, designated existing provisions as subsecs. (a), (c), and (d), and added subsecs. (b), and (e) to (h).

Act Aug. 3, 1956, limited the purchase price of housing to the Commissioner's estimate of the replacement cost of such housing and related property as of the date of final endorsement for mortgage insurance reduced by an appropriate allowance for depreciation, and limited the price of any project held by the Commissioner to the face value of the debentures, plus accrued interest, which the Commissioner issued in acquiring the project.

FEDERAL RULES OF CIVIL PROCEDURE

Masters, see rule 53, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1594, 1594a-1, 1594d, 1594i of this title.

§ 1594a-1. Department of Defense family housing management account

(a) Establishment

For the purpose of providing improved management and administration of funds appropriated or otherwise made available to the Department of Defense for family housing programs there is established on the books of the Treasury Department the Department of Defense family housing management account (hereinafter referred to as the "management account").

(b) Single account administration; transfer and uses of funds

The management account shall be administered by the Secretary of Defense as a single account. Into such account there shall be transferred (1) the unexpended balance of the funds established pursuant to subsections (g) and (h) of section 1594a of this title, and (2) appropriations hereafter made to the Department of Defense, for the purpose of, or which are available for, the payment of costs arising in connection with the construction, acquisition, replacement, addition, expansion, extension, alteration, leasing, operation, or maintenance of family housing, including the cost of principal and interest charges, and insurance premiums, arising in connection with the acquisition of such housing, and mortgage insurance premi-

ums payable under section 1715m(c) of title 12, and (3) notwithstanding any other provision of law, for the purpose of debt service, proceeds of the handling and the disposal of family housing of the Department of Defense, including related land and improvements, whether handled or disposed of by the Department of Defense or any other Federal agency, but less those expenses payable pursuant to section 485(b) of title 40, to remain available until expended.

(c) Amount of obligations against account to defray family housing costs

Obligations against the management account may be made by the Secretary of Defense, in such amounts as may be specified from time to time in appropriation Acts, for the purpose of defraying, in the manner and to the extent authorized by law, the costs referred to in subsection (b) of this section.

(Pub. L. 87-554, title V, § 501(a)-(c), July 27, 1962, 76 Stat. 236; Pub. L. 90-110, title VI, § 606, Oct. 21, 1967, 81 Stat. 304; Pub. L. 91-142, title V, § 511, Dec. 5, 1969, 83 Stat. 312.)

REFERENCES IN TEXT

Subsections (g) and (h) of section 1594a of this title, referred to in subsec. (b), were repealed by section 501(d) of Pub. L. 87-554.

AMENDMENTS

1969—Subsec. (b)(3). Pub. L. 91-142 provided for transfer into the management account proceeds of handling of family housing of the Department of Defense, whether handled by such Department or any other Federal Agency.

1967—Subsec. (b). Pub. L. 90-110 added clause (3).

§ 1594a-2. Appropriations for family housing; prior legislative approval

No funds may be appropriated after December 31, 1962; for the construction, acquisition, leasing, addition, extension, expansion, alteration, or operation and maintenance of family housing under the jurisdiction of the Department of Defense unless the appropriation of such funds has been authorized by legislation enacted after such date.

(Pub. L. 87-554, title V, § 507, July 27, 1962, 76 Stat. 240.)

§ 1594b. Maintenance and operation of housing; use of quarters; payment of principal, interest, and other obligations

The Secretary of Defense or his designee is authorized to maintain and operate any housing acquired under this title and assign quarters therein to military and civilian personnel and their dependents. Appropriations for quarters allowances or appropriate allotments, and rental charges to civilian personnel, may be utilized by the military department concerned for the payment of principal, interest, and other obligations, except those of maintenance and operation, of the mortgagor corporation with respect to such housing projects. Such payments shall not exceed an average of $90 a month per housing unit and total payments for all housing so acquired shall not exceed $21,000,000 per month: *Provided,* That, in case of the United States Coast Guard, total payments for all housing so acquired shall not exceed $90,000 per month.

(Aug. 11, 1955, ch. 783, title IV, § 405, 69 Stat. 652; Aug. 7, 1956, ch. 1029, title V, § 508, 70 Stat. 1110.)

REFERENCES IN TEXT

This title, referred to in text, means title IV of act Aug. 11, 1955, ch. 783, 69 Stat. 646, which enacted sections 1594 and 1594a, 1594b to 1594f of this title, amended sections 1720, 1748, and 1748a to 1748g of Title 12, Banks and Banking, and enacted provisions set out as a note under section 1748 of Title 12.

AMENDMENTS

1956—Act Aug. 7, 1956, substituted "$21,000,000" for "$9,000,000".

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1594d of this title.

§ 1594c. Services of architects and engineers; use of appropriations; acquisition of sites

Whenever the Secretary of Defense or his designee determines that it is desirable in order to effectuate the purposes of this title, the Secretary is authorized, without regard to the civil service and classification laws, to procure, by negotiation or otherwise, the services of architects and engineers, or organizations thereof, under such arrangements as he deems desirable, but at an expense not in excess of that permissible under the schedule of fees allowed from time to time by the Secretary of Housing and Urban Development in connection with projects assisted under the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.]. Such services may include the development of plans, drawings and specifications for family housing under this title and other services in connection therewith: *Provided,* That such plans, drawings, and specifications may include the use of any project to be constructed under this subchapter of alternate materials or alternate types of construction, including prefabrication, that provide substantially equal value and conform to standards established by the Secretary of Housing and Urban Development: *Provided further,* That such plans, drawings, and specifications, when developed pursuant to arrangements made under this section after August 7, 1956, shall follow the principle of modular measure, in order that the housing may be built by conventional construction, onsite fabrication, factory precutting, factory fabrication, or any combination of these construction methods: *Provided further,* That the Secretary of Defense may designate certain sites or parts thereof for family housing to be furnished from prefabricated houses or housing components. Such arrangements may include

provision for advance or progress payments, for payment by third parties, for payment by the Government of any such compensation as it not paid for by third parties, and shall include provision for reimbursement by third parties to the Government of any compensation or other expenses paid by the Government pursuant to this section, and may include other provisions for compensation. Any public works appropriations now or hereafter available to the Departments of the Army, Navy, or Air Force or the Coast Guard may be obligated by the respective departments or the Coast Guard for these purposes. Reimbursements to the Government on account of payments made pursuant to this section shall be made to appropriations against which such payments were charged. The Secretary of Defense is further authorized to advance or pay to the Department of Housing and Urban Development its "Appraisal and Eligibility Statement" fees in connection with such family housing. The Secretary of Defense is further authorized to enter into arrangements by contract or otherwise for eventual acquisition by the Government, without cost to the Government of all right, title, and interest in sites on which housing is constructed pursuant to this title and improvements thereon.

(Aug. 11, 1955, ch. 783, title IV, § 406, 69 Stat. 653; Aug. 7, 1956, ch. 1029, title V, § 509, 70 Stat. 1110; May 25, 1967, Pub. L. 90-19, § 12(f), (h)(7), (8), 81 Stat. 24.)

REFERENCES IN TEXT

This title, referred to in text, means title IV of act Aug. 11, 1955, ch. 783, 69 Stat. 646, which enacted sections 1594 and 1594a, 1594b to 1594f of this title, amended sections 1720, 1748, and 1748a to 1748g of Title 12, Banks and Banking, and enacted provisions set out as a note under section 1748 of Title 12.

The civil-service laws, referred to in the text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

The Classification Laws, referred to in text, are classified generally to chapter 51 (§ 5101 et seq.) and subchapter III (§ 5331 et seq.) of chapter 53 of Title 5.

The United States Housing Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables volume.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" and "Department of Housing and Urban Development" for "Public Housing Administration" and "Federal Housing Administration" in the first sentence and the first proviso and for "Federal Housing Administration" in the penultimate sentence and "Secretary of Defense" for "Secretary" in the third proviso and last two sentences, respectively.

1956—Act Aug. 7, 1956, inserted second proviso requiring plans, drawings, and specifications to follow the principle of modular measure, so the housing may be built by conventional construction, on-site fabrication, factory precutting, factory fabrication, or any combination of these construction methods.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1594d of this title.

§ 1594d. Appropriations; use of quarters allowances

(a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 1594, 1594a, 1594b, and 1594c of this title.

(b) Any funds heretofore or hereafter authorized to be expended by any of the military departments or the Coast Guard for the payment of allowances for quarters for military personnel may be used for the purposes specified in subsection (a) of this section.

(Aug. 11, 1955, ch. 783, title IV, § 407, 69 Stat. 653.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§ 1594e. Definitions

(a) Wherever the terms "Secretary of Defense" or "Secretary of the Army, Navy, or Air Force" appear in this title or in title VIII of the National Housing Act, as amended by the Housing Amendments of 1955 [12 U.S.C. 1748 et seq.], they shall be deemed to mean the Secretary of Transportation in the case of the application of the provisions of this subchapter or of title VIII of the National Housing Act, as amended by the Housing Amendments of 1955, for the benefit of the United States Coast Guard.

(b) Wherever the term "armed services" appears in this subchapter it shall be deemed to include the United States Coast Guard.

(Aug. 11, 1955, ch. 783, title IV, § 409, 69 Stat. 654; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938; May 25, 1967, Pub. L. 90-19, § 12(g), 81 Stat. 24.)

REFERENCES IN TEXT

This title, referred to in subsec. (a), means title IV of act Aug. 11, 1955, ch. 783, 69 Stat. 646, which enacted sections 1594 and 1594a, 1594b to 1594f of this title, amended sections 1720, 1748, and 1748a to 1748g of Title 12, Banks and Banking, and enacted provisions set out as a note under section 1748 of Title 12.

The National Housing Act, referred to in subsec. (a), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended.

Title VIII of the National Housing Act is classified generally to subchapter VIII (§ 1748 et seq.) of chapter 13, Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-19 struck out "or Secretary" following "Secretary of Defense".

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§ 1594f. Net floor area limitations

In the construction of housing under the authority of this title and title VIII of the National Housing Act, as amended [12 U.S.C. 1748 et seq.], the maximum limitations on net floor area for each unit shall be the same as the net floor area limitations prescribed by law (at the time plans and specifications for such construction are begun) for public quarters built with appropriated funds under military construction authority.

(Aug. 11, 1955, ch. 783, title IV, § 410, as added Aug. 7, 1956, ch. 1029, title V, § 510, 70 Stat. 1110, and amended July 12, 1957, Pub. L. 85-104, title V, § 503, 71 Stat. 303.)

REFERENCES IN TEXT

This title, referred to in text, means title IV of act Aug. 11, 1955, ch. 783, 69 Stat. 646, which enacted sections 1594 and 1594a, 1594b to 1594f of this title, amended sections 1720, 1748, and 1748a to 1748g of Title 12, Banks and Banking, and enacted provisions set out as a note under section 1748 of Title 12.

The National Housing Act, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title VIII of the National Housing Act is classified generally to subchapter VIII (§ 1748 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

AMENDMENTS

1957—Pub. L. 85-104 substituted "limitations prescribed by law (at the time plans and specifications for such construction are begun) for public quarters built with appropriated funds under military construction authority" for the words "permanent limitations prescribed in the second, third, and fourth provisos of section 3 of the act of June 12, 1948 (62 Stat. 375), or section 3 of the act of June 16, 1948 (62 Stat. 459), other than the first, second, and third provisos thereof".

§ 1594g. Repealed. Pub. L. 85-241, title IV, § 406(b), Aug. 30, 1957, 71 Stat. 556

Section, act Aug. 3, 1956, ch. 939, title IV, § 419, 70 Stat. 1018, related to conditions precedent to entering into contracts for construction or acquisition of family housing units by or for the use of military or civilian personnel of any of the military services.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 85-241 effective July 1, 1948.

§ 1594h. Purchase of family housing for assignment as public quarters; space and cost limitations

The Secretary of the Army is authorized to purchase out of appropriations available for military construction family housing including necessary land at, or near, military tactical installations for assignment as public quarters to military personnel and their dependents. Not more than 300 units of such housing may be purchased under this section. Space limitations per unit will be in accordance with subsections (a), (b), and (c) of section 4774 of title 10, and cost limitations as now or hereafter established for military housing constructed with appropriated funds.

(Pub. L. 85-241, title I, § 103, Aug. 30, 1957, 71 Stat. 534.)

REFERENCES IN TEXT

Subsections (a), (b), and (c) of section 4774 of title 10, referred to in text, were repealed by Pub. L. 93-166, title V, § 509(c), Nov. 29, 1973, 87 Stat. 677, and are now covered by section 2684(a) to (c) of Title 10, Armed Forces.

§ 1594h-1. Improvement of family housing units; public quarters designation; cost limitations

(a) The Secretary of Defense, or his designee, is authorized to accomplish alterations, additions, expansions, or extensions not otherwise authorized by law of family housing units at various locations under the jurisdiction of the Department of Defense which, on July 27, 1962, have not been designated as public quarters. Units so improved shall be designated public quarters.

(b) No family housing unit may be improved at a total cost of more than 50 per centum of the maximum cost of construction prescribed by this Act for an equivalent unit of new family housing.

(Pub. L. 87-554, title V, § 503, July 27, 1962, 76 Stat. 239.)

REFERENCES IN TEXT

Maximum cost of construction prescribed by this Act, referred to in subsec. (b), means the construction cost limitations provided for in section 506 of Pub. L. 87-554, set out as a note below.

1965 CONSTRUCTION COST LIMITATIONS

Section 502 of Pub. L. 89-188, title V, Sept. 16, 1965, 79 Stat. 813, provided that:

"Authorizations for the construction of family housing provided in this Act shall be subject to the following limitations on costs, which shall include shades, screens, ranges, refrigerators, and all other installed equipment and fixtures:

"(a) The cost per unit of family housing constructed in the United States (other than Hawaii and Alaska) and Puerto Rico shall not exceed—

"$24,000 for general officers or equivalent;

"$19,800 for colonels or equivalent;

"$17,600 for majors and/or lieutenant colonels or equivalent;

"$15,400 for all other commissioned or warrant officer personnel or equivalent, except that four-bedroom housing units authorized by sections 4774(g), 7574(e), and 9774(g) of title 10, United States Code, may be constructed at a cost not to exceed $17,000;

"$13,200 for enlisted personnel, except that four-bedroom housing units authorized by sections 4774(f), 7574(d), and 9774(f) of title 10, United States Code, may be constructed at a cost not to exceed $15,000.

"(b) When family housing units are constructed in areas other than those listed in subsection (a), the average cost of all such units, in any project of fifty units or more, shall not exceed $32,000, and in no event shall the cost of any unit exceed $40,000.

"(c) The cost limitations provided in subsections (a) and (b) shall be applied to the five-foot line.

"(d) For all units constructed in the areas listed in subsection (a), exclusive of the project for the United States Military Academy at West Point, the average unit cost for each military department shall not exceed $17,500, including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

"(e) No family housing unit in the areas listed in subsection (a) shall be constructed at a total cost exceeding $28,000, including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

"(f) Units constructed at the United States Military Academy, West Point, shall not be subject to the limitations of subsections (a) through (e) of this section, but the average cost of such units shall not exceed $36,000, including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities."

1963 CONSTRUCTION COST LIMITATIONS

Section 502 of Pub. L. 88-174, title V, Nov. 7, 1963, 77 Stat. 325, provided that:

"Authorizations for the construction of family housing provided in this Act shall be subject to the following limitations on cost, which shall include shades, screens, ranges, refrigerators, and all other installed equipment and fixtures:

"(a) The cost per unit of family housing constructed in the United States (other than Alaska), the Canal Zone, and Puerto Rico shall not exceed—

"$22,000 for generals or equivalent;

"$19,800 for colonels or equivalent;

"$17,600 for majors and/or lieutenant colonels or equivalent;

"$15,400 for all other commissioned or warrant officer personnel or equivalent;

"$13,200 for enlisted personnel;

"(b) When family housing units are constructed in areas other than those listed in subsection (a), the average cost of all such units, in any project of 50 units or more, shall not exceed $32,000, and in no event shall the cost of any unit exceed $40,000.

"(c) The cost limitations provided in subsections (a) and (b) shall be applied to the five-foot line.

"(d) No project in excess of 50 units in the areas listed in subsection (a) shall be constructed at an average unit cost exceeding $17,500, including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

"(e) No family housing unit in the areas listed in subsection (a) shall be constructed at a total cost exceeding $26,000, including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities."

1962 CONSTRUCTION COST LIMITATIONS

Section 506 of Pub. L. 87-554 provided that:

"Authorizations for the construction of family housing provided in this Act shall be subject to the following limitations:

"(a) the cost per family unit shall not exceed—

"$22,000 for generals or equivalent;

"$19,800 for colonels or equivalent;

"$17,600 for majors and/or lieutenant colonels or equivalent;

"$15,400 for all other commissioned or warrant officer personnel or equivalent;

"$13,200 for enlisted personnel;

except that when such units are constructed outside the continental United States or in Alaska, the average cost per unit of all such units shall not exceed $32,000, and in no event shall the individual cost exceed $40,000.

"The cost limitations provided in this subsection shall be applied to the five-foot line.

"(b) No project in excess of 50 units at a specific location, other than those constructed outside the continental United States or in Alaska, shall be constructed at an average unit cost exceeding $17,500, including the costs of land acquisition, site preparation, and installation of utilities.

"(c) No family housing unit, other than those constructed outside the continental United States or in Alaska, shall be constructed at a total cost exceeding $26,000, including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities. For the purposes of this section the cost of the family unit shall include ranges, refrigerators, shades, screens, and fixtures."

§ 1594h-2. Improvement of single family housing units; cost limitation

None of the funds authorized by this or any other Act may be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units, when such units are to be converted into or used as a single family housing unit, the costs of which exceed $15,000 per unit including costs of repairs undertaken in connection therewith, and including any costs in connection with (1) the furnishing of electricity, gas, water and sewage disposal; (2) roads and walks; and (3) grading and drainage, unless such improvement in connection with such unit or units is specifically authorized by law. As used in this section the term "improvement" includes alteration, expansion, extension, or rehabilitation of any housing unit or units, including that maintenance and repair which is to be accomplished concurrently with an improvement project. The provisions of this section shall not apply to projects authorized for restoration or replacement of housing units damaged or destroyed.

(Pub. L. 90-110, title VI, § 610(a), Oct. 21, 1967, 81 Stat. 305; Pub. L. 93-166, title V, § 506(a), Nov. 29, 1973, 87 Stat. 675.)

REFERENCES IN TEXT

"This Act", referred to in text, is Pub. L. 90-110, Oct. 21, 1967, 81 Stat. 279, popularly known as the Military Construction Authorization Act, 1968, which, insofar as classified to the Code, enacted sections 5221 and 5222 of Title 10, Armed Forces, amended sections 1594a-1, 1594j, 1594k of this title and section 2287 of Title 50, Appendix, War and National Defense, and enacted provisions set out as a note under section 2674 of Title 10.

AMENDMENTS

1973—Pub. L. 93-166 substituted "$15,000" for "$10,000" as the maximum allowable cost for improving single family housing units and added provision making the section inapplicable to projects authorized for restoration or replacement of housing units damaged or destroyed.

§ 1594i. Authorization of number of family housing units

Notwithstanding the provisions of any other law, and effective July 1, 1958, no family housing units shall be contracted for or acquired at or in support of military installations or activities, and no certificates with respect to any family housing units shall be issued by the Secretary of Defense or his designee or by any of the military departments in connection with section 1748h-2 of title 12, unless the actual

number of units involved has been specifically authorized by an annual military construction authorization Act except (1) housing units acquired pursuant to the provisions of section 1594a of this title; (2) rental guarantee family housing authorized under section 302 of the Act of July 14, 1952 (66 Stat. 606, 622): *Provided,* That not more than five thousand units shall be contracted for under the authority of such section prior to June 30, 1964; and (3) housing units leased for terms of one year, whether renewable or not, or for terms of not more than five years pursuant to the provisions of section 2675 of title 10.

(Pub. L. 85-241, title IV, § 406(a) Aug. 30, 1957, 71 Stat. 556; Pub. L. 85-685, title V, § 512, Aug. 20, 1958, 72 Stat. 662; Pub. L. 86-149, title IV, § 408, Aug. 10, 1959, 73 Stat. 321; Pub. L. 86-500, title V, § 507(b), June 8, 1960, 74 Stat. 185; Pub. L. 87-70, title VI, § 611(b), June 30, 1961, 75 Stat. 180; Pub. L. 88-174, title V, § 510, Nov. 7, 1963, 77 Stat. 327.)

REFERENCES IN TEXT

Section 302 of the act of July 14, 1952, referred to in text, is section 302 of act July 14, 1952, ch. 726, title III, 66 Stat. 622, which was not classified to the Code.

AMENDMENTS

1963—Pub. L. 88-174 inserted the prohibition against issuance of certificates with respect to any family housing units in connection with section 1748h-2 of title 12.

1961—Pub. L. 87-70 eliminated provisions which related to certificates issued by the Secretary of Defense under section 1748h-2 of title 12.

1960—Pub. L. 86-500 prohibited the issuance of certificates with respect to family housing units unless the actual number of units involved has been specifically authorized.

1959—Pub. L. 86-149 excepted rental guarantee family housing.

1958—Pub. L. 85-685 excepted housing units leased, utilizing available operation and maintenance appropriations, for terms of one year, whether renewable or not, or for terms of not more than five years pursuant to the provisions of section 171z-3 of title 5. Section 171z-3 was repealed and the substance thereof now appears in section 2675 of title 10.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3374 of this title; title 10 section 138.

§ 1594j. Repealed. Pub. L. 92-545, title V, § 508(c), Oct. 25, 1972, 86 Stat. 1150

Section, Pub. L. 85-241, title IV, § 407, Aug. 30, 1957, 71 Stat. 556; Pub. L. 85-685, title V, § 516, Aug. 20, 1958, 72 Stat. 664; Pub. L. 86-372, title VII, § 702(c), Sept. 23, 1959, 73 Stat. 683; Pub. L. 86-500, title V, § 508, June 8, 1960, 74 Stat. 186; Pub. L. 87-57, title VI, § 610, June 27, 1961, 75 Stat. 111; Pub. L. 88-174, title V, § 506, Nov. 7, 1963, 77 Stat. 326; Pub. L. 89-568, title V, § 502, Sept. 12, 1966; 80 Stat. 753; Pub. L. 90-110, title VI, § 608, Oct. 21, 1967, 81 Stat. 305, provided for the occupancy on a rental basis of inadequate quarters without the loss of the basic allowance for quarters. See section 1594j-1 of this title.

§ 1594j-1. Inadequate quarters

(a) Notwithstanding the provisions of any other law, members of the uniformed services (as defined in section 101(3) of title 37, with dependents, may occupy on a rental basis, without loss of basic allowance for quarters, inadequate quarters under the jurisdiction of a military department notwithstanding that such quarters may have been constructed or converted for assignment as public quarters, subject to a charge against their basic allowance for quarters in the amount of the fair rental value of the housing facility: *Provided,* That notwithstanding the fair rental value of such family housing facility, no charge for occupancy thereof shall be made against the basic allowance for quarters of the occupant in excess of 75 per centum of such allowance, except that in no event shall the total charge to the occupants' basic allowance for quarters for such housing at any installation be less than the cost of maintenance and operation thereof. The net difference between the basic allowance for quarters and the occupancy charge shall be paid to the occupant from otherwise available appropriations.

(b) The Secretaries of the Military Departments are each authorized, subject to regulations approved by the Secretary of Defense—

(1) to designate as rental housing such housing as he may determine to be inadequate as public quarters; and,

(2) to lease inadequate housing to personnel of any of the mentioned services for occupancy by them and their dependents.

In no event shall more than a total of 20,000 housing units be determined inadequate as public quarters under authority of this section.

(Pub. L. 92-545, title V, § 508(a), (b), Oct. 25, 1972, 86 Stat. 1149.)

§ 1594k. Foreign countries; guarantee of rental return to builders or other sponsors; limitation on amount; period; unit limitation

For the purpose of providing military family housing in foreign countries, the Secretary of Defense is authorized to enter into agreements guaranteeing the builders or other sponsors of such housing a rental return equivalent to a specified portion of the annual rental income which the builders or other sponsors would receive from the tenants if the housing were fully occupied: *Provided,* That the aggregate amount guaranteed under such agreements entered into during the fiscal years 1974 and 1975 shall not exceed such amount as may be applicable to five thousand units: *Provided further,* That no such agreement shall guarantee the payment of more than 97 per centum of the anticipated rentals, nor shall any guarantee extend for a period of more than ten years, nor shall the average guaranteed rental on any project exceed $275 per unit per month, including the cost of maintenance and operation.

(Pub. L. 88-174, title V, § 507, Nov. 7, 1963, 77 Stat. 326; Pub. L. 89-188, title V, § 505, Sept. 16, 1965, 79 Stat. 814; Pub. L. 90-110, title VI, § 605, Oct. 21, 1967, 81 Stat. 304; Pub. L. 90-408, title VI, § 607, July 21, 1968, 82 Stat. 388; Pub. L. 91-142, title V, § 508, Dec. 5, 1969, 83 Stat. 312; Pub. L. 91-511, title V, § 507, Oct. 26, 1970, 84 Stat. 1220; Pub. L. 92-145, title V, § 507, Oct. 27, 1971, 85 Stat. 407; Pub. L. 92-545, title V, § 507, Oct. 25, 1972, 86 Stat. 1149; Pub. L. 93-166, title V, § 508, Nov. 29, 1973, 87 Stat. 676.)

AMENDMENTS

1973—Pub. L. 93-166 substituted "1974 and 1975" for "1973 and 1974" and increased guaranteed rental limitation from "$225" to "$275".

1972—Pub. L. 92-545 substituted "1973 and 1974" for "1972 and 1973" and increased guaranteed rental limitation from "$210" to "$225".

1971—Pub. L. 92-145 substituted "1972 and 1973" for "1971 and 1972" and increased guaranteed rental limitation from "$185" to "$210".

1970—Pub. L. 91-511, in substituting "1971 and 1972" for "1970 and 1971", provided for guaranteed rental for fiscal year 1972.

1969—Pub. L. 91-142, in substituting "1970 and 1971" for "1969 and 1970", provided for guaranteed rental for fiscal year 1971.

1968—Pub. L. 90-408 substituted "1969 and 1970" for "1968 and 1969".

1967—Pub. L. 90-110 authorized guarantee of rental return to other sponsors and increased guaranteed rental limitation from $150 for fiscal years 1966 and 1967 to $185 for fiscal years 1968 and 1969.

1965—Pub. L. 89-188 substituted provision for guarantee of rental return to builders for agreements entered into during fiscal years 1966 and 1967 for former provision for such guarantee for fiscal years 1964 and 1965.

CHAPTER 10—FEDERAL SECURITY AGENCY

§§ 1601, 1602. Transferred

CODIFICATION

Section 1601, act May 9, 1941, ch. 97, 55 Stat. 184; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, related to the adoption of a seal by the Secretary of the Department of Health, Education, and Welfare, and was transferred to section 3505 of this title.

Section 1602, act July 12, 1943, ch. 221, title II, § 201, 57 Stat. 513; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, related to the delegation of authority of the Secretary of Health, Education, and Welfare with respect to his authority to transfer personnel and household goods from one station to another, and was transferred to section 3507 of this title.

§ 1603. Omitted

CODIFICATION

Section, acts July 13, 1943, ch. 221, title II, § 1, 57 Stat. 513; June 28, 1944, ch. 302, title II, § 1, 58 Stat. 566; July 3, 1945, ch. 263, title II, 59 Stat. 376; July 26, 1946, ch. 672, title II, § 201, 60 Stat. 697; July 8, 1947, ch. 210, title II, § 201, 61 Stat. 276, which authorized the Secretary of the Treasury to transfer to constituent organizations of the Federal Security Agency requested amounts from appropriations for traveling expenses and printing and binding, Federal Security Agency, and to retransfer to such appropriations, was not repeated in subsequent acts, and expired with the appropriation acts of which it was a part.

CHAPTER 11—COMPENSATION FOR DISABILITY OR DEATH TO PERSONS EMPLOYED AT MILITARY, AIR, AND NAVAL BASES OUTSIDE THE UNITED STATES

Sec.
1651. Compensation authorized.
(a) Places of employment.
(b) Definitions.
(c) Liability as exclusive.
(d) Definition of contractor.
(e) Contracts within section; waiver of application of section.
(f) Liability to prisoners of war and protected persons.
1652. Computation of benefits; application to aliens and nonnationals.
1653. Compensation districts; judicial proceedings
1654. Persons excluded from benefits.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1701, 1704 of this title; title 33 section 941; title 50 App. section 2003.

§ 1651. Compensation authorized

(a) Places of employment

Except as herein modified, the provisions of the Longshoremen's and Harbor Workers' Compensation Act, approved March 4, 1927 (44 Stat. 1424), as amended [33 U.S.C. 901 et seq.], shall apply in respect to the injury or death of any employee engaged in any employment—

(1) at any military, air, or naval base acquired after January 1, 1940, by the United States from any foreign government; or

(2) upon any lands occupied or used by the United States for military or naval purposes in any Territory or possession outside the continental United States (including the United States Naval Operating Base, Guantanamo Bay, Cuba; and the Canal Zone); or

(3) upon any public work in any Territory or possession outside the continental United States (including the United States Naval Operating Base, Guantanamo Bay, Cuba; and the Canal Zone), if such employee is engaged in employment at such place under the contract of a contractor (or any subcontractor or subordinate subcontractor with respect to the contract of such contractor) with the United States; but nothing in this paragraph shall be construed to apply to any employee of such a contractor or subcontractor who is engaged exclusively in furnishing materials or supplies under his contract;

(4) under a contract entered into with the United States or any executive department, independent establishment, or agency thereof (including any corporate instrumentality of the United States), or any subcontract, or subordinate contract with respect to such contract, where such contract is to be performed outside the continental United States and at places not within the areas described in subparagraphs (1)-(3) of this subdivision, for the purpose of engaging in public work, and every such contract shall contain provisions requiring that the contractor (and subcontractor or subordinate contractor with respect to such contract) (1) shall, before commencing performance of such contract, provide for securing to or on behalf of employees engaged in such public work under such contract the payment of compensation and other benefits under the provisions of this chapter, and (2) shall maintain in full force and effect during the term of such contract, subcontract, or subordinate contract, or while employees are engaged in work performed thereunder, the said security for the payment of such compensation and benefits, but nothing in this paragraph shall be construed to apply to any employee of such contractor or subcontractor who is engaged exclusively in furnishing materials or supplies under his contract;

(5) under a contract approved and financed by the United States or any executive department, independent establishment, or agency thereof (including any corporate instrumentality of the United States), or any subcontract or subordinate contract with respect to such contract, where such contract is to be performed outside the continental United States, under the Mutual Security Act of 1954, as amended (other than title II of chapter II thereof unless the Secretary of Labor, upon the recommendation of the head of any department or other agency of the United States, determines a contract financed under a successor provision of any successor Act should be covered by this section), and not otherwise within the coverage of this section, and every such contract shall contain provisions requiring that the contractor (and subcontractor or subordinate contractor with respect to such contract) (A) shall, before commencing performance of such contract, provide for securing to or on behalf of employees engaged in work under such contract the payment of compensation and other benefits under the provisions of this chapter, and (B) shall maintain in full force and effect during the term of such contract, subcontract, or subordinate contract, or while employees are engaged in work performed thereunder, the said security for the payment of such compensation and benefits, but nothing in this paragraph shall be construed to apply to any employee of such contractor or subcontractor who is engaged exclusively in furnishing materials or supplies under his contract;

(6) outside the continental United States by an American employer providing welfare or similar services for the benefit of the Armed Forces pursuant to appropriate authorization by the Secretary of Defense,

irrespective of the place where the injury or death occurs, and shall include any injury or death occurring to any such employee during transportation to or from his place of employment, where the employer or the United States provides the transportation or the cost thereof.

(b) Definitions

As used in this section—

(1) the term "public work" means any fixed improvement or any project, whether or not fixed, involving construction, alteration, removal or repair for the public use of the United States or its allies, including but not limited to projects or operations under service contracts and projects in connection with the national defense or with war activities, dredging, harbor improvements, dams, roadways, and housing, as well as preparatory and ancillary work in connection therewith at the site or on the project;

(2) the term "allies" means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance;

(3) the term "war activities" includes activities directly relating to military operations.

(4) the term "continental United States" means the States and the District of Columbia.

(c) Liability as exclusive

The liability of an employer, contractor (or any subcontractor or subordinate subcontractor with respect to the contract of such contractor) under this chapter shall be exclusive and in place of all other liability of such employer, contractor, subcontractor, or subordinate contractor to his employees (and their dependents) coming within the purview of this chapter, under the workmen's compensation law of any State, Territory, or other jurisdiction, irrespective of the place where the contract of hire of any such employee may have been made or entered into.

(d) Definition of contractor

As used in this section, the term "contractor" means any individual, partnership, corporation, or association, and includes any trustee, receiver, assignee, successor, or personal representative thereof, and the rights, obligations, liability, and duties of the employer under such Longshoremen's and Harbor Workers' Compensation Act [33 U.S.C. 901 et seq.] shall be applicable to such contractor.

(e) Contracts within section; waiver of application of section

The liability under this chapter of a contractor, subcontractor, or subordinate contractor engaged in public work under subparagraphs (3) and (4), subdivision (a) of this section, and the conditions set forth therein, shall become applicable to contracts and subcontracts heretofore entered into but not completed at August 16, 1941, and the liability under this chapter of a contractor, subcontractor, or subordinate contractor engaged in performance of contracts, subcontracts, or subordinate contracts specified in subparagraph (5), subdivision (a) of this section, and the conditions set forth therein, shall hereafter be applicable to the remaining terms of such contracts, subcontracts, and subordinate contracts entered into prior to but not completed on the date of enactment of any successor Act to the Mutual Security Act of 1954, as amended, and contracting officers of the United States are authorized to make such modifications and amendments of existing contracts as may be necessary to bring such contracts into conformity with the provisions of this chapter. No right shall arise in any employee or his dependent under subparagraphs (3) and (4) of subdivision (a) of this section, prior to two months after the approval of this chapter. Upon the recommendation of the head of any department or other agency of the United States, the Secretary of Labor, in the exercise of his discretion, may waive the application of this section with respect to any contract, subcontract, contract, or subordinate contract, work location under such contracts, or classification of employees. Upon recommendation of any employer referred to in paragraph (6) of subsection (a) of this section, the Secretary of Labor may waive the application of this section to any employee or class of employees of such employer, or to any place of employment of such an employee or class of employees.

(f) Liability to prisoners of war and protected persons

The liability under this chapter of a contractor, subcontractor, or subordinate contractor engaged in public work under paragraphs (1), (2), (3), and (4) of subsection (a) of this section or in any work under paragraph (5) of subsection (a) of this section does not apply with respect to any person who is a prisoner of war or a protected person under the Geneva Conventions of 1949 and who is detained or utilized by the United States.

(Aug. 16, 1941, ch. 357, § 1, 55 Stat. 622; Dec. 2, 1942, ch. 668, title III, § 301, 56 Stat. 1035; 1946 Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352; June 30, 1953, ch. 176, § 4, 67 Stat. 135; June 30, 1958, Pub. L. 85-477, ch. V, § 502(a), 72 Stat. 272; Aug. 8, 1958, Pub. L. 85-608, title II, § 201, 72 Stat. 537; June 25, 1959, Pub. L. 86-20, § 40, 73 Stat. 150; July 24, 1959, Pub. L. 86-108, ch. VII, § 701(a), 73 Stat. 257; Sept. 4, 1961, Pub. L. 87-195, pt. IV, § 701, 75 Stat. 463.)

References in Text

The Longshoremen's and Harbor Workers' Compensation Act, referred to in subsecs. (a) and (d), is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, as amended, which is classified generally to chapter 18 (§ 901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables volume.

The Mutual Security Act of 1954, referred to in subsecs. (a)(5) and (e), is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§ 2 to 11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85-141, 71 Stat. 355; June 30, 1958, Pub. L. 85-477, ch. 1, §§ 101 to 103, ch. II, §§ 201 to 205, ch. III, § 301, ch. IV, § 401, ch. V, § 501, 72 Stat. 261; July 24, 1959, Pub. L. 86-108, § 2, ch. 1, § 101, ch. II, §§ 201 to 205(a) to (i), (k) to (n), ch. III, § 301, ch. IV, § 401(a) to (k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86-472, chs. I to V, 74 Stat. 134, which was principally classified to chapter 24 (§ 1750 et seq.) of Title 22, Foreign Relations and Intercourse, and which was repealed by acts July 18, 1956, ch. 627, § 8(m), 70 Stat. 559; Aug. 14, 1957, Pub. L. 85-141, §§ 2(e), 3, 4(b), 11(d), 71 Stat. 356; July 24, 1959, Pub. L. 86-108, ch. II, § 205(j), ch. IV, § 401(1), 73 Stat. 250; May 14, 1960, Pub. L. 86-472, ch. II, §§ 203(d), 204(k), 74 Stat. 138; Sept. 4, 1961, Pub. L. 87-195, pt. III, § 642(a)(2), 75 Stat. 460; June 30, 1976, Pub. L. 94-329, title II, § 212(b)(1), 90 Stat. 745, except for sections 1754, 1783, 1796, 1853, 1922, 1928, and 1937 of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of Title 22 and Tables volume.

Title II of Chapter II of the Mutual Security Act of 1954, referred to in subsec. (a)(5), was classified generally to sections 1870 to 1876 of title 22, Foreign Relations and Intercourse, and was repealed by Pub. L. 87-195, Pt. III, § 642(a)(2), Sept. 4, 1961, 75 Stat. 460.

Codification

Reference to Philippine Islands in paragraphs (2) and (3) in subsec. (a) was omitted as obsolete in view of Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352, recognizing the independence of the Philippines and withdrawing and surrendering all rights of possession, supervision, jurisdiction, control, or sovereignty now existing and exercised by the United States in and over the territory and people of the Philippines. See note set out under section 1394 of Title 22, Foreign Relations and Intercourse.

Amendments

1961—Subsec. (a)(5). Pub. L. 87-195, § 701(1), extended coverage in those cases where the Secretary of Labor, upon the recommendation of the head of any department or other agency of the United States, determines a contract financed under a successor provision of any successor act to the Mutual Security Act of 1954 should be covered by this section.

Subsec. (e). Pub. L. 87-195, § 701(2), substituted "but not completed on the date of enactment of any successor act to the Mutual Security Act of 1954, as amended" for "June 30, 1958, but not completed on July 24, 1959".

1959—Subsec. (a)(2). Pub. L. 86-70, § 40(a), eliminated "Alaska;" preceding "the United States Naval Operating Base".

Subsec. (a)(3). Pub. L. 86-70, § 40(a), eliminated "Alaska;" preceding "the United States Naval Operating Base".

Subsec. (a)(6). Pub. L. 86-70, § 40(b), eliminated words "or in Alaska or the Canal Zone" following "continental United States".

Subsec. (b)(4). Pub. L. 86-70, § 40(c), added subsec. (b)(4).

Subsec. (e). Pub. L. 86-108 provided that the liability under this chapter of a contractor, subcontractor, or subordinate contractor engaged in performance of contracts, subcontracts, or subordinate contracts specified in subsec. (a)(5) of this section, and the conditions set forth therein, shall be applicable to the remaining terms of such contracts, subcontracts, and subordinate contracts entered into prior to June 30, 1958, but not completed on July 24, 1959.

1958—Subsec. (a)(5). Pub. L. 85-477, § 502(a)(1) added subsec. (a)(5).

Subsec. (a)(6). Pub. L. 85-608, § 201(a) added subsec. (a)(6).

Subsec. (b). Pub. L. 85-608, § 201(b), inserted "whether or not fixed," following "any project" and substituted "projects or operations under service contracts and projects in connection with the national defense or with war activities" for "projects in connection with the war effort" in the definition of "public work", and added the definitions of "allies" and "war activities".

Subsec. (e). Pub. L. 85-608, § 201(c), substituted "may waive the application of this section with respect to any contract" for "may waive the application of the provisions of subparagraphs (3), (4), or (5) of subdivision (a) of this section, with respect to any contract", and inserted provisions authorizing the Secretary to waive the application of this section to any employee or class of employees of an employer referred to in paragraph (6) of subsection (a) of this section upon recommendation of the employer.

Subsec. (e). Pub. L. 85-477, § 502(a)(2), substituted "provisions of subparagraphs (3), (4), or (5)" for "provisions of subparagraphs (3) or (4)".

Subsec. (f). Pub. L. 85-602, § 201(d), substituted provisions making liability of a contractor, subcontractor, or subordinate contractor inapplicable with respect to persons who are prisoners of war or protected persons and who are detained or utilized by the United States for provisions which made liability inapplicable with respect to employees not citizens of the United States who incurred an injury or death resulting in death subsequent to June 30, 1953.

Subsec. (f). Pub. L. 85-477, § 502(a)(3), inserted "or any work under subparagraph (5) of subsection (a) of this section" preceding "shall not apply".

1953—Subsec. (f). Act June 30, 1953 added subsec. (f).

1942—Act Dec. 2, 1942, amended section generally. Said section formerly read as follows: "Except as herein modified, the provisions of sections 901-921, 922-950 of title 33, as amended, and as the same may be amended hereafter, shall apply in respect to the injury or death of any employee engaged in any employment at any military, air, or naval base acquired after January 1, 1940, by the United States from any foreign government or any lands occupied or used by the United States for military or naval purposes in

any Territory or possession outside the continental United States, including Alaska, Guantanamo, and the Philippine Islands, but excluding the Canal Zone, irrespective of the place where the injury or death occurs."

EFFECTIVE DATE OF 1959 AMENDMENT

Section 47(g) of Pub. L. 86-70 provided that: "The amendments in sections 40 and 42 [to this section and sections 1701, 1704 and 1711 of this title] shall take effect when enacted [June 25, 1959]: *Provided, however,* That with respect to injuries or deaths occurring on or after January 3, 1959, and prior to the effective date of these amendments, claims filed by employees engaged in the State of Alaska in any of the employments covered by the Defense Base Act [this chapter] (and their dependents) may be adjudicated under the Workmen's Compensation Act of Alaska instead of the Defense Base Act."

EFFECTIVE DATE OF 1958 AMENDMENT

Section 402 of Pub. L. 85-608 provided that: "The effective date of this Act [amending this section and sections 1701, 1702, 1704, 1711 and 1716 of this title, and sections 751 and 790 of former Title 5, Executive Departments and Government Officers and Employees, repealing section 801 of title 5, and enacting notes set out under this section and section 1701 of this title] is June 30, 1958. Persons are entitled to the benefits of this Act notwithstanding the fact that an injury, disability, or death occurred after June 30, 1958, and before the date of enactment of this Act [August 8, 1958]."

SHORT TITLE

Section 5 of act Aug. 16, 1941, as added by Pub. L. 85-608, title II, § 202, Aug. 8, 1958, 72 Stat. 538, provided that: "This Act [which enacted this chapter] may be cited as the 'Defense Base Act'."

REPEALS

Section 701 of Pub. L. 87-195, which amended this section, was repealed by section 401 of Pub. L. 87-565, pt. IV, Aug. 1, 1962, 76 Stat. 263, except insofar as section 701 affected this section.

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

TRANSFER OF FUNCTIONS

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40 [App. A(74)], July 22, 1949.

CROSS REFERENCES

"Allies" and "war effort" as used in subsec. (b) defined, see section 1711 of this title.

Compensation for injury, death, or detention of employees of contractors with United States outside of the United States, see section 1701 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701 of this title.

§ 1652. Computation of benefits; application to aliens and nonnationals

(a) The minimum limit on weekly compensation for disability, established by section 906(b) of title 33, and the minimum limit on the average weekly wages on which death benefits are to be computed, established by section 909(e) of title 33, shall not apply in computing compensation and death benefits under this chapter.

(b) Compensation for permanent total or permanent partial disability under section 908(c)(21) of title 33, or for death under this chapter to aliens and nonnationals of the United States not residents of the United States or Canada shall be in the same amount as provided for residents, except that dependents in any foreign country shall be limited to surviving wife and child or children, or if there be no surviving wife or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of one year immediately prior to the date of the injury, and except that the Secretary of Labor may, at his option or upon the application of the insurance carrier shall, commute all future installments of compensation to be paid to such aliens or nonnationals of the United States by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the Secretary.

(Aug. 16, 1941, ch. 357, § 2, 55 Stat. 623.)

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

§ 1653. Compensation districts; judicial proceedings

(a) The Secretary of Labor is authorized to extend compensation districts established under the Longshoremen's and Harbor Workers' Compensation Act, approved March 4, 1927 (44 Stat. 1424) [33 U.S.C. 901 et seq.], or to establish new compensation districts, to include any area to which this chapter applies; and to assign to each such district one or more deputy commissioners, as the Secretary may deem necessary.

(b) Judicial proceedings provided under sections 18 and 21 of the Longshoremen's and Harbor Workers' Compensation Act [33 U.S.C. 918, 921] in respect to a compensation order made pursuant to this chapter shall be instituted in the United States district court of the judicial district wherein is located the office of the deputy commissioner whose compensation order is involved if his office is located in a judicial district, and if not so located, such judicial proceedings shall be instituted in the judicial district nearest the base at which the injury or death occurs.

(Aug. 16, 1941, ch. 357, § 3, 55 Stat. 623.)

REFERENCES IN TEXT

The Longshoremen's and Harbor Workers' Compensation Act, is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, as amended, which is classified generally to chapter 18 (§ 901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables volume.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

CROSS REFERENCES

Establishment of compensation districts under Longshoremen's and Harbor Workers' Compensation Act, see section 939 of Title 33, Navigation and Navigable Waters.

§ 1654. Persons excluded from benefits

This chapter shall not apply in respect to the injury or death of (1) an employee subject to the provisions of subchapter I of chapter 81 of title 5; (2) an employee engaged in agriculture, domestic service, or any employment that is casual and not in the usual course of the trade, business, or profession of the employer; and (3) a master or member of a crew of any vessel.

(Aug. 16, 1941, ch. 357, § 4, 55 Stat. 623.)

CODIFICATION

"Subchapter I of chapter 81 of title 5" was substituted for reference to act Sept. 7, 1916 (39 Stat. 742), known as the Federal Employees' Compensation Act, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

CHAPTER 12—COMPENSATION FOR INJURY, DEATH, OR DETENTION OF EMPLOYEES OF CONTRACTORS WITH THE UNITED STATES OUTSIDE THE UNITED STATES

SUBCHAPTER I—COMPENSATION, REIMBURSEMENT, ETC., BY SECRETARY OF LABOR

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REPEALS

Section 6 of act June 30, 1953, ch. 176, 67 Stat. 135, repealed section 1(a)(13) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 332, which, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, provided for the continuation of this chapter until July 1, 1953.

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 5 section 8146a; title 7 section 1933; title 50 app. sections 1291, 2003, 2004.

SUBCHAPTER I—COMPENSATION, REIMBURSEMENT, ETC., BY SECRETARY OF LABOR

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1712, 1713, 1714, 1715, 1717 of this title; title 50 App. section 2004.

§ 1701. Compensation for injury or death resulting from war-risk hazard

(a) Persons covered

In case of injury or death resulting from injury—

(1) to any person employed by a contractor with the United States, if such person in an employee specified in chapter 11 of this title, and no compensation is payable with respect to such injury or death under such chapter; or

(2) to any person engaged by the United States under a contract for his personal services outside the continental United States; or

(3) to any person employed outside the continental United States as a civilian employee paid from nonappropriated funds administered by the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Store Ashore, Navy exchanges, Marine Corps exchanges, officers' and noncommissioned officers' open messes, enlisted men's clubs, service clubs, special service activities, or any other instrumentality of the United States under the jurisdiction of the Department of Defense and conducted for the mental, physical, and morale improvement of personnel of the Department of Defense and their dependents; or

(4) to any person who is an employee specified in section 1651(a)(5) of this title, if no compensation is payable with respect to such injury or death under chapter 11 of this title or to any person engaged under a contract for his personal services outside the United States approved and financed by the United States under the Mutual Security Act of 1954, as amended (other than title II of chapter II thereof unless the Secretary of Labor, upon the recommendation of the head of any department or other agency of the United States Government, determines a contract financed under a successor provision of any successor Act should be covered by this section): *Provided,* That in cases where the United States is not a formal party to contracts approved and financed under the Mutual Security Act of 1954, as amended, the Secretary, upon the recommendation of the head of any department or agency of the United States, may, in the exercise of his discretion, waive the application of the provisions of this subparagraph with respect to any such contracts, subcontracts, or subordinate contracts, work location under such contracts, subcontracts, or subordinate contracts, or classification of employees; or

(5) to any person employed or otherwise engaged for personal services outside the continental United States by an American employer providing welfare or similar services for the benefit of the Armed Forces pursuant to appropriate authorization by the Secretary of Defense,

and such injury proximately results from a war-risk hazard, whether or not such person then actually was engaged in the course of his employment, the provisions of subchapter I of chapter 81 of title 5, as amended, and as modified by this chapter, shall apply with respect thereto in the same manner and to the same extent as if the person so employed were a civil employee of the United States and were injured while in the performance of his duty, and any compensation found to be due shall be paid from the compensation fund established pursuant to section 8147 of title 5. This subsection shall not be construed to include any person who would otherwise come within the purview of subchapter I of chapter 81 of title 5.

(b) Missing persons considered as totally disabled

(1) Any person specified in subsection (a) of this section who—

(A) is found to be missing from his place of employment, whether or not such person then actually was engaged in the course of his employment, under circumstances supporting an inference that his absence is due to the belligerent action of a hostile force or person, or

(B) is known to have been taken by a hostile force or person as a prisoner, hostage, or otherwise, or

(C) is not returned to his home or to the place where he was employed by reason of the failure of the United States or its contractor to furnish transportation,

until such time as he is returned to his home, to the place of his employment, or is able to be returned to the jurisdiction of the United States, shall, under such regulations as the Secretary may prescribe, be regarded solely for the purposes of this subsection as totally disabled, and the same benefits as are provided for such disability under this subchapter shall be credited to his account and be payable to him for the period of such absence or until his death is in fact established or can be legally presumed to have occurred: *Provided,* That if such person has dependents residing in the United States or its Territories or possessions (including the United States Naval Operating Base, Guantanamo Bay, Cuba, the Canal Zone, and the Philippine Islands), the Secretary during the period of such absence may disburse a part of such compensation, accruing for such total disability, to such dependents, which shall be equal to the monthly benefits otherwise payable for death under this subchapter, and the balance of such compensation for total disability shall accrue and be payable to such person upon his return from such absence. Any payment made pursuant to this subsection shall not in any case be included in computing the maximum aggregate or total compensation payable for disability or death, as provided in section 1702(a) of this title: *Provided further,* That no such payment to such person or his dependent, on account of such absence, shall be made during any period such person or dependent, respectively, has received, or may be entitled to receive, any other payment from the United States, either directly or indirectly, because of such absence, unless such person or dependent refunds or renounces such other benefit or payment for the period claimed.

Benefits found to be due under this subsection shall be paid from the compensation fund established pursuant to section 8147 of title 5: *Provided,* That the determination of dependents, dependency, and amounts of payments to dependents shall be made in the manner specified in subchapter I of chapter 81 of title 5: *Provided further,* That claim for such detention benefits shall be filed in accordance with and subject to the limitation provisions of subchapter I of chapter 81 of title 5, as modified by section 1706(c) of this title: *And provided further,* That except in cases of fraud or willful misrepresentation, the Secretary may waive recovery of money erroneously paid under this subdivision whenever he finds that such recovery would be impracticable or would cause hardship to the beneficiary affected: *And provided further,* That where such a person is found to be missing from his place of employment whether or not such person then actually

was engaged in the course of his employment, under circumstances supporting an inference that his absence is due to the belligerent action of a hostile force or person or is known to have been taken by a hostile force or person as a prisoner, hostage, or otherwise, the amount of benefits to be credited to the account of such person under this subsection, and for the purposes of this subsection only, shall be 100 per centum of the average weekly wages of such person, except that in computing such benefits such average weekly wages (a) shall not exceed the average weekly wages paid to civilian employees of the United States in the same or most similar occupation in the area nearest to the place of employment where such person was last employed, and (b) shall not exceed the average weekly wages of such absent person at the time such absence began; and 70 per centum of such average weekly wage so determined shall be disbursed to the dependent or dependents of such person, irrespective of the limitations of section 909 of title 33, but should there be more than one such dependent, the distribution of such 70 per centum shall be proportionate to the percentages allowed for dependents by section 909 of title 33, and if such manner of disbursement in any case would result in injustice or excessive allowance for a dependent, the Secretary may, in his discretion, modify such percentage or apportionment to meet the requirements of the case; and in such cases benefits for detention shall accrue from January 1, 1942, unless the beginning of absence occurred upon a later date in which event benefits shall accrue from such later date, and for the period of such absence shall be 100 per centum of the average weekly wages, determined as herein provided: *And provided further,* That compensation for disability under this subchapter (except under allowance for scheduled losses of members or functions of the body, within the purview of section 1702(a) of this title) shall not be paid in any case in respect to any period of time during which benefits for detention may accrue under this subchapter in the same case, and should a person entitled to benefits for detention also be entitled to workmen's compensation or similar benefits under any other law, agreement, or plan (except allowances for scheduled losses of members or functions of the body), where such other benefits are paid or to be paid directly or indirectly by the United States, the amount thereof accruing as to the period of absence shall be taken into account and the benefits credited to the account of the detained person reduced accordingly: *And provided further,* That where through mistake of fact, absence of proof of death, or error through lack of adequate information or otherwise, payments as for detention have in any case been erroneously made or credited, any resulting overpayment of detention benefits (the recovery of which is not waived as otherwise provided for in this section) shall be recouped by the Secretary in such manner as he shall determine from any unpaid accruals to the account of the detained person, and if such accruals are insufficient for such purpose, then from any allowance of compensation for injury or death in the same case (whether under this subchapter or under any other law, agreement, or plan, if the United States pays, or is obligated to pay, such benefits, directly or indirectly), but only to the extent of the amount of such compensation benefits payable for the particular period of such overpayment, and in cases of erroneous payments of compensation for injury or death, made through mistake of fact, whether under this subchapter or under any other law, agreement, or plan (if the United States is obligated to pay such compensation, directly or indirectly), the Secretary is authorized to recoup from any unpaid benefits for detention, the amount of any overpayment thus arising and any amounts recovered under this section shall be covered into such compensation fund, and for the foregoing purposes the Secretary shall have a right of lien, intervention, and recovery in any claim or proceeding for compensation.

(2) Upon application by such person, or someone on his behalf, the Secretary may, under such regulations as he may prescribe, furnish transportation or the cost thereof (including reimbursement) to any such person from the point where his release from custody by a hostile force or person is effected, to his some, the place of his employment, or other place within the jurisdiction of the United States; but no transportation, or the cost thereof, shall be furnished under this paragraph where such person is furnished such transportation, or the cost thereof, under any agreement with his employer or under any other provision of law.

(3) In the case of death of any such person, if his death occurred away from his home, the body of such person shall, in the discretion of the Secretary, and if so desired by his next of kin, near relative, or legal representative, be embalmed and transported in a hermetically sealed casket or other appropriate container to the home of such person or to such other place as may be designated by such next of kin, near relative, or legal representative. No expense shall be incurred under this paragraph by the Secretary in any case where death takes place after repatriation, unless such death proximately results from a war-risk hazard.

(4) Such benefits for detention, transportation expenses of repatriated persons, and expenses of embalming, providing sealed or other appropriate container, and transportation of the body, and attendants (if required), as approved by the Secretary, shall be paid out of the compensation fund established under section 8147 of title 5.

(c) Persons not citizens or residents of United States

Compensation for permanent total or permanent partial disability or for death payable under this section to persons who are not citizens of the United States and who are not residents of the United States or Canada, shall be in the same amount as provided for residents; except that dependents in any foreign country shall be limited to surviving wife or husband and child or children, or if there be no surviving wife or husband or child or children, to surviving father or mother whom such person has supported, either wholly or in part, for the period of one year immediately prior to the date of the injury; and except that the Secretary, at his option, may commute all future installments of compensation to be paid to such

persons by paying to them one-half of the commuted amount of such future installments of compensation as determined by the Secretary.

(d) Persons excepted from coverage

The provisions of this section shall not apply in the case of any person (1) whose residence is at or in the vicinity of the place of his employment, and (2) who is not living there solely by virtue of the exigencies of his employment, unless his injury or death resulting from injury occurs or his detention begins while in the course of his employment, or (3) who is a prisoner of war or a protected person under the Geneva Conventions of 1949 and who is detained or utilized by the United States.

(Dec. 2, 1942, ch. 668, title I, § 101, 56 Stat. 1028; Dec. 23, 1943, ch. 380, title I, 57 Stat. 626; Aug. 7, 1946, ch. 805, § 1, 60 Stat. 899; June 30, 1953, ch. 176, § 3, 67 Stat. 135; June 30, 1958, Pub. L. 85-477, ch. V, § 502(g), 72 Stat. 273; Aug. 8, 1958, Pub. L. 85-608, title I, §§ 101, 104, title IV, § 401, 72 Stat. 536, 537, 539; June 25, 1959, Pub. L. 86-70, § 42(a), 73 Stat. 151; Sept. 4, 1961, Pub. L. 87-195, pt. IV, § 702, 75 Stat. 463.)

REFERENCES IN TEXT

The Mutual Security Act of 1954, referred to in subsec. (a)(4), is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§ 2 to 11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85-141, 71 Stat. 355; June 30, 1958, Pub. L. 85-477, ch. 1, §§ 101 to 103, ch. II, §§ 201 to 205, ch. III, § 301, ch. IV, § 401, ch. V, § 501, 72 Stat. 261; July 24, 1959, Pub. L. 86-108, § 2, ch. 1, § 101, ch. II, §§ 201 to 205(a) to (i), (k) to (n), ch. III, § 301, ch. IV, § 401(a) to (k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86-472, chs. I to V, 74 Stat. 134, which was principally classified to chapter 24 (§ 1750 et seq.) of Title 22, Foreign Relations and Intercourse, and which was repealed by acts July 18, 1956, ch. 627, § 8(m), 70 Stat. 559; Aug. 14, 1957, Pub. L. 85-141, §§ 2(e), 3, 4(b), 11(d), 71 Stat. 356; July 24, 1959, Pub. L. 86-108, ch. II, § 205(j), ch. IV, § 401(1), 73 Stat. 250; May 14, 1960, Pub. L. 86-472, ch. II, §§ 203(d), 204(k), 74 Stat. 138; Sept. 4, 1961, Pub. L. 87-195, pt. III, § 642(a)(2), 75 Stat. 460; June 30, 1976, Pub. L. 94-329, title II, § 212(b)(1), 90 Stat. 745, except for sections 1754, 1783, 1796, 1853, 1922, 1928, and 1937 of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of Title 22 and Tables volume.

Title II of chapter II of the Mutual Security Act of 1954, referred to in subsec. (a)(4), was classified generally to sections 1870 to 1876 of Title 22, Foreign Relations and Intercourse, and was repealed by Pub. L. 87-195, Pt. III, § 642(a)(2), Sept. 4, 1961, 75 Stat. 460.

The reference to the Philippine Islands in subsec. (b)(1) is obsolete in view of Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352, which recognized the independence of the Philippines and withdrew and surrendered all rights of possession, supervision, jurisdiction, control, or sovereignty existing and exercised by the United States in and over the territory and people of the Philippines.

CODIFICATION

In subsecs. (a) and (b), "subchapter I of chapter 81 of title 5" and "section 8147 of title 5" were substituted for references to act September 7, 1916, as amended, and section 35 of that Act, respectively, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees. Prior to the enactment of Title 5, the act of September 7, 1916, known as the Federal Employees' Compensation Act, was classified to chapter 15 of Title 5.

AMENDMENTS

1961—Subsec. (a)(4). Pub. L. 87-195 extended coverage in those cases where the Secretary of Labor, upon the recommendation of the head of any department or other agency of the U.S. Government, determines a contract financed under a successor provision of any successor act to the Mutual Security Act of 1954 should be covered by this section.

1959—Subsec. (a). Pub. L. 86-70 eliminated words "or in Alaska or the Canal Zone" following "continental United States" in pars. (2), (3) and (5).

1958—Subsec. (a)(2). Pub. L. 85-608, § 101(a), substituted "outside the continental United States or in Alaska or the Canal Zone" for "outside the United States or in Hawaii, Alaska, Puerto Rico, or the Virgin Islands".

Subsec. (a)(3). Pub. L. 85-608, § 101(b), substituted provisions relating to injuries to civilian employees outside the continental United States or in Alaska or the Canal Zone paid from nonappropriated funds and who are employed in connection with activities conducted for the mental, physical, and morale improvement of personnel of the Department of Defense and their dependents for provisions which related to injuries to persons employed as civilian employees of post exchanges or ship-service stores outside the United States or in Hawaii, Alaska, Puerto Rico, or the Virgin Islands.

Subsec. (a)(4). Pub. L. 85-477 added subsec. (a)(4).

Subsec. (a)(5). Pub. L. 85-608, § 101(c) added subsec. (a)(5).

Subsec. (b). Pub. L. 85-608, § 104, substituted "a hostile force or person" for "an enemy" in four instances and for "the enemy" in one instance.

Subsec. (c). Pub. L. 85-608, § 401, reenacted subsec. (c) and also repealed section 2 of act June 30, 1953, which had previously repealed subsec. (c).

Subsec. (d). Pub. L. 85-608, § 101(d), substituted provisions making section inapplicable to persons who are prisoners of war or protected persons and who are detained or utilized by the United States for provisions which made section inapplicable to persons who are not citizens of the United States and who suffered an injury, disability, death, or detention by the enemy subsequent to June 30, 1953.

1953—Subsec. (c). Act June 30, 1952, § 2, repealed subsec. (c) which provided for amount of compensation payable to noncitizens and nonresidents for permanent total or permanent partial disability or death, limited eligible dependents and permitted Secretary to commute future installments of compensation.

Subsec. (d). Act June 30, 1953, § 3, added clause (3).

1946—Act Aug. 7, 1946 made the benefits payable for detention uniform from the date of capture rather than at a reduced rate for 2 years as was the case formerly, prevented dual payments without impairing compensation rights for disability which continues after repatriation, and provided for adjustments of overpayments made under a mistake of facts.

1943—Subsec. (b)(1). Act Dec. 23, 1943, inserted the fourth proviso in the second paragraph thereof.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-70 effective June 25, 1959, see section 47(g) of Pub. L. 86-70, set out as an Effective Date of 1959 Amendment note under section 1651 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-608 effective June 30, 1958, see section 402 of Pub. L. 85-608, set out as an Effective Date of 1958 Amendment note under section 1651 of this title.

EFFECTIVE DATE OF 1943 AMENDMENT

Act Dec. 23, 1943, provided that: "The amendment in paragraph (a) [to subsec. (b)(1)] shall become effective the first day of the month next following the approval of this Act [Dec. 23, 1943]".

EFFECTIVE DATE

Section 107 of act Dec. 2, 1942, provided: "This title [sections 1701 to 1706 of this title] shall take effect as of December 7, 1941".

RETROACTIVE EFFECT OF 1946 AMENDMENT; REVIEW OF CASES

Section 2 of act Aug. 7, 1946, provided for application of section 1 of act Aug. 7, 1946, amending this section, in all cases coming within the purview of subsec. (b) of this section, retrospectively to Jan. 1, 1942; and for review by the United States Employes' Compensation Commission of any case affected by such provisions, to make the adjustment of benefits which they require, and to make payments where the detained person has died since adjudication, to his legal representative.

SHORT TITLE

Section 208 of act Dec. 2, 1942, as added by Pub. L. 85-608, § 105, provided that titles I and II of act Dec. 2, 1942, which are classified to subchapter I and II of this chapter, may be cited as the "War Hazards Compensation Act".

REPEALS

Section 702 of Pub. L. 87-195, which amended this section, was repealed by section 401 of Pub. L. 87-565, pt. IV, Aug. 1, 1962, 76 Stat. 263, except in so far as section 702 affected this section.

Section 6 of act June 30, 1953, repealed section 1(a)(13) of act July 3, 1952, ch. 570, 66 Stat. 331, which defined terms "enemy", "allies", "national war effort", and "war effort".

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271 which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

INCREASE IN COMPENSATION FOR INJURIES AND DEATH FROM INJURIES SUSTAINED BEFORE JULY 1, 1946

Pub. L. 87-380, Oct. 4, 1961, 75 Stat. 809, increased the monthly disability and death compensation payable pursuant to subsec. (a) of this section with respect to injuries or deaths resulting from injury sustained prior to July 1, 1946, by 15 per centum, effective only with respect to disability and death compensation payable for periods commencing on and after Oct. 4, 1961.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1702, 1705 of this title; title 50 App. sections 2003, 2004.

§ 1702. Application of Longshoremen's and Harbor Workers' Compensation Act

(a) In the administration of the provisions of subchapter I of chapter 81 of title 5 with respect to cases coming within the purview of section 1701 of this title, the scale of compensation benefits and the provisions for determining the amount of compensation and the payment thereof as provided in sections 908 and 909 of title 33, so far as the provisions of said sections can be applied under the terms and conditions set forth therein shall be payable in lieu of the benefits, except medical benefits, provided under subchapter I of chapter 81 of title 5: *Provided*, That the total compensation payable under this subchapter for injury or death shall in no event exceed the limitations upon compensation as fixed in section 914(m) of title 33 as such section may from time to time be amended except that the total compensation shall not be less than that provided for in the original enactment of this chapter.

(b) For the purpose of computing compensation with respect to cases coming within the purview of section 1701 of this title, the provisions of sections 906 and 910 of title 33 shall be applicable: *Provided*, That the minimum limit on weekly compensation for disability, established by section 906(b) of title 33, and the minimum limit on the average weekly wages on which death benefits are to be computed, established by section 909(e) of title 33, shall not apply in computing compensation under this subchapter.

(Dec. 2, 1942, ch. 668, title I, § 102, 56 Stat. 1031; July 3, 1948, ch. 826, § 4(c), 62 Stat. 1242; Aug. 8, 1958, Pub. L. 85-608, title I, § 102, 72 Stat. 536.)

REFERENCES IN TEXT

The Longshoremen's and Harbor Workers' Compensation Act, referred to in section catchline, is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, as amended, which is classified generally to chapter 18 (§ 901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables volume.

Subsection (m) of section 914 of title 33, referred to in subsec. (a), was repealed by Pub. L. 92-576, § 5(e), Oct. 27, 1972, 86 Stat. 1254.

CODIFICATION

"Subchapter I of chapter 81 of title 5" was twice substituted for references to Act of September 7, 1916, as amended, known as the Federal Employees' Compensation Act, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1958—Subsec. (a). Pub. L. 85-608 omitted proviso that required any amendment to the Longshoremen's and Harbor Workers' Compensation Act which increased the amount of benefits payable for injury or death to be applied in the administration of this section as if the amendment had been in effect at the time of the particular injury or death.

1948—Subsec. (a). Act July 3, 1948 added all text in proviso beginning "as fixed in section 914(m) of title 33".

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-608 effective June 30, 1958, see section 402 of Pub. L. 85-608, set out as an Effective Date of 1958 Amendment note under section 1651 of this title.

BENEFITS ADJUDICATED PRIOR TO AUGUST 8, 1958

Section 102 of Pub. L. 85-608 provided in part that the amendment to subsec. (a) by Pub. L. 85-608 shall not affect benefits adjudicated thereunder prior to Aug. 8, 1958.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701 of this title.

§ 1703. Definition

As used in this subchapter, the term "contractor with the United States" includes any subcontractor or subordinate subcontractor with respect to the contract of such contractor.

(Dec. 2, 1942, ch. 668, title I, § 103, 56 Stat. 1031.)

§ 1704. Reimbursement

(a) Payments reimbursable; filing claim for reimbursement; regulations for payment of direct benefits

Where any employer or his insurance carrier or compensation fund pays or is required to pay benefits—

(1) to any person or fund on account of injury or death of any person coming within the purview of this subchapter or chapter 11 of this title, if such injury or death arose from a war-risk hazard, which are payable under any workmen's compensation law of the United States or of any State, Territory, or possession of the United States, or other jurisdiction; or

(2) to any person by reason of any agreement outstanding on December 2, 1942 made in accordance with a contract between the United States and any contractor therewith to pay benefits with respect to the death of any employee of such contractor occurring under circumstances not entitling such person to benefits under any workmen's compensation law or to pay benefits with respect to the failure of the United States or its contractor to furnish transportation upon the completion of the employment of any employee of such contractor to his home or to the place where he was employed; or

(3) to any person by reason of an agreement approved or authorized by the United States under which a contractor with the United States has agreed to pay workmen's compensation benefits or benefits in the nature of workmen's compensation benefits to an injured employee or his dependents on account of detention by a hostile force or person or on account of injury or death arising from a war-risk hazard;

such employer, carrier, or fund shall be entitled to be reimbursed for all benefits so paid or payable, including funeral and burial expenses, medical, hospital, or other similar costs for treatment and care; and reasonable and necessary claims expense in connection therewith. Claim for such reimbursement shall be filed with the Secretary under regulations promulgated by him, and such claims, or such part thereof as may be allowed by the Secretary, shall be paid from the compensation fund established under section 8147 of title 5. The Secretary may, under such regulations as he shall prescribe, pay such benefits, as they accrue and in lieu of reimbursement, directly to any person entitled thereto, and the insolvency of such employer, insurance carrier, or compensation fund shall not affect the right of the beneficiaries of such benefits to receive the compensation directly from the said compensation fund established under section 8147 of title 5. The Secretary may also, under such regulations as he shall prescribe, use any private facilities, or such Government facilities as may be available, for the treatment or care of any person entitled thereto.

(b) Charging of premiums as prohibiting reimbursement

No reimbursement shall be made under this subchapter in any case in which the Secretary finds that the benefits paid or payable were on account of injury, detention, or death which arose from a war-risk hazard for which a premium (which included an additional charge or loading for such hazard) was charged.

(c) Injury or death occurring within any State

The provisions of this section shall not apply with respect to benefits on account of any injury or death occurring within any State.

(Dec. 2, 1942, ch. 668, title I, § 104, 56 Stat. 1031; Aug. 8, 1958, Pub. L. 85-608, title I, § 104, 72 Stat. 537; June 25, 1959, Pub. L. 86-70, § 42(b), 73 Stat. 151.)

CODIFICATION

In subsec. (a), "section 8147 of title 5" was twice substituted for "section 35 of such Act of September 7, 1916, as amended", on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1959—Subsec. (c). Pub. L. 86-70 added subsec. (c).

1958-Subsec. (a)(3). Pub. L. 85-608, substituted "a hostile force or person" for "the enemy".

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-70 effective June 25, 1959, see section 47(g) of Pub. L. 86-70, set out as an Effective Date of 1959 Amendment note under section 1651 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-608 effective June 30, 1958, see section 402 of Pub. L. 85-608, set out as an Effective Date of 1958 Amendment note under section 1651 of this title.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271 which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 App. section 2004.

§ 1705. Receipt of workmen's compensation benefits

(a) Receipt of benefits under other provisions

No benefits shall be paid or furnished under the provisions of this subchapter for injury or death to any person who recovers or receives workmen's compensation benefits for the same injury or death under any other law of the United States, or under the law of any State, Territory, possession, foreign country, or other

jurisdiction, or benefits in the nature of workmen's compensation benefits payable under an agreement approved or authorized by the United States pursuant to which a contractor with the United States has undertaken to provide such benefits.

(b) Lien and right of recovery against compensation payable under other provisions

The Secretary shall have a lien and a right of recovery, to the extent of any payments made under this subchapter on account of injury or death, against any compensation payable under any other workmen's compensation law on account of the same injury or death; and any amounts recovered under this subsection shall be covered into the fund established under section 8147 of title 5.

(c) Receipt of wages as credit against payment under this subchapter; intervention by Secretary in proceeding to recover wages, etc.

Where any person specified in section 1701(a) of this title, or the dependent, beneficiary, or allottee of such person, receives or claims wages, payments in lieu of wages, insurance benefits for disability or loss of life (other than workmen's compensation benefits), and the cost of such wages, payments, or benefits is provided in whole or in part by the United States, the amount of such wages, payments, or benefits shall be credited, in such manner as the Secretary shall determine, against any payments to which any such person is entitled under this subchapter.

Where any person specified in section 1701(a) of this title, or any dependent, beneficiary, or allottee of such person, or the legal representative or estate of any such entities, after having obtained benefits under this subchapter, seeks through any proceeding, claim, or otherwise, brought or maintained against the employer, the United States, or other person, to recover wages, payments in lieu of wages, or any sum claimed as for services rendered, or for failure to furnish transportation, or for liquidated or unliquidated damages under the employment contract, or any other benefit, and the right in respect thereto is alleged to have accrued during or as to any period of time in respect of which payments under this subchapter in such case have been made, and in like cases where a recovery is made or allowed, the Secretary shall have the right of intervention and a lien and right of recovery to the extent of any payments paid and payable under this subchapter in such case, provided the cost of such wages, payments in lieu of wages, or other such right, may be directly or indirectly paid by the United States; and any amounts recovered under this subsection shall be covered into the fund established under section 8147 of title 5.

(d) Entitlement to benefits by national of a foreign government under foreign laws

Where a national of a foreign government is entitled to benefits on account of injury or death resulting from a war-risk hazard, under the laws of his native country or any other foreign country, the benefits of this subchapter shall not apply.

(e) Receipt of benefits for prior accident or disease

If at the time a person sustains an injury coming within the purview of this subchapter said person is receiving workmen's compensation benefits on account of a prior accident or disease, said person shall not be entitled to any benefits under this subchapter during the period covered by such workmen's compensation benefits unless the injury from a war-risk hazard increases his disability, and then only to the extent such disability has been so increased.

(Dec. 2, 1942, ch. 668, title I, § 105, 56 Stat. 1032; Dec. 23, 1943, ch. 380, title I, 57 Stat. 627.)

CODIFICATION

In subsecs. (b) and (c), "section 8147 of title 5" was substituted for "section 35 of such Act of September 7, 1916, as amended," on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1943—Subsec. (c). Act Dec. 23, 1943 added second paragraph.

EFFECTIVE DATE OF 1943 AMENDMENT

Act Dec. 23, 1943, provided that: "The amendment in paragraph (a) [to subsec. (c)] shall become effective as of the effective date of title I of such Act of December 2, 1942 [sections 1701 to 1706 of this title]."

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271 which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 App. section 2004.

§ 1706. Administration

(a) Rules and regulations

The provisions of this subchapter shall be administered by the Secretary of Labor, and the Secretary is authorized to make rules and regulations for the administration thereof and to contract with insurance carriers for the use of the service facilities of such carriers for the purpose of facilitating administration.

(b) Agreements and working arrangements with other agencies, etc.

In administering the provisions of this subchapter the Secretary may enter into agreements or cooperative working arrangements with other agencies of the United States or of any State (including the District of Columbia, Hawaii, Alaska, Puerto Rico, and the Virgin Islands) or political subdivision thereof, and with other public agencies and private persons, agencies, or institutions, within and outside the United States, to utilize their services and facilities and to compensate them for such use. The Secretary may delegate to any officer or

employee, or to any agency, of the United States or of any State, or of any political subdivision thereof, or Territory or possession of the United States, such of his powers and duties as he finds necessary for carrying out the purposes of this subchapter.

(c) Waiver of notice of injury and filing of claims

The Secretary, in his discretion, may waive the limitation provisions of subchapter I of chapter 81 of title 5 with respect to notice of injury and filing of claims under this subchapter, whenever the Secretary shall find that, because of circumstances beyond the control of an injured person or his beneficiary, compliance with such provisions could not have been accomplished within the time therein specified.

(Dec. 2, 1942, ch. 668, title I, § 106, 56 Stat. 1033.)

CODIFICATION

In subsec. (c), "subchapter I of chapter I of title 5" was substituted for reference to Act of September 7, 1916, as amended, known as the Federal Employees' Compensation Act, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271 which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959 upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701 of this title.

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 50 App. section 2004.

§ 1711. Definitions

When used is this chapter—

(a) The term "Secretary" means the Secretary of Labor.

(b) The term "war-risk hazard" means any hazard arising during a war in which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin, occurring within any country in which a person covered by this chapter is serving; from—

(1) the discharge of any missile (including liquids and gas) or the use of any weapon, explosive, or other noxious thing by a hostile force or person or in combating an attack or an imagined attack by a hostile force or person; or

(2) action of a hostile force or person, including rebellion or insurrection against the United States or any of its Allies; or

(3) the discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or person as defined herein (except with respect to employees of a manufacturer, processor, or transporter of munitions during the manufacture, processing, or transporting thereof, or while stored on the premises of the manufacturer, processor, or transporter); or

(4) the collision of vessels in convoy or the operation of vessels or aircraft without running lights or without other customary peacetime aids to navigation; or

(5) the operation of vessels or aircraft in a zone of hostilities or engaged in war activities.

(c) The term "hostile force or person" means any nation, any subject of a foreign nation, or any other person serving a foreign nation (1) engaged in a war against the United States or any of its allies, (2) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies, or (3) engaged in a war or armed conflict between military forces of any origin in any country in which a person covered by this chapter is serving.

(d) The term "allies" means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance.

(e) The term "war activities" includes activities directly relating to military operations.

(f) the term "continental United States" means the States and the District of Columbia.

(Dec. 2, 1942, ch. 688, title II, § 201, 56 Stat. 1033; June 30, 1953, ch. 176 § 1, 67 Stat. 134; June 30, 1954, ch. 431, § 1, 68 Stat. 336; June 30, 1955, ch. 257, § 1, 69 Stat. 241; July 9, 1956, ch. 537, § 1, 70 Stat. 519; June 29, 1957, Pub. L. 85-70, 71 Stat. 242; Aug. 8, 1958, Pub. L. 85-608, title I, §§ 103, 104, 72 Stat. 537; June 25, 1959, Pub. L. 86-70, § 42(c), 73 Stat. 151.)

CODIFICATION

In the original of act Dec. 2, 1942, § 201, the opening clause read "When used in this Act (except when used in title III)—". Title III of such Act amended section 1651 of this title which is not in this chapter. Therefore, because of the use of the restrictive term "this chapter", in this section, the words in parenthesis "except when used in title III" were omitted as unnecessary. This chapter comprises the remainder of such Act.

AMENDMENTS

1959—Subsec. (f). Pub. L. 86-70 added subsec. (f).

1958—Subsec. (b). Pub. L. 85-608, § 103(a), omitted provisions which defined the term "war-risk hazard"

to mean hazards arising after Dec. 6, 1941, and prior to July 1, 1958, and inserted provisions redefining the term to include hazards arising during a war or an armed conflict in which the United States is engaged, and hazards arising during a war or armed conflict between military forces of any origin, occurring within any country in which a person covered by this chapter is serving.

Subsec. (b)(1). Pub. L. 85-608, § 104, substituted "a hostile force or person" for "an enemy" in two instances.

Subsec. (b)(2). Pub. L. 85-608, § 104, substituted "a hostile force or person" for "the enemy".

Subsec. (b)(3). Pub. L. 85-608, § 103(b), substituted "a war or armed conflict with a hostile force or person as defined herein" for "the national war effort", and excepted employees of transporters of munitions during the transportation thereof or while the munitions are stored on the premises of the transporter.

Subsec. (c). Pub. L. 85-608, § 103(c), substituted provisions defining "hostile force or person" for provisions which defined the term "enemy" to mean any nation, government, or force engaged in armed conflict with the Armed Forces of the United States or of any of its allies.

Subsec. (d). Pub. L. 85-608, § 103(d), substituted provisions redefining the term "allies" to mean any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance for provisions which defined the term as meaning any nation, government, or force participating with the United States in any armed conflict.

Subsec. (e). Pub. L. 85-608, § 103(e), substituted the definition of "war activities" for the provisions which defined "national war effort" and "war effort".

Subsec. (f). Pub. L. 85-608, § 103(f), repealed subsec. (f), which defined "war activities", is now covered by subsec. (e) of this section.

1957—Subsec. (b). Pub. L. 85-70 substituted "July 1, 1958" for "July 1, 1957".

1956—Subsec. (b). Act July 9, 1956 substituted "July 1, 1957" for "July 1, 1956".

1955—Subsec. (b). Act June 30, 1955, substituted "July 1, 1956" for "July 1, 1955".

1954—Subsec. (b). Act June 30, 1954 substituted "July 1, 1955" for "July 1, 1954".

1953—Subsec. (b). Act June 30, 1953, § 1(a), substituted "July 1, 1954" for "the end of the present war".

Subsecs. (c) to (f). Act June 30, 1953, § 1(b) added subsecs. (c) to (f).

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-70 effective June 25, 1959, see section 47(g) of Pub. L. 86-70, set out as an Effective Date of 1959 Amendment note under section 1651 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-608 effective June 30, 1958, see section 402 of Pub. L. 85-608, set out as an Effective Date of 1958 Amendment note under section 1651 of this title.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

§ 1712. Disqualification from benefits

No person convicted in a court of competent jurisdiction of any subversive act against the United States or any of its Allies, committed after the declaration by the President on May 27, 1941, of the national emergency, shall be entitled to compensation or other benefits under subchapter I of this chapter, nor shall any compensation be payable with respect to his death or detention under said subchapter, and upon indictment or the filing of an information charging the commission of any such subversive act, all such compensation or other benefits shall be suspended and remain suspended until acquittal or withdrawal of such charge, but upon conviction thereof or upon death occurring prior to a final disposition thereof, all such payments and all benefits under said subchapter shall be forfeited and terminated. If the charge is withdrawn, or there is an acquittal, all such compensation withheld shall be paid to the person or persons entitled thereto.

(Dec. 2, 1942, ch. 668, title II, § 202, 56 Stat. 1034.)

NATIONAL EMERGENCY DECLARED ON MAY 27, 1941

The national emergency declared by the President on May 27, 1941, by Proc. No. 2487, 6 F.R. 2617, 55 Stat. 1647, was terminated April 28, 1952 by Proc. No. 2974, Apr. 30, 1952, 17 F.R. 3813, 66 Stat. ch. 31, set out as a note preceding section 1 of Appendix to Title 50, War and National Defense.

§ 1713. Fraud; penalties

Whoever, for the purpose of causing an increase in any payment authorized to be made under this chapter, or for the purpose of causing any payment to be made where no payment is authorized hereunder, shall knowingly make or cause to be made, or aid or abet in the making of any false statement or representation of a material fact in any application for any payment under subchapter I of this chapter, or knowingly make or cause to be made, or aid or abet in the making of any false statement, representation, affidavit, or document in connection with such an application, or claim, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(Dec. 2, 1942, ch. 668, title II, § 203, 56 Stat. 1034.)

CROSS REFERENCES

Offenses classified, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 1714. Legal services

No claim for legal services or for any other services rendered in respect of a claim or award for compensation under subchapter I of this chapter to or on account of any person shall be valid unless approved by the Secretary; and any claim so approved shall, in the manner and to the extent fixed by the said Secretary, be paid out of the compensation payable to the claimant; and any person who receives any fee, other consideration, or any gratuity on account of services so rendered, unless such consideration or gratuity is so approved, or who solicits em-

ployment for another person or for himself in respect of any claim or award for compensation under said subchapter shall be guilty of a misdemeanor and upon conviction thereof shall, for each offense, be fined not more than $1,000 or imprisoned not more than one year, or both.

(Dec. 2, 1942, ch. 668, title II, § 204, 56 Stat. 1034.)

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

§ 1715. Finality of Secretary's decisions

The action of the Secretary in allowing or denying any payment under subchapter I of this chapter shall be final and conclusive on all questions of law and fact and not subject to review by any other official of the United States or by any court by mandamus or otherwise, and the Comptroller General is authorized and directed to allow credit in the accounts of any certifying or disbursing officer for payments in accordance with such action.

(Dec. 2, 1942, ch. 668, title II, § 205, 56 Stat. 1034.)

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

§ 1716. Presumption of death or detention

A determination that an individual is dead or a determination that he has been detained by a hostile force or person may be made on the basis of evidence that he has disappeared under circumstances such as to make such death or detention appear probable.

(Dec. 2, 1942, ch. 668, title II, § 206, 56 Stat. 1034; Aug. 8, 1958, Pub. L. 85-608, title I, § 104, 72 Stat. 537.)

AMENDMENTS

1958—Pub. L. 85-608 substituted "a hostile force or person" for "the enemy".

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-608 effective June 30, 1958, see section 402 of Pub. L. 85-608, set out as an Effective Date of 1958 Amendment note under section 1651 of this title.

§ 1717. Assignment of benefits; execution, levy, etc., against benefits

The right of any person to any benefit under subchapter I of this chapter shall not be transferable or assignable at law or in equity except to the United States, and none of the moneys paid or payable (except money paid hereunder as reimbursement for funeral expenses or as reimbursement with respect to payments of workmen's compensation or in the nature of workmen's compensation benefits), or rights existing under said subchapter, shall be subject to execution, levy, attachment, garnishment, or other legal process or to the operation of any bankruptcy or insolvency law.

(Dec. 2, 1942, ch. 668, title II, § 207, 56 Stat. 1035.)

CHAPTER 13—SCHOOL LUNCH PROGRAMS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to sections 1774, 1779, 1782 of this title; title 7 section 1431c; title 40 section 474; title 48 section 1666.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 31-1407 of the District of Columbia Code.

§ 1751. Congressional declaration of policy

It is declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school-lunch programs.

(June 4, 1946, ch. 281, § 2, 60 Stat. 230.)

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94-105, § 1, Oct. 7, 1975, 89 Stat. 511, provided: "That this Act [enacting sections 1765, 1766, 1767, 1768, and 1787 of this title, amending sections 1752, 1755, 1756, 1758, 1759, 1759a, 1760, 1761, 1762a, 1772, 1773, 1774, 1784, and 1786 of this title, repealing section 1764 of this title, and enacting provisions set out as notes under sections 1758, 1760, 1761, and 1786 of this title] may be cited as the 'National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1975'."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93-326, § 1, June 30, 1974, 88 Stat. 286, provided: "That this Act [enacting section 1762a of this title and amending sections 1752, 1755, 1758, 1763, 1774, and 1786 of this title] may be cited as the 'National School Lunch and Child Nutrition Act Amendments of 1974'."

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93-150, § 1, Nov. 7, 1973, 87 Stat. 560, provided: "That this Act [which amended sections 1753, 1755, 1757, 1758(b), 1759, 1759a, 1763(a), (b), (e), 1772, 1773(b), (c), and 1786(a), (b), (e) of this title, and enacted provisions set out as a note under this section and as a note under section 240 of Title 20, Education] may be cited as the 'National School Lunch and Child Nutrition Act Amendments of 1973'."

SHORT TITLE

Section 1 of act June 4, 1946, provided that act June 4, 1946, which is classified generally to this chapter, may be cited as the "National School Lunch Act".

COMPREHENSIVE STUDY OF BENEFITS OF PROGRAMS; REPORT TO CONGRESS

Pub. L. 93-150, Nov. 7, 1973, 87 Stat. 564, authorized and directed the Secretary of Agriculture to carry out

a comprehensive study to determine if the benefits of the National School Lunch Act and the Child Nutrition Act are accruing to the maximum extent possible to all of the nation's school children, and to determine if regional cost differentials exist in Alaska and other States so as to require additional reimbursement, such report with recommendations to be submitted to Congress no later than June 30, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1755 of this title.

§ 1752. Authorization of appropriations

For each fiscal year, there is authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary of Agriculture (hereinafter referred to as "the Secretary") to carry out the provisions of this chapter, other than sections 1761, 1766 and 1768 of this title. Appropriations to carry out the provisions of this chapter and of the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of this chapter and the Child Nutrition Act of 1966 shall remain available for the purposes of the Act for which appropriated until expended.

(June 4, 1946, ch. 287, § 3, 60 Stat. 230; Oct. 15, 1962, Pub. L. 87-823, § 1, 76 Stat. 944; May 8, 1968, Pub. L. 90-302, § 1, 82 Stat. 117; May 14, 1970, Pub. L. 91-248, § 1(a), 84 Stat. 208; June 30, 1974, Pub. L. 93-326, § 7, 88 Stat. 287; Oct. 7, 1975, Pub. L. 94-105, § 24, 89 Stat. 529.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables volume.

AMENDMENTS

1975—Pub. L. 94-105 substituted "sections 1761, 1766 and 1768" for "section 1761".

1974—Pub. L. 93-326 substituted "other than section 1761 of this title" for "other than sections 1759a and 1761 of this title".

1970—Pub. L. 91-248 provided that the appropriations for the child food-service programs may be made a year in advance of the beginning of the fiscal year in which the funds become available and that funds appropriated for such programs remain available until expended.

1968—Pub. L. 90-302 added section 1761 to the enumeration of sections expected from the application of this section.

1962—Pub. L. 87-823 deleted ", beginning with the fiscal year ending June 30, 1947," following "fiscal year" and added the phrase ", other than section 1759a of this title."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976; CONTINUATION AND COMPUTATION OF FEDERAL PROGRAMS DURING PERIOD

Pub. L. 94-274, title I, § 111, Apr. 21, 1976, 90 Stat. 388, provided that:

"(a) Except where the context otherwise requires, or where otherwise provided in this section, the phrase 'fiscal year' shall include the period of July 1, 1976, through September 30, 1976, wherever it appears in sections 3, 4, 6(a), 7, 8, 10, and 11 of the National School Lunch Act, as amended (42 U.S.C. 1752, 1753, 1755(a), 1756, 1757, 1759, and 1759a).

"(b)(1) The phrase 'fiscal year ending June 30, 1972', in section 4 of the National School Lunch Act (42 U.S.C. 1753) shall be construed to mean the period of July 1, 1971, through September 30, 1971, in computing the minimum aggregate amount of food assistance payments to be made by the Secretary to each State educational agency for the period of July 1, 1976, through September 30, 1976.

"(2) For the purpose of the sixth sentence of section 7 of the National School Lunch Act, as amended (42 U.S.C. 1756) for the period of July 1, 1976, through September 30, 1976, State revenue shall constitute at least 8 per centum of the matching requirement for the same three-month period in the preceding fiscal year."

APPROPRIATIONS AS FUNCTIONS OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Section 1 of Pub. L. 90-302 provided in part that appropriations shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1753, 1754 of this title.

§ 1753. Availability of appropriations; food assistance payments

The sums appropriated for any fiscal year pursuant to the authorizations contained in section 1752 of this title, excluding the sum specified in section 1754 of this title, shall be available to the Secretary for supplying agricultural commodities and other food for the program in accordance with the provisions of this chapter. For each fiscal year the Secretary shall make food assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 1758(a) of this title) served during such fiscal year to children in schools in such State, which participate in the school lunch program under this chapter under agreements with such State educational agency, by a national average payment per lunch for such fiscal year determined by the Secretary to be necessary to carry out the purposes of this chapter: *Provided*, That in any fiscal year such national average payment shall not be less than 10 cents per lunch and that the aggregate amount of the food assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section.

(June 4, 1946, ch. 281, § 5, 60 Stat. 231; July 12, 1952, ch. 669, § 1(b), 66 Stat. 591; Sept. 25, 1962, Pub. L. 87-688, § 3(a), 76 Stat. 587; Oct. 15, 1962, Pub. L. 87-823, § 2, 76 Stat. 944; Sept. 26, 1972, Pub. L. 92-433, § 4(c), 86 Stat. 726; Nov. 7, 1973, Pub. L. 93-150, § 2(a), 87 Stat. 560.)

AMENDMENTS

1973—Pub. L. 93-150 increased the national average food assistance payments from 8 to 10 cents per lunch.

1972—Pub. L. 92-433 substituted new formula for food assistance payments to State educational agencies by taking into account the number of lunches served during the year, the children in the schools in such State participating in the school lunch program, and the national average payment per lunch set up by the Secretary, with certain limitations, for apportionment formula limiting the apportionable funds to 75 per cent of the available funds for such year, and taking into account the participation rate for the State, the need rate for the State, and providing for a method of apportionment, special provisions for disposal of excess or unused funds and for fiscal years beginning July 1, 1962, July 1, 1963, July 1, 1964 and fixing the funds for American Samoa at $25,000 for each year for the five fiscal years beginning July 1, 1962.

1962—Pub. L. 87-823 amended section generally, and, among other changes, substituted as factors for apportionment of funds among the States "(1) the participation rate for the State, and (2) the assistance need rate for the State" for "(1) the number of school children in the State and (2) the need for assistance in the State as indicated by the relation of the per capita income of the United States to the per capita income in the State"; inserted, in the provision for determination of amount of apportionment in clause designated "second", "(exclusive of American Samoa for periods ending before July 1, 1967)"; added provisions for use of transitional formulas in apportionment of funds for fiscal years beginning in 1962, 1963 and 1964 and apportioning to American Samoa $25,000 annually for five fiscal years in period beginning July 1, 1962 and ending June 30, 1967; and omitted the apportionment formula for Puerto Rico, Guam, American Samoa, and the Virgin Islands, which limited apportionments to 3 per centum of the total fund to be apportioned but required the apportionment to each to be not less than an amount which would result in an allotment per child of school age equal to that for the State with the lowest per capita income, the definition of school (incorporated in section 1760(d)(7) of this title), the provision for use of latest per capita income figures certified by the Department of Commerce (incorporated in section 1760(d)(6)(ii) of this title), and the definition of school children, which provided that the number of school children should be the number between the ages of five and seventeen.

Pub. L. 87-688 inserted "American Samoa," following "Guam," in two instances and "the apportionment for American Samoa," following "the apportionment for Guam,".

1952—Act July 12, 1952 removed Alaska and Hawaii from the 3 percent limitation imposed on Puerto Rico and the Virgin Islands, made the limitation applicable to Guam, and modified the effects of the 3 per cent limitation.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 4(c) of Pub. L. 92-433 provided in part that amendment of this section is effective after the fiscal year ending June 30, 1973.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 3(b) of Pub. L. 87-688 provided that: "The amendments made by this section [to sections 1753, 1754, and 1760(d)(1) of this title] shall be applicable only with respect to funds appropriated after the date of enactment of this Act [Sept. 25, 1962]."

EFFECTIVE DATE OF 1952 AMENDMENT

Section 1(d) of act July 12, 1952, provided that amendments made by section 1(a) to (c) of act July 12, 1952, shall be effective only with respect to funds appropriated after July 12, 1952.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976; CONTINUATION AND COMPUTATION OF FEDERAL PROGRAMS DURING PERIOD

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, included within term "fiscal year", and continuation and computation of Federal programs during period, see section 111 of Pub. L. 94-274, title I, Apr. 21, 1976, 90 Stat. 388, set out as a note under section 1752 of this title.

USE OF FUNDS APPROPRIATED UNDER SECTION 612c OF TITLE 7 FOR IMPLEMENTING THIS SECTION AND REIMBURSEMENT OF SUCH FUNDS

Section 4(a) of Pub. L. 92-433 provided that: "Notwithstanding any other provision of law, the Secretary of Agriculture shall until such time as a supplemental appropriation may provide additional funds for such purpose use so much of the funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)), as may be necessary, in addition to the funds available therefor, to carry out the purposes of section 4 of the National School Lunch Act [this section] and provide an average rate of reimbursement of not less than 8 cents per meal within each State during the fiscal year 1973. Funds expended under the foregoing provisions of this section shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out section 4 of the National School Lunch Act [this section] and such reimbursements shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935 [section 612c of Title 7, Agriculture], to be available for the purposes of said section 32."

ADDITIONAL FUNDS FOR APPORTIONMENT TO STATES AND FOR SPECIAL ASSISTANCE; CONSULTATION WITH CHILD NUTRITION COUNCIL; REIMBURSEMENT OF SEPARATE FUND FROM SUPPLEMENTAL APPROPRIATION

Pub. L. 92-153, § 1, Nov. 5, 1971, 85 Stat. 419, provided: "That, notwithstanding any other provision of law, the Secretary of Agriculture shall until such time as a supplemental appropriation may provide additional funds for such purpose use so much of the funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), as may be necessary, in addition to the funds now available therefor, to carry out the purposes of section 11 of the National School Lunch Act [section 1759a of this title] and provide a rate of reimbursement which will assure every needy child of free or reduced price lunches during the fiscal year ending June 30, 1972, and to carry out the purposes of section 4 of the National School Lunch Act [this section] and provide an average rate of reimbursement of 6 cents per meal within each State. In determining the amount of funds needed and the requirements of the various States therefor, the Secretary shall consult with the National Advisory Council on Child Nutrition and interested parties. Funds expended under the foregoing provisions of this resolution shall be reimbursed out of any supplemental appropriation hereafter enacted [on and after Nov. 5, 1971] for the purpose of carrying out section 4 [this section] and section 11 of the National School Lunch Act [section 1759a of this title], and such reimbursements shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935 [section 612c of Title 7, Agriculture], to be available for the purposes of said section 32 [section 612c of Title 7]."

APPORTIONMENT OF ADDITIONAL FUNDS TO STATES

Section 4(b) of Pub. L. 92-433 provided that: "Funds made available pursuant to this section shall be apportioned to the States in such manner as will best enable schools to meet their obligations with respect to the service of free and reduced-price lunches and to meet the objective of this section with respect to providing a minimum rate of reimbursement under section 4 of the National School Lunch Act [this section], and such funds shall be apportioned and paid as expeditiously as may be practicable."

Pub. L. 92-153, § 2, Nov. 5, 1971, 85 Stat. 420, provided that: "Funds made available by this joint resolution [amending sections 1758 and 1759a(e) of this title and enacting provisions set out as notes under this section and sections 1758 and 1773 of this title] shall be apportioned to the States in such manner as will best enable schools to meet their obligations with respect to the service of free and reduced price lunches and to meet the objective of this joint resolution [amending sections 1758 and 1759a(e) of this title and enacting provisions set out as notes under this section and sections 1758 and 1773 of this title] with respect to providing a minimum rate of reimbursement under section 4 of the National School Lunch Act [this section], and such funds shall be apportioned and paid as expeditiously as may be practicable."

SECTION REFERRED TO IN OTHER SECTIONS1

This section is referred to in sections 1754 to 1757, 1759a, 1766, 1773 of this title.

§ 1754. Nonfood assistance; amount; apportionment

Of the sums appropriated for any fiscal year pursuant to the authorization contained in section 1752 of this title, $10,000,000 shall be available to the Secretary for the purpose of providing, during such fiscal year, nonfood assistance for the school-lunch program pursuant to the provisions of this chapter. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of $10,000,000, and such apportionment among the States shall be on the basis of the factors, and in accordance with the standards, set forth in section 1753 of this title with respect to the apportionment for agricultural commodities and other foods.

(June 4, 1946, ch. 281, § 4, 60 Stat. 231; July 12, 1952, ch. 669, § 1(b), 66 Stat. 591; Sept. 25, 1962, Pub. L. 87-688, § 3(a), 76 Stat. 587; Oct. 15, 1962, Pub. L. 87-823, § 3(a), 76 Stat. 945.)

AMENDMENTS

1962—Pub. L. 87-823 struck out the last sentence reading: "Apportionment of funds for use in Puerto Rico, Guam, and the Virgin Islands for nonfood assistance shall be determined subject to the provisions of the third sentence of section 1753 of this title."

Pub. L. 87-688 inserted "American Samoa," following "Guam,".

1952—Act July 12, 1952 made the method of apportioning funds for nonfood assistance follow the method of apportioning funds for agricultural commodities and other foods as set out in section 1753 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-688 applicable only with respect to funds appropriated after Sept. 25, 1962, see section 3(b) of Pub. L. 87-688, set out as an Effective Date of 1962 Amendment note under section 1753 of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Amendment by act July 12, 1952, effective only with respect to funds appropriated after July 12, 1952, see section 1(d) of act July 12, 1952, set out as an Effective Date of 1952 Amendment note under section 1753 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1753, 1756, 1757, 1759a of this title.

§ 1755. Direct expenditures for agricultural commodities and other foods

(a) Administrative expenses; nutritional education

The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this chapter, and for carrying out the provisions of the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], other than section 3 thereof [42 U.S.C. 1772] less

(1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for his administrative expenses under this chapter and under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.];

(2) the amount apportioned by him pursuant to sections 1753 and 1754 of this title and the amount appropriated pursuant to sections 1759a and 1761 of this title and sections 4, 5, and 7 of the Child Nutrition Act of 1966 [42 U.S.C. 1773, 1774, and 1776]; and

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this chapter and the programs under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], other than section 3 [42 U.S.C. 1772], which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 1751 of this title, and section 2 of the Child Nutrition Act of 1966 [42 U.S.C. 1771],

shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this chapter and under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] in accordance with the needs as determined by the local school and service institution authorities. The provisions of law contained in the proviso of section 713c of title 15, facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 612c of title 7, shall, to the extent not inconsistent with the provision of this chapter, also be applicable to expenditures of funds by the Secretary under this chapter. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this chapter and the Child Nutrition Act of 1966.

(b) Cash donations in lieu of commodity donations during fiscal year for school food service programs; apportionment among State educational agencies; disbursement for breakfasts and lunches

As of February 15 of each fiscal year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that fiscal year to

States for school food service programs under the provisions of this section, section 1431 of title 7, and section 612c of title 7. If such estimated value is less than 90 per centum of the value of such deliveries initially programed for that fiscal year, the Secretary shall pay to State educational agencies, by not later than March 15 of that fiscal year, an amount of funds that is equal to the difference between the value of such deliveries initially programed for such fiscal year and the estimated value as of February 15 of such fiscal year of the commodities and other foods to be delivered in such fiscal year. The share of such funds to be paid to each State educational agency shall bear the same ratio to the total of such payment to all such agencies as the number of meals served under the provisions of sections 1758(a) and section 4(e) of the Child Nutrition Act of 1966 [42 U.S.C. 1773(e)] during the preceding fiscal year bears to the total of all such meals served in all the States during such fiscal year: *Provided,* That in any State in which the Secretary directly administers school food service programs in any of the schools of such State, the Secretary shall withhold from the funds to be paid to any such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of meals served in such schools under the provisions of sections 1758(a) and section 4(e) of the Child Nutrition Act of 1966 [42 U.S.C. 1773(e)] during that fiscal year bears to the total of such meals served in all the schools in such State in such fiscal year. Each State educational agency, and the Secretary in the case of schools in which he directly administers school food service programs, shall promptly and equitably disburse such funds to schools participating in the lunch and breakfast programs under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] and such disbursements shall be used by such schools to obtain agricultural commodities and other foods for their food service program. Such food shall be limited to the requirements for lunches and breakfasts for children as provided for in the regulations by the Department of Agriculture under title 7, subtitle (b), chapter II, subchapter (a), parts 210 and 220.

(c) Interim source of funds, pending supplemental appropriation of additional funds for carrying out subsection (b)

Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 612c of title 7 to make any payments to States authorized under such subsection. Any section 612c of title 7 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 612c of title 7 to be available for the purpose of said section 612c of title 7.

(d) State matching provisions inapplicable to subsection (b) or (c) funds

Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 1756 of this title.

(e) Level of commodity assistance; emphasis on high protein foods

For the fiscal year ending June 30, 1975, and subsequent fiscal years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch, and that amount shall be adjusted on an annual basis each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. Notwithstanding any other provision of this section, not less than 75 per centum of the assistance provided under this subsection (e) shall be in the form of donated foods for the school lunch program.

(June 4, 1946, ch. 281, § 6, 60 Stat. 231; Oct. 15, 1962, Pub. L. 87-823, § 3(b), 76 Stat. 945; May 8, 1968, Pub. L. 90-302, § 2(a), 82 Stat. 117; May 14, 1970, Pub. L. 91-248, § 3, 84 Stat. 209; Mar. 30, 1973, Pub. L. 93-13, § 2, 87 Stat. 10; Nov. 7, 1973, Pub. L. 93-150, § 5, 87 Stat. 562; June 30, 1974, Pub. L. 93-326, § 3, 88 Stat. 286; Oct. 7, 1975, Pub. L. 94-105, §§ 4, 11, 89 Stat. 511, 515.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a), (a)(1), (3), and (b), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables volume.

Title 7, subtitle (b), chapter II, subchapter (a), parts 210 and 220, referred to in subsec. (b), refer to the Code of Federal Regulations.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-105, § 11(a), added provision prohibiting the issuance of specifications in the purchase of agricultural commodities and other foods unless such specifications result in significant advantages to the authorized food service programs.

Subsec. (b). Pub. L. 94-105, § 4, substituted references to all the schools of the States for references to only the nonprofit private schools of the States in the provisions covering the Secretary's direct administration of school food service programs.

Subsec. (e). Pub. L. 94-105, § 11(b), added provision mandating that not less than 75 per centum of the assistance under this subsection shall be in the form of donated foods for the school lunch program.

1974—Subsec. (e). Pub. L. 93-326 added subsec. (e).

1973—Subsec. (a). Pub. L. 93-13 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 93-150, in revising the text to make the provisions applicable each fiscal year rather than only for fiscal year ending June 30, 1973, substituted in: first sentence, "As of February 15 of each fiscal year" and "during that fiscal year" for "As of March 15, 1973" and "during the fiscal year ending June 30, 1973"; second sentence, "for that fiscal year", "March 15 of that fiscal year", and "as of February 15 of such fiscal year" for "for the fiscal year ending

June 30, 1973", "April 15, 1973", and "as of March 15, 1973"; third sentence, "during the preceding fiscal year" for "during the fiscal year ending June 30, 1972"; and proviso of third sentence, "during that fiscal year" for "during the fiscal year ending June 30, 1972,".

Pub. L. 93-13 added subsec. (b).

Subsec. (c). Pub. L. 93-150 reenacted provisions without change.

Pub. L. 93-13 added subsec. (c).

Subsec. (d). Pub. L. 93-150 reenacted provisions without change.

Pub. L. 93-13 added subsec. (d).

1970—Pub. L. 91-248 increased the amount authorized for administrative expenses by 3½ percent of the amount appropriated to carry out this chapter and the Child Nutrition Act of 1966, other than section 1772 of this title, made such amount available for the Secretary's administrative expenses, authorized use of up to 1 percent of the funds appropriated for this chapter and the Child Nutrition Act of 1966, other than section 1772 of this title, for nutritional training and education and studies of food service requirements in connection with those programs, reduced, to the extent funds were used for administrative expenses other than for this chapter or nutritional training or education or studies, the share of this chapter's appropriations which may be used for direct expenditure by the Secretary for agricultural commodities and other foods, and authorized distribution of such foods to schools and service institutions participating in food service programs under this chapter and the Child Nutrition Act of 1966.

1968—Pub. L. 90-302 added "except section 1761 of this title" following "The funds appropriated for any fiscal year for carrying out the provisions of this chapter,".

1962—Pub. L. 87-823 substituted ", less the amount apportioned by him pursuant to sections 1753, 1754, and 1759 of this title, and less the amount appropriated pursuant to section 1759a of this title" for "and less the amount apportioned to him pursuant to sections 1753, 1754, and 1759 of this title".

Fiscal Year Transition Period of July 1, 1976, through September 30, 1976; Continuation and Computation of Federal Programs During Period

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, included within term "fiscal year" for purposes of subsec. (a) of this section, see section 111 of Pub. L. 94-274, title I, Apr. 21, 1976, 90 Stat. 388, set out as a note under section 1752 of this title.

Congressional Findings and Declaration of Purpose

Section 1 of Pub. L. 93-13 provided that: "The Congress finds that the volume and variety of Federal food donations to the school lunch and child nutrition programs are significantly below the amounts programed and budgeted for the fiscal year ending June 30, 1973, and that schools participating in these programs are confronted with serious financial problems in obtaining sufficient supplies of the foods required to meet the nutritional standards established by law for these programs. It is, therefore, the purpose of this Act [amending this section] to provide an effective and immediate solution to this nutritional crisis."

Cross References

Utilization of services and facilities of Commodity Credit Corporation in carrying out program under this section, see section 1424 of Title 7, Agriculture.

Section Referred to in Other Sections

This section is referred to in sections 1765, 1766 of this title; title 7 section 1424.

§ 1756. Payments to States; matching payments by States; makeup and disbursement of State revenue

Funds apportioned to any State pursuant to sections 1753 or 1754 of this title during any fiscal year shall be available for payment to such State for disbursement by the State educational agency, in accordance with such agreements not inconsistent with the provisions of this chapter, as may be entered into by the Secretary and such State educational agency, for the purpose of assisting schools of that State during such fiscal year, in supplying (1) agricultural commodities and other foods for consumption by children and (2) nonfood assistance in furtherance of the school-lunch program authorized under this chapter. Such payments to any State in any fiscal year during the period 1947 to 1950, inclusive, shall be made upon condition that each dollar thereof will be matched during such year by $1 from sources within the State determined by the Secretary to have been expended in connection with the school-lunch program under this chapter. Such payments in any fiscal year during the period 1951 to 1955, inclusive, shall be made upon condition that each dollar thereof will be so matched by one and one-half dollars; and for any fiscal year thereafter, such payments shall be made upon condition that each dollar will be so matched by $3. In the case of any State whose per capita income is less than the per capita income of the United States, the matching required for any fiscal year shall be decreased by the percentage which the State per capita income is below the per capita income of the United States. For the purpose of determining whether the matching requirements of this section and section 1759 of this title, respectively, have been met, the reasonable value of donated services, supplies, facilities, and equipment as certified, respectively, by the State educational agency and in case of schools receiving funds pursuant to section 1759 of this title, by such schools (but not the cost or value of land, of the acquisition, construction, or alteration of buildings of commodities donated by the Secretary, or of Federal contributions), may be regarded as funds from sources within the State expended in connection with the school-lunch program. For the fiscal year beginning July 1, 1971, and the fiscal year beginning July 1, 1972, State revenue (other than revenues derived from the program) appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local level) shall constitute at least 4 per centum of the matching requirement for the preceding fiscal year; for each of the two succeeding fiscal years, at least 6 per centum of the matching requirement for the preceding fiscal year; for each of the subsequent two fiscal years, at least 8 per centum of the matching requirement for the preceding fiscal year; and for each fiscal year thereafter, at least 10 per centum of the matching requirement for the preceding fiscal year. The State revenues made available pursuant to the preceding sentence shall be disbursed to schools, to the extent the State deems practicable, in such manner that each school receives the same pro-

portionate share of such revenues as it receives of the funds apportioned to the State for the same year under sections 1753 and 1759a of this title and sections 1773 and 1774 of this title. The requirement in this section that each dollar of Federal assistance be matched by $3 from sources within the State (with adjustments for the per capita income of the State) shall not be applicable with respect to the payments made to participating schools under section 1753 of this title for free and reduced price lunches: *Provided*, That the foregoing provision shall not affect the level of State matching required by the sixth sentence of this section. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this section and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

(June 4, 1946, ch. 281, § 7, 60 Stat. 232; May 14, 1970, Pub. L. 91-248, § 4, 84 Stat. 209; Sept. 26, 1972, Pub. L. 92-433, § 10, 86 Stat. 731; Oct. 7, 1975, Pub. L. 94-105, § 5, 89 Stat. 511.)

AMENDMENTS

1975—Pub. L. 94-105 made the requirements of the section that each dollar of Federal assistance be matched by $3 from sources within the State inapplicable with respect to the payments made to participating schools under section 1753 of this title, with the proviso that such inapplicability not affect the level of State matching required by the sixth sentence of the section.

1972—Pub. L. 92-433 substituted "per centum of the matching requirement for the preceding fiscal year" for "per centum of the matching requirement" in four places.

1970—Pub. L. 91-248 added provision requiring that State revenues represent a prescribed minimum of the local funds required to match Federal funds apportioned under this chapter, required that amounts derived by the State from the program, or expended by it for salaries or administrative expenses at the State level, would not count toward meeting the State revenue share of the matching requirement, and required State funds disbursed to each school, to the extent practicable, on the basis of its share of the funds apportioned for the regular school lunch program, the special assistance program to schools to assure lunches for low-income children, the school breakfast program for needy children, and the nonfood assistance program for schools drawing from poor economic areas.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976; CONTINUATION AND COMPUTATION OF FEDERAL PROGRAMS DURING PERIOD

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, included within term "fiscal year", and continuation and computation of Federal programs during period, see section 111 of Pub. L. 94-274, title I, Apr. 21, 1976, 90 Stat. 388, set out as a note under section 1752 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1759, 1759a of this title.

§ 1757. State disbursement to schools; purpose; food costs; limitation

Funds paid to any State during any fiscal year pursuant to sections 1753 or 1754 of this title shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school-lunch program. Such disbursement to any school shall be made only for the purpose of assisting it to finance the cost of obtaining agricultural commodities and other foods for consumption by children in the school-lunch program and nonfood assistance in connection with such program. Such food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing or handling thereof. In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school-lunch program under this chapter during such year by the maximum Federal food-cost contribution rate for the State, for the type of lunch served, as prescribed by the Secretary. In any fiscal year in which the national average payment per lunch determined under section 1753 of this title is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, shall be increased by a like amount. Lunch assistance disbursements to schools under this section and under section 1759a of this title may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

(June 4, 1946, ch. 281, § 8, 60 Stat. 232; Sept. 26, 1972, Pub. L. 92-433, § 8, 86 Stat. 729; Nov. 7, 1973, Pub. L. 93-150, § 2(b), 87 Stat. 560.)

AMENDMENTS

1973—Pub. L. 93-150 provided that in any fiscal year in which the national average payment per lunch determined under section 1753 of this title is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, shall be increased by a like amount.

1972—Pub. L. 92-433 substituted provision that disbursement to schools be made for the purpose of assisting them to finance the costs of agricultural commodities, for provision that such disbursement be made for the purpose of reimbursing them for such costs and added provision that lunch assistance disbursements to schools under this section and section 1759a of this title may be made in advance or by way of reimbursement according to procedure prescribed by the Secretary.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976; CONTINUATION AND COMPUTATION OF FEDERAL PROGRAMS DURING PERIOD

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, included within term "fiscal year", see section 111 of Pub. L. 94-274, title I, Apr. 21, 1976, 90 Stat. 388, set out as a note under section 1752 of this title.

§ 1758. Program requirements

(a) Nutritional standards; medical and special dietary needs of individual students; diminution of food waste

Lunches served by schools participating in the school-lunch program under this chapter shall meet minimum nutritional requirements prescribed by the Secretary on the basis of

tested nutritional research; except that such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students. The Secretary shall establish, in cooperation with State educational agencies, administrative procedures, which shall include local educational agency and student participation, designed to diminish waste of foods which are served by schools participating in the school lunch program under this chapter without endangering the nutritional integrity of the lunches served by such schools. Students in senior high schools which participate in the school lunch program under this chapter shall not be required to accept offered foods which they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this chapter to any such school for such a lunch.

(b) Eligibility criteria for free and reduced price lunches; income poverty guidelines; discrimination and overt identification prohibited; income guidelines for reduced price lunches; free or reduced price lunches for children of unemployed parent or guardian

(1) No later than June 1 of each fiscal year, the Secretary shall issue revised income poverty guidelines for use during the subsequent 12-month period from July through June. Such revisions shall be made by multiplying the income poverty guideline currently in effect by the change in the Consumer Price Index for the 12-month period ending in April of such fiscal year: *Provided*, That such revision for use from July 1976 through June 1977 shall be made by multiplying the income poverty guideline currently in effect by the change between the average 1974 Consumer Price Index and the Consumer Price Index for April 1976. Any child who is a member of a household which has an annual income not above the applicable family-size income level set forth in the income poverty guidelines prescribed by the Secretary shall be served a free lunch. Following the announcement by the Secretary of the income poverty guidelines for each 12-month period, each State educational agency shall prescribe the income guidelines, by family size, to be used by schools in the State during such 12-month period in making determinations of those eligible for a free lunch as prescribed in this section. The income guidelines for free lunches to be prescribed by each State educational agency shall not be less than the applicable family-size income levels in the income poverty guidelines prescribed by the Secretary and shall not be more than 25 per centum above such family-size income levels. Each fiscal year, each State educational agency shall also prescribe income guidelines, by family size, to be used by schools in the State during the 12-month period from July through June in making determinations of those children eligible for a lunch at a reduced price, not to exceed 20 cents. Such income guidelines for reduced-price lunches shall be prescribed at 95 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary. Any child who is a member of a household, if that household has an annual income which falls between (A) the applicable family size income level of the income guidelines for free lunches prescribed by the State educational agency and (B) 95 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary, shall be served a reduced price lunch at a price not to exceed 20 cents. Local school authorities shall publicly announce such income guidelines on or about the opening of school each fiscal year, and shall make determinations with respect to the annual incomes of any household solely on the basis of a statement executed in such form as the Secretary may prescribe by an adult member of such household: *Provided*, That such local school authorities may for cause seek verification of the data in such application. No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means. For purposes of this subsection, "Consumer Price Index" means the Consumer Price Index published each month by the Bureau of Labor Statistics of the Department of Labor.

(2) Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parents or guardians during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parents or guardians. Local school authorities shall publicly announce that such children are eligible for a free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence solely on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. No physical segregation of, or other discrimination against, any child eligible for a free or reduced price lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.

(c) Donation and maximum utilization of agricultural commodities; applicability to nonprofit private schools

School-lunch programs under this chapter shall be operated on a nonprofit basis. Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area or commodities donated by the Secretary. Commodities purchased under the authority of section 612c of title 7, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school-lunch program under

this chapter as well as to other schools carrying out nonprofit school-lunch programs and institutions authorized to receive such commodities. The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 612c of title 7, under section 1431 of title 7 and under section 1446a-1 of title 7, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions. The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any of the provisions of law referred to in the preceding sentence. None of the requirements of this section in respect to the amount for "reduced cost" meals and to eligibility for meals without cost shall apply to schools (as defined in section 1760(d)(6) of this title which are private and nonprofit as defined in the last sentence of section 1760(d)(6) of this title) which participate in the school lunch program under this chapter until such time as the State educational agency, or in the case of such schools which participate under the provisions of section 1759 of this title the Secretary certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements.

(June 4, 1946, ch. 281, § 9, 60 Stat. 233; May 8, 1968, Pub. L. 90-302, § 2(b), 82 Stat. 117; May 14, 1970, Pub. L. 91-248, § 6(a), (b), (d), (e), 84 Stat. 210; Nov. 5, 1971, Pub. L. 92-153, § 5, 85 Stat. 420; Sept. 26, 1972, Pub. L. 92-433, § 5, 86 Stat. 726; Nov. 7, 1973, Pub. L. 93-150, § 9, 87 Stat. 564; June 30, 1974, Pub. L. 93-326, § 4, 88 Stat. 286; Oct. 7, 1975, Pub. L. 94-105, § 6, 89 Stat. 512.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-105, § 6(a), directed the Secretary to establish administrative procedures designed to diminish food waste in school lunch programs and made provision for senior high school students to refuse food which they do not intend to consume without affecting lunch charges or payments to schools for lunches served.

Subsec. (b)(1). Pub. L. 94-105, § 6(b), designated existing provisions as subsec. (b)(1), and, as so designated, struck out "if a school elects to serve reduced-price lunches" following "reduced price not to exceed 20 cents", added provision for a reduced price lunch for any child eligible under reduced price lunch income guidelines, established the income guidelines for reduced price lunches, beginning with fiscal year ending June 30, 1976, at 95 per centum above the applicable family size income levels in the income poverty guidelines, and provided for a reduced price lunch not to exceed 20 cents to any child belonging to a household whose income falls between guidelines for a free lunch and 95 per centum above income levels in the income poverty guidelines.

Pub. L. 94-105, § 6(c), substituted provision adjusting the income poverty guidelines that take effect July 1, of each year according to the percentage change in the Consumer Price Index for the 12-month period ending in April of that year, except that the first adjustment, effective July 1, 1976, shall be made according to the percentage change between the average Consumer Price Index for 1974, on which the 1975-1976 guidelines are based, and the Consumer Price Index for April 1976 for provision basing the guidelines on the average Consumer Price Index for the previous calendar year.

Subsec. (b)(2). Pub. L. 94-105, § 6(d), added subsec. (b)(2).

Subsec. (c). Pub. L. 94-105, § 6(e), substituted "schools (as defined in section 1760(d)(6) of this title which are private and nonprofit as defined in the last sentence of section 1760(d)(6) of this title)" for "nonprofit private schools".

1974—Subsec. (b). Pub. L. 93-326 substituted "beginning with the fiscal year ending June 30, 1974" for "for the fiscal year ending June 30, 1974" in provision authorizing State educational agencies to establish income guidelines for reduced price lunches at not more than 75 per centum above the applicable family size income levels in the income poverty guidelines as prescribed by the Secretary.

1973—Subsec. (b). Pub. L. 93-150 added proviso relating to income guidelines for reduced price lunches.

1972—Subsec. (a). Pub. L. 92-433, § 5(a), designated the first sentence as subsec. (a).

Subsec. (b). Pub. L. 92-433, § 5(b), designated second through seventh sentences of existing provisions as subsec. (b), and in subsec. (b), separated provisions relating to free and reduced price lunches, substituted May 15 of each year for July 1 of each year as the date by which the Secretary is required to prescribe an income poverty guideline, prescribed free lunch for children of households below the guideline instead of prior provision requiring free lunch or lunch at reduced price, authorized State educational agencies to set up family-size income levels for free and reduced price lunches to be within certain percentage limitations of the guideline prescribed by the Secretary, and provided for continuation until July 1, 1973 of higher guidelines established prior to July 1, 1972.

Subsec. (c). Pub. L. 92-433, § 5(c), designated eighth through thirteenth sentences as subsec. (c), and in the last sentence of such subsec. (c), added provision that requirements of this section are not applicable to nonprofit private schools which participate in the school lunch program under this chapter until the State educational agency certifies about the funds.

1971—Pub. L. 92-153 inserted provisions for consideration of income poverty guidelines during fiscal year 1972 as a national minimum standard of eligibility and for reimbursement of State agencies during such fiscal year pursuant to eligibility standards established by State agencies prior to Oct. 1, 1971.

1970—Pub. L. 91-248 placed a ceiling of 20 cents on any reduced price meal offered under the school lunch program, provided for determination of ability to pay the full cost of lunch based on a publicly announced policy the minimum criteria of which includes family income and the number of school children in the family unit as well as the size of the family unit in general, but, under which, by Jan. 1, 1971 such determination shall be based on the income poverty guidelines with first priority given to providing free meals to the neediest children, provided that there be no overt identification of those children who receive free and reduced price meals, authorized the Secretary to prescribe such terms and conditions for food service in the non-national School Lunch Act schools as well as schools under this Act which are receiving Federal assistance in the form of commodities, and excepted from the requirements of this section with respect to amount for reduced cost meals and eligibility for meals without cost nonprofit private schools which participate in the school lunch program under the provisions of section 1759 of this title until the Secretary certifies that sufficient funds are available to enable such schools to meet the requirements of this section.

1968—Pub. L. 90-302 provided that the minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research which the lunches served by participating schools must meet could not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 6(c) of Pub. L. 94-105 provided in part that the amendment by section 6(c) of Pub. L. 94-105 is effective Jan. 1, 1976.

LOWERING MINIMUM STANDARD OF ELIGIBILITY AND REDUCTION IN NUMBER OF CHILDREN SERVED, FISCAL YEAR 1972

Section 6 of Pub. L. 92-153 provided that: "The Secretary shall not lower minimum standards of eligibility for free and reduced price meals nor require a reduction in the number of children served in any school district during a fiscal year to be effective for that fiscal year. This section shall apply to fiscal year 1972."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1753, 1755, 1759a, 1760, 1773, 1774 of this title.

§ 1759. Direct disbursement to schools by Secretary

If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under this chapter to any of the schools in the State, or is not permitted by law to match Federal funds made available for use by such schools, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to schools within the State by the State educational agency, including the requirement that any such payment or payments shall be matched, in the proportion specified in section 1756 of this title for such State, by funds from sources within the State expended by such schools within the State participating in the school lunch program under this chapter. Such funds shall not be considered a part of the funds constituting the matching funds under the terms of section 1756 of this title.

(June 4, 1946, ch. 281, § 10, 60 Stat. 233; Oct. 15, 1962, Pub. L. 87-823, § 4, 76 Stat. 945; May 14, 1970, Pub. L. 91-248, § 1(b), 84 Stat. 208; Sept. 26, 1972, Pub. L. 93-433, § 4(d), 86 Stat. 726; Nov. 7, 1973, Pub. L. 93-150, § 3(b), 87 Stat. 562; Oct. 7, 1975, Pub. L. 94-105, § 7, 89 Stat. 514.)

AMENDMENTS

1975—Pub. L. 94-105 altered the provisions of this section to accommodate the authorization of direct payments to private nonprofit schools and institutions in conformity with the revised allocation method for school lunch funds and the expanded definition of "school" to include any public or licensed nonprofit residential child care institution, including but not limited to, orphanages and homes for the mentally retarded.

1973—Pub. L. 93-150 inserted in the proviso reference to section 1759a of this title.

1972—Pub. L. 92-433 added proviso that beginning with the fiscal year ending June 30, 1974, the Secretary shall make payments directly to the nonprofit private schools for the purpose of section 1753 of this title under the same conditions as are prescribed for State educational agencies.

1970—Pub. L. 91-248 provided that the data upon which State apportionments are calculated is the program year completed two years immediately prior to the fiscal year for which the appropriation is requested.

1962—Pub. L. 87-823 substituted "an amount which bears the same ratio to such funds as the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 1758 of this title, served in the preceding fiscal year by all nonprofit private schools participating in the program under this chapter within the State, as determined by the Secretary, bears to the participation rate for the State" for "the same proportion of the funds as the number of children between the ages of 5 and 17, inclusive, attending nonprofit private schools within the State, is of the total number of persons of those ages within the State attending school".

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976; CONTINUATION AND COMPUTATION OF FEDERAL PROGRAMS DURING PERIOD

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, included within term "fiscal year", see section III of Pub. L. 94-274, title I, Apr. 21, 1976, 90 Stat. 388, set out as a note under section 1752 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1756, 1758, 1759a of this title.

§ 1759a. Special assistance funds

(a) Formula for computation of payments; special-assistance factors; semiannual adjustments based on changes in series for food away from home of Consumer Price Index; base period for adjustments

Except as provided in section 1759 of this title, in each fiscal year each State educational agency shall receive special assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 1758(a) of this title) served free to children eligible for such lunches in schools within that State during such fiscal year by the special-assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced-price lunches in schools within that State during such fiscal year by the special-assistance factor for reduced-price lunches prescribed by the Secretary for such fiscal year. For the fiscal year beginning July 1, 1973, the Secretary shall prescribe a special-assistance factor for free lunches of not less than 45 cents and a special-assistance factor for reduced-price lunches which shall be 10 cents less than the special-assistance factor for free lunches. The Secretary shall prescribe on July 1 of each fiscal year, and on January 1, of each fiscal year, semi-annual adjustments in the national average rates for lunches served under section 1753 of this title and the special-assistance factor for the lunches served under this section and the national average rates for breakfasts served under section 4 of the Child Nutrition Act of 1966 [42 U.S.C. 1773], that shall reflect changes in the cost of operating a school lunch and breakfast program under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], as indicated by the change in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor: *Provided*, That the initial such adjustment shall reflect the change in the series for food away from home during the period September

1973, through November 1973: *Provided further,* That each subsequent adjustment shall reflect the changes in the series for food away from home for the most recent six-month period for which such data are available: *Provided further,* That such adjustments shall be computed to the nearest one-fourth cent. Notwithstanding the foregoing two sentences, (1) for the fiscal year beginning July 1, 1973, no special assistance factor under this section shall, for any State, be less than the average reimbursement paid for each free lunch (in the case of the special assistance factor for free lunches), or for each reduced price lunch (in the case of the special assistance factor for reduced price lunches), in such State under this section in the fiscal year beginning July 1, 1972; and (2) adjustments required by the sentence immediately preceding this sentence shall be based on the special assistance factors for the fiscal year beginning July 1, 1973, as determined without regard to any increase required by the application of this sentence.

(b) Financing cost of free and reduced-price lunches on basis of need of school for special assistance; maximum per lunch amount

Except as provided in section 10 of the Child Nutrition Act of 1966 [42 U.S.C. 1779], the special State assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in financing the cost of providing free and reduced-price lunches served to children pursuant to section 1758(b) of this title. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents.

(c) Payments to States

Special assistance payments to any State under this section shall be made as provided in the last sentence of section 1756 of this title.

(d) Terms and conditions

In carrying out this section, the terms and conditions governing the operation of the school lunch program set forth in other sections of this chapter, including those applicable to funds apportioned or paid pursuant to section 1753 or 1754 of this title but excluding the provisions of section 1756 of this title relating to matching, shall be applicable to the extent they are not inconsistent with the express requirements of this section.

(e) Submission of State plan of child nutrition operations, contents; report of school to State educational agency, contents; report of State educational agency to the Secretary, contents

(1) Each year by not later than a date specified by the Secretary, each State educational agency shall submit to the Secretary, for approval by him as a prerequisite to receipt of Federal funds or any commodities donated by the Secretary for use in programs under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], a State plan of child nutrition operations for the following school year, which shall include, as a minimum, a description of the manner in which the State educational agency proposes (A) to use the funds provided under this chapter and funds from sources within the State to furnish a free or reduced-price lunch to every needy child in accordance with the provisions of section 1758 of this title; (B) to extend the school-lunch program under this chapter to every school within the State, and (C) to use the funds provided under section 1761 of this title and section 4 of the Child Nutrition Act of 1966 [42 U.S.C. 1773] and funds from sources within the State to the maximum extent practicable to reach needy children.

(2) Each school participating in the school lunch program under this chapter shall report each month to its State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month. Each participating school shall provide an estimate, as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced price lunch.

(3) The State educational agency of each State shall report to the Secretary each month the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month. Each State educational agency shall provide an estimate as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced price lunch.

(June 4, 1946, ch. 281, § 11, as added Oct. 15, 1962, Pub. L. 87-823, § 6, 76 Stat. 946, and amended May 14, 1970, Pub. L. 91-248, § 7, 84 Stat. 211; Nov. 5, 1971, Pub. L. 92-153, § 4, 85 Stat. 420; Nov. 7, 1973, Pub. L. 93-150, § 3(a), 87 Stat. 561; Oct. 7, 1975, Pub. L. 94-105, § 8, 89 Stat. 514.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a) and (e), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of that Act to the Code, see Short Title note set out under section 1771 of this title and Tables volume.

AMENDMENTS

1975—Subsec. (e)(1). Pub. L. 94-105 substituted "Each year by not later than a date specified by the Secretary" for "Not later than January 1 of each year", and "following school year" for "following fiscal year".

1973—Subsec. (a). Pub. L. 93-150 added subsec. (a) and struck out former subsec. (a) provisions relating to appropriations authorization for fiscal year ending June 30, 1971, and succeeding fiscal years of such sums as may be necessary to provide special assistance to assure access to the school lunch program under this chapter by children of low-income families.

Subsec. (b). Pub. L. 93-150 added subsec. (b) and struck out former subsec. (b) provisions relating to formula for apportionment of funds and need for additional funds.

Subsec. (c). Pub. L. 93-150 redesignated former subsec. (d) as (c), substituted "Special assistance payments to any State" for "Payment of the funds apportioned to any State", and struck out former subsec. (c)

provisions relating to basis for apportionment among States and need for additional funds.

Subsec. (d). Pub. L. 93-150 redesignated former subsec. (g) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 93-150 redesignated subsec. (h) as (e) struck out former subsec. (e) provisions relating to State disbursement to schools for financing operating costs of the school lunch program and basis for determination of amount of funds. Subject matter is now covered by subsecs. (a) and (b) of this section.

Subsec. (f). Pub. L. 93-150 struck out subsec. (f) provisions relating to withholding of funds from State educational agencies not permitted to disburse funds to nonprofit private schools and direct disbursement to nonprofit private schools, and conditions thereof.

Subsec. (g). Pub. L. 93-150 redesignated former subsec. (g) as (d).

Subsec. (h). Pub. L. 93-150 redesignated former subsec. (h) as (e).

1971—Subsec. (e). Pub. L. 92-153 established a reimbursement rate as amount of funds to be disbursed to schools in a State, provided for receipt of a greater amount or reimbursement per meal if the school established financial inability to support service of meals, and prescribed maximum per meal amount and higher maximum per meal amount for especially needy schools.

1970—Subsec. (a). Pub. L. 91-248 authorized for the fiscal year ending June 30, 1971, and for each succeeding fiscal year such sums as may be necessary to provide assistance to assure access to the school lunch program by children of low-income families.

Subsec. (b). Pub. L. 91-248 substituted formula for apportionment of funds among Puerto Rico, the Virgin Islands, Guam, and American Samoa based on the ratio of the number of children aged three to seventeen, inclusive, in such State as compared to the total number of such children in all such States, for a ratio based on the number of free or reduced price lunches served in the preceding fiscal year in such State as compared to the number of such lunches served in all such States in the preceding fiscal year.

Subsec. (c). Pub. L. 91-248 struck out provision requiring that not less than 50 percent of the remaining sums appropriated be apportioned among the States other than Puerto Rico, the Virgin Islands, Guam, and American Samoa, substituted formula for apportionment of special assistance funds among the States based on the total number of children aged three to seventeen, inclusive, in households with incomes of less than $4,000 per annum, for a formula based on the number of free or reduced price lunches served in the preceding fiscal year and the assistance need rate, and provided that further apportionment be made on the same basis as the initial apportionment to any State which justifies the need for additional funds.

Subsec. (e). Pub. L. 91-248 substituted provision requiring that funds disbursed by the State be used to assist schools in financing all or part of the operating costs of the school lunch program, for requirement that disbursed funds be used to assist schools in the purchase of agricultural commodities and other foods, struck out provision relating to the selection of schools to receive funds, and substituted as a basis for determination of the amount of funds to go to each school the need of that school for assistance in meeting the requirements of section 1758 of this title, for such factors as economic condition of area from which school draws attendance, the percentages of free and reduced price lunches being served in such schools, the price of lunches in such schools compared with the average prevailing price of lunches served in the State under this chapter and the need of such schools for assistance as reflected by the financial position of the school's lunch programs.

Subsec. (f). Pub. L. 91-248 substituted "in the fiscal year beginning two years immediately prior to the fiscal year for which the funds are appropriated" for "in the preceding fiscal year".

Subsec. (h). Pub. L. 91-248 added subsec. (h).

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976; CONTINUATION AND COMPUTATION OF FEDERAL PROGRAMS DURING PERIOD

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, included within term "fiscal year", see section 111 of Pub. L. 94-274, title I, Apr. 21, 1976, 90 Stat. 388, set out as a note under section 1752 of this title.

ADDITIONAL FUNDS FOR FOOD SERVICE PROGRAMS FOR CHILDREN; APPORTIONMENT TO STATES SPECIAL ASSISTANCE; CONSULTATION WITH CHILD NUTRITION COUNCIL; REIMBURSEMENT FROM SUPPLEMENTAL APPROPRIATION

Additional funds for food service programs for children from appropriations under section 612(c) of Title 7, Agriculture, apportionment to States, special assistance programs, consultation with National Advisory Council on Child Nutrition, and reimbursement from supplemental appropriation, see section 1 of Pub. L. 92-153, set out as a note under section 1753 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1756, 1757, 1766, 1776 of this title.

§ 1760. Miscellaneous provisions

(a) Accounts and records

States, State educational agencies, and schools participating in the school-lunch program under this chapter shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this chapter are being complied with. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

(b) Agreements with State educational agencies

The Secretary shall incorporate, in his agreements with the State educational agencies, the express requirements under this chapter with respect to the operation of the school-lunch program under this chapter insofar as they may be applicable and such other provisions as in his opinion are reasonably necessary or appropriate to effectuate the purposes of this chapter.

(c) Requirements with respect to teaching personnel, curriculum, instruction, etc.

In carrying out the provisions of this chapter, neither the Secretary nor the State shall impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction in any school.

(d) Definitions

For the purposes of this chapter—

(1) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(2) "State educational agency" means, as the State legislature may determine, (A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education controlling the State department of education.

(3) "Nonfood assistance" means equipment used by schools in storing, preparing, or serving food for schoolchildren.

(4) "Participation rate" for a State means a number equal to the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 1758 of this title, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by schools participating in the program under this chapter in the State, as determined by the Secretary.

(5) "Assistance need rate" (A) in the case of any State having an average annual per capita income equal to or greater than the average annual per capita income for all the States, shall be 5; and (B) in the case of any State having an average annual per capita income less than the average annual per capita income for all the States, shall be the product of 5 and the quotient obtained by dividing the average annual per capita income for all the States by the average annual per capita income for such State, except that such product may not exceed 9 for any such State. For the purposes of this paragraph (i) the average annual per capita income for any State and for all the States shall be determined by the Secretary on the basis of the average annual per capita income for each State and for all the States for the three most recent years for which such data are available and certified to the Secretary by the Department of Commerce; and (ii) the average annual per capita income for American Samoa shall be disregarded in determining the average annual per capita income for all the States for periods ending before July 1, 1967.

(6) "School" means (A) any public or nonprofit private school of high school grade or under, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of title 26.

(e) Value of assistance as income or resources under Federal or State laws

The value of assistance to children under this chapter shall not be considered to be income or resources for any purposes under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs.

(June 4, 1946, ch. 281, § 12, formerly § 11, 60 Stat. 233; July 12, 1952, ch. 699, § 1(c), 66 Stat. 591; Sept. 25, 1962, Pub. L. 87-688, § 3(a), 76 Stat. 587, renumbered and amended Oct. 15, 1962, Pub. L. 87-823, § 5, 76 Stat. 945; May 14, 1970, Pub. L. 91-248, § 1(b), 84 Stat. 208; Oct. 7, 1975, Pub. L. 94-105, § 9, 89 Stat. 514.)

AMENDMENTS

1975—Subsec. (d)(1). Pub. L. 94-105, § 9(b), added reference to the Trust Territory of the Pacific Islands.

Subsec. (d)(3). Pub. L. 94-105, § 9(a), redesignated former subsec. (d)(4) as (d)(3). Former subsec. (d)(3) defining "Nonprofit private schools" was struck out.

Subsecs. (d)(4), (5). Pub. L. 94-105, § 9(a), redesignated former subsecs. (d)(4) and (5) as (d)(3) and (4), respectively.

Subsec. (d)(6). Pub. L. 94-105, § 9(a), (c), redesignated former subsec. (d)(7) as (d)(6), and as so redesignated, expanded the definition of "school" to include any public or licensed nonprofit private residential child care institution, including, but not limited to, orphanages and homes for the mentally retarded, and added provision defining the term "nonprofit" as any school or institution exempt under section 501(c)(3) of title 26.

Subsec. (d)(7). Pub. L. 94-105, § 9(a), redesignated subsec. (d)(7) as (d)(6).

Subsec. (e). Pub. L. 94-105, § 9(d), added subsec. (e).

1970—Subsec. (d)(5). Pub. L. 91-248 provided that the data upon which State apportionments are calculated is the program year completed two years immediately prior to the fiscal year for which the appropriation is requested.

1962—Subsec. (c). Pub. L. 87-823 omitted requirement of just and equitable distribution of funds in States maintaining separate schools for minority and majority races.

Subsec. (d). Pub. L. 87-823 redefined the term "State" in par. (1) to recognize Hawaiian and Alaskan statehood and to include American Samoa; the term "State educational agency" in par. (2) to exclude an exception applicable to the District of Columbia and language which was effective by its terms only through June 30, 1948; the term "nonprofit private school" in par. (3), substituting "section 501(c)(3) of Title 26" for "section 101(6) of Title 26"; and the term "nonfood assistance" in par. (4), substituting "used by schools" for "used on school premises"; and added pars. (5) to (7).

Pub. L. 87-688 inserted "American Samoa," following "Guam".

1952—Subsec. (d)(1). Act July 12, 1952 included Guam within the definition of States.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-688 applicable only with respect to funds appropriated after Sept. 25, 1962, see section 3(b) of Pub. L. 87-688, set out as an Effective Date of 1962 Amendment note under section 1753 of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Amendment by act July 12, 1952, effective only with respect to funds appropriated after July 12, 1952, see section 1(d) of act July 12, 1952, set out as an Effective Date of 1952 Amendment note under section 1753 of this title.

STUDY OF COST ACCOUNTING REQUIREMENTS

Section 21 of Pub. L. 94-105 prohibited the Secretary from delaying or withholding or causing any State to delay or withhold payments for reimbursement of per-meal costs on the basis of noncompliance with cost accounting procedures until the requirements of subsec. (b) of this section have been met, and called for a study by the Secretary of the additional personnel and training needs of States, school districts, and schools resulting from the requirement of full cost accounting procedures, such report with recommendations to be submitted to the appropriate committees of Congress within one year after Oct. 7, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1758 of this title.

§ 1761. Summer food service programs for children in service institutions

(a) Authorization of appropriations; definitions; eligibility

(1) There is hereby authorized to be appropriated such sums as are necessary for the fiscal year ending June 30, 1976, for the period July 1, 1976, through September 30, 1976, and for the fiscal year ending September 30, 1977, to enable the Secretary to formulate and carry out a program to assist States through grants-in-aid and other means, to initiate, maintain, and expand nonprofit food service programs for children in service institutions. For purposes of this section, the term "service institutions" means nonresidential public or private, nonprofit institutions, and residential public or private nonprofit summer camps that develop special summer programs providing food service similar to that available to children under the school lunch program under this chapter or the school breakfast program under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] during the school year. To the maximum extent feasible, consistent with the purposes of this section, special summer programs shall utilize the existing food service facilities of public and nonprofit private schools. Any eligible service institution shall receive the summer food program upon its request.

(2) Service institutions eligible to participate under the program authorized under this section shall be limited to those which conduct a regularly scheduled program for children from areas in which poor economic conditions exist, for any period during the months of May through September, at site locations where organized recreation activities or food services are provided for children in attendance.

(3) For the purposes of this section, "poor economic conditions" shall mean an area in which at least 33⅓ per centum of the children are eligible for free or reduced price school meals under this chapter and the Child Nutrition Act [42 U.S.C. 1771 et seq.] as shown by information provided from model city target areas, departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending schools located in the area of summer food sites, or from other applicable sources. "State" shall mean any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(b) Disbursements to service institutions; maximum rates for food and administrative costs; adjustment of rates

Disbursement to service institutions shall equal the full cost of food service operations, except that such financial assistance to any such institution shall not exceed (1) 75.5 cents for all costs excepting administrative costs for each lunch and supper served, (2) 6 cents for administrative costs for each lunch and supper served, (3) 42 cents for all costs except administrative costs for each breakfast served, (4) 3 cents for administrative costs for each breakfast served, (5) 19.75 cents for all costs except administrative costs for each meal supplement served, and (6) 1.5 cents for administrative costs for each meal supplement served: *Provided*, That the above amounts shall be adjusted each March 1 to the nearest one-fourth cent in accordance with changes for the year ending January 31 in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The initial such adjustment shall reflect the change in the series for food away from home during the period January 31, 1975, to January 31, 1976. The cost of food service operations shall include the cost of obtaining, preparing, and serving food and related administrative costs. No service institution shall be prohibited from serving breakfasts, suppers, and meal supplements as well as lunches unless the service period of different meals coincides or overlaps.

(c) Disbursements for meals served during May through September; exceptions for continuous school calenders

Disbursements shall be made to service institutions only for meals served during the months of May through September, except that the foregoing provision shall not apply to institutions which develop food service programs for children on school vacation at any time under a continuous school calendar or prevent such institutions, if otherwise eligible, from participating in the program authorized by this section.

(d) Advance payment for monthly meal service

No later than June 1, July 1, and August 1 of each year, the Secretary shall forward to each State an advance payment for meals to be served in that month pursuant to subsection (b) of this section, which amount shall be no less than (1) the total payment made to such State for meals served pursuant to subsection (b) of this section for the same calendar month of the preceding calendar year or (2) 65 per centum of the amount estimated by the State, on the basis of approved applications, to be needed to reimburse service institutions for meals to be served pursuant to subsection (b) of this section in that month, whichever is the greater. The Secretary shall forward any remaining payment due pursuant to subsection (b) of this section no later than 60 days following receipt of valid claims. Any funds advanced to a State for which valid claims have not been established within 180 days shall be deducted from the next appropriate monthly advance payment unless the claimant requests a hearing with the Secretary prior to the 180th day. Institutions operating programs during nonsummer vacations during a continuous school year calendar shall receive advance payments not later than the first day of each month involved.

(e) Nutritional standards; free cost meals to children in approved institutions

Service institutions to which funds are disbursed under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost to children attending service institutions approved for operation under this section.

(f) Regulations; promulgation; publication; startup costs for meals served in previous summer

The Secretary shall publish proposed regulations relating to the implementation of the summer food program by January 1 of each fiscal year, and shall publish final regulations, guidelines, applications, and handbooks by March 1 of each fiscal year. In order to improve program planning, the Secretary is authorized to provide that service institutions receive as startup costs not to exceed 10 per centum of the Federal funds provided such service institutions for meals served pursuant to this section during the preceding summer. Any such startup costs shall be subtracted from payments subsequently made to service institutions for meals served pursuant to subsection (b) of this section.

(g) Use of abundant or donated food

Each participating service institution shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the institution area, or foods donated by the Secretary. Irrespective of the amount of funds appropriated under this section, foods available under section 1431 of title 7, or purchased under section 612c of title 7, or section 1446a-1 of title 7, shall be donated by the Secretary to service institutions in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs.

(h) Direct disbursement to service institutions by Secretary

If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any service institution in the State, the Secretary shall disburse the funds directly to service institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.

(i) Nondiminution of expenditure of State and local funds by reason of federal funds

Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(j) Administrative expenses of Secretary; authorization of appropriations

There is[1] hereby authorized to be appropriated such sums as may be necessary for the Secretary's administrative expenses under this section.

(k) Administrative costs of State

The Secretary shall pay to each State for administrative costs incurred pursuant to this section an amount equal to 2 per centum of the funds distributed to that State pursuant to subsection (b) of this section: *Provided*, That no State shall receive less than $10,000 each fiscal year for its administrative costs unless the funds distributed to that State pursuant to subsection (b) of this section total less than $50,000 for such fiscal year.

[1] So in original. Probably should be "are".

(l) Competitive contracts for furnishing of meals and administration of program

Nothing in this section shall be construed as precluding a service institution from contracting on a competitive basis for the furnishing of meals or administration of the program, or both.

(m) Accounts and records

States, State educational agencies, and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of 5 years, as the Secretary determines is necessary.

(June 4, 1946, ch. 281, § 13, as added May 8, 1968, Pub. L. 90-302, § 3, 82 Stat. 117, and amended May 14, 1970, Pub. L. 91-248, § 6(c), (d), 84 Stat. 210; June 30, 1971, Pub. L. 92-32, § 7, 85 Stat. 86; Sept. 26, 1972, Pub. L. 92-433, §§ 1, 2, 86 Stat. 724; May 2, 1975, Pub. L. 94-20, 89 Stat. 82; Oct. 7, 1975, Pub. L. 94-105, § 13, 89 Stat. 515.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a)(1) and (3) is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of that Act to the Code, see Short Title note set out under section 1771 of this title and Tables volume.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-105 substituted provisions authorizing to be appropriated sums for a summer food services program through Sept. 30, 1977, for provisions authorizing to be appropriated sums for a summer food services program through Sept. 30, 1975.

Subsec. (a)(1). Pub. L. 94-20, § 1(a), inserted "and for the period July 1, 1975, through September 30, 1975," preceding "to enable".

Subsec. (b). Pub. L. 94-105 substituted provisions for payment to service institutions of the full cost of obtaining, preparing and serving food and administrative costs, with maximum rates for each kind of meal and its related administrative cost and adjustment of the rates each March 1 on the basis of changes in the series for food away from home of the Consumer Price Index for provisions apportioning among the states the appropriated sums, with a maximum basic grant of $50,000, and reserving 2 per centum of the appropriated sums for apportionment to Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

Subsec. (c). Pub. L. 94-105 substituted provisions for disbursement to service institutions only for meals served during May through Sept. except for institutions with programs for children on school vacation at any time under a continuous school calender for provisions for the disbursement of funds by the State educational agency to service institutions on a nondiscriminatory basis for the cost of obtaining agricultural commodities and other foods, purchase and rental of equipment and authorizing financial assistance not to exceed 3 per centum of the operating costs in cases of severe need.

Subsec. (d). Pub. L. 94-105 substituted provisions relating to the advance payment to States for meals served in that month and deductions in the next

month for advances for which valid claims have not been established within 180 days for provisions for the disbursement of funds directly to service institutions in states where the State educational agency is forbidden by law to disburse funds to such institutions.

Subsec. (e). Pub. L. 94-105 substituted provisions for free meals consisting of a combination of foods and meeting minimum nutritional standards for provisions making available for the first three months of the next fiscal year any funds unobligated at the end of the prior fiscal year.

Subsec. (f). Pub. L. 94-105 substituted provisions directing the Secretary to publish proposed and final regulations, guidelines, and handbooks and authorizing startup costs for meals served during the preceeding summer for provisions for free or reduced cost meals with minimum nutritional standards and prohibiting segregation, discrimination or overt identification practices with regard to any child because of his inability to pay.

Subsec. (g). Pub. L. 94-105 substituted provisions directing the utilization of foods donated or designated as in abundance by the Secretary and directing the donation of food available under section 1431, 612c and 1446a-1 of Title 7 irrespective of the amount of funds appropriated under this section for provisions directing further apportionment among the States if any State cannot utilize all funds apportioned to it or additional funds are made available.

Subsec. (h). Pub. L. 94-105 substituted provisions authorizing the Secretary to disburse funds directly to service institutions in States where the educational agency is not permitted by law or is otherwise unable to disburse the funds for provisions requiring certification by the Secretary to the Secretary of the Treasury of amounts to be paid, directing the utilization of donated foods or foods designated as abundant, permitting donation of food available under sections 1431, 612c or 1446a-1 of Title 7 irrespective of funds appropriated, mandating that value of assistance to children under this section not be considered income, that expenditures of State and local funds not be diminished as a result of federal funding, authorizing appropriations for administrative expenses and requiring States and State educational agencies and service institutions to keep and make available for inspection such accounts and records as may be necessary.

Subsec. (i). Pub. L. 94-105 substituted provision that the amount of State and local funds spent for food programs not be diminished as a result of funds received under this program for provisions authorizing the Secretary of Agriculture to utilize during May 15 to Sept. 15, 1972 not to exceed $25,000 of funds available under section 612c of Title 7 to carry out the purposes of this chapter, such funds to be reimbursed out of any supplemental appropriation.

Subsec. (j). Pub. L. 94-105 substituted provision authorizing to be appropriated such sums as may be necessary for the Secretary's administrative expenses, for provisions adjusting the reimbursement rate for meals served during May through Sept. 1975 to the nearest quarter cent to reflect changes since the period of May through Sept. 1974 in the cost of operating special summer food programs.

Pub. L. 94-20, § 1(b), added subsec. (j).

Subsec. (k). Pub. L. 94-105 substituted provisions directing the Secretary to pay each State for administrative costs an amount equal to 2 per centum of funds distributed under subsec. (b), with no State to receive less than $10,000 unless funds distributed to such State total less than $50,000 for provisions directing the Secretary to issue regulations no later than ten days following May 2, 1975 pertaining to operations of the program during the months of May through Sept. 1975, with the proviso that such regulations shall in no way differ from current regulations except for changes necessary to implement this chapter.

Pub. L. 94-20, § 1(b), added subsec. (k).

Subsecs. (l), (m). Pub. L. 94-105 added subsecs. (l) and (m).

1972—Subsec. (a)(1). Pub. L. 92-433, § 2(a), substituted authorization of appropriation of such sums as are necessary for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for provisions authorizing appropriation of $32,000,000 for each of the fiscal years ending June 30, 1972 and June 30, 1973.

Subsec. (a)(2). Pub. L. 92-433, § 2(b), added provisions authorizing special summer programs to utilize the existing food service facilities of public and nonprofit private schools to the maximum extent feasible.

Subsec. (f). Pub. L. 92-433, § 1, added subsec. (i).

1971—Subsec. (a)(1). Pub. L. 92-32, § 7(a), authorized appropriations of 32 million dollars for fiscal years ending June 30, 1972, and 1973, as were authorized for fiscal years ending June 30, 1969, 1970, and 1971, and substituted in first sentence "program" for "pilot program".

Subsec. (c)(2). Pub. L. 92-32, § 7(b), provided that non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to equipment and services.

1970—Subsec. (f). Pub. L. 91-248 provided for determination of ability to pay the full cost of lunch based on a publicly announced policy the minimum criteria of which includes family income and the number of school children in the family unit as well as the size of the family unit in general and provided that there be no overt identification of those children who receive free and reduced price meals.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 13 of Pub. L. 94-105 provided in part that the amendment by Pub. L. 94-105 is effective Oct. 1, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1752, 1755, 1759a, 1766, 1776 of this title.

§ 1762. Emergency assistance to provide nutritious meals to needy children in schools

Notwithstanding any other provision of law, under such terms and conditions as he deems in the public interest, the Secretary of Agriculture is authorized to use an additional amount, not to exceed $30,000,000, of funds from section 612c of title 7, to supplement funds heretofore made available to carry out programs during the fiscal year 1970 to improve the nutrition of needy children in public and nonprofit private schools participating in the national school lunch program under this chapter or the school breakfast program under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(June 4, 1946, ch. 281, § 13A, as added Mar. 12, 1970, Pub. L. 91-207, 84 Stat. 51.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables volume.

§ 1762a. Commodity distribution program

(a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending September 30, 1977, shall—

(1) use funds available to carry out the provisions of section 612c of title 7 which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types custom-

arily purchased under such section, for donation to maintain the annually programmed level of assistance for programs carried on under this chapter, the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], and title VII of the Older Americans Act of 1965 [42 U.S.C. 3045 et seq.]; and

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 1431 of title 7, for such donation.

(b) Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.

(June 4, 1946, ch. 281, § 14, as added June 30, 1974, Pub. L. 93-326, § 2, 88 Stat. 286, and amended Oct. 7, 1975, Pub. L. 94-105, § 10, 89 Stat. 515.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a)(1), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables volume.

The Older Americans Act of 1965, referred to in subsec. (a)(1), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218. Title VII of the Older Americans Act of 1965 was added by Pub. L. 92-258, Mar. 22, 1972, 86 Stat. 88, and is classified generally to subchapter VII (§ 3045 et seq.) of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables volume.

AMENDMENTS

1975—Pub. L. 94-105 designated existing provisions as subsec. (a), and as so designated, substituted "September 30, 1977" for "June 30, 1975", and added subsec. (b).

§ 1763. National Advisory Council on Child Nutrition

(a) Establishment; membership

There is hereby established a council to be known as the National Advisory Council on Child Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of fifteen members appointed by the Secretary. One member shall be a school administrator, one member shall be a person engaged in child welfare work, one member shall be a person engaged in vocational education work, one member shall be a nutrition expert, one member shall be a school food service management expert, one member shall be a State superintendent of schools (or the equivalent thereof) one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in a rural area, one member shall be a State school lunch director (or the equivalent thereof), one member shall be a person serving on a school board, one member, shall be a classroom teacher, and four members shall be officers or employees of the Department of Agriculture specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to child food programs.

(b) Terms of members

The eleven members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of three years, except that the nine members first appointed to the Council shall be appointed as follows: Three members shall be appointed for terms of three years, three members shall be appointed for terms of two years, and three members shall be appointed for terms of one year. Thereafter all appointments shall be for a term of three years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary.

(c) Chairman; Vice Chairman

The Secretary shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Council.

(d) Meetings

The Council shall meet at the call of the Chairman but shall meet at least once a year.

(e) Quorum

Eight members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

(f) Functions

It shall be the function of the Council to make a continuing study of the operation of programs carried out under this chapter, the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], and any related Act under which meals are provided for children, with a view to determining how such programs may be improved. The Council shall submit to the President and the Congress annually a written report of the results of its study together with such recommendations for administrative and legislative changes as it deems appropriate.

(g) Technical assistance

The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions under this chapter.

(h) Compensation and travel expenses

Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council.

(June 4, 1946, ch. 281, § 15, formerly § 14, as added May 14, 1970, Pub. L. 91-248, § 9, 84 Stat. 213, amended Nov. 7, 1973, Pub. L. 93-150, § 8, 87 Stat. 564, and renumbered June 30, 1974, Pub. L. 93-326, § 2, 88 Stat. 286.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (f), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables volume.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-150, § 8(1), increased from thirteen to fifteen the membership of the Council and provided that one member shall be a supervisor

of a school lunch program in a school system in an urban area (or the equivalent thereof) and one member shall be a supervisor of a school lunch program in a school system in a rural area.

Subsec. (b). Pub. L. 93-150, § 8(2), substituted in first sentence "eleven" for "nine" members and "nine members first appointed" for "such members first appointed".

Subsec. (e). Pub. L. 93-150, § 8(3), increased quorum requirement from seven to eight members.

TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1764. Repealed. Pub. L. 94-105, § 22, Oct. 7, 1975, 89 Stat. 528

Section, act June 4, 1946, ch. 281, § 15, as added June 30, 1971, Pub. L. 92-32, § 1, 85 Stat. 85, authorized the use, during fiscal 1971, of not to exceed $35,000,000 from section 612c of Title 7, and not to exceed $100,000,000 during fiscal 1972 to carry out the provisions of this chapter, with unexpended funds to remain available in accordance with the last sentence of section 1752 of this title.

§ 1765. Cash payment in lieu of donated foods; election, payment, disbursement and use

(a) Notwithstanding any other provision of law, where a State phased out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by section 1755(e) of this title.

(b) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural commodities and other foods for their food service programs.

(June 4, 1946, ch. 281, § 16, as added Oct. 7, 1975, Pub. L. 94-105, § 12, 89 Stat. 515.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables volume.

§ 1766. Child care food program

(a) Authorization of appropriations

(1) There is hereby authorized to be appropriated such sums as are necessary for the fiscal year ending June 30, 1976, the period July 1, 1976, through September 30, 1976, the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, to enable the Secretary to formulate and carry out a program to assist States through grants-in-aid and other means to initiate, maintain, or expand nonprofit food service programs for children in institutions providing child care.

(2) For purposes of this section, the term "institution" means any public or private nonprofit organization where children are not maintained in permanent residence including, but not limited to, day care centers, settlement houses, recreation centers, family day care programs, Head Start centers, Homestart programs, and institutions providing day care services for handicapped children. No institution shall be eligible to participate in this program unless it has either local, State, or Federal licensing or approval as a child care institution, or can satisfy the Secretary that its standards are no less comprehensive than the Federal interagency day care requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968. An institution may be approved for funding under this section only if, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status under section 501(c)(3) of title 26, or is currently operating a federally funded program requiring nonprofit status. For purposes of this section, the term "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands. Any eligible institution shall receive the child care food program upon its request.

(b) Formula for computation of payments; semiannual adjustments based on changes in series for food away from home of Consumer Price Index; base period for adjustments

For each fiscal year beginning with the fiscal year ending June 30, 1976, the Secretary shall make child care food payments no less frequently than on a monthly basis to each State educational agency in an amount no less than the sum of the products obtained by multiplying (A) the number of breakfasts served in child care food programs within that State by the national average payment rate for breakfasts under section 1773 of this title, (B) the number of breakfasts served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for free school meals by the national average payment rate for free breakfasts under section 1773 of this title, (C) the number of breakfasts served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for reduced price school meals by the national average payment rate for reduced price school breakfasts under section 1773 of this title, (D) the number

of lunches and suppers served in child care food programs within that State by the national average payment rate for lunches under section 1753 of this title, (E) the number of lunches and suppers served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for free school meals by the national average payment rate for free school lunches under section 1759a of this title, (F) the number of lunches and suppers served in child care food programs in that State to children whose families meet the eligibility criteria for reduced price school meals by the national average payment factor for reduced price lunches under section 1759a of this title, (G) the number of snacks served in child care food programs in that State by 5 cents, (H) the number of snacks served in child care food programs in that State to children from families whose incomes meet the eligibility criteria for free school meals by 15 cents, and (I) the number of snacks served in child care food programs in that State to children from families whose incomes meet the eligibility criteria for reduced price school meals by 10 cents. The rates established pursuant to clauses (G), (H), and (I) shall be adjusted semiannually to the nearest one-fourth cent by the Secretary to reflect the changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The initial such adjustment shall become effective January 1, 1976, and shall reflect changes in the series for food away from home during the period June through November 1975. Reimbursement for meals provided under this section shall not be dependent upon the collection of moneys from participating children.

(c) Nutritional standards; discrimination and overt identification prohibited

Meals served by institutions participating in the program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served free to needy children. No physical segregation or other discrimination against any child shall be made because of his inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or other means. No institution shall be prohibited from serving a breakfast, lunch, dinner, and snack to each eligible child each day.

(d) State disbursements to institutions

Funds paid to any State under this section shall be disbursed by the State educational agency to institutions approved for participation on a nondiscriminatory basis to reimburse such institutions for their costs in connection with food service operations, including labor and administrative expenses. All valid claims from such institutions shall be paid within 30 days.

(e) Donation of agricultural commodities; cash in lieu of commodities

Irrespective of the amount of funds appropriated under this section, foods available under section 1431 of title 7 or purchased under section 612c of title 7, or section 1446a-1 of title 7, shall be donated by the Secretary of Agriculture to institutions participating in the child care food program in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs. The amount of such commodities (or, upon the application of a State educational agency, cash in lieu of commodities in such amounts as may be provided in appropriations Acts) donated to each State for each fiscal year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions during that fiscal year by the rate for commodities and cash in lieu thereof established for that fiscal year in accordance with the provisions of section 1755(e) of this title.

(f) Direct disbursement to institutions by Secretary; conditions

If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any institution in the State, the Secretary shall disburse the funds so withheld directly to institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.

(g) Nondiminution in expenditure of State and local funds by reason of federal funds

Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(h) Administrative expenses of Secretary; authorization of appropriations

There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary for the Secretary's administrative expenses under this section.

(i) Accounts and records

States, State educational agencies, and institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of 5 years, as the Secretary determines is necessary.

(j) Nonfood assistance; apportionment; apportionment of unused funds

(1) Of the sums appropriated for any fiscal year pursuant to the authorization contained in this section, $3,000,000 shall be available to the Secretary for the purposes of providing, during each such fiscal year, nonfood assistance for the child care food program. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of $3,000,000: *Provided,* That such an apportionment shall be made according to the ratio among the States of the number of children below age 6 who are members of households which have an annual income not above 125 per centum of the applicable family-size income level set forth in the

income poverty guideline prescribed by the Secretary under section 1758(b) of this title.

(2) If any State cannot utilize all of the funds apportioned to it under the provisions of this section, the Secretary shall make further apportionments to the remaining States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this section shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this section to assist institutions determined by the State to be especially needy.

(k) Rules and regulations

The regulations issued by the Secretary to carry out this section shall be issued and become effective not later than 90 days after October 7, 1975. During the period prior to the effective date of the regulations, the Secretary is authorized to conduct a food service program in the same manner and under the same conditions and limitations as the special food service program for children was conducted under section 1761 of this title during the fiscal year ending June 30, 1975. Notwithstanding the foregoing, the child care food payment rates provided in subsection (b) of this section and the provisions of subsection (e) of this section shall become effective on October 7, 1975.

(June 4, 1946, ch. 281, § 17, as added Oct. 7, 1975, Pub. L. 94-105, § 16, 89 Stat. 522.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1752 of this title.

§ 1767. Nutrition program staff study

The Secretary is authorized to carry out a study to determine how States are utilizing Federal funds provided to them for the administration of the child nutrition programs authorized by this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], and to determine the level of funds needed by the States for administrative purposes. The study shall report on the current size and structure of State staffs, job descriptions and classifications, training provided to such staff, representation of minorities on staffs, and the allocation of staff time, training time, and Federal administrative dollars spent among each of the various child nutrition programs. The study shall access State needs for additional staff positions, training, and funds, for each of the above areas, including additional State needs to implement adequately the provisions of this chapter and the Child Nutrition Act of 1966. The study shall also determine State staffing needs and training program support required to conduct effective outreach for the purpose of reaching the maximum number of eligible children in the summer food service program and the child care food program. As part of this study, the Secretary shall also examine the degree and cause of plate waste in the school lunch program. The Secretary shall examine possible relationships between plate waste and (1) lack of adequate menu development, (2) the service of competitive foods, and (3) the nature of the type A lunch pattern. The Secretary shall review the study design with the appropriate congressional committees prior to its implementation, and shall report his findings together with any recommendations he may have with respect to additional legislation, to the Congress no later than March 1, 1976.

(June 4, 1946, ch. 281, § 18, as added Oct. 7, 1975, Pub. L. 94-105, § 19, 89 Stat. 526.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables volume.

§ 1768. Authorization of appropriations for the Trust Territory of the Pacific Islands

There is hereby authorized to be appropriated (a) for each of the fiscal years beginning July 1, 1975, and October 1, 1976, the sum of $500,000 and (b) for the period July 1, 1976, through September 30, 1976, the sum of $125,000, to enable the Secretary to assist the Trust Territory of the Pacific Islands to carry out various developmental and experimental projects relating to programs authorized under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] to (1) establish or improve the organizational, administrative, and operational structures and systems at the State and local school levels; (2) develop and conduct necessary training programs for school food service personnel; (3) conduct a thorough study of the children's food and dietary habits upon which special meal and nutritional requirements can be developed; and (4) establish and maintain viable school food services which are fully responsive to the needs of the children, and which are consistent with the range of child nutrition programs available to the other States, to the maximum extent possible.

(June 4, 1946, ch. 281, § 19, as added Oct. 7, 1975, Pub. L. 94-105, § 20, 89 Stat. 527.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title, and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1752 of this title.

CHAPTER 13A—CHILD NUTRITION

Sec.
1771. Congressional declaration of purpose.
1772. Special program to encourage the consumption of fluid milk by children; authorization of appropriations; eligibility for special milk program; minimum rate of reimbursement.
1773. School breakfast program.
(a) Establishment; authorization of appropriations.
(b) Apportionment of funds to States.

Sec.
(c) Disbursement of apportioned funds by State; preference for school in poor economic areas, for students traveling long distances daily, and for schools for improvement of nutrition and dietary practices of children of working mothers and from low-income families.
(d) Increased financial assistance in cases of severe need.
(e) Nutritional requirements; service free or at reduced price.
(f) Nonprofit private schools.
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1774. Nonfood assistance program.
(a) Establishment; equipment required for food service programs; authorization of appropriations.
(b) Apportionment of funds to States.
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1775. Certification to Secretary of the Treasury of amounts to be paid to States.
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(a) Congressional declaration of purpose.
(b) Cash grants to state health departments, Indians, and other agencies for supplemental food to pregnant and lactating women and infants.
(c) Authorization of appropriations.
(d) Limitations of administrative costs; approval of manner of expenditure.
(e) Determination of eligibility.
(f) Medical records; reports to Congress.
(g) Definitions.
(h) National Advisory Council on Maternal, Infant, and Fetal Nutrition; establishment; membership; term; officers; meetings; quorum; functions; compensation.
1787. Cash grants for nutrition education; authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1752, 1755, 1759a, 1761, 1762, 1762a, 1763, 1765, 1767, 1768 of this title.

§ 1771. Congressional declaration of purpose

In recognition of the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn, based on the years of cumulative successful experience under the national school lunch program with its significant contributions in the field of applied nutrition research, it is hereby declared to be the policy of Congress that these efforts shall be extended, expanded, and strengthened under the authority of the Secretary of Agriculture as a measure to safeguard the health and well-being of the Nation's children, and to encourage the domestic consumption of agricultural and other foods, by assisting States, through grants-in-aid and other means, to meet more effectively the nutritional needs of our children.

(Pub. L. 89-642, § 2, Oct. 11, 1966, 80 Stat. 885.)

SHORT TITLE

Section 1 of Pub. L. 89-642 provided: "That this Act [enacting this chapter] may be cited as the 'Child Nutrition Act of 1966'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1755 of this title.

§ 1772. Special program to encourage the consumption of fluid milk by children; authorization of appropriations; eligibility for special milk program; minimum rate of reimbursement

There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year, such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. For the purposes of this section "United States" means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the District of Columbia. The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided for by this chapter during the fiscal year ending June 30, 1969. Any school or nonprofit child care institution shall receive the special milk program upon their request. Children that qualify for free lunches under guidelines set forth by the Secretary shall also be eligible for free milk. For the fiscal year ending June 30, 1975, and for subsequent fiscal years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each fiscal year thereafter, beginning with the fiscal year ending June 30, 1976, to reflect changes in the series of food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the

cost to the school or institution of milk served to children.

(Pub. L. 89-642, § 3, Oct. 11, 1966, 80 Stat. 885; Pub. L. 91-295, June 30, 1970, 84 Stat. 336; Pub. L. 93-150, § 7, Nov. 7, 1973, 87 Stat. 563; Pub. L. 93-347, § 3, July 12, 1974, 88 Stat. 341; Pub. L. 94-105, § 15(a), Oct. 7, 1975, 89 Stat. 522.)

AMENDMENTS

1975—Pub. L. 94-105 added the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands to the definition of "United States", and added the provision relating to the minimum rate of reimbursement to schools and institutions of the cost of milk served to children.

1974—Pub. L. 93-347 substituted "such sums as may be necessary" for ", not to exceed $120,000,000," in the provision limiting the size of appropriations authorized and added provisions setting a minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions and allowing for an annual adjustment of the minimum rate.

1973—Pub. L. 93-150 added provisions making any school or nonprofit child care institution eligible to receive the special milk program upon their request and any children that qualify for free lunches under guidelines set forth by the Secretary also eligible for free milk.

1970—Pub. L. 91-295 substituted provisions authorizing appropriations of not to exceed $120,000,000 for the fiscal year ending June 30, 1970, and for each succeeding fiscal year, for provisions authorizing appropriations of not to exceed $110,000,000 for the fiscal year ending June 30, 1967, not to exceed $115,000,000 for the fiscal year ending June 30, 1968, and not to exceed $120,000,000 for each of the two succeeding fiscal years, and provisions requiring the Secretary to administer the special milk program provided for by this section in the same manner as he administered the special milk program provided for by this chapter during the fiscal year ending June 30, 1969, for provisions requiring the Secretary to administer such program in the same manner as he administered the special milk program provided for by Pub. L. 85-478, as amended, during the fiscal year ending June 30, 1966, and provided that Guam be subject to the provisions of this section.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING OCTOBER 1, 1976

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning Oct. 1, 1976, for purposes of this section, see section 205(25) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 393, set out as a note under section 5532 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1775, 1780 of this title.

§ 1773. School breakfast program

(a) Establishment; authorization of appropriations

There is hereby authorized to be appropriated such sums as are necessary to enable the Secretary to carry out a program to assist the States through grants-in-aid and other means to initiate, maintain, or expand nonprofit breakfast programs in all schools which make application for assistance and agree to carry out a nonprofit breakfast program in accordance with this chapter. Appropriations and expenditures for this chapter shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

(b) Apportionment of funds to States

Of the funds appropriated for the purposes of this section, the Secretary shall for the fiscal year ending June 30, 1973, (1) apportion $2,600,000 equally among the States other than Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, and $45,000 equally among Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, and (2) apportion the remainder among the States in accordance with the apportionment formula contained in section 1753 of this title. For each fiscal year beginning with the fiscal year ending June 30, 1974, the Secretary shall make breakfast assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by (1) multiplying the number of breakfasts (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection (e) of this section) served during such fiscal year to children in schools in such States which participate in the breakfast program under this section under agreements with such State educational agency by a national average breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; (2) multiplying the number of such breakfasts served free to children eligible for free breakfasts in such schools during such fiscal year by a national average free breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; and (3) multiplying the number of reduced price breakfasts served to children eligible for reduced price breakfasts in such schools during such fiscal year by a national average reduced price breakfasts payment prescribed by the Secretary for such fiscal year to carry out the provisions of this section: *Provided*, That in any fiscal year the aggregate amount of the breakfast assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State educational agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section. The national average payment established by the Secretary for all breakfasts served to eligible children shall not be less than 8 cents; an amount of not less than 15 cents shall be added for each reduced-price breakfast; and an amount of not less than 20 cents shall be added for each free breakfast. In cases of severe need, a payment of up to 45 cents may be made for each breakfast served to children qualifying for a free breakfast.

(c) Disbursement of apportioned funds by State; preference for schools in poor economic areas, for students traveling long distances daily, and for schools for improvement of nutrition and dietary practices of children of working mothers and from low-income families

Funds apportioned and paid to any State for the purpose of this section shall be disbursed

by the State educational agency to schools selected by the State educational agency to assist such schools in financing the costs of operating a breakfast program and for the purpose of subsection (d) of this section. Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools for participation, the State educational agency shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools in which a substantial proportion of the children enrolled must travel long distances daily, and to those schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families. Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

(d) Increased financial assistance in cases of severe need

In circumstances of severe need where the rate per meal established by the Secretary is deemed by him insufficient to carry on an effective breakfast program in a school, the Secretary may authorize financial assistance up to 100 per centum of the operating costs of such a program, including cost of obtaining, preparing, and serving food. In the selection of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance.

(e) Nutritional requirements; service free or at reduced price

Breakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods and shall meet the minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such breakfasts shall be served free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 1758 of this title.

(f) Nonprofit private schools

For the fiscal year ending June 30, 1973, any withholding of funds for and disbursement to nonprofit private schools shall be effected in the manner used prior to such fiscal year. Beginning with the fiscal year ending June 30, 1974, the Secretary shall make payments from the sums appropriated for any fiscal year for the purposes of this section directly to the schools (as defined in section 1784(c) of this title which are private and nonprofit as defined in the last sentence of section 1784(c) of this title) within a State, that participate in the breakfast program under an agreement with the Secretary, for the same purposes and subject to the same conditions as are authorized or required under this section with respect to the disbursements by State educational agencies.

(g) Expansion of program

As a national nutrition and health policy, it is the purpose and intent of the Congress that the school breakfast program be made available in all schools where it is needed to provide adequate nutrition for children in attendance. The Secretary is hereby directed, in cooperation with State educational agencies, to carry out a program of information in furtherance of this policy. Within 4 months after October 7, 1975, the Secretary shall report to the committees of jurisdiction in the Congress his plans and those of the cooperating State agencies to bring about the needed expansion in the school breakfast program.

(Pub. L. 89-642, § 4, Oct. 11, 1966, 80 Stat. 886; Pub. L. 90-302, § 5, May 8, 1968, 82 Stat. 119; Pub. L. 91-248, §§ 6(d), 10, May 14, 1970, 84 Stat. 210, 214; Pub. L. 92-32, §§ 2-5, June 30, 1971, 85 Stat. 85; Pub. L. 92-433, § 3, Sept. 26, 1972, 86 Stat. 724; Pub. L. 93-150, § 4, Nov. 7, 1973, 87 Stat. 562; Pub. L. 94-105, §§ 2, 3, 15(b), 17(a), Oct. 7, 1975, 89 Stat. 511, 522, 525.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-105, § 2, struck out "for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975," following "such sums as are necessary".

Subsec. (b). Pub. L. 94-105, § 15(b), substituted "American Samoa, and the Trust Territory of the Pacific Islands" for "and American Samoa" wherever appearing in cl. (1) of the first sentence.

Subsec. (f). Pub. L. 94-105, § 17(a), substituted "directly to the schools (as defined in section 1784(c) of this title which are private and nonprofit as defined in the last sentence of section 1784(c) of this title)" for "directly to the nonprofit private schools".

Subsec. (g). Pub. L. 94-105, § 3, added subsec. (g).

1973—Subsec. (b). Pub. L. 93-150, § 4(c), prescribed a minimum payment of 8 cents as the national average payment for all breakfasts served to eligible children, added provision for minimum payment of 15 cents for each reduced-price breakfast and for minimum payment of 20 cents for each free breakfast, and authorized, in cases of severe need, a payment of up to 45 cents for each breakfast served to children qualifying for a free breakfast.

Subsec. (c). Pub. L. 93-150, § 4(a), (b), substituted in first sentence "State educational agency to assist such schools in financing the costs of operating a breakfast program" for "State educational agency, to assist such schools in financing the cost of obtaining agricultural and other foods for consumption by needy children in a breakfast program" and deleted the former second sentence which provided that "Such food costs may include, in addition to the purchase price, the cost of processing, distributing, transporting, storing, and handling.", respectively.

1972—Subsec. (a). Pub. L. 92-433, § 3(a), substituted authorization of appropriation of such sums as are necessary for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for provisions authorizing appropriation of amounts not exceeding $25,000,000 for fiscal years 1972 and 1973 and made the amounts available to schools making applications for assistance and agreeing to carry out a nonprofit breakfast program in accordance with this chapter.

Subsec. (b). Pub. L. 92-433, § 3(b), made the existing apportionment formula applicable to the fiscal year ending June 30, 1973 and added new formula for fiscal years beginning with the fiscal year ending June 30, 1974.

Subsec. (c). Pub. L. 92-433, § 3(c), added provision that breakfast assistance disbursements to schools may be made in advance or by way of reimbursement in accordance with procedure prescribed by the Secretary.

Subsec. (e). Pub. L. 92-433, § 3(d), substituted provisions that breakfasts be served free or at reduced cost under the same terms and conditions as set forth in

section 1758 of this title for provisions relating to determination by local school authorities of the inability of children to pay full cost, criteria for such determination, income poverty guidelines, affidavit of household's annual income, eligibility of nonprofit private schools for funds, and prohibition of discrimination on account of the inability to pay.

Subsec. (f). Pub. L. 92-433, § 3(e), substituted provisions that for fiscal year ending June 30, 1973, withholding and disbursement to nonprofit private schools will be effected as before and that commencing with the next fiscal year, the Secretary would directly make payments to the nonprofit private schools participating in the breakfast program under agreement with the Secretary for provisions that such withholding and disbursement be effected in accordance with section 1759 of this title with some exceptions.

1971—Subsec. (a). Pub. L. 92-32, § 2, authorized appropriations of 25 million dollars for fiscal years 1972, and 1973, and deleted provision for appropriation of 6.5, 10, and 25 million dollars for fiscal years, 1969, 1970, and 1971, respectively.

Subsec. (c). Pub. L. 92-32, § 3, substituted "assist such schools in financing the cost" for "reimburse such schools for the cost" and provided for preference of schools for improvement of nutrition and dietary practices of children of working mothers and from low-income families.

Subsec. (d). Pub. L. 92-32, § 4, increased financial assistance from "80" to "100" per centum.

Subsec. (e). Pub. L. 92-32, § 5, substituted provisions relating to criteria for determination of eligible children, income poverty guidelines, priority of neediest children, affidavit of household's annual income, and certification of availability of funds for nonprofit private schools, for former provision for determination of eligible children on basis of consultations of local school authorities with public welfare and health agencies.

1970—Subsec. (a). Pub. L. 91-248, § 10, substituted "$25,000,000" for "$12,000,000".

Subsec. (e). Pub. L. 91-248, § 6(d), provided that there be no overt identification of those children who receive free and reduced price meals.

1968—Subsec. (a). Pub. L. 90-302 added authorization to appropriate $6,500,000 for fiscal year 1969, not to exceed $10,000,000 for fiscal year 1970, and not to exceed $12,000,000 for fiscal year 1971, struck out references to authorization for fiscal years 1967 and 1968 and to pilot programs conducted on a nonpartisan basis, and added provision that appropriations and expenditures for this chapter be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING OCTOBER 1, 1976

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning Oct. 1, 1976, for purposes of subsec. (b) of this section, see section 205(25) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 393, set out as a note under section 5532 of Title 5, Government Organization and Employees.

REPORT TO CONGRESS OF NEEDS FOR ADDITIONAL FUNDS FOR SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS, FISCAL YEAR ENDING JUNE 30, 1972

Pub. L. 92-153, § 3, Nov. 5, 1971, 85 Stat. 420, provided that the Secretary of Agriculture determine immediately upon enactment of this resolution (Nov. 5, 1971) and report to Congress the needs for additional funds to carry out the school breakfast and nonfood assistance programs during the fiscal year ending June 30, 1972, at levels permitting expansion of the school breakfast and school lunch programs to all schools desiring such programs as rapidly as practicable.

TRANSFER OF FUNDS TO SCHOOLS IN NEED OF ADDITIONAL ASSISTANCE IN SCHOOL BREAKFAST PROGRAM

Pub. L. 92-153, § 7, Nov. 5, 1971, 85 Stat. 420, provided that: "In addition to any other authority given to the Secretary he is hereby authorized to transfer funds from section 32 of the Act of August 24, 1935 [section 612c of Title 7, Agriculture], for the purpose of assisting schools which demonstrate a need for additional funds in the school breakfast program."

DIRECT DISTRIBUTION PROGRAMS FOR DIET OF NEEDY CHILDREN SUFFERING FROM GENERAL AND CONTINUED HUNGER; ADDITIONAL FUNDS

Additional funds for direct distribution programs for diet of needy children suffering from general and continued hunger and payment of administrative costs of State or local welfare agency carrying out such programs, see section 6 of Pub. L. 92-32, set out as a note under section 612c of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1756, 1759a, 1766, 1775, 1776, 1777, 1780 of this title.

§ 1774. Nonfood assistance program

(a) Establishment; equipment required for food service programs; authorization of appropriations

There is hereby authorized to be appropriated for the fiscal year ending June 30, 1971, not to exceed $38,000,000, for the fiscal year ending June 30, 1972, not to exceed $33,000,000, for each of the three fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, not to exceed $40,000,000 and for each succeeding fiscal year, not to exceed $40,000,000, to enable the Secretary to formulate and carry out a program to assist the States through grants-in-aid and other means to supply schools drawing attendance from areas in which poor economic conditions exist with equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand schools food service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this chapter and in the National School Lunch Act, as amended [42 U.S.C. 1751 et seq.], and in the event such equipment is no longer so used, it may be transferred to another nonprofit private school participating in any of such programs or to a public school participating in any of such programs, or, failing either of these dispositions, that part of such equipment financed with Federal funds, or the residual value thereof, shall revert to the United States.

(b) Apportionment of funds to States

Except for the funds reserved under subsection (e) of this section, the Secretary shall apportion the funds appropriated for the purposes of this section among the States on the basis of the ratio that the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 9 of the National School Lunch Act [42 U.S.C. 1758]) served in each State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are apportioned bears to the total number of such lunches served in all States in such preceding fiscal year. If any State cannot utilize all

of the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionments to the remaining States in the manner set forth in this subsection for apportioning funds among all the States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be borne by funds from sources within the State, except that such conditions shall not apply with respect to funds used under this section to assist schools if such schools are especially needy, as determined by the State.

(c) Disbursement of apportioned funds by State; determination of need; approval of plans

Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to assist schools, which draw attendance from areas in which poor economic conditions exist and which have no, or grossly inadequate, equipment, to conduct a school food service program, and to acquire such equipment. In the selection of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance and the inability of the school to finance the food service equipment needed. Disbursements to any school may be made, by advances or reimbursements, only after approval by the State educational agency of a request by the school for funds, accompanied by a detailed description of the equipment to be acquired and the plans for the use thereof in effectively meeting the nutritional needs of children in the school.

(d) Nonprofit private schools

If, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in nonprofit private schools within the State, the Secretary shall administer such program in such private schools. In such event, the Secretary shall withhold from the funds apportioned to any such State under the provisions of subsection (b) of this section an amount which bears the same ratio to such funds as the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 9(a) of the National School Lunch Act [42 U.S.C. 1758(a)]) served in nonprofit private schools in such State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of such lunches served in all schools within such State in such preceding fiscal year.

(e) Reserve of funds

For the fiscal year ending June 30, 1976, the period July 1, 1976, through September 30, 1976, and the fiscal year ending September 30, 1977, 33⅓ per centum of the funds appropriated for the purposes of this section shall be reserved to the Secretary to assist schools without a food service program and schools without the facilities to prepare or receive hot meals. For the fiscal year ending June 30, 1976, the Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program to the number of children in all States enrolled in schools without a food service program. After the fiscal year ending June 30, 1976, the Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program and in schools without the facilities to prepare or receive hot meals to the number of children in all States enrolled in schools without a food service program and in schools without the facilities to prepare or receive hot meals. In those States in which the Secretary administers the nonfood assistance program in nonprofit private schools, the Secretary shall, for the fiscal year ending June 30, 1976, withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program in such State bears to the total number of children enrolled in all schools without a food service program in such State. In those States in which the Secretary administers the nonfood assistance program in nonprofit private schools, the Secretary shall, after the fiscal year ending June 30, 1976, withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program or without the facilities to prepare or receive hot meals in such State bears to the total number of children enrolled in all schools without a food service program or without the facilities to prepare or receive hot meals in such State. The funds so reserved, apportioned, and withheld shall be used by State educational agencies, or the Secretary in the case of nonprofit private schools, only to assist schools without a food service program and schools without the facilities to prepare or receive hot meals. If any State cannot so utilize all the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionments to the remaining States for use only in assisting schools without a food service program and schools without the facilities to prepare or receive hot meals: *Provided*, That if after such further apportionments any funds reserved under this subsection remain unused, the Secretary shall immediately apportion such funds among the States in accordance with the provisions of subsection (b) of this section to assist schools with a food service program and with the facilities to prepare or receive hot meals. Payment to any State of the funds provided to it under the provisions of this subsection shall be made upon the condition that at least one-fourth of the cost of the equipment financed shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this subsection to assist schools which are especially needy, as determined by the State.

(Pub. L. 89-642, § 5, Oct. 11, 1966, 80 Stat. 887; Pub. L. 91-248, § 2, May 14, 1970, 84 Stat. 208; Pub. L. 92-433, § 6 (a)-(d), Sept. 26, 1972, 86

Stat. 727, 728; Pub. L. 93-326, § 5, June 30, 1974, 88 Stat. 287; Pub. L. 94-105, § 18, Oct. 7, 1975, 89 Stat. 525.)

REFERENCES IN TEXT

The National School Lunch Act, as amended, referred to in subsec. (a), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13(§ 1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables volume.

AMENDMENTS

1975—Subsec. (b). Pub. L. 94-105, § 18(a), added provision relating to the nonapplicability of the condition that at least one-fourth of the cost of equipment shall be from State funds where such schools are especially needy, as determined by the State.

Subsec. (e). Pub. L. 94-105, § 18(b), reduced from 50 per centum to 33⅓ per centum the amount to be reserved in the period through the fiscal year ending Sept. 30, 1977, added the requirement that the reserve be used also for schools without the facilities to prepare or receive hot meals, that after 1976 the number of schools without facilities also be used in determining the apportionment of the reserve funds and the amount of funds to be withheld, and provided that, if States cannot use all the reserved funds initially apportioned, the remaining funds shall be reapportioned among the States for use in the assistance of schools without a food service or facilities to prepare or receive hot meals, with any funds unused after that reapportionment to be used to assist schools already having a food service program and facilities to prepare and receive hot meals.

1974—Subsec. (a). Pub. L. 93-326 increased from $20,000,000 to $40,000,000 the authorized appropriation for each fiscal year succeeding the fiscal year ending June 30, 1975.

1972—Subsec. (a). Pub. L. 92-433, § 6(a), increased the authorization of appropriations for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, from $15,000,000, $10,000,000, and $10,000,000 to $40,000,000 for each of the three years respectively, and for each of the succeeding fiscal years from $10,000,000 to $20,000,000.

Subsec. (b). Pub. L. 92-433, § 6(b), substituted provisions that funds appropriated except those reserved under subsec. (e), shall be apportioned among the states on the basis of the ratio of lunches served in each State to the total number of lunches served in all States in the latest year for which statistics are available, and that unused funds be distributed in the same proportion, for provisions that 50 percent of the funds be apportioned in the manner provided in section 1753 of this title and that the remaining funds be apportioned according to the ratio of the number of children in schools without food service in such State to the total number of children in all States without food service.

Subsec. (d). Pub. L. 92-433, § 6(c), substituted provisions authorizing the Secretary to administer programs under this section in nonprofit private schools where the State educational agency is prohibited to administer and further authorized the Secretary to withhold from the funds apportioned to the state an amount bearing the same ratio to the funds as the number of lunches served in nonprofit private schools to the total number of lunches served in all schools within that State in the latest year for which data are available for provisions requiring that the withholding and disbursement of funds to nonprofit private schools be effected in accordance with section 1759 of this title, exclusive of the matching provisions thereof.

Subsec. (e). Pub. L. 92-433, § 6(d), added subsec. (e).

1970—Subsec. (a). Pub. L. 91-248 substituted appropriations not to exceed $38,000,000 for the fiscal year ending June 30, 1971, $33,000,000 for the fiscal year ending June 30, 1972, $15,000,000 for the fiscal year ending June 30, 1973, and for each succeeding fiscal year not to exceed $10,000,000 for appropriations not to exceed $12,000,000 for the fiscal year ending June 30, 1967, $15,000,000 for the fiscal year ending June 30, 1968, $18,000,000 for the fiscal years ending June 30, 1969 and June 30, 1970, and for each succeeding fiscal year such sums as Congress may authorize.

Subsec. (b). Pub. L. 91-248 substituted provisions that half of the nonfood assistance funds be apportioned to each State upon the basis of its participation rate multiplied by its assistance need rate for provisions under which all of the nonfood assistance funds were apportioned on this basis and added a provision apportioning half the funds on the basis of the number of children enrolled in schools without a food service.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 18(b) of Pub. L. 94-105 provided in part that the amendment by section 18(b) of Pub. L. 94-105 is effective beginning with the fiscal year ending June 30, 1976.

REPORT TO CONGRESS OF NEEDS FOR EQUIPMENT TO BE SUBMITTED BY JUNE 30, 1973

Section 6(e) of Pub. L. 92-433 directed the Secretary, to assist Congress in determining the amounts needed annually, to conduct a survey among the States and school districts on unmet needs for equipment in schools eligible for assistance under this section, the results of such survey to be reported to Congress by June 30, 1973.

REPORT TO CONGRESS OF NEEDS FOR ADDITIONAL FUNDS FOR SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS, FISCAL YEAR ENDING JUNE 30, 1972

Report to Congress of needs for additional funds for nonfood assistance program under this section for fiscal year ending June 30, 1972, see section 3 of Pub. L. 92-153, Nov. 5, 1971, 85 Stat. 420, set out as a note under section 1773 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1756, 1775, 1776, 1780 of this title.

§ 1775. Certification to Secretary of the Treasury of amounts to be paid to States

The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under sections 1772 through 1776 of this title and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

(Pub. L. 89-642, § 6, Oct. 11, 1966, 80 Stat. 888.)

§ 1776. State administrative expenses

The Secretary may utilize funds appropriated under this section for advances to each State educational agency for use for its administrative expenses or for the administrative expenses of any other designated State agency in supervising and giving technical assistance to the local school districts and service institutions in their conducting of programs under this chapter and under sections 1759a and 1761 of this title. Such funds shall be advanced only in amounts and to the extent determined necessary by the Secretary to assist such State agencies in the administration of additional activities undertaken by them under sections 1759a, 1761, 1773, and 1774 of this title. There are hereby authorized to be appropriated such

sums as may be necessary for the purposes of this section.

(Pub. L. 89-642, § 7, Oct. 11, 1966, 80 Stat. 888; Pub. L. 90-302, § 4, May 8, 1968, 82 Stat. 119; Pub. L. 91-248, § 5, May 14, 1970, 84 Stat. 210.)

AMENDMENTS

1970—Pub. L. 91-248 added provisions authorizing Secretary to utilize funds appropriated under this section for advances for administrative expenses of any other designated State agency as well as for those of the State educational agency and in the case of either State agency, for its administrative expenses in supervising and giving technical assistance to service institutions as well as to local school districts.

1968—Pub. L. 90-302 added the programs under sections 1759a and 1761 of this title to the enumeration of programs in which appropriated funds could be used for administrative expenses of local school districts in supervising and giving technical assistance and added section 1761 to the enumeration of sections covering programs of additional activities under which funds could be advanced only in amounts and to the extent determined necessary by the Secretary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1775 of this title.

§ 1777. Use in school breakfast program of food designated as being in abundance or food donated by the Secretary of Agriculture

Each school participating under section 1773 of this title shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or foods donated by the Secretary. Foods available under section 1431 of title 7 or purchased under section 612c or 1446a-1 of title 7, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this chapter.

(Pub. L. 89-642, § 8, Oct. 11, 1966, 80 Stat. 888.)

§ 1778. Nonprofit programs

The food and milk service programs in schools and nonprofit institutions receiving assistance under this chapter shall be conducted on a nonprofit basis.

(Pub. L. 89-642, § 9, Oct. 11, 1966, 80 Stat. 888.)

§ 1779. Rules and regulations; transfer of funds from one program to another; special projects

The Secretary shall prescribe such regulations as he may deem necessary to carry out this chapter and the National School Lunch Act [42 U.S.C. 1751 et seq.], including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this chapter and the National School Lunch Act. Such regulations shall not prohibit the sale of competitive foods in food service facilities or areas during the time of service of food under this chapter or the National School Lunch Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools. In such regulations the Secretary may provide for the transfer of funds by any State between the programs authorized under this chapter and the National School Lunch Act on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects.

(Pub. L. 89-642, § 10, Oct. 11, 1966, 80 Stat. 889; Pub. L. 91-248, § 8, May 14, 1970, 84 Stat. 212; Pub. L. 92-433, § 7, Sept. 26, 1972, 86 Stat. 729.)

REFERENCES IN TEXT

The National School Lunch Act, as amended, referred to in text, is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables volume.

AMENDMENTS

1972—Pub. L. 92-433 added provision that regulations issued under the section shall not prohibit the sale of competitive foods in food service facilities or areas during the time of service of food if the proceeds from the sales of such foods inures to the benefit of the schools or organizations of students approved by the school.

1970—Pub. L. 91-248 provided that regulations under this chapter and under the National School Lunch Act may include provisions relating to the service of food in participating schools and service institutions in competition with programs under this chapter and the National School Lunch Act, provided for transfer of funds by any State between programs authorized under this chapter and under the National School Lunch Act, and provided for a reserve of up to one percent of the funds available for apportionment to any State to carry out special development projects.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1759a of this title.

§ 1780. Prohibition against interference with school personnel, curriculum, or instruction; prohibition against inclusion of assistance in determining income or resources for purposes of taxation, welfare, or public assistance programs

(a) In carrying out the provisions of sections 1772 through 1774 of this title, neither the Secretary nor the State shall impose any requirements with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction.

(b) The value of assistance to children under this chapter shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to taxation, welfare, and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this chapter.

(Pub. L. 89-642, § 11, Oct. 11, 1966, 80 Stat. 889.)

§ 1781. Preschool programs

The Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system.

(Pub. L. 89-642, § 12, Oct 11, 1966, 80 Stat. 889.)

§ 1782. Centralization in Department of Agriculture of administration of food service programs for children

Authority for the conduct and supervision of Federal programs to assist schools in providing food service programs for children is assigned to the Department of Agriculture. To the extent practicable, other Federal agencies administering programs under which funds are to be provided to schools for such assistance shall transfer such funds to the Department of Agriculture for distribution through the administrative channels and in accordance with the standards established under this chapter and the National School Lunch Act [42 U.S.C. 1751 et seq.].

(Pub. L. 89-642, § 13, Oct. 11, 1966, 80 Stat. 889.)

REFERENCES IN TEXT

The National School Lunch Act, as amended, referred to in text, is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables volume.

§ 1783. Authorization of appropriations to the Secretary of Agriculture for administrative expenses

There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for his administrative expense under this chapter.

(Pub. L. 89-642, § 14, Oct. 11, 1966, 80 Stat. 889.)

§ 1784. Definitions

For the purposes of this chapter—

(a) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(b) "State educational agency" means, as the State legislature may determine, (1) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (2) a board of education controlling the State department of education.

(c) "School" means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this subsection, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of title 26.

(d) "Secretary" means the Secretary of Agriculture.

(Pub. L. 89-642, § 15, Oct. 11, 1966, 80 Stat. 889; Pub. L. 94-105, §§ 15(c), 17(b), Oct. 7, 1975, 89 Stat. 522, 525.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-105, § 15(c), added the Trust Territory of the Pacific Islands to the definition of "State".

Subsecs. (c) to (e). Pub. L. 94-105, § 17(b), struck out former subsec. (c) defining "Nonprofit private school" as any private school exempt from income tax under section 501(c)(3) of title 26, redesignated subsecs. (d) and (e) as (c) and (d) respectively, and in subsec. (c) as so redesignated, added to the definition of "School" any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded), and provision defining "nonprofit" as an exemption under section 501(c)(3) of title 26.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1773 of this title.

§ 1785. Accounts and records; availability for inspection

States, State educational agencies, schools, and nonprofit institutions participating in programs under this chapter shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this chapter and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of three years, as the Secretary determines is necessary.

(Pub. L. 89-642, § 16, Oct. 11, 1966, 80 Stat. 890.)

STUDY OF COST ACCOUNTING REQUIREMENTS

Secretary prohibited from delaying or withholding or causing any State to delay or withhold payments for reimbursement of per meal costs on the basis of noncompliance with full cost accounting procedure unless and until the Secretary has studied additional personnel and training needs of States, local school districts and schools resulting from imposition of requirement to implement full cost accounting procedures, see section 21 of Pub. L. 94-105, set out as a note under section 1760 of this title.

§ 1786. Special supplemental food program

(a) Congressional declaration of purpose

The Congress finds that substantial numbers of pregnant women, infants, and young children are at special risk in respect to their physical and mental health by reason of poor or inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide supplemental nutritious food as an adjunct to good health care during such critical times of growth and development in order to prevent the occurrence of health problems.

(b) Cash grants to state health departments, Indians, and other agencies for supplemental food to pregnant and lactating women and infants

(1) During the fiscal year ending June 30, 1976, the period July 1, 1976, through September 30, 1976, the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, the Secretary shall make cash grants to the health department or comparable agency

of each State, Indian tribe, band or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare for the purpose of providing funds to local health or welfare agencies or private nonprofit agencies of such State; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare, serving local health or welfare needs to enable such agencies to carry out health and nutrition programs under which supplemental foods will be made available to pregnant or lactating women and to infants determined by competent professionals to be nutritional risks because of inadequate nutrition and inadequate income, in order to improve their health status. The program authorized by this section shall be carried out supplementary to the food stamp and food distribution program and operate side by side with existing supplemental food programs.

(2) Any eligible local health or welfare agency or private nonprofit agency that applies to operate such a supplemental food program immediately shall be provided with the necessary funds to carry out the program. The requirements set forth herein shall not be construed to permit the Secretary to reduce ratably the amount of foods that an eligible health or welfare agency shall distribute under the program to pregnant or lactating mothers and infants.

(c) Authorization of appropriations

In order to carry out such program during each fiscal year during the period ending September 30, 1977, there is authorized to be appropriated the sum of $250,000,000, but in the event that such sum has not been appropriated for such purpose by the beginning of each fiscal year, the Secretary shall use $250,000,000, or, if any amount has been appropriated for such program, the difference, if any, between the amount directly appropriated for such purpose and $250,000,000, out of funds appropriated by section 612c of title 7. Any funds expended from such section 612c to carry out the provisions of this section shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out the provisions of such subsection, and such reimbursements shall be deposited into the fund established pursuant to such section 612c, to be available for the purpose of such section. In order to carry out the program during the fiscal year ending September 30, 1978, there is authorized to be appropriated not to exceed $250,000,000.

(d) Limitations of administrative costs; approval of manner of expenditure

Whenever any program is carried out by the Secretary under authority of this section through any State or local or nonprofit agency, he is authorized to pay administrative costs not to exceed 20 per centum of the program funds provided to each State under the authority of this section. Each health department or comparable agency of each State, Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare receiving funds from the Secretary under this section shall, by January 1 of each year (by December 1 in the case of fiscal year 1976), for approval by the Secretary as a prerequisite to receipt of funds under this section, submit a description of the manner in which administrative funds shall be spent, including, but not limited to, a description of the manner in which nutrition education services will be provided. The Secretary shall take affirmative action to insure that programs begin in areas most in need of special supplemental food. During the first 3 months of any program, or until the program reaches its projected caseload level, whichever comes first, the Secretary shall pay those administrative costs necessary to commence the program successfully.

(e) Determination of eligibility

The eligibility of persons to participate in the program provided for under this section shall be determined by competent professional authority. Participants shall be residents of areas or members of populations served by clinics or other health facilities determined to have significant numbers of infants and pregnant and lactating women at nutritional risk.

(f) Medical records; reports to Congress

State or local agencies or groups carrying out any programs under this section shall maintain adequate medical records on the participants assisted to enable the Secretary to determine and evaluate the benefits of the nutritional assistance provided under this section. The Secretary shall convene an advisory committee made up of representatives from the Maternal and Child Health Division of the Department of Health, Education, and Welfare, the Center for Disease Control, the Association of State and Territorial Public Health Nutrition Directors, the American Academy of Pediatrics, the National Academy of Science—National Research Council, the American Dietetic Association, the American Public Health Association, the Public Health Service, and others as the Secretary deems appropriate. The committee shall study the methods available to evaluate successfully and economically, in part or in total, the health benefits of the special supplemental food program. The committee's study shall consider the usefulness of the medical data collected and the methodology used by the Department of Agriculture and the Comptroller General of the United States prior to March 30, 1975. The study shall also include the applicability to an evaluation of the special supplemental food program of other Federal and State health, welfare, and nutrition assessment and surveillance projects currently being conducted. The purpose of the advisory committee shall be to determine and recommend in detail how, using accepted scientific methods, the health benefits of the special supplemental food program may best be evaluated and assessed. The advisory committee shall report its study to the Secretary no later than March 1, 1976. The Secretary shall submit to Congress his recommendations based on such study no later than June 1, 1976.

(g) Definitions

As used in this section—

(1) "Pregnant and lactating women" when used in connection with the term "at nutritional risk" includes women from low-income popu-

lations who demonstrate one or more of the following characteristics: known inadequate nutritional patterns, unacceptably high incidence of anemia, high prematurity rates, or inadequate patterns of growth (underweight, obesity, or stunting). Such term (when used in connection with the term "at nutritional risk") also includes low-income individuals who have a history of high-risk pregnancy as evidenced by abortion, premature birth, or severe anemia. Such lactating women shall include women who are breast feeding an infant from birth up to one year of age and also all women for a period of six months post partum.

(2) "Infants" when used in connection with the term "at nutritional risk" means children under 5 years of age who are in low-income populations which have shown a deficient pattern of growth, by minimally acceptable standards, as reflected by an excess number of children in the lower percentiles of height and weight. Such term, when used in connection with "at nutritional risk", may also include children under 5 years of age who (A) are in the parameter of nutritional anemia, or (B) are from low-income populations where nutritional studies have shown inadequate infant diets.

(3) "Supplemental foods" shall mean those foods containing nutrients known to be lacking in the diets of populations at nutritional risk and, in particular, those foods and food products containing high-quality protein, iron, calcium, vitamin A, and vitamin C. Such term may also include (at the discretion of the Secretary) any commercially formulated preparation specifically designed for women or infants. The contents of the food package shall be made available in such a manner as to provide flexibility, taking into account medical and nutritional objectives and cultural eating patterns.

(4) "Competent professional authority" includes physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials as being competent professionally to evaluate nutritional risk.

(5) "Administrative costs" include costs for referral, operation, monitoring, nutrition education, general administration, startup, clinic, and administration of the State office.

(h) National Advisory Council on Maternal, Infant, and Fetal Nutrition; establishment; membership; term; officers; meetings; quorum; functions; compensation

(1) There is hereby established a council to be known as the National Advisory Council on Maternal, Infant, and Fetal Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of 15 members appointed by the Secretary. One member shall be a State director of the special supplemental food program, 1 member shall be a State fiscal director for the special supplemental food program (or the equivalent thereof), 1 member shall be a State health officer (or equivalent thereof), 1 member shall be a project director of a special supplemental food program in an urban area, 1 member shall be a project director of a special supplemental food program in a rural area, 1 member shall be a State public health nutrition director (or equivalent thereof), 2 members shall be parent recipients of the special supplemental food program, 1 member shall be a pediatrician, 1 member shall be an obstetrician, 1 member shall be a person involved at the retail sales level of food in the special supplemental food program, 2 members shall be officers or employees of the Department of Health, Education, and Welfare, specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to maternal, infant, and fetal nutrition, and 2 members shall be officers or employees of the Department of Agriculture, specially qualified because of their education, training, experience, and knowledge in matters relating to maternal, infant, and fetal nutrition.

(2) The 11 members of the Council appointed from outside the Department of Agriculture and the Department of Health, Education, and Welfare shall be appointed for terms of 3 years, except that the 9 members first appointed to the Council shall be appointed as follows: Three members shall be appointed for terms of 3 years, 3 members shall be appointed for terms of 2 years, and 3 members shall be appointed for terms of 1 year. Thereafter all appointments shall be for a term of 3 years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Members appointed from the Department of Agriculture and the Department of Health, Education, and Welfare, shall serve at the pleasure of the Secretary.

(3) The Secretary shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Council.

(4) The Council shall meet at the call of the Chairman but shall meet at least once a year.

(5) Eight members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

(6) It shall be the function of the Council to make a continuing study of the operation of the special supplemental food program and any related Act under which diet supplementation is provided to women, infants, and children, with a view to determining how such programs may be improved. The Council shall submit to the President and the Congress annually a written report of the results of its study together with such recommendations for administrative and legislative changes as it deems appropriate.

(7) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions under this chapter.

(8) Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council.

(Pub. L. 89-642, § 17, as added Pub. L. 92-433, § 9, Sept. 26, 1972, 86 Stat. 729, and amended Pub. L. 93-150, § 6, Nov. 7, 1973, 87 Stat. 563; Pub. L. 93-326, § 6, June 30, 1974, 88 Stat. 287; Pub. L. 94-28, May 28, 1975, 89 Stat. 96; Pub. L. 94-105, § 14, Oct. 7, 1975, 89 Stat. 518.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-105 added subsec. (a). Former subsec. (a) redesignated (b).

Pub. L. 94-28, § 1(a), added "and for the period July 1, 1975, through September 30, 1975," after "1975,".

Subsec. (b)(1), (2). Pub. L. 94-105 redesignated former subsec. (a) as (b)(1), added (b)(2), and in (b)(1) as so redesignated, extended the program from Sept. 30, 1975 through the fiscal year ending Sept. 30, 1978 and made minor changes in phraseology. Former subsec. (b) redesignated (c).

Pub. L. 94-28, § 1(b), added "and for the period July 1, 1975, through September 30, 1975," after "1975,".

Subsec. (c). Pub. L. 94-105 redesignated former subsec. (b) as (c), and in subsec. (c) as so redesignated, authorized the appropriation of $250,000,000 during each fiscal year during the period ending Sept. 30, 1977, authorized the amount of $250,000,000 which the Secretary can use out of the funds appropriated by section 612c of Title 7 in the event that less than $250,000,000 has been appropriated by the beginning of each fiscal year and authorized the appropriation of not to exceed $250,000,000 during the fiscal year ending Sept. 30, 1978. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 94-105 redesignated former subsec. (c) as (d), and in subsec. (d) as so redesignated, increased from 10 to 20 per centum the amount of administrative costs the Secretary is authorized to pay except that in the first 3 months or until the projected caseload level has been reached the Secretary shall pay those administrative costs necessary to commence the program successfully, added the provision relating to the submission for approval of a description of the manner in which administrative funds shall be spent, and directed the Secretary to take affirmative action to insure that programs begin in the most needy areas. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 94-105 redesignated former subsec. (d) as (e) and in subsec. (e) as so redesignated, substituted "under this section" for "under subsection (a) of this section" and added "or members of populations" following "residents of areas". Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 94-105 redesignated former subsec. (e) as (f), and in subsec. (f) as so redesignated, substituted provisions relating to the convention of an advisory committee to study methods available to evaluate the health benefits of the program with a report to the Secretary who shall report to Congress no later than June 1, 1976, for provision that the Secretary and Comptroller General of the United States submit preliminary reports to Congress no later than Oct. 1, 1974 and submit no later than March 30, 1975 evaluations of the program and recommendations with regard to its continuation. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 94-105 redesignated former subsec. (f) as (g), and in subsec. (g) as so redesignated, substituted "includes women from" for "includes mothers from", and added to the definition of lactating women who are breast feeding an infant up to one year of age and all women for a period of six months post partum, in par. (1); substituted "5 years" for "four years" wherever appearing and added "(at the discretion of the Secretary)" following "may also include", in par. (2); struck out "food product" preceding "commercially formulated", added "women or" preceding "infants" and added the provision relating to the availability of the contents of the food package, in par. (3).

Subsec. (h). Pub. L. 94-105 added subsec. (h).

1974—Subsec. (b). Pub. L. 93-326 increased from $40,000,000 to $100,000,000 the appropriation authorization for the fiscal year ending June 30, 1975, and increased from $40,000,000 to $100,000,000 the amount which the Secretary can use out of the funds appropriated by section 612c of Title 7 in the event that less than $100,000,000 has been appropriated by Aug. 1, 1974, for carrying out the special supplemental food program for the fiscal year ending June 30, 1975.

1973—Subsec. (a). Pub. L. 93-150, § 6(a), provided for cash grants during fiscal year ending June 30, 1975, substituted in first sentence in two instances "State; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare" for "State", and substituted in second sentence provision for operation of the program for a "three-year" rather than a "two-year" period.

Subsec. (b). Pub. L. 93-150, § 6(b), authorized appropriation of $40,000,000 for fiscal year ending June 30, 1975, and provided that in the event such sum was not appropriated by August 1, 1974, the Secretary was to use $40,000,000, or, if any amount had been appropriated, the difference, if any, between the amount directly appropriated and $40,000,000, out of funds appropriated by section 612c of title 7.

Subsec. (e). Pub. L. 93-150, § 6(c), extended dates for submission of preliminary and final evaluation reports from Oct. 1, 1973, to Oct. 1, 1974, and from Mar. 30, 1974, to Mar. 30, 1975, respectively.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 14 of Pub. L. 94-105 provided in part that the amendment by Pub. L. 94-105 is effective beginning with the fiscal year ending June 30, 1976.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils established after Jan. 5, 1973 to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub.L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1787. Cash grants for nutrition education; authorization of appropriations

(a) The Secretary is hereby authorized and directed to make cash grants to State educational agencies for the purpose of conducting experimental or demonstration projects to teach schoolchildren the nutritional value of foods and the relationship of nutrition to human health.

(b) In order to carry out the program, provided for in subsection (a) of this section, there is hereby authorized to be appropriated not to exceed $1,000,000 annually. The Secretary shall withhold not less than 1 per centum of any funds appropriated under this section and shall expend these funds to carry out research and development projects relevant to the purpose of this section, particularly to develop materials and techniques for the innovative presentation of nutritional information.

(Pub. L. 89-642, § 18, as added Pub. L. 94-105, § 23, Oct. 7, 1975, 89 Stat. 528.)

CHAPTER 14—DEVELOPMENT AND CONTROL OF ATOMIC ENERGY

§§ 1801 to 1819. Transferred

CODIFICATION

The Atomic Energy Act of 1946, as amended, act Aug. 1, 1946, ch. 724, 60 Stat. 755, formerly classified to sections 1801 to 1819 of this title, was completely amended by act Aug. 30, 1954, ch. 1073, 68 Stat. 919, to read as follows: "Atomic Energy Act of 1954", which is classified to section 2011 et seq. of this title.

Section 1801, act Aug. 1, 1946, ch. 724, § 1, 60 Stat. 755, related to declaration of policy and the purpose of the chapter, and is now covered by sections 2011 to 2013 of this title.

Section 1802, acts Aug. 1, 1946, ch. 724, § 2, 60 Stat. 756; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; July 3, 1948, ch. 828, 62 Stat. 1259; Oct. 11, 1949, ch. 673, §§ 1-3, 63 Stat. 762; Sept. 23, 1950, ch. 1000, §§ 1, 2, 64 Stat. 979; July 31, 1953, ch. 283, § 1, 67 Stat. 240, related to the establishment of the Atomic Energy Commission, its membership, tenure, compensation, and the appointment of certain officers and committees, and is now covered by sections 2031 to 2038 of this title.

Section 1803, act Aug. 1, 1946, ch. 724, § 3, 60 Stat. 758, related to research and development activities by the Commission, and is now covered by sections 2051 to 2053 of this title.

Section 1804, act Aug. 1, 1946, ch. 724, § 4, 60 Stat. 759, related to production of fissionable material, prohibited acts, ownership and operation of production facilities, irradiation of materials, and manufacture of production facilities, and is now covered by sections 2061 to 2112 of this title.

Section 1805, acts Aug. 1, 1946, ch. 724, § 5, 60 Stat. 760; Oct. 30, 1951, ch. 633, 65 Stat. 692, related to control of fissionable materials, and is now covered by sections 2061 to 2112 of this title.

Section 1806, act Aug. 1, 1946, ch. 724, § 6, 60 Stat. 763, related to the military application of atomic energy, and is now covered by sections 2121 and 2122 of this title.

Section 1807, act Aug. 1, 1946, ch. 724, § 7, 60 Stat. 764, related to license requirements for utilization of atomic energy, reports to Congress, and issuance of licenses, and is now covered by sections 2131 to 2140 of this title.

Section 1808, act Aug. 1, 1946, ch. 724, § 8, 60 Stat. 765, related to force and effect of international agreements, and is now covered by sections 2151 to 2154 of this title.

Section 1809, act Aug. 1, 1946, ch. 724, § 9, 60 Stat. 765, related to the property of the Commission and its exempt status from taxation, and is now covered by sections 2015 and 2208 of this title.

Section 1810, acts Aug. 1, 1946, ch. 724, § 10, 60 Stat. 766; Oct. 30, 1951, ch. 633, 65 Stat. 692; Apr. 5, 1952, ch. 159, § 1, 66 Stat. 43, related to control of information, and is now covered by sections 2161 to 2166 of this title.

Section 1811, act Aug. 1, 1946, ch. 724, § 11, 60 Stat. 768, related to patents and inventions, and is now covered by sections 2181 to 2190 of this title.

Section 1812, acts Aug. 1, 1946, ch. 724, § 12, 60 Stat. 770; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972, related to the authority, powers and duties of the Commission, and is now covered by sections 2201 to 2209 of this title.

Section 1813, act Aug. 1, 1946, ch. 724, § 13, 60 Stat. 772, related to compensation for acquisition of private property, and is now covered by sections 2221 to 2224 of this title.

Section 1814, act Aug. 1, 1946, ch. 724, § 14, 60 Stat. 772, related to judicial review, and is now covered by sections 2231 to 2239 of this title.

Section 1815, acts Aug. 1, 1946, ch. 724, § 15, 60 Stat. 772; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972, related to the Joint Committee of Congress on Atomic Energy, and is now covered by sections 2251 to 2257 of this title.

Section 1816, act Aug. 1, 1946, ch. 724, § 16, 60 Stat. 773, related to penalties for violation of certain provisions of this chapter, injunctions, subpoena of witnesses, and production of documents, and is now covered by sections 2271 to 2281 of this title.

Section 1817, act Aug. 1, 1946, ch. 724, § 17, 60 Stat. 774, related to reports and recommendations to Congress, and is now covered by section 2016 of this title.

Section 1818, act Aug. 1, 1946, ch. 724, § 18, 60 Stat. 774, related to definitions, and is now covered by section 2014 of this title.

Section 1819, act Aug. 1, 1946, ch. 724, § 19, 60 Stat. 775, related to authorization of appropriations, and is now covered by section 2017 of this title.

CHAPTER 15—DISASTER RELIEF

SUBCHAPTER I—FEDERAL ASSISTANCE PROGRAMS

§§ 1851 to 1854. Repealed. Sept. 30, 1950, ch. 1125 § 9, 64 Stat. 1111

Section 1851, act July 25, 1947, ch. 320, § 1, 61 Stat. 422, related to the transfer of surplus personal property between the War Assets Administration and the Federal Works Agency to be utilized in the alleviation of suffering caused by flood or other catastrophe. See section 5121 et seq. of this title.

Section 1852, acts July 25, 1947, ch. 320, § 2, 61 Stat. 422; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380, related to loan or transfer of property to states and local governments. See section 5121 et seq. of this title.

Section 1853, acts July 25, 1947, ch. 320, § 3, 61 Stat. 423; June 30, 1949, ch. 288, title I, §§ 103, 105, 63 Stat. 380, related to the utilization of government and state officers and employees and the cooperation of federal agencies with the Administrator. See section 5121 et seq. of this title.

Section 1854, acts July 25, 1947, ch. 320, § 4, 61 Stat. 423; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380, related to authorization of appropriations. See section 5121 et seq. of this title.

§§ 1855 to 1855g. Repealed. Pub. L. 91-606, title III, § 302(1), Dec. 31, 1970, 84 Stat. 1759

Section 1855, act Sept. 30, 1950, ch. 1125 § 1, 64 Stat. 1109, set out the Congressional declaration of intent in enacting the act of Sept. 30, 1950, covering major disasters. See section 5121 et seq. of this title.

Section 1855a, acts Sept. 30, 1950, ch. 1125, § 2, 64 Stat. 1109; June 27, 1962, Pub. L. 87-502, § 1, 76 Stat. 111; Nov. 6, 1966, Pub. L. 89-769, § 6(a), 80 Stat. 1317, defined the terms "major disasters", "United States", "State", "governor", "local government", and "Federal agency". See section 5121 et seq. of this title.

Section 1855b, acts Sept. 30, 1950, ch. 1125, § 3, 64 Stat. 1110; Aug. 3, 1951, ch. 293, § 2, 65 Stat. 173; July 17, 1953, ch. 255, 67 Stat. 180; June 27, 1962, Pub. L. 87-502, § 2, 76 Stat. 111, authorized and directed Federal agencies to render assistance in the event of major disasters. See section 5121 et seq. of this title.

Section 1855c, act Sept. 30, 1950, ch. 1125, § 4, 64 Stat. 1110, directed Federal agencies to cooperate with each other and with other agencies in providing assistance. See section 5121 et seq. of this title.

Section 1855d, act Sept. 30, 1950, ch. 1125, § 5, 64 Stat. 1110, directed the President to coordinate disaster assistance and to issue rules and regulations covering disaster relief. See section 5121 et seq. of this title.

Section 1855e, act Sept. 30, 1950, ch. 1125, § 6, 64 Stat. 1111, dealt with the repair and reconstruction of damaged United States facilities. See section 5121 et seq. of this title.

Section 1855f, act Sept. 30, 1950, ch. 1125, § 7, 64 Stat. 1111, provided for the utilization of services and facilities of other agencies, employment of temporary personnel, incurring of obligations, and reimbursements. See section 5121 et seq. of this title.

Section 1855g, act Sept. 30, 1950, ch. 1125, § 8, 64 Stat. 1111, authorized an appropriation of $5,000,000 and required by the President to submit a report to Congress at the beginning of each session covering the expenditure of amounts appropriated. See section 5121 et seq. of this title.

Effective Date of Repeal

Repeal by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

SUBCHAPTER II—ADJUSTMENT AND COORDINATION OF FEDERAL PROGRAMS

§§ 1855aa to 1855ii. Repealed. Pub. L. 91-606, title III, § 302(2), Dec. 31, 1970, 84 Stat. 1759

Section 1855aa, Pub. L. 89-769, § 2, Nov. 6, 1966, 80 Stat. 1316, defined the term "major disaster." See section 5121 et seq. of this title.

Pub. L. 89-769, §§ 1, 14, Nov. 6, 1966, 80 Stat. 1316, 1321, set out as notes under section 1855aa of this title, gave the name "Disaster Relief Act of 1966" to Pub. L. 89-769, and provided for the effective date of such act.

Section 1855bb, Pub. L. 89-769, § 3(a), Nov. 6, 1966, 80 Stat. 1316, called for the rescheduling and refinancing of federal loans in event of a major disaster. See section 4455 of this title. See section 5121 et seq. of this title.

Section 1855cc, Pub. L. 89-769, § 5, Nov. 6, 1966, 80 Stat. 1317, authorized the Secretary of Defense to make available the facilities of the civil defense communications system in case of imminent natural disasters. See section 5121 et seq. of this title.

Section 1855dd, Pub. L. 89-769, § 8, Nov. 6, 1966, 80 Stat. 1320, set out the order of priorities to be followed in processing applications for public facility and public housing assistance in major disaster areas. See section 5121 et seq. of this title.

Section 1855ee, Pub. L. 89-769, § 9, Nov. 6, 1966, 80 Stat. 1320, provided for the reimbursement of costs of reconstruction of public facilities, eligible costs, and agencies and parties entitled to reimbursement. See section 5121 et seq. of this title.

Section 1855ff, Pub. L. 89-769, § 10, Nov. 6, 1966, 80 Stat. 1320, directed department heads to administer programs covering major disasters so that there is no duplication of efforts between the various programs. See section 5121 et seq. of this title.

Section 1855gg, Pub. L. 89-769, § 11, Nov. 6, 1966, 80 Stat. 1321, provided for the extension of time to leaseholders, etc., of public lands in disaster areas. See section 5121 et seq. of this title.

Section 1855hh, Pub. L. 89-769, § 12, Nov. 6, 1966, 80 Stat. 1321, directed the President to coordinate and review all assistance programs. See section 5121 et seq. of this title.

Section 1855ii, Pub. L. 89-769, § 13, Nov. 6, 1966, 80 Stat. 1321, called for a study of air operation facilities for disaster assistance and for a report of the findings of such study to Congress with recommendations by May 6, 1967. See section 5121 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

SUBCHAPTER III—ADDITIONAL FEDERAL ASSISTANCE PROGRAMS

§§ 1855aaa to 1855nnn. Repealed. Pub. L. 91-606, title III, § 302(3), Dec. 31, 1970, 84 Stat. 1759

Section 1855aaa, Pub. L. 91-79, § 1, Oct. 1, 1969, 83 Stat. 125, set out the Congressional statement of policy in enacting Pub. L. 91-79. See section 5121 et seq. of this title.

Pub. L. 91-79, § 16, Oct. 1, 1969, 83 Stat. 125, set out as a note under section 1855aaa of the title, gave the name "Disaster Relief Act of 1969" to Pub. L. 91-79.

Section 1855bbb, Pub. L. 91-79, § 2, Oct. 1, 1969, 83 Stat. 126, authorized the President to allocate funds for the permanent repair and reconstruction of nonfederal streets, roads, and highway facilities destroyed or damaged as a result of a major disaster. See section 5121 et seq. of this title.

Section 1855ccc, Pub. L. 91-79, § 3, Oct. 1, 1969, 83 Stat. 126, covered the allowable alterations in timber sales contracts between the Secretary of Agriculture or the Secretary of Interior and a timber purchaser in the event of a major disaster causing major physical changes. See section 5121 et seq. of this title.

Section 1855ddd, Pub. L. 91-79, § 4, Oct. 1, 1969, 83 Stat. 126, authorized the Secretary of the Interior to give public land entrymen additional time to comply with requirements of law. See section 5121 et seq. of this title.

Section 1855eee, Pub. L. 91-79, § 6, Oct. 1, 1969, 83 Stat. 127, made provision for Small Business Administration disaster loans. See section 5121 et seq. of this title.

Section 1855fff, Pub. L. 91-79, § 7, Oct. 1, 1969, 83 Stat. 127, provided for emergency farm loans by the Secretary of Agriculture. See section 5121 et seq. of this title.

Section 1855ggg, Pub. L. 91-79, § 8, Oct. 1, 1969, 83 Stat. 128, provided for the development of State disaster relief programs, the development of State agencies to administer disaster relief programs, and reports to Congress. See section 5121 et seq. of this title.

Section 1855hhh, Pub. L. 91-79, § 9, Oct. 1, 1969, 83 Stat. 128, made provision for the appointment and duties of a Federal coordinating officer to operate under the Office of Emergency Preparedness in any area designated a major disaster area. See section 5121 et seq. of this title.

Section 1855iii, Pub. L. 91-79, § 10, Oct. 1, 1969, 83 Stat. 128, authorized the President to provide on a temporary basis dwelling accommodations for individuals and families displaced by a major disaster. See section 5121 et seq. of this title.

Section 1855jjj, Pub. L. 91-79, § 11, Oct. 1, 1969, 83 Stat. 129, authorized the President to set up a food stamp and surplus commodities program to distribute food to persons in low-income households unable to purchase food as the result of a major disaster. See section 5121 et seq. of this title.

Section 1855kkk, Pub. L. 91-79, § 12, Oct. 1, 1969, 83 Stat. 129, provided for unemployment assistance to persons unemployed as the result of a major disaster. See section 5121 et seq. of this title.

Section 1855*lll*, Pub. L. 91-79, § 13, Oct. 1, 1969, 83 Stat. 129, covered grants and loans for funds used in the suppression of fire on forest or grass lands which threatens destruction as to constitute a major disaster. See section 5121 et seq. of this title.

Section 1855mmm, Pub. L. 91-79, § 14, Oct. 1, 1969, 83 Stat. 130, authorized grants for the removal of debris. See section 5121 et seq. of this title.

Section 1855nnn, Pub. L. 91-79, § 15, Oct. 1, 1969, 83 Stat. 130, defined the term "major disaster" and provided for the termination date of sections 1855aaa et seq. of this title on Dec. 31, 1970. See section 5121 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

CHAPTER 15A—RECIPROCAL FIRE PROTECTION AGREEMENTS

Sec.
1856. Definitions.
1856a. Authority to enter into reciprocal agreement; waiver of claims; reimbursement; ratification of prior agreements.
1856b. Emergency assistance.
1856c. Service in line of duty.
1856d. Funds.

§ 1856. Definitions

As used in this chapter—

(a) The term "agency head" means the head of any executive department, military depart-

ment, agency, or independent establishment in the executive branch of the Government;

(b) The term "fire protection" includes personal services and equipment required for fire prevention, the protection of life and property from fire, and fire fighting; and

(c) The term "fire organization" means any governmental entity or public or private corporation or association maintaining fire protection facilities within the United States, its Territories and possessions, and any governmental entity or public or private corporation or association which maintains fire protection facilities in any foreign country in the vicinity of any installation of the United States.

(May 27, 1955, ch. 105, § 1, 69 Stat. 66.)

§ 1856a. Authority to enter into reciprocal agreement; waiver of claims; reimbursement; ratification of prior agreements

(a) Each agency head charged with the duty of providing fire protection for any property of the United States is authorized to enter into a reciprocal agreement, with any fire organization maintaining fire protection facilities in the vicinity of such property, for mutual aid in furnishing fire protection for such property and for other property for which such organization normally provides fire protection. Each such agreement shall include a waiver by each party of all claims against every other party for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement. Any such agreement may provide for the reimbursement of any party for all or any part of the cost incurred by such party in furnishing fire protection for or on behalf of any other party.

(b) Any agreement heretofore executed which would have been authorized by this chapter, if this chapter had been in effect on the date of execution thereof, is ratified and confirmed.

(May 27, 1955, ch. 105, § 2, 69 Stat. 66.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1856b, 1856c of this title.

§ 1856b. Emergency assistance

In the absence of any agreement authorized or ratified by section 1856a of this title, each agency head is authorized to render emergency assistance in extinguishing fires and in preserving life and property from fire, within the vicinity of any place at which such agency maintains fire-protection facilities, when the rendition of such assistance is determined, under regulations prescribed by the agency head, to be in the best interest of the United States.

(May 27, 1955, ch. 105, § 3, 69 Stat. 67.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1856c of this title.

§ 1856c. Service in line of duty

Any service performed under section 1856a or section 1856b of this title, by any officer or employee of the United States or any member of any armed force of the United States shall constitute service rendered in line of duty in such office, employment, or force. The performance of such service by any other individual shall not constitute such individual an officer or employee of the United States for the purposes of subchapter I of chapter 81 of title 5.

(May 27, 1955, ch. 105, § 4, 69 Stat. 67.)

CODIFICATION

"Subchapter I of chapter 81 of title 5" was substituted for "the Federal Employees' Compensation Act, as amended" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

§ 1856d. Funds

Funds available to any agency head for fire protection on installations or in connection with activities under the jurisdiction of such agency may be used to carry out the purposes of this chapter. All sums received by any agency head for fire protection rendered pursuant to this chapter shall be covered into the Treasury as miscellaneous receipts.

(May 27, 1955, ch. 105, § 5, 69 Stat. 67.)

CHAPTER 15B—AIR POLLUTION CONTROL

SUBCHAPTER I—AIR POLLUTION PREVENTION AND CONTROL

Sec.
1857. Congressional findings; purposes of subchapter.
1857a. Cooperative activities.
(a) Interstate cooperation; uniform State laws; State compacts.
(b) Federal cooperation.
(c) Consent of Congress to compacts.
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(a) Research and development program for prevention and control of air pollution.
(b) Availability of information and recommendations; cooperative activities; research grants, etc.; contract; training; fellowships; collection and dissemination of basic data on chemical, physical and biological effects of air quality; process, method and device development.
(c) Results of other scientific studies.
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(f) Accelerated research program on short- and long-term effects of air pollutants; conduct of studies, utilization of facilities, and consultations; duration of contracts; authorization of appropriations.
1857b-1. Research relating to fuels and vehicles.
(a) Research programs; grants; contracts; pilot and demonstration plants; by-products research.
(b) Powers of Administrator in establishing research and development programs.
(c) Authorization of appropriations.
1857c. Grants for support of air pollution planning and control programs.
(a) Amounts; limitations; assurances of plan development capability.

Sec.
(b) Terms and conditions; regulations; factors for consideration; expenditure and consultation requirements.
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1857c-1. Interstate air quality agencies; program cost limitations.

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(b) Designated regions.
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1857c-3. Air quality criteria and control techniques.
(a) Air pollutant list; publication and revision by Administrator; issuance of air quality criteria for air pollutants.
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1857c-6. Standards of performance for new stationary sources.
(a) Definitions.
(b) Publication and revision by Administrator of list of categories of stationary sources; inclusion of category in list; proposal of regulations by Administrator establishing standards for new sources within category; promulgation and revision of standards; differentiation within categories of new sources; issuance of information on pollution control techniques; applicability to new sources owned or operated by United States.
(c) Implementation and enforcement by State; procedure; delegation of authority of Administrator to State; enforcement power of Administrator unaffected.
(d) Emission standards for any existing source for any air pollutant; submission of State plan to Administrator establishing, implementing and enforcing standards; authority of Administrator to prescribe State plan; authority of Administrator to enforce State plan; procedure.
(e) Prohibited acts.

1857c-7. National emission standards for hazardous air pollutants.
(a) Definitions.
(b) Publication and revision by Administrator of list of hazardous air pollutants; inclusion of air pollution in list; proposal of regulations by Administrator establishing standards for pollutant; establishments of standards; standards effective upon promulgation; issuance of information on pollution control techniques.
(c) Prohibited acts; exemption by President for any stationary source; duration and extension of exemption; report to Congress.
(d) Implementation and enforcement by State of standards for stationary sources; procedure; delegation of authority of Administrator to State; enforcement power of Administrator unaffected.

1857c-8. Federal enforcement procedures.
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(d) Coal conversion and allocation orders of Federal Energy Administrator; emission limitations for coal; modification of limitations; compliance; public notice.
(e) Continuous emission reduction systems; manufacturing priorities; rules.
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(j) Exchange of fuels.
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(e) Recommendations of Administrator for remedial action by agencies; commencement of recommended action.
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(g) Judicial proceedings to secure abatement of pollution.
(h) Federal court proceedings; evidence; jurisdiction of court.
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(b) Duties of Board.
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(b) Authority of Administrator to make exemptions; refusal to admit vehicle or engine into United States; vehicles or engines intended for export.
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(a) Testing and issuance of certificate of conformity.
(b) Testing procedures; hearing; judicial review; additional evidence.
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(b) Low-Emission Vehicle Certification Board; establishment; composition; appointment; Chairman; compensation; travel expenses; employment and compensation of additional personnel; time and place of meetings; powers.
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SUBCHAPTER IV—NOISE POLLUTION

1858. Office of Noise Abatement and Control.
(a) Establishment; investigations and studies.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 4905, 6211, 6901, 6905, 6907, 6947 of this title; title 15 sections 793, 798, 2080, 2617; title 16 section 1456; title 23 section 109; title 30 section 201; title 33 sections 1502, 1503; title 49 section 1604.

SUBCHAPTER I—AIR POLLUTION PREVENTION AND CONTROL

§ 1857. Congressional findings; purposes of subchapter

(a) The Congress finds—

(1) that the predominant part of the Nation's population is located in its rapidly expanding metropolitan and other urban areas, which generally cross the boundary lines of local jurisdictions and often extend into two or more States;

(2) that the growth in the amount and complexity of air pollution brought about by urbanization, industrial development, and the increasing use of motor vehicles, has resulted in mounting dangers to the public health and welfare, including injury to agricultural crops and livestock, damage to and the deterioration of property, and hazards to air and ground transportation;

(3) that the prevention and control of air pollution at its source is the primary responsibility of States and local governments; and

(4) that Federal financial assistance and leadership is essential for the development of cooperative Federal, State, regional, and local programs to prevent and control air pollution.

(b) The purposes of this subchapter are—

(1) to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population;

(2) to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution;

(3) to provide technical and financial assistance to State and local governments in connection with the development and execution of their air pollution prevention and control programs; and

(4) to encourage and assist the development and operation of regional air pollution control programs.

(July 14, 1955, ch. 360, title I, § 101, formerly § 1, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 392, and amended and renumbered Oct. 20, 1965, Pub. L. 89-272, title I, § 101(2), (3), 79 Stat. 992; Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 485.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in a prior section 1857, act of July 14, 1955, ch. 360, § 1, 69 Stat. 322, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1967—Subsec. (b)(1). Pub. L. 90-148 inserted "and enhance the quality of" following "to protect".

1965—Subsec. (b). Pub. L. 89-272 substituted "this title" for "this Act", which for purposes of codification has been changed to "this subchapter".

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91-604, § 1, Dec. 31, 1970, 84 Stat. 1676, provided: "That this Act [amending this chapter generally] may be cited as the 'Clean Air Amendments of 1970'."

Section 401 of act July 14, 1955, as added Dec. 31, 1970, Pub. L. 91-604, § 14, 84 Stat. 1709, provided that: "This title [subchapter IV of this chapter] may be cited as the 'Noise Pollution and Abatement Act of 1970'."

SHORT TITLE OF 1967 AMENDMENT

Section 1 of Pub. L. 90-148 provided: "That this Act [amending this chapter generally] may be cited as the 'Air Quality Act of 1967'."

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89-675, § 1, Oct. 15, 1966, 80 Stat. 954, provided: "That this Act [amending sections 1857c and 1857*l* of this title and repealing section 1857f-8 of this title] may be cited as the 'Clean Air Act Amendments of 1966'."

SHORT TITLE OF 1965 AMENDMENT

Section 201 of act July 14, 1955, as added by Pub. L. 89-272, title I, § 101(8), Oct. 20, 1965, 79 Stat. 992, and amended by Pub. L. 90-148, § 2, Nov. 2, 1967, 81 Stat. 499, provided that: "This title [subchapter II of this chapter] may be cited as the 'National Emission Standards Act'." Prior to its amendment by Pub. L. 90-148, title II of act June 14, 1955, was known as the "Motor Vehicle Air Pollution Control Act".

SHORT TITLE

Section 317, formerly section 14, of Act July 14, 1955, as added by section 1 of Pub. L. 88-206, renumbered section 307 by section 101(4) of Pub. L. 89-272, renumbered section 310 by section 2 of Pub. L. 90-148, and renumbered section 317 by Pub. L. 91-604, § 12(a), Dec. 31, 1970, 84 Stat. 1705, provided that: "This Act [this chapter] may be cited as the 'Clean Air Act'."

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

EXECUTIVE ORDER NO. 10779

Ex. Ord. No. 10779, Aug. 21, 1958, 23 F.R. 6487, which related to cooperation of Federal agencies with State and local authorities, was superseded by Ex. Ord. No. 11282, May 26, 1966, 31 F.R. 7663, set out as a note under section 1857*f* of this title.

PREVENTION, CONTROL, AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of this title, provided for the prevention, control, and abatement of environmental pollution at federal facilities.

Ex. Ord. No. 11507, Feb. 4, 1970, 35 F.R. 2573, which provided for the prevention, control, and abatement of air pollution at federal facilities was superseded by Ex. Ord. No. 11752.

NATIONAL INDUSTRIAL POLLUTION CONTROL COUNCIL

For provisions relating to the establishment of the National Industrial Pollution Control Council, see Ex. Ord. No. 11523, Apr. 9, 1970, 35 F.R. 5993, set out as a note under section 4321 of this title.

§ 1857a. Cooperative activities

(a) Interstate cooperation; uniform State laws; State compacts

The Administrator shall encourage cooperative activities by the States and local governments for the prevention and control of air pollution; encourage the enactment of improved and, so far as practicable in the light of varying conditions and needs, uniform State and local laws relating to the prevention and control of air pollution; and encourage the making of agreements and compacts between States for the prevention and control of air pollution.

(b) Federal cooperation.

The Administrator shall cooperate with and encourage cooperative activities by all Federal departments and agencies having functions relating to the prevention and control of air pollution, so as to assure the utilization in the Federal air pollution control program of all appropriate and available facilities and resources within the Federal Government.

(c) Consent of Congress to compacts

The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of air pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements or compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by Congress. It is the intent of Congress that no agreement or compact entered into between States after November 21, 1967, which relates to the control and abatement of air pollution in an air quality control region, shall provide for participation by a State which is not included (in whole or in part) in such air quality control region.

(July 14, 1955, ch. 360, title I, § 102, formerly § 2, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 393, renumbered Oct. 20, 1965, Pub. L. 89-272, title I, § 101(3), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 485; Dec. 31, 1970, Pub. L. 91-604, § 15(c)(2), 84 Stat. 1713.)

PRIOR PROVISIONS

Provisions similar to those comprising the first clause of subsec. (a) of this section were contained in subsec. (b)(1) of a prior section 1857a, act July 14, 1955, ch. 360, § 2, 69 Stat. 322, prior to the general amendment of this chapter by Pub. L. 88-206.

Such prior section 1857a also related to research programs, joint investigations and powers of Surgeon General. See section 1857b of this title.

AMENDMENTS

1970—Subsecs. (a), (b). Pub. L. 91-604 substituted "Administrator" for "Secretary" wherever appearing therein.

1967—Subsec. (c). Pub. L. 90-148 added declaration that it is the intent of Congress that no agreement or compact entered into between States after the date of enactment of the Air Quality Act of 1967, which for purposes of codification was changed to November 21, 1967, the date of approval of such Act, relating to the control and abatement of air pollution in an air quality control region, shall provide for participation by a State which is not included (in whole or in part) in such air quality control region.

§ 1857b. Research, investigations, training, and other activities

(a) Research and development program for prevention and control of air pollution

The Administrator shall establish a national research and development program for the prevention and control of air pollution and as part of such program shall—

(1) conduct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of air pollution;

(2) encourage, cooperate with, and render technical services and provide financial assistance to air pollution control agencies and other appropriate public or private agencies, institutions, and organizations, and individuals in the conduct of such activities;

(3) conduct investigations and research and make surveys concerning any specific problem of air pollution in cooperation with any air pollution control agency with a view to recommending a solution of such problem, if he is requested to do so by such agency or if, in his judgment, such problem may affect any community or communities in a State other than that in which the source of the matter causing or contributing to the pollution is located;

(4) establish technical advisory committees composed of recognized experts in various aspects of air pollution to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research.

(b) Availability of information and recommendations; cooperative activities; research grants, etc.; contract; training; fellowships; collection and dissemination of basic data on chemical, physical and biological effects of air quality; process, method and device development

In carrying out the provisions of the preceding subsection the Administrator is authorized to—

(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities;

(2) cooperate with other Federal departments and agencies, with air pollution control agencies, with other public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and conduct of such research and other activities;

(3) make grants to air pollution control agencies, to other public or nonprofit private agencies, institutions, and organizations, and to individuals, for purposes stated in subsection (a)(1) of this section;

(4) contract with public or private agencies, institutions, and organizations, and with individuals, without regard to section 529 of title 31 and section 5 of title 41;

(5) provide training for, and make training grants to, personnel of air pollution control agencies and other persons with suitable qualifications;

(6) establish and maintain research fellowships, in the Environmental Protection Agency and at public or nonprofit private educational institutions or research organizations;

(7) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying air quality and other information pertaining to air pollution and the prevention and control thereof; and

(8) develop effective and practical processes, methods, and prototype devices for the prevention or control of air pollution.

(c) Results of other scientific studies

In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons by the various known air pollutants.

(d) Construction of facilities

The Administrator is authorized to construct such facilities and staff and equip them as he determines to be necessary to carry out his functions under this chapter.

(e) Potential air pollution problems; conferences; findings and recommendations of Administrator

If in the judgement of the Administrator, an air pollution problem of substantial significance may result from discharge or discharges into the atmosphere, he may call a conference concerning this potential air pollution problem to be held in or near one or more of the places where such discharge or discharges are occurring or will occur. All interested persons shall be given an opportunity to be heard at such conference, either orally or in writing, and shall be permitted to appear in person or by representative in accordance with procedures prescribed by the Administrator. If the Administrator finds, on the basis of the evidence presented at such conference, that the discharge or discharges if permitted to take place or continue are likely to cause or contribute to air

pollution subject to abatement under section 1857d of this title, he shall send such findings, together with recommendations concerning the measures which he finds reasonable and suitable to prevent such pollution, to the person or persons whose actions will result in the discharge or discharges involved; to air pollution agencies of the State or States and of the municipality or municipalities where such discharge or discharges will originate; and to the interstate air pollution control agency, if any, in the jurisdictional area of which any such municipality is located. Such findings and recommendations shall be advisory only, but shall be admitted together with the record of the conference, as part of the proceedings under subsections (b), (c), (d), (e), and (f) of section 1857d of this title.

(f) Accelerated research program on short- and long-term effects of air pollutants; conduct of studies, utilization of facilities, and consultations; duration of contracts; authorization of appropriations

(1) In carrying out research pursuant to this chapter, the Administrator shall give special emphasis to research on the short- and long-term effects of air pollutants on public health and welfare. In the furtherance of such research, he shall conduct an accelerated research program—

(A) to improve knowledge of the contribution of air pollutants to the occurrence of adverse effects on health, including, but not limited to, behavioral, physiological, toxicological, and biochemical effects; and

(B) to improve knowledge of the short- and long-term effects of air pollutants on welfare.

(2) In carrying out the provisions of this subsection the Administrator may—

(A) conduct epidemiological studies of the effects of air pollutants on mortality and morbidity;

(B) conduct clinical and laboratory studies on the immunologic, biochemical, physiological, and the toxicological effects including carcinogenic, teratogenic, and mutagenic effects of air pollutants;

(C) utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers;

(D) utilize the authority contained in paragraphs (1) through (4) of subsection (b) of this section; and

(E) consult with other appropriate Federal agencies to assure that research or studies conducted pursuant to this subsection will be coordinated with research and studies of such other Federal agencies.

(3) In entering into contracts under this subsection, the Administrator is authorized to contract for a term not to exceed 10 years in duration. For the purposes of this paragraph, there are authorized to be appropriated $15,000,000. Such amounts as are appropriated shall remain available until expended and shall be in addition to any other appropriations under this chapter.

(July 14, 1955, ch. 360, title I, § 103, formerly § 3, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 394, and amended and renumbered Oct. 20, 1965, Pub. L. 89-272, title I, §§ 101(3), 103, 79 Stat. 992, 996; Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 486; Dec. 31, 1970, Pub. L. 91-604, §§ 2(a), 4(2), 15(a)(2), (c)(2), 84 Stat. 1676, 1689, 1710, 1713.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a)(3) of this section were contained in subsec. (a) of a prior section 1857b, act July 14, 1955, ch. 360, § 3, 69 Stat. 322, as amended Oct. 9, 1962, Pub. L. 87-761, § 2, 76 Stat. 760, prior to the general amendment of this chapter by Pub. L. 88-206.

Provisions similar to those comprising this section were contained in former sections 1857a to 1857d, act July 14, 1955, ch. 360, §§ 2 to 5, 69 Stat. 322 (section 1857b as amended Oct. 9, 1962, Pub. L. 87-761, § 2, 76 Stat. 760; section 1857d as amended Sept. 22, 1959, Pub. L. 86-365, § 1, 73 Stat. 646 and Oct. 9, 1962, Pub. L. 87-761, § 1, 76 Stat. 760), prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (b). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" and "Environmental Protection Agency" for "Department of Health, Education, and Welfare".

Subsec. (c). Pub. L. 91-604, § 15(a)(2), (c)(2), substituted "Administrator" for "Secretary" and "air pollutants" for "air pollution agents (or combinations of agents)".

Subsec. (d). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (e). Pub. L. 91-604, §§ 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein, substituted "1857d" for "1857d(a)", and added references to subsecs. (b) and (c) of section 1857d of this title.

Subsec. (f). Pub. L. 91-604, § 2(a), added subsec. (f).

1967—Subsec. (a). Pub. L. 90-148 substituted "establish technical advisory committees composed of recognized experts in various aspects of air pollution to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research" for "initiate and conduct a program of research directed toward the development of improved, low-cost techniques for extracting sulfer from fuels" as clause (4) and struck out clause (5) which related to research programs relating to the control of hydrocarbon emissions from evaporation of gasoline and nitrogen and aldehyde oxide emission from gasoline and diesel powered vehicles and relating to the development of improved low cost techniques to reduce emissions of oxides of sulfur produced by the combusion of sulfur-containing fuels.

Subsec. (c). Pub. L. 90-148 struck out provision for the promulgation of criteria in the case of particular air pollution agents present in the air in certain quantities reflecting the latest scientific knowledge and allowing for availability and revision and provided for the recommendation by the Secretary of air quality criteria.

Subsec. (e). Pub. L. 90-148 substituted references to subsections (d), (e), and (f) of section 1857d of this title for references to subsections (c), (d), and (e) of section 1857d of this title in the provision for the admission of advisory findings and recommendations together with the record of the conference and made such findings and recommendations part of the proceedings of the conference, not merely part of the record of proceedings.

1965—Subsec. (a)(5). Pub. L. 89-272, § 103(3), added par. (5).

Subsecs. (d), (e). Pub. L. 89-272, § 103(4), added subsecs. (d) and (e).

STUDY OF SUBSTANCES DISCHARGED FROM EXHAUSTS OF MOTOR VEHICLES

Pub. L. 86-493, June 8, 1960, 74 Stat. 162, directed the Surgeon General of the Public Health Service to

conduct a thorough study for the purposes of determining, with respect to the various substances discharged from the exhausts of motor vehicles, the amounts and kinds of such substances which, from the standpoint of human health, it is safe for motor vehicles to discharge into the atmosphere under the various conditions under which such vehicles may operate. Not later than two years after June 8, 1960, the Surgeon General was required to submit to Congress a report on the results of the study, together with such recommendations, if any, based upon the findings made in such study, as he deemed necessary for the protection of the public health.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857*l* of this title.

§ 1857b-1. Research relating to fuels and vehicles

(a) Research programs; grants; contracts; pilot and demonstration plants; byproducts research

The Administrator shall give special emphasis to research and development into new and improved methods, having industry-wide application, for the prevention and control of air pollution resulting from the combustion of fuels. In furtherance of such research and development he shall—

(1) conduct and accelerate research programs directed toward development of improved, low-cost techniques for—

(A) control of combustion byproducts of fuels,

(B) removal of potential air pollutants from fuels prior to combustion,

(C) control of emissions from the evaporation of fuels,

(D) improving the efficiency of fuels combustion so as to decrease atmospheric emissions, and

(E) producing synthetic or new fuels which, when used, result in decreased atmospheric emissions.

(2) provide for Federal grants to public or nonprofit agencies, institutions, and organizations and to individuals, and contracts with public or private agencies, institutions, or persons, for payment of (A) part of the cost of acquiring, constructing, or otherwise securing for research and development purposes, new or improved devices or methods having industrywide application of preventing or controlling discharges into the air of various types of pollutants; (B) part of the cost of programs to develop low emission alternatives to the present internal combustion engine; (C) the cost to purchase vehicles and vehicle engines, or portions thereof, for research, development, and testing purposes; and (D) carrying out the other provisions of this section, without regard to section 529 of title 31 and section 5 of title 41: *Provided*, That research or demonstration contracts awarded pursuant to this subsection (including contracts for construction) may be made in accordance with, and subject to the limitations provided with respect to research contracts of the military departments in, section 2353 of title 10, except that the determination, approval, and certification required thereby shall be made by the Secretary: *Provided further*, That no grant may be made under this paragraph in excess of $1,500,000;

(3) determine, by laboratory and pilot plant testing, the results of air pollution research and studies in order to develop new or improved processes and plant designs to the point where they can be demonstrated on a large and practical scale;

(4) construct, operate, and maintain, or assist in meeting the cost of the construction, operation, and maintenance of new or improved demonstration plants or processes which have promise of accomplishing the purposes of this chapter;

(5) study new or improved methods for the recovery and marketing of commercially valuable byproducts resulting from the removal of pollutants.

(b) Powers of Administrator in establishing research and development programs

In carrying out the provisions of this section, the Administrator may—

(1) conduct and accelerate research and development of low-cost instrumentation techniques to facilitate determination of quantity and quality of air pollutant emissions, including, but not limited to, automotive emissions;

(2) utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories;

(3) establish and operate necessary facilities and test sites at which to carry on the research, testing, development, and programming necessary to effectuate the purposes of this section;

(4) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands, plants, and facilities, and other property or rights by purchase, license, lease, or donation; and

(5) cause on-site inspections to be made of promising domestic and foreign projects, and cooperate and participate in their development in instances in which the purposes of the chapter will be served thereby.

(c) Authorization of appropriations

For the purposes of this section there are authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1971, $125,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, and $150,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975. Amounts appropriated pursuant to this subsection shall remain available until expended.

(July 14, 1955, ch. 360, title I, § 104, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 487, and amended Dec. 5, 1969, Pub. L. 91-137, 83 Stat. 283; Dec. 31, 1970, Pub. L. 91-604, §§ 2(b), (c), 13(a), 15(c)(2), 84 Stat. 1676, 1677, 1709,

1713; Apr. 9, 1973, Pub. L. 93-15, § 1(a), 87 Stat. 11; June 22, 1974, Pub. L. 93-319, § 13(a), 88 Stat. 265.)

PRIOR PROVISIONS

A prior section 104 of act July 14, 1955, was renumbered section 105 by Pub. L. 90-148 and is set out as section 1857c of this title.

AMENDMENTS

1974—Subsec. (c). Pub. L. 93-319 authorized appropriation of $150,000,000 for the fiscal year ending June 30, 1975.

1973—Subsec. (c). Pub. L. 93-15 authorized appropriation of $150,000,000 for fiscal year ending June 30, 1974.

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (a)(1). Pub. L. 91-604, § 2(b), added provisions authorizing research programs directed toward development of techniques for improving the efficiency of fuels combustion so as to decrease atmospheric emissions, and producing synthetic or new fuels which result in decreased atmospheric emissions.

Subsec. (a)(2). Pub. L. 91-604, § 2(c), added cls. (B) and (C). Former cl. (B) was redesignated as (D).

Subsec. (b). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (c). Pub. L. 91-604, § 13(a), substituted provisions authorizing appropriations for fiscal years ending June 30, 1971, 1972, and 1973, for provisions authorizing appropriations for the fiscal years ending June 30, 1968 and 1969.

1969—Subsec. (c). Pub. L. 91-137 authorized appropriation of $45,000,000 for the fiscal year ending June 30, 1970.

EXTENSION TO AUG. 31, 1970 OF AUTHORIZATION PERIOD FOR FISCAL YEAR 1970

Pub. L. 91-316, July 10, 1970, 84 Stat. 416, provided in part that the authorization contained in section 104(c) of the Clean Air Act [subsec. (c) of this section] for the fiscal year ending June 30, 1970, should remain available through Aug. 31, 1970, notwithstanding any provisions of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857*l* of this title.

§ 1857c. Grants for support of air pollution planning and control programs

(a) Amounts; limitations; assurances of plan development capability

(1)(A) The Administrator may make grants to air pollution control agencies in an amount up to two-thirds of the cost of planning, developing, establishing, or improving, and up to one-half of the cost of maintaining, programs for the prevention and control of air pollution or implementation of national primary and secondry ambient air quality standards.

(B) Subject to subparagraph (C), the Administrator may make grants to air pollution control agencies within the meaning of paragraph (1), (2), or (4) of section 1857h(b) of this title in an amount up to three-fourths of the cost of planning, developing, establishing, or improving, and up to three-fifths of the cost of maintaining, any program for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards in an area that includes two or more municipalities, whether in the same or different States.

(C) With respect to any air quality control region or portion thereof for which there is an applicable implementation plan under section 1857c-5 of this title, grants under subparagraph (B) may be made only to air pollution control agencies which have substantial responsibilities for carrying out such applicable implementation plan.

(2) Before approving any grant under this subsection to any air pollution control agency within the meaning of sections 1857h(b)(2) and 1857h(b)(4) of this title, the Administrator shall receive assurances that such agency provides for adequate representation of appropriate State, interstate, local, and (when appropriate) international, interests in the air quality control region.

(3) Before approving any planning grant under this subsection to any air pollution control agency within the meaning of sections 1857h(b)(2) and 1857h(b)(4) of this title, the Administrator shall receive assurances that such agency has the capability of developing a comprehensive air quality plan for the air quality control region, which plan shall include (when appropriate) a recommended system of alerts to avert and reduce the risk of situations in which there may be imminent and serious danger to the public health or welfare from air pollutants and the various aspects relevant to the establishment of air quality standards for such air quality control region, including the concentration of industries, other commercial establishments, population and naturally occurring factors which shall affect such standards.

(b) Terms and conditions; regulations; factors for consideration; expenditure and consultation requirements

From the sums available for the purposes of subsection (a) of this section for any fiscal year, the Administrator shall from time to time make grants to air pollution control agencies upon such terms and conditions as the Administrator may find necessary to carry out the purpose of this section. In establishing regulations for the granting of such funds the Administrator shall, so far as practicable, give due consideration to (1) the population, (2) the extent of the actual or potential air pollution problem, and (3) the financial need of the respective agencies. No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than nonrecurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year; and no agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Administrator is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds. No grant shall be made under this section until the Administrator has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.

(c) State expenditure limitation

Not more than 10 per centum of the total of funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for air pollution control programs in any one State. In the case of a grant for a program in an area crossing State boundaries, the Administrator shall determine the portion of such grant that is chargeable to the percentage limitation under this subsection for each State into which such area extends.

(d) Reduction of payments; availability of reduced amounts; reduced amount as deemed paid to agency for purpose of determining amount of grant

The Administrator, with the concurrence of any recipient of a grant under this section, may reduce the payments to such recipient by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of any officer or employee to the recipient under section 1857g of this title, when such detail is for the convenience of, and at the request of, such recipient and for the purpose of carrying out the provisions of this chapter. The amount by which such payments have been reduced shall be available for payment of such costs by the Administrator, but shall, for the purpose of determining the amount of any grant to a recipient under subsection (a) of this section, be deemed to have been paid to such agency.

(July 14, 1955, ch. 360, title I, § 105, formerly § 4, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 395, renumbered § 104 and amended Oct. 20, 1965, Pub. L. 89-272, title I, § 101(2)-(4), 79 Stat. 992; Oct. 15, 1966, Pub. L. 89-675, § 3, 80 Stat. 954, and renumbered § 105 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 489; Dec. 31, 1970, Pub. L. 91-604, §§ 3(a), (b)(1), 15(c)(2), 84 Stat. 1677, 1713.)

PRIOR PROVISIONS

A prior section 105 of act July 14, 1955, was renumbered section 108 by Pub. L. 90-148 and is set out as section 1857d of this title.

A prior section 1857c, act July 14, 1955, ch. 360, § 4, 69 Stat. 322, related to the preparation of reports and recommendations. See section 1857b(b)(1) of this section.

Provisions similar to those comprising subsecs. (a) and (b) of this section were contained in former section 1857d, act July 14, 1955, ch. 360, § 5, 69 Stat. 322, as amended Sept. 22, 1959, Pub. L. 86-365, § 1, 73 Stat. 646; Oct. 9, 1962, Pub. L. 87-761, § 1, 76 Stat. 760, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91-604, § 3(a), substituted provisions authorizing the Administrator to make grants, for provisions authorizing the Secretary to make grants, and provisions authorizing grants for programs implementing national primary and secondary ambient air quality standards, for provisions authorizing grants for programs implementing air quality standards authorized by this subchapter, and added the provision requiring grants to air pollution control agencies be made to agencies having substantial responsibilities for carrying out the applicable implementation plan with respect to the air quality control region or portion thereof.

Subsecs. (a)(2), (3), (b), (c). Pub. L. 91-604, § 15(c)(2) substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (d). Pub. L. 91-604, § 3(b)(1), added subsec. (d).

1967—Subsec. (a). Pub. L. 90-148 designated existing provisions as par. (1), added pars. (2) and (3), and, in par. (1) as so designated, substituted "regional air quality control program" for "regional air pollution control program," added planning to the list of authorized activities, and added programs for the implementation of air quality standards authorized by this chapter to the list of authorized programs.

Subsec. (b). Pub. L. 90-148 made minor changes in the order of the provisions.

Subsec. (c). Pub. L. 90-148 reduced the percentage limitation on the portion of the total funds which might be granted for air pollution control programs in any one State from 12½ per centum to 10 per centum.

1966—Subsec. (a). Pub. L. 89-675, § 3(a)(1), struck out provisions limiting the available funds to 20 per centum of the sums appropriated annually for the purpose of this subchapter, inserted provisions allowing grants to air pollution control agencies up to one-half of the cost of maintaining programs for prevention and control of air pollution, and authorized the Secretary to make grants of up to three-fifths of the cost of maintaining regional air pollution control programs.

Subsec. (b). Pub. L. 89-675, § 3(a)(2), substituted reference to sums available "for the purpose of" subsection (a) of this section for reference to sums available "under" subsection (a) of this section, permitted grantees to reduce annual expenditures to the extent that nonrecurrent costs are involved for purposes of application of the provision that no agency may receive grants during any fiscal year when its expenditures of non-Federal funds for air pollution control programs are less than its expenditures for such programs during the preceding year, and added provisions insuring that Federal funds will in no event be used to supplant State or local government funds in maintaining air pollution control programs.

Subsec. (c). Pub. L. 89-675, § 3(b), substituted "total of funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for air pollution control programs" for "grant funds available under subsection (a) of this section shall be expended" and authorized the Secretary to determine the portion of grants to interstate agencies to be charged against the twelve and one-half percent limitation of grant funds to any one State.

1965—Subsec. (a). Pub. L. 89-272 substituted "this title" for "this Act", which for purposes of codification has been changed to "this subchapter", and "section 302(b)(2) and (4)" for "section 9(b)(2) and (4)", which for purposes of codification has been changed to "section 1857h(b)(2) and (4) of this title".

§ 1857c-1. Interstate air quality agencies; program cost limitations

For the purpose of developing implementation plans for any interstate air quality control region designated pursuant to section 1857c-2 of this title, the Administrator is authorized to pay, for two years, up to 100 per centum of the air quality planning program costs of any agency designated by the Governors of the affected States, which agency shall be capable of recommending to the Governors plans for implementation of national primary and secondary ambient air quality standards and shall include representation from the States and appropriate political subdivisions within the air quality control region. After the initial two-year period the Administrator is authorized to make grants to such agency in an amount up to three-fourths of the air quality planning program costs of any agency.

(July 14, 1955, ch. 360, title I, § 106, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 490,

and amended Dec. 31, 1970, Pub. L. 91-604, § 3(c), 84 Stat. 1677.)

CODIFICATION

A prior section 106 of act July 14, 1955, was renumbered section 110 by Pub. L. 90-148 and is set out as section 1857e of this title.

AMENDMENTS

1970—Pub. L. 91-604 struck out lettered designation "(a)", as so redesignated, substituted provisions authorizing Federal grants for the purpose of developing implementation plans and provisions requiring the designated State agency to be capable of recommending plans for implementation of national primary and secondary ambient air quality standards, for provisions authorizing Federal grants for the purpose of expediting the establishment of air quality standards and provisions requiring the designated State agency to be capable of recommending standards of air quality and plans for implementation thereof, respectively, and struck out subsec. (b) which authorized the establishment of air quality planning commissions.

§ 1857c-2. Air quality control regions

(a) Responsibility of State for air quality; submission of implementation plan

Each State shall have the primary responsibility for assuring air quality within the entire geographic area comprising such State by submitting an implementation plan for such State which will specify the manner in which national primary and secondary ambient air quality standards will be achieved and maintained within each air quality control region in such State.

(b) Designated regions

For purposes of developing and carrying out implementation plans under section 1857c-5 of this title—

(1) an air quality control region designated under this section before December 31, 1970, or a region designated after such date under subsection (c) of this section, shall be an air quality control region; and

(2) the portion of such State which is not part of any such designated region shall be an air quality control region, but such portion may be subdivided by the State into two or more air quality control regions with the approval of the Administrator.

(c) Authority of Administrator to designate regions; notification of Governors of affected States

The Administrator shall, within 90 days after December 31, 1970, after consultation with appropriate State and local authorities, designate as an air quality control region any interstate area or major intrastate area which he deems necessary or appropriate for the attainment and maintenance of ambient air quality standards. The Administrator shall immediately notify the Governors of the affected States of any designation made under this subsection.

(July 14, 1955, ch. 360, title I, § 107, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1678.)

PRIOR PROVISIONS

A prior section 107 of act July 14, 1955, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 490, which also covered air quality control regions, was repealed by Pub. L. 91-604. The section 107 of act July 14, 1955, which formed part of that Act as originally enacted, was renumbered section 111 by Pub. L. 90-148 and again renumbered section 118 by Pub. L. 91-604, and is set out as section 1857f of this title.

§ 1857c-3. Air quality criteria and control techniques

(a) Air pollutant list; publication and revision by Administrator; issuance of air quality criteria for air pollutants

(1) For the purpose of establishing national primary and secondary ambient air quality standards, the Administrator shall within 30 days after December 31, 1970, publish, and shall from time to time thereafter revise, a list which includes each air pollutant—

(A) which in his judgment has an adverse affect on public health or welfare;

(B) the presence of which in the ambient air results from numerous or diverse mobile or stationary sources; and

(C) for which air quality criteria had not been issued before December 31, 1970 but for which he plans to issue air quality criteria under this section.

(2) The Administrator shall issue air quality criteria for an air pollutant within 12 months after he has included such pollutant in a list under paragraph (1). Air quality criteria for an air pollutant shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantities. The criteria for an air pollutant, to the extent practicable, shall include information on—

(A) those variable factors (including atmospheric conditions) which of themselves or in combination with other factors may alter the effects on public health or welfare of such air pollutant;

(B) the types of air pollutants which, when present in the atmosphere, may interact with such pollutant to produce an adverse effect on public health or welfare; and

(C) any known or anticipated adverse effects on welfare.

(b) Issuance by Administrator of information on air pollution control techniques; standing consulting committees for air pollutants; establishment; membership

(1) Simultaneously with the issuance of criteria under subsection (a) of this section, the Administrator shall, after consultation with appropriate advisory committees and Federal departments and agencies, issue to the States and appropriate air pollution control agencies information on air pollution control techniques, which information shall include data relating to the technology and costs of emission control. Such information shall include such data as are available on available technology and alternative methods of prevention and control of air pollution. Such information shall also include data on alternative fuels, processes, and operating methods which will result in elimination or significant reduction of emissions.

(2) In order to assist in the development of information on pollution control techniques, the Administrator may establish a standing consulting committee for each air pollutant included in a list published pursuant to subsection

(a)(1) of this section, which shall be comprised of technically qualified individuals representative of State and local governments, industry, and the academic community. Each such committee shall submit, as appropriate, to the Administrator information related to that required by paragraph (1).

(c) Review, modification, and reissuance by Administrator

The Administrator shall from time to time review, and, as appropriate, modify, and reissue any criteria or information on control techniques issued pursuant to this section.

(d) Publication in Federal Register; availability of copies for general public

The issuance of air quality criteria and information on air pollution control techniques shall be announced in the Federal Register and copies shall be made available to the general public.

(July 14, 1955, ch. 360, title I, § 108, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1678.)

PRIOR PROVISIONS

A prior section 108 of act July 14, 1955, was renumbered section 115 by Pub. L. 91-604, and is set out as section 1857d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-6, 1857e of this title.

§ 1857c-4. National primary and secondary ambient air quality standards; promulgation; procedure

(a)(1) The Administrator—

(A) within 30 days after December 31, 1970, shall publish proposed regulations prescribing a national primary ambient air quality standard and a national secondary ambient air quality standard for each air pollutant for which air quality criteria have been issued prior to such date; and

(B) after a reasonable time for interested persons to submit written comments thereon (but no later than 90 days after the initial publication of such proposed standards) shall by regulation promulgate such proposed national primary and secondary ambient air quality standards with such modifications as he deems appropriate.

(2) With respect to any air pollutant for which air quality criteria are issued after December 31, 1970, the Administrator shall publish, simultaneously with the issuance of such criteria and information, proposed national primary and secondary ambient air quality standards for any such pollutant. The procedure provided for in paragraph (1)(B) of this subsection shall apply to the promulgation of such standards.

(b)(1) National primary ambient air quality standards, prescribed under subsection (a) of this section shall be ambient air quality standards the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health. Such primary standards may be revised in the same manner as promulgated.

(2) Any national secondary ambient air quality standard prescribed under subsection (a) of this section shall specify a level of air quality the attainment and maintenance of which in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. Such secondary standards may be revised in the same manner as promulgated.

(July 14, 1955, ch. 360, title I, § 109, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1679.)

CODIFICATION

A prior section 109 of act July 14, 1955, was renumbered section 116 by Pub. L. 91-604, and is set out as section 1857d-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-5, 1857d of this title.

§ 1857c-5. State implementation plans for national primary and secondary ambient air quality standards

(a) Submission to Administrator; time for submission; State procedures; required contents of plans for approval by Administrator; approval of revised plan by Administrator

(1) Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator, within nine months after the promulgation of a national primary ambient air quality standard (or any revision thereof) under section 1857c-4 of this title for any air pollutant, a plan which provides for implementation, maintenance, and enforcement of such primary standard in each air quality control region (or portion thereof) within such State. In addition, such State shall adopt and submit to the Administrator (either as a part of a plan submitted under the preceding sentence or separately) within nine months after the promulgation of a national ambient air quality secondary standard (or revision thereof), a plan which provides for implementation, maintenance, and enforcement of such secondary standard in each air quality control region (or portion thereof) within such State. Unless a separate public hearing is provided, each State shall consider its plan implementing such secondary standard at the hearing required by the first sentence of this paragraph.

(2) The Administrator shall, within four months after the date required for submission of a plan under paragraph (1), approve or disapprove such plan, or any portion thereof. The Administrator shall approve such plan, or any portion thereof, if he determines that it was adopted after reasonable notice and hearing and that—

(A)(i) in the case of a plan implementing a national primary ambient air quality standard, it provides for the attainment of such primary standard as expeditiously as practicable but (subject to subsection (e) of this section) in no case later than three years from the date of approval of such plan (or any revision thereof to take account of a revised primary standard); and (ii) in the case of a plan

implementing a national secondary ambient air quality standard, it specifies a reasonable time at which such secondary standard will be attained;

(B) it includes emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to insure attainment and maintenance of such primary or secondary standard, including, but not limited to, land-use and transportation controls;

(C) it includes provision for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality and, (ii) upon request, make such data available to the Administrator;

(D) it includes a procedure, meeting the requirements of paragraph (4), for review (prior to construction or modification) of the location of new sources to which a standard of performance will apply;

(E) it contains adequate provisions for intergovernmental cooperation, including measures necessary to insure that emissions of air pollutants from sources located in any air quality control region will not interfere with the attainment or maintenance of such primary or secondary standard in any portion of such region outside of such State or in any other air quality control region;

(F) it provides (i) necessary assurances that the State will have adequate personnel, funding, and authority to carry out such implementation plan, (ii) requirements for installation of equipment by owners or operators of stationary sources to monitor emissions from such sources, (iii) for periodic reports on the nature and amounts of such emissions; (iv) that such reports shall be correlated by the State agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection; and (v) for authority comparable to that in section 1857h-1 of this title, and adequate contingency plans to implement such authority;

(G) it provides, to the extent necessary and practicable, for periodic inspection and testing of motor vehicles to enforce compliance with applicable emission standards; and

(H) it provides for revision, after public hearings, of such plan (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of achieving such primary or secondary standard; or (ii) whenever the Administrator finds on the basis of information available to him that the plan is substantially inadequate to achieve the national ambient air quality primary or secondary standard which it implements.

(3)(A) The Administrator shall approve any revision of an implementation plan applicable to an air quality control region if he determines that it meets the requirements of paragraph (2) and has been adopted by the State after reasonable notice and public hearings.

(B) As soon as practicable, the Administrator shall, consistent with the purposes of this chapter and the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 791 et seq.], review each State's applicable implementation plans and report to the State on whether such plans can be revised in relation to fuel burning stationary sources (or persons supplying fuel to such sources) without interfering with the attainment and maintenance of any national ambient air quality standard within the period permitted in this section. If the Administrator determines that any such plan can be revised, he shall notify the State that a plan revision may be submitted by the State. Any plan revision which is submitted by the State shall, after public notice and opportunity for public hearing, be approved by the Administrator if the revision relates only to fuel burning stationary sources (or persons supplying fuel to such sources), and the plan as revised complies with paragraph (2) of this subsection. The Administrator shall approve or disapprove any revision no later than three months after its submission.

(4) The procedure referred to in paragraph (2)(D) for review, prior to construction or modification, of the location of new sources shall (A) provide for adequate authority to prevent the construction or modification of any new source to which a standard of performance under section 1857c-6 of this title will apply at any location which the State determines will prevent the attainment or maintenance within any air quality control region (or portion thereof) within such State of a national ambient air quality primary or secondary standard, and (B) require that prior to commencing construction or modification of any such source, the owner or operator thereof shall submit to such State such information as may be necessary to permit the State to make a determination under clause (A).

(b) Extension of period for submission of plan implementing national secondary ambient air quality standard

The Administrator may, wherever he determines necessary, extend the period for submission of any plan or portion thereof which implements a national secondary ambient air quality standard for a period not to exceed 18 months from the date otherwise required for submission of such plan.

(c) Preconditions for preparation and publication by Administrator of proposed regulations setting forth an implementation plan; hearings for proposed regulations; promulgation of regulations by Administrator; transportation regulations study and report; parking surcharge; suspension authority

(1) The Administrator shall, after consideration of any State hearing record, promptly prepare and publish proposed regulations setting forth an implementation plan, or portion thereof, for a State if—

(A) the State fails to submit an implementation plan for any national ambient air quality primary or secondary standard within the time prescribed,

(B) the plan, or any portion thereof, submitted for such State is determined by the Administrator not to be in accordance with the requirements of this section, or

(C) the State fails, within 60 days after notification by the Administrator or such longer priod as he may prescribe, to revise an implementation plan as required pursuant to a provision of its plan referred to in subsection (a)(2)(H) of this section.

If such State held no public hearing associated with respect to such plan (or revision thereof), the Administrator shall provide opportunity for such hearing within such State on any proposed regulation. The Administrator shall, within six months after the date required for submission of such plan (or revision thereof), promulgate any such regulations unless, prior to such promulgation, such State has adopted and submitted a plan (or revision) which the Administrator determines to be in accordance with the requirements of this section.

(2)(A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Environment and Public Works of the United States Senate not later than three months after June 22, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient aid quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Federal Energy Administrator, and the Chairman of the Council on Environmental Quality.

(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon June 22, 1974. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge regulation.

(C) The Administrator is authorized to suspend until January 1, 1975, the effective date or applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from approving such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

(D) For purposes of this paragraph—

(i) The term "parking surcharge regulation" means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles.

(ii) The term "management of parking supply" shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations.

(iii) The term "preferential bus/carpool lane" shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses or carpools, or both.

(E) No standard, plan, or requirement, relating to management of parking supply or preferential bus/carpool lanes shall be promulgated after June 22, 1974, by the Administrator pursuant to this section, unless such promulgation has been subjected to at least one public hearing which has been held in the area affected and for which reasonable notice has been given in such area. If substantial changes are made following public hearings, one or more additional hearings shall be held in such area after such notice.

(d) Applicable implementation plan

For purposes of this chapter, an applicable implementation plan is the implementation plan, or most recent revision thereof, which has been approved under subsection (a) of this section or promulgated under subsection (c) of this section and which implements a national primary or secondary ambient air quality standard in a State.

(e) Extension of time period for attainment of national primary ambient air quality standard in implementation plan; procedure; approval of extension by Administrator

(1) Upon application of a Governor of a State at the time of submission of any plan implementing a national ambient air quality primary standard, the Administrator may (subject to paragraph (2)) extend the three-year period referred to in subsection (a)(2)(A)(i) of this section for not more than two years for an air quality control region if after review of such plan the Administrator determines that—

(A) one or more emission sources (or classes of moving sources) are unable to comply with the requirements of such plan which implement such primary standard because the necessary technology or other alternatives are not available or will not be available soon enough to permit compliance within such three-year period, and

(B) The State has considered and applied as a part of its plan reasonably available alternative means of attaining such primary standard and has justifiably concluded that attainment of such primary standard within the three years cannot be achieved.

(2) The Administrator may grant an extension under paragraph (1) only if he determines that the State plan provides for—

(A) application of the requirements of the plan which implement such primary standard to all emission sources in such region other than the sources (or classes) described in paragraph (1)(A) within the three-year period, and

(B) such interim measures of control of the sources (or classes) described in paragraph (1)(A) as the Administrator determines to be reasonable under the circumstances.

(f) Postponement of compliance by any stationary source or class of moving sources with any requirement of an applicable implementation plan; application by Governor of affected State; determination by Administrator; notice and opportunity for hearing; judicial review; precedence of cases; subpenas

(1) Prior to the date on which any stationary source or class of moving sources is required to comply with any requirement of an applicable implementation plan the Governor of the State to which such plan applies may apply to the Administrator to postpone the applicability of such requirement to such source (or class) for not more than one year. If the Administrator determines that—

(A) good faith efforts have been made to comply with such requirement before such date,

(B) such source (or class) is unable to comply with such requirement because the necessary technology or other alternative methods of control are not available or have not been available for a sufficient period of time,

(C) any available alternative operating procedures and interim control measures have reduced or will reduce the impact of such source on public health, and

(D) the continued operation of such source is essential to national security or to the public health or welfare,

then the Administrator shall grant a postponement of such requirement.

(2)(A) Any determination under paragraph (1) shall (i) be made on the record after notice to interested persons and opportunity for hearing, (ii) be based upon a fair evaluation of the entire record at such hearing, and (iii) include a statement setting forth in detail the findings and conclusions upon which the determination is based.

(B) Any determination made pursuant to this paragraph shall be subject to judicial review by the United States court of appeals for the circuit which includes such State upon the filing in such court within 30 days from the date of such decision of a petition by any interested person praying that the decision be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the Administrator and thereupon the Administrator shall certify and file in such court the record upon which the final decision complained of was issued, as provided in section 2112 of title 28. Upon the filing of such petition the court shall have jurisdiction to affirm or set aside the determination complained of in whole or in part. The findings of the Administrator with respect to questions of fact (including each determination made under subparagraphs (A), (B), (C), and (D) of paragraph (1)) shall be sustained if based upon a fair evaluation of the entire record at such hearing.

(C) Proceedings before the court under this paragraph shall take precedence over all the other causes of action on the docket and shall be assigned for hearing and decision at the earliest practicable date and expedited in every way.

(D) Section 1857h-5(a) of this title (relating to subpoenas) shall be applicable to any proceeding under this subsection.

(July 14, 1955, ch. 360, title I, § 110, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1680, and amended June 22, 1974, Pub. L. 93-319, § 4, 88 Stat. 256; S. Res. 4, Feb. 4, 1977.)

References in Text

The Energy Supply and Environmental Coordination Act of 1974, referred to in subsec. (a)(3)(B), is Pub. L. 93-319, June 22, 1974, 88 Stat. 246, which is classified principally to chapter 16C (§ 791 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 791 of Title 15 and Tables volume.

Amendments

1974—Subsec. (a)(3). Pub. L. 93-319, § 4(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c). Pub. L. 93-319, § 4(b), designated existing provisions as par. (1) and existing pars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively, of such redesignated par. (1), and added par. (2).

Change of Name

The Committee on Public Works of the Senate was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

Prior Provisions

A prior section 110 of act July 14, 1955, was renumbered section 117 by Pub. L. 91-604, and is set out as section 1857e of this title.

Federal Energy Administrator

The "Federal Energy Administrator", for purposes of this chapter to mean the Administrator of the Federal Energy Administration established by Pub. L. 93-275, May 7, 1974, 88 Stat. 97, set out as section 761 et seq. of Title 15, Commerce and Trade, but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administration takes office and after it ceases to exist, see section 798 of Title 15, Commerce and Trade.

Savings Provisions

Section 16 of Pub. L. 91-604 provided that:

"(a)(1) Any implementation plan adopted by any State and submitted to the Secretary of Health, Education, and Welfare, or to the Administrator pursuant to the Clean Air Act [this chapter] prior to enactment of this Act [Dec. 31, 1970] may be approved under section 110 of the Clean Air Act [this section] (as amended by this Act) [Pub. L. 91-604] and shall remain in effect, unless the Administrator determines that such implementation plan, or any portion thereof, is not consistent with applicable requirements of the Clean

Air Act [this chapter] (as amended by this Act) and will not provide for the attainment of national primary ambient air quality standards in the time required by such Act. If the Administrator so determines, he shall, within 90 days after promulgation of any national ambient air quality standards pursuant to section 109(a) of the Clean Air Act [section 1857c-4(a) of this title], notify the State and specify in what respects changes are needed to meet the additional requirements of such Act, including requirements to implement national secondary ambient air quality standards. If such changes are not adopted by the State after public hearings and within six months after such notification, the Administrator shall promulgate such changes pursuant to section 110(c) of such Act [section 1857c-5(c) of this title].

"(2) The amendments made by section 4(b) [amending sections 1857b and 1857d of this title] shall not be construed as repealing or modifying the powers of the Administrator with respect to any conference convened under section 108(d) of the Clean Air Act [section 1857d of this title] before the date of enactment of this Act [Dec. 31, 1970].

"(b) Regulations or standards issued under this title II of the Clean Air Act [subchapter II of this chapter] prior to the enactment of this Act [Dec 31, 1970] shall continue in effect until revised by the Administrator consistent with the purposes of such Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c, 1857c-2, 1857c-6, 1857c-9, 1857c-10, 1857f-6c, 1857h-5, 6211 of this title.

§ 1857c-6. Standards of performance for new stationary sources

(a) Definitions

For purposes of this section:

(1) The term "standard of performance" means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Administrator determines has been adequately demonstrated.

(2) The term "new source" means any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance under this section which will be applicable to such source.

(3) The term "stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant.

(4) The term "modification" means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.

(5) The term "owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

(6) The term "existing source" means any stationary source other than a new source.

(b) Publication and revision by Administrator of list of categories of stationary sources; inclusion of category in list; proposal of regulations by Administrator establishing standards for new sources within category; promulgation and revision of standards; differentiation within categories of new sources; issuance of information on pollution control techniques; applicability to new sources owned or operated by United States

(1)(A) The Administrator shall, within 90 days after December 31, 1970, publish (and from time to time thereafter shall revise) a list of categories of stationary sources. He shall include a category of sources in such list if he determines it may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare.

(B) Within 120 days after the inclusion of a category of stationary sources in a list under subparagraph (A), the Administrator shall publish proposed regulations, establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within 90 days after such publications, such standards with such modifications as he deems appropriate. The Administrator may, from time to time, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance or revisions thereof shall become effective upon promulgation.

(2) The Administrator may distinguish among classes, types and sizes within categories of new sources for the purpose of establishing such standards.

(3) The Administrator shall, from time to time, issue information on pollution control techniques for categories of new sources and air pollutants subject to the provisions of this section.

(4) The provisions of this section shall apply to any new source owned or operated by the United States.

(c) Implementation and enforcement by State; procedure; delegation of authority of Administrator to State; enforcement power of Administrator unaffected

(1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing standards of performance for new sources located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this chapter to implement and enforce such standards (except with respect to new sources owned or operated by the United States).

(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable standard of performance under this section.

(d) Emission standards for any existing source for any air pollutant; submission of State plan to Administrator establishing, implementing and enforcing standards; authority of Administrator to prescribe State plan; authority of Administrator to enforce State plan; procedure

(1) The Administrator shall prescribe regulations which shall establish a procedure similar

to that provided by section 1857c-5 of this title under which each State shall submit to the Administrator a plan which (A) establishes emission standards for any existing source for any air pollutant (i) for which air quality criteria have not been issued or which is not included on a list published under section 1857c-3(a) or 1857c-7(b)(1)(A) of this title but (ii) to which a standard of performance under subsection (b) of this section would apply if such existing source were a new source, and (B) provides for the implementation and enforcement of such emission standards.

(2) The Administrator shall have the same authority—

(A) to prescribe a plan for a State in cases where the State fails to submit a satisfactory plan as he would have under section 1857c-5(c) of this title in the case of failure to submit an implementation plan, and

(B) to enforce the provisions of such plan in cases where the State fails to enforce them as he would have under sections 1857c-8 and 1857c-9 of this title with respect to an implementation plan.

(e) Prohibited acts

After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

(July 14, 1955, ch. 360, title I, § 111, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1683, and amended Nov. 18, 1971, Pub. L. 92-157, title III, § 302(f), 85 Stat. 464.)

PRIOR PROVISIONS

A prior section 111 of Act July 14, 1955, was renumbered section 118 by Pub. L. 91-604, and is set out as section 1857f of this title.

AMENDMENTS

1971—Subsec. (b)(1)(B). Pub. L. 92-157 substituted in first sentence "publish proposed" for "propose".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-5, 1857c-7 to 1857c-10, 1857d, 1857d-1, 1857e, 1857f, 1857h-5, 1857h-6 of this title.

§ 1857c-7. National emission standards for hazardous air pollutants

(a) Definitions

For purposes of this section—

(1) The term "hazardous air pollutant" means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(2) The term "new source" means a stationary source the construction or modification of which is commenced after the Administrator proposes regulations under this section establishing an emission standard which will be applicable to such source.

(3) The terms "stationary source", "modification", "owner or operator" and "existing source" shall have the same meaning as such terms have under section 1857c-6(a) of this title.

(b) Publication and revision by Administrator of list of hazardous air pollutants; inclusion of air pollutant in list; proposal of regulations by Administrator establishing standards for pollutant; establishment of standards; standards effective upon promulgation; issuance of information on pollution control techniques

(1)(A) The Administrator shall, within 90 days after December 31, 1970, publish (and shall from time to time thereafter revise) a list which includes each hazardous air pollutant for which he intends to establish an emission standard under this section.

(B) Within 180 days after the inclusion of any air pollutant in such list, the Administrator shall publish proposed regulations establishing emission standards for such pollutant together with a notice of a public hearing within thirty days. Not later than 180 days after such publication, the Administrator shall prescribe an emission standard for such pollutant, unless he finds, on the basis of information presented at such hearings, that such pollutant clearly is not a hazardous air pollutant. The Administrator shall establish any such standard at the level which in his judgment provides an ample margin of safety to protect the public health from such hazardous air pollutant.

(C) Any emission standard established pursuant to this section shall become effective upon promulgation.

(2) The Administrator shall, from time to time, issue information on pollution control techniques for air pollutant subject to the provisions of this section.

(c) Prohibited acts; exemption by President for any stationary source; duration and extension of exemption; report to Congress

(1) After the effective date of any emission standard under this section—

(A) no person may construct any new source or modify any existing source which in the Administrator's judgment, will emit an air pollutant to which such standard applies unless the Administrator finds that such source if properly operated will not cause emissions in violation of such standard, and

(B) no air pollutant to which such standard applies may be emitted from any stationary source in violation of such standard, except that in the case of an existing source—

(i) such standard shall not apply until 90 days after its effective date, and

(ii) the Administrator may grant a waiver permitting such source a period of up to two years after the effective date of a standard to comply with the standard, if he finds that such period is necessary for the installation of controls and that steps will be taken during the period of the waiver to assure that the health of persons will be protected from imminent endangerment.

(2) The President may exempt any stationary source from compliance with paragraph (1) for a period of not more than two years if he finds that the technology to implement such standards is not available and the operation of such source is required for reasons of national security. An exemption under this paragraph may

be extended for one or more additional periods, each period not to exceed two years. The President shall make a report to Congress with respect to each exemption (or extension thereof) made under this paragraph.

(d) Implementation and enforcement by State of standards for stationary sources; procedure; delegation of authority of Administrator to State; enforcement power of Administrator unaffected

(1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing emission standards for hazardous air pollutants for stationary sources located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this chapter to implement and enforce such standards (except with respect to stationary sources owned or operated by the United States).

(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable emission standard under this section.

(July 14, 1955, ch. 360, title I, § 112, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1685.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1867c-6, 1857c-8 to 1857c-10, 1857d, 1857d-1, 1857e, 1857f, 1857h-2, 1857h-5, 1857h-6 of this title.

§ 1857c-8. Federal enforcement procedures

(a) Determination of violation of applicable implementation plan or standard; notification of violator; issuance of compliance order or initiation of civil action upon failure to correct; effect of compliance order; contents of compliance order

(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any requirement of an applicable implementation plan, the Administrator shall notify the person in violation of the plan and the State in which the plan applies of such finding. If such violation extends beyond the 30th day after the date of the Administrator's notification, the Administrator may issue an order requiring such person to comply with the requirements of such plan or he may bring a civil action in accordance with subsection (b) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds that violations of an applicable implementation plan are so widespread that such violations appear to result from a failure of the State in which the plan applies to enforce the plan effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the 30th day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such plan (hereafter referred to in this section as "period of federally assumed enforcement"), the Administrator may enforce any requirement of such plan with respect to any person—

(A) by issuing an order to comply with such requirement, or

(B) by bringing a civil action under subsection (b) of this section.

(3) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of section 1857c-6(e) of this title (relating to new source performance standards), section 1857c-7(c) of this title (relating to standards for hazardous emissions), or section 1857c-10(g) of this title (relating to energy-related authorities) is in violation of any requirement of section 1857c-9 of this title (relating to inspections, etc.), he may issue an order requiring such person to comply with such section or requirement, or he may bring a civil action in accordance with subsection (b) of this section.

(4) An order issued under this subsection (other than an order relating to a violation of section 1857c-7 of this title) shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation. A copy of any order issued under this subsection shall be sent to the State air pollution control agency of any State in which the violation occurs. Any order issued under this subsection shall state with reasonable specificity the nature of the violation, specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1) is issued to a corporation, a copy of such order (or notice) shall be issued to appropriate corporate officers.

(b) Civil action for appropriate relief; jurisdiction; venue; notice to appropriate State agency

The Administrator may commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person—

(1) violates or fails or refuses to comply with any order issued under subsection (a) of this section; or

(2) violates any requirement of an applicable implementation plan (A) during any period of Federally assumed enforcement, or (B) more than 30 days after having been notified by the Administrator under subsection (a)(1) of this section of a finding that such person is violating such requirement; or

(3) violates section 1857c-6(e), 1857c-7(c), or 1857c-10(g) of this title; or

(4) fails or refuses to comply with any requirement of section 1857c-9 of this title.

Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency.

(c) Penalties

(1) Any person who knowingly—

(A) violates any requirement of an applicable implementation plan (i) during any period of Federally assumed enforcement, or (ii) more than 30 days after having been notified by the Administrator under subsection (a)(1)

of this section that such person is violating such requirement, or

(B) violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) of this section, or

(C) violates section 1857c-6(e), section 1857c-7(c), or section 1857c-10(g) of this title,

shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after the first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

(July 14, 1955, ch. 360, title I, § 113, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1686, and amended Nov. 18, 1971, Pub. L. 92-157, title III, § 302(b), (c), 85 Stat. 464; June 22, 1974, Pub. L. 93-319, § 6(a)(1)-(3), 88 Stat. 259.)

AMENDMENTS

1974—Subsec. (a)(3). Pub. L. 93-319, § 6(a)(1), inserted reference to section 1857c-10(g) of this title (relating to energy-related authorities).

Subsec. (b)(3). Pub. L. 93-319, § 6(a)(2), inserted reference to section 1857c-10(g) of this title.

Subsec. (c)(1)(C). Pub. L. 93-319, § 6(a)(3), inserted reference to section 1857c-10(g) of this title.

1971—Subsec. (b)(2). Pub. L. 92-157, § 302(b), inserted "(A)" preceding "during" and ", or (B)" following "assumed enforcement".

Subsec. (c)(1)(A). Pub. L. 92-157, § 302(c), inserted "(i)" preceding "during" and ", or (ii)" following "assumed enforcement".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-6, 1857c-10, 1857h-2, 1857h-4 of this title.

§ 1857c-9. Recordkeeping, inspections, monitoring, and entry

(a) Authority of Administrator or authorized representative

For the purpose (i) of developing or assisting in the development of any implementation plan under section 1857c-5 or section 1857c-6(d) of this title any standard of performance under section 1857c-6 of this title, or any emission standard under section 1857c-7 of this title, (ii) of determining whether any person is in violation of any such standard or any requirement of such a plan, or (iii) carrying out section 1857c-10 or 1857h-1 of this title—

(1) the Administrator may require the owner or operator of any emission source to (A) establish and maintain such records, (B) make such reports, (C) install, use, and maintain such monitoring equipment or methods, (D) sample such emissions (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (E) provide such other information as he may reasonably require; and

(2) the Administrator or his authorized representative, upon presentation of his credentials—

(A) shall have a right of entry to, upon, or through any premises in which an emission source is located or in which any records required to be maintained under paragraph (1) of this section are located, and

(B) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under paragraph (1), and sample any emissions which the owner or operator of such source is required to sample under paragraph (1).

(b) Enforcement procedure by State; delegation of authority of Administrator to State; power of Administrator unaffected

(1) Each State may develop and submit to the Administrator a procedure for carrying out this section in such State. If the Administrator finds the State procedure is adequate, he may delegate to such State any authority he has to carry out this section (except with respect to new sources owned or operated by the United States).

(2) Nothing in this subsection shall prohibit the Administrator from carrying out this section in a State.

(c) Availability of records, reports, and information to public; disclosure of trade secrets

Any records, reports or information obtained under subsection (a) of this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than emission data), to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter or when relevant in any proceeding under this chapter.

(July 14, 1955, ch. 360, title I, § 114, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1687, and amended June 22, 1974, Pub. L. 93-319, § 6(a)(4), 88 Stat. 259.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-319 inserted reference to section 1857c-10 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-6, 1857c-8 of this title.

§ 1857c-10. Authority to deal with energy shortage

(a) Definitions

For purposes of this section:

(1) The term "stationary source fuel or emission limitation" means any emission limi-

tation, schedule or timetable of compliance, or other requirement, which is prescribed under this chapter (other than this section, or section 1857c-6(b), 1857c-7, or 1857h-1 of this title) or contained in an applicable implementation plan (other than a requirement imposed under authority described in section 1857c-5(a)(2)(F)(v) of this title), and which limits, or is designed to limit, stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic.

(2) The term "air pollution requirement" means any emission limitation, schedule or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this chapter (except for any requirement prescribed under subsection (c) or (d) of this section, section 1857c-5(a)(2)(F)(v) of this title, or section 1857h-1 of this title), and which limits stationary source emissions resulting from combustion of fuels (including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic).

(3) The terms "stationary source" and "source" have the same meaning as the term "stationary source" has under section 1857c-6(a)(3) of this title; except that such terms include any owner or operator (as defined in section 1857c-6(a)(5) of this title) of such source.

(4) The term "coal" includes coal derivatives.

(5) The term "primary standard condition" means a limitation, requirement, or other measure, prescribed by the Administrator under subsection (d)(2)(A) of this section.

(6) The term "regional limitation" means the requirement of subsection (c)(2)(D) of this section.

(b) Temporary suspension of stationary source fuel or emission limitations

(1)(A) The Administrator may, for any period beginning on or after June 22, 1974, and ending on or before June 30, 1975, temporarily suspend any stationary source fuel or emission limitation as it applies to any person—

(i) if the Administrator finds that such person will be unable to comply with any such limitation during such period solely because of unavailability of types or amounts of fuels (unless such unavailability results from an order under section 792(a) of title 15, or

(ii) if such person is a source which is described in subsection (c)(1)(A) or (B) of this section and which has converted to coal, and the Administrator finds that the source will be able to comply during the period of the suspension with all primary standard conditions which will be applicable to such source.

Any suspension under this paragraph, the imposition of any interim requirement on which such suspension is conditioned under paragraph (3) of this subsection, and the imposition of any primary standard condition which relates to such suspension, shall be exempted from any procedural requirements set forth in this chapter or in any other provision of Federal, State, or local law; except as provided in subparagraph (B) of this paragraph.

(B) The Administrator shall give notice to the public and afford interested persons an opportunity for written and oral presentations of data, views, and arguments prior to issuing a suspension under subparagraph (A), or denying an application for such a suspension, unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before issuing such a suspension, he shall give actual notice to the Governor of the State in which the affected source or sources are located, and to appropriate local governmental officials (as determined by the Administrator). The issuing or denial of such a suspension, the imposition of an interim requirement, and the imposition of any primary standard condition shall be subject to judicial review only on the grounds specified in paragraph (2)(B), (2)(C), or (2)(D), of section 706 of title 5 and shall not be subject to any proceeding under section 1857h-2(a)(2) or 1857h-5(b) and (c) of this title.

(2) In issuing any suspension under paragraph (1), the Administrator is authorized to act on his own motion or upon application by any person (including a public officer or public agency).

(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the persons receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) in the case of a suspension under paragraph (1)(A)(i), requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available (as determined by the Administrator) to such person.

(c) Extension of compliance dates

(1) Except as provided in paragraph (2) of this subsection, the Administrator shall issue a compliance date extension to any fuel-burning stationary source—

(A) which is prohibited from using petroleum products or natural gas by reason of an order which is in effect under section 792(a) and (b) of title 15, or

(B) which the Administrator determines began conversion to the use of coal as its primary energy source during the period beginning on September 15, 1973, and ending on March 15, 1974,

and which, on or after September 15, 1973, converts to the use of coal as its primary energy source. If a compliance date extension is issued to a source, such source shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source, except as provided in subsection (d)(3) of this section. For purposes of this paragraph, the

term "began conversion" means action by the source during the period beginning on September 15, 1973, and ending on March 15, 1974 (such as entering into a contract binding on such source for obtaining coal, or equipment or facilities to burn coal; expending substantial sums to permit such source to burn coal; or applying for an air pollution variance to enable such source to burn coal) which the Administrator finds evidences a decision (made prior to March 15, 1974) to convert to burning coal as a result of the unavailability of an adequate supply of fuels required for compliance with the applicable implementation plan, and a good faith effort to expeditiously carry out such decision.

(2)(A) A compliance date extension under paragraph (1) of this subsection may be issued to a source only if—

(i) the Administrator finds that such source will not be able to burn coal which is available to such source in compliance with all applicable air pollution requirements without a compliance date extension,

(ii) the Administrator finds that the source will be able during the period of the compliance date extension to comply with all the primary standard conditions which are required under subsection (d)(2) of this section to be applicable to such source, and with the regional limitation if applicable to such source, and

(iii) the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved.

A plan submitted under clause (iii) of the preceding sentence shall be approved only if it meets the requirements of regulations prescribed under subparagraph (B). The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

(B) Not later than 90 days after June 22, 1974, the Administrator shall prescribe regulations requiring that any source to which a compliance date extension applies submit and obtain approval of its means for and schedule of compliance with the requirements of subparagraph (C) of this paragraph. Such regulations shall include requirements that such schedules shall include dates by which any such source must—

(i) enter into contracts (or other obligations enforceable against such source) which the Administrator has approved as being adequate to provide for obtaining a long-term supply of coal which enables such source to achieve the emission reduction required by subparagraph (C), or

(ii) if coal which enables such source to achieve such emission reduction is not available to such source, enter into contracts (or other obligations enforceable against such source) which the Administrator has approved as being adequate to provide for obtaining (I) a long-term supply of other coal, and (II) continuous emission reduction systems necessary to permit such source to burn such coal, and to achieve the degree of emission reduction required by subparagraph (C). Regulations under this subparagraph shall provide that contracts or other obligations required to be approved under this subparagraph must be approved before they are entered into (except that a contract or obligation which was entered into before June 22, 1974, may be approved after such date).

(C) Regulations under subparagraph (B) shall require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of submittal (under subparagraph (B) of this paragraph) of the means for and schedule of compliance (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date). Such degree of emission reduction shall be achieved as soon as practicable, but not later than December 31, 1978; except that, in the case of a source for which a continuous emission reduction system is required for sulfur-related emissions, reduction of such emissions shall be achieved on a date designated by the Administrator (but not later than January 1, 1979). Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable, including requirements described in subparagraphs (A) and (B) of subsection (b)(3) and requirements to file progress reports.

(D) A source which is issued a compliance date extension under this subsection, and which is located in an air quality control region in which a national primary ambient air quality standard for an air pollutant is not being met, may not emit such pollutant in amounts which exceed any emission limitation (and may not violate any other requirement) which applies to such source, under the applicable implementation plan for such pollutant. For purposes of this subparagraph, applicability of any such limitation or requirement to a source shall be determined without regard to this subsection or subsection (b) of this section.

(3) A source to which this subsection applies may, upon the expiration of a compliance date extension, receive a one-year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 1857c-5(f) of this title.

(4) The Administrator shall give notice to the public and afford an opportunity for oral and written presentations of data, views, and arguments before issuing any compliance date extension, prescribing any regulation under paragraph (2) of this subsection, making any finding under paragraph (2)(A) of this subsection, imposing any requirement on a source pursuant to paragraph (2) or any regulation thereunder, prescribing a primary standard condition under subsection (d)(2) of this section which applies to a source to which an extension is issued under this subsection, or acting on any petition under subsection (d)(2)(C) of this section.

(d) Coal conversion and allocation orders of Federal Energy Administrator; emission limitations for coal; modification of limitations; compliance; public notice

(1)(A) Whenever the Federal Energy Administrator issues an order under section 792(a) of title 15 which will not apply after June 30, 1975, the Administrator of the Environmental Protection Agency shall certify to him—

(i) in the case of a source to which no suspension will be issued under subsection (b) of this section, the earliest date on which such source will be able to burn coal and to comply with all applicable air pollution requirements, or

(ii) in the case of a source to which a suspension will be issued under subsection (b) of this section, the date determined under paragraph (2)(B) of this subsection.

(B) Whenever the Federal Energy Administrator issues an order under section 792(a) of title 15 which will apply after June 30, 1975, the Administrator of the Environmental Protection Agency shall notify him if such source will be able, on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under subsection (c) of this section. If such notification is not given—

(i) in the case of a source which is eligible for a compliance date extension under subsection (c) of this section, the Administrator of the Environmental Protection Agency shall certify to the Federal Energy Administrator the date determined under paragraph (2)(B) of this subsection, and

(ii) in the case of a source which is not eligible for such an extension, the Administrator of the Environmental Protection Agency shall certify to the Federal Energy Administrator the earliest date on which the source will be able to burn coal and to comply with all applicable air pollution requirements.

(2)(A) The Administrator of the Environmental Protection Agency, after consultation with appropriate States, shall prescribe (and may from time to time, after such consultation, modify) emission limitations, requirements respecting pollution characteristics of coal, or other enforceable measures for control of emissions, for each source to which a suspension under subsection (b)(1)(A)(ii) of this section will apply, and for each source to which a compliance date extension under subsection (c)(1) of this section will apply. Such limitations, requirements, and measures shall be those which he determines must be complied with by the source in order to assure (throughout the period that the suspension or extension will be in effect) that the burning of coal by such source will not result in emissions which cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard for such pollutant.

(B) Whenever the Administrator prescribes a limitation, requirement, or measure under subparagraph (A) of this paragraph with respect to a source, he shall determine the earliest date on which such source will be able to comply with such limitation, requirement, or measure, and with any regional limitation applicable to such source.

(C) An air pollution control agency may petition the Administrator (A) to modify any limitation, requirement, or other measure under this paragraph so as to assure compliance with the requirements of this paragraph, or (B) to issue to the Federal Energy Administration the certification described in paragraph (3)(B) on the grounds described in clause (iii) thereof. The Administrator shall take the action requested in the petition, or deny the petition, within 90 days after the date of receipt of the petition.

(3)(A) If the Administrator determines that a source to which a suspension under subsection (b)(1)(A)(ii) of this section or to which a compliance date extension under subsection (c)(1) of this section applies is not in compliance with any primary standard condition, or that a source to which a compliance date extension applies is not in compliance with a regional limitation applicable to it, he shall (except as provided in subparagraph (B)) either—

(i) enforce compliance with such condition or limitation under section 1857c-8 of this title, or

(ii) (after notice to the public and affording an opportunity for interested persons to present data, views, and arguments, including oral presentations, to the extent practicable) revoke such suspension or compliance date extension.

(B) If the Administrator finds that for any period—

(i) a source, to which an order under section 792(a) of title 15 applies, will be unable to comply with a primary standard condition or regional limitation,

(ii) such a source will not be in compliance with such a condition or limitation, but such condition or limitation cannot be enforced because of a court order restraining its enforcement, or

(iii) the burning of coal by such a source will result in an increase in emissions of any air pollutant for which national ambient air quality standards have not been promulgated (or an air pollutant which is transformed in the atmosphere into an air pollutant for which such a standard has not been promulgated), and that such increase may cause (or materially contribute to) a significant risk to public health,

he shall notify the Federal Energy Administrator of his finding and certify the period for which such order under such section 792(a) of title 15 shall not be in effect with respect to such source. Subject to the conditions of the preceding sentence, such certification may be modified from time to time. For purposes of this subsection, subsection (c) of this section, and section 792(a) or (b) of title 15, a source shall be considered unable to comply with an air pollution requirement (including a primary standard condition or regional limitation) only if necessary technology or other alternative methods of control are not available or have not been available for a sufficient period of time.

(4) Nothing in this chapter shall prohibit a State, political subdivision of a State, or agency or instrumentality of either, from enforcing any primary standard condition or regional limitation.

(5) A conversion to coal (A) to which a suspension under subsection (b) of this section or a compliance date extension under subsection (c) of this section applies or (B) by reason of an order under section 792(a) of title 15 shall not be deemed to be a modification for purposes of section 1857c-6(a)(2) and (4) of this title.

(e) Continuous emission reduction systems; manufacturing priorities; rules

The Administrator may, by rule, establish priorities under which manufacturers of continuous emission reduction systems necessary to carry out subsection (c) of this section shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to sources in air quality control regions in which national primary ambient air quality standards have not been achieved. No rule under this subsection may impair the obligation of any contract entered into before June 22, 1974. To the extent necessary to carry out this section, the Administrator may prohibit any State or political subdivision of a State, or any agency or instrumentality of either, from requiring any person to use a continuous emission reduction system for which priorities have been established under this subsection, except in accordance with such priorities.

(f) State and local requirements

No State, political subdivision of a State, or agency or instrumentality of either, may require any person to whom a suspension has been issued under subsection (b)(1) of this section to use any fuel the unavailability of which is the basis of such person's suspension (except that this subsection shall not apply to requirements identical to Federal requirements under subsection (b)(3) or subsection (d)(2)) of this section.

(g) Unlawful acts

(1) It shall be unlawful for any person to whom a suspension has been issued under subsection (b)(1) of this section to violate any requirement on which the suspension is conditioned pursuant to subsection (b)(3) of this section or any primary standard condition applicable to him.

(2) It shall be unlawful for any person to fail to comply with any requirement under subsection (c) of this section, or any regulation, plan, or schedule thereunder (including a primary standard condition or regional limitation), which is applicable to such person.

(3) It shall be unlawful for any person to violate any rule under subsection (e) of this section.

(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (i)(3) of this section.

(h) Emergency powers not affected

Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 1857h-1 of this title.

(i) Postponement of cessation of operation of electric generating powerplants scheduled to be taken out of service

(1) In order to reduce the likelihood of early phaseout of existing electric generating powerplants, any electric generating powerplant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on January 1, 1974) of the owner or operator of such plant, (B) for which a certification to that effect has been filed by the owner or operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which such Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

(2) Prior to the date on which any powerplant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such plant may apply (with the concurrence of the Governor of the State in which such plant is located) to the Administrator to postpone the applicability of such requirement to such plant for not more than one year. If the Administrator determines, after considering the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for the costs of such compliance, and other appropriate factors, then the Administrator shall grant a postponement of any such requirement.

(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

(j) Exchange of fuels

(1) The Administrator may, after public notice and opportunity for presentation of data, views, and arguments in accordance with section 553 of title 5 and after consultation with the Federal Energy Administrator, designate persons with respect to whom fuel exchange requirements should be imposed under paragraph (2) of this subsection. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (b) of this section or conversion to coal to which subsection (c) of this section applies or of any allocation under section 792(d) of title 15 or under the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.].

(2) The Federal Energy Administrator shall exercise his authority under section 2(d) of the Energy Supply and Environmental Coordination Act of 1974 [45 U.S.C. 792(d)] and under the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.] with respect to persons designated by the Administrator of the Environmental Protection Agency under paragraph (1) in order to require the exchange of

any fuel subject to allocation under such Acts effective no later than forty-five days after the date of such designation, unless the Federal Energy Administrator determines, after consultation with the Administrator of the Environmental Protection Agency, that the costs or consumption of fuel, resulting from requiring such exchange, will be excessive.

(k) Study; report to Congress; publication of summaries and findings of Administrator in Federal Register

(1) The Administrator shall study, and report to Congress not later than six months after June 22, 1974, with respect to—

(A) the present and projected impact of fuel shortages and fuel allocation programs on the program under this chapter;

(B) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

(C) the number of sources and allocations which must use such technology based on projected fuel availability data;

(D) a priority schedule for installation of continuous emission reduction technology, based on public health or air quality;

(E) evaluation of availability of technology to burn municipal solid waste in electric powerplants or other major fuel burning installations, including time schedules, priorities, analysis of pollutants which may be emitted (including those for which national ambient air quality standards have not been promulgated), and a comparison of health benefits and detriments from burning solid waste and of economic costs;

(F) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time for attainment prescribed in this chapter, including associated considerations of cost, time for attainment, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

(G) proposed priorities, for continuous emission reduction systems which do not produce solid waste, for sources which are least able to handle solid waste byproducts of such systems;

(H) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentrations of sulfur dioxide in the ambient air; and

(I) steps taken pursuant to authority of section 1857c-5(a)(3)(B) of this title.

(2) Beginning January 1, 1975, the Administrator shall publish in the Federal Register, at no less than one-hundred-and-eighty-day intervals, the following:

(A) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (c) of this section applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsection.

(B) Up-to-date findings on the impact of this section upon—

(i) applicable implementation plans, and

(ii) ambient air quality.

(July 14, 1955, c. 360, title I, § 119, as added June 22, 1974, Pub. L. 93-319, § 3, 88 Stat. 248.)

REFERENCES IN TEXT

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (j)(1) and (2), is Pub. L. 93-159, Nov. 27, 1973, 87 Stat. 628, which is classified generally to chapter 16A (§ 751 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 751 of Title 15 and Tables volume.

Such Acts, referred to in subsec. (j)(2), mean the Energy Supply and Environmental Coordination Act of 1974 and the Emergency Petroleum Allocation Act of 1973. The Energy Supply and Environmental Coordination Act of 1974 is Pub. L. 93-319, June 22, 1974, 88 Stat. 246, which is classified principally to chapter 16C (§ 791 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 791 of Title 15 and Tables volume.

CODIFICATION

Section 119 of the Clean Air Act [this section] has, for purposes of codification, been given the designation 1857c-10 of this title and has been inserted between sections 114 and 115 of the Clean Air Act [sections 1857c-9 and 1857d of this title] rather than at the end of this subchapter following section 118 of the Clean Air Act [section 1857f of this title].

FEDERAL ENERGY ADMINISTRATOR

The "Federal Energy Administrator", for purposes of this chapter, to mean the Administrator of the Federal Energy Administration established by Pub. L. 93-275, May 7, 1974, 88 Stat. 97, set out as section 761 et seq. of Title 15, Commerce and Trade, but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administration takes office and after it ceases to exist, see section 798 of Title 15, Commerce and Trade.

DEFINITION OF PETROLEUM PRODUCT

The term "petroleum product" as used in this section to mean crude oil, residual fuel oil, or any refined petroleum product as defined in section 752 of Title 15, Commerce and Trade, see section 798 of title 15.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-8, 1857c-9, 1857d-1, 1857h-5 of this title, title 15 sections 792, 793, 795, 798.

§ 1857d. Abatement of air pollution by means of conference procedure

(a) Air pollution subject to abatement

The pollution of the air in any State or States which endangers the health or welfare of any persons and which is covered by subsection (b) or (c) of this section, shall be subject to abatement as provided in this section.

(b) Conferences of air pollution agencies

(1) Whenever requested by the Governor of any State, a State air pollution control agency, or (with the concurrence of the Governor and the State air pollution control agency for the State in which the municipality is situated) the governing body of any municipality, the Administrator shall, if such request refers to air pollu-

tion which is alleged to endanger the health or welfare of persons in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originate, give formal notification thereof to the air pollution control agency of the municipality where such discharge discharge or discharges originate, to the air pollution control agency of the State in which such municipality is located, and to the interstate air pollution control agency, if any, in whose jurisdictional area such municipality is located, and shall call promptly a conference of such agency or agencies and of the air pollution control agencies of the municipalities which may be adversely affected by such pollution, and the air pollution control agency, if any, of each State, or for each area, in which any such municipality is located.

(2) Whenever requested by the Governor of any State, a State air pollution control agency, or (with the concurrence of the Governor and the State air pollution control agency for the State in which the municipality is situated) the governing body of any municipality, the Administrator shall, if such request refers to alleged air pollution which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate and if a municipality affected by such air pollution, or the municipality in which such pollution originates, has either made or concurred in such request, give formal notification thereof to the State air pollution control agency, to the air pollution control agencies of the municipality where such discharge or discharges originate, and of the municipality or municipalities alleged to be adversely affected thereby, and to any interstate air pollution control agency, whose jurisdictional area includes any such municipality and shall promptly call a conference of such agency or agencies, unless in the judgment of the Administrator, the effect of such pollution is not of such significance as to warrant exercise of Federal jurisdiction under this section.

(3) The Administrator may, after consultation with State officials of all affected States, also call such a conference whenever, on the basis of reports, surveys, or studies, he has reason to believe that any pollution referred to in subsection (a) of this section is occurring and is endangering the health and welfare of persons in a State other than that in which the discharge or discharges originate. The Administrator shall invite the cooperation of any municipal, State, or interstate air pollution control agencies having jurisdiction in the affected area on any surveys or studies forming the basis of conference action.

(4) A conference may not be called under this subsection with respect to an air pollutant for which (at the time the conference is called) a national primary or secondary ambient air quality standard is in effect under section 1857c-4 of this title.

(c) Participation of foreign countries in conferences

Whenever the Administrator upon receipt of reports, surveys, or studies from any duly constituted international agency, has reason to believe that any pollution referred to in subsection (a) of this section which endangers the health or welfare of persons in a foreign country is occurring, or whenever the Secretary of State requests him to do so with respect to such pollution which the Secretary of State alleges is of such a nature, the Administrator shall give formal notification thereof to the air pollution control agency of the municipality where such discharge or discharges originate, to the air pollution control agency of the State in which such municipality is located, and to the interstate air pollution control agency, if any, in the jurisdictional area of which such municipality is located, and shall call promptly a conference of such agency or agencies. The Administrator shall invite the foreign country which may be adversely affected by the pollution to attend and participate in the conference, and the representative of such country shall, for the purpose of the conference and any further proceeding resulting from such conference, have all the rights of a State air pollution control agency. This subsection shall apply only to a foreign country which the Administrator determines has given the United States essentially the same rights with respects to the prevention or control of air pollution occurring in that country as is given that country by this subsection.

(d) Attendance at conference; Federal report of matters before conference; notification of date of conference; presentation of views; transcript of proceedings; summary

(1) The agencies called to attend any conference under this section may bring such persons as they desire to the conference. The Administrator shall deliver to such agencies and make available to other interested parties, at least thirty days prior to any such conference, a Federal report with respect to the matters before the conference, including data and conclusions or findings (if any); and shall give at least thirty days' prior notice of the conference date to any such agency, and to the public by publication on at least three different days in a newspaper or newspapers of general circulation in the area. The chairman of the conference shall give interested parties an opportunity to present their views to the conference with respect to such Federal report, conclusions or findings (if any), and other pertinent information. The Administrator shall provide that a transcript be maintained of the proceedings of the conference and that a copy of such transcript be made available on request of any participant in the conference at the expense of such participant.

(2) Following this conference, the Administrator shall prepare and forward to all air pollution control agencies attending the conference a summary of conference discussions including (A) occurrence of air pollution subject to abatement under this chapter; (B) adequacy of measures taken toward abatement of the pollution; and (C) nature of delays, if any, being encountered in abating the pollution.

(e) Recommendations of Administrator for remedial action by agencies; commencement of recommended action

If the Administrator believes, upon the conclusion of the conference or thereafter, that effective progress toward abatement of such pollution is not being made and that the health or

welfare of any persons is being endangered, he shall recommend to the appropriate State, interstate, or municipal air pollution control agency (or to all such agencies) that the necessary remedial action be taken. The Administrator shall allow at least six months from the date he makes such recommendations for the taking of such recommended action.

(f) Hearings for failure to abate pollution; board members; findings and recommendations

(1) If, at the conclusion of the period so allowed, such remedial action or other action which in the judgment of the Administrator is reasonably calculated to secure abatement of such pollution has not been taken, the Administrator shall call a public hearing, to be held in or near one or more of the places where the discharge or discharges causing or contributing to such pollution originated, before a hearing board of five or more persons appointed by the Administrator. Each State in which any discharge causing or contributing to such pollution originates and each State claiming to be adversely affected by such pollution shall be given an opportunity to select one member of such hearing board and each Federal department, agency, or instrumentality having a substantial interest in the subject matter as determined by the Administrator shall be given an opportunity to select one member of such hearing board, and one member shall be a representative of the appropriate interstate air pollution agency if one exists, and not less than a majority of such hearing board shall be persons other than officers or employees of the Environmental Protection Agency. At least three weeks' prior notice of such hearing shall be given to the State, interstate, and municipal air pollution control agencies called to attend such hearing and to the alleged polluter or polluters. All interested parties shall be given a reasonable opportunity to present evidence to such hearing board.

(2) On the basis of evidence presented at such hearing, the hearing board shall make findings as to whether pollution referred to in subsection (a) of this section is occurring and whether effective progress toward abatement thereof is being made. If the hearing board finds such pollution is occurring and effective progress toward abatement thereof is not being made it shall make recommendations to the Administrator concerning the measures, if any, which it finds to be reasonable and suitable to secure abatement of such pollution.

(3) The Administrator shall send such findings and recommendations to the person or persons discharging any matter causing or contributing to such pollution; to air pollution control agencies of the State or States and of the municipality or municipalities where such discharge or discharges originate; and to any interstate air pollution control agency whose jurisdictional area includes any such municipality, together with a notice specifying a reasonable time (not less than six months) to secure abatement of such pollution.

(g) Judicial proceedings to secure abatement of pollution

If action reasonably calculated to secure abatement of the pollution within the time specified in the notice following the public hearing is not taken, the Administrator—

(1) in the case of pollution of air which is endangering the health or welfare of persons (A) in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originate, or (B) in a foreign country which has participated in a conference called under subsection (c) of this section and in all proceedings under this section resulting from such conference, may request the Attorney General to bring a suit on behalf of the United States in the appropriate United States district court to secure abatement of the pollution.

(2) in the case of pollution of air which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate, at the request of the Governor of such State, shall provide such technical and other assistance as in his judgment is necessary to assist the State in judicial proceedings to secure abatement of the pollution under State or local law or, at the request of the Governor of such State, shall request the Attorney General to bring suit on behalf of the United States in the appropriate United States district court to secure abatement of the pollution.

(h) Federal court proceedings; evidence; jurisdiction of court

The Court shall receive in evidence in any suit brought in a United States court under subsection (g) of this section a transcript of the proceedings before the board and a copy of the board's recommendations and shall receive such further evidence as the court in its discretion deems proper. The court, giving due consideration to the practicability of complying with such standards as may be applicable and to the physical and economic feasibility of securing abatement of any pollution proved, shall have jurisdiction to enter such judgment, and orders enforcing such judgment, as the public interest and the equities of the case may require.

(i) Compensation and travel expenses for members of hearing board

Members of any hearing board appointed pursuant to subsection (f) of this section who are not regular full-time officers or employees of the United States shall, while participating in the hearing conducted by such board or otherwise engaged on the work of such board, be entitled to receive compensation at a rate fixed by the Administrator, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (section 5703 of title 5) for persons in the Government service employed intermittently.

(j) Furnishing of data to Administrator by polluter; reports; failure to make required report; forfeitures

(1) In connection with any conference called under this section, the Administrator is authorized to require any person whose activities result in the emission of air pollutants causing or contributing to air pollution to file with him, in such form as he may prescribe, a report,

based on existing data, furnishing to the Administrator such information as may reasonably be required as to the character, kind, and quantity of pollutants discharged and the use of devices or other means to prevent or reduce the emission of pollutants by the person filing such a report. After a conference has been held with respect to any such pollution the Administrator shall require such reports from the person whose activities result in such pollution only to the extent recommended by such conference. Such report shall be made under oath or otherwise, as the Administrator may prescribe, and shall be filed with the Administrator within such reasonable period as the Administrator may prescribe, unless additional time be granted by the Administrator. No person shall be required in such report to divulge trade secrets or secret processes and all information reported shall be considered confidential for the purposes of section 1905 of title 18.

(2) If any person required to file any report under this subsection shall fail to do so within the time fixed by the Administrator for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where such person has his principal office or in any district in which he does business: *Provided,* That the Administrator may upon application therefor remit or mitigate any forfeiture provided for under this subsection and he shall have authority to determine the facts upon all such applications.

(3) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of such forfeitures.

(k) Compliance with any requirement of an applicable implementation plan or prescribed standard

No order or judgment under this section, or settlement, compromise, or agreement respecting any action under this section (whether or not entered or made before December 31, 1970) shall relieve any person of any obligation to comply with any requirement of an applicable implementation plan, or with any standard prescribed under section 1857c-6 or section 1857c-7 of this title.

(July 14, 1955, ch. 360, title I, § 115, formerly § 5, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 396, renumbered § 105, and amended Oct. 20, 1965, Pub. L. 89-272, title I, §§ 101(2), (3), 102, 79 Stat. 992, 995, renumbered § 108 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 491, renumbered § 115 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 4(a), (b)(2)-(10), 15(c)(2), 84 Stat. 1678, 1688, 1689, 1713.)

CODIFICATION

The amendment of subsec. (g)(1) of this section by section 4(b)(9) of Pub. L. 91-604, eliminated "under". However, such word has been retained as the probable intent of Congress.

In subsec. (i), "section 5703 of title 5" was substituted for "5 U.S.C. 73b-2" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1857d, act July 14, 1955, ch. 360, § 5, 69 Stat. 322, as amended Sept. 22, 1959, Pub. L. 86-365, § 1, 73 Stat. 646; Oct. 9, 1962, Pub. L. 87-761, § 1, 76 Stat. 760, prior to the general amendment of this chapter by Pub. L. 88-206, related to appropriations, grants-in-aid and contracts. See sections 1857b(3) to (5), 1857c(b) and 1857*l* of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, § 4(b)(2), added "and which is covered by subsection (b) or (c) of this section" following "persons".

Subsec. (b). Pub. L. 91-604, §§ 4(b)(3), (4), (5), 15(c)(2), redesignated former subsec. (d)(1)(A), (B), and (C) as (b)(1), (2), and (3), and, as so redesignated, substituted "Administrator" for "Secretary" wherever appearing therein, and added subsec. (b)(4). Former subsec. (b), which related to the encouragement of municipal, State, and interstate action to abate air pollution, was struck out.

Subsec. (c). Pub. L. 91-604, §§ 4(b)(3), (6), 15(c)(2), redesignated former subsec. (d)(1)(D) as (c), and, as so redesignated, substituted "Administrator" for "Secretary" and "Secretary of Health, Education, and Welfare" wherever appearing therein and "subsection" for "subparagraph" wherever appearing therein. Former subsec. (c), which related to the procedure for the promulgation of State air quality standards, was struck out.

Subsec. (d). Pub. L. 91-604, §§ 4(b)(4), (6), (7), (8), 15(c)(2), redesignated former subsec. (d)(2) and (3) as (d)(1) and (2), and, as so redesignated, in (d)(1) substituted "Administrator" for "Secretary" wherever appearing therein and "any conference under this section" for "such conference", and in (d)(2) substituted "Administrator" for "Secretary". Former subsec. (d)(1)(A), (B), and (C) were redesignated as (b)(1), (2), and (3), respectively, and subsec. (d)(1)(D) was redesignated as (c).

Subsec. (e). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (f). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein and "Environmental Protection Agency" for "Department of Health, Education, and Welfare".

Subsec. (g). Pub. L. 91-604, §§ 4(b)(9), 15(c)(2), substituted "Administrator" for "Secretary" and "subsection (c)" for "subparagraph (D) of subsection (d)".

Subsec. (i). Pub. L. 91-604, § 15(c)(2) substituted "Administrator" for "Secretary".

Subsec. (j). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (k). Pub. L. 91-604, § 4(b)(3), (10), substituted provisions relating to compliance with any requirement of an applicable implementation plan or with any standard prescribed under section 1857c-6 of this title or section 1857c-7 of this title, for provisions relating to the enjoining of imminent and substantial endangerment from pollution sources.

1967—Subsec. (b). Pub. L. 90-148 substituted reference to subsecs. (c), (h), or (k) of this section for reference to subsec. (g) of this section.

Subsec. (c). Pub. L. 90-148 added subsec. (c). Former subsec. (c) redesignated as subsec. (d) and amended.

Subsec. (d). Pub. L. 90-148 redesignated former subsec. (c) as subsec. (d) and, subsec. (d) as so redesignated, inserted into par. (2) provisions for the delivery prior to the conference of a Federal report to agencies and interested parties covering matters before the conference, raised from three weeks to thirty days the required notice of the conference, and added provisions for notice by newspapers, presentation of views on the Federal report, and transcript of proceedings. Former subsec. (d) redesignated as subsec. (e).

Subsec. (e). Pub. L. 90-148 redesignated former subsec. (d) as subsec. (e). Former subsec. (e) redesignated as subsec. (f) and amended.

Subsec. (f). Pub. L. 90-148 redesignated former subsec. (e) as subsec. (f) and, in subsec. (f) as so redesignated, inserted into par. (1) requirement that all interested parties be given a reasonable opportunity to present evidence to the hearing board. Former subsec. (f) redesignated as subsec. (g) and amended.

Subsec. (g). Pub. L. 90-148 redesignated former subsec. (f) as subsec. (g) and, in subsec. (g) as redesignated, substituted reference to subsec. (d) of this section for reference to subsec. (c) of this section. Former subsec. (g) redesignated as subsec. (h) and amended.

Subsec. (h). Pub. L. 90-148 redesignated former subsec. (g) as subsec. (h) and, in subsec. (h) as so redesignated, substituted reference to subsec. (g) of this section for reference to subsec. (f) of this section. Former subsec. (h) redesignated as subsec. (i) and amended.

Subsec. (i). Pub. L. 90-148 redesignated former subsec. (h) as subsec. (i) and, in subsec. (i) as so redesignated, substituted reference to subsec. (f) of this section for reference to subsec. (e) of this section and raised the per diem maximum from $50 to $100. Former subsec. (i) redesignated as subsec. (j).

Subsec. (j). Pub. L. 90-148 redesignated former subsec. (i) as subsec. (j).

Subsec (k). Pub. L. 90-148 added subsec. (k).

1965—Subsec. (b). Pub. L. 89-272, § 101(2), substituted "this title" for "this Act", which for purposes of codification has been changed to "this subchapter."

Subsec. (c)(1)(D). Pub. L. 89-272, § 102(a), added subpar. (D).

Subsec. (d)(3). Pub. L. 89-272, § 101(2), substituted "subchapter" for "chapter".

Subsec. (f)(1). Pub. L. 89-272, § 102(b), inserted "(A)" and added cl. (B).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857b of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in District of Columbia Code, § 6-812.

§ 1857d-1. Retention of State authority

Except as otherwise provided in sections 1857c-10(c), (e), and (f), 1857f-6a, 1857f-6c(c)(4) and 1857f-11 of this title (preempting certain State regulation of moving sources) nothing in this chapter shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirement respecting control or abatement of air pollution; except that if an emission standard or limitation is in effect under an applicable implementation plan or under section 1857c-6 or section 1857c-7 of this title, such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such plan or section.

(July 14, 1955, ch. 360, title I, § 116, formerly § 109, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 497, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, § 4(a), (c), 84 Stat. 1678, 1689; June 22, 1974, Pub. L. 93-319, § 6(b), 88 Stat. 259.)

AMENDMENTS

1974—Pub. L. 93-319 inserted reference to section 1857c-10(c), (e), and (f).

1970—Pub. L. 91-604, § 4(c), substituted provisions which authorized any State or political subdivision thereof to adopt or enforce, except as otherwise provided, emission standards or limitations under the specified conditions, or any requirement respecting control or abatement of air pollution, for provisions which authorized any State, political subdivision, or intermunicipal or interstate agency to adopt standards and plans to achieve a higher level of air quality than approved by the Secretary.

§ 1857e. Air Quality Advisory Board; advisory committees

(a) Establishment of Board; membership; appointment; term

(1) There is hereby established in the Environmental Protection Agency an Air Quality Advisory Board, composed of the Administrator or his designee, who shall be Chairman, and fifteen members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this chapter, shall be selected from among representatives of various State, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with air pollution, and of other public and private agencies, organizations, or groups demonstrating and active interest in the field of air pollution prevention and control, as well as other individuals who are expert in this field.

(2) Each member appointed by the President shall hold office for a term of three years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of office of the members first taking office pursuant to this subsection shall expire as follows: five at the end of one year after the date of appointment, five at the end of two years after such date, and five at the end of three years after such date, as designated by the President at the time of appointment, and (C) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members shall be eligible for reappointment within one year after the end of his preceding term, unless such term was for less than three years.

(b) Duties of Board

The Board shall advise and consult with the Administrator on matters of policy relating to the activities and functions of the Administrator under this chapter and make such recommendations as it deems necessary to the President.

(c) Clerical and technical assistance

Such clerical and technical assistance as may be necessary to discharge the duties of the Board and such other advisory committees as hereinafter authorized shall be provided from the personnel of the Environmental Protection Agency.

(d) Advisory committees

In order to obtain assistance in the development and implementation of the purposes of this chapter including air quality criteria, recommended control techniques, standards, research and development, and to encourage the continued efforts on the part of industry to improve air quality and to develop economically

feasible methods for the control and abatement of air pollution, the Administrator shall from time to time establish advisory committees. Committee members shall include, but not be limited to, persons who are knowledgeable concerning air quality from the standpoint of health, welfare, economics or technology.

(e) Compensation; travel expenses

The members of the Board and other advisory committees appointed pursuant to this chapter who are not officers or employees of the United States while attending conferences or meetings of the Board or while otherwise serving at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(f) Consultations by Administrator

Prior to—

(1) issuing criteria for an air pollutant under section 1857c-3(a)(2) of this title,

(2) publishing any list under section 1857c-6(b)(1)(A) or section 1857c-7(b)(1)(A) of this title,

(3) publishing any standard under section 1857c-6(b)(1)(B) or section 1857c-7(b)(1)(B) of this title, or

(4) publishing any regulation under section 1857f-1(a) of this title,

the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, independence experts, and Federal departments and agencies.

(July 14, 1955, ch. 360, title I, §§ 117 formerly § 6, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 399, renumbered § 106, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(3), 79 Stat. 992, renumbered § 110 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 498, and renumbered § 117 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 4(a), (d), 15(c)(2), 84 Stat. 1678, 1689, 1713.)

PRIOR PROVISIONS

A prior section 1857e, act July 14, 1955, ch. 360, § 6, 69 Stat. 323, prior to the general amendment of this chapter by Pub. L. 88-206, defined "State air pollution control agency", "local government air pollution control agency" and "State". See section 1857h of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(2), substituted "Environmental Protection Agency" for "Department of Health, Education, and Welfare" and "Administrator" for "Secretary".

Subsec. (b). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (c). Pub. L. 91-604, § 15(c)(2), substituted "Environmental Protection Agency" for "Department of Health, Education, and Welfare".

Subsec. (d). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (e). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (f). Pub. L. 91-604, § 4(d), added subsec. (f).

1967—Subsec. (a). Pub. L. 90-148 substituted provisions establishing in the Department of Health, Education, and Welfare an Air Quality Advisory Board and providing for the appointment and term of its members for provisions directing the Secretary to maintain liaison with manufacturers looking toward development of devices and fuels to reduce pollutants in automotive exhaust and to appoint a technical committee and call it together from time to time to evaluate progress and develop and recommend research programs.

Subsec. (b). Pub. L. 90-148 substituted provision setting out the duties of the Air Quality Advisory Board for provisions requiring the Secretary to make semi-annual reports to Congress on measures being taken toward the resolution of vehicle exhaust pollution problems.

Subsecs. (c) to (e). Pub. L. 90-148 added subsecs. (c) to (e).

TERMINATION OF ADVISORY BOARDS AND COMMITTEES

Advisory Boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1857f. Control and abatement of air pollution from Federal facilities; compliance of Federal departments, etc., with Federal, State, interstate, and local requirements; exemption by President of any emission source from any executive branch department, etc.; report to Congress

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge of air pollutants, shall comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements. The President may exempt any emission source of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so, except that no exemption may

be granted from section 1857c-6 of this title, and an exemption from section 1857c-7 may be granted only in accordance with section 1857c-7(c) of this title. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

(July 14, 1955, ch. 360, title I, § 118, formerly, § 7, as added Dec. 17, 1963. Pub. L. 88-206, § 1, 77 Stat. 399, renumbered § 107, Oct. 20, 1965, Pub. L. 89-272, title I, 101(3), 79 Stat. 992, renumbered § 111 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 499, and renumbered § 118 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 4(a), 5, 84 Stat. 1678, 1689.)

PRIOR PROVISIONS

A prior section 1857f, act July 14, 1955, ch. 360, § 7, 69 Stat. 323, related to research and experiments under other laws. See section 1857i of this title.

Provisions similar to those comprising subsec. (a) of this section were contained in section 1857g, act July 14, 1955, ch. 360, § 8, as added Sept. 22, 1959, Pub. L. 86-365, § 2, 73 Stat. 646, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1970—Pub. L. 91-604, § 5, struck out lettered designations (a) and (b), and, as so redesignated, substituted provisions requiring Federal facilities to comply with Federal, State, local, and interstate air pollution control and abatement requirements and provisions authorizing the President to exempt, under the specified terms and conditions, any emission source of any department, etc., in the executive branch from compliance with control and abatement requirements, for provisions requiring, to the extent practicable and consistent with the interests of the United States and within any available appropriations, Federal facilities to cooperate with the Department of Health, Education, and Welfare and with any air pollution control agency to prevent and control air pollution and provisions authorizing the Secretary to establish classes of potential pollution sources for which any Federal department or agency having jurisdiction over any facility was required to obtain a permit, under the specified terms and conditions, for the discharge of any matter into the air of the United States.

1967—Pub. L. 90-148 reenacted section without change.

EXECUTIVE ORDER NO. 11282

Ex. Ord. No. 11282, May 26, 1966, 31 F.R. 7663, which provided for the prevention, control, and abatement of air pollution from federal activities, was superseded by Ex. Ord. No. 11507, Feb. 4, 1970, 35 F.R. 2573, set out as a note under section 4331 of this title.

EXECUTIVE ORDER NO. 11507

Ex. Ord. No. 11507, Feb. 4, 1970, 35 F.R. 2573, which provided for the prevention, control, and abatement of air pollution at federal facilities, was superseded by Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of this title.

EXECUTIVE ORDER NO. 11752

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of this title, provides for the prevention, control, and abatement of air pollution at Federal facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857h-2 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to District of Columbia Code, § 6-812.

SUBCHAPTER II—EMISSION STANDARDS FOR MOVING SOURCES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1857j-2 of this title.

PART A—MOTOR VEHICLE EMISSION AND FUEL STANDARDS

§ 1857f-1. Establishment of standards

(a) Air pollutant emissions

Except as otherwise provided in subsection (b) of this section—

(1) The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment causes or contributes to, or is likely to cause or to contribute to, air pollution which endangers the public health or welfare. Such standards shall be applicable to such vehicles and engines for their useful life (as determined under subsection (d) of this section), whether such vehicles and engines are designed as complete systems or incorporated devices to prevent or control such pollution.

(2) Any regulation prescribed under this subsection (and any revision thereof) shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) Reduction requirements for model years 1975 to 1978; promulgation; report to Congress; suspension of standards; interim standards.

(1)(A) The regulations under subsection (a) of this section applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) of this section applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during or after model year 1977 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to

light duty vehicles and engines manufactured in model year 1970.

(B) The regulations under subsection (a) of this section applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) of this section for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) of this section applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile. The regulations under subsection (a) of this section applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1978 shall contain standards which require a reduction of at least 90 per centum from the average of emissions of oxides of nitrogen actually measured from light duty vehicles manufactured during model year 1971 which are not subject to any Federal or State emission standard for oxides of nitrogen. Such average of emissions shall be determined by the Administrator on the basis of measurements made by him.

(2) Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to December 31, 1970), shall be prescribed by regulation within 180 days after such date.

(3) For purposes of this part—

(A)(i) The term "model year" with reference to any specific calendar year means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(ii) For the purpose of assuring that vehicles and engines manufactured before the beginning of a model year were not manufactured for purposes of circumventing the effective date of a standard required to be prescribed by subsection (b) of this section, the Administrator may prescribe regulations defining "model year" otherwise than as provided in clause (i).

(B) The term "light duty vehicles and engines" means new light duty motor vehicles and new light duty motor vehicle engines, as determined under regulations of the Administrator.

(4) On July 1 of 1971, and of each year thereafter, the Administrator shall report to the Congress with respect to the development of systems necessary to implement the emission standards established pursuant to this section. Such reports shall include information regarding the continuing effects of such air pollutants subject to standards under this section on the public health and welfare, the extent and progress of efforts being made to develop the necessary systems, the costs associated with development and application of such systems, and following such hearings as he may deem advisable, any recommendations for additional congressional action necessary to achieve the purposes of this chapter. In gathering information for the purposes of this paragraph and in connection with any hearing, the provisions of section 1857h-5(a) of this title (relating to subpenas) shall apply.

(5)(A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within sixty days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977.

(B) Any interim standards prescribed under this paragraph shall reflect the greatest degree of emission control which is achievable by application of technology which the Administrator determines is available, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers.

(C) Within 60 days after receipt of the application for any such suspension, and after public hearing, the Administrator shall issue a decision granting or refusing such suspension. The Administrator shall grant such suspension only if he determines that (i) such suspension is essential to the public interest or the public health and welfare of the United States, (ii) all good faith efforts have been made to meet the standards established by this subsection, (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) of this section and other information available to him has not indicated that technology, processes, or other alternatives are available to meet such standards.

(D) Nothing in this paragraph shall extend the effective date of any emission standard required to be prescribed under this subsection for more than one year.

(c) Feasibility study and investigation by National Academy of Sciences; reports to Administrator and Congress; availability of information

(1) The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of the technological feasibility of meeting the emissions standards required to be prescribed by the Administrator by subsection (b) of this section.

(2) Of the funds authorized to be appropriated to the Administrator by this chapter, such amounts as are required shall be available to carry out the study and investigation authorized by paragraph (1) of this subsection.

(3) In entering into any arrangement with the National Academy of Sciences for conducting the study and investigation authorized by paragraph (1) of this subsection, the Administrator shall request the National Academy of Sciences to submit semiannual reports on the progress of its study and investigation to the Administrator and the Congress, beginning not later than July 1, 1971, and continuing until such study and investigation is completed.

(4) The Administrator shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by paragraph (1) of this subsection. For the purpose of furnishing such information, the Administrator may use any authority he has under this chapter (A) to obtain information from any person, and (B) to require such person to conduct such tests, keep such records, and make such reports respecting research or other activities conducted by such person as may be reasonably necessary to carry out this subsection.

(d) Useful life of vehicles

The Administrator shall prescribe regulations under which the useful life of vehicles and engines shall be determined for purposes of subsection (a)(1) of this section and section 1857f-5a of this title. Such regulations shall provide that useful life shall—

(1) in the case of light duty vehicles and light duty vehicle engines, be a period of use of five years or fifty thousand miles (or the equivalent), whichever first occurs; and

(2) in the case of any other motor vehicle or motor vehicle engine, be a period of use set forth in paragraph (1) unless the Administrator determines that a period of use of greater duration or mileage is appropriate.

(e) New power sources or propulsion systems

In the event of a new power source or propulsion system for new motor vehicles or new motor vehicle engines is submitted for certification pursuant to section 1857f-5(a) of this title, the Administrator may postpone certification until he has prescribed standards for any air pollutants emitted by such vehicle or engine which cause or contribute to, or are likely to cause or contribute to, air pollution which endangers the public health or welfare but for which standards have not been prescribed under subsection (a) of this section.

(July 14, 1955, ch. 360, title II, § 202, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 499; Dec. 31, 1970, Pub. L. 91-604, § 6(a), 84 Stat. 1690; June 22, 1974, Pub. L. 93-319, § 5, 88 Stat. 258.)

AMENDMENTS

1974—Subsec. (b)(1)(A). Pub. L. 93-319, § 5(a), substituted "model year 1977" for "model year 1975" in provisions requiring a reduction of at least 90 per centum from the emissions allowable under standards for model year 1970 and added provisions covering regulations for model years 1975 and 1976.

Subsec. (b)(1)(B). Pub. L. 93-319, § 5(b), substituted "model year 1978" for "model year 1976" in the provisions requiring a reduction of at least 90 per centum from the average of emissions actually measured from vehicles manufactured during model year 1971 and added provisions covering regulations for model years 1975, 1976, and 1977.

Subsec. (b)(5). Pub. L. 93-319, § 5(c), (d), substituted in subpar. (A), "At any time after January 1, 1975" for "At any time after January 1, 1972", "with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977" for "with respect to such manufacturer" "sixty days" for "60 days", "paragraph (1)(A) of this subsection" for "paragraph (1)(A)", and "vehicles and engines manufactured during model year 1977" for "vehicles and engines manufactured during model year 1975", redesignated subpars. (C) to (E) as (B) to (D), respectively, and struck out former subpar. (B) which had allowed manufacturers, at any time after Jan. 1, 1973, to file with the Administrator an application requesting a 1-year suspension of the effective date of any emission standard required by subsec. (b)(1)(B) with respect to such manufacturer.

1970—Subsec. (a) Pub. L. 91-604 redesignated existing provisions as par. (1) and, in par. (1) as so redesignated, substituted Administrator for Secretary as the issuing authority for standards, inserted references to the useful life of engines, and substituted the emission of any air pollutant for the emission of any kind of substance as the subject to be regulated, and added par. (2).

Subsec. (b). Pub. L. 91-604 added subsec. (b). Former subsec. (b) redesignated as par. (2) of subsec. (a).

Subsecs. (c) to (e). Pub. L. 91-604 added subsecs. (c) to (e).

1967—Pub. L. 90-148 reenacted section without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857e, 1857f-2, 1857f-5, 1857f-5a, 1857f-6c, 1857f-6e, 1857f-7, 1857h-5, 1857h-6 of this title; title 15 sections 1410, 2002.

§ 1857f-2. Prohibited acts

(a) Manufacture, sale, or importation of vehicles or engines not in conformity with regulations; failure to make reports or provide information; removal of devices installed in conformity with regulations; prohibited sale or lease of vehicles or engines

The following acts and the causing thereof are prohibited—

(1) in the case of a manufacturer of new motor vehicles or new motor vehicle engines for distribution in commerce, the sale or the offering for sale, or the introduction, or delivery for introduction, into commerce, or (in the case of any person, except as provided by regulation of the Administrator), the importation into the United States of any new motor vehicle or new motor vehicle engine, manufactured after the effective date of regulations under this part which are applicable to such vehicle or engine unless such vehicle or engine is covered by a certificate of conformity issued (and in effect) under regulations prescribed under this part (except as provided in subsection (b) of this section);

(2) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information, required under section 1857f-6 of this title;

(3) for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehi-

cle engine in compliance with regulations under this subchapter prior to its sale and delivery to the ultimate purchaser, or for any manufacturer or dealer knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser; or

(4) for any manufacturer of a new motor vehicle or new motor vehicle engine subject to standards prescribed under section 1857f-1 of this title—

(A) to sell or lease any such vehicle or engine unless such manufacturer has complied with the requirements of section 1857f-5a(a) and (b) of this title with respect to such vehicle or engine, and unless a label or tag is affixed to such vehicle or engine in accordance with section 1857f-5a(c)(3) of this title, or

(B) to fail or refuse to comply with the requirements of section 1857f-5a(c) or (e) of this title.

(b) Authority of Administrator to make exemptions; refusal to admit vehicle or engine into United States; vehicles or engines intended for export

(1) The Administrator may exempt any new motor vehicle or new motor vehicle engine, from subsection (a) of this section, upon such terms and conditions as he may find necessary for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

(2) A new motor vehicle or new motor vehicle engine offered for importation or imported by any person in violation of subsection (a) of this section shall be refused admission into the United States, but the Secretary of the Treasury and the Administrator may, by joint regulation, provide for deferring final determination as to admission and authorizing the delivery of such a motor vehicle or engine offered for import to the owner or consignee thereof upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or engine will be brought into conformity with the standards, requirements, and limitations applicable to it under this part. The Secretary of the Treasury shall, if a motor vehicle or engine is finally refused admission under this paragraph, cause disposition thereof in accordance with the customs laws unless it is exported, under regulations prescribed by such Secretary, within ninety days of the date of notice of such refusal or such additional time as may be permitted pursuant to such regulations, except that disposition in accordance with the customs laws may not be made in such manner as may result, directly or indirectly, in the sale, to the ultimate consumer, of a new motor vehicle or new motor vehicle engine that fails to comply with applicable standards of the Administrator under this part.

(3) A new motor vehicle or new motor vehicle engine intended solely for export, and so labeled or tagged on the outside of the container and on the vehicle or engine itself, shall be subject to the provisions of subsection (a) of this section, except that if the country of export has emission standards which differ from the standards prescribed under subsection (a) of this section, then such vehicle or engine shall comply with the standards of such country of export.

(c) Exemptions; annual report of exemptions to Congress

Upon application therefore, the Administrator may exempt from subsection (a)(3) of this section any vehicles (or class thereof) manufactured before the 1974 model year from subsection (a)(3) of this section[1] for the purpose of permitting modifications to the emission control device or system of such vehicle in order to use fuels other than those specified in certification testing under section 1857f-5(a)(1) of this title, if the Administrator, on the basis of information submitted by the applicant, finds that such modification will not result in such vehicle or engine not complying with standards under section 1857f-1 of this title applicable to such vehicle or engine. Any such exemption shall identify (1) the vehicle or vehicles so exempted, (2) the specific nature of the modification, and (3) the person or class of persons to whom the exemption shall apply.

(July 14, 1955, ch. 360, title II, § 203, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 993, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 499; Dec. 31, 1970, Pub. L. 91-604, §§ 7(a), 11(a)(2)(A), 15(c)(2), 84 Stat. 1693, 1705, 1713.)

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91-604, § 7(a)(1), struck out reference to the manufacture of new motor vehicles or new motor vehicle engines for sale, inserted provision for issuance by the Administrator of regulations regarding exceptions in the case of importation of new motor vehicles or new motor vehicle engines, and substituted "importation" into the United States of such units for "importation for sale or resale" into the United States of such units.

Subsec. (a)(2). Pub. L. 91-604, § 7(a)(2), substituted "section 208" for "section 207", both of which, for purposes of codification, are translated as "section 1857f-6 of this title".

Subsec. (a)(3). Pub. L. 91-604, §§ 7(a)(3), 11(a)(2)(A), substituted "part" for "subchapter" and added provisions prohibiting the knowing removal or inoperation by manufacturers or dealers of devices or elements of design after sale and delivery to the ultimate purchaser.

Subsec. (a)(4). Pub. L. 91-604, § 7(a)(4), added subsec. (a)(4).

Subsec. (b)(1). Pub. L. 91-604, §§ 7(a)(5), 15(c)(2), struck out reference to the exemption of a class of new motor vehicles or new motor vehicle engines, struck out the protection of the public health and welfare from the enumeration of purposes for which exemptions may be made, and substituted "Administrator" for "Secretary".

Subsec. (b)(2). Pub. L. 91-604, §§ 7(a)(6), 11(a)(2)(A), 15(c)(2), substituted "Administrator" for "Secretary of Health, Education, and Welfare", "importation or imported by any person" for "importation by a manufacturer", and "part" for "subchapter".

Subsec. (b)(3). Pub. L. 91-604, § 7(a)(7)(A), added provision that, if the country of export has emission standards which differ from the standards prescribed under subsec. (a), such vehicle or engine must comply with the standards of such country of export.

Subsec. (c). Pub. L. 91-604, § 7(a)(7)(B), added subsec. (c).

1967—Subsec. (a). Pub. L. 90-148 substituted "conformity with regulations prescribed under this sub-

[1] So in original.

chapter" for "conformity with regulations prescribed under section 1857f-1 of this title" in par. (1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857f-3, 1857f-4, 1857f-7 of this title.

§ 1857f-3. Jurisdiction of district court to restrain violations; actions brought by or in name of United States; territorial scope of subpenas for witnesses

(a) The district courts of the United States shall have jurisdiction to restrain violations of paragraph (1), (2), (3), or (4) of section 1857f-2(a) of this title.

(b) Actions to restrain such violations shall be brought by and in the name of the United States. In any such action, subpenas for witnesses who are required to attend a district court in any district may run into any other district.

(July 14, 1955, ch. 360, title II, § 204, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 500; Dec. 31, 1970, Pub. L. 91-604, § 7(b), 84 Stat. 1694.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604 inserted reference to par. (4) of section 1857f-2(a) of this title.

1967—Pub. L. 90-148 reenacted section without change.

§ 1857f-4. Penalties for violations; separate offences

Any person who violates paragraph (1), (2), (3), or (4) of section 1857f-2(a) of this title shall be subject to a civil penalty of not more than $10,000. Any such violation with respect to paragraph (1), (2), or (4) of section 1857f-2(a) of this title shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine.

(July 14, 1955, ch. 360, title I, § 205, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 500; Dec. 31, 1970, Pub. L. 91-604, § 7(c), 84 Stat. 1694.)

AMENDMENTS

1970—Pub. L. 91-604 increased the upper limit of the allowable fine from "$1,000" to "$10,000".

1967—Pub. L. 90-148 reenacted section without change.

§ 1857f-5. Motor vehicle and motor vehicle engine compliance testing and certification

(a) Testing and issuance of certificate of conformity

(1) The Administrator shall test, or require to be tested in such manner as he deems appropriate, any new motor vehicle or new motor vehicle engine submitted by a manufacturer to determine whether such vehicle or engine conforms with the regulations prescribed under section 1857f-1 of this title. If such vehicle or engine conforms to such regulations, the Administrator shall issue a certificate of conformity upon such terms, and for such period (not in excess of one year), as he may prescribe.

(2) The Administrator shall test any emission control system incorporated in a motor vehicle or motor vehicle engine submitted to him by any person, in order to determine whether such system enables such vehicle or engine to conform to the standards required to be prescribed under section 1857f-1(b) of this title. If the Administrator finds on the basis of such tests that such vehicle or engine conforms to such standards, the Administrator shall issue a verification of compliance with emission standards for such system when incorporated in vehicles of a class of which the tested vehicle is representative. He shall inform manufacturers and the National Academy of Sciences, and make available to the public, the results of such tests. Tests under this paragraph shall be conducted under such terms and conditions (including requirements for preliminary testing by qualified independent laboratories) as the Administrator may prescribe by regulations.

(b) Testing procedures; hearing; judicial review; additional evidence

(1) In order to determine whether new motor vehicles or new motor vehicle engines being manufactured by a manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued, the Administrator is authorized to test such vehicles or engines. Such tests may be conducted by the Administrator directly or, in accordance with conditions specified by the Administrator, by the manufacturer.

(2)(A)(i) If, based on tests conducted under paragraph (1) on a sample of new vehicles or engines covered by a certificate of conformity, the Administrator determines that all or part of the vehicles or engines so covered do not conform with the regulations with respect to which the certificate of conformity was issued, he may suspend or revoke such certificate in whole or in part, and shall so notify the manufacturer. Such suspension or revocation shall apply in the case of any new motor vehicles or new motor vehicle engines manufactured after the date of such notification (or manufactured before such date if still in the hands of the manufacturer), and shall apply until such time as the Administrator finds that vehicles and engines manufactured by the manufacturer do conform to such regulations. If, during any period of suspension or revocation, the Administrator finds that a vehicle or engine actually conforms to such regulations, he shall issue a certificate of conformity applicable to such vehicle or engine.

(ii) If, based on tests conducted under paragraph (1) on any new vehicle or engine, the Administrator determines that such vehicle or engine does not conform with such regulations, he may suspend or revoke such certificate insofar as it applies to such vehicle or engine until such time as he finds such vehicle or engine actually so conforms with such regulations, and he shall so notify the manufacturer.

(B)(i) At the request of any manufacturer the Administrator shall grant such manufacturer a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied, and make a determination on the record with respect to any suspension or revocation under subparagraph (A); but suspension or revocation under subparagraph (A) shall not be stayed by reason of such hearing.

(ii) In any case of actual controversy as to the validity of any determination under clause (i), the manufacturer may at any time prior to the 60th day after such determination is made file a petition with the United States court of appeals for the circuit wherein such manufacturer resides or has his principal place of business for a judicial review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose. The Administrator thereupon shall file in the court the record of the proceedings on which the Administrator based his determination, as provided in section 2112 of title 28.

(iii) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

(iv) Upon the filing of the petition referred to in clause (ii), the court shall have jurisdiction to review the order in accordance with chapter 7 of title 5 and to grant appropriate relief as provided in such chapter.

(c) Inspection

For purposes of enforcement of this section, officers or employees duly designated by the Administrator, upon presenting appropriate credentials to the manufacturer or person in charge, are authorized (1) to enter, at reasonable times, any plant or other establishment of such manufacturer, for the purpose of conducting tests of vehicles or engines in the hands of the manufacturer, or (2) to inspect at reasonable times, records, files, papers, processes, controls, and facilities used by such manufacturer in conducting tests under regulations of the Administrator. Each such inspection shall be commenced and completed with reasonable promptness.

(d) Rules and regulations

The Administrator shall by regulation establish methods and procedures for making tests under this section.

(e) Publication of test results

The Administrator shall announce in the Federal Register and make available to the public the results of his tests of any motor vehicle or motor vehicle engine submitted by a manufacturer under subsection (a) of this section as promptly as possible after December 31, 1970, and at the beginning of each model year which begins thereafter. Such results shall be described in such nontechnical manner as will reasonably disclose to prospective ultimate purchasers of new motor vehicles and new motor vehicle engines the comparative performance of the vehicles and engines tested in meeting the standards prescribed under section 1857f-1 of this title.

(July 14, 1955, ch. 360, title II, § 206, as added Dec. 31, 1970, Pub. L. 91-604, § 8(a), 84 Stat. 1694.)

Prior Provisions

A prior section 206 of Act July 14, 1955, which also covered the testing of motor vehicles and motor vehicle engines, was repealed by Pub. L. 91-604.

Effective Date of 1970 Amendment

Section 8(b) of Pub. L. 91-604 provided that: "The amendments made by this section [amending this section and enacting section 1857f-5a of this title] shall not apply to vehicles or engines imported into the United States before the sixtieth day after the date of enactment of this Act [Dec. 31, 1970]."

Section Referred to in Other Sections

This section is referred to in sections 1857f-1, 1857f-2, 1857f-5a, 1857f-7 of this title; title 15 section 2003.

§ 1857f-5a. Compliance by vehicles and engines in actual use

(a) Warranty

Effective with respect to vehicles and engines manufactured in model years beginning more than 60 days after December 31, 1970, the manufacturer of each new motor vehicle and new motor vehicle engine shall warrant to the ultimate purchaser and each subsequent purchaser that such vehicle or engine is (1) designed, built, and equipped so as to conform at the time of sale with applicable regulations under section 1857f-1 of this title, and (2) free from defects in materials and workmanship which cause such vehicle or engine to fail to conform with applicable regulations for its useful life (as determined under section 1857f-1(d) of this title).

(b) Testing methods and procedures

If the Administrator determines that (i) there are available testing methods and procedures to ascertain whether, when in actual use throughout its useful life (as determined under section 1857f-1(d) of this title), each vehicle and engine to which regulations under section 1857f-1 of this title apply complies with the emission standards of such regulations, (ii) such methods and procedures are in accordance with good engineering practices, and (iii) such methods and procedures are reasonably capable of being correlated with tests conducted under section 1857f-5(a)(1) of this title, then—

(1) he shall establish such methods and procedures by regulation, and

(2) at such time as he determines that inspection facilities or equipment are available for purposes of carrying out testing methods and procedures established under paragraph (1), he shall prescribe regulations which shall require manufacturers to warrant the emission control device or system of each new motor vehicle or new motor vehicle engine to which a regulation under section 1857f-1 of this title applies and which is manufactured in a model year beginning after the Administrator first prescribes warranty regulations under this paragraph (2). The warranty

under such regulations shall run to the ultimate purchaser and each subsequent purchaser and shall provide that if—

(A) the vehicle or engine is maintained and operated in accordance with instructions under subsection (c)(3) of this section,

(B) it fails to conform at any time during its useful life (as determined under section 1857f-1(d) of this title) to the regulations prescribed under section 1857f-1 of this title, and

(C) such nonconformity results in the ultimate purchaser (or any subsequent purchaser) of such vehicle or engine having to bear any penalty or other sanction (including the denial of the right to use such vehicle or engine) under State or Federal law,

then such manufacturer shall remedy such nonconformity under such warranty with the cost thereof to be borne by the manufacturer.

(c) Nonconforming vehicles; plan for remedying nonconformity; instructions for maintenance and use

Effective with respect to vehicles and engines manufactured during model years beginning more than 60 days after December 31, 1970—

(1) If the Administrator determines that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations prescribed under section 1857f-1 of this title, when in actual use throughout their useful life (as determined under section 1857f-1(d) of this title), he shall immediately notify the manufacturer thereof of such nonconformity, and he shall require the manufacturer to submit a plan for remedying the nonconformity of the vehicles or engines with respect to which such notification is given. The plan shall provide that the nonconformity of any such vehicles or engines which are properly used and maintained will be remedied at the expense of the manufacturer. If the manufacturer disagrees with such determination of nonconformity and so advises the Administrator, the Administrator shall afford the manufacturer and other interested persons an opportunity to present their views and evidence in support thereof at a public hearing. Unless, as a result of such hearing the Administrator withdraws such determination of nonconformity, he shall, within 60 days after the completion of such hearing, order the manufacturer to provide prompt notification of such nonconformity in accordance with paragraph (2).

(2) Any notification required by paragraph (1) with respect to any class or category of vehicles or engines shall be given to dealers, ultimate purchasers, and subsequent purchasers (if known) in such manner and containing such information as the Administrator may by regulation require.

(3) The manufacturer shall furnish with each new motor vehicle or motor vehicle engine such written instructions for the maintenance and use of the vehicle or engine by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control devices and systems. In addition, the manufacturer shall indicate by means of a label or tag permanently affixed to such vehicle or engine that such vehicle or engine is covered by a certificate of conformity issued for the purpose of assuring achievement of emissions standards prescribed under section 1857f-1 of this title. Such label or tag shall contain such other information relating to control of motor vehicle emissions as the Administrator shall prescribe by regulation.

(d) Dealer costs borne by manufacturer

Any cost obligation of any dealer incurred as a result of any requirement imposed by subsection (a), (b), or (c) of this section shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

(e) Cost statement

If a manufacturer includes in any advertisement a statement respecting the cost or value of emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 1857j of this title.

(f) Inspection after sale to ultimate purchaser

Any inspection of a motor vehicle or a motor vehicle engine for purposes of subsection (c)(1) of this section, after its sale to the ultimate purchaser, shall be made only if the owner of such vehicle or engine voluntarily permits such inspection to be made, except as may be provided by any State or local inspection program.

(July 14, 1955, ch. 360, title II, § 207, as added Dec. 31, 1970, Pub. L. 91-604, § 8(a), 84 Stat. 1696.)

PRIOR PROVISIONS

A prior section 207 of act July 14, 1955, was renumbered section 208 by Pub. L. 91-604 and is set out as section 1857f-6 of this title.

EFFECTIVE DATE

Section not applicable to vehicles or engines imported into the United States before the sixtieth day after Dec. 31, 1970, see section 8(b) of Pub. L. 91-604, set out as an Effective Date of 1970 Amendment note under section 1857f-5 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857f-1, 1857f-2, 1857f-7 of this title.

§ 1857f-6. Reports, records, and information required; access to and copying records; availability to public; disclosure of trade secrets

(a) Every manufacturer shall establish and maintain such records, make such reports, and provide such information, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this part and regulations thereunder and shall, upon request of an officer or employee duly designated by the Administrator, permit such officer or employee

at reasonable times, to have access to and copy such records.

(b) Any records, reports or information obtained under subsection (a) of this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than emission data), to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under his control, from the duly authorized committees of the Congress.

(July 14, 1955, ch. 360, title II, § 208, formerly § 207, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 501, renumbered and amended Dec. 31, 1970, Pub. L. 90-604, §§ 8(a), 10(a), 11(a)(2)(A), 15(c)(a), 84 Stat. 1694, 1700, 1705, 1713.)

PRIOR PROVISIONS

A prior section 208 of Act July 14, 1955, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 501, was renumbered section 209 by Pub. L. 91-604, and is set out as section 1857f-6a of this title.

A prior section 208 of Act July 14, 1955, forming a part of such Act as originally enacted, was renumbered section 212 by Pub. L. 90-148 and again renumbered section 213 by Pub. L. 91-604, and is set out as section 1857f-7 of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, §§ 11(a)(2)(A), 15 (c)(2), substituted "Administrator" for "Secretary" wherever appearing therein and "part" for "subchapter".

Subsec. (b). Pub. L. 91-604, §§ 10(a), 15(c)(2), substituted provisions authorizing the Administrator to make available to the public any records, reports, of information obtained under subsec. (a) of this section, except those shown to the Administrator to be entitled to protection as trade secrets, for provisions that all information reported or otherwise obtained by the Secretary or his representative pursuant to subsec. (a) of this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of Title 18, be considered confidential for the purpose of such section 1905, and substituted "Administrator" for "Secretary".

1967—Pub. L. 90-148 reenacted section without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857f-2, 1857f-7 of this title.

§ 1857f-6a. State standards

(a) Restriction

No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

(b) Waiver

The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, unless he finds that such State does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 1857f-1(a) of this title.

(c) Use, operation, or movement of registered or licensed motor vehicles

Nothing in this part shall preclude or deny to any State or political subdivision thereof the right otherwise to control, regulate, or restrict the use, operation, or movement of registered or licensed motor vehicles.

(July 14, 1955, ch. 306, title II, § 209, formerly § 208, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 501, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 11(a)(2)(A), 15(c)(2), 84 Stat. 1694, 1705, 1713.)

PRIOR PROVISIONS

A prior section 209 of Act July 14, 1955, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 502, was renumbered section 210 by Pub. L. 91-604 and is set out as section 1857f-6b of this title.

A prior section 209 of Act July 14, 1955, forming a part of such Act as originally enacted, was set out as section 1857f-8 of this title and was repealed by Pub. L. 89-675, § 2(b), Oct. 15, 1966, 80 Stat. 954.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, § 11(a)(2)(A), substituted "part" for "subchapter".

Subsec. (b). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (c). Pub. L. 91-604, § 11(a)(2)(A), substituted "part" for "subchapter".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857d-1, 1857f-6c of this title; title 15 section 2002.

§ 1857f-6b. Federal assistance in developing and maintaining vehicle emission devices and systems inspection and emission testing and control programs

The Administrator is authorized to make grants to appropriate State agencies in an amount up to two-thirds of the cost of developing and maintaining effective vehicle emission devices and systems inspection and emission testing and control programs, except that—

(1) no such grant shall be made for any part of any State vehicle inspection program which does not directly relate to the cost of the air pollution control aspects of such a program;

(2) no such grant shall be made unless the Secretary of Transportation has certified to

the Administrator that such program is consistent with any highway safety program developed pursuant to section 402 of title 23; and

(3) no such grant shall be made unless the program includes provisions designed to insure that emission control devices and systems on vehicles in actual use have not been discontinued or rendered inoperative.

(July 14, 1955, ch. 306, title II, § 210, formerly § 209, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 502, and renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 10(b), 84 Stat. 1694, 1700.)

PRIOR PROVISIONS

A prior section 210 of Act July 14, 1955, was renumbered section 211 by Pub. L. 91-604 and is set out as section 1857f-6c of this title.

AMENDMENTS

1970—Pub. L. 91-604 substituted provisions authorizing the Administrator to make grants to appropriate State agencies for the development and maintenance of effective vehicle emission devices and systems inspection and emission testing and control programs, for provisions authorizing the Secretary to make grants to appropriate State air pollution control agencies for the development of meaningful uniform motor vehicle emission device inspection and emission testing programs.

§ 1857f-6c. Regulation of fuels

(a) Authority of Administrator to regulate

The Administrator may by regulation designate any fuel or fuel additive and, after such date or dates as may be prescribed by him, no manufacturer or processor of any such fuel or additive may sell, offer for sale, or introduce into commerce such fuel or additive unless the Administrator has registered such fuel or additive in accordance with subsection (b) of this section.

(b) Registration requirement

(1) For the purpose of registration of fuels and fuel additives, the Administrator shall require—

(A) the manufacturer of any fuel to notify him as to the commercial identifying name and manufacturer of any additive contained in such fuel; the range of concentration of any additive in the fuel; and the purpose-in-use of any such additive; and

(B) the manufacturer of any additive to notify him as to the chemical composition of such additive.

(2) For the purpose of registration of fuels and fuel additives, the Administrator may also require the manufacturer of any fuel or fuel additive—

(A) to conduct tests to determine potential public health effects of such fuel or additive (including, but not limited to, carcinogenic, teratogenic, or mutagenic effects), and

(B) to furnish the description of any analytical technique that can be used to detect and measure any additive in such fuel, the recommended range of concentration of such additive, and the recommended purpose-in-use of such additive, and such other information as is reasonable and necessary to determine the emissions, resulting from the use of the fuel or additive contained in such fuel, the effect of such fuel or additive on the emission control performance of any vehicle or vehicle engine, or the extent to which such emissions affect the public health or welfare.

Tests under subparagraph (A) shall be conducted in conformity with test procedures and protocols established by the Administrator. The result of such tests shall not be considered confidential.

(3) Upon compliance with the provision of this subsection, including assurances that the Administrator will receive changes in the information required, the Administrator shall register such fuel or fuel additive.

(c) Control or prohibition of offending fuels and fuel additives

(1) The Administrator may, from time to time on the basis of information obtained under subsection (b) of this section or other information available to him, by regulation, control or prohibit the manufacture, introduction into commerce, offering for sale, or sale of any fuel or fuel additive for use in a motor vehicle or motor vehicle engine (A) if any emission products of such fuel or fuel additive will endanger the public health or welfare, or (B) if emission products of such fuel or fuel additive will impair to a significant degree the performance of any emission control device or system which is in general use, or which the Administrator finds has been developed to a point where in a reasonable time it would be in general use were such regulation to be promulgated.

(2)(A) No fuel, class of fuels, or fuel additive may be controlled or prohibited by the Administrator pursuant to clause (A) of paragraph (1) except after consideration of all relevant medical and scientific evidence available to him, including consideration of other technologically or economically feasible means of achieving emission standards under section 1857f-1 of this title.

(B) No fuel or fuel additive may be controlled or prohibited by the Administrator pursuant to clause (B) of paragraph (1) except after consideration of available scientific and economic data, including a cost benefit analysis comparing emission control devices or systems which are or will be in general use and require the proposed control or prohibition with emission control devices or systems which are or will be in general use and do not require the proposed control or prohibition. On request of a manufacturer of motor vehicles, motor vehicle engines, fuels, or fuel additives submitted within 10 days of notice of proposed rulemaking, the Administrator shall hold a public hearing and publish findings with respect to any matter he is required to consider under this subparagraph. Such findings shall be published at the time of promulgation of final regulations.

(C) No fuel or fuel additive may be prohibited by the Administrator under paragraph (1) unless he finds, and publishes such finding, that in his judgment such prohibition will not cause the use of any other fuel or fuel additive which will produce emissions which will endanger the public health or welfare to the same or greater degree than the use of the fuel or fuel additive proposed to be prohibited.

(3)(A) For the purpose of obtaining evidence and data to carry out paragraph (2), the Administrator may require the manufacturer of any motor vehicle or motor vehicle engine to furnish any information which has been developed concerning the emissions from motor vehicles resulting from the use of any fuel or fuel additive, or the effect of such use on the performance of any emission control device or system.

(B) In obtaining information under subparagraph (A), section 1857h-5(a) of this title (relating to subpenas) shall be applicable.

(4)(A) Except as otherwise provided in subparagraph (B) or (C), no State (or political subdivision thereof) may prescribe or attempt to enforce, for purposes of motor vehicle emission control, any control or prohibition respecting use of a fuel or fuel additive in a motor vehicle or motor vehicle engine—

(i) if the Administrator has found that no control or prohibition under paragraph (1) is necessary and has published his finding in the Federal Register, or

(ii) if the Administrator has prescribed under paragraph (1) a control or prohibition applicable to such fuel or fuel additive, unless State prohibition or control is identical to the prohibition or control prescribed by the Administrator.

(B) Any State for which application of section 1857f-6a(a) of this title has at any time been waived under section 1857f-6a(b) of this title may at any time prescribe and enforce, for the purpose of motor vehicle emission control, a control or prohibition respecting any fuel or fuel additive.

(C) A State may prescribe and enforce, for purposes of motor vehicle emission control, a control or prohibition respecting the use of a fuel or fuel additive in a motor vehicle or motor vehicle engine if an applicable implementation plan for such State under section 1857c-5 of this title so provides. The Administrator may approve such provision in an implementation plan, or promulgate an implementation plan containing such a provision, only if he finds that the State control or prohibition is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements.

(d) Penalty

Any person who violates subsection (a) of this section or the regulations prescribed under subsection (c) of this section or who fails to furnish any information required by the Administrator under subsection (b) of this section shall forfeit and pay to the United States a civil penalty of $10,000 for each and every day of the continuance of such violation, which shall accrue to the United States and be recovered in a civil suit in the name of the United States, brought in the district where such person has his principal office or in any district in which he does business. The Administrator may, upon application therefor, remit or mitigate any forfeiture provided for in this subsection and he shall have authority to determine the facts upon all such applications.

(July 14, 1955, ch. 360, title II, § 210, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 502, and renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 9(a), 84 Stat. 1694, 1698; Nov. 18, 1971, Pub. L. 92-157, title III, § 302(d), (e), 85 Stat. 464.)

Prior Provisions

A prior section 211 of act July 14, 1955, providing for a national emissions standards study, was set out as section 1857f-6d of this title and was repealed by section 8(a) of Pub. L. 91-604.

Amendments

1971—Subsec. (c)(3)(A). Pub. L. 92-157, § 302(d), substituted "purpose of obtaining" for "purpose of".

Subsec. (d). Pub. L. 92-157, § 302(e), substituted "subsection (b)" for "subsection (c)" where appearing the second time.

1970—Subsec. (a). Pub. L. 91-604, § 9(a), substituted "Administrator" for "Secretary" as the registering authority, added references to fuel additives, and substituted the selling, offering for sale, and introduction into commerce of fuel or fuel additives, for the delivery for introduction into interstate commerce or delivery to another person who can reasonably be expected to deliver fuel into interstate commerce.

Subsec. (b). Pub. L. 91-604, § 9(a), designated existing provisions as pars. (1) and (3), added par. (2), and substituted "Administrator" for "Secretary" wherever appearing.

Subsec. (c). Pub. L. 91-604, § 9(a), substituted provisions covering the control or prohibition of offending fuels and fuel additives, for provisions covering trade secrets and substituted "Administrator" for "Secretary" wherever appearing.

Subsec. (d). Pub. L. 91-604, § 9(a), added references to failure to obey regulations prescribed under subsec. (c) and failure to furnish information required by the Administrator under subsec. (c), increased the daily civil penalty from $1,000 to $10,000 and substituted "Administrator" for "Secretary".

Subsec. (e). Pub. L. 91-604, § 9(a), struck out subsec. (e) which directed the various United States Attorneys to prosecute for the recovery of forfeitures.

Section Referred to in Other Sections

This section is referred to in sections 1857d-1, 1857h-5 of this title.

§ 1857f-6d. Repealed. Pub. L. 91-604, § 8(a), Dec. 31, 1970, 84 Stat. 1694

Section, act July 14, 1955, ch. 360, title II, § 211, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 503, provided for a national emissions standards study for stationary sources to be conducted by the Secretary, with a report and recommendations to be submitted to the Congress by Nov. 21, 1969, and for a study of the feasibility of controls for jet and piston aircraft engines, with a report thereon to Congress by Nov. 21, 1968.

§ 1857f-6e. Low-emission vehicles

(a) Definitions

For the purpose of this section—

(1) The term "Board" means the Low-Emission Vehicle Certification Board.

(2) The term "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) The term "motor vehicle" means any self-propelled vehicle designed for use in the United States on the highways, other than a vehicle designed or used for military field training, combat, or tactical purposes.

(4) The term "low-emission vehicle" means any motor vehicle which—

(A) emits any air pollutant in amounts significantly below new motor vehicle standards applicable under section 1857f-1 of this title at the time of procurement to that type of vehicle; and

(B) with respect to all other air pollutants meets the new motor vehicle standards applicable under section 1857f-1 of this title at the time of procurement to that type of vehicle.

(5) The term "retail price" means (A) the maximum statutory price applicable to any class or model of motor vehicle; or (B) in any case where three is no applicable maximum statutory price, the most recent procurement price paid for any class or model of motor vehicle.

(b) Low-Emission Vehicle Certification Board; establishment; composition; appointment; Chairman; compensation; travel expenses; employment and compensation of additional personnel; time and place of meetings; powers

(1) There is established a Low-Emission Vehicle Certification Board to be composed of the Administrator or his designee, the Secretary of Transportation or his designee, the Chairman of the Council on Environmental Quality or his designee, the Director of the National Highway Traffic Safety Administration in the Department of Transportation, the Administrator of General Services, and two members appointed by the President. The President shall designate one member of the Board as Chairman.

(2) Any member of the Board not employed by the United States may receive compensation at the rate of $125 for each day such member is engaged upon work of the Board. Each member of the Board shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(3)(A) The Chairman, with the concurrence of the members of the Board, may employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Board, but no individual so appointed shall receive compensation in excess of the rate authorized for GS-18 by section 5332 of title 5.

(B) The Chairman may fix the time and place of such meetings as may be required, but a meeting of the Board shall be called whenever a majority of its members so request.

(C) The Board is granted all other power necessary for meeting its responsibilities under this section.

(c) Determination by Administrator of models or classes of motor vehicles qualifying as low-emission vehicles

The Administrator shall determined which models or classes of motor vehicles qualify as low-emission vehicles in accordance with the provisions of this section.

(d) Certification by Board; specifications for suitable substitutes; criteria for certification; term of certification; procedure for certification

(1) The Board shall certify any class or model of motor vehicles—

(A) for which a certification application has been filed in accordance with paragraph (3) of this subsection;

(B) which is a low-emission vehicle as determined by the Administrator; and

(C) which it determines is suitable for use as a substitute for a class or model of vehicles at that time in use by agencies of the Federal Government.

The Board shall specify with particularity the class or model of vehicles for which the class or model of vehicles described in the application is a suitable substitute. In making the determination under this subsection the Board shall consider the following criteria:

(i) the safety of the vehicle;

(ii) its performance characteristics;

(iii) its reliability potential;

(iv) its serviceability;

(v) its fuel availability;

(vi) its noise level; and

(vii) its maintenance costs as compared with the class or model of motor vehicle for which it may be a suitable substitute.

(2) Certification under this section shall be effective for a period of one year from the date of issuance.

(3)(A) Any party seeking to have a class or model of vehicle certified under this section shall file a certification application in accordance with regulations prescribed by the Board.

(B) The Board shall publish a notice of each application received in the Federal Register.

(C) The Administrator and the Board shall make determinations for the purpose of this section in accordance with procedures prescribed by regulation by the Administrator and the Board, respectively.

(D) The Administrator and the Board shall conduct whatever investigation is necessary, including actual inspection of the vehicle at a place designated in regulations prescribed under subparagraph (A).

(E) The Board shall receive and evaluate written comments and documents from interested parties in support of, or in opposition to, certification of the class or model of vehicle under consideration.

(F) Within 90 days after the receipt of a properly filed certification application, the Administrator shall determine whether such class or model of vehicle is a low-emission vehicle, and within 180 days of such determination, the Board shall reach a decision by majority vote as to whether such class or model of vehicle, having been determined to be a low-emission vehicle, is a suitable substitute for any class or classes of vehicles presently being purchased by the Federal Government for use by its agencies.

(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator and the Board shall each publish in the Federal Register notice of such determination or decision, including reasons therefor and in the case of the Board any dissenting views.

(e) Acquisition by Federal government by purchase or lease; procurement costs; contract provisions

(1) Certified low-emission vehicles shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in

lieu of other vehicles if the Administrator of General Services determines that such certified vehicles have procurement costs which are no more than 150 per centum of the retail price of the least expensive class or model of motor vehicle for which they are certified substitutes.

(2) In order to encourage development of inherently low-polluting propulsion technology, the Board may, at its discretion, raise the premium set forth in paragraph (1) of this subsection to 200 per centum of the retail price of any class or model of motor vehicle for which a certified low-emission vehicle is a certified substitute, if the Board determines that the certified low-emission vehicle is powered by an inherently low-polluting propulsion system.

(3) Data relied upon by the Board and the Administrator in determining that a vehicle is a certified low-emission vehicle shall be incorporated in any contract for the procurement of such vehicle.

(f) Priority for purchase by procuring agency

The procuring agency shall be required to purchase available certified low-emission vehicles which are eligible for purchase to the extent they are available before purchasing any other vehicles for which any low-emission vehicle is a certified substitute. In making purchasing selections between competing eligible certified low-emission vehicles, the procuring agency shall give priority to (1) any class or model which does not require extensive periodic maintenance to retain its low-polluting qualities or which does not require the use of fuels which are more expensive than those of the classes or models of vehicles for which it is a certified substitute; and (2) passenger vehicles other than buses.

(g) Waiver of statutory price limitations

For the purpose of procuring certified low-emission vehicles any statutory price limitations shall be waived.

(h) Testing of emissions from certified low-emission vehicles purchased by the Federal government; procedure; recertification

The Administrator shall, from time to time as the Board deems appropriate, test the emissions from certified low-emission vehicles purchased by the Federal Government. If at any time he finds that the emission rates exceed the rates on which certification under this section was based, the Administrator shall notify the Board. Thereupon the Board shall give the supplier of such vehicles written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Board, the Board may order the supplier to show cause why the vehicle involved should be eligible for recertification.

(i) Authorization of appropriations

There are authorized to be appropriated for paying additional amounts for motor vehicles pursuant to, and for carrying out the provisions of, this section, $5,000,000 for the fiscal year ending June 30, 1971, and $25,000,000 for each of the four succeeding fiscal years.

(j) Promulgation by Board of implementing procedures

The Board shall promulgate the procedures required to implement this section within one hundred and eight days after December 31, 1970.

(July 14, 1955, title II, § 212, as added Dec. 31, 1970, Pub. L. 91-604, § 10(c), 84 Stat. 1700, and amended Dec. 31, 1970, Pub. L. 91-605, § 202(a), 84 Stat. 1739; Apr. 9, 1973, Pub. L. 93-15, § 1(b), 87 Stat. 11; June 22, 1974, Pub. L. 93-319, § 13(b), 88 Stat. 265.)

PRIOR PROVISIONS

A prior section 212 of act July 14, 1955, was renumbered section 213 by Pub. L. 91-604 and is set out as section 1857b-7 of this title.

AMENDMENTS

1974—Subsec. (i). Pub. L. 93-319 substituted "four" for "three" succeeding fiscal years and thus authorized appropriation of $25,000,000 for fiscal year ending June 30, 1975.

1973—Subsec. (i). Pub. L. 93-15 substituted "three" for "two" succeeding fiscal years and thus authorized appropriation of $25,000,000 for fiscal year ending June 30, 1974.

CHANGE OF NAME

"The National Highway Traffic Safety Administration" was substituted in subsec. (b)(1) for "the National Highway Safety Bureau" on authority of section 202(a) of Pub. L. 91-605.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857*l* of this title.

§ 1857f-6f. Fuel economy improvement from new motor vehicles

(a)(1)[1] The Administrator and the Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the United States Senate within one hundred and twenty days following June 22, 1974, concerning the practicability of establishing a fuel economy improvement standard of 20 per centum for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Federal Energy Administrator, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury.

[1] So in original. No subsec. (b) has been enacted.

The Office of Management and Budget may review such report before its submission to such committees of the Congress, but such Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 1857h-5(a) of this title to obtain necessary information.

(2) For the purpose of this section, the term "fuel economy improvement standard" means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined for such manufacturer in accordance with test procedures established by the Administrator pursuant to this chapter. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means.

(July 14, 1955, ch. 360, title II, § 213, as added June 22, 1974, Pub. L. 93-319, § 10, 88 Stat. 261, and amended S. Res. 4, Feb. 4, 1977.)

CHANGE OF NAME

The Committee on Public Works and the Committee on Commerce of the Senate were abolished and replaced by the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate, respectively, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

FEDERAL ENERGY ADMINISTRATOR

The "Federal Energy Administrator", for purposes of this chapter, to mean the Administrator of the Federal Energy Administration established by Pub. L. 93-275, May 7, 1974, 88 Stat. 97, section 761 et seq. of Title 15, Commerce and Trade, but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administration takes office and after it ceases to exist, see section 798 of Title 15, Commerce and Trade.

§ 1857f-7. Definitions

As used in this part—

(1) The term manufacturer as used in sections 1857f-1, 1857f-2, 1857f-5, 1857f-5a, and 1857f-6 of this title means any person engaged in the manufacturing or assembling of new motor vehicles or new motor vehicle engines, or importing such vehicles or engines for resale, or who acts for and is under the control of any such person in connection with the distribution of new motor vehicles or new motor vehicles engines, but shall not include any dealer with respect to new motor vehicles or new motor vehicle engines received by him in commerce.

(2) The term "motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

(3) Except with respect to vehicles or engines imported or offered for importation, the term "new motor vehicle" means a motor vehicle the equitable or legal title to which has never been transferred to an ultimate purchaser; and the term "new motor vehicle engine" means an engine in a new motor vehicle or a motor vehicle engine the equitable or legal title to which has never been transferred to the ultimate purchaser; and with respect to imported vehicles or engines, such terms mean a motor vehicle and engine, respectively, manufactured after the effective date of a regulation issued under section 1857f-1 of this title which is applicable to such vehicle or engine (or which would be applicable to such vehicle or engine had it been manufactured for importation into the United States).

(4) The term "dealer" means any person who is engaged in the sale or the distribution of new motor vehicles or new motor vehicle engines to the ultimate purchaser.

(5) The term "ultimate purchaser" means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases such new motor vehicle or new engine for purposes other than resale.

(6) The term "commerce" means (A) commerce between any place in any State and any place outside thereof; and (B) commerce wholly within the District of Columbia.

(July 14, 1955, ch. 360, title II, § 214, formerly § 208, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, renumbered § 212, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 503, renumbered § 213, and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 10(d), 11(a)(2)(A), 84 Stat. 1694, 1703, 1705, and renumbered § 214, June 22, 1974, Pub. L. 93-319, § 10, 88 Stat. 261.)

AMENDMENTS

1970—Pub. L. 91-604, § 11(a)(2)(A), substituted "part" for "subchapter."

Par. (1). Pub. L. 91-604, § 10(d)(1), added reference to section 1857f-1 of this title.

Par. (3). Pub. L. 91-604, § 10(d)(2), added the provisions which defined such terms with respect to imported vehicles or engines.

1967—Pub. L. 90-148 inserted "as used in sections 1857f-2, 1857f-5, 1857f-6, and 1857f-6a of this title" following "manufacturer" in par. (1).

§ 1857f-8. Repealed. Pub. L. 89-675, § 2(b), Oct. 15, 1966, 80 Stat. 954

Section, act July 14, 1955, ch. 360, title II, § 209, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 995, authorized appropriations for the fiscal years ending June 30, 1966, 1967, 1968, and 1969, to carry out sections 1857f-1 to 1857f-7. See section 1857l of this title.

PART B—AIRCRAFT EMISSION STANDARDS

§ 1857f-9. Establishment of standards

(a) Study; report; hearings; issuance of regulations

(1) Within 90 days after December 31, 1970, the Administrator shall commence a study and investigation of emissions of air pollutants from aircraft in order to determine—

(A) the extent to which such emissions affect air quality in air quality control regions throughout the United States, and

(B) the technological feasibility of controlling such emissions.

(2) Within 180 days after commencing such study and investigation, the Administrator shall publish a report of such study and investigation and shall issue proposed emission standards applicable to emissions of any air pollutant from any class or classes of aircraft or aircraft engines which in his judgment cause or contribute to or are likely to cause or contribute to air pollution which endangers the public health or welfare.

(3) The Administrator shall hold public hearings with respect to such proposed standards. Such hearings shall, to the extent practicable, be held in air quality control regions, which are most seriously affected by aircraft emissions. Within 90 days after the issuance of such proposed regulations, he shall issue such regulations with such modifications as he deems appropriate. Such regulations may be revised from time to time.

(b) Effective date of regulations

Any regulation prescribed under this section (and any revision thereof) shall take effect after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(c) Consultation with Secretary of Transportation

Any regulations under this section, or amendments thereto, with respect to aircraft, shall be prescribed only after consultation with the Secretary of Transportation in order to assure appropriate consideration for aircraft safety.

(July 14, 1955, ch. 360, title II, § 231, as added Dec. 31, 1970, Pub. L. 91-604, § 11(a)(1), 84 Stat. 1703.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857f-10, 1857h-5 of this title; title 49 section 1421.

§ 1857f-10. Enforcement of standards; regulations by Secretary of Transportation; proceedings to amend, modify, suspend, or revoke certificates

(a) The Secretary of Transportation, after consultation with the Administrator, shall prescribe regulations to insure compliance with all standards prescribed under section 1857f-9 of this title by the Administrator. The regulations of the Secretary of Transportation shall include provisions making such standards applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by the Federal Aviation Act [49 U.S.C. 1301 et seq.] or the Department of Transportation Act. Such Secretary shall insure that all necessary inspections are accomplished, and, may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

(b) In any action to amend, modify, suspend, or revoke a certificate in which violation of an emission standard prescribed under section 1857f-9 of this title or of a regulation prescribed under subsection (a) of this section is at issue, the certificate holder shall have the same notice and appeal rights as are prescribed for such holders in the Federal Aviation Act of 1958 [49 U.S.C. 1301 et seq.] or the Department of Transportation Act, except that in any appeal to the National Transportation Safety Board, the Board may amend, modify, or revoke the order of the Secretary of Transportation only if it finds no violation of such standard or regulation and that such amendment, modification, or revocation is consistent with safety in air transportation.

(July 14, 1955, ch. 360, title II, § 232, as added Dec. 31, 1970, Pub. L. 91-604, § 11(a)(1), 84 Stat. 1704.)

REFERENCES IN TEXT

The Federal Aviation Act of 1958, referred to in text, is Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, as amended, which is classified principally to chapter 20 (§ 1301 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 49 and Tables volume.

The Department of Transportation Act, referred to in text, is Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, as amended, and is classified principally to chapter 23 (§ 1651 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1651 of Title 49 and Tables volume.

§ 1857f-11. State standards and controls

No State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions of any air pollutant from any aircraft or engine thereof unless such standard is identical to a standard applicable to such aircraft under this part.

(July 14, 1955, ch. 360, title II, § 233, as added Dec. 31, 1970, Pub. L. 91-604, § 11(a)(1), 84 Stat. 1704.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857d-1 of this title.

§ 1857f-12. Definitions

Terms used in this part (other than Administrator) shall have the same meaning as such terms have under section 1301 of title 49.

(July 14, 1955, ch. 360, title II, § 234, as added Dec. 31, 1970, Pub. L. 91-604, § 11(a)(1), 84 Stat. 1705.)

SUBCHAPTER III—GENERAL PROVISIONS

§ 1857g. Administration

(a) Regulations; delegation of powers of Administrator

The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this chapter. The Administrator may delegate to any officer or employee of the Environmental Protection Agency such of his powers and duties under this chapter, except the making of regulations, as he may deem necessary or expedient.

(b) Detail of Environmental Protection Agency personnel to air pollution control agencies

Upon the request of an air pollution control agency personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this chapter.

(c) Payments under grants: installments; advances or reimbursement

Payments under grants made under this chapter may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administrator.

(July 14, 1955, ch. 360, title III, § 301, formerly § 8, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 400, renumbered Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 504; Dec. 31, 1970, Pub. L. 91-604, §§ 3(b)(2), 15(c)(2), 84 Stat. 1677, 1713.)

PRIOR PROVISIONS

A prior section 1857g, act July 14, 1955, ch. 360, § 8, as added Sept. 22, 1959, Pub. L. 86-365, § 2, 73 Stat. 646, prior to the general amendment of this chapter by Pub. L. 88-206, provided for cooperative effort. See section 1857f (a) of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" and "Environmental Protection Agency" for "Department of Health, Education, and Welfare".

Subsec. (b). Pub. L. 91-604, § 3(b)(2), substituted "Environmental Protection Agency" for "Public Health Service" and struck out provisions covering the payment of salaries and allowances.

Subsec. (c). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

1967—Pub. L. 90-148 reenacted section without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857c of this title.

§ 1857h. Definitions

When used in this chapter—

(a) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(b) The term "air pollution control agency" means any of the following:

(1) A single State agency designated by the Governor of that State as the official State air pollution control agency for purposes of this chapter;

(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of air pollution;

(3) A city, county, or other local government health authority, or, in the case of any city, county, or other local government in which there is an agency other than the health authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency; or

(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of air pollution.

(c) The term "interstate air pollution control agency" means—

(1) an air pollution control agency established by two or more States, or

(2) an air pollution control agency of two or more municipalities located in different States.

(d) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(e) The term "person" includes an individual, corporation, partnership, association, State, municipality, and political subdivision of a State.

(f) The term "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

(g) The term "air pollutant" means an air pollution agent or combination of such agents.

(h) All language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.

(July 14, 1955, ch. 360, title III, § 302, formerly § 9, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 400, renumbered Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 504; Dec. 31, 1970, Pub. L. 91-604, § 15(a)(1), (c)(1), 84 Stat. 1710, 1713.)

PRIOR PROVISIONS

Provisions similar to subsecs. (b) and (d) of this section were contained in former section 1857e, act July 14, 1955, ch. 360, § 6, 69 Stat. 323, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(1), substituted a definition of "Administrator" as meaning the Administrator of the Environmental Protection Agency for a definition of "Secretary" as meaning the Secretary of Health, Education, and Welfare.

Subsec. (g). Pub. L. 91-604, § 15(a)(1), added subsec. (g) defining "air pollutant". Former subsec. (g) redesignated as subsec. (h) and amended.

Subsec. (h). Pub. L. 91-604, § 15(a)(1), redesignated subsec. (g) as subsec. (h) and, in subsec. (h) as so redesignated, substituted references to effects on soil, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate for references to injury to agricultural crops and livestock, and inserted references to effects on economic values and on personal comfort and well being.

1967—Pub. L. 90-148 reenacted section without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857c of this title; title 26 sections 48, 169.

§ 1857h-1. Emergency powers

Notwithstanding any other provision of this chapter, the Administrator, upon receipt of evidence that a pollution source or combination of sources (including moving sources) is presenting an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to abate such sources, may bring suit on behalf of the United States in the appropriate United States district court to immediately restrain

any person causing or contributing to the alleged pollution to stop the emission of air pollutants causing or contributing to such pollution or to take such other action as may be necessary.

(July 14, 1955, ch. 360, title III, § 303, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705.)

PRIOR PROVISIONS

A prior section 303 of act July 14, 1955, was renumbered section 310 by Pub. L. 91-604, and is set out as section 1857i of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-5, 1857c-9, 1857c-10 of this title.

§ 1857h-2. Citizen suits

(a) Establishment of right to bring suit

Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to be in violation of (A) an emission standard or limitation under this chapter or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an emission standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be.

(b) Notice

No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the State in which the violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

(B) if the Administrator or State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any person may intervene as a matter of right.

(2) under subsection (a)(2) of the section prior to 60 days after the plaintiff has given notice of such action to the Administrator.

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of section 1857c-7(c)(1)(B) of this title or an order issued by the Administrator pursuant to section 1857c-8(a) of this title. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) Venue; intervention by Administrator

(1) Any action respecting a violation by a stationary source of an emission standard or limitation or an order respecting such standard or limitation may be brought only in the judicial district in which such source is located.

(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

(d) Award of costs; security

The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Nonrestriction of other rights

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any emission standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

(f) Definition

For purposes of this section, the term "emission standard or limitation under this chapter" means—

(1) a schedule or timetable of compliance, emission limitation, standard of performance or emission standard, or

(2) a control or prohibition respecting a motor vehicle fuel or fuel additive,

which is in effect under this chapter (including a requirement applicable by reason of section 1857f of this title or under an applicable implementation plan.

(July 14, 1955, ch. 360, title II, § 304, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1706.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (d), are set out in the Appendix to title 28, Judiciary and Judicial Procedure.

PRIOR PROVISIONS

A prior section 304 of act July 14, 1955, was renumbered section 311 by Pub. L. 91-604, and is set out as section 1857j of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857c-10 of this title.

§ 1857h-3. Legal representation of Administrator and appearance by Attorney General

The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this chapter to which the Administrator is a party. Unless the Attorney General notifies the Administrator that he will appear in such action within a reasonable time, attorneys appointed by the Administrator shall appear and represent him.

(July 14, 1955, ch. 360, title III, § 305, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1707.)

PRIOR PROVISIONS

A prior section 305 of act July 14, 1955, was renumbered section 312 by Pub. L. 91-604, and is set out as section 1857j-1 of this title.

§ 1857h-4. Federal procurement

(a) Contracts with violators prohibited

No Federal agency may enter into any contract with any person who is convicted of any offense under section 1857c-8(c)(1) of this title for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected.

(b) Notification procedures

The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

(c) Federal agency contracts

In order to implement the purposes and policy of this chapter to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after December 31, 1970, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this chapter in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

(d) Exemptions; notification to Congress

The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

(e) Annual report to Congress

The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section.

(July 14, 1955, ch. 360, title III, § 306, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1707.)

PRIOR PROVISIONS

A prior section 306 of act July 14, 1955, ch. 360, title III, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered section 313 Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705, which related to additional reports to Congress, is set out as section 1857j-2 of this title.

EXECUTIVE ORDER NO. 11602

Ex. Ord. No. 11602, June 29, 1971, 36 F.R. 12475, formerly set out as a note under this section, which related to the administration of the Clean Air Act with respect to Federal contracts, grants, or loans, was superseded by Ex. Ord. No. 11738, Sept. 10, 1973, 38 F.R. 25161, set out as a note below.

EX. ORD. NO. 11738. ADMINISTRATION OF THE CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT WITH RESPECT TO FEDERAL CONTRACTS, GRANTS, OR LOANS

Ex. Ord. No. 11738, Sept. 10, 1973, 38 F.R. 25161, provided:

By virtue of the authority vested in me by the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), particularly section 306 of that Act as added by the Clean Air Amendments of 1970 (Public Law 91-604), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), particularly section 508 of that Act as added by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), it is hereby ordered as follows:

SECTION 1. *Policy.* It is the policy of the Federal Government to improve and enhance environmental quality. In furtherance of that policy, the program prescribed in this Order is instituted to assure that each Federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each Federal agency empowered to extend Federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act (hereinafter referred to as "the Air Act") and the Federal Water Pollution Control Act (hereinafter referred to as "the Water Act").

SEC. 2. *Designation of Facilities.* (a) The Administrator of the Environmental Protection Agency (hereinafter referred to as "the Administrator") shall be responsible for the attainment of the purposes and objectives of this Order.

(b) In carrying out his responsibilities under this Order, the Administrator shall, in conformity with all applicable requirements of law, designate facilities which have given rise to a conviction for an offense under section 113(c)(1) of the Air Act or section 309(c) of the Water Act. The Administrator shall, from time to time, publish and circulate to all Federal agencies lists of those facilities, together with the names and addresses of the persons who have been convicted of such offenses. Whenever the Administrator determines that the condition which gave rise to a conviction has been corrected, he shall promptly remove the facility and the name and address of the person concerned from the list.

SEC. 3. *Contracts, Grants, or Loans.* (a) Except as provided in section 8 of this Order, no Federal agency shall enter into any contract for the procurement of goods, materials, or services which is to be performed in whole or in part in a facility then designated by the Administrator pursuant to section 2.

(b) Except as provided in section 8 of this Order, no Federal agency authorized to extend Federal assistance by way of grant, loan, or contract shall extend such assistance in any case in which it is to be used to support any activity or program involving the use of a facility then designated by the Administrator pursuant to section 2.

SEC. 4. *Procurement, Grant, and Loan Regulations.* The Federal Procurement Regulations, the Armed Services Procurement Regulations, and to the extent necessary, any supplemental or comparable regulations issued by any agency of the Executive Branch shall, following consultation with the Administrator, be amended to require, as a condition of entering into, renewing, or extending any contract for the procurement of goods, materials, or services or extending any assistance by way of grant, loan, or contract, inclusion of a provision requiring compliance with the Air Act, the Water Act, and standards issued pursuant thereto

in the facilities in which the contract is to be performed, or which are involved in the activity or program to receive assistance.

SEC. 5. *Rules and Regulations.* The Administrator shall issue such rules, regulations, standards, and guidelines as he may deem necessary or appropriate to carry out the purposes of this Order.

SEC. 6. *Cooperation and Assistance.* The head of each Federal agency shall take such steps as may be necessary to insure that all officers and employees of his agency whose duties entail compliance or comparable functions with respect to contracts, grants, and loans are familiar with the provisions of this Order. In addition to any other appropriate action, such officers and employees shall report promptly any condition in a facility which may involve noncompliance with the Air Act or the Water Act or any rules, regulations, standards, or guidelines issued pursuant to this Order to the head of the agency, who shall transmit such reports to the Administrator.

SEC. 7. *Enforcement.* The Administrator may recommend to the Department of Justice or other appropriate agency that legal proceedings be brought or other appropriate action be taken whenever he becomes aware of a breach of any provision required, under the amendments issued pursuant to section 4 of this Order, to be included in a contract or other agreement.

SEC. 8. *Exemptions—Reports to Congress.* (a) Upon a determination that the paramount interest of the United States so requires—

(1) The head of a Federal agency may exempt any contract, grant, or loan, and, following consultation with the Administrator, any class of contracts, grants or loans from the provisions of this Order. In any such case, the head of the Federal agency granting such exemption shall (A) promptly notify the Administrator of such exemption and the justification therefor; (B) review the necessity for each such exemption annually; and (C) report to the Administrator annually all such exemptions in effect. Exemptions granted pursuant to this section shall be for a period not to exceed one year. Additional exemptions may be granted for periods not to exceed one year upon the making of a new determination by the head of the Federal agency concerned.

(2) The Administrator may, by rule or regulation, exempt any or all Federal agencies from any or all of the provisions of this Order with respect to any class or classes of contracts, grants, or loans, which (A) involve less than specified dollar amounts, or (B) have a minimal potential impact upon the environment, or (C) involve persons who are not prime contractors or direct recipients of Federal assistance by way of contracts, grants, or loans.

(b) Federal agencies shall reconsider any exemption granted under subsection (a) whenever requested to do so by the Administrator.

(c) The Administrator shall annually notify the President and the Congress of all exemptions granted, or in effect, under this Order during the preceding year.

SEC. 9. *Related Actions.* The imposition of any sanction or penalty under or pursuant to this Order shall not relieve any person of any legal duty to comply with any provisions of the Air Act or the Water Act.

SEC. 10. *Applicability.* This Order shall not apply to contracts, grants, or loans involving the use of facilities located outside the United States.

SEC. 11. *Uniformity.* Rules, regulations, standards, and guidelines issued pursuant to this order and section 508 of the Water Act shall, to the maximum extent feasible, be uniform with regulations issued pursuant to this order, Executive Order No. 11602 of June 29, 1971, and section 306 of the Air Act.

SEC. 12. *Order Superseded.* Executive Order No. 11602 of June 29, 1971, is hereby superseded.

RICHARD NIXON.

§ 1857h-5. Administrative proceedings and judicial review

(a) Subpenas; production of books and papers; trade secrets; failure to comply with subpena; court order; contempt

(1)[1] In connection with any determination under section 1857c-5(f) or section 1857f-1(b)(5) of this title, or for purposes of obtaining information under section 1857f-1(b)(4) or 1857f-6c(c)(3) of this title, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for emission data, upon a showing satisfactory to the Administrator by such owner or operator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes of such owner or operator, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter, to persons carrying out the National Academy of Sciences' study and investigation provided for in section 1857f-1(c) of this title, or when relevant in any proceeding under this chapter. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subparagraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Petition for review; appropriate court for filing; civil or criminal proceedings for enforcement

(1) A petition for review of action of the Administrator in promulgating any national primary or secondary ambient air quality standard, any emission standard under section 1857c-7 of this title, any standard of performance under section 1857c-6 of this title, any standard under section 1857f-1 of this title (other than a standard required to be prescribed under section 1857f-1(b)(1) of this title), any determination under section 1857f-1(b)(5) of this title, any control or prohibition under section 1857f-6c of this title or any standard under section 1857f-9 of this title may be filed only in the United States Court of Appeals for the District of Columbia. A petition for review of the Administrator's action in approving or promulgating any implementation plan under section 1857c-5 of this title or section 1857c-6(d) of this title, or his action under section 1857c-

[1]So in original. Subsec. (a) was enacted without a par. (2).

10(c)(2)(A), (B), or (C) of this title or under regulations thereunder, may be filed only in the United States Court of Appeals for the appropriate circuit. Any such petition shall be filed within 30 days from the date of such promulgation, approval, or action, or after such date if such petition is based solely on grounds arising after such 30th day.

(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in civil or criminal proceedings for enforcement.

(c) Introduction of additional evidence; modification of original determination

In any judicial proceeding in which review is sought of a determination under this chapter required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as to the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

(July 14, 1955, ch. 360, title III, § 307, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1707, and amended Nov. 18, 1971, Pub. L. 92-157, title III, § 302(a), 85 Stat. 464; June 22, 1974, Pub. L. 93-319, § 6(c), 88 Stat. 259.)

CODIFICATION

Provisions for the obtaining of information under section 1857f-1(c)(4) of this title, set out in subsec. (a)(1), was, in the original, a reference to the obtaining of information under section 210(c)(4) of the Clean Air Act. Such provision has been translated as section 1857f-1(c)(4) of this title as the probable intent of Congress.

PRIOR PROVISIONS

A prior section 307 of act July 14, 1955, ch. 360, title III, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered § 314, Dec. 31, 1970, Pub. L. 91-604, § 12(a) 84 Stat. 1705, which related to labor standards, is set out as section 1857j-3 of this title.

AMENDMENTS

1974—Subsec. (b)(1). Pub. L. 93-319 inserted reference to the Administrator's action under section 1857c-10(c)(2)(A), (B), or (C) of this title or under regulations thereunder and substituted reference to the filing of a petition within 30 days from the date of promulgation, approval, or action for reference to the filing of a petition within 30 days from the date of promulgation or approval.

1971—Subsec. (a)(1). Pub. L. 92-157 substituted reference to section "1857f-6c(c)(3)" for "1857f-6c(c)(4)" of this title.

FEDERAL ENERGY ADMINISTRATOR

The "Federal Energy Administrator", for purposes of this chapter, to mean the Administrator of the Federal Energy Administration established by Pub. L. 93-275 [section 761 et seq. of Title 15, Commerce and Trade], but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administration takes office and after it ceases to exist, see section 798 of Title 15.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-5, 1857c-10, 1857f-1, 1857f-6c, 1857f-6f of this title.

§ 1857h-6. Mandatory licensing

Whenever the Attorney General determines, upon application of the Administrator—

(1) that—

(A) in the implementation of the requirements of section 1857c-6, 1857c-7, or 1857f-1 of this title, a right under any United States letters patent, which is being used or intended for public or commercial use and not otherwise reasonably available, is necessary to enable any person required to comply with such limitation to so comply, and

(B) there are no reasonable alternative methods to accomplish such purpose, and

(2) that the unavailability of such right may result in a substantial lessening of competition or tendency to create a monopoly in any line of commerce in any section of the country,

the Attorney General may so certify to a district court of the United States, which may issue an order requiring the person who owns such patent to license it on such reasonable terms and conditions as the court, after hearing, may determine. Such certification may be made to the district court for the district in which the person owning the patent resides, does business, or is found.

(July 14, 1955, ch. 360, title III, § 308, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1708.)

PRIOR PROVISIONS

A prior section 308 of act July 14, 1955, ch. 360, title III, formerly § 12, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 305, Oct. 20, 1965, Pub. L. 89-2 72, title I, § 101(4), 79 Stat. 992, renumbered § 308, Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered § 315, Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 17 05, which related to separability of provisions, is set out as section 1857k of this title.

§ 1857h-7. Policy review

(a) The Administrator shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this chapter or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which section 4332(2)(C) of this title applies, and (3) proposed regulations published by any department or agency of the Federal Government. Such

written comment shall be made public at the conclusion of any such review.

(b) In the event the Administrator determines that any such legislation, action, or regulation is unsatisfactory from the standpoint of public health or welfare or environmental quality, he shall publish his determination and the matter shall be referred to the Council on Environmental Quality.

(July 14, 1955, ch. 360, title III, § 309, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1709.)

PRIOR PROVISIONS

A prior section 309 of act July 14, 1955, ch. 360, title III, formerly § 13, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 306, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, renumbered § 309, Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered § 316, Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705, which related to appropriations, is set out as section 1857*l* of this title.

§ 1857i. Application to other laws; nonduplication of appropriations

(a) Except as provided in subsection (b) of this section, this chapter shall not be construed as superseding or limiting the authorities and responsibilities, under any other provision of law, of the Administrator or any other Federal officer, department, or agency.

(b) No appropriation shall be authorized or made under section 241, 243, or 246 of this title for any fiscal year after the fiscal year ending June 30, 1964, for any purpose for which appropriations may be made under authority of this chapter.

(July 14, 1955, ch. 360, title III, § 310, formerly § 10, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 303, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 505; renumbered § 310, and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(1), 84 Stat. 1705, 1713.)

PRIOR PROVISIONS

A prior section 310 of act July 14, 1955, ch. 360, title III, formerly § 14, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 307, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, renumbered § 310, Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered § 317, Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705, is set out as a Short Title note under section 1857 of this title.

Provisions similar to those contained in subsec. (a) of this section were contained in section 1857*f*, act July 14, 1955, ch. 360, § 7, 69 Stat. 323, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

1967—Subsec. (b). Pub. L. 90-148 substituted reference to section 246 of this title for reference to section 246(c) of this title.

§ 1857j. Records and audit

(a) Each recipient of assistance under this chapter shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter.

(July 14, 1955, ch. 360, title III, § 311, formerly § 11, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 304, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 505, renumbered § 311, and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(a), 84 Stat. 1705, 1713.)

AMENDMENTS

1970—Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" and "Secretary of Health, Education, and Welfare".

1967—Pub. L. 90-148 reenacted section without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857*f*-5a, 4905 of this title.

§ 1857j-1. Comprehensive economic cost studies

(a) In order to provide the basis for evaluating programs authorized by this chapter and the development of new programs and to furnish the Congress with the information necessary for authorization of appropriations by fiscal years beginning after June 30, 1969, the Administrator, in cooperation with State, interstate, and local air pollution control agencies, shall make a detailed estimate of the cost of carrying out the provisions of this chapter; a comprehensive study of the cost of program implementation by affected units of government; and a comprehensive study of the economic impact of air quality standards on the Nation's industries, communities, and other contributing sources of pollution, including an analysis of the national requirements for and the cost of controlling emissions to attain such standard of air quality as may be established pursuant to this chapter or applicable State law. The Administrator shall submit such detailed estimate and the results of such comprehensive study of cost for the five-year period beginning July 1, 1969, and the results of such other studies, to the Congress not later than January 10, 1969, and shall submit a reevaluation of such estimate and studies annually thereafter.

(b) Omitted

(July 14, 1955, ch. 360, title III, § 312, formerly § 305, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 505, and renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(2), 84 Stat. 1705, 1713.)

CODIFICATION

Subsec. (b), authorized the Administrator to make a complete investigation and study to determine (1) the need for additional trained State and local personnel to carry out programs pursuant to this chapter, (2)

the means of using existing Federal training programs to train such personnel, and (3) the need for additional trained personnel to develop, operate, and maintain those pollution control facilities designed and installed to implement air quality standards, and directed him to report the results of this investigation and study to the President and Congress not later than July 1, 1969.

AMENDMENTS

1970—Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing.

§ 1857j-2. Additional reports to Congress

Not later than six months after November 21, 1967, and not later than January 10 of each calendar year beginning after such date, the Administrator shall report to the Congress on measures taken toward implementing the purpose and intent of this chapter including, but not limited to, (1) the progress and problems associated with control of automotive exhaust emissions and the research efforts related thereto; (2) the development of air quality criteria and recommended emission control requirements; (3) the status of enforcement actions taken pursuant to this chapter; (4) the status of State ambient air standards setting, including such plans for implementation and enforcement as have been developed; (5) the extent of development and expansion of air pollution monitoring systems; (6) progress and problems related to development of new and improved control techniques; (7) the development of quantitative and qualitative instrumentation to monitor emissions and air quality; (8) standards set or under consideration pursuant to subchapter II of this chapter; (9) the status of State, interstate, and local pollution control programs established pursuant to and assisted by this chapter; and (10) the reports and recommendations made by the President's Air Quality Advisory Board.

(July 14, 1955, ch. 360, title III, § 313, formerly § 306, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(2), (84 Stat. 1705, 1713.)

AMENDMENTS

1970—Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1857j-3. Labor standards

The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on projects assisted under this chapter shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the locality as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40.

(July 14, 1955, ch. 360, title III, § 314, formerly § 307, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(2), 84 Stat. 1705, 1713.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" meaning the Secretary of Health, Education, and Welfare.

§ 1857k. Separability of provisions

If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter shall not be affected thereby.

(July 14, 1955, ch. 360, title III, § 315, formerly § 12, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 305, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, amended and renumbered § 308, Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, and renumbered § 315, Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705.)

AMENDMENTS

1967—Pub. L. 90-148 reenacted section without change.

§ 1857l. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter, other than sections 1857b(f)(3) and (d), 1857b-1, 1857f-6e, and 1858a of this title, $125,000,000 for the fiscal year ending June 30, 1971, $225,000,000 for the fiscal year ending June 30, 1972; $300,000,000 for the fiscal year ending June 30, 1973, and $300,000,000 for the fiscal year ending June 30, 1974, and $300,000,000 for the fiscal year ending June 30, 1975.

(July 14, 1955, ch. 360, title III, § 316, formerly § 13, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 306 and amended Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), (6), (7), 79 Stat. 992; Oct. 15, 1966, Pub. L. 89-675, § 2(a), 80 Stat. 954, renumbered § 309, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, and renumbered § 316 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 13(b), 84

Stat. 1705, 1709; Apr. 9, 1973, Pub. L. 93-15, § 1(c), 87 Stat. 11; June 22, 1974, Pub. L. 93-319, § 13(c), 88 Stat. 265.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 1857d, act July 14, 1955, ch. 360, § 5, 69 Stat. 322, as amended Sept. 22, 1959, Pub. L. 86-365, § 1, 73 Stat. 646; Oct. 9, 1962, Pub. L. 87-761, § 1, 76 Stat. 760, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1974—Pub. L. 93-319 authorized appropriation of $300,000,000 for fiscal year ending June 30, 1975.

1973—Pub. L. 93-15 authorized appropriation of $300,000,000 for fiscal year ending June 30, 1974.

1970—Pub. L. 91-604, § 13(b), substituted provisions authorizing appropriations for the fiscal years June 30, 1971, June 30, 1972, and June 30, 1973, for provisions authorizing appropriations of $74,000,000 for fiscal year ending June 30, 1968, $95,000,000 for fiscal year ending June 30, 1969, and $134,000,000 for fiscal year ending June 30, 1970, and added sections 1857b(f)(3), 1857f-6e, and 1858a of this title to the enumeration of excepted sections.

1967—Pub. L. 90-148 inserted provision excepting sections 1857b(d) and 1857b-1 of this title from the sections for which appropriations are authorized, struck out provision authorizing an appropriations of $46,000,000 for the fiscal year ending June 30, 1967, raised from $66,000,000 to $74,000,000 the authorization for appropriation for fiscal year ending June 30, 1968, and from $74,000,000 to $95,000,000 the authorization for appropriation for fiscal year ending June 30, 1969, and added authorization for an appropriation of $134,300,000 for the fiscal year ending June 30, 1970.

1966—Pub. L. 89-675 substituted provisions authorizing appropriations to carry out the chapter of $46,000,000 for the fiscal year ending June 30, 1967, $66,000,000 for the fiscal year ending June 30, 1968, and $74,000,000 for the fiscal year ending June 30, 1969 for provisions authorizing appropriations to carry out subchapter I of this chapter for fiscal years ending on June 30, 1965, 1966, and 1967.

1965—Pub. L. 89-272 deleted former subsec. (a), which authorized an appropriation of not to exceed $5,000,000 for the fiscal year ending June 30, 1964 to carry out section 1857c of this title, redesignated former subsec. (b) as the entire section, and substituted "title I" for "this Act", which for purposes of codification has been changed to "subchapter I of this chapter".

EXTENSION TO AUG. 31, 1970, OF AUTHORIZATION PERIOD FOR FISCAL YEAR 1970

Pub. L. 91-316, July 10, 1970, 84 Stat. 416, provided, in part, that the authorization contained in section 309 of the Clean Air Act [this section] for the fiscal year ending June 30, 1970, should remain available through Aug. 31, 1970, notwithstanding any provisions of this section.

SUBCHAPTER IV—NOISE POLLUTION

§ 1858. Office of Noise Abatement and Control; investigation and study of noise and its effects on the public health and welfare; report and recommendations by December 31, 1971

(a) Establishment; investigations and studies

The Administrator shall establish within the Environmental Protection Agency an Office of Noise Abatement and Control, and shall carry out through such Office a full and complete investigation and study of noise and its effect on the public health and welfare in order to (1) identify and classify causes and sources of noise, and (2) determine—

(A) effects at various levels;

(B) projected growth of noise levels in urban areas through the year 2000;

(C) the psychological and physiological effect on humans;

(D) effects of sporadic extreme noise (such as jet noise near airports) as compared with constant noise;

(E) effect on wildlife and property (including values);

(F) effect of sonic booms on property (including values); and

(G) such other matters as may be of interest in the public welfare.

(b) Hearings; reports

In conducting such investigation, the Administrator shall hold public hearings, conduct research, experiments, demonstrations, and studies. The Administrator shall report the results of such investigation and study, together with his recommendations for legislation or other action, to the President and the Congress not later than one year after December 31, 1970.

(c) Consultation with other agencies

In any case where any Federal department or agency is carrying out or sponsoring any activity resulting in noise which the Administrator determines amounts to a public nuisance or is otherwise objectionable, such department or agency shall consult with the Administrator to determine possible means of abating such noise.

(July 14, 1955, ch. 360, title IV, § 402, as added Dec. 31, 1970, Pub. L. 91-604, § 14, 84 Stat. 1709.)

§ 1858a. Authorization of appropriations

There is authorized to be appropriated such amount, not to exceed $30,000,000, as may be necessary for the purposes of this subchapter.

(July 14, 1955, ch. 360, title IV, § 403, as added Dec. 31, 1970, Pub. L. 91-604, § 14, 84 Stat. 1710.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857l of this title.

CHAPTER 16—NATIONAL SCIENCE FOUNDATION

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(f) Annual report to the President and Congress.
1863. National Science Board.
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Sec.
(b) Executive Committee; delegation of powers and functions.
(c) Qualifications for Board membership; recommendations.
(d) Term of office; reappointment.
(e) Meetings; quorum; notice.
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(h) Special commissions.
(i) Committees; survey and advisory functions.
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§ 1861. Establishment; composition

There is established in the executive branch of the Government an independent agency to be known as the National Science Foundation (hereinafter referred to as the "Foundation"). The Foundation shall consist of a National Science Board (hereinafter referred to as the "Board") and a Director.

(May 10, 1950, ch. 171, § 2, 64 Stat. 149.)

Short Title of 1976 Amendment

Pub. L. 94-471, § 1, Oct. 11, 1976, 90 Stat. 2053, provided: "That this Act [enacting sections 1882 and of this title, amending section 1863 of this title, and enacting provisions set out as notes under sections 1862, 1864, 1873, and 5820 of this title] may be cited as the 'National Science Foundation Authorization Act, 1977'."

Short Title

Section 1 of act May 10, 1950, provided that act May 10, 1950, which is classified generally to this chapter, should be known as the "National Science Foundation Act of 1950".

Transfer of Functions

The Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of Reorg. Plan No. 2 of 1962, was abolished and all functions vested by law in the Office of Science and Technology or the Director or Deputy Director of the Office of Science and Technology were transferred to the Director of the National Science Foundation by sections 2 and 3(a)(5) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

Continuation of Existing Offices, Procedures, and Organization

Amendments by Pub. L. 90-407, July 18, 1868, 82 Stat. 360, intended to continue in effect the existing offices, procedures, and organization of the Foundation as provided by this chapter, part II of Reorg. Plan No. 2 of 1962 [set out below], and Reorg. Plan, No. 5 of 1965 [set out in Appendix to Title 5, Government Organization and Employees], but on and after July 18,

1968, part II of Reorg. Plan No. 2 of 1962, and Reorg. Plan No. 5 of 1965, as being of no force or affect, and nothing in Pub. L. 90-407 as altering or affecting any transfers of functions made by part I of Reorg. Plan No. 2 of 1962, see section 16 of Pub. L. 90-407, set out as Continuation of Existing Offices, Procedures, and Organization of the National Science Foundation note under section 1862 of this title.

REORGANIZATION PLAN NO. 2 OF 1962

Eff. June 8, 1962, 27 F.R. 5419, 76 Stat. 1253, as amended Aug. 14, 1964, Pub. L. 88-426, title III, § 305(41), 78 Stat. 427; May 11, 1976, Pub. L. 94-282, title V, § 502, 90 Stat. 472

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 29, 1962, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended.

CERTAIN SCIENCE AGENCIES AND FUNCTIONS

PART I—OFFICE OF SCIENCE AND TECHNOLOGY

Sec. 1. [Repealed. Pub. L. 94-282, title V, § 502, May 11, 1976, 90 Stat. 472. Section established, in the Executive Office of the President, the Office of Science and Technology.]

Sec. 2. [Repealed. Pub. L. 94-282, title V, § 502, May 11, 1976, 90 Stat. 472. Section authorized the appointment of the Director and Deputy Director of the Office of Science and Technology by the President by and with the advice and consent of the Senate.]

Sec. 3. [Repealed. Pub. L. 94-282, title V, § 502, May 11, 1976, 90 Stat. 472. Section transferred to the Director of the Office of Science and Technology, from the National Science Foundation, certain functions formerly conferred upon the Foundation.]

Sec. 4. [Repealed. Pub. L. 94-282, title V, § 502, May 11, 1976, 90 Stat. 472. Section authorized the Director of the Office of Science and Technology to appoint employees necessary for the work of the Office under the classified civil service and to fix their compensation in accordance with the classification laws.]

PART II—NATIONAL SCIENCE FOUNDATION

Sec. 21. Executive Committee. (a) There is hereby established the Executive Committee of the National Science Board, hereafter in this Part referred to as the Executive Committee, which shall be composed of five voting members. Four of the members shall be elected as hereinafter provided. The Director provided for in section 22 of this reorganization plan, ex officio, shall be the fifth member and the chairman of the Executive Committee.

(b) At its annual meeting held in 1964 and at each of its succeeding annual meetings the National Science Board, hereafter in this Part referred to as the Board, shall elect two of its members as members of the Executive Committee, and the Executive Committee members so elected shall hold office for two years from the date of their election. Any person who has been a member of the Executive Committee (established by this reorganization plan) for six consecutive years shall thereafter be ineligible for service as a member thereof during the two-year period following the expiration of such sixth year. For the purposes of this subsection, the period between any two consecutive annual meetings of the Board shall be deemed to be one year.

(c) At its first meeting held after the effective date of this section the Board shall elect four of its members as members of the Executive Committee. As designated by the Board, two of the Executive Committee members so elected shall hold office as such members until the date of the annual meeting of the Board held in 1964 and the other two members so elected shall hold such office until the annual meeting of the Board held in 1965.

(d) Any person elected as a member of the Executive Committee to fill a vacancy occuring prior to the expiration of the term for which his predecessor was elected shall be elected for the remainder of such term.

(e) The functions conferred upon the Executive Committee now existing under the provisions of the National Science Foundation Act of 1950 [this chapter], by the provisions of section 6 of the National Science Foundation Act of 1950 (42 U.S.C. 1865) or otherwise, are hereby transferred to the Executive Committee established by the provisions of this Part; and the authority of the National Science Board to assign its powers and functions to the now-existing Executive Committee, and statutory limitations upon such assignment, shall hereafter be applicable to the Executive Committee established by the provisions of this Part.

Sec. 22. Director. (a) There is hereby established in the National Science Foundation a new office with the title of Director of the National Science Foundation. The Director of the National Science Foundation, hereafter in this Part referred to as the Director, shall be appointed by the President by and with the advice and consent of the Senate. Before any person is appointed as Director the President shall afford the Board an opportunity to make recommendations to him with respect to such appointment. The Director shall serve for a term of six years unless sooner removed by the President. The Director shall not engage in any business, vocation or employment other than that of serving as such Director, nor shall he, except with the approval of the Board, hold any office in, or act in any capacity for, any organization, agency, or institution with which the Foundation makes any contract or other arrangement under the National Science Foundation Act of 1950 [this chapter].

(b) Except to the extent inconsistent with the provisions of section 23(b)(2) of this reorganization plan, all functions of the office of Director of the National Science Foundation abolished by the provisions of 23(a)(2) hereof are hereby transferred to the office of Director established by the provisions of subsection (a) of this section.

(c) The Director, ex officio, shall be an additional member of the Board and, except in respect of compensation and tenure, shall be coordinate with other members of the Board. He shall be a voting member of the Board and shall be eligible for election by the Board as chairman or vice chairman of the Board.

Sec. 23. Abolitions. (a) The following agencies, now existing under the National Science Foundation Act of 1950 [this chapter], are hereby abolished:

(1) The Executive Committee of the National Science Board (section 6 of Act; 42 U.S.C. 1865).

(2) The office of Director of the National Science Foundation (sections 2 and 5 of Act; 42 U.S.C. 1861, 1864).

(b) There are also hereby abolished:

(1) The functions conferred upon the National Science Board by that part of section 6(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1865(a)) which reads "The Board is authorized to appoint from among its members an Executive Committee".

(2) The functions of the Director of the National Science Foundation provided for in sections 4(a) and 5(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(a), 1864(a) with respect to serving as a nonvoting member of the Board and his functions with respect to serving as a nonvoting member of the Executive Committee provided for in section 6(b) of that Act (42 U.S.C. 1865(b)).

(3) So much of the functions conferred upon divisional committees by the provisions of section 8(d) of the National Science Foundation Act of 1950 (42 U.S.C. 1867(d)) as consists of making recommendations to, and advising and consulting with, the Board.

(c) The provisions of sections 23(a)(1) and 23(b)(1) hereof shall become effective on the date of the first meeting of the Board held after the effective date of the other provisions of this reorganization plan.

PART III—TRANSITIONAL PROVISIONS

Sec. 31. Incidental transfers. (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available, in connection with the functions transferred by the provisions of section 3 of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Office of Science and Technology at such time or times as the said Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

Sec. 32. Interim officers. (a) The President may authorize any person who immediately prior to the effective date of Part I of the reorganization plan holds a position in the Executive Office of the President to act as Director of the Office of Science and Technology until the office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may authorize any person who immediately prior to the effective date of section 22 of this reorganization plan holds any office existing under the provisions of the National Science Foundation Act of 1950 [this chapter] to act as Director of the National Science Foundation until the Office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

§ 1862. Functions

(a) Initiation and support of studies and programs; scholarships; current register of scientific and technical personnel

The Foundation is authorized and directed—

(1) to initiate and support basic scientific research and programs to strengthen scientific research potential and science education programs at all levels in the mathematical, physical, medical, biological, engineering, social, and other sciences, by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific and educational activities and to appraise the impact of research upon industrial development and upon the general welfare;

(2) to award, as provided in section 1869 of this title, scholarships and graduate fellowships in the mathematical, physical, medical, biological, engineering, social, and other sciences;

(3) to foster the interchange of scientific information among scientists in the United States and foreign countries;

(4) to foster and support the development and use of computer and other scientific methods and technologies, primarily for research and education in the sciences;

(5) to evaluate the status and needs of the various sciences as evidenced by programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups, employing by grant or contract such consulting services as it may deem necessary for the purpose of such evaluations; and to take into consideration the results of such evaluations in correlating the research and educational programs undertaken or supported by the Foundation with programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups;

(6) to maintain a current register of scientific and technical personnel, and in other ways to provide a central clearinghouse for the collection, interpretation, and analysis of data on the availability of, and the current and projected need for, scientific and technical resources in the United States, and to provide a source of information for policy formulation by other agencies of the Federal Government; and

(7) to initiate and maintain a program for the determination of the total amount of money for scientific research, including money allocated for the construction of the facilities wherein such research is conducted, received by each educational institution and appropriate nonprofit organization in the United States, by grant, contract, or other arrangement from agencies of the Federal Government, and to report annually thereon to the President and the Congress.

(b) Contracts, grants, loans, etc., for scientific activities; financing of programs

The Foundation is authorized to initiate and support specific scientific activities in connection with matters relating to international cooperation, national security, and the effects of scientific applications upon society by making contracts or other arrangements (including grants, loans, and other forms of assistance) for the conduct of such activities. When initiated or supported pursuant to requests made by any other Federal department or agency, including the Office of Technology Assessment, such activities shall be financed whenever feasible from funds transferred to the Foundation by the requesting official as provided in section 1873(g) of this title, and any such activities shall be unclassified and shall be identified by the Foundation as being undertaken at the request of the appropriate official.

(c) Scientific research programs at academic and other nonprofit institutions; applied scientific research programs by Presidential directive; employment of consulting services; coordination of activities

In addition to the authority contained in subsections (a) and (b) of this section, the Foundation is authorized to initiate and support scientific research, including applied research, at academic and other nonprofit institutions. When so directed by the President, the Foundation is further authorized to support, through other appropriate organizations, applied scientific research relevant to national problems involving the public interest. In exercising the authority contained in this subsection, the Foundation may employ by grant or contract such consulting services as it deems necessary, and shall coordinate and correlate its activities with respect to any such problem with other agen-

cies of the Federal Government undertaking similar programs in that field.

(d) Promotion of basic research and education in the sciences

The Board and the Director shall recommend and encourage the pursuit of national policies for the promotion of basic research and education in the sciences.

(e) Balancing of research and educational activities in the sciences

In exercising the authority and discharging the functions referred to in the foregoing subsections, it shall be one of the objectives of the Foundation to strengthen research and education in the sciences, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education.

(f) Annual report to the President and Congress

The Foundation shall render an annual report to the President for submission on or before the 15th day of April of each year to the Congress summarizing the activities of the Foundation and making such recommendations as it may deem appropriate. Such report shall include information as to the acquisition and disposition by the Foundation of any patents and patent rights.

(May 10, 1950, ch. 171, § 3, 64 Stat. 149; July 11, 1958, Pub. L. 85-510, § 1, 72 Stat. 353; Sept. 8, 1959, Pub. L. 86-232, § 1, 73 Stat. 467; July 8, 1968, Pub. L. 90-407, § 1, 82 Stat. 360; Aug. 10, 1972, Pub. L. 92-372, § 8, 86 Stat. 528; Oct. 13, 1972, Pub. L. 92-484, § 10(b), 86 Stat. 802; Apr. 21, 1976, Pub. L. 94-273, § 11(3), 90 Stat. 378.)

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-273 substituted "April" for "January".

1972—Subsec. (a)(1). Pub. L. 92-372 added the support of science education programs at all levels to the functions of the Foundation and substituted "scientific and educational activities" for "scientific activities".

Subsec. (b). Pub. L. 92-484 added provisions authorizing the Foundation to initiate and support specific scientific activities in connection with matters relating to the effects of scientific applications upon society, and substituted provisions relating to the initiation or support pursuant to requests of activities by any other Federal department or agency, including the Office of Technology Assessment, for provisions relating to the initiation or support pursuant to requests of activities by the Secretary of State or Secretary of Defense.

1968—Subsec. (a)(1). Pub. L. 90-407 redesignated former subsec. (a)(2) as (a)(1), and, as so redesignated, added social sciences to the enumerated list of sciences. Former subsec. (a)(1) was redesignated as (d).

Subsec. (a)(2). Pub. L. 90-407 redesignated former subsec. (a)(4) as (a)(2), and, as so redesignated, added social sciences to the enumerated list of sciences. Former subsec. (a)(2) was redesignated as (a)(1).

Subsec. (a)(3). Pub. L. 90-407 redesignated former subsec. (a)(5) as (a)(3). Former subsec. (a)(3) was redesignated as (b).

Subsec. (a)(4). Pub. L. 90-407 added subsec. (a)(4). Former subsec. (a)(4) was redesignated as (a)(2).

Subsec. (a)(5). Pub. L. 90-407 redesignated former subsec. (a)(6) as (a)(5), and, as so redesignated, provided for the employment of consulting services, by grant or contract, to assist in the evaluation of the status and needs of the various sciences as evidenced by the programs and studies undertaken by agencies of the government, by individuals, and by public and private research groups, and provided for the consideration of the results of such evaluations in the correlation of the Foundation's programs with those undertaken by agencies of the government, as well as those undertaken by individuals and by public and private research groups. Former subsec. (a)(5) was redesignated as (a)(3).

Subsec. (a)(6). Pub. L. 90-407 redesignated former subsec. (a)(8) as (a)(6), and, as so redesignated, provided that the register of scientific and technical personnel shall be current, and authorized the Foundation to analyze and interpret the collected data on the availability of, and the current and projected need for, scientific and technical resources in the United States and to make such information available to other agencies of the government for policy formulation. Former subsec. (a)(6) was redesignated as (a)(5).

Subsec. (a)(7). Pub. L. 90-407 added subsec. (a)(7). Former subsec. (a)(7), which provided for the establishment of such special commissions as the Board may from to time deem necessary for the purposes of this chapter, was eliminated.

Subsec. (a)(8). Pub. L. 90-407 redesignated former subsec. (a)(8) as (a)(6).

Subsec. (a)(9). Pub. L. 90-407 struck out subsec. (a)(9), which authorized the Foundation to initiate and support a program of study, research, and evaluation in the field of weather modification, with particular attention to areas experiencing floods, drought, etc., and to report annually to the President and the Congress thereon.

Subsec. (b). Pub. L. 90-407 redesignated former subsec. (a)(3) as (b), and, as so redesignated, substituted provisions authorizing the Foundation to initiate and support specific scientific activities in matters related to international cooperation or national security for provisions authorizing the Foundation to initiate and support only scientific research activities, only in matters related to national defense and only when requested to do so by the Secretary of Defense, and added provisions specifying the manner of financing such scientific activities. Former subsec. (b) redesignated (e).

Subsec. (c). Pub. L. 90-407 added subsec. (c). Former subsec. (c) redesignated (f).

Subsec. (d). Pub. L. 90-407 redesignated former subsec. (a)(1) as (d), and, as so redesignated, substituted provisions authorizing the Board and the Director to recommend and encourage national policies promoting basic research and education in the sciences for provisions authorizing and directing the Foundation to develop and encourage such policies.

Subsec. (e). Pub. L. 90-407 redesignated former subsec. (b) as (e), and, as so redesignated, substituted "the foregoing subsections" for "subsection (a) of this section", "strengthen research" for "strengthen basic research", and struck out the reference to the territories and possessions of the United States.

Subsec. (f). Pub. L. 90-407 redesignated former subsec. (c) as (f), and, as so redesignated, struck out the provision requiring the report to include the minority views and recommendations if any, of members of the Board.

1959—Subsec. (a)(2). Pub. L. 86-232 clarified the Foundation's authority to support programs to strengthen scientific research potential.

1958—Subsec. (a)(9). Pub. L. 85-510 added subsec. (a)(9).

ESTABLISHMENT OF "SCIENCE FOR CITIZENS PROGRAM" CONDUCTED IN CONJUNCTION WITH "PUBLIC UNDERSTANDING OF SCIENCE PROGRAM"

Section 5 of Pub. L. 94-471 provided that:

"(a) The National Science Foundation is authorized and directed to conduct an experimental 'Science for Citizens Program' and an augmented Public Understanding of Science Program under which funds will be available for pilot projects to:

"(1) improve public understanding of science, engineering and technology and their impact on public policy issues;

"(2) facilitate the participation of experienced scientists and engineers as well as graduate and under-

graduate students in helping the public understand science, engineering and technology and their impact on public policies; and

"(3) assist nationally recognized professional societies and groups serving important public purposes in conducting a limited number of forums, conferences, and workshops to increase public understanding of science and technology, and of their impact on public policy issues, after consideration of the following eligibility factors:

"(A) the extent to which the proposal of the society or group will contribute to the development of facts, issues, and arguments relevant to public policy issues having significant scientific and technical aspects, and

"(B) the ability of the society or group, using its own resources, to conduct such forums, conferences, and workshops.

"(b) One or more review panels shall be established for the purpose of evaluating applications for awards under this section. The membership of each review panel shall have balanced representation from the scientific and nonscientific communities and the public and private sectors.

"(c) No contract, grant or other arrangement shall be made under this Section without the prior approval of the National Science Board.

"(d) To assist the Congress in evaluating activities initiated pursuant to this Section, the Director of the National Science Foundation, in consultation with a review panel having a balanced representation from the scientific and nonscientific community and the public and private sectors, is directed to prepare a comprehensive analysis and assessment of such activities to be submitted to the House Committee on Science and Technology and the Senate Committee on Labor and Public Welfare [now the Committee on Human Resources], not later than October 31, 1977. An interim report is required no later than March 1, 1977."

Development of Program Plan for Continuing Education in Science and Engineering

Section 6 of Pub. L. 94-471 provided that:

"(a) The National Science Foundation shall develop a program plan for continuing education in science and engineering in order to enable scientists and engineers who have been engaged in their careers for at least five years to pursue courses of study designed to—

"(1) provide them with new knowledge, techniques, and skills in their special fields; or

"(2) acquire new knowledge, techniques, and skills in other fields which will enable them to render more valuable contributions to the Nation.

"(b) The program plan developed under this section shall include, but not be limited to—

"(1) the development of special curricula and educational techniques for continuing education in science and technology; and

"(2) the award of fellowships to scientists and engineers to enable them to pursue courses of study which provide continuing education in science and engineering.

"(c) The Foundation is directed to provide the House Committee on Science and Technology and the Senate Committee on Labor and Public Welfare, not later than March 1, 1977, with a detailed report on the program plan developed under this section, including recommendations for its implementation in fiscal year 1978."

Denial of Financial Assistance to Campus Disrupters

Section 7 of Pub. L. 93-96, Aug. 16, 1973, 87 Stat. 316, provided that:

"(a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act [Aug. 16, 1973] and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c). If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

"(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act [Aug. 16, 1973], and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

"(c) The programs referred to in subsections (a) and (b) are as follows:

"(1) The programs authorized by the National Science Foundation Act of 1950 [this chapter]; and

"(2) The programs authorized under title IX of the National Defense Education Act of 1958 [sections 1876 to 1879 of this title] relating to establishing the Science Information Service.

"(d)(1) Nothing in this Act [Pub. L. 93-96], or any Act amended by this Act, shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

"(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

"(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions."

Similar provisions were contained in the following National Science Foundation Authorization Acts:

Pub. L. 92-372, § 7, Aug. 10, 1972, 86 Stat. 527.
Pub. L. 92-86, § 7, Aug. 11, 1971, 85 Stat. 309.
Pub. L. 91-386, § 5, July 24, 1970, 84 Stat. 471.

Continuation of Authorization for Weather Modification Programs; Repeal

Section 11(1) of Pub. L. 90-407 provided in part that the authorization for the programs initiated under former subsec. (a)(9) of this section shall continue in effect until Sept. 1, 1968 for the purposes of section 1872a of this title.

Continuation of Existing Offices, Procedures, and Organization of the National Science Foundation

Section 16 of Pub. L. 90-407 provided that: "Except as otherwise specifically provided therein, the amendments made by this Act [which enacted section 1864a of this title, amended sections 1862 to 1866, 1868 to 1870, 1872 to 1875, and 1877 of this title, sections 5313, 5314, and 5316 of Title 5, Government Organization and Employees, repealed sections 1867 and 1872a of this title, and enacted provisions set out as a note under section 5313 of Title 5] are intended to continue

in effect under the National Science Foundation Act of 1950 [this chapter] the existing offices, procedures, and organization of the National Science Foundation as provided by such Act, [this chapter] part II of Reorganization Plan Numbered 2 of 1962, and Reorganization Plan Numbered 5 of 1965 [set out in Appendix to Title 5]. From and after the date of the enactment of this Act [July 18, 1968], part II of Reorganization Plan Numbered 2 of 1962, and Reorganization Plan Numbered 5 of 1965, shall be of no force or effect; but nothing in this Act shall alter or affect any transfers of functions made by part I of such Reorganization Plan Numbered 2 of 1962."

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Director of the National Science Foundation, see Parts 1, 23, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

INVESTIGATION OF NEED FOR GEOPHYSICAL INSTITUTE IN TERRITORY OF HAWAII

Act Aug. 1, 1956, ch. 865, 70 Stat. 922, directed the National Science Foundation to conduct an investigation into the need for and the feasibility and usefulness of a geophysical institute located in the Territory [now State] of Hawaii. The Foundation was required to report the results of its investigations, together with its recommendations based thereon, to the Congress not later than 9 months after Aug. 1, 1956.

EX. ORD. NO. 10521. ADMINISTRATION OF SCIENTIFIC RESEARCH

Ex. Ord. No. 10521, Mar. 17, 1954, 19 F.R. 1499, as amended by Ex. Ord. No. 10807, § 6(b), Mar. 13, 1959, 24 F.R. 1899, provided:

SECTION 1. The National Science Foundation (hereinafter referred to as the Foundation) shall from time to time recommend to the President policies for the promotion and support of basic research and education in the sciences, including policies with respect to furnishing guidance toward defining the responsibilities of the Federal Government in the conduct and support of basic scientific research.

Sec. 2. The Foundation shall continue to make comprehensive studies and recommendations regarding the Nation's scientific research effort and its resources for scientific activities, including facilities and scientific personnel, and its foreseeable scientific needs, with particular attention to the extent of the Federal Government's activities and the resulting effects upon trained scientific personnel. In making such studies, the Foundation shall make full use of existing sources of information and research facilities within the Federal Government.

Sec. 3. The Foundation, in concert with each Federal agency concerned, shall review the basic scientific research programs and activities of the Federal Government in order, among other purposes, to formulate methods for strengthening the administration of such programs and activities by the responsible agencies, and to study areas of basic research where gaps or undesirable overlapping of support may exist, and shall recommend to the heads of agencies concerning the support given to basic research.

Sec. 4. As now or hereafter authorized or permitted by law, the Foundation shall be increasingly responsible for providing support by the Federal Government for general-purpose basic research through contracts and grants. The conduct and support by other Federal agencies of basic research in areas which are closely related to their missions is recognized as important and desirable, especially in response to current national needs, and shall continue.

Sec. 5. The Foundation, in consultation with educational institutions, the heads of Federal agencies, and the Commissioner of Education of the Department of Health, Education, and Welfare, shall study the effects upon educational institutions of Federal policies and administration of contracts and grants for scientific research and development, and shall recommend policies and procedures which will promote the attainment of general national research objectives and realization of the research needs of Federal agencies while safeguarding the strength and independence of the Nation's institutions of learning.

Sec. 6. The head of each Federal agency engaged in scientific research shall make certain that effective executive, organizational, and fiscal practices exist to ensure (a) that the Foundation is consulted on policies concerning the support of basic research, (b) that approved scientific research programs conducted by the agency are reviewed continuously in order to preserve priorities in research efforts and to adjust programs to meet changing conditions without imposing unnecessary added burdens on budgetary and other resources, (c) that applied research and development shall be undertaken with sufficient consideration of the underlying basic research and such other factors as relative urgency, project costs, and availability of manpower and facilities, and (d) that, subject to considerations of security and applicable law, adequate dissemination shall be made within the Federal Government of reports on the nature and progress of research projects as an aid to the efficiency and economy of the overall Federal scientific research program.

Sec. 7. Federal agencies supporting or engaging in scientific research shall, with the assistance of the Foundation, cooperate in an effort to improve the methods of classification and reporting of scientific research projects and activities, subject to the requirements of security of information.

Sec. 8. To facilitate the efficient use of scientific research equipment and facilities held by Federal agencies:

(a) the head of each such agency engaged in scientific research shall, to the extent practicable, encourage and facilitate the sharing with other Federal agencies of major equipment and facilities; and

(b) a Federal agency shall procure new major equipment or facilities for scientific research purposes only after taking suitable steps to ascertain that the need cannot be met adequately from existing inventories or facilities of its own or of other agencies; and

(c) the Interdepartmental Committee on Scientific Research and Development shall take necessary steps to ensure that each Federal agency engaged directly in scientific research is kept informed of selected major equipment and facilities which could serve the needs of more than one agency. Each Federal agency possessing such equipment and facilities shall maintain appropriate records to assist other agencies in arranging for their joint use or exchange.

Sec. 9. The heads of the respective Federal agencies shall make such reports concerning activities within the purview of this order as may be required by the President.

SEC. 10. The National Science Foundation shall provide leadership in the effective coordination of the scientific information activities of the Federal Government with a view to improving the availability and dissemination of scientific information. Federal agencies shall cooperate with and assist the National Science Foundation in the performance of this function, to the extent permitted by law.

EXECUTIVE ORDER NO. 10807

Ex. Ord. No. 10807, Mar. 13, 1959, 24 F.R. 1897, as amended Ex. Ord. No. 11381, Nov. 8, 1967, 32 F.R. 15629, which established the Federal Council for Science and Technology, provided for a chairman and membership, specified the functions of the Council, provided for assistance from other federal agencies and the establishment of standing committees and panels, revoked Ex. Ord. No. 9912 of Dec. 24, 1947, entitled "Establishing the Interdepartmental Committee on Scientific Research and Development", and amended Ex. Ord. No. 10521, set out as a note under this section, was omitted from the Code in view of Pub. L. 94-282, title IV, § 402, May 11, 1976, 90 Stat. 472, set out

as a note below, which abolished the Federal Council for Science and Technology.

ABOLITION OF FEDERAL COUNCIL FOR SCIENCE AND TECHNOLOGY

Pub. L. 94-282, title IV, § 402, May 11, 1976, 90 Stat. 472 provided that: "The Federal Council for Science and Technology, established pursuant to Executive Order No. 10807, Mar. 13, 1959, 24 F.R. 1897, as amended by Executive Order No. 11381, Nov. 8, 1967, 32 F.R. 15629, is hereby abolished."

FUNCTIONS AS NOT LIMITED

Section 6(c) of Ex. Ord. No. 10827, formerly set out as a note under this section, provided that Ex. Ord. No. 10521 should not limit functions of Federal Council for Science and Technology under Ex. Ord. No. 10827, and that Ex. Ord. No. 10827 should not limit functions of any agency or officer under Ex. Ord. No. 10521.

§ 1863. National Science Board

(a) Composition; appointment; establishment of policies of the Foundation

The Board shall consist of twenty-four members to be appointed by the President, by and with the advice and consent of the Senate, and of the Director ex officio. In addition to any powers and functions otherwise granted to it by this chapter, the Board shall establish the policies of the Foundation, within the framework of applicable national policies as set forth by the President and the Congress.

(b) Executive Committee; delegation of powers and functions

The Board shall have an Executive Committee as provided in section 1865 of this title, and may delegate to it or to the Director or both such of the powers and functions granted to the Board by this chapter as it deems appropriate.

(c) Qualifications for Board membership; recommendations

The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of the basic, medical, or social sciences, engineering, agriculture, education, research management, or public affairs; (2) shall be selected solely on the basis of established records of distinguished service; and (3) shall be so selected as to provide representation of the views of scientific leaders in all areas of the Nation. The President is requested, in the making of nominations of persons for appointment as members, to give due consideration to any recommendations for nomination which may be submitted to him by the National Academy of Sciences, the National Association of State Universities and Land Grant Colleges, the Association of American Universities, the Association of American Colleges, the Association of State Colleges and Universities, or by other scientific or educational organizations.

(d) Term of office; reappointment

The term of office of each member of the Board shall be six years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Any person, other than the Director, who has been a member of the Board for twelve consecutive years shall thereafter be ineligible for appointment during the two-year period following the expiration of such twelfth year.

(e) Meetings; quorum; notice

The Board shall meet annually on the third Monday in May unless, prior to May 10 in any year, the Chairman has set the annual meeting for a day in May other than the third Monday, and at such other times as the Chairman may determine, but he shall also call a meeting whenever one-third of the members so request in writing. A majority of the members of the Board shall constitute a quorum. Each member shall be given notice, by registered mail or certified mail mailed to his last known address of record not less than fifteen days prior to any meeting, of the call of such meeting.

(f) Election of Chairman and Vice Chairman; vacancy

The election of the Chairman and Vice Chairman of the Board shall take place at each annual meeting occurring in an even-numbered year. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Board shall elect a member to fill such vacancy.

(g) Appointment and assignment of staff; compensation; security requirements

The Board may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than five professional staff members and such clerical staff members as may be necessary. Such staff shall be appointed by the Director, after consultation with the chairman of the Board and assigned at the direction of the Board. The professional members of such staff may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and the provisions of chapter 51 of title 5 relating to classification, and compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS-18 of the General Schedule under section 5332 of title 5, as may be necessary to provide for the performance of such duties as may be prescribed by the Board in connection with the exercise of its powers and functions under this chapter. Each appointment under this subsection shall be subject to the same security requirements as those required for personnel of the Foundation appointed under section 1873(a) of this title.

(h) Special commissions

The Board is authorized to establish such special commissions as it may from time to time deem necessary for the purposes of this chapter.

(i) Committees; survey and advisory functions

The Board is also authorized to appoint from among its members such committees as it deems necessary, and to assign to committees so appointed such survey and advisory functions as the Board deems appropriate to assist it in exercising its powers and functions under this chapter.

(May 10, 1950, ch. 171, § 4, 64 Stat. 150; Sept. 8, 1959, Pub. L. 86-232, § 2, 73 Stat. 467; June 11, 1960, Pub. L. 86-507, § 1(36), 74 Stat. 202; July 18, 1968, Pub. L. 90-407, § 2, 82 Stat. 361; Apr.

21, 1976, Pub. L. 94-273, § 11(3), 90 Stat. 378; May 11, 1976, Pub. L. 94-282, title V, § 503, 90 Stat. 473; Oct. 11, 1976, Pub. L. 94-471, § 9, 90 Stat. 2057.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (g), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-471, § 9(a), added reference to the framework of applicable national policies as set forth by the President and the Congress.

Subsec. (g). Pub. L. 94-471, § 9(b), added reference to consultation of the Director with the Chairman of the Board and substituted "GS-18" of "GS-15".

Pub. L. 94-282 redesignated former subsec. (h), and all references thereto, as subsec. (g). Former subsec. (g), concerning the annual report by the National Science Board to the President and Congress, was deleted.

Pub. L. 94-273 substituted "April" for "January".

Subsecs. (h), (i). Pub. L. 94-282 redesignated as subsecs. (h) and (i), former subsecs. (i) and (j), respectively.

Subsec. (j). Pub. L. 94-282 redesignated subsec. (j) as (i).

1968—Subsec. (a). Pub. L. 90-407 substituted provisions which authorized the Board to establish the policies of the Foundation in addition to any powers and functions otherwise granted to it by this chapter, for provisions which authorized the Board, except as otherwise provided by this chapter, to exercise the authority granted to the Foundation by this chapter. Provisions of this subsection, which enumerated the qualifications of persons nominated for appointment to the Board and provided for the specified organizations to make recommendations to the President of individuals qualified for nomination, were designated as subsec. (c).

Subsec. (b). Pub. L. 90-407 added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 90-407 redesignated provisions of former subsec. (a) as (c), and, as so redesignated, added social science and research management to the enumerated fields of eminence, and substituted "the National Association of State Universities and Land Grant Colleges, the Association of American Universities, the Association of American Colleges, the Association of State Colleges and Universities" for "the Association of Land Grant Colleges and Universities, the National Association of State Universities, the Association of American Colleges". Former subsec. (c), which provided that "The President shall call the first meeting of the Board, at which the first order of business shall be the election of a chairman and a vice chairman", was eliminated as executed.

Subsec. (d). Pub. L. 90-407 redesignated former subsec. (b) as (d), and, as so redesignated, substituted "term of office of each member" for "term of office of each voting member", struck out "the terms of office of the members first taking office after May 10, 1950, shall expire, as designated by the President at the time of appointment, eight at the end of two years, eight at the end of four years, and eight at the end of six years, after May 10, 1950", and provided for the exemption of the Director from the prohibition against reappointment within two years following twelve consecutive years of Board membership. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 90-407 redesignated former subsec. (d) as (e), and, as so redesignated, substituted "A majority of the members of the Board shall constitute a quorum" for "A majority of the voting members of the Board shall constitute a quorum". Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 90-407 redesignated former subsec. (e) as (f), and, as so designated, substituted provisions that the election of the Chairman and Vice Chairman take place at each annual meeting occurring in an even-numbered year for provisions that their election take place at the first meeting of the National Science Board following the enactment of Pub. L. 86-232, and that thereafter such election take place at the second annual meeting occurring after each such election.

Subsecs. (g) to (j). Pub. L. 90-407 added subsecs. (g) to (j).

1960—Subsec. (d). Pub. L. 86-507 inserted "or by certified mail" following "registered mail".

1959—Subsec. (d). Pub. L. 86-232 changed the annual meeting of the Board from the first Monday in December to the third Monday or other designated day in May.

Subsec. (e). Pub. L. 86-232 substituted provision for an election of a Chairman and Vice Chairman of the Board at the first meeting of the Board following enactment of Pub. L. 86-232 and at each second annual meeting thereafter in place of provision for election of the first Chairman and Vice Chairman to serve until the first Monday in December next succeeding the date of election and for election of subsequent officers for terms of two years thereafter.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1868, 1873 of this title.

§ 1864. Director of Foundation

(a) Appointment; compensation; term of office

The Director of the Foundation (referred to in this chapter as the "Director") shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as Director, the President shall afford the Board an opportunity to make recommendations to him with respect to such appointment. The Director shall receive basic pay at the rate provided for level II of the Executive Schedule under section 5313 of title 5, and shall serve for a term of six years unless sooner removed by the President.

(b) Exercise of authority of Foundation; actions as final and binding upon the Foundation

Except as otherwise specifically provided in this chapter (1) the Director shall exercise all

of the authority granted to the Foundation by this chapter (including any powers and functions which may be delegated to him by the Board), and (2) all actions taken by the Director pursuant to the provisions of this chapter (or pursuant to the terms of a delegation from the Board) shall be final and binding upon the Foundation.

(c) Delegation and redelegation of functions

The Director may from time to time make such provisions as he deems appropriate authorizing the performance by any other officer, agency, or employee of the Foundation of any of his functions under this chapter, including functions delegated to him by the Board; except that the Director may not redelegate policymaking functions delegated to him by the Board.

(d) Formulation of programs

The formulation of programs in conformance with the policies of the Foundation shall be carried out by the Director in consultation with the Board.

(e) Authority to contract, grant, etc.; limitations and conditions; waiver

The Director shall not make any contract, grant, or other arrangement pursuant to section 1870(c) of this title without the prior approval of the Board, except that a grant, contract, or other arrangement involving a total commitment of less than $2,000,000, or less than $500,000 in any one year, or a commitment of such lesser amount or amounts and subject to such other conditions as the Board in its discretion may from time to time determine to be appropriate and publish in the Federal Register, may be made if such action is taken pursuant to the terms and conditions set forth by the Board, and if each such action is reported to the Board at the Board meeting next following such action.

(f) Status; power to vote and hold office

The Director, in his capacity as ex officio member of the Board, shall, except with respect to compensation and tenure, be coordinate with the other members of the Board. He shall be a voting member of the Board and shall be eligible for election by the Board as Chairman or Vice Chairman of the Board.

(May 10, 1950, ch. 171, § 5, 64 Stat. 151; Sept. 8, 1959, Pub. L. 86-232, § 3, 73 Stat. 467; July 18, 1968, Pub. L. 90-407, § 3, 82 Stat. 362.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-407 added the provision prescribing the annual rate of compensation of the Director, and struck out the provisions authorizing the Director to serve as a nonvoting ex officio member of the Board and as the chief executive officer of the Foundation.

Subsec. (b). Pub. L. 90-407 substituted provisions authorizing the Director, except as otherwise provided, to exercise all of the authority granted to the Foundation by this chapter and to take action final and binding upon the Foundation for provisions authorizing the Director, in addition to the powers and duties specifically vested in him by this chapter, to exercise the powers granted by sections 1869 or 1870(c) of this title and such other powers and duties delegated by the Board to him, and the proviso that no action taken by the Director pursuant to section 1869 or 1870(c) shall be final unless in each instance the Board has reviewed and approved the action proposed to be taken, or such action is taken pursuant to the terms of a delegation of authority from the Board or the Executive Committee to the Director.

Subsecs. (c) to (f). Pub. L. 90-407 added subsecs. (c) to (f).

1959—Subsec. (b). Pub. L. 86-232 provided for delegation of authority from the Board or the Executive Committee to the Director.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-407, insofar as related to rates of basic pay, effective on the first day of the first calendar month which begins on or after July 18, 1968, see section 15(a)(4), set out as an Effective Date of 1968 Amendment note under section 5313 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

Authority of Director of the National Science Foundation, from time to time, to make appropriate provisions authorizing the performance by any other officer, or by any agency or employee, of the National Science Foundation of any of his functions (including functions delegated to him by the National Science Board), see Reorg. Plan No. 5 of 1965, eff. July 27, 1965, 30 F.R. 9355, 79 Stat. 1323, set out in the Appendix to Title 5, Government Organization and Employees.

Office of Director of National Science Foundation established under the provisions of this section abolished and functions transferred to Director of National Science Foundation appointed pursuant to Reorg. Plan No. 2 of 1962, see section 22 (a), (b) of Reorg. Plan No. 2 of 1962, eff. June 8, 1962, 27 F.R. 5419, 76 Stat. 1253, set out as a note under section 1861 of this title.

FEASIBILITY STUDY OF THE OPERATION OF THE PEER REVIEW SYSTEM IN THE EVALUATION OF GRANT PROPOSALS

Pub. L. 94-471, § 2(f), Oct. 11, 1976, 90 Stat. 2053, provided that: "The Director of the National Science Foundation is authorized and directed to conduct a feasibility study of operating the peer review system used in the evaluation of grant proposals within the Foundation so as to assure that the identity of the proposer is not known to the reviewers of the proposal. Any such system shall be considered to supplement and not to supplant the peer review system in operation in the Foundation on the date of enactment of this Act [Oct. 11, 1976]."

SCIENCE FOR CITIZENS PROGRAM; PREPARATION AND SUBMISSION OF PLAN TO COMMITTEES OF CONGRESS

Pub. L. 94-86, § 3, Aug. 9, 1975, 89 Stat. 429, authorized the Director of the National Science Foundation to prepare a comprehensive plan for the establishment and conduct of a "Science for Citizens Program", which program was designed to improve public understanding of public policy issues involving science and technology, to facilitate the participation of experienced scientists and engineers, and graduate and undergraduate students, in public activities aimed at the resolution of public policy issues having significant scientific and technical aspects, to enable nonprofit citizens public interest groups to acquire the necessary technical expertise to assist them in dealing with the scientific and technical aspects of public policy issues and to provide grants, and contracts to academic and other nonprofit organizations to conduct applied research designed to improve the effectiveness of the programs conducted pursuant to this section, which plan was to be submitted to the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate [now the Committee on Human Resources] within six months from Aug. 9, 1975.

PARTICIPATION OF PUBLIC IN CONDUCT OF FOUNDATION PROGRAMS; PREPARATION AND SUBMISSION OF PLAN TO COMMITTEES OF CONGRESS

Pub. L. 94-86, § 4, Aug. 9, 1975, 89 Stat. 430, authorized the Director of the National Science Foundation to prepare a comprehensive plan to facilitate the participation of members of the public in the formulation, development, and conduct of National Science Foundation programs, policies, and priorities and to submit the resulting recommendations, plans, or other findings to the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate [now the Committee on Human Resources] within one hundred and twenty days from Aug. 9, 1975.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

§ 1864a. Deputy Director of the Foundation; Assistant Directors; appointment; compensation; powers and duties

(a) There shall be a Deputy Director of the Foundation (referred to in this chapter as the "Deputy Director"), who shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as Deputy Director, the President shall afford the Board and the Director an opportunity to make recommendations to him with respect to such appointment. The Deputy Director shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, and shall perform such duties and exercise such powers as the Director may prescribe. The Deputy Director shall act for, and exercise the powers of, the Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

(b) There shall be four Assistant Directors of the Foundation (each referred to in this chapter as an "Assistant Director"), who shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as an Assistant Director, the President shall afford the Board and the Director an opportunity to make recommendations to him with respect to such appointment. Each Assistant Director shall receive basic pay at the rate provided for level V of the Executive Schedule under section 5316 of title 5, and shall perform such duties and exercise such powers as the Director may prescribe.

(May 10, 1950, ch. 171, § 6, as added July 18, 1968 Pub. L. 90-407, § 4, 82 Stat. 363.)

EFFECTIVE DATE

Section, insofar as related to rates of basic pay, effective on the first day of the first calendar month which begins on or after July 18, 1968, see section 15(a)(4) of Pub. L. 90-407, set out as an Effective Date of 1968 Amendment note under section 5313 of Title 5, Government Organization and Employees.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

§ 1865. Executive Committee

(a) Composition; powers and function; membership; chairman

There shall be an Executive Committee of the Board (referred to in this chapter as the "Executive Committee"), which shall be composed of five members and shall exercise such powers and functions as may be delegated to it by the Board. Four of the members shall be elected as provided in subsection (b) of this section, and the Director ex officio shall be the fifth member and the chairman of the Executive Committee.

(b) Election to membership; term of office; eligibility for reelection

At each of its annual meetings the Board shall elect two of its members as members of the Executive Committee, and the Executive Committee members so elected shall hold office for two years from the date of their election. Any person, other than the Director, who has been a member of the Executive Committee for six consecutive years shall thereafter be ineligible for service as a member thereof during the two-year period following the expiration of such sixth year. For the purposes of this subsection, the period between any two consecutive annual meetings of the Board shall be deemed to be one year.

(c) Term of vacancy appointment

Any person elected as a member of the Executive Committee to fill a vacancy occuring prior to the expiration of the term for which his predecessor was elected shall be elected for the remainder of such term.

(d) Reports; minority views

The Executive Committee shall render an annual report to the Board, and such other reports as it may deem necessary, summarizing its activities and making such recommendations as it may deem appropriate. Minority views and recommendations, if any, of members of the Executive Committee shall be included in such reports.

(May 10, 1950, ch. 171, § 7, formerly § 6, 64 Stat. 151; Sept. 8, 1959, Pub. L. 86-232, § 4, 73 Stat. 467, renumbered and amended July 18, 1968, Pub. L. 90-407, §§ 4, 5, 82 Stat. 363, 364.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-407, § 5, made mandatory the organization of the Executive Committee, struck out the prohibition that the Board may not assign to the Executive Committee the function of establishing policies, and added the provisions setting forth the number of members, their manner of election, and the status of the Director.

Subsec. (b). Pub. L. 90-407, § 5, substituted provisions that the Board elect two members as members of the Executive Committee at its annual meeting, with the period between any two consecutive annual meetings to be deemed one year, for provisions covering the composition of the Executive Committee, setting forth a special one year term of office for four members first elected after May 10, 1950, and directing that the membership of the Committee represent diverse interests and areas. Provisions of former subsecs. (b)(2)(A) and (b)(5) were redesignated as subsecs. (c) and (d), respectively.

Subsec. (c). Pub. L. 90-407, § 5, redesignated former subsec. (b)(2)(A) as (c), and, as so redesignated substituted "Any person elected as a member of the Execu-

tive Committee" for "any member elected". Former subsec. (c) authorizing the Board to appoint such additional committees as it deems necessary, and to delegate to such committees survey and advisory functions as it deems appropriate, was eliminated.

Subsec. (d). Pub. L. 90-407, § 5, redesignated former subsec. (b)(5) as (d), and, as so redesignated, substituted "The Executive Committee" for "Such Committee".

1959—Subsec. (a). Pub. L. 86-232 eliminated the prohibition against assignment to the Executive Committee of the function of review and approval.

Subsec. (b)(1). Pub. L. 86-232 authorized the Board to have an Executive Committee consisting of from five to nine members rather than the fixed number of nine.

TRANSFER OF FUNCTIONS

Executive Committee of National Science Board appointed under the provisions of this section abolished and functions conferred by this section transferred to Executive Committee of National Science Board established by Reorg. Plan No. 2 of 1962, see sections 21(e) and 23(a)(1) of Reorg. Plan No. 2 of 1962, eff. June 8, 1962, 27 F.R. 5419, 76 Stat. 1253, set out as a note under section 1861 of this title.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1863 of this title.

§ 1866. Divisions within Foundation

There shall be within the Foundation such Divisions as the Director, in consultation with the Board, may from time to time determine.

(May 10, 1950, ch. 171, § 8, formerly § 7, 64 Stat. 152, renumbered and amended July 18, 1968, Pub. L. 90-407, §§ 4, 6, 82 Stat. 363, 364.)

AMENDMENTS

1968—Pub. L. 90-407, § 6, substituted provisions that there be within the Foundation such divisions as the Director, in consultation with the Board, may from time to time determine for provisions that, unless otherwise provided by the Board, there be within the Foundation a Division of Medical Research, a Division of Mathematical, Physical, and Engineering Sciences, a Division of Biological Sciences, a Division of Scientific Personnel and Education, and such other divisions as the Board deems necessary.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

§ 1867. Repealed. Pub. L. 90-407, § 4, July 18, 1968, 82 Stat. 363

Section, act May 10, 1950, ch. 171, § 8, 64 Stat. 152, authorized a committee for each division of the Foundation, and provided for the composition, terms of office, chairmenship, rules of procedure, and powers and duties of each divisional committee.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

§ 1868. Special commissions; composition; chairman and vice chairman; duties

(a) Each special commission established pursuant to section 1863(i) of this title shall consist of eleven members appointed by the Board, six of whom shall be eminent scientists and five of whom shall be persons other than scientists. Each special commission shall choose its own chairman and vice chairman.

(b) It shall be the duty of each such special commission to make a comprehensive survey of research, both public and private, being carried on in its field, and to formulate and recommend to the Foundation at the earliest practicable date an over-all research program in its field.

(May 10, 1950, ch. 171, § 9, 64 Stat. 152; July 18, 1968, Pub. L. 90-407, § 7, 82 Stat. 364.)

REFERENCES IN TEXT

Section 1863(i) of this title, referred to in subsec. (a), probably should read section 1863(h) of this title to reflect the amendment to section 1863 of this title by Pub. L. 94-282, title V, § 503, May 11, 1976, 90 Stat. 473, which redesignated former subsec. (i) of section 1863 of this title, relating to the establishment of special commissions, as subsec. (h) of section 1863 of this title.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-407 substituted "section 1863(i) of this title" for "section 1862(a)(7) of this title".

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

§ 1869. Scholarships and graduate fellowships

The Foundation is authorized to award, within the limits of funds made available specifically for such purpose pursuant to section 1875 of this title, scholarships and graduate fellowships for scientific study or scientific work in the mathematical, physical, medical, biological, engineering, social, and other sciences at appropriate nonprofit American or nonprofit foreign institutions selected by the recipient of such aid, for stated periods of time. Persons shall be selected for such scholarships and fellowships from among citizens or nationals of the United States, and such selections shall be made solely on the basis of ability; but in any case in which two or more applicants for scholarships or fellowships, as the case may be, are deemed by the Foundation to be possessed of substantially equal ability, and there are not sufficient scholarships or fellowships, as the case may be, available to grant one to each of such applicants, the available scholarship or scholarships or fellowship or fellowships shall be awarded to the applicants in such manner as will tend to result in a wide distribution of scholarships and fellowships throughout the United States. Nothing contained in this chapter shall prohibit the Foundation from refusing or revoking a scholarship or fellowship award, in whole or in part, in the case of any applicant

or recipient, if the Board is of the opinion that such award is not in the best interests of the United States.

(May 10, 1950, ch. 171, § 10, 64 Stat. 152; Sept. 8, 1959, Pub. L. 86-232, § 5, 73 Stat. 468; June 29, 1960, Pub. L. 86-550, 74 Stat. 256; Oct. 16, 1962, Pub. L. 87-835, § 2, 76 Stat. 1070; July 18, 1968, Pub. L. 90-407, § 8, 82 Stat. 364.)

AMENDMENTS

1968—Pub. L. 90-407 added social sciences to the enumerated list of sciences, and substituted "throughout the United States" for "among the States, Territories, possessions, and the District of Columbia".

1962—Pub. L. 87-835 authorized the Foundation to refuse or revoke a scholarship or fellowship award if they believe such award is not in the best interests of the United States.

1960—Pub. L. 86-550 authorized the selection of nationals for scholarships and fellowships.

1959—Pub. L. 86-232 substituted "appropriate" for "accredited" and deleted "of higher education" following "foreign institutions".

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1862, 1872, 1874 of this title.

§ 1869a. Contracts for precollege science curriculum development activities; inspection of materials by parent or guardian

After August 9, 1975, the Director of the National Science Foundation, shall require, as a condition of any award made by the National Science Foundation for the purpose of precollege science curriculum development activities, that the awardee, and any subcontractors involved in the distribution, marketing, or selling of such science curricula, shall include in any testing agreement, sales contract, or other comparable legal instrument a provision requiring that all instructional materials, including teacher's manuals, films, tapes, or other supplementary instructional materials developed or provided under such award, subcontract, or other legal instrument, will be made available within the school district using such materials for inspection by parents or guardians of children engaged in educational programs or projects of that school district. In addition, the Director of the National Science Foundation shall take such action as may be necessary and feasible to modify awards made for the purpose of precollege science curriculum development and implementation activities on or before August 9, 1975, to include such a provision in all possible cases.

(Pub. L. 94-86, § 2(b), Aug. 9, 1975, 89 Stat. 428.)

CODIFICATION

Section was not enacted as part of act May 10, 1950, ch. 171, 64 Stat. 149, known as the National Science Foundation Act of 1950, which comprises this chapter.

§ 1870. General authority of Foundation

The Foundation shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this chapter, including, but without being limited thereto, the authority—

(a) to prescribe such rules and regulations as it deems necessary governing the manner of its operations and its organization and personnel;

(b) to make such expenditures as may be necessary for administering the provisions of this chapter;

(c) to enter into contracts or other arrangements, or modifications thereof, for the carrying on, by organizations or individuals in the United States and foreign countries, including other government agencies of the United States and of foreign countries, of such scientific activities as the Foundation deems necessary to carry out the purposes of this chapter, and, at the request of the Secretary of State or Secretary of Defense, specific scientific activities in connection with matters relating to international cooperation or national security, and, when deemed appropriate by the Foundation, such contracts or other arrangements, or modifications thereof may be entered into without legal consideration, without performance or other bonds, and without regard to section 5 of title 41;

(d) to make advance, progress, and other payments which relate to scientific activities without regard to the provisions of section 529 of title 31;

(e) to acquire by purchase, lease, loan, gift, or condemnation, and to hold and dispose of by grant, sale, lease, or loan, real and personal property of all kinds necessary for, or resulting from, the exercise of authority granted by this chapter;

(f) to receive and use funds donated by others, if such funds are donated without restriction other than that they be used in furtherance of one or more of the general purposes of the Foundation;

(g) to publish or arrange for the publication of scientific and technical information so as to further the full dissemination of information of scientific value consistent with the national interest, without regard to the provisions of section 501 of title 44;

(h) to accept and utilize the services of voluntary and uncompensated personnel and to provide transportation and subsistence as authorized by section 5703 of title 5 for persons serving without compensation;

(i) to prescribe, with the approval of the Comptroller General of the United States, the extent to which vouchers for funds expended under contracts for scientific research shall be subject to itemization or substantiation prior to payment, without regard to the limitations of other laws relating to the expenditure of public funds and accounting therefor; and

(j) to arrange with and reimburse the heads of other Federal agencies for the performance of any activity which the Foundation is authorized to conduct.

(May 10, 1950, ch. 171, § 11, 64 Stat. 153; Sept. 8, 1959, Pub. L. 86-232, § 6, 73 Stat. 468; July 18, 1968, Pub. L. 90-407, § 9, 82 Stat. 365.)

CODIFICATION

In subsec. (g), "section 501 of title 44" was substituted for "section 87 of the Act of January 12, 1895 (28 Stat. 622), and section 11 of the Act of March 1, 1919 (40 Stat. 1270; 44 U.S.C., sec. 111)" on authority of section 2(b) of Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1305, section 1 of which enacted Title 44, Public Printing and Documents.

AMENDMENTS

1968—Subsec. (c). Pub. L. 90-407, § 9(a), substituted "scientific activities" for "basic scientific research activities" and "scientific research activities", "international cooperation or national security" for "national defense", and added "Secretary of State" following "at the request of the".

Subsec. (d). Pub. L. 90-407, § 9(b), substituted "activities" for "research".

Subsec. (h). Pub. L. 90-407, § 9(c), substituted "section 5703 of title 5" for "section 5 of the Act of August 2, 1946 (5 U.S.C. 73b-2)".

Subsec. (j). Pub. L. 90-407, § 9(d), added subsec. (j).

1959—Subsec. (e). Pub. L. 86-232 included acquisition of property by condemnation.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1864, 1874 of this title; title 40 section 483.

§ 1871. Patent rights; protection of public interest or equities of individuals or organizations; employees barred

(a) Each contract or other arrangement executed pursuant to this chapter which relates to scientific research shall contain provisions governing the disposition of inventions produced thereunder in a manner calculated to protect the public interest and the equities of the individual or organization with which the contract or other arrangement is executed: *Provided, however,* That nothing in this chapter shall be construed to authorize the Foundation to enter into any contractual or other arrangement inconsistent with any provision of law affecting the issuance or use of patents.

(b) No officer or employee of the Foundation shall acquire, retain, or transfer any rights, under the patent laws of the United States or otherwise, in any invention which he may make or produce in connection with performing his assigned activities and which is directly related to the subject matter thereof: *Provided, however,* That this subsection shall not be construed to prevent any officer or employee of the Foundation from executing any application for patent on any such invention for the purpose of assigning the same to the Government or its nominee in accordance with such rules and regulations as the Director may establish.

(May 10, 1950, ch. 171, § 12, 64 Stat. 154.)

REFERENCES IN TEXT

Patent laws of the United States, referred to in subsec. (b), are classified generally to Title 35, Patents.

§ 1872. International cooperation and coordination with foreign policy

(a) The Foundation is authorized to cooperate in any international scientific activities consistent with the purposes of this chapter and to expend for such international scientific activities such sums within the limit of appropriated funds as the Foundation may deem desirable. The Director may defray the expenses of representatives of Government agencies and other organizations and of individual scientists to accredited international scientific congresses and meetings whenever he deem[1] it necessary in the promotion of the objectives of this chapter. In this connection, with the approval of the Secretary of State, the Foundation may undertake programs granting fellowships to, or making other similar arrangements with, foreign nationals for scientific study or scientific work in the United States without regard to section 1869 of this title or the affidavit of allegiance to the United States required by section 1874(d)(2) of this title.

(b)(1) The authority to enter into contracts or other arrangements with organizations or individuals in foreign countries and with agencies of foreign countries, as provided in section 1870(c) of this title, and the authority to cooperate in international scientific activities as provided in subsection (a) of this section, shall be exercised only with the approval of the Secretary of State, to the end that such authority shall be exercised in such manner as is consistent with the foreign policy objectives of the United States.

(2) If, in the exercise of the authority referred to in paragraph (1) of this subsection, negotiation with foreign countries or agencies thereof becomes necessary, such negotiation shall be carried on by the Secretary of State in consultation with the Director.

(May 10, 1950, ch. 171, § 13, 64 Stat. 154; Sept. 8, 1959, Pub. L. 86-232, § 7, 73 Stat. 468; July 18, 1968, Pub. L. 90-407, § 10, 82 Stat. 365.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-407 struck out ", with the approval of the Board," following "The Director", and substituted "section 15(d)(2) of this Act" for "section 16(d)(2) of this Act", which resulted in no substantive change in the text of the present section, since, for purposes of classification, provision was translated as "section 1874(d)(2) of this title" by prior amendment.

1959—Subsec. (a). Pub. L. 86-232 authorized the Foundation, with approval of the Secretary of State, to cooperate in scientific activities rather than scientific research activities, and to grant fellowships or make other arrangements with foreign nationals for scientific study or scientific work in the United States.

Subsec. (b)(1). Pub. L. 86-232 deleted "research" from the phrase "scientific research activities".

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

[1] So in original. Probably should be "deems".

§ 1872a. Repealed. Pub. L. 90-407, § 11(1), July 18, 1968, 82 Stat. 365

Section, act May 10, 1950, ch. 171, § 14, as added July 11, 1958, Pub. L. 85-510, § 2, 72 Stat. 353, authorized the Foundation, in carrying out a program of study, research, and evaluation in the field of weather modification, to consult with meteorologists and scientists, make contracts and grants, accept gifts, loan property, conduct hearings, and subpoena books and records.

EFFECTIVE DATE OF REPEAL

Section 11(1) of Pub. L. 90-407 provided in part that the repeal of section 14 of the National Science Foundation Act of 1950 [this section] was effective Sept. 1, 1968, and that provisions authorizing the foundation to initiate and support programs in the field of weather modification should remain in effect until Sept. 1, 1968 for purpose of this section.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Repeal by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

§ 1873. Employment of personnel

(a) Appointment; compensation; application of civil service provisions; technical and professional personnel; members of special commissions

The Director shall, in accordance with such policies as the Board shall from time to time prescribe, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter. Except as provided in section 1863(h) of this title, such appointments shall be made and such compensation shall be fixed in accordance with the provisions of title 5 governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates: *Provided*, That the Director may, in accordance with such policies as the Board shall from time to time prescribe, employ such technical and professional personnel and fix their compensation, without regard to such provisions, as he may deem necessary for the discharge of the responsibilities of the Foundation under this chapter. The members of the special commissions shall be appointed without regard to the provisions of title 5 governing appointments in the competitive service.

(b) Outside employment and activities

Neither the Director, the Deputy Director, nor any Assistant Director shall engage in any other business, vocation, or employment while serving in such position; nor shall the Director, the Deputy Director, or any Assistant Director, except with the approval of the Board, hold any office in, or act in any capacity for, any organization, agency, or institution with which the Foundation makes any grant, contract, or other arrangement under this chapter.

(c) Operation of laboratories and pilot plants

The Foundation shall not, itself, operate any laboratories or pilot plants.

(d) Compensation of members of Board and special commissions

The members of the Board and the members of each special commission shall receive compensation at the rate of $100 for each day engaged in the business of the Foundation pursuant to authorization of the Foundation and shall be allowed travel expenses as authorized by section 5703 of title 5.

(e) Federal officers as members of special commissions; compensation

Persons holding other offices in the executive branch of the Federal Government may serve as members of special commissions, but they shall not receive remuneration for their services as such members during any period for which they receive compensation for their services in such other offices.

(f) Utilization of appropriations in making contracts

In making contracts or other arrangements for scientific research, the Foundation shall utilize appropriations available therefor in such manner as will in its discretion best realize the objectives of (1) having the work performed by organizations, agencies, and institutions, or individuals in the United States or foreign countries, including Government agencies of the United States and of foreign countries, qualified by training and experience to achieve the results desired, (2) strengthening the research staff of organizations, particularly nonprofit organizations, in the United States, (3) adding institutions, agencies, or organizations which, if aided, will advance scientific research, and (4) encouraging independent scientific research by individuals.

(g) Transfer of research funds of other Government departments or agencies

Funds available to any department or agency of the Government for scientific or technical research, or the provision of facilities therefor, shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Foundation for such use as is consistent with the purposes for which such funds were provided, and funds so transferred shall be expendable by the Foundation for the purposes for which the transfer was made.

(h) Definition

For purposes of this chapter, the term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

(i) Expiration of authorization

Notwithstanding any other provision of law, the authorization of any appropriation to the Foundation shall expire (unless an earlier expiration is specifically provided) at the close of the second fiscal year following the fiscal year for which the authorization was enacted, to the extent that such appropriation has not theretofore actually been made.

(May 10, 1950, ch. 171, § 14, 64 Stat. 154, renumbered § 15, July 11, 1958, Pub. L. 85-510, § 2, 72 Stat. 353, amended Sept. 8, 1959, Pub. L. 86-232, § 8, 73 Stat. 469, and renumbered § 14, and amended July 18, 1968, Pub. L. 90-407, §§ 11(2), 12, 82 Stat. 365, 366; Nov. 18, 1969, Pub. L. 91-120, § 3, 83 Stat. 203.)

REFERENCES OF TEXT

Section 1863(h) of this title, referred to in subsec. (a), probably should read section 1863(g) of this title

to reflect the amendment to section 1863 of this title by Pub. L. 94-282, title V, § 503, May 11, 1976, 90 Stat. 473, which redesignated former subsec. (h) of section 1863 of this title, relating to the appointment, assignment, compensation, and security requirements of staff, as subsec. (g) of section 1863 of this title.

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (a), is set out under section 5332 of Title 5.

AMENDMENTS

1969—Subsec. (i). Pub. L. 91-120 added subsec. (i).

1968—Subsec. (a). Pub. L. 90-407, § 12, substituted provisions making applicable chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates, for provisions making applicable the civil-service laws and regulations and the Classification Act of 1949, and provisions that the members of special commissions be appointed without regard to the provisions of title 5, governing appointments in the competitive service, for provisions that the Deputy Director, and members of divisional committees and special commissions be appointed without regard to the civil-service laws or regulations. Provisions this subsection, relating to outside employment and activities of certain specified officers of the Foundation, were designated as subsec. (b).

Subsec. (b). Pub. L. 90-407, § 12, redesignated provisions of former subsec. (a) as (b), and, as so redesignated, added Assistant Directors to the specified officers of the Foundation prohibited from engaging in outside employment and activities. Former subsec. (b), providing for the appointment of a Deputy Director, was eliminated.

Subsec. (d). Pub. L. 90-407, § 12, eliminated applicability to members of each divisional committee, and substituted "$100" for "$50" and "section 5703" for "section 73b-2".

Subsec. (e). Pub. L. 90-407, § 12, struck out "the divisional committees and" following "may serve as members of".

Subsec. (f). Pub. L. 90-407, § 12, redesignated former subsec. (g) as (f), and, as so redesignated, in cl. (2) substituted "United States" for "States, Territories, possessions, and the District of Columbia", in cl. (3) substituted "advance scientific research" for "advance basic research", and in cl. (4) substituted "independent scientific research" for "independent basic research". Former subsec. (f), exempting members of the Board, divisional committees, or special commissions form the provisions of former sections 281, 283, or 284 of title 18 or former section 99 of title 5, unless the act made unlawful by the aforementioned former sections directly involved or directly interested the Foundation, was eliminated.

Subsec. (g). Pub. L. 90-407, § 12, redesignated former subsec. (h) as (g), and, as so redesignated, struck out "and, until such time as an appropriation is made available directly to the Foundation, for general administrative expenses of the Foundation without regard to limitations otherwise applicable to such funds" following "the purposes for which the transfer was made". Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 90-407, § 12, added subsec. (h). Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L. 90-407, § 12, struck out subsec. (i), which provided for the transfer of the National Roster of Scientific and Specialized Personnel from the United States Employment Service to the Foundation.

1959—Subsec. (d). Pub. L. 86-232 increased compensation for $25 to $50 per diem.

TRANSFER OF FUNCTIONS

Authority of Director of the National Science Foundation, from time to time, to make appropriate provisions authorizing the performance by any other officer, or by any agency or employee, of the National Science Foundation of any of his functions (including functions delegated to him by the National Science Board), see Reorg. Plan No. 5 of 1965, eff. July 27, 1965, 30 F.R. 9355, 79 Stat. 1323, set out in the Appendix to Title 5, Government Organization and Employees.

EMPLOYMENT OF MINORITIES, WOMEN, AND HANDICAPPED INDIVIDUALS IN EXECUTIVE LEVEL POSITIONS

Pub. L. 94-471, § 7, Oct. 11, 1976, 90 Stat. 2056, provided that:

"(a) The Director of the National Science Foundation shall initiate an intensive search for qualified women, members of minority groups, and handicapped individuals to fill executive level positions in the National Science Foundation. In carrying out the requirement of this subsection, the Director shall work closely with organizations which have been active in seeking greater recognition and utilization of the scientific and technical capabilities of minorities, women, and handicapped individuals. The Director shall improve the representation of minorities, women, and handicapped individuals on advisory committees, review panels, and all other mechanisms by which the scientific community provides assistance to the Foundation. The Director of the National Science Foundation shall report quarterly to the Congress on the status of minorities, women, and handicapped individuals and activities undertaken pursuant to this section.

"(b) Notwithstanding any other provision of this or any other Act, the National Science Foundation shall, with funds available from the program "Minorities, Women, and Handicapped Individuals in Science" conduct experimental forums, conferences, workshops or other activities designed to improve scientific literacy and to encourage and assist minorities, women, and handicapped individuals to undertake and to advance in careers in scientific research and science education.

"(c)(1) In order to promote increased participation by minorities in careers in science and engineering, the National Science Foundation is authorized and directed to make available planning and study grants for programs including, but not limited to, Minority Centers for Graduate Education in Science and Engineering in accordance with this subsection.

"(2) The grants for Minority Centers for Graduate Education shall be used to determine the need for and feasibility of developing Centers to be established at geographically dispersed educational institutions which—

"(A) have substantial minority student enrollment;

"(B) are geographically located near minority population centers;

"(C) demonstrate a commitment to encouraging and assisting minority students, researchers, and faculty;

"(D) have an existing or developing capacity to offer doctoral programs in science and engineering;

"(E) will support basic research and the acquisition of necessary research facilities and equipment;

"(F) will serve as a regional resource in science and engineering for the minority community which the Center is designed to serve; and

"(G) will develop joint educational programs with nearby undergraduate institutions of higher education which have a substantial minority student enrollment.

"(3) The Director, in consultation with groups which have been active in seeking greater recognition of the scientific and technical capabilities of minorities, shall establish criteria for the award of the grants, and shall report to the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare [now the Committee on Human Resources] of the Senate on the results of activities including an evaluation and assessment of the entire program carried out under this subsection, not later than March 1, 1977."

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1862, 1863, 1874 of this title.

§ 1874. Security provisions

(a) Nuclear energy research and development

The Foundation shall not support any research or development activity in the field of nuclear energy, nor shall it exercise any authority pursuant to section 1870(e) of this title in respect to that field, without first having obtained the concurrence of the Atomic Energy Commission that such activity will not adversely affect the common defense and security. To the extent that such activity involves restricted data as defined in the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.] the provisions of that Act regarding the control of the dissemination of restricted data and the security clearance of those individuals to be given access to restricted data shall be applicable. Nothing in this chapter shall supersede or modify any provision of the Atomic Energy Act of 1954.

(b) Research relating to national defense

(1) In the case of scientific or technical research activities under this chapter in connection with matters relating to the national defense, with respect to which funds have been transferred to the Foundation from the Department of Defense in accordance with the provisions of section 1873(g) of this title, the Secretary of Defense shall establish such security requirements and safeguards, including restrictions with respect to access to information and property, as he deems necessary.

(2) In the case of scientific research activities under this chapter in connection with matters relating to the national defense other than research activities referred to in paragraph (1) of this subsection, the Foundation shall establish such security requirements and safeguards, including restrictions with respect to access to information and property, as it deems necessary.

(3) Any agency of the Government exercising investigatory functions is authorized to make such investigations and reports as may be requested by the Foundation in connection with the enforcement of security requirements and safeguards, including restrictions with respect to access to information and property, established under paragraph (1) or (2) of this subsection.

(c) Clearance of personnel by Civil Service Commission

No employee of the Foundation shall be permitted to have access to information or property with respect to which access restrictions have been established under subsection (b)(1) or (2) of this section until the Civil Service Commission shall have made an investigation into the character, associations, and loyalty of such individual and shall have reported the findings of said investigation to the Foundation, and the Foundation shall have determined that permitting such individual to have access to such information or property will not endanger the common defense and security.

(d) Oath and statement prerequisite to acceptance of scholarship or fellowship; ineligibility of Communist organization members; penalties

(1) No part of any funds appropriated or otherwise made available for expenditure by the Foundation under authority of this chapter shall be used to make payments under any scholarship or fellowship awarded to any individual under section 1869 of this title, unless such individual—

(A) has taken and subscribed to an oath or affirmation in the following form: "I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic"; and

(B) has provided the Foundation (in the case of applications made on or after October 1, 1962) with a full statement regarding any crimes of which he has ever been convicted (other than crimes committed before attaining sixteen years of age and minor traffic violations for which a fine of $25 or less was imposed) and regarding any criminal charges punishable by confinement of thirty days or more which may be pending against him at the time of his application for such scholarship or fellowship.

The provisions of section 1001 of title 18 shall be applicable with respect to the oath or affirmation and statement herein required.

(2)(A) When any Communist organization, as defined in section 782(5) of title 50, is registered or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, it shall be unlawful for any member of such organization with knowledge or notice that such organization is so registered or that such order has become final (i) to make application for any scholarship or fellowship which is to be awarded from funds part or all of which are appropriated or otherwise made available for expenditure under the authority of section 1869 of this title, or (ii) to use or attempt to use any such award.

(B) Whoever violates subparagraph (A) of this paragraph shall be fined not more than $10,000, or imprisoned not more than five years, or both.

(May 10, 1950, ch. 171, § 15, 64 Stat. 156; Apr. 5, 1952, ch. 159, § 1, 66 Stat. 43, renumbered § 16, July 11, 1958, Pub. L. 85-510, § 2, 72 Stat. 353, amended Oct. 16, 1962, Pub. L. 87-835, § 1, 76 Stat. 1069, and renumbered § 15, and amended July 18, 1968, Pub. L. 90-407, §§ 11(2), 13, 82 Stat. 365, 366.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (a), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-407, § 13, substituted "1954" for "1946".

Subsec. (b)(1). Pub. L. 90-407, § 13, substituted "section 1873(g) of this title" for section 1873(h) of this title".

1962—Subsec. (d). Pub. L. 87-835 designated existing provisions as par. (1), added the reference to section 1869 of this title, and substituted the requirement, for applications made on or after Oct. 1, 1962, of a full statement regarding convictions for crimes, other than any committed before age 16 or for minor traffic violations, and any criminal charges punishable by thirty days confinement, or more, pending at time of application for scholarship or fellowship, for the requirement of an affidavit stating the affiant did not believe in, and was not a member or supporter of any organization believing in, or teaching, the violent overthrow of the United States Government, or by any illegal means, in such par. (1), and added par. (2).

1952—Subsec. (c). Act Apr. 5, 1952, substituted the "Civil Service Commission" for the "Federal Bureau of Investigation".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

SUBVERSIVE ACTIVITIES CONTROL BOARD

The Subversive Activities Control Board, established by act Sept. 23, 1950, ch. 1024, title I, § 12, 64 Stat. 997, ceased to operate as of June 30, 1973, due to lack of funding.

BASIC SCIENTIFIC RESEARCH; INCREASE IN GOVERNMENT SUPPORT; NATIONAL SCIENCE FOUNDATION

Pub. L. 91-441, title II, § 205, Oct. 7, 1970, 84 Stat. 908, provided that:

"It is the sense of the Congress that—

"(1) an increase in Government support of basic scientific research is necessary to preserve and strengthen the sound technological base essential both to protection of the national security and the solution of unmet domestic needs; and

"(2) a larger share of such support should be provided hereafter through the National Science Foundation."

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1872 of this title; title 5 section 1304.

§ 1875. Appropriations

(a) To enable the Foundation to carry out its powers and duties, there is hereby authorized to be appropriated to the Foundation for the fiscal year ending June 30, 1969, the sum of $525,000,000; but for the fiscal year ending June 30, 1970, and each subsequent fiscal year, only such sums may be appropriated as the Congress may hereafter authorize by law. Sums authorized by this subsection shall be in addition to sums authorized by section 1122(b)(1) of title 33.

(b) Appropriations made pursuant to the authority provided in subsection (a) of this section shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in the Acts making such appropriations.

(May 10, 1950, ch. 171, § 16, 64 Stat. 157; Aug. 8, 1953, ch. 377, 67 Stat. 488, renumbered § 17, July 11, 1958, Pub. L. 85-510, § 2, 72 Stat. 353, and renumbered § 16 and amended July 18, 1968, Pub. L. 90-407, §§ 11(2), (14), 82 Stat. 365, 366.)

CODIFICATION

"Section 1122(b)(1) of title 33", referred to in subsec. (a), read in the original "section 201(b)(1) of the Marine Resources and Engineering Development Act of 1966". Section 201(b)(1) of such act means section 201 of Pub. L. 89-454 as added by Pub. L. 89-688, § 1, Oct. 15, 1966, 80 Stat. 998. Such section 201 was enacted without a subsec. (b)(1) and did not relate to appropriations. Section 203(b)(1) of Pub. L. 89-454 as added by Pub. L. 89-688, § 1, which was classified to section 1122(b)(1) of Title 33, Navigation and Navigable Waters, did relate to appropriations. For purposes of codification therefore, section 201(b)(1) has been translated as section 1122(b)(1) of Title 33 as the probable intent of Congress. Section 1122 of Title 33 was amended by Pub. L. 94-461, § 2, Oct. 8, 1976, 90 Stat. 1962 and now relates to definitions. For provisions relating to appropriations, see section 1131 of Title 33.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-407, § 14, substituted provisions authorizing the appropriation of funds for the fiscal year ending June 30, 1969, June 30, 1970, and each subsequent fiscal year, such sums to be in addition to sums authorized by section 1122(b)(1) of title 33, for provisions authorizing the appropriation of such sums as may be necessary to carry out the provisions of this chapter out of any money in the Treasury not otherwise appropriated.

1953—Subsec. (a). Act Aug. 8, 1953, removed the $15 million limitation on the amount of the annual appropriations.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1869 of this title.

§ 1876. Science Information Service; functions

The National Science Foundation shall establish a Science Information Service. The Foundation, through such Service, shall (1) provide, or arrange for the provision of, indexing, abstracting, translating, and other services leading to a more effective dissemination of scientific information, and (2) undertake programs to develop new or improved methods, including mechanized systems, for making scientific information available.

(Pub. L. 85-864, title IX, § 901, Sept. 2, 1958, 72 Stat. 1601.)

CODIFICATION

Section was not enacted as part of act May 10, 1950, ch. 171, 64 Stat. 149, known as the National Science Foundation Act of 1950, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1877, 1878, 1879 of this title.

§ 1877. Science Information Council

(a) Establishment; membership; elections and appointments; tenure; reappointment

The National Science Foundation shall establish, in the Foundation, a Science Information Council (hereafter in sections 1876 to 1879 of this title referred to as the "Council") consisting of the Librarian of Congress, the director of the National Library of Medicine, the director of the Department of Agriculture library, and the head of the Science Information Service, each of whom shall be ex officio members, and fifteen members appointed by the Director of the National Science Foundation. The Council shall annually elect one of the appointed members to serve as chairman until the next election. Six of the appointed members shall be leaders in the fields of fundamental science, six shall be leaders in the fields of librarianship and scientific documentation, and three shall be outstanding representatives of the lay public who have demonstrated interest in the problems of communication. Each appointed member of such Council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and (2) that of the members first appointed, four shall hold office for a term of three years, four shall hold office for a term of two years, and three shall hold office for a term of one year, as designated by the Director of the National Science Foundation at the time of appointment. No appointed member of the Council shall be eligible for reappointment until a year has elapsed since the end of his preceding term.

(b) Duties and meetings

It shall be the duty of the Council to advise, to consult with, and to make recommendations to, the head of the Science Information Service. The Council shall meet at least twice each year, and at such other times as the majority thereof deems appropriate.

(c) Compensation and allowance for expenses

Persons appointed to the Council shall, while serving on business of the Council, receive compensation at rates fixed by the National Science Foundation, but not to exceed $100 per day, and shall also be entitled to receive an allowance for actual and necessary travel and subsistence expenses while so serving away from their places of residence.

(Pub. L. 85-864, title IX, § 902, Sept. 2, 1958, 72 Stat. 1601; Pub. L. 90-407, § 15(b), July 18, 1968, 82 Stat. 367.)

CODIFICATION

Section was not enacted as part of act May 10, 1950, ch. 171, 64 Stat. 149, known as the National Science Foundation Act of 1950, which comprises this chapter.

AMENDMENTS

1968—Subsec. (c). Pub. L. 90-407 substituted "$100" for "$50".

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407, intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1878, 1879 of this title.

§ 1878. Functions relating to Science Information Service and Council

In carrying out its functions under sections 1876 to 1879 of this title, the National Science Foundation shall have the same power and authority it has under this chapter to carry out its functions under this chapter.

(Pub. L. 85-864, title IX, § 903, Sept. 2, 1958, 72 Stat. 1601.)

CODIFICATION

Section was not enacted as part of act May 10, 1950, ch. 171, 64 Stat. 149, known as the National Science Foundation Act of 1950, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1877, 1879 of this title.

§ 1879. Appropriations for Science Information Service and Council

There are authorized to be appropriated for the fiscal year ending June 30, 1959, and for each succeeding fiscal year, such sums as may be necessary to carry out the provisions of sections 1876 to 1879 of this title.

(Pub. L. 85-864, title IX, § 904, Sept. 2, 1958, 72 Stat. 1602.)

CODIFICATION

Section was not enacted as part of act May 10, 1950, ch. 171, 64 Stat. 149, known as the National Science Foundation Act of 1950, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1877, 1878 of this title.

§ 1880. National Medal of Science

There is established a National Medal of Science (hereinafter referred to as the "medal"), which shall be of such design and materials and bear such inscriptions as the President, on the basis of recommendations submitted by the National Science Foundation, may prescribe, and shall be awarded as provided in section 1881 of this title.

(Pub. L. 86-209, § 1, Aug. 25, 1959, 73 Stat. 431.)

CODIFICATION

Section was not enacted as part of act May 10, 1950, ch. 171, 64 Stat. 149, known as the National Science Foundation Act of 1950, which comprises this chapter.

§ 1881. Award of National Medal of Science

(a) Recommendations

The President shall from time to time award the medal, on the basis of recommendations received from the National Academy of Sciences or on the basis of such other information and evidence as he deems appropriate, to individ-

uals who in his judgment are deserving of special recognition by reason of their outstanding contributions to knowledge in the physical, biological, mathematical, or engineering sciences.

(b) Number

Not more than twenty individuals may be awarded the medal in any one calendar year.

(c) Citizenship

An individual may not be awarded the medal unless at the time such award is made he—

(1) is a citizen or other national of the United States; or

(2) is an alien lawfully admitted to the United States for permanent residence who (A) has filed an application for petition for naturalization in the manner prescribed by section 1445(b) of title 8 and (B) is not permanently ineligible to become a citizen of the United States.

(d) Ceremonies

The presentation of the award shall be made by the President with such ceremonies as he may deem proper, including attendance by appropriate Members of Congress.

(Pub. L. 86-209, § 1, Aug. 25, 1959, 73 Stat. 431.)

CODIFICATION

Section was not enacted as part of act May 10, 1950, ch. 171, 64 Stat. 149, known as the National Science Foundation Act of 1950, which comprises this chapter.

EX. ORD. NO. 11287. AWARD AND PRESENTATION OF NATIONAL MEDAL OF SCIENCE

Ex. Ord. No. 11287, eff. June 28, 1966, 31 F.R. 8995, as amended by Ex. Ord. No. 11502, eff. Dec. 22, 1969, 34 F.R. 20171; Ex. Ord. No. 11734, July 30, 1973, 38 F.R. 20433, provided:

By virtue of the authority vested in me by the Act of August 25, 1959, entitled "An Act To Establish a National Medal of Science To Provide Recognition for Individuals Who Make Outstanding Contributions in the Physical, Biological, Mathematical, and Engineering Sciences," 73 Stat. 431 (hereinafter referred to as the Act) [section 1880 of this title and this section], and as President of the United States, it is ordered as follows:

SECTION 1. AWARD OF MEDAL

(a) The President shall award the National Medal of Science (hereinafter referred to as the Medal) established by the Act, the specifications of which are prescribed by Executive Order No. 10910 of January 17, 1961, as amended, on the basis of recommendations received by him in accordance with the provisions of this Order to individuals who in his judgment are deserving of special recognition by reason of their outstanding contributions to knowledge in the physical, biological, mathematical, or engineering sciences.

(b) The following-described criteria shall govern the award of the Medal—

(1) Not more than twenty individuals shall be awarded the Medal in any one calendar year.

(2) No individual shall be awarded the Medal unless, at the time such award is made, he:

(A) is a citizen or other national of the United States; or

(B) is an alien lawfully admitted to the United States for permanent residence who (i) has filed a petition for naturalization in the manner prescribed by Section 334(b) of the Immigration and Nationality Act [section 1445(b) of Title 8, Aliens and Nationality], and (ii) is not permanently ineligible to become a citizen of the United States.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, the Medal may be awarded posthumously, but only to individuals who, at the time of their death, met the conditions set forth in paragraph (2). The Medal shall not be awarded to any individual after the fifth anniversary of the day of his death.

(c) Each Medal awarded shall be suitably inscribed. Each individual awarded the Medal shall also receive a citation descriptive of the award.

(d) The presentation of the Medal shall be made in accordance with Section 2(d) of the Act.

SEC. 2. THE PRESIDENT'S COMMITTEE

(a) There is hereby established the President's Committee on the National Medal of Science (hereinafter referred to as the Committee), which shall be composed of twelve appointive members and two ex officio members and shall assist the President, as provided in this order, in connection with the carrying out of the Act.

(b) Each appointive member of the Committee shall be appointed by the President from among appropriately qualified citizens of the United States. Except as otherwise provided in subsection (e) of this Section, each such member shall be so appointed for a term of three years or for the balance of the unexpired term of his predecessor, whichever is appropriate. Members may be reappointed to serve one additional term of three years. As nearly as practicable, the appointive members of the Committee shall comprise a cross section of the major fields of science and engineering.

(c) The following shall be ex officio members of the Committee:

(1) The Science Adviser.

(2) The President of the National Academy of Sciences.

(d) The President shall from time to time designate one of the members of the Committee as Chairman thereof.

(e) Of the persons first designated as members of the Committee under the provisions of subsection (b) of this Section, four shall be designated to serve until December 31, 1966, four shall be designated to serve until December 31, 1967, and four shall be designated to serve until December 31, 1968.

SEC. 3. PRELIMINARY PROCEDURE

(a) The Committee shall receive, on behalf of the President, (1) the recommendations made by the National Academy of Sciences respecting the award of the Medal pursuant to the provisions of Section 2(a) of the Act [subsec. (a) of this section], and (2) such similar recommendations as may be made by any other nationally representative scientific or engineering organization or other qualified source. Each such recommendation shall include or be accompanied by such appropriate supporting material as the Committee may from time to time specify.

(b) On the basis of such criteria, information, and evidence as it may deem appropriate, and subject to the provisions of Section 1 of this Order, the Committee shall designate, from among the individuals who are recommended in accordance with Section 3(a) of this Order, those individuals whom the Committee recommends for the award of the Medal and shall transmit the names of those individuals to the President, together with its recommendations. In so transmitting its recommendations, the Committee (1) shall include expressions of its views concerning, and such other information as may be pertinent to, its recommendations, and (2) may arrange the names of all or some of the recommended individuals in a sequence deemed by it to indicate the order of precedence in which the individuals involved deserve to receive the Medal.

(c) Each recommendation respecting the award of the Medal to an individual which is transmitted to the President by the Committee shall be accompanied by a draft of a citation describing the contributions which are being recognized by the award.

SEC. 4. TIME OF AWARDS AND RECOMMENDATIONS

(a) Unless otherwise directed by the President, announcement of the award of the Medal shall be made

during the last sixty days of each calendar year and ceremonies for presentation of the Medal shall be held during the first ninety days of the calendar year following the announcement of the award.

(b) Recommendations for awards of the Medals shall be submitted to the Committee, pursuant to Section 3(a) of this Order, by the first day of July of the year in which it is proposed that they be announced by the President. Recommendations of the Committee shall be delivered to the President by the fifteenth day of October of the year in which it is proposed that they be announced. Awards of the Medal may be based upon recommendations of the Committee or upon such other information and evidence as the President deems appropriate.

SEC. 5. SERVICES AND EXPENSES

(a) The National Science Foundation is authorized to provide such assistance as may be necessary and appropriate to carry out the purposes of this Order.

(b) The members of the Committee shall serve without compensation, but the National Science Foundation is authorized to reimburse them for travel expenses and to pay them per diem in lieu of subsistence as authorized for persons serving without compensation (5 U.S.C. 73b-2) [now covered by section 5703 of Title 5, Government Organization and Employees].

SEC. 6. PRIOR ORDERS

(a) Subject to the provisions of this Order, the President's Committee on the National Medal of Science established by Section 2 of this Order shall be deemed to constitute a continuation of the Committee of the same name established by Executive Order No. 10961 of August 21, 1961. The latter Order is hereby revoked.

(b) Executive Order No. 10910 of January 17, 1961, is hereby amended by deleting from its title the words "AND AWARD", and by deleting the last two sentences of Section 1, and all of Section 2, thereof.

LYNDON B. JOHNSON.

EXTENSION OF TERM OF PRESIDENT'S COMMITTEE ON THE NATIONAL MEDAL OF SCIENCE

Term of the President's Committee on the National Medal of Science extended until Dec. 31, 1978, see Ex. Ord. No. 11948, Dec. 20, 1976, 41 F.R. 55705, set out as a note under section 14 of Appendix to Title 5, Government Organization and Employees.

§ 1881a. Alan T. Waterman Award

(a) Establishment; amount

The National Science Foundation is authorized to establish the Alan T. Waterman Award for research or advanced study in the mathematical, physical, medical, biological, engineering, social, or other sciences. The award authorized by this section shall consist of a suitable medal and a grant not to exceed $50,000 per year for a period not to exceed three years to support further research or study by the recipient.

(b) Purpose

Awards under this section shall be made to recognize and encourage the work of younger scientists whose capabilities and accomplishments show exceptional promise of significant future achievement.

(c) Number

No more than one award shall be made under this section in any one fiscal year.

(Pub. L. 94-86, § 6, Aug. 9, 1975, 89 Stat. 430.)

CODIFICATION

Section was not enacted as part of act May 10, 1950, ch. 171, 64 Stat. 149, known as the National Science Foundation Act of 1950, which comprises this chapter.

§ 1882. Information furnished to Congressional committees

Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation shall keep the Committee on Science and Technology of the House of Representatives and the Committee on Human Resources of the Senate fully and currently informed with respect to all of the activities of the National Science Foundation.

(Pub. L. 94-471, § 11, Oct. 11, 1976, 90 Stat. 2058; S. Res. 4, Feb. 4, 1977.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 94-471, Oct. 11, 1976, 90 Stat. 2053, known as the National Science Foundation Authorization Act, 1977, which, insofar as classified to the Code, enacted sections 1882 and 1883 of this title, amended section 1863 of this title, and enacted provisions set out as notes under sections 1862, 1864, 1873 and 5820 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1861 of this title and Tables volume.

CODIFICATION

Section was not enacted as part of act May 10, 1950, ch. 171, 64 Stat. 149, known as the National Science Foundation Act of 1950, which comprises this chapter.

CHANGE OF NAME

The Committee on Labor and Public Welfare of the Senate, referred to in text, was abolished and replaced by the Committee on Human Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

SIMILAR PROVISIONS

Similar provisions were contained in the following National Science Foundation Authorization Acts:
Pub. L. 94-86, § 11, Aug. 9, 1975, 89 Stat. 431.
Pub. L. 93-413, § 7, Sept. 4, 1974, 88 Stat. 1095.
Pub. L. 93-96, § 9, Aug. 16, 1973, 87 Stat. 317.
Pub. L. 91-120, § 6, Nov. 18, 1969, 83 Stat. 203.

§ 1883. Office of small business research and development

The National Science Foundation is authorized and directed to establish an Office of Small Business Research and Development. The Foundation through the Office of Small Business Research and Development and in cooperation and consultation with the Small Business Administration shall—

(1) foster communication between the National Science Foundation and the small business community, and insure that the set-aside for small business concerns provided under this Act or any other Act authorizing appropriations for the National Science Foundation is fully and effectively utilized;

(2) collect, analyze, compile, and publish information concerning grants and contracts awarded to small business concerns by the Foundation, and the procedures for handling proposals submitted by small business concerns;

(3) assist individual small business concerns in obtaining information regarding programs, policies, and procedures of the Foundation, and assure the expeditious processing of proposals by small business concerns based on scientific and technical merit;

(4) recommend to the Director and to the National Science Board such changes in the procedures and practices of the Foundation as may be required to enable the Foundation to draw fully on the resources of the small business research and development community; and

(5) make quarterly reports to the Congress concerning the activities of the Office of Small Business Research and Development.

(Pub. L. 94-471, § 8, Oct. 11, 1976, 90 Stat. 2057.)

REFERENCES IN TEXT

This Act, referred to in par. (1), is Pub. L. 94-471, Oct. 11, 1976, 90 Stat. 2053, known as the National Science Foundation Authorization Act, 1977, which, insofar as classified to the Code, enacted sections 1882 and 1883 of this title, amended section 1863 of this title, and enacted provisions set out as notes under sections 1862, 1864, 1873, and 5820 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1861 of this title and Tables volume.

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act, 1977, and not as part of act May 10, 1950, ch. 171, 64 Stat. 149, known as the National Science Foundation Act of 1950, which comprises this chapter.

CHAPTER 16A—GRANTS FOR SUPPORT OF SCIENTIFIC RESEARCH

Sec.
1891. Authorization to make grants.
1892. Title to equipment.
1893. Repealed.

§ 1891. Authorization to make grants

The head of each agency of the Federal Government, authorized to enter into contracts for basic scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research, is authorized, where it is deemed to be in furtherance of the objectives of the agency, to make grants to such institutions or organizations for the support of such basic scientific research.

(Pub. L. 85-934, § 1, Sept. 6, 1958, 72 Stat. 1793.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 1623a.

§ 1892. Title to equipment

Authority to make grants or contracts for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research, shall include discretionary authority, where it is deemed to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as the agency deems appropriate, title to equipment purchased with such grant or contract funds.

(Pub. L. 85-934, § 2, Sept. 6, 1958, 72 Stat. 1793.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 1623a.

§ 1893. Repealed. Pub. L. 93-608, § 1(1), Jan. 2, 1975, 88 Stat. 1967

Section, Pub. L. 85-934, § 3, Sept. 6, 1958, 72 Stat. 1793; Pub. L. 94-273, § 2(24), Apr. 21, 1976, 90 Stat. 376, required a report to the appropriate committees of Congress by agencies or departments making grants for basic scientific research under this chapter.

CHAPTER 16B—CONTRACTS FOR SCIENTIFIC AND TECHNOLOGICAL RESEARCH

Sec.
1900. Interior Department programs.
(a) Authorization for research contracts.
(b) Capabilities of prospective contractors; advice and assistance, coordination of research, lines of inquiry, and cooperation.
(c) Research reports or publications.
(d) Limitation; submission to Congress.
1900a. Rules and regulations.
1900b. Amendment, modification, or repeal of authorizations for execution of contracts for research.

§ 1900. Interior Department programs

(a) Authorization for research contracts

The Secretary of the Interior is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or persons for the conduct of scientific or technological research into any aspect of the problems related to the programs of the Department of the Interior which are authorized by statute.

(b) Capabilities of prospective contractors; advice and assistance, coordination of research, lines of inquiry, and cooperation

The Secretary shall require a showing that the institutions, agencies, organizations, or persons with which he expects to enter into contracts pursuant to this section have the capability of doing effective work. He shall furnish such advice and assistance as he believes will best carry out the mission of the Department of the Interior, participate in coordination all research initiated under this section, indicate the lines of inquiry which seem to him most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutions, agencies, organizations, or persons and between them and other research organizations, the United States Department of the Interior, and other Federal agencies.

(c) Research reports or publications

The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he deems desirable on the research carried out pursuant to this section.

(d) Limitation; submission to Congress

No contract involving more than $25,000 shall be executed under subsection (a) of this section prior to thirty calendar days from the date the

same is submitted to the President of the Senate and the Speaker of the House of Representatives and said thirty calendar days shall not include days on which either the Senate or the House of Representatives is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die.

(Pub. L. 89-672, § 1, Oct. 15, 1966, 80 Stat. 951.)

§ 1900a. Rules and regulations

The Secretary shall prescribe such rules and regulations as he deems necessary to carry out the provisions of this chapter.

(Pub. L. 89-672, § 2, Oct. 15, 1966, 80 Stat. 951.)

§ 1900b. Amendment, modification, or repeal of authorizations for execution of contracts for research

Nothing contained in this chapter is intended to amend, modify, or repeal any provisions of law administered by the Secretary of the Interior which authorize the making of contracts for research.

(Pub. L. 89-672, § 3, Oct. 15, 1966, 80 Stat. 951.)

CHAPTER 17—FEDERAL EMPLOYMENT SERVICE

§§ 1901 to 1918. Transferred

CODIFICATION

Section 1901, act June 6, 1933, ch. 49, § 1, 48 Stat. 113, which related to the establishment of United States Employment Service, was transferred to section 49 of Title 29, Labor.

Section 1902, act June 6, 1933, ch. 49, § 2, 48 Stat. 114; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424, which related to the establishment of officers and employees of the Service, was transferred to section 49a of Title 29.

Section 1903, act June 6, 1933, ch. 49, § 3, 48 Stat. 114, which related to the promotion and development of national system of employment offices, was transferred to section 49b of Title 29.

Section 1904, act June 6, 1933, ch. 49, § 4, 48 Stat. 114, which related to the establishment of state agencies, was transferred to section 49c of Title 29.

Section 1905, acts June 6, 1933, ch. 49, § 5, 48 Stat. 114; May 10, 1935, ch. 102, 49 Stat. 216; June 29, 1938, ch. 816, 52 Stat. 1244; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to the authorization of appropriations, was transferred to section 49d of Title 29.

Section 1906, act June 6, 1933, ch. 49, § 6, 48 Stat. 115; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to apportionment among states, was transferred to section 49e of Title 29.

Section 1907, act June 6, 1933, ch. 49, § 7, 48 Stat. 115; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to the ascertainment of amount due to the states and certification thereof to the Secretary of the Treasury, was transferred to section 49f of Title 29.

Section 1908, act June 6, 1933, ch. 49, § 8, 48 Stat. 115; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to the submission of state plans, was transferred to section 49g of Title 29.

Section 1909, act June 6, 1933, ch. 49, § 9, 48 Stat. 116; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to the reports by state agencies, was transferred to section 49h of Title 29.

Section 1910, act June 6, 1933, ch. 49, § 11, 48 Stat. 116; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to the establishment of a Federal Advisory Council, was transferred to section 49j of Title 29.

Section 1911, act June 6, 1933, ch. 49, § 12, 48 Stat. 117; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to the issuance of rules and regulations, was transferred to section 49k of Title 29.

Section 1912, act Aug. 11, 1939, ch. 693, 53 Stat. 1409, which related to the transfer to states of property used by United States Employment Service, was transferred to section 49c-1 of Title 29.

Section 1913, acts July 26, 1946, ch. 672, title I, § 101, 60 Stat. 684; June 16, 1948, ch. 472, title I, § 101, 62 Stat. 446, which related to federal employees employed in state and local employment service and their conditions of service, was transferred to section 49c-2 of Title 29.

Section 1914, act July 26, 1946, ch. 672, title I, § 101, 60 Stat. 685, which related to the refund of contributions to Federal Retirement System, was transferred to section 49c-3 of Title 29.

Section 1915, acts July 26, 1946, ch. 672, title I, § 101, 60 Stat. 685; July 8, 1947, ch. 210, title I, § 101, 61 Stat. 263; June 16, 1948, ch. 472, title I, § 101, 62 Stat. 446, which related to the establishment and maintenance of personnel standards on merit basis, was transferred to section 49c-4 of Title 29.

Section 1916, acts July 26, 1946, ch. 672, title I, § 101, 60 Stat. 686; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; July 8, 1947, ch. 210, title I, § 101, 61 Stat. 263; June 16, 1948, ch. 472, title I, § 101, 62 Stat. 446, which related to the joint budget for grants under this chapter and for certain grants under the Social Security Act, was transferred to section 49c-5 of Title 29.

Section 1917, act June 16, 1948, ch. 472, title I, § 101, 62 Stat. 445, which related to the payment to states for administrative expenses, was transferred to section 49m of Title 29.

Section 1918, act June 16, 1948, ch. 472, title I, § 101, 62 Stat. 445, which related to personnel standards, was transferred to section 49n of Title 29.

CHAPTER 18—YOUTH MEDALS

Sec.
1921. Establishment of medals for bravery; rules and regulations, conditions governing awards.
1922. Establishment of medals for character and service; condition governing awards.
1923. Names of medals; presentation.
1924. Certificate of commendation accompanying awards; limitation on number of yearly awards.
1925. Report to Congress.
1926. Authorization of appropriations.

§ 1921. Establishment of medals for bravery; rules and regulations; conditions governing awards

The Department of justice be, and it is, authorized and directed to promulgate rules and regulations establishing a medal; the method of selecting such recipient thereof so that an award shall be made to any child residing in the United States, who is eighteen years old or under, who has exhibited exceptional courage, extraordinary decision, presence of mind, and unusual swiftness of action, regardless of his or her own personal safety, in an effort to save or

successfully saving the life or lives of any person or persons whose life or lives were in actual imminent danger.

(Aug. 3, 1950, ch. 520, § 1, 64 Stat. 397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1923 of this title.

§ 1922. Establishment of medals for character and service; condition governing awards

The Department of Justice shall also honor by an appropriate medal such American boy or girl citizens, eighteen years old or under, who, in the opinion of the said Department of Justice, shall have achieved outstanding or unusual recognition for character and service during any given year.

(Aug. 3, 1950, ch. 520, § 2, 64 Stat. 397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1923 of this title.

§ 1923. Names of medals; presentation

The medal to be awarded for bravery or valor as defined in section 1921 of this title shall be known as the Young American Medal for Bravery, while the medal for outstanding character and service as defined in section 1922 of this title shall be known as the Young American Medal for Service, and such medals shall be presented personally by the President of the United States for and on behalf, and in the name of the President and the Congress of the United States of America.

(Aug. 3, 1950, ch. 520, § 3, 64 Stat. 398.)

§ 1924. Certificate of commendation accompanying awards; limitation on number of yearly awards

Accompanying such medals designated in this chapter there shall be an appropriate certificate of commendation presented to the recipient or recipients stating (a) the circumstances under which the act of bravery was performed, and (b) citing the outstanding recognition for character and service: *Provided*, That there shall not be awarded in any one calendar year in excess of four such medals, to wit, two for bravery and two for character and service, as herein authorized.

(Aug. 3, 1950, ch. 520, § 4, 64 Stat. 398.)

§ 1925. Report to Congress

It shall be the duty of the Department of Justice to make a report to the Congress at the end of each fiscal year and to furnish the Congress with a list of the names of all those upon whom the President shall have conferred either of such medals.

(Aug. 3, 1950, ch. 520, § 5, 64 Stat. 398.)

§ 1926. Authorization of appropriations

It shall also be the duty of the Department of Justice to list in its annual budget request the sum of money necessary to carry out the provisions of this chapter, which sum is authorized in a sum not to exceed $5,000 per annum.

(Aug. 3, 1950, ch. 520, § 6, 64 Stat. 398.)

CHAPTER 19—SALINE AND SALT WATERS

SUBCHAPTER I—SALINE WATER RESEARCH PROGRAM

Sec.
1951 to 1958. Repealed.

SUBCHAPTER II—SALINE WATER DEMONSTRATION PROGRAM

1958a to 1958g. Omitted.

SUBCHAPTER III—SALINE WATER CONVERSION PROGRAM

1959. Congressional findings and policy on conversion of saline water.
1959a. Duties of Secretary of the Interior.
(a) Research and studies of development of processes and equipment for converting saline water.
(b) Publication of findings from research and studies for application to other than water treatment matters.
(c) Engineering and technical work for development of desalting processes and plant design concepts for scaled demonstrations.
(d) Methods for recovery and marketing of byproducts as offsets against treatment costs; reduction of impact on environment from discharge of brine into waters.
(e) Economic studies and surveys on water production costs; information concerning relation of desalting to other aspects of comprehensive water resource planning: coordination of studies and water resources planning.
1959b. Additional duties of Secretary of the Interior.
(a) Prototype plants; preliminary investigations.
(b) Report to Congress; recommendations respecting construction of large-scale prototype desalting plant; criteria.
(c) Federal agencies; assistance.
(d) State and other public agencies; assistance.
1959c. Powers of Secretary of the Interior.
1959d. Saline water conversion program and other Federal programs.
(a) Coordination or joint conduct of activities with Department of Defense.
(b) Cooperation with Environmental Protection Agency.
(c) Cooperation with other Federal agencies.
(d) Research information and developments: availability to public; patent rights; rules and revisions of rules: publication in Federal Register.
(e) Disposal of water and byproducts; disposition of moneys.
(f) Alteration of existing water ownership and control law.
1959e. Rules and regulations.
1959f. Report to President and Congress.
1959g. Definitions.
1959h. Authorization of appropriations.
(a) Availability of moneys for various expenses; increases and decreases in expenditures and obligations.
(b) Annual appropriation authorization; availability of moneys for execution of provisions, for grants, contracts, cooperative agreements, and studies, and for correlation of results of studies and research.
(c) Foreign research; availability of funds.

SUBCHAPTER I—SALINE WATER DEVELOPMENT PROGRAM

§§ 1951 to 1958. Repealed. Pub. L. 92-60, § 11, July 29, 1971, 85 Stat. 163

Section 1951, acts July 3, 1952, ch. 568, § 1, 66 Stat. 328; Sept. 22, 1961, Pub. L. 87-295, § 1, 75 Stat. 628, stated Congressional policy on conversion of sea and saline waters and defined "saline water" and "United States" and is now covered by sections 1959 and 1959g(b) and (d) of this title.

Section 1952, acts July 3, 1952, ch. 568, § 2, 66 Stat. 328; June 29, 1955, ch. 227, § 1(1), 69 Stat. 198; Sept. 22, 1961, Pub. L. 87-295, § 1, 75 Stat. 628; Aug. 11, 1965, Pub. L. 89-118, § 1(1), 79 Stat. 509; June 24, 1967, Pub. L. 90-30, § 1(b) to (d), 81 Stat. 78, prescribed duties of Secretary of Interior relating to (a) research and studies for development of processes and methods for converting saline water; (b) research and technical development work for developing processes and plant designs; reports to Congress; and treatment of demonstration projects as test beds; (c) recommendations to Congress for prototype plant; (d) methods for recovery and marketing of byproducts; and (e) economic studies and surveys on water production costs and is now covered by sections 1959a and 1959b(b) of this title.

Section 1953, acts July 3, 1952, ch. 568, § 3, 66 Stat. 329; June 29, 1955, ch. 227, § 1(2), 69 Stat. 198; Sept. 22, 1961, Pub. L. 87-295, § 1, 75 Stat. 628, provided for powers of Secretary of Interior and is now covered by section 1959c of this title.

Section 1954, acts July 3, 1952, ch. 568, § 4, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87-295, § 1, 75 Stat. 629, provided for coordination or joint conduct of activities with Department of Defense; cooperation with other Federal agencies; and availability to public of resulting information and developments and is now covered by section 1959d of this title.

Section 1955, acts July 3, 1952, ch. 568, § 5, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87-295, § 1, 75 Stat. 629, related to disposal of water and byproducts, disposition of moneys and alteration of existing law and is now covered by section 1959d(e) and (f) of this title.

Section 1956, acts July 3, 1952, ch. 568, § 6, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87-295, § 1, 75 Stat. 629, provided for reports to President and Congress and is now covered by section 1959f of this title.

Section 1957, acts July 3, 1952, ch. 568, § 7, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87-295, § 1, 75 Stat. 629, authorized issuance of rules and regulations and is now covered by section 1959e of this title.

Section 1958, acts July 3, 1952, ch. 568, § 8, 66 Stat. 329; June 29, 1955, ch. 227, § 1(3), 69 Stat. 198; Sept. 22, 1961, Pub. L. 87-295, § 1, 75 Stat. 629; Aug. 11, 1965, Pub. L. 89-118, § 1(2), 79 Stat. 509; June 24, 1967, Pub. L. 90-30, § 1(a), 81 Stat. 78; Apr. 29, 1968, Pub. L. 90-297, § 1, 82 Stat. 110, authorized appropriations and is now covered by section 1959h of this title.

SUBCHAPTER II—SALINE WATER DEMONSTRATION PROGRAM

§§ 1958a to 1958g. Omitted

Section 1958a, Pub. L. 85-883, § 1, Sept. 2, 1958, 72 Stat. 1706, which related to demonstration plants for production of consumptive water from saline water, was omitted pursuant to section 1958d of this title.

Section 1958b, Pub. L. 85-883, § 2, Sept. 2, 1958, 72 Stat. 1707, which related to contracts for construction, operation, and maintenance of demonstration plants, was omitted pursuant to section 1958d of this title.

Section 1958c, Pub. L. 85-883, § 3, Sept. 2, 1958, 72 Stat. 1707, which related to acceptance of assistance from state and public agencies, and contracts for such assistance and its use, was omitted pursuant to section 1958d of this title.

Section 1958d, Pub. L. 85-883, § 4, Sept. 2, 1958, 72 Stat. 1707; Pub. L. 87-295, § 2, Sept. 22, 1961, 75 Stat. 630, which provided for termination of authority of the Secretary to construct, operate, and maintain demonstration plants upon the expiration of twelve years after Sept. 2, 1958, was omitted as executed.

Section 1958e, Pub. L. 85-883, § 5, Sept. 2, 1958, 72 Stat. 1708, which related to additional powers of the Secretary, was omitted pursuant to section 1958d of this title.

Section 1958f, Pub. L. 85-883, § 6, Sept. 2, 1958, 72 Stat. 1708, which related to contracts for construction, materials, and supplies, was omitted pursuant to section 1958d of this title.

Section 1958g, Pub. L. 85-883, § 7, Sept. 2, 1958, 72 Stat. 1708, which related to authorization of appropriations, was omitted pursuant to section 1958d of this title.

SUBCHAPTER III—SALINE WATER CONVERSION PROGRAM

§ 1959. Congressional findings and policy on conversion of saline water

The Congress in consideration of the Federal responsibility for water resource conservation by means of comprehensive planning, planning and construction of water resource development projects, administration of the navigable waterways, and maintenance of water quality standards finds that the technology for the conversion of saline and other chemically contaminated waters is vital to all these areas of responsibility. It is the policy of the Congress, therefore, to provide for the development and demonstration of practicable means to convert saline and other chemically contaminated water to a quality suitable for municipal, industrial, agricultural, and other beneficial uses.

(Pub. L. 92-60, § 2, July 29, 1971, 85 Stat. 159.)

SHORT TITLE

Section 1 of Pub. L. 92-60 provided: "That this Act [which enacted this subchapter and repealed subchapter I of this chapter] may be cited as 'The Saline Water Conversion Act of 1971'."

§ 1959a. Duties of Secretary of the Interior

The Secretary of the Interior is authorized and directed to—

(a) Research and studies for development of processes and equipment for converting saline water

conduct, encourage, and promote basic scientific research and fundamental studies to develop effective and economical processes and equipment for the purpose of converting saline and other chemically contaminated water into water suitable for beneficial consumptive uses;

(b) Publication of findings from research and studies for application to other than water treatment matters

pursue the findings of research and studies authorized by this subchapter having potential practical applications to matters other than water treatment to the stage that such findings can be published in an effective form for utilization by others;

(c) Engineering and technical work for development of desalting processes and plant design concepts for scaled demonstrations

conduct engineering and technical work including the design, construction, and testing

of pilot plants, test beds, and modules to develop desalting processes and plant design concepts to the point of demonstration on a practical scale;

(d) Methods for recovery and marketing of byproducts as offsets against treatment costs; reduction of impact on environment from discharge of brine into waters

study methods for the recovery and marketing of byproducts resulting from the desalination of water to offset the costs of treatment and to reduce impact on the environment from the discharge of brines into lakes, streams, and other waters; and

(e) Economic studies and surveys on water production costs; information concerning relation of desalting to other aspects of comprehensive water resource planning: coordination of studies and water resource planning

undertake economic studies and surveys to determine present and prospective costs of producing water for beneficial consumptive purposes in various parts of the United States by the saline water processes as compared with other standard methods, and by means of mathematical models or other methodologies prepare and maintain information concerning the relation of desalting to other aspects of State, regional, and national comprehensive water resource planning: *Provided*, That in carrying out this function, the Secretary shall coordinate these studies with planning being performed under the provisions of the Water Resources Planning Act (79 Stat. 244), as amended [42 U.S.C. 1962 et seq.].

(Pub. L. 92-60, § 3, July 29, 1971, 85 Stat. 159.)

REFERENCES IN TEXT

The Water Resources Planning Act, as amended, referred to in subsec. (e), is Pub. L. 89-80, July 22, 1965, 79 Stat. 244, as amended, which is classified generally to chapter 19B (§ 1962 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1962 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1959f of this title.

§ 1959b. Additional duties of Secretary of the Interior

(a) Prototype plants; preliminary investigations

The Secretary is authorized and directed to conduct preliminary investigations and to explore potential cooperative agreements with non-Federal utilities and governmental entities in order to develop recommendations for Federal participation in the construction, operation, and maintenance of prototype plants utilizing desalting technologies for the production of water for consumptive use.

(b) Report to Congress; recommendations respecting construction of large-scale prototype desalting plant; criteria

The Secretary is authorized and directed to report to the President and to the Congress, not later than one year after July 29, 1971, his recommendation as to the best opportunity for the early construction of a large-scale prototype desalting plant. In making his recommendation, the Secretary shall consider the following—

(i) plant size and process type best suited, within the presently available technology, to demonstrate the practicability of construction and operation of a large-scale plant for water supply on a reliable basis, and to provide information on the management problems and economics of such operation;

(ii) availability of operating entities or utilities willing to enter, and capable of entering, into agreements and contracts to provide a market for water and an operating agency for the plants;

(iii) availability of entities or utilities willing to enter, and capable of entering, into agreements and contracts to provide an energy source for the plants;

(iv) availability of a site, the environmental implications of the energy source, and brine disposal problems; and

(v) need for the development of new water sources in the area.

(c) Federal agencies; assistance

In carrying out the provisions of this section, the Secretary shall utilize the expertise of the water and power marketing agencies of the Department of the Interior or of other Federal agencies to insure that the recommended prototype plant and the supporting agreements are fully integrated and compatible with the water and power systems of the region.

(d) State and other public agencies; assistance

The Secretary is authorized to accept financial and other assistance from any State or public agency in connection with studies or surveys relating to saline water conversion problems and facilities and to enter into contracts with respect to such assistance.

(Pub. L. 92-60, § 4, July 29, 1971, 85 Stat. 160.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1959f of this title.

§ 1959c. Powers of Secretary of the Interior

In carrying out his functions under this subchapter, the Secretary may—

(a) make grants to educational institutions and scientific organizations, and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of chemists, physicists, engineers, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal scientific laboratories;

(d) establish and operate necessary facilities and test sites to carry on the continuous research, testing, development, and programing necessary to effectuate the purposes of this subchapter;

(e) acquire secret processes, technical data, inventions, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation;

(f) assemble and maintain pertinent and current scientific literature, both domestic and foreign, and issue bibliographical data with respect thereto;

(g) cause on-site inspections to be made of promising projects, domestic and foreign, and, in the case of projects located in the United States, cooperate and participate in their development when the purposes of this subchapter will be served thereby;

(h) foster and participate in regional, national, and international conferences relating to saline water conversion;

(i) coordinate, correlate, and publish information with a view to advancing the development of low-cost saline water conversion projects; and

(j) cooperate with other Federal departments and agencies, with State and local departments, agencies and instrumentalities, and with interested persons, firms, institutions, and organizations.

(Pub. L. 92-60, § 5, July 29, 1971, 85 Stat. 160.)

§ 1959d. Saline water conversion program and other Federal programs

(a) Coordination or joint conduct of activities with Department of Defense

Research and development activities undertaken by the Secretary shall be coordinated or conducted jointly with the Department of Defense to the end that developments under this subchapter which are primarily of a civil nature will contribute to the defense of the Nation and that developments which are primarily of a military nature will, to the greatest practicable extent compatible with military and security requirements, be available to advance the purposes of this subchapter and to strengthen the civil economy of the Nation.

(b) Cooperation with Environmental Protection Agency

The Secretary will cooperate with the Administrator of the Environmental Protection Agency to insure that research and development work performed under this subchapter makes the fullest possible contribution to the improvement of processes and techniques for the treatment of saline and other chemically contaminated waters and to avoid the duplication of the experience, expertise, and data regarding desalting technologies which have been acquired in the performance of the Saline Water Conversion Act [42 U.S.C. 1951 et seq.].

(c) Cooperation with other Federal agencies

The Secretary shall cooperate fully with the Atomic Energy Commission, the Department of Health, Education, and Welfare, the Department of State, and other concerned agencies in the interest of achieving the objectives of this subchapter.

(d) Research information and developments: availability to public; patent rights; rules and revisions of rules: publication in Federal Register

All research within the United States contracted for, sponsored, cosponsored, or authorized under authority of this subchapter, shall be provided for in such manner that all information, uses, products, processes, patents, and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be available to the general public. This subsection shall not be so construed as to deprive the owner of any background patent relating thereto of such rights as he may have thereunder. Within six months of July 29, 1971, the Secretary shall publish rules in the Federal Register to give effect to the provisions of this subsection and shall subsequently publish all revisions in the same manner.

(e) Disposal of water and byproducts; disposition of moneys

The Secretary may dispose of water and byproducts resulting from his operations under this subchapter. All moneys received from dispositions under this section shall be paid into the Treasury as miscellaneous receipts except where such operations may be undertaken as a part of a Federal reclamation project in which case the financial provisions of Reclamation Law (32 Stat. 388 and Acts amendatory thereof and supplementary thereto) will govern.

(f) Alteration of existing water ownership and control law

Nothing in this subchapter shall be construed to alter existing law with respect to the ownership and control of water.

(Pub. L. 92-60, § 6, July 29, 1971, 85 Stat. 161.)

REFERENCES IN TEXT

Saline Water Conversion Act, referred to in subsec. (b), is act July 3, 1952, ch. 568, 66 Stat. 328, which was classified generally to subchapter I (§ 1951 et seq.) of this chapter. Such Act was repealed by Pub. L. 92-60, § 11, July 29, 1971, 85 Stat. 163 and is not covered by section 1959 et seq. of this title. For complete classification of this Act to the Code, see Tables volume.

The Reclamation Law appearing at 32 Stat. 388, referred to in subsec. (e), act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, popularly known as the Reclamation Act, which is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables volume.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See now section 5814 of this title.

INVENTIONS—DEFINITION, TITLE, AND LICENSING

Pub. L. 94-316, § 3, June 22, 1976, 90 Stat. 694, provided that: "Relative to the definition of, title to, and licensing of inventions made or conceived in the course of or under any contract or grant pursuant to the Water Resources Research Act of 1964 (42 U.S.C. 1961) or the Saline Water Conversion Act of 1971 (42 U.S.C. 1959), and notwithstanding any other provision of law, the Secretary shall be governed by the provisions of sections 9 and 10 of the Federal Non-nuclear Energy, Research, and Development Act of 1974 (42 U.S.C. 5908): *Provided, however,* That subsections (*l*) and (n) of said section 9 of said Act [subsecs. (*l*) and (n) of section 5908 of this title] shall not apply to this Act."

§ 1959e. Rules and regulations

The Secretary of the Interior may issue rules and regulations to effectuate the purposes of this subchapter.

(Pub. L. 92-60, § 7, July 29, 1971, 85 Stat. 162.)

§ 1959f. Report to the President and Congress

The Secretary shall submit to the President and to the Congress not later than December 31, 1975, a report on—

(i) the status of research and development work in progress under the provisions of section 1959a(a), (b), (c), and (d) of this title, along with a program for the orderly termination of these activities in accordance with section 1959h(b) of this title; and

(ii) the status of work in progress under the provisions of section 1959a(e) and section 1959b of this title along with the recommendations for the integration of these remaining functions within the on-going water resource programs of the Department of the Interior.

(Pub. L. 92-60, § 8, July 29, 1971, 85 Stat. 162.)

§ 1959g. Definitions

As used in this subchapter—

(a) the term "Secretary" means the Secretary of the Interior;

(b) the term "saline water" includes sea water, brackish water, mineralized ground or surface water, and irrigation return flows;

(c) the term "other chemically contaminated water" refers to waters which contain chemicals susceptible to removal of desalting processes;

(d) the term "United States" extends to and includes the District of Columbia, the Commonwealth of Puerto Rico, territories of American Samoa, Guam, and the Virgin Islands; and the provisions of this subchapter shall also apply to the Trust Territory of the Pacific Islands;

(e) the term "pilot plant" means an experimental unit of small size, usually less than one hundred thousand gallons per day capacity, used for early evaluation and development of new or improved processes and to obtain technical and engineering data;

(f) the term "test bed" means an intermediate-sized, experimental desalting plant of up to two million gallons per day capacity used for further evaluation and refinement of processes in the field and designed to facilitate the incorporation of experimental features for performance testing and to permit process changes and improvements as required;

(g) the term "module" means a section or integral portion of a desalting plant which is used initially to study large-scale technology and critical design features in preparation for subsequent prototype construction;

(h) the term "prototype" means a full-size, first-of-a-kind production plant used for development, study, and demonstration of full-sized technology, plant operation, and process economics.

(Pub. L. 92-60, § 9, July 29, 1971, 85 Stat. 162.)

§ 1959h. Authorization of appropriations

(a) Availability of moneys for various expenses; increases and decreases in expenditures and obligations

There is authorized to be appropriated to carry out the provisions of this subchapter during fiscal year 1972, the sum of $27,025,000, to remain available until expended, as follows:

(1) Research expense, not more than $5,475,000;

(2) Development expense, not more than $10,200,000;

(3) Design, construction, acquisition, modification, operation, and maintenance of saline water conversion test beds and test facilities, not more than $7,385,000;

(4) Design, construction, acquisition, modification, operation, and maintenance of saline water conversion modules, not more than $1,425,000; and

(5) Administration and coordination not more than $2,540,000.

Expenditures and obligations under paragraphs (1), (2), (3), and (4) of this subsection may be increased by not more than 10 per centum, and expenditures and obligations under paragraph (5) may be increased by not more than 2 per centum, if any such increase under any paragraph is accompanied by an equal decrease in expenditures and obligations under one or more of the other paragraphs.

(b) Annual appropriation authorization; availability of moneys for execution of provisions, for grants, contracts, cooperative agreements, and studies, and for correlation of results of studies and research

There are authorized to be appropriated such sums, to remain available until expended, as may be specified in annual appropriation authorization Acts to carry out the provisions of this subchapter during the fiscal years 1973 to 1977, inclusive, and to finance, for not more than three years beyond the end of said period, such grants, contracts, cooperative agreements, and studies as may theretofore have been undertaken pursuant to this subchapter and such activities as are required to correlate, coordinate, and round out the results of studies and research undertaken pursuant to this subchapter.

(c) Foreign research; availability of funds

Not more than 2 per centum of the funds to be made available in any fiscal year for research under the authority of this subchapter may be expended, subject to the approval of the Secretary of State to assure that such activities are consistent with the foreign policy objectives of the United States, in cooperation with public or private agencies in foreign countries for research useful to the program in the United States.

(Pub. L. 92-60, § 10, July 29, 1971, 85 Stat. 162.)

ANNUAL AUTHORIZATION OF APPROPRIATIONS

Annual authorization of appropriations for the saline water conversion program for fiscal years authorized by subsec. (b) of this section were contained in the following appropriations Acts:

Pub. L. 94-316, § 1, June 22, 1976, 90 Stat. 694.
Pub. L. 94-38, June 19, 1975, 89 Stat. 217.
Pub. L. 93-342, July 10, 1974, 88 Stat. 295.

Pub. L. 93-51, July 1, 1973, 87 Stat. 129.
Pub. L. 92-273, Apr. 17, 1972, 86 Stat. 122.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1959f of this title.

CHAPTER 19A—WATER RESOURCES RESEARCH PROGRAM

GENERAL PROVISIONS

Sec.
1961. Declaration of purpose.

SUBCHAPTER I—STATE WATER RESOURCES RESEARCH INSTITUTES

1961a. Water resources research institutes.
(a) Appropriations; establishment; number; designation of institution; interstate or regional institutes; participation of educational institutions in institute work.
(b) Duties of institutes; scope of activities.
1961a-1. Specific water resources research projects, including regional projects.
(a) Appropriations; matching funds.
(b) Applications for grants; contents; approval of projects; basis of grants.
1961a-2. Payments to institutes; time; amount; vouchers; accounting officers; reports to Secretary of the Interior; State replacement of diminished, lost, or misapplied funds.
1961a-3. Funds for printing and publishing results of research, etc., administrative planning and direction, and planning, coordinating, and conducting cooperative research.
1961a-4. Powers and duties of Secretary of the Interior; administration; rules and regulations; other responsibilities.
1961a-5. Legal relationship of educational institution and State government; Federal control or direction of education.

SUBCHAPTER II—ADDITIONAL WATER RESOURCES RESEARCH PROGRAMS

1961b. Research into water problems related to the mission of the Department of the Interior.
(a) Authorization of appropriations
(b) Repealed.
(c) Annual report to the President and Congress.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

1961c. Cooperation of Federal, State, and private agencies; availability of information.
1961c-1. Authority of Secretary of the Interior over water resources research of other Federal agencies; existing authorities and responsibilities of Federal agencies unaffected.
1961c-2. Advance payments of initial expenses.
1961c-3. Availability to public of resulting information and developments a condition for expenditure of funds for scientific or technological research or development activity; background patent owners' rights.
1961c-4. Cataloging center.
1961c-5. Interagency coordination of water resources research.
1961c-6. "State" defined.
1961c-7. Annual report by the Secretary of the Interior to the President and the Congress.
1961c-8. Excess personal property; conveyance to cooperating institutes, educational institutions, and nonprofit organizations.

GENERAL PROVISIONS

§ 1961. Declaration of purpose

In order to assist in assuring the Nation at all times of a supply of water sufficient in quantity and quality to meet the requirements of its expanding population, it is the purpose of the Congress, by this chapter, to stimulate, sponsor, provide for, and supplement present programs for the conduct of research, investigations, experiments, and the training of scientists in the fields of water and of resources which affect water.

(Pub. L. 88-379, § 1(b), July 17, 1964, 78 Stat. 329.)

SHORT TITLE

Section 1(a) of Pub. L. 88-379 provided that: "This Act [enacting this chapter] may be cited as the 'Water Resources Research Act of 1964'."

SUBCHAPTER I—STATE WATER RESOURCES RESEARCH INSTITUTES

§ 1961a. Water resources research institutes

(a) Appropriations; establishment; number; designation of institution; interstate or regional institutes; participation of educational institutions in institute work

There are authorized to be appropriated to the Secretary of the Interior for the fiscal year 1965 and each subsequent year thereafter sums adequate to provide $75,000 to each of the several States in the first year, $87,500 in each of the second and third years, and $250,000 each year thereafter to assist each participating State in establishing and carrying on the work of a competent and qualified water resources research institute, center, or equivalent agency (hereinafter referred to as "institute") at one college or university in that State, which college or university shall be a college or university established in accordance with the Act approved July 2, 1862 (12 Stat. 503) [7 U.S.C. 301 et seq.], or some other institution designated by Act of the legislature of the State concerned: *Provided,* That (1) if there is more than one such college or university in a State, established in accordance with said Act of July 2, 1862, funds under this chapter shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to the one such college or university designated by the Governor of the State to receive the same subject to the Secretary's determination that such college or university has, or may reasonably be expected to have, the capability of doing effective work under this chapter; (2) two or more States may cooperate in the designation of a single interstate or regional institute, in which event the sums assignable to all of the cooperating States shall be paid to such institute; and (3) a designated college or university may, as authorized by appropriate State authority, arrange with other colleges and universities within the State to participate in the work of the institute: *Provided further,* That for fiscal year 1973 not more than $125,000 shall be appropriated for each of the District of Columbia, the Virgin Islands, and Guam, and for fiscal year 1974 not more than $200,000 shall be appropriated for each of such areas.

(b) Duties of institutes; scope of activities

It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college or university with which it is affiliated to conduct competent research, investigations, and experiments of either a basic or practical nature, or both, in relation to water resources and to provide for the training of scientists through such research, investigations, and experiments. Such research, investigations, experiments, and training may include, without being limited to, aspects of the hydrologic cycle; supply and demand for water; conservation and best use of available supplies of water; methods of increasing such supplies; and economic, legal, social, engineering, recreational, biological, geographic, ecological and other aspects of water problems and scientific information dissemination activities, including identifying, assembling, and interpreting the results of scientific and engineering research deemed potentially significant for solution of water resource problems, providing means for improved communication regarding such research results, including prototype operations, ascertaining the existing and potential effectiveness of such for aiding in the solution of practical problems, and for training qualified persons in the performance of such scientific information dissemination; having due regard to the varying conditions and needs of the respective State, to water research projects being conducted by agencies of the Federal and State Governments, the agricultural experiment stations, and others, and to avoidance of any undue displacement of scientists and engineers elsewhere engaged in water resources research. The annual programs submitted by the State institutes to the Secretary for approval shall include assurance satisfactory to the Secretary that such programs were developed in close consultation and collaboration with leading water resources officials within the State to promote research, training, and other work meeting the needs of the State.

(Pub. L. 88-379, title I, § 100, July 17, 1964, 78 Stat. 329; Pub. L. 92-175, §§ 1-3, Dec. 2, 1971, 85 Stat. 493.)

REFERENCES IN TEXT

The Act of July 2, 1862, referred to in subsec. (a), is act July 2, 1862, ch. 130, 12 Stat. 503, popularly known as the "Morrill Act" and also as the "First Morrill Act", which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 301 of Title 7 and Tables volume.

AMENDMENTS

1971—Subsec. (a). Pub. L. 92-175, § 1, substituted "$250,000" for "$100,000" and added the further proviso limiting the 1973 fiscal year appropriations for the District of Columbia, the Virgin Islands, and Guam to $125,000 each and the 1974 fiscal year appropriations to $200,000 each.

Subsec. (b). Pub. L. 92-175, §§ 2, 3, added the dissemination of scientific information to the enumeration of duties for the institutes and added requirement that the annual programs submitted by the State institutes to the Secretary for approval include assurance satisfactory to the Secretary that such programs were developed in close consultation and collaboration with leading water resources officials within the State to promote research, training, and other work meeting the needs of the State.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961a-2, 1961a-4, 1961c-7 of this title.

§ 1961a-1. Specific water resources research projects, including regional projects

(a) Appropriations; matching funds

There is further authorized to be appropriated to the Secretary of the Interior for the fiscal year 1965 and each subsequent year thereafter sums not in excess of the following: 1965, $1,000,000; 1966, $2,000,000; 1967, $3,000,000; 1968, $4,000,000; and 1969 and each of the succeeding years, $5,000,000. Such moneys when appropriated, shall be available to match, on a dollar-for-dollar basis, funds made available to institutes by States or other non-Federal sources to meet the necessary expenses of specific water resources research projects which could not otherwise be undertaken, including the expenses of planning and coordinating regional water resources research projects by two or more institutes.

(b) Application for grants; contents; approval of projects; basis of grants

Each application for a grant pursuant to subsection (a) of this section shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the importance of the project to the water economy of the Nation, the region, and the State concerned, its relation to other known research projects theretofore pursued or currently being pursued, and the extent to which it will provide opportunity for the training of water resources scientists. No grant shall be made under said subsection (a) except for a project approved by the Secretary, and all grants shall be made upon the basis of the merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of water resources scientists.

(Pub. L. 88-379, title I, § 101, July 17, 1964, 78 Stat. 330.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961a-2, 1961c-7 of this title.

§ 1961a-2. Payments to institutes; time; amount; vouchers; accounting officers; reports to Secretary of the Interior; State replacement of diminished, lost, or misapplied funds

Sums available to the States under the terms of sections 1961a and 1961a-1 of this title shall be paid to their designated institutes at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Funds received by an institute pursuant to such payment may be used for any allowable costs within the meaning of the Federal procurement regulations that establish principles for determining costs applicable to research and development under grants and contracts with educational institutions (41 CFR 1-15.3), including future amend-

ments thereto: *Provided,* That the direct costs of the programs of each State institute, as distinguished from indirect costs, are not less than the amount of the Federal funds made available to such State institute pursuant to section 1961a of this title. Each institute shall have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this chapter and shall make an annual report to the Secretary on or before the 1st day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any of the provisions of this chapter during the preceding fiscal year, and of its disbursement, on schedules prescribed by the Secretary. If any of the moneys received by the authorized receiving officer of any institute under the provisions of this chapter shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State.

(Pub. L. 88-379, title I, § 102, July 17, 1964, 78 Stat. 330; Pub. L. 92-175, § 4, Dec. 2, 1971, 85 Stat. 493.)

REFERENCES IN TEXT

The Federal procurement regulations (41 CFR 1-15.3), referred to in text, are set out in the Code of Federal Regulations, Title 41, Public Contracts and Property Management. Such regulations constitute Subpart 1-15.3 of the Part covering contract cost principles and procedures and consist of § 1-15.301 et seq. of such regulations.

AMENDMENTS

1971—Pub. L. 92-175 authorized the use of funds for any allowable costs within the meaning of the Federal procurement regulations that establish principles for determining costs applicable to research and development under grants and contracts with educational institutions, with the proviso that direct costs be not less than the amount of Federal funds made available to the State institute pursuant to section 1961a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961a-4 of this title.

§ 1961a-3. Funds for printing and publishing results of research, etc., administrative planning and direction, and planning, coordinating, and conducting cooperative research

Moneys appropriated pursuant to this chapter, in addition to being available for expenses for research, investigations, experiments, and training conducted under authority of this chapter, shall also be available for printing and publishing the results thereof and for administrative planning and direction. The institutes are hereby authorized and encouraged to plan and conduct programs financed under this chapter in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the water problems involved, and moneys appropriated pursuant to this chapter shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

(Pub. L. 88-379, title I, § 103, July 17, 1964, 78 Stat. 330.)

§ 1961a-4. Powers and duties of Secretary of the Interior; administration; rules and regulations; other responsibilities

The Secretary of the Interior is hereby charged with the responsibility for the proper administration of this chapter and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. He shall require a showing that institutes designated to receive funds have, or may reasonably be expected to have, the capability of doing effective work. He shall furnish such advice and assistance as will best promote the purposes of this chapter, participate in coordinating research initiated under this chapter by the institutes, indicate to them such lines of inquiry as to him seem most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishments.

On or before the 1st day of July in each year after July 17, 1964, the Secretary shall ascertain whether the requirements of section 1961a-2 of this title have been met as to each State, whether it is entitled to receive its share of the annual appropriations for water resources research under section 1961a of this title, and the amount which it is entitled to receive.

(Pub. L. 88-379, title I, § 104, July 17, 1964, 78 Stat. 331; Pub. L. 89-404, § 2, Apr. 19, 1966, 80 Stat. 130.)

AMENDMENTS

1966—Pub. L. 89-404 struck out provisions requiring the Secretary to make an annual report to Congress concerning the work of the institutes in all states, including receipts, expenditures, and any withholding of available appropriations. See now section 1961c-7 of this title.

§ 1961a-5. Legal relationship of educational institution and State government; Federal control or direction of education

Nothing in this chapter shall be construed to impair or modify the legal relation existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this chapter shall in any way be construed to authorize Federal control or direction of education at any college or university.

(Pub. L. 88-379, title I, § 105, July 17, 1964, 78 Stat. 331.)

SUBCHAPTER II—ADDITIONAL WATER RESOURCES RESEARCH PROGRAMS

§ 1961b. Research into water problems related to the mission of the Department of the Interior

(a) Authorization of appropriations

There are authorized to be appropriated to the Secretary of the Interior $5,000,000 for the fiscal year 1967, $6,000,000 for the fiscal year

1968, $7,000,000 for the fiscal year 1969, $8,000,000 for the fiscal year 1970, $9,000,000, for the fiscal year 1971, and $10,000,000 for each of the fiscal years 1972-1976, inclusive, from which appropriations the Secretary may make grants to and finance contracts and matching or other arrangements with educational institutions, private foundations or other institutions, with private firms and individuals whose training, experience, and qualifications are, in his judgment, adequate for the conduct of water research projects, and with local, State, and Federal Government agencies, to undertake research into any aspects of water problems related to the mission of the Department of the Interior which he may deem desirable and which are not otherwise being studied.

(b) Repealed. Pub. L. 93-608, § 1(17), Jan. 2, 1975, 88 Stat. 1970

(c) Annual report to the President and Congress

In addition to other requirements of this chapter, the Secretary's annual report to the President and Congress as required by section 1961c-7 of this title shall specifically identify each contract and grant award approved under subsection (a) of this section in the preceding fiscal year, including the title of each research project, name of performing organization, and the amount of each grant or contract.

(Pub. L. 88-379, title II, § 200, July 17, 1964, 78 Stat. 331; Pub. L. 89-404, § 1, Apr. 19, 1966, 80 Stat. 129; Pub. L. 92-175, § 5, Dec. 2, 1971, 85 Stat. 493; Pub. L. 93-608, § 1(17), Jan. 2, 1975, 88 Stat. 1970.)

CODIFICATION

Amendment by section 1(17) of Pub. L. 93-608, which struck out subsec. (b), in addition, provided for redesignation of subsec. (a) as entire section; however, as such redesignation was made without reference to subsec. (c), redesignation has not been executed in order to conform to the probable intent of Congress.

AMENDMENTS

1975—Subsec. (b). Pub. L. 93-608 repealed subsec. (b) which required the submission to the President of the Senate and Speaker of the House of Representatives of a copy of each grant, etc., sixty days prior to the award of any such grant, etc., under provisions of section.

1971—Subsec. (c). Pub. L. 92-175 added subsec. (c).

1966—Pub. L. 89-404 divided the section into subsecs. (a) and (b), increased the authorization for appropriations from $1,000,000 for each year for 10 years beginning in fiscal year 1965 to $5,000,000 for fiscal year 1967, $6,000,000 for fiscal year 1968, $7,000,000 for fiscal year 1969, $8,000,000 for fiscal year 1970, $9,000,000 for fiscal year 1971, and $10,000,000 for each of the fiscal years 1972 to 1976 inclusive, and added a requirement that no contract or other arrangement be entered into until 60 calendar days after it had been submitted to the Congress and during which Congress is in session.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961c-7 of this title.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§ 1961c. Cooperation of Federal, State, and private agencies; availability of information

The Secretary of the Interior shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with water problems, of State and local governments, and of private institutions and individuals, to assure that the programs authorized in this chapter will supplement and not duplicate established water research programs, to stimulate research in otherwise neglected areas, and to contribute to a comprehensive, nationwide program of water and related resources research. He shall make generally available information and reports on projects completed, in progress, or planned under the provisions of this chapter, in addition to any direct publication of information by the institutes themselves.

(Pub. L. 88-379, title III, § 300, July 17, 1964, 78 Stat. 332.)

§ 1961c-1. Authority of Secretary of the Interior over water resources research of other Federal agencies; existing authorities and responsibilities of Federal agencies unaffected

Nothing in this chapter is intended to give or shall be construed as giving the Secretary of the Interior any authority or surveillance over water resources research conducted by any other agency of the Federal Government, or as repealing, superseding, or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its areas of responsibility and concern with water resources.

(Pub. L. 88-379, title III, § 301, July 17, 1964, 78 Stat. 332.)

§ 1961c-2. Advance payments of initial expenses

Contracts or other arrangements for water resources work authorized under this chapter with an institute, educational institution, or non-profit organization may be undertaken without regard to the provisions of section 529 of title 31 when, in the judgment of the Secretary of the Interior, advance payments of initial expense are necessary to facilitate such work.

(Pub. L. 88-379, title III, § 302, July 17, 1964, 78 Stat. 332.)

§ 1961c-3. Availability to public of resulting information and developments a condition for expenditure of funds for scientific or technological research or development activity; background patent owners' rights

No part of any appropriated funds may be expended pursuant to authorization given by this chapter for any scientific or technological research or development activity unless such expenditure is conditioned upon provisions determined by the Secretary of the Interior, with the approval of the Attorney General, to be effective to insure that all information, uses, products, processes, patents, and other developments resulting from that activity will (with

such exceptions and limitations as the Secretary may determine, after consultation with the Secretary of Defense, to be necessary in the interest of the national defense) be made freely and fully available to the general public. Nothing contained in this section shall deprive the owner of any background patent relating to any such activity of any rights which that owner may have under that patent.

(Pub. L. 88-379, title III, § 303, July 17, 1964, 78 Stat. 332.)

INVENTIONS—DEFINITION, TITLE AND LICENSING

Secretary to be governed by sections 5908 and 5909 of this title with certain exceptions, in regard to the definition of, title to, and licensing of inventions made or conceived in the course of or under contracts or grants pursuant to this chapter or the Saline Water Conversion Act of 1971, section 1959 et seq. of this title, see section 3 of Pub. L. 94-316, set out as a note under section 1959d of this title.

§ 1961c-4. Cataloging center

There shall be established, in such agency and location as the President determines to be desirable, a center for cataloging current and projected scientific research in all fields of water resources. Each Federal agency doing water resources research shall cooperate by providing the cataloging center with information on work underway or scheduled by it. The cataloging center shall classify and maintain for general use a catalog of water resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of government, colleges, universities, private institutions, firms, and individuals as voluntarily may make such information available.

(Pub. L. 88-379, title III, § 304, July 17, 1964, 78 Stat. 332.)

§ 1961c-5. Interagency coordination of water resources research

The President shall, by such means as he deems appropriate, clarify agency responsibilities for Federal water resources research and provide for interagency coordination of such research, including the research authorized by this chapter. Such coordination shall include (a) continuing review of the adequacy of the Government-wide program in water resources research, (b) identification and elimination of duplication and overlaps between two or more agency programs, (c) identification of technical needs in various water resources research categories, (d) recommendations with respect to allocation of technical effort among the Federal agencies, (e) review of technical manpower needs and findings concerning the technical manpower base of the program, (f) recommendations concerning management policies to improve the quality of the Government-wide research effort, and (g) actions to facilitate interagency communication at management levels.

(Pub. L. 88-379, title III, § 305, July 17, 1964, 78 Stat. 332.)

§ 1961c-6. "State" defined

As used in this chapter, the term "State" includes the Commonwealth of Puerto Rico, the District of Columbia, and the territories of the Virgin Islands and Guam.

(Pub. L. 88-379, title III, § 306, July 17, 1964, 78 Stat. 333; Pub. L. 92-175, § 6, Dec. 2, 1971, 85 Stat. 494.)

AMENDMENTS

1971—Pub. L. 92-175 added "the District of Columbia, and the territories of the Virgin Islands and Guam".

§ 1961c-7. Annual report by the Secretary of the Interior to the President and Congress

The Secretary shall make a report to the President and Congress on or before October 1 of each year showing the disposition during the preceding fiscal year of moneys appropriated to carry out this chapter, the results expected to be accomplished through projects financed during that year under sections 1961a-1 and 1961b of this title, and the conclusions reached in or other results achieved by those projects which were completed during that year. The report shall also include an account of the work of all institutes financed under section 1961a of this title and indicate whether any portion of an allotment to any State was withheld and, if so, the reasons therefor.

(Pub. L. 88-379, title III, § 307, as added Pub. L. 89-404, § 2, Apr. 19, 1966, 80 Stat. 130, and amended Pub. L. 92-175, § 7, Dec. 2, 1971, 85 Stat. 494.)

AMENDMENTS

1971—Pub. L. 92-175 substituted "October 1" for "March 1" and "fiscal year" for "calendar year".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961b of this title.

§ 1961c-8. Excess personal property; conveyance to cooperating institutes, educational institutions, and nonprofit organizations

Excess personal property acquired by the Secretary under the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.], for use in furtherance of the purposes of this chapter may be conveyed by the Secretary to a cooperating institute, educational institution, or nonprofit organization, with or without consideration, under such terms and conditions as the Secretary may prescribe.

(Pub. L. 88-379, title III, § 308, as added Pub. L. 92-175, § 8, Dec. 2, 1971, 85 Stat. 494.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949 (63 Stat. 377), referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377. The surplus property provisions of that act are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of Title 40 and Tables volume.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1959a, 1962d-4 of this title; title 16 section 1275; title 33 section 1289; title 43 section 1511.

§ 1962. Congressional statement of policy

In order to meet the rapidly expanding demands for water throughout the Nation, it is hereby declared to be the policy of the Congress to encourage the conservation, development, and utilization of water and related land resources of the United States on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprise with the cooperation of all affected Federal agencies, States, local governments, individuals, corporations, business enterprises, and others concerned.

(Pub. L. 89-80, § 2, July 22, 1965, 79 Stat. 244.)

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93-251, title I, § 109, Mar. 16, 1974, 88 Stat. 49, provided that: "This title [which insofar as classified to the Code, enacted sections 1962d-5c and 1962d-15 to 1962d-17 of this title, section 460ee of Title 16, Conservation, and sections 59c-2, 59k, 579, 701b-11, and 1252a of Title 33, Navigation and Navigable Waters, amended section 4482 of this title, sections

460*l*-13(a), (a)(3) and 460*l*-14(b)(1) of Title 16, section 275a of Title 22, Foreign Relations and Intercourse, and sections 701g, 701n, 701r, 701r-1(c), 701s, 709a(b), and 1165a(d) of Title 33, and enacted provisions set out as notes under sections 1962d-5 and 1962d-7 of this title and under section 460*l*-13 of Title 16] may be cited as the 'Water Resources Development Act of 1974'."

SHORT TITLE

Section 1 of Pub. L. 89-80 provided that Pub. L. 89-80, which enacted this chapter, may be cited as the "Water Resources Planning Act".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962b-3 of this title.

§ 1962-1. Effect on existing laws

Nothing in this chapter shall be construed—

(a) to expand or diminish either Federal or State jurisdiciton, responsibility, or rights in the field of water resources planning, development, or control; nor to displace, supersede, limit or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(b) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this chapter with respect to the preparation and review of comprehensive regional or river basin plans and the formulation and evaluation of Federal water and related land resources projects;

(c) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water and related land resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this chapter; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States Operating Entity or Entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico;

(d) as authorizing any entity established or acting under the provisions hereof to study, plan, or recommend the transfer of waters between areas under the jurisdiction of more than one river basin commission or entity performing the function of a river basin commission.

(Pub. L. 89-80, § 3, July 22, 1965, 79 Stat. 244.)

REFERENCES IN TEXT

The International Joint Commission, United States and Canada, referred to in subsec. (c), was organized in 1911 pursuant to article VII of the treaty of January 11, 1909, with Great Britain, 36 Stat. 2448. Provisions relating to such Commission are contained in sections 267b and 268 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962b of this title.

§ 1962-2. Congressional statement of objectives

It is the intent of Congress that the objectives of enhancing regional economic development, the quality of the total environment, including its protection and improvement, the well-being of the people of the United States, and the national economic development are the objectives to be included in federally financed water resource projects, and in the evaluation of benefits and cost attributable thereto, giving due consideration to the most feasible alternative means of accomplishing these objectives.

(Pub. L. 91-611, title II, § 209, Dec. 31, 1970, 84 Stat. 1829.)

CODIFICATION

Section was enacted as a part of the Flood Control Act of 1970 and not as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962d-17 of this title.

SUBCHAPTER I—WATER RESOURCES COUNCIL

§ 1962a. Establishment; composition; other Federal agency participation; designation of Chairman

There is hereby established a Water Resources Council (hereinafter referred to as the "Council") which shall be composed of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and the Chairman of the Federal Power Commission. The Chairman of the Council shall request the heads of other Federal agencies to participate with the Council when matters affecting their responsibilities are considered by the Council. The Chairman of the Council shall be designated by the President.

(Pub. L. 89-80, title I, § 101, July 22, 1965, 79 Stat. 245; Pub. L. 94-112, § 1(a), Oct. 16, 1975, 89 Stat. 575.)

AMENDMENTS

1975—Pub. L. 94-112 included in the membership of the Water Resources Council, the Secretaries of Commerce, Housing and Urban Development, and Transportation and the Administrator of the Environmental Protection Agency, and terminated the membership for the Secretary of Health, Education, and Welfare.

NATIONAL WATER COMMISSION

Pub. L. 90-515, Sept. 26, 1968, 82 Stat. 868, provided for the establishment of the National Water Commission, its membership, chairman, compensation, powers, duties, and functions, required the Commission to review national water resource problems and submit interim and final reports, and provided that the Commission shall terminate no later than five years from Sept. 26, 1968.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1656.

§ 1962a-1. Powers and duties

The Council shall—

(a) maintain a continuing study and prepare an assessment biennially, or at such less frequent intervals as the Council may determine, of the adequacy of supplies of water necessary to meet the water requirements in each water resource region in the United States and the national interest therein; and

(b) maintain a continuing study of the relation of regional or river basin plans and programs to the requirements of larger regions of the Nation and of the adequacy of administrative and statutory means for the coordination of the water and related land resources policies and programs of the several Federal agencies; it shall appraise the adequacy of existing and proposed policies and programs to meet such requirements; and it shall make recommendations to the President with respect to Federal policies and programs.

(Pub. L. 89-80, title I, § 102, July 22, 1965, 79 Stat. 245.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5912 of this title.

§ 1962a-2. Establishment of principles, standards, and procedures for preparation of regional or river basin plans and Federal projects; revision of river basin planning commission plans

The Council shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Council may find appropriate, and with the approval of the President, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects. Such procedures may include provision for Council revision of plans for Federal projects intended to be proposed in any plan or revision thereof being prepared by a river basin planning commission.

(Pub. L. 89-80, title I, § 103, July 22, 1965, 79 Stat. 245.)

DELEGATION OF FUNCTIONS

Functions of the President under this section delegated to the Chairman of the Water Resources Council, see section 2 of Ex. Ord. No. 11747, eff. Nov. 7, 1973, 38 F.R. 30993, set out as a note under section 1962a-3 of this title.

ECONOMIC EVALUATION OF WATER RESOURCE PROJECTS; INCLUSION OF SECRETARY OF TRANSPORTATION ON COUNCIL

Development of standards and criteria for economic evaluation of water resource projects by Council and inclusion of Secretary of Transportation on the Council during consideration of matters concerning the navigation features of water resource projects, see section 1656 of Title 49, Transportation.

§ 1962a-3. Review of river basin commission plans; report to President and Congress

Upon receipt of a plan or revision thereof from any river basin commission under the provisions of section 1962b-3(3) of this title, the Council shall review the plan or revision with special regard to—

(1) the efficacy of such plan or revision in achieving optimum use of the water and related land resources in the area involved;

(2) the effect of the plan on the achievement of other programs for the development of agricultural, urban, energy, industrial, recreational, fish and wildlife, and other resources of the entire Nation; and

(3) the contributions which such plan or revision will make in obtaining the Nation's economic and social goals.

Based on such review the Council shall—

(a) formulate such recommendations as it deems desirable in the national interest; and

(b) transmit its recommendations, together with the plan or revision of the river basin commission and the views, comments, and recommendations with respect to such plan or revision submitted by any Federal agency, Governor, interstate commission, or United States section of an international commission, to the President for his review and transmittal to the Congress with his recommendations in regard to authorization of Federal projects.

(Pub. L. 89-80, title I, § 104, July 22, 1965, 79 Stat. 245.)

EX. ORD. NO. 11747. DELEGATION OF PRESIDENTIAL FUNCTIONS

Ex. Ord. No. 11747, eff. Nov. 7, 1973, 38 F.R. 30993, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Director of the Office of Management and Budget is designated and empowered to exercise, without the approval, ratification, or other action of the President, the functions vested in the President by (1) sections 104(b) and 204(3) of the Water Resources Planning Act, as amended (42 U.S.C. 1962a-3(b) and 1962b-3(3), respectively), with respect to reviewing plans, or revisions thereof, of river basin commissions established pursuant to that act and transmitting those plans or revisions thereto to the Congress with appropriate recommendations; and (2) section 301(b) of the same act (42 U.S.C. 1962c(b)) with respect to approving rules, procedures, arrangements, and provisions relating to coordination of Federal planning assistance programs and utilization of Federal agencies administering related programs.

SEC. 2. The Chairman of the Water Resources Council is designated and empowered to exercise, without the approval, ratification, or other action of the President, the approval function for standards and procedures vested in the President by section 103 of the Water Resources Planning Act, as amended (42 U.S.C. 1962a-2).

RICHARD NIXON.

§ 1962a-4. Administrative provisions

(a) Hearings, proceedings, evidence, reports; office space; use of mails; personnel; consultants; motor vehicles; necessary expenses; other powers

For the purpose of carrying out the provisions of this chapter, the Council may: (1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable; (2) acquire, furnish, and equip such office space as is necessary; (3) use the United States mails in the same manner and upon the same conditions

as other departments and agencies of the United States; (4) employ and fix the compensation of such personnel as it deems advisable, in accordance with the civil service laws and chapter 51 and subchapter III of chapter 53 of 3109 of title 5; (5) procure services as authorized by section 3109 of title 5, at rates not in excess of the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5 in the case of individual experts or consultants; (6) purchase, hire, operate, and maintain passenger motor vehicles; and (7) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this chapter.

(b) Oaths

Any member of the Council is authorized to administer oaths when it is determined by a majority of the Council that testimony shall be taken or evidence received under oath.

(c) Records; public inspection

To the extent permitted by law, all appropriate records and papers of the Council may be made available for public inspection during ordinary office hours.

(d) Information and personnel from other Federal agencies

Upon request of the Council, the head of any Federal department or agency is authorized (1) to furnish to the Council such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and (2) to detail to temporary duty with such Council on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(e) Responsibility for personnel and funds

The Council shall be responsible for (1) the appointment and supervision of personnel, (2) the assignment of duties and responsibilities among such personnel, and (3) the use and expenditures of funds.

(Pub. L. 89-80, title I, § 105, July 22, 1965, 79 Stat. 246; Pub. L. 94-112, § 1(b), Oct. 16, 1975, 89 Stat. 575.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

In subsec. (a), "chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "Classification Act of 1949, as amended", on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

"Section 3109 of title 5" was substituted for "section 15 of the Act of August 2, 1946 (5 U.S.C. 55a)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5.

AMENDMENTS

1975—Subsec. (a)(5). Pub. L. 94-112 substituted "not in excess of the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5 in the case of individual experts or consultants" for "not to exceed $100 per diem for individuals".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962d-2 of this title.

SUBCHAPTER II—RIVER BASIN COMMISSIONS

§ 1962b. Creation of commissions; powers and duties

(a) The President is authorized to declare the establishment of a river basin water and related land resources commission upon request therefor by the Council, or request addressed to the Council by a State within which all or part of the basin or basins concerned are located if the request by the Council or by a State (1) defines the area, river basin, or group of related river basins for which a commission is requested, (2) is made in writing by the Governor or in such manner as State law may provide, or by the Council, and (3) is concurred in by the Council and by not less than one-half of the States within which portions of the basin or basins concerned are located and, in the event the Upper Colorado River Basin is involved, by at least three of the four States of Colorado, New Mexico, Utah, and Wyoming or, in the event the Columbia River Basin is involved, by at least three of the four States of Idaho, Montana, Oregon, and Washington. Such concurrences shall be in writing.

(b) Each such commission for an area, river basin, or group of river basins shall, to the extent consistent with section 1962-1 of this title—

(1) serve as the principal agency for the coordination of Federal, State, interstate, local and nongovernmental plans for the development of water and related land resources in its area, river basin, or group of river basins;

(2) prepare and keep up to date, to the extent practicable, a comprehensive, coordinated, joint plan for Federal, State, interstate, local and nongovernmental development of water and related resources: *Provided*, That the plan shall include an evaluation of all reasonable alternative means of achieving optimum development of water and related land resources of the basin or basins, and it may be prepared in stages, including recommendations with respect to individual projects;

(3) recommend long-range schedules of priorities for the collection and analysis of basic data and for investigation, planning, and construction of projects; and

(4) foster and undertake such studies of water and related land resources problems in its area, river basin, or group of river basins as are necessary in the preparation of the plan described in clause (2) of this subsection.

(Pub. L. 89-80, title II, § 201, July 22, 1965, 79 Stat. 246.)

EX. ORD. NO. 11331. PACIFIC NORTHWEST RIVER BASINS COMMISSION

Ex. Ord. No. 11331, eff. Mar. 6, 1967, 32 F.R. 3875, as amended by Ex. Ord. No. 11613, eff. Aug. 2, 1971, 36 F.R. 14299, provided:

WHEREAS the Water Resources Planning Act (hereinafter referred to as the Act, 79 Stat. 244, 42 U.S.C.

1962 *et seq.*) [this chapter] authorizes the President to declare the establishment of a river basin water and related land resources commission when a request for such a commission is addressed in writing to the Water Resources Council (hereinafter referred to as the Council) by the Governor of a State within which all or part of the basin or basins concerned are located and when such a request is concurred in by the Council and by not less than one-half of the States within which portions of the basin or basins concerned are located, and in the event the Columbia River Basin is involved, by at least three of the four States of Idaho, Montana, Oregon, and Washington; and

WHEREAS the Council, by resolution adopted November 14, 1966, concurred in the requests of the Governors of the States of Oregon, Washington, Idaho, Montana, and Wyoming; and did itself request that the President declare the establishment of the Pacific Northwest River Basins Commission under the provisions of section 201 of the Act [this section]; and

WHEREAS the requests of the Governors of the States of Oregon, Washington, Idaho, Montana, and Wyoming, and the resolution of the Council of November 14, 1966, satisfy the formal requirements of section 201 of the Act [this section]; and

WHEREAS the Governors of the States of California, Nevada, and Utah have been consulted in regard to small headwater areas in these respective States that contribute small quantities of water to or use small quantities of water from the area of jurisdiction of the Commission; and

WHEREAS it appears that it would be in the public interest and in keeping with the intent of Congress to declare the establishment of such a Commission:

NOW, THEREFORE, by virtue of the authority vested in me by section 201 of the Act [this section], and as President of the United States, it is ordered as follows:

SECTION 1. *Pacific Northwest River Basins Commission.* It is hereby declared that the Pacific Northwest River Basins Commission is established under the provisions of Title II of the Act [this subchapter].

SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Pacific Northwest River Basins Commission referred to in section 1 of this order (hereinafter referred to as the Commission) shall extend to the entire area of the State of Washington; the entire area of the State of Oregon, except that drained by the Klamath River system, the Smith River system, and that area draining into Goose Lake; and those portions of the States of Idaho, Montana, and Wyoming lying within the Columbia River drainage, in accordance with the requests of the Governors of Oregon, Washington, Idaho, Montana, and Wyoming, and in accordance with the resolution of the Council.

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with section 202 of the Act [section 1962b-1 of this title], the Commission shall consist of the following:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture, Department of the Army, Department of Commerce, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of Transportation, Environmental Protection Agency, and the Federal Power Commission, such member to be appointed by the head of each department or independent agency he represents,

(3) one member from each of the following States: Oregon, Washington, Idaho, Montana, and Wyoming,

(4) one member from each interstate agency created by an interstate compact to which the consent of Congress has been given and whose jurisdiction extends to the waters of the area specified in section 2, and

(5) the Chairman of the United States Entity for the Columbia River Treaty.

SEC. 4. *Functions to be performed.* The Commission and its Chairman, members, and employees are hereby authorized to perform and exercise, with respect to the jurisdiction specified in section 2 of this order, the functions, powers, and duties of such a Commission and of such Chairman, members, and employees, respectively, as set out in Title II of the Act [this subchapter].

SEC. 5. *Consultation with adjoining States.* The Commission is expected to provide for procedures for consultation with the States of California, Nevada, and Utah on any matter which might affect the water and related land resources of the small headwater drainages in each of these States that drain into the area of jurisdiction of the Commission, and to give notice to these States of meetings of the Commission.

SEC. 6. *International Coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Council any matters under consideration by the Commission which relate to the areas of interest or jurisdiction of the International Joint Commission, United States and Canada. The Council shall consult on these matters as appropriate with the Department of State and the International Joint Commission through its United States Section for the purpose of enhancing international coordination.

SEC. 7. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Council.

LYNDON B. JOHNSON.

EX. ORD. NO. 11345. GREAT LAKES BASIN COMMISSION

EX. Ord. No. 11345, eff. Apr. 20, 1967, 32 F.R. 6329, as amended by Ex. Ord. No. 11613, eff. Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 11646, eff. Feb. 8, 1972, 37 F.R. 2925; Ex. Ord. No. 11882, eff. Oct. 6, 1975, 40 F.R. 46293, provided:

WHEREAS the Water Resources Planning Act (hereinafter referred to as the Act, 79 Stat. 244, 42 U.S.C. 1962 *et seq.*) [this chapter] authorizes the President to declare the establishment of a river basin water and related land resources commission when a request for such a commission is addressed in writing to the Water Resources Council (hereinafter referred to as the Council) by the Governor of a State within which all or part of the basin or basins concerned are located and when such a request is concurred in by the Council and by not less than one-half of the States within which portions of the basin or basins concerned are located; and

WHEREAS the Council, by resolution adopted March 7, 1966, concurred in the requests of the Governors of the States of Indiana, Michigan, Minnesota, Ohio, and Wisconsin, which have been concurred in by the Governors of Illinois, New York, and Pennsylvania; and did itself request that the President declared the establishment of the Great Lakes Basin Commission under the provisions of section 201 of the Act [this section]; and

WHEREAS the requests of the Governors of the States of Indiana, Michigan, Minnesota, Ohio, and Wisconsin, and the resolution of the Council of March 7, 1966, together with written concurrences by the Governors of the States of Illinois, New York, and Pennsylvania, satisfy the formal requirements of section 201 of the Act [this section]; and

WHEREAS it appears that it would be in the public interest and in keeping with the intent of Congress to declare the establishment of such a Commission:

NOW, THEREFORE, by virtue of the authority vested in me by section 201 of the Act [this section], and as President of the United States, it is ordered as follows:

SECTION 1. *Great Lakes Basin Commission.* It is hereby declared that the Great Lakes Basin Commission is established under the provisions of Title II of the Act [this subchapter].

SEC. 2. *Jurisdiction of Commission.* It is hereby determined that the jurisdiction of the Great Lakes Basin Commission referred to in section 1 of this order (hereinafter referred to as the Commission) shall extend to those portions of the eight Great Lakes States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin that are drained by the St. Lawrence River system, including

the Great Lakes, their tributaries, and tributaries to the St. Lawrence River which reach that river within the United States, in accordance with the requests of the Governors of Indiana, Michigan, Minnesota, Ohio, and Wisconsin, concurred in by the Governors of Illinois, New York, and Pennsylvania, and in accordance with the resolution of the Council.

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with section 202 of the Act [section 1962b-1 of this title], the Commission shall consist of the following:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of State, Department of Agriculture, Department of the Army, Department of Commerce, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Transportation, Energy Research and Development Administration, Environmental Protection Agency, and the Federal Power Commission, such member to be appointed by the head of each department or independent agency he represents,

(3) one member from each of the following States: Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin, and

(4) one member from each interstate agency created by an interstate compact to which the consent of Congress has been given and whose jurisdiction extends to the waters of the area specified in section 2.

SEC. 4. *Functions to be performed.* The Commission and its Chairman, members, and employees are hereby authorized to perform and exercise, with respect to the jurisdiction specified in section 2 of this order, the functions, powers, and duties of such a Commission and of such Chairman, members, and employees, respectively, as set out in Title II of the Act [this subchapter].

SEC. 5. *International Coordination.* The Council and the Department of State shall consult as appropriate on matters under consideration by the Commission which relate to the areas of interest and jurisdiction of the International Joint Commission, United States and Canada, and the Great Lakes Fishery Commission.

SEC. 6. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Council.

LYNDON B. JOHNSON.

EXECUTIVE ORDER NO. 11359

Ex. Ord. No. 11359, eff. June 20, 1967, 32 F.R. 8851, as amended by Ex. Ord. No. 11613, eff. Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 11635, eff. Dec. 9, 1971, 36 F.R. 23615, formerly set out as a note under this section, which established the Souris-Red-Rainy Basins Commission, was superseded by Ex. Ord. No. 11737, Sept. 7, 1973, 38 F.R. 24883, set out as a note below.

EX. ORD. NO. 11371. ESTABLISHMENT OF NEW ENGLAND RIVER BASINS COMMISSION

Ex. Ord. No. 11371, eff. Sept. 6, 1967, 32 F.R. 12903, as amended by Ex. Ord. No. 11528, eff. Apr. 24, 1970, 35 F.R. 6695; Ex. Ord. No. 11613, eff. Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 11707, eff. Mar. 12, 1973, 38 F.R. 6877; Ex. Ord. No. 11882, eff. Oct. 6, 1975, 40 F.R. 46293, provided:

WHEREAS the Water Resources Planning Act (hereinafter referred to as the Act, 79 Stat. 244, 42 U.S.C. 1962 et seq.) [this chapter] authorizes the President to declare the establishment of a river basin water and related land resources commission when a request for such a commission is addressed in writing to the Water Resources Council (hereinafter referred to as the Council) by the Governor of a State within which all or part of the basin or basins concerned are located and when such a request is concurred in by the Council and by not less than one-half of the States within which portions of the basin or basins concerned are located; and

WHEREAS the Council, by resolution adopted October 14, 1965, occurred in the request of the Governor of the State of Maine, as Chairman of the New England Governors' Conference, and did itself request that the President declare the establishment of the New England River Basins Commission under the provisions of section 201 of the Act [this section]; and

WHEREAS the request of the Governor of the State of Maine and the resolution of the Council of October 14, 1965, together with written concurrences by the Governors of the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, and New York, satisfy the formal requirements of section 201 of the Act [this section]; and

WHEREAS it appears that it would be in the public interest and in keeping with the intent of Congress to declare the establishment of such a Commission:

NOW, THEREFORE, by virtue of the authority vested in me by section 201 of the Act [this section], and as President of the United States, it is ordered as follows:

SECTION 1. *New England River Basins Commission.* It is hereby declared that the New England River Basins Commission is established under the provisions of Title II of the Act [this subchapter].

SEC. 2. *Jurisdiction of Commission.* (a) It is hereby determined that the jurisdiction of the New England River Basins Commission referred to in section 1 of this order (hereinafter referred to as the Commission) shall extend to an area composed as follows:

(1) The State of Maine,

(2) The State of New Hampshire,

(3) The State of Vermont,

(4) The State of Massachusetts,

(5) The State of Connecticut,

(6) The State of Rhode Island,

(7) (i) That portion of the State of New York which is within the drainage area of the Housatonic River, and (ii) that portion of Long Island (excluding New York City) in the State of New York which is within the drainage area of Long Island Sound, and

(8) Long Island Sound except the portion thereof which lies west of a line extended from the Connecticut-New York boundary at the northern shore of the Sound to the New York City-Nassau County boundary at the southern shore of the Sound.

(b) The determination set forth in subsection (a) of this section is made in accordance with the request of the Commission, and is concurred in by the Water Resources Council and by the Governors of the States within the jurisdiction of the Commission.

SEC. 3. *Membership of Commission.* It is hereby determined, in accordance with section 202 of the Act [section 1962b-1 of this title], that the Commission shall consist of the following:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture, Department of the Army, Department of Commerce, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of Transportation, Environmental Protection Agency, Energy Research and Development Administration, and Federal Power Commission, each such member to be appointed by the head of each department or independent agency he represents,

(3) one member from each of the following States: Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, and New York, and

(4) one member from each interstate agency created by an interstate compact to which the consent of Congress has been given and whose jurisdiction extends to the waters of the area specified in section 2.

SEC. 4. *Functions to be performed.* The Commission and its Chairman, members, and employees are hereby authorized to perform and exercise, with respect to the jurisdiction specified in section 2 of this order, the functions, powers, and duties of such a Commission and of such Chairman, members, and employees, respectively, as set out in Title II of the Act [this subchapter].

SEC. 5. *International coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Council any matters under consideration by the Commission which relate to the areas of interest or jurisdiction of the International Joint Commission, United States and Canada. The Council shall consult on these matters as appropriate with the Department of State and the International Joint Commission through its United States Section for the purpose of enhancing international coordination.

SEC. 6. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Council.

LYNDON B. JOHNSON.

EX. ORD. NO. 11578. ESTABLISHMENT OF OHIO RIVER BASIN COMMISSION

Ex. Ord. No. 11578, eff. Jan. 13, 1971, 36 F.R. 683, as amended by Ex. Ord. No. 11882, eff. Oct. 6, 1975, 40 F.R. 46293, provided:

WHEREAS the Water Resources Planning Act (79 Stat. 244, 42 U.S.C. 1962 *et seq.*) [this chapter] provides for the establishment of river basin water and related land resources commissions; and

WHEREAS the Governors of the States of the Ohio River drainage basin, excluding the Tennessee River drainage basin, and the Water Resources Council have requested, or concurred in, the establishment of such a commission:

Now THEREFORE, by virtue of the authority vested in me by section 201 of the Water Resources Planning Act (42 U.S.C. 1962b), and as President of the United States, it is ordered as follows:

SECTION 1. *Ohio River Basin Commission.* It is hereby declared that the Ohio River Basin Commission is established under the provisions of Title II of the Water Resources Planning Act (42 U.S.C. 1962b *et seq.*).

SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Ohio River Basin Commission referred to in section 1 of this order shall extend to those portions of the States of Kentucky, Illinois, Indiana, Maryland, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia that are located within the Ohio River drainage basin, excluding the Tennessee River drainage basin.

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with section 202 of the Act (42 U.S.C. 1962b-1), the Commission shall consist of the following members:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture, Department of the Army, Department of Commerce, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of Transportation, Federal Power Commission, Energy Research and Development Administration, and the Environmental Protection Agency, such member to be appointed by the head of the department or independent agency he represents,

(3) one member from each of the following States: Kentucky, Illinois, Indiana, Maryland, New York, North Carolina, Ohio, Pennsylvania, Tennessee, and West Virginia, and a member from Virginia when authorized by the legislature of that State, and

(4) one member from each interstate agency created by an interstate compact to which the consent of Congress has been given and whose jurisdiction extends to the waters of the area specified in section 2.

SEC. 4. *Functions, Powers, and Duties.* The Commission and its officers, members, and employees shall perform and exercise, with respect to the area specified in section 2 of this order, their respective functions, powers, and duties as set out in Title II of the Water Resources Planning Act [this subchapter].

SEC. 5. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Water Resources Council.

RICHARD NIXON.

EX. ORD. NO. 11613. MEMBERSHIP OF ENVIRONMENTAL PROTECTION AGENCY ON ESTABLISHED RIVER BASIN COMMISSION

Ex. Ord. No. 11613, eff. Aug. 2, 1971, 36 F.R. 14299, provided:

By virtue of the authority vested in me by section 202 of the Water Resources Planning Act (79 Stat. 247; 42 U.S.C. 1962b-1) and as President of the United States, it is ordered as follows:

SECTION 1. Section 3(2) of each of the following-described Executive orders is amended by adding "Environmental Protection Agency," immediately after "Department of Transportation,"—

(1) Executive Order No. 11331 of March 6, 1967, establishing the Pacific Northwest River Basins Commission;

(2) Executive Order No. 11345 of April 20, 1967, establishing the Great Lakes Basin Commission;

(3) Executive Order No. 11359 of June 20, 1967, establishing the Souris-Red-Rainy River Basins Commissions; and

(4) Executive Order No. 11371 of September 6, 1967, establishing the New England River Basins Commission, as amended by Executive Order No. 11528 of April 24, 1970.

SEC. 2. The Administrator of the Environmental Protection Agency shall appoint a member to each river basin commission to serve as the representative of that Agency as soon as practicable after the date of issuance of this Order.

RICHARD NIXON.

EX. ORD. NO. 11658. ESTABLISHMENT OF MISSOURI RIVER BASIN COMMISSION

Ex. Ord. No. 11658, eff. Mar. 22, 1972, 37 F.R. 6045, as amended by Ex. Ord. No. 11882, eff. Oct. 6, 1975, 40 F.R. 46293, provided:

The Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 *et seq.*) [this chapter] provides for the establishment of river basin water and related land resources commissions. In conformity with the requirements of that act a majority of the Governors of the States of the Missouri River drainage basin, as defined in Section 2 of this order, and the Water Resources Council have requested, or concurred in, the establishment of such a Commission.

Now, THEREFORE, by virtue of the authority vested in me by Section 201 of the Water Resources Planning Act (42 U.S.C. 1962b), and as President of the United States, it is ordered as follows:

SECTION 1. *Missouri River Basin Commission.* It is hereby declared that the Missouri River Basin Commission is established under the provisions of Title II of the Water Resources Planning Act (42 U.S.C. 1962b *et seq.*).

SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Missouri River Basin Commission referred to in Section 1 of this order shall extend to the State of Nebraska and those portions of the States of Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, North Dakota, South Dakota, and Wyoming that are located within the Missouri River drainage basin, defined as the drainage basin of the Missouri River above a point immediately below the mouth of the Gasconade River.

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with Section 202 of the Act (42 U.S.C. 1962b-1), the Commission shall consist of the following members:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture; Department of the Army; Department of Commerce; Department of Health, Education, and Welfare; Department of Housing and Urban Development; Depart-

ment of the Interior; Department of Transportation; Federal Power Commission; Energy Research and Development Administration; and the Environmental Protection Agency; such member to be appointed by the head of the department or independent agency he represents,

(3) one member from each of the following States: Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wyoming,

(4) one member from each interstate agency created by an interstate compact to which the consent of the Congress has been given and whose jurisdiction extends to the waters of the area specified in Section 2.

SEC. 4. *Functions, Powers, and Duties.* The Commission and its officers, members, and employees shall perform and exercise, with respect to the area specified in Section 2 of this order, their respective functions, powers, and duties as set out in Title II of the Water Resources Planning Act [this subchapter].

SEC. 5. *International Coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Water Resources Council any matters under consideration by the Commission which relate to areas of interest or jurisdiction of the International Joint Commission, United States and Canada. The Council shall consult on these matters as appropriate with the Department of State and the International Joint Commission through its United States Section for the purpose of enhancing international coordination.

SEC. 6. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Water Resources Council.

RICHARD NIXON.

EX. ORD. NO. 11659. ESTABLISHMENT OF UPPER MISSISSIPPI RIVER BASIN COMMISSION

Ex. Ord. No. 11659, eff. Mar. 22, 1972, 37 F.R. 6047, as amended by Ex. Ord. No. 11737, eff. Sept. 7, 1973, 38 F.R. 24883; Ex. Ord. No. 11882, eff. Oct. 6, 1975, 40 F.R. 46293, provided:

The Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 *et seq.*) provides for the establishment of river basin water and related land resources commission. In conformity with the requirements of that act the Governors of the States of the Upper Mississippi River drainage basin, as defined in Section 2 of this order, and the Water Resources Council have requested, or concurred in, the establishment of such a Commission.

NOW, THEREFORE, by virtue of the authority vested in me by Section 201 of the Water Resources Planning Act (42 U.S.C. 1962b), and as President of the United States, it is ordered as follows:

SECTION 1. *Upper Mississippi River Basin Commission.* It is hereby declared that the Upper Mississippi River Basin Commission is established under the provisions of Title II of the Water Resources Planning Act (42 U.S.C. 1962b *et seq.*).

SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Upper Mississippi River Basin Commission referred to in Section 1 of this order shall extend to those portions of the States of Illinois, Iowa, Minnesota, Missouri, Wisconsin, and North Dakota that are located within the Upper Mississippi, Souris, Red, or Rainy River drainage basins. The Upper Mississippi River drainage basin is defined as the drainage basin of the Mississippi River above the mouth of the Ohio River, excluding the drainage basin of the Missouri River above a point immediately below the mouth of the Gasconade River.

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with Section 202 of the Act (42 U.S.C. 1962b-1), the Commission shall consist of the following members:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture; Department of the Army; Department of Commerce; Department of Health, Education, and Welfare; Department of Housing and Urban Development; Department of the Interior; Department of Transportation; Federal Power Commission; Energy Research and Development Administration; and the Environmental Protection Agency; such member to be appointed by the head of the department or independent agency he represents,

(3) one member from each of the following States: Illinois, Iowa, Minnesota, Missouri, Wisconsin, and North Dakota.

(4) one member from each interstate agency created by an interstate compact to which the consent of Congress has been given and whose jurisdiction extends to the waters of the area specified in Section 2.

SEC. 4. *Functions, Power, and Duties.* The Commission and its officers, members, and employees shall perform and exercise, with respect to the area specified in Section 2 of this order, their respective functions, powers, and duties as set out in Title II of the Water Resources Planning Act [this subchapter].

SEC. 5. *Consultation with Adjoining States.* The Commission is expected to provide for procedures for consultation with the States of Indiana, Michigan, South Dakota, and Montana on any matter which might affect the water and related land resources of the headwater drainages of the Mississippi River Basin or the drainages of the Souris, Red, or Rainy River Basins in those States and to give notice to those States of meetings of the Commission.

SEC. 6. *International Coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Council any matters under consideration by the Commission which relate to areas of interest or jurisdiction of the International Joint Commission, United States and Canada. The Council shall consult on these matters as appropriate with the Department of State and the International Joint Commission through its United States Section for the purpose of enhancing international coordination.

SEC. 7. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Water Resources Council.

RICHARD NIXON.

EX. ORD. NO. 11737. ENLARGEMENT OF UPPER MISSISSIPPI RIVER BASIN COMMISSION

Ex. Ord. No. 11737, eff. Sept. 7, 1973, 38 F.R. 24883, provided:

The Governors of the member States of the Upper Mississippi River Basin Commission and of the Souris-Red-Rainy River Basins Commission, together with the Water Resources Council, have requested, or concurred in, the enlargement of the Upper Mississippi River Basin Commission to include those portions of the States of Minnesota and North Dakota that are drained by the Souris-Red-Rainy Rivers system. The Souris-Red-Rainy River Basins Commission terminated on June 30, 1973, by operation of Section 7 of Executive Order No. 11359 of June 20, 1967, as amended. I have determined that it would be in the public interest to comply with the above request.

NOW, THEREFORE, by virtue of the authority vested in me by Section 201 of the Water Resources Planning Act (42 U.S.C. 1962b) and as President of the United States, it is ordered as follows:

SECTION. 1. Executive Order No. 11659 of March 22, 1972, is hereby amended as follows:

(1) Section 2 is amended to read as follows:

"SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Upper Mississippi River Basin Commission referred to in Section 1 of this order shall extend to those portions of the States of Illinois, Iowa, Minnesota, Missouri, Wisconsin, and North Dakota that are located within the Upper Mississippi, Souris, Red, or Rainy River drainage basins. The Upper Mississippi River drainage basin is defined as the drainage basin of the Mississippi River above the mouth of the Ohio River, excluding the drainage basin of the Missouri River above a point immediately below the mouth of the Gasconade River."

(2) Section 3(3) is amended to read as follows:

"(3) one member from each of the following States: Illinois, Iowa, Minnesota, Missouri, Wisconsin, and North Dakota."

(3) Section 5 is amended to read as follows:

"SEC. 5. *Consultation with Adjoining States.* The Commission is expected to provide for procedures for consultation with the States of Indiana, Michigan, South Dakota, and Montana on any matter which might affect the water and related land resources of the headwater drainages of the Mississippi River Basin or the drainages of the Souris, Red, or Rainy River Basins in those States and to give notice to those States of meetings of the Commission."

(4) Section 6 is hereby redesignated as Section 7 and a new Section 6 is hereby inserted immediately after Section 5 as follows:

"SEC. 6. *International Coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Council any matters under consideration by the Commission which relate to areas of interest or jurisdiction of the International Joint Commission, United States and Canada. The Council shall consult on these matters as appropriate with the Department of State and the International Joint Commission through its United States Section for the purpose of enhancing international coordination."

SEC. 2. All funds, property, records, employees, assets, and obligations of the Souris-Red-Rainy River Basins Commission are, with the concurrence of Governors of the affected States, transferred to the Upper Mississippi River Basin Commission, effective as of July 1, 1973.

SEC. 3. Executive Order No. 11359 of June 20, 1967, and Executive Order No. 11635 of December 9, 1971, are hereby superseded.

RICHARD NIXON.

EX. ORD. NO. 11882. MEMBERSHIP OF ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION ON ESTABLISHED RIVER BASIN COMMISSION

Ex. Ord. No. 11882, eff. Oct. 6, 1975, 40 F.R. 46293, provided:

By virtue of the authority vested in me by section 202 of the Water Resources Planning Act (79 Stat. 247, 42 U.S.C. 1962b-1), and as President of the United States, it is hereby ordered as follows:

SECTION 1. Section 3(2) of Executive Order No. 11345 of April 20, 1967, as amended [set out as a note above], establishing the Great Lakes Basin Commission, is amended by adding "Energy Research and Development Administration," immediately after "Department of Transportation."

SEC. 2. Section 3(2) of each of the following Executive orders is amended by deleting "Atomic Energy Commission" and substituting therefor "Energy Research and Development Administration":

(a) Executive Order No. 11371 of September 6, 1967, as amended [set out as a note above], establishing the New England River Basins Commission;

(b) Executive Order No. 11578 of January 13, 1971 [set out as a note above], establishing the Ohio River Basin Commission;

(c) Executive Order No. 11658 of March 22, 1972 [set out as a note above], establishing the Missouri River Basin Commission; and

(d) Executive Order No. 11659 of March 22, 1972, as amended [set out as a note above], establishing the Upper Mississippi River Basin Commission.

SEC. 3. The Administrator of the Energy Research and Development Administration shall appoint a member to each river basin commission to serve as the representative of that agency as soon as practicable after the date of issuance of this order.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962b-5 of this title.

§ 1962b-1. Membership of commissions; appointment of chairman

Each river basin commission shall be composed of members appointed as follows:

(a) A chairman appointed by the President who shall also serve as chairman and coordinating officer of the Federal members of the commission and who shall represent the Federal Government in Federal-State relations on the commission and who shall not, during the period of his service on the commission, hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the Federal Government;

(b) One member from each Federal department or independent agency determined by the President to have a substantial interest in the work to be undertaken by the commission, such member to be appointed by the head of such department or independent agency and to serve as the representative of such department or independent agency;

(c) One member from each State which lies wholly or partially within the area, river basin, or group of river basins for which the commission is established, and the appointment of each such member shall be made in accordance with the laws of the State which he represents. In the absence of governing provisions of State law, such State members shall be appointed and serve at the pleasure of the Governor;

(d) One member appointed by any interstate agency created by an interstate compact to which the consent of Congress has been given, and whose jurisdiction extends to the waters of the area, river basin, or group of river basins for which the river basin commission is created;

(e) When deemed appropriate by the President, one member, who shall be appointed by the President, from the United States section of any international commission created by a treaty to which the consent of the Senate has been given, and whose jurisdiction extends to the waters of the area, river basin, or group of river basins for which the river basin commission is established.

(Pub. L. 89-80, title II, § 202, July 22, 1965, 79 Stat. 247.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962b-5 of this title.

§ 1962b-2. Organization of commissions

(a) Commencement of functions; transfer of property, assets, and records upon termination of commission; availability of studies, data, and other materials to participants

Each river basin commission shall organize for the performance of its functions within ninety days after the President shall have declared the establishment of such commission, subject to the availability of funds for carrying on its work. A commission shall terminate upon decision of the Council or agreement of a majority of the States composing the commission. Upon such termination, all property, assets, and records of the commission shall thereafter be turned over to such agencies of the United States and the participating States as shall be

appropriate in the circumstances: *Provided*, That studies, data, and other materials useful in water and related land resources planning to any of the participants shall be kept freely available to all such participants.

(b) Vice chairman; State election; State representation

State members of each commission shall elect a vice chairman, who shall serve also as chairman and coordinating officer of the State members of the commission and who shall represent the State governments in Federal-State relations on the commission.

(c) Vacancies; alternates for chairman and vice chairman

Vacancies in a commission shall not affect its powers but shall be filled in the same manner in which the original appointments were made: *Provided*, That the chairman and vice chairman may designate alternates to act for them during temporary absences.

(d) Consensus of members on issues; opportunities for individual views; record of position of chairman and vice chairman; final authority on procedural questions

In the work of the commission every reasonable endeavor shall be made to arrive at a consensus of all members on all issues; but failing this, full opportunity shall be afforded each member for the presentation and report of individual views: *Provided*, That at any time the commission fails to act by reason of absence of consensus, the position of the chairman, acting in behalf of the Federal members, and the vice chairman, acting upon instructions of the State members, shall be set forth in the record: *Provided further*, That the chairman, in consultation with the vice chairman, shall have the final authority, in the absence of an applicable by-law adopted by the commission or in the absence of a consensus, to fix the times and places for meetings, to set deadlines for the submission of annual and other reports, to establish subcommittees, and to decide such other procedural questions as may be necessary for the commission to perform its functions.

(Pub. L. 89-80, title II, § 203, July 22, 1965, 79 Stat. 248.)

§ 1962b-3. Duties of commissions

Each river basin commission shall—

(1) engage in such activities and make such studies and investigations as are necessary and desirable in carrying out the policy set forth in section 1962 of this title and in accomplishing the purposes set forth in section 1962b(b) of this title;

(2) submit to the Council and the Governor of each participating State a report on its work at least once each year. Such report shall be transmitted through the President to the Congress. After such transmission, copies of any such report shall be sent to the heads of such Federal, State, interstate, and international agencies as the President or the Governors of the participating States may direct;

(3) submit to the Council for transmission to the President and by him to the Congress, and the Governors and the legislatures of the participating States a comprehensive, coordinated, joint plan, or any major portion thereof or necessary revisions thereof, for water and related land resources development in the area, river basin, or group of river basins for which such commission was established. Before the commission submits such a plan or major portion thereof or revision thereof to the Council, it shall transmit the proposed plan or revision to the head of each Federal department or agency, the Governor of each State, and each interstate agency, from which a member of the commission has been appointed, and to the head of the United States section of any international commission if the plan, portion or revision deals with a boundary water or a river crossing a boundary, or any tributary flowing into such boundary water or river, over which the international commission has jurisdiction or for which it has responsibility. Each such department and agency head, Governor, interstate agency, and United States section of an international commission shall have ninety days from the date of the receipt of the proposed plan, portion, or revision to report its views, comments, and recommendations to the commission. The commission may modify the plan, portion, or revision after considering the reports so submitted. The views, comments, and recommendations submitted by each Federal department or agency head, Governor, interstate agency, and United States section of an international commission shall be transmitted to the Council with the plan, portion, or revision; and

(4) submit to the Council at the time of submitting such plan, any recommendations it may have for continuing the functions of the commission and for implementing the plan, including means of keeping the plan up to date.

(Pub. L. 89-80, title II, § 204, July 22, 1965, 79 Stat. 248.)

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (3) of this section delegated to the Director of the Office of Management and Budget, see section 1 of Ex. Ord. No. 11747, eff. Nov. 7, 1973, 38 F.R. 30993, set out as a note under section 1962a-3 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962a-3 of this title.

§ 1962b-4. Administrative provisions

(a) Hearings, proceedings, evidence, reports; office space; use of mails; personnel; consultants, and professional service contracts; personnel from other agencies; retirement and employee benefit system for personnel without coverage; motor vehicles; necessary expenses; other powers

For the purpose of carrying out the provisions of this subchapter, each river basin commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable;

(2) acquire, furnish, and equip such office space as is necessary;

(3) use the United States mails in the same manner and upon the same conditions as departments and agencies of the United States;

(4) employ and compensate such personnel as it deems advisable, including consultants, at rates not in excess of the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5, and retain and compensate such professional or technical service firms as it deems advisable on a contract basis;

(5) arrange for the services of personnel from any State or the United States, or any subdivision or agency thereof, or any intergovernmental agency;

(6) make arrangements, including contracts, with any participating government, except the United States or the District of Columbia, for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for or continuing in another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel;

(7) purchase, hire, operate, and maintain passenger motor vehicles; and

(8) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this chapter.

(b) Oaths

The chairman of a river basin commission, or any member of such commission designated by the chairman thereof for the purpose, is authorized to administer oaths when it is determined by a majority of the commission that testimony shall be taken or evidence received under oath.

(c) Records; public inspection

To the extent permitted by law, all appropriate records and papers of each river basin commission shall be made available for public inspection during ordinary office hours.

(d) Information and personnel from other Federal agencies

Upon request of the chairman of any river basin commission, or any member or employee of such commission designated by the chairman thereof for the purpose, the head of any Federal department or agency is authorized (1) to furnish to such commission such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and (2) to detail to temporary duty with such commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(e) Responsibility for personnel and funds

The chairman of each river basin commission shall, with the concurrence of the vice chairman, appoint the personnel employed by such commission, and the chairman shall, in accordance with the general policies of such commission with respect to the work to be accomplished by it and the timing thereof, be responsible for (1) the supervision of personnel employed by such commission, (2) the assignment of duties and responsibilities among such personnel, and (3) the use and expenditure of funds available to such commission.

(Pub. L. 89-80, title II, § 205, July 22, 1965, 79 Stat. 249; Pub. L. 94-112, § 1(c), Oct. 16, 1975, 89 Stat. 575.)

AMENDMENTS

1975—Subsec. (a)(4). Pub. L. 94-112 substituted "not in excess of the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5" for "not to exceed $100 per diem".

§ 1962b-5. Compensation of members and chairmen

(a) Additional compensation prohibited to members appointed from federal departments, agencies, and international commissions

Any member of a river basin commission appointed pursuant to section 1962b-1(b) and (e) of this title shall receive no additional compensation by virtue of his membership on the commission, but shall continue to receive, from appropriations made for the agency from which he is appointed, the salary of his regular position when engaged in the performance of the duties vested in the commission.

(b) Compensation of members from states and interstate agencies

Members of a commission, appointed pursuant to section 1962b-1(c) and (d) of this title, shall each receive such compensation as may be provided by the States or the interstate agency respectively, which they represent.

(c) Compensation of chairman

The per annum compensation of the chairman of each river basin commission shall be determined by the President, but when employed on a full-time annual basis shall not exceed the maximum scheduled rate for grade GS-18 or when engaged in the performance of the commission's duties on an intermittent basis such compensation shall be not more than $100 per day and shall not exceed $12,000 in any year.

(Pub. L. 89-80, title II, § 206, July 22, 1965, 79 Stat. 250.)

REFERENCES IN TEXT

GS-18, referred to in subsec. (c), is contained in the General Schedule, which is set out under section 5332 of Title 5, Government Organization and Employees.

§ 1962b-6. Expenses of commissions

(a) Federal share; apportionment of remainder; annual budget; estimates of proposed Federal appropriations; advances against delayed State appropriations; credit to account in the Treasury

Each commission shall recommend what share of its expenses shall be borne by the Federal Government, but such share shall be subject to approval by the Council. The remainder of the commission's expenses shall be otherwise apportioned as the commission may determine. Each commission shall prepare a budget annually and transmit it to the Council and the States. Estimates of proposed appropriations from the Federal Government shall be included in the budget estimates submitted by the Council under the Budgeting and Accounting Act of 1921, as amended [31 U.S.C. 1 et seq.], and may

include an amount for advance to a commission against State appropriations for which delay is anticipated by reason of later legislative sessions. All sums appropriated to or otherwise received by a commission shall be credited to the commission's account in the Treasury of the United States.

(b) Acceptance, reception, utilization, and disposal of appropriations, donations, and grants

A commission may accept for any of its purposes and functions appropriations, donations, and grants of money, equipment, supplies, materials, and services from any State or the United States or any subdivision or agency thereof, or intergovernmental agency, and may receive, utilize, and dispose of the same.

(c) Accounts of receipts and disbursements; annual audit; inclusion in annual report

The commission shall keep accurate accounts of all receipts and disbursements. The accounts shall be audited at least annually in accordance with generally accepted auditing standards by independent certified or licensed public accountants, certified or licensed by a regulatory authority of a State, and the report of the audit shall be included in and become a part of the annual report of the commission.

(d) Inspection of accounts

The accounts of the commission shall be open at all reasonable times for inspection by representatives of the jurisdictions and agencies which make appropriations, donations, or grants to the commission.

(Pub. L. 89-80, title II, § 207, July 22, 1965, 79 Stat. 250.)

REFERENCES IN TEXT

The Budgeting and Accounting Act of 1921, as amended, referred to in subsec. (a), probably means the Budget and Accounting Act of 1921, act June 10, 1921, ch. 18, 42 Stat. 20, as amended, which is classified principally to chapter 1 (§ 1 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see section 1 of Title 31 and Tables volume.

SUBCHAPTER III—FINANCIAL ASSISTANCE TO STATES FOR COMPREHENSIVE PLANNING GRANT AUTHORIZATIONS

§ 1962c. Authorization of appropriations; coordination of related Federal planning assistance programs; utilization of Federal agencies administering programs contributing to water resources planning

(a) In recognition of the need for increased participation by the States in water and related land resources planning to be effective, there are hereby authorized to be appropriated to the Council, for fiscal years 1977 and 1978, $5,000,000 in each such year for grants to States to assist them in developing and participating in the development of comprehensive water and related land resources plans.

(b) The Council, with the approval of the President, shall prescribe such rules, establish such procedures, and make such arrangements and provisions relating to the performance of its functions under this subchapter, and the use of funds available therefor, as may be necessary in order to assure (1) coordination of the program authorized by this subchapter with related Federal planning assistance programs, including the program authorized under section 461 of title 40 and (2) appropriate utilization of other Federal agencies administering programs which may contribute to achieving the purpose of this chapter.

(Pub. L. 89-80, title III, § 301, July 22, 1965, 79 Stat. 251; Pub. L. 94-112, § 1(d), Oct. 16, 1975, 89 Stat. 575.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-112 substituted "for fiscal years 1977 and 1978," for "for the next fiscal year beginning after July 22, 1965, and for the nine succeeding fiscal years thereafter,".

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (b) of this section delegated to the Director of the Office of Management and Budget, see section 1 of Ex. Ord. No. 11747, eff. Nov. 7, 1973, 38 F.R. 30993, set out as a note under section 1962a-3 of this title.

§ 1962c-1. Allotments to States: basis, population and land area determinations; payments to States: amount

(a) From the sums appropriated pursuant to section 1962c of this title for any fiscal year the Council shall from time to time make allotments to the States, in accordance with its regulations, on the basis of (1) the population, (2) the land area, (3) the need for comprehensive water and related land resources planning programs, and (4) the financial need of the respective States. For the purposes of this section the population of the States shall be determined on the basis of the latest estimates available from the Department of Commerce and the land area of the States shall be determined on the basis of the official records of the United States Geological Survey.

(b) From each State's allotment under this section for any fiscal year the Council shall pay to such State an amount which is not more than 50 per centum of the cost of carrying out its State program approved under section 1962c-2 of this title, including the cost of training personnel for carrying out such program and the cost of administering such program.

(Pub. L. 89-80, title III, § 302, July 22, 1965, 79 Stat. 251.)

§ 1962c-2. State programs; approval by Council; submission; requirements; notice and hearing prior to disapproval

The Council shall approve any program for comprehensive water and related land resources planning which is submitted by a State, if such program—

(1) provides for comprehensive planning with respect to intrastate or interstate water resources, or both, in such State to meet the needs for water and water-related activities taking into account prospective demands for all purposes served through or affected by water and related land resources development, with adequate provision for coordination with all Federal, State, and local agencies, and nongovernmental entities having responsibilities in affected fields;

(2) provides, where comprehensive statewide development planning is being carried on with or without assistance under section 461 of title 40, or under the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*-4 et seq.], for full coordination between comprehensive water resources planning and other statewide planning programs and for assurances that such water resources planning will be in conformity with the general development policy in such State;

(3) designates a State agency (hereinafter referred to as the "State agency") to administer the program;

(4) provides that the State agency will make such reports in such form and containing such information as the Council from time to time reasonably requires to carry out its functions under this subchapter;

(5) sets forth the procedure to be followed in carrying out the State program and in administering such program; and

(6) provides such accounting, budgeting, and other fiscal methods and procedures as are necessary for keeping appropriate accountability of the funds and for the proper and efficient administration of the program.

The Council shall not disapprove any program without first giving reasonable notice and opportunity for hearing to the State agency administering such program.

(Pub. L. 89-80, title III, § 303, July 22, 1965, 79 Stat. 252.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in par. (2), is Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*-4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*-4 of Title 16 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962c-1, 1962c-3 of this title.

§ 1962c-3. Noncompliance; curtailing of payments

Whenever the Council after reasonable notice and opportunity for hearing to a State agency finds that—

(a) the program submitted by such State and approved under section 1962c-2 of this title has been so changed that it no longer complies with a requirement of such section; or

(b) in the administration of the program there is a failure to comply substantially with such a requirement,

the Council shall notify such agency that no further payments will be made to the State under this subchapter until it is satisfied that there will no longer be any such failure. Until the Council is so satisfied, it shall make no further payments to such State under this subchapter.

(Pub. L. 89-80, title III, § 304, July 22, 1965, 79 Stat. 252.)

§ 1962c-4. Payments to States; computation of amount

The method of computing and paying amounts pursuant to this subchapter shall be as follows:

(1) The Council shall, prior to the beginning of each calendar quarter or other period prescribed by it, estimate the amount to be paid to each State under the provisions of this subchapter for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Council may find necessary.

(2) The Council shall pay to the State, from the allotment available therefor, the amount so estimated by it for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which it finds that its estimate of the amount to be paid such State for any prior period under this subchapter was greater or less than the amount which should have been paid to such State for such prior period under this subchapter. Such payments shall be made through the disbursing facilities of the Treasury Department, at such times and in such installments as the Council may determine.

(Pub. L. 89-80, title III, § 305, July 22, 1965, 79 Stat. 253.)

§ 1962c-5. Definition

For the purpose of this subchapter the term "State" means a State, the District of Columbia, Puerto Rico, the Virgin Islands or Guam.

(Pub. L. 89-80, title III, § 306, July 22, 1965, 79 Stat. 253; Pub. L. 94-285, § 2, May 12, 1976, 90 Stat. 516.)

AMENDMENTS

1976—Pub. L. 94-285 added reference to Guam.

§ 1962c-6. Records; audit and examination

(a) Each recipient of a grant under this chapter shall keep such records as the Chairman of the Council shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking in connection with which the grant was made and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Chairman of the Council and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this chapter.

(Pub. L. 89-80, title III, § 307, July 22, 1965, 79 Stat. 253.)

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

§ 1962d. Authorization of appropriations to the Water Resources Council

There are authorized to be appropriated to the Water Resources Council:

(a) Limitation for single river basin commission

not to exceed $6,000,000 annually for the Federal share of the expenses of administration and operation of river basin commissions, including salaries and expenses of the chairmen, but not including funds authorized by subsection (c) below: *Provided,* That not more than $750,000 annually shall be available under this subsection for any single river basin commission;

(b) Limitation on the expenses of the Water Resources Council

not to exceed $2,000,000 annually for the expenses of the Water Resources Council in administering this chapter, not including funds authorized by subsection (c) below;

(c) Limitations on the availability of funds for the preparation of assessments and plans

not to exceed a total of $10,000,000 for fiscal years 1976 and 1977 for preparation of assessments, and for directing and coordinating the preparation of such regional or river basin plans as the Council determines are necessary and desirable in carrying out the policy of this chapter: *Provided,* That not more than $2,500,000 shall be available under this subsection for the preparation of assessments: *Provided further,* That the Council may transfer funds authorized by this subsection to river basin commissions and to Federal and State agencies upon such terms and conditions as it determines are necessary and desirable to carry out the above functions in an economical, efficient, and timely manner, and that such commissions and agencies are hereby authorized to receive and expend such funds pursuant to this subsection.

(Pub. L. 89-80, title IV, § 401, July 22, 1965, 79 Stat. 253; Pub. L. 90-547, Oct. 2, 1968, 82 Stat. 935; Pub. L. 92-27, June 17, 1971, 85 Stat. 77; Pub. L. 92-396, Aug. 20, 1972, 86 Stat. 578; Pub. L. 93-55, July 1, 1973, 87 Stat. 140; Pub. L. 94-112, § 1(e), Oct. 16, 1975, 89 Stat. 575; Pub. L. 94-285, § 1, May 12, 1976, 90 Stat. 516.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-285 substituted "$2,000,000" for "$1,500,000".

1975—Subsec. (c). Pub. L. 94-112 substituted "not to exceed a total of $10,000,000 for fiscal years 1976 and 1977" for "not to exceed $3,500,000 annually for fiscal years 1974 and 1975".

1973—Subsec. (c). Pub. L. 93-55 substituted "annually for fiscal years 1974 and 1975" for "in fiscal year 1973 and such annual amounts as may be authorized by subsequent Acts".

1972—Pub. L. 92-396 authorized appropriations to the Water Resources Council, and in subsec. (a), substituted "chairmen" for "chairman", in subsec. (b) inserted "not including funds authorized by subsection (c) below", and added subsec. (c).

1971—Pub. L. 92-27 substituted appropriation authorization of $6,000,000 annually for Federal share of expenses of administration and operation of river basin commissions, including salaries and expenses of chairman, for former provisions for annual appropriation authorization of $500,000; $6,000,000; and $400,000 for subchapters I, II, and III of this chapter and authorize appropriation of $1.5 million annually for administration expenses of Water Resources Council.

1968—Pub. L. 90-547 increased the authorization for appropriations to carry out the provisions of subchapter I of this chapter from not to exceed $300,000 annually to not to exceed $500,000 annually.

§ 1962d-1. Rules and regulations

The Council is authorized to make such rules and regulations as it may deem necessary or appropriate for carrying out those provisions of this chapter which are administered by it.

(Pub. L. 89-80, title IV, § 402, July 22, 1965, 79 Stat. 254.)

§ 1962d-2. Delegation of functions

The Council is authorized to delegate to any member or employee of the Council its administrative functions under section 1962a-4 of this title and the detailed administration of the grant program under subchapter III of this chapter.

(Pub. L. 89-80, title IV, § 403, July 22, 1965, 79 Stat. 254.)

§ 1962d-3. Utilization of personnel

The Council may, with the consent of the head of any other department or agency of the United States, utilize such officers and employees of such agency on a reimbursable basis as are necessary to carry out the provisions of this chapter.

(Pub. L. 89-80, title IV, § 404, July 22, 1965, 79 Stat. 254.)

§ 1962d-4. Northeastern United States water supply

(a) Plans for Federal construction, operation, and maintenance of reservoir system within certain river basins and conveyance and purification facilities through cooperation of Secretary of the Army and government agencies; financial participation of States

Congress hereby recognizes that assuring adequate supplies of water for the great metropolitan centers of the United States has become a problem of such magnitude that the welfare and prosperity of this country require the Federal Government to assist in the solution of water supply problems. Therefore, the Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with Federal, State, and local agencies in preparing plans in accordance with the Water Resources Planning Act [42 U.S.C. 1962 et seq.] to meet the long-range water needs of the northeastern United States. This plan may provide for the construction, operation, and maintenance by the United States of (1) a system of major reservoirs to be located within those river basins of the northeastern United States which drain into the Chesapeake Bay, those that drain into the Atlantic Ocean north of the Chesapeake Bay, those that drain into Lake Ontario, and those that drain into the Saint Lawrence River, (2) major conveyance facilities by which water may be exchanged between these river basins to the extent found desirable in the national interest, and (3) major purification facilities.

Such plans shall provide for appropriate financial participation by the States, political subdivisions thereof, and other local interests.

(b) Construction, operation, and maintenance of reservoirs and conveyance and purification facilities

The Secretary of the Army, acting through the Chief of Engineers, shall construct, operate, and maintain those reservoirs, conveyance facilities, and purification facilities, which are recommended in the plan prepared in accordance with subsection (a) of this section, and which are specifically authorized by law enacted after October 27, 1965.

(c) Reservoirs as components of river basin and water supply plans

Each reservoir included in the plan authorized by this section shall be considered as a component of a comprehensive plan for the optimum development of the river basin in which it is situated, as well as a component of the plan established in accordance with this section.

(Pub. L. 89-298, title I, § 101, Oct. 27, 1965, 79 Stat. 1073.)

REFERENCES IN TEXT

The Water Resources Planning Act, referred to in subsec. (a), is Pub. L. 89-80, July 22, 1965, 79 Stat. 244, as amended, which is classified generally to this chapter (§ 1962 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1962 of this title and Tables volume.

CODIFICATION

Section was not enacted as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962d-10 of this title.

§ 1962d-5. Water resources development projects involving navigation, flood control, and shore protection

(a) Construction, operation, and maintenance; limitation on estimated Federal first cost of construction; Congressional committee approval of projects; reports to Congress

The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate, and maintain any water resource development project, including single and multiple purpose projects involving, but not limited to, navigation, flood control, and shore protection, if the estimated Federal first cost of constructing such project is less than $15,000,000. No appropriation shall be made to construct, operate, or maintain any such project if such project has not been approved by resolutions adopted by the Committees on Public Works of the Senate and House of Representatives, respectively. For the purpose of securing consideration of such approval the Secretary shall transmit to Congress a report of such proposed project, including all relevant data and all costs.

(b) Local cooperation requirements based on certain estimated Federal first cost of construction

Any water resource development project authorized to be constructed by this section shall be subject to the same requirements of local cooperation as it would be if the estimated Federal first cost of such project were $15,000,000 or more.

(Pub. L. 89-298, title II, § 201, Oct. 27, 1965, 79 Stat. 1073; Pub. L. 94-587, § 131, Oct. 22, 1976, 90 Stat. 2928.)

CODIFICATION

Section was enacted as a part of the Flood Control Act of 1965 and not as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-587, § 131(a), substituted "$15,000,000" for "$10,000,000".

Subsec. (b). Pub. L. 94-587, § 131(b), substituted "$15,000,000" for "$10,000,000".

CHANGE OF NAME

The Committee on Public Works of the Senate was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

The Committee on Public Works of the House of Representatives was changed to the Committee on Public Works and Transportation of the House of Representatives, effective Jan. 3, 1975, by House Resolution 988, 93d Congress.

LOCAL COOPERATION, STUDY; REPORT TO CONGRESS

Pub. L. 93-251, title I, § 24, Mar. 7, 1974, 88 Stat. 20, provided that the Secretary of the Army make a study of the items of local cooperation involving hold and save harmless provisions which have been required for water resource development projects under his jurisdiction and report on such study to Congress not later than June 30, 1975.

LAND AND WATER USE, STUDY; REPORT TO CONGRESS

Pub. L. 93-251, title I, § 25, Mar. 7, 1974, 88 Stat. 20, provided that the Secretary of the Army conduct a study on land use practices and recreational uses at water resource development projects under his jurisdiction and report on such study to Congress not later than June 30, 1975.

NATIONAL STREAMBANK EROSION PREVENTION AND CONTROL DEMONSTRATION PROGRAM.

Pub. L. 93-251, title I, § 32, Mar. 7, 1974 88 Stat. 21, as amended by Pub. L. 94-587, §§ 155, 161, Oct. 22, 1976, 90 Stat. 2932, 2933, provided that:

"(a) This section may be cited as the 'Streambank Erosion Control Evaluation and Demonstration Act of 1974'.

"(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to establish and conduct for a period of five fiscal years a national streambank erosion prevention and control demonstration program. The program shall consist of (1) an evaluation of the extent of streambank erosion on navigable rivers and their tributaries; (2) development of new methods and techniques for bank protection, research on soil stability, and identification of the causes of erosion; (3) a report to the Congress on the results of such studies and the recommendations of the Secretary of the Army on means for the prevention and correction of streambank erosion; and (4) demonstration projects, including bank protection works.

"(c) Demonstration projects authorized by this section shall be undertaken on streams selected to reflect a variety of geographical and environmental conditions, including streams with naturally occurring erosion problems and streams with erosion caused or increased by manmade structures or activities. At a

minimum, demonstration projects shall be conducted at multiple sites on—

"(1) the Ohio River;

"(2) that reach of the Missouri River between Fort Randall Dam, South Dakota, and Sioux City, Iowa;

"(3) that reach of the Missouri River in North Dakota at or below the Garrison Dam, including areas on the right bank at river miles 1345; 1310; 1311; 1316.5; 1334.5; 1341; 1343.5; 1379.5; 1385; and on the left bank at river miles 1316.5; 1320.5; 1323; 1326.5; 1335.7; 1338.5; 1345.2; 1357.5; 1360; 1366.5; 1368; and 1374;

"(4) the delta and hill areas of the Yazoo River Basin generally in accordance with the recommendations of the Chief of Engineers in his report dated September 23, 1972;

"(5) the delta of the Eel River, California.

"(6) the lower Yellowstone River from Intake Montana, to the mouth of such river.

"(d) Prior to construction of any projects under this section, non-Federal interests shall agree that they will provide without cost to the United States lands, easements, and rights-of-way necessary for construction and subsequent operation of the projects; hold and save the United States free from damages due to construction, operation, and maintenance of the projects; and operate and maintain the projects upon completion.

"(e) There is authorized to be appropriated not to exceed $50,000,000 to carry out this section.

"(f) The Secretary of the Army shall make an interim report to Congress on work undertaken pursuant to this section by September 30, 1978, and shall make a [final] report to the Congress no later than December 31, 1981."

NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM

Pub. L. 93-251, title I, § 54, Mar. 7, 1974, 88 Stat. 26, provided that:

"(a) This section may be cited as the 'Shoreline Erosion Control Demonstration Act of 1974'.

"(b) The Congress finds that because of the importance and increasing interest in the coastal and estuarine zone of the United States, the deterioration of the shoreline within this zone due to erosion, the harm to water quality and marine life from shoreline erosion, the loss of recreational potential due to such erosion, the financial loss to private and public landowners resulting from shoreline erosion, and the inability of such landowners to obtain satisfactory financial and technical assistance to combat such erosion, it is essential to develop, demonstrate, and disseminate information about low-cost means to prevent and control shoreline erosion. It is therefore the purpose of this section to authorize a program to develop and demonstrate such means to combat shoreline erosion.

"(c)(1) The Secretary of the Army, acting through the Chief of Engineers, shall establish and conduct for a period of five fiscal years a national shoreline erosion control development and demonstration program. The program shall consist of planning, constructing, operating, evaluating, and demonstrating prototype shoreline erosion control devices, both engineered and vegetative.

"(2) The program shall be carried out in cooperation with the Secretary of Agriculture, particularly with respect to vegetative means of preventing and controlling shoreline erosion, and in cooperation with Federal, State, and local agencies, private organizations, and the Shoreline Erosion Advisory Panel established pursuant to subsection (d).

"(3) Demonstration projects established pursuant to this section shall emphasize the development of low-cost shoreline erosion control devices located on sheltered or inland waters. Such projects shall be undertaken at no less than two sites each on the shorelines of the Atlantic, Gulf and Pacific coasts, the Great Lakes, and the State of Alaska, and at locations of serious erosion along the shores of Delaware Bay, particularly at those reaches known as Pickering Beach, Kitts Hummock, Bowers, Sloughter Beach, Broadkill Beach, and Lewes in the State of Delaware. Sites selected should, to the extent possible, reflect a variety of geographical and climatic conditions.

"(4) Such demonstration projects may be carried out on private or public lands except that no funds appropriated for the purpose of this section may be expended for the acquisition of privately owned lands. In the case of sites located on private or non-Federal public lands, the demonstration projects shall be undertaken in cooperation with a non-Federal sponsor or sponsors who shall pay at least 25 per centum of construction costs at each site and assume operation and maintenance costs upon completion of the project.

"(d)(1) No later than one hundred and twenty days after the date of enactment of this section [Mar. 7, 1974] the Chief of Engineers shall establish a Shoreline Erosion Advisory Panel. The Chief of Engineers shall appoint fifteen members to such Panel from among individuals who are knowledgeable with respect to various aspects of shoreline erosion, with representatives from various geographical areas, institutions of higher education, professional organizations, State and local agencies, and private organizations, except that such individuals shall not be regular full-time employees of the United States. The Panel shall meet and organize within ninety days from the date of its establishment, and shall select a Chairman from among its members. The Panel shall then meet at least once each six months thereafter and shall expire ninety days after termination of the five-year program established pursuant to subsection (c).

"(2) The Panel shall—

"(A) advise the Chief of Engineers generally in carrying out provisions of this section;

"(B) recommend criteria for the selection of development and demonstration sites;

"(C) recommend alternative institutional, legal, and financial arrangements necessary to effect agreements with non-Federal sponsors of project sites;

"(D) make periodic reviews of the progress of the program pursuant to this section;

"(E) recommend means by which the knowledge obtained from the project may be made readily available to the public; and

"(F) perform such functions as the Chief of Engineers may designate.

"(3) Members of the Panel shall, while serving on business of the Panel, be entitled to receive compensation at rates fixed by the Chief of Engineers, but not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including traveltime and while away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) [now sections 5703 and 5707 of Title 5, Government Organization and Employees] for persons in Government service employed intermittently.

"(4) The Panel is authorized, without regard to the civil service laws, to engage such technical and other assistance as may be required to carry out its functions.

"(e) The Secretary of the Army, acting through the Chief of Engineers, shall prepare and submit annually a program progress report, including therein contributions of the Shoreline Erosion Advisory Panel, to the Committees on Public Works of the Senate and House of Representatives. The fifth and final report shall be submitted sixty days after the fifth fiscal year of funding and shall include a comprehensive evaluation of the national shoreline erosion control development and demonstration program.

"(f) There is authorized to be appropriated for the first fiscal year following enactment of this section [Mar. 7, 1974], and the succeeding four fiscal years, a total of not to exceed $8,000,000 to carry out the provisions of this section."

TECHNICAL AND ENGINEERING ASSISTANCE FOR NON-FEDERAL DEVELOPMENT OF EROSION PREVENTION METHODS

Pub. L. 93-251, title I, § 55, Mar. 7, 1974, 88 Stat. 28, provided that: "The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide technical and engineering assistance to non-Federal public interests in developing structural and nonstructural methods of preventing damages attributable to shore and streambank erosion."

VISITOR PROTECTION SERVICES, STUDY; REPORT TO CONGRESS

Pub. L. 93-251, title I, § 75, Mar. 7, 1974, 88 Stat. 32, provided that the Secretary of the Army conduct a study on the need for and means of providing visitor protection services at water resource development projects under the jurisdiction of the Department of the Army and report on such study to Congress not later than Dec. 31, 1974.

§ 1962d-5a. Reimbursement to States

(a) Combination of reimbursement of installation costs and reduction in contributions; single project limitation

The Secretary of the Army, acting through the Chief of Engineers, may, when he determines it to be in the public interest, enter into agreements providing for reimbursement to States or political subdivisions thereof for work to be performed by such non-Federal public bodies at water resources development projects authorized for construction under the Secretary of the Army and the supervision of the Chief of Engineers. Such agreements may provide for reimbursement of installation costs incurred by such entities or an equivalent reduction in the contributions they would otherwise be required to make, or in appropriate cases, for a combination thereof. The amount of Federal reimbursement, including reductions in contributions, for a single project shall not exceed $1,000,000.

(b) Agreement provisions; termination of agreement for failure to commence work

Agreements entered into pursuant to this section shall (1) fully describe the work to be accomplished by the non-Federal public body, and be accompanied by an engineering plan if necessary therefor; (2) specify the manner in which such work shall be carried out; (3) provide for necessary review of design and plans, and inspection of the work by the Chief of Engineers or his designee; (4) state the basis on which the amount of reimbursement shall be determined; (5) state that such reimbursement shall be dependent upon the appropriation of funds applicable thereto or funds available therefor, and shall not take precedence over other pending projects of higher priority for improvements; and (6) specify that reimbursement or credit for non-Federal installation expenditures shall apply only to work undertaken on Federal projects after project authorization and execution of the agreement, and does not apply retroactively to past non-Federal work. Each such agreement shall expire three years after the date on which it is executed if the work to be undertaken by the non-Federal public body has not commenced before the expiration of that period. The time allowed for completion of the work will be determined by the Secretary of the Army, acting through the Chief of Engineers, and stated in the agreement.

(c) Certification of performance

No reimbursement shall be made, and no expenditure shall be credited, pursuant to this section, unless and until the Chief of Engineers or his designee, has certified that the work for which reimbursement or credit is requested has been performed in accordance with the agreement.

(d) Beach erosion control projects

Reimbursement for work commenced by non-Federal public bodies no later than one year after August 13, 1968, to carry out or assist in carrying out projects for beach erosion control, may be made in accordance with the provisions of section 426f of title 33. Reimbursement for such work may, as an alternative, be made in accordance with the provisions of this section, provided that agreement required herein shall have been executed prior to commencement of the work. Expenditures for projects for beach erosion control commenced by non-Federal public bodies subsequent to one year after August 13, 1968, may be reimbursed by the Secretary of the Army, acting through the Chief of Engineers, only in accordance with the provisions of this section.

(e) Prohibition of construction for Federal assumption of responsibilities of non-Federal bodies or for Federal liability for unnecessary or inapplicable project work of such bodies

This section shall not be construed (1) as authorizing the United States to assume any responsibilities placed upon a non-Federal body by the conditions of project authorization, or (2) as committing the United States to reimburse non-Federal interests if the Federal project is not undertaken or is modified so as to make the work performed by the non-Federal Public body no longer applicable.

(f) Allotment limitation for any fiscal year; specific project reimbursement authorizations

The Secretary of the Army is authorized to allot from any appropriations hereafter made for civil works, not to exceed $10,000,000 for any one fiscal year to carry out the provisions of this section. This limitation does not include specific project authorizations providing for reimbursement.

(Pub. L. 90-483, title II, § 215, Aug. 13, 1968, 82 Stat. 747.)

CODIFICATION

Section was not enacted as part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962d-5b of this title.

§ 1962d-5b. Water resources projects; written agreement requirement

(a) Cooperation of non-Federal interest

After December 31, 1970, the construction of any water resources project by the Secretary of the Army, acting through the Chief of Engineers, or by a non-Federal interest where such interest will be reimbursed for such construc-

tion under the provisions of section 1962d-5a of this title or under any other provision of law, shall not be commenced until each non-Federal interest has entered into a written agreement with the Secretary of the Army to furnish its required cooperation for the project.

(b) Definition of non-Federal interest

A non-Federal interest shall be a legally constituted public body with full authority and capability to perform the terms of its agreement and to pay damages, if necessary, in the event of failure to perform.

(c) Enforcement; jurisdiction

Every agreement entered into pursuant to this section shall be enforcible in the appropriate district court of the United States.

(d) Nonperformance of terms of agreement by non-Federal interest; notice; reasonable opportunity for performance; performance by Chief of Engineers

After commencement of construction of a project, the Chief of Engineers may undertake performance of those items of cooperation necessary to the functioning of the project for its purposes, if he has first notified the non-Federal interest of its failure to perform the terms of its agreement and has given such interest a reasonable time after such notification to so perform.

(e) Inventory of agreements; report to Congress

The Secretary of the Army, acting through the Chief of Engineers, shall maintain a continuing inventory of agreements and the status of their performance, and shall report thereon annually to the Congress.

(f) Effective date

This section shall not apply to any project the construction of which was commenced before January 1, 1972, or to the assurances for future demands required by the Water Supply Act of 1958, as amended [43 U.S.C. 390b].

(Pub. L. 91-611, title II, § 221, Dec. 31, 1970, 84 Stat. 1831; Pub. L. 92-222, § 4, Dec. 23, 1971, 85 Stat. 799.)

REFERENCES IN TEXT

The Water Supply Act of 1958, as amended, referred to in subsec. (f), is Pub. L. 85-500, title III, § 301, July 3, 1958, 72 Stat. 319, as amended, which is classified to section 390b of Title 43, Public Lands.

CODIFICATION

Section was enacted as a part of the Flood Control Act of 1970 and not as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

AMENDMENTS

1971—Subsec. (f). Pub. L. 92-222 made provisions of section inapplicable to the assurances for future demands required by the Water Supply Act of 1958, as amended.

§ 1962d-5c. Non-Federal public bodies, installment construction payments

(a) Annual installments during period of construction in absence of other provision for extended repayment

In connection with any water resource development project, heretofore, herein, or hereafter authorized to be undertaken by the Secretary of the Army, the construction of which has not been initiated as of March 7, 1974, where authorization requires that non-Federal public bodies make an agreed-upon cash contribution as part of their reimbursement to the Federal Government for construction costs, or a specific portion of the construction costs, and where there exists no other provision of law which would permit extended repayment for the construction costs or such specific portion of the construction costs involved, such non-Federal public bodies may make such repayment in annual installments during the period of construction.

(b) Cost sharing; modification

Upon the request of affected non-Federal public bodies, the Secretary of the Army is authorized to modify existing cost sharing agreements in order to effectuate the provisions of subsection (a) of this section.

(Pub. L. 93-251, title I, § 40, Mar. 7, 1974, 88 Stat. 23.)

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 1974, and not as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

§ 1962d-5d. Authorization of Secretary of the Army to contract with States and political subdivisions for increased law enforcement services during peak visitation periods; authorization of appropriations

(a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resources development projects under the jurisdiction of the Secretary of the Army to meet needs during peak visitation periods.

(b) There is authorized to be appropriated $6,000,000 per fiscal year for the fiscal years ending September 30, 1978, and September 30, 1979, to carry out this section.

(Pub. L. 94-587, § 120, Oct. 22, 1976, 90 Stat. 2924.)

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 1976, and not as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

§ 1962d-5e. Wetlands areas

(a) Authorization of Secretary of the Army to plan and establish wetland areas; criteria for establishment

The Secretary of the Army, acting through the Chief of Engineers, is authorized to plan and establish wetland areas as part of an authorized water resources development project under his jurisdiction. Establishment of any wetland area in connection with the dredging required for such a water resources development project may be undertaken in any case where the Chief of Engineers in his judgment finds that—

(1) environmental, economic, and social benefits of the wetland area justifies the increased cost thereof above the cost required for alternative methods of disposing of dredged material for such project; and

(2) the increased cost of such wetland area will not exceed $400,000; and

(3) there is reasonable evidence that the wetland area to be established will not be substantially altered or destroyed by natural or man-made causes.

(b) Reports to Congress

Whenever the Secretary of the Army, acting through the Chief of Engineers, submits to Congress a report on a water resources development project after October 22, 1976, such report shall include, where appropriate, consideration of the establishment of wetland areas.

(c) Cost

In the computation of benefits and cost of any water resources development project the benefits of establishing of any wetland area shall be deemed to be at least equal to the cost of establishing such area. All costs of establishing a wetland area shall be borne by the United States.

(Pub. L. 94-587, § 150, Oct. 22, 1976, 90 Stat. 2931.)

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 1976, and not as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

§ 1962d-5f. Beach nourishment

The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide periodic beach nourishment in the case of each water resources development project where such nourishment has been authorized for a limited period for such additional period as he determines necessary but in no event shall such additional period extend beyond the fifteenth year which begins after the date of initiation of construction of such project.

(Pub. L. 94-587, § 156, Oct. 22, 1976, 90 Stat. 2933.)

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 1976, and not as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

§ 1962d-5g. Hydroelectric power resources

(a) Study; plan

The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to conduct a study of the most efficient methods of utilizing the hydroelectric power resources at water resource development projects under the jurisdiction of the Secretary of the Army and to prepare a plan based upon the findings of such study. Such study shall include, but not be limited to, an analysis of—

(1) the physical potential for hydroelectric development, giving consideration to the economic, social, environmental and institutional factors which will affect the realization of physical potential;

(2) the magnitude and regional distribution of needs for hydroelectric power;

(3) the integration of hydroelectric power generation with generation from other types of generating facilities;

(4) measures necessary to assure that generation from hydroelectric projects will efficiently contribute to meeting the national electric energy demands;

(5) the timing of hydroelectric development to properly coincide with changes in the demand for electric energy;

(6) conventional hydroelectric potential, both high head and low head projects utilizing run-of-rivers and possible advances in mechanical technology, and pumped storage hydroelectric potential at sites which evidence such potential;

(7) the feasibility of adding or reallocating storage and modifying operation rules to increase power production at corps projects with existing hydroelectric installations;

(8) measures deemed necessary or desirable to insure that the potential contribution of hydroelectric resources to the overall electric energy supply are realized to the maximum extent possible; and

(9) any other pertinent factors necessary to evaluate the development and operation of hydroelectric projects of the Corps of Engineers.

(b) Transmittal of plan to congressional committees

Within three years after the date of the first appropriation of funds for the purpose of carrying out this section, the Secretary of the Army, acting through the Chief of Engineers, shall transmit the plan prepared pursuant to subsection (a) of this section with supporting studies and documentation, together with the recommendations of the Secretary and the Chief of Engineers on such plan, to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(c) Authorization of appropriation

There is authorized to be appropriated to carry out subsections (a) and (b) of this section not to exceed $7,000,000.

(d) Feasibility studies of specific hydroelectric power installations; authorization of appropriations

The Secretary of the Army, acting through the Chief of Engineers, is authorized with respect to previously authorized projects to undertake feasibility studies of specific hydroelectric power installations that are identified in the course of the study authorized by this section, as having high potential for contribution toward meeting regional power needs. There is authorized to be appropriated to carry out this subsection not to exceed $5,000,000 per fiscal year for each of the fiscal years 1978 and 1979.

(Pub. L. 94-587, § 167, Oct. 22, 1976, 90 Stat. 2935; S. Res. 4, Feb. 4, 1977.)

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 1976, and not as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the

Water Resources Planning Act, which comprises this chapter.

CHANGE OF NAME

The Committee on Public Works of the Senate was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

§ 1962d-6. Feasibility studies; acceleration; advancement of costs by non-Federal sources

The Secretary may accelerate feasibility studies authorized by law when and to the extent that the costs of such studies shall have been advanced by non-Federal sources.

(Pub. L. 89-561, § 5, Sept. 7, 1966, 80 Stat. 714.)

CODIFICATION

Section was not enacted as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 838.

§ 1962d-7. Delmarva Peninsula hydrologic study; duties of Secretary of the Interior

The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to make a comprehensive study and investigation of the water resources of the Delmarva Peninsula with a view to determining the availability of fresh water supplies needed to meet the anticipated future water requirements of the Delmarva Peninsula area, and with a view to determining the most effective means from the standpoint of hydrologic feasibility of protecting and developing fresh water sources so as to insure, insofar as practicable, the availability of adequate water supplies in the future. In carrying out such study and investigation with respect to the Delmarva Peninsula, the Secretary shall—

(1) appraise the water use, requirements, and trends, and determine the availability of water in the streams and underground sources for the entire peninsula;

(2) determine the depths, thicknesses, and permeabilities, the perennial yield, and the recharge characteristics of major aquifers, and the quality characteristics to be expected from each such major aquifer;

(3) determine with respect to ground water resources the continuity and extent of important water-bearing formations;

(4) determine the yield from stream systems under natural flow conditions and under varying degrees of storage and the amounts and quality of waters available from such systems during drought, flood, and intermediate conditions;

(5) determine whether sea water has moved inland into heavily pumped coastal aquifers;

(6) give special consideration to conditions which may invite the invasion of sea water into fresh-water supplies;

(7) compile and make available to appropriate State and local officials any results of this study and investigation that would be appropriate for their use in long-range planning, development, and management of water supplies;

(8) cooperate with State and local agencies for the purpose of using any information and data available to carry out the purposes of this study; and

(9) consider such other matters as the Secretary may deem appropriate to the study and investigation herein authorized.

(Pub. L. 89-618, § 1, Oct. 4, 1966, 80 Stat. 870.)

CODIFICATION

Section was not enacted as part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

WASHINGTON METROPOLITAN AREA WATER NEEDS AND ESTUARIAL WATER SUPPLIES; STUDIES

Pub. L. 93-251, title I, § 85, Mar. 7, 1974, 88 Stat. 36, provided in part for a study of Washington Metropolitan Area Future Water Needs, coordinated with Northeastern United States Water Supply study, and for a study of Estuarial Water Supplies, including a Potomac Estuary Water Treatment Pilot Project, for review of scientific basis for study conclusions by National Academy of Sciences-National Academy of Engineering, and made further authorizations for Sixes Bridge Dam and Lake Project, Maryland dependent on such studies and review.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962d-8, 1962d-9, 1962d-10, 1962d-11 of this title.

§ 1962d-8. Reports on Delmarva Peninsula Hydrologic Study

During the course of the study and investigation authorized by sections 1962d-7 to 1962d-11 of this title, the Secretary may submit to the President for transmission to the Congress such interim reports as the Secretary may consider desirable. The Secretary shall submit a final report to the President for transmission to the Congress not more than six years after October 4, 1966.

(Pub. L. 89-618, § 2, Oct. 4, 1966, 80 Stat. 870.)

CODIFICATION

Section was not enacted as part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962d-9, 1962d-10, 1962d-11 of this title.

§ 1962d-9. Information from Federal agencies for Delmarva Peninsula Study

The Secretary is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purpose of sections 1962d-7 to 1962d-11 of this title, and each department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics, to the Secretary upon his or his designee's request.

(Pub. L. 89-618, § 3, Oct. 4, 1966, 80 Stat. 870.)

CODIFICATION

Section was not enacted as part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962d-8, 1962d-10, 1962d-11 of this title.

§ 1962d-10. Cooperation with agencies on Delmarva Peninsula study

In carrying out the study and investigation authorized by sections 1962d-7 to 1962d-11 of this title, the Secretary is authorized to cooperate with other Federal, State, and local agencies now engaged in comprehensive planning for water resource use and development in the Delmarva Peninsula area by making available to those agencies his findings and to cooperate with those agencies in the Northeastern United States Water Supply Study as authorized by section 1962d-4 of this title.

(Pub. L. 89-618, § 4, Oct. 4, 1966, 80 Stat. 871.)

CODIFICATION

Section was not enacted as part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962d-8, 1962d-9, 1962d-11 of this title.

§ 1962d-11. Authorization of appropriations for Delmarva Peninsula study

There is hereby authorized to be appropriated the sum of $500,000 to carry out the provisions of sections 1962d-7 to 1962d-11 of this title: *Provided,* That nothing in such sections shall prevent the expenditure of other funds appropriated to the Geological Survey for studies and activities performed under its general authority.

(Pub. L. 89-618, § 5, Oct. 4, 1966, 80 Stat. 871.)

CODIFICATION

Section was not enacted as part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962d-8, 1962d-9, 1962d-10 of this title.

§ 1962d-11a. Potomac River water diversion structure

(a) Consent of Congress for construction; written agreement providing schedule for allocation among parties for withdrawal of waters

(1) Subject to paragraph (2) of this subsection, the consent of Congress is granted under section 401 of title 33 to the Washington Suburban Sanitary Commission to construct a water diversion structure, with an elevation not to exceed one hundred and fifty-nine feet above sea level, from the north shore of the Potomac River at the Washington Suburban Sanitary Commission water filtration plant to the north shore of Watkins Island.

(2) The structure authorized by paragraph (1) of this subsection, may not be constructed (A) until the Secretary of the Army, acting through the Chief of Engineers, and the State of Maryland, the Commonwealth of Virginia, the Washington Suburban Sanitary Commission, and such other governmental authorities as the Secretary of the Army, the State of Maryland, and the Commonwealth of Virginia deem desirable signatories enter into a written agreement providing an enforceable schedule for allocation among the parties to such agreement for the withdrawal of the waters of that portion of the Potomac River located between Little Falls Dam and the farthest upstream limit of the pool of water behind the Chesapeake and Ohio Canal Company rubble dam at Seneca, Maryland, during periods of low flow of such portion of such river, and (B) unless such construction is not in conflict with the report of the Secretary of the Army, acting through the Chief of Engineers, submitted pursuant to section 85 of the Water Resources Development Act of 1974.

(b) Authorization of Secretary of the Army to enter written agreement; amendments or revisions

The Secretary of the Army, acting through the Chief of Engineers, is authorized to enter into the agreement referred to in subsection (a)(2) of this section and any amendment to or revision of such agreement.

(c) Riparian rights or other authority of Maryland, Virginia, political subdivisions; authority of District of Columbia

Except as may be provided in the agreement referred to in subsection (a)(2) of this section, nothing in this section shall alter any riparian rights or other authority of the State of Maryland, or any political subdivision thereof, the Commonwealth of Virginia, or any political subdivision thereof, or the District of Columbia, or authority of the Corps of Engineers existing on October 22, 1976, relative to the appropriation of water from, or the use of, the Potomac River.

(Pub. L. 94-587, § 181, Oct. 22, 1976, 90 Stat. 2939.)

REFERENCES IN TEXT

Section 85 of the Water Resources Development Act of 1974, referred to in subsec. (a), is section 85 of Pub. L. 93-251, title I, Mar. 7, 1974, 88 Stat. 36, which is set out as a note under section 1962d-7 of this title.

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 1976, and not as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

§ 1962d-12. Alaskan water resources; investigations of projects for conservation, development, and utilization; reports

For the purpose of encouraging and promoting the development of Alaska, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make investigations of projects for the conservation, development, and utilization of the water resources of Alaska and to report thereon, with appropriate recommendations, from time to time, to the President and to the Congress.

(Aug. 9, 1955, ch. 682, § 1, 69 Stat. 618.)

CODIFICATION

Section was not enacted as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

Section was formerly classified to section 487 of Title 48, Territories and Insular Possessions.

§ 1962d-13. Solicitation of views and recommendations on Alaskan water resources; transmittal of report to Congress

Prior to the transmission of any such report to the Congress, the Secretary shall transmit copies thereof for information and comment to the Governor of Alaska, or to such representative as may be named by him, and to the heads of interested Federal departments and agencies. The written views and recommendations of the aforementioned officials may be submitted to the Secretary within ninety days from the day of receipt of said proposed report. The Secretary shall immediately thereafter transmit to the Congress, with such comments and recommendations as he deems appropriate, his report, together with copies of the views and recommendations received from the aforementioned officials. The letter of transmittal and its attachments shall be printed as a House or Senate document.

(Aug. 9, 1955, ch. 682, § 2, 69 Stat. 618.)

CODIFICATION

Section was not enacted as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

Section was formerly classified to section 487a of Title 48, Territories and Insular Possessions.

§ 1962d-14. Authorization of appropriations for Alaskan water resources investigation

There are hereby authorized to be appropriated not more than $250,000 in any one fiscal year.

(Aug. 9, 1955, ch. 682, § 3, 69 Stat. 618.)

CODIFICATION

Section was not enacted as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

Section was formerly classified to section 487b of Title 48, Territories and Insular Possessions.

§ 1962d-14a. Alaska hydroelectric power development

(a) Congressional findings and declaration

(1) The Congress finds that the expeditious development of hydroelectric power generating facilities in Alaska that are environmentally sound to assist the Nation in meeting existing and future energy demands is in the national interest.

(2) The Congress therefore declares that the expertise of the Chief of Engineers can and should be utilized for the benefit of local public bodies in the development of projects which yield 90 per centum or more of the benefits of the project are attributable to hydroelectric power generation when the project is fully operational.

(b) Establishment of fund; composition

To meet the goals of this section, there is hereby established in the Treasury of the United States an Alaska Hydroelectric Power Development Fund (hereafter referred to as the "fund") to be and remain available for use by the Secretary of the Army (hereinafter referred to as the "Secretary") to make expenditures authorized by this section. The fund shall consist of (1) all receipts and collections by the Secretary of repayments in accordance with subsection (e) of this section and payments by non-Federal public authorities to the Secretary to finance the cost of construction of projects in accordance with subsection (f) of this section, and which the Secretary is hereby directed to deposit in the fund as they are received, and (2) any appropriations made by the Congress to the fund.

(c) Authorization of appropriation

There is authorized to be appropriated to the Secretary for deposit in the fund established by subsection (b) of this section the sum of $25,000,000.

(d) Investments; deposits

(1) If the Secretary determines that moneys in the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in direct, general obligations of, or obligations guaranteed as to both principal and interest by, the United States.

(2) With the approval of the Secretary of the Treasury, the Secretary may deposit moneys of the fund in any Federal Reserve bank or other depository for funds of the United States, or in such other banks and financial institutions and under such terms and conditions as the Secretary and the Secretary of the Treasury may mutually agree.

(e) Expenditures for phase I design memorandum stage of advance engineering and design; withholding of favorable report to Congress prior to repayment; expenditures from non-Federal funds

The Secretary is authorized to make expenditures from the fund for the phase I design memorandum stage of advanced engineering and design for any project in Alaska that meets the requirements of subsection (a)(2) of this section, if appropriate non-Federal public authorities, approved by the Secretary, agree with the Secretary, in writing, to repay the Secretary for all the separable and joint costs of preparing such design memorandum, if such report is favorable. Following the completion of the phase I design memorandum stage of advanced engineering and design under this subsection, the Secretary shall not transmit any favorable report to Congress prior to being repaid in full by the appropriate non-Federal public authorities for the costs incurred during such phase I. The Secretary is also authorized to make expenditures from non-Federal funds deposited in the fund as an advance against construction costs.

(f) Authorization to construct projects; expenditures

In connection with water resources development projects which meet the criteria established by subsection (a)(2) of this section and which are to be constructed by the Secretary, acting through the Chief of Engineers, in accordance with an authorization by Congress and a contract between the non-Federal public authorities and the Secretary, pursuant to subsection (g)(1) of this section occurring on or

subsequent to October 22, 1976, the Secretary, acting through the Chief of Engineers, is authorized to construct such projects including activities for engineering and design land acquisition, site development, and off-site improvements necessary for the authorized construction by making expenditures from (1) the Fund established in subsection (b) of this section of funds deposited by non-Federal public authorities as payments for construction and (2) payments of non-Federal public authorities held by the Secretary as payment of construction costs for a project authorized by this section.

(g) Agreement with non-Federal public authorities and submittal to congressional committees, payment of total non-Federal obligations; conditions of United States assumption of excess over costs fixed in agreement, payment subject to appropriations acts

(1) Prior to initiating any construction work under the authorities of this section, the Secretary and the appropriate non-Federal public authorities shall agree in writing, and submit such agreement to the Committees on Public Works and Appropriations of the Senate and House of Representatives for review and reporting to the Congress for its consideration and approval that the appropriate non-Federal public authorities will pay the full anticipated costs of constructing the project at the time such costs are incurred, together with normal contingencies and related administrative expenses of the Secretary, and such payments shall be deposited in the fund or held by the Secretary for payment of obligations incurred by the Secretary on an authorized project under this section. The agreement shall provide for an initial determination of feasibility and compliance by the project with law. The total non-Federal obligation shall be paid on or prior to the date the Chief of Engineers has estimated by agreement, that the project concerned will be available for actual generation of all or a substantial portion of the authorized hydroelectric power of the project.

(2) In consideration of the obligations to be assumed by non-Federal public authorities under the provisions of this section and in recognition of the substantial investments which will be made by these authorities in reliance on the program established by this section, the United States shall assume the responsibility for paying for all costs over those fixed in the agreement with the non-Federal public authorities, if such costs are occasioned by acts of God, failure on the part of the Secretary, acting through the Chief of Engineers, to adhere to the agreed schedule of work or a failure of design: *Provided*, That payments by the Secretary of such costs shall be subject to appropriations acts.

(h) Conveyance of title, rights, and interests of United States; Federal requirements, reservations, and provisions

The Secretary is authorized and directed, pursuant to the agreement, to convey all title, rights, and interests of the United States to any project, its lands and water areas, and appurtenant facilities to the non-Federal public authorities which have agreed to assume ownership of the project and responsibility for its performance, operation, and maintenance, as well as necessary replacements in accordance with this section upon full payment by such non-Federal public authorities as required under subsection (g)(1) of this section. Such conveyance shall, pursuant to the agreement required by subsection (g) of this section, to the maximum extent possible, occur immediately upon the project's availability for generation of all or a substantial portion of the authorized hydroelectric power of the project, and shall include such Federal requirements, reservations, and provisions for access rights to the project and its records as the Secretary finds advisable to complete any portion of project construction remaining at the time of conveyance and to assure that the project will be operated and maintained in a responsible and safe manner to accomplish, as nearly as may be possible, all of the authorized purposes of the project including, but not restricted to, hydroelectric power generation.

(i) Short title

This section shall be cited as the "Alaska Hydroelectric Power Development Act".

(Pub. L. 94-587, § 203, Oct. 22, 1976, 90 Stat. 2946.)

CHANGE OF NAME

The Committee on Public Works of the Senate was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

The Committee on Public Works of the House of Representatives was changed to the Committee on Public Works and Transportation of the House of Representatives, effective Jan. 3, 1975, by House Resolution 988, 93d Congress.

§ 1962d-15. Protection of United States from liability for damages; exception of damages due to fault or negligence of United States

The requirement in any water resources development project under the jurisdiction of the Secretary of the Army, that non-Federal interests hold and save the United States free from damages due to the construction, operation, and maintenance of the project, does not include damages due to the fault or negligence of the United States or its contractors.

(Pub. L. 93-251, title I, § 9, Mar. 7, 1974, 88 Stat. 16.)

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 1974, and not as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

§ 1962d-16. Comprehensive plans for development, utilization, and conservation of water and related resources

(a) Federal and State cooperation

The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins located within the

boundaries of such State and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.

(b) Authorization of appropriations; general and State limitation

There is authorized to be appropriated not to exceed $4,000,000 annually to carry out the provisions of this section except that not more than $200,000 shall be expended in any one year in any one State.

(Pub. L. 93-251, title I, § 22, Mar. 7, 1974, 88 Stat. 20; Pub. L. 94-587, § 168, Oct. 22, 1976, 90 Stat. 2936.)

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 1974, and not as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-587 increased limitation on annual appropriation authorization to $4,000,000 from $2,000,000.

§ 1962d-17. Regional or river basin plans and Federal water and related land resources projects; preparation, formulation, and evaluation

(a) Interest rate formula for discounting future benefits and cost computations; repeal of conflicting provisions and administrative actions

The interest rate formula to be used in plan formulation and evaluation for discounting future benefits and computing costs by Federal officers, employees, departments, agencies, and instrumentalities in the preparation of comprehensive regional or river basin plans and the formulation and evaluation of Federal water and related land resources projects shall be the formula set forth in the "Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources" approved by the President on May 15, 1962, and published as Senate Document 97 of the Eighty-seventh Congress on May 29, 1962, as amended by the regulation issued by the Water Resources Council and published in the Federal Register on December 24, 1968 (33 F.R. 19170; 18 C.F.R. 704.39), until otherwise provided by a statute enacted after March 7, 1974. Every provision of law and every administrative action in conflict with this section is hereby repealed to the extent of such conflict.

(b) Interest rate for prior authorized projects assured of non-Federal payment of non-Federal share of project costs; continuation of rate

In the case of any project authorized before January 3, 1969, if the appropriate non-Federal interests have, prior to December 31, 1969, given satisfactory assurances to pay the required non-Federal share of project costs, the discount rate to be used in the computation of benefits and costs for such project shall be the rate in effect immediately prior to December 24, 1968, and that rate shall continue to be used for such project until construction has been completed, unless otherwise provided by a statute enacted after March 7, 1974.

(c) Water and related resources projects; Presidential study; scope of study; report to Congress

The President shall make a full and complete investigation and study of principles and standards for planning and evaluating water and related resources projects. Such investigation and study shall include, but not be limited to, consideration of enhancing regional economic development, the quality of the total environment including its protection and improvement, the well-being of the people of the United States, and the national economic development, as objectives to be included in federally-financed water and related resources projects and in the evaluation of costs and benefits attributable to such projects, as intended in section 1962-2 of this title, the interest rate formula to be used in evaluating and discounting future benefits for such projects, and appropriate Federal and non-Federal cost sharing for such projects. He shall report the results of such investigation and study, together with his recommendations, to Congress not later than one year after funds are first appropriated to carry out this subsection.

(Pub. L. 93-251, title I, § 80, Mar. 7, 1974, 88 Stat. 34.)

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 1974, and not as a part of Pub. L. 89-80, July 22, 1965, 79 Stat. 244, known as the Water Resources Planning Act, which comprises this chapter.

§ 1962d-18. Study of depletion of natural resources of regions of Colorado, Kansas, New Mexico, Oklahoma, Texas, and Nebraska utilizing Ogallala aquifer; plans; reports to Congress; authorization of appropriation

In order to assure an adequate supply of food to the Nation and to promote the economic vitality of the High Plains Region, the Secretary of Commerce (hereinafter referred to in this section as the "Secretary"), acting through the Economic Development Administration, in cooperation with the Secretary of the Army, acting through the Chief of Engineers, and appropriate Federal, State, and local agencies, and the private sector, is authorized and directed to study the depletion of the natural resources of those regions of the States of Colorado, Kansas, New Mexico, Oklahoma, Texas, and Nebraska presently utilizing the declining water resources of the Ogallala acquifer, and to develop plans to increase water supplies in the area and report thereon to Congress, together with any recommendations for further congressional action. In formulating these plans, the Secretary is directed to consider all past and ongoing studies, plans, and work on depleted water resources in the region, and to examine the feasibility of various alternatives to provide adequate water supplies in the area including, but not limited to, the transfer of water from adjacent areas, such portion to be conducted by the Chief of Engineers to assure the continued economic growth and vitality of the region. The Secretary shall report on the costs of reasonably available options, the benefits of various options, and the costs of inaction. If water transfer is found to be a part of a reasonable so-

lution, the Secretary, as part of his study, shall include a recommended plan for allocating and distributing water in an equitable fashion, taking into account existing water rights and the needs for future growth of all affected areas. An interim report, with recommendations, shall be transmitted to the Congress no later than October 1, 1978, and a final report, with recommendations, shall be transmitted to Congress not later than July 1, 1980. A sum of $6,000,000 is authorized to be appropriated for the purposes of carrying out this section.

(Pub. L. 94-587, § 193, Oct. 22, 1976, 90 Stat. 2943.)

CHAPTER 20—ELECTIVE FRANCHISE

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SUBCHAPTER I—GENERALLY

§ 1971. Voting rights

(a) Race, color, or previous condition not to affect right to vote; uniform standards for voting qualifications; errors or omissions from papers; literacy tests; agreements between Attorney General and State or local authorities; definitions

(1) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

(2) No person acting under color of law shall—

(A) in determining whether any individual is qualified under State law or laws to vote in any election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

(B) deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

(C) employ any literacy test as a qualification for voting in any election unless (i) such test is administered to each individual and is conducted wholly in writing, and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960 [42 U.S.C. 1974 et seq.]: *Provided, however,* That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.

(3) For purposes of this subsection—

(A) the term "vote" shall have the same meaning as in subsection (e) of this section;

(B) the phrase "literacy test" includes any test of the ability to read, write, understand, or interpret any matter.

(b) Intimidation, threats, or coercion

No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

(c) Preventive relief; injunction; rebuttable literacy presumption; liability of United States for costs; State as party defendant

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any election. In any proceeding hereunder the United States shall be liable for costs the same as a private person. Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a) of this section, the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State.

(d) Jurisdiction; exhaustion of other remedies

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

(e) Order qualifying person to vote; application; hearing; voting referees; transmittal of report and order; certificate of qualification; definitions

In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall upon request of the Attorney General and after each party has been given notice and the opportunity to be heard make a finding whether such deprivation was or is pursuant to

a pattern or practice. If the court finds such pattern or practice, any person of such race or color resident within the affected area shall, for one year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote, upon proof that at any election or elections (1) he is qualified under State law to vote, and (2) he has since such finding by the court been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. Such order shall be effective as to any election held within the longest period for which such applicant could have been registered or otherwise qualified under State law at which the applicant's qualifications would under State law entitle him to vote.

Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any such election. The Attorney General shall cause to be transmitted certified copies of such order to the appropriate election officers. The refusal by any such officer with notice of such order to permit any person so declared qualified to vote to vote at an appropriate election shall constitute contempt of court.

An application for an order pursuant to this subsection shall be heard within ten days, and the execution of any order disposing of such application shall not be stayed if the effect of such stay would be to delay the effectiveness of the order beyond the date of any election at which the applicant would otherwise be enabled to vote.

The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees, who shall subscribe to the oath of office required by section 3331 of title 5, to serve for such period as the court shall determine, to receive such applications and to take evidence and report to the court findings as to whether or not at any election or elections (1) any such applicant is qualified under State law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. In a proceeding before a voting referee, the applicant shall be heard ex parte at such times and places as the court shall direct. His statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court.

Upon receipt of such report, the court shall cause the Attorney General to transmit a copy thereof to the State attorney general and to each party to such proceeding together with an order to show cause within ten days, or such shorter time as the court may fix, why an order of the court should not be entered in accordance with such report. Upon the expiration of such period, such order shall be entered unless prior to that time there has been filed with the court and served upon all parties a statement of exceptions to such report. Exceptions as to matters of fact shall be considered only if supported by a duly verified copy of a public record or by affidavit of persons having personal knowledge of such facts or by statements or matters contained in such report; those relating to matters of law shall be supported by an appropriate memorandum of law. The issues of fact and law raised by such exceptions shall be determined by the court or, if the due and speedy administration of justice requires, they may be referred to the voting referee to determine in accordance with procedures prescribed by the court. A hearing as to an issue of fact shall be held only in the event that the proof in support of the exception disclose the existence of a genuine issue of material fact. The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.

The court, or at its direction the voting referee, shall issue to each applicant so declared qualified a certificate identifying the holder thereof as a person so qualified.

Any voting referee appointed by the court pursuant to this subsection shall to the extent not inconsistent herewith have all the powers conferred upon a master by rule 53(c) of the Federal Rules of Civil Procedure. The compensation to be allowed to any persons appointed by the court pursuant to this subsection shall be fixed by the court and shall be payable by the United States.

Applications pursuant to this subsection shall be determined expeditiously. In the case of any application filed twenty or more days prior to an election which is undetermined by the time of such election, the court shall issue an order authorizing the applicant to vote provisionally: *Provided, however,* That such applicant shall be qualified to vote under State law. In the case of an application filed within twenty days prior to an election, the court, in its discretion, may make such an order. In either case the order shall make appropriate provision for the impounding of the applicant's ballot pending determination of the application. The court may take any other action, and may authorize such referee or such other person as it may designate to take any other action, appropriate or necessary to carry out the provisions of this subsection and to enforce its decrees. This subsection shall in no way be construed as a limitation upon the existing powers of the court.

When used in the subsection, the word "vote" includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words "affected area" shall mean any subdivision of the State in which the laws of the State

relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words "qualified under State law" shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

(f) Contempt; assignment of counsel; witnesses

Any person cited for an alleged contempt under this Act shall be allowed to make his full defense by counsel learned in the law; and the court before which he is cited or tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed, in his defense to make any proof that he can produce by lawful witnesses, and shall have the like process of the court to compel his witnesses to appear at his trial or hearing, as is usually granted to compel witnesses to appear on behalf of the prosecution. If such person shall be found by the court to be financially unable to provide for such counsel, it shall be the duty of the court to provide such counsel.

(g) Three-judge district court: hearing, determination, expedition of action, review by Supreme Court; single-judge district court: hearing, determination, expedition of action

In any proceeding instituted by the United States in any district court of the United States under this section in which the Attorney General requests a finding of a pattern or practice of discrimination pursuant to subsection (e) of this section the Attorney General, at the time he files the complaint, or any defendant in the proceeding, within twenty days after service upon him of the complaint, may file with the clerk of such court a request that a court of three judges be convened to hear and determine the entire case. A copy of the request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section, or in the event neither the Attorney General nor any defendant files a request for a three-judge court in any proceeding authorized by this subsection, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or, in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

(R.S. § 2004; Sept. 9, 1957, Pub. L. 85-315, pt. IV, § 131, 71 Stat. 637; May 6, 1960, Pub. L. 86-449, title VI, § 601, 74 Stat. 90; July 2, 1964, Pub. L. 88-352, title I, § 101, 78 Stat. 241; Aug. 6, 1965, Pub. L. 89-110, § 15, 79 Stat. 445.)

REFERENCES IN TEXT

The Civil Rights Act of 1960, referred to in subsec. (a)(2)(C), is Pub. L. 86-449, May 6, 1960, 74 Stat. 86. Title III of the Civil Rights Act of 1960 is classified generally to subchapter II (§ 1974 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title of 1960 Amendment note set out below and Tables volume.

Rule 53(c) of the Federal Rules of Civil Procedure, referred to in subsec. (e), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

This Act, referred to in subsec. (f), is Pub. L. 85-315, Sept. 9, 1957, 71 Stat. 634, which enacted sections 1975 to 1975e and 1995 of this title and section 295-1 of former Title 5, Executive Departments and Government Officers and Employees, amended this section and sections 1343 and 1861 of Title 28, Judiciary and Judicial Procedure, repealed section 1993 of this title, and enacted provisions set out as a note under section 1975 of this title.

CODIFICATION

R.S. § 2004 is from act May 31, 1870, ch. 114, § 1, 16 Stat. 140.

In subsec. (e), "section 3331 of title 5" was substituted for "Revised Statutes, section 1757 (5 U.S.C. 16)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 31 of Title 8, Aliens and Nationality.

AMENDMENTS

1965—Subsecs. (a) and (c). Pub. L. 89-110, § 15(a), struck out "Federal" before "election" wherever appearing.

Subsec. (f). Pub. L. 89-110, § 15(b), redesignated former subsec. (g) as subsec. (f) and repealed former subsec. (f) which defined "Federal elections".

Subsec. (g). Pub. L. 89-110, § 15(b), redesignated former subsec. (h) as subsec. (g). Former subsec. (g) redesignated as (f).

Subsec. (h). Pub. L. 89-110, § 15(b), redesignated former subsec. (h) as subsec. (g). Former subsec. (g) redesignated as (f).

1964—Subsec. (a). Pub. L. 88-352, § 101(a) designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (c). Pub. L. 88-352, § 101(b), provided for a rebuttable literacy presumption when a person has not been adjudged an incompetent and has completed the sixth grade of his schooling.

Subsec. (f). Pub. L. 88-352, § 101(c), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 88-352, § 101(c), redesignated former subsec. (f) as (g).

Subsec. (h). Pub. L. 88-352, § 101(d), added subsec. (h).

1960—Subsec. (c). Pub. L. 86-449, § 601(b), permitted the State to be joined as a party defendant in cases where officials of a State or subdivision thereof are alleged to have committed acts or practices constituting a deprivation of any rights or privileges secured by subsection (a) of this section, and authorized commencement of the proceeding against the State where an official has resigned or has been relieved of his office and no successor has assumed such office.

Subsec. (e). Pub. L. 86-449, § 601(a), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 86-449, § 601(a), redesignated former subsec. (e) as (f).

1957—Pub. L. 85-315, § 131(a), substituted in catchline "Voting rights" for "Race, color, or previous condition not to affect right to vote".

Subsec. (a). Pub. L. 85-315, § 131(b) designated existing provisions as subsec. (a).

Subsecs. (b) to (e). Pub. L. 85-315, § 131(c) added subsecs. (b) to (e).

SHORT TITLE

Pub. L. 94-203, § 1, Jan. 2, 1976, 89 Stat. 1142, provided: "That this Act [enacting subchapter I-E of this chapter and provisions set out as a note under section 1973dd of this title] may be cited as the 'Overseas Citizens Voting Rights Act of 1975'."

Pub. L. 91-285, § 1, June 22, 1970, 84 Stat. 314, provided: "That this Act [which designated existing provisions of Pub. L. 89-110 as subchapter I-A, enacted subchapters I-B and I-C of this chapter, and amended sections 1973b and 1973c of this title] may be cited as the 'Voting Rights Act Amendments of 1970'."

Section 1 of Pub. L. 89-110 provided that: "This Act [which enacted subchapters I-A, I-B, and I-C of this chapter and amended this section] shall be known as the 'Voting Rights Act of 1965'."

Section 1 of Pub. L. 86-449 provided that: "This Act [which enacted subchapter II of this chapter and sections 837, 1074, and 1509 of Title 18, Crimes and Criminal Procedure, and amended this section and sections 241 and 640 of Title 20, Education] may be cited as the 'Civil Rights Act of 1960'."

Act Aug. 9, 1955, ch. 656, § 1, 69 Stat. 584, provided that: "This Act [which enacted subchapter I-D of this chapter and repealed sections 301 to 303, 321 to 331, 341, and 351 to 355 of Title 50, War and National Defense] may be cited as 'The Federal Voting Assistance Act of 1955'."

SEPARABILITY OF PROVISIONS

Section 701 of Pub. L. 86-449 provided that: "If any provisions of this Act [see Short Title of 1960 Amendment note above] is held invalid, the remainder of this Act shall not be affected thereby."

§ 1972. Interference with freedom of elections

No officer of the Army, Navy, or Air Force of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State.

(R.S. § 2003.)

CODIFICATION

R.S. § 2003 is from act Feb. 25, 1865, ch. 52, § 1, 13 Stat. 437.

Air Force was inserted to conform to section 207(a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 502, which established a separate Department of the Air Force, and Secretary of Defense Transfer Order No. 40 [App. A(10)], July 22, 1949, which transferred certain functions to the Air Force. Section 207(a), (f) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 8010 to 8013 continued the Department of the Air Force under the administrative supervision of a Secretary of the Air Force.

Section was formerly classified to section 32 of Title 8, Aliens and Nationality.

SUBCHAPTER I-A—ENFORCEMENT OF VOTING RIGHTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1973aa-4 of this title; title 28 section 1869.

§ 1973. Denial or abridgement of right to vote on account of race or color through voting qualifications or prerequisites

No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title.

(Pub. L. 89-110, title I, § 2, Aug. 6, 1965, 79 Stat. 437, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314, and amended Pub. L. 94-73, title II, § 206, Aug. 6, 1975, 89 Stat. 402.)

AMENDMENTS

1975—Pub. L. 94-73 substituted "race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title" for "race or color".

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91-285, § 1, June 22, 1970, 84 Stat. 314, provided: "That this Act [which designated existing provisions of Pub. L. 89-110 as subchapter I-A, enacted subchapters I-B and I-C of this chapter, and amended sections 1973b and 1973c of this title] may be cited as the 'Voting Rights Act Amendments of 1970'."

SHORT TITLE

Section 1 of Pub. L. 89-110 provided that: "This Act [which enacted subchapters I-A, I-B, and I-C of this chapter and amended section 1971 of this title] shall be known as the 'Voting Rights Act of 1965'."

SEPARABILITY OF PROVISIONS

Section 208 of Pub. L. 94-73 provided that: "If any amendments made by this Act [enacting sections 1973aa-1a and 1973aa-5 of this title, amending sections 1973, 1973a to 1973d, 1973h, 1973i, 1973k, 1973l, 1973aa, 1973aa-2, 1973aa-3, 1973bb, 1973bb-1 of this title, and repealing sections 1973bb-2 to 1973bb-4 of this title] or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of the Voting Rights Act of 1965 [this subchapter and subchapters I-B and I-C of this chapter], or the application of such provision to other persons or circumstances shall not be affected by such determination."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

§ 1973a. Proceeding to enforce the right to vote

(a) Authorization by court for appointment of federal examiners

Whenever the Attorney General or an aggrieved person institutes a proceeding under

any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the United States Civil Service Commission in accordance with section 1973d of this title to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the voting guarantees of the fourteenth or fifteenth amendment (1) as part of any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such voting guarantees or (2) as part of any final judgment if the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred in such State or subdivision: *Provided,* That the court need not authorize the appointment of examiners if any incidents of denial or abridgement of the right to vote on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(b) Suspension of use of tests and devices which deny or abridge the right to vote

If in a proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title, it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

(c) Retention of jurisdiction to prevent commencement of new devices to deny or abridge the right to vote

If in any proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title: *Provided,* That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

(Pub. L. 89-110, title I, § 3, Aug. 6, 1965, 79 Stat. 437, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314, and amended Pub. L. 94-73, title II, §§ 205, 206, title IV, §§ 401, 410, Aug. 6, 1975, 89 Stat. 402, 404, 406.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-73 added reference to the fourteenth amendment in three places, and substituted "voting guarantees" for "guarantees" in three places, "Attorney General or an aggrieved person" for "Attorney General", and "on account of race or color or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

Subsec. (b). Pub. L. 94-73 substituted "Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment" for "Attorney General under any statute to enforce the guarantees of the fifteenth amendment", and "on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

Subsec. (c). Pub. L. 94-73 substituted "Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that violations of the fourteenth or fifteenth amendment" for "Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that violations of the fifteenth amendment" and "on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973d, 1973f, 1973i, 1973j, 1973k of this title.

§ 1973b. Suspension of the use of tests or devices in determining eligibility to vote

(a) Action by state or political subdivision for declaratory judgment of no denial or abridgement; three-judge district court; appeal to Supreme Court; retention of jurisdiction by three-judge court

To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the first two sentences of subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declara-

tory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the seventeen years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color: *Provided,* That no such declaratory judgment shall issue with respect to any plaintiff for a period of seventeen years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after August 6, 1965, determining that denials or abridgments of the right to vote on account of race or color through the use of such tests or devices have occurred any where in the territory of such plaintiff. No citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the third sentence of subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section: *Provided,* That no such declaratory judgment shall issue with respect to any plaintiff for a period of ten years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this paragraph, determining that denials or abridgments of the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section through the use of tests or devices have occurred anywhere in the territory of such plaintiff.

An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section.

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the seventeen years preceding the filing of an action under the first sentence of this subsection for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section, he shall consent to the entry of such judgment.

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the ten years preceding the filing of an action under the second sentence of this subsection for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section, he shall consent to the entry of such judgment.

(b) Required factual determinations necessary to allow suspension of compliance with tests and devices; publication in Federal Register

The provisions of subsection (a) of this section shall apply in any State or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964. On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) of this section pursuant to the previous sentence, the provisions of subsection (a) of this section shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968. On and after August 6, 1975, in addition to any State or political subdivision of a State determined to be subject to subsection (a) of this section pursuant to the previous two sentences, the provisions of subsection (a) of this section shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1972, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the citizens of voting age were registered on November 1, 1972, or that less than 50 per centum of such persons voted in the Presidential election of November 1972.

A determination or certification of the Attorney General or of the Director of the Census under this section or under section 1973d or 1973k of this title shall not be reviewable in any court and shall be effective upon publication in the Federal Register.

(c) Definition of test or device

The phrase "test or device" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the

voucher of registered voters or members of any other class.

(d) Required frequency, continuation and probable recurrence of incidents of denial or abridgement to constitute forbidden use of tests or devices

For purposes of this section no State or political subdivision shall be determined to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(e) Completion of requisite grade level of education in American-flag schools in which the predominant classroom language was other than English

(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English.

(f) Congressional findings of voting discrimination against language minorities; prohibition of English-only elections; other remedial measures

(1) The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English. In addition they have been denied equal educational opportunities by State and local governments, resulting in severe disabilities and continuing illiteracy in the English language. The Congress further finds that, where State and local officials conduct elections only in English, language minority citizens are excluded from participating in the electoral process. In many areas of the country, this exclusion is aggravated by acts of physical, economic, and political intimidation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting English-only elections, and by prescribing other remedial devices.

(2) No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote because he is a member of a language minority group.

(3) In addition to the meaning given the term under subsection (c) of this section, the term "test or device" shall also mean any practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five per centum of the citizens of voting age residing in such State or political subdivision are members of a single language minority. With respect to subsection (b) of this section, the term "test or device", as defined in this subsection, shall be employed only in making the determinations under the third sentence of that subsection.

(4) Whenever any State or political subdivision subject to the prohibitions of the second sentence of subsection (a) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language: *Provided,* That where the language of the applicable minority group is oral or unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

(Pub. L. 89-110, title I, § 4, Aug. 6, 1965, 79 Stat. 438, redesignated and amended Pub. L. 91-285, §§ 2-4, June 22, 1970, 84 Stat. 314, 315; Pub. L. 94-73, title I, § 101, title II, §§ 201-203, 206, Aug. 6, 1975, 89 Stat. 400-402.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-73, §§ 101, 201, 206, in first paragraph, substituted "seventeen years" for "ten years" in two places, and "determinations have been made under the first two sentences of subsection (b)" for "determinations have been made under subsection (b)", added provisions that no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any state with respect to which the determinations have been made under the third sentence of subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such state or subdivision against the United States has determined that no such test or device has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section with the proviso that no such declaratory judgment shall issue with respect to any plaintiff for a period of ten years after the entry of final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the en-

actment of this paragraph, determining that denials or abridgments of the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section through the use of tests or devices have occurred anywhere in the territory of such plaintiff, in second paragraph, substituted "on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section" for "on account of race or color", in third paragraph, substituted "seventeen years preceding the filing of an action under the first sentence of this subsection" for "ten years preceding the filing of the action", and added fourth paragraph.

Subsec. (b). Pub. L. 94-73, § 202, added provisions that on and after August 6, 1975, in addition to any state or political subdivision of a state determined to be subject to subsection (a) pursuant to the previous two sentences, the provisions of subsection (a) shall apply in any state or any political subdivision of a state which the Attorney General determines maintained on November 1, 1972, any test or device, and with respect to which the Director of the Census determines that less than 50 per centum of the citizens of voting age were registered on November 1, 1972, or that less than 50 per centum of such persons voted in the Presidential election of November, 1972.

Subsec. (d). Pub. L. 94-73, § 206, substituted "on account of race or color or in contravention of the guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

Subsec. (f). Pub. L. 94-73, § 203, added subsec. (f).

1970—Subsec. (a). Pub. L. 91-285, § 3, substituted "ten" for "five" years in the first and third paragraphs.

Subsec. (b). Pub. L. 91-285, § 4, added provision respecting the making of factual determinations concerning maintenance of any test or device on Nov. 1, 1968, registration of less than 50 per centum of persons of voting age on Nov. 1, 1968, and voting by less than 50 per centum of such persons in the presidential election of November 1968.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973, 1973a, 1973c, 1973d, 1973h, 1973j, 1973k, 1973l, 1973aa-5 of this title.

§ 1973c. Alteration of voting qualifications and procedures; action by state or political subdivision for declaratory judgment of no denial or abridgement of voting rights; three judge district court; appeal to Supreme Court

Whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the first sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the second sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the third sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1972, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object, nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. In the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of a submission, the Attorney General may reserve the right to reexamine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 and any appeal shall lie to the Supreme Court.

(Pub. L. 89-110, title I, § 5, Aug. 6, 1965, 79 Stat. 439, redesignated and amended Pub. L. 91-285, §§ 2, 5, June 22, 1970, 84 Stat. 314, 315; Pub. L. 94-73, title II, §§ 204, 206, title IV, § 405, Aug. 6, 1975, 89 Stat. 402, 405.)

AMENDMENTS

1975—Pub. L. 94-73 inserted "or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the third sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1972," after 1968, substituted "or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object," for "except that neither the Attorney General's failure to object", and "on account of race or color, or in contravention of the guarantees set forth

in section 1973b(f)(2) of this title" for "on account of race or color", and added provisions that in the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of a submission, the Attorney General may reserve the right to examine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section.

1970—Pub. L. 91-285 inserted "based upon determinations made under the first sentence of section 1973b(b) of this title" following "section 1973b(a) of this title" and "or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the second sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968," after "1964,".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973j, 1973l of this title.

§ 1973d. Federal voting examiners; appointment

Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 1973a(a) of this title, or (b) unless a declaratory judgment has been rendered under section 1973b(a) of this title, the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 1973b(b) of this title that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fourteenth or fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fourteenth or fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fourteenth or fifteenth amendment, the Civil Service Commission shall appoint as many examiners for such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 1973g(a) of this title and other persons deemed necessary by the Commission to carry out the provisions and purposes of subchapters I-A to I-C of this chapter shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Civil Service Commission, and service under subchapters I-A to I-C of this chapter shall not be considered employment for the purposes of any statute administered by the Civil Service Commission, except the provisions of section 7324 of title 5 prohibiting partisan political activity: *Provided*, That the Commission is authorized, after consulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these positions. Examiners and hearing officers shall have the power to administer oaths.

(Pub. L. 89-110, title I, § 6, Aug. 6, 1965, 79 Stat. 439, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314, and amended Pub. L. 94-73, title II, §§ 205, 206, Aug. 6, 1975, 89 Stat. 402.)

CODIFICATION

"Section 7324 of title 5" was substituted for "section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1975—Pub. L. 94-73 added reference to fourteenth amendment in three places and substituted "on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973a, 1973b, 1973i, 1973k of this title.

§ 1973e. Examination of applicants for registration

(a) Form of application; requisite allegation of nonregistration

The examiners for each political subdivision shall, at such places as the Civil Service Commission shall by regulation designate, examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote.

(b) Placement of eligible voters on official lists; transmittal of lists

Any person whom the examiner finds, in accordance with instructions received under section 1973g(b) of this title, to have the qualifications prescribed by State law not inconsistent with the Constitution and laws of the United States shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 1973g(a) of this title and shall not be the basis for a prosecution under section 1973j of this title. The examiner shall certify and transmit such list, and any supplements as appropriate, at least once a month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State, and any such lists and supplements thereto transmitted during the month shall be available for public inspection on the last business day of the month and in any event not later than the forty-fifth day prior to any election. The appropriate State or local election official shall place such names on the official voting list. Any person whose name appears on the examiner's list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d) of this section: *Provided*, That no person shall be entitled to vote in any election by virtue of subchapters I-A to I-C of this

chapter unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) Certificate of eligibility

The examiner shall issue to each person whose name appears on such a list a certificate evidencing his eligibility to vote.

(d) Removal of names from list by examiners

A person whose name appears on such a list shall be removed therefrom by an examiner if (1) such person has been successfully challenged in accordance with the procedure prescribed in section 1973g of this title, or (2) he has been determined by an examiner to have lost his eligibility to vote under State law not inconsistent with the Constitution and the laws of the United States.

(Pub. L. 89-110, title I, § 7, Aug. 6, 1965, 79 Stat. 440, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

§ 1973f. Observers at elections; assignment; duties; reports

Whenever an examiner is serving under subchapters I-A to I-C of this title in any political subdivision, the Civil Service Commission may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated. Such persons so assigned shall report to an examiner appointed for such political subdivision, to the Attorney General, and if the appointment of examiners has been authorized pursuant to section 1973a(a) of this title, to the court.

(Pub. L. 89-110, title I, § 8, Aug. 6, 1965, 79 Stat. 441, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973i of this title.

§ 1973g. Challenges to eligibility listings

(a) Filing of challenge; supplementary affidavits; service upon person challenged; hearing; review

Any challenge to a listing on an eligibility list prepared by an examiner shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if filed at such office within the State as the Civil Service Commission shall by regulation designate, and within ten days after the listing of the challenged person is made available for public inspection, and if supported by (1) the affidavits of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and (2) a certification that a copy of the challenge and affidavits have been served by mail or in person upon the person challenged at his place of residence set out in the application. Such challenge shall be determined within fifteen days after it has been filed. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the person petitioning for review but no decision of a hearing officer shall be reversed unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) Rules and regulations by Civil Service Commission

The times, places, procedures, and form for application and listing pursuant to subchapters I-A to I-C of this chapter and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission and the Commission shall, after consultation with the Attorney General, instruct examiners concerning applicable State law not inconsistent with the Constitution and laws of the United States with respect to (1) the qualifications required for listing, and (2) loss of eligibility to vote.

(c) Subpena power of Civil Service Commission; contempt

Upon the request of the applicant or the challenger or on its own motion the Civil Service Commission shall have the power to require by subpena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter pending before it under the authority of this section. In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a hearing officer, there to produce pertinent, relevant, and nonprivileged documentary evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(Pub. L. 89-110, title I, § 9, Aug. 6, 1965, 79 Stat. 441, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973d, 1973e, 1973i, 1973*l* of this title.

§ 1973h. Poll taxes

(a) Congressional finding and declaration of policy against enforced payment of poll taxes as a device to impair voting rights

The Congress finds that the requirement of the payment of a poll tax as a precondition to voting (i) precludes persons of limited means from voting or imposes unreasonable financial hardship upon such persons as a precondition to their exercise of the franchise, (ii) does not bear a reasonable relationship to any legitimate State interest in the conduct of elections, and (iii) in some areas has the purpose or effect of denying persons the right to vote because of race or color. Upon the basis of these findings, Congress declares that the constitutional right of citizens to vote is denied or abridged in some areas by the requirement of the payment of a poll tax as a precondition to voting.

(b) Authority of Attorney General to institute actions for relief against enforcement of poll tax requirement

In the exercise of the powers of Congress under section 5 of the fourteenth amendment, section 2 of the fifteenth amendment and section 2 of the twenty-fourth amendment, the Attorney General is authorized and directed to institute forthwith in the name of the United States such actions, including actions against States or political subdivisions, for declaratory judgment or injunctive relief against the enforcement of any requirement of the payment of a poll tax as a precondition to voting, or substitute therefor enacted after November 1, 1964, as will be necessary to implement the declaration of subsection (a) of this section and the purposes of this section.

(c) Jurisdiction of three-judge district courts; appeal to Supreme Court

The district courts of the United States shall have jurisdiction of such actions which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

(Pub. L. 89-110, title I, § 10, Aug. 6, 1965, 79 Stat. 442, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314, and amended Pub. L. 94-73, title IV, § 408, Aug. 6, 1975, 89 Stat. 405.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94-73, § 408(2), (3), added reference to section 2 of the twenty-fourth amendment.

Subsec. (d). Pub. L. 94-73, § 408(1), repealed subsec. (d), relating to post-payment of poll taxes in the event of a judicial declaration of constitutionality.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

§ 1973i. Prohibited acts

(a) Failure or refusal to permit casting or tabulation of vote

No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of subchapters I-A to I-C of this chapter or is otherwise qualified to vote, or willfully fail or refuse to tabulate, count, and report such person's vote.

(b) Intimidation, threats, or coercion

No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties under section 1973a(a), 1973d, 1973f, 1973g, 1973h, or 1973j(e) of this title.

(c) False information in registering or voting; penalties

Whoever knowingly or willfully gives false information as to his name, address or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both: *Provided, however,* That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

(d) Falsification or concealment of material facts or giving of false statements in matters within jurisdiction of examiners or hearing officers; penalties

Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and willfully falsifies or conceals a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(e) Voting more than once

(1) Whoever votes more than once in an election referred to in paragraph (2) shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(2) The prohibition of this subsection applies with respect to any general, special, or primary election held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate,

Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

(3) As used in this subsection, the term "votes more than once" does not include the casting of an additional ballot if all prior ballots of that voter were invalidated, nor does it include the voting in two jurisdictions under section 1973aa-1 of this title, to the extent two ballots are not cast for an election to the same candidacy or office.

(Pub. L. 89-110, title I, § 11, Aug. 6, 1965, 79 Stat. 443, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314, and amended Pub. L. 91-405, title II, § 204(e), Sept. 22, 1970, 84 Stat. 853; Pub. L. 94-73, title IV, §§ 404, 409, Aug. 6, 1975, 89 Stat. 404.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94-73, § 404, added reference to Guam and Virgin Islands.

Subsec. (e). Pub. L. 94-73, § 409, added subsec. (e).

1970—Subsec. (c). Pub. L. 91-405 substituted reference to Delegate from District of Columbia for Delegates or Commissioners from territories or possessions.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91-405, set out as a note under section 25 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973j, 1973aa-1 of this title.

§ 1973j. Civil and criminal sanctions

(a) Depriving or attempting to deprive persons of secured rights

Whoever shall deprive or attempt to deprive any person of any right secured by section 1973, 1973a, 1973b, 1973c, 1973e, or 1973h of this title or shall violate section 1973i(a) of this title, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Destroying, defacing, mutilating, or altering ballots or official voting records

Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot which has been cast in such election, or (2) alters any official record of voting in such election tabulated from a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Conspiring to violate or interfere with secured rights

Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 1973, 1973a, 1973b, 1973c, 1973e, 1973h, or 1973i(a) of this title shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(d) Civil action by Attorney General for preventive relief; injunctive and other relief

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 1973, 1973a, 1973b, 1973c, 1973e, 1973h, 1973i, or subsection (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order, and including an order directed to the State and State or local election officials to require them (1) to permit persons listed under subchapters I-A to I-C of this chapter to vote and (2) to count such votes.

(e) Proceeding by Attorney General to enforce the counting of ballots of registered and eligible persons who are prevented from voting

Whenever in any political subdivision in which there are examiners appointed pursuant to subchapters I-A to I-C of this chapter any persons alleged to such an examiner within forty-eight hours after the closing of the polls that notwithstanding (1) their listing under subchapters I-A to I-C of this chapter or registration by an appropriate election official and (2) their eligibility to vote, they have not been permitted to vote in such election, the examiner shall forthwith notify the Attorney General if such allegations in his opinion appear to be well founded. Upon receipt of such notification, the Attorney General may forthwith file with the district court an application for an order providing for the marking, casting, and counting of the ballots of such persons and requiring the inclusion of their votes in the total vote before the results of such election shall be deemed final and any force or effect given thereto. The district court shall hear and determine such matters immediately after the filing of such application. The remedy provided in this subsection shall not preclude any remedy available under State or Federal law.

(f) Jurisdiction of district courts; exhaustion of administrative or other remedies unnecessary

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether a person asserting rights under the provisions of subchapters I-A to I-C of this chapter shall have exhausted any administrative or other remedies that may be provided by law.

(Pub. L. 89-110, title I, § 12, Aug. 6, 1965, 79 Stat. 443; Pub. L. 90-284, title I, § 103(c), Apr. 11, 1968, 82 Stat. 75, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314.)

AMENDMENTS

1968—Subsecs. (a), (c). Pub. L. 90-284 struck out reference to violation of section 1973i(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973e, 1973i of this title.

§ 1973k. Termination of listing procedures; basis for termination; survey or census by Director of the Census

Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to clause (b) of section 1973d of this title whenever the Attorney General notifies the Civil

Service Commission, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote, (1) that all persons listed by an examiner for such subdivision have been placed on the appropriate voting registration roll, and (2) that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title in such subdivision, and (b), with respect to examiners appointed pursuant to section 1973a(a) of this title, upon order of the authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a) of this section, and may petition the Attorney General to request the Director of the Census to take such survey or census as may be appropriate for the making of the determination provided for in this section. The District Court for the District of Columbia shall have jurisdiction to require such survey or census to be made by the Director of the Census and it shall require him to do so if it deems the Attorney General's refusal to request such survey or census to be arbitrary or unreasonable.

(Pub. L. 89-110, title I, § 13, Aug. 6, 1965, 79 Stat. 444, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314, and amended Pub. L. 94-73, title II, § 206, Aug. 6, 1975, 89 Stat. 402.)

AMENDMENTS

1975—Pub. L. 94-73 substituted "on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973b, 1973i of this title.

§ 1973*l*. Enforcement proceedings

(a) Criminal contempt

All cases of criminal contempt arising under the provisions of subchapters I-A to I-C of this chapter shall be governed by section 1995 of this title.

(b) Jurisdiction of courts for declaratory judgment, restraining orders, or temporary or permanent injunction

No court other than the District Court for the District of Columbia or a court of appeals in any proceeding under section 1973g of this title shall have jurisdiction to issue any declaratory judgment pursuant to section 1973b or 1973c of this title or any restraining order or temporary or permanent injunction against the execution or enforcement of any provision of subchapters I-A to I-C of this chapter or any action of any Federal officer or employee pursuant hereto.

(c) Definitions

(1) The terms "vote" or "voting" shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this subchapter, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.

(2) The term "political subdivision" shall mean any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting.

(3) The term "language minorities" or "language minority group" means persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage.

(d) Subpenas

In any action for a declaratory judgment brought pursuant to section 1973b or 1973c of this title, subpenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial district of the United States: *Provided*, That no writ of subpena shall issue for witnesses without the District of Columbia at a greater distance than one hundred miles from the place of holding court without the permission of the District Court for the District of Columbia being first had upon proper application and cause shown.

(e) Attorney's fees

In any action or proceeding to enforce the voting guarantees of the fourteenth or fifteenth amendment, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(Pub. L. 89-110, title I, § 14, Aug. 6, 1965, 79 Stat. 445, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314, and amended Pub. L. 94-73, title II, § 207, title IV, § 402, Aug. 6, 1975, 89 Stat. 402, 404.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94-73, § 207, added par. (3). Subsec. (e). Pub. L. 94-73, § 402, added subsec. (e).

§ 1973m. Omitted

CODIFICATION

Section, Pub. L. 89-110, title I, § 16, Aug. 6, 1965, 79 Stat. 445, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314, authorizing the Attorney General and the Secretary of Defense, jointly, to make a study to determine whether the laws or practices of any State or States impose preconditions to voting resulting in discrimination against Armed Forces personnel seeking to vote and to make a report to Congress not later than June 30, 1966, with the results of such study and recommendations for legislation, has been omitted as executed.

§ 1973n. Impairment of voting rights of persons holding current registration

Nothing in subchapters I-A to I-C of this chapter shall be construed to deny, impair, or otherwise adversely affect the right to vote of any person registered to vote under the law of any State or political subdivision.

(Pub. L. 89-110, title I, § 17, Aug. 6, 1965, 79 Stat. 446, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314.)

§ 1973o. Authorization of appropriations

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of subchapters I-A to I-C of this chapter.

(Pub. L. 89-110, title I, § 18, Aug. 6, 1965, 79 Stat. 446, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314.)

§ 1973p. Separability of provisions

If any provision of subchapters I-A to I-C of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of subchapters I-A to I-C of this chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Pub. L. 89-110, title I, § 19, Aug. 6, 1965, 79 Stat. 446, redesignated Pub. L. 91-285, § 2, June 22, 1970, 84 Stat. 314.)

SUBCHAPTER I-B—SUPPLEMENTAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1973d to 1973f, 1973g, 1973i, 1973j, 1973l, 1973n to 1973p of this title; title 28 section 1869.

§ 1973aa. Application of prohibition to other States; definition of "test or device"

(a) No citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State.

(b) As used in this section, the term "test or device" means any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

(Pub. L. 89-110, title II, § 201, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 315, and amended Pub. L. 94-73, title I, § 102, Aug. 6, 1975, 89 Stat. 400.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-73 struck out "Prior to August 6, 1975," and "as to which the provisions of section 1973b(a) of this title are not in effect by reason of determinations made under section 1973b(b) of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973aa-2, 1973aa-3 of this title.

§ 1973aa-1. Residence requirements for voting

(a) Congressional findings

The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

(5) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment; and

(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

(b) Congressional declaration: durational residency requirement, abolishment; absentee registration and balloting standards, establishment

Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment, it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice President, and (2) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

(c) Prohibition of denial of right to vote because of durational residency requirement or absentee balloting

No citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to comply with any durational residency requirement of such State or political subdivision; nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

(d) Registration: time for application; absentee balloting: time of application and return of ballots

For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualifi-

cation to vote for the choice of electors for President and Vice President or for President and Vice President in such election; and each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President, or for President and Vice President, by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

(e) Change of residence; voting in person or by absentee ballot in State of prior residence

If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President has begun residence in such State or political subdivision after the thirtieth day next preceding such election and, for that reason, does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election, (1) in person in the State or political subdivision in which he resided immediately prior to his removal if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (2) by absentee ballot in the State or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

(f) Absentee registration requirement

No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election because of any requirement of registration that does not include a provision for absentee registration.

(g) State or local adoption of less restrictive voting practices

Nothing in this section shall prevent any State or political subdivision from adopting less restrictive voting practices than those that are prescribed herein.

(h) Definition of "State"

The term "State" as used in this section includes each of the several States and the District of Columbia.

(i) False registration, and other fraudulent acts and conspiracies: application of penalty for false information in registering or voting.

The provisions of section 1973i(c) of this title shall apply to false registration, and other fraudulent acts and conspiracies, committed under this section.

(Pub. L. 89-110, title II, § 202, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 316.)

Section Referred to in Other Sections

This section is referred to in sections 1973l, 1973aa-2, 1973aa-3 of this title.

§ 1973aa-1a. Bilingual election requirements

(a) Congressional findings and declaration of policy

The Congress finds that, through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them resulting in high illiteracy and low voting participation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting these practices, and by prescribing other remedial devices.

(b) Prohibition of voting notices, forms, instructions, assistance, or other materials and ballots in English language only

Prior to August 6, 1985, no State or political subdivision shall provide registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language if the Director of the Census determines (i) that more than 5 percent of the citizens of voting age of such State or political subdivision are members of a single language minority and (ii) that the illiteracy rate of such persons as a group is higher than the national illiteracy rate: *Provided,* That the prohibitions of this subsection shall not apply in any political subdivision which has less than five percent voting age citizens of each language minority which comprises over five percent of the statewide population of voting age citizens. For purposes of this subsection, illiteracy means the failure to complete the fifth primary grade. The determinations of the Director of the Census under this subsection shall be effective upon publication in the Federal Register and shall not be subject to review in any court.

(c) Requirement of voting notices, forms, instructions, assistance, or other materials and ballots in minority language

Whenever any State or political subdivision subject to the prohibition of subsection (b) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language: *Provided,* That where the language of the applicable minority group is oral or unwritten or in the case of Alaskan natives, if the predominant language is historically unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

(d) Action for declaratory judgment permitting English-only materials

Any State or political subdivision subject to the prohibition of subsection (b) of this section, which seeks to provide English-only registra-

tion or voting materials or information, including ballots, may file an action against the United States in the United States District Court for a declaratory judgment permitting such provision. The court shall grant the requested relief if it determines that the illiteracy rate of the applicable language minority group within the State or political subdivision is equal to or less than the national illiteracy rate.

(e) Definitions

For purposes of this section, the term "language minorities" of "language minority group" means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.

(Pub. L. 89-110, title II, § 203, as added Pub. L. 94-73, title III, § 301, Aug. 6, 1975, 89 Stat. 402.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973aa-2, 1973aa-3 of this title.

§ 1973aa-2. Judicial relief; civil actions by the Attorney General; three judge district court; appeal to Supreme Court.

Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 1973aa of this title, or (b) undertakes to deny the right to vote in any election in violation of section 1973aa-1 or 1973aa-1a of this title, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 and any appeal shall be to the Supreme Court.

(Pub. L. 89-110, title II, § 204, formerly § 203, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 317, and renumbered and amended Pub. L. 94-73, title III, §§ 302, 303, title IV, § 406, Aug. 6, 1975, 89 Stat. 403, 405.)

AMENDMENTS

1975—Pub. L. 94-73 added reference to section 1973aa-1a of this title and substituted reference to section 2284 of title 28 for reference to section 2282 of title 28.

CROSS REFERENCES

Supreme Court jurisdiction, direct appeals from decisions of three-judge courts, see section 1253 of Title 28, Judiciary and Judicial Procedure.

§ 1973aa-3. Penalty

Whoever shall deprive or attempt to deprive any person of any right secured by section 1973aa, 1973aa-1, or 1973aa-1a of this title shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(Pub. L. 89-110, title II, § 205, formerly § 204, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 317, and renumbered and amended Pub. L. 94-73, title III, §§ 302, 304, Aug. 6, 1975, 89 Stat. 403.)

AMENDMENTS

1975—Pub. L. 94-73 added reference to section 1973aa-1a of this title.

§ 1973aa-4. Separability of provisions

If any provision of subchapters I-A to I-C of this chapter or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of subchapters I-A to I-C of this chapter or the application of such provision to other persons or circumstances shall not be affected by such determination.

(Pub. L. 89-110, title II, § 206, formerly § 205, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 318, and renumbered Pub. L. 94-73, title III, § 302, Aug. 6, 1975, 89 Stat. 403.)

§ 1973aa-5. Survey to compile registration and voting statistics

(a) Elections to House of Representatives and elections designated by United States Commission on Civil Rights

Congress hereby directs the Director of the Census forthwith to conduct a survey to compile registration and voting statistics: (i) in every State or political subdivision with respect to which the prohibitions of section 1973b(a) of this title are in effect, for every statewide general election for Members of the United States House of Representatives after January 1, 1974; and (ii) in every State or political subdivision for any election designated by the United States Commission on Civil Rights. Such surveys shall only include a count of citizens of voting age, race or color, and national origin, and a determination of the extent to which such persons are registered to vote and have voted in the elections surveyed.

(b) Prohibition against compulsion to disclose personal data; advice of rights

In any survey under subsection (a) of this section no person shall be compelled to disclose his race, color, national origin, political party affiliation, or how he voted (or the reasons therefor), nor shall any penalty be imposed for his failure or refusal to make such disclosures. Every person interrogated orally, by written survey or questionnaire, or by any other means with respect to such information shall be fully advised of his right to fail or refuse to furnish such information.

(c) Report to Congress

The Director of the Census shall, at the earliest practicable time, report to the Congress the results of every survey conducted pursuant to the provisions of subsection (a) of this section.

(d) Confidentiality of information; penalties

The provisions of section 9 and chapter 7 of title 13 shall apply to any survey, collection, or compilation of registration and voting statistics carried out under subsection (a) of this section.

(Pub. L. 89-110, title II, § 207, as added Pub. L. 94-73, title IV, § 403, Aug. 6, 1975, 89 Stat. 404.)

SUBCHAPTER I-C—EIGHTEEN-YEAR-OLD VOTING AGE

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 1973d to 1973f, 1973g, 1973i, 1973j, 1973l, 1973n to 1973p, 1973aa-4 of this title; title 28 section 1869.

§ 1973bb. Enforcement of Twenty-Sixth Amendment

(a)(1) The Attorney General is directed to institute, in the name of the United States, such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the twenty-sixth article of amendment to the Constitution of the United States.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted under this subchapter, which shall be heard and determined by a court of three judges in accordance with section 2284 of title 28, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

(b) Whoever shall deny or attempt to deny any person of any right secured by the twenty-sixth article of amendment to the Constitution of the United States shall be fined not more than $5,000 or imprisoned not more than five years, or both.

(Pub. L. 89-110, title III, § 301, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 318, and amended Pub. L. 94-73, title IV, § 407, Aug. 6, 1975, 89 Stat. 405.)

Amendments

1975—Pub. L. 94-73 substituted provisions authorizing the Attorney General to institute proceedings to enforce twenty-sixth amendment, the jurisdiction of the district courts, and penalties for denial of rights secured by twenty-sixth amendment, for provisions relating to Congressional findings and prohibition of denial of right to vote on account of age.

§ 1973bb-1. Definitions

As used in this subchapter, the term "State" includes the District of Columbia.

(Pub. L. 89-110, title III, § 302, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 318, and amended Pub. L. 94-73, title IV, § 407, Aug. 6, 1975, 89 Stat. 405.)

Amendments

1975—Pub. L. 94-73 substituted definition of State for provisions prohibiting denial of right to vote because of age.

§§ 1973bb-2 to 1973bb-4. Repealed. Pub. L. 94-73, title IV, § 407, Aug. 6, 1975, 89 Stat. 405

Section 1973bb-2, Pub. L. 89-110, title III, § 303, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 318, authorized the Attorney General to institute actions to enforce this subchapter, and provided for jurisdiction of district courts, appeals, and penalties for denial of rights secured by this subchapter. See now section 1973bb of this title.

Section 1973bb-3, Pub. L. 89-110, title III, § 304, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 319, defined "State". See section 1973bb-1 of this title.

Section 1973bb-4, Pub. L. 891-10, title III, § 305, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 319, provided for effective date of this subchapter.

SUBCHAPTER I-D—FEDERAL ABSENTEE VOTING ASSISTANCE

Subchapter Referred to in Other Sections

This subchapter is referred to in title 22 section 2504; title 39 sections 2401, 3627, 3684.

Part I—Recommendation to States

Part Referred to in Other Sections

This part is referred to in section 1973cc-11 of this title.

§ 1973cc. State enactment of absentee voting legislation

The Congress expresses itself as favoring, and recommends that the several States take, immediate legislative or administrative action to enable every person in any of the following categories who is absent from the place of his voting residence to vote by absentee ballot in any primary, special, or general election held in his election district or precinct, if he is otherwise eligible to vote in that election:

(1) Members of the Armed Forces while in the active service, and their spouses and dependents.

(2) Members of the merchant marine of the United States, and their spouses and dependents.

(3) Citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them.

(Aug. 9, 1955, ch. 656, title I, § 101, 69 Stat. 584; June 18, 1968, Pub. L. 90-343, § 1, 82 Stat. 180.)

Codification

Section was formerly classified to section 1451 of Title 50, War and National Defense.

Amendments

1968—Pub. L. 90-343 consolidated into par. (3) the provisions of former pars. (3) and (4) and, in such consolidated par. (3), substituted provisions which served to extend the recommendations to the states as to absentee voter registration so as to include citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them for former provisions of par. (3) which served to include civilian employees of the United States in all categories serving outside the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them, whether or not subject to the civil service laws and the Classification Act of 1949, and whether or not paid from funds appropriated by Congress, and provisions of former par. (4), which served to include members of religious groups and welfare agencies assisting members of the Armed Forces, who are officially attached to and serving with the Armed Forces and their spouses and dependents.

Short Title

Act Aug. 9, 1955, ch. 656, § 1, 69 Stat. 584, provided that: "This Act [which enacted this subchapter and repealed sections 301 to 303, 321 to 331, 341, and 351 to 355 of Title 50, War and National Defense] may be cited as 'The Federal Voting Assistance Act of 1955'."

Separability of Provisions

Section 306 of act Aug. 9, 1955, provided that: "If any provision of this Act [this subchapter] or the application of such provision to any person or circumstance shall be held invalid, the validity of the remainder of the Act [this subchapter] and the applicability of such provision to other persons or circumstances shall not be affected thereby."

Section Referred to in Other Sections

This section is referred to in sections 1973cc-1, 1973cc-3 of this title.

Section Referred to in D.C. Code

This section is referred to in section 1-1105 of the District of Columbia Code.

§ 1973cc-1. Balloting procedures

To afford ample opportunity for persons covered by section 1973cc of this title to vote for Federal, State and local officials and to use the absentee balloting procedures to the greatest extent possible, it is recommended that each of the several States—

(1) accept as applications for absentee ballots under such States' absentee balloting laws, as applications for registration under such States' election laws, and as sources of information to implement State absentee balloting laws, the form of post card (when duly executed by a person covered by section 1973cc of this title) provided pursuant to this subchapter;

(2) waive registration of persons covered by section 1973cc of this title, who, by reason of their service, have been deprived of an opportunity to register;

(3) accept the post card application provided pursuant to this subchapter as a simultaneous application for registration and for ballot;

(4) if a special application is required for registration by mail, provide that the necessary forms will be sent with the absentee ballot and may be returned with it;

(5) make provision for persons eligible to register and qualified to vote, who have been honorably discharged from the Armed Forces, or have terminated their service or employment, too late to register at the time when, and at the place where, registration is required, to vote at the election next ensuing after such discharge or termination;

(6) authorize and instruct the State or local election officials, upon receipt of the post card application provided pursuant to this subchapter, to mail immediately to the applicant a ballot, instructions for voting and returning the ballot, and a self-addressed envelope;

(7) provide that there be printed across the face of each envelope in which a ballot is sent two parallel horizontal red bars, each one-quarter inch wide, extending from one side of the envelope to the other side, with an intervening space of one-quarter inch, the top bar to be one and one-quarter inches from the top of the envelope, and with the words "Official Election Balloting Material—via Air Mail", or similar language, between the bars; that there be printed in the upper right corner of each such envelope, in a box, the words "Free of U.S. Postage, Including Air Mail"; that all printing on the face of each such envelope be in red; and that there be printed in red in the upper left corner of each State ballot envelope an appropriate inscription or blanks for return address of sender;

(8) provide that the gummed flap of the State envelope supplied for the return of the ballot be separated by a wax paper or other appropriate protective insert from the remaining balloting material and that there be included in State voting instructions a procedure to be followed by absentee voters, such as notation of the facts on the back of envelope duly signed by the voter and witnessing officer, in instances of adhesion of the balloting material;

(9) reduce in size and weight of paper, as much as possible, envelopes, ballots, and instructions for voting procedure;

(10) for the purposes of this subchapter, authorize oaths required by State law to be administered and attested by any commissioned officer in the active service of the Armed Forces, any member of the merchant marine of the United States designated for this purpose by the Secretary of Commerce, the head of any department or agency of the United States, any civilian official empowered by State or Federal law to administer oaths, or any civilian employee designated by the head of any department or agency of the United States;

(11) include in State voting instructions express information concerning the type or types of writing instruments which may be used to mark the absentee ballot, preferably pen or indelible pencil; and

(12) provide that absentee ballots will be available for mailing to the applicant as soon as practicable before the last date on which such ballot will be counted.

(Aug. 9, 1955, ch. 656, title I, § 102, 69 Stat. 584; June 18, 1968, Pub. L. 90-344, § 1(1), 82 Stat. 181.)

CODIFICATION

Section was formerly classified to section 1452 of Title 50, War and National Defense.

AMENDMENTS

1968—Cl. (10). Pub. L. 90-344 added heads of departments or agencies of the United States and civilian employees designated by the head of any department or agency of the United States to the recommended list of persons authorized to administer and attest to oaths as required by state law.

§ 1973cc-2. Statistical data

It is recommended that each of the several States make available to the officer designated by the President under section 1973cc-11 of this title appropriate statistical data to assist him in compiling comprehensive information of operations under this subchapter.

(Aug. 9, 1955, ch. 656, title I, § 103, 69 Stat. 585.)

CODIFICATION

Section was formerly classified to section 1453 of Title 50, War and National Defense.

§ 1973cc-3. Personnel residing on military installations; acquisition of legal residence for voting purposes

It is recommended that each of the several States permit any person covered by section 1973cc(1) of this title who is otherwise fully qualified to register and vote in the State to acquire legal residence in that State, notwithstanding his residence on a military installation, and to register and vote in local, State, and national elections.

(Aug. 9, 1955, ch. 656, title I, § 104, as added June 18, 1968, Pub. L. 90-344, § 1(2), 82 Stat. 181.)

CODIFICATION

Section was formerly classified to section 1454 of Title 50, War and National Defense.

PART II—RESPONSIBILITIES OF FEDERAL GOVERNMENT

§ 1973cc-11. Presidential designee to coordinate and facilitate actions to discharge Federal responsibilities; report

The President is authorized to designate, with provision for redelegation, the head (hereinafter referred to as the Presidential designee) of any executive department or agency to coordinate and facilitate such actions as may be required to discharge Federal responsibilities under this subchapter. The Presidential designee is authorized to request from other executive departments and agencies such assistance as he deems necessary to effectuate the purposes of this subchapter, and shall submit a report to the President and to the Congress in odd-numbered years. Such report shall cover the administration of Federal responsibilities authorized under this part, the progress of the States in carrying out the recommendations contained in Part I of this subchapter, statistical data relating to absentee voting, and such other information as the Presidential designee may consider appropriate.

(Aug. 9, 1955, ch. 656, title II, § 201, 69 Stat. 585.)

CODIFICATION

Section was formerly classified to section 1461 of Title 50, War and National Defense.

EX. ORD. NO. 10646. DESIGNATION OF SECRETARY OF DEFENSE AS COORDINATOR

Ex. Ord. No. 10646, Nov. 22, 1955, 20 F.R. 8681, provided:

1. The Secretary of Defense is hereby designated as the official to coordinate and facilitate such actions as may be required to discharge Federal responsibilities under the Federal Voting Assistance Act of 1955 [this subchapter].

2. In order to effectuate the purposes of the said act, the Secretary of Defense is hereby authorized to delegate any or all of the functions, responsibilities, powers, authority, or discretion devolving upon him in consequence of this order to any person or persons within the Department of Defense.

DWIGHT D. EISENHOWER.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973cc-2 of this title.

§ 1973cc-12. Current absentee voting information

The Presidential designee shall request, annually or more often when appropriate, each State to furnish him with current absentee voting information for such State. Such information shall include election dates, officers to be elected, constitutional amendments, and other proposals to be voted on, absentee registration and voting procedures, and other relevant data. As soon as possible after receipt of such information, he shall furnish it to the departments and agencies of the executive branch affected by this subchapter. Such departments and agencies are authorized to reprint and distribute such information to the extent necessary.

(Aug. 9, 1955, ch. 656, title II, § 202, 69 Stat. 586.)

CODIFICATION

Section was formerly classified to section 1462 of Title 50, War and National Defense.

§ 1973cc-13. Cooperation of Government officials; drafts of state legislation; printing and transmitting of post cards

All Government officials shall, to the extent practicable and compatible with their primary responsibilities, cooperate with the Presidential designee in carrying out the purposes of this subchapter. All such officials shall, as far as practicable, take all reasonable measures to expedite, transmit, deliver, and return post cards, ballots, envelopes, and instructions for voting procedures mailed to or by persons to whom this subchapter is applicable. In addition, and as requested by the Presidential designee, it shall be the duty of—

(1) the Attorney General to cooperate and advise with the Council of State Governments in the formulation of drafts of State legislation designed to implement the recommendations for State action contained in this subchapter;

(2) the Administrator of General Services to cause to be printed and distributed post cards for use in accordance with the provisions of this subchapter. Such post cards shall be delivered by the department or agency concerned to persons to whom this subchapter is applicable for use at any general election at which electors for President and Vice President or Senators and Representatives are to be voted for. For use in such elections, post cards shall be in the hands of the persons concerned not later than August 15 before the election if they are outside the territorial limits of the United States and not later than September 15 before the election if they are inside the territorial limits of the United States. To the extent practicable and compatible with other operations, post cards shall also be made available at appropriate times to such persons for use in other general, primary, and special elections; and

(3) the Postmaster General and the heads of the departments and agencies concerned, where practicable and compatible with their operations, to facilitate the transmission of balloting material to and from persons to whom this subchapter is applicable. Ballots executed outside the United States by persons to whom this subchapter is applicable shall be returned by priority airmail wherever practicable, and such mail may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postmaster General for this purpose.

(Aug. 9, 1955, ch. 656, title II, § 203, 69 Stat. 586; June 18, 1968, Pub. L. 90-344, § 1(3), 82 Stat. 181.)

CODIFICATION

Section was formerly classified to section 1463 of Title 50, War and National Defense.

AMENDMENTS

1968—Cl. (2). Pub. L. 90-344 substituted provisions that post cards shall be delivered and in the hands of the persons concerned not later than August 15 if they are without the territorial limits of the United States and not later than September 15 if they are within the territorial limits of the United States for provisions that such post cards shall, wherever practicable and compatible with other operations, be made available to the persons concerned by the specified dates.

§ 1973cc-14. Form and content of post card application

The form of the Federal post card application shall be as follows:

(a) The cards shall be approximately nine and one-half by four and one-eighth inches in size.

(b) Upon one side, perpendicular to the long dimension of the card, there shall be printed in black type the following:

FILL OUT BOTH SIDES OF CARD

POST CARD APPLICATION FOR ABSENTEE BALLOT

State or Commonwealth of _____
(Fill in name of State or Commonwealth)

(1) I hereby request an absentee ballot to vote in the coming election:

(GENERAL) (PRIMARY)* (SPECIAL) ELECTION
(Strike out inapplicable words)

(2)* If a ballot is requested for a primary election, print your political party affiliation or preference in this box: ☐
(If primary election is secret in your State, do not answer)

(3) I am a citizen of the United States, eligible to vote in above State, and am:

a. A member of the Armed Forces of the United States ☐
b. A member of the merchant marine of the United States ☐
c. A citizen of the United States temporarily residing outside of the territorial limits of the United States and the District of Columbia ☐
d. A spouse or dependent of a person listed in (a) or (b) above ☐
e. A spouse or dependent residing with or accompanying a person described in (c) above ☐

(4) I was born on _____
(Day) (Month) (Year)

(5) For —— years preceding the above election my home (not military) residence in the above State has been——
_____
(Street and number or rural route, etc.)

in the county or parish of _____
The voting precinct or election district for this residence is _____
(Enter if known)

(6) Remarks:
_____

(7) Mail my ballot to the following official address:

For those assigned in the U.S.:

_____
(Unit (Co., Sq., Trp., Bn., etc.), Govt. Agency, or Office)

_____
(Military Base, Station, Camp, Fort, Ship, Airfield, etc.)

For those assigned elsewhere:

_____
(APO or FPO number)

(8) I am NOT requesting a ballot from any other State and am not voting in any other manner in this election, except by absentee process, and have not voted and do not intend to vote in this election at any other address:

(9) _____
(Signature or person requesting ballot)

(10) _____
(Full name, typed or printed with rank or grade, and service number)

(11) Subscribed and sworn to before me on

_____
(Day, month, and year)

_____
(Signature of official administering oath)

_____
(Typed or printed name of official administering oath)

_____
(Title or rank, service number, and organization of administering official)

INSTRUCTIONS

A. Before filling out this form see your voting officer in regard to the voting laws of your State and absentee registration and voting procedure.

B. Type or print all entries except signatures. FILL OUT BOTH SIDES OF CARD.

C. Address card to proper State official. Your voting officer or commanding officer will furnish you his title and address.

D. Mail card as soon as your State will accept your application.

E. NO postage is required for the card.

(c) Upon the other side of the card there shall be printed in red type the following:

FILL OUT BOTH SIDES OF THE CARD

_____ } FREE of U.S. Postage Including Air Mail
_____
_____ } Official Mailing Address
_____

OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL

To: _____
(Title of Election Official)

_____
(County or Township)

_____
(City or Town, State)

(Aug. 9, 1955, ch. 656, title II, § 204, 69 Stat. 586; June 18, 1968, Pub. L. 90-343, § 2, 82 Stat. 181; June 18, 1968, Pub. L. 90-344, § 1(4)-(6), 82 Stat. 182.)

CODIFICATION

Section was formerly classified to section 1464 of Title 50, War and National Defense.

AMENDMENTS

1968—Subsec. (b)(3)(c). Pub. L. 90-343, § 2, substituted "A citizen of the United States temporarily residing outside of the territorial limits of the United States and the District of Columbia" for "A member of a religious or welfare organization assisting servicemen".

Subsec. (b)(3)(d). Pub. L. 90-343, § 2, substituted "A spouse or a dependent of a person listed in (a) or (b) above" for "A civilian employed by the United States Government outside the United States (continental)".

Subsec. (b)(3)(e). Pub. L. 90-343, § 2, substituted "A spouse or dependent residing with or accompanying a person described in (c) above" for "A spouse or dependent of a person listed in (a), (b), or (c) above".

Subsec. (b)(3)(f). Pub. L. 90-343, § 2, struck out subsec. (b)(3)(f) which made provision for a spouse or dependent residing with a civilian employed by the United States Government outside the (continental) United States.

Subsec. (b)(5). Pub. L. 90-344, § 1(4), added the provision for insertion of the applicant's county or parish.

Subsec. (b)(7). Pub. L. 90-344, § 1(5), substituted provisions differentiating between the style of address for persons assigned in the United States and persons assigned eleswhere for provisions setting out a single style of address for all applicants.

Subsec. (c). Pub. L. 90-344, § 1(6), substituted provisions for the official mailing address of the applicant for provisions for the name, unit, government agency, or office, military base, station, ship, or office, street number, APO or FPO number, and city, postal zone, and state of the applicant.

§ 1973cc-15. Post card for election for Members of Congress

The previously authorized Federal post card form shall be utilized prior to and in connection with the election for Members of Congress next ensuing after August 9, 1955, and the Presidential designee shall initiate action to make such forms available to departments and agencies having a need therefor. Thereafter only the post card form authorized in this subchapter shall be utilized.

(Aug. 9, 1955, ch. 656, title II, § 205, 69 Stat. 588.)

CODIFICATION

Section was formerly classified to section 1465 of Title 50, War and National Defense.

PART III—GENERAL PROVISIONS

§ 1973cc-21. Definitions

As used in this subchapter—

(1) The term "Armed Forces" means the uniformed services as defined in section 101 of title 37.

(2) The term "members of the merchant marine of the United States" means persons (other than members of the Armed Forces) employed as officers or members of crews of vessels documented under the laws of the United States, or of vessels owned by the United States, or of vessels of foreign-flag registry under charter to or control of the United States, and persons (other than members of the Armed Forces) enrolled with the United States for employment, or for training for employment, or maintained by the United States for emergency relief service, as officers or members of crews of any such vessels; but does not include persons so employed, or enrolled for such employment or for training for such employment, or maintained for such emergency relief service, on the Great Lakes or the inland waterways.

(3) The term "dependent" means any person who is in fact a dependent.

(Aug. 9, 1955, ch. 656, title III, § 301, 69 Stat. 588.)

CODIFICATION

"Section 101 of title 37" was substituted for "section 102 of the Career Compensation Act of 1949 (63 Stat. 804), as amended" on authority of Pub. L. 87-649, § 12(b), Sept. 7, 1962, 76 Stat. 451, section 1 of which enacted Title 37, Pay and Allowances of the Uniformed Services.

Section was formerly classified to section 1471 of Title 50, War and National Defense.

DISTRICT OF COLUMBIA

Section 2(c) of Pub. L. 87-389, Oct. 4, 1961, 75 Stat. 820, provided that: "For the purposes of the Federal Voting Assistance Act of 1955 (69 Stat. 584) [this subchapter] the word 'State' shall be deemed to include the District of Columbia."

§ 1973cc-22. Free postage

Official post cards, ballots, voting instructions, and envelopes referred to in this subchapter, whether transmitted individually or in bulk, shall be free of postage, including air-mail postage, in the United States mails.

(Aug. 9, 1955, ch. 656, title III, § 302, 69 Stat. 588.)

CODIFICATION

Section was formerly classified to section 1472 of Title 50, War and National Defense.

§ 1973cc-23. Prevention of fraud and coercion

Every individual concerned with the administration of this subchapter shall take all necessary steps to prevent fraud, to protect voters against coercion of any sort, and to safeguard the integrity and secrecy of ballots cast.

(Aug. 9, 1955, ch. 656, title III, § 303, 69 Stat. 588.)

CODIFICATION

Section was formerly classified to section 1472 of Title 50, War and National Defense.

§ 1973cc-24. Acts done in good faith

No act done in good faith under this subchapter by a person serving in or with the Federal or military service of the United States in the exercise of his judgment as to what was practicable and compatible with military, merchant marine, or other Federal governmental operations, shall constitute a violation of any provision of law relating to the elective franchise.

(Aug. 9, 1955, ch. 656, title III, § 304, 69 Stat. 589.)

CODIFICATION

Section was formerly classified to section 1472 of Title 50, War and National Defense.

§ 1973cc-25. Undue influence; free discussion

It shall be unlawful for any commissioned, noncommissioned, warrant, or petty officer in the Armed Forces (1) to attempt to influence any member of the Armed Forces to vote or not to vote for any particular candidate, or (2) to require any member of the Armed Forces to march to any polling place or place of voting, but nothing in this subchapter shall be deemed to prohibit free discussion regarding political issues or candidates for public office.

(Aug. 9, 1955, ch. 656, title III, § 305, 69 Stat. 589.)

CODIFICATION

Section was formerly classified to section 1475 of Title 50, War and National Defense.

§ 1973cc-26. Authorization of appropriations

There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this subchapter.

(Aug. 9, 1955, ch. 656, title III, § 308, 69 Stat. 589.)

CODIFICATION

Section was formerly classified to section 1476 of Title 50, War and National Defense.

SUBCHAPTER I-E—VOTING RIGHTS OF OVERSEAS CITIZENS

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in section 1-1105 of the District of Columbia Code.

§ 1973dd. Definitions

For the purposes of this subchapter, the term—

(1) "Federal election" means any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Resident Commissioner of the Commonwealth of Puerto Rico, Delegate from Guam, or Delegate from the Virgin Islands;

(2) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands; and

(3) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, but does not include American Samoa, the Canal Zone, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

(Pub. L. 94-203, § 2, Jan. 2, 1976, 89 Stat. 1142.)

EFFECTIVE DATE

Section 8 of Pub. L. 94-203 provided that: "The provisions of the Act [this subchapter] shall apply with respect to any Federal election held on or after January 1, 1976."

SHORT TITLE

Pub. L. 94-203, § 1, Jan. 2, 1976, 89 Stat. 1142, provided: "That this Act [enacting this subchapter and provisions set out as a note under this section] may be cited as the 'Overseas Citizens Voting Rights Act of 1975'."

§ 1973dd-1. Qualifications for registration and vote by absentee ballot

Each citizen residing outside the United States shall have the right to register absentee for, and to vote by, an absentee ballot in any Federal election in the State, or any election district of such State, in which he was last domiciled immediately prior to his departure from the United States and in which he could have met all qualifications (except any qualification relating to minimum voting age) to vote in Federal elections under any present law, even though while residing outside the United States he does not have a place of abode or other address in such State or district, and his intent to return to such State or district may be uncertain, if—

(1) he has complied with all applicable State or district qualifications and requirements, which are consistent with this subchapter, concerning absentee registration for, and voting by, absentee ballots;

(2) he does not maintain a domicile, is not registered to vote, and is not voting in any other State or election district of a State or territory or in any territory or possession of the United States; and

(3) he has a valid passport or card of identity and registration issued under the authority of the Secretary of State.

(Pub. L. 94-203, § 3, Jan. 2, 1976, 89 Stat. 1142.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973dd-2, 1973dd-3 of this title.

§ 1973dd-2. State provisions for registration and vote by absentee ballot

(a) Each State shall provide by law for the absentee registration or other means of absentee qualification of all citizens residing outside the United States and entitled to vote in a Federal election in such State pursuant to section 1973dd-1 of this title whose application to vote in such election is received by the appropriate election official of such State not later than thirty days immediately prior to any such election.

(b) Each State shall provide by law for the casting of absentee ballots for Federal elections by all citizens residing outside the United States who—

(1) are entitled to vote in such State pursuant to section 1973dd-1 of this title;

(2) have registered or otherwise qualified to vote under subsection (a) of this section; and

(3) have returned such ballots to the appropriate election official of such State in sufficient time so that such ballot is received by such election official not later than the time of closing of the polls in such State on the day of such election.

(Pub. L. 94-203, § 4, Jan. 2, 1976, 89 Stat. 1143.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973dd-3 of this title.

§ 1973dd-3. Enforcement by Attorney General

(a) Jurisdiction of courts

Whenever the Attorney General has reason to believe that a State or election district undertakes to deny the right to register or vote in any election in violation of section 1973dd-1 of this title or fails to take any action required by section 1973dd-2 of this title, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate.

(b) Depriving or attempting to deprive persons of secured rights; penalties

Whoever knowingly or willfully shall deprive or attempt to deprive any person of any right secured by this subchapter shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Giving or conspiring to give false information; payment or acceptance of money; penalties

Whoever knowingly or willfully gives false information as to his name, address, or period of

residence for the purpose of establishing his eligibility to register, qualify, or vote under this subchapter, or conspires with another individual for the purpose of encouraging the giving of false information in order to establish the eligibility of any individual to register, qualify, or vote under this subchapter, or pays, or offers to pay, or accepts payment either for registration to vote or for voting shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(Pub. L. 94-203, § 5, Jan. 2, 1976, 89 Stat. 1143.)

§ 1973dd-4. Separability of provisions

If any provision of this subchapter is held invalid, the validity of the remainder of the subchapter shall not be affected.

(Pub. L. 94-203, § 6, Jan. 2, 1976, 89 Stat. 1143.)

§ 1973dd-5. State registration requirements and voting practices

Nothing in this subchapter shall—

(1) be deemed to require registration in any State or election district in which registration is not required as a precondition to voting in any Federal election; or

(2) prevent any State or election district from adopting or following any voting practice which is less restrictive than the practices prescribed by this subchapter.

(Pub. L. 94-203, § 7, Jan. 2, 1976, 89 Stat. 1144.)

SUBCHAPTER II—FEDERAL ELECTION RECORDS

SUBCHAPTER REFERRED TO IN OTHER SEIONS

This subchapter is referred to in section 1971 of this title.

§ 1974. Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation

Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(Pub. L. 86-449, title III, § 301, May 6, 1960, 74 Stat. 88.)

SHORT TITLE

Section 1 of Pub. L. 86-449 provided that: "This Act [which enacted this subchapter and sections 837, 1074, and 1509 of Title 18, Crimes and Criminal Procedure, and amended section 1971 of this title and sections 241 and 640 of Title 20, Education] may be cited as the 'Civil Rights Act of 1960'."

SECTION REFERRED TO IN OTHER SEIONS

This section is referred to in sections 1974a, 1974b of this title.

§ 1974a. Theft, destruction, concealment, mutilation, or alteration of records or papers; penalties

Any person, whether or not an officer of election or custodian, who willfully steals, destroys, conceals, mutilates, or alters any record or paper required by section 1974 of this title to be retained and preserved shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(Pub. L. 86-449, title III, § 302, May 6, 1960, 74 Stat. 88.)

§ 1974b. Demand for records or papers by Attorney General or representative; statement of basis and purpose

Any record or paper required by section 1974 of this title to be retained and preserved shall, upon demand in writing by the Attorney General or his representative directed to the person having custody, possession, or control of such record or paper, be made available for inspection, reproduction, and copying at the principal office of such custodian by the Attorney General or his representative. This demand shall contain a statement of the basis and the purpose therefor.

(Pub. L. 86-449, title III, § 303, May 6, 1960, 74 Stat. 88.)

SECTION REFERRED TO IN OTHER SEIONS

This section is referred to in section 1974d of this title.

§ 1974c. Disclosure of records or papers

Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this subchapter, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury.

(Pub. L. 86-449, title III, § 304, May 6, 1960, 74 Stat. 88.)

§ 1974d. Jurisdiction to compel production of records or papers

The United States district court for the district in which a demand is made pursuant to section 1974b of this title, or in which a record or paper so demanded is located, shall have jurisdiction by appropriate process to compel the production of such record or paper.

(Pub. L. 86-449, title III, § 305, May 6, 1960, 74 Stat. 88.)

§ 1974e. Definitions

As used in this subchapter, the term "officer of election" means any person who, under color of any Federal, State, Commonwealth, or local law, statute, ordinance, regulation, authority, custom, or usage, performs or is authorized to perform any function, duty, or task in connection with any application, registration, payment of poll tax, or other act requisite to voting in any general, special, or primary election at which votes are cast for candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico.

(Pub. L. 86-449, title III, § 306, May 6, 1960, 74 Stat. 88.)

CHAPTER 20A—CIVIL RIGHTS COMMISSION

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§ 1975. Commission on Civil Rights

(a) Establishment

There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) Composition; appointment

The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) Chairman and Vice Chairman

The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Vacancies

Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Quorum

Four members of the Commission shall constitute a quorum.

(Pub. L. 85-315, pt. I, § 101, Sept. 9, 1957, 71 Stat. 634.)

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-292, § 1, May 27, 1976, 90 Stat. 524, provided: "That this Act [amending section 1975e of this title] may be cited as the 'Civil Rights Commission Authorization Act of 1976'."

SHORT TITLE

Section 161 of Pub. L. 85-315 provided that: "This Act [which enacted this chapter, section 1995 of this title, and section 295-1 of former Title 5, Executive Departments and Government Officers and Employees, amended section 1971 of this title and sections 1343 and 1861 of Title 28, Judiciary and Judicial Procedure, and repealed section 1993 of this title] may be cited as the 'Civil Rights Act of 1957'."

§ 1975a. Rules of procedure

(a) Publication in Federal Register of date, place and subject of hearing; opening statement

At least thirty days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

(b) Copy of rules

A copy of the Commission's rules shall be made available to any witness before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpena.

(c) Representation, examination, objections, and argument by counsel; dispatch of hearings; convenience and necessity of witnesses

Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his

client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

(d) Censure and exclusion for breaches of order and decorum

The Chairman or Acting Chairman may punish breaches of order and decorum by censure and exclusion from the hearings.

(e) Defamatory, degrading, or incriminating evidence or report

If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses. If a report of the Commission tends to defame, degrade or incriminate any person, then the report shall be delivered to such person thirty days before the report shall be made public in order that such person may make a timely answer to the report. Each person so defamed, degraded or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after service of the report upon him. Upon a showing of good cause, the Commission may grant the person an extension of time within which to file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudiciously or unnecessarily.

(f) Requests for additional witnesses

Except as provided in this section and section 1975d(f) of this title, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

(g) Release of evidence taken in executive session

No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than one year.

(h) Submission of written statements

In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

(i) Transcripts

Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

(j) Witness fees

A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(k) Restriction on issuance of subpena

The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

(l) Publication in Federal Register of organization statement, procedure, and rules

The Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined, and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published.

(Pub. L. 85-315, pt. I, § 102, Sept. 9, 1957, 71 Stat. 634; Pub. L. 88-352, title V, § 501, July 2, 1964, 78 Stat. 249; Pub. L. 91-521, § 4, Nov. 25,

1970, 84 Stat. 1357; Pub. L. 92-496, § 1, Oct. 14, 1972, 86 Stat. 813.)

AMENDMENTS

1972—Subsec. (j). Pub. L. 92-496 substituted provisions that witnesses attending sessions of the Commission shall be paid fees and mileage in the same way as witnesses attending courts of the United States for provisions prescribing $6 for each day of attendance and 10 cents per mile for travel and subsistence allowance of $10 per day.

1970—Subsec. (e). Pub. L. 91-521 added the provisions setting forth the procedure for any person defamed, degraded, or incriminated in a report of the Commission to answer such defamation, degradation, or incrimination.

1964—Subsec. (a). Pub. L. 88-352 required publication in Federal Register of notice of date, place, and subject of hearing.

Subsec. (b). Pub. L. 88-352 required service of copy of Commission's rules at time of service of subpena compelling witness to appear before Commission or requiring witness to produce written or other matter.

Subsec. (c). Pub. L. 88-352 substituted provisions for right of representation by counsel; examination, objections, and argument by counsel; concluding hearings with reasonable dispatch; and due regard for convenience and necessity of witnesses, for former provision permitting witnesses to be advised concerning their constitutional rights by counsel.

Subsec. (d). Pub. L. 88-352 deleted provision for punishment of unprofessional ethics on part of counsel.

Subsec. (e). Pub. L. 88-352 required the receipt in executive session of summary of evidence or testimony tending to degrade; the Commission, before deciding to use the evidence or testimony tending to degrade, to afford the defamed, degraded, or incriminated person an opportunity to appear in executive session with additional witnesses; and the Commission, prior to public release or use of such evidence or testimony so as to reveal publicly the identity of such person, to afford such person an opportunity in public session to file a sworn statement in his behalf and to submit sworn statements of others.

Subsec. (f). Pub. L. 88-352 reenacted provisions without change.

Subsec. (g). Pub. L. 88-352 inserted "or summary of evidence or testimony" following introductory words "No evidence or testimony" and "such" preceding "evidence".

Subsec. (h). Pub. L. 88-352 substituted "shall determine" for "is the sole judge of".

Subsec. (i). Pub. L. 88-352 substituted provisions entitling person to retain or procure transcript of data or evidence such person submitted on payment of costs, permitting witness to be limited to an inspection of official transcript of his testimony in executive session, permitting public to obtain transcripts of public sessions upon payment of costs, and requiring transcripts of the testimony at all hearings, public or executive sessions, of the Commission or any subcommittee thereof for former provision authorizing witness to obtain transcript of his testimony at public session upon payment of costs or, if given at an executive session, when authorized by the Commission.

Subsec. (j). Pub. L. 88-352 increased witness fees for daily attendance from $4 to $6 and mileage from 8 to 10 cents per mile and decreased additional allowance for subsistence of witnesses too removed to return to their residences from $12 to $10 per day.

Subsec. (k). Pub. L. 88-352 allowed the Commission to subpena a witness to testify within the State in which he has appointed an agent for service of process and to testify outside the State if the hearing is to be held within fifty miles of the place in which he is found, resides or is domiciled, does business, or has appointed an agent for service of process.

Subsec. (l). Pub. L. 88-352 added subsec. (l).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1975d of this title.

§ 1975b. Compensation of members

(a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of title 5, prorated on a daily basis for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5703 of title 5.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of subchapter I of chapter 57 of title 5.

(Pub. L. 85-315, pt. I, § 103, Sept. 9, 1957, 71 Stat. 635; Pub. L. 88-352, title V, §§ 502, 503, July 2, 1964, 78 Stat. 250, 251; Pub. L. 91-521, § 1, Nov. 25, 1970, 84 Stat. 1356; Pub. L. 92-496, § 2, Oct. 14, 1972, 86 Stat. 813.)

CODIFICATION

"Section 5703 of title 5" and "subchapter I of chapter 57 of title 5" were substituted for "section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b-2; 60 Stat. 808)" and "the Travel Expenses Act of 1949, as amended (5 U.S.C. 835-842; 63 Stat. 166)", respectively, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-496 substituted provisions prescribing daily allowances equal to the compensation payable at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of Title 5, Government Organization and Employees prorated on a daily basis for each day spent in the work of the Commission, for provisions prescribing $100 per day for each day spent in the work of the Commission.

1970—Subsec. (a). Pub. L. 91-521 increased from $75 to $100 per day the compensation paid to each member of the Commission not otherwise in the service of the Government of the United States.

1964—Subsec. (a). Pub. L. 88-352, § 502, increased the compensation of members of the Commission not otherwise in Government service from $50 to $75 for each day of service and substituted "shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5 of the Administrative Expenses Act of 1946, as amended" for "shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence when away from his usual place of residence, inclusive of fees or tips to porters and stewards".

Subsec. (b). Pub. L. 88-352, § 503, substituted "shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of the Travel Expenses Act of 1949, as amended" for "shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12

in lieu of actual expenses for subsistence when away from his usual place of residence, inclusive of fees or tips to porters and stewards".

§ 1975c. Duties of Commission

(a) Investigate, study, collect information, etc., respecting denials of equal protection

The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution, because of race, color, religion, sex, or national origin or in the administration of justice;

(3) appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin or in the administration of justice;

(4) serve as a national clearinghouse for information in respect to denials of equal protection of the laws because of race, color, religion, sex, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice;

(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of presidential electors, Members of the United States Senate, or of the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election; and

(6) Nothing in this chapter or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization.

(b) Reports to President and Congress

The Commission shall submit interim reports to the President and to the Congress at such times as the Commission, the Congress or the President shall deem desirable, and shall submit to the President and to the Congress a final report of its activities, findings, and recommendations not later than the last day of fiscal year 1978.

(c) Termination of Commission

Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

(Pub. L. 85-315, pt. I, § 104, Sept. 9, 1957, 71 Stat. 635; Pub. L. 86-383, title IV, § 401, Sept. 28, 1959, 73 Stat. 724; Pub. L. 87-264, title IV, § 401, Sept. 21, 1961, 75 Stat. 559; Pub. L. 88-152, § 2, Oct. 17, 1963, 77 Stat. 271; Pub. L. 88-352, title V, § 504, July 2, 1964, 78 Stat. 251; Pub. L. 90-198, § 1, Dec. 14, 1967, 81 Stat. 582; Pub. L. 92-496, §§ 3, 4, Oct. 14, 1972, 86 Stat. 813, 814.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(6), in the original read "this Act", meaning Pub. L. 85-315, Sept. 9, 1957, 71 Stat. 634, which enacted this chapter, section 1995 of this title, and section 295-1 of former Title 5, Executive Departments and Government Officers and Employees, amended section 1971 of this title and sections 1343 and 1861 of Title 28, Judiciary and Judicial Procedure, repealed section 1993 of this title, and enacted provisions set out as a note under section 1975 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1975 of this title and Tables volume.

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92-496, § 3, added deprivation of voting rights on the basis of sex to the investigatory functions of the Commission.

Subsec. (a)(2). Pub. L. 92-496, § 3, added denial of equal protection on the basis of sex to the legal developments to be studied by the Commission.

Subsec. (a)(3). Pub. L. 92-496, § 3, added denial of equal protection on the basis of sex to the laws and policies of the Federal Government to be appraised by the Commission.

Subsec. (a)(4). Pub. L. 92-496, § 3, added denial of equal protection of the laws on the basis of sex to the information to be obtained by the Commission to serve as a national clearinghouse.

Subsec. (b). Pub. L. 92-496, § 4, substituted "the last day of fiscal year 1978" for "January 31, 1973".

1967—Subsec. (b). Pub. L. 90-198 extended the time of the Commission to submit a final report from Jan. 31, 1968 to Jan. 31, 1973.

1964—Subsec. (a). Pub. L. 88-352, § 504(a), added the words "because of race, color, religion or national origin or in the administration of justice" to pars. (2) and (3) and added pars. (4) to (6).

Subsec. (b). Pub. L. 88-352, § 504(b), provided for the submission of reports at such times as the Congress deems desirable, substituted "final report" for "final and comprehensive report" and extended the time of the Commission to submit a final report from Sept. 30, 1964, to Jan. 31, 1968.

1963—Subsec. (b). Pub. L. 88-152 extended the time of the Commission to submit a final report from Sept. 30, 1963, to Sept. 30, 1964.

1961—Subsec. (b). Pub. L. 87-264 extended the time of the Commission to submit a final report from four years from Sept. 9, 1957, to Sept. 30, 1963.

1959—Subsec. (b). Pub. L. 86-383 substituted "four years" for "two years".

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86

Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1975d. Powers

(a) Staff director; appointment and compensation; personnel and services

There shall be a full-time staff director for the Commission who shall be appointed by the President by and with the advice and consent of the Senate and who shall receive compensation at a rate, to be fixed by the President, not in excess of $22,500 a year. The President shall consult with the Commission before submitting the nomination of any person for appointment to the position of staff director. Within the limitations of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 3109 of title 5, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS-15 of the General Schedule under section 5332 of title 5.

(b) Services of voluntary or uncompensated personnel

The Commission shall not accept or utilize services of voluntary or uncompensated personnel, and the term "whoever" as used in paragraph (g) of section 1975a of this title shall be construed to mean a person whose services are compensated by the United States.

(c) Advisory committees

The Commission may constitute such advisory committees within States composed of citizens of that State and may consult with governors, attorneys general, and other representatives of State and local governments, and private organizations, as it deems advisable.

(d) Exemption from conflict of interest statutes

Members of the Commission, and members of advisory committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of sections 281, 283, 284, 434, and 1914 of title 18, and section 190 of the Revised Statutes (5 U.S.C. 99).

(e) Cooperation With Federal agencies

All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(f) Hearings; issuance of subpenas

The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this chapter, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 1975a(j) and (k) of this title, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a subcommittee to hold hearings pursuant to this subsection, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of four members is present.

(g) Aid of courts in enforcing subpenas

In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce pertinent, relevant and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(h) Oaths and affirmations

Without limiting the generality of the foregoing, each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation.

(i) Rules and regulations

The Commission shall have the power to make such rules and regulations as are necessary to carry out the purposes of this chapter.

(Pub. L. 85-315, pt. I, § 105, Sept. 9, 1957, 71 Stat. 636; Pub. L. 86-449, title IV, § 401, May 6, 1960, 74 Stat. 89; Pub. L. 88-352, title V, §§ 505-507, July 2, 1964, 78 Stat. 251, 252; Pub. L. 91-521, § 2, Nov. 25, 1970, 84 Stat. 1356; Pub. L. 92-496, § 5, Oct. 14, 1972, 86 Stat. 814.)

References in Text

The civil service laws, referred to in subsec. (a), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

This chapter, referred to in subsecs. (f) and (i), in the original read "this Act", meaning Pub. L. 85-315, Sept. 9, 1957, 71 Stat. 634, which enacted this chapter, section 1995 of this title, and section 295-1 of former Title 5, Executive Departments and Government Officers and Employees, amended section 1971 of this title and sections 1343 and 1861 of Title 28, Judiciary and Judicial Procedure, repealed section 1993 of this title, and enacted provisions set out as a note under section 1975 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1975 of this title and Tables volume.

The classification laws, referred to in subsec. (a), are classified generally to chapter 51 (§ 5101 et seq.) and subchapter III (§ 5331 et seq.) of chapter 53 of Title 5.

Sections 281 and 283 of title 18, referred to in subsec. (d), were repealed by Pub. L. 87-849, § 2, Oct. 23, 1962, 76 Stat. 1126, except as they may apply to retired officers of the armed forces of the United States, and were supplanted by sections 203 and 205 of Title 18, Crimes and Criminal Procedure. For further details, see "Exemptions" note set out under section 281 of Title 18.

Sections 284, 434, and 1914 of title 18, referred to in subsec. (d), were repealed by Pub. L. 87-849, § 2, Oct. 23, 1962, 76 Stat. 1126, and were supplanted by sections 207, 208, and 209, respectively, of Title 18.

Section 190 of the Revised Statutes (5 U.S.C. 99), referred to in subsec. (d), was repealed by Pub. L. 87-849, § 3, Oct. 23, 1962, 76 Stat. 1126. See section 207 of Title 18.

CODIFICATION

Provision of subsec. (a) limiting to $22,500 per annum the compensation to be paid the Staff Director has been deleted as obsolete. The annual rate of basic pay at Level V of the Executive Schedule for position of Staff Director, Commission on Civil Rights, is now covered by section 5316(114) of Title 5, Government Organization and Employees.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-496 substituted provisions requiring services to be procured according to section 3109 of title 5, Government Organization and Employees, at rates for individuals not in excess of the daily equivalent payable for positions at the maximum rate for GS-15 of the General Schedule under section 5332 of title 5, for provisions requiring services to be procured according to section 15 of Act of August 2, 1946 (5 U.S.C. 55a), at rates for individuals not exceeding $100 per diem.

1970—Subsec. (a). Pub. L. 91-521 increased the compensation for services of experts and consultants from $75 to $100 per diem.

1964—Subsec. (a). Pub. L. 88-352, § 505, increased the compensation for services of experts and consultants from $50 to $75 per diem.

Subsec. (f). Pub. L. 88-352, § 506, provided for approval of Commission or subcommittee hearings by a majority of the Commission or by a majority of the members present at a meeting having a quorum of four members present.

Subsec. (g). Pub. L. 88-352, § 506, authorized Federal district courts to order compliance with Commission subpenas by persons domiciled within the jurisdiction of the court or who have appointed an agent for service of process within the jurisdiction and substituted provision for production of "pertinent, relevant and nonprivileged evidence" for production of "evidence".

Subsec. (i). Pub. L. 88-352, § 507, added subsec. (i).

1960—Subsec. (h). Pub. L. 86-449 added subsec. (h).

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1975a, 6106 of this title.

§ 1975e. Authorization of appropriations

For the purposes of carrying out this chapter, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1976, the sum of $7,893,000, and for the period beginning July 1, 1976, and ending September 30, 1976, the sum of $1,993,000, and for the fiscal year ending September 30, 1977, the sum of $9,540,000, and such additional amounts for those fiscal years and period prior to October 1, 1977, as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law which arise subsequent to May 27, 1976.

(Pub. L. 85-315, pt. I, § 106, Sept. 9, 1957, 71 Stat. 636; Pub. L. 90-198, § 2, Dec. 14, 1967, 81 Stat. 582; Pub. L. 91-521, § 3, Nov. 25, 1970, 84 Stat. 1356; Pub. L. 92-64, Aug. 4, 1971, 85 Stat. 166; Pub. L. 92-496, § 6, Oct. 14, 1972, 86 Stat. 814; Pub. L. 94-292, § 2, May 27, 1976, 90 Stat. 524.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 85-315, Sept. 9, 1957, 71 Stat. 634, which enacted this chapter, section 1995 of this title, and section 295-1 of former Title 5, Executive Departments and Government Officers and Employees, amended section 1971 of this title and section 1343 and 1861 of Title 28, Judiciary and Judicial Procedure, repealed section 1993 of this title, and enacted provisions set out as a note under section 1975 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1975 of this title and Tables volume.

AMENDMENTS

1976—Pub. L. 94-292 substituted provisions authorizing to be appropriated for the fiscal year ending June 30, 1976, the sum of $7,893,000, for the period beginning July 1, 1976, and ending September 30, 1976, the sum of $1,993,000, and for the fiscal year ending September 30, 1977, the sum of $9,540,000, and additional amounts for such fiscal years as necessary for salary, pay, etc., arising after May 27, 1976, for provisions authorizing to be appropriated for the fiscal year ending June 30, 1973, the sum of $5,500,000, and for each fiscal year thereafter through June 30, 1978, the sum of $7,000,000.

1972—Pub. L. 92-496 substituted provisions authorizing to be appropriated for the fiscal year ending June 30, 1973, the sum of $5,500,000, and for each fiscal year thereafter through June 30, 1978, the sum of $7,000,000, for provisions authorizing to be appropriated for the fiscal year ending June 30, 1972, the sum of $4,000,000 and for each fiscal year thereafter until January 31, 1973, the sum of $4,000,000.

1971—Pub. L. 92-64 substituted provisions authorizing to be appropriated for the fiscal year ending June 30, 1972, the sum of $4,000,000, and for each fiscal year thereafter until Jan. 31, 1973, the sum of $4,000,000, for provisions authorizing to be appropriated for the fiscal year ending June 30, 1970, the sum of $3,400,000, and for each fiscal year thereafter until Jan. 31, 1973, the sum of $3,400,000.

1970—Pub. L. 91-521 substituted provisions authorizing to be appropriated for the fiscal year ending June 30, 1970, the sum of $3,400,000, and for each fiscal year thereafter until Jan. 31, 1973, the sum of $3,400,000, for provisions authorizing to be appropriated for the fiscal year ending June 30, 1968, and for each of the four succeeding fiscal years, the sum of $2,650,000, for each such fiscal year.

1967—Pub. L. 90-198 substituted provisions authorizing a specific appropriation of $2,650,000 for the fiscal year ending June 30, 1968, and for each of the four succeeding fiscal years for provisions which authorized the appropriation, out of any money in the Treasury not otherwise appropriated, of so much as may be necessary to carry out the provision of this Act.

CHAPTER 21—CIVIL RIGHTS

SUBCHAPTER I—GENERALLY

Sec.
1981. Equal rights under the law.
1982. Property rights of citizens.
1983. Civil action for deprivation of rights.
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1985. Conspiracy to interfere with civil rights.
(a) Preventing officer from performing duties.
(b) Obstructing justice; intimidating party, witness, or juror.
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1986. Action for neglect to prevent.
1987. Prosecution of violation of certain laws.
1988. Proceedings in vindication of civil rights; attorney's fees.
1989. Commissioners; appointment of persons to execute warrants.
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1991. Fees; persons appointed to execute process.
1992. Speedy trial.
1993. Repealed.
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SUBCHAPTER II—PUBLIC ACCOMMODATIONS

2000a. Prohibition against discrimination or segregation in places of public accommodation.
(a) Equal access.
(b) Establishments affecting interstate commerce or supported in their activities by State action as places of public accommodation; lodgings; facilities principally engaged in selling food for consumption on the premises; gasoline stations; places of exhibition or entertainment; other covered establishments.
(c) Operations affecting commerce; criteria; "commerce" defined.
(d) Support by State action.
(e) Private establishments.
2000a-1. Prohibition against discrimination or segregation required by any law, statute, ordinance, regulation, rule or order of a State or State agency.
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SUBCHAPTER I—GENERALLY

§ 1981. Equal rights under the law

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

(R.S. § 1977.)

Codification

R.S. § 1977 is from act May 31, 1870, ch. 114, § 16, 16 Stat. 144.

Section was formerly classified to section 41 of Title 8, Aliens and Nationality.

Short Title of 1976 Amendment

Pub. L. 94-559, § 1, Oct. 19, 1976, 90 Stat. 2641, provided: "That this Act [amending section 1988 of this

title] may be cited as 'The Civil Rights Attorney's Fees Awards Act of 1976'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1988 of this title.

§ 1982. Property rights of citizens

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

(R.S. § 1978).

CODIFICATION

R.S. § 1978 is from act Apr. 9, 1866, ch. 31, § 1, 14 Stat. 27.

Section was formerly classified to section 42 of Title 8, Aliens and Nationality.

EX. ORD. NO. 11063. EQUAL OPPORTUNITY IN HOUSING

Ex. Ord. No. 11063, eff. Nov. 20, 1962, 27 F.R. 11527, provided:

WHEREAS the granting of Federal assistance for the provision, rehabilitation, or operation of housing and related facilities from which Americans are excluded because of their race, color, creed, or national origin is unfair, unjust, and inconsistent with the public policy of the United States as manifested in its Constitution and laws; and

WHEREAS the Congress in the Housing Act of 1949 [see Short Title note set out under section 1441 of this title] has declared that the general welfare and security of the Nation and the health and living standards of its people require the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family; and

WHEREAS discriminatory policies and practices based upon race, color, creed, or national origin now operate to deny many Americans the benefits of housing financed through Federal assistance and as a consequence prevent such assistance from providing them with an alternative to substandard, unsafe, unsanitary, and overcrowded housing; and

WHEREAS such discriminatory policies and practices result in segregated patterns of housing and necessarily produce other forms of discrimination and segregation which deprive many Americans of equal opportunity in the exercise of their unalienable rights to life, liberty, and the pursuit of happiness; and

WHEREAS the executive branch of the Government, in faithfully executing the laws of the United States which authorize Federal financial assistance, directly or indirectly, for the provision, rehabilitation, and operation of housing and related facilities, is charged with an obligation and duty to assure that those laws are fairly administered and that benefits thereunder are made available to all Americans without regard to their race, color, creed, or national origin:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution and laws of the United States, it is ordered as follows:

PART I—PREVENTION OF DISCRIMINATION

SECTION 101. I hereby direct all departments and agencies in the executive branch of the Federal Government, insofar as their functions relate to the provision, rehabilitation, or operation of housing and related facilities, to take all action necessary and appropriate to prevent discrimination because of race, color, creed, or national origin—

(a) in the sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use or occupancy thereof, if such property and related facilities are—

(i) owned or operated by the Federal Government, or

(ii) provided in whole or in part with the aid of loans, advances, grants, or contributions hereafter agreed to be made by the Federal Government, or

(iii) provided in whole or in part by loans hereafter insured, guaranteed, or otherwise secured by the credit of the Federal Government, or

(iv) provided by the development or the redevelopment of real property purchased, leased, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under a loan of grant contract hereafter entered into; and

(b) in the lending practices with respect to residential property and related facilities (including land to be developed for residential use) of lending institutions, insofar as such practices relate to loans hereafter insured or guaranteed by the Federal Government.

SEC. 102. I hereby direct the Housing and Home Finance Agency and all other executive departments and agencies to use their good offices and to take other appropriate action permitted by law, including the institution of appropriate litigation, if required, to promote the abandonment of discriminatory practices with respect to residential property and related facilities heretofore provided with Federal financial assistance of the types referred to in Section 101(a)(ii), (iii), and (iv).

PART II—IMPLEMENTATION BY DEPARTMENTS AND AGENCIES

SEC. 201. Each executive department and agency subject to this order is directed to submit to the President's Committee on Equal Opportunity in Housing established pursuant to Part IV of this order (hereinafter sometimes referred to as the Committee), within thirty days from the date of this order, a report outlining all current programs administered by it which are affected by this order.

SEC. 202. Each such department and agency shall be primarily responsible for obtaining compliance with the purposes of this order as the order applies to programs administered by it; and is directed to cooperate with the Committee, to furnish it, in accordance with law, such information and assistance as it may request in the performance of its functions, and to report to it at such intervals as the Committee may require.

SEC. 203. Each such department and agency shall, within thirty days from the date of this order, issue such rules and regulations, adopt such procedures and policies, and make such exemptions and exceptions as may be consistent with law and necessary or appropriate to effectuate the purposes of this order. Each such department and agency shall consult with the Committee in order to achieve such consistency and uniformity as may be feasible.

PART III—ENFORCEMENT

SEC. 301. The Committee, any subcommittee thereof, and any officer or employee designated by any executive department or agency subject to this order may hold such hearings, public or private, as the Committee, department, or agency may deem advisable for compliance, enforcement, or educational purposes.

SEC. 302. If any executive department or agency subject to this order concludes that any person or firm (including but not limited to any individual, partnership, association, trust, or corporation) or any State or local public agency has violated any rule, regulation, or procedure issued or adopted pursuant to this order, or any nondiscrimination provision included in any agreement or contract pursuant to any such rule, regulation, or procedure, it shall endeavor to end and remedy such violation by informal means, including conference, conciliation, and persuasion unless similar efforts made by another Federal department or agency have been unsuccessful. In conformity with rules, regulations, procedures, or policies issued or adopted by it pursuant to Section 203 hereof, a depart-

ment or agency may take such action as may be appropriate under its governing laws, including, but not limited to, the following:

It may—

(a) cancel or terminate in whole or in part any agreement or contract with such person, firm, or State or local public agency providing for a loan, grant, contribution, or other Federal aid, or for the payment of a commission or fee;

(b) refrain from extending any further aid under any program administered by it and affected by this order until it is satisfied that the affected person, firm, or State or local public agency will comply with the rules, regulations, and procedures issued or adopted pursuant to this order, and any nondiscrimination provisions included in any agreement or contract;

(c) refuse to approve a lending institution or any other lender as a beneficiary under any program administered by it which is affected by this order or revoke such approval if previously given.

SEC. 303. In appropriate cases executive departments and agencies shall refer to the Attorney General violations of any rules, regulations, or procedures issued or adopted pursuant to this order, or violations of any nondiscrimination provisions included in any agreement or contract, for such civil or criminal action as he may deem appropriate. The Attorney General is authorized to furnish legal advice concerning this order to the Committee and to any department or agency requesting such advice.

SEC. 304. Any executive department or agency affected by this order may also invoke the sanctions provided in Section 302 where any person or firm, including a lender, has violated the rules, regulations, or procedures issued or adopted pursuant to this order, or the nondiscrimination provisions included in any agreement or contract, with respect to any program affected by this order administered by any other executive department or agency.

PART IV—ESTABLISHMENT OF THE PRESIDENT'S COMMITTEE ON EQUAL OPPORTUNITY IN HOUSING

SEC. 401. There is hereby established the President's Committee on Equal Opportunity in Housing which shall be composed of the Secretary of the Treasury; the Secretary of Defense; the Attorney General; the Secretary of Agriculture; the Housing and Home Finance Administrator; the Administrator of Veterans Affairs; the Chairman of the Federal Home Loan Bank Board; a member of the staff of the Executive Office of the President to be assigned to the Committee by direction of the President, and such other members as the President shall from time to time appoint from the public. The member assigned by the President from the staff of the Executive Office shall serve as the Chairman and Executive Director of the Committee. Each department or agency head may designate an alternate to represent him in his absence.

SEC. 402. Each department or agency subject to this order shall, to the extent authorized by law (including § 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691) furnish assistance to and defray the necessary expenses of the Committee.

PART V—POWERS AND DUTIES OF THE PRESIDENT'S COMMITTEE ON EQUAL OPPORTUNITY IN HOUSING

SEC. 501. The Committee shall meet upon the call of the Chairman and at such other times as may be provided by its rules. It shall: (a) adopt rules to govern its deliberations and activities; (b) recommend general policies and procedures to implement this order; (c) consider reports as to progress under this order; (d) consider any matters which may be presented to it by any of its members; and (e) make such reports to the President as he may require or the Committee shall deem appropriate. A report to the President shall be made at least once annually and shall include references to the actions taken and results achieved by departments and agencies subject to this order. The Committee may provide for the establishment of subcommittees whose members shall be appointed by the Chairman.

SEC. 502. (a) The Committee shall take such steps as it deems necessary and appropriate to promote the coordination of the activities of departments and agencies under this order. In so doing, the Committee shall consider the overall objectives of Federal legislation relating to housing and the right of every individual to participate without discrimination because of race, color, creed, or national origin in the ultimate benefits of the Federal programs subject to this order.

(b) The Committee may confer with representatives of any department or agency, State or local public agency, civic, industry, or labor group, or any other group directly or indirectly affected by this order; examine the relevant rules, regulations, procedures, policies, and practices of any department or agency subject to this order and make such recommendations as may be necessary or desirable to achieve the purposes of this order.

(c) The Committee shall encourage educational programs by civic, educational, religious, industry, labor, and other nongovernmental groups to eliminate the basic causes of discrimination in housing and related facilities provided with Federal assistance.

SEC. 503. The Committee shall have an executive committee consisting of the Committee's Chairman and two other members designated by him from among the public members. The Chairman of the Committee shall also serve as Chairman of the Executive Committee. Between meetings of the Committee, the Executive Committee shall be primarily responsible for carrying out the functions of the Committee and may act for the Committee to the extent authorized by it.

PART VI—MISCELLANEOUS

SEC. 601. As used in this order, the term "departments and agencies" includes any wholly-owned or mixed-ownership Government corporation, and the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories of the United States.

SEC. 602. This order shall become effective immediately.

JOHN FITZGERALD KENNEDY.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1988 of this title.

§ 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

(R.S. § 1979.)

CODIFICATION

R.S. § 1979 is from act Apr. 20, 1871, ch. 22, § 1, 17 Stat. 13.

Section was formerly classified to section 43 of Title 8, Aliens and Nationality.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1988, 6727 of this title.

§ 1984. Omitted

CODIFICATION

Section, act Mar. 1, 1875, ch. 114, § 5, 18 Stat. 337, which was formerly classified to section 46 of Title 8, Aliens and Natonality, related to Supreme Court review of cases arising under act Mar. 1, 1875, and has been omitted from the Code as obsolete. Sections 1 and 2 of act Mar. 1, 1875 were declared unconstitutional in *U.S.* v. *Singleton*, 109 U.S. 3, and sections 3 and 4 of such act were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862.

§ 1985. Conspiracy to interfere with civil rights

(a) Preventing officer from performing duties

If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(b) Obstructing justice; intimidating party, witness, or juror

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(c) Depriving persons of rights or privileges

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

(R.S. § 1980.)

CODIFICATION

R.S. § 1980 is from acts July 31, 1861, ch. 33, 12 Stat. 284; Apr. 20, 1871, ch. 22, § 2, 17 Stat. 13.

Section was formerly classified to section 47 of Title 8, Aliens and Nationality.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1986, 1988, 6727 of this title; title 28 section 1343.

§ 1986. Action for neglect to prevent

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding $5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

(R.S. § 1981.)

CODIFICATION

R.S. § 1981 is from act Apr. 20, 1871, ch. 22, § 6, 17 Stat. 15.

Section was formerly classified to section 48 of Title 8, Aliens and Nationality.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1988 of this title.

§ 1987. Prosecution of violation of certain laws

The United States attorneys, marshals, and deputy marshals, the magistrates appointed by the district and territorial courts, with power to arrest, imprison, or bail offenders, and every other officer who is especially empowered by

the President, are authorized and required, at the expense of the United States, to institute prosecutions against all persons violating any of the provisions of section 1990 of this title or of sections 5506 to 5516 and 5518 to 5532 of the Revised Statutes, and to cause such persons to be arrested, and imprisoned or bailed, for trial before the court of the United States or the territorial court having cognizance of the offense.

(R.S. § 1982; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Oct. 17, 1968, Pub. L. 90-578, title IV, § 402(b)(2), 82 Stat. 1118.)

REFERENCES IN TEXT

R.S. §§ 5506-5516 and 5518 to 5532, referred to in text, which related to crimes against the elective franchise and civil rights of citizens, were all repealed by acts Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153, or Feb. 8, 1894, ch. 25, § 1, 28 Stat. 37. However, the provisions of sections 5508, 5510, 5516, 5518, and 5524 to 5532 were substantially reenacted by act Mar. 4, 1909, and were classified to sections 51, 52, 54 to 59, 246, 428, and 443 to 445 of former Title 18, Criminal Code and Criminal Procedure. Such sections of former Title 18 were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and are now covered by sections 241, 242, 372, 592, 593, 752, 1071, 1581, 1583 and 1588 of Title 18, Crimes and Criminal Procedure.

CODIFICATION

R.S. § 1982 is from acts Apr. 9, 1866, ch. 31, § 4, 14 Stat. 28; May 31, 1870, Ch. 114, § 9, 16 Stat. 142.

Section was formerly classified to section 49 of Title 8, Aliens and Nationality.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorneys" for "district attorneys". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision note thereunder.

"Magistrates" was substituted for "commissioners" pursuant to Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

Reference to the district courts was substituted for reference to the circuit courts on authority of section 291 of act Mar. 3, 1911.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1989 of this title.

§ 1988. Proceedings in vindication of civil rights; attorney's fees

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this Title, and of Title "CIVIL RIGHTS," and of Title "CRIMES," for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty. In any action or proceeding to enforce a provision of sections 1981, 1982, 1983, 1985, and 1986 of this title, title IX of Public Law 92-318 [20 U.S.C. 1681 et seq.], or in any civil action or proceedings, by or on behalf of the United States of America, to enforce, or charging a violation of, a provision of the United States Internal Revenue Code, or title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(R.S. § 722; Pub. L. 94-559, § 2, Oct. 19, 1976, 90 Stat. 2641.)

REFERENCES IN TEXT

This Title, and of Title "CIVIL RIGHTS," and of Title "CRIMES,", referred to in text, mean titles XIII, XXIV, and LXX of the Revised Statutes, which comprise sections 530 to 1093, 1977 to 1991, and 5323 to 5550, respectively. For complete classification of these titles to the Code, see Tables volume.

Title IX of Public Law 92-318, referred to in text, is title IX of Pub. L. 92-318, June 23, 1972, 86 Stat. 373, popularly known as the Education Amendments of 1972, which is classified principally to chapter 38 (§ 1681 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Tables volume.

The United States Internal Revenue Code, referred to in text, is classified, generally to Title 26, Internal Revenue Code.

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

CODIFICATION

R.S. § 722 is from acts Apr. 9, 1866, ch. 31, § 3, 14 Stat. 27; May 31, 1870, ch. 114, § 18, 16 Stat. 144.

Section was formerly classified to section 729 of Title 28 prior to the general revision and enactment of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, § 1, 62 Stat. 869.

AMENDMENTS

1976—Pub. L. 94-559 authorized the court, in its discretion, to allow a reasonable attorney's fee as part of the prevailing party's costs.

FEDERAL RULES OF CIVIL PROCEDURE

Effect of Rule 69 on this section, see note by Advisory Committee under said Rule, Title 28, Appendix, Judiciary and Judicial Procedure.

Execution, see Rule 69.

FEDERAL RULES OF CRIMINAL PROCEDURE

Scope and application, see Rules 1 and 54, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1989. Magistrates; appointment of persons to execute warrants

The district courts of the United States and the district courts of the Territories, from time to time, shall increase the number of magistrates, so as to afford a speedy and convenient means for the arrest and examination of persons charged with the crimes referred to in section 1987 of this title; and such magistrates are authorized and required to exercise all the

powers and duties conferred on them herein with regard to such offenses in like manner as they are authorized by law to exercise with regard to other offenses against the laws of the United States. Said magistrates are empowered, within their respective counties, to appoint, in writing, under their hands, one or more suitable persons, from time to time, who shall execute all such warrants or other process as the magistrates may issue in the lawful performance of their duties, and the persons so appointed shall have authority to summon and call to their aid the bystanders or posse comitatus of the proper county, or such portion of the land or naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged; and such warrants shall run and be executed anywhere in the State or Territory within which they are issued.

(R.S. §§ 1983, 1984; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Oct. 17, 1968, Pub. L. 90-578, title IV, § 402(b)(2), 82 Stat. 1118.)

CODIFICATION

R.S. §§ 1983 and 1984 are from acts Apr. 9, 1866, ch. 31, §§ 4, 5, 14 Stat. 28; May 31, 1870, ch. 114, §§ 9, 10, 16 Stat. 142.

Section was formerly classified to section 50 of Title 8, Aliens and Nationality.

CHANGE OF NAME

"Magistrates" was substituted for "commissioners" pursuant to Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

"District courts" was substituted for "circuit courts" on authority of section 291 of act Mar. 3, 1911.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1990, 1991 of this title.

§ 1990. Marshal to obey precepts; refusing to receive or execute process

Every marshal and deputy marshal shall obey and execute all warrants or other process, when directed to him, issued under the provisions of section 1989 of this title. Every marshal and deputy marshal who refuses to receive any warrant or other process when tendered to him, issued in pursuance of the provisions of this section, or refuses or neglects to use all proper means diligently to execute the same, shall be liable to a fine in the sum of $1,000, for the benefit of the party aggrieved thereby.

(R.S. §§ 1985, 5517.)

CODIFICATION

R.S. § 1985 is from acts Apr. 9, 1866, ch. 31, § 5, 14 Stat. 28; May 31, 1870, ch. 114, § 10, 16 Stat. 142.

R.S. § 5517 is from act May 31, 1870, ch. 114, § 10, 16 Stat. 142.

Section was formerly classified to section 51 of Title 8, Aliens and Nationality.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1987, 1992 of this title.

§ 1991. Fees; persons appointed to execute process

Every person appointed to execute process under section 1989 of this title shall be entitled to a fee of $5 for each party he may arrest and take before any magistrate, with such other fees as may be deemed reasonable by the magistrate for any additional services necessarily performed by him, such as attending at the examination, keeping the prisoner in custody, and providing him with food and lodging during his detention, and until the final determination of the magistrate; such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid out of the Treasury of the United States on the certificate of the judge of the district within which the arrest is made, and to be recoverable from the defendant as part of the judgment in case of conviction.

(R.S. § 1987; Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118.)

CODIFICATION

R.S. § 1987 is from acts Apr. 9, 1866, ch. 31, § 7, 14 Stat. 29; May 31, 1870, ch. 114, § 12, 16 Stat. 143.

Section was formerly classified to section 53 of Title 8, Aliens and Nationality.

CHANGE OF NAME

"Magistrate" was substituted for "commissioner" pursuant to Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

§ 1992. Speedy trial

Whenever the President has reason to believe that offenses have been, or are likely to be committed against the provisions of section 1990 of this title or of section 5506 to 5516 and 5518 to 5532 of the Revised Statutes, within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and United States attorney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons so charged, and it shall be the duty of every judge or other officer, when any such requisition is received by him to attend at the place and for the time therein designated.

(R.S. § 1988; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

REFERENCES IN TEXT

Sections 5506 to 5510, 5516 to 5519 and 5524 to 5535 of the Revised Statutes, referred to in text, were repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153; section 5506, 5511 to 5515, and 5520 to 5523, also referred to in text, were repealed by act Feb. 8, 1894, ch. 25, § 1, 28 Stat. 37. The provisions of sections 5508, 5510, 5516, 5518 and 5524 to 5532 of the Revised Statutes were reenacted by act Mar. 4, 1909, and classified to sections 51, 52, 54 to 59, 246, 428 and 443 to 445 of former Title 18, Criminal Code and Criminal Procedure. Those sections were repealed and reenacted as sections 241, 242, 372, 592, 593, 752, 1071, 1581, 1583 and 1588 of Title 18, Crimes and Criminal Procedure, in the general revision of Title 18 by act June 25, 1948, ch. 645, 62 Stat. 683.

CODIFICATION

R.S. § 1988 is from act Apr. 9, 1866, ch. 31, § 8, 14 Stat. 29.

Section was formerly classified to section 54 of Title 8, Aliens and Nationality.

CHANGE OF NAME

Act June 25, 1948, effective Sept. 1, 1948, substituted "United States attorney" for "district attorney". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision note thereunder.

§ 1993. Repealed. Pub. L. 85-315, pt. III, § 122, Sept. 9, 1957, 71 Stat. 637

Section, R.S. § 1989, authorized the President to employ land or naval forces to aid in the execution of judicial process issued under sections 1981 to 1983 or 1985 to 1992 of this title, or to prevent the violation and enforce the due execution of sections 1981 to 1983 and 1985 to 1994 of this title. See section 332 of Title 10, Armed Forces.

§ 1994. Peonage abolished

The holding of any person to service or labor under the system known as peonage is abolished and forever prohibited in any Territory or State of the United States; and all acts, laws, resolutions, orders, regulations, or usages of any Territory or State, which have heretofore established, maintained, or enforced, or by virtue of which any attempt shall hereafter be made to establish, maintain, or enforce, directly or indirectly, the voluntary or involuntary service or labor of any persons as peons, in liquidation of any debt or obligation, or otherwise, are declared null and void.

(R.S. § 1990.)

CODIFICATION

R.S. § 1990 is from act Mar. 2, 1867, ch. 187, § 1, 14 Stat. 546.

Section was formerly classified to section 56 of Title 8, Aliens and Nationality.

§ 1995. Criminal contempt proceedings; penalties; trial by jury

In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided however,* That in case the accused is a natural person the fine to be paid shall not exceed the sum of $1,000, nor shall imprisonment exceed the term of six months: *Provided further,* That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however,* That in the event such proceeding for criminal contempt be tried before a judge without a jury and the sentence of the court upon conviction is a fine in excess of the sum of $300 or imprisonment in excess of forty-five days, the accused in said proceeding, upon demand therefore, shall be entitled to a trial de novo before a jury, which shall conform as near as may be to the practice in other criminal cases.

This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience, of any officer of the court in respect to the writs, orders, or process of the court.

Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

(Pub. L. 85-315, pt. V, § 151, Sept. 9, 1957, 71 Stat. 638.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 85-315, Sept. 9, 1957, 71 Stat. 634, which enacted this section, sections 1975 to 1975e of this title and section 295-1 of former Title 5, Executive Departments and Government Officers and Employees, repealed section 1993 of this title, amended section 1971 of this title and sections 1343 and 1861 of Title 28, Judiciary and Judicial Procedure, and enacted provisions set out as a note under section 1975 of this title.

CROSS REFERENCES

Jury trial of criminal contempts, see section 3691 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973*l* of this title.

SUBCHAPTER II—PUBLIC ACCOMMODATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5304 of this title; title 20 sections 1221, 1221e-1; title 31 section 1242.

§ 2000a. Prohibition against discrimination or segregation in places of public accommodation

(a) Equal access

All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

(b) Establishments affecting interstate commerce or supported in their activities by State action as places of public accommodation; lodgings; facilities principally engaged in selling food for consumption on the premises; gasoline stations; places of exhibition or entertainment; other covered establishments

Each of the following establishments which serves the public is a place of public accommodation within the meaning of this subchapter if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

(1) any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

(2) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station;

(3) any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and

(4) any establishment (A)(i) which is physically located within the premises of any establishment otherwise covered by this subsection, or (ii) within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

(c) Operations affecting commerce; criteria; "commerce" defined

The operations of an establishment affect commerce within the meaning of this subchapter if (1) it is one of the establishments described in paragraph (1) of subsection (b) of this section; (2) in the case of an establishment described in paragraph (2) of subsection (b) of this section, it serves or offers to serve interstate travelers of a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; (3) in the case of an establishment described in paragraph (3) of subsection (b) of this section, it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; and (4) in the case of an establishment described in paragraph (4) of subsection (b) of this section, it is physically located within the premises of, or there is physically located within its premises, an establishment the operations of which affect commerce within the meaning of this subsection. For purposes of this section, "commerce" means travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

(d) Support by State action

Discrimination or segregation by an establishment is supported by State action within the meaning of this subchapter if such discrimination or segregation (1) is carried on under color of any law, statute, ordinance, or regulation; or (2) is carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or (3) is required by action of the State or political subdivision thereof.

(e) Private establishments

The provisions of this subchapter shall not apply to a private club or other establishment not in fact open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b) of this section.

(Pub. L. 88-352, title II, § 201, July 2, 1964, 78 Stat. 243.)

SHORT TITLE OF 1972 AMENDMENT

Pub. L. 92-261, § 1, Mar. 24, 1972, 86 Stat. 103, provided: "That this Act [which enacted sections 2000e-16 and 2000e-17 of this title, amended sections 5108 and 5314 to 5316 of Title 5, Government Organization and Employees, and sections 2000e to 2000e-6, 2000e-8, 2000e-9, 2000e-13, and 2000e-14 of this title, and enacted provisions set out as a note under section 2000e-5 of this title] may be cited as the 'Equal Employment Opportunity Act of 1972'."

SHORT TITLE

Section 1 of Pub. L. 88-352 provided: "That this Act [which enacted subchapters II to IX of this chapter, amended sections 2204 and 2205 of former Title 5, Executive Departments and Government Officers and Employees, section 1447(d) of Title 28, Judiciary and Judicial Procedure, and sections 1971 and 1975a to 1975d of this title, and enacted provisions set out as a note under section 2000e of this title] may be cited as the 'Civil Rights Act of 1964'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000a-2 of this title.

§ 2000a-1. Prohibition against discrimination or segregation required by any law, statute, ordinance, regulation, rule or order of a State or State agency

All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule, or order of a State or any agency or political subdivision thereof.

(Pub. L. 88-352, title II, § 202, July 2, 1964, 78 Stat. 244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000a-2 of this title.

§ 2000a-2. Prohibition against deprivation of, interference with, and punishment for exercising rights and privileges secured by section 2000a or 2000a-1 of this title

No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive any person of any right or privilege secured by section 2000a or 2000a-1 of this title, or (b) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by section 2000a or 2000a-1 of this title, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 2000a or 2000a-1 of this title.

(Pub. L. 88-352, title II, § 203, July 2, 1964, 78 Stat. 244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000a-3 of this title.

§ 2000a-3. Civil actions for injunctive relief

(a) Persons aggrieved; intervention by Attorney General; legal representation; commencement of action without payment of fees, costs, or security

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 2000a-2 of this title, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may

be instituted by the person aggrieved and, upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security.

(b) Attorney's fees; liability of United States for costs

In any action commenced pursuant to this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person.

(c) State or local enforcement proceedings; notification of State or local authority; stay of Federal proceedings

In the case of an alleged act or practice prohibited by this subchapter which occurs in a State, or political subdivision of a State, which has a State or local law prohibiting such act or practice and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no civil action may be brought under subsection (a) of this section before the expiration of thirty days after written notice of such alleged act or practice has been given to the appropriate State or local authority by registered mail or in person, provided that the court may stay proceedings in such civil action pending the termination of State or local enforcement proceedings.

(d) References to Community Relations Service to obtain voluntary compliance; duration of reference; extension of period

In the case of an alleged act or practice prohibited by this subchapter which occurs in a State, or political subdivision of a State, which has no State or local law prohibiting such act or practice, a civil action may be brought under subsection (a) of this section: *Provided,* That the court may refer the matter to the Community Relations Service established by subchapter VIII of this chapter for as long as the court believes there is a reasonable possibility of obtaining voluntary compliance, but for not more than sixty days: *Provided further,* That upon expiration of such sixty-day period, the court may extend such period for an additional period, not to exceed a cumulative total of one hundred and twenty days, if it believes there then exists a reasonable possibility of securing voluntary compliance.

(Pub. L. 88-352, title II, § 204, July 2, 1964, 78 Stat. 244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000a-4 of this title.

§ 2000a-4. Community Relations Service; investigations and hearings; executive session; release of testimony; duty to bring about voluntary settlements

The Service is authorized to make a full investigation of any complaint referred to it by the court under section 2000a-3(d) of this title and may hold such hearings with respect thereto as may be necessary. The Service shall conduct any hearings with respect to any such complaint in executive session, and shall not release any testimony given therein except by agreement of all parties involved in the complaint with the permission of the court, and the Service shall endeavor to bring about a voluntary settlement between the parties.

(Pub. L. 88-352, title II, § 205, July 2, 1964, 78 Stat. 244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000g-3 of this title.

§ 2000a-5. Civil actions by the Attorney General

(a) Complaint

Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this subchapter, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) Three-judge district court for cases of general public importance: hearing, determination, expedition of action, review by Supreme Court; single judge district court: hearing, determination, expedition of action

In any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the

case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

(Pub. L. 88-352, title II, § 206, July 2, 1964, 78 Stat. 245.)

§ 2000a-6. Jurisdiction; exhaustion of other remedies; exclusiveness of remedies; assertion of rights based on other Federal or State laws and pursuit of remedies for enforcement of such rights

(a) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subchapter and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

(b) The remedies provided in this subchapter shall be the exclusive means of enforcing the rights based on this subchapter, but nothing in this subchapter shall preclude any individual or any State or local agency from asserting any right based on any other Federal or State law not inconsistent with this subchapter, including any statute or ordinance requiring nondiscrimination in public establishments or accommodations, or from pursuing any remedy, civil or criminal, which may be available for the vindication or enforcement of such right.

(Pub. L. 88-352, title II, § 207, July 2, 1964, 78 Stat. 245.)

SUBCHAPTER III—PUBLIC FACILITIES

Subchapter Referred to in Other Sections

This subchapter is referred to in section 5304 of this title; title 20 sections 1221, 1221e-1; title 31 section 1242.

§ 2000b. Civil actions by the Attorney General

(a) Complaint; certification; institution of civil action; relief requested; jurisdiction; impleading additional parties as defendants

Whenever the Attorney General receives a complaint in writing signed by an individual to the effect that he is being deprived of or threatened with the loss of his right to the equal protection of the laws, on account of his race, color, religion, or national origin, by being denied equal utilization of any public facility which is owned, operated, or managed by or on behalf of any State or subdivision thereof, other than a public school or public college as defined in section 2000c of this title, and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly progress of desegregation in public facilities, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) Persons unable to initiate and maintain legal proceedings

The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

(Pub. L. 88-352, title III, § 301, July 2, 1964, 78 Stat. 246.)

§ 2000b-1. Liability of United States for costs and attorney's fee

In any action or proceeding under this subchapter the United States shall be liable for costs, including a reasonable attorney's fee, the same as a private person.

(Pub. L. 88-352, title III, § 302, July 2, 1964, 78 Stat. 246.)

§ 2000b-2. Personal suits for relief against discrimination in public facilities

Nothing in this subchapter shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in any facility covered by this subchapter.

(Pub. L. 88-352, title III, § 303, July 2, 1964, 78 Stat. 246.)

§ 2000b-3. "Complaint" defined

A complaint as used in this subchapter is a writing or document within the meaning of section 1001, title 18.

(Pub. L. 88-352, title III, § 304, July 2, 1964, 78 Stat. 246.)

SUBCHAPTER IV—PUBLIC EDUCATION

Subchapter Referred to in Other Sections

This subchapter is referred to in section 5304 of this title; title 20 sections 1221, 1221e-1, 1656, 1720; title 31 section 1242.

§ 2000c. Definitions

As used in this subchapter—

(a) "Commissioner" means the Commissioner of Education.

(b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, sex or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

(c) "Public school" means any elementary or secondary educational institution, and "public college" means any institution of higher education or any technical or vocational school above the secondary school level, provided that such public school or public college is operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(d) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

(Pub. L. 88-352, title IV, § 401, July 2, 1964, 78 Stat. 246; Pub. L. 92-318, title IX, § 906(a), June 23, 1972, 86 Stat. 375.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-318 included the term "sex" after the word "religion".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000b of this title; title 20 section 1720.

§ 2000c-1. Omitted

CODIFICATION

Section, Pub. L. 88-352, title IV, § 402, July 2, 1964, 78 Stat. 247, which authorized the Commissioner to conduct a survey and make a report to the President and the Congress within two years of July, 1964 concerning the availability of educational opportunities for minority group members, has been omitted as executed.

§ 2000c-2. Technical assistance in preparation, adoption, and implementation of plans for desegregation of public schools

The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

(Pub. L. 88-352, title IV, § 403, July 2, 1964, 78 Stat. 247.)

§ 2000c-3. Training institutes; stipends; travel allowances

The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute on a full-time basis may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for travel to attend such institute.

(Pub. L. 88-352, title IV, § 404, July 2, 1964, 78 Stat. 247.)

§ 2000c-4. Grants for inservice training in dealing with and for employment of specialists to advise in problems incident to desegregation; factors for consideration in making grants and fixing amounts, terms, and conditions

(a) The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of—

(1) giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and

(2) employing specialists to advise in problems incident to desegregation.

(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him; the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

(Pub. L. 88-352, title IV, § 405, July 2, 1964, 78 Stat. 247.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 1231e.

§ 2000c-5. Payments; adjustments; advances or reimbursement; installments

Payments pursuant to a grant or contract under this subchapter may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

(Pub. L. 88-352, title IV, § 406, July 2, 1964, 78 Stat. 248.)

§ 2000c-6. Civil actions by the Attorney General

(a) Complaint; certification; notice to school board or college authority; institution of civil action; relief requested; jurisdiction; transportation of pupils to achieve racial balance; judicial power to insure compliance with constitutional standards; impleading additional parties as defendants

Whenever the Attorney General receives a complaint in writing—

(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, sex or national origin,

and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) Persons unable to initiate and maintain legal proceedings

The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

(c) "Parent" and "complaint" defined

The term "parent" as used in this section includes any person standing in loco parentis. A "complaint" as used in this section is a writing or document within the meaning of section 1001, title 18.

(Pub. L. 88-352, title IV, § 407, July 2, 1964, 78 Stat. 248; Pub. L. 92-318, title IX, § 906(a), June 23, 1972, 86 Stat. 375.)

AMENDMENTS

1972—Subsec. (a)(2). Pub. L. 92-318 included the term "sex" after the word "religion".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 sections 1656, 1754.

§ 2000c-7. Liability of United States for costs

In any action or proceeding under this subchapter the United States shall be liable for costs the same as a private person.

(Pub. L. 88-352, title IV, § 408, July 2, 1964, 78 Stat. 249.)

§ 2000c-8. Personal suits for relief against discrimination in public education

Nothing in this subchapter shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education.

(Pub. L. 88-352, title IV, § 409, July 2, 1964, 78 Stat. 249.)

§ 2000c-9. Classification and assignment

Nothing in this subchapter shall prohibit classification and assignment for reasons other than race, color, religion, sex or national origin.

(Pub. L. 88-352, title IV, § 410, July 2, 1964, 78 Stat. 249; Pub. L. 92-318, title IX, § 906(a), June 23, 1972, 86 Stat. 375.)

AMENDMENTS

1972—Pub. L. 92-318 included the term "sex" after the word "religion".

SUBCHAPTER V—FEDERALLY ASSISTED PROGRAMS

CROSS REFERENCES

Age discrimination in employment, see section 621 et seq. of Title 29, Labor.

Age discrimination in federally assisted programs, see section 6101 et seq. of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1988, 2000d-6, 5304, 5309, 5891, 6709, 6727, 6870 of this title; title 15 sections 719c, 775; title 20 sections 1221, 1221e-1, 1231e, 1232i, 1602, 1605, 1617, 1717; title 23 sections 117, 324; title 29 section 991; title 31 section 1242; title 40 section 476; title 45 section 803; title 49 sections 1604, 1608, 1716, 1730.

§ 2000d. Prohibition against exclusion from participation in, denial of benefits of, and discrimination under Federally assisted programs on ground of race, color, or national origin

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(Pub. L. 88-352, title VI, § 601, July 2, 1964, 78 Stat. 252.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000d-1 of this title; title 39 section 410.

§ 2000d-1. Federal authority and financial assistance to programs or activities by way of grant, loan, or contract other than contract of insurance or guaranty; rules and regulations; approval by President; compliance with requirements; reports to congressional committees; effective date of administrative action

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action, terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

(Pub. L. 88-352, title VI, § 602, July 2, 1964, 78 Stat. 252.)

EQUAL OPPORTUNITY IN FEDERAL EMPLOYMENT

Nondiscrimination in government employment and in employment by government contractors and subcontractors, see Ex. Ord. No. 11246, eff. Sept. 24, 1965, 30 F.R. 12319, and Ex. Ord. No. 11478, eff. Aug. 8, 1969, 34 F.R. 12985, set out as notes under section 2000e of this title.

EXECUTIVE ORDER NO. 11247

Ex. Ord. No. 11247, eff. Sept. 24, 1965, 30 F.R. 12327, formerly set out as a note under this section, which related to the enforcement of coordination of nondiscrimination in federally assisted programs, was superseded by Ex. Ord. No. 11764, eff. Jan. 21, 1974, 39 F.R. 2575, set out as a note below.

EX. ORD. NO. 11764. COORDINATION OF ENFORCEMENT

Ex. Ord. No. 11764, eff. Jan. 21, 1974, 39 F.R. 2575 provided:

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-2000d-4 [this subchapter], prohibits discrimination on the ground of race, color, or national origin in programs and activities receiving Federal financial assistance. The agencies which extend such assistance have primary responsibility for effectuating title VI. Although the Attorney General is presently responsible for coordinating enforcement of title VI, it is appropriate to clarify and broaden the role of the Attorney General with respect to title VI enforcement.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, including section 301 of title 3 of the United States Code, it is ordered as follows:

SECTION 1. The Attorney General shall coordinate enforcement by Federal departments and agencies of Title VI of the Civil Rights Act of 1964. He shall prescribe standards and procedures regarding implementation of title VI and shall assist the departments and agencies in accomplishing effective implementation. He may adopt such rules and regulations and issue such orders as he deems necessary to carry out his functions under this order.

SEC. 2. (a) Each Federal department and agency shall cooperate with the Attorney General in the performance of his functions under this order and shall furnish him such reports and information as he may request.

(b) Title VI compliance reviews and investigations shall be conducted by the departments and agencies in accord with standards and procedures established by the Attorney General.

(c) Whenever a department or agency ascertains noncompliance or probable noncompliance with title VI, steps to obtain compliance by voluntary means or to enforce title VI requirements shall be carried out in accord with standards and procedures established by the Attorney General.

SEC. 3. The authority vested in the President by section 602 of title VI, 42 U.S.C. 2000d-1, to approve rules, regulations, and orders of general applicability is hereby delegated to the Attorney General.

SEC. 4. Executive Order No. 11247 of September 24, 1965, is hereby superseded.

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2000d-2, 2000d-5, 2930c, 2971c, 2985g, 5057 of this title; title 29 section 991; title 39 section 410.

§ 2000d-2. Judicial review; administrative procedure provisions

Any department or agency action taken pursuant to section 2000d-1 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not othewise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 2000d-1 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that chapter.

(Pub. L. 88-352, title VI, § 603, July 2, 1964, 78 Stat. 253.)

CODIFICATION

"Chapter 7 of title 5" and "that chapter" were substituted for "section 10 of the Administrative Procedure Act" and "that section", respectively, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees. Prior to the enactment of Title 5, section 10 of the Administrative Procedure Act was classified to section 1009 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2930c, 2971c, 2985g, 5057, 5672 of this title; title 29 section 991; title 39 section 410.

§ 2000d-3. Construction of provisions not to authorize administrative action with respect to employment practices except where primary objective of Federal financial assistance is to provide employment

Nothing contained in this subchapter shall be construed to authorize action under this subchapter by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

(Pub. L. 88-352, title VI, § 604, July 2, 1964, 78 Stat. 253.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 410.

§ 2000d-4. Federal authority and financial assistance to programs or activities by way of contract of insurance or guaranty

Nothing in this subchapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

(Pub. L. 88-352, title VI, § 605, July 2, 1964, 78 Stat. 253.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 410.

§ 2000d-5. Prohibited deferral of action on applications by local educational agencies seeking federal funds for alleged noncompliance with Civil Rights Act

The Commissioner of Education shall not defer action or order action deferred on any application by a local educational agency for funds authorized to be appropriated by this Act, by the Elementary and Secondary Education Act of 1965 [20 U.S.C. 821 et seq.], by the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [20 U.S.C. 236 et seq.], by the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) [20 U.S.C. 631 et seq.], or by the Cooperative Research Act [20 U.S.C. 331 et seq.], on the basis of alleged noncompliance with the provisions of this subchapter for more than sixty days after notice is given to such local agency of such deferral unless such local agency is given the opportunity for a hearing as provided in section 2000d-1 of this title, such hearing to be held within sixty days of such notice, unless the time for such hearing is extended by mutual consent of such local agency and the commissioner, and such deferral shall not continue for more than thirty days after the close of any such hearing unless there has been an express finding on the record of such hearing that such local educational agency has failed to comply with the provisions of this subchapter: *Provided*, That, for the purpose of determining whether a local educational agency is in compliance with this subchapter, compliance by such agency with a final order or judgment of a Federal court for the desegregation of the school or school system operated by such agency shall be deemed to be compliance with this subchapter, insofar as the matters covered in the order or judgment are concerned.

(Pub. L. 89-750, title I, § 182, Nov. 3, 1966, 80 Stat. 1209; Pub. L. 90-247, title I, § 112, Jan. 2, 1968, 81 Stat. 787.)

REFERENCES IN TEXT

"This Act", referred to in text, is Pub. L. 89-750, Nov. 3, 1966, 80 Stat. 1191, known as the Elementary and Secondary Education Amendments of 1966. For complete classification of that Act to the Code, see Short Title note set out under section 821 of Title 20, Education, and Tables volume.

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 24 (§ 821 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 821 of Title 20 and Tables volume.

The Act of September 30, 1950, referred to in text, is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which is classified generally to chapter 13 (§ 236 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Tables volume.

The Act of September 23, 1950, referred to in text, is act Sept. 23, 1950, ch. 995, as amended generally by Aug. 12, 1958, Pub. L. 85-620, title I, 72 Stat. 548, which is classified generally to chapter 19 (§ 631 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Tables volume.

The Cooperative Research Act, referred to in text, is act July 26, 1954, ch. 576, 68 Stat. 533, which was classified generally to chapter 15 (§ 331 et seq.) of Title 20, Education, and terminated on July 1, 1975, under provisions of section 402(c)(1) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 544. See now section 1851 et seq. of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was enacted as part of the Elementary and Secondary Education Amendments of 1966, Pub. L. 89-750, and not as part of Pub. L. 88-352, July 2, 1964, 78 Stat. 252, known as the Civil Rights Act of 1964, title VI of which enacted this subchapter.

AMENDMENTS

1968—Pub. L. 90-247 added the proviso to this section.

EFFECTIVE DATE

Section effective with respect to fiscal years beginning after June 30, 1966, see section 191 of Pub. L. 89-750, set out as an Effective Date of 1966 Amendment note under section 241b of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000d-6 of this title; title 20 section 1602.

§ 2000d-6. Policy of United States as to application of nondiscrimination provisions in schools of local educational agencies

(a) Declaration of uniform policy

It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] and section 182 of the Elementary and Secondary Education Amendments of 1966 [42 U.S.C. 2000d-5] dealing with conditions of segregation by race, whether de jure or de facto, in the schools of the local educational agencies of any State shall be applied uniformly in all regions of the United States whatever the origin or cause of such segregation.

(b) Nature of uniformity

Such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

(c) Prohibition of construction for diminution of obligation for enforcement or compliance with nondiscrimination requirements

Nothing in this section shall be construed to diminish the obligation of responsible officials to enforce or comply with such guidelines and criteria in order to eliminate discrimination in federally assisted programs and activities as required by title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.].

(d) Additional funds

It is the sense of the Congress that the Department of Justice and the Department of Health, Education, and Welfare should request such additional funds as may be necessary to apply the policy set forth in this section throughout the United States.

(Pub. L. 91-230, § 2, Apr. 13, 1970, 84 Stat. 121.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsecs. (a) and (c), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to this subchapter (§ 2000d et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

CODIFICATION

Section was enacted as part of the Elementary and Secondary Amendments of 1969, Pub. L. 91-230, and not as part of Pub. L. 88-352, July 2, 1964, 78 Stat. 252, known as the Civil Rights Act of 1964, title VI of which enacted this subchapter.

SUBCHAPTER VI—EQUAL EMPLOYMENT OPPORTUNITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5304, 6727 of this title; title 5 section 5108; title 20 sections 1221, 1221e-1; title 31 section 1242.

§ 2000e. Definitions

For the purposes of this subchapter—

(a) The term "person" includes one or more individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(b) The term "employer" means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5), or (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of title 26, except that during the first year after March 24, 1972, persons having fewer than twenty-five employees (and their agents) shall not be considered employers.

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) twenty-five or more during the first year after March 24, 1972, or (B) fifteen or more thereafter, and such labor organization—

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended [29 U.S.C. 151 et seq.], or the Railway Labor Act, as amended [45 U.S.C. 151 et seq.];

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is represent-

ing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by an employer, except that the term "employee" shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency or political subdivision.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959 [29 U.S.C. 401 et seq.], and further includes any governmental industry, business, or activity.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.].

(j) The term "religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(Pub. L. 88-352, title VII, § 701, July 2, 1964, 78 Stat. 253; Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662; Pub. L. 92-261, § 2, Mar. 24, 1972, 86 Stat. 103.)

References in Text

The National Labor Relations Act, as amended, referred to in subsec. (e)(1), is act July 5, 1935, ch. 372, 49 Stat. 452, which is classified generally to subchapter II (§ 151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables volume.

The Railway Labor Act, referred to in subsec. (e)(1), is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified generally to chapter 8 (§ 151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables volume.

The Labor-Management Reporting and Disclosure Act of 1959, referred to in subsec. (h), is Pub. L. 86-257, Sept. 14, 1959, 73 Stat. 519, which is classified principally to chapter 11 (§ 401 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 29 and Tables volume.

The Outer Continental Shelf Lands Act, referred to in subsec. (i), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables volume.

Amendments

1972—Subsec. (a). Pub. L. 92-261, § 2(1), included within the term "person" governments, governmental agencies, and political subdivisions.

Subsec. (b). Pub. L. 92-261, § 2(2), substituted "fifteen or more employees" for "twenty-five or more employees", extended coverage to include State and local governments, excepted from coverage any department or agency of the District of Columbia subject by statute to procedures of the competitive service, as defined in section 2102 of title 5, and substituted provisions under which persons having fewer than twenty-five employees during the first year after March 24, 1972, were not to be considered employers, for provisions under which persons having fewer than a specified number of employees during the first year after the effective date of this section, and the second and third years after such date were not to be considered employers.

Subsec. (c). Pub. L. 92-261, § 2(3), struck out from the term "employment agency" exemption from coverage for agencies of the United States, States or political subdivisions of States, other than the United States Employment Service and the system of State and local employment services receiving Federal assistance.

Subsec. (e). Pub. L. 92-261, § 2(4), substituted provisions which set forth the number of members for a labor organization to be deemed to be engaged in an industry affecting commerce as twenty-five or more during the first year after March 24, 1972, and fifteen or more thereafter, for provisions which set forth the number of members for a labor organization to be deemed to be engaged in an industry affecting commerce as one hundred or more during the first year after the effective date of this section, seventy-five or more during the second year after such date, fifty or more during the third year after such date, and twenty-five or more thereafter.

Subsec. (f). Pub. L. 92-261, § 2(5), added the provisions enumerating persons excepted from the term "employee".

Subsec. (h). Pub. L. 92-261, § 2(6), added ", and further includes any governmental industry, business, or activity" following "Labor-Management Reporting and Disclosure Act of 1959".

Subsec. (j). Pub. L. 92-261, § 2(7), added subsec. (j).

1966—Subsec. (b). Pub. L. 89-554 eliminated proviso which stated that it shall be the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex, or national origin and direct-

ed the President to utilize his existing authority to effectuate this policy.

EFFECTIVE DATE

Subsecs. (a) and (b) of section 716 of Pub. L. 88-352 provided that:

"(a) This title [sections 2000e, 2000e-1, 2000e-4, 2000e-7 to 2000e-15 of this title, and amendments to former sections 2204 and 2205(a)(45) of former Title 5, Executive Departments and Government Officers and Employees] shall become effective one year after the date of its enactment [July 2, 1964].

"(b) Notwithstanding subsection (a), sections of this title other than sections 703, 704, 706, and 707 [sections 2000e-2, 2000e-3, 2000e-5, and 2000e-6 of this title] shall become effective immediately [July 2, 1964]."

EX. ORD. NO. 11126. INTERDEPARTMENTAL COMMITTEE ON THE STATUS OF WOMEN; CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN

Ex. Ord. No. 11126, eff. Nov. 1, 1963, 28 F.R. 11717, as amended by Ex. Ord. No. 11221, eff. May 6, 1965, 30 F.R. 6427, provided:

The President's Commission on the Status of Women, established by Executive Order No. 10980 of December 14, 1961, has in fulfillment of its responsibilities, submitted a report concerning the steps that should be taken to further the effort to achieve the full participation of women in American life.

Enhancement of the quality of American life, as envisioned by the Commission's report, can be accomplished only through concerted action by both public and private groups, through coordinated action within the Federal Government, and through action by States, communities, educational institutions, voluntary organizations, employers, unions, and individual citizens.

In order to assure effective and continuing leadership in advancing the status of women, it is deemed appropriate to establish an interdepartmental committee and a citizens' advisory council on the status of women.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

PART I—INTERDEPARTMENTAL COMMITTEE ON THE STATUS OF WOMEN

SECTION 101. (a) There is hereby established the interdepartmental Committee on the Status of Women (hereinafter referred to as the "Committee"), which shall be composed of the Secretary of Labor, who shall be the Chairman of the Committee, the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Chairman of the Civil Service Commission, the Chairman of the Equal Employment Opportunity Commission, the Director of the Office of Economic Opportunity, and an Assistant Secretary of Labor to be designated by the Secretary of Labor, all ex officio. The Chairman may designate a Vice-Chairman of the Committee from its membership, and the Director of the Women's Bureau of the Department of Labor shall serve as Executive Vice-Chairman of the Committee, and shall be an ex officio member thereof.

(b) When any matter especially related to the area of responsibility of any Federal department or agency, the head of which is not a member of the Committee, is to be considered by the Committee, the Chairman of the Committee shall invite the head of such department or agency to participate in the deliberations of the Committee with respect to such matter and to be a temporary member of the Committee during such deliberations.

SEC. 102. The Committee shall—

(1) Maintain a continuing review and evaluation of the progress of Federal departments and agencies in advancing the status of women.

(2) Serve as a clearing house for information as to the activities being directed toward, and the progress being made in, improving conditions of special interest to women.

(3) Stimulate cooperation and the sharing of data, views, and information among Federal agencies, State and local governments, State commissions on the status of women, and public and private organizations having responsibilities and interests in areas of special concern to women.

(4) Encourage research on factors affecting the status of women in the areas of education, home and community activities, employment, social insurance, taxes, civil and political rights, labor legislation, and related matters.

(5) Exchange information with the Citizens' Advisory Council on the Status of Women, established by Part II of this order, on progress toward advancing the status of women and on new developments requiring consideration by the Council and the Committee.

SEC. 103. Annually the Committee, after consultation with the Citizens' Advisory Council, shall transmit a report to the President concerning the status of women.

PART II—CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN

SEC. 201. There is hereby established the Citizens' Advisory Council on the Status of Women (hereinafter referred to as the "Council"), which shall be composed of 20 members appointed by the President, one of whom he shall designate to serve as Chairman. The Council shall meet at the call of the Chairman of the Committee, but not less than twice a year. Members of the Council shall serve without compensation from the United States.

SEC. 202. The Council shall—

(1) Serve as a primary means for suggesting and stimulating action with private institutions, organizations, and individuals working for improvement of conditions of special concern to women.

(2) Review and evaluate progress of organizations in furthering the full participation of women in American life.

(3) Advise and assist the Committee in the evaluation of total progress made and recommend to the Committee, as necessary, action to accelerate such progress.

(4) Consider the effect of new developments on methods of advancing the status of women and recommend appropriate action to the Committee.

PART III—FINANCING AND ADMINISTRATION

SEC. 301. The departments the heads of which are, under Section 101(a) of this order, members of the Committee and the Civil Service Commission shall, as may be necessary, furnish assistance to the Committee in accordance with Section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691). To the extent practical and not inconsistent with law, (1) all Federal departments and agencies shall cooperate with the Committee and the Council and furnish them such information and assistance as may be necessary for the performance of their functions, and (2) the Secretary of Labor shall furnish staff, office space, office facilities and supplies and other necessary assistance, facilities, and services for the Committee and Council (including travel expenses and per diem in lieu of subsistence for members of the Council).

JOHN F. KENNEDY.

EX. ORD. NO. 11246. EQUAL OPPORTUNITY IN FEDERAL EMPLOYMENT

Ex. Ord. No. 11246, eff. Sept. 24, 1965, 30 F.R. 12319, as amended by Ex. Ord. No. 11375, eff. Oct. 13, 1967, 32 F.R. 14303; Ex. Ord. No. 11478, eff. Aug. 8, 1969, 34 F.R. 12985, provided:

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

PART I—NONDISCRIMINATION IN GOVERNMENT EMPLOYMENT

[Superseded by Ex. Ord. No. 11478, eff. Aug. 8, 1969, 34 F.R. 12985.]

PART II—NONDISCRIMINATION IN EMPLOYMENT BY GOVERNMENT CONTRACTORS AND SUBCONTRACTORS

SUBPART A—DUTIES OF THE SECRETARY OF LABOR

SEC. 201. The Secretary of Labor shall be responsible for the administration of Parts II and III of this Order and shall adopt such rules and regulations and issue such orders as he deems necessary and appropriate to achieve the purposes thereof.

SUBPART B—CONTRACTORS' AGREEMENTS

SEC. 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(7) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States." [Amendment of pars. (1) and (2) by Ex. Ord. No. 11375, Oct. 13, 1967, 32 F.R. 14303, effective Oct. 13, 1968.]

SEC. 203. (a) Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

(b) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

(c) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: *Provided,* That to the extent such information is within the exclusive possession of a labor union or any agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the contracting agency as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

(d) The contracting agency or the Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the contracting agency or the Secretary of Labor may require. [Amendment of subsec. (d) by Ex. Ord. No. 11375, Oct. 13, 1967, 32 F.R. 14303, effective Oct. 13, 1968.]

SEC. 204. The Secretary of Labor may, when he deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions

of Section 202 of this Order in any specific contract, subcontract, or purchase order. The Secretary of Labor may, by rule or regulation, also exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract: *Provided,* That such an exemption will not interfere with or impede the effectuation of the purposes of this order: *And provided further,* That in the absence of such an exemption all facilities shall be covered by the provisions of this Order.

SUBPART C—POWERS AND DUTIES OF THE SECRETARY OF LABOR AND THE CONTRACTING AGENCIES

SEC. 205. Each contracting agency shall be primarily responsible for obtaining compliance with the rules, regulations, and orders of the Secretary of Labor with respect to contracts entered into by such agency or its contractors. All contracting agencies shall comply with the rules of the Secretary of Labor in discharging their primary responsibility for securing compliance with the provisions of contracts and otherwise with the terms of this Order and of the rules, regulations, and orders of the Secretary of Labor issued pursuant to this Order. They are directed to cooperate with the Secretary of Labor and to furnish the Secretary of Labor such information and assistance as he may require in the performance of his functions under this Order. They are further directed to appoint or designate, from among the agency's personnel, compliance officers. It shall be the duty of such officers to seek compliance with the objectives of this Order by conference, conciliation, mediation, or persuasion.

SEC. 206. (a) The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor, or initiate such investigation by the appropriate contracting agency, to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor and the investigating agency shall report to the Secretary of Labor any action taken or recommended.

(b) The Secretary of Labor may receive and investigate or cause to be investigated complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order. If this investigation is conducted for the Secretary of Labor by a contracting agency, that agency shall report to the Secretary what action has been taken or is recommended with regard to such complaints.

SEC. 207. The Secretary of Labor shall use his best efforts, directly and through contracting agencies, other interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 [sections 2000d to 2000d-4 of this title and this subchapter] or other provision of Federal law.

SEC. 208. (a) The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

(b) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection (a) of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(a)(6) shall be made without affording the contractor an opportunity for a hearing.

SUBPART D—SANCTIONS AND PENALTIES

SEC. 209. (a) In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary or the appropriate contracting agency may:

(1) Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.

(2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.

(3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964 [this subchapter].

(4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.

(5) Cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with the nondiscrimination provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the contracting agency.

(6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Under rules and regulations prescribed by the Secretary of Labor, each contracting agency shall make reasonable efforts within a reasonable time limitation to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under Subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under Subsection (a)(5) of this Section for failure of a contractor or subcontractor to comply with the contract provisions of this Order.

SEC. 210. Any contracting agency taking any action authorized by this Subpart, whether on its own motion, or as directed by the Secretary of Labor, or under the rules and regulations of the Secretary, shall promptly notify the Secretary of such action. Whenever the Secretary of Labor makes a determination under this Section, he shall promptly notify the appropriate contracting agency of the action recommended. The agency shall take such action and shall

report the results thereof to the Secretary of Labor within such time as the Secretary shall specify.

SEC. 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor or, if the Secretary so authorizes, to the contracting agency.

SEC. 212. Whenever a contracting agency cancels or terminates a contract, or whenever a contractor has been debarred from further Government contracts, under Section 209(a)(6) because of noncompliance with the contract provisions with regard to nondiscrimination, the Secretary of Labor, or the contracting agency involved, shall promptly notify the Comptroller General of the United States. Any such debarment may be rescinded by the Secretary of Labor or by the contracting agency which imposed the sanction.

SUBPART E—CERTIFICATES OF MERIT

SEC. 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices, and policies of the labor union or other agency conform to the purposes and provisions of this Order.

SEC. 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

SEC. 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

PART III—NONDISCRIMINATION PROVISIONS IN FEDERALLY ASSISTED CONSTRUCTION CONTRACTS

SEC. 301. Each executive department and agency which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 202 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor; together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the administering department or agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations, and relevant orders of the Secretary, (2) to obtain and to furnish to the administering department or agency and to the Secretary of Labor such information as they may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor or the administering department or agency pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

SEC. 302. (a) "Construction contract," as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

(c) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he becomes a recipient of such Federal assistance.

SEC. 303. (a) Each administering department and agency shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor, and to furnish the Secretary such information and assistance as he may require in the performance of his functions under this Order.

(b) In the event an applicant fails and refuses to comply with his undertakings, the administering department or agency may take any or all of the following actions: (1) cancel, terminate, or suspend in whole or in part the agreement, contract, or other arrangement with such applicant with respect to which the failure and refusal occurred; (2) refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and (3) refer the case to the Department of Justice for appropriate legal proceedings.

(c) Any action with respect to an applicant pursuant to Subsection (b) shall be taken in conformity with Section 602 of the Civil Rights Act of 1964 [section 2000d-1(b) of this title] (and the regulations of the administering department or agency issued thereunder), to the extent applicable. In no case shall action be taken with respect to an applicant pursuant to Clause (1) or (2) of Subsection (b) without notice and opportunity for hearing before the administering department or agency.

SEC. 304. Any executive department or agency which imposes by rule, regulation, or order requirements of nondiscrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: *Provided*, That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 [sections 2000d to 2000d-4 of this title] shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof [section 2000d-1 of this title] and the regulations of the administering department or agency issued thereunder.

PART IV—MISCELLANEOUS

SEC. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order, except authority to promulgate rules and regulations of a general nature.

SEC. 402. The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans for Progress."

SEC. 403. (a) Executive Orders Nos. 10590 (January 19, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964), are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Civil Service Commission and the Secretary of Labor, as appropriate.

(b) Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any Executive Order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the Executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

SEC. 404. The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.

SEC. 405. This Order shall become effective thirty days after the date of this Order.

LYNDON B. JOHNSON.

EX. ORD. NO. 11478. EQUAL EMPLOYMENT OPPORTUNITY IN FEDERAL GOVERNMENT

Ex. Ord. No. 11478, eff. Aug. 8, 1969, 34 F.R. 12985, as amended by Ex. Ord. No. 11590, eff. Apr. 23, 1971, 36 F.R. 7831, provided:

It has long been the policy of the United States Government to provide equal opportunity in Federal employment on the basis of merit and fitness and without discrimination because of race, color, religion, sex, or national origin. All recent Presidents have fully supported this policy, and have directed department and agency heads to adopt measures to make it a reality.

As a result, much has been accomplished through positive agency programs to assure equality of opportunity. Additional steps, however, are called for in order to strengthen and assure fully equal employment opportunity in the Federal Government.

NOW THEREFORE, under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

SECTION 1. It is the policy of the Government of the United States to provide equal opportunity in Federal employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, or natinal origin, and to promote the full realization of equal employment opportunity through a continuing affirmative program in each executive department and agency. This policy of equal opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the Federal Government.

SEC. 2. The head of each executive department and agency shall establish and maintain an affirmative program of equal employment opportunity for all civilian employees and applicants for employment within his jurisdiction in accordance with the policy set forth in section 1. It is the responsibility of each department and agency head, to the maximum extent possible, to provide sufficient resources to administer such a program in a positive and effective manner; assure that recruitment activities reach all sources of job candidates; utilize to the fullest extent the present skills of each employee; provide the maximum feasible opportunity to employees to enhance their skills so they may perform at their highest potential and advance in accordance with their abilities; provide training and advice to managers and supervisors to assure their understanding and implementation of the policy expressed in this Order; assure participation at the local level with other employers, schools, and public or private groups in cooperative efforts to improve community conditions which affect employability; and provide for a system within the department or agency for periodically evaluating the effectiveness with which the policy of this Order is being carried out.

SEC. 3. The Civil Service Commission shall provide leadership and guidance to departments and agencies in the conduct of equal employment opportunity programs for the civilian employees of and applicants for employment within the executive departments and agencies in order to assure that personnel operations in Government departments and agencies carry out the objective of equal opportunity for all persons. The Commission shall review and evaluate agency program operations periodically, obtain such reports from departments and agencies as it deems necessary, and report to the President as appropriate on overall progress. The Commission will consult from time to time with such individuals, groups, or organizations as may be of assistance in improving the Federal program and realizing the objectives of this Order.

SEC. 4. The Civil Service Commission shall provide for the prompt, fair, and impartial consideration of all complaints of discrimination in Federal employment on the basis of race, color, religion, sex, or national origin. Agency systems shall provide access to counseling for employees who feel aggrieved and shall encourage the resolution of employee problems on an informal basis. Procedures for the consideration of complaints shall include at least one impartial review within the executive department or agency and shall provide for appeal to the Civil Service Commission.

SEC. 5. The Civil Service Commission shall issue such regulations, orders, and instructions as it deems necessary and appropriate to carry out this Order and assure that the executive branch of the Government leads the way as an equal opportunity employer, and the head of each executive department and agency shall comply with the regulations, orders, and instructions issued by the Commission under this Order.

SEC. 6. This Order applies (a) to military departments as defined in section 102 of title 5, United States Code, and executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code, and to the employees thereof (including employees paid from nonappropriated funds), and (b) to those portions of the legislative and judicial branches of the Federal Government and of the Government of the District of Columbia having positions in the competitive service and to the employees in those positions. This Order does not apply to aliens employed outside the limits of the United States.

SEC. 7. Part I of Executive Order No. 11246 of September 24, 1965, and those parts of Executive Order No. 11375 of October 13, 1967, which apply to Federal employment, are hereby superseded.

SEC. 8. This Order shall be applicable to the United States Postal Service and to the Postal Rate Commission established by the Postal Reorganization Act of 1970 [Title 39, Postal Service].

RICHARD NIXON.

EXTENSION OF TERM OF CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN

Term of the Citizens' Advisory Council on the Status of Women extended until Dec. 31, 1978, see Ex. Ord. No. 11948, eff. Dec. 20, 1976, 41 F.R. 55705, set out as a note under section 14 of Appendix to Title 5, Government Organization and Employees.

§ 2000e-1. Subchapter not applicable to employment of aliens outside State and individuals for performance of activities of religious corporations, associations, educational institutions, or societies

This subchapter shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(Pub. L. 88-352, title VII, § 702, July 2, 1964, 78 Stat. 255; Pub. L. 92-261, § 3, Mar. 24, 1972, 86 Stat. 103.)

AMENDMENTS

1972—Pub. L. 92-261 struck out the exemption for the employment of individuals engaged in educational activities of nonreligious educational institutions.

§ 2000e-2. Unlawful employment practices

(a) Employer practices

It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) Employment agency practices

It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) Labor organization practices

It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) Training programs

It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Businesses or enterprises with personnel qualified on basis of religion, sex, or national origin; educational institutions with personnel of particular religion

Notwithstanding any other provision of this subchapter, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(f) Members of Communist Party or Communist-action or Communist-front organizations

As used in this subchapter, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950 [50 U.S.C. 781 et seq.].

(g) National security

Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor

organization to fail or refuse to refer any individual for employment in any position, if—

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

(h) Seniority or merit system; quantity or quality of production; ability tests; compensation based on sex and authorized by minimum wage provisions

Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such diffeerences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin. It shall not be an unlawful employment practice under this subchapter for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 206(d) of title 29.

(i) Businesses or enterprises extending preferential treatment to Indians

Nothing contained in this subchapter shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

(j) Preferential treatment not to be granted on account of existing number or percentage imbalance

Nothing contained in this subchapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

(Pub. L. 88-352, title VII, § 703, July 2, 1964, 78 Stat. 255; Pub. L. 92-261, § 8(a), (b), Mar. 24, 1972, 86 Stat. 109.)

REFERENCES IN TEXT

The Subversive Activities Control Act of 1950, referred to in subsec. (f), is act Sept. 23, 1950, ch. 1024, title I, 64 Stat. 987, which is classified principally to subchapter I (§ 781 et seq.) of chapter 23 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title of Subchapter note set out under section 781 of Title 50 and Tables volume.

AMENDMENTS

1972—Subsec. (a)(2). Pub. L. 92-261, § 8(a), added "or applicants for employment" following "his employees".

Subsec. (c)(2). Pub. L. 92-261, § 8(b), added "or applicants for membership" following "membership".

SUBVERSIVE ACTIVITIES CONTROL BOARD

The Subversive Activities Control Board was established by act Sept. 23, 1950, ch. 1024, § 12, 64 Stat. 977, and ceased to operate on June 30, 1973.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000e-5 of this title.

§ 2000e-3. Other unlawful employment practices

(a) Discrimination for making charges, testifying, assisting, or participating in enforcement proceedings

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

(b) Printing or publication of notices or advertisements indicating prohibited preference, limitation, specification, or discrimination; occupational qualification exception

It shall be an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a

joint labor-management committee, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

(Pub. L. 88-352, title VII, § 704, July 2, 1964, 78 Stat. 257; Pub. L. 92-261, § 8(c), Mar. 24, 1972, 86 Stat. 109.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-261, § 8(c)(1), added provision making it an unlawful employment practice for a joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against the specified individuals.

Subsec. (b). Pub. L. 92-261, § 8(c)(2), added provisions making prohibitions applicable to joint labor-management committees controlling apprenticeship or other training or retraining, including on-the-job training programs, and notices or advertisements of such joint labor-management committees relating to admission to, or employment in, any program established to provide apprenticeship or other training.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000e-5 of this title.

§ 2000e-4. Equal Employment Opportunity Commission.

(a) Creation; composition; political representation; appointment; term; vacancies; Chairman and Vice Chairman; duties of Chairman; appointment of personnel; compensation of personnel

There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party. Members of the Commission shall be appointed by the President by and with the advice and consent of the Senate for a term of five years. Any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed, and all members of the Commission shall continue to serve until their successors are appointed and qualified, except that no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and, except as provided in subsection (b) of this section, shall appoint, in accordance with the provisions of title 5 governing appointments in the competitive service, such officers, agents, attorneys, hearing examiners, and employees as he deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates: *Provided*, That assignment, removal, and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5.

(b) General Counsel; appointment; term; duties; representation by attorneys and Attorney General

(1) There shall be a General Counsel of the Commission appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel shall have responsibility for the conduct of litigation as provided in sections 2000e-5 and 2000e-6 of this title. The General Counsel shall have such other duties as the Commission may prescribe or as may be provided by law and shall concur with the Chairman of the Commission on the appointment and supervision of regional attorneys. The General Counsel of the Commission on the effective date of this Act shall continue in such position and perform the functions specified in this subsection until a successor is appointed and qualified.

(2) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court, provided that the Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court pursuant to this subchapter.

(c) Exercise of powers during vacancy; quorum

A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(d) Seal; judicial notice

The Commission shall have an official seal which shall be judicially noticed.

(e) Reports to Congress and the President

The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken and the moneys it has disbursed. It shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(f) Principal and other offices

The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers at any other place. The Commission may establish such regional or State offices as it deems necessary to accomplish the purpose of this subchapter.

(g) Powers of Commission

The Commission shall have power—

(1) to cooperate with and, with their consent, utilize regional, State, local, and other agencies, both public and private, and individuals;

(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(3) to furnish to persons subject to this subchapter such technical assistance as they may request to further their compliance with this subchapter or an order issued thereunder;

(4) upon the request of (i) any employer, whose employees or some of them, or (ii) any labor organization, whose members or some of them, refuse or threaten to refuse to cooperate in effectuating the provisions of this subchapter, to assist in such effectuation by conciliation or such other remedial action as is provided by this subchapter;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this subchapter and to make the results of such studies available to the public;

(6) to intervene in a civil action brought under section 2000e-5 of this title by an aggrieved party against a respondent other than a government, governmental agency or political subdivision.

(h) Cooperation with other departments and agencies in performance of educational or promotional activities

The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

(i) Personnel subject to political activity restrictions

All officers, agents, attorneys, and employees of the Commission shall be subject to the provisions of section 7324 of title 5, notwithstanding any exemption contained in such section.

(Pub. L. 88-352, title VII, § 705 (a)-(d), (f)-(j), July 2, 1964, 78 Stat. 258, 259; Pub. L. 92-261, § 8(d)-(f), Mar. 24, 1972, 86 Stat. 109, 110; Pub. L. 93-608, § 3(1), Jan. 2, 1975, 88 Stat. 1972.)

References in Text

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (a), is set out under section 5332 of Title 5.

The effective date of this Act, referred to in subsec. (b)(1) of this section, probably means the date of enactment of Pub. L. 92-261, which was approved Mar. 24, 1972.

Codification

Section is comprised of subsecs. (a) to (d) and (f) to (j) of section 705 of Pub. L. 88-352, which constitute subsecs. (a) to (d) and (e) to (i) of this section, respectively. Subsec. (e) of section 705 added clause (32) to section 2204 of former Title 5, Executive Departments and Government Officers and Employees, and members of Equal Employment Opportunity Commission to subsec. (a) of section 2205 of former Title 5.

The amendment of this section by Pub. L. 92-261, providing for the repeal of subsecs. (e) and (h) of section 705 of Pub. L. 88-352, which were classified, respectively, to section 2204 of former Title 5 and to former subsec. (g) of this section, served to conform the designation of former subsecs. (e) and (f) to their subsection designation as originally enacted. Subsecs. (i) and (j) of section 705 of Pub. L. 88-352 have been redesignated as (h) and (i) by Pub. L. 92-261, thereby conforming the subsection designation of this section to section 705 of Pub. L. 88-352, as amended.

In subsec. (i), "section 7324 of title 5" was substituted for "section 9 of the Act of August 2, 1939, as amended (the Hatch Act)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees. Prior to the enactment of Title 5, section 9 of the Act of August 2, 1939, as amended, was classified to section 118i of Title 5.

Amendments

1975—Subsec. (e). Pub. L. 93-608 struck out reporting requirement of names, salaries, and duties of all individuals in employ of Commission.

1972—Subsec. (a). Pub. L. 92-261, § 8(d), struck out provisions setting forth the length of the terms of the original members of the Commission and provisions authorizing the Vice Chairman to act as Chairman in certain circumstances, added provisions relating to the continuation in office of all members of the Commission, and substituted provisions requiring appointment of officers, etc., in accordance with the provisions of title 5, fixing compensation of such officers, etc., in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates, and requiring assignment, removal, and compensation of hearing examiners in accordance with the specified sections, for provisions requiring appointment of officers, etc., in accordance with the civil service laws, and fixing compensation of such officers, etc., in accordance with the Classification Act of 1949, as amended.

Subsec. (b). Pub. L. 92-261, § 8(e)(1), (3), added subsec. (b). Former subsec. (b) was redesignated (c).

Subsec. (c). Pub. L. 92-261, § 8(e)(3), redesignated former subsec. (b) as (c). Former subsec. (c) was redesignated (d).

Subsec. (d). Pub. L. 92-261, § 8(e)(3), redesignated former subsec. (c) as (d). Former subsec. (d) was redesignated (e).

Subsec. (e). Pub. L. 92-261, § 8(e)(3), redesignated former subsec. (d) as (e). Former subsec. (e) was redesignated (f).

Subsec. (g). Pub. L. 92-261, § 8(e)(2), (f), repealed former provisions, which provided for legal representation for the Commission, and in par. (6) substituted provisions which authorized the Commission to intervene in a civil action brought under section 2000e-5 of this title where the respondent is other than a government, governmental agency, or political subdivision for provisions which authorized the Commission to refer matters to the Attorney General with recommendations to intervene or institute civil actions.

Cross References

Per diem and mileage of witnesses, see section 1821 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 2000e-5. Enforcement provisions

(a) Power of Commission to prevent unlawful employment practices

The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 2000e-2 or 2000e-3 of this title.

(b) Charges by persons aggrieved or member of Commission of unlawful employment practices by employers, etc.; filing; allegations; notice to respondent; contents of notice; investigation by Commission; contents of charges; prohibition on disclosure of charges; determination of reasonable cause; conference, conciliation, and persuasion for elimination of unlawful practices; prohibition on disclosure of informal endeavors to end unlawful practices; use of evidence in subsequent proceedings; penalties for disclosure of information; time for determination of reasonable cause

Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by a member of the Commission, alleging that an employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of

the charge (including the date, place and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the "respondent") within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d) of this section. If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d) of this section, from the date upon which the Commission is authorized to take action with respect to the charge.

(c) State or local enforcement proceedings; notification of State or local authority; time for filing charges with Commission; commencement of proceedings

In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (b) of this section by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

(d) State or local enforcement proceedings; notification of State or local authority; time for action on charges by Commission

In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

(e) Time for filing charges; time for service of notice of charge on respondent; filing of charge by Commission with State or local agency

A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) shall be served upon the person against whom such charge is made within ten days thereafter, except that in a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

(f) Civil action by Commission, Attorney General, or person aggrieved; preconditions; procedure; appointment of attorney; payment of fees, costs, or security; intervention; stay of Federal proceedings; action for appropriate temporary or preliminary relief pending final disposition of charge; jurisdiction and venue of United States courts; designation of judge to hear and determine case; assignment of case for hearing; expedition of case; appointment of master

(1) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) or (d) of this section, the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission may bring a civil action against any respondent not a gov-

ernment, governmental agency, or political subdivision named in the charge. In the case of a respondent which is a government, governmental agency, or political subdivision, if the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. The person or persons aggrieved shall have the right to intervene in a civil action brought by the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision. If a charge filed with the Commission pursuant to subsection (b) of this section, is dismissed by the Commission, or if within one hundred and eighty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d) of this section, whichever is later, the Commission has not filed a civil action under this section or the Attorney General has not filed a civil action in a case involving a government, governmental agency, or political subdivision, or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, shall so notify the person aggrieved and within ninety days after the giving of such notice a civil action may be brought against the respondent named in the charge (A) by the person claiming to be aggrieved or (B) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, to intervene in such civil action upon certification that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsection (c) or (d) of this section or further efforts of the Commission to obtain voluntary compliance.

(2) Whenever a charge is filed with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure. It shall be the duty of a court having jurisdiction over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.

(3) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this subchapter. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the aggrieved person would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

(4) It shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

(5) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. If such judge has not scheduled the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.

(g) Injunctions; appropriate affirmative action; equitable relief; accrual of back pay; reduction of back pay; limitations on judicial orders

If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union, or the hiring, reinstatement, or promotion of

an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin or in violation of section 2000e-3(a) of this title.

(h) Provisions of sections 101 to 115 of title 29 not applicable to civil actions for prevention of unlawful practices

The provisions of section 101 to 115 of title 29 shall not apply with respect to civil actions brought under this section.

(i) Proceedings by Commission to compel compliance with judicial orders

In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under this section, the Commission may commence proceedings to compel compliance with such order.

(j) Appeals

Any civil action brought under this section and any proceedings brought under subsection (i) of this section shall be subject to appeal as provided in sections 1291 and 1292, title 28.

(k) Attorney's fee; liability of Commission and United States for costs

In any action or proceeding under this subchapter the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person.

(Pub. L. 88-352, title VII, § 706, July 2, 1964, 78 Stat. 259; Pub. L. 92-261, § 4, Mar. 24, 1972, 86 Stat. 104.)

REFERENCES IN TEXT

"This Act", referred to in subsec. (f)(2), means Pub. L. 88-352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§ 2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

Rules 65 and 53 of the Federal Rules of Civil Procedure, referred to in subsecs. (f)(2) and (f)(5), respectively, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Sections 111 and 112, included within the reference to sections 101 to 115 of title 29, referred to in subsec. (h), are sections 11 and 12 of act Mar. 23, 1932, ch. 90, 47 Stat. 72, and were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862. The provisions of section 111 are now covered by section 3692 of Title 18, Crimes and Criminal Procedure, and the provisions of section 112 are now covered by rule 42, Federal Rules of Criminal Procedure, set out in the Appendix to Title 18.

CODIFICATION

Subsection (b) of this section, referred to in subsec. (c), was in the original a reference to subsection (a) of this section, and has been editorially changed to subsection (b) of this section to conform to the redesignation of subsection (a) by Pub. L. 92-261.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-261, § 4(a), added subsec. (a). Former subsec. (a) was redesignated (b) and generally amended.

Subsec. (b). Pub. L. 92-261, § 4(a), redesignated former subsec. (a) as (b) and, as so redesignated, modified the procedure for the filing and consideration of charges by the Commission, subjected to coverage unlawful employment practices of joint labor-management committees controlling apprenticeship or other training or retraining, including on-the-job training programs, required the Commission to accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law in its determination of reasonable cause, and added the provision setting forth the time period, after charges have been filed, allowed to the Commission to determine reasonable cause. Former subsec. (b) was redesignated (c).

Subsec. (c). Pub. L. 92-261, § 4(a), redesignated former subsec. (b) as (c). Former subsec. (c) was redesignated (d).

Subsec. (d). Pub. L. 92-261, § 4(a), redesignated former subsec. (c) as (d). Former subsec. (d) was redesignated (e).

Subsec. (e). Pub. L. 92-261, § 4(a), redesignated former subsec. (d) as (e) and, as so redesignated, extended from ninety to one hundred and eighty days after the occurrence of the alleged unlawful employment practice the time for filing charges under this section and from two hundred and ten to three hundred days the time for filing such charges where the person aggrieved initially instituted proceedings with a State or local agency, and added the requirement that notice of the charge be served on the respondent within ten days after filing. Former subsec. (e) was redesignated (f)(1).

Subsec. (f). Pub. L. 92-261, § 4(a), redesignated former subsec. (e) as par. (1) and, as so redesignated, substituted provisions setting forth the procedure for civil actions where the Commission was unable to secure from the respondents a conciliation agreement to prevent further unlawful employment practices for provisions setting forth the procedure for civil actions where the Commission was unable to obtain voluntary compliance with this subchapter and added provisions setting forth the procedure for civil action where the respondent is a government, governmental agency, or political subdivision and the Commission could not secure a conciliation agreement, added par. (2), redesignated former subsec. (f) as par. (3), and, as so redesignated, substituted "aggrieved person" for "plaintiff", and added pars. (4) and (5).

Subsec. (g). Pub. L. 92-261, § 4(a), added the provisions which authorized the court to order affirmative action not limited solely to the enumerated affirmative acts and such other equitable relief as deemed appropriate, and the provisions which set forth the accrual date for back pay.

Subsec. (i). Pub. L. 92-261, § 4(b)(1), substituted "this section" for "subsection (e) of this section".

Subsec. (j). Pub. L. 92-261, § 4(b)(2), substituted "this section" for "subsection (e) of this section".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 14 of Pub. L. 92-261 provided that: "The amendments made by this Act to section 706 of the Civil Rights Act of 1964 [this section] shall be applicable with respect to charges pending with the Commission on the date of enactment of this Act [Mar. 24, 1972] and all charges filed thereafter."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2000e-4, 2000e-6, 2000e-8, 2000e-9, 2000e-16, 6727 of this title.

§ 2000e-6. Civil actions by the Attorney General

(a) Complaint

Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this subchapter, and that the

pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) Jurisdiction; three-judge district court for cases of general public importance: hearing, determination, expedition of action, review by Supreme Court; single judge district court: hearing, determination, expedition of action

The district courts of the United States shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, and in any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

(c) Transfer of functions, etc., to Commission; effective date; prerequisite to transfer; execution of functins by Commission

Effective two years after March 24, 1972, the functions of the Attorney General under this section shall be transferred to the Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with such functions unless the President submits, and neither House of Congress vetoes, a reorganization plan pursuant to chapter 9 of title 5, inconsistent with the provisions of this subsection. The Commission shall carry out such functions in accordance with subsections (d) and (e) of this section.

(d) Transfer of functions, etc., not to affect suits commenced pursuant to this section prior to date of transfer

Upon the transfer of functions provided for in subsection (c) of this section, in all suits commenced pursuant to this section prior to the date of such transfer, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America, the Attorney General, or the Acting Attorney General, as appropriate.

(e) Investigation and action by Commission pursuant to filing of charge of discrimination; procedure

Subsequent to March 24, 1972, the Commission shall have authority to investigate and act on a charge of a pattern or practice of discrimination, whether filed by or on behalf of a person claiming to be aggrieved or by a member of the Commission. All such actions shall be conducted in accordance with the procedures set forth in section 2000e-5 of this title.

(Pub. L. 88-352, title VII, § 707, July 2, 1964, 78 Stat. 261; Pub. L. 92-261, § 5, Mar. 24, 1972, 86 Stat. 107.)

AMENDMENTS

1972—Subsecs. (c) to (e). Pub. L. 92-261 added subsecs. (c) to (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000e-4 of this title.

§ 2000e-7. Effect on State laws

Nothing in this subchapter shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this subchapter.

(Pub. L. 88-352, title VII, § 708, July 2, 1964, 78 Stat. 262.)

§ 2000e-8. Investigations

(a) Examination and copying of evidence related to unlawful employment practices

In connection with any investigation of a charge filed under section 2000e-5 of this title, the Commission or its designated representative shall at all reasonable times have access to, for the purposes of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to unlawful employment practices covered by this

subchapter and is relevant to the charge under investigation.

(b) Cooperation with State and local agencies administering State fair employment practices laws; participation in and contribution to research and other projects; utilization of services; payment in advance or reimbursement; agreements and rescission of agreements

The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this subchapter and within the limitation of funds appropriated specifically for such purpose, engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, pay by advance or reimbursement such agencies and their employees for services rendered to assist the Commission in carrying out this subchapter. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this subchapter.

(c) Execution, retention, and preservation of records; reports to Commission; training program records; appropriate relif from regulation or order for undue hardship; procedure for exemption; judicial action to compel compliance

Every employer, employment agency, and labor organization subject to this subchapter shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this subchapter or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this subchapter which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this subchapter, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.

(d) Consultation and coordination between Commission and interested State and Federal agencies in prescribing recordkeeping and reporting requirements; availability of information furnished pursuant to recordkeeping and reporting requirements; conditions on availability

In prescribing requirements pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency charged with the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection.

(e) Prohibited disclosures; penalties

It shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section prior to the institution of any proceeding under this subchapter involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of this subsection shall be guilty, of a misdemeanor and upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than one year.

(Pub. L. 88-352, title VII, § 709, July 2, 1964, 78 Stat. 262; Pub. L. 92-261, § 6, Mar. 24, 1972, 86 Stat. 107.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-261 added provisions authorizing the Commission to engage in and contribute to the cost of research and other projects undertaken by State and local agencies and provisions authorizing the Commission to make advance payments to State and local agencies and their employees for services rendered to the Commission, and struck out provisions relating to agreements between the Commission and State and local agencies prohibiting private civil actions under section 2000e-5 of this title in specified cases.

Subsec. (c). Pub. L. 92-261 struck out "Except as provided in subsection (d) of this section," preceding "every employer, employment agency, and labor organization subject to this subchapter shall (1)", required the party seeking an exemption to bring an action in the district court only after the Commission denied the application for the exemption, and added the provision which authorized the Commission, or the Attorney General in a case involving a government, etc., to apply for a court order compelling compliance with the recordkeeping and reporting obligations set out in this subsection.

Subsec. (d). Pub. L. 92-261 substituted provisions requiring consultation and coordination between Federal and State agencies in prescribing recordkeeping and reporting requirements pursuant to subsec. (c) of this section, and authorizing the Commission to furnish information obtained pursuant to subsec. (c) of this section to interested State and local agencies, for provisions exempting from recordkeeping and reporting requirements employers, etc., required to keep records and make reports under State or local fair employment practice laws, except for the maintenance of notations by such employers, etc., which reflect the differences in coverage or enforcement between State or local laws and the provisions of this subchapter, and dispensing with recordkeeping and reporting requirements where the employer reports under some Executive Order prescribing fair employment practices for Government contractors or subcontractors.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000e-9 of this title.

§ 2000e-9. Conduct of hearings and investigations pursuant to section 161 of title 29

For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 161 of title 29 shall apply.

(Pub. L. 88-352, title VII, § 710, July 2, 1964, 78 Stat. 264; Pub. L. 92-261, § 7, Mar. 24, 1972, 86 Stat. 109.)

AMENDMENTS

1972—Pub. L. 92-261 substituted provisions making applicable section 161 of title 29 to all hearings and investigations conducted by the Commission or its authorized agents or agencies, for provisions enumerating the investigatory powers of the Commission and the procedure for their enforcement.

§ 2000e-10. Posting of notices; penalties

(a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts, from or, summaries of, the pertinent provisions of this subchapter and information pertinent to the filing of a complaint.

(b) A willful violation of this section shall be punishable by a fine of not more than $100 for each separate offense.

(Pub. L. 88-352, title VII, § 711, July 2, 1964, 78 Stat. 265.)

§ 2000e-11. Veterans' special rights or preference

Nothing contained in this subchapter shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.

(Pub. L. 88-352, title VII, § 712, July 2, 1964, 78 Stat. 265.)

§ 2000e-12. Regulations; conformity of regulations with administrative procedure provisions; reliance on interpretations and instructions of Commission

(a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this subchapter. Regulations issued under this section shall be in conformity with the standards and limitations of subchapter II of chapter 5 of title 5.

(b) In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this subchapter if he pleads and proves that he failed to publish and file such information in good faith, in conformity with the instructions of the Commission issued under this subchapter regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this subchapter.

(Pub. L. 88-352, title VII, § 713, July 2, 1964, 78 Stat. 265.)

CODIFICATION

"Subchapter II of chapter 5 of title 5" was substituted for "the Administrative Procedure Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

§ 2000e-13. Application to personnel of Commission of sections 111 and 1114 of title 18; punishment for violation of section 1114 of title 18

The provisions of sections 111 and 1114, title 18, shall apply to officers, agents, and employees of the Commission in the performance of their official duties. Notwithstanding the provisions of sections 111 and 1114 of title 18, whoever in violation of the provisions of section 1114 of such title kills a person while engaged in or

on account of the performance of his official functions under this Act shall be punished by imprisonment for any term of years or for life.

(Pub. L. 88-352, title VII, § 714, July 2, 1964, 78 Stat. 265; Pub. L. 92-261, § 8(g), Mar. 24, 1972, 86 Stat. 110.)

REFERENCES IN TEXT

"This Act", referred to in text, means Pub. L. 88-352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§ 2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

AMENDMENTS

1972—Pub. L. 92-261 added provisions which made section 1114 of title 18 applicable to officers, etc., of the Commission and set forth punishment for violation of such section 1114.

§ 2000e-14. Equal Employment Opportunity Coordinating Council; establishment; composition; duties; report to President and Congress

There shall be established an Equal Employment Opportunity Coordinating Council (hereinafter referred to in this section as the Council) composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, the Chairman of the United States Civil Service Commission, and the Chairman of the United States Civil Rights Commission, or their respective delegates. The Council shall have the responsibility for developing and implementing agreements, policies and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the various departments, agencies and branches of the Federal Government responsible for the implementation and enforcement of equal employment opportunity legislation, orders, and policies. On or before October 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section.

(Pub. L. 88-352, title VII, § 715, July 2, 1964, 78 Stat. 265; Pub. L. 92-261, § 10, Mar. 24, 1972, 86 Stat. 111; Pub. L. 94-273, § 3(24), Apr. 21, 1976, 90 Stat. 377.)

AMENDMENTS

1976—Pub. L. 94-273 substituted "October" for "July".

1972—Pub. L. 92-261 substituted provisions which established the Equal Employment Opportunity Coordinating Council and set forth the composition, powers, and duties of the Council for provisions which directed the Secretary of Labor to make a report to the Congress not later than June 30, 1965 concerning discrimination in employment because of age.

SUBMISSION OF SPECIFIC LEGISLATIVE RECOMMENDATIONS TO CONGRESS BY JANUARY 1, 1967, TO IMPLEMENT REPORT ON AGE DISCRIMINATION

Pub. L. 89-601, title VI, § 606, Sept. 23, 1966, 80 Stat. 845, directed the Secretary of Labor to submit to the Congress not later than Jan. 1, 1967 his specific legislative recommendations for implementing the conclusions and recommendations contained in his report on age discrimination in employment made pursuant to provisions of this section prior to its amendment in 1972.

§ 2000e-15. Presidential conferences; acquaintance of leadership with provisions for employment rights and obligations; plans for fair administration; membership

The President shall, as soon as feasible after July 2, 1964, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this subchapter to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this subchapter when all of its provisions become effective. The President shall invite the participation in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this subchapter.

(Pub. L. 88-352, title VII, § 716(c), July 2, 1964, 78 Stat. 266.)

EXECUTIVE ORDER NO. 11197

Ex. Ord. No. 11197, eff. Feb. 5, 1965, 30 F.R. 1721, formerly set out as a note under this section, which established the President's Council on Equal Opportunity, was revoked by Ex. Ord. No. 11247, eff. Sept. 24, 1965, 30 F.R. 12327, set out as a note under section 2000d-1 of this title.

§ 2000e-16. Employment by Federal Government

(a) Discriminatory practices prohibited; employees or applicants for employment subject to coverage

All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5 (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin.

(b) Civil Service Commission; enforcement powers; issuance of rules, regulations, etc.; annual review and approval of national and regional equal employment opportunity plans; review an evaluation of equal employment opportunity programs and publication of progress reports; consultations with interested parties; compliance with rules, regulations, etc.; contents of national and regional equal employment opportunity plans; authority of Librarian of Congress

Except as otherwise provided in this subsection, the Civil Service Commission shall have authority to enforce the provisions of subsection (a) of this section through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section, and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in subsection (a) of this section shall submit in order to maintain an affirmative program of equal employment opportunity for all such employees and applicants for employment;

(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

(3) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

(1) provision for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

(c) Civil action by employee or applicant for employment for redress of grievances; time for bringing of action; head of department, agency, or unit as defendant

Within thirty days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection (a) of this section, or by the Civil Service Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding Executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 2000e-5 of this title, in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

(d) Section 2000e-5(f) through (k) of this title applicable to civil actions

The provisions of section 2000e-5(f) through (k) of this title, as applicable, shall govern civil actions brought hereunder.

(e) Government agency or official not relieved of responsibility to assure nondiscrimination in employment or equal employment opportunity

Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government.

(Pub. L. 88-352, title VII, § 717, as added Pub. L. 92-261, § 11, Mar. 24, 1972, 86 Stat. 111.)

REFERENCES IN TEXT

"This Act", referred to in subsec. (e), means Pub. L. 88-352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§ 2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

Executive Order 11478, as amended, referred to in subsecs. (c) and (e), is set out as a note under section 2000e of this title.

§ 2000e-17. Procedure for denial, withholding, termination, or suspension of Government contract subsequent to acceptance by Government of affirmative action plan of employer; time of acceptance of plan

No Government contract, or portion thereof, with any employer, shall be denied, withheld, terminated, or suspended, by any agency or officer of the United States under any equal employment opportunity law or order, where such employer has an affirmative action plan which has previously been accepted by the Government for the same facility within the past twelve months without first according such em-

ployer full hearing and adjudication under the provisions of section 554 of title 5, and the following pertinent sections: *Provided*, That if such employer has deviated substantially from such previously agreed to affirmative action plan, this section shall not apply: *Provided further*, That for the purposes of this section an affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate compliance agency has accepted such plan unless within forty-five days thereafter the Office of Federal Contract Compliance has disapproved such plan.

(Pub. L. 88-352, title VII, § 718, as added Pub. L. 92-261, § 13, Mar. 24, 1972, 86 Stat. 113.)

SUBCHAPTER VII—REGISTRATION AND VOTING STATISTICS

Subchapter Referred to in Other Sections

This subchapter is referred to in section 5304 of this title; title 20 sections 1221, 1221e-1; title 31 section 1242.

§ 2000f. Survey for compilation of registration and voting statistics; geographical areas; scope; application of census provisions; voluntary disclosure; advising of right not to furnish information

The Secretary of Commerce shall promptly conduct a survey to compile registration and voting statistics in such geographic areas as may be recommended by the Commission on Civil Rights. Such a survey and compilation shall, to the extent recommended by the Commission on Civil Rights, only include a count of persons of voting age by race, color, and national origin, and determination of the extent to which such persons are registered to vote, and have voted in any statewide primary or general election in which the Members of the United States House of Representatives are nominated or elected, since January 1, 1960. Such information shall also be collected and compiled in connection with the Nineteenth Decennial Census, and at such other times as the Congress may prescribe. The provisions of section 9 and chapter 7 of title 13 shall apply to any survey, collection, or compilation of registration and voting statistics carried out under this subchapter: *Provided, however*, That no person shall be compelled to disclose his race, color, national origin, or questioned about his political party affiliation, how he voted, or the reasons therefore, nor shall any penalty be imposed for his failure or refusal to make such disclosure. Every person interrogated orally, by written survey or questionnaire or by any other means with respect to such information shall be fully advised with respect to his right to fail or refuse to furnish such information.

(Pub. L. 88-352, title VIII, § 801, July 2, 1964, 78 Stat. 266.)

SUBCHAPTER VIII—COMMUNITY RELATIONS SERVICE

Subchapter Referred to in Other Sections

This subchapter is referred to in section 5304 of this title; title 20 sections 1221, 1221e-1; title 31 section 1242.

§ 2000g. Establishment of Service; Director of Service: appointment, term; personnel; experts and consultants

There is hereby established in and as a part of the Department of Commerce a Community Relations Service (hereinafter referred to as the "Service"), which shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate for a term of four years. The Director is authorized to appoint, subject to the civil service laws and regulations, such other personnel as may be necessary to enable the Service to carry out its functions and duties, and to fix their compensation in accordance with chapter 51 and subchapter III of chapter 53 of title 5. The Director is further authorized to procure services as authorized by section 3109 of title 5, but at rates for individuals not in excess of $75 per diem.

(Pub. L. 88-352, title X, § 1001(a), July 2, 1964, 78 Stat. 267.)

References in Text

The civil service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

Codification

References to "chapter 51 and subchapter III of chapter 53 of title 5" and "section 3109 of title 5" have been substituted for "the Classification Act of 1949, as amended" and "section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U.S.C. 55a)", respectively, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

REORGANIZATION PLAN NO. 1 OF 1966

Eff. Apr. 22, 1966, 31 F.R. 6187, 80 Stat. 1607.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 10, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of Title 5, Government Organization and Employees.]

COMMUNITY RELATIONS SERVICE

Section 1. Transfer of Service

Subject to the provisions of this reorganization plan, the Community Relations Service now existing in the Department of Commerce under the Civil Rights Act of 1964 (Pub. L. No. 88-352, July 2, 1964) [see Short Title note under section 2000a of this title], including the office of Director there of, is hereby transferred to the Department of Justice.

Sec. 2. Transfer of Functions

All functions of the Community Relations Service, and all functions of the Director of the Community Relations Service, together with all functions of the Secretary of Commerce and the Department of Commerce with respect thereto, are hereby transferred to the Attorney General.

Sec. 3. Incidental Transfers

(a) Section 1 hereof shall be deemed to transfer to the Department of Justice the personnel, property, and records of the Community Relations Service and the unexpended balances of appropriations, allocations, and other funds available or to be made available to the Service.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget [now Office of

Management and Budget] shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization of community relations functions in the area of civil rights.

After a careful review of the activities of the Federal agencies involved in the field of civil rights, it became clear that the elimination of duplication and undesirable overlap required the consolidation of certain functions.

As a first step, I issued Executive Orders 11246 and 11247 on September 24, 1965.

Executive Order 11246 simplified and clarified executive branch assignments of responsibility for enforcing civil rights policies and placed responsibility for the Government-wide coordination of the enforcement activities of executive agencies in the Secretary of Labor with respect to employment by Federal contractors and in the Civil Service Commission with respect to employment by Federal agencies.

Executive Order 11247 directed the Attorney General to assist Federal agencies in coordinating their enforcement activities with respect to title VI of the Civil Rights Act of 1964 [section 2000d et seq. of this title], which prohibits discrimination in federally assisted programs.

As a further step for strengthening the operation and coordination of our civil rights programs, I now recommend transfer of the functions of the Community Relations Service, established in the Department of Commerce under title X of the Civil Rights Act of 1964 [section 200g et seq. of this title], to the Attorney General and transfer of the Service, including the Office of Director, to the Department of Justice.

The Community Relations Service was located in the Department of Commerce by the Congress on the assumption that a primary need would be the conciliation of disputes arising out of the public accommodations title of the act. That decision was appropriate on the basis of information available at that time. The need for conciliation in this area has not been as great as anticipated because of the voluntary progress that has been made by businessmen and business organizations.

To be effective, assistance to communities in the identification and conciliation of disputes should be closely and tightly coordinated. Thus, in any particular situation that arises within a community, representatives of Federal agencies whose programs are involved should coordinate their efforts through a single agency. In recent years, the Civil Rights Division of the Justice Department has played such a coordinating role in many situations, and has done so with great effectiveness.

Placing the Community Relations Service within the Justice Department will enhance the ability of the Justice Department to mediate and conciliate and will insure that the Federal Government speaks with a unified voice in those tense situations where the good offices of the Federal Government are called upon to assist.

In this, as in other areas of Federal operations, we will move more surely and rapidly toward our objectives if we improve Federal organization and the arrangements for interagency coordination. The accompanying reorganization plan has that purpose.

The present distribution of Federal civil rights responsibilities clearly indicates that the activities of the Community Relations Service will fit most appropriately in the Department of Justice.

The Department of Justice has primary program responsibilities in civil rights matters and deep and broad experience in the conciliation of civil rights disputes. Congress has assigned it a major role in the implementation of the Civil Rights Act of 1957, [see Short Title note set out under section 1975 of this title], 1960 [see Short Title of 1960 Amendment note set out under section 1972 of this title], and 1964 [see Short Title note set out under section 2000a of this title], and the Voting Rights Act of 1965 [see Short Title of 1965 Amendment note set out under section 1971 of this title]. The Department of Justice performs related functions under other acts of Congress. Most of these responsibilities require not only litigation, but also efforts at persuasion, negotiation, and explanation, especially with local governments and law enforcement authorities. In addition, under the Law Enforcement Assistance Act the Department will be supporting local programs in the area of police-community relations.

The test of the effectiveness of an enforcement agency is not how many legal actions are initiated and won, but whether there is compliance with the law. Thus, every such agency necessarily engages in extensive efforts to obtain compliance with the law and the avoidance of disputes. In fact, title VI of the Civil Rights Act of 1964 [section 2000d et seq. of this title] requires each agency concerned to attempt to obtain compliance by voluntary means before taking further action.

Among the heads of Cabinet departments the President looks principally to the Attorney General for advice and judgment on civil rights issues. The latter is expected to be familiar with civil rights problems in all parts of the Nation and to make recommendations for executive and legislative action.

The Attorney General already has responsibility with respect to a major portion of Federal conciliation efforts in the civil rights field. Under Executive Order 11247, he coordinates the Government-wide enforcement of title VI of the Civil Rights Act of 1964 [section 2000d et seq. of this title], which relies heavily on the achievement of compliance through persuasion and negotiation.

In the light of these facts, the accompanying reorganization plan would transfer the functions of the Community Relations Service and of its Director to the Attorney General. In so providing, the plan, of course, follows the established pattern of Federal organization by vesting all the transferred powers in the head of the department. The Attorney General will provide for the organization of the Community Relations Service as a separate unit within the Department of Justice.

The functions transferred by the reorganization plan would be carried out with full regard for the provisions of section 1003 of title X of the Civil Rights Act of 1964 [section 2000g-2 of this title] relating to (1) cooperation with appropriate State or local, public, or private agencies; (2) the confidentiality of information acquired with the understanding that it would be so held; and (3) the limitation on the performance of investigative or prosecutive functions by personnel of the Service.

This transfer will benefit both the Department of Justice and the Community Relations Service in the fulfillment of their existing functions.

The Attorney General will benefit in his role as the President's adviser by obtaining an opportunity to anticipate and meet problems before the need for legal action arises.

The Community Relations Service, brought into closer relationship with the Attorney General and the Civil Rights Division of the Department of Justice, will gain by becoming a primary resource in a coordinated effort in civil rights under the leadership of the Attorney General. The Community Relations Service will have direct access to the extensive information, experience, staff, and facilities within the Department and in other Federal agencies.

Finally, the responsibility for coordinating major Government activities under the Civil Rights Act aimed at voluntary and peaceful resolution of discriminatory practices will be centered in one department.

Thus, the reorganization will permit the most efficient and effective utilization of resources in this field. Together the Service and the Department will have a larger capacity for accomplishment than they do apart.

Although the reorganizations provided for in the reorganization plan will not of themselves result in immediate savings, the improvement achieved in administration will permit a fuller and more effective utilization of manpower and will in the future allow the performance of the affected functions at lower costs than would otherwise be possible.

After investigation I have found and hereby declare that each organization included in Reorganization Plan No. 1 of 1966 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, February 10, 1966.

§ 2000g-1. Functions of Service

It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin which impair the rights of persons in such communities under the Constitution or laws of the United States or which affect or may affect interstate commerce. The Service may offer its services in cases of such disputes, disagreements, or difficulties whenever, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby, and it may offer its services either upon its own motion or upon the request of an appropriate State or local official or other interested person.

(Pub. L. 88-352, title X, § 1002, July 2, 1964, 78 Stat. 267.)

§ 2000g-2. Cooperation with other agencies; conciliation assistance in confidence and without publicity; information as confidential; restriction on performance of investigative or prosecuting functions; violations and penalties

(a) The Service shall, whenever possible, in performing its functions, seek and utilize the cooperation of appropriate State or local, public, or private agencies.

(b) The activities of all officers and employees of the Service in providing conciliation assistance shall be conducted in confidence and without publicity, and the Service shall hold confidential any information acquired in the regular performance of its duties upon the understanding that it would be so held. No officer or employee of the Service shall engage in the performance of investigative or prosecuting functions of any department or agency in any litigation arising out of a dispute in which he acted on behalf of the Service. Any officer or other employee of the Service, who shall make public in any manner whatever any information in violation of this subsection, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned not more than one year.

(Pub. L. 88-352, title X, § 1003, July 2, 1964, 78 Stat. 267.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000g-3 of this title.

§ 2000g-3. Reports to Congress

Subject to the provisions of sections 2000a-4 and 2000g-2(b) of this title, the Director shall, on or before January 31 of each year, submit to the Congress a report of the activities of the Service during the preceding fiscal year.

(Pub. L. 88-352, title X, § 1004, July 2, 1964, 78 Stat. 267.)

SUBCHAPTER IX—MISCELLANEOUS PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5304 of this title; title 20 sections 1221, 1221e-1; title 31 section 1242.

§ 2000h. Criminal contempt proceedings: trial by jury, criminal practice, penalties, exceptions, intent; civil contempt proceedings

In any proceeding for criminal contempt arising under title II, III, IV, V, VI, or VII of this Act, the accused, upon demand therefor, shall be entitled to a trial by jury, which shall conform as near as may be to the practice in criminal cases. Upon conviction, the accused shall not be fined more than $1,000 or imprisoned for more than six months.

This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court. No person shall be convicted of criminal contempt hereunder unless the act or omission constituting such contempt shall have been intentional, as required in other cases of criminal contempt.

Nor shall anything herein be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

(Pub. L. 88-352, title XI, § 1101, July 2, 1964, 78 Stat. 268.)

REFERENCES IN TEXT

Title II, III, IV, V, VI, or VII of this Act, referred to in text, mean title II, III, IV, V, VI, or VII of Pub. L. 88-352, July 2, 1964, 78 Stat. 243. Titles II, III, and IV are classified generally to subchapters II (§ 2000a et seq.), III (§ 2000b et seq.), and IV (§ 2000c et seq.) of this chapter. Title V amended sections 1975a to 1975d of this title. Title VI enacted sections 2000d to 2000d-4 of this title. Title VII enacted sections 2000e to 2000e-15 of this title, amended sections 2204 and 2205 of former Title 5, Executive Departments and Government Officers and Employees, and enacted provisions set out as a note under section 2000e of this title.

§ 2000h-1. Double jeopardy; specific crimes and criminal contempts

No person should be put twice in jeopardy under the laws of the United States for the

same act or omission. For this reason, an acquittal or conviction in a prosecution for a specific crime under the laws of the United States shall bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under the provisions of this Act; and an acquittal or conviction in a proceeding for criminal contempt, which arises under the provisions of this Act, shall bar a prosecution for a specific crime under the laws of the United States based upon the same act or omission.

(Pub. L. 88-352, title XI, § 1102, July 2, 1964, 78 Stat. 268.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§ 2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

§ 2000h-2. Intervention by Attorney General; denial of equal protection on account of race, color, religion, sex or national origin

Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws under the fourteenth amendment to the Constitution on account of race, color, religion, sex or national origin, the Attorney General for or in the name of the United States may intervene in such action upon timely application if the Attorney General certifies that the case is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

(Pub. L. 88-352, title IX, § 902, July 2, 1964, 78 Stat. 266; Pub. L. 92-318, title IX, § 906(a), June 23, 1972, 86 Stat. 375.)

AMENDMENTS

1972—Pub. L. 92-318 included the term "sex" after the word "religion".

§ 2000h-3. Construction of provisions not to affect authority of Attorney General, etc., to institute or intervene in actions or proceedings

Nothing in this Act shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or of the United States or any agency or officer thereof under existing law to institute or intervene in any action or proceeding.

(Pub. L. 88-352, title XI, § 1103, July 2, 1964, 78 Stat. 268.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§ 2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

§ 2000h-4. Construction of provisions not to exclude operation of State laws and not to invalidate consistent State laws

Nothing contained in any title of this Act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of State laws on the same subject matter, nor shall any provision of this Act be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this Act, or any provision thereof.

(Pub. L. 88-352, title XI, § 1104, July 2, 1964, 78 Stat. 268.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§ 2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

§ 2000h-5. Authorization of appropriations

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

(Pub. L. 88-352, title XI, § 1105, July 2, 1964, 78 Stat. 268.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§ 2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

§ 2000h-6. Separability of provisions

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Pub. L. 88-352, title XI, § 1106, July 2, 1964, 78 Stat. 268.)

REFERENCES IN TEXT

This Act and the Act, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§ 2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

CHAPTER 22—INDIAN HOSPITALS AND HEALTH FACILITIES

SUBCHAPTER I—MAINTENANCE AND OPERATION

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SUBCHAPTER I—MAINTENANCE AND OPERATION

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 229b, 2005 of this title; title 16 section 1165; title 25 sections 450g, 903a; title 50 App. section 456.

§ 2001. Hospitals and health facilities transferred to Public Health Service; restriction on closing hospitals

(a) All functions, responsibilities, authorities, and duties of the Department of the Interior, the Bureau of Indian Affairs, Secretary of the Interior, and the Commissioner of Indian Affairs relating to the maintenance and operation of hospital and health facilities for Indians, and the conservation of the heatlh of Indians, are transferred to, and shall be administered by, the Surgeon General of the United States Public Health Service, under the supervision and direction of the Secretary of Health, Education, and Welfare: *Provided*, That hospitals now in operation for a specific tribe or tribes of Indians shall not be closed prior to July 1, 1956, without the consent of the governing body of the tribe or its organized council.

(b) In carrying out his functions, responsibilities, authorities, and duties under this subchapter, the Secretary is authorized, with the consent of the Indian people served, to contract with private or other non-Federal health agencies or organizations for the provision of health services to such people on a fee-for-service basis or on a prepayment or other similar basis.

(Aug. 5, 1954, ch. 658, § 1, 68 Stat. 674; Dec. 29, 1973, Pub. L. 93-222, § 6(a), 87 Stat. 935.)

Amendments

1973—Pub. L. 93-222 designated existing provisions as subsec. (a) and added subsec. (b).

Effective Date

Section 6 of act Aug. 5, 1954, as amended by Pub. L. 86-121, § 2, July 31, 1959, 73 Stat. 268, provided that: "Sections 1 to 5, inclusive, of this Act [enacting this subchapter and repealing sections 444 to 449 of Title 25, Indians] shall take effect July 1, 1959."

Abolition of Office of Surgeon General

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

§ 2002. Transfer of hospitals and facilities to State or private institutions; conditions and restrictions; failure to meet requirements

Whenever the health needs of the Indians can be better met thereby, the Secretary of Health, Education, and Welfare is authorized in his discretion to enter into contracts with any State, Territory, or political subdivision thereof, or any private nonprofit corporation, agency or institution providing for the transfer by the United States Public Health Service of Indian hospitals or health facilities, including initial operating equipment and supplies.

It shall be a condition of such transfer that all facilities transferred shall be available to meet the health needs of the Indians and that such health needs shall be given priority over those of the non-Indian population. No hospital or health facility that has been constructed or maintained for a specific tribe of Indians, or for a specific group of tribes, shall be transferred by the Secretary of Health, Education, and Welfare to a non-Indian entity or organization under this subchapter unless such action has been approved by the governing body of the tribe, or by the governing bodies of a majority of the tribes, for which such hospital or health facility has been constructed or maintained: *Provided*, That if, following such transfer by the United States Public Health Service, the Secretary of Health, Education, and Welfare finds the hospital or health facility transferred under this section is not thereafter serving the need of the Indians, the Secretary of Health, Education, and Welfare shall notify those charged with management thereof, setting forth needed improvements, and in the event such improvements are not made within a time to be specified, shall immediately assume management and operation of such hospital or health facility.

(Aug. 5, 1954, ch. 658, § 2, 68 Stat. 674.)

Transfer of Functions

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

§ 2003. Regulations

The Secretary of Health, Education, and Welfare is also authorized to make such other regulations as he deems desirable to carry out the provisions of this subchapter.

(Aug. 5, 1954, ch. 658, § 3, 68 Stat. 674.)

§ 2004. Transfer of personnel, property, records, monies

The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), which the Director of the Office of Management and Budget shall determine to relate primarily to the functions transferred to the Public Health Service of the Department of Health, Education, and Welfare hereunder, are transferred for use in the administration of the

functions so transferred. Any of the personnel transferred pursuant to this subchapter which the transferee agency shall find to be in excess of the personnel necessary for the administration of the functions transferred to such agency shall be retransferred under existing law to other positions in the Government or separated from the service.

(Aug. 5, 1954, ch. 658, § 4, 68 Stat. 674; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget wre transferred to the President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970, redesignated the Bureau of the Budget as the Office of Management and Budget.

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

§ 2004a. Sanitation facilities

(a) Powers of Surgeon General

In carrying out his functions under this subchapter with respect to the provision of sanitation facilities and services, the Surgeon General is authorized—

(1) to construct, improve, extend, or otherwise provide and maintain, by contract or otherwise, essential sanitation facilities, including domestic and community water supplies and facilities, drainage facilities, and sewage- and waste-disposal facilities, together with necessary appurtenances and fixtures, for Indian homes, communities, and lands;

(2) to acquire lands, or rights or interests therein, including sites, rights-of-way, and easements, and to acquire rights to the use of water, by purchase, lease, gift, exchange, or otherwise, when necessary for the purposes of this section, except that no lands or rights or interests therein may be acquired from an Indian tribe, band, group, community, or individual other than by gift or for nominal consideration, if the facility for which such lands or rights or interests therein are acquired is for the exclusive benefit of such tribe, band, group, community, or individual, respectively;

(3) to make such arrangements and agreements with appropriate public authorities and nonprofit organizations or agencies and with the Indians to be served by such sanitation facilities (and any other person so served) regarding contributions toward the construction, improvement, extension and provision thereof, and responsibilities for maintenance thereof, as in his judgment are equitable and will best assure the future maintenance of facilities in an effective and operating condition; and

(4) to transfer any facilities provided under this section, together with appurtenant interests in land, with or without a money consideration, and under such terms and conditions as in his judgment are appropriate, having regard to the contributions made and the maintenance responsibilities undertaken, and the special health needs of the Indians concerned, to any State or Territory or subdivision or public authority thereof, or to any Indian tribe, group, band, or community or, in the case of domestic appurtenances and fixtures, to any one or more of the occupants of the Indian home served thereby.

(b) Transfer and reversion of lands

The Secretary of the Interior is authorized to transfer to the Surgeon General for use in carrying out the purposes of this section such interest and rights in federally owned lands under the jurisdiction of the Department of the Interior, and in Indian-owned lands that either are held by the United States in trust for Indians or are subject to a restriction against alienation imposed by the United States, including appurtenances and improvements thereto, as may be requested by the Surgeon General. Any land or interest therein, including appurtenances and improvements to such land, so transferred shall be subject to disposition by the Surgeon General in accordance with paragraph (4) of subsection (a) of this section: *Provided,* That, in any case where a beneficial interest in such land is in any Indian, or Indian tribe, band, or group, the consent of such beneficial owner to any such transfer or disposition shall first be obtained: *Provided further,* That where deemed appropriate by the Secretary of the Interior provisions shall be made for a reversion of title to such land if it ceases to be used for the purpose for which it is transferred or disposed.

(c) Project consultation and participation

The Surgeon General shall consult with, and encourage the participation of, the Indians concerned, States and political subdivisions thereof, in carrying out the provisions of this section.

(Aug. 5, 1954, ch. 658, § 7, as added July 31, 1959, Pub. L. 86-121, § 1, 73 Stat. 267.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 1632.

§ 2004b. Implementation of education, hospital and health facility, etc., contracts and grants by Public Health Service personnel; request for detail of personnel

In accordance with subsection (d) of section 215 of this title, upon the request of any Indian tribe, band, group, or community, commissioned officers of the Service may be assigned by the Secretary for the purpose of assisting such Indian tribe, group, band, or community in carrying out the provisions of contracts with, or grants to, tribal organizations pursuant to section 450f, 450g, or 450h of title 25.

(Aug. 5, 1954, ch. 658, § 8, as added Jan. 4, 1975, Pub. L. 93-638, title I, § 105(b), 88 Stat. 2208.)

SUBCHAPTER II—CONSTRUCTION OF HEALTH FACILITIES AND COMMUNITY HOSPITALS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 229b of this title.

§ 2005. Financial assistance by Surgeon General

Whenever the Surgeon General of the Public Health Service, in carrying out his functions under subchapter I of this chapter with respect to the provision of health services to Indians in any particular area, determines, after consultation with such Indians, that the provision of financial assistance to one or more public or other nonprofit agencies or organizations for the construction of a community hospital constitutes a method of making needed hospital facilities available for such Indians which is more desirable and effective than direct Federal construction, he may provide such financial assistance from funds available for the construction of Indian health facilities for such Indians.

(Pub. L. 85-151, § 1, Aug. 16, 1957, 71 Stat. 370.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2005b, 2005c of this title.

§ 2005a. Amount of assistance; determination of costs.

The amount of such financial assistance shall not exceed that portion of the reasonable cost of the construction project which is attributable to the Indian health needs, as determined by the Surgeon General: *Provided*, That in determining, for the purposes of this subchapter, the portion of the cost of the construction project attributable to Indian health needs, the Surgeon General shall take into account only those categories of Indians for which hospital and medical care, including outpatient care and field health services, is being provided by or at the expense of the Public Health Service on August 16, 1957.

(Pub. L. 85-151, § 2, Aug. 16, 1957, 71 Stat. 371.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

§ 2005b. Conditions of assistance

As a condition to providing assistance under section 2005 of this title, the Surgeon General shall—

(a) require plans and specifications meeting such standards of construction and equipment as he may prescribe, and

(b) obtain such assurances and agreements as in his judgment are equitable in the light of the financial assistance provided under this subchapter and are necessary to assure the availability of the facility for the provision of hospital and medical care to Indians and to assure that the hospital is operated in compliance with State standards for operation and maintenance of hospitals which receive Federal aid under title VI of the Public Health Service Act [42 U.S.C. 291 et seq.].

(Pub. L. 85-151, § 3, Aug. 16, 1957, 71 Stat. 371.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in par. (2), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to chapter 6A (§ 201 et seq.) of this title. Title VI of the Act is classified to subchapter IV (§ 291 et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

§ 2005c. Payments

The Surgeon General shall make payments under section 2005 of this title in advance or by way of reimbursement and in such installments consistent with construction progress, as he may determine.

(Pub. L. 85-151, § 4, Aug. 16, 1957, 71 Stat. 371.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title.

§ 2005d. Eligibility of assisted project for aid under other acts; excluded costs

Neither assistance provided under this subchapter for meeting part of the cost of construction of a hospital project, nor the giving of any assurance required as a condition of such assistance, shall be construed as affecting in any way the eligibility of such project for aid under title VI of the Public Health Service Act [42 U.S.C. 291 et seq.] or any other Federal Act authorizing financial aid in the construction of such project, but construction costs met with Federal funds made available under this subchapter shall not be included in the cost of construction in which the Federal Government shares under such title VI or other Federal Act.

(Pub. L. 85-151, § 5, Aug. 16, 1957, 71 Stat. 371.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682, as amended,

which is classified generally to chapter 6A (§ 201 et seq.) of this title. Title VI of the Act is classified to subchapter IV (§ 291 et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

§ 2005e. Definitions

As used in this subchapter:

(a) "Hospital" includes diagnostic or treatment centers and general hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care;

(b) "Diagnostic or treatment center" means a facility for the diagnosis or diagnosis and treatment of ambulatory patients—

(1) which is operated in connection with a hospital, or

(2) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or, in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State.

(c) "Nonprofit" means owned or operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) "Construction" means construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities), including architects and engineering fees, but excluding legal fees, the cost of off-site improvements and the cost of the acquisition of land.

(Pub. L. 85-151, § 6, Aug. 16, 1957, 71 Stat. 371.)

§ 2005f. Supervision or control of assisted hospitals

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any hospital, with respect to which any funds have been or may be expended under this subchapter.

(Pub. L. 85-151, § 7, Aug. 16, 1957, 71 Stat. 372.)

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 263e, 1874, 2291, 2301, 2305, 5812, 5817, 5841, 5842, 5843, 5844, 5846, 5848, 5876, 5902, 5908, 6903, 6905 of this title; title 5 sections 7533, 8312; title 15 sections 2080, 2602; title 18 section 2516; title 22 sections 2022, 2024, 2403, 2793, 2794; title 30 sections 541b, 541c, 541d; title 50 section 47f.

SUBCHAPTER I—GENERAL PROVISIONS

§ 2011. Congressional declaration of policy

Atomic energy is capable of application for peaceful as well as military purposes. It is therefore declared to be the policy of the United States that—

(a) the development, use, and control of atomic energy shall be directed so as to make the maximum contribution to the general welfare, subject at all times to the paramount objective of making the maximum contribution to the common defense and security; and

(b) the development, use, and control of atomic energy shall be directed so as to promote world peace, improve the general welfare, increase the standard of living, and strengthen free competition in private enterprise.

(Aug. 1, 1946, ch. 724, § 1, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1 of act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified to section 1801 of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

SHORT TITLE OF 1964 AMENDMENT

Pub. L. 88-489, § 21, Aug. 26, 1964, 78 Stat. 607, provided that: "This Act [amending sections 2012, 2013, 2073 to 2078, 2135, 2153, 2201, 2221, 2233, and 2234 of this title, repealing section 2072 of this title, and enacting provisions set out as notes under sections 2012 and 2072 of this title] may be cited as the "Private Ownership of Special Nuclear Materials Act."

SHORT TITLE OF 1958 AMENDMENT

Pub. L. 85-846, § 1, Aug. 28, 1958, 72 Stat. 1084, provided: "That this Act [enacting sections 2291 to 2296 of this title] may be cited as the 'EURATOM Cooperation Act of 1958'."

SHORT TITLE

Section 291 of act Aug. 1, 1946, as added by act Aug. 30, 1954, § 1, provided that: "This Act [which enacted this chapter and amended sections 1031(d) and 1032 of former Title 5, Executive Departments and Government Officers and Employees, and enacted provision set out as a note under section 2221 of this title] may be cited as the "Atomic Energy Act of 1954."

SEPARABILITY OF PROVISIONS

Section 281 of act Aug. 1, 1946, as added by act Aug. 30, 1954, § 1, provided that: "If any provision of this Act [this chapter] or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act [this chapter] or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission, except those relating to encouraging, promoting, utilizing, developing, and participating in atomic energy or the atomic industry, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

§ 2012. Congressional findings

The Congress of the United States makes the following findings concerning the development, use, and control of atomic energy:

(a) The development, utilization, and control of atomic energy for military and for all other purposes are vital to the common defense and security.

(b) Repealed. Pub. L. 88-489, § 1, Aug. 26, 1964, 78 Stat. 602.

(c) The processing and utilization of source, byproduct, and special nuclear material affect interstate and foreign commerce and must be regulated in the national interest.

(d) The processing and utilization of source, byproduct, and special nuclear material must be regulated in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public.

(e) Source and special nuclear material, production facilities, and utilization facilities are affected with the public interest, and regulation by the United States of the production and utilization of atomic energy and of the facilities used in connection therewith is necessary in the national interest to assure the common defense and security and to protect the health and safety of the public.

(f) The necessity for protection against possible interstate damage occurring from the operation of facilities for the production or utilization of source or special nuclear material places the operation of those facilities in interstate commerce for the purposes of this chapter.

(g) Funds of the United States may be provided for the development and use of atomic energy under conditions which will provide for the common defense and security and promote the general welfare.

(h) Repealed. Pub. L. 88-489, § 2, Aug. 26, 1964, 78 Stat. 602.

(i) In order to protect the public and to encourage the development of the atomic energy industry, in the interest of the general welfare and of the common defense and security, the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents, and may limit the liability of those persons liable for such losses.

(Aug. 1, 1946, ch. 724, § 2, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended Sept. 2, 1957, Pub. L. 85-256, § 1, 71 Stat. 576; Aug. 26, 1964, Pub. L. 88-489, §§ 1, 2, 78 Stat. 602.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1 of act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified to section 1801 of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

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1964—Subsec. (b). Pub. L. 88-489, § 1, eliminated subsec. (b) which found that the use of the United States property by others must be regulated in the national interest and in order to provide for common defense and security and to protect the health and safety of the public.

Subsec. (h). Pub. L. 88-489, § 2, eliminated subsec. (h) which found it essential to the common defense and security that title to all special nuclear material be in the United States while such special nuclear material is within the United States.

1957—Subsec. (i). Pub. L. 85-256 added subsec. (i).

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission, except those relating to encouraging, promoting, utilizing, developing, and participating in atomic energy or the atomic industry, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

CONTROL AND REGULATION POWERS OF UNITED STATES AND OF ATOMIC ENERGY COMMISSION UNAFFECTED BY PRIVATE OWNERSHIP OF SPECIAL NUCLEAR MATERIALS

Section 20 of Pub. L. 88-489 provided that: "Nothing in this Act [amending sections 2012, 2013, 2073 to 2078, 2135, 2153, 2201, 2233 and 2234 of this title, re-

pealing section 2072 of this title, and enacting provisions set out as notes under this section and section 2072 of this title] shall be deemed to diminish existing authority of the United States, or of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended [this chapter], to regulate source, byproduct, and special nuclear material and production and utilization facilities, or to control such materials and facilities exported from the United States by imposition of governmental guarantees and security safeguards with respect thereto, in order to assure the common defense and security and to protect the health and safety of the public, or to reduce the responsibility of the Atomic Energy Commission to achieve such objectives."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2210 of this title.

§ 2013. Purpose of chapter

It is the purpose of this chapter to effectuate the policies set forth above by providing for—

(a) a program of conducting, assisting, and fostering research and development in order to encourage maximum scientific and industrial progress;

(b) a program for the dissemination of unclassified scientific and technical information and for the control, dissemination, and declassification of Restricted Data, subject to appropriate safeguards, so as to encourage scientific and industrial progress;

(c) a program for Government control of the possession, use, and production of atomic energy and special nuclear material, whether owned by the Government or others, so directed as to make the maximum contribution to the common defense and security and the national welfare, and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons;

(d) a program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public;

(e) a program of international cooperation to promote the common defense and security and to make available to cooperating nations the benefits of peaceful applications of atomic energy as widely as expanding technology and considerations of the common defense and security will permit; and

(f) a program of administration which will be consistent with the foregoing policies and programs, with international arrangements, and with agreements for cooperation, which will enable the Congress to be currently informed so as to take further legislative action as may be appropriate.

(Aug. 1, 1946, ch. 724, § 3, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 922, and amended Aug. 26, 1964, Pub. L. 88-489, § 3, 78 Stat. 602.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1 of act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified to section 1801 of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

AMENDMENTS

1964—Subsec. (c). Pub. L. 88-489 inserted "whether owned by the Government or others" and "and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons."

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission, except those relating to encouraging, promoting, utilizing, developing, and participating in atomic energy or the atomic industry, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

§ 2014. Definitions

The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this chapter:

(a) The term "agency of the United States" means the executive branch of the United States, or any Government agency, or the legislative branch of the United States, or any agency, committee, commission, office, or other establishment in the legislative branch, or the judicial branch of the United States, or any office, agency, committee, commission, or other establishment in the judicial branch.

(b) The term "agreement for cooperation" means any agreement with another nation or regional defense organization authorized or permitted by sections 2074, 2077, 2094, 2112, 2121(c), 2133, 2134, or 2164 of this title, and made pursuant to section 2153 of this title.

(c) The term "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(d) The term "atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(e) The term "byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(f) The term "Commission" means the Atomic Energy Commission.

(g) The term "common defense and security" means the common defense and security of the United States.

(h) The term "defense information" means any information in any category determined by any Government agency authorized to classify information, as being information respecting, relating to, or affecting the national defense.

(i) The term "design" means (1) specifications, plans, drawings, blueprints, and other items of like nature; (2) the information contained therein; or (3) the research and development data pertinent to the information contained therein.

(j) The term "extraordinary nuclear occurrence" means any event causing a discharge or

dispersal of source, special nuclear, or byproduct material from its intended place of confinement in amounts offsite, or causing radiation levels offsite, which the Commission determines to be substantial, and which the Commission determines has resulted or will probably result in substantial damages to persons offsite or property offsite. Any determination by the Commission that such an event has, or has not, occurred shall be final and conclusive, and no other official or any court shall have power or jurisdiction to review any such determination. The Commission shall establish criteria in writing setting forth the basis upon which such determination shall be made. As used in this subsection, "offsite" means away from "the location" or "the contract location" as defined in the applicable Commission indemnity agreement, entered into pursuant to section 2210 of this title.

(k) The term "financial protection" means the ability to respond in damages for public liability and to meet the costs of investigating and defending claims and settling suits for such damages.

(*l*) The term "Government agency" means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

(m) The term "indemnitor" means (1) any insurer with respect to his obligations under a policy of insurance furnished as proof of financial protection; (2) any licensee, contractor or other person who is obligated under any other form of financial protection, with respect to such obligations; and (3) the Commission with respect to any obligation undertaken by it in indemnity agreement entered into pursuant to section 2210 of this title.

(n) The term "international arrangement" means any international agreement hereafter approved by the Congress or any treaty during the time such agreement or treaty is in full force and effect, but does not include any agreement for cooperation.

(o) The term "Joint Committee" means the Joint Committee on Atomic Energy.

(p) The term "licensed activity" means an activity licensed pursuant to this chapter and covered by the provisions of section 2210(a) of this title.

(q) The term "nuclear incident" means any occurrence, including an extraordinary nuclear occurrence, within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however,* That as the term is used in section 2210(*l*) of this title, it shall include any such occurrence outside the United States: *And provided further,* That as the term is used in section 2210(d) of this title, it shall include any such occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material owned by, and used by or under contract with, the United States: *And provided further,* That as the term is used in section 2210(c) of this title, it shall include any such occurrence outside both the United States and any other nation if such occurrence arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material licensed pursuant to subchapters V, VI, VII, and IX of this chapter, which is used in connection with the operation of a licensed stationary production or utilization facility or which moves outside the territorial limits of the United States in transit from one person licensed by the Commission to another person licensed by the Commission.

(r) The term "operator" means any individual who manipulates the controls of a utilization or production facility.

(s) The term "person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(t) The term "person indemnified" means (1) with respect to a nuclear incident occurring within the United States or outside the United States as the term is used in section 2210(c) of this title, and with respect to any nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship Savannah, the person with whom an indemnity agreement is executed or who is required to maintain financial protection, and any other person who may be liable for public liability or (2) with respect to any other nuclear incident occurring outside the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Commission or any project to which indemnification under the provisions of section 2210(d) of this title has been extended or under any subcontract, purchase order, or other agreement, of any tier, under any such contract or project.

(u) The term "produce", when used in relation to special nuclear material, means (1) to manufacture, make, produce, or refine special nuclear material; (2) to separate special nuclear material from other substances in which such material may be contained; or (3) to make or to produce new special nuclear material.

(v) The term "production facility" means (1) any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission.

(w) The term "public liability" means any legal liability arising out of or resulting from a nuclear incident, except: (i) claims under State or Federal workmen's compensation acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs; (ii) claims arising out of an act of war; and (iii) whenever used in section 2210(a), (c), and (k) of this title, claims for loss of, or damage to, or loss of use of property which is located at the site of and used in connection with the licensed activity where the nuclear incident occurs. "Public liability" also includes damage to property of persons indemnified: *Provided*, That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.

(x) The term "research and development" means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(y) The term "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 2162 of this title.

(z) The term "source material" means (1) uranium, thorium, or any other material which is determined by the Commission pursuant to the provisions of section 2091 of this title to be source material; or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission may by regulation determine from time to time.

(aa) The term "special nuclear material" means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 2071 of this title, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(bb) The term "United States" when used in a geographical sense includes all territories and possessions of the United States, the Canal Zone and Puerto Rico.

(cc) The term "utilization facility" means (1) any equipment or device, except an atomic weapon, determined by rule of the Commission to be capable of making use of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission.

(Aug. 1, 1946, ch. 724, § 11, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 922, and amended Aug. 6, 1956, ch. 1015, § 1, 70 Stat. 1069; Sept. 2, 1957, Pub. L. 85-256, § 3, 71 Stat. 576; Aug. 8, 1958, Pub. L. 85-602, § 1, 72 Stat. 525; Sept. 6, 1961, Pub. L. 87-206, §§ 2, 3, 75 Stat. 476; Aug. 29, 1962, Pub. L. 87-615, §§ 4, 5, 76 Stat. 410; Oct. 13, 1966, Pub. L. 89-645, § 1(a), 80 Stat. 891; Dec. 31, 1975, Pub. L. 94-197, § 1, 89 Stat. 1111.)

REFERENCES IN TEXT

Section 2121 of this title, referred to in subsec. (b), has been omitted from the Code as obsolete.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 18 of act Aug. 1, 1946, ch. 724, 60 Stat. 774, which was classified to section 1818 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

AMENDMENTS

1975—Subsec. (q). Pub. L. 94-197 substituted "source, special nuclear, or byproduct material" for "facility or device" and added proviso to include within term as used in section 2210(c) of this title any occurrence outside both the United States and any other nation.

Subsec. (t). Pub. L. 94-197 expanded definition to include nuclear incidents occurring outside the United States as the term is used in section 2210(c) of this title and added reference to person required to maintain financial protection.

1966—Subsec. (j). Pub. L. 89-645, § 1(a)(2), added subsec. (j). Former subsec. (j) redesignated (k).

Subsecs. (k), (*l*). Pub. L. 89-645, § 1(a)(1), redesignated former subsecs. (j) and (k) as (k) and (*l*), respectively. Former subsec. (*l*) redesignated (n).

Subsec. (m). Pub. L. 89-645, § 1(a)(3), added subsec. (m). Former subsec. (m) redesignated (o).

Subsecs. (n) to (p). Pub. L. 89-645, § 1(a)(1), redesignated former subsecs. (*l*) to (n) as (n) to (p), respectively. Former subsecs. (n) to (p) redesignated (p) to (r), respectively.

Subsec. (q). Pub. L. 89-645, § 1(a)(1) and (4), redesignated former subsec. (o) as (q) and inserted ", including an extraordinary nuclear occurrence," between "occurrence" and "within", respectively. Former subsec. (q) redesignated (s).

Subsecs. (r) to (cc). Pub. L. 89-645, § 1(a)(1), redesignated former subsecs. (p) to (aa) as (r) to (cc), respectively.

1962—Subsec. (o). Pub. L. 87-615, § 4, enlarged the definition of "nuclear incident" to include any occurrence within the United States causing any of the listed injuries and damages within or outside the United States, provided that as used in section 2210(*l*) of this title, the term shall "include" instead of "mean" any such occurrence outside the United States, and that as used in section 2210(d) of this title, the term shall include any such occurrence outside the United States if such occurrence involves a facility or devise owned by, and used by or under contract with, the United States.

Subsec. (r). Pub. L. 87-615, § 5, limited the definition of "person indemnified" to nuclear incidents occurring within the United States, or in connection with the nuclear ship Savannah, and added the provisions with respect to nuclear incidents occurring outside the United States.

1961—Subsec. (b). Pub. L. 87-206, § 2, included section 2121(c) of this title in the enumeration.

Subsec. (u). Pub. L. 87-206, § 3, designated existing provisions as cls. (i) and (ii) and added cl. (iii).

1958—Subsec. (o). Pub. L. 85-602 added the proviso clause defining the term "nuclear incident" as it is used in section 2210(*l*) of this title.

1957—Subsec. (j). Pub. L. 85-256 added subsec. (j). Former subsec. (j) redesignated (k).

Subsecs. (k) to (m). Pub. L. 85-256, redesignated former subsecs. (j) to (l) as (k) to (m), respectively. Former subsec. (m) redesignated (p).

Subsec. (n). Pub. L. 85-256, added subsec. (n). Former subsec. (n) redesignated (q).

Subsec. (o). Pub. L. 85-256 added subsec. (o). Former subsec. (o) redesignated (s).

Subsecs. (p), (q). Pub. L. 85-256 redesignated former subsecs. (m) and (n) as (p) and (q), respectively. Former subsecs. (p) and (q) redesignated (t) and (u), respectively.

Subsec. (r). Pub. L. 85-256 added subsec. (r). Former subsec. (r) redesignated (w).

Subsecs. (s), (t). Pub. L. 85-256 redesignated former subsecs. (o) and (p) as (s) and (t), respectively. Former subsecs. (s) and (t) redesignated (x) and (y), respectively.

Subsec. (u). Pub. L. 85-256 added subsec. (u). Former subsec. (u) redesignated (z).

Subsecs. (v) to (aa). Pub. L. 85-256 redesignated former subsecs. (q) to (v) as (v) to (aa), respectively.

1956—Subsec. (u). Act Aug. 6, 1956 substituted "the Canal Zone and Puerto Rico" for "and the Canal Zone".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, except that the determinations and criteria in subsec. (j) shall be the responsibility of the Administrator, Energy Research and Development Administration, only in regard to activities and matters not covered by the licensing and related regulatory facets of section 2210 of this title, and the determinations in subsecs. (v), (z), (aa), and (cc), shall be the responsibility of the Administrator only in regard to facilities and materials not subject to licensing and related regulatory control by the Nuclear Regulatory Commission. See section 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2139, 2291 of this title.

§ 2015. Transfer of property

Nothing in this chapter shall be deemed to repeal, modify, amend, or alter the provisions of section 9(a) of the Atomic Energy Act of 1946, as heretofore amended.

(Aug. 1, 1946, ch. 724, § 241, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960.)

REFERENCES IN TEXT

Section 9(a) of the Atomic Energy Act of 1946, as heretofore amended, referred to in the text, which was formerly classified to section 1809(a) of this title, provided that:

"The President shall direct the transfer to the Commission of all interests owned by the United States or any Government agency in the following property:

"(1) All fissionable material; all atomic weapons and parts thereof; all facilities, equipment, and materials for the processing, production, or utilization of fissionable material or atomic energy; all processes and technical information of any kind, and the source thereof (including data, drawings, specifications, patents, patent applications, and other sources (relating to the processing, production, or utilization of fissionable material or atomic energy; and all contracts, agreements, leases, patents, applications for patents, inventions and discoveries (whether patented or unpatented), and other rights of any kind concerning any such items;

"(2) All facilities, equipment, and materials, devoted primarily to atomic energy research and development; and

"(3) Such other property owned by or in the custody or control of the Manhattan Engineer District or other Government agencies as the President may determine."

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 9 of act Aug. 1, 1946, ch. 724, 60 Stat. 765, which was classified to section 1809 of this title, prior to the complete amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission and the Administrator, Energy Research and Development Administration, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2016. Reports to Congress

The Commission shall submit to the Congress, in January of each year, a report concerning the activities of the Commission. The Commission shall include in such report, and shall at such other times as it deems desirable submit to the Congress, such recommendations for additional legislation as the Commission deems necessary or desirable.

(Aug. 1, 1946, ch. 724, § 251, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960, and amended June 11, 1959, Pub. L. 86-43, 73 Stat. 73.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 17 of act Aug. 1, 1946, ch. 724, 60 Stat. 774, which was classified to section 1817 of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

AMENDMENTS

1959—Pub. L. 86-43 deleted "and July" following "January".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission and the Administrator, Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2017. Authorization of appropriations

(a) Congressional authorization

No appropriation shall be made to the Commission, nor shall the Commission waive charges for the use of materials under the Cooperative Power Reactor Demonstration Program, unless previously authorized by legislation enacted by the Congress.

(b) Accounting

Any Act appropriating funds to the Commission may appropriate specified portions thereof to be accounted for upon the certification of the Commission only.

(c) Restoration or replacement of facilities

Notwithstanding the provisions of subsection (a) of this section, funds are hereby authorized to be appropriated for the restoration or replacement of any plant or facility destroyed or otherwise seriously damaged, and the Commission is authorized to use available funds for such purposes.

(d) Substituted construction projects

Funds authorized to be appropriated for any construction project to be used in connection with the development or production of special nuclear material or atomic weapons may be used to start another construction project not otherwise authorized if the substituted construction project is within the limit of cost of the construction project for which substitution is to be made, and the Commission certifies that—

(1) the substituted project is essential to the common defense and security;

(2) the substituted project is required by changes in weapon characteristics or weapon logistic operations; and

(3) the Commission is unable to enter into a contract with any person on terms satisfactory to it to furnish from a privately owned plant or facility the product or services to be provided by the new project.

(Aug. 1, 1946, ch.724, § 261, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960, and amended July 3, 1957, Pub. L. 85-79, § 1, 71 Stat. 274; Aug. 29, 1962, Pub. L. 87-615, § 8, 76 Stat. 411; July 22, 1963, Pub. L. 88-72, § 107, 77 Stat. 88.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 19 of act Aug. 1, 1946, ch. 724, 60 Stat. 775, which was classified to section 1819 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

AMENDMENTS

1963—Subsec. (a). Pub. L. 88-72 required legislative authorization of appropriations to the Commission and waiver of charges for use of materials under the Cooperative Power Reactor Demonstration Program. Former provisions of subsec. (a) authorized appropriations necessary and appropriate to carry out the provisions and purposes of this chapter, excepting in par. (1) sums necessary for acquisition of real property or facility acquisition, construction or expansion (and deeming under certain conditions a nonmilitary experimental reactor to be a facility) and in par. (2) sums necessary to carry out cooperative programs for development and construction of reactors for demonstration of their use in production of electrical power or process heat, or for propulsion, or for commercial provision of byproduct material, irradiation or other special service, for civilian use, by arrangements providing for payment of funds, rendering of services and undertaking of research and development without full reimbursement, the waiver of charges accompanying such arrangement or the provision of other financial assistance pursuant to such arrangement or the acquisition of real property or facility acquisition, construction or expansion undertaken by the Commission as part of such arrangement.

Subsec. (b). Pub. L. 88-72 substituted "Any act appropriating funds to the Commission" for "The acts appropriating such sums."

Subsec. (c). Pub. L. 88-72 eliminated authorization of funds provision for advance planning, construction design and architectural services in connection with any plant or facility and inserted the "Notwithstanding" phrase.

Subsec. (d). Pub. L. 88-72 deleted "hereafter" following "Funds" and inserted "construction" preceding "project" in four instances.

1962—Subsecs. (c), (d). Pub. L. 87-615 added subsecs. (c) and (d).

1957—Pub. L. 85-79 designated first sentence as introductory clause of subsec. (a) and as (a)(1), added proviso to (a)(1), added (a)(2), by designating second sentence as subsec. (b), and eliminated former sentence which provided that "Funds appropriated to the Commission shall, if obligated by contract during the fiscal year for which appropriated, remain available for expenditure for four years following the expiration of the fiscal year for which appropriated.".

EFFECTIVE DATE OF 1963 AMENDMENT

Section 107 of Pub. L. 88-72 provided in part that the amendment of this section shall be effective Jan. 1, 1964.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission and the Administrator, Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2292, 2293 of this title.

§ 2017a. Omitted

CODIFICATION

Section, Pub. L. 87-701, § 103, Sept. 26, 1962, 76 Stat. 601, which authorized appropriations for the Atomic Energy Commission, was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter, and is now covered by section 2017a-1 of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

Sept. 26, 1961, Pub. L. 87-315, § 103, 75 Stat. 678.
May 13, 1960, Pub. L. 86-457, § 103, 74 Stat. 121.
June 23, 1959, Pub. L. 86-50, § 103, 73 Stat. 83.
Aug. 4, 1958, Pub. L. 85-590, § 103, 72 Stat. 492.
Aug. 21, 1957, Pub. L. 85-162, title I, § 103, 71 Stat. 406.
May 3, 1956, ch. 233, § 103, 70 Stat. 129.
July 11, 1955, ch. 304, § 103, 69 Stat. 293.

§ 2017a-1. Construction design services

The Commission is authorized to perform construction design services for any Commission construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Commission and (2) the Commission determines that the project is of such urgency that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

(Pub. L. 92-314, title I, § 103, June 16, 1972, 86 Stat. 225.)

CODIFICATION

Section was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 92-84, title I, § 103, Aug. 11, 1971, 85 Stat. 306.
Pub. L. 91-273, § 103, June 2, 1970, 84 Stat. 300.
Pub. L. 91-44, § 103, July 11, 1969, 83 Stat. 47.
Pub. L. 90-289, § 103, Apr. 19, 1968, 82 Stat. 97.
Pub. L. 90-56, § 103, July 26, 1967, 81 Stat. 125.
Pub. L. 89-428, § 103, May 21, 1966, 80 Stat. 163.
Pub. L. 89-32, § 103, June 2, 1965, 79 Stat. 122.
Pub. L. 88-332, § 104, June 30, 1964, 78 Stat. 229.

§ 2017b. Omitted

CODIFICATION

Section, Pub. L. 87-701, § 104, Sept. 26, 1962, 76 Stat. 601, which authorized appropriations for the Atomic Energy Commission, was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter and is now covered by section 2017(c) of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:
Sept. 26, 1961, Pub. L. 87-315, § 104, 75 Stat. 678.
May 13, 1960, Pub. L. 86-457, § 104, 74 Stat. 122.
June 23, 1959, Pub. L. 86-50, § 104, 73 Stat. 83.
Aug. 4, 1958, Pub. L. 85-590, 72 Stat. 493.
Aug. 21, 1957, Pub. L. 85-162, title I, § 104, 71 Stat. 406.
May 3, 1956, ch. 233, § 104, 70 Stat. 129.
July 11, 1955, ch. 304, § 104, 69 Stat. 293.

§ 2018. Agency jurisdiction

Nothing in this chapter shall be construed to affect the authority or regulations of any Federal, State, or local agency with respect to the generation, sale, or transmission of electric power produced through the use of nuclear facilities licensed by the Commission: *Provided*, That this section shall not be deemed to confer upon any Federal, State, or local agency any authority to regulate, control, or restrict any activities of the Commission.

(Aug. 1, 1946, ch. 724, § 271, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960, and amended Aug. 24, 1965, Pub. L. 89-135, 79 Stat. 551.)

AMENDMENTS

1965—Pub. L. 89-135 inserted words "produced through the use of nuclear facilities licensed by the Commission: *Provided*, That this section shall not be deemed to confer upon any Federal, State, or local agency any authority to regulate, control, or restrict any activities of the Commission."

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission and the Administrator, Energy Research and Development Administration, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2019. Applicability of Federal Power Act

Every licensee under this chapter who holds a license from the Commission for a utilization or production facility for the generation of commercial electric energy under section 2133 of this title and who transmits such electric energy in interstate commerce or sells it at wholesale in interstate commerce shall be subject to the regulatory provisions of the Federal Power Act [16 U.S.C. 791a et seq.].

(Aug. 1, 1946, ch. 724, § 272, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which was classified generally to chapter 12 (§ 791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables volume.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

§ 2020. Licensing of government agencies

Nothing in this chapter shall preclude any Government agency now or hereafter authorized by law to engage in the production, marketing, or distribution of electric energy from obtaining a license under section 2133 of this title, if qualified under the provisions of said section, for the construction and operation of production or utilization facilities for the primary purpose of producing electric energy for disposition for ultimate public consumption.

(Aug. 1, 1946, ch. 724, § 273, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

§ 2021. Cooperation with States

(a) Purpose

It is the purpose of this section—

(1) to recognize the interests of the States in the peaceful uses of atomic energy, and to clarify the respective responsibilities under this chapter of the States and the Commission with respect to the regulation of byproduct, source, and special nuclear materials;

(2) to recognize the need, and establish programs for, cooperation between the States and the Commission with respect to control of radiation hazards associated with use of such materials;

(3) to promote an orderly regulatory pattern between the Commission and State governments with respect to nuclear development and use and regulation of byproduct, source, and special nuclear materials;

(4) to establish procedures and criteria for discontinuance of certain of the Commission's regulatory responsibilities with respect to byproduct, source, and special nuclear materials, and the assumption thereof by the States;

(5) to provide for coordination of the development of radiation standards for the guidance of Federal agencies and cooperation with the States; and

(6) to recognize that, as the States improve their capabilities to regulate effectively such materials, additional legislation may be desirable.

(b) Agreements with States

Except as provided in subsection (c) of this section, the Commission is authorized to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission under subchapters V, VI, and VII of this chapter, and section 2201 of this title, with respect to any one or more of the following materials within the State—

(1) byproduct materials;

(2) source materials;

(3) special nuclear materials in quantities not sufficient to form a critical mass.

During the duration of such an agreement it is recognized that the State shall have authority to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards.

(c) Commission regulation of certain activities

No agreement entered into pursuant to subsection (b) of this section shall provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of—

(1) the construction and operation of any production or utilization facility;

(2) the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

(3) the disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

(4) the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

Notwithstanding any agreement between the Commission and any State pursuant to subsection (b) of this section, the Commission is authorized by rule, regulation, or order to require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license issued by the Commission.

(d) Conditions

The Commission shall enter into an agreement under subsection (b) of this section with any State if—

(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

(2) the Commission finds that the State program is compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

(e) Publication in Federal Register; comment of interested persons

(1) Before any agreement under subsection (b) of this section is signed by the Commission, the terms of the proposed agreement and of proposed exemptions pursuant to subsection (f) of this section shall be published once each week for four consecutive weeks in the Federal Register; and such opportunity for comment by interested persons on the proposed agreement and exemptions shall be allowed as the Commission determines by regulation or order to be appropriate.

(2) Each proposed agreement shall include the proposed effective date of such proposed agreement or exemptions. The agreement and exemptions shall be published in the Federal Register within thirty days after signature by the Commission and the Governor.

(f) Exemptions

The Commission is authorized and directed, by regulation or order, to grant such exemptions from the licensing requirements contained in subchapters V, VI, and VII of this chapter, and from its regulations applicable to licensees as the Commission finds necessary or appropriate to carry out any agreement entered into pursuant to subsection (b) of this section.

(g) Compatible radiation standards

The Commission is authorized and directed to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible.

(h) Consultative, advisory and miscellaneous functions of the Administrator of the Environmental Protection Agency

The Administrator of the Environmental Protection Agency shall consult qualified scientists and experts in radiation matters, including the President of the National Academy of Sciences, the Chairman of the National Committee on Radiation Protection and Measurement, and qualified experts in the field of biology and medicine and in the field of health physics. The Special Assistant to the President for Science and Technology, or his designee, is authorized to attend meetings with, participate in the deliberations of, and to advise the Administrator. The Administrator shall advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States. The Administrator shall also perform such other functions as the President may assign to him by Executive order.

(i) Inspections and other functions; training and other assistance

The Commission in carrying out its licensing and regulatory responsibilities under this chapter is authorized to enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative

basis as the Commission deems appropriate. The Commission is also authorized to provide training, with or without charge, to employees of, and such other assistance to, any State or political subdivision thereof or group of States as the Commission deems appropriate. Any such provision or assistance by the Commission shall take into account the additional expenses that may be incurred by a State as a consequence of the State's entering into an agreement with the Commission pursuant to subsection (b) of this section.

(j) Reserve power to terminate or suspend agreements

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State with which an agreement under subsection (b) of this section has become effective, or upon request of the Governor of such State, may terminate or suspend its agreement with the State and reassert the licensing and regulatory authority vested in it under this chapter, if the Commission finds that such termination or suspension is required to protect the public health and safety.

(k) State regulation of activities for certain purposes

Nothing in this section shall be construed to affect the authority of any State or local agency to regulate activities for purposes other than protection against radiation hazards.

(l) Commission regulated activities; notice of filing; hearing

With respect to each application for Commission license authorizing an activity as to which the Commission's authority is continued pursuant to subsection (c) of this section, the Commission shall give prompt notice to the State or States in which the activity will be conducted of the filing of the license application; and shall afford reasonable opportunity for State representatives to offer evidence, interrogate witnesses, and advise the Commission as to the application without requiring such representatives to take a position for or against the granting of the application.

(m) Limitation of agreements and exemptions

No agreement entered into under subsection (b) of this section, and no exemption granted pursuant to subsection (f) of this section, shall affect the authority of the Commission under section 2201(b) or (i) of this title to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material. For purposes of section 2201(i) of this title, activities covered by exemptions granted pursuant to subsection (f) of this section shall be deemed to constitute activities authorized pursuant to this chapter; and special nuclear material acquired by any person pursuant to such an exemption shall be deemed to have been acquired pursuant to section 2073 of this title.

(n) Definition

As used in this section, the term State means any State, Territory, or possession of the United States, the Canal Zone, Puerto Rico, and the District of Columbia.

(Aug. 1, 1946, ch. 724, § 274, as added Sept. 23, 1959, Pub. L. 86-373, § 1, 73 Stat. 688, and amended 1970 Reorg. Plan No. 3, §§ 2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086.)

TRANSFER OF FUNCTIONS

Provisions for the establishment of a Federal Radiation Council and for the designation of its Chairman and members have been omitted from subsec. (h) and the Administrator of the Environmental Protection Agency has been substituted for the Council as the person charged with the responsibility of carrying out the functions of the Council as set out in subsec. (h) pursuant to Reorg. Plan No. 3 of 1970, §§ 2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Federal Radiation Council and transferred its functions to the Administrator of the Environmental Protection Administration.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 263e of this title; title 29 section 653.

SUBCHAPTER II—ORGANIZATION

§§ 2031, 2032. Repealed. Pub. L. 93-438, title I, § 104(a), Oct. 11, 1974, 88 Stat. 1237

Section 2031, act Aug. 1, 1946, ch. 724, § 21, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 924, and amended Aug. 9, 1955, ch. 697, § 3, 69 Stat. 630, provided for the establishment of the Atomic Energy Commission, its composition, Chairman, acting Chairman, quorum, official spokesman, and seal.

Provisions similar to section 2031 were contained in section 1802(a)(1) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

Section 2032, act Aug. 1, 1946, ch. 724, § 22, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 924, and amended Sept. 4, 1957, Pub. L. 85-287, § 1, 71 Stat. 612; Aug. 14, 1964, Pub. L. 88-426, title III, § 305(10)(A), 78 Stat. 423, provided for the appointment of members of the Commission, terms of office, and prohibition from engaging in any other vocation, business, or employment, by the members.

Provisions similar to section 2032 were contained in section 1802(a)(2) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective 120 days after Oct. 11, 1974, or on such earlier date as the President may prescribe and publish in the Federal Register, see section 312(a) of Pub. L. 93-438, set out as a note under section 5801 of this title.

EX. ORD. NO. 9816. TRANSFER OF PROPERTY AND PERSONNEL TO THE ATOMIC ENERGY COMMISSION

Ex. Ord. No. 9816, eff. Dec. 31, 1946, 12 FR 37, provided:

By virtue of the authority vested in me by the Constitution and the statutes, including the Atomic Energy Act of 1946 [this chapter], and as President of the United States and Commander in Chief of the Army and the Navy, it is hereby ordered and directed as follows:

1. There are transferred to the Atomic Energy Commission all interests owned by the United States or any Government agency in the following property:

(a) All fissionable material; all atomic weapons and parts thereof; all facilities, equipment, and materials for the processing, production, or utilization of fissionable material or atomic energy; all processes and technical information of any kind, and the source thereof (including data, drawings, specifications, patents, patent applications, and other sources) relating to the processing, production, or utilization of fissionable material or atomic energy; and all contracts, agreements,

leases, patents, applications for patents, inventions and discoveries (whether patented or unpatented), and other rights of any kind concerning any such items.

(b) All facilities, equipment, and materials, devoted primarily to atomic energy research and development.

2. There also are transferred to the Atomic Energy Commission all property, real or personal, tangible or intangible, including records, owned by or in the possession, custody or control of the Manhattan Engineer District, War Department, in addition to the property described in paragraph 1 above. Specific items of such property, including records, may be excepted from transfer to the Commission in the following manner:

(a) The Secretary of War shall notify the Commission in writing as to the specific items of property or records he wishes to except; and

(b) If after full examination of the facts by the Commission, it concurs in the exception, those specific items of property or records shall be excepted from transfer to the Commission; or

(c) If after full examination of the facts by the Commission, it does not concur in the exception, the matter shall be referred to the President for decision.

3. The Atomic Energy Commission shall exercise full jurisdiction over all interests and property transferred to the Commission in paragraphs 1 and 2 above, in accordance with the provisions of the Atomic Energy Act of 1946 [this chapter].

4. Any Government agency is authorized to transfer to the Atomic Energy Commission, at the request of the Commission, any property, real or personal, tangible or intangible, acquired or used by such Government agency in connection with any of the property or interests transferred to the Commission by paragraphs 1 and 2 above.

5. Each Government agency shall supply the Atomic Energy Commission with a report on, and an accounting and inventory of, all interests and property, described in paragraphs 1, 2 and 4 above, owned by or in the possession, custody, or control of such Government agency, the form and detail of such report, accounting and inventory, to be determined by mutual agreement, or, in case of nonagreement, by the Director of the Bureau of the Budget.

6. (a) There also are transferred to the Atomic Energy Commission, all civilian officers and employees of the Manhattan Engineer District, War Department, except that the Commission and the Secretary of War may by mutual agreement exclude any of such personnel from transfer to the Commission.

(b) The military and naval personnel heretofore assigned or detailed to the Manhattan Engineer District, War Department, shall continue to be made available to the Commission, for military and naval duty, in similar manner, without prejudice, to the military or naval status of such personnel, for such periods of time as may be agreed mutually by the Commission and the Secretary of War or the Secretary of the Navy.

7. The assistance and the services, personal or other, including the use of property, heretofore made available by any Government agency to the Manhattan Engineer District, War Department, shall be made available to the Atomic Energy Commission for the same purposes as heretofore and under the arrangements now existing until terminated after 30 days notice given by the Commission or by the Government agency concerned in each case.

8. The Commission is authorized to exercise all of the powers and functions vested in the Secretary of War by Executive Order No. 9001, of December 27, 1941, as amended [set out as a note under section 611 of Appendix to Title 50, War and National Defense], in so far as they relate to contracts heretofore made by or hereby transferred to the Commission.

9. Such further measures and dispositions as may be determined by the Atomic Energy Commission and any Government agency concerned to be necessary to effectuate the transfers authorized or directed by this order shall be carried out in such manner as the Director of the Bureau of the Budget may direct and by such agencies as he may designate.

10. This order shall be effective as of midnight, December 31, 1946.

Ex. Ord. No. 9816, was amended by Ex. Ord. No. 10657, Feb. 15, 1956, 21 FR 1063, and Ex. Ord. No. 11105, Apr. 19, 1963, 28 FR 3909, set out as notes under section 2313 of this title, to the extent that it may be inconsistent with such Executive orders.

EX. ORD. NO. 9829. EXTENSION OF EXECUTIVE ORDER NO. 9177 TO ATOMIC ENERGY COMMITTEE

Ex. Ord. No. 9829, eff. Feb. 21, 1947, 12 F.R. 1259, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States, and particularly by Title I of the First War Powers Act, 1941, approved December 18, 1941 (55 Stat. 838) [sections 601 to 605 of Appendix to Title 50, War and National Defense], and in the interest of the internal management of the Government, I hereby extend the provisions of Executive Order No. 9177 of May 30, 1942 (7 F.R. 4195) [set out as a note under section 601 of Appendix to title 50], to the United States Atomic Energy Commission; and, subject to the limitations contained in that order, I hereby authorize the United States Atomic Energy Commission to perform and exercise all of the functions and powers vested in and granted to the Secretary of War, the Secretary of the Treasury, the Secretary of Agriculture, and the Reconstruction Finance Corporation by that order.

This order shall be applicable to articles entered for consumption, or withdrawn from warehouse for consumption, on or after January 1, 1947.

§ 2033. Principal office

The principal office of the Commission shall be in or near the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place; however, the Commission shall maintain an office for the service of process and papers within the District of Columbia.

(Aug. 1, 1946, ch. 724, § 23, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 925.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(a)(3) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration and the Nuclear Regulatory Commission, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

EXPENSES FOR MOVE TO NEW PRINCIPAL OFFICE

Pub. L. 85-162, title I, § 109, Aug. 21, 1957, 71 Stat. 407, as amended by Pub. L. 85-590, § 108, Aug. 4, 1958, 72 Stat. 493, authorized the Commission to use its funds for the payment for travel and transportation expenses in connection with the relocation of residence of employees in order to facilitate retention and relocation of Commission headquarter employees.

§ 2034. General Manager, Deputy and Assistant General Managers

There is established within the Commission—

(a) General Manager; chief executive officer; duties; appointment; removal

a General manager, who shall be the chief executive officer of the Commission, and who

shall discharge such of the administrative and executive functions of the Commission as the Commission may direct. The General Manager shall be appointed by the Commission, shall serve at the pleasure of the Commission and shall be removable by the Commission.

(b) Deputy General Manager; duties; appointment; removal

a Deputy General Manager, who shall act in the stead of the General Manager during his absence when so directed by the General Manager, and who shall perform such other administrative and executive functions as the General Manager shall direct. The Deputy General Manager shall be appointed by the General Manager with the approval of the Commission, shall serve at the pleasure of the General Manager, and shall be removable by the General Manager.

(c) Assistant General Managers; duties; appointment; removal

Assistant General Managers, or their equivalents (not to exceed a total of three positions), who shall perform such administrative and executive functions as the General Manager shall direct. They shall be appointed by the General Manger with the approval of the Commission, shall serve at the pleasure of the General Manager, and shall be removable by the General Manager.

(Aug. 1, 1946, ch. 724, § 24, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 925, and amended Sept. 4, 1957, Pub. L. 85-287, § 2, 71 Stat. 612; Aug. 14, 1964, Pub. L. 88-426, title III, § 306(f)(1)-(3), 78 Stat. 429.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(a)(4)(A) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1964—Subsec. (a). Pub. L. 88-426, § 306(f)(1), eliminated provisions which prescribed the compensation of the General Manager. Such compensation is now prescribed by section 5315 of Title 5, Government Organization and Employees.

Subsec. (b). Pub. L. 88-426, § 306(f)(2), eliminated provisions which prescribed the compensation of the Deputy General Manager. Such compensation is now prescribed by section 5316 of Title 5, Government Organization and Employees.

Subsec. (c). Pub. L. 88-426, § 306(f)(3), eliminated provisions which prescribed the compensation of the Assistant General Managers. Such compensation is now prescribed by section 5316 of Title 5, Government Organization and Employees.

1957—Subsec. (a). Pub. L. 85-287 designated existing provisions as subsec. (a), designated the General Manager as the chief executive officer of the Commission, and increased his compensation from $20,000 to $22,000 per annum.

Subsecs. (b), (c). Pub. L. 85-287 added subsecs. (b) and (c).

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration and The Nuclear Regulatory Commission, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2035. Divisions, offices, and positions

There is established within the Commission—

(a) Program divisions; appointment and powers of the Assistant General Manager and the Division Directors

a Division of Military Application and such other program divisions (not to exceed ten in number) as the Commission may determine to the necessary to the discharge of its responsibilities, including a division or divisions the primary responsibilities of which include the development and application of civilian uses of atomic energy. The Division of Military Application shall be under the direction of an Assistant General Manager for Military Application, who shall be appointed by the Commission and shall be an active commissioned officer of the Armed Forces serving in general or flag officer rank or grade, as appropriate. Each other program division shall be under the direction of a Director who shall be appointed by the Commission. The Commission shall require each such division to exercise such of the Commission's administrative and executive powers as the Commission may determine;

(b) General Counsel

an Office of the General Counsel under the direction of the General Counsel who shall be appointed by the Commission; and

(c) Inspection Division; duties

an Inspection Division under the direction of a Director who shall be appointed by the Commission. The Inspection Division shall be responsible for gathering information to show whether or not the contractors, licensees, and officers and employees of the Commission are complying with the provisions of this chapter (except those provisions for which the Federal Bureau of Investigation is responsible) and the appropriate rules and regulations of the Commission.

(d) Executive management positions; appointment; removal

such other executive management positions (not to exceed six in number) as the Commission may determine to be necessary to the discharge of its responsibilities. Such positions shall be established by the General Manager with the approval of the Commission. They shall be appointed by the General Manager with the approval of the Commission, shall serve at the pleasure of the General Manager, and shall be removable by the General Manager.

(Aug. 1, 1946, ch. 724, § 25 as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 925, and amended Sept. 4, 1957, Pub. L. 85-287, § 3, 71 Stat. 612; Aug. 14, 1964, Pub. L. 88-426, title III, § 306(f)

(4)-(7), 78 Stat. 429, 430; Dec. 14, 1967, Pub. L. 90-190, § 5, 81 Stat. 577.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(a)(4)(B) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-190 substituted an Assistant General Manager for Military Application, who would be appointed by the Commission, for the Director of the Division of Military Application as the head of the Division of Military Application, added the requirement that the Assistant General Manager be a commissioned officer of the Armed Forces serving in general or flag officer rank or grade, as appropriate, and substituted "other program division" for "such division".

1964—Subsec. (a). Pub. L. 88-426, § 306(f)(4), eliminated provisions which prescribed the compensation of directors of program divisions.

Subsec. (b). Pub. L. 88-426, § 306(f)(5), eliminated provisions which prescribed the compensation of the General Counsel. Such compensation is now prescribed by section 5316 of Title 5, Government Organization and Employees.

Subsec. (c). Pub. L. 88-426, § 306(f)(6), eliminated provisions which prescribed the compensation of the Director of the Inspection Division.

Subsec. (d). Pub. L. 88-426, § 306(f)(7), eliminated provisions which prescribed the compensation of the executive management positions.

1957—Pub. L. 85-287 substituted "Divisions, offices, and positions" for "Divisions and offices" in the catchline.

Subsec. (a). Pub. L. 85-287 increased the compensation of the Director from $16,000 to $19,000 per annum.

Subsec. (b). Pub. L. 85-287 increased the compensation of the General Counsel from $16,000 to $19,500 per annum.

Subsec. (c). Pub. L. 85-287 increased the compensation of the Director from $16,000 to $19,000 per annum.

Subsec. (d) Pub. L. 85-287 added subsec. (d).

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426.

TRANSFER OF FUNCTIONS

Divisions of Military Application and Naval Reactors established under this section transferred to the Energy Research and Development Administration and the functions of the Atomic Energy Commission with respect thereto, and with respect to relations with the Military Liaison Committee established by section 2037 of this title, transferred to the Administrator, see section 5814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5814 of this title.

§ 2036. General Advisory Committee; composition; tenure; meetings; compensation

There shall be a General Advisory Committee to advise the Commission on scientific and technical matters relating to materials, production, and research and development, to be composed of nine members, who shall be appointed from civilian life by the President. Each member shall hold office for a term of six years, except that (a) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term; and (b) the terms of office of the members first taking office after August 1, 1946, shall expire, as designated by the President at the time of appointment, three at the end of two years, three at the end of four years, and three at the end of six years, after August 1, 1946. The Committee shall designate one of its own members as Chairman. The Committee shall meet at least four times in every calendar year. The members of the Committee shall receive a per diem compensation for each day spent in meetings or conferences, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Committee.

(Aug. 1, 1946, ch. 724, § 26, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 926.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(b) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

General Advisory Committee transferred to the Energy Research and Development Administration and the functions of the Atomic Energy Commission with respect thereto, and with respect to relations with the Military Liaison Committee established by section 2037 of this title, transferred to the Administrator, see section 5814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2203, 5814 of this title.

§ 2037. Military Liaison Committee; composition; duties; authority of Defense Department

There is established a Military Liaison Committee consisting of—

(a) a Chairman, who shall be the head thereof and who shall be appointed by the President, by and with the advice and consent of the Senate, who shall serve at the pleasure of the President; and

(b) a representative or representatives from each of the Departments of the Army, Navy, and Air Force, in equal numbers, as determined by the Secretary of Defense, to be assigned from each Department by the Secretary thereof, and who will serve without additional compensation.

The Chairman of the Committee may designate one of the members of the Committee as Acting Chairman to act during his absence. The Commission shall advise and consult with the Department of Defense, through the Committee, on all atomic energy matters which the Department of Defense deems to relate to military applications of atomic weapons or atomic energy including the development, manufacture, use, and storage of atomic weapons, the allocation of special nuclear material for military research, and the control of information relating to the manufacture or utilization of atomic weapons; and shall keep the Department of Defense, through the Committee, fully and currently informed of all such matters before the Commission. The Department of Defense,

through the Committee, shall keep the Commission fully and currently informed on all matters within the Department of Defense which the Commission deems to relate to the development or application of atomic energy. The Department of Defense, through the Committee, shall have the authority to make written recommendations to the Commission from time to time on matters relating to military applications of atomic energy as the Department of Defense may deem appropriate. If the Department of Defense at any time concludes that any request, action, proposed action, or failure to act on the part of the Commission is adverse to the responsibilities of the Department of Defense, the Secretary of Defense shall refer the matter to the President whose decision shall be final.

(Aug. 1, 1946, ch. 724, § 27, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 926, and amended Aug. 14, 1964, Pub. L. 88-426, title III, § 305(10)(B), 78 Stat. 423.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(c) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1964—Subsec. (a). Pub. L. 88-426 repealed provisions which directed that the chairman shall receive compensation at the rate prescribed for an Assistant Secretary of Defense.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426.

TRANSFER OF FUNCTIONS

Functions of the Atomic Energy Commission with respect to relations with the Military Liaison Committee, transferred to the Administrator, see section 5814 of this title.

CROSS REFERENCES

Compensation of Chairman of Committee, see section 5316 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5814 of this title.

§ 2038. Appointment of Army, Navy, or Air Force officer as Assistant General Manager for Military Application; Chairman of Military Liaison Committee; compensation

Notwithstanding the provisions of any other law, the officer of the Army, Navy, or Air Force serving as Assistant General Manager for Military Application shall serve without prejudice to his commissioned status as such officer. Any such officer serving as Assistant General Manager for Military Application shall receive in addition to his pay and allowances, including special and incentive pays, for which pay and allowances the Commission shall reimburse his service, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation established for this position. Notwithstanding the provisions of any other law, any active or retired officer of the Army, Navy, or Air Force may serve as Chairman of the Military Liaison Committee without prejudice to his active or retired status as such officer. Any such active officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation fixed for such Chairman. Any such retired officer serving as Chairman of the Military Liaison Committee shall receive the compensation fixed for such Chairman and his retired pay, subject to section 5532 of title 5.

(Aug. 1, 1946, ch. 724, § 28, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 926, and amended Aug. 14, 1964, Pub. L. 88-426, title III, § 306(f)(8), 78 Stat. 430; Aug. 19, 1964, Pub. L. 88-448, title IV, § 401(f), 78 Stat. 490; Dec. 14, 1967, Pub. L. 90-190, § 6, 81 Stat. 577.)

CODIFICATION

"Section 5532 of title 5" was substituted for "section 201 of the Dual Compensation Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(d) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1967—Pub. L. 90-190 substituted "the officer of the Army, Navy, or Air Force serving" for "any active officer of the Army, Navy, or Air Force may serve" and "Assistant General Manager for Military Application" for "Director of the Division of Military Application" wherever appearing, provided for reimbursement by the Commission to the service of the Assistant General Manager for the pay and allowances received by him from his service while he is serving as Assistant General Manager, and struck out references to sections 2211 and 2213 of former title 5.

1964—Pub. L. 88-448 substituted provisions permitting a retired officer serving as Chairman of the Military Liaison Committee to receive the compensation fixed for such Chairman and his retired pay, subject to section 3102 of former title 5, for provisions which permitted a retired officer serving as Chairman to receive in addition to his retired pay, an amount equal to the difference between his retired pay and the compensation prescribed for the Chairman.

Pub. L. 88-426 substituted "and the compensation established for this position pursuant to section 2211 or 2213 of title 5" for "and the compensation prescribed in section 2035 of this title".

EFFECTIVE DATE OF 1964 AMENDMENTS

Amendment by Pub. L. 88-448 effective on the first day of the first month which begins later than the ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88-448.

Amendment by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to

and vested in the Administrator of the Energy Research and Development Administration and the Nuclear Regulatory Commission with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2039. Advisory Committee on Reactor Safeguards; composition; tenure; duties; compensation

There is established an Advisory Committee on Reactor Safeguards consisting of a maximum of fifteen members appointed by the Commission for terms of four years each. The Committee shall review safety studies and facility license applications referred to it and shall make reports thereon, shall advise the Commission with regard to the hazards of proposed or existing reactor facilities and the adequacy of proposed reactor safety standards, and shall perform such other duties as the Commission may request. One member shall be designated by the Committee as its Chairman. The members of the Committee shall receive a per diem compensation for each day spent in meetings or conferences, or other work of the Committee, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Committee. The provisions of section 2203 of this title shall be applicable to the Committee.

(Aug. 1, 1946, ch. 724, § 29, as added Sept. 2, 1957, Pub. L. 85-256, § 5, 71 Stat. 579.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission and the Administrator, Energy and Development Administration, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER III—RESEARCH

§ 2051. Research and development assistance

(a) Contracts and loans for research activities

The Commission is directed to exercise its powers in such manner as to insure the continued conduct of research and development and training activities in the fields specified below, by private or public institutions or persons, and to assist in the acquisition of an ever-expanding fund of theoretical and practical knowledge in such fields. To this end the Commission is authorized and directed to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities relating to—

(1) nuclear processes;

(2) the theory and production of atomic energy, including processes, materials, and devices related to such production;

(3) utilization of special nuclear material and radioactive material for medical, biological, agricultural, health, or military purposes;

(4) utilization of special nuclear material, atomic energy, and radioactive material and processes entailed in the utilization or production of atomic energy or such material for all other purposes, including industrial or commercial uses, the generation of usable energy, and the demonstration of advances in the commercial or industrial application of atomic energy;

(5) the protection of health and the promotion of safety during research and production activities; and

(6) the preservation and enhancement of a viable environment by developing more efficient methods to meet the Nation's energy needs.

(b) Grants and contributions for facilities in educational and training institutions

The Commission is further authorized to make grants and contributions to the cost of construction and operation of reactors and other facilities and other equipment to colleges, universities, hospitals, and eleemosynary or charitable institutions for the conduct of educational and training activities relating to the fields in subsection (a) of this section.

(c) Purchase of supplies without advertising

The Commission may (1) make arrangements pursuant to this section, without regard to the provisions of section 5 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable; (2) make partial and advance payments under such arrangements; and (3) make available for use in connection therewith such of its equipment and facilities as it may deem desirable.

(d) Prevention of dissemination of information prohibited; other conditions of agreements

The arrangements made pursuant to this section shall contain such provisions (1) to protect health, (2) to minimize danger to life or property, and (3) to require the reporting and to permit the inspection of work performed thereunder, as the Commission may determine. No such arrangement shall contain any provisions or conditions which prevent the dissemination of scientific or technical information, except to the extent such dissemination is prohibited by law.

(Aug. 1, 1946, ch. 724, § 31, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 927, and amended Aug. 6, 1956, ch. 1015, §§ 2, 3, 70 Stat. 1069; Dec. 19, 1970, Pub. L. 91-560, § 1, 84 Stat. 1472; Aug. 11, 1971, Pub. L. 92-84, title II, § 201(a), 85 Stat. 307.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1803(a) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1971—Subsec. (a)(6). Pub. L. 92-84 added subsec. (a)(6).

1970—Subsec. (a)(4). Pub. L. 91-560 added commercial uses as an additional purpose and substituted "demonstration of advances in the commercial or industrial application of atomic energy" for "demonstration of the practical value of utilization or production facilities for industrial or commercial purposes".

1956—Subsec. (a). Act Aug. 6, 1956, § 2, inserted the words "and training" after the word "development" in the first sentence.

Subsec. (b). Act Aug. 6, 1956, § 3, added subsec. (b) and redesignated former subsecs. (b) and (c), as subsecs. (c) and (d).

Subsecs. (c), (d). Act Aug. 6, 1956, § 3, redesignated former subsecs. (b) and (c) as (c) and (d).

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under subsec. (b) of this section were transferred to and vested in the Administrator, Energy Research and Development Administration, and the functions under subsecs. (a), (c), and (d) of this section, were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2052, 2053, 2061, 2073, 2093, 2122, 2134, 2165, 2183, 2201, 2209, 5817 of this title.

§ 2052. Research by the Commission

The Commission is authorized and directed to conduct, through its own facilities, activities and studies of the types specified in section 2051 of this title.

(Aug. 1, 1946, ch. 724, § 32, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 928.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1803(b) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission and the Administrator, Energy Research and Development Administration, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5817 of this title.

§ 2053. Research for others; charges

Where the Commission finds private facilities or laboratories are inadequate for the purpose, it is authorized to conduct for other persons, through its own facilities, such of those activities and studies of the types specified in section 2051 of this title as it deems appropriate to the development of energy. To the extent the Commission determines that private facilities or laboratories are inadequate for the purpose, and that the Commission's facilities, or scientific or technical resources have the potential of lending significant assistance to other persons in the fields of protection of public health and safety, the Commission may also assist other persons in these fields by conducting for such persons, through the Commission's own facilities, research and development or training activities and studies. The Commission is authorized to determine and make such charges as in its discretion may be desirable for the conduct of the activities and studies referred to in this section.

(Aug. 1, 1946, ch. 724, § 33, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 928, and amended Dec. 14, 1967, Pub. L. 90-190, § 7, 81 Stat. 577; Aug. 11, 1971, Pub. L. 92-84, title II, § 201(b), 85 Stat. 307.)

AMENDMENTS

1971—Pub. L. 92-84 substituted provisions authorizing the Commission to conduct research for other persons for the development of energy, for provisions authorizing the Commission to conduct research for other persons for the development of atomic energy.

1967—Pub. L. 90-190 added the provision which authorized the Commission, to the extent the Commission made certain determinations, to assist other persons on the fields of protection of public health and safety by conducting for such persons, through the facilities of the Commission, research and development or training activities and studies, and substituted "the activities and studies referred to in this section" for "such activities and studies".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, with the exception that the Nuclear Regulatory Commission retains authority to contract out for research as it deems necessary to exercise its licensing and regulatory functions. See section 5814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5817 of this title.

SUBCHAPTER IV—PRODUCTION OF SPECIAL NUCLEAR MATERIAL

§ 2061. Production facilities

(a) Ownership

The Commission, as agent of and on behalf of the United States, shall be the exclusive owner of all production facilities other than facilities which (1) are useful in the conduct of research and development activities in the fields specified in section 2051 of this title, and do not, in the opinion of the Commission, have a potential production rate adequate to enable the user of such facilities to produce within a reasonable period of time a sufficient quantity of special nuclear material to produce an atomic weapon; or (2) are licensed by the Commission pursuant to section 2133 or 2134 of this title.

(b) Operation of Commission's facilities

The Commission is authorized and directed to produce or to provide for the production of special nuclear material in its own production facilities. To the extent deemed necessary, the

Commission is authorized to make, or to continue in effect, contracts with persons obligating them to produce special nuclear material in facilities owned by the Commission. The Commission is also authorized to enter into research and development contracts authorizing the contractor to produce special nuclear material in facilities owned by the Commission to the extent that the production of such special nuclear material may be incident to the conduct of research and development activities under such contracts. Any contract entered into under this section shall contain provisions (1) prohibiting the contractor from subcontracting any part of the work he is obligated to perform under the contract, except as authorized by the Commission; and (2) obligating the contractor (A) to make such reports pertaining to activities under the contract to the Commission as the Commission may require, (B) to submit to inspection by employees of the Commission of all such activities, and (C) to comply with all safety and security regulations which may be prescribed by the Commission. Any contract made under the provisions of this subsection may be made without regard to the provisions of section 5 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under such contracts.

(c) Operation of other facilities

Special nuclear material may be produced in the facilities which under this section are not required to be owned by the Commission.

(Aug. 1, 1946, ch. 724, § 41, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921 and amended Dec. 14, 1967, Pub. L. 90-190, § 8, 81 Stat. 577.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 4 of act Aug. 1, 1946, ch. 724, 60 Stat. 759, which was classified to section 1804 of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

AMENDMENTS

1967—Subsec. (b). Pub. L. 90-190 struck out the provision requiring the President to determine in writing at least once each year the quantities of special nuclear material to be produced under this section, and to specify in such determination the quantities of special nuclear material to be available for distribution by the Commission pursuant to sections 2073 and 2074 of this title.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2165 of this title.

§ 2062. Irradiation of materials

The Commission and persons lawfully producing or utilizing special nuclear material are authorized to expose materials of any kind to the radiation incident to the processes of producing or utilizing special nuclear material.

(Aug. 1, 1946, ch. 724, § 42, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 4 of act Aug. 1, 1946, ch. 724, 60 Stat. 759, which was classified to section 1804 of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

§ 2063. Acquisition of production facilities

The Commission is authorized to purchase any interest in facilities for the production of special nuclear materials, or in real property on which such facilities are located, without regard to the provisions of section 5 of title 41 upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes. The Commission is further authorized to requisition, condemn, or otherwise acquire any interest in such production facilities, or to condemn or otherwise acquire such real property, and just compensation shall be made therefor.

(Aug. 1, 1946, ch. 724, § 43, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 5 of act Aug. 1, 1946, ch. 724, 60 Stat. 760, which was classified to section 1805 of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2221 of this title.

§ 2064. Disposition of energy; regulation on sale

If energy is produced at production facilities of the Commission or is produced in experimental utilization facilities of the Commission, such energy may be used by the Commission, or transferred to other Government agencies, or sold to publicly, cooperatively, or privately owned utilities or users at reasonable and nondiscriminatory prices. If the energy produced is electric energy, the price shall be subject to regulation by the appropriate agency having juris-

diction. In contracting for the disposal of such energy, the Commission shall give preference and priority to public bodies and cooperatives or to privately owned utilities providing electric utility services to high cost areas not being served by public bodies or cooperatives. Nothing in this chapter shall be construed to authorize the Commission to engage in the sale or distribution of energy for commercial use except such energy as may be produced by the Commission incident to the operation of research and development facilities of the Commission, or of production facilities of the Commission.

(Aug. 1, 1946, ch. 724, § 44, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 7(d) of act Aug. 1, 1946, ch. 724, 60 Stat. 764, which was classified to section 1807(d) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

SUBCHAPTER V—SPECIAL NUCLEAR MATERIAL

CROSS REFERENCES

Agreements with States for discontinuance of Commission regulation of certain materials under this subchapter and exemptions from licensing requirements therein contained, see section 2021 of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2014, 2021, 5842 of this title.

§ 2071. Determination of other material as special nuclear material; Presidential assent; effective date

The Commission may determine from time to time that other material is special nuclear material in addition to that specified in the definition as special nuclear material. Before making any such determination, the Commission must find that such material is capable of releasing substantial quantities of atomic energy and must find that the determination that such material is special nuclear material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Joint Committee and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment for more than three days) before the determination of the Commission may become effective: *Provided, however,* That the Joint Committee, after having received such determination, may by resolution in writing, waive the conditions of or all or any portion of such thirty-day period.

(Aug. 1, 1946, ch. 724, § 51, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(1) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission and the Administrator, Energy Research and Development Administration, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2201 of this title.

§ 2072. Repealed. Pub. L. 88-489, § 4, Aug. 26, 1964, 78 Stat. 603

Section, act Aug. 1, 1946, ch. 724, § 52, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929, related to Government ownership of all special nuclear material, and provided for the compensation of private owners of such material.

EXTINGUISHMENT OF RIGHTS, TITLE AND INTEREST IN SPECIAL NUCLEAR MATERIAL

Section 4 of Pub. L. 88-489 provided in part that: "All rights, title, and interest in and to any special nuclear material vested in the United States solely by virtue of the provisions of the first sentence of such section 52 [this section], and not by any other transaction authorized by the Atomic Energy Act of 1954, as amended [this chapter], or other applicable law, are hereby extinguished."

§ 2073. Domestic distribution of special nuclear material

(a) Licenses

The Commission is authorized (i) to issue licenses to transfer or receive in interstate commerce, transfer, deliver, acquire, possess, own, receive possession of or title to, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, special nuclear material, (ii) to make special nuclear material available for the period of the license, and, (iii) to distribute special nuclear material within the United States to qualified applicants requesting such material—

(1) for the conduct of research and development activities of the types specified in section 2051 of this title;

(2) for use in the conduct of research and development activities or in medical therapy under a license issued pursuant to section 2134 of this title;

(3) for use under a license issued pursuant to section 2133 of this title;

(4) for such other uses as the Commission determines to be appropriate to carry out the purposes of this chapter.

(b) Minimum criteria for licenses

The Commission shall establish, by rule, minimum criteria for the issuance of specific or general licenses for the distribution of special nuclear material depending upon the degree of

importance to the common defense and security or to the health and safety of the public of—

(1) the physical characteristics of the special nuclear material to be distributed;

(2) the quantities of special nuclear material to be distributed; and

(3) the intended use of the special nuclear material to be distributed.

(c) Manner of distribution; charges for material sold; agreements; charges for material leased

(1) The Commission may distribute special nuclear material licensed under this section by sale, lease, lease with option to buy, grant, or through the provision of production or enrichment services: *Provided, however,* That unless otherwise authorized by law, the Commission shall not after December 31, 1970, distribute special nuclear material except by sale or through the provision of production or enrichment services to any person who possesses or operates a utilization facility under a license issued pursuant to section 2133 or 2134(b) of this title for use in the course of activities under such license; nor shall the Commission permit any such person after June 30, 1973, to continue leasing for use in the course of such activities special nuclear material previously leased to such person by the Commission.

(2) The Commission shall establish reasonable sales prices for the special nuclear material licensed and distributed by sale under this section. Such sales prices shall be established on a nondiscriminatory basis which, in the opinion of the Commission, will provide reasonable compensation to the Government for such special nuclear material.

(3) The Commission is authorized to enter into agreements with licensees for such period of time as the Commission may deem necessary or desirable to distribute to such licensees such quantities of special nuclear material as may be necessary for the conduct of the licensed activity. In such agreements, the Commission may agree to repurchase any special nuclear material licensed and distributed by sale which is not consumed in the course of the licensed activity, or any uranium remaining after irradiation of such special nuclear material, at a repurchase price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission.

(4) The Commission may make a reasonable charge, determined pursuant to this section, for the use of special nuclear material licensed and distributed by lease under subsection (a)(1), (2) or (4) of this section and shall make a reasonable charge determined pursuant to this section for the use of special nuclear material licensed and distributed by lease under subsection (a)(3) of this section. The Commission shall establish criteria in writing for the determination of whether special nuclear material will be distributed by grant and for the determination of whether a charge will be made for the use of special nuclear material licensed and distributed by lease under subsection (a)(1), (2) or (4) of this section, considering, among other things, whether the licensee is a nonprofit or eleemosynary institution and the purposes for which the special nuclear material will be used.

(d) Determination of charges

In determining the reasonable charge to be made by the Commission for the use of special nuclear material distributed by lease to licensees of utilization or production facilities licensed pursuant to section 2133 or 2134 of this title, in addition to consideration of the cost thereof, the Commission shall take into consideration—

(1) the use to be made of the special nuclear material;

(2) the extent to which the use of the special nuclear material will advance the development of the peaceful uses of atomic energy;

(3) the energy value of the special nuclear material in the particular use for which the license is issued;

(4) whether the special nuclear material is to be used in facilities licensed pursuant to section 2133 or 2134 of this title. In this respect, the Commission shall, insofar as practicable, make uniform, nondiscriminatory charges for the use of special nuclear material distributed to facilities licensed pursuant to section 2133 of this title; and

(5) with respect to special nuclear material consumed in a facility licensed pursuant to section 2133 of this title, the Commission shall make a further charge equivalent to the sale price for similar special nuclear material established by the Commission in accordance with subsection (c)(2) of this section, and the Commission may make such a charge with respect to such material consumed in a facility licensed pursuant to section 2134 of this title.

(e) License conditions

Each license issued pursuant to this section shall contain and be subject to the following conditions—

(1) Repealed. Pub. L. 88-489, § 8, Aug. 26, 1964, 78 Stat. 604.

(2) no right to the special nuclear material shall be conferred by the license except as defined by the license;

(3) neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of this chapter;

(4) all special nuclear material shall be subject to the right of recapture or control reserved by section 2138 of this title and to all other provisions of this chapter;

(5) no special nuclear material may be used in any utilization or production facility except in accordance with the provisions of this chapter;

(6) special nuclear material shall be distributed only on terms, as may be established by rule of the Commission, such that no user will be permitted to construct an atomic weapon;

(7) special nuclear material shall be distributed only pursuant to such safety standards as may be established by rule of the Commission to protect health and to minimize danger to life or property; and

(8) except to the extent that the indemnification and limitation of liability provisions of section 2210 of this title apply, the licensee will hold the United States and the Commission harmless from any damages resulting

from the use or possession of special nuclear material by the licensee.

(f) Distribution for independent research and development activities

The Commission is directed to distribute within the United States sufficient special nuclear material to permit the conduct of widespread independent research and development activities to the maximum extent practicable. In the event that applications for special nuclear material exceed the amount available for distribution, preference shall be given to those activities which are most likely, in the opinion of the Commission, to contribute to basic research, to the development of peacetime uses of atomic energy, or to the economic and military strength of the Nation.

(Aug. 1, 1946, ch. 724, § 53, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 930, and amended Sept. 2, 1957, Pub. L. 85-256, § 2, 71 Stat. 576; Aug. 19, 1958, Pub. L. 85-681, §§ 1, 2, 72 Stat. 632; Aug. 26, 1964, Pub. L. 88-489, §§ 5-8, 78 Stat. 603, 604; Dec. 14, 1967, Pub. L. 90-190, §§ 9, 10, 81 Stat. 577.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(4) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1967—Subsec. (c)(1). Pub. L. 90-190, § 10, added "or through the provision of production or enrichment services" wherever appearing.

Subsec. (f). Pub. L. 90-190, § 9, struck out the reference to the limitations on the distribution of special nuclear materials set by the President in determinations made pursuant to section 2061 of this title.

1964—Subsec. (a). Pub. L. 88-489, § 5, substituted "(i) to issue licenses to transfer or receive in interstate commerce, transfer, deliver, acquire, possess, own, receive possession of or title to, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, special nuclear material, (ii) to make special nuclear material available for the period of the license, and, (iii)" for "to issue licenses for the possession of, to make available for the period of the license, and".

Subsec. (c). Pub. L. 88-489, § 6, designated existing provisions as par. (4), inserted "by lease" wherever appearing and "special nuclear material will be distributed by grant and for the determination of whether" therein, and added pars. (1) to (3).

Subsec. (d). Pub. L. 88-489, § 7, inserted "by lease" in the introductory provisions, and in ch. (5) substituted "equivalent to the sale price for similar special nuclear material established by the Commission in accordance with subsection (c)(2) of this section, and the Commission may make such a charge with respect to such material consumed in a facility licensed pursuant to section 2134 of this title" for "based on the cost to the Commission, as estimated by the Commission, or the average fair price paid for the production of such special nuclear material as determined by section 2076 of this title, whichever is lower".

Subsec. (e)(1). Pub. L. 88-489, § 8, deleted par. (1) which provided that title to all special nuclear material shall at all times be in the United States.

1958—Subsec. (a)(4). Pub. L. 85-681, § 1 added subsec. (a)(4).

Subsec. (c). Pub. L. 85-681, § 2, substituted "subsections (a)(1), (2) or (4)" for "subsection (a)(1) or (a)(2)".

1957—Subsec. (e)(8). Pub. L. 85-256 inserted "except to the extent that the indemnification and limitation of liability provisions of section 2210 of this title apply,".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission and the Administrator, Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, with the exception that functions under subsec. (a)(ii), (iii) of this section apply only to the Administrator, and the functions under subsec. (i) of this section apply only to the Nuclear Regulatory Commission. See sections 5814 and 5841 of this title.

CROSS REFERENCES

Nonprofit educational institution exempt from financial protection requirement, see section 2210 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021, 2076, 2077, 2078, 2153, 2183, 2201, 2210, 2282 of this title.

§ 2074. Foreign distribution of special nuclear material

(a) Compensation; distribution to International Atomic Energy Agency; procedure for distribution; repurchase of unconsumed materials; price; purchase of materials produced outside United States; price

The Commission is authorized to cooperate with any nation or group of nations by distributing special nuclear material and to distribute such special nuclear material, pursuant to the terms of an agreement for cooperation to which such nation or group of nations is a party and which is made in accordance with section 2153 of this title. Unless hereafter otherwise authorized by law the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material, except that the Commission to assist and encourage research on peaceful uses or for medical therapy may so distribute without charge during any calendar year only a quantity of such material which at the time of transfer does not exceed in value $10,000 in the case of one nation or $50,000 in the case of any group of nations. The Commission may distribute to the International Atomic Energy Agency, or to any group of nations, only such amounts of special nuclear materials and for such period of time as are authorized by Congress: *Provided, however,* That, (i) notwithstanding this provision, the Commission is hereby authorized, subject to the provisions of section 2153 of this title, to distribute to the Agency five thousand kilograms of contained uranium-235, five hundred grams of uranium-233, and three kilograms of plutonium, together with the amounts of special nuclear material which will match in amount the sum of all quantities of special nuclear materials made available by all other members of the Agency to June 1, 1960; and (ii) notwithstanding the foregoing provisions of this subsection, the Commission may distribute to the International Atomic Energy Agency, or to any group of nations, such other amounts of special nuclear

materials and for such other periods of time as are established in writing by the Commission: *Provided, however,* That before they are established by the Commission pursuant to this subdivision (ii), such proposed amounts and periods shall be submitted to the Congress and referred to the Joint Committee and a period of sixty days shall elapse while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days): *And provided further,* That any such proposed amounts and periods shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed action: *And provided further,* That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed amounts and periods and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed amounts or periods. The Commission may agree to repurchase any special nuclear material distributed under a sale arrangement pursuant to this subsection which is not consumed in the course of the activities conducted in accordance with the agreement for cooperation, or any uranium remaining after irradiation of such special nuclear material, at repurchase price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission. The Commission may also agree to purchase, consistent with and within the period of the agreement for cooperation, special nuclear material produced in a nuclear reactor located outside the United States through the use of special nuclear material which was leased or sold pursuant to this subsection. Under any such agreement the Commission shall purchase only such material as is delivered to the Commission during any period when there is in effect a guaranteed purchase price for the same material produced in a nuclear reactor by a person licensed under section 2134 of this title, established by the Commission pursuant to section 2076 of this title, and the price to be paid shall be the price so established by the Commission and in effect for the same material delivered to the Commission.

(b) Distribution to persons outside United States of plutonium and other special nuclear material exempted under section 2077(d) of this title; compensation; reports

Notwithstanding the provisions of sections 2153 and 2154 of this title and section 125 of the Atomic Energy Act of 1954, the Commission is authorized to distribute to any person outside the United States (1) plutonium containing 80 per centum or more by weight of plutonium-238, and (2) other special nuclear material when it has, in accordance with subsection 2077(d) of this title, exempted certain classes or quantities of such other special nuclear material or kinds of uses or users thereof from the requirements for a license set forth in this chapter. Unless hereafter otherwise authorized by law, the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material. The Commission shall not distribute any plutonium containing 80 per centum or more by weight of plutonium-238 to any person under this subsection if, in its opinion, such distribution would be inimical to the common defense and security. The Commission may require such reports regarding the use of material distributed pursuant to the provisions of this subsection as it deems necessary.

(c) Licensing or granting permission to others to distribute special nuclear material; conditions

The Commission is authorized to license or otherwise permit others to distribute special nuclear material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission.

(Aug. 1, 1946, ch. 724, § 54, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 931, and amended Aug. 28, 1957, Pub. L. 85-177, § 7, 71 Stat. 455; Sept. 6, 1961, Pub. L. 87-206, § 4, 75 Stat. 476; Aug. 26, 1964, Pub. L. 88-489, § 9, 78 Stat. 604; Aug. 17, 1974, Pub. L. 93-377, § 2, 88 Stat. 473.)

REFERENCES IN TEXT

Section 125 of the Atomic Energy Act of 1954, referred to in subsec. (b), is section 125 of act Aug. 1, 1946, ch. 724, as added by Pub. L. 85-14, Apr. 12, 1957, 71 Stat. 11, and is set out as a note under section 2153 of this title.

AMENDMENTS

1974—Pub. L. 93-377 designated existing provisions as subsec. (a) and, as so designated, denominated initial proviso as cl. (i), added cl. (ii) and references to groups of nations, and substituted references to this subsection for references to this section, and added subsecs. (b) and (c).

1964—Pub. L. 88-489 authorized the repurchase of unconsumed special nuclear materials, or any uranium remaining after irradiation of such materials, at a price not exceeding the Commission's sale price for comparable material in effect at the time of delivery to the Commission, and the purchase of special nuclear material produced outside the United States through the use of material leased or sold under this section, during any period when there is a guaranteed purchase price for the same material as produced under section 2134 of this title, for such price as established by the Commission.

1961—Pub. L. 87-206 inserted "five hundred grams of uranium 233 and three kilograms of plutonium" following "five thousand kilograms of contained uranium 235".

1957—Pub. L. 85-177 amended section added provisions requiring compensation at domestic charges for materials distributed abroad except for peaceful or medical therapy uses, and required Commission to obtain authorization of Congress for materials to be contributed to the Agency beyond the amount made available by all other members of the Agency to July 1, 1960.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain

exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2075, 2077, 2153, 2154, 2294 of this title.

§ 2075. Acquisition of special nuclear material; payments; just compensation

The Commission is authorized, to the extent it deems necessary to effectuate the provisions of this chapter, to purchase without regard to the limitations in section 2074 of this title or any guaranteed purchase prices established pursuant to section 2076 of this title, and to take, requisition, condemn, or otherwise acquire any special nuclear material or any interest therein. Any contract of purchase made under this section may be made without regard to the provisions of section 5 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes. Just compensation shall be made for any right, property, or interest in property taken, requisitioned, or condemned under this section.

(Aug. 1, 1946, ch. 724, § 55, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 931, and amended Aug. 26, 1964, Pub. L. 88-489, § 10, 78 Stat. 604.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(5) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1964—Pub. L. 88-489 limited the authorization to the extent necessary to effectuate the chapter, inserted "without regard to the limitations in section 2074 of this title or any guaranteed purchase prices established pursuant to section 2076 of this title, and to take, requisition, condemn," and "Any contract of purchase made under this section may be made", provided for just compensation for any right, property, or interest taken, requisitioned, or condemned under this section, and deleted "outside the United States" which followed "any interest therein".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission and The Administrator, Energy Research and Development Administration, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2221 of this title.

§ 2076. Guaranteed purchase prices

The Commission shall establish guaranteed purchase prices for plutonium produced in a nuclear reactor by a person licensed under section 2134 of this title and delivered to the Commission before January 1, 1971. The Commission shall also establish for such periods of time as it may deem necessary, but not to exceed ten years as to any such period, guaranteed purchase prices for uranium enriched in the isotope 233 produced in a nuclear reactor by a person licensed under section 2133 or section 2134 and delivered to the Commission within the period of the guarantee. Guaranteed purchase prices established under the authority of this section shall not exceed the Commission's determination of the estimated value of plutonium or uranium enriched in the isotope 233 as fuel in nuclear reactors, and such prices shall be established on a nondiscriminatory basis: *Provided*, That the Commission is authorized to establish such guaranteed purchase prices only for such plutonium or uranium enriched in the isotope 233 as the Commission shall determine is produced through the use of special nuclear material which was leased or sold by the Commission pursuant to section 2073 of this title.

(Aug. 1, 1946, ch. 724, § 56, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 931, and amended Aug. 26, 1964, Pub. L. 88-489, § 11, 78 Stat. 605; Dec. 19, 1970, Pub. L. 91-560, § 2, 84 Stat. 1472.)

AMENDMENTS

1970—Pub. L. 91-560 extended the power of the Commission to establish guaranteed purchase prices for uranium produced by persons licensed under section 2133 of this title.

1964—Pub. L. 88-489 substituted provisions which directed the Commission to establish guaranteed purchase prices for plutonium produced by a person licensed under section 2134 of this title and delivered to the Commission prior to Jan. 1, 1971, and for uranium enriched in the isotope 233, for such periods of time as it deems necessary, but not exceeding ten years as to any such period, if produced by a person licensed under said section 2134, and delivered within the period of the guarantee, provided that guaranteed prices established under this section shall not exceed the Commission's estimated value of enriched plutonium or uranium as fuel in reactors, and shall be on a nondiscriminatory basis, and authorized such guaranteed prices only for such enriched plutonium or uranium as is produced through use of material leased or sold pursuant to section 2073 of this title, for provisions requiring the Commission to determine the fair price of special nuclear material by considering the value of the material for its intended use by the United States, and by giving such weight to the cost of production as it found to be equitable, providing that such price was to apply to all licensed producers of the same material, and permitting the Commission to establish guaranteed fair prices for all such material delivered to the Commission for such time as it deemed necessary, but not exceeding seven years.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2074, 2075, 2078, of this title.

§ 2077. Unauthorized dealings in special nuclear material

(a) Handling by persons

Unless authorized by a general or specific license issued by the Commission, which the Commission is authorized to issue pursuant to section 2073 of this title, no person may transfer or receive in interstate commerce, transfer, deliver, acquire, own, possess, receive possession of or title to, or import into or export from the United States any special nuclear material.

(b) Production by persons

It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) under an agreement for cooperation made pursuant to section 2153 of this title, or (2) upon authorization by the Commission after a determination that such activity will not be inimical to the interest of the United States.

(c) Distribution by Commission

The Commission shall not—

(1) distribute any special nuclear material to any person for a use which is not under the jurisdiction of the United States except pursuant to the provisions of section 2074 of this title; or

(2) distribute any special nuclear material or issue a license pursuant to section 2073 of this title to any person within the United States if the Commission finds that the distribution of such special nuclear material or the issuance of such license would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public.

(d) Establishment of classes of special nuclear material; exemption of materials, kinds of uses and users from requirement of license

The Commission is authorized to establish classes of special nuclear material and to exempt certain classes or quantities of special nuclear material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of special nuclear material or such kinds of uses or users would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public.

(Aug. 1, 1946, ch. 724, § 57, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 932, and amended Aug. 26, 1964, Pub. L. 88-489, § 12, 78 Stat. 605; Aug. 17, 1974, Pub. L. 93-377, § 3, 88 Stat. 475.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(3) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1974—Subsec. (d). Pub. L. 93-377 added subsec. (d).

1964—Pub. L. 88-489 amended section generally, and among other changes, included all special nuclear materials within the section, eliminated the condition that such material be "the property of the United States", included delivery, acquisition, ownership and receiving possession of or title to any special nuclear material within the acts prohibited to persons, prohibited the Commission from issuing a license pursuant to section 2073 of this title if the Commission finds that the issuance would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public, and extended the power of the Commission to refuse to distribute any special nuclear material if it finds that the distribution would constitute an unreasonable risk to the health and safety of the public.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission and The Administrator, Energy Research and Development Administration, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2074, 2121, 2153, 2154, 2201, 2272, 2282 of this title.

§ 2078. Congressional review of guaranteed purchase price, guaranteed purchase price period, and criteria for waiver of charges

Before the Commission establishes any guaranteed purchase price or guaranteed purchase price period in accordance with the provisions of section 2076 of this title, or establishes any criteria for the waiver of any charge for the use of special nuclear material licensed and distributed under section 2073 of this title, the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge shall be submitted to the Joint Committee and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days): *Provided, however,* That the Joint Committee, after having received the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five-day period.

(Aug. 1, 1946, ch. 724, § 58, as added July 3, 1957, Pub. L. 85-79, § 2, 71 Stat. 275, and amended Aug. 26, 1964, Pub. L. 88-489, § 13, 78 Stat. 605.)

AMENDMENTS

1964—Pub. L. 88-489 substituted "guaranteed purchase" and "purchase" for "fair" wherever appearing, "licensed and distributed" for "licensed or distributed", and provided that the Joint Committee resolution waiving the conditions of the forty-five-day period must be in writing.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

SUBCHAPTER VI—SOURCE MATERIAL

Cross References

Agreements with States for discontinuance of Commission regulation of certain materials under this subchapter and exemptions from licensing requirements therein contained, see section 2021 of this title.

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 2014, 2021, 5842 of this title.

§ 2091. Determination of source material

The Commission may determine from time to time that other material is source material in addition to those specified in the definition of source material. Before making such determination, the Commission must find that such material is essential to the production of special nuclear material and must find that the determination that such material is source material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Joint Committee and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days) before the determination of the Commission may become effective: *Provided, however,* That the Joint Committee, after having received such determination, may by resolution in writing waive the conditions of or all or any portion of such thirty-day period.

(Aug. 1, 1946, ch. 724, § 61, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 932.)

Prior Provisions

Provisions similar to this section were contained in section 1805(b)(1) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

Transfer of Functions

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

Section Referred to in Other Sections

This section is referred to in sections 2014, 2201 of this title; title 30 section 541e.

§ 2092. License requirements for transfers

Unless authorized by a general or specific license issued by the Commission which the Commission is authorized to issue, no person may transfer or receive in interstate commerce, transfer, deliver, receive possession of or title to, or import into or export from the United States any source material after removal from its place of deposit in nature, except that licenses shall not be required for quantit.es of source material which, in the opinion of the Commission, are unimportant.

(Aug. 1, 1946, ch. 724, § 62, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 932.)

Prior Provisions

Provisions similar to this section were contained in section 1805(b)(2) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

Transfer of Functions

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

Section Referred to in Other Sections

This section is referred to in sections 2121, 2183, 2282 of this title.

§ 2093. Domestic distribution of source material

(a) License

The Commission is authorized to issue licenses for and to distribute source material within the United States to qualified applicants requesting such material—

(1) for the conduct of research and development activities of the types specified in section 2051 of this title;

(2) for use in the conduct of research and development activities or in medical therapy under a license issued pursuant to section 2134 of this title;

(3) for use under a license issued pursuant to section 2133 of this title; or

(4) for any other use approved by the Commission as an aid to science or industry.

(b) Minimum criteria for licenses

The Commission shall establish, by rule, minimum criteria for the issuance of specific or general licenses for the distribution of source material depending upon the degree of importance to the common defense and security or to the health and safety of the public of—

(1) the physical characteristics of the source material to be distributed;

(2) the quantities of source material to be distributed; and

(3) the intended use of the source material to be distributed.

(c) Determination of charges

The Commission may make a reasonable charge determined pursuant to section 2201(m) of this title for the source material licensed and distributed under subsection (a)(1), (a)(2), or (a)(4) of this section and shall make a reasonable charge determined pursuant to section 2201(m) of this title, for the source material licensed and distributed under subsection (a)(3) of this section. The Commission shall establish criteria in writing for the determination of whether a charge will be made for the source material licensed and distributed under subsection (a)(1), (a)(2), or (a)(4) of this section, considering, among other things, whether the licensee is a nonprofit or eleemosynary institution and the purposes for which the source material will be used.

(Aug. 1, 1946, ch. 724, § 63, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 933.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(3) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section relating to distribution of source material were transferred to and vested in the Administrator of the Energy Research and Development Administration and the functions relating to licensing transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

CROSS REFERENCES

Nonprofit educational institution exempt from financial protection requirement, see section 2210 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2210 of this title.

§ 2094. Foreign distribution of source material

The Commission is authorized to cooperate with any nation by distributing source material and to distribute source material pursuant to the terms of an agreement for cooperation to which such nation is a party and which is made in accordance with section 2153 of this title. The Commission is also authorized to distribute source material outside of the United States upon a determination by the Commission that such activity will not be inimical to the interests of the United States.

(Aug. 1, 1946, ch. 724, § 64, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 933.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2153, 2154 of this title.

§ 2095. Reports

The Commission is authorized to issue such rules, regulations, or orders requiring reports of ownership, possession, extraction, refining, shipment, or other handling of source material as it may deem necessary, except that such reports shall not be required with respect to (a) any source material prior to removal from its place of deposit in nature, or (b) quantities of source material which in the opinion of the Commission are unimportant or the reporting of which will discourage independent prospecting for new deposits.

(Aug. 1, 1946, ch. 724, § 65, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 933.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(4) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission and the Administrator, Energy Research and Development Administration, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2273 of this title.

§ 2096. Acquisition of source material; payments

The Commission is authorized and directed, to the extent it deems necessary to effectuate the provisions of this chapter—

(a) to purchase, take, requisition, condemn, or otherwise acquire supplies of source material;

(b) to purchase, condemn, or otherwise acquire any interest in real property containing deposits of source material; and

(c) to purchase, condemn, or otherwise acquire rights to enter upon any real property deemed by the Commission to have possibilities of containing deposits of source material in order to conduct prospecting and exploratory operations for such deposits.

Any purchase made under this section may be made without regard to the provisions of section 5 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advanced payments may be made under contracts for such purposes. The Commission may establish guaranteed prices for all source material delivered to it within a specified time. Just compensation shall be made for any right, property, or interest in property taken, requisitioned, condemned, or otherwise acquired under this section.

(Aug. 1, 1946, ch. 724, § 66, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 933.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(5) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission and the Administrator, Energy Research and Development Administration, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2221 of this title.

§ 2097. Operations on lands belonging to the United States

The Commission is authorized, to the extent it deems necessary to effectuate the provisions of this chapter, to issue leases or permits for prospecting for, exploration for, mining of, or removal of deposits of source material in lands belonging to the United States: *Provided, however,* That notwithstanding any other provisions of law, such leases or permits may be issued for lands administered for national park, monument, and wildlife purposes only when the President by Executive Order declares that the requirements of the common defense and security make such action necessary.

(Aug. 1, 1946, ch. 724, § 67, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 934.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2183 of this title.

§ 2098. Public and acquired lands

(a) Conditions on location, entry, and settlement

No individual, corporation, partnership, or association, which had any part, directly or indirectly, in the development of the atomic energy program, may benefit by any location, entry, or settlement upon the public domain made after such individual, corporation, partnership, or association took part in such project, if such individual, corporation, partnership, or association, by reason of having had such part in the development of the atomic energy program, acquired confidential official information as to the existence of deposits of such uranium, thorium, or other materials in the specific lands upon which such location, entry, or settlement is made, and subsequent to August 30, 1954, made such location, entry, or settlement or caused the same to be made for his, or its, or their benefit.

(b) Reservation of mineral rights; release

Any reservation of radioactive mineral substances, fissionable materials, or source material, together with the right to enter upon the land and prospect for, mine, and remove the same, inserted pursuant to Executive Order 9613 of September 13, 1945, Executive Order 9701 of March 4, 1946, the Atomic Energy Act of 1946 [42 U.S.C. 1801 et seq.], or Executive Order 9908 of December 5, 1947, in any patent, conveyance, lease, permit, or other authorization or instrument disposing of any interest in public or acquired lands of the United States, is released, remised, and quitclaimed to the person or persons entitled upon August 19, 1958 under the grant from the United States or successive grants to the ownership, occupancy, or use of the land under the applicable Federal or State laws: *Provided, however,* That in cases where any such reservation on acquired lands of the United States has been heretofore released, remised, or quitclaimed subsequent to August 12, 1954, in reliance upon authority deemed to have been contained in the Atomic Energy Act of 1946, as amended, or the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], as heretofore amended, the same shall be valid and effective in all respects to the same extent as if public lands and not acquired lands had been involved. The foregoing release shall be subject to any rights which may have been granted by the United States pursuant to any such reservation, but the releases shall be subrogated to the rights of the United States.

(c) Prior locations

Notwithstanding the provisions of the Atomic Energy Act of 1946, as amended [42 U.S.C. 1801 et seq.], and particularly section 5(b)(7) thereof [42 U.S.C. 1805(b)(7)], or the provisions of sections 501 to 505 of title 30, and particularly section 503 of title 30, any mining claim, heretofore located under the mining laws of the United States, for or based upon a discovery of a mineral deposit which is a source material and which, except for the possible contrary construction of said Atomic Energy Act, would have been locatable under such mining laws, shall, insofar as adversely affected by such possible contrary construction, be valid and effective, in all respects to the same extent as if said mineral deposit were a locatable mineral deposit other than a source material.

(Aug. 1, 1946, ch. 724, § 68, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 934, and amended Aug. 19, 1958, Pub. L. 85-681, § 3, 72 Stat. 632.)

REFERENCES IN TEXT

The Atomic Energy Act of 1946, referred to in subsecs. (b) and (c), is act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified generally to chapter 14 (§ 1801 et seq.) of this title prior to the general amendment by act Aug. 30, 1954, ch. 1073, 68 Stat. 921, known as the Atomic Energy Act of 1954, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of The Atomic Energy Act of 1954 to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

Section 5(b)(7) thereof, referred to in subsec. (c), was classified to section 1805(b) (7) of this title which was omitted in the general amendment of the Atomic Energy Act of 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921, known as the Atomic Energy Act of 1954.

The Atomic Energy Act of 1954, referred to in subsec. (b), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

The mining laws of the United States, referred to in subsec. (c), are classified generally to Title 30, Mineral Lands and Mining.

Ex. Ord. No. 9908, eff. Dec. 5, 1947, 12 F.R. 8223; Ex. Ord. No. 9701 eff. Mar. 7, 1946, 11 F.R. 2369, and Ex. Ord. No. 9613, eff. Sept. 13, 1945, 10 F.R. 11789, referred to in subsec. (b), related to reservation of source material in certain lands owned by the United States; reservation of rights to fissionable materials in lands owned by the United States; and withdrawal and reservation for the use of the United States lands containing radio-active mineral substances. Ex. Ord. No.

10596, eff. Feb. 15, 1955, 20 F.R. 1007, revoked Ex. Ord. No. 9908, which had revoked Ex. Ord. No. 9701, which had earlier revoked Ex. Ord. No. 9613.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(7) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1958—Subsec. (b). Pub. L. 85-681 provided a general release of reservations of fissionable materials or source materials under acquired lands of the United States as well as public lands.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission and the Administrator, Energy Research and Development Administration, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2099. Prohibitions against issuance of license

The Commission shall not license any person to transfer or deliver, receive possession of or title to, or import into or export from the United States any source material if, in the opinion of the Commission, the issuance of a license to such person for such purpose would be inimical to the common defense and security or the health and safety of the public.

(Aug. 1, 1946, ch. 724, § 69, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 934.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(d)(2) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

SUBCHAPTER VII—BYPRODUCT MATERIALS

CROSS REFERENCES

Agreements with States for discontinuance of Commission regulation of certain materials under this subchapter and exemptions from licensing requirements therein contained, see section 2021 of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2014, 2021, 5842 of this title.

§ 2111. Domestic distribution; license; price limitations

No person may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any byproduct material, except to the extent authorized by this section or by section 2112 of this title. The Commission is authorized to issue general or specific licenses to applicants seeking to use byproduct material for research or development purposes, for medical therapy, industrial uses, agricultural uses, or such other useful applications as may be developed. The Commission may distribute, sell, loan, or lease such byproduct material as it owns to qualified applicants with or without charge: *Provided, however,* That, for byproduct material to be distributed by the Commission for a charge, the Commission shall establish prices on such equitable basis as, in the opinion of the Commission, (a) will provide reasonable compensation to the Government for such material, (b) will not discourage the use of such material or the development of sources of supply of such material independent of the Commission, and (c) will encourage research and development. In distributing such material, the Commission shall give preference to applicants proposing to use such material either in the conduct of research and development or in medical therapy. The Commission shall not permit the distribution of any byproduct material to any licensee, and shall recall or order the recall of any distributed material from any licensee, who is not equipped to observe or who fails to observe such safety standards to protect health as may be established by the Commission or who uses such material in violation of law or regulation of the Commission or in a manner other than as disclosed in the application therefor or approved by the Commission. The Commission is authorized to establish classes of byproduct material and to exempt certain classes or quantities of material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of such material or such kinds of uses or users will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

(Aug. 1, 1946, ch. 724, § 81, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 935, and amended Aug. 17, 1974, Pub. L. 93-377, § 4, 88 Stat. 475.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(c)(2) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1974—Pub. L. 93-377 substituted "qualified applicants with or without charge" for "licensees with or without charge", and struck out "Licensees of the Commission may distribute byproduct material only to applicants therefor who are licensed by the Commission to receive such byproduct material" preceding "The Commission shall not".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section relating to distribution of byproduct material were transferred to and vested in the Administrator, Energy Research and Development Administration and the functions relating to licensing transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

CROSS REFERENCES

Nonprofit educational institution exempt from financial protection requirement, see section 2210 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2121, 2183, 2201, 2210, 2282 of this title.

§ 2112. Foreign distribution of byproduct material

(a) Cooperation with other Nations

The Commission is authorized to cooperate with any nation by distributing byproduct material, and to distribute byproduct material, pursuant to the terms of an agreement for cooperation to which such nation is party and which is made in accordance with section 2153 of this title.

(b) Distribution to individuals.

The Commission is also authorized to distribute byproduct material to any person outside the United States upon application therefor by such person and demand such charge for such material as would be charged for the material if it were distributed within the United States: *Provided, however,* That the Commission shall not distribute any such material to any person under this section if, in its opinion, such distribution would be inimical to the common defense and security: *And provided further,* That the Commission may require such reports regarding the use of material distributed pursuant to the provisions of this section as it deems necessary.

(c) Distributor's license

The Commission is authorized to license others to distribute byproduct material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission.

(Aug. 1, 1946, ch. 724, § 82, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 935.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section relating to distribution of byproduct material were transferred to and vested in the Administrator, Energy Research and Development Administration and the functions relating to licensing transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2111, 2153, 2154, 2282 of this title.

SUBCHAPTER VIII—MILITARY APPLICATION OF ATOMIC ENERGY

§ 2121. Authority of Commission

(a) Research and development; production of atomic weapons

The Commission is authorized to—

(1) conduct experiments and do research and development work in the military application of atomic energy; and

(2) engage in the production of atomic weapons, or atomic weapon parts, except that such activities shall be carried on only to the extent that the express consent and direction of the President of the United States has been obtained, which consent and direction shall be obtained at least once each year.

(b) Material for Department of Defense use

The President from time to time may direct the Commission (1) to deliver such quantities of special nuclear material or atomic weapons to the Department of Defense for such use as he deems necessary in the interest of national defense, or (2) to authorize the Department of Defense to manufacture, produce, or acquire any atomic weapon or utilization facility for military purposes: *Provided, however,* That such authorization shall not extend to the production of special nuclear material other than that incidental to the operation of such utilization facilities.

(c) Sale, lease, or loan to other Nations of materials for military applications

The President may authorize the Commission or the Department of Defense, with the assistance of the other, to cooperate with another nation and, notwithstanding the provisions of section 2077, 2092, or 2111 of this title, to transfer by sale, lease, or loan to that nation, in accordance with terms and conditions of a program approved by the President—

(1) nonnuclear parts of atomic weapons provided that such nation has made substantial progress in the development of atomic weapons, and other nonnuclear parts of atomic weapons systems involving Restricted Data provided that such transfer will not contribute significantly to that nation's atomic weapon design, development, or fabrication capability; for the purpose of improving that nation's state of training and operational readiness;

(2) utilization facilities for military applications; and

(3) source, byproduct, or special nuclear material for research on, development of, production of, or use in utilization facilities for military applications; and

(4) source, byproduct, or special nuclear material for research on, development of, or use in atomic weapons: *Provided, however,* That the transfer of such material to that nation is necessary to improve its atomic weapon design, development, or fabrication capability: *And provided further,* That such nation has made substantial progress in the development of atomic weapons,

whenever the President determines that the proposed cooperation and each proposed transfer arrangement for the nonnuclear parts of atomic weapons and atomic weapons systems, utilization facilities or source, byproduct, or special nuclear material will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance

with section 2153 of this title: *And provided further,* That if an agreement for cooperation arranged pursuant to this subsection provides for transfer of utilization facilities for military applications the Commission, or the Department of Defense with respect to cooperation it has been authorized to undertake, may authorize any person to transfer such utilization facilities for military applications in accordance with the terms and conditions of this subsection and of the agreement for cooperation.

(Aug. 1, 1946, ch. 724, § 91, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936, and amended July 2, 1958, Pub. L. 85-479, § 1, 72 Stat. 276.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1806(a) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1958—Subsec. (c). Pub. L. 85-479 added subsec. (c).

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2122, 2131, 2140, 2153 of this title.

§ 2122. Prohibitions governing atomic weapons

It shall be unlawful, except as provided in section 2121 of this title, for any person to transfer or receive in interstate or foreign commerce, manufacture, produce, transfer, acquire, possess, import, or export any atomic weapon. Nothing in this section shall be deemed to modify the provisions of section 2051(a) or 2131 of this title.

(Aug. 1, 1946, ch. 724, § 92, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936, and amended July 2, 1958, Pub. L. 85-479, § 2, 72 Stat. 277.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1806(b) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1958—Pub. L. 85-479 included transfers or receipts in foreign commerce.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2272 of this title.

SUBCHAPTER IX—ATOMIC ENERGY LICENSES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2014, 5842 of this title.

§ 2131. License required

It shall be unlawful, except as provided in section 2121 of this title, for any person within the United States to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export any utilization or production facility except under and in accordance with a license issued by the Commission pursuant to section 2133 or 2134 of this title.

(Aug. 1, 1946, ch. 724, § 101, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936, and amended Aug. 6, 1956, ch. 1015, § 11, 70 Stat. 1071.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1807(a) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1956—Act Aug. 6, 1956, inserted the word "use," between the words "possess," and "import".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

EXPORT LICENSING POLICY

Procedures concerning an export licensing policy as to nuclear materials and equipment, see Ex. Ord. No. 11902, eff. Feb. 2, 1976, 41 F.R. 4877, set out as a note under section 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2122, 2139, 2272, 2282 of this title.

§ 2132. Utilization and production facilities for industrial or commercial purposes

(a) Issuance of licenses

Except as provided in subsections (b) and (c) of this section, or otherwise specifically authorized by law, any license hereafter issued for a utilization or production facility for industrial or commercial purposes shall be issued pursuant to section 2133 of this title.

(b) Facilities constructed or operated under section 2134(b)

Any license hereafter issued for a utilization or production facility for industrial or commercial purposes, the construction or operation of which was licensed pursuant to section 2134(b) of this title prior to enactment into law of this subsection, shall be issued under section 2134(b) of this title.

(c) Cooperative Power Reactor Demonstration facilities

Any license for a utilization or production facility for industrial or commercial purposes constructed or operated under an arrangement with the Commission entered into under the Cooperative Power Reactor Demonstration Program shall, except as otherwise specifically required by applicable law, be issued under section 2134(b) of this title.

(Aug. 1, 1946, ch. 724, § 102, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936, and amended Dec. 19, 1970, Pub. L. 91-560, § 3, 84 Stat. 1472.)

AMENDMENTS

1970—Pub. L. 91-560 substituted provisions authorizing the Commission to issue licenses for a utilization or production facility for industrial or commercial purposes under section 2133, except that license may be issued under section 2134(b), for such utilization or production facility, the construction or operation of which was licensed under section 2134(b) before December 19, 1970 or constructed or operated under an arrangement with the Commission entered into under the Cooperative Power Reactor Demonstration Program, for provisions authorizing the Commission to issue licenses pursuant to section 2133 of this title on a determination that such utilization or production facility has been sufficiently developed to be of practical value for industrial or commercial purposes.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2134 of this title.

§ 2133. Commercial licenses

(a) Conditions

The Commission is authorized to issue licenses to persons applying therefor to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, utilization or production facilities for industrial or commercial purposes. Such licenses shall be issued in accordance with the provisions of subchapter XV of this chapter and subject to such conditions as the Commission may by rule or regulation establish to effectuate the purposes and provisions of this chapter.

(b) Nonexclusive basis

The Commission shall issue such licenses on a nonexclusive basis to persons applying therefor (1) whose proposed activities will serve a useful purpose proportionate to the quantities of special nuclear material or source material to be utilized; (2) who are equipped to observe and who agree to observe such safety standards to protect health and to minimize danger to life or property as the Commission may by rule establish; and (3) who agree to make available to the Commission such technical information and data concerning activities under such licenses as the Commission may determine necessary to promote the common defense and security and to protect the health and safety of the public. All such information may be used by the Commission only for the purposes of the common defense and security and to protect the health and safety of the public.

(c) License period

Each such license shall be issued for a specified period, as determined by the Commission, depending on the type of activity to be licensed, but not exceeding forty years, and may be renewed upon the expiration of such period.

(d) Limitations

No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 2153 of this title, or except under the provisions of section 2139 of this title. No license may be issued to an alien or any any[1] corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

(Aug. 1, 1946, ch. 724, § 103, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936, and amended Aug. 6, 1956, ch. 1015, §§ 12, 13, 70 Stat. 1071; Dec. 19, 1970, Pub. L. 91-560, § 4, 84 Stat. 1472.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-560 eliminated the requirement of a finding of practical value under section 2132 and substituted "utilization and production facilities for industrial or commercial purposes" for "such type of utilization or production facility".

1956—Subsec. (a). Act Aug. 6, 1956, § 12, inserted the word "use," between the words "possess," and "import".

Subsec. (d). Act Aug. 6, 1956, § 13, inserted the words "an alien or any" between the words "issued to" and the words "any corporation".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2019, 2020, 2061, 2073, 2076, 2093, 2131, 2132, 2135, 2136, 2138, 2153, 2154, 2165, 2183, 2201, 2209, 2210, 2232, 2239, 2282 of this title.

§ 2134. Medical, industrial, and commercial licenses

(a) Medical therapy

The Commission is authorized to issue licenses to persons applying therefor for utilization facilities for use in medical therapy. In issuing such licenses the Commission is directed to permit the widest amount of effective medical therapy possible with the amount of special nuclear material available for such purposes and to impose the minimum amount of regulation consistent with its obligations under this chapter to promote the common defense and security and to protect the health and safety of the public.

(b) Industrial and commercial purposes

As provided for in subsection (b) or (c) of section 2132 of this title, or where specifically authorized by law, the Commission is authorized to issue licenses under this subsection to per-

[1] So in original.

sons applying therefor for utilization and production facilities for industrial and commercial purposes. In issuing licenses under this subsection, the Commission shall impose the minimum amount of such regulations and terms of license as will permit the Commission to fulfill its obligations under this chapter.

(c) Research and development activities

The Commission is authorized to issue licenses to persons applying therefor for utilization and production facilities useful in the conduct of research and development activities of the types specified in section 2051 of this title and which are not facilities of the type specified in subsection (b) of this section. The Commission is directed to impose only such minimum amount of regulation of the licensee as the Commission finds will permit the Commission to fulfill its obligations under this chapter to promote the common defense and security and to protect the health and safety of the public and will permit the conduct of widespread and diverse research and development.

(d) Limitations

No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 2153 of this title or except under the provisions of section 2139 of this title. No license may be issued to any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

(Aug. 1, 1946, ch. 724, § 104, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 937, and amended Dec. 19, 1970, Pub. L. 91-560, § 5, 84 Stat. 1472.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-560 substituted provisions authorizing the issue of licenses for utilization or production facilities for industrial or commercial purposes (i) where specifically authorized by law or (ii) where the facility was constructed or operated under an arrangement with the Commission entered into under the cooperative power reactor demonstration program, and the applicable statutory authorization does not require licensing under section 2133, or (iii) where the facility was theretofore licensed under section 2134(b), for provisions authorizing the issue of licenses for utilization and production facilities involved in the conduct of research and development activities leading to the demonstration of the practical value of such facilities for industrial and commercial purposes.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

CROSS REFERENCES

Nonprofit educational institution exempt from financial protection requirement, see section 2210 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2061, 2073, 2074, 2076, 2093, 2131, 2132, 2136, 2138, 2153, 2154, 2165, 2183, 2201, 2209, 2210, 2232, 2239, 2282 of this title.

§ 2135. Antitrust provisions governing licenses

(a) Violations of antitrust laws

Nothing contained in this chapter shall relieve any person from the operation of the following Acts, as amended, "An Act to protect trade and commerce against unlawful restraints and monopolies" approved July second, eighteen hundred and ninety; sections seventy-three to seventy-seven, inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes" approved August twenty-seven, eighteen hundred and ninety-four; "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" approved October fifteen, nineteen hundred and fourteen; and "An Act to create a Federal Trade Commission, to defined its powers and duties, and for other purposes" approved September twenty-six, nineteen hundred and fourteen. In the event a licensee is found by a court of competent jurisdiction, either in an original action in that court or in a proceeding to enforce or review the findings or orders of any Government agency having jurisdiction under the laws cited above, to have violated any of the provisions of such laws in the conduct of the licensed activity, the Commission may suspend, revoke, or take such other action as it may deem necessary with respect to any license issued by the Commission under the provisions of this chapter.

(b) Reports to Attorney General

The Commission shall report promptly to the Attorney General any information it may have with respect to any utilization of special nuclear material or atomic energy which appears to violate or to tend toward the violation of any of the foregoing Acts, or to restrict free competition in private enterprise.

(c) Transmissions to Attorney General of copies of license applications; publication of advice; factors considered; exceptions

(1) The Commission shall promptly transmit to the Attorney General a copy of any license application provided for in paragraph (2) of this subsection, and a copy of any written request provided for in paragraph (3) of this subsection; and the Attorney General shall, within a reasonable time, but in no event to exceed 180 days after receiving a copy of such application or written request, render such advice to the Commission as he determines to be appropriate in regard to the finding to be made by the Commission pursuant to paragraph (5) of this subsection. Such advice shall include an explanatory statement as to the reasons or basis therefor.

(2) Paragraph (1) of this subsection shall apply to an application for a license to con-

struct or operate a utilization or production facility under section 2133 of this title: *Provided, however,* That paragraph (1) shall not apply to an application for a license to operate a utilization or production facility for which a construction permit was issued under section 2133 of this title unless the Commission determines such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review by the Attorney General and the Commission under this subsection in connection with the construction permit for the facility.

(3) With respect to any Commission permit for the construction of a utilization or production facility issued pursuant to subsection (b) of section 2134 of this title prior to December 19, 1970, any person who intervened or who sought by timely written notice to the Commission to intervene in the construction permit proceeding for the facility to obtain a determination of antitrust considerations or to advance a jurisdictional basis for such determination shall have the right, upon a written request to the Commission, to obtain an antitrust review under this section of the application for an operating license. Such written request shall be made within 25 days after the date of initial Commission publication in the Federal Register of notice of the filing of an application for an operating license for the facility or December 19, 1970, whichever is later.

(4) Upon the request of the Attorney General, the Commission shall furnish or cause to be furnished such information as the Attorney General determines to be appropriate for the advice called for in paragraph (1) of this subsection.

(5) Promptly upon receipt of the Attorney General's advice, the Commission shall publish the advice in the Federal Register. Where the Attorney General advises that there may be adverse antitrust aspects and recommends that there be a hearing, the Attorney General or his designee may participate as a party in the proceedings thereafter held by the Commission on such licensing matter in connection with the subject matter of his advice. The Commission shall give due consideration to the advice received from the Attorney General and to such evidence as may be provided during the proceedings in connection with such subject matter, and shall make a finding as to whether the activities under the license would create or maintain a situation inconsistent with the antitrust laws as specified in subsection (a) of this section.

(6) In the event the Commission's finding under paragraph (5) is in the affirmative, the Commission shall also consider, in determining whether the license should be issued or continued, such other factors, including the need for power in the affected area, as the Commission in its judgment deems necessary to protect the public interest. On the basis of its findings, the Commission shall have the authority to issue or continue a license as applied for, to refuse to issue a license, to rescind a license or amend it, and to issue a license with such conditions as it deems appropriate.

(7) The Commission, with the approval of the Attorney General, may except from any of the requirements of this subsection such classes or types of licenses as the Commission may determine would not significantly affect the applicant's activities under the antitrust laws as specified in subsection (a) of this section.

(8) With respect to any application for a construction permit on file at the time of enactment into law of this subsection, which permit would be for issuance under section 2133 of this title, and with respect to any application for an operating license in connection with which a written request for an antitrust review is made as provided for in paragraph (3), the Commission, after consultation with the Attorney General, may, upon determination that such action is necessary in the public interest to avoid unnecessary delay, establish by rule or order periods for Commission notification and receipt of advice differing from those set forth above and may issue a construction permit or operating license in advance of consideration of and findings with respect to the matters covered in this subsection: *Provided,* That any construction permit or operating license so issued shall contain such conditions as the Commission deems appropriate to assure that any subsequent findings and orders of the Commission with respect to such matters will be given full force and effect.

(Aug. 1, 1946, ch. 724, § 105, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 938, and amended Aug. 26, 1964, Pub. L. 88-489, § 14, 78 Stat. 606; Dec. 19, 1970, Pub. L. 91-560, § 6, 84 Stat. 1473.)

REFERENCES IN TEXT

The act to protect trade and commerce against unlawful restraints and monopolies, referred to in subsec. (a), is act July 2, 1890, ch. 647, 26 Stat. 209, known as the Sherman Act, which enacted sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables volume.

Sections seventy-three to seventy-seven, inclusive, of an act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", referred to in subsec. (a), are sections 73 to 77 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, known as the Wilson Tariff Act. Sections 73 to 76 enacted section 8 to 11 of Title 15, Commerce and Trade. Section 77 was not classified to the Code. For complete classification of this Act to the Code, see Short Title note set out under section 8 of Title 15 and Tables volume.

"An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" approved October fifteen, nineteen hundred and fourteen, referred to in subsec. (a), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15, Commerce and Trade, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables volume.

The act to create a Federal Trade Commission, to define its powers and duties, and for other purposes, referred to in subsec. (a), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, known as the Federal Trade Commission Act, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables volume.

PRIOR PROVISONS

Provisions similar to this section were contained in section 1807(c) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1970—Subsec. (c). Pub. L. 91-560 designated existing provisions as pars. (1), (2), (4) and (5) and amended such provisions by extending the time for the Attorney General to give advice from 90 to 180 days and provided for review of licenses once granted under section 2133 of this title, and when the Attorney General recommends that there be a hearing, authorized the Commission to hold hearings and permit the Attorney General to appear as a party and to make a finding as to whether the activities under the license would be inconsistent with the antitrust laws, and in par. (3), provided for a review of the permit issued under section 2134(b) of this title, and added pars. (6), (7) and (8).

1964—Subsec. (a). Pub. L. 88-489 eliminated ", including the provisions which vest title to all special nuclear material in the United States," preceding "shall relieve any person".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under subsec. (c) of this section were transferred to and vested exclusively in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. Similar functions under subsecs. (a) and (b) of this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2188, 2201 of this title.

§ 2136. Classes of facilities

The Commission may—

(a) group the facilities licensed either under section 2133 or 2134 of this title into classes which may include either production or utilization facilities or both, upon the basis of the similarity of operating and technical characteristics of the facilities;

(b) define the various activities to be carried on at each such class of facility; and

(c) designate the amounts of special nuclear material available for use by each such facility.

(Aug. 1, 1946, ch. 724, § 106, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 938.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

§ 2137. Operators' licenses

The Commission shall—

(a) prescribe uniform conditions for licensing individuals as operators of any of the various classes of production and utilization facilities licensed in this chapter;

(b) determine the qualifications of such individuals;

(c) issue licenses to such individuals in such form as the Commission may prescribe; and

(d) suspend such licenses for violations of any provision of this chapter or any rule or regulation issued thereunder whenever the Commission deems such action desirable.

(Aug. 1, 1946, ch. 724, § 107, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2282 of this title.

§ 2138. Suspension of licenses during war or national emergency

Whenever the Congress declares that a state of war or national emergency exists, the Commission is authorized to suspend any licenses granted under this chapter if in its judgment such action is necessary to the common defense and security. The Commission is authorized during such period, if the Commission finds it necessary to the common defense and security, to order the recapture of any special nuclear material or to order the operation of any facility licensed under section 2133 or 2134 of this title, and is authorized to order the entry into any plant or facility in order to recapture such material, or to operate such facility. Just compensation shall be paid for any damages caused by the recapture of any special nuclear material or by the operation of any such facility.

(Aug. 1, 1946, ch. 724, § 108, as added Aug. 30, 1954, ch. 1973, § 1, 68 Stat. 939, and amended Sept. 23, 1959, Pub. L. 86-373, § 2, 73 Stat. 691.)

AMENDMENTS

1959—Pub. L. 86-373 deleted "distributed under the provisions of section 2073(a) of this title," preceding "or to order".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transfered to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2073, 2201, 2221, 2233, 2272 of this title.

§ 2139. General licenses; export licenses

With respect to those utilization and production facilities which are so determined by the Commission pursuant to section 2014(v)(2) or 2014(cc)(2) of this title the Commission may (a) issue general licenses for activities required to

be licensed under section 2131 of this title, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security, and (b) issue licenses for the export of such facilities, if the Commission determines in writing that each export will not constitute an unreasonable risk to the common defense and security.

(Aug. 1, 1946, ch. 724, § 109, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939, and amended Aug. 29, 1962, Pub. L. 87-615, § 9, 76 Stat. 411; Oct. 13, 1966, Pub. L. 89-645, § 1(b), 80 Stat. 891.)

AMENDMENTS

1966—Pub. L. 89-645 substituted "2014(v)(2) or 2014 (cc)(2)" for "2014(t)(2) or 2014(aa)(2)".

1962—Pub. L. 87-615 substituted "section 2014(t)(2) or 2014(aa)(2)" for "section 2014(p)(2) or 2014(v)(2)".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2133, 2134, 2282 of this title.

§ 2140. Exclusions from license requirement

Nothing in this subchapter shall be deemed—

(a) to require a license for (1) the processing, fabricating, or refining of special nuclear material, or the separation of special nuclear material, or the separation of special nuclear material from other substances, under contract with and for the account of the Commission; or (2) the construction or operation of facilities under contract with and for the account of the Commission; or

(b) to require a license for the manufacture, production, or acquisition by the Department of Defense of any utilization facility authorized pursuant to section 2121 of this title, or for the use of such facility by the Department of Defense or a contractor thereof.

(Aug. 1, 1946, ch. 724, § 110, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5842 of this title.

SUBCHAPTER X—INTERNATIONAL ACTIVITIES

§ 2151. Effect of international arrangements

Any provision of this chapter or any action of the Commission to the extent and during the time that it conflicts with the provisions of any international arrangements made after August 30, 1954 shall be deemed to be of no force or effect.

(Aug. 1, 1946, ch. 724, § 121, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1808(a) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. Any licensing or regulatory functions of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438. See sections 5814 and 5841 of this title.

§ 2152. Policies contained in international arrangements

In the performance of its functions under this chapter, the Commission shall give maximum effect to the policies contained in any international arrangement made after August 30, 1954.

(Aug. 1, 1946, ch. 724, § 122, as added Aug. 30, 1954, ch. 1973, § 1, 68 Stat. 939.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1808(c) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. Any licensing or regulatory functions of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438. See sections 5814 and 5841 of this title.

§ 2153. Cooperation with other nations

No cooperation with any nation or regional defense organization pursuant to sections 2073, 2074(a), 2077, 2094, 2112, 2121, 2133, 2134, or 2164 of this title shall be undertaken until—

(a) Submission of agreements to President

The Commission or, in the case of those agreements for cooperation arranged pursuant to section 2121(c) or 2164(b) of this title which are to be implemented by the Department of Defense, the Department of Defense has submitted to the President the proposed agreement for cooperation, together with its

recommendations thereon, which proposed agreement shall include (1) the terms, conditions, duration, nature, and scope of the cooperation; (2) a guaranty by the cooperating party that security safeguards and standards as set forth in the agreement for cooperation will be maintained; (3) except in the case of those agreements for cooperation arranged pursuant to section 2121(c) of this title, a guaranty by the cooperating party that any material to be transferred pursuant to such agreement will not be used for atomic weapons, or for research on or development of atomic weapons or for any other military purpose; and (4) a guaranty by the cooperating party that any material or any Restricted Data to be transferred pursuant to the agreement for cooperation will not be transferred to unauthorized persons or beyond the jurisdiction of the cooperating party, except as specified in the agreement for cooperation;

(b) Presidential approval and authorization

the President has approved and authorized the execution of the proposed agreement for cooperation, and has made a determination in writing that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security;

(c) Submission to Joint Committee; waiting period

the proposed agreement for cooperation, together with the approval and the determination of the President, has been submitted to the Joint Committee and a period of thirty days has elapsed while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days): *Provided, however,* That the Joint Committee, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period; and

(d) Submission to the Congress

the proposed agreement for cooperation, together with the approval and determination of the President, if arranged pursuant to sections 2121(c), 2164(b), or 2164(c) of this title, or if entailing implementation of sections 2073, 2074, 2133 or 2134 of this title, in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith, has been submitted to the Congress and referred to the Joint Committee and a period of sixty days has elapsed while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days), but any such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed agreement for cooperation: *Provided,* That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed agreement and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed agreement for cooperation. Any such concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within twenty-five days and shall be voted on within five calendar days thereafter, unless such House shall otherwise determine.

(Aug. 1, 1946, ch. 724, § 123, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 940, and amended July 2, 1958, Pub. L. 85-479, §§ 3, 4, 72 Stat. 277; Aug. 19, 1958, Pub. L. 85-681, § 4, 72 Stat. 632; Aug. 26, 1964, Pub. L. 88-489, § 15, 78 Stat. 606; Aug. 17, 1974, Pub. L. 93-377, § 5, 88 Stat. 475; Oct. 26, 1974, Pub. L. 93-485, § 1, 88 Stat. 1460.)

Amendments

1974—Pub. L. 93-377 substituted reference to section 2074(a) of this title for reference to section 2074 of this title in opening par.

Subsec. (d). Pub. L. 93-485 added reference to proposed agreements entailing implementation of sections 2073, 2074, 2133, or 2134 of this title, or in relation to reactors capable of producing more than five thermal megawatts or special nuclear material in connection therewith, added provision requiring the Joint Committee to submit a report to Congress of its views and recommendations respecting the proposed agreement and an accompanying proposed concurrent resolution favoring or otherwise of such agreement within the first thirty days of the sixty day period and providing that such concurrent resolution so reported shall become the pending business of the House in question within twenty-five days and shall be voted on within five days thereafter unless such House determined otherwise, and struck out the proviso that during the 85th Congress the waiting period shall be thirty days.

1964—Pub. L. 88-489 inserted the reference to section 2073 in opening par.

1958—Pub. L. 85-479, § 3, inserted a reference to section 2121 of this title in opening par.

Subsec. (a). Pub. L. 85-479, § 3, included agreements for cooperation arranged pursuant to section 2121(c) of this title, and inserted in cl. (3) the exception in the case of agreements arranged pursuant to section 2121(c) of this title.

Subsec. (c). Pub. L. 85-681 added proviso clause relating to waiver waiting period.

Subsec. (d). Pub. L. 85-479, § 4 added subsec. (d).

Effective Date of 1974 Amendment

Section 2 of Pub. L. 93-485 provided that: "This Act [amending subsec. (d) of this section] shall apply to proposed agreements for cooperation and to proposed amendments to agreements for cooperation hereafter [Oct. 26, 1974] submitted to the Congress."

Transfer of Functions

The Atomic Energy Commission was abolished and functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. Any licensing or regulatory functions of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438. See sections 5814 and 5841 of this title.

ADEQUACY OF LAWS AND REGULATIONS GOVERNING EXPORT AND RE-EXPORT OF NUCLEAR MATERIALS, ETC., AND SAFEGUARDS PREVENTING PROLIFERATION OF NUCLEAR MATERIALS

Pub. L. 93-500, § 14, Oct. 29, 1974, 88 Stat. 1557, provided that the President was to review and report to Congress within six months after Oct. 29, 1974, on all laws and pertinent regulations issued thereunder, governing the export and re-export of nuclear materials and information relating to the design and development thereof, in order to curb further domestic and international nuclear proliferation, diversion, or theft of nuclear materials.

COOPERATION WITH BERLIN

Act Aug. 1, 1946, ch. 724, § 125, as added by Apr. 12, 1957, Pub. L. 85-14, 71 Stat. 11, and amended by Aug. 17, 1974, Pub. L. 93-377, § 5, 88 Stat. 475, provided that: "The President may authorize the Commission to enter into agreements for cooperation with the Federal Republic of Germany in accordance with section 123 [this section], on behalf of Berlin, which for the purposes of this Act comprises those areas over which the Berlin Senate exercises jurisdiction (the United States, British, and French sectors) and the Commission may therafter cooperate with Berlin pursuant to sections 54a, 57, 64, 82, 103, or 104 [sections 2074(a), 2077, 2094, 2112, 2133, or 2134 of this title]: *Provided*, That the guaranties required by section 123 [this section] shall be made by Berlin with the approval of the allied commandants."

EX. ORD. NO. 10841. INTERNATIONAL COOPERATION

Ex. Ord. No. 10841, eff. Sept. 30, 1959, 24 F.R. 7941, as amended by Ex. Ord. No. 10956, eff. Aug. 10, 1961, 26 F.R. 7315, provided:

SECTION 1. Whenever the President, pursuant to section 123 of the Act [this section], has approved and authorized the execution of a proposed agreement providing for cooperation pursuant to section 91c, 144a, 144b, or 144c of the Act [sections 2121(c), 2164(a), 2164(b), 2164 (c) of this title], such approval and authorization by the President shall constitute his authorization to cooperate to the extent provided for in the agreement and in the manner provided for in section 91c, 144a, 144b, or 144c [sections 2121(c), 2164(a), 2164(b), or 2164(c) of this title], as pertinent. In respect of sections 91c, 144b, and 144c [sections 2121(c), 2164(b), and 2164(c) of this title], authorizations by the President to cooperate shall be subject to the requirements of sections 123d of the Act [subsec. (d) of this section] and shall also be subject to appropriate determinations made pursuant to section 2 of this order.

SEC. 2. (a) The Secretary of Defense and the Atomic Energy Commission are hereby designated and empowered to exercise jointly, after consultation with executive agencies as may be appropriate, the following-described authority without the approval, ratification, or other action of the President:

(1) The authority vested in the President by section 91c of the Act [section 2121(c) of this title] to determine that the proposed cooperation and each proposed transfer arrangement referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(2) The authority vested in the President by section 144b of the Act [section 2164(b) of this title] to determine that the proposed cooperation and the proposed communication of Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security: *Provided*, That each determination made under this paragraph shall be referred to the President and, unless disapproved by him, shall become effective fifteen days after such referral or at such later time as may be specified in the determination.

(3) The authority vested in the President by section 144c of the Act [section 2164(c) of this title] to determine that the proposed cooperation and the communication of the proposed Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(b) Whenever the Secretary of Defense and the Atomic Energy Commission are unable to agree upon a joint determination under the provisions of subsection (a) of this section, the recommendations of each of them, together with the recommendations of other agencies concerned, shall be referred to the President, and the determination shall be made by the President.

SEC. 3. This order shall not be construed as delegating the function vested in the President by section 91c of the Act [section 2121(c) of this title] of approving programs proposed under that section.

SEC. 4. (a) The functions of negotiating and entering into international agreements under the Act [this chapter] shall be performed by or under the authority of the Secretary of State.

(b) International cooperation under the Act [this chapter] shall be subject to the responsibilities of the Secretary of State with respect to the foreign policy of the United States pertinent thereto.

DWIGHT D. EISENHOWER.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2073, 2074, 2077, 2094, 2112, 2121, 2133, 2134, 2154, 2164, 2201, 2291, 2294, 2295 of this title.

§ 2154. International atomic pool

The President is authorized to enter into an international arrangement with a group of nations providing for international cooperation in the nonmilitary applications of atomic energy and he may thereafter cooperate with that group of nations pursuant to sections 2074(a), 2077, 2094, 2112, 2133, 2134, or 2164(a) of this title: *Provided, however,* That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of this title.

(Aug. 1, 1946, ch. 724, § 124, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 940, and amended Aug. 17, 1974, Pub. L. 93-377, § 5, 88 Stat. 475.)

AMENDMENTS

1974—Pub. L. 93-377 substituted reference to section 2074(a) of this title for reference to section 2074 of this title.

CROSS REFERENCES

Foreign research reactor projects, see section 2171 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2074 of this title.

SUBCHAPTER XI—CONTROL OF INFORMATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5817 of this title.

§ 2161. Policy of Commission

It shall be the policy of the Commission to control the dissemination and declassification of Restricted Data in such a manner as to assure the common defense and security. Consistent with such policy, the Commission shall be guided by the following principles:

(a) Until effective and enforceable international safeguards against the use of atomic

energy for destructive purposes have been established by an international arrangement, there shall be no exchange of Restricted Data with other nations except as authorized by section 2164 of this title; and

(b) The dissemination of scientific and technical information relating to atomic energy should be permitted and encouraged so as to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding and to enlarge the fund of technical information.

(Aug. 1, 1946, ch. 724, § 141, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 940.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1810(a) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. Functions under subsec. (a) of this section were transferred to and vested exclusively in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438. See sections 5814 and 5841 of this title.

§ 2162. Classification and declassification of Restricted Data

(a) Periodic determination

The Commission shall from time to time determine the data, within the definition of Restricted Data, which can be published without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data.

(b) Continuous review

The Commission shall maintain a continuous review of Restricted Data and of any Classification Guides issued for the guidance of those in the atomic energy program with respect to the areas of Restricted Data which have been declassified in order to determine which information may be declassified and removed from the category of Restricted Data without undue risk to the common defense and security.

(c) Joint determination on atomic weapons; Presidential determination on disagreement

In the case of Restricted Data which the Commission and the Department of Defense jointly determine to relate primarily to the military utilization of atomic weapons, the determination that such data may be published without constituting an unreasonable risk to the common defense and security shall be made by the Commission and the Department of Defense jointly, and if the Commission and the Department of Defense do not agree, the determination shall be made by the President.

(d) Removal from Restricted Data category

The Commission shall remove from the Restricted Data category such data as the Commission and the Department of Defense jointly determine relates primarily to the military utilizatin of atomic weapons and which the Commission and Department of Defense jointly determine can be adequately safeguarded as defense information: *Provided, however,* That no such data so removed from the Restricted Data category shall be transmitted or otherwise made available to any nation or regional defense organization, while such data remains defense information, except pursuant to an agreement for co- operation entered into in accordance with section 2164(b) of this title.

(e) Joint determination on atomic energy programs

The Commission shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the Commission and the Director of Central Intelligence jointly determine to be necessary to carry out the provisions of section 403(d) of title 50 and can be adequately safeguarded as defense information.

(Aug. 1, 1946, ch. 724, § 142, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 941.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

EX. ORD. NO. 10899. COMMUNICATION OF RESTRICTED DATA BY CENTRAL INTELLIGENCE AGENCY

Ex. Ord. No. 10899, eff. Dec. 9, 1960, 25 F.R. 12729, provided:

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 *et seq.*) [this chapter], and as President of the United States, it is ordered as follows:

The Central Intelligence Agency is hereby authorized to communicate for intelligence purposes, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsections 144a, b, or c of the act (42 U.S.C. 2162(a), (b), or (c)), such restricted data and data removed from the restricted data category under subsection 142d of the Act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission [see Transfer of Functions note above] and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841 [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Central Intelligence Agency in accordance with the terms and conditions of the agreement for cooperation involved: *Provided,* that no such communication shall be made by the Central Intelligence Agency until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Central Intelligence Agency.

DWIGHT D. EISENHOWER.

EX. ORD. NO. 11057. COMMUNICATION OF RESTRICTED DATA BY DEPARTMENT OF STATE

Ex. Ord. No. 11057, eff. Oct. 18, 1962, 27 F.R. 10289, provided:

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 et seq.) [this chapter], and as President of the United States, it is ordered as follows:

The Department of State is hereby authorized to communicate, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsection 144b of the act (42 U.S.C. 2164(b)), such restricted data and data removed from the restricted data category under subsection 142d of the act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission [see Transfer of Functions note above] and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841, as amended [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Department of State in accordance with the terms and conditions of the agreement for cooperation involved: *Provided,* that no such communication shall be made by the Department of State until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Department of State.

JOHN F. KENNEDY.

§ 2163. Access to Restricted Data

The Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee or prospective licensee of the Commission or any other person authorized access to Restricted Data by the Commission under section 2165(b) and (c) of this title to permit any employee of an agency of the Department of Defense or of its contractors, or any member of the Armed Forces to have access to Restricted Data required in the performance of his duties and so certified by the head of the appropriate agency of the Department of Defense or his designee: *Provided, however,* That the head of the appropriate agency of the Department of Defense or his designee has determined, in accordance with the established personnel security procedures and standards of such agency, that permitting the member or employee to have access to such Restricted Data will not endanger the common defense and security: *And provided further,* That the Secretary of Defense finds that the established personnel and other security procedures and standards of such agency are adequate and in reasonable conformity to the standards established by the Commission under section 2165 of this title.

(Aug. 1, 1946, ch. 724, § 143, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 941, and amended Aug. 6, 1956, ch. 1015, § 14, 70 Stat. 1071; Sept. 6, 1961, Pub. L. 87-206, § 5, 75 Stat. 476.)

AMENDMENTS

1961—Pub. L. 87-206 inserted the reference to subsection (c) of section 2165 of this title.

1956—Act Aug. 6, 1956, inserted between the words "licensee of the Commission" and the words "to permit any employee" the words "or any other person authorized access to Restricted Data by the Commission under section 2165(b) of this title".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

§ 2164. International cooperation

(a) By Commission

The President may authorize the Commission to cooperate with another nation and to communicate to that nation Restricted Data on—

(1) refining, purification, and subsequent treatment of source material;

(2) civilian reactor development;

(3) production of special nuclear material;

(4) health and safety;

(5) industrial and other applications of atomic energy for peaceful purposes; and

(6) research and development relating to the foregoing:

Provided, however, That no such cooperation shall involve the communication of Restricted Data relating to the design or fabrication of atomic weapons: *And provided further,* That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of this title, or is undertaken pursuant to an agreement existing on August 30, 1954.

(b) By Department of Defense

The President may authorize the Department of Defense, with the assistance of the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data (including design information) as is necessary to—

(1) the development of defense plans;

(2) the training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy;

(3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy; and

(4) the development of compatible delivery systems for atomic weapons;

whenever the President determines that the proposed cooperation and the proposed communication of the Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title.

(c) Exchange of information concerning atomic weapons; research, development, or design, of military reactors

In addition to the cooperation authorized in subsections (a) and (b) of this section, the President may authorize the Commission, with the assistance of the Department of Defense, to cooperate with another nation and—

(1) to exchange with that nation Restricted Data concerning atomic weapons: *Provided,* That communication of such Restricted Data to that nation is necessary to improve its atomic weapon design, development, or fabrication capability and provided that nation has made substantial progress in the development of atomic weapons; and

(2) to communicate or exchange with that nation Restricted Data concerning research, development, or design, of military reactors,

whenever the President determines that the proposed cooperation and the communication of the proposed Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title.

(d) Communication of data by other Governmental agencies

The President may authorize any agency of the United States to communicate in accordance with the terms and conditions of an agreement for cooperation arranged pursuant to subsection (a), (b), or (c) of this section, such Restricted Data as is determined to be transmissible under the agreement for cooperation involved.

(Aug. 1, 1946, ch. 724, § 144, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 942, and amended July 2, 1958, Pub. L. 85-479, §§ 5-7, 72 Stat. 278.)

AMENDMENTS

1958—Subsec. (a). Pub. L. 85-479, § 5, substituted "civilian reactor development" for "reactor development" in cl. (2).

Subsec. (b). Pub. L. 85-479, § 6, authorized communication of design information, of data concerning other military applications of atomic energy necessary for the training of personnel or for the evaluation of the capabilities of potential enemies, and of data necessary to the development of compatible delivery systems for atomic weapons, and eliminated provisions which prohibited communication of data which would reveal important information concerning the design or fabrication of the nuclear components of atomic weapons.

Subsecs. (c), (d). Pub. L. 85-479, § 7, added subsecs. (c) and (d).

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under subsecs. (a) to (c) were transferred to and vested exclusively in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. Similar functions under subsec. (d) were transferred to and vested jointly in the Administrator of the Energy Research and Development Administration and the Nuclear Regulatory Commission by Pub. L. 93-438. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2153, 2154 of this title.

§ 2165. Security restrictions

(a) On contractors and licensees

No arrangement shall be made under section 2051 of this title, no contract shall be made or continued in effect under section 2061 of this title, and no license shall be issued under section 2133 or 2134 of this title, unless the person with whom such arrangement is made, the contractor or prospective contractor, or the prospective licensee agrees in writing not to permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

(b) Employment of personnel; access to Restricted Data

Except as authorized by the Commission or the General Manager upon a determination by the Commission or General Manager that such action is clearly consistent with the national interest, no individual shall be employed by the Commission nor shall the Commission permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

(c) Acceptance of investigation and clearance granted by other Government agencies

In lieu of the investigation and report to be made by the Civil Service Commission pursuant to subsection (b) of this section, the Commission may accept an investigation and report on the character, associations, and loyalty of an individual made by another Government agency which conducts personnel security investigations, provided that a security clearance has been granted to such individual by another Government agency based on such investigation and report.

(d) Investigations by FBI

In the event an investigation made pursuant to subsections (a) and (b) of this section develops any data reflecting that the individual who is the subject of the investigation is of questionable loyalty, the Civil Service Commission shall refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Civil Service Commission for its information and appropriate action.

(e) Presidential investigation

If the President deems it to be in the national interest he may from time to time determine that investigations of any group or class which are required by subsections (a), (b), and (c) of

this section be made by the Federal Bureau of Investigation.

(f) Certification of specific positions for investigation by FBI

Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a majority of the members of the Commission shall certify those specific positions which are of a high degree of importance or sensitivity, and upon such certification, the investigation and reports required by such provisions shall be made by the Federal Bureau of Investigation.

(g) Investigation standards

The Commission shall establish standards and specifications in writing as to the scope and extent of investigations, the reports of which will be utilized by the Commission in making the determination, pursuant to subsections (a), (b), and (c) of this section, that permitting a person access to restricted data will not endanger the common defense and security. Such standards and specifications shall be based on the location and class or kind of work to be done, and shall, among other considerations, take into account the degree of importance to the common defense and security of the restricted data to which access will be permitted.

(h) War time clearance

Whenever the Congress declares that a state of war exists, or in the event of a national disaster due to enemy attack, the Commission is authorized during the state of war or period of national disaster due to enemy attack to employ individuals and to permit individuals access to Restricted Data pending the investigation report, and determination required by subsection (b) of this section, to the extent that and so long as the Commission finds that such action is required to prevent impairment of its activities in furtherance of the common defense and security.

(Aug. 1, 1946, ch. 724, § 145, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 942, and amended Aug. 19, 1958, Pub. L. 85-681, § 5, 72 Stat. 633; Sept. 6, 1961, Pub. L. 87-206, § 6, 75 Stat. 476; Aug. 29, 1962, Pub. L. 87-615, § 10, 76 Stat. 411.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1810(b)(5) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1962—Subsec. (f). Pub. L. 87-615 deleted the comma following "investigation".

1961—Subsec. (c). Pub. L. 87-206 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 87-206 redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 87-206 redesignated former subsec (d) as (e) and amended the provisions by substituting "determine that" for "cause investigations", inserting reference to subsection (c) of this section and eliminating "instead of by the Civil Service Commission" following "Federal Bureau of Investigation." Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 87-206 redesignated former subsec. (e) as (f) and amended the provisions by inserting reference to subsection (c) of this section and eliminating "instead of by the Civil Service Commission" following "Federal Bureau of Investigation." Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 87-206 redesignated former subsec. (f) as (g) and amended the provisions by substituting ", the reports of which will be utilized by the Commission in making the determination, pursuant to subsections (a), (b), and (c) of this section, that permitting a person access to restricted data will not endanger the common defense and security" for "to be made by the Civil Service Commission pursuant to subsections (a) and (b) of this section." Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 87-206 redesignated former subsec. (g) as (h).

1958—Subsec. (g). Pub. L. 85-681 added subsec. (g).

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. which provided that only the Administrator was to establish the basic standards and procedures for the safeguarding of the national defense and security. See sections 5814 and 5841 of this title.

CROSS REFERENCES

Arms control and disarmament security restrictions, see section 2585 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2163, 2166, 2201, 2455 of this title; title 22 section 2585.

§ 2166. Applicability of other laws

(a) Sections 2161 to 2165 of this title shall not exclude the applicable provisions of any other laws, except that no Government agency shall take any action under such other laws inconsistent with the provisions of those sections.

(b) The Commission shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

(Aug. 1, 1946, ch. 724, § 146, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 943.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1810(b)(6) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SUBCHAPTER XII—PATENTS AND INVENTIONS

§ 2181. Inventions relating to atomic weapons, and filing of reports

(a) Denial of patent; revocation of prior patents

No patent shall hereafter be granted for any invention or discovery which is useful solely in the utilization of special nuclear material or

atomic energy in an atomic weapon. Any patent granted for any such invention or discovery is revoked, and just compensation shall be made therefor.

(b) Denial of rights; revocation of prior rights

No patent hereafter granted shall confer any rights with respect to any invention or discovery to the extent that such invention or discovery is used in the utilization of special nuclear material or atomic energy in atomic weapons. Any rights conferred by any patent heretofore granted for any invention or discovery are revoked to the extent that such invention or discovery is so used, and just compensation shall be made therefor.

(c) Report of invention to Commission of Patents and Trademarks

Any person who has made or hereafter makes any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, shall file with the Commission a report containing a complete description thereof unless such invention or discovery is described in an application for a patent filed with the Commission of Patents and Trademarks by such person within the time required for the filing of such report. The report covering any such invention or discovery shall be filed on or before the one hundred and eightieth day after such person first discovers or first has reason to believe that such invention or discovery is useful in such production or utilization.

(d) Report to Commission by Commissioner of Patents and Trademarks

The Commissioner of Patents and Trademarks shall notify the Commission of all applications for patents heretofore or hereafter filed which, in his opinion, disclose inventions or discoveries required to be reported under subsection (c) of this section, and shall provide the Commission access to all such applications.

(e) Confidential information; circumstances permitting disclosure

Reports filed pursuant to subsection (c) of this section, and applications to which access is provided under subsection (d) of this section, shall be kept in confidence by the Commission, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commission.

(Aug. 1, 1946, ch. 724, § 151, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 943, and amended Sept. 6, 1961, Pub. L. 87-206, §§ 7-9, 75 Stat. 477; Jan. 2, 1975, Pub. L. 93-596, § 3, 88 Stat. 1949.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(a) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1961—Pub. L. 87-206, § 7, substituted provision concerning inventions relating to atomic weapons and filing of reports for provision relating to military utilization, in the catchline.

Subsec. (c). Pub. L. 87-206, § 8, eliminated designation as clause (1) of provision relating to production or utilization of special nuclear material or atomic energy and clauses (2) and (3) relating to utilization of special nuclear material in an atomic weapon and utilization of atomic energy in an atomic weapon, respectively, and substituted "the one hundred and eightieth day" for "whichever of the following is the later: either the ninetieth day after completion of such invention or discovery; or the ninetieth day".

Subsec. (e). Pub. L. 87-206, § 9, added subsec. (e).

CHANGE OF NAME

References to the Commissioner of Patents have been changed to the Commissioner of Patents and Trademarks pursuant to Pub. L. 93-596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under subsecs. (a) and (b) of this section were transferred to and vested exclusively in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. Similar functions under subsecs. (c) to (e) of this section were transferred to and vested jointly in the Administrator of the Energy Research and Development Administration and the Nuclear Regulatory Commission by Pub. L. 93-438. See sections 5814 and 5841 of this title.

EMERGENCY RELIEF FROM POSTAL SITUATION AFFECTING ATOMIC ENERGY CASES

Excusal of delayed fees or actions affected by postal situation beginning on Mar. 18, 1970, and ending on or about Mar. 30, 1970, see note set out under section 111 of Title 35, Patents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2187, 2190 of this title.

§ 2182. Inventions conceived during Commission contracts; ownership; waiver; hearings

Any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission, shall be vested in, and be the property of, the Commission, except that the Commission may waive its claim to any such invention or discovery under such circumstances as the Commission may deem appropriate, consistent with the policy of this section. No patent for any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, shall be issued unless the applicant files with the application, or within thirty days after request therefor by the Commissioner of Patents and Trademarks (unless the Commission advises the Commissioner of Patents and Trademarks that its rights have been determined and that accordingly no statement is necessary) a statement under oath setting forth the full facts surrounding the making or conception of the invention or discovery described in the application and whether the invention or discovery was made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless

of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission. The Commissioner of Patents and Trademarks shall as soon as the application is otherwise in condition for allowance forward copies of the application and the statement to the Commission.

The Commissioner of Patents and Trademarks may proceed with the application and issue the patent to the applicant (if the invention or discovery is otherwise patentable) unless the Commission, within 90 days after receipt of copies of the application and statement, directs the Commissioner of Patents and Trademarks to issue the patent to the Commission (if the invention or discovery is otherwise patentable) to be held by the Commission as the agent of and on behalf of the United States.

If the Commission files such a direction with the Commissioner of Patents and Trademarks, and if the applicant's statement claims, and the applicant still believes, that the invention or discovery was not made or conceived in the course of or under any contract, subcontract or arrangement entered into with or for the benefit of the Commission entitling the Commission to the title to the application or the patent the applicant may, within 30 days after notification of the filing of such a direction, request a hearing before a Board of Patent Interferences. The Board shall have the power to hear and determine whether the Commission was entitled to the direction filed with the Commissioner of Patents and Trademarks. The Board shall follow the rules and procedures established for interference cases and an appeal may be taken by either the applicant or the Commission from the final order of the Board to the Court of Customs and Patent Appeals in accordance with the procedures governing the appeals from the Board of Patent Interferences.

If the statement filed by the applicant should thereafter be found to contain false material statements any notification by the Commission that it has no objections to the issuance of a patent to the applicant shall not be deemed in any respect to constitute a waiver of the provisions of this section or of any applicable civil or criminal statute, and the Commission may have the title to the patent transferred to the Commission on the records of the Commissioner of Patents and Trademarks in accordance with the provisions of this section. A determination of rights by the Commission pursuant to a contractual provision or other arrangement prior to the request of the Commissioner of Patents and Trademarks for the statement, shall be final in the absence of false material statements or nondisclosure of material facts by the applicant.

(Aug. 1, 1946, ch. 724, § 152, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 944, and amended Sept. 6, 1961, Pub. L. 87-206, § 10, 75 Stat. 477; Aug. 29, 1962, Pub. L. 87-615, § 11, 76 Stat. 411; Jan. 2, 1975, Pub. L. 93-596, § 3, 88 Stat. 1949.)

AMENDMENTS

1962—Pub. L. 87-615 substituted "allowance" for "allowances" preceding "forward copies of the application" in first paragraph.

1961—Pub. L. 87-206 clarified the language concerning the Commission's patent rights on inventions made or conceived under contract, subcontract, or arrangement with the Commission, eliminating language extending Commission's patent rights to other relationships and activities in connection with Commission contracts, provided for waiver of patent rights consistent with the policy of this section and for finality of determinations of the Commission, and dispensed with need for statement to Commissioner of Patents under certain circumstances.

CHANGE OF NAME

References to the Commissioner of Patents have been changed to the Commissioner of Patents and Trademarks pursuant to Pub. L. 93-596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2183. Nonmilitary utilization

(a) Declaration of public interest

The Commission may, after giving the patent owner an opportunity for a hearing, declare any patent to be affected with the public interest if (1) the invention or discovery covered by the patent is of primary importance in the production or utilization of special nuclear material or atomic energy; and (2) the licensing of such invention or discovery under this section is of primary importance to effectuate the policies and purposes of this chapter.

(b) Action by Commission

Whenever any patent has been declared affected with the public interest, pursuant to subsection (a) of this section—

(1) the Commission is licensed to use the invention or discovery covered by such patent in performing any of its powers under this chapter; and

(2) any person may apply to the Commission for a nonexclusive patent license to use the invention or discovery covered by such patent, and the Commission shall grant such patent license to the extent that it finds that the use of the invention or discovery is of primary importance to the conduct of an activity by such person authorized under this chapter.

(c) Application for patent

Any person—

(1) who has made application to the Commission for a license under sections 2073, 2092, 2093, 2111, 2133 or 2134 of this title, or a permit or lease under section 2097 of this title;

(2) to whom such license, permit, or lease has been issued by the Commission;

(3) who is authorized to conduct such activities as such applicant is conducting or proposes to conduct under a general license issued by the Commission under sections 2092 or 2111 of this title; or

(4) whose activities or proposed activities are authorized under section 2051 of this title,

may at any time make application to the Commission for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent. Each such application shall set forth the nature and purpose of the use which the applicant intends to make of the patent license, the steps taken by the applicant to obtain a patent license from the owner of the patent, and a statement of the effects, as estimated by the applicant, on the authorized activities which will result from failure to obtain such patent license and which will result from the granting of such patent license.

(d) Hearings

Whenever any person has made an application to the Commission for a patent license pursuant to subsection (c) of this section—

(1) the Commission, within 30 days after the filing of such application, shall make available to the owner of the patent all of the information contained in such application, and shall notify the owner of the patent of the time and place at which a hearing will be held by the Commission;

(2) the Commission shall hold a hearing within 60 days after the filing of such application at a time and place designated by the Commission; and

(3) in the event an applicant applies for two or more patent licenses, the Commission may, in its discretion, order the consolidation of such applications, and if the patents are owned by more than one owner, such owners may be made parties to one hearing.

(e) Commission's findings

If, after any hearing conducted pursuant to subsection (d) of this section, the Commission finds that—

(1) the invention or discovery covered by the patent is of primary importance in the production or utilization of special nuclear material or atomic energy;

(2) the licensing of such invention or discovery is of primary importance to the conduct of the activities of the applicant;

(3) the activities to which the patent license are proposed to be applied by such applicant are of primary importance to the furtherance of policies and purposes of this chapter; and

(4) such applicant cannot otherwise obtain a patent license from the owner of the patent on terms which the Commission deems to be reasonable for the intended use of the patent to be made by such applicant,

the Commission shall license the applicant to use the invention or discovery covered by the patent for the purposes stated in such application on terms deemed equitable by the Commission and generally not less fair than those granted by the patentee or by the Commission to similar licensees for comparable use.

(f) Limitations on issuance of patent

The Commission shall not grant any patent license pursuant to subsection (e) of this section for any other purpose than that stated in the application. Nor shall the Commission grant any patent license to any other applicant for a patent license on the same patent without an application being made by such applicant pursuant to subsection (c) of this section, and without separate notification and hearing as provided in subsection (d) of this section, and without a separate finding as provided in subsection (e) of this section.

(g) Royalty fees

The owner of the patent affected by a declaration or a finding made by the Commission pursuant to subsection (b) or (e) of this section shall be entitled to a reasonable royalty fee from the licensee for any use of an invention or discovery licensed by this section. Such royalty fee may be agreed upon by such owner and the patent licensee, or in the absence of such agreement shall be determined for each patent license by the Commission pursuant to section 2187(c) of this title.

(h) Effective period

The provisions of this section shall apply to any patent the application for which shall have been filed before September 1, 1979.

(Aug. 1, 1946, ch. 724, § 153, as added Aug. 20, 1954, ch. 1073, § 1, 68 Stat. 945, and amended June 23, 1959, Pub. L. 86-50, § 114, 73 Stat. 87; Aug. 1, 1964, Pub. L. 88-394, § 1, 78 Stat. 376; Dec. 24, 1969, Pub. L. 91-161, § 1, 83 Stat. 444; Aug. 17, 1974, Pub. L. 93-377, § 6, 88 Stat. 475.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(c)(1), (2), of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1974—Subsec. (h). Pub. L. 93-377 substituted "September 1, 1979" for "September 1, 1974".

1969—Subsec. (h). Pub. L. 91-161 substituted "September 1, 1974" for "September 1, 1969".

1964—Subsec. (h). Pub. L. 88-394 substituted "September 1, 1969" for "September 1, 1964".

1959—Subsec. (h). Pub. L. 86-50 substituted "September 1, 1964" for "September 1, 1959".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2184, 2186, 2187, 2239 of this title.

§ 2184. Injunctions; measure of damages

No court shall have jurisdiction or power to stay, restraing, or otherwise enjoin the use of any invention or discovery by a patent licensee, to the extent that such use is licensed by section 2183(b) or 2183(e) of this title. If, in any action against such patent licensee, the court shall determine that the defendant is exercising such license, the measure of damages shall be the royalty fee determined pursuant to section 2187(c) of this title, together with such costs, interest, and reasonable attorney's fees as may be fixed by the court. If no royalty fee has

been determined, the court shall stay the proceeding until the royalty fee is determined pursuant to section 2187(c) of this title. If any such patent licensee shall fail to pay such royalty fee, the patentee may bring an action in any court of competent jurisdiction for such royalty fee, together with such costs, interest, and reasonable attorney's fees as may be fixed by the court.

(Aug. 1, 1946, ch. 724, § 154, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 946.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(c)(3) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

§ 2185. Prior art

In connection with applications for patents covered by this subchapter, the fact that the invention or discovery was known or used before shall be a bar to the patenting of such invention or discovery even though such prior knowledge or use was under secrecy within the atomic energy program of the United States.

(Aug. 1, 1946, ch. 724, § 155, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 947.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2190 of this title.

§ 2186. Commission patent licenses

The Commission shall establish standard specifications upon which it may grant a patent license to use any patent held by the Commission or declared to be affected with the public interest pursuant to section 2183(a) of this title. Such a patent license shall not waive any of the other provisions of this chapter.

(Aug. 1, 1946, ch. 724, § 156, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 947.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2187. Compensation, awards, and royalties

(a) Patent Compensation Board

The Commission shall designate a Patent Compensation Board to consider applications under this section. The members of the Board shall receive a per diem compensation for each day spent in meetings or conferences, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Board. The members of the Board may serve as such without regard to the provisions of sections 281, 283, or 284 of title 18, except in so far as such sections may prohibit any such member from receiving compensation in respect of any particular matter which directly involves the Commission or in which the Commission is directly interested.

(b) Eligibility

(1) Any owner of a patent licensed under section 2188 or 2183(b) or 2183(e) of this title, or any patent licensee thereunder may make application to the Commission for the determination of a reasonable royalty fee in accordance with such procedures as the Commission by regulation may establish.

(2) Any person seeking to obtain the just compensation provided in section 2181 of this title shall make application therefor to the Commission in accordance with such procedures as the Commission may by regulation establish.

(3) Any person making any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, who is not entitled to compensation or a royalty therefor under this chapter and who has complied with the provisions of section 2181(c) of this title may make application to the Commission for, and the Commission may grant, an award. The Commission may also, after consultatin with the General Advisory Committee, and with the approval of the President, grant an award for any especially meritorious contribution to the development, use, or control of atomic energy.

(c) Standards

(1) In determining a reasonable royalty fee as provided for in section 2183(b) or 2183(e) of this title, the Commission shall take into consideration (A) the advice of the Patent Compensation Board; (B) any defense, general or special, that might be pleaded by a defendant in an action for infringement; (C) the extent to which, if any, such patent was developed through federally financed research; and (D) the degree of utility, novelty, and importance of the invention or discovery, and may consider the cost to the owner of the patent of developing such invention or discovery or acquiring such patent.

(2) In determining what constitutes just compensation as provided for in section 2181 of this title, or in determining the amount of any award under subsection (b)(3) of this section, the Commission shall take into account the considerations set forth in paragraph (1) of this subsection and the actual use of such invention or discovery. Such compensation may be paid by the Commission in periodic payments or in a lump sum.

(d) Limitations

Every application under this section shall be barred unless filed within six years after the date on which first accrues the right to such reasonable royalty fee, just compensation, or award for which such application is filed.

(Aug. 1, 1946, ch. 724, § 157, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 947, and amended Sept. 6, 1961, Pub. L. 87-206, § 11, 75 Stat. 478; May 10, 1974, Pub. L. 93-276, title II, § 201, 88 Stat. 119.)

REFERENCES IN TEXT

Sections 281, 283, or 284 of title 18, referred to in subsec. (a), were repealed by Pub. L. 87-849, § 2, Oct. 23, 1962, 76 Stat. 1126, except as sections 281 and 283 apply to retired officers of the Armed Forces of the United States, and were supplanted by sections 203, 205, and 207, respectively, of Title 18, Crimes and

Criminal Procedures. For further details, see "Exemptions" note set out under section 281 of Title 18.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(e)(1) to (3) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1974—Subsec. (b)(3). Pub. L. 93-276 substituted "after consultation with the General Advisory Committee" for "upon the recommendation of the General Advisory Committee".

1961—Subsec. (d). Pub. L. 87-206 added subsec. (d).

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Administrator of the Energy Research and Development Administration and the Patent Compensation Board, established under this section, was transferred to the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

EX. ORD. NO. 11477. AWARDS BY COMMISSION WITHOUT APPROVAL OF PRESIDENT

Ex. Ord. No. 11477, eff. Aug. 7, 1969, 34 F.R. 12937, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

The Atomic Energy Commission is hereby designated and empowered, without approval, ratification, or other action by the President, to grant by the unanimous affirmative vote of all of its members not more than five awards in any calendar year, not exceeding the sum of $5,000 each, pursuant to the last sentence of section 157b(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)) which authorizes the Commission to grant awards for especially meritorious contributions to the development, use, or control of atomic energy.

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2183, 2184, 2239, 5814 of this title.

§ 2188. Monopolistic use of patents

Whenever the owner of any patent hereafter granted for any invention or discovery of primary use in the utilization or production of special nuclear material or atomic energy is found by a court of competent jurisdiction to have intentionally used such patent in a manner so as to violate any of the antitrust laws specified in section 2135(a) of this title, there may be included in the judgment of the court, in its discretion and in addition to any other lawful sanctions, a requirement that such owner license such patent to any other licensee of the Commission who demonstrates a need therefor. If the court, at its discretion, deems that such licensee shall pay a reasonable royalty to the owner of the patent, the reasonable royalty shall be determined in accordance with section 2187 of this title.

(Aug. 1, 1946, ch. 724, § 158, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 942, and amended Sept. 6, 1961, Pub. L. 87-206, § 12, 75 Stat. 478.)

AMENDMENTS

1961—Pub. L. 87-206 made it discretionary, rather than mandatory, for the court to require payment of royalties by a licensee to the owner of a patent.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2187 of this title.

§ 2189. Federally financed research

Nothing in this chapter shall affect the right of the Commission to require that patents granted on inventions, made or conceived during the course of federally financed research or operations, be assigned to the United States.

(Aug. 1, 1946, ch. 724, § 159, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 159.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2190. Saving clause for prior patent applications

Any patent application on which a patent was denied by the United States Patent and Trademark Office under sections 1811(a)(1), 1811(a)(2), or 1811(b) of this title, and which is not prohibited by section 2181 or 2185 of this title may be reinstated upon application to the Commissioner of Patents and Trademarks within one year after August 30, 1954 and shall then be deemed to have been continuously pending since its original filing date: *Provided, however,* That no patent issued upon any patent application so reinstated shall in any way furnish a basis of claim against the Government of the United States.

(Aug. 1, 1946, ch. 724, § 160, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 948, and amended Jan. 2, 1975, Pub. L. 93-596, § 3, 88 Stat. 1949.)

REFERENCES IN TEXT

Sections 1811(a)(1), 1811(a)(2), and 1811(b) of this title, referred to in text, were omitted from the Code in the general amendment and renumbering of act Aug. 1, 1946 (which was classified to section 1801 et seq. of this title) by act Aug. 30, 1954, ch. 1073, 68 Stat. 919.

CHANGE OF NAME

References to the Patent Office and the Commissioner of Patents have been changed to the Patent and Trademark Office and the Commissioner of Patents and Trademarks, respectively, pursuant to Pub. L. 93-596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

SUBCHAPTER XIII—GENERAL AUTHORITY OF COMMISSION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2305 of this title.

§ 2201. General duties of Commission

In the performance of its functions the Commission is authorized to—

(a) Establishment of advisory boards

establish advisory boards to advise with and make recommendations to the Commission on legislation, policies, administration, research, and other matters, provided that the Commission issues regulations setting forth the scope, procedure, and limitations of the authority of each such board;

(b) Standards governing use and possession of material

establish by rule, regulation, or order, such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material as the Commission may deem necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property;

(c) Studies and investigations

make such studies and investigations, obtain such information, and hold such meetings or hearings as the Commission may deem necessary or proper to assist it in exercising any authority provided in this chapter, or in the administration or enforcement of this chapter, or any regulations or orders issued thereunder. For such purposes the Commission is authorized to administer oaths and affirmations, and by subpena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place. Witnesses subpenaed under this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States;

(d) Employment of personnel

appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5, except that, to the extent the Commission deems such action necessary to the discharge of its responsibilities, personnel may be employed and their compensation fixed without regard to such laws: *Provided, however,* That no officer or employee (except such officers and employees whose compensation is fixed by law, and scientific and technical personnel up to a limit of the highest rate of grade 18 of the General Schedule) whose position would be subject to chapter 51 and subchapter III of chapter 53 of title 5, if such provisions were applicable to such position, shall be paid a salary at a rate in excess of the rate payable under such provisions for positions of equivalent difficulty or responsibility. Such rates of compensation may be adopted by the Commission as may be authorized by chapter 51 and subchapter III of chapter 53 of title 5, as of the same date such rates are authorized for positions subject to such provisions. The Commission shall make adequate provision for administrative review of any determination to dismiss any employee;

(e) Acquisition of material, property, etc.; negotiation of commercial leases

acquire such material, property, equipment, and facilities, establish or construct such buildings and facilities, and modify such buildings and facilities from time to time, as it may deem necessary, and construct, acquire, provide, or arrange for such facilities and services (at project sites where such facilities and services are not available) for the housing, health, safety, welfare, and recreation of personnel employed by the Commission as it may deem necessary, subject to the provisions of section 2224 of this title: *Provided, however,* That in the communities owned by the Commission, the Commission is authorized to grant privileges, leases and permits upon adjusted terms which (at the time of the initial grant of any privilege grant, lease, or permit, or renewal thereof, or in order to avoid inequities or undue hardship prior to the sale by the United States of property affected by such grant) are fair and reasonable to responsible persons to operate commercial businesses without advertising and without advertising[1] and without securing competitive bids, but taking into consideration, in addition to the price, and among other things (1) the quality and type of services required by the residents of the community, (2) the experience of each concession applicant in the community and its surrounding area, (3) the ability of the concession applicant to meet the needs of the community, and (4) the contribution the concession applicant has made or will make to the other activities and general welfare of the community;

(f) Utilization of other Federal agencies

with the consent of the agency concerned, utilize or employ the services or personnel of any Government agency or any State or local government, or voluntary or uncompensated personnel, to perform such functions on its behalf as may appear desirable;

(g) Acquisition of real and personal property

acquire, purchase, lease, and hold real and personal property, including patents, as agent of and on behalf of the United States, subject

[1] So in original.

to the provisions of section 2224 of this title, and to sell, lease, grant, and dispose of such real and personal property as provided in this chapter;

(h) Consideration of license applications

consider in a single application one or more of the activities for which a license is required by this chapter, combine in a single license one or more of such activities, and permit the applicant or licensee to incorporate by reference pertinent information already filed with the Commission;

(i) Regulations governing Restricted Data

prescribe such regulations or orders as it may deem necessary (1) to protect Restricted Data received by any person in connection with any activity authorized pursuant to this chapter, (2) to guard against the loss or diversion of any special nuclear material acquired by any person pursuant to section 2073 of this title or produced by any person in connection with any activity authorized pursuant to this chapter, to prevent any use or disposition thereof which the Commission may determine to be inimical to the common defense and security, including regulations or orders designating activities, involving quantities of special nuclear material which in the opinion of the Commission are important to the common defense and security, that may be conducted only by persons whose character, associations, and loyalty shall have been investigated under standards and specifications established by the Commission and as to whom the Commission shall have determined that permitting each such person to conduct the activity will not be inimical to the common defense and security, and (3) to govern any activity authorized pursuant to this chapter, including standards and restrictions governing the design, location, and operation of facilities used in the conduct of such activity, in order to protect health and to minimize danger to life or property;

(j) Disposition of surplus materials

without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.], except section 207 of that Act [40 U.S.C. 488], or any other law, make such disposition as it may deem desirable of (1) radioactive materials, and (2) any other property, the special disposition of which is, in the opinion of the Commission, in the interest of the national security: *Provided, however,* That the property furnished to licensees in accordance with the provisions of subsection (m) of this section shall not be deemed to be property disposed of by the Commission pursuant to this subsection;

(k) Carrying of firearms

authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize such of those employees of its contractors engaged in the protection of property owned by the United States and located at facilities owned by or contracted to the United States as it deems necessary in the interests of the common defense and security to carry firearms while in the discharge of their official duties;

(*l*) Repealed. Pub. L. 87-456, title III, § 303(c), May 24, 1962, 76 Stat. 78

(m) Agreements regarding production

enter into agreements with persons licensed under section 2133, 2134, 2073(a)(4), or 2093(a)(4) of this title for such periods of time as the Commission may deem necessary or desirable (1) to provide for the processing, fabricating, separating, or refining in facilities owned by the Commission of source, byproduct, or other material or special nuclear material owned by or made available to such licensees and which is utilized or produced in the conduct of the licensed activity, and (2) to sell, lease, or otherwise make available to such licensees such quantities of source or byproduct material, and other material not defined as special nuclear material pursuant to this chapter, as may be necessary for the conduct of the licensed activity: *Provided, however,* That any such agreement may be canceled by the licensee at any time upon payment of such reasonable cancellation charges as may be agreed upon by the licensee and the Commission: *And provided further,* That the Commission shall establish prices to be paid by licensees for material or services to be furnished by the Commission pursuant to this subsection, which prices shall be established on such a nondiscriminatory basis as, in the opinion of the Commission, will provide reasonable compensation to the Government for such material or services and will not discourage the development of sources of supply independent of the Commission;

(n) Delegation of functions

delegate to the General Manager or other officers of the Commission any of those functions assigned to it under this chapter except those specified in sections 2071, 2077(b), 2091, 2138, 2153, 2165(b) of this title (with respect to the determination of those persons to whom the Commission may reveal Restricted Data in the national interest), 2165(f) of this title and subsection (a) of this section;

(*o*) Reports

require by rule, regulation, or order, such reports, and the keeping of such records with respect to, and to provide for such inspections of, activities and studies of types specified in section 2051 of this title and of activities under licenses issued pursuant to sections 2073, 2093, 2111, 2133, and 2134 of this title, as may be necessary to effectuate the purposes of this chapter, including section 2135 of this title; and

(p) Rules and regulations

make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this chapter.

(q) Easements for rights-of-way

The Commission is authorized and empowered, under such terms and conditions as are deemed advisable by it, to grant easements for rights-of-way over, across, in, and upon ac-

quired lands under its jurisdiction and control, and public lands permanently withdrawn or reserved for the use of the Commission, to any State, political subdivision thereof, or municipality, or to any individual, partnership, or corporation of any State, Territory, or possession of the United States, for (a) railroad tracks; (b) oil pipe lines; (c) substations for electric power transmission lines, telephone lines, and telegraph lines, and pumping stations for gas, water, sewer, and oil pipe lines; (d) canals; (e) ditches; (f) flumes; (g) tunnels; (h) dams and reservoirs in connection with fish and wildlife programs, fish hatcheries, and other fish-cultural improvements; (i) roads and streets; and (j) for any other purpose or purposes deemed advisable by the Commission: *Provided,* That such rights-of-way shall be granted only upon a finding by the Commission that the same will not be incompatible with the public interest: *Provided further,* That such rights-of-way shall not include any more land than is reasonably necessary for the purpose for which granted: *And provided further,* That all or any part of such rights-of-way may be annulled and forfeited by the Commission for failure to comply with the terms and conditions of any grant hereunder or for nonuse for a period of two consecutive years or abandonment of rights granted under authority hereof. Copies of all instruments granting easements over public lands pursuant to this section shall be furnished to the Secretary of the Interior.

(r) Sale of utilities and related services

Under such regulations and for such periods and at such prices the Commission may prescribe, the Commission may sell or contract to sell to purchasers within Commission-owned communities or in the immediate vicinity of the Commission community, as the case may be, any of the following utilities and related services, if it is determined that they are not available from another local source and that the sale is in the interest of the national defense or in the public interest:

(1) Electric power.
(2) Steam.
(3) Compressed air.
(4) Water.
(5) Sewage and garbage disposal.
(6) Natural, manufactured, or mixed gas.
(7) Ice.
(8) Mechanical refrigeration.
(9) Telephone service.

Proceeds of sales under this subsection shall be credited to the appropriation currently available for the supply of that utility or service. To meet local needs the Commission may make minor expansions and extensions of any distributing system or facility within or in the immediate vicinity of a Commission-owned community through which a utility or service is furnished under this subsection.

(s) Succession of authority

establish a plan for a succession of authority which will assure the continuity of direction of the Commission's operations in the event of a national disaster due to enemy activity. Notwithstanding any other provision of this chapter, the person or persons succeeding to command in the event of disaster in accordance with the plan established pursuant to this subsection shall be vested with all of the authority of the Commission: *Provided,* That any such succession to authority, and vesting of authority shall be effective only in the event and as long as a quorum of three or more members of the Commission is unable to convene and exercise direction during the disaster period: *Provided further,* That the disaster period includes the period when attack on the United States is imminent and the post-attack period necessary to reestablish normal lines of command;

(t) Contracts

enter into contracts for the processing, fabricating, separating, or refining in facilities owned by the Commission of source, byproduct or other material, or special nuclear material, in accordance with and within the period of an agreement for cooperation while comparable services are available to persons licensed under section 2133 or 2134 of this title: *Provided,* That the prices for services under such contracts shall be no less than the prices currently charged by the Commission pursuant to subsection (m) of this section;

(u) Additional contracts; guiding principles; appropriations

(1) enter into contracts for such periods of time as the Commission may deem necessary or desirable, but not to exceed five years from the date of execution of the contract, for the purchase or acquisition of reactor services or services related to or required by the operation of reactors;

(2)(A) enter into contracts for such periods of time as the Commission may deem necessary or desirable for the purchase or acquisition of any supplies, equipment, materials, or services required by the Commission whenever the Commission determines that: (i) it is advantageous to the Government to make such purchase or acquisition from commercial sources; (ii) the furnishing of such supplies, equipment, materials, or services will require the construction or acquisition of special facilities by the vendors or suppliers thereof; (iii) the amortization chargeable to the Commission constitutes an appreciable portion of the cost of contract performance, excluding cost of materials; and (iv) the contract for such period is more advantageous to the Government than a similar contract not executed under the authority of this subsection. Such contracts shall be entered into for periods not to exceed five years each from the date of initial delivery of such supplies, equipment, materials, or services or ten years from the date of execution of the contracts excluding periods of renewal under option.

(B) In entering into such contracts the Commission shall be guided by the following principles: (i) the percentage of the total cost of special facilities devoted to contract performance and chargeable to the Commission should not exceed the ratio between the period of contract deliveries and the anticipated useful life of such special facilities; (ii)

the desirability of obtaining options to renew the contract for reasonable periods at prices not to include charges for special facilities already amortized; and (iii) the desirability of reserving in the Commission the right to take title to the special facilities under appropriate circumstances; and

(3) include in contracts made under this subsection provisions which limit the obligation of funds to estimated annual deliveries and services and the unamortized balance of such amounts due for special facilities as the parties shall agree is chargeable to the performance of the contract. Any appropriation available at the time of termination or thereafter made available to the Commission for operating expenses shall be available for payment of such costs which may arise from termination as the contract may provide. The term "special facilities" as used in this subsection means any land and any depreciable buildings, structures, utilities, machinery, equipment, and fixtures necessary for the production or furnishing of such supplies, equipment, materials, or services and not available to the vendors or suppliers for the performance of the contract.

(v) Contracts for production or enrichment of special nuclear material; domestic licensees; other nations; prices; materials of foreign origin; criteria for availability of services under this subsection; Congressional review

(A) enter into contracts with persons licensed under sections 2073, 2093, 2133 or 2134 of this title for such periods of time as the Commission may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission; and

(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission in accordance with and within the period of an agreement for cooperation arranged pursuant to section 2153 of this title while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; and (iii) any prices established under this subsection shall be on a basis of recovery of the Government's costs over a reasonable period of time: *And provided further*, That the Commission, to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Commission shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: *Provided*, That before the Commission establishes such criteria, the proposed criteria shall be submitted to the Joint Committee, and a period of forty-five days shall elapse while Congress is in session (in computing the forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days) unless the Joint Committee by resolution in writing waives the conditions of, or all or any portion of, such forty-five-day period.

(w) License fees for nuclear power reactors

Prescribe and collect from any other Government agency, which applies for or is issued a license for a utilization facility designed to produce electrical or heat energy pursuant to section 2133 or 2134(b) of this title, any fee, charge, or price which it may require, in accordance with the provisions of section 483a of title 31 or any other law, of applicants for, or holders of, such licenses.

(Aug. 1, 1946, ch. 724, § 161, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 948, and amended July 14, 1956, ch. 608, 70 Stat. 553; Aug. 6, 1956, ch. 1015, § 4, 70 Stat. 1069; Aug. 21, 1957, Pub. L. 85-162, title II, §§ 201, 204, 71 Stat. 410; Sept. 4, 1957, Pub. L. 85-287, § 4, 71 Stat. 613; July 7, 1958, Pub. L. 85-507, § 21(b)(1), 72 Stat. 337; Aug. 19, 1958, Pub. L. 85-681, §§ 6, 7, 72 Stat. 633; Sept. 21, 1959, Pub. L. 86-300, § 1, 73 Stat. 574; Sept. 6, 1961, Pub. L. 87-206, § 13, 75 Stat. 478; May 24, 1962, Pub. L. 87-456, title III, § 303(c), 76 Stat. 78; Aug. 29, 1962, Pub. L. 87-615, § 12, 76 Stat. 411; Oct. 11, 1962, Pub. L. 87-793, § 1001(g), 76 Stat. 864; Aug. 26, 1964, Pub. L. 88-489, § 16, 78 Stat. 606; Dec. 14, 1967, Pub. L. 90-190, § 11, 81 Stat. 578; Oct. 15, 1970, Pub. L. 91-452, title II, § 237, 84 Stat. 930; Dec. 19, 1970, Pub. L. 91-560, §§ 7, 8, 84 Stat. 1474; June 16, 1972, Pub. L. 92-314, title III, § 301, 86 Stat. 227; Aug. 17, 1974, Pub. L. 93-377, § 7, 88 Stat. 475.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (d), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

The General Schedule, referred to in subsec. (d), is set out in section 5332 of Title 5, Government Organization and Employees.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (j), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that act relating to disposal of government property are classfied to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of Title 40 and Tables volume

CODIFICATION

In subsec. (d), "chapter 51 and subchapter III of chapter 53 of title 5" and "such provisions" were substituted for "the Classification Act of 1949, as amended" and "such Act", respectively, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1812(a) of this title prior to the general amend-

ment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1974—Subsec. (i). Pub. L. 93-377 added provision in cl. (2) relating to regulations or orders designating activities, involving quantities of special nuclear material important to the common defense and security, that may be conducted by persons whose character, etc., have been established so that if they are permitted to conduct such activities it would not be inimical to the common defense and security.

1972—Subsec. (w). Pub. L. 92-314 added subsec. (w).

1970—Subsec. (c). Pub. L. 91-452 struck out the provisions that no person be excused from complying with any requirements under this paragraph because of his privilege against self-incrimination, but that the immunity provisions of the Compulsory Testimony Act of Feb. 11, 1893, apply with respect to any individual who specifically claims such privilege.

Subsec. (n). Pub. L. 91-560, § 7, struck out references to section 2132 of this title and the finding of practical value.

Subsec. (v). Pub. L. 91-560, § 8, substituted provisions for the establishment of prices on a basis of recovery of the Government's costs over a reasonable period of time for provisions for the establishment of prices on a basis which will provide reasonable compensation to the Government.

1967—Subsec. (n). Pub. L. 90-190 substituted "2077(b)" for "2077(a)(3)".

1964—Subsec. (v). Pub. L. 88-489 added subsec. (v).

1962—Subsec. (d). Pub. L. 87-793 substituted "up to a limit of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended" for "up to a limit of $19,000."

Subsec. (*l*). Pub. L. 87-456 repealed former subsec. (*l*) which authorized the admittance free of duty into the United States of purchases made abroad of source materials. See Revised Tariff Schedules set out in section 1202 of Title 19, Customs Duties.

Subsec. (n). Pub. L. 87-615 substituted "2165(f) of this title" for "2165(e) of this title".

1961—Subsecs. (s) to (u). Pub. L. 87-206 redesignated former subsecs. (t) to (v) as (s) to (u), respectively.

Subsec. (v). Pub. L. 87-206 redesignated former subsec. (v) as (u).

1959—Subsec. (m). Pub. L. 86-300 inserted references to sections 2073(a)(4) and 2093(a)(4) of this title.

1958—Subsec. (d). Pub. L. 85-681, § 6, authorized the Commission to adopt compensation rates on a retroactive basis as may be authorized by the Classification Act for other Government employees.

Subsec. (n). Pub. L. 85-507 redesignated former subsec. (o) as (n). Former subsec. (n), which authorized the Commission to assign employees for instruction, education, or training by public or private agencies, institutions of learning, laboratories, or industrial or commercial organizations, was repealed by Pub. L. 85-507, and is now covered by section 4101 et seq. of Title 5, Government Organizations and Employees.

Subsecs. (o) to (r). Pub. L. 85-507 redesignated former subsecs. (p) to (s) as (o) to (r) respectively.

Subsecs. (t) to (v). Pub. L. 85-681, § 7 added subsecs. (t) to (v).

1957—Subsec. (d). Pub. L. 85-287 inserted "up to a limit of $19,000" following "scientific and technical personnel".

Subsec. (e). Pub. L. 85-162, § 201 inserted "(at the time of the initial grant of any privilege grant, lease, or permit, or renewal thereof, or in order to avoid inequities or undue hardship prior to the sale by the United States of property affected by such grant)" following "adjusted terms which".

Subsec. (s). Pub. L. 85-162, § 204 added subsec. (s).

1956—Subsec. (e). Act July 14, 1956 added proviso relating to negotiation of commercial leases without advertising by the Commission.

Subsec. (r). Act Aug. 6, 1956 added subsec. (r).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-793 effective on the first day of the first pay period which begins on or after Oct. 11, 1962, see section 1008 of Pub. L. 87-793.

Repeal of subsec. (*l*) effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456, set out as an Effective Date note preceding section 1202 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85-507, see section 21(a) of Pub. L. 85-507.

SAVINGS PROVISIONS

Amendment by Pub. L. 91-452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date note under section 6001 of Title 18, Crimes and Criminal Procedure.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under subsecs. (a) to (d), (f), (g), (i) to (k), (n) to (q) and (s), were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, provided that only the Administrator was to establish the basic standards and procedures respecting national security and that no functions delegated to officers of the Nuclear Regulatory Commission were to include functions relating to the development of atomic energy or the atomic industry. Similar functions under subsecs. (e), (m), (r), (t), (u), (v), were transferred and vested exclusively in the Administrator of the Energy Research and Development Administration. Similar functions under subsecs. (h) and (w), were transferred to and vested exclusively in the Nuclear Regulatory Commission. See sections 5814 and 5841 of this title.

The functions of the Atomic Energy Commission administered through its Division of Radiation Protection Standards, to the extent that such functions of the Commission consisted of establishing generally applicable environmental standards for the protection of the general environment from radioactive material, were transferred to the Administrator of the Environmental Protection Agency by Reorg. Plan No. 3 of 1970, § 2(a)(6), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. Advisory Boards established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the ex-

piration of such two-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Atomic Energy Commission, see Parts 1, 14, and 30 of Ex. Ord. No. 11490, eff. Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

PRINCIPAL OFFICE BUILDING FOR ATOMIC ENERGY COMMISSION

Act May 6, 1955, ch. 34, 69 Stat. 47, as amended by Pub. L. 85-107, July 17, 1957, 71 Stat. 307, authorized the Atomic Energy Commission to acquire a suitable site in or near the District of Columbia and, notwithstanding any other provision of law, to provide for the construction on such site, in accordance with plans and specifications prepared by or under the direction of the Commission, of a modern office building to serve as the principal office of the Commission at a total cost of not to exceed $13,300,000 and authorized to be appropriated such sums as were necessary.

REPORT WITH RESPECT TO RENEGOTIATIONS, REAPPRAISALS, AND SALES PROCEEDINGS

Section 203 of Pub. L. 85-162 directed the Atomic Energy Commission, the Federal Housing Administration, and the Housing and Home Finance Agency to report to the Joint Committee by January 31, 1958, with respect to the renegotiations, reappraisals, and sales proceedings authorized under sections 201 and 202 of Pub. L. 85-162 [amending subsec. (e) of this section and adding section 2325(c) of this title].

CROSS REFERENCES

Agreements with States for discontinuance of Commission regulation of certain materials under this section, see section 2021 of this title.

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Per diem and mileage of witnesses generally, see section 1821 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021, 2093, 2203, 2273, 2281, 2294, 2325, 5812, 5816, 5849 of this title; title 5 section 7533.

§ 2202. Contracts

The President may, in advance, exempt any specific action of the Commission in a particular matter from the provisions of law relating to contracts whenever he determines that such action is essential in the interest of the common defense and security.

(Aug. 1, 1946, ch. 724, § 162, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1812(b) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2203. Advisory committees

The members of the General Advisory Committee established pursuant to section 2036 of this title and the members of advisory boards established pursuant to section 2201(a) of this title may serve as such without regard to the provisions of sections 281, 283, or 284 of title 18, except insofar as such sections may prohibit any such member from receiving compensation from a source other than a nonprofit educational institution in respect of any particular matter which directly involves the Commission or in which the Commission is directly interested.

(Aug. 1, 1946, ch. 724, § 163, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951, and amended Sept. 21, 1959, Pub. L. 86-300, § 2, 73 Stat. 574.)

REFERENCES IN TEXT

Sections 281, 283 and 284 of title 18, referred to in text, were repealed by Pub. L. 87-849, § 2, Oct. 23, 1962, 76 Stat. 1126, except as sections 281 and 283 apply to retired officers of the Armed Forces of the United States, and were supplanted by sections 203, 205, and 207, respectively, of Title 18, Crimes and Criminal Procedures. For further details, see "Exemptions" note set out under section 281 of Title 18.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1812(c) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1959—Pub. L. 86-300 amended section to insert "from a source other than a nonprofit educational institution."

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

TERMINATION OF ADVISORY BOARDS AND COMMITTEES

Advisory Boards and Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a board or committee established by the President or an officer of the federal government, such board or committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a board or committee established by the Congress, its duration is otherwise provided by law. Advisory boards and committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a board or committee established by the President or an officer of the federal government, such board or committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a board or committee established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2241 of this title.

§ 2204. Electric utility contracts; authority to enter into; cancellation; submission to Joint Committee

The Commission is authorized in connection with the construction or operation of the Oak Ridge, Paducah, and Portsmouth installations of the Commission, without regard to section 665 of title 31, to enter into new contracts or modify or confirm existing contracts to provide for electric utility services for periods not exceeding twenty-five years, and such contracts shall be subject to termination by the Commission upon payment of cancellation costs as provided in such contracts, and any appropriation presently or hereafter made available to the Commission shall be available for the payment of such cancellation costs. Any such cancellation payments shall be taken into consideration in determination of the rate to be charged in the event the Commission or any other agency of the Federal Government shall purchase electric utility services from the contractor subsequent to the cancellation and during the life of the original contract. The authority of the Commission under this section to enter into new contracts or modify or confirm existing contracts to provide for electric utility services includes, in case such electric utility services are to be furnished to the Commission by the Tennessee Valley Authority, authority to contract with any person to furnish electric utility services to the Tennessee Valley Authority in replacement thereof. Any contract hereafter entered into by the Commission pursuant to this section shall be submitted to the Joint Committee and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days) before the contract of the Commission shall become effective: *Provided, however,* That the Joint Committee, after having received the proposed contract, may by resolution in writing, waive the conditions of or all or any portion of such thirty-day period.

(Aug. 1, 1946, ch. 724, § 164, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

§ 2204a. Fission product contracts

(a) Authority to enter into contracts

Without regard to section 665 of title 31, the Commission is authorized to enter into contracts for such periods of time as the Commission may deem necessary or desirable, for the purpose of making available fission products from Commission reactors, with or without charge for commercial application.

(b) Cancellation

Any contract entered into by the Commission pursuant to this section shall be subject to termination by the Commission upon payment of cancellation costs as provided in such contract, and any appropriation presently or hereafter made available to the Commission shall be available for payment of such costs which may arise from termination as the contract may provide.

(c) Submission to Joint Committee on Atomic Energy

Before the Commission enters into any arrangement or amendment thereto under the authority of this section, the basis for the proposed arrangement or amendment thereto which the Commission proposes to execute (with necessary background and explanatory data) shall be submitted to the Joint Committee, and a period of forty-five days shall elapse while Congress is in session in computing such forty-five days, there shall be excluded the days on which either House is not in session because of adjournment of more than three days: *Provided, however,* That the Joint Committee, after having received the basis for the proposed arrangement or amendment thereto, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five-day period.

(Pub. L. 88-332, § 107, June 30, 1964, 78 Stat. 230.)

CODIFICATION

Section was not enacted as a part of act Aug. 1, 1946, ch. 724, as added by Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, known as the Atomic Energy Act of 1954 which comprises this chapter.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

§ 2205. Contract practices

(a) In carrying out the purposes of this chapter the Commission shall not use the cost-plus-percentage-of-cost system of contracting.

(b) No contract entered into under the authority of this chapter shall provide, and no contract entered into under the authority of the Atomic Energy Act of 1946, as amended, shall be modified or amended after August 30, 1954, to provide, for direct payment or direct reimbursement by the Commission of any Federal income taxes on behalf of any contractor performing such contract for profit.

(Aug. 1, 1946, ch. 724, § 165, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951.)

REFERENCES IN TEXT

The Atomic Energy Act of 1946, as amended, referred to in subsec. (b), is act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified generally to chapter 14 (§ 1801 et seq.) of this title prior to the general amendment by act Aug. 30, 1954, ch. 1073, 68 Stat. 921, known as the Atomic Energy Act of 1954, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of the Atomic Energy Act of 1954 to the Code, see Short Title note

set out under section 2011 of this title and Tables volume.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2206. Comptroller General audit

No moneys appropriated for the purposes of this chapter shall be available for payments under any contract with the Commission, negotiated without advertising, except contracts with any foreign government or any agency thereof and contracts with foreign producers, unless such contract includes a clause to the effect that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of, and involving transactions related to such contracts or subcontracts: *Provided, however,* That no moneys so appropriated shall be available for payment under such contract which includes any provision precluding an audit by the General Accounting Office of any transaction under such contract: *And provided further,* That nothing in this section shall preclude the earlier disposal of contractor and subcontractor records in accordance with records disposal schedules agreed upon between the Commission and the General Accounting Office.

(Aug. 1, 1946, ch. 724, § 166, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951, and amended Aug. 19, 1958, Pub. L. 85-681, § 8, 72 Stat. 634.)

AMENDMENTS

1958—Pub. L. 85-681 added proviso clause relating to records disposal.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulator Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5876 of this title.

§ 2207. Claim settlements; reports to Congress

The Commission, acting on behalf of the United States, is authorized to consider, ascertain, adjust, determine, settle, and pay, any claim for money damage of $5,000 or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from any detonation, explosion, or radiation produced in the conduct of any program undertaken by the Commission involving the detonation of an explosive device, where such claim is presented to the Commission in writing within one year after the accident or incident out of which the claim arises: *Provided, however,* That the damage to or loss of property, or bodily injury or death, shall not have been caused in whole or in part by any negligence or wrongful act on the part of the claimant, his agents, or employees. Any such settlement under the authority of this section shall be final and conclusive for all purposes, notwithstanding any other provision of law to the contrary. If the Commission considers that a claim in excess of $5,000 is meritorious and would otherwise be covered by this section, the Commission may report the facts and circumstances thereof to the Congress for its consideration.

(Aug. 1, 1946, ch. 724, § 167, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 952, and amended Sept. 6, 1961, Pub. L. 87-206, § 14, 75 Stat. 478.)

AMENDMENTS

1961—Pub. L. 87-206 substituted "any program undertaken by the Commission involving the detonation of an explosive device" for the Commission's program for testing atomic weapons" and authorized the Commission to report meritorious claims in excess of $5,000 to the Congress.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

§ 2208. Payments in lieu of taxes

In order to render financial assistance to those States and localities in which the activities of the Commission are carried on, and in which the Commission has acquired property previously subject to State and local taxation, the Commission is authorized to make payments to State and local governments in lieu of property taxes. Such payments may be in the amounts, at the times, and upon the terms the Commission deems appropriate, but the Commission shall be guided by the policy of not making payments in excess of the taxes which would have been payable for such property in the condition in which it was acquired, except in cases where special burdens have been cast upon the State or local government by activities of the Commission, the Manhattan Engineer District or their agents. In any such case, any benefit accruing to the State or local government by reason of such activities shall be considered in determining the amount of the payment.

(Aug. 1, 1946, ch. 724, § 168, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 952.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1809(b) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2391 of this title.

§ 2209. Subsidies

No funds of the Commission shall be employed in the construction or operation of facilities licensed under section 2133 or 2134 of this title except under contract or other arrangement entered into pursuant to section 2051 of this title.

(Aug. 1, 1946, ch. 724, § 169, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 952.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2210. Indemnification and limitation of liability

(a) Financial protection for public liability claims; indemnification agreement; waiver of immunity

Each license issued under section 2133 or 2134 of this title and each construction permit issued under section 2235 of this title shall, and each license issued under section 2073, 2093, or 2111 of this title may, for the public purposes cited in section 2012(i) of this title, have as a condition of the license a requirement that the licensee have and maintain financial protection of such type and in such amounts as the Commission in the exercise of its licensing and regulatory authority and responsibility shall require in accordance with subsection (b) of this section to cover public liability claims. Whenever such financial protection is required, it may be a further condition of the license that the licensee execute and maintain an indemnification agreement in accordance with subsection (c) of this section. The Commission may require, as a further condition of issuing a license, that an applicant waive any immunity from public liability conferred by Federal or State law.

(b) Financial protection; amount and type; promulgation of rules, regulations and orders by Commission; deferred premium charges; determination of terms and conditions applicable to licensees

The amount of financial protection required shall be the amount of liability insurance available from private sources, except that the Commission may establish a lesser amount on the basis of criteria set forth in writing, which it may revise from time to time, taking into consideration such factors as the following: (1) the cost and terms of private insurance, (2) the type, size, and location of the licensed activity and other factors pertaining to the hazard, and (3) the nature and purpose of the licensed activity: *Provided*, That for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be the maximum amount available at reasonable cost and on reasonable terms from private sources. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures and shall be subject to such terms and conditions as the Commission may, by rule, regulation, or order, prescribe. In prescribing such terms and conditions for licensees required to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources, the Commission shall, by rule initially prescribed not later than twelve months from December 31, 1975, include, in determining such maximum amount, private liability insurance available under an industry retrospective rating plan providing for premium charges deferred in whole or major part until public liability from a nuclear incident exceeds or appears likely to exceed the level of the primary financial protection required of the licensee involved in the nuclear incident: *Provided*, That such insurance is available to, and required of, all of the licensees of such facilities without regard to the manner in which they obtain other types or amounts of such financial protection: *And provided further*, That the standard deferred premium which may be charged following any nuclear incident under such a plan shall be not less than $2,000,000 nor more than $5,000,000 for each facility required to maintain the maximum amount of financial protection: *And provided further*, That the amount which may be charged a licensee following any nuclear incident shall not exceed the licensee's pro rata share of the aggregate public liability claims and costs arising out of the nuclear incident. Payment of any State premium taxes which may be applicable to any deferred premium provided for in this chapter shall be the responsibility of the licensee and shall not be included in the retrospective premium established by the Commission. The Commission is authorized to establish a maximum amount which the aggregate deferred premiums charged for each facility within one calendar year may not exceed. The Commission may establish amounts less than the standard premium for individual facilities taking into account such factors as the facility's size, location, and other factors pertaining to the hazard. The Commission shall establish such requirements as are necessary to assure availability of funds to meet any assessment of deferred premiums within a reasonable time when due, and may provide reinsurance or shall otherwise guarantee the payment of such premiums in the event it appears that the amount of such premiums will not be available on a timely basis through the resources of private industry and insurance. Any agreement by the Commission with a licensee or indemnitor to guarantee the payment of deferred premiums may contain such terms as the Commission deems appropriate to carry out the purposes of

this section and to assure reimbursement to the Commission for its payments made due to the failure of such licensee or indemnitor to meet any of its obligations arising under or in connection with financial protection required under this subsection including without limitation terms creating liens upon the licensed facility and the revenues derived therefrom or any other property or revenues of such licensee to secure such reimbursement and consent to the automatic revocation of any license.

(c) Indemnification from public liability in excess of level of financial protection; aggregate indemnity

The Commission shall, with respect to licenses issued between August 30, 1954, and August 1, 1987, for which it requires financial protection of less than $560,000,000, agree to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability arising from nuclear incidents which is in excess of the level of financial protection required of the licensee. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000 excluding costs of investigating and settling claims and defending suits for damage: *Provided, however,* That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000. Such a contract of indemnification shall cover public liability arising out of or in connection with the licensed activity. With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 1987, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 1987.

(d) Indemnification agreements for construction or operation of production or utilization facilities, or other activities; applicability to contracts; sovereign immunity

In addition to any other authority the Commission may have, the Commission is authorized until August 1, 1987, to enter into agreements of indemnification with its contractors for the construction or operation of production or utilization facilities or other activities under contracts for the benefit of the United States involving activities under the risk of public liability for a substantial nuclear incident. In such agreements of indemnification the Commission may require its contractor to provide and maintain financial protection of such a type and in such amounts as the Commission shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and shall indemnify the persons indemnified against such claims above the amount of the financial protection required, in the amount of $500,000,000, excluding costs of investigating and settling claims and defending suits for damage in the aggregate for all persons indemnified in connection with such contract and for each nuclear incident: *Provided,* That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000: *Provided further,* That in the case of nuclear incidents occurring outside the United States, the amount of the indemnity provided by the Commission shall not exceed $100,000,000. The provisions of this subsection may be applicable to lump sum as well as cost type contracts and to contracts and projects financed in whole or in part by the Commission. A contractor with whom an agreement of indemnification has been executed and who is engaged in activities connected with the underground detonation of a nuclear explosive device shall be liable, to the extent so indemnified under this section, for injuries or damage sustained as a result of such detonation in the same manner and to the same extent as would a private person acting as principal, and no immunity or defense founded in the Federal, State, or municipal character of the contractor or of the work to be performed under the contract shall be effective to bar such liability.

(e) Aggregate liability for a single nuclear incident

The aggregate liability for a single nuclear incident of persons indemnified, including the reasonable costs of investigating and settling claims and defending suits for damage, shall not exceed (1) the sum of $500,000,000 together with the amount of financial protection required of the licensee or contractor or (2) if the amount of financial protection required of the licensee exceeds $60,000,000, such aggregate liability shall not exceed the sum of $560,000,000 or the amount of financial protection required of the licensee, whichever amount is greater: *Provided,* That in the event of a nuclear incident involving damages in excess of that amount of aggregate liability, the Congress will thoroughly review the particular incident and will take whatever action is deemed necessary and appropriate to protect the public from the consequences of a disaster of such magnitude: *And provided further,* That with respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection (d) of this section is applicable, such aggregate liability shall not exceed the amount of $100,000,000 together with the amount of financial protection required of the contractor.

(f) Collection and amount of fee

The Commission is authorized to collect a fee from all persons with whom an indemnification agreement is executed under this section. This fee shall be $30 per year per thousand kilowatts of thermal energy capacity for facilities licensed under section 2133 of this title: *Provided,* That the Commission is authorized to reduce the fee for such facilities in reasonable relation to increases in financial protection required above a level of $60,000,000. For facilities licensed under section 2134 of this title, and for construction permits under section 2235 of this title, the Commission is authorized to reduce the fee set forth above. The Commission shall establish criteria in writing for determination of the fee for facilities licensed under section 2134 of this title, taking into consideration such factors as (1) the type, size, and location of facility involved, and other factors pertaining to the hazard, and (2) the nature and purpose of the facility. For other licenses, the Commission shall collect such nominal fees as it deems appropriate. No fee under this subsection shall be less than $100 per year.

(g) Use of facilities and services of private insurance organizations

In administering the provisions of this section, the Commission shall use, to the maximum extent practicable, the facilities and services of private insurance organizations, and the Commission may contract to pay a reasonable compensation for such services. Any contract made under the provisions of this subsection may be made without regard to the provisions of section 5 of title 41 upon a showing by the Commission that advertising is not reasonably practicable and advance payments may be made.

(h) Conditions of agreement of indemnification; settlement of claims

The agreement of indemnification may contain such terms as the Commission deems appropriate to carry out the purposes of this section. Such agreement shall provide that, when the Commission makes a determination that the United States will probably be required to make indemnity payments under this section, the Commission shall collaborate with any person indemnified and may approve the payment of any claim under the agreement of indemnification, appear through the Attorney General on behalf of the person indemnified, take charge of such action, and settle or defend any such action. The Commission shall have final authority on behalf of the United States to settle or approve the settlement of any such claim on a fair and reasonable basis with due regard for the purposes of this chapter. Such settlement shall not include expenses in connection with the claim incurred by the person indemnified.

(i) Survey of causes and extent of damage; report to Joint Committee, Congressmen of affected districts and Senators of affected States; availability to public

After any nuclear incident which will probably require payments by the United States under this section or which will probably result in public liability claims in excess of $560,000,000, the Commission shall make a survey of the causes and extent of damage which shall forthwith be reported to the Joint Committee, to the Congressmen of the affected districts, and to the Senators of the affected States, and, except for information which would cause serious damage to the national defense of the United States, all final findings shall be made available to the public, to the parties involved and to the courts. The Commission shall report to the Joint Committee by April 1, 1958, and every year thereafter on the operations under this section.

(j) Contracts in advance of appropriations

In administering the provisions of this section, the Commission may make contracts in advance of appropriations and incur obligations without regard to section 665 of title 31.

(k) Exemption from financial protection requirement; indemnification from public liability in excess of $250,000; aggregate indemnity; waiver

With respect to any license issued pursuant to section 2073, 2093, 2111, 2134(a), or 2134(c) of this title, for the conduct of educational activities to a person found by the Commission to be a nonprofit educational institution, the Commission shall exempt such licensee from the financial protection requirement of subsection (a) of this section. With respect to licenses issued between August 30, 1954, and August 1, 1987, for which the Commission grants such exemption:

(1) the Commission shall agree to indemnify and hold harmless the licensee and other persons indemnified, as their interests may appear, from public liability in excess of $250,000 arising from nuclear incidents. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000, excluding cost of investigating and settling claims and defending suits for damage;

(2) such contracts of indemnification shall cover public liability arising out of or in connection with the licensed activity; and shall include damage to property of persons indemnified, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs; and

(3) such contracts of indemnification, when entered into with a licensee having immunity from public liability because it is a State agency, shall provide also that the Commission shall make payments under the contract on account of activities of the licensee in the same manner and to the same extent as the Commission would be required to do if the licensee were not such a State agency.

Any licensee may waive an exemption to which it is entitled under this subsection. With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 1987, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 1987.

(l) Indemnification agreements in connection with nuclear ship Savannah

The Commission is authorized until August 1, 1977, to enter into an agreement of indemnification with any person engaged in the design, development, construction, operation, repair, and maintenance or use of the nuclear-powered ship authorized by section 1206 of title 46, and designated the "nuclear ship Savannah." In any such agreement of indemnification the Commission may require such person to provide and maintain financial protection of such a type and in such amounts as the Commission shall determine to be appropriate to cover public liability arising from a nuclear incident in connection with such design, development, construction, operation, repair, maintenance or use and shall indemnity the person indemnified against such claims above the amount of the financial protection required, in the amount of $500,000,000 excluding costs of investigating and settling claims and defending suits for damage in the aggregate for all persons indemnified in connection with each nuclear incident: *Provided*, That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000.

(m) Agreements for establishment of procedures for handling, investigation, and settlement of public liability claims; emergency assistance payments

The Commission is authorized to enter into agreements with other indemnitors to establish coordinated procedures for the prompt handling, investigation, and settlement of claims for public liability. The Commission and other indemnitors may make payments to, or for the aid of, claimants for the purpose of providing immediate assistance following a nuclear incident. Any funds appropriated to the Commission shall be available for such payments. Such payments may be made without securing releases, shall not constitute an admission of the liability of any person indemnified or of any indemnitor, and shall operate as a satisfaction to the extent thereof of any final settlement or judgment.

(n) Waiver of defenses; jurisdiction and venue of public liability actions; removal or transfer of actions; process

(1) With respect to any extraordinary nuclear occurrence to which an insurance policy or contract furnished as proof of financial protection or an indemnity agreement applies and which—

(a) arises out of or results from or occurs in the course of the construction, possession, or operation of a production or utilization facility, or

(b) arises out of or results from or occurs in the course of transportation of source material, byproduct material, or special nuclear material to or from a production or utilization facility, or

(c) during the course of the contract activity arises out of or results from the possession, operation, or use by a Commission contractor or subcontractor of a device utilizing special nuclear material or byproduct material,

the Commission may incorporate provisions in indemnity agreements with licensees and contractors under this section, and may require provisions to be incorporated in insurance policies or contracts furnished as proof of financial protection, which waive (i) any issue or defense as to conduct of the claimant or fault of persons indemnified, (ii) any issue or defense as to charitable or governmental immunity, and (iii) any issue or defense based on any statute of limitations if suit is instituted within three years from the date on which the claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof, but in no event more than twenty years after the date of the nuclear incident. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. When so incorporated, such waivers shall be judicially enforcible in accordance with their terms by the claimant against the person indemnified. Such waivers shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages, nor shall such waivers apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant. The waivers authorized in this subsection shall, as to indemnitors, be effective only with respect to those obligations set forth in the insurance policies or the contracts furnished as proof of financial protection and in the indemnity agreements. Such waivers shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (i) the terms of insurance policies or contracts furnished as proof of financial protection, or indemnity agreements, and (ii) the limit of liability provisions of subsection (e) of this section.

(2) With respect to any public liability action arising out of or resulting from an extraordinary nuclear occurrence, the United States district court in the district where the extraordinary nuclear occurrence takes place, or in the case of an extraordinary nuclear occurrence taking place outside the United States, the United States District Court for the District of Columbia, shall have original jurisdiction without regard to the citizenship of any party or the amount in controversy. Upon motion of the defendant or of the Commission, any such action pending in any State court or United States district court shall be removed or transferred to the United States district court having venue under this subsection. Process of such district court shall be effective throughout the United States.

(o) Percentage limitation; distribution plans; claim disposition and fund distribution plans; allocation for personal injury, property damage, and possible latent injury claims; approval, disapproval, or modification; adoption of other plan; orders for implementation and enforcement of provisions; area orders effective; report to Joint Committee by Commission; contents

Whenever the United States district court in the district where a nuclear incident occurs, or the United States District Court for the District of Columbia in case of a nuclear incident occurring outside the United States, determines upon the petition of any indemnitor or other interested person that public liability from a single nuclear incident may exceed the limit of liability under subsection (e) of this section:

(1) Total payments made by or for all indemnitors as a result of such nuclear incident shall not exceed 15 per centum of such limit of liability without the prior approval of such court;

(2) The court shall not authorize payments in excess of 15 per centum of such limit of liability unless the court determines that such payments are or will be in accordance with a plan of distribution which has been approved by the court or such payments are not likely to prejudice the subsequent adoption and implementation by the court of a plan of distribution pursuant to subparagraph (3) of this subsection (o); and

(3) The Commission shall, and any other indemnitor or other interested person may, submit to such district court a plan for the disposition of pending claims and for the distribution of remaining funds available. Such a plan shall include an allocation of appropriate amounts for personal injury claims, property damage claims, and possible latent injury claims which may not be discovered until a later time and shall include establishment of

priorities between claimants and classes of claims, as necessary to insure the most equitable allocation of available funds. Such court shall have all power necessary to approve, disapprove, or modify plans proposed, or to adopt another plan; and to determine the proportionate share of funds available for each claimant. The Commission, any other indemnitor, and any person indemnified shall be entitled to such orders as may be appropriate to implement and enforce the provisions of this section, including orders limiting the liability of the persons indemnified, orders approving or modifying the plan, orders staying the payment of claims and the execution of court judgments, orders apportioning the payments to be made to claimants, and orders permitting partial payments to be made before final determination of the total claims. The orders of such court shall be effective throughout the United States.

(4) The Commission shall, within ninety days after a court shall have made such determination, deliver to the Joint Committee a supplement to the report prepared in accordance with subsection (i) of this section setting forth the estimated requirements for full compensation and relief of all claimants, and recommendations as to the relief to be provided.

(p) Report to Congress by Commission; contents

The Commission shall submit to the Congress by August 1, 1983, a detailed report concerning the need for continuation or modification of the provisions of this section, taking into account the condition of the nuclear industry, availability of private insurance, and the state of knowledge concerning nuclear safety at that time, among other relevant factors, and shall include recommendations as to the repeal or modification of any of the provisions of this section.

(Aug. 1, 1946, ch. 724, § 170, as added Sept. 2, 1957, Pub. L. 85-256, § 4, 71 Stat. 576, and amended Aug. 8, 1958, Pub. L. 85-602, §§ 2, [3], 72 Stat. 525; Aug. 23, 1958, Pub. L. 85-744, 72 Stat. 837; Sept. 6, 1961, Pub. L. 87-206, § 15, 75 Stat. 479; Aug. 29, 1962, Pub. L. 87-615, §§ 6, 7, 76 Stat. 410; Aug. 1, 1964, Pub. L. 88-394, §§ 2, 3, 78 Stat. 376; Sept. 29, 1965, Pub. L. 89-210, §§ 1-5, 79 Stat. 855-857; Oct. 13, 1966, Pub. L. 89-645, §§ 2, 3, 80 Stat. 891; Dec. 31, 1975, Pub. L. 94-197, §§ 2-14, 89 Stat. 1111-1115.)

CODIFICATION

Amendment by section 3 of Pub. L. 94-197 has not been executed to section 107 b. of the Atomic Energy Act of 1954, as amended, as provided for in the enacting language of such section 3 but to section 170 b. of the Atomic Energy Act of 1954, as amended, (subsec. (b) of this section) as the probable intent of Congress.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-197, § 2, added provision relating to the public purposes cited in section 2012(i) of this title and "in the exercise of its licensing and regulatory authority and responsibility" following "as the Commission", and substituted "required, it may" for "required, it shall".

Subsec. (b). Pub. L. 94-197, § 3, added requirement that for facilities having a rated capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be at a reasonable cost and on reasonable terms, and requirement that financial protection be subject to such terms and conditions as the Commission, by rule, regulation or order prescribes, and established premium and funding standards and procedures for prescribing terms and conditions for licensees required to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources.

Subsec. (c). Pub. L. 94-197, § 4, substituted "and August 1, 1987, for which it requires financial protection of less than $560,000,000," for "and August 1, 1977, for which it requires financial protection,", "excluding" for "including the reasonable", and "August 1, 1987" for "August 1, 1977" in material relating to any production or utilization facility.

Subsec. (d). Pub. L. 94-197, § 5, substituted "until August 1, 1987," for "until August 1, 1977," and "excluding" for "including the reasonable".

Subsec. (e). Pub. L. 94-197, § 6, denominated existing provisions as cl. (1), added cl. (2), substituted proviso relating to Congressional review and action for proviso relating to aggregate liability exceeding the sum of $560,000,000, and substituted *"And provided further"* for *"Provided further"*.

Subsec. (f). Pub. L. 94-197, § 7, added proviso which authorized Commission to reduce the indemnity fee for persons with whom indemnification agreements have been executed in reasonable relation to increases in financial protection above a level of $60,000,000.

Subsec. (h). Pub. L. 94-197, § 8, substituted "shall not include" for "may include reasonable".

Subsec. (i). Pub. L. 94-197, § 9, added "or which will probably result in public liability claims in excess of $560,000,000," following "this section", and requirement that Commission report extent of damage caused from a nuclear incident to the Congressmen of the affected districts and the Senators of the affected state and substituted provision relating to information concerning the national defense, for provisions relating to applicability of prohibition of sections 2161 to 2166 of this title, other laws or Executive order.

Subsec. (k). Pub. L. 94-197, § 10, substituted "August 1, 1987" for "August 1, 1977" wherever appearing therein and substituted "excluding" for "including the reasonable" in par. (1).

Subsec. (*l*). Pub. L. 94-197, § 11, substituted "excluding" for "including the reasonable".

Subsec. (n)(1)(iii). Pub. L. 94-197, § 12, substituted "twenty years" for "ten years".

Subsec. (o). Pub. L. 94-197, § 13, in par. (3) added provisions authorizing the establishment, in any plan for disposition of claims, of priorities between classes of claims and claimants to extent necessary to ensure the most equitable allocation of available funds, and added par. (4).

Subsec. (p). Pub. L. 94-197, § 14, added subsec. (p).

1966—Subsec. (e). Pub. L. 89-645, § 2, deleted last sentence which authorized application by the Commission or any indemnified person to district court of the United States having venue in bankruptcy over location of nuclear incident and to United States District Court for the District of Columbia in cases of nuclear incidents occurring outside the United States, and upon a showing that public liability from a single nuclear incident will probably exceed the limit of imposable liability, entitled the applicant to orders for enforcement of this section, including limitation of liability of indemnified persons, staying payment of claims and execution of court judgments, apportioning payments to claimants, permitting partial payments before final determination of total claims, and setting aside part of funds for possible injuries not discovered until later time, now incorporated in subsec. (o) of this section.

Subsecs. (m) to (o). Pub. L. 89-645, § 3, added subsecs. (m) to (o).

1965—Subsec. (c). Pub. L. 89-210, § 1, substituted "August 1, 1977" for "August 1, 1967" wherever appearing, and added the proviso requiring the amount of indemnity to be reduced by the amount that the financial protection required shall exceed $60,000,000.

Subsec. (d). Pub. L. 89-210, § 2, substituted "August 1, 1977" for "August 1, 1967," and added the proviso requiring the amount of indemnity to be reduced by the amount that the financial protection required shall exceed $60,000,000.

Subsec. (e). Pub. L. 89-210, § 3, added the proviso prohibiting the aggregate liability to exceed the sum of $560,000,000.

Subsec. (k). Pub. L. 89-210, § 4, substituted "August 1, 1977" for "August 1, 1967" wherever appearing.

Subsec. (*l*). Pub. L. 89-210, § 5, substituted "August 1, 1977" for "August 1, 1967" and "in the amount of $500,000,000" for "in the maximum amount provided by subsection (e) of this section", inserted "in the aggregate for all persons indemnified in connection with each nuclear incident", and added the proviso requiring the amount of indemnity to be reduced by the amount that the financial protection required shall exceed $60,000,000.

1964—Subsec. (c). Pub. L. 88-394, § 2, provided that with respect to any facility for which a permit is issued between Aug. 30, 1954, and Aug. 1, 1967, the requirements of the subsection shall apply to any license issued subsequent to Aug. 1, 1967.

Subsec. (k). Pub. L. 88-394, § 3, provided that with respect to any facility for which a permit is issued between Aug. 30, 1954, and Aug. 1, 1967, the requirements of the subsection shall apply to any license issued subsequent to Aug. 1, 1967.

1962—Subsec. (d). Pub. L. 87-615, § 6, limited the amount of indemnity provided by the Commission for nuclear incidents occurring outside the United States to $100,000,000.

Subsec. (e). Pub. L. 87-615, § 7, added the proviso limiting the aggregate liability in cases of nuclear incidents occurring outside the United States to which an indemnification agreement entered into under subsec. (d) of this section is applicable, to $100,000,000, and substituted "occurring outside the United States, the Commission or any person indemnified may apply to the United States District Court for the District of Columbia" for "caused by ships of the United States outside of the United States, the Commission or any person indemnified may apply to the appropriate district court of the United States having venue in bankruptcy matters over the location of the principal place of business of the shipping company owning or operating the ship".

1961—Subsec. (d). Pub. L. 87-206 added provision for liability of contractor to extent of indemnification under this section free of defense of soverign immunity.

1958—Subsec. (e). Pub. L. 85-602, § 2[3], gave the district court that has venue in bankruptcy matters over the location of the principal place of business of the shipping company owning or operating the ship, jurisdiction in cases of nuclear incidents caused by ships of the United States outside of the United States.

Subsec. (k). Pub. L. 85-744 added subsec. (k).

Subsec. (*l*). Pub. L. 85-602, § 2 added subsec. (*l*).

Transfer of Functions

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

Cross References

Nuclear incident involving nuclear reactor of United States warship, payment of claims or judgments of bodily injury, death, or damage resulting from, see section 2211 of this title.

Section Referred to in Other Sections

This section is referred to in sections 2014, 2073, 2296 of this title.

§ 2211. Payment of claims or judgments for damage resulting from nuclear incident involving nuclear reactor of United States warship; exception; terms and conditions

It is the policy of the United States that it will pay claims or judgments for bodily injury, death, or damage to or loss of real or personal property proven to have resulted from a nuclear incident involving the nuclear reactor of a United States warship: *Provided*, That the injury, death, damage, or loss was not caused by the act of an armed force engaged in combat or as a result of civil insurrection. The President may authorize, under such terms and conditions as he may direct, the payment of such claims or judgments from any contingency funds available to the Government or may certify such claims or judgments to the Congress for appropriation of the necessary funds.

(Pub. L. 93-513, Dec. 6, 1974, 88 Stat. 1611.)

Codification

Section was not enacted as part of act Aug. 1, 1946, ch. 724, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951, known as the Atomic Energy Act of 1954, which comprises this chapter.

Ex. Ord. No. 11918. Compensation for Damages Involving Nuclear Reactors of United States Warships

Ex. Ord. No. 11918, eff. June 1, 1976, 41 F.R. 22329, provided:

By virtue of the authority vested in me by the joint resolution approved December 6, 1974 (Public Law 93-513, 88 Stat. 1610, 42 U.S.C. 2211), and by section 301 of title 3 of the United States Code, and as President of the United States of America, in order that prompt, adequate and effective compensation will be provided in the unlikely event of injury or damage resulting from a nuclear incident involving the nuclear reactor of a United States warship, it is hereby ordered as follows:

Section 1. (a) With respect to the administrative settlement of claims or judgments for bodily injury, death, or damage to or loss of real or personal property proven to have resulted from a nuclear incident involving the nuclear reactor of a United States warship, the Secretary of Defense is designated and empowered to authorize, in accord with Public Law 93-513 [this section], the payment, under such terms and conditions as he may direct, of such claims and judgments from contingency funds available to the Department of Defense.

(b) The Secretary of Defense shall, when he considers such action appropriate, certify claims or judgments described in subsection (a) and transmit to the Director of the Office of Management and Budget his recommendation with respect to appropriation by the Congress of such additional sums as may be necessary.

Sec. 2. The provisions of section 1 shall not be deemed to replace, alter, or diminish, the statutory and other functions vested in the Attorney General, or the head of any other agency, with respect to litigation against the United States and judgments and compromise settlements arising therefrom.

Sec. 3. The functions herein delegated shall be exercised in consultation with the Secretary of State in the case of any incident giving rise to a claim of a foreign country or national thereof, and international negotiations relating to Public Law 93-513 [this section], shall be performed by or under the authority of the Secretary of State.

Gerald R. Ford.

SUBCHAPTER XIV—COMPENSATION FOR PRIVATE PROPERTY ACQUIRED

§ 2221. Just compensation for requisitioned property

The United States shall make just compensation for any property or interests therein taken or requisitioned pursuant to sections 2063, 2075, 2096, and 2138 of this title. Except in case of real property or any interest therein, the Commission shall determine and pay such just compensation. If the compensation so determined is unsatisfactory to the person entitled thereto, such person shall be paid 75 per centum of the amount so determined, and shall be entitled to sue the United States in the Court of Claims or in any district court of the United States for the district in which such claimant is a resident in the manner provided by section 1346 of title 28 to recover such further sum as added to said 75 per centum will constitute just compensation.

(Aug. 1, 1946, ch. 724, § 171, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 952, and amended Aug. 26, 1964, Pub. L. 88-489, § 17, 78 Stat. 606.)

Prior Provisions

Provisions similar to this section were contained in section 1813(a) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

Amendments

1964—Pub. L. 88-489 substituted "2075" for "2072 (with respect to the material for which the United States is required to pay just compensation),".

Transfer of Functions

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

Retrocession of Land to New Mexico

Section 3 of act Aug. 30, 1954, provided that:

"There is hereby retroceded to the State of New Mexico the exclusive jurisdiction heretofore acquired from the State of New Mexico by the United States of America over the following land of the United States Atomic Energy Commission in Bernalillo County and within the boundaries of the Sandia base, Albuquerque, New Mexico.

"Beginning at the center quarter corner of section 30, township 10 north, range 4 east, New Mexico principal meridian, Bernalillo County, New Mexico, thence south no degrees twenty-three minutes thirty seconds west one thousand nine hundred forty-seven and twenty one-hundredths feet, thence north eighty-nine degrees thirty-six minutes forty-five seconds east two thousand sixty-eight and forty one-hundredths feet, thence north eighty-nine degrees three minutes fifteen seconds east five hundred forty-six feet, thence north no degrees thirty-nine minutes no seconds east two hundred thirty-two and seventy one-hundredths feet, thence north eighty-nine degrees twenty-one minutes no seconds west eight hundred fifty-two and twenty one-hundredths feet, thence north no degrees thirty-nine minutes no seconds east five hundred and sixty one-hundredths feet, thence along the back of the south curb of West Sandia Drive, Sandia Base, Bernalillo County, New Mexico, eight hundred sixty-five and sixty one-hundredths feet, thence north no degrees thirty-nine minutes no seconds east one thousand three hundred thirty-five and three-tenths feet to a point south eighty-nine degrees twenty-seven minutes forty-five seconds west a distance of thirty feet from the quarter corner common to sections 30 and 29, township 10 north, range 4 east, thence south eighty-nine degrees, twenty-seven minutes forty-five seconds west two thousand six hundred twenty-three and forty one-hundredths feet to the point of beginning.

"This retrocession of jurisdiction shall take effect upon acceptance by the State of New Mexico."

Federal Rules of Civil Procedure

Complaint for condemnation, see form 29, Title 28, Appendix, Judiciary and Judicial Procedure.

Notice of condemnation, see form 28, Title 28, Appendix.

Procedure in condemnation proceedings, see rule 71A, Title 28, Appendix. Effect of such rule upon this section, see Advisory Committee note under such rule.

§ 2222. Condemnation of real property

Proceedings for condemnation shall be instituted pursuant to the provisions of sections 257 and 258 of title 40, and section 1403 of title 28. Sections 258a to 258e of title 40 shall be applicable to any such proceedings.

(Aug. 1, 1946, ch. 724, § 172, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953.)

References in Text

Section 258 of title 40, referred to in the text, has been omitted as superseded by Rule 71A of the Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure.

Prior Provisions

Provisions similar to this section were contained in section 1813(b) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

§ 2223. Patent application disclosures

In the event that the Commission communicates to any nation any Restricted Data based on any patent application not belonging to the United States, just compensation shall be paid by the United States to the owner of the patent application. The Commission shall determine such compensation. If the compensation so determined is unsatisfactory to the person entitled thereto, such person shall be paid 75 per centum of the amount so determined, and shall be entitled to sue the United States in the Court of Claims or in any district court of the United States for the district in which such claimant is a resident in a manner provided by section 1346 of title 28 to recover such further sum as added to such 75 per centum will constitute just compensation.

(Aug. 1, 1946, ch. 724, § 173, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953.)

Transfer of Functions

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2224. Attorney General approval of title

All real property acquired under this chapter shall be subject to the provisions of section 255 of title 40: *Provided, however,* That real property acquired by purchase or donation, or other means of transfer may also be occupied, used, and improved for the purposes of this chapter prior to approval of title by the Attorney General in those cases where the President determines that such action is required in the interest of the common defense and security.

(Aug. 1, 1946, ch. 724, § 174, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1813(b) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2201 of this title.

SUBCHAPTER XV—JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2133 of this title.

§ 2231. Applicability of administrative procedure provisions; definitions

The provisions of subchapter II of chapter 5, and chapter 7, of title 5 shall apply to all agency action taken under this chapter, and the terms "agency" and "agency action" shall have the meaning specified in section 551 of title 5: *Provided, however,* That in the case of agency proceedings or actions which involve Restricted Data or defense information, the Commission shall provide by regulation for such parallel procedures as will effectively safeguard and prevent disclosure of Restricted Data or defense information to unauthorized persons with minimum impairment of the procedural rights which would be available if Restricted Data or defense information were not involved.

(Aug. 1, 1946, ch. 724, § 181, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953.)

CODIFICATION

"Subchapter II of chapter 5, and chapter 7, of title 5" was substituted for the first reference to the Administrative Procedure Act on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees. "Section 551 of title 5" was substituted for the second reference to the Administrative Procedure Act to reflect the codification of the definitions of "agency" and "agency action" in that section. Prior to the enactment of Title 5, the Administrative Procedure Act was classified to sections 1001 to 1011 of Title 5.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1814(a), (c) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2232. License applications

(a) Contents and form

Each application for a license hereunder shall be in writing and shall specifically state such information as the Commission, by rule or regulation, may determine to be necessary to decide such of the technical and financial qualifications of the applicant, the character of the applicant, the citizenship of the applicant, or any other qualifications of the applicant as the Commission may deem appropriate for the license. In connection with applications for licenses to operate production or utilization facilities, the applicant shall state such technical specifications, including information of the amount, kind, and source of special nuclear material required, the place of the use, the specific characteristics of the facility, and such other information as the Commission may, by rule or regulation, deem necessary in order to enable it to find that the utilization or production of special nuclear material will be in accord with the common defense and security and will provide adequate protection to the health and safety of the public. Such technical specifications shall be a part of any license issued. The Commission may at any time after the filing of the original application, and before the expiration of the license, require further written statements in order to enable the Commission to determine whether the application should be granted or denied or whether a license should be modified or revoked. All applications and statements shall be signed by the applicant or licensee. Applications for, and statements made in connection with, licenses under sections 2133 and 2134 of this title shall be made under oath or affirmation. The Commission may require any other applications or statements to be made under oath or affirmation.

(b) Review of applications by Advisory Committee on Reactor Safeguards; report

The Advisory Committee on Reactor Safeguards shall review each application under section 2133 or section 2134(b) of this title for a construction permit or an operating license for a facility, any application under section 2134(c) of this title for a construction permit or an operating license for a testing facility, any application under subsection (a) or (c) of section 2134 of this title specifically referred to it by the Commission, and any application for an amendment to a construction permit or an amendment to an operating license under section 2133 or 2134(a), (b), or (c) of this title specifically referred to it by the Commission, and shall submit a report thereon which shall be made part of the record of the application and available to the public except to the extent that security classification prevents disclosure.

(c) Commercial power; publication

The Commission shall not issue any license under section 2133 of this title for a utilization or production facility for the generation of

commercial power until it has given notice in writing to such regulatory agency as may have jurisdiction over the rates and services incident to the proposed activity; until it has published notice of the application in such trade or news publications as the Commission deems appropriate to give reasonable notice to municipalities, private utilities, public bodies, and cooperatives which might have a potential interest in such utilization or production facility; and until it has published notice of such application once each week for four consecutive weeks in the Federal Register, and until four weeks after the last notice.

(d) Preferred consideration

The Commission, in issuing any license for a utilization or production facility for the generation of commercial power under section 2133 of this title, shall give preferred consideration to applications for such facilities which will be located in high cost power areas in the United States if there are conflicting applications for a limited opportunity for such license. Where such conflicting applications resulting from limited opportunity for such license include those submitted by public or cooperative bodies such applications shall be given preferred consideration.

(Aug. 1, 1946, ch. 724, § 182, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953, and amended Aug. 6, 1956, ch. 1015, § 5, 70 Stat. 1070; Sept. 2, 1957, Pub. L. 85-256, § 6, 71 Stat. 579; Aug. 29, 1962, Pub. L. 87-615, § 3, 76 Stat. 409; Dec. 19, 1970, Pub. L. 91-560, § 9, 84 Stat. 1474.)

AMENDMENTS

1970—Subsec. (c). Pub. L. 91-560 substituted provisions requiring notification by publication giving reasonable notice to municipalities, private utilities, public bodies, and cooperatives which might have a potential interest in such utilization or production facility, for provisions requiring notice in writing to municipalities, private utilities, public bodies and cooperatives within transmission distance authorized to engage in the distribution of electric energy.

1962—Subsec. (b). Pub. L. 87-615 substituted provisions requiring review of applications under sections 2133 or 2134(b) of this title for a construction permit or an operating license for a facility, or under section 2134(c) of this title for a testing facility, for provisions which required review of license applications for such facilities, and inserted provisions requiring review of any application for an amendment to a construction permit or operating license under sections 2133 or 2134 (a), (b), or (c) of this title specifically referred to it by the Commission.

1957—Subsec. (b). Pub. L. 85-256 added subsec. (b). Former subsec. (b) redesignated (c).

Subsecs. (c), (d). Pub. L. 85-256 redesignated former subsecs. (b) and (c) as (c) and (d).

1956—Subsec. (a). Act Aug. 6, 1956 eliminated words "under oath or affirmation" from the last sentence, and added two sentences at the end requiring applications and statements in connection with sections 2133 and 2134 to be made under oath or affirmation and authorizing Commission to require any other applications or statements to be made under oath or affirmation.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2236 of this title.

§ 2233. Terms of licenses

Each license shall be in such form and contain such terms and conditions as the Commission may, by rule or regulation, prescribe to effectuate the provisions of this chapter, including the following provisions:

(a) Repealed. Pub. L. 88-489, § 18, Aug. 26, 1964, 78 Stat. 607.

(b) No right to the special nuclear material shall be conferred by the license except as defined by the license.

(c) Neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of this chapter.

(d) Every license issued under this chapter shall be subject to the right of recapture or control reserved by section 2138 of this title, and to all of the other provisions of this chapter, now or hereafter in effect and to all valid rules and regulations of the Commission.

(Aug. 1, 1946, ch. 724, § 183, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 954, and amended Aug. 26, 1964, Pub. L. 88-489, § 18, 78 Stat. 607.)

AMENDMENTS

1964—Par. (a). Pub. L. 88-489 deleted par. (a) which placed title to all special nuclear material utilized or produced by facilities pursuant to license in the United States at all times.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

§ 2234. Inalienability of licenses

No license granted hereunder and no right to utilize or produce special nuclear material granted hereby shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of this chapter, and shall give its consent in writing. The Commission may give such consent to the creation of a mortgage, pledge, or other lien upon any facility or special nuclear material, owned or there-

after acquired by a licensee, or upon any leasehold or other interest to such facility, and the rights of the creditors so secured may thereafter be enforced by any court subject to rules and regulations established by the Commission to protect public health and safety and promote the common defense and security.

(Aug. 1, 1946, ch. 724, § 184, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 954, and amended Aug. 26, 1964, Pub. L. 88-489, § 19, 78 Stat. 607.)

AMENDMENTS

1964—Pub. L. 88-489 inserted "or special nuclear material," following "lien upon any facility" and substituted "interest in such facility" for "interest in such property".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

§ 2235. Construction permits

All applicants for licenses to construct or modify production or utilization facilities shall, if the application is otherwise acceptable to the Commission, be initially granted a construction permit. The construction permit shall state the earliest and latest dates for the completion of the construction or modification. Unless the construction or modification of the facility is completed by the completion date, the construction permit shall expire, and all rights thereunder be forfeited, unless upon good cause shown, the Commission extends the completion date. Upon the completion of the construction or modification of the facility, upon the filing of any additional information needed to bring the original application up to date, and upon finding that the facility authorized has been constructed and will operate in conformity with the application as amended and in conformity with the provisions of this chapter and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of this chapter, the Commission shall thereupon issue a license to the applicant. For all other purposes of this chapter, a construction permit is deemed to be a "license".

(Aug. 1, 1946, ch. 724, § 185, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2242 of this title.

§ 2236. Revocation of licenses

(a) False applications; failure of performance

Any license may be revoked for any material false statement in the application or any statement of fact required under section 2232 of this title, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application, or for failure to construct or operate a facility in accordance with the terms of the construction permit or license or the technical specifications in the application, or for violation of, or failure to observe any of the terms and provisions of this chapter or of any regulation of the Commission.

(b) Procedure

The Commission shall follow the provisions of section 558(c) of title 5 in revoking any license.

(c) Repossession of material

Upon revocation of the license, the Commission may immediately retake possession of all special nuclear material held by the licensee. In cases found by the Commission to be of extreme importance to the national defense and security or to the health and safety of the public, the Commission may recapture any special nuclear material held by the licensee or may enter upon and operate the facility prior to any of the procedures provided under subchapter II of chapter 5, and chapter 7, of title 5. Just compensation shall be paid for the use of the facility.

(Aug. 1, 1946, ch. 724, § 186, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955.)

CODIFICATION

In subsec. (b), "section 558(c) of title 5" was substituted for "section 9(b) of the Administrative Procedure Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enactment Title 5, Government Organization and Employees. Prior to the enactment of Title 5, section 9(b) of the Administrative Procedure Act was classified to section 1008(b) of Title 5.

In subsec. (c), "subchapter II of chapter 5, and chapter 7, of title 5" was substituted for "the Administrative Procedure Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5. Prior to the enactment of Title 5, the Administrative Procedure Act was classified to sections 1001 to 1011 of Title 5.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under subsecs. (a) and (b) of this section were transferred to and vested exclusively in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. Similar functions under subsec. (c) were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration, provided that the Administrator was to establish the basic standards and procedures in regard to safeguarding the national defense and security. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2238, 2239, 2282 of this title.

§ 2237. Modification of license

The terms and conditions of all licenses shall be subject to amendment, revision, or modification, by reason of amendments of this chapter or by reason of rules and regulations issued in accordance with the terms of this chapter.

(Aug. 1, 1946, ch. 724, § 187, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955.)

§ 2238. Continued operation of facilities

Whenever the Commission finds that the public convenience and necessity or the production program of the Commission requires continued operation of a production facility or utilization facility the license for which has been revoked pursuant to section 2236 of this title, the Commission may, after consultation with the appropriate regulatory agency, State or Federal, having jurisdiction, order that possession be taken of and such facility be operated for such period of time as the public convenience and necessity or the production program of the Commission may, in the judgment of the Commission, require, or until a license for the operation of the facility shall become effective. Just compensation shall be paid for the use of the facility.

(Aug. 1, 1946, ch. 724, § 188, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which provided that the findings and judgments respecting the production program under this section were to be the responsibility of the Administrator See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2239 of this title.

§ 2239. Hearings and judicial review

(a) In any proceeding under this chapter, for the granting, suspending, revoking, or amending of any license or construction permit, or application to transfer control, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, and in any proceeding for the payment of compensation, an award or royalties under sections 2183, 2187, 2236(c) or 2238 of this title, the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. The Commission shall hold a hearing after thirty days' notice and publication once in the Federal Register, on each application under section 2133 or 2134(b) of this title for a construction permit for a facility, and on any application under section 2134(c) of this title for a construction permit for a testing facility. In cases where such a construction permit has been issued following the holding of such a hearing, the Commission may, in the absence of a request therefor by any person whose interest may be affected, issue an operating license or an amendment to a construction permit or an amendment to an operating license without a hearing, but upon thirty days' notice and publication once in the Federal Register of its intent to do so. The Commission may dispense with such thirty days' notice and publication with respect to any application for an amendment to a construction permit or an amendment to an operating license upon a determination by the Commission that the amendment involves no significant hazards consideration.

(b) Any final order entered in any proceeding of the kind specified in subsection (a) of this section shall be subject to judicial review in the manner prescribed in chapter 158 of title 28, and to the provisions of chapter 7 of title 5.

(Aug. 1, 1946, ch. 724, § 189, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955, and amended Sept. 2, 1957, Pub. L. 85-256, § 7, 71 Stat. 579; Aug. 29, 1962, Pub. L. 87-615, § 2, 76 Stat. 409.)

CODIFICATION

In subsec. (b), "chapter 158 of title 28" and "chapter 7 of title 5" were substituted for "the Act of December 29, 1950, as amended (ch. 1189, 64 Stat. 1129)" and "section 10 of the Administrative Procedure Act, as amended", respectively, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees, and section 4(e) of which enacted chapter 158 of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-615 substituted "construction permit for a facility" and "construction permit for a testing facility" for "license for a facility" and "license for a testing facility" respectively, and authorized the commission in cases where a permit has been issued following a hearing, and in the absence of a request therefor by anyone whose interest may be affected, to issue an operating license or an amendment to a construction permit or an operating license without a hearing upon thirty days' notice and publication once in the Federal Register of its intent to do so, and to dispense with such notice and publication with respect to any application for an amendment to a construction permit or to an operating license upon its determination that the amendment involves no significant hazards consideration.

1957—Subsec. (a). Pub. L. 85-256 required the Commission to hold a hearing after 30 days notice and publication once in the Federal Register on an application for a license for a facility or a testing facility.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Atomic Energy Commission, now the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Admin-

istration, made reviewable by this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2242 of this title; title 28 section 2342.

§ 2240. Licensee incident reports as evidence

No report by any licensee of any incident arising out of or in connection with a licensed activity made pursuant to any requirement of the Commission shall be admitted as evidence in any suit or action for damages growing out of any matter mentioned in such report.

(Aug. 1, 1946, ch. 724, § 190, as added Sept. 6, 1961, Pub. L. 87-206, § 16, 75 Stat. 479.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

§ 2241. Atomic safety and licensing boards; establishment; membership; functions; compensation

(a) Notwithstanding the provisions of sections 556(b) and 557(b) of title 5, the Commission is authorized to establish one or more atomic safety and licensing boards, each comprised of three members, one of whom shall be qualified in the conduct of administrative proceedings and two of whom shall have such technical or other qualifications as the Commission deems appropriate to the issues to be decided, to conduct such hearings as the Commission may direct and make such intermediate or final decisions as the Commission may authorize with respect to the granting, suspending, revoking or amending of any license or authorization under the provisions of this chapter, any other provision of law, or any regulation of the Commission issued thereunder. The Commission may delegate to a board such other regulatory functions as the Commission deems appropriate. The Commission may appoint a panel of qualified persons from which board members may be selected.

(b) Board members may be appointed by the Commission from private life, or designated from the staff of the Commission or other Federal agency. Board members appointed from private life shall receive a per diem compensation for each day spent in meetings or conferences, and all members shall receive their necessary traveling or other expenses while engaged in the work of a board. The provisions of section 2203 of this title shall be applicable to board members appointed from private life.

(Aug. 1, 1946, ch. 724, § 191, as added Aug. 29, 1962, Pub. L. 87-615, § 1, 76 Stat. 409, and amended Dec. 19, 1970, Pub. L. 91-560, § 10, 84 Stat. 1474.)

CODIFICATION

In subsec. (a), "sections 556(b) and 557(b) of title 5" were substituted for "sections 7(a) and 8(a) of the Administrative Procedure Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees. Prior to the enactment of Title 5, sections 7(a) and 8(a) of the Administrative Procedure Act were classified to sections 1006(a) and 1007(a) of Title 5.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-560 required that two members of the board should have such technical or other qualifications the Commission deems appropriate to the issues to be decided.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. The functions of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Board were also transferred to the Nuclear Regulatory Commission. See section 5841 of this title.

§ 2242. Omitted

CODIFICATION

Section, act Aug. 1, 1946, ch. 724, § 192, as added June 2, 1972, Pub. L. 92-307, 86 Stat. 191, which related to temporary operating licenses for nuclear power reactors and provided that authority under this section was to expire on Oct. 30, 1973, has been omitted from the Code as executed.

SUBCHAPTER XVI—JOINT COMMITTEE ON ATOMIC ENERGY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2315 of this title.

§ 2251. Establishment of Committee; membership

There is established a Joint Committee on Atomic Energy to be composed of nine Members of the Senate to be appointed by the President of the Senate, and nine Members of the House of Representatives to be appointed by the Speaker of the House of Representatives. In each instance not more than five Members shall be members of the same political party.

(Aug. 1, 1946, ch. 724, § 201, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 956.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1815(a) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

§ 2252. Authority and duty; report to Congress

(a) The Joint Committee shall make continuing studies of the activities of the Atomic Energy Commission and of problems relating to the development, use, and control of atomic energy. During the first ninety days of each session of the Congress, the Joint Committee may conduct hearings in either open or executive session for the purpose of receiving information concerning the development, growth, and state of the atomic energy industry. The Commission shall keep the Joint Committee fully and currently informed with respect to all of the Commission's activities. The Department of Defense shall keep the Joint Committee fully and currently informed with respect to all matters within the Department of Defense re-

lating to the development, utilization, or application of atomic energy. Any Government agency shall furnish any information requested by the Joint Committee with respect to the activities or responsibilities of that agency in the field of atomic energy. All bills, resolutions, and other matters in the Senate or the House of Representatives relating primarily to the Commission or to the development, use, or control of atomic energy shall be referred to the Joint Committee. The members of the Joint Committee who are Members of the Senate shall from time to time report to the Senate, and the members of the Joint Committee who are Members of the House of Representatives shall from time to time report to the House, by bill or otherwise, their recommendations with respect to matters within the jurisdiction of their respective Houses which are referred to the Joint Committee or otherwise within the jurisdiction of the Joint Committee.

(b) The members of the Joint Committee who are Members of the Senate and the members of the Joint Committee who are Members of the House of Representatives shall, on or before June 30 of each year, report to their respective Houses on the development, use, and control of nuclear energy for the common defense and security and for peaceful purposes. Each report shall provide facts and information available to the Joint Committee concerning nuclear energy which will assist the appropriate committees of the Congress and individual members in the exercise of informed judgment on matters of weaponry; foreign policy; defense, international trade; and in respect to the expenditure and appropriation of Government revenues. Each report shall be presented formally under circumstances which provide for clarification and discussion by the Senate and the House of Representatives. In recognition of the need for public understanding, presentations of the reports shall be made to the maximum extent possible in open sessions and by means of unclassified written materials.

(Aug. 1, 1946, ch. 724, § 202, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 956, and amended Sept. 6, 1961, Pub. L. 87-206, § 17, 75 Stat. 479; Mar. 26, 1964, Pub. L. 88-294, 78 Stat. 172; Dec. 6, 1974, Pub. L. 93-514, 88 Stat. 1611.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1815(b) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1974—Pub. L. 93-514 designated existing provisions as subsec. (a) and added subsec. (b).

1964—Pub. L. 88-294 substituted "may conduct hearings" for "shall conduct hearings" in the second sentence.

1961—Pub. L. 87-206 substituted "ninety" for "sixty" days in the second sentence.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2253. Chairman and Vice Chairman; vacancies in membership

Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee, and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members at the beginning of each Congress. The Vice Chairman shall act in the place and stead of the Chairman in the absence of the Chairman. The Chairmanship shall alternate between the Senate and the House of Representatives with each Congress, and the Chairman shall be selected by the Members from that House entitled to the Chairmanship. The Vice Chairman shall be chosen from the House other than that of the Chairman by the Members from that House.

(Aug. 1, 1946, ch. 724, § 203, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 956.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1815(c) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

§ 2254. Powers

In carrying out its duties under this chapter, the Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings or investigations, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The Joint Committee may make such rules respecting its organization and procedures as it deems necessary: *Provided, however,* That no measure or recommendation shall be reported from the Joint Committee unless a majority of the committee assent. Subpenas may be issued over the signature of the Chairman of the Joint Committee or by any member designated by him or by the Joint Committee, and may be served by such person or persons as may be designated by such Chairman or member. The Chairman of the Joint Committee or any member thereof may administer oaths to witnesses. The Joint Committee may use a committee seal. The provisions of sections 192 to 194 of title 2, shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. The expenses of the Joint Committee shall be paid from the contingent fund of the Senate from funds appropriated for the Joint Committee upon vouchers approved by the Chairman, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate. The cost of stenographic service to report public hearings shall not be in excess of the amounts prescribed by law for reporting the hearings of standing committees of the Senate. The cost of steno-

graphic service to report executive hearings shall be fixed at an equitable rate by the Joint Committee. Members of the Joint Committee, and its employees and consultants, while traveling on official business for the Joint Committee, may receive either the per diem allowance authorized to be paid to Members of Congress or its employees, or their actual and necessary expenses provided an itemized statement of such expenses is attached to the voucher.

(Aug. 1, 1946, ch. 724, § 204, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957, and amended Dec. 27, 1974, Pub. L. 93-554, title I, § 101(2), 88 Stat. 1776.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1815(d) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1974—Pub. L. 93-554 added exception relating to requirement of vouchers for the disbursement of salaries of employees paid at an annual rate.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 101 of Pub. L. 93-554 provided in part that amendment by Pub. L. 93-554 is effective Jan. 1, 1975.

§ 2255. Staff and assistance; utilization of Federal departments and agencies; armed protection

The Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and staff employees as it deems necessary and advisable. The Joint Committee is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government. The Joint Committee is authorized to permit such of its members, employees, and consultants as it deems necessary in the interest of common defense and security to carry firearms while in the discharge of their official duties for the committee.

(Aug. 1, 1946, ch. 724, § 205, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1815(e) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

§ 2256. Classification of information

The Joint Committee may classify information originating within the committee in accordance with standards used generally by the executive branch for classifying Restricted Data or defense information.

(Aug. 1, 1946, ch. 724, § 206, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957.)

§ 2257. Records

The Joint Committee shall keep a complete record of all committee actions, including a record of the votes on any question on which a record vote is demanded. All committee records, data, charts, and files shall be the property of the Joint Committee and shall be kept in the offices of the Joint Committee or other places as the Joint Committee may direct under such security safeguards as the Joint Committee shall determine in the interest of the common defense and security.

(Aug. 1, 1946, ch. 724, § 207, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957.)

SUBCHAPTER XVII—ENFORCEMENT OF CHAPTER

§ 2271. General provisions

(a) Authority of President to utilize government agencies

To protect against the unlawful dissemination of Restricted Data and to safeguard facilities, equipment, materials, and other property of the Commission, the President shall have authority to utilize the services of any Government agency to the extent he may deem necessary or desirable.

(b) Criminal violations

The Federal Bureau of Investigation of the Department of Justice shall investigate all alleged or suspected criminal violations of this chapter.

(c) Violations of this chapter

No action shall be brought against any individual or person for any violation under this chapter unless and until the Attorney General of the United States has advised the Commission with respect to such action and no such action shall be commenced except by the Attorney General of the United States: *Provided, however,* That no action shall be brought under section 2272, 2273, 2274, 2275, or 2276 of this title except by the express direction of the Attorney General: *And provided further,* That nothing in this subsection shall be construed as applying to administrative action taken by the Commission.

(Aug. 1, 1946, ch. 724, § 221 as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 958, and amended Dec. 24, 1969, Pub. L. 91-161, § 5, 83 Stat. 445.)

AMENDMENTS

1969—Subsec. (c). Pub. L. 91-161 provided that nothing in this subsection should be construed to apply to administrative action taken by the Commission.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chiarman, the members of the Commission, and the Officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2272. Violation of specific sections

Whoever willfully violates, attempts to violate, or conspires to violate, any provision of sections 2077, 2122, or 2131 of this title, or whoever unlawfully interferes, attempts to interfere, or conspires to interfere with any recapture or entry under section 2138 of this title, shall, upon conviction thereof, be punished by a fine of not more than $10,000 or by imprisonment for not more than ten years, or both, except that whoever commits such an offense with intent to injure the United States or with

intent to secure an advantage to any foreign nation shall, upon conviction thereof, be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $20,000 or both.

(Aug. 1, 1946, ch. 724, § 222, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 958, and amended Dec. 24, 1969, Pub. L. 91-161, §§ 2, 3(a), 83 Stat. 444.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1816(a), (b) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

AMENDMENTS

1969—Pub. L. 91-161 increased the maximum term of imprisonment from five years to ten years for the willful violation, or attempted violation of enumerated sections, and struck out the applicability of the death penalty for violation of the same offenses committed with the intent to injure the United States, or secure an advantage to any foreign nation.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 7 of Pub. L. 91-161 provided that: "The amendments contained in sections 2 and 3 of this Act [amending sections 2272, 2274 to 2276 of this title] shall apply only to offenses under sections 222, 224, 225, and 226 [sections 2272, 2274, 2275, and 2276 of this title] which are committed on or after the date of enactment of this Act [Dec. 24, 1969]. Nothing in section 2 or 3 of this Act shall affect penalties authorized under existing law for offenses under section 222, 224, 225, or 226 of the Atomic Energy Act of 1954, as amended, committed prior to the date of enactment of this Act [Dec. 24, 1969]."

CROSS REFERENCES

Conspiracy to commit offense, see section 371 of Title 18, Crimes and Criminal Procedure.

Federal retirement benefits, forfeiture upon conviction of offense described hereunder, see section 8312 of Title 5, Government Organization and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2271 of this title; title 5 section 8312; title 38 section 3505.

§ 2273. Violation of sections generally

Whoever willfully violates, attempts to violate, or conspires to violate, any provision of this chapter for which no criminal penalty is specifically provided or of any regulation or order prescribed or issued under section 2095 or 2201(b), (i), or (o) of this title shall, upon conviction thereof, be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than $20,000 or by imprisonment for not more than twenty years, or both.

(Aug. 1, 1946, ch. 724, § 223, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 958, and amended Dec. 14, 1967, Pub. L. 90-190, § 12, 81 Stat. 578; Dec. 24, 1969, Pub. L. 91-161, § 6, 83 Stat. 445.)

AMENDMENTS

1969—Pub. L. 91-161 limited the application of this section to instances where no criminal penalties have been provided.

1967—Pub. L. 90-190 substituted "(o)" for "(p)".

CROSS REFERENCES

Conspiracy to commit offense, see section 371 of Title 18, Crimes and Criminal Procedure.

Federal retirement benefits, forfeiture upon conviction of offense described hereunder, see section 8312 of Title 5, Government Organization and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2271 of this title; title 5 section 8312; title 38 section 3505.

§ 2274. Communication of Restricted Data

Whoever, lawfully or unlawfully, having possession of, access to, control over, or being entrusted with any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data—

(a) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with intent to injure the United States or with intent to secure an advantage to any foreign nation, upon conviction thereof, shall be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $20,000 or both;

(b) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with reason to believe such data will be utilized to injure the United States or to secure an advantage to any foreign nation, shall, upon conviction, be punished by a fine of not more than $10,000 or imprisonment for not more than ten years, or both.

(Aug. 1, 1946, ch. 724, § 224, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 958, and amended Dec. 24, 1969, Pub. L. 91-161, § 3(b), 83 Stat. 444.)

AMENDMENTS

1969—Pub. L. 91-161 made the death penalty inapplicable for the willful violation, or attempted violation of this section with the intent to injure the United States, or secure an advantage for any foreign nation.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-161 applicable to offenses committed on or after Dec. 24, 1969, see section 7 of Pub. L. 91-161, set out as an Effective Date of 1969 Amendment note under section 2272 of this title.

CROSS REFERENCES

Conspiracy to commit offense, see section 371 of Title 18, Crimes and Criminal Procedure.

Federal retirement benefits, forfeiture upon conviction of offense described hereunder, see section 8312 of Title 5, Government Organization and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

Wire or oral communications, authorization for interception, to provide evidence of offenses punishable by death or by imprisonment for more than one year

under sections 2274 to 2277 of this title, see section 2516 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2271, 2278, 2279 of this title; title 5 section 8312; title 18 section 2516; title 38 section 3505.

§ 2275. Receipt of Restricted Data

Whoever, with intent to injure the United States or with intent to secure an advantage to any foreign nation, acquires, or attempts or conspires to acquire any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data, shall upon conviction thereof, be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $20,000 or both.

(Aug. 1, 1946, ch. 724, § 225, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959, and amended Dec. 24, 1969, Pub. L. 91-161, § 3(b), 83 Stat. 444.)

AMENDMENTS

1969—Pub. L. 91-161 made the death penalty inapplicable for the willful violation, or attempted violation of this section with the intent to injure the United States, or secure an advantage for any foreign nation.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-161 applicable to offenses committed on or after Dec. 24, 1969, see section 7 of Pub. L. 91-161, set out as an Effective Date of 1969 Amendment note under section 2272 of this title.

CROSS REFERENCES

Conspiracy to commit offense, see section 371 of Title 18, Crimes and Criminal Procedure.

Federal retirement benefits, forfeiture upon conviction of offense described hereunder, see section 8312 of Title 5, Government Organization and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

Wire or oral communications, authorization for interception, to provide evidence of offenses punishable by death or by imprisonment for more than one year under sections 2274 to 2277 of this title, see section 2516 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2271, 2278, 2279 of this title; title 5 section 8312; title 18 section 2516; title 38 section 3505.

§ 2276. Tampering with Restricted Data

Whoever, with intent to injure the United States or with intent to secure an advantage to any foreign nation, removes, conceals, tampers with, alters, mutilates, or destroys any document, writing, sketch, photograph, plan, model, instrument, appliance, or note involving or incorporating Restricted Data and used by any individual or person in connection with the production of special nuclear material, or research or development relating to atomic energy, conducted by the United States, or financed in whole or in part by Federal funds, or conducted with the aid of special nuclear material, shall be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $20,000 or both.

(Aug. 1, 1946, ch. 724, § 226, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959, and amended Dec. 24, 1969, Pub. L. 91-161, § 3(b), 83 Stat. 444.)

AMENDMENTS

1969—Pub. L. 91-161 made the death penalty inapplicable for the willful violation, or attempted violation of this section with the intent to injure the United States, or secure an advantage for any foreign nation.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-161 applicable to offenses committed on or after Dec. 24, 1969, see section 7 of Pub. L. 91-161, set out as an Effective Date of 1969 Amendment note under section 2272 of this title.

CROSS REFERENCES

Conspiracy to commit offense, see section 371 of Title 18, Crimes and Criminal Procedure.

Federal retirement benefits, forfeiture upon conviction of offense described hereunder, see section 8312 of Title 5, Government Organization and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

Wire or oral communications, authorization for interception, to provide evidence of offenses punishable by death or by imprisonment for more than one year under sections 2274 to 2277 of this title, see section 2516 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2271, 2278, 2279 of this title; title 5 section 8312; title 18 section 2516; title 38 section 3505.

§ 2277. Disclosure of Restricted Data

Whoever, being or having been an employee or member of the Commission, a member of the Armed Forces, an employee of any agency of the United States, or being or having been a contractor of the Commission or of an agency of the United States, or being or having been an employee of a contractor of the Commission or of an agency of the United States, or being or having been a licensee of the Commission, or being or having been an employee of a licensee of the Commission, knowingly communicates, or whoever conspires to communicate or to receive, any Restricted Data, knowing or having reason to believe that such data is Restricted Data, to any person not authorized to receive Restricted Data pursuant to the provisions of this chapter or under rule or regulation of the Commission issued pursuant thereto, knowing or having reason to believe such person is not so authorized to receive Restricted Data shall, upon conviction thereof, be punishable by a fine of not more than $2,500.

(Aug. 1, 1946, ch. 724, § 227, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

CROSS REFERENCES

Conspiracy to commit offense, see section 371 of Title 18, Crimes and Criminal Procedure.

Wire or oral communications, authorization for interception, to provide evidence of offenses punishable by death or by imprisonment for more than one year under sections 2274 to 2277 of this title, see section 2516 of Title 18.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2279 of this title; title 18 section 2516.

§ 2278. Statute of limitations

Except for a capital offense, no individual or person shall be prosecuted, tried, or punished for any offense prescribed or defined in sections 2274 to 2276 of this title unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed.

(Aug. 1, 1946, ch. 724, § 228, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2279 of this title.

§ 2278a. Trespass upon Commission installations

(a) Issuance and posting of regulations

The Commission is authorized to issue regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapon, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property, into or upon any facility, installation, or real property subject to the jurisdiction, administration, or in the custody of the Commission. Every such regulation of the Commission shall be posted conspicuously at the location involved.

(b) Penalty for violation of regulations

Whoever shall willfully violate any regulation of the Commission issued pursuant to subsection (a) of this section shall, upon conviction thereof, be punishable by a fine of not more than $1,000.

(c) Penalty for violation of regulations regarding enclosed property

Whoever shall willfully violate any regulation of the Commission issued pursuant to subsection (a) of this section with respect to any installation or other property which is enclosed by a fence, wall, floor, roof, or other structural barrier shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed $5,000 or to imprisonment for not more than one year, or both.

(Aug. 1, 1946, ch. 724, § 229, as added Aug. 6, 1956, ch. 1015, § 6, 70 Stat. 1070.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2279 of this title.

§ 2278b. Photographing, etc., of Commission installations; penalty

It shall be an offense, punishable by a fine of not more than $1,000 or imprisonment for not more than one year, or both—

(1) to make any photograph, sketch, picture, drawing, map or graphical representation, while present on property subject to the jurisdiction, administration or in the custody of the Commission, of any installations or equipment designated by the President as requiring protection against the general dissemination of information relative thereto, in the interest of the common defense and security, without first obtaining the permission of the Commission, and promptly submitting the product obtained to the Commission for inspection or such other action as may be deemed necessary; or

(2) to use or permit the use of an aircraft or any contrivance used, or designed for navigation or flight in air, for the purpose of making a photograph, sketch, picture, drawing, map or graphical representation of any installation or equipment designated by the President as provided in the preceding paragraph, unless authorized by the Commission.

(Aug. 1, 1946, ch. 724, § 230, as added Aug. 6, 1956, ch. 1015, § 6, 70 Stat. 1070.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2279 of this title.

§ 2279. Applicability of other laws

Sections 2274 to 2278b of this title shall not exclude the applicable provisions of any other laws.

(Aug. 1, 1946, ch. 724, § 231, formerly § 229, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959, and renumbered and amended Aug. 6, 1956, ch. 1015, §§ 6, 7, 70 Stat. 1070.)

AMENDMENTS

1956—Act Aug. 6, 1956, § 7, substituted "2274 to 2278b" for "2274 to 2278".

§ 2280. Injunction proceedings

Whenever in the judgment of the Commission any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter, or any regulation or order issued thereunder, the Attorney General on behalf of the United States may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing com-

pliance with such provision, and upon a showing by the Commission that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

(Aug. 1, 1946, ch. 724, § 232, formerly § 230, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959, and renumbered Aug. 6, 1956, ch. 1015, § 6, 70 Stat. 1070.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1816(c) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 2281. Contempt proceedings

In case of failure or refusal to obey a subpena served upon any person pursuant to section 2201(c) of this title, the district court for any district in which such person is found or resides or transacts business, upon application by the Attorney General on behalf of the United States, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both, in accordance with the subpena; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(Aug. 1, 1946, ch. 724, § 233, formerly § 231, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960, and renumbered Aug. 6, 1956, ch. 1015, § 6, 70 Stat. 1070.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1816(d) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

FEDERAL RULES OF CIVIL PROCEDURE

Subpena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 2282. Civil penalties

(a) Violations of licensing requirements

Any person who (1) violates any licensing provision of section 2073, 2077, 2092, 2093, 2111, 2112, 2131, 2133, 2134, 2137, or 2139 of this title or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or (2) commits any violation for which a license may be revoked under section 2236 of this title, shall be subject to a civil penalty, to be imposed by the Commission, of not to exceed $5,000 for each such violation: *Provided,* That in no event shall the total penalty payable by any person exceed $25,000 for all violations by such person occurring within any period of thirty consecutive days. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. The Commission shall have the power to compromise, mitigate, or remit such penalties.

(b) Notice

Whenever the Commission has reason to believe that a person has become subject to the imposition of a civil penalty under the provisions of this section, it shall notify such person in writing (1) setting forth the date, facts, and nature of each act or omission with which the person is charged, (2) specifically identifying the particular provision or provisions of the section, rule, regulation, order, or license involved in the violation, and (3) advising of each penalty which the Commission proposes to impose and its amount. Such written notice shall be sent by registered or certified mail by the Commission to the last known address of such person. The person so notified shall be granted an opportunity to show in writing, within such reasonable period as the Commission shall by regulation prescribe, why such penalty should not be imposed. The notice shall also advise such person that upon failure to pay the civil penalty subsequently determined by the Commission, if any, the penalty may be collected by civil action.

(c) Collection of penalties

On the request of the Commission, the Attorney General is authorized to institute a civil action to collect a penalty imposed pursuant to this section. The Attorney General shall have the exclusive power to compromise, mitigate, or remit such civil penalties as are referred to him for collection.

(Aug. 1, 1946, ch. 724, § 234, as added Dec. 24, 1969, Pub. L. 91-161, § 4, 83 Stat. 444.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5841 of this title.

SUBCHAPTER XVIII—EURATOM COOPERATION

§ 2291. Definitions

As used in this subchapter—

(a) "The Community" means the European Atomic Energy Community (EURATOM).

(b) The "Commission" means the Atomic Energy Commission, as established by the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.].

(c) "Joint program" means the cooperative program established by the Community and the United States and carried out in accordance with the provisions of an agreement for cooperation entered into pursuant to the provisions of section 2153 of this title, to bring into operation in the territory of the members of the Community powerplants using nuclear reactors of

types selected by the Commission and the Community, having as a goal a total installed capacity of approximately one million kilowatts of electricity by December 31, 1963, except that two reactors may be selected to be in operation by December 31, 1965.

(d) All other terms used in this subchapter shall have the same meaning as terms described in section 2014 of this title.

(Pub. L. 85-846, § 2, Aug. 28, 1958, 72 Stat. 1084.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in subsec. (b), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to this chapter (§ 2011 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

CODIFICATION

Section was enacted as part of Pub. L. 85-846, known as the EURATOM Cooperation Act of 1958, which comprises this subchapter, and not as part of act Aug. 1, 1946, ch. 724, amended generally by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, known as the Atomic Energy Act of 1954, which comprises subchapters I to XVII of this chapter.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2293, 2295 of this title.

§ 2292. Authorization of appropriations for research and development program; authority to enter into contracts; period of contracts; equivalent amounts for research and development program

There is authorized to be appropriated to the Commission, in accordance with the provisions of section 2017(a)(2) of this title, the sum of $3,000,000 as an initial authorization for fiscal year 1959 for use in a cooperative program of research and development in connection with the types of reactors selected by the Commission and the Community under the joint program. The Commission may enter into contracts for such periods as it deems necessary, but in no event to exceed five years, for the purpose of conducting the research and development program authorized by this section: *Provided*, That the Community authorizes an equivalent amount for use in the cooperative program of research and development.

(Pub. L. 85-846, § 3, Aug. 28, 1958, 72 Stat. 1084.)

CODIFICATION

Section was enacted as part of Pub. L. 85-846, known as the EURATOM Cooperation Act of 1958, which comprises this subchapter, and not as part of act Aug. 1, 1946, ch. 724, as amended generally by act Aug. 30, 1954, ch. 1073, § 1, 68. Stat. 921, known as the Atomic Energy Act of 1954, which comprises subchapters I to XVII of this chapter.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2296 of this title.

§ 2293. Omitted

CODIFICATION

Section, Pub. L. 85-846, § 4, Aug. 28, 1958, 72 Stat. 1084; Pub. L. 87-206, § 18, Sept. 6, 1961, 75 Stat. 479, which related to guarantee contracts between the Atomic Energy Commission and operators of reactors under the cooperation program which were to extend no later than Dec. 31, 1975, has been omitted from the Code as executed.

§ 2294. Authorization for sale or lease of uranium and plutonium; amounts; lien for nonpayment; uranium enrichment services

Pursuant to the provisions of section 2074 of this title, there is hereby authorized for sale or lease to the Community—

an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium 235 for other purposes;

one thousand five hundred kilograms of plutonium; and

thirty kilograms of uranium 233;

in accordance with the provisions of an agreement or agreements for cooperation between the Government of the United States and the Community entered into pursuant to the provisions of section 2153 of this title: *Provided*, That the Government of the United States obtains the equivalent of a first lien on any such material sold to the Community for which payment is not made in full at the time of transfer. The Commission may enter into contracts to provide, after December 31, 1968, for the producing or enriching of all, or part of, the above-mentioned contained uranium 235 pursuant to the provisions of section 2201(v)(B) of this title in lieu of sale or lease thereof.

(Pub. L. 85-846, § 5, Aug. 28, 1958, 72 Stat. 1085; Pub. L. 87-206, § 19, Sept. 6, 1961, 75 Stat. 479; Pub. L. 88-394, § 5, Aug. 1, 1964, 78 Stat. 376; Pub. L. 90-190, § 13, Dec. 14, 1967, 81 Stat. 578; Pub. L. 93-88, Aug. 14, 1973, 87 Stat. 296.)

CODIFICATION

Section was enacted as part of Pub. L. 85-846, known as the EURATOM Cooperation Act of 1958, which comprises this subchapter, and not as part of act Aug. 1, 1946, ch. 724, as amended generally by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, known as the Atomic Energy Act of 1954, which comprises subchapters I to XVII of this chapter.

AMENDMENTS

1973—Pub. L. 93-88 substituted "an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium for other purposes" for "two hundred fifteen thousand kilograms of contained uranium 235".

1967—Pub. L. 90-190 increased from seventy thousand to two hundred fifteen thousand kilograms of contained uranium 235 and from five hundred to one thousand five hundred kilograms of plutonium respectively the amount of material authorized to be sold or leased to the Community, and added the provision authorizing the Commission, after Dec. 31, 1968, to perform uranium enrichment services for the Community, pursuant to the provisions of section 2201(v)(B) of this title, in lieu of the sale or lease of such material.

1964—Pub. L. 88-394 increased the amount of contained uranium 235 from thirty thousand kilograms to seventy thousand kilograms, and plutonium, from nine kilograms to five hundred kilograms.

1961—Pub. L. 87-206 substituted "Nine kilograms" for "One kilogram" of plutonium and inserted item reading "Thirty kilograms of uranium 233" and "or agreements".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission under this section were transferred to and vested in the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

§ 2295. Acquisition of nuclear materials

(a) Authorization; restriction of amounts of plutonium or uranium; amount and use of plutonium authorized to be acquired

The Atomic Energy Commission is authorized to purchase or otherwise acquire from the Community special nuclear material or any interest therein from reactors constructed under the joint program in accordance with the terms of an agreement for cooperation entered into pursuant to the provisions of section 2153 of this title: *Provided,* That neither plutonium nor uranium 233 nor any interest therein shall be acquired under this section in excess of the total quantities authorized by law. The Commission is authorized to acquire from the Community pursuant to this section up to four thousand one hundred kilograms of plutonium for use only for peaceful purposes.

(b) Terms and periods of contracts to acquire plutonium

Any contract made under the provisions of this section to acquire plutonium or any interest therein may be at such prices and for such period of time as the Commission may deem necessary: *Provided,* That with respect to plutonium produced in any reactor constructed under the joint program, no such contract shall be for a period greater than ten years of operation of such reactors or December 31, 1973 (or December 31, 1975, for not more than two reactors selected under section 2291(c) of this title, whichever is earlier: *And provided further,* That no such contract shall provide for compensation or the payment of a purchase price in excess of the Commission's established price in effect at the time of delivery to the Commission for such material as fuel in a nuclear reactor.

(c) Terms and periods of contracts to acquire uranium

Any contract made under the provisions of this section to acquire uranium enriched in the isotope uranium 235 may be at such price and for such period of time as the Commission may deem necessary: *Provided,* That no such contract shall be for a period of time extending beyond the terminal date of the agreement for cooperation with the Community or provide for the acquisition of uranium enriched in the isotope U-235 in excess of the quantities of such material that have been distributed to the Community by the Commission less the quantity consumed in the nuclear reactors involved in the joint program: *And provided further,* That no such contract shall provide for compensation or the payment of a purchase price in excess of the Atomic Energy Commission's established charges for such material in effect at the time delivery is made to the Commission.

(d) Contracts for purchase of special nuclear materials

Any contract made under this section for the purchase of special nuclear material or any interest therein may be made without regard to the provisions of section 665 of title 31.

(e) Certification by Commission

Any contract made under this section may be made without regard to section 5 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable.

(Pub. L. 85-846, § 6, Aug. 28, 1958, 72 Stat. 1085.)

CODIFICATION

Section was enacted as part of Pub. L. 85-846, known as the EURATOM Cooperation Act of 1958, which comprises this subchapter, and not as part of act Aug. 1, 1946, ch. 724, as amended generally by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, known as the Atomic Energy Act of 1954, which comprises subchapters I to XVII of this chapter.

§ 2296. Nonliability of United States; indemnification

The Government of the United States of America shall not be liable for any damages or third party liability arising out of or resulting from the joint program: *Provided, however,* That nothing in this section shall deprive any person of any rights under section 2210 of this title: *And provided further,* That nothing in this section shall apply to arrangements made by the Commission under a research and development program authorized in section 2292 of this title. The Government of the United States shall take such steps as may be necessary, including appropriate disclaimer or indemnity arrangements, in order to carry out the provisions of this section.

(Pub. L. 85-846, § 7, Aug. 28, 1958, 72 Stat. 1086; Pub. L. 87-206, § 20, Sept. 6, 1961, 75 Stat. 479.)

CODIFICATION

Section was enacted as part of Pub. L. 85-846, known as the EURATOM Cooperation Act of 1958, which comprises this subchapter, and not as part of act Aug. 1, 1946, ch. 724, as amended generally by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, known as the Atomic Energy Act of 1954, which comprises subchapters I to XVII of this chapter.

AMENDMENTS

1961—Pub. L. 87-206 inserted proviso making the provisions of this section inapplicable to arrangements made by the Commission under a research and development program authorized by section 2292 of this title.

CHAPTER 24—DISPOSAL OF ATOMIC ENERGY COMMUNITIES

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This chapter is referred to in title 12 section 1715n.

SUBCHAPTER I—GENERAL PROVISIONS

§ 2301. Congressional declaration of policy

It is declared to be the policy of the United States of America that Government ownership and management of the communities owned by the Atomic Energy Commission shall be terminated in an expeditious manner which is consistent with and will not impede the accomplishment of the purposes and programs established by the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.]. To that end, it is desired at each community to—

(a) facilitate the establishment of local self-government;

(b) provide for the orderly transfer to local entities of municipal functions, municipal installations, and utilities; and

(c) provide for the orderly sale to private purchasers of property within those communities with a minimum of dislocation.

(Aug. 4, 1955, ch. 543, ch. 1, § 11, 69 Stat. 472.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in text prec. par. (a), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

SHORT TITLE

Section 1 of act Aug. 4, 1955, provided that: "This Act [enacting this chapter and amending section 1715n of Title 12, Banks and Banking, and section 243 of Title 20, Education] may be cited as the 'Atomic Energy Community Act of 1955'."

SEPARABILITY OF PROVISIONS

Section 119 of act Aug. 4, 1955, provided that: "If any provisions of this Act [see Short Title note above], or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See sections 5814 and 5841 of this title.

§ 2302. Congressional findings

The Congress of the United States makes the following findings concerning the communities owned by the Atomic Energy Commission:

(a) The continued morale of project-connected persons is essential to the common defense and security of the United States.

(b) In issuing rules and regulations required or permitted under this chapter for the disposal of the communities and in disposing of the communities in accordance with the provisions of this chapter and in accordance with the rules and regulations required or permitted by this chapter, the Commission is acting under authority delegated to it by the Congress.

(c) Funds of the United States may be provided for the disposal of the communities and for assistance in the operation of the communities thereafter under conditions which will provide for the common defense and promote the general welfare.

(Aug. 4, 1955, ch. 543, ch. 1, § 12, 69 Stat. 472.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2303. Purpose of chapter

It is the purpose of this chapter to effectuate the policies set forth above by providing for—

(a) the maintenance of conditions which will not impede the recruitment and retention of personnel essential to the atomic energy program;

(b) the obligation of the United States to contribute to the support of municipal functions in a manner commensurate with—

(1) the fiscal problems peculiar to the communities by reason of their construction as national defense installations, and

(2) the municipal and other burdens imposed on the governmental or other entities at the communities by the United States in its operations at or near the communities;

(c) the opportunity for the residents of the communities to assume the obligations and privileges of local self-government; and

(d) the encouragement of the construction of new homes at the communities.

(Aug. 4, 1955, ch. 543, ch. 1, § 13, 69 Stat. 472.)

§ 2304. Definitions

The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this chapter—

(a) The term "Commission" means the Atomic Energy Commission.

(b) The term "community" means that area at—

(1) Oak Ridge, Tennessee, designated on a map on file at the principal office of the Commission, entitled "Minimum Geographic Area, Oak Ridge, Tennessee", bearing the legend "Boundary Line, Minimum Geographic Area, Oak Ridge, Tennessee" and marked "Approved, 21 April 1955, K. D. Nichols, General Manager"; or

(2) Richland, Washington, designated on a map on file at the principal office of the Commission, entitled "Minimum Geographic Area, Richland, Washington", bearing the legend "Boundary Line, Minimum Geograph-

ic Area, Richland, Washington" and marked "Approved, 21 April 1955, K. D. Nichols, General Manager;" or

(3) Los Alamos, New Mexico, designated on a map on file at the principal office of the Commission, entitled "Minimum Geographic Area, Los Alamos, New Mexico," bearing the legend "Boundary Line, Minimum Geographic Area, Los Alamos, New Mexico" and marked "Approved, April 5, 1962, A. R. Luedecke, General Manager."

(c) The term "house" includes the lot on which the house stands.

(d) The term "member of a family" means any person who, on the first offering date, resides in the same dwelling unit with one or more of the following relatives (including those having the same relationship through marriage or legal adoption): spouse, father, mother, grandfather, grandmother, brother, sister, son, daughter, uncle, aunt, nephew, niece, or first cousin.

(e) The term "mortgage" shall include deeds of trust and such other classes of lien as are given to secure advances on, or the unpaid purchase price of real estate under the laws of the State in which the real estate is located.

(f) The term "municipal installation" includes, without limitation, schools, hospitals, police and fire protection systems, sewerage and refuse disposal plants, water supply and distribution installations, streets and roads, libraries, parks, playgrounds and recreational means, municipal government buildings, other properties suitable for municipal or comparable local public service purposes, and any fixtures, equivalent, or other property appropriate to the operation, maintenance or repair of the foregoing.

(g) The term "occupant" means a person who, on the date on which the property in question is first offered for sale, is entitled to residential occupancy of the Government-owned house in question, or of a family dwelling unit in such house, in accordance with a lease or license agreement with the Commission or its property-management contractor.

(h) The term "offering date" means the date the property in question is offered for sale.

(i) The term "project area" means that area which on August 4, 1955, constitutes the Federal area at Oak Ridge, Tennessee, or Hanford, Washington, or that area which, on the date Los Alamos is included within this chapter, constitutes the County of Los Alamos, New Mexico, excluding therefrom, however, that land which is, on said date, under the administrative control of the National Park Service of the Department of the Interior.

(j) The term "project-connected person" means any person who, on the first offering date, is regularly employed at the project area in one of the following capacities:

(1) An officer or employee of the Commission or any of its contractors or subcontractors, or of the United States or any agency thereof (including members of the Armed Forces), or of a State or political subdivision or agency thereof;

(2) An officer or employee employed at a school or hospital located in the project area;

(3) A person engaged in or employed in the project area by any professional, commercial, or industrial enterprise occupying premises located in the project area; or

(4) An officer or employee of any church or nonprofit organization occupying premises located in the project area.

(k) The term "resident" means any person who, on the date on which the property in question is first offered for sale is either—

(1) an occupant in a residential unit designated for sale at the community, or

(2) a project-connected person who is entitled, in accordance with a lease or similar agreement, to residential occupancy of privately owned rental housing in the community.

(*l*) The term "utility" means any electrical distribution system, any natural gas distribution system, any public transportation system, or any public communication system, and any fixtures, equipment, or other property appropriate to the operation, maintenance or repair of the foregoing.

(m) The terms "single" and "single family" when used in connection with "house" or "residential property" shall include each separate unit of a residential structure which the Commission has classified as a residential structure containing two or more separate single family units pursuant to section 2331(c) of this title.

(Aug. 4, 1955, ch. 543, ch. 2, § 21, 69 Stat. 473; Sept. 28, 1962, Pub. L. 87-719, §§ 1-4, 76 Stat. 664.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-719, § 1, added cl. (3).

Subsec. (i). Pub. L. 87-719, § 2, included in the definition of "project area" the County of Los Alamos, New Mexico, excluding land under administrative control of the National Park Service.

Subsec. (*l*). Pub. L. 87-719, § 3, included in the definition of "utility" any natural gas distribution system.

Subsec. (m). Pub. L. 87-719, § 4, added subsec. (m).

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2305. Powers of Atomic Energy Commission

The Commission shall have all powers conferred by the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], including the power to make, promulgate, issue, rescind, and amend such rules, regulations, and delegations as may be appropriate to carry out the provisions of this chapter and shall be subject to the limitations contained in chapter 14 of that Act [42 U.S.C. 2201 et seq.]. Nothing contained in this chapter shall impair the powers vested in the Commission by the Atomic Energy Act of 1954, as amended, or any other law.

(Aug. 4, 1955, ch. 543, ch. 11, § 111, 69 Stat. 483.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in text, is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. Chapter 14 of that Act, referred to in text, is classified to subchapter XIII (§ 2201 et seq.) of chapter 23 of this title. For

complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2306. Qualification to purchase

No officer or employee of the Commission or of any other Federal agency (including officers and members of the Armed Forces) shall be disqualified from purchasing any property or exercising any right or privilege under this chapter, but no such officer or employee shall make any determination as to his own eligibility or priority, or as to valuation, price, or terms of sale and financing of property sold to him.

(Aug. 4, 1955, ch. 543, ch. 11, § 112, 69 Stat. 483.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2307. Form and contents of contracts, mortgages, and other instruments

Contracts entered into pursuant to this chapter and other instruments executed pursuant to this chapter shall be in such form and contain such provisions, consistent with this chapter, as the Commission shall prescribe; and shall be as simple and concise as possible. Any mortgage shall contain terms which will place the United States in the same position, with respect to any mortgages it may hold under the provisions of subchapter V of this chapter, as that occupied by a private lender under the applicable State laws for the relief of mortgagors with respect to deficiency judgments.

(Aug. 4, 1955, ch. 543, ch. 11, § 113, 69 Stat. 483.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2308. Conclusive evidence of compliance with chapter

A deed, lease, contract, or other instrument executed by or on behalf of the Commission purporting to transfer title or any other interest in property disposed of pursuant to this chapter shall be conclusive evidence of compliance with the provisions of this chapter and rules and regulations promulgated thereunder, insofar as concerns title or other interest of any bona fide grantee or transferee for value without notice of lack of such compliance, and his successors in title.

(Aug. 4, 1955, ch. 543, ch. 11, § 114, 69 Stat. 483.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2309. Administrative review

Determinations authorized by this chapter to be made by the Commission as to classification, priorities, prices, and terms and conditions of sale of property disposed under this chapter shall be subject to review only in accordance with such provisions for administrative review or reconsideration as the Commission may prescribe.

(Aug. 4, 1955, ch. 543, ch. 11, § 115, 69 Stat. 483.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2310. Repossession of property; powers of Commission

The Commission is authorized to repossess any property sold by it in accordance with the terms of any contract to purchase, mortgage or other instrument, and to sell or make any other disposition of any property so repossessed and any property purchased by it pursuant to section 2366 of this title. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, the Commission shall have power to deal with, complete, operate, rent, renovate, modernize, insure, or sell for cash or credit, in its discretion, any properties acquired pursuant to this chapter, and to pursue to final collection, by way of compromise or otherwise, all claims arising pursuant to this section: *Provided,* That expenses authorized by this section shall be considered nonadministrative expenses: *Provided further,* That section 5 of title 41 shall not apply to any contract entered into pursuant to this section if the amount thereof does not exceed $1,000.

(Aug. 4, 1955, ch. 543, ch. 11, § 116, 69 Stat. 483; July 25, 1956, ch. 731, § 3, 70 Stat. 653.)

AMENDMENTS

1956—Act July 25, 1956 specifically enumerated powers of the Commission in relation to properties acquired pursuant to this chapter, authorized the final collection of claims by way of compromise or otherwise, to provide that expenses authorized by this section shall be considered nonadministrative expenses, and excepted contracts that do not exceed $1,000 from the provisions of section 5 of title 41.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2311 of this title.

§ 2311. Community Disposal Operations Fund

(a) Establishment

There is established as of June 30, 1956, a Community Disposal Operations Fund, and the Commission (or the head of such agency as may be carrying out the sales and financing functions of the Commission pursuant to a delegation by the President under section 2313 of this title) is authorized to credit said fund with all moneys hereafter obtained or now held by it and to account under said fund for all assets and liabilities held or acquired by it in connection with its sales and financing functions under this chapter, and to make temporary advances to such fund, from any other funds

available for expenses of operations of such Commission or agency, as may be required to carry out such functions pending the realization of sufficient proceeds under the provisions of this chapter: *Provided*, That any such advances shall be repaid to the source appropriation or fund, to the extent of any unobligated balances available in the Community Disposal Operations Fund, prior to the close of the fiscal year during which such advances are made.

(b) Availability

The Community Disposal Operations Fund shall be available to pay for all necessary costs, expenses (including administrative expenses), losses or obligations incurred in connection with the aforesaid functions, including expenses incident to sale, or other transfer and any financing under section 2362 of this title, indemnities under sections 2363 to 2366 of this title, and expenses authorized by section 2310 of this title, and expenses in connection with the defense and payment of any claims for breaches of warranties and covenants of title of any property disposed of pursuant to this chapter.

(c) Liquidating dividends

Any amount in said fund which is determined to be in excess of requirements for the purposes thereof shall be declared and paid as liquidating dividends to the Treasury, not less often than annually.

(Aug. 4, 1955, ch. 543, ch. 11, § 117, 69 Stat. 483; July 25, 1956, ch. 731, § 4, 70 Stat. 654.)

AMENDMENTS

1956—Act July 25, 1956, amended section generally to establish the Community Disposal Operations Fund, to provide for its availability, and to require excess amounts to be paid as liquidating dividends to the Treasury. Former provisions of this section required that the net proceeds derived by the Commission from the disposal of property pursuant to this chapter were to be covered into the Treasury.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2312. Authorization of appropriations

(a) No appropriation shall be made to carry out the provisions and purposes of this chapter unless previously authorized by legislation enacted by Congress.

(b) There are authorized to be appropriated the sum of $518,000 at Oak Ridge, the sum of $2,215,000 at Richland and the sum of $8,719,000 at Los Alamos for construction, modification, or expansion of municipal installations and utilities authorized to be transferred pursuant to subchapters VI and VII of this chapter.

(Aug. 4, 1955, ch. 543, ch. 11, § 118, 69 Stat. 484; July 25, 1956, ch. 731, §§ 5, 6, 70 Stat. 654; Sept. 28, 1962, Pub. L. 87-719, § 24, 76 Stat. 666; Dec. 14, 1967, Pub. L. 90-190, § 4, 81 Stat. 576.)

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-190 substituted provisions prohibiting the making of appropriations to carry out the provisions and purposes of this chapter unless previously authorized by legislation enacted by Congress for provisions granting authority to appropriate such sums as may be necessary and appropriate to carry out the provisions and purposes of this chapter.

1962—Subsec. (b). Pub. L. 87-719 authorized an appropriation of $8,719,000 at Los Alamos and use of appropriations for utilities.

1956—Subsec. (b). Act July 25, 1956, § 6, substituted "$2,215,000" for "$2,165,000".

Subsec. (c). which appropriated funds derived from the disposal of property to pay any costs, losses, expenses, or obligations incurred by the Commission, was repealed by act July 25, 1956, § 5, and is now covered by section 2311(b) of this title.

§ 2313. Transfer of functions

The President is authorized to delegate the duties and responsibilities placed on the Commission by this chapter to such other agencies of the United States Government as are reasonably qualified to perform those duties and responsibilities. The President may delegate any or all of the duties and responsibilities of the Commission in the operation of the communities to such other agencies of the United States Government that are reasonably qualified to perform those duties and responsibilities. The Commission shall retain no financing duties and responsibilities.

(Aug. 4, 1955, ch. 543, ch. 10, § 101, 69 Stat. 482.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

EX. ORD. NO. 10657. TRANSFER OF FUNCTIONS TO HOUSING AND HOME FINANCE ADMINISTRATOR

Ex. Ord. No. 10657, eff. Feb. 14, 1956, 21 F.R. 1063, as amended by Ex. Ord. No. 10734, eff. Oct. 17, 1957, 22 F.R. 8275; Ex. Ord. No. 11105, eff. Apr. 18, 1963, 28 F.R. 3909, provided:

By virtue of the authority vested in me by the Atomic Energy Community Act of 1955 (69 Stat. 471) [this chapter], hereinafter called the Act, and particularly by section 101 thereof [this section], and as President of the United States, it is ordered as follows:

SECTION 1. There are hereby transferred to the Housing and Home Finance Administrator (hereafter called the Administrator) all of the functions, duties, and responsibilities of the Atomic Energy Commission (hereinafter called the Commission) under sections 34 to 36, inclusive, sections 51 to 55, inclusive, section 57, sections 61 to 66, inclusive, and section 116, of the Act [sections 2324 to 2326, 2341 to 2345, 2347, 2361 to 2366, 2310, respectively, of this title], and under the third sentence of section 32 of the Act [section 2322 of this title], with the following exceptions and qualifications:

(a) The Commission shall retain the power and duty of, and the responsibility for, (i) determining the property to be offered for disposal pursuant to section 52 [section 2342 of this title], the improvements to be designated as eligible for a credit under subsections 36a and 36b [section 2326(a), (b) of this title], the extent to which a lessee has been previously compensated for improvements under subsection 36a [section 2326(a) of this title], and the provisions and procedures to be adopted pursuant to subsections 55b to 55e, inclusive [section 2345(b) to (e) of this title], and (ii) removing or transferring property pursuant to subsections 52a(1) and 52a(2) [section 2342(a)(1), (2) of this title].

(b) The Commission shall retain such duties and responsibilities under section 57a [section 2347(a) of this title] as it shall specify and give notice thereof to the Administrator.

(c) The Administrator may reimburse the Federal Housing Commissioner, under the aforesaid third sentence of section 32 of the Act [section 2322 of this title], from the Community Disposal Operations Fund established under section 117 of the Act [section 2311 of this title].

SEC. 2. There shall be transferred to the administrator, who shall thereafter exercise full jurisdiction in connection therewith, all interests, rights, powers, duties, and responsibilities of the United States, including any interests, powers, rights, duties, and responsibilities of the Commission under the Act or any act, with respect to the following (except such interests, powers, rights, duties, and responsibilities as the Commission and the Administrator may mutually agree shall be retained by the Commission).

(a) The property designated for disposal by the Commission pursuant to section 52 of the Act [section 2342 of this title], including all interests, powers, rights, duties, and responsibilities arising as a result of deeds executed by the Commission pursuant to the provisions of subsection 57a of the Act [section 2347(a) of this title].

(b) The deeds for church land and the deed to the State of Tennessee for National Guard purposes, executed by the Commission pursuant to the Atomic Energy Act of 1946, as amended [section 1801 et seq. of this title], or the Atomic Energy Act of 1954, as amended [section 2011 et seq. of this title].

SEC. 3. The transfers specified in section 2 hereof shall be effective:

(a) As to each parcel of property offered for disposal pursuant to the provisions of section 52 of the Act [section 2342 of this title], on the date the Administrator executes a deed as provided in section 55 [section 2345 of this title], or a contract to purchase as provided in section 61 [section 2361 of this title], with respect to each such parcel of property; and

(b) In the case of deeds executed by the Commission pursuant to the provisions of subsection 57a of the Act [section 2347(a) of this title], or referred to under subsection 2(b) of this order, on the date of this order or the execution of such deeds, whichever is later.

SEC. 4. To the extent necessary or appropriate to enable him to perform or exercise the functions, duties, and responsibilities transferred to him by this order, the Administrator, and such officers or employees to whom he may delegate authority with respect to such functions, duties, and responsibilities, may perform or exercise any of the functions, duties, or responsibilities conferred upon the Commission by the Act, including, specifically, chapter 11 thereof [sections 2305 to 2312 of this title]. Any funds derived by the Commission from the disposal of property under the Act, including funds derived from the disposal of property under subsection 57a of the Act [section 2347(a) of this title], shall be transferred to the Administrator, but shall otherwise remain subject to the provisions of section 117 and subsection 118c of the Act [sections 2311, 2312(c) of this title].

SEC. 5. The Commission and the Administrator shall keep each other currently advised as to action taken pursuant to the Act, shall consult with each other on all matters arising under the Act or this order which either agency deems to be of mutual concern, and may jointly agree upon such further measures, not inconsistent with the Act or this order, as will promote the expeditious and effective accomplishment of the policy and purposes of the Act.

SEC. 6. Executive Order No. 9816 of December 31, 1946 [set out as a note under section 2031 of this title], is hereby amended to the extent that it may be inconsistent with this order.

SEC. 7. Nothing in this order shall invalidate any action taken by the Commission prior to the effective date of this order, or impair or affect any outstanding obligations or contracts of the Commission, or impair any power or authority of the Commission with respect to functions not transferred by or pursuant to this order. No person affected by any action taken by either the Commission or the Administrator, or by any person acting under authority delegated to him consonant, with law, shall be entitled to challenge the validity thereof or otherwise excuse his actions or failure to act on the grounds that pursuant to the provisions of this order such action was within the jurisdiction of the Commission rather than the Administrator or vice versa.

SEC. 8. Nothing in this order shall be applicable to the community of Los Alamos, New Mexico.

DWIGHT D. EISENHOWER.

EXECUTIVE ORDER NO. 10734

Section 2 of Ex. Ord. 10734, eff. Oct. 17, 1957, 22 F.R. 8275, provided that:

"Each reference to 'the Act' in the said Executive Order No. 10657, as amended, shall be deemed to include, except as may be inappropriate, a reference to the Atomic Energy Community Act of 1955, as amended [this chapter]."

EX. ORD. NO. 11105. TRANSFER OF FUNCTIONS TO HOUSING AND HOME FINANCE ADMINISTRATOR

Ex. Ord. No. 11105, eff. Apr. 18, 1963, 28 F.R. 3909, provided:

By virtue of the authority vested in me by the Atomic Energy Community Act of 1955 (69 Stat. 471), as amended [this chapter] (hereinafter called the Act) and particularly by Section 101 thereof [this section], and as President of the United States, it is ordered as follows:

SECTION 1. The provisions of Sections 2 to 8, inclusive, of this order shall be applicable to the community of Los Alamos, New Mexico, but shall not be applicable to the community of Oak Ridge, Tennessee, or to the community of Richland, Washington.

SEC. 2. There are hereby transferred to the Housing and Home Finance Administrator (hereinafter called the Administration) all of the functions, duties, and responsibilities of the Atomic Energy Commission (hereinafter called the Commission) (i) under Sections 34 to 36, inclusive, Sections 51 to 55, inclusive, Section 57, Sections 61 to 66, inclusive, and Section 116 of the Act [sections 2324 to 2326, 2341 to 2345, 2347, 2361 to 2366, 2310, respectively, of this title], (ii) under the last sentence of Section 56 of the Act [section 2346 of this title], and (iii) with respect to sales of apartment buildings to cooperatives under Section 58 of the Act [section 2348 of this title], with the following exceptions and qualifications:

(a) The Commission shall retain the power and duty of, and the responsibility for, (i) determining the property to be offered for disposal pursuant to Section 52 of the Act [section 2342 of this title], including the timing thereof, the improvements to be designated as eligible for a credit under subsections 36a and 36b [section 2326(a), (b) of this title], the extent to which a lessee has been previously compensated for improvements under subsection 36a [section 2326(a) of this title], and the provisions and procedures to be adopted pursuant to subsections 55b to 55e [section 2345(b) to (e) of this title], inclusive, and (ii) removing, transferring or designating property pursuant to subsections 52a(1), 52a(2), and 52a(3) [section 2342(a)(1), (2), and (3) of this title].

(b) The Commission shall retain all duties, functions and responsibilities under subsection 57b of the Act [section 2347(b) of this title], both as to existing lots and lots developed or to be developed under the Act or any other Act, except as the Commission and the Administrator may mutually agree should be transferred to the Administrator.

SEC. 3. There shall be transferred to the Administrator, who shall thereafter exercise full jurisdiction in connection therewith, all interests, rights, powers, duties, and responsibilities of the United States, including any interests, rights, powers, duties, and responsibilities of the Commission under the Act or any act (except such interests, rights, powers, duties, and responsibilities as the Commission and the Administrator may mutually agree shall be retained by the Commission), with respect to the property designated

by the Commission for disposal by the Administrator, pursuant to Section 52 of the Act [section 2342 of this title].

SEC. 4. The transfers specified in Section 3 hereof shall be effective as to each parcel of property offered for disposal pursuant to Section 52 of the Act [section 2342 of this title], on the date the Administrator executes a deed as provided in Section 55 [section 2345 of this title], or a contract to purchase as provided in Section 61 [section 2361 of this title], with respect to each such parcel of property.

SEC. 5. To the extent necessary or appropriate to enable him to perform or exercise the functions, duties, and responsibilities transferred to him by this order, the Administrator, and such officers or employees to whom he may delegate authority with respect to such functions, duties, and responsibilities, may perform or exercise any of the functions, duties, or responsibilities conferred upon the Commission by the Act, including, specifically, Chapter 11 [sections 2305 to 2312 of this title] thereof. Any funds derived by the Commission from the disposal of property under the Act, including funds derived from the disposal of property under subsection 57b of the Act [section 2347(b) of this title], shall be transferred to the Administrator, but shall otherwise remain subject to the provisions of Section 117 of the Act [section 2311 of this title].

SEC. 6. The Commission and the Administrator shall keep each other currently advised as to action taken pursuant to the Act, shall consult with each other on all matters arising under the Act or this order which either agency deems to be of mutual concern, and may jointly agree upon such further measures, not inconsistent with the Act or this order, as will promote the expeditious and effective accomplishment of the policy and purposes of the Act.

SEC. 7. Executive Order No. 9816 of December 31, 1946 [set out as a note under section 2031 of this title], is hereby amended to the extent that it may be inconsistent with this order.

SEC. 8. Nothing in this order shall invalidate any action taken by the Commission prior to the effective date of this order, or impair or affect any outstanding obligations or contracts of the Commission, or impair any power or authority of the Commission with respect to functions not transferred by or pursuant to this order. No person affected by any action taken by either the Commission or the Administrator, or by any person acting under authority delegated to him consonant with law, shall be entitled to challenge the validity thereof or otherwise excuse his action or failure to act on the grounds that pursuant to the provisions of this order such action was within the jurisdiction of the Commission rather than the Administrator, or vice versa.

SEC. 9. Executive Order No. 10657 of February 14, 1956, as amended [set out as note under this section], is hereby further amended by adding at the end thereof a new Section 8, reading as follows:

"SEC. 8. Nothing in this order shall be applicable to the community of Los Alamos, New Mexico."

JOHN F. KENNEDY.

TRANSFER OF FUNCTIONS

The functions of the Housing and Home Finance Agency and of the head thereof were transferred to the Secretary of Housing and Urban Development by Pub. L. 89-174, § 5(a), Sept. 9, 1965, 79 Stat. 669, set out as section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provides that references to the Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean the Secretary of Housing and Urban Development and that the Housing and Home Finance Agency and the Public Housing Administration have lapsed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2311 of this title.

§ 2314. Repealed. Pub. L. 93-608, § 1(22), Jan. 2, 1975, 88 Stat. 1970

Section, act Aug. 4, 1955, ch. 543, ch. 10, § 102, 69 Stat. 483, required a triennial report to the Joint Committee on Atomic Energy by the Commission reviewing its activities under this chapter.

§ 2315. Applicability of subchapter XVI of chapter 23 of this title

The provisions of subchapter XVI of chapter 23 of this title shall be applicable to all matters under this chapter.

(Aug. 4, 1955, ch. 543, ch. 10, § 103, 69 Stat. 483.)

REFERENCES IN TEXT

Subchapter XVI [§ 2251 et seq.] of chapter 23 of this title, referred to in text, was in the original a reference to chapter 17 of the Atomic Energy Act of 1954.

SUBCHAPTER II—LOTS, APPRAISALS, AND PRICES

§ 2321. Lots; establishment of boundaries

The Commission is authorized to plat each community immediately upon passage of this chapter, or immediately upon the inclusion of the community within the provisions of this chapter. The Commission may establish lot boundaries, and realine, divide, or enlarge existing tracts as it deems appropriate.

(Aug. 4, 1955, ch. 543, ch. 3, § 31, 69 Stat. 474.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2345 of this title.

§ 2322. Appraisal of property

The Commission shall proceed to secure appraisals of all property at the community which is to be sold pursuant to this chapter. The appraisals shall be made by the Secretary of Housing and Urban Development or his designee. The Secretary of Housing and Urban Development shall be reimbursed from the Community Disposal Operations Fund for the cost of such appraisals. Appraisals made under this section shall be the appraisals on which the Secretary of Housing and Urban Development may insure any mortgage or loan under the National Housing Act [12 U.S.C. 1701 et seq.] until such time as he finds that the appraisal values generally in the community no longer represent the fair market values of the properties.

(Aug. 4, 1955, ch. 543, ch. 3, § 32, 69 Stat. 474; Sept. 28, 1962, Pub. L. 87-719, § 5, 76 Stat. 664; May 25, 1967, Pub. L. 90-19, § 11, 81 Stat. 23.)

REFERENCES IN TEXT

The National Housing Act, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§ 1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" wherever appearing.

1962—Pub. L. 87-719 substituted "The Federal Housing Commissioner shall be reimbursed from the Community Disposal Operations Fund for the cost of such appraisals" for "The Commission shall reimburse the Federal Housing Commissioner for the cost of such appraisals".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2326 of this title.

§ 2323. Basis of appraisal

Except for lots sold pursuant to the provisions of section 2347(a) of this title, the appraised value shall be the current fair market value of the Government's interest in the property.

(Aug. 4, 1955, ch. 543, ch. 3, § 33, 69 Stat. 474.)

§ 2324. Posting of lists showing appraised value

Lists showing the appraised value of each parcel of property to be offered for sale to priority purchasers shall, prior to the offering of such property for sale, be made available for public inspection, at reasonable times, at the offices of the Commission at the community.

(Aug. 4, 1955, ch. 543, ch. 3, § 34, 69 Stat. 474.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2325. Sales price

(a) Government-owned single or duplex houses

In the sale to priority purchasers of properties on which are located Government-owned single or duplex houses, the sales price shall be the appraised value less a deduction of 15 per centum of the appraised value and less the deductions provided by section 2326 of this title.

(b) Other properties

In all other cases the sales price to priority purchasers shall be the appraised value less the deductions provided by section 2326 of this title, except that sales made under sections 2343(b) and 2343(c) of this title shall be made at the prices set forth therein.

(c) Appraised value of interest in commercial property

The appraised value of the Government's interest in commercial property shall, in the cases where renegotiation of the lease is requested by the lessee under the provisions of section 2201(e) of this title be based upon the renegotiated lease if any is agreed on. Where such renegotiations are requested, the sales proceedings shall not be initiated until the completion of the renegotiation.

(Aug. 4, 1955, ch. 543, ch. 3, § 35, 69 Stat. 474; Aug. 21, 1957, Pub. L. 85-162, title II, § 202, 71 Stat. 410.)

AMENDMENTS

1957—Subsec. (c). Pub. L. 85-162 added subsec. (c).

REPORT WITH RESPECT TO RENEGOTIATIONS, REAPPRAISALS, AND SALES PROCEEDINGS

The Atomic Energy Commission, the Federal Housing Administration, and the Housing and Home Finance Agency required to report to the Joint Committee by Jan. 31, 1958, with respect to the renegotiations, reappraisals, and sales proceedings authorized under subsec. (c) of this section, see section 203 of Pub. L. 85-162.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2348 of this title.

§ 2326. Deductions from sales price

(a) Improvements

In addition to any other deduction which may be permitted from the sales price for property, there shall, upon application by the prospective purchaser, be deducted the amount by which the current fair market value of the Government's interest in the premises is enhanced as a result of improvements to the premises made by, or at the expense of, the prospective purchaser: *Provided*, That, with reference to commercial property, the improvement credit allowed shall be the value of the enhancement of the Government's interest in the property, as determined by the Commission on the basis of the appraisal provided for under section 2322 of this title: *Provided further*, That such credit shall be reduced to the extent that lessee has been previously compensated therefor, as determined by the Commission, under the terms of the lease or otherwise.

(b) Improvements by occupant of single family or duplex house

An occupant of a single family or duplex house shall, upon application therefor, be entitled to a credit, against the purchase price of any residential property purchased through the exercise of a priority right established under the provisions of section 2332 of this title, for the amount by which the current fair market value of the Government's interest in the single family or duplex house of which he was an occupant is enhanced as a result of improvements to the premises of such single family or duplex house made by, or at the expense of, such occupant.

(c) Determination of value of improvements

The value of the improvements as specified in subsections (a) and (b) of this section shall be determined in accordance with the provisions of section 2322 of this title.

(d) Additional deduction to persons purchasing property without benefit of indemnity provisions

Persons purchasing property pursuant to the provisions of section 2342 of this title, who do not desire to avail themselves of the indemnity provisions contained in sections 2363 to 2366 of this title, shall be entitled to an additional deduction of 10 per centum of the appraised value of the property in addition to any other deduction set forth in this section.

(Aug. 4, 1955, ch. 543, ch. 3, § 36, 69 Stat. 474; July 25, 1956, ch. 731, § 1, 70 Stat. 653; Sept. 28, 1962, Pub. L. 87-719, § 6, 76 Stat. 664.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-719 substituted authorization of a credit for improvements by occupant of single family or duplex house for such improvements by junior occupant of duplex house.

1956—Subsec. (a). Act July 25, 1956 authorized an improvement credit for commercial property.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2325, 2348, 2363 of this title.

SUBCHAPTER III—CLASSIFICATION OF PROPERTY AND PRIORITIES

§ 2331. Classification of property

(a) Property within each community

Immediately upon passage of this chapter, or, in the case of Los Alamos, upon its inclusion within this chapter, the Commission shall classify all real property (including such improvements and such fixtures, equipment and other personal property incident thereto as it may deem appropriate) within each community in accordance with such classifications as shall insure reasonably similar treatment for reasonably similar property. The classification shall be made by such procedures, consistent with this subchapter, as it shall determine.

(b) Property at or in the vicinity of each community

The Commission may, but shall not be required to, classify any other real property at or in the vicinity of the community, whether within or outside of that community.

(c) Residential structures within each community

Prior to the date any residential property is first offered for sale at Los Alamos, the Commission shall further classify each residential structure within the community of Los Alamos either as a single family house, a duplex house, an apartment house, a dormitory, or as a residential structure containing two or more separate single family units and shall post, at the offices of the Commission at Los Alamos, a list, available for public inspection at reasonable times, showing the classification of each such residential structure. For the purposes of this chapter, each such residential structure will thereafter be deemed to be a single family house, a duplex house, an apartment house, a dormitory, or a residential structure containing two or more separate single family units in accordance with its classification. In determining the classification of each such residential structure containing two or more single family units, the Commission shall consider (1) the practicability of selling separately the single family units, and (2) the insurability of mortgages under section 1715n(a) of title 12.

(Aug. 4, 1955, ch. 543, ch. 4, § 41, 69 Stat. 475; Sept. 28, 1962, Pub. L. 87-719, §§ 7, 8, 76 Stat. 664.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-719, § 7, inserted ", or, in the case of Los Alamos, upon its inclusion within this chapter" following "chapter".

Subsec. (c). Pub. L. 87-719, § 8, added subsec. (c).

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2343 of this title.

§ 2332. Priorities; uniformity; preferences; impairment of rights

The Commission shall establish, by rule or regulation, a detailed system of reasonable and fair priority rights applicable to the sale of Government-owned property to private purchasers at each community. The priorities shall—

(a) be uniform in each class or subclass of property;

(b) give such preference to occupants and project-connected persons and to incoming employees of the Commission, of a contractor, or of a licensee as the Commission finds necessary or desirable, giving due consideration to the following factors:

(1) The retention and recruitment of personnel essential to the atomic energy program;

(2) The minimization of dislocations within the community;

(3) The expeditious accomplishment of the disposal program; and

(4) The desirability of encouraging private firms to locate or remain in the community;

(c) give the occupant of a Government-owned single family house, and the senior occupant of a duplex house, at least ninety days in which to exercise the first right of priority;

(d) permit persons who have formerly been occupants, project-connected persons, or inhabitants of the community, upon application therefor, to have such priority as the Commission finds to be fair and equitable; and

(e) not impair any rights, including purchase rights, conferred by existing leases and covenants.

(Aug. 4, 1955, ch. 543, ch. 4, § 42, 69 Stat. 475.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2326 of this title.

§ 2333. Transfer of priorities

No priority shall be transferable, except—

(a) a husband and wife may exercise a priority in their joint names;

(b) a religious organization may exercise the priority which would otherwise belong to its priest, minister, or rabbi, regardless of whether that position happens to be filled at the time of the exercise of the priority;

(c) two or more priority holders having a common interest in a building or location may assign their interests to a single assignee; and

(d) the Commission may permit such other transfers as it finds to be fair and equitable.

(Aug. 4, 1955, ch. 543, ch. 4, § 43, 69 Stat. 476.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2348 of this title.

SUBCHAPTER IV—SALES OF PROPERTY FOR PRIVATE USE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2362 of this title.

§ 2341. Applicability of subchapter

The provisions of this subchapter shall be made applicable at each community as soon as the Commission makes a finding in writing that there is a reasonable possibility that the Government-owned real property at such community can be disposed of in accordance with the provisions of this subchapter.

(Aug. 4, 1955, ch. 543, ch. 5, § 51, 69 Stat. 476.)

§ 2342. Disposal of property

(a) Property under lease or license agreement

The Commission shall offer for disposal all real property (including such improvements thereon and such fixtures, equipment, and other personal property incident thereto as it may deem appropriate) within the community which is presently under lease or license agreement with the Commission or its community management contractor for residential, commercial or industrial, agricultural, church or other nonprofit use, or which, in the opinion of the Commission, is appropriate for such use, other than—

(1) structures which in the opinion of the Commission should be removed from the community because of their unsatisfactory type of construction, condition, or location; or

(2) property which in the opinion of the Commission should be transferred pursuant to subchapters VI or VII of this chapter; or

(3) property which in the opinion of the Commission should be retained by the Commission for its own use.

(b) Discritionary disposal of other real property

The Commission may, but shall not be required to, dispose of any other real property at the community, whether within or outside of that community.

(c) Terms and conditions; impairment of rights

Such property shall be disposed of on such terms and conditions, consistent with this subchapter, as the Commission shall prescribe in the national interest, and without regard to any preferences or priorities whatever except those provided for pursuant to this chapter. Transfers by the Commission of such property shall not impair rights under existing leases and covenants, including any purchase rights therein conferred.

(Aug. 4, 1955, ch. 543, ch. 5, § 52, 69 Stat. 476; Sept. 28, 1962, Pub. L. 87-719, § 9, 76 Stat. 665.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-719 added cl. (3).

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2326, 2343, 2345 of this title.

§ 2343. Sales

(a) Notice to priority holders

Where rights of priority have been granted pursuant to the provisions of this chapter to Government-owned property, it shall be offered for sale to priority purchaser by giving notice to those eligible for such priority. Such notice shall (1) be in such manner as the Commission shall prescribe, (2) identify the property to be sold, and (3) state the terms and conditions of sale and the date of the offer which, in the case of occupants of single family or duplex houses, shall expire not less than ninety days after the date of the offer.

(b) Sale of property to highest bidder

Any property (other than church property) classified for sale under section 2331 of this title and offered for sale under section 2342 of this title, as to which no priority right has been conferred, or as to which all priority rights have expired, shall be advertised for sale to the highest bidder, subject to the right of the Commission to reject any or all bids. No bid shall be accepted which is below the appraised value or, in the case of Government-owned single and duplex houses is below 85 per centum of the appraised value.

(c) Disposal of property not sold at auction

As to any property which has not been sold under subsection (b) of this section within ninety days after the first advertisement for sale under such subsection the Commission may make such disposition, on such terms and conditions, as it may deem appropriate.

(d) Church property

Property for use of churches, in respect of which all priority rights have expired, may be disposed of by advertising and competitive bid, or by negotiated sale or other transfer at such prices, terms, and conditions as the Commission shall determine to be fair and equitable.

(Aug. 4, 1955, ch. 543, ch. 5, § 53, 69 Stat. 476; Aug. 30, 1961, Pub. L. 87-174, 75 Stat. 409; Sept. 28, 1962, Pub. L. 87-719, §§ 10, 11, 76 Stat. 665.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-719, § 10, deleted from the first sentence, after "bids" the words ", and also subject to the right of an occupant of a Government-owned single family or duplex house to buy such house by paying an amount equal to the highest bid".

Subsec. (c). Pub. L. 87-719, § 11, deleted the clause ", but the Commission shall give an occupant of a Government-owned single family or duplex house such further opportunity to purchase such house as shall be fair and equitable".

1961—Subsec. (c). Pub. L. 87-174 substituted "ninety days" for "one year."

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2325 of this title.

§ 2344. Cash sales

All sales shall be for cash, and the buyer shall arrange for the necessary financing, except as provided in subchapter V of this chapter.

(Aug. 4, 1955, ch. 543, ch. 5, § 54, 69 Stat. 477.)

§ 2345. Deeds; form and provisions

Deeds executed in connection with the disposal of property pursuant to the provisions of this chapter—

(a) shall be as simple as the Commission shall find to be appropriate, and may contain such warranties or covenants of title and other provisions (including any indemnity) as the Commission may deem appropriate;

(b) with respect to any dormitories or apartment houses and any property used or to be used for construction of housing developments for rental purposes, may retain or acquire such rights to the Commission to designate the future occupants of part or all of such properties as it may deem appropriate to insure the availability of housing for employees of the Commission and its contractors;

(c) may require that the transferee, his heirs, successors, and assigns shall compensate the Commission for any municipal services provided by the Commission at rates which will not be in excess of the average tax for such services in the immediate vicinity of the community; and any amounts due and unpaid for such compensation (together with interest and costs thereon) shall, as of the date on which such amounts become delinquent, be a lien in favor of the United States upon the premises sold by the Commission, though not valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice thereof has been filed in accordance with the laws of the State in which the property is situated or in the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, if such State has not by law provided for the filing of such notice;

(d) in transferring any property pursuant to sections 2321 and 2342 of this title, may impose such restrictions and requirements relating to the use of the premises and to public health and safety, as the Commission may deem appropriate, which restrictions and requirements shall not be valid beyond one year after the incorporation of the city at the community or after June 30, 1966, in the case of Los Alamos; and

(e) may require that any payments in lieu of property taxes or assessments for local improvements made by the Commission with respect to the property shall be equitably prorated.

(Aug. 4, 1955, ch. 543, ch. 5, § 55, 69 Stat. 477; Sept. 28, 1962, Pub. L. 87-719, § 12, 76 Stat. 665.)

AMENDMENTS

1962—Subsec. (d). Pub. L. 87-719 added "or after June 30, 1966, in the case of Los Alamos" following "community".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2346. Occupancy by existing tenants

Upon application by any occupant of a single or duplex house made within the period of the first priority when such house is first offered for sale under this chapter, the Commission shall execute a lease to such occupant for a period not to exceed one year from the date on which such property is first offered for sale, or for such period as he remains a project-connected person, whichever is shorter. In selling any house with respect to which a lease executed under this section is in effect, the Commission may provide that the purchaser shall assume any or all obligations of the lessor, but the Commission shall guarantee the lessee's performance under the terms of the lease.

(Aug. 4, 1955, ch. 543, ch. 5, § 56, 69 Stat. 478.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2347. Sale of lots to lessees or individual owners

(a) Notwithstanding any other provision of this chapter, the Commission is authorized, immediately upon passage of this chapter, or immediately upon the inclusion of the community within the provisions of this chapter, to offer for sale to the lessees single residential lots, which were leased by competitive bid and which do not have a Government-owned building thereon, at a price equal to the initial valuation of the lot as stated in the lease.

(b) The Commission is authorized to offer for sale, as soon as possible, other lots, to individual owners, upon which single family or duplex houses may be erected, taking into consideration the zoning restrictions the new city is likely to enact with respect to those lots. The zoning restrictions to be taken into account at Los Alamos shall be those which the local government is likely to enact with respect to those lots.

(Aug. 4, 1955, ch. 543, ch. 5, § 57, 69 Stat. 478; Sept. 28, 1962, Pub. L. 87-719, § 13, 76 Stat. 665.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-719 added the provision that "The zoning restrictions to be taken into account at Los Alamos shall be those which the local government is likely to enact with respect to those lots."

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2322 of this title.

§ 2348. Priority sale of apartment houses

(a) Grantees eligible; priorities; applicability of deduction, financing and indemnity provisions

The Commission is authorized at Los Alamos to grant to occupants project-connected persons, and persons residing in the community both at the time of offering of an apartment house for sale and for the preceding six months, and to any of the foregoing persons acting together, such priority interests and priority rights for the purchase of the apartment house as the Commission determines to be fair and reasonable: *Provided,* That a first priority right to purchase may be granted only to an occupant or a group of occupants, or an assignee (whose membership or ownership is composed of occupants, or project-connected persons, or persons residing in the community both at the time of offering of an apartment house for sale and for the preceding six months, or any of the foregoing persons) of the priority interests of such occupants, who or which has obtained the priority interest of at least 60 per centum of the occupants of the apartment house: *Provided further,* That a second priority right to purchase may be granted only to an entity whose membership or ownership consists of occupants, or project-connected persons, or persons residing in the community both at the time of offering of an apartment house for sale and for the preceding six months, or any of the foregoing persons (provided that such entity has obtained the priority interest of at least one occupant), and whose membership or ownership equals in number, and occupies or agrees to occupy, at least 70 per centum of the housing units in the apartment house. The 15 per centum deduction specified by section 2325(a) of this title, the deduction provided by section 2326(d) of this title, the financing provisions of section 2362 of this title, and the indemnity provided by sections 2363 to 2366 of this title shall be applicable to such priority sales of apartment houses. Priority interests granted by the Commission under this section shall be transferable as the Commission may by rule or regulation prescribe, but no priority right to purchase shall be transferred except as provided by section 2333 of this title.

(b) Leasing arrangements by non-participants in apartment house sales; assumption of lessor's obligations

Any occupant who does not participate in the purchase of an apartment house with respect to which a priority right to purchase has been granted shall be entitled, at the time of sale by the Commission, to a lease for occupancy of his housing unit for a period not to exceed fifteen months from the date the property was first offered for sale: *Provided,* That the occupant makes application for such a lease within 30 days of the grant of such priority to purchase. In selling any apartment house with respect to which lease executed under this section is in effect, the Commission is authorized to provide for the purchaser to assume any or all obligations of the lessor. The Commission in such event shall guarantee the lessee's performance of the lease.

(c) Eligibility to participate in priority purchase

Persons who have purchased, either individually or jointly with other persons, a single-family house or duplex house (or a single-family unit in a duplex house) at Los Alamos pursuant to a priority right under this chapter shall not be eligible to participate in the priority purchase of an apartment house.

(d) Rules and regulations

The Commission is authorized to prescribe by rule or regulation such other conditions as it may find necessary or desirable for qualification of priority interests and rights for the purchase of an apartment house.

(Aug. 4, 1955, ch. 543, ch. 5, § 58, as added Sept. 28, 1962, Pub. L. 87-719, § 14, 76 Stat. 665, and amended Dec. 14, 1967, Pub. L. 90-190, § 1, 81 Stat. 575.)

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-190 redesignated existing provisions as subsec. (a) and as so designated added reference to Los Alamos, increased the types of grantees eligible to purchase apartment houses from cooperatives, the entire membership of which is restricted to project-connected persons, added the provisos which altered the priority right to purchase such apartment houses so as to create a first priority and second priority in lieu of the provision that the priority with respect to each cooperative shall terminate within such time as the Commission may prescribe if the cooperative has not obtained 100% initial membership consisting of project-connected persons, and struck out the definition of "cooperative" as used in this section as a corporation or a trust of the character described in section 1715e(a)(1) of title 12.

Subsecs. (b) to (d). Pub. L. 90-190 added subsecs. (b) to (d).

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2349. Hanford project; disposal of property

In addition to any other authority the Commission may have, the Commission is authorized, without regard to the provisions of section 5 of title 41, to lease land, and to sell, lease, including leases with options to purchase, and otherwise dispose of improvements thereon, and such equipment and other personal property as is determined to be directly related thereto, in the Commission's Hanford project in and near Richland, Washington, upon a determination by the Commission that such disposition will serve to prevent or reduce the adverse economic impact of actual or anticipated reductions in Commission programs in that area: *Provided, however,* That the compensation to the Government for any such disposition shall be the estimated fair market value or estimated fair rental value of the property as determined by the Commission: *Provided further,* That before the Commission makes any disposition of property under the authority of this section, the basis for the proposed disposition (with necessary background and explanatory data) shall be submitted to the Joint Committee on Atomic Energy, and a period of forty-five days shall elapse while Congress is in session (in

computing such forty-five-days, there shall be excluded the days on which either House is not in session because of adjournment of more than three days): *Provided, however,* That the Joint Committee on Atomic Energy, after having received the basis for the proposed disposition, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five-day period.

(Aug. 4, 1955, ch. 543, ch. 11, § 120, as added Aug. 1, 1964, Pub. L. 88-394, § 4, 78 Stat. 376.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SUBCHAPTER V—FINANCING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2307, 2344 of this title.

§ 2361. Contract to purchase by priority purchaser

The Commission may, in the sale of any single-family or duplex house to a priority purchaser, enter into a contract to purchase which provides that the purchaser shall conclude his purchase within not more than three years after the date the contract is entered into. Such contracts to purchase shall provide for such periodic payments, including payments on account of principal, interest, or tax equivalents, as the Commission shall prescribe.

(Aug. 4, 1955, ch. 543, ch. 6, § 61, 69 Stat. 478.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2362. Financing by Commission

(a) Acceptance of residential property notes

In the event that the Commission finds that financing on reasonable terms is not available from other sources, the Commission may, in order to facilitate the sale of residential property under subchapter IV of this chapter, accept, in partial payment of the purchase price of any such property notes secured by first mortgages on such terms and conditions as the Commission shall deem appropriate. In the case of houses and apartment buildings, the maturity and percentage of appraised value in connection with such notes and mortgages shall not exceed those prescribed under section 1715n(a) of title 12, and the interest rate shall equal the interest rate plus the premium being charged (and any periodic service charge being authorized by the Secretary of Housing and Urban Development for properties of similar character) under section 1715n(a) of title 12, at the effective date of such notes and mortgages.

(b) Advances

In connection with the sale of residential property financed under subsection (a) of this section, the Commission is authorized to make advances for necessary repairs, or for the rehabilitation, modernization, rebuilding or enlargement of single and duplex residential properties to priority purchasers, and to include such advances in the amount of the note secured by the mortgage on such property.

(c) Acceptance of commercial property notes

In the event that the Commission finds that financing on reasonable terms is not available from other sources, the Commission may, in order to facilitate the sale of commercial property under subchapter IV of this chapter, accept, in partial payment of the purchase price of any commercial property notes secured by first mortgages on such terms and conditions as the Commission shall deem appropriate.

(d) Sale of notes and mortgages

The Commission may sell any notes and mortgages acquired under subsections (a) and (c) of this section on terms set by the Commission. Notwithstanding any other provisions of law and without regard to the provisions of section 5 of title 41, the Commission may, in accordance with such terms and conditions as it may prescribe, (1) enter into contracts for servicing any of the notes and mortgages it has acquired, and (2) sell or enter into contracts to sell to a servicer any notes and mortgages with respect to which a servicing contract has been entered into by the servicer with the Commission: *Provided,* That with respect to sales of notes and mortgages under (2) the Commission shall comply with section 5 of title 41 unless it determines that such compliance would not be feasible.

(Aug. 4, 1955, ch. 543, ch. 6, § 62, 69 Stat. 478; July 25, 1956, ch. 731, § 2, 70 Stat. 653; Sept. 28, 1962, Pub. L. 87-719, §§ 15, 16, 76 Stat. 665; May 25, 1967, Pub. L. 90-19, § 11, 81 Stat. 23.)

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

1962—Subsec. (a). Pub. L. 87-719, § 15, substituted "such property" for "house, apartment building, or dormitory".

Subsec. (d). Pub. L. 87-719, § 16, added the provisions respecting servicing contracts and compliance with advertising requirements for public purchases when feasible.

1956—Subsec. (a). Act July 25, 1956 reenacted subsec. (a) without change.

Subsecs. (b), (c). Act July 25, 1956 added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

Subsec. (d). Act July 25, 1956 redesignated former subsec. (b) as (d) and included notes and mortgages acquired under subsec. (c) of this section.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2311, 2348 of this title.

§ 2363. Indemnity obligation of Commission; incorporation by reference in deed

For a period of not more than fifteen years after August 4, 1955, or, in the case of Los Alamos, not more than fifteen years after the date it is included within this chapter, the Commission shall indemnify the purchaser (except a purchaser taking advantage of the provisions

of section 2326(d) of this title), and any successor in title, of any such single family or duplex house as set forth in this subchapter. This indemnity shall be deemed to be incorporated in the deeds given on the sale of Government-owned houses. One person may not invoke the indemnity in respect of more than one house.

(Aug. 4, 1955, ch. 543, ch. 6, § 63, 69 Stat. 479; Sept. 28, 1962, Pub. L. 87-719, § 17, 76 Stat. 666.)

AMENDMENTS

1962—Pub. L. 87-719 inserted "or, in the case of Los Alamos, not more than fifteen years after the date it is included within this chapter" following "August 4, 1955".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2311, 2326, 2348, 2364, 2365, 2366 of this title.

§ 2364. Community employment and population

The indemnity obligation specified in section 2363 of this title shall arise only if, for the six months just preceding the date on which it is invoked—

(a) the total number of operating, maintenance, and administrative employees in the project area, as determined by the Commission, has been less than fourteen thousand three hundred and thirty-seven in the case of Oak Ridge or seven thousand six hundred and twenty-two in the case of Richland or four thousand six hundred and twenty in the case of Los Alamos; and

(b) the population in the community has been less than twenty-nine thousand two hundred and fifty in the case of Oak Ridge or twenty-five thousand two hundred in the case of Richland or eleven thousand seven hundred and sixty-nine in the case of Los Alamos.

For purposes of this section employment shall be determined on the basis of the pay period or periods ending nearest the 15th of each month.

(Aug. 4, 1955, ch. 543, ch. 6, § 64, 69 Stat. 479; Sept. 28, 1962, Pub. L. 87-719, §§ 18, 19, 76 Stat. 666.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-719, § 18, added "or four thousand six hundred and twenty in the case of Los Alamos" following "Richland".

Subsec. (b). Pub. L. 87-719, § 19, added "or eleven thousand seven hundred and sixty-nine in the case of Los Alamos" following "Richland".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2311, 2326, 2348, 2366 of this title.

§ 2365. Amount of indemnity

The indemnity obligation of the Commission specified in section 2363 of this title shall be for such amount, less the sales price of the property, as would have remained unpaid under a loan entered into on the date of the execution of the original deed by the Commission—

(1) which was in the amount of the purchase price from the Commission and provided for equal monthly payments of principal and interest over a period of twenty years computed on the basis of the average interest and other charges recorded for property of the same class at the community; and

(2) on which all payments due to the date when notice was received by the Commission had been made.

(Aug. 4, 1955, ch. 543, ch. 6, § 65, 69 Stat. 479.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2311, 2326, 2348, 2366 of this title.

§ 2366. Conditions of indemnity; purchase of property by Commission

The Commission shall make the indemnity payment specified by section 2365 of this title only if the Commission receives a notice from the then owner of the property that he is about to sell the property for a sum less than the unpaid balance of the real or hypothetical loan calculated pursuant to such section. Such payment shall be made only if—

(a) notice is given to the Commission at a time when the conditions of section 2364 of this title are satisfied;

(b) the sale is made within such time as the Commission may prescribe and in a manner which the Commission determined to afford adequate assurance of a fair price without excessive costs; and

(c) the Commission is given such prior notice of the sale and such opportunity to become a purchaser as it shall prescribe.

In such circumstances the Commission is authorized to purchase the property. Sales pursuant to this section and payment by the Commission of such amount, if any, as is owing pursuant to sections 2363 to 2366 of this title shall end the obligation of the Commission under sections 2363 to 2366 of this title with respect to that property.

(Aug. 4, 1955, ch. 543, ch. 6, § 66, 69 Stat. 479.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2310, 2311, 2326, 2348 of this title.

SUBCHAPTER VI—UTILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2312, 2342 of this title.

§ 2371. Transfer of utilities

The Commission is authorized to transfer to one or more of the entities specified in this subchapter such utilities as in the judgment of the Commission will be appropriate to enable the transferee to meet the needs of the residents of the community for adequate utility services of the kind to be transferred.

(Aug. 4, 1955, ch. 543, ch. 7, § 71, 69 Stat. 480.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2372. Date of transfer of utilities

Transfers of utilities shall be made as soon as possible, but in any event, not later than five years after August 4, 1955 in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not later than five years after the date it is included within this chapter.

(Aug. 4, 1955, ch. 543, ch. 7, § 72, 69 Stat. 480; Sept. 28, 1962, Pub. L. 87-719, § 20, 76 Stat. 666.)

AMENDMENTS

1962—Pub. L. 87-719 added "in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not later than five years after the date it is included within this chapter" following "August 4, 1955".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2373. Transfer to governmental or other legal entity; determination of transferee

(a) Transfer may be made to one or more of the following, if the transferee has the legal authority to receive and operate the utility.

(1) the city at the community;

(2) the State in which the community is located;

(3) any political subdivision or agency of that State; or

(4) any person, firm, corporation, or other legal entity.

(b) In determining the transferee for any utility, the Commission may consider the following:

(1) the pattern of ownership of the comparable utilities in the State in which the community is located;

(2) the ability of the transferee to operate the utility;

(3) the probable price of the sale of the utility, the ability of the transferee to pay that price, and any probable expense;

(4) the desires of the eligible voters of the community as directly expressed in any vote in any officially recognized procedure or in any procedure established by the Commission; and

(5) the benefit to the United States in reducing possible requirements for local assistance as authorized in subchapters VII and VIII of this chapter.

(Aug. 4, 1955, ch. 543, ch. 7, § 73, 69 Stat. 480.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2374. Utilities transferable

All utilities are authorized to be transferred under this subchapter, but shall not include property which the Commission determines to be needed for its own use.

(Aug. 4, 1955, ch. 543, ch. 7, § 74, 69 Stat. 480.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2375. Gift of utility to city; charges and terms for utilities transferred to other transferees

The Commission may give the utility to the city incorporated at the community; and must charge in selling the utility to any other transferee: *Provided*, That at Los Alamos, utilities may be given to the county or other local governmental entity. The charges and terms for the transfer of any utility may be established by advertising and competitive bid, or by negotiated sale or other transfer at such prices, terms, and conditions as the Commission shall determine to be fair and equitable.

(Aug. 4, 1955, ch. 543, ch. 7, § 75, 69 Stat. 480; Sept. 28, 1962, Pub. L. 87-719, § 21, 76 Stat. 666.)

AMENDMENTS

1962—Pub. L. 87-719 inserted ": *Provided*, That at Los Alamos, utilities may be given to the county or other local governmental entity" following "transferee".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

SUBCHAPTER VII—MUNICIPALITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2312, 2342, 2373 of this title.

§ 2381. Assistance in organization

The Commission is authorized, for a period not to extend beyond five years after August 4, 1955 in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not to extend beyond five years after the date it is included within this chapter, to cooperate with and assist the residents of the community in preparation for and establishment of local self-government and in the transfer of municipal installations and responsibilities to local entities. Such assistance may include payment of any amounts reasonably necessary to meet expenses incident to the establishment and organization of a city government and other local entities at the community, until such time as the municipal installations are transferred in accordance with the provisions of this subchapter.

(Aug. 4, 1955, ch. 543, ch. 8, § 81, 69 Stat. 480; Sept. 28, 1962, Pub. L. 87-719, § 22, 76 Stat. 666.)

AMENDMENTS

1962—Pub. L. 87-719 inserted "in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not to extend beyond five years after the date it is included within this chapter" following "August 4, 1955".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2382. Transfer of municipal installations

The Commission is authorized to transfer to one or more of the entities specified in this subchapter such municipal installations as in the judgment of the Commission, will be appropriate to enable the transferees to meet the needs of the residents of the community for adequate school, hospital, and other municipal services.

(Aug. 4, 1955, ch. 543, ch. 8, § 82, 69 Stat. 480.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2383. Date of transfer

Transfers of municipal installations may be made at any time, not later than five years after August 4, 1955 in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not later than five years after the date it is included within this chapter.

(Aug. 4, 1955, ch. 543, ch. 8, § 83, 69 Stat. 481; Sept. 28, 1962, Pub. L. 87-719, § 23, 76 Stat. 666.)

AMENDMENTS

1962—Pub. L. 87-719 added "in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not later than five years after the date it is included within this chapter" following "August 4, 1955".

§ 2384. Transfer to governmental entity or private nonprofit organization; determination of transferee

(a) Transfers may be made to one or more of the following, if the entity has the legal authority to receive the installation: (1) the city at the community; (2) the State in which the community is located; (3) any political subdivision or agency of that State; or (4) a private nonprofit organization in the case of the hospital installation or cemetery at the community.

(b) In determining the entity to which school, hospital, and other municipal installations, respectively, shall be transferred, the Commission shall be governed, in order, by

(1) the results of a vote in which the eligible voters in the community expressed themselves directly on the transfer in the vote on the incorporation of the city;

(2) the results of a vote in which the eligible voters have directly expressed themselves on the proposed transfer in a referendum or other officially recognized procedure;

(3) there being only one entity which is legally authorized to receive the municipal installation; or

(4) in the absence of the other alternatives, the Commission has conducted a vote of the eligible voters of the community on the proposed transfer under such procedures as it may establish.

(Aug. 4, 1955, ch. 543, ch. 8, § 84, 69 Stat. 481.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2385. Installations transferable

All municipal installations are authorized to be transferred under this subchapter, but shall not include property which the Commission determines to be needed for its own use.

(Aug. 4, 1955, ch. 543, ch. 8, § 85, 69 Stat. 481.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and the functions thereof transferred, see Transfer of Functions note set out under section 2301 of this title.

§ 2386. Transfer of installations without charge

The transfer of any municipal installation authorized to be made under the provisions of this subchapter may be made without charge to the entity receiving the installation.

(Aug. 4, 1955, ch. 543, ch. 8, § 86, 69 Stat. 481.)

SUBCHAPTER VIII—LOCAL ASSISTANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2373 of this title.

§ 2391. Assistance to governmental entities

(a) Annual assistance payments; extensions; determination of amount and recipient

From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator shall, for a period of ten years, make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however,* with respect to the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further,* That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration program;

(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single purpose na-

tional defense installation under emergency conditions;

(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in its operations in the project area; and

(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations.

(b) Special interim payments

Special interim payments may be made under the provisions of this section to any governmental entity which—

(1) has a special burden due to the requirements under law imposed upon it in assisting in effectuating the purposes of this chapter for which it will not otherwise receive adequate compensation or revenues; or

(2) will suffer a tax loss or lapse in place of which it will not receive any other adequate revenues until the new governmental entities contemplated by this subchapter are receiving their normal taxes and performing their normal functions.

(c) Payments for special burdens

Payments made under this section shall be payments made for special burdens imposed on the local governmental entities in accordance with the second sentence of section 2208 of this title. Payments may be made under this section notwithstanding the provisions of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as amended [20 U.S.C. 236 et seq.].

(d) Recommendation for further assistance payments

With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection (a) of this section (or not less than six months prior to June 30, 1979, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee), the Administrator shall present to the Joint Committee on Atomic Energy recommendations as to the need for any further assistance payments to such entity.

(e) Reduction or termination of assistance payments; determination by Administrator of financial self-sufficiency

In exercising the authority of subsection (a) of this section the Administrator shall assure that the governmental or other entities receiving assistance hereunder utilize all reasonable, available means to achieve financial self-sufficiency to the end that assistance payments by the Administrator may be reduced or terminated at the earliest practical time.

(Aug. 4, 1955, ch. 543, ch. 9, § 91, 69 Stat. 481; Dec. 14, 1967, Pub. L. 90-190, § 2, 81 Stat. 576; Dec. 31, 1975, Pub. L. 94-187, title VI, § 601(1)-(6), 89 Stat. 1077, 1078.)

REFERENCES IN TEXT

The Act of September 30, 1950, referred to in text, is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which is classified generally to chapter 13 (§ 236 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-187, § 601(1), (5), substituted "Administrator" for "Commission" in three instances and inserted at end of first sentence ": Provided further, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee".

Subsec. (a)(2). Pub. L. 94-187, § 601(2), substituted "Energy Research and Development Administration" for "atomic energy".

Subsec. (d). Pub. L. 94-187, § 601(1), (3), (6), substituted "Administrator" for "Commission", struck out "its" preceding "recommendations", and inserted "; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee" following "Richland School District" in parenthetical text.

Subsec. (e). Pub. L. 94-187, § 601(1), (4), substituted "Administrator" for "Commission" in two instances and deleted "itself" following "shall assure".

1967—Subsec. (a). Pub. L. 90-190, § 2(1), authorized the Commission, with respect to the cities of Oak Ridge, Tenn., and Richland, Wash., and the Richland School District, to continue to make assistance payments of just and reasonable sums after the expiration of the ten-year period following the date of transfer of any municipal installation, and added par. (5).

Subsec. (d). Pub. L. 90-190, § 2(2), added "(or not less than six months prior to June 30, 1979, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District)," following "subsection (a) of this section", substituted "assistance" for "contribution", and struck out the requirement that if the Commission proposes further contribution payments, it shall propose a definite schedule of such payments which will provide for an orderly and reasonably prompt withdrawal of the Commission from participation in and contribution toward local government.

Subsec. (e) Pub. L. 90-190, § 2(3), added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2392, 2393, 2394 of this title; title 20 section 243.

§ 2392. Reduction of payments

Any payment which becomes due under section 2391 of this title prior to the transfer of all municipal installations at the community may be reduced by such amount as the Administrator determines to be equitable based on the municipal services then being performed by the Energy Research and Development Administration, and the municipal services then being performed by such governmental entity.

(Aug. 4, 1955, ch. 543, ch. 9, § 92, 69 Stat. 482; Dec. 31, 1975, Pub. L. 94-187, title VI, § 601(1), (8), 89 Stat. 1077, 1078.)

AMENDMENTS

1975—Pub. L. 94-187 substituted "Administrator" for "Commission" where appearing first time and "Energy Research and Development Administration" for "Commission" where appearing second time.

§ 2393. Payments in anticipation of services; withholding of payments

The payments made pursuant to section 2391 of this title to transferees of municipal installations are in anticipation that the respective recipients of those payments furnish, or have furnished, for the community, the school, hospital, or other municipal services in respect of which the payments are made. Any such payment

may be withheld, in whole or in part, if the Administrator finds that the recipient is not furnishing such services for any part of the area so designated.

(Aug. 4, 1955, ch. 543, ch. 9, § 93, 69 Stat. 482; Dec. 31, 1975, Pub. L. 94-187, title VI, § 601(1), 89 Stat. 1077.)

AMENDMENTS

1975—Pub. L. 94-187 substituted "Administrator" for "Commission".

§ 2394. Contract to make payments

The Administrator is authorized, without regard to section 665 of title 31, to enter into a contract with any governmental or other entity to which payments are required or authorized to be made pursuant to section 2391 of this title, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 2391 of this title: *Provided, however,* That the term of such contracts, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of Anderson County and Roane County, Tennessee, shall not extend beyond June 30, 1986.

(Aug. 4, 1955, ch. 543, ch. 9, § 94, 69 Stat. 482; Dec. 14, 1967, Pub. L. 90-190, § 3, 81 Stat. 576; Dec. 31, 1975, Pub. L. 94-187, title VI, § 601(1), (9), 89 Stat. 1077, 1078.)

AMENDMENTS

1975—Pub. L. 94-187 substituted "Administrator" for "Commission" in two instances and added provision that the term of such contracts shall not extend beyond June 30, 1986, in the case of Anderson County and Roane County, Tennessee. The latter amendment was executed in this section, rather than to section 2393, as the probable intent of Congress.

1967—Pub. L. 90-190 added the proviso, and "or authorized" wherever appearing.

CHAPTER 25—FEDERAL FLOOD INSURANCE

Sec.
2401 to 2413. Repealed.
2414. Issuance of note by Administrator; terms and conditions.
(a) to (d). Repealed.
(e) Issuance of notes by Administrator; form, terms and conditions; purchase and sale by Secretary of the Treasury; public debt transactions.
(f), (g). Repealed.
2415 to 2421. Repealed.

§§ 2401 to 2413. Repealed. Pub. L. 90-448, title XIII, § 1303(c), Aug. 1, 1968, 82 Stat. 573

Section 2401, act Aug. 7, 1956, ch. 1025, § 2, 70 Stat. 1078, related to findings and declaration of purpose of this chapter. See now section 4001 et seq. of this title.

Section 2402, act Aug. 7, 1956, ch. 1025, § 3, 70 Stat. 1078, provided for the administration of this chapter, appointment and compensation of a Commissioner, financial control, and accounting and audit. See now section 4001 et seq. of this title.

Section 2403, act Aug. 7, 1956, ch. 1025, § 4, 70 Stat. 1079, authorized insurance and reinsurance. See now section 4001 et seq. of this title.

Section 2404, act Aug. 7, 1956, ch. 1025, § 5, 70 Stat. 1080, authorized loans and prescribed their terms. See now section 4001 et seq. of this title.

Section 2405, act Aug. 7, 1956, ch. 1025, § 6, 70 Stat. 1080, provided for a combination of insurance and loans. See now section 4001 et seq. of this title.

Section 2406, act Aug. 7, 1956, ch. 1025, § 7, 70 Stat. 1080, required establishment of a schedule of estimated rates and fees. See now section 4001 et seq. of this title.

Section 2407, act Aug. 7, 1956, ch. 1025, § 8, 70 Stat. 1081, related to property and loss limits. See now section 4001 et seq. of this title.

Section 2408, act Aug. 7, 1956, ch. 1025, § 9, 70 Stat. 1081, related to classification, limitation or rejection of risks. See now section 4001 et seq. of this title.

Section 2409, act Aug. 7, 1956, ch. 1025, § 10, 70 Stat. 1081, prescribed the policy and program limits. See now section 4001 et seq. of this title.

Section 2410, act Aug. 7, 1956, ch. 1025, § 11, 70 Stat. 1082, authorized reinsurance. See now section 4001 et seq. of this title.

Section 2411, act Aug. 7, 1956, ch. 1025, § 12, 70 Stat. 1082, related to availability of insurance from other sources, violations of flood zoning laws, and flood zoning restrictions to reduce damages from floods. See now section 4001 et seq. of this title.

Section 2412, act Aug. 7, 1956, ch. 1025, § 13, 70 Stat. 1082, provided for use of other public and private facilities and services, information, coordination of programs and consultations. See now section 4001 et seq. of this title.

Section 2413, act Aug. 7, 1956, ch. 1025, § 14, 70 Stat. 1083, related to payment of claims and judicial review. See now section 4001 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 90-448 effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90-448, set out as an Effective Date note under section 4001 of this title.

SEPARABILITY OF PROVISIONS

Section 23 of act Aug. 7, 1956, ch. 1025, 70 Stat. 1086, which provided that the invalidity of any provision of act Aug. 7, 1956, or its application, should not affect the remainder thereof, was repealed by Pub. L. 90-448, title XIII, § 1303(c), Aug. 1, 1968, 82 Stat. 573.

§ 2414. Issuance of notes by Secretary of Housing and Urban Development; terms and conditions

(a) to (d). Repealed. Pub. L. 90-448, title XIII, § 1303(c), Aug. 1, 1968, 82 Stat. 573

(e) Issuance of notes by Secretary of Housing and Urban Development; form, terms and conditions; purchase and sale by Secretary of the Treasury; public debt transactions

The Secretary of Housing and Urban Development is authorized to issue to the Secretary of the Treasury from time to time and have outstanding at any one time, in an amount not exceeding $500,000,000 (or such greater amount as may be approved by the President) notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of Housing and Urban Development with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any

notes and other obligations to be issued under this subsection and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations.

The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(Aug. 7, 1956, ch. 1025, § 15, 70 Stat. 1083; Aug. 1, 1968, Pub. L. 90-448, title XIII, § 1303, 82 Stat. 573; Sept. 9, 1965, Pub. L. 89-174, § 5(a), 79 Stat. 669.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (e), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

AMENDMENTS

1968—Subsecs. (a) to (d). Pub. L. 90-448, § 1303(c), repealed former subsecs. (a) to (d), which created three funds, provided for deposits therein, investment of moneys in the funds, and deposit of salvage proceeds.

Subsec. (e). Pub. L. 90-448, § 1303 (a), (b), substituted "current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month" for "current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month", and eliminated provisions which permitted the Secretary of the Treasury to purchase any notes and other obligations to be issued under this subsection.

Subsecs. (f), (g). Pub. L. 90-448, § 1303(c), repealed former subsecs. (f) and (g), which provided for use of moneys in the Funds and for payment of administrative expenses.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-448 effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90-448, set out as an Effective Date note under section 4001 of this title.

TRANSFER OF FUNCTIONS

The functions of the Public Housing Administration and of the Housing and Home Finance Agency (of which the Public Housing Administration is a constituent agency) and of the heads thereof were transferred to the Secretary of Housing and Urban Development by Pub. L. 89-174, § 5(a), Sept. 9, 1965, 79 Stat. 669, set out as section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provides that references to the Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean the Secretary of Housing and Urban Development and that the Housing and Home Finance Agency and the Public Housing Administration have lapsed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4016, 4017 of this title.

§§ 2415 to 2421. Repealed. Pub. L. 90-448, title XIII, § 1303(c), Aug. 1, 1968, 82 Stat. 573

Section 2415, act Aug. 7, 1956, ch. 1025, § 16, 70 Stat. 1085, authorized appointment of an advisory committee. See now section 4001 et seq. of this title.

Section 2416, act Aug. 7, 1956, ch. 1025, § 17, 70 Stat. 1085, provided for studies. See now Section 4001 et seq. of this title.

Section 2417, act Aug. 7, 1956, ch. 1025, § 18, 70 Stat. 1085, prescribed additional functions of the Administrator. See now section 4001 et seq. of this title.

Section 2418, act Aug. 7, 1956, ch. 1025, § 19, 70 Stat. 1086, reserved rights in acquired real estate. See now section 4001 et seq. of this title.

Section 2419, act Aug. 7, 1956, ch. 1025, § 20, 70 Stat. 1086, related to exemption of real estate from taxation. See now section 4001 et seq. of this title.

Section 2420, act Aug. 7, 1956, ch. 1025, § 21, 70 Stat. 1086, provided for annual reports. See now section 4001 et seq. of this title.

Section 2421, act Aug. 7, 1956, ch. 1025, § 22, 70 Stat. 1086, defined terms used in this chapter. See now section 4001 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 90-448 effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90-448, set out as an Effective Date note under section 4001 of this title.

CHAPTER 26—NATIONAL SPACE PROGRAM

SUBCHAPTER I—GENERAL PROVISIONS

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(c) Objectives of aeronautical and space activities.
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SUBCHAPTER I—GENERAL PROVISIONS

§ 2451. Congressional declaration of policy and purpose

(a) Devotion of space activities to peaceful purposes for benefit of all mankind.

The Congress declares that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind.

(b) Aeronautical and space activities for welfare and security of United States; control by civilian agency; exceptions

The Congress declares that the general welfare and security of the United States require that adequate provision be made for aeronautical and space activities. The Congress further declares that such activities shall be the responsibility of, and shall be directed by, a civilian agency exercising control over aeronautical and space activities sponsored by the United States, except that activities peculiar to or primarily associated with the development of weapons systems, military operations, or the defense of the United States (including the research and development necessary to make effective provision for the defense of the United States) shall be the responsibility of, and shall be directed by, the Department of Defense; and that determination as to which such agency has responsibility for and direction of any such activity shall be made by the President in conformity with section 2471(e) of this title.

(c) Objectives of aeronautical and space activities

The aeronautical and space activities of the United States shall be conducted so as to contribute materially to one or more of the following objectives:

(1) The expansion of human knowledge of phenomena in the atmosphere and space;

(2) The improvement of the usefulness, performance, speed, safety, and efficiency of aeronautical and space vehicles;

(3) The development and operation of vehicles capable of carrying instruments, equipment, supplies, and living organisms through space;

(4) The establishment of long-range studies of the potential benefits to be gained from, the opportunities for, and the problems involved in the utilization of aeronautical and space activities for peaceful and scientific purposes;

(5) The preservation of the role of the United States as a leader in aeronautical and space science and technology and in the application thereof to the conduct of peaceful activities within and outside the atmosphere;

(6) The making available to agencies directly concerned with national defense of discoveries that have military value or significance, and the furnishing by such agencies, to the civilian agency established to direct and control nonmilitary aeronautical and space activities, of information as to discoveries which have value or significance to that agency;

(7) Cooperation by the United States with other nations and groups of nations in work done pursuant to this chapter and in the peaceful application of the results thereof; and

(8) The most effective utilization of the scientific and engineering resources of the United States, with close cooperation among all interested agencies of the United States in order to avoid unnecessary duplication of effort, facilities, and equipment.

(d) Ground propulsion systems research and development

The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward ground propulsion systems research and development. Such development shall be conducted so as to contribute to the objectives of developing energy and petroleum-conserving ground propulsion systems, and of minimizing the environmental degradation caused by such systems.

(e) Purpose of chapter

It is the purpose of this chapter to carry out and effectuate the policies declared in subsections (a), (b), (c), and (d) of this section.

(Pub. L. 85-568, title I, § 102, July 29, 1958, 72 Stat. 426; Pub. L. 94-413, § 15(a), (b), Sept. 17, 1976, 90 Stat. 1270.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (e), was in the original "this Act", meaning Pub. L. 85-568, which enacted this chapter and section 799 of Title 18, Crimes and Criminal Procedure, amended section 22-1 of former Title 5, Executive Departments and Government Officers and Employees, sections 2302 and 2303 of Title 10, Armed Forces, section 1114 of title 18, sections 511, 512, 513, and 515 of Title 50, War and National Defense, and enacted provisions set out as notes under this section, section 2472 of this title, and section 2302 of title 10. Section 22-1 of former Title 5 was repealed and reenacted in pertinent part as sections 7531 and 7532 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 514.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-413 added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 94-413 redesignated former subsec. (d) as (e) and, as so redesignated, substituted "(c), and (d)" for "and (c)".

SHORT TITLE

Section 101 of Pub. L. 85-568 provided that: "This Act [enacting this chapter and section 799 of Title 18, Crimes and Criminal Procedure, amending section 22-1 of former Title 5, Executive Departments and Government Officers and Employees (which was repealed and reenacted in pertinent part as sections 7531 and 7532 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 514), sections 2302 and 2303 of Title 10, Armed Forces, section 1114 of title 18, sections 511, 512, 513, and 515 of Title 50, War and National Defense, and enacting provisions set out as notes under section 2472 of this title and section 2302 of title 10] may be cited as the 'National Aeronautics and Space Act of 1958'."

EX ORD. NO. 11374. ABOLITION OF MISSLE SITES LABOR COMMISSION

Ex. Ord. No. 11374, Oct. 11, 1967, 32 F.R. 14199, provided:

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. The Missile Sites Labor Commission is hereby abolished and its functions and responsibilities are transferred to the Federal Mediation and Conciliation Service.

SEC. 2. The Director of the Federal Mediation and Conciliation Service shall establish within the Federal Mediation and Conciliation Service such procedures as may be necessary to provide for continued priority for resolution of labor disputes or potential labor disputes at missile and space sites, and shall seek the continued cooperation of manufacturers, contractors, construction concerns, and labor unions in avoiding uneconomical operations and work stoppages at missile and space sites.

SEC. 3. The Department of Defense, the National Aeronautics and Space Administration, and other appropriate government departments and agencies shall continue to cooperate in the avoidance of uneconomical operations and work stoppages at missile and space sites. They shall also assist the Federal Mediation and Conciliation Service in the discharge of its responsibilities under this order.

SEC. 4. All records and property of the Missile Sites Labor Commission are hereby transferred to the Federal Mediation and Conciliation Service.

SEC. 5. Any disputes now before the Missile Sites Labor Commission shall be resolved by the personnel now serving as members of the Missile Sites Labor Commissions under special assignment for such purposes by the Director of the Federal Mediation and Conciliation Service.

SEC. 6. Executive Order No. 10946 of May 26, 1961, is hereby revoked.

LYNDON B. JOHNSON.

EXECUTIVE ORDER NO. 10946

Ex. Ord. No. 10946, May 26, 1961, 26 F.R. 4629, formerly set out as a note under this section, which related to labor disputes at missile and space sites, was revoked by Ex. Ord. No. 11374, Oct. 11, 1967, 32 F.R. 14199, set out as a note under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2476 of this title.

§ 2452. Definitions

As used in this chapter—

(1) the term "aeronautical and space activities" means (A) research into, and the solution of, problems of flight within and outside the earth's atmosphere, (B) the development, construction, testing, and operation for research purposes of aeronautical and space vehicles, and (C) such other activities as may be required for the exploration of space; and

(2) the term "aeronautical and space vehicles" means aircraft, missiles, satellites, and other space vehicles, manned and unmanned, together with related equipment, devices, components, and parts.

(Pub. L. 85-568, title I, § 103, July 29, 1958, 72 Stat. 427.)

REFERENCES IN TEXT

"This chapter" referred to in introductory clause, was in the original "this Act", meaning Pub. L. 85-568, known as the National Aeronautics and Space Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables volume.

§ 2453. Transfer of related functions to Administration

(a) Functions of other departments and agencies; transfer of records, etc.

Subject to the provisions of this section, the President, for a period of four years after July 29, 1958, may transfer to the Administration any functions (including powers, duties, activities, facilities, and parts of functions) of any other department or agency of the United States, or of any officer or organizational entity thereof, which relate primarily to the functions, powers, and duties of the Administration as prescribed by section 2473 of this title. In connection with any such transfer, the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, civilian personnel, and funds.

(b) Transfers prior to January 1, 1959; report to Congress

Whenever any such transfer is made before January 1, 1959, the President shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a full and complete report concerning the nature and effect of such transfer.

(c) Transfers after December 31, 1958; report to Congress; approval of Congress

After December 31, 1958, no transfer shall be made under this section until (1) a full and complete report concerning the nature and effect of such proposed transfer has been transmitted by the President to the Congress, and (2) the first period of sixty calendar days of regular session of the Congress following the date of receipt of such report by the Congress has expired without the adoption by the Congress of a concurrent resolution stating that the Congress does not favor such transfer.

(Pub. L. 85-568, title III, § 302, July 29, 1958, 72 Stat. 433.)

EX. ORD. NO. 10783. TRANSFER OF FUNCTIONS FROM DEPARTMENT OF DEFENSE TO NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Ex. Ord. No. 10783, Oct. 1, 1958, 23 F.R. 7643, provided:

SECTION 1. All functions (including powers, duties, activities, and parts of functions) of the Department of Defense, or of any officer or organizational entity of the Department of Defense, with respect to the following are hereby transferred to the National Aeronautics and Space Administration:

(a) The United States scientific satellite project (Project VANGUARD).

(b) Specific projects of the Advanced Research Projects Agency and of the Department of the Air Force which relate to space activities (including lunar probes, scientific satellites and superthrust boosters) within the scope of the functions developing upon the National Aeronautics and Space Administration under the provisions of the National Aeronautics and Space Act of 1958 [this chapter], and which shall be more particularly described in one or more supplementary Executive orders hereafter issued.

SEC. 2. (a) The Secretary of the Treasury shall immediately transfer to the appropriation of the National Aeronautics and Space Administration for "Research and Development", from such appropriations of the Department of Defense as the Secretary of Defense shall designate, the following amounts:

(1) In connection with the transfer of functions provided for in section 1(a) hereof, such amounts as shall be determined by the Director of the Bureau of the Budget [now Office of Management and Budget] pursuant to section 202(b) of the Budget and Accounting Procedures Act of 1950 [section 581c(b) of Title 31, Money and Finance] and section 1(k) of Executive Order No. 10530 of May 1, 1954 [section 301 note of Title 3, The President]

(2) In connection with the transfer of functions of the Advanced Research Projects Agency provided for in section 1(b) hereof, $59,200,000.

(3) In connection with the transfer of functions of the Department of the Air Force provided for in section 1(b) hereof, $57,800,000.

(b) In connection with the transfer of functions provided for in section 1, appropriate transfers of records, property, facilities, and civilian personnel shall be carried out as may be agreed upon from time to time by the National Aeronautics and Space Administration and the Department of Defense.

DWIGHT D. EISENHOWER.

EX. ORD. NO. 10793. TRANSFER OF CERTAIN FUNCTIONS FROM DEPARTMENT OF DEFENSE TO NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Ex. Ord. No. 10793, Dec. 3, 1958, 23 F.R. 9405, provided:

By virtue of the authority vested in me by the National Aeronautics and Space Act of 1958 (Public Law 85-568; 72 Stat. 426) [this chapter] and section 202(b) of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c(b)), and as President of the United States, it is ordered as follows:

SECTION 1. Those functions (including powers, duties, activities, and parts of functions) of the Department of the Army or of any officer or organizational entity thereof which are now being performed at the Jet Propulsion Laboratory of the California Institute of Technology, near Pasadena, California (hereinafter referred to as the Laboratory), except so much thereof as relates primarily to military operations and weapon system development programs, are hereby transferred to the National Aeronautics and Space Administration.

SEC. 2. In connection with the transfer of functions provided for in section 1 of this order, there is hereby transferred to the National Aeronautics and Space Ad-

ministration custody, possession, and control of the Government-owned property occupied or utilized by the Laboratory except those items of equipment therein which relate primarily to military operations and weapon system development programs of the Department of the Army.

SEC. 3. The Department of Defense and the National Aeronautics and Space Administration shall effect necessary administrative arrangements, including appropriate transfer of records, in connection with the transfers of functions and property provided for in sections 1 and 2 hereof. In order to provide for the most effective utilization of scientific and engineering resources, the National Aeronautics and Space Administration shall to the extent permitted by its own programs and facilities provide research and development support at the Laboratory in respect of military matters to the Department of Defense.

SEC. 4. The Secretary of the Treasury shall immediately transfer from such appropriations of the Department of Defense pertinent to the functions transferred by section 1 of this order as the Secretary of Defense shall designate, to such appropriations of the National Aeronautics and Space Administration as the Administrator of the National Aeronautics and Space Administration shall specify, the amount of $4,078,250.

DWIGHT D. EISENHOWER.

TRANSFER PLAN

MAR. 15, 1960, 25 F.R. 2151

Transmitted by the President and delivered to the Congress January 14, 1960, pursuant to the provisions of section 302 of the National Aeronautics and Space Act of 1958 (72 Stat. 433) [this section]

MAKING CERTAIN TRANSFERS FROM THE DEPARTMENT OF DEFENSE TO THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SECTION 1. Those functions (including powers, duties, activities, and parts of functions) of the Department of Defense, or of any officer or organizational entity thereof, relating to the development of space vehicle systems (excluding ballistic missiles) and research connected therewith, which are being performed by the Army Ballistic Missile Agency of the Department of the Army, or by any officer or organizational entity of the said Agency, are transferred to the National Aeronautics and Space Administration.

SEC. 2. (a) The following shall be transferred to the National Aeronautics and Space Administration, pursuant to authority conferred by the provisions of section 302(a) of the National Aeronautics and Space Act of 1958 [this section] and other applicable authority, at such time or times as may be appropriate:

(1) So much of the unexpended balances of appropriations, allocations, and other funds of the Department of Defense, available or to be made available, as the Director of the Bureau of the Budget [now Office of Management and Budget] shall determine to relate to the functions transferred by the provisions of section 1 of this transfer plan and to be needed by the National Aeronautics and Space Administration in connection with those functions.

(2) To the extent needed by the National Aeronautics and Space Administration in connection with the aforesaid transferred functions, (i) civilian personnel employed in the Development Operations Division of the Army Ballistic Missile Agency, and other civilian personnel employed in the Department of the Army for administrative and technical support of the Development Operations Division, together with their respective positions, and (ii) records and property of the Department of Defense (including those of any organizational entity of the Department of Defense) relating to the said transferred functions. The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration, jointly, or, to any extent that they shall fail to agree, the Director of the Bureau of the Budget, shall (A) determine the number of employees to be so transferred and the identity of the particular employees who are to be transferred, (B) designate the specific records and property to be transferred, and (C) fix the date or dates of these transfers.

(b) Without limiting the foregoing provisions of this transfer plan, the functions transferred to the National Aeronautics and Space Administration by the provisions of section 1 of this transfer plan shall include so much of the functions of the Department of Defense, or of any officer or organizational entity thereof, as relate to the appointment and pay of civilian personnel employed in the Development Operations Division of the Army Ballistic Missile Agency, including authority to continue certain transferred positions in grades 16, 17, and 18 of the General Schedule of the Classification Act of 1949, as amended, pursuant to the provisions of section 1, of Public Law 86-377 [now covered by sections 3324 and 5708 of Title 5, Government Organization and Employees], and authority to continue certain transferred positions requiring the services of specially qualified scientists or professional personnel pursuant to the provisions of section 2 of Public Law 86-377 [section 1581 of Title 10, Armed Forces].

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate transfers under the foregoing provisions of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 3. The provisions of this transfer plan shall become effective upon the expiration of the first period of sixty calendar days of regular session of the Congress following the date stated in the heading hereof unless the Congress has during that period adopted a concurrent resolution stating that Congress does not favor this transfer plan. Thereafter, as promptly as may be, this transfer plan shall be published in the FEDERAL REGISTER.

§ 2454. Access to information

Information obtained or developed by the Administrator in the performance of his functions under this chapter shall be made available for public inspection, except (A) information authorized or required by Federal statute to be withheld, and (B) information classified to protect the national security: *Provided*, That nothing in this chapter shall authorize the withholding of information by the Administrator from the duly authorized committees of the Congress.

(Pub. L. 85-568, title III, § 303, July 29, 1958, 72 Stat. 433.)

REFERENCES IN TEXT

"This chapter" referred to in text, was in the original "this Act" meaning Pub. L. 85-568, known as the National Aeronautics and Space Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables volume.

§ 2455. Security requirements

(a) Establishment; investigations; referral to Federal Bureau of Investigation

The Administrator shall establish such security requirements, restrictions, and safeguards as he deems necessary in the interest of the national security. The Administrator may arrange with the Civil Service Commission for the conduct of such security or other personnel investigations of the Administration's officers, employees, and consultants, and its contractors and subcontractors and their officers and em-

ployees, actual or prospective, as he deems appropriate; and if any such investigation develops any data reflecting that the individual who is the subject thereof is of questionable loyalty the matter shall be referred to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Administrator.

(b) Access to Restricted Data of Atomic Energy Commission

The Atomic Energy Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee, or prospective licensee of the Atomic Energy Commission or any other person authorized to have access to Restricted Data by the Atomic Energy Commission under 2165(b) of this title, to permit any member, officer, or employee of the Council, or the Administrator, or any officer, employee, member of an advisory committee, contractor, subcontractor, or officer or employee of a contractor or subcontractor of the Administration, to have access to Restricted Data relating to aeronautical and space activities which is required in the performance of his duties and so certified by the Council or the Administrator, as the case may be, but only if (1) the Council or Administrator or designee thereof has determined, in accordance with the established personnel security procedures and standards of the Council or Administration, that permitting such individual to have access to such Restricted Data will not endanger the common defense and security, and (2) the Council or Administrator or designee thereof finds that the established personnel and other security procedures and standards of the Council or Administration are adequate and in reasonable conformity to the standards established by the Atomic Energy Commission under section 2165 of this title. Any individual granted access to such Restricted Data pursuant to this subsection may exchange such Data with any individual who (A) is an officer or employee of the Department of Defense, or any department or agency thereof, or a member of the armed forces, or a contractor or subcontractor of any such department, agency, or armed force, or an officer or employee of any such contractor or subcontractor, and (B) has been authorized to have access to Restricted Data under the provisions of section 2163 of this title.

(Pub. L. 85-568, title III, § 304(a), (b), July 29, 1958, 72 Stat. 433.)

CODIFICATION

Section is comprised of subsec. (a) and (b) of section 304 of Pub. L. 85-568. Subsecs. (c) and (d) of section 304 are classified to sections 799 and 1114, respectively, of Title 18, Crimes and Criminal Procedure. Subsec. (e) of section 304 is classified to section 2456 of this title.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

ABOLISHMENT OF NATIONAL AERONAUTICS AND SPACE COUNCIL

The National Aeronautics and Space Council, including the office of Executive Secretary of the Council, together with the functions of the Council, was abolished by section 3(a)(4) of Reorg. Plan No. 1 of 1973, 38 F.R. 9579, 87 Stat. 1089, effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 2585.

§ 2456. Permission to use firearms

The Administrator may direct such of the officers and employees of the Administration as he deems necessary in the public interest to carry firearms while in the conduct of their official duties. The Administrator may also authorize such of those employees of the contractors and subcontractors of the Administration engaged in the protection of property owned by the United States and located at facilities owned by or contracted to the United States as he deems necessary in the public interest, to carry firearms while in the conduct of their official duties.

(Pub. L. 85-568, title III, § 304(e), July 29, 1958, 72 Stat. 435.)

CODIFICATION

Section constitutes subsec. (e) of section 304 of Pub. L. 85-568. Subsecs. (a) and (b) of section 304 are classified to section 2455 of this title. Subsecs. (c) and (d) of section 304 are classified to sections 799 and 1114, respectively, of Title 18, Crimes and Criminal Procedure.

§ 2457. Property rights in inventions

(a) Exclusive property of United States; issuance of patent

Whenever any invention is made in the performance of any work under any contract of the Administration, and the Administrator determines that—

(1) the person who made the invention was employed or assigned to perform research, development, or exploration work and the invention is related to the work he was employed or assigned to perform, or that it was within the scope of his employment duties, whether or not it was made during working hours, or with a contribution by the Government of the use of Government facilities, equipment, materials, allocated funds, information proprietary to the Government, or services of Government employees during working hours; or

(2) the person who made the invention was not employed or assigned to perform research, development, or exploration work, but the invention is nevertheless related to the contract, or to the work or duties he was employed or assigned to perform, and was made during working hours, or with a contribution from the Government of the sort referred to in clause (1),

such invention shall be the exclusive property of the United States, and if such invention is patentable a patent therefor shall be issued to

the United States upon application made by the Administrator, unless the Administrator waives all or any part of the rights of the United States to such invention in conformity with the provisions of subsection (f) of this section.

(b) Contract provisions for furnishing reports of inventions, discoveries, improvements, or innovations.

Each contract entered into by the Administrator with any party for the performance of any work shall contain effective provisions under which such party shall furnish promptly to the Administrator a written report containing full and complete technical information concerning any invention, discovery, improvement, or innovation which may be made in the performance of any such work.

(c) Patent application

No patent may be issued to any applicant other than the Administrator for any invention which appears to the Commissioner of Patents and Trademarks to have significant utility in the conduct of aeronautical and space activities unless the applicant files with the Commissioner, with the application or within thirty days after request therefor by the Commissioner, a written statement executed under oath setting forth the full facts concerning the circumstances under which such invention was made and stating the relationship (if any) of such invention to the performance of any work under any contract of the Administration. Copies of each such statement and the application to which it relates shall be transmitted forthwith by the Commissioner to the Administrator.

(d) Issuance of patent to applicant; request by Administrator; notice; hearing; determination; review

Upon any application as to which any such statement has been transmitted to the Administrator, the Commissioner may, if the invention is patentable, issue a patent to the applicant unless the Administrator, within ninety days after receipt of such application and statement, requests that such patent be issued to him on behalf of the United States. If, within such time, the Administrator files such a request with the Commissioner, the Commissioner shall transmit notice thereof to the applicant, and shall issue such patent to the Administrator unless the applicant within thirty days after receipt of such notice requests a hearing before a Board of Patent Interferences on the question whether the Administrator is entitled under this section to receive such patent. The Board may hear and determine, in accordance with rules and procedures established for interference cases, the question so presented, and its determination shall be subject to appeal by the applicant or by the Administrator to the Court of Customs and Patent Appeals in accordance with procedures governing appeals from decisions of the Board of Patent Interferences in other proceedings.

(e) False representations; request for transfer of title to patent; notice; hearing; determination; review

Whenever any patent has been issued to any applicant in conformity with subsection (d) of this section, and the Administrator thereafter has reason to believe that the statement filed by the applicant in connection therewith contained any false representation of any material fact, the Administrator within five years after the date of issuance of such patent may file with the Commissioner a request for the transfer to the Administrator of title to such patent on the records of the Commissioner. Notice of any such request shall be transmitted by the Commissioner to the owner of record of such patent, and title to such patent shall be so transferred to the Administrator unless within thirty days after receipt of such notice such owner of record requests a hearing before a Board of Patent Interferences on the question whether any such false representation was contained in such statement. Such question shall be heard and determined, and determination thereof shall be subject to review, in the manner prescribed by subsection (d) of this section for questions arising thereunder. No request made by the Administrator under this subsection for the transfer of title to any patent, and no prosecution for the violation of any criminal statute, shall be barred by any failure of the Administrator to make a request under subsection (d) of this section for the issuance of such patent to him, or by any notice previously given by the Administrator stating that he had no objection to the issuance of such patent to the applicant therefor.

(f) Waiver of rights to inventions; Inventions and Contributions Board

Under such regulations in conformity with this subsection as the Administrator shall prescribe, he may waive all or any part of the rights of the United States under this section with respect to any invention or class of inventions made or which may be made by any person or class of persons in the performance of any work required by any contract of the Administration if the Administrator determines that the interests of the United States will be served thereby. Any such waiver may be made upon such terms and under such conditions as the Administrator shall determine to be required for the protection of the interests of the United States. Each such waiver made with respect to any invention shall be subject to the reservation by the Administrator of an irrevocable, nonexclusive, nontransferrable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government pursuant to any treaty or agreement with the United States. Each proposal for any waiver under this subsection shall be referred to an Inventions and Contributions Board which shall be established by the Administrator within the Administration. Such Board shall accord to each interested party an opportunity for hearing, and shall transmit to the Administrator its findings of fact with respect to such proposal and its recommendations for action to be taken with respect thereto.

(g) License regulations

The Administrator shall determine, and promulgate regulations specifying, the terms and conditions upon which licenses will be granted by the Administration for the practice by any person (other than an agency of the United

States of any invention for which the Administrator holds a patent on behalf of the United States.

(h) Protection of title

The Administrator is authorized to take all suitable and necessary steps to protect any invention or discovery to which he has title, and to require that contractors or persons who retain title to inventions or discoveries under this section protect the inventions or discoveries to which the Administration has or may acquire a license of use.

(i) Administration as defense agency

The Administration shall be considered a defense agency of the United States for the purpose of chapter 17 of title 35.

(j) Definitions

As used in this section—

(1) the term "person" means any individual, partnership, corporation, association, institution, or other entity;

(2) the term "contract" means any actual or proposed contract, agreement, understanding, or other arrangement, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder; and

(3) the term "made", when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

(Pub. L. 85-568, title III, § 305, July 29, 1958, 72 Stat. 435; Pub. L. 93-596, § 3, Jan. 2, 1975, 88 Stat. 1949.)

CHANGE OF NAME

In subsec. (c), "Commissioner of Patents" redesignated "Commissioner of Patents and Trademarks", by section 3 of Pub. L. 93-596, Jan. 2, 1975, 88 Stat. 1949, set out as a Change of Name note under section 1 of Title 35, Patents.

EMERGENCY RELIEF FROM POSTAL SITUATION AFFECTING NATIONAL SPACE PROGRAM CASES

Excusal of delayed fees or actions affected by postal situation beginning on Mar. 18, 1970, and ending on or about Mar. 30, 1970, see Pub.L. 92-34, June 30, 1971, 85 Stat. 87, set out as a note under section 111 of Title 35, Patents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2458 of this title.

§ 2458. Contributions awards

(a) Applications; referral to Board; hearing; recommendations; determination by Administrator

Subject to the provisions of this section, the Administrator is authorized, upon his own initiative or upon application of any person, to make a monetary award, in such amount and upon such terms as he shall determine to be warranted, to any person (as defined by section 2457 of this title) for any scientific or technical contribution to the Administration which is determined by the Administrator to have significant value in the conduct of aeronuatical and space activities. Each application made for any such award shall be referred to the Inventions and Contributions Board established under section 2457 of this title. Such Board shall accord to each such applicant an opportunity for hearing upon such application, and shall transmit to the Administrator its recommendation as to the terms of the award, if any, to be made to such applicant for such contribution. In determining the terms and conditions of any award the Administrator shall take into account—

(1) the value of the contribution to the United States;

(2) the aggregate amount of any sums which have been expended by the applicant for the development of such contribution;

(3) the amount of any compensation (other than salary received for services rendered as an officer or employee of the Government) previously received by the applicant for or on account of the use of such contribution by the United States; and

(4) such other factors as the Administrator shall determine to be material.

(b) Apportionment of awards; surrender of claims to compensation; limitation on amount; reports to Congressional Committees

If more than one applicant under subsection (a) of this section claims an interest in the same contribution, the Administrator shall ascertain and determine the respective interests of such applicants, and shall apportion any award to be made with respect to such contribution among such applicants in such proportions as he shall determine to be equitable. No award may be made under subsection (a) of this section with respect to any contribution—

(1) unless the applicant surrenders, by such means as the Administrator shall determine to be effective, all claims which such applicant may have to receive any compensation (other than the award made under this section) for the use of such contribution or any element thereof at any time by or on behalf of the United States, or by or on behalf of any foreign government pursuant to any treaty or agreement with the United States, within the United States or at any other place;

(2) in any amount exceeding $100,000, unless the Administrator has transmitted to the appropriate committees of the Congress a full and complete report concerning the amount and terms of, and the basis for, such proposed award, and thirty calendar days of regular session of the Congress have expired after receipt of such report by such committees.

(Pub. L. 85-568, title III, § 306, July 29, 1958, 72 Stat. 437.)

2458a. Malpractice and negligence suits against the United States

(a) Exclusive remedy

The remedy against the United States provided by sections 1346(b) and 2672 of title 28, for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the Administration in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of his duties or employ-

ment therein or therefor shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) whose act or omission gave rise to such action or proceeding.

(b) Attorney General to defend any civil action or proceeding for malpractice or negligence; service of process

The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or the estate of such person) for any such injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate superior or to whomever was designated by the Administrator to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States Attorney for the district embracing the place wherein the proceeding is brought to the Attorney General and to the Administrator.

(c) Removal of actions; certification by Attorney General; remand to State court

Upon a certification by the Attorney General that any person described in subsection (a) of this section was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court.

(d) Compromise or settlement of claims

The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

(e) Applicability of other provisions of law

For purposes of this section, the provisions of section 2680(h) of title 28, shall not apply to any cause of action arising out of a negligent or wrongful act of omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations).

(f) Liability insurance for persons assigned to foreign countries or non-Federal agencies

The Administrator or his designee may, to the extent that the Administrator or his designee deem appropriate, hold harmless or provide liability insurance for any person described in subsection (a) of this section for damages for personal injury, including death, caused by such person's negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, for such damage or injury.

(Pub. L. 94-464, § 3, Oct. 8, 1976, 90 Stat. 1988.)

CODIFICATION

Section was not enacted as part of the National Aeronautics and Space Act of 1958, Pub. L. 85-568, July 29, 1958, 72 Stat. 426, which is classified principally to this chapter.

EFFECTIVE DATE

Section effective Oct. 8, 1976, see section 4 of Pub. L. 94-464, set out as an Effective Date note under section 1089 of Title 10, Armed Forces.

§ 2459. Appropriations

(a) Authorization; limitations for uses of capital nature

There are authorized to be appropriated such sums as may be necessary to carry out this chapter, except that nothing in this chapter shall authorize the appropriation of any amount for (1) the acquisition or condemnation of any real property, or (2) any other item of a capital nature (such as plant or facility acquisition, construction, or expansion) which exceeds $250,000. Sums appropriated pursuant to this subsection for the construction of facilities, or for research and development activities, shall remain available until expended.

(b) Use of funds for emergency repairs of existing facilities

Any funds appropriated for the construction of facilities may be used for emergency repairs of existing facilities when such existing facilities are made inoperative by major breakdown, accident, or other circumstances and such repairs are deemed by the Administrator to be of greater urgency than the construction of new facilities.

(c) Termination

Notwithstanding any other provision of law, the authorization of any appropriation to the Administration shall expire (unless an earlier expiration is specifically provided) at the close of the third fiscal year following the fiscal year in which the authorization was enacted, to the extent that such appropriation has not theretofore actually been made.

(Pub. L. 85-568, title III, § 308, formerly § 307, July 29, 1958, 72 Stat. 438; Pub. L. 88-113, § 6, Sept. 6, 1963, 77 Stat. 144; renumbered Pub. L. 94-464, § 3, Oct. 8, 1976, 90 Stat. 1988.)

REFERENCES IN TEXT

"This chapter" referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 85-568, known as the National Aeronautics and Space Act of 1958. For complete classification of this Act to the Code, see

Short Title note set out under section 2451 of this title and Tables volume.

AMENDMENTS

1963—Subsec. (c). Pub. L. 88-113 added subsec. (c).

GEOGRAPHICAL DISTRIBUTION OF RESEARCH FUNDS

Pub. L. 94-307, § 5, June 4, 1976, 90 Stat. 680, provided that: " It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible."

Similar provisions were contained in the following prior Appropriation Acts:

Pub. L. 94-39, § 5, June 19, 1975, 89 Stat. 221.
Pub. L. 93-316, § 5, June 22, 1974, 88 Stat. 243.
Pub. L. 93-74, § 5, July 23, 1973, 87 Stat. 174.
Pub. L. 92-304, § 5, May 19, 1972, 86 Stat. 161.
Pub. L. 92-68, § 5, Aug. 6, 1971, 85 Stat. 176.
Pub. L. 91-303, § 5, July 2, 1970, 84 Stat. 371.
Pub. L. 91-119, § 5, Nov. 18, 1969, 83 Stat. 198.
Pub. L. 90-373, § 6, July 3, 1968, 82 Stat. 283.
Pub. L. 90-67, § 5, Aug. 21, 1967, 81 Stat. 170.
Pub. L. 89-528, § 5, Aug. 5, 1966, 80 Stat. 339.
Pub. L. 89-53, § 5, June 28, 1965, 79 Stat. 194.

DENIAL OF FINANCIAL ASSISTANCE TO CAMPUS DISRUPTERS

Pub. L. 92-304, § 6, May 19, 1972, 86 Stat. 161, provided generally that any institution of higher education deny for a two year period payment under programs authorized by the National Aeronautics and Space Act of 1958 to any individual attending or employed by such institution who has been convicted of any crime committed after May 19, 1972, which involved the use of force, disruption or seizure of property to prevent officers or students from engaging in their duties or pursuing their studies.

APPROPRIATIONS FOR ANY PERIOD PRIOR TO JUNE 30, 1960

Sections 701 of Pub. L. 85-766, title VII, Aug. 27, 1958, 72 Stat. 873, prohibited appropriations to the National Aeronautics and Space Administration for any period prior to June 30, 1960, unless previously authorized.

§ 2460. Appropriations; prior authorization by Congress

Notwithstanding the provisions of any other law, no appropriation may be made to the National Aeronautics and Space Administration unless previously authorized by legislation hereafter enacted by the Congress.

(Pub. L. 86-45, § 4, June 15, 1959, 73 Stat. 75.)

CODIFICATION

Section was not enacted as part of the National Aeronautics and Space Act of 1958, Pub. L. 85-568, July 29, 1958, 72 Stat. 426, which is classified principally to this chapter.

§ 2461. Congressional Space Medal of Honor; appropriations

The President may award, and present in the name of Congress, a medal of appropriate design, which shall be known as the Congressional Space Medal of Honor, to any astronaut who in the performance of his duties has distinguished himself by exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind.

There is authorized to be appropriated from time to time such sums of money as may be necessary to carry out the purposes of this section.

(Pub. L. 91-76, §§ 1, 2, Sept. 29, 1969, 83 Stat. 124.)

CODIFICATION

Section was not enacted as part of the National Aeronautics and Space Act of 1958, Pub. L. 85-568, July 29, 1958, 72 Stat. 426, which is classified principally to this chapter.

The first and second pars. of this section are comprised of section 1 and 2 of Pub. L. 91-76, respectively.

§ 2462. Reporting requirements

(a) Definitions

As used in this section—

(1) The term "former employee" means any former officer or employee of the National Aeronautics and Space Administration, including consultants or part-time employees, whose salary rate at any time during the three-year period immediately preceding the termination of his last employment with the National Aeronautics and Space Administration was equal to or greater than the minimum salary rate at such time for positions in grade GS-13.

(2) The term "aerospace contractor" means any individual, firm, corporation, partnership, association, or other legal entity, which provides services and materials to or for the National Aeronautics and Space Administration in connection with any aerospace system under a contract directly with the National Aeronautics and Space Administration.

(3) The term "services and materials" means either services or materials or services and materials which are provided as a part of or in connection with any aerospace system.

(4) The term "aerospace system" includes, but is not limited to, any rocket, launch vehicle, rocket engine, propellant, spacecraft, command module, service module, landing module, tracking device, communications device, or any part or component thereof, which is used in either manned or unmanned spaceflight operations.

(5) The term "contracts awarded" means contracts awarded by negotiation and includes the net amount of modifications to, and the exercise of operations under, such contracts. It excludes all transactions amounting to less than $10,000 each.

(6) The term "fiscal year" means a year beginning on 1 October and ending on 30 September of the next succeeding year.

(b) Former Administration employees employed by aerospace contractors; Adminisration employees previously employed by aerospace contractors

Under regulations to be prescribed by the Administrator:

(1) Any former employee who during any fiscal year,

(A) was employed by or served as a consultant or otherwise to an aerospace contractor for any period of time,

(B) represented any aerospace contractor at any hearing, trial, appeal, or other action in which the United States was a party and which involved services and materials provided or to be provided to the National Aeronautics and Space Administration by such contractor, or

(C) represented any such contractor in any transaction with the National Aeronautics and Space Administration involving services or materials provided or to be provided by such contractor to the National Aeronautics and Space Administration,

shall file with the Administrator, in such form and manner as the Administrator may prescribe, not later than February 15 of the next succeeding fiscal year, a report containing the following information:

(1) His name and address.

(2) The name and address of the aerospace contractor by whom he was employed or whom he served as a consultant or otherwise.

(3) The title of the position held by him with the aerospace contractor.

(4) A brief description of his duties and the work performed by him for the aerospace contractor.

(5) His gross salary rate while employed by the National Aeronautics and Space Administration.

(6) A brief description of his duties and the work performed by him while employed by the National Aeronautics and Space Administration during the three-year period immediately preceding his termination of employment.

(7) The date of the termination of his employment with the National Aeronautics and Space Administration, and the date on which his employment, as an employee, consultant or otherwise, with the aerospace contractor began, and if no longer employed by such aerospace contractor, the date on which his employment with such aerospace contractor terminated.

(8) Such other pertinent information as the Administrator may require.

(2) Any employee of the National Aeronautics and Space Administration, including consultants or part-time employees, who was previously employed by or served as a consultant or otherwise to an aerospace contractor in any fiscal year, and whose salary rate in the National Aeronautics and Space Administration is equal to or greater than the minimum salary rate for positions in grade GS-13 shall file with the Administrator, in such form and manner and at such times as the Administrator may prescribe, a report containing the following information:

(A) His name and address.

(B) The title of his position with the National Aeronautics and Space Administration.

(C) A brief description of his duties with the National Aeronautics and Space Administration.

(D) The name and address of the aerospace contractor by whom he was employed or whom he served as a consultant or otherwise.

(E) The title of his position with such aerospace contractor.

(F) A brief description of his duties and the work performed by him for the aerospace contractor.

(G) The date on which his employment as a consultant or otherwise with such contractor terminated and the date on which his employment as a consultant or otherwise with the National Aeronautics and Space Administration began thereafter.

(H) Such other pertinent information as the Administrator may require.

(c) Exceptions

(1) No former employee of the National Aeronautics and Space Administration shall be required to file a report under this section for any fiscal year in which he was employed by or served as a consultant or otherwise to an aerospace contractor if the total amount of contracts awarded by the National Aeronautics and Space Administration to such contractor during such year was less than $10,000,000; and no employee of the National Aeronautics and Space Administration shall be required to file a report under this section for any fiscal year in which he was employed by or served as a consultant or otherwise to an aerospace contractor if the total amount of contracts awarded to such contractor by the National Aeronautics and Space Administration during such year was less than $10,000,000.

(2) No former National Aeronautics and Space Administration employee shall be required to file a report under this section for any fiscal year on account of employment with the National Aeronautics and Space Administration if such employment was terminated three years or more prior to the beginning of such fiscal year; and no employee of the National Aeronautics and Space Administration shall be required to file a report under this section for any fiscal year on account of employment with or services performed for an aerospace contractor if such employment was terminated or such services were performed three years or more prior to the beginning of such fiscal year.

(3) No former employee shall be required to file a report under this section for any fiscal year during which he was employed by or served as a consultant or otherwise to an aerospace contractor at a salary rate of less than $15,000 per year; and no employee of the National Aeronautics and Space Administration, including consultants or part-time employees, shall be required to file a report under this section for any fiscal year during which he was employed by or served as a consultant or otherwise to an aerospace contractor at a salary rate of less than $15,000 per year.

(d) Reports to Congress

The Administrator shall, not later than March 31 of each year, file with the President of the Senate and the Speaker of the House of Representatives a report containing a list of the names of persons who have filed reports with him for the preceding fiscal year pursuant to subsections (b)(1) and (b)(2) of this section. The Administrator shall include after each name so much information as he deems appropriate, and shall list the names of such persons under the aerospace contractor for whom they worked or for whom they performed services.

(e) Termination of employment; filing reports under subsection (b)(1) or (2)

Any former employee of the National Aeronautics and Space Administration whose employment with or services for an aerospace contractor terminated during any fiscal year shall

be required to file a report pursuant to subsection (b)(1) of this section for such year if he would otherwise be required to file under such subsection; and any person whose employment with or services for the National Aeronautics and Space Administration terminated during any fiscal year shall be required to file a report pursuant to subsection (b)(2) of this section for such year if he would otherwise be required to file under such subsection.

(f) Recordkeeping; availability of information

The Administrator shall maintain a file containing the information filed with him pursuant to subsections (b)(1) and (b)(2) of this section and such file shall be open for public inspection at all times during the regular workday.

(g) Penalties

Any person who fails to comply with the filing requirements of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by not more than six months in prison or a fine of not more than $1,000, or both.

(h) Commencement date

No person shall be required to file a report pursuant to this section for any year prior to the fiscal year 1971.

(Pub. L. 91-19, § 6, Nov. 18, 1969, 83 Stat. 199; Pub. L. 91-303, § 7, July 2, 1970, 84 Stat. 372; Pub. L. 94-273, § 24, Apr. 21, 1976, 90 Stat. 379.)

REFERENCES IN TEXT

GS-13, referred to in subsecs. (a)(1) and (b)(2), is a grade of the General Schedule, which is set out under section 5332 of Title 5, Government Organization and Employees.

CODIFICATION

Section was not enacted as part of the National Aeronautics and Space Act of 1958, Pub. L. 85-568, July 29, 1958, 72 Stat. 426, which is classified principally to this chapter.

AMENDMENTS

1976—Subsec. (a)(6). Pub. L. 94-273 substituted "October" for "July" and "September" for "June".

Subsec. (b)(1). Pub. L. 94-273 substituted "February" for "November".

Subsec. (d). Pub. L. 94-273 substituted "March" for "December".

1970—Subsec. (a). Pub. L. 91-303 added pars. (1), (5), and (6), redesignated former par. (1) as (2) and provided therein for services and materials "under a contract directly with the National Aeronautics and Space Administration", and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (b). Pub. L. 91-303 provided for prescription of regulations by the Administrator.

Subsec. (b)(1). Pub. L. 91-303 redesignated provisions of former subsec. (b) as par. (1); deleted introductory provisions respecting former employee who during five year period preceding termination of employment was directly engaged in procurement of an aerospace system or in negotiation, renegotiation, approval, or disapproval of any procurement contract for services or materials for such system, or served with the Administration at factory or plant of an aerospace contractor, or was employed by the Administration at annual salary rate of GS-15 or higher; prescribed fiscal year rather than calendar year period; redesignated former cls. (1) to (3) as (A) to (C), substituting as cl. (A) "was employed by or served as a consultant or otherwise to an aerospace contractor for any period of time" for "was employed for any period of time during any calendar year by an aerospace contractor" and in cl. (B) "National Aeronautics and Space Administration" for "United States"; substituted filing date for the report a date not later than November 15 of the next succeeding fiscal year for filing date not later than March 1 of the next succeeding calendar year; reenacted items of information (1), (3), and (8), substituted in item (2) "whom he served as a consultant or otherwise" for "whom he represented" and in item (4) "and the work performed by him for the aerospace contractor" for "with the aerospace contractor", added item (5), redesignated former item (5) as (6), inserting therein "and the work performed by him" following "duties deleted former item (6) respecting description of work performed in connection with any aerospace system while employed by the Administration, if the employing aerospace contractor is providing or is negotiating or bidding to provide services or materials for such system, and inserted in item (7) ", as an employee, consultant, or otherwise," following "date on which his employment".

Subsec. (b)(2). Pub. L. 91-303 redesignated provisions of former subsec. (c) as par. (2); deleted introductory clauses respecting reporting requirement of Administration employee formerly employed by aerospace contractor (1) who was directly engaged in procurement of an aerospace system or in negotiation, renegotiation, approval, or disapproval of any procurement contract for services or materials for such system or (2) who served as representative of the Administration at factory or plant of an aerospace contractor; deemed consultants or part-time employees to be employees and included service as a consultant or otherwise to an aerospace contractor; provided for fiscal year in place of calendar year basis; inserted provision respecting salary rate when in the Administration equal to or greater than minimum salary rate for positions in GS-13; substituted as a filing date for the report such times as the Administrator may prescribe for a required filing date not later than March 1 of the next succeeding calendar year; redesignated items of information (1) to (3), (5), and (9) as (A) to (C), (E), and (H); redesignated item (4) as (D), inserting therein "or whom he served as a consultant or otherwise"; redesignated item (6) as (F), substituting "and the work performed by him for the aerospace contractor" for "at the time he was employed by such aerospace contractor"; deleted former item (7) respecting description of work performed in connection with any aerospace system while employed by the aerospace contractor or while performing legal services for such contractor, if such contractor is providing or is negotiating or bidding to provide services or materials for such system; and redesignated item (8) as (G), inserting employment "as a consultant or otherwise" with such contractor.

Subsec. (c). Pub. L. 91-303 redesignated former subsec. (d)(1) and (2) as (c)(1) and (2); in rewriting par. (1), included service as a consultant or otherwise to an aerospace contractor, substituted "total amount of contracts awarded by the National Aeronautics and Space Administration to such contractor" for "total cost to the United States of services and materials provided the United States by such contractor" and "total amounts of contracts awarded to such contractor" for "total cost to the United States of services and materials provided the United States by the aerospace contractor" in provisions as to former and present employees, respectively, and substituted in such provisions "for any fiscal year" for "for any year" and fiscal year requirement for reports for prior requirement for reports in each of the applicable calendar years of employment; substituted in par. (2) "fiscal year" for "calendar year" in four instances and deleted term "active duty or" preceding "employment was terminated three years"; and added par. (3). Former subsec. (c) redesignated (b)(2).

Subsec. (d). Pub. L. 91-303 redesignated former subsec. (e) as (d) and substituted "December 31" for "May 1" as date for filing reports, "fiscal year" for "calendar year", and reference to subsecs. (b)(1) and

(2) for subsecs. (b) and (c) of this section. Former subsec. (d), pars. (1) and (2) redesignated subsec. (c), pars. (1) and (2).

Subsec. (e). Pub. L. 91-303 redesignated former subsec. (f) as (e), included services for an aerospace contractor or the National Aeronautics and Space Administration, and substituted "fiscal year" for "calendar year" in two instances and reference to subsec. (b)(1) and (2) for subsecs. (b) and (c) of this section. Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 91-303 redesignated former subsec. (g) as (f) and substituted therein reference to subsections (b)(1) and (2) for subsections (b) and (c) of this section. Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 91-303 redesignated former subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 91-303 redesignated former subsec. (i) as (h) and substituted therein "fiscal year 1971" for "calendar year 1970". Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L. 91-303 redesignated former subsec. (i) as (h).

Cross References

National defense contracts, reporting requirements, see section 1436 of Title 50, War and National Defense.

§ 2463. Tracking and data relay satellite services; authorization to contract; report to Congressional Committees

The National Aeronautics and Space Administration is authorized, when so provided in an appropriation Act, to enter into a contract for tracking and data relay satellite services. Such services shall be furnished to the National Aeronautics and Space Administration in accordance with applicable authorization and appropriations Acts. The Government shall incur no costs under such contract prior to the furnishing of such services except that the contract may provide for the payment for contingent liability of the Government which may accrue in the event the Government should decide for its convenience to terminate the contract before the end of the period of the contract. Facilities which may be required in the performance of the contract may be constructed on Government-owned lands if there is included in the contract a provision under which the Government may acquire a title to the facilities, under terms and conditions agreed upon in the contract, upon termination of the contract.

The Administrator shall in January of each year report to the Committee on Science and Technology and the Committee on Appropriations of the House of Representatives and the Committee on Aeronautical and Space Sciences and the Committee on Appropriations of the Senate the projected aggregate contingent liability of the Government under termination provisions of any contract authorized in this section through the next fiscal year. The authority of the National Aeronautics and Space Administration to enter into and to maintain the contract authorized hereunder shall remain in effect as long as provision therefor is included in Acts authorizing appropriations to the National Aeronautics and Space Administration for subsequent fiscal years.

(Pub. L. 94-307, § 6, June 4, 1976, 90 Stat. 680.)

Codification

Section was enacted as part of Pub. L. 94-307, known as the National Aeronautics and Space Administration Authorization Act, 1977, and not as part of Pub. L. 85-568, July 29, 1958, 72 Stat. 426, known as the National Aeronautics and Space Act of 1958, which is classified principally to this chapter.

Similar provisions were contained in the following prior Appropriation Acts:

Pub. L. 94-39, § 6, June 19, 1975, 89 Stat. 221.

Pub. L. 93-316, § 7, June 22, 1974, 88 Stat. 243.

SUBCHAPTER II—COORDINATION OF AERONAUTICAL AND SPACE ACTIVITIES

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 5503, 5504 of this title.

§ 2471. Omitted

Codification

Section, Pub. L. 85-568, title I, § 201, July 29, 1958, 72 Stat. 427; Pub. L. 87-26, § 1, Apr. 25, 1961, 75 Stat. 46; Pub. L. 87-367, title II, § 207, Oct. 4, 1961, 75 Stat. 792; Pub. L. 87-584, § 7, Aug. 14, 1962, 76 Stat. 385; Pub. L. 88-426, title III, §§ 305(13)(A), 306(c), Aug. 14, 1964, 78 Stat. 423, 428; Pub. L. 91-406, Sept. 23, 1970, 84 Stat. 855, related to the establishment, membership, duties, and personnel of the National Aeronautics and Space Council, and has been omitted from the Code since the Council, including the office of Executive Secretary of the Council, together with the functions of the Council, was abolished by section 3(a)(4) of Reorg. Plan No. 1 of 1973, 38 F.R. 9579, 87 Stat. 1089, effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2472. National Aeronautics and Space Administration

(a) Establishment; appointment and duties of Administrator.

There is established the National Aeronautics and Space Administration (hereinafter called the "Administration"). The Administration shall be headed by an Administrator, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate. Under the supervision and direction of the President, the Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

(b) Deputy Administrator; appointment and duties

There shall be in the Administration a Deputy Administrator, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate and shall perform such duties and exercise such powers as the Administrator may prescribe. The Deputy Administrator shall act for, and exercise the powers of, the Administrator during his absence or disability.

(c) Restriction on engaging in any other business, vocation, or employment

The Administrator and the Deputy Administrator shall not engage in any other business, vocation, or employment while serving as such.

(Pub. L. 85-568, title II, § 202, July 29, 1958, 72 Stat. 429; Pub. L. 88-426, title III, § 305(12), Aug. 14, 1964, 78 Stat. 423.)

AMENDMENTS

1964—Subsec. (a). Pub. L. 88-426, § 305(12)(A), repealed provisions which prescribed the compensation of the Administrator.

Subsec. (b). Pub. L. 88-426, § 305(12)(B), repealed provisions which prescribed the compensation of the Deputy Administrator.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426, see section 501 of Pub. L. 88-426.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Administrator of the National Aeronautics and Space Administration, see Parts 1, 22, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, as amended, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

TERMINATION OF NATIONAL ADVISORY COMMITTEE FOR AERONAUTICS; TRANSFER OF FUNCTIONS

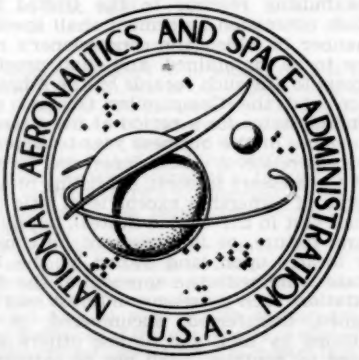
Section 301(a) of Pub. L. 85-568 provided that: "The National Advisory Committee for Aeronautics, on the effective date of this section [see note under section 2302 of Title 10, Armed Forces], shall cease to exist. On such date all functions, powers, duties, and obligations, and all real and personal property, personnel (other than members of the Committee), funds, and records of that organization, shall be transferred to the Administration."

EX. ORD. NO. 10849. ESTABLISHMENT OF SEAL FOR NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Ex. Ord. No. 10849, Nov. 27, 1959, 24 F.R. 9559, as amended by Ex. Ord. No. 10942, May 19, 1961, 26 F.R. 4419, provided:

WHEREAS the Administrator of the National Aeronautics and Space Administration has caused to be made, and has recommended that I approve, a seal for the National Aeronautics and Space Administration, the design of which accompanies and is hereby made a part of this order, and which is described as follows:

On a disc of the blue sky strewn with white stars, to dexter a larger yellow sphere bearing a red flight symbol apex in upper sinister and wings enveloping and casting a brown shadow upon the sphere, all partially encircled with a horizontal white orbit, in sinister a small light-blue sphere; circumscribing the disc a white band edged gold inscribed "National Aeronautics and Space Administration U.S.A." in red letters.



AND WHEREAS it appears that such seal is of suitable design and appropriate for establishment as the official seal of the National Aeronautics and Space Administration:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, I hereby approve such seal as the official seal of the National Aeronautics and Space Administration.

DWIGHT D. EISENHOWER.

CROSS REFERENCES

Compensation of Administrator and Deputy Administrator, see sections 5313 and 5314, respectively, of Title 5, Government Organization and Employees.

§ 2473. Functions of Administration

(a) Planning, directing and conducting aeronautical and space activities; participation by scientific community; dissemination of information

The Administration, in order to carry out the purpose of this chapter, shall—

(1) plan, direct, and conduct aeronautical and space activities;

(2) arrange for participation by the scientific community in planning scientific measurements and observations to be made through use of aeronautical and space vehicles, and conduct or arrange for the conduct of such measurements and observations; and

(3) provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof.

(b) Research, development, etc., in ground propulsion technologies

The Administration shall, to the extent of appropriated funds, initiate, support, and carry out such research, development, demonstration, and other related activities in ground propulsion technologies as are provided for in sections 2503 through 2509 of title 15.

(c) Powers of Administration in performance of its functions

In the performance of its functions the Administration is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law;

(2) to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5, except that (A) to the extent the Administrator deems such action necessary to the discharge of his responsibilities, he may appoint not more than four hundred and twenty-five of the scientific, engineering, and administrative personnel of the Administration without regard to such laws, and may fix the compensation of such personnel not in excess of the highest rate of grade 18 of the General Schedule, and (B) to the extent the Administrator deems such action necessary to recruit specially qualified scientific and engineering talent, he may establish the entrance grade for scientific and engineering personnel without previous service in the Federal Government at a level up to two grades higher than the grade provided for such personnel

under the General Schedule, and fix their compensation accordingly;

(3) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, aeronautical and space vehicles, quarters and related accommodations for employees and dependents of employees of the Administration, and such other real and personal property (including patents), or any interest therein, as the Administration deems necessary within and outside the continental United States; to acquire by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia for the use of the Administration for a period not to exceed ten years without regard to section 34 of title 40; to lease to others such real and personal property; to sell and otherwise dispose of real and personal property (including patents and rights thereunder) in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.]; and to provide by contract or otherwise for cafeterias and other necessary facilities for the welfare of employees of the Administration at its installations and purchase and maintain equipment therefor;

(4) to accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(5) without regard to section 529 of title 31, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, Territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution. To the maximum extent practicable and consistent with the accomplishment of the purpose of this chapter, such contracts, leases, agreements, and other transactions shall be allocated by the Administrator in a manner which will enable small-business concerns to participate equitably and proportionately in the conduct of the work of the Administration;

(6) to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities. Each department and agency of the Federal Government shall cooperate fully with the Administration in making its services, equipment, personnel, and facilities available to the Administration, and any such department or agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, aeronautical and space vehicles, and supplies and equipment other than administrative supplies or equipment;

(7) to appoint such advisory committees as may be appropriate for purposes of consultation and advice to the Administration in the performance of its functions;

(8) to establish within the Administration such offices and procedures as may be appropriate to provide for the greatest possible coordination of its activities under this chapter with related scientific and other activities being carried on by other public and private agencies and organizations;

(9) to obtain services as authorized by section 3109 of title 5, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18;

(10) when determined by the Administrator to be necessary, and subject to such security investigations as he may determine to be appropriate, to employ aliens without regard to statutory provisions prohibiting payment of compensation to aliens;

(11) to provide by concession, without regard to section 303b of title 40, on such terms as the Administrator may deem to be appropriate and to be necessary to protect the concessioner against loss of his investment in property (but not anticipated profits) resulting from the Administration's discretionary acts and decisions, for the construction, maintenance, and operation of all manner of facilities and equipment for visitors to the several installations of the Administration and, in connection therewith, to provide services incident to the dissemination of information concerning its activities to such visitors, without charge or with a reasonable charge therefor (with this authority being in addition to any other authority which the Administration may have to provide facilities, equipment, and services for visitors to its installations). A concession agreement under this paragraph may be negotiated with any qualified proposer following due consideration of all proposals received after reasonable public notice of the intention to contract. The concessioner shall be afforded a reasonable opportunity to make a profit commensurate with the capital invested and the obligations assumed, and the consideration paid by him for the concession shall be based on the probable value of such opportunity and not on maximizing revenue to the United States. Each concession agreement shall specify the manner in which the concessioner's records are to be maintained, and shall provide for access to any such records by the Administration and the Comptroller General of the United States for a period of five years after the close of the business year to which such records relate. A concessioner may be accorded a possessory interest, consisting of all incidents of ownership except legal title (which shall vest in the United States), in any structure, fixture, or improvement he constructs or locates upon land owned by the United States; and, with the approval of the Administration, such possessory interest may be assigned, transferred, encumbered, or relinquished by him, and, unless otherwise provided by contract, shall not be extinguished by the expiration or other termination of the concession and may not be taken for public use without just compensation;

(12) with the approval of the President, to enter into cooperative agreements under which members of the Army, Navy, Air Force, and Marine Corps may be detailed by the appropriate Secretary for services in the performance of functions under this chapter to the same extent as that to which they might be lawfully assigned in the Department of Defense;

(13)(A) to consider, ascertain, adjust, determine, settle, and pay, on behalf of the United States, in full satisfaction thereof, any claim for $5,000 or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from the conduct of the Administration's functions as specified in subsection (a) of this section, where such claim is presented to the Administration in writing within two years after the accident or incident out of which the claim arises; and

(B) if the Administration considers that a claim in excess of $5,000 is meritorious and would otherwise be covered by this paragraph, to report the facts and circumstances thereof to the Congress for its consideration.

(c) Research, development, etc., in solar heating and cooling technologies

The Administration shall initiate, support, and carry out such research, development, demonstrations, and other related activities in solar heating and cooling technologies (to the extent that funds are appropriated therefor) as are provided for in sections 5503, 5504, and 5507 of this title.

(Pub. L. 85-568, title II, § 203, July 29, 1958, 72 Stat. 429; Pub. L. 86-20, May 13, 1959, 73 Stat. 21; Pub. L. 86-481, § 5, June 1, 1960, 74 Stat. 153; Pub. L. 87-367, title II, § 206(a), Oct. 4, 1961, 75 Stat. 791; Pub. L. 87-584, § 6, Aug. 14, 1962, 76 Stat. 384; Pub. L. 87-793, § 1001(f), Oct. 11, 1962, 76 Stat. 864; Pub. L. 88-426, title III, § 306(d), Aug. 14, 1964, 78 Stat. 429; Pub. L. 88-448, title IV, § 402(a)(34), Aug. 19, 1964, 78 Stat. 495; Pub. L. 91-646, title II, § 220(a)(2), Jan. 2, 1971, 84 Stat. 1903; Pub. L. 93-74, § 6, July 23, 1973, 87 Stat. 174; Pub. L. 93-316, § 6, June 22, 1974, 88 Stat. 243; Pub. L. 93-409, § 4, Sept. 3, 1974, 88 Stat. 1070; Pub. L. 94-413, § 15(c), Sept. 17, 1976, 90 Stat. 1270.)

References in Text

"This chapter" referred to in subsec. (a) and first subsec. (c)(5), (8), (12), was in the original, "this Act" meaning Pub. L. 85-568, known as the National Aeronautics and Space Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables volume.

The civil-service laws, referred to in the first subsec. (c)(2), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

The General Schedule referred to in first subsec. (c)(2), is set out under section 5332 of Title 5.

The Federal Property and Administrative Services Act of 1949, as amended, referred to in first subsec. (c)(3), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that act relating to disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of Title 40 and Tables volume.

GS-18, referred to in first subsec. (c)(9), is a grade of the General Schedule which is set out under section 5332 of Title 5.

Codification

Pub. L. 94-413 added subsec. (b) and redesignated former subsec. (b) as subsec. (c), set out second in text, without regard to existing subsec. (c), set out first in text.

"Chapter 51 and subchapter III of chapter 53 of title 5" were substituted in first subsec. (c)(2), for "the Classification Act of 1949, as amended" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

Amendments

1976—Subsec. (b). Pub. L. 94-413 added subsec. (b). Former subsec. (b) was redesignated (c) and is set out in text as the second subsec. (c).

1974—Subsec. (b). Pub. L. 93-409 added subsec. (b), and redesignated former subsec. (b) as (c) set out first.

Subsec. (b)(9). Pub. L. 93-316 substituted "section 3109 of title 5, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18" for "section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), at rates not to exceed $100 per diem for individuals".

Subsec. (c). Pub. L. 93-409 redesignated former subsec. (b) as (c).

1973—Subsec. (b)(11). Pub. L. 93-74 added par. (11).

1971—Subsec. (b)(14). Pub. L. 91-646 repealed provisions of paragraph for Administration authorization for reimbursement of owners and tenants of land and interests in land acquired on or after Nov. 1, 1961, by the United States for Administration use for expenses and damages incurred by such owners and tenants as result of moving themselves, their families, and their possessions because of said acquisition, limitation on amount, and time for submission of applications. Subject matter is now covered by chapter 61 (section 4601 et seq.) of this title.

1964—Subsec. (b)(2). Pub. L. 88-426 eliminated provisions from cl. (A) which permitted the Administrator to fix compensation at not more than $21,000 for a maximum of thirty positions and provisions which related to the filling of positions prior to Mar. 1, 1962, and July 1, 1962.

Subsec. (b)(11). Pub. L. 88-448 repealed former subsec. (b)(11) which authorized the employment of retired commissioned officers.

1962—Subsec. (b). Pub. L. 87-793 substituted "(at not to exceed the highest rate of grade 18 of the General Schedule, or for a maximum of thirty positions, not to exceed $21,000 a year) of" for "(up to a limit of $19,000 a year, or up to a limit of $21,000 a year for a maximum of thirty positions) of", in par (2).

Pub. L. 87-584 added par (14).

1961—Subsec. (b)(2). Pub. L. 87-367 substituted "thirty" for "thirteen" and "four hundred and twenty-five (of which not to exceed three hundred and fifty-five may be filled prior to March 1, 1962 and not to exceed three hundred and ninety may be filed prior to July 1, 1962)" for "two hundred and ninety".

1960—Subsec. (b)(2). Pub. L. 86-481 substituted "thirteen" for "ten" and "two hundred and ninety" for "two hundred and sixty".

1959—Subsec. (b)(3). Pub. L. 86-20 authorized the Administration to acquire, by lease or otherwise, buildings or parts of buildings in the District of Columbia for a period of not more than 10 years.

Effective Date of 1971 Amendment

Repeal of subsec. (b)(14) by Pub. L. 91-646 effective Jan. 2, 1971, see section 221 of Pub. L. 91-646, set out as an Effective Date note under section 4601 of this title.

Effective Date of 1964 Amendments

Amendment by Pub. L. 88-448 effective on the first day of the first month which begins later than the

ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88-448.

Amendment by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426, see section 501 of Pub. L. 88-426.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-793 effective on the first day of the first pay period which begins on or after Oct. 11, 1962, see section 1008 of Pub. L. 87-793.

SAVINGS PROVISIONS

Any rights or liabilities existing under provisions repealed by section 220(a) of Pub. L. 91-646 as not affected by such repeal, see section 220(b) of Pub. L. 91-646, set out as a Savings Provision note under section 4621 of this title.

CROSS REFERENCE

Restriction on employment of aliens generally, see section 699b of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2453, 2471, 2473a of this title; title 5 section 5532.

§ 2473a. Reports to Congress; confidential information

(1) The Administrator of the National Aeronautics an Space Administration shall submit to the Congress not later than forty-five days after the close of each fiscal year a report which sets forth, as of the close of such fiscal year—

(A) the number of positions established under section 2473(b)(2) of this title;

(B) the name, rate of compensation, and description of the qualifications of each incumbent of each position established under such section 2473(b)(2), together with the position title and a statement of the duties and responsibilities performed by each such incumbent;

(C) the position or positions in or outside the Federal Government held by each such incumbent, and his rate or rates of compensation, during the five-year period immediately preceding the date of appointment of such incumbent to such position; and

(D) such other information as the Administrator may deem appropriate or which may be required by the Congress or a committee thereof.

Nothing contained in this section shall require the resubmission of any information required under subparagraphs (B) and (C) of this paragraph which has been reported pursuant to this section and remains unchanged.

(2) In any instance in which the Administrator may find full public disclosure of any or all of the matter covered by paragraph (1) of this section to be detrimental to the national security, the Administrator is authorized—

(A) to omit in such report those matters with respect to which full public disclosure is found to be detrimental to the national security;

(B) to inform the Congress of such omission; and

(C) at the request of any congressional committee to which such report is referred, to present all information concerning such matters.

(Pub. L. 87-367, title II, § 206(b), Oct. 4, 1961, 75 Stat. 791.)

CODIFICATION

Section was not enacted as a part of Pub. L. 85-568, July 29, 1958, 72 Stat. 426, known as the Federal National Aeronautics and Space Act of 1958, which is classified principally to this chapter.

Section consists of subsec. (b) of section 206 of Pub. L. 87-367. Subsec. (a) thereof amended section 2473 of this title. Pursuant to this codification, references in the original to "this subsection" have been changed to "this paragraph" and "this section", respectively, where appropriate.

§ 2474. Omitted

CODIFICATION

Section, Pub. L. 85-568, title II, § 204, July 29, 1958, 72 Stat. 431; Pub. L. 88-426, title III, § 305(13)(B), Aug. 14, 1964, 78 Stat. 423; Pub. L. 88-448, title IV, § 401(g), Aug. 19, 1964, 78 Stat. 400, established the Civilian-Military Liaison Committee, and has been omitted from the code since the Committee was abolished and its functions, together with the function of its chairman and other officers, transferred to the President of the United States by sections 1(e) and 3(a) of Reorg. Plan No. 4 of 1965, eff. July 27, 1965, 30 F.R. 9353, 79 Stat. 1321, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2475. International cooperation

The Administration, under the foreign policy guidance of the President, may engage in a program of international cooperation in work done pursuant to this chapter, and in the peaceful application of the results thereof, pursuant to agreements made by the President with the advice and consent of the Senate.

(Pub. L. 85-568, title II, § 205, July 29, 1958, 72 Stat. 432.)

REFERENCES IN TEXT

"This chapter" referred to in text, was in the original "this Act" meaning Pub. L. 85-568, known as the National Aeronautics and Space Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables volume.

§ 2476. Reports to the Congress

(a) Presidential report; transmittal

The President shall transmit to the Congress in January of each year a report, which shall include (1) a comprehensive description of the programed activities and the accomplishments of all agencies of the United States in the field of aeronautics and space activities during the preceding calendar year, and (2) an evaluation of such activities and accomplishments in terms of the attainment of, or the failure to attain, the objectives described in section 2451(c) of this title.

(b) Recommendations for additional legislation

Any report made under this section shall contain such recommendations for additional legislation as the Administrator or the President may consider necessary or desirable for the attainment of the objectives described in section 2451(c) of this title.

(c) Classified information

No information which has been classified for reasons of national security shall be included in any report made under this section, unless such information has been declassified by, or pursuant to authorization given by, the President.

(Pub. L. 85-568, title II, § 206, July 29, 1958, 72 Stat. 432; Pub. L. 92-68, § 7, Aug. 6, 1971, 85 Stat. 177.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92-68, § 7(1), (2), repealed provisions for submission of Administration reports to the President semiannually and at other times, and redesignated former subsec. (b) as (a), respectively.

Subsecs. (b), (c). Pub. L. 92-68, § 7(2), redesignated former subsecs. (c) and (d) as (b) and (c). Former subsec. (b) redesignated (a).

Subsec. (d). Pub. L. 92-68. § 7(2), redesignated former subsec. (d) as (c).

§ 2476a. Disposal of excess land; approval by Congressional committees

Notwithstanding the provisions of this or any other law, the Administration may not report to a disposal agency as excess to the needs of the Administration any land having an estimated value in excess of $50,000 which is owned by the United States and under the jurisdiction and control of the Administration, unless (A) a period of thirty days has passed after the receipt by the Speaker and the Committee on Science and Technology of the House of Representatives and the President and the Committee on Aeronautical and Space Sciences of the Senate of a report by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(Pub. L. 85-568, title II, § 207, as added Pub. L. 93-74, § 7, July 23, 1973, 87 Stat. 175, and amended H. Res. 988, Jan. 3, 1975.)

CHANGE OF NAME

The Committee on Science and Astronautics of the House of Representatives was abolished and replaced by the Committee on Science and Technology of the House of Representatives, effective Jan. 3, 1975. See House Resolution 988, 93rd Congress.

The Committee on Aeronautical and Space Sciences of the Senate was abolished and the majority of its jurisdiction transferred to the Committee on Commerce, Science, and Transportation of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved February 4, 1977.

§ 2477. Aerospace Safety Advisory Panel; membership; appointment; term; powers and duties of Panel; Chairman; compensation, travel and other necessary expenses; NASA membership restriction

There is hereby established an Aerospace Safety Advisory Panel consisting of a maximum of nine members who shall be appointed by the Administrator for terms of six years each. The Panel shall review safety studies and operations plans referred to it and shall make reports thereon, shall advise the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards and shall perform such other duties as the Administrator may request. One member shall be designated by the Panel as its Chairman. Members of the Panel who are officers or employees of the Federal Government shall receive no compensation for their services as such, but shall be allowed necessary travel expenses (or in the alternative, mileage for use of privately owned vehicles and a per diem in lieu of subsistence not to exceed the rates prescribed in sections 5702, 5704 of title 5), and other necessary expenses incurred by them in the performance of duties vested in the Panel, without regard to the provisions of subchapter I, chapter 57 of title 5, the Standardized Government Travel Regulations, or section 5731 of title 5. Members of the Panel appointed from outside the Federal Government shall each receive compensation at a rate not to exceed the per diem rate equivalent to the rate for GS-18 for each day such member is engaged in the actual performance of duties vested in the Panel in addition to reimbursement for travel, subsistence, and other necessary expenses in accordance with the provisions of the foregoing sentence. Not more than four such members shall be chosen from among the officers and employees of the National Aeronautics and Space Administration.

(Pub. L. 90-67, § 6, Aug. 21, 1967, 81 Stat. 170; Pub. L. 94-307, § 8, June 4, 1976, 90 Stat. 681.)

REFERENCES IN TEXT

GS-18, referred to in text, is a grade of the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

CODIFICATION

Section was not enacted as part of the National Aeronautics and Space Act of 1958, Pub. L. 85-568, July 29, 1958, 72 Stat. 426, which is classified principally to this chapter.

AMENDMENTS

1976—Pub. L. 94-307 substituted "a rate not to exceed the per diem rate equivalent to the rate for GS-18" for "the rate of $100" as the daily rate of compensation for members of the Panel appointed from outside the Federal Government while engaged in the actual performance of duties vested in the Panel.

TERMINATION OF ADVISORY PANELS

Advisory Panels in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a panel established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER III—UPPER ATMOSPHERE RESEARCH

§ 2481. Congressional declaration of purpose and policy

(a) The purpose of this subchapter is to authorize and direct the Administration to devel-

op and carry out a comprehensive program of research, technology, and monitoring of the phenomena of the upper atmosphere so as to provide for an understanding of and to maintain the chemical and physical integrity of the Earth's upper atmosphere.

(b) The Congress declares that it is the policy of the United States to undertake an immediate and appropriate research, technology, and monitoring program that will provide for understanding the physics and chemistry of the Earth's upper atmosphere.

(Pub. L. 85-568, title IV, § 401, as added Pub. L. 94-39, § 8, June 19, 1975, 89 Stat. 222.)

§ 2482. Definitions

For the purpose of this subchapter the term "upper atmosphere" means that portion of the Earth's sensible atmosphere above the troposphere.

(Pub. L. 85-568, title IV, § 402, as added Pub. L. 94-39, § 8, June 19, 1975, 89 Stat. 222.)

§ 2483. Program authorized

(a) In order to carry out the purposes of this subchapter the Administration in cooperation with other Federal agencies, shall initiate and carry out a program of research, technology, monitoring, and other appropriate activities directed to understand the physics and chemistry of the upper atmosphere.

(b) In carrying out the provisions of this subchapter the Administration shall—

(1) arrange for participation by the scientific and engineering community, of both the Nation's industrial organizations and institutions of higher education, in planning and carrying out appropriate research, in developing necessary technology and in making necessary observations and measurements;

(2) provide, by way of grant, contract, scholarships or other arrangements, to the maximum extent practicable and consistent with other laws, for the widest practicable and appropriate participation of the scientific and engineering community in the program authorized by this subchapter; and

(3) make all results of the program authorized by this subchapter available to the appropriate regulatory agencies and provide for the widest practicable dissemination of such results.

(Pub. L. 85-568, title IV, § 403, as added Pub. L. 94-39, § 8, June 19, 1975, 89 Stat. 222.)

§ 2484. International cooperation

In carrying out the provisions of this subchapter, the Administration, subject to the direction of the President and after consultation with the Secretary of State, shall make every effort to enlist the support and cooperation of appropriate scientists and engineers of other countries and international organizations.

(Pub. L. 85-568, title IV, § 404, as added Pub. L. 94-39, § 8, June 19, 1975, 89 Stat. 223.)

CHAPTER 27—LOAN SERVICE OF CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED

Sec.
2491 to 2494. Repealed.
2495. National Advisory Committee on Education of the Deaf.
(a) Establishment; number and appointment of members; representation of interests; Chairman; term of office; vacancies; restriction on term.
(b) Functions of Advisory Committee.
(c) Advisory professional or technical personnel.
(d) Compensation and travel expenses.
(e) Meetings.

§§ 2491 to 2494. Repealed. Pub. L. 91-230, title VI, § 662(1), Apr. 13, 1970, 84 Stat. 188

Section 2491, Pub. L. 85-905, § 1, Sept. 2, 1958, 72 Stat. 1742; Pub. L. 87-715, § 1(a), Sept. 28, 1962, 76 Stat. 654; Pub. L. 89-258, Oct. 19, 1965, 79 Stat. 983; Pub. L. 90-247, title I, § 155(a), Jan. 2, 1968, 81 Stat. 804, contained statement of purposes for the provisions.

Section 2492, Pub. L. 85-905, § 2, Sept. 2, 1958, 72 Stat. 1742; Pub. L. 89-258, Oct. 19, 1965, 79 Stat. 983; Pub. L. 90-247, title I, § 155(b), Jan. 2, 1968, 81 Stat. 805; Pub. L. 91-61, § 1(2), Aug. 20, 1969, 83 Stat. 103, defined the terms "Secretary", "United States", "deaf person", "handicapped", and "construction".

Section 2493, Pub. L. 85-905, § 3, Sept. 2, 1958, 72 Stat. 1742; Pub. L. 87-715, § 1(b), Sept. 28, 1962, 76 Stat. 654; Pub. L. 89-258, Oct. 19, 1965, 79 Stat. 983; Pub. L. 90-247, title I, § 155(c), (d)(1), Jan. 2, 1968, 81 Stat. 805; Pub. L. 91-61, § 1(1), Aug. 20, 1969, 83 Stat. 102, provided for establishment of a loan service of captioned films and educational media for handicapped and the authority of the Secretary.

Section 2494, Pub. L. 85-905, § 4, Sept. 2, 1958, 72 Stat. 1743; Pub. L. 87-715, § 1(c), Sept. 28, 1962, 76 Stat. 654; Pub. L. 89-258, Oct. 19, 1965, 79 Stat. 984; Pub. L. 90-247, title I, § 155(e), Jan. 2, 1968, 81 Stat. 805; Pub. L. 91-61, § 1(3), Aug. 20, 1969, 83 Stat. 103, authorized appropriations for fiscal years ending as indicated: $3,000,000 (June 30, 1966, and 1967), $8,000,000 (June 30, 1968, and 1969), $10,000,000 (June 30, 1970), $12,500,000 (June 30, 1971), $15,000,000 (June 30, 1972), and $20,000,000 (June 30, 1973 and thereafter).

Such former provisions are now covered by various sections of Title 20, Education, as follows:

Former Sections	*Title 20 Sections*
2491	1451
2492(1)	1401(14)
2492(2)	1401(2)
2492(3)	Repealed
2492(4)	1401(1)
2492(5)	1401(4)
2493(a), (b)	1452(a), (b)
2493(c)(1)(A) to (C)	1453(a)(1) to (3)
2493(c)(1)(D)	1232b
2493(c)(2)	1453(b)
2493(c)(3)	1404
2494	1454

EFFECTIVE DATE

Provisions of sections repealed effective July 1, 1971, see section 662 of Pub. L. 91-230.

§ 2495. National Advisory Committee on Education of the Deaf

(a) Establishment; number and appointment of members; representation of interests; Chairman; term of office; vacancies; restriction on term

(1) For the purpose of advising and assisting the Secretary of Health, Education, and Wel-

fare (hereinafter in this section referred to as the "Secretary") with respect to the education of the deaf, there is hereby created a National Advisory Committee on Education of the Deaf, which shall consist of twelve persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the civil service laws.

(2) The membership of the Advisory Committee shall include educators of the deaf, persons interested in education of the deaf, educators of the hearing, and deaf individuals.

(3) The Secretary shall from time to time designate one of the members of the Advisory Committee to serve as Chairman of the Advisory Committee.

(4) Each member of the Advisory Committee shall serve for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and except that the terms of the office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, three at the end of the first year, three at the end of the second year, three at the end of the third year, and three at the end of the fourth year after the date of appointment.

(5) A member of the Advisory Committee shall not be eligible to serve continuously for more than one term.

(b) Functions of Advisory Committee

The Advisory Committee shall advise the Secretary concerning the carrying out of existing and the formulating of new or modified programs with respect to the education of the deaf. In carrying out its functions, the Advisory Committee shall (A) make recommendations to the Secretary for the development of a system for gathering information on a periodic basis in order to facilitate the assessment of progress and identification of problems in the education of the deaf; (B) identify emerging needs respecting the education of the deaf, and suggest innovations which give promise of meeting such needs and of otherwise improving the educational prospects of deaf individuals; (C) suggest promising areas of inquiry to give direction to the research efforts of the Federal Government in improving the education of the deaf; and (D) make such other recommendations for administrative action or legislative proposals as may be appropriate.

(c) Advisory professional or technical personnel

The Secretary may, at the request of the Advisory Committee appoint such special advisory professional or technical personnel as may be necessary to enable the Advisory Committee to carry out its duties.

(d) Compensation and travel expenses

Members of the Advisory Committee, and advisory or technical personnel appointed pursuant to subsection (c) of this section, while attending meetings or conferences of the Advisory Committee or otherwise serving on business of the Advisory Committee, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day including travel time and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(e) Meetings

The Advisory Committee shall meet at the request of the Secretary, but at least semiannually.

(Pub. L. 85-905, § 5, as added Pub. L. 89-258, Oct. 19, 1965, 79 Stat. 984.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a)(1), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

In subsec. (d), "section 5703 of title 5" was substituted for "section 5 of the Administrative Expenses Act", on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 31-1053 of the District of Columbia Code.

CHAPTER 28—AREA REDEVELOPMENT PROGRAM

§§ 2501 to 2512. Omitted

CODIFICATION

Section 2501, Pub. L. 87-27, § 2, May 1, 1961, 75 Stat. 47, which stated the Congressional declaration of purpose for the Area Redevelopment Program, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2502, Pub. L. 87-27, § 3, May 1, 1961, 75 Stat. 48; Pub. L. 88-426, title III, 305(22), Aug. 14, 1964, 78 Stat. 425, which provided for the appointment and duties of the Area Redevelopment Administrator, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2503, Pub. L. 87-27, § 4, May 1, 1961, 75 Stat. 48, which provided for the creation of membership and functions of the Area Redevelopment Advisory Policy Board and for the National Public Advisory Committee on Area Redevelopment, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2504, Pub. L. 87-27, § 5, May 1, 1961, 75 Stat. 48, which provided for the designation of redevelopment areas by the Secretary of Commerce and the promulgation of standards for determination and use of facts and data, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2505, Pub. L. 87-27, § 6, May 1, 1961, 75 Stat 50, which set forth limitations on loans and participation for industrial projects and set terms, conditions, restrictions, and limitations thereon, was omitted from

the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2506, Pub. L. 87-27, § 7, May 1, 1961, 75 Stat. 52, which provided for the application and conditions for loans for public facilities, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2507, Pub. L. 87-27, § 8, May 1, 1961, 75 Stat. 53, which provided for the application, conditions and amounts of grants for public facilities, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2508, Pub. L. 87-27, § 9, May 1, 1961, 75 Stat. 54, which provided for the notes and obligations, amount, form and denomination, date of maturity, terms and conditions, interest rate, purchase and sale by the Secretary of Treasury of funds for the Area Redevelopment Fund, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2509, Pub. L. 87-27, § 10, May 1, 1961, 75 Stat. 55, which provided for the assistance, information and advice and business firm list to the procurement divisions of Federal instrumentalities, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2510, Pub. L. 87-27, § 11, May 1, 1961, 75 Stat. 55, which authorized the Secretary of Commerce to provide technical assistance and authorized appropriations for the purposes of this section, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2511, Pub. L. 87-27, § 12, May 1, 1961, 75 Stat. 55, which set forth the powers of the Secretary of Commerce in performing his duties under this chapter, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2512, Pub. L. 87-27, § 13, May 1, 1961, 75 Stat. 57, which provided for the termiaton of eligiblity for further assistance as a redevelopment area, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

§§ 2513, 2514. Repealed. Pub. L. 89-15, § 9(b), Apr. 26, 1965, 79 Stat. 79

Section 2513, Pub. L. 87-27, § 16, May 1, 1961, 75 Stat. 58, related to occupational training under the area redevelopment program: studies of various aspects of labor force; area requirements, selection and referral of trainees, agency cooperation in vocational training and retraining programs; additional facilities or services provided by State agencies, public and private institutions; apprenticeship and other training assistance; appropriation; supplementary employment of seasonal workers.

Section 2514, Pub. L. 87-27, § 17, May 1, 1961, 75 Stat. 59, related to retraining subsistence payments: duration, amount of weekly payment; alternative unemployment compensation benefits; administration, finality of determinations; rules and regulations; and appropriation.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective July 1, 1965, see section 9(c) of Pub. L. 89-15, set out as an Effective Date note under section 2610a of this title.

SAVINGS PROVISIONS

Section 9(b) of Pub. L. 89-15 provided in part that: "The repeal of these sections [sections 2513 and 2514 of this title] shall not affect the disbursement of funds under, or the carrying out of, any contract, commitment, or other obligations entered into pursuant to the Area Redevelopment Act [this chapter] prior to the effective date of the repeal of such sections."

§§ 2515 to 2525. Omitted

CODIFICATION

Section 2515, Pub. L. 87-27, § 18, May 1, 1961, 75 Stat. 60, which set forth the penalties for violations of this chapter, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2516, Pub. L. 87-27, § 19, May 1, 1961, 75 Stat. 61, which provided for the employment of expediters and administrative employees, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2517, Pub. L. 87-27, § 20, May 1, 1961, 75 Stat. 61, which provided that the Secretary of Commerce maintain as a permanent record a list of applications approved for financial assistance and for the public inspection thereof, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2518, Pub. L. 87-27, § 21, May 1, 1961, 75 Stat. 61, which provided for the labor standards for laborers and mechanics; their rate of wages and overtime and for the enforcement thereof, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2519, Pub. L. 87-27, § 22, May 1, 1961, 75 Stat. 62, which provided for an annual report to the Congress and for the contents thereof, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2520, Pub. L. 87-27, § 23, May 1, 1961, 75 Stat. 62, which authorized the appropriations necessary to carry out the provisions of this chapter, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2521, Pub. L. 87-27, § 24, May 1, 1961, 75 Stat. 62; Pub. L. 87-793, § 607(a)(4), Oct. 11, 1962, 76 Stat. 849, which provided for the use of other available services and facilities of other agencies and instrumentalities of the Federal Government and for the rules and regulations governing said use, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2522, Pub. L. 87-27, § 25, May 1, 1961, 75 Stat. 63, which stated that each recipient of assistance under this chapter shall keep such records as the Secretary shall prescribe and provided for the audit of such records by the Federal Government, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2523, Pub. L. 87-27, § 27, May 1, 1961, 75 Stat. 63, which provided that the Secretary shall establish and conduct a continuing program of study and research and shall include in his annual report to Congress his findings resulting therefrom and his recommendations for legislative and other action, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2524, Pub. L. 87-27, § 28, May 1, 1961, 75 Stat. 63, which defined the terms "State", "States", and "United States" as used in this chapter, was omitted from the Code as terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2525, Pub. L. 87-27, § 29, May 1, 1961, 75 Stat. 63; Pub. L. 89-55, June 30, 1965, 79 Stat. 195, which stated that the termination date of this chapter and all authority conferred thereunder shall be Aug. 31, 1965 and that the Secretary of the Treasury shall be responsible for the liquidation of the affairs and functions conducted under this chapter was omitted from the Code as executed.

CHAPTER 29—JUVENILE DELINQUENCY AND YOUTH OFFENSES CONTROL

§§ 2541 to 2548. Omitted

CODIFICATION

Section 2541, Pub. L. 87-274, § 2, Sept. 22, 1961, 75 Stat. 572, which set out the Congressional findings

and declaration of policy underlying the passage of the "Juvenile Delinquency and Youth Offenses Control Act of 1961", Pub. L. 87-274, Sept. 22, 1961, 75 Stat. 572, expired June 30, 1967, pursuant to section 2545 of this title. For the Congressional findings and declaration of purpose underlying the passage of the "Juvenile Delinquency Prevention and Control Act of 1968, Pub. L. 90-445, July 31, 1968, 82 Stat. 462, the successor provision, see section 3801 of this title.

Section 2542, Pub. L. 87-274, § 3, Sept. 22, 1961, 75 Stat. 572; Pub. L. 88-368, § 1, July 9, 1964, 78 Stat. 309, which provided for demonstration and evaluation projects, expired June 30, 1967, pursuant to section 2545 of this title. See now sections 3812, 3822, 3832, 3861, and 3871 of this title.

Section 2543, Pub. L. 87-274, § 4, Sept. 22, 1961, 75 Stat. 573, which provided for grants for the training of personnel in programs, for the prevention or control of juvenile delinquency or youth offenses, expired June 30, 1967, pursuant to section 2545 of this title. See now section 3861 of this title.

Section 2544, Pub. L. 87-274, § 5, Sept. 22, 1961, 75 Stat. 573, which provided for technical assistance services, expired June 30, 1967, pursuant to section 2545 of this title. See now section 3871 et seq. of this title.

Section 2545, Pub. L. 87-274, § 6, Sept. 22, 1961, 75 Stat. 573; Pub. L. 88-368, § 2, July 9, 1964, 78 Stat. 309; Pub. L. 89-69, July 8, 1965, 79 Stat. 212, which authorized appropriations for the program through June 30, 1967, was omitted from the Code as executed. See now section 3882 of this title.

Section 2546, Pub. L. 87-274, § 7, Sept. 22, 1961, 75 Stat. 573, which provided for the appointment of technical and advisory committees, expired June 30, 1967, pursuant to section 2545 of this title. See section 3889 of this title.

Section 2547, Pub. L. 87-274, § 8, as added Pub. L. 88-368 § 3, July 9, 1964, 78 Stat. 309, which provided for a special study of school attendance and child labor laws, with a report to be given to the President and Congress by Jan. 31, 1966, expired June 30, 1967, pursuant to section 2545 of this title.

Section 2548, Pub. L. 87-274, § 9, as added Pub. L. 88-368, § 3, July 9, 1964, 78 Stat. 309, which provided for a Washington metropolitan area demonstration project, expired June 30, 1967, pursuant to section 2545 of this title.

CHAPTER 30—MANPOWER DEVELOPMENT AND TRAINING PROGRAM

Chapter Referred to in Other Sections

This chapter is referred to in title 38 section 2013.

SUBCHAPTER I—MANPOWER REQUIREMENTS, DEVELOPMENT, AND UTILIZATION

§§ 2571 to 2574. Repealed. Pub. L. 93-203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845

Section 2571, Pub. L. 87-415, title I, § 101, Mar. 15, 1962, 76 Stat. 23; Pub. L. 88-214, § 1, Dec. 19, 1963, 77 Stat. 422; Pub. L. 89-15, § 2, Apr. 26, 1965, 79 Stat. 75, set out the Congressional statement of findings and purpose in enacting manpower development and training legislation. See now section 801 of Title 29, Labor.

Section 2572, Pub. L. 87-415, title I, § 102, Mar. 15, 1962, 76 Stat. 24; Pub. L. 89-15, §§ 3, 4(b), Apr. 26, 1965, 79 Stat. 75, 76, directed the Secretary of Labor to conduct evaluation activities, obtain and supply information, conduct research, and develop projects to try to avoid or minimize individual hardship and widespread unemployment in accomplishing the objectives of technological progress. See now section 811 of Title 29.

Section 2572a, Pub. L. 87-415, title I, § 103, as added Pub. L. 89-15, § 4(a), Apr. 26, 1965, 79 Stat. 75, directed the Secretary to develop job development programs. See section 811 of Title 29.

Section 2572b, Pub. L. 87-415, title I, § 104, as added Pub. L. 89-15, § 4(a), Apr. 26, 1965, 79 Stat. 76, and amended Pub. L. 89-792, § 2(a), Nov. 7, 1966, 80 Stat. 1434; Pub. L. 90-636, § 1(1), Oct. 24, 1968, 82 Stat. 1352 made provision for labor mobility demonstration projects. See section 811 of Title 29.

Section 2572c, Pub. L. 87-415, title I, § 105, as added Pub. L. 89-15, § 4(a), Apr. 26, 1965, 79 Stat. 76, and amended Pub. L. 89-792, § 2(b), Nov. 7, 1966, 80 Stat. 1434; Pub. L. 90-636, § 1(2), Oct. 24, 1968, 82 Stat. 1352, made provision for trainee placement assistance demonstration projects. See section 811 of Title 29.

Section 2573, Pub. L. 87-415, title I, § 106, formerly 103, Mar. 15, 1962, 76 Stat. 25, renumbered Pub. L. 89-15, § 4(a), Apr. 26, 1965, 79 Stat. 75, and amended Pub. L. 90-636, § 2, Oct. 24, 1968, 82 Stat. 1352, made provision for a labor market information and job matching program. See section 811 of Title 29.

Section 2574, Pub. L. 87-415, title I, § 107, formerly 104, Mar. 15, 1962, 76 Stat. 25, renumbered Pub. L. 89-15, § 4(a), Apr. 26, 1965, 79 Stat. 75, directed the Secretary of Labor to make reports to the President and Congress pertaining to manpower requirements, resources, utilization, and training. See section 985 of Title 29.

Effective Date of Repeal

Section 714, formerly § 614, of Pub. L. 93-203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

Availability of Unexpended Appropriations for Use in Carrying Out Successor Provisions

Unexpended appropriations for carrying out sections 2571 to 2628 of this title available to carry out the Comprehensive Employment and Training Act of 1973, section 801 et seq. of Title 29, Labor, as directed by the President, see section 614 of Pub. L. 93-203, set out in part as a note under section 801 of Title 29.

SUBCHAPTER II—TRAINING AND SKILL DEVELOPMENT PROGRAMS

Part A—Duties of the Secretary of Labor

§§ 2581 to 2587. Repealed. Pub. L. 93-203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845

Section 2581, Pub. L. 87-415, title II, § 201, Mar. 15, 1962, 76 Stat. 25; Pub. L. 89-794, title X, § 1001(a), Nov. 8, 1966, 80 Stat. 1475, set out the general responsibility of the Secretary of Labor in the areas of training and skill development programs. See section 811 of Title 29, Labor.

Section 2582, Pub. L. 87-415, title II, § 202, Mar. 15, 1962, 76 Stat. 25; Pub. L. 88-214, § 2, Dec. 19, 1963, 77 Stat. 422; Pub. L. 89-15, § 5, Apr. 26, 1965, 79 Stat. 77; Pub. L. 89-792, § 3, Nov. 7, 1966, 80 Stat. 1434; Pub. L. 90-636, § 3(a), Oct. 24, 1968, 82 Stat. 1353, covered the selection of trainees by the Secretary of Labor. See section 801 et seq. of Title 29.

Section 2583, Pub. L. 87-415, title II, § 203, Mar. 15, 1962, 76 Stat. 26; Pub. L. 87-729, Oct. 1, 1962, 76 Stat. 679; Pub. L. 88-214, § 3, Dec. 19, 1963, 77 Stat. 422; Pub. L. 89-15, § 6, Apr. 26, 1965, 79 Stat. 77; Pub. L. 89-792, § 4, Nov. 7, 1966, 80 Stat. 1475; Pub. L. 90-636, §§ 4, 5(a), Oct. 24, 1968, 82 Stat. 1353, made provision for the training allowances covering training and skill development programs. See section 801 et seq. of Title 29.

Section 2584, Pub. L. 87-415, title II, § 204, Mar. 15, 1962, 76 Stat. 28; Pub. L. 90-636, § 6, Oct. 24, 1968, 82 Stat. 1353, provided for on-the-job training programs. See section 801 et seq. of Title 29.

Section 2585, Pub. L. 87-415, title II, § 205, Mar. 15, 1962, 76 Stat. 28; Pub. L. 88-214, § 4, Dec. 19, 1963, 77 Stat. 423, made provision for the appointment of a National Advisory Committee by the Secretary. See section 951 of Title 29.

Section 2586, Pub. L. 87-415, title II, § 206, Mar. 15, 1962, 76 Stat. 29, authorized the Secretary to enter into agreements for the utilization of services of appropriate State agencies. See section 988 of Title 29.

Section 2587, Pub. L. 87-415, title II, § 207, Mar. 15, 1962, 76 Stat. 29, empowered the Secretary of Labor to promulgate rules and regulations. See section 982 of Title 29.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614, of Pub. L. 93-203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

§ 2588. Repealed. Pub. L. 89-15, § 7, Apr. 26, 1965, 79 Stat. 78

Section, Pub. L. 87-415, title II, § 208, as added Pub. L. 88-214, § 5, Dec. 19, 1963, 77 Stat. 423, provided for labor mobility demonstration projects during the period ending June 30, 1965, and for assistance in the form of grants or loans, and limited the amount of grants, loans, and appropriations for such use.

PART B—DUTIES OF THE SECRETARY OF HEALTH EDUCATION, AND WELFARE

§§ 2601 to 2603. Repealed. Pub. L. 93-203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845

Section 2601, Pub. L. 87-415, title II, § 231, Mar. 15, 1962, 76 Stat. 30; Pub. L. 88-214, § 6, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89-15, § 8, Apr. 26, 1965, 79 Stat. 78; Pub. L. 89-792, § 5, Nov. 7, 1966, 80 Stat. 1436; Pub. L. 90-636, §§ 3(b), 5(b), 7, Oct. 24, 1968, 82 Stat. 1353, set out the general responsibility of the Secretary of Health, Education, and Welfare in the areas of training and skill development programs. See section 811 of Title 29, Labor.

Section 2602, Pub. L. 87-415, title II, § 232, Mar. 15, 1962, 76 Stat. 30, empowered the Secretary of Health, Education, and Welfare to promulgate rules and regulations. See section 801 et seq. of Title 29.

Section 2603, Pub. L. 87-415, title II, § 233, as added Pub. L. 89-792, § 8(b), Nov. 7, 1966, 80 Stat. 1437, directed the Secretary of Health, Education, and Welfare to make an annual report to Congress. See section 985 of Title 29.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614, of Pub. L. 93-203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

PART C—REDEVELOPMENT AREAS

§ 2610a. Repealed. Pub. L. 93-203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845

Section, Pub. L. 87-415, title II, § 241, as added Pub. L. 89-15, § 9(a), Apr. 26, 1965, 79 Stat. 79, authorized the Secretaries of Labor and of Health, Education, and Welfare to provide programs of supplementary training in redevelopment areas. See section 801 of Title 29, Labor.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614, of Pub. L. 93-203 provided in part that the repeal of this section is effective with respect to fiscal years after June 30, 1974.

PART D—CORRECTIONAL INSTITUTIONS

§ 2610b. Repealed. Pub. L. 93-203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845

Section, Pub. L. 87-415, title II, § 251, as added Pub. L. 89-792, § 6(a), Nov. 7, 1966, 80 Stat. 1436, and amended Pub. L. 90-636, § 1(3), Oct. 24, 1968, 82 Stat. 1352, made provision for experimental training programs for persons in correctional institutes. See section 801 et seq. of Title 29, Labor.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614, of Pub. L. 93-203 provided in part that the repeal of this section is effective with respect to fiscal years after June 30, 1974.

PART E—WORK EXPERIENCE AND TRAINING PROGRAMS

§ 2610c. Repealed. Pub. L. 93-203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845.

Section, Pub. L. 87-415, title II, § 261, as added Pub. L. 89-794, Title X, § 1001(c), Nov. 8, 1966, 80 Stat. 1475, made provision for programs for needy persons requiring work experience, supportive services, or training. See section 801 et seq. of Title 29, Labor.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614, of Pub. L. 93-203 provided in part that the repeal of this section is effective with respect to fiscal years after June 30, 1974.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§§ 2611 to 2620. Repealed. Pub. L. 93-203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845

Section 2611, Pub. L. 87-415, title III, § 301, Mar. 15, 1962, 76 Stat. 30; Pub. L. 89-15, § 10, Apr. 26, 1965, 79 Stat. 79; Pub. L. 89-792, § 7, Nov. 7, 1966, 80 Stat. 1437; Pub. L. 90-636, §§ 8-10, Oct. 24, 1968, 82 Stat. 1354; Pub. L. 91-4, § 1, Mar. 19, 1969, 83 Stat. 6, provided for the apportionment of benefits and the State administration of funds. See section 813 of Title 29, Labor.

Section 2612, Pub. L. 87-415, title III, § 302, Mar. 15, 1962, 76 Stat. 31; Pub. L. 89-15, § 11, Apr. 26, 1965, 79 Stat. 79, required the maintenance of a State effort as a prerequisite to the approval of Federal financing. See section 811 et seq. of Title 29.

Section 2613, Pub. L. 87-415, title III, § 303, Mar. 15, 1962, 76 Stat. 31, called for the utilization of available services and facilities of other Federal agencies and instrumentalities and of resources for skill development. See section 988 of Title 29.

Section 2614, Pub. L. 87-415, title III, § 304, Mar. 15, 1962, 76 Stat. 31; Pub. L. 88-214, § 7, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89-15, § 12, Apr. 26, 1965, 79 Stat. 80; Pub. L. 89-792, § 6(b), Nov. 7, 1966, 80 Stat. 1437; Pub. L. 90-636, § 1(4), Oct. 24, 1968, 82 Stat. 1352, authorized appropriations. See section 802 of Title 29.

Section 2615, Pub. L. 87-415, title III, § 305, Mar. 15, 1962, 76 Stat. 32; Pub. L. 88-214, § 8, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89-15, § 13, Apr. 26, 1965, 79 Stat. 80; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, placed certain limitations on the uses of appropriated funds. See section 981 et seq. of Title 29.

Section 2616, Pub. L. 87-415, title III, § 306, Mar. 15, 1962, 76 Stat. 32; Pub. L. 89-15, § 14, Apr. 26, 1965, 79 Stat. 80, set out the authority of the Secretaries of Labor and of Health, Education, and Welfare to contract, establish procedures, and make payments. See section 811 et seq. of Title 29.

Section 2617, Pub. L. 87-415, title III, § 307, Mar. 15, 1962, 76 Stat. 32, provided that selection of persons for training shall not be contingent upon their membership or non-membership in a labor organization. See section 811 et seq. of Title 29.

Section 2618, Pub. L. 87-415, title III, § 308, Mar. 15, 1962, 76 Stat. 32; Pub. L. 90-636, § 5(c), Oct. 24, 1968, 82 Stat. 1353, defined the term "State". See section 981 of Title 29.

Section 2619, Pub. L. 87-415, title III, § 309, as added Pub. L. 90-636, § 11, Oct. 24, 1968, 82 Stat. 1354, provided for training and technical assistance. See section 981 et seq. of Title 29.

Section 2620, Pub. L. 87-415, title III, § 310, Mar. 15, 1962, 76 Stat. 33; Pub. L. 88-214, § 10, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89-15, § 16, Apr. 26, 1965, 79 Stat. 80; Pub. L. 90-636, § 1(5), Oct. 24, 1968, 82 Stat. 1352; Pub. L. 92-277, § 1, Apr. 24, 1972, 86 Stat. 124, called for the termination of authority to operate training and skill development programs under title II of Pub. L. 87-415 at the close of June 30, 1973.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614, of Pub. L. 93-203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

SUBCHAPTER IV—SEASONAL UNEMPLOYMENT IN THE CONSTRUCTION INDUSTRY

§§ 2621 to 2623. Repealed. Pub. L. 93-203, title VII, § 714 formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845

Section 2621, Pub. L. 87-415, title IV, § 401, as added Pub. L. 90-636, § 12, Oct. 24, 1968, 82 Stat. 1354, set out the Congressional findings and declaration of purpose in establishing a study of the problems of seasonal unemployment in the construction industry.

Section 2622, Pub. L. 87-415, title IV, § 402, as added Pub. L. 90-636, § 12, Oct. 24, 1968, 82 Stat. 1355, called for a study by the Secretaries of Labor and Commerce of the means to stabilize employment in the construction industry and for a report to the President and Congress not later than Dec. 31, 1969.

Section 2623, Pub. L. 87-415, title IV, § 403, as added Pub. L. 90-636, § 12, Oct. 24, 1968, 82 Stat. 1355, and amended 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, called for consultation with Federal official on the reduction of seasonal unemployment.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614, of Pub. L. 93-203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

SUBCHAPTER V—SUPPLEMENTARY STATE PROGRAMS

§§ 2624 to 2628. Repealed. Pub. L. 93-203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845

Section 2624, Pub. L. 87-415, title V, § 501, as added Pub. L. 90-636, § 13, Oct. 24, 1968, 82 Stat. 1355, set out the Congressional declaration of purpose in providing for supplementary State programs. See section 811 et seq. of Title 29, Labor.

Section 2625, Pub. L. 87-415, title V, § 502, as added Pub. L. 90-636, § 13, Oct. 24, 1968, 82 Stat. 1356, provided authorization for grants for supplementary State programs.

Section 2626, Pub. L. 87-415, title V, § 503, as added Pub. L. 90-636, § 13, Oct. 24, 1968, 82 Stat. 1356, provided for the applications for supplementary State programs and the conditions for such programs.

Section 2627, Pub. L. 87-415, title V, § 504, as added Pub. L. 90-636, § 13, Oct. 24, 1968, 82 Stat. 1356, provided for the promulgation of rules and regulations.

Section 2628, Pub. L. 87-415, title V, § 505, as added Pub. L. 90-636, § 13, Oct. 24, 1968, 82 Stat. 1356, authorized appropriations for supplementary State programs.

EFFECTIVE DATE OF REPEAL

Section 714, formerly § 614 of Pub. L. 93-203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

CHAPTER 31—PUBLIC WORKS ACCELERATION PROGRAM

Sec.
2641. Congressional declaration of purpose.
2642. Acceleration of public works.
(a) Eligible areas.
(b) Authority to initiate and accelerate projects; allocation of funds.
(c) Grants-in-aid; law governing; amount of Federal contributions.
(d) Authorization of appropriations.
(e) Rules and regulations; considerations.
(f) Restrictions on allocated funds.
(g) Limit on allocations available for projects in any one State.
(h) Criteria determining substantial unemployment.
2643. Increase of State or local expenditures.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 40 section 462.

§ 2641. Congressional declaration of purpose

(a) The Congress finds that (1) certain communities and areas in the Nation are presently burdened by substantial unemployment and underemployment and have failed to share fully in the economic gains of the recovery from the recession of 1960-1961 and (2) action by the Federal Government is necessary, both to provide immediate useful work for the unemployed and underemployed in these communities and to help these communities, through improvement of their facilities, to become more conducive to industrial development and better places in which to live and work. The Nation has a backlog of needed public projects, and an acceleration of these projects now will not only increase employment at a time when jobs are urgently required but will also meet longstanding public needs, improve community services, and enhance the health and welfare of citizens of the Nation.

(b) The Congress further finds that Federal assistance to stimulate public works investment in order to increase employment opportunities is most urgently needed in those areas, both urban and rural, which qualify as redevelopment areas because they suffer from persistent and chronic unemployment and economic underdevelopment, as well as in other areas which have suffered from substantial unemployment for a period of at least twelve months.

(Pub. L. 87-658, § 2, Sept. 14, 1962, 76 Stat. 542.)

SHORT TITLE

Section 1 of Pub. L. 87-658 provided: "That this Act [enacting this chapter and amending section 462 of Title 40, Public Buildings, Property, and Works, and section 1492 of this title] may be cited as the 'Public Works Acceleration Act'."

§ 2642. Acceleration of public works

(a) Eligible areas

For the purposes of this section the term "eligible area" means—

(1) those areas which the Secretary of Labor designates each month as having been areas of substantial unemployment for at least nine of the preceding twelve months; and

(2) those areas which are designated by the Secretary of Commerce under subsections (a) and (b) of section 2504 of this title as "redevelopment areas".

(b) Authority to initiate and accelerate projects; allocation of funds

The President is authorized to initiate and accelerate in eligible areas those Federal public works projects which have been authorized by Congress, and those public works projects of States and local governments for which Federal financial assistance is authorized under provisions of law other than this chapter, by allocating funds appropriated to carry out this section—

(1) to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the construction of Federal public works projects, and

(2) to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of laws authorizing Federal financial assistance to public works projects of State and local governments.

(c) Grants-in-aid; law governing; amount of Federal contributions

All grants-in-aid made from allocations made by the President under this section shall be made by the head of the department, agency, or instrumentality of the Federal Government administering the law authorizing such grants, and, except as otherwise provided in this subsection, shall be made in accordance with all of the provisions of such law except (1) provisions requiring allocation of funds among the States, and (2) limitations upon the total amount of such grants for any period. Notwithstanding any provisions of such law requiring the Federal contribution to the State or local government involved to be less than a fixed portion of the cost of a project, grants-in-aid may be made under authority of this section which bring the total of all Federal contributions to such project up to 50 per centum of the cost of such project, or up to 75 per centum of the cost of such project if the State or local government does not have economic and financial capacity to assume all of the additional financial obligations required.

(d) Authorization of appropriations

There is authorized to be appropriated not to exceed $900,000,000 to be allocated by the President in accordance with subsection (b) of this section, except that not less than $300,000,000 shall be allocated for public works projects in areas designated by the Secretary of Commerce as redevelopment areas under subsection (b) of section 2504 of this title.

(e) Rules and regulations; considerations

The President shall prescribe rules, regulations, and procedures to carry out this section which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures the President shall consider among other relevant factors (1) the severity of the rates of unemployment in the eligible areas and the duration of such unemployment and (2) the income levels of families and the extent of underemployment in eligible areas.

(f) Restrictions on allocated funds

Funds allocated by the President under this section shall be available only for projects—

(1) which can be initiated or accelerated within a reasonably short period of time;

(2) which will meet an essential public need;

(3) a substantial portion of which can be completed within twelve months after initiation or acceleration;

(4) which will contribute significantly to the reduction of local unemployment;

(5) which are not inconsistent with locally approved comprehensive plans for the jurisdiction affected, wherever such plans exist.

(g) Limit on allocations available for projects in any one State

Not more than 10 per centum of all amounts allocated by the President under this section shall be made available for public works projects within any one State.

(h) Criteria determining substantial unemployment

The criteria to be used by the Secretary of Labor in determining areas of substantial unemployment for the purposes of paragraph (1) of subsection (a) of this section shall be the criteria established in section 6.3 of title 29 of the Code of Federal Regulations as in effect May 1, 1962.

(Pub. L. 87-658, § 3, Sept. 14, 1962, 76 Stat. 542.)

REFERENCES IN TEXT

Section 2504 of this title, referred to in subsecs. (a) and (d), was omitted from the Code as obsolete. See now sections 3161 and 3162 of this title.

EX. ORD. NO. 11049. IMPLEMENTATION OF CHAPTER

Ex. Ord. No. 11049, Sept. 14, 1962, 27 F.R. 9203, provided:

By virtue of the authority vested in me by the Public Works Acceleration Act, approved September 14, 1962 (Public Law 87-658) [this chapter], hereinafter referred to as the Act, and by Section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Secretary of Commerce shall assist the President in the carrying out of the Public Works Acceleration Act and to that end he shall (a) receive and coordinate proposals from Federal agencies for allocations from funds appropriated pursuant to Section 3 of the Act [this section], and (b) make recommendations to the President for the allocation of such funds. The Secretary shall maintain such records of progress and accomplishments and shall recommend such actions by the President as are necessary to assure that Federal responsibilities under the Act are carried out expeditiously.

SEC. 2. There is hereby delegated to the Secretary of Commerce the authority vested in the President by Section 3(e) of the Act [subsec. (e) of this section] to prescribe rules, regulations, and procedures to carry out Section 3 of the Act [this section]. In prescribing such rules, regulations, and procedures, the Secretary

shall include therein provisions to assure that (a) preference in employment on public works undertaken pursuant to the Act shall, insofar as practicable, be given to qualified local labor, (b) funds allocated under the Act shall be supplementary to other Federal funds which otherwise would have been expended in eligible areas as defined in the Act, and (c) appropriate State and local agencies shall direct requests for Federal assistance to the Federal agency administering the law authorizing such assistance.

SEC. 3. Federal departments and agencies receiving allocations of funds appropriated pursuant to the Act shall make such regular reports and provide such other information to the Secretary of Commerce as he deems necessary in order to carry out his responsibilities under this order, and shall cooperate with the Secretary to assure that Federal funds are expended in accordance with the requirements of the Act and of the rules, regulations, and procedures prescribed pursuant to the Act.

JOHN F. KENNEDY.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 2643. Increase of State or local expenditures

(a) No part of any allocation made by the President under this chapter shall be made available during any fiscal year to any State or local government for any public works project, unless the proposed or planned total expenditure (exclusive of Federal funds) of such State or local government during such fiscal year for all its capital improvement projects is increased by an amount approximately equal to the non-Federal funds required to be made available for such public works project.

(b) No part of any allocation made by the President under this chapter shall be made available for any planning or construction, directly or indirectly, of any school or other educational facility.

(Pub. L. 87-658, § 4, Sept. 14, 1962, 76 Stat. 543.)

CHAPTER 32—THIRD PARTY LIABILITY FOR HOSPITAL AND MEDICAL CARE

Sec.
2651. Recovery by United States.
(a) Conditions, exceptions; persons liable; amount of recovery; subrogation; assignment.
(b) Enforcement procedure; intervention; joinder of parties; State or Federal court proceedings.
(c) Veterans' exception.
2652. Regulations.
(a) Determination and establishment of reasonable value of care and treatment.
(b) Settlement, release and waiver of claims.
(c) Damages recoverable for personal injury unaffected.
2653. Limitation or repeal of other provisions for recovery of hospital and medical care costs.

§ 2651. Recovery by United States

(a) Conditions; exceptions; persons liable; amount of recovery; subrogation; assignment

In any case in which the United States is authorized or required by law to furnish hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) to a person who is injured or suffers a disease, after the effective date of this Act, under circumstances creating a tort liability upon some third person (other than or in addition to the United States and except employers of seamen treated under the provisions of section 249 of this title) to pay damages therefor, the United States shall have a right to recover from said third person the reasonable value of the care and treatment so furnished or to be furnished and shall, as to this right be subrogated to any right or claim that the injured or diseased person, his guardian, personal representative, estate, dependents, or survivors has against such third person to the extent of the reasonable value of the care and treatment so furnished or to be furnished. The head of the department or agency of the United States furnishing such care or treatment may also require the injured or diseased person, his guardian, personal representative, estate, dependents, or survivors, as appropriate, to assign his claim or cause of action against the third person to the extent of that right or claim.

(b) Enforcement procedure; intervention; joinder of parties; State or Federal court proceedings

The United States may, to enforce such right, (1) intervene or join in any action or proceeding brought by the injured or diseased person, his guardian, personal representative, estate, dependents, or survivors, against the third person who is liable for the injury or disease; or (2) if such action or proceeding is not commenced within six months after the first day in which care and treatment is furnished by the United States in connection with the injury or disease involved, institute and prosecute legal proceedings against the third person who is liable for the injury or disease, in a State or Federal court, either alone (in its own name or in the name of the injured person, his guardian, personal representative, estate, dependents, or survivors) or in conjunction with the injured or diseased person, his guardian, personal representative, estate, dependents, or survivors.

(c) Veterans' exception

The provisions of this section shall not apply with respect to hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished by the Veterans' Administration to an elegible veteran for a service-connected disability under the provisions of chapter 17 of title 38.

(Pub. L. 87-693, § 1, Sept. 25, 1962, 76 Stat. 593.)

REFERENCES IN TEXT

Effective date of this Act, referred to in subsec. (a), as the first day of the fourth month following September, 1962, see section 4 of Pub. L. 87-693 set out as an Effective Date note below.

EFFECTIVE DATE

Section 4 of Pub. L. 87-693 provided that: "This Act [enacting this chapter] becomes effective on the first day of the fourth month following the month [September, 1962] in which enacted."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2652, 2653 of this title.

§ 2652. Regulations

(a) Determination and establishment of reasonable value of care and treatment

The President may prescribe regulations to carry out this chapter, including regulations with respect to the determination and establishment of the reasonable value of the hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished.

(b) Settlement, release and waiver of claims

To the extent prescribed by regulations under subsection (a) of this section, the head of the department or agency of the United States concerned may (1) compromise, or settle and execute a release of, any claim which the United States has by virtue of the right established by section 2651 of this title; or (2) waive any such claim, in whole or in part, for the convenience of the Government, or if he determines that collection would result in undue hardship upon the person who suffered the injury or disease resulting in care or treatment described in section 2651 of this title.

(c) Damages recoverable for personal injury unaffected

No action taken by the United States in connection with the rights afforded under this legislation shall operate to deny to the injured person the recovery for that portion of his damage not covered hereunder.

(Pub. L. 87-693, § 2, Sept. 25, 1962, 76 Stat. 593.)

EX. ORD. NO. 11060. DELEGATION OF AUTHORITY TO PRESCRIBE REGULATIONS

Ex. Ord. No. 11060, Nov. 7, 1962, 27 F.R. 10925, provided:

Under and by virtue of the authority vested in me by Title 3 of the United States Code and by Section 2(a) of the Act of September 25, 1962 (Public Law 87-693) [subsec. (a) of this section], it is hereby ordered as follows:

SECTION 1. The Director of the Bureau of the Budget [now Director of the Office of Management and Budget] shall, for the purposes of the Act of September 25, 1962, [this chapter], from time to time, determine and establish rates that represent the reasonable value of hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished.

SEC. 2. Except as provided in Section 1 of this order, the Attorney General shall prescribe regulations to carry out the purposes of the Act of September 25, 1962 [this chapter].

JOHN F. KENNEDY.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budet or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget.

§ 2653. Limitation or repeal of other provisions for recovery of hospital and medical care costs

This chapter does not limit or repeal any other provision of law providing for recovery by the United States of the costs of care and treatment described in section 2651 of this title.

(Pub. L. 87-693, § 3, Sept. 25, 1962, 76 Stat. 594.)

CHAPTER 33—COMMUNITY MENTAL HEALTH CENTERS

SUBCHAPTER I—UNIVERSITY-AFFILIATED FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

Sec.
2661 to 2666. Omitted.

SUBCHAPTER II—GRANTS FOR PLANNING, PROVISION OF SERVICES, AND CONSTRUCTION AND OPERATION OF FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

2670. Repealed.
2671 to 2674. Transferred.
2675, 2676. Repealed.
2677 to 2677c. Transferred.

SUBCHAPTER IIA—PROFESSIONAL AND TECHNICAL SERVICES FOR COMMUNITY MENTAL RETARDATION FACILITIES

2678 to 2678d. Omitted.

SUBCHAPTER III—COMMUNITY MENTAL HEALTH CENTERS

2681 to 2688j-1. Omitted.
2688j-2. Repealed.
2688k to 2688o. Omitted.
2688p. Repealed.
2688q to 2688v. Omitted.

PART A—PLANNING AND OPERATIONS ASSISTANCE

2689. General requirements for centers.
(a) Definitions.
(b) Comprehensive mental health services; provision and coordination of activities.
(c) Governing body; membership requirements; definition.
(d) Ongoing quality assurance program, integrated medical records system, professional advisory board and identifiable administrative unit; establishment pursuant to regulations; waiver of requirement of identifiable administrative unit.
2689a. Grants for planning center programs.
(a) Prerequisites; maximum amount.
(b) Duration and number of grants.
(c) Priority and approval of applications.
(d) Authorization of appropriations.
2689b. Grants for initial operation of centers and related public or nonprofit private entity.
(a) Purpose and scope of grants; status of prior grant recipients.
(b) Duration and number of grants.
(c) Computation of amount of grants.
(d) Authorization of appropriations.
(e) Continuation of grants for prior grant recipients; determination of duration, amount, number, etc., of continuation grants; authorization of appropriations.
(f) Grants subject to coverage.
2689c. Annual grants for consultation and education services of centers and related public or nonprofit private entity.
(a) Prerequisites.
(b) Computation of amount of grants; definition.
(c) Authorization of appropriations.
2689d. Conversion grants for related public or nonprofit entity.
(a) Number, prerequisites, and scope of grants.
(b) Duration and computation of amounts of grants.
(c) Authorization of appropriations.

Sec.
2689e. General requirements for grants.
(a) Submission and approval of State plan.
(b) Submission and approval of application.
(c) Form, manner, contents, and required assurances of application; prerequisites for approval of application; evaluation and review program of activities; promulgation of regulations determining required costs; determination and review of adequacy of applicant's methods to obtain payments and reimbursements.
(d) Review of and comments on application by State mental health authority; disposition of application; time limitations.
(e) Maximum amount of appropriations usable for technical assistance for program management and training in program management.
(f) Definition.

PART B—FINANCIAL DISTRESS GRANTS

2689f. Grants for operation of centers; eligible centers.
2689g. General requirements for grants.
(a) Submission and approval of State plan; terms and conditions for grants.
(b) Contents and required assurances of application; prerequisites for approval of application; review of and comments on application by State mental health authority; disposition of application; time limitations.
(c) Duration and number of grants.
(d) Computation of amount of grants.
2689h. Authorization of appropriations.

PART C—FACILITIES ASSISTANCE

2689i. Federal share; manner of payment; eligible projects; definition; computation and promulgation of amount.
2689j. Approval of projects; submission and contents of application; hearing; definition; prerequisites for approval of application; hearing prior to disapproval; amendment of approved application.
2689k. Payments.
(a) Remodeling, construction, or expansion projects, or purchases for such projects; prerequisites; manner of payments; exceptions; maximum amount; additional payments upon approval of amendment to application or revision of estimated cost of project.
(b) Acquisition and leasing projects; payments from State allotment pursuant to regulations.
(c) Withholding of payments; prerequisites and procedures.
2689l. Judicial review; appeal to courts of appeals; petition; record; conclusiveness of findings; review by Supreme Court; stay of administrative action.
2689m. Recovery of payments by the United States; prerequisites; amount of recovery; procedure; nature of right.
2689n. Nonduplication of grants.
2689o. Allotments to States; determination of amount; availability of unobligated sums; reallotment of available amounts to other States; determination of amount of reallotment; adjustments to allotments.
2689p. Authorization of appropriations.

PART D—RAPE PREVENTION AND CONTROL

Sec.
2689q. National Center for the Prevention and Control of Rape.
(a) Establishment.
(b) Functions; definition.
(c) Advisory committee; appointment; functions; membership; compensation; per diem and travel expenses.
(d) Authorization of appropriations.

PART E—GENERAL PROVISIONS

2689r. Definitions.
2689s. Regulations; promulgation and required provisions; consultation prior to issuance.
2689t. State plans.
(a) Required administrative, and services and facilities provisions.
(b) Administration or supervision of administration by State agency.
(c) Regulations prescribing form and manner of submission; approval of plan or modification; notice and hearing prior to disapproval.
(d) Availability of allotments to States for administration of plan provisions relating to projects facilities; amounts available; duration of availability; manner of payment; conditions.
2689u. Catchment areas of centers; periodic review by designated State health planning and development agency and State mental health authority; purposes of review.
2689v. State control of adminstration, personnel, maintenance or operation of centers.
2689w. Maintenance of records; audit and examination of books, documents, etc.
2689x. Exclusions from determination of amount of grant.
2689y. Poverty area; determination.
2689z. Protection of personal rights under grants.
2689aa. Reimbursement of centers for mental health services.

SUBCHAPTER IV—GENERAL PROVISIONS

2691 to 2697b. Repealed.

SUBCHAPTER V—TRAINING OF PHYSICAL EDUCATORS AND RECREATION PERSONNEL FOR MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN

2698 to 2698b. Repealed.

EXECUTIVE ORDER No. 11280

Ex. Ord. No. 11280, May 11, 1966, 31 F.R. 7167, formerly set out as a note preceding section 2661 of this title, which established the President's Committee on Mental Retardation, was superseded by Ex. Ord. No. 11776, Mar. 28, 1974, 39 F.R. 11865, set out preceding section 6001 of this title.

SUBCHAPTER I—UNIVERSITY-AFFILIATED FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

§§ 2661 to 2666. Omitted

CODIFICATION

Section 2661, Pub. L. 88-164, title I, § 121, Oct. 31, 1963, 77 Stat. 284; Pub. L. 90-170, § 2(a), (b), (d), Dec. 4, 1967, 81 Stat. 527; Pub. L. 91-517, title II, § 201(a), (b), Oct. 30, 1970, 84 Stat. 1325, which related to authorization of appropriations was omitted from the Code as superseded in the general amendment of part B of title I of Pub. L. 88-164 (this subchapter) by Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 486.

Section 2661a, Pub. L. 88-164, title I, § 122, as added Pub. L. 91-517, title II, § 202, Oct. 30, 1970, 84 Stat.

1326, and amended Pub. L. 93-45, title III, § 301(a), June 18, 1973, 87 Stat. 95; Pub. L. 94-103, title I, § 101(a), Oct. 4, 1975, 89 Stat. 486, which related to demonstration and training grants and authorization of appropriations for such grants was omitted from the Code as superseded in the general amendment of part B of title I of Pub. L. 88-164 (this subchapter) by Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 486.

Section 2662, Pub. L. 88-164, title I, § 123, formerly § 122, Oct. 31, 1963, 77 Stat. 284, renumbered and amended Pub. L. 91-517, title II, §§ 202, 203, Oct. 30, 1970, 84 Stat. 1326, which related to applications for grants and conditions for approval by Secretary was omitted from the Code as superseded in the general amendment of part B of title I of Pub. L. 88-164 (this subchapter) by Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 486.

Section 2663, Pub. L. 88-164, title I, § 124, formerly § 123, Oct. 31, 1963, 77 Stat. 285, renumbered and amended Pub. L. 91-517, title II, §§ 202, 204, Oct. 30, 1970, 84 Stat. 1326, which related to amount of grants, including maximum payments, advances or reimbursement, and conditions for payment was omitted from the Code as superseded in the general amendment of part B of title I of Pub. L. 88-164 (this subchapter) by Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 486.

Section 2664, Pub. L. 88-164, title I, § 125, formerly § 124, Oct. 31, 1963, 77 Stat. 285, renumbered and amended Pub. L. 91-517, title II, §§ 201(c), 202, 205, Oct. 30, 1970, 84 Stat. 1326, which related to recovery of expenditures under certain conditions, was omitted from the Code as superseded in the general amendment of part B of title I of Pub. L. 88-164 (this subchapter) by Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 486.

Section 2665, Pub. L. 88-164, title I, § 126, formerly § 125, Oct. 31, 1963, 77 Stat. 285, amended Pub. L. 90-170, § 2(c), Dec. 4, 1967, 81 Stat. 527, renumbered and amended Pub. L. 91-517, title II, §§ 201(c), 202, Oct. 30, 1970, 84 Stat. 1326 which related to nonduplication of grants was omitted from the Code as superseded in the general amendment of part B of title I of Pub. L. 88-164 (this subchapter by Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 486.

Section 2666, Pub. L. 88-164, title I, § 127, as added Pub. L. 91-517, title II, § 206, Oct. 30, 1970, 84 Stat. 1326, which related to maintenance of effort, was omitted from the Code as superseded in the general amendment of part B of title I of Pub. L. 88-164 (this subchapter) by Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 486.

Subject matter is now covered by section 6031 et seq. of this title.

Sections eliminated effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

SUBCHAPTER II—GRANTS FOR PLANNING, PROVISION OF SERVICES, AND CONSTRUCTION AND OPERATION OF FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

§ 2670. Repealed. Pub. L. 94-103, title III, § 302(c), Oct. 4, 1975, 89 Stat. 507

Section, Pub. L. 88-164, title I, § 130, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1316, contained the declaration of purpose for provisions respecting grants for planning, provision of services, and construction and operation of facilities for persons with developmental disabilities.

Effective Date of Repeal

Section repealed effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

§§ 2671 to 2674. Transferred

Codification

Section 2671, Pub. L. 88-164, title I, § 131, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1317, which related to authorization of appropriations, was transferred to section 6061 of this title.

A prior section 2671, Pub. L. 88-164, title I, § 131, Oct. 31, 1963, 77 Stat. 286; Pub. L. 90-170, § 3(a), Dec. 4, 1967, 81 Stat. 528, authorized appropriations through the fiscal year ending June 30, 1970, for grants for construction of mental retardation facilities.

Section 2672, Pub. L. 88-164, title I, § 132, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1317, which related to allotments to States, was transferred to section 6062 of this title.

A prior section 2672, Pub. L. 88-164, title I, § 132, Oct. 31, 1963, 77 Stat. 286; Pub. L. 89-105, § 2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 90-170, § 3(c), Dec. 4, 1967, 81 Stat. 528, authorized allotments to States, transfers of allotments between States, and adjustment of allotments to a State for construction of facilities for the mentally retarded.

Section 2673, Pub. L. 88-164, title I, § 133, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1318, which related to the National Advisory Council on Services and Facilities for the Developmentally Disabled, was transferred to section 6007 of this title.

A prior section 2673, Pub. L. 88-164, title I, § 133, Oct. 31, 1963, 77 Stat. 287, provided that within six months after Oct. 31, 1963, the Secretary, after consultation with the Federal Hospital Council, prescribe to the States (1) what constitutes adequate services for mentally retarded persons, (2) the method of determining priority of projects, (3) standards of construction and equipment, and (4) that the State plan provide adequate facilities for the mentally retarded including persons unable to pay therefor.

Section 2674, Pub. L. 88-164, title I, § 133, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1319, which related to State plans, was transferred to section 6063 of this title.

A prior section 2674, Pub. L. 88-164, title I, § 134, Oct. 31, 1963, 77 Stat. 287; Pub. L. 90-170, § 5, Dec. 4, 1967, 81 Stat. 530, provided for submission to the Secretary of State plans for his approval, set out the conditions for approval, and required notice and hearing before final disapproval.

§§ 2675, 2676. Repealed. Pub. L. 94-103, title I, § 112, Oct. 4, 1975, 89 Stat. 492

Section 2675, Pub. L. 88-164, title I, § 135, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1321, related to projects for construction, prescribing in: subsec. (a) for submission of application and its contents, subsec. (b) for approval by Secretary, subsec. (c) for a hearing prior to disapproval, and subsec. (d) for amendment of application. See now sections 6042, 6063, and 6064 of this title.

A prior section 2675, Pub. L. 88-164, title I, § 135, Oct. 31, 1963, 77 Stat. 288, provided for the submission of an application for approval by the Secretary, of projects for construction, set forth the contents of such application, provided for hearing prior to disapproval, and subjected to approval any amendment of an approved application.

Section 2676, Pub. L. 88-164, title I, § 136, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1322, and amended Pub. L. 92-157, title III, § 303(b), Nov. 18, 1971, 85 Stat. 464, related to withholding of payments for construction. See now section 6064(b) of this title.

A prior section 2676, Pub. L. 88-164, title I, § 136, Oct. 31, 1963, 77 Stat. 289, authorized withholding by Secretary of payments for construction.

Effective Date of Repeal

Sections repealed effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning

after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

§§ 2677 to 2677c. Transferred

CODIFICATION

Section 2677, Pub. L. 88-164, title I, § 137, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1323, which related to payments to States for planning, administration, and services, was transferred to section 6064 of this title.

A prior section 2677, Pub. L. 88-164, title I, § 137, Oct. 31, 1963, 77 Stat. 289; Pub. L. 90-170, § 3(b), Dec. 4, 1967, 81 Stat. 528, prohibited duplication of grants for the construction of any facility for the mentally retarded under the Public Health Service Act, section 201 et seq. of this title.

Section 2677a, Pub. L. 88-164, title I, § 138, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1323, which related to withholding of payments for planning, administration, and services, was transferred to section 6065 of this title.

Section 2677b, Pub. L. 88-164, title I, § 139, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1323, which related to promulgation of regulations, was transferred to section 6008 of this title.

Section 2677c, Pub. L. 88-164, title I, § 140, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1324, which related to nonduplication of payments, was transferred to section 6066 of this title.

SUBCHAPTER IIA—PROFESSIONAL AND TECHNICAL SERVICES FOR COMMUNITY MENTAL RETARDATION FACILITIES

§§ 2678 to 2678d. Omitted

CODIFICATION

Section 2678, Pub. L. 88-164, title I, § 141, as added Pub. L. 90-170, § 4, Dec. 4, 1967, 81 Stat. 528, which related to authorization, duration, amount and limitation of grants for professional and technical personnel and determination of grants by the Secretary was omitted from the Code as superseded in the general amendment of part D of title I of Pub. L. 88-164 (this subchapter) by Pub. L. 94-103, title I, § 120, Oct. 4, 1975, 89 Stat. 495.

Section 2678a, Pub. L. 88-164, title I, § 142, as added Pub. L. 90-170, § 4, Dec. 4, 1967, 81 Stat. 529, which related to applications and conditions for approval of grants, and limitations on the availability of grants was omitted from the Code as superseded in the general amendment of part D of title I of Pub. L. 88-164 (this subchapter) by Pub. L. 94-103, title I, § 120, Oct. 4, 1975, 89 Stat. 495.

Section 2678b, Pub. L. 88-164, title I, § 143, as added Pub. L. 90-170, § 4, Dec. 4, 1967, 81 Stat. 529, which related to payments of grants and adjustments, was omitted from the Code as superseded in the general amendment of part D of title I of Pub. L. 88-164 (this subchapter) by Pub. L. 94-103, title I, § 120, Oct. 4, 1975, 89 Stat. 495.

Section 2678c, Pub. L. 88-164, title I, § 144, as added Pub. L. 90-170, § 4, Dec. 4, 1967, 81 Stat. 529, which related to regulations, was omitted from the Code as superseded in the general amendment of part D of title I of Pub. L. 88-164, (this subchapter) by Pub. L. 94-103, title I, § 120, Oct. 4, 1975, 89 Stat. 495.

Section 2678d, Pub. L. 88-164, title I, § 145, as added Pub. L. 90-170, § 4, Dec. 4, 1967, 81 Stat. 529, which related to authorization of appropriations, was omitted from the Code as superseded in the general amendment of part D of title I of Pub. L. 88-164 (this subchapter) by Pub. L. 94-103, title I, § 120, Oct. 4, 1975, 89 Stat. 495.

Subject matter of sections 2678 to 2678d of this title is now covered by section 6081 of this title.

Sections eliminated effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

SUBCHAPTER III—COMMUNITY MENTAL HEALTH CENTERS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 217a-1, 225a, 229b, 289k-1, 300a-7, 300*l*-2, 300m, 300m-3, 1320a-1, 3195, 3509 of this title; title 40 App. section 202.

§§ 2681 to 2688j-1. Omitted

CODIFICATION

Sections 2681 to 2688j-1 were omitted from the Code as superseded in the general amendment of title II of Pub. L. 88-164, by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309.

Section 2681, Pub. L. 88-164, title II, § 201, Oct. 31, 1963, 77 Stat. 290; Pub. L. 90-31, § 2(a), June 24, 1967, 81 Stat. 79; Pub. L. 91-211, title I, § 101(a), Mar. 13, 1970, 84 Stat. 54; Pub. L. 93-45, title II, § 202(a), June 18, 1973, 87 Stat. 94; Pub. L. 94-63, title VII, § 701(e)(1), July 29, 1975, 89 Stat. 352, authorized appropriations from fiscal year ending June 30, 1965, through fiscal year ending June 30, 1975, for grants for the construction of community mental health centers.

Section 2682, Pub. L. 88-164, title II, § 202, Oct. 31, 1963, 77 Stat. 290; Pub. L. 89-105, § 2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 91-211, title I, § 102(a), Mar. 13, 1970, 84 Stat. 54, set forth determination of amount, transfer, and adjustment of allotments to the States.

Section 2683, of Pub. L. 88-164, title II, § 203, Oct. 31, 1963, 77 Stat. 291; Pub. L. 89-105, § 2(a), Aug. 4, 1965, 79 Stat. 427, authorized the Secretary to promulgate regulations relating to adequacy of services, priority of projects, standards of construction and contents of the State plan.

Section 2684, Pub. L. 88-164, title II, § 204, Oct. 31, 1963, 77 Stat. 291; Pub. L. 89-105; § 2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 90-31, § 4(b), June 24, 1967, 81 Stat. 79; Pub. L. 92-255, title IV, § 403(b), Mar. 21, 1972, 86 Stat. 77, set forth requirements for submission and approval of the State plan.

Section 2685, Pub. L. 88-164, title II, § 205, Oct. 31, 1963, 77 Stat. 292; Pub. L. 89-105, § 2(a), Aug. 4, 1965, 79 Stat. 427, set out prerequisites for approval of construction projects.

Section 2686, Pub. L. 88-164, title II, § 206, Oct. 31, 1963, 77 Stat. 293; Pub. L. 89-105, § 2(a), Aug. 4, 1965, 79 Stat. 427, authorized the Secretary to withhold payments for projects under specified conditions and procedures.

Section 2687, Pub. L. 88-164, title II, § 207, Oct. 31, 1963, 77 Stat. 294; Pub. L. 89-105, § 2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 90-31, § 2(b), June 24, 1967, 81 Stat. 79; Pub. L. 91-211, title I, § 101(b), Mar. 13, 1970, 84 Stat. 54; Pub. L. 93-45, title II, § 202(b), June 18, 1973, 87 Stat. 94; Pub. L. 94-63, title VII, § 701(e)(2), July 29, 1975, 89 Stat. 352, prohibited duplication of grants under the Public Health Service Act for construction of centers unless the Secretary determined nonavailability of funds under provisions authorizing appropriations for construction.

Section 2688, Pub. L. 88-164, title II, § 220, as added Pub. L. 89-105, § 2(b), Aug. 4, 1965, 79 Stat. 428, and amended Pub. L. 91-211, title II, § 201(a), Mar. 13, 1970, 84 Stat. 56, set forth authorization, duration and amount of grants for initial costs of professional and technical personnel of centers.

Section 2688a, Pub. L. 88-164, title II, § 221, as added Pub. L. 89-105, § 2(b), Aug. 4, 1965, 79 Stat. 428, and amended Pub. L. 90-31, § 3(a), June 24, 1967, 81 Stat. 79; Pub. L. 91-211, title II, §§ 203, 204(c), Mar. 13, 1970, 84 Stat. 57; Pub. L. 92-255, title IV, § 401(a), Mar. 21, 1972, 86 Stat. 76; Pub. L. 93-45, title II, § 203(a), June 18, 1973, 87 Stat. 94; Pub. L. 94-63, title VII, § 701(e)(3), July 29, 1975, 89 Stat. 352, set forth prereq-

uisites and conditions upon grants for initial costs of staffing of centers.

Section 2688b, Pub. L. 88-164, title II, § 222, as added Pub. L. 89-105, § 2(b), Aug. 4, 1965, 79 Stat. 429, authorized the Secretary to prescribe the manner, terms and conditions for staffing grants.

Section 2688c, Pub. L. 88-164, title II, § 223, as added Pub. L. 89-105, § 2(b), Aug. 4, 1965, 79 Stat. 429, authorized the Secretary to prescribe regulations for grants for initial costs of personnel of centers.

Section 2688d, Pub. L. 88-164, title II, § 224, as added Pub. L. 89-105, § 2(b), Aug. 4, 1965, 79 Stat. 429, and amended Pub. L. 90-31, § 3(b), June 24, 1967, 81 Stat. 79; Pub. L. 91-211, title II, §§ 202, 204(a), (b), Mar. 13, 1970, 84 Stat. 56, 57; Pub. L. 93-45, title II, § 203(b), June 18, 1973, 87 Stat. 94; Pub. L. 94-63, title VII, § 701(e)(4), July 29, 1975, 89 Stat. 352, authorized appropriations from fiscal year ending June 30, 1966 through fiscal year ending June 30, 1975, for initial grants for personnel of centers.

Section 2688e, Pub. L. 88-164, title II, § 240, as added Pub. L. 90-574, title III, § 301, Oct. 15, 1968, 82 Stat. 1006, set forth Congressional declaration of purposes for grants for facilities for alcoholic rehabilitation.

Section 2688f, Pub. L. 88-164, title II, § 241, as added Pub. L. 90-574, title III, § 301, Oct. 15, 1968, 82 Stat. 1007, and amended Pub. L. 91-211, title III, § 302, Mar. 13, 1970, 84 Stat. 58, authorized grants for the construction of facilities for the prevention and treatment of alcoholism and set forth procedures, and terms and conditions for such grants.

Section 2688g, Pub. L. 88-164, title II, § 242, as added Pub. L. 90-574, title III, § 301, Oct. 15, 1968, 82 Stat. 1008, and amended Pub. L. 91-211, title III, § 303(a), Mar. 13, 1970, 84 Stat. 58, authorized grants for the staffing of facilities for alcoholism prevention and treatment and set forth procedures and conditions for such grants.

Section 2688h, Pub. L. 88-164, title II, § 243, as added Pub. L. 90-574, title III, § 301, Oct. 15, 1968, 82 Stat. 1008, and amended Pub. L. 91-211, title III, § 302, Mar. 13, 1970, 84 Stat. 58; Pub. L. 91-616, title III, § 332, Dec. 31, 1970, 84 Stat. 1853, authorized grants for specialized facilities and personnel for the prevention and treatment of alcoholism and set forth procedures and conditions for such grants.

Section 2688i, Pub. L. 88-164, title II, § 244, as added Pub. L. 90-574, title III § 301, Oct. 15, 1968, 82 Stat. 1009, set forth eligibility of projects for grants for construction or initial staffing of facilities for the prevention and treatment of alcoholism.

Section 2688j, Pub. L. 88-164, title II, § 245, as added Pub. L. 90-574, title III, § 301, Oct. 15, 1968, 82 Stat. 1009, set forth manner, terms and conditions for grants for alcoholism treatment and prevention.

Section 2688j-1, Pub. L. 88-164, title II, § 246, as added Pub. L. 91-211, title III, § 304, Mar. 13, 1970, 84 Stat. 59, and amended Pub. L. 93-45, title II, § 204(a), June 18, 1973, 87 Stat. 94; Pub. L. 94-63, title VII, § 701(e)(5)(A), July 29, 1975, 89 Stat. 352, authorized grants for developing specialized training programs, training personnel, conducting surveys and field trials, and programs of special significance in alcoholism prevention and treatment.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of continuation grants under the Community Mental Health Centers Act, authorized under the first sentence of former section 2688a(c) of this title as in effect prior to July 29, 1975, see section 201(19) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

§ 2688j-2. Repealed. Pub. L. 93-282, title III, § 302, May 14, 1974, 88 Stat. 137

Section, Pub. L. 88-164, title II, § 247, formerly 246, as added Pub. L. 90-574, title III, § 301, Oct. 15, 1968, 82 Stat. 1009, renumbered Pub. L. 91-211, title III, § 304, Mar. 13, 1970, 84 Stat. 59, and amended Pub. L. 91-616, title III, § 311, Dec. 31, 1970, 84 Stat. 1851; Pub. L. 93-45, title II, § 204(b), June 18, 1973, 87 Stat. 94; Pub. L. 94-63, title VII, § 701(e)(5)(B), July 29, 1975, 89 Stat. 352, related to grants and contracts for the prevention and treatment of alcohol abuse and alcoholism, and is now covered by section 4577 of this title.

§§ 2688k to 2688o. Omitted

CODIFICATION

Sections 2688k to 2688o were omitted from the Code as superseded in the general amendment of title II of Pub. L. 88-164 by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309.

Section 2688k, Pub. L. 88-164, title II, § 251, as added Pub. L. 90-574, title III, § 302, Oct. 15, 1968, 82 Stat. 1009, and amended Pub. L. 91-211, title III, § 302, March 13, 1970, 84 Stat. 58; Pub. L. 91-513, title I, § 1(a)(1), Oct. 27, 1970, 84 Stat. 1238; Pub. L. 92-255, title IV, § 401(b), Mar. 21, 1972, 86 Stat. 76, authorized grants for construction, staffing, etc., of narcotic addiction, drug abuse and drug dependence prevention and rehabilitation facilities and set forth procedures and conditions for such grants.

Section 2688*l*. Pub. L. 88-164, title II, § 252, as added Pub. L. 90-574, title III, § 302, Oct. 15, 1968, 82 Stat. 1010, and amended Pub. L. 91-211, title III, § 305(a), Mar. 13, 1970, 84 Stat. 59; Pub. L. 91-513, title I, § 1(a)(1), (2), Oct. 27, 1970, 84 Stat. 1238; Pub. L. 93-45, title II, § 205(a), June 18, 1973, 87 Stat. 94; Pub. L. 94-63, title VII, § 701(e)(6)(A), July 29, 1975, 89 Stat. 352, authorized grants for developing specialized training programs, training personnel, conducting surveys and field trails, and programs of special significance in narcotic addiction, etc., prevention and rehabilitation.

Section 2688*l*-1, Pub. L. 88-164, title II, § 253, as added Pub. L. 91-513, title I, § 1(c), Oct. 27, 1970, 84 Stat. 1238, and amended Pub. L. 93-45, title II, § 205(b), June 18, 1973, 87 Stat. 94; Pub. L. 94-63, title VII, § 701(e)(6)(B), July 29, 1975, 89 Stat. 353, authorized grants and contracts and set out appropriations for programs in drug abuse education.

Section 2688m, Pub. L. 88-164, title II, § 254, formerly 253, as added Pub. L. 90-574, title III, § 302, Oct. 15, 1968, 82 Stat. 1010, and renumbered and amended Pub. L. 91-513, title I, § 1(a)(1), (c), Oct. 27, 1970, 84 Stat. 1238, set forth eligibility of projects for grants for construction or initial staffing of facilities for the prevention and rehabilitation of narcotic addition, etc.

Section 2688n, Pub. L. 88-164, title II, § 255, formerly 254, as added Pub. L. 90-574, title III, § 302, Oct. 15, 1968, 82 Stat. 1010, and renumbered Pub. L. 91-513, title I, § 1(c), Oct. 27, 1970, 84 Stat. 1238, set forth manner, terms and conditions for grants for narcotic addiction; etc., prevention and rehabilitation.

Section 2688n-1, Pub. L. 88-164, title II, § 256, as added Pub. L. 91-513, title I, § 1(d), Oct. 27, 1970, 84 Stat. 1239, and amended Pub. L. 92-255, title IV, § 401(c), Mar. 21, 1972, 86 Stat. 76; Pub. L. 93-45, title II, § 205(c), June 18, 1973, 87 Stat. 94; Pub. L. 94-63, title VII, § 701(e)(6)(C), July 29, 1975, 89 Stat. 353, authorized grants for special projects for narcotic addicts and drug dependent persons treatment or rehabilitation and set forth procedures and conditions for such grants.

Section 2688o, Pub. L. 88-164, title II, § 261, as added Pub. L. 90-574, title III, § 303(a), Oct. 15, 1968, 82 Stat. 1010, and amended Pub. L. 91-211, title III, § 301, Mar. 13, 1970, 84 Stat. 57; Pub. L. 91-513, title I, § 1(b)(1)-(3), Oct. 27, 1970, 84 Stat. 1238; Pub. L. 93-45, title II, § 206, June 18, 1973, 87 Stat. 94; Pub. L. 94-63, title VII, § 701(e)(7), July 29, 1975, 89 Stat. 353, authorized appropriations from the fiscal year ending June 30, 1969 through the fiscal year ending June 30, 1975, for project grants for prevention and treatment of alcoholism and prevention and treatment of narcotic addiction, etc., and set out provisions relating to availability of appropriations.

§ 2688p. Repealed. Pub. L. 91-296, title IV, § 401(b)(2), June 30, 1970, 84 Stat. 352

Section, Pub. L. 88-164, title II, § 262, as added Pub. L. 90-574, title III, § 303(a), Oct. 15, 1968, 82 Stat. 1010, authorized the use of up to 1 per centum of appropriated funds by the Secretary for evaluation of the programs authorized by this subchapter.

EFFECTIVE DATE OF REPEAL

Section 401(b) of Pub. L. 91-296 provided in part that the amendment by section 401(b)(2) of Pub. L. [repealing the section] would be effective with respect to appropriations for fiscal years beginning after June 30, 1970.

§§ 2688q to 2688v. Omitted

CODIFICATION

Sections 2688q to 2688v were omitted from the Code as superseded in the general amendment of title II of Pub. L. 88-164, by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309.

Section 2688q, Pub. L. 88-164, title II, § 263, as added Pub. L. 90-574, title III, § 303(a), Oct. 15, 1968, 82 Stat. 1011, required consent for alcoholics, narcotic addicts, and persons with drug abuse and drug dependence problems to be subjects of research.

Section 2688r, Pub. L. 88-164, title II, § 264, as added Pub. L. 91-211, title V, § 501, Mar. 13, 1970, 84 Stat. 61, and amended Pub. L. 91-513, title I, § 1(b)(3), Oct. 27, 1970, 84 Stat. 1238, authorized grants for consultation services for community mental health centers, alcoholism prevention and treatment facility, etc., and set forth conditions for such grants.

Section 2688s, Pub. L. 88-164, title II, § 265, as added Pub. L. 91-211, title V, § 502, Mar. 13, 1970, 84 Stat. 62, defined the term "technical personnel".

Section 2688t, Pub. L. 88-164, title II, § 266, as added Pub. L. 91-211, title V, § 503(a), Mar. 13, 1970, 84 Stat. 62, and amended Pub. L. 91-616, title IV, § 402, Dec. 31, 1970, 84 Stat. 1854; Pub. L. 92-255, title V, § 502(b), Mar. 21, 1972, 86 Stat. 85, required approval of advisory council concerned with area of interest for grants for construction and staffing of centers and facilities.

Section 2688u, Pub. L. 88-164, title II, § 271, as added Pub. L. 91-211, title IV, § 401, Mar. 13, 1970, 84 Stat. 60, and amended Pub. L. 93-45, title II, § 207, June 18, 1973, 87 Stat. 94; Pub. L. 94-63, title VII, § 701(e)(8), July 29, 1975, 89 Stat. 353, authorized grants for construction and staffing of treatment facilities concerned with the mental health of children and set forth conditions for such grants.

Section 2688v, Pub. L. 88-164, title II, § 272, as added Pub. L. 91-211, title IV, § 401, Mar. 13, 1970, 84 Stat. 61, authorized grants for developing specialized training programs, training personnel, and conducting surveys and field trials in services concerned with the mental health of children.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of continuation grants under the Community Mental Health Centers Act, authorized under former section 2688r(a) of this title as in effect prior to July 29, 1975, see section 201(19) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

PART A—PLANNING AND OPERATIONS ASSISTANCE

EFFECTIVE DATE

This part effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2689x, 2689z of this title.

§ 2689. General requirements for centers

(a) Definitions

For purposes of this subchapter (other than part B thereof), the term "community mental health center" means a legal entity (1) through which comprehensive mental health services are provided—

(A) principally to individuals residing in a defined geographic area (referred to in this subchapter as a "catchment area"),

(B) within the limits of its capacity, to any individual residing or employed in such area regardless of his ability to pay for such services, his current or past health condition, or any other factor, and

(C) in the manner prescribed by subsection (b) of this section,

and (2) which is organized in the manner prescribed by subsections (c) and (d) of this section.

(b) Comprehensive mental health services; provision and coordination of activities

(1) The comprehensive mental health services which shall be provided through a community mental health center shall include—

(A) inpatient services, outpatient services, day care and other partial hospitalization services, and emergency services;

(B) a program of specialized services for the mental health of children, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

(C) a program of specialized services for the mental health of the elderly, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

(D) consultation and education services which—

(i) are for a wide range of individuals and entities involved with mental health services, including health professionals, schools, courts, State and local law enforcement and correctional agencies, members of the clergy, public welfare agencies, health services delivery agencies, and other appropriate entities; and

(ii) include a wide range of activities (other than the provision of direct clinical services) designed to (I) develop effective mental health programs in the center's catchment area, (II) promote the coordination of the provision of mental health services among various entities serving the center's catchment area, (III) increase the awareness of the residents of the center's catchment area of the nature of mental health problems and the types of mental health services available, and (IV) promote the prevention and control of rape and the proper treatment of the victims of rape;

(E) assistance to courts and other public agencies in screening residents of the center's catchment area who are being considered for referral to a State mental health facility for inpatient treatment to determine if they should be so referred and provision, where appropriate, of treatment for such persons

through the center as an alternative to inpatient treatment at such a facility;

(F) provision of followup care for residents of its catchment area who have been discharged from a mental health facility;

(G) a program of transitional half-way house services for mentally ill individuals who are residents of its catchment area and who have been discharged from a mental health facility or would without such services require inpatient care in such a facility; and

(H) provision of each of the following service programs (other than a service program for which there is not sufficient need (as determined by the Secretary) in the center's catchment area, or the need for which in the center's catchment area the Secretary determines is currently being met):

(i) A program for the prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcohol abusers and alcoholics.

(ii) A program for the prevention and treatment of drug addiction and abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems.

(2) The provision of comprehensive mental health services through a center shall be coordinated with the provision of services by other health and social service agencies (including State mental health facilities) in or serving residents of the center's catchment area to insure that persons receiving services through the center have access to all such health and social services as they may require. The center's services (A) may be provided at the center or satellite centers through the staff of the center or through appropriate arrangements with health professionals and others in the center's catchment area, (B) shall be available and accessible to the residents of the area promptly, as appropriate, and in a manner which preserves human dignity and assures continuity and high quality care and which overcomes geographic, cultural, linguistic, and economic barriers to the receipt of services, and (C) when medically necessary, shall be available and accessible twenty-four hours a day and seven days a week.

(c) Governing body; membership requirements; definition

(1)(A) The governing body of a community mental health center (other than a center described in subparagraph (B)) shall (i) be composed, where practicable, of individuals who reside in the center's catchment area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (ii) meet at least once a month, establish general policies for the center (including a schedule of hours during which services will be provided), approve the center's annual budget, and approve the selection of a director for the center. At least one-half of the members of such body shall be individuals who are not providers of health care.

(B) In the case of a community mental health center which before July 29, 1975, was operated by a governmental agency and received a grant under section 2688 of this title (as in effect before such date), the requirements of subparagraph (A) shall not apply with respect to such center, but the governmental agency operating the center shall appoint a committee to advise it with respect to the operations of the center, which committee shall be composed of individuals who reside in the center's catchment area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(2) For purposes of subparagraphs (A) and (B) of paragraph (1), the term "provider of health care" means an individual—

(A) who is a direct provider of health care (including a physician, dentist, nurse, podiatrist, or physician assistant) in that (i) the individual's primary current activity is the provisions of health care to individuals or the administration of facilities or institutions (including hospitals, long-term care facilities, outpatient facilities, and health maintenance organizations) in which such care is provided, and (ii) when required by State law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration; or

(B) who is an indirect provider of health care in that the individual—

(i) holds a fiduciary position with, or has a fiduciary interest in, any entity described in subclause (II) or (IV) of clause (ii);

(ii) receives (either directly or through his spouse) more than one-tenth of his gross annual income from any one or combination of the following:

(I) Fees or other compensation for research into or instruction in the provision of health care.

(II) Entities engaged in the provision of health care or in such research or instruction.

(III) Producing or supplying drugs or other articles for individuals or entities for use in the provision of, in research into, or instruction in the provision of, health care.

(IV) Entities engaged in producing drugs or such other articles.

(iii) is a member of the immediate family of an individual described in subparagraph (A) or in clause (i), (ii), or (iv) of subparagraph (B); or

(iv) is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.

(d) Ongoing quality assurance program, integrated medical records system, professional advisory board and identifiable administrative unit; establishment pursuant to regulations; waiver of requirement of identifiable administrative unit

A center shall have established, in accordance with regulations prescribed by the Secretary, (1) an ongoing quality assurance program (including utilization and peer review systems) respecting the center's services, (2) an integrated

medical records system (including a drug use profile) which, in accordance with applicable Federal and State laws respecting confidentiality, is designed to provide access to all past and current information regarding the health status of each patient and to maintain safeguards to preserve confidentiality and to protect the rights of the patient, (3) a professional advisory board, which is composed of members of the center's professional staff, to advise the governing board in establishing policies governing medical and other services provided by such staff on behalf of the center, and (4) an identifiable administrative unit which shall be responsible for providing the consultation and education services described in subsection (b)(1)(D) of this section. The Secretary may waive the requirements of clause (4) with respect to any center if he determines that because of the size of such center or because of other relevant factors the establishment of the administrative unit described in such clause is not warranted.

(Pub. L. 88-164, title II, § 201, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309.)

REFERENCES IN TEXT

Section 2688 of this title, referred to in subsec. (c), was omitted from the Code in the general amendment of title II of Pub. L. 88-164 by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309.

PRIOR PROVISIONS

A prior section 201 of Pub. L. 88-164, title II, was classified to section 2681 of this title.

SHORT TITLE OF 1975 AMENDMENT

Section 301 of title III of Pub. L. 94-63 provided that: "This title [enacting this subchapter, amending sections 2691, 2693 to 2696, and enacting provisions set out as notes under this section] may be cited as the 'Community Mental Health Centers Amendments of 1975'."

SHORT TITLE

Section 245 of title II of Pub. L. 88-164, as added by section 303 of Pub. L. 94-63, provided that: "This title [this subchapter] may be cited as the 'Community Mental Health Centers Act'." Also see Short Title note set out under section 6001 of this title.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES

Section 302 of Pub. L. 94-63 provided that:

"(a) The Congress finds that—

"(1) community mental health care is the most effective and humane form of care for a majority of mentally ill individuals;

"(2) the federally funded community mental health centers have had a major impact on the improvement of mental health care by—

"(A) fostering coordination and cooperation between various agencies responsible for mental health care which in turn has resulted in a decrease in overlapping services and more efficient utilization of available resources,

"(B) bringing comprehensive community mental health care to all in need within a specific geographic area regardless of ability to pay, and

"(C) developing a system of care which insures continuity of care for all patients,

and thus are a national resource to which all Americans should enjoy access; and

"(3) there is currently a shortage and maldistribution of quality community health care resources in the United States.

"(b) The Congress further declares that Federal funds should continue to be made available for the purposes of initiating new and continuing existing community mental health centers and initiating new services within existing centers, and for the monitoring of the performance of all federally funded centers to insure their responsiveness to community needs and national goals relating to community mental health care."

REPORTS BY SECRETARY TO CONGRESSIONAL COMMITTEES ON PLAN FOR EXTENSION OF COMPREHENSIVE MENTAL HEALTH SERVICES AND STUDY OF NATIONAL STANDARDS OF CARE AND CRITERIA FOR EVALUATION OF CENTERS

Section 304 of Pub. L. 94-63 provided that the Secretary of Health, Education, and Welfare, not later than one year after July 29, 1975, report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare [now Human Resources] setting forth a plan, to be carried out in a five-year period, for the extension of comprehensive mental health services through community mental health centers to persons in all areas in which there is a demonstrated need for these services, which plan was to indicate on a phased basis the number of persons to be served by these services and an estimate of the cost and personnel requirements needed to provide these services and that the Secretary of Health, Education, and Welfare, not later than eighteen months after July 29, 1975, submit a report to the same two Congressional committees, setting forth the national standards for care provided by community mental health centers, and criteria for evaluation of community mental health centers and the quality of the services provided by these centers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689b, 2689c, 2689d, 2689e, 2689f, 2689g, 2689t of this title.

§ 2689a. Grants for planning center programs

(a) Prerequisites; maximum amount

The Secretary may make grants to public and nonprofit private entities to carry out projects to plan community mental health center programs. In connection with a project to plan a community mental health center program for an area the grant recipient shall (1) assess the needs of the area for mental health services, (2) design a community mental health center program for the area based on such assessment, (3) obtain within the area financial and professional assistance and support for the program, and (4) initiate and encourage continuing community involvement in the development and operation of the program. The amount of any grant under this subsection may not exceed $75,000.

(b) Duration and number of grants

A grant under subsection (a) of this section for a project shall be made for its costs for the one-year period beginning on the first day of the month in which the grant is made; and, if a grant is made under such subsection for a project, no other grant may be made for such project under such subsection.

(c) Priority and approval of applications

The Secretary shall give special consideration to applications submitted for grants under subsection (a) of this section for projects for community mental health centers programs for areas designated by the Secretary as urban or rural poverty areas. No applications for a grant under subsection (a) of this section may be approved unless the application is recommended

for approval by the National Advisory Mental Health Council.

(d) Authorization of appropriations

There are authorized to be appropriated for payments under grants under subsection (a) of this section $3,750,000 for the fiscal year 1976, and $3,750,000 for the fiscal year 1977.

(Pub. L. 88-164, title II, § 202, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 312.)

PRIOR PROVISIONS

A prior section 202 of Pub. L. 88-164, title II, was classified to section 2682 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2689b. Grants for initial operation of centers and related public or nonprofit private entity

(a) Purpose and scope of grants; status of prior grant recipients.

(1) The Secretary may make grants to—

(A) public and nonprofit private community mental health centers, and

(B) any public or nonprofit private entity which—

(i) is providing mental health services,

(ii) meets the requirements of section 2689 of this title except that it is not providing all of the comprehensive mental health services described in subsection (b)(1) of such section, and

(iii) has a plan satisfactory to the Secretary for the provision of all such services within two years after the date of the receipt of the first grant under this subsection,

to assist them in meeting their costs of operation (other than costs related to construction).

(2) Grants under subsection (a) of this section may only be made for a grantee's costs of operation during the first eight years after its establishment. In the case of a community mental health center or other entity which received a grant under section 2688 of this title (as in effect before July 29, 1975), such center or other entity shall, for purposes of grants under subsection (a) of this section, be considered as having been in operation for a number of years equal to the sum of the number of grants in the first series of grants it received under such section and the number of grants it has received under this subsection.

(b) Duration and number of grants

(1) Each grant under subsection (a) of this section to a community mental health center or other entity shall be made for the costs of its operation for the one-year period beginning on the first day of the month in which such grant is made.

(2) No community mental health center may receive more than eight grants under subsection (a) of this section. No entity described in subsection (a)(1)(B) of this section may receive more than two grants under subsection (a) of this section. In determining the number of grants that a community mental health center has received under subsection (a) of this section, there shall be included any grants which the center received under such subsection as an entity described in paragraph (1)(B) of such subsection.

(c) Computation of amount of grants

The amount of a grant for any year made under subsection (a) of this section shall be the lesser of the amounts computed under paragraph (1) or (2) as follows:

(1) An amount equal to the amount by which the grantee's projected costs of operation for that year exceed the total of State, local, and other funds and of the fees, premiums, and third-party reimbursements which the grantee may reasonably be expected to collect in that year.

(2)(A) Except as provided in subparagraph (B), an amount equal to the following percentages of the grantee's projected costs of operation: 80 per centum of such costs for the first year of its operation, 65 per centum of such costs for the second year of its operation, 50 per centum of such costs for the third year of its operation, 35 per centum of such costs for the fourth year of its operation, 30 per centum of such costs for the fifth and sixth years of its operation, and 25 per centum of such costs for the seventh and eighth years of its operation.

(B) In the case of a grantee providing services for persons in an area designated by the Secretary as an urban or rural poverty area, an amount equal to the following percentages of the grantee's projected costs of operation: 90 per centum of such costs for the first two years of its operation, 80 per centum of such costs for the third year of its operation, 70 per centum of such costs for the fourth year of its operation, 60 per centum of such costs for the fifth year of its operation, 50 per centum of such costs for the sixth year of its operation, 40 per centum of such costs for the seventh year of its operation, and 30 per centum of such costs for the eighth year of its operation.

In any year in which a grantee receives a grant under section 2689c of this title for consultation and education services, the costs of the grantee's operation for that year attributable to the provision of such services and its collections in that year for such services shall be disregarded in making a computation under paragraph (1) or (2) respecting a grant under subsection (a) of this section for that year.

(d) Authorization of appropriations

(1) There are authorized to be appropriated for payments under initial grants under subsection (a) of this section $50,000,000 for fiscal year 1976, and $55,000,000 for fiscal year 1977.

(2) For fiscal year 1977, and for each of the succeeding seven fiscal years, there are authorized to be appropriated such sums as may be necessary to make payments under continu-

ation grants under subsection (a) of this section to community mental health centers and other entities which first received an initial grant under this section for fiscal year 1976, or the next fiscal year and which are eligible for a grant under this section in a fiscal year for which sums are authorized to be appropriated under this paragraph.

(e) Continuation of grants for prior grant recipients; determination of duration, amount, number, etc., of continuation grants; authorization of appropriations

(1) Any entity which has not received a grant under subsection (a) of this section, which received a grant under section 2688, 2688g, 2688h, 2688k, 2688n-1, 2688r, or 2688u of this title (as in effect before July 29, 1975) from appropriations under this subchapter for a fiscal year ending before July 1, 1975, and which would be eligible for another grant under such section from an appropriation for a succeeding fiscal year if such section were not repealed by the Community Mental Health Centers Amendments of 1975 may, in lieu of receiving a grant under subsection (a) of this section, continue to receive a grant under each such repealed section under which it would be so eligible for another grant—

(A) for the number of years and in the amount prescribed for the grant under each such repealed section, except that—

(i) the entity may not receive under this subsection more than two grants under any such repealed section unless it meets the requirements of section 2689 of this title, and

(ii) the total amount received for any year (as determined under regulations of the Secretary) under the total of the grants made to the entity under this subsection may not exceed the amount by which the entity's projected costs of operation for that year exceed the total collections of State, local, and other funds and of the fees, premiums, and third-party reimbursements which the entity may reasonably be expected to make in that year; and

(B) in accordance with any other terms and conditions applicable to such grant.

In any year in which a grantee under this subsection receives a grant under section 2689c of this title for consultation and education services, the staffing costs of the grantee for that year which are attributable to the provision of such services and the grantee's collections in that year for such services shall be disregarded in applying subparagraph (A) and the provisions of the repealed section applicable to determining the amount of the grant the grantee may receive under this subsection for that year.

(2) An entity which receives a grant the authority for which is provided by this subsection may not receive any grant under subsection (a) of this section.

(3) There are authorized to be appropriated for fiscal year 1976, and for each of the next six fiscal years such sums as may be necessary to make grants in accordance with paragraph (1).

(f) Grants subject to coverage

Unless otherwise specifically provided, a reference in this subchapter to a grant under this section includes a grant under subsection (a) of this section and a grant the authority for which is provided by subsection (e) of this section.

(Pub. L. 88-164, title II, § 203, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 312.)

REFERENCES IN TEXT

Section 2688 of this title, referred to in subsecs. (a) and (e), and sections 2688g, 2688h, 2688k, 2688n-1, 2688r, or 2688u of this title, referred to in subsec. (e), were omitted from the Code in the general amendment of title II of Pub. L. 88-164 by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309.

The Community Mental Health Centers Amendments of 1975, referred to in subsec. (e), is Pub. L. 94-63, title III, July 29, 1975, 89 Stat. 309. Section 303 thereof, which amended generally the Community Mental Health Centers Act (title II of Pub. L. 88-164), had the effect of repealing sections 2688, 2688g, 2688h, 2688k, 2688n-1, 2688r, and 2688u of this title. For complete classification of the Community Mental Health Centers Amendments of 1975, see Short Title of 1975 Amendment note set out under section 2689 of this title and Tables volume.

PRIOR PROVISIONS

A prior section 203 of Pub. L. 88-164, title II, was classified to section 2683 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (d)(2) of this section, see section 204(4) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

PERIOD OF JULY 1, 1975, THROUGH SEPTEMBER 30, 1976, CONSIDERED AS ONE YEAR

Period of July 1, 1975, through Sept. 30, 1976, considered as one year for purposes of subsec. (e)(1) of this section, see section 206(4) of Pub. L. 94-274,title II, Apr. 21, 1976, 90 Stat. 394, set out as a note under section 1176 of Title 21, Food and Drugs.

CONTINUATION GRANT FROM APPROPRIATIONS FOR FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, NOT CONSIDERED A GRANT FOR TWO-GRANT LIMITATION PURPOSES

Pub. L. 94-274, title II, § 207, Apr. 21, 1976, 90 Stat. 395, provided that: A grant received under section 203(e)(1) of the Community Mental Health Centers Act (42 U.S.C. 2689b(e)(1)) from appropriations for the period of July 1, 1976, through September 30, 1976, shall not be considered a grant for the purposes of section 203(e)(1)(A)(i) (42 U.S.C. 2689b(e)(1)(A)(i)).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689c, 2689d, 2689e, 2689f, 2689g of this title.

§ 2689c. Annual grants for consultation and education services of centers and related public or nonprofit private entity

(a) Prerequisites

(1) The Secretary may make annual grants to any community mental health center for the costs of providing the consultation and education services described in section 2689(b)(1)(D) of this title if the center—

(A) received from appropriations for a fiscal year ending before July 1, 1975, a staffing grant under section 2688 of this title (as in effect before July 29, 1975) and may not because of limitations respecting the period for

which grants under that section may be made receive under section 2689b (e) of this title an additional grant under such section 2688 of this title; or

(B) has received or is receiving a grant under section 2689b of this title and the number of years in which the center has been in operation (as determined in accordance with section 2689b(a)(2) of this title) is not less than four (or is not less than two if the Secretary determines that the center will be unable to adequately provide the consultation and education services described in section 2689(b)(1)(D) of this title during the third or fourth years of its operation without a grant under this subsection).

(2) The Secretary may also make annual grants to a public or non-profit private entity—

(A) which has not received any grant under this subchapter (other than a grant under this section as amended by the Community Mental Health Centers Amendments of 1975),

(B) which meets the requirements of section 2689 of this title except, in the case of an entity which has not received a grant under this section, the requirement for the provision of consultation and education services described in section 2689(b)(1)(D) of this title, and

(C) the catchment area of which is not within (in whole or in part) the catchment area of a community mental health center,

for the costs of providing such consultation and education services.

(b) Computation of amount of grants; definition

The amount of any grant made under subsection (a) of this section shall be determined by the Secretary, but no such grant to a center may exceed the lesser of 100 per centum of such center's costs of providing such consultation and education services during the year for which the grant is made or—

(1) in the case of each of the first two years for which a center receives such grant, the sum of (A) an amount equal to the product of $0.50 and the population of the center's catchment area, and (B) the lesser of (i) one-half the amount determined under clause (A), or (ii) one-half of the amount received by the center in such year from charges for the provision of such services;

(2) in the case of the third year for which a center receives such a grant, the sum of (A) an amount equal to the product of $0.50 and the population of the center's catchment area, and (B) the lesser of (i) one-half the amount determined under clause (A), or (ii) one-fourth of the amount received by the center in such year from charges for the provision of such services; and

(3)(A) except as provided in subparagraph (B), in the case of the fourth year and each subsequent year thereafter for which a center receives such a grant, the lesser of (i) the sum of (I) an amount equal to the product of $0.125 and the population of the center's catchment area, and (II) one-eighth of the amount received by the center in such year from charges for the provision of such services, or (ii) $50,000; or

(B) in the case of the fourth year and each subsequent year for which a center receives such a grant, the sum of (i) an amount equal to the product of $0.25 and the population of the center's catchment area, and (ii) the lesser of (I) the amount determined under clause (i) of this subparagraph, or (II) one-fourth of the amount received by the center in such year from charges for the provision for such services if the amount of the last grant received by the center under section 2688 of this title (as in effect before July 29, 1975) or section 2689b of this title, as the case may be, was determined on the basis of the center providing services to persons in an area designated by the Secretary as an urban or rural poverty area.

For purposes of this subsection, the term "center" includes an entity which receives a grant under subsection (a)(2) of this section.

(c) Authorization of appropriations

There are authorized to be appropriated for payments under grants under this section $10,000,000 for fiscal year 1976, and $15,000,000 for fiscal year 1977.

(Pub. L. 88-164, title II, § 204, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 314.)

REFERENCES IN TEXT

Section 2688 of this title, referred to in subsecs. (a)(1)(A) and (b)(3)(B), was omitted from the Code in the general amendment of title II of Pub. L. 88-164 by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309.

This section as amended by the Community Mental Health Centers Amendments of 1975, referred to in subsec. (a), means this section, which is section 204 of Pub. L. 88-164, title II, as added by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 314. Prior to such amendment, section 204 of Pub. L. 88-164, title II, was classified to section 2684 of this title.

PRIOR PROVISIONS

A prior section 204 of Pub. L. 88-164, title II, was classified to section 2684 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of this section, see section 204(4) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 392 set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689b, 2689d, 2689e of this title.

§ 2689d. Conversion grants for related public or nonprofit entity

(a) Number, prerequisites, and scope of grants

The Secretary may make not more than two grants to any public or nonprofit entity which—

(1) has an approved application for a grant under section 2689b or 2689f of this title, and

(2) can reasonably be expected to have an operating deficit, for the period for which a grant is or will be made under such application, which is grater than the amount of the

grant the entity is receiving or will receive under such application,

for the entity's reasonable costs in providing mental health services which are described in section 2689(b)(1) of this title but which the entity did not provide before July 29, 1975.

(b) Duration and computation of amounts of grants

(1) Each grant under subsection (a) of this section to an entity shall be made for the same period as the period for which the grant under section 2689b or 2689f of this title for which the entity had an approved application is or will be made.

(2) The amount of any grant under subsection (a) of this section to any entity shall be determined by the Secretary, but no such grant may exceed that part of the entity's projected operating deficit for the year for which the grant is made which is reasonably attributable to its costs of providing in such year the services with respect to which the grant is made. For purposes of this paragraph, the term "projected operating deficit" means the excess of an entity's projected costs of operation (including the costs of operation related to the provision of services for which a grant may be made under subsection (a) of this section) for a particular period over the total of the amount of State, local, and other funds (including funds under a grant under section 2689b, 2689c, or 2689f of this title) received by the entity in that period and the fees, premiums, and third-party reimbursements which the entity may reasonably be expected to collect during that period.

(c) Authorization of appropriations

There are authorized to be appropriated for payments under grants under subsection (a) of this section $20,000,000 for fiscal year 1976, and $20,000,000 for fiscal year 1977.

(Pub. L. 88-164, title II, § 205, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 316.)

PRIOR PROVISIONS

A prior section 205 of Pub. L. 88-164, title II, was classified to section 2685 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2689e of this title.

§ 2689e. General requirements for grants

(a) Submission and approval of State plan

(1)[1] No grant may be made under this part to any entity or community mental health center in any State unless a State plan for the provision of comprehensive mental health services within such State has been submitted to, and approved by, the Secretary under section 2689t of this title.

(b) Submission and approval of application

No grant may be made under this part unless an application (meeting the requirements of subsection (c) of this section) for such grant has been submitted to, and approved by, the Secretary.

(c) Form, manner, contents, and required assurances of application; prerequisites for approval of application; evaluation and review program of activities; promulgation of regulations determining required costs; determination and review of adequacy of applicant's methods to obtain payments and reimbursements

(1) An application for a grant under this part shall be submitted in such form and manner as the Secretary shall prescribe and shall contain such information as the Secretary may require. Except as provided in paragraph (3), an application for a grant under section 2689b, 2689c, or 2689d of this title shall contain or be supported by assurances satisfactory to the Secretary that—

(A) the community mental health center for which the application is submitted will provide, in accordance with regulations of the Secretary (i) an overall plan and budget that meets the requirements of section 1395x(z) of this title, and (ii) and effective procedure for developing, compiling, evaluating, and reporting to the Secretary statistics and other information (which the Secretary shall publish and disseminate on a periodic basis and which the center shall disclose at least annually to the general public) relating to (I) the cost of the center's operation, (II) the patterns of use of its services, (III) the availability, accessiblity, and acceptability of its services, (IV) the impact of its services upon the mental health of the residents of its catchment area, and (V) such other matters as the Secretary may require;

(B) such community mental health center will, in consultation with the residents of its catchment area, review its program of services and the statistics and other information referred to in subparagraph (A) to assure that its services are responsive to the needs of the residents of the catchment area;

(C) to the extent practicable, such community mental health center will enter into cooperative arrangements with health maintenance organizations serving residents of the center's catchment area for the provision through the center of mental health services for the members of such organizations under which arrangements the charges to the health maintenance organizations for such services shall be not less than the actual costs to the center of providing such services;

(D) in the case of a community mental health center serving a population including a substantial proportion of individuals of limited English-speaking ability, the center has (i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (ii) identified an individual on its staff who is fluent in both that language and English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences;

(E) such community mental health center has (i) established a requirement that the health care of every patient must be under

[1] So in original. Section enacted without subsec. (a)(2).

the supervision of a member of the professional staff, and (ii) provided for having a member of the professional staff available to furnish necessary mental health care in case of an emergency;

(F) such community mental health center has provided appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

(G) in the case of an application for a grant under section 2689b of this title for a community mental health center which will provide services to persons in an area designated by the Secretary as an urban or rural poverty area, the applicant will use the additional grant funds it receives, because it will provide services to persons in such an area, to provide services to persons in such area who are unable to pay therefor;

(H) such community mental health center will develop a plan for adequate financial support to be available, and will use its best efforts to insure that adequate financial support will be available, to it from Federal sources (other than this part) and non-Federal sources (including, to the maximum extent feasible, reimbursement from the recipients of consultation and education services and screening services provided in accordance with section 2689(b)(1)(D) and (E) of this title) so that the center will be able to continue to provide comprehensive mental health services when financial assistance provided under this part is reduced or terminated, as the case may be;

(I) such community mental health center (i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (ii) has made or will make every reasonable effort to enter into such an arrangement;

(J) such community mental health center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], to medical assistance under a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], or to assistance for medical expenses under any other public assistance program or private health insurance program;

(K) such community mental health center (i) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments which discounts are adjusted on the basis of the patient's ability to pay; (ii) has made and will continue to make every reasonable effort (I) to secure from patients payment for services in accordance with such approved schedules, and (II) to collect reimbursement for health services to persons described in subparagraph (J) on the basis of the full amount of fees and payments for such services without application of any discount, and (iii) has submitted to the Secretary such reports as he may require to determine compliance with this subparagraph; and

(L) such community mental health center will adopt and enforce a policy (i) under which fees for the provision of mental health services through the center will be paid to the center, and (ii) which prohibits health professionals who provide such services to patients through the center from providing such services to such patients except through the center.

An application for a grant under section 2689b of this title shall also contain a long-range plan for the expansion of the program of the community mental health center for which the application is submitted for the purpose of meeting anticipated increases in demand by residents of the center's catchment area for the comprehensive mental health services described in section 2689(b)(1) of this title. Such a plan shall include a description of planned growth in the programs of the center, estimates of increased costs arising from such growth, estimates of the portion of such increased costs to be paid from Federal funds, and anticipated sources of non-Federal funds to pay the portion of such increased costs not to be paid from Federal funds.

(2) The Secretary may approve an application for a grant under section 2689b, 2689c, or 2689d of this title only if the application is recommended for approval by the National Advisory Mental Health Council, the application meets the requirements of paragraph (1), and, except as provided in paragraph (3), the Secretary—

(A) determines that the facilities and equipment of the applicant under the application meet such requirements as the Secretary may prescribe;

(B) determines that—

(i) the application contains or is supported by satisfactory assurances that the comprehensive mental health services (in the case of an application for a grant under section 2689b or 2689d of this title) or the consultation and education services (in the case of an application for a grant under section 2689c of this title) to be provided by the applicant will constitute an addition to, or a significant improvement in quality (as determined in accordance with criteria of the Secretary) of, services that would otherwise be provided in the catchment area of the applicant;

(ii) the application contains or is supported by satisfactory assurances that Federal funds made available under section 2689b, 2689c, or 2689d of this title, as the case may be, will (I) be used to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds, including third-party health insurance payments, that would in the absence of such Federal funds be made available for the applicant's comprehensive mental health ser-

vices, and (II) in no event supplant such State, local, and other non-Federal funds;

(iii) in the case of an applicant which received a grant from appropriations for the preceding fiscal year, during the year for which the grant was made the applicant met, in accordance with the section under which such grant was made, the requirements of section 2689 of this title and complied with the assurances which were contained in or supported the applicant's application for such grant; and

(iv) in the case of an application for a grant the amount of which is or may be determined under section 2689b(c)(2)(B) of this title or 2689c(b)(3)(B) of this title or under a provision of a repealed section of this subchapter referred to in section 2689b(e) of this title which authorizes an increase in the ceiling on the amount of a grant to support services to persons in areas designated by the Secretary as urban or rural proverty areas, the application contains or is supported by assurances satisfactory to the Secretary that the services of the applicant will, to the extent feasible, be used by a significant number of persons residing in an area designated by the Secretary as an urban or rural poverty area and requiring such services.

(3) In the case of an application—

(A) for the first grant under section 2689b(a) of this title for an entity described in section 2689b(a)(1)(B) of this title, or

(B) for the first grant the authority for which is provided by section 2689b(e) of this title,

the Secretary may approve such application without regard to the assurances required by the second sentence of paragraph (1) of this subsection and without regard to the determinations required of the Secretary under paragraph (2) of this subsection if the application contains or is supported by assurances satisfactory to the Secretary that the applicant will undertake, during the period for which such first grant is to be made, such actions as may be necessary to enable the applicant, upon the expiration of such period, to make each of the assurances required by paragraph (1) and to enable the Secretary, upon the expiration of such period, to make each of the determinations required by paragraph (2).

(4) In each fiscal year for which a community mental health center receives a grant under section 2689b, 2689c, or 2689d of this title, such center shall obligate for a program of continuing evaluation of the effectiveness of its programs in serving the needs of the residents of its catchment area and for a review of the quality of the services provided by the center not less than an amount equal to 2 per centum of the amount obligated by the center in the preceding fiscal year for its operating expenses.

(5) The costs for which grants may be made under section 2689b(a), 2689c, or 2689d of this title, shall be determined in the manner prescribed in regulations of the Secretary issued after consultation with the National Advisory Mental Health Council.

(6) If the Secretary determines under section 2689b, 2689c, or 2689d of this title that an applicant for a grant under such section—

(A) has not made reasonable efforts to secure payments or reimbursements in accordance with assurances provided under subparagraph (I), (J), or (K) of subsection (c)(1) of this section, or

(B) is capable of increasing the amount of payments or reimbursements described in any such subparagraph,

the Secretary shall, in the case of a determination described in subparagraph (A), inform the applicant of the respects in which the applicant has not made such reasonable efforts and the manner in which the applicant's performance can be improved and, in the case of a determination described in subparagraph (B), inform the applicant of the manner in which the applicant can increase the amount of such payments. The Secretary shall give to an applicant a reasonble[1] opportunity to respond, before the amount of the grant the applicant is applying for is determined, to a determination described in the preceding sentence. A determination of the Secretary referred to in the first sentence shall be referred to the National Advisory Mental Health Council for its review and recommendations.

(d) Review of and comments on application by State mental health authority; disposition of application; time limitations

An application for a grant under this part which is submitted to the Secretary shall at the same time be submitted to the State mental health authority for the State in which the project or community mental health center for which the application is submitted is located. A State mental health authority which receives such an application under this subsection may review it and submit its comments to the Secretary within the forty-five-day period beginning on the date the application was received by it. The Secretary shall take action to require an applicant to revise his application or to approve or disapprove an application within the period beginning on the date the State mental health authority submits its comments or on the expiration of such forty-five-day period, whichever occurs, first, and ending on the ninetieth day following the date the application was submitted to him.

(e) Maximum amount of appropriations usable for technical assistance for program management and training in program management

No more than 2 per centum of the total amount appropriated under sections 2689b, 2689c, and 2689d of this title for any fiscal year shall be used by the Secretary to provide directly through the Department technical assistance for program management and for training in program management to community mental health centers which received grants under such sections or to entities which received grants under section 2688 of this title in a fiscal year beginning before July 29, 1975.

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[1] So in original. Probably should read "reasonable".

(f) Definition

For purposes of subsections (b), (c), (d), and (e) of this section, the term "community mental health center" includes an entity which applies for or has received a grant under section 2689b or 2689c(a)(2) of this title.

(Pub. L. 88-164, title II, § 206, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 316.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(1)(I), (J), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

Section 2688 of this title, referred to in subsec. (e), was omitted from the Code in the general amendment of title II of Pub. L. 88-164, by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309.

PRIOR PROVISIONS

A prior section 206 of Pub. L. 88-164, title II, was classified to section 2686 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING July 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (e) of this section, see section 204(4) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, TREATED AS PART OF FISCAL YEAR 1976 FOR PURPOSES OF OBLIGATIONS FOR PROGRAM EVALUATIONS

Pub. L. 94-274, title II, § 208, Apr. 21, 1976, 90 Stat. 395, provided that: "For the purposes of section 206(c)(4) of the Community Mental Health Centers Act (42 U.S.C. 2689(c)(4)) [42 U.S.C. 2689e(c)(4)] the period July 1, 1976, through September 30, 1976, shall be treated as part of fiscal year 1976 and the 2 per centum minimum specified in that section shall be 2.5 per centum in respect to grants received for that period, and 1.6 per centum in respect to grants received for fiscal year 1977."

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2689g of this title.

PART B—FINANCIAL DISTRESS GRANTS

EFFECTIVE DATE

This part effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2689, 2689x, 2689z of this title.

§ 2689f. Grants for operation of centers; eligible centers

The Secretary may make grants for the operation of any community mental health center which—

(1)(A) received a grant under section 2688 of this title (as in effect before July 29, 1975) and, because of limitations in such section 2688 of this title respecting the period for which the center may receive grants under such section 2688 of this title, is not eligible for further grants under that section for a fiscal year beginning after June 30, 1975; or

(B) received a grant or grants under section 2689b(a) of this title and, because of limitations respecting the period for which grants under such section may be made, is not eligible for further grants under that section; and

(2) demonstrates that without a grant under this section there will be a significant reduction in the types or quality of services provided or there will be an inability to provide the services described in section 2689(b) of this title.

(Pub. L. 88-164, title II, § 211, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 321.)

REFERENCES IN TEXT

Section 2688 of this title, referred to in par. (a)(1), was omitted from the Code in the general amendment of title II of Pub. L. 88-164 by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689d, 2689g, 2689h of this title.

§ 2689g. General requirements for grants

(a) Submission and approval of State plan; terms and conditions for grants

No grant may be made under section 2689f of this title to any community mental health center in any State unless a State plan for the provision of comprehensive mental health services within such State has been submitted to, and approved by, the Secretary under section 2689t of this title. Any grant under section 2689f of this title may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the community mental health center agree (1) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that center's financial distress, (2) to conduct a comprehensive cost analysis study in cooperation with the Secretary, (3) to carry out appropriate operational and financial reforms on the basis of information obtained in the course of the comprehensive cost analysis study or on the basis of other relevant information, and (4) to use a grant received under section 2689f of this title to enable it to provide (within such period as the Secretary may prescribe) the comprehensive mental health services described in section 2689(b) of this title and to revise its organi-

zation to meet the requirements of section 2689 (c) and (d) of this title.

(b) Contents and required assurances of application; prerequisites for approval of application; review of and comments on application by State mental health authority; disposition of application; time limitations

An application for a grant under section 2689f of this title must contain or be supported by the assurances prescribed by subparagraphs (A), (B), (C), (D), (E), (F), (G), (I), (J), (K), and (L) of section 2689e(c)(1) of this title and assurances satisfactory to the Secretary that the applicant will expend for its operation as a community mental health center, during the year for which such grant is sought, an amount of funds (other than funds for construction, as determined by the Secretary) from non-Federal sources which is at least as great as the average annual amount of funds expended by such applicant for such purpose (excluding expenditures of a non-recurring nature) in the three years immediately preceding the year for which such grant is sought. The Secretary may not approve such an application unless it has been recommended for approval by the National Advisory Mental Health Council. The requirements of section 2689e(d) of this title respecting opportunity for review of applications by State mental health authorities and time limitations on actions by the Secretary on applications shall apply with respect to applications submitted for grants under section 2689f of this title.

(c) Duration and number of grants

Each grant under this section to a grantee shall be made for the projected costs of operation (except the costs of providing the consultation and education services described in section 2689(b)(1)(D) of this title) of such grantee for the one-year period beginning on the first day of the first month in which such grant is made. No community mental health center may receive more than three grants under section 2689f of this title.

(d) Computation of amount of grants

The amount of a grant for a community mental health center under section 2689f of this title for any year shall be the lesser of the amounts computed under paragraph (1) or (2) as follows:

(1) An amount equal to the amount by which the center's projected costs of operation for that year exceed the total of State, local, and other funds and of the fees, premiums, and third-party reimbursements which the center may reasonably be expected to collect in that year.

(2) An amount equal to the product of—

(A) 90 per centum of the percentage of costs—

(i) which was the ceiling on the grant last made to the center in the first series of grants it received under section 2688 of this title (as in effect before July 29, 1975), or

(ii) prescribed by section 2689b(c)(2) of this title for computation of the last grant to the center under such section,

whichever grant was made last, and

(B) the center's projected costs of operation in the year for which the grant is to be made under section 2689f of this title.

(Pub. L. 88-164, title II, § 212, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 321.)

REFERENCES IN TEXT

Section 2688 of this title, referred to in subsec. (d), was omitted from the Code in the general amendment of title II of Pub. L. 88-164, by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2689h. Authorization of appropriations

There are authorized to be appropriated $15,000,000 for fiscal year 1976, and $15,000,000 for fiscal year 1977 for payments under grants under section 2689f of this title.

(Pub. L. 88-164, title II, § 213, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 322.)

PART C—FACILITIES ASSISTANCE

EFFECTIVE DATE

This part effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 289k-1, 2689t, 2689x, 4551 of this title.

§ 2689i. Federal share; manner of payment; eligible projects; definition; computation and promulgation of amount

(a) From allotments made under section 2689o of this title the Secretary shall pay, in accordance with this part, the Federal share of projects for (1) the acquisition or remodeling, or both, of facilities for community mental health centers, (2) the leasing (for not more than twenty-five years) of facilities for such centers, (3) the construction of new facilities or expansion of existing facilities for community mental health centers if not less than 25 per centum of the residents of the centers' catchment areas are members of low-income groups (as determined under regulations prescribed by the Secretary), and (4) the initial equipment of a facility acquired, remodeled, leased, constructed, or expanded with financial assistance provided under payments under this part. Payments shall not be made for the construction of a new facility or the expansion of an existing one unless the Secretary determines that it is not feasible for the recipient to acquire or remodel an existing facility.

(b)(1) For purposes of this part, the term "Federal share" with respect to any project described in subsection (a) of this section means

the portion of the cost of such project to be paid by the Federal Government under this part.

(2) The Federal share with respect to any project described in subsection (a) of this section in a State shall be the amount determined by the State agency of the State, but, except as provided in paragraph (3), the Federal share for any such project may not exceed 66⅔ per centum of the costs of such project or the State's Federal percentage, whichever is the lower. Prior to the approval of the first such project in a State during any fiscal year, the State agency shall give the Secretary written notification of (A) the maximum Federal share, established pursuant to this paragraph, for such projects in such State which the Secretary approves during such fiscal year, and (B) the method for determining the specific Federal share to be paid with respect to any such project; and such maximum Federal share and such method of Federal share determination for such projects in such State during such fiscal year shall not be changed after the approval of the first such project in the State during such fiscal year.

(3) In the case of any community mental health center which provides or will, upon completion of the project for which application has been made under this part, provide services for persons in an area designated by the Secretary as an urban or rural poverty area, the maximum Federal share determined under paragraph (2) may not exceed 90 per centum of the costs of the project.

(4)(A) For purposes of paragraph (2), the Federal percentage for (i) Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 66⅔ per centum, and (ii) any other State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the average per capita income of all such other States.

(B) The Federal percentages under clause (ii) of subparagraph (A) shall be promulgated by the Secretary, between January 1 and March 31 of each odd-numbered year, on the basis of the average of the per capita incomes of each of the States subject to such Federal percentages and all of the States subject to such percentages for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning October 1 next succeeding such promulgation.

(Pub. L. 88-164, title II, § 221, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 322, and amended Pub. L. 94-273, § 44, Apr. 21, 1976, 90 Stat. 381.)

PRIOR PROVISIONS

A prior section 221 of Pub. L. 88-164, title II, was classified to section 2688a of this title.

AMENDMENTS

1976—Subsec. (b)(4)(B). Pub. L. 94-273 substituted "January" for "October", "March" for "December", "October" for "July", and "odd-numbered" for "even-numbered".

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsecs. (b)(2) and (4)(B) of this section, see section 204(4) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

§ 2689j. Approval of projects; submission and contents of application; hearing; definition; prerequisites for approval of application; hearing prior to disapproval; amendment of approved application

(a) For each project for a community mental health center facility pursuant to a State plan approved under section 2689t of this title, there shall be submitted to the Secretary, through the State agency of the State, an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the project, the application may be filed by one or more of such agencies. Such application shall set forth—

(1) a description of the site for such project;

(2) plans and specifications therefor in accordance with the regulations prescribed by the Secretary under section 2689s of this title;

(3) except in the case of a leasing project, reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or nonprofit private agency which is to operate the community mental health centers;

(4) reasonable assurance that adequate financial support will be available for the project and for its maintenance and operation when completed;

(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a construction or remodeling project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 276c of title 40;

(6) a certification by the State agency of the Federal share for the project; and

(7) the assurances described in section 2689e(c)(2) of this title.

Each applicant shall be afforded an opportunity for a hearing before the State agency respecting its application. For purposes of paragraph (3), the term "title" means a fee simple or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of acquisition, remodeling, construction, or expansion of a facility and its operation.

(b) The Secretary shall approve an application submitted in accordance with subsection (a) of this section if—

(1) sufficient funds to pay the Federal share for the project for which the application was submitted are available from the allotment to the State;

(2) the Secretary finds that the application meets the applicable requirements of subsection (a) of this section and the community mental health center for which the application was submitted will meet the requirements of the State plan (under section 2689t of this title) of the State in which the project is located; and

(3) the Secretary finds that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State, as determined under the State plan.

No application shall be disapproved by the Secretary until he has afforded the State agency an opportunity for a hearing. The Secretary may not approve an application under this part for a project for a facility for a community mental health center or other entity which received a grant under section 2688, 2688g, 2688h, 2688k, 2688n-1, 2688r, or 2688u of this title (as in effect before July 29, 1975) from appropriations for a fiscal year ending before July 1, 1975, unless the Secretary determines that the application is for a project for a center or entity which upon completion of such project will be able to significantly expand its services and which demonstrates exceptional financial need for assistance under this part for such project. Amendment of any approved application shall be subject to approval in the same manner as an original application.

(Pub. L. 88-164, title II, § 222, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 323.)

REFERENCES IN TEXT

Sections 2688, 2688g, 2688h, 2688k, 2688n-1, 2688r, or 2688u of this title, referred to in subsec. (b), were omitted from the Code in the general amendment of title II of Pub. L. 88-164 by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309.

PRIOR PROVISIONS

A prior section 222 of Pub. L. 88-164, title II, was classified to section 2688b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689k, 2689*l*, 2689m of this title.

§ 2689k. Payments

(a) Remodeling, construction, or expansion projects, or purchases for such projects; prerequisites; manner of payments; exceptions; maximum amount; additional payments upon approval of amendment to application or revision of estimated cost of project

(1) Upon certification to the Secretary by the State agency, based upon inspection by it, that work has been performed upon a remodeling, construction, or expansion project, or purchases for such a project have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant, (2) if the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to subsection (c) of this section, payment may, after he has given the State agency notice of opportunity for hearing pursuant to such section, be withheld in whole or in part, pending corrective action or action based on such hearing, and (3) the total payments with respect to such project may not exceed an amount equal to the Federal share of the cost of such project.

(2) If an amendment to an approved application is approved or the estimated cost of a remodeling, construction, or expansion project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(b) Acquisition and leasing projects; payments from State allotment pursuant to regulations

Payments from a State allotment for acquisition and leasing projects shall be made in accordance with regulations which the Secretary shall promulgate.

(c) Withholding of payments; prerequisites and procedures

(1) If the Secretary finds that—

(A) a State agency is not substantially complying with the provisions required by section 2689t of this title to be in a State plan or with regulations issued under section 2689s of this title;

(B) any assurance required to be in an application filed under section 2689j of this title is not being carried out;

(C) there is substantial failure to carry out plans and specifications approved by the Secretary under section 2689j of this title; or

(D) adequate State funds are not being provided annually for the direct administration of a State plan approved under section 2689t of this title,

the Secretary may take the action authorized under paragraph (2) of this subsection if the finding was made after reasonable notice and opportunity for hearing to the involved State agency.

(2) If the Secretary makes a finding described in paragraph (1), he may notify the involved State agency, which is the subject of the finding or which is connected with a project or State plan which is the subject of the finding, that—

(A) no further payments will be made to the State from allotments under section 2689o of this title; or

(B) no further payments will be made from allotments under section 2689o of this title for any project or projects designated by the Secretary as being affected by the action or inaction referred to in subparagraph (A), (B), (C), or (D) of paragraph (1),

as the Secretary may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments from such allotments may be withheld, in whole or in part,

until there is no longer any failure to comply (or to carry out the assurance or plans and specifications or to provide adequate State funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

(Pub. L. 88-164, title II, § 223, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 325.)

PRIOR PROVISIONS

A prior section 223 of Pub. L. 88-164, title II, was classified to section 2688c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2689l of this title.

§ 2689l. Judicial review; appeal to courts of appeals; petition; record; conclusiveness of findings; review by Supreme Court; stay of administrative action

If—

(1) the Secretary refuses to approve an application for a project submitted under section 2689j of this title, the State agency through which such application was submitted, or

(2) any State is dissatisfied with the Secretary's action under section 2689k(c) or 2689t(c) of this title, such State,

may appeal to the United States court of appeals for the circuit in which such State agency or State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but, until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of facts and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

(Pub. L. 88-164, title II, § 224, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 326.)

PRIOR PROVISIONS

A prior section 224 of Pub. L. 88-164, title II, was classified to section 2688d of this title.

§ 2689m. Recovery of payments by United States; prerequisites; amount of recovery; procedure; nature of right

If any facility of a community mental health center acquired, remodeled, constructed, or expanded with funds provided under this part is, at any time within twenty years after the completion of such remodeling, construction, or expansion or after the date of its acquisition with such funds—

(1) sold or transferred to any person or entity (A) which is not qualified to file an application under section 2689j of this title, or (B) which is not approved as a transferee by the State agency of the State in which such facility is located, or its successor; or

(2) not used by a community mental health center in the provision of comprehensive mental health services, and the Secretary has not determined that there is good cause for termination of such use,

the United States shall be entitled to recover from either the transferor or the transferee in the case of a sale or transfer or from the owner in the case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the United States district court for the district in which the center is situated) of so much of such facility or center as constituted an approved project or projects, as the amount of the Federal participation bore to the acquisition, remodeling, construction, or expansion cost of such project or projects. Such right of recovery shall not constitute a lien upon such facility or center prior to judgment.

(Pub. L. 88-164, title II, § 225, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 326.)

§ 2689n. Nonduplication of grants

No grant may be made under the Public Health Service Act [42 U.S.C. 201 et seq.] for the remodeling, construction, or expansion of a facility for a community mental health center unless the Secretary determines that there are no funds available under this part for the remodeling, construction, or expansion of such facility.

(Pub. L. 88-164, title II, § 226, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 327.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§ 201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

§ 2689o. Allotments to States; determination of amount; availability of unobligated sums; reallotment of available amounts to other States; determination of amount of reallotment; adjustments to allotments

(a) In each fiscal year, the Secretary shall, in accordance with regulations, make allotments, from the sums appropriated under section 2689p of this title, to the States (with State plans approved under section 2689t of this title) on the basis of (1) the population, (2) the extent of the need for community mental health centers, and (3) the financial need, of the respective States; except that no such allotment to any State, other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, in any fiscal year may be less than $100,000. Sums so allotted to a State other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, in a fiscal year and remaining unobligated at the end of such year shall remain available to such State for such purpose in the next fiscal year (and in such year only), in addition to the sums allotted for such State in such next fiscal year. Sums so allotted to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands in a fiscal year and remaining unobligated at the end of such year shall remain available to such State for such purpose in the next two fiscal years (and in such years only), in addition to the sums allotted to such State for such purpose in each of such next two fiscal years.

(b) The amount of an allotment under subsection (a) of this section to a State in a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State in a fiscal year shall be deemed to be a part of its allotment under subsection (a) of this section in such fiscal year.

(Pub. L. 88-164, title II, § 227, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 327.)

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 109, Apr. 21, 1976, 90 Stat. 387, provided that:

"For the purposes of sections 227, and 237(d) of the Community Mental Health Centers Act, [this section and section 2689t(d) of this title], the period of July 1, 1976, through September 30, 1976, shall be considered a fiscal year and the exercise of authority pursuant to those provisions for that period shall be subject to the conditions stated in the following paragraphs:

"(1) the $100,000 minimum, specified in section 227(a) (42 U.S.C. 2689o(a)), shall be $25,000 for that period, and the time limitation in that section respecting the availability of unobligated funds shall not take into consideration the period of July 1, 1976, through September 30, 1976; and

"(2) the amount of $50,000 specified in section 237(d)(1) (42 U.S.C. 2689t(d)(1)), shall be $12,500 for that period, the time limitation specified in the second sentence shall not take that period into consideration, and the amount specified in section 237(d)(2) (42 U.S.C. 2689t(d)(2)), shall be reduced by 75 per centum for that period."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689l, 2689k, 2689p, 2689t of this title.

§ 2689p. Authorization of appropriations

There are authorized to be appropriated $5,000,000 for fiscal year 1976, and $5,000,000 for fiscal year 1977, for allotments under section 2689o of this title.

(Pub. L. 88-164, title II, § 228, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 327.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2689o of this title.

PART D—RAPE PREVENTION AND CONTROL

EFFECTIVE DATE

This part effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

§ 2689q. National Center for the Prevention and Control of Rape

(a) Establishment

The Secretary shall establish within the National Institute of Mental Health an identifiable administrative unit to be known as the National Center for the Prevention and Control of Rape (hereinafter in this section referred to as the "Center").

(b) Functions; definition

(1) The Secretary, acting through the Center, may, directly or by grant, carry out the following:

(A) A continuing study of rape, including a study and investigation of—

(i) the effectiveness of existing Federal, State, and local laws dealing with rape;

(ii) the relationship, if any, between traditional legal and social attitudes toward sexual roles, the act of rape, and the formulation of laws dealing with rape;

(iii) the treatment of the victims of rape by law enforcement agencies, hospitals or other medical institutions, prosecutors, and the courts;

(iv) the causes of rape, identifying to the degree possible—

(I) social conditions which encourage sexual attacks, and

(II) the motives of offenders, and

(v) the impact of rape on the victim and the family of the victim;

(vi) sexual assaults in correctional institutions;

(vii) the actual incidence of forcible rape as compared to the reported incidence of forcible rape and the reasons for any difference in such incidences; and

(viii) the effectiveness of existing private and local and State government educational, counseling, and other programs designed to prevent and control rape.

(B) The compilation, analysis, and publication of summaries of the continuing study conducted under subparagraph (A) and the research and demonstration projects conducted under subparagraph (E). The Secretary shall annually submit to the Congress a summary of such study and projects together with recommendations where appropriate.

(C) The development and maintenance of an information clearinghouse with regard to—

(i) the prevention and control of rape;

(ii) the treatment and counseling of the victims of rape and their families; and

(iii) the rehabilitation of offenders.

(D) The compilation and publication of training materials for personnel who are engaged or intend to engage in programs designed to prevent and control rape.

(E) Assitance to community mental health centers and other qualified public and nonprofit private entities in conducting research and demonstration projects concerning the prevention and control of rape, including projects (i) for the planning, developing, implementing, and evaluating of alternative methods used in the prevention and control of rape, the treatment and counseling of the victims of rape and their families, and the rehabilitation of offenders; (ii) for the application of such alternative methods; and (iii) for the promotion of community awareness of the specific locations in which, and the specific social and other conditions under which, sexual attacks are most likely to occur.

(F) Assistance to community mental health centers in meeting the costs of providing consultation and education services respecting rape.

(2) For purposes of this subsection, the term "rape" includes statutory and attempted rape and any other criminal sexual assault (whether homosexual or heterosexual) which involves force or the threat of force.

(c) Advisory committee; appointment; functions; membership; compensation; per diem and travel expenses

The Secretary shall appoint an advisory committee to advise, consult with, and make recommendations to him on the implementation of subsection (b) of this section. The Secretary shall appoint to such committee persons who are particularly qualified to assist in carrying out the functions of the committee. A majority of the members of the committee shall be women. Members of the advisory committee shall receive compensation at rates, not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, for each day (including traveltime) they are engaged in the performance of their duties as members of the advisory committee and, while so serving away from their homes or regular places of business, each member shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(d) Authorization of appropriations

For the purpose of carrying out subsection (b) of this section, there are authorized to be appropriated $7,000,000 for fiscal year 1976, and $10,000,000 for fiscal year 1977.

(Pub. L. 88-164, title II, § 231, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 328.)

REFERENCES IN TEXT

GS-18 of the General Schedule, referred to in subsec. (c), is set out under section 5332 of Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

PART E—GENERAL PROVISIONS

EFFECTIVE DATE

This part effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

§ 2689r. Definitions

For purposes of this subchapter—

(1) The term "State" includes the Commonwealth of Puerto Rico, Guam, American Somoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

(2) The term "State agency" means the State mental health authority for which grants are authorized under section 246(d) of this title.

(3) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(4) The term "National Advisory Mental Health Council" means the National Advisory Mental Health Council established under section 218 of this title.

(Pub. L. 88-164, title II, § 235, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 329.)

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2689s. Regulations; promulgation and required provisions; consultation prior to issuance

Regulations issued by the Secretary for the administration of this subchapter shall include provisions applicable uniformly to all the States which—

(1) prescribe the general manner in which the State agency of a State shall determine the priority of projects for community mental health centers on the basis of the relative need of the different areas of the State for such centers and their services and require special consideration for projects on the basis of the extent to which a center to be assisted or established upon completion of a project (A) will, alone or in conjunction with other centers owned or operated by the applicant for the project or affiliated or associated with such applicant, provide comprehensive mental health services for residents of a particular community or communities, or (B) will be part of or closely associated with a general hospital;

(2) prescribe general standards for facilities and equipment for centers of different classes and in different types of location; and

(3) require that the State plan of a State submitted under section 2689t of this title provide for adequate community mental health centers for people residing in the State, and provide for adequate community mental health centers to furnish needed services for persons unable to pay therefor.

The National Advisory Mental Health Council shall be consulted by the Secretary before the issuance of regulations under this section.

(Pub. L. 88-164, title II, § 236, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 329.)

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689j, 2689k, 2689t of this title.

§ 2689t. State plans

(a) Required administrative, and services and facilities provisions

A State plan for the provision of comprehensive mental health services within a State shall be comprised of the following two parts:

(1) An administrative part containing provisions respecting the administration of the plan and related matters. Such part shall—

(A) provide for the designation of a State advisory council to consult with the State agency in administering such plan, which council shall include (i) representatives of non-government organizations or groups, and of State agencies, concerned with the planning, operation, or use of community mental health centers or other mental health facilities, and (ii) representatives of consumers and providers of the services of such centers and facilities who are familiar with the need for such services;

(B) provide that the State agency will make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(C) provide that the State agency will from time to time, but not less often than annually, review the State plan and submit to the Secretary appropriate modifications thereof which it considers necessary; and

(D) include provisions, meeting such requirements as the Civil Service Commission may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis.

(2) A services and facilities part containing provisions respecting services to be offered within the State by community mental health centers and provisions respecting facilities for such centers. Such part shall—

(A) be consistent with the provisions of the State plan prepared in accordance with section 300m-3(c)(2) of this title or the State plan approved under section 246(a) of this title, whichever is applicable, relating to the provision of mental health services;

(B) set forth a program for community mental health centers within the State (i) which is based on a statewide inventory of existing facilities and a survey of need for the comprehensive mental health services described in section 2689(b) of this title; (ii) which conforms with regulations prescribed by the Secretary under section 2689s of this title; and (iii) which shall provide for adequate community mental health centers to furnish needed services for persons unable to pay therefor;

(C) set forth the relative need, determined in accordance with the regulations prescribed under section 2689s of this title, for the projects included in the program described in subparagraph (B), and, in the case of projects under part C of this subchapter, provide for the completion of such projects in the order of such relative need;

(D) emphasize the provision of outpatient services by community mental health centers as a preferable alternative to inpatient hospital services; and

(E) provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of centers which receive Federal aid under this subchapter and provide for enforcement of such standards with respect to projects approved by the Secretary under this subchapter.

(b) Administration or supervision of administration by State agency

The State agency shall administer or supervise the administration of the State plan.

(c) Regulations prescribing form and manner of submission; approval of plan or modification; notice and hearing prior to disapproval

A State shall submit a State plan in such form and manner as the Secretary shall by regulation prescribe. The Secretary shall approve any State plan (and any modification thereof) which complies with the requirements of subsection (a) of this section. The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

(d) Availability of allotments to States for administration of plan provisions relating to projects facilities; amounts available; duration of availability; manner of payment; conditions

(1) At the request of any State, a portion of any allotment or allotments of such State under section 2689o of this title for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the provisions of the State plan approved under this section which relate to projects under part C of this subchapter for facilities for community mental health centers; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be available for such purpose. Amounts made available to any State under this paragraph from its allotment or allotments under section 2689o of this title for any fiscal year shall be available only for such expenditures (referred to in the preceding sentence) during such fiscal year or the following fiscal year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

(2) Any amount paid under paragraph (1) to any State for any fiscal year for administration of the provisions of an approved State plan shall be paid on condition that there shall be expended from State sources for each year for administration of such provisions not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1968.

(Pub. L. 88-164, title II, § 237, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 330.)

TRANSFER OF FUNCTIONS

Functions, powers, and duties relating to prescription of personnel standards on a merit basis, under prior provisions, were transferred to the United States Civil Service Commission by section 4728(a)(3)(A) of this title.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976 THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976,under subsec. (d) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 109 of Pub. L. 94-274, title I, Apr. 21, 1976, 90 Stat. 387, set out as a note under section 2689o of this title.

PERIOD OF JULY 1, 1975, THROUGH SEPTEMBER 30, 1976, CONSIDERED AS ONE YEAR

Period of July 1, 1975, through Sept. 30, 1976, considered as one year for purposes of subsec. (a)(1)(C) of this section, see section 206(4) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 394, set out as a note under section 1176 of Title 21, Food and Drugs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2689e, 2689g, 2689j, 2689k, 2689l, 2689o, 2689s of this title.

§ 2689u. Catchment areas of centers; periodic review by designated State health planning and development agency and State mental health authority; purposes of review

Each State health planning and development agency designated for a State under section 300m of this title shall, in consultation with that State's mental health authority, periodically review the catchment areas of the community mental health centers located in that State to (1) insure that the sizes of such areas are such that the services to be provided through the centers (including their satellites) serving the areas are available and accessible to the residents of the areas promptly, as appropriate, (2) insure that the boundaries of such areas conform, to the extent practicable, with relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs, and (3) insure that the boundaries of such areas eliminate, to the extent possible, barriers to access to the services of the centers serving the areas, including barriers resulting from an area's physical characteristics, its residential patterns, its economic and social groupings, and available transportation.

(Pub. L. 88-164, title II, § 238, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 331.)

§ 2689v. State control of administration, personnel, maintenance or operation of centers

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any community mental health center with respect to which any funds have been or may be expended under this subchapter.

(Pub. L. 88-164, title II, § 239, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 332.)

§ 2689w. Maintenance of records; audit and examination of books, documents, etc.

(a) Each recipient of assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the assistance received under this subchapter.

(Pub. L. 88-164, title II, § 240, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 332.)

PRIOR PROVISIONS

A prior section 240 of Pub. L. 88-164, title II, was classified to section 2688e of this title.

§ 2689x. Exclusions from determination of amount of grant

In determining the amount of any grant under part A, B, or C of this subchapter for the costs of any project there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant for such grant has obtained, or is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(Pub. L. 88-164, title II, § 241, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 332.)

PRIOR PROVISIONS

A prior section 241 of Pub. L. 88-164, title II, was classified to section 2688f of this title.

§ 2689y. Poverty area; determination

For purposes of any determination by the Secretary under this subchapter as to whether any urban or rual area is a poverty area, the Secretary may not determine that an area is an urban or rural poverty area unless—

(1) such area contains one or more subareas which are characterized as subareas of poverty;

(2) the population of such subarea or subareas constitutes a substantial portion of the population of such rural or urban area; and

(3) the project, facility, or activity, in connection with which such determination is made, does, or (when completed or put into operation) will, serve the needs of the residents of such subarea or subareas.

(Pub. L. 88-164, title II, § 242, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 332.)

PRIOR PROVISIONS

A prior section 242 of Pub. L. 88-164, title II, was classified to section 2688g of this title.

§ 2689z. Protection of personal rights under grants

In making grants under parts A and B of this subchapter, the Secretary shall take such steps as may be necessary to assure that no individual shall be made the subject of any research involving surgery which is carried out (in whole or in part) with funds under such grants unless such individual explicitly agrees to become a subject of such research.

(Pub. L. 88-164, title II, § 243, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 333.)

PRIOR PROVISIONS

A prior section 243 of Pub. L. 88-164, title II, was classified to section 2688h of this title.

§ 2689aa. Reimbursement of centers for mental health services

The Secretary shall, to the extent permitted by law, work with States, private insurers, community mental health centers, and other appropriate entities to assure that community mental health centers shall be eligible for reimbursement for their mental health services to the same extent as general hospitals and other licensed providers.

(Pub. L. 88-164, title II, § 244, as added Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 333.)

PRIOR PROVISIONS

A prior section 244 of Pub. L. 88-164, title II, was classified to section 2688i of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 2691. Repealed. Pub. L. 94-103, title III, § 302(c), Oct. 4, 1975, 89 Stat. 507

Section, Pub. L. 88-164, title IV, § 401, Oct. 31, 1963, 77 Stat. 296; Pub. L. 90-31, § 4(a), June 24, 1967, 81 Stat. 79; Pub. L. 91-211, title I, §§ 102(b), 104, 105, Mar. 13, 1970, 84 Stat. 54-56; Pub. L. 91-517, title I, § 102(a), Oct. 30, 1970, 84 Stat. 1324; Pub. L. 94-63, title III, § 305(a), July 29, 1975, 89 Stat. 333, related to definitions, Federal percentages, and promulgation of percentages, Subject matter is now covered in section 6001 et seq. of this title. See section 6001 of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

§ 2692. Repealed. Pub. L. 91-211, title I, § 104, Mar. 13, 1970, 84 Stat. 55

Section, Pub. L. 88-164, title IV, § 402, Oct. 31, 1963, 77 Stat. 297; Pub. L. 89-105, § 2(a), Aug. 4, 1965, 79 Stat. 427, provided for State standards for variable Federal share of cost.

EFFECTIVE DATE OF REPEAL

Section 104 of Pub. L. 91-211 provided in part that repeal of this section shall be effective with respect to projects under subchapter II of this chapter or part A of subchapter III of this chapter approved after June 30, 1970.

§§ 2693 to 2697b. Repealed. Pub. L. 94-103, title III, § 302(c), Oct. 4, 1975, 89 Stat. 507

Section 2693, Pub. L. 88-164, title IV, § 403, Oct. 31, 1963, 77 Stat. 297; Pub. L. 90-574, title V, § 502, Oct. 15, 1968, 82 Stat. 1012; Pub. L. 91-211, title I, § 103, Mar. 13, 1970, 84 Stat. 55; Pub. L. 91-517, title I, § 102(b), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94-63, title III, § 305(b), July 29, 1975, 89 Stat. 334, related to payments for construction, providing in: subsec. (a) for installments, payments to applicants, withholding of payments, and maximum amounts; subsec. (b) for amendment of application and revision of estimate; and subsec. (c) for use of allotments for cost of administration and limitation of amount. See section 6064(b)(1), (2) of this title.

Section 2694, Pub. L. 88-164, title IV, § 404, Oct. 31, 1963, 77 Stat. 298; Pub. L. 91-517, title I, § 102(c), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94-63, title III, § 305(c), July 29, 1975, 89 Stat. 334, related to appeals, petition, record, jurisdiction of courts of appeals, conclusiveness of findings, review by Supreme Court, and stay of administrative action. Subject matter is now covered by section 6068 of this title.

Section 2695, Pub. L. 88-164, title IV, § 405, Oct. 31, 1963, 77 Stat. 298; Pub. L. 91-517, title I, § 102(b), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94-63, title III, § 305(d), July 29, 1975, 89 Stat. 334, related to recovery of expenditures under certain conditions and is now covered by section 6006 of this title.

Section 2696, Pub. L. 88-164, title IV, § 406, Oct. 31, 1963, 77 Stat. 299; Pub. L. 91-517, title I, § 102(b), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94-63, title III, § 305(e), July 29, 1975, 89 Stat. 334, related to State control of operations and is now covered by section 6003 of this title.

Section 2697, Pub. L. 88-164, title IV, § 408, as added Pub. L. 89-105, § 3, Aug. 4, 1965, 79 Stat. 429, related to records and audit and is now covered by section 6004 of this title.

Section 2697a, Pub. L. 88-164, title IV, § 409, as added Pub. L. 90-574, title III, § 304, Oct. 15, 1968, 82 Stat. 1011, related to determination of amount of grants and exclusion of duplicated grants and is now covered by section 6081(c) of this title.

Section 2697b, Pub. L. 88-164, title IV, § 410, as added Pub. L. 91-211, title V, § 504, Mar. 13, 1970, 84 Stat. 62, related to determination of poverty area.

EFFECTIVE DATE OF REPEAL

Sections repealed effective with request to appropriations under Pub. L. 94-103, for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

SUBCHAPTER V—TRAINING OF PHYSICAL EDUCATORS AND RECREATION PERSONNEL FOR MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN

§§ 2698 to 2698b. Repealed. Pub. L. 91-230, title VI, § 662(4), April 13, 1970, 84 Stat. 188

Section 2698, Pub. L. 88-164, title V, § 501, as added Pub. L. 90-170, § 7, Dec. 4, 1967, 81 Stat. 530, related to appropriations and grants for training of personnel.

Section 2698a, Pub. L. 88-164, title V, § 502, as added Pub. L. 90-170, § 7, Dec. 4, 1967, 81 Stat. 530, related to grants for research and demonstration projects, payment thereof, and evaluation of such projects.

Section 2698b, Pub. L. 88-164, title V, § 503, as added Pub. L. 90-170, § 7, Dec. 4, 1967, 81 Stat. 531, related to the appointment of an advisory committee and the compensation of its members and appointees.

Such former provisions are now covered by various sections of Title 20, Education, as follows:

Former sections	*Title 20 sections*
2698(a)	1434
2698(b)	1436
2698a(a)(1)	1442, 1444
2698a(a)(2)	1232d
2698a(b)	1443
2698b(a)	See 1233a, 1403
2698b(b)	1233c

EFFECTIVE DATE OF REPEAL

Sections repealed effective July 1, 1971, see provisions of section 662 of Pub. L. 91-230, set out in part as a note under sections 611 to 618 of Title 20, Education.

CHAPTER 34—ECONOMIC OPPORTUNITY PROGRAM

Sec.
2701. Congressional findings and declaration of purpose.
2702 to 2702b. Omitted.
2703. Repealed.
2704. Discontinued Job Corps centers; utilization for special youth programs.
2705. Repealed.
2706. Definitions.
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SUBCHAPTER I—RESEARCH AND DEMONSTRATIONS

PART A—RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

2711. Congressional statement of purpose.
2712. Research, demonstration, and pilot projects.
(a) Financial assistance.
(b) Plan; contents; consultation with other Federal agencies.
(c) Conditions for commencement of project.
(d) Consideration of request for funds by section 2808 or 2828 applicants.
2713. Consultation.
2714. Announcement respecting research, demonstration, and pilot projects.
(a) Functions of Director.
(b) Time limit.
(c) Studies, proposals, etc., as property of United States.
(d) Publication of summaries; time; copies to Congress.
2715. Federal control prohibited.
2716 to 2729. Repealed.

PART B—WORK AND TRAINING FOR YOUTH AND ADULTS

2731. Repealed.
2732 to 2736. Omitted.
2737 to 2749. Repealed.

PART C—WORK-STUDY PROGRAMS

2751. Statement of purposes; authorization of appropriations.
2752. Allotments to States.
(a) Allotments for Puerto Rico, Guam, American Samoa, Trust Territory of the Pacific Islands, and Virgin Islands.
(b) Manner of allotment.
(c) Equitable criteria for allotment of remainder sums; consolidation of allotments.
(d) Reallotments; availability of amounts.
(e) Definition of State.
(f) Reservation from appropriations for work-study assistance to students resident in American Samoa or the Trust Territory of the Pacific Islands.
2753. Grants for work-study programs; agreements with eligible institutions; definitions.
2754. Agreements with eligible institutions.
(a) Conditions.
(b) Agreements with area vocational schools.
(c) Hours of employment.
2755. Sources of matching funds.
2756. Equitable distribution of assistance.
2756a. Job location and development programs; agreements.
2757. Repealed.

PART D—SPECIAL IMPACT PROGRAMS

2761, 2762. Omitted.
2763 to 2768. Repealed.

PART E—SPECIAL WORK AND CAREER DEVELOPMENT PROGRAMS

Sec.
2769 to 2769f. Repealed.

PART F—DURATION OF PROGRAMS

2771. Omitted.

SUBCHAPTER II—URBAN AND RURAL COMMUNITY ACTION PROGRAMS

2781. Congressional statement of purpose.

PART A—COMMUNITY ACTION AGENCIES AND PROGRAMS

2782 to 2789. Omitted.
2790. Designation of community action agencies.
(a) Political subdivisions; public and private nonprofit agencies and organizations; Indian tribal government.
(b) Administration.
(c) Organizational base and commonality of interests.
(d) Designation of substitute community action agency.
(e) Self exclusion of political subdivisions.
(f) Delegation of functions.
2791. Community action agencies and boards.
(a) Administration by community action boards.
(b) Composition of boards; membership; term of service.
(c) Neighborhood based organizations.
(d) Administrative standards and rules; quorum.
(e) Power of appointment; staff; determination of policies; program plans; priorities.
(f) Participation in program development and implementation; democratic selection procedures; participation of the poor; community involvement.
(g) Sabbath Days; prohibition of elections or other democratic selection procedures.
2792 to 2794. Omitted.
2795. Specific powers and functions of community action agencies.
2796. Administrative standards; rules and regulations.
2797. Housing development and service organizations.

PART B—FINANCIAL ASSISTANCE TO COMMUNITY ACTIONS PROGRAMS AND RELATED ACTIVITIES

2801 to 2807. Repealed.
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(a) Authority of Director; conditions and criteria.
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2810. Resident employment.
2811. Neighborhood centers.
2812. Allotment of funds.
(a) Limitation on assistance for development and implementation of community action programs.
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(c) Limitation on assistance to community action agencies or section 2808 or 2809 agencies.
(d) Conditions for approval; rules and regulations.
2813. Design and planning assistance programs.
(a) Grants or contracts for financial assistance.
(b) Requirements for assistance.
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2814. National youth sports program.
(a) Grants or contracts.
(b) Assurances required.
(c) Administration of program.
2815. Consumer action and cooperative programs.
(a) Grants or contracts for assistance.
(b) Criteria for grantee or contracting organization or agency.
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PART C—SUPPLEMENTAL PROGRAMS AND ACTIVITIES

2821, 2822. Omitted.
2823. Technical assistance and training.
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(a) Purposes for which assistance may be provided.
(b) Program preferences.
(c) Coordination respecting use of funds.
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2825. Research and pilot programs.
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(c) Limitation and allocation of funds.
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(e) Particular pilot projects.
(f) Migration from rural to urban areas.
2826. Repealed.
2827. Special assistance.
2828. Demonstration community partnership agreements.
(a) Financial assistance to community action agencies or public or private nonprofit agencies and to State economic opportunity offices.
(b) Matching local and State funds; requirements for approval of program.
(c) Applicability of section 2834 of this title.
2829. Intergovernmental Advisory Council on Community Services.
(a) Establishment.
(b) Membership.
(c) Functions and duties.
(d) Information; copies of grant applications.
2830. Authorization of appropriations.

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2832. Assistant Directors for Community Action.
2833. Rural areas.
(a) Steps to extend benefits to rural residents.
(b) Criteria for equitable distribution of assistance between urban and rural areas.
(c) Assistance to public and private nonprofit agencies.
(d) Urban-rural cooperation.

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2834. Submission of plans to governors.
2835. Fiscal responsibility and audit.
(a) Accounting system.
(b) Preliminary audit survey.
(c) Annual audit.
(d) Other requirements and actions by Director.
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2852. Loans to local cooperative associations.
2853. Limitations on assistance.
2854. Loan terms and conditions.
2855. Revolving fund.
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(d) Receipts from lending and guaranty operations; availability of funds.

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2861. Congressional statement of purpose.
2862. Financial assistance.
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PART C—DURATION OF PROGRAM

2871. Duration of program.

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(b) Stipends and allowances.
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2921. Short title.
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PART A—HEADSTART PROGRAMS

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2928c. Designation of Headstart agencies.
(a) Local public or private nonprofit agencies; qualifications.
(b) Entities comprising "community".
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2928d. Powers and functions of Headstart agencies.
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2928f. Administrative requirements and standards.
(a) Standards for organization, management, and administration.
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2928g. Participation in Headstart programs.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter referred to in sections 3056a, 3062, 3131, 3141, 4201, 4953, 5031, 6861 of this title; title 2 section 452; title 12 section 1766; title 38 section 2013.

§ 2701. Congressional findings and declaration of purpose

Although the economic well-being and prosperity, of the United States have progressed to a level surpassing any achieved in world history, and although these benefits are widely shared throughout the Nation, poverty continues to be the lot of a substantial number of our people. The United States can achieve its full economic and social potential as a nation only if every individual has the opportunity to contribute to the full extent of his capabilities and to participate in the workings of our society. It is, therefore, the policy of the United States to eliminate the paradox of poverty in the midst of plenty in this Nation by opening to everyone the opportunity for education and training, the opportunity to work, and the opportunity to live in decency and dignity. It is the purpose of this chapter to strengthen, supplement, and coordinate efforts in furtherance of that policy.

It is the sense of the Congress that it is highly desirable to employ the resources of the private sector of the economy of the United States in all such efforts to further the policy of this chapter.

(Pub. L. 88-452, § 2, Aug. 20, 1964, 78 Stat. 508; Pub. L. 89-794, title VI, § 614(b), Nov. 8, 1966, 80 Stat. 1472.)

AMENDMENTS

1966—Pub. L. 89-794 inserted provisions stating that it is the sense of Congress that it is highly desirable to employ the resources of the private sector of the economy of the United States in all such efforts to further the policy of this chapter.

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-341, § 1, July 6, 1976, 90 Stat. 803, provided that: "This Act [enacting section 2985c-1 of this title, amending sections 2706, 2707, 2712, 2714, 2781, 2790, 2809, 2812, 2814, 2828, 2829, 2855, 2901, 2902, 2928c, 2928f, 2928l, 2928n, 2930e, 2930f, 2941, 2942, 2943, 2944, 2948, 2951, 2971f, 2971g, 2982a, 2982c, 2984, 2984a, and 2985 to 2985g of this title, enacting provision set out as a note under this section, and amending provisions set out as notes under this section and section 2942 of this title] may be cited as the 'Community Services Act Technical Amendments of 1976'."

SHORT TITLE OF 1975 AMENDMENTS

Pub. L. 94-43, § 1, June 28, 1975, 89 Stat. 233, provided: "That this Act [amending section 2756 of this title and section 1615 of Title 20, Education, and enacting provisions set out as notes under section 2756 of this title and section 1070a of Title 20] may be cited as the 'Emergency Technical Provisions Act'."

Pub. L. 93-644, § 1, Jan. 4, 1975, 88 Stat. 2291, provided: "That this Act [enacting sections 2706, 2707, 2711 to 2715, 2828 to 2830, 2865, 2928 to 2928n, 2929 to

2929c, 2930 to 2930f, 2971f, 2971g, 2981a, 2981b, 2985a to 2985g, 2991 to 2991h, and 2992 to 2992d of this title, amending sections 2790, 2809, 2812, 2813, 2837, 2862, 2871, 2901, 2902, 2921, 2922, 2923, 2932, 2933, 2941, 2942, 2943, 2945, 2965, 2971d, 2974, 2979, 2981, 2982, 2982a, 2982b, 2982c, 2983, 2983a, 2983b, 2984, 2984a, 2985, 2995, 2995a, and 2995b of this title, repealing sections 2703, 2705, 2942 note, and 2949 of this title, and enacting provisions set out as notes under this section and sections 2706, 2865, and 2981 of this title] may be cited as the 'Headstart, Economic Opportunity, and Community Partnership Act of 1974'."

Section 3, formerly § 101 of Pub. L. 88-452, as added by section 3 of Pub. L. 93-644, Jan. 4, 1975, 88 Stat. 2292, and renumbered and amended by Pub. L. 94-341, § 2(a)(1), July 6, 1976, 90 Stat. 803, provided that: "Title I through IX of this Act [subchapter I through IX of this chapter] may be cited as the 'Community Services Act of 1974'."

Short Title of 1974 Amendment

Pub. L. 93-355, § 1, July 25, 1974, 88 Stat. 378, provided: "That this Act [enacting subchapter X of this title and section 2971e of this title, amending section 2809 of this title, and enacting provisions set out as notes under sections 2809 and 2996b of this title] may be cited as the 'Legal Services Corporation Act of 1974'."

Pub. L. 88-452, title X, § 1014, as added by Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 378, provided that: "This title [subchapter X of this chapter] may be cited as the 'Legal Services Corporation Act'."

Short Title of 1972 Amendment

Pub. L. 92-424, § 1, Sept. 19, 1972, 86 Stat. 688, provided: "That this Act [which enacted sections 2702b, 2813 to 2815, 2827, 2971b to 2971d, 2981 to 2985, and 2995 to 2995d of this title, amended sections 2724, 2742, 2749, 2771, 2791, 2809, 2812, 2824, 2836, 2837, 2862, 2864, 2871, 2907, 2932, 2933, 2943, 2949, 2965, 2966, 2974, 2991, 2992a, 2993, 2993a, 2994b, 2994d, and 3044b of this title, repealed sections 2763 to 2768 and 2826 of this title, and enacted provisions set out as notes under sections 2942 and 3044b of this title] may be cited as the 'Economic Opportunity Amendments of 1972'."

Short Title of 1969 Amendment

Pub. L. 91-177, § 1, Dec. 30, 1969, 83 Stat. 827, provided: "That this Act [enacting sections 2702a, 2704, 2705, and 2769 to 2769f of this title, amending sections 2771, 2809, 2834, 2837, 2851, 2871, 2907, 2933, 2949, 2965, 2966, 2994b, and 2994d of this title, and section 8332 of Title 5, Government Officers and Employees, and enacting provisions set out as notes under this section and sections 2809, 2834, 2971a and 2994b of this title] may be cited as the 'Economic Opportunity Amendments of 1969'."

Short Title of 1967 Amendment

Pub. L. 90-222, § 1, Dec. 23, 1967, 81 Stat. 672, provided: "That this Act [enacting sections 2702, 2703, 2723 to 2729, 2737 to 2749, 2763 to 2768, 2795 to 2797, 2808 to 2812, 2823 to 2826, 2832 to 2837, 2862 to 2864, 2906a, 2906b, 2906c, 2931 to 2933, 2946, 2971, 2972 to 2980, 2992, 2992a, 2992b, 2993, 2993a, 2993b, 2994, 2994a, 2994b, 2994c, and 2994d of this title, amending sections 2711 to 2721, 2781, 2790, 2791, 2841, 2851, 2861, 2901, 2902, 2906, 2907, 2921 to 2925, 2941 to 2944, 2949 to 2951, 2961 to 2963, 2966, 2981, and 2991 of this title and section 105 of Title 3, The President, omitting sections 2722, 2732 to 2736, 2761, 2762, 2782 to 2789, 2792 to 2794, 2821, 2822, 2831, and 2991a to 2991e of this title, redesignating section 2946 as section 2855 of this title, and enacting provisions set out as notes under section 2702 of this title] may be cited as the 'Economic Opportunity Amendments of 1967'."

Short Title of 1966 Amendment

Section 1 of Pub. L. 89-794 provided: "That this Act [enacting sections 2610c, 2721, 2722, 2762, 2771, 2792, 2793, 2794, 2924, 2925, 2951, 2968, 2969, 2970, and 2991 to 2991e of this title, amending this section, sections 2581, 2583, 2713, 2714, 2716, 2732, 2733, 2734, 2735, 2761, 2782, 2783, 2785, 2786, 2787, 2788, 2802, 2821, 2831, 2851, 2854, 2871, 2881, 2902, 2905, 2906, 2907, 2921, 2922, 2923, 2941, 2942, 2943, 2944, 2945, 2946, 2950, 2961, 2963, 2965, 2966, 2981, and 3161 of this title, and sections 425 and 1077 of Title 20, Education, repealing sections 2731, 2903, and 2904 of this title, and enacting provisions set out as notes under this section and section 2981 of this title and section 425 of Title 20, Education] may be cited as the 'Economic Opportunity Amendments of 1966'."

Short Title of 1965 Amendment

Pub. L. 89-253, § 1, Oct. 9, 1965, 79 Stat. 973, provided: "That this Act [which amended sections 2713, 2714, 2716, 2720, 2734, 2735, 2754, 2761, 2782, 2785, 2788, 2789, 2802, 2805, 2807, 2822, 2831, 2851, 2854, 2861, 2871, 2881, 2922, 2923, 2943, 2945, 2965, and 2966 of this title and section 425 of Title 20, Education, and enacted sections 2806a, 2950, and 2967 of this title] may be cited as the 'Economic Opportunity Amendments of 1965'."

Short Title

Section 1 of Pub. L. 88-452 provided: "That this Act [enacting this chapter] may be cited as the 'Economic Opportunity Act of 1964'."

Executive Order No. 11470

Ex. Ord. No. 11470, eff. May 26, 1969, 34 F.R. 8227, formerly set out as a note under this section, which made arrangements for the structure and conduct of a National Voluntary Action Program, was superseded by Ex. Ord. No. 11603, eff. June 30, 1971, 36 F.R. 12675, set out as a note under section 2501 of Title 22, Foreign Relations and Intercourse. For transfer of the National Voluntary Action Program to ACTION as created by Reorg. Plan No. 1 of 1971, see section 401 of Ex. Ord. No. 11603.

§ 2702. Omitted

Codification

Section 2702, Pub. L. 90-222, § 2, Dec. 23, 1967, 81 Stat. 672, related to authorization of appropriations for fiscal years 1968 and 1969, and was omitted from the Code as obsolete.

Effective Date

Section 401 of Pub. L. 90-222 provided that: "The amendments made by this Act [see Short Title of 1967 Amendment note set out under section 2701 of this title] shall be in effect immediately upon its enactment [Dec. 23, 1967], except as provided in this section. Until June 30, 1968, the provisions of section 202 of the Economic Opportunity Act of 1964 as in effect immediately prior to the enactment of this Act [section 2782 of this title] shall apply to community action agencies in existence and funded prior to the enactment of this Act [Dec. 23, 1967], except that in any grant or funding agreement made with such an agency prior to June 30, 1968, adequate provision shall be made for transfer of functions, obligations, records, authority, and funds to any community action agency designated pursuant to sections 210 or 211 of the Economic Opportunity Act of 1964 as amended by this Act [sections 2790 or 2791 of this title]: *Provided, however,* That nothing in this Act shall require the termination before February 1, 1969 of an existing community action agency or any program assisted under the Economic Opportunity Act of 1964 [this chapter] prior to the designation of, and provision of financial assistance to, a community action agency or other agency established under sections 210 and 211 of the Economic Opportunity Act [sections 2790 and 2791 of this title] as amended by this Act."

INVESTIGATION AND EVALUATION OF ECONOMIC OPPORTUNITY PROGRAMS BY THE COMPTROLLER GENERAL; SUBMISSION OF FINAL REPORT BY DECEMBER 1, 1968

Title II of Pub. L. 90-222 authorized the Comptroller General of the United States to make an investigation in sufficient depth of programs and activities financed in whole or in part by funds authorized under this section in order to determine the efficiency of the administration of such programs and activities by the Office of Economic Opportunity and by local public and private agencies carrying out such programs and activities, and the extent to which such programs and activities achieve the objectives set forth in the relevant part or title of this chapter which authorizes such programs or activities, and to transmit his final report to the Congress not later than Dec. 1, 1968 containing a detailed statement of his findings and conclusions together with such recommendations, including recommendations for additional legislation as he deemed advisable.

ACCESS OF GENERAL ACCOUNTING OFFICE TO GRANTEE'S RECORDS

Pub. L. 91-617, title III, § 301, Jan. 1, 1971, 84 Stat. 2018, provided in part that: "All grant agreements shall provide that the General Accounting Office shall have access to the records of the grantee which bear exclusively upon the Federal grant."

Similar provisions were contained in Pub. L. 91-204, title III, § 301, Mar. 5, 1970, 84 Stat. 46.

§§ 2702a, 2702b. Omitted

CODIFICATION

Section 2702a, Pub. L. 91-177, title I, § 102, Dec. 30, 1969, 83 Stat. 827, related to authorization of appropriations for fiscal years 1970 and 1971, and was omitted from the Code as obsolete.

Section 2702b, which was based on section 3(a), (b)(1), (3), (c), (d)(1), (2), (e) of Pub. L. 92-424, Sept. 19, 1972, 86 Stat. 688, 689, related to authorization of appropriations for fiscal years 1973 and 1974, and was omitted from the Code as obsolete.

Subsection (b)(2) of section 2702b, which was based on section 3(b)(2) of Pub. L. 92-424, and which related to functions of the Secretary of Health, Education, and Welfare with respect to status of handicapped children in the Headstart program, has been transferred to section 2928g-1 of this title.

§ 2703. Repealed. Pub. L. 93-644, § 16(b), Jan. 4, 1975, 88 Stat. 2330

Section, Pub. L. 90-222, title III, § 301, Dec. 23, 1967, 81 Stat. 728, set out criminal provisions covering operations of antipoverty agencies. See now section 2971f of this title.

§ 2704. Discontinued Job Corps centers; utilization for special youth programs

(a) Notwithstanding any other provision of law, the Director of the Community Services Administration shall establish procedures and make arrangements which are designed to assure that facilities and equipment of Job Corps centers which are being discontinued will, where feasible, be made available for use by State or Federal agencies and other public or private agencies, institutions, and organizations with satisfactory arrangements for utilizing such facilities and equipment for conducting programs, especially those providing opportunities for low-income disadvantaged youth, including, without limitation—

(1) special remedial programs;

(2) summer youth programs;

(3) exemplary vocational preparation and training programs;

(4) cultural enrichment programs, including music, the arts, and the humanities;

(5) training programs designed to improve the qualifications of educational personnel, including instructors in vocational educational programs; and

(6) youth conservation work and other conservation programs.

(b) To achieve the objectives of this section, the Director of the Community Services Administration shall consult with, elicit the cooperation of, and utilize the services of the Administrator of the General Services Administration, and the Secretaries of Agriculture, of the Interior, and of Labor.

(Pub. L. 91-177, title I, § 113, Dec. 30, 1969, 83 Stat. 832; Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 2310.)

CODIFICATION

"Director of the Community Services Administration" was substituted for "Director of the Office of Economic Opportunity" in text, on the authority of section 9(a) of Pub. L. 93-644, Jan. 4, 1975, 88 Stat. 2310, which established the Community Services Administration as the successor to the Office of Economic Opportunity. See section 2941 of this title.

Section was enacted as part of the Economic Opportunity Amendments of 1969, and not as part of the Economic Opportunity Act of 1964 which comprises this chapter.

§ 2705. Repealed. Pub. L. 93-644, § 16(a), Jan. 4, 1975, 88 Stat. 2330

Section, Pub. L. 91-177, title I, § 115, Dec. 30, 1969, 83 Stat. 833, provided for the withholding of federal taxes by antipoverty agencies. See section 2971g of this title.

EX. ORD. NO. 11330. COORDINATION OF YOUTH OPPORTUNITY PROGRAMS

Ex. Ord. No. 11330, eff. Mar. 5, 1967, 32 F.R. 3871 as amended by Ex. Ord. No. 11547, eff. July 10, 1970, 35 F.R. 11221, provided:

The promise and the future strength of the United States is in our youth.

We must meet the needs of youth so that the formative years will equip them for a productive role in society and prepare them for the responsibilities of citizenship.

Many youths, particularly those who live in impoverished areas, need special help in improving their lives and finding a place in the mainstream of our society.

Existing public services for youth need to be strengthened and improved and joined with private resources.

Programs and resources of Federal departments and agencies require coordination in order to provide continuity in planning and carrying out services to meet the needs of youth.

The summer months provide an exceptional opportunity to enhance the sound growth and guidance of youth through education, employment, recreation, and health services.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

PART I—PRESIDENT'S COUNCIL ON YOUTH OPPORTUNITY

SECTION 101. *"Membership and chairmanship,"* (a) There is hereby established the President's Council on Youth Opportunity (hereinafter referred to as the "Council"). The Council shall be composed of the Vice President, who shall serve as Chairman, the Secretary of State, the Secretary of Defense, the Attorney Gen-

eral, the Postmaster General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Director of the Office of Economic Opportunity, the Chairman of the Civil Service Commission, and such other Federal officials as the President may designate. Each of the foregoing may appoint a delegate to represent him in Council affairs.

(b) When matters which affect the interests of Federal agencies not represented on the Council are to be considered by the Council the Chairman shall invite the heads of such agencies to participate in the business of the Council.

SEC. 102. *Functions of the Council.* (a) The Council shall be responsible for (1) assuring effective program planning for summer and other youth programs of the Federal Government, (2) strengthening the coordination of youth programs and activities of Federal departments and agencies, (3) evaluating the over-all effectiveness of Federal youth opportunity programs, (4) encouraging State, local, nonprofit and other private organizations to participate fully in efforts to enhance opportunities for youth, and (5) reporting progress to the President.

(b) The scope of subsection (a) of this section extends to, but is not limited to, (1) programs to maximize meaningful employment for youth in cooperation with employers and agencies of Federal, State, and local governments, and with emphasis on types of employment leading to the acquistion of skills which will increase the employability of participants as members of the labor force; (2) programs to strengthen the educational achievements of youth through such means as preparatory courses conducted through school systems which will encourage youth to continue or resume their education, remedial and tutorial programs conducted in the communities by schools and colleges, and the use of summer and part-time employment as incentives; (3) programs to encourage and stimulate youth to become involved in improving their home neighborhoods; (4) programs designed to identify, diagnose, and treat the illnesses and handicapping conditions of youth who participate in these summer programs; (5) programs arranged through communities and private organizations to stimulate opportunities for youth to participate in cultural, recreational, and athletic activities or competitions; (6) programs utilizing the existing camping and recreational resources in Federal, State, and local parks, forests, and recreation areas, with a view to securing the support and participation of public authorities and private organizations concerned with youth in developing constructive outdoor or work-related opportunities which will benefit disadvantaged urban and rural youth by utilizing such facilities during the summer months; and (7) programs designed to increase opportunities for children of urban slums to spend part of their summers in the wholesome environment of families in other areas through the hospitality of such families and with the support and cooperation of private, nonprofit organizations.

SEC. 103. *Assistance and cooperation.* (a) Upon request of the Chairman, each Federal agency shall, to the extent permitted by law and within available funds, furnish information, data, and reports needed by the Council to accomplish the purposes of this order.

(b) All Federal officials, in carrying out their statutory responsibilities and programs, shall be mindful of the objectives of this order, and shall take into account any advice given by the Council pursuant to this order, and shall take such measures, consistent with their authorities and available funds, as will assist in accomplishing the purposes of this order.

(c) The staff of the Council shall include an Executive Director, who shall be appointed by the Chairman of the Council, and such other employees as may be necessary, who shall be assigned by the various members of the Council.

PART II—CITIZENS ADVISORY BOARD ON YOUTH OPPORTUNITY

SEC. 201. *Establishment of Board.* (a) There is hereby established the Citizens Advisory Board on Youth Opportunity (hereinafter referred to as the "Board").

(b) The Board shall be composed of a Chairman and not more than fourteen other members, all of whom shall be appointed by the President. The Chairman shall serve as such until his successor is appointed by the President. Appointments of the other members of the Board shall be governed by the following: (1) The terms of those first appointed hereunder shall expire on July 1, 1969. (2) The immediate successors of the members so appointed shall be appointed, in as nearly equal numbers as may be, for terms of one year, two years, and three years. (3) Thereafter appointments shall be made for terms of three years.

SEC. 202. *Duties and responsibilities.* (a) The Board shall advise both the President and the Council on matters relating to (1) ways and means of enhancing the opportunities of disadvantaged youth to achieve preparation for adult responsibility, (2) the coordination of programs and activities of Federal agencies which pertain to the needs of youth, and (3) local, State, and private action to extend and improve youth opportunity.

(b) The Board shall advise and assist the Council in the evaluation of the progress made in carrying out the functions of the Council and recommend to the Council, as necessary, action to accelerate progress.

PART III—GENERAL PROVISIONS

SEC. 301. *Financing.* The Federal agencies headed by the officers composing the Council shall, as may be necessary, furnish assistance to the Council or the Board in accordance with the provisions of section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691).

SEC. 302. *Expenses of Board members.* Members of the Board shall receive no compensation from the United States by reason of their service under this order but they may be allowed transportation expenses and per diem in lieu of subsistence or reimbursement for actual and necessary expenses (5 U.S.C. 5703(c)(d)).

LYNDON B. JOHNSON.

AUTHORIZATION OF APPROPRIATIONS FOR PRESIDENT'S COUNCIL ON YOUTH OPPORTUNITY

Pub. L. 91-176, Dec. 30, 1969, 83 Stat. 826, provided: "That there is hereby authorized to be appropriated such sums as may be necessary for the expenses of the President's Council on Youth Opportunity, established by Executive Order Numbered 11330 of March 5, 1967."

§ 2706. Definitions

As used in subchapters I through IX of this chapter—

(1) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(2) the term "United States" when used in a geographical sense includes all those places named in paragraph (1) of this section and all other places, continental or insular, subject to the jurisdiction of the United States;

(3) the term "financial assistance" when used in subchapter II, part B of subchapter III, and subchapter VIII includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services;

(4) the term "Secretary" means the Secretary of Health, Education, and Welfare;

(5) the term "Administration" means the Community Services Administration; and

(6) the term "Director" means the Director of the Community Services Administration.

(Pub. L. 88-452, § 4, formerly title I, § 102, as added Pub. L. 93-644, § 3, Jan. 4, 1975, 88 Stat. 2292, and renumbered and amended Pub. L. 94-341, § 2(a)(2), July 6, 1976, 90 Stat. 803.)

AMENDMENTS

1976—Par. (2). Pub. L. 94-341 substituted "paragraph (1) of this section" for "the previous sentence", and "places, continental" for "places continental".

CONGRESSIONAL STATEMENT OF PURPOSE FOR 1975 AMENDMENT OF ECONOMIC OPPORTUNITY ACT OF 1964 BY HEADSTART, ECONOMIC OPPORTUNITY, AND COMMUNITY PARTNERSHIP ACT OF 1974

Section 2 of Pub. L. 93-644 provided that: "It is the purpose of this Act [see Short Title of 1975 Amendment note under section 2701 of this title] to extend programs under the Economic Opportunity Act of 1964 [this chapter], including Headstart, community action, and community economic development programs; and to provide for increased involvement of State and local governments in anti-poverty efforts by authorizing a community partnership program."

§ 2707. Authorization of appropriations

(a)(1) For the purpose of carrying out subchapters I, II, III, IV, V, VI, VII, VIII, and IX of this chapter, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1975 through 1977.

(2) For the purpose of carrying out the programs authorized under section 2808 of this title there is authorized to be appropriated $330,000,000 for the fiscal year 1975 and such sums as may be necessary for each of the two succeeding fiscal years.

(b) Unless the Congress has passed or formally rejected legislation extending the authorizations of appropriations for carrying out any subchapter of this chapter specified in subsection (a) of this section, or adopts a concurrent resolution providing that the provisions of this subsection shall not apply, the authorizations of appropriations specified in subsection (a) of this section are hereby automatically extended for one additional fiscal year beyond the terminal year specified in this chapter or in this section.

(c) Any funds appropriated to carry out any program under subchapters I to X of this chapter which are not obligated prior to the end of the fiscal year for which such funds were appropriated shall remain available for obligation during the succeeding fiscal year.

(Pub. L. 93-644, § 15, Jan. 4, 1975, 88 Stat. 2329; Pub. L. 94-341, § 3(d), July 6, 1976, 90 Stat. 807.)

CODIFICATION

Section was enacted as part of the Headstart, Economic Opportunity, and Community Partnership Act of 1974, and not as part of the Economic Opportunity Act of 1964 which comprises this chapter.

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-341, § 3(d)(1), inserted "of such Act" following "section 221".

Subsec. (c). Pub. L. 94-341, § 3(d)(2), added subsec. (c).

SUBCHAPTER I—RESEARCH AND DEMONSTRATIONS

CODIFICATION

In the original, section 4 of Pub. L. 93-644, Jan. 4, 1975, 88 Stat. 2292, provided in part that "Title I of the Economic Opportunity Act of 1964 is amended to read as follows: 'Title II—Research and Demonstrations' ". Section 4 also added sections 101 to 105 to such title II of the Economic Opportunity Act of 1964. However, title II was subsequently redesignated title I of the Act by section 2(a)(3) of Pub. L. 94-341, July 6, 1976, 90 Stat. 803, and classified as subchapter I of this chapter.

YOUTH CONSERVATION CORPS

Pub. L. 91-378, Aug. 31, 1970, 84 Stat. 794, as amended by Pub. L. 92-597, Oct. 27, 1972, 86 Stat. 1319, formerly set out as a note hereunder, originally appropriated funds to carry the program through the fiscal year 1974, and was amended by Pub. L. 93-408, Sept. 3, 1974, 88 Stat. 1066, to make its provisions permanent. Pub. L. 91-378, as thus amended, has been transferred and is now classified to sections 1701 to 1706 of Title 16, Conservation.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2706, 2707, 2941 of this title.

PART A—RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

§ 2711. Congressional statement of purpose

The purpose of the subchapter is to stimulate a better focusing of all available local, State, private, and Federal resources upon the goal of enabling low-income families, and low-income individuals of all ages, including persons of limited English-speaking ability, in rural and urban areas to attain the skills, knowledge, and motivations and secure the opportunities needed for them to become fully self-sufficient.

(Pub. L. 88-452, title I, § 101, as added Pub. L. 93-644, § 4, Jan. 4, 1975, 88 Stat. 2292.)

PRIOR PROVISIONS

A prior section 2711, Pub. L. 88-452, title I, § 101, Aug. 20, 1964, 78 Stat. 508; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 672, which set out the Congressional statement of purpose in enacting the Job Corps program, was repealed by Pub. L. 93-203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883. See section 911 of Title 29, Labor.

§ 2712. Research, demonstration, and pilot projects

(a) Financial assistance

The Director may provide financial assistance through grants or contracts for research, demonstration, or pilot projects conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise furthering the purposes of this subchapter.

(b) Plan; contents; consultation with other Federal agencies

The Director shall establish an overall plan to govern the approval of research, demonstration, and pilot projects and the use of all research authority under this subchapter. Such plan shall set forth specific objectives to be achieved and priorities among such objectives. In formulating the plan, the Director shall con-

sult with other Federal agencies for the purpose of minimizing duplication among similar activities or projects and determining whether the findings resulting from any such projects may be incorporated into one or more programs for which those agencies are responsible.

(c) Conditions for commencement of project

No project shall be commenced under this section unless a plan setting forth such proposed project has been submitted to the chief executive officer of the State in which the project is to be located and such plan has not been disapproved by him within thirty days of such submission, or, if so disapproved, has been reconsidered by the Director and found by him to be fully consistent with the provisions and in furtherance of the purposes of this subchapter.

(d) Consideration of request for funds by section 2808 or 2828 applicant

In making grants or contracts under this subchapter, the Director shall give due consideration to requests for funds by applicants receiving financial assistance under section 2803 or 2828 of this title.

(Pub. L. 88-452, title I, § 102, as added Pub. L. 93-644, § 4, Jan. 4, 1975, 88 Stat. 2293, and amended Pub. L. 94-341, § 2(a)(4), July 6, 1976, 90 Stat. 803.)

PRIOR PROVISIONS

A prior section 2712, Pub. L. 88-452, title I, § 102, Aug. 20, 1964, 78 Stat. 508; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 673, which provided for the establishment of a Job Corps, was repealed by Pub. L. 93-203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883. See section 912 of Title 29, Labor.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-341 struck out "under this subchapter in any fiscal year shall be made available for programs or projects receiving financial assistance" which followed "receiving financial assistance".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2995 of this title.

§ 2713. Consultation

In carrying out projects under this subchapter, the Director shall, whenever feasible, arrange to obtain the opinions of program participants about the strengths and weaknesses of programs.

(Pub. L. 88-452, title I, § 103, as added Pub. L. 93-644, § 4, Jan. 4, 1975, 88 Stat. 2293.)

PRIOR PROVISIONS

A prior section 2713, Pub. L. 83-452, title I, § 103, Aug. 20, 1964, 78 Stat. 508; Pub. L. 89-253, §§ 2, 3, Oct. 9, 1965, 79 Stat. 973; Pub. L. 89-794, title I, §§ 101, 102, Nov. 8, 1966, 80 Stat. 1451; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 673, which covered the eligibility of individuals for the Job Corps, was repealed by Pub. L. 93-203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883. See section 913 of Title 29, Labor.

§ 2714. Announcement respecting research, demonstration, and pilot projects

(a) Function of Director

The Director shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency or organization for any research, demonstration, or pilot project under this subchapter; and

(2) the results, findings, data, or recommendations made or reported as a result of such research, demonstration, or pilot project.

(b) Time limit

The public announcements required by subsection (a) of this section shall be made within thirty days of making any such grant or contract, and the public announcements required by subsection (b) of this section shall be made within thirty days of the receipt of such results, findings, data, or recommendations.

(c) Studies, proposals, etc., as property of United States

The Director shall take necessary action to assure that all studies, proposals, and data produced or developed with Federal funds employed under this subchapter shall become the property of the United States.

(d) Publication of summaries; time; copies to Congress

The Director shall publish summaries of the results of activities carried out pursuant to this subchapter not later than ninety days after the completion thereof. The Director shall submit to the appropriate committees of the Congress copies of all such summaries.

(Pub. L. 88-452, title I, § 104, as added Pub. L. 93-644, § 4, Jan. 4, 1975, 88 Stat. 2293, and amended Pub. L. 94-341, § 2(a)(5), July 6, 1976, 90 Stat. 803.)

PRIOR PROVISIONS

A prior section 2714, Pub. L. 88-452, title I, § 104, Aug. 20, 1964, 78 Stat. 509; Pub. L. 80-253, §§ 4, 5, Oct. 9, 1965, 79 Stat. 973; Pub. L. 89-794, title I, §§ 103-108, Nov. 8, 1966, 80 Stat. 1452, 1453; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 673, which provided for the screening and selection of applicants for the Job Corps, was repealed by Pub. L. 93-203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883. See section 914 of Title 29, Labor.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-341 substituted "summaries" for "studies" wherever appearing.

§ 2715. Federal control prohibited

Nothing contained in this subchapter shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

(Pub. L. 88-452, title I, § 105, as added Pub. L. 93-644, § 4, Jan. 4, 1975, 88 Stat. 2294.)

PRIOR PROVISIONS

A prior section 2715, Pub. L. 88-452, title I, § 105, Aug. 20, 1964, 78 Stat. 509; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 674, which covered the area of reasonable likelihood of successful participation by Job Corps enrollees, was repealed by Pub. L. 93-203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883. See section 915 of Title 29, Labor.

§§ 2716 to 2729. Repealed. Pub. L. 93-203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883

Section 2716, Pub. L. 88-452, title I, § 106, Aug. 20, 1964, 78 Stat. 510; Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662; Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 674, covered enrollment and assignment of Job Corps enrollees. See section 916 of Title 29, Labor.

Section 2717, Pub. L. 88-452, title I, § 107, Aug. 20, 1964, 78 Stat. 511; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 675, provided for the establishment of Job Corps centers. See section 917 of Title 29.

Section 2718, Pub. L. 88-452, title I, § 108, Aug. 20, 1964, 78 Stat. 511; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 676, covered Job Corps program activities. See section 918 of Title 29.

Section 2719, Pub. L. 88-452, title I, § 109, Aug. 20, 1964, 78 Stat. 511; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 676, covered allowances and support for Job Corps enrollees. See section 919 of Title 29.

Section 2720, Pub. L. 88-452, title I, § 110, Aug. 20, 1964, 78 Stat. 511; Pub. L. 89-253, § 7, Oct. 9, 1965, 79 Stat. 974; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 677, set out standards of conduct and discipline for Job Corps enrollees. See section 920 of Title 29.

Section 2721, Pub. L. 88-452, title I, § 111, as added Pub. L. 89-794, title I, § 110, Nov. 8, 1966, 80 Stat. 1453, and amended Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 677, covered community participation in Job Corps activities. See section 921 of Title 29.

Section 2722, Pub. L. 88-452, title I, § 111-1, as added Pub. L. 89-794, title I, § 111, Nov. 8, 1966, 80 Stat. 1454, provided for experimental and demonstration projects and required the Director to report to Congress no later than March 1, 1968.

Section 2723, Pub. L. 88-452, title I, § 112, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 678, provided for counseling and job placement. See section 922 of Title 29.

Section 2724, Pub. L. 88-452, title I, § 113, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 679, and amended Pub. L. 92-424, § 27(b)(1), Sept. 19, 1972, 86 Stat. 705, covered experimental and development projects. See section 923 of Title 29.

Section 2725, Pub. L. 88-452, title I, § 114, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 680, covered advisory boards and committees. See section 924 of Title 29.

Section 2726, Pub. L. 88-452, title I, § 115, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 680, covered participation of States. See section 925 of Title 29.

Section 2727, Pub. L. 88-452, title I, § 116, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 681, and amended Pub. L. 90-623, § 5(a), Oct. 22, 1968, 82 Stat. 1315, covered the application of provisions of Federal law. See section 926 of title 29.

Section 2728, Pub. L. 88-452, title I, § 117, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 682, set out certain special limitations. See section 927 of Title 29.

Section 2729, Pub. L. 88-452, title I, § 118, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 682, prohibited political discrimination and political activity. See section 928 of Title 29.

EFFECTIVE DATE OF REPEAL

Section 614 of Pub. L. 93-203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

AVAILABILITY OF UNEXPENDED APPROPRIATIONS FOR USE IN CARRYING OUT SUCCESSOR PROVISIONS

Unexpended appropriations for carrying out these sections to be made available to carry out the Comprehensive Employment and Training Act of 1973, section 801 et seq. of Title 29, Labor, as directed by the President, see section 614 of Pub. L. 93-203, set out in part as a note under section 801 of Title 29.

PART B—WORK AND TRAINING FOR YOUTH AND ADULTS

§ 2731. Repealed. Pub. L. 89-794, title I, § 112(a), Nov. 8, 1966, 80 Stat. 1454

Section, Pub. L. 88-452, title I, § 111, Aug. 20, 1964, 78 Stat. 512, set out the statement of purpose for the work-training programs.

§§ 2732 to 2736. Omitted

CODIFICATION

Sections were omitted in the general reorganization of Part B of this subchapter by Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 682.

Section 2732, Pub. L. 88-452, title I, § 112, Aug. 20, 1964, 78 Stat. 512; Pub. L. 89-794, title I, § 112(a), Nov. 8, 1966, 80 Stat. 1454, provided for the formulation and implementation of programs for students of low-income families in need of earnings to allow them to stay in school and for individuals 16 through 21 years to develop maximum occupational potential.

Section 2733, Pub. L. 88-452, title I, § 113, Aug. 20, 1964, 78 Stat. 512; Pub. L. 89-794, title I, § 112(a), Nov. 8, 1966, 80 Stat. 1454, set out the required conditions to allow payment of part or all of the costs of programs, including employment on public or locally sponsored projects, nonpolitical projects, and rates of pay, prohibited payment of wages for services on unauthorized projects, and provided for high priority projects.

Section 2734, Pub. L. 88-452, title I, § 114, Aug. 20, 1964, 78 Stat. 513; Pub. L. 89-253, § 8, Oct. 9, 1965, 79 Stat. 974; Pub. L. 89-794, title I, § 112(b), (c), Nov. 8, 1966, 80 Stat. 1455, covered the eligibility of enrollees in program, Cuban refugees, non-applicability of Federal employment laws, and the use of public agencies and private organizations in the testing, counseling, job development, and referral services to youths.

Section 2735, Pub. L. 88-452, title I, § 115, Aug. 20, 1964, 78 Stat. 513; Pub. L. 89-253, § 9, Oct. 9, 1965, 79 Stat. 974; Pub. L. 89-794, title I, § 112(d), Nov. 8, 1966, 80 Stat. 1455, limited to 90 percent of the costs the Federal assistance in any program pursuant to this part with provisions for exceptions and allowed the non-Federal contribution to be in cash or in kind, fairly evaluated.

Section 2736, Pub. L. 88-452, title I, § 116, Aug. 20, 1964, 78 Stat. 513, required the Director to establish criteria in order to achieve equitable distribution among the States.

§§ 2737 to 2749. Repealed. Pub. L. 93-203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883

Section 2737, Pub. L. 88-452, title I, § 120, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 683, set out the Congressional statement of purpose in enacting provisions for a program of work and training for youth and adults. See section 811 et seq. of Title 29, Labor.

Section 2738, Pub. L. 88-452, title I, § 121, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 683, covered community program areas and comprehensive work and training programs. See section 811 et seq. of Title 29.

Section 2739, Pub. L. 88-452, title I, § 122, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 683, set out provisions covering prime sponsors and delegate agencies. See section 812 of Title 29.

Section 2740, Pub. L. 88-452, title I, § 123, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 684, set out the eligible activities for work and training programs. See section 811 et seq. of Title 29.

Section 2741, Pub. L. 88-452, title I, § 124, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 686, and amended Pub. L. 90-575, title V, § 503, Oct. 16, 1968, 82 Stat. 1062, set out special conditions for programs. See section 983 of Title 29.

Section 2742, Pub. L. 88-452, title I, § 125, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 686,

and amended Pub. L. 92-424, § 5, Sept. 19, 1972, 86 Stat. 690, covered program participants. See section 983 of Title 29.

Section 2743, Pub. L. 88-452, title I, § 126, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 686, made provision for programs dealing with long-term unemployment of persons fifty-five years and older. See section 874 of Title 29.

Section 2744, Pub. L. 88-452, title I, § 127, as added, Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 687, provided for pilot projects. See section 811 et seq. of Title 29.

Section 2745, Pub. L. 88-452, title I, § 128, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 687, covered technical assistance and training. See section 874 of Title 29.

Section 2746, Pub. L. 88-452, title I, § 129, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 687, provided for the role to be played by States. See section 811 et seq. of Title 29.

Section 2747, Pub. L. 88-452, title I, § 130, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 687, provided for the equitable distribution of assistance. See section 811 et seq. of Title 29.

Section 2748, Pub. L. 88-452, title I, § 131, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 687, set limitation on Federal assistance. See section 984 of Title 29.

Section 2749, Pub. L. 88-452, title I, § 132, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 688, and amended Pub. L. 92-424, § 27(b)(1), (3), Sept. 19, 1972, 86 Stat. 705, provided for the development and implementation of program data. See section 881 et seq. of Title 29.

Effective Date of Repeal

Section 614 of Pub. L. 93-203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

Availability of Unexpended Appropriations for Use In Carrying Out Successor Provisions

Unexpended appropriations for carrying out these sections to be made available to carry out the Comprehensive Employment and Training Act of 1973, section 801 et seq. of Title 29, Labor, as directed by the President, see section 614 of Pub. L. 93-203, set out in part as a note under section 801 of Title 29.

Part C—Work-Study Programs

Codification

This part is part C of title IV of the Higher Education Act of 1965, Pub. L. 89-329, and not part C of Title I of the Economic Opportunity Act of 1964, Pub. L. 88-452, which comprises this chapter.

Part Referred to in Other Sections

This part is referred to in title 20 sections 1055, 1070b-1, 1070d-1, 1070e, 1070e-1, 1078, 1088, 1088a, 1088b, 1088b-1, 1088b-3, 1088c, 1088d, 1088f, 1088f-1, 1088g, 1105, 1145c.

§ 2751. Statement of purpose; authorization of appropriations

(a) The purpose of this part is to stimulate and promote the part-time employment of students, particularly students with great financial need, in eligible institutions who are in need of the earnings from such employment to pursue courses of study at such institutions.

(b) There are authorized to be appropriated $225,000,000 for the fiscal year ending June 30, 1969, $275,000,000 for the fiscal year ending June 30, 1970, $320,000,000 for the fiscal year ending June 30, 1971, $330,000,000 for the fiscal year ending June 30, 1972, $360,000,000 for the fiscal year ending June 30, 1973, $390,000,000 for the fiscal year ending June 30, 1974, $420,000,000 for the fiscal year ending June 30, 1975, to carry out this part, $420,000,000 for the fiscal year ending June 30, 1976, and the transitional period beginning July 1, 1976, and ending September 30, 1976, $450,000,000 for the fiscal year ending September 30, 1977, $570,000,000 for the fiscal year ending September 30, 1978, $600,000,000 for the fiscal year ending September 30, 1979, $630,000,000 for the fiscal year ending September 30, 1980, $670,000,000 for the fiscal year ending September 30, 1981, and $720,000,000 for the fiscal year ending September 30, 1982.

(Pub. L. 89-329, title IV, § 441, formerly title I, § 141, as added, renumbered, and amended Pub. L. 90-575, title I, §§ 131(a), (b)(1), 132, 133(a), Oct. 16, 1968, 82 Stat. 1028, 1029; Pub. L. 91-95, § 5, Oct. 22, 1969, 83 Stat. 143; Pub. L. 92-318, title I, §§ 135, 135A(a), June 23, 1972, 86 Stat. 270; Pub. L. 94-482, title I, §§ 127(c)(2), 128(a), Oct. 12, 1976, 90 Stat. 2142, 2143.)

Codification

Section was originally enacted as section 121 of the Economic Opportunity Act of 1964, Pub. L. 88-452, title I, Aug. 20, 1964, 78 Stat. 513. As such, it had been amended by Pub. L. 89-329, title IV, § 441(2), Nov. 8, 1965, 79 Stat. 1249, and renumbered section 141 by Pub. L. 90-222, title I, § 111(a), Dec. 23, 1967, 81 Stat. 726.

Under Pub. L. 90-575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028, section was transferred along with the remainder of part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88-452, and inserted as Part C of title IV of the Higher Education Act of 1965, Pub. L. 89-329. Former Part C of title IV of Pub. L. 89-329, as originally enacted, comprising sections 441 and 442 thereof, was stricken to accommodate the transferral but the amendment of this section by section 441(2) of Pub. L. 89-329 has not been stricken. For amendment of section in addition to the transfers and redesignations treated above, see 1968 Amendment note below.

Prior Provisions

A prior section 441 of Pub. L. 89-329, which amended this section and sections 2752 to 2756 and 2761 of this title, was repealed by section 131(a) of Pub. L. 90-575.

Amendments

1976—Subsec. (b). Pub. L. 94-482 added provisions authorizing appropriations for the fiscal year ending June 30, 1976, through the fiscal year ending Sept. 30, 1982.

1972—Subsec. (a). Pub. L. 92-318, § 135, substituted "with great financial need" for "from low-income families".

Subsec. (b). Pub. L. 92-318, § 135A(a), authorized appropriations of $330,000,000, $360,000,000, $390,000,000, and $420,000,000 for fiscal years ending June 30, 1972, 1973, 1974, and 1975, respectively.

1969—Subsec. (b). Pub. L. 91-95 increased the general authorization of appropriations for the fiscal years ending June 30, 1970, and June 30, 1971.

1968—Subsec. (a). Pub. L. 90-575, §§ 132, 133(a), denominated existing provisions as subsec. (a) and, in subsec. (a), as so denominated, substituted "eligible institutions" for "institutions of higher education".

Subsec. (b). Pub. L. 90-575, § 132, added subsec. (b).

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94-482, set out as an Effective Date of 1976

Amendment note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 135A(b) of Pub. L. 92-318 provided that: "The amendment made by subsection (a) [to subsec. (b) of this section] shall be effective after June 30, 1971."

REPEALS

Pub. L. 91-95, § 5, Oct. 22, 1969, 83 Stat. 143, cited to text, was repealed by Pub. L. 94-482, title I, § 127(c)(2), Oct. 12, 1976, 90 Stat. 2142.

REFERENCES TO PART C OF TITLE I OF THE ECONOMIC OPPORTUNITY ACT OF 1964

Section 131(c) of Pub. L. 90-575, provided that: "Any reference to any provision of part C of title I of the Economic Opportunity Act of 1964 in any law of the United States shall be deemed to be a reference to the corresponding provision of part C of title IV of the Higher Education Act of 1965 as amended by this section [this part]."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976 THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this part, see section 201(13) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 1070a.

§ 2752. Allotments to States

(a) Allotments for Puerto Rico, Guam, American Samoa, Trust Territory of the Pacific Islands, and Virgin Islands

From the sums appropriated to carry out this part for a fiscal year, the Commissioner shall (1) allot not to exceed 2 per centum among Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs for assistance under this part, and (2) reserve the amount provided by subsection (e) of this section. Ninety per centum of the remainder of such sums shall be allotted among the States as provided in subsection (b) of this section.

(b) Manner of allotment

Of the sums being allotted under this subsection—

(1) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-time basis in institutions of higher education in all the States.

(2) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of high school graduates (as defined in section 713(d)(3) of title 20) of such State bears to the total number of such high school graduates of all the States, and

(3) one-third shall be allotted by him among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of related children under 18 years of age living in families with annual incomes of less than $3,000 in such State bears to the number of related children under 18 years of age living in families with annual incomes of less than $3,000 in all the States.

(c) Equitable criteria for allotment of remainder sums; consolidation of allotments

Sums remaining after making the allotments provided for in other provisions of this section shall be allotted among the States by the Commissioner in accordance with equitable criteria established by him which shall be designated to achieve a distribution of the sums appropriated to carry out this part among the States which will most effectively carry out the purpose of this part, except that where a State's allotment under subsection (b) of this section for a fiscal year is less than its allotment under that subsection for the fiscal year ending June 30, 1972, before he makes any other allotments under this subsection, the Commissioner shall allot sufficient additional sums to such State under this sentence to make the State's allotment for that year under subsection (b) of this section equal to its allotment under such subsection for the fiscal year ending June 30, 1972. Sums allotted to a State under this subsection shall be consolidated with, and become a part of, its allotment from the same appropriation under subsection (b) of this section.

(d) Reallotments; availability of amounts

The amount of any State's allotment which has not been granted to an eligible institution under section 2753 of this title at the end of the fiscal year for which appropriated shall be reallotted by the Commissioner, in such manner as he determines will best assist in achieving the purposes of this Act. Amounts reallotted under this subsection shall be available for making grants under section 2753 of this title until the close of the fiscal year next succeeding the fiscal year for which appropriated.

(e) Definition of State

For purposes of this section, the term "State" does not include Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(f) Reservation from appropriations for work-study assistance to students resident in American Samoa or the Trust Territory of the Pacific Islands

From the appropriation for this part for each fiscal year the Commissioner shall reserve an amount to provide work-study assistance to students who reside in, but who attend eligible institutions outside of, American Samoa or the Trust Territory of the Pacific Islands. The amount so reserved shall be allotted to eligible institutions and shall be available only for the purpose of providing work-study assistance to such students.

(Pub. L. 89-329, title IV, § 442, formerly title I, § 142, as added, renumbered, and amended Pub. L. 90-575, title I, §§ 131(a), (b)(1), (3), 133(a),

135, Oct. 16, 1968, 82 Stat. 1028, 1029; Pub. L. 92-318, title I, § 135B, June 23, 1972, 86 Stat. 270.)

REFERENCES IN TEXT

Section 713(d)(3) of title 20, referred to in subsec. (b)(2), was repealed by Pub. L. 92-318, title I, § 161(b)(2), June 23, 1972, 86 Stat. 303.

This Act, referred to in subsec. (d), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, known as the Higher Education Act of 1965, which is classified principally to chapter 28 (§ 1001 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables volume.

CODIFICATION

Section was originally enacted as section 122 of the Economic Opportunity Act of 1964, Pub. L. 88-452, title I, Aug. 20, 1964, 78 Stat. 514. As such, it had been amended by Pub. L. 89-329, title IV, § 441(1), Nov. 8, 1965, 79 Stat. 1249, and renumbered section 142 by Pub. L. 90-222, title I, § 111(a), Dec. 23, 1967, 81 Stat. 726.

Under Pub. L. 90-575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028, section was transferred along with the remainder of Part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88-452, and inserted as Part C of title IV of the Higher Education Act of 1965, Pub. L. 89-329. Former Part C of title IV of Pub. L. 89-329, as originally enacted, comprising sections 441 and 442 thereof, was stricken to accommodate the transferral but the amendment of this section by section 441(1) of Pub. L. 89-329 has not been stricken. For amendment of section in addition to the transfers and redesignations treated above, see 1968 Amendment note below.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-318, § 135B(a)(2), substituted "Ninety per centum of the remainder" for "The remainder".

Subsec. (c). Pub. L. 92-318, § 135B(a)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsecs. (d) to (f). Pub. L. 92-318, § 135B(a)(2), redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

1968—Subsec. (a). Pub. L. 90-575, §§ 131(b)(3), 135(a), struck out reference to the reservation of an amount needed for making grants under section 2753 of this title and added reference to the reservation of the amount provided by subsec. (e).

Subsec. (c). Pub. L. 90-575, § 133(a), substituted "eligible institution" for "institution of higher education". Subsec. (e). Pub. L. 90-575, § 135(b), added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 1088e.

§ 2753. Grants for work-study programs; agreements with eligible institutions; definitions

(a) The Commissioner is authorized to enter into agreements with eligible institutions under which the Commissioner will make grants to such institutions to assist in the operation of work-study programs as hereinafter provided.

(b) For the purposes of this part the term "eligible institution" means an institution of higher education (as defined in section 1085(b) of title 20), an area vocational school (as defined in section 35g(2) of title 20), or a proprietary institution of higher education (as defined in section 1088(b) of title 20), and includes a combination of such institutions which have entered into a cooperative arrangement, or have designated or created a public or private nonprofit agency, institution, or organization to act on their behalf.

(Pub. L. 89-329, title IV, § 443, formerly title I, § 143, as added, renumbered, and amended Pub. L. 90-575, title I, §§ 131(a), (b)(1), 133(a), (b), 139(1), Oct. 16, 1968, 82 Stat. 1028, 1029, 1030; Pub. L. 94-482, title I, § 128(b), Oct. 12, 1976, 90 Stat. 2143.)

REFERENCES IN TEXT

Section 35g(2) of title 20, referred to in subsec. (b), was in the original a reference to section 8(2) of Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 408, known as the Vocational Education Act of 1963, which was omitted in the general reorganization of Pub. L. 88-210 by Pub. L. 90-576, title I, § 101, Oct. 16, 1968, 82 Stat. 1064. See section 1248(2) of Title 20, Education.

CODIFICATION

Section was originally enacted as section 123 of the Economic Opportunity Act of 1964, Pub. L. 88-452, title I, Aug. 20, 1964, 78 Stat. 514. As such, it had been amended by Pub. L. 89-329, title IV, § 441(3), Nov. 8, 1965, 79 Stat. 1249, and renumbered section 143 by Pub. L. 90-222, title I, § 111(a), December 23, 1967, 81 Stat. 726.

Under Pub. L. 90-575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028, section was transferred along with the remainder of Part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88-452, and inserted as Part C of title IV of the Higher Education Act of 1965, Pub. L. 89-329. Former Part C of title IV of Pub. L. 89-329, as originally enacted, comprising sections 441 and 442 thereof, was stricken to accommodate the transferral but the amendment of this section by section 441(2) of Pub. L. 89-329 has not been stricken. For amendment of section in addition to the transfers and redesignations treated above, see 1968 Amendment note below.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-482 substituted "491" for "461", which for purposes of codification had already been editorially translated as "section 1088" thereby requiring no further change in text, and added provision relating to combination of institutions.

1968—Subsec. (a). Pub. L. 90-575, § 133(a), substituted "eligible institutions" for "institutions of higher education".

Subsec. (b). Pub. L. 90-575, §§ 133(b), 139(1), substituted provisions defining "eligible institution" to mean institution of higher education, area vocational school, or proprietary institution of higher education for provisions defining "institution of higher education", "collegiate school of nursing", "associate degree school of nursing", and "accredited".

1965—Pub. L. 89-329 designated existing provisions as subsec. (a), substituted "Commissioner" for "Director" in two instances, deleted "(as defined by section 751(f) of title 20)" following "institutions of higher education", and added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 139(1) of Pub. L. 90-575 provided in part that the amendment of subsec. (b) by section 139 of Pub. L. 90-575, which added proprietary institutions of higher education as defined in section 1088(b) of title 20 to the definition of "eligible institution", are effective for fiscal years ending on or after June 30, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2752, 2754, 2756 of this title.

§ 2754. Agreements with eligible institutions

(a) Conditions

An agreement entered into pursuant to section 2753 of this title shall—

(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself (except in the case of a proprietary institution of higher education), or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

(A) will not result in the displacement of employed workers or impair existing contracts for services,

(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee, and

(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship;

(2) provide that funds granted in institution of higher education, pursuant to section 2753 of this title, may be used only to make payments to students participating in work-study programs, except that an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 1088b of title 20, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 2756a of this title, and may transfer funds in accordance with the provisions of section 1088e of title 20;

(3) provide that in the selection of students for employment under such work-study program preference shall be given to students with the greatest financial need, taking into account grant assistance provided such student from any public or private sources and that employment under such work-study program shall be furnished only to a student who (A) is in need of the earnings from such employment in order to pursue a course of study at such institution (taking into consideration the actual cost of attendance at such institution), (B) shows evidence of academic or creative promise and capability of maintaining good standing in such course of study while employed under the program covered by the agreement, and (C) has been accepted for enrollment as a student at the institution on at least a half-time basis or, in the case of a student already enrolled in and attending the institution, is in good standing and in attendance there on at least a half-time basis either as an undergraduate, graduate, or professional student;

(4) provide that no student in a work-study program under this part shall be required to terminate that employment during a semester (or other regular enrollment period) at the time income derived from any additional employment together with such work-study income is in excess of the determination of the amount of such student's need for that semester under clause (3) of this subsection, but when such excess income equals $200 or more, continued employment under a work-study program shall not be subsidized with funds appropriated under this part;

(5) provide that the institution will meet the requirements of section 1088c of title 20 (relating to maintenance of effort);

(6) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement will not exceed 80 per centum of such compensation; except that the Federal share may exceed 80 per centum of such compensation if the Commissioner determines, pursuant to regulations adopted and promulgated by him establishing objective criteria for such determinations, that a Federal share in excess of 80 per centum is required in furtherance of the purposes of this part;

(7) include provisions to make employment under such work-study program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof, and to make equivalent employment offered or arranged by the institution reasonably available (to the extent of available funds) to all students in the institution who desire such employment; and

(8) include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this part.

(b) Agreements with area vocational schools

An agreement entered into pursuant to section 2753 of this title with an area vocational school shall contain, in addition to the provisions described in subsection (a) of this section, a provision that a student in such a school shall be eligible to participate in a program under this part only if he (1) has a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, and (2) is pursuing a program of education or training which requires at least six months to complete and is designed to prepare the student for gainful employment in a recognized occupation.

(c) Hours of employment

For purposes of paragraph (4) of subsection (a) of this section, in computing average hours of employment of a student over a semester or other term, there shall be excluded any period during which the student is on vacation and any period of non-regular enrollment. Employment under a work-study program during any such period of non-regular enrollment during which classes in which the student is enrolled are in session shall be only to the extent and in accordance with criteria established by or pursuant to regulations of the Commissioner.

(Pub. L. 89-329, title IV, § 444, formerly title I, § 144, as added, renumbered, and amended Pub. L. 90-575, title I, §§ 131(a), (b)(1), 133(a), (c), 134, 136, 137, 138, 139(2), Oct. 16, 1968, 82 Stat. 1028, 1029, 1030; Pub. L. 92-318, title I, §§ 135C(a)(1), 135D, 135E, June 23, 1972, 86

Stat. 271; Pub. L. 94-482, title I, § 128(c), Oct. 12, 1976, 90 Stat. 2143.)

CODIFICATION

Section was originally enacted as section 124 of the Economic Opportunity Act of 1964, Pub. L. 88-452, title I, Aug. 20, 1964, 78 Stat. 514. As such, it had been amended by Pub. L. 89-253, § 10, Oct. 9, 1965, 79 Stat. 974; Pub. L. 89-329, title IV, § 441(1), (4), (5), Nov. 8, 1965, 79 Stat. 1249; Pub. L. 90-82, §§ 1, 2, Sept. 6, 1967, 81 Stat. 194, and renumbered section 144 by Pub. L. 90-222, title I, § 111(a), Dec. 23, 1967, 81 Stat. 726.

Under Pub. L. 90-575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028, section was transferred along with the remainder of Part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88-452, and inserted as Part C of title IV of the Higher Education Act of 1964, Pub. L. 89-329. Former Part C of title IV of Pub. L. 89-329, as originally enacted, comprising sections 441 and 442 thereof, was stricken to accommodate the transferral but the amendment of this section by section 441(1), (4), (5) of Pub. L. 89-239 has not been stricken. For amendment of section in addition to the transfers and redesignations treated above, see 1968 Amendment note below.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-482, § 128(c)(1), added "agency or" preceding "organization, and" and substituted "Federal, State, or local public agency" for "public".

Subsec. (a)(2). Pub. L. 94-482, § 128(c)(2), added provisions relating to job location and development programs and transfer of funds, and substituted "institution of higher education" for "eligible institution".

Subsec. (a)(4). Pub. L. 94-482, § 128(c)(3), added subsec. (a)(4).

Subsec. (a)(7). Pub. L. 94-482, § 128(c)(4), added provisions relating to equivalent employment, and struck out "designed" following "provisions" and "v, or equivalent employment offered or arranged for by the institution," following "program".

1972—Subsec. (a)(3). Pub. L. 92-318, § 135E(a)(1), substituted "with the greatest financial need, taking into account grant assistance provided such student from any public or private sources" for "from low-income families".

Subsec. (a)(3)(A). Pub. L. 92-318, § 135C(a)(1), inserted after "such institution" the phrase "(taking into consideration the actual cost of attendance at such institution)".

Subsec. (a)(3)(B). Pub. L. 92-318, § 135E(a)(2), substituted "shows evidence of academic or creative promise and capability of maintaining good standing" for "is capable, in the opinion of the institution, of maintaining good standing".

Subsec. (a)(3)(C). Pub. L. 92-318, § 135D, substituted "enrollment as a student at the institution on at least a half-time basis or, in the case of a student already enrolled in and attending the institution, is in good standing and in attendance there on at least a half-time basis", for "enrollment as a full-time student at the institution or, in the case of a student already enrolled in and attending the institution, is in good standing and in full-time attendance there".

Subsec. (a)(4). Pub. L. 92-318, § 135E(b), struck out cl. (4) limitation that average hours of employment of a student under the work-study program shall not exceed fifteen per week over a semester, or other term used by the institution in awarding credits, during which the student is enrolled in classes.

1968—Subsec. (a). Pub. L. 90-575, §§ 133(a), (c), 134, 137, 138, 139(2), denominated existing provisions as subsec. (a), substituted "(1)" to "(8)" for "(a)" to "(h)" as the designations for the paragraphs of subsec. (a) and "(A)" to "(C)" for "(1)" to "(3)" as the designations for the subparagraphs of paragraph (1), inserted parenthetical reference to an exception in the case of proprietary institutions of higher education in par. (1), substituted "eligible institution" for "institution of higher education" and "in accordance with section 1088b of title 20" for provisions placing a 5 percent ceiling on the amount which funds used may bear to the payments made to such institutions in par. (2), substituted reference to the meeting of the requirements of section 1088c of title 20 (relating to the maintenance of effort) for reference to the expending of amounts by institutions for the employment of its students in par. (5), and substituted "80" for a declining downward graduation from 90 to 75 as the percentum figure for the maximum allowable Federal share of compensation and added an exception for cases where an increased Federal share is required in par. (6).

Subsec. (b). Pub. L. 90-575, § 133(c), added subsec. (b).

Subsec. (c). Pub. L. 90-575, § 136, added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 135C(a)(2) of Pub. L. 92-318 provided that: "The amendment made by subsection (a) [to subsec. (a)(3)(A) of this section] shall be effective on and after July 1, 1971, with respect to appropriations for fiscal years beginning on and after July 1, 1971."

EFFECTIVE DATE OF 1968 AMENDMENT

Sections 137, 138, and 139(2) of Pub. L. 90-575 provided in part that the amendments of subsecs. (a)(5), (a)(2), and (a)(1) of this section by such sections are effective for fiscal years ending on or after June 30, 1970.

§ 2755. Sources of matching funds

Nothing in this part shall be construed as restricting the source (other than this part) from which the institution may pay its share of the compensation of a student employed under a work-study program covered by an agreement under this part and such share may be paid to such student in the form of services and equipment (including tuition, room, board, and books) furnished by such institution.

(Pub. L. 89-329, title IV, § 445, formerly title I, § 145, as added and renumbered Pub. L. 90-575, title I, § 131(a), (b)(1), Oct. 16, 1968, 82 Stat. 1028.)

CODIFICATION

Section was originally enacted as section 125 of the Economic Opportunity Act of 1964, Pub. L. 88-452, title I, Aug. 20, 1964, 78 Stat. 516. As such, it had been amended by Pub. L. 89-329, title IV, § 441(6), Nov. 8, 1965, 79 Stat. 1250, and renumbered section 145 by Pub. L. 90-222, title I, § 111(a), Dec. 23, 1967, 81 Stat. 726.

Under Pub. L. 90-575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028, section was transferred along with the remainder of Part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88-452, and inserted as Part C of title IV of the Higher Education Act of 1965, Pub. L. 89-329. Former Part C of title IV of Pub. L. 89-329, as originally enacted, comprising sections 441 and 442 thereof, was stricken to accommodate the transferral but the amendment of this section by section 441(6) of Pub. L. 89-329 has not been stricken.

§ 2756. Equitable distribution of assistance

(a) The Commissioner shall establish criteria designed to achieve such distribution of assist-

ance under this part among eligible institutions within a State as will most effectively carry out the purposes of this Act.

(b) Sums granted to an eligible institution under this part for any fiscal year which are not needed by that institution to operate work-study programs during the period for which such funds are available shall remain available to the Commissioner for making grants under section 2753 of this title to other institutions in the same State until the close of the fiscal year next succeeding the fiscal year for which such funds were appropriated.

(Pub. L. 89-329, title IV, § 446, formerly title I, § 126, as added, renumbered, and amended Pub. L. 90-575, title I, §§ 131(a), (b)(2), 133(a), Oct. 16, 1968. 82 Stat. 1028. 1029; Pub. L. 94-43, § 2, June 28, 1975, 89 Stat. 233.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, known as the Higher Education Act of 1965, which is classified principally to chapter 28 (§ 1001 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables volume.

CODIFICATION

Section was originally enacted, as section 126 of the Economic Opportunity Act of 1964, Pub. L. 88-452, title I, Aug. 20, 1964, 78 Stat. 516. As such, it had been amended by Pub. L. 89-329, title IV, § 441(1), Nov. 8, 1965, 79 Stat. 1249.

Under Pub. L. 90-575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028, section was transferred along with the remainder of Part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88-452, and inserted as Part C of title IV of the Higher Education Act of 1965, Pub. L. 89-329. Former Part C of title IV of Pub. L. 89-329, as originally enacted, comprising sections 441 and 442 thereof, was stricken to accommodate the transferral but the amendment of this section by section 441(1) of Pub. L. 89-329 has not been stricken. For amendment of section in addition to the transfers and redesignations treated above, see 1968 Amendment note below.

AMENDMENTS

1975—Pub. L. 94-43 designated existing provisions as subsec. (a), and added subsec. (b).

1968—Pub. L. 90-575, § 133(a), substituted "eligible institutions" for "institutions of higher education".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 5 of Pub. L. 94-43 provided that:

"(a) The amendment made by the provisions of section 2 of this Act [enacting subsec. (b) of this section] shall be effective with respect to appropriations for fiscal years beginning after June 30, 1974.

"(b) Subsections (b) and (d) of section 431 of the General Education Provisions Act [section 1232(b) and (d) of Title 20, Education] shall not operate to delay the effectiveness of regulations issued by the Commissioner of Education to implement the provisions of this Act [see Short Title note under section 2701 of this title]."

TREATMENT OF PERIOD JULY 1, 1976 TO SEPTEMBER 30, 1977 AS ONE FISCAL YEAR

Pub. L. 94-328, § 2(e), June 30, 1976, 90 Stat. 727, provided that: "For the purposes of section 446(b) of the Higher Education Act of 1965 [subsec. (b) of this section], the period beginning July 1, 1976, and ending September 30, 1977, shall be treated as one fiscal year, any other provision of law to the contrary notwithstanding."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2756a of this title.

§ 2756a. Job location and development programs; agreements

(a) The Commissioner is authorized to enter into agreements with eligible institutions under which such institution may use not more than 10 per centum or $15,000 of its allotment under section 2756 of this title, whichever is less, to establish or expand a program under which such institution, separately, in combination with other eligible institutions, or through a contract with a nonprofit organization, locates and develops jobs for currently enrolled students which are suitable to the scheduling and other needs of such students.

(b) Agreements under subsection (a) of this section shall—

(1) provide that the Federal share of the cost of any program under this section will not exceed 80 per centum of such cost;

(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution;

(3) provide satisfactory assurance that the institution will continue to spend in its own job location and development programs, from sources other than funds received under this section, not less than the average expenditures per year made during the most recent three fiscal years preceding the effective date of the agreement;

(4) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

(5) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

(6) provide satisfactory assurance that Federal funds used for the purposes of this section can realistically be expected to help generate student wages exceeding in the aggregate the amount of such funds and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

(7) to provide that the institution will submit to the Commissioner an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.

(Pub. L. 89-329, title IV, § 447, as added Pub. L. 92-318, title I, § 135F, June 23, 1972, 86 Stat. 271, and amended Pub. L. 94-482, title I, § 128(d), Oct. 12, 1976, 90 Stat. 2143.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-482 substituted provisions authorizing agreements for job location and development programs by the Commissioner, for provisions setting forth the statement of purpose of community service learning programs.

Subsec. (b). Pub. L. 94-482 substituted provisions setting forth requirements for agreements for job location and development programs, for provisions authorizing appropriations for community service learning programs.

Subsec. (c). Pub. L. 94-482 struck out subsec. (c), which authorized agreements by the Commissioner for grants for community service learning programs.

Subsec. (d). Pub. L. 94-482 struck out subsec. (d), which set forth requirements for agreements for grants for community service learning programs.

Subsec. (e). Pub. L. 94-482 struck out subsec. (e), which defined the term "community service".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1001 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2654 of this title.

§ 2757. Repealed. Pub. L. 90-575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028

Section, Pub. L. 89-329, title IV, § 442, Nov. 8, 1965, 79 Stat. 1251, authorized appropriations for the fiscal years ending June 30, 1966, 1967, and 1968, to carry out the provisions of this part. Another section 442 of Pub. L. 89-329 was added by section 131 of Pub. L. 90-575 and is set out as section 2752 of this title. For authorization of appropriations to carry out the provisions of this part for fiscal years ending after June 30, 1968, see section 2751(b) of this title.

PART D—SPECIAL IMPACT PROGRAMS

§§ 2761, 2762. Omitted

CODIFICATION

Sections were omitted in the general reorganization of Part D of this subchapter by Pub. L. 90-222, title I, § 103, Dec. 23, 1967, 81 Stat. 688.

Section 2761, Pub. L. 88-452, title I, § 131, Aug. 20, 1964, 78 Stat. 516; Pub. L. 89-253, § 30(a), Oct. 9, 1965, 79 Stat. 978; Pub. L. 89-329, title IV, § 441(7), Nov. 8, 1965, 79 Stat. 1250; Pub. L. 89-794, title I, § 113(2), Nov. 8, 1966, 80 Stat. 1455, provided for the establishment of special impact programs and the grants, criteria, and procedures to be used in carrying them out.

Section 2762, Pub. L. 88-452, title I, § 132, as added Pub. L. 89-794, title I, § 113(2), Nov. 8, 1966, 80 Stat. 1456, placed a limitation on the Federal share of the cost of special impact programs.

§ 2763 to 2768. Repealed. Pub. L. 92-424, § 25(b), Sept. 19, 1972, 86 Stat. 703

Section 2763, Pub. L. 88-452, title I, § 150, as added Pub. L. 90-222, title I, § 103, Dec. 23, 1967, 81 Stat. 688, related to congressional statement of purpose.

Section 2764, Pub. L. 88-452, title I, § 151, as added Pub. L. 90-222, title I, § 103, Dec. 23, 1967, 81 Stat. 688, related to establishment of programs.

Section 2765, Pub. L. 88-452, title I, § 152, as added Pub. L. 90-222, title I, § 103, Dec. 23, 1967, 81 Stat. 689, related to requirements for financial assistance.

Section 2766, Pub. L. 88-452, title I, § 153, as added Pub. L. 90-222, title I, § 103, Dec. 23, 1967, 81 Stat. 689, related to application of other Federal resources.

Section 2767, Pub. L. 88-452, title I, § 154, as added Pub. L. 90-222, title I, § 103, Dec. 23, 1967, 81 Stat. 690, related to an evaluation of the effectiveness of the program.

Section 2768, Pub. L. 88-452, title I, § 155, as added Pub. L. 90-222, title I, § 103, Dec. 23, 1967, 81 Stat. 690, related to the Federal share of program costs.

PART E—SPECIAL WORK AND CAREER DEVELOPMENT PROGRAMS

§§ 2769 to 2769f. Repealed. Pub. L. 93-203, title VI, § 614, Dec. 28, 1973, 87 Stat. 883

Section 2769, Pub. L. 88-452, title I, § 161, as added Pub. L. 91-177, title II, § 201, Dec. 30, 1969, 83 Stat. 833, set out the Congressional statement of purpose in providing for special work and career development programs. See section 811 et seq. of Title 29, Labor.

Section 2769a, Pub. L. 88-452, title I, § 162, as added Pub. L. 91-177, title II, § 201, Dec. 30, 1969, 83 Stat. 834, provided for special programs for the unemployed. See section 811 et seq. of Title 29.

Section 2769b, Pub. L. 88-452, title I, § 163, as added Pub. L. 91-177, title II, § 201, Dec. 30, 1969, 83 Stat. 834, provided for the establishment of internal administrative procedures by the Director covering special work and career development programs. See section 982 of Title 29.

Section 2769c, Pub. L. 88-452, title I, § 164, as added Pub. L. 91-177, title II, § 201, Dec. 30, 1969, 83 Stat. 835, set out certain special conditions covering special work and career development programs. See section 984 of Title 29.

Section 2769d, Pub. L. 88-452, title I, § 165, as added Pub. L. 91-177, title II, § 201, Dec. 30, 1969, 83 Stat. 835, set out criteria for program participants. See section 811 et seq. of Title 29.

Section 2769e, Pub. L. 88-452, title I, § 166, as added Pub. L. 91-177, title II, § 201, Dec. 30, 1969, 83 Stat. 835, set out criteria for equitable distribution of assistance among States. See section 811 et seq. of Title 29.

Section 2769f, Pub. L. 88-452, title I, § 167, as added Pub. L. 91-177, title II, § 201, Dec. 30, 1969, 83 Stat. 836, set limitations on Federal assistance. See section 984 of Title 29.

EFFECTIVE DATE OF REPEAL

Section 614 of Pub. L. 93-203 provided in part that the repeal of these sections is effective with respect to fiscal years after June 30, 1974.

AVAILABILITY OF UNEXPENDED APPROPRIATIONS FOR USE IN CARRYING OUT SUCCESSOR PROVISIONS

Unexpended appropriations for carrying out these sections to be made available to carry out the Comprehensive Employment and Training Act of 1973, section 801 et seq. of Title 29, Labor, as directed by the President, see section 614 of Pub. L. 93-203, set out in part as a note under section 801 of Title 29.

PART F—DURATION OF PROGRAMS

§ 2771. Omitted

CODIFICATION

Section, Pub. L. 88-452, title I, § 171, formerly § 141, as added Pub. L. 89-794, title I, § 114, Nov. 8, 1966, 80 Stat. 1456, renumbered 161, Pub. L. 90-222, title I, § 111(b), Dec. 23, 1967, 81 Stat. 726, and renumbered 171 and amended Pub. L. 91-177, title I, § 101(a), title II, § 201, Dec. 30, 1969, 83 Stat. 827, 833; Pub. L. 92-424, § 2(a), Sept. 19, 1972, 86 Stat. 688, directing that the programs under this subchapter be carried out during the fiscal year ending June 30, 1967, and the eight succeeding fiscal years, and that in each such fiscal year only such sums might be appropriated as the Congress might authorize by law has been omitted in view of the repeal of all the sections authorizing the covered programs.

SUBCHAPTER II—URBAN AND RURAL COMMUNITY ACTION PROGRAMS

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 2706, 2707, 2941, 2944, 3103, 5012, 6863, 6865 of this title; title 20 section 883.

§ 2781. Congressional statement of purpose

(a) This subchapter provides for community action agencies and programs, prescribes the structure and describes the functions of community action agencies and authorizes financial assistance to community action programs and related projects and activities. Its basic purpose is to stimulate a better focusing of all available local, State, private, and Federal resources upon the goal of enabling low-income families, and low-income individuals of all ages, in rural and urban areas, to attain the skills, knowledge, and motivations and secure the opportunities needed for them to become fully self-sufficient. Its specific purposes are to promote, as methods of achieving a better focusing of resources on the goal of individual and family self-sufficiency—

(1) the strengthening of community capabilities for planning and coordinating Federal, State, and other assistance related to the elimination of poverty, so that this assistance, through the efforts of local officials, organizations, and interested and affected citizens, can be made more responsive to local needs and conditions;

(2) the better organization of a range of services related to the needs of the poor, so that these services may be made more effective and efficient in helping families and individuals to overcome particular problems in a way that takes account of, and supports their progress in overcoming, related problems;

(3) the greater use, subject to adequate evaluation, of new types of services and innovative approaches in attacking causes of poverty, so as to develop increasingly effective methods of employing available resources;

(4) the development and implementation of all programs and projects designed to serve the poor or low-income areas with the maximum feasible participation of residents of the areas and members of the groups served, so as to best stimulate and take full advantage of capabilities for self-advancement and assure that those programs and projects are otherwise meaningful to and widely utilized by their intended beneficiaries; and

(5) the broadening of the resource base of programs directed to the elimination of poverty, so as to secure, in addition to the services and assistance of public officials, private religious, charitable, and neighborhood organizations, and individual citizens, a more active role for business, labor, and professional groups able to provide employment opportunities or otherwise influence the quantity and quality of services of concern to the poor.

(b) It is further declared to be the purpose of this subchapter and the policy of the Community Services Administration to provide for basic education, health care, vocational training, and employment opportunities in rural America to enable the poor living in rural areas to remain in such areas and become self-sufficient therein. It shall not be the purpose of this subchapter or the policy of the Community Services Administration to encourage the rural poor to migrate to urban areas, inasmuch as it is the finding of Congress that continuation of such migration is frequently not in the best interests of the poor and tends to further congest the already overcrowded slums and ghettos of our Nation's cities.

(Pub. L. 88-452, title II, § 201, Aug. 20, 1964, 78 Stat. 516; Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 690; Pub. L. 94-341, § 2(a)(6), July 6, 1976, 90 Stat. 803.)

Amendments

1976—Subsec. (b). Pub. L. 94-341 substituted "Community Services Administration" for "Office of Economic Opportunity" wherever appearing.

1967—Pub. L. 90-222 substituted a declaration of the purpose to be served by the entire subchapter including the strengthening of community capability for planning the coordination of efforts to eliminate poverty, better organization of the range of services related to the needs of the poor, innovation of services, participation of area residents, broadening of resource base of programs directed toward the elimination of poverty, and working to allow rural Americans to stay in such areas and avoid moving to urban areas for provisions setting out the purpose of only the general community action programs, defined as the stimulation and incentive for urban and rural and urban communities to mobilize their resources to combat poverty through community action programs.

Effective Date of 1967 Amendment

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

PART A—COMMUNITY ACTION AGENCIES AND PROGRAMS

§§ 2782 to 2789. Omitted

Codification

Sections were omitted in the general reorganization of part A of this subchapter by Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 691.

Section 2782, Pub. L. 88-452, title II, § 202, Aug. 20, 1964, 78 Stat. 516; Pub. L. 89-253, § 11, Oct. 9, 1965, 79 Stat. 974; Pub. L. 89-794, title II, §§ 201-203, Nov. 8, 1966, 80 Stat. 1456, 1457, defined the term "community action program", authorized the promulgation of additional criteria, provided for the residence of board members in the geographical areas represented, neighborhood participation, and procedures for adequate representation of groups of the poor.

Section 2783, Pub. L. 88-452, title II, § 203, Aug. 20, 1964, 78 Stat. 517; Pub. L. 89-794, title II, § 204, Nov. 8, 1966, 80 Stat. 1458, covered the allotment of appropriated funds to States, the reservation of appropriations, limitation on allotments to Territories and possessions, the manner of allotment and reallotment, and a definition of "State".

Section 2784, Pub. L. 88-452, title II, § 204, Aug. 20, 1964, 78 Stat. 517, authorized grants and contracts for the development of community action programs.

Section 2785, Pub. L. 88-452, title II, § 205, Aug. 20, 1964, 78 Stat. 518; Pub. L. 89-253, §§ 12, 13, Oct. 9, 1965, 79 Stat. 974; Pub. L. 89-794, title II, §§ 205-211, Nov. 8, 1966, 80 Stat. 1458-1460, covered the making of grants or contracts for the conduct and administration of community action programs, salary limits, a prohibition on aid to elementary and secondary education in schools, assistance eligibility, chronically unemployed poor, betterment and beautification of program area, funding of independent programs, independent programs in rural and urban areas, prohibition against

membership of personnel of Office of Economic Opportunity in sponsoring organizations, financial controls within sponsoring organizations, audits, accounting, and family planning services.

Section 2786, Pub. L. 88-452, title II, § 206, Aug. 20, 1964, 78 Stat. 518; Pub. L. 89-794, title II, § 212(a), Nov. 8, 1966, 80 Stat. 1461, authorized the Director to provide technical assistance and training for communities and to formulate and carry out small loan programs for small families to meet immediate and urgent family needs.

Section 2787, Pub. L. 88-452, title II, § 207, Aug. 20, 1964, 78 Stat. 518; Pub. L. 89-794, title II, § 213, Nov. 8, 1966, 80 Stat. 1461, covered research and demonstrations pertaining to the purposes of this part, limitation on expenditures, overall plans, reports, filing, review, and recommendations.

Section 2788, Pub. L. 88-452, title II, § 208, Aug. 20, 1964, 78 Stat. 519; Pub. L. 89-253, § 14, Oct. 9, 1965, 79 Stat. 975; Pub. L. 89-794, title II, § 214, Nov. 8, 1966, 80 Stat. 1462, set out limitations on Federal assistance and provided for non-Federal contributions.

Section 2789, Pub. L. 88-452, title II, § 209, Aug. 20, 1964, 78 Stat. 519; Pub. L. 89-253, §§ 15, 16, 17, Oct. 9, 1965, 79 Stat. 975, 976, provided for the participation of State agencies, the establishment of procedures in connection therewith, grant and contract authority, State approval of plans, notice to the Governor and the community action agency of application for programs, and the limitations upon the participation of private institutions.

SAVINGS PROVISIONS

Applicability until June 30, 1968, of the provisions of section 2782 of this title as in effect immediately prior to the enactment of Pub. L. 90-222, which was approved Dec. 23, 1967, and which omitted section 2782 of this title in the general reorganization of part A of this subchapter by section 104 of Pub. L. 90-222, to community action agencies in existence and funded prior to the enactment of Pub. L. 90-222, with certain exceptions, and provision for the transfer of functions, obligations, records, authority, and funds in agreements made prior to June 30, 1968, to agencies designated pursuant to sections 2790 and 2791 of this title as amended by Pub. L. 90-222, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2790. Designation of community action agencies

(a) Political subdivisions; public and private nonprofit agencies and organizations; Indian tribal government

A community action agency shall be a State or political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or a public or private nonprofit agency or organization which has been designated by a State or such a political subdivision or combination of such subdivisions, or an Indian tribal government, which—

(1) has the power and authority and will perform the functions set forth in section 2795 of this title, including the power to enter into contracts with public and private nonprofit agencies and organizations to assist in fulfilling the purposes of this subchapter, and

(2) is determined to be capable of planning, conducting, administering and evaluating a community action program and is currently designated as a community action agency by the Director.

A community action program is a community based and operated program—

(1) which includes or is designed to include a sufficient number of projects or components to provide, in sum, a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem;

(2) which has been developed, and which organizes and combines its component projects and activities, in a manner appropriate to carry out all the purposes of this subchapter; and

(3) which conforms to such other supplementary criteria as the Director may prescribe consistent with the purposes and provisions of this subchapter.

(b) Administration

Components of a community action program may be adminstered by the community action agency, where consistent with sound and efficient management and applicable law, or by other agencies. They may be projects eligible for assistance under this subchapter, or projects assisted from other public or private sources; and they may be either specially designed to meet local needs, or designed pursuant to the eligibility standards of a State or Federal program providing assistance to a particular kind of activity which will help in meeting those needs.

(c) Organizational base and commonality of interests

For the purpose of this subchapter, a community may be a city, county, multicity, or multicounty unit, an Indian reservation, or a neighborhood or other area (irrespective of boundaries or political subdivisions) which provides a suitable organizational base and possesses the commonality of interest needed for a community action program. The Director shall consult with the heads of other Federal agencies responsible for programs relating to work and training programs, physical and economic development, housing, education, health, and other community services to encourage the establishment of coterminous or complementary boundaries for planning purposes among those programs and community action programs assisted under this subchapter.

(d) Designation of substitute community action agency

The Director may designate and provide financial assistance to a public or private nonprofit agency as a community action agency in lieu of a community action agency designated under subsection (a) of this section for activities of the kind described in this subchapter where he determines (1) that the community action agency serving the community has failed, after having a reasonable opportunity to do so, to submit a satisfactory plan for a community action program which meets the criteria for approval set forth in this subchapter, or to carry out such plan in a satisfactory manner, or (2) that neither the State nor any qualified political subdivision or combination of such subdivisions is willing to be designated as the community action agency for such community or to designate a public or private nonprofit agency or organization to be so designated by the Director.

(e) Self exclusion of political subdivisions

No political subdivision of a State shall be included in the community action program of a community action agency designated under subsection (a) of this section if the elected or duly appointed governing officials of such political subdivision do not wish to be so included. Such political subdivision, and any public or private nonprofit organization or agency designated by it, shall be eligible for designation as a community action agency on the same basis as other political subdivisions and their designees.

(f) Delegation of functions

In carrying out his responsibilities under this part the Director may delegate such functions (other than policymaking functions and the final approval of grants and contracts) to a State, in accordance with criteria and guidelines established by him, as he deems appropriate. Except that no such delegation shall take place unless all the community action agencies within such State formally indicate their approval of such proposed delegation, except that whenever such delegated functions include the authority to approve programs within such State the Director shall make available to the State, in addition to an amount not less than the amount made available to such State for State agency assistance under section 2824 of this title in the previous fiscal year, an amount in each fiscal year equal to such State's share (as determined by the formula set forth in the third sentence of section 2828(a) of this title) of the aggregate amount made available during the fiscal year ending June 30, 1974, for the operation of regional offices of the Community Services Administration.

(Pub. L. 88-452, title II, § 210, Aug. 20, 1964, 78 Stat. 519; Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 691; Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 2310; Pub. L. 93-644, § 5(a), (b), Jan. 4, 1975, 88 Stat. 2294; Pub. L. 94-341, § 2(a)(7), July 6, 1976, 90 Stat. 803.)

CODIFICATION

"Community Services Administration" was substituted for "Office of Economic Opportunity", in subsec. (f), on the authority of section 9(a) of Pub. L. 93-644, Jan. 4, 1975, 88 Stat. 2310, which established the Community Services Administration as the successor to the Office of Economic Opportunity. See section 2941 of this title.

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-341 substituted "may delegate such functions (other than" for "may delegate functions other than", "contracts) to" for "contracts to", "by him, as he deems appropriate" for "by him, such functions as he deems appropriate", and "third sentence of section 2812(a)" for "second sentence of section 2828(a)".

1975—Subsec. (a). Pub. L. 93-644, § 5(a)(1), substituted "such subdivisions, or an Indian tribal government, which" for "such subdivisions, which".

Subsec. (f). Pub. L. 93-644, § 5(a)(2), (b), added subsec. (f). A former subsec. (f), directing that tribal governments of Indian reservations be deemed political subdivisions of States for purposes of this subchapter, was stricken.

1967—Pub. L. 90-222 substituted provisions covering the designation of community action agencies and their requisite organization attributes, the administration of community action programs, the commonality of interest and organizational base required to qualify as a community for purposes of a program, the substitution of community action agencies when the designated agency has failed, the option for self-exclusion reserved to political subdivisions, and the inclusion of Indian reservations as political subdivisions for provisions covering the equitable distribution of assistance between urban and rural areas.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222, effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as Effective Date note under section 2702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2791, 2828, 2995 of this title.

§ 2791. Community action agencies and boards

(a) Administration by community action boards

Each community action agency which is a State or a political subdivision of a State, or a combination of political subdivisions, shall administer its program through a community action board which shall meet the requirements of subsection (b) of this section. Each community action agency which is a public or private nonprofit agency or organization designated by a State or political subdivision of a State, or combination of political subdivisions, or is an agency designated by the Director under section 2790(d) of this title, shall have a governing board which shall meet the requirements of subsection (b) of this section.

(b) Composition of boards; membership; term of service

Each board to which this subsection applies shall consist of not more than fifty-one members and shall be so constituted that (1) one-third of the members of the board are elected public officials, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting such one-third requirement, (2) at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served, and (3) the remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community. Each member of the board selected to represent a specific geographic area within a community must reside in the area he represents. No person selected under clause (2) or (3) of this subsection as a member of a board shall serve on such board for more than five consecutive years, or more than a total of ten years.

(c) Neighborhood based organizations

Where a community action agency places responsibility for major policy determinations with respect to the character, funding, extent, and administration of and budgeting for programs to be carried on in a particular geographic area within the community in a subsidiary board, council, or similar agency, such board, council, or agency shall be broadly representative of such area, subject to regulations of the director which assure adequate opportunity for membership of elected public officials on such

board, council, or agency. Each community action agency shall be encouraged to make use of neighborhood-based organizations composed of residents of the area or members of the groups served to assist such agency in the planning, conduct, and evaluation of components of the community action program.

(d) Administrative standards and rules; quorum

(1) The Director shall promulgate such standards or rules relating to the scheduling and notice of meetings, quorums (which shall be not less than 50 per centum of the total membership), procedures, establishment of committees, and similar matters as he may deem necessary to assure that boards which are subject to subsection (b) of this section provide a continuing and effective mechanism for securing broad, community involvement in programs assisted under this subchapter and that all groups or elements represented on those boards have a full and fair opportunity to participate in decisions affecting those programs. Such standards or rules shall not preclude any such board from appointing an executive committee or similar group, which fairly reflects the composition of the board, to transact the board's business between its meetings. The quorum requirements for any such committee or group, which shall not be less than 50 percent of the membership, shall be established by the board.

(2) The Director shall require community action agencies to establish procedures under which community agencies and representative groups of the poor which feel themselves inadequately represented on the community action board or governing board may petition for adequate representation.

(e) Power of appointment; staff; determination of policies; program plans; priorities

The powers of every community action agency governing board shall include the power to appoint persons to senior staff positions, to determine major personnel, fiscal, and program policies, to approve overall program plans and priorities, and to assure compliance with conditions of and approve proposals for financial assistance under this subchapter.

(f) Participation in program development and implementation; democratic selection procedures; participation of the poor; community involvement

Each community action board referred to in the first sentence of subsection (a) of this section shall—

(1) have a full opportunity to participate in the development and implementation of all programs and projects designed to serve the poor or low-income areas with maximum feasible participation of residents of the areas and members of the groups served, so as to best stimulate and take full advantage of capabilities for self-advancement and assure that those programs and projects are otherwise meaningful to and widely utilized by their intended beneficiaries;

(2) have at least one-third of its members chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served;

(3) be so established and organized that the poor and residents of the area concerned will be enabled to influence the character of programs affecting their interests and regularly participate in the planning and implementation of those programs; and

(4) be a continuing and effective mechanism for securing broad community involvement in the programs assisted under this subchapter.

(g) Sabbath Days; prohibition of elections or other democratic selection procedures

The Director shall ensure that no election or other democratic selection procedure conducted pursuant to clause (2) of subsection (b), or pursuant to clause (2) of subsection (f) of this section, shall be held on a Sabbath Day which is observed as a day of rest and worship by residents in the area served.

(Pub. L. 88-452, title II, § 211, Aug. 20, 1964, 78 Stat. 520; Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 693; Pub. L. 92-424, §§ 6, 7, Sept. 19, 1972, 86 Stat. 690.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-424, § 7, substituted "elected public officials, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting such one-third requirement", for "public officials, including the chief elected official or officials, or their representatives, unless the number of such officials reasonably available or willing to serve is less than one-third of the membership of the board", and increased limitation on term of service as member of board from "three" to "five" consecutive years and from "six" to "ten" years of total service.

Subsec. (g). Pub. L. 92-424, § 6, added subsec. (g).

1967—Pub. L. 90-222 substituted provisions covering the administration of programs by community action boards, the make-up of the boards, membership, and term of service, utilization of neighborhood based organizations, administrative standards and rules, powers of appointment, determination of policies, program plans, and priorities, and participation in program development and implementation for provisions directing that preference be given to programs and projects which are components of community action programs approved pursuant to this part.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 282[4] of this title.

§§ 2792 to 2794. Omitted

CODIFICATION

Sections were omitted in the general reorganization of Part A of this subchapter by Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 691.

Section 2792, Pub. L. 88-452, title II, § 211-1, as added Pub. L. 89-794, title II, § 215, Nov. 8, 1966, 80 Stat. 1462, created the Headstart program for preschool children, and provided a program for legal services with the recommendations of local bar associations.

Section 2793, Pub. L. 88-452, title II, § 211-2, as added Pub. L. 89-794, title II, § 216, Nov. 8, 1966, 80 Stat. 1463, provided for comprehensive health services programs, the consultation with health agencies to assure professional supervision, covered narcotic addition, and provided for reports to Congress and the President.

Section 2794, Pub. L. 88-452, title II, § 211-3, as added Pub. L. 89-794, title II, § 217, Nov. 8, 1966, 80 Stat. 1464, provided for special projects on adult basic education.

§ 2795. Specific powers and functions of community action agencies

(a) In order to carry out its overall responsibility for planning, coordinating, evaluating, and administering a community action program, a community action agency must have authority under its charter or applicable law to receive and administer funds under this subchapter, funds and contributions from private or local public sources which may be used in support of a community action program, and funds under any Federal or State assistance program pursuant to which a public or private nonprofit agency (as the case may be) organized in accordance with this part could act as grantee, contractor, or sponsor of projects appropriate for inclusion in a community action program. A community action agency must also be empowered to transfer funds so received, and to delegate powers to other agencies, subject to the powers of its governing board and its overall program responsibilities. This power to transfer funds and delegate powers must include the power to make transfers and delegations covering component projects in all cases where this will contribute to efficiency and effectiveness or otherwise further program objectives.

(b) In exercising its powers and carrying out its overall responsibility for a community action program, a community action agency shall have, subject to the purposes of this subchapter, at least the following functions:

(1) Planning systematically for and evaluating the program, including actions to develop information as to the problems and causes of poverty in the community, determine how much and how effectively assistance is being provided to deal with those problems and causes, and establish priorities among projects, activities and areas as needed for the best and most efficient use of resources.

(2) Encouraging agencies engaged in activities related to the community action program to plan for, secure and administer assistance available under this subchapter or from other sources on a common or cooperative basis; providing planning or technical assistance to those agencies; and generally, in cooperation with community agencies and officials, undertaking actions to improve existing efforts to attack poverty, such as improving day-to-day communication, closing service gaps, focusing resources on the most needy, and providing additional opportunities to low-income individuals for regular employment or participation in the programs or activities for which those community agencies and officials are responsible.

(3) Initiating and sponsoring projects responsive to needs of the poor which are not otherwise being met, with particular emphasis on providing central or common services that can be drawn upon by a variety of related programs, developing new approaches or new types of services that can be incorporated into other programs, and filling gaps pending the expansion or modification of those programs.

(4) Establishing effective procedures by which the poor and area residents concerned will be enabled to influence the character of programs affecting their interests, providing for their regular participation in the implementation of those programs, and providing technical and other support needed to enable the poor and neighborhood groups to secure on their own behalf available assistance from public and private sources.

(5) Joining with and encouraging business, labor, and other private groups and organizations to undertake, together with public officials and agencies, activities in support of the community action program which will result in the additional use of private resources and capabilities, with a view to such things as developing new employment opportunities, stimulating investment that will have a measurable impact in reducing poverty among residents of areas of concentrated poverty, and providing methods by which residents of those areas can work with private groups, firms, and institutions in seeking solutions to problems of common concern.

(Pub. L. 88-452, title II, § 212, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 694.)

Prior Provisions

A prior section 212 of Pub. L. 88-452, set out as section 2801 of this title, was repealed by Pub. L. 89-750, title III, § 315, Nov. 8, 1966, 80 Stat. 1222.

Effective Date

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2796. Administrative standards; rules and regulations

(a) Each community action agency shall observe, and shall (as appropriate) require or encourage other agencies participating in a community action program to observe, standards of organization, management and administration which will assure, so far as reasonably possible, that all program activities are conducted in a manner consistent with the purposes of this subchapter and the objective of providing assistance effectively, efficiently, and free of any taint of partisan political bias or personal or family favoritism. Each community action agency shall establish or adopt rules to carry out this section, which shall include rules to assure full staff accountability in matters governed by law, regulations, or agency policy. Each community action agency shall also provide for reasonable public access to information, including but not limited to public hearings at the request of appropriate community groups and reasonable public access to books and records of the agency or other agencies engaged in program activities or operations involving the use of authority or funds for which it is responsible. And each community action agency shall adopt for itself and other agencies using funds or exercising authority for which it is responsible, rules designed to establish specific standards governing salaries, salary increases, travel and per diem allowances, and other em-

ployee benefits; to assure that only persons capable of discharging their duties with competence and integrity are employed and that employees are promoted or advanced under impartial procedures calculated to improve agency performance and effectiveness; to guard against personal or financial conflicts of interests; and to define employee duties of advocacy on behalf of the poor in an appropriate manner which will in any case preclude employees from participating, in connection with the performance of their duties, in any form of picketing, protest, or other direct action which is in violation of law.

(b) The Director shall prescribe rules or regulations to supplement subsection (a) of this section, which shall be binding on all agencies carrying on community action program activities with financial assistance under this subchapter. He may, where appropriate, establish special or simplified requirements for smaller agencies or agencies operating in rural areas. These special requirements shall not, however, affect the applicability of rules governing conflicts of interest, use of position or authority for partisan or nonpartisan political purposes or participation in direct action, regardless of customary practices or rules among agencies in the community. The Director shall consult with the heads of other Federal agencies responsible for programs providing assistance to activities which may be included in community action programs for the purpose of securing maximum consistency between rules or regulations prescribed or followed by those agencies and those prescribed under this section.

(Pub. L. 88-452, title II, § 213, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 695.)

PRIOR PROVISIONS

A prior section 213 of Pub. L. 88-452, set out as section 2802 of this title, was repealed by Pub. L. 89-750, title III, § 315, Nov. 3, 1966, 80 Stat. 1222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2797. Housing development and service organizations

Each community action agency shall encourage the establishment of housing development and services organizations designed to focus on the housing needs of low-income families and individuals. Such organizations shall provide the technical, administrative, and financial assistance which is required to help low-income families and individuals more effectively to utilize existing programs, and which is required to enable nonprofit, cooperative, and public sponsors more effectively to take advantage of existing Federal, State, and local mortgage insurance and housing assistance programs. Where appropriate, such organizations may be nonprofit housing development corporations. Such corporations may themselves become sponsors of housing under existing programs of specialized housing agencies, but under no circumstances shall such corporations insure mortgages or duplicate the long-term capital financing functions of programs now administered by the specialized housing agencies. Housing development and service organizations shall coordinate their efforts with other community action agency efforts so that any programs undertaken under authority of this section shall be closely related to other community action programs.

(Pub. L. 88-452, title II, § 214, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 696.)

PRIOR PROVISIONS

A prior section 214 of Pub. L. 88-452, set out as section 2803 of this title, was repealed by Pub. L. 89-750, title III, § 315, Nov. 3, 1966, 80 Stat. 1222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

PART B—FINANCIAL ASSISTANCE TO COMMUNITY ACTION PROGRAMS AND RELATED ACTIVITIES

§§ 2801 to 2807. Repealed. Pub. L. 89-750, title III, § 315, Nov. 3, 1966, 80 Stat. 1222

Section 2801, Pub. L. 88-452, title II, § 212, Aug. 20, 1964, 78 Stat. 520, set out the declaration of purpose for adult basic education programs. See section 1201 of Title 20, Education.

Section 2802, Pub. L. 88-452, title II, § 213, Aug. 20, 1964, 78 Stat. 520; Pub. L. 89-253, § 19(1), Oct. 9, 1965, 79 Stat. 976; Pub. L. 89-794, title IX, § 901(c), Nov. 8, 1966, 80 Stat. 1475, provided for the making of grants to States having approved plans for adult basic education programs. See sections 1203 and 1204 of Title 20.

Section 2803, Pub. L. 88-452, title II, § 214, Aug. 20, 1964, 78 Stat. 520, set out the requirements for State plans and made provision for a hearing. See section 1205 of Title 20.

Section 2804, Pub. L. 88-452, title II, § 215, Aug. 20, 1964, 78 Stat. 521, set out the manner of allotting grant funds to the States and outlying areas. See section 1204 of Title 20.

Section 2805, Pub. L. 88-452, title II, § 216, Aug. 20, 1964, 78 Stat. 522; Pub. L. 89-253, § 18, Oct. 9, 1965, 79 Stat. 976, provided for the methods of payment of the Federal share of expenditures. See section 1206 of Title 20.

Section 2806, Pub. L. 88-452, title II, § 217, Aug. 20, 1964, 78 Stat. 522, provided for termination of payments for noncompliance with the State plan and for hearings and judicial review. See section 1207 of Title 20.

Section 2806a, Pub. L. 88-452, title II, § 218, as added Pub. L. 89-253, § 19(2), Oct. 9, 1965, 79 Stat. 976, made provision for teacher training projects. See section 1208 of Title 20.

Section 2807, Pub. L. 88-452, title II, § 219, formerly § 218, Aug. 20, 1964, 78 Stat. 523, renumbered Pub. L. 89-253, § 19(2), Oct. 9, 1965, 79 Stat. 976, set out the definitions of terms. See section 1202 of Title 20.

§ 2808. General provisions for financial assistance

(a) Component activities

The Director may provide financial assistance to community action agencies for the planning, conduct, administration and evaluation of community action programs and components. Those components may involve, without limitation, other activities and supporting facilities designed to assist participants including the elderly poor—

(1) to secure and retain meaningful employment;

(2) to attain an adequate education;

(3) to make better use of available income;

(4) to provide and maintain adequate housing and a suitable living environment;

(5) to undertake family planning, consistent with personal and family goals, religious and moral convictions;

(6) to obtain services for the prevention of narcotics addiction, alcoholism, and the rehabilitation of narcotic addicts and alcoholics;

(7) to obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance;

(8) to remove obstacles and solve personal and family problems which block the achievement of self-sufficiency;

(9) to achieve greater participation in the affairs of the community; and

(10) to make more frequent and effective use of other programs related to the purposes of this subchapter.

He may also provide financial assistance to other public or private nonprofit agencies to aid them in planning for the establishment of a community action agency.

(b) Use of agencies outside designated community action agencies

If the Director determines that a limited purpose project or program involving activities otherwise eligible under this section is needed to serve needs of low-income families and individuals in a community and no community action agency has been designated for that community pursuant to section 2790 of this title, or where a community action agency gives its approval for such a program to be funded directly through a public or private nonprofit agency or organization, he may extend financial assistance for that project or program to a public or private non-profit agency which he finds is capable of carrying out the project in an efficient and effective manner consistent with the purpose of this subchapter.

(c) Rules and regulations

The Director shall prescribe necessary rules or regulations governing applications for assistance under this section to assure that every reasonable effort is made by each applicant to secure the views of local public officials and agencies in the community having a direct or substantial interest in the application and to resolve all issues of cooperation and possible duplication prior to its submission.

(d) Systematic planning and implementation processes

After July 1, 1968, the Director shall require, as a condition of assistance, that each community action agency has adopted a systematic approach to the achievement of the purposes of this subchapter and to the utilization of funds provided under this part. Such systematic approach shall encompass a planning and implementation process which seeks to identify the problems and causes of poverty in the community, seeks to mobilize and coordinate relevant public and private resources, establishes program priorities, links program components with one another and with other relevant programs, and provides for evaluation. The Director may, however, extend the time for such requirement to take into account the length of time a program has been in operation. He shall also take necessary steps to assure the participation of other Federal agencies in support of the development and implementation of plans under this subsection.

(e) Establishment of binding national priorities prohibited

In order to promote local responsibility and initiative, the Director shall not establish binding national priorities on funds authorized by this section, but he shall review each application for financial assistance on its merits. Before extending financial assistance to a new community action agency under this section, and in determining the amount of and conditions on which such assistance shall be extended, the Director shall consider the extent and nature of poverty in the community and the probable capacity of the agency to carry out an effective program. In reviewing or supplementing financial assistance to a previously existing community action agency, he shall consider the progress made in carrying on programs by such agency.

(Pub. L. 88-452, title II, § 221, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 696.)

PRIOR PROVISIONS

A prior section 221 of Pub. L. 88-452, set out as section 2831 of this title, was omitted in the general reorganization of Part D of this subchapter by section 104 of Pub. L. 90-222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

COMMUNITY ACTION PROGRAM POWERS NOT SUBJECT TO DELEGATION

Prohibition against delegation of Director functions under this section to any other agency, see section 28 of Pub. L. 92-424, Sept. 19, 1972, 86 Stat. 705, set out as a note under section 2942 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2707, 2712, 2809, 2812 of this title.

§ 2809. Special programs and assistance

(a) Authority of Director; conditions and criteria

In order to stimulate actions to meet or deal with particularly critical needs or problems of the poor which are common to a number of communities, the Director may develop and carry on special programs under this section. This authority shall be used only where the Director determines that the objectives sought could not be effectively achieved through the use of authorities under section 2808 of this title, including assistance to components or projects based on models developed and promulgated by him. It shall also be used only with respect to programs which (A) involve activities which can be incorporated into or be closely coordinated with community action programs, (B) involve significant new combinations of resources of new and innovative approaches, or (C) are structured in a way that will, within the limits of the type of assistance or activities contemplated, most fully and effectively promote the purposes of this subchapter. Subject to such conditions as may be appropriate to assure

effective and efficient administration, the Director may provide financial assistance to public or private nonprofit agencies to carry on local projects initiated under such special programs; but he shall do so in a manner that will encourage, wherever feasible, the inclusion of the assisted projects in community action programs, with a view to minimizing possible duplication and promoting efficiencies in the use of common facilities and services, better assisting persons or familes having a variety of needs, and otherwise securing from the funds committed the greatest possible impact in promoting family and individual self-sufficiency. Programs under this section shall include those described in the following paragraphs:

(1), (2) Repealed. Pub. L. 93-644, § 5(c)(1), (2), Jan. 4, 1975, 88 Stat. 2294

(3) Repealed. Pub. L. 93-355, § 3(d)(2), July 25, 1974, 88 Stat. 390

(4) Repealed. Pub. L. 94-341, § 2(a)(8), July 6, 1976, 90 Stat. 804

(5) Emergency Food and Medical Services

A program to be known as "Community Food and Nutrition" designed to provide on an emergency basis, directly or by delegation of authority pursuant to the provisions of subchapter VI of this chapter, financial assistance for the provisions of such supplies and services, nutritional foodstuffs, and related services, as may be necessary to counteract conditions of starvation or malnutrition among the poor. Such assistance may be provided by way of supplement to such other assistance as may be extended under the provisions of other Federal programs, and may be used to extend and broaden such programs to serve economically disadvantaged individuals and families where such services are not now provided and without regard to the requirements of such laws for local or State administration or financial participation. In extending such assistance, the Director may make grants to community action agencies or local public or private nonprofit organizations or agencies to carry out the purposes of this paragraph. The director is authorized to carry out the functions under this paragraph through the Secretary of Agriculture and the Secretary of Health, Education, and Welfare in a manner that will insure the availability of such supplies and services, nutritional foodstuffs, and related services through a community action agency where feasible, or other agencies or organizations if no such agency exists or is able to administer programs to provide such foodstuffs, services, and supplies to needy individuals and families.

(6) Repealed. Pub. L. 93-644, § 5(c)(3), Jan. 4, 1975, 88 Stat. 2294

(7) Senior Opportunities and Services

A program to be known as "Senior Opportunities and Services" designed to identify and meet the needs of older, poor persons above the age of 60 in one or more of the following areas: development and provision of new employment and volunteer services; effective referral to existing health, welfare, employment, housing, legal, consumer, transportation, education, and recreational and other services; stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs; modification of existing procedures, eligibility requirements and program structures to facilitate the greater use of, and participation in, public services by the older poor; development of all-season recreation and service centers controlled by older persons themselves; and such other activities and services as the Director may determine are necessary or specially appropriate to meet the needs of the older poor and to assure them greater self-sufficiency. In administering this program the Director shall utilize to the maximum extent feasible the services of the Administration of Aging in accordance with agreements with the Secretary of Health, Education, and Welfare.

(8), (9) Repealed. Pub. L. 93-644, § 5(c)(4), (5), Jan. 4, 1975, 88 Stat. 2294

(10) Environmental Action

An "Environmental Action" program through which low-income persons will be paid for work (which would not otherwise be performed) on projects designed to combat pollution or to improve the environment. Projects may include, without limitation: cleanup and sanitation activities, including solid waste removal; reclamation and rehabilitation of eroded or ecologically damaged areas, including areas affected by strip mining; conservation and beautification activities, including tree planting and recreation area development; the restoration and maintenance of the environment; and the improvement of the quality of life in urban and rural areas.

(11) Rural Housing Development and Rehabilitation; services of enrollees in Mainstream programs; loans: repayment period, interest rate, waiver of interest, annual recertification of family income and adjustment of monthly loan payments

A program to be known as "Rural Housing Development and Rehabilitation" designed to assist low-income families in rural areas to construct and acquire ownership of adequate housing, to rehabilitate or repair existing substandard units in such areas, and to otherwise assist families in obtaining standard housing. Financial assistance under this paragraph shall be provided to non-profit rural housing development corporations and cooperative serving areas which are defined by the Farmers Home Administration as rural areas, and shall be used for, but not limited to, such purposes as administrative expenses; revolving development funds; nonrevolving land, land development and construction writedowns; rehabilitation or repair of substandard housing; and loans to low-income families. In the construction, rehabilitation, and repair of housing for low-income families under this paragraph, the services of persons enrolled in Mainstream programs may be utilized. Loans under this paragraph may be used for, but not limited to, such purposes as the purchase of new housing units, the repair, rehabilitation and purchase of existing units, and to supplement existing Federal loan programs in order that low-income families may benefit

from them. The repayment period of such loans shall not exceed thirty-three years. No loans under this paragraph shall bear an interest rate of less than 1 per centum per annum, but if the Director, after having examined the family income of the applicant, the projected housing costs of the applicant, and such other factors as he deems appropriate, determines that the applicant would otherwise be unable to participate in this program, he may waive the interest in whole or in part and for such periods of time as he may establish except that (1) no such waiver may be granted to an applicant whose adjusted family income (as defined by the Farmers Home Administration) is in excess of $3,700 per annum and (2) any applicant for whom such a waiver is provided shall be required to commit at least 20 per centum of his adjusted family income toward the mortgage debt service and other housing costs. Family incomes shall be recertified annually, and monthly payments for all loans under this paragraph adjusted accordingly.

(12) Emergency Energy Conservation Services

A program to be known as "Emergency Energy Conservation Services" designed to enable low-income individuals and families, including the elderly and the near poor, to participate in energy conservation programs designed to lessen the impact of the high cost of energy on such individuals and families and to reduce individual and family energy consumption. The Director is authorized to provide financial and other assistance for programs and activities, including, but not limited to, an energy conservation and education program; winterization of old or substandard dwellings, improved space conditioning, and insulation; emergency loans, grants, and revolving funds to install energy conservation technologies and to deal with increased housing expenses relating to the energy crisis; alternative fuel supplies, special fuel voucher or stamp programs; alternative transportation activities designed to save fuel and assure continued access to training, education, and employment; appropriate outreach efforts; furnishing personnel to act as coordinators, providing legal or technical assistance, or otherwise representing the interests of the poor in efforts relating to the energy crisis; nutrition, health, and other supportive services in emergency cases; and evaluation of programs and activities under this paragraph. Such assistance may be provided as a supplement to any other assistance extended under the provisions of this chapter or under other provisions of Federal law. The Director, after consultation with the Administrator of the Federal Energy Office and appropriate Federal departments and agencies, shall establish procedures and take other appropriate action necessary to insure that the effects of the energy crisis on low-income persons, the elderly, and the near poor are taken into account in the formulation and administration of programs relating to the energy crisis.

(13) Summer Youth Recreation

A program to be known as "Summer Youth Recreation" designed to provide recreational opportunities for low-income children during the summer months. Funds made available for this section shall be allocated by the Director, after consultation with the Secretary of Labor, among prime sponsors and other agencies designated under title I of the Comprehensive Employment and Training Act of 1973 [29 U.S.C. 811 et seq.] on the basis of (1) the relative number of public assistance recipients in the area served by such prime sponsor or agency, as compared to the Nation; (2) the relative number of unemployed persons in such area as compared with the Nation; and (3) the relative number of related children living with families with incomes below the poverty line in such area, as compared to the Nation. That part of any allotment which the Director determines will not be needed may be reallotted, at such dates during the fiscal year as the Director may fix, to the extent feasible, in proportion to the original allotments. In making allocations under this section, the Director shall insure, to the maximum extent possible, that for the program commencing in the fiscal year ending June 30, 1975, and for the program in each succeeding fiscal year no prime sponsor or other designated agency shall receive an amount less than the amount received for such programs during the fiscal year ending June 30, 1973, or the fiscal year ending June 30, 1974, whichever is higher.

(b) Training, research, and technical assistance

Consistent with, and subject to, the provisions of sections 2823 and 2825(a), (b), and (c) of this title, programs under this section may include related training, research, and technical assistance, and funds allocated for this purpose may be allotted and used in the manner otherwise provided under this subchapter with respect to training, research, and technical assistance activities.

(Pub. L. 88-452, title II, § 222, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 698, and amended Pub. L. 90-575, title I, § 105(b), Oct. 16, 1968, 82 Stat. 1019; Pub. L. 91-177, title I, §§ 103-106, Dec. 30, 1969, 83 Stat. 828, 829; Pub. L. 92-424, §§ 8-11, Sept. 19, 1972, 86 Stat. 690, 691; Pub. L. 93-202, Dec. 28, 1973, 87 Stat. 838; Pub. L. 93-355, § 3(d)(2), July 25, 1974, 88 Stat. 390; Pub. L. 93-644, § 5(c), (d)(1), Jan. 4, 1975, 88 Stat. 2294; Pub. L. 94-341, § 2(a)(8)-(10), July 6, 1976, 90 Stat. 804.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (a)(13), is Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839. Title I of the Comprehensive Employment and Training Act of 1973 is classified generally to subchapter I (§ 811 et seq.) of chapter 17 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables volume.

AMENDMENTS

1976—Subsec. (a)(4). Pub. L. 94-341, § 2(a)(8), struck out subsec. (a)(4) which had made provision for a "Comprehensive Health Services" program.

Subsec. (a)(5). Pub. L. 94-341, § 2(a)(9), substituted "Community Food and Nutrition" for "Emergency Food and Medical Services", "such supplies and services" for "such medical supplies and services" in two

places, and "such foodstuffs, services, and supplies" for "such foodstuffs, medical services, and supplies".

Subsec. (a)(12). Pub. L. 94-341, § 2(a)(10), substituted "appropriate Federal departments and agencies," for "appropriate Federal departments and agencies".

1975—Subsec. (a)(1). Pub. L. 93-644, § 5(c)(1), repealed subsec. (a)(1) which had made provision for a "Project Headstart" program. See section 2928 of this title.

Subsec. (a)(2). Pub. L. 93-644, § 5(c)(2), repealed subsec. (a)(2) which had made provision for a "Follow Through" program. See section 2929 of this title.

Subsec. (a)(6). Pub. L. 93-644, § 5(c)(3), repealed subsec. (a)(6) which had made provision for a "Family Planning" program.

Subsec. (a)(8). Pub. L. 93-644, § 5(c)(4), repealed subsec. (a)(8) which had made provision for an "Alcoholic Counseling and Recovery" program. See section 2902 of this title.

Subsec. (a)(9). Pub. L. 93-644, § 5(c)(5), repealed subsec. (a)(9) which had made provision for a "Drug Rehabilitation" program. See section 2902 of this title.

Subsec. (a)(12), (13). Pub. L. 93-644, § 5(d)(1), added pars. (12) and (13).

1974—Subsec. (a)(3). Pub. L. 93-355 struck out subsec. (a)(3) which had made provision for a "Legal Services" program. See section 2996 et seq. of this title.

1973—Subsec. (a)(1). Pub. L. 93-202 substituted provisions that the Secretary shall defer the implementation of a fee schedule established under this paragraph until July 1, 1975, for provisions that the Secretary may defer, but not later than April 1, 1973, the establishment of a fee schedule under this paragraph upon certification that the establishment of such fee schedule would hinder the orderly operation of such projects prior to such time.

1972—Subsec. (a)(1). Pub. L. 92-424, § 8, substituted for former provisions requiring a family which is not low income to make payment, or have payment made in its behalf, in whole or in part for services where family's income is, or becomes through employment or otherwise, such as to make such payment appropriate, provisions respecting payment in accordance with a fee schedule established by the Secretary not later than Apr. 1, 1973, under a certification of the Secretary, payment by third parties, computation of charges in cls. (i) and (ii) and for additional children, prohibition of charges when annual family income below prescribed amount, order of use of funds, and reservation of funds for projects based upon aggregate amount received during prior fiscal year.

Subsec. (a)(4)(A)(ii). Pub. L. 92-424, § 9, substituted in the proviso "pursuant to such regulations as the Director may prescribe, persons provided assistance through programs assisted under this paragraph who are not members of low-income families may be required to make payment, or have payment made in their behalf, in whole or in part for such assistance" for "such services may be available on an emergency basis or pending a determination of eligibility to all residents of such areas".

Subsec. (a)(8). Pub. L. 92-424, § 10(a), struck out end sentence requiring the Director to reserve and make available for the Alcoholic Counseling and Recovery program, out of appropriations or allocations for programs under this subchapter, a minimum of $10,000,000 and $15,000,000 for fiscal years ending June 30, 1970, and 1971, respectively.

Subsec. (a)(9). Pub. L. 92-424, § 10(b), authorized special programs and assistance for employment opportunities and maintenance in employment, giving priority to veterans and employers of significant numbers of veterans and making clients eligible for completion of rehabilitation course through becoming non-low-income, but retaining income eligibility criteria for initial admission to treatment and rehabilitation, and struck out former end sentence requiring the Director reserve and make available for the Drug Rehabilitation program, out of appropriations or allocations for programs under this subchapter, a minimum of $5,000,000 and $15,000,000 for fiscal years ending June 30, 1970, and 1971, respectively.

Subsec. (a)(10), (11). Pub. L. 92-424, § 11, added pars. (10) and (11).

1969—Subsec. (a)(1). Pub. L. 91-177, § 103, added provision whereby persons not members of low-income families could receive services in Headstart Projects.

Subsec. (a)(3). Pub. L. 91-177, § 104, substituted "legal counseling, education in legal matters, and other appropriate legal services" for "counseling, education and other appropriate services" and extended, in cases of extreme hardship, the legal services program to members of the armed forces and their immediate families.

Subsec. (a)(5). Pub. L. 91-177, § 105, broadened the Director's authority to provide emergency food and medical services to the poor by permitting him to act on his own initiative or by delegation of authority, by authorizing him to provide financial assistance for such services in supplement to other federal programs, irrespective of local laws, and by enabling him to authorize grants to community action agencies and local non-profit organizations; and struck out provisions setting limits on the use of funds appropriated for this program.

Subsec. (a)(8), (9). Pub. L. 91-177, § 106, added pars. (8) and (9).

1968—Subsec. (a)(5). Pub. L. 90-575 redesignated subsec. (a)(6) as (a)(5). Former subsec. (a)(5), setting forth the provisions of the "Upward Bound" program, was struck out.

Subsec. (a)(6) to (8). Pub. L. 90-575 redesignated subsec. (a)(6) to (8) as (a)(5) to (7).

Effective Date of 1974 Amendment

Section 3(d)(2) of Pub. L. 93-355 provided in part that the repeal of subsec. (a)(3) of this section shall become effective ninety days after the first meeting of the Board of Directors of the Legal Services Corporation established under section 2996b of this title.

Effective Date of 1968 Amendment

Section 105(b) of Pub. L. 90-575 provided in part that the amendments made by Pub. L. 90-575 to subsec. (a)(5) to (8) of this section shall become effective July 1, 1969.

Effective Date

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

Transfer of Functions; Upward Bound Program

Section 105(c) of Pub. L. 90-575 provided that:

"(1) On July 1, 1969, all functions, powers, and duties of the Director of the Office of Economic Opportunity with respect to Upward Bound programs, are transferred to the Commissioner of Education. No provision of law which limits the number of persons who may be appointed as full-time civilian employees, or temporary and part-time employees, in the executive branch of the Government shall apply to employees of the Office of Education whose duties the Director of the Bureau of the Budget [now the Director of the Office of Management and Budget] determines primarily relate (A) to programs carried out under section 408(b)(2) of the Higher Education Act of 1965 [section 1068(b)(2) of Title 20, Education], or (B) to functions transferred by this paragraph. In applying any such provision of law to the departments and agencies in the executive branch, the number of such employees of the Office of Education shall not be taken into account.

"(2) For purposes of this subsection the term 'Upward Bound program' means a program carried out under section 222(a)(5) of the Economic Opportunity Act of 1964 [section 2809(a)(5) of this title] (as so designated prior to the amendment made by subsection (b) of this section [amending this section]) or a comparable program carried out under section 221 of such Act [section 2808 of this title]."

SENIOR OPPORTUNITIES AND SERVICES; ADDITIONAL APPROPRIATIONS AUTHORIZATION

Pub. L. 93-29, title VIII, § 805, May 3, 1973, 87 Stat. 60, as amended by Pub. L. 94-135, title II, § 203, Nov. 28, 1975, 89 Stat. 726, provided that: "In addition to the amounts authorized to be appropriated and allocated pursuant to the Economic Opportunity Amendments of 1972 [see short Title of 1972 Amendment note, set out under section 2701 of this title], there is further authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, and the succeeding five fiscal years and the period beginning July 1, 1976, and ending September 30, 1976, to be used for the Senior Opportunities and Services program described in section 222(a)(7) of the Community Services Act of 1974 [subsec. (a)(7) of this section]."

LEGAL SERVICES PROGRAM; DELEGATION OF POWERS OR FUNCTIONS PROHIBITED

Section 114 of Pub. L. 91-177, which provided that the authority of section 2942(d) of this title not apply to the Legal Services program authorized under subsec. (a)(3) of this section and that the Director of the Office of Economic Opportunity not delegate the program authorized under such subsection to any other existing Federal agency, was omitted in view of the repeal of subsec. (a)(3) of this section by section 3(d)(2) of Pub. L. 93-355.

STUDY OF HEAD START PROGRAM

Pub. L. 90-576, title III, § 309, Oct. 16, 1968, 82 Stat. 1098, provided that the President make a study of whether the responsibility for administering the Head Start program should continue to be vested in the Office of Economic Opportunity, should be transferred to another agency of the Government, or should be delegated to another such agency pursuant to section 2942 of this title and that the President submit the findings of such study to Congress not later than Mar. 1, 1969.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2812, 2944, 2996f, 6851, 6863, 6865 of this title; title 20 section 1087ee; title 29 section 984.

§ 2810. Resident employment

In the conduct of all component programs under this part, residents of the area and members of the groups served shall be provided maximum employment opportunity, including opportunity for further occupational training and career advancement. The Director shall encourage the employment of persons fifty-five years and older as regular, part-time and short-term staff in component programs.

(Pub. L. 88-452, title II, § 223, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 701.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2811. Neighborhood centers

The Director shall encourage the development of neighborhood centers, designed to promote the effectiveness of needed services in such fields as health, educations, manpower, consumer protection, child and economic development, housing, legal, recreation, and social services, and so organized (through a corporate or other appropriate framework) as to promote maximum participation of neighborhood residents in center planning, policymaking, administration, and operation. In addition to providing such services as may not otherwise be conveniently or readily available, such centers shall be responsive to such neighborhood needs, such as counseling, referral, follow-through, and community development activities, as may be necessary or appropriate to best assure a system under which existing programs are extended to the most disadvantaged, are linked to one another, are responsive and relevant to the range of community, family, and individual problems and are fully adapted to neighborhood needs and conditions.

(Pub. L. 88-452, title II, § 224, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 701.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2812. Allotment of funds

(a) Limitation on assistance for development and implementation of community action programs

Of the sums which are appropriated or allocated for assistance in the development and implementation of community action programs pursuant to section 2808 of this title, and for special program projects referred to in section 2809(a) of this title, and which are not subject to any other provision governing allotment or distribution, the Director shall allot not more than 2 per centum among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs. He shall also reserve not more than 20 per centum of those sums for allotment in accordance with such criteria and procedures as he may prescribe. The remainder shall be allotted among the States, in accordance with the latest available data, so that equal proportions are distributed on the basis of (1) the relative number of public assistance recipients in each State as compared to all States, (2) the relative number of unemployed persons in each State as compared to all States, and (3) the relative number of related children living with families with incomes below the poverty line in each State as compared to all States. For purposes of this subsection, the Director shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census. The Director shall insure that for the fiscal year ending June 30, 1975, and for each succeeding fiscal year, no State shall be allotted for programs under section 2808 and section 2809(a) of this title an amount which is less than the amount received for use within such State for programs described in such sections during the fiscal year ending June 30, 1974. That part of any State's allotment which the Director determines will not be needed may be reallotted, at such dates during the fiscal year as the Director may fix, in proportion to the original allotments, but with appropriate adjustments to assure that any amount so made available to any State in excess of its needs is similarly reallotted among the other States.

(b) Separate allotment of funds; criteria

The Director may provide for the separate allotment of funds for any special program re-

ferred to in section 2809(a) of this title. This allotment may be made in accordance with the criteria prescribed in subsection (a) of this section, or it may be made in accordance with other criteria which he determines will assure an equitable distribution of funds reflecting the relative incidence in each State of the needs or problems at which the program is directed, except that in no event may more than 12½ per centum of the funds for any one program be used in any one State.

(c) Limitation on assistance to community action agencies or section 2808 or 2809 agencies

Unless otherwise provided in this part, financial assistance extended to a community action agency or other agency pursuant to sections 2808 and 2809(a) of this title, for the period ending June 30, 1967, shall not exceed 80 per centum of the approved cost of the assisted programs or activities with respect to fiscal year 1975, and 70 per centum of such costs with respect to fiscal year 1976, and shall not exceed 60 per centum of such costs with respect to fiscal year 1977, except that in the case of community action agencies receiving such financial assistance annually of $300,000 or less, such financial assistance shall not exceed 75 per centum of such costs with respect to fiscal year 1976, and shall not exceed 70 per centum of such costs with respect to fiscal year 1977. The Director may, however, approve assistance in excess of such percentages if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this subchapter. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant equipment, or services. The Director shall not require non-Federal contributions in excess of the amount required to meet the approved cost of assisted programs or activities after calculating the per centum of Federal assistance for which such program is eligible under the first sentence of this subsection. In addition, the Director may approve assistance in excess of such per centum upon evidence that the aggregate of all non-Federal contributions by agencies within a State for financial assistance provided pursuant to sections 2808 and 2809(a) of this title as a per centum of the aggregate of all financial assistance provided to such agencies in such State pursuant to such sections meets the per centum requirements of this subsection.

(d) Conditions for approval; rules and regulations

No program shall be approved for assistance under sections 2808 and 2809(a) of this title unless the Director satisfies himself (1) that the services to be provided under such program will be in addition to, and not in substitution for, services previously provided without Federal assistance, and (2) that funds or other resources devoted to programs designed to meet the needs of the poor within the community will not be diminished in order to provide any contributions required under subsection (c) of this section. The requirement imposed by the preceding sentence shall be subject to such regulations as the Director may adopt and promulgate establishing objective criteria for determinations covering situations where a strict application of that requirement would result in unnecessary hardship or otherwise be inconsistent with the purposes sought to be achieved.

(Pub. L. 88-452, title II, § 225, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 702, and amended Pub. L. 92-424, §§ 12(a), 13, Sept. 19, 1972, 86 Stat. 692; Pub. L. 93-644, § 5(e), Jan. 4, 1975, 88 Stat. 2295; Pub. L. 94-341, § 2(a)(11), July 6, 1976, 90 Stat. 804.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-341 substituted "the amount required to meet the approved cost of assisted programs or activities after calculating the per centum of Federal assistance for which such program is eligible under the first sentence of this subsection" for "20 per centum of the approved cost of programs or activities assisted under this chapter", and substituted provision which permits assistance in excess of such per centum, if there is evidence that the sum of all non-federal contributions by agencies within a state, as a per centum of all financial assistance received, meets the per centum requirements of this subsection, for provision which related to the excess of the non-federal contributions of a community in any fiscal year under this subchapter.

1975—Subsec. (a). Pub. L. 93-644, § 5(e)(1), substituted "incomes below the poverty line" for "incomes of less than $1,000" and added provisions requiring the Director to utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census and to insure that for the fiscal year ending June 30, 1975, and for each succeeding fiscal year, no State shall be allotted for programs under sections 2808 and 2809(a) of this title an amount which is less than the amount received for use within such State for programs described in such sections during the fiscal year ending June 30, 1974.

Subsec. (c). Pub. L. 93-644, § 5(e)(2), substituted "shall not exceed 80 per centum of the approved cost of the assisted programs or activities with respect to fiscal year 1975, and 70 per centum of such costs with respect to fiscal year 1976, and shall not exceed 60 per centum of such costs with respect to fiscal year 1977, except that in the case of community action agencies receiving such financial assistance annually of $300,000 or less, such financial assistance shall not exceed 75 per centum of such costs with respect to fiscal year 1976, and shall not exceed 70 per centum of such costs with respect to fiscal year 1977" for "shall not exceed 90 per centum of the approved cost of the assisted programs or activities and thereafter shall not exceed 80 per centum of such costs."

1972—Subsec. (a). Pub. L. 92-424, § 12(a), struck out limitation on allotment to Puerto Rico.

Subsec. (c). Pub. L. 92-424, § 13, inserted after the second sentence provision respecting non-Federal contribution ceiling.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 12(a) of Pub. L. 92-424 provided in part that amendment of subsec. (a) of this section by such section 12(a) shall be effective after June 30, 1972.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2836 of this title.

§ 2813. Design and planning assistance programs

(a) Grants or contracts for financial assistance

The Director shall make grants or enter into contracts to provide financial assistance for the operating expenses of programs conducted by

community-based design and planning organizations to provide technical assistance and professional architectural and related services relating to housing, neighborhood facilities, transportation and other aspects of community planning and development to persons and community organizations or groups not otherwise able to afford such assistance. Such programs shall be conducted with maximum use of the voluntary services of professional and community personnel. In providing assistance under this section, the Director shall afford priority to persons in urban or rural poverty areas with substandard housing, substandard public service facilities, and generally blighted conditions. Design and planning services to be provided by such organizations shall include—

(1) comprehensive community or area planning and development;

(2) specific projects for the priority planning and development needs of the community; and

(3) educational programs directed to local residents emphasizing their role in the planning and development process in the community.

(b) Requirements for assistance

No assistance may be provided under this section unless such design and planning organization—

(1) is a nonprofit organization located in the neighborhood or area to be served with a majority of the governing body of such organization comprised of residents of that neighborhood or area;

(2) has as a primary function the goal of bringing about, through the involvement of the appropriate community action agency or otherwise, maximum possible participation of local residents, especially low-income residents, in the planning and decisionmaking regarding the development of their community; and

(3) will carry out its design and planning services principally through the voluntary participation of professional and community personnel (including, where available, VISTA volunteers).

(c) Subcontracting with profitmaking organizations or payment of fees for architectural or other professional services prohibited

Design and planning organizations receiving assistance under this section shall not subcontract with any profitmaking organization or pay fees for architectural or other professional services.

(d) Continuation of pilot or demonstration projects

The Director is authorized to make whatever arrangements are necessary to continue pilot or demonstration projects of demonstrated effectiveness of the type described in this section receiving assistance under section 2825 of this title during the fiscal year ending June 30, 1971.

(Pub. L. 88-452, title II, § 226, as added Pub. L. 92-424, § 14, Sept. 19, 1972, 86 Stat. 693, and amended Pub. L. 93-644, § 5(d)(2), Jan. 4, 1975, 88 Stat. 2295.)

Amendments

1975—Subsec. (d). Pub. L. 93-644 substituted "is authorized to make whatever arrangements are necessary" for "shall make whatever arrangements are necessary".

§ 2814. National youth sports programs

(a) Grants or contracts

In order to provide to disadvantaged national youth physical fitness instruction and competition with high-quality facilities and supervision and related educational and counseling services (including instruction concerning study practices, career opportunities, job responsibilities, health and nutrition, and drug abuse education) through regular association with college instructors and athletes and exposure to college and university campuses and other recreational facilities, the Director shall make grants or enter into contracts for the conduct of an annual national youth sports program concentrated in the summer months and with continued activities throughout the year, so as to offer disadvantaged youth living in areas of rural and urban poverty an opportunity to receive such recreation and educational instruction, information, and services and to participate in such physical fitness programs and sports competitions.

(b) Assurances required

No assistance may be provided under this section unless satisfactory assurances are received that (1) not less than 90 per centum of the youths participating in each program to be assisted under this section are from families with incomes below the poverty level, as determined by the Director, and that such participating youths and other neighborhood residents, through the involvement of the appropriate community action agency or otherwise, will have maximum participation in program planning and operation and (2) all significant segments of the low-income population of the community to be served will be served on an equitable basis in terms of participating youths and instructional and other support personnel.

(c) Administration of programs

Programs under this section shall be administered by the Director through grants or contracts with any qualified organization of colleges and universities or such other qualified nonprofit organizations active in the field with access to appropriate recreational facilities as the Director shall determine in accordance with regulations which he shall prescribe. Each such grant or contract and subcontract with participating institutions of higher education or other qualified organizations active in the field shall contain provisions to assure that the program to be assisted will provide a non-Federal contribution (in cash or in kind) of no less than 20 per centum of the direct costs necessary to carry out the program. Each such grant, contract, or subcontract shall include provisions for—

(1) providing opportunities for disadvantaged youth to engage in competitive sports and receive sports skills and physical fitness instruction and education in good health and nutrition practices;

(2) providing such youth with instruction and information regarding study practices, career opportunities, job responsibilities, and drug abuse;

(3) carrying out continuing related activities throughout the year;

(4) meeting the requirements of subsection (b) of this section;

(5) enabling the contractor and institutions of higher education or other qualified organizations active in the field located conveniently to such areas of poverty and the students and personnel of such institutions or organizations active in the field to participate more fully in the community life and in solutions of community problems; and

(6) serving metropolitan centers of the United States and rural areas, within the limits of program resources.

(Pub. L. 88-452, title II, § 227, as added Pub. L. 92-424, § 14, Sept. 19, 1972, 86 Stat. 693, and amended Pub. L. 94-341, § 2(a)(12), July 6, 1976, 90 Stat. 804)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-341 substituted "national youth" for "youth recreation and" wherever appearing.

§ 2815. Consumer action and cooperative programs

(a) Grants or contracts for assistance

The Director shall make grants or enter into contracts to provide financial assistance for the development, technical assistance to and conduct of consumer action and advocacy and cooperative programs, credit resources development programs, and consumer protection and education programs designed to demonstrate various techniques and models and to carry out projects to assist and provide technical assistance to low-income persons to try to improve the quality, improve the delivery, and lower the price of goods and services, to obtain, without undue delay or burden, financial credit at reasonable cost, and to develop means of enforcing consumer rights, developing consumer grievance procedures and presenting consumer grievances, submitting consumer views and concerns for protection against unfair, deceptive, or discriminatory trade and commercial practices and educating low-income persons with respect to such rights, procedures, grievances, views and concerns.

(b) Criteria for grantee or contracting organization or agency

No assistance may be provided under this section unless the grantee or contracting organization or agency is a nonprofit organization and has as a primary function the goal of bringing about, through the involvement of the appropriate community action agency or otherwise, maximum possible participation of low-income persons in the project.

(c) Continuation of pilot or demonstration projects

The Director is authorized to make whatever arrangements are necessary to continue pilot or demonstration projects of demonstrated effectiveness, or which have not yet been evaluated until such time as an evaluation is conducted and the effectiveness determined and to carry out evaluations of such projects, of the type described in this section receiving assistance under section 2825 of this title during the fiscal year ending June 30, 1971 or June 30, 1972.

(Pub. L. 88-452, title II, § 228 as added Pub. L. 92-424, § 14, Sept. 19, 1972, 86 Stat. 694, and amended Pub. L. 93-644, § 5(d)(2), Jan. 4, 1975, 88 Stat. 2295.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 93-644 substituted "is authorized to make whatever arrangements are necessary" for "shall make whatever arrangements are necessary".

PART C—SUPPLEMENTAL PROGRAMS AND ACTIVITIES

§§ 2821, 2822. Omitted

CODIFICATION

Sections were omitted in the general reorganization of part C of this subchapter by Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 703.

Section 2821, Pub. L. 88-452, title II, § 219-1, formerly § 219, Aug. 20, 1964, 78 Stat. 523, renumbered Pub. L. 89-794, title IX, § 901(b), Nov. 8, 1966, 80 Stat. 1475, set out the statement of purpose for the voluntary assistance program for needy children.

Section 2822, Pub. L. 88-452, title II, § 220, Aug. 20, 1964, 78 Stat. 523; Pub. L. 89-253, § 20, Oct. 9, 1965, 79 Stat. 976, provided for the establishment within the Office of Economic Opportunity of an information and coordinating center but prohibiting the interference with jurisdiction of State and local welfare agencies with respect to programs for needy children.

§ 2823. Technical assistance and training

The Director may provide, directly or through grants or other arrangements, (1) technical assistance to communities in developing, conducting, and administering programs under this subchapter, and (2) training for specialized or other personnel which is needed in connection with those programs or which otherwise pertains to the purposes of this subchapter. Upon request of an agency receiving financial assistance under this subchapter, the Director may make special assignments of personnel to the agency to assist and advise it in the performance of functions related to the assisted activity; but no such special assignment shall be for a period of more than two years in the case of any agency.

(Pub. L. 88-452, title II, § 230, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 703.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2809 of this title.

§ 2824. State agency assistance

(a) Purposes for which assistance may be provided

The Director may provide financial assistance to State agencies designated in accordance with State law, to enable those agencies—

(1) to provide technical assistance to communities and local agencies in developing and carrying out programs under this subchapter;

(2) to assist in coordinating State activities related to this subchapter;

(3) to advise and assist the Director in developing procedures and programs to promote the participation of States and State agencies in programs under this subchapter; and

(4) to advise and assist the Director, the Economic Opportunity Council established by section 2973 of this title, and the heads of other Federal agencies, in identifying problems posed by Federal statutory or administrative requirements that operate to impede State level coordination of programs related to this subchapter, and in developing methods of recommendations for overcoming those problems.

(b) Program preferences

In any grants or contracts with State agencies, the Director shall give preference to programs or activities which are administered or coordinated by the agencies designated pursuant to subsection (a) of this section, or which have been developed and will be carried on with the assistance of those agencies.

(c) Coordination respecting use of funds

In order to promote coordination in the use of funds under this chapter and funds provided or granted by State agencies, the Director may enter into agreements with States or State agencies pursuant to which they will act as agents of the United States for purposes of providing financial assistance to community action agencies or other local agencies in connection with specific projects or programs involving the common or joint use of State funds and funds under this subchapter.

(d) Allegations respecting noncompliance; investigations; termination of assistance

If any member of a board to which section 2791(b) of this title is applicable files an allegation with the Director that an agency receiving assistance under this section is not observing any requirement of this chapter, or any regulation, rule, or guideline promulgated by the Director under this chapter, the Director shall promptly investigate such allegation and shall consider it; and, if after such investigation and consideration he finds reasonable cause to believe that the allegations are true, he shall hold a hearing, upon the conclusion of which he shall notify all interested persons of his findings. If he finds that the allegations are true, and that, after being afforded a reasonable opportunity to do so, the agency has failed to make appropriate corrections, he shall forthwith terminate further assistance under this subchapter to such agency until he has received assurances satisfactory to him that further violations will not occur.

(Pub. L. 88-452, title II, § 231, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 703, and amended Pub. L. 92-424, § 15, Sept. 19, 1972, 86 Stat. 695.)

AMENDMENTS

1972—Subsec. (d). Pub. L. 92-424 added subsec. (d).

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2790, 2828, 2974 of this title.

§ 2825. Research and pilot programs

(a) Development of new approaches and methods

The Director may contract or provide financial assistance for pilot or demonstration projects conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise in furthering the purposes of this subchapter. He may also contract or provide financial assistance for research pertaining to the purposes of this subchapter.

(b) Development of overall plan

The Director shall establish an overall plan to govern the approval of pilot or demonstration projects and the use of all research authority under this subchapter. The plan shall set forth specific objectives to be achieved and priorities among such objectives. In formulating the plan, the Director shall consult with other Federal agencies for the purpose of minimizing duplication among similar activities or projects and determining whether the findings resulting from any research or pilot projects may be incorporated into one or more programs for which those agencies are responsible. As part of the annual report required by section 2948 of this title, or in a separate annual report, the Director shall submit a description for each fiscal year of the current plan required by this section, of activities subject to the plan, and of the findings derived from those activities, together with a statement indicating the time and, to the extent feasible, the manner in which the benefits of those activities and findings are expected to be realized.

(c) Limitation and allocation of funds

Not more than 15 per centum of the sums appropriated or allocated in any fiscal year for this subchapter shall be used for the purposes of this section. One-third of the sums so appropriated or allocated shall be available only for projects authorized under subsection (f) of this section.

(d) Approval of project by local government or community action agency

No pilot or demonstration project under this section shall be commenced in any city, county, or other major political subdivision, unless a plan setting forth such proposed pilot or demonstration project has been submitted to the appropriate community action agency, or, if there is no such agency, to the local governing officials of the political subdivision, and such plan has not been disapproved by the community action agency or governing body, as the case may be, within thirty days of such submission, or, if so disapproved, has been reconsidered by the Director and found by him to be fully consistent with the provisions and in furtherance of the purposes of this subchapter.

(e) Particular pilot projects

The Director shall develop and carry out pilot projects which (1) aid elderly persons to achieve greater self-sufficiency, (2) focus upon the problems of rural poverty, (3) are designed

to develop new techniques and community-based efforts to prevent narcotics addiction or to rehabilitate narcotic addicts, or (4) are designed to encourage the participation of private organizations, other than nonprofit organizations, in programs under this subchapter.

(f) Migration from rural to urban areas

The Director shall conduct, either directly or through grants or other arrangements, research and pilot projects designed to assure a more effective use of human and natural resources of rural America and to slow the migration from rural areas due to lack of economic opportunity, thereby reducing population pressures in urban centers. Such projects may be operated jointly or in cooperation with other federally assisted programs, particularly programs authorized under the Public Works and Economic Development Act of 1965 [42 U.S.C. 3121 et seq.], in the area to be served by the project.

(Pub. L. 88-452, title II, § 232, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 703.)

REFERENCES IN TEXT

The Public Works and Economic Development Act of 1965, referred to in subsec. (f), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified generally to chapter 38 (§ 3121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of this title and Tables volume.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2813, 2815, 2941 of this title.

§ 2826. Repealed. Pub. L. 92-424, § 27(b)(1), Sept. 19, 1972, 86 Stat. 705

Section, Pub. L. 88-452, title II, § 233, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 704, related to evaluations, reports, and independent studies, and is now covered by section 2995 et seq. of this chapter.

§ 2827. Special assistance

The Director may provide financial assistance for projects conducted by public or private nonprofit agencies which are designed to serve groups of low-income individuals who are not being effectively served by other programs under this subchapter. In administering this section, the Director shall give special consideration to programs designed to assist older persons and other low-income individuals who do not reside in low-income areas and who are not being effectively served by other programs under this subchapter.

(Pub. L. 88-452, title II, § 234, as added Pub. L. 92-424, § 16, Sept. 19, 1972, 86 Stat. 695.)

§ 2828. Demonstration community partnership agreements

(a) Financial assistance to community action agencies or public or private nonprofit agencies and to State economic opportunity offices

The Director may provide financial assistance from funds appropriated to carry out this section to community action agencies or public or private nonprofit agencies designated under section 2790 of this title for programs authorized under this subchapter, and to State economic opportunity offices for programs and activities authorized under section 2824(a) of this title. Financial assistance extended to a community action agency or other agency pursuant to this section may be used for new programs or to supplement existing programs and shall not exceed 50 per centum of the cost of such new or supplemental programs.

(b) Matching local and State funds; requirements for approval of program

Matching local and State funds supplied under this section shall be in cash and shall represent State and local initiatives newly obligated within the previous year to the purposes of the grant-supported activity; and no program shall be approved for assistance under this section unless the Director satisfies himself (1) that the activities to be carried out under such program will be in addition to, and not in substitution for, activities previously carried on without Federal assistance, (2) that funds or other resources devoted to programs designed to meet the needs of the poor within the community, area, or State will not be diminished in order to provide the contributions required under this section. The requirement imposed by the preceding sentence shall be subject to such regulations as the Director may adopt and promulgate establishing objective criteria for determinations covering situations where a strict application of that requirement would result in unnecessary hardship or otherwise be inconsistent with the purposes sought to be achieved.

(c) Applicability of section 2834 of this title

The provisions of section 2834 of this title shall not apply to assistance provided under this section.

(Pub. L. 88-452, title II, § 235, as added Pub. L. 93-644, § 5(f), Jan. 4, 1975, 88 Stat. 2296, and amended Pub. L. 94-341, § 2(a)(13), July 6, 1976, 90 Stat. 804.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-341 substituted "as the Director" for "as the Secretary".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2712, 2790, 2830 of this title.

§ 2829. Intergovernmental Advisory Council on Community Services

(a) Establishment

There shall be established within the Community Services Administration an Intergovernmental Advisory Council on Community Services (referred to in this section as the "Council").

(b) Membership

The Council shall be composed of nine members who shall be appointed by the President as follows:

(i) Three members shall be appointed from among representatives of States and county and municipal governments or organizations which represent such governmental units, selected on an equitable political and geographic basis after considering recommendations made by the National Governors' Conference, the National League of Cities-United States Conference of Mayors, the National Association of Counties and similar organizations representative of State and local government.

(ii) Three members shall be appointed from among representatives of community action agencies and other grantees under this chapter or organizations which represent such agencies and grantees, selected on an equitable political and geographic basis after considering recommendations previously made by the Director of the Community Services Administration.

(iii) Three members shall be appointed from among representatives of labor, management, and other sectors which have demonstrated active interest in community action and antipoverty programs.

(c) Functions and duties

The Council shall—

(1) encourage the formation of community partnership agreements;

(2) review the substance of such agreements and any regulations, guidelines, or other program criteria with respect thereto and advise the Director thereon prior to final approval thereof;

(3) evaluate the effectiveness of such agreements in meeting the purposes of this chapter,

(4) conduct a continuing survey throughout the Nation on the extent to which, and terms under which, public and private resources have been and may be available for antipoverty efforts;

(5) identify and encourage means of increasing resources available for such activities; and

(6) submit annual reports to the President and to the Congress on or before March 1, 1976, and March 1, 1977, with respect to its activities and findings, together with such recommendations for legislation as it may deem appropriate.

(d) Information; copies of grant applications

The Director shall provide the Council with such information as shall be necessary for the Council to discharge its functions under this section and shall furnish the Council with copies of all grant applications within ten days of receipt thereof.

(Pub. L. 88-452, title II, § 236, as added Pub. L. 93-644, § 5(f), Jan. 4, 1975, 88 Stat. 2297, and amended Pub. L. 94-341, § 2(a)(14), July 6, 1976, 90 Stat. 804.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-341, § 2(a)(14)(A), substituted "Community Services Administration" for "Office of Economic Opportunity or successor authority".

Subsec. (b)(ii). Pub. L. 94-341, § 2(a)(14)(B), substituted "Community Services Administration" for "Office of Economic Opportunity".

TERMINATION OF ADVISORY COUNCILS

Advisory Councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2830. Authorization of appropriations

There is also authorized to be appropriated not to exceed $50,000,000 to carry out section 2828 of this title during the fiscal year 1975, and such sums as may be necessary during each of the two succeeding fiscal years, except that in no event may more than 12½ per centum of such additional amounts be used in any one State.

(Pub. L. 88-452, title II, § 237, as added Pub. L. 93-644, § 5(f), Jan. 4, 1975, 88 Stat. 2297).

PART D—GENERAL AND TECHNICAL PROVISIONS

§ 2831. Omitted

CODIFICATION

Section, Pub. L. 88-452, title II, § 221, Aug. 20, 1964, 78 Stat. 524; Pub. L. 89-253, § 30(b), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89-794, title II, § 218, Nov. 8, 1966, 80 Stat. 1464, extended the program through June 30, 1970, and provided that only such sums may be appropriated as the Congress might authorize by law, and was omitted in the general reorganization of Part D of this subchapter by Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 705. See section 2837 of this title.

§ 2832. Assistant Directors for Community Action

The Director shall appoint two assistant directors for the purpose of assisting the Director in the Administration of the provisions of this subchapter. One such assistant director, to be known as the Assistant Director for Community Action in Rural Areas, shall be responsible for assuring that funds allotted for assistance to programs or projects designed to assist the rural poor are so expended. The other assistant director, to be known as the Assistant Director for Community Action in Urban Areas, shall be responsible for assuring that funds allotted for assistance to programs or projects designed to assist the urban poor are so expended. Each assistant director shall have such additional responsibilities consistent with the foregoing responsibilities as the Director may hereafter assign.

(Pub. L. 88-452, title II, § 240, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 705.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2833. Rural areas

(a) Steps to extend benefits to rural residents

In exercising authority under this subchapter, the Director shall take necessary steps to further the extension of benefits to residents of rural areas, consistent with the extent and severity of poverty among rural residents, and to encourage high levels of managerial and technical competence in programs undertaken in rural areas. These steps shall include, to the maximum extent practicable, (1) the development under section 2809(a) of this title of programs particularly responsive to special needs of rural areas; (2) the establishment, pursuant to section 2825 of this title, of a program of research and pilot project activities specifically focused upon the problems of rural poverty; (3) the provision of technical assistance so as to afford a priority to agencies in rural communities and to aid those agencies, through such arrangements as may be appropriate, in securing assistance under Federal programs which are related to this subchapter but which are not generally utilized in rural areas; and (4) the development of special or simplified procedures, forms, guidelines, model components, and model programs for use in rural areas.

(b) Criteria for equitable distribution of assistance between urban and rural areas

The Director shall establish criteria designed to achieve an equitable distribution of assistance under this subchapter within the States between urban and rural areas. In developing such criteria, he shall consider the relative number in the States or areas therein of: (1) low-income families, particularly those with children; (2) unemployed persons; (3) persons receiving cash or other assistance on a needs basis from public agencies or private organizations; (4) school dropouts; (5) adults with less than an eighth-grade education; (6) persons rejected for military service; and (7) poor persons living in urban places compared to the number living in rural places as determined by the latest reports of the Bureau of the Census.

(c) Assistance to public and private nonprofit agencies

Notwithstanding any other provision of this subchapter, the Director is authorized to provide financial assistance in rural areas to public or private nonprofit agencies for any project for which assistance to community action agencies is authorized, if he determines that it is not feasible to establish a community action agency within a reasonable period of time. The assistance so granted shall be subject to such conditions as the Director deems appropriate to promote adherence to the purposes of this subchapter and the early establishment of a community action agency in the area.

(d) Urban rural cooperation

The Director shall encourage the development of programs for the interchange of personnel, for the undertaking of common or related projects, and other methods of cooperation between urban and rural communities, with particular emphasis on fostering cooperation in situations where it may contribute to new employment opportunities, and between larger urban communities with concentrations of low-income persons and families and rural areas in which substantial numbers of those persons and families have recently resided.

(Pub. L. 88-452, title II, § 241, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 705.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2834. Submission of plans to governors

In carrying out the provisions of this subchapter, no contract, agreement, grant, loan, or other assistance shall be made with, or provided to, any State or local public agency or any private institution or organization for the purpose of carrying out any program, project, or other activity within a State unless a plan setting forth such proposed contract, agreement, grant, loan, or other assistance has been submitted to the Governor of the State, and such plan has not been disapproved by the Governor within thirty days of such submission, or, if so disapproved, has been reconsidered by the Director and found by him to be fully consistent with the provisions and in furtherance of the purposes of this subchapter. Funds to cover the costs of the proposed contract, agreement, grant, loan, or other assistance shall be obligated from the appropriation which is current at the time the plan is submitted to the Governor. This section shall not, however, apply to contracts, agreements, grants, loans, or other assistance to any institution of higher education in existence on August 20, 1964.

(Pub. L. 88-452, title II, § 242, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 706, and amended Pub. L. 91-177, title I, § 107(a), Dec. 30, 1969, 83 Stat. 830.)

AMENDMENTS

1969—Pub. L. 91-177 provided that a proposed contract, grant, loan, or other assistance shall be obligated, if finally approved, out of the appropriation for the fiscal year current at the beginning of the thirty day period afforded the governor for his consideration.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

CONFIRMATION AND RATIFICATION OF OBLIGATIONS RECORDED PRIOR TO DECEMBER 30, 1969

Section 107(b) of Pub. L. 91-177 provided that: "All obligations under the Economic Opportunity Act of 1964 [this chapter] which have been heretofore recorded substantially as provided in the amendment made by subsection (a) of this section are hereby confirmed and ratified."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2828 of this title.

§ 2835. Fiscal responsibility and audit

(a) Accounting system

No funds shall be released to any agency receiving financial assistance under this subchapter until it has submitted to the Director a statement certifying that the assisted agency

and its delegate agencies (or subcontractors for performance of any major portion of the assisted program) have established an accounting system with internal controls adequate to safeguard their assets, check the accuracy and reliability of the accounting data, promote operating efficiency and encourage compliance with prescribed management policies and such additional fiscal responsibility and accounting requirements as the Director may establish. The statement may be furnished by a certified public accountant, a duly licensed public accountant or, in the case of a public agency, the appropriate public financial officer who accepts responsibility for providing required financial services to that agency.

(b) Preliminary audit survey

Within three months after the effective date of a grant to or contract of assistance with an organization or agency, the Director shall make or cause to be made a preliminary audit survey to review and evaluate the adequacy of the accounting system and internal controls established thereunder to meet the standards set forth in the statement referred to in subsection (a) of this section. Promptly after the completion of the survey, the Director shall determine on the basis of findings and conclusions resulting from the survey whether the accounting systems and internal controls meet those standards and, if not, whether to suspend the grant or contract. In the event of suspension, the assisted agency shall be given not more than six months within which to establish the necessary systems and controls, and, in the event of failure to do so within such time period, the assistance shall be terminated by the Director.

(c) Annual audit

At least once annually the Director shall make or cause to be made an audit of each grant or contract of assistance under this subchapter. Promptly after the completion of such audit, he shall determine on the basis of resulting findings and conclusions whether any of the costs of expenditures incurred shall be disallowed. In the event of disallowance, the Director may seek recovery of the sums involved by appropriate means, including court action or a commensurate increase in the required non-Federal share of the costs of any grant or contract with the same agency or organization which is then in effect or which is entered into within twelve months after the date of disallowance.

(d) Other requirements and actions by Director

The Director shall establish such other requirements and take such actions as he may deem necessary and appropriate to carry out the provisions of this section and to insure fiscal responsibility and accountability, and the effective and efficient handling of funds in connection with programs assisted under this subchapter. These requirements and actions shall include (1) necessary action to assure that the rate of expenditure of any agency receiving financial assistance does not exceed the rate contemplated under its approved program; and (2) appropriate requirements to promote the continuity and coordination of all projects or components of programs receiving financial assistance under this subchapter, including provision for the periodic reprograming and supplementation of assistance previously provided.

(Pub. L. 88-452, title II, § 243, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 706.)

Effective Date

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2836. Special limitations

The following special limitations shall apply, as indicated, to programs under this subchapter.

(1) Financial assistance under this subchapter may include funds to provide a reasonable allowance for attendance at meetings of any community action agency governing board, neighborhood council or committee, as appropriate to assure and encourage the maximum feasible participation of members of groups and residents of areas served in accordance with the purposes of this subchapter, and to provide reimbursement of actual expenses connected with those meetings; but those funds (or matching non-Federal funds) may not be used to pay allowances in the case of any individual who is a Federal, State, or local government employee, or an employee of a community action agency, or for payment of an allowance to any individual for attendance at more than two meetings a month.

(2) The Director shall issue necessary rules or regulations to assure that no employee engaged in carrying out community action program activities receiving financial assistance under this subchapter is compensated from funds so provided at a rate in excess of $15,000 per annum, and that any amount paid to such an employee at a rate in excess of $15,000 per annum shall not be considered in determining whether the non-Federal contributions requirements of section 2812(c) of this title have been complied with; the Director may, however, provide in those rules or regulations for exceptions covering cases (particularly in large metropolitan areas) where, because of the need for specialized or professional skills or prevailing local salary levels, application of the foregoing restriction would greatly impair program effectiveness or otherwise be inconsistent with the purposes sought to be achieved.

(3) No officer or employee of the Community Services Administration shall serve as member of a board, council, or committee of any agency serving as grantee, contractor, or delegate agency in connection with a program receiving financial assistance under this subchapter; but this shall not prohibit an officer or employee from serving on a board, council, or committee which does not have any authority or powers in connection with a program assisted under this subchapter.

(4) In granting financial assistance for projects or activities in the field of family planning, the Director shall assure that family planning services, including the dissemination of family planning information and medical assistance and supplies, are made available to all low-income individuals who meet the crite-

ria for eligibility for assistance under this subchapter which have been established by the assisted agency and who desire such information, assistance, or supplies. The Director shall require, in connection with any such financial assistance, that—

(A) no individual will be provided with any information, medical supervision, or supplies which that individual indicates are inconsistent with his or her moral, philosophical, or religious beliefs; and

(B) no individual will be provided with any medical supervision or supplies unless he or she has voluntarily requested such medical supervision or supplies.

The use of family planning services assisted under this subchapter shall not be a prerequisite to the receipt of services from or participation in any other programs under this chapter.

(5) No financial assistance shall be extended under this subchapter to provide general aid to elementary or secondary education in any school or school system; but this shall not prohibit the provision of special, remedial, and other noncurricular educational assistance.

(6) In extending assistance under this subchapter the Director shall give special consideration to programs which make maximum use of existing schools, community centers, settlement houses, and other familities during times they are not in use for their primary purpose.

(7) No financial assistance shall be extended under this subchapter in any case in which the Director determines that the costs of developing and administering all of the programs assisted under this subchapter carried on by or under the supervision of any community action agency exceed 15 per centum of the total costs, including non-Federal contributions to such costs, of such programs. The Director, after consultation with the Director of the Office of Management and Budget, shall establish by regulation, criteria for determining (i) the costs of developing and administering such programs, and (ii) the total costs of such programs. In any case in which the Director determines that the cost of administering such total costs but is, in his judgment, excessive, he shall forthwith require such community action agency to take such steps prescribed by him as will eliminate such excessive administrative cost, including the sharing by one or more such community action agencies of a common director and other administrative personnel. The Director may waive the limitation prescribed by this paragraph for specific periods of time not to exceed six months whenever he determines that such a waiver is necessary in order to carry out the purposes of this subchapter.

(8) Consistent with the provisions of this chapter, the Director shall assure that financial assistance under this subchapter will be distributed on an equitable basis in any community and within any State so that all significant segments of the low-income population are being served.

(Pub. L. 88-452, title II, § 244, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 707, and amended 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Pub. L. 92-424, § 17, Sept. 19, 1972, 86 Stat. 695; Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 2310.)

CODIFICATION

"Community Services Administration" was substituted for "Office of Economic Opportunity", in par. (3), on the authority of section 9(a) of Pub. L. 93-644, Jan. 4, 1975, 88 Stat. 2310, which established the Community Services Administration as the successor to the Office of Economic Opportunity. See section 2941 of this title.

AMENDMENTS

1972—Par. (8). Pub. L. 92-424 added par. (8).

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970 redesignated the Bureau of the Budget as the Office of Management and Budget.

§ 2837. Duration of program

The Director shall carry out the programs provided for in this subchapter during the fiscal year ending June 30, 1967, and the eleven succeeding fiscal years. For each such fiscal year only such sums may be appropriated as the Congress may authorize by law.

(Pub. L. 88-452, title II, § 245, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 709, and amended Pub. L. 91-177, title I, § 101(b), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92-424, § 2(a), Sept. 19, 1972, 86 Stat. 688; Pub. L. 93-644, § 14(a), Jan. 4, 1975, 88 Stat. 2329.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2831 of this title.

AMENDMENTS

1975—Pub. L. 93-644 substituted "eleven succeeding fiscal years" for "eight succeeding fiscal years".

1972—Pub. L. 92-424 substituted "eight" for "five" succeeding fiscal years.

1969—Pub. L. 91-177 substituted "five" for "three".

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

SUBCHAPTER III—SPECIAL PROGRAMS TO COMBAT POVERTY IN RURAL AREAS

PART A—RURAL LOAN PROGRAM

§ 2841. Congressional statement of purpose

It is the purpose of this part to meet some of the special needs of low-income rural families by establishing a program of loans to assist in

raising and maintaining their income and living standards.

(Pub. L. 88-452, title III, § 301, Aug. 20, 1964, 78 Stat. 524; Pub. L. 90-222, title I, § 105(b), Dec. 23, 1967, 81 Stat. 709.)

AMENDMENTS

1967—Pub. L. 90-222 substituted a statement of purpose for Part A covering the rural loan program for a statement of the purpose for subchapter III covering the entire area of special programs to combat poverty in rural areas.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2851. Loans to low income rural families; maximum amounts and maturity; qualification to obtain funds under other Federal programs

(a) The Director is authorized to make loans having a maximum maturity of 15 years and in amounts not resulting in an aggregate principal indebtedness of more than $3,500 at any one time to any low income rural family where, in the judgement of the Director, such loans have a reasonable possibility of effecting a permanent increase in the income of such families, or, in the case of the elderly, will contribute to the improvement of their living or housing conditions by assisting or permitting them to—

(A) acquire or improve real estate or reduce encumbrances or erect improvements thereon,

(B) operate or improve the operation of farms not larger than family sized, including but not limited to the purchase of feed, seed, fertilizer, livestock, poultry, and equipment, or

(C) participate in cooperative associations; and/or to finance nonagricultural enterprises which will enable such families to supplement their income.

(b) Loans under this section shall be made only if the family is not qualified to obtain such funds by loan under other Federal programs.

(Pub. L. 88-452, title III, § 302, Aug. 20, 1964, 78 Stat. 524; Pub. L. 89-253, § 21, Oct. 9, 1965, 79 Stat. 976; Pub. L. 89-794, title III, § 301(a), Nov. 8, 1966, 80 Stat. 1464; Pub. L. 90-222, title I, § 105(c), Dec. 23, 1967, 81 Stat. 709; Pub. L. 91-177, title I, § 108, Dec. 30, 1969, 83 Stat. 830.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91-177 substituted "such families, or" for "such families, and".

1967—Subsec. (a). Pub. L. 90-222 substituted "aggregate principal indebtedness" for "aggregate indebtedness" in the material preceding par. (A), and inserted ", and, in the case of the elderly, will contribute to the improvement of their living or housing conditions" preceding "by assisting or permitting them to".

1966—Subsec. (a). Pub. L. 89-794 substituted "resulting in an aggregate indebtedness of more than $3,500 at any one time" for "exceeding $2,500 in the aggregate".

1965—Pub. L. 89-253 made minor structural changes only.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2854 of this title.

§ 2852. Loans to local cooperative associations

The Director is authorized to make loans to local cooperative associations furnishing essential processing, purchasing, or marketing services, supplies, or facilities predominantly to low-income rural families.

(Pub. L. 88-452, title III, § 303, Aug. 20, 1964, 78 Stat. 524.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2853, 2854 of this title.

§ 2853. Limitations on assistance

No financial or other assistance shall be provided under this part unless the Director determines that—

(a) the providing of such assistance will materially further the purposes of this part, and

(b) in the case of assistance provided pursuant to section 2852 of this title, the applicant is fulfilling or will fulfill a need for services, facilities, or activities which is not otherwise being met.

(Pub. L. 88-452, title III, § 304, Aug. 20, 1964, 78 Stat. 524.)

§ 2854. Loan terms and conditions

Loans pursuant to sections 2851 and 2852 of this title shall have such terms and conditions as the Director shall determine, subject to the following limitations:

(a) there is reasonable assurance of repayment of the loan;

(b) the credit is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

(c) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made;

(d) the loan bears interest at a rate not less than (1) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (2) such additional charge, if any, toward covering other costs of the program as the Director may determine to be consistent with its purposes;

(e) with respect to loans made pursuant to section 2852 of this title, the loan is repayable within not more than thirty years; and

(f) no financial or other assistance shall be provided under this part to or in connection with any corporation or cooperative organization for the production of agricultural commodities or for manufacturing purposes: *Provided,* That (1) packing, canning, cooking, freezing, or other processing used in preparing or marketing edible farm products, including dairy products, shall not be regarded as manufacturing merely by reason of the fact that it results in the creation of a new or different substance; and (2) a cooperative organization formed by and consisting of members of an Indian tribe (including any tribe with whom the special Federal relationship with Indians has been terminated) engaged in the production of agricultural commodities, or in

manufacturing products, on an Indian reservation (or former reservation in the case of tribes with whom the special Federal relationship with Indians has been terminated) shall not be regarded as a cooperative organization within the purview of this clause.

(Pub. L. 88-452, title III, § 305, Aug. 20, 1964, 78 Stat. 524; Pub. L. 89-253, § 22, Oct. 9, 1965, 79 Stat. 977; Pub. L. 89-794, title III, § 301(b), Nov. 8, 1966, 80 Stat. 1464.)

AMENDMENTS

1966—Subsec. (f). Pub. L. 89-794 added provision that a cooperative organization formed by and consisting of an Indian tribe engaged in the production of agricultural commodities, or in manufacturing products, on an Indian reservation shall not be regarded as a cooperative organization.

1965—Subsec. (f). Pub. L. 89-253 added proviso that packing, canning, cooking, freezing, or other processing used in preparing or marketing edible farm products, including dairy products, not be regarded as manufacturing merely because such activity results in the creation of a new or different substance.

§ 2855. Revolving fund

(a) Establishment; capital

To carry out the lending and guaranty functions authorized under this part, there is authorized to be established a revolving fund. The capital of the fund shall consist of such amounts as may be advanced to it by the Director from funds appropriated pursuant to section 2871 of this title and shall remain available until expended.

(b) Interest payments

The Director shall pay into miscellaneous receipts of the Treasury, at the close of each fiscal year, interest on the capital of the fund at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity during the last month of the preceding fiscal year. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

(c) Excess capital; credit to appropriations

Whenever any capital in the fund is determined by the Director to be in excess of current needs, such capital shall be credited to the appropriation from which advanced, where it shall be held for future advances.

(d) Receipts from lending and guaranty operations; availability of funds

Receipts from any lending and guaranty operations under this part shall be credited to the fund. The fund shall be available for the payment of all expenditures of the Director for loans, participations, and guaranties authorized under this part.

(Pub. L. 88-452, title III, § 306, formerly title VI, § 606, Aug. 20, 1964, 78 Stat. 531; Pub. L. 89-794, title IV, § 407, Nov. 8, 1966, 80 Stat. 1465, renumbered and amended Pub. L. 90-222, title I, § 105(d), Dec. 23, 1967, 81 Stat. 709; Pub. L. 93-386, § 2(b), Aug. 23, 1974, 88 Stat. 745; Pub. L. 94-341, § 2(a)(15), July 6, 1976, 90 Stat. 804.)

CODIFICATION

Section 606 of Pub. L. 88-452 as originally enacted was classified to section 2946 of this title. The renumbering of said section 606 of Pub. L. 88-452 as section 306 and its transfer from title VI of Pub. L. 88-452 to title III thereof by section 105(d) of Pub. L. 90-222 necessitated the redesignation of the section as section 2855 of this title.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-341 substituted "operations under this part" for "operations under this chapter (except operations under subchapter IV carried on by the Small Business Administration)". The reference to operations under subchapter IV of this chapter was struck out by Pub. L. 93-386, thereby requiring no further change in text for such reference.

1974—Subsec. (d). Pub. L. 93-386 struck out reference to operations under subchapter IV of this chapter carried on by the Small Business Administration.

1967—Subsec. (a). Pub. L. 90-222 substituted reference to "this part" for reference to "subchapter III of this chapter".

Subsec. (d). Pub. L. 90-222 substituted reference to "this part" for reference to "subchapter III of this chapter".

1966—Subsec. (a). Pub. L. 89-794 eliminated reference to "subchapter IV of this chapter".

Subsec. (d). Pub. L. 89-794 eliminated reference to "subchapter IV of this chapter".

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

PART B—ASSISTANCE FOR MIGRANT, AND OTHER SEASONALLY EMPLOYED FARMWORKERS AND THEIR FAMILIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2706, 2941 of this title; title 20 sections 241c-2, 244.

§ 2861. Congressional statement of purpose

The purpose of this part is to assist migrant and seasonal farmworkers and their families to improve their living conditions and develop skills necessary for a productive and self-sufficient life in an increasingly complex and technological society.

(Pub. L. 88-452, title III, § 311, Aug. 20, 1964, 78 Stat. 525; Pub. L. 89-253, § 23, Oct. 9, 1965, 79 Stat. 977; Pub. L. 90-222, title I, § 105(e), Dec. 23, 1967, 81 Stat. 709.)

AMENDMENTS

1967—Pub. L. 90-222 substituted a statement of purpose setting out, as the purpose of this part, the assistance of migrant and seasonal farmworkers and their families to improve living conditions and develop skills for a productive and self-sufficient life for provisions authorizing the Director to start a loan program and grant program to meet the special needs of migratory workers and seasonal farmworkers and their families in the fields of housing, sanitation, education, and day care of children.

1965—Pub. L. 89-253 clarified the authority granted with respect to the types and scope of assistance authorized and the institutions through which the assistance may be granted by specifying loans, loan guarantees, and grants as allowable devices and by limiting to local agencies, private nonprofit institutions, and cooperatives the agencies available to receive assistance.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an

Effective Date of 1967 note under section 2702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 774.

§ 2862. Financial assistance

(a) The Director may provide financial assistance to assist State and local agencies, private nonprofit institutions and cooperatives in developing and carrying out programs to fulfill the purpose of this part.

(b) Programs assisted under this part may include projects or activities—

(1) to meet the immediate needs of migrant and seasonal farmworkers and their families, such as day care for children, education, health services, improved housing and sanitation (including the provision and maintenance of emergency and temporary housing and sanitation facilities), legal advice and representation, and consumer training and counseling;

(2) to promote increased community acceptance of migrant and seasonal farmworkers and their families; and

(3) to equip unskilled migrant and seasonal farmworkers and members of their families as appropriate through education and developmental programs to meet the changing demands in agricultural employment brought about by technological advancement and to take advantage of opportunities available to improve their well-being and self-sufficiency by gaining regular or permanent employment or by participating in available Government employment or training programs.

(Pub. L. 88-452, title III, § 312, as added Pub. L. 90-222, title I, § 105(e), Dec. 23, 1967, 81 Stat. 709, and amended Pub. L. 92-424, § 18, Sept. 19, 1972, 86 Stat. 696; Pub. L. 93-644, § 6(a), Jan. 4, 1975, 88 Stat. 2298.)

AMENDMENTS

1975—Subsec. (b)(3). Pub. L. 93-644 substituted "education and developmental programs" for "education and training".

1972—Subsec. (b)(3). Pub. L. 92-424 provided for Government employment programs.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2944 of this title.

§ 2863. Limitation of assistance

(a) Assistance shall not be extended under this part unless the Director determines that the applicant will maintain its prior level of effort in similar activities.

(b) The Director shall establish necessary procedures or requirements to assure that programs under this part are carried on in coordination with other programs or activities providing assistance to the persons and groups served.

(Pub. L. 88-452, title III, § 313, as added Pub. L. 90-222, title I, § 105(e), Dec. 23, 1967, 81 Stat. 710.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2864. Technical assistance and training

The Director may provide directly or through grants, contracts, or other arrangements, such technical assistance or training of personnel as may be required to implement effectively the purposes of this subchapter.

(Pub. L. 88-452, title III, § 314, as added Pub. L. 90-222, title I, § 105(e), Dec. 23, 1967, 81 Stat. 710, and amended Pub. L. 92-424, § 27(b)(1), (3), Sept. 19, 1972, 86 Stat. 705.)

AMENDMENTS

1972—Pub. L. 92-424 struck out subsec. (b) requiring the Director to provide evaluation of subchapter projects, permitting him to secure independent evaluations, and providing for publication of the evaluations and for summarized inclusion in the report required by section 2948 of this title, now covered by subchapter IX of this chapter, and struck out subsec. (a) designation, respectively.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2865. Coordination, monitoring, and review of programs

The Director shall be responsible for coordinating programs under this part with other Federal programs designed to assist or serve migrant and seasonal farmworkers, and for reviewing and monitoring such programs.

(Pub. L. 88-452, title III, § 315, as added Pub. L. 93-644, § 6(b), Jan. 4, 1975, 88 Stat. 2298.)

SPECIAL CONSIDERATION FOR AGENCIES PREVIOUSLY RECEIVING FINANCIAL ASSISTANCE TO PROVIDE SERVICES TO MIGRANT OR OTHER SEASONALLY EMPLOYED FARMWORKERS

Section 6(c) of Pub. L. 93-644 provided that: "In providing financial assistance under the provisions of part B of title III of the Economic Opportunity Act of 1964 [this part], the Director shall give special consideration to any public or private nonprofit agency which has previously received financial assistance thereunder for the provision of services for migrant and other seasonally employed farmworkers and their families, taking into account financial assistance provided to any such agency under section 303 of the Comprehensive Employment and Training Act of 1973 [section 873 of Title 29, Labor]."

PART C—DURATION OF PROGRAM

§ 2871. Duration of program

The Director shall carry out the programs provided for in this subchapter during the fiscal year ending June 30, 1967, and the eleven succeeding fiscal years. For each such fiscal year only such sums may be appropriated as the Congress may authorize by law.

(Pub. L. 88-452, title III, § 321, Aug. 20, 1964, 78 Stat. 525; Pub. L. 89-253, § 30(c), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89-794, title III, § 302, Nov. 8, 1966, 80 Stat. 1465; Pub. L. 91-177, title I, § 101(b), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92-424, § 2(a), Sept. 19, 1972, 86 Stat. 688; Pub. L. 93-644, § 14(a), Jan. 4, 1975, 88 Stat. 2329.)

AMENDMENTS

1975—Pub. L. 93-644 substituted "eleven succeeding fiscal years" for "eight succeeding fiscal years".

1972—Pub. L. 92-424 substituted "eight" for "five" succeeding fiscal years.

1969—Pub. L. 91-177 substituted "five" for "three".

1966—Pub. L. 89-794 extended through June 30, 1970, the Director's authority to carry out the programs of the subchapter and struck out provisions authorizing an appropriation of $35,000,000 for the fiscal year ending June 30, 1965, and $55,000,000 for the fiscal year ending June 30, 1966, and authorizing the use of not to exceed $15,000,000 of the funds appropriated under other subchapters of this chapter for the purposes of Part B of this subchapter for the fiscal year ending June 30, 1965.

1965—Pub. L. 89-253 extended for one year (through the fiscal year ending June 30, 1968) the period for carrying out the programs of the subchapter, authorized an appropriation of $55,000,000 for the fiscal year ending June 30, 1966, and added a provision for the appropriation of a sum for the fiscal year ending June 30, 1968, as the Congress may hereafter authorize by law.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2855 of this title.

PART D—INDEMNITY PAYMENTS TO DAIRY FARMERS

§ 2881. Omitted

CODIFICATION

Section, Pub. L. 88-452, title III, § 331, Aug. 20, 1964, 78 Stat. 525; Pub. L. 89-16, title III, § 303, Apr. 30, 1965, 79 Stat. 108; Pub. L. 89-253, § 24, Oct. 29, 1965, 79 Stat. 977; Pub. L. 89-794, title III, § 301(c), Nov. 8, 1966, 80 Stat. 1465, established a program for the payment of indemnities to dairy farmers who had been directed since January 1, 1964, to remove their milk from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government at the time of such use. Rather than merely extending the authorized period for the program by amending the expiration date so as to authorize operations beyond June 30, 1967, Congress enacted Pub. L. 90-95, Sept. 28, 1967, 81 Stat. 231, embodying the substance of this section. Pub. L. 90-95 is classified to sections 450j to 450l of Title 7, Agriculture.

SUBCHAPTER IV—COMPREHENSIVE HEALTH SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2706, 2707 of this title.

§ 2901. Comprehensive health services program

(a) Establishment of program

The Secretary shall establish within the Department of Health, Education, and Welfare a "Comprehensive Health Services" program which shall include—

(1) programs to aid in developing and carrying out comprehensive health services projects focused upon the needs of urban and rural areas having high concentrations or proportions of poverty and marked inadequacy of health services for the poor. These projects shall be designed—

(A) to make possible, with maximum feasible use of existing agencies and resources, the provision of comprehensive health services, such as preventive medical, diagnostic, treatment, rehabilitation, family planning, narcotic addiction and alcoholism, prevention and rehabilitation, mental health, dental, and followup services, together with necessary related facilities and services, except in rural areas where the lack of even elemental health services and personnel may require simpler, less comprehensive services to be established first; and

(B) to assure that these services are made readily accessible to low-income residents of such areas, are furnished in a manner most responsive to their needs and with their participation and wherever possible are combined with, or included within, arrangements for providing employment, education, social, or other assistance needed by the families and individuals served except that pursuant to such regulations as the Secretary of Health, Education, and Welfare may prescribe, persons provided assistance through programs assisted under this paragraph who are not members of low-income families may be required to make payment, or have payment made in their behalf, in whole or in part for such assistance; and

(2) programs to provide financial assistance to public or private agencies to projects designed to develop knowledge or enhance skills in the field of health services for the poor. Such projects shall encourage both prospective and practicing health professionals to direct their talents and energies toward providing health services for the poor.

Funds for financial assistance under paragraph (1) of this subsection shall be allotted according to need, and capacity of applicants to make rapid and effective use of that assistance, and may be used as necessary to pay the full costs of projects. Before approving any project, the Secretary shall solicit and consider the comments and recommendations of the local medical associations in the area and shall consult with appropriate Federal, State, and local health agencies and take such steps as may be required to assure that the program will be carried on under competent professional supervision and that existing agencies providing related services are furnished all assistance needed to permit them to plan for participation in the program and for the necessary continuation of those related services. In carrying out the provisions of paragraph (2) of this subsection, the Secretary is authorized to provide or arrange for training and study in the field of health services for the poor.

(b) Stipends and allowances

Pursuant to regulations prescribed by him, the Secretary may arrange for the payment of stipends and allowances (including travel and subsistence expenses) for persons undergoing such training and study and for their dependents.

(c) Coordination with other activities

The Secretary shall achieve effective coordination of programs and projects authorized under this section with other related activities.

(Pub. L. 88-452, title IV, § 401, as added Pub. L. 93-644, § 7, Jan. 4, 1975, 88 Stat. 2298, and amended Pub. L. 94-341, § 2(a)(16), July 6, 1976, 90 Stat. 804.)

PRIOR PROVISIONS

A prior section 2901, Pub. L. 88-452, title IV, § 401, Aug. 20, 1964, 78 Stat. 526; Pub. L. 90-222, title I, § 106(a), Dec. 23, 1967, 81 Stat. 710, setting forth the Congressional statement of purpose of this subchapter as the establishment, preservation, and strengthening of small business concerns and the improvement of managerial skills employed in such enterprises, was repealed by Pub. L. 93-386, § 2(b), Aug. 23, 1974, 88 Stat. 745. See section 636 of Title 15, Commerce and Trade.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-341, § 2(a)(16)(B), substituted in the provision following par. (2) "may be used as necessary" for "may be used as necessary," and "paragraph (2)" for "paragraph 2".

Subsec. (b). Pub. L. 94-341, § 2(a)(16)(A), redesignated former subsec. (c) as (b).

Subsec. (c) Pub. L. 94-341, § 2(a)(16)(A), redesignated former subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 94-341, § 2(a)(16)(A), redesignated former subsec. (d) as (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2902 of this title.

§ 2902. Alcoholic Counseling and Recovery Program; Drug Rehabilitation Program

In addition to the authority conferred under section 2901 of this title the Secretary is authorized, as part of the Comprehensive Health Services program, to carry out the following programs:

(1) An "Alcoholic Counseling and Recovery" program designed to discover and treat the disease of alcoholism. Such program should be community based, serve the objective of the maintenance of the family structure as well as the recovery of the individual alcoholic, encourage the use of neighborhood facilities and the services of recovered alcoholics as counselors, and emphasize the reentry of the alcoholic into society rather than the institutionalization of the alcoholic.

(2) A "Drug Rehabilitation" program designed to discover the causes of drug abuse and addiction, to treat narcotic and drug addiction and the dependence associated with drug abuse, and to rehabilitate the drug abuser and drug addict. Such program should deal with the abuse or addiction resulting from the use of narcotic drugs such as heroin, opium, and cocaine, stimulants such as amphetamines, depressants, marihuana, hallucinogens, and tranquilizers. Such program should be community based, serve the objective of the maintenance of the family structure as well as the recovery of the individual drug abuser or addict, encourage the use of neighborhood facilities and the services of recovered drug abusers and addicts as counselors, and emphasize the reentry of the drug abuser and addict into society rather than his institutionalization. The Secretary is authorized to undertake special programs aimed at promoting employment opportunities for rehabilitated addicts or addicts enrolled and participating in methadone maintenance treatment or therapeutic programs, and assisting employers in dealing with addiction and drug abuse and dependency problems among formerly hardcore unemployed so that they can be maintained in employment. In undertaking such programs, the Secretary shall give special priority to veterans and employers of significant numbers of veterans, with priority to those areas within the States having the highest percentages of addicts. The Secretary is further authorized to establish procedures and policies which will allow clients to complete a full course of rehabilitation even though they become non-low-income by virtue of becoming employed as a part of the rehabilitation process but there shall be no change in income eligibility criteria for initial admission to treatment and rehabilitation programs under this chapter.

(Pub. L. 88-452, title IV, § 402, as added Pub. L. 93-644, § 7, Jan. 4, 1975, 88 Stat. 2299, and amended Pub. L. 94-341, § 2(a)(17), July 6, 1976, 90 Stat. 804.)

PRIOR PROVISIONS

A prior section 2902, Pub. L. 88-452, title IV, § 402, Aug. 20, 1964, 78 Stat. 526; Pub. L. 89-794, title IV, §§ 401, 402, 405, Nov. 8, 1966, 80 Stat. 1465; Pub. L. 90-104, title I, § 108, Oct. 11, 1967, 81 Stat. 269; Pub. L. 90-222, title I, § 106(b), (c), Dec. 23, 1967, 81 Stat. 710; Pub. L. 92-320, § 2, June 27, 1972, 86 Stat. 382, relating to the powers of the Administrator of the Small Business Administration with respect to loans, and guarantees to small businesses, was repealed by Pub. L. 93-386, § 2(b), Aug. 23, 1974, 88 Stat. 745.

AMENDMENTS

1976—Par. (2). Pub. L. 94-341 substituted "Secretary" for "Director" wherever appearing.

§§ 2903, 2904. Repealed. Pub. L. 89-794, title IV, § 403, Nov. 8, 1966, 80 Stat. 1465

Section 2903, Pub. L. 88-452, title IV, § 403, Aug. 20, 1964, 78 Stat. 526, required that financial assistance under section 2902 of this title be coordinated with any community action program covering the same community.

Section 2904, Pub. L. 88-452, title IV, § 404, Aug. 20 1964, 78 Stat. 526, provided that the lending and guaranty functions which are delegated to the Small Business Administration may be financed with funds under the revolving fund established by section 633(c) of Title 15, Commerce and Trade, for the purposes of sections 636(a), 636(b), and 637(a) of Title 15.

§§ 2905 to 2907. Repealed. Pub. L. 93-386, 2(b), Aug. 23, 1974, 88 Stat. 745

Section 2905, Pub. L. 88-452, title IV, § 403, formerly § 405, Aug. 20, 1964, 78 Stat. 526, renumbered and amended Pub. L. 89-794, title IV, §§ 401, 406, Nov. 8, 1966, 80 Stat. 1465, set forth terms and conditions of any loans made pursuant to former section 2902 of this title.

Section 2906, Pub. L. 88-452, title IV, § 404, formerly § 406, Aug. 20, 1964, 78 Stat. 527, renumbered and amended Pub. L. 89-794, title IV, §§ 401, 406, Nov. 8, 1966, 80 Stat. 1465; Pub. L. 90-222, title I, § 106(d)(2), (3), Dec. 23, 1967, 81 Stat. 711, required the Administrator to distribute financial assistance to insure that at least 50 per centum of amounts loaned or guaranteed are alloted to small business concerns located in designated urban areas.

Section 2906a, Pub. L. 88-452, title IV, § 405, as added Pub. L. 90-222, title I, § 106(d)(3), Dec. 23, 1967, 81 Stat. 711, prohibited financial assistance for relocation which would increase unemployment in the area of original location.

Section 2906b, Pub. L. 88-452, title IV, § 406, as added Pub. L. 90-222, title I, § 106(d)(3), Dec. 23, 1967, 81 Stat. 711, authorized the Administrator to provide financial assistance for the payment of the costs of projects supplying technical and management assistance to eligible individuals and enterprises.

Section 2906c, Pub. L. 88-452, title IV, § 407, as added Pub. L. 90-222, title I, § 106(d)(3), Dec. 23, 1967, 81 Stat. 712, authorized the Administrator to insure that government contracts, subcontracts, and deposits are placed in such a way as to aid small business concerns.

Section 2907, Pub. L. 88-452, title IV, § 408, formerly § 407, Aug. 20, 1964, 78 Stat. 527, renumbered 405 and amended Pub. L. 89-794, title IV, §§ 404, 406, Nov. 8, 1966, 80 Stat. 1465; renumbered 408 and amended Pub. L. 90-222, title I, § 106(d)(1), Dec. 23, 1967, 81 Stat. 711; Pub. L. 91-177, title I, § 101(b), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92-424, § 2(a), Sept. 19, 1972, 86 Stat. 688, set forth the duration of the program as the eight succeeding fiscal years after the start of the program in the fiscal year ending June 30, 1967.

SUBCHAPTER V—HEADSTART AND FOLLOW THROUGH

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 644, 2706, 2707 of this title.

§ 2921. Short title

This subchapter may be cited as the "Headstart-Follow Through Act".

(Pub. L. 88-452, title V, § 501, Aug. 20, 1964, 78 Stat. 527; Pub. L. 89-794, title V, § 501(a), Nov. 8, 1966, 80 Stat. 1466; Pub. L. 90-222, title I, § 107(d), Dec. 23, 1967, 81 Stat. 714; Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2300.)

Amendments

1975—Pub. L. 93-644 substituted provisions authorizing citation of this subchapter as the Headstart-Follow Through Act for provisions setting out the Congressional statement of purpose in creating the work experience and training programs.

1967—Pub. L. 90-222 substituted "this part" for "this subchapter".

1966—Pub. L. 89-794 added reference to workers in farm families with less than $1,200 net family income, unemployed heads of families, and other needy persons, and struck out requirement that the Director, in carrying out this purpose, make maximum use of the programs available under the Manpower Development and Training Act of 1962, as amended, and Vocational Education Act of 1963.

Effective Date of 1967 Amendment

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2922. Congressional statement of purpose

In recognition of the role which Project Headstart has played in the effective delivery of comprehensive health, educational, nutritional, social, and other services to economically disadvantaged children and their families, the subchapter extends the authority for appropriation of funds for that program.

(Pub. L. 88-452, title V, § 502, Aug. 20, 1964, 78 Stat. 527; Pub. L. 89-253, § 25, Oct. 9, 1965, 79 Stat. 977; Pub. L. 89-794, title V, § 501(a), Nov. 8, 1966, 80 Stat. 1466; Pub. L. 90-222, title I, § 107(d), Dec. 23, 1967, 81 Stat. 714; Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2300.)

Amendments

1975—Pub. L. 93-644 substituted the Congressional statement of purpose in authorizing the Headstart program for provisions authorizing the transfer of funds to the Secretary of Health, Education, and Welfare to carry out work experience and training programs.

1967—Pub. L. 90-222 substituted "this part" for "this subchapter".

1966—Pub. L. 89-794 substituted reference to work experience and training programs meeting the criteria set forth in part E of title II of the Manpower Development and Training Act of 1962 for reference to programs designed to help unemployed fathers and other needy persons to secure and retain employment or to attain or retain capability for self-support or personal independence, specified pretraining services and basic maintenance, health, family, basic education, day care, counseling, and similar supportive services as the aim of the authorized experimental, pilot, or demonstration projects under section 1115 of the Social Security Act, struck out provisions making applicable the limitations of section 409(a)(1) to (6) of the Social Security Act, added provision for reimbursement of the Secretary of Labor, and substituted provisions that funds may not be used to assist families and individuals insofar as they are otherwise receiving assistance under titles I, VI, X, XIV, XVI, or XIX of the Social Security Act for provisions placing workers in farm families with less than $1,200 net family income in the category of unemployed for the purposes of this subchapter.

1965—Pub. L. 89-253 added provision making farm families with less than $1,200 net family income eligible for consideration as "unemployed" for purposes of this subchapter and struck out provision limiting to the period ending with the finish of the fiscal year ending June 30, 1965, the funding of work experience programs entirely from funds appropriated or allocated to carry out the purposes of this subchapter.

§ 2923. Congressional statement of policy with respect to migrant and Indian children

In carrying out the purposes of part A of this subchapter the Secretary shall continue the administrative arrangement responsible for meeting the needs of migrant and Indian children and shall assure that appropriate funding is provided to meet such needs.

(Pub. L. 88-452, title V, § 503, Aug. 20, 1964, 78 Stat. 523; Pub. L. 89-253, § 30(d), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89-794, title V, § 501(a), Nov. 8, 1966, 80 Stat. 1466; Pub. L. 90-222, title I, § 107(d), Dec. 23, 1967, 81 Stat. 714; Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2300.)

Amendments

1975—Pub. L. 93-644 substituted provisions setting out the Congressional policy of meeting the needs of Indian and migrant children for provisions setting limitations on work experience and training programs.

1967—Pub. L. 90-222 substituted "this part" for "this subchapter" wherever appearing.

1966—Pub. L. 89-794 substituted provisions making requirements of sections 409(a)(1) to (6) of the Social Security Act applicable to work experience and training programs, imposing a 36-month limit on individual participation, placing a 12½ percent limitation on funds spent in any one state, and requiring that, in programs approved after July 1, 1968, not more than 80 percent of the costs of projects or activities referred to in section 2922 of this title be paid from funds appropriated or allocated to carry out this subchapter for provisions authorizing the continuation of the programs under this subchapter through June 30, 1968, and authorizing appropriations of $150,000,000 for the fiscal year ending June 30, 1965, and $150,000,000 for the fiscal year ending June 30, 1966.

1965—Pub. L. 89-253 extended for one year (through the fiscal year ending June 30, 1968) the period for carrying out the programs of the subchapter, authorized an appropriation of $150,000,000 for the fiscal year ending June 30, 1966, and added a provision for the appropriation of a sum for the fiscal year ending June 30, 1968, as the Congress may hereafter authorize by law.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§§ 2924, 2925. Omitted

CODIFICATION

Section 2924, Pub. L. 88-452, title V, § 504, as added Pub. L. 89-794, title V, § 501(a), Nov. 8, 1966, 80 Stat. 1467, and amended Pub. L. 90-222, title I, § 107(d), Dec. 23, 1967, 81 Stat. 714, which set the fiscal year ending June 30, 1967, and the three succeeding fiscal years as the duration of the work experience, training, and day care programs, was omitted in the general reorganization and amendment of this subchapter by Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2300.

Section 2925, Pub. L. 88-452, title V, § 505, as added Pub. L. 89-794, title V, § 501(a), Nov. 8, 1966, 80 Stat. 1467, and amended Pub. L. 90-222, title I, § 107(d), Dec. 23, 1967, 81 Stat. 714, which provided for the transition of training programs for needy persons requiring special family and supportive services, was omitted in general reorganization and amendment of this subchapter by Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2300.

PART A—HEADSTART PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2923 of this title.

§ 2928. Financial assistance

The Secretary may, upon application by an agency which is eligible for designation as a Headstart agency pursuant to section 2928c of this title, provide financial assistance to such agency for the planning, conduct, administration, and evaluation of a Headstart program focused primarily upon children from low-income families who have not reached the age of compulsory school attendance which (1) will provide such comprehensive health, nutritional, educational, social, and other services as will aid the children to attain their full potential, and (2) will provide for direct participation of the parents of such children in the development, conduct, and overall program direction at the local level.

(Pub. L. 88-452, title V, § 511, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2300.)

§ 2928a. Authorization of appropriations

There are authorized to be appropriated for carrying out the purposes of this part such sums as may be necessary for fiscal years 1975 through 1977.

(Pub. L. 88-452, title V, § 512, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2301.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2928b of this title.

§ 2928b. Distribution of funds

(a) Allotments

Of the sums appropriated pursuant to section 2928a of this title for any fiscal year beginning after June 30, 1975, the Secretary shall allot not more than 2 per centum among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs. In addition, the Secretary shall reserve not more than 20 per centum of the sums so appropriated for use in accordance with such criteria and procedures as he may prescribe. The remainder shall be allotted among the States. In accordance with the latest satisfactory available data, so that equal proportions are distributed on the basis of (1) the relative number of public assistance recipients in each State as compared to all States, and (2) the relative number of related children living with families with incomes below the poverty line in each State as compared to all States; but there shall be made available, for use by Headstart programs within each State, no less funds for any fiscal year than were obligated for use by Headstart programs within such State with respect to fiscal year 1975. Allocation of such increases within each State shall, to the extent feasible, be made in such manner as to reflect the proportionate increases in program costs incurred by grantees, in accordance with regulations which the Secretary shall prescribe for this purpose. For the purpose of this subsection, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

(b) Limitations on assistance

Financial assistance extended under this part for a Headstart program shall not exceed 80 per centum of the approved costs of the assisted program or activities, except that the Secretary may approve assistance in excess of such percentage if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this part. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services. The Secretary shall not require non-Federal contributions in excess of 20 per centum of the approved costs of programs or activities assisted under this part.

(c) Comparable service previously provided without Federal assistance

No programs shall be approved for assistance under this part unless the Secretary is satisfied that the services to be provided under such program will be in addition to, and not in substitution for, comparable services previously provided without Federal assistance. The requirement imposed by the preceding sentence shall be subject to such regulations as the Secretary may prescribe.

(d) Handicapped children

The Secretary shall establish policies and procedures designed to assure that for fiscal year 1975 not less than 10 per centum of the total number of enrollment opportunities in Headstart programs in the Nation shall be available for handicapped children and that for fiscal year 1976 and thereafter no less than 10

per centum of the total number of enrollment opportunities in Headstart programs in each State shall be available for handicapped children (as defined in paragraph (1) of section 1401 of title 20) and that services shall be provided to meet their special needs. The Secretary shall report to the Congress at least annually on the status of handicapped children in Headstart programs, including the number of children being served, their handicapping conditions, and the services being provided such children.

(e) Equitable distribution of benefits between rural and urban areas

The Secretary shall adopt appropriate administrative measures to assure that the benefits of this part will be distributed equitably between residents of rural and urban areas.

(Pub. L. 88-452, title V, § 513, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2301.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (a) of this section except as specifically provided, see section 201(20) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2930 of this title.

§ 2928c. Designation of Headstart agencies

(a) Local public or private nonprofit agencies; qualifications

The Secretary is authorized to designate as a Headstart agency any local public or private nonprofit agency which (1) has the power and authority to carry out the purposes of this part and perform the functions set forth in section 2928d of this title within a community, and (2) is determined by the Secretary to be capable of planning, conducting, administering, and evaluating, either directly or by other arrangements, a Headstart program.

(b) Entities comprising "community"

For the purposes of this subchapter, a community may be a city, county or multicity or multicounty unit within a State, an Indian reservation, or a neighborhood or other area (irrespective of boundaries or political subdivisions) which provides a suitable organizational base and possesses the commonality of interest needed to operate a Headstart program.

(c) Priority in designation of Headstart agencies

In the administration of the provisions of this section, the Secretary shall give priority in the designation of Headstart agencies to any local public or private nonprofit agency which is receiving funds under any Headstart program on January 4, 1975, except that the Secretary shall, before giving such priority, determine that the agency involved meets program and fiscal requirements established by the Secretary.

(Pub. L. 88-452, title V, § 514, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2302, and amended Pub. L. 94-341, § 2(a)(18), July 6, 1976, 90 Stat. 804.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-341 substituted "or multicity" for "multicity," and "organizational" for "organization".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2928 of this title.

§ 2928d. Powers and functions of Headstart agencies

(a) In order to be designated as a Headstart agency under this part, an agency must have authority under its charter or applicable law to receive and administer funds under this part, funds and contributions from private or local public sources which may be used in support of a Headstart program, and funds under any Federal or State assistance program pursuant to which a public or private nonprofit agency (as the case may be) organized in accordance with this part, could act as grantee, contractor, or sponsor of projects appropriate for inclusion in a Headstart program. Such an agency must also be empowered to transfer funds so received, and to delegate powers to other agencies, subject to the powers of its governing board and its overall program responsibilities. This power to transfer funds and delegate powers must include the power to make transfers and delegations covering component projects in all cases where this will contribute to efficiency and effectiveness or otherwise further program objectives.

(b) In order to be so designated, a Headstart agency must also (1) establish effective procedures by which parents and area residents concerned will be enabled to influence the character of programs affecting their interests, (2) provide for their regular participation in the implementation of such programs, and (3) provide technical and other support needed to enable parents and area residents to secure on their own behalf available assistance from public and private sources.

(Pub. L. 88-452, title V, § 515, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2302.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2928c of this title.

§ 2928e. Submission of plans to Governors

In carrying out the provisions of this part, no contract, agreement, grant, or other assistance shall be made for the purpose of carrying out a Headstart program within a State unless a plan setting forth such proposed contract, agreement, grant, or other assistance has been submitted to the Governor of the State, and such plan has not been disapproved by the Governor within thirty days of such submission, or, if so disapproved, has been reconsidered by the Secretary and found by him to be fully consistent with the provisions and in furtherance of the purposes of this part. Funds to cover the costs of the proposed contract, agreement, grant, or other assistance shall be obligated from the appropriation which is current at the time the plan is submitted to the Governor. This section shall not, however, apply to contracts, agreements, grants, loans, or other assistance to any

institution of higher education in existence on January 4, 1975.

(Pub. L. 88-452, title V, § 516, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2302.)

§ 2928f. Administrative requirements and standards

(a) Standards for organization, management, and administration

Each Headstart agency shall observe standards of organization, management, and administration which will assure, so far as reasonably possible, that all program activities are conducted in a manner consistent with the purposes of this part and the objective of providing assistance effectively, efficiently, and free of any taint of partisan political bias or personal or family favoritism. Each such agency shall establish or adopt rules to carry out this section, which shall include rules to assure full staff accountability in matters governed by law, regulations, or agency policy. Each agency shall also provide for reasonable public access to information, including but not limited to public hearings at the request of appropriate community groups and reasonable public access to books and records of the agency or other agencies engaged in program activities or operations involving the use of authority or funds for which it is responsible. Each such agency shall adopt for itself and other agencies using funds or exercising authority for which it is responsible, rules designed to establish specific standards governing salaries, salary increases, travel and per diem allowances, and other employee benefits; to assure that only persons capable of discharging their duties with competence and integrity are employed and that employees are promoted or advanced under impartial procedures calculated to improve agency performance and effectiveness; to guard against personal or financial conflicts of interests; and to define employee duties in an appropriate manner which will in any case preclude employees from participating, in connection with the performance of their duties, in any form of picketing, protest, or other direct action which is in violation of law.

(b) Development and administration costs

No financial assistance shall be extended under this subchapter in any case in which the Secretary determines that the costs of developing and administering a program assisted under this subchapter exceed 15 per centum of the total costs, including non-Federal contributions to such costs, of such program. The Secretary shall establish by regulation, criteria for determining (i) the costs of developing and administering such program and (ii) the total costs of such program. In any case in which the Secretary determines that the cost of administering such program does not exceed 15 per centum of such total costs but is, in his judgment, excessive, he shall forthwith require the recipient of such financial assistance to take such steps prescribed by him as will eliminate such excessive administrative cost, including the sharing by one or more Headstart agencies of a common director and other administrative personnel. The Secretary may waive the limitation prescribed by this paragraph for specific periods of time not to exceed six months whenever he determines that such a waiver is necessary in order to carry out the purposes of this subchapter.

(c) Rules and regulations

The Secretary shall prescribe rules or regulations to supplement subsection (a) of this section, which shall be binding on all agencies carrying on Headstart program activities with financial assistance under this part. He may, where appropriate, establish special or simplified requirements for smaller agencies or agencies operating in rural areas. Policies and procedures shall be established to insure that indirect costs attributable to the common or joint use of facilities and services by programs assisted under this part and other programs shall be fairly allocated among the various programs which utilize such facilities and services.

(d) Publication in Federal Register

At least thirty days prior to their effective date, all rules, regulations, guidelines, instructions, and application forms shall be published in the Federal Register and shall be sent to each grantee with the notification that each such grantee has the right to submit comments pertaining thereto to the Secretary prior to the final adoption thereof.

(Pub. L. 88-452, title V, § 517, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2303, and amended Pub. L. 94-341, § 2(a)(19), July 6, 1976, 90 Stat. 804.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-341 substituted "15 per centum of such total costs" for "15 per centum and such total costs".

§ 2928g. Participation in Headstart programs

(a) The Secretary shall by regulation prescribe eligibility for the participation of persons in Headstart programs assisted under this part. Such criteria may provide (1) that children from low-income families shall be eligible for participation in programs assisted under this part if their families are below the poverty line, or if their families are eligible or in the absence of child care would potentially be eligible for public assistance; and (2) pursuant to such regulations as the Secretary shall prescribe that programs assisted under this part may include, to a reasonable extent, participation of children in the area served who would benefit from such programs but whose families do not meet the low-income criteria prescribed pursuant to clause (1).

(b) The Secretary shall not prescribe any fee schedule or otherwise provide for the charging of any fees for participation in Headstart programs, unless such fees are authorized by legislation hereafter enacted. Nothing in this subsection shall be construed to prevent the families of children who participate in Headstart programs and who are willing and able to pay the full cost of such participation from doing so.

(Pub. L. 88-452, title V, § 518, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2304.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2928n of this title.

§ 2928g-1. Handicapped children; enrollment policies and report to Congress

The Secretary of Health, Education, and Welfare shall establish policies and procedures designed to assure that not less than 10 per centum of the total number of enrollment opportunities in the Nation in the Headstart program shall be available for handicapped children (as defined in paragraph (1) of section 602 of the Elementary and Secondary Education Act of 1965, as amended) and that services shall be provided to meet their special needs. The Secretary shall implement his responsibilities under this paragraph in such a manner as not to exclude from any project any child who was participating in the program during the fiscal year ending June 30, 1972. Within six months after September 19, 1972, and at least annually thereafter, the Secretary shall report to the Congress on the status of handicapped children in Headstart programs, including the number of children being served, their handicapping conditions, and the services being provided such children.

(Pub. L. 92-424, § 3(b)(2), Sept. 19, 1972, 86 Stat. 688.)

REFERENCES IN TEXT

Section 602 of the Elementary and Secondary Education Act of 1965, as amended, referred to in text, was renumbered as section 614 by Pub. L. 90-247, § 152(a), Jan. 2, 1968, 81 Stat. 803, and classified to section 880a of Title 20, Education. Such section 614 was repealed by Pub. L. 91-230, § 662(3), Apr. 13, 1970, 84 Stat. 188. The definition of "handicapped children" is now contained in section 620 of Pub. L. 91-230, which is classified to section 1401 of Title 20.

CODIFICATION

This section was formerly classified to subsec. (b)(2) of section 2702b of this title.

Section was enacted as part of the Economic Opportunity Amendments of 1972, and not as part of the Economic Opportunity Act of 1964 which comprises this chapter.

§ 2928h. Appeals, notice, and hearing

The Secretary shall prescribe procedures to assure that—

(1) special notice of and an opportunity for a timely and expeditious appeal to the Secretary will be provided for an agency or organization which desires to serve as a delegate agency under this part and whose application to the Headstart agency has been wholly or substantially rejected or has not been acted upon within a period of time deemed reasonable by the Secretary, in accordance with regulations which he shall prescribe;

(2) financial assistance under this part shall not be suspended, except in emergency situations, unless the recipient agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(3) financial assistance under this part shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(Pub. L. 88-452, title V, § 519, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2304.)

§ 2928i. Records and audit

(a) Each recipient of financial assistance under this part shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such financial assistance, the total cost of the project or undertaking in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this part.

(Pub. L. 88-452, title V, § 520, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2305.)

§ 2928j. Technical assistance and training

The Secretary may provide, directly or through grants or other arrangements, (1) technical assistance to communities in developing, conducting, and administering programs under this part, and (2) training for specialized or other personnel needed in connection with Headstart programs.

(Pub. L. 88-452, title V, § 521, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2305.)

§ 2928k. Research, demonstration, and pilot projects

(a) The Secretary may provide financial assistance through grants or contracts for research, demonstration, or pilot projects conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise in furthering the purposes of this part.

(b) The Secretary shall establish an overall plan to govern the approval of research, demonstration, or pilot projects and the use of all research authority under this part. Such plan shall set forth specific objectives to be achieved and priorities among such objectives.

(Pub. L. 88-452, title V, § 522, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2305.)

§ 2928l. Announcement of research, demonstration and pilot project contracts

(a) Contents of announcement

The Secretary shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency or organization for any research, demonstration, or pilot project under this subchapter; and

(2) the results, findings, data, or recommendations made or reported as a result of such activities.

(b) Time of announcement

The public announcements required by subsection (a) of this section shall be made within thirty days of making such grants or contracts, and the public announcements required by subsection (b) of this section shall be made within thirty days of the receipt of such results.

(c) Studies, proposals and data as property of United States

The Director shall take necessary action to assure that all studies, proposals, and data produced or developed with Federal funds employed under this subchapter shall become the property of the United States.

(d) Publication of summaries of results of activities; time; submission to committees of Congress

The Director shall publish summaries of the results of activities carried out pursuant to this subchapter not later than ninety days after the completion thereof. The Director shall submit to the appropriate committees of the Congress copies of all such summaries.

(Pub. L. 88-452, title V, § 523, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2305, and amended Pub. L. 94-341, § 2(a)(20), July 6, 1976, 90 Stat. 805.)

REFERENCES IN TEXT

The public announcements required by subsection (b) of this section, referred to in subsec. (b), probably means the public announcements required by subsec. (a)(2) of this section.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-341 substituted "summaries" for "studies" wherever appearing.

§ 2928m. Evaluation of programs

(a) Continuing evaluation directly or through grants or contracts

The Secretary shall provide directly or through grants or contracts, for the continuing evaluation of programs under this part, including evaluations that measure and evaluate the impact of programs authorized by this part, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluation.

(b) Publication of general standards of evaluation

Prior to obligating funds for the programs and projects covered by this part with respect to fiscal year 1976, the Secretary shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this part. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this part.

(c) Independent evaluation for Headstart agencies

In carrying out evaluations under this part, the Secretary may require Headstart agencies to provide for independent evaluations.

(d) Views of persons participating in and served by programs

In carrying out evaluations under this part, the Secretary shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this part about such programs and projects.

(e) Publication of results of evaluation; time; submission to committees of Congress

The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness not later than ninety days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(f) Studies, evaluation, proposals and data as property of the United States

The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this part shall become the property of the United States.

(Pub. L. 88-452, title V, § 524, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2306.)

§ 2928n. Poverty line

(a) Revision of poverty line annually or at shorter intervals

The Secretary shall revise annually (or at any shorter interval he deems feasible and desirable) a poverty line which, except as provided in section 2928g of this title, shall be used as a criterion of eligibility for participation in Headstart programs.

(b) Computation of poverty line

The revision required by subsection (a) of this section shall be accomplished by multiplying the official poverty line (as defined by the Office of Management and Budget) by the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the revision is made.

(c) Issuance of revisions of poverty line

Revisions required by subsection (a) of this section shall be made and issued not more than thirty days after the date on which the necessary Consumer Price Index data becomes available.

(Pub. L. 88-452, title V, § 525, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2306, and amended Pub. L. 94-341, § 2(a)(21), July 6, 1976, 90 Stat. 805.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-341 substituted "section 2928g" for "section 2982".

PART B—FOLLOW THROUGH PROGRAMS

§ 2929. Financial assistance

(a)[1] (1) The Secretary is authorized to provide financial assistance in the form of grants to

[1] So in original. Section enacted without a subsec. (b).

local educational agencies, combinations of such agencies, and, as provided in paragraph (2) of this subsection, any other public or appropriate nonprofit private agencies, organizations, and institutions for the purpose of carrying out Follow Through programs focused primarily on children from low-income families in kindergarten and primary grades, including such children enrolled in private nonprofit elementary schools, who were previously enrolled in Head-start or similar programs.

(2) Whenever the Secretary determines (A) that a local educational agency receiving assistance under paragraph (1) is unable or unwilling to include in a Follow Through program children enrolled in nonprofit private schools who would otherwise be eligible to participate therein, or (B) that it is otherwise necessary in order to accomplish the purposes of this section, he may provide financial assistance for the purpose of carrying out a Follow Through program to any other public or appropriate nonprofit private agency, organization, or institution.

(3) Programs to be assisted under this section shall provide such comprehensive services as the Secretary determines will aid in the continued development of children described in paragraph (1) to their full potential. Such projects shall provide for the direct participation of the parents of such children in the development, conduct, and overall direction of the program at the local level. If the Secretary determines that participation in the project of children who are not from low-income families will serve to carry out the purposes of this section, he may provide for the inclusion of such children from non-low-income families, but only to the extent that their participation will not dilute the effectiveness of the services designed for children described in paragraph (1) of this subsection.

(Pub. L. 88-452, title V, § 551, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2306.)

§ 2929a. Authorization of appropriations

(a) Appropriations for fiscal 1975 and two succeeding fiscal years

There are authorized to be appropriated for carrying out the purposes of this part $60,000,000 for the fiscal year 1975, and for each of the two succeeding fiscal years. Funds so appropriated shall remain available for obligation and expenditure during the fiscal year succeeding the fiscal year for which they are appropriated.

(b) Limitations of financial assistance; exceptions

Financial assistance extended under this part for a Follow Through program shall not exceed 80 per centum of the approved costs of the assisted program or activities, except that the Secretary may approve assistance in excess of such percentage if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this part. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services. The Secretary shall not require non-Federal contributions in excess of 20 per centum of the approved costs of programs or activities assisted under this part.

(c) Requirement that project provide services in addition to services previously provided

No project shall be approved for assistance under this part unless the Secretary is satisfied that the services to be provided under such project will be in addition to, and not in substitution for, services previously provided without Federal assistance. The requirement imposed by the preceding sentence shall be subject to such regulations as the Secretary may adopt.

(Pub. L. 88-452, title V, § 552, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2307.)

§ 2929b. Research, demonstration, and pilot projects; evaluation; technical assistance activities

(a)[1] In conjunction with other activities authorized by this part, the Secretary may—

(1) provide financial assistance, by contract or otherwise, for research, demonstration, or pilot projects conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise in furthering the purposes of this part;

(2) provide, directly or through grants or contracts, for the continuing evaluation of projects assisted under this part, including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such projects, which evaluations shall be conducted by persons not directly involved in the administration of the project evaluated; and

(3) provide, directly or through grants or other appropriate arrangements, (A) technical assistance to Follow Through programs in developing, conducting, and administering programs under this part, and (B) training for specialized or other personnel which is needed in connection with Follow Through programs.

(Pub. L. 88-452, title V, § 553, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2307.)

§ 2929c. Special conditions for financial assistance

(a) Maximum employment opportunities for residents of area

Recipients of financial assistance under this part shall provide maximum employment opportunities for residents of the area to be served, and to parents of children who are participating in projects assisted under this part.

(b) Suspension of assistance for failure to comply with terms and conditions; denial of application for refunding

Financial assistance under this part shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations, nor shall an application for refunding be denied, unless the recipient agency has been given reasonable notice and opportu-

[1] So in original. Section enacted without a subsec. (b).

nity to show cause why such action should not be taken.

(c) Notice and hearing prior to termination of assistance

Financial assistance under this part shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(Pub. L. 88-452, title V, § 554, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2308.)

PART C—GENERAL PROVISIONS

§ 2930. Definitions

As used in this subchapter, the term—

(1) "Secretary" means the Secretary of Health, Education, and Welfare;

(2) "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands; except that when used in section 2928b(a) of this title, the term means only a State, Puerto Rico, or the District of Columbia; and

(3) "financial assistance" includes assistance provided by grant, agreement, or contract, and payments may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments.

(Pub. L. 88-452, title V, § 571, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2308.)

§ 2930a. Labor standards

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this subchapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 276c of title 40.

(Pub. L. 88-452, title V, § 572, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2308.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to section 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 2930b. Comparability of wages

(a)[1] The Secretary shall take such action as may be necessary to assure that persons employed in carrying out programs financed under this subchapter shall not receive compensation at a rate which is (1) in excess of the average rate of compensation paid in the area where the program is carried out to a substantial number of the persons providing substantially comparable services, or in excess of the average rate of compensation paid to a substantial number of the persons providing substantially comparable services in the area of the person's immediately preceding employment, whichever is higher, or (2) less than the minimum wage rate prescribed in section 206(a)(1) of title 29.

(Pub. L. 88-452, title V, § 573, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2309.)

§ 2930c. Nondiscrimination

(a) The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract with respect thereto specifically provides that no person with responsibilities in the operation thereof will discriminate with respect to any such program, project, or activity because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this subchapter. The Director shall enforce the provisions of the preceding sentence in accordance with section 2000d-1 of this title. Section 2000d-2 of this title shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program, project, or activity receiving assistance under this subchapter.

(Pub. L. 88-452, title V, § 574, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2309.)

§ 2930d. Unlawful demonstrations, rioting, or civil disturbances

No individual employed or assigned by any Headstart agency or other agency assisted under this subchapter shall, pursuant to or during the performance of services rendered in connection with any program or activity conducted or assisted under this part by such Headstart agency or such other agency, plan, initiate, participate in, or otherwise aid or assist in the conduct of any unlawful demonstration, rioting, or civil disturbance.

(Pub. L. 88-452, title V, § 575, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2309.)

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[1] So in original. Section enacted without a subsec. (b).

§ 2930e. Political activities

(a) For purposes of chapter 15 of title 5 any agency which assumes responsibility for planning, developing, and coordinating Headstart programs and receives assistance under this subchapter shall be deemed to be a State or local agency; and for purposes of clauses (1) and (2) of section 1502(a) of title 5 any agency receiving assistance under this subchapter shall be deemed to be a State or local agency.

(b) Programs assisted under this subchapter shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. The Secretary, after consultation with the Civil Service Commission, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.

(Pub. L. 88-452, title V, § 576, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2309, and amended Pub. L. 94-341, § 2(a)(22), July 6, 1976, 90 Stat. 805.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-341 substituted "agency receiving assistance under this subchapter" for "agency receiving assistance under this part".

§ 2930f. Advance funding

For the purpose of affording adequate notice of funding available under this subchapter, appropriations for carrying out this subchapter are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(Pub. L. 88-452, title V, § 577, as added Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2310, and amended Pub. L. 94-341, § 2(a)(22), July 6, 1976, 90 Stat. 805.)

AMENDMENTS

1976—Pub. L. 94-341 substituted "carrying out this subchapter" for "carrying out this part".

PART D—DAY CARE PROJECTS

CODIFICATION

This part, formerly designated as Part B, was redesignated Part D by Pub. L. 93-644, § 8(a), Jan. 4, 1975, 88 Stat. 2300, as part of the general revision and amendment of this subchapter by Pub. L. 93-644.

§ 2931. Congressional statement of purpose

The purpose of this part is to provide day care for children from families which need such assistance to become or remain self-sufficient or otherwise to obtain objectives related to the purposes of this chapter, with particular emphasis upon enabling the parents or relatives of such children to choose to undertake or to continue basic education, vocational training, or gainful employment.

(Pub. L. 88-452, title V, § 581, formerly § 521, as added Pub. L. 90-222, title I, § 107(a), Dec. 23, 1967, 81 Stat. 713, and renumbered Pub. L. 93-644, § 8(c), Jan. 4, 1975, 88 Stat. 2310.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2932. Financial assistance for day care projects

(a) Eligible agencies and organizations; contributions

The Secretary is authorized to provide financial assistance to appropriate public agencies and private organizations to pay not to exceed 90 per centum of the cost of planning, conducting, administering, and evaluating projects under which children from low-income families or from urban and rural areas with large concentrations or proportions of low-income persons may receive day care. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment and services. Such day care projects shall provide health, education, social, and such other supportive services as may be needed. Financial assistance under this section may be provided to employers, labor unions, or to joint employer-union organizations, for day care projects established at or in association with a place of employment or training where such projects are financed in major part through private funds. Project costs payable under this part may include costs of renovation and alteration of physical facilities. Financial assistance under this section may be provided in conjunction with or to supplement day care projects under the Social Security Act [42 U.S.C. 301 et seq.] or other relevant statutes.

(b) Payment for day care services

The Secretary may require a family which is not a low-income family to make payment, in whole or in part, for the day care services provided under this program where the family's financial condition is, or becomes through employment or otherwise, such as to make such payment appropriate.

(c) Technical assistance and training

The Secretary may provide, directly or through contracts or other arrangements, technical assistance and training necessary for the initiation or effective operation of programs under this part.

(d) Program coordination

The Secretary shall take all necessary steps to coordinate programs under his jurisdiction which provide day care, with a view to establishing, insofar as possible, a common set of program standards and regulations, and mechanisms for coordination at the State and local levels. Such standards shall be no less comprehensive than the Federal interagency day care requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968. In approving applications for assistance under this part, the Secretary shall take into consideration (1) the

extent to which applicants show evidence of coordination and cooperation between their projects and other day care programs in the areas which they will serve and (2) the extent to which unemployed or low-income individuals are to be employed, including individuals receiving or eligible to receive assistance under the Social Security Act [42 U.S.C. 301 et seq.].

(e) Evaluation of program; report

Each project to which payments are made hereunder shall provide for a thorough evaluation. This evaluation shall be conducted by such agency or independent public or private organization as the Secretary shall designate, with a view to determining, among other things, the extent to which the day care provided may have increased the employment of parents and relatives of the children served, the extent to which such day care may have reduced the costs of aid and services to such children, the extent to which such children have received health and educational benefits, and the extent to which the project has been coordinated with other day care activities in the area served. Up to 100 per centum of the costs of evaluation may be paid by the Secretary from funds appropriated for the purposes of carrying out this part, except that where such evaluation is carried on by the assisted agency itself, he may pay only 90 per centum of such costs. Such evaluations, together with a report on the program described in this part, shall be included in the report required by section 2948 of the title.

(Pub. L. 88-452, title V, § 582, formerly § 522, as added Pub. L. 90-222, title I, § 107(a), Dec. 23, 1967, 81 Stat. 713, amended Pub. L. 92-424, § 19, Sept. 19, 1972, 86 Stat. 696, and renumbered and amended Pub. L. 93-644, § 8(b), (c), Jan. 4, 1975, 88 Stat. 2310.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a) and (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§ 301 et seq.) of this title. For complete classification of that Act to the Code, see section 1305 of this title and Tables volume.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-644, § 8(b), substituted "Secretary" for "Director".

Subsec. (b). Pub. L. 93-644, § 8(b), substituted "Secretary" for "Director".

Subsec. (c). Pub. L. 93-644, § 8(b), substituted "Secretary" for "Director".

Subsec. (d). Pub. L. 93-644, § 8(b), substituted "Secretary" for "Director and the Secretary of Health, Education, and Welfare" and "Director", respectively, and "his jurisdiction" for "their jurisdictions".

Subsec. (e). Pub. L. 93-644, § 8(b), substituted "Secretary" for "Director".

1972—Subsec. (d). Pub. L. 92-424 provided that day care standards be no less comprehensive than the Federal interagency day care requirements as were approved by Federal authorities on Sept. 23, 1968.

TRANSFER OF FUNCTIONS

The Office of Economic Opportunity, established by section 2941 of this title, was superseded by the Community Services Administration pursuant to Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 2310. References to the Office of Economic Opportunity now deemed to be references to the Community Services Administration, see section 2941(d)(2) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1397a of this title.

§ 2933. Duration of program

The Secretary shall carry out the programs provided for in this part during the fiscal year ending June 30, 1968, and the ten succeeding fiscal years.

(Pub. L. 88-452, title V, § 583, formerly § 523, as added Pub. L. 90-222, title I, § 107(a), Dec. 23, 1967, 81 Stat. 714, amended Pub. L. 91-177, title I, § 101(c), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92-424, § 2(b), Sept. 19, 1972, 86 Stat. 688, and renumbered and amended Pub. L. 93-644, §§ 8(b), (c), 14(b), Jan. 4, 1975, 88 Stat. 2310, 2329.)

CODIFICATION

Reference to "section 3(c)" of Pub. L. 93-644, as set out in the enacting language of section 14(b) of Pub. L. 93-644, was changed to "section 8(c)" by Pub. L. 94-341, § 3(c), July 6, 1976, 90 Stat. 807, requiring no change in text as amendment by section 14(b) of Pub. L. 93-644 was made in view of probable intent of Congress.

AMENDMENTS

1975—Pub. L. 93-644, §§ 8(b), 14(b), substituted "Secretary" for "Director" and "ten succeeding fiscal years" for "seven succeeding fiscal years".

1972—Pub. L. 92-424 substituted "seven" for "four" succeeding fiscal years.

1969—Pub. L. 91-177 substituted "four" for "two".

SUBCHAPTER VI—ADMINISTRATION AND COORDINATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2706, 2707, 2809, 2941 of this title.

PART A—ADMINISTRATION

§ 2941. Community Services Administration

(a) Establishment as independent agency within Executive Branch; Director

Upon January 4, 1975, there is established within the executive branch an agency known as the "Community Services Administration" which shall be headed by a Director and which shall be, in all respects and for all purposes, the successor authority to the Office of Economic Opportunity. The Director of the Administration shall be appointed by the President by and with the advice and consent of the Senate. The Director shall be compensated at a rate equal to the rate in effect for the compensation of the Director of the Office of Economic Opportunity on January 4, 1975.

(b) Deputy Director; Assistant Directors

There shall also be in the Administration one Deputy Director and Assistant Directors who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director and the Assistant Directors shall perform such functions as the Director may prescribe. The Deputy Director and the Assistant Directors shall be compensated at a rate equal to the rate in effect for the Deputy Director and the Assistant Directors, respectively, of the Office of Economic Opportunity on January 4, 1975.

(c) Responsibilities of Director; non-delegability of functions

Subject to the provisions of subsection (e) of this section, the Administration shall be an independent agency. The Director shall have the responsibility for carrying out subchapters I, II, III-B, VI, VII, and IX of this chapter. The functions of the Director with respect to carrying out subchapters I, II (except section 2825 of this title), III-B, VI, VII, and IX of this chapter shall not be delegated to any other officer not directly responsible, both with respect to program operation and administration, to the Director. Beginning after June 15, 1975, the policymaking functions, including the final approval of grants and contracts, of the Director, shall not be delegated to any regional office or official.

(d) Community Services Administration as successor to Office of Economic Opportunity; continuing force and effectiveness of official actions; suits, actions, proceedings, or causes of action not abated; personnel

(1) All official actions taken by the Director of the Office of Economic Opportunity, his designee, or any other person under the authority of this chapter which are in force on January 4, 1975, and for which there is continuing authority under the provisions of this chapter, shall continue in full force and effect until modified, superseded, or revoked by the Director.

(2) All references to the Office of Economic Opportunity, or to the Director of the Office of Economic Opportunity, in any statute, reorganization plan, executive order, regulation, or other official document or proceeding shall, on and after such date, be deemed to refer to the Administration, or to the Director, as the case may be.

(3) No suit, action, or other proceeding, and no cause of action, by or against the Office of Economic Opportunity, or any action by any officer thereof acting in his official capacity, shall abate by reason of the enactment of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 [42 U.S.C. 2701 et seq.].

(4) Persons appointed by the President, by and with the advice and consent of the Senate, to positions in the Office of Economic Opportunity, requiring appointment by and with such advice and consent, may, if the President so desires, continue to serve in comparable positions in the Administration; but the President may submit to the Senate nominations for appointment to any or all positions in the Administration, requiring the advice and consent of the Senate.

(e) Reorganization; Community Services Administration in Department of Health, Education, and Welfare; Community Economic Development Administration in Department of Commerce

(1) After March 15, 1975, the President may submit to the Congress a reorganization plan which, subject to the provisions of paragraph (2) of this subsection, shall take effect if such reorganization plan is not disapproved by enactment of a joint resolution which shall be considered in Congress in accordance with the provisions of paragraph (3) of this subsection and the procedures established with respect to reorganization plans by chapter 9 of title 5 except to the extent otherwise provided in this chapter.

(2) A reorganization plan submitted in accordance with the provisions of paragraph (1) shall provide—

(A) for establishing in the Department of Health, Education, and Welfare a Community Services Administration—

(i) which shall be headed by a Director,

(ii) which shall be the principal agency, and the Director of which shall be the principal officer, for carrying out subchapters I, II, III-B, VI, and IX of this chapter, and which, with respect to such provisions, shall be the successor authority to the Community Services Administration established by subsection (a) of this section,

(iii) the Director of which shall be, in the performance of his functions, directly responsible to the Secretary, and

(iv) in which no policymaking functions, including the final approval of grants or contracts, of the Director shall be delegated to any regional office or official.

(B) for establishing in the Department of Commerce a Community Economic Development Administration—

(i) which shall be headed by a Director,

(ii) which shall be the principal agency, and the Director of which shall be the principal officer, for carrying out subchapter VII of this chapter, and which, with respect to such provisions, shall be the successor authority to the Community Services Administration established by subsection (a) of this section,

(iii) the Director of which shall be, in the performance of his functions, directly responsible to the Secretary of Commerce, and

(iv) in which no policymaking functions, including the final approval of grants or contracts, of the Director shall be delegated to any regional office or official.

(3) For the purpose of this subsection and chapter 9 of title 5 to the extent incorporated by this subsection, the following provisions apply:

(A) The term "resolution" means a joint resolution the matter after the resolving clause of which is: "That the Congress of the United States disapproves the Community Services Administration Reorganization Plan transmitted to the Congress by the President on ————, 19—.," The blank spaces therein are to be appropriately filled.

(B) If, prior to the passage by one House of the joint resolution of that House with respect to the reorganization plan, such House receives from the other House a joint resolution with respect to the same plan, then the following procedure applies:

(i) If no resolution of the first House with respect to such plan has been referred to committee, no other resolution with respect to the same plan may be reported or (despite the provisions of section 912(a) of title 5) be made the subject of a motion to discharge.

(ii) If a resolution of the first House with respect to such plan has been referred to committee—

(I) the procedure with respect to that or other resolutions of such House with respect to such plan which have been referred to committee shall be the same as if no resolution from the other House with respect to such plan had been received; but

(II) on any vote on final passage of a resolution of the first House with respect to such plan the resolution from the other House with respect to such plan shall be automatically substituted for the resolution of the first House.

(4) The transfers authorized under subparagraphs (A) and (B) of paragraph (3) of this subsection shall be effective 30 days after the last date on which such reorganization plan could be disapproved under this subsection.

(f) Director of Community Services Administration in Department of Health, Education, and Welfare; Director of Community Economic Development Administration in Department of Commerce

In the event that the reorganization plan pursuant to subsection (e) of this section takes effect, the Director of the Community Services Administration and the Director of the Community Economic Development Administration shall each be appointed by the President, by and with the advice and consent of the Senate, except that the person serving as Director of the independent Community Services Administration pursuant to the advice and consent of the Senate may, if the President notifies the Congress accordingly, continue to serve as Director of the Community Services Administration within the Department of Health, Education, and Welfare; but the President may in such event submit to the Senate a nomination for such position.

(g) Transfer of property, records, and unexpended balances of appropriations, allocations, and other funds

In the event that the reorganization plan pursuant to subsection (e) of this section takes effect, on the effective date thereof the property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions of the Director of the independent Community Services Administration, established by subsection (a) of this section, shall be transferred to the Director of the Community Services Administration, within the Department of Health, Education, and Welfare, and to the Director of the Community Economic Development Administration within the Department of Commerce, as appropriate. All grants, applications for grants, contracts, and other agreements awarded or entered into by the Director of the independent Community Services Administration shall continue to be recognized so that there is no disruption of ongoing activities for which there is continuing authority.

(h) Transfer of personnel; continuing force and effectiveness of official actions; suits, actions, proceedings, or causes of action not abated

(1) In the event that the reorganization plan pursuant to subsection (e) of this section takes effect, on the effective date thereof all Federal personnel employed by the independent Community Services Administration under the authorization and appropriations for this chapter transferred to the Community Services Administration within the Department of Health, Education, and Welfare or to the Community Economic Development Administration within the Department of Commerce shall, to the extent feasible, be assigned to related functions and organizational units in the appropriate Administration, without loss of salary, rank, or other benefits, including the right to representation and to the existing basic collective-bargaining agreement.

(2) In the event that the reorganization plan pursuant to subsection (e) of this section takes effect, on the effective date thereof all official actions taken by the Director of the independent Community Services Administration, his designee, or any other person under the authority of this chapter which are in force on such date, and for which there is continuing authority under the provisions of this chapter, shall continue in full force and effect until modified, superseded, or revoked by the Director of the Community Services Administration, within the Department of Health, Education, and Welfare, or the Director of the Community Economic Development Administration, within the Department of Commerce, as appropriate.

(3) In the event that the reorganization plan submitted pursuant to subsection (e) of this section takes effect, on the effective date thereof all references to the independent Community Services Administration, or to the Director of that Administration in any statute, reorganization plan, executive order, regulation, or other official document or proceeding shall, on and after such date, be deemed to refer to the Community Services Administration, within the Department of Health, Education, and Welfare, or the Director of the Community Economic Development Administration, within the Department of Commerce as appropriate, or to the Director of either such Administration, as the case may be.

(4) In the event that the reorganization plan submitted pursuant to subsection (e) of this section takes effect, on the effective date thereof no suit, action, or other proceeding, and no cause of action, by or against the independent Community Services Administration, or any action by any officer thereof acting in his official capacity, shall abate by reason of the taking effect of such plan.

(Pub. L. 88-452, title VI, § 601, Aug. 20, 1964, 78 Stat. 528; Pub. L. 89-794, title VI, § 601(a), Nov. 8, 1966, 80 Stat. 1468; Pub. L. 90-222, title I, § 108(a), Dec. 23, 1967, 81 Stat. 714; Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 2310; Pub. L. 94-341, § 2(a)(23), (24), (26)-(28), July 6, 1976, 90 Stat. 805.)

REFERENCES IN TEXT

The Headstart, Economic Opportunity, and Community Partnership Act of 1974, referred to in subsec.

(d)(3), is Pub. L. 93-644, Jan. 4, 1975, 88 Stat. 2291. For complete classification of this Act to the Code, see Short Title of 1975 Amendment note set out under section 2701 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (a). Pub. L. 93-341, § 2(a)(23), designated existing provision relating to the establishment of the Community Services Administration as an independent agency within the Executive Branch and to the position of Director of that agency as subsec. (a). For purposes of codification such designation had already been made, thereby requiring no change in the text.

Subsec. (e)(2)(B)(iii). Pub. L. 94-341, § 2(a)(24), substituted "Secretary of Commerce" for "Secretary".

Subsec. (g). Pub. L. 94-341, § 2(a)(26), substituted "Welfare," for "Welfare" and "Community Economic Development Administration" for "Economic Development Administration".

Subsec. (h)(2). Pub. L. 94-341, § 2(a)(27), substituted "Director of the Community Services Administration," for "Director of the Community Services Administration", "Welfare," for "Welfare", and "Community Economic Development Administration," for "Community Economic Development Administration".

Subsec. (h)(3). Pub. L. 94-341, § 2(a)(28), substituted "Community Services Administration," for "Community Services Administration" wherever appearing, and "within the Department of Commerce" for "in the Department of Commerce".

1975—Pub. L. 93-644 substituted provisions covering the establishment of the Community Services Administration as the successor authority to the Office of Economic Opportunity for provisions covering the establishment of the Office of Economic Opportunity.

1967—Subsec. (a). Pub. L. 90-222 raised from four to five the number of Assistant Directors in the Office of Economic Opportunity.

1966—Subsec. (a). Pub. L. 89-794 substituted "four" for "three".

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2942. Authority of Director

In addition to the authority conferred upon him by other sections of this chapter, the Director is authorized, in carrying out his functions under this chapter, to—

(a) Appointment of personnel

appoint in accordance with the civil service laws such personnel as may be necessary to enable the Community Services Administration to carry out its functions, and, except as otherwise provided herein, fix their compensation in accordance with chapter 51 and subchapter III of chapter 53 of title 5;

(b) Employment of experts and consultants

(1) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, except that no individual may be employed under the authority of this subsection for more than 100 days in any fiscal year; (2) compensate individuals so employed at rates not in excess of $100 per diem, including travel time; and (3) allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5 for persons in the Government service employed intermittently, while so employed: *Provided, however,* That contracts for such employment may be renewed annually;

(c) Appointment of advisory committees

appoint, without regard to the civil service laws, one or more advisory committees composed of such private citizens and officials of the Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this chapter; and members of such committees (including the National Advisory Council established in section 2945 of this title), other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Director, shall be entitled to receive compensation and travel expenses as provided in subsection (b) of this section with respect to experts and consultants;

(d) Reimbursement of other Federal agencies for performance of functions; delegation of powers

with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of his functions under this chapter and, as necessary or appropriate, delegate any of his powers under this chapter and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the Community Services Administration and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the Community Services Administration and the furnishing of such information by such Community Services Administration to such other agencies;

(e) Utilization of services and facilities of Federal and State agencies

utilize, with their consent, the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision without reimbursement;

(f) Acceptance of gifts, devises and bequests

accept in the name of the Community Services Administration, and employ or dispose of in furtherance of the purposes of this chapter, or of any subchapter thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(g) Acceptance of voluntary and uncompensated services

accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31;

(h) Allocation and expenditure of funds; transfer of funds to other Federal agencies

allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this chapter as he deems necessary to carry out the provisions hereof, including (without regard to the provisions of section 4774(d) of title 10) expenditure for construction, repairs, and capital improvements;

(i) Dissemination of data and information

disseminate, without regard to the provisions of section 3204 of title 39, data and information, in such form as he shall deem appropriate, to public agencies, private organizations, and the general public;

(j) Seal

adopt an official seal, which shall be judicially noticed;

(k) Acquisition, handling, or disposal of property acquired in connection with loans, participations, and guaranties

notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real or personal property by the United States, deal with, complete, rent, renovate, modernize, or sell for cash or credit at his discretion any properties acquired by him in connection with loans, participations, and guaranties made by him pursuant to this chapter;

(*l*) Collection or compromise of obligations

collect or compromise all obligations to or held by him and all legal or equitable rights accruing to him in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection;

(m) Expenditures for printing and binding, rent, and repair, alteration, and improvement of buildings

expend funds made available for purposes of this chapter—

(1) for printing and binding, in accordance with applicable law and regulation; and

(2) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subparagraph (2)—

(A) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this chapter, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and

(B) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority; and

(n) Other necessary or appropriate functions

establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organizations and persons, make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments), and generally perform such functions and take such steps as he may deem to be necessary or appropriate to carry out the provisions of this chapter.

(Pub. L. 88-452, title VI, § 602, Aug. 20, 1964, 78 Stat. 528; Pub. L. 89-794, title VI, §§ 602, 603, Nov. 8, 1966, 80 Stat. 1468; Pub. L. 90-222, title I, § 108(b), Dec. 23, 1967, 81 Stat. 714; Pub. L. 91-375, § 6(n), Aug. 12, 1970, 84 Stat. 783; Pub. L. 93-386, § 2(b), Aug. 23, 1974, 88 Stat. 745; Pub. L. 93-644, § 9(c)(1), Jan. 4, 1975, 88 Stat. 2314; Pub. L. 94-341, § 2(a)(29), (30), July 6, 1976, 90 Stat. 805.)

REFERENCES IN TEXT

The civil service laws, referred to in subsecs. (a) and (c), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

Section 4774(d) of title 10, referred to in subsec. (h), was redesignated as entirety of section 4774 by Pub. L. 93-166, title V, § 509(c), Nov. 29, 1973, 87 Stat. 677, which repealed the provisions of subsecs. (a) to (c) of such section 4774 of title 10.

CODIFICATION

In subsec. (a), "chapter 51 and subchapter III of chapter 53 of title 5" were substituted for "the Classification Act of 1949 (5 U.S.C. 1071 et seq.)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat 631, section 1 of which enacted Title 5, Government Organization and Employees.

In subsec. (b), "section 3109(b) of title 5" and "section 5703 of title 5" were substituted, in subsec. (b), for "section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a)" and for "section 5 of such Act (5 U.S.C. 73b-2)", respectively, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-341, § 2(a)(29), substituted "Community Services Administration" for "Office".

Subsec. (f). Pub. L. 94-341, § 2(a)(29), substituted "Community Services Administration" for "Office".

Subsec. (k). Pub. L. 94-341, § 2(a)(30), substituted "guaranties made by him pursuant to this chapter" for "guaranties made by him pursuant to subchapters III and IV of this chapter". The reference to subchapter IV of this chapter was struck out by Pub. L. 93-386, thereby requiring no further change in text for such reference.

1975—Subsec. (d). Pub. L. 93-644 substituted "Community Services Administration" for "Office of Economic Opportunity" and "Office" wherever appearing.

1974—Subsec. (k). Pub. L. 93-386 struck out reference to subchapter IV of this chapter.

1970—Subsec. (i). Pub. L. 91-375 substituted "section 3204 of title 39" for "section 4154 of title 39".

1967—Subsec. (b). Pub. L. 90-222 added provision that no individual may be employed under the authority of this subsection for more than 100 days in any fiscal year and made minor changes in structure.

1966—Subsec. (d). Pub. L. 89-794, § 602, inserted "subject to provisions to assure the maximum possible liaison between the Office of Economic Opportunity and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the Office of Economic Opportunity and the furnishing of such information by such Office to such other agencies".

Subsec. (m). Pub. L. 89-794, § 603, substituted provision making the Director's exercise of authority to expend funds for printing and binding expressly sub-

ject to applicable law and regulation for provision which excepted the Director's authority to expend funds for printing and binding from the effect of any other law or regulation and struck out provision for the giving of notice to the Chairman of the Joint Committee on Printing when the Director proposes to exercise authority under the jurisdiction of the Committee.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

COMMUNITY ACTION PROGRAMS AND COMMUNITY ECONOMIC DEVELOPMENT POWERS NOT SUBJECT TO DELEGATION

Section 28 of Pub. L. 92-424, Sept. 19, 1972, 86 Stat. 705, which prohibited the Director of the Office of Economic Opportunity from delegating his functions under section 221 and title VII of such Act [section 2808 of this title and subchapter VII of this chapter] to any other agency, was repealed by section 9(b) of Pub. L. 93-644, Jan. 4, 1975, 88 Stat. 2314, as amended by Pub. L. 94-341, § 3(b)(1), July 6, 1976, 90 Stat. 807, effective on the date on which a reorganization plan is effective under section 2941 of this title, as amended by section 9(a) of Pub. L. 93-644.

TERMINATION OF ADVISORY COMMITTEES AND COUNCILS

Advisory Committees and Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee or council established by the President or an officer of the Federal Government, such committee or council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee or council established by the Congress, its duration is otherwise provided by law. Advisory Committees and Councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee or council established by the President or an officer of the Federal Government, such committee or council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee or council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2951 of this title; title 29 section 929.

§ 2943. Political activities of overall community action agencies

(a) Community action agencies deemed to be State or local agencies

For purposes of chapter 15 of title 5 any overall community action agency which assumes responsibility for planning, developing, and coordinating communitywide antipoverty programs and receives assistance under this chapter shall be deemed to be a State or local agency; and for purposes of clauses (1) and (2) of section 1502(a) of such title any agency receiving assistance under this chapter shall be deemed to be a State or local agency.

(b) Use of programs for political purposes

Programs assisted under this chapter shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. The Director, after consultation with the Civil Service Commission, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.

(c) Use of funds for political purposes

No part of any funds appropriated to carry out this chapter, subpart 1 of part B of title V of the Higher Education Act of 1965 [20 U.S.C. 1101 et seq.], or any program administered by ACTION shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the Community Services Administration, the Teacher Corps, or ACTION, who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 431(a) of title 2, and the term "Federal office" has the same meaning given such term by section 431(c) of title 2.

(Pub. L. 88-452, title VI, § 603, Aug. 20, 1964, 78 Stat. 530; Pub. L. 89-253, § 26, Oct. 9, 1965, 79 Stat. 977; Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662; Pub. L. 89-794, title VI, § 604, Nov. 8, 1966, 80 Stat. 1469; Pub. L. 90-222, title I, § 108(c), Dec. 23, 1967, 81 Stat. 714; Pub. L. 92-424, § 20, Sept. 19, 1972, 86 Stat. 696; Pub. L. 93-644, § 9(c)(2), Jan. 4, 1975, 88 Stat. 2314; Pub. L. 94-341, § 2(a)(31), July 6, 1976, 90 Stat. 805.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (c), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Subpart 1 of Part B of title V of the Higher Education Act of 1965 was redesignated as Part A of title V of the Higher Education Act of 1965, by Pub. L. 94-482, title I, § 153, Oct. 12, 1976, 90 Stat. 2153, and is classified generally to Part A (§ 1101 et seq.) of subchapter V of chapter 28 of Title 20, Education. For complete classification of that Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables volume.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-341 struck out "(other than part C of subchapter I)" which followed "any agency receiving assistance under this chapter".

1975—Subsec. (c). Pub. L. 93-644 substituted "Community Services Administration" for "Office of Economic Opportunity".

1972—Subsec. (c). Pub. L. 92-424 added subsec. (c).

1967—Subsec. (b). Pub. L. 90-222 made structural changes and added references to nonpartisan political activity, programs to transport voters to the polls, and voter registration programs.

1966—Pub. L. 89-794 altered the section structurally by eliminating subsecs. (c) and (d) and amended the section generally by substituting provisions regulating the political activities of overall community action agencies and providing for the promulgation of rules and regulations to assure the removal of program activities from partisan political activity of any kind for provisions covering the recruitment, selection, training, and assignment of volunteers to serve in programs combating poverty at the State or local level, the terms and conditions of referral or assignment, pay and allowances, oaths and affirmations, and the applicability of Federal employment laws. See section 2991 et seq. of this title.

Subsec. (d). Pub. L. 89-554 repealed all words after the sixth comma insofar as applicable to section 2716(c) of this title.

1965—Subsec. (a). Pub. L. 89-253, § 26(a), expanded the scope of allowable programs or activities authorized by clause (C) from those authorized under subchapters I and II of this chapter to those authorized or supported or of a character eligible for assistance under this entire chapter.

Subsec. (d). Pub. L. 89-253, § 26(b), provided for the taking of the prescribed oath and the applicability of section 1001 of title 18 and provided that, except for the purposes of the computation described in par. (2)(B) of section 2716(c) of this title, the monthly pay of a volunteer shall be deemed to be that received under the entrance salary for GS-7 under the Classification Act of 1949.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 8143.

§ 2944. Appeals, notice, and hearing

The Director shall prescribe procedures to assure that—

(1) special notice of and an opportunity for a timely and expeditious appeal to the Director is provided for an agency or organization which would like to serve as a delegate agency under subchapter II of this chapter and whose application to the community action agency has been wholly or substantially rejected or has not been acted upon within a period of time deemed reasonable by the Director;

(2) financial assistance under subchapter II of this chapter and part B of subchapter III of this chapter shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations, nor shall an application for refunding under sections 2808, 2809, or 2862 of this title be denied, unless the recipient agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(3) financial assistance under subchapter II of this chapter and part B of subchapter III of this chapter shall not be terminated for failure to comply with applicable terms and conditions unless the recipient agency has been afforded reasonable notice and opportunity for a full and fair hearing.

(Pub. L. 88-452, title VI, § 604, Aug. 20, 1964, 78 Stat. 531; Pub. L. 89-794, title IX, § 901(d), Nov. 8, 1966, 80 Stat. 1475; Pub. L. 90-222, title I, § 108(d), Dec. 23, 1967, 81 Stat. 715; Pub. L. 94-341, § 2(a)(32), (33), July 6, 1976, 90 Stat. 805.)

AMENDMENTS

1976—Par. (1). Pub. L. 94-341, § 2(a)(32), struck out "part B of subchapter I of this chapter or" which followed "serve as a delegate agency under", and "prime sponsor or" which followed "whose application to the".

Par. (2). Pub. L. 94-341, § 2(a)(33), substituted "subchapter II of this chapter and part B of subchapter III of this chapter" for "part B of subchapter I of this chapter, subchapter II of this chapter, and part B of subchapter III of this chapter" and "sections 2808, 2809, or 2862" for "sections 2740, 2808, 2809, or 2862".

Par. (3). Pub. L. 94-341, § 2(a)(33), substituted "subchapter II of this chapter and part B of subchapter III of this chapter" for "part B of subchapter I of this chapter, subchapter II of this chapter, and part B of subchapter III of this chapter".

1967—Pub. L. 90-222 substituted provisions covering appeals, notice, and hearing for provisions establishing the Economic Opportunity Council and setting out its structure, personnel, and functions.

1966—Subsec. (b). Pub. L. 89-794 substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator".

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2945. National Advisory Council on Economic Opportunity

(a) Establishment; appointment of members; chairman

There is hereby established in the Community Services Administration a National Advisory Council on Economic Opportunity (hereinafter referred to as the Advisory Council), to be composed of twenty-one members appointed, for staggered terms and without regard to the civil service laws, by the President. Such members shall be representative of the public in general and appropriate fields of endeavor related to the purposes of this chapter. The President shall designate the chairman from among such members. The Advisory Council shall meet at the call of the chairman but not less often than four times a year. The Director shall be an ex officio member of the Advisory Council.

(b) Functions of Council

The Advisory Council shall—

(1) advise the Director with respect to policy matters arising in the administration of this chapter; and

(2) review the effectiveness and the operation of programs under this chapter and make recommendations concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist low income individuals and families.

Such recommendations shall include such proposals for changes in this chapter as the Advisory Council deems appropriate.

(c) Annual report

The Advisory Council shall make an annual report of its findings and recommendations to

the President not later than March 31 of each calendar year beginning with the calendar year 1967. The President shall transmit each such report to the Congress together with his comments and recommendations.

(Pub. L. 88-452, title VI, § 605, Aug. 20, 1964, 78 Stat. 531; Pub. L. 89-253, § 27, Oct. 9, 1965, 79 Stat. 978; Pub. L. 89-794, title VI, § 605, Nov. 8, 1966, 80 Stat. 1469; Pub. L. 93-644, § 9(c)(3), Jan. 4, 1975, 88 Stat. 2314.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-644 substituted "in the Community Services Administration" for "in the Office".

1966—Pub. L. 89-794 substituted National Advisory Council on Economic Opportunity for National Advisory Council as the name of the group created, added provision for the staggering of the terms of the members, substituted provision for the designation of a chairman from among the members for provision that the Director be chairman, added provision that the Director be an ex-officio member, raised from one to four the number of required meetings per year, substituted the chairman for the Director as the convening authority, added provisions that the Council advise the Director with respect to policy matters arising in the administration of this chapter, spelled out the areas in which the Council shall make recommendations, and added provision for an annual report to the President and transmittal thereof to the Congress.

1965—Pub. L. 89-253 increased from fourteen to twenty the number of members authorized in addition to the Director.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 924.

§ 2946. Announcement of research and demonstration contracts

(a) Public announcement of contracts; contents

The Director or the head of any other Federal agency administering a program under this chapter shall make a public announcement concerning:

(1) The title, purpose, intended completion date, identity of the contractor, and proposed cost of any contract with a private or non-Federal public agency or organization for any demonstration or research project; and

(2) The results, findings, data, or recommendations made or reported as a result of such activities.

(b) Time for announcement

The public announcements required by subsection (a) of this section shall be made within thirty days of entering into such contracts and thereafter within thirty days of the receipt of such results.

(c) Duty of Comptroller General to assure compliance; report to Congress

It shall be the duty of the Comptroller General to assure that the requirements of this section are met, and he shall at once report to the Congress concerning any failure to comply with these requirements.

(Pub. L. 88-452, title VI, § 606, as added Pub. L. 90-222, title I, § 108(e), Dec. 23, 1967, 81 Stat. 715.)

PRIOR PROVISIONS

A prior section 606 of Pub. L. 88-452, classified to this section, was redesignated as section 306 of Pub. L. 88-452 by section 105(d) of Pub. L. 90-222 and is set out as section 2855 of this title.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2947. Labor standards

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 276c of title 40.

(Pub. L. 88-452, title VI, § 607, Aug. 20, 1964, 78 Stat. 532.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to section 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, which is set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2825, 2932, 2950, 2995 of this title.

§ 2948. Annual reports

Not later than one hundred and twenty days after the close of each fiscal year, the Director shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities of the Community Services Administration during such year.

(Pub. L. 88-452, title VI, § 608, Aug. 20, 1964, 78 Stat. 532; Pub. L. 94-341, § 2(a)(34), July 6, 1976, 90 Stat. 805.)

AMENDMENTS

1976—Pub. L. 94-341 substituted "Community Services Administration" for "Office".

§ 2949. Repealed. Pub. L. 93-644, § 9(c)(6), Jan. 4, 1975, 88 Stat. 2314

Section, Pub. L. 88-452, title VI, § 609, Aug. 20, 1964, 78 Stat. 532; Pub. L. 90-222, title I, § 108(f), Dec. 23, 1967, 81 Stat. 715; Pub. L. 91-177, title I, § 109, Dec. 30, 1969, 83 Stat. 830; Pub. L. 92-424, §§ 12(b), 21, Sept. 19, 1972, 86 Stat. 692, 696; Pub. L. 93-386, § 2(b), Aug. 23, 1974, 88 Stat. 745, defined the terms "State", "financial assistance", "permanent resident of the United States", "Director", and "lower living standard budget".

§ 2950. Programs for the elderly poor

It is the intention of Congress that whenever feasible the special problems of the elderly poor shall be considered in the development, conduct, and administration of programs under this chapter. The Director shall (1) carry out such investigations and studies, including consultations with appropriate agencies and organizations, as may be necessary to develop and carry out a plan for the participation of the elderly poor in programs under this chapter, including programs providing employment opportunities, public service opportunities, education and other services and activities which assist the elderly poor to achieve self-sufficiency; (2) maintain a constant review of all programs under this chapter to assure that the needs of the elderly poor are given adequate consideration; (3) initiate and maintain interagency liaison with all other appropriate Federal agencies to achieve a coordinated national approach to the needs of the elderly poor; and (4) determine and recommend to the President and the Congress such programs requiring additional authority and the necessary legislation to provide such authority. In exercising his responsibilities under this section, the Director shall cooperate with the Commissioner on Aging. The Director shall describe the ways in which this section has been implemented in the annual report required by section 2948 of this title.

(Pub. L. 88-452, title VI, § 610, as added Pub. L. 89-253, § 28, Oct. 9, 1965, 79 Stat. 978, and amended Pub. L. 89-794, title VI, § 601(b), Nov. 8, 1966, 80 Stat. 1468; Pub. L. 90-222, title I, § 108(g), Dec. 23, 1967, 81 Stat. 716.)

AMENDMENTS

1967—Pub. L. 90-222 added provisions for participation of the poor in programs under this chapter, achievement of self-sufficiency, maintenance of constant review of the programs under this chapter, maintenance of interagency liaison, cooperation with the Commissioner on Aging, and the submission of an annual report.

1966—Pub. L. 89-794 required the Director to carry out such investigations and studies, including consultations with appropriate agencies and organizations as may be necessary (1) to develop programs providing employment opportunities, public service opportunities, and education for the elderly poor under the provisions of this chapter, and (2) to determine and recommend to the President and the Congress such programs requiring additional authority and the necessary legislation to provide such authority.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2951. Comparability of wages; average rate of compensation for substantially comparable services; minimum wages; relationship of salary to previous earnings; adjustment to annual basis

(a) The Director shall take such action as may be necessary to assure that persons employed in carrying out programs financed under subchapter II of this chapter (except a person compensated as provided in section 2942 of this title) shall not receive compensation at a rate which is (1) in excess of the average rate of compensation paid in the area where the program is carried out to a substantial number of the persons providing substantially comparable services, or in excess of the average rate of compensation paid to a substantial number of the persons providing substantially comparable services in the area of the person's immediately preceding employment, whichever is higher or (2) less than the minimum wage rate prescribed in section 206(a)(1) of title 29.

(b) No person whose compensation exceeds $6,000 per annum and is paid pursuant to any grant, contract, or agreement authorized under part A of subchapter II of this chapter (except a person compensated as provided in section 2942 of this title) shall be employed at a rate of compensation which exceeds by more than 20 percent the salary which he was receiving in his immediately preceding employment, but the Director may grant exceptions for specific cases. In determining salary in preceding employment for one regularly employed for a period of less than 12 months per year, the salary shall be adjusted to an annual basis.

(Pub. L. 88-452, title VI, § 610-1, as added Pub. L. 89-794, title VI, § 606, Nov. 8, 1966, 80 Stat. 1470, and amended Pub. L. 90-222, title I, § 108(h), Dec. 23, 1967, 81 Stat. 716; Pub. L. 93-608, § 1(23), Jan. 2, 1975, 88 Stat. 1970; Pub. L. 94-341, § 2(a)(35), July 6, 1976, 90 Stat. 805.)

CODIFICATION

Amendment by Pub. L. 94-341 has not been executed to subsection (c) of section 610-1 of the Community Services Act of 1974 as provided in the enacting language of section 2(a)(35) of Pub. L. 94-341 but to subsection (b) of such section as the probable intent of Congress.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-341 struck out "part A of subchapter I or" which followed "programs financed under".

Subsec. (b). Pub. L. 94-341 struck out "part A of subchapter I or" which followed "or agreement authorized under".

1975—Subsec. (b). Pub. L. 93-608 redesignated former subsec. (c) as (b). Former subsec. (b), which required a report by the Director relating to officers and employees whose compensation is limited by subsec. (a) and receiving a salary of $10,000 or more per year, was struck out.

Subsec. (c). Pub. L. 93-608 redesignated former subsec. (c) as (b).

1967—Subsec. (a). Pub. L. 90-222 substituted reference to subchapter II for reference to Part A of subchapter II and substituted "a substantial number of the persons" for "persons" in the references to the group providing substantially comparable services for

purposes of determining the average rate of compensation paid.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2961. Limitation on benefits for those voluntarily poor

The Director shall take such action as may be necessary to assure that, in determining a person's eligibility for benefits under this chapter on account of his poverty, such person will not be deemed to meet the poverty criteria if his lack of income results from his refusal, without good cause, to seek or accept employment commensurate with his health, age, education, and ability.

(Pub. L. 88-452, title VI, § 611, Aug. 20, 1964, 78 Stat. 532; Pub. L. 89-794, title VI, § 607, Nov. 8, 1966, 80 Stat. 1470; Pub. L. 90-222, title I, § 108(i), Dec. 23, 1967, 81 Stat. 716.)

AMENDMENTS

1967—Pub. L. 90-222 substituted provisions placing limitations on benefits for those voluntarily poor for provisions for the coordination of programs, including statistical data, the cooperation of Federal agencies with the Director, prohibition against the creation of departments or offices to carry out the functions of existing departments or offices, the coordination of programs relating to training for improvement or restoration of employability, and the responsibilities of the Secretary of Labor in supplying employment information.

1966—Subsecs. (c), (d). Pub. L. 89-794 added subsecs. (c) and (d).

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2962. Joint funding

Pursuant to regulations prescribed by the President, where funds are advanced for a single project by more than one Federal agency to a community action agency or other agency assisted under this chapter, any one Federal agency may be designated to act for all in administering the funds advanced. In such cases, a single local share requirement may be established according to the proportion of funds advanced by each agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose.

(Pub. L. 88-452, title VI, § 612, Aug. 20, 1964, 78 Stat. 533; Pub. L. 90-222, title I, § 108(j), Dec. 23, 1967, 81 Stat. 716.)

AMENDMENTS

1967—Pub. L. 90-222 substituted provisions for the joint funding of a single project by more than one Federal agency for provisions directing that preference be given community action programs.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

DELEGATION OF AUTHORITY TO ISSUE JOINT FUNDING REGULATIONS

Authority of the President under this section delegated to the Administrator of General Services, see section 3 of Ex. Ord. No. 11867, eff. June 19, 1975, 40 F.R. 26253, set out as a note under section 4252 of this title, and policy functions transferred to Director of Office of Management and Budget by section 1 of Ex. Ord. No. 11893, eff. Dec. 31, 1975, 41 F.R. 1040, set out as a note under section 4252 of this title.

EXECUTIVE ORDER NO. 11466

Ex. Ord. No. 11466, eff. Apr. 18, 1969, 34 F.R. 6727, formerly set out as a note under this section, which related to the administration of certain jointly funded projects, was superseded by Ex. Ord. No. 11867, eff. June 19, 1975, 40 F.R. 26253, set out as a note under section 4252 of this title.

§ 2963. Unlawful demonstrations, rioting, and civil disturbance

No individual employed or assigned by any community action agency or other agency assisted under this chapter shall, pursuant to or during the performance of services rendered in connection with any program or activity conducted or assisted under this chapter by such community action agency or such other agency, plan, initiate, participate in, or otherwise aid or assist in the conduct of any unlawful demonstration, rioting, or civil disturbance.

(Pub. L. 88-452, title VI, § 613, Aug. 20, 1964, 78 Stat. 533; Pub. L. 89-794, title VI, § 608, Nov. 8, 1966, 80 Stat. 1471; Pub. L. 90-222, title I, § 108(k), Dec. 23, 1967, 81 Stat. 717.)

AMENDMENTS

1967—Pub. L. 90-222 substituted provisions placing limitations on service under this chapter with respect to unlawful demonstrations, rioting, or civil disturbances for provisions covering the collection, analysis, and distribution of information concerning Federal programs, the catalog of Federal programs relating to individual and community improvement, and the dissemination of current information.

1966—Pub. L. 89-794 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2964. Prohibition of Federal control over curriculum, program of instruction, administration, or personnel of educational institutions or school systems

Nothing contained in this chapter shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

(Pub. L. 88-452, title VI, § 614, Aug. 20, 1964, 78 Stat. 533.)

§ 2965. Duration of program

The Director shall carry out the programs provided for in this subchapter during the fiscal year ending June 30, 1967, and the eleven succeeding fiscal years. For each such fiscal year only such sums may be appropriated as the Congress may authorize by law.

(Pub. L. 88-452, title VI, § 615, Aug. 20, 1964, 78 Stat. 533; Pub. L. 89-253, § 30(e), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89-794, title VI, § 609, Nov. 8, 1966, 80 Stat. 1471; Pub. L. 91-177, title I, § 101(b), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92-424, § 2(a), Sept. 19, 1972, 86 Stat. 688; Pub. L. 93-644, § 14(a), Jan. 4, 1975, 88 Stat. 2329.)

AMENDMENTS

1975—Pub. L. 93-644 substituted "eleven succeeding fiscal years" for "eight succeeding fiscal years".

1972—Pub. L. 92-424 substituted "eight" for "five" succeeding fiscal years.

1969—Pub. L. 91-177 substituted "five" for "three".

1966—Pub. L. 89-794 extended from June 30, 1968, to June 30, 1970, the authority to carry out the programs provided for in this subchapter and struck out authorization of appropriations of $10,000,000 for the fiscal year ending June 30, 1965, and $30,000,000 for the fiscal year ending June 30, 1966, other than for purposes of making credits to the revolving fund established by section 2946(a) of this title.

1965—Pub. L. 89-253 extended for one year (through the fiscal year ending June 30, 1968) the period for carrying out the programs of the subchapter, authorized an appropriation of $30,000,000 for the fiscal year ending June 30, 1966, and added a provision for the appropriation of a sum for the fiscal year ending June 30, 1968, as the Congress may hereafter authorize by law.

§ 2966. Transfer of funds

Notwithstanding any limitation on appropriations for any program or activity under this chapter or any Act authorizing appropriations for such program or activity, not to exceed 10 per centum for fiscal years ending prior to July 1, 1970, and not to exceed 15 per centum for fiscal years ending prior to July 1, 1972, and not to exceed 20 per centum for fiscal years ending thereafter; of the amount appropriated or allocated from any appropriation for the purpose of enabling the Director to carry out any such program or activity under this chapter may be transferred and used by the Director for the purpose of carrying out any other such program or activity under this chapter.

(Pub. L. 88-452, title VI, § 616, Aug. 20, 1964, 78 Stat. 533; Pub. L. 89-253, § 29, Oct. 9, 1965, 79 Stat. 978; Pub. L. 89-794, title VI, § 610, Nov. 8, 1966, 80 Stat. 1471; Pub. L. 90-222, title I, § 108(*l*), Dec. 23, 1967, 81 Stat. 717; Pub. L. 91-177, title I, § 110, Dec. 30, 1969, 83 Stat. 831; Pub. L. 92-424, § 4, Sept. 19, 1972, 86 Stat. 690.)

AMENDMENTS

1972—Pub. L. 92-424 substituted "not to exceed 15 per centum for fiscal years ending prior to July 1, 1972, and not to exceed 20 per centum for fiscal years ending thereafter", for "15 per centum for fiscal years ending thereafter" and struck out prohibition against transfer of funds where the transfer results in increasing the amounts otherwise available for any program by more than 100 per centum in the case of any program for which the amounts otherwise available are $10,000,000 or less or more than 35 per centum in the case of a program for which the amounts otherwise available exceed $10,000,000.

1969—Pub. L. 91-177 increased the percentage of funds that may be transferred for use by the Director to carry out programs other than those for which the funds were appropriated, from 10 to 15 percent, for the fiscal years ending after July 1, 1970, and removed the restriction that prevented the transfer of funds to other programs in such manner as to increase by more than 10 percent the amounts otherwise available to any program or activity, by adding provisions allowing increases varying from 35 to 100 percent, according as the amounts otherwise made available for any such program or activity are over $10,000,000 or $10,000,000 or less.

1967—Pub. L. 90-222 struck out provisions excepting limitations or authorizations for programs under part C of subchapter I of this chapter from the prohibition against the transfer of more than 10 per centum of the funds appropriated for one program for use in another program under this chapter.

1966—Pub. L. 89-794 inserted reference to other Acts authorizing appropriations for any subchapter of this chapter other than part C of subchapter I.

1965—Pub. L. 89-253 substituted provisions placing a limit of 10 percent of the amount appropriated or allocated on the funds which can be transferred from the programs of one subchapter to the programs of another and limiting to 10 percent the amount by which the amount available under any subchapter may be thereby increased for provisions requiring a disclaimer affidavit from individuals receiving payments under the authority of this chapter.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2967. Distribution of benefits between rural and urban areas

The Director shall adopt appropriate administrative measures to assure that benefits of this chapter will be distributed equitably between residents of rural and urban areas.

(Pub. L. 88-452, title VI, § 617, as added Pub. L. 89-253, § 30(f), Oct. 9, 1965, 79 Stat. 797.)

§ 2968. Omitted

CODIFICATION

Section, Pub. L. 88-452, title VI, § 618, as added Pub. L. 89-794, title VI, § 611, Nov. 8, 1966, 80 Stat. 1471, prohibited the creation or filling in the fiscal year ending June 30, 1967, of additional positions above those authorized on Nov. 8, 1966, in the classification categories GS 16, 17, and 18 of the General Schedule in the Office of Economic Opportunity and its field offices.

§ 2969. Limitation on Federal administrative expenses

The total administrative expenses, including the compensation of Federal employees, incurred by Federal agencies under the authority of this chapter for any fiscal year shall not exceed ten percent of the amount authorized to be appropriated by this chapter for that year: *Provided, however,* That grants, subsidies, and contributions, and payments to individuals, other than Federal employees shall not be counted as an administrative expense.

(Pub. L. 88-452, title VI, § 619, as added Pub. L. 89-794, title VI, § 612, Nov. 8, 1966, 80 Stat. 1472.)

§ 2970. Maximum use of private enterprise resources; annual report to Congress

The Director and the heads of any other Federal departments or agencies to which the conduct of programs described in this chapter have been delegated shall take such steps as may be desirable and appropriate to insure that the resources of private enterprise are employed to the maximum feasible extent in the programs described in this chapter. The Director and

such other agency heads shall submit at least annually to the Congress a joint or combined report describing the actions taken and the progress made under this section.

(Pub. L. 88-452, title VI, § 620, as added Pub. L. 89-794, title VI, § 614(a), Nov. 8, 1966, 80 Stat. 1472.)

§ 2971. Responsibility for follow through programs

Pursuant to section 2942(d) of this title, the Director shall delegate his functions under section 2809(a)(2) of this title to the Secretary of Health, Education, and Welfare, and such functions shall be carried out through the Office of Education of the Department of Health, Education, and Welfare.

(Pub. L. 88-452, title VI, § 621, as added Pub. L. 90-222, title I, § 108(m)(1), Dec. 23, 1967, 81 Stat. 717.)

References in Text

Section 2809(a)(2) of this title, referred to in text, related to the program known as "Follow Through", and was repealed by Pub. L. 93-644, § 5(c)(2), Jan. 4, 1975, 88 Stat. 2294.

Effective Date

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2971a. Advance funding

For the purpose of affording adequate notice of funding available under this chapter, appropriations for grants, contracts, or other payments under this chapter are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(Pub. L. 88-452, title VI, § 622, as added Pub. L. 91-177, title I, § 111(a), Dec. 30, 1969, 83 Stat. 831.)

Transition to Advance Funding Method

Section 111(b) of Pub. L. 91-177 provided that: "In order to effect a transition to the advance funding method of timing appropriation action, the amendment made by subsection (a) [adding this section] shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year."

§ 2971b. Guidelines, etc.; publication in Federal Register

All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this chapter shall be published in the Federal Register at least thirty days prior to their effective date.

(Pub. L. 88-452, title VI, § 623, as added Pub. L. 92-424, § 22, Sept. 19, 1972, 86 Stat. 696.)

§ 2971c. Nondiscrimination provisions

(a) The Director shall not provide financial assistance for any program under this chapter unless the grant, contact, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this chapter. The Director shall enforce the provisions of the preceding sentence in accordance with section 2000d-1 of this title. Section 2000d-2 of this title shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this chapter.

(Pub. L. 88-452, title VI, § 624, as added Pub. L. 92-424, § 23, Sept. 19, 1972, 86 Stat. 696.)

§ 2971d. Poverty line

(a) Revision of poverty line at annual or shorter intervals

Every agency administering programs authorized by this chapter in which the poverty line is a criterion of eligibility shall revise the poverty line at annual intervals, or at any shorter interval it deems feasible and desirable.

(b) Computation of poverty line

The revision required by subsection (a) of this section shall be accomplished by multiplying the official poverty line (as defined by the Office of Management and Budget) by the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the revision is made.

(c) Time of issuance of revised poverty line

Revisions required by subsection (a) of this section shall be made and issued not more than thirty days after the date on which the necessary consumer price index data becomes available.

(Pub. L. 88-452, title VI, § 625, as added Pub. L. 92-424, § 24, Sept. 19, 1972, 86 Stat. 697, and amended Pub. L. 93-644, § 9(d), Jan. 4, 1975, 88 Stat. 2314.)

Amendments

1975—Subsec. (b). Pub. L. 93-644 substituted "by the percentage change in the Consumer Price Index" for "by the average percentage change in the consumer price index".

Section Referred to in Other Sections

This section is referred to in section 5061 of this title; title 29 section 984.

§ 2971e. Independence of Legal Services Corporation

Nothing in this chapter, except subchapter X of this chapter, and no reference to this chapter unless such reference refers to subchapter X of this chapter, shall be construed to affect the powers and activities of the Legal Services Corporation.

(Pub. L. 88-452, title VI, § 626, as added Pub. L. 93-355, § 3(f), July 25, 1974, 88 Stat. 390.)

§ 2971f. Criminal provisions

(a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any agency receiving financial assistance under this chapter, embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to this chapter, shall be fined not more than $10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(b) Whoever, by threat of procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant or contract of assistance under this chapter induces any person to give up any money or thing of any value to any person (including such grantee agency), shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(Pub. L. 88-452, title VI, § 627, formerly § 626, as added Pub. L. 93-644, § 9(e), Jan. 4, 1975, 88 Stat. 2314, and renumbered Pub. L. 94-341, § 2(c), July 6, 1976, 90 Stat. 806.)

CODIFICATION

In the enacting language of section 9(e) of Pub. L. 93-644, quotation mark immediately preceding "(e)" was struck out and "section 626" was substituted for "section 625" by Pub. L. 94-341, § 3(b)(2), July 6, 1976, 90 Stat. 807, requiring no change in text as amendment by section 9(e) of Pub. L. 93-644 was made in view of probable intent of Congress.

Another section 626 of Pub. L. 88-452 was added by Pub. L. 93-355, § 3(f), July 25, 1974, 88 Stat. 390, and is set out as section 2971e of this title.

§ 2971g. Withholding certain federal taxes by antipoverty agencies

Upon notice from the Secretary of the Treasury or his delegate that any person otherwise entitled to receive a payment made pursuant to a grant, contract, agreement, loan or other assistance made or entered into under this chapter is delinquent in paying or depositing (1) the taxes imposed on such person under chapters 21 and 23 of title 26, or (2) the taxes deducted and withheld by such person under chapters 21 and 24 of title 26, the Director shall suspend such portion of such payment due to such person, which, if possible, is sufficient to satisfy such delinquency, and shall not make or enter into any new grant, contract, agreement, loan or other assistance under this chapter with such person until the Secretary of the Treasury or his delegate has notified him that such person is no longer delinquent in paying or depositing such tax or the Director determines that adequate provision has been made for such payment. In order to effectuate the purpose of this section on a reasonable basis the Secretary of the Treasury and the Director shall consult on a quarterly basis.

(Pub. L. 88-452, title VI, § 628, formerly § 627, as added Pub. L. 93-644, § 9(e), Jan. 4, 1975, 88 Stat. 2314, and renumbered Pub. L. 94-341, § 2(c), July 6, 1976, 90 Stat. 806.)

PART B—COORDINATION

§ 2972. Congressional statement of purpose

This part establishes an Economic Opportunity Council, provides for an information center, and prescribes certain duties and responsibilities. Its purpose is to promote better coordination among all programs related to this chapter, with a view to making those programs more effective in reaching and serving the poor, assisting State and local agencies to adapt diverse Federal programs to varying local problems and conditions, stimulating new and more imaginative ways of combining complementary Federal resources in the solution of specific problems, and generally improving cooperation and communication among all levels of government, agencies, and institutions in matters related to the purposes of this chapter.

(Pub. L. 88-452, title VI, § 630, as added Pub. L. 90-222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 717.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2973. Economic Opportunity Council

(a) Establishment; composition; designation of members and chairman

There is established, in the Executive Office of the President, the Economic Opportunity Council (hereinafter referred to as the "Council"), which shall be composed of the Director and the heads of such Federal departments and agencies, such Presidential assistants and such other officials of the Federal Government as the President may from time to time designate. The President shall designate one of the members of the Council to serve as chairman. Each member shall designate an alternate to sit in his stead in the event of his unavoidable absence.

(b) Functions

It shall be the responsibility of the Council to assist the President in—

(1) providing for the coordination of Federal programs and activities related to this chapter;

(2) developing basic policies and setting priorities with respect to such programs and activities;

(3) resolving differences arising among Federal departments and agencies with respect to such programs and activities; and

(4) initiating and arranging for the carrying out of specific actions or projects designed to achieve the objectives of this chapter.

(c) Executive Secretary; detail of Federal employees

The President shall appoint an Executive Secretary of the Council. The Executive Secretary is authorized to appoint and fix the compensation of such personnel as may be necessary to assist him in the performance of his duties. Employees of other Federal departments and agencies may be detailed to the

Council from time to time to provide temporary assistance.

(d) Report

To the extent appropriate, a report of the activities of the Council shall be included in the annual report of the Director to the President and to the Congress, or in a separate report to the Congress.

(e) Reservation of necessary funds for Council

From the sums authorized and appropriated to carry out the provisions of this subchapter, the President shall reserve such amounts as may be necessary to carry out the purposes of this section.

(Pub. L. 88-452, title VI, § 631, as added Pub. L. 90-222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 718.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2974. Responsibilities of the Director

In addition to his other powers under this chapter, and to assist the President in coordinating the antipoverty efforts of all Federal agencies, the Director shall—

(1) undertake special studies of specific coordination problems at the request of the President or the Council, or on his own initiative;

(2) consult with interested agencies and groups, including State agencies described in section 2824 of this title and the National Advisory Council, with a view to identifying coordination problems that may warrant consideration by the Council or the President and, to the extent feasible or appropriate, initiate action for overcoming those problems, either through the Community Services Administration or in conjunction with other Federal, State, or local agencies; and

(3) prepare a five-year national poverty action plan showing estimates of Federal and other governmental expenditures, and, where feasible, the contributions of the private sector, needed to eliminate poverty in this country within alternative periods of time. Such plan shall include estimates of the funds necessary to finance all relevant programs authorized by this chapter and other Acts, and any new programs which may be necessary to eliminate poverty in this country, and it shall include recommendations for such new programs. The plan shall be presented to the Congress and updated on an annual basis.

(Pub. L. 88-452, title VI, § 632, as added Pub. L. 90-222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 718, and amended Pub. L. 92-424, § 27(b)(2), Sept. 19, 1972, 86 Stat. 705; Pub. L. 93-644, § 9(c)(4), Jan. 4, 1975, 88 Stat. 2314.)

AMENDMENTS

1975—Pub. L. 93-644 substituted "Community Services Administration" for "Office of Economic Opportunity" in item (2).

1972—Pub. L. 92-424 struck out introductory item (2) requirement that the Director carry on a continuing evaluation of all activities under this chapter, now covered by subchapter IX of this chapter.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2975. Cooperation of Federal agencies

(a) Cooperation with Director and Council

Federal agencies administering programs related to this chapter shall—

(1) cooperate with the Director and with the Council in carrying out their duties and responsibilities; and

(2) carry out their programs and exercise their functions so as to assist in carrying out the provisions and purposes of this chapter, to the fullest extent permitted by other applicable law.

(b) Statistical data, program reports, and other materials

The Council and the Director may call upon Federal agencies to supply statistical data, program reports, and other materials as they deem necessary to discharge their responsibilities under this chapter.

(c) Coordination of other programs in conjunction with programs under this chapter

The President may direct that particular programs and functions, including the expenditure of funds, of Federal agencies shall be carried out, to the extent not inconsistent with other applicable law, in conjunction with or in support of programs authorized under this chapter.

(Pub. L. 88-452, title VI, § 663, as added Pub. L. 90-222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 719.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2976. Combinations among projects and programs

In order to encourage efficiencies, close unnecessary service gaps, and generally promote more effective administration, the Director shall require, to the fullest extent feasible, that projects or programs assisted under this chapter be carried on so as to supplement one another, or where appropriate other related programs or projects, and be included within or otherwise carried on in combination with community action programs. In the case of other programs related to this chapter, the heads of the Federal agencies responsible for those programs shall, to the extent permitted by law,

similarly provide assistance for projects and activities in a manner which encourages combinations with other related projects and activities where appropriate, and with community action programs. The Economic Opportunity Council shall, in carrying out its responsibilities under this part, make a continuing review of the operation of this section with a view to (1) determining particular groups of programs which, because of their objectives, or similarities in target groups or areas, are especially appropriate for combined or closely coordinated operation at the State or local level, and making recommendations accordingly to the President or appropriate Federal officials; (2) evaluating Federal agency procedures for carrying out this section, and developing or recommending additional or common procedures, as appropriate; and (3) determining whether, and to what extent, consolidations of Federal programs may be justified and making recommendations respecting such consolidations to the Director and the President.

(Pub. L. 88-452, title VI, § 634, as added Pub. L. 90-222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 719.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2977. Information center

(a) Establishment and operation

The Director shall establish and operate an information center for the purpose of insuring that maximum use is made of Federal programs related to this chapter and that information concerning those programs and other relevant information is readily available to public officials and other interested persons. The Director shall collect, prepare, analyze, correlate, and distribute information as described above, either free of charge or by sale at cost (any funds so received to be deposited to the Director's account as an offset of that cost), and may make arrangements and pay for any printing and binding without regard to the provisions of any other law or regulations. In connection with operation of the center, the Director may carry on research or studies concerning the improvement of information systems in support of the purposes of this chapter, the adequacy of existing data, ways in which data generated on the State and local level may be incorporated into Federal information systems, and methods by which data may be made more readily available to State and local officials or used to further coordination objectives.

(b) Catalog of Federal programs relating to individual and community improvement

The Director shall publish and maintain on a current basis, a catalog of Federal programs relating to individual and community improvement. He may also make grants, from funds appropriated to carry out subchapter II of this chapter, to States and communities to establish information service centers for the collection, correlation, and distribution of information required to further the purposes of this chapter.

(c) Dissemination of current information

In order to assure that all appropriate officials are kept fully informed of programs related to this chapter, and that maximum use is made of those programs, the Director shall establish procedures to assure prompt distribution to State and local agencies of all current information, including administrative rules, regulations, and guidelines, required by those agencies for the effective performance of their responsibilities.

(Pub. L. 88-452, title VI, § 635, as added Pub. L. 90-222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 719.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2978. Duplication of existing functions by new departments or offices prohibited

In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this chapter, no funds appropriated to carry out this chapter shall be used to establish any new department or office when the intended function is being performed by an existing department or office.

(Pub. L. 88-452, title VI, § 636, as added Pub. L. 90-222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 720.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

§ 2979. Special responsibilities; training programs

(a) It shall be the responsibility of the Director, the Secretary of Labor, the Secretary of Health, Education, and Welfare, and the heads of all other departments and agencies concerned, acting through such procedures or mechanisms as the President may prescribe, to provide for, and take such steps as may be necessary and appropriate to implement, the effective coordination of all programs and activities within the executive branch of the Government relating to the training of individuals for the purpose of improving or restoring employability.

(b) The Secretary of Labor, pursuant to such agreements as may be necessary or appropriate (which may include arrangements for reimbursement) shall—

(1) be responsible for assuring that the Federal-State employment service provides and develops its capacity for providing maximum support for the programs described in subsection (a) of this section, and

(2) obtain from the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Director of the Community Services Administration, and the head of any other Federal agency administering a training program, such employment information as will facilitate the placement of individuals being trained.

(Pub. L. 88-452, title VI, § 637, as added Pub. L. 90-222, title I, § 108(m)(3), Dec. 23, 1967, 81

Stat. 720, and amended Pub. L. 93-644, § 9(c)(5), Jan. 4, 1975, 88 Stat. 2314.)

AMENDMENTS

1975—Subsec. (b)(2). Pub. L. 93-644 substituted "Community Services Administration" for "Office of Economic Opportunity".

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

EX. ORD. NO. 11422. COOPERATIVE AREA MANPOWER PLANNING SYSTEM

Ex. Ord. No. 11422, eff. Aug. 15, 1968, 33 F.R. 11739, provided:

WHEREAS Federal legislation enacted in recent years has established numerous manpower programs to improve the employability of disadvantaged, unemployed, and underemployed persons; and

WHEREAS administration of these manpower and related service programs requires extensive participation of State and local governments and nongovernment agencies; and

WHEREAS experience has demonstrated that close coordination of the operating programs at the local, State, and Federal levels is essential to their successful, effective, and economical implementation:

Now, THEREFORE, by virtue of the authority vested in me by section 637 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2979), and as President of the United States, it is ordered as follows:

SECTION 1. *Policy.* (a) Cooperative planning and execution of manpower training and supportive manpower service programs is hereby established as the policy of the Federal Government.

(b) Each Federal executive department or agency administering manpower training or supportive manpower service programs shall, to the extent consistent with law, carry out its programs and exercise its functions so as to further the policy herein enunciated.

SEC. 2. *The Cooperative Area Manpower Planning System.* (a) The Cooperative Area Manpower Planning System (hereinafter referred to as CAMPS) is hereby recognized as a primary instrument for carrying out the policy stated in section 1 above.

(b) The Departments of Labor; Health, Education, and Welfare; Commerce; Housing and Urban Development; Agriculture; and the Interior; the Office of Economic Opportunity; and the Civil Service Commission, together with their affiliated organizations and such additional Federal executive departments and agencies as may be mutually agreed upon by them, shall participate in CAMPS for the purposes of cooperatively planning and executing manpower programs and supportive manpower service programs in urban and rural areas.

(c) Each department and agency included in CAMPS shall participate in manpower coordinating committees at the national and regional levels. The Secretary of Labor shall designate the chairmen of such committees. To the extent practical and necessary, each such department and agency shall also participate, either directly or through affiliated State, local, or nongovernmental organizations with which it maintains grant-in-aid or contractual relationships, in cooperative manpower planning at State and area levels.

(d) To the extent consistent with law, each department or agency included in CAMPS shall carry out its responsibilities with respect to Federal assistance, State and local planning, and utilization of resources so as to further the purposes of this order.

SEC. 3. *Administrative services.* In compliance with provisions of applicable law, and as necessary to effectuate the purposes of this order, the Department of Labor shall provide or arrange for administrative services and staff support for all CAMPS coordinating committees, and each Federal department or agency participating in CAMPS shall furnish such information and other assistance as may be necessary and available.

SEC. 4. *Construction.* Nothing in this order shall be construed as subjecting any Federal department or agency or the head thereof, or any function vested by law in or assigned pursuant to law to any such department, agency, or head, to the authority of any other department, agency, or head.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 922.

§ 2980. Definitions

As used in this part, "programs related to this chapter" and "coordination" shall include the programs and actions described in this section:

(1) "Programs related to this chapter" include programs under this chapter and all Federal or federally assisted programs which have objectives which are, in whole or substantial part, complementary to the purposes of this chapter, or which provide resources which may be used in combination with resources under this chapter to assist in achieving any of the purposes of this chapter.

(2) "Coordination" includes, but is not limited to—

(A) actions to improve the common effectiveness of programs in reaching and serving the poor, such as actions: to extend services to new areas, provide them in a common place, or structure them so that they are more readily accepted or widely utilized; to eliminate procedures or requirements that may be inappropriate for or result in unnecessary hardship to disadvantaged persons with limited education or other special handicaps; to establish common eligibility standards among programs serving substantially similar groups or operating in the same areas; or to develop methods of operation or administration that will provide new employment incentives or opportunities for the poor;

(B) actions to promote better use at the State or local level of Federal assistance available under diverse programs, such as actions to establish procedures for cooperation among State or local agencies seeking assistance from different Federal sources with a view to eliminating unnecessary duplication and service gaps and promoting common or complementary priorities; or to modify or improve technical or administrative requirements imposed by different Federal agencies that may operate to increase unnecessarily the burdens of State or local agencies, minimize their opportunities for the imaginative use of Federal assistance, or discourage their cooperation with one another;

(C) actions to promote simplification and efficiencies through the joint or combined use of Federal resources, such as actions to develop new methods of processing requests for assistance or granting assistance that will enable Federal agencies more generally to use resources jointly in support of common objectives; to establish common priorities for purposes of program planning, research and demonstration activities; and to effect combinations among or redirect

Federal programs or activities for the purpose of eliminating unnecessary duplication;

(D) actions to improve communication and general cooperation, such as actions to strengthen ties among regional offices of different Federal agencies and among such offices and other regional agencies or organizations; to develop and improve procedures by which Federal agencies may act together in promulgating or making available items of information, including information as to the availability and allocation of funds, which are closely related to one another for purposes of State or local planning and budgeting; or to develop procedures by which State and local agencies may be afforded new opportunities to participate in Federal policy decisions, including decisions on recommended legislation, affecting their capacity to operate efficiently and effectively.

(Pub. L. 88-452, title VI, § 638, as added Pub. L. 90-222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 721.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as an Effective Date note under section 2702 of this title.

SUBCHAPTER VII—COMMUNITY ECONOMIC DEVELOPMENT

COMMUNITY ECONOMIC DEVELOPMENT POWERS NOT SUBJECT TO DELEGATION

Prohibition against delegation of Director functions under this subchapter to any other agency, see section 28 of Pub. L. 92-424, Sept. 19, 1972, 86 Stat. 705, set out as a note under section 2942 of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2707, 5031 of this title.

§ 2981. Congressional statement of purpose

The purpose of this subchapter is to encourage the development of special programs by which the residents of urban and rural low-income areas may, through self-help and mobilization of the community at large, with appropriate Federal assistance, improve the quality of their economic and social participation in community life in such a way as to contribute to the elimination of poverty and the establishment of permanent economic and social benefits.

(Pub. L. 88-452, title VII, § 701, as added Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 697, and amended Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2315.)

PRIOR PROVISIONS

A prior section 2981, Pub. L. 88-452, title VII, § 701, Aug. 20, 1964, 78 Stat. 534; Pub. L. 89-794, title VII, § 701(a), Nov. 8, 1966, 80 Stat. 1472; Pub. L. 90-222, title I, § 109, Dec. 23, 1967, 81 Stat. 722, respecting treatment of income for certain public assistance purposes, related to provisions of State plans and withholding of payments.

AMENDMENTS

1975—Pub. L. 93-644 re-enacted section without change.

CONGRESSIONAL REVIEW

Section 13 of Pub. L. 93-644 mandated a joint study by the Senate Committee on Labor and Public Welfare (now the Senate Committee on Human Resources) and the House Committee on Education and Labor which should include consideration of an appropriate administrative agency for the conduct of programs after July 1, 1975 under this subchapter, a review of the extent to which programs under this subchapter meet the overall needs of the Nation for economic development programs, and the extent to which there is maximum utilization of all Federal and public and private agencies having responsibilities under this subchapter, the Committees to submit appropriate reports on their findings, with recommendations for further legislation, not later than one year after Jan. 4, 1975.

INCLUSION OF PAYMENTS TO INDIVIDUALS PURSUANT TO PROJECTS UNDER NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS IN COMPUTATION OF AMOUNT OF PUBLIC ASSISTANCE

Pub. L. 91-69, § 11, Sept. 17, 1969, 83 Stat. 114 provided that: "For the purposes of section 701 of the Economic Opportunity Act of 1964 [this section], payments made to or on behalf of any person under a project (of the kind formerly carried on under the Economic Opportunity Act of 1964 [section 2701 et seq. of this title] assisted under the title VI of the Older Americans Act of 1965, added thereto by this Act [section 3044 et seq of this title], shall be deemed to be payments made to or on behalf of such person under title I of the Economic Opportunity Act of 1964 [section 2711 et seq. of this title]."

WITHHOLDING OF MEDICAL ASSISTANCE PROGRAM FUNDS FOR PERIOD BEFORE OCT. 1, 1967, PROHIBITED

Pub. L. 89-794, title VII, § 701(b), Aug. 20, 1964, 78 Stat. 534, provided that funds to which a State was entitled for any period before Oct. 1, 1967, would not be withheld from any State by reason of any action under a State statute which prevents such State from complying with the requirements resulting from the amendment to subsec. (a) of prior section 2981 of this title.

EXTENSION OF GRACE PERIOD FOR DISREGARDING CERTAIN INCOME FOR STATES UNTIL STATE LEGISLATURE MEETS IN A REGULAR SESSION WHICH ADJOURNS AFTER AUGUST 20, 1964

Pub. L. 89-97, title IV, § 407, July 30, 1965, 79 Stat. 422, provided that notwithstanding the provisions of prior section 2981 of this title, no funds to which a State is otherwise entitled under titles I, IV, X, XIV, XVI, or XIX of the Social Security Act [subchapter I, IV, X, XIV, XVI, or XIX of this chapter] for any period before the first month beginning after the adjournment of a State's first regular legislative session which adjourns after Aug. 20, 1964, was to be withheld by reason of any action taken pursuant to a State statute which prevented such State from complying with the requirements of prior section 2981 of this title.

§ 2981a. Definitions

As used in this subchapter the term "community development corporation" means a nonprofit organization responsible to residents of the area it serves which is receiving financial assistance under part A of this subchapter and any organization more than 50 per centum of which is owned by such an organization, or otherwise controlled by such an organization, or designated by such an organization for the purpose of this subchapter.

(Pub. L. 88-452, title VII, § 702, as added Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2315.)

§ 2981b. Authorization of appropriations

For the purpose of carrying out this subchapter, there are authorized to be appropriated $39,000,000 and such additional sums as may be necessary for fiscal year 1975 and such sums as may be necessary for each of the two succeeding fiscal years.

(Pub. L. 88-452, title VII, § 703, as added Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2316.)

PART A—URBAN AND RURAL SPECIAL IMPACT PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2981a of this title.

§ 2982. Congressional statement of purpose

The purpose of this part is to establish special programs of assistance to nonprofit private locally initiated community development corporations which (1) are directed to the solution of the critical problems existing in particular communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) within those urban and rural areas having concentrations or substantial numbers of low-income persons; (2) are of sufficient size, scope, and duration to have an appreciable impact in such communities, neighborhoods, and rural areas in arresting tendencies toward dependency, chronic unemployment, and community deterioration; (3) hold forth the prospect of continuing to have such impact after the termination of financial assistance under this part, and (4) provide financial and other assistance to start, expand, or locate enterprises in or near the area to be served so as to provide employment and ownership opportunities for residents of such areas, including those who are disadvantaged in the labor market because of their limited speaking, reading, and writing abilities in the English language.

(Pub. L. 88-452, title VII, § 711, as added Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 698, and amended Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2316.)

AMENDMENTS

1975—Pub. L. 93-644 substituted "nonprofit private locally initiated community development corporations which" for "private locally initiated community corporations and related nonprofit agencies, including cooperatives, or organizations conducting activities which" in the provisions preceding cl. (1) and added cl. (4).

§ 2982a. Establishment and scope of programs

(a) The Director is authorized to provide financial assistance in the form of grants to nonprofit and for profit community development corporations and other affiliated and supportive agencies and organizations associated with qualifying community development corporations for the payment of all or part of the cost of programs which are designed to carry out the purposes of this part. Financial assistance shall be provided so that each community economic development program is of sufficient size, scope, and duration to have an appreciable impact on the area served. Such programs may include—

(1) community economic and business development programs, including but not limited to: (A) programs which provide financial and other assistance (including equity capital) to start, expand, or locate businesses in or near the area served so as to provide employment and ownership opportunities for residents of such areas, and (B) programs for small businesses located in or owned by residents of such areas;

(2) community development programs, including industrial parks and housing activities, which contribute to an improved environment and which create new training, employment, and ownership opportunities for residents of such area;

(3) training and public service employment programs and related services for unemployed or low-income persons which support and complement community development programs financed under this part, including, without limitation, activities such as those described in the Comprehensive Employment and Training Act of 1973 [29 U.S.C. 801 et seq.]; and

(4) social service programs which support and complement community economic development programs financed under this part, including but not limited to child care, educational services, health services, credit counseling, energy conservation, and programs for the maintenance of housing facilities.

(b) The Director shall conduct programs assisted under this part so as to contribute, on an equitable basis between urban and rural areas, to the elimination of poverty and the establishment of permanent economic and social benefits in such areas.

(Pub. L. 88-452, title VII, § 712, as added Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 698, and amended Pub. L. 93-386, § 2(b), Aug. 23, 1974, 88 Stat. 745; Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2316; Pub. L. 94-341, § 2(b)(1), July 6, 1976, 90 Stat. 805.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (a)(3), is Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, as amended, which is classified principally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables volume.

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-341 substituted "community development programs," for "community development", and "housing activities," for "housing activities".

1975—Subsec. (a). Pub. L. 93-644 substituted "financial assistance in the form of grants to nonprofit and for profit community development corporations and other affiliated and supportive agencies and organizations associated with qualifying community development corporations" for "financial assistance to community development corporations and to cooperatives and other nonprofit agencies in conjunction with qualifying community development corporations" and "Financial assistance shall be provided so that each community economic development program" for "Such programs shall be restricted in number so that each" in the provisions preceding par. (1), "community

economic and business development programs, including but not limited to" for "economic and business development programs, including" in par. (1), "community development including industrial parks", "improved environment", and "ownership opportunities for residents of such area" for "community development", "improved living environment", and "ownership opportunities", respectively, in par. (2), and "training and public service employment programs and related services for unemployed or low-income persons" for "manpower training programs for unemployed or low-income persons" and "community development programs financed under this part, including, without limitation, activities, such as those described in the Comprehensive Employment and Training Act of 1973; and" for "economic, business, housing, and community development programs, including without limitation activities such as those described in part B of subchapter I of this chapter" in par. (3), and added par. (4).

1974—Pub. L. 93-386 struck out reference to subchapter IV of this chapter.

§ 2982b. Financial assistance for community economic development programs

(a) Requirements

The Director, under such regulations as he may establish, shall not provide financial assistance for any community economic development program under this part unless he determines that—

(1) such community development corporation is responsible to residents of the area served (i) through a governing body not less than 50 per centum of the members of which are area residents and (ii) in accordance with such other guidelines as may be established by the Director, except that the composition of the governing bodies of organizations owned or controlled by the community development corporation need not be subject to such residency requirement;

(2) the program will be appropriately coordinated with local planning under this subchapter, with housing and community development programs, with employment and training programs, and with other relevant planning for physical and human resources in the areas served;

(3) adequate technical assistance is made available and committed to the programs being supported;

(4) such financial assistance will materially further the purposes of this part;

(5) the applicant is fulfilling or will fulfill a need for services, supplies, or facilities which is otherwise not being met;

(6) all projects and related facilities will, to the maximum feasible extent, be located in the areas served;

(7) projects will, where feasible, promote the development of entrepreneurial and management skills and the ownership or participation in ownership of assisted businesses and housing, cooperatively or otherwise, by residents of the area served;

(8) projects will be planned and carried out with the fullest possible participation of resident or local businessmen and representatives of financial institutions, including participation through contract, joint venture, partnership, stock ownership or membership on the governing boards or advisory councils of such projects consistent with the self-help purposes of this subchapter;

(9) no participant will be employed on projects involving political parties, or the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

(10) the program will not result in the displacement of employed workers or impair existing contracts for services, or result in the substitution of Federal or other funds in connection with work that would otherwise be performed;

(11) the rates of pay for time spent in work-training and education, and other conditions of employment, will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant;

(12) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(13) preference will be given to low-income or economically disadvantaged residents of the areas served in filling jobs and training opportunities; and

(14) training programs carried out in connection with projects financed under this part shall be designed wherever feasible to provide those persons who successfully complete such training with skills which are also in demand in communities, neighborhoods, or rural areas other than those for which programs are established under this part.

(b) Relocation of establishments resulting in increase of unemployment

Financial assistance under this section shall not be extended to assist in the relocation of establishments from one location to another if such relocation would result in an increase in unemployment in the area of original location.

(c) Substitution of funds authorized under this part for funds under other programs

The level of financial assistance for related purposes under this chapter, or any other program for Federal financial assistance, to the area served by a special impact program shall not be diminished in order to substitute funds authorized by this part.

(Pub. L. 88-452, title VII, § 713, as added Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 698, and amended Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2317.)

AMENDMENTS

1975—Pub. L. 93-644, in the provisions preceding par. (1), substituted "any community economic development program" for "any program or component project."

Subsec. (a)(1). Pub. L. 93-644 substituted "is responsible to residents of the area served (i) through a governing body not less than 50 per centum of the members of which are area residents and (ii) in accordance with such other guidelines as may be established by the Director, except that the composition of the governing bodies of organizations owned or controlled by the community development corporation need not be subject to such residency requirement" for "is responsive to residents of the area under guidelines established by the Director".

Subsec. (a)(2). Pub. L. 93-644 redesignated subsec. (a)(5) as (a)(2) and in subsec. (a)(2) as so redesignated substituted "with housing and community development programs, with employment and training programs" for "the Demonstration Cities and Metropolitan Development Act of 1966".

Subsec. (a)(3) to (5). Pub. L. 93-644 added subsec. (a)(3) to (5).

Subsec. (a)(6) to (8). Pub. L. 93-644 redesignated subsec. (a)(2) to (4) as (a)(6) to (8), respectively, and in subsec. (a)(8) as so redesignated substituted "fullest possible participation of resident or local businessmen and representatives of financial institutions, including participation through contract, joint venture, partnership, stock ownership or membership on the governing boards or advisory councils of such projects consistent with the self-help purpose of this subchapter" for "maximum participation of local businessmen and financial institutions and organizations by their inclusion on program boards of directors, advisory councils, or through other appropriate means".

Subsec. (a)(9) to (12). Pub. L. 93-644 added subsec. (a)(9) to (12).

Subsec. (a)(13), (14). Pub. L. 93-644 redesignated subsec. (a)(7) and (8) as subsec. (a)(13) and (14), respectively.

Subsec. (c). Pub. L. 93-644 inserted ", or any other program for Federal financial assistance," following "related purposes under this chapter".

§ 2982c. Federal share of program costs

Federal assistance to any program carried out pursuant to this part, including grants used by community development corporations for capital improvements, shall (1) not exceed 90 per centum of the cost of such program including costs of administration unless the Director determines that the assistance in excess of such percentage is required in furtherance of the purposes of this part, and (2) be made available for deposit to the order of the grantee, under conditions which the Director deems appropriate, within thirty days following approval of the grant agreement by the Director and such grantee of the grant agreement. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services. Capital investments made with funds granted as a result of the Federal share of the costs of programs carried out under this subchapter, and the proceeds from such capital investments, shall not be considered Federal property. Upon investment, title vests in the community development corporation. The Federal Government retains the right to direct that on severance of the grant relationship the assets purchased with grant funds shall continue to be used for the original purpose for which they were granted.

(Pub. L. 88-452, title VII, § 714, as added Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 699, and amended Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2318; Pub. L. 94-341, § 2(b)(2), (3), July 6, 1976, 90 Stat. 805.)

Amendments

1976—Pub. L. 94-341 substituted "vests" for "rights vest", and added "with grant funds shall" following "assets purchased".

1975—Pub. L. 93-644 substituted provisions covering the Federal share of program costs, formerly set out in section 2982d of this title, for provisions covering the application of other Federal resources, including Small Business Administration programs, Economic Development Administration programs, and Department of Housing and Urban Development programs, which were transferred to sections 2985a et seq. of this title.

§ 2982d. Omitted

Codification

Section, Pub. L. 88-452, title VII, § 715, as added Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 700, which related to the Federal share of program costs, was omitted in general reorganization and amendment of this subchapter by Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2315, and is now covered by section 2982c of this title.

Part B—Special Rural Programs

Part Referred to in Other Sections

This part is referred to in section 2984 of this title.

§ 2983. Congressional statement of purpose

It is the purpose of this part to meet the special economic needs of rural communities or areas with concentrations or substantial numbers of low-income persons by providing support to self-help programs which promote economic development and independence, as a supplement to existing similar programs conducted by other departments and agencies of the Federal Government. Such programs should encourage low-income families to pool their talents and resources so as to create and expand rural economic enterprise.

(Pub. L. 88-452, title VII, § 721, as added Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 700, and amended Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2318.)

Amendments

1975—Pub. L. 93-644 re-enacted section without change.

§ 2983a. Financial assistance

(a) Low-income rural families; amount

The Director is authorized to provide financial assistance, including loans having a maximum maturity of 15 years and in amounts not resulting in an aggregate principal indebtedness of more than $3,500 at any one time, to any low-income rural family where, in the judgment of the Director, such financial assistance has a reasonable possibility of effecting a permanent increase in the income of such families, or will contribute to the improvement of their living or housing conditions, by assisting or permitting them to—

(1) acquire or improve real estate or reduce encumbrances or erect improvements thereon;

(2) operate or improve the operation of farms not larger than family sized, including but not limited to the purchase of feed, seed, fertilizer, livestock, poultry, and equipment; or

(3) participate in cooperative associations, or to finance nonagricultural enterprises which will enable such families to supplement their income.

(b) Local cooperative associations in rural areas; defrayable costs

The Director is authorized to provide financial assistance to local cooperative associations in rural areas containing concentrations or substantial numbers of low-income persons for the

purpose of defraying all or part of the costs of establishing and operating cooperative programs for farming, purchasing, marketing, processing, and to improve their income as producers and their purchasing power as consumers, and to provide such essentials as credit and health services. Costs which may be defrayed shall include but not be limited to—

(1) administrative costs of staff and overhead;

(2) costs of planning and developing new enterprises;

(3) costs of acquiring technical assistance; and

(4) initial capital where it is determined by the Director that the poverty of the families participating in the program and the social conditions of the rural area require such assistance.

(Pub. L. 88-452, title VII, § 722, as added Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 700, and amended Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2318.)

AMENDMENTS

1975—Pub. L. 93-644 re-enacted section without change.

§ 2983b. Limitations on assistance

(a) No financial assistance shall be provided under this part unless the Director determines that—

(1) any cooperative association receiving assistance has a minimum of fifteen active members, a majority of which are low-income rural persons;

(2) adequate technical assistance is made available and committed to the programs being supported;

(3) such financial assistance will materially further the purposes of this part; and

(4) the applicant is fulfilling or will fulfill a need for services, supplies, or facilities which is otherwise not being met.

(b) The level of financial assistance for related purposes under this chapter to the area served by a program under this part shall not be diminished in order to substitute funds authorized by this part.

(Pub. L. 88-452, title VII, § 723, as added Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 701, and amended Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2318.)

AMENDMENTS

1975—Pub. L. 93-644 re-enacted section without change.

PART C—DEVELOPMENT LOANS TO COMMUNITY ECONOMIC DEVELOPMENT PROGRAMS

§ 2984. Development loans

(a) Prerequisites to loans, guarantees, or other financial assistance

The Director is authorized to make or guarantee loans (either directly or in cooperation with banks or other organizations through agreements to participate on an immediate or deferred basis) to community development corporations, and families and local cooperatives eligible for financial assistance under this subchapter, for business, housing, and community development projects which the Director determines will carry out the purposes of this part. No loans, guarantees, or other financial assistance shall be provided under this section unless the Director determines that—

(1) there is reasonable assurance of repayment of the loan;

(2) the loan is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs; and

(3) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made.

Loans made by the Director pursuant to this section shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus such additional charge if any, toward covering other costs of the program as the Director may determine to be consistent with its purposes, except that, for the five years following the date in which funds are initially available to the borrower, the rate of interest shall be set at a rate considered appropriate by the Director in light of the particular needs of the borrower which rate shall not be lower than 1 per centum. All such loans shall be repayable within a period of not more than thirty years.

(b) Authority to adjust interest rates, grant moratoriums, collect or compromise obligations

The Director is authorized to adjust interest rates, grant moratoriums on repayment of principal and interest, collect or compromise any obligations held by him, and to take such other actions in respect to such loans as he shall determine to be necessary or appropriate, consistent with the purposes of this section.

(c) Development Loan Fund; Rural Development Loan Fund; Community Development Loan Fund

(1) To carry out the lending and guaranty functions authorized under this part, there shall be established a Development Loan Fund consisting of two separate accounts, one of which shall be a revolving fund called the Rural Development Loan Fund and the other of which shall be a revolving fund called the Community Development Loan Fund. The capital of each such revolving fund shall remain available until expended.

(2) The Rural Development Loan Fund shall consist of the remaining funds provided for in part A of subchapter III of this chapter and such amounts as may be deposited in such Fund by the Director out of funds made available from appropriations for the purposes of carrying out this part. The Director shall utilize the services of the Farmers Home Administration in administering the Fund.

(3) The Community Development Loan Fund shall consist of such amounts as may be deposited in such fund by the Director out of funds made available from appropriations for the purpose of carrying out this subchapter. The Director may make deposits in the Community Development Loan Fund in any fiscal year in which he has made available for grants to community development corporations under this

subchapter not less than $60,000,000 out of funds made available from appropriations for the purpose of carrying out this subchapter.

(Pub. L. 88-452, title VII, § 731, as added Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 701, and amended Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2319; Pub. L. 94-341, § 2(b)(4), (5), July 6, 1976, 90 Stat. 805, 806.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-341, § 2(b)(4), substituted in the provision following par. (3), "bear interest" for "bear the interest".

Subsec. (c)(3). Pub. L. 94-341, § 2(b)(5), substituted "Director" for "Secretary" wherever appearing, "title" for "subchapter", which for purposes of codification has been previously translated as "subchapter", thereby necessitating no further change in text, and "corporations under this subchapter" for "corporations under part B of this subchapter".

1975—Pub. L. 93-644 substituted provisions formerly contained in section 2984a of this title covering the establishment and uses of a Development Loan Fund, consisting of a Rural Development Loan Fund and a Community Development Loan Fund, for provisions covering training and technical assistance, which were transferred to section 2985 of this title.

§ 2984a. Model Community Economic Development Finance Corporation

(a) To the extent he deems appropriate, the Director shall utilize funds available under this part to prepare a plan of action for the establishment of a Model Community Economic Development Finance Corporation to provide a user-controlled independent and professionally operated long-term financing vehicle with the principal purpose of providing financial support for community economic development corporations, cooperatives, other affiliated and supportive agencies and organizations associated with community economic development corporations, and other entities eligible for assistance under this subchapter.

(b) Not later than June 1, 1975, the Director shall submit to the appropriate committees of the Congress the plan required by this section.

(Pub. L. 88-452, title VII, § 732, as added Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 702, and amended Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2320; Pub. L. 94-341, § 2(b)(6), July 6, 1976, 90 Stat. 806.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-341 designated provision, requiring the Director to submit the plan required by subsec. (a) to the appropriate committees of Congress not later than June 1, 1975, as subsec. (b), which for purposes of codification was previously designated as subsec. (b), thereby necessitating no further change in text.

1975—Pub. L. 93-644 substituted provisions for the establishment of the Model Community Economic Development Finance Corporation for provisions, which were transferred to section 2984 of this title, covering the establishment and uses of a Development Loan Fund, consisting of a Rural Development Loan Fund and a Community Development Loan Fund.

§ 2984b. Omitted

CODIFICATION

Section, Pub. L. 88-452, title VII, § 733, as added Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 703, which provided for evaluation and research and a report to Congress, was omitted in the general reorganization and amendment of this subchapter by Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2315.

PART D—SUPPORTIVE PROGRAMS AND ACTIVITIES

§ 2985. Training and technical assistance

(a) Grants, contracts, or other arrangements; review by beneficiaries of services furnished

The Director shall provide, directly or through grants, contracts or other arrangements, such technical assistance and training of personnel as may be required to effectively implement the purposes of this subchapter. No financial assistance shall be provided to any public or private organization under this section unless the Director provides the beneficiaries of these services with opportunity to participate in the selection of and to review the quality and utility of the services furnished them by such organization.

(b) Technical assistance to include planning, management, etc.

Technical assistance to community development corporations and both urban and rural cooperatives may include planning, management, legal assistance and support, preparation of feasibility studies, product development, marketing, and the provision of stipends to encourage skilled professionals to engage in full-time activities under the direction of a community organization financially assisted under this subchapter.

(c) Training for employees

Training for employees of community development corporations and for employees and members of urban and rural cooperatives shall include, but not be limited to, on-the-job training, classroom instruction, and scholarships to assist them in development, managerial, entrepreneurial, planning, and other technical and organizational skills which will contribute to the effectiveness of programs assisted under this subchapter.

(Pub. L. 88-452, title VII, § 741, as added Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 703, and amended Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2321; Pub. L. 94-341, § 2(b)(7), (8), July 6, 1976, 90 Stat. 806.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-341, § 2(b)(7), substituted "legal assistance and support," for "legal".

Subsec. (c). Pub. L. 94-341, § 2(b)(8), substituted "title" for "subchapter", which for purposes of codification was previously translated as "subchapter", thereby necessitating no further change in text.

1975—Pub. L. 93-644 substituted provisions formerly contained in section 2984 of this title covering training and technical assistance for provisions setting out the Director's authority in carrying out the Community Economic Development program and the duration of the program.

§ 2985a. Application of other Federal resources; Small Business Administration and Department of Commerce programs

(a)(1) Funds granted under this subchapter which are invested directly or indirectly, in a small business investment company, local development company, limited small business investment company, or a small business investment company licensee under section 681(d) of title

15 shall be included as "private paid-in capital and paid-in surplus," "combined paid-in capital and paid-in surplus," and "paid-in capital" for purposes of sections 682, 683, and 696, respectively, of title 15.

(2) Within ninety days of January 4, 1975, the Administrator of the Small Business Administration, after consultation with the Director, shall prescribe such regulations as may be necessary and appropriate to insure the availability to community development corporations of such programs as shall further the purposes of this subchapter.

(b)(1) Areas selected for assistance under this subchapter shall be deemed "redevelopment areas" within the meaning of section 3161 of this title, shall qualify for assistance under the provisions of subchapter I and subchapter II of chapter 38 of this title and shall be deemed to have met the overall economic development program requirements of section 3142(b)(10) of this title.

(2) Within ninety days of January 4, 1975, the Secretary of Commerce shall prescribe regulations which will insure that community development corporations and cooperatives shall qualify for assistance and shall be eligible to receive such assistance under all such programs of the Economic Development Administration as shall further the purposes of this subchapter.

(Pub. L. 88-452, title VII, § 742, as added Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2321, and amended Pub. L. 94-341, § 2(b)(9)-(12), July 6, 1976, 90 Stat. 806.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-341, § 2(b)(10), substituted "subchapter" for "part", "company, local" for "company or a local", and inserted ", or a small business investment company licensee under section 681(d) of title 15" following "limited small business investment company".

Subsec. (a)(2). Pub. L. 94-341, 2(b)(11), substituted "Director" for "Secretary", and "subchapter" for "part".

Subsec. (b)(2). Pub. L. 94-341, § 2(b)(12), substituted "Secretary of Commerce" for "Secretary".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2985c-1 of this title.

§ 2985b. Department of Housing and Urban Development programs

The Secretary of Housing and Urban Development, after consultation with the Director, shall take all necessary steps to assist community development corporations and local cooperative associations to qualify for and receive (1) such assistance in connection with technical assistance, counseling to tenants and homeowners, and loans to sponsors of low- and moderate-income housing under section 1701x of title 12, as amended by section 811 of the Housing and Community Development Act of 1974, (2) such land for housing and business location and expansion under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.], and (3) such funds for comprehensive planning under section 461 of title 40, as amended by section 401 of the Housing and Community Development Act of 1974, as shall further the purposes of this subchapter.

(Pub. L. 88-452, title VII, § 743, as added Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2322, and amended Pub. L. 94-341, § 2(b)(13), July 6, 1976, 90 Stat. 806.)

REFERENCES IN TEXT

Section 811 of the Housing and Community Development Act of 1974, referred to in text, is section 811 of Pub. L. 93-383, title VIII, Aug. 22, 1974, 88 Stat. 735, which amended section 1701x of Title 12, Banks and Banking.

The Housing and Community Development Act of 1974, referred to in text, is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, as amended. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§ 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables volume.

Section 401 of the Housing and Community Development Act of 1974, referred to in text, is section 401 of Pub. L. 93-383, title IV, Aug. 22, 1974, 88 Stat. 686, subsecs. (a) and (b) of which amended section 461 of Title 40, Public Buildings, Property, and Works, and subsec. (c) of which amended section 460 of Title 40.

AMENDMENTS

1976—Pub. L. 94-341 substituted "this subchapter" for "this chapter".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2985c-1 of this title.

§ 2985c. Department of Agriculture and Farmers Home Administration programs

The Secretary of Agriculture or, where appropriate, the Administrator of the Farmers Home Administration, after consultation with the Director, shall take all necessary steps to insure that community development corporations and local cooperative associations shall qualify for and shall receive (1) such assistance in connection with housing development under the Housing Act of 1949, as amended [42 U.S.C. 1441 et seq.], (2) such assistance in connection with housing, business, industrial, and community development under the Consolidated Farmers Home Administration Act of 1961 [7 U.S.C. 1921 et seq.] and the Rural Development Act of 1972, and (3) such further assistance under all such programs of the United States Department of Agriculture, as shall further the purposes of this subchapter.

(Pub. L. 88-452, title VII, § 744, as added Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2322, and amended Pub. L. 94-341, § 2(b)(14), 17(A), (B), July 6, 1976, 90 Stat. 806.)

REFERENCES IN TEXT

The Housing Act of 1949, as amended, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (§ 1441 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables volume.

Consolidated Farmers Home Administration Act of 1961, referred to in text, is Pub. L. 87-128, title III, Aug. 8, 1961, 75 Stat. 307, as amended, now known as the "Consolidated Farm and Rural Development Act" which is classified principally to chapter 50 (§ 1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables volume.

The Rural Development Act of 1972, referred to in text, is Pub. L. 92-419, Aug. 30, 1972, 86 Stat. 657. For complete classification of this act to the Code, see Short Title note set out under section 1929a of Title 7, Agriculture, and Tables volume.

AMENDMENTS

1976—Pub. L. 94-341 redesignated subsec. (a) as entire provision and, as so redesignated, inserted in cl. (1) "as amended," following "Housing Act of 1949,". Former subsec. (b), which required the Secretary to make a detailed report to Congress, on or before Jan. 4, 1975, and annually thereafter, on the availability and effectiveness of Federal agency programs in achieving community economic development, was struck out. See section 2985c-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2985c-1 of this title.

§ 2985c-1. Report to Congress by Director on availability and effectiveness of Federal agency programs

On or before six months after January 4, 1975, and annually thereafter, the Director shall submit to the Congress a detailed report setting forth a description of all Federal agency programs which he finds relevant to achieving the purposes of this subchapter and the extent to which such programs have been made available to community development corporations receiving financial assistance under this subchapter including specifically the availability and effectiveness of programs referred to in sections 2985a, 2985b, and 2985c of this title. Where appropriate, the report required under this subsection also shall contain recommendations for the more effective utilization of Federal agency programs for carrying out the purposes of this subchapter.

(Pub. L. 88-452, title VII, § 745, as added and amended Pub. L. 94-341, § 2(b)(15), (17)(C), July 6, 1976, 90 Stat. 806.)

AMENDMENTS

1976—Pub. L. 94-341, § 2(b)(15), substituted "Director" for "Secretary", "subchapter" for "part" in two places and "sections 2985a, 2985b, and 2985c of this title" for "subsection (a) of this section".

§ 2985d. Coordination and eligibility

(a) The Director shall take all necessary and appropriate steps to encourage Federal departments and agencies and State and local governments to make grants, provide technical assistance, enter into contracts, and generally support and cooperate with community development corporations and local cooperative associations.

(b) Eligibility for assistance under other Federal programs shall not be denied to any applicant on the ground that it is a community development corporation or any other entity assisted under this subchapter.

(Pub. L. 88-452, title VII, § 746, formerly § 745, as added Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2322, and renumbered Pub. L. 94-341, § 2(b)(16), July 6, 1976, 90 Stat. 806.)

§ 2985e. Evaluation and research

(a) Each program for which grants are made under this subchapter shall provide for a thorough evaluation of the effectiveness of the program in achieving its purposes, which evaluation shall be conducted by such public or private organizations as the Director, in consultation with existing grantees familiar with programs carried out under this chapter, may designate, and all or part of the costs of evaluation may be paid from funds appropriated to carry out this part. In evaluating the performance of any community development corporation funded under part A of this subchapter, the criteria for evaluation shall be based upon such program objectives, goals, and priorities as are consistent with the purposes of this subchapter and were set forth by such community development corporation in its proposal for funding as approved and agreed upon by the Director or as subsequently modified from time to time by mutual agreement between the Director and such community development corporation.

(b) The Director shall conduct, either directly or through grants or other arrangements, research designed to suggest new programs and policies to achieve the purposes of this subchapter in such ways as to provide opportunities for employment, ownership, and a better quality of life for low-income residents.

(Pub. L. 88-452, title VII, § 747, formerly § 746, as added Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2322, and renumbered Pub. L. 94-341, § 2(b)(16), July 6, 1976, 90 Stat. 806.)

§ 2985f. Planning grants

In order to facilitate the purposes of this subchapter, the Director is authorized to provide financial assistance to any public or private nonprofit agency or organization for planning of community economic development programs and cooperative programs under this subchapter.

(Pub. L. 88-452, title VII, § 748, formerly § 747, as added Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2323, and renumbered Pub. L. 94-341, § 2(b)(16), July 6, 1976, 90 Stat. 806.)

§ 2985g. Nondiscrimination

(a) The Director shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract with respect thereto specifically provides that no person with responsibilities in the operation thereof, will discriminate with respect to any such program, project, or activity because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this subchapter. The Director shall enforce the provisions of the preceding sentence in accordance with section 2000d-1 of this title. Section 2000d-2 of this title shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment

in connection with, any program, project, or activity receiving assistance under this subchapter.

(Pub. L. 88-452, title VII, § 749, formerly § 748, as added Pub. L. 93-644, § 10(a), Jan. 4, 1975, 88 Stat. 2323, and renumbered Pub. L. 94-341, § 2(16), July 6, 1976, 90 Stat. 806.)

SUBCHAPTER VIII—NATIVE AMERICAN PROGRAMS

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 2706, 2707, 4973 of this title.

§ 2991. Short title

This subchapter may be cited as the "Native American Programs Act of 1974".

(Pub. L. 88-452, title VIII, § 801, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2324.)

Prior Provisions

A prior section 2991, Pub. L. 88-452, title VIII, § 801, as added Pub. L. 89-794, title VIII, § 801. Nov. 8, 1966, 80 Stat. 1472, and amended Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 722; Pub. L. 92-424, § 26(a), Sept. 19, 1972, 86 Stat. 703, relating to Congressional statement of purpose, was repealed by Pub. L. 93-113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417. See section 4951 of this title.

§ 2991a. Congressional statement of purpose

The purpose of this subchapter is to promote the goal of economic and social self-sufficiency for American Indians, Hawaiian Natives and Alaskan Natives.

(Pub. L. 88-452, title VIII, § 802, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2324.)

Prior Provisions

A prior section 2991a, Pub. L. 88-452, title VIII, § 802, as added Pub. L. 89-794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1473, covering the recruitment, selection, training, referral, and assignment of volunteers and the consent of the Governors of the States in which these activities were conducted, was omitted in the general reorganization of this subchapter by Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 722.

§ 2991b. Financial assistance for native American projects

(a) Authorization for financial assistance to public and nonprofit agencies; consultation with other Federal agencies to avoid duplication

The Secretary is authorized to provide financial assistance to public and nonprofit private agencies, including but not limited to, governing bodies of Indian tribes on Federal and State reservations, Alaskan Native villages and regional corporations established by the Alaska Native Claims Settlement Act, [43 U.S.C. 1601 et seq.], and such public and nonprofit private agencies serving Hawaiian Natives, and Indian organizations in urban or rural nonreservation areas, for projects pertaining to the purposes of this subchapter. In determining the projects to be assisted under this subchapter, the Secretary shall consult with other Federal agencies for the purpose of eliminating duplication or conflict among similar activities or projects and for the purpose of determining whether the findings resulting from those projects may be incorporated into one or more programs for which those agencies are responsible.

(b) Limitations of financial assistance; exceptions; non-Federal contributions

Financial assistance extended to an agency under this subchapter shall not exceed 80 per centum of the approved costs of the assisted project, except that the Secretary may approve assistance in excess of such percentage if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this subchapter. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services. The Secretary shall not require non-Federal contributions in excess of 20 per centum of the approved costs of programs or activities assisted under this subchapter.

(c) Assistance as addition to, and not substitution for, activities previously carried out without Federal assistance; waiver

No project shall be approved for assistance under this subchapter unless the Secretary is satisfied that the activities to be carried out under such project will be in addition to, and not in substitution for, comparable activities previously carried out without Federal assistance, except that the Secretary may waive this requirement in any case in which he determines, in accordance with regulations establishing objective criteria, that application of the requirement would result in unnecessary hardship or otherwise be inconsistent with the purposes of this subchapter.

(Pub. L. 88-452, title VIII, § 803, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2324.)

References in Text

The Alaska Native Claims Settlement Act, referred to in subsec. (a), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables volume.

Prior Provisions

A prior section 2991b, Pub. L. 88-452, title VIII, § 803, as added Pub. L. 89-794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1473, providing for the stipend for volunteers, living, travel, and leave allowances, and subsistence, was omitted in the general reorganization of this subchapter by Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 722.

Section Referred to in Other Sections

This section is referred to in section 2991f of this title.

§ 2991c. Technical assistance and training

The Secretary may provide, directly or through other arrangements, (1) technical assistance to public and private agencies in developing, conducting, and administering projects under this subchapter, and (2) short-term in-service training for specialized or other personnel which is needed in connection with projects receiving financial assistance under this subchapter.

(Pub. L. 88-452, title VIII, § 804, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2324.)

PRIOR PROVISIONS

A prior section 2991c, Pub. L. 88-452, title VIII, § 804, as added Pub. L. 89-794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1473, and amended Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 224, providing for the applicability of specified Federal laws, the required oath or affirmation, and the status of volunteers as Federal employees and as persons employed in the executive branch of the Federal Government, was omitted in the general reorganization of this subchapter by Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 722.

§ 2991d. Research, demonstration, and pilot projects

(a) The Secretary may provide financial assistance through grants or contracts for research, demonstration, or pilot projects conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise furthering the purposes of this subchapter.

(b) The Secretary shall establish an overall plan to govern the approval of research, demonstration, and pilot projects and the use of all research authority under this subchapter. The plan shall set forth specific objectives to be achieved and priorities among such objectives.

(Pub. L. 88-452, title VIII, § 805, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2324.)

PRIOR PROVISIONS

A prior section 2991d, Pub. L. 88-452, title VIII, § 805, as added Pub. L. 89-794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1474, providing for special programs and projects and placing limitations on the use of appropriated funds, was omitted in the general reorganization of this subchapter by Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 722.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2991f of this title.

§ 2991e. Announcement of research, demonstration, or pilot projects

(a) The Secretary shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency for a research, demonstration, or pilot project; and

(2) except in cases in which the Secretary determines that it would not be consistent with the purposes of this subchapter, the results, findings, data, or recommendations made or reported as a result of such activities.

(b) The public announcements required by subsection (a) of this section shall be made within thirty days of making such grants or contracts, and the public announcements required by subsection (b) of this section shall be made within thirty days of the receipt of such results.

(Pub. L. 88-452, title VIII, § 806, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2325.)

PRIOR PROVISIONS

A prior section 2991e, Pub. L. 88-452, title VIII, § 806, as added Pub. L. 89-794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1474, providing for the duration of the VISTA program through June 30, 1970, was omitted in the general reorganization of this subchapter by Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 722.

§ 2991f. Submission of plans to State and local officials

(a) Submission to governing body of Indian reservation or Alaskan Native village

No financial assistance may be provided to any project under section 2991b of this title or any research, demonstration, or pilot project under section 2991d of this title, which is to be carried out on or in an Indian reservation or Alaskan Native village, unless a plan setting forth the project has been submitted to the governing body of that reservation or village and the plan has not been disapproved by the governing body within thirty days of its submission.

(b) Notification to chief executive officer of State

No financial assistance may be provided to any project under section 2991b of this title or any research, demonstration, or pilot project under section 2991d of this title, which is to be carried out in a State other than on or in an Indian reservation or Alaskan Native village or Hawaiian Homestead, unless the Secretary has notified the chief executive officer of the State of his decision to provide that assistance.

(c) Notification to local governing officials of political subdivision

No financial assistance may be provided to any project under section 2991b of this title or any research, demonstration, or pilot project under section 2991d of this title, which is to be carried out in a city, county, or other major political subdivision of a State, other than on or in an Indian reservation or Alaskan Native village, or Hawaiian Homestead, unless the Secretary has notified the local governing officials of the political subdivision of his decision to provide that assistance.

(Pub. L. 88-452, title VIII, § 807, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2325.)

§ 2991g. Records and audits

(a) Each agency which receives financial assistance under this subchapter shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by that agency of such financial assistance, the total cost of the project in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any agency which receives financial assistance under this subchapter that are pertinent to the financial assistance received under this subchapter.

(Pub. L. 88-452, title VIII, § 808, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2325.)

§ 2991h. Appeals, notice, and hearing

The Secretary shall prescribe procedures to assure that—

(1) financial assistance under this subchapter shall not be suspended, except in emergency situations, unless the assisted agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this subchapter shall not be terminated, and application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the assisted agency has been afforded reasonable notice and opportunity for a full and fair hearing.

(Pub. L. 88-452, title VIII, § 809, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2326.)

REORGANIZATION PLAN NO. 1 OF 1971

Eff. July 1, 1971, 36 F.R. 11181, 85 Stat. 819

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled March 24, 1971, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

REORGANIZATION OF CERTAIN VOLUNTEER PROGRAMS

SECTION 1. ESTABLISHMENT OF AGENCY

[Superseded. Pub. L. 93-113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Section established the "Action" Agency and is now covered by section 5041 of this title.]

SEC. 2. TRANSFER OF FUNCTIONS

(a) [Superseded. Pub. L. 93-113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Subsec. (a) transferred to the Director of Action the functions of the Director of the Office of Economic Opportunity under sections 2991 to 2994d of this title, the functions of the Secretary of Health, Education, and Welfare under sections 3044 to 3044e of this title, the functions of the Small Business Administration under section 637(b) of title 15, and other functions incidental to or necessary for the performance of the foregoing functions, including functions conferred upon the Director of the Office of Economic Opportunity by section 2941 of this title. Subject matter is now covered by section 4951 et seq. and provisions set out as a note under section 5041 of this title.]

(b) The function conferred upon the Director of the Peace Corps by section 4(c)(4) of the Peace Corps Act, as amended (22 U.S.C. 2503(c)(4)), is hereby transferred to the President of the United States.

SEC. 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

[Superseded. Pub. L. 93-113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Section related to performance of transferred functions and is now covered by section 5042 and provisions set out as a note under section 5041 of this title.]

SEC. 4. INCIDENTAL TRANSFERS

[Superseded. Pub. L. 93-113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Section related to incidental transfers and is now covered by section 5044 and provisions set out as a note under section 5041 of this title.]

SEC. 5. INTERIM OFFICERS

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Director of Action until the office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Director, authorize any such person to act as Associate Director, and authorize any such person to act as the head of any principal constituent organizational entity of Action.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 6. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code, or on July 1, 1971, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

America is a nation unique in the political history of the world. More than any other nation, it is the sum of the energies and efforts of all of its people. The American tradition of voluntary involvement—of freely committing one's time and talents in the search for civic improvement and social progress—gives an extra dimension to the meaning of democracy. In the past decade, the Federal Government has built on this tradition by developing channels for joining the spirit of voluntary citizen service in America with public needs, both domestically and abroad. Many of these efforts have had marked success. But the circumstances in which these efforts were conceived have changed.

National and international needs have altered. The opportunities for voluntary service must be adapted and improved to meet these new needs.

Recognizing that private channels of voluntary action are a vital source of strength in our national life, I have supported the establishment and development of the National Center for Voluntary Action. The National Center is a private, non-profit partner in the effort to generate and encourage volunteer service. The Center works to promote the establishment of local Voluntary Action Centers, as well as to assist in the expansion of voluntary action organizations already in existence. It stimulates voluntary action by providing information on successful voluntary efforts, and it assists in directing those who wish to volunteer services to areas and endeavors in which their services are needed.

The National Center for Voluntary Action is functioning now to fill a vital need in the private voluntary sector. Now we must turn our attention to bringing government volunteer programs into line with new national priorities and new opportunities for meeting those priorities. We must take full advantage of the lessons of the past decade, and we must build on the experience of that period if we are to realize the full potential of voluntary citizen service. This is no longer a matter of choice. We cannot afford to misuse or ignore the considerable talents and energies of our people. In the coming years, the continued progress of our society is going to depend increasingly upon the willingness of more Americans to participate in voluntary service and upon our ability to channel their service effectively.

One matter of consequence to the problems of properly channeling volunteer services and expanding government's role in the development of volunteer resources is the proliferation of government volunteer programs. It was perhaps inevitable that there programs would be generated almost at random across the spectrum of government concern for human needs. This occurred in a period when the Federal Government was still attempting to define its relationship with, and its purposes in, the area of voluntary

service. Now the role of government has been confirmed and its responsibilities and obligations are clear. Meeting these responsibilities and obligations will be a long, difficult, and challenging adventure. But it is an adventure we can look to with excitement and with the knowledge that the only sure source of failure can be a failure of the will of the American people. I do not believe it will fail.

The foundation for a greatly expanded government contribution to volunteer service already exists. Now we must consolidate that foundation in order to build on it. To accomplish this, I propose a reorganization of the present volunteer service system. Accordingly, I herewith transmit to the Congress Reorganization Plan No. 1 of 1971, prepared in accordance with chapter 9 of title 5 of the United States Code. Reorganization would bring together within a single agency a number of voluntary action programs presently scattered throughout the executive branch of the Federal Government. The new agency would be called Action.

COMPOSITION

Under the reorganization plan Action would administer the functions of the following programs:

—Volunteers in Service to America: VISTA volunteers work in domestic poverty areas to help the poor break the poverty cycle.

—Auxiliary and Special Volunteer Programs in the Office of Economic Opportunity: At present the National Student Volunteer Program is administered under this authority. This program stimulates student voluntary action programs which deal with the problems of the poor.

—Foster Grandparents: This program provides opportunities for the elderly poor to assist needy children.

—Retired Senior Volunteer Program: RSVP provides opportunities for retired persons to perform voluntary services in their communities.

—Service Corps of Retired Executives: SCORE provides opportunities for retired businessmen to assist in the development of small businesses.

—Active Corps of Executives: ACE provides opportunities for working businessmen to assist in the development of small businesses.

After investigation I have found and hereby declare that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in section 1 of the plan. The rates of compensation fixed for these officers would be comparable to those fixed for officers in the executive branch who have similar responsibilities.

The reorganization plan should result in more efficient operation of the Government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which would result from this action.

Upon the establishment of Action, I would delegate to it the principal authority for the Peace Corps now vested in me as President and delegated to the Secretary of State. In addition, the function of the Office of Voluntary Action, now operating in the Department of Housing and Urban Development, would be transferred to the new agency by executive action.

Finally, I will submit legislation which would include the transfer of the functions of the Teacher Corps from the Department of Health, Education, and Welfare to the new agency. This legislation would expand authority to develop new uses of volunteer talents, it would provide a citizens' advisory board to work with the director of the new agency, and it would provide authority to match private contributions.

GOALS

Although reorganization is only a step, it is the essential first step toward the goal of a system of volunteer service which uses to the fullest advantages the power of all the American people to serve the purposes of the American nation.

In pursuing this goal, the new agency would, first, expand the testing and development of innovations in voluntary actions. Health services, housing, the environment, educational development, manpower, and community planning are just a few of the areas in which we would act to accomplish more through voluntary service, and I intend to ask for additional funds and additional authority for Action to explore new approaches to these and other problems.

In the future, we are going to have to find new ways for more people to fulfill themselves and to lead satisfying and productive lives. The problems are of concern even now, but they must be put in perspective quickly because they will soon be upon us. I believe at least some of the answers will be found in volunteer service. Action would work to find those answers and apply them.

Second, there are many Americans who want to contribute to our national life through voluntary citizen service, but who cannot serve full time. Their contributions must not be wasted. Volunteers in full-time service would work with part-time volunteers and the new agency would develop and provide opportunities for more people to give part-time service.

Third, Action would bring together in one place programs which appeal predominantly to younger Americans with those that appeal to older Americans, and would work to bring the energy, the innovative spirit, the experience, and the skills of each to bear on specific problems. The generations in America share America's problems—they must share in the search for solutions so that we all may share in the benefits of our solutions.

Fourth, Action would develop programs for combining foreign service with domestic service to accommodate volunteers interested in such an opportunity. I believe that young people in particular would be interested in the chance for this experience and would greatly benefit from it. I know there would be great value, for example, in permitting those who have served the needs of the poor abroad to turn their skills and experience to helping the poor at home, and vice versa. In addition, if volunteers are to reap the full benefit of serving, and if they are to be able to provide others the full benefit of their service, then we must open the doors to a fuller exchange of ideas and experiences between overseas and domestic volunteer efforts. These exchanges would considerably enhance the value of the experience gained in these endeavors by broadening the areas in which that experience is applied.

Fifth, at the present time valuable professional skills offered in voluntary service are too frequently limited by narrow categorical programs when their broader application is urgently needed. For example, the contributions of businessmen made through SCORE and ACE are provided only through the Small Business Administration. We know that the skills of business can be used in many areas where they are not used presently. Action would open new channels for service and would permit a more extensive utilization of business and other vocational and professional abilities.

Finally, by centralizing administrative functions of the volunteer services, the new agency would provide a more effective system of recruitment, training, and placement of full-time volunteers than the present circumstances permit. It would provide a single source of information and assistance for those who seek to volunteer full-time service. And it would permit more effective management of services than is currently possible in the administration of volunteer programs, as well as the more efficient use of resources.

PRINCIPLES

In restructuring our system of volunteer services, we can accomplish the goals which I have set forth. But we must do more than this. We must restructure our thinking about volunteer services. We must determine how to use our volunteer resources to accomplish more than they accomplish now. We need an increased effort to stimulate broader volunteer service, to involve more volunteers, and to involve them not simply as foot-soldiers in massive enterprises directed from the top, but in those often small and local efforts that show immediate results, that give immediate satisfaction—those efforts that return to citizens a sense of having a hand in the business of building America. Part of our rethinking of this matter must look to the past so that we may properly meet the needs of the present and prepare for the possibilities of the future.

Volunteer service in poverty areas is a case in point. We already have considerable experience in dealing with the problems of poverty through the use of volunteers. Now we must build upon this experience and find new ways to use more effectively the volunteers presently serving in poverty areas, as well as in all other areas, and to stimulate new programs so that additional numbers of volunteers can assist in the solution of community and national problems.

In line with this effort to build on what we have learned, Action would function with particular concern for these basic principles:

—It would encourage local initiative, and would support local programs to solve local problems.

—Where appropriate, the new agency would assign volunteers to assist, and work under the technical supervision of other Federal agencies, State and local agencies or organizations, and private sponsors.

—The services of local part-time volunteers would be sought and supported in the effort to accomplish specific jobs. They would be assisted, when necessary, by full-time volunteers.

—Universities and colleges, State, city and private organizations must be engaged in the effort to broaden opportunities for volunteer service and under the new agency they would be assisted in these efforts.

—Finally, to meet the increasing need for skilled volunteers Action would give increased emphasis to recruiting and applying the skills of trained craftsmen and professional workers.

FUNDING

To insure that the new agency has the financial resources to begin working toward the goals I have outlined, I will seek for this agency an additional $20 million above the budget requests I have already submitted for the component agencies. These funds would be directed primarily to finding new ways to use volunteer services.

CONCLUSION

The early nineteenth century observer of America, Alexis de Tocqueville, was intrigued by the propensity of Americans to join together in promoting common purposes. "As soon as several of the inhabitants of the United States have taken up an opinion or a feeling which they wish to promote in the world, they look out for mutual assistance, and as soon as they have found one another out, they combine. From that moment they are no longer isolated men, but a power seen from afar * * *."

Though we have seen the success of Government volunteer efforts in the past ten years, I believe voluntary citizen service is still little more than a power seen from afar. In relation to its potential, this power is virtually undeveloped. We must develop it.

There are those today, as there always will be, who find infinite fault with life in this Nation and who conveniently forget that they share responsibility for the quality of life we lead. But our needs are too great for this attitude to be accepted. America belongs to all of its people. We are all responsible for the direction this Nation will take in the century ahead, for the quality of life we will lead and our children will lead. We are all responsible, whether we choose to be or not, for the survival and the success of the American experience and the American dream.

So there is little room for the luxury of making complaints without taking commitments.

America must enlist the ideals, the energy, the experience, and the skills of its people on a larger scale than it ever has in the past. We must insure that these efforts be used to maximum advantage. We must insure that the desire to serve be linked with the opportunity to serve. We must match the vision of youth with the wisdom of experience. We must apply the understanding gained from foreign service to domestic needs, and we must extend what we learn in domestic service to other nations. And in all these endeavors, I believe, we can bring the power seen from afar to focus clearly on the problems and the promise of our time.

RICHARD NIXON.

THE WHITE HOUSE, March 24, 1971.

§ 2992. Evaluation of projects

(a) Description and measurement of project impact, effectiveness, and structure and mechanisms for delivery of services

The Secretary shall provide, directly or through grants or contracts, for the evaluation of projects assisted under this subchapter including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such projects. Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluated.

(b) General standards for evaluation

Prior to obligating funds for the programs and projects covered by this subchapter with respect to fiscal year 1976, the Secretary shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this subchapter. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this subchapter.

(c) Independent evaluations

In carrying out evaluations under this subchapter, the Secretary may require agencies which receive assistance under this subchapter to provide for independent evaluations.

(d) Specificity of views

In carrying out evaluations under this subchapter, the Secretary shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this subchapter about such programs and projects.

(e) Publication of results; submission to Congress

The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness not later than ninety days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress

copies of all such research studies and evaluation summaries.

(f) Evaluation results as United States property

The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this subchapter shall become the property of the United States.

(Pub. L. 88-452, title VIII, § 810, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2326.)

PRIOR PROVISIONS

A prior section 2992, Pub. L. 88-452, title VIII, § 810, as added Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 722, relating to authority to establish full-time programs, was repealed by Pub. L. 93-113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417.

§ 2992a. Labor standards

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting or decorating, of buildings or other facilities in connection with projects assisted under this subchapter, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act [40 U.S.C. 276a et seq.]. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 276c of title 40.

(Pub. L. 88-452, title VIII, § 811, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2327.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in text, is act Mar. 3, 1931, ch. 411. 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of that Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 2992a, Pub. L. 88-452, title VIII, § 811, as added Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 723, and amended Pub. L. 92-424, § 26(b), Sept. 19, 1972, 86 Stat. 703, relating to terms of service, providing in: subsec. (a) for commitment to full-time service; subsec. (b) for one-year enrollment and shorter enrollment for volunteer associates; and subsec. (c) for oath or affirmation, was repealed by Pub. L. 93-113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417.

§ 2992b. Delegation of authority

(a) Delegation by Secretary to heads of other departments and agencies

The Secretary is authorized to delegate to the heads of other departments and agencies of the Federal Government any of his functions, powers, and duties under this subchapter, as he may deem appropriate, and to authorize the redelegation of such functions, powers, and duties by the heads of such departments and agencies.

(b) Manner of exercising powers, duties and functions

Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this subchapter.

(c) Transfer of funds between departments and agencies

Funds appropriated for the purpose of carrying out this subchapter may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are authorized and appropriated.

(Pub. L. 88-452, title VIII, § 812, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2327.)

PRIOR PROVISIONS

A prior section 2992b, Pub. L. 88-452, title VIII, § 812, as added Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 723, relating to support of full-time volunteers, providing in: subsec. (a) for stipend and allowances; subsec. (b) for payment upon completion of term and advancement of accrued stipend; and subsec. (c) for counseling, was repealed by Pub. L. 93-113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417.

§ 2992c. Definitions

As used in this subchapter, the term—

(1) "financial assistance" includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services;

(2) "Indian reservation or Alaskan Native village" includes the reservation of any federally or State recognized Indian tribe, including any band, nation, pueblo, or rancheria, any former reservation in Oklahoma, and community under the jurisdiction of an Indian tribe, including a band, nation, pueblo, or rancheria, with allotted lands or lands subject to a restriction against alienation imposed by the United States or a State, and any lands of or under the jurisdiction of an Alaskan Native village or group, including any lands selected by Alaskan Natives or Alaskan Native organizations under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.];

(3) "Native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

(Pub. L. 88-452, title VIII, § 813, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2327.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (2), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables volume.

§ 2992d. Authorization of appropriations

There are authorized to be appropriated for the purpose of carrying out the provisions of this subchapter, such sums as may be necessary for fiscal years 1975 through 1977.

(Pub. L. 88-452, title VIII, § 814, as added Pub. L. 93-644, § 11, Jan. 4, 1975, 88 Stat. 2327.)

§§ 2993 to 2993b. Repealed. Pub. L. 93-113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417

Section 2993, Pub. L. 88-452, title VIII, § 820, as added Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 724, and amended Pub. L. 92-424, § 26(c), Sept. 19, 1972, 86 Stat. 703, related to community service programs, providing in: subsec. (a) for term of service and range of activities; subsec. (b) for support and allowances; and subsec. (c) for allowance of service as non-Federal contribution.

Section 2993a, Pub. L. 88-452, title VIII, § 821, as added Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 724, and amended Pub. L. 92-424, § 26(d), Sept. 19, 1972, 86 Stat. 703, related to special volunteer programs.

Section 2993b, Pub. L. 88-452, title VIII, § 822, as added Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 724, related to demonstration projects to help young adult criminal offenders.

Such former provisions are now covered by various sections as follows:

Former Sections	*Present Sections*
2993(a)	See 4992(a)
2993(b)	See 4974(c)
2993(c)	Repealed
2993a	4973(a), 4992(a)
2993b	Repealed

§§ 2994 to 2994d. Repealed. Pub. L. 93-113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417

Section 2994, Pub. L. 88-452, title VIII, § 831, as added Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 725, related to coordination with other programs.

Section 2994a, Pub. L. 88-452, title VIII, § 832, as added Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 725, related to participation of older persons.

Section 2994b, Pub. L. 88-452, title VIII, § 833, as added Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 726, and amended Pub. L. 90-623, § 5(b), Oct. 22, 1968, 82 Stat. 1315; Pub. L. 91-177, title I, § 112(b), Dec. 30, 1969, 83 Stat. 832; Pub. L. 92-424, § 3(d)(3), Sept. 19, 1972, 86 Stat. 689, related to application of Federal law.

Section 2994c, Pub. L. 88-452, title VIII, § 834, as added Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 726, related to special limitations.

Section 2994d, Pub. L. 88-452, title VIII, § 835, as added Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 726, and amended Pub. L. 91-177, title I, § 101(b), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92-424, § 2(a), Sept. 19, 1972, 86 Stat. 688, related to duration of program.

Such former provisions are now covered by various sections as follows:

Former Sections	*Present Sections*
2994	5050
2994a	4957
2994b(a)	5055(a)
2994b(b)(1), (2)	5055(b)(1) to (3)
2994b(c)(1), (2)	5055(c)(1), (2)
2994c	5044
2994d	5053

SUBCHAPTER IX—EVALUATION

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 2707, 2941 of this title.

§ 2995. Program and project evaluation

(a) Duty of Director; reassessment of priorities; annual report to Congress

(1) The Director shall, directly or through grants or contracts, measure and evaluate the impact of all programs authorized by this chapter and of poverty-related programs authorized by other Acts, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluated.

(2) In carrying out his responsibilities under this section, the Director, in the case of research, demonstrations, and related activities carried out under subchapter I of this chapter, shall, after taking into consideration the views of State agencies and community action agencies designated pursuant to section 2790 of this title, on an annual basis—

(A) reassess priorities to which such activities should be directed; and

(B) review present research, demonstration, and related activities to determine, in terms of the purpose specified for such activities in section 2712(a) of this title, whether and on what basis such activities should be continued, revised, or terminated.

(3) The Director shall, within 12 months after January 4, 1975, and on each April 1 thereafter, prepare and furnish to the appropriate committees of the Congress a complete report on the determination and review carried out under paragraph (2) of this subsection, together with such recommendations, including any recommendations for additional legislation, as he deems appropriate.

(b) General standards of evaluation

Prior to obligating funds for the programs and projects covered by this chapter with respect to fiscal year 1976, the Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this chapter. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under any section of this chapter. Reports submitted pursuant to section 2948 of this title shall describe the actions taken as a result of these evaluations.

(c) Specificity of views

In carrying out evaluations under this subchapter, the Director shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this chapter about such programs and projects, and shall consult, when appropriate, with State agencies and community action agencies designated pursuant to section 2790 of this title, in order to provide for jointly sponsored objective evaluation studies on a State or areawide basis.

(d) Publication of results; submission to Congress

The Director shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness not later than ninety days after the completion thereof. The Director shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(e) Evaluation results as United States property

The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this chapter shall become the property of the United States.

(Pub. L. 88-452, title IX, § 901, as added Pub. L. 92-424, § 27(a), Sept. 19, 1972, 86 Stat. 704, and amended Pub. L. 93-644, § 12, Jan. 4, 1975, 88 Stat. 2328.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 93-644 redesignated subsec. (a) as (a)(1) and in subsec. (a)(1) as so redesignated substituted ", directly or through grants or contracts, measure and evaluate the impact of all programs authorized by this chapter and of poverty-related programs authorized by other Acts, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including" for "provide for continuing evaluation of programs under this chapter and of programs authorized under related Acts, including evaluations that describe and measure, with appropriate means and to the extent feasible, the impact of such programs, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, and including" and "Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluated" for "The Director may, for such purposes, contract or make other arrangements for independent evaluation of those programs or individual projects".

Subsec. (a)(2). Pub. L. 93-644 redesignated subsec. (c) as subsec. (a)(2) and in subsec. (a)(2) as so redesignated substituted provisions laying upon the Director, in the case of research, demonstrations, and related activities carried out under subchapter I of this chapter, the responsibility of reassessing the priorities to which such activities should be directed and reviewing such activities in terms of the purpose specified for such activities in section 2712(a) of this title to see whether and on what basis such activities should be continued, revised, or terminated for provisions which authorized the Director, in carrying out this subchapter, to require community action agencies to provide independent evaluations.

Subsec. (a)(3). Pub. L. 93-644 added subsec. (a)(3).

Subsec. (b). Pub. L. 93-644 substituted "Prior to obligating funds for the programs and projects covered by this chapter with respect to fiscal year 1976, the Director shall develop and publish general standards for evaluation of program and project effectiveness" for "The Director shall to the extent feasible develop and publish standards for evaluation of program effectiveness" and "The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under any section of this chapter" for "He shall consider the extent to which such standards have been met in deciding whether to renew or supplement financial assistance authorized under any section of this chapter", and added provision that reports submitted pursuant to section 2948 of this title shall describe the actions taken as a result of these evaluations.

Subsec. (c). Pub. L. 93-644 added subsec. (c) consisting of provisions formerly contained in section 2995b of this title. Former subsec. (c) was redesignated subsec. (a)(2) and amended.

Subsec. (d). Pub. L. 93-644 added subsec. (d) consisting of provisions formerly contained in sections 2995c(a) and (c) of this title, and amended those provisions to substitute 90 days for 60 days as the period following the completion of evaluative research and evaluations when results and summaries must be published.

Subsec. (e). Pub. L. 93-644 added subsec. (e) consisting of provisions formerly contained in section 2995c(b) of this title.

§ 2995a. Cooperation and consultation with other Federal agencies

(a) Such information and cooperation as the Director may deem necessary for purposes of the evaluations conducted under this subchapter shall be made available to him, upon request, by the agencies of the executive branch.

(b) In carrying out evaluations under this subchapter, the Director shall consult with the heads of other Federal agencies carrying out activities related to the subject matter of those evaluations.

(Pub. L. 88-452, title IX, § 902, as added Pub. L. 92-424, § 27(a), Sept. 19, 1972, 86 Stat. 704, and amended Pub. L. 93-644, § 12, Jan. 4, 1975, 88 Stat. 2329.)

AMENDMENTS

1975—Pub. L. 93-644 substituted provisions requiring agencies of the executive branch to make available to the Director such information and cooperation as the Director deems necessary for purposes of evaluations conducted under this subchapter and directing consultation by the Director with the heads of other Federal agencies carrying on activities related to the subject matter of evaluations for provisions directing federal agencies administering programs related to this chapter to cooperate with the Director in the discharge of his responsibility to plan and conduct evaluations of such poverty-related programs as he deems appropriate, to the fullest extent permitted by other applicable law and, to provide the Director on a cooperative basis with such agency, with such statistical data, program reports, and other materials, as they collect and compile on program operations, beneficiaries, and effectiveness.

§ 2995b. Evaluation by other administering agencies

The head of any agency administering a program authorized under this chapter may, with respect to such program, conduct evaluations and take other actions authorized under this subchapter to the same extent and in the same manner as the Director under this subchapter. Nothing in this section shall preclude the Director from conducting such evaluations or taking such actions otherwise authorized under this subchapter with respect to such programs.

(Pub. L. 88-452, title IX, § 903, as added Pub. L. 92-424, § 27(a), Sept. 19, 1972, 86 Stat. 704, and amended Pub. L. 93-644, § 12, Jan. 4, 1975, 88 Stat. 2329.)

AMENDMENTS

1975—Pub. L. 93-644 substituted provisions authorizing the evaluation of programs by other agencies, formerly contained in section 2995d of this title, for provisions covering the consultation by the Director with State agencies and the collection of opinions of program participants about strengths and weaknesses of programs, now contained in section 2995(c) of this title.

§§ 2995c, 2995d. Omitted

CODIFICATION

Section 2995c, Pub. L. 88-452, title IX, § 904, as added Pub. L. 92-424, § 27(a), Sept. 19, 1972, 86 Stat. 705, which provided for the publication of summaries of evaluations of the results of research, was omitted

as superseded in the general reorganization and amendment of this subchapter by Pub. L. 93-644, § 12, Jan. 4, 1975, 88 Stat. 2327. See section 2995(d), (e) of this title.

Section 2995d, Pub. L. 88-452, title IX, § 905, as added Pub. L. 92-424, § 27(a), Sept. 19, 1972, 88 Stat. 705, which allowed the head of any agency administering a program authorized under this chapter to conduct evaluations and take other action to the same extent as the Director under this subchapter, was omitted as superseded in the general reorganization and amendment of this subchapter by Pub. L. 93-644, § 12, Jan. 4, 1975, 88 Stat. 2327. See section 2995(b) of this title.

SUBCHAPTER X—LEGAL SERVICES CORPORATION

Subchapter Referred to in Other Sections

This subchapter is referred to in section 2971e of this title.

§ 2996. Congressional findings and declaration of purpose

The Congress finds and declares that—

(1) there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;

(2) there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital legal services program;

(3) providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice;

(4) for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws;

(5) to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures; and

(6) attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.

(Pub. L. 88-452, title X, § 1001, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 378.)

Short Title

Pub. L. 93-355, § 1, July 25, 1974, 88 Stat. 378, provided: "That this Act [enacting this subchapter and section 2971e of this title, amending section 2809 of this title, and enacting provisions set out as notes under this section and sections 2809 and 2996b of this title] may be cited as the 'Legal Services Corporation Act of 1974'."

Pub. L. 88-452, title X, § 1014, as added by Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 378, provided that: "This title [this subchapter] may be cited as the 'Legal Services Corporation Act'."

§ 2996a. Definitions

As used in this subchapter, the term—

(1) "Board" means the Board of Directors of the Legal Services Corporation;

(2) "Corporation" means the Legal Services Corporation established under this subchapter;

(3) "eligible client" means any person financially unable to afford legal assistance;

(4) "Governor" means the chief executive officer of a State;

(5) "legal assistance" means the provision of any legal services consistent with the purposes and provisions of this subchapter;

(6) "recipient" means any grantee, contractee, or recipient of financial assistance described in clause (A) of section 2996e(a)(1) of this title;

(7) "staff attorney" means an attorney who receives more than one-half of his annual professional income from a recipient organized solely for the provision of legal assistance to eligible clients under this subchapter; and

(8) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(Pub. L. 88-452, title X, § 1002, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 378.)

§ 2996b. Legal Services Corporation

(a) Establishment; purpose

There is established in the District of Columbia a private nonmembership nonprofit corporation, which shall be known as the Legal Services Corporation, for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance.

(b) Principal office; agent for service of process

The Corporation shall maintain its principal office in the District of Columbia and shall maintain therein a designated agent to accept service of process for the Corporation. Notice to or service upon the agent shall be deemed notice to or service upon the Corporation.

(c) Status of corporation under tax laws

The Corporation, and any legal assistance program assisted by the Corporation, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of title 26 and as an organization described in section 501(c)(3) of title 26 which is exempt from taxation under section 501(a) of title 26. If such treatments are conferred in accordance with the provisions of title 26, the Corporation, and legal assistance programs assisted by the Corporation, shall be subject to all provisions of title 26 relevant to the conduct of organizations exempt from taxation.

(Pub. L. 88-452, title X, § 1003, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 379.)

Transition to Legal Services Corporation Program

Section 3(a) to (d)(1), (e) of Pub. L. 93-355 provided that:

"(a) Notwithstanding any other provision of law, effective ninety days after the date of the first meeting of the Board of Directors of the Legal Services Corporation established under the Legal Services Corporation Act (title X of the Economic Opportunity Act of 1964, as added by this Act) [this subchapter], the Legal Services Corporation shall succeed to all rights of the Federal Government to capital equipment in the possession of legal services programs or activities assisted pursuant to section 222(a)(3) [2809(a)(3) of this title], 230 [2823 of this title], 232 [2825 of this

title], or any other provision of the Economic Opportunity Act of 1964 [this chapter].

"(b) Within ninety days after the first meeting of the Board, all assets, liabilities, obligations, property, and records as determined by the Director of the Office of Management and Budget, in consultation with the Director of the Office of Economic Opportunity [now the Director of the Community Services Administration] or the head of any successor authority, to be employed directly or held or used primarily, in connection with any function of the Director of the Office of Economic Opportunity or the head of any successor authority in carrying out legal services activities under the Economic Opportunity Act of 1964 [this chapter], shall be transferred to the Corporation. Personnel transferred to the Corporation from the Office of Economic Opportunity or any successor authority shall be transferred in accordance with applicable laws and regulations, and shall not be reduced in compensation for one year after such transfer, except for cause. The Director of the Office of Economic Opportunity or the head of any successor authority shall take whatever action is necessary and reasonable to seek suitable employment for personnel who do not transfer to the Corporation.

"(c) Collective-bargaining agreements in effect on the date of enactment of this Act [July 25, 1974], covering employees transferred to the Corporation shall continue to be recognized by the Corporation until the termination date of such agreements, or until mutually modified by the parties.

"(d)(1) Notwithstanding any other provision of law, the Director of the Office of Economic Opportunity [now the Director of the Community Services Administration] or the head of any successor authority shall take such action as may be necessary, in cooperation with the president of the Legal Services Corporation, including the provision (by grant or otherwise) of financial assistance to recipients and the Corporation and the furnishing of services and facilities to the Corporation—

"(A) to assist the Corporation in preparing to undertake, and in the initial undertaking of, its responsibilities under this title [this subchapter];

"(B) out of appropriations available to him, to make funds available to meet the organizational and administrative expenses of the Corporation;

"(C) within ninety days after the first meeting of the Board, to transfer to the Corporation all unexpended balances of funds appropriated for the purpose of carrying out legal services programs and activities under the Economic Opportunity Act of 1964 [this chapter] or successor authority; and

"(D) to arrange for the orderly continuation by such Corporation of financial assistance to legal services programs and activities assisted pursuant to the Economic Opportunity Act of 1964 [this chapter] or successor authority.

Whenever the Director of the Office of Economic Opportunity or the head of any successor authority determines that an obligation to provide financial assistance pursuant to any contract or grant for such legal services will extend beyond six months after the date of enactment of this Act [July 25, 1974], he shall include, in any such contract or grant, provisions to assure that the obligation to provide such financial assistance may be assumed by the Legal Services Corporation, subject to such modifications of the terms and conditions of such contract or grant as the Corporation determines to be necessary.

"(2) [Omitted. Omitted provisions directed the repeal of section 2809(a)(3) of this title. See 1974 Amendment note under section 2809 of this title.]

"(e) There are authorized to be appropriated for the fiscal year ending June 30, 1975, such sums as may be necessary for carrying out this section."

§ 2996c. Board of Directors

(a) Establishment

The Corporation shall have a Board of Directors consisting of eleven voting members appointed by the President, by and with the advice and consent of the Senate, no more than six of whom shall be of the same political party. A majority shall be members of the bar of the highest court of any State, and none shall be a full-time employee of the United States.

(b) Term of office

The term of office of each member of the Board shall be three years, except that five of the members first appointed, as designated by the President at the time of appointment, shall serve for a term of two years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified. The term of initial members shall be computed from the date of the first meeting of the Board. The term of each member other than initial members shall be computed from the date of termination of the preceding term. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(c) Board members not deemed officers or employees of United States

The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States.

(d) Chairman

The President shall select from among the voting members of the Board a chairman, who shall serve for a term of three years. Thereafter the Board shall annually elect a chairman from among its voting members.

(e) Removal

A member of the Board may be removed by a vote of seven members for malfeasance in office or for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

(f) State advisory councils

Within six months after the first meeting of the Board, the Board shall request the Governor of each State to appoint a nine-member advisory council for such State. A majority of the members of the advisory council shall be appointed, after recommendations have been received from the State bar association, from among the attorneys admitted to practice in the State, and the membership of the council shall be subject to annual reappointment. If ninety days have elapsed without such an advisory council appointed by the Governor, the Board is authorized to appoint such a council. The advisory council shall be charged with notifying the Corporation of any apparent violation of the provisions of this subchapter and applicable rules, regulations, and guidelines promulgated pursuant to this subchapter. The advisory council shall, at the same time, furnish a copy of the notification to any recipient

affected thereby, and the Corporation shall allow such recipient a reasonable time (but in no case less than thirty days) to reply to any allegation contained in the notification.

(g) Open meetings

All meetings of the Board, of any executive committee of the Board, and of any advisory council established in connection with this subchapter shall be open to the public, and any minutes of such public meetings shall be available to the public, unless the membership of such bodies, by two-thirds vote of those eligible to vote, determines that an executive session should be held on a specific occasion.

(h) Quarterly meetings

The Board shall meet at least four times during each calendar year.

(Pub. L. 88-452, title X, § 1004, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 379.)

§ 2996d. Officers and employees

(a) Appointment of president; outside compensation of officers prohibited; terms

The Board shall appoint the president of the Corporation, who shall be a member of the bar of the highest court of a State and shall be a non-voting ex officio member of the Board, and such other officers as the Board determines to be necessary. No officer of the Corporation may receive any salary or other compensation for services from any source other than the Corporation during his period of employment by the Corporation, except as authorized by the Board. All officers shall serve at the pleasure of the Board.

(b) Power of president to appoint and remove employees; nonpartisan appointments

(1) The president of the Corporation, subject to general policies established by the Board, may appoint and remove such employees of the Corporation as he determines necessary to carry out the purposes of the Corporation.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Corporation or of any recipient, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this subchapter.

(c) Conflict of interest

No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly benefits such member or pertains specifically to any firm or organization with which such member is then associated or has been associated within a period of two years.

(d) Compensation

Officers and employees of the Corporation shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5.

(e) Officers and employees not deemed officers and employees of Federal Government; Corporation not deemed a department, agency, or instrumentality of Federal Government; review of annual budget

(1) Except as otherwise specifically provided in this subchapter, officers and employees of the Corporation shall not be considered officers or employees, and the Corporation shall not be considered a department, agency, or instrumentality, of the Federal Government.

(2) Nothing in this subchapter shall be construed as limiting the authority of the Office of Management and Budget to review and submit comments upon the Corporation's annual budget request at the time it is transmitted to the Congress.

(f) Exceptions

Officers and employees of the Corporation shall be considered officers and employees of the Federal Government for purposes of the following provisions of title 5: subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Corporation shall make contributions at the same rates applicable to agencies of the Federal Government under the provisions referred to in this subsection.

(g) Freedom of information

The Corporation and its officers and employees shall be subject to the provisions of section 552 of title 5 (relating to freedom of information).

(Pub. L. 88-452, title X, § 1005, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 380.)

§ 2996e. Powers, duties, and limitations

(a) Powers of nonprofit corporation; additional powers

To the extent consistent with the provisions of this subchapter, the Corporation shall exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (except for section 1005(o) of title 29 of the District of Columbia Code). In addition, the Corporation is authorized—

(1)(A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with—

(i) individuals, partnerships, firms, corporations, and nonprofit organizations, and

(ii) State and local governments (only upon application by an appropriate State or local agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide services which will not be provided adequately through nongovernmental arrangements),

for the purpose of providing legal assistance to eligible clients under this subchapter, and (B) to make such other grants and contracts as are necessary to carry out the purposes and provisions of this subchapter;

(2) to accept in the name of the Corporation, and employ or dispose of in furtherance of the purposes of this subchapter, any

money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and

(3) to undertake directly and not by grant or contract, the following activities relating to the delivery of legal assistance—

(A) research,

(B) training and technical assistance, and

(C) to serve as a clearinghouse for information.

(b) Disciplinary powers; interference with professional responsibilities of attorneys; bar membership; restrictions; languages other than English

(1) The Corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this subchapter and the rules, regulations, and guidelines promulgated pursuant to this subchapter, and to terminate, after a hearing in accordance with section 2996j of this title, financial support to a recipient which fails to comply.

(2) If a recipient finds that any of its employees has violated or caused the recipient to violate the provisions of this subchapter or the rules, regulations, and guidelines promulgated pursuant to this subchapter, the recipient shall take appropriate remedial or disciplinary action in accordance with the types of procedures prescribed in the provisions of section 2996j of this title.

(3) The Corporation shall not, under any provision of this subchapter, interfere with any attorney in carrying out his professional responsibilities to his client as established in the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association (referred to collectively in this subchapter as "professional responsibilities") or abrogate as to attorneys in programs assisted under this subchapter the authority of a State or other jurisdiction to enforce the standards of professional responsibility generally applicable to attorneys in such jurisdiction. The Corporation shall ensure that activities under this subchapter are carried out in a manner consistent with attorneys' professional responsibilities.

(4) No attorney shall receive any compensation, either directly or indirectly, for the provision of legal assistance under this subchapter unless such attorney is admitted or otherwise authorized by law, rule, or regulation to practice law or provide such assistance in the jurisdiction where such assistance is initiated.

(5) The Corporation shall insure that (A) no employee of the Corporation or of any recipient (except as permitted by law in connection with such employee's own employment situation), while carrying out legal assistance activities under this subchapter, engage in, or encourage others to engage in, any public demonstration or picketing, boycott, or strike; and (B) no such employee shall, at any time, engage in, or encourage others to engage in, any of the following activities: (i) any rioting or civil disturbance, (ii) any activity which is in violation of an outstanding injunction of any court of competent jurisdiction, (iii) any other illegal activity, or (iv) any intentional identification of the Corporation or any recipient with any political activity prohibited by section 2996f(a)(6) of this title. The Board, within ninety days after its first meeting, shall issue rules and regulations to provide for the enforcement of this paragraph and section 2996f(a)(5) of this title, which rules shall include, among available remedies, provisions, in accordance with the types of procedures prescribed in the provisions of section 2996j of this title, for suspension of legal assistance supported under this subchapter, suspension of an employee of the Corporation or of any employee of any recipient by such recipient, and, after consideration of other remedial measures and after a hearing in accordance with section 2996j of this title, the termination of such assistance or employment, as deemed appropriate for the violation in question.

(6) In areas where significant numbers of eligible clients speak a language other than English as their principal language, the Corporation shall, to the extent feasible, provide that their principal language is used in the provision of legal assistance to such clients under this subchapter.

(c) Corporation itself not to participate in litigation on behalf of clients other than itself; influencing of legislation prohibited

The Corporation shall not itself—

(1) participate in litigation on behalf of clients other than the Corporation; or

(2) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, except that personnel of the Corporation may testify or make other appropriate communication (A) when formally requested to do so by a legislative body, a committee, or a member thereof, or (B) in connection with legislation or appropriations directly affecting the activities of the Corporation.

(d) Miscellaneous prohibitions

(1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, or referendums. However, an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal rights.

(5) No class action suit, class action appeal, or amicus curiae class action may be undertaken, directly or through others, by a staff attorney, except with the express approval of a project director of a recipient in accordance with policies established by the governing body of such recipient.

(e) Political activities of Corporation employees

(1) Employees of the Corporation or of recipients shall not at any time intentionally identify

the Corporation or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

(2) Employees of the Corporation shall be deemed to be State or local employees for purposes of chapter 15 of title 5.

(f) Harassment; malicious abuse of legal process

If an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court may, upon motion by the defendant and upon a finding by the court that the action was commenced or pursued for the sole purpose of harassment of the defendant or that the Corporation or a recipient's plaintiff maliciously abused legal process, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation.

(Pub. L. 88-452, title X, § 1006, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 381.)

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (a), is Pub. L. 87-569, Aug. 6, 1962, 76 Stat. 265, as amended, which is classified generally to chapter 10 (§ 29-1001 et seq.) of Title 29, Corporations, of the District of Columbia Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2996a of this title.

§ 2996f. Grants and contracts

(a) Requisites

With respect to grants or contracts in connection with the provision of legal assistance to eligible clients under this subchapter, the Corporation shall—

(1) insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients;

(2)(A) establish, in consultation with the Director of the Office of Management and Budget and with the Governors of the several States, maximum income levels (taking into account family size, urban and rural differences, and substantial cost-of-living variations) for individuals eligible for legal assistance under this subchapter;

(B) establish guidelines to insure that eligibility of clients will be determined by recipients on the basis of factors which include—

(i) the liquid assets and income level of the client,

(ii) the fixed debts, medical expenses, and other factors which affect the client's ability to pay,

(iii) the cost of living in the locality, and

(iv) such other factors as relate to financial inability to afford legal assistance, which shall include evidence of a prior determination, which shall be a disqualifying factor, that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation; and

(C) establish priorities to insure that persons least able to afford legal assistance are given preference in the furnishing of such assistance;

(3) insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas;

(4) insure that attorneys employed full time in legal assistance activities supported in major part by the Corporation refrain from (A) any compensated outside practice of law, and (B) any uncompensated outside practice of law except as authorized in guidelines promulgated by the Corporation;

(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, except where—

(A) representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit a recipient or an attorney to solicit a client for the purpose of making such representation possible, or to solicit a group with respect to matters of general concern to a broad class of persons as distinguished from acting on behalf of any particular client); or

(B) a governmental agency, a legislative body, a committee, or a member thereof requests personnel of any recipient to make representations thereto;

(6) insure that all attorneys engaged in legal assistance activities supported in whole or in part by the Corporation refrain, while so engaged, from—

(A) any political activity, or

(B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election (other than legal advice and representation), or

(C) any voter registration activity (other than legal advice and representation);

and insure that staff attorneys refrain at any time during the period for which they receive compensation under this subchapter from the activities described in clauses (B) and (C) of this paragraph and from political activities of the type prohibited by section 1502(a) of title 5, whether partisan or nonpartisan;

(7) require recipients to establish guidelines, consistent with regulations promulgated by the Corporation, for a system for review of appeals to insure the efficient utilization of resources and to avoid frivolous appeals

(except that such guidelines or regulations shall in no way interfere with attorneys' professional responsibilities);

(8) insure that recipients solicit the recommendations of the organized bar in the community being served before filling staff attorney positions in any project funded pursuant to this subchapter and give preference in filling such positions to qualified persons who reside in the community to be served;

(9) insure that every grantee, contractor, or person or entity receiving financial assistance under this subchapter or predecessor authority under this chapter which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until (A) the application for refunding has been approved and funds pursuant thereto received, or (B) the application for refunding has been finally denied in accordance with section 2996j of this title; and

(10) insure that all attorneys, while engaged in legal assistance activities supported in whole or in part by the Corporation, refrain from the persistent incitement of litigation and any other activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association, and insure that such attorneys refrain from personal representation for a private fee in any cases in which they were involved while engaged in such legal assistance activities.

(b) Limitations on uses

No funds made available by the Corporation under this subchapter, either by grant or contract, may be used—

(1) to provide legal assistance with respect to any fee-generating case (except in accordance with guidelines promulgated by the Corporation), to provide legal assistance with respect to any criminal proceeding, or to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction;

(2) for any of the political activities prohibited in paragraph (6) of subsection (a) of this section;

(3) to make grants to or enter into contracts with any private law firm which expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public;

(4) to provide legal assistance under this subchapter to any unemancipated person of less than eighteen years of age, except (A) with the written request of one of such person's parents or guardians, (B) upon the request of a court of competent jurisdiction, (C) in child abuse cases, custody proceedings, persons in need of supervision (PINS) proceedings, or cases involving the initiation, continuation, or conditions of institutionalization, or (D) where necessary for the protection of such person for the purpose of securing, or preventing the loss of, benefits, or securing, or preventing the loss or imposition of, services under law in cases not involving the child's parent or guardian as a defendant or respondent;

(5) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;

(6) to organize, to assist to organize, or to encourage to organize, or to plan for the creation or formation of, or the structuring of, any organization, association, coalition, alliance, federation, confederation, or any similar entity, except for the provision of legal assistance to eligible clients in accordance with guidelines promulgated by the Corporation;

(7) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system;

(8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution; or

(9) to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act [50 App. U.S.C. 451 et seq.] or of desertion from the Armed Forces of the United States.

(c) Recipient organizations

In making grants or entering into contracts for legal assistance, the Corporation shall insure that any recipient organized solely for the purpose of providing legal assistance to eligible clients is governed by a body at least 60 percent of which consists of attorneys who are members of the bar of a State in which the legal assistance is to be provided (except that the Corporation (1) shall, upon application, grant waivers to permit a legal services program, supported under section 2809(a)(3) of this title, which on July 25, 1974, has a majority of persons who are not attorneys on its policy-making board to continue such a non-attorney majority under the provisions of this subchapter, and (2) may grant, pursuant to regulations issued by the Corporation, such a waiver for recipients which, because of the nature of the population they serve, are unable to comply with such requirement) and which include at least one individual eligible to receive legal assistance under this subchapter. Any such attorney, while serving on such board, shall not receive compensation from a recipient.

(d) Program evaluation

The Corporation shall monitor and evaluate and provide for independent evaluations of pro-

grams supported in whole or in part under this subchapter to insure that the provisions of this subchapter and the bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to this subchapter are carried out.

(e) Corporation president authorized to make grants and enter into contracts

The president of the Corporation is authorized to make grants and enter into contracts under this subchapter.

(f) Public notification

At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State bar association of any State where legal assistance will thereby be initiated, of such grant, contract, or project. Notifications shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

(g) Staff-attorney program study

The Corporation shall provide for comprehensive, independent study of the existing staff-attorney program under this chapter and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

(Pub. L. 88-452, title X, § 1007, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 383.)

REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (b)(9), probably means the Military Selective Service Act of 1967, act June 24, 1948, ch. 625, 62 Stat. 604, as amended by Pub. L. 90-40, § 1(1), June 30, 1967, 81 Stat. 100, which is classified principally to section 451 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 451 of Title 50, App., and Tables volume.

Section 2809(a)(3) of this title, referred to in subsec. (c), relating to programs for legal services, was repealed by Pub. L. 93-355, § 3(d)(2), July 25, 1974, 88 Stat. 390.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2996e of this title.

§ 2996g. Records and reports

(a) Authority to require reports

The Corporation is authorized to require such reports as it deems necessary from any grantee, contractor, or person or entity receiving financial assistance under this subchapter regarding activities carried out pursuant to this subchapter.

(b) Authority to require recordkeeping; access to records

The Corporation is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

(c) Annual report to President and Congress

The Corporation shall publish an annual report which shall be filed by the Corporation with the President and the Congress.

(d) Copies and retention of reports

Copies of all reports pertinent to the evaluation, inspection, or monitoring of any grantee, contractor, or person or entity, and shall be maintained in the principal office of the Corporation for a period of at least five years subsequent to such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Corporation may establish.

(e) Publication in Federal Register of rules, regulations, guidelines and instructions

The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, and guidelines, and it shall publish in the Federal Register at least 30 days prior to their effective date all its rules, regulations, guidelines, and instructions.

(Pub. L. 88-452, title X, § 1008, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 386.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2996h of this title.

§ 2996h. Audits

(a) Annual audit; availability of records; filing and inspection of report

(1) The accounts of the Corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during

business hours at the principal office of the Corporation.

(b) Audit by General Accounting Office

(1) In addition to the annual audit, the financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audit; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Corporation shall remain in the possession and custody of the Corporation.

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the President, together with such recommendations with respect thereto as he shall deem advisable.

(c) Annual financial audit of recipient persons or bodies

(1) The Corporation shall conduct, or require each grantee, contractor, or person or entity receiving financial assistance under this subchapter to provide for, an annual financial audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Corporation.

(2) The Corporation shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, or person or entity, which relate to the disposition or use of funds received from the Corporation. Such audit reports shall be available for public inspection, during regular business hours, at the principal office of the Corporation.

(d) Attorney-client privilege

Notwithstanding the provisions of this section or section 2996g of this title, neither the Corporation nor the Comptroller General shall have access to any reports or records subject to the attorney-client privilege.

(Pub. L. 88-452, title X, § 1009, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 387.)

§ 2996i. Financing

(a) Authorization of appropriations

There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, $90,000,000 for fiscal year 1975, $100,000,000 for fiscal year 1976, and such sums as may be necessary for fiscal year 1977. The first appropriation may be made available to the Corporation at any time after six or more members of the Board have been appointed and qualified. Appropriations shall be for not more than two fiscal years, and, if for more than one year, shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in appropriation Acts.

(b) Availability of funds

Funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds

Non-Federal funds received by the Corporation, and funds received by any recipient from a source other than the Corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds; but any funds so received for the provision of legal assistance shall not be expended by recipients for any purpose prohibited by this subchapter, except that this provision shall not be construed to prevent recipients from receiving other public funds or tribal funds (including foundation funds benefiting Indians or Indian tribes) and expending them in accordance with the purposes for which they are provided, or to prevent contracting or making other arrangements with private attorneys, private law firms, or other State or local entities of attorneys, or with legal aid societies having separate public defender programs, for the provision of legal assistance to eligible clients under this subchapter.

(Pub. L. 88-452, title X, § 1010, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 388.)

§ 2996j. Special limitations

The Corporation shall prescribe procedures to insure that—

(1) financial assistance under this subchapter shall not be suspended unless the grantee, contractor, or person or entity receiving financial assistance under this subchapter has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this subchapter shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this subchapter has been afforded reasonable notice and opportunity for a timely, full, and fair hearing.

(Pub. L. 88-452, title X, § 1011, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 388.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2996e, 2996f of this title.

§ 2996k. Coordination

The President may direct that appropriate support functions of the Federal Government may be made available to the Corporation in carrying out its activities under this subchapter, to the extent not inconsistent with other applicable law.

(Pub. L. 88-452, title X, § 1012, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 388.)

EX. ORD. NO. 11874 DELEGATION OF FUNCTIONS TO DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 11874, eff. July 25, 1975, 40 F.R. 31737, provided:

By virtue of the authority vested in me by Section 1012 of the Economic Opportunity Act of 1964, as amended by the Legal Services Corporation Act of 1974 (88 Stat. 388, 42 U.S.C. 2996k), and Section 301 of Title 3 of the United States Code, and as President of the United States, the Director of the Office of Management and Budget is hereby designated and empowered to exercise the authority vested in the President by said Section 1012 of the Economic Opportunity Act of 1964, as amended [this section], to direct that appropriate support functions of the Federal Government may be made available to the Legal Services Corporation in carrying out its activities, to the extent not inconsistent with other applicable law. Such functions shall be provided under terms and conditions as may be agreed upon by the Legal Services Corporation and the Federal agencies involved.

GERALD R. FORD.

§ 2996l. Reservation of right to repeal, alter, or amend

The right to repeal, alter, or amend this subchapter at any time is expressly reserved.

(Pub. L. 88-452, title X, § 1013, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 388.)

CHAPTER 35—PROGRAMS FOR OLDER AMERICANS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 20 sections 364, 1008a, 1208a.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 6-1721 of the District of Columbia Code.

SUBCHAPTER I—DECLARATION OF OBJECTIVES AND DEFINITIONS

§ 3001. Congressional declaration of objectives

The Congress hereby finds and declares that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States and of the several States and their political subdivisions to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives:

(1) An adequate income in retirement in accordance with the American standard of living.

(2) The best possible physical and mental health which science can make available and without regard to economic status.

(3) Suitable housing, independently selected, designed and located with reference to special needs and available at costs which older citizens can afford.

(4) Full restoration services for those who require institutional care.

(5) Opportunity for employment with no discriminatory personnel practices because of age.

(6) Retirement in health, honor, dignity—after years of contribution to the economy.

(7) Pursuit of meaningful activity within the widest range of civic, cultural, and recreational opportunities.

(8) Efficient community services, including access to low-cost transportation, which provide social assistance in a coordinated manner and which are readily available when needed.

(9) Immediate benefit from proven research knowledge which can sustain and improve health and happiness.

(10) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.

(Pub. L. 89-73, title I, § 101, July 14, 1965, 79 Stat. 219; Pub. L. 93-29, title I, § 102, May 3, 1973, 87 Stat. 30.)

AMENDMENTS

1973—Pub. L. 93-29 inserted in cl. (8) reference to access to low-cost transportation.

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94-135, § 1, Nov. 28, 1975, 89 Stat. 713, provided: "That this Act [which enacted chapter 76 and sections 3002(4) to (6), 3020a, 3024(d), 3028(a)(5) to (7), 3034(c), 3045f(d), and 3056 to 3056f of this title, amended sections 289k-5, 3002(1), 3012(a)(8), 3014(c), 3015(g), (h), 3022(l), 3023(a), (b), 3024(c)(2), (4), 3025, 3026(b), 3028(b), 3033, 3034(a), 3037, 3037a(b), 3041d(a), 3041f(b)(1), 3045b(c), (d), 3045d(a)(2), (5), (c), 3045e(a)(5), (8), 3045f, 3045g, 5011(a), (b), 5012(a)(1), and 5082(a), (b)(1) of this title and sections 1008a(b), 1208a(b), and 1341(d) of Title 20, Education, repealed sections 3061 to 3067 of this title, enacted provisions set out as notes under section 5001 of this title and section 871 of Title 29, Labor, and amended provisions set out as a note under section 2809 of this title] may be cited as the 'Older Americans Amendments of 1975'."

Pub. L. 89-73, title IX, § 901, as added by Pub. L. 94-135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 720, provided that: "The provisions of this title [subchapter IX of this chapter] may be cited as the 'Older American Community Service Employment Act'."

SHORT TITLE OF 1973 AMENDMENT

Section 1 of Pub. L. 93-29 provided: "That this Act [which enacted chapter 35A of this title, subchs. III to V of this chapter, sections 3003, 3012(a)(9) to (16), (b), 3013 to 3020, 3044(d), 3045(a)(5) of this title, and sections 351(a)(4), 351c(a)(3)(D), 361 to 364, 1008a, and 1208a of Title 20, Education, amended sections 3001(8), 3011, 3012(4), 3044a, 3044b, 3044e, and 3045a

to 3045f of this title, and sections 351c(a)(1) to (3), (b), 351d(a), 351e(a), (b)(1), 1211(a), 1504(a)(2), and 1505(a) of title 20, repealed former subchs. III (sections 3021 to 3024a, and 3025 of this title), IV (sections 3031 and 3032 of this title), V (sections 3041 to 3043 of this title), and VIII (sections 3051 to 3055 of this title) of this chapter, and enacted provisions set out as notes under sections 2809, 3044b, and 3061 of this title and section 361 of title 20] may be cited as the 'Older Americans Comprehensive Services Amendments of 1973'."

SHORT TITLE OF 1967 AMENDMENT

Pub. L. 90-42, § 1, July 1, 1967, 81 Stat. 106, provided: "That this Act [enacting section 3043 of this title and amending sections 3002, 3021, 3022, 3024, 3031, and 3051 to 3053 of this title] may be cited as the 'Older Americans Act Amendments of 1967'."

SHORT TITLE

Section 1 of Pub. L. 89-73 provided that Pub. L. 89-73, which enacted this chapter, may be cited as the "Older Americans Act of 1965".

EX. ORD. NO. 11022. PRESIDENT'S COUNCIL ON AGING

Ex. Ord. No. 11022, eff. May 14, 1962, 27 F.R. 4659, as amended by Ex. Ord. No. 11376, Oct. 17, 1967, 32 F.R. 14545, provided:

By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. (a) There is hereby established the President's Council on Aging (hereinafter referred to as the "Council").

(b) The Council shall be composed of the Secretary of Health, Education, and Welfare, who shall be Chairman, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Transportation, the Secretary of the Treasury, the Chairman of the Civil Service Commission, the Administrator of Veterans' Affairs, and the Director of the Office of Economic Opportunity.

(c) The Chairman of the Council shall invite the head of any other Federal department or agency to attend any meeting of the Council at which any matter within or affecting the area of responsibility of such department or agency is considered and to be a temporary member with respect to such matter.

SEC. 2. The Council shall:

(a) Maintain a continuing study of the overall responsibilities of the Federal Government with respect to the problems of the aging and make recommendations to the President concerning policies and programs required to meet Federal responsibilities, particularly on matters which do not fall within the jurisdiction of a single agency.

(b) Identify matters which require coordinated action by two or more Federal agencies and make appropriate arrangements for joint or coordinated action, including, as appropriate, conferences, joint studies, and the development of recommendations to the President.

(c) Promote the sharing and dissemination of information on the needs of the aging and policies and programs relating to the aging, among Federal departments and agencies and between them and State, local, or private agencies and organizations having functions or interests in fields relating to the problems of the aging.

(d) Prepare an annual consolidated report to the President concerning the activities of the Council and the several Federal departments and agencies having programs relating to the aging.

SEC. 3. (a) Consonant with law, each department or agency represented on the Council shall, as may be necessary for the effectuation of the purpose of this order, furnish assistance to the Council in accordance with Section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691).

(b) Other Federal departments and agencies are also authorized and directed, to the extent not inconsistent with law, to cooperate with the Council and to furnish it such information and assistance as it may find necessary in the performance of its functions.

SEC. 4. The Federal Council on Aging, established by a letter from the President to the Secretary of Health, Education, and Welfare, dated March 7, 1959, is hereby abolished and that letter is hereby superseded.

JOHN F. KENNEDY.

TRANSFER OF FUNCTIONS

Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of this title.

§ 3002. Definitions

For the purposes of this chapter—

(1) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(2) The term "Commissioner" means, unless the context otherwise requires, the Commissioner of the Administration on Aging.

(3) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(4) The term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(4)[1] The term "Indian" means a person who is a member of an Indian tribe.

(5) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92-203; 85 Stat. 688) [43 U.S.C. 1601 et seq.]) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.

(6) The term "tribal organization" means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body. In any case in which a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

(Pub. L. 89-73, title I, § 102, July 14, 1965, 79 Stat. 219; Pub. L. 90-42, § 5(a), July 1, 1967, 81

[1]Par. (4), set out second, enacted by Pub. L. 94-135, § 104(b). Another par. (4), set out first, originally enacted by Pub. L. 89-73, § 102.

Stat. 107; Pub. L. 91-69, § 10(a), Sept. 17, 1969, 83 Stat. 114; Pub. L. 94-135, title I, §§ 104(b), 114(a), Nov. 28, 1975, 89 Stat. 714, 725.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (5), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act of the Code, see Short Title note set out under section 1601 of Title 43 and Tables volume.

AMENDMENTS

1975—Par. (1). Pub. L. 94-135, § 114(a), substituted a period for the semicolon.

Pars. (4) to (6). Pub. 94-135, § 104(b), added pars. (4) to (6).

1969—Par. (3). Pub. L. 91-69 enlarged the term "State" to include the Trust Territory of the Pacific Islands.

1967—Par. (2). Pub. L. 90-42, § 5(a)(1), added ", unless the context otherwise requires," following "means".

Par. (4). Pub. L. 90-42, § 5(a)(2), enlarged the term nonprofit institution or organization to include nonprofit agencies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6862 of this title.

§ 3003. Congressional declaration of additional objectives

The Congress finds that millions of older citizens in this Nation are suffering unnecessary harm from the lack of adequate services. It is therefore the purpose of this Act, in support of the objectives of this chapter, to—

(1) make available comprehensive programs which include a full range of health, education, and social services to our older citizens who need them,

(2) give full and special consideration to older citizens with special needs in planning such programs, and, pending the availability of such programs for all older citizens, give priority to the elderly with the greatest economic and social need.

(3) provide comprehensive programs which will assure the coordinated delivery of a full range of essential services to our older citizens, and, where applicable, also furnish meaningful employment opportunities for many individuals, including older persons, young persons, and volunteers from the community, and

(4) insure that the planning and operation of such programs will be undertaken as a partnership of older citizens, community agencies, and State and local governments, with appropriate assistance from the Federal Government.

(Pub. L. 93-29, title I, § 101, May 3, 1973, 87 Stat. 30.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 93-29, May 3, 1973, 87 Stat. 30, known as the Older Americans Comprehensive Services Amendments of 1973. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 3001 of this title and Tables volume.

CODIFICATION

Section was not enacted as part of Pub. L. 89-73, July 14, 1965, 79 Stat. 219, known as the Older Americans Act of 1965, which comprises this chapter.

SUBCHAPTER II—ADMINISTRATION ON AGING

§ 3011. Establishment of Administration; Commissioner on Aging

(a) There is established in the Office of the Secretary an Administration on Aging (hereinafter in this chapter referred to as the "Administration") which shall be headed by a Commissioner on Aging (hereinafter in this chapter referred to as the "Commissioner"). Except for subchapter VI of this chapter and as otherwise specifically provided by the Older Americans Comprehensive Services Amendments of 1973, the Administration shall be the principal agency for carrying out this chapter. In the performance of his functions, the Commissioner shall be directly responsible to the Office of the Secretary. The Secretary shall not approve any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner.

(b) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

(Pub. L. 89-73, title II, § 201, July 14, 1965, 79 Stat. 220; Pub. L. 93-29, title II, § 201(a), May 3, 1973, 87 Stat. 30; Pub. L. 93-351, § 2(a), July 12, 1974, 88 Stat. 357.)

REFERENCES IN TEXT

Subchapter VI of this chapter, referred to in subsec. (a), was repealed by Pub. L. 93-113, title VI, § 604(a), Oct. 1, 1973, 87 Stat. 417. See now section 5001 et seq. of this title.

The Older Americans Comprehensive Services Amendments of 1973, referred to in subsec. (a), is Pub. L. 93-29, May 3, 1973, 87 Stat. 30. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 3001 of this title and Tables volume.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-351 struck out provisions which had authorized the Secretary of Health, Education, and Welfare, under certain conditions, to approve a delegation of the functions of the Commissioner on Aging to officers not directly responsible to the Commissioner.

1973—Subsec. (a). Pub. L. 93-29 added subsec. (a). Former provision established the Administration on Aging in the Department of Health, Education, and Welfare.

Subsec. (b). Pub. L. 93-29 deleted provision respecting the direction of the Administration by a Commissioner on Aging, now incorporated in subsec. (a) of this section.

MODIFICATION OF DELEGATION OF FUNCTIONS OF COMMISSIONER ON AGING IN EFFECT ON JULY 12, 1974

Section 2(b) of Pub. L. 93-351 provided that: "Any delegation of the functions of the Commissioner on Aging in effect on the date of enactment of this Act [July 12, 1974], issued pursuant to section 201(a) of such Act [subsec. (a) of this section], shall be modified by the Commissioner to comply with the provisions of the amendment made by this section [amending subsec. (a) of this section]."

§ 3012. Functions of Administration; encouragement by Commissioner of program and activity participation by voluntary social services groups

(a) It shall be the duty and function of the Administration to—

(1) serve as a clearinghouse for information related to problems of the aged and aging;

(2) assist the Secretary in all matters pertaining to problems of the aged and aging;

(3) administer the grants provided by this chapter;

(4) develop plans, conduct and arrange for research in the field of aging, and assist in the establishment of and carry out programs designed to meet the needs of older persons for social services, including nutrition, hospitalization, preretirement training, continuing education, low-cost transportation and housing, and health services;

(5) provide technical assistance and consultation to States and political subdivisions thereof with respect to programs for the aged and aging;

(6) prepare, publish, and disseminate educational materials dealing with the welfare of older persons;

(7) gather statistics in the field of aging which other Federal agencies are not collecting;

(8) stimulate more effective use of existing resources and available services for the aged and aging;

(9) develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under authority of this chapter;

(10) provide for the coordination of Federal programs and activities related to such purposes;

(11) coordinate, and assist in, the planning and development by public (including Federal, State, and local agencies) and nonprofit private organizations of programs for older persons, with a view to the establishment of a nationwide network of comprehensive, coordinated services and opportunities for such persons;

(12) convene conferences of such authorities and officials of public (including Federal, State, and local agencies) and nonprofit private organizations concerned with the development and operation of programs for older persons as the Commissioner deems necessary or proper for the development and implementation of policies related to the purposes of this chapter;

(13) develop and operate programs providing services and opportunities as authorized by this chapter which are not otherwise provided by existing programs for older persons;

(14) carry on a continuing evaluation of the programs and activities related to the purposes of this chapter, with particular attention to the impact of medicare and medicaid, the Age Discrimination Act of 1967 [29 U.S.C. 621 et seq.], and the programs of the National Housing Act [12 U.S.C. 1701 et seq.] relating to housing for the elderly and the setting of standards for the licensing of nursing homes, intermediate care homes, and other facilities providing care for older people;

(15) provide information and assistance to private nonprofit organizations for the establishment and operation by them of programs and activities related to the purposes of this chapter; and

(16) develop, in coordination with other agencies, a national plan for meeting the needs for trained personnel in the field of aging, and for training persons for carrying out programs related to the purposes of this chapter, and conduct and provide for the conducting of such training.

(b) In executing his duties and functions under this chapter and carrying out the programs and activities provided for by this chapter, the Commissioner, in consultation with the Director of Action, shall take all possible steps to encourage and permit voluntary groups active in social services, including youth organizations active at the high school or college levels, to participate and be involved individually or through representative groups in such programs or activities to the maximum extent feasible, through the performance of advisory or consultative functions, and in other appropriate ways.

(Pub. L. 89-73, title II, § 202, July 14, 1965, 79 Stat. 220; Pub. L. 93-29, title II, § 201(b), May 3, 1973, 87 Stat. 31; Pub. L. 94-135, title I, § 114(c), Nov. 28, 1975, 89 Stat. 725.)

REFERENCES IN TEXT

The Age Discrimination Act of 1967, referred to in subsec. (a)(14), is Pub. L. 90-202, Dec. 15, 1967, 81 Stat. 602, as amended, which is classified generally to chapter 14 (§ 621 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 29 and Tables volume.

The National Housing Act, referred to in subsec. (a)(14), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§ 1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

AMENDMENTS

1975—Subsec. (a)(8). Pub. L. 94-135 struck out "and" following "aged and aging;".

1973—Subsec. (a). Pub. L. 93-29, § 201(b)(1) to (3), in par. (4), substituted "research" for "research and demonstration programs" and made it the function of the Administration to assist in the establishment of any carry out programs designed to meet the needs of older persons for social services, including nutrition, hospitalization, preretirement training, continuing education, low-cost transportation and housing, and health services; added pars. (9) to (16); and designated existing provisions as subsec. (a), respectively.

Subsec. (b). Pub. L. 93-29, § 201(b)(3), added subsec. (b).

§ 3013. Federal agency cooperation

Federal agencies proposing to establish programs substantially related to the purposes of this chapter shall consult with the Administration on Aging prior to the establishment of such services, and Federal agencies administering such programs shall cooperate with the Administration on Aging in carrying out such services.

(Pub. L. 89-73, title II, § 203, as added Pub. L. 93-29, title II, § 201(c), May 3, 1973, 87 Stat. 32.)

§ 3014. National Information and Resource Clearing House for the Aging

(a) Establishment and operation by Commissioner; functions

The Commissioner is authorized and directed to establish and operate a National Information and Resource Clearing House for the Aging which shall—

(1) collect, analyze, prepare, and disseminate information related to the needs and interests of older persons;

(2) obtain information concerning older persons from public and private agencies and other organizations serving the needs and interests of older persons and furnish, upon request, information to such agencies and organizations, including information developed by Federal, State, and local public agencies with respect to programs of such agencies designed to serve the needs and interests of older persons;

(3) encourage the establishment of State and local information centers and provide technical assistance to such centers, including sources established under section 3024(c)(3) and section 3025(a)(7) of this title, to assist older persons to have ready access to information; and

(4) carry out a special program for the collection and dissemination of information relevant to consumer interests of older persons in order that such older persons may more readily obtain information concerning goods and services needed by them.

(b) Coordination by Commissioner of Federal agency informational activities relevant to older persons; Clearing House as instrumentality for carrying out functions of Commissioner

The Commissioner shall take whatever action is necessary to achieve coordination of activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to older persons. To the extent practicable, the Commissioner shall carry out his functions under this subsection through the National Information and Resource Clearing House for the Aging.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of this section during the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, the fiscal year ending June 30, 1975, the fiscal year ending June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, and 1978, such sums as may be necessary.

(Pub. L. 89-73, title II, § 204, as added Pub. L. 93-29, title II, § 201(c), May 3, 1973, 87 Stat. 32, and amended Pub. L. 94-135, title I, § 112(a), Nov. 28, 1975, 89 Stat. 719.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94-135 authorized appropriations for fiscal year ending June 30, 1976, period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years ending Sept. 30, 1977, and 1978.

§ 3015. Federal Council on the Aging

(a) Establishment; membership; term; representation of interests; qualification

There is established a Federal Council on the Aging to be composed of fifteen members appointed by the President with the advice and consent of the Senate for terms of three years without regard to the provisions of title 5. Members shall be appointed so as to be representative of older Americans, national organizations with an interest in aging, business, labor, and the general public. At least five of the members shall themselves be older persons.

(b) Initial appointments; vacancies; compensation and travel expenses

(1) Of the members first appointed, five shall be appointed for a term of one year, five shall be appointed for a term of two years, and five shall be appointed for a term of three years, as designated by the President at the time of appointment.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

(3) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner by which the original appointment was made.

(4) Members of the Council shall, while serving on business of the Council, be entitled to receive compensation at a rate not to exceed the daily rate specified for grade GS-18 in section 5332 of title 5, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5 for persons in the Government service employed intermittently.

(c) Chairman; meetings; ex officio members

The President shall designate the Chairman from among the members appointed to the Council. The Council shall meet at the call of the Chairman but not less often than four times a year. The Secretary and the Commissioner on Aging shall be ex officio members of the Council.

(d) Duties of Federal Council on the Aging

The Council shall—

(1) advise and assist the President on matters relating to the special needs of older Americans;

(2) assist the Commissioner in making the appraisal of needs required by section 3032 of this title;

(3) review and evaluate, on a continuing basis, Federal policies regarding the aging and programs and other activities affecting the aging conducted or assisted by all Federal departments and agencies for the purpose of appraising their value and their impact on the lives of older Americans; and

(4) serve as a spokesman on behalf of older Americans by making recommendations to

the President, to the Secretary, the Commissioner, and to the Congress with respect to Federal policies regarding the aging and federally conducted or assisted programs and other activities relating to or affecting them;

(5) inform the public about the problems and needs of the aging, in consultation with the National Information and Resource Clearing House for the Aging, by collecting and disseminating information, conducting or commissioning studies and publishing the results thereof, and by issuing publications and reports; and

(6) provide public forums for discussing and publicizing the problems and needs of the aging and obtaining information relating thereto by conducting public hearings, and by conducting or sponsoring conferences, workshops, and other such meetings.

(e) Staff, information, and other assistance

The Secretary and the Commissioner shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

(f) Reports to President; transmittal to Congress

Beginning with the year 1974 the Council shall make such interim reports as it deems advisable and an annual report of its findings and recommendations to the President not later than March 31 of each year. The President shall transmit each such report to the Congress together with his comments and recommendations.

(Pub. L. 89-73, title II, § 205, as added Pub. L. 93-29, title II, § 201(c), May 3, 1973, 87 Stat. 33, and amended Pub. L. 94-135, title I, § 101, Nov. 28, 1975, 89 Stat. 713.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments, referred to in the subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

Section 5703 of title 5, referred to in subsec. (b)(4), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

CODIFICATION

Subsec. (g), which provided that the Council undertake a study of the interrelationships of benefit programs for the elderly operated by Federal, State, and local government agencies and following completion of this study, but no later than Jan. 1, 1976, the President submit to Congress recommendations designed to bring greater uniformity of eligibility standards and to eliminate the negative impact that one program's standards may have on another, was omitted from the Code as executed.

Subsec. (h), which provided that the Council undertake a study of the combined impact of all taxes on the elderly and upon completion of the study, but no later than Jan. 1, 1976, the President submit to Congress, and to the Governor and legislatures of the States, the result of this study and any recommendations he deemed necessary, was omitted from the Code as executed.

Subsec. (i), which provided that the Council undertake a study or studies concerning the effects of the formulae specified in section 3023 of this title for allotment among the States of sums appropriated for area planning and social service programs authorized under subchapter III of this chapter and upon completion of this study, but no later than Jan. 1, 1975, to report the results, together with recommendations for change in the formulae, to the Commissioner, the Secretary of Health, Education, and Welfare, the Committee on Labor and Public Welfare of the Senate [now Human Resources], and the Committee on Education and Labor of the House of Representatives, was omitted from the Code as executed.

AMENDMENTS

1975—Subsecs. (g), (h). Pub. L. 94-135 substituted "January 1, 1976" for "eighteen months after May 3, 1973" in subsecs. (g) and (h).

§ 3016. Administration

(a) Authority of Commissioner

In carrying out the purposes of this chapter, the Commissioner is authorized to:

(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

(2) provide short-term training and technical instruction;

(3) conduct research and, demonstrations;

(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this chapter; and

(5) provide staff and other technical assistance to the Federal Council on the Aging.

(b) Utilization of services and facilities of Federal and other public or nonprofit agencies; advance or reimbursement payments for such use

In administering his functions under this chapter, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and is authorized to pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

(c) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

(Pub. L. 89-73, title II, § 206, as added Pub. L. 93-29, title II, § 201(c), May 3, 1973, 87 Stat. 34.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) and (b) of this section were contained in Pub. L. 89-73, title VIII, § 802, formerly title VI, § 602, July 14, 1965, 79 Stat. 226; Pub. L. 90-42, § 5(e), (f), July 1, 1967, 81 Stat. 107, 108; renumbered title VII, § 702, Pub. L. 91-69, § 9, Sept. 17, 1969, 83 Stat. 111; renumbered title VIII, § 802, Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, and were classified to section 3052 of this title prior to repeal of section 3052 by Pub. L. 93-29, title II, § 202, May 3, 1973, 87 Stat. 36.

§ 3017. Evaluation of programs

(a) Authority of Secretary; scope of evaluation; persons conducting evaluation

The Secretary shall measure and evaluate the impact of all programs authorized by this chapter, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs.

Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) General standards

The Secretary may not make grants or contracts under section 3028 of this title or subchapter IV of this chapter until he has developed and published general standards to be used by him in evaluating the programs and projects assisted under such section or subchapter. Results of evaluations conducted pursuant to such standards shall be included in the reports required by section 3018 of this title.

(c) Opinion of program and project participants

In carrying out evaluations under this section, the Secretary shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

(d) Annual summaries of evaluation; availability of contents

The Secretary shall annually publish summaries of the results of evaluative research and evaluation of program and project impact and effectiveness, the full contents of which shall be available to Congress and the public.

(e) Federal property

The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) Availability to Secretary of information from executive agencies

Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available to him, upon request, by the departments and agencies of the executive branch.

(g) Funds

The Secretary is authorized to use such sums as may be required, but not to exceed 1 per centum of the funds appropriated under this chapter, or $1,000,000 whichever is greater, to conduct program and project evaluations (directly, or by grants or contracts) as required by this subchapter. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriated therefor) shall be reduced accordingly.

(Pub. L. 89-73, title II, § 207, as added Pub. L. 93-29, title II, § 201(c), May 3, 1973, 87 Stat. 35.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (g) of this section were contained in Pub. L. 89-73, title VIII, § 804, formerly title VII, § 704, as added Pub. L. 91-69, § 12, Sept. 17, 1969, 83 Stat. 114, and renumbered Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, and were classified to section 3054 of this title, prior to repeal of section 3054 by Pub. L. 93-29, title II, § 202, May 3, 1973, 87 Stat. 36.

§ 3018. Annual report to Congress

Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities carried out under this chapter. Such annual reports shall include statistical data reflecting services and activities provided individuals during the preceding fiscal year.

(Pub. L. 89-73, title II, § 208, as added Pub. L. 93-29, title II, § 201(c), May 3, 1973, 87 Stat. 35.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of this section, see section 204(2) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3017, 3032 of this title.

§ 3019. Joint funding of projects

Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this chapter, where funds are provided for a single project by more than one Federal agency to any agency or organization assisted under this chapter, the Federal agency principally involved may be designated to act for all in administering the funds provided. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose.

(Pub. L. 89-73, title II, § 209, as added Pub. L. 93-29, title II, § 201(c), May 3, 1973, 87 Stat. 35.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89-73, title VIII, § 805, formerly title VII, § 705, as added Pub. L. 91-69, § 13, Sept. 17, 1969, 83 Stat. 114, and renumbered Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, which comprised section 3055 of this title, prior to repeal of section 3055 by Pub. L. 93-29, title II, § 202, May 3, 1973, 87 Stat. 36.

§ 3020. Advance funding

(a) For the purpose of affording adequate notice of funding available under this chapter, appropriations under this chapter are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the amendment made by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

(Pub. L. 89-73, title II, § 210, as added Pub. L. 93-29, title II, § 201(c), May 3, 1973, 87 Stat. 36.)

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 105(a), Apr. 21, 1976, 90 Stat. 385, provided that:

"(a) For the purposes of sections 210(a), 305(a), and 307(c) of the Older Americans Act of 1965 (42 U.S.C. 3020(a), 3025(a), and 3027(c)), the period of July 1, 1976, through September 30, 1976, shall be considered part of the fiscal year beginning July 1, 1975, and the exercise of authority pursuant to those provisions shall be subject to the conditions stated in the following paragraphs:

"(1) the term 'appropriation Act' in section 210(a) (42 U.S.C. 3020(a)) shall be considered to include any appropriation Act for the period of July 1, 1975, through September 30, 1976;

"(2) notwithstanding the provisions of section 307(c) (42 U.S.C. 3027(c)) a State's allotment under section 303 [section 3023 of this title] for the period of July 1, 1975, through September 30, 1976, shall be reduced by the percentage by which its expenditures for such period from State sources under its State plan approved under section 305 [section 3025 of this title] are less than 125 per centum of its expenditures from such sources of the preceding fiscal year, and, notwithstanding the provisions of section 307(c), a State's allotment under section 303 for the fiscal year ending September 30, 1977, shall be reduced by the percentage by which its expenditures for that year from State sources under its State plan, approved under section 305, are less than 80 per centum of its expenditures for the period of July 1, 1975, through September 30, 1976; and

"(3) the assurances required by that portion of paragraph (10) of section 305(a) of the Act [section 3025(a)(10) of this title] preceding the exception clause shall be that not less than 50 per centum of the amount by which the allotment for the period of July 1, 1976, through September 30, 1977, exceeds 125 per centum of the allotment for fiscal year 1975, shall be used for the purposes of section 305(b) [section 3025(b) of this title]."

§ 3020a. Application of other laws

The provisions and requirements of chapter 52A of this title shall not apply to the administration of the provisions of this chapter or to the administration of any program or activity under this chapter.

(Pub. L. 89-73, title II, § 211, as added Pub. L. 94-135, title I, § 102, Nov. 28, 1975, 89 Stat. 713.)

REFERENCES IN TEXT

Chapter 52A (§ 4251 et seq.) of this title, referred to in text, was in the original a reference to the Act of Dec. 5, 1974 (Public Law 93-510; 88 Stat. 1604).

SUBCHAPTER III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1438, 3015, 3037a, 3041a, 3045d of this title; title 12 section 1701q.

§ 3021. Statement of purpose

It is the purpose of this subchapter to encourage and assist State and local agencies to concentrate resources in order to develop greater capacity and foster the development of comprehensive and coordinated service systems to serve older persons by entering into new cooperative arrangements with each other and with providers of social services for planning for the provision of, and providing, social services and, where necessary, to reorganize or reassign functions, in order to—

(1) secure and maintain maximum independence and dignity in a home environment for older persons capable of self-care with appropriate supportive services; and

(2) remove individual and social barriers to economic and personal independence for older persons.

(Pub. L. 89-73, title III, § 301, as added Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 36.)

PRIOR PROVISIONS

A prior section 3021, Pub. L. 89-73, title III, § 301, July 14, 1965, 79 Stat. 220; Pub. L. 90-42, § 2(a), July 1, 1967, 81 Stat. 106; Pub. L. 91-69, § 2(a), Sept. 17, 1969, 83 Stat. 108, which related to a description of activities and authorized appropriations for fiscal years ending June 30, 1966, through 1972, was repealed by Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 36, and is now covered generally in this chapter.

§ 3022. Definitions

For purposes of this subchapter—

(1) The term "social services" means any of the following services which meet such standards as the Commissioner may prescribe:

(A) health, continuing education, welfare, informational, recreational, homemaker, counseling, or referral services;

(B) transportation services where necessary to facilitate access to social services;

(C) services designed to encourage and assist older persons to use the facilities and services available to them;

(D) services designed to assist older persons to obtain adequate housing;

(E) services designed to assist older persons in avoiding institutionalization, including preinstitutionalization evaluation and screening, and home health services;

(F) services designed to provide legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, to older persons;

(G) services designed to enable older persons to attain and maintain physical and mental well being through programs of regular physical activity and exercise; or

(H) any other services;

if such services are necessary for the general welfare of older persons.

(2) The term "unit of general purpose local government" means (A) a political subdivision of the State whose authority is broad and general and is not limited to only one function or a combination of related functions, or (B) an Indian tribal organization.

(3) The term "comprehensive and coordinated system" means a system for providing all necessary social services in a manner designed to—

(A) facilitate accessibility to and utilization of all social services provided within the geographic area served by such system by any public or private agency or organization;

(B) develop and make the most efficient use of social services in meeting the needs of older persons; and

(C) use available resources efficiently and with a minimum of duplication.

(Pub. L. 89-73, title III, § 302, as added Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 36,

and amended Pub. L. 94-135, title I, § 103, Nov. 28, 1975, 89 Stat. 713.)

PRIOR PROVISIONS

A prior section 3022, Pub. L. 89-73, title III, § 302, July 14, 1965, 79 Stat. 221; Pub. L. 90-42, §§ 2(b), 5(g), July 1, 1967, 81 Stat. 107, 108; Pub. L. 91-69, §§ 3(a), 4(d), 6, 10(b), Sept. 17, 1969, 83 Stat. 108, 110, 114, which related to allotments to States, providing in subsec. (a) amount of allotments, subsec. (b) reallotments, and subsec. (c) availability for grants, percentage payments, and duration of project support, was repealed by Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 36, and is now covered by sections 3023 and 3026 of this title.

AMENDMENTS

1975—Par. (1)(E). Pub. L. 94-135, § 103(1), struck out "or" at end of text.

Par. (1)(F), (G). Pub. L. 94-135, § 103(2), added subpars. (F) and (G). Former subpar. (F) redesignated (H).

Par. (1)(H). Pub. L. 94-135, § 103(2), redesignated former subpar. (F) as (H).

§ 3023. Area planning and social service programs

(a) Authorization of appropriations; use of funds for certain purposes

There are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, $103,600,000 for the fiscal year ending June 30, 1974, $130,000,000 for the fiscal year ending June 30, 1975, $180,000,000 for the fiscal year ending June 30, 1976, $57,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, $231,000,000 for the fiscal year ending September 30, 1977, and $287,200,000 for the fiscal year ending September 30, 1978, to enable the Commissioner to make grants to each State with a State plan approved under section 3025 of this title (except as provided in section 3027(a) of this title) for paying part of the cost (pursuant to subsection (e) of this section and section 3026 of this title) of—

(1) the administration of area plans by area agencies on aging designated pursuant to section 3024(a)(2)(A) of this title, including the preparation of area plans on aging consistent with section 3024(c) of this title and the evaluation of activities carried out under such plans;

(2) the development of comprehensive and coordinated systems for the delivery of social services; and

(3) activities carried out pursuant to section 3026 of this title.

(b) Allotments to States; amount

(1) From the sums appropriated for the fiscal year ending June 30, 1973, under subsection (a) of this section, (A) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount equal to one-fourth of 1 per centum of such sum, (B) each other State shall be allotted an amount equal to one-half of 1 per centum of such sum, and (C) from the remainder of the sum so appropriated, each State shall be allotted an additional amount which bears the same ratio to such remainder as the population aged sixty or over in such State bears to the population aged sixty or over in all States.

(2) Subject to the provisions of paragraph (3), from the sums appropriated for the fiscal year ending June 30, 1974, for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and for the fiscal years ending September 30, 1977, and 1978, each State shall be allotted an amount which bears the same ratio to such sums as the population aged sixty or over in such States bears to the population aged sixty or over in all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made; (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted no less than one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made; and (C) no State shall be allotted an amount less than that State received for the fiscal year ending June 30, 1973. For the purpose of the exception contained in clause (A) of this paragraph only, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(3)(A) In any State in which the Commissioner determines (after having taken into account the amount of funds available to the State agency or to an appropriate area agency on aging to carry out the purposes of this subchapter) that the members of an Indian tribe are not receiving benefits under this subchapter that are equivalent to benefits provided to other older persons in the State or appropriate area, and if he further determines that the members of such tribe would be better served by means of grants made directly to provide such benefits, he shall reserve from sums that would otherwise be allotted to such State under paragraph (2) not less than 100 per centum nor more than 150 per centum of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all Indians aged sixty or over for whom a determination under this paragraph has been made bears to the population of all persons aged sixty or over in such State.

(B) The sums reserved by the Commissioner on the basis of his determination under this paragraph shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or where there is no tribal organization, to such other entity as he determines has the capacity to provide services pursuant to this subchapter.

(C) In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this paragraph, it shall submit to the Commissioner a plan for such fiscal year which meets such criteria as the Commissioner may prescribe by regulation and which meets criteria established by section 3025(a) of this title, to the extent the Commissioner determines such criteria to be appropriate.

(D) Recipients of grants under this paragraph may retain for administrative purposes an amount equal to the amount available for the cost of the administration of area plans under subsection (e)(1) of this section.

(4) The number of persons aged sixty or over in any State and in all States, and the number of Indians aged sixty or over on, or in proxim-

ity to, any Federal or State reservation or rancheria shall be determined by the Commissioner on the basis of the most recent and satisfactory data available to him.

(c) Availability of unexpended amounts to other States

Whenever the Commissioner determines that any amount allotted to a State for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, he shall make such amount available for carrying out such purpose to one or more other States to the extent he determines such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year pursuant to the preceding sentence shall, for the purposes of this subchapter, be regarded as part of such State's allotment (as determined under the preceding provisions of this section) for such year.

(d) Fiscal year availability of allotment

The allotment of a State under this section for the fiscal year ending June 30, 1973, shall remain available until the close of the following fiscal year.

(e) Allotment for administrative costs and social services costs

From a State's allotment under this section for a fiscal year—

(1) such amount as the State's agency determines, but not more than 15 per centum thereof, shall be available for paying such percentage as such agency determines, but not more than 75 per centum of the cost of administration of area plans; and

(2) such amount as the State agency determines, but (beginning with the fiscal year ending June 30, 1975) not more than 20 per centum thereof, shall be available for paying such percentage as such agency determines, but not more than 75 per centum, of the cost of social services which are not provided as a part of a comprehensive and coordinated system in planning and service areas for which there is an area plan approved by the State agency.

The remainder of such allotment shall be available to such State only for paying such percentage as the State agency determines, but not more than 90 per centum of the costs of social services provided in the State as a part of the comprehensive and coordinated systems in planning and service areas for which there is an area plan approved by the State agency.

(Pub. L. 89-73, title III, § 303, as added Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 37, and amended Pub. L. 94-135, title I, §§ 104(a), (c), (d), 112(b), 114(d), Nov. 28, 1975, 89 Stat. 714, 715, 719, 725.)

PRIOR PROVISIONS

A prior section 3023, Pub. L. 89-73, title III, § 303, July 14, 1965, 79 Stat. 222; Pub. L. 91-69, §§ 3(b), 4(a), Sept. 17, 1969, 83 Stat. 108, which related to state plans, providing in: subsec. (a) for approval by Secretary, contents, notice and hearing prior to disapproval; subsec. (b) noncompliance and cancellation of payments; and subsec. (c) appeals, petitions, record, jurisdiction of courts of appeals, conclusiveness of findings, review by Supreme Court, and stay of administrative action, was repealed by Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 36, and is now covered by section 3025 of this title.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-135, § 112(b)(1), authorized appropriation of $180,000,000 for fiscal year ending June 30, 1976, $57,750,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $231,000,000 and $287,200,000 for fiscal years ending Sept. 30, 1977, and 1978, respectively.

Subsec. (b)(1). Pub. L. 94-135, § 114(d), struck out "authorized to be" following introductory text "From the sums".

Subsec. (b)(2). Pub. L. 94-135, §§ 104(c), 112(b)(2), substituted "Subject to the provisions of paragraph (3), from" for "From" and made allotments to the States from sums appropriated for fiscal year ending June 30, 1976, period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years ending Sept. 30, 1977, and 1978.

Subsec. (b)(3). Pub. L. 94-135, § 104(a), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b)(4). Pub. L. 94-135, § 104(a), (d), redesignated former par. (3) as (4) and inserted ", and the number of Indians aged sixty or over on, or in proximity to, any Federal or State reservation or rancheria" following "States".

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES

Reduction of allotments to States for the period of July 1, 1975, through September 30, 1976, and for the fiscal year ending September 30, 1977, notwithstanding the provisions of section 3027(c) of this title, see section 105(a)(2) of Pub. L. 94-274, title I, Apr. 21, 1976, 90 Stat. 385, set out as a note under section 3020 of this title.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 105(b), Apr. 21, 1976, 90 Stat. 385, provided that:

"For the purposes of sections 303(b) and 306(b) of the Older Americans Act of 1965 (42 U.S.C. 3023(b) and 3026(b)), the period of July 1, 1976, through September 30, 1976, shall be considered a fiscal year, and the exercise of authority pursuant to those provisions shall be subject to the conditions stated in the following paragraphs:

"(1) the amount specified in section 303(b)(2)(C) [subsec. (b)(2)(C) of this section] shall be decreased by 75 per centum for that period;

(2) the amount of $200,000 specified in section 306(b)(1)(A) [section 3026(b)(1)(A) of this title] shall be decreased to $50,000 for that period; and

"(3) the amount of $62,500 specified in section 306(b)(1)(B) [section 3026(b)(1)(A) of this title] shall be decreased to $15,625 for that period, and the amount specified in section 306(b)(3) [section 3026(b)(3) of this title] shall be decreased by 75 per centum for that period."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsecs. (c) and (e) of this section, see section 201(18) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3015, 3024, 3025, 3026, 3027, 3029, 4728 of this title.

§ 3024. Organization

(a) State organization

In order for a State to be eligible to participate in the programs of grants to States from

allotments under section 3023 and section 3026 of this title—

(1) the State shall, in accordance with regulations of the Commissioner, designate a State agency as the sole State agency (hereinafter in this subchapter referred to as "the State agency") to: (A) develop the State plan to be submitted to the Commissioner for approval under section 3025 of this title, (B) administer the State plan within such State, (C) be primarily responsible for the coordination of all State activities related to the purposes of this chapter, (D) review and comment on, at the request of any Federal department or agency, any application from any agency or organization within such State to such Federal department or agency for assistance related to meeting the needs of older persons; and (E) divide the entire State into distinct areas (hereinafter in this subchapter referred to as "planning and service areas"), in accordance with regulations of the Commissioner, after considering the geographical distribution of individuals aged sixty and older in the State, the incidence of the need for social services (including the numbers of older persons with low incomes residing in such areas), the distribution of resources available to provide such services, the boundaries of existing areas within the State which were drawn for the planning or administration of social services programs, the location of units of general purpose local government within the State, and any other relevant factors: *Provided,* That any unit of general purpose local government which has a population aged sixty or over of fifty thousand or more or which contains 15 per centum or more of the State's population aged sixty or over shall be designated as a planning and service area; except that the State may designate as a planning and service area, any region within the State recognized for purposes of areawide planning which includes one or more such units of general purpose local government when the State determines that the designation of such a regional planning and service area is necessary for, and will enhance, the effective administration of the programs authorized by this subchapter, the State may include in any planning and service area designated pursuant to this provision such additional areas adjacent to the unit of general purpose local government or region so designated as the State determines to be necessary for, and will enhance, the effective administration of the programs authorized by this subchapter, and

(2) the State agency designated pursuant to paragraph (1) shall—

(A) determine for which planning and service areas an area plan will be developed, in accordance with subsection (c) of this section, and for each such area designate, after consideration of the views offered by the unit or units of general purpose local government in such area, a public or nonprofit private agency or organization as the area agency on aging for such area; and

(B) provide assurances, satisfactory to the Commissioner that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of social services provided under such plan.

(b) Area organization

An area agency on aging designated under subsection (a) of this section must be—

(1) an established office of aging which is operating within a planning and service area designated pursuant to subsection (a) of this section, or

(2) any office or agency of a unit of general purpose local government, which is designated for this purpose by the chief elected official or officials of such unit, or

(3) any office or agency designated by the chief elected official or officials of a combination of units of general purpose local government to act on behalf of such combination for this purpose, or

(4) any public or nonprofit private agency in a planning and service area which is under the supervision or direction for this purpose of the designated State agency and which can engage in the planning or provision of a broad range of social services within such planning and service area,

and must provide assurance, found adequate by the State agency, that it will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program pursuant to the plan within the planning and service area. In designating an area agency on aging, the State agency shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.

(c) Area plans

In order to be approved by the State agency, an area plan for a planning and service area shall be developed by the area agency on aging designated with respect to such area under subsection (a) of this section and shall—

(1) provide for the establishment of a comprehensive and coordinated system for the delivery of social services within the planning and service area covered by the plan, including determining the need for social services in such area (taking into consideration, among other things, the numbers of older persons with low incomes residing in such area), evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of social services in such area, for the provision of such services to meet such need;

(2) in accordance with criteria established by the Commissioner by regulation relating to priorities, and consistent with the provisions of the State plan relating to the services required to be provided under section 3025(a)(10) of this title, provide for the initiation, expansion, or improvement of social services in the planning and service area covered by the area plan;

(3) provide for the establishment or maintenance of information and referral sources in sufficient numbers to assure that all older persons within the planning and service area covered by the plan will have reasonably con-

venient access to such sources. For purposes of this section and section 3025(a)(7) of this title, an information and referral source is a location where the State or other public or private agency or organization (A) maintains current information with respect to the opportunities and services available to older persons, and develops current lists of older persons in need of services and opportunities, and (B) employs a specially trained staff to inform older persons of the opportunities and services which are available, and assists such persons to take advantage of such opportunities and services; and

(4) provide that the area agency on aging will—

(A) conduct periodic evaluations of activities carried out pursuant to the area plan;

(B) render appropriate technical assistance to providers of social services in the planning and service area covered by the area plan;

(C) take into account, in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan;

(D) where possible, enter into arrangements with organizations providing day care services for children so as to provide opportunities for older persons to aid or assist, on a voluntary basis, in the delivery of such services to children; and

(E) establish an advisory council, consisting of representatives of the target population and the general public, to advise the area agency on all matters relating to the administration of the plan and operations conducted thereunder.

(d) Transportation services; funds

(1) Subject to regulations prescribed by the Secretary of Health, Education, and Welfare, an area agency on aging designated under subsection (a) of this section or, in areas of a State where no such agency has been designated, the State agency, is authorized to enter into agreements with agencies administering programs under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and titles VI, XIX, and XX of the Social Security Act [42 U.S.C. 801 et seq., 1396 et seq., and 1397 et seq.] for the purpose of developing and implementing plans for meeting the common need for transportation services of persons receiving benefits under such Acts and older persons participating in programs authorized by this subchapter and subchapter VII of this chapter.

(2) Pursuant to an agreement entered into under paragraph (1), funds appropriated under this subchapter and subchapter VII of this chapter may be used to purchase transportation services for older persons and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and titles VI, XIX, and XX of the Social Security Act [42 U.S.C. 801 et seq., 1396 et seq., and 1397 et seq.].

(Pub. L. 89-73, title III, § 304, as added Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 38, and amended Pub. L. 94-135, title I, §§ 105, 106(c), Nov. 28, 1975, 89 Stat. 715, 716.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (d), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables volume.

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title VI of the Social Security Act was classified generally to subchapter VI (§ 801 et seq.) of chapter 7 of this title and was repealed by Pub. L. 93-647, § 3(b), Jan. 4, 1975, 88 Stat. 2349. Titles XIX and XX of the Social Security Act are classified generally to subchapters XIX (§ 1396 et seq.) and XX (§ 1397 et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

PRIOR PROVISIONS

A prior section 3024, Pub. L. 89-73, title III, § 304, July 14, 1965, 79 Stat. 223; Pub. L. 90-42, § 3, July 1, 1967, 81 Stat. 107; Pub. L. 91-69, § 4(b), Sept. 17, 1969, 83 Stat. 108, which related to planning, coordination, and evaluation and administration of State plans, providing in: subsec. (a) authorization of appropriations, amount of payment, and availability of unexpended funds; subsec. (b) amount of allotment, determination of additional amount, adjustments, minimum amount, and availability of unexpended amount; subsec. (c) reallotment to other States; and subsec. (d) minimum State expenditure of funds, was repealed by Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 36, and is now covered by sections 3023 and 3026 of this title.

A prior section 3024a, Pub. L. 89-73, title III, § 305, as added Pub. L. 91-69, § 5, Sept. 17, 1969, 83 Stat. 110, which related to areawide model projects, grants to or contracts with State agencies, amount, purposes of projects, and authorization of appropriations, was repealed by Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 36, and is now covered by section 3028 of this title.

AMENDMENTS

1975—Subsec. (c)(2). Pub. L. 94-135, § 106(c), inserted "and consistent with the provisions of the State plan relating to the services required to be provided under section 3025(a)(10) of this title," following "priorities,".

Subsec. (c)(4)(C) to F. Pub. L. 94-135, § 105(a), struck out subpar. (C) area plan requirement that the area agency on aging will, where necessary and feasible, enter into arrangements, consistent with the provisions of the area plan, under which funds under this subchapter may be used to provide legal services to older persons in the planning and service area carried out through federally assisted programs or other public or non profit agencies, now covered in sections 3022(1)(F) and 3025(b) of this title, and redesignated former subpars. (D) through (F) as (C) through (E), respectively.

Subsec. (d). Pub. L. 94-135, § 105(b), added subsec. (d).

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (a) of this section, see section 204(2) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3014, 3023, 3025, 3026, 3033, 3034, 3045d, 3056a, 5001, 5012 of this title.

§ 3025. State plans

(a) Criteria for eligibility; contents

In order for a State to be eligible for grants for a fiscal year from its allotments under section 3023 and section 3026, except as provided in section 3027(a) of this title, it shall submit to the Commissioner a State plan for such year which meets such criteria as the Commissioner may prescribe by regulation and which—

(1) provides that the State agency will evaluate the need for social services within the State and determine the extent to which existing public or private programs meet such need;

(2) provides for the use of such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, or compensation of an individual employed in accordance with such methods) as are necessary for the proper and efficient administration of the plan;

(3) provides that the State agency will make such reports, in such form, and containing such information, as the Commissioner may from time to time require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

(4) provides that the State agency will conduct periodic evaluations of activities and projects carried out under the State plan;

(5) establishes objectives, consistent with the purposes of this subchapter, toward which activities under the plan will be directed, identifies obstacles to the attainment of those objectives, and indicates how it proposes to overcome those obstacles;

(6) provides that each area agency on aging designated pursuant to section 3024(a)(2)(A) of this title will develop and submit to the State agency for approval an area plan which complies with section 3024(c) of this title;

(7) provides for establishing or maintaining information and referral sources in sufficient numbers to assure that all older persons in the State who are not furnished adequate information and referral sources under section 3024(c)(3) of this title will have reasonably convenient access to such sources;

(8) provides that no social service will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such service by the State agency or an area agency on aging is necessary to assure an adequate supply of such service;

(9) provides that subject to the requirements of merit employment systems of State and local governments, preference shall be given to persons aged sixty or over for any staff position (full time or part time) in State and area agencies for which such persons qualify; and

(10) provides assurances in such form as the Commissioner shall prescribe that of the funds alloted[1] to the State under section 3023(b) of this title in any fiscal year to carry out the State plan, not less than 50 per centum of the amount by which such allotment exceeds the allotment made for the same purpose in the fiscal year ending June 30, 1975, shall be used for the purposes set forth in subsection (b) of this section, except with respect to any State which provides assurances found satisfactory by the Commissioner that at least 33⅓ per centum of the total amount allotted to the State under section 3023(b) of this title to carry out the State plan in any fiscal year shall be used for the purposes set forth in subsection (b) of this section, but in no case shall less than 20 per centum of the funds allotted to any State under section 3023(b) of this title to carry out the State plan in any fiscal year beginning after September 30, 1976, be used for the purposes set forth in subsection (b) of this section.

(b) National priority services

Every State plan shall provide for the establishment or maintenance of programs (including related training) for the provision of some or all of the following services designed to assist older persons in leading independent lives and avoiding unnecessary institutionalization:

(1) Transportation services.

(2) Home services, including homemaker services, home health services, shopping services, escort services, reader services, letter writing services, and other services designed to assist such persons to continue living independently in a home environment.

(3) Legal and other counseling services and assistance programs, including tax counseling and assistance and financial counseling, for older persons.

(4) Residential repair and renovation programs designed to enable older persons to maintain their homes in conformity with minimum housing standards or to adapt homes to meet the needs of elderly persons suffering from physical disabilities.

(c) Approval by Commissioner

The Commissioner shall approve any State plan which he finds fulfills the requirements of subsection (a) of this section.

(d) Notice and hearing prior to disapproval

The Commissioner shall not make a final determination disapproving any State plan, or any modification thereof, or make a final determination that a State is ineligible under section 3024 of this title, without first affording the State reasonable notice and opportunity for a hearing.

(e) Ineligibility and noncompliance; cancellation of payments; disbursements of withheld funds to agencies with approved plans; matching funds

Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency, finds that—

(1) the State is not eligible under section 3024 of this title,

[1] So in original. Probably should be "allotted".

(2) the State plan has been so changed that it no longer complies with the provisions of subsection (a) of this section, or

(3) in the administration of the plan there is a failure to comply substantially with any such provision of subsection (a) of this section,

the Commissioner shall notify such State agency that no further payments from its allotments under section 3023 and section 3026 of this title will be made to the State (or, in his discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments shall be made to such State from its allotments under section 3023 and section 3026 of this title (or payments shall be limited to projects under or portions of the State plan not affected by such failure). The Commissioner shall, in accordance with regulations he shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency or political subdivision of such State submitting an approved plan in accordance with the provisions of section 3024 and section 3026 of this title. Any such payment or payments shall be matched in the proportions specified in sections 3023 and 3026 of this title.

(f) Appeals; petitions; records; jurisdiction of courts of appeals; conclusiveness of findings; review by Supreme Court; stay of administrative action

A State which is dissatisfied with a final action of the Commissioner under subsection (b), (c), or (d) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

(Pub. L. 89-73, title III, § 305, as added Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 41, and amended Pub. L. 94-135, title I, §§ 106(a), (b), 114(e), Nov. 28, 1975, 89 Stat. 715, 725.)

PRIOR PROVISIONS

A prior section 3025, Pub. L. 89-73, title III, § 306, formerly § 305, July 14, 1965, 79 Stat. 224, renumbered Pub. L. 91-69, § 5, Sept. 17, 1969, 83 Stat. 110, which related to payments of grants for State and community programs on aging, adjustments, advances or reimbursement, and installments, was repealed by Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 36, and is now covered by section 3027(a) of this title.

Provisions similar to those comprising this section were contained in Pub. L. 89-73, title III, § 303, July 14, 1965, 79 Stat. 222; Pub. L. 91-69, §§ 3(b), 4(a) Sept. 17, 1969, 83 Stat. 108, and were classified to section 3023 of this title, prior to repeal of section 3023 by Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 36.

AMENDMENTS

1975—Subsec. (a)(10). Pub. L. 94-135, § 106(a), added par (10).

Subsec. (b). Pub. L. 94-135, § 106(b), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsecs. (c) to (e). Pub. L. 94-135, § 106(b), redesignated former subsecs. (b) to (d) as (c) to (e), respectively. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 94-135, §§ 106(b), 114(e), redesignated former subsec. (e) as (f) and substituted in last sentence "Commissioner's" for "Commissioners'".

TRANSFER OF FUNCTIONS

Functions, powers, and duties relating to prescription of personnel standards on a merit basis, under prior provisions, were transferred to the United States Civil Service Commission by section 4728(a)(3)(B) of this title.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, under subsec. (a) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 105(a) of Pub. L. 94-274, title I, Apr. 21, 1976, 90 Stat. 385, set out as a note under section 3020 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3014, 3023, 3024, 3026, 3027, 3029, 3045d of this title.

§ 3026. Planning, coordination, evaluation, and administration of State plans

(a) Grants; percentage limitation; description of activities; duplication of payments

(1) Amounts appropriated as authorized by section 3023 of this title may be used to make grants to States for paying such percentages as each State agency determines, but not more than 75 per centum, of the cost of the administration of its State plan, including the preparation of the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of analyses related to the need for social services within the State, the dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of pro-

grams authorized by this chapter, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of social service.

(2) Any sums allotted to a State under this section for covering part of the cost of the administration of its State plan which the State determines is not needed for such purpose may be used by such State to supplement the amount available under section 3023(e)(1) of this title to cover part of the cost of the administration of area plans.

(3) Any State which has designated a single planning and service area pursuant to section 3024(a)(1)(E) of this title covering all, or substantially all, of the older persons in such State, as determined by the Commissioner, may elect to pay part of the costs of the administration of State and area plans either out of sums allotted under this section or out of sums made available for the administration of area plans pursuant to section 3023(e)(1) of this title, but shall not pay such costs out of sums allotted under both such sections.

(b) Allotments to States; amount

(1) From the sums appropriated for any fiscal year under section 3023 of this title for carrying out the purposes of this section, each State shall be allotted an amount which bears the same ratio to such sum as the population aged sixty or over in such State bears to the population aged sixty or over in all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made, or $200,000, whichever is greater, and (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted no less than one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made, or $62,500, whichever is greater. For the purpose of the exception contained in clause (A) of this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2)(A) Any State which desires to receive amounts, in addition to amounts allotted to such State under paragraph (1), to be used in the administration of its State plan in accordance with subsection (a) of this section may transmit an application to the Commissioner in accordance with this paragraph. Any such application shall be transmitted in such form, and according to such procedures, as the Commissioner may require, except that such application may not be made as part of, or as an amendment to, the State plan.

(B) The Commissioner may approve any application transmitted by a State under subparagraph (A) if the Commissioner determines, based upon a particularized showing of need, that—

(i) such State will be unable to fully and effectively administer its State plan and to carry out programs and projects authorized by this subchapter and by subchapter VII of this chapter unless such additional amounts are made available by the Commissioner;

(ii) such State is making full and effective use of its allotment under paragraph (1) and of the personnel of the State agency and area agencies designated under section 3025 of this title in the administration of its State plan in accordance with subsection (a) of this section; and

(iii) the State agency and area agencies of such State designated under section 3025 of this title are carrying out, on a full-time basis, programs and activities which are in furtherance of the purposes of this chapter.

(C) The Commissioner may approve that portion of the amount requested by a State in its application under subparagraph (A) which he determines has been justified in such application.

(D) Amounts which any State may receive in any fiscal year under this paragraph may not exceed three-fourths of 1 per centum of the sum of the amounts allotted to such State to carry out the State plan under section 3023(b) of this title and section 3045b(a) of this title for such fiscal year.

(E) No application by a State under subparagraph (A) shall be approved unless it contains assurances that no amounts received by such State under this paragraph will be used to hire any person to fill a job opening created by the action of such State in laying off or terminating the employment of any regular employee not supported under this chapter in anticipation of filling the vacancy so created by hiring an employee to be supported through use of amounts received under this paragraph.

(3) Each State shall be entitled to an allotment under this section for any fiscal year in an amount which is not less than the amount of the allotment to which such State was entitled under paragraph (1) for the fiscal year ending June 30, 1975.

(4) The number of persons aged sixty or over in any State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(c) Reallotments to other States

The amounts of any State's allotment under subsection (b) of this section for any fiscal year which the Commissioner determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (b) of this section for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Such reallotments shall be made on the basis of the State plan so approved, after taking into consideration the population aged sixty or over. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) of this section for that year.

(Pub. L. 89-73, title III, § 306, as added Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 43, and amended Pub. L. 94-135, title I, § 107, Nov. 28, 1975, 89 Stat. 716.)

CODIFICATION

Subsec. (d), which provided that the allotment of a State under this section for the fiscal year ending June 30, 1973, was to remain available until the close of the following fiscal year, was omitted from the Code as executed.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89-73, title III, § 304, July 14, 1965, 79 Stat. 223; Pub. L. 90-42, § 3, July 1, 1967, 81 Stat. 107; Pub. L. 91-69, § 4(b), Sept. 17, 1969, 83 Stat. 108, and were classified to section 3024 of this title, prior to repeal of section 3024 by Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 36.

AMENDMENTS

1975—Subsec. (b)(1)(A), (B). Pub. L. 94-135, § 107(a), substituted "$200,000" for "$160,000" in cl. (A) and "$62,500" for "$50,000" in cl. (B).

Subsec. (b)(2). Pub. L. 94-135, § 107(b), added par. (2). Former par. (2) redesignated (4).

Subsec. (b)(3). Pub. L. 94-135, § 107(b), added par. (3).

Subsec. (b)(4). Pub. L. 94-135, § 107(b), redesignated former par. (2) as (4).

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, under subsec. (b) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 105(b) of Pub. L. 94-274, title I, Apr. 21, 1976, 90 Stat. 385, set out as a note under section 3023 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (c) of this section, see section 201(18) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3023, 3024, 3025, 3027, 3045d of this title.

§ 3027. Payments of grants or contracts

(a) Adjustments; advances or reimbursement; installments; development of State plans; continuation of Federal financial assistance

Payments of grants or contracts under this subchapter may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine. From a State's allotment for a fiscal year which is available pursuant to section 3026 of this title the Commissioner may pay to a State which does not have a State plan approved under section 3025 of this title such amounts as he deems appropriate for the purpose of assisting such State in developing a State plan. From a State's allotment for a fiscal year which is available pursuant to section 3023 of this title, the Commissioner may, during the period ending one year after May 3, 1973, pay, in accordance with such regulations as he may prescribe, to a State which does not have a State plan approved under section 3025 of this title, such amounts as he deems appropriate for the purpose of continuing Federal financial assistance for activities assisted under the plan of such State approved under section 3023 of this title prior to May 3, 1973.

(b) Matching funds; percentage limitation

Beginning with the fiscal year ending June 30, 1975, not less than 25 per centum of the non-Federal share (pursuant to section 3023(e) of this title) of the total expenditures under the State plan shall be met from funds from State or local public sources.

(c) Reduction of State's allotment for area planning and social service programs

A State's allotment under section 3023 of this title for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 3025 of this title are less than its expenditures from such sources for the preceding fiscal year.

(Pub. L. 89-73, title III, § 307, as added Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 44.)

PRIOR PROVISIONS

Provisions similar in part to those comprising subsec. (a) of this section were contained in Pub. L. 89-73, title III, § 306, formerly § 305, July 14, 1965, 79 Stat. 224, renumbered Pub. L. 91-69, § 5, Sept. 17, 1969, 83 Stat. 110, and were classified to section 3025 of this title, prior to repeal of section 3025 by Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 36.

CONTINUATION OF FEDERAL PROGRAMS AND ACTIVITIES DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Authority to continue Federal programs and activities during the fiscal year transition period from July 1, 1976, through Sept. 30, 1976, under subsec. (c) of this section, and conditions imposed upon exercise of authority during transition period with respect to amounts, etc., see section 105(a) of Pub. L. 94-274, title I, Apr. 21, 1976, 90 Stat. 385, set out as a note under section 3020 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (a) of this section, see section 201(18) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (b) of this section, see section 204(2) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3023, 3025 of this title.

§ 3028. Model projects

(a) Grants or contracts; special consideration: housing, continuing education, preretirement services, and physically or mentally impaired persons

The Commissioner may, after consultation with the State agency, make grants to any public or nonprofit private agency or organization or contracts with any agency or organiza-

tion within such State for paying part or all of the cost of developing or operating statewide, regional, metropolitan area, county, city, or community model projects which will expand or improve social services or otherwise promote the well-being of older persons. In making grants and contracts under this section, the Commissioner shall give special consideration to projects designed to—

(1) assist in meeting the special housing needs of older persons by (A) providing financial assistance to such persons, who own their own homes, necessary to enable them to make the repairs and renovations to their homes which are necessary for them to meet minimum standards, (B) studying and demonstrating methods of adapting existing housing, or construction of new housing, to meet the needs of older persons suffering from physical disabilities, and (C) demonstrating alternative methods of relieving older persons of the burden of real property taxes on their homes;

(2) provide continuing education to older persons designed to enable them to lead more productive lives by broadening the educational, cultural, or social awareness of such older persons, emphasizing, where possible, free tuition arrangements with colleges and universities;

(3) provide preretirement education, information, and relevant services (including the training of personnel to carry out such programs and the conducting of research with respect to the development and operation of such programs) to persons planning retirement;

(4) provide services to assist in meeting the particular needs of the physically and mentally impaired older persons including special transportation and escort services, homemaker, home health and shopping services, reader services, letter writing services, and other services designed to assist such individuals in leading a more independent life; or

(5) enable State agencies on aging and other public and private nonprofit organizations to assist in the promotion and development of ombudsman services for residents of nursing homes;

(6) meet the special needs of, and improve the delivery of services to, older persons who are not receiving adequate services under other provisions of this chapter, with emphasis on the needs of low-income, minority, Indian, and limited-English speaking individuals, and the rural elderly; or

(7) assist older persons to remain within their communities and out of institutions and to maintain their independent living by (A) providing financial assistance for the establishment and operation of senior ambulatory care day centers (providing a planned schedule of health, therapeutic, educational, nutritional, recreational, and social services at least twenty-four hours per week, transportation arrangements at low or no cost for participants to and from the center, a hot midday meal, outreach and public information programs, and opportunities for maximum participation of senior participants and senior volunteers in the planning and operation of such center), and (B) maintaining or initiating arrangements (or providing reasonable assurances that such arrangements will be maintained or initiated) with the agency of the State concerned which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and with other appropriate social services agencies receiving, or reimbursed through, Federal financial assistance, for the payment of all or a part of such center's costs in providing services to eligible persons.

(b) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, the fiscal year ending June 30, 1975, the fiscal year ending June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, and 1978.

(Pub. L. 89-73, title III, § 308, as added Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 44, and amended Pub. L. 94-135, title I, §§ 108, 112(c), Nov. 28, 1975, 89 Stat. 717, 719.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(7), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89-73, title III, § 305, as added Pub. L. 91-69, § 5, Sept. 17, 1969, 83 Stat. 110, and were classified to section 3024a of this title, prior to repeal of section 3024a by Pub. L. 93-29, title III, § 301, May 3, 1973, 87 Stat. 36.

AMENDMENTS

1975—Subsec. (a)(5) to (7). Pub. L. 94-135, § 108, added pars. (5) to (7).

Subsec. (b). Pub. L. 94-135, § 112(c), authorized appropriations for fiscal year ending June 30, 1976, period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years ending Sept. 30, 1977, and 1978.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3017 of this title.

§ 3029. Transportation projects

(a) Authorization of appropriations; grants; allotment formula

There are authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1975, to carry out the purposes of this section. From sums appropriated under this section, the Commissioner is authorized to make grants to each State having a State plan approved under section 3025 of this title for the purpose of paying up to 75 per centum of the costs of meeting the transportation needs of older persons, with special emphasis on providing supportive transportation in connection with nutrition projects operated pursuant to subchapter VII of this chapter. Sums appropriated under

this section shall be allotted to the States in accordance with the allotment formula contained in section 3023 of this title.

(b) Allotment availability; priority for applicants proposing to serve areas with no public transportation or with inadequate public transportation

The allotment to a State under this section shall remain available until December 31, 1975, for grants and contracts to area agencies on aging, organized under section 3025(b) of this title, or to other public or nonprofit private agencies that the State agency determines have the capacity to meet the transportation needs of older persons and to provide supportive transportation services in connection with nutrition projects operated under subchapter VII of this chapter. In making grants and contracts under this section, State agencies shall give priority to applicants proposing to serve areas in which there is no public transportation or in which existing public transportation is inadequate to meet the special needs of older persons.

(c) Final regulations

Within ninety days following the enactment of legislation appropriating funds as authorized by this section, the Commissioner shall issue final regulations for implementation of the program herein authorized.

(d) Technical assistance

The Commissioner is authorized and directed to request the technical assistance and cooperation of the Secretary of Transportation and such other departments and agencies of the Federal Government as may be appropriate for the proper and effective administration of this section.

(Pub. L. 89-73, title III, § 309, as added Pub. L. 93-351, § 3, July 12, 1974, 88 Stat. 357.)

SUBCHAPTER IV—TRAINING AND RESEARCH

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3017, 3045 of this title.

PART A—TRAINING

§ 3031. Statement of purpose

The purpose of this part is to improve the quality of service and to help meet critical shortages of adequately trained personnel for programs in the field of aging by (1) developing information on the actual needs for personnel to work in the field of aging, both present and long range; (2) providing a broad range of quality training and retraining opportunities, responsive to changing needs of programs in the field of aging; (3) attracting a greater number of qualified persons into the field of aging; and (4) helping to make personnel training programs more responsive to the need for trained personnel in the field of aging.

(Pub. L. 89-73, title IV, § 401, as added Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 45.)

PRIOR PROVISIONS

A prior section 3031, Pub. L. 89-73, title IV, § 401, July 14, 1965, 79 Stat. 224; Pub. L. 90-42, § 5(b), July 1, 1967, 81 Stat. 107; Pub. L. 91-69, § 7, Sept. 17, 1969, 83 Stat. 111, which related to description of activities, was repealed by Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 45, and is now covered by section 3035 of this title.

§ 3032. Appraising personnel needs in the field of aging

(a) Agency cooperation

The Commissioner shall from time to time appraise the Nation's existing and future personnel needs in the field of aging, at all levels and in all types of programs, and the adequacy of the Nation's efforts to meet these needs. In developing information relating to personnel needs in the field of aging, the Commissioner shall consult with, and make maximum utilization of statistical and other related information of the Department of Labor, the Veterans' Administration, the Office of Education, Federal Council on the Aging, the National Foundation on the Arts and Humanities, State educational agencies, other State and local public agencies and offices dealing with problems of the aging, State employment security agencies, and other appropriate public and private agencies.

(b) Report

The Commissioner shall prepare and publish annually as a part of the annual report provided in section 3018 of this title a report on the professions dealing with the problems of the aging, in which he shall present in detail his view on the state of such professions and the trends which he discerns with respect to the future complexion of programs for the aging throughout the Nation and the funds and the needs for well-educated personnel to staff such programs. The report shall indicate the Commissioner's plans concerning the allocation of Federal assistance under this subchapter in relation to the plans and programs of other Federal agencies.

(Pub. L. 89-73, title IV, § 402, as added Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 45.)

PRIOR PROVISIONS

A prior section 3032, Pub. L. 89-73, title IV, § 402, July 14, 1965, 79 Stat. 224, which related to payments of grants, providing in: subsec. (a) for contribution by recipients; subsec. (b) adjustments, advances or reimbursement, installments and conditions; and subsec. (c) consultation of Secretary with State agency prior to making grants or contracts, was repealed by Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 45, and is now covered by section 3037a of this title.

Provisions similar to those comprising this section were contained in Pub. L. 89-73, title V, § 503, as added Pub. L. 90-42, § 6, July 1, 1967, 81 Stat. 108, which classified to section 3043 of this title, prior to repeal of section 3043 by Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 45.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3015 of this title.

§ 3033. Attracting qualified persons to the field of aging

The Commissioner may make grants to State agencies referred to in section 3024 of this title, State or local educational agencies, institutions of higher education as defined in section 1141(a) of title 20, or other public or nonprofit private agencies, organizations, or institutions,

and he may enter into contracts with any agency, institution, or organization for the purpose of—

(1) publicizing available opportunities for careers in the field of aging;

(2) encouraging qualified persons to enter or reenter the field of aging;

(3) encouraging artists, craftsmen, artisans, scientists, and persons from other professions and vocations and homemakers, to undertake assignments on a part-time basis or for temporary periods in the field of aging; or

(4) preparing and disseminating materials, including audio-visual materials and printed materials, for use in recruitment and training of persons employed or preparing for employment in carrying out programs related to the purposes of this chapter.

(Pub. L. 89-73, title IV, § 403, as added Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 46, and amended Pub. L. 94-135, title I, § 109, Nov. 28, 1975, 89 Stat. 717.)

AMENDMENTS

1975—Pub. L. 94-135 substituted "institutions of higher education as defined in section 1141(a) of title 20" for "institutions of higher education".

§ 3034. Training programs for personnel in the field of aging

(a) Grants or contracts; scope of assistance

The Commissioner may make grants to any public or nonprofit private agency, organization, or institution or with State agencies referred to in section 3024 of this title, or contracts with any agency, organization, or institution, to assist them in training persons who are employed or preparing for employment in fields related to the purposes of this chapter—

(1) to assist in paying the costs, in whole or in part, of short-term and inservice training courses, workshops, institutes and other activities designed to improve the capabilities of participants to provide services to older persons and to administer programs related to the purposes of this chapter,

(2) to assist in paying the costs, in whole or in part, of post-secondary education courses of training or study related to the purposes of this chapter, including the payment of stipends to students enrolled in such courses,

(3) for establishing and maintaining fellowships to train persons to be supervisors or trainers of persons employed or preparing for employment in fields related to the purposes of this chapter,

(4) for seminars, conferences, symposiums, and workshops in the field of aging, including the conduct of conferences and other meetings for the purposes of facilitating exchange of information and stimulating new approaches with respect to activities related to the purposes of this chapter,

(5) for the improvement of programs for preparing personnel for careers in the field of aging, including design, development and evaluation of exemplary training programs, introduction of high quality and more effective curricula and curricula materials, and

(6) the provision of increased opportunities for practical experience.

(b) Payments; stipends; allowances to institution

The Commissioner may include in the terms of any contract or grant under this part provisions authorizing the payment, to persons participating in training programs supported under this part, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he determines to be consistent with prevailing practices under comparable federally supported programs. Where the Commissioner provides for the use of funds under this section for fellowships, he shall (in addition to stipends for the recipients) pay to colleges or universities in which the fellowship is being pursued such amounts as the Commissioner shall determine to be consistent with prevailing practices under comparable federally supported programs.

(c) Legal assistance

The Commissioner may make grants under subsection (a) of this section to assist in (1) the training of lawyers and paraprofessional persons who will (A) provide legal (including tax and financial) counseling and services to older persons; or (B) monitor the administration of any program by any public or private nonprofit institution, organization, or agency, or any State or political subdivision of a State, designed to provide assistance or services to older persons, including nursing home programs and other similar programs; and (2) the training of persons employed by or associated with public or private nonprofit agencies or organizations, including a State or political subdivision of a State, who will identify legal problems affecting older persons, develop solutions for such problems, and mobilize the resources of the community to respond to the legal needs of older persons.

(Pub. L. 89-73, title IV, § 404, as added Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 46, and amended Pub. L. 94-135, title I, § 110, Nov. 28, 1975, 89 Stat. 718.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94-135, § 110(b), added par. (1) and struck out former par. (1) authorization of grants and contracts to assist in covering the cost of courses of training or study (including short-term or regular session institutes and other inservice and preservice training programs).

Subsec. (a)(2). Pub. L. 94-135, § 110(b), added par. (2). Former par. (2) redesignated (3).

Subsecs. (a)(3) to (6), Pub. L. 94-135, § 110(a), redesignated former pars. (2) to (5) as (3)(6).

Subsec. (c). Pub. L. 94-135, § 110(c), added subsec. (c).

PART B—RESEARCH AND DEVELOPMENT PROJECTS

§ 3035. Description of activities

The Commissioner may make grants to any public or nonprofit private agency, organization, or institution and contracts with any agency, organization, or institution or with any individual for the purpose of—

(1) studying current patterns and conditions of living of older persons and identifying factors which are beneficial or detrimental to the wholesome and meaningful living of such persons;

(2) developing or demonstrating new approaches, techniques, and methods (including

the use of multipurpose centers) which hold promise of substantial contribution toward wholesome and meaningful living for older persons;

(3) developing or demonstrating approaches, methods, and techniques for achieving or improving coordination of community services for older persons;

(4) evaluating these approaches, techniques, and methods, as well as others which may assist older persons to enjoy wholesome and meaningful lives and to continue to contribute to the strength and welfare of our Nation;

(5) collecting and disseminating, through publications and other appropriate means, information concerning research findings, demonstration results, and other materials developed in connection with activities assisted under this part; or

(6) conducting conferences and other meetings for the purposes of facilitating exchange of information and stimulating new approaches with respect to activities related to the purposes of this part.

(Pub. L. 89-73, title IV, § 411, as added Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 47.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89-73, title IV § 401, July 14, 1965, 79 Stat. 224; Pub. L. 90-42, § 5(b), July 1, 1967, 81 Stat. 107; Pub. L. 91-69, § 7, Sept. 17, 1969, 83 Stat. 111, which were classified to section 3031 of this title, prior to repeal of section 3031 by Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 45.

§ 3035a. Omitted

CODIFICATION

Pub. L. 89-73, title IV, § 412, as added Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 47, provided that the Commissioner, after consultation with the Secretary of Transportation and the Secretary of Housing and Urban Development, conduct a comprehensive study of the transportation problems of older Americans, and conduct research and demonstration projects in connection with this study designed to demonstrate feasible solutions to these transportation problems, and not later than Jan. 1, 1975, report to the Secretary, to the President, and to Congress his findings and recommendations, including a plan for implementation of improved transportation services for older Americans and recommendations for additional legislation, and administrative and other measures designed to provide solutions.

PART C—MULTIDISCIPLINARY CENTERS OF GERONTOLOGY

§ 3036. Applications for grants for establishment or support of multidisciplinary centers of gerontology; terms and conditions

The Commissioner may make grants to public and private nonprofit agencies, organizations, and institutions for the purpose of establishing or supporting multidisciplinary centers of gerontology. A grant may be made under this section only if the application therefor—

(1) provides satisfactory assurance that the applicant will expend the full amount of the grant to establish or support a multidisciplinary center of gerontology which shall—

(A) recruit and train personnel at the professional and subprofessional levels,

(B) conduct basic and applied research on work, leisure, and education of older people, living arrangements of older people, social services for older people, the economics of aging, and other related areas,

(C) provide consultation to public and voluntary organizations with respect to the needs of older people and in planning and developing services for them,

(D) serve as a repository of information and knowledge with respect to the areas for which it conducts basic and applied research.

(E) stimulate the incorporation of information on aging into the teaching of biological, behavioral, and social sciences at colleges or universities,

(F) help to develop training programs on aging in schools of social work, public health, health care administration, education, and in other such schools at colleges and universities, and

(G) create opportunities for innovative, multidisciplinary efforts in teaching, research, and demonstration projects with respect to aging;

(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the applicant under this section; and

(3) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(Pub. L. 89-73, title IV, § 421, as added Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 48.)

PART D—AUTHORIZATION OF APPROPRIATIONS

§ 3037. Authorization of appropriations

There are authorized to be appropriated for the purposes of carrying out this subchapter such sums as may be necessary for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, the fiscal year ending June 30, 1975, the fiscal year ending June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, and 1978.

(Pub. L. 89-73, title IV, § 431, as added Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 49, and amended Pub. L. 94-135, title I, § 112(d), Nov. 28, 1975, 89 Stat. 720.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89-73, title VIII, § 803, formerly title VI, § 603, July 14, 1965, 79 Stat. 226; Pub. L. 90-42, § 4, July 1, 1967, 81 Stat. 107; renumbered title VII, § 703, and amended Pub. L. 91-69, §§ 2(b), 9, Sept. 17, 1969, 83 Stat. 108, 111; renumbered title VIII, § 803, Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, which were classified to section 3053 of this title, prior to repeal of section 3053 of Pub. L. 93-29, title II, § 202, May 3, 1973, 87 Stat. 36.

AMENDMENTS

1975—Pub. L. 94-135 authorized appropriations for fiscal year ending June 30, 1976, period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years ending Sept. 30, 1977, and 1978.

§ 3037a. Payments of grants

(a) Contributions of recipients

To the extent he deems it appropriate, the Commissioner shall require the recipient of any grant or contract under this subchapter to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

(b) Adjustments; advances or reimbursement; installments; conditions

Payments under this subchapter pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Commissioner may determine.

(c) Consultations with State agency

The Commissioner shall make no grant or contract under this subchapter in any State which has established or designated a State agency for purposes of subchapter III of this chapter unless the Commissioner has consulted with such State agency regarding such grant or contract.

(Pub. L. 89-73, title IV, § 432, as added Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 49, and amended Pub. L. 94-135, title I, § 114(f), Nov. 28, 1975, 89 Stat. 725.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89-73, title IV, § 402, title V, § 502, July 14, 1965, 79 Stat. 224, 225, which were classified to sections 3032 and 3042 of this title, prior to repeal of sections 3032 and 3042 by Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 45.

AMENDMENTS

1975—Subsec. (b). Pub. L. 94-135 substituted "subchapter" for "part".

SUBCHAPTER V—MULTIPURPOSE SENIOR CENTERS

PART A—ACQUISITION, ALTERATION, OR RENOVATION OF MULTIPURPOSE SENIOR CENTERS

§ 3041. Grants or contracts

(a) Authority of Commissioner; percentage limitation; proximity of facilities

In order to provide a focal point in communities for the development and delivery of social services and nutritional services designed primarily for older persons, the Commissioner may make grants to units of general purpose local government or other public or nonprofit private agencies or organizations and may make contracts with any agency or organization to pay not to exceed 75 per centum of the cost of acquiring, altering, or renovating existing facilities to serve as multipurpose senior centers (including the initial equipment of such facilities). Facilities assisted by grants or contracts under this part shall be in close proximity to the majority of individuals eligible to use the multipurpose senior center, and within walking distance where possible.

(b) State percentage limitation

The total payments made pursuant to grants or contracts under this section in any State for any fiscal year shall not exceed 10 per centum of the total amount appropriated for the year for the purposes of carrying out this part.

(c) Multipurpose senior center defined

The term "multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services (including provision of health, social, and educational services and provision of facilities for recreational activities) for older persons.

(Pub. L. 89-73, title V, § 501, as added Pub. L. 93-29, title V, § 501, May 3, 1973, 87 Stat. 50.)

PRIOR PROVISIONS

A prior section 3041, Pub. L. 89-73, title V, § 501, July 14, 1965, 79 Stat. 224; Pub. L. 91-69, § 8, Sept. 17, 1969, 83 Stat. 111, which related to training project grants and contracts, training programs, studies, preparation and dissemination of materials, and conferences, was repealed by Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 45, and is now covered by subchapter IV of this chapter.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (b) of this section, see section 204(2) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (b) of this section, see section 201(18) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3041d of this title.

§ 3041a. Requirements for approval of applications; preferred areas; agency cooperation

(a) A grant or contract for purchase under this part may be made only if the application therefor is approved by the Commissioner upon his determination that—

(1) the application contains or is supported by reasonable assurances that (A) for not less than ten years after purchase, the facility will be used for the purposes for which it is to be purchased, (B) sufficient funds will be available to meet the non-Federal share of the cost of purchase of the facility, (C) sufficient funds will be available, when purchase is completed, for effective use of the facility for the purpose for which it is being purchased, and (D) the facility will not be used and is not intended to be used for sectarian instruction or as a place for religious worship;

(2) the application contains or is supported by reasonable assurances that there are no existing facilities in the community suitable for leasing as a multipurpose senior center;

(3) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment (promulgated with particular emphasis on securing compliance with the requirements of the Architectural Barriers Act of 1968 (Public Law 90-480) [42 U.S.C. 4151 et seq.]); and

(4) The application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractors or subcontractors in the performance of work on the facility will be paid wages at rates not less than those prevailing for similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 276c of title 40.

(b) In making grants or contracts under this part, the Commissioner shall—

(1) give preference to the acquisition of multipurpose senior centers in areas where there is being developed a comprehensive and coordinated system under subchapter III of this chapter; and

(2) consult with the Secretary of Housing and Urban Development with respect to the technical adequacy of any proposed alteration or renovation.

(Pub. L. 89-73, title V, § 502, as added Pub. L. 93-29, title V, § 501, May 3, 1973, 87 Stat. 50.)

REFERENCES IN TEXT

The Architectural Barriers Act of 1968, referred to in subsec. (a)(3), is Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718, as amended, which is classified generally to chapter 51 (§ 4151 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

The Davis-Bacon Act, as amended, referred to in subsec. (a)(4), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a)(4), is set out in the Appendix to Title 5, Government Organization and Employees.

§ 3041b. Payments; reservation from appropriations amount of grant or contract: amendment; advances; reimbursement; installments

Upon approval of any application for a grant or contract under this part, the Commissioner shall reserve, from any appropriation available therefor, the amount of such grant or contract. The amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with progress in alteration or renovation, as the Commissioner may determine. The Commissioner's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of altering or renovating the facility.

(Pub. L. 89-73, title V § 503, as added Pub. L. 93-29, title V, § 501, May 3, 1973, 87 Stat. 51.)

§ 3041c. Recapture of payments

If, within ten years after purchase of any facility for which funds have been paid under this part—

(a) the owner of the facility ceases to be a public or nonprofit private agency or organization, or

(b) the facility ceases to be used for the purposes for which it was purchased (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(Pub. L. 89-73, title V, § 504, as added Pub. L. 93-29, title V, § 501, May 3, 1973, 87 Stat. 51.)

§ 3041d. Authorization of appropriations

(a) There are authorized to be appropriated for the purpose of making grants or contracts under section 3041 of this title, such sums as may be necessary for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, the fiscal year ending June 30, 1975, the fiscal year ending June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, and 1978.

(b) Sums appropriated for any fiscal year under subsection (a) of this section and remaining unobligated at the end of such year shall remain available for such purpose for the next fiscal year.

(Pub. L. 89-73, title V, § 505, as added Pub. L. 93-29, title V, § 501, May 3, 1973, 87 Stat. 51, and amended Pub. L. 94-135, title I, § 112(e), Nov. 28, 1975, 89 Stat. 720.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-135 authorized appropriations for fiscal year ending June 30, 1976, period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years ending Sept. 30, 1977, and 1978.

§ 3041e. Mortgage insurance for Multipurpose Senior Centers

(a) Statement of purpose

It is the purpose of this section to assist and encourage the provision of urgently needed facilities for programs for the elderly.

(b) Definitions

For the purpose of this part the terms "mortgage", "mortgagor", "mortgagee", "maturity date", and "State" shall have the meanings respectively set forth in section 207 of the National Housing Act [12 U.S.C. 1713].

(c) Terms and conditions of mortgage insurance; commencement of commitments

The Secretary of Health, Education, and Welfare is authorized to insure any mortgage (including advances on such mortgage during acquisition, alteration, or renovation) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

(d) New multipurpose senior center coverage; conditions of mortgage insurance; limitation of amount

In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers a new multipurpose senior center, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor, approved by the Secretary, who demonstrates ability successfully to operate one or more programs for the elderly. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Multipurpose Senior Center Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed $250,000 and not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the multipurpose senior center, when the proposed improvements are completed and the equipment is installed.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and

(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at anytime as the Secretary finds necessary to meet the mortgage market.

(4) The Secretary shall not insure any mortgage under this section unless he has determined that the center to be covered by the mortgage will be in compliance with minimum standards to be prescribed by the Secretary.

(5) In the plans for such Multipurpose Senior Center, due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

(e) Premium charges: annual advance payments, limitation; appraisal and inspection charges, limitation

The Secretary shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Multipurpose Senior Center Insurance Fund (established by subsection (h) of this section) issued at par plus accrued interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during acquisition, alteration, or renovation; but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

(f) Releases from mortgage liens; terms and conditions

The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

(g) Functions, powers, and duties of Secretary; National Housing Act applicable and references construed

(1) The Secretary shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act [12 U.S.C. 1707 et seq.].

(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (*l*), and (n) of section 207 of the National Housing Act [12 U.S.C. 1713] shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Multipurpose Senior Center Insurance Fund, and all references in such provisions to "Secretary" shall be deemed to refer to the Secretary of Health, Education, and Welfare.

(h) Multipurpose Senior Center Insurance Fund; establishment; revolving fund; general expenses of insurance operations; deposits in Treasury; investments; open market purchases and cancellation of debentures; credits and charges; authorization of appropriations

(1) There is hereby created a Multipurpose Senior Center Insurance Fund which shall be used by the Secretary as a revolving fund for carrying out all of the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Multipurpose Senior Center Insurance Fund.

(2) The general expenses of the operations of the Department of Health, Education, and Wel-

fare relating to mortgages insured under this section may be charged to the Multipurpose Senior Center Insurance Fund.

(3) Moneys in the Multipurpose Senior Center Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Multipurpose Senior Center Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings as the assets of the fund, shall be credited to the Multipurpose Senior Center Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

(5) There are authorized to be appropriated to provide initial capital for the Multipurpose Senior Center Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary.

(Pub. L. 89-73, title V, § 506, as added Pub. L. 93-29, title V, § 501, May 3, 1973, 87 Stat. 51.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (g)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title II of the National Housing Act is classified principally to subchapter II (§ 1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

§ 3041f. Annual interest grants

(a) Authority of Secretary

To assist nonprofit private agencies to reduce the cost of borrowing from other sources for the acquisition, alteration or renovation of facilities, the Secretary may make annual interest grants to such agencies.

(b) Term; guarantee of payment; amount

Annual interest grants under this section with respect to any facility shall be made over a fixed period not exceeding forty years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount not greater than the difference between (1) the average annual debt service which would be required to be paid, during the life of the loan, on the amount borrowed from other sources for the acquisition, alteration, or renovation of such facilities and (2) the average annual debt service which the institution would have been required to pay, during the life of the loan, with respect to such amounts if the applicable interest rate were 3 per centum per annum: *Provided*, That the amount on which such grant is based shall be approved by the Secretary.

(c) Authorization of appropriations; aggregate amount of contracts

(1) There are hereby authorized to be appropriated to the Secretary such sums as may be necessary for payment of annual interest grants in accordance with this section.

(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts.

(d) Limitation of funds for any State

Not more than 12½ per centum of the funds provided for in this section for grants may be used within any one State.

(Pub. L. 89-73, title V, § 507, as added Pub. L. 93-29, title V, § 501, May 3, 1973, 87 Stat. 54, and amended Pub. L. 94-135, title I, § 114(g), Nov. 28, 1975, 89 Stat. 725.)

AMENDMENTS

1975—Subsec. (b)(1). Pub. L. 94-135 substituted "of" for "or" preceding "such facilities".

PART B—INITIAL STAFFING OF MULTIPURPOSE SENIOR CENTERS

§ 3042. Personnel staffing grant program

(a) Authority of Commissioner

For the purpose of assisting in the establishment and initial operation of multipurpose senior centers the Commissioner may, in accordance with the provisions of this part, make grants to meet, for the temporary periods specified in this part, all or part of the costs of compensation of professional and technical personnel for the initial operation of new multipurpose senior centers and for the delivery of social services established therein.

(b) Term of grants; limitation of amount

Grants for such costs of any center under this subchapter may be made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day. Such grants with respect to any center may not exceed 75 per centum of such costs for the first year of the project, 66⅔ per centum of such costs for the second year of the project, and 50 per centum of such costs for the third year of the project.

(c) Considerations in making grants

In making such grants, the Secretary shall take into account the relative needs of the several States for community centers for senior citizens, their relative financial needs, and their population of persons over sixty years of age.

(d) Authorization of appropriations

For the purpose of this part, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

(Pub. L. 89-73, title V, § 511, as added Pub. L. 93-29, title V, § 501, May 3, 1973, 87 Stat. 54.)

PRIOR PROVISIONS

A prior section 3042, Pub. L. 89-73, title V, § 502, July 14, 1965, 79 Stat. 225, which related to payments of training project grants, providing in subsec. (a) for contribution by recipients; subsec. (b) adjustments, advances or reimbursement, installments, and conditions; and subsec. (c) consultation of Secretary with State agency prior to making grants or contracts, was repealed by Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 45, and is now covered by section 3037a of this title.

A prior section 3043, Pub. L. 89-73, title V, § 503, as added Pub. L. 90-42, § 6, July 1, 1967, 81 Stat. 108, which related to study of need for trained personnel; and consultations with other government and private agencies and organizations, was repealed by Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 45, and is now covered by section 3032 of this title.

SUBCHAPTER VI—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAM

§§ 3044 to 3044e. Repealed. Pub. L. 93-113, title VI, § 604(a), Oct. 1, 1973, 87 Stat. 417

Section 3044, Pub. L. 89-73, title VI, § 601, as added Pub. L. 91-69, § 9, Sept. 17, 1969, 83 Stat. 111, and amended Pub. L. 93-29, title VI, § 601, May 3, 1973, 87 Stat. 55, related to grants and contracts for volunteer service projects, providing in: subsec. (a) for approval of programs and rules and regulations; subsec. (b) for method of payment; subsec. (c) for conditions upon award of grant or contract, and subsec. (d) for exclusion as income of compensation to individual volunteers.

Section 3044a, Pub. L. 89-73, title VI, § 603, as added Pub. L. 91-69, § 9, Sept. 17, 1969, 83 Stat. 112, and amended Pub. L. 93-29, title VI, § 602, May 3, 1973, 87 Stat. 55, related to authorization of appropriations.

Section 3044b, Pub. L. 89-73, title VI, § 611, as added Pub. L. 91-69, § 9, Sept. 17, 1969, 83 Stat. 112, and amended Pub. L. 92-424, § 29(a), Sept. 19, 1972, 86 Stat. 705; Pub. L. 93-29, title VI, § 603(b), May 3, 1973, 87 Stat. 55, related to grants and contracts for Foster Grandparent projects and for services as senior health aides and senior companions, amount of award, method of payment, and exclusion as income of compensation to individual volunteers.

Section 3044c, Pub. L. 89-73, title VI, § 612, as added Pub. L. 91-69, § 9, Sept. 17, 1969, 83 Stat. 113, related to conditions upon award of grantor contract and defined "community action agency".

Section 3044d, Pub. L. 89-73, title VI, § 613, as added Pub. L. 91-69, § 9, Sept. 17, 1969, 83 Stat. 113, and amended Pub. L. 93-29, title VI, § 603(c), May 3, 1973, 87 Stat. 55, related to interagency cooperation.

Section 3044e, Pub. L. 89-73, title VI, § 614, as added Pub. L. 91-69, § 9, Sept. 17, 1969, 83 Stat. 114, and amended Pub. L. 93-29, title VI, § 604, May 3, 1973, 87 Stat. 55, related to authorization of appropriations.

Such former provisions are now covered by various sections as follows:

Former Sections	*Present Sections*
3044(a)(1), (2)	5001(a)(1), (2)
3044(a)(3)	5044(a)
3044(a)(4), (5)	5001(a)(3), (4)
3044(a)(6)	5021
3044(b)	5022
3044(c)	5001(b)
3044(d)	5058
3044a	5082(a)
3044b(a), (b)	5011(a), (b)
3044b(c)	5022
3044b(d)	5058
3044c(a)(1)(A)	5012(a)(1)
3044c(a)(1)(B)	5044(a)
3044c(a)(2), (3)	5012(a)(2), (3)
3044c(b)	5012(b)
3044d	5021
3044e	5082(b)

SUBCHAPTER VII—NUTRITION PROGRAM FOR THE ELDERLY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1762a, 3024, 3026, 3029 of this title.

§ 3045. Congressional findings and declaration of purpose

(a) The Congress finds that the research and development nutrition projects for the elderly conducted under title IV of the Older Americans Act [42 U.S.C. 3031 et seq.] have demonstrated the effectiveness of, and the need for, permanent nationwide projects to assist in meeting the nutritional and social needs of millions of persons aged sixty or older. Many elderly persons do not eat adequately because (1) they cannot afford to do so; (2) they lack the skills to select and prepare nourishing and well-balanced meals; (3) they have limited mobility which may impair their capacity to shop and cook for themselves; and (4) they have feelings of rejection and loneliness which obliterate the incentive necessary to prepare and eat a meal alone. These and other physiological, psychological, social, and economic changes that occur with aging result in a pattern of living, which causes malnutrition and further physical and mental deterioration.

(b) In addition to the food stamp program, commodity distribution systems and old-age income benefits, there is an acute need for a national policy which provides older Americans, particularly those with low incomes, with low cost, nutritionally sound meals served in strategically located centers such as schools, churches, community centers, senior citizen centers, and other public or private nonprofit institutions where they can obtain other social and rehabilitative services. Besides promoting better health among the older segment of our population through improved nutrition, such a program would reduce the isolation of old age, offering older Americans an opportunity to live their remaining years in dignity.

(Pub. L. 89-73, title VII, § 701, as added Pub. L. 92-258, § 2, Mar. 22, 1972, 86 Stat. 88.)

REFERENCES IN TEXT

The Older Americans Act, referred to in subsec. (a), probably means the Older Americans Act of 1965, which is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, as amended. Title IV of the Older Americans Act of 1965, as added by Pub. L. 93-29, title IV, § 401, May 3, 1973, 87 Stat. 45, is classified generally to subchapter IV (§ 3031 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3045e of this title.

§ 3045a. Administration of program

(a) Administration on Aging; use of Department of Agriculture

In order to effectively carry out the purposes of this subchapter, the Commissioner shall—

(1) administer the program through the Administration on Aging; and

(2) consult with the Secretary of Agriculture and make full utilization of the Food and Nutrition Service, and other existing services of the Department of Agriculture.

(b) Technical assistance and cooperation from other Federal departments and agencies

In carrying out the provisions of this subchapter, the Commissioner is authorized to request the technical assistance and cooperation of the Department of Labor, the Community Services Administration, the Department of Housing and Urban Development, the Department of Transportation, and such other departments and agencies of the Federal Government as may be appropriate.

(c) Use of services and facilities of Federal, public, or private agencies; reimbursement

The Commissioner is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities.

(d) Consultative services and technical assistance; public and private nonprofit organizations

In carrying out the purposes of this subchapter, the Commissioner is authorized to provide consultative services and technical assistance to any public or private nonprofit institution or organization, agency, or political subdivision of a State; to provide short-term training and technical instruction; and to collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this subchapter.

(Pub. L. 89-73, title VII, § 702, as added Pub. L. 92-258, § 2, Mar. 22, 1972, 86 Stat. 89, and amended Pub. L. 93-29, title VII, § 704(c), May 3, 1973, 87 Stat. 57; Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 2310.)

CODIFICATION

"Community Services Administration" was substituted for "Office of Economic Opportunity", in subsec. (b), on the authority of section 9(a) of Pub. L. 93-644, Jan. 4, 1975, 88 Stat. 2310, which established the Community Services Administration as the successor to the Office of Economic Opportunity. See section 2941 of this title.

AMENDMENTS

1973—Pub. L. 93-29 substituted, wherever appearing in subsecs. (a)-(d), "Commissioner" for "Secretary" when meaning the Secretary of Health, Education, and Welfare.

§ 3045b. Allotment of funds

(a) State proportionate share formula

(1) From the sums appropriated for any fiscal year under section 3045g of this title, each State shall be allotted an amount which bears the same ratio to such sum as the population aged 60 or over in such State bears to the population aged 60 or over in all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made; and (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount equal to one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made. For the purpose of the exception contained in this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) The number of persons aged sixty or over in any State and for all States shall be determined by the Commissioner on the basis of the most satisfactory data available to him.

(b) Reallotment of unrequired portion

The amount of any State's allotment under subsection (a) of this section of any fiscal year which the Commissioner determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) of this section for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Such reallotments shall be made on the basis of the State plan so approved, after taking into consideration the population aged sixty or over. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) of this section for that year.

(c) Federal allotment; matching non-Federal funds

The allotment of any State under subsection (a) of this section for any fiscal year shall be available for grants to pay up to 90 per centum of the costs of projects in such State described in section 3045e of this title and approved by such State in accordance with its State plan approved under section 3045d of this title, but only to the extent that such costs are both reasonable and necessary for the conduct of such projects, as determined by the Commissioner in accordance with criteria prescribed by him in regulations. Such allotment to any State in any fiscal year shall be made upon the condition that the Federal allotment will be matched during each fiscal year by 10 per centum, or more, as the case may be, from funds or in-kind resources from non-Federal sources.

(d) Disbursement of unqualified state's allotment

If the Commissioner finds that any State has failed to qualify under the State plan requirements of section 3045d of this title, the Commissioner shall withhold the allotment of funds to such State referred to in subsection (a) of this section. The Commissioner shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of such State

submitting an approved plan in accordance with the provisions of section 3045d of this title, including the requirement that any such payment or payments shall be matched in the proportion specified in subsection (c) of this section for such State, by funds or in-kind resources from non-Federal sources.

(e) Purchase of agricultural commodities by state agencies

The State agency may, upon the request of one or more recipients of a grant or contract, purchase agricultural commodities and other foods to be provided to such nutrition projects assisted under this subchapter. The Commissioner may require reports from State agencies, in such form and detail as he may prescribe, concerning requests by recipients of grants or contracts for the purchase of such agricultural commodities and other foods, and action taken thereon.

(Pub. L. 89-73, title VII, § 703, as added Pub. L. 92-258, § 2, Mar. 22, 1972, 86 Stat. 90, and amended Pub. L. 93-29, title VII, § 704(c), May 3, 1973, 87 Stat. 57; Pub. L. 94-135, title I, § 114(i), (j), Nov. 28, 1975, 89 Stat. 726.)

CODIFICATION

Reference in subsec. (e) to nutrition projects assisted under this subchapter was, in the original, a reference to nutrition projects assisted under this part. Since the provisions added by Pub. L. 92-258 contained no "part", the term "part" as used in such subsec. (e) has been translated as "subchapter" as the probable intent of Congress.

AMENDMENTS

1975—Subsecs. (c), (d). Pub. L. 94-135, § 114(i), (j), substituted "in-kind" for "in kind" in last sentence of subsecs. (c) and (d).

1973—Pub. L. 93-29 substituted, wherever appearing in subsecs. (a)(2), (b), (c), (d), and (e), "Commissioner" for "Secretary" when meaning the Secretary of Health, Education, and Welfare.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this section, see section 201(18) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3026, 3045e of this title.

§ 3045c. Payment of grants

Payments pursuant to grants or contracts under this subchapter may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

(Pub. L. 89-73, title VII, § 704, as added Pub. L. 92-258, § 2, Mar. 22, 1972, 86 Stat. 91, and amended Pub. L. 93-29, title VII, § 704(c), May 3, 1973, 87 Stat. 57.)

AMENDMENTS

1973—Pub. L. 93-29 substituted "Commissioner" for "Secretary".

§ 3045d. State plans

(a) Requisite features of plan

Any State which desires to receive allotments under this subchapter shall submit to the Commissioner for approval a State plan for purposes of this subchapter which, in the case of a State agency designated pursuant to section 3024 of this title, shall be in the form of an amendment to the State plan provided in section 3025 of this title. Such plan shall—

(1) establish or designate a single State agency as the sole agency for administering or supervising the administration of the plan and coordinating operations under the plan with other agencies providing services to the elderly, which agency shall be the agency designated pursuant to section 3024(a)(1) of this title, unless the Governor of such State shall, with the approval of the Commissioner, designate another agency;

(2) set forth such policies and procedures as will provide satisfactory assurance that allotments paid to the State under the provisions of this subchapter will be expended—

(A) to make grants in cash or in kind to any public or private nonprofit institution or organization, agency, or political subdivision of a State (referred to herein as "recipient of a grant or contract")—

(i) to carry out the program as described in section 3045e of this title.

(ii) to provide up to 90 per centum of the costs of the purchase and preparation of the food; delivery of the meals; and such other reasonable expenses as may be incurred in providing nutrition services to persons aged sixty or over. Recipients of grants or contracts may charge participating individuals for meals furnished pursuant to guidelines established by the Commissioner, taking into consideration the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant or a contract.

(iii) to provide up to 90 per centum of the costs of such supporting services as may be necessary in each instance, such as the costs of related social services and, where appropriate, the costs of transportation between the project site and the residences of eligible individuals who could not participate in the project in the absence of such transportation, to the extent such costs are not met through other Federal, State, or local programs.

(B) to provide for the proper and efficient administration of the State plan at the least possible administrative cost. Funds allotted to a State for State planning and administration pursuant to section 3026 of this title may be used for the administration of the State plan submitted pursuant to this section, except that wherever the governor of the State designates an agency other than the agency designated under section 3024(a)(1) of this title, then the Commissioner shall determine that portion of a State's allotment under section 3026 of this title which shall be available to the agency designated under subsection (a)(1) of this

section for planning and administration. In administering the State plan, the State agency shall—

(i) make reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this subchapter, including reports of participation by the groups specified in subsection (4) of this section; and keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this subchapter, and

(ii) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this subchapter to the State, including any such funds paid by the State to the recipient of a grant or contract.

(3) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan.

(4) provide that preference shall be given in awarding grants to carry out the purposes of this subchapter to projects serving primarily low-income individuals and provide assurances that, to the extent feasible, grants will be awarded to projects operated by and serving the needs of minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State.

(5) provide that, when mutually agreed upon by recipients of grants and contracts and area planning and service area agencies, nutrition projects assisted under this subchapter shall be made a part of the comprehensive and coordinated systems established under subchapter III of this chapter.

(b) Approval of plan

The Commissioner shall approve any State plan which he determines meets the requirements and purposes of this section.

(c) Noncompliance; payments termination

Whenever the Commissioner, subject to reasonable notice and opportunity for hearing to such State agency, finds (1) that the State plan has been so changed that it no longer complies with the provisions of this subchapter, or (2) that in the administration of the plan there is a failure to comply substantially with any such provision or with any requirements set forth in the application of a recipient of a grant or contract approved pursuant to such plan, the Commissioner shall notify such State agency that further payments will not be made to the State under the provisions of this subchapter (or in his discretion, that further payments to the State will be limited to programs or projects under the State plan, or portions thereof, not affected by the failure, or that the State agency shall not make further payments under this subchapter to specified local agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, the Commissioner shall make no further payments to the State under this subchapter, or shall limit payments to recipients of grants or contracts under, or parts of, the State plan not affected by the failure, or payments to the State agency under this subchapter shall be limited to recipients of grants or contracts not affected by the failure, as the case may be.

(d) Judicial review

(1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under subsection (a) of this section, or with respect to termination of payments in whole or in part under subsection (c) of this section, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28.

(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 89-73, title VII, § 705, as added Pub. L. 92-258, § 2, Mar. 22, 1972, 86 Stat. 91, and amended Pub. L. 93-29, title VII, §§ 702-704, May 3, 1973, 87 Stat. 56, 57; Pub. L. 94-135, title I, § 114(k)-(n), Nov. 28, 1975, 89 Stat. 726.)

CODIFICATION

References in subsec. (c) to payments to the State agency and to specified local agencies under this subchapter were, in the original, references to payments under this part. Since the provisions added by Pub. L. 92-258 contained no "part", the term "part" as used in such subsec. (c) has been translated as "subchapter" as the probable intent of Congress.

AMENDMENTS

1975—Subsec. (a)(2). Pub. L. 94-135, § 114(k), substituted "set" for "sets".

Subsec. (a)(2)(B). Pub. L. 94-135, § 114(*l*), substituted "cost. Funds" for "cost, for the fiscal year ending June 30, 1973, not to exceed an amount equal to 10 per centum of the amount allotted to the State unless a greater amount in such fiscal year is approved by the Commissioner. For the fiscal years ending after June 30, 1973, funds".

Subsec. (a)(5). Pub. L. 94-135, § 114(m), substituted "area" for "areas".

Subsec. (c). Pub. L. 94-135, § 114(n), inserted a comma after "failure" where appearing the first time in last sentence and substituted in such sentence "subchapter" for "part" without providing for like substitution in parenthetical text of first sentence, where the change has been made to reflect manifest legislative intent.

1973—Subsec. (a). Pub. L. 93-29 § 704(a), substituted section "3024" for "3023" where first appearing and "3025" for "3023" where appearing a second time in the first sentence.

Subsec. (a)(1). Pub. L. 93-29, § 704(b), substituted section "3024" for "3023".

Subsec. (a)(2)(B). Pub. L. 93-29, § 703, substituted "administrative cost, for the fiscal year ending June 30, 1973," for "administrative cost," and "such fiscal year" for "any fiscal year" in the text preceding cl. (i) and added provisions respecting use of funds allotted to a State for State planning and administration, for fiscal years ending after June 30, 1973, and what portion of a State's allotment shall be available to an agency designated by the governor other than the agency designated under section 3024(a)(1) of this title.

Subsec. (a)(5). Pub. L. 93-29, § 702, added par. (5).

Pub. L. 93-29, § 704(c), substituted, wherever appearing in subsecs. (a), (a)(1), (a)(2)(A)(ii), (B), (B)(i), (a)(3), (b), (c), (d) of this section, "Commissioner" for "Secretary" when meaning the Secretary of Health, Education, and Welfare.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (a)(2)(B) of this section, see section 201(18) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3045b of this title.

§ 3045e. Nutrition and other program requirements

(a) Funds allotted to any State during any fiscal year pursuant to section 3045b of this title shall be disbursed by the State agency to recipients of grants or contracts who agree—

(1) to establish a project (referred to herein as a "nutrition project") which, five or more days per week, provides at least one hot meal per day and any additional meals, hot or cold, which the recipient of a grant or contract may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council;

(2) to provide such nutrition project for individuals aged sixty or over who meet the specifications set forth in clauses (1), (2), (3), or (4) of section 3045(a) of this title and their spouses (referred to herein as "eligible individuals");

(3) to furnish a site for such nutrition project in as close proximity to the majority of eligible individuals' residences as feasible, such as a school or a church, preferably within walking distance where possible and, where appropriate, to furnish transportation to such site or home-delivered meals to eligible individuals who are homebound;

(4) to utilize methods of administration, including outreach, which will assure that the maximum number of eligible individuals may have an opportunity to participate in such nutrition project;

(5) to provide special menus, where feasible and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals;

(6) to provide a setting conducive to expanding the nutrition project and to include, as a part of such project, recreational activities, informational, health and welfare counseling and referral services, where such services are not otherwise available;

(7) to include such training as may be necessary to enable the personnel to carry out the provisions of this subchapter;

(8) to establish and administer the nutrition project with the advice of persons competent in the field of service in which the nutrition program is being provided, of elderly persons who will themselves participate in the program, and of persons who are knowledgeable with regard to the needs of elderly persons;

(9) to provide an opportunity to evaluate the effectiveness, feasibility, and cost of each particular type of such project;

(10) to give preference to persons aged sixty or over for any staff positions, full- or part-time, for which such persons qualify and to encourage the voluntary participation of other groups, such as college and high school students in the operation of the project; and

(11) to comply with such other standards as the Commissioner may by regulation prescribe in order to assure the high quality of the nutrition project and its general effectiveness in attaining the objectives of this subchapter.

(b) The Commissioner and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this subchapter.

(Pub. L. 89-73, title VII, § 706, as added Pub. L. 92-258, § 2, Mar. 22, 1972, 86 Stat. 93, and amended Pub. L. 93-29, title VII, § 704(c), May 3, 1973, 87 Stat. 57; Pub. L. 94-135, title I, § 114(o), (p), Nov. 28, 1975, 89 Stat. 726.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-135, § 114(o), (p), inserted a comma after "religious requirements" in par. (5) and "in the program" in par. (8).

1973—Pub. L. 93-29 substituted, wherever appearing in subsecs. (a)(11), (b) of this section, "Commissioner" for "Secretary" when meaning the Secretary of Health, Education, and Welfare.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this section, see section 201(18) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3045b, 3045d of this title.

§ 3045f. Surplus commodities

(a) Donations; level of assistance

(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 612c of title 7 shall be donated to a recipient of a grant or contract to be used for providing nutritional services in accordance with the provisions of this subchapter.

(2) The Commodity Credit Corporation shall dispose of food commodities under section 1431 of title 7 by donating them to a recipient of a grant or contract to be used for providing nutritional services in accordance with the provisions of this subchapter.

(3) Dairy products purchased by the Secretary of Agriculture under section 1446a-1 of title 7 shall be used to meet the requirements of programs providing nutritional services in accordance with the provisions of this subchapter.

(4) In donating commodities pursuant to this paragraph, the Secretary of Agriculture shall maintain an annually programed level of assistance of not less than 15 cents per meal during the fiscal year ending September 30, 1976, and 25 cents per meal during the fiscal year ending September 30, 1977: *Provided,* That this amount shall be adjusted on an annual basis each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among the commodities delivered under this paragraph, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities pursuant to this paragraph, and, within ninety days after July 12, 1974, the Secretary of Agriculture shall issue regulations governing the donation of such commodities.

(b) Food stamp regulations

The Secretary of Agriculture in consultation with the Commissioner shall, within ninety days after July 12, 1974, issue regulations clarifying the use of food stamps under this subchapter.

(c) Purchase of high protein foods, meats, and meat alternates

(1) During each of the fiscal years ending June 30, 1975, and June 30, 1976, and during the period beginning July 1, 1976, and ending September 30, 1976, the Secretary of Agriculture shall purchase high protein foods, meat, and meat alternates on the open market, at prices not in excess of market prices, out of funds appropriated under this section, as determined under paragraph (3), for distribution to recipients of grants or contracts to be used for providing nutritional services in accordance with the provisions of this subchapter. High protein food, meat, and meat alternates purchased by the Secretary of Agriculture under this subsection shall be grown and produced in the United States.

(2) High protein food, meat, and meat alternates donated under this subsection shall not be considered donated commodities for purposes of meeting the requirement of subsection (a)(4) of this section with respect to the annually programed level of assistance under subsection (a) of this section.

(3) There are authorized to be appropriated such sums as may be necessary in order to carry out the program established under paragraph (1).

(d) Cash payments in lieu of donations

(1) Notwithstanding any other provision of law, in any case in which a State has phased out its commodity distribution facilities before June 30, 1974, such State may, for purposes of the programs authorized by this chapter, elect to receive cash payments in lieu of donated foods. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution facilities.

(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

(Pub. L. 89-73, title VII, § 707, as added Pub. L. 92-258, § 2, Mar. 22, 1972, 86 Stat. 94, and amended Pub. L. 93-29, title VII, § 701, May 3, 1973, 87 Stat. 56; Pub. L. 93-351, § 5, July 12, 1974, 88 Stat. 358; Pub. L. 94-135, title I, § 111(a)-(d), (f), Nov. 28, 1975, 89 Stat. 718, 719.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-135, § 111(a)-(c), (f), designated existing provisions as par. (1), redesignated former subsecs. (b) to (d) as pars. (2) to (4), substituted "this subsection" for "this section" wherever appearing in par. (4); substituted "15 cents per meal during the fiscal year ending September 30, 1976, and 25 cents per meal during the fiscal year ending September 30, 1977:" for "10 cents per meal:" in par. (4); substituted "shall" for "may" in pars. (1) to (3); and substituted "this paragraph" for "this subsection" wherever appearing in par. (4).

Subsec. (b). Pub. L. 94-135, § 111(a), redesignated former subsec. (e) as (b). Former subsec. (b) redesignated (a)(2).

Subsec. (c). Pub. L. 94-135, § 111(a), added subsec. (c). Former subsec. (c) redesignated (a)(3).

Subsec. (d). Pub. L. 94-135, § 111(d), added subsec. (d). Former subsec. (d) redesignated (a)(4).

Subsec. (e). Pub. L. 94-135, § 111(a), redesignated former subsec. (e) as (b).

1974—Subsecs. (d), (e). Pub. L. 93-351 added subsecs. (d) and (e).

1973—Subsec. (a). Pub. L. 93-29, in revising the subsection, abbreviated the text without substantial change and deleted authorization of Secretary of Agriculture to prescribe terms and conditions respecting use of commodities donated under section 612c of Title 7 as would maximize the nutritional and financial contributions of such donated commodities in public or private nonprofit institutions or organizations, agencies, or political institutions of a State.

Subsec. (b). Pub. L. 93-29 added subsec. (b). Former subsec. (b) authorized Secretary of Agriculture to utilize the projects authorized under this subchapter in carrying out the provisions of clause (2) of section 612c of Title 7.

Subsec. (c). Pub. L. 93-29 added subsec. (c).

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (a)(4) of this section, see section 204(2) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3045g of this title.

§ 3045g. Authorization of appropriations

For the purpose of carrying out the provisions of this subchapter (other than section 3045f(c) of this title) there are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, $150,000,000 for the fiscal year ending June 30, 1974, $150,000,000 for the fiscal year ending June 30, 1975, $200,000,000 for the fiscal year ending June 30, 1976, $62,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, $250,000,000 for the fiscal year ending September 30, 1977, and $275,000,000 for the fiscal year ending September 30, 1978. In addition, there are hereby authorized to be appropriated for such fiscal years, as part of the appropriations for salaries and expenses for the Administration on Aging, such sums as Congress may determine to be necessary to carry out the provisions of this subchapter. Sums appropriated pursuant to this section which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year.

(Pub. L. 89-73, title VII, § 708, as added Pub. L. 92-258, § 2, Mar. 22, 1972, 86 Stat. 94, and amended Pub. L. 93-351, § 1, July 12, 1974, 88 Stat. 357; Pub. L. 94-135, title I, §§ 111(e), 112(f), Nov. 28, 1975, 89 Stat. 719, 720.)

AMENDMENTS

1975—Pub. L. 94-135 substituted in first sentence "this subchapter (other than section 3045f(c) of this title)" for "this subchapter" and authorization for obligation and expenditure of appropriated but not obligated funds in amount of $62,500,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, $250,000,000 for fiscal year ending Sept. 30, 1977, and $275,000,000 for fiscal year ending Sept. 3, 1978, for prior authorization for obligation and expenditure of unobligated funds in amount of $250,000,000 for fiscal year ending June 30, 1977.

1974—Pub. L. 93-351 authorized appropriations of $150,000,000 for the fiscal year ending June 30, 1975, $200,000,000 for the fiscal year ending June 30, 1976, and $250,000,000 for the fiscal year ending June 30, 1977.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of this section, provisions relating to appropriations availability, see section 204(2) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3045b of this title.

§ 3045h. Relationship to other laws

No part of the cost of any project under this subchapter may be treated as income or benefits to any eligible individual for the purpose of any other program or provision of State or Federal law.

(Pub. L. 89-73, title VII, § 709, as added Pub. L. 92-258, § 2, Mar. 22, 1972, 86 Stat. 95.)

§ 3045i. Agreements with profitmaking organizations

None of the provisions of this subchapter shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency, with a profitmaking organization to carry out the provisions of this subchapter and of the appropriate State plan.

(Pub. L. 89-73, title VII, § 710, as added Pub. L. 92-258, § 2, Mar. 22, 1972, 86 Stat. 95.)

SUBCHAPTER VIII—GENERAL PROVISIONS

§§ 3051 to 3055. Repealed. Pub. L. 93-29, title II, § 202, May 3, 1973, 87 Stat. 36

Section 3051, Pub. L. 89-73, title VIII, § 801, formerly title VI, § 601, July 14, 1965, 79 Stat. 225; Pub. L. 90-42, § 5(c), (d), July 1, 1967, 81 Stat. 107; renumbered title VII, § 701, Pub. L. 91-69, § 9, Sept. 17, 1969, 83 Stat. 111; renumbered title VIII, § 801, Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, related to advisory committees in general, providing in: subsec. (a) for establishment of Advisory Committee on Older Americans, its membership, and term of office; subsec. (b) for appointment of technical advisory committees; subsec. (c) for compensation and travel expenses; and subsec. (d) for technical and clerical assistance for Advisory Committee. A Federal Council on the Aging is now provided for in section 3015 of this title.

Section 3052, Pub. L. 89-73, title VIII, § 802, formerly title VI, § 602, July 14, 1965, 79 Stat. 226; Pub. L. 90-42, § 5(e), (f), July 1, 1967, 81 Stat. 107, 108; renumbered title VII, § 702, Pub. L. 91-69, § 9, Sept. 17, 1969, 83 Stat. 111; renumbered title VIII, § 802, Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, related to administration, and is now covered by section 3016(a), (b) of this title.

Section 3053, Pub. L. 89-73, title VIII, § 803, formerly title VI, § 603, July 14, 1965, 79 Stat. 226; Pub. L. 90-42, § 4, July 1, 1967, 81 Stat. 107; renumbered title VII, § 703 and amended Pub. L. 91-69, §§ 2(b), 9, Sept. 17, 1969, 83 Stat. 108, 111; renumbered title VIII, § 803, Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, related to authorization of appropriations, and is now covered by section 3037 of this title.

Section 3054, Pub. L. 89-73, title VIII, § 804, formerly title VII, § 704, as added Pub. L. 91-69, § 12, Sept. 17, 1969, 83 Stat. 114; renumbered Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, related to evaluation of programs, and is now covered by section 3017(g) of this title. See such section 3017 generally.

Section 3055, Pub. L. 89-73, title VIII, § 805, formerly title VII, § 705, as added Pub. L. 91-69, § 13, Sept. 17, 1969, 83 Stat. 114; renumbered Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, related to joint funding of projects, and is now covered by section 3019 of this title.

SUBCHAPTER IX—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

§ 3056. Older American Community Service Employment Program

(a) Employment

In order to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are fifty-five years old or older and who have poor employment prospects, the Secretary of Labor (hereinafter in this subchapter referred to as the "Secretary") is authorized to establish an older American community service employment program.

(b) Authority of Secretary; execution of agreements with terms and conditions for furthering purposes and goals of program; regulations for execution of subchapter provisions

(1) In order to carry out the provisions of this subchapter, the Secretary is authorized to enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c) of this section, of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement the program. No payment shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless he determines that such project—

(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

(C) will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under the provisions of section 501(c)(3) of title 26, except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(D) will contribute to the general welfare of the community;

(E) will provide employment for eligible individuals whose opportunities for other suitable public or private paid employment are poor;

(F)(i) will result in an increase in employment opportunities over those opportunities which would otherwise be available, (ii) will not result in the displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits), and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed;

(G) will not employ or continue to employ any eligible individual to perform work the same or substantially the same as that performed by any other person who is on layoff;

(H) will utilize methods of recruitment and selection (including listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(I) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

(J) will assure that safe and healthy conditions of work will be provided, and will assure that persons employed in community service jobs assisted under this subchapter shall be paid wages which shall not be lower than whichever is the highest of (i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 [29 U.S.C. 201 et seq.], if section 6(a)(1) of such Act [29 U.S.C. 206(a)(1)], applied to the participant and if he were not exempt under section 13 thereof [29 U.S.C. 213], (ii) the State or local minimum wage for the most nearly comparable covered employment, or (iii) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(K) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons;

(L) will authorize pay for necessary transportation costs of eligible individuals which may be incurred in employment in any project funded under this subchapter, in accordance with regulations promulgated by the Secretary;

(M) will assure that, to the extent feasible, such project will serve the needs of minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State; and

(N) will authorize funds to be used, to the extent feasible, to include individuals participating in such project under any State unemployment insurance plan.

(2) The Secretary is authorized to establish, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this subchapter.

(c) Costs; non-Federal share

(1) The Secretary is authorized to pay not to exceed 90 per centum of the cost of any project which is the subject of an agreement entered into under subsection (b) of this section, except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as

determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Community Services Administration.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

(Pub. L. 89-73, title IX, § 902, as added Pub. L. 94-135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 720.)

REFERENCES IN TEXT

The Fair Labor Standards Act, referred to in subsec. (b)(1)(J), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified principally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables volume.

SHORT TITLE

For Short Title of Pub. L. 89-73, title IX, as added by Pub. L. 94-135, title I, which enacted this subchapter, see Short Title of 1975 Amendment note set out under section 3001 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR; REDUCTION OF ALLOTMENTS

Pub. L. 94-274, title I, § 124, Apr. 21, 1976, 90 Stat. 390, provided that: "For the purposes of the Older American Community Service Employment Act (42 U.S.C. 3056 et seq.) [this subchapter] the period of July 1, 1976, through September 30, 1976, shall be considered a fiscal year, and the amounts of $100,000 and $50,000 specified in section 906(a)(2) [section 3056d(a)(2) of this title] shall be reduced to $25,000 and $12,500, respectively, for that period."

§ 3056a. Administration of community service projects

(a) Consideration of needs of localities, employment situation and skills of eligible participants, and potential projects and number and percentage of eligible individuals in local population

In order to effectively carry out the provisions of this subchapter, the Secretary shall, through the Commissioner of the Administration on Aging, consult with the State agency on aging designated under section 3024(a)(1) of this title and the appropriate area agencies on aging established under section 3024(a)(2) of this title with regard to—

(1) the localities in which community service projects of the type authorized by this subchapter are most needed;

(2) consideration of the employment situations and the type of skills possessed by available local individuals who are eligible to participate; and

(3) potential projects and the number and percentage of eligible individuals in the local population.

(b) Coordination of Older American Community Service Employment Program with other Federal programs; prohibition against use of appropriations under this chapter for other Federal programs

If the Secretary determines that to do so would increase job opportunities available to individuals under this subchapter, the Secretary is authorized to coordinate the program assisted under this subchapter with programs authorized under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act of 1973 [29 U.S.C. 801 et seq.], the Community Services Act of 1974 [42 U.S.C. 2711 et seq.], and the Emergency Employment Act of 1971 [42 U.S.C. 4871 et seq.]. Appropriations under this chapter may not be used to carry out any program under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act of 1973, the Community Services Act of 1974, or the Emergency Employment Act of 1971.

(c) Use of services, equipment, personnel, and facilities of Federal and other agencies; cooperation with other public and private agencies in such use

In carrying out the provisions of this subchapter, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities.

(d) Payments; advances; reimbursement; installments

Payments under this subchapter may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(e) Delegation of functions prohibited

The Secretary shall not delegate any function of the Secretary under this subchapter to any other department or agency of the Federal Government.

(Pub. L. 89-73, title IX, § 903, as added Pub. L. 94-135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 722.)

REFERENCES IN TEXT

The Emergency Jobs and Unemployment Assistance Act of 1974, referred to in subsec. (b), is Pub. L. 93-567, Dec. 31, 1974, 88 Stat. 1845, as amended, which enacted sections 3246 to 3246g of this title and sections 961 to 966 of Title 29, Labor, amended section 1244 of Title 20, Education and sections 841, 842, 844, 845, 849 to 851, 981, and 983 of title 29, and enacted provisions set out as notes under sections 3304 of Title 26, Internal Revenue Code, and section 2002 of Title 38, Veterans' Benefits. For complete classification of this Act to the Code, see Short Title of 1974 Amendment set out under section 801 of Title 29 and Tables volume.

The Community Services Act of 1974, referred to in subsec. (b), is Pub. L 88-452, titles I to IX, Aug. 20, 1964, 78 Stat. 508, as amended, which is classified generally to subchapters I (§ 2711 et seq.), II (§ 2781 et seq.), III (§ 2841 et seq.), IV (§ 2901 et seq.), V (§ 2921 et seq.), VI (§ 2941 et seq.), VII (§ 2981 et seq.), VIII (§ 2991 et seq.), and IX (§ 2995 et seq.), respectively, of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title of 1975 Amendment note set out under section 2701 of this title and Tables volume.

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (b), is Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, as amended, which is classified principally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables volume.

The Emergency Employment Act of 1971, referred to in subsec. (b), is Pub. L. 92-54, July 12, 1971, 85 Stat. 146, which was classified generally to chapter 64

(§ 4871 et seq.) of this title and was omitted from the Code. For complete classification of this Act to the Code, see Tables volume.

§ 3056b. Participants without status of Federal employees; contractual requirement of workmen's compensation

(a) Eligible individuals who are employed in any project funded under this subchapter shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5.

(b) No contract shall be entered into under this subchapter with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier, or by self-insurance, as authorized by State law, that the persons employed under the contract, shall enjoy workmen's compensation coverage equal to that provided by law for covered employment.

(Pub. L. 89-73, title IX, § 904, as added Pub. L. 94-135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 723.)

§ 3056c. Interagency cooperation

(a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Administration on Aging prior to the establishment of rules or the establishment of general policy in the administration of this subchapter.

(b) The Secretary shall consult and cooperate with the Director of the Community Services Administration, the Secretary of Health, Education, and Welfare, and the heads of other Federal agencies carrying out related programs, in order to achieve optimal coordination with such other programs. In carrying out the provisions of this section, the Secretary shall promote programs or projects of a similar nature. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this subchapter and in promoting the identification and interests of individuals eligible for employment in projects assisted under this subchapter.

(Pub. L. 89-73, title IX, § 905, as added Pub. L. 94-135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 723.)

§ 3056d. National grants or contracts and State allotments for projects

(a) National activities based on level of activities in fiscal year ending June 30, 1975: preference in awards, equitable distribution of aggregate activities; State allotments: allotment formula, allotment percentage; number of persons aged fifty-five or over; per capita income

(1) From sums appropriated under this subchapter for each fiscal year, the Secretary shall first reserve such sums as may be necessary for national grants or contracts with public agencies and public or private nonprofit organizations to maintain the level of activities carried on under such grants or contracts at least at the level of such activities supported under this subchapter and under any other provision of Federal law relating to community service employment programs for older Americans in the fiscal year ending June 30, 1975. Preference in awarding such grants or contracts shall be given to national organizations of proven ability in providing employment services to older persons under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts, in the aggregate, among the States, taking into account the needs of underserved States.

(2) The Secretary shall allot for projects within each State the remainder of the sums appropriated for any fiscal year under section 3056f of this title so that each State will receive an amount which bears the same ratio to such remainder as the product of the number of persons aged fifty-five or over in the State and the allotment percentage of such State bears to the sum of the corresponding product for all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the remainder of the sums appropriated for the fiscal year for which the determination is made, or $100,000, whichever is greater, and (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount which is not less than one-fourth of 1 per centum of the remainder of the sums appropriated for the fiscal year for which the determination is made, or $50,000, whichever is greater. For the purpose of the exception contained in this paragraph the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(3) For the purpose of this subsection—

(A) the allotment percentage of each State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (i) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (ii) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be 75 per centum;

(B) the number of persons aged fifty-five or over in any State and in all States, and the per capita income in any State and in all States, shall be determined by the Secretary on the basis of the most satisfactory data available to him; and

(C) for the purpose of determining the allotment percentage, the term "United States" means the fifty States and the District of Columbia.

(b) Reallotments

The amount allotted for projects within any State under subsection (a) of this section for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) of this section for such year, but with such proportionate amount

for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) of this section for such year.

(c) Equitable distribution of assistance

The amount apportioned for projects within each State under subsection (a) of this section shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State.

(Pub. L. 89-73, title IX, § 906, as added Pub. L. 94-135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 723.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR; REDUCTION OF ALLOTMENTS

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of this subchapter and amount of allotments under subsec. (a)(2) of this section reduced, see section 124 of Pub. L. 94-274, title I, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 3056 of this title.

§ 3056e. Definitions

As used in this subchapter—

(1) the term "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

(2) the term "eligible individual" means an individual who is fifty-five years old or over, who has a low income, and who has or would have difficulty in securing employment, except that, pursuant to regulations prescribed by the Secretary, any such individual who is sixty years old or over shall have priority for the work opportunities provided for under this subchapter;

(3) the term "community service" means social, health, welfare, and educational services, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe; and

(4) the term "program" means the older American community service employment program established under this subchapter.

(Pub. L. 89-73, title IX, § 907, as added Pub. L. 94-135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 724.)

§ 3056f. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter $100,000,000 for the fiscal year ending June 30, 1976, $37,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, $150,000,000 for the fiscal year ending September 30, 1977, and $200,000,000 for the fiscal year ending September 30, 1978.

(Pub. L. 89-73, title IX, § 908, as added Pub. L. 94-135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 725.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3056d of this title.

CHAPTER 35A—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

§§ 3061 to 3067. Repealed. Pub. L. 94-135, title I, § 113(b), Nov. 28, 1975, 89 Stat. 725

Section 3061, Pub. L. 93-29, title IX, § 902, May 3, 1973, 87 Stat. 60, related to establishment of Older American Community Service Employment Program authority of Secretary, execution of agreements with terms and conditions for furthering purposes and goals of program, and regulations for execution of chapter provisions and costs and non-Federal share.

Section 3062, Pub. L. 93-29, title IX, § 903, May 3, 1973, 87 Stat. 62, related to administration of community service projects: consideration of needs of localities, employment situation and skills of eligible participants, and potential projects and number and percentage of eligible individuals in local population; agency cooperation, community service projects as part of general manpower programs, expenditure of project appropriations for manpower programs prohibited; use of services, equipment, personnel, facilities of Federal and other agencies, and cooperation with other public and private agencies in such use; community service projects: criteria for equitable participation in administration of such projects; payments, advances, reimbursement, and installments; and prohibition of delegation of functions and duties.

Section 3063, Pub. L. 93-29, title IX, § 904, May 3, 1973, 87 Stat. 63, related to participants without status of Federal employees; contractual requirement of workmen's compensation coverage and severance benefits.

Section 3064, Pub. L. 93-29, title IX, § 905, May 3, 1973, 87 Stat. 63, related to interagency cooperation.

Section 3065, Pub. L. 93-29, title IX, § 906, May 3, 1973, 87 Stat. 63, related to allotment for projects: allotment formula, reallotments, and equitable distribution of assistance.

Section 3066, Pub. L. 93-29, title IX, § 907, May 3, 1973, 87 Stat. 64, related to definitions.

Section 3067, Pub. L. 93-29, title IX, § 908, May 8, 1973, 87 Stat. 64; Pub. L. 93-113, title VI, § 604(b), Oct. 1, 1973, 87 Stat. 417 related to authorization of appropriations.

Subject matter is now covered by sections 3056 to 3056f of this title.

CHAPTER 36—COMPENSATION OF CONDEMNEES IN DEVELOPMENT PROGRAMS

§§ 3071 to 3074. Repealed. Pub. L. 91-646, title II, § 220(a)(8), title III, § 306, Jan. 2, 1971, 84 Stat. 1903, 1907

Section 3071, Pub. L. 89-117, title IV, § 401, Aug. 10, 1965, 79 Stat. 485; Pub. L. 90-19, § 22(f), May 25, 1967, 81 Stat. 27 related to definitions.

Section 3072, Pub. L. 89-117, title IV, § 402, Aug. 10, 1965, 79 Stat. 485; Pub. L. 90-19, § 22(a), May 25, 1967,

81 Stat. 26, related to acquisition of realty by eminent domain.

Section 3073, Pub. L. 89-117, title IV, § 403, Aug. 10, 1965, 79 Stat. 485; related to financing of payments in eminent domain where amount is in dispute.

Section 3074, Pub. L. 89-117, title IV, § 404(a), Aug. 10, 1965, 79 Stat. 485; Pub. L. 90-19, § 22(a), May 25, 1967, 81 Stat. 26, related to relocation payments under federally assisted development programs.

Subject matter is now covered by section 4601 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal of provisions not applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91-646, set out as an Effective Date note under section 4601 of this title.

SAVINGS PROVISIONS

Any rights or liabilities existing under provisions repealed by sections 220(a) and 306 of Pub. L. 91-646 as not affected by such repeal, see sections 220(b) and 306 in part of Pub. L. 91-646, set out as Savings Provisions notes under sections 4621 and 4651 of this title.

CHAPTER 37—COMMUNITY FACILITIES AND ADVANCE LAND ACQUISITION

Sec.
3101. Congressional declaration of purpose.
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3107. Labor standards.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5304 of this title.

§ 3101. Congressional declaration of purpose

The purpose of this chapter is to assist and encourage the communities of the Nation fully to meet the needs of their citizens by making it possible, with Federal grant assistance, for their governmental bodies (1) to construct adequate basic water and sewer facilities needed to promote the efficient and orderly growth and development of our communities, (2) to construct neighborhood facilities needed to enable them to carry on programs of necessary social services, and (3) to acquire, in a planned and orderly fashion, land to be utilized in the future for public purposes.

(Pub. L. 89-117, title VII, § 701, Aug. 10, 1965, 79 Stat. 489; Pub. L. 90-448, title VI, § 603(a), Aug. 1, 1968, 82 Stat. 533.)

AMENDMENTS

1968—Pub. L. 90-448 substituted "in the future for public purposes" for "in connection with the future construction of public works and facilities" in cl. (3).

SHORT TITLE

Pub. L. 91-431, § 1, Oct. 6, 1970, 84 Stat. 886, provided: "That this Act [amending sections 3102 and 3108 of this title and enacting provisions set out as a note under section 3108 of this title] may be cited as the 'Emergency Community Facilities Act of 1970'."

§ 3102. Grants for basic water and sewer facilities

(a) Authority to make grants for specific projects

The Secretary of Housing and Urban Development (hereinafter in this chapter referred to as the "Secretary") is authorized to make grants to local public bodies and agencies to finance specific projects for basic public water facilities (including works for the storage, treatment, purification, and distribution of water), and for basic public sewer facilities (other than "treatment works" as defined in the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.]) : *Provided*, That no grant shall be made under this section for any sewer facilities unless the Administrator of the Environmental Protection Agency certifies to the Secretary that any waste material carried by such facilities will be adequately treated before it is discharged into any public waterway so as to meet applicable Federal, State, interstate, or local water quality standards.

(b) Maximum amount of grants

The amount of any grant made under the authority of this section shall not exceed 50 per centum of the development cost of the project: *Provided*, That in the case of a community having a population of less than ten thousand, according to the most recent decennial census, which is situated within a metropolitan area, the Secretary may increase the amount of a grant for a basic public water or sewer facility assisted under this section to not more than 90 per centum of the development cost of such facility, if the community is unable to finance the construction of such facility without the increased grant authorized under this subsection, and if in such community (1) there does not exist a public or other adequate water or sewer facility which serves a substantial portion of the inhabitants of the community, and (2) the rate of unemployment is, and has been continuously for the preceding calendar year, 100 per centum above the national average: *And provided further*, That the limitations and restrictions contained in subsection (c) of this section shall not be applicable to any community ap-

plying for an increased grant under this subsection.

(c) Project requirements; need for facilities; growth needs of area; coordination of areawide development

No grant shall be made under this section in connection with any project unless the Secretary determines that the project is necessary to provide adequate water or sewer facilities for, and will contribute to the improvement of the health or living standards of, the people in the community to be served, and that the project is (1) designed so that an adequate capacity will be available to serve the reasonably foreseeable growth needs of the area; (2) consistent with a program meeting criteria, established by the Secretary, for a unified or officially coordinated areawide water or sewer facilities system as part of the comprehensively planned development of the area, except that prior to June 30, 1974, grants may, in the discretion of the Secretary, be made under this section when such a program for an areawide water and sewer facilities system is under active preparation, although not yet completed, if the facility or facilities for which assistance is sought can reasonably be expected to be required as a part of such program, and there is urgent need for the facility or facilities; and (3) necessary to orderly community development.

(d) Job opportunities for unemployed or underemployed persons

In the administration of this section the Secretary shall require that, to the greatest extent practicable, new job opportunities be provided for unemployed or underemployed persons in connection with projects the financing of which is assisted under this section.

(Pub. L. 89-117, title VII, § 702, Aug. 10, 1965, 79 Stat. 490; 1966 Reorg. Plan No. 2, eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608; Pub. L. 90-19, § 22(b), (g), May 25, 1967, 81 Stat. 26, 27; Pub. L. 90-448, title VI, § 604, Aug. 1, 1968, 82 Stat. 534; Pub. L. 91-152, title III, § 305(a), Dec. 24, 1969, 83 Stat. 391; Pub. L. 91-431, § 3(c), Oct. 6, 1970, 84 Stat. 886; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087; Pub. L. 92-213, § 6, Dec. 22, 1971, 85 Stat. 776; Pub. L. 92-335, § 7, July 1, 1972, 86 Stat. 405; Pub. L. 93-117, § 9, Oct. 2, 1973, 87 Stat. 423.)

TERMINATION

Section 5316 of this title has terminated the authority to make grants under this section after Jan. 1, 1975.

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (a), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables volume.

AMENDMENTS

1973—Subsec. (c). Pub. L. 93-117 substituted "June 30, 1974" for "September 30, 1972".

1972—Subsec. (c). Pub. L. 92-335 substituted "September 30, 1972" for "June 30, 1972".

1971—Subsec. (c). Pub. L. 92-213 substituted "June 30, 1972" for "October 1, 1971".

1970—Subsec. (c)(2). Pub. L. 91-431 substituted "October 1, 1971" for "October 1, 1970".

1969—Subsec. (c). Pub. L. 91-152 substituted "October 1, 1970" for "October 1, 1969".

1968—Subsec. (b). Pub. L. 90-448, § 604(b), included water facilities.

Subsec. (c). Pub. L. 90-448, § 604(a), substituted "October 1, 1969" for "July 1, 1968."

Subsec. (d). Pub. L. 90-448, § 604(c), added subsec. (d).

1967—Pub. L. 90-19, § 22(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) to (c) of this section.

Subsec. (a). Pub. L. 90-19, § 22(g), substituted "Secretary of Housing and Urban Development (hereinafter in this chapter referred to as the 'Secretary')" for "Housing and Home Finance Administrator (hereinafter in this chapter referred to as the 'Administrator')".

TRANSFER OF FUNCTIONS

"Administrator of the Environmental Protection Agency" was substituted for "Secretary of the Interior" in subsec. (a) pursuant to 1970 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Federal Water Quality Administration in the Department of the Interior and transferred to the Administrator of the Environmental Protection Agency all functions which had been transferred to the Secretary of the Interior from the Secretary of Health, Education, and Welfare by Reorg. Plan No. 2 of 1966.

Secretary of the Interior was substituted for Secretary of Health, Education, and Welfare in subsec. (a) of this section pursuant to section 1(h)(1) of 1966 Reorg. Plan No. 2, eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608, set out in the Appendix to Title 5, Government Organization and Employees, which transferred the functions of the Secretary of Health, Education, and Welfare under subsec. (a) of this section to the Secretary of the Interior.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453a, 3107, 3108, 3338, 3914, 4519, 5153, 5303, 5316 of this title.

§ 3103. Grants for neighborhood facilities

(a) Authority to make grants for specific projects; qualifications of approved nonprofit organizations

In accordance with the provisions of this section, the Secretary is authorized to make grants to any local public body or agency to assist in financing specific projects for neighborhood facilities. Any such project may be undertaken by such body or agency directly or through a nonprofit organization approved by it: *Provided*, That no grant shall be provided under this section for any project to be undertaken through a nonprofit organization unless the Secretary determines (1) that such organization has or will have the legal, financial, and technical capacity to carry out the project, and (2) that the public body or agency to which the grant is made will have satisfactory continuing control over the use of the proposed facilities.

(b) Maximum amount of grants

The amount of any grant made under the authority of this section shall not exceed 66⅔ per centum of the development cost of the project for which the grant is made (or 75 per centum of such cost in the case of a project located in an area which at the time the grant is made is designated as a redevelopment area under the Area Redevelopment Act [42 U.S.C. 2501 et seq.] or any Act supplementary thereto).

(c) Project requirements; need for facilities; comprehensive planning; accessibility to low- or moderate-income residents

No grant shall be made under this section for any project unless the Secretary determines that the project will provide a neighborhood facility which is (1) necessary for carrying out a program of health, recreational, social, or similar community service (including a community action program approved under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.]) in the area, (2) consistent with comprehensive planning for the development of the community, and (3) so located as to be available for use by a significant portion (or number in the case of large urban places) of the area's low- or moderate-income residents.

(d) Conversion of facility to other uses

For a period of twenty years after a grant has been made under this section for a neighborhood facility, such facility shall not, without the approval of the Secretary, be converted to uses other than those proposed by the applicant in its application for a grant. The Secretary shall not approve any conversion in the use of such a neighborhood facility during such twenty-year period unless he finds that such conversion is in accordance with the then applicable program of health, recreational, social, or similar community services in the area and consistent with comprehensive planning for the development of the community in which the facility is located. In approving any such conversion, the Secretary may impose such additional conditions and requirements as he deems necessary.

(e) Priority of projects designed primarily to benefit low-income families or further objectives of community action programs

The Secretary shall give priority to applications for projects designed primarily to benefit members of low-income families or otherwise substantially further the objectives of a community action program approved under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.].

(Pub. L. 89-117, title VII, § 703, Aug. 10, 1965, 79 Stat. 491; Pub. L. 90-19, § 22(b), May 25, 1967, 81 Stat. 26.)

TERMINATION

Section 5316 of this title has terminated the authority to make grants under this section after Jan. 1, 1975.

REFERENCES IN TEXT

The Area Redevelopment Act, referred to in subsec. (b), is Pub. L. 87-27, May 1, 1961, 75 Stat. 47, which was classified principally to former chapter 28 (§ 2501 et seq.) of this title, and omitted from the Code as executed, with the exception of sections 2513 and 2514 of this title, which were repealed by Pub. L. 89-15, § 9(b), Apr. 26, 1965, 79 Stat. 79. See sections 3161 and 3162 of this title.

The Economic Opportunity Act of 1964, referred to in subsecs. (c) and (e), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title II of the Economic Opportunity Act of 1964 is classified generally to subchapter II (§ 2781 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (c) to (e) of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453a, 3107, 3108, 4519, 5303, 5316 of this title.

§ 3104. Advance acquisition of land for public purposes

(a) Authority to make grants

In order to encourage and assist the timely acquisition of land planned to be utilized in the future for public purposes, the Secretary is authorized to make grants to States and local public bodies and agencies to assist in financing the acquisition of a fee simple estate or other interest in such land.

(b) Maximum amount of grants

The amount of any grant made under this section shall not exceed the aggregate amount of reasonable interest charges on the loans or other financial obligations incurred to finance the acquisition of such land for a period not in excess of the lesser of (1) five years from the date of acquisition of such land or (2) the period of time between the date on which the land was acquired and the date its use began for the purpose for which it was acquired: *Provided,* That where all or any portion of the cost of such land is not financed through borrowings, the amount of the grant shall be computed on the basis of the aggregate amount of reasonable interest charges that the Secretary determines would have been required.

(c) Utilization of land for public purpose within reasonable period of time

No grant shall be made under this section unless the Secretary determines that the land will be utilized for a public purpose within a reasonable period of time and that such utilization will contribute to economy, efficiency, and the comprehensively planned development of the area. The Secretary shall in all cases require that land acquired with the assistance of a grant under this section be utilized for a public purpose within five years after the date on which a contract to make such grant is entered into, unless the Secretary (1) determines that due to unusual circumstances a longer period of time is necessary and in the public interest, and (2) reports such determination promptly to the Committees on Banking and Currency of the Senate and House of Representatives.

(d) Diversion of land; repayment; interim use

No land acquired with assistance under this section shall, without approval of the Secretary, be diverted from the purpose originally approved. The Secretary shall approve no such diversion unless he finds that the diversion is in accord with the then applicable comprehensive plan for the area. In cases of a diversion of land to other than a public purpose, the Secretary may require repayment of the grant, or substitution of land of approximately equal fair market value, whichever he deems appropriate. An interim use of the land for a public or private purpose in accordance with standards prescribed by the Secretary, or approved by him,

shall not constitute a diversion within the meaning of this subsection.

(e) Eligibility for other Federal loans or grant programs

Notwithstanding any other provision of law, no project for which land is acquired with assistance under this section shall, solely as a result of such advance acquisition, be considered ineligible for the purpose of any other Federal loan or grant program, and the amount of the purchase price paid for the land by the recipient of a grant under this section may be considered an eligible cost for the purpose of such other Federal loan or grant program.

(Pub. L. 89-117, title VII, § 704, Aug. 10, 1965, 79 Stat. 491; Pub. L. 90-19, § 22(b), May 25, 1967, 81 Stat. 26; Pub. L. 90-448, title VI, § 603(b), Aug. 1, 1968, 82 Stat. 533.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-448 substituted "to be utilized in the future for public purposes" for "to be utilized in connection with the future construction of public works or facilities".

Subsec. (b). Pub. L. 90-448 changed the period from not more than the lesser of (1) five years from the date such loan was made or such financial obligation was incurred, or (2) the period of time between the date such loan was made or such financial obligation was incurred and the date construction is begun on the public work or facility, to not more than the lesser of (1) five years from the date of acquisition of such land, or (2) the period of time between the date on which the land was acquired and the date its use began for the purpose for which it was acquired, and inserted proviso requiring the amount of the grant, where all or any portion of the cost of land is not financed through borrowings, to be computed on the basis of the aggregate amount of reasonable interest charges that the Secretary determines would have been required.

Subsec. (c). Pub. L. 90-448 substituted provisions requiring the Secretary to determine that the land will be utilized for a public purpose within a reasonable period of time, for provisions which required a determination that the public work or facility for which the land is to be utilized is planned to be constructed or initiated within a reasonable period of time, empowered the Secretary to extend the time if he determines that due to unusual circumstances a longer period of time is necessary and in the public interest, and required a prompt report of such determination to Congressional Committees.

Subsec. (d). Pub. L. 90-448 inserted provisions prohibiting diversion of land without approval of the Secretary, directing the Secretary to disapprove any diversion unless he finds that the diversion is in accord with the then applicable comprehensive plan for the area, authorizing the Secretary to accept, in cases of repayment, substitution of land of approximately equal fair market value, and stating that an interim use of land for a public or private purpose in accordance with prescribed standards shall not constitute a diversion, and eliminated provisions which required repayment if the land purchased with assistance is not utilized within five years after the agreement is entered into in connection with the construction of the public work or facility for which the land was acquired.

Subsec. (e). Pub. L. 90-448 added subsec. (e).

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a), (c), and (d) of this section.

CHANGE OF NAME

The name of the Committee on Banking and Currency of the Senate, referred to in subsec. (c), was changed to Committee on Banking, Housing and Urban Affairs by Senate Resolution 4, approved Feb. 4, 1977.

The name of the Committee on Banking and Currency of the House of Representatives, referred to in subsec. (c), was changed to Committee on Banking, Finance, and Urban Affairs, effective Jan. 4, 1977, by House Resolution 5, 95th Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3108 of this title.

§ 3105. Powers and duties of Secretary

(a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter, the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties set forth in section 1749a of title 12, except subsections (a), (c)(2), and (f) thereof.

(b) The Secretary is authorized, notwithstanding the provisions of section 529 of title 31, to make advance or progress payments on account of any grant made pursuant to this chapter. No part of any grant authorized to be made by the provisions of this chapter shall be used for the payment of ordinary governmental operating expenses.

(Pub. L. 89-117, title VII, § 705, Aug. 10, 1965, 79 Stat. 492; Pub. L. 90-19, § 22(b), May 25, 1967, 81 Stat. 26.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

§ 3106. Definitions

As used in this chapter—

(a) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(b) The term "local public bodies and agencies" includes public corporate bodies or political subdivisions; public agencies or instrumentalities of one or more States, municipalities, or political subdivisions of one or more States (including public agencies and instrumentalities of one or more municipalities or other political subdivisions of one or more States); Indian tribes; and boards or commissions established under the laws of any State to finance specific capital improvement projects.

(c) The term "development cost" means the cost of constructing the facility and of acquiring the land on which it is located, including necessary site improvements to permit its use as a site for the facility.

(Pub. L. 89-117, title VII, § 706, Aug. 10, 1965, 79 Stat. 492.)

§ 3107. Labor standards

All laborers and mechanics employed by contractors or subcontractors on projects assisted under sections 3102 and 3103 of this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). No such project shall be approved without first obtaining adequate

assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 276c of title 40.

(Pub. L. 89-117, title VII, § 707, Aug. 10, 1965, 79 Stat. 492.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (a)(4), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a)(4), is set out in the Appendix to Title 5, Government Organization and Employees.

§ 3108. Authorization of appropriations

(a) There are authorized to be appropriated for each fiscal year commencing after June 30, 1965, and ending prior to July 1, 1969, not to exceed (1) $200,000,000 (or $350,000,000 in the case of the fiscal year commencing July 1, 1968) for grants under section 3102 of this title, (2) $50,000,000 for grants under section 3103 of this title, and (3) $25,000,000 for grants under section 3104 of this title. In addition, there is authorized to be appropriated for grants under section 3102 of this title not to exceed $115,000,000 for the fiscal year commencing July 1, 1969, and not to exceed $100,000,000 for the fiscal year commencing July 1, 1970. In addition, upon the enactment of the Emergency Community Facilities Act of 1970, there is authorized to be appropriated for grants under section 3102 of this title not to exceed $1,000,000,000 for the fiscal year commencing July 1, 1970. In addition, there is authorized to be appropriated for the fiscal year commencing July 1, 1971, not to exceed $50,000,000 for grants under section 3103 of this title. In addition, there are authorized to be appropriated for the fiscal year commencing July 1, 1973, not to exceed $40,000,000 for grants under section 3103 of this title.

(b) Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1974.

(Pub. L. 89-117, title VII, § 708, Aug. 10, 1965, 79 Stat. 493; Pub. L. 90-448, title VI, § 605, Aug. 1, 1968, 82 Stat. 534; Pub. L. 91-152, title III, § 305(b), (c), Dec. 24, 1969, 83 Stat. 391; Pub. L. 91-431, § 3(a), (b), Oct. 6, 1970, 84 Stat. 886; Pub. L. 91-609, title III, § 304, Dec. 31, 1970, 84 Stat. 1780; Pub. L. 92-335, § 3, July 1, 1972, 86 Stat. 405; Pub. L. 93-117, § 8, Oct. 2, 1973, 87 Stat. 422.)

REFERENCES IN TEXT

The Emergency Community Facilities Act of 1970, referred to in subsec. (a), is Pub. L. 91-431, Oct. 6, 1970, 84 Stat. 886, which amended this section and section 3102 of this title, and enacted a provision set out as a note under this section. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables volume.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-117, § 8(a), provided for neighborhood facility grant authorization of $40,000,000 for fiscal year commencing July 1, 1973.

Subsec. (b). Pub. L. 93-117, § 8(b), substituted "July 1, 1974" for "September 30, 1972".

1972—Subsec. (b). Pub. L. 92-335 substituted "September 30, 1972" for "July 1, 1972".

1970—Subsec. (a). Pub. L. 91-609, § 304(a), authorized appropriation of $50,000,000 for fiscal year commencing July 1, 1971, for grants under section 3103 of this title.

Pub. L. 91-431, § 3(a), authorized appropriations for grants under section 3102 of this title of not to exceed $1,000,000,000 for the fiscal year commencing July 1, 1970.

Subsec. (b). Pub. L. 91-609, § 304(b), substituted "July 1, 1972" for "July 1, 1971".

Pub. L. 91-431, § 3(b), substituted "July 1, 1972" for "July 1, 1971".

1969—Subsec. (a). Pub. L. 91-152, § 305(c), authorized appropriations of not more than $100,000,000 for the fiscal year commencing July 1, 1970.

Subsec. (b). Pub. L. 91-152, § 305(b), substituted "July 1, 1971" for "July 1, 1970".

1968—Subsec. (a). Pub. L. 90-448, § 605(b), authorized appropriations of not more than $350,000,000 for the fiscal year commencing July 1, 1968, and not more than $115,000,000 for the fiscal year commencing July 1, 1969.

Subsec. (b). Pub. L. 90-448, § 605(a), substituted "July 1, 1970" for "July 1, 1969".

CONGRESSIONAL STATEMENT OF FINDINGS

Section 2 of Pub. L. 91-431 provided that:

"(a) The Congress finds that a large number of municipalities and other entities of local government throughout the Nation are unable to finance construction of vital and urgently needed public facilities because of the shortage of funds for long-term borrowing.

"(b) The Congress further finds that there is an immediate need for such facilities in order to provide basic safeguards for the health and well-being of the people of the United States, to check widespread pollution of irreplaceable water sources, and to provide an effective and practical method of combating rising unemployment."

ADMINISTRATIVE PRIORITY FOR APPLICATIONS RELATING TO ACTIVITIES IN AREAS AFFECTED BY BASE CLOSINGS

State or unit of local government or agency thereof affected by reduction in level of expenditure or employment at Department of Defense installation located in or near such State or unit of local government, priority in processing applications for assistance under this section, see section 1453a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1453a of this title.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2825, 3123, 3142a, 5153 of this title; title 15 section 636; title 19 section 2373; title 23 section 143; title 40 App. sections 225, 302; title 43 section 1601.

§ 3121. Congressional findings and statement of purpose

The Congress declares that the maintenance of the national economy at a high level is vital to the best interests of the United States, but that some of our regions, counties, and communities are suffering substantial and persistent unemployment and underemployment; that such unemployment and underemployment cause hardship to many individuals and their families, and waste invaluable human resources; that to overcome this problem the Federal Government, in cooperation with the States, should help areas and regions of substantial and persistent unemployment and underemployment to take effective steps in planning and financing their public works and economic development; that Federal financial assistance, including grants for public works and development facilities to communities, industries, enterprises, and individuals in areas needing development should enable such areas to help themselves achieve lasting improvement and enhance the domestic prosperity by the establishment of stable and diversified local economies and improved local conditions, provided that such assistance is preceded by and consistent with sound, long-range economic planning; and that under the provisions of this chapter new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another. Congress further declares that, in furtherance of maintaining the national economy at a high level, the assistance authorized by this chapter should be made available to both rural and urban areas; that such assistance be available for planning for economic development prior to the actual occurrences of economic distress in order to avoid such condition; and that such assistance be used for long-term economic rehabilitation in areas where long-term economic deterioration has occurred or is taking place.

(Pub. L. 89-136, § 2, Aug. 26, 1965, 79 Stat. 552; Pub. L. 94-487, title I, § 102, Oct. 12, 1976, 90 Stat. 2331.)

AMENDMENTS

1976—Pub. L. 94-487 added provisions which authorized assistance be made available to rural and urban areas for preventive economic planning and for long-term economic rehabilitation.

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-487, § 101, Oct. 12, 1976, 90 Stat. 2331, provided that: "This Act [enacting sections 3137, 3144, 3173, and 3246h of this title, amending sections 3121, 3131, 3132, 3135, 3141, 3142, 3151a, 3152, 3153, 3161, 3171, 3172, 3188a, 3214, 3241, 3243, 3245, 3246a to 3246c, and 3246e to 3246g of this title, repealing section 3246d of this title, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 3162 of this title] may be cited as the 'Public Works and Economic Development Act Amendments of 1976'."

SHORT TITLE OF 1975 AMENDMENTS

Pub. L. 94-188, § 1, Dec. 31, 1975, 89 Stat. 1079, provided: "That this Act [which enacted sections 3194 to 3196 of this title and sections 225 and 303 of the Appendix to Title 40, Public Buildings, Property, and Works, amended sections 3181, 3182, 3188a and 3192 of this title, and sections 2, 101, 102, 105-107, 201, 202, 205, 207, 211, 214, 223, 224, 302, 401 and 405 of the Appendix to Title 40, repealed section 3134 of this title, and enacted provisions set out as notes under sections 3181 and 3183 of this title and sections 1, 2 and 201 of the Appendix of Title 40] may be cited as the 'Regional Development Act of 1975'."

Pub. L. 94-188, § 201, Dec. 31, 1975, 89 Stat. 1087, provided that: "This title [which enacted sections 3194 to 3196 of this title, amended sections 3181, 3182, 3188a, and 3192 of this title, and enacted provisions set out as note under section 3183 of this title] may be cited as the 'Regional Action Planning Commission Improvement Act of 1975'."

SHORT TITLE OF 1971 AMENDMENT

Pub. L. 92-65, § 101, Aug. 5, 1971, 85 Stat. 166, provided that: "This title [which enacted section 3123 of this title and amended sections 3121, 3135, 3141, 3152, 3161, 3162, 3171, 3188a, and 3191 of this title and provisions set out as a note under section 3162 of this title] may be cited as the 'Public Works and Economic Development Act Amendments of 1971'."

SHORT TITLE OF 1969 AMENDMENT

Pub. L. 91-123, § 201, Nov. 25, 1969, 83 Stat. 216, provided that: "This title [which enacted sections 3190, 3191, and 3192 of this title and amended sections 3121, 3185, 3186, and 3188a of this title] may be cited as the 'Regional Action Planning Commission Amendments of 1969'."

SHORT TITLE

Section 1 of Pub. L. 89-136 provided: "That this Act [enacting this chapter and amending section 2211 of former Title 5, Executive Departments and Government Officers and Employees] may be cited as the 'Public Works and Economic Development Act of 1965'."

WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

Title II of Pub. L. 94-487 provided that:

"SEC. 201. (a) The President of the United States is authorized and requested to call a White House Conference on Balanced National Growth and Economic Development within one year of the date of enactment of this Act [Oct. 12, 1976] in order to develop recommendations for further action toward balanced national growth and economic development, and to take account of present conditions and trends as set forth in the report accompanying this Act [see Short Title of 1976 Amendment note above]. Such conference shall be planned and conducted under the direction of the domestic council with the cooperation and assistance of such other Federal departments and agencies, including the regional commissions established under the Appalachian Regional Development Act [section 1 et seq. of the Appendix to Title 40, Public Buildings, Property, and Works] and title V of the Public Works and Economic Development Act [subchapter V of this chapter].

"(b) For the purpose of arriving at facts and recommendations concerning the utilization of skills, experience, and energies and the improvement of our country's social and economic needs, the conference shall assemble representatives of government, business, labor, and other citizens and representatives of institutions who could work together for balanced national growth and economic development.

"(c) A final report of the White House Conference on Balanced National Growth and Economic Development shall be submitted to the President not later than one hundred and eighty days following the date on which the conference is called and findings and recommendations included therein shall be immediately made available to the public. The President shall, within ninety days after the submission of such final report, transmit to the Congress his recommendations for the administrative action and legislation necessary to implement the recommendations contained in such report.

"SEC. 202. In administering this title, the President shall—

"(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate;

"(2) give all reasonable assistance, including financial assistance, to the States to enable them to organize and conduct conferences on balanced growth and economic development;

"(3) prepare and make available background materials for the use of delegates to the White House Conference on Balanced National Growth and Economic Development as they may deem necessary;

"(4) prepare and distribute interim reports of the White House Conference on Balanced National Growth and Economic Development as may be appropriate; and

"(5) engage such personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 57 and subchapter 53 [*sic*. Probably should be "chapter 51 and subchapter III of chapter 53".] of such title relating to classification and General Schedule pay rates.

"SEC. 203. For the purpose of this title the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"SEC. 204. The President is authorized and directed to establish an Advisory Committee to the White House Conference on Balanced National Growth and Economic Development composed of fifteen members, of whom not less than five shall represent businesses in the private sector, and the Secretaries of the Departments of Commerce, Agriculture, Housing and Urban Development, and relevant Federal program managers."

EX. ORD. NO. 11493. COUNCIL FOR RURAL AFFAIRS

The Council for Rural Affairs, which had been created by Ex. Ord. No. 11493, Nov. 13, 1969, 34 F.R. 18289, was terminated and its functions transferred to the Domestic Council by section 2(b) of Ex. Ord. No. 11541, July 1, 1970, 35 F.R. 10737, set out as a note under section 16 of Title 31, Money and Finance. The functions thus transferred were formerly contained in section 2 of Ex. Ord. 11493, which directed that the

Council advise and assist the President with respect to the further development of the non-metropolitan areas of the country and perform such other duties as the President might from time to time prescribe. In addition to such duties, the Council was directed to:

(1) Assist the President in the development of policies for rural areas, which shall include consideration of the affairs of the smaller cities and towns which lie outside the metropolitan areas.

(2) Secure information on the problems confronting rural America, identify their causes, and develop means to deal with them by using available programs or initiating new ones.

(3) Foster effective use and coordination of Federal programs in the non-metropolitan areas in order to improve the delivery of public services to the people.

(4) Encourage the fullest cooperation between Federal, State, and local governments, with special concern for local initiative and local decision-making.

(5) Ensure that in the development of policies and programs concerning rural affairs, the relationships between urban, suburban, and rural areas are taken into account.

(6) Encourage the most effective role possible for voluntary organizations in dealing with rural problems and their solutions.

(7) Encourage an improved geographical distribution of the population of the United States.

(8) Keep the President advised on progress in meeting national objectives.

§ 3122. Rural development

(a) Congressional commitment

The Congress commits itself to a sound balance between rural and urban America. The Congress considers this balance so essential to the peace, prosperity, and welfare of all our citizens that the highest priority must be given to the revitalization and development of rural areas.

(b) Location of federal facilities; annual report is Congress

Congress hereby directs the heads of all executive departments and agencies of the Government to establish and maintain departmental policies and procedures giving first priority to the location of new offices and other facilities in rural areas as defined in the private business enterprise exception in section 1926(a)(7) of title 7. The President is hereby requested to submit to the Congress not later than December 1 of each fiscal year a report reflecting the efforts during the immediately preceding fiscal year for all executive departments and agencies in carrying out the provisions of this section, citing the location of all new facilities, and including a statement covering the basic reasons for the selection of all new locations.

(c) Planning assistance; annual report to Congress

The Secretary of the Department of Housing and Urban Development and the Secretary of Agriculture shall submit to the Congress a joint progress report as to their efforts during the immediately preceding fiscal year to provide assistance to States planning for the development of rural multicounty areas not included in economically depressed areas under authority of the Housing and Urban Development Act of 1968. The first such annual report shall be submitted not later than December 1, 1970, and shall cover the period beginning August 1, 1968, the date of enactment of the Housing and Urban Development Act of 1968, and ending June 30, 1970.

(d) Information and technical assistance; annual report to Congress

The Secretary of Agriculture shall submit to the Congress a report not later than December 1 of each fiscal year reflecting the efforts of the Department of Agriculture to provide information and technical assistance to small communities and less populated areas in regard to rural development during the immediately preceding fiscal year. The first such annual report shall be submitted not later than December 1, 1970, covering the period beginning July 1, 1969, and ending June 30, 1970. The Secretary shall include in such reports to what extent technical assistance has been provided through land-grant colleges and universities, through the Extension Service, and other programs of the Department of Agriculture.

(e) Government services; annual report to Congress

The President shall submit to the Congress a report not later than September 1 of each fiscal year stating the availability of telephone, electrical, water, sewer, medical, educational, and other government or government assisted services to rural areas and outlining efforts of the executive branch to improve these services during the immediately preceding fiscal year. The President is requested to submit the first such annual report, covering the fiscal year ending June 30, 1970, on or before December 1, 1970.

(Pub. L. 91-524, title IX, § 901, Nov. 30, 1970, 84 Stat. 1383; Pub. L. 92-419, title VI, § 601, Aug. 30, 1972, 86 Stat. 674; Pub. L. 94-273, § 7(3), Apr. 21, 1976, 90 Stat. 378.)

References in Text

The Housing and Urban Development Act of 1968, referred to in subsec. (c), is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476, as amended. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

Codification

Section was not enacted as part of Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, known as the Public Works and Economic Development Act of 1965, which comprises this chapter.

Subsec. (f), which provided that the President, on or before July 1, 1971, report to Congress on the possible utilization of the Farm Credit Administration and agencies in the Department of Agriculture to fulfill rural financial assistance requirements not filled by other agencies, together with recommendations for legislation he deemed necessary, was omitted from the Code as executed.

Amendments

1976—Subsec. (b). Pub. L. 94-273 substituted "December" for "September".

Subsec. (d). Pub. L. 94-273 substituted "December 1 of" for "September 1 of".

1972—Subsec. (b). Pub. L. 92-419 deleted "insofar as practicable," following "maintain" and substituted "policies and procedures giving first priority to the location of new offices and other facilities in rural areas as defined in the private business enterprise exception in section 1926(a)(7) of Title 7", for "policies and procedures with respect to the location of new offices and other facilities in areas or communities of lower population density in preference to areas or communities of high population densities".

EX. ORD. NO. 11797. DELEGATION OF PRESIDENT'S FUNCTION OF SUBMITTING ANNUAL REPORT TO CONGRESS CONCERNING LOCATION OF NEW FEDERAL FACILITIES

Ex. Ord. No. 11797, July 31, 1974, 39 F.R. 27893; provided:

By virtue of the authority vested in me by section 901(b) of the Agricultural Act of 1970 (84 Stat. 1383) (as amended by section 601 of the Rural Development Act of 1972 (86 Stat. 674; Public Law 92-419)) [subsec. (b) of this section] and by section 301 of title 3 of the United States Code, the Secretary of Agriculture is authorized to exercise the authority vested in the President by section 901(b) of the Agricultural Act of 1970, as amended [subsec. (b) of this section], in all matters relating to reporting criteria and the preparation and submission of annual reports to the Congress concerning the location of new Federal facilities in rural areas, without approval, ratification, or other action by the President. Departments and agencies shall cooperate with the Secretary of Agriculture in the preparation of the annual reports required by section 901(b), as amended [subsec. (b) of this section].

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1609.

§ 3123. Discrimination on the basis of sex prohibited in Federally assisted programs

No person in the United States shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance under the Public Works and Economic Development Act of 1965 [42 U.S.C. 3121 et seq.].

(Pub. L. 92-65, title I, § 112, Aug. 5, 1971, 85 Stat. 168.)

REFERENCES IN TEXT

The Public Works and Economic Development Act of 1965, referred to in text, is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified principally to this chapter (§ 3121 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3121 of this title and Tables volume.

CODIFICATION

Section was not enacted as part of Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, known as the Public Works and Economic Development Act of 1965, which comprises this chapter.

SUBCHAPTER I—GRANTS FOR PUBLIC WORKS AND DEVELOPMENT FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2985a, 3153, 3195, 3196, 3214 of this title; title 40 App., sections 202, 211, 214.

§ 3131. Direct and supplementary grants

(a) Acquisition or development of public works and development facilities; required findings precedent to making of direct grants; supplementary grants to provide matching share funds

Upon the application of any State, or political subdivision thereof, Indian tribe, or private or public nonprofit organization or association representing any redevelopment area or part thereof, the Secretary of Commerce (hereinafter referred to as the Secretary) is authorized—

(1) to make direct grants for the acquisition or development of land and improvements for public works, public service, or development facility usage, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, within a redevelopment area, if he finds that—

(A) the project for which financial assistance is sought will directly or indirectly (i) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities, (ii) otherwise assist in the creation of additional long-term employment opportunities for such area, or (iii) primarily benefit the long-term unemployed and members of low-income families or otherwise substantially further the objectives of the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.];

(B) the project for which a grant is requested will fulfill a pressing need of the area, or part thereof, in which it is, or will be, located;

(C) the area for which a project is to be undertaken has an approved overall economic development program as provided in section 3142(b)(10) of this title and such project is consistent with such program; and

(D) in the case of a redevelopment area so designated under section 3161(a)(6) of this title, the project to be taken will provide immediate useful work to unemployed and underemployed persons in that area;

(2) to make supplementary grants in order to enable the States and other entities within redevelopment areas to take maximum advantage of designated Federal grant-in-aid programs (as hereinafter defined), direct grants-in-aid authorized under this section, and Federal grant-in-aid programs authorized by the Watershed Protection and Flood Prevention Act (68 Stat. 666, as amended) [16 U.S.C. 1001 et seq.], and the eleven watersheds authorized by the Flood Control Act of December 22, 1944, as amended and supplemented (58 Stat. 887), for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share.

(b) Maximum proportion of direct grant funds to total project cost.

Subject to subsection (c) hereof, the amount of any direct grant under this section for any project shall not exceed 50 per centum of the cost of such project.

(c) Proportion of supplementary grant funds to total project cost; rules and regulations; maximum grants; required non-Federal share

The amount of any supplementary grant under this section for any project shall not exceed the applicable percentage established by regulations promulgated by the Secretary, but in no event shall the non-Federal share of the aggregate cost of any such project (including assumptions of debt) be less than 20 per centum of such cost, except that in the case of a grant to an Indian tribe, the Secretary may

reduce the non-Federal share below such per centum or may waive the non-Federal share. In the case of any State or political subdivision thereof which the Secretary determines has exhausted its effective taxing and borrowing capacity, the Secretary shall reduce the non-Federal share below such per centum or shall waive the non-Federal share in the case of such a grant for a project in a redevelopment area designated as such under section 3161(a)(6) of this title. In case of any community development corporation which the Secretary determines has exhausted its effective borrowing capacity, the Secretary may reduce the non-Federal share below such per centum or waive the non-Federal share in the case of such a grant for a project in a redevelopment area designated as such under section 3161(a)(6) of this title. Supplementary grant shall be made by the Secretary, in accordance with such regulations as he shall prescribe, by increasing the amounts of direct grants authorized under this section or by the payment of funds appropriated under this chapter to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of the applicable Federal programs. Notwithstanding any requirement as to the amount or sources of non-Federal funds that may otherwise be applicable to the Federal program involved, funds provided under this subsection shall be used for the sole purpose of increasing the Federal contribution to specific projects in redevelopment areas under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law. The term "designated Federal grant-in-aid programs," as used in this subsection, means such existing or future Federal grant-in-aid programs assisting in the construction or equipping of facilities as the Secretary may, in furtherance of the purposes of this chapter, designate as eligible for allocation of funds under this section. In determining the amount of any supplementary grant available to any project under this section, the Secretary shall take into consideration the relative needs of the area, the nature of the project to be assisted, and the amount of such fair user charges or other revenues as the project may reasonably be expected to generate in excess of those which would amortize the local share of initial costs and provide for its successful operation and maintenance (including depreciation).

(d) Rules and regulations; consideration of unemployment and underemployment in determining rules

The Secretary shall prescribe rules, regulations, and procedures to carry out this section which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures the Secretary shall consider among other relevant factors (1) the severity of the rates of unemployment in the eligible areas and the duration of such unemployment and (2) the income levels of families and the extent of underemployment in eligible areas.

(e) Repealed. Pub. L. 94-487, title I, § 103(a), Oct. 12, 1976, 90 Stat. 2331

(f) Review and comment upon projects by local governmental authorities

The Secretary shall prescribe regulations which will assure that appropriate local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects under this section.

(Pub. L. 89-136, title I, § 101, Aug. 26, 1965, 79 Stat. 522; Pub. L. 91-123, title III, § 301(1), Nov. 25, 1969, 83 Stat. 219; Pub. L. 92-65, title I, § 102, Aug. 5, 1971, 85 Stat. 166; Pub. L. 94-487, title I, § 103, Oct. 12, 1976, 90 Stat. 2331.)

References in Text

The Economic Opportunity Act of 1964, referred to in subsec. (a)(1)(A), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, which is classified generally to chapter 34 (§ 2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

The Watershed Protection and Flood Prevention Act, referred to in subsec. (a)(2), is act Aug. 4, 1954, ch. 656, 68 Stat. 666, as amended, which is classified generally to chapter 18 (§ 1001 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 16 and Tables volume.

The Flood Control Act of December 22, 1944, as amended and supplemented (58 Stat. 887), referred to in subsec. (a)(2), is act Dec. 22, 1944, ch. 665, 58 Stat. 887, which enacted sections 460d and 825s of Title 16, Conservation, sections 701-1, 701a-1, 708, and 709 of Title 33, Navigation and Navigable Waters, and section 390 of Title 43, Public Lands, and enacted provisions set out as notes under sections 701c, 701f, and 701j of Title 33. For complete classification of this Act to the Code, see Tables volume.

Amendments

1976—Subsec. (c). Pub. L. 94-487, § 103(b), (c), substituted "shall" for "may" in two places following "borrowing capacity, the Secretary" and "per centum or", and added provision authorizing Secretary to reduce or waive the non-federal share of community development corporation grants in certain instances.

Subsec. (e). Pub. L. 94-487, § 103(a), struck out subsec. (e) which prohibited financial assistance to any public service or development facility which would compete with regulated utilities.

1971—Subsec. (a)(1). Pub. L. 92-65, § 102(a), added subpar. (D).

Subsec. (c). Pub. L. 92-65, § 102(b), added provisions authorizing the Secretary to reduce the non-Federal share below the prescribed per centum or to waive the non-Federal share in the case of a supplementary grant for a project in a redevelopment area designated as such under section 3161(a)(6) of this title, when he determines that the state or the political subdivision thereof has exhausted its effective taxing and borrowing capacity.

1969—Subsec. (c). Pub. L. 91-123 authorized the Secretary to waive in whole or part the 20 per centum non-Federal share requirement for project grants to Indian tribes.

Section Referred to in Other Sections

This section is referred to in sections 3161, 3171, 3220, 3221, 3222, 3223, 3338, 4519 of this title.

§ 3132. Grants for operation of health projects; amounts for first and second fiscal years of operation; efficient management practices of facilities as prerequisite

For each of the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, September 30, 1978, and September 30, 1979, not to exceed $30,000,000 of the funds authorized to be appropriated under section 3135 of this title for each such fiscal year, and for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,500,000 of the funds authorized to be appropriated under such section 3135 of this title for such period, shall be available for grants for operation of any health project funded under this subchapter after the date of enactment of this section. Such grants may be made up to 100 per centum of the estimated cost of the first fiscal year of operation, and up to 100 per centum of the deficit in funds available for operation of the facility during the second fiscal year of operation. No grant shall be made for the second fiscal year of operation of any facility unless the agency operating such facility has adopted a plan satisfactory to the Secretary of Health, Education, and Welfare, providing for the funding of operations on a permanent basis. Any grant under this section shall be made upon the condition that the operation of the facility will be conducted under efficient management practices designed to obviate operating deficits, as determined by the Secretary of Health, Education, and Welfare.

(Pub. L. 89-136, title I, § 102, Aug. 26, 1965, 79 Stat. 554; Pub. L. 93-423, § 2, Sept. 27, 1974, 88 Stat. 1158; Pub. L. 94-487, title I, § 104, Oct. 12, 1976, 90 Stat. 2331.)

REFERENCES IN TEXT

"The date of enactment of this section" referred to in text, probably means the date of enactment of Pub. L. 93-423, which was approved Sept. 27, 1974.

AMENDMENTS

1976—Pub. L. 94-487 substituted "June 30, 1976, September 30, 1977, September 30, 1978, and September 30, 1979" for "and June 30, 1976", and adding "and for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,500,000 of the funds authorized to be appropriated under such section 3135 of this title for such period" following "such fiscal year".

1974—Pub. L. 93-423 substituted provisions relating to the availability of grants for operation of health projects funded under this subchapter for provisions relating to grants to areas designated as areas of substantial unemployment, and review of eligibility of areas so designated.

§ 3133. Limitation of funds expended in any one State

Not more than 15 per centum of the appropriations made pursuant to this subchapter may be expended in any one State.

(Pub. L. 89-136, title I, § 103, Aug. 26, 1965, 79 Stat. 554.)

§ 3134. Repealed. Pub. L. 94-188, title I, § 123, Dec. 31, 1975, 89 Stat. 1086

Section, Pub. L. 89-136, title I, § 104, Aug. 26, 1965, 79 Stat. 554, related to the ineligibility of Appalachian region projects for appropriations under this subchapter.

§ 3135. Authorization of appropriations

There is hereby authorized to be appropriated to carry out this subchapter not to exceed $500,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1971, and not to exceed $800,000,000 per fiscal year for the fiscal years ending June 30, 1972, and June 30, 1973, and not to exceed $200,000,000 for the fiscal year ending June 30, 1974, not to exceed $200,000,000 for the fiscal year ending June 30, 1975, and not to exceed $250,000,000 for the fiscal year ending June 30, 1976, not to exceed $62,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $425,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979. Any amounts authorized for the fiscal year ending June 30, 1972, under this section but not appropriated may be appropriated for the fiscal year ending June 30, 1973. Not less than 25 per centum nor more than 35 per centum of all appropriations made for the fiscal years ending June 30, 1972, June 30, 1973, and June 30, 1974, and not less than 15 per centum nor more than 35 per centum of all appropriations made for the fiscal years ending June 30, 1975,[1] June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, under authority of the preceding sentences shall be expended in redevelopment areas designated as such under section 3161(a)(6) of this title.

(Pub. L. 89-136, title I, § 105, Aug. 26, 1965, 79 Stat. 544; Pub. L. 91-123, title III, § 301(2), Nov. 25, 1969, 83 Stat. 219; Pub. L. 91-304, § 1(a), July 6, 1970, 84 Stat. 375; Pub. L. 92-65, title I, § 103, Aug. 5, 1971, 85 Stat. 166; Pub. L. 93-46, § 1, June 18, 1973, 87 Stat. 96; Pub. L. 93-423, § 1, Sept. 27, 1974, 88 Stat. 1158; Pub. L. 94-487, title I, § 105, Oct. 12, 1976, 90 Stat. 2331.)

AMENDMENTS

1976—Pub. L. 94-487 added "not to exceed $62,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $425,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979." following "fiscal year ending June 30, 1976", substituted "June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979" for "and June 30, 1976" following "fiscal years ending June 30, 1975", and substituted "15 per centum" for "10 per centum" following "and not less than".

1974—Pub. L. 93-423 added "not to exceed $200,000,000 for the fiscal year ending June 30, 1975, and not to exceed $250,000,000 for the fiscal year ending June 30, 1976," following "for the fiscal year ending June 30, 1974,", and added "and not less than 10 per centum nor more than 35 per centum of all appropriations made for the fiscal years ending June 30, 1975 and June 30, 1976," following "and June 30, 1974,".

1973—Pub. L. 93-46 authorized appropriations of not exceeding $200,000,000 for fiscal year ending June 30, 1974, and made the percentage limitation applicable to fiscal year 1974 appropriation for expenditure in rede-

[1] So in original. Comma editorially added.

velopment areas designated under section 3161(a)(6) of this title.

1971—Pub. L. 92-65 authorized appropriations of not exceeding $800,000,000 per fiscal year for the fiscal years ending June 30, 1972 and June 30, 1973, and further provided that amounts authorized for the fiscal year ending June 30, 1972 but not appropriated, may be appropriated for the fiscal year ending June 30, 1973, and that out of appropriations made for the fiscal years ending June 30, 1972 and June 30, 1973, not less than 25 percent and not more than 35 percent be spent in redevelopment areas designated under section 3161(a)(6) of this title.

1970—Pub. L. 91-304 extended the authorization of appropriations from the fiscal year ending June 30, 1970 to the fiscal year ending June 30, 1971.

1969—Pub. L. 91-123 extended the authorization of appropriations from the fiscal year ending June 30, 1969 to the fiscal year ending June 30, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3132 of this title.

§ 3136. Sewer and other waste disposal facilities; certification by Administrator of the Environmental Protection Agency regarding adequate treatment prior to discharge into streams

No financial assistance, through grants, loans, guarantees, or otherwise, shall be made under this chapter to be used directly or indirectly for sewer or other waste disposal facilities unless the Administrator of the Environmental Protection Agency certifies to the Secretary that any waste material carried by such facilities will be adequately treated before it is discharged into any public waterway so as to meet applicable Federal, State, interstate, or local water quality standards.

(Pub. L. 89-136, title I, § 106, Aug. 26, 1965, 79 Stat. 554; 1966 Reorg. Plan No. 2, § 1(h)(3), eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087.)

TRANSFER OF FUNCTIONS

"Administrator of the Environmental Protection Agency" was substituted for "Secretary of the Interior" pursuant to Reorg. Plan No. 3 of 1970 set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Federal Water Quality Administration in the Department of the Interior and transferred to the Administrator of the Environmental Protection Agency all functions which had been transferred to the Secretary of the Interior from the Secretary of Health, Education, and Welfare by Reorg. Plan No. 2 of 1966.

Secretary of Health, Education, and Welfare was changed to Secretary of the Interior pursuant to section 1(h)(3) of Reorg. Plan No. 2 of 1966, eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608, set out in the Appendix to Title 5, Government Organization and Employees, which transferred to the Secretary of the Interior the functions of the Secretary of Health, Education, and Welfare under this section.

§ 3137. Construction cost increases

In any case where a grant (including a supplemental grant) has been made under this subchapter for a project and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has been increased because of increases in costs, the amount of such grant may be increased by an amount equal to the percentage increase, as determined by the Secretary, in such costs, but in no event shall be[1] percentage of the Federal share of such project exceed that originally provided for in such grant.

(Pub. L. 89-136, title I, § 107, as added Pub. L. 94-487, title I, § 106, Oct. 12, 1976, 90 Stat. 2332.)

SUBCHAPTER II—LOANS, LOAN GUARANTEES, AND ECONOMIC DEVELOPMENT REVOLVING FUND

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2985a, 3153, 3214 of this title.

§ 3141. Public works and development facility loans

(a) Required findings precedent

Upon the application of any State, or political subdivision thereof, Indian tribe, or private or public nonprofit organization or association representing any redevelopment area or part thereof, the Secretary is authorized to purchase evidence of indebtedness and to make loans to assist in financing the purchase or development of land and improvements for public works, public service, or development facility usage, including public works, public service, and development facility usage, to be provided by agencies of the Federal Government pursuant to legislation requiring that non-Federal entities bear some part of the cost thereof, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, within a redevelopment area, if he finds that—

(1) the project for which financial assistance is sought will directly or indirectly—

(A) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities,

(B) otherwise assist in the creation of additional long-term employment opportunities for such area, or

(C) primarily benefit the long-term unemployed and members of low-income families or otherwise substantially further the objectives of the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.];

(2) the funds requested for such project are not otherwise available from private lenders or from other Federal agencies on terms which in the opinion of the Secretary will permit the accomplishment of the project;

(3) the amount of the loan plus the amount of other available funds for such project are adequate to insure the completion thereof;

(4) there is a reasonable expectation of repayment; and

(5) such area has an approved overall economic development program as provided in section 3142(b)(10) of this title and the project for which financial assistance is sought is consistent with such program.

[1] So in original. Probably should read "the".

(b) Loan terms; interest rates

Subject to section 3211(5) of this title, no loan, including renewals or extensions thereof, shall be made under this section for a period exceeding forty years, and no evidence of indebtedness maturing more than forty years from the date of purchase shall be purchased under this section. Such loans shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less not to exceed one-half of 1 per centum per annum.

(c) Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section and section 3142 of this title, except that annual appropriations for the purpose of purchasing evidences of indebtedness, paying interest supplement to or on behalf of private entities making and participating in loans, and guaranteeing loans, shall not exceed $170,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1973, and shall not exceed $55,000,000 for the fiscal year ending June 30, 1974, and shall not exceed $75,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, and shall not exceed $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed $200,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.

(d) Repealed. Pub. L. 94-487, title I, § 107(b), Oct. 12, 1976, 90 Stat. 2332

(e) Rules and regulations

The Secretary shall prescribe regulations which will assure that appropriate local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects under this section.

(Pub. L. 89-136, title II, § 201, Aug. 26, 1965, 79 Stat. 554; Pub. L. 91-304, § 1(b), July 6, 1970, 84 Stat. 375; Pub. L. 92-65, title I, § 104, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93-46, § 2, June 18, 1973, 87 Stat. 96; Pub. L. 93-423, § 4(a), Sept. 27, 1974, 88 Stat. 1158; Pub. L. 94-487, title I, § 107(a), (b), Oct. 12, 1976, 90 Stat. 2332.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (a)(1)(C), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, which is classified generally to chapter 34 (§ 2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-487, § 107(a), provided for the paying of interest supplement to or on behalf of private entities making, participating in, and guaranteeing loans, and authorized appropriations for interim period July 1, 1976 to September 30, 1976, and for fiscal years ending September 30, 1977, 1978, and 1979.

Subsec. (d). Pub. L. 94-487, § 107(b), struck out subsec. (d) which prohibited financial assistance to any public service or development facility which would compete with regulated public utilities.

1974—Subsec. (c). Pub. L. 93-423 added", and shall not exceed $75,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976." following "year ending June 30, 1974".

1973—Subsec. (c). Pub. L. 93-46 authorized appropriation of $55,000,000 for fiscal year ending June 30, 1974, for purchase of evidences of indebtedness.

1971—Subsec. (c). Pub. L. 92-65 substituted "June 30, 1973" for "June 30, 1971".

1970—Subsec. (c). Pub. L. 91-304 extended the limitations on the authorization of appropriations from the fiscal year ending June 30, 1970 to the fiscal year ending June 30, 1971.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3142, 3143, 3171, 3211, 3220, 3221, 3222, 3223 of this title; title 15 section 636.

§ 3142. Business loans and loan guarantees

(a) Permissible guarantees; guarantee maximums

(1) The Secretary is authorized to aid in financing, within a redevelopment area, the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage, including the construction of new buildings, the rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion, or enlargement of existing buildings by (A) purchasing evidences of indebtedness, (B) making loans (which for purposes of this section shall include participation in loans), (C) guaranteeing loans made to private borrowers by private lending institutions, for any of the purposes referred to in this paragraph upon application of such institution and upon such terms and conditions as the Secretary may prescribe, except that no such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan.

(2) In addition to any other financial assistance under this subchapter, the Secretary is authorized, in the case of any loan guarantee under authority of paragraph (1) of this section, to pay to or on behalf of the private borrower an amount sufficient to reduce up to 4 percentage points the interest paid by such borrower on such guaranteed loans. No payment under this paragraph shall result in the interest rate being paid by a borrower on such a guaranteed loan being less than the rate of interest for such a loan if it were made under section 3141 of this title. Payments made to or on behalf of such borrower shall be made no less often than annually.

(3) The Secretary is authorized to aid in financing any industrial or commercial activity within a redevelopment area by (A) making working capital loans, (B) guaranteeing working capital loans made to private borrowers by private lending institutions upon application of such institution and upon such terms and conditions as the Secretary may prescribe, except that no such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan, (C) guaranteeing rental payments of leases for buildings and equipment, except that no such guarantee shall exceed 90 per centum of the remaining

rental payments required by the lease. (D) paying those debts with respect to which a lien against property has been legally obtained (including the refinancing of any such debt) in any case where the Secretary determines that it is essential to do so in order to save employment in a designated area, to avoid a significant rise in unemployment, or to create new or increased employment.

(b) Terms and conditions

Financial assistance under this section shall be on such terms and conditions as the Secretary determines, subject, however, to the following restrictions and limitations:

(1) Such financial assistance shall not be extended to assist establishments relocating from one area to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts theretofore customarily performed by them: *Provided, however,* That such limitation shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(2) Such assistance shall be extended only to applicants, both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality is directly concerned with problems of economic development in such State or subdivision.

(3) The project for which financial assistance is sought must be reasonably calculated to provide more than a temporary alleviation of unemployment or underemployment within the redevelopment area wherein it is or will be located.

(4) No loan or guarantee shall be extended hereunder unless the financial assistance applied for is not otherwise available from private lenders or from other Federal agencies on terms which in the opinion of the Secretary will permit the accomplishment of the project.

(5) The Secretary shall not make any loan without a participation unless he determines that the loan cannot be made on a participation basis.

(6) No evidences of indebtedness shall be purchased and no loans shall be made or guaranteed unless it is determined that there is reasonable assurance of repayment.

(7) Subject to section 3211(5) of this title, no loan or guarantee, including renewals or extension thereof, may be made hereunder for a period exceeding twenty-five years and no evidences of indebtedness maturing more than twenty-five years from date of purchase may be purchased hereunder: *Provided,* That the foregoing restrictions on maturities shall not apply to securities or obligations received by the Secretary as a claimant in bankruptcy or equitable reorganization or as a creditor in other proceedings attendant upon insolvency of the obligor.

(8) Loans made and evidences of indebtedness purchased under this section shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purpose.

(9) Loan assistance (other than for a working capital loan) shall not exceed 65 per centum of the aggregate cost to the applicant (excluding all other Federal aid in connection with the undertaking) of acquiring or developing land and facilities (including machinery and equipment), and of constructing, altering, converting, rehabilitating, or enlarging the building or buildings of the particular project, and shall, among others, be on the condition that—

(A) other funds are available in an amount which, together with the assistance provided hereunder, shall be sufficient to pay such aggregate cost;

(B) not less than 15 per centum of such aggregate cost be supplied as equity capital or as a loan repayable in no shorter period of time and at no faster an amortization rate than the Federal financial assistance extended under this section is being repaid, and if such a loan is secured, its security shall be subordinate and inferior to the lien or liens securing such Federal financial assistance: *Provided, however,* That, except in projects involving financial participation by Indian tribes, not less than 5 per centum of such aggregate cost shall be supplied by the State or any agency, instrumentality, or political subdivision thereof, or by a community or area organization which is nongovernmental in character, unless the Secretary shall determine in accordance with objective standards promulgated by regulation that all or part of such funds are not reasonably available to the project because of the economic distress of the area or for other good cause, in which case he may waive the requirement of this provision to the extent of such unavailability, and allow the funds required by this subsection to be supplied by the applicant or by such other non-Federal source as may reasonably be available to the project;

(C) to the extent the Secretary finds such action necessary to encourage financial participation in a particular project by other lenders and investors, and except as otherwise provided in subparagraph (B), any Fed-

eral financial assistance extended under this section may be repayable only after other loans made in connection with such project have been repaid in full, and the security, if any, for such Federal financial assistance may be subordinate and inferior to the lien or liens securing other loans made in connection with the same project.

(10) No such assistance shall be extended unless there shall be submitted to and approved by the Secretary an overall program for the economic development of the area and a finding by the State, or any agency, instrumentality, or local political subdivision thereof, that the project for which financial assistance is sought is consistent with such program: *Provided*, That nothing in this chapter shall authorize financial assistance for any project prohibited by laws of the State or local political subdivision in which the project would be located, nor prevent the Secretary from requiring such periodic revisions of previously approved overall economic development programs as he may deem appropriate.

(Pub. L. 89-136, title II, § 202, Aug. 26, 1965, 79 Stat. 556; Pub. L. 93-423, § 4(b), Sept. 27, 1974, 88 Stat. 1158; Pub. L. 94-487, title I, §§ 107(c), (d), 108, Oct. 12, 1976, 90 Stat. 2332.)

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-487, § 107(c), (d), redesignated existing provisions as par. (3) and added par. (2).

Subsec. (a)(3). Pub. L. 94-487, §§ 107(d), 108, redesignated par. (2) as (3), and, as redesignated, added subpar. (D).

1974—Subsec. (a). Pub. L. 93-423, § 4(b)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(7). Pub. L. 93-423, § 4(b)(2), added "or guarantee" following "no loan".

Subsec. (b)(9). Pub. L. 93-423, § 4(b)(3), added "(other than for a working capital loan)" following "Loan assistance".

LOANS FOR MODIFICATIONS OF MINING FACILITIES AND EQUIPMENT

Loans for alteration of equipment or facilities of coal mines pursuant to terms and conditions of this section, see section 504(d) of Pub. L. 91-173, set out as a note under section 636 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2985a, 3131, 3141, 3142-1, 3143, 3161, 3162, 3171, 3211, 3220, 3221, 3222, 3223 of this title.

§ 3142-1. Loans for additions or alterations to equipment, facilities, or operating methods for compliance of small business concern with applicable occupational safety and health standards

Loans may also be made or guaranteed for the purposes set forth in section 636(b)(5) of title 15, pursuant to the provisions of section 3142 of this title.

(Pub. L. 91-596, § 28(d), Dec. 29, 1970, 84 Stat. 1618; Pub. L. 93-237, § 2(c), Jan. 2, 1974, 87 Stat. 1024.)

CODIFICATION

Section was not enacted as part of Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, known as the Public Works and Economic Development Act of 1965, which comprises this chapter.

AMENDMENTS

1974—Pub. L. 93-237 substituted "section 636(b)(5)" for "section 636(b)(6)".

EFFECTIVE DATE

Section effective 120 days after Dec. 29, 1970, see section 34 of Pub. L. 91-596, set out as an Effective Date note under section 651 of Title 29, Labor.

§ 3142a. Rivers and harbors and other waterways projects for benefit of navigation, flood control, hurricane protection, beach erosion control, and other purposes

(a) Congressional declaration of policy; purchase of indebtedness and loans to local interests to meet contribution requirements

In the prosecution of projects for rivers and harbors and other waterways for the benefit of navigation, the control of destructive flood waters, hurricane protection, beach erosion control, and for other purposes, authorized to be prosecuted under the direction of the Secretary of the Army under the supervision of the Chief of Engineers in accordance with plans adopted and authorized by the Congress, it is hereby declared to be the policy of the Congress, that whenever such projects are located wholly or partially within an area which is eligible for financial assistance under the Public Works and Economic Development Act of 1965 [42 U.S.C. 3121 et seq.], the Secretary of Commerce is authorized to purchase evidences of indebtedness and to make loans for a period not exceeding fifty years to enable responsible local interests to meet the requirements of local cooperation pertaining to contributions toward the cost of construction of such projects within such areas.

(b) Authorization of appropriations

There is hereby authorized to be appropriated to carry out this section, not to exceed $10,000,000 per fiscal year for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through and including the fiscal year ending June 30, 1970.

(Pub. L. 89-298, title II, § 217, Oct. 27, 1965, 79 Stat. 1088.)

REFERENCES IN TEXT

The Public Works and Economic Development Act of 1965, referred to in subsec. (a), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified principally to this chapter (§ 3121 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3121 of this title and Tables volume.

CODIFICATION

Section was not enacted as part of Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, known as the Public Works and Economic Development Act of 1965 which comprises this chapter.

§ 3143. Economic Development Revolving Fund

Funds obtained by the Secretary under section 3141 of this title, loan funds obtained under section 3171 of this title, and collections and repayments received under this chapter, shall be deposited in an economic development revolving fund (hereinafter referred to as the "fund"), which is hereby established in the Treasury of the United States, and which shall

be available to the Secretary for the purpose of extending financial assistance under sections 3141, 3142, and 3171 of this title, and for the payment of all obligations and expenditures arising in connection therewith. There shall also be credited to the fund such funds as have been paid into the area redevelopment fund or may be received from obligations outstanding under the Area Redevelopment Act [42 U.S.C. 2501 et seq.]. The fund shall pay into miscellaneous receipts of the Treasury, following the close of each fiscal year, interest on the amount of loans outstanding under this chapter computed in such manner and at such rate as may be determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, during the month of September preceding the fiscal year in which the loans were made.

(Pub. L. 89-136, title II, § 203, Aug. 26, 1965, 79 Stat. 558; Pub. L. 94-273, § 2(25), Apr. 21, 1976, 90 Stat. 376.)

REFERENCES IN TEXT

The Area Redevelopment Act, referred to in subsecs. (a) and (b), is Pub. L. 87-27, May 1, 1961, 75 Stat. 47, which was classified principally to former chapter 28 (§ 2501 et seq.) of this title, and omitted from the Code as executed, with the exception of sections 2513 and 2514 of this title, which were repealed by Pub. L. 89-15, § 9(b), Apr. 26, 1965, 79 Stat. 79. See sections 3161 and 3162 of this title.

AMENDMENTS

1976—Pub. L. 94-273 substituted "September" for "June".

§ 3144. Redevelopment area loan program

(a) Approval of plans; interest free loans; repayment

If a redevelopment area prepares a plan for the redevelopment of the area or a part thereof and submits such plan to the Secretary for his approval and the Secretary approves such plan, the Secretary is authorized to make an interest free loan to such area for the purpose of carrying out such plan. Such plan may include industrial land assembly, land banking, acquisition of surplus government property, acquisition of industrial sites including acquisition of abandoned properties with redevelopment potential, real estate development including redevelopment and rehabilitation of historical buildings for industrial and commercial use, rehabilitation and renovation of usable empty factory buildings for industrial and commercial use, and other investments which will accelerate recycling of land and facilities for job creating economic activity. Any such interest free loan shall be made on condition (1) that the area will use such interest free loan to make loans to carry out such plan, (2) the repayment of any loans made by the area from such interest free loan shall be placed by such area in a revolving fund available solely for the making of other loans by the area, upon approval by the Secretary, for the economic redevelopment of the area. Any such interest free loans shall be repaid to the United States by a redevelopment area whenever such area has its designation as a redevelopment area terminated or modified under section 3162 of this title. This section shall not apply to any redevelopment area whose designation as a redevelopment area would be terminated or modified under section 3162 of this title except for the provisions of section 2 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for titles I through IV through fiscal year 1971", approved July 6, 1970 (P.L. 91-304).

(b) Reports

(1) Each eligible recipient which receives assistance under this section shall annually during the period such assistance continues make a full and complete report to the Secretary, in such manner as the Secretary shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this section in meeting the need it was designed to alleviate and the purposes of this section.

(2) The Secretary shall provide an annual consolidated report to the Congress, with his recommendations, if any, on the assistance authorized under this section, in a form which he deems appropriate. The first such report to Congress under this subsection shall be made not later than July 1, 1977.

(c) Authorization of appropriations

There is authorized to be appropriated to carry out this section not to exceed $125,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.

(Pub. L. 89-136, title II, § 204, as added Pub. L. 94-487, title I, § 109, Oct. 12, 1976, 90 Stat. 2333.)

REFERENCES IN TEXT

Section 2 of an Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for titles I to IV through fiscal year 1971", approved July 6, 1970 (P.L. 91-304), referred to in subsec. (a), is section 2 of Pub. L. 91-304, July 6, 1970, 84 Stat. 375, which is set out as a note under section 3162 of this title.

SUBCHAPTER III—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

§ 3151. Technical assistance

(a) Use of Secretary's staff members; contracts; grants; repayment

In carrying out his duties under this chapter the Secretary is authorized to provide technical assistance which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment (1) to areas which he has designated as redevelopment areas under this chapter, and (2) to other areas which he finds have substantial need for such assistance. Such assistance shall include project planning and feasibility studies, management and operational assistance, and studies evaluating the needs of, and developing potentialities for, economic growth of such areas. Such assistance may be provided by the Secretary through members of his staff, through the payment of funds authorized for this section to other departments or agencies of the Federal Government, through the employment of private indi-

viduals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes, or through grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations. The Secretary, in his discretion, may require the repayment of assistance provided under this subsection and prescribe the terms and conditions of such repayment.

(b) Grants covering administrative expenses; use of funds in conjunction with other grants

The Secretary is authorized to make grants to defray not to exceed 75 per centum of the administrative expenses of organizations which he determines to be qualified to receive grants-in-aid under subsection (a) hereof, except that in the case of a grant under this subsection to an Indian tribe the Secretary is authorized to defray up to 100 per centum of such expenses. In determining the amount of the non-Federal share of such costs or expenses, the Secretary shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants, such as urban planning grants authorized under the Housing Act of 1954, as amended, and highway planning and research grants authorized under the Federal Aid Highway Act of 1962, to assure adequate and effective planning and economical use of funds.

(c) Research in causes of chronic depression; availability of resulting data; annual report

To assist in the long-range accomplishment of the purposes of this chapter, the Secretary, in cooperation with other agencies having similar functions, shall establish and conduct a continuing program of study, training, and research to (A) assist in determining the causes of unemployment, underemployment, underdevelopment, and chronic depression in the various areas and regions of the Nation, (B) assist in the formulation and implementation of national, State, and local programs which will raise income levels and otherwise produce solutions to the problems resulting from these conditions, and (C) assist in providing the personnel needed to conduct such programs. The program of study, training, and research may be conducted by the Secretary through members of this staff, through payment of funds authorized for this section to other departments or agencies of the Federal Government, or through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes, or through grants to such individuals, organizations, or institutions, or through conferences and similar meetings organized for such purposes. The Secretary shall make available to interested individuals and organizations the results of such research. The Secretary shall include in his annual report under section 3217 of this title a detailed statement concerning the study and research conducted under this section together with his findings resulting therefrom and his recommendations for legislative and other action.

(d) Availability of technical information in redevelopment areas; Federal procurement in redevelopment areas.

The Secretary shall aid redevelopment areas and other areas by furnishing to interested individuals, communities, industries, and enterprises within such areas any assistance, technical information, market research, or other forms of assistance, information, or advice which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment within such areas. The Secretary may furnish the procurement divisions of the various departments, agencies, and other instrumentalities of the Federal Government with a list containing the names and addresses of business firms which are located in redevelopment areas and which are desirous of obtaining Government contracts for the furnishing of supplies or services, and designating the supplies and services such firms are engaged in providing.

(e) Omitted

(f) Grants and contracts for demonstration projects within regional development areas; purposes

The Secretary is authorized to make grants, enter into contracts or otherwise provide funds for any demonstration project within a redevelopment area or areas which he determines is designed to foster regional productivity and growth, prevent outmigration, and otherwise carry out the purposes of this chapter.

(Pub. L. 89-136, title III, § 301, Aug. 26, 1965, 79 Stat. 558; Pub. L. 91-123, title III, § 302, Nov. 25, 1969, 83 Stat. 219; Pub. L. 93-46, § 3(a), June 18, 1973, 87 Stat. 96.)

REFERENCES IN TEXT

The Housing Act of 1954, as amended, referred to in subsec. (b), is act Aug. 2, 1954, ch. 649, 68 Stat. 590, as amended. For complete classification of this Act to the Code, see Short Title of 1954 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

The Federal Aid Highway Act of 1962, referred to in subsec. (b), is Pub. L. 87-866, Oct. 23, 1962, 76 Stat. 1145, which enacted sections 133, 134, and 214 of Title 23, Highways, and amended sections 103, 104, 203, and 307 of title 23, and enacted provisions set out as notes under sections 101, 103, 104, and 307 of title 23. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 23 and Tables volume.

CODIFICATION

Subsec. (e), which made provision for an independent study board consisting of governmental and nongovernmental experts to investigate the effects of governmental procurement, scientific, technical, and other related policies upon regional economic development and to submit its report and recommendations for better coordination of such policies not later than Aug. 26, 1967, was omitted from the Code as executed.

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-46 provided for payment up to 100 per centum of administrative expenses of Indian tribes.

1969—Subsec. (f). Pub. L. 91-123 added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3151a, 3152, 3153, 3211 of this title.

§ 3151a. Economic development planning

(a) Direct grants to State, city etc.; amount; purpose; procedure; goals; annual report

The Secretary is authorized, upon application of any State, or city, or other political subdivision of a State, or sub-State planning and development organization (including a redevelopment area or an economic development district), to make direct grants to such State, city, other political subdivision, or organization to pay up to 80 per centum of the cost for economic development planning. The planning for cities, other political subdivisions, and sub-State planning and development organizations (including redevelopment areas and economic development districts) assisted under this section shall include systematic efforts to reduce unemployment and increase incomes. Such planning shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities, and formulating and implementing a development program. Any overall State economic development plan prepared with assistance under this section shall be prepared cooperatively by the State, its political subdivisions, and the economic development districts located in whole or in part within such State. Upon completion of any such plan, the State shall certify to the Secretary (1) that in the preparation of such State plan, the local and economic development district plans were considered and, to the fullest extent possible, such State plan is consistent with such local and economic development district plans, and (2) that such State plan is consistent with such local and economic development district plans, or, if such State plan is not consistent with such local and economic development district plans, all of the inconsistencies of the State plan with the local and economic development district plans, and the justification for each of these inconsistencies. Any overall State economic development planning shall be a part of a comprehensive planning process that shall consider the provisions of public works to stimulate and channel development, economic opportunities and choices for individuals; to support sound land use, to enhance and protect the environment including the conservation and preservation of open spaces and environmental quality, to provide public services, and to balance physical and human resources through the management and control of physical development. The assistance available under this section may be provided in addition to assistance available under section 3151(b) of this title but shall not supplant such assistance and shall be available to develop an annual inventory of specific recommendations for assistance under section 3153 of this title. Each State receiving assistance under this subsection shall submit to the Secretary an annual report on the planning process assisted under this subsection.

(b) Additional assistance to economic development districts

In addition, the Secretary is authorized to assist economic development districts in—

(1) providing technical assistance (other than by grant) to local governments within the district; and

(2) carrying out any review procedure required pursuant to title IV of the Intergovernmental Cooperation Act of 1968 [42 U.S.C. 4231 et seq.], if such district has been designated as the agency to conduct such review.

(c) Compliance with review procedure

The planning assistance authorized under this subchapter shall be used in accordance with the review procedure required pursuant to title IV of the Intergovernmental Cooperation Act of 1968 [42 U.S.C. 4231 et seq.] and shall be used in conjunction with any other available Federal planning assistance to assure adequate and effective planning and economical use of funds.

(Pub. L. 89-136, title III, § 302, as added Pub. L. 93-423, § 5(b), Sept. 27, 1974, 88 Stat. 1159, as amended Pub. L. 94-487, title I, § 110, Oct. 12, 1976, 90 Stat. 2333.)

REFERENCES IN TEXT

The Intergovernmental Cooperation Act of 1968, referred to in subsecs. (b) and (c), is Pub. L. 90-577, Oct. 16, 1968, 82 Stat. 1098, as amended. Title IV of the Intergovernmental Cooperation Act of 1968, is classified generally to subchapter IV (§ 4231 et seq.) of chapter 52 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4201 of this title and Tables volume.

AMENDMENTS

1976—Pub. L. 94-487 substituted provisions for economic development plan certification procedure for provisions relating to factors to be considered in overall state economic development planning and annual report to Secretary on planning process of state assisted by this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3152, 3153 of this title.

§ 3152. Authorization of appropriations

(a) There is hereby authorized to be appropriated $25,000,000 annually for the purpose of sections 3151 and 3151a of this title, for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1969, $50,000,000 per fiscal year for the fiscal years ending June 30, 1970, June 30, 1971, June 30, 1972, and June 30, 1973, and $35,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976, $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $75,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.

(b) Not to exceed $15,000,000 in each of the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, September 30, 1978, and September 30, 1979, of the sums authorized to be appropriated under subsection (a) of this section, shall be available to make grants to States.

(Pub. L. 89-136, title III, § 303, formerly § 302, Aug. 26, 1965, 79 Stat. 560, amended Pub. L. 91-123, title III, § 303, Nov. 25, 1969, 83 Stat. 219;

Pub. L. 91-304, § 1(c), July 6, 1970, 84 Stat. 375; Pub. L. 92-65, title I, § 105, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93-46, § 3(b), June 18, 1973, 87 Stat. 96, and renumbered and amended Pub. L. 93-423, § 5(a), (c), Sept. 27, 1974, 88 Stat. 1159, 1160; Pub. L. 94-487, title I, § 111, Oct. 12, 1976, 90 Stat. 2334.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-487, § 111(a), added authorization of appropriations for interim period July 1, 1976 to September 30, 1976, and fiscal years ending September 30, 1977, 1978, and 1979.

Subsec. (b). Pub. L. 94-487, § 111(b), substituted "June 30, 1976, September 30, 1977, September 30, 1978, and September 30, 1979" for "and June 30, 1976".

1974—Subsec. (a). Pub. L. 93-423, § 5(c), designated existing provisions as subsec. (a), and as so designated, substituted "sections 3151 and 3152a of this title" for "this subchapter", and added "and $75,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976." following "year ending June 30, 1974".

Subsec. (b). Pub. L. 93-423, § 5(c), added subsec. (b).

1973—Pub. L. 93-46 authorized appropriation of $35,000,000 for the fiscal year ending June 30, 1974.

1971—Pub. L. 92-65 authorized appropriation of $50,000,000 for the fiscal years ending June 30, 1972 and June 30, 1973.

1970—Pub. L. 91-304 authorized appropriation of $50,000,000 for the fiscal year ending June 30, 1971.

1969—Pub. L. 91-123 increased authorized appropriation from $25,000,000 to $50,000,000 for the fiscal year ending June 30, 1970.

§ 3153. Supplemental and basic grants

(a) Authorization of appropriations; apportionment among States

There are hereby authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending June 30, 1976, $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $75,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, for apportionment by the Secretary among the States for the purpose of supplementing or making grants and loans authorized under subchapters I, II, III (other than planning grants authorized under sections 3151(b) and 3151a of this title), IV, and IX of this chapter. Such funds shall be apportioned among the States in the ratio which all grants made under subchapter I of this chapter since August 26, 1965, in each State bear to the total of all such grants made in all the States since August 26, 1965.

(b) Contributions by State

Funds apportioned to a State pursuant to subsection (a) of this section shall be available for supplementing or making such grants or loans if the State makes a contribution of at least 25 per centum of the amount of such grant or loan in each case. Funds apportioned to a State under subsection (a) of this section shall remain available to such State until obligated or expended by it.

(c) Use of funds

Funds apportioned to a State pursuant to this section may be used by the Governor in supplementing grants or loans with respect to any project or assistance authorized under subchapters I, II, III (other than planning grants authorized under sections 3151(b) and 3151a of this title), IV, and IX of this chapter and approved by the Secretary after July 1, 1974. Such grants may be used to reduce or waive the non-Federal share otherwise required by this chapter, subject to the requirements of subsection (b) of this section.

(d) Federal contribution

In the case of any grant or loan for which all or any portion of the basic Federal contribution to the project under this chapter is proposed to be made with funds available under this section, no such Federal contribution shall be made until the Secretary of Commerce certifies that such project meets all of the requirements of this chapter and could be approved for Federal contributions under this chapter if funds were available under this chapter (other than section 3188a of this title) for such project. Funds may be provided for projects in a State under this section only if the Secretary determines that the level of Federal and State financial assistance under this chapter (other than section 3188a of this title) and under Acts other than this chapter, for the same type of projects in the State, will not be diminished in order to substitute funds authorized by this section.

(e) Applicability of State planning process to use of funds

After June 30, 1975, funds apportioned to a State pursuant to this section shall be used by the Governor in a manner which is consistent with the State planning process assisted under section 3151a of this title, if such planning process has been established in such State.

(Pub. L. 89-136, title III, § 304, as added Pub. L. 93-423, § 5(d), Sept. 27, 1974, 88 Stat. 1160, as amended Pub. L. 94-487, title I, § 112, Oct. 12, 1976, 90 Stat. 2334.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-487, § 112(a), (b), authorized appropriations for interim period July 1, 1976 to September 30, 1976, for fiscal years ending September 30, 1977, 1978, and 1979, and substituted "subchapters I, II, III (other than planning grants authorized under sections 3151(b) and 3151a of this title), IV and IX" for "subchapters I, II, and IV".

Subsec. (c). Pub. L. 94-487, § 112(c), substituted "subchapters I, II, III (other than planning grants authorized under sections 3151(b) and 3151a of this title), IV, or IX" for "subchapters I, II, or IV".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3151a of this title.

SUBCHAPTER IV—AREA AND DISTRICT ELIGIBILITY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3153, 3232, 3242 of this title.

PART A—REDEVELOPMENT AREAS

§ 3161. Area eligibility

(a) Criteria for determining eligible areas; unemployment; median family income; Indian lands; loss of major source of employment

The Secretary shall designate as "redevelopment areas"—

(1) those areas in which he determines, upon the basis of standards generally comparable with those set forth in paragraphs (A) and (B), that there has existed substantial and persistent unemployment for an extended period of time and those areas in which he determines there has been a substantial loss of population due to lack of employment opportunity. There shall be included among the areas so designated any area—

(A) where the Secretary of Labor finds that the current rate of unemployment, as determined by appropriate annual statistics for the most recent twelve consecutive months, is 6 per centum or more and has averaged at least 6 per centum for the qualifying time periods specified in paragraph (B); and

(B) where the Secretary of Labor finds that the annual average rate of unemployment has been at least—

(i) 50 per centum above the national average for three of the preceding four calendar years, or

(ii) 75 per centum above the national average for two of the preceding three calendar years, or

(iii) 100 per centum above the national average for one of the preceding two calendar years.

The Secretary of Labor shall find the facts and provide the data to be used by the Secretary in making the determinations required by this subsection;

(2) those additional areas which have a median family income not in excess of 50 per centum of the national median, as determined by the most recent available statistics for such areas;

(3) those additional Federal or State Indian reservations or trust or restricted Indian-owned land areas which the Secretary, after consultation with the Secretary of the Interior or an appropriate State agency, determines manifest the greatest degree of economic distress on the basis of unemployment and income statistics and other appropriate evidence of economic underdevelopment; *Provided, however,* That uninhabited Federal or State Indian reservations or trust or restricted Indian-owned land areas may be designated where such designation would permit assistance to Indian tribes, with a direct beneficial effect on the economic well-being of Indians;

(4) upon request of such areas, those additional areas in which the Secretary determines that the loss, removal, curtailment, or closing of a major source of employment has caused within three years prior to, or threatens to cause within three years after, the date of the request an unusual and abrupt rise in unemployment of such magnitude that the unemployment rate for the area at the time of the request exceeds the national average, or can reasonably be expected to exceed the national average, by 50 per centum or more unless assistance is provided. Notwithstanding any provision of subsection (b) of this section to the contrary, an area designated under the authority of this paragraph may be given a reasonable time after designation in which to submit the overall economic development program required by section 3142(b)(10) of this title;

(5) notwithstanding any provisions of this section to the contrary, those additional areas which were designated redevelopment areas under the Area Redevelopment Act [42 U.S.C. 2501 et seq.] on or after March 1, 1965: *Provided, however,* That the continued eligibility of such areas after the first annual review of eligibility conducted in accordance with section 3162 of this title shall be dependent on their qualification for designation under the standards of economic need set forth in subsections (a)(1) through (a)(4) of this section;

(6) those communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which the Secretary determines have one of the following conditions:

(A) a large concentration of low-income persons;

(B) rural areas having substantial outmigration;

(C) substantial unemployment; or

(D) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment.

No redevelopment area established under this paragraph shall be subject to the requirements of subparagraphs (A) and (C) of paragraph (1) of subsection (a) of section 3131 of this title. No redevelopment area established under this paragraph shall be eligible to meet the requirements of section 3171(a)(1)(B) of this title;

(7) those areas where per capita employment has declined significantly during the next preceding ten-year period for which appropriate statistics are available;

(8) those areas which the Secretary of Labor determines, on the basis of average annual available unemployment statistics, to have experienced unemployment which is both substantial and above the national average for the preceding twenty-four months;

(9) those areas which the Secretary determines have demonstrated long-term economic deterioration.

(b) Size and boundaries of redevelopment areas

The size and boundaries of redevelopment areas shall be as determined by the Secretary: *Provided, however,* That—

(1) no area shall be designated until it has an approved overall economic development program in accordance with section 3142(b)(10) of this title;

(2) any area which does not submit an acceptable overall economic development program in accordance with section 3142(b)(10) of this title within a reasonable time after notification of eligibility for designation, shall not thereafter be designated prior to the next annual review of eligibility in accordance with section 3162 of this title;

(3) no area shall be designated which does not have a population of at least one thousand five hundred persons, except that this limitation shall not apply to any area designated under subsection (a)(3) or (a)(6) of this section; and

(4) except for areas designated under subsections (a)(3), (a)(4) and (a)(6) hereof, no area shall be designated which is smaller than a "labor area" (as defined by the Secretary of Labor), a county, or a municipality with a population of over twenty-five thousand, whichever in the opinion of the Secretary is appropriate.

Nothing in this subsection shall prevent any municipality, designated as a redevelopment area or eligible to be designated as a redevelopment area, from combining with any other community having mutual economic interests and transportation and marketing patterns for the purposes of such designation.

(c) Use of data compiled by other Secretaries in making determination of redevelopment areas

Upon the request of the Secretary, the Secretary of Labor, the Secretary of Agriculture, the Secretary of the Interior, and such other heads of agencies as may be appropriate are authorized to conduct such special studies, obtain such information, and compile and furnish to the Secretary such data as the Secretary may deem necessary or proper to enable him to make the determinations provided for in this section. The Secretary shall reimburse when appropriate, out of any funds appropriated to carry out the purposes of this chapter, the foregoing officers for any expenditures incurred by them under this section.

(d) Designation of areas most nearly qualifying as redevelopment areas in event of failure of any area in State to qualify under preceding subsections

If a State has no area designated under the preceding subsections of this section as a redevelopment area, the Secretary shall designate as a redevelopment area that area in such State which in his opinion most nearly qualifies under such preceding subsections. An area so designated shall have its eligibility terminated in accordance with the provisions of section 3162 of this title if any other area within the same State subsequently has become qualified or been designated under any other subsection of this section other than subsection (a)(6) as of the time of the annual review prescribed by section 3162 of this title: *Provided*, That the Secretary shall not terminate any designations of an area in a State as a redevelopment area if to do so would result in such State having no redevelopment area.

(e) Definitions

As used in this chapter, the term "redevelopment area" refers to any area within the United States which has been designated by the Secretary as a redevelopment area.

(Pub. L. 89-136, title IV, § 401, Aug. 26, 1965, 79 Stat. 560; Pub. L. 89-794, title XI, § 1102, Nov. 8, 1966, 80 Stat. 1477; Pub. L. 91-123, title III, § 304, Nov. 25, 1969, 83 Stat. 219; Pub. L. 92-65, title I, § 106, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93-423, §§ 3(a), (6), Sept. 27, 1974, 88 Stat. 1158, 1161; Pub. L. 94-487, title I, §§ 113, 114, Oct. 12, 1976, 90 Stat. 2334.)

REFERENCES IN TEXT

The Area Redevelopment Act, referred to in subsecs. (a) and (b), is Pub. L. 87-27, May 1, 1961, 75 Stat. 47, which was classified principally to former chapter 28 (§ 2501 et seq.) of this title, and omitted from the Code as executed, with the exception of sections 2513 and 2514 of this title, which were repealed by Pub. L. 89-15, § 9(b), Apr. 26, 1965, 79 Stat. 79. See sections 3161 and 3162 of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-487, § 113, substituted "twelve consecutive months" for "available calendar year" in subpar. (A), "to have experienced unemployment which is both substantial and above the national average for the preceding twelve months" for "were areas of substantial unemployment during the preceding calendar year" in par. (8), and added par. (9).

Subsec. (b). Pub. L. 94-487, § 114, substituted "twenty-five" for "two hundred and fifty" in par. (4), and added provision allowing municipalities and communities having common interests to combine into one redevelopment area.

1974—Subsec. (a)(3). Pub. L. 93-423, § 6, added proviso relating to designation of uninhabited Federal or State reservations or trust or restricted Indian owned areas.

Subsec. (a)(8). Pub. L. 93-423, § 3(a), added subsec. (a)(8).

1971—Subsec. (a)(2). Pub. L. 92-65, § 106(1), substituted "50 per centum" for "40 per centum".

Subsec. (a)(6). Pub. L. 92-65, § 106(2), broadened the definition of special impact areas to include communities or neighborhoods without regard to political or other subdivisions or boundaries, having conditions under subpars. (A) to (D), and provided that such areas shall not be subject to the requirements of section 3131(a)(1)(A), (B), and (C) of this title or be eligible to meet the requirements of section 3171(a)(1)(B) of this title, and omitted reference to section 2763 et seq. of this title.

Subsec. (a)(7). Pub. L. 92-65, § 106(2), added subsec. (a)(7).

1969—Subsec. (a). Pub. L. 91-123, § 304(a), added par. (6).

Subsec. (b)(3). Pub. L. 91-123, § 304(b), inserted a reference to subsec. (a)(6) of this section.

Subsec. (b)(4). Pub. L. 91-123, § 304(c), inserted a reference to subsec. (a)(6) of this section.

Subsec. (d). Pub. L. 91-123, § 304(d), provided for the termination of eligibility in accordance with the provisions of section 3162 of this title of any designated area if any other area within the same state becomes qualified or designated under any subsection of this section other than subsec. (a)(6).

1966—Subsec. (b)(3). Pub. L. 89-794 substituted "except that this limitation shall not apply to any area designated under subsection (a)(3) of this section; and" for "except for areas designated under subsection (a)(3) of this section, which shall have a population of not less than one thousand persons; and".

AREAS DEEMED TO BE DESIGNATED AS AREAS OF SUBSTANTIAL UNEMPLOYMENT

Section 3(b) of Pub. L. 93-423 provided that: "Any area of substantial unemployment so designated under authority of section 102 of title I of the Public Works and Economic Development Act of 1965 [section 3132 of this title] which has not had such designation terminated before the date of enactment of this section [Sept. 27, 1974] shall be deemed for the purposes of such Act [this chapter] to be such an area designated under section 401(a)(8) of such Act [subsec. (a)(8) of this section]."

EX. ORD. NO. 11307. COORDINATION OF FEDERAL PROGRAMS AFFECTING AGRICULTURAL AND RURAL AREA DEVELOPMENT

Ex. Ord. No. 11307, Sept. 30, 1966, 31 FR 12917, provided:

WHEREAS the development of our Nation's agricultural and rural areas has undergone radical changes due to technological advancements and the increasing urbanization of the Nation's society and economy; and

WHEREAS the living standards and welfare of the rural area population depend upon a successful accommodation to these changes; and

WHEREAS Congress has vested responsibilities in the Secretary of Agriculture for the administration of numerous programs aimed at the achievement of sound agricultural and rural development; and

WHEREAS such programs are closely interrelated with important programs and activities administered by other Federal departments and agencies, which affect agricultural and rural area development; and

WHEREAS the President has directed the Secretary of Agriculture to put the facilities of Department of Agriculture field offices at the disposal of all Federal agencies to assist them in making their programs effective in rural areas, and jointly with the Director of the Bureau of the Budget to review with the head of each department or agency the administrative obstacles which may stand in the way of equitable distribution in rural areas of the benefits of their programs and to propose administrative or legislative steps which can be taken to assure that equity is attained to assure full participation by rural areas; and

WHEREAS the highest level of coordination is required between the Department of Agriculture and such other Federal departments and agencies in order to achieve the maximum beneficial impact on agricultural and rural area development:

NOW THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Responsibility of the Secretary.* (a) The Secretary of Agriculture shall take the initiative in identifying problems of agricultural and rural area development which require the cooperation of various Federal departments and agencies for their effective solution, and pursuant thereto shall convene, or authorize his representatives to convene, meetings at appropriate times and places, to which he shall invite the heads of such departments and agencies as may be responsible for interrelated programs or activities, or representatives designated by them, for the following purposes:

(1) To provide a forum for consideration of mutual problems concerning Federal programs and activities affecting agricultural and rural area development and for the exchange of information needed to achieve coordination of, and to avoid duplication in, such programs and activities.

(2) To promote cooperation among Federal departments and agencies in achieving consistent policies, practices, and procedures for administration of their programs affecting agricultural and rural area development.

(3) To consult with and obtain the advice of appropriate Federal departments and agencies with respect to:

(A) intergovernmental relations and cooperation in promoting sound agricultural and rural area development;

(B) provision of information and technical assistance to State and local governments in solving agricultural and rural area development problems; and

(C) encouragement of comprehensive planning of, and effective regional, State, and local cooperation in agricultural and rural area development activities.

(4) To identify agricultural and rural area development problems of particular States, regions, or localities which require interagency or intergovernmental coordination.

(b) The Secretary shall make arrangements with such Federal departments and agencies for such working groups as they shall agree may be desirable to consider special problems arising with respect to matters described in subsection (a) of this section.

SEC. 2. *Agency responsibilities.* The heads of Federal departments and agencies having programs which have an impact on agricultural or rural area development shall to the extent permitted by law and funds available, furnish information, at the request of the Secretary, pertaining to programs within the responsibilities of such departments or agencies, and such additional information as will assist the Secretary in developing solutions to agricultural and rural area development problems.

SEC. 3. *Construction.* Nothing in this Order shall be construed as subjecting any functions vested by law in, or assigned pursuant to law to, any Federal department or agency or head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

SEC. 4. *Administrative arrangements.* (a) Each executive department and agency participating under section 1 or section 2 shall furnish necessary assistance for effectuating the provisions of this Order as authorized by section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691).

(b) The Department of Agriculture shall provide necessary administrative services pursuant to this Order.

SEC. 5. Executive Order 11122 of October 16, 1963, establishing the Rural Development Committee, is hereby superseded.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2985a, 3131, 3135, 3162, 3171, 3225 of this title; title 19 section 2371.

§ 3162. Annual review of area eligibility; termination of eligibility; notification of change of classification

The Secretary shall conduct an annual review of all areas designated in accordance with section 3161 of this title, and on the basis of such reviews shall terminate or modify such designation whenever such an area no longer satisfies the designation requirements of section 3161 of this title, but in no event shall such a designation of an area be terminated prior to the expiration of the third year after the date such area was so designated. No area previously designated shall retain its designated status unless it maintains a currently approved overall economic development program in accordance with section 3142(b)(10) of this title. No termination of eligibility shall (1) be made without thirty days' prior notification to the area concerned, (2) affect the validity of any application filed, or contract or undertaking entered into, with respect to such area pursuant to this chapter prior to such termination, (3) prevent any such area from again being designated a redevelopment area under section 3161 of this title if the Secretary determines it to be eligible under such section, or (4) be made in the case of any designated area where the Secretary determines that an improvement in the unemployment rate of a designated area is primarily the result of increased employment in occupations not likely to be permanent. The Secretary shall keep the departments and agencies of the Federal Government, and interested State or local agencies, advised at all times of any changes made hereunder with respect to the classification of any area.

(Pub. L. 89-136, title IV, § 402, Aug. 26, 1965, 79 Stat. 561; Pub. L. 92-65, title I, § 107, Aug. 5, 1971, 85 Stat. 167.)

AMENDMENTS

1971—Pub. L. 92-65 substituted provisions authorizing the Secretary to terminate or modify the designation of an area when such area does not satisfy the requirements of section 3161 of this title and that such designation may not be terminated within three years

of designation for provisions authorizing the Secretary to terminate or modify the designation in accordance with objective standards to be prescribed by him by regulation.

TERMINATION OR MODIFICATION OF DESIGNATION AS REDEVELOPMENT AREA AFTER MAY 1, 1970 AND BEFORE SEPT. 30, 1979

Pub. L. 91-304, § 2, July 6, 1970, 84 Stat. 375, as amended by Pub. L. 92-65, title I, § 111, Aug. 5, 1971, 85 Stat. 168; Pub. L. 93-46, § 6(a), June 18, 1973, 87 Stat. 97; Pub. L. 93-423, § 10, Sept. 27, 1974, 88 Stat. 1162; Pub. L. 94-487, title II, § 130, Oct. 12, 1976, 90 Stat. 2339, provided that: "Notwithstanding section 402 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162) no area designated as a redevelopment area for the purposes of such Act [see Short Title note set out under section 3121 of this title] shall have such designation terminated or modified in accordance with such section after May 1, 1970, and before Sept. 30, 1979, unless the local governing body of the county qualified under existing criteria for de-designation specifically requests de-designation action."

Pub. L. 93-46, § 6(b), June 18, 1973, 87 Stat. 97, provided that: "The amendment made by subsection (a) of this section [to provisions set out as preceding note] shall take effect May 31, 1972, and any area designated as a redevelopment area for the purposes of the Public Works and Economic Development Act of 1965, as amended [this chapter], on or before that date and which has had such designation terminated or modified in accordance with section 402 of such Act of 1965 [this section] on or before the date of enactment of this Act [June 18, 1973] shall, for the purposes of such Act of 1965 [this chapter], be held and considered as a designated redevelopment area during such period and shall continue to be designated as a redevelopment area until otherwise terminated or modified in accordance with the provisions of section 402 of such Act of 1965 [this section] and section 2 of the Act of July 6, 1970, as amended by this Act (Public Law 91-304) [provisions of note set out above]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3144, 3161 of this title.

PART B—ECONOMIC DEVELOPMENT DISTRICTS

§ 3171. District eligibility

(a) Authority to designate economic development districts; criteria; economic development centers; increases of grants

In order that economic development projects of broader geographical significance may be planned and carried out the Secretary is authorized—

(1) to designate appropriate "economic development districts" within the United States with the concurrence of the States in which such districts will be wholly or partially located, if—

(A) the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single redevelopment area;

(B) the proposed district contains at least one redevelopment area;

(C) the proposed district contains one or more redevelopment areas or economic development centers identified in an approved district overall economic development program as having sufficient size and potential to foster the economic growth activities necessary to alleviate the distress of the redevelopment areas within the district; and

(D) the proposed district has a district overall economic development program which includes adequate land use and transportation planning and contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Secretary;

(2) to designate as "economic development centers," in accordance with such regulations as he shall prescribe, such areas as he may deem appropriate, if—

(A) the proposed center has been identified and included in an approved district overall economic development program and recommended by the State or States affected for such special designation;

(B) the proposed center is geographically and economically so related to the district that its economic growth may reasonably be expected to contribute significantly to the alleviation of distress in the redevelopment areas of the district; and

(C) the proposed center does not have a population in excess of two hundred and fifty thousand according to the last preceding Federal census.

(3) to provide financial assistance in accordance with the criteria of sections 3131, 3141, and 3142 of this title, except as may be herein otherwise provided, for projects in economic development centers designated under subsection (a)(2) above, if—

(A) the project will further the objectives of the overall economic development program of the district in which it is to be located;

(B) the project will enhance the economic growth potential of the district or result in additional long-term employment opportunities commensurate with the amount of Federal financial assistance requested; and

(C) the amount of Federal financial assistance requested is reasonably related to the size, population, and economic needs of the district;

(4) subject to the 20 per centum non-Federal share required for any project by section 3131(c) of this title, to increase the amount of grant assistance authorized by section 3131 of this title for projects within redevelopment areas (designated under section 3161 of this title), by an amount not to exceed 10 per centum of the aggregate cost of any such project, in accordance with such regulations as he shall prescribe if—

(A) the redevelopment area is situated within a designated economic development district and is actively participating in the economic development activities of the district; and

(B) the project is consistent with an approved district overall economic development program.

(b) State proposals; state and local participation

In designating economic development districts and approving district overall economic development programs under subsection (a) of

this section, the Secretary is authorized, under regulations prescribed by him—

(1) to invite the several States to draw up proposed district boundaries and to identify potential economic development centers;

(2) to cooperate with the several States—

(A) in sponsoring and assisting district economic planning and development groups and

(B) in assisting such district groups to formulate district overall economic development programs;

(3) to encourage participation by appropriate local governmental authorities in such economic development districts.

(c) Termination and modification of districts and centers

The Secretary shall by regulation prescribe standards for the termination or modification of economic development districts and economic development centers designated under the authority of this section.

(d) Definition of economic development district

As used in this chapter, the term "economic development district" refers to any area within the United States composed of cooperating redevelopment areas and, where appropriate, designated economic development centers and neighboring counties or communities, which has been designated by the Secretary as an economic development district.

(e) Definition of economic development center

As used in this chapter, the term "economic development center" refers to any area within the United States which has been identified as an economic development center in an approved district overall economic development program and which has been designated by the Secretary as eligible for financial assistance under sections 3131, 3141, and 3142 of this title in accordance with the provisions of this section.

(f) Definition of local government

For the purpose of this chapter the term "local government" means any city, county, town, parish, village, or other general-purpose political subdivision of a State.

(g) Authorization of appropriations

There is hereby authorized to be appropriated not to exceed $50,000,000 for the fiscal year ending June 30, 1967, and for each fiscal year thereafter through the fiscal year ending June 30, 1973, and not to exceed $45,000,000 per fiscal year for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, not to exceed $11,250,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $45,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, for financial assistance extended under the provisions of subsection (a)(3) and (a)(4) hereof.

(h) Furnishing of overall economic development program to appropriate regional commission

Each economic development district designated by the Secretary under this section shall as soon as practicable after the date of enactment of this section or after its designation provide that a copy of the district overall economic development program be furnished to the appropriate regional commission established under subchapter V of this chapter, if any part of such proposed district is within such a region, or to the Appalachian Regional Commission established under the Appalachian Regional Development Act of 1965, if any part of such proposed district is within the Appalachian region.

(i) Financial assistance to parts of an economic development district not within a redevelopment area; manner and extent of assistance

The Secretary is authorized to provide the financial assistance which is available to a redevelopment area under this chapter to those parts of an economic development district which are not within a redevelopment area, when such assistance will be of substantial direct benefit to a redevelopment area within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this chapter for a redevelopment area, except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in paragraph (4) of subsection (a) of this section.

(Pub. L. 89-136, title IV, § 403(a)-(g), Aug. 26, 1965, 79 Stat. 562; Pub. L. 91-304, § 1(d), July 6, 1970, 84 Stat. 375; Pub. L. 92-65, title I, § 108, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93-46, § 4, June 18, 1973, 87 Stat. 96; Pub. L. 93-423, § 7, Sept. 27, 1974, 88 Stat. 1161; Pub. L. 94-487, title I, § 115, Oct. 12, 1976, 90 Stat. 2335.)

REFERENCES IN TEXT

"The date of enactment of this section" referred to in subsec. (h), probably means the date of enactment of Pub. L. 93-423, which was approved Sept. 27, 1974.

The Appalachian Regional Development Act of 1965, referred to in subsec. (h), is Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, which is set out in the Appendix to Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Subsecs. (h) and (i) were in the original, designated as (i) and (j) respectively, and have been editorially changed. Original subsec. (h) of section 403 of Pub. L. 89-136 is set out as a note under this section.

AMENDMENTS

1976—Subsec. (g). Pub. L. 94-487 provided authorization of appropriations for interim period of July 1, 1976 to September 30, 1976, and for fiscal years ending September 30, 1977, 1978, and 1979.

1974—Subsec. (a)(1)(B). Pub. L. 93-423, § 7(a), substituted "at least one redevelopment area" for "two or more redevelopment areas".

Subsec. (g). Pub. L. 93-423, § 7(c), substituted "per fiscal year for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976," for "for the fiscal year ending June 30, 1974,".

Subsecs. (h), (i). Pub. L. 93-423, § 7(b), added subsecs. (h) and (i).

1973—Subsec. (g). Pub. L. 93-46 authorized appropriation of $45,000,000 for the fiscal year ending June 30, 1974.

1971—Subsec. (g). Pub. L. 92-65 extended the authorization of appropriations from the fiscal year ending June 30, 1971 to June 30, 1973.

1970—Subsec. (g). Pub. L. 91-304 extended the authorization of appropriations from the fiscal year ending June 30, 1970 to the fiscal year ending June 30, 1971.

EFFECTIVE DATE OF SUBSECTION (g)

Section 403(h) of Pub. L. 89-136 provided that: "In order to allow time for adequate and careful district planning, subsection (g) of this section [subsec. (g) of this section] shall not be effective until one year from the date of enactment [Aug. 26, 1965]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3143, 3161, 3211, 3220, 3221, 3222, 3223, 3225 of this title.

PART C—INDIAN ECONOMIC DEVELOPMENT

§ 3172. Authorization of appropriations

In order to assure a minimum Federal commitment to alleviate economic distress of Indians, in addition to their eligibility for assistance with funds authorized under other parts of this chapter, there are authorized to be appropriated not to exceed $25,000,000 per fiscal year for the fiscal years ending June 30, 1975 and June 30, 1976, not to exceed $6,250,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $25,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, for the purpose of providing assistance under this chapter to Indian tribes. Such sums shall be in addition to all other funds made available to Indian tribes under this chapter.

(Pub. L. 89-136, title IV, § 404, as added Pub. L. 93-423, § 8, Sept. 27, 1974, 88 Stat. 1162, and amended Pub. L. 94-487, title I, § 116, Oct. 12, 1976, 90 Stat. 2335.)

AMENDMENTS

1976—Pub. L. 94-487 provided authorization of appropriations for interim period of July 1, 1976 to September 30, 1976, and for fiscal years ending September 30, 1977, 1978, and 1979.

PART D—UNEMPLOYMENT RATE DETERMINATIONS

§ 3173. Source of information; technical assistance

Whenever any provision of this chapter requires the Secretary of Labor, or the Secretary, to make any determination or other finding relating to the unemployment rate of any area, information regarding such unemployment rate may be furnished either by the Federal Government or by a State. Unemployment rates furnished by a State shall be accepted by the Secretary unless he determines that such rates are inaccurate. The Secretary shall provide technical assistance to State and local governments in the calculation of unemployment rates to insure their validity and standardization.

(Pub. L. 89-136, title IV, § 405, as added Pub. L. 94-487, title I, § 117, Oct. 12, 1976, 90 Stat. 2335.)

SUBCHAPTER V—REGIONAL ACTION PLANNING COMMISSIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3171, 3232 of this title.

§ 3181. Economic development regions; required findings precedent to designation of region by Secretary; alteration of geographical area

(a) The Secretary is authorized to designate appropriate "economic development regions" within the United States with the concurrence of the States in which such regions will be wholly or partially located if he finds (A) that there is a relationship between the areas within such region geographically, culturally, historically, and economically, (B) that with the exception of Alaska and Hawaii, and the Commonwealth of Puerto Rico and the Virgin Islands and the States of California and Texas the region is within contiguous States, and (C) upon consideration of the following matters, among others, that the region has lagged behind the whole Nation in economic development:

(1) the rate of unemployment is substantially above the national rate;

(2) the median level of family income is significantly below the national median;

(3) the level of housing, health, and educational facilities is substantially below the national level;

(4) the economy of the area has traditionally been dominated by only one or two industries, which are in a state of long-term decline;

(5) the rate of outmigration of labor or capital or both is substantial;

(6) the area is adversely affected by changing industrial technology;

(7) the area is adversely affected by changes in national defense facilities or production; and

(8) indices of regional production indicate a growth rate substantially below the national average.

(b) Upon resolution of the Committee on Public Works of the Senate or the House of Representatives, the Secretary is directed to study the advisability of altering the geographical area of any region designated under this section, in order to further the purpose of this chapter.

(Pub. L. 89-136, title V, § 501, Aug. 26, 1965, 79 Stat. 564; Pub. L. 91-123, title II, § 202, Nov. 25, 1969, 83 Stat. 216; Pub. L. 94-188, title II, § 209(a), Dec. 31, 1975, 89 Stat. 1091.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-188 added reference to Commonwealth of Puerto Rico, Virgin Islands, California and Texas.

1969—Pub. L. 91-123 designated existing provisions as subsec. (a) and added subsec. (b).

CHANGE OF NAME

The Committee on Public Works of the Senate, referred to in subsec. (b), was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

The Committee on Public Works of the House of Representatives was changed to the Committee on Public Works and Transportation of the House of Representatives, effective Jan. 3, 1975, by House Resolution 988, 93d Congress.

REVIEW OF DESIGNATIONS

Federal Advisory Council on Regional Economic Development authorized to review proposed designations of additional economic development regions, see section 3(c) of Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, set out as a note under section 3183 of this title.

§ 3182. Regional commissions

(a) Establishment

Upon designation of development regions, the Secretary shall invite and encourage the States wholly or partially located within such regions to establish appropriate multistate regional commissions.

(b) Membership; appointment of Federal cochairman; election of State cochairman

Each such commission shall be composed of one Federal member, hereinafter referred to as the "Federal cochairman", appointed by the President by and with the advice and consent of the Senate, and one member from each participating State in the region. Each State member shall be the Governor. The State members of the commission shall elect a cochairman of the commission from among their number for a term of not less than one year.

(c) Voting; consultation with interested Federal departments and agencies

Decisions by a regional commission shall require the affirmative vote of the Federal cochairman and of a majority, or at least one if only two, of the State members. In matters coming before a regional commission, the Federal cochairman shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter. No decision involving commission policy, approval of regional development plan, implementing investment programs, or allocating funds among the States may be made without a quorum of State members present.

(d) Alternate members; appointment and voting.

Each State member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff. The President, by and with the advice and consent of the Senate, shall appoint an alternate for the Federal cochairman of each regional commission. An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the State of[1] Federal cochairman for which he is an alternate. A State alternate shall not be counted toward the establishment of a quorum of the commission in any instance in which a quorum of the State members is required to be present. No commission power or responsibility specified in the last sentence of subsection (c) of this section, nor the vote of any commission member, may be delegated to any person not a commission member or who is not entitled to vote in commission meetings.

(e) Compensation of members and alternates

The Federal cochairman to a regional commission shall be compensated by the Federal Government from funds authorized by this chapter up to level IV of the Federal Executive Salary Schedule [5 U.S.C. 5315]. His alternate shall be compensated by the Federal Government from funds authorized by this chapter at not to exceed the maximum scheduled rate for grade GS-18 of the General Schedule, and when not actively serving as an alternate for the Federal cochairman shall perform such functions and duties as are delegated to him by the Federal cochairman. Each State member and his alternate shall be compensated by the State which they represent at the rate established by the law of such State.

(f) Alaska, Hawaii, California and Texas regions

If the Secretary finds that the State of Alaska or the State of Hawaii or the State of California or the State of Texas meet the requirements for an economic development region, he may establish a Commission for any such State in a manner agreeable to him and to the Governor of the affected State.

(Pub. L. 89-136, title V, § 502, Aug. 26, 1965, 79 Stat. 564; Pub. L. 94-188, title II, §§ 208, 209(b), Dec. 31, 1975, 89 Stat. 1091.)

REFERENCES IN TEXT

GS-18 of the General Schedule, referred to in subsec. (e), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1975—Subsec. (b). Pub. L. 94-188, § 208(a) substituted provision that each state member shall be the Governor for provision that each state member may be the Governor, or his designee, or such other person as may be provided by the law of the state which he represents, and added provision that the term of the office of the cochairman shall be for not less than a year.

Subsec. (c). Pub. L. 94-188, § 208(b), added provision that no decision involving commission policy, approval of regional development plan, implementing investment programs, or allocating funds among the States may be made without a quorum of State members present.

Subsec. (d). Pub. L. 94-188, § 208(c), (d), substituted provision that each state member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff for provision that each state member of a regional commission shall have an alternate, appointed by the Governor or as otherwise may be provided by the law of the state which he represents and added provisions that a state alternate shall not be counted toward the establishment of a quorum of the commission in any instance in which a quorum of the state members is required to be present, and that commission power or responsibility may not be delegated to any person not a commission member or who is not entitled to vote in commission meetings.

Subsec. (f). Pub. L. 94-188, § 209(b), added reference to California and Texas, and substituted "for any such State" for "for either State".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3246c of this title; title 5 section 5334; title 40 App. section 109.

§ 3183. Functions of Commission

(a) Activities

In carrying out the purposes of this chapter, each Commission shall with respect to its region—

(1) advise and assist the Secretary in the identification of optimum boundaries for multistate economic development regions;

[1] So in original. Probably should be "or".

(2) initiate and coordinate the preparation of long-range overall economic development programs for such regions, including the development of a comprehensive long-range economic plan approved by the Secretary;

(3) foster surveys and studies to provide data required for the preparation of specific plans and programs for the development of such regions;

(4) advise and assist the Secretary and the States concerned in the initiation and coordination of economic development districts, in order to promote maximum benefits from the expenditure of Federal, State, and local funds;

(5) promote increased private investment in such regions;

(6) prepare legislative and other recommendations with respect to both short-range and long-range programs and projects for Federal, State, and local agencies;

(7) develop, on a continuing basis, comprehensive and coordinated plans and programs and establish priorities thereunder, giving due consideration to other Federal, State, district, and local planning in the region;

(8) conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of the region, and, in cooperation with Federal, State and local agencies, sponsor demonstration projects designed to foster regional productivity and growth;

(9) review and study, in cooperation with the agency involved, Federal, State, and local public and private programs and, where appropriate, recommend modifications or additions which will increase their effectiveness in the region;

(10) formulate and recommend, where appropriate, interstate compacts and other forms of interstate cooperation, and work with State and local agencies in developing appropriate model legislation; and

(11) provide a forum for consideration of problems of the region and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences.

(b) Transmittal and recommendation of plans and proposals

The Secretary shall present such plans and proposals of the commissions as may be transmitted and recommended to him (but are not authorized by any other section of this chapter) first for review by the Federal agencies primarily interested in such plans and proposals and then, together with the recommendations of such agencies, to the President for such action as he may deem desirable.

(c) Liaison between Federal government and regional commissions

The Secretary shall provide effective and continuing liaison between the Federal Government and each regional commission.

(d) Cooperation between Federal agencies and regional commissions

Each Federal agency shall, consonant with law and within the limits of available funds, cooperate with such commissions as may be established in order to assist them in carrying out their functions under this section.

(e) Additional recommendations respecting expenditure of funds and necessary actions

Each regional commission may, from time to time, make additional recommendations to the Secretary and recommendations to the State Governors and appropriate local officials, with respect to—

(1) the expenditure of funds by Federal, State, and local departments and agencies in its region in the fields of natural resources, agriculture, education, training, health and welfare, transportation, and other fields related to the purposes of this chapter; and

(2) such additional Federal, State, and local legislation or administrative actions as the commission deems necessary to further the purposes of this chapter.

(Pub. L. 89-136, title V, § 503, Aug. 26, 1965, 79 Stat. 565; Pub. L. 90-103, title II, § 201, Oct. 11, 1967, 81 Stat. 266; Pub. L. 93-423, § 9(a), Sept. 27, 1974, 88 Stat. 1162.)

AMENDMENTS

1974—Pub. L. 93-423 added "district," after "other Federal, State,".

1967—Subsec. (a)(2). Pub. L. 90-103 provided for development of a comprehensive long-range economic plan approved by the Secretary.

REGIONAL ECONOMIC DEVELOPMENT PLAN; SUBMITTAL TO CONGRESSIONAL COMMITTEES

Pub. L. 94-188, title II, § 207, Dec. 31, 1975, 89 Stat. 1091 provided that each regional commission established pursuant to this subchapter submit to the Committees on Public Works of the Senate and House of Representatives, within one hundred and twenty days after Dec. 31, 1975, the Regional Economic Development Plan required under subsec. (a)(2) of this section.

REGIONAL COMMISSION FOR REGION BORDERING MEXICO, TEXAS, NEW MEXICO, ARIZONA, AND CALIFORNIA

Section 209(c) of Pub. L. 94-188, title II, Dec. 31, 1975, 89 Stat. 1092, provided that: "It is the intent of Congress that the Secretary of Commerce acting under authority of title V of the Public Works and Economic Development Act of 1965 [this subchapter] should invite and encourage the formation of a regional commission for the region along the border with Mexico in the States of Texas, New Mexico, Arizona, and California."

EX. ORD. NO. 11386. COORDINATION OF ACTIVITIES OF REGIONAL COMMISSIONS AND FEDERAL GOVERNMENT RELATING TO REGIONAL ECONOMIC DEVELOPMENT AND ESTABLISHMENT OF FEDERAL ADVISORY COUNCIL ON REGIONAL ECONOMIC DEVELOPMENT

Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, provided:

WHEREAS the proper discharge of Federal responsibilities under the Appalachian Regional Development Act of 1965 (79 Stat. 5, 40 U.S.C. App.) and the Public Works and Economic Development Act of 1965 (79 Stat. 552, 42 U.S.C. 3121 *et seq.*) [this chapter], as amended by Public Law 90-103, 81 Stat. 257, requires that the participation of the Federal Government in regional development activities be effectively coordinated;

WHEREAS the President is required by the Appalachian Regional Development Act of 1965 to provide effective and continuing liaison between the Federal Government and the Appalachian Regional Commission;

WHEREAS the Secretary of Commerce has responsibility under the Public Works and Economic Develop-

ment Act of 1965 for Federal economic development activities designed to alleviate conditions of substantial and persistent unemployment and underemployment in economically distressed areas and regions of the Nation;

WHEREAS the Secretary of Commerce is directed by the Public Works and Economic Development Act of 1965 to coordinate the Federal Cochairmen appointed to regional commissions established before or after the date of that Act;

WHEREAS the Secretary of Commerce is required by the Public Works and Economic Development Act of 1965 to provide effective and continuing liaison between the Federal Government and each regional commission established under Title V of that Act [this subchapter]; and

WHEREAS the Secretary of Commerce has been Chairman of the President's Review Committee for Development Planning in Alaska, established to provide general direction and guidance to the Federal Field Committee for Development Planning in Alaska, established by Executive Order No. 11182, dated October 2, 1964:

NOW, THEREFORE, by virtue of the authority vested in me by the Appalachian Regional Development Act of 1965, the Public Works and Economic Development Act of 1965, and section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. *Functions of the Secretary of Commerce.* The Secretary of Commerce shall—

(a) Provide the effective and continuing liaison required by section 104 of the Appalachian Regional Development Act of 1965 [section 104 of Appendix A of Title 40, Public Buildings, Property and Works] and by section 503(c) of the Public Works and Economic Development Act of 1965 [subsec. (c) of this section] between the Federal Government and each regional commission established under those Acts, and between the Federal Government and the Federal Field Committee for Development Planning in Alaska (hereinafter referred to as "the Field Committee").

(b) Obtain a coordinated review within the Federal Government of plans and recommendations submitted by the commissions and the Field Committee.

(c) Provide guidance and policy direction to the Federal Cochairmen and the Chairman of the Field Committee with respect to their Federal functions.

(d) Promote the effective coordination of the activities of the Federal Government relating to regional economic development.

(e) In carrying out the functions set forth in section 1(a), (b), (c), and (d) the Secretary of Commerce shall—

(1) Review the regional economic development plans and programs submitted to him by the Federal Cochairmen, budgetary recommendations, the standards for development underlying those plans, programs and budgetary recommendations, and legislative recommendations; and advise the Federal Cochairmen of the Federal policy with respect to those matters, and where appropriate, submit recommendations to the Director of the Bureau of the Budget.

(2) Review and advise the Chairman of the Field Committee with respect to the tentative plans and recommendations of the Field Committee, and receive and consider the final plans and recommendations of the Field Committee and transmit them to the heads of interested Federal departments and agencies and to the President.

(3) Resolve any questions of policy which may arise between a Federal Cochairman and a Federal department or agency in the implementation of regional development programs.

(4) Appoint a Special Assistant and other staff as required to assist him in carrying out these functions.

SEC. 2. *Establishment of the Council.* (a) There is hereby established the Federal Advisory Council on Regional Economic Development, hereinafter referred to as "the Council."

(b) The Council shall be composed of the following members: The Secretary of Commerce, who shall be the Chairman of the Council (hereinafter referred to as "the Chairman"), the Secretary of Agriculture, the Secretary of the Army, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Labor, the Secretary of Transportation, the Director of the Office of Economic Opportunity, the Administrator of the Small Business Administration, the Federal Cochairman of the Appalachian Regional Commission, such Federal Cochairman as are appointed by the President under authority of Title V of the Public Works and Economic Development Act of 1965 [this subchapter], and the Chairman of the Field Committee.

(c) Whenever matters within the purview of the Council may be of interest to heads of Federal departments or agencies not represented on the Council under section 2(b) of this order, the Chairman may consult with the heads of such departments and agencies and may invite them to participate in meetings and deliberations of the Council.

(d) The Council shall meet at the call of the Chairman.

SEC. 3. *Functions of the Council.* The Council shall assist the Secretary of Commerce in carrying out the functions set forth in section 1 of this order, and shall, as requested by the Secretary of Commerce—

(a) Review proposed long-range economic development plans prepared by the regional commissions and the Field Committee.

(b) Recommend desirable development objectives and programs for such regions and Alaska.

(c) Review proposed designations of additional economic development regions under Title V of the Public Works and Economic Development Act of 1965 [this subchapter].

(d) Review Federal programs relating to regional economic development, develop basic policies and priorities with respect to such programs, and recommend administrative or legislative action needed to stimulate and further regional economic development.

(e) Review proposed department or agency regional economic development plans.

(f) Recommend surveys and studies needed to assist the Secretary of Commerce and the Council in carrying out their functions.

SEC. 4. *Responsibilities of Participating Federal Agencies* (a) Each Federal department and agency the head of which is referred to in section 2(b) of this order shall, as may be necessary, furnish assistance to the Council in accordance with the provisions of section 214 of the Act of May 3, 1945 (59 Stat. 134, 31 U.S.C. 691).

(b) The head of each such Federal department or agency shall designate an Assistant Secretary or equivalent level official who shall have primary and continuing responsibility for the participation and cooperation of that department or agency in regional economic development as required by this order.

(c) The head of each such Federal department or agency shall keep the Secretary of Commerce and the Council informed of all proposed regional economic development plans of his department or agency.

(d) The head of each such Federal department or agency shall, consonant with law and within the limits of available funds, cooperate with the Council and with the Secretary of Commerce in carrying out their functions under this order. Such cooperation shall include, as may be appropriate, (1) furnishing relevant available information, (2) making studies and preparing reports, (3) in connection with the development of programs, priorities, and operations of the department or agency, giving full consideration to any plans and recommendations for the economic development of the various regions, including recommendations made by the Council, and (4) advising on the work of the

Council as the Chairman may from time to time request.

SEC. 5. *Responsibilities of the Federal Cochairmen and the Chairman of the Field Committee.* The Federal Cochairmen, and the Chairman of the Field Committee as appropriate, shall—

(a) Maintain continuing liaison with the Secretary of Commerce with respect to the activities of the regional commissions and the Field Committee.

(b) Adhere to general Federal policies affecting regional economic development that are established by the Secretary of Commerce.

(c) Inform the appropriate Federal departments and agencies of programs and projects to be considered by the commissions, and attempt to obtain a consensus within the Federal Government through consultation with appropriate Federal agency representatives before casting a vote on any such matter.

(d) Represent the participating Federal departments and agencies in connection with the activities of the regional commissions.

(e) Submit to the Secretary of Commerce regional economic development plans and programs of the regional commissions, budgetary recommendations, legislative recommendations, and progress reports, as requested by the Secretary of Commerce, on the activities of the regional commissions.

(f) Submit reports required by section 304 of the Appalachian Regional Development Act of 1965 [section 304 of Appendix A of Title 40, Public Buildings, Property, and Works] and by section 510 of the Public Works and Economic Development Act of 1965 [section 3189 of this title] to the Secretary of Commerce for review prior to transmittal to the President or the Congress.

SEC. 6. *Appalachian Program.* (a) Funds appropriated pursuant to sections 201 and 401 of the Appalachian Regional Development Act of 1965 [sections 201 and 401 of Appendix A of Title 40, Public Buildings, Property, and Works] shall be available to the Federal Cochairman of the Appalachian Regional Commission for the purposes of carrying out that Act.

(b) The Federal Cochairman of the Appalachian Regional Commission is delegated the functions conferred upon the President by sections 214(a), 302(a), and 302(c) of the Appalachian Regional Development Act of 1965 [sections 214(a), 302(a), and 302(c) of Appendix A of Title 40, Public Buildings, Property, and Works], which shall be exercised by him in accordance with the provisions of this order.

SEC. 7. *Construction.* Nothing in this order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any Federal department or agency, to the authority of the Council or the Secretary of Commerce, or as abrogating or restricting any such function in any manner.

SEC. 8. *Definition.* Except as the context may otherwise require, any reference herein to any Act, or to any provision of any Act, shall be deemed to be a reference thereto as amended from time to time.

SEC. 9. *Prior Executive Orders.* (a) Executive Order No. 11182, as amended, is hereby further amended as follows:

(1) By changing the heading of the order so as to read as follows: "ESTABLISHING THE FEDERAL FIELD COMMITTEE FOR DEVELOPMENT PLANNING IN ALASKA".

(2) By striking the words "the Housing and Home Finance Administrator" from section 1(b) and by inserting in lieu thereof the words "the Secretary of Housing and Urban Development, the Director of the Office of Economic Opportunity".

(3) By substituting the following for subsection (a) of section 2:

"(a) Subject to the general direction and guidance of the Secretary of Commerce, the Field Committee shall serve as the principal instrumentality for developing coordinated plans for Federal programs which contribute to economic and resources development in Alaska and for recommending appropriate action by the Federal Government to carry out such plans."

(4) By striking from sections 3(e) and 3(f) the words "Review Committee" and by inserting in lieu thereof the words "Secretary of Commerce".

(5) By revoking Part II, The President's Review Committee for Development Planning in Alaska, established by that Part, shall be deemed to be hereby abolished.

(6) By redesignating Part III and section 31 thereof as Part II and section 21, respectively.

(7) By redesignating Part IV and sections 41, 42, and 43 as Part III and sections 31, 32, and 33, respectively, and by striking from the redesignated section 33 the words "and the Review Committee".

(b) The Federal Development Committee for Appalachia, established by Executive Order No. 11209 of March 25, 1965, is hereby abolished and that order is hereby revoked.

LYNDON B. JOHNSON.

REVOCATION OF EX. ORD. NO. 11386 IN PART

For revocation of Executive Order No. 11386, to the extent that it pertained to the Federal Field Committee for Development Planning in Alaska, see Ex. Ord. No. 11608, July 19, 1971, 36 F.R. 13367, set out as a note under section 3191 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3188a, 3190, 3211 of this title.

§ 3184. Program development criteria

In developing recommendations for programs and projects for future regional economic development, and in establishing within those recommendations a priority ranking for such programs and projects, the Secretary shall encourage each regional commission to follow procedures that will insure consideration of the following factors:

(1) the relationship of the project or class of projects to overall regional development including its location in an area determined by the State to have a significant potential for growth;

(2) the population and area to be served by the project or class of projects including the relative per capita income and the unemployment rates in the area;

(3) the relative financial resources available to the State or political subdivisions or instrumentalities thereof which seek to undertake the project;

(4) the importance of the project or class of projects in relation to other projects or classes of projects which may be in competition for the same funds;

(5) the prospects that the project, on a continuing rather than a temporary basis, will improve the opportunities for employment, the average level of income, or the economic and social development of the area served by the project.

(Pub. L. 89-136, title V, § 504, Aug. 26, 1965, 79 Stat. 566.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3188a of this title.

§ 3185. Technical and planning assistance to regional commissions

(a) Staff cooperation; contracts; grants; implementation of programs

(1) The Secretary is authorized to provide to the commissions technical assistance which would be useful in aiding the commissions to carry out their functions under this chapter and to develop recommendations and programs. Such assistance shall include studies and plans evaluating the needs of, and developing potentialities for, economic growth of such region, and research on improving the conservation and utilization of the human and natural resources of the region, and planning, investigations, studies, demonstration projects, and training programs which will further the purposes of this chapter. Such assistance may be provided by the Secretary through members of his staff, through the payment of funds authorized for this section to other departments or agencies of the Federal Government, or through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes, or through grant-in-aid to the commissions. The Secretary, in his discretion, may require the repayment of assistance provided under this paragraph and prescribes the terms and conditions of such repayment.

(2) In carrying out their functions under this chapter the commissions are authorized to engage in planning, investigations, studies, demonstration projects, training programs, and the payment of administrative expenses to sub-State planning and development organizations (including economic development districts), which will further the purposes of this chapter and which have been approved by the Secretary. Such activities may be carried out by the commissions through the payment of funds to departments, agencies, or instrumentalities of the Federal Government, or through the employment of private individuals, partnerships, firms, or corporations, or suitable institutions under contracts entered into for such purposes or through grants-in-aid to agencies of State or local governments. In the case of demonstration projects and training programs, to the maximum extent possible, such projects and programs shall be carried out through departments, agencies, or instrumentalities of the Federal Government or of State or local governments.

(b) Payment of administrative expenses; Federal and State share

For the period ending on September 30 of the second full Federal fiscal year following the date of establishment of a commission, the administrative expenses of each commission as approved by the Secretary shall be paid by the Federal Government. Thereafter, such expenses shall be paid 50 per centum by the Federal Government and 50 per centum by the States in the region, except that the administrative expenses of the Federal cochairman, his alternate, and his staff shall be paid solely by the Federal Government. The share to be paid by each State shall be determined by the Commission. The Federal cochairman shall not participate or vote in such determination. In determining the amount of the non-Federal share of such costs or expenses, the Secretary shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services.

(c) Limitation on expenditure of appropriated funds

Not to exceed 10 per centum of the funds appropriated under authority of section 3188a(d) of this title for any fiscal year shall be expended in such fiscal year in carrying out subsection (a)(1) and subsection (b) of this section.

(Pub. L. 89-136, title V, § 505, Aug. 26, 1965, 79 Stat. 566; Pub. L. 90-103, title II, § 202, Oct. 11, 1967, 81 Stat. 266; Pub. L. 91-123, title II, § 203, Nov. 25, 1969, 83 Stat. 216; Pub. L. 93-423, § 9(b), Sept. 27, 1974, 88 Stat. 1162; Pub. L. 94-273, § 2(25), Apr. 25, 1976, 90 Stat. 376.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-273 substituted "September" for "June".

1974—Subsec. (a)(2). Pub. L. 93-423 substituted "training programs, and the payment of administrative expenses to sub-State planning and development organizations (including economic development districts)," for "and training programs".

1969—Subsec. (a)(1). Pub. L. 91-123, § 203(a), authorized the Secretary to provide technical assistance to the commissions for planning, investigations, studies, demonstration projects, and training programs which further the purposes of this chapter.

Subsec. (a)(2). Pub. L. 91-123, § 203(a), added par. (2).

Subsec. (b). Pub. L. 91-123, § 203(b), substituted provisions that 50 per centum of the incurred expenses be paid by the Federal Government and 50 per centum by the States in the region, that the share paid by each State be determined by the Commission, and that the Federal Cochairman not participate or vote in such determination, for provisions that not more than 50 per centum of the incurred expenses be paid by the Federal Government.

Subsec. (c). Pub. L. 91-123, § 203(c), substituted provisions that limited the Secretary's expenditures to not more than 10 per centum of the funds authorized to be appropriated under section 3188a(d) of this title for carrying out the activities specified under subsection (a)(1) and (b) of this section for provisions that authorized to be appropriated $15,000,000 for each of the fiscal years ending June 30, 1966, June 30, 1967, June 30, 1968, June 30, 1969, and June 30, 1970, and that an amount not to exceed $2,500,000 be allocated each fiscal year by the Secretary to each regional commission to carry out the purposes of this section.

1967—Subsec. (c). Pub. L. 90-103 limited to $2,500,000 the funds to be allocated each fiscal year by the Secretary to each regional commission to carry out the purposes of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3188a of this title.

§ 3186. Administrative powers of regional commissions; headquarters of Federal cochairman

(a) To carry out its duties under this chapter, each regional commission is authorized to—

(1) adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of its functions;

(2) appoint and fix the compensation of an executive director and such other personnel as may be necessary to enable the commission to carry out its functions, except that such compensation shall not exceed the salary of

the alternate to the Federal cochairman on the commission and no member, alternate officer, or employee of such commission, other than the Federal cochairman on the commission and his staff and his alternate, and Federal employees detailed to the commission under clause (3), shall be deemed a Federal employee for any purpose;

(3) request the head of any Federal department or agency (who is hereby so authorized) to detail to temporary duty with the commission such personnel within his administrative jurisdiction as the commission may need for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status;

(4) arrange for the services of personnel from any State or local government or any subdivision or agency thereof, or any intergovernmental agency;

(5) make arrangements, including contracts, with any participating State government for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for, or continue in, another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel, and the Civil Service Commission of the United States is authorized to contract with such commission for continued coverage of commission employees, who at date of commission employment are Federal employees, in the retirement program and other employee benefit programs of the Federal Government;

(6) accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible;

(7) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in carrying out its functions and on such terms as it may deem appropriate, with any department, agency, or instrumentality of the United States or with any State, or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation;

(8) maintain an office in the District of Columbia and establish field offices at such other places as it may deem appropriate; and

(9) take such other actions and incur such other expenses as may be necessary or appropriate.

(b) The Federal cochairman shall establish and at all times maintain his headquarters office in the District of Columbia.

(Pub. L. 89-136, title V, § 506, Aug. 26, 1965, 79 Stat. 567; Pub. L. 91-123, title II, § 204, Nov. 25, 1969, 83 Stat. 217.)

AMENDMENTS

1969—Pub. L. 91-123 designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3188 of this title; title 5 section 5334; title 40 App. section 109.

§ 3187. Procurement of information; hearings; records

In order to obtain information needed to carry out its duties, each regional commission shall—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable, a cochairman of such commission, or any member of the commission designated by the commission for the purpose, being hereby authorized to administer oaths when it is determined by the commission that testimony shall be taken or evidence received under oath;

(2) arrange for the head of any Federal, State, or local department or agency (who is hereby so authorized, to the extent not otherwise prohibited by law) to furnish to such commission such information as may be available to or procurable by such department or agency; and

(3) keep accurate and complete records of its doings and transactions which shall be made available for public inspection.

(Pub. L. 89-136, title V, § 507, Aug. 26, 1965, 79 Stat. 568.)

§ 3188. Personal financial interests of commission personnel

(a) Prohibited transactions and interests; penalty

Except as permitted by subsection (b) hereof, no State member or alternate and no officer or employee of a regional commission shall participate personally and substantially as member, alternate, officer, or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization (other than a State or political subdivision thereof) in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest. Any person who shall violate the provisions of this subsection shall be fined not more than $10,000, or imprisoned not more than two years, or both.

(b) Exemption; full disclosure

Subsection (a) hereof shall not apply if the State member, alternate, officer, or employee first advises the regional commission involved of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the commission may

expect from such State member, alternate, officer, or employee.

(c) Supplementary salary prohibited; penalty

No State member of a regional commission, or his alternate, shall receive any salary, or any contribution to or supplementation of salary for his services on such commission from any source other than his State. No person detailed to serve a regional commission under authority of clause (4) of section 3186 of this title shall receive any salary or any contribution to or supplementation of salary for his services on such commission from any source other than the State, local, or intergovernmental department or agency from which he was detailed or from such commission. Any person who shall violate the provisions of this subsection shall be fined not more than $5,000, or imprisoned not more than one year, or both.

(d) Exemption for Federal cochairman and his alternate and Federal personnel detailed to duty

Notwithstanding any other subsection of this section, the Federal cochairman and his alternate on a regional commission and any Federal officers or employees detailed to duty with it pursuant to clause (3) of section 3186 of this title shall not be subject to any such subsection but shall remain subject to sections 202 through 209 of title 18.

(e) Rescission of contracts for prohibited personal financial interest

A regional commission may, in its discretion, declare void and rescind any contract or other agreement pursuant to this chapter in relation to which it finds that there has been a violation of subsection (a) or (c) of this section, or any of the provisions of sections 202 through 209 of title 18.

(Pub. L. 89-136, title V, § 508, Aug. 26, 1965, 79 Stat. 568.)

CODIFICATION

"Clause (3) of section 3186 of this title", referred to in subsec. (d), read "clause (3) of section 10" in the original. Since Pub. L. 89-136 contained no section 10 and Congress presumably intended a reference to section 506 thereof, reference was codified as section 3186 of this title, the section number given section 506 of Pub. L. 89-136 in codification.

§ 3188a. Supplements to Federal grant-in-aid programs

(a) Program implementation; prerequisites for Federal contribution

In order to enable the State and other entities within economic development regions established under this chapter to take maximum advantage of Federal grant-in-aid programs (as hereinafter defined) for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share, or for which there are insufficient funds available under the Federal grant-in-aid Act authorizing such programs to meet pressing needs of the region, the Secretary shall, once a comprehensive long-range economic plan established pursuant to clause (2) of section 3183 of this title is in effect, provide funds pursuant to specific recommendations, to each of the Federal cochairmen of the regional commissions heretofore or hereafter established under this subchapter, to be used for all or any portion of the basic Federal contribution to projects under such Federal grant-in-aid programs authorized by Federal grant-in-aid Acts, and for the purpose of increasing the Federal contribution to projects under such programs above the fixed maximum portion of the cost of such projects otherwise authorized by the applicable law. No program, or project authorized under this section shall be implemented until (1) applications and plans relating to the program or project have been determined by the responsible Federal official to be compatible with the provisions and objectives of Federal laws which he administers that are not inconsistent with this chapter, and (2) the Regional Commission involved has approved such program or project and has determined that it meets the applicable criteria under section 3184 of this title and will contribute to the development of the region, which determination shall be controlling. In the case of any program or project for which all or any portion of the basic Federal contribution to the project under a Federal grant-in-aid program is proposed to be made under this subsection, no such Federal contribution shall be made until the responsible Federal official administering the Federal grant-in-aid Act authorizing such contribution certifies that such program or project meets all of the requirements of such Federal grant-in-aid Act and could be approved for Federal contribution under such Act if funds were available under such Act for such program or project. Funds may be provided for programs and projects in a State under this subsection only if the Commission determines that the level of Federal and State financial assistance under subchapters of this chapter other than this subchapter, and under Acts other than this chapter, for the same type of programs or projects in that portion of the State within the region will not be diminished in order to substitute funds authorized by this subsection. Funds provided pursuant to this chapter shall be available without regard to any limitations on authorizations for appropriation in any other Act.

(b) Limitation on Federal contribution

The Federal portion of such costs shall not be increased in excess of the percentages established by each commission, and shall in no event exceed 80 per centum thereof.

(c) "Federal grant-in-aid programs"

The term "Federal grant-in-aid programs" as used in this section means those Federal grant-in-aid programs authorized on or before September 30, 1979, by this and Acts other than this chapter for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts: Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.]; Watershed Protection and Flood Prevention Act [16 U.S.C. 1001 et seq.]; titles VI and XVI of the Public Health Services Act [42 U.S.C. 291 et seq., 300o et seq.]; Vocational Education Act of 1963 [20 U.S.C. 2301 et seq.]; Library Services and Construction Act [20 U.S.C. 351 et seq.]; Federal Airport Act [49 U.S.C. 1101 et

seq.]; Airport and Airway Development Act of 1970; part IV of title III of the Communications Act of 1934 [47 U.S.C. 390 et seq.]; titles VI (part A) and VII of the Higher Education Act of 1965 [20 U.S.C. 1121 et seq., 1132a et seq.]; Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*-4 et seq.]; National Defense Education Act of 1958 [20 U.S.C. 401 et seq.]; Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.]; and subchapters I and IX of this chapter. The term shall not include any program in which loans or other Federal financial assistance, except a grant-in-aid program, is authorized by this or any other Act. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this section, and shall not be taken into account in the computation of allocations among the States made pursuant to any other provision of law.

(d) Authorization of appropriations

(1) There are authorized to be appropriated to the Secretary to carry out this subchapter, for the two-fiscal-year period ending June 30, 1971, to be available until expended, not to exceed $225,000,000; and for the two-fiscal-year period ending June 30, 1973, to be available until expended, not to exceed $305,000,000; for the fiscal year ending June 30, 1974, to be available until expended, $95,000,000; for the fiscal year ending June 30, 1975, to be available until expended, $150,000,000; for the fiscal year ending June 30, 1976, to be available until expended, $200,000,000; for the transition quarter ending September 30, 1976, to be available until expended, $50,000,000; and for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, to be available until expended, $250,000,000 per fiscal year. After deducting such amounts as are authorized to carry out subsections (a)(1) and (b) of section 3185 of this title, the Secretary shall apportion the remainder of the sums appropriated under this authorization for any fiscal year among the regional commissions which have been established for more than two fiscal years.

(2) There are authorized to be appropriated to the Secretary as are necessary for the management and authorized activities under this subchapter of any new commissions for their first two full fiscal years, for the fiscal year ending June 30, 1976, to be available until expended, not to exceed $5,000,000; for the transition quarter ending September 30, 1976, to be available until expended, not to exceed $1,250,000; and for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, to be available until expended, $5,000,000 per fiscal year.

(e) Approval of application for grant

An application for a grant under this section shall be made through the State member of the Commission representing such applicant, and such State member shall evaluate the application for approval. Only applications for programs and projects which are approved by a State member as meeting the requirements for assistance under this section shall be approved for assistance.

(Pub. L. 89-136, title V, § 509, as added Pub. L. 90-103, title II, § 203, Oct. 11, 1967, 81 Stat. 266, and amended Pub. L. 91-123, title II, § 205, Nov. 25, 1969, 83 Stat. 217; Pub. L. 91-258, title I, § 52(b)(2), May 21, 1970, 84 Stat. 235; Pub. L. 92-65, title I, § 109, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93-46, § 5, June 18, 1973, 87 Stat. 97; Pub. L. 93-423, § 9(c), Sept. 27, 1974, 88 Stat. 1162; Pub. L. 94-188, title II, § 202, Dec. 31, 1975, 89 Stat. 1087; Pub. L. 94-487, title I, §§ 118, 119, Oct. 12, 1976, 90 Stat. 2335, 2336.)

References in Text

The Federal Water Pollution Control Act, referred to in subsec. (c), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 861, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables volume.

The Watershed Protection and Flood Prevention Act, referred to in subsec. (c), is act Aug. 4, 1954, ch. 656, 68 Stat. 666, as amended, which is classified principally to chapter 18 (§ 1001 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 16 and Tables volume.

The Public Health Services Act, referred to in subsec. (c), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Titles VI and XVI of the Public Health Services Act are classified generally to subchapters VI (§ 291 et seq.) and XVI (§ 300o et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

The Vocational Education Act of 1963, referred to in subsec. (c), is Pub. L. 88-210, title I, Dec. 18, 1963, 77 Stat. 403, which was classified to chapter 32 (§ 1241 et seq.) of Title 20, Education, and was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94-482, title II, § 202(a), Oct. 21, 1976, 90 Stat. 2169, and is now classified to chapter 44 (§ 2301 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables volume. For additional details, see also the Codification note preceding section 1241 of Title 20.

The Library Services and Construction Act, referred to in subsec. (c), is act June 19, 1956, ch. 407, 70 Stat. 293, as amended, which is classified generally to chapter 16 (§ 351 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 351 of Title 20 and Tables volume.

The Federal Airport Act, referred to in subsec. (c), is act May 13, 1946, ch. 251, 60 Stat. 170, as amended, which was classified to chapter 14 (§ 1101 et seq.) of Title 49, Transportation. The Act was repealed by section 52(a) of the Airport and Airway Development Act of 1970 (Pub. L. 91-258, title I, May 21, 1970, 84 Stat. 235), and is now covered by chapter 25 (§ 1701 et seq.) of Title 49.

The Airport and Airway Development Act of 1970, referred to in subsec. (c), is Pub. L. 91-258, title I, May 21, 1970, 84 Stat. 219, as amended, as is classified principally to chapter 25 (§ 1701 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 49 and Tables volume.

The Communications Act of 1934, referred to in subsec. (c), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended. Part IV of title III of the Communication Act of 1934 is classified generally to part IV (§ 390 et seq.) of subchapter III of chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables volume.

The Higher Education Act of 1965, referred to in subsec. (c), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Titles IV (part A) and VII of the Higher Education Act of 1965 are classified generally

to part A (§ 1121 et seq.) of subchapter IV and subchapter VII (§ 1132a et seq.) of chapter 28 of Title 20, Education, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables volume.

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (c), is Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*-4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*-4 of Title 16 and Tables volume.

The National Defense Education Act of 1958, referred to in subsec. (c), is Pub. L. 85-864, Sept. 2, 1958, 72 Stat. 1580, as amended, which is classified principally to chapter 17 (§ 401 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under 401 of Title 20 and Tables volume.

The Consolidated Farm and Rural Development Act, referred to in subsec. (c) is Pub. L. 87-128, title III, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified generally to chapter 50 (§ 1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables volume.

AMENDMENTS

1976-Subsec. (c). Pub. L. 94-487, § 118(a), made acts cited more specific, expanded coverage of grant-in-aid programs to include the development of land and other community or economic development and adjustment activities, and extended the inclusion date from December 31, 1970, to grant-in-aid programs authorized on or before September 30, 1979.

Subsec. (d)(1). Pub. L. 94-487, § 118(b), authorized appropriation of $250,000,000 per fiscal year for fiscal years ending September 30, 1977, 1978, and 1979.

Subsec. (d)(2). Pub. L. 94-487, § 119, authorized appropriation of $5,000,000 per fiscal year for fiscal years ending September 30, 1977, 1978, and 1979.

1975—Subsec. (d). Pub. L. 94-188 designated existing provisions as par. (1), and in par. (1) as so designated, increased the authorization of appropriation for the fiscal year ending June 30, 1976 from $150,000,000 to $200,000,000, added authorization of appropriations for the transition quarter ending Sept. 30, 1976 and for fiscal year ending Sept. 30, 1977, in provisions relating to distribution of appropriated funds substituted provisions that the remainder be apportioned among the regional commissions which have been established for more than two fiscal years for provisions that such apportionment be made to the regional commissions with maximum and minimum limits on amounts for any one commission and that all amounts appropriated under this authorization for any fiscal year be apportioned by the Secretary to the commissions prior to the end of the fiscal year for which appropriated, and added par. (2).

1974—Subsec. (d). Pub. L. 93-423 substituted "for the fiscal year ending June 30, 1974, to be available until expended, $95,000,000, and for each of the fiscal years ending June 30, 1975, and June 30, 1976, to be available until expended, $150,000,000" for "and for the fiscal year ending June 30, 1974, to be available until expended, $95,000,000".

1973—Subsec. (d). Pub. L. 93-46 authorized appropriation of $95,000,000 for the fiscal year ending June 30, 1974, to be available until expended.

1971—Subsec. (d). Pub. L. 92-65 added provision authorizing to be appropriated $305,000,000 to the Secretary for the two-fiscal-year period ending June 30, 1973, to be available until expended.

1970—Subsec. (c). Pub. L. 91-258 inserted "Airport and Airway Development Act of 1970;" after "Federal Airport Act;".

1969—Subsec. (a). Pub. L. 91-123, § 205(a), authorized the Secretary to provide funds, where sufficient funds where not available, to implement a program that could be authorized under a Federal grant-in-aid program, provided that the program was certified that it meets all of the requirements of a Federal grant-in-aid program, could be approved if sufficient funds were made available for such a program, and the level of Federal and State financial assistance to other programs within the region would not be diminished in order to substitute funds authorized pursuant to this subsection.

Subsec. (c). Pub. L. 91-123, § 205(b), substituted "in existence on or before December 31, 1970" for "in existence on or before December 31, 1967".

Subsec. (d). Pub. L. 91-123, § 205(c), substituted provisions authorizing to be appropriated $255,000,000 to the Secretary for the two-fiscal-year period ending June 30, 1971, to be available until expended, and requiring the Secretary to apportion the appropriated amount among the regional commissions in accordance with specified conditions, for provisions authorizing to be appropriated $5,000,000 for the period ending June 30, 1968, and $10,000,000 for the fiscal year ending June 30, 1969.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3153, 3192, 3194 of this title.

§ 3189. Annual reports to Congress

Each regional commission established pursuant to this chapter shall make a comprehensive and detailed annual report each fiscal year to the Congress with respect to such commission's activities and recommendations for programs. The first such report shall be made for the first fiscal year in which such commission is in existence for more than three months. Such reports shall be printed and transmitted to the Congress not later than April 30 of the calendar year following the fiscal year with respect to which the report is made.

(Pub. L. 89-136, title V, § 510, formerly § 509, Aug. 26, 1965, 79 Stat. 569, renumbered Pub. L. 90-103, title II, § 203, Oct. 11, 1967, 81 Stat. 266; amended Pub. L. 94-273, § 25, Apr. 21, 1976, 90 Stat. 380.)

AMENDMENTS

1976—Pub. L. 94-273 substituted "April 30" for "January 31".

RESPONSIBILITY OF FEDERAL COCHAIRMAN

Federal Cochairman of regional commission responsible for submitting report required by this section, see section 5(f) of Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, set out as a note under section 3183 of this title.

§ 3190. Coordination of activities between Secretary and Federal cochairmen in making grants and loans

(a) The Secretary shall coordinate his activities in making grants and loans and providing technical assistance under this chapter with those of each of the regional commissions (acting through the Federal and State cochairmen) established under this chapter in making grants and providing technical assistance under this subchapter, and each of such regional commissions shall coordinate its activities in making grants and providing technical assistance under this subchapter with those activities of the Secretary under this chapter.

(b) Each regional commission established under this chapter shall give due consideration in carrying out its activities under paragraphs (2) and (7) of section 3183(a) of this title to the

activities of other Federal, State, local, and sub-State (including economic development districts) planning agencies in the region.

(Pub. L. 89-136, title V, § 511, as added Pub. L. 91-123, title II, § 206, Nov. 25, 1969, 83 Stat. 218, and amended Pub. L. 93-423, § 9(d), Sept. 27, 1974, 88 Stat. 1162.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-423 designated existing provisions as subsec. (a), and as so designated, substituted "and providing technical assistance under this chapter" for "under subchapters I and II of this chapter", "regional commissions (acting through the Federal and State cochairmen) established under this chapter in making grants and providing technical assistance under this subchapter" for "Federal cochairmen in making grants under this subchapter", and "each of such regional commissions shall coordinate its activities in making grants and providing technical assistance under this subchapter with those activities of the Secretary under this chapter" for "each Federal cochairman shall coordinate his activities in making grants under this subchapter with those of the Secretary in making grants and loans under subchapters I and II of this chapter".

Subsec. (b). Pub. L. 93-423 added subsec. (b).

§ 3191. Federal Field Committee for Development Planning in Alaska; authorization of appropriations; establishment of regional commission for Alaska

There is hereby authorized to be appropriated not to exceed $500,000 for the two-fiscal-year period ending June 30, 1973, to continue the Federal Field Committee for Development Planning in Alaska for the purpose of planning economic development programs and projects in Alaska in cooperation with the government of the State of Alaska. Nothing contained in this section shall be construed as precluding the establishment of a regional commission for Alaska.

(Pub. L. 89-136, title V, § 512, as added Pub. L. 91-123, title II, § 206, Nov. 25, 1969, 83 Stat. 218, and amended Pub. L. 92-65, title I, § 110, Aug. 5, 1971, 85 Stat. 167.)

AMENDMENTS

1971—Pub. L. 92-65 extended authorization of appropriation of $500,000 for the two-fiscal-year period ending June 30, 1973.

EX. ORD. NO. 11608. TERMINATION OF FEDERAL FIELD COMMITTEE FOR DEVELOPMENT PLANNING IN ALASKA

Ex. Ord. No. 11608, July 19, 1971, 36 F.R. 13367, provided:

By virtue of the authority vested in me as President of the United States, Executive Order No. 11182 of October 2, 1964, as amended, is revoked and the Federal Field Committee for Development Planning in Alaska established thereby is abolished. Executive Order No. 11386 of December 28, 1967 [set out as a note under section 3188 of this title], to the extent that it pertains to the Federal Field Committee for Development Planning in Alaska, is revoked. The Secretary of Commerce shall make such arrangements as may be necessary relating to the termination of the Committee.

RICHARD NIXON.

§ 3192. Regional transportation systems

(a) Investigation and studies of needs of economic development regions

Each regional commission, with the assistance of the Secretary of Transportation, is authorized to conduct and facilitate full and complete investigations and studies of the transportation needs of economic development regions established under this subchapter. Such studies and investigations should analyze the effectiveness of regional transportation systems for meeting the purposes of this chapter. The information gathered from these studies and investigations should determine the types of transportation facilities needed in the region and be of value in planning for such transportation facilities.

(b) Grants

Each regional commission, with the assistance of the Secretary of Transportation, is authorized to make grants for the planning of regional transportation networks and to make grants for the construction, purchase of equipment, and operation (including payment of operating deficits) for transportation demonstration projects. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this subchapter and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provisions of law.

(c) Cost limitations

No grant for the construction or equipment for any component of a demonstration transportation project shall exceed 80 per centum of such cost. The Federal contribution may be provided entirely from funds authorized under this section or in combination with funds authorized under other Federal grant-in-aid programs for the construction of transportation facilities. Notwithstanding any other provision of law, funds authorized under this section may be used to increase the Federal share of any such project to 80 per centum of the cost of such facilities.

(d) Limits of annual expenditure

Not to exceed $5,000,000 of the funds apportioned to each regional commission under section 3188a of this title shall be expended in any one fiscal year for the purpose of carrying out this section.

(Pub. L. 89-136, title V, § 513, as added Pub. L. 91-123, title II, § 206, Nov. 25, 1969, 83 Stat. 219, and amended Pub. L. 94-188, title II, § 203, Dec. 31, 1975, 89 Stat. 1087.)

AMENDMENTS

1975—Pub. L. 94-188 authorized each regional commission to conduct studies and investigations of the transportation needs of the region, to make grants for planning transportation demonstration projects and up to eighty percent of the cost of construction, purchase of equipment, and operation of transportation demonstration projects, and placed a limit of $5,000,000 on the funds apportioned to each region to be expended in any fiscal year to carry out this section.

§ 3193. Repealed. Pub. L. 94-519, § 6, Oct. 17, 1976, 90 Stat. 2456

Section, Pub. L. 89-136, title V, § 514, as added Pub. L. 93-423, § 11, Sept. 27, 1974, 88 Stat. 1162, provided for the acquisition and disposal of excess property from the Administrator of General Services by the Federal cochairman of each regional action planning commission.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 17, 1977, see section 9 of Pub. L. 94-519, set out as an Effective Date of 1976 Amendment note under section 484 of Title 40, Public Buildings, Property, and Works.

§ 3194. Energy demonstration projects and programs

(a) Purpose

Fundamental changes are occurring in national energy requirements and production which could result in short-term dislocation and result in major long-term effects on various regions of the country. Expanded energy production opportunities must maximize social and economic benefits while minimizing social and environmental costs to the regions experiencing increased energy development. In some regions, impacted by limited energy resources, severe problems disruptive of regional economies could result. The programs of the regional commissions provide an excellent framework for coordinating Federal, State, and local efforts toward (1) anticipating the effects of alternative energy policies and practices, (2) planning for accompanying growth and change so as to maximize social and economic benefits and minimize the social and environmental costs, and (3) implementing programs and projects carried out in the regions by Federal, State, or local government agencies so as to better meet the special problems generated in the regions by the Nation's energy needs and policies, including problems of transportation, housing, community facilities, and human services.

(b) Grant of authority

Each regional commission is authorized to carry out energy-related demonstration projects and programs within its regions including programs and projects addressing the social, economic, and environmental impact of energy development, requirements, and utilization. Grants shall be made only to those projects which are developed through regional planning designed to identify the effects of regional resource development, requirements, utilization, and impact. Each regional commission is authorized to carry out demonstration projects within its region in connection with the development and stimulation of indigenous arts and crafts of the region.

(c) Spending limitation

Not to exceed $5,000,000 of the funds apportioned to each regional commission under section 3188a of this title shall be expended in any one fiscal year for the purpose of carrying out the energy-related provisions of this section, and not to exceed $2,500,000 of such funds shall be expended in any one fiscal year for indigenous arts and crafts demonstrations.

(Pub. L. 89-136, title V, § 515, as added Pub. L. 94-188, title II, § 204, Dec. 31, 1975, 89 Stat. 1088.)

§ 3195. Health and nutrition demonstration projects

(a) Grants for planning, construction, equipment, and operation; compatibility of application and plans with Federal laws; State allotments not effected

In order to demonstrate the value of adequate health facilities and services to the economic development of the region, the Secretary of Health, Education, and Welfare is authorized to make grants for the planning, construction, equipment, and operation of multicounty demonstration health, and nutrition projects including hospitals, regional health diagnostic and treatment centers, and other facilities and services necessary for the purpose of this section. Grants for such construction (including the acquisition of privately owned facilities not operated for profit or previously operated for profit where the acquisition of such facilities is the most cost effective means for providing increased health services, and initial equipment) shall be made after applications and plans relating to the program or project have been determined by the responsible Federal official to be compatible with the provisions and objectives of Federal laws which he administers that are not inconsistent with this subchapter, and the regional commission has approved such program or project and determined that it will contribute to the development of the region, and shall not be incompatible with the applicable provisions of title VI of the Public Health Service Act (42 U.S.C. 291-291o), the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (77 Stat. 282) [42 U.S.C. 2689 et seq., 6001 et seq.], and other laws authorizing grants for the construction of health-related facilities, without regard to any provisions therein relating to appropriation authorization ceilings or to allotments among the States. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this subchapter and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provision of law.

(b) Construction and equipment; amount of grant in relation to costs; Federal share

No grant for the construction or equipment of any component of a demonstration health project shall exceed 80 per centum of such costs. The Federal contribution may be provided entirely from funds authorized under this subchapter or in combination with funds provided under other Federal grant-in-aid programs for the construction or equipment of health-related facilities. Notwithstanding any provision of law limiting the Federal share in such other programs, funds authorized under this subchapter may be used to increase Federal grants for component facilities of a demonstration health project to a maximum of 80 per centum of the costs of such facilities.

(c) Operation; amount of grant in relation to costs; Federal share; public or private nonprofit organization; time limitation; efficient management practices

Grants under this section for operation (including initial operating funds and operating deficits comprising among other items the cost of attracting, training, and retraining qualified personnel) of a demonstration health project, whether or not constructed with funds authorized by this subchapter, may be made for up to 100 per centum of the costs thereof for the two-year period beginning, for each component facility or service assisted under any such operating grant, on the first day that such facility or

service is in operation as a part of the project. For the next three years of operation such grants shall not exceed 75 per centum of such costs. The Federal contributions may be provided entirely from funds appropriated to carry out this subchapter or in combination with funds provided under other Federal grant-in-aid programs for the operation of health related facilities and the provision of health services, including title IV, parts A and B, and title XX of the Social Security Act [42 U.S.C. 601 et seq., 620 et seq., 1397 et seq.]. Notwithstanding any provision of the Social Security Act [42 U.S.C. 301 et seq.] requiring assistance or services on a statewide basis, if a State provides assistance or services under such a program in any area of the region approached by the regional commission, such State shall be considered as meeting such requirement. Notwithstanding any provision of law limiting the Federal share in such other programs, funds appropriated to carry out this section may be used to increase Federal grants for operating components of a demonstration health project to the maximum percentage cost thereof authorized by this subsection. No grant for operation of a demonstration health project shall be made unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit. No grants for operation of a demonstration health project shall be made after five years following the commencement of the initial grant for operation of the project. No such grants shall be made unless the Secretary of Health, Education, and Welfare is satisfied that the operation of the project will be conducted under efficient management practices designed to obviate operating deficits. A health-related facility constructed under subchapter I of this chapter may be a component of a demonstration health project eligible for operating grant assistance under this section.

(Pub. L. 89-136, title V, § 516, as added Pub. L. 94-188, title II, § 205, Dec. 31, 1975, 89 Stat. 1088.)

REFERENCES IN TEXT

The Public Health Services Act, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title VI of the Public Health Services Act is classified generally to subchapter IV (§ 291 et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, referred to in subsec. (c), is Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 284, as amended, which is classified principally to subchapter III (§ 2689 et seq.) of chapter 33 and chapter 75 (§ 6001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title and Tables volume.

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of this title. Title IV, parts A and B, and title XX of the Social Security Act are classified generally to subchapter IV, parts A and B (§§ 601 et seq., 620 et seq.) and subchapter XX (§ 1397 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

§ 3196. Vocational and technical education demonstration projects

(a) Secretary authorized to make grants

In order to assist in the expansion and improvement of educational opportunities and services for the people of the region, the Secretary of the Department of Health, Education, and Welfare is authorized to make grants for planning, construction, equipping, and operating vocational and technical educational projects which will serve to demonstrate areawide educational planning, services, and programs. Grants under this section shall be made solely out of funds specifically appropriated for the purposes of this subchapter and shall not be taken into account in any computation of allotments among the States pursuant to any other law.

(b) Cost limitations on grants for construction or equipment of components

No grant for the construction or equipment of any component of a vocational and technical education demonstration project shall exceed 80 per centum of its cost.

(c) Limitations on operational costs

Grants under this section for operation of components of vocational and technical educational demonstration projects, whether or not constructed by funds authorized by this subchapter, may be made for up to 100 per centum of the costs thereof for the two-year period beginning on the first day that such component is in operation as a part of the project. For the next three years of operation, such grants shall not exceed 75 per centum of such costs. No grants for operation of vocational and technical education demonstration projects shall be made after five years following the commencement of the initial grant for operation of the project. An education-related facility constructed under subchapter I of this chapter may be a component of a vocational and technical education demonstration project eligible for operating grant assistance under this section.

(d) Limitations on planning expenses

No grant for expenses of planning necessary for the development and operation of a vocational and technical education demonstration project shall exceed 75 per centum of such expenses.

(e) Grants limited to public owned facilities

No grant for planning, construction, operation, or equipment of a vocational and technical education demonstration project shall be made unless the facility is publicly owned.

(f) Federal share

Any Federal contribution referred to in this section may be provided entirely from funds appropriated to carry out this section, or in combination with funds available under other Federal grant-in-aid programs providing assistance for education-related facilities or services. Notwithstanding any provision of law limiting the Federal share in such programs, funds appropriated to carry out this section may be used to increase such Federal share to the maximum percentage cost thereof authorized by the applicable paragraph of this subsection.

(Pub. L. 89-136, title V, § 517, as added Pub. L. 94-188, title II, § 206, Dec. 31, 1975, 89 Stat. 1090.)

SUBCHAPTER VI—ADMINISTRATION

§ 3201. Appointment of Assistant Secretary of Commerce and Administrator for Economic Development; compensation

The Secretary shall administer this chapter and, with the assistance of an Assistant Secretary of Commerce, in addition to those already provided for, shall supervise and direct the Administrator created herein, and coordinate the Federal cochairmen appointed heretofore or subsequent to this chapter. The Assistant Secretary created by this section shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate provided for level IV of the Federal Executive Salary Schedule [5 U.S.C. 5315]. Such Assistant Secretary shall perform such functions as the Secretary may prescribe. There shall be appointed by the President, by and with the advice and consent of the Senate, an Administrator for Economic Development who shall be compensated at the rate provided for level V of the Federal Executive Salary Schedule [5 U.S.C. 5316] who shall perform such duties as are assigned by the Secretary.

(Pub. L. 89-136, title VI, § 601(a), Aug. 26, 1965, 79 Stat. 569.)

§ 3202. Advisory Committee on Regional Economic Development; membership; chairman; meetings

The Secretary shall appoint a National Public Advisory Committee on Regional Economic Development which shall consist of twenty-five members and shall be composed of representatives of labor, management, agriculture, State and local governments, and the public in general. From the members appointed to such Committee the Secretary shall designate a Chairman. Such Committee, or any duly established subcommittee thereof, shall from time to time make recommendations to the Secretary relative to the carrying out of his duties under this chapter. Such Committee shall hold not less than two meetings during each calendar year.

(Pub. L. 89-136, title VI, § 602, Aug. 26, 1965, 79 Stat. 570.)

Termination of Advisory Committees

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3203. Consultation of Secretary with other persons and agencies

(a) The Secretary is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment.

(b) The Secretary may make provision for such consultation with interested departments and agencies as he may deem appropriate in the performance of the functions vested in him by this chapter.

(Pub. L. 89-136, title VI, § 603, Aug. 26, 1965, 79 Stat. 570.)

§ 3204. Administration, operation, and maintenance

No Federal assistance shall be approved under this chapter unless the Secretary is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

(Pub. L. 89-136, title VI, § 604, as added Pub. L. 90-103, title II, § 204, Oct. 11, 1967, 81 Stat. 268.)

SUBCHAPTER VII—MISCELLANEOUS

§ 3211. Powers of Secretary

In performing his duties under this chapter, the Secretary is authorized to—

(1) adopt, alter, and use a seal, which shall be judicially noticed;

(2) hold such hearings, sit and act at such times and places, and take such testimony, as he may deem advisable;

(3) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this chapter; and each department, bureau, agency, board, commission, office, establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary;

(4) under regulations prescribed by him, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions and for such consideration as he shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with loans made or evidences of indebtedness purchased under this chapter, and collect or compromise all obligations assigned to or held by him in connection with such loans or evidences of indebtedness until such time as such obligations may be referred to the Attorney General for suit or collection;

(5) further extend the maturity of or renew any loan made or evidence of indebtedness purchased under this chapter, beyond the periods stated in such loan or evidence of indebtedness or in this chapter, for additional periods not to exceed ten years, if such extension or renewal will aid in the orderly liquidation of such loan or evidence of indebtedness;

(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any real or personal property conveyed to, or otherwise acquired by, him in connection with loans made or evidences of indebtedness purchased under this chapter;

(7) pursue to final collection, by way of compromise or other administrative action, prior to reference to the Attorney General, all claims against third parties assigned to him in connection with loans made or evidences of indebtedness purchased under this chapter. This shall include authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Secretary. Section 5 of title 41 shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Secretary as a result of loans made or evidences of indebtedness purchased under this chapter if the premium therefor or the amount thereof does not exceed $1,000. The power to convey and to execute, in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Secretary pursuant to the provisions of this chapter may be exercised by the Secretary or by any officer or agent appointed by him for that purpose without the execution of any express delegation of power or power of attorney;

(8) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized in sections 3141, 3142, 3151, 3171, and 3183 of this title;

(9) in addition to any powers, functions, privileges, and immunities otherwise vested in him, take any and all actions, including the procurement of the services of attorneys by contract, determined by him to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with or realizing on loans made or evidences of indebtedness purchased under this chapter;

(10) employ experts and consultants or organizations therefor as authorized by section 3109 of title 5, compensate individuals so employed at rates not in excess of $100 per diem, including travel time, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5 for persons in the Government service employed intermittently, while so employed: *Provided, however,* That contracts for such employment may be renewed annually;

(11) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or his property. Nothing herein shall be construed to except the activities under this chapter from the application of sections 507(b), 517 and 2679 of title 28; and

(12) establish such rules, regulations, and procedures as he may deem appropriate in carrying out the provisions of this chapter.

(Pub. L. 89-136, title VII, § 701, Aug. 26, 1965, 79 Stat. 570.)

CODIFICATION

In par. (10), "section 3109 of title 5" and "section 5703 of title 5" was substituted for "section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a)" and "section 5 of such Act (5 U.S.C. 73b-2)", respectively, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

In par. (11), reference to section 517 of title 28 was substituted for "section 367 of the Revised Statutes (5 U.S.C. 316)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 4 of which enacted in Title 28, Judiciary and Judicial Procedure, certain provisions formerly appearing in Title 5.

FUNCTIONS OF SECRETARY

Functions of the Secretary relating to coordination of activities of regional commissions and the Federal Government, see section 1 of Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, set out as a note under section 3183 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3141, 3142 of this title.

§ 3212. Prevention of unfair competition

No financial assistance under this chapter shall be extended to any project when the result would be to increase the production of goods, materials, or commodities, or the availability of services or facilities, when there is not sufficient demand for such goods, material, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises.

(Pub. L. 89-136, title VII, § 702, Aug. 26, 1965, 79 Stat. 572.)

§ 3213. Saving provisions

(a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer of the Area Redevelopment Administration in his official capacity or in relation to the discharge of his official duties under the Area Redevelopment Act [42 U.S.C. 2501 et seq.], shall abate by reason of the taking effect of the provisions of this chapter, but the court may, on motion or supplemental petition filed at any time within twelve months after such taking effect, showing a necessity for the survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, allow the same to be maintained by or against the Secretary or the Administrator or such other officer of the Department of Commerce as may be appropriate.

(b) Except as may be otherwise expressly provided in this chapter, all powers and authorities conferred by this chapter shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to August 26, 1965, by any agency, officer, or office pertaining to any functions, powers, and

duties under the Area Redevelopment Act [42 U.S.C. 2501 et seq.] shall continue in full force and effect after August 26, 1965, until modified or rescinded by the Secretary or such other officer of the Department of Commerce as, in accordance with applicable law, may be appropriate.

(Pub. L. 89-136, title VII, § 703, Aug. 26, 1965, 79 Stat. 572.)

REFERENCES IN TEXT

The Area Redevelopment Act, referred to in subsecs. (a) and (b), is Pub. L. 87-27, May 1, 1961, 75 Stat. 47, which was classified principally to former chapter 28 (§ 2501 et seq.) of this title, and omitted from the Code as executed, with the exception of sections 2513 and 2514 of this title, which were repealed by Pub. L. 89-15, § 9(b), Apr. 26, 1965, 79 Stat. 79. See sections 3161 and 3162 of title 42.

§ 3214. Transfer of functions of Area Redevelopment Administration

(a) Functions; powers; duties

The functions, powers, duties, and authorities and the assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, and records which are vested in or authorized to be transferred to the Secretary of the Treasury under section 2525(b) of this title, and all functions, powers, duties, and authorities under section 2525(c) of this title are hereby vested in the Secretary.

(b) Designation of interim Administrator

The President may designate a person to act as Administrator under this chapter until the office is filled as provided in this chapter or until the expiration of the first period of sixty days following August 26, 1965, whichever shall first occur. While so acting such person shall receive compensation at the rate provided by this chapter for such office.

(c) Effective date of chapter

The provisions of this chapter shall take effect on August 26, 1965 unless herein explicitly otherwise provided.

(d) Extension of project eligibility

Notwithstanding any requirements of this chapter relating to the eligibility of areas, projects for which applications are pending before the Area Redevelopment Administration on August 26, 1965 shall for a period of one year thereafter be eligible for consideration by the Secretary for such assistance under the provisions of this chapter as he may determine to be appropriate.

(e) Limitation on assistance

No financial assistance authorized under this chapter shall be used to finance the cost of facilities for the generation, transmission, or distribution of electrical energy, or to finance the cost of facilities for the production or transmission of gas (natural, manufactured, or mixed), except (1) for projects specifically authorized by Congress, and (2) for local projects for industrial parks and industrial or commercial areas in communities where the electrical energy or gas supply is, or is threatened to be interrupted or curtailed resulting in a loss of jobs, or where the purpose is to save jobs, or create new jobs, on condition that (A) the Secretary finds that project financing is not available from private lenders or other Federal agencies on terms which, in the opinion of the Secretary, will permit accomplishment of the project, and (B) the State or Federal regulatory body regulating such service determines that the facility to be financed will not compete with an existing public utility rendering such a service to the public at rates or charges subject to regulation by such State or Federal regulatory body, or if there is a determination of competition, the State or Federal regulatory body must make a determination that in the area to be served by the facility for which the financial assistance is to be extended there is a need for an increase in such service (taking into consideration reasonably foreseeable future needs) which the existing public utility is not able to meet through its existing facilities or through an expansion which it agrees to undertake. Not more than $7,000,000 appropriated to carry out subchapters I and II of this chapter may be expended annually for such projects.

(Pub. L. 89-136, title VII, § 704, Aug. 26, 1965, 79 Stat. 572; Pub. L. 94-487, title I, § 120, Oct. 12, 1976, 90 Stat. 2336.)

REFERENCES IN TEXT

Section 2525 of this title, referred to in subsec. (a), was section 29 of Pub. L. 87-27, May 1, 1961, 75 Stat. 63, and was omitted from the Code as executed.

AMENDMENTS

1976—Subsec. (e). Pub. L. 94-487 added exceptions embodied in cl. (2) to the limitation on financial assistance authorized under this chapter.

§ 3215. Separability of provisions

Notwithstanding any other evidence of the intent of Congress, it is hereby declared to be the intent of Congress that if any provision of this chapter or the application thereof to any persons or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter or its application to other persons and circumstances, but shall be confined in its operation to the provision of this chapter or the application thereof to the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered.

(Pub. L. 89-136, title VII, § 705, Aug. 26, 1965, 79 Stat. 573.)

§ 3216. Definitions

As used in this chapter, the terms "State", "States", and "United States" include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(Pub. L. 89-136, title VII, § 706, Aug. 26, 1965, 79 Stat. 573.)

§ 3217. Annual report to Congress

The Secretary shall make a comprehensive and detailed annual report to the Congress of his operations under this chapter for each fiscal year beginning with the fiscal year ending June 30, 1966. Such report shall be printed and shall be transmitted to the Congress not later than April 1 of the year follow-

ing the fiscal year with respect to which such report is made.

(Pub. L. 89-136, title VII, § 707, Aug. 26, 1965, 79 Stat. 573; Pub. L. 94-273, § 26, Apr. 21, 1976, 90 Stat. 380.)

AMENDMENTS

1976—Pub. L. 94-273 substituted "April 1" for "January 3".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3151 of this title.

§ 3218. Use of other facilities

(a) Delegation and redelegation of functions to other Federal departments and agencies

The Secretary is authorized to delegate to the heads of other departments and agencies of the Federal Government any of the Secretary's functions, powers, and duties under this chapter as he may deem appropriate, and to authorize the redelegation of such functions, powers, and duties by the heads of such departments and agencies.

(b) Department and agency execution of delegated authority

Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this chapter.

(c) Transfer of funds

Funds authorized to be appropriated under this chapter may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

(Pub. L. 89-136, title VII, § 708, Aug. 26, 1965, 79 Stat. 573.)

§ 3219. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out those provisions of the chapter for which specific authority for appropriations is not otherwise provided in this chapter. Appropriations authorized under this chapter shall remain available until expended unless otherwise provided by appropriations Acts.

(Pub. L. 89-136, title VII, § 709, Aug. 26, 1965, 79 Stat. 574.)

§ 3220. Penalties

(a) False statements; security overvaluation

Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any financial assistance under section 3131, 3141, 3142, or 3171 of this title or any extension thereof by renewal, deferment or action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Secretary, or for the purpose of obtaining money, property, or anything of value, under this chapter, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

(b) Embezzlement; misapplication of funds; false book entries; schemes to defraud; speculation

Whoever, being connected in any capacity with the Secretary, in the administration of this chapter (1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to him or pledged or otherwise entrusted to him, or (2) with intent to defraud the Secretary or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner, makes any false entry in any book, report, or statement of or to the Secretary, or without being duly authorized draws any order or issues, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, or (3) with intent to defraud participates or shares in or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, grant, commission, contract, or any other act of the Secretary, or (4) gives any unauthorized information concerning any future action or plan of the Secretary which might affect the value of securities, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company or corporation receiving loans, grants, or other assistance from the Secretary, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

(Pub. L. 89-136, title VII, § 710, Aug. 26, 1965, 79 Stat. 574.)

§ 3221. Employment of expediters and administrative employees

No financial assistance shall be extended by the Secretary under section 3131, 3141, 3142, or 3171 of this title to any business enterprise unless the owners, partners, or officers of such business enterprise (1) certify to the Secretary the names of any attorneys, agents, and other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Secretary for assistance of any sort, under this chapter, and the fees paid or to be paid to any such person; and (2) execute an agreement binding such business enterprise, for a period of two years after such assistance is rendered by the Secretary to such business enterprise, to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within one year prior thereto, shall have served as an officer, attorney, agent, or employee, occupying a position or engaging in activities which the Secretary shall have determined involve discretion with respect to the granting of assistance under this chapter.

(Pub. L. 89-136, title VII, § 711, Aug. 26, 1965, 79 Stat. 574.)

§ 3222. Labor standards; rate of wages; assurance of maintenance of standards; enforcement

All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this chapter shall be paid wages at rates not less than those prevail-

ing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). The Secretary shall not extend any financial assistance under section 3131, 3141, 3142, 3171, 3243, and 3246b of this title for such a project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 276c of title 40.

(Pub. L. 89-136, title VII, § 712, Aug. 26, 1965, 79 Stat. 575; Pub. L. 93-567, title III, § 302, Dec. 31, 1974, 88 Stat. 1855.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to section 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of that Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1974—Pub. L. 93-567 inserted references to sections 3243 and 3236b of this title.

§ 3223. Maintenance of records of approved applications for financial assistance; public inspection

The Secretary shall maintain as a permanent part of the records of the Department of Commerce a list of applications approved for financial assistance under section 3131, 3141, 3142, or 3171 of this title, which shall be kept available for public inspection during the regular business hours of the Department of Commerce. The following information shall be posted in such list as soon as each application is approved; (1) the name of the applicant and, in the case of corporate applications, the names of the officers and directors thereof, (2) the amount and duration of the loan or grant for which application is made, (3) the purposes for which the proceeds of the loan or grant are to be used, and (4) a general description of the security offered in the case of a loan.

(Pub. L. 89-136, title VII, § 713, Aug. 26, 1965, 79 Stat. 575.)

§ 3224. Records and audit

(a) Prescribed record keeping by recipients; full disclosure

Each recipient of assistance under this chapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Access to books for examination and audit

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this chapter.

(Pub. L. 89-136, title VII, § 714, Aug. 26, 1965, 79 Stat. 575.)

§ 3225. Extension of benefits made available under other Federal programs

All benefits heretofore specifically made available (and not subsequently revoked) under other Federal programs to persons or to public or private organizations, corporations, or entities in areas designated by the Secretary as "redevelopment areas" under section 2504 of this title, are hereby also extended, insofar as practicable, to such areas as may be designated as "redevelopment areas" or "economic development centers" under the authority of section 3161 or 3171 of this title: *Provided, however,* That this section shall not be construed as limiting such administrative discretion as may have been conferred under any other law.

(Pub. L. 89-136, title VII, § 715, Aug. 26, 1965, 79 Stat. 575.)

REFERENCES IN TEXT

Section 2504 of this title, referred to in text, is Pub. L. 87-27, § 5, May 1, 1961, 75 Stat. 48, which was omitted from the Code as executed.

§ 3226. Prohibition against a statutory construction which might cause diminution in other Federal assistance

All financial and technical assistance authorized under this chapter shall be in addition to any Federal assistance previously authorized, and no provision hereof shall be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance to which any State or any other entity eligible under this chapter would otherwise be entitled under the provisions of any other Act.

(Pub. L. 89-136, title VII, § 716, Aug. 26, 1965, 79 Stat. 576.)

SUBCHAPTER VIII—ECONOMIC RECOVERY FOR DISASTER AREAS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5153 of this title.

§ 3231. Congressional statement of purpose

(a) It is the purpose of this subchapter to provide assistance for the economic recovery, after the period of emergency aid and replacement of essential facilities and services, of any major disaster area which has suffered a dislocation of its economy of sufficient severity to require (1) assistance in planning for development to replace that lost in the major disaster; (2) continued coordination of assistance available under Federal-aid programs; and (3) continued assistance toward the restoration of the employment base.

(b) As used in this subchapter the term "major disaster" means a major disaster declared by the President in accordance with the Disaster Relief Act of 1974 [42 U.S.C. 5121 et seq.].

(Pub. L. 89-136, title VIII, § 801, as added Pub. L. 93-288, title V, § 501, May 22, 1974, 88 Stat. 160.)

REFERENCES IN TEXT

The Disaster Relief Act of 1974, referred to in subsec. (b), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§ 5121 et seq.) of this title. For complete classification of that Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

EFFECTIVE DATE

Section effective Apr. 1, 1974, see section 605 of Pub. L. 93-288, set out as an Effective Date note under section 5121 of this title.

§ 3232. Disaster recovery planning

(a) Recovery Planning Council; designation; membership

(1) In the case of any area affected by a major disaster the Governor may request the President for assistance under this subchapter. The Governor, within thirty days after authorization of such assistance by the President, shall designate a Recovery Planning Council for such area or for each part thereof.

(2) Such Recovery Planning Council shall be composed of not less than five members, a majority of whom shall be local elected officials of political subdivisions within the affected areas, at least one representative of the State, and a representative of the Federal Government appointed by the President in accordance with paragraph (3) of this subsection. During the major disaster, the Federal coordinating officer shall also serve on the Recovery Planning Council.

(3) The Federal representative on such Recovery Planning Council may be the Chairman of the Federal Regional Council for the affected area, or a member of the Federal Regional Council designated by the Chairman of such Regional Council. The Federal representative on such Recovery Planning Council may be the Federal Cochairman of the Regional Commission established pursuant to subchapter V of this chapter, or the Appalachian Regional Development Act of 1965 [40 App. U.S.C. 1 et seq.] or his designee, where all of the area affected by a major disaster is within the boundaries of such Commission.

(4) The Governor may designate an existing multijurisdictional organization as the Recovery Planning Council where such organization complies with paragraph (2) of this subsection with the addition of State and Federal representatives except that if all or part of an area affected by a major disaster is within the jurisdiction of an existing multijurisdictional organization established under subchapter IV of this chapter or title III of the Appalachian Regional Development Act of 1965 [40 App. U.S.C. 301 et seq.], such organization, with the addition of State and Federal representatives in accordance with paragraph (2) of this subsection, shall be designated by the Governor as the Recovery Planning Council. In any case in which such title III or subchapter IV organization is designated as the Recovery Planning Council under this paragraph, some local elected officials of political subdivisions within the affected areas must be appointed to serve on such Recovery Planning Council. Where possible, the organization designated as the Recovery Planning Council shall be or shall be subsequently designated as the appropriate agency required by section 3334 of this title and by the Intergovernmental Cooperation Act of 1968 (P.L. 90-577; 82 Stat. 1098) [42 U.S.C. 4201 et seq.].

(5) The Recovery Planning Council shall include private citizens as members to the extent feasible, and shall provide for and encourage public participation in its deliberations and decisions.

(b) Review and revision of plans

The Recovery Planning Council (1) shall review existing plans for the affected area; and (2) may recommend to the Governor and responsible local governments such revisions as it determines necessary for the economic recovery of the area, including the development of new plans and the preparation of a recovery investment plan for the 5-year period following the declaration of the major disaster. The Recovery Planning Council shall accept as one element of the recovery investment plans determinations made under section 5172(f) of this title.

(c) Recovery investment plan; reserve funds

(1) A recovery investment plan prepared by a Recovery Planning Council may recommend the revision, deletion, reprograming, or additional approval of Federal-aid projects and programs within the area—

(A) for which application has been made but approval not yet granted;

(B) for which funds have been obligated or approval granted but construction not yet begun;

(C) for which funds have been or are scheduled to be apportioned within the five years after the declaration of the disaster;

(D) which may otherwise be available to the area under any State schedule or revised State schedule of priorities; or

(E) which may reasonably be anticipated as becoming available under existing programs.

(2) Upon the recommendation of the Recovery Planning Council and the request of the Governor, any funds for projects or programs identified pursuant to paragraph (1) of this subsection may, to any extent consistent with appropriation Acts, be placed in reserve by the responsible Federal agency for use in accordance with such recommendations. Upon the request of the Governor and with the concurrence of affected local governments, such funds may be transferred to the Recovery Planning Council to be expended in the implementation of the recovery investment plan, except that no such transfer may be made unless such expenditure is for a project or program for which such funds originally were made available by an appropriation Act.

(Pub. L. 89-136, title VIII, § 802, as added Pub. L. 93-288, title V, § 501, May 22, 1974, 88 Stat. 160.)

REFERENCES IN TEXT

The Appalachian Regional Development Act of 1965, referred to in subsec. (a)(3), is Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, which is set out in the Appendix to Title 40, Public Buildings, Property, and Works. Title III of that Act, referred to in subsec. (a)(4), is classified to section 301 et seq. of the Appendix to Title 40. For complete classification of that Act to the Code, see Tables volume.

The Intergovernmental Cooperation Act of 1968, referred to in subsec. (a)(4), is Pub. L. 90-577, Oct. 16, 1968, 82 Stat. 1098, which is classified principally to chapter 52 (§ 4201 et seq.) of this title. For complete classification of that Act to the Code, see Short Title note set out under section 4201 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3233, 3235 of this title.

§ 3233. Public works and development facilities grants and loans

(a) Funds for recovery investment plans

The President is authorized to provide funds to any Recovery Planning Council for the implementation of a recovery investment plan by public bodies. Such funds may be used—

(1) to make loans for the acquisition or development of land and improvements for public works, public service, or development facility usage, including the acquisition or development of parks or open spaces, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, and

(2) to make supplementary grants to increase the Federal share for projects for which funds are reserved pursuant to section 3232(c)(2) of this title, or other Federal-aid projects in the affected area.

(b) Eligible entities for grants and loans

Grants and loans under this section may be made to any State, local government, or private or public nonprofit organization representing any area or part thereof affected by a major disaster.

(c) Federal share, increase by supplementary grants; limits

No supplementary grant shall increase the Federal share of the cost of any project to greater than 90 per centum, except in the case of a grant for the benefit of Indians or Alaska Natives, or in the case of any State or local government which the President determines has exhausted its effective taxing and borrowing capacity.

(d) Interest rate

Loans under this section shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less 1 per centum per centum.

(e) Assistance resulting in relocation of establishments or divestiture of contractors prohibited

Financial assistance under this subchapter shall not be extended to assist establishments relocating from one area to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts therefore customarily performed by them. Such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Commerce finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(Pub. L. 89-136, title VIII, § 803, as added Pub. L. 93-288, title V, § 501, May 22, 1974, 88 Stat. 161.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5154 of this title.

§ 3234. Loan guarantees

The President is authorized to provide funds to Recovery Planning Councils to guarantee loans made to private borrowers by private lending institutions (1) to aid in financing any project within an area affected by a major disaster for the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage including the construction of new buildings, and rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion, or enlargement of existing buildings; and (2) for working capital in connection with projects in areas assisted under paragraph (1), upon application of such institution and upon such terms and conditions as the President may prescribe. No such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan.

(Pub. L. 89-136, title VIII, § 804, as added Pub. L. 93-288, title V, § 501, May 22, 1974, 88 Stat. 162.)

§ 3235. Technical assistance

(a) Projects for economic recovery

In carrying out the purposes of this subchapter the President is authorized to provide technical assistance which would be useful in facilitating economic recovery in areas affected by major disasters. Such assistance shall include project planning and feasibility studies, management and operational assistance, and studies evaluating the needs of, and developing potentialities for, economic recovery of such areas. Such assistance may be provided by the President directly, through the payment of funds authorized for this subchapter to other departments or agencies of the Federal Government, through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered

into for such purposes, or through grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations.

(b) Grants for federal share of administrative expenses

The President is authorized to make grants to defray not to exceed 75 per centum of the administrative expenses of Recovery Planning Councils designated pursuant to section 3232 of this title. In determining the amount of the non-Federal share of such costs or expenses, the President shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants, to assure adequate and effective planning and economical use of funds.

(Pub. L. 89-136, title VIII, § 805, as added Pub. L. 93-288, title V, § 501, May 22, 1974, 88 Stat. 162.)

§ 3236. Authorization of appropriations

There is authorized to be appropriated not to exceed $250,000,000 to carry out this subchapter.

(Pub. L. 89-136, title VIII, § 806, as added Pub. L. 93-288, title V, § 501, May 22, 1974, 88 Stat. 163.)

SUBCHAPTER IX—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3153 of this title; title 40 App. section 214.

§ 3241. Statement of purpose

It is the purpose of this subchapter to provide special economic development and adjustment assistance programs to help State and local areas meet special needs arising from actual or threatened severe unemployment arising from economic dislocation, including unemployment arising from actions of the Federal Government and from compliance with environmental requirements which remove economic activities from a locality, and economic adjustment problems resulting from severe changes in economic conditions (including long-term economic deterioration), and to encourage cooperative intergovernmental action to prevent or solve economic adjustment problems. Nothing in this subchapter is intended to replace the efforts of the economic adjustment program of the Department of Defense.

(Pub. L. 89-136, title IX, § 901, as added Pub. L. 93-423, § 12, Sept. 27, 1974, 88 Stat. 1164 and amended Pub. L. 94-487, title I, § 121(a), Oct. 12, 1976, 90 Stat. 2336.)

AMENDMENTS

1976—Pub. L. 94-487 added "(including long-term economic deterioration)" following "economic conditions".

§ 3242. Definitions

As used in this subchapter, the term "eligible recipient" means a redevelopment area or economic development district established under subchapter IV of this chapter, an Indian tribe, a State, a city or other political subdivision of a State, or a consortium of such political subdivisions.

(Pub. L. 89-136, title IX, § 902, as added Pub. L. 93-423, § 12, Sept. 27, 1974, 88 Stat. 1164.)

§ 3243. Grants by Secretary

(a) Eligible recipients; execution of development plan; use; method of payment

(1) The Secretary is authorized to make grants directly to any eligible recipient in an area (A) which the Secretary has determined has experienced, or may reasonably be foreseen to be about to experience, a special need to meet an expected rise in unemployment, or other economic adjustment problems (including those caused by any action or decision of the Federal Government), or (B) which the Secretary determines has demonstrated long-term economic deterioration, to carry out or develop a plan which meets the requirements of subsection (b) of this section and which is approved by the Secretary to use such grants for any of the following: public facilities, public services, business development, planning, unemployment compensation (in accordance with subsection (d) of this section), rent supplements, mortgage payment assistance, research, technical assistance, training, relocation of individuals, and businesses, and other assistance which demonstrably furthers the economic adjustment objectives of this subchapter.

(2)(A) Such grants may be used in direct expenditures by the eligible recipient or through redistribution by it to public and private entities in grants, loans, loan guarantees, payments to reduce interest on loan guarantees, or other appropriate assistance, but no grant shall be made by an eligible recipient to a private profit-making entity.

(B) Grants for unemployment compensation shall be made to the State. Grants for any other purpose shall be made to any appropriate eligible recipient capable of carrying out such purpose.

(b) Criteria for approval of plan

No plan shall be approved by the Secretary under this section unless such plan shall—

(1) identify each economic development and adjustment need of the area for which assistance is sought under this subchapter;

(2) describe each activity planned to meet each such need;

(3) explain the details of the method of carrying out each such planned activity;

(4) contain assurances satisfactory to the Secretary that the proceeds from the repayment of loans made by the eligible recipient with funds granted under this subchapter will be used for economic adjustment; and

(5) be in such form and contain such additional information as the Secretary shall prescribe.

(c) Coordination of activities with regional commissions, States, etc.

The Secretary to the extent practicable shall coordinate his activities in requiring plans and making grants and loans under this subchapter with regional commissions, States, economic development districts and other appropriate planning and development organizations.

(d) Transfer of funds; availability of assistance to qualified individuals; limitation of amounts; administration by State agencies

In each case in which the Secretary determines a need for assistance under subsection (a) of this section due to an increase in unemployment and makes a grant under this section, the Secretary may transfer funds available for such grant to the Secretary of Labor and the Secretary of Labor is authorized to provide to any individual unemployed as a result of the dislocation for which such grant is made, such assistance as he deems appropriate while the individual is unemployed. Such assistance as the Secretary of Labor may provide shall be available to an individual not otherwise disqualified under State law for unemployment compensation benefits, as long as the individual's unemployment caused by the dislocation continues or until the individual is reemployed in a suitable position, but no longer than one year after the unemployment commences. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the dislocation occurred, and the amount of assistance under this subsection shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment. The Secretary of Labor is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(Pub. L. 89-136, title IX, § 903, as added Pub. L. 93-423, § 12, Sept. 27, 1974, 88 Stat. 1164, and amended Pub. L. 94-487, title I, § 121(b), (c), Oct. 12, 1976, 90 Stat. 2336.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-487, § 121(a), (b), added "(A)" following "recipient in an area", "or (B) which the Secretary determines has demonstrated long-term economic deterioration" following "the Federal Government)", "and businesses" following "relocation of individuals", and substituted "and other assistance which demonstrably furthers the economic adjustment objectives of this subchapter" for "and other appropriate assistance" following "and businesses".

Subsec. (a)(2)(A). Pub. L. 94-487, § 121(c), added "payments to reduce interest on loan guarantees" following "loan guarantees".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3222 of this title.

§ 3244. Annual reports by recipient and Secretary

(a) Each eligible recipient which receives assistance under this subchapter shall annually during the period such assistance continues make a full and complete report to the Secretary, in such manner as the Secretary shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this subchapter in meeting the need it was designed to alleviate and the purposes of this subchapter.

(b) The Secretary shall provide an annual consolidated report to the Congress, with his recommendations, if any, on the assistance authorized under this subchapter, in a form which he deems appropriate. The first such report to Congress under this subsection shall be made not later than January 30, 1976.

(Pub. L. 89-136, title IX, § 904, as added Pub. L. 93-423, § 12, Sept. 27, 1974, 88 Stat. 1165.)

§ 3245. Authorization of appropriations

There is authorized to be appropriated to carry out this subchapter not to exceed $75,000,000 for the fiscal year ending June 30, 1975, and $100,000,000 for the fiscal year ending June 30, 1976, not to exceed $25,000,000 for the transition quarter ending September 30, 1976, and not to exceed $100,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.

(Pub. L. 89-136, title IX, § 905, as added Pub. L. 93-423, § 12, Sept. 27, 1974, 88 Stat. 1166, and amended Pub. L. 94-487, title I, § 121(d), Oct. 12, 1976, 90 Stat. 2336.)

AMENDMENTS

1976—Pub. L. 94-487 authorized appropriation of $25,000,000 for interim period July 1, 1976 to September 30, 1976, and $100,000,000 per fiscal year for fiscal years ending September 30, 1977, 1978, and 1979.

SUBCHAPTER X—JOB OPPORTUNITIES PROGRAM

§ 3246. Congressional statement of purpose

It is the purpose of this subchapter to provide emergency financial assistance to stimulate, maintain or expand job creating activities in areas, both urban and rural, which are suffering from unusually high levels of unemployment.

(Pub. L. 89-136, title X, § 1001, as added Pub. L. 93-567, title III, § 301, Dec. 31, 1974, 88 Stat. 1853.)

§ 3246a. Definitions

For the purpose of this subchapter the term "eligible area" means any area, which the Secretary of Labor designates as an area which has a rate of unemployment equal to or in excess of 7 per centum for the most recent calendar quarter or any area designated pursuant to section 844(c) of title 29 which has unemployment equal to or in excess of 7 per centum with special consideration given to areas with unemployment rates above the national average.

(Pub. L. 89-136, title X, § 1002, as added Pub. L. 93-567, title III, § 301, Dec. 31, 1974, 88 Stat. 1853, and amended Pub. L. 94-487, title I, § 122, Oct. 12, 1976, 90 Stat. 2337.)

AMENDMENTS

1976—Pub. L. 94-487 consolidated existing provisions and substituted 7 per centum for 6.5 per centum minimum rate of unemployment for eligible area.

§ 3246b. Program authorized

(a) Authorization of Secretary of Commerce; comment of officials of appropriate units of general government on specific proposals

To carry out the purposes of this subchapter, the Secretary of Commerce, in accordance with the provisions of this subchapter, is authorized from funds appropriated and made available under section 3246f of this title to provide financial assistance to programs and projects identified through the review process described in section 3246c of this title to expand or accelerate the job creating impact of such programs or projects for unemployed persons in eligible areas. Programs and projects for which funds are made available under this subchapter shall not be approved until the officials of the appropriate units of general government in the affected area have an adequate opportunity to comment on the specific proposal.

(b) Administration of assistance by head of department, agency, or instrumentality of Federal Government; exceptions

Whenever funds are made available by the Secretary of Commerce under this subchapter for any program or project, the head of the department, agency, or instrumentality of the Federal Government administering the law authorizing such assistance shall, except as otherwise provided in this subsection, administer the law authorizing such assistance in accordance with all applicable provisions of that law, except provisions relating to—

(1) requiring allocation of funds among the States,

(2) limits upon the total amount of such grants for any period, and

(3) the Federal contribution to any State or local government, whenever the President or head of such department, agency, or instrumentality of the Federal Government determines that any non-Federal contribution cannot reasonably be obtained by the State or local government concerned.

(c) Assistance in making grant applications

Where necessary to effectively carry out the purposes of this subchapter, the Secretary of Commerce is authorized to assist eligible areas in making applications for grants under this subchapter.

(d) Allocation of funds; priorities

Notwithstanding any other provisions of this subchapter, funds allocated by the Secretary of Commerce shall be available only for a program or project which the Secretary identifies and selects pursuant to this subsection, and which can be initiated or implemented promptly and substantially completed within twelve months after allocation is made. In identifying and selecting programs and projects pursuant to this subsection, the Secretary shall (1) give priority to programs and projects which are most effective in creating and maintaining productive employment, including permanent and skilled employment measured as the amount of such direct and indirect employment generated or supported by the additional expenditures of Federal funds under this subchapter, and (2) consider the appropriateness of the proposed activity to the number and needs of unemployed persons in the eligible area.

(e) Priority of grant applications in high unemployment areas; limitation on use of funds

(1) The Secretary, if the national unemployment rate is equal to or exceeds 7 per centum for the most recent calendar quarter, shall expedite and give priority to grant applications submitted for such areas having unemployment in excess of the national average rate of unemployment for the most recent calendar quarter. Seventy per centum of the funds appropriated pursuant to this subchapter shall be available only for grants in areas as defined in the first sentence of this subsection.

(2) Not more than 15 per centum of all amounts appropriated to carry out this subchapter shall be available under this subchapter for projects or programs within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the aggregate shall be available for such projects or programs.

(Pub. L. 89-136, title X, § 1003, as added Pub. L. 93-567, title III, § 301, Dec. 31, 1974, 88 Stat. 1853, and amended Pub. L. 94-487, title I, § 123, Oct. 12, 1976, 90 Stat. 2337.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-487, § 123(a), authorized Secretary to assist eligible areas in making applications for grants under this subchapter rather than directly initiating programs in such areas.

Subsec. (d). Pub. L. 94-487, § 123(b), added provisions which give priority of funding to programs and projects identified and selected by the Secretary which can be initiated and implemented promptly and completed within twelve months after funding and which are most labor intensive in relation to the funds expended.

Subsec. (e). Pub. L. 94-487, § 123(c), substituted provisions authorizing Secretary to expedite and give priority to grant applications from areas exceeding the national average unemployment rate if such rate is equal to or exceeds 7 per centum and set limitations on allocation of funds for provisions containing criteria to be used in determining priority.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3222, 3246c of this title.

§ 3246c. Program review

(a) Time limits

Within forty-five days after any funds are appropriated to the Secretary to carry out the purposes of this subchapter, after October 12, 1976, each department, agency, or instrumentality of the Federal Government, each regional commission established by section 101 of the Appalachian Regional Development Act of 1965 or pursuant to section 3182 of this title, shall (1) complete a review of its budget, plans, and programs and including State, substate, and local development plans filed with such department, agency or commission; (2) evaluate the job creation effectiveness of programs and projects for which funds are proposed to be obligated in the calendar year and additional programs and projects (including new or revised programs and projects submitted under subsection (b) of this section) for which funds could

be obligated in such year with Federal financial assistance under this subchapter, and (3) submit to the Secretary of Commerce recommendations for programs and projects which have the greatest potential to stimulate the creation of jobs for unemployed persons in eligible areas. Within forty-five days of the receipt of such recommendations the Secretary of Commerce shall review such recommendations, and after consultation with such department, agency, instrumentality, regional commission, State, or local government make allocations of funds in accordance with section 3246b(d) of this title.

(b) Submittal of applications for Federal financial assistance

States and political subdivisions in any eligible area may, pursuant to subsection (a) of this section, submit to the appropriate department, agency, or instrumentality of the Federal Government (or regional commission) program and project applications for Federal financial assistance provided under this subchapter.

(c) Priorities

The Secretary, in reviewing programs and projects recommended for any eligible area shall give priority to programs and projects originally sponsored by States and political subdivisions, including, but not limited to, new or revised programs and projects submitted in accordance with this section.

(Pub. L. 89-136, title X, § 1004, as added Pub. L. 93-567, title III, § 301, Dec. 31, 1974, 88 Stat. 1854, and amended Pub. L. 94-487, title I, § 124, Oct. 12, 1976, 90 Stat. 2337.)

REFERENCES IN TEXT

Section 101 of the Appalachian Regional Development Act of 1965, referred to in subsec. (a), is section 101 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, which is set out in the Appendix to Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1976—Pub. L. 94-487 redesignated existing provisions as subsecs. (a) and (b), and, as redesignated, substituted forty-five days after appropriation of funds after October 12, 1976, for forty-five days after December 31, 1974, as time for program review; deleted references to Secretary of Labor in the review process; extended thirty day time limit to review recommendations for programs and projects to forty-five days; and added provisions concerning priorities in subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3246b of this title.

§ 3246d. Repealed. Pub. L. 94-487, title I, § 125, Oct. 12, 1976, 90 Stat. 2338

Section, Pub. L. 89-136, title X, § 1005, as added Pub. L. 93-567, title III, § 301, Dec. 31, 1974, 88 Stat. 1855, related to the limitations on the use of funds appropriated pursuant to section 3246f of this title for programs and projects.

§ 3246e. Rules, regulations, and procedures

The Secretary of Commerce shall prescribe such rules, regulations, and procedures to carry out the provisions of this subchapter as will assure that adequate consideration is given to the relative needs of applicants for assistance in rural eligible areas and the relative needs of applicants for assistance in urban eligible areas and to any equitable distribution of funds authorized under this subchapter between rural and urban eligible applicants unless this would require project grants to be made in areas which do not meet the criteria of this subchapter.

(Pub. L. 89-136, title X, § 1005, formerly § 1006, as added Pub. L. 93-567, title III, § 301, Dec. 31, 1974, 88 Stat. 1855, and renumbered and amended Pub. L. 94-487, title I, §§ 125, 126, Oct. 12, 1976, 90 Stat. 2338.)

AMENDMENTS

1976—Pub. L. 94-487 added provision that rules, regulations, and procedures relating to equitable distribution of funds between rural and urban areas be limited to areas which meet the eligibility criteria of this subchapter.

§ 3246f. Authorization of appropriations

(a) Appropriations for calendar quarter in which unemployment equals or exceeds stated percentage

There are hereby authorized to be appropriated to carry out the provisions of this subchapter $81,250,000 for each calendar quarter of a fiscal year during which the national average unemployment is equal to or exceeds 7 per centum on the average. No further appropriation of funds is authorized under this section if a determination is made that the national average rate of unemployment has receded below an average of 7 per centum for the most recent calendar quarter as determined by the Secretary of Labor.

(b) Availability of funds for grants when average unemployment equals or exceeds stated percentage

Funds authorized by subsection (a) of this section are available for grants by the Secretary when the national average unemployment is equal to or in excess of an average of 7 per centum for the most recent calendar quarter. If the national average unemployment rate recedes below an average of 7 per centum for the most recent calendar quarter, the authority of the Secretary to make grants or obligate funds under this subchapter is terminated. Grants may not be made until the national average unemployment has equaled or exceeded an average of 7 per centum for the most recent calendar quarter.

(c) Funds as addition to, and not in lieu of, amounts authorized under other provisions of law

Funds authorized to carry out this subchapter shall be in addition to, and not in lieu of, any amounts authorized by other provisions of law.

(Pub. L. 89-136, title X, § 1006, formerly § 1007, as added Pub. L. 93-567, title III, § 301, Dec. 31, 1974, 88 Stat. 1855, and renumbered and amended Pub. L. 94-487, title I, §§ 125, 127, Oct. 12, 1976, 90 Stat. 2338.)

AMENDMENTS

1976—Pub. L. 94-487 designated existing provisions as subsec. (a) and, as designated, substituted "$81,250,000 for each calendar quarter of fiscal year during which national average unemployment is equal to or exceeds 7 per centum on the average" for "$500,000,000 for the fiscal year 1975", substituted 7 per centum for 6.5 per centum for national average rate of unemployment, and added subsecs. (b) and (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3246b of this title.

§ 3246g. Termination date

Notwithstanding any other provision of this subchapter, no further obligation of funds appropriated under this subchapter shall be made by the Secretary of Commerce after September 30, 1979.

(Pub. L. 89-136, title X, § 1007, formerly § 1008, as added Pub. L. 93-567, title III, § 301, Dec. 31, 1976, 88 Stat. 1855, and renumbered and amended Pub. L. 94-487, title I, §§ 125, 128, Oct. 12, 1976, 90 Stat. 2338.)

AMENDMENTS

1976—Pub. L. 94-487 substituted "September 30, 1979" for "December 31, 1975".

§ 3246h. Construction cost increases

No program or project originally approved for funds under an existing program shall be determined to be ineligible for Federal financial assistance under this subchapter solely because of increased construction costs.

(Pub. L. 89-136, title X, § 1008, as added Pub. L. 94-487, title I, § 129, Oct. 12, 1976, 90 Stat. 2339.)

CHAPTER 39—SOLID WASTE DISPOSAL

§§ 3251 to 3254f. Omitted

CODIFICATION

Sections 3251 to 3254f were omitted in the general amendment of the Solid Waste Disposal Act by Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 95.

Section 3251, Pub. L. 89-272, title II, § 202, Oct. 20, 1965, 79 Stat. 997; Pub. L. 91-512, title I, § 101, Oct. 26, 1970, 84 Stat. 1227, set out the Congressional findings and declaration of purpose. See sections 6901 and 6902 of this title.

Section 3252, Pub. L. 89-272, title II, § 203, Oct. 20, 1965, 79 Stat. 998; Pub. L. 91-512, title I, § 102, Oct. 26, 1970, 84 Stat. 1228, defined terms. See section 6903 of this title.

Section 3253, Pub. L. 89-272, title II, § 204, Oct. 20, 1965, 79 Stat. 998; Pub. L. 91-512, title I, § 103, Oct. 26, 1970, 84 Stat. 1228, made provisions for research, demonstrations, training, and other activities relating to solid waste disposal. See section 6981 of this title.

Section 3253a, Pub. L. 89-272, title II, § 205, as added Pub. L. 91-512, title I, § 104(a), Oct. 26, 1970, 84 Stat. 1228, directed the Secretary to study methods of recovering useful energy and materials. See section 6985 of this title.

Section 3254, Pub. L. 89-272, title II, § 206, formerly § 205, Oct. 20, 1965, 79 Stat. 999, renumbered Pub. L. 91-512, title I, § 104(a), Oct. 26, 1970, 84 Stat. 1228, directed the Secretary to encourage interstate and interlocal cooperation. See section 6941 of this title.

Section 3254a, Pub. L. 89-272, title II, § 207, as added Pub. L. 91-512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1229, authorized the Secretary to make grants for State, interstate, and local planning.

Section 3254b, Pub. L. 89-272, title II, § 208, as added Pub. L. 91-512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1230, authorized the Secretary to make grants for resource recovery systems and improved solid waste disposal facilities. See section 6986 of this title.

Section 3254c, Pub. L. 89-272, title II, § 209, as added Pub. L. 91-512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1232, provided for the recommendation of guidelines by the Secretary. See section 6907 of this title.

Section 3254d, Pub. L. 89-272, title II, § 210, as added Pub. L. 91-512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1232, authorized the Secretary to enter into contracts with and to make grants to eligible organizations. See section 6977 of this title.

Section 3254e, Pub. L. 89-272, title II, § 211, as added Pub. L. 91-512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1233, provided for the applicability of solid waste disposal guidelines to Executive agencies. See section 6964 of this title.

Section 3254f, Pub. L. 89-272, title II, § 212, as added Pub. L. 91-512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1233, provided for a national disposal sites study for the storage and disposal of hazardous wastes. See section 6921 et seq. of this title.

§ 3255. Repealed. Pub. L. 91-512, title I, § 104(a), Oct. 26, 1970, 84 Stat. 1228

Section, Pub. L. 89-272, title II, § 206, Oct. 20, 1965, 79 Stat. 999, authorized grants to State and interstate agencies for surveys of solid-waste disposal practices and problems, and for the development of solid-waste disposal plans.

§§ 3256 to 3259. Omitted

CODIFICATION

Sections 3256 to 3259 were omitted in the general amendment of the Solid Waste Disposal Act by Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 95.

Section 3256, Pub. L. 89-272, title II, § 213, formerly § 207, Oct. 20, 1965, 79 Stat. 1000, renumbered Pub. L. 91-512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1229, set the labor standards for construction projects funded by grants under this chapter. See section 6979 of this title.

Section 3257, Pub. L. 89-272, title II, § 214, formerly § 208, Oct. 20, 1965, 79 Stat. 1000, renumbered Pub. L. 91-512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1229, prohibited a construction of this chapter which might supersede or limit the authorities and responsibilities of federal officers under other provisions of law. See section 6905 of this title.

Section 3258, Pub. L. 89-272, title II, § 215, formerly § 209, Oct. 20, 1965, 79 Stat. 1001, renumbered and amended Pub. L. 91-512, title I, § 104(b), (c), Oct. 26, 1970, 84 Stat. 1229, 1233, 1234, provided for the mode of payments and prohibited the making of grants to profitmaking organizations. See section 6978 of this title.

Section 3259, Pub. L. 89-272, title II, § 216, formerly § 210, Oct. 20, 1965, 79 Stat. 1001, amended Pub. L. 90-574, title V, § 506, Oct. 15, 1968, 82 Stat. 1013, and renumbered and amended Pub. L. 91-512, title I, §§ 104(b), 105, Oct. 26, 1970, 84 Stat. 1229, 1234; Pub. L. 93-14, § 1, Apr. 9, 1973, 87 Stat. 11; Pub. L. 93-611, Jan. 2, 1975, 88 Stat. 1974, authorized appropriations. See section 6987 of this title.

CHAPTER 40—SOIL INFORMATION ASSISTANCE FOR COMMUNITY PLANNING AND RESOURCE DEVELOPMENT

Sec.
3271. Availability of soil surveys under soil survey program.
3272. Cooperative assistance to State and other public agencies; types of assistance; private engineering services.
3273. Contributions of State or other public agencies toward the cost of soil surveys.
3274. Authorization of appropriations.

§ 3271. Availability of soil surveys under soil survey program

In recognition of the increasing need for soil surveys by the States and other public agencies in connection with community planning and resource development for protecting and improv-

ing the quality of the environment, meeting recreational needs, conserving land and water resources, providing for multiple uses of such resources, and controlling and reducing pollution from sediment and other pollutants in areas of rapidly changing uses, including farmlands being shifted to other uses, resulting from rapid expansions in the uses of land for industry, housing, transportation, recreation, and related services, it is the sense of Congress that the soil survey program of the United States Department of Agriculture should be conducted so as to make available soil surveys to meet such needs of the States and other public agencies in connection with community planning and resource development.

(Pub. L. 89-560, § 1, Sept. 7, 1966, 80 Stat. 706.)

§ 3272. Cooperative assistance to State and other public agencies; types of assistance; private engineering services

In order to provide soil surveys to assist States, their political subdivisions, soil and water conservation districts, towns, cities, planning boards and commissions, community development districts, and other public agencies in community planning and resource development for the protection and improvement of the quality of the environment, recreational development, the conservation of land and water resources, the development of multiple uses of such resources, and the control and prevention of pollution from sediment and other pollutants in areas of rapidly changing uses, including farm and nonfarm areas, the Secretary of Agriculture shall, upon the request of a State or other public agency, provide by means of such cooperative arrangements with the State or other public agency as he may deem advisable, the following assistance with respect to such areas and purposes:

(1) the making of studies and reports necessary for the classification and interpretation of kinds of soil;

(2) an intensification of the use and benefits of the National Cooperative Soil Survey;

(3) the furnishing of technical and other assistance needed for use of soil surveys; and

(4) consultation with other Federal agencies participating or assisting in the planning and development of such areas in order to assure the coordination of the work under this chapter with the related work of such other agencies.

The provision by the Secretary of such assistance shall not interfere with the furnishing of engineering services by private engineering firms or consultants for on-site sampling and testing of sites or for design and construction of specific engineering works.

(Pub. L. 89-560, § 2, Sept. 7, 1966, 80 Stat. 706.)

§ 3273. Contributions of State or other public agencies toward the cost of soil surveys

It is further the sense of the Congress that the Secretary shall make a reasonable effort to assure that the contributions of any State or other public agency under any cooperative agreement which may be entered into between the Secretary and such State or other public agency with respect to a soil survey shall be a substantial portion of the cost of such soil survey.

(Pub. L. 89-560, § 3, Sept. 7, 1966, 80 Stat. 706.)

§ 3274. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this chapter, such sums to remain available until expended.

(Pub. L. 89-560, § 4, Sept. 7, 1966, 80 Stat. 706.)

CHAPTER 41—DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT PROGRAM

SUBCHAPTER I—COMPREHENSIVE CITY DEMONSTRATION PROGRAMS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 40 section 461.

SUBCHAPTER I—COMPREHENSIVE CITY DEMONSTRATION PROGRAMS

TERMINATION

Section 5316 of this title has terminated the authority to make grants under title I of the Demonstration Cities and Metropolitan Development Act of 1966, this subchapter, after Jan. 1, 1975.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 4637, 5303, 5306, 5316 of this title.

§ 3301. Congressional findings and declaration of purpose

The Congress hereby finds and declares that improving the quality of urban life is the most critical domestic problem facing the United States. The persistence of widespread urban slums and blight, the concentration of persons of low income in older urban areas, and the unmet needs for additional housing and community facilities and services arising from rapid expansion of our urban population have resulted in a marked deterioration in the quality of the environment and the lives of large numbers of our people while the Nation as a whole prospers.

The Congress further finds and declares that cities, of all sizes, do not have adequate resources to deal effectively with the critical problems facing them, and that Federal assistance in addition to that now authorized by the urban renewal program and other existing Federal grant-in-aid programs is essential to enable cities to plan, develop, and conduct programs to improve their physical environment, increase their supply of adequate housing for low- and moderate-income people, and provide educational and social services vital to health and welfare.

The purposes of this subchapter are to provide additional financial and technical assistance to enable cities of all sizes (with equal regard to the problems of small as well as large cities) to plan, develop, and carry out locally prepared and scheduled comprehensive city demonstration programs containing new and imaginative proposals to rebuild or revitalize large slum and blighted areas; to expand housing, job, and income opportunities; to reduce dependence on welfare payments; to improve educational facilities and programs; to combat disease and ill health; to reduce the incidence of crime and delinquency; to enhance recreational and cultural opportunities; to establish better access between homes and jobs; and generally to improve living conditions for the people who live in such areas, and to accomplish these objectives through the most effective and economical concentration and coordination of Federal, State, and local public and private efforts to improve the quality of urban life.

(Pub. L. 89-754, title I, § 101, Nov. 3, 1966, 80 Stat. 1255.)

SHORT TITLE

Section 1 of Pub. L. 89-754 provided: "That this Act [which enacted this chapter, section 1500d-1 of this title, sections 1735f-1, 1749cc-1, and 1749aaa to

1749aaa-5 of Title 12, Banks and Banking, and section 470b-1 of Title 16, Conservation, amended sections 1416, 1421, 1421b, 1453, 1455, 1456, 1460, 1463, 1471, 1472, 1474, 1485, 1487, 1492, 1500, 1500a, 1500c-2, 1500d, and 1500e of this title, section 663 of Title 11, Bankruptcy, sections 24, 371, 1432, 1438, 1702, 1709, 1715c, 1715e, 1715k, 1715l, 1715n, 1715r, 1717, 1719, 1720, 1723, 1731a, 1735g, 1749, 1749c, 1749aa, 1749bb, 1749dd, 1749ee of Title 12, sections 77ddd and 637 of Title 15, Commerce and Trade, and section 461 of Title 40, Public Buildings, Property, and Works, repealed section 1735h of Title 12, enacted provisions set out as notes under sections 1455 and 1500d-1 of this title and sections 1718, 1749cc-1, and 1749aaa of Title 12, and amended provisions set out as notes under sections 1701d-3, 1701q, and 1715e of Title 12] may be cited as the 'Demonstration Cities and Metropolitan Development Act of 1966'."

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974, National Housing Act, United States Housing Act of 1937, Housing Act of 1949, Demonstration Cities and Metropolitan Development Act of 1966, [see Short Title note set out hereunder], and Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93-383, set out as a note under section 5301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3303 of this title.

§ 3302. Basic authority

The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make grants and provide technical assistance, as provided by this subchapter, to enable city demonstration agencies (as defined in section 3312(2) of this title) to plan, develop, and carry out comprehensive city demonstration programs in accordance with the purposes of this subchapter.

(Pub. L. 89-754, title I, § 102, Nov. 3, 1966, 80 Stat. 1255.)

§ 3303. Demonstration programs

(a) Requirements for eligibility

A comprehensive city demonstration program is eligible for assistance under sections 3305 and 3307 of this title only if—

(1) physical and social problems in the area of the city covered by the program are such that a comprehensive city demonstration program is necessary to carry out the policy of the Congress as expressed in section 3301 of this title;

(2) the program is of sufficient magnitude to make a substantial impact on the physical and social problems and to remove or arrest blight and decay in entire sections or neighborhoods; to contribute to the sound development of the entire city; to make marked progress in reducing social and educational disadvantages, ill health, underemployment, and enforced idleness; and to provide educational, health, and social services necessary to serve the poor and disadvantaged in the area, widespread citizen participation in the program, maximum opportunities for employing residents of the area in all phases of the program, and enlarged opportunities for work and training;

(3) the program, including rebuilding or restoration, will contribute to a well-balanced city with a substantial increase in the supply of standard housing of low and moderate cost, maximum opportunities in the choice of housing accommodations for all citizens of all income levels, adequate public facilities (including those needed for education, health and social services, transportation, and recreation), commercial facilities adequate to serve the residential areas, and ease of access between the residential areas and centers of employment;

(4) any program which includes a transportation component as a project or activity to be undertaken meets the requirements of section 1602(e) of title 49;

(5) the various projects and activities to be undertaken in connection with such programs are scheduled to be initiated within a reasonably short period of time; adequate local resources are, or will be, available for the completion of the program as scheduled, and, in the carrying out of the program, the fullest utilization possible will be made of private initiative and enterprise; administrative machinery is available at the local level for carrying out the program on a consolidated and coordinated basis; substantive local laws, regulations, and other requirements are, or can be expected to be, consistent with the objectives of the program; there exists a relocation plan meeting the requirements of the regulations referred to in section 3307 of this title; the local governing body has approved the program and, where appropriate, applications for assistance under the program; agencies whose cooperation is necessary to the success of the program have indicated their intent to furnish such cooperation; the program is consistent with comprehensive planning for the entire urban or metropolitan area; and the locality will maintain, during the period an approved comprehensive city demonstration program is being carried out, a level of aggregate expenditures for activities similar to those being assisted under this subchapter which is not less than the level of aggregate expenditures for such activities prior to initiation of the comprehensive city demonstration program; and

(6) the program meets such additional requirements as the Secretary may establish to carry out the purposes of this subchapter: *Provided*, That the authority of the Secretary under this paragraph shall not be used to impose criteria or establish requirements except those which are related and essential to the specific provisions of this subchapter.

(b) Emphasis in implementation of program

In implementing this subchapter the Secretary shall—

(1) emphasize local initiative in the planning, development, and implementation of comprehensive city demonstration programs;

(2) insure, in conjunction with other appropriate Federal departments and agencies and at the direction of the President, maximum coordination of Federal assistance provided in

connection with this subchapter, prompt response to local initiative, and maximum flexibility in programing, consistent with the requirements of law and sound administrative practice; and

(3) encourage city demonstration agencies to (A) enhance neighborhoods by applying a high standard of design, (B) maintain, as appropriate, natural and historic sites and distinctive neighborhood characteristics, and (C) make maximum possible use of new and improved technology and design, including cost reduction techniques.

(c) Cost comparison with alternative action

The preparation of demonstration city programs should include to the maximum extent feasible (1) the performance of analyses that provide explicit and systematic comparisons of the costs and benefits, financial and otherwise, of alternative possible actions or courses of action designed to fulfill urban needs; and (2) the establishment of programing systems designed to assure effective use of such analyses by city demonstration agencies and by other government bodies.

(d) Transfer of students

Nothing in this section shall authorize the Secretary to require (or condition the availability or amount of financial assistance authorized to be provided under this subchapter upon) the adoption by any community of a program (1) by which pupils now resident in a school district not within the confines of the area covered by the city demonstration program shall be transferred to a school or school district including all or part of such area, or (2) by which pupils now resident in a school district within the confines of the area covered by the city demonstration program shall be transferred to a school or school district not including a part of such area.

(Pub. L. 89-754, title I, § 103, Nov. 3, 1966, 80 Stat. 1256; Pub. L. 93-503, title I, § 105, Nov. 26, 1974, 88 Stat. 1572.)

AMENDMENTS

1974—Subsec. (a)(4). Pub. L. 93-503, § 105(1), (2), added subsec. (a)(4). Former subsec. (a)(4) redesignated (a)(5).

Subsec. (a)(5). Pub. L. 93-503, § 105(1), redesignated former subsec. (a)(4) as (a)(5). Former subsec. (a)(5) redesignated (a)(6).

Subsec. (a)(6). Pub. L. 93-503, § 105(1), redesignated former subsec. (a)(5) as (a)(6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3305 of this title; title 26 section 7701.

§ 3304. Financial assistance for planning and developing subchapter I programs; eligibility for assistance

(a) The Secretary is authorized to make grants to, and to contract with, city demonstration agencies to pay 80 per centum of the costs of planning and developing comprehensive city demonstration programs.

(b) Financial assistance will be provided under this section only if (1) the application for such assistance has been approved by the local governing body of the city, and (2) the Secretary has determined that there exist (A) administrative machinery through which coordination of all related planning activities of local agencies can be achieved, and (B) evidence that necessary cooperation of agencies engaged in related local planning can be obtained.

(Pub. L. 89-754, title I, § 104, Nov. 3, 1966, 80 Stat. 1257.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3305, 3311 of this title.

§ 3305. Financial assistance for approved subchapter I programs

(a) Approval of programs by Secretary

The Secretary is authorized to approve comprehensive city demonstration programs if, after review of the plans, he determines that such plans satisfy the criteria for such programs set forth in section 3303 of this title.

(b) Grants and contracts for approved programs; exclusion of Federal grant-in-aid program

The Secretary is authorized to make grants to, and to contract with, city demonstration agencies to pay 80 per centum of the cost of administering approved comprehensive city demonstration programs, but not the cost of administering any project or activity assisted under a Federal grant-in-aid program.

(c) Limitation on amount of grants; execution of Federal grant-in-aid program in connection with demonstration program; criteria for determination of specific amount; certification of non-Federal contribution for projects in Federal grant-in-aid program

To assist the city to carry out the projects or activities included within an approved comprehensive city demonstration program, the Secretary is authorized to make grants to the city demonstration agency of not to exceed 80 per centum of the aggregate amount of non-Federal contributions otherwise required to be made to all projects or activities assisted by Federal grant-in-aid programs (as defined in section 3312(1) of this title) which are carried out in connection with such demonstration program: *Provided,* That no Federal grant-in-aid program shall be considered to be carried out in connection with such demonstration program unless it is closely related to the physical and social problems in the area of the city covered by the program and unless it can reasonably be expected to have a noticeable effect upon such problems. The specific amount of any such grant shall take into account the number and intensity of the economic and social pressures in the sections or neighborhoods involved, such as those involving or resulting from population density, poverty levels, unemployment rate, public welfare participation, educational levels, health and disease characteristics, crime and delinquency rate, and degree of substandard and dilapidated housing. The amount of non-Federal contribution required for each project in a Federal grant-in-aid program shall be certified to the Secretary by the Federal department or agency (other than the Department of Housing and Urban Development) administering such program, and the Secretary shall accept such certification in computing the grants hereunder.

(d) Availability of grant funds for projects and activities without assistance under Federal grant-in-aid program; non-Federal contribution to projects or activities; restrictions on use of funds

Grant funds provided to assist projects and activities included within an approved comprehensive city demonstration program pursuant to subsection (c) of this section shall be made available to assist new and additional projects and activities not assisted under a Federal grant-in-aid program. To the extent such funds are not necessary to support fully such new and additional projects and activities, they may be used and credited as part or all of the required non-Federal contribution to projects or activities, assisted under a Federal grant-in-aid program, which are part of an approved comprehensive city demonstration program. Such grant funds, however, shall not be used—

(1) for the general administration of local governments; or

(2) to replace non-Federal contributions in any federally aided project or activity included in an approved comprehensive city demonstration program, if prior to the filing of an application for assistance under section 3304 of this title an agreement has been entered into with any Federal agency obligating such non-Federal contributions with respect to such project or activity.

(Pub. L. 89-754, title I, § 105, Nov. 3, 1966, 80 Stat. 1257.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453, 3303, 3309, 3311, 3313, 3336, 5306 of this title.

§ 3306. Technical assistance

The Secretary is authorized to undertake such activities as he determines to be desirable to provide, either directly or by contracts or other arrangements, technical assistance to city demonstration agencies to assist such agencies in planning, developing, and administering comprehensive city demonstration programs.

(Pub. L. 89-754, title I, § 106, Nov. 3, 1966, 80 Stat. 1258.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title.

§ 3307. Relocation requirements and payments; definition; prior displacements

(a) A comprehensive city demonstration program shall include a plan for the relocation of individuals, families, business concerns, and nonprofit organizations displaced or to be displaced in the carrying out of such program. The relocation plan shall be consistent with regulations prescribed by the Secretary to assure that (1) the provisions and procedures included in the plan meet relocation standards equivalent to those prescribed under section 105(c) of the Housing Act of 1949 [42 U.S.C. 1455(c)] with respect to urban renewal projects assisted under title I of that Act [42 U.S.C. 1450 et seq.], and (2) relocation activities are coordinated to the maximum extent feasible with the increase in the supply of decent, safe, and sanitary housing for families and individuals of low or moderate income, as provided under the comprehensive city demonstration program, or otherwise, in order to best maintain the available supply of housing for all such families and individuals throughout the city.

(b), (c) Repealed. Pub. L. 91-646, title II, § 220(a)(9), Jan. 2, 1971, 84 Stat. 1903

(Pub. L. 89-754, title I, § 107, Nov. 3, 1966, 80 Stat. 1259; Pub. L. 91-646, title II, § 220(a)(9), Jan. 2, 1971, 84 Stat. 1903.)

REFERENCES IN TEXT

The Housing Act of 1949, referred to in subsec. (a), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified generally to chapter 8A (§ 1441 et seq.) of this title. Title I of the Act is classified to subchapter II (§ 1450 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of this title and Tables volume.

CODIFICATION

Repeal of subsecs. (b) and (c) of this section were made without regard to continuation of designation of first paragraph as subsec. (a).

AMENDMENTS

1971—Subsec. (b). Pub. L. 91-646 repealed subsec. (b), authorizing grants to cover relocation costs, making the grants additional to other financial assistance extended to the agency, and defining "relocation payments". Subject matter is now covered by chapter 61 (section 4601 et seq.) of this title.

Subsec. (c). Pub. L. 91-646 repealed subsec. (c), making subsec. (b) inapplicable to displacements prior to Nov. 3, 1966.

EFFECTIVE DATE OF 1971 AMENDMENT

Repeal of subsec. (b) and (c) of this section by Pub. L. 91-646 not applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91-646, set out as a note under section 4601 of this title.

SAVINGS PROVISIONS

Any rights or liabilities existing under provisions repealed by section 220(a) of Pub. L. 91-646 as not affected by such repeal, see section 220(b) of Pub. L. 91-646, set out as a Savings Provisions note under section 4621 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3303, 3311 of this title.

§ 3308. Continued availability of Federal grant-in-aid program funds

Notwithstanding any other provision of law, unless hereafter enacted expressly in limitation of the provisions of this section, funds appropriated for a Federal grant-in-aid program which are reserved for any projects or activities assisted under such grant-in-aid program and undertaken in connection with an approved comprehensive city demonstration program shall remain available until expended.

(Pub. L. 89-754, title I, § 108, Nov. 3, 1966, 80 Stat. 1259.)

§ 3309. Consultations

In carrying out the provisions of this subchapter, including the issuance of regulations, the Secretary shall consult with other Federal departments and agencies administering Federal grant-in-aid programs. The Secretary shall consult with each Federal department and agency affected by each comprehensive city demonstration program before entering into a commitment to make grants for such program under section 3305 of this title.

(Pub. L. 89-754, title I, § 109, Nov. 3, 1966, 80 Stat. 1259.)

§ 3310. Labor standards

(a) All laborers and mechanics employed by contractors or subcontractors in the construction, rehabilitation, alteration, or repair of projects which—

(1) are federally assisted in whole or in part under this subchapter and

(2) are not otherwise subject to section 212 of the National Housing Act [42 U.S.C. 1715c], section 16(2) of the United States Housing Act of 1937, section 109 of the Housing Act of 1949 [42 U.S.C. 1459], or any other provision of Federal law imposing labor standards on federally assisted construction,

shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5): *Provided*, That this section shall apply to the construction, rehabilitation, alteration, or repair of residential property only if such residential property is designed for residential use for eight or more families. No financial assistance shall be extended to any such projects unless adequate assurance is first obtained that these labor standards will be maintained upon the construction work.

(b) The Secretary of Labor shall have, with respect to the labor standards specified in subsection (a) of this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 276c of title 40, and the Contract Work Hours Standards Act [40 U.S.C. 327 et seq.].

(Pub. L. 89-754, title I, § 110, Nov. 3, 1966, 80 Stat. 1259.)

REFERENCES IN TEXT

Section 16(2) of the United States Housing Act, referred to in subsec. (a)(2), is a reference to section 16(2) of the Act prior to general restatement of the Act by Pub. L. 93-383. Provisions formerly contained in section 16(2) are now contained in section 12 of the Act which is classified to section 1437j of this title.

The Davis-Bacon Act, as amended, referred to in subsec. (a), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to section 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b), is set out in the Appendix to Title 5, Government Organization and Employees.

The Contract Work Hours Standards Act, referred to in subsec. (b), is Pub. L. 87-581, title I, Aug. 13, 1962, 76 Stat. 357, as amended, which is classified generally to subchapter II (§ 327 et seq.) of chapter 5 of Title 40, Public Buildings, Property and Works, and was redesignated the Contract Work Hours and Safety Standards Act by section 2 of Pub. L. 91-54, Aug. 9, 1969, 83 Stat. 98. For complete classification of this Act to the Code, see Short Title note set out under section 327 of Title 40 and Tables volume.

§ 3311. Authorization of appropriations

(a) Financial assistance for planning and developing programs

There are authorized to be appropriated, for the purpose of financial assistance under sections 3304 and 3306 of this title, not to exceed $12,000,000 for the fiscal year ending June 30, 1967, not to exceed $12,000,000 for the fiscal year ending June 30, 1968, and not to exceed $12,000,000 for the fiscal year ending June 30, 1969.

(b) Financial assistance for approved programs and relocation requirements

There are authorized to be appropriated, for the purpose of financial assistance under sections 3305, 3306, and 3307 of this title, not to exceed $400,000,000 for the fiscal year ending June 30, 1968, not to exceed $500,000,000 for the fiscal year ending June 30, 1969, not to exceed $1,000,000,000 for the fiscal year ending June 30, 1970, not to exceed $600,000,000 for the fiscal year ending June 30, 1971, and not to exceed $200,000,000 for the fiscal year ending June 30, 1972. In addition, there are authorized to be appropriated for such purpose such sums as may be necessary for the fiscal year ending June 30, 1975. Under regulations prescribed by the Secretary, 10 per centum of the amounts appropriated pursuant to this subsection for the fiscal year ending June 30, 1970, and for any fiscal year thereafter shall be used for assistance to city demonstration agencies in cities or counties having a population (according to the most recent decennial census) of less than 100,000, and may be so used (to the extent specifically provided in such regulations) without regard to the limitation set forth in the first sentence of section 3305(c) of this title.

(c) Availability of funds for expenditures

Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1975.

(Pub. L. 89-754, title I, § 111, Nov. 3, 1966, 80 Stat. 1260; Pub. L. 90-448, title XVII, § 1701, Aug. 1, 1968, 82 Stat. 602; Pub. L. 91-152, title III, § 301, Dec. 24, 1969, 83 Stat. 391; Pub. L. 91-609, title III, § 301, Dec. 31, 1970, 84 Stat. 1780; Pub. L. 92-335, § 2, July 1, 1972, 86 Stat. 405; Pub. L. 93-117, § 6, Oct. 2, 1973, 87 Stat. 422; Pub. L. 93-383, title I, § 116(d), Aug. 22, 1974, 88 Stat. 652.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-383, § 116(d)(1), added provision authorizing to be appropriated such sums as necessary for the fiscal year ending June 30, 1975.

Subsec. (c). Pub. L. 93-383, § 116(d)(2), substituted "July 1, 1975" for "July 1, 1974".

1973—Subsec. (c). Pub. L. 93-117 substituted "July 1, 1974" for "September 30, 1972".

1972—Subsec. (c). Pub. L. 92-335 substituted "September 30, 1972" for "July 1, 1972".

1970—Subsec. (a). Pub. L. 91-609, § 301(c), struck out "and administrative expenses" following "financial assistance".

Subsec. (b). Pub. L. 91-609, § 301(a), (c), authorized appropriation of $200,000,000 for fiscal year ending June 30, 1972, and struck out "and administrative expenses" following "financial assistance", respectively.

Subsec. (c). Pub. L. 91-609, § 301(b), substituted "July 1, 1972" for "July 1, 1971".

1969—Subsec. (b). Pub. L. 91-152, § 301(a), authorized appropriations of not more than $600,000,000 for the fiscal year ending June 30, 1971, and added the provision requiring 10 per centum of the amounts appropriated pursuant to this subsection for the fiscal year ending June 30, 1970, and for any fiscal year thereafter, to be used for assistance to city demonstration agencies under the specified conditions.

Subsec. (c). Pub. L. 91-152, § 301(b), substituted "July 1, 1971" for "July 1, 1970".

1968—Subsec. (a). Pub. L. 90-448, § 1701(a), authorized appropriations of not more than $12,000,000 for the fiscal year ending June 30, 1969.

Subsec. (b). Pub. L. 90-448, § 1701(b), authorized appropriations of not more than $1,000,000,000 for the fiscal year ending June 30, 1970.

Subsec. (c). Pub. L. 90-448, § 1701(c), permitted any amounts authorized for any fiscal year but not appropriated to be appropriated for any succeeding fiscal year commencing prior to July 1, 1970.

ADMINISTRATIVE PRIORITY FOR APPLICATIONS RELATING TO ACTIVITIES IN AREAS AFFECTED BY BASE CLOSINGS

State or unit of local government or agency thereof affected by reduction in level of expenditure or employment at Department of Defense installation located in or near such State or unit of local government, priority in processing applications for assistance under this section, see section 1453a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453a, 3313 of this title.

§ 3312. Definitions

As used in this subchapter—

(1) "Federal grant-in-aid program" means a program of Federal financial assistance other than loans and other than the assistance provided by this subchapter.

(2) "City demonstration agency" means the city, the county, or any local public agency established or designated by the local governing body of such city or county to administer the comprehensive city demonstration program.

(3) "City" means any municipality (or two or more municipalities acting jointly) or any county or other public body (or two or more acting jointly) having general governmental powers.

(4) "Local" agencies include State agencies and instrumentalities providing services or resources to a city or locality, and "local" resources include those provided to a city or locality by a State or its agency or instrumentality.

(Pub. L. 89-754, title I, § 112, Nov. 3, 1966, 80 Stat. 1260.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3302, 3305 of this title.

§ 3313. Limitation on amount of grant

Grants made under section 3305 of this title for projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated under section 3311 of this title.

(Pub. L. 89-754, title I, § 114, Nov. 3, 1966, 80 Stat. 1261.)

SUBCHAPTER II—PLANNED AREAWIDE DEVELOPMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5304 of this title; title 40 section 601a.

§ 3331. Congressional findings and declaration of purposes

(a) The Congress hereby finds that the welfare of the Nation and of its people is directly dependent upon the sound and orderly development and the effective organization and functioning of our State and local governments.

It further finds that it is essential that our State and local governments prepare, keep current, and carry out comprehensive plans and programs for their orderly physical development with a view to meeting efficiently all their economic and social needs.

It further finds that our State and local governments are especially handicapped in this task by the complexity and scope of governmental services required, the multiplicity of political jurisdictions and agencies involved, and the inadequacy of the operational and administrative arrangements available for cooperation among them.

It further finds that present requirements for areawide planning and programing in connection with various Federal programs have materially assisted in the solution of areawide problems, but that greater coordination of Federal programs and additional participation and cooperation are needed from the States and localities in perfecting and carrying out such efforts.

(b) It is the purpose of this subchapter to provide through greater coordination of Federal programs, and through supplementary grants for certain federally assisted development projects, additional encouragement and assistance to States and localities for making comprehensive areawide planning and programing effective.

(Pub. L. 89-754, title II, § 201, Nov. 3, 1966, 80 Stat. 1261; Pub. L. 90-448, title VI, § 602(b), Aug. 1, 1968, 82 Stat. 531.)

AMENDMENTS

1968—Pub. L. 90-448 extended scope from metropolitan planning and programing to areawide planning and programing.

§ 3332. Cooperation between federal agencies

In order to insure that all Federal programs related to areawide development are carried out in a coordinated manner—

(1) the Secretary is authorized to call upon other Federal agencies to supply such statistical data, program reports, and other materials as he deems necessary to discharge his responsibilities for areawide development, and to assist the President in coordinating the areawide development efforts of all Federal agencies; and

(2) all Federal agencies which are engaged in administering programs related to areawide development, or which otherwise perform functions relating thereto, shall, to the maximum extent practicable, consult with and seek advice from all other significantly affected Federal departments and agencies in an effort to assure fully coordinated programs.

(Pub. L. 89-754, title II, § 202, Nov. 3, 1966, 80 Stat. 1261; Pub. L. 90-448, title VI, § 602(c), Aug. 1, 1968, 82 Stat. 532.)

AMENDMENTS

1968—Pub. L. 90-448 substituted "areawide" for "metropolitan" wherever appearing.

§ 3333. Metropolitan expediters

Upon the request of the duly authorized local officials of the central city in any metropolitan area, and after consultation with local governmental authorities throughout the metropolitan area with respect to whether or not the Secretary should make an appointment under this section (and with respect to the individuals who might be so appointed), the Secretary may appoint a metropolitan expediter for such area whenever he finds a need for the services specified in this section. The metropolitan expediter shall provide information, data, and assistance to local authorities and private individuals and entities within the metropolitan area, and to all relevant Federal departments and agencies, with respect to all programs and activities conducted within such metropolitan area by the Department of Housing and Urban Development, and with respect to other public and private activities and needs within such metropolitan area which relate to the programs and activities of the Department.

(Pub. L. 89-754, title II, § 203, Nov. 3, 1966, 80 Stat. 1262.)

§ 3334. Coordination of Federal aids with local governments

(a) Review of projects by areawide agency or local government

All applications made after June 30, 1967, for Federal loans or grants to assist in carrying out open-space land projects or for the planning or construction of hospitals, airports, libraries, water supply and distribution facilities, sewerage facilities and waste treatment works, highways, transportation facilities, law enforcement facilities, and water development and land conservation projects within any metropolitan area shall be submitted for review—

(1) to any areawide agency which is designated to perform metropolitan or regional planning for the area within which the assistance is to be used, and which is, to the greatest practicable extent, composed of or responsible to the elected officials of a unit of areawide government or of the units of general local government within whose jurisdiction such agency is authorized to engage in such planning, and

(2) if made by a special purpose unit of local government, to the unit or units of general local government with authority to operate in the area within which the project is to be located.

(b) Comments and recommendations by areawide agency and local government

(1) Except as provided in paragraph (2) of this subsection, each application shall be accompanied (A) by the comments and recommendations with respect to the project involved by the areawide agency and governing bodies of the units of general local government to which the application has been submitted for review, and (B) by a statement by the applicant that such comments and recommendations have been considered prior to formal submission of the application. Such comments shall include information concerning the extent to which the project is consistent with comprehensive planning developed or in the process of development for the metropolitan area or the unit of general local government, as the case may be, and the extent to which such project contributes to the fulfillment of such planning. The comments and recommendations and the statement referred to in this paragraph shall, except in the case referred to in paragraph (2) of this subsection, be reviewed by the agency of the Federal Government to which such application is submitted for the sole purpose of assisting it in determining whether the application is in accordance with the provisions of Federal law which govern the making of the loans or grants.

(2) An application for a Federal loan or grant need not be accompanied by the comments and recommendations and the statements referred to in paragraph (1) of this subsection, if the applicant certifies that a plan or description of the project, meeting the requirements of such rules and regulations as may be prescribed under subsection (c) of this section, or such application, has lain before an appropriate areawide agency or instrumentality or unit of general local government for a period of sixty days without comments or recommendations thereon being made by such agency or instrumentality.

(3) The requirements of paragraphs (1) and (2) shall also apply to any amendment of the application which, in light of the purposes of this subchapter, involves a major change in the project covered by the application prior to such amendment.

(c) Rules and regulations

The Office of Management and Budget, or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this section.

(Pub. L. 89-754, title II, § 204, Nov. 3, 1966, 80 Stat. 1262; Pub. L. 90-351, title I, § 522, June 19, 1968, 82 Stat. 208; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 215.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-83 reenacted 1968 Amendment, inserting "law enforcement facilities," after "transportation facilities,".

1968—Subsec. (a). Pub. L. 90-351 inserted "law enforcement facilities," after "transportation facilities,".

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970 redesignated the Bureau of the Budget as the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*-2, 3232 of this title; title 16 sections 1454, 1455; title 40 section 461; title 43 section 1721.

§ 3335. Grants to assist in planned areawide development

(a) Supplementary grants

The Secretary is authorized to make supplementary grants to applicant State and local public bodies and agencies carrying out, or assisting in carrying out, areawide development projects meeting the requirements of this section.

(b) Criteria

Grants may be made under this section only for areawide development projects in areas for which it has been demonstrated, to the satisfaction of the Secretary, that—

(1) areawide comprehensive planning and programing provide an adequate basis for evaluating (A) the location, financing, and scheduling of individual public facility projects (including but not limited to hospitals and libraries; sewer, water, and sewage treatment facilities; highway, mass transit, airport, and other transportation facilities; and recreation and other open-space areas) whether or not federally assisted; and (B) other proposed land development or uses, which projects or uses, because of their size, density, type, or location, have public areawide or interjurisdictional significance;

(2) adequate areawide institutional or other arrangements exist for coordinating, on the basis of such areawide comprehensive planning and programing, local public policies and activities affecting the development of the area; and

(3) public facility projects and other land development or uses which have a major impact on the development of the area are, in fact, being carried out in accord with such areawide comprehensive planning and programing.

(c) Grant to unit of general local government or other applicant

(1) Where the applicant for a grant under this section is a unit of general local government, it must demonstrate to the satisfaction of the Secretary that, taking into consideration the scope of its authority and responsibilities, it is adequately assuring that public facility projects and other land development or uses of public areawide or interjurisdictional significance are being, and will be, carried out in accord with areawide planning and programing meeting the requirements of subsection (b) of this section. In making this determination the Secretary shall give special consideration to whether the applicant is effectively assisting in, and conforming to, areawide planning and programing through (A) the location and scheduling of public facility projects, whether or not federally assisted; and (B) where appropriate, the establishment and consistent administration of zoning codes, subdivision regulations, and similar land-use and density controls.

(2) Where the applicant for a grant under this section is not a unit of general local government, both it and the unit of general local government having jurisdiction over the location of the project must meet the requirements of this subsection.

(d) Secretary's consideration of comments of State bodies

In making the determinations required under this section, the Secretary shall obtain, and give full consideration to, the comments of the body or bodies (State or local) responsible for comprehensive planning and programing for the area.

(e) Restriction on grants to certain areawide development projects

No grant shall be made under this section with respect to an areawide development project for which a Federal grant has been made, or a contract of assistance has been entered into, under the legislation referred to in paragraph (2) of section 3338 of this title, prior to February 21, 1966, or more than one year prior to the date on which the Secretary has made the determinations required under this section with respect to the applicant and to the area in which the project is located: *Provided*, That in the case of a project for which a contract of assistance under the legislation referred to in paragraph (2) of section 3338 of this title has been entered into after June 30, 1967, no grant shall be made under this section unless an application for such grant has been made on or before the date of such contract.

(f) Racial balance or imbalance within school districts

Nothing in this section shall authorize the Secretary to require (or condition the availability or amount of financial assistance authorized to be provided under this subchapter upon) the adoption by any community of a program to achieve a racial balance or to eliminate racial imbalance within school districts.

(Pub. L. 89-754, title II, § 205, Nov. 3, 1966, 80 Stat. 1263; Pub. L. 90-448, title VI, § 602(d), Aug. 1, 1968, 82 Stat. 532.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-448, § 602(d)(1), substituted "areawide development" for "metropolitan development".

Subsec. (b). Pub. L. 90-448, § 602(d)(1) to (3), substituted "areawide development projects in areas" for "metropolitan development projects in metropolitan areas", "areawide comprehensive planning" for "metropolitanwide comprehensive planning" in three instances, "public areawide" for "public metropolitanwide", and "adequate areawide" for "adequate metropolitanwide".

Subsec. (c). Pub. L. 90-448, § 602(d)(3) to (5), substituted "public areawide" for "public metropolitanwide", and "areawide planning" for "metropolitan planning" in two instances, and inserted words "where appropriate," following "(B)".

Subsec. (d). Pub. L. 90-448, § 602(d)(2), substituted "programing for the area" for "programing for the metropolitan area".

Subsec. (e). Pub. L. 90-448, § 602(d)(1), substituted "areawide development project" for "metropolitan development project".

Subsec. (f). Pub. L. 90-448, § 602(d)(6), eliminated words "within the metropolitanwide area" which followed "school districts".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3336, 3337, 3339 of this title.

§ 3336. Amount of grant

(a) Limitation; Federal and non-Federal contributions; projects or activities eligible for assistance

A grant under section 3335 of this title shall not exceed (1) 20 per centum of the cost of the project for which the grant is made; nor (2) the Federal grant made with respect to the project under the legislation referred to in paragraph (2) of section 3338 of this title. In no case shall the total Federal contributions to the cost of such project be more than 80 per centum. Notwithstanding any other provision of law, including requirements with respect to non-Federal contributions, grants under section 3335 of this title shall be eligible for inclusion (directly or through refunds or credits) as part of the financing for such projects: *Provided*, That projects or activities on the basis of which assistance is provided under section 3305(c) of this title shall not be eligible for assistance under section 3335 of this title.

(b) Authorization of appropriations; availability of funds for expenditures

There are authorized to be appropriated for grants under section 3335 of this title not to exceed $25,000,000 for the fiscal year ending June 30, 1967, and not to exceed $50,000,000 for the fiscal year ending June 30, 1968. Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1970.

(Pub. L. 89-754, title II, § 206, Nov. 3, 1966, 80 Stat. 1264; Pub. L. 90-448, title VI, § 602(f), Aug. 1, 1968, 82 Stat. 532.)

AMENDMENTS

1968—Subsec. (b). Pub. L. 90-448 permitted any amounts authorized for any fiscal year but not appropriated to be appropriated for any succeeding fiscal year commencing prior to July 1, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3337, 3339 of this title.

§ 3337. Consultations and certifications

In carrying out his authority under section 3335 of this title, including the issuance of regulations, the Secretary shall consult with the Department of the Interior; the Department of Health, Education, and Welfare; the Department of Commerce; and the Federal Aviation Agency with respect to metropolitan development projects assisted by those departments and agencies; and he shall, for the purpose of section 3336 of this title, accept their respective certifications as to the cost of those projects and the amount of the non-Federal contribution paid or to be paid to that cost.

(Pub. L. 89-754, title II, § 207, Nov. 3, 1966, 80 Stat. 1264.)

TRANSFER OF FUNCTIONS

The Federal Aviation Agency was replaced by the Federal Aviation Administration pursuant to Pub. L. 89-670, §§ 3(e), 6(c)(1), Oct. 15, 1966, 80 Stat. 931, which transferred all functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof to the Secretary of Transportation and established a Federal Aviation Administration in the Department of Transportation. See sections 1652, 1655, and 1657 of Title 49, Transportation.

§ 3338. Definitions

As used in this subchapter—

(1) "Areawide development" means all projects or programs for the acquisition, use, and development of open-space land; and the planning and construction of hospitals, libraries, airports, water supply and distribution facilities, sewerage facilities and waste treatment works, transportation facilities, highways, water development and land conservation, and other public works facilities.

(2) "Areawide development project" means a project assisted or to be assisted under section 702 of the Housing and Urban Development Act of 1965 [42 U.S.C. 3102]; title II of the Library Services and Construction Act [20 U.S.C. 355a et seq.]; section 606 of the Public Health Service Act [42 U.S.C. 291f]; section 8 of the Federal Water Pollution Control Act [33 U.S.C. 1158]; section 120(a) of Title 23; section 12 of the Federal Airport Act [49 U.S.C. 1111]; section 19 of the Airport and Airway Development Act of 1970 [49 U.S.C. 1719]; section 3 of the Urban Mass Transportation Act of 1964 [49 U.S.C. 1602]; title VII of the Housing Act of 1961 [42 U.S.C. 1500 et seq.]; or section 5(e) of the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*-8(e)]; or under section 101(a)(1) of the Public Works and Economic Development Act of 1965 [42 U.S.C. 3131(a)(1)] (for a project of a type which the Secretary determines to be eligible for assistance under any of the other provisions listed above).

(3) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or an agency or instrumentality of any of the foregoing.

(4) "Metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget, subject however to such modifications and extensions as the Secretary may determine to be appropriate for the purposes of this subchapter.

(5) "Comprehensive planning" includes the following, to the extent directly related to area needs or needs of a unit of general local government: (A) preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, including transportation facilities; (B) programing of capital improvements based on a determination of relative urgency; (C) long-range fiscal plans for implementing such plans and programs; and

(D) proposed regulatory and administrative measures which aid in achieving coordination of all related plans of the departments or subdivisions of the governments concerned and intergovernmental coordination of related planned activities among the State and local governmental agencies concerned.

(6) "Hospital" means any public health center or general, tuberculosis, mental, chronic disease, or other type of hospital and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities normally operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care.

(7) "Areawide agency" means an official State, metropolitan, regional, or district agency empowered under State or local laws or under an interstate compact or agreement to perform comprehensive planning in an area, an organization of the type referred to in section 461(g) of title 40; or such other agency or instrumentality as may be designated by the Governor (or, in the case of areas crossing State lines, any one or more of such agencies or instrumentalities as may be designated by the Governors of the States involved) to perform such planning.

(8) "Special purpose unit of local government" means any special district, public-purpose corporation, or other limited-purpose political subdivision of a State, but shall not include a school district.

(9) "Unit of general local government" means any city, county, town, parish, village, or other general-purpose political subdivision of a State.

(10) "Secretary" means the Secretary of Housing and Urban Development.

(Pub. L. 89-754, title II, § 208, Nov. 3, 1966, 80 Stat. 1265; Pub. L. 90-448, title VI, § 602(e), Aug. 1, 1968, 82 Stat. 532; Pub. L. 91-258, title I, § 52(b)(3), May 21, 1970, 84 Stat. 235; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

REFERENCES IN TEXT

The Library Services and Construction Act, referred to in par. (2), is act June 19, 1956, ch. 407, 70 Stat. 293, as amended. Title II of the Library Services and Construction Act was added by act Feb. 11, 1964, Pub. L. 88-269, § 7(a), 78 Stat. 13, and is classified generally to subchapter II (§ 355a et seq.) of chapter 16 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 351 of Title 20 and Tables volume.

Section 8 of the Federal Water Pollution Control Act, referred to in par. (2), which related to grants for construction of sewerage treatment works, was formerly classified to section 1158 of Title 33, Navigation and Navigable Waters, prior to the reorganization of that Act by Pub. L. 92-500, Oct. 18, 1972, 86 Stat. 816. See Codification note set out under section 1251 of Title 33. Provisions of the Act relating to grants for construction of treatment works appear in section 1281 et seq. of Title 33.

Section 12 of the Federal Airport Act [49 U.S.C. 1111], referred to in par. (2), was repealed by Pub. L. 91-258, title I, § 52(a), May 21, 1970, 84 Stat. 235.

The Housing Act of 1961, referred to in par. (2), is Pub. L. 87-70, June 30, 1961, 75 Stat. 149, as amended. Title VII of the Housing Act of 1961 is classified generally to chapter 8C (§ 1500 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

Section 461(g) of title 40, referred to in par. (7), related to grants to organizations composed of public officials representative of the political jurisdiction within the metropolitan area or district, and was amended by Pub. L. 93-383, title IV, § 401(b), Aug. 22, 1974, 88 Stat. 687. The provisions of subsec. (g) as so amended are now found in section 461(h) of Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1970—Subd. (2). Pub. L. 91-258 inserted "section 19 of the Airport and Airway Development Act of 1970;" after "section 12 of the Federal Airport Act;".

1968—Par. (1). Pub. L. 90-448, § 602(e)(1), substituted "Areawide development" for "Metropolitan development."

Par. (2). Pub. L. 90-448, § 602(e)(1), substituted "Areawide development project" for "Metropolitan development project".

Par. (7). Pub. L. 90-448, § 602(e)(2), substituted "official State, metropolitan, regional, or district agency" for "official State or metropolitan or regional agency", and "in the case of areas" for "in the case of metropolitan areas".

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970 redesignated the Bureau of the Budget as the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3335, 3336 of this title.

§ 3339. Limitation on amount of grant

Grants made under section 3335 of this title for projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated pursuant to section 3336(b) of this title.

(Pub. L. 89-754, title II, § 209, Nov. 3, 1966, 80 Stat. 1266.)

SUBCHAPTER III—URBAN INFORMATION AND TECHNICAL ASSISTANCE SERVICES

§ 3351. Declaration of purpose

It is the purpose of this subchapter to assist States to make available information and data on urban needs and assistance programs and activities, and to provide technical assistance, to small communities with respect to the solution of urban problems.

(Pub. L. 89-754, title IX, § 901, Nov. 3, 1966, 80 Stat. 1282.)

§ 3352. Grant authority; scope of assistance; terms and conditions of programs

(a) The Secretary is authorized to make grants to States to help finance programs to provide information and data on urban needs and assistance programs and activities, and to provide technical assistance, to small communities with respect to the solution of local problems. Activities aided by such grants may include—

(1) the assembly, correlation, and dissemination or urban physical, social, and economic

development information and data for the purpose of informing local governments of small communities, and interested organizations and individuals, of the availability and status of Federal, State, and local programs and other resources and data for the solution of urban problems; and

(2) providing technical assistance with respect to the solution of urban problems to any small community requesting such assistance.

(b) A program assisted under this section shall—

(1) specify the information and technical assistance activities to be carried on and justify the needs for the costs of such activities; and

(2) represent substantially increased or improved activities on the part of the applicant State agency.

(Pub. L. 89-754, title IX, § 902, Nov. 3, 1966, 80 Stat. 1283.)

§ 3353. Amount of grant; restrictions

(a) A grant under this section shall not exceed 50 per centum of the cost of the activities carried on under an approved urban information and technical assistance program.

(b) No grant shall be made under this subchapter to assist in assembling data, or providing information, to be used primarily in the day to day operations of State or local governing bodies and agencies.

(Pub. L. 89-754, title IX, § 903, Nov. 3, 1966, 80 Stat. 1283.)

§ 3354. Cooperation and coordination

(a) Federal departments and agencies shall cooperate with States in providing information to assist in carrying out the purpose of this subchapter.

(b) In the administration of this subchapter, the Secretary shall seek to ensure the greatest practicable coordination of urban information and technical assistance programs established under this subchapter.

(Pub. L. 89-754, title IX, § 904, Nov. 3, 1966, 80 Stat. 1283.)

§ 3355. Definitions

As used in this subchapter—

(1) "State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or an agency or instrumentality designated by the chief executive of any of the foregoing, or a statewide agency or instrumentality of its political subdivisions designated by such chief executive.

(2) "Secretary" means the Secretary of Housing and Urban Development.

(3) "Small communities" means communities having populations of less than one hundred thousand according to the most recent decennial census.

(Pub. L. 89-754, title IX, § 905, Nov. 3, 1966, 80 Stat. 1283.)

§ 3356. Authorization of appropriations; availability of funds for expenditures

There are authorized to be appropriated for the purpose of carrying out the provisions of this subchapter not to exceed $2,500,000 for the fiscal year ending June 30, 1967, not to exceed $5,000,000 for each of the fiscal years 1968 and 1969, and not to exceed $15,000,000 for fiscal year 1970. Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1972.

(Pub. L. 89-754, title IX, § 906, Nov. 3, 1966, 80 Stat. 1284; Pub. L. 90-448, title XVII, § 1703, Aug. 1, 1968, 82 Stat. 603; Pub. L. 91-152, title III, § 308, Dec. 24, 1969, 83 Stat. 394; Pub. L. 91-609, title III, § 305, Dec. 31, 1970, 84 Stat. 1781.)

AMENDMENTS

1970—Pub. L. 91-609 substituted "July 1, 1972" for "July 1, 1971".

1969—Pub. L. 91-152 substituted "July 1, 1971" for "July 1, 1970".

1968—Pub. L. 90-448 authorized appropriations of not more than $5,000,000 for fiscal year 1969, and not more than $15,000,000 for fiscal year 1970, and permitted amounts authorized for any fiscal year but not appropriated to be appropriated for any succeeding fiscal year commencing prior to July 1, 1970.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

§ 3371. Assistance for housing in Alaska

(a) Loans and grants; State program; approval by Secretary; terms and conditions; standards for housing; mutual and self-help in construction; encouragement of self-government and home ownership

The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make loans and grants to the State of Alaska, or any duly authorized agency or instrumentality thereof, in accordance with a statewide program prepared by such State, agency, or instrumentality, and approved by the Secretary, to assist in the provision of housing and related facilities for Alaska natives and other Alaska residents who are otherwise unable to finance such housing and related facilities upon terms and conditions which they can afford. The program shall (1) specify the minimum and maximum standards for such housing and related facilities (not to exceed an average of $10,875 per dwelling unit); (2) to the extent feasible, encourage the proposed users of such housing and related facilities to utilize mutual and self-help in the construction thereof; and (3) provide experience, and encourage continued participation, in self-government and individual home ownership.

(b) Amount of grants

Grants under this section shall not exceed 75 per centum of the aggregate cost of the housing and related facilities to be constructed under an approved program.

(c) Authorization of appropriations

There is authorized to be appropriated not to exceed $10,000,000 to carry out the purposes of this section.

(Pub. L. 89-754, title X, § 1004, Nov. 3, 1966, 80 Stat. 1284; Pub. L. 91-152, title II, § 220, Dec. 24, 1969, 83 Stat. 390.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91-152 substituted "$10,875" for "$7,500".

§§ 3372, 3373. Repealed. Pub. L. 91-609, title V, § 503(6), Dec. 31, 1970, 84 Stat. 1786

Section 3372, Pub. L. 89-754, title X, § 1010, Nov. 3, 1966, 80 Stat. 1286; Pub. L. 90-448, title XVII, § 1704, Aug. 1, 1968, 82 Stat. 603; Pub. L. 91-152, title IV, §§ 402, 417, Dec. 24, 1969, 83 Stat. 395, 401, related to application of advances in technology to housing and urban development and provided for: statement of purpose and duties of Secretary; objectives of research and studies; execution of research and studies directly or by contract, acquisition of property, and limitation on contracts; authorization of appropriations and availability of funds for expenditures; and limitation of authority under other provisions of law. See sections 1701z-1 to 1701z-4 of Title 12, Banks and Banking.

Section 3373, Pub. L. 89-754, title X, § 1011, Nov. 3, 1966, 80 Stat. 1287, related to environmental studies and provided for: Congressional findings and comprehensive program of research, studies, surveys, and analyses; powers and duties of Secretary; advisory committees, functions, personnel, compensation, travel, and other necessary expenses; execution of studies, surveys, research, and analyses directly or by contract, and limitation on contracts; and authorization of appropriations and availability of funds for expenditures. See sections 1701z-1 to 1701z-4 of Title 12, Banks and Banking.

§ 3374. Acquisition of property at or near military bases which have been ordered to be closed

(a) Authorization; conditions precedent

Notwithstanding any other provision of law, the Secretary of Defense is authorized to acquire title to, hold, manage, and dispose of, or, in lieu thereof, to reimburse for certain losses upon private sale of, or foreclosure against, any property improved with a one- or two-family dwelling which is situated at or near a military base or installation which the Department of Defense has, subsequent to November 1, 1964, ordered to be closed in whole or in part, if he determines—

(1) that the owner of such property is, or has been, a Federal employee employed at or in connection with such base or installation (other than a temporary employee serving under a time limitation) or a serviceman assigned thereto;

(2) that the closing of such base or installation, in whole or in part, has required or will require the termination of such owner's employment or service at or in connection with such base or installation; and

(3) that as the result of the actual or pending closing of such base or installation in whole or in part, or if as the result of such action and other similar action in the same area, there is no present market for the sale of such property upon reasonable terms and conditions.

(b) Eligibility for benefits; criteria

In order to be eligible for the benefits of this section such employees or military personnel must be or have been—

(1) assigned to or employed at or in connection with the installation or activity at the time of public announcement of the closure action,

(2) transferred from such installation or activity, or terminated as employees as a result of reduction-in-force, within six months prior to public announcement of the closure action, or

(3) transferred from the installation or activity on an overseas tour unaccompanied by dependents within fifteen months prior to public announcement of the closure action:

Provided, That, at the time of public announcement of the closure action, or at the time of transfer or termination as set forth above, such personnel or employees must—

(i) have been the owner-occupant of the dwelling, or

(ii) have vacated the owned dwelling as a result of being ordered into on-post housing during a six-month period prior to the closure announcement:

Provided further, That as a consequence of such closure such employees or personnel must—

(i) be required to relocate because of military transfer or acceptance of employment beyond a normal commuting distance from the dwelling for which compensation is sought, or

(ii) be unemployed, not as a matter of personal choice, and able to demonstrate such financial hardship that they are unable to meet their mortgage payments and related expenses.

(c) Election of benefits; mortgage loan encumbrance; foreclosure expenses

Such persons as the Secretary of Defense may determine to be eligible under the criteria set forth above shall elect either (1) to receive a cash payment as compensation for losses which may be or have been sustained in a private sale, in an amount not to exceed the difference between (A) 95 per centum of the fair market value of their property (as such value is determined by the Secretary of Defense) prior to public announcement of intention to close all or part of the military base or installation and (B) the fair market value of such property (as such value is so determined) at the time of the sale, or (2) to receive, as purchase price for their property, an amount not to exceed 90 per centum of prior fair market value as such value is determined by the Secretary of Defense, or the amount of the outstanding mortgages. Cash payment as compensation for losses sustained in a private sale shall not be made in any case in which the property is encumbered by a mortgage loan guaranteed, insured, or held by a Federal agency unless such mortgage loan is paid, assumed by a purchaser satisfactory to such Federal agency, or otherwise fully satisfied at or prior to the time such cash payment is made. Except in cases of payment as compensation for losses, in the event of foreclosure by mortgagees commenced on or after public announcement of intention to close all or part of the military base or installation the Secretary of Defense may reimburse or pay on account of eligible persons such sums as may be paid or be

otherwise due and owing by such persons as the result of such foreclosure, including (without limiting the generality of the foregoing) direct costs of judicial foreclosure, expenses and liabilities enforceable according to the terms of their mortgages or promissory notes, and the amount of debts, if any, established against such persons by a Federal agency in the case of loans made, guaranteed, or insured by such agency following liquidation of the security for such loans.

(d) Fund for extension of financial assistance; capital and receipts; availability of monies; covering into Treasury as miscellaneous receipts; Federal title to and control of property; other laws unaffected; foreign properties, exclusion

There shall be in the Treasury a fund which shall be available to the Secretary of Defense for the purpose of extending the financial assistance provided above. The capital of such fund shall consist of such sums as may, from time to time, be appropriated thereto, and shall consist also of receipts from the management, rental, or sale of properties acquired under this section, which receipts shall be credited to the fund and shall be available, together with funds appropriated therefor, for purchase or reimbursement purposes as provided above, as well as to defray expenses arising in connection with the acquisition, management, and disposal of such properties, including payment of principal, interest, and expenses of mortgages or other indebtedness thereon, and including the cost of staff services and contract services, costs of insurance, and other indemnity. Any part of such receipts not required for such expenses shall be covered into the Treasury as miscellaneous receipts. Properties acquired under this section shall be conveyed to, and acquired in the name of, the United States. The Secretary of Defense shall have the power to deal with, rent, renovate, and dispose of, whether by sales for cash or credit or otherwise, any properties so acquired: *Provided, however,* That no contract for acquisition, or acquisition, shall be deemed to constitute a contract for or acquisition of family housing units in support of military installations or activities within the meaning of section 1594i of this title, nor shall it be deemed a transaction within the contemplation of section 2662 of title 10: *Provided further,* That no properties in foreign countries shall be acquired under this section, except in connection with compensation for property located on a base or installation pursuant to subsection (j) of this section.

(e) Fund as source of payments to States in lieu of taxes; limitation on amount; allowance for public service expenditures

Payments from the fund created by this section may be made in lieu of taxes to any State or political subdivision thereof, with respect to real property, including improvements thereon, acquired and held under this section. The amount so paid for any year upon such property shall not exceed the taxes which would be paid to the State or subdivision, as the case may be, upon such property if it were not exempt from taxation, and shall reflect such allowance as may be considered appropriate for expenditures, if any, by the Government for streets, utilities, or other public services to serve such property.

(f) Title requirements; terms and conditions of payment; finality of decisions

The title to any property acquired under this section, the eligibility for, and the amounts of, cash payable, and the administration of the preceding provisions of this section, shall conform to such requirements, and shall be administered under such conditions and regulations, as the Secretary of Defense may prescribe. Such regulations shall also prescribe the terms and conditions under which payments may be made and instruments accepted under this section, and all the determinations and decisions made pursuant to such regulations by the Secretary of Defense regarding such payments and conveyances and the terms and conditions under which they are approved or disapproved, shall be final and conclusive and shall not be subject to judicial review.

(g) Agreements between executive departments; delegation of functions; finality of determinations; availability of Fund

The Secretary of Defense is authorized to enter into such agreement with the Secretary of Housing and Urban Development as may be appropriate for the purposes of economy and efficiency of administration of this section. Such agreement may provide authority to the Secretary of Housing and Urban Development and his designee to make any or all of the determinations and take any or all of the actions which the Secretary of Defense is authorized to undertake pursuant to the preceding provisions of this section. Any such determinations shall be entitled to finality to the same extent as if made by the Secretary of Defense, and, in event the Secretaries of Defense and Housing and Urban Development so elect, the fund established pursuant to subsection (d) of this section shall be available to the Secretary of Housing and Urban Development to carry out the purposes thereof.

(h) Specific authorization for funds; expenditure of monies in Fund

No funds may be appropriated for the acquisition of any property under authority of this section unless such funds have been specifically authorized for such purpose in a military construction authorization act, and no moneys in the fund created pursuant to subsection (d) of this section may be expended for any purpose except as may be provided in appropriation Acts.

(i) Reduction of operations at military base or installation

The authority provided by this section to the Secretary of Defense shall also be available when the Department of Defense has ordered a reduction in the scope of operations at a military base or installation. All references in subsections (a), (b), and (c) of this section to "closures" or "closings" or words of similar effect shall be deemed to include the reduction in scope of operations at a base or installation.

(j) Foreign property losses

Notwithstanding the provisions of subsection (a)(2) and the second proviso of subsection (b) of this section, Federal employees or military

personnel employed at or near a military base or installation outside the United States who are otherwise eligible under the criteria as set forth above shall be entitled to compensation for losses arising (1) out of the sale of property, or (2) out of the inability to sell property located on a base or installation, incident to the owner's transfer, reassignment, or involuntary termination of employment, which results in his relocation. Such employees or military personnel whose property is located off a base or installation shall be entitled to compensation under subsection (c) of this section for losses sustained in private sales. Such employees or personnel whose property is located on a base or installation, who sell or are unable to find a purchaser for such property, may surrender their interest in such property to the United States, and shall be entitled to compensation, notwithstanding lack of ownership of the land on which such property is located, in an amount equal to (A) 90 per centum of the sum of the present owner's purchase price of the dwelling and improvements, and all costs of ownership including interest on notes, utilities and services, maintenance and insurance, less (B) the total of all housing allowances received from the Government during ownership and occupancy of the dwelling, all rents collected, and the sale price, if any, received for the property, as determined by the Secretary of Defense: *Provided, however,* That the maximum compensation shall in no event exceed 90 per centum of the unamortized portion of the cost of the property, including improvements, at the time ownership is terminated, as reflected in the amortization schedule, if any, relating to such property. For the purpose of this subsection, the term "United States" means the several States and the District of Columbia.

(k) Eligibility for benefits as to closure actions announced after April 1, 1973; criteria

In addition to the coverage provided above, the benefits of this section shall apply, as to closure actions in the several States and the District of Columbia announced after April 1, 1973, to otherwise eligible employees or personnel who are (1) employed or assigned either at or near the base or installation affected by the closure action, and (2) are required to relocate, due to transfer, reassignment or involuntary termination of employment, for reasons other than the closure action.

(Pub. L. 89-754, title X, § 1013(a)-(g), (i), Nov. 3, 1966, 80 Stat. 1290-1292; Pub. L. 91-142, title VI, § 602, Dec. 5, 1969, 83 Stat. 313; Pub. L. 91-511, title VI, § 612, Oct. 26, 1970, 84 Stat. 1225; Pub. L. 92-545, title VI, § 601, Oct. 25, 1972, 86 Stat. 1150; Pub. L. 93-166, title V, § 513(b), Nov. 29, 1973, 87 Stat. 679.)

CODIFICATION

Section is comprised of subsecs. (a) to (g), (i), and (k) to (m) of section 1013 of Pub. L. 89-754, as amended, such subsecs. (i) and (k) to (m) being classified to subsecs. (h) to (k) of this section. Subsecs. (h) and (j) of such section 1013 amended section 1715n(a)(8) and repealed section 1735h of Title 12, Banks and Banking, such repealed section now being covered by this section.

AMENDMENTS

1973—Subsec. (k). Pub. L. 93-166 added subsec. (k). Letter designation of the added subsection was, in the original "(m)", which for purposes of classification was changed to "(k)".

1972—Subsec. (d). Pub. L. 92-545 added ", except in connection with compensation for property located on a base or installation pursuant to subsection (j) of this section" to the provision prohibiting the acquisition of properties in foreign countries under this section.

Subsec. (j). Pub. L. 92-545 added subsec. (j). Letter designation of the added subsection was, in the original "(*l*)", which for purposes of classification was changed to "(j)".

1970—Subsec. (a)(3). Pub. L. 91-511 inserted "or if as the result of such action and other similar action in the same area," after "part,".

Subsec. (i). Pub. L. 91-511 added subsec. (i). Letter designation of the added subsection was, in the original "(k)", which, for purposes of classification, was changed to "(i)".

1969—Subsec. (c). Pub. L. 91-142, § 602(a), deleted "and prior to the one hundred and twentieth day after November 3, 1966," following "installation" in the third sentence.

Subsec. (d). Pub. L. 91-142, § 602(b), excluded the acquisition of foreign properties under this section.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 612 of Pub. L. 91-511 provided in part that the amendment by Pub. L. 91-511 is effective Oct. 28, 1969.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1715n.

CHAPTER 42—NARCOTIC ADDICT REHABILITATION

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
3401. Declaration of policy.
3402. State facilities and personnel for care and treatment; encouragement of adequate provisions; benefit of experience of Surgeon General and Attorney General.

SUBCHAPTER II—CIVIL COMMITMENT OF PERSONS NOT CHARGED WITH ANY CRIMINAL OFFENSE

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(b) Petition for confinement; consultations respecting availability of facilities.
(c) Order for medical examination and hearing; personal service.
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Sec.
3416. Period of commitment to care and custody of Surgeon General; patient subject to posthospitalization program; release from confinement.
3417. Release from confinement.
(a) Notice and return to committing court; placing patient under care and custody of Surgeon General for posthospitalization treatment; recommendations of Surgeon General.
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3418. Petition for inquiry into health and general condition and necessity for continuation of confinement; order for release from confinement and return to court; placing patient under posthospitalization treatment.
3419. Criminal conviction or criminal appellation from determination of being narcotic addict; criminal proceedings prohibited from using information gained in addiction inquiry.
3420. Evidence; examining physician a competent and compellable witness; physician-patient privilege.
3421. Subchapter inapplicable to persons with criminal charge pending, on probation, or with sentence unserved; consent to commitment of such persons by authority with power over their custody.
3422. Commitment to hospital of the Service dependent upon certification of availability of facilities or personnel for treatment.
3423. Compensation of physicians and counsel; source of funds.
3424. Authority of Surgeon General.
(a) Delegation of functions.
(b) Arrangements making available, on a reimbursable basis or otherwise, facilities or services of agencies or persons for examination or treatment.
3425. Penalties; escape or rescue from custody.
3426. False statements.

SUBCHAPTER III—REHABILITATION AND POSTHOSPITALIZATION CARE PROGRAMS AND ASSISTANCE TO STATES AND LOCALITIES

3441. Outpatient services; establishment.
3442. Repealed.

SUBCHAPTER I—GENERAL PROVISIONS

§ 3401. Declaration of policy

It is the policy of the Congress that certain persons charged with or convicted of violating Federal criminal laws, who are determined to be addicted to narcotic drugs, and likely to be rehabilitated through treatment, should, in lieu of prosecution or sentencing, be civilly committed for confinement and treatment designed to effect their restoration to health, and return to society as useful members.

It is the further policy of the Congress that certain persons addicted to narcotic drugs who are not charged with the commission of any offense should be afforded the opportunity, through civil commitment, for treatment, in order that they may be rehabilitated and returned to society as useful members and in order that society may be protected more effectively from crime and delinquency which result from narcotic addiction.

(Pub. L. 89-793, § 2, Nov. 8, 1966, 80 Stat. 1438.)

Codification

Section was not enacted as a part of the Narcotic Addict Rehabilitation Act of 1966, which is classified to subchapters II and III of this chapter, chapter 314 (section 4251 et seq.) of Title 18, Crimes and Criminal Procedure, and chapter 175 (section 2901 et seq.) of Title 28, Judiciary and Judicial Procedure.

Effective Date

Section 605 of Pub. L. 89-793 provided that: "Title I of this act [classified to chapter 175 (section 2901 et seq.) of Title 28, Judiciary and Judicial Procedure] shall take effect three months after the date of its enactment [Nov. 8, 1966], and shall apply to any case pending in a district court of the United States in which an appearance has not been made prior to such effective date. Titles II [classified to chapter 314 (section 4251 et seq.) of Title 18, Crimes and Criminal Procedure] and V of this Act [amending section 7237(d) of Title 26, Internal Revenue Code] and enacting provisions set out as note under section 4202 of Title 18] shall take effect three months after the date of its enactment [Nov. 8, 1966] and shall apply to any case pending in any court of the United States in which sentence has not yet been imposed as of such effective date. Title III of this Act [classified to section 3411 et seq. of this title] shall take effect three months after the date of its enactment [Nov. 8, 1966]."

Short Title of 1971 Amendment

Pub. L. 92-420, § 1, Sept. 16, 1972, 86 Stat. 677, provided: "That this Act [amending section 3411 of this title, section 4251 of Title 18, Crimes and Criminal Procedure, and section 2901 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as a note under section 2901 of Title 28] may be cited as the 'Narcotic Addict Rehabilitation Amendments of 1971'."

Short Title

Section 1 of Pub. L. 89-793 provided: "That titles I, II, III, and IV of this Act [enacting subchapters II and III of this chapter, chapter 314 (section 4251 et seq.) of Title 18, Crimes and Criminal Procedure, and chapter 175 (section 2901 et seq.) of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Narcotic Addict Rehabilitation Act of 1966'."

Separability of Provisions

Section 604 of Pub. L. 89-793 provided that: "If any provision of this Act [which enacted this chapter, chapter 314 (section 4251 et seq.) of Title 18, Crimes and Criminal Procedure, and chapter 175 (section 2901 et seq.) of Title 28, Judiciary and Judicial Procedure, amended section 257 of this title and section 7237(d) of Title 26, and enacted provisions set out as notes under this section and section 4202 of Title 18] or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby."

Authorization of Appropriations

Section 607 of Pub. L. 89-793 provided that: "There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act [which enacted this chapter, chapter 314 (section 4251 et seq.) of Title 18, Crimes and Criminal Procedure, and chapter 175 (section 2901 et seq.) of Title 28, Judiciary and Judicial Procedure, amended section 257 of this title and section 7237(d) of Title 26, Internal Revenue Code, and enacted provisions set out as notes under this section and section 4202 of Title 18]."

Reorganization Plan No. 3 of 1966

Section 606 of Pub. L. 89-793 provided that: "The provisions of this Act [which enacted this chapter, chapter 314 (section 4251 et seq.) of Title 18, Crimes

and Criminal Procedure, and chapter 175 (section 2901 et seq.) of Title 28, Judiciary and Judicial Procedure, amended section 257 of this title and section 7237(d) of Title 26, Internal Revenue Code, and enacted provisions set out as notes under this section and section 4202 of title 18] shall be subject to the provisions of Reorganization Plan No. 3 of 1966."

§ 3402. State facilities and personnel for care and treatment; encouragement of adequate provision; benefit of experience of Surgeon General and Attorney General

The Surgeon General and the Attorney General are authorized to give representatives of States and local subdivisions thereof the benefit of their experience in the care, treatment, and rehabilitation of narcotic addicts so that each State may be encouraged to provide adequate facilities and personnel for the care and treatment of narcotic addicts in its jurisdiction.

(Pub. L. 89-793, title VI, § 602, Nov. 8, 1966, 80 Stat. 1450.)

CODIFICATION

Section was not enacted as a part of the Narcotic Addict Rehabilitation Act of 1966, which is classified to subchapters II and III of this chapter, chapter 314 (section 4251 et seq.) of Title 18, Crimes and Criminal Procedure, and chapter 175 (section 2901 et seq.) of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1956, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER II—CIVIL COMMITMENT OF PERSONS NOT CHARGED WITH ANY CRIMINAL OFFENSE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 257 of this title.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 2-2222, 24-613 of the District of Columbia Code.

§ 3411. Definitions

For the purposes of this subchapter the term—

(a) "Narcotic addict" means any individual who habitually uses any narcotic drug as defined in section 802(16) of title 21, so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

(b) "Treatment" includes confinement and treatment in a hospital of the Service and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence, and his susceptibility to addiction.

(c) "Surgeon General" means the Surgeon General of the Public Health Service.

(d) "Hospital of the Service" means any hospital or other facility of the Public Health Service especially equipped for the accommodation of addicts, and any other appropriate public or private hospital or other facility available to the Surgeon General for the care and treatment of addicts.

(e) "Patient" means any person with respect to whom a petition has been filed by a United States attorney as provided under subsection (b) of section 3412 of this title.

(f) "Posthospitalization program" shall mean any program providing for the treatment and supervision of a person established by the Surgeon General pursuant to section 3417 of this title.

(g) "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(h) "United States" includes the Commonwealth of Puerto Rico.

(i) "Related individual" means any person with whom the alleged narcotic addict may reside or at whose house he may be, or the husband or wife, father or mother, brother or sister, or the child or the nearest available relative of the alleged narcotic addict.

(Pub. L. 89-793, title III, § 301, Nov. 8, 1966, 80 Stat. 1444; Pub. L. 91-513, title III, § 1102(p), Oct. 27, 1970, 84 Stat. 1293; Pub. L. 92-420, § 4, Sept. 16, 1972, 86 Stat. 677.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-420 substituted "by eliminating his dependence on addicting drugs, or by controlling his dependence," for "by correcting his antisocial tendencies and ending his dependence on addicting drugs".

1970—Pub. L. 91-513 substituted "as defined in section 802(16) of Title 21" for "as defined by section 4731 of Title 26" in the definition of narcotic addict.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (b) by Pub. L. 92-420 applicable to cases pending in a district court of the United States in which an appearance has not been made prior to Sept. 16, 1972, see section 5 of Pub. L. 92-420, set out as an Effective Date of 1972 Amendment note under section 2901 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-513 effective on the first day of the seventh calendar month that begins after Oct. 26, 1970, see section 1105(a) of Pub. L. 91-513, set out as an Effective Date note under section 951 of Title 21, Food and Drugs.

EFFECTIVE DATE

Subchapter effective three months after Nov. 8, 1966, see section 605 of Pub. L. 89-793, set out as an Effective Date note under section 3401 of this title.

SAVINGS PROVISIONS

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of amendment of this section by section 1102 of Pub. L. 91-513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91-513, set out as a Savings Provision note under section 171 of Title 21, Food and Drugs.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3412. Preliminary proceedings

(a) Petition for treatment

Except as otherwise provided in section 3421 of this title, whenever any narcotic addict desires to obtain treatment for his addiction, or whenever a related individual has reason to believe that any person is a narcotic addict, such addict or related individual may file a petition with the United States attorney for the district in which such addict or person resides or is found requesting that such addict or person be admitted to a hospital of the Service for treatment of his addiction. Any such petition filed by a narcotic addict shall set forth his name and address and the facts relating to his addiction. Any such petition filed by a related individual with respect to a person believed by such individual to be a narcotic addict shall set forth the name and address of the alleged narcotic addict and the facts or other data on which the petitioner bases his belief that the person with respect to whom the petition is filed is a narcotic addict.

(b) Petition for confinement; consultations respecting availability of facilities

After considering such petition, the United States attorney shall, if he determines that there is reasonable cause to believe that the person named in such petition is a narcotic addict, and that appropriate State or other facilities are not available to such person, file a petition with the United States district court to commit such person to a hospital of the Service for treatment as provided in this subchapter. In making his determination with respect to the nonavailability of such facilities, the United States attorney shall consult with the Surgeon General, and other appropriate State or local officials.

(c) Order for medical examination and hearing; personal service

Upon the filing of any such petition by a United States attorney, the court may order the patient to appear before it for an examination by physicians as provided under section 3413 of this title and for a hearing, if required, under section 3414 of this title. The court shall cause a copy of such petition and order to be served personally upon the patient by a United States marshal.

(Pub. L. 89-793, title III, § 302, Nov. 8, 1966, 80 Stat. 1444.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3411, 3413, 3426 of this title.

§ 3413. Judicial proceedings; advisement of patient; counsel, retained physician's authority, treatment program of commitment, withdrawal, duration, confinement, postconfinement, and recommitment; examination of patient: appointment of physicians, order of commitment, conduct and report of examination, and copies to patient and counsel; return of patient for further proceedings

The court shall immediately advise any patient appearing before it pursuant to an order issued under subsection (c) of section 3412 of his right to have (1) counsel at every stage of the judicial proceedings under this subchapter and that, if he is unable because of financial reasons to obtain counsel, the court will, at the patient's request, assign counsel to represent him; and (2) present for consultation during any examination conducted under this section, a qualified physician retained by such patient, but in no event shall such physician be entitled to participate in any such examination or in the making of any report required under this section with respect to such examination. The court shall also advise such patient that if, after an examination and hearing as provided in this subchapter, he is found to be a narcotic addict who is likely to be rehabilitated through treatment, he will be civilly committed to the Surgeon General for treatment; that he may not voluntarily withdraw from such treatment; that the treatment (including posthospitalization treatment and supervision) may last forty-two months; that during treatment he will be confined in an institution; that for a period of three years following his release from confinement he will be under the care and custody of the Surgeon General for treatment and supervision under a posthospitalization program established by the Surgeon General; and that should he fail or refuse to cooperate in such posthospitalization program or be determined by the Surgeon General to have relapsed to the use of narcotic drugs, he may be recommitted for additional confinement in an institution followed by additional posthospitalization treatment and supervision. After so advising the patient, the court shall appoint two qualified physicians, one of whom shall be a psychiatrist, to examine the patient. For the purpose of the examination, the court may order the patient committed for such reasonable period as it shall determine, not to exceed thirty days, to the custody of the Surgeon General for confinement in a suitable hospital or other facility designated by the court. Each physician appointed by the court shall, within such period so determined by the court, examine the patient and file with the court, a written report with respect to such examination. Each such report shall include a statement of the examining physician's conclusions as to whether the patient examined is a narcotic addict and is likely to be rehabilitated through treatment. Upon the filing of such reports, the patient so examined shall be returned to the court for such further proceedings as it may direct under

this subchapter. Copies of such reports shall be made available to the patient and his counsel.

(Pub. L. 89-793, title III, § 303, Nov. 8, 1966, 80 Stat. 1445.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3412, 3414 of this title.

§ 3414. Hearings

(a) Discharge of patient and dismissal of proceedings; notice of time and place; service; issues of fact: demand for jury or judicial determination

If both examining physicians (referred to in section 3413 of this title) conclude in their respective written reports that the patient is not a narcotic addict, or is an addict not likely to be rehabilitated through treatment, the court shall immediately enter an order discharging the patient and dismissing the proceedings under this subchapter. If the written report of either such physician indicates that the patient is a narcotic addict who is likely to be rehabilitated through treatment, or that the physician submitting the report is unable to reach any conclusion by reason of the refusal of the patient to submit to a thorough examination, the court shall promptly set the case for hearing. The court shall cause a written notice of the time and place of such hearing to be served personally upon the patient and his attorney. Such notice shall also inform the patient that upon demand made by him within fifteen days after he has been served, he shall be entitled to have all issues of fact with respect to his alleged narcotic addiction determined by a jury. If no timely demand for a jury is made, the court, in conducting such hearing, shall determine all issues of fact without a jury.

(b) Evidence; patient's testimony; examinations and cross-examinations; judicial review of orders of commitment

In conducting any hearing under this subchapter, the court shall receive and consider all relevant evidence and testimony which may be offered, including the contents of the reports referred to in section 3413 of this title. Any patient with respect to whom a hearing is held under this subchapter shall be entitled to testify and to present and cross-examine witnesses. All final orders of commitment under this subchapter shall be subject to review in conformity with the provisions of sections 1254 and 1291 of title 28.

(c) Detention of patient

Any patient with respect to whom a hearing has been set under this subchapter may be detained by the court for a reasonable period of time in a suitable hospital or other facility designated by the court until after such hearing has been concluded.

(d) Witness fees and mileage

Witnesses subpenaed by either party under the provisions of this subchapter shall be paid the same fees and mileage as are paid to other witnesses in the courts of the United States.

(Pub. L. 89-793, title III, § 304, Nov. 8, 1966, 80 Stat. 1446.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3412 of this title.

§ 3415. Order of commitment for treatment to care and custody of Surgeon General; reports of Surgeon General

If the court determines after a hearing that such patient is a narcotic addict who is likely to be rehabilitated through treatment, the court shall order him committed to the care and custody of the Surgeon General for treatment in a hospital of the Service. The Surgeon General shall submit to the court written reports with respect to such patient at such times as the court may direct. Such reports shall include information as to the health and general condition of the patient, together with the recommendations of the Surgeon General concerning the continued confinement of such patient.

(Pub. L. 89-793, title III, § 305, Nov. 8, 1966, 80 Stat. 1446.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3416 of this title.

§ 3416. Period of commitment to care and custody of Surgeon General; patient subject to posthospitalization program; release from confinement

Any patient committed to the care and custody of the Surgeon General pursuant to section 3415 of this title shall be committed for a period of six months, and shall be subject to such posthospitalization program as may be established pursuant to section 3417 of this title; except that such patient may be released from confinement by the Surgeon General at any time prior to the expiration of such six-month period if the Surgeon General determines that the patient has been cured of his drug addiction and rehabilitated, or that his continued confinement is no longer necessary or desirable.

(Pub. L. 89-793, title III, § 306, Nov. 8, 1966, 80 Stat. 1446.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat.

1610, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3417. Release from confinement

(a) Notice and return to committing court; placing patient under care and custody of Surgeon General for posthospitalization treatment; recommendations of Surgeon General

Whenever any patient under the care and custody of the Surgeon General pursuant to this subchapter is to be released from confinement in accordance with the provisions thereof, the Surgeon General shall give notice of such pending release to the committing court within ten days prior thereto and shall, at the time of the patient's release, promptly return him to that court. The court, after considering the recommendations of the Surgeon General with respect to posthospitalization treatment for any such patient so returned, may place such patient under the care and custody of the Surgeon General for the three-year period immediately following the patient's release, for treatment and supervision under such posthospitalization program as the Surgeon General may direct.

(b) Return to committing court for recommitment and submission to posthospitalization treatment

If, at any time during such three-year period, any patient (1) fails or refuses to comply with the directions and orders of the Surgeon General in connection with such patient's posthospitalization treatment and supervision, or (2) is determined by the Surgeon General to be again using narcotic drugs, the Surgeon General may order such patient's immediate return to the committing court which may recommit such patient to a hospital of the Service for additional treatment for a period of not to exceed six months, and may require such patient thereafter to submit to a posthospitalization program in accordance with subsection (a) of this section.

(Pub. L. 89-793, title III, § 307, Nov. 8, 1966, 80 Stat. 1446.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3411, 3416, 3418 of this title.

§ 3418. Petition for inquiry into health and general condition and necessity for continuation of confinement; order for release from confinement and return to court; placing patient under posthospitalization treatment

The court, upon the petition of any patient after his confinement pursuant to this subchapter for a period in excess of there months, shall inquire into the health and general condition of the patient and as to the necessity, if any, for his continued confinement. If the court finds, with or without a hearing, that his continued confinement is no longer necessary or desirable, it shall order the patient released from confinement and returned to the court. The court may, with respect to any such patient so returned, place such patient under a posthospitalization program in accordance with the provisions of subsection (a) of section 3417 of this title.

(Pub. L. 89-793, title III, § 308, Nov. 8, 1966, 80 Stat. 1447.)

§ 3419. Criminal conviction or criminal appellation from determination of being narcotic addict; criminal proceedings prohibited from using information gained in addiction inquiry

Any determination by the court pursuant to this subchapter that a patient is a narcotic addict shall not be deemed a criminal conviction, nor shall such patient be denominated a criminal by reason of that determination. The results of any hearing, examination, test, or procedure to determine narcotic addiction of any patient under this subchapter shall not be used against such patient in any criminal proceeding.

(Pub. L. 89-793, title III, § 309, Nov. 8, 1966, 80 Stat. 1447.)

§ 3420. Evidence; examining physician a competent and compellable witness; physician-patient privilege

Any physician conducting an examination under this subchapter shall be a competent and compellable witness at any hearing or other proceeding conducted pursuant to this subchapter and the physician-patient privilege shall not be applicable.

(Pub. L. 89-793, title III, § 310, Nov. 8, 1966, 80 Stat. 1447.)

§ 3421. Subchapter inapplicable to persons with criminal charge pending, on probation, or with sentence unserved; consent to commitment of such persons by authority with power over their custody

The provisions of this subchapter shall not be applicable with respect to any person against whom there is pending a criminal charge, whether by indictment or by information, which has not been fully determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served, except that such provision shall be applicable to any such person on probation, parole, or mandatory release if the authority authorized to require his return to custody consents to his commitment.

(Pub. L. 89-793, title III, § 311, Nov. 8, 1966, 80 Stat. 1447.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3412 of this title.

§ 3422. Commitment to hospital of the Service dependent upon certification of availability of facilities or personnel for treatment

Notwithstanding any other provision of this subchapter, no patient shall be committed to a hospital of the Service under this subchapter if

the Surgeon General certifies that adequate facilities or personnel for treatment of such patient are unavailable.

(Pub. L. 89-793, title III, § 312, Nov. 8, 1966, 80 Stat. 1447.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3423. Compensation of physicians and counsel; source of funds

Physicians appointed by the court to examine any person pursuant to this subchapter and counsel assigned by the court to represent any person in judicial proceedings under this subchapter shall be entitled to reasonable compensation, in an amount to be determined by the court, to be paid, upon order of the court, out of such funds as may be provided by law.

(Pub. L. 89-793, title III, § 313, Nov. 8, 1966, 80 Stat. 1447.)

§ 3424. Authority of Surgeon General

(a) Delegation of functions

The Surgeon General may from time to time make such provisions as he deems appropriate authorizing the performance of any of his functions under this subchapter by any other officer or employee of the Public Health Service, or with the consent of the head of the Department or Agency concerned, by any Federal or other public or private agency or officer or employee thereof.

(b) Arrangements making available, on a reimbursable basis or otherwise, facilities or services of agencies or persons for examination or treatment

The Surgeon General is authorized to enter into arrangements with any public or private agency or any person under which appropriate facilities or services of such agency or person will be made available, on a reimbursable basis or otherwise, for the examination or treatment of individuals pursuant to the provisions of this subchapter.

(Pub. L. 89-793, title III, § 314, Nov. 8, 1966, 80 Stat. 1448.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3425. Penalties; escape or rescue from custody

Whoever escapes or attempts to escape while committed to institutional custody for examination or treatment under this subchapter, or whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person, shall be subject to the penalties provided in sections 751 and 752 of title 18.

(Pub. L. 89-793, title III, § 315, Nov. 8, 1966, 80 Stat. 1448.)

§ 3426. Penalties; false statements

Any person who knowingly makes any false statement to the United States attorney in any petition under section 3412(a) of this title shall be subject to the penalty prescribed in section 1001 of title 18.

(Pub. L. 89-793, title III, § 316, Nov. 8, 1966, 80 Stat. 1448.)

SUBCHAPTER III—REHABILITATION AND POSTHOSPITALIZATION CARE PROGRAMS AND ASSISTANCE TO STATES AND LOCALITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 257 of this title.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in section 24-613 of the District of Columbia Code.

§ 3441. Outpatient services; establishment

The Surgeon General is authorized to establish, as an integral part of the program of treatment for narcotic addiction authorized by section 257 of this title, outpatient services to (1) provide guidance and give psychological help and supervision to patients and other individuals released from hospitals of the Service after treatment for narcotic drug addiction, utilizing all available resources of local, public and private agencies, and (2) assist States and municipalities in developing treatment programs and facilities for individuals so addicted, including posthospitalization treatment programs and facilities for the care and supervision of narcotic addicts released after confinement under this or any other Act providing for treatment of drug addiction. The Surgeon General shall take into consideration in supplying such services the extent of drug addiction in the various States and political subdivisions thereof and the willingness of such States and subdivisions to cooperate in developing a sound program for the care, treatment, and rehabilitation of narcotic addicts.

(Pub. L. 89-793, title IV, § 401, Nov. 8, 1966, 80 Stat. 1448.)

REFERENCES IN TEXT

This Act, referred to in cl. (2), means Pub. L. 89-793, Nov. 8, 1966, 80 Stat. 1438, which enacted this chapter, sections 4251 to 4255 of Title 18, Crimes and Criminal Procedure, sections 2901 to 2906 of Title 28, Judiciary and Judicial Procedure, amended section 257 of this title and section 7237 of Title 26, Internal Revenue Code, and enacted provisions set out as notes under section 3401 of this title and section 4202 of Title 18. For complete classification of this Act to the Code, see Tables volume.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health

Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3442. Repealed. Pub. L. 90-574, title III, § 303(b), Oct. 15, 1968, 82 Stat. 1011

Section, Pub. L. 89-793, title IV, § 402, Nov. 8, 1966, 80 Stat. 1448, authorized appropriations for grants to the states and political subdivisions thereof and to private organizations and institutions for the development of narcotic addict rehabilitation and treatment programs.

SAVINGS PROVISIONS

Section 303(b) of Pub. L. 90-574 provided in part that: "There are authorized to be appropriated such sums as may be necessary to enable the Secretary to make grants to continue the projects for which commitments were made under section 402(a) of the Narcotic Addict Rehabilitation Act of 1966 [formerly subsec. (a) of this section], but such grants may be made only for the periods specified in such commitments for such projects."

CHAPTER 43—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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SUBCHAPTER I—GENERAL PROVISIONS

§ 3501. Establishment of Department; effective date

The provisions of Reorganization Plan Numbered 1 of 1953, submitted to the Congress on March 12, 1953, shall take effect ten days after April 1, 1953, and its approval by the President, notwithstanding the provisions of the Reorganization Act of 1949, as amended, except that section 9 of such Act shall apply to such reorganization plan and to the reorganization made thereby.

(Apr. 1, 1953, ch. 14, 67 Stat. 18.)

REFERENCES IN TEXT

Reorganization Plan Numbered 1 of 1953, referred to in text, is Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, which is set out as a note under section 202 of this title and in the Appendix to Title 5, Government Organization and Employees.

The Reorganization Act of 1949, as amended, referred to in text, is act June 20, 1949, ch. 226, 63 Stat. 203, which enacted sections 133z to 133z-15 of former Title 5, Executive Departments and Government Officers and Employees. Sections 133z to 133z-15 of former Title 5 were repealed and reenacted as sections 901 to 913 of Title 5, Government Organizations and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378. Section 913 of Title 5 has been omitted from the Code. Section 9 of the Reorganization Act of 1949, which enacted section 133z-7 of former Title 5, was also repealed and reenacted as section 907(a) to (c) of Title 5 by Pub. L. 89-554.

CODIFICATION

Section was formerly classified to section 623 of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Secretary of Health, Education, and Welfare see Parts 1, 11, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

INVESTIGATION OF YOUTH CAMP SAFETY

Pub. L. 92-318, title VI, §§ 601 to 603, June 23, 1972, 86 Stat. 353, 354, authorized the Secretary of Health, Education, and Welfare to make a study of the field of youth camp safety to determine the need for Federal legislation, required the Secretary to submit a report on his investigation to the Congress before Mar. 1, 1973, and authorized $300,000 in appropriations to carry out the study.

CROSS REFERENCES

Annual rates of basic compensation of Assistant Secretaries, see section 5315 of Title 5, Government Organization and Employees.

Annual rates of basic compensation of Secretary, see section 5312 of Title 5.

Annual rates of basic compensation of Under Secretary, see section 5314 of Title 5.

§ 3501a. Additional Assistant Secretaries

There shall be in the Department of Health, Education, and Welfare, in addition to the Assistant Secretaries now provided for by law, three additional Assistant Secretaries of Health, Education, and Welfare, who shall be appointed by the President, by and with the advice and consent of the Senate. The provisions of section 2 of the Reorganization Plan Numbered 1 of 1953 (67 Stat. 631) shall be applicable to such additional Assistant Secretaries to the same extent as they are applicable to the Assistant Secretaries authorized by that section.

(Pub. L. 89-115, § 4(a), Aug. 9, 1965, 79 Stat. 449.)

REFERENCES IN TEXT

Reorganization Plan Numbered 1 of 1953, referred to in text, is set out as a note under section 202 of this title.

CODIFICATION

Section was formerly classified to section 623h of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

§ 3502. Assistant Secretary for Administration; appointment and duties

There shall be in the Department of Health, Education, and Welfare an Assistant Secretary of Health, Education, and Welfare for Administration who shall be appointed, with the approval of the President, by the Secretary of Health, Education, and Welfare under the classified civil service, who shall perform such duties as the Secretary shall prescribe.

(Pub. L. 86-568, title II, § 202, July 1, 1960, 74 Stat. 305; Pub. L. 88-426, title III, §§ 305(34), 307, Aug. 14, 1964, 78 Stat. 426.)

CODIFICATION

Section was formerly classified to section 623g of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

1964—Pub. L. 88-426, § 305(34), repealed provisions which prescribed the compensation of the Administrative Assistant Secretary.

CHANGE OF NAME

"Assistant Secretary of Health, Education, and Welfare for Administration" was substituted for "Administrative Assistant Secretary of Health, Education, and Welfare" pursuant to section 307 of Pub. L. 88-426.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426, see section 501 of Pub. L. 88-426.

EFFECTIVE DATE

Section effective on the first day of the first pay period which begins on or after July 1, 1960, see section 122 of Pub. L. 86-568.

CROSS REFERENCES

Annual rate of basic compensation of Assistant Secretary, see section 5316 of Title 5, Government Organization and Employees.

§ 3502a. Administrator of Social and Rehabilitation Service; appointment and confirmation

Appointments made on or after October 30, 1972, to the office of Administrator of the Social and Rehabilitation Service, within the Department of Health, Education, and Welfare, shall be made by the President, by and with the advice and consent of the Senate.

(Pub. L. 92-603, title II, § 294, Oct. 30, 1972, 86 Stat. 1459.)

§ 3503. Omitted

CODIFICATION

Section, act July 31, 1956, ch. 802, § 2, 70 Stat. 733, provided for the appointment and compensation of a General Counsel in the Department of Health, Education, and Welfare, and has been omitted in view of section 3504 of this title, which abolished the office as it existed on July 31, 1956, upon appointment and qualification of General Counsel provided for by section 3504(a) of this title, or Apr. 1, 1957 whichever occurred earlier. See section 3504(b) of this title.

Section was formerly classified to section 623b of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

§ 3504. General Counsel; appointment

(a) The President shall appoint on and after July 31, 1956, by and with the advice and consent of the Senate, a General Counsel of the Department of Health, Education, and Welfare.

(b) The existing office of General Counsel of the Department of Health, Education, and Welfare shall be abolished effective upon the appointment and qualification of the General Counsel provided for by subsection (a) of this section or April 1, 1957, whichever is earlier.

(July 31, 1956, ch. 804, title III, § 301, 70 Stat. 742.)

CODIFICATION

Section is based on that part of section 301 of act July 31, 1956, relating to the General Counsel of the Department of Health, Education, and Welfare. That part of such section 301 relating to the General Counsel of the Department of Agriculture, is classified to section 2214 of Title 7, Agriculture. That part of such section 301 relating to the General Counsel of the Post Office Department was enacted as section 307 of Title 39 by Pub. L. 86-682, Sept. 2, 1960, 74 Stat. 580. Such provisions were eliminated from Title 39 by the Postal Reorganization Act, Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 719.

Section was formerly classified to section 623c of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

CROSS REFERENCES

Annual rate of basic compensation of General Counsel, see section 5315 of Title 5, Government Organization and Employees.

§ 3505. Seal

The Secretary of the Department of Health, Education, and Welfare is authorized to adopt an official seal to be used as directed by the said Secretary on appropriate occasions in connection with the functions of such Department or of any office, bureau, board, or establishment which is or shall hereafter become a part of such Department, and such seal shall be judicially noticed. Copies of any books, records, papers, or other documents in the Department of Health, Education, and Welfare shall be admitted in evidence equally with the originals thereof when authenticated under such seal.

(May 9, 1941, ch. 97, 55 Stat. 184; 1953 Reorg. Plan No. I, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

Section was formerly classified to section 623d of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of said Reorg. Plan No. 1 of 1953.

CREATION OF FEDERAL SECURITY AGENCY

The Federal Security Agency was created by Reorg. Plan No. 1 of 1939, § 201, eff. July 1, 1939, 4 F.R. 2727, 53 Stat. 1423, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3505a. Office of Population Affairs; establishment; Deputy Assistant Secretary for Population Affairs; appointment; staff and consultants

(a) There is established within the Department of Health, Education, and Welfare an Office of Population Affairs to be directed by a Deputy Assistant Secretary for Population Affairs under the direct supervision of the Assistant Secretary for Health and Scientific Affairs. The Deputy Assistant Secretary for Population Affairs shall be appointed by the Secretary.

(b) The Secretary is authorized to provide the Office of Population Affairs with such full-time professional and clerical staff and with the services of such consultants as may be necessary for it to carry out its duties and functions.

(Pub. L. 91-572, § 3, Dec. 24, 1970, 84 Stat. 1504.)

§ 3505b. Functions and duties of Deputy Assistant Secretary for Population Affairs

The Secretary shall utilize the Deputy Assistant Secretary for Population Affairs—

(1) to administer all Federal laws for which the Secretary has administrative responsibility and which provide for or authorize the making of grants or contracts related to population research and family planning programs;

(2) to administer and be responsible for all population and family planning research carried on directly by the Department of Health, Education, and Welfare or supported by the Department through grants to, or contracts with, entities and individuals;

(3) to act as a clearinghouse for information pertaining to domestic and international population research and family planning programs for use by all interested persons and public and private entities;

(4) to provide a liaison with the activities carried on by other agencies and instrumentalities of the Federal Government relating to population research and family planning;

(5) to provide or support training for necessary manpower for domestic programs of population research and family planning programs of service and research; and

(6) to coordinate and be responsible for the evaluation of the other Department of Health, Education, and Welfare programs related to population research and family planning and to make periodic recommendations to the Secretary.

(Pub. L. 91-572, § 4, Dec. 24, 1970, 84 Stat. 1505.)

§ 3505c. Repealed. Pub. L. 94-63, title II, § 203(b), July 29, 1975, 89 Stat. 307

Section, Pub. L. 91-572, § 5, Dec. 24, 1970, 84 Stat. 1505, required the Secretary to submit a report to Congress not later than six months after Dec. 24, 1970, setting forth a plan for the implementation of family planning and population research programs under section 300 et seq. of this title. See section 300a-6a of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 1, 1975, see section 608 of Pub. L. 94-63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

§ 3505d. National Health Manpower Shortage Clearinghouse

(a) Establishment; function

There is established in the Department of Health, Education, and Welfare a National Health Manpower Shortage Clearinghouse. It shall be the function of the Clearinghouse to provide information to, and maintain listings of, (1) communities and areas with health professional needs, and (2) prospective health workers interested in such opportunities.

(b) Information and listing services available without charge

Information and listing services performed by the Clearinghouse shall be provided free of charge to all interested health professionals and to all communities and groups within the areas determined by the Secretary under section 294a(f) of this title to have a shortage of and need for health professionals.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to establish, operate, and maintain the Clearinghouse created by subsection (a) of this section.

(Pub. L. 92-157, title II, § 202, Nov. 18, 1971, 85 Stat. 461.)

§ 3506. Travel and subsistence expenses of officers and employees in connection with attendance at meetings or in performing advisory services

To the extent and under the conditions provided by regulations of the Secretary, officers (including commissioned officers of the Public Health Service) and employees of the Department of Health, Education, and Welfare may on and after June 29, 1957, in connection with their attendance at meetings or in performing advisory services concerned with the functions or activities of the Department, be permitted to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals, for travel and subsistence expenses, to be retained by them to cover the cost thereof or deposited to the credit of the appropriation from which the cost thereof is paid, as may be provided, in such regulations.

(Pub. L. 85-67, title II, § 211, June 29, 1957, 71 Stat. 224.)

CODIFICATION

Section was formerly classified to section 623f of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3507. Transfer of personnel and household goods; delegation of Secretary's authority

The Secretary of Health, Education, and Welfare may on after July 12, 1943, delegate to such officers and employees as he may designate for the purpose all his authority in connection with the transfer of personnel and household goods and effects from one official station to another.

(July 12, 1943, ch. 221, title II, § 201, 57 Stat. 513; 1953 Reorg. Plan No. I, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

Section was formerly classified to section 623e of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953 set out as a note under section 202 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of said Reorg. Plan No. 1 of 1953.

SIMILAR PROVISIONS

Section is from the Labor-Federal Security Appropriation Act, 1944. Similar provisions were carried in the following acts:

July 2, 1942, ch. 475, title II, § 201, 56 Stat. 587.

Apr. 28, 1942, ch. 247, title III, § 301, 56 Stat. 235.

§ 3508. Omitted

CODIFICATION

Section, which authorized the Secretary to make transfers of motor vehicles between bureaus and offices without transfer of funds, was from section 202 of the Department of Labor, and Health, Education, and Welfare Appropriation Act, 1976 (Pub. L. 94-206, title II, Jan. 28, 1976, 90 Stat. 20), and was not repeated in subsequent appropriation acts.

Similar provisions were contained in the following prior appropriation acts:

Dec. 7, 1974, Pub. L. 93-517, title II, § 202, 88 Stat. 1647.

Dec. 18, 1973, Pub. L. 93-192, title II, § 202, 87 Stat. 760.

Aug. 10, 1971, Pub. L. 92-80, title II, § 202, 85 Stat. 298.

Jan. 11, 1971, Pub. L. 91-667, title II, § 202, 84 Stat. 2015.

Mar. 5, 1970, Pub. L. 91-204, title II, § 202, 84 Stat. 43.

Oct. 11, 1968, Pub. L. 90-557, title II, § 202, 82 Stat. 991.

Nov. 8, 1967, Pub. L. 90-132, title II, § 202, 81 Stat. 407.

Nov. 7, 1966, Pub. L. 89-787, title II, § 202, 80 Stat. 1400.

Aug. 31, 1965, Pub. L. 89-156, title II, § 202, 79 Stat. 608.

Oct. 11, 1963, Pub. L. 88-136, title II, § 202, 77 Stat. 244.

Aug. 14, 1962, Pub. L. 87-582, title II, § 202, 76 Stat. 379.

Sept. 22, 1961, Pub. L. 87-290, title II, § 203, 75 Stat. 608.

Sept. 2, 1960, Pub. L. 86-703, title II, § 203, 74 Stat. 773.

Aug. 14, 1959, Pub. L. 86-158, title II, § 205, 73 Stat. 355.

Aug. 1, 1958, Pub. L. 85-580, title II, § 206, 72 Stat. 473.

June 29, 1957, Pub. L. 85-67, title II, § 207, 71 Stat. 224.

June 29, 1956, ch. 477, title II, § 207, 70 Stat. 436.

Aug. 1, 1955, ch. 437, title II, § 206, 69 Stat. 410.

July 2, 1954, ch. 457, title II, § 206, 68 Stat. 445.

July 31, 1953, ch. 296, title II, § 206, 67 Stat. 257.

Section was formerly classified to section 623a of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

§ 3509. Annual report on advisory councils

(a) Submission to Congress; contents

Not later than March 31 of each calendar year after 1970, the Secretary of the Department of Health, Education, and Welfare shall submit a report on the activities of advisory councils (established or organized pursuant to any applicable statute of the Public Health Service Act, as amended [42 U.S.C. 201 et seq.], or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended [42 U.S.C. 2689 et seq. and 6001 et seq.]) to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report shall contain, at least, a list of all such advisory councils, the names and occupations of their members, a description of the function of each advisory council, and a statement of the dates of the meetings of each advisory council.

(b) Recommendations by Secretary

If the Secretary determines that a statutory advisory council is not needed or that the functions of two or more statutory advisory councils should be combined, he shall include in the report a recommendation that such advisory council be abolished or that such functions be combined.

(c) Statutory advisory council

As used in this section, the term "statutory advisory council" means any committee, board, commission, council, or other similar group established or organized pursuant to any applicable statute to advise and make recommendations with respect to the administration or improvement of an applicable program or other related matter.

(Pub. L. 91-513, title IV, § 1200, Oct. 27, 1970, 84 Stat. 1296; S. Res. 4, Feb. 4, 1977.)

References in Text

The Public Health Service Act, as amended, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to chapter 6A (§ 201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended, referred to in subsec. (a), is Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 282, as amended which is classified principally to subchapter III (§ 2689 et seq.) of chapter 33 and chapter 75 (§ 6001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title and Tables volume.

Change of Name

The Committee on Labor and Public Welfare of the Senate, referred to in subsec. (a), was abolished and replaced by the Committee on Human Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

Termination of Advisory Councils

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 3510. Working Capital Fund; availability for centralized personnel data collection and reporting and common regional administrative support services

The Working Capital Fund of the Department of Health, Education, and Welfare shall on and after January 11, 1971, be available for expenses necessary for centralized personnel data collection and reporting and common regional administrative support services.

(Pub. L. 91-667, title II, § 200, Jan. 11, 1971, 84 Stat. 2015.)

§ 3511. Alcohol, Drug Abuse, and Mental Health Administration

(a) Establishment; appointment of Administrator and Deputy Administrator; employment and functions of officers and employees

The Secretary of Health, Education, and Welfare shall establish, in the Department of Health, Education, and Welfare, the Alcohol, Drug Abuse, and Mental Health Administration (hereinafter in this section referred to as the "Administration"). The Administration shall be headed by an Administrator appointed by the President, by and with the advice and consent of the Senate. The Administrator, with the approval of the Secretary, may appoint a Deputy Administrator and may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the activities to be carried out through the Administration.

(b) Statement of purpose for supervision of functions of National Institutes of Mental Health, Alcohol Abuse and Alcoholism, and Drug Abuse

The Secretary, acting through the Administration, shall supervise the functions of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse in order to assure that (1) the programs carried out through each such Institute receive appropriate and equitable support, and (2) there is cooperation among the Institutes in the implementation of such programs.

(c) National Panel on Alcohol, Drug Abuse, and Mental Health; establishment; functions; membership

The Secretary of Health, Education, and Welfare shall establish a National Panel on Alcohol, Drug Abuse, and Mental Health (hereinafter in this subsection referred to as the "panel") to advise, consult with, and make recommendations to the Secretary concerning the activities to be carried out through the Administration. The panel shall consist of three members appointed by the Secretary as follows: One member shall be appointed from the public members of the National Advisory Mental Health Council established under section 218 of this title, one member shall be appointed from the public members of the National Advisory Council on Alcohol Abuse and Alcoholism established under such section, and one member shall be appointed from the public members of the National Advisory Council on Drug Abuse established under such section.

(d) Evaluations and recommendations for public education and other prevention programs

The Secretary of Health, Education, and Welfare, acting through the Administration, shall evaluate and make recommendations regarding improved, coordinated activities, where appropriate, for public education and other prevention programs with respect to the abuse of alcohol and other substances.

(Pub. L. 93-282, title II, § 201, May 14, 1974, 88 Stat. 134; Pub. L. 94-371, § 8, July 26, 1976, 90 Stat. 1040.)

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-371 added subsec. (d).

TERMINATION OF ADVISORY COUNCILS AND PANELS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. Advisory Councils or Panels established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council or panel established by the President or an officer of the Federal Government, such council or panel is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council or panel established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 3512. Office to assist small manufacturers of medical devices; establishment

The Secretary of Health, Education, and Welfare shall establish within the Department of Health, Education, and Welfare an identifiable office to provide technical and other nonfinancial assistance to small manufacturers of medical devices to assist them in complying with the requirements of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], as amended by this Act.

(Pub. L. 94-295, § 10, May 28, 1976, 90 Stat. 583.)

REFERENCES IN TEXT

Federal Food, Drug, and Cosmetic Act, referred to in text, is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables volume.

This Act, referred to in text, means Pub. L. 94-295, May 28, 1976, 90 Stat. 539, known as the Medical Device Amendments of 1976, which enacted this section, sections 360c to 360k, 379, 379a, of Title 21, Food and Drugs, amended sections 321, 331, 334, 351, 352, 358, 360, 374, 376, and 381 of Title 21, section 55 of Title 15, Commerce and Trade, and enacted provisions set out as notes under section 301 of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 301 of Title 21 and Tables volume.

SUBCHAPTER II—OFFICE OF INSPECTOR GENERAL

§ 3521. Establishment of Office

In order to create an independent and objective unit—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Health, Education, and Welfare;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy and efficiency in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the Secretary and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

there is hereby established in the Department of Health, Education, and Welfare an Office of Inspector General.

(Pub. L. 94-505, title II, § 201, Oct. 15, 1976, 90 Stat. 2429.)

§ 3522. Officers

(a) Inspector General; supervision by Secretary

There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integ-

rity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the Under Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

(b) Deputy Inspector General

There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General.

(c) Removal of Inspector or Deputy

The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(d) Political activities

The Inspector General and the Deputy shall each be subject to the provisions of subchapter III of chapter 73 of title 5, notwithstanding any exemption from such provisions which might otherwise apply.

(e) Assistant Inspector General for Auditing and Assistant Inspector General for Investigations

The Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of the functions, powers, and duties transferred by section 3526(a)(1) of this title, and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of the functions, powers, and duties transferred by section 3526(a)(2) of this title.

(Pub. L. 94-505, title II, § 202, Oct. 15, 1976, 90 Stat. 2430.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (e), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

References in subsec. (e)(1) and (2) to "section 3526(a)(1) of this title" and "section 3526(a)(2) of this title" were substituted for original text reading "section 6(a)(1)" and "section 6(a)(2)" to reflect Congressional intent notwithstanding inadvertent reference to such sections rather than to "section 206(a)(1)" and "section 206(a)(2)."

§ 3523. Duties and responsibilities

(a) Identification, prevention, and prosecution of fraud

It shall be the duty and responsibility of the Inspector General—

(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of the Department;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, or (B) the identification and prosecution of participants in such fraud or abuse; and

(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by section 3524 of this title and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b) Use of outside auditors

In carrying out the responsibilities specified in subsection (a)(1) of this section, the Inspector General shall have authority to approve or disapprove the use of outside auditors or to take other appropriate steps to insure the competence and independence of such auditors.

(c) Avoidance of duplication; coordination and cooperation

In carrying out the duties and responsibilities provided by this subchapter, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view to avoiding duplication and insuring effective coordination and cooperation.

(d) Full time antifraud and antiabuse staff

The Inspector General shall establish within his office an appropriate and adequate staff with specific responsibility for devoting their full time and attention to antifraud and antiabuse activities relating to the medicaid, medicare, renal disease, and maternal and child health programs. Such staff shall report to the Deputy.

(Pub. L. 94-505, title II, § 203, Oct. 15, 1976, 90 Stat. 2430.)

CODIFICATION

Reference in subsec. (a)(4) to "section 3524 of this title" was substituted for original text reading "section 4" to reflect Congressional intent notwithstanding inadvertent reference to such section 4 rather than to "section 204".

§ 3524. Reports

(a) Annual report; contents

The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

(1) an indentification[1] and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;

(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

(b) Quarterly reports

The Inspector General shall make reports on a quarterly basis to the Secretary and to the appropriate committees or subcommittees of the Congress identifying any significant problems, abuses, or deficiencies concerning which the Office has made a recommendation for corrective action and on which, in the judgment of the Inspector General, adequate progress is not being made.

(c) Serious and flagrant problems

The Inspector General shall report immediately to the Secretary, and within seven calendar days thereafter to the appropriate committees or subcommittees of the Congress, whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

(d) Additional reports; discretion of Inspector General

The Inspector General (A) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (B) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to matters within their jurisdiction, by any committee or subcommittee thereof.

(e) Transmission directly to Secretary and Congress

Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsections (a) and (b) of this section to the Secretary sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(Pub. L. 94-505, title II, § 204, Oct. 15, 1976, 90 Stat. 2431.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3523 of this title.

§ 3525. Administrative provisions

(a) Authority of Inspector General

In addition to the authority otherwise provided by this subchapter, the Inspector General, in carrying out the provisions of this subchapter, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this subchapter;

(2) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this subchapter from any Federal, State, or local governmental agency or unit thereof;

(3) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this subchapter, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(4) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this subchapter;

(5) in the event that a budget request for the Office of Inspector General is reduced, before submission to Congress, to an extent which the Inspector General deems seriously detrimental to the adequate performance of the functions mandated by this subchapter, the Inspector General shall so inform the Congress without delay;

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5 governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7) to obtain services as authorized by section 3109 of title 5 at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5;

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with

[1] So in original. Probably should be "identification".

private persons, and to make such payments as may be necessary to carry out the provisions of this subchapter.

(b) Information or assistance from other Federal agencies; refusal; written request or prior written consent

(1) Upon request of the Inspector General for information or assistance under subsection (a)(2) of this section, the head of any Federal agency involved shall, insofar as is practicable, and not in contravention of any existing statutory restriction, or regulation of the Federal agency from which the information is requested, furnish to the Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a)(1) or (a)(2) of this section is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary and to the appropriate committees or subcommittees of the Congress without delay.

(3) In the event any record or other information requested by the Inspector General under subsection (a)(1) or (a)(2) of this section is not considered to be available under the provisions of section 552a(b)(1), (3), or (7) of title 5, such record or information shall be available to the Inspector General in the same manner and to the same extent it would be available to the Comptroller General.

(c) Office facilities, equipment, and maintenance services

The Secretary shall provide the Inspector General and his staff with appropriate and adequate office space at central and field office locations of the Department, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(d) Compensation of Inspector and Deputy

(1) The Inspector General shall receive compensation at the rate provided for level IV of the Executive Schedule by section 5315 of title 5.

(2) The Deputy shall receive compensation at the rate provided for level V of the Executive Schedule by section 5316 of title 5.

(Pub. L. 94-505, title II, § 205, Oct. 15, 1976, 90 Stat. 2432.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a)(6), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 3526. Transfer of functions

(a) Offices and agencies

There are hereby transferred to the Office of Inspector General the functions, powers, and duties of—

(1) the agency of the Department referred to as the "HEW Audit Agency";

(2) the office of the Department referred to as the "Office of Investigations"; and

(3) such other offices or agencies, or functions, powers, or duties thereof, as the Secretary may, with the consent of the Inspector General, determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this subchapter.

except that there shall not be transferred to the Inspector General under clause (3) program operating responsibilities.

(b) Personnel, assets, funds, etc.

The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) of this section are hereby transferred to the Office of Inspector General.

(c) Transfer pursuant to applicable laws; classification and compensation of personnel

Personnel transferred pursuant to subsection (b) of this section shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(d) Lapse of agency or office transferred; compensation for comparable duties

In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on October 15, 1976, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in the Office to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

(Pub. L. 94-505, title II, § 206, Oct. 15, 1976, 90 Stat. 2433.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3522 of this title.

§ 3527. Definitions

As used in this subchapter—

(1) the term "Secretary" means the Secretary of Health, Education, and Welfare;

(2) the term "Department" means the Department of Health, Education, and Welfare;

(3) the term "Inspector General" means the Inspector General of the Department;

(4) the term "Deputy" means the Deputy Inspector General of the Department; and

(5) the term "Federal agency" means an agency as defined in section 552(e) of title 5 but shall not be construed to include the General Accounting Office.

(Pub. L. 94-505, title II, § 207, Oct. 15, 1976, 90 Stat. 2434.)

CHAPTER 44—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec.
3531. Congressional declaration of purpose.
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(c) Assistant to Secretary; designation, duty to provide information and advice to nonprofit project sponsors.
3533a. Federal Insurance Administrator; establishment of position.
3534. Transfer of functions.
(a) Housing and Home Finance Agency, Federal Housing Administration, and Public Housing Administration.
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3535. Administrative provisions.
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(b) Repealed.
(c) Employment, compensation, authority, and duties of personnel.
(d) Delegation of authority; rules and regulations.
(e) Temporary employment of experts or consultants; compensation.
(f) Working capital fund; establishment; uses; appropriations; capitalization; reimbursement.
(g) Seal.
(h) Financial transactions, finality; checking accounts for funds in Treasury; availability of funds for administrative expenses; consolidation of cash for banking and checking purposes.
(i) Foreclosure of property; actions for protection and enforcement of rights; purchase of property; dealing with property after such acquisition; deprivation of State court civil and criminal jurisdiction; impairment of civil rights under State laws; application of section 5 of title 41; annual payments in lieu of local property taxes; sale and exchanges of property; insurance; modification of interest, time for installment payment, and other terms; other covenants, conditions, and provisions.
(j) Fees and charges.
(k) Gifts and services, acceptance; taxable status of property; investments; disbursements.
(l) Consultants; appointment of advisory committees; compensation and travel expenses.
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(n) Day care center for children of employees of the Department; establishment; fees and charges.
3536. Annual reports.
3537. Separability of provisions.
3538. Rescheduling and refinancing of federal loans.
3539. Housing and Urban Development Disaster Assistance Fund.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 12, section 1701d-4.

§ 3531. Congressional declaration of purpose

The Congress hereby declares that the general welfare and security of the Nation and the health and living standards of our people require, as a matter of national purpose, sound development of the Nation's communities and metropolitan areas in which the vast majority of its people live and work.

To carry out such purpose, and in recognition of the increasing importance of housing and urban development in our national life, the Congress finds that establishment of an executive department is desirable to achieve the best administration of the principal programs of the Federal Government which provide assistance for housing and for the development of the Nation's communities; to assist the President in achieving maximum coordination of the various Federal activities which have a major effect upon urban community, suburban, or metropolitan development; to encourage the solution of problems of housing, urban development, and mass transportation through State, county, town, village, or other local and private action, including promotion of interstate, regional, and metropolitan cooperation; to encourage the maximum contributions that may be made by vigorous private homebuilding and mortgage lending industries to housing, urban development, and the national economy; and to provide for full and appropriate consideration, at the national level, of the needs and interests of the Nation's communities and of the people who live and work in them.

(Pub. L. 89-174, § 2, Sept. 9, 1965, 79 Stat. 667.)

CODIFICATION

Section was formerly classified to section 624 of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employee by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

EFFECTIVE DATE: INTERIM APPOINTMENTS

Section 11 of Pub. L. 89-174 provided that:

"(a) The provisions of this Act [enacting this chapter and amending sections 1 and 2211 of former Title 5, Executive Departments and Government Officers and Employees, section 19(d)(1) of Title 3, the President, section 1723 of Title 12, Banks and Banking and section 1451(c) of this title] shall take effect upon the expiration of the first period of sixty calendar days following the date on which this Act is approved by the President [Sept. 9, 1965], or on such earlier date as the President shall specify by Executive order published in the Federal Register, except that any of the officers provided for in sections 3(a), 4(a), and 4(b) of this Act [sections 3532(a), 3533(a), and 3533(b) of this title] may be nominated and appointed, as provided in such sections, at any time after the date this Act is approved by the President [Sept. 9, 1965].

"(b) In the event that one or more officers required by this Act, to be appointed, by and with the advice and consent of the Senate, shall not have entered upon office on the effective date of this Act, the President may designate any person who was an officer of the Housing and Home Finance Agency immediately prior to said effective date to act in such office until the office is filled as provided in this Act or until the expiration of the first period of sixty days following said effective date, whichever shall first occur. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act."

SHORT TITLE

Section 1 of Pub. L. 89-174 provided: "That this Act [which enacted this chapter, amended section 1451(c) of this title, sections 1 and 2211 of former Title 5, Executive Departments and Government Officers and Employees (now covered by sections 101 and 5312 of Title 5, Government Organization and Employees), section 19(d)(1) of Title 3, The President, and section 1723 of Title 12, Banks and Banking] may be cited as the 'Department of Housing and Urban Development Act'."

SAVINGS PROVISIONS: ABATEMENT OF ACTIONS; CONTINUATION OF RULES, REGULATIONS, ETC.; REFERENCES IN OTHER LAWS TO HOUSING AND HOME FINANCE AGENCY; LAPSE OF AGENCIES

Section 9 of Pub. L. 89-174 provided that:

"(a) No cause of action by or against any agency whose functions are transferred by this Act [see Short Title note above and section 3534 of this title], or by or against any officer of any agency in his official capacity, shall abate by reason of this enactment. Such causes of action may be asserted by or against the United States or such official of the Department as may be appropriate.

"(b) No suit, action, or other proceeding commenced by or against any agency whose functions are transferred by this Act [see Short Title note above and section 3534 of this title], or by or against any officer of any such agency in his official capacity, shall abate by reason of the enactment of this Act. A court may at any time during the pendency of the litigation, on its own motion or that of any party, order that the same may be maintained by or against the United States or such official of the Department as may be appropriate.

"(c) Except as may be otherwise expressly provided in this Act [see Short Title note above], all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to the effective date of this Act [see Effective Date note above] by any agency, officer, or office pertaining to any functions, powers, and duties transferred by this Act shall continue in full force and effect after the effective date of this Act until modified or rescinded by the Secretary or such other officer or office of the Department as, in accordance with applicable law, may be appropriate. With respect to any function, power, or duty transferred by or under this Act and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or to any officer, office, or agency therein, except the Federal National Mortgage Association and its officers, shall be deemed to mean the Secretary. The positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of this Act [section 3534(a) of this title] shall lapse."

TERMINATION OF COUNCIL FOR URBAN AFFAIRS

The Council for Urban Affairs established by Ex. Ord. No. 11452, Jan. 3, 1969, 34 F.R. 1223, as amended, was terminated and its functions transferred to the Domestic Council, see section 2(b) of Ex. Ord. No. 11541, July 1, 1970, 35 F.R. 10737, set out as a note under section 16 of Title 31, Money and Finance. The provisions covering the functions transferred directed the council to advise and assist the President with respect to urban affairs and to perform such other duties as the President might from time to time prescribe. In addition to such duties, the Council was directed to:

(1) Assist the President in the development of a national urban policy, having regard both to immediate and to long-range concerns, and to priorities among them.

(2) Promote the coordination of Federal programs in urban areas.

(3) Encourage the fullest cooperation between Federal, State, and city governments, with special concern for the maintenance of local initiative and local decision making.

(4) Ensure that policies concerning urban affairs shall extend to the relations of urban, suburban, and rural areas, to programs affecting them, and to the movement of population between them.

(5) Seek constant improvement in the actual delivery of public services to citizens.

(6) Foster the decentralization of government with the object that program responsibilities will be vested to the greatest possible extent in state and local government.

(7) Encourage the most effective role possible for voluntary organizations in dealing with urban concerns.

(8) Meet with and advise the President on the occasion of emergency situations, or conditions threatening the maintenance of civil order or civil rights.

EX. ORD. NO. 11668. NATIONAL CENTER FOR HOUSING MANAGEMENT

Ex. Ord. No. 11668, Apr. 21, 1972, 37 F.R. 8057, provided:

By virtue of the authority vested in me as President of the United States and in accordance with the provisions of the Department of Housing and Urban Development Act, as amended (42 U.S.C. 3531 et seq.) [this chapter], title VIII of the Housing Act of 1964, as amended (20 U.S.C. 801 et seq.), and title V of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 et seq.), it is ordered as follows:

SECTION 1. *Policy.* The Nation's housing stock represents an important national resource which must be preserved and well managed if public and private investments are to be protected, and if we are to meet our goal of providing a decent home and suitable living environment for low and moderate income residents. The production of Federally-assisted housing

has greatly expanded in recent years, creating a need for a balanced strategy to ensure that such housing remains viable for the purposes intended.

This expansion also creates a need for a growing supply of new management manpower for the years ahead. Special skills must be developed among these managers so that they can effectively overcome the social and economic problems facing many residents of Federally-assisted housing, including the elderly. Training, the improvement of career opportunities, and the upgrading of industry standards are all essential to the improvement of the Nation's housing management capability, particularly for low and moderate income housing.

SEC. 2. *Establishment of a National Center for Housing Management.* (a) The Secretary of Housing and Urban Development is directed to call upon public-spirited citizens, dedicated and experienced in the appropriate disciplines, to create, in accordance with existing laws, a new, non-governmental, not-for-profit institution to serve as a National Center for Housing Management (referred to herein as the Center).

(b) The Center should be designed to provide objective and independent leadership at the national level in helping meet the Nation's housing management and training needs and should work cooperatively with the Department of Housing and Urban Development and with the public and private organizations and institutions involved in, or affected by, its activities.

SEC. 3. *Activities of the Center.* The activities of the Center should be developed along lines that include the following objectives:

(1) Development of training and educational programs for housing management and personnel:

(2) Cooperation with public and private national, State, and local organizations and institutions in extending housing management training and educational opportunities, using to the fullest extent possible the services and facilities of existing agencies with expertise in training and education.

(3) Cooperation with national, State, and local organizations and institutions in establishing or expanding recruitment and placement systems that will link training in housing management to job opportunities in that field.

(4) Development of improved housing management practices and assistance in professionalizing the housing management industry; and

(5) Stimulating the creation of new management entities, and strengthening the effectiveness of existing management entities.

SEC. 4. *Assistance by Federal Agencies.* To the extent consistent with law, all other Federal executive departments and agencies shall cooperate and work with the Department of Housing and Urban Development and the Center in providing appropriate advice and financial support so as to ensure that the above described objectives are carried out with the most effective and efficient use of Federal, State and local resources, both public and private.

RICHARD NIXON.

§ 3532. Establishment of Department

(a) Designation; appointment and supervision of Secretary

There is hereby established at the seat of government an executive department to be known as the Department of Housing and Urban Development (hereinafter referred to as the "Department"). There shall be at the head of the Department a Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary"), who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(b) General duties of Secretary

The Secretary shall, among his responsibilities, advise the President with respect to Federal programs and activities relating to housing and urban development; develop and recommend to the President policies for fostering the orderly growth and development of the Nation's urban areas; exercise leadership at the direction of the President in coordinating Federal activities affecting housing and urban development; provide technical assistance and information, including a clearinghouse service to aid State, county, town, village, or other local governments in developing solutions to community and metropolitan development problems; consult and cooperate with State Governors and State agencies, including, when appropriate, holding informal public hearings, with respect to Federal and State programs for assisting communities in developing solutions to community and metropolitan development problems and for encouraging effective regional cooperaion in the planning and conduct of community and metropolitan development programs and projects; encourage comprehensive planning by the State aud[1] local governments with a view to coordinating Federal, State, and local urban and community development activities; encourage private enterprise to serve as large a part of the Nation's total housing and urban development needs as it can and develop the fullest cooperation with private enterprise in achieving the objectives of the Department; and conduct continuing comprehensive studies, and make available findings, with respect to the problems of housing and urban development.

(c) Denial or limitation of benefits of departmental programs, functions, or activities on basis of population or corporate status of community

Nothing in this chapter shall be construed to deny or limit the benefits of any program, function, or activity assigned to the Department by this chapter or any other Act to any community on the basis of its population or corporate status, except as may be expressly provided by law.

(Pub. L. 89-174, § 3, Sept. 9, 1965, 79 Stat. 667; Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 223.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original, this Act, meaning Pub. L. 89-174, Sept. 9, 1965, 79 Stat. 667, known as the Department of Housing and Urban Development Act, which enacted this chapter, amended section 1451 of this title, sections 1 and 2211 of former Title 5, Executive Departments and Government Officers and Employees, section 19 of Title 3, The President, and section 1723 of Title 12, Banks and Banking, and enacted provisions set out as notes under section 3531 of this title. Section 1 of former title 5 was repealed and reenacted as section 101 of Title 5, Government Organization and Employees, and section 2211 of former title 5 was repealed and reenacted as sections 5312 to 5317 of title 5 by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378. For complete classification of this Act to the Code, see Short Title note set out under section 3531 of this title and Tables volume.

[1] So in original. Probably should be "and".

CODIFICATION

Section was formerly classified to section 624a of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employee by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-83 struck out provision for the compensation to be paid the Secretary.

EFFECTIVE DATE; INTERIM APPOINTMENTS

Nomination and appointment of Secretary of Housing and Urban Development any time after Sept. 9, 1965, and interim designation and compensation of officer of Housing and Home Finance Agency for that office upon nonentry upon the office upon expiration of first period of sixty calendar days following Sept. 9, 1965, or on earlier date specified by Executive order, see section 11 of Pub. L. 89-174, set out as a note under section 3531 of this title.

ORDER OF SUCCESSION

For order of succession in event of vacancy in office of Secretary, or during his absence or disability, see Ex. Ord. No. 11274, Mar. 30, 1966, 31 F.R. 5243, set out as a note under section 3347 of Title 5, Government Organization and Employees.

CONDOMINIUM AND COOPERATIVE STUDY AND REPORT; SUBMISSION TO CONGRESS

Pub. L. 93-383, title VII, § 821, Aug. 22, 1974, 88 Stat. 740, authorized the Secretary of Housing and Urban Development to conduct a full and complete investigation and study, and report to Congress not later than one year after Aug. 22, 1974, with respect to condominiums and cooperatives, and the problems, difficulties, and abuses or potential abuses applicable to condominium and cooperative housing.

EX. ORD. NO. 11297. COORDINATION OF FEDERAL URBAN PROGRAM

Ex. Ord. No. 11297, Aug. 11, 1966, 31 F.R. 10765, provided:

Whereas our Nation has become predominantly urban in character and is confronted by serious problems arising from inherited urban decay and rapid urban growth; and

Whereas the living standards and general welfare of its people depend upon the solution of the problems of urban life; and

Whereas the Congress has provided in the Department of Housing and Urban Development Act [see Short Title note under section 3531 of this title] that the Secretary of Housing and Urban Development (hereinafter referred to as the Secretary) shall "advise the President with respect to Federal programs and activities relating to housing and urban development; develop and recommend to the President policies for fostering the orderly growth and development of the Nation's urban areas; and exercise leadership at the direction of the President in coordinating Federal activities affecting housing and urban development"; and

Whereas such activities are closely interrelated with other important Federal activities affecting urban areas so that there is a need for maximum consultation and cooperation among Federal departments and agencies in their administration of programs having impact on urban areas; and

Whereas such consultation and cooperation are also essential to enable the Secretary to carry out his responsibilities under that Act to "provide technical assistance and information, including a clearinghouse service to aid State, county, town, village, or other local governments in developing solutions to community and metropolitan development problems; consult and cooperate with State Governors and State agencies . . . with respect to Federal and State programs for assisting communities in developing solutions to community and metropolitan development problems and for encouraging effective regional cooperation in the planning and conduct of community and metropolitan development programs and projects".

Now, therefore, by virtue of the authority vested in me as President of the United States by the Constitution and laws of the United States, it is ordered as follows:

SECTION 1.

Functions of the Secretary of Housing and Urban Development. (a) To assist the Secretary in carrying out his responsibilities pursuant to the Department of Housing and Urban Development Act, he shall convene, or authorize his representatives to convene, meetings at appropriate times and places of the heads, or representatives designated by them, of such Federal departments and agencies with programs affecting urban areas as he deems necessary or desirable for the following purposes:

(1) To provide a forum for consideration of mutual problems concerning Federal programs and activities affecting the development of urban areas and for the exchange of current information needed to achieve coordination of, and to avoid duplication in, such programs and activities.

(2) To promote cooperations among Federal departments and agencies in achieving consistent policies, practices, and procedures for administration of their programs affecting urban areas.

(3) To consult with and obtain the advice of the Federal departments and agencies with respect to:

(A) consultation and cooperation with State Governors and State and local agencies concerning Federal and State programs for assisting communities;

(B) provision of technical information, a clearinghouse service, and other assistance to State and local governments in solving community and metropolitan development problems; and

(C) encouragement of comprehensive planning of, and effective regional cooperation in, local urban, community, and metropolitan development activities.

(4) To identify urban development problems of particular States, metropolitan areas, or communities which require interagency or intergovernmental coordination.

(b) The Secretary shall make arrangements with such Federal departments and agencies for working groups to consider special problems arising with respect to matters described in subsection (a) of this section.

SECTION 2.

Agency responsibilities. The heads of Federal departments and agencies have programs which have an impact on urban areas, or representatives designated by them, shall participate in meetings convened pursuant to this Order and, to the extent permitted by law and funds available, shall furnish information, at the request of the Secretary, pertaining to programs within the responsibilities of such departments or agencies, and such additional information as will assist the Secretary in providing a clearinghouse service to aid State and local governments in developing solutions to community and metropolitan development problems.

SECTION 3.

Construction. Nothing in this Order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any Federal department or agency or head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

SECTION 4.

Administrative arrangements. (a) Each executive department and agency participating under section 1 or section 2 shall furnish necessary assistance for effec-

tuating the provisions of this Order as authorized by section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691).

(b) The Department of Housing and Urban Development shall provide necessary administrative services pursuant to this Order.

LYNDON B. JOHNSON.

CROSS REFERENCES

Annual rate of basic compensation of Secretary, see section 5312 of Title 5, Government Organization and Employees.

§ 3533. Officers of Department

(a) Under Secretary, Assistant Secretaries, and General Counsel; appointment, functions, powers, and duties; Federal Housing Commissioner: head of Federal Housing Administration, powers and duties, administration of departmental programs relating to private mortgage market

There shall be in the Department an Under Secretary, eight Assistant Secretaries, and a General Counsel, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time. There shall be in the Department a Federal Housing Commissioner, who shall be one of the Assistant Secretaries, who shall head a Federal Housing Administration within the Department, who shall have such duties and powers as may be prescribed by the Secretary, and who shall administer, under the supervision and direction of the Secretary, departmental programs relating to the private mortgage market.

(b) Director of Urban Program Coordination; designation; powers and duties; studies of urban and community problems and recommendations for administration of Federal programs affecting such problems

There shall be in the Department a Director of Urban Program Coordination, who shall be designated by the Secretary. He shall assist the Secretary in carrying out his responsibilities to the President with respect to achieving maximum coordination of the programs of the various departments and agencies of the Government which have a major impact on community development. In providing such assistance, the Director shall make such studies of urban and community problems as the Secretary shall request, and shall develop recommendations relating to the administration of Federal programs affecting such problems, particularly with respect to achieving effective cooperation among the Federal, State, and local agencies concerned. Subject to the direction of the Secretary, the Director shall, in carrying out his responsibilities, (1) establish and maintain close liaison with the Federal departments and agencies concerned and (2) consult with State, local, and regional officials, and consider their recommendations with respect to such programs.

(c) Assistant to Secretary; designation; duty to provide information and advice to nonprofit project sponsors

There shall be in the Department an Assistant to the Secretary, designated by the Secretary, who shall be responsible for providing information and advice to nonprofit organizations desiring to sponsor housing projects assisted under programs administered by the Department.

(Pub. L. 89-174, § 4, Sept. 9, 1965, 79 Stat. 668; Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90-284, title VIII, § 808(b)(1), Apr. 11, 1968, 82 Stat. 84; Pub. L. 90-448, title XVII, § 1708(a), Aug. 1, 1968, 82 Stat. 606; Pub. L. 91-609, title IX, § 917, Dec. 31, 1970, 84 Stat. 1816; Pub. L. 93-383, title VIII, § 818(a), Aug. 22, 1974, 88 Stat. 740.)

CODIFICATION

Section was formerly classified to section 624b of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employee by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383, § 818(a)(1), increased the number of Assistant Secretaries from six to eight.

Subsec. (b). Pub. L. 93-383, § 818(a)(2), (3), redesignated former subsec. (c) as (b). Former subsec. (b), which related to the appointment and functions of an Assistant Secretary for Administration, was struck out.

Subsec. (c). Pub. L. 93-383, § 818(a)(3), redesignated former subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 93-383, § 818(a)(3), redesignated former subsec. (d) as (c).

1970—Subsec. (d). Pub. L. 91-609 added subsec. (d).

1968—Subsec. (a). Pub. L. 90-448 increased the number of Assistant Secretaries from five to six.

Pub. L. 90-284 increased the number of Assistant Secretaries from four to five.

1967—Subsec. (a). Pub. L. 90-83 struck out provision setting the compensation for the Under Secretary, Assistant Secretaries, and General Counsel.

Subsec. (b). Pub. L. 90-83 struck out provision covering the compensation to be paid the Assistant Secretary for Administration.

EFFECTIVE DATE; INTERIM APPOINTMENTS

Nomination and appointment of Under Secretary, Assistant Secretaries, General Counsel, Federal Housing Commissioner, and Assistant Secretary for Administration of Department of Housing and Urban Development any time after Sept. 9, 1965, and interim designation and compensation of officers of Housing and Home Finance Agency for those offices upon nonentry upon the offices upon expiration of first period of sixty calendar days following Sept. 9, 1965 or on earlier date specified by Executive order, see section 11 of Pub. L. 89-174, set out as a note under section 3531 of this title.

CROSS REFERENCES

Annual rate of basic compensation of under secretaries, assistant secretaries, general counsels, and assistant secretaries for administration of executive departments, see section 5311 et seq. of Title 5, Government Organization and Employees.

Classification of civilian positions, see section 5101 et seq. of Title 5.

§ 3533a. Federal Insurance Administrator; establishment of position

There is hereby established in the Department of Housing and Urban Development the position of Federal Insurance Administrator.

(Pub. L. 90-448, title XI, § 1105(a), Aug. 1, 1968, 82 Stat. 567.)

§ 3534. Transfer of functions

(a) Housing and Home Finance Agency, Federal Housing Administration, and Public Housing Administration

Except as otherwise provided in subsection (b) of this section, there are hereby transferred to and vested in the Secretary all of the functions, powers, and duties of the Housing and Home Finance Agency, of the Federal Housing Administration and the Public Housing Administration in that Agency, and of the heads and other officers and offices of said agencies.

(b) Government National Mortgage Association

The Government National Mortgage Association, together with its functions, powers, and duties, is hereby transferred to the Department.

(c) Studies of organization of housing and urban development functions and programs and recommendations regarding transfer of such functions and programs to or from the Department

The President shall undertake studies of the organization of housing and urban development functions and programs within the Federal Government, and he shall provide the Congress with the findings and conclusions of such studies, together with his recommendations regarding the transfer of such functions and programs to or from the Department. Notwithstanding any other provision of this chapter, none of the functions of the Secretary of the Interior authorized under the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*-4 et seq.] or other functions carried out by the Bureau of Outdoor Recreation shall be transferred from the Department of the Interior or in any way be limited geographically unless specifically provided for by reorganization plan pursuant to provisions of chapter 9 of title 5, or by statute.

(Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669; Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90-448, title VIII, § 807(c), Aug. 1, 1968, 82 Stat. 544.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original, this Act, meaning Pub. L. 89-174, Sept. 9, 1965, 79 Stat. 667, known as the Department of Housing and Urban Development Act, which enacted this chapter, amended section 1451 of this title, sections 1 and 2211 of former title 5, Executive Departments and Government Officers and Employees, section 19 of Title 3, The President, and section 1723 of Title 12, Banks and Banking, and enacted provisions set out as notes under section 3531 of this title. Section 1 of former title 5 was repealed and reenacted as section 101 of Title 5, Government Organization and Employees, and section 2211 of former title 5 was repealed and reenacted as sections 5312 to 5317 of title 5 by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378. For complete classification of this Act to the Code, see Short Title note set out under section 3531 of this title and Tables volume.

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (c), is Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*-4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*-4 of Title 16 and Tables volume.

CODIFICATION

"Chapter 9 of title 5" was substituted in subsec. (c) for "the Reorganization Act of 1949, as amended," on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 624c of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

1968—Subsec. (b). Pub. L. 90-448 substituted "Government National Mortgage Association" for "Federal National Mortgage Association", and eliminated provisions which allocated the position of the President of the Federal National Mortgage Association among the positions referred to in section 3535(c) of this title.

1967—Subsec. (b). Pub. L. 90-83 struck out "and the item numbered (94) of section 303(e) of the Federal Executive Salary Act of 1964 of this title" following "The next to the last sentence of section 1723 of Title 12" in the repealing provision.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90-448, set out as an Effective Date note under section 1716b of Title 12, Banks and Banking.

TRANSFER OF FUNCTIONS

Pub. L. 89-174, § 9(c), Sept. 9, 1965, 79 Stat. 670, set out as a note under section 3531 of this title, provides that references to the Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean the Secretary of Housing and Urban Development, pursuant to the transfer of functions under this section, and that the Housing and Home Finance Agency and the Public Housing Administration, a constituent agency therein, have lapsed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3535 of this title.

§ 3535. Administrative provisions

(a) Transfer of personnel, assets, etc.

The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, or other funds held, used, arising from, or available or to be made available in connection with, the functions, powers, and duties transferred by section 3534 of this title are hereby transferred with such functions, powers, and duties, respectively.

(b) Repealed. Pub. L. 90-448, title VIII, § 807(d), Aug. 1, 1968, 82 Stat. 544

(c) Employment, compensation, authority, and duties of personnel

The Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, as shall be necessary to carry out the provisions of this chapter and to prescribe their authority and duties: *Provided,* That any other provision of law to the contrary notwithstanding, the Secretary may fix the compensation for not more than six positions in the Department at the annual rate applicable to positions

in level V of the Federal Executive Salary Schedule provided by subchapter II of chapter 53 of title 5.

(d) Delegation of authority; rules and regulations

The Secretary may delegate any of his functions, powers, and duties to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.

(e) Temporary employment of experts or consultants; compensation

The Secretary may obtain services as authorized by section 3109 of title 5, at rates for individuals not to exceed the per diem equivalent to the highest rate for grade GS-18 of the General Schedule under section 5332 of title 5.

(f) Working capital fund; establishment; uses; appropriations; capitalization; reimbursement

The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space; central services for document reproduction and for graphics and visual aids; and a central library service. In addition to amounts appropriated to provide capital for said fund, which appropriations are hereby authorized, the fund shall be capitalized by transfer to it of such stock of supplies and equipment on hand or on order as the Secretary shall direct. Such fund shall be reimbursed from available funds of agencies and offices in the Department for which services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and for depreciation of equipment.

(g) Seal

The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

(h) Financial transactions, finality; checking accounts for funds in Treasury; availability of funds for administrative expenses; consolidation of cash for banking and checking purposes

Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, such financial transactions of the Secretary as the making of loans or grants (and vouchers approved by the Secretary in connection with such financial transactions) shall be final and conclusive upon all officers of the Government. Funds made available to the Secretary pursuant to any provision of law for such financial transactions shall be deposited in a checking account or accounts with the Treasury of the United States. Such funds and any receipts and assets obtained or held by the Secretary in connection with such financial transactions shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with such financial transactions. Notwithstanding the provisions of any other law, the Secretary may, with the approval of the Comptroller General, consolidate into one or more accounts for banking and checking purposes all cash obtained or held in connection with such financial transactions, including amounts appropriated, from whatever source derived.

(i) Foreclosure of property; actions for protection and enforcement of rights; purchase of property; dealing with property after such acquisition; deprivation of State court civil and criminal jurisdiction; impairment of civil rights under State laws; application of section 5 of title 41; annual payments in lieu of local property taxes; sale and exchanges of property; insurance; modification of interest, time for installment payment, and other terms; other covenants, conditions, and provisions

Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, the Secretary is authorized to—

(1) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan or grant. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property: *Provided,* That any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property: *Provided further,* That section 5 of title 41 shall not apply to any contract for services or supplies on account of any property so acquired or owned if the amount of such contract does not exceed $2,500;

(2) enter into agreements to pay annual sums in lieu of taxes to any State or local taxing authority with respect to any real property so acquired or owned;

(3) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(4) obtain insurance against loss in connection with property and other assets held;

(5) consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him; and

(6) include in any contract or instrument such other covenants, conditions, or provisions as he may deem necessary.

(j) Fees and charges

Notwithstanding any other provision of law the Secretary is authorized to establish fees and charges, chargeable against program beneficiaries and project participants, which shall be adequate to cover over the long run, costs of inspection, project review and financing service, audit by Federal or federally authorized auditors, and other beneficial rights, privileges, licenses, and services. Such fees and charges heretofore or hereafter collected shall be considered nonadministrative and shall remain available for operating expenses of the Department in providing similar services on a consolidated basis.

(k) Gifts and services, acceptance; taxable status of property; investments; disbursements

(1) The Secretary is authorized to accept and utilize voluntary and uncompensated services and accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund and shall be disbursed upon order of the Secretary.

(*l*) Consultants; appointment of advisory committees; compensation and travel expenses

The Secretary is authorized to appoint, without regard to the civil service laws, such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (e) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(m) Occupancy preference in rental housing for military personnel

Whenever he shall determine that, because of location, or other considerations, any rental housing project assisted under title II of the National Housing Act [12 U.S.C. 1707 et seq.] or title I of the Housing and Urban Development Act of 1965 could ordinarily be expected substantially to serve the family housing needs of lower income military personnel serving on active duty, the Secretary is authorized to provide for or approve such preference or priority of occupancy of such project by such military personnel as he shall determine is appropriate to assure that the project will serve their needs on a continuing basis notwithstanding the frequency with which individual members of such personnel may be transferred or reassigned to new duty stations.

(n) Day care center for children of employees of the Department; establishment; fees and charges

Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to establish, equip and operate a day care center facility for the purpose of serving children who are members of households of employees of the Department. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department of Housing and Urban Development employees or others who are beneficiaries of services provided by such a day care center.

(Pub. L. 89-174, § 7, Sept. 9, 1965, 79 Stat. 669; Pub. L. 90-248, title VIII, § 808(b)(2), Apr. 11, 1968, 82 Stat. 84; Pub. L. 90-448, title VIII, § 807(d), Aug. 1, 1968, 82 Stat. 544; Pub. L. 91-609, title I, § 120(c), title IX, §§ 905, 906, Dec. 31, 1970, 84 Stat. 1776, 1809, 1811; Pub. L. 94-375, §§ 17(d), 21, Aug. 3, 1976, 90 Stat. 1077.)

REFERENCES IN TEXT

The civil service laws, referred to in subsecs. (c) and (*l*), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

The classification laws, referred to in subsec. (c), are classified generally to chapter 51 (§ 5101 et seq.) and to subchapter III (§ 5331 et seq.) of chapter 53 of Title 5, Government Organization and Employees.

This chapter, referred to in subsec. (c), was in the original, this Act, meaning Pub. L. 89-174, Sept. 9, 1965, 79 Stat. 667, known as the Department of Housing and Urban Development Act, which enacted this chapter, amended section 1451 of this title, sections 1 and 2211 of former Title 5, Executive Departments and Government Officers and Employees, section 19 of Title 3, The President, and section 1723 of Title 12, Banks and Banking, and enacted provisions set out as notes under section 3531 of this title. Section 1 of former title 5 was repealed and reenacted as section 101 of Title 5, Government Organization and Employees, and section 2211 of former title 5 was repealed and reenacted as sections 5312 to 5317 of title 5 by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378. For complete classification of this Act to the Code, see Short Title note set out under section 3531 of this title and Tables volume.

The National Housing Act, referred to in subsec. (m), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title II of the National Housing Act is classified principally to subchapter II (§ 1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

The Housing and Urban Development Act of 1965, referred to in subsec. (m), is Pub. L. 89-117, Aug. 10, 1965, 79 Stat. 451, as amended. Title I of the Housing and Urban Development Act of 1965 enacted sections 1421b, 1466 of this title, and sections 1701q, 1701s, 1735g, 1735h of Title 12, Banks and Banking, amended

sections 1402, 1422, 1451, 1465 of this title, sections 1715c, 1715*l*, 1715n, 1717 of Title 12, and section 1816 of Title 38, Veterans' Benefits, and enacted provisions set out as notes under section 1466 of this title and section 1701q of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 1749aa of Title 12 and Tables volume.

CODIFICATION

"Subchapter II of chapter 53 of title 5" was substituted in subsec. (c) for "the Federal Executive Salary Act of 1964" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

"Section 3109 of title 5" was substituted in subsec. (e) for "section 15 of the Act of August 2, 1946" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees. Prior to the enactment of Title 5, section 15 of the Act of Aug. 2, 1946, was classified to section 55a of former Title 5.

Section was formerly classified to section 624d of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

Subsec. (d) is comprised of the first sentence of subsec. (d) of section 7 of Pub. L. 89-174. The second sentence of subsec. (d) repealed the second proviso of section 1451(c) of this title.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-375, § 17(d), substituted "six" for "seven" in the proviso.

Subsec. (n). Pub. L. 94-375, § 21, added subsec. (n).

1970—Subsec. (e). Pub. L. 91-609, § 906, substituted "for individuals not to exceed the per diem equivalent to the highest rate for grade GS-18 of the General Schedule under section 5332 of title 5" for "not to exceed $100 per diem for individuals".

Subsecs. (h) to (*l*). Pub. L. 91-609, § 905, added subsecs. (h) to (*l*).

Subsec. (m). Pub. L. 91-609, § 120(c), added subsec. (m).

1968—Subsec. (b). Pub. L. 90-448 repealed former subsec. (b), which restricted transfer of functions in connection with secondary market operations of the Federal National Mortgage Association.

Subsec. (c). Pub. L. 90-284 increased from six to seven the number of positions in the Department whose compensation may be fixed at annual rate applicable to positions in level V.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90-448, set out as an Effective Date note under section 1716b of Title 12, Banks and Banking.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Compensation of positions in level V of the Federal Executive Salary Schedule provided by the Federal Executive Salary Act of 1964, referred to in subsec. (c), see section 5316, Government Organization and Employees of Title 5.

§ 3536. Annual reports

The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for submission to the Congress on the activities of the Department during the preceding calendar year.

(Pub. L. 89-174, § 8, Sept. 9, 1965, 79 Stat. 670.)

CODIFICATION

Section was formerly classified to section 624e of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4027 of this title.

§ 3537. Separability of provisions

Notwithstanding any other evidence of the intent of Congress, it is hereby declared to be the intent of Congress that if any provision of this chapter, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter or its application to other persons and circumstances, but shall be confined in its operation to the provision of this chapter, or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered.

(Pub. L. 89-174, § 10, Sept. 9, 1965, 79 Stat. 671.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original, this Act, meaning Pub. L. 89-174, Sept. 9, 1965, 79 Stat. 667, known as the Department of Housing and Urban Development Act, which enacted this chapter, amended section 1451 of this title, sections 1 and 2211 of former Title 5, Executive Departments and Government Officers and Employees, section 19 of Title 3, the President, and section 1723 of Title 12, Banks and Banking, and enacted provisions set out as notes under section 3531 of this title. Section 1 of former title 5 was repealed and reenacted as section 101 of Title 5, Government Organization and Employees, and section 2211 of former title 5 was repealed and reenacted as sections 5312 to 5317 of title 5 by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378. For complete classification of this Act to the Code, see Short Title note set out under section 3531 of this title and Tables volume.

CODIFICATION

Section was formerly classified to section 624f of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 1, 1966, 80 Stat. 378.

§ 3538. Rescheduling and refinancing of federal loans

The Secretary of Housing and Urban Development is authorized to refinance any note or other obligation which is held by him in connection with any loan made by the Department of Housing and Urban Development or its predecessor in interest, or which is included within the revolving fund for liquidating programs established by the Independent Offices Appropriation Act of 1955 [12 U.S.C. 1701g-5], where he finds such refinancing necessary because of the loss, destruction, or damage (as a result of a major disaster) to property or facilities securing such obligations. The Secretary may authorize a suspension in the payment of principal and interest charges on, and an additional extension in the maturity of, any such loan for a period not to exceed five years if he determines that such action is necessary to avoid severe financial hardship.

(Pub. L. 91-606, title II, § 236(b), Dec. 31, 1970, 84 Stat. 1754.)

REFERENCES IN TEXT

The Independent Offices Appropriation Act of 1955, referred to in text, is act June 24, 1954, ch. 359, 68 Stat. 272. Provisions of the act which established the revolving fund for liquidating programs are classified to section 1701g-5 of Title 12, Banks and Banking. For classification of other provisions of the act to the Code, see Tables volume.

CODIFICATION

Section was formerly classified to section 4455(b) of this title.

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 636b.

§ 3539. Housing and Urban Development Disaster Assistance Fund

The Secretary of Housing and Urban Development is authorized to establish a fund and to transfer to such fund from appropriations or funds available to the Department of Housing and Urban Development, such amounts as may be necessary to provide disaster assistance for which the Secretary has been requested by the Director of the Office of Emergency Preparedness to make resources available pursuant to the authority of the Disaster Relief Act of 1970 [42 U.S.C. 4401 et seq.].

(Pub. L. 92-383, title IV, § 406, Aug. 14, 1972, 86 Stat. 553.)

REFERENCES IN TEXT

The Disaster Relief Act of 1970, referred to in text, is Pub. L. 91-606, Dec. 31, 1970, 84 Stat. 1744, which is classified principally to chapter 58 (§ 4401 et seq.) of this title. The 1970 Act was repealed in part by the Disaster Relief Act of 1974, Pub. L. 93-288, § 603, May 22, 1974, 88 Stat. 164. Section 602(m) of the Disaster Relief Act of 1974 provided that a reference in any other law to repealed provisions of the Disaster Relief Act of 1970 shall be deemed to be a reference to the appropriate provision of the 1974 Act, which is classified generally to chapter 68 (§ 5121 et seq.) of this title.

CODIFICATION

Section was formerly classified to section 4413a of this title.

TRANSFER OF FUNCTIONS

Functions of the Director of the Office of Emergency Preparedness under this section, transferred to the President by Reorg. Plan No. 1 of 1973, set out in the Appendix to Title 5, Government Organization and Employees, were transferred to the Secretary of Housing and Urban Development by section 2(2) of Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177, set out as a note under section 5121 of this title. Section 6(a) of Ex. Ord. No. 11749 superseded section 1 of Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, which had previously transferred the functions of the Director of the Office of Emergency Preparedness under this section to the Secretary of Housing and Urban Development.

CHAPTER 45—FAIR HOUSING

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5304 of this title.

SUBCHAPTER I—GENERALLY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 23 section 117; title 31 section 1242; title 49 sections 1604, 1716.

§ 3601. Declaration of policy

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

(Pub. L. 90-284, title VIII, § 801, Apr. 11, 1968, 82 Stat. 81.)

FEDERALLY PROTECTED ACTIVITIES; PENALTIES

Penalties for violations respecting federally protected activities not applicable to and not affecting activities under this subchapter, see section 101(b) of Pub. L. 90-284, set out as a note under section 245 of Title 18, Crimes and Criminal Procedure.

§ 3602. Definitions

As used in this subchapter—

(a) "Secretary" means the Secretary of Housing and Urban Development.

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means an act that is unlawful under section 3604, 3605, or 3606 of this title.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(Pub. L. 90-284, title VIII, § 802, Apr. 11, 1968, 82 Stat. 81.)

§ 3603. Effective dates of certain prohibitions

(a) Application to certain described dwellings

Subject to the provisions of subsection (b) of this section and section 3607 of this title, the prohibitions against discrimination in the sale or rental of housing set forth in section 3604 of this title shall apply:

(1) Upon enactment of this subchapter, to—

(A) dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to April 11, 1968;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to April 11, 1968: *Provided,* That nothing contained in subparagraphs (B) and (C) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b) of this section.

(b) Exemptions

Nothing in section 3604 of this title (other than subsection (c)) shall apply to—

(1) any single-family house sold or rented by an owner: *Provided,* That such private individual owner does not own more than three such single-family houses at any one time: *Provided further,* That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most

recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: *Provided further,* That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: *Provided further,* That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 3604(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) Business of selling or renting dwellings defined

For the purposes of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings if—

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(Pub. L. 90-284, title VIII, § 803, Apr. 11, 1968, 82 Stat. 82.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3604, 3605, 3612, 3617 of this title.

§ 3604. Discrimination in the sale or rental of housing

As made applicable by section 3603 of this title and except as exempted by sections 3603(b) and 3607 of this title, it shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, sex, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, or national origin.

(Pub. L. 90-284, title VIII, § 804, Apr. 11, 1968, 82 Stat. 83; Pub. L. 93-383, title VIII, § 808(b)(1), Aug. 22, 1974, 88 Stat. 729.)

AMENDMENTS

1974—Pub. L. 93-383 added "sex" wherever appearing in cls. (a) to (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3603, 3612, 3617 of this title.

§ 3605. Discrimination in the financing of housing

After December 31, 1968, it shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: *Provided,* That nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 3603(b) of this title.

(Pub. L. 90-284, title VIII, § 805, Apr. 11, 1968, 82 Stat. 83; Pub. L. 93-383, title VIII, § 808(b)(2), Aug. 22, 1974, 88 Stat. 729.)

AMENDMENTS

1974—Pub. L. 93-383 added "sex".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3612, 3617 of this title; title 15 section 1691e.

§ 3606. Discrimination in the provision of brokerage services

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, or national origin.

(Pub. L. 90-284, title VIII, § 806, Apr. 11, 1968, 82 Stat. 84; Pub. L. 93-383, title VIII, § 808(b)(3), Aug. 22, 1974, 88 Stat. 729.)

AMENDMENTS

1974—Pub. L. 93-383 added "sex".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3612, 3617 of this title.

§ 3607. Religious organization or private club exemption

Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(Pub. L. 90-284, title VIII, § 807, Apr. 11, 1968, 82 Stat. 84.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3603, 3604 of this title.

§ 3608. Administration

(a) Authority and responsibility

The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

(b) Delegation of authority; appointment of hearing examiners; location of conciliation meetings; administrative review

The Secretary may delegate any of his functions, duties, and powers to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this subchapter. The person to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5362, and 7521 of title 5. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(c) Cooperation of Secretary and executive departments and agencies in administration of housing and urban development programs and activities to further fair housing purposes

All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary to further such purposes.

(d) Functions of Secretary

The Secretary of Housing and Urban Development shall—

(1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;

(2) publish and disseminate reports, recommendations, and information derived from such studies;

(3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices; and

(5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter.

(Pub. L. 90-284, title VIII, § 808 (a), (c)-(e), Apr. 11, 1968, 82 Stat. 84, 85.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 73, which enacted this chapter, sections 231 to 233, 245, 2101, and 2102 of Title 18, Crimes and Criminal Procedure, and sections 1301 to 1303, 1311, 1312, 1321 to 1326, 1331, and 1341 of Title 25, Indians, amended sections 1973j, 3533, 3535 of this title, and sections 241, 242, and 1153 of Title 18, enacted provisions set out as notes under sections 231 and 245 of Title 18, and repealed provisions set out as notes under section 1360 of Title 28, Judiciary and Judicial Procedure. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

This section is comprised of subsecs. (a), (c) to (e), respectively of section 808 of Pub. L. 90-284. Subsec. (b) of section 808 of Pub. L. 90-284 amended sections 3533(a) and 3535(c) of this title.

§ 3609. Education and conciliation; conferences and consultations; reports

Immediately after April 11, 1968, the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this subchapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this subchapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of title 5. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this subchapter. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

(Pub. L. 90-284, title VIII, § 809, Apr. 11, 1968, 82 Stat. 85.)

§ 3610. Enforcement

(a) Person aggrieved; complaint; copy; investigation; informal proceedings; violations of secrecy; penalties

Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the Secretary. Complaints shall be in writing and shall contain such information and be in such form as the Secretary requires. Upon receipt of such a complaint the Secretary shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (c) of this section, the Secretary shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the Secretary decides to resolve the complaint, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this subchapter without the written consent of the persons concerned. Any employee of the Secretary who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year.

(b) Complaint; limitations; answer; amendments; verification

A complaint under subsection (a) of this section shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the Secretary, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(c) Notification of State or local agency of violation of State or local fair housing law; commencement of State or local law enforcement proceedings; certification of circumstances requisite for action by Secretary

Wherever a State or local fair housing law provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies provided in this subchapter, the Secretary shall notify the appropriate State or local agency of any complaint filed under this subchapter which appears to constitute a violation of such State or local fair housing law, and the Secretary shall take no further action with respect to such complaint if the appropriate State or local law enforcement official has, within thirty days from the date the alleged offense has been brought to his attention, commenced proceedings in the matter, or, having done so, carries forward such proceedings with reasonable promptness. In no event shall the Secretary take further action unless he certifies that in his judgment, under the circumstances of the particular case, the protection of the rights of the parties or the interests of justice require such action.

(d) Commencement of civil actions; State or local remedies available; jurisdiction and venue; findings; injunctions; appropriate affirmative orders

If within thirty days after a complaint is filed with the Secretary or within thirty days after expiration of any period of reference under subsection (c) of this section, the Secretary has been unable to obtain voluntary compliance with this subchapter, the person aggrieved may, within thirty days thereafter, commence a civil action in any appropriate United States district court, against the respondent named in the complaint, to enforce the rights granted or protected by this subchapter, insofar as such rights relate to the subject of the complaint: *Provided,* That no such civil action may be brought in any United States district court if the person aggrieved has a judicial remedy under a State or local fair housing law which provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies provided in this subchapter. Such actions may be brought without regard to the amount in controversy in any United States district court for the district in which the discriminatory housing practice is alleged to have occurred or be about to occur or in which the respondent resides or transacts business. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may, subject to the provisions of section 3612 of this title, enjoin the respondent from engaging in

such practice or order such affirmative action as may be appropriate.

(e) Burden of proof

In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Trial of action; termination of voluntary compliance efforts

Whenever an action filed by an individual, in either Federal or State court, pursuant to this section or section 3612 of this title, shall come to trial the Secretary shall immediately terminate all efforts to obtain voluntary compliance.

(Pub. L. 90-284, title VIII, § 810, Apr. 11, 1968, 82 Stat. 85.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3612 of this title.

§ 3611. Evidence

(a) Investigations; access to records, documents, and other evidence; copying; searches and seizures; subpenas for Secretary; interrogatories; administration of oaths

In conducting an investigation the Secretary shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: *Provided, however,* That the Secretary first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Secretary may issue subpenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Secretary may administer oaths.

(b) Subpenas for respondent

Upon written application to the Secretary, a respondent shall be entitled to the issuance of a reasonable number of subpenas by and in the name of the Secretary to the same extent and subject to the same limitations as subpenas issued by the Secretary himself. Subpenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(c) Compensation and mileage fees of witnesses

Witnesses summoned by subpena of the Secretary shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpena issued at the request of a respondent shall be paid by him.

(d) Revocation or modification of petition for subpena; good reasons for grant of petition

Within five days after service of a subpena upon any person, such person may petition the Secretary to revoke or modify the subpena. The Secretary shall grant the petition if he finds that the subpena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(e) Enforcement of subpena

In case of contumacy or refusal to obey a subpena, the Secretary or other person at whose request it was issued may petition for its enforcement in the United States district court for the district in which the person to whom the subpena was addressed resides, was served, or transacts business.

(f) Violations; penalties

Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpena or lawful order of the Secretary, shall be fined not more than $1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the Secretary, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the Secretary pursuant to his subpena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(g) Attorney General to conduct litigation

The Attorney General shall conduct all litigation in which the Secretary participates as a party or as amicus pursuant to this Act.

(Pub. L. 90-284, title VIII, § 811, Apr. 11, 1968, 82 Stat. 87.)

REFERENCES IN TEXT

This Act, referred to in subsec. (g), means Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 73, which enacted this chapter, sections 231 to 233, 245, 2101, and 2102 of Title 18, Crimes and Criminal Procedure, and sections 1301 to 1303, 1311, 1312, 1321 to 1326, 1331, and 1341 of Title 25, Indians, amended sections 1973j, 3533, 3535 of this title, and sections 241, 242, and 1153 of Title 18, enacted provisions set out as notes under sections 231 and 245 of Title 18, and repealed provisions set out as notes under section 1360 of Title 28, Judiciary and Judicial Procedure. For complete classification of this Act to the Code, see Tables volume.

§ 3612. Enforcement by private persons

(a) Civil action; Federal and State jurisdiction; complaint; limitations; continuance pending conciliation efforts; prior bona fide transactions unaffected by court orders

The rights granted by sections 3603, 3604, 3605, and 3606 of this title may be enforced by civil actions in appropriate United States district courts without regard to the amount in controversy and in appropriate State or local courts of general jurisdiction. A civil action

shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: *Provided, however,* That the court shall continue such civil case brought pursuant to this section or section 3610(d) of this title from time to time before bringing it to trial if the court believes that the conciliation efforts of the Secretary of a State or local agency are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the Secretary or to the local or State agency and which practice forms the basis for the action in court: *And provided, however,* That any sale, encumbrance, or rental consummated prior to the issuance of any court order issued under the authority of this Act, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this Act shall not be affected.

(b) Appointment of counsel and commencement of civil actions in Federal or State courts without payment of fees, costs, or security

Upon application by the plaintiff and in such circumstances as the court may deem just, a court of the United States in which a civil action under this section has been brought may appoint an attorney for the plaintiff and may authorize the commencement of a civil action upon proper showing without the payment of fees, costs, or security. A court of a State or subdivision thereof may do likewise to the extent not inconsistent with the law or procedures of the State or subdivision.

(c) Injunctive relief and damages; limitation; court costs; attorney fees

The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than $1,000 punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff: *Provided,* That the said plaintiff in the opinion of the court is not financially able to assume said attorney's fees.

(Pub. L. 90-284, title VIII, § 812, Apr. 11, 1968, 82 Stat. 88.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 73, which enacted this chapter, sections 231 to 233, 245, 2101, and 2102 of Title 18, Crimes and Criminal Procedure, and sections 1301 to 1303, 1311, 1312, 1321 to 1326, 1331, and 1341 of Title 25, Indians, amended sections 1973j, 3533, 3535 of this title, and sections 241, 242, and 1153 of Title 18, enacted provisions set out as notes under sections 231 and 245 of Title 18, and repealed provisions set out as notes under section 1360 of Title 28, Judiciary and Judicial Procedure. For complete classification of this Act to the Code, see Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3610, 3614 of this title; title 15 section 1691e.

§ 3613. Enforcement by the Attorney General; issues of general public importance; civil action; Federal jurisdiction; complaint; preventive relief

(a)[1] Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this subchapter, or that any group of persons has been denied any of the rights granted by this subchapter and such denial raises an issue of general public importance, he may bring a civil action in any appropriate United States district court by filing with it a complaint setting forth the facts and requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice or denial of rights, as he deems necessary to insure the full enjoyment of the rights granted by this subchapter.

(Pub. L. 90-284, title VIII, § 813, Apr. 11, 1968, 82 Stat. 88.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3614 of this title.

§ 3614. Expedition of proceedings

Any court in which a proceeding is instituted under section 3612 or 3613 of this title shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

(Pub. L. 90-284, title VIII, § 814, Apr. 11, 1968, 82 Stat. 88.)

§ 3615. Effect on State laws

Nothing in this subchapter shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this subchapter shall be effective, that grants, guarantees, or protects the same rights as are granted by this subchapter; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.

(Pub. L. 90-284, title VIII, § 815, Apr. 11, 1968, 82 Stat. 89.)

§ 3616. Cooperation with State and local agencies administering fair housing laws; utilization of services and personnel; reimbursement; written agreements; publication in Federal Register

The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this subchapter. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations

[1] So in original. No subsec. (b) has been enacted.

thereof shall be published in the Federal Register.

(Pub. L. 90-284, title VIII, § 816, Apr. 11, 1968, 82 Stat. 89.)

§ 3617. Interference, coercion, or intimidation; enforcement by civil action

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 3603, 3604, 3605, or 3606 of this title. This section may be enforced by appropriate civil action.

(Pub. L. 90-284, title VIII, § 817, Apr. 11, 1968, 82 Stat. 89.)

§ 3618. Authorization of appropriations

There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subchapter.

(Pub. L. 90-284, title VIII, § 818, Apr. 11, 1968, 82 Stat. 89.)

§ 3619. Separability of provisions

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Pub. L. 90-284, title VIII, § 819, Apr. 11, 1968, 82 Stat. 89.)

SUBCHAPTER II—PREVENTION OF INTIMIDATION

§ 3631. Violations; bodily injury; death; penalties

Whoever, whether or not acting under color of law, by force or threat of force willfully injuries, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

(a) any person because of his race, color, religion, sex or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(1) participating, without discrimination on account of race, color, religion, sex or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section; or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate—

shall be fined not more than $1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than $10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

(Pub. L. 90-284, title IX, § 901, Apr. 11, 1968, 82 Stat. 89; Pub. L. 93-383, title VIII, § 808(b)(4), Aug. 22, 1974, 88 Stat. 729.)

AMENDMENTS

1974—Pub. L. 93-383 added "sex" wherever appearing in cls. (a), (b)(1), and (c).

FEDERALLY PROTECTED ACTIVITIES; PENALTIES

Penalties for violations respecting federally protected activities not applicable to and not affecting activities under fair housing provisions of subchapter I of this chapter, see section 101(b) of Pub. L. 90-284, set out as a note under section 245 of Title 18, Crimes and Criminal Procedure.

CHAPTER 46—LAW ENFORCEMENT ASSISTANCE

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3743. Amount of grant, limitation; contributions requirement.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 300d-5, 3888 of this title.

GENERAL PROVISIONS

§ 3701. Congressional findings, declarations of policy and statement of purpose

Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens. To reduce and prevent crime and juvenile delinquency, and to insure the greater safety of the people, law enforcement and criminal justice efforts must be better coordinated, intensified, and made more effective at all levels of government.

Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

Congress finds further that the financial and technical resources of the Federal Government should be used to provide constructive aid and assistance to State and local governments in combating the serious problem of crime and that the Federal Government should assist State and local governments in evaluating the impact and value of programs developed and adopted pursuant to this chapter.

Congress finds further that the high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss in human life, personal security, and wasted human resources, and that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency.

It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by Federal assistance. It is the purpose of this chapter to (1) encourage, through the provision of Federal technical and financial aid and assistance, States and units of general local government to develop and adopt comprehensive plans based upon their evaluation of and designed to deal with their particular problems of law enforcement and criminal justice; (2) authorize, following evaluation and approval of comprehensive plans, grants to States and units of local government in order to improve and strengthen law enforcement and criminal justice; and (3) encourage, through the provision of Federal technical and financial aid and assistance, research and development directed toward the improvement of law enforcement and criminal justice and the development of new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals.

It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination to (1) develop and implement effective methods of preventing and reducing juvenile delinquency; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States; and (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile justice and delinquency prevention.

(Pub. L. 90-351, title I, § 100, June 19, 1968, 82 Stat. 197; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 197; Pub. L. 93-415, title V, § 541, Sept. 7, 1974, 88 Stat. 1142; Pub. L. 94-503, title I, § 101, Oct. 15, 1976, 90 Stat. 2407.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out below and Tables volume.

AMENDMENTS

1976—Pub. L. 94-503 added third paragraph, thereby changing the third, fourth, and fifth paragraphs into

the fourth, fifth, and sixth paragraphs, respectively, and in the resulting fifth paragraph substituted "Federal assistance" for "national assistance" and "their evaluation of and designed to deal with their particular problems of law enforcement and criminal justice" for "their evaluation of State and local problems of law enforcement and criminal justice" in cl. (1), and added ", through the provision of Federal technical and financial aid and assistance," in cls. (1) and (3) and ", following evaluation and approval of comprehensive plans," in cl. (2).

1974—Pub. L. 93-415 added third and fifth paragraphs.

1973—First par. Pub. L. 93-83 substituted "To reduce and prevent crime and juvenile delinquency" for "To prevent crime" and "law enforcement and criminal justice efforts" for "law enforcement efforts".

Third par. Pub. L. 93-83 substituted "law enforcement and criminal justice" for "law enforcement" wherever appearing, and "develop" for "prepare" in item (1) and included in the Congressional declaration of policy the rehabilitation of criminals in item (3).

EFFECTIVE DATE OF 1973 AMENDMENT

Section 3 of Pub. L. 93-83 provided that: "The amendments made by this Act [see Short Title of 1973 Amendment note below] shall take effect on and after July 1, 1973, except that the offices and salaries modified under sections 101, 505, and 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as amended by this Act [sections 5108(c)(10), 5314(55), 5315(90), and 5316(133) of Title 5, Government Organization and Employees] shall be modified prospectively only, effective on and after the date of the enactment of this Act [Aug. 6, 1973]."

SHORT TITLE OF 1976 AMENDMENTS

Section 1 of Pub. L. 94-503 provided: "That this Act [enacting sections 3726 and 3739 of this title, amending sections 3701, 3711, 3721, 3723, 3724, 3725, 3731, 3732, 3733, 3734, 3736, 3737, 3738, 3742, 3750b, 3750d, 3751, 3755, 3757, 3763, 3766, 3767, 3768, 3769, 3781, 5633, 5635, and 5671 of this title, and sections 5108, 5315, and 5316 of Title 5, Government Organization and Employees, repealing section 3760 of this title, and enacting provisions set out as notes under sections 509 and 532 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Crime Control Act of 1976'."

Pub. L. 94-430, § 1, Sept. 29, 1976, 90 Stat. 1346, provided: "That this Act [which enacted sections 3796 to 3796c of this title, amended section 3768 of this title, and enacted provisions set out as notes under section 3796 of this title] may be cited as the 'Public Safety Officers' Benefits Act of 1976'."

SHORT TITLE OF 1973 AMENDMENT

Section 1 of Pub. L. 93-83 provided: "That this Act [which enacted sections 3738, 3770, and 3771 of this title, reenacted sections 3334(a), 3734, 3735, 3745, 3750, 3750a, 3751 to 3755, 3757 to 3759, 3761 to 3765, and 3792 of this title and section 5314(55) of Title 5, Government Organization and Employees, renumbered former section 3748 as 3747 and repealed former section 3747 of this title, and amended sections 3701, 3711, 3721 to 3725, 3731 to 3733, 3736, 3737, 3741 to 3744, 3746, 3750b to 3750d, 3756, 3760, 3766 to 3769, 3781, 3791, 3793, and 3795 of this title, sections 5108(c)(10), 5315(90), and 5316(133) of Title 5, and section 484(n) of Title 40, Public Buildings, Property, and Works] may be cited as the 'Crime Control Act of 1973'."

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91-644, § 1, Jan. 2, 1971, 84 Stat. 1880, provided: "That this Act [which enacted sections 3747, 3748, 3750 to 3750d, 3791 to 3793, and 3795 of this title and sections 351 and 1752 of Title 18, Crimes and Criminal Procedure, amended sections 3711, 3723, 3724, 3731, 3733, 3735, 3736, 3746, 3756, 3763 to 3765, 3767 to 3769, and 3781 of this title, sections 5108 and 5313 to 5316 of Title 5, Government Organization and Employees, and sections 924, 3056, and 3731 of title 18, enacted provisions set out as notes under section 3731 of title 18, amended provisions set out as notes under section 2510 of title 18, and repealed provisions set out as notes under section 2510 of title 18] may be cited as the 'Omnibus Crime Control Act of 1970'."

SHORT TITLE

Section 1 of Pub. L. 90-351 provided: "That this Act [which enacted this chapter, sections 5315(90), 5316(126), and 7313 of Title 5, Government Organization and Employees, sections 921 to 928 (chapter 44), 2510 to 2520 (chapter 119), 3103a, 3501, and 3502 of Title 18, Crimes and Criminal Procedure, and Appendix to such Title 18, amended section 3334(a) of this title, section 3731 of Title 18, and section 605 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, repealed sections 901 to 910 of Title 15, Commerce and Trade, enacted provisions set out as notes under sections 7313 of Title 5, 921 and 2510 of Title 18, and 532 of Title 28, Judiciary and Judicial Procedure, and repealed provisions set out as a note preceding section 3001 of Title 18] may be cited as the 'Omnibus Crime Control and Safe Streets Act of 1968'."

SEPARABILITY OF PROVISIONS

Section 1601 of Pub. L. 90-351 provided that: "If the provisions of any part of this Act [see Short Title note above] or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby."

SUBCHAPTER I—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

§ 3711. Law Enforcement Assistance Administration

(a) Establishment; general authority of Attorney General over Administration; membership; appointment

There is hereby established within the Department of Justice, under the general authority, policy direction, and general control of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this chapter as "Administration") composed of an Administrator of Law Enforcement Assistance and two Deputy Administrators of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Status of Administrator; Deputy Administrator for Policy Development and Deputy Administrator for Administration designations

The Administrator shall be the head of the agency. One Deputy Administrator shall be designated the Deputy Administrator for Policy Development. The second Deputy Administrator shall be designated the Deputy Administrator for Administration.

(c) Office of Community Anti-Crime Programs; duties and functions

There is established in the Administration the Office of Community Anti-Crime Programs (hereinafter in this subsection referred to as the "Office"). The Office shall be under the direction of the Deputy Administrator for Policy Development. The Office shall—

(1) provide appropriate technical assistance to community and citizens groups to enable such groups to apply for grants to encourage community and citizen participation in crime

prevention and other law enforcement and criminal justice activities;

(2) coordinate its activities with other Federal agencies and programs (including the Community Relations Division of the Department of Justice) designed to encourage and assist citizen participation in law enforcement and criminal justice activities; and

(3) provide information on successful programs of citizen and community participation to citizen and community groups.

(Pub. L. 90-351, title I, § 101, June 19, 1968, 82 Stat. 198; Pub. L. 91-644, title I, § 2, Jan. 2, 1971, 84 Stat. 1881; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 197; Pub. L. 94-503, title I, §§ 102, 103, Oct. 15, 1976, 90 Stat. 2407.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (a), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-503, § 102, substituted "authority, policy direction, and general control of the Attorney General" for "authority of the Attorney General".

Subsec. (c). Pub. L. 94-503, § 103, added subsec. (c).

1973—Subsec. (a). Pub. L. 93-83 substituted designation of "Deputy Administrators" for "Associate Administrators" and deleted political representation requirement, namely that beginning after the end of the term of either of the present incumbents, one of the Associate Administrators be a member of a political party other than that of the President.

Subsec. (b). Pub. L. 93-83 substituted provisions which make the Administrator the head of the agency and designated one Deputy Administrator as the Deputy Administrator for Policy Development and another as Deputy Administrator for Administration for prior provisions which made the Administrator the executive head of the agency, required him to exercise all administrative powers, including the appointment and supervision of Administration personnel, and required all of the other functions, powers, and duties created and established by this chapter to be exercised by the Administrator with the concurrence of either one or both of the two Associate Administrators.

1971—Subsec. (a). Pub. L. 91-644 incorporated former provisions of subsec. (b) respecting membership and appointment and substituted "Beginning after the end of the term of either of the present incumbents, one of the Associate Administrators shall be a member of a political party other than that of the President" for former provision of subsec. (b) that "No more than two members of the Administration shall be of the same political party".

Subsec. (b). Pub. L. 91-644 substituted provisions respecting executive status and powers of Administrator including appointment and supervision of personnel and exercise of other functions, powers, and duties concurrently, for former provisions of subsec. (c) respecting duty of Administration to exercise functions, powers, and duties under this chapter and deleted provisions respecting membership, appointment, and restriction of the Administration to two members of the same political party, now incorporated in subsec. (a), and provision respecting appointment with due regard to fitness, knowledge, and experience to perform the functions, powers, and duties vested in the Administration.

Subsec. (c). Pub. L. 91-644 deleted subsec. (c) provisions respecting duty of Administration to exercise all functions, powers, and duties under this chapter, now incorporated in subsec. (b) of this section.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5603 of this title.

SUBCHAPTER II—PLANNING GRANTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3732, 3770 of this title.

§ 3721. Statement of purpose

It is the purpose of this subchapter to provide financial and technical aid and assistance to encourage States and units of general local government to develop and adopt comprehensive law enforcement and criminal justice plans based on their evaluation of State and local problems of law enforcement and criminal justice.

(Pub. L. 90-351, title I, § 201, June 19, 1968, 82 Stat. 198; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 197; Pub. L. 94-503, title I, § 104, Oct. 15, 1976, 90 Stat. 2408.)

AMENDMENTS

1976—Pub. L. 94-503 added "to provide financial and technical aid and assistance" following "subchapter".

1973—Pub. L. 93-83 substituted "law enforcement and criminal justice" for "law enforcement".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3722. State planning agencies; establishment and operation; time of applications for grants

The Administration shall make grants to the States for the establishment and operation of State law enforcement and criminal justice planning agencies (hereinafter referred to in this chapter as "State planning agencies") for the preparation, development, and revision of the State plan required under section 3733 of this title. Any State may make application to the Administration for such grants within six months of June 19, 1968.

(Pub. L. 90-351, title I, § 202, June 19, 1968, 82 Stat. 198; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 198.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1973—Pub. L. 93-83 substituted "law enforcement and criminal justice" for "law enforcement".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3723. State planning agency

(a) Establishment and maintenance; creation by responsibility to chief executive; representative capacity; composition of agency and regional planning units

(1) A grant made under this subchapter to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State or by State law and shall be subject to the jurisdiction of the chief executive. Where such agency is not created or designated by State law, it shall be so created or designated by no later than December 31, 1978, The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizens, professional, and community organizations, including organizations directly related to delinquency prevention.

(2) The State planning agency shall include as judicial members, at a minimum, the chief judicial officer or other officer of the court of last resort, the chief judicial administrative officer or other appropriate judicial administrative officer of the State, and a local trial court judicial officer. The local trial court judicial officer and, if the chief judicial officer or chief judicial administrative officer cannot or does not choose to serve, the other judicial members, shall be selected by the chief executive of the State from a list of no less than three nominees for each position submitted by the chief judicial officer of the court of last resort within thirty days after the occurrence of any vacancy in the judicial membership. Additional judicial members of the State planning agency as may be required by the Administration pursuant to section 3763(a) of this title shall be appointed by the chief executive of the State from the membership of the judicial planning committee. Any executive committee of a State planning agency shall include in its membership the same proportion of judicial members as the total number of such members bears to the total membership of the State planning agency. The regional planning units within the State shall be comprised of a majority of local elected officials. State planning agencies which choose to establish regional planning units may utilize the boundaries and organization of existing general purpose regional planning bodies within the State.

(b) Duties and functions

The State planning agency shall—

(1) develop, in accordance with subchapter III of this chapter, a comprehensive statewide plan for the improvement of law enforcement and criminal justice throughout the State;

(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement and criminal justice;

(3) establish priorities for the improvement in law enforcement and criminal justice throughout the State; and

(4) assure the participation of citizens and community organizations at all levels of the planning process.

(c) Judicial planning committee; establishment by court of last resort; development of State judicial plan; membership; representative capacity

The court of last resort of each State or a judicial agency authorized on October 15, 1976, by State law to perform such function, provided it has a statutory membership of a majority of court officials (including judges, court administrators, prosecutors, and public defenders) may establish or designate a judicial planning committee for the preparation, development, and revision of an annual State judicial plan. The members of the judicial planning committee shall be appointed by the court of last resort or a judicial agency authorized on October 15, 1976, by State law to perform such function, provided it has a statutory membership of a majority of court officials (including judges, court administrators, prosecutors, and public defenders) and serve at its pleasure. The committee shall be reasonably representative of the various local and State courts of the State, including appellate courts, and shall include a majority of court officials (including judges, court administrators, prosecutors, and public defenders).

(d) Duties and functions of judicial planning committee; submission of annual plan; incorporation of plan into comprehensive statewide plan

The judicial planning committee shall—

(1) establish priorities for the improvement of the courts of the State;

(2) define, develop, and coordinate programs and projects for the improvement of the courts of the State; and

(3) develop, in accordance with subchapter III of this chapter, an annual State judicial plan for the improvement of the courts of the State to be included in the State comprehensive plan.

The judicial planning committee shall submit to the State planning agency its annual State judicial plan for the improvement of the courts of the State. The State planning agency shall incorporate into the comprehensive statewide plan the annual State judicial plan, except to the extent that such State judicial plan fails to meet the requirements of section 3734(b) of this title.

(e) Failure to designate judicial committee or failure of committee to submit annual plan; preparation of plan; request for financial assistance from State courts

If a State court of last resort or a judicial agency authorized on October 15, 1976, by State law to perform such function, provided it

has a statutory membership of at least a majority of court officials (including judges, court administrators, prosecutors, and public defenders) does not create or designate a judicial planning committee, or if such committee fails to submit an annual State judicial plan in accordance with this section, the responsibility for preparing and developing such plan shall rest with the State planning agency. The State planning agency shall consult with the judicial planning committee in carrying out functions set forth in this section as they concern the activities of courts and the impact of the activities of courts on related agencies (including prosecutorial and defender services). All requests from the courts of the State for financial assistance shall be received and evaluated by the judicial planning committee for appropriateness and conformity with the purposes of this chapter.

(f) Allocation of Federal funds to judicial planning committee and local governmental units for formulation of State plan; waiver of requirement; funds for major cities and counties; use of funds for other purposes if not required for designated purposes

The State planning agency shall make such arrangements as such agency deems necessary to provide that at least $50,000 of the Federal funds granted to such agency under this subchapter for any fiscal year will be available to the judicial planning committee and at least 40 per centum of the remainder of all Federal funds granted to the State planning agency under this subchapter for any fiscal year will be available to units of general local government or combinations of such units to participate in the formulation of the comprehensive State plan required under this subchapter. The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement and criminal justice planning responsibilities exercised by the State and its units of general local government and that adherence to the requrement would not contribute to the efficient development of the State plan required under this subchapter. In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level. Any portion of such funds made available to the judicial planning committee and such 40 per centum in any State for any fiscal year not required for the purpose set forth in this subsection shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this subchapter.

(g) Public meetings; notice of time, place, and nature of business; access to other than confidential records

The State planning agency and any other planning organization for the purposes of this chapter shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted, if final action is to be taken at that meeting on (1) the State plan, or (2) any application for funds under this chapter. The State planning agency and any other planning organization for the purposes of this chapter shall provide for public access to all records relating to its functions under this chapter, except such records as are required to be kept confidential by any other provision of local, State, or Federal law.

(Pub. L. 90-351, title I, § 203, June 19, 1968, 82 Stat. 199; Pub. L. 91-644, title I, § 3(a)-(c), Jan. 2, 1971, 84 Stat. 1881; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 198; Pub. L. 93-415, title V, § 542, Sept. 7, 1974, 88 Stat. 1142; Pub. L. 94-503, title I, § 105, Oct. 15, 1976, 90 Stat. 2408.)

References in Text

"This chapter", referred to in subsec. (e), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

Amendments

1976—Subsec. (a). Pub. L. 94-503 redesignated existing provisions as pars. (1) and (2), in par. (1) as so redesignated added provisions that a State planning agency might be created or designated by State law, and that where such agency is not so created or designated, such agency be so created or designated by no later than Dec. 31, 1978, and in par. (2) as so redesignated set out the judicial membership requirements for State planning agencies and the method for filling the membership requirements.

Subsec. (b)(4). Pub. L. 94-503 added subsec. (b)(4).

Subsec. (c). Pub. L. 94-503 added subsec. (c). Former subsec. (c) was redesignated (f) and amended.

Subsec. (d). Pub. L. 94-503 added subsec. (d). Former subsec. (d) was redesignated (g) and amended.

Subsec. (e). Pub. L. 94-503 added subsec. (e).

Subsec. (f). Pub. L. 94-503 redesignated former subsec. (c) as (f), and in subsec. (f) as so redesignated, substituted "$50,000 of the Federal funds" for "40 per centum of all Federal funds", "available to the judicial planning committee and at least 40 per centum of the remainder of all Federal funds granted to the State planning agency under this subchapter for any fiscal year will be available to units" for "available to units", "such units to participate" for "such units to enable such units and combinations of such units to participate", and "such funds made available to the judicial planning committee and such 40 per centum" for "such 40 per centum".

Subsec. (g). Pub. L. 94-503 redesignated former subsec. (d) as (g), and in subsec. (g) as so redesignated, substituted "(1)" for "(A)", "(2)" for "(B)", and "under this chapter, except" for "under this Act, except".

1974—Subsec. (a). Pub. L. 93-415 added "including agencies directly related to the prevention and control of juvenile delinquency," following "law enforcement and criminal justice agencies,", and substituted "shall include representatives" for "may include representatives", and added "including organizations directly related to delinquency prevention" following "community organizations".

1973—Subsec. (a). Pub. L. 93-83 substituted "law enforcement and criminal justice" for "law enforcement", authorized inclusion of representatives of citizens, professional, and community organizations in the State planning agency and any regional planning units within the State, and required such regional planning units to be comprised of a majority of local elected officials.

Subsec. (b)(1) to (3). Pub. L. 93-83 provided for improvement of criminal justice in cls. (1) to (3).

Subsec. (c). Pub. L. 93-83 substituted "law enforcement and criminal justice planning responsibilities" for "law enforcement planning responsibilities".

Subsec. (d). Pub. L. 93-83 added subsec. (d).

1971—Subsec. (a). Pub. L. 91-644, § 3(a), inserted provisions respecting public agencies maintaining programs to reduce and control crime, including any regional planning units, and for representation within respective jurisdictions of State planning agency and regional planning units.

Subsec. (c). Pub. L. 91-64, § 3(b), (c), inserted provisions respecting waiver of requirement and allocation of funds for major cities and counties, and substituted "this subsection" for "the preceding sentence" in last sentence preceding "shall be available", respectively.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3734, 5633 of this title.

§ 3724. Amount of grant; limitation; State appropriation of moneys for State share of non-Federal funding of expenses; minimum State share

A Federal grant authorized under this subchapter shall not exceed 90 per centum of the expenses incurred by the State and units of general local government under this subchapter, and may be up to 100 per centum of the expenses incurred by the judicial planning committee and regional planning units under this subchapter. The non-Federal funding of such expenses shall be of money appropriated in the aggregate by the State or units of general local government, except that the State shall provide in the aggregate not less than one-half of the non-Federal funding required of units of general local government under this subchapter.

(Pub. L. 90-351, title I, § 204, June 19, 1968, 82 Stat. 199; Pub. L. 91-644, title I, § 3(d), Jan. 2, 1971, 84 Stat. 1881; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 199; Pub. L. 94-503, title I, § 106, Oct. 15, 1976, 90 Stat. 2410.)

AMENDMENTS

1976—Pub. L. 94-503 substituted "by the judicial planning committee and regional planning units" for "by regional planning units" and "expenses shall" for "expenses, shall".

1973—Pub. L. 93-83 substituted "expenses incurred by the State and units of general local government under this subchapter", for "expenses of the establishment and operation of the State planning agency, including the preparation, development, and revision of the plans required by subchapter III of this chapter", authorized a Federal grant up to 100 per centum of the expenses incurred by regional planning units under this subchapter, and provided that the non-Federal funding of such expenses, shall be of money appropriated in the aggregate by the State or units of general local government, except that the State shall provide in the aggregate not less than one-half of the non-Federal funding required of units of general local government under this subchapter.

1971—Pub. L. 91-644 struck out provision which prohibited grants made directly to units of general local government as authorized by section 3735 of this title from exceeding 90 per centum of expenses of local planning, including preparation, development, and revision of plans required by subchapter III of this chapter.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3725. Allocation of funds; reallocation of unused funds

Funds appropriated to make grants under this subchapter for a fiscal year shall be allocated by the Administration among the States for use therein by the State planning agency, the judicial planning committee, or units of general local government, as the case may be. The Administration shall allocate $250,000 to each of the States; and it shall then allocate the remainder of such funds available among the States according to their relative populations. Any unused funds reverting to the Administration shall be available for reallocation under this subchapter among the States as determined by the Administration.

(Pub. L. 90-351, title I, § 205, June 19, 1968, 82 Stat. 199; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 199; Pub. L. 94-503, title I, § 107, Oct. 15, 1976, 90 Stat. 2410.)

AMENDMENTS

1976—Pub. L. 94-503 substituted "agency," the judicial planning committee, or units" for "agency or units" and "$250,000" for "$200,000" and added provision that any unused funds reverting to the Administration be available for reallocation under this subchapter among the States as determined by the Administration.

1973—Pub. L. 93-83 increased the amount of money allocated to each State from $100,000 to $200,000.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3726. Advisory review of comprehensive statewide plan by State legislature; time period

At the request of the State legislature while in session or a body designated to act while the legislature is not in session, the comprehensive statewide plan shall be submitted to the legislature for an advisory review prior to its submission to the Administration by the chief executive of the State. In this review the general goals, priorities, and policies that comprise the basis of that plan, including possible conflicts with State statutes or prior legislative Acts, shall be considered. If the legislature or the interim body has not reviewed the plan forty-five days after receipt, such plans shall then be deemed reviewed.

(Pub. L. 90-351, title I, § 206, as added Pub. L. 94-503, title I, § 108, Oct. 15, 1976, 90 Stat. 2411.)

SUBCHAPTER III—GRANTS FOR LAW ENFORCEMENT PURPOSES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3723, 3724, 3750b, 3768, 3770 of this title.

§ 3731. General provisions

(a) Statement of purpose

It is the purpose of this subchapter, through the provision of Federal technical and financial aid and assistance, to encourage States and units of general local government to carry out programs and projects to improve and strengthen law enforcement and criminal justice.

(b) Categories of programs and projects

The Administration is authorized to make grants to States having comprehensive State plans approved by it under this subchapter, for:

(1) Public protection, including the development, demonstration, evaluation, implementation, and purchase of methods, devices, facilities, and equipment designed to improve and strengthen law enforcement and criminal justice and reduce crime in public and private places.

(2) The recruiting of law enforcement and criminal justice personnel and the training of personnel in law enforcement and criminal justice.

(3) Public education programs concerned with law enforcement and criminal justice and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement and criminal justice agencies.

(4) Constructing buildings or other physical facilities which would fulfill or implement the purpose of this section, including local correctional facilities, centers for the treatment of narcotic addicts, and temporary courtroom facilities in areas of high crime incidence.

(5) The organization, education, and training of special law enforcement and criminal justice units to combat organized crime, including the establishment and development of State organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel, and the development of systems for collecting, storing, and disseminating information-relating to the control of organized crime.

(6) The recruiting, organization, training, and education of community service officers to serve with and assist local and State law enforcement and criminal justice agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section: *Provided*, That in no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement and criminal justice agency.

(7) The establishment of a Criminal Justice Coordinating Council for any unit of general local government or any combination of such units within the State, having a population of two hundred and fifty thousand or more, to assure improved planning, coordination, monitoring, and evaluation of all law enforcement and criminal justice activities.

(8) The development and operation of community-based delinquent prevention and correctional programs, emphasizing halfway houses and other community-based rehabilitation centers for initial preconviction or post-conviction referral of offenders; expanded probationary programs, including paraprofessional and volunteer participation; and community service centers for the guidance and supervision of potential repeat youthful offenders.

(9) The establishment of interstate metropolitan regional planning units to prepare and coordinate plans of State and local governments and agencies concerned with regional planning for metropolitan areas.

(10) The definition, development, and implementation of programs and projects designed to improve the functioning of courts, prosecutors, defenders, and supporting agencies, reduce and eliminate criminal case backlog, accelerate the processing and disposition of criminal cases, and improve the administration of criminal justice in the courts; the collection and compilation of judicial data and other information on the work of the courts and other agencies that relate to and affect the work of the courts; programs and projects for expediting criminal prosecution and reducing court congestion; revision of court criminal rules and procedural codes within the rulemaking authority of courts or other judicial entities having criminal jurisdiction within the State; the development of uniform sentencing standards for criminal cases; training of judges, court administrators, and support personnel of courts having criminal jurisdiction; support of court technical assistance and support organizations; support of public education programs concerning the administration of criminal justice; and equipping of court facilities.

(11) The development and operation of programs designed to reduce and prevent crime against elderly persons.

(12) The development of programs to identify the special needs of drug-dependent offenders (including alcoholics, alcohol abusers, drug addicts, and drug abusers).

(13) The establishment of early case assessment panels under the authority of the appropriate prosecuting official for any unit of general local government within the State having a population of two hundred and fifty thousand or more to screen and analyze cases as early as possible after the time of the bringing of charges, to determine the feasibility of successful prosecution, and to expedite the prosecution of cases involving repeat offenders and perpetrators of violent crimes.

(14) The development and operation of crime prevention programs in which members of the community participate, including but not limited to "block watch" and similar programs.

(c) Percentage of grant; limitation; land acquisition prohibition; Federal share for grants to Indian tribes or other aboriginal groups; State appropriation of moneys for State share of non-Federal funding of program costs; increase in Federal share for projects supporting acquisition of stolen goods and property

The portion of any Federal grant made under this section for the purposes of paragraph (4) of subsection (b) of this section may be up to 50 per centum of the cost of the program or project specified in the application for such grant. The portion of any Federal grant made under this section to be used for any other purpose set forth in this section may be up to 90 per centum of the cost of the program or project specified in the application for such grant. No part of any grant made under this section for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under this section to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. The non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate, by State or individual units of government, for the purpose of the shared funding of such programs or projects. In the case of a grant for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt commerce in such property, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary.

(d) Compensation of personnel; limitations

Not more than one-third of any grant made under this section may be expended for the compensation of police and other regular law enforcement and criminal justice personnel. The amount of any such grant expended for the compensation of such personnel shall not exceed the amount of State or local funds made available to increase such compensation. The limitations contained in this subsection shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs or to the compensation of personnel engaged in research, development, demonstration or other short-term programs.

(Pub. L. 90-351, title I, § 301, June 19, 1968, 82 Stat. 199; Pub. L. 91-644, title I, § 4(1)-(4), Jan. 2, 1971, 84 Stat. 1882; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 199; Pub. L. 94-503, title I, §§ 109, 128(b), Oct. 15, 1976, 90 Stat. 2411, 2424.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-503, § 109(a)(1), added ", through the provision of Federal technical and financial aid and assistance," following "subchapter".

Subsec. (b). Pub. L. 94-503, § 109(a)(2), (3), (b), substituted "Public education programs concerned with law enforcement and criminal justice" for "Public education relating to crime prevention" in par. (3), redesignated pars. (7) to (10) as (6) to (9), respectively, substituted "planning, coordination, monitoring, and evaluation of all" for "planning and coordination of all" in par. (7) as so redesignated, and added pars. (10) to (14). Former par. (6), authorizing Administration to make grants to States for the organization, education, and training of regular law enforcement and criminal justice officers, special law enforcement and criminal justice units, and law enforcement reserve units for the prevention, detection, and control of riots and other violent civil disorders, including the acquisition of riot control equipment, was struck out.

Subsec. (c). Pub. L. 94-503, § 128(b), added provisions that in the case of a grant for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt commerce in such property, the Administration might increase the Federal share of the cost thereof to the extent it deems necessary.

1973—Subsec. (a). Pub. L. 93-83 provided for improvement and strengthening of criminal justice.

Subsec. (b)(1) to (3). Pub. L. 93-83 substituted "law enforcement and criminal justice" for "law enforcement" wherever appearing.

Subsec. (b)(4). Pub. L. 93-83 reenacted provisions without change.

Subsec. (b)(5). Pub. L. 93-83 substituted "law enforcement and criminal justice" for "law enforcement".

Subsec. (b)(6). Pub. L. 93-83 substituted "law enforcement and criminal justice" for "law enforcement" where appearing first two times in the text.

Subsec. (b)(7), (8). Pub. L. 93-83 substituted "law enforcement and criminal justice" for "law enforcement" wherever appearing.

Subsec. (b)(9). Pub. L. 93-83 substituted "community-based" and "preconviction or post-conviction" for "community based" and "preconviction of postconviction".

Subsec. (b)(10). Pub. L. 93-83 added par. (10).

Subsec. (c). Pub. L. 93-83 deleted former first sentence reading "The portion of any Federal grant made under this section for the purposes of paragraph (5) or (6) of subsection (b) of this section may be up to 75 per centum of the cost of the program or project specified in the application for such grant", increased from 75 to 90 per centum the portion of Federal grant available for program or project cost, deleted introductory text of last sentence reading "Effective July 1, 1972, at least 40 per centum of" and substituted therein "individual units" for "individual unit".

Subsec. (d). Pub. L. 93-83 substituted "law enforcement and criminal justice personnel" and "expended" for "law enforcement personnel" and "expanded".

1971—Subsec. (b)(4). Pub. L. 91-644, § 4(1), authorized grants to States with plans for construction of local correctional facilities, centers for treatment of narcotic addicts, and temporary courtroom facilities in areas of high crime incidence.

Subsec. (b)(8), (9). Pub. L. 91-644, § 4(2), added pars. (8) and (9).

Subsec. (c). Pub. L. 91-644, § 4(3), substituted "portion" for "amount" in three instances, included in prohibition against use of grant for land acquisition any grant made for renting or leasing buildings, increased from 60 to 75 percent the portion of grants for other purposes, and inserted provision respecting grants to Indian tribes and other aboriginal groups, and provision effective July 1, 1972, requiring that at least 40 percent of non-Federal funding of cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate, by State or individual unit of government, for purpose of shared funding of such programs or projects.

Subsec. (d). Pub. L. 91-644, § 4(4), substituted "compensation of police and other regular law enforcement personnel", "compensation of such personnel", and "expanded" for "compensation of personnel", "compensation of personnel", and "expended" and made limitation inapplicable to compensation of personnel engaged in research, development, demonstration, or other short-term programs.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3734, 3736, 3768, 3781 of this title.

§ 3732. State planning agency

(a) Establishment; comprehensive State plan, submission

Any State desiring to participate in the grant program under this subchapter shall establish a State planning agency as described in subchapter II of this chapter and shall within six months after approval of a planning grant under subchapter II of this chapter submit to the Administration through such State planning agency a comprehensive State plan developed pursuant to subchapter II of this chapter.

(b) Submission by judicial planning committee of multiyear comprehensive plan for the improvement of State court system; contents

Any judicial planning committee established pursuant to this chapter may file at the end of each fiscal year with the State planning agency, for information purposes only, a multiyear comprehensive plan for the improvement of the State court system. Such multiyear comprehensive plan shall be based on the needs of all the courts in the State and on an estimate of funds available to the courts from all Federal, State, and local sources and shall, where appropriate—

(1) provide for the administration of programs and projects contained in the plan;

(2) adequately take into account the needs and problems of all courts in the State and encourage initiatives by the appellate and trial courts in the development of programs and projects for law reform, improvement in the administration of courts and activities within the responsibility of the courts, including bail and pretrial release services and prosecutional and defender services, and provide for an appropriately balanced allocation of funds between the statewide judicial system and other appellate and trial courts;

(3) provide for procedures under which plans and requests for financial assistance from all courts in the State may be submitted annually to the judicial planning committee for evaluation;

(4) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of courts and court programs, including descriptions of (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the maximum extent practicable, the relationship of the plan to other relevant State or local law enforcement and criminal justice plans and systems;

(5) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment provided for courts and related purposes;

(6) provide for research, development, and evaluation;

(7) set forth policies and procedures designed to assure that Federal funds made available under this chapter will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would, in the absence of such Federal funds, be made available for the courts; and

(8) provide for such fund accounting, auditing, monitoring, and program evaluation procedures as may be necessary to assure sound fiscal control, effective management, and efficient use of funds received under this chapter.

(c) Submission by judicial planning committee of annual State judicial plan; funding of programs; incorporation into State plan

Each year, the judicial planning committee shall submit an annual State judicial plan for the funding of programs and projects recommended by such committee to the State planning agency for approval and incorporation, in whole or in part, in accordance with the provisions of section 3734(b) of this title, into the comprehensive State plan which is submitted to the Administration pursuant to subchapter II of this chapter. Such annual State judicial plan shall conform to the purposes of this subchapter.

(Pub. L. 90-351, title I, § 302, June 19, 1968, 82 Stat. 200; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 201; Pub. L. 94-503, title I, § 110, Oct. 15, 1976, 90 Stat. 2412; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 201; Pub. L. 94-503, title I, § 110, Oct. 15, 1976, 90 Stat. 2412.)

REFERENCES IN TEXT

"This chapter", referred to in subsecs. (b)(7), (8), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1976—Pub. L. 94-503 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1973—Pub. L. 93-83 substituted "State plan developed" for "State plan formulated".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3738, 3750a of this title.

§ 3733. State plans

(a) Comprehensive requirements; expenditure of paragraph (2) funds for improvement of law enforcement and criminal justice

The Administration shall make grants under this chapter to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan (not more than one year in age) which conforms with the purposes and requirements of this chapter. In order to receive formula grants under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.] a State shall submit a plan for carrying out the purposes of that Act in accordance with this section and section 223 of that Act [42 U.S.C. 5633]. No state plan shall be approved as comprehensive unless the Administration finds that the plan provides for the allocation of adequate assistance to deal with law enforcement and criminal justice problems in areas characterized by both high crime incidence and high law enforcement and criminal justice activity. No State plan shall be approved as comprehensive, unless it includes a comprehensive program, whether or not funded under this chapter, for the improvement of juvenile justice. Each such plan shall—

(1) provide for the administration of such grants by the State planning agency;

(2) provide that at least the per centum of Federal assistance granted to the State planning agency under this subchapter for any fiscal year which corresponds to the per centum of the State and local law enforcement expenditures funded and expended in the immediately preceding fiscal year by units of general local government will be made available to such units or combinations of such units in the immediately following fiscal year for the development and implementation of programs and projects for the improvement of law enforcement and criminal justice, and that with respect to such programs or projects the State will provide in the aggregate not less than one-half of the non-Federal funding. Per centum determinations under this paragraph for law enforcement funding and expenditures for such immediately preceding fiscal year shall be based upon the most accurate and complete data available for such fiscal year or for the last fiscal year for which such data are available. The Administration shall have the authority to approve such determinations and to review the accuracy and completeness of such data;

(3) adequately take into account the needs and requests of the units of general local government in the State and encourage local initiative in the development of programs and projects for improvements in law enforcement and criminal justice, and provide for an appropriately balanced allocation of funds between the State and the units of general local government in the State and among such units;

(4) provide for procedures under which plans may be submitted to the State planning agency for approval or disapproval, in whole or in part, annually from units of general local government or combinations thereof having a population of at least two hundred and fifty thousand persons to use funds received under this subchapter to carry out a comprehensive plan consistent with the State comprehensive plan for the improvement of law enforcement and criminal justice in the jurisdiction covered by the plan. Approval of such local comprehensive plan or parts thereof shall result in the award of funds to the units of general local government or combinations thereof to implement the approved parts of their plans, unless the State planning agency finds the implementation of such approved parts of their plan or revision thereof to be inconsistent with the overall State plan;

(5) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement and criminal justice, dealt with in the plan, including descriptions of: (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the extent appropriate, the relationship of the plan to other relevant State or local law enforcement and criminal justice, plans and systems;

(6) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment;

(7) provide for research and development;

(8) provide for appropriate review of procedures of actions taken by the State planning agency disapproving an application for which funds are available or terminating or refusing to continue financial assistance to units of general local government or combinations of such units;

(9) demonstrate the willingness of the State and units of general local government to assume the costs of improvements funded under this subchapter after a reasonable period of Federal assistance;

(10) demonstrate the willingness of the State to contribute technical assistance or services for programs and projects contemplated by the statewide comprehensive plan and the programs and projects contemplated by units of general local government or combinations of such units;

(11) set forth policies and procedures designed to assure that Federal funds made available under this chapter will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for law enforcement and criminal justice;

(12) provide for such fund accounting, audit, monitoring, and evaluation procedures as may be necessary to keep such records as the Administration shall prescribe to assure fiscal control, proper management, and disbursement of funds received under this chapter;

(13) provide for the maintenance of such data and information, and for the submission of such reports in such form, at such times, and containing such data and information as

the National Institute for Law Enforcement and Criminal Justice may reasonably require to evaluate pursuant to section 3742(c) of this title programs and projects carried out under this chapter and as the Administration may reasonably require to administer other provisions of this chapter;

(14) provide funding incentives to those units of general local government that coordinate or combine law enforcement and criminal justice functions or activities with other such units within the State for the purpose of improving law enforcement and criminal justice;

(15) provide for procedures that will insure that (A) all applications by units of general local government or combinations thereof to the State planning agency for assistance shall be approved or disapproved, in whole or in part, no later than ninety days after receipt by the State planning agency, (B) if not disapproved (and returned with the reasons for such disapproval, including the reasons for the disapproval of each fairly severable part of such application which is disapproved) within ninety days of such application, any part of such application which is not so disapproved shall be deemed approved for the purposes of this chapter, and the State planning agency shall disburse the approved funds to the applicant in accordance with procedures established by the Administration, (C) the reasons for disapproval of such application or any part thereof, in order to be effective for the purposes of this section, shall contain a detailed explanation of the reasons for which such application or any part thereof was disapproved, or an explanation of what supporting material is necessary for the State planning agency to evaluate such application, and (D) disapproval of any application or part thereof shall not preclude the resubmission of such application or part thereof to the State planning agency at a later date; and

(16) provide for the development of programs and projects for the prevention of crimes against the elderly, unless the State planning agency makes an affirmative finding in such plan that such a requirement is inappropriate for the State;

(17) provide for the development and, to the maximum extent feasible, implementation of procedures for the evaluation of programs and projects in terms of their success in achieving the ends for which they were intended, their conformity with the purposes and goals of the State plan, and their effectiveness in reducing crime and strengthening law enforcement and criminal justice; and

(18) establish procedures for effective coordination between State planning agencies and single State agencies designated under section 1176(e)(1) of title 21 in responding to the needs of drug dependent offenders (including alcoholics, alcohol abusers, drug addicts, and drug abusers).

Any portion of the per centum to be made available pursuant to paragraph (2) of this section[1] in any State in any fiscal year not required for the purposes set forth in such paragraph (2) shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development and implementation of programs and projects for the improvement of law enforcement and criminal justice and in conformity with the State plan.

(b) Approval dependent upon evaluation of effectiveness and impact by Administration; written findings; awards on basis of population for programs or projects in approved plans

Prior to its approval of any State plan, the Administration shall evaluate its likely effectiveness and impact. No approval shall be given to any State plan unless and until the Administration makes an affirmative finding in writing that such plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State and that, on the basis of the evaluation made by the Administration, such plan is likely to contribute effectively to an improvement of law enforcement and criminal justice in the State and make a significant and effective contribution to the State's efforts to deal with crime. No award of funds that are allocated to the States under this subchapter on the basis of population shall be made with respect to a program or project other than a program or project contained in an approved plan.

(c) Statewide priorities, special considerations, and court and correctional programs and practices

No plan shall be approved as comprehensive unless the Administration finds that it establishes statewide priorities for the improvement and coordination of all aspects of law enforcement and criminal justice, and considers the relationships of activities carried out under this chapter to related activities being carried out under other Federal programs, the general types of improvements to be made in the future, the effective utilization of existing facilities, the encouragement of cooperative arrangements between units of general local government, innovations and advanced techniques in the design of institutions and facilities, and advanced practices in the recruitment, organization, training, and education of law enforcement and criminal justice personnel. It shall thoroughly address improved court and correctional programs and practices throughout the State.

(d) Approval dependent upon adequate funding of improved court programs; factors considered in determining adequate funding

In making grants under this subchapter, the Administration and each State planning agency, as the case may be, shall provide an adequate share of funds for the support of improved court programs and projects, including projects relating to prosecutorial and defender services. No approval shall be given to any State plan unless and until the Administration finds that such plan provides an adequate share of funds for court programs (including programs and projects to reduce court congestion and accelerate the processing and disposition of criminal cases). In determining adequate funding, consideration shall be given to (1) the need of the courts to reduce court congestion and

[1] So in original. Text received subsection designations under provisions of Pub. L. 93-83.

backlog; (2) the need to improve the fairness and efficiency of the judicial system; (3) the amount of State and local resources committed to courts; (4) the amount of funds available under this subchapter; (5) the needs of all law enforcement and criminal justice agencies in the State; (6) the goals and priorities of the comprehensive plan; (7) written recommendations made by the judicial planning committee to the Administration; and (8) such other standards as the Administration may deem consistent with this chapter.

(Pub. L. 90-351, title I, § 303, June 19, 1968, 82 Stat. 201; Pub. L. 91-644, title I, § 4(5), (6), Jan. 2, 1971, 84 Stat. 1883; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 201; Pub. L. 93-415, title V, § 543, Sept. 7, 1974, 88 Stat. 1142; Pub. L. 94-503, title I, § 111, Oct. 15, 1976, 90 Stat. 2413.)

References in Text

"This chapter", referred to in subsecs. (a)(12), (13), (c), (d), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (a), is Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§ 5601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of this title and Tables volume.

Amendments

1976—Subsec. (a)(4). Pub. L. 94-503, § 111(1), added provisions governing the award of funds to the units of general local government or combinations thereof to implement their local comprehensive plan or parts thereof upon approval of such plan or parts thereof.

Subsec. (a)(12). Pub. L. 94-503, § 111(2), added "to keep such records as the Administration shall prescribe" following "necessary".

Subsec. (a)(16) to (18). Pub. L. 94-503, § 111(3), added subsec. (a)(16)-(18).

Subsec. (b). Pub. L. 94-503, § 111(4), added provisions requiring Administration, prior to its approval of any State plan, to evaluate its likely effectiveness and impact, directing Administration not to approve any State plan unless and until the Administration makes an affirmative finding in writing based on its evaluation that such plan is likely to contribute effectively to an improvement of law enforcement and criminal justice in the State and make a significant and effective contribution to the State's efforts to deal with crime, and requiring that the Administration's finding that such a plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State also be in writing.

Subsec. (c). Pub. L. 94-503, § 111(5), added "the Administration finds that" following "unless".

Subsec. (d). Pub. L. 94-503, § 111(6), added subsec. (d).

1974—Subsec. (a). Pub. L. 93-415 added provision relating to compliance of State plans with this section and section 5633 of this title in order to receive formula grants under the Juvenile Justice and Delinquency Prevention Act of 1974.

1973—Subsec. (a). Pub. L. 93-83 designated existing provisions as subsec. (a), substituted "law enforcement and criminal justice" for "law enforcement" in introductory text, required the State plan to include a comprehensive program, whether or not funded under this chapter, for improvement of juvenile justice, and made additional changes as described hereunder.

Subsec. (a)(1). Pub. L. 93-83 reenacted provisions without change.

Subsec. (a)(2). Pub. L. 93-83 deleted following introductory "provide that" the text reading "at least 75 per centum of all Federal funds granted to the State planning agency under this subchapter for any fiscal year will be available to units of general local government or combinations of such units for the development and implementation of programs and projects for the improvement of law enforcement, except that each such plan shall provide that beginning July 1, 1972,", and substituted "law enforcement and criminal justice" and "one-half" for "law enforcement" and "one-fourth".

Subsec. (a)(3). Pub. L. 93-83 reenacted provisions, substituting "law enforcement and criminal justice" for "law enforcement".

Subsec. (a)(4). Pub. L. 93-83 added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 93-83 redesignated former par. (4) as (5), substituted "law enforcement and criminal justice, dealt with in the plan" and "law enforcement and criminal justice, plans" for "law enforcement dealt with in the plan" and "law enforcement plans" in introductory text and cl. (F), respectively. Former par. (5) redesignated (6).

Subsec. (a)(6) to (9). Pub. L. 93-83 redesignated former pars. (5) to (8) as pars. (6) to (9). Former par. (9) redesignated (10).

Subsec. (a)(10). Pub. L. 93-83 redesignated former par. (9) as (10) and added the concluding words "or combinations of such units". Former par. (10) redesignated (11).

Subsec. (a)(11). Pub. L. 93-83 redesignated former par. (10) as (11) and substituted "law enforcement and criminal justice" for "law enforcement". Former par. (11) redesignated (12).

Subsec. (a)(12). Pub. L. 93-83 redesignated former par. (11) as (12) and substituted "fund accounting, audit, monitoring, and evaluation procedures as may be necessary to assure fiscal control, proper management, and disbursement of funds received under this chapter" for "fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of funds received under this subchapter". Former par. (12) redesignated (13).

Subsec. (a)(13). Pub. L. 93-83 redesignated former par. (12) as (13), and inserted provisions relating to maintenance of data and information by the Institute and the Administration, the time of submission of reports, the submission of data, Institute evaluation of programs and projects carried out under this chapter, and administration of other provisions of this chapter by the Administration.

Subsec. (a)(14), (15). Pub. L. 93-83 added pars. (14) and (15).

Subsecs. (b), (c). Pub. L. 93-83 added subsecs. (b) and (c).

1971—Pub. L. 91-644, § 4(5), prohibited approval of State plan as comprehensive unless the Administration finds that the plan provides for allocation of adequate assistance to deal with law enforcement problems in areas characterized by high crime incidence and high law enforcement activity.

Par. (2). Pub. L. 91-644, § 4(6), required State plan, beginning July 1, 1972, to make available Federal assistance to units of general local government for development and implementation of programs and projects for improvement of law enforcement, State share to be not less than one-fourth of non-Federal funding, prescribed basis for determination of per centum for law enforcement funding, and authorized Administration approval of such determination and review of date.

Effective Date of 1973 Amendment

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as

an Effective Date of 1973 Amendment note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3722, 3750b, 5633 of this title.

§ 3734. Plans or applications for financial assistance from local government units; disbursements by State planning agencies; submission of annual State judicial plan by judicial planning committee; incorporation of plan into State plan

(a) State planning agencies shall receive plans or applications for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such a plan or application is in accordance with the purposes stated in section 3731 of this title and in conformance with an existing statewide comprehensive law enforcement plan or revision thereof, the State planning agency is authorized to disburse funds to implement the plan or application.

(b) After consultation with the State planning agency pursuant to section 3723(e) of this title, the judicial planning committee shall transmit the annual State judicial plan approved by it to the State planning agency. Except to the extent that the State planning agency thereafter determines that such plan or part thereof is not in accordance with this chapter, is not in conformance with, or consistent with, the statewide comprehensive law enforcement and criminal justice plan, or does not conform with the fiscal accountability standards of the State planning agency, the State planning agency shall incorporate such plan or part thereof in the State comprehensive plan to be submitted to the Administration.

(Pub. L. 90-351, title I, § 304, June 19, 1968, 82 Stat. 202; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 203; Pub. L. 94-503, title I, § 112, Oct. 15, 1976, 90 Stat. 2414.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (b), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-503 designated existing provisions as subsec. (a), and in subsec. (a) as so designated, substituted "receive plans or applications" for "receive applications", "such a plan or application" for "such an application", "and in conformance with an" for "and is in conformance with any", "enforcement plan or revision thereof" for "enforcement plan", and "funds to implement the plan or application" for "funds to the applicant".

Subsec. (b). Pub. L. 94-503 added subsec. (b).

1973—Pub. L. 93-83 reenacted provisions without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3723, 3732 of this title.

§ 3735. Reallocation of funds

Where a State has failed to have a comprehensive State plan approved under this chapter within the period specified by the Administration for such purpose, the funds allocated for such State under paragraph (1) of section 3736(a) of this title shall be available for reallocation by the Administration under paragraph (2) of section 3736(a) of this title.

(Pub. L. 90-351, title I, § 305, June 19, 1968, 82 Stat. 202; Pub. L. 91-644, title I, § 4(7), Jan. 2, 1971, 84 Stat. 1883; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 203.)

AMENDMENTS

1973—Pub. L. 93-83 reenacted provisions without change.

1971—Pub. L. 91-644 substituted provision respecting reallocation of funds where State has failed to have a comprehensive State plan approved within specified period, for prior provisions for grants to local government units where State fails to make an application for a subchapter II grant to establish a State planning agency or fails to file a comprehensive plan upon certification of copy of application for project from such units, evaluation of project, multi-State applications, and amount of grant and limitation thereof.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3736 of this title.

§ 3736. Allocation of funds

(a) Percentage limitation; land acquisition prohibited; increase in Federal share for grants to Indian tribes and other aboriginal groups; waiver of State liability for Indian tribes, pursuit of legal remedies; moneys for non-Federal share of program; funding incentives

The funds appropriated each fiscal year to make grants under this subchapter shall be allocated by the Administration as follows:

(1) Eighty-five per centum of such funds shall be allocated among the States according to their respective populations for grants to State planning agencies.

(2) Fifteen per centum of such funds, plus any additional amounts made available by virtue of the application of the provisions of sections 3735 and 3757 of this title to the grant of any State, may, in the discretion of the Administration, be allocated among the States for grants to State planning agencies, units of general local government, combinations of such units, or private nonprofit organizations, according to the criteria and on the terms and conditions the Administration determines consistent with this chapter.

Any grant made from funds available under paragraph (2) of this subsection may be up to 90 per centum of the cost of the program or project for which such grant is made. No part of any grant under such paragraph for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under such paragraph to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration

may increase the Federal share of the cost thereof to the extent it deems necessary. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary. The limitations on the expenditure of portions of grants for the compensation of personnel in subsection (d) of section 3731 of this title shall apply to a grant under such paragraph. The non-Federal share of the cost of any program or project to be funded under this section shall be of money appropriated in the aggregate by the State or units of general local government, or provided in the aggregate by a private nonprofit organization. The Administration shall make grants in its discretion under paragraph (2) of this subsection in such a manner as to accord funding incentives to those States or units of general local government that coordinate law enforcement and criminal justice functions and activities with other such States or units of general local government thereof for the purpose of improving law enforcement and criminal justice.

(b) Reallocation of funds

If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year for grants to the State planning agency of the State will not be required by the State, or that the State will be unable to qualify to receive any portion of the funds under the requirements of this subchapter, that portion shall be available for reallocation to other States under paragraph (1) of subsection (a) of this section.

(Pub. L. 90-351, title I, § 306, June 19, 1968, 82 Stat. 202; Pub. L. 91-644, title I, § 4(8), Jan. 2, 1971, 84 Stat. 1883; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 203; Pub. L. 94-503, title I, § 113, Oct. 15, 1976, 90 Stat. 2415.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (a)(2), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-503 added provision that where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration might waive State liability and pursue such legal remedies as are necessary.

1973—Subsec. (a). Pub. L. 93-83 authorized discretionary award of grants to private nonprofit organizations in par. (2), increased from 75 to 90 per centum of program or project cost the amount of grant that may be made under par. (2), substituted "The non-Federal share of the cost of any program or project to be funded under this section shall be of money appropriated in the aggregate by the State or units of general local government, or provided in the aggregate by a private nonprofit organization" for "Effective July 1, 1972, at least 40 per centum of the non-Federal funding of the cost of any program or project to be funded by a grant under such paragraph shall be of money appropriated in the aggregate, by State or individual unit of government, for the purpose of the shared funding of such programs or projects", and provided for making discretionary grants under par. (2) so as to accord funding incentives to cooperating States and units of general local government for the purpose of improving law enforcement and criminal justice.

Subsec. (b). Pub. L. 93-83 reenacted provisions without change.

1971—Subsec. (a). Pub. L. 91-644 designating existing provisions as subsec. (a), incorporated existing provisions in provisions designated as pars. (1) and (2), included in par. (2) reference to section 3735 of this title and provision for allocation of grants to combination of units of general local government, provided for percentage limitation of grant, prohibited use of grant made for renting, leasing, or constructing buildings or other physical facilities for land acquisition, inserted provision respecting grants to Indian tribes and other aboriginal groups, made limitations on expenditure of portions of grants for compensation of personnel in section 3731(d) of this section applicable to grants under par. (2), and inserted provision, effective July 1, 1972, requiring that at least 40 percent of non-Federal funding of cost of any program or project to be funded by a grant under par. (2) be of money appropriated in the aggregate, by State or individual unit of government, for purpose of shared funding of such programs or project.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3735, 3767 of this title.

§ 3737. Priority programs and projects

In making grants under this subchapter, the Administration and each State planning agency, as the case may be, shall give special emphasis, where appropriate, or feasible, to programs and projects dealing with the prevention, detection, and control of organized crime and programs and projects designed to reduce court congestion and backlog and to improve the fairness and efficiency of the judicial system.

(Pub. L. 90-351, title I, § 307, June 19, 1968, 82 Stat. 202; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 204; Pub. L. 94-503, title I, § 114, Oct. 15, 1976, 90 Stat. 2415.)

AMENDMENTS

1976—Pub. L. 94-503 substituted "and programs and projects designed to reduce court congestion and backlog and to improve the fairness and efficiency of the judicial system" for "and of riots and other violent civil disorders".

1973—Pub. L. 93-83 designated existing subsec. (a) provisions as the entire section and deleted former subsec. (b) provisions, which notwithstanding section 3733 of this title, until Aug. 31, 1968, authorized the Administration to make grants for programs and projects dealing with the prevention, detection, and control of riots and other violent civil disorders on the basis of applications describing the programs, projects, and costs of the items for which the grants would be used, and the relationship of the programs and projects to the applicant's general program for the improvement of law enforcement.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3738. Administration action upon State plan within prescribed time after date of submission; presumption of approval; disapproval with reasons and explanation; explanation of supporting material necessary for an evaluation; definition of "date of submission"

Each State plan submitted to the Administration for approval under section 3732 of this title shall be either approved or disapproved, in whole or in part, by the Administration no later than ninety days after the date of submission. If not disapproved (and returned with the reasons for such disapproval) within such ninety days of such application, such plan shall be deemed approved for the purposes of this chapter. The reasons for disapproval of such plan, in order to be effective for the purposes of this section, shall contain an explanation of which requirements enumerated in section 3733 of this title such plan fails to comply with, or an explanation of what supporting material is necessary for the Administration to evaluate such plan. For the purposes of this section, the term "date of submission" means the date on which a State plan which the State has designated as the "final State plan application" for the appropriate fiscal year is delivered to the Administration.

(Pub. L. 90-351, title I, § 308, as added Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 204, and amended Pub. L. 94-503, title I, § 115, Oct. 15, 1976, 90 Stat. 2415.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1976—Pub. L. 94-503 substituted "3733" for "3732(b)".

EFFECTIVE DATE

Section effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3739. Assistance and grants to aid State antitrust enforcement

(a) Eligibility

The Attorney General is authorized to provide assistance and make grants to States which have State plans approved under subsection (c) of this section to improve the antitrust enforcement capability of such State.

(b) Submission of plan; requirements

The attorney general of any State desiring to receive assistance or a grant under this section shall submit a plan consistent with such basic criteria as the Attorney General may establish under subsection (d) of this section. Such plan shall—

(1) provide for the administration of such plan by the attorney general of such State;

(2) set forth a program for training State officers and employees to improve the antitrust enforcement capability of such State;

(3) establish such fiscal controls and fund accounting procedures as may be necessary to assure proper disposal of and accounting of Federal funds paid to the State including such funds paid by the State to any agency of such State under this section; and

(4) provide for making reasonable reports in such form and containing such information as the Attorney General may reasonably require to carry out his function under this section, and for keeping such records and affording such access thereto as the Attorney General may find necessary to assure the correctness and verification of such reports.

(c) Approval of plan by Attorney General

The Attorney General shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section.

(d) Issuance of regulations; equitable distribution of funds

As soon as practicable after October 15, 1976, the Attorney General shall, by regulation, prescribe basic criteria for the purpose of establishing equitable distribution of funds received under this section among the States.

(e) Source and methods of payments

Payments under this section shall be made from the allotment to any State which administers a plan approved under this section. Payments to a State under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, and may be made directly to a State or to one or more public agencies designated for this purpose by the State, or to both.

(f) Audit of books and records

The Comptroller General of the United States or any of his authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grantee under this section.

(g) Termination of payments; hearing and notice

Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any State receiving a grant under this section, finds—

(1) that the program for which such grant was made has been so changed that it no longer complies with the provisions of this section; or

(2) that in the operation of the program there is failure to comply substantially with any such provision;

the Attorney General shall notify such State of his findings and no further payments may be made to such State by the Attorney General until he is satisfied that such noncompliance has been, or will promptly be, corrected. However, the Attorney General may authorize the

continuance of payments with respect to any program pursuant to this subchapter which is being carried out by such State and which is not involved in the noncompliance.

(h) Definitions

As used in this section the term—

(1) "State" includes each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(2) "attorney general" means the principal law enforcement officer of a State, if that officer is not the attorney general of that State; and

(3) "State officers and employees" includes law or economics students or instructors engaged in a clinical program under the supervision of the attorney general of a State or the Assistant Attorney General in charge of the Antitrust Division.

(i) Authorization of appropriations

In addition to any other sums authorized to be appropriated for the purposes of this chapter, there are authorized to be appropriated to carry out the purposes of this section not to exceed $10,000,000 for the fiscal year ending September 30, 1977; not to exceed $10,000,000 for the fiscal year ending September 30, 1978; and not to exceed $10,000,000 for the fiscal year ending September 30, 1979.

(Pub. L. 90-351, title I, § 309, as added Pub. L. 94-503, title I, § 116, Oct. 15, 1976, 90 Stat. 2415.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (i), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

SUBCHAPTER IV—TRAINING, EDUCATION, RESEARCH, DEMONSTRATION, AND SPECIAL GRANTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3764 of this title.

§ 3741. Statement of purpose

It is the purpose of this subchapter to provide for and encourage training, education, research, and development for the purpose of improving law enforcement and criminal justice, and developing new methods for the prevention and reduction of crime, and the detection and apprehension of criminals.

(Pub. L. 90-351, title I, § 401, June 19, 1968, 82 Stat. 203; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 205.)

AMENDMENTS

1973—Pub. L. 93-83 substituted "law enforcement and criminal justice", for "law enforcement".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3742. National Institute of Law Enforcement and Criminal Justice

(a) Establishment; general authority of Administration over Institute; Director of Institute, appointment by Attorney General; statement of purpose

There is established within the Department of Justice a National Institute of Law Enforcement and Criminal Justice (hereafter referred to in this subchapter as "Institute"). The Institute shall be under the general authority of the Administration. The chief administrative officer of the Institute shall be a Director appointed by the Attorney General. It shall be the purpose of the Institute to encourage research and development to improve and strengthen law enforcement and criminal justice, to disseminate the results of such efforts to State and local governments, and to assist in the development and support of programs for the training of law enforcement and criminal justice personnel.

(b) Functions, powers, and duties of Institute

The Institute is authorized—

(1) to make grants to, or enter into contracts with, public agencies, institutions of higher education, or private organizations to conduct research, demonstrations, or special projects pertaining to the purposes described in this chapter, including the development of new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice;

(2) to make continuing studies and undertake programs of research to develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice, including, but not limited to, the effectiveness of projects or programs carried out under this chapter;

(3) to carry out programs of behavioral research designed to provide more accurate information on the causes of crime and the effectiveness of various means of preventing crime;

(4) to make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to improve and strengthen law enforcement and criminal justice;

(5) to carry out programs of instructional assistance consisting of research fellowships for the programs provided under this section, and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects authorized by this chapter;

(6) to assist in conducting, at the request of a State or a unit of general local government or a combination thereof, local or regional training programs for the training of State and local law enforcement and criminal justice personnel, including but not limited to those engaged in the investigation of crime and apprehension of criminals, community relations, the prosecution or defense of those

charged with crime, corrections, rehabilitation, probation and parole of offenders. Such training activities shall be designed to supplement and improve rather than supplant the training activities of the State and units of general local government and shall not duplicate the training activities of the Federal Bureau of Investigation under section 3744 of this title. While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5 for persons employed intermittently in the Government service;

(7) to carry out a program of collection and dissemination of information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, or private organizations engaged in projects under this chapter, including information relating to new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement; and

(8) to establish a research center to carry out the programs described in this section.

(c) National and international clearinghouse for exchange of information; evaluation of programs and projects; dissemination of information; survey of needs in criminal justice area; consultation with Federal, State, and local agencies, use of statistical and other information; guidelines; studies on drug abuse and crime, evaluation of programs, report of findings; annual report to President, Congress, and non-Federal agencies; survey of correctional facilities, evaluation of success of existing programs, compilation of list

The Institute shall serve as a national and international clearinghouse for the exchange of information with respect to the improvement of law enforcement and criminal justice, including but not limited to police, courts, prosecutors, public defenders, and corrections.

The Institute shall undertake, where possible, to make evaluations and to receive and review the results of evaluations of the various programs and projects carried out under this chapter to determine their impact upon the quality of law enforcement and criminal justice and the extent to which they have met or failed to meet the purposes and policies of this chapter, and shall disseminate such information to State planning agencies and, upon request, to units of general local government. The Institute shall, in consultation with State planning agencies, develop criteria and procedures for the performance and reporting of the evaluation of programs and projects carried out under this chapter, and shall disseminate information about such criteria and procedures to State planning agencies. The Institute shall also assist the Administrator in the performance of those duties mentioned in section 3763(a) of this title.

The Institute shall, before the end of the fiscal year ending June 30, 1976, survey existing and future personnel needs of the Nation in the field of law enforcement and criminal justice and the adequacy of Federal, State and local programs to meet such needs. Such survey shall specifically determine the effectiveness and sufficiency of the training and academic assistance programs carried out under this chapter and relate such programs to actual manpower and training requirements in the law enforcement and criminal justice field. In carrying out the provisions of this section, the Director of the Institute shall consult with and make maximum use of statistical and other related information of the Department of Labor, Department of Health, Education, and Welfare, Federal, State and local criminal justice agencies and other appropriate public and private agencies. The Administration shall thereafter, within a reasonable time develop and issue guidelines, based upon the need priorities established by the survey, pursuant to which project grants for training and academic assistance programs shall be made.

The Institute shall, in consultation with the National Institute on Drug Abuse, make studies and undertake programs of research to determine the relationship between drug abuse and crime and to evaluate the success of the various types of drug treatment programs in reducing crime and shall report its findings to the President, the Congress, and the State planning agencies and, upon request, to units of general local government.

The Institute shall report annually to the President, the Congress, the State planning agencies, and, upon request, to units of general local government, on the research and development activities undertaken pursuant to paragraphs (1), (2), and (3) of subsection (b) of this section, and shall describe in such report the potential benefits of such activities of law enforcement and criminal justice and the results of the evaluations made pursuant to the second paragraph of this subsection. Such report shall also describe the programs of instructional assistance, the special workshops, and the training programs undertaken pursuant to paragraphs (5) and (6) of subsection (b) of this section.

The Institute shall, before September 30, 1977, survey existing and future needs in correctional facilities in the Nation and the adequacy of Federal, State, and local programs to meet such needs. Such survey shall specifically determine the effect of anticipated sentencing reforms such as mandatory minimum sentences on such needs. In carrying out the provisions of this section, the Director of the Institute shall make maximum use of statistical and other related information of the Department of Labor, Department of Health, Education, and Welfare, the General Accounting Office, Federal, State, and local criminal justice agencies and other appropriate public and private agencies.

The Institute shall identify programs and projects carried out under this chapter which have demonstrated success in improving law enforcement and criminal justice and in furthering the purposes of this chapter, and which offer the likelihood of success if continued or repeated. The Institute shall compile lists of such programs and projects for the Administrator who shall disseminate them to State planning agencies and, upon request, to units of general local government.

(Pub. L. 90-351, title I, § 402, June 19, 1968, 82 Stat. 203; Pub. L. 93-83, § 2, Aug. 6, 1973, 87

Stat. 205; Pub. L. 94-503, title I, § 117, Oct. 15, 1976, 90 Stat. 2416.)

REFERENCES IN TEXT

"This chapter", referred to in subsecs. (b)(2), (5), (7), (c), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

Section 5703 of title 5, referred to in subsec. (b)(6), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-503, § 117(a)(1), substituted "Attorney General" for "Administrator".

Subsec. (b)(3). Pub. L. 94-503, § 117(b), struck out ", and to evaluate the success of correctional procedures" following "preventing crime".

Subsec. (c). Pub. L. 94-503, § 117(a)(2), (3), (4), (5), substituted "to make evaluations and to receive and review the results of evaluations of" for "to evaluate", and directed the Institute to develop criteria and procedures for the performance and reporting of the evaluation of programs and projects carried out under this chapter, to disseminate information about such criteria and procedures to State planning agencies, to assist the Administrator in the performance of duties set forth in section 3763(a) of this title, to determine and report, in consultation with the National Institute on Drug Abuse, the relationship between drug abuse and crime and to evaluate the success of the various types of drug treatment programs in reducing crime, to survey existing and future needs in correctional facilities and the adequacy of programs to meet such needs, and to identify programs and projects which have improved law enforcement and criminal justice and compile lists of such programs and projects for the Administrator.

1973—Subsec. (a). Pub. L. 93-83 provided that the chief administrative officer of the Institute shall be a Director appointed by the Administrator and included in the statement of purpose the improvement and strengthening of criminal justice, dissemination of results of efforts to State and local governments, and assistance in development and support of programs for training law enforcement and criminal justice personnel.

Subsec. (b)(1), (2). Pub. L. 93-83 provided for improvement and strengthening of criminal justice.

Subsec. (b)(3). Pub. L. 93-83 reenacted provisions without change.

Subsec. (b)(4). Pub. L. 93-83 provided for improvement and strengthening of criminal justice.

Subsec. (b)(5). Pub. L. 93-83 reenacted provisions without change.

Subsec. (b)(6). Pub. L. 93-83 added par. (6). Former par. (6) redesignated (7).

Subsec. (b)(7). Pub. L. 93-83 redesignated former par. (6) as (7). Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 93-83 redesignated former par. (7) as (8).

Subsec. (c). Pub. L. 93-83 added subsec. (c).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3733, 3744, 3767 of this title.

§ 3743. Amount of grant, limitation; contributions requirement

A grant authorized under this subchapter may be up to 100 per centum of the total cost of each project for which such grant is made. The Administration or the Institute shall require, whenever feasible, as a condition of approval of a grant under this subchapter, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

(Pub. L. 90-351, title I, § 403, June 19, 1968, 82 Stat. 203; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 206.)

AMENDMENTS

1973—Pub. L. 93-83 provided for a contribution requirement by the Institute and substituted "purposes" for "purpose".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3744. F.B.I. law enforcement training programs

(a) Functions, powers, and duties of Director

The Director of the Federal Bureau of Investigation is authorized to—

(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local law enforcement and criminal justice personnel;

(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice;

(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local law enforcement and criminal justice personnel engaged in the investigation of crime and the apprehension of criminals. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs and their deputies, and other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit; and

(4) cooperate with the Institute in the exercise of its responsibilities under section 3742(b)(6) of this title.

(b) General authority of Attorney General over Director

In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

(Pub. L. 90-351, title I, § 404, June 19, 1968, 82 Stat. 204; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 207.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-83 substituted "law enforcement and criminal justice" for "law enforcement"

in cls. (1) to (3), provided for the training of personnel "engaged in the investigation of crime and the apprehension of criminals" and deleted "such" preceding "other persons" in cl. (3), and added cl. (4).

Subsec. (b). Pub. L. 93-83 reenacted provisions without change.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3742, 3747 of this title.

§ 3745. Repeal of Law Enforcement Assistance Act of 1965; funds for continuation of projects; immediate duties and discretion of Administration

Subject to the provisions of this section, the Law Enforcement Assistance Act of 1965 (79 Stat. 828) is repealed: *Provided*, That—

(1) The Administration, or the Attorney General until such time as the members of the Administration are appointed, is authorized to obligate funds for the continuation of projects approved under the Law Enforcement Assistance Act of 1965 prior to June 19, 1968, to the extent that such approval provided for continuation.

(2) Any funds obligated under subsection (1) of this section and all activities necessary or appropriate for the review under subsection (3) of this section may be carried out with funds previously appropriated and funds appropriated pursuant to this chapter.

(3) Immediately upon establishment of the Administration, it shall be its duty to study, review, and evaluate projects and programs funded under the Law Enforcement Assistance Act of 1965. Continuation of projects and programs under subsections (1) and (2) of this section shall be in the discretion of the Administration.

(Pub. L. 90-351, title I, § 405, June 19, 1968, 82 Stat. 204; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 207.)

REFERENCES IN TEXT

The Law Enforcement Assistance Act of 1965 (79 Stat. 828), referred to in text preceding par. (1) and in par. (1), is Pub. L. 89-197, Sept. 22, 1965, 79 Stat. 828, which is set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. Such act was repealed by Pub. L. 90-351, title I, § 405, June 19, 1968, 82 Stat. 204, and is now covered by this chapter. For complete classification of this Act to the Code, see Tables volume.

"This chapter", referred to in par. (2), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1973—Pub. L. 93-83 reenacted provisions without change.

§ 3746. Academic educational assistance

(a) Authority of Administration; consultation with Commissioner of Education

Pursuant to the provisions of subsections (b) and (c) of this section, the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen law enforcement and criminal justice.

(b) Loans; cancellation for service

The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for loans, not exceeding $2,200 per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas directly related to law enforcement and criminal justice or suitable for persons employed in law enforcement and criminal justice, with special consideration to police or correctional personnel of States or units of general local government on academic leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be canceled for service as a full-time officer or employee of a law enforcement and criminal justice agency at the rate of 25 per centum of the total amount of such loans plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration.

(c) Tuition, books, and fees; service agreements

The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for tuition, books and fees, not exceeding $250 per academic quarter or $400 per semester for any person, for officers of any publicly funded law enforcement agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to law enforcement and criminal justice or an area suitable for persons employed in law enforcement and criminal justice. Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of a law enforcement and criminal justice agency employing such applicant for a period of two years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe.

(d) Teachers

Full-time teachers or persons preparing for careers as full-time teachers of courses related to law enforcement and criminal justice or suitable for persons employed in law enforcement, in institutions of higher education which are eligible to receive funds under this section,

shall be eligible to receive assistance under subsections (b) and (c) of this section as determined under regulations of the Administration.

(e) Methods of law enforcement education

The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of law enforcement and criminal justice education, including—

(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement and criminal justice;

(2) education and training of faculty members;

(3) strengthening the law enforcement and criminal justice aspects of courses leading to an undergraduate, graduate, or professional degree; and

(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums.

The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.

(f) Internship grants

The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for grants not exceeding $65 per week to persons enrolled on a full-time basis in undergraduate or graduate degree programs who are accepted for and serve in full-time internships in law enforcement and criminal justice agencies for not less than eight weeks during any summer recess or for any entire quarter or semester on leave from the degree program.

(Pub. L. 90-351, title I, § 406, June 19, 1968, 82 Stat. 204; Pub. L. 91-644, title I, § 5(1), Jan. 2, 1971, 84 Stat. 1884; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 207.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-83 substituted "law enforcement and criminal justice" for "law enforcement".

Subsec. (b). Pub. L. 93-83 increased amount of loan per semester from $1,800 to $2,200 and substituted "law enforcement and criminal justice" for "law enforcement".

Subsec. (c). Pub. L. 93-83 increased allowance per academic quarter and per semester from $200 to $250 and $300 to $400 and substituted "law enforcement and criminal justice" for "law enforcement" following "area related to" and "persons employed in" and "a law enforcement and criminal justice agency" for "the law enforcement agency".

Subsec. (d). Pub. L. 93-83 substituted "law enforcement and criminal justice" for "law enforcement" where first appearing.

Subsec. (e). Pub. L. 93-83 reenacted provisions, substituting "law enforcement and criminal justice" for "law enforcement" in introductory text, and cls. (1) and (3).

Subsec. (f). Pub. L. 93-83 increased amount of grant from $50 to $65 per week and substituted "law enforcement and criminal justice" for "law enforcement" agencies.

1971—Subsec. (b). Pub. L. 91-644, § 5(1)(A), substituted "in areas related to law enforcement or suitable for persons employed in law enforcement" for "in areas directly related to law enforcement or preparing for employment" in first sentence.

Subsec. (c). Pub. L. 91-644, § 5(1)(B), authorized payments for books.

Subsecs. (d) to (f). Pub. L. 91-644, § 5(1)(C), added subsecs. (d) to (f).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3747. Administration training programs for prosecuting attorneys

(a) Objectives

The Administration is authorized to establish and support a training program for prosecuting attorneys from State and local officers engaged in the prosecution of organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against organized crime.

(b) Travel expenses and allowances

While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5 for persons employed intermittently in the Government service.

(c) Funds for training costs

The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training.

(Pub. L. 90-351, title I, § 407, formerly § 408, as added Pub. L. 91-644, title I, § 5(2), Jan. 2, 1971, 84 Stat. 1885, and renumbered Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 209.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (b), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

PRIOR PROVISIONS

A prior section 3747, Pub. L. 90-351, title I, § 407, as added Pub. L. 91-544, title I, § 5(2), Jan. 2, 1971, 84 Stat. 1885, which related to Administration law enforcement training program for enforcement personnel, was omitted in the general amendment of title I of Pub. L. 90-351 by section 2 of Pub. L. 93-83.

§ 3748. Transferred

CODIFICATION

Section, Pub. L. 90-351, title I, § 408, as added Pub. L. 91-644, title I, § 5(2), Jan. 2, 1971, 84 Stat. 1885, was renumbered section 407 of Pub. L. 90-351 and is now classified to section 3747 of this title.

SUBCHAPTER IV-A—GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3768, 3770 of this title.

§ 3750. Statement of purpose

It is the purpose of this subchapter to encourage States and units of general local government to develop and implement programs and projects for the construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices.

(Pub. L. 90-351, title I, § 451, as added Pub. L. 91-644, title I, § 6(a), Jan. 2, 1971, 84 Stat. 1885, and amended Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 209.)

AMENDMENTS

1973—Pub. L. 93-83 reenacted provisions without change.

§ 3750a. Applications for grants; incorporation in comprehensive State plan

A State desiring to receive a grant under this subchapter for any fiscal year shall, consistent with the basic criteria which the Administration establishes under section 3750c of this title, incorporate its application for such grant in the comprehensive State plan submitted to the Administration for that fiscal year in accordance with section 3732 of this title.

(Pub. L. 90-351, title I, § 452, as added Pub. L. 91-644, title I, § 6(a), Jan. 2, 1971, 84 Stat. 1885, and amended Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 209.)

AMENDMENTS

1973—Pub. L. 93-83 reenacted provisions without change.

§ 3750b. Comprehensive requirements of grant applications

The Administration is authorized to make a grant under this subchapter to a State planning agency if the application incorporated in the comprehensive State plan—

(1) sets forth a comprehensive statewide program for the construction, acquisition, or renovation of correctional institutions and facilities in the State and the improvement of correctional programs and practices throughout the State;

(2) provides satisfactory assurances that the control of the funds and the title to property derived therefrom shall be in a public agency for the uses and purposes provided in this subchapter and that a public agency will administer those funds and that property;

(3) provides satisfactory assurances that the availability of funds under this subchapter shall not reduce the amount of funds under subchapter III of this chapter which a State would, in the absence of funds under this subchapter, allocate for purposes of this subchapter;

(4) provides satisfactory emphasis on the development and operation of community-based correctional facilities and programs, including diagnostic services, halfway houses, probation, and other supervisory release programs for preadjudication and postadjudication referral of delinquents, youthful offenders, and first offenders, and community-oriented programs for the supervision of parolees;

(5) provides for advanced techniques in the design of institutions and facilities;

(6) provides, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis;

(7) provides satisfactory assurances that the personnel standards and programs of the institutions and facilities will reflect advanced practices;

(8) provides satisfactory assurances that the State is engaging in projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities, including those of probation, parole, and rehabilitation;

(9) provides necessary arrangements for the development and operation of narcotic and alcoholism treatment programs in correctional institutions and facilities and in connection with probation or other supervisory release programs for all persons, incarcerated or on parole, who are drug addicts, drug abusers, alcoholics, or alcohol abusers;

(10) complies with the same requirements established for comprehensive State plans under paragraphs (1), (3), (5), (6), (8), (9), (10), (11), (12), (13), (14), (15), and (17) of section 3733(a) of this title;

(11) provides for accurate and complete monitoring of the progress and improvement of the correctional system. Such monitoring shall include rate of prisoner rehabilitation and rates of recidivism in comparison with previous performance of the State or local correctional systems and current performance of other State and local prison systems not included in this program; and

(12) provides that State and local governments shall submit such annual reports as the Administrator may require.

(Pub. L. 90-351, title I, § 453, as added Pub. L. 91-644, title I, § 6(a), Jan. 2, 1971, 84 Stat. 1886, and amended Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 209; Pub. L. 94-503, title I, § 118, Oct. 15, 1976, 90 Stat. 2417.)

AMENDMENTS

1976—Par. (10). Pub. L. 94-503 substituted "(15), and (17)" for "and (15)".

1973—Pub. L. 93-83 reenacted introductory text and pars. (1) to (8) without change, deleted "and" at end of par. (8), added par. (9), redesignated former par. (9) as (10) and added therein references to pars. (13) to (15) and deleted therefrom references to pars. (4) and (7) of section 3733 of this title, and added pars. (11) and (12).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3750c. Basic criteria for applicants and grantees; guidelines

The Administration shall, after consultation with the Federal Bureau of Prisons, by regulations prescribe basic criteria for applicants and grantees under this subchapter.

In addition, the Administration shall issue guidelines for drug treatment programs in State and local prisons and for those to which persons on parole are assigned. The Adminis-

trator shall coordinate or assure coordination of the development of such guidelines with the Office of Drug Abuse Policy.

(Pub. L. 90-351, title I, § 454, as added Pub. L. 91-644, title I, § 6(a), Jan. 2, 1971, 84 Stat. 1886, and amended Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 210; Pub. L. 94-237, § 4(c)(5)(C), Mar. 19, 1976, 90 Stat. 244.)

AMENDMENTS

1976—Pub. L. 94-237 substituted "Office of Drug Abuse Policy" for "Special Action Office for Drug Abuse Prevention".

1973—Pub. L. 93-83 added provisions respecting issuance of guidelines for drug treatment programs in State and local prisons and for coordination of development of the guidelines.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3750a, 3767 of this title.

§ 3750d. Allocation of funds

(a) Percentage limitation; State appropriation of moneys for State share of non-Federal funding of program costs; land acquisition prohibition

The funds appropriated each fiscal year to make grants under this subchapter shall be allocated by the Administration as follows:

(1) Fifty per centum of the funds shall be available for grants to State planning agencies.

(2) The remaining 50 per centum of the funds may be made available, as the Administration may determine, to State planning agencies, units of general local government, combinations of such units, or nonprofit organization, according to the criteria and on the terms and conditions the Administration determines consistent with this subchapter.

Any grant made from funds available under this subchapter may be up to 90 per centum of the cost of the program or project for which such grant is made. The non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate by the State or units of general local government. No funds awarded under this subchapter may be used for land acquisition.

(b) Reallocation of funds

If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds granted to an applicant for that fiscal year will not required by the applicant or will become available by virtue of the application of the provisions of section 3757 of this title, that portion shall be available for reallocation under paragraph (2) of subsection (a) of this section.

(Pub. L. 90-351, title I, § 455, as added Pub. L. 91-644, title I, § 6(a), Jan. 2, 1971, 84 Stat. 1886, and amended Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 210; Pub. L. 94-503, title I, § 119(a), Oct. 15, 1976, 90 Stat. 2417.)

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-503 substituted "government, combinations of such units, or nonprofit organization, according" for "government, or combinations of such units, according".

1973—Subsec. (a). Pub. 93-83 substituted "50" for "fifty" in cl. (2), increased amount of grant from 75 to 90 per centum of program or project cost, and provided that the non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate by the State or units of general local government.

Subsec. (b). Pub. L. 93-83 reenacted provisions without change.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3767 of this title.

SUBCHAPTER V—ADMINISTRATIVE PROVISIONS

§ 3751. Rules, regulations, and procedures

The Administration is authorized, after appropriate consultation with representatives of States and units of general local government, to establish such rules, regulations, and procedures as are necessary to the exercise of its functions, and are consistent with the stated purpose of this chapter. The Administration shall establish such rules and regulations as are necessary to assure the proper auditing, monitoring, and evaluation by the Administration of both the comprehensiveness and impact of programs funded under this chapter in order to determine whether such programs submitted for funding are likely to contribute to the improvement of law enforcement and criminal justice and the reduction and prevention of crime and juvenile delinquency and whether such programs once implemented have achieved the goals stated in the original plan and application.

(Pub. L. 90-351, title I, § 501, June 19, 1968, 82 Stat. 205; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 94-503, title I, § 120, Oct. 15, 1976, 90 Stat. 2418.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1976—Pub. L. 94-503 directed Administration to establish rules and regulations to assure the proper auditing, monitoring, and evaluation of both the comprehensiveness and impact of programs funded under this chapter in order to determine the probable effectiveness of such programs submitted for funding and the effectiveness of such programs once implemented.

1973—Pub. L. 93-83 reenacted provisions without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3781 of this title.

§ 3752. Delegation of functions

The Administration may delegate to any officer or official of the Administration, or, with the approval of the Attorney General, to any officer of the Department of Justice such functions as it deems appropriate.

(Pub. L. 90-351, title I, § 502, June 19, 1968, 82 Stat. 205; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 211.)

AMENDMENTS

1973—Pub. L. 93-83 reenacted provisions without change.

§ 3753. Transfer of functions, powers, and duties of Administration within Department of Justice

The functions, powers, and duties specified in this chapter to be carried out by the Administration shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress.

(Pub. L. 90-351, title I, § 503, June 19, 1968, 82 Stat. 205; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 211.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1973—Pub. L. 93-83 reenacted provisions without change.

§ 3754. Place in United States for hearings, subpenas, oaths, examination of witnesses, and reception of evidence

In carrying out its functions, the Administration, or upon authorization of the Administration, any member thereof or any hearing examiner assigned to or employed by the Administration, shall have the power to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

(Pub. L. 90-351, title I, § 504, June 19, 1968, 82 Stat. 205; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 211.)

AMENDMENTS

1973—Pub. L. 93-83 reenacted provisions without change.

§ 3755. Officers, employees, and hearing examiners; increase in Federal share of program costs for Indian tribes or other aboriginal groups; waiver of State liability; pursuit of legal remedies against Indian tribes

(a) Subject to the Civil Service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out its powers and duties under this chapter and is authorized to select, appoint, employ, and fix compensation of such hearing examiners or to request the use of such hearing examiners selected by the Civil Service Commission pursuant to section 3344 of title 5, as shall be necessary to carry out its powers and duties under this chapter.

(b) In the case of a grant to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary.

(Pub. L. 90-351, title I, § 507, June 19, 1968, 82 Stat. 205; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 94-503, title I, §§ 119(b), 121, Oct. 15, 1976, 90 Stat. 2417, 2418.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

The classification laws, referred to in subsec. (a), are classified generally to chapter 51 (§ 5101 et seq.) and to subchapter III (§ 5331 et seq.) of chapter 53 of Title 5.

"This chapter", referred to in subsec. (a), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-503, §§ 119(b)(1), 121, designated existing provisions as subsec. (a), and in subsec. (a) as so designated, authorized Administration to request the use of hearing examiners selected by the Civil Service Commission as might be necessary to carry out its powers and duties under this chapter.

Subsec. (b). Pub. L. 94-503, § 119(b)(2), added subsec. (b).

1973—Pub. L. 93-83 reenacted provisions without change.

§ 3756. Use of services, equipment, personnel, and facilities of other Federal agencies; Central Intelligence Agency exclusion; reimbursement; reciprocal use by such other Federal agencies; availability of State agency cooperation, services, records, and facilities; use of donated or transferred property for testing purposes

The Administration is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department of Justice and of other civilian or military agencies and instrumentalities of the Federal Government (not including the Central Intelligence Agency), and to cooperate with the Department of Justice and such other agencies and instrumentalities in the establishment and use of services, equipment, personnel, and facilities of the Administration. The Administration is further authorized to confer with and avail itself of the co- operation, services, records, and facilities of State, municipal, or other local agencies, and to receive and utilize, for the purposes of this chapter, property donated or transferred for the purposes of testing by any other Federal agencies, States, units of general local government, public or private agencies or organizations, institutions of higher education, or individuals.

(Pub. L. 90-351, title I, § 508, June 19, 1968, 82 Stat. 205; Pub. L. 91-644, title I, § 7(3), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 211.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1973—Pub. L. 93-83 made provisions inapplicable to Central Intelligence Agency.

1971—Pub. L. 91-644 authorized the Administration to receive and utilize, for purposes of this subchapter, property donated or transferred for purposes of testing by any other Federal agencies, States, units of general local government, public or private agencies or organizations, institutions of higher education, or individuals.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3757. Withholding of payments for noncompliance with certain requirements; notice and hearing

Except as provided in section 3766(c) of this title, whenever the Administration, after notice to an applicant or a grantee under this chapter and opportunity for a hearing on the record in accordance with section 554 of title 5, finds that, with respect to any payments made or to be made under this chapter, there is a substantial failure to comply with—

(a) the provisions of this chapter;

(b) regulations promulgated by the Administration under this chapter; or

(c) a plan or application submitted in accordance with the provisions of this chapter;

the Administration shall notify such applicant or grantee that further payments shall not be made (or in its discretion that further payments shall not be made for activities in which there is such failure), until there is no longer such failure.

(Pub. L. 90-351, title I, § 509, June 19, 1968, 82 Stat. 206; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 94-503, title I, § 122(a), Oct. 15, 1976, 90 Stat. 2418.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1976—Pub. L. 94-503 substituted "Except as provided in section 3766(c) of this title, whenever the Administration, after notice to an applicant or a grantee under this chapter and opportunity for a hearing on the record in accordance with section 554 of Title 5," for "Whenever the Administration, after reasonable notice and opportunity for hearing to an applicant or a grantee under this chapter,".

1973—Pub. L. 93-83 reenacted provisions without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3736, 3750d, 3759, 3767, 5633 of this title.

§ 3758. Administration proceedings

(a) Finality of action

In carrying out the functions vested by this chapter in the Administration, the determinations, findings, and conclusions of the Administration shall be final and conclusive upon all applicants, except as hereafter provided.

(b) Notice and hearing

If the application has been rejected or an applicant has been denied a grant or has had a grant, or any portion of a grant, discontinued, or has been given a grant in a lesser amount than such applicant believes appropriate under the provisions of this chapter, the Administration shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever an applicant or grantee requests a hearing on action taken by the Administration on an application or a grant, the Administration, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations at such times and places as the Administration deems necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made by the Administration with respect thereto shall be final and conclusive, except as otherwise provided herein.

(c) Rehearing; additional information

If such applicant is still dissatisfied with the findings and determinations of the Administration, following the notice and hearing provided for in subsection (b) of this section, a request may be made for rehearing, under such regulations and procedures as the Administration may establish, and such applicant shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved. The findings and determinations of the Administration, following such rehearing, shall be final and conclusive upon all parties concerned, except as hereafter provided.

(Pub. L. 90-351, title I, § 510, June 19, 1968, 82 Stat. 206; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 212.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (a), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1973—Pub. L. 93-83 designated existing subsec. (a) change, but inserted in subsec. (b) a comma following "on an application or a grant".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3759, 5633 of this title.

§ 3759. Judicial review

(a) Petition; record

If any applicant or grantee is dissatisfied with the Administration's final action with respect to the approval of its application or plan submitted under this chapter, or any applicant or grantee is dissatisfied with the Administration's final action under section 3757 or section 3758 of this title, such applicant or grantee may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or grantee is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administration. The Administration shall thereupon file in the court the record of the proceedings on which the action of the Administration was based, as provided in section 2112 of title 28.

(b) Conclusiveness of determinations

The determination and the findings of fact by the Administration, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Administration to take further evidence. The Administration may thereupon make new or modified findings of fact and may modify its previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact or determinations shall likewise be conclusive if supported by substantial evidence.

(c) Jurisdiction of courts of appeals; review by Supreme Court

Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Administration or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 90-351, title I, § 511, June 19, 1968, 82 Stat. 206; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 212.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (a), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1973—Pub. L. 93-83 reenacted provisions without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3766, 5633 of this title.

§ 3760. Repealed. Pub. L. 94-503, title I, § 123, Oct. 15, 1976, 90 Stat. 2419

Section, Pub. L. 90-351, title I, § 512, June 19, 1968, 82 Stat. 207; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 213, authorized the Administration to carry out the programs provided for under this chapter during the fiscal year ending June 30, 1974, and the two succeeding fiscal years.

§ 3761. Coordination of law enforcement assistance and related Federal programs; statistics, etc., from other Federal agencies

To insure that all Federal assistance to State and local programs under this chapter is carried out in a coordinated manner, the Administration is authorized to request any Federal department or agency to supply such statistics, data, program reports, and other material as the Administration deems necessary to carry out its functions under this chapter. Each such department or agency is authorized to cooperate with the Administration and, to the extent permitted by law, to furnish such materials to the Administration. Any Federal department or agency engaged in administering programs related to this chapter shall, to the maximum extent practicable consult with and seek advice from the Administration to insure fully coordinated efforts, and the Administration shall undertake to coordinate such efforts.

(Pub. L. 90-351, title I, § 513, June 19, 1968, 82 Stat. 207; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 213.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and

Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1973—Pub. L. 93-83 reenacted provisions without change, deleting a comma following "practicable".

§ 3762. Reimbursement of other Federal agencies

The Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of its functions under this chapter.

(Pub. L. 90-351, title I, § 514, June 19, 1968, 82 Stat. 207; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 213.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1973—Pub. L. 93-83 reenacted provisions without change.

§ 3763. Authority of Administration

(a) Powers and duties

Subject to the general authority of the Attorney General, and under the direction of the Administrator, the Administration shall—

(1) review, analyze, and evaluate the comprehensive State plan submitted by the State planning agency in order to determine whether the use of financial resources and estimates of future requirements as requested in the plan are consistent with the purposes of this chapter to improve and strengthen law enforcement and criminal justice and to reduce and prevent crime; if warranted, the Administration shall thereafter make recommendations to the State planning agency concerning improvements to be made in that comprehensive plan;

(2) assure that the membership of the State planning agency is fairly representative of all components of the criminal justice system and review, prior to approval, the preparation, justification, and execution of the comprehensive plan to determine whether the State planning agency is coordinating and controlling the disbursement of the Federal funds provided under this chapter in a fair and proper manner to all components of the State and local criminal justice system; to assure such fair and proper disbursement, the State planning agency shall submit to the Administration, together with its comprehensive plan, a financial analysis indicating the percentage of Federal funds to be allocated under the plan to each component of the State and local criminal justice system;

(3) develop appropriate procedures for determining the impact and value of programs funded pursuant to this chapter and whether such funds should continue to be allocated for such programs; and

(4) assure that the programs, functions, and management of the State planning agency are being carried out efficiently and economically.

(b) Additional powers and duties

The Administration is also authorized—

(1) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement within and without the United States; and

(2) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, institutions, or international agencies in matters relating to law enforcement and criminal justice.

(c) Expenditure of funds

Funds appropriated for the purposes of this section may be expanded[1] by grant or contract, as the Administration may determine to be appropriate.

(Pub. L. 90-351, title I, § 515, June 19, 1968, 82 Stat. 207; Pub. L. 91-644, title I, § 7(4), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 213; Pub. L. 94-503, title I, § 124, Oct. 15, 1976, 90 Stat. 2421.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (a)(1), (2), (3), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1976—Pub. L. 94-503 added subsec. (a), designated existing provisions as subsecs. (b) and (c), and in subsec. (b) as so designated, struck out provision authorizing Administration to conduct evaluation studies of the programs and activities assisted under this chapter.

1973—Pub. L. 93-83 reenacted provisions, substituting in item (b) "within and without the United States" for "in the several States" and authorizing cooperation with internation agencies in item (c), substituting in such item (c) "law enforcement and criminal justice" for "law enforcement".

1971—Pub. L. 91-644 provided that funds appropriated for purposes of this chapter may be expended by grant or contract, as the Administration may determine to be appropriate.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3723, 3742 of this title; title 22 section 2420.

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[1] So in original. Probably should be "expended".

§ 3764. Payments

(a) Installments; advances or reimbursement; payment of expenses for attending conferences or other assemblages notwithstanding prohibition of section 551 of title 31

Payments under this chapter may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administration, and may be used to pay the transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding the provisions of the joint resolution entitled "Joint resolution to prohibit expenditure of any moneys for housing, feeding, or transporting conventions or meetings", approved February 2, 1935 (31 U.S.C. sec. 551).

(b) Maximum sum for any one State

Not more than 12 per centum of the sums appropriated for any fiscal year to carry out the provisions of this chapter may be used within any one State except that this limitation shall not apply to grants made pursuant to subchapter IV of this chapter.

(Pub. L. 90-351, title I, § 516, June 19, 1968, 82 Stat. 207; Pub. L. 91-644, title I, § 7(5), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 213.)

REFERENCES IN TEXT

"This chapter", referred to in subsecs. (a) and (b), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-83 reenacted provisions, substituting "joint resolution" for "Joint Resolution".

Subsec. (b). Pub. L. 93-83 reenacted provisions without change.

1971—Subsec. (a). Pub. L. 91-644 authorized payment of transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding prohibition of section 551 of title 31.

§ 3765. Personnel

(a) Experts and consultants; employment and compensation

The Administration may procure the services of experts and consultants in accordance with section 3109 of title 5, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5.

(b) Advisory committees; appointment, compensation, and travel expenses

The Administration is authorized to appoint, without regard to the civil service laws, technical or other advisory committees to advise the Administration with respect to the administration of this chapter as it deems necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising the Administration or attending meetings of the committees, shall be compensated at rates to be fixed by the Administration but not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5 and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

(Pub. L. 90-351, title I, § 517, June 19, 1968, 82 Stat. 207; Pub. L. 91-644, title I, § 7(6), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 213.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (b), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

AMENDMENTS

1973—Pub. L. 93-83 reenacted provisions without change.

1971—Subsec. (a). Pub. L. 91-644 added subsec. (a).

Subsec. (b). Pub. L. 91-644 designated existing provisions as subsec. (b), provided for appointments without regard to civil service laws and for compensation when engaged in advising the Administration, and substituted provision limiting compensation to daily equivalent rate authorized for GS-18 by section 5332 of title 5 for prior $75 per diem limitation.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3766. Construction unauthorized

(a) Federal direction, supervision or control of State policy force or other law enforcement agency

Nothing contained in this chapter or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other law enforcement and criminal justice agency of any State or any political subdivision thereof.

(b) Administration achievement or elimination of racial balance or imbalance through adoption of percentage ratio, quota system or other program

Notwithstanding any other provision of law nothing contained in this chapter shall be construed to authorize the Administration (1) to require, or condition the availability or amount of a grant upon, the adoption by an applicant or grantee under this chapter of a percentage ratio, quota system, or other program to

achieve racial balance or to eliminate racial imbalance in any law enforcement agency, or (2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this chapter to adopt such a ratio, system, or other program.

(c) Discrimination prohibited; determination of discrimination; notice of violation to chief executive of State; compliance, writing, semiannual report; noncompliance, suspension of payments, effective period; resumption of payments; preliminary hearing before administrative law judge, deferral of suspension; hearing; finding of compliance or noncompliance; appeal of findings; civil action by Attorney General, injunction; private action, exhaustion of administrative remedies, attorney fees, intervention by Attorney General

(1) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any program or activity funded in whole or in part with funds made available under this chapter.

(2)(A) Whenever there has been—

(i) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in an action brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Administration under subparagraph (ii)), to the effect that there has been a pattern or practice of discrimination in violation of subsection (c)(1) of this section; or

(ii) a determination after an investigation by the Administration (prior to a hearing under subparagraph (F) but including an opportunity for the State government or unit of general local government to make a documentary submission regarding the allegation of discrimination with respect to such program or activity, with funds made available under this chapter) that a State government or unit of general local government is not in compliance with subsection (c)(1) of this section;

the Administration shall, within ten days after such occurrence, notify the chief executive of the affected State, or the State in which the affected unit of general local government is located, and the chief executive of such unit of general local government, that such program or activity has been so found or determined not to be in compliance with subsection (c)(1) of this section, and shall request each chief executive, notified under this subparagraph with respect to such violation, to secure compliance. For purposes of subparagraph (i) a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5 of title 5.

(B) In the event the chief executive secures compliance after notice pursuant to subparagraph (A), the terms and conditions with which the affected State government or unit of general local government agrees to comply shall be set forth in writing and signed by the chief executive of the State, by the chief executive of such unit (in the event of a violation by a unit of general local government), and by the Administration. On or prior to the effective date of the agreement, the Administration shall send a copy of the agreement to each complainant, if any, with respect to such violation. The chief executive of the State, or the chief executive of the unit (in the event of a violation by a unit of general local government) shall file semiannual reports with the Administration detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports, the Administration shall send a copy thereof to each such complainant.

(C) If, at the conclusion of ninety days after notification under subparagraph (A)—

(i) compliance has not been secured by the chief executive of that State or the chief executive of that unit of general local government; and

(ii) an administrative law judge has not made a determination under subparagraph (F) that it is likely the State government or unit of local government will prevail on the merits; the Administration shall notify the Attorney General that compliance has not been secured and suspend further payment of any funds under this title to that program or activity. Such suspension shall be limited to the specific program or activity cited by the Administration in the notice under subparagraph (A). Such suspension shall be effective for a period of not more than one hundred and twenty days, or, if there is a hearing under subparagraph (G), not more than thirty days after the conclusion of such hearing, unless there has been an express finding by the Administration after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (c)(1) of this section.

(D) Payment of the suspended funds shall resume only if—

(i) such State government or unit of general local government enters into a compliance agreement approved by the Administration and the Attorney General in accordance with subparagraph (B);

(ii) such State government or unit of general local government complies fully with the final order or judgment of a Federal or State court, or by a Federal or State administrative agency if that order or judgment covers all the matters raised by the Administration in the notice pursuant to subparagraph (A), or is found to be in compliance with subsection (c)(1) of this section by such court; or

(iii) after a hearing the Administration pursuant to subparagraph (F) finds that noncompliance has not been demonstrated.

(E) Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, national origin, or sex in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under this chapter, and the conduct allegedly violates the provisions of this section and neither party within forty-five days after such filing has been granted such preliminary relief with regard to the suspension or payment

of funds as may be otherwise available by law, the Administration shall suspend further payment of any funds under this chapter to that specific program or activity alleged by the Attorney General to be in violation of the provisions of this subsection until such time as the court orders resumption of payment.

(F) Prior to the suspension of funds under subparagraph (C), but within the ninety-day period after notification under subparagraph (C), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (G), prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under subparagraph (C) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (G).

(G)(i) At any time after notification under subparagraph (A), but before the conclusion of the one hundred and twenty day period referred to in subparagraph (C), a State government or unit of general local government may request a hearing, which the Administration shall initiate within sixty days of such request.

(ii) Within thirty days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the one hundred and twenty day period referred to in subparagraph (C), the Administration shall make a finding of compliance or noncompliance. If the Administrator makes a finding of noncompliance, the Administration shall notify the Attorney General in order that the Attorney General may institute a civil action under subsection (c)(3) of this section, terminate the payment of funds under this chapter, and, if appropriate, seek repayment of such funds.

(iii) If the Administration makes a finding of compliance, payment of the suspended funds shall resume as provided in subparagraph (D).

(H) Any State government or unit of general local government aggrieved by a final determination of the Administration under subparagraph (G) may appeal such determination as provided in section 3759 of this title.

(3) Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of such funds made available under this chapter as the court may deem appropriate, or placing any further such funds in escrow pending the outcome of the litigation.

(4)(A) Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this subsection, a civil action may be instituted after exhaustion of administrative remedies by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction. Administrative remedies shall be deemed to be exhausted upon the expiration of sixty days after the date of the administrative complaint was filed with the Administration, or any other administrative enforcement agency, unless within such period there has been a determination by the Administration or the agency on the merits of the complaint, in which case such remedies shall be deemed exhausted at the time the determination becomes final.

(B) In any civil action brought by a private person to enforce compliance with any provision of this subsection, the court may grant to a prevailing plaintiff reasonable attorney fees, unless the court determines that the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

(C) In any action instituted under this section to enforce compliance with subsection (c)(1) of this section, the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

(Pub. L. 90-351, title I, § 518, June 19, 1968, 82 Stat. 208; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 214; Pub. L. 94-503, title I, § 122(b), Oct. 15, 1976, 90 Stat. 2418.)

References in Text

"This chapter", referred to in subsecs. (a), (b), (c)(1), (2)(A)(ii), (2)(E), (2)(G)(ii), (3), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

Amendments

1976—Subsec. (c)(1). Pub. L. 94-503 added "religion," following "color", and "or denied employment in connection with" following "discrimination under".

Subsec. (c)(2). Pub. L. 94-503 substituted provisions requiring notice and opportunity for a hearing or the opportunity to make a documentary submission regarding the allegation of noncompliance with par. (1) of this subsec. before notification by the Administration to the chief executive of both the State and the general local government of such noncompliance, outlining procedure for a written agreement and the filing of semiannual reports in the event of compliance after notification, relating to the suspension of funds if noncompliance continues after ninety days following notification, the resumption of payment of suspended funds, and to the suspension of funds during pendency of a civil action filed by the Attorney General, permitting a preliminary hearing in order to defer suspension of funds pending a finding of noncompliance following a hearing on the merits, and setting forth the procedure governing administrative hearing and findings and judicial review, for provisions requiring Administration to notify only the chief

executive of a State or noncompliance with par. (1) of this subsec. or an applicable regulation and to request such executive to secure compliance, authorizing Administration to exercise the powers and functions provided in section 3757 of this title upon noncompliance with such request, and concurrently with such exercise, authorizing Administration to institute a civil action, to exercise the powers and functions under section 2000(d) of this title, or to take other action provided by law.

Subsec. (c)(3). Pub. L. 94-503 substituted "has engaged or is engaging" for "is engaged", "an appropriate" for "any appropriate", and substituted provision that the district court might grant any temporary restraining order, preliminary or permanent injunction, or other order to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds, or placing funds in escrow pending the outcome of litigation for provision that the district court might grant such relief as might be appropriate, including injunctive relief.

Subsec. (c)(4). Pub. L. 94-503 added subsec. (c)(4).

1973—Pub. L. 93-83 substituted "law enforcement and criminal justice agency" for "law enforcement agency."

Subsec. (b). Pub. L. 93-83 reenacted provisions without change.

Subsec. (c). Pub. L. 93-83 added subsec. (c).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3757, 3767, 3769 of this title.

§ 3767. Reports to President and Congress; contents

On or before December 31 of each year, the Administration shall report to the President and to the Committees on the Judiciary of the Senate and House of Representatives on activities pursuant to the provisions of this chapter during the preceding fiscal year. Such report shall include—

(1) an analysis of each State's comprehensive plan and the programs and projects funded thereunder including—

(A) the amounts expended for each of the components of the criminal justice system,

(B) a brief description of the procedures followed by the State in order to audit, monitor, and evaluate programs and projects,

(C) the descriptions and number of program and project areas, and the amounts expended therefore, which are innovative or incorporate advanced techniques and which have demonstrated promise of furthering the purposes of this chapter,

(D) the descriptions and number of program and project areas, and amounts expended therefore, which seek to replicate programs and projects which have demonstrated success in furthering the purposes of this chapter,

(E) the descriptions and number of program and project areas, and the amounts expended therefor, which have achieved the purposes for which they were intended and the specific standards and goals set for them,

(F) the descriptions and number of program and project areas, and the amounts expended therefor, which have failed to achieve the purposes for which they were intended or the specific standards and goals set for them,

(2) a summary of the major innovative policies and programs for reducing and preventing crime recommended by the Administration during the preceding fiscal year in the course of providing technical and financial aid and assistance to State and local governments pursuant to this chapter;

(3) an explanation of the procedures followed by the Administration in reviewing, evaluating, and processing the comprehensive State plans submitted by the State planning agencies and programs and projects funded thereunder;

(4) the number of comprehensive State plans approved by the Administration without recommending substantial changes;

(5) the number of comprehensive State plans on which the Administration recommended substantial changes, and the disposition of such State plans;

(6) the number of State comprehensive plans funded under this chapter during the preceding three fiscal years in which the funds allocated have not been expended in their entirety;

(7) the number of programs and projects with respect to which a discontinuation, suspension, or termination of payments occurred under section 3757, or 3766(c) of this title, together with the reasons for such discontinuation, suspension, or termination;

(8) the number of programs and projects funded under this chapter which were subsequently discontinued by the States following the termination of funding under this chapter;

(9) a summary of the measures taken by the Administration to monitor criminal justice programs funded under this chapter in order to determine the impact and value of such programs;

(10) an explanation of how the funds made available under sections 3736(a)(2), 3742(b), and 3750d(a)(2) of this title were expended, together with the policies, priorities, and criteria upon which the Administration based such expenditures; and

(11) a description of the implementation of, and compliance with, the regulations, guidelines, and standards required by section 3750c of this title.

(Pub. L. 90-351, title I, § 519, June 19, 1968, 82 Stat. 208; Pub. L. 91-644, title I, § 7(7), Jan. 2, 1971, 84 Stat. 1888; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 214; Pub. L. 94-273, § 5(5), Apr. 21, 1976, 90 Stat. 377; Pub. L. 94-503, title I, § 125, Oct. 15, 1976, 90 Stat. 2422.)

REFERENCES IN TEXT

"This chapter", referred to in text preceding par. (1) and par. (1)(C), (D), (2), (6), (8), (9), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings,

Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1976—Pub. L. 94-503 substituted "December" for "March", "Committees on the Judiciary of the Senate and House of Representatives" for "Congress", and added pars. (1) to (11) setting forth material to be included in report.

Pub. L. 94-273 substituted "March" for "December".

1973—Pub. L. 93-83 designated existing subsec. (a) provisions as the entire section and eliminated former subsec. (b) provisions requiring the Administration, not later than May 1, 1971, to submit to the President and Congress recommendations for legislation to assist in the purposes of this chapter with respect to promoting the integrity and accuracy of criminal justice data collection, processing, and dissemination systems funded in whole or in part by the Federal Government, and protecting the constitutional rights of all persons covered or affected by such systems.

1971—Pub. L. 91-644 designated existing provisions as subsec. (a), substituted December 31 of each year, for August 31, 1968, and each year thereafter as the reporting date, and added subsec. (b).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3768. Authorization of appropriations

(a) There are authorized to be appropriated for the purposes of carrying out this chapter not to exceed $220,000,000 for the period beginning on July 1, 1976, and ending September 30, 1976, not to exceed $880,000,000 for the fiscal year ending September 30, 1977; $800,000,000 for the fiscal year ending September 30, 1978; and $800,000,000 for the fiscal year ending September 30, 1979. In addition to any other sums available for the purposes of grants under subchapter III of this chapter, there is authorized to be appropriated not to exceed $15,000,000 for the fiscal year ending September 30, 1977; and not to exceed $15,000,000 for each of the two succeeding fiscal years; for the purposes of grants to be administered by the Office of Community Anti-Crime Programs for community patrol activities and the encouragement of neighborhood participation in crime prevention and public safety efforts under section 3731(b)(6) of this title. Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter there shall be allocated for the purposes of subchapter IV-A of this chapter an amount equal to not less than 20 per centum of the amount allocated for the purposes of subchapter III of this chapter.

(b) In addition to the funds appropriated under section 5671(a) of this title, the Administration shall maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least 19.15 percent of the total appropriations for the Administration, for juvenile delinquency programs.

(c) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of subchapter IX of this chapter.

(Pub. L. 90-351, title I, § 520, June 19, 1968, 82 Stat. 208; Pub. L. 90-462, § 1, Aug. 8, 1968, 82 Stat. 638; Pub. L. 91-644, title I, § 7(8), Jan. 2, 1971, 84 Stat. 1888; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 214; Pub. L. 93-415, title V, § 544, Sept. 7, 1974, 88 Stat. 1142; Pub. L. 94-430, § 3, Sept. 29, 1976, 90 Stat. 1348; Pub. L. 94-503, title I, § 126, Oct. 15, 1976, 90 Stat. 2423.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (a), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-503, § 126(a), substituted provisions authorizing appropriations not to exceed $220,000,000 for the period beginning on July 1, 1976 and ending on Sept. 30, 1976, not to exceed $880,000,000 for the fiscal year ending Sept. 30, 1977, $800,000,000 for the fiscal year ending Sept. 30, 1978, $800,000,000 for the fiscal year ending Sept. 30, 1979, and not to exceed $15,000,000 for each fiscal year ending Sept. 30, 1977, Sept. 30, 1978, and Sept. 30, 1979 for the purposes of grants administered by the Office of Community Anti-Crime Programs for community patrol activities and the encouragement of neighborhood participation in crime prevention and public safety efforts under section 3731(b)(6) of this title, for provisions authorizing necessary appropriations for each subchapter of this chapter, limiting the amounts to one billion, one billion, and one and one-quarter billion dollars for fiscal years ending June 30, 1974, 1975, and 1976, respectively.

Subsec. (b). Pub. L. 94-503, § 126(b), substituted "section 5671(a)" for "section 5671" and "maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least 19.15 percent of the total appropriations for the Administration, for juvenile delinquency programs "for" expend from other Law Enforcement Assistance Administration appropriations, other than the appropriations for administration, at least the same level of financial assistance for juvenile delinquency programs as was expended by the Administration during fiscal year 1972".

Subsec. (c). Pub. L. 94-430 added subsec. (c).

1974—Subsec. (a). Pub. L. 93-415 designated existing provisions as subsec. (a), and added subsec. (b).

1973—Pub. L. 93-83 substituted provisions authorizing necessary appropriations for each subchapter of this chapter, limiting the amounts to one billion, one billion, and one and one-quarter billion dollars for fiscal years ending June 30, 1974, 1975, and 1976, respectively, for former appropriations authorization of $650,000,000; $1,150,000,000; and $1,750,000,000 for fiscal years ending June 30, 1971, 1972, and 1973, respectively, and also making $120,000,000 available for subchapter IV-A purposes for fiscal year ending June 30, 1971.

1971—Pub. L. 91-644 authorized appropriation of $650,000,000 for fiscal year ending June 30, 1971 ($120,000,000 thereof for subchapter IV-A purposes), $1,150,000,000 for fiscal year ending June 30, 1972 and $1,750,000,000 for fiscal year ending June 30, 1973, provided for availability of funds until expended, provided for allocation for subchapter IV-A purposes 20 percent of amount allocated for subchapter III purposes (beginning in fiscal year ending June 30, 1972), and deleted obsolete authorization provisions for

$100,111,000 for fiscal years ending June 30, 1968 and 1969, $300,000,000 for fiscal year ending June 30, 1970, and for succeeding fiscal years such sums as Congress might authorize, and for fiscal years ending June 30, 1968, and 1969, providing $25,000,000 for subchapter II purposes, $50,000,000 for subchapter III purposes (including $2,500,000 for section 3731(b)(3) purposes, $15,000,000 for section 3731(b)(5) purposes, limited to $1,000,000 per State, $15,000,000 for section 3731(b)(6) purposes, $10,000,000 for correction, probation, and parole purposes, and $25,111,000 for subchapter IV purposes, including $5,111,000 for section 3774 purposes and $10,000,000 for section 3746 purposes.

1968—Subsec. (b)(1) to (3). Pub. L. 90-462 substituted "3731" for "3732" in cls. (1) to (3) where referring to section 3732(b)(3), 3732(b)(5), and 3732(b)(6), respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment effective Sept. 29, 1976, see section 6 of Pub. L. 94-430, set out as an Effective Date note under section 3796 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (a) of this section provisions relating to fiscal years beginning with the fiscal year ending June 30, 1972, see section 201(23) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

§ 3769. Recordkeeping requirements

(a) Scope of information

Each recipient of assistance under this Act shall keep such records as the Administration shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Administration access to records for audits and examinations

The Administration or any of its duly authorized representatives, shall have access for purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter.

(c) Comptroller General access to records for audits and examinations

The Comptroller General of the United States, or any of his duly authorized representatives, shall, until the expiration of three years after the completion of the program or project with which the assistance is used, have access for the purpose of audit and examination to any books, documents, papers and records of recipients of Federal assistance under this chapter which in the opinion of the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to under this chapter.

(d) Establishment of reasonable period to respond to complaint of discrimination

Within one hundred and twenty days after October 15, 1976, the Administration shall promulgate regulations establishing—

(1) reasonable and specific time limits for the Administration to respond to the filing of a complaint by any person alleging that a State government or unit of general local government is in violation of the provisions of section 3766(c) of this title; including reasonable time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint, and

(2) reasonable and specific time limits for the Administration to conduct independent audits and reviews of State governments and units of general local government receiving funds pursuant to this chapter for compliance with the provisions of section 3766(c) of this title.

(e) Primary grants or contracts and subgrants or subcontracts

The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant or contract from the Administration or by subgrant or subcontract from primary grantees or contractors of the Administration.

(e)[1] Revolving fund; acquisition of stolen goods and property

There is hereby established a revolving fund for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt illicit commerce in such goods and property. Notwithstanding any other provisions of law, any income or royalties generated from such projects together with income generated from any sale or use of such goods or property, where such goods or property are not claimed by their lawful owner, shall be paid into the revolving fund. Where a party establishes a legal right to such goods or property, the Administrator of the fund may in his discretion assert a claim against the property or goods in the amount of Federal funds used to purchase such goods or property. Proceeds from such claims shall be paid into the revolving fund. The Administrator is authorized to make disbursements by appropriate means, including grants, from the fund for the purpose of this section.

(Pub. L. 90-351, title I, § 521, June 19, 1968, 82 Stat. 208; Pub. L. 91-644, title I, § 7(9), Jan. 2, 1971, 84 Stat. 1888; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 215; Pub. L. 94-503, title I, §§ 127, 128(a), Oct. 15, 1976, 90 Stat. 2424.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (e), means Pub. L. 90-351, June 19, 1968, 82 Stat. 197, known as the Omnibus Crime Control and Safe Streets Act of 1968, which enacted this chapter, section 7313 of Title 5, Government Organization and Employees, sections 921 to 928, 2510 to 2520, 3103a, 3501, and 3502 of Title 18, Crimes and Criminal Procedure, sections 1201 to 1203 of the Appendix to Title 18, amended section 3334 of this title, sections 5314, 5315, 5316 of Title 5, section 3731 of Title 18, section 605 of Title 47, Tele-

[1]So in original. Probably should read "(f)".

graphs, Telephones, and Radiotelegraphs, repealed sections 901 to 910 of Title 15, Commerce and Trade, enacted provisions set out as notes under section 3701 of this title, section 7313 of Title 5, sections 921 and 2510 of Title 18, section 532 of Title 28, Judiciary and Judicial Procedure, and repealed a provision set out as a note preceding section 3001 of Title 18. For complete classification of this Act to the Code, see Short Title note under section 3701 of this title and Tables volume.

"This chapter", referred to in subsecs. (b), (c), (d), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-503, § 127(1), added subsec. (d). Former subsec. (d) was redesignated (e).

Subsec. (e). Pub. L. 94-503, § 127(2), redesignated former subsec. (d) as (e) set out first.

Pub. L. 94-503, § 128(a), added subsec. (e) set out second.

1973—Subsec. (a). Pub. L. 93-83 reenacted provisions without change.

Subsec. (b). Pub. L. 93-83 substituted "Administration or any of its duly authorized representatives" for "Administration and the Comptroller General of the United States, or any of their duly authorized representatives".

Subsec. (c). Pub. L. 93-83 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 93-83 redesignated former subsec. (c) as (d).

1971—Subsec. (c). Pub. L. 91-644 added subsec. (c).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment of Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1976 Amendment note under section 3701 of this title.

§ 3770. Program or project costs; use of unobligated Federal funds for 90 percent of costs; non-Federal appropriation of non-Federal share of costs

Any funds made available under subchapters II, III, and IV-A of this chapter prior to July 1, 1973, which are not obligated by a State or unit of general local government may be used to provide up to 90 percent of the cost of any program or project. The non-Federal share of the cost of any such program or project shall be of money appropriated in the aggregate by the State or units of general local government.

(Pub. L. 90-351, title I, § 523, as added Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 215.)

EFFECTIVE DATE

Section effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3771. Information available for prescribed purposes

(a) Prohibition against use or revelation of information for other than stated purposes; immunity of copies from legal process; requirement of consent for admission as evidence or for use in judicial or administrative proceedings

Except as provided by Federal law other than this chapter, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this chapter shall use or reveal any research or statistical information furnished under this chapter by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this chapter. Copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

(b) Criminal history information; disposition and arrest data; procedures for current collection, storage, and dissemination; security and privacy; use for lawful purposes; challenge or correction of information of automated system

All criminal history information collected, stored, or disseminated through support under this chapter shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein. The collection, storage, and dissemination of such information shall take place under procedures reasonably designed to insure that all such information is kept current therein; the Administration shall assure that the security and privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete, or maintained in violation of this chapter, shall, upon satisfaction verification of his identity, be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction.

(c) Penalties for violations

Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed $10,000, in addition to any other penalty imposed by law.

(Pub. L. 90-351, title I, § 524, as added Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 215.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (a), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

§ 3772. Voluntary services

The Administrator is authorized to accept and employ, in carrying out the provisions of this chapter voluntary and uncompensated services notwithstanding the provisions of section 665(b) of title 31.

(Pub. L. 90-351, title I, § 526, as added Pub. L. 93-415, title V, § 545, Sept. 7, 1974, 88 Stat. 1143.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

§ 3773. Administration of juvenile delinquency programs by Office of Juvenile Justice and Delinquency Prevention

All programs concerned with juvenile delinquency and administered by the Administration shall be administered or subject to the policy direction of the office established by section 5611(a) of this title.

(Pub. L. 90-351, title I, § 527, as added Pub. L. 93-415, title V, § 545, Sept. 7, 1974, 88 Stat. 1143.)

§ 3774. Officers and employees; selection; employment and compensation

(a) The Administrator is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and to prescribe their functions.

(b) Notwithstanding the provisions of section 5108 of title 5, and without prejudice with respect to the number of positions otherwise placed in the Administration under such section 5108, the Administrator may place three positions in GS-16, GS-17, and GS-18 under section 5332 of such title 5.

(Pub. L. 90-351, title I, § 528, as added Pub. L. 93-415, title V, § 545, Sept. 7, 1974, 88 Stat. 1142.)

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 3781. Definitions

As used in this subchapter—

(a) Law enforcement and criminal justice

"Law enforcement and criminal justice" means any activity pertaining to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services), activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

(b) Organized crime

"Organized crime" means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations.

(c) State

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(d) Unit of general local government

"Unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agencies may be used to provide the non-Federal share of the cost of programs or projects funded under this chapter: *Provided, however,* that such assistance eligibility of any agency of the United States Government shall be for the sole purpose of facilitating the transfer of criminal jurisdiction from the United States District Court for the District of Columbia to the Superior Court of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970.

(e) Combination

"Combination" as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan.

(f) Construction

"Construction" means the erection, acquisition, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor.

(g) State organized crime prevention council

"State organized crime prevention council" means a council composed of not more than seven persons established pursuant to State law or established by the chief executive of the State for the purpose of this chapter, or an existing agency so designated, which council shall be broadly representative of law enforcement officials within such State and whose members by virtue of their training or experience shall be knowledgeable in the prevention and control of organized crime.

(h) Metropolitan area

"Metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget, subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

(i) Public agency

"Public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.

(j) Institution of higher education

"Institution of higher education" means any such institution as defined by section 1141(a) of title 20, subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

(k) Community service officer

"Community service officer" means any citizen with the capacity, motivation, integrity, and stability to assist in or perform police work but who may not meet ordinary standards for employment as a regular police officer selected from the immediate locality of the police department of which he is to be a part and meeting such other qualifications promulgated in regulations pursuant to section 3751 of this title as the Administration may determine to be appropriate to further the purposes of section 3731(b)(7) of this title and this Act.

(l) Correctional institution or facility

The term "correctional institution or facility" means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses.

(m) Comprehensive

The term "comprehensive" means that the plan must be a total and integrated analysis of the problems regarding the law enforcement and criminal justice system within the State; goals, priorities, and standards must be established in the plan and the plan must address methods, organization, and operation performance, physical and human resources necessary to accomplish crime prevention, identification detection, and apprehension of suspects; adjudication; custodial treatment of suspects and offenders, and institutional and noninstitutional rehabilitative measures.

(n) Treatment

The term "treatment" includes but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict or other user by eliminating his dependence on addicting or other drugs or by controlling his dependence, and his susceptibility to addiction or use.

(o) Criminal history information

"Criminal history information" includes records and related data, contained in an automated criminal justice informational system, compiled by law enforcement agencies for purposes of identifying criminal offenders and alleged offenders and maintaining as to such persons summaries of arrests, the nature and disposition of criminal charges, sentencing, confinement, rehabilitation and release.

(p) Court of last resort

The term "court of last resort" means that State court having the highest and final appellate authority of the State. In States having two or more such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rulemaking authority. In other States having two or more courts with highest and final appellate authority, court of last resort shall mean that highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch. Except as used in the definition of the term "court of last resort", the term 'court' means a tribunal or judicial system having criminal or juvenile jurisdiction.

(q) Evaluation

The term "evaluation" means the administration and conduct of studies and analyses to determine the impact and value of a project or program in accomplishing the statutory objectives of this chapter.

(Pub. L. 90-351, title I, § 601, June 19, 1968, 82 Stat. 209; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Pub. L. 91-644, title I, §§ 6(b), 9, Jan. 2, 1971, 84 Stat. 1887, 1888; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 216; Pub. L. 94-503, title I, § 129, Oct. 15, 1976, 90 Stat. 2424.)

REFERENCES IN TEXT

"This chapter", referred to in subsecs. (d), (g), (q), was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

The District of Columbia Court Reform and Criminal Procedure Act of 1970, referred to in subsec. (d), is Pub. L. 91-358, July 29, 1970, 84 Stat. 473. For classification of this Act to the Code, see Tables volume. See also sections 11-101 et seq. and 23-101 et seq. of the District of Columbia Code.

This Act, referred to in subsec. (k), means Pub. L. 90-351, June 19, 1968, 82 Stat. 197, known as the Omnibus Crime Control and Safe Streets Act of 1968, which enacted this chapter, section 7313 of Title 5, Government Organization and Employees, sections 921 to 928, 2510 to 2520, and 3103a, 3501 and 3502 of Title 18, Crimes and Criminal Procedure, sections 1201 to 1203 of the Appendix to Title 18, amended section 3334 of this title, sections 5314, 5315, 5316 of Title 5, section 3731 of Title 18, section 605 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, repealed sections 901 to 910 of Title 15, Commerce and Trade, enacted provisions set out as notes under section 3701 of this title, section 7313 of Title 5, sections 921, 2510 of Title 18, section 532 of Title 28, Judiciary and Judicial Procedure, and repealed a provision set out as a note preceding section 3001 of Title 18. For complete classification of this Act to the Code, see Short Title note under section 3701 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-503, § 129(b), added "the Trust Territory of the Pacific Islands," following "Puerto Rico,".

Subsecs. (p), (q). Pub. L. 94-503, § 129(a), added subsecs. (p) and (q).

1973—Subsec. (a). Pub. L. 93-83 included criminal justice in the term defined "Law enforcement and criminal justice" and provided for consideration of prosecutorial and defender services as related agencies.

Subsecs. (b), (c). Pub. L. 93-83 reenacted provisions without change.

Subsec. (d). Pub. L. 93-83 reenacted provisions, substituting ": Provided, however" for ": Provided, however".

Subsecs. (e) to (j). Pub. L. 93-83 reenacted provisions without change.

Subsec. (k). Pub. L. 93-83 reenacted provisions, substituting "part and meeting" for "part, and meeting" and "Administration" for "administration".

Subsec. (l). Pub. L. 93-83 reenacted provisions without change.

Subsecs. (m) to (o). Pub. L. 93-83 added subsecs. (m) to (o).

1971—Subsec. (a). Pub. L. 91-644, § 9(1), defined "law enforcement" to include any activity pertaining to crime control and enumerated without limiting to the list activities relating to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies, activities of corrections, probation, or parole authorities, and programs relating to prevention, control, or reduction of juvenile delinquency or narcotic addiction.

Subsec. (d). Pub. L. 91-644, § 9(2), defined "unit of general local government" to include, for purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia, authorized use of funds appropriated by Congress for activities of such agencies to provide non-Federal share of cost of programs or projects funded under this chapter, and required that such assistance eligibility of any agency of the United States Government shall be for sole purpose of facilitating transfer of criminal jurisdiction from United States District Court for District of Columbia to Superior Court of District of Columbia pursuant to District of Columbia Court Reform and Criminal Procedure Act of 1970.

Subsec. (l). Pub. L. 91-644, § 6(b) added subsec. (l).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of Reorg. Plan No. 2 of 1970, redesignated the Bureau of the Budget as the Office of Management and Budget.

SUBCHAPTER VII—CRIMINAL PENALTIES

§ 3791. Embezzlement, theft and fraud; endeavoring such offenses; reception, concealment, or retention and conversion

Whoever embezzles, willfully misapplies, steals, or obtains by fraud or endeavors to embezzle, willfully misapply, steal or obtain by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this chapter, whether received directly or indirectly from the Administration, or whoever receives, conceals, or retains such funds, assets, or property with intent to convert such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(Pub. L. 90-351, title I, § 651, as added Pub. L. 91-644, title I, § 10, Jan. 2, 1971, 84 Stat. 1889, and amended Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 218.)

AMENDMENTS

1973—Pub. L. 93-83 included offenses of endeavoring to embezzle, willfully misapply, steal or obtain by fraud the funds, assets, or property which are the subject of a grant or contract or other form of statutory assistance and of receiving, concealing, or retaining such property with intent to convert the same to his use or gain, knowing the same to have been embezzled, willfully misapplied, stolen, or obtained by fraud.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

§ 3792. Fraudulent and false statements or entries

Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to this chapter or in any records required to be maintained pursuant to this chapter shall be subject to prosecution under the provisions of section 1001 of title 18.

(Pub. L. 90-351, title I, § 652, as added Pub. L. 91-644, title I, § 10, Jan. 2, 1971, 84 Stat. 1889, and amended Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 218.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1973—Pub. L. 93-83 reenacted provisions without change.

§ 3793. Conspiracies

Any law enforcement and criminal justice program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this chapter, whether received directly or indirectly from the Administration, shall be subject to the provisions of section 371 of title 18.

(Pub. L. 90-351, title I, § 653, as added Pub. L. 91-644, title I, § 10, Jan. 2, 1971, 84 Stat. 1889, and amended Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 218.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original, "this title", meaning title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, amended section 3334 of this title, sections 5108, 5314, 5315, 5316 of Title 5, Government Organization and Employees, section 484 of Title 40, Public Buildings, Property, and Works, and repealed provisions set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1973—Pub. L. 93-83 substituted "law enforcement and criminal justice program or project" for "law enforcement program or project".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

SUBCHAPTER VIII—REPORT ON FEDERAL LAW ENFORCEMENT AND CRIMINAL JUSTICE ACTIVITIES

§ 3795. Biennial report to President and Congress; contents; Federal assistance programs relating to crime prevention and control covered

The Attorney General, in consultation with the appropriate officials in the agencies involved, within 90 days of the end of each second fiscal year shall submit to the President and to the Congress a Report of Federal Law Enforcement and Criminal Justice Assistance Activities setting forth the programs conducted, expenditures made, results achieved, plans developed, and problems discovered in the operations and coordination of the various Federal assistance programs relating to crime prevention and control, including, but not limited to, the Juvenile Delinquency Prevention and Control Act of 1968 [42 U.S.C. 3801 et seq.], the Narcotics Addict Rehabilitation Act of 1968, the Gun Control Act of 1968, the Criminal Justice Act of 1964, title XI of the Organized Crime Control Act of 1970 (relating to the regulation of explosives) [18 U.S.C. 841 et seq.], and title III of the Omnibus Crime Control and Safe Streets Act of 1968 [18 U.S.C. 2510 et seq.] (relating to wiretapping and electronic surveillance).

(Pub. L. 90-351, title I, § 670, as added Pub. L. 91-644, title I, § 12, Jan. 2, 1971, 84 Stat. 1889, and amended Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 218.)

REFERENCES IN TEXT

The Juvenile Delinquency Prevention and Control Act of 1968, referred to in text, is Pub. L. 90-445, July 31, 1968, 82 Stat. 462, which was classified generally to chapter 47 (§ 3801 et seq.) of this title. The Juvenile Delinquency Prevention and Control Act of 1968 was amended generally and redesignated the Juvenile Delinquency Prevention Act by Pub. L. 92-381, Aug. 14, 1972, 86 Stat. 532. The Juvenile Delinquency Prevention Act is classified generally to chapter 47 (§ 3801 et seq.) of this title. For complete classification of these Acts to the Code, see Short Title notes set out under section 3801 of this title and Tables volume.

The Narcotics Addict Rehabilitation Act of 1968, referred to in text, probably means Pub. L. 89-793, titles I to IV, Nov. 8, 1966, 80 Stat. 1438, known as the Narcotic Addict Rehabilitation Act of 1966. Title I of the Act is classified generally to chapter 175 (§ 2901 et seq.) of Title 28, Judiciary and Judicial Procedure. Title II of the Act, is classified generally to chapter 314 (§ 4251 et seq.) of Title 18, Crimes and Criminal Procedure. Title III of the Act is classified generally to subchapter II (§ 3411 et seq.) of chapter 42 of this title. Title IV of the Act is classified generally to subchapter III (§ 3441 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables volume.

The Gun Control Act of 1968, referred to in text, is Pub. L. 90-618, Oct. 22, 1968, 82 Stat. 1213, which enacted sections 5822, 5871, and 5872 of Title 26, Internal Revenue Code, amended sections 921 to 928 of Title 18, Crimes and Criminal Procedure, sections 1201 and 1202 of the Appendix to Title 18, sections 5801, 5802, 5811, 5812, 5821, 5841 to 5849, 5851 to 5854, 5861, 6806, and 7273 of title 26, repealed sections 5692 and 6107 of Title 26, and enacted provisions set out as notes under section 921 of Title 18 and section 5801 of Title 26. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 921 of Title 18 and Tables volume.

The Criminal Justice Act of 1964, referred to in text, is Pub. L. 88-455, Aug. 20, 1964, 78 Stat. 552, which enacted section 3006A of Title 18, Crimes and Criminal Procedure, and provisions set out as notes under section 3006A of title 18. For complete classification of this Act to the Code, see Short Title note set out under section 3006A of Title 18 and Tables volume.

The Organized Crime Control Act of 1970, referred to in text, is Pub. L. 91-452, Oct. 15, 1970, 84 Stat. 922. Title XI of the Organized Crime Control Act of 1970 is classified principally to chapter 40 (§ 841 et seq.) of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 1961 of Title 18 and Tables volume.

The Omnibus Crime Control and Safe Streets Act of 1968, referred to in text, is Pub. L. 90-351, June 19, 1968, 82 Stat. 197. Title III of the Omnibus Crime Control and Safe Streets Act of 1968 is classified principally to chapter 119 (§ 2510 et seq.) of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables volume.

AMENDMENTS

1973—Pub. L. 93-83 substituted "each second fiscal year" and "a Report of" for "each fiscal year" and "an Annual Report on".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-83 effective on and after July 1, 1973, see section 3 of Pub. L. 93-83, set out as an Effective Date of 1973 Amendment note under section 3701 of this title.

SUBCHAPTER IX—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3768 of this title.

§ 3796. Payment of death benefits

(a) Amount; recipients

In any case in which the Administration determines, under regulations issued pursuant to this subchapter, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of $50,000 as follows:

(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

(b) Interim benefit payment

Whenever the Administration determines, upon a showing of need and prior to taking

final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $3,000 to the person entitled to receive a benefit under subsection (a) of this section.

(c) Deduction of interim payment

The amount of an interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

(d) Repayment of interim payment; waiver

Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

(e) Reductions from final benefit payment

The benefit payable under this subchapter shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

(1) payments authorized by section 8191 of title 5;

(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

(f) Execution or attachment prohibited

No benefit paid under this subchapter shall be subject to execution or attachment.

(Pub. L. 90-351, title I, § 701, as added Pub. L. 94-430, § 2, Sept. 29, 1976, 90 Stat. 1346.)

EFFECTIVE DATE

Section 6 of Pub. L. 94-430 provided that: "The amendments made by this Act [enacting this subchapter, amending section 3768 of this title, and enacting provisions set out as notes under this section and section 3701 of this title] shall become effective and apply to deaths occurring from injuries sustained on or after the date of enactment of this Act [Sept. 29, 1976]."

AUTHORITY TO MAKE PAYMENTS

Section 4 of Pub. L. 94-430 provided that: "The authority to make payments under part J of the Omnibus Crime Control and Safe Streets Act of 1968 [this subchapter] (as added by section 2 of this Act) shall be effective only to the extent provided for in advance by appropriation Acts."

SEPARABILITY OF PROVISIONS

Section 5 of Pub. L. 94-430 provided that: "If the provisions of any part of this Act [see Short Title note under section 3701 of this title] are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3796c of this title.

§ 3796a. Limitations on benefits

No benefit shall be paid under this subchapter—

(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

(3) to any person who would otherwise be entitled to a benefit under this subchapter if such person's actions were a substantial contributing factor to the death of the public safety officer.

(Pub. L. 90-351, title I, § 702, as added Pub. L. 94-430, § 2, Sept. 29, 1976, 90 Stat. 1347.)

§ 3796b. Definitions

As used in this subchapter—

(1) "child" means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

(A) eighteen years of age or under;

(B) over eighteen years of age and a student as defined in section 8101 of title 5; or

(C) over eighteen years of age and incapable of self-support because of physical or mental disability;

(2) "dependent" means a person who was substantially reliant for support upon the income of the deceased public safety officer;

(3) "fireman" includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

(4) "intoxication" means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;

(5) "law enforcement officer" means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

(6) "public agency" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing; and

(7) "public safety officer" means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

(Pub. L. 90-351, title I, § 703, as added Pub. L. 94-430, § 2, Sept. 29, 1976, 90 Stat. 1347.)

§ 3796c. Administrative provisions; rules, regulations, and procedures; use of State and local administrative and investigative assistance

(a) The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this subchapter. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this subchapter. Rules, regulations, and procedures issued under this subchapter may include regulations governing the recognition of agents or other persons representing claimants under this subchapter before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in

connection with any claim under this subchapter before the Administration, and any agreement in violation of such rules and regulations shall be void.

(b) In making determinations under section 3796 of this title, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration.

(Pub. L. 90-351, title I, § 704, as added Pub. L. 94-430, § 2, Sept. 29, 1976, 90 Stat. 1347.)

CHAPTER 47—JUVENILE DELINQUENCY PREVENTION AND CONTROL

Sec.
3801. Congressional findings and declaration of purpose.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 3795, 5614 of this title.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in provisions set out as a note under section 3-204 of the District of Columbia Code.

§ 3801. Congressional findings and declaration of purpose

The Congress finds that delinquency among youths constitutes a national problem which can best be met by providing assistance to and encouraging the coordination of efforts by public and nonprofit private agencies engaged in preventing juvenile delinquency. It is, therefore, the purpose of this chapter to help States and local communities in providing community based preventive services, including diagnosis and treatment, to youths who are in danger of becoming delinquent, to provide assistance in the training of personnel employed or preparing for employment in occupations involving the provision of such services, and to provide technical assistance in such field.

(Pub. L. 90-445, § 2, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532.)

PRIOR PROVISIONS

A prior section 3801, Pub. L. 90-445, § 2, July 31, 1968, 82 Stat. 462, related to similar subject matter prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

EFFECTIVE DATE

Section 3 of Pub. L. 92-381 provided that: "The amendments made by sections 1 [adding this chapter] and 2 [which amended the title of Pub. L. 90-445] of this Act shall be effective July 1, 1972."

SHORT TITLE OF 1971 AMENDMENT

Section 1 of Pub. L. 92-31, June 30, 1971, 85 Stat. 84, provided: "That this Act [which amended sections 3822, 3823, 3882, and 3887 of this title] may be cited as the 'Juvenile Delinquency Prevention and Control Act Amendments of 1971'."

SHORT TITLE

Section 1 of Pub. L. 90-445, as amended by Pub. L. 92-381 provided: "That this Act [this chapter] may be cited as the 'Juvenile Delinquency Prevention Act'."

Pub. L. 90-445, § 1, July 31, 1968, 82 Stat. 462, provided that: "This Act [enacting prior chapter 47] may be cited as the 'Juvenile Delinquency Prevention and Control Act of 1968'."

SUBCHAPTER I—PREVENTIVE SERVICES AND DEMONSTRATION PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3871, 3882, 3883 of this title.

PART A—COMMUNITY-BASED COORDINATED YOUTH SERVICES

§ 3811. Congressional statement of purpose

The purpose of this part is to assist States, local educational agencies, and other public and non-profit private agencies to establish and carry out community-based programs, including programs in schools, for the prevention of delinquency in youths.

(Pub. L. 90-445, title I, § 101, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532, and amended Pub. L. 93-415, title IV, § 401(3), Sept. 7, 1974, 88 Stat. 1132.)

PRIOR PROVISIONS

A prior section 3811, Pub. L. 90-445, title I, § 101, July 31, 1968, 82 Stat. 463, related to the Secretary's authority to make grants for state and local planning prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381. See section 3812 of this title.

Provisions similar to those comprising this section were contained in prior sections 3821 and 3831, Pub. L. 90-445, title I, §§ 111, 121, July 31, 1968, 82 Stat. 463, 465, prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

AMENDMENTS

1974—Pub. L. 93-415 substituted "part" for "subchapter".

§ 3812. Grants for planning programs; applications for grants

(a) The Secretary is authorized to make grants to, or contracts with, public or nonprofit private agencies to meet all or part of the cost of establishing or operating, including the cost of planning, programs designed to carry out the purposes of this part.

(b)(1) Grants and contracts under this part may be made only upon application to the Secretary by a public or nonprofit private agency, which contains or is accompanied by satisfactory assurances that—

(A) steps have been or will be taken toward the provision, within a reasonable period of time, of a program of coordinated youth services in the area served which will make a substantial contribution toward the prevention of delinquency of youths, including the diagnosis and treatment of youths in danger of becoming delinquent;

(B) such applicant agency will make special efforts to assure that the services provided by the program will be available for youths with the most serious behavioral problems;

(C)(i) such applicant agency (if it is not a local educational agency) has consulted on its application with the local educational agencies and nonprofit private schools in the area to be served and has adopted procedures to coordinate its program with related efforts being made by these agencies and schools;

(ii) such applicant agency will provide, to the extent feasible, for coordinating, on a continuing basis, its operations with the operations of other agencies and nonprofit private organizations furnishing welfare, education, health, mental health, recreation, job training, job placement, correction, and other basic services in the community for youths;

(D) such applicant agency will make reasonable efforts to secure or provide any services which are necessary for diagnosing and treating youths in danger of becoming delinquent and which are not otherwise being provided in the community, or if being provided are not adequate to meet its needs;

(E) maximum use will be made under the program of other Federal, State, or local resources available for the provision of such services;

(F) local educational agencies and other public and private agencies and organizations providing youth services in the geographic area to be served by the applicant will be consulted in the formulation by the applicant of the program, taking into account the services and expertise of such agencies and organizations, and with a view to adapting such services to the better fulfillment of the purposes of this part;

(G) in developing coordinated youth services, youth and public or private agencies, and organizations providing youth services within the geographic area to be served by the applicant will be given the opportunity to present their views to the applicant with respect to such development; and

(H) the applicant agency will be responsible for organizing, maintaining, and facilitating accessibility to all available youth services.

(2) Such application shall contain such information as may be necessary to carry out the purposes of this part, including—

(A) a description of the services for youths who are in danger of becoming delinquent and which are available in the State or community;

(B) a statement of the method or methods of linking the agencies and organizations, public and private, providing these and other services, including local educational agencies and nonprofit private schools;

(C) the functions and services to be included;

(D) the procedures which will be established for protecting the rights, under Federal, State, and local law, of the recipients of youth services, and for insuring appropriate privacy with respect to records relating to such services, provided to any individual under coordinated youth services developed by the applicant;

(E) the procedures which will be established for evaluation; and

(F) the strategy for phasing out support under this chapter and the continuance of a proven program through other means.

(Pub. L. 90-445, title I, § 102, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532, and amended Pub. L. 93-415, title IV, § 401(3), Sept. 7, 1974, 88 Stat. 1132.)

PRIOR PROVISIONS

A prior section 3812, Pub. L. 90-445, title I, § 102, July 31, 1968, 82 Stat. 463, related to grants for planning projects or programs prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

Provisions similar to those comprising subsec. (b) of this section were contained in prior sections 3822, 3823, 3832, 3833, Pub. L. 90-445, title I, §§ 112, 113, 122, 123, July 31, 1968, 82 Stat. 464, 465, prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-415 substituted "part" for "subchapter".

Subsec. (b)(1). Pub. L. 93-415 substituted "part" for "subchapter".

Subsec. (b)(2). Pub. L. 93-415 substituted "part" for "subchapter".

§ 3813. Use of funds

(a) Funds paid to any agency (whether directly or through a State agency) under this part may be used for—

(1) meeting the cost of securing or providing services designed to carry out the purposes of this part, but only to the extent and for the period reasonably necessary for the community to provide such services; and

(2) meeting not to exceed 50 per centum of the cost of construction of community-based special purpose or innovative types of facilities which, in the judgment of the Secretary, are necessary for carrying out the purposes of this part, including community-based special purpose or innovative (A) halfway houses for youths who because of special behavioral problems have a high risk of becoming delinquent; and (B) small, residential facilities for the diagnosis and treatment of youths who are in danger of becoming delinquent. In de-

veloping plans for such facilities, due consideration shall be given to excellence of architecture and design.

(b) No grant or contract may be made under this part with respect to any coordinated youth service system for a period of time exceeding three years, except that the Secretary may, in any case in which he determines that it would not be feasible for the coordinated youth service system to continue to function unassisted under this part, extend assistance for such additional years as he determines to be necessary.

(Pub. L. 90-445, title I, § 103, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 533, and amended Pub. L. 93-415, title IV, § 401(3), Sept. 7, 1974, 88 Stat. 1132.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 3843, Pub. L. 90-445, title I, § 133, July 31, 1968, 82 Stat. 468, prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-415 substituted "part" for "subchapter".

§ 3814. Considerations for approval of applications

(a) In determining whether or not to approve applications for grants or contracts under this part, the Secretary shall consider, in the State or community of the applicant—

(1) the relative costs and effectiveness of the program in effectuating the purposes of such part;

(2) the incidence of and rate of increase in youth offenses and juvenile delinquency;

(3) school dropout rates;

(4) the adequacy of existing facilities and services for carrying out the purposes of such part;

(5) the extent of comprehensive planning in the community for carrying out the purposes of such part;

(6) youth unemployment rates;

(7) the extent to which proposed programs incorporate new or innovative techniques within the State or community to carry out the purposes of such part;

(8) the extent to which the proposed programs will make effective use of the facilities and services of the appropriate local educational agencies;

(9) the extent to which the proposed programs incorporate participation of the parents of youths who are in danger of becoming delinquent, as well as the participation of other adults who offer guidance or supervision to such youths; and

(10) the extent to which the proposed programs will be coordinated with similar programs assisted under other Federal laws related to the purposes of this part.

(b) The Secretary, in making grants or contracts under this part, shall give priority to applicants serving communities which exhibit to the highest degrees the factors listed in paragraphs (2), (3), and (6) of subsection (a) of this section.

(Pub. L. 90-445, title I, § 104, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 534, and amended Pub. L. 93-415, title IV, § 401(3), Sept. 7, 1974, 88 Stat. 1132.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-415 substituted "part" for "subchapter" in text preceding par. (1), and in pars. (1), (4), (5), (7) and (10).

Subsec. (b). Pub. L. 93-415 substituted "part" for "subchapter".

PART B—DEMONSTRATION IN YOUTH DEVELOPMENT

§ 3821. Grants to States, agencies, etc.; purpose; application; contents; duration

(a) For the purpose of assisting the demonstration of innovative approaches to youth development and the prevention and treatment of delinquent behavior (including payment of all or part of the costs of minor remodeling or alteration), the Secretary may make grants to any State (or political subdivision thereof), any agency thereof, and any nonprofit private agency, institution, or organization that submits to the Secretary, at such time and in such form and manner as the Secretary's regulations shall prescribe, an application containing a description of the purposes for which the grant is sought, and assurances satisfactory to the Secretary that the applicant will use the grant for the purposes for which it is provided, and will comply with such requirements relating to the submission of reports, methods of fiscal accounting, the inspection and audit of records and other materials, and such other rules, regulations, standards, and procedures, as the Secretary may impose to assure the fulfillment of the purposes of this chapter.

(b) No demonstration may be assisted by a grant under this section for more than one year.

(Pub. L. 90-445, title I, § 105, as added Pub. L. 93-415, title IV, § 401(4), Sept. 7, 1974, 88 Stat. 1130.)

PRIOR PROVISIONS

A prior section 3821, Pub. L. 90-445, title I, § 111, July 31, 1968, 82 Stat. 463, setting out the Congressional statement of purpose of rehabilitative services, was omitted in the general amendment of Pub. L. 90-445 by Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532. See section 3811 of this title.

A prior section 3822, Pub. L. 90-445, title I, § 112, July 31, 1968, 82 Stat. 463; Pub. L. 92-31, § 2(a), June 30, 1971, 85 Stat. 84, which related to the authorization of grants, was omitted in the general amendment of Pub. L. 90-445 by Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532. See section 3812 of this title.

A prior section 3823, Pub. L. 90-445, title I, § 113, July 31, 1968, 82 Stat. 464; Pub. L. 92-31, § 2(b), June 30, 1971, 85 Stat. 84, which related to assurances and information required to be presented in applications for grants, was omitted in the general amendment of Pub. L. 90-445 by Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532. See section 3812 of this title.

A prior section 3831, Pub. L. 90-445, title I, § 121, July 31, 1968, 82 Stat. 465, which related to Congressional statement of purpose of preventive services, was omitted in the general amendment of Pub. L. 90-445 by Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532. See section 3811 of this title.

A prior section 3832, Pub. L. 90-445, title I, § 122, July 31, 1968, 82 Stat. 465, which related to authorization of grants, was omitted in the general amendment

of Pub. L. 90-445 by Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532. See section 3812 of this title.

A prior section 3833, Pub. L. 90-445, title I, § 123, July 31, 1968, 82 Stat. 465, which related to assurances and information required to be presented in application for grants, was omitted in the general amendment of Pub. L. 90-445 by Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532. See section 3812 of this title.

A prior section 3841, Pub. L. 90-445, title I, § 131, July 31, 1968, 82 Stat. 466, which related to requirements, procedure for approval, and approval of State plans for grants, was omitted in the general amendment of Pub. L. 90-445 by Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532.

A prior section 3842, Pub. L. 90-445, title I, § 132, July 31, 1968, 82 Stat. 468, which related to making of grants directly to public and other agencies, was omitted in the general amendment of Pub. L. 90-445 by Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532. See section 3812 of this title.

A prior section 3843, Pub. L. 90-445, title I, § 133, July 31, 1968, 82 Stat. 468, which related to the use of funds and labor standards, was omitted in the general amendment of Pub. L. 90-445 by Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532. See section 3813 and 3884 of this title.

A prior section 3844, Pub. L. 90-445, title I, § 134, July 31, 1968, 82 Stat. 469, which related to submission of copies of applications for grants to State officials and evaluation of projects by them, was omitted in the general amendment of Pub. L. 90-445 by Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532.

A prior section 3845, Pub. L. 90-445, title I, § 135, July 31, 1968, 82 Stat. 469, which related to considerations for approval of applications, was omitted in the general amendment of Pub. L. 90-445 by Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 532. See section 3814 of this title.

SUBCHAPTER II—TRAINING

§ 3861. Project grants and contracts

The Secretary is authorized, with the concurrence of the Secretary of Labor, to make grants to, or contracts with, public or nonprofit private agencies for projects for the training of personnel employed in or preparing for employment in fields related to the diagnosis and treatment of youths who are in danger of becoming delinquent, and for the counseling or instruction of parents in the improving of parental instruction and supervision of youths who are in danger of becoming delinquent. Such projects shall include special programs which provide youths and adults with training for career opportunities, including new types of careers, in such fields. Such projects may include, among other things, development of courses of study and of interrelated curricula in schools, colleges, and universities, establishment of short-term institutes for training at such schools, colleges, and universities, inservice training and traineeships with such stipends, including allowances for travel and subsistence expenses, as the Secretary may determine to be necessary.

(Pub. L. 90-445, title II, § 201, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 534.)

PRIOR PROVISIONS

A prior section 3861, Pub. L. 90-445, title II, § 201, July 31, 1968, 82 Stat. 470, related to similar subject matter prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

§ 3862. Recipients and conditions

Such grants may be made to and such contracts may be made with any Federal, State, or local public agency or any nonprofit private agency; and to the extent he deems it appropriate, the Secretary shall require the recipient of any such grant or contract to contribute money, facilities, or services for carrying out the projects for which the grant or contract is made.

(Pub. L. 90-445, title II, § 202, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 535.)

PRIOR PROVISIONS

A prior section 3862, Pub. L. 90-445, title II, § 202, July 31, 1968, 82 Stat. 470, related to similar subject matter prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

SUBCHAPTER III—TECHNICAL ASSISTANCE AND INFORMATION SERVICES

§ 3871. Technical assistance

The Secretary is authorized to cooperate with and, either directly or through grants to or contracts with any public agency or nonprofit private agency, render technical assistance to State, local, or other public or private agencies or organizations in matters relating to prevention of delinquency, and to provide short-term training and instruction of a technical nature with respect to such matters. Particular emphasis should be placed on providing technical assistance in the development of juvenile delinquency components or plans under subchapter I of this chapter.

(Pub. L. 90-445, title III, § 301, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 535.)

PRIOR PROVISIONS

A prior section 3871, Pub. L. 90-445, title III, § 301, July 31, 1968, 82 Stat. 470 related to the development of improved techniques and practices for the prevention of juvenile delinquency prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

Provisions similar to those comprising this section were contained in prior section 3872, Pub. L. 90-445, title III, § 301, July 31, 1968, 82 Stat. 470, prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

§ 3872. State assistance to local units

The Secretary is authorized to make grants to any State agency which is able and willing to provide technical assistance to local public agencies and nonprofit agencies engaged in or preparing to engage in activities for which aid may be provided under this chapter. No such grant may exceed 90 per centum of the cost of the activities of the State agency with respect to which such grant is made.

(Pub. L. 90-445, title III, § 302, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 535.)

PRIOR PROVISIONS

A prior section 3872, Pub. L. 90-445, title III, § 302, July 31, 1968, 82 Stat. 471 related to technical assistance for the prevention of juvenile delinquency. See section 3871 of this title prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

Provisions similar to those comprising this section were contained in prior section 3873, Pub. L. 90-445, title III, § 303, July 31, 1968, 82 Stat. 471, prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

§ 3873. Information and other services

The Secretary shall collect, evaluate, publish, and disseminate information and materials relating to research and programs and projects conducted under this chapter, and any other matters relating to prevention or treatment of delinquency, such information and materials to be for the general public and for agencies, organizations, and personnel engaged in programs concerning youths who are delinquent or in danger of becoming delinquent.

(Pub. L. 90-445, title III, § 303, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 535.)

PRIOR PROVISIONS

A prior section 3873, Pub. L. 90-445, title III, § 303, July 31, 1968, 82 Stat. 471 related to state assistance to local units prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381. See section 3872 of this title.

Provisions similar to those comprising section 3873 were contained in prior section 3874, Pub. L. 90-445, title III, § 304, July 31, 1968, 82 Stat. 471, prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

A prior section 3874, Pub. L. 90-445, title III, § 304, July 31, 1968, 82 Stat. 471, relating to information services, was omitted in the general revision of Pub. L. 90-445 by Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 535, and is now covered by section 3873 of this title.

SUBCHAPTER IV—ADMINISTRATION

§ 3881. Payment procedure

Payments of any grant or any contract under this chapter may be made (after necessary adjustment on account of previously made overpayments or underpayments) in installments, and in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made on such conditions as he finds necessary to carry out the purposes for which the grant or contract is made.

(Pub. L. 90-445, title IV, § 401, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 535.)

PRIOR PROVISIONS

A prior section 3881, Pub. L. 90-445, title VI, § 401, July 31, 1968, 82 Stat. 471, related to similar subject matter prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

§ 3882. Authorization of appropriations

There are authorized to be appropriated for grants and contracts under this chapter, to the Department of Health, Education, and Welfare, $75,000,000 a year for the fiscal year 1973 and for the succeeding fiscal year and such sums as may be necessary for fiscal year 1975. At least 80 per centum of the amount appropriated for each such fiscal year shall be used for funding programs under subchapter I of this chapter, of which no more than 10 per centum may be used to meet costs of construction.

(Pub. L. 90-445, title IV, § 402, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 536, and amended Pub. L. 93-415, title IV, § 404, Sept. 7, 1974, 88 Stat. 1133.)

PRIOR PROVISIONS

A prior section 3882, Pub. L. 90-445, title IV, § 402, July 31, 1968, 82 Stat. 471, as amended by Pub. L. 92-31, § 3, June 30, 1971, 85 Stat. 84, related to similar subject matter prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

AMENDMENTS

1974—Pub. L. 93-415 added "and such sums as may be necessary for fiscal year 1975", following "fiscal year".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3885 of this title.

§ 3883. Amounts available to each State

Payments pursuant to grants or contracts made under subchapter I of this chapter for any fiscal year with respect to activities in any one State may not exceed 12 per centum of the total of the funds available for such grants or contracts under such subchapter for such fiscal year.

(Pub. L. 90-445, title IV, § 403, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 536, and amended Pub. L. 93-415, title IV, § 403, Sept. 7, 1974, 88 Stat. 1133.)

PRIOR PROVISIONS

A prior section 3883, Pub. L. 90-445, title IV, § 403, July 31, 1968, 82 Stat. 471, related to similar subject matter prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

AMENDMENTS

1974—Pub. L. 93-415 struck out designation of former subsec. (a), and struck out subsec. (b) relating to reservation of amounts from grants for the Virgin Islands, Guam, American Samoa and the Trust Territory of the Pacific Islands, and amounts reserved for each state.

§ 3884. Labor standards

It shall be a condition of any grant under this chapter which is wholly or partially for construction that all laborers and mechanics employed by contractors or subcontractors on such construction shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to these labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40.

(Pub. L. 90-445, title IV, § 404, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 536.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 3884, Pub. L. 90-445, title IV, § 404, July 31, 1968, 82 Stat. 472 related to the evaluation of programs, prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381. See section 3885 of this title.

Provisions similar to those comprising this section were contained in prior section 3843, Pub. L. 90-445, title I. § 133, July 31, 1968, 82 Stat. 468, prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

§ 3885. Evaluation

(a) The Secretary shall provide for the continuing evaluation of the programs, projects, and other activities under this chapter, including their effectiveness in achieving stated goals and their relationship to and impact on related Federal, State, and local activities. This evaluation shall include comparisons with proper control groups composed of persons who have not participated in programs under this chapter. The results of such evaluations shall be included in the report required by section 3889 of this title.

(b) In addition to funds otherwise available for evaluation, such portion of any appropriation under section 3882 of this title as the Secretary may determine, but not exceeding 1 per centum thereof, shall be available for evaluation by the Secretary (directly or by grants or contracts) of the activities for which such appropriation is made.

(Pub. L. 90-445, title IV, § 405, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 536.)

REFERENCES IN TEXT

Section 3889 of this title, referred to in subsec. (a), was repealed by Pub. L. 93-415, title IV, § 402(b), Sept. 7, 1974, 88 Stat. 1133.

PRIOR PROVISIONS

A prior section 3885, Pub. L. 90-445, title IV, § 405, July 31, 1968, 82 Stat. 472 related to judicial review prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381. See section 3886 of this title.

Provisions similar to those comprising this section were contained in prior section 3884, Pub. L. 90-445, title IV, § 404, July 31, 1968, 82 Stat. 472, prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

§ 3886. Judicial review

In the case of action taken by the Secretary terminating or refusing to continue financial assistance pursuant to a grant or contract under this chapter to a grantee, such grantee may obtain judicial review of such action in accordance with chapter 7 of title 5.

(Pub. L. 92-381, title IV, § 406, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 537.)

PRIOR PROVISIONS

A prior section 3886, Pub. L. 90-445, title IV, § 406, July 31, 1968, 82 Stat. 472 related to joint funding by several agencies prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381. See section 3887 of this title.

Provisions similar to those comprising this section were contained in prior section 3885, Pub. L. 90-445, title IV, § 405, July 31, 1968, 82 Stat. 472, prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

§ 3887. Joint funding

Pursuant to regulations prescribed by the President, where funds are advanced for a single project by more than one Federal agency to an agency assisted under this chapter, any one Federal agency may be designated to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose.

(Pub. L. 90-445, title IV, § 407, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 537.)

PRIOR PROVISIONS

A prior section 3887, Pub. L. 90-445, title IV, § 407, July 31, 1968, 82 Stat. 472, as amended by Pub. L. 92-31, § 4, June 30, 1971, 85 Stat. 84, related to coordination of efforts of federal officers prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381. See section 3888 of this title.

Provisions similar to those comprising this section were contained in prior section 3886, Pub. L. 90-445, title IV, § 406, July 31, 1968, 82 Stat. 472, prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

DELEGATION OF AUTHORITY TO ISSUE JOINT FUNDING REGULATIONS

Authority of the President under this section delegated to the Administrator of General Services, see section 3 of Ex. Ord. No. 11867, June 19, 1975, 40 F.R. 26253, set out as a note under section 4252 of this title, and policy functions transferred to Director of Office of Management and Budget, see section 1 of Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040, set out as a note under section 4252 of this title.

§ 3888. Coordination

(a) In the administration of this chapter, the Secretary shall limit assistance under this chapter to programs and activities which are carried on outside of the juvenile justice system (which encompasses agencies such as the police, the courts, correctional institutions, detention homes, and probation and parole authorities).

(b) The Secretary shall consult with the Attorney General for the purpose of coordinating the development and implementation of programs and activities funded under this chapter with those related programs and activities funded under the Omnibus Crime Control and Safe Streets Act of 1968.

(Pub. L. 90-445, title IV, § 408, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 537, and amended Pub. L. 93-415, title IV, § 402(a), Sept. 7, 1974, 88 Stat. 1133.)

REFERENCES IN TEXT

The Omnibus Crime Control and Safe Streets Act of 1968, referred to in subsec. (b), is Pub. L. 90-351, June 19, 1968, 82 Stat. 197, which enacted this chapter, section 7313 of Title 5, Government Organization and Employees, sections 921 to 928, 2510 to 2520, 3103a, 3501, and 3502 of Title 18, Crimes and Criminal Procedure, sections 1201 to 1203 of the Appendix to Title 18, amended section 3334 of this title, sections 5314, 5315, 5316 of Title 5, section 3731 of Title 18, section 605 of Title 47, Telegraphs, Telephones, and Radiotele-

graphs, repealed sections 901 to 910 of Title 15, Commerce and Trade, enacted provisions set out as notes under section 3701 of this title, section 7313 of Title 5, sections 921 and 2510 of Title 18, section 532 of Title 28, Judiciary and Judicial Procedure, and repealed a provision set out as a note preceding section 3001 of Title 18. For complete classification of this Act to the Code, see Short Title note under section 3701 of this title and Tables volume.

PRIOR PROVISIONS

A prior section 3888, Pub. L. 90-445, title IV, § 408, July 31, 1968, 82 Stat. 472 related to annual reports to Congress prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381. See section 3889 of this title.

Provisions similar to those comprising this section were contained in prior section 3887, Pub. L. 90-445, title IV. § 407, July 31, 1968, 82 Stat. 472, prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-415 substituted provisions relating to consultation by the Secretary with the Attorney General for coordination of programs and activities funded under this chapter with those funded under the Omnibus Crime and Control and Safe Streets Act of 1968 for provisions relating to establishment, composition and procedure of the Interdepartmental Council on Juvenile Delinquency.

§ 3889. Repealed. Pub. L. 93-415, title IV, § 402(b), Sept. 7, 1974, 88 Stat. 1133

Section, Pub. L. 90-445, title IV, § 409, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 537, related to the preparation and submission of a report to the President by the Interdepartmental Council concerning all Federal activities in the field of juvenile delinquency.

A prior section 3889, Pub. L. 90-445, title IV, § 409, July 31, 1968, 82 Stat. 473, related to the appointment of advisory committees by the Secretary in respect to activities under prior chapter 47 prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

§ 3890. General provisions

(a) Nothing in this chapter shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, or physical development of their children. Nor shall any section of this chapter be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which is otherwise provided by law.

(b) The Secretary is directed to establish appropriate procedures to insure that no child shall be the subject of any research or experimentation under this chapter other than routine testing and normal program evaluation unless the parent or guardian of such child is informed of such research or experimentation and is given an opportunity as of right to except such child therefrom.

(Pub. L. 90-445, title IV, § 410, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 538.)

PRIOR PROVISIONS

A prior section 3890, Pub. L. 90-445, title IV, § 410, July 31, 1968, 82 Stat. 473, related to definitions prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381. See section 3891 of this title.

§ 3891. Definitions

For purposes of this chapter—

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(2) The term "public agency" means a duly elected political body or a subdivision thereof and shall not be construed to include the Community Services Administration. Such term includes an Indian tribe.

(3) The term "nonprofit private agency" means any accredited institution of higher education, and any other agency, organization, or institution no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, or which is owned and operated by one or more such agencies, but only if such agency, organization, or institution was in existence at least two years before the date of an application under this chapter. Such term shall not be construed to include the Community Services Administration. Participation by the Community Services Administration is expressly prohibited in administering this chapter.

(5)[1] The term "Secretary" means the Secretary of Health, Education, and Welfare.

(6) The term "construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for new buildings). For the purposes of this paragraph, the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them.

(7) The term "youth services" means services which assist in the prevention of juvenile delinquency, including, but not limited to: individual and group counseling, family counseling, diagnostic services, remedial education, tutoring, alternate schools (institutions which provide education to youths outside the regular or traditional school system), vocational testing and training, job development and placement, emergency shelters, halfway houses, health services, drug abuse programs, social, cultural, and recreational activities, the development of paraprofessional or volunteer programs, community awareness programs, foster care and shelter care homes, and community-based treatment facilities or services.

(8) The term "coordinated youth services" means a comprehensive service delivery system, separate from the system of juvenile justice (which encompasses agencies such as the juvenile courts, law enforcement agencies, and detention facilities) for providing youth services to an individual who is in danger of becoming delinquent and to his family in a manner designed to—

(a) facilitate accessibility to and utilization of all appropriate youth services provided within the geographic area served by such system by any public or private agency or organization, which desires to provide such services through such system;

[1]So in original. Section enacted without a par. (4).

(b) identify the need for youth services not currently provided in the geographic area covered by such system, and, where appropriate, provide such services through such system;

(c) make the most effective use of youth services in meeting the needs of young people who are in danger of becoming delinquent, and their families;

(d) use available resources efficiently and with a minimum of duplication in order to achieve the purposes of this chapter; and

(e) identify the types and profiles of individual youths who are to be served by such a comprehensive system.

(9) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

(Pub. L. 90-455, title IV, § 411, as added Pub. L. 92-381, § 1, Aug. 14, 1972, 86 Stat. 538, and amended Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 805.)

CODIFICATION

Community Services Administration was substituted in pars. (2) and (3) for Office of Economic Opportunity on the authority of section 9(a) of Pub. L. 93-644, Jan. 4, 1975, 88 Stat. 2310, which established the Community Services Administration as the successor to the Office of Economic Opportunity. See section 2941 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 3890, Pub. L. 90-445, title IV, § 410, July 31, 1968, 82 Stat. 473, prior to the general amendment of Pub. L. 90-445 by section 1 of Pub. L. 92-381.

CHAPTER 48—GUARANTEES FOR FINANCING NEW COMMUNITY LAND DEVELOPMENT

Sec.
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TERMINATION

Section 4528 of this title has terminated the authority to guarantee bonds, debentures, notes, or other obligations under title IV of the Housing and Urban Development Act of 1968, this chapter, after Dec. 31, 1970, with exceptions now inapplicable. Such section also transferred all receipts, funds or other assets and all liabilities of the revolving fund established under section 3906 of this title to the revolving fund established under section 4518 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1439, 1492, 4528, 5302, 5307 of this title; title 12 section 1464.

§ 3901. Congressional declaration of purpose

It is the purpose of this chapter, by facilitating the enlistment of private capital in new community development, to encourage the development of new communities that—

(1) contribute to the general betterment of living conditions through the improved quality of community development made possible by a consistent design for the provision of homes, commercial and industrial facilities, public and community facilities, and open spaces;

(2) make substantial contributions to the sound and economic growth of the areas in which they are located;

(3) provide needed additions to the general housing supply;

(4) provide opportunities for innovation in housing and community development technology and in land use planning;

(5) enlarge housing and employment opportunities by increasing the range of housing choice and providing new investment opportunities for industry and commerce;

(6) encourage the maintenance and growth of a diversified local homebuilding industry; and

(7) include, to the greatest extent feasible, the employment of new and improved technology, techniques, materials, and methods in housing construction, rehabilitation, and maintenance under programs administered by the Department of Housing and Urban Development with a view to reducing the cost of such construction, rehabilitation, and maintenance, and stimulating the increased and sustained production of housing under such programs.

(Pub. L. 90-448, title IV, § 402, Aug. 1, 1968, 82 Stat. 513.)

SHORT TITLE

Section 401 of Pub. L. 90-448 provided that: "This title [enacting this chapter and amending section 1492 of this title and sections 371 and 1464 of Title 12,

Banks and Banking], may be referred to as the 'New Communities Act of 1968'."

§ 3902. Guarantee authority

To carry out the purposes of this chapter the Secretary is authorized to guarantee, and enter into commitments to guarantee, the bonds, debentures, notes, and other obligations issued by new community developers to help finance new community development projects. The Secretary may make such guarantees and enter into such commitments, subject to the limitations contained in sections 3903 and 3904 of this title, upon such terms and conditions as he may prescribe, taking into account (1) the large initial capital investment required to finance sound new communities, (2) the extended period before initial returns on this type of investment can be expected, (3) the irregular pattern of cash returns characteristic of such investment, and (4) the financial and security interests of the United States in connection with guarantees made under this chapter.

(Pub. L. 90-448, title IV, § 403, Aug. 1, 1968, 82 Stat. 514.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3909, 3911 of this title.

§ 3903. Eligible new community development

No guarantee or commitment to guarantee may be made under this chapter unless the Secretary has determined that—

(1) the proposed new community (A) will be economically feasible in terms of economic base or potential for growth, and (B) will contribute to the orderly growth and development of the area of which it is a part;

(2) there is a practicable plan (including appropriate time schedules) for financing the land acquisition and land development costs of the proposed new community and for improving and marketing the land which, giving due consideration to the public purposes of this chapter and the special problems involved in financing new communities, represents an acceptable financial risk to the United States;

(3) there is a sound internal development plan for the new community which (A) has received all governmental approvals required by State or local law or by the Secretary; and (B) is acceptable to the Secretary as providing reasonable assurance that the development will contribute to good living conditions in the area being developed, will be characterized by sound land use patterns, will include a proper balance of housing for families of low and moderate income, and will include or be served by such shopping, school, recreational, transportation, and other facilities as the Secretary deems satisfactory; and

(4) the internal development plan is consistent with a comprehensive plan which covers, or with comprehensive planning being carried on for, the area in which the land is situated, and which meets criteria established by the Secretary for such comprehensive plans or planning.

(Pub. L. 90-448, title IV, § 404, Aug. 1, 1968, 82 Stat. 514.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3902 of this title.

§ 3904. Eligible bonds, debentures, notes or other obligations; limitation on amount outstanding with respect to projects

(a) Any bond, debenture, note or other obligation guaranteed under this chapter shall—

(1) be issued by a new community developer, other than a public body, approved by the Secretary on the basis of financial, technical and administrative ability which demonstrates his capacity to carry out the proposed project;

(2) be issued to and held by investors approved by, or meeting requirements prescribed by, the Secretary, or if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(3) be issued to finance a program of land development (including acquisition or use of land) approved by the Secretary: *Provided*, That the Secretary shall, through cost certification procedures, escrow or trusteeship requirements, or other means, insure that all proceeds from the sale of obligations guaranteed under this chapter are expended pursuant to such program;

(4) involve a principal obligation in an amount not to exceed the lesser of (A) 80 per centum of the Secretary's estimate of the value of the property upon completion of the land development or (B) the sum of 75 per centum of the Secretary's estimate of the value of the land before development and 90 per centum of his estimate of the actual cost of the land development;

(5) bear interest at a rate satisfactory to the Secretary, such interest to be exclusive of any service charges and fees that may be approved by the Secretary;

(6) contain repayment and maturity provisions satisfactory to the Secretary; and

(7) contain provisions which the Secretary shall prescribe with respect to the protection of the security interests of the United States (including subrogation provisions), liens and releases of liens, payment of taxes, and such other matters as the Secretary may, in his discretion, prescribe.

(b) The outstanding principal obligations guaranteed under this chapter with respect to a single new community development project shall at no time exceed $50,000,000.

(Pub. L. 90-448, title IV, § 405, Aug. 1, 1968, 82 Stat. 514.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3902 of this title.

§ 3905. Fees and charges; report to the Congress

The Secretary is authorized to establish and collect fees for guarantees made under this chapter and may make such charges as he considers reasonable for the analysis of develop-

ment and financing plans and for appraisals and inspections related to new community development projects. On or before January 1, 1970, the Secretary shall make a report to the Congress concerning the fees and other charges under this chapter that he estimates will be adequate to provide income sufficient for a self-supporting program.

(Pub. L. 90-448, title IV, § 406, Aug. 1, 1968, 82 Stat. 515.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 3906. Guarantee fund

(a) Establishment; deposits to fund; issuance of obligations to Secretary of the Treasury; purchase of obligations

To provide for the payment of any liabilities incurred as a result of guarantees made under this chapter, the Secretary is authorized to establish a revolving fund which shall be comprised of (1) receipts from fees and charges; (2) recoveries under security or subrogation rights or other rights, and any other receipts obtained in connection with such guarantees; and (3) such sums, which are hereby authorized to be appropriated, as may be required for program operations and nonadministrative expenses and to make any and all payments guaranteed under this chapter. The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by this chapter. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under such Act are extended to include purchases of the Secretary's obligations hereunder.

(b) Full faith and credit

The full faith and credit of the United States is pledged to the payment of all guarantees made under this chapter with respect to both principal and interest, including (1) interest, as may be provided for in the guarantee, accruing between the date of default under a guaranteed obligation and the payment in full of the guarantee, and (2) principal and interest due under any debentures issued by the Secretary toward payment of guarantees made under this chapter.

(c) Payment of expenses or charges in connection with acquisition, handling, improvement, or disposal of acquired property; collection of claims

Notwithstanding any other provision of law relating to the acquisition, handling, improvement, or disposal of real and other property by the United States, the Secretary shall have power, for the protection of the interests of the guarantee fund authorized under this section, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property acquired by him under this chapter; and notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in carrying out this chapter.

(d) Aggregate amount of principal obligations outstanding

The aggregate of the outstanding principal obligations guaranteed under this chapter shall at no time exceed $500,000,000.

(Pub. L. 90-448, title IV, § 407, Aug. 1, 1968, 82 Stat. 515; Pub. L. 91-351, title VII, § 703, July 24, 1970, 84 Stat. 462; Pub. L. 91-609, title III, § 303(a), Dec. 31, 1970, 84 Stat. 1780.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (a), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-351 added the provisions authorizing the Secretary to issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by this chapter, and the provisions authorizing and directing the Secretary of the Treasury to purchase any obligations of the Secretary issued under this subsection.

Subsec. (d). Pub. L. 91-609 increased aggregate amount of principal obligations outstanding from "$250,000,000" to "$500,000,000".

§ 3907. Incontestability of guarantees

Any guarantee made by the Secretary under this chapter shall be conclusive evidence of the eligibility of the obligations for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

(Pub. L. 90-448, title IV, § 408, Aug. 1, 1968, 82 Stat. 516; Pub. L. 91-609, title III, § 303(c), Dec. 31, 1970, 84 Stat. 1780.)

AMENDMENTS

1970—Pub. L. 91-609 deleted "qualified" following "hands of a" and "except for fraud or material misrepresentation on the part of such holder" following "guaranteed obligation".

§ 3908. Encouragement of small builders

The Secretary shall adopt such requirements as he deems necessary to assure that new community construction assisted under this chapter will encourage the maintenance of a diversified local homebuilding industry and broad participation by builders, particularly small builders.

(Pub. L. 90-448, title IV, § 409, Aug. 1, 1968, 82 Stat. 516.)

§ 3909. Labor standards.

All laborers and mechanics employed by contractors or subcontractors in land development

assisted under section 3902 of this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). No assistance shall be extended under section 3902 of this title for land development without first obtaining adequate assurance that these labor standards will be maintained upon the construction work involved in such development. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (67 Stat. 1267), and section 276c of title 40.

(Pub. L. 90-448, title IV, § 410, Aug. 1, 1968, 82 Stat. 516.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 3910. Real property taxation

Nothing in this chapter shall be construed to exempt any real property that may be acquired and held by the Secretary as a result of the exercise of lien or subrogation rights from real property taxation to the same extent, according to its value, as other real property is taxed.

(Pub. L. 90-448, title IV, § 411, Aug. 1, 1968, 82 Stat. 516.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 3911. Supplementary grants

(a) Authorization

The Secretary is authorized to make supplementary grants to State and local public bodies and agencies carrying out new community assistance projects, as defined in section 3914(c) of this title, if the Secretary determines that such grants are necessary or desirable for carrying out a new community development project approved for assistance under section 3902 of this title, and that a substantial number of housing units for low and moderate income persons is to be made available through such development project.

(b) Limitation on grant; total Federal contributions

In no case shall any grant under this section exceed 20 per centum of the cost of the new community assistance project for which the grant is made; and in no case shall the total Federal contributions to the cost of such project be more than 80 per centum.

(c) Consultation with Secretary of Agriculture

In carrying out his authority under this section the Secretary shall consult with the Secretary of Agriculture with respect to new community assistance projects assisted by that Department, and he shall, for the purpose of subsection (b) of this section, accept that Department's certifications as to the cost of such projects.

(d) Authorization of appropriations

There are authorized to be appropriated for grants under this section not to exceed $5,000,000 for the fiscal year ending June 30, 1969, and not to exceed $25,000,000 for the fiscal year ending June 30, 1970. Any amounts so appropriated shall remain available until expended, and any amounts authorized for any fiscal year under this subsection but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1974.

(Pub. L. 90-448, title IV, § 412, 1, 1968, 82 Stat. 516; Pub. L. 91-152, title III, § 304, Dec. 24, 1969, 83 Stat. 391; Pub. L. 91-609, title III, § 303(b), Dec. 31, 1970, 84 Stat. 1780.)

AMENDMENTS

1970—Subsec. (d). Pub. L. 91-609 substituted "July 1, 1974" for "July 1, 1971".

1969—Subsec. (d). Pub. L. 91-152 substituted "July 1, 1971" for "July 1, 1970".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3912 of this title.

§ 3912. Functions, powers, and duties of Secretary

In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter, the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties (including the authority to issue rules and regulations) set forth in section 1749a, except subsections (c)(2), (d), and (f), of title 12: *Provided*, That subsection (a)(1) of section 1749a of title 12 shall not apply with respect to functions, powers, and duties under section 3911 of this title.

(Pub. L. 90-448, title IV, § 413, Aug. 1, 1968, 82 Stat. 517.)

§ 3913. Audit of financial transactions

Insofar as they relate to any grants or guarantees made pursuant to this chapter, the financial transactions of recipients of Federal grants or of developers whose obligations are guaranteed by the United States pursuant to this chapter may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by such developers or recipients of grants pertaining to such financial transactions and necessary to facilitate the audit.

(Pub. L. 90-448, title IV, § 414, Aug. 1, 1968, 82 Stat. 517.)

§ 3914. Definitions

As used in this chapter—

(a) The term "land development" means the process of grading land, making, installing, or constructing water lines and water supply in-

stallations, sewer lines and sewage disposal installations, steam, gas, and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or work, whether on or off the site, which the Secretary deems necessary or desirable to prepare land for residential, commercial, industrial, or other uses, or to provide facilities for public or common use. The term "land development" shall not include any building unless it is (1) a building which is needed in connection with a water supply or sewage disposal installation or a steam, gas, or electric line or installation, or (2) a building, other than a school, which is to be owned and maintained jointly by the residents of the new community or is to be transferred to public ownership, but not prior to its completion.

(b) The term "actual costs" means the costs (exclusive of rebates or discounts) incurred by a new community developer in carrying out the land development assisted under this chapter. These costs may include amounts paid for labor, materials, construction contracts, land planning, engineers' and architects' fees, surveys, taxes, and interest during development, organizational and legal expenses, such allocation of general overhead expenses as are acceptable to the Secretary, and other items of expense incidental to development which may be approved by the Secretary. If the Secretary determines that there is an identity of interest between the new community developer and a contractor, there may be included as a part of actual costs an allowance for the contractor's profit in an amount deemed reasonable by the Secretary.

(c) The term "new community assistance projects" means projects assisted by grants made under section 3102 of this title, section 1926(a)(2) of title 7, or title VII of the Housing Act of 1961 [42 U.S.C. 1500 et seq.].

(Pub. L. 90-448, title IV, § 415, Aug. 1, 1968, 82 Stat. 517.)

REFERENCES IN TEXT

The Housing Act of 1961, referred to in subsec. (c), is Pub. L. 87-70, June 30, 1961, 75 Stat. 149, as amended. Title VII of the Housing Act of 1961 is classified generally to chapter 8C (§ 1500 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3911 of this title.

CHAPTER 49—NATIONAL HOUSING PARTNERSHIPS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 12 sections 24, 1464.

§ 3931. Congressional statement of purpose

The Congress finds that the volume of housing being produced for families and individuals of low or moderate income must be increased to meet the national goal of a decent home and a suitable living environment for every American family, and declares that it is the policy of the United States to encourage the widest possible participation by private enterprise in the provi-

sion of housing for low or moderate income families. The Congress has therefore determined that one or more private organizations should be created to encourage maximum participation by private investors in programs and projects to provide low and moderate income housing.

(Pub. L. 90-448, title IX, § 901, Aug. 1, 1968, 82 Stat. 547.)

§ 3932. Creation of corporations

(a) Authorization

There is hereby authorized to be created a private corporation for profit (hereinafter in this chapter referred to as the "corporation"). The corporation will not be an agency or establishment of the United States Government. The corporation shall be subject to the provisions of this chapter and, to the extent consistent with this chapter, to the District of Columbia Business Corporation Act (D.C. Code, sec. 29-901 et seq.).

(b) Creation of additional corporations

Whenever the President finds it in the national interest to do so, he may cause the creation of an additional corporation or additional corporations to carry out the purposes of this chapter. All the provisions of this chapter shall thereupon become applicable to each such corporation, and to the limited partnership formed by it pursuant to section 3937 of this title.

(c) Creation of corporations and organization of other partnerships, joint ventures, or associations by private persons

Nothing in this chapter shall be construed to preclude private persons from creating other corporations and organizing other partnerships, joint ventures, or associations for the purposes set forth in this chapter as the purposes of the corporation and the partnership described in section 3937 of this title.

(Pub. L. 90-448, title IX, § 902, Aug. 1, 1968, 82 Stat. 547.)

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in subsec. (a), is act June 8, 1954, ch. 269, 68 Stat. 179, as amended, which is classified generally to chapter 9 (§ 29-901 et seq.) of Title 29, Corporations, of the District of Columbia Code. For complete classification of the Act to the District of Columbia Code, see Tables volume of the District of Columbia Code.

§ 3933. Organization of corporation

(a) Appointment of incorporators; Chairman; initial board of directors

The President of the United States shall appoint, by and with the advice and consent of the Senate, incorporators of the corporation, one of whom shall be designated by the President to serve as chairman. The incorporators shall serve as the initial board of directors until the first annual meeting of stockholders or until their successors are elected and have qualified.

(b) Action by incorporators; filing articles of incorporation

The incorporators shall take whatever actions are necessary or appropriate to establish the corporation, including the filing of articles of incorporation as approved by the President.

(c) Initial offering of stock in corporation and of interests in partnership; terms of offering

The incorporators shall also arrange for an initial offering of shares of stock in the corporation and of interests in the partnership described in section 3937 of this title. If the incorporators deem it advisable in order to carry out the purposes of this chapter, the initial offering may be made upon terms which require the purchase of other securities of the corporation or of interests in such partnership.

(Pub. L. 90-448, title IX, § 903, Aug. 1, 1968, 82 Stat. 547.)

§ 3934. Board of Directors; membership; appointment; term

The corporation shall have a board of directors (hereinafter in this section referred to as the "board"), consisting of fifteen members. Three members of the board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, effective on the date on which the other members are elected, and for terms of three years or until their successors have been appointed and have qualified, except that the first three members of the board so appointed shall continue in office for terms of one, two, and three years, respectively, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the director whom he succeeds. Twelve members of the board shall be elected by the stockholders.

(Pub. L. 90-448, title IX, § 904, Aug. 1, 1968, 82 Stat. 547.)

§ 3935. Financing the corporation

The corporation shall have the power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes, any or all of which classes may consist of shares with par value or shares without par value, with such designations, preferences, voting powers, and special or relative rights and such limitations, restrictions, or qualifications thereof as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting power of the shares of any class.

(Pub. L. 90-448, title IX, § 905, Aug. 1, 1968, 82 Stat. 548.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 24.

§ 3936. Purposes and powers of corporation

(a) Building or rehabilitation of housing and related facilities for families and individuals of low or moderate income; acquisition and disposal of property; funds

In order to achieve the objectives and carry out the purposes of this chapter, the corporation is authorized to—

(1) plan, initiate, and carry out, pursuant to Federal programs or otherwise, the building or rehabilitation of housing and related facilities primarily for the benefit of families and individuals of low or moderate income;

(2) buy, own, manage, lease, or otherwise acquire or dispose of property in connection with the developments, projects, or undertakings referred to in paragraph (1); and

(3) provide such funds as may be necessary to accomplish the developments, projects, or undertakings referred to in paragraph (1).

(b) Authorization to enter into partnerships, limited partnerships, joint ventures, and other associations; manager or general partner of partnership, venture, or association; research and studies; technical assistance; loans or grants; hire or acceptance of services of consultants, experts, advisory boards and panels

Included in the activities authorized to the corporation for the accomplishment of the purposes indicated in subsection (a) of this section are, among others not specifically named—

(1) to enter into partnerships, limited partnerships, joint ventures, and other associations with individuals, corporations, and private and governmental agencies, organizations, and institutions;

(2) to act as manager or general partner of any such partnership, venture, or association;

(3) to conduct or contract for research and studies related to the development, demonstration, and evaluation of improved techniques and methods of constructing, rehabilitating, and maintaining housing;

(4) to provide technical assistance to nonprofit corporations, limited dividend corporations, and others with respect to the planning, refinancing, construction, rehabilitation, maintenance, and management of housing for low and moderate income families and individuals;

(5) to make loans or grants including grants of interests in housing and related facilities, to nonprofit corporations, limited dividend corporations, and others, in carrying out its activities under subsection (a) of this section; and

(6) to hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the corporation in carrying out the purposes of this chapter.

(c) Exercise of powers conferred upon stock corporation by District of Columbia Business Corporation Act

To carry out the foregoing purposes and engaged in the foregoing activities, the corporation shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act [D.C. Code, sec. 29-901 et seq.].

(d) Labor standards

Nothing in this chapter shall have the effect of waiving or otherwise affecting the applicability of the provisions of the Davis-Bacon Act (40 U.S.C. 276a-276a-5), or any other law requiring compliance with labor standards, in the case of any construction to which such provisions would otherwise apply.

(Pub. L. 90-448, title IX, § 906, Aug. 1, 1968, 82 Stat. 548.)

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in subsec. (c), is act June 8, 1954, ch. 269, 68 Stat. 179, which is classified generally to chapter 9 (§ 29-901 et seq.) of Title 29, Corporations, of the District of Columbia Code. For complete classification of this Act to the District of Columbia Code, see Tables volume in District of Columbia Code.

The Davis-Bacon Act, referred to in subsec. (d), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3937 of this title.

§ 3937. National housing partnership

(a) Formation of limited partnership; partnership agreement

The corporation is authorized to arrange for the formation, as a separate organization, of a limited partnership (hereinafter in this chapter referred to as the "partnership") under the District of Columbia Uniform Limited Partnership Act (D.C. Code, sec. 41-401 et seq.) for the purpose of engaging in any of the activities authorized for the corporation under section 3936 of this title, and to enter into a partnership agreement governing the affairs of such limited partnership.

(b) Applicability of other laws; legal status of limited partnership

The partnership shall be subject to the provisions, to the extent consistent with this chapter, of (1) the District of Columbia Uniform Limited Partnership Act and (2) those provisions of the District of Columbia Uniform Partnership Act (D.C. Code, sec. 41-301 et seq.) made applicable by section 6(2) of that Act (D.C. Code, sec. 41-305(2)). Notwithstanding any inconsistency between the provisions of such Acts, or of any other law, and the provisions of this section, the partnership organized pursuant to this section shall be deemed to have the legal status of a limited partnership.

(c) Authorization to enter into partnerships, limited partnerships, or joint ventures organized under State or local laws for purpose of engaging in low and moderate income housing developments, projects, or undertakings

The partnership is authorized to enter into partnerships, limited partnerships, or joint ventures organized under applicable State or local law for the purpose of engaging in low and moderate income housing developments, projects, or undertakings in particular localities.

(d) General partner; capital of partnership; contribution of partners

The corporation shall be the general partner in the partnership. The capital of the partnership and the contributions of the partners shall be in such amounts and at such times as are set forth in or pursuant to the partnership agreement.

(e) Partnership agreement; participation in low and moderate income housing developments, projects, or undertakings; limitation on aggregate initial equity investment

The partnership agreement shall include provisions designed to assure that (1) the partnership shall participate in low and moderate income housing developments, projects, or un-

dertakings in a manner designed to encourage the participation therein of local interests, and (2) in any such development, project, or undertaking the partnership shall not subscribe to more than 25 per centum (including equity investments made in services or property) of the aggregate initial equity investment unless, in the judgment of the corporation as general partner, the balance of the required equity investment is not readily obtainable from other responsibile investors residing or doing business in the local community.

(f) Partnership agreement; authorization for stockholders to become limited partners; inclusion of other limited partners; acquisition of assignor's stock by assignee of limited partner; approval of substitution or addition of partnership member

The partnership agreement may without limitation (1) permit each of the stockholders of the corporation to become a member of the partnership as a limited partner, (2) authorize the inclusion of other limited partners in addition to the stockholders of the corporation, (3) provide that the assignee of the partnership interest of a limited partner of the partnership who is also a stockholder of the corporation may not become a substituted limited partner unless he also acquires the assignor's stock of the corporation, and (4) include provisions requiring that the corporation as a general partner approve the substitution or addition of a member of the partnership.

(g) Liability of corporation as general partner; treatment of interest of limited partner in partnership

A corporation which is a limited partner in the partnership shall not become liable as a general partner by reason of the fact that (1) such corporation is a holder of shares of voting stock of the corporation constituting not more than 5 per centum of the total number of outstanding shares of such stock and exercises any of the rights (including voting rights) of a holder of such shares, and/or (2) a person who is an officer or director of such corporation (or of another corporation which controls or is subject to the control of, or is under common control with, such corporation) is a director of the corporation and performs the duties of that office. The interest of a limited partner in the partnership shall not be treated as a stock interest in the corporation, notwithstanding that such interest of a limited partner may be proportionate to his stock interest in the corporation.

(h) Execution of certificate of partnership and amendments

The certificate of the partnership and any amendment thereof required by the District of Columbia Uniform Limited Partnership Act [D.C. Code, sec. 41-401 et seq.] shall be executed and acknowledged by the corporation as member and by each other member of the partnership or his attorney-in-fact duly authorized by power of attorney in writing. The corporation may execute and acknowledge the certificate and any amendment thereof as attorney-in-fact for any member, member to be substituted or added, or assigning member, by whom the certificate or amendment is required to be executed and acknowledged and who has appointed the corporation as such attorney.

(Pub. L. 90-448, title IX, § 907, Aug. 1, 1968, 82 Stat. 549.)

REFERENCES IN TEXT

The District of Columbia Uniform Limited Partnership Act, referred to in subsecs. (a) and (h), is Pub. L. 87-716, Sept. 28, 1962, 76 Stat. 655, which is classified generally to chapter 4 (§ 41-401 et seq.) of Title 41, Partnerships, of the District of Columbia Code.

The District of Columbia Uniform Partnership Act, referred to in subsec. (b), is Pub. L. 87-709, Sept. 27, 1962, 76 Stat. 636, which is classified generally to chapter 3 (§ 41-301 et seq.) of the District of Columbia Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 sections 24, 1464.

§ 3938. Annual report of corporation; audit of accounts

(a) The corporation shall submit an annual report to the President for transmittal to the Congress within six months after the end of its fiscal year. The report shall include a comprehensive and detailed report of the operations, activities, and financial condition of the corporation and the partnership under this chapter.

(b) The accounts of the corporation and of the partnership shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(Pub. L. 90-448, title IX, § 908, Aug. 1, 1968, 82 Stat. 550.)

§ 3939. Applicability of antitrust laws

Nothing contained herein shall affect the applicability of the Federal antitrust laws to the activities of the corporation and the partnership created under this chapter and of the persons participating therein or in partnerships, limited partnerships, or joint ventures with either of them.

(Pub. L. 90-448, title IX, § 909, Aug. 1, 1968, 82 Stat. 550.)

§ 3940. Reservation of right to repeal, alter, or amend chapter

The right to repeal, alter, or amend this chapter at any time is expressly reserved.

(Pub. L. 90-448, title IX, § 910, Aug. 1, 1968, 82 Stat. 550.)

§ 3941. State or local taxation or regulation; access to judicial process

Nothing contained in this chapter shall preclude a State or other local jurisdiction from imposing, in accordance with the laws of such State or other local jurisdiction, any valid nondiscriminatory tax, obligation, or regulation on the partnership as a taxable and or legal entity, but no limited partner of the partnership not otherwise subject to taxation or regulation by or judicial process of a State or other local jurisdiction shall be subject to taxation or regulation by or subject to or denied access to judicial process of such State or other local jurisdiction,

or be subject or denied access to any greater extent, because of activities of the corporation or partnership within such State or other local jurisdiction.

(Pub. L. 90-448, title IX, § 912, as added Pub. L. 91-351, title VIII, § 711, July 24, 1970, 84 Stat. 463.)

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 4012a, 4107 of this title.

§ 4001. Congressional findings and declaration of purpose

(a) Necessity and reasons for flood insurance program

The Congress finds that (1) from time to time flood disasters have created personal hardships and economic distress which have required unforeseen disaster relief measures and have placed an increasing burden on the Nation's resources; (2) despite the installation of preventive and protective works and the adoption of other public programs designed to reduce losses caused by flood damage, these methods have not been sufficient to protect adequately against growing exposure to future flood losses; (3) as a matter of national policy, a reasonable method of sharing the risk of flood losses is through a program of flood insurance which can complement and encourage preventive and protective measures; and (4) if such a program is initiated and carried out gradually, it can be expanded as knowledge is gained and experience is appraised, thus eventually making flood insurance coverage available on reasonable terms and conditions to persons who have need for such protection.

(b) Participation of Federal Government in flood insurance program carried out by private insurance industry

The Congress also finds that (1) many factors have made it uneconomic for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions; but (2) a program of flood insurance with large-scale participation of the Federal Government and carried out to the maximum extent practicable by the private insurance industry is feasible and can be initiated.

(c) Unified national program for flood plain management

The Congress further finds that (1) a program of flood insurance can promote the public interest by providing appropriate protection against the perils of flood losses and encouraging sound land use by minimizing exposure of property to flood losses; and (2) the objectives of a flood insurance program should be integrally related to a unified national program for flood plain management and, to this end, it is the sense of Congress that within two years following the effective date of this chapter the President should transmit to the Congress for its consideration any further proposals necessary for such a unified program, including proposals for the allocation of costs among beneficiaries of flood protection.

(d) Authorization of flood insurance program; flexibility in program

It is therefore the purpose of this chapter to (1) authorize a flood insurance program by means of which flood insurance, over a period of time, can be made available on a nationwide basis through the cooperative efforts of the Federal Government and the private insurance industry, and (2) provide flexibility in the program so that such flood insurance may be based on workable methods of pooling risks, minimizing costs, and distributing burdens equitably among those who will be protected by flood insurance and the general public.

(e) Land use adjustments by State and local governments; development of proposed future construction; assistance of lending and credit institutions; relation of Federal assistance to all flood-related programs; continuing studies

It is the further purpose of this chapter to (1) encourage State and local governments to make appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses, (2) guide the development of proposed future construction, where practicable, away from locations which are threatened by flood hazards, (3) encourage lending and credit institutions, as a matter of national policy, to assist in furthering the objectives of the flood insurance program, (4) assure that any Federal assistance provided under the program will be related closely to all flood-related programs and activities of the Federal Government, and (5) authorize continuing studies of flood hazards in order to provide for a constant reappraisal of the flood insurance program and its effect on land use requirements.

(f) Mudslides

The Congress also finds that (1) the damage and loss which results from mudslides is related in cause and similar in effect to that which results directly from storms, deluges, overflowing waters, and other forms of flooding, and (2) the problems involved in providing protection against this damage and loss, and the possibilities for making such protection available through a Federal or federally sponsored program, are similar to those which exist in connection with efforts to provide protection against damage and loss caused by such other forms of flooding. It is therefore the further purpose of this chapter to make available, by means of the methods, procedures, and instrumentalities which are otherwise established or available under this chapter for purposes of the flood insurance program, protection against damage and loss resulting from mudslides that are caused by accumulations of water on or under the ground.

(g) Erosion and undermining of shorelines by waves or currents

The Congress also finds that (1) the damage and loss which may result from the erosion and undermining of shorelines by waves or currents in lakes and other bodies of water exceeding anticipated cyclical levels is related in cause and similar in effect to that which results directly from storms, deluges, overflowing waters, and other forms of flooding, and (2) the problems involved in providing protection against this damage and loss, and the possibilities for making such protection available through a Federal or federally sponsored program, are similar to those which exist in connection with efforts to provide protection against damage and loss caused by such other forms of flooding. It is therefore the further purpose of this chapter to make available, by means of the methods, procedures, and instrumentalities which are otherwise established or available under this chapter for purposes of the flood insurance program, protection against damage and loss resulting from the erosion and undermining of shorelines by waves or currents in lakes and other bodies of water exceeding anticipated cyclical levels.

(Pub. L. 90-448, title XIII, § 1302, Aug. 1, 1968, 82 Stat. 572; Pub. L. 91-152, title IV, § 409(a), Dec. 24, 1969, 83 Stat. 397; Pub. L. 93-234, title I, § 108(a), Dec. 31, 1973, 87 Stat. 979.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (d) to (g), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note below. For complete classification of this Act to the Code, see Short Title note set out below and Tables volume.

AMENDMENTS

1973—Subsec. (g). Pub. L. 93-234 added subsec. (g).
1969—Subsec. (f). Pub. L. 91-152 added subsec. (f).

EFFECTIVE DATE

Section 1377 of Pub. L. 90-448 provided that: "This title [enacting this chapter, amending section 2414 of this title, repealing sections 2401 to 2413 and 2415 to

2421 of this title, and enacting provisions set out as notes under this section] shall take effect one hundred and twenty days following the date of its enactment [Aug. 1, 1968], except that the Secretary, on the basis of a finding that conditions exist necessitating the prescribing of an additional period, may prescribe a later effective date which in no event shall be more than one hundred and eighty days following such date of enactment."

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93-234, § 1, Dec. 1, 1973, 87 Stat. 975, provided: "That this Act [which enacted sections 4002, 4003, 4012a, 4104 to 4107, and 4128 of this title, amended sections 4001, 4013, 4014, 4015, 4016, 4026, 4054, 4056, 4101, and 4121 of this title, and sections 24 and 1709-1 of Title 12, Banks and Banking, and repealed section 4021 of this title] may be cited as the 'Flood Disaster Protection Act of 1973'."

SHORT TITLE

Pub. L. 90-448, § 1301, title XIII, Aug. 1, 1968, 82 Stat. 572, provided that: "This title [enacting this chapter, amending section 2414 of this title, repealing sections 2401 to 2413, and 2415 to 2421 of this title, and enacting provisions set out as a note under this section] may be cited as the 'National Flood Insurance Act of 1968'."

§ 4002. Additional Congressional findings and declaration of purpose

(a) The Congress finds that—

(1) annual losses throughout the Nation from floods and mudslides are increasing at an alarming rate, largely as a result of the accelerating development of, and concentration of population in, areas of flood and mudslide hazards;

(2) the availability of Federal loans, grants, guaranties, insurance, and other forms of financial assistance are often determining factors in the utilization of land and the location and construction of public and of private industrial, commercial, and residential facilities;

(3) property acquired or constructed with grants or other Federal assistance may be exposed to risk of loss through floods, thus frustrating the purpose for which such assistance was extended;

(4) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from floods and mudslides;

(5) the Nation cannot afford the tragic losses of life caused annually by flood occurrences, nor the increasing losses of property suffered by flood victims, most of whom are still inadequately compensated despite the provision of costly disaster relief benefits; and

(6) it is in the public interest for persons already living in flood-prone areas to have both an opportunity to purchase flood insurance and access to more adequate limits of coverage, so that they will be indemnified, for their losses in the event of future flood disasters.

(b) The purpose of this Act, therefore, is to—

(1) substantially increase the limits of coverage authorized under the national flood insurance program;

(2) provide for the expeditious identification of, and the dissemination of information concerning, flood-prone areas;

(3) require States or local communities, as a condition of future Federal financial assistance, to participate in the flood insurance program and to adopt adequate flood plan ordinances with effective enforcement provisions consistent with Federal standards to reduce or avoid future flood losses; and

(4) require the purchase of flood insurance by property owners who are being assisted by Federal programs or by federally supervised, regulated, or insured agencies or institutions in the acquisition or improvement of land or facilities located or to be located in identified areas having special flood hazards.

(Pub. L. 93-234, § 2, Dec. 31, 1973, 87 Stat. 975.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means Pub. L. 93-234, Dec. 31, 1973, 87 Stat. 975, known as the Flood Disaster Protection Act of 1973, which enacted sections 4002, 4003, 4012a, 4104 to 4107, and 4128 of this title, amended sections 4001, 4013 to 4016, 4026, 4054, 4056, 4101, and 4121 of this title and sections 24 and 1709-1 of Title 12, Banks and Banking, repealed section 4021 of this title, and enacted provision set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables volume.

CODIFICATION

Section was enacted as part of Flood Disaster Protection Act of 1973, and not as part of National Flood Insurance Act of 1968, which comprises this chapter.

§ 4003. Additional definitions

(a) As used in this Act, unless the context otherwise requires, the term—

(1) "community" means a State or a political subdivision thereof which has zoning and building code jurisdiction over a particular area having special flood hazards;

(2) "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, and includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(3) "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance, other than general or special revenue sharing or formula grants made to States;

(4) "financial assistance for acquisition or construction purposes" means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance for emergency work essential for the protection and preservation of life and property performed pursuant to the Disaster Relief

Act of 1970 [42 U.S.C. 4401 et seq.] or any subsequent Act of Congress which supersedes or modifies the Disaster Relief Act of 1970;

(5) "Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration; and

(6) "Secretary" means the Secretary of Housing and Urban Development.

(b) The Secretary is authorized to define or redefine, by rules and regulations, any scientific or technical term used in this Act, insofar as such definition is not inconsistent with the purposes of this Act.

(Pub. L. 93-234, § 3, Dec. 31, 1973, 87 Stat. 976.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 93-234, Dec. 31, 1973, 87 Stat. 975, known as the Flood Disaster Protection Act of 1973, which enacted sections 4002, 4003, 4012a, 4104 to 4107, and 4128 of this title, amended sections 4001, 4013 to 4016, 4026, 4054, 4056, 4101, and 4121 of this title and sections 24 and 1709-1 of Title 12, Banks and Banking, repealed section 4021 of this title, and enacted provision set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables volume.

The Disaster Relief Act of 1970, referred to in subsec. (a)(4), is Pub. L. 91-606, Dec. 31, 1970, 84 Stat. 1744, which is classified principally to chapter 58 (§ 4401 et seq.) of this title. The 1970 Act was repealed in part by the Disaster Relief Act of 1974, Pub. L. 93-288, § 603, May 22, 1974, 88 Stat. 164. Section 602(m) of the Disaster Relief Act of 1974 provided that a reference in any other law to repealed provisions of the Disaster Relief Act of 1970 shall be deemed to be a reference to the appropriate provision of the 1974 Act, which is classified generally to chapter 68 (§ 5121 et seq.) of this title.

CODIFICATION

Section was enacted as part of Flood Disaster Protection 1973, and not as part of National Flood Insurance Act of 1968, which comprises this chapter.

SUBCHAPTER I—THE NATIONAL FLOOD INSURANCE PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 4041, 4051, 4056, 4071 of this title.

§ 4011. Authorization to establish and carry out program; participation by insurance companies and other insurers

(a) To carry out the purposes of this chapter, the Secretary of Housing and Urban Development is authorized to establish and carry out a national flood insurance program which will enable interested persons to purchase insurance against loss resulting from physical damage to or loss of real property or personal property related thereto arising from any flood occurring in the United States.

(b) In carrying out the flood insurance program the Secretary shall, to the maximum extent practicable, encourage and arrange for—

(1) appropriate financial participation and risk sharing in the program by insurance companies and other insurers, and

(2) other appropriate participation, on other than a risk-sharing basis, by insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations,

in accordance with the provisions of subchapter II of this chapter.

(Pub. L. 90-448, title XIII, § 1304, Aug. 1, 1968, 82 Stat. 574.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

§ 4012. Scope of program and priorities

(a) Priority for insurance for certain residential and church properties and business concerns

In carrying out the flood insurance program the Secretary shall afford a priority to making flood insurance available to cover residential properties which are designed for the occupancy of from one to four families, church properties, and business properties which are owned or leased and operated by small business concerns.

(b) Availability of insurance for other properties

If on the basis of—

(1) studies and investigations undertaken and carried out and information received or exchanged under section 4014 of this title, and

(2) such other information as may be necessary,

the Secretary determines that it would be feasible to extend the flood insurance program to cover other properties, he may take such action under this chapter as from time to time may be necessary in order to make flood insurance available to cover, on such basis as may be feasible, any types and classes of—

(A) other residential properties,

(B) other business properties,

(C) agricultural properties,

(D) properties occupied by private nonprofit organizations, and

(E) properties owned by State and local governments and agencies thereof,

and any such extensions of the program to any types and classes of these properties shall from time to time be prescribed in regulations.

(c) Availability of insurance in States or areas evidencing positive interest in securing insurance and assuring adoption of adequate land use and control measures

The Secretary shall make flood insurance available in only those States or areas (or subdivisions thereof) which he has determined have—

(1) evidenced a positive interest in securing flood insurance coverage under the flood insurance program, and

(2) given satisfactory assurance that by December 31, 1971, adequate land use and control measures will have been adopted for the State or area (or subdivision) which are consistent with the comprehensive criteria for land management and use developed under section 4102 of this title, and that the application and enforcement of such measures will commence as soon as technical information on floodways and on controlling flood elevations is available.

(Pub. L. 90-448, title XIII, § 1305, Aug. 1, 1968, 82 Stat. 574; Pub. L. 91-152, title IV, § 410(a), Dec. 24, 1969, 83 Stat. 397; Pub. L. 92-213, § 2(c)(1), Dec. 22, 1971, 85 Stat. 775.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

AMENDMENTS

1971—Subsec. (a). Pub. L. 92-213 added reference to church properties.

1969—Subsec. (c)(2). Pub. L. 91-152 substituted "December 31, 1971, adequate" for "June 30, 1970, permanent".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4013 to 4015 of this title.

§ 4012a. Requirement of flood insurance for Federal approval of financial assistance

(a) Amount and term of coverage

After the expiration of sixty days following December 31, 1973, no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes for use in any area that has been identified by the Secretary as an area having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.], unless the building or mobile home and any personal property to which such financial assistance relates is, during the anticipated economic or useful life of the project, covered by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less: *Provided*, That if the financial assistance provided is in the form of a loan or an insurance or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan.

(b) Federal regulations for flood insurance requirement; amount of coverage

Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions not to make, increase, extend, or renew after the expiration of sixty days following December 31, 1973, any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.], unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or to the maximum limit of coverage made available with respect to the particular type of property under the Act, whichever is less.

(c) State-owned property; exemption; list of States

Notwithstanding the other provisions of this section, flood insurance shall not be required on any State-owned property that is covered under an adequate State policy of self-insurance satisfactory to the Secretary. The Secretary shall publish and periodically revise the list of States to which this subsection applies.

(Pub. L. 93-234, title I, § 102, Dec. 31, 1973, 87 Stat. 978.)

REFERENCES IN TEXT

The National Flood Insurance Act of 1968, referred to in subsecs. (a) and (b), and the Act, referred to in subsec. (b), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified principally to this chapter (§ 4001 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

CODIFICATION

Section was enacted as part of Flood Disaster Protection Act of 1973, and not as part of National Flood Insurance Act of 1968, which comprises this chapter.

§ 4013. Nature and limitation of insurance coverage; regulations

(a) The Secretary shall from time to time, after consultation with the advisory committee authorized under section 4025 of this title, appropriate representatives of the pool formed or otherwise created under section 4051 of this title, and appropriate representatives of the insurance authorities of the respective States, provide by regulation for general terms and conditions of insurability which shall be applicable to properties eligible for flood insurance coverage under section 4012 of this title, including—

(1) the types, classes, and locations of any such properties which shall be eligible for flood insurance;

(2) the nature and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such insurance;

(3) the classification, limitation, and rejection of any risks which may be advisable;

(4) appropriate minimum premiums;

(5) appropriate loss-deductibles; and

(6) any other terms and conditions relating to insurance coverage or exclusion which may be necessary to carry out the purposes of this chapter.

(b) In addition to any other terms and conditions under subsection (a) of this section, such regulations shall provide that—

(1) any flood insurance coverage based on chargeable premium rates under section 4015 of this title which are less than the estimated premium rates under section 4014(a)(1) of this title shall not exceed—

(A) in the case of residential properties—

(i) $35,000 aggregate liability for any single-family dwelling, and $100,000 for any residential structure containing more than one dwelling unit,

(ii) $10,000 aggregate liability per dwelling unit for any contents related to such unit, and

(iii) in the States of Alaska and Hawaii, and in the Virgin Islands and Guam; the limits provided in clause (i) of this sentence shall be: $50,000 aggregate liability for any single-family dwelling, and $150,000 for any residential structure containing more than one dwelling unit;

(B) in the case of business properties which are owned or leased and operated by small business concerns, an aggregate liability with respect to any single structure, including any contents thereof related to premises of small business occupants (as that term is defined by the Secretary), which shall be equal to (i) $100,000 plus (ii) $100,000 multiplied by the number of such occupants and shall be allocated among such occupants (or among the occupant or occupants and the owner) under regulations prescribed by the Secretary; except that the aggregate liability for the structure itself may in no case exceed $100,000; and

(C) in the case of church properties and any other properties which may become eligible for flood insurance under section 4012 of this title—

(i) $100,000 aggregate liability for any single structure, and

(ii) $100,000 aggregate liability per unit for any contents related to such unit; and

(2) any flood insurance coverage which may be made available in excess of any of the limits specified in subparagraph (A), (B), or (C) of paragraph (1) (or allocated to any person under subparagraph (B) of such paragraph) shall be based only on chargeable premium rates under section 4015 of this title which are not less than the estimated premium rates under section 4014(a)(1) of this title, and the amount of such excess coverage shall not in any case exceed an amount which is equal to the applicable limit so specified (or allocated).

(Pub. L. 90-448, title XIII, § 1306, Aug. 1, 1968, 82 Stat. 575; Pub. L. 92-213, § 2(c)(2), Dec. 22, 1971, 85 Stat. 775; Pub. L. 93-234, title I, § 101, Dec. 31, 1973, 87 Stat. 977.)

AMENDMENTS

1973—Subsec. (b)(1)(A). Pub. L. 93-234, § 101(a), in increasing limits of coverage, deleted following introductory text "residential properties" the clause "which are designed for the occupancy of from one to four families"; substituted provisions in cl. (i) "$35,000 aggregate liability for any single-family dwelling, and $100,000 for any residential structure containing more than one dwelling unit" for "$17,500 aggregate liability for any dwelling unit, and $30,000 for any single dwelling structure containing more than one dwelling unit"; increased cl. (ii) limits to $10,000 from $5,000 and added cl. (iii).

Subsec. (b)(1)(B). Pub. L. 93-234, § 101(b), substituted "$100,000" for "$30,000" in cl. (i), for "$5,000" in cl. (ii), and for "$30,000" in exception provision.

Subsec. (b)(1)(C). Pub. L. 93-234, § 101(c), increased cl. (i) limits to $100,000 from $30,000 and substituted cl. (ii) "$100,000 aggregate liability per unit for any contents related to such unit" for "$5,000 aggregate liability per dwelling unit for any contents related to such unit in the case of residential properties, or per occupant (as that term is defined by the Secretary) for any contents related to the premises occupied in the case of any other properties".

1971—Subsec. (b)(1)(C). Pub. L. 92-213 inserted "church properties, and" preceding "any other properties which may become".

§ 4014. Estimates of premium rates

(a) Studies and investigations

The Secretary is authorized to undertake and carry out such studies and investigations and receive or exchange such information as may be necessary to estimate, and shall from time to time estimate, on an area, subdivision, or other appropriate basis—

(1) the risk premium rates for flood insurance which—

(A) based on consideration of the risk involved and accepted actuarial principles, and

(B) including—

(i) the applicable operating costs and allowances set forth in the schedules prescribed under section 4018 of this title and reflected in such rates, and

(ii) any administrative expenses (or portion of such expenses) of carrying out the flood insurance program which, in his discretion, should properly be reflected in such rates,

would be required in order to make such insurance available on an actuarial basis for any types and classes of properties for which insurance coverage is available under section 4012(a) of this title (or is recommended to the Congress under section 4012(b) of this title);

(2) the rates, if less than the rates estimated under paragraph (1), which would be reasonable, would encourage prospective insureds to purchase flood insurance, and would be consistent with the purposes of this chapter; and

(3) the extent, if any, to which federally assisted or other flood protection measures initiated after August 1, 1968, affect such rates.

(b) Utilization of services of other Departments and agencies

In carrying out subsection (a) of this section, the Secretary shall, to the maximum extent feasible and on a reimbursement basis, utilize the services of the Department of the Army, the Department of the Interior, the Department of Agriculture, the Department of Commerce, and the Tennessee Valley Authority, and, as appropriate, other Federal departments or agencies, and for such purposes may enter into agreements or other appropriate arrangements with any persons.

(c) Priority to studies and investigations in States or areas evidencing positive interest in securing insurance under program

The Secretary shall give priority to conducting studies and investigations and making estimates under this section in those States or areas (or subdivisions thereof) which he has determined have evidenced a positive interest in securing flood insurance coverage under the flood insurance program.

(d) Parishes of Louisiana; premium rates

Notwithstanding any other provision of law, any structure existing on December 31, 1973, and located within Avoyelles, Evangeline, Rapides, or Saint Landry Parish in the State of Louisiana, which the Secretary determines is subject to additional flood hazards as a result of the construction or operation of the Atchafalaya Basin Levee System, shall be eligible for flood insurance under this chapter (if and to the extent it is eligible for such insurance under the other provisions of this chapter) at premium rates that shall not exceed those which would be applicable if such additional hazards did not exist.

(e) Eligibility of community making adequate progress on construction of flood protection system for rates not exceeding those applicable to completed flood protection system; determination of adequate progress

Notwithstanding any other provision of law, any community that has made adequate progress, acceptable to the Secretary, on the construction of a flood protection system which will afford flood protection for the one-hundred year frequency flood as determined by the Secretary, shall be eligible for flood insurance under this chapter (if and to the extent it is eligible for such insurance under the other provisions of this chapter) at premium rates not exceeding those which would be applicable under this section if such flood protection system had been completed. The Secretary shall find that adequate progress on the construction of a flood protection system as required herein has been only if (1) 100 percent of the project cost of the system has been authorized, (2) at least 60 percent of the project cost of the system has been appropriated, (3) at least 50 percent of the project cost of the system has been expended, and (4) the system is at least 50 percent completed.

(Pub. L. 90-448, title XIII, § 1307, Aug. 1, 1968, 82 Stat. 576; Pub. L. 93-234, title I, § 109, Dec. 31, 1973, 87 Stat. 980; Pub. L. 93-383, title VIII, § 816(b), Aug. 22, 1974, 88 Stat. 739.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (e), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

AMENDMENTS

1974—Subsec. (e). Pub. L. 93-383 added subsec. (e).
1973—Subsec. (d). Pub. L. 93-234 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4012, 4013, 4015, 4054, 4056 of this title.

§ 4015. Chargeable premium rates

(a) Establishment; terms and conditions

On the basis of estimates made under section 4014 of this title, and such other information as may be necessary, the Secretary shall from time to time, after consultation with the advisory committee authorized under section 4025 of this title, appropriate representatives of the pool formed or otherwise created under section 4051 of this title, and appropriate representatives of the insurance authorities of the respective States, prescribe by regulation—

(1) chargeable premium rates for any types and classes of properties for which insurance coverage shall be available under section 4012 of this title (at less than the estimated risk premium rates under section 4014(a)(1) of this title, where necessary), and

(2) the terms and conditions under which, and the areas (including subdivisions thereof) within which, such rates shall apply.

(b) Considerations for rates

Such rates shall, insofar as practicable, be—

(1) based on a consideration of the respective risks involved, including differences in risks due to land use measures, flood-proofing, flood forecasting, and similar measures.

(2) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses, or, if less than such amount, consistent with the objective of making flood insurance available where necessary at reasonable rates so as to encourage prospective insureds to purchase such insurance and with the purposes of this chapter, and

(3) stated so as to reflect the basis for such rates, including the differences (if any) between the estimated risk premium rates under section 4014(a)(1) of this title and the estimated rates under section 4014(a)(2) of this title.

(c) Rate with respect to property the construction or substantial improvement of which has been started after December 31, 1974, or effective date of initial rate map published for area in which property is located, whichever is later

Notwithstanding any other provision of this chapter, the chargeable rate with respect to any property, the construction or substantial improvements of which the Secretary determines has been started after December 31, 1974, or the effective date of the initial rate map published by the Secretary under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later, shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 4014(a)(1) of this title.

(d) Payment of certain sums to Secretary; deposits in Fund

In the event any chargeable premium rate prescribed under this section—

(1) is a rate which is not less than the applicable estimated risk premium rate under section 4014(a)(1) of this title, and

(2) includes any amount for administrative expenses of carrying out the flood insurance program which have been estimated under clause (ii) of section 4014(a)(1)(B) of this title,

a sum equal to such amount shall be paid to the Secretary, and he shall deposit such sum in the National Flood Insurance Fund established under section 4017 of this title.

(Pub. L. 90-448, title XIII, § 1308, Aug. 1, 1968, 82 Stat. 576; Pub. L. 93-234, title I, § 103, Dec. 31, 1973, 87 Stat. 978.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

AMENDMENTS

1973—Subsec. (c). Pub. L. 93-234 substituted "started after December 31, 1974, or the effective date of the initial rate map published by the Secretary under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later" for "started after the identification of the area in which such property is located has been published under paragraph (1) of section 4101 of this title".

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4013, 4017, 4020, 4054 of this title.

§ 4016. Financing provisions; issuance of notes or other obligations; limitation; report to congressional committees; deposits in Fund

(a) All authority which was vested in the Secretary of Housing and Urban Development by virtue of section 2414(e) of this title (pertaining to the issue of notes or other obligations to the Secretary of the Treasury), as amended by subsections (a) and (b) of section 1303 of this Act, shall be available to the Secretary for the purpose of carrying out the flood insurance program under this chapter; except that the total amount of notes and obligations which may be issued by the Secretary pursuant to such authority (1) without the approval of the President, may not exceed $500,000,000, and (2) with the approval of the President, may not exceed $1,000,000,000. The Secretary shall report to the Committee on Banking, Finance, and Urban Affairs of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate at any time when he requests the approval of the President in accordance with the preceding sentence.

(b) Any funds borrowed by the Secretary under this authority shall, from time to time, be deposited in the National Flood Insurance Fund established under section 4017 of this title.

(Pub. L. 90-448, title XIII, § 1309, Aug. 1, 1968, 82 Stat. 577; Pub. L. 89-174, § 5(a), Sept. 9, 1965, 79 Stat. 669; Pub. L. 93-234, title I, § 104, Dec. 31, 1973, 87 Stat. 979; H. Res. 5, Jan. 4, 1977.)

REFERENCES IN TEXT

Section 1303 of this Act, referred to in subsec. (a), means section 1303 of Pub. L. 90-448, which amended section 2414(e) of this title.

This chapter, referred to in subsec. (a), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-234 substituted provisions respecting issuance of notes and obligation for $500,000,000 without approval of President and for $1,000,000,000 with approval of President, for former provision prescribing a $250,000,000 limitation, deleted provision rescinding authority of Secretary to issue notes and obligations under section 2414(e) of this title, and provided for report to Congressional Committees when the approval of the President is requested.

CHANGE OF NAME

The name of the Committee on Banking and Currency of the House of Representatives was changed to the Committee on Banking, Finance and Urban Affairs, effective Jan. 4, 1977, by House Resolution 5, 95th Congress.

TRANSFER OF FUNCTIONS

The functions of the Housing and Home Finance Agency and the head thereof were transferred to the Secretary of Housing and Urban Development by Pub. L. 89-174, § 5(a), Sept. 9, 1965, 79 Stat. 669, set out as section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provides that references to the Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean the Secretary of Housing and Urban Development and that the Housing and Home Finance Agency has lapsed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4017 of this title.

§ 4017. National Flood Insurance Fund

(a) Establishment; availability

To carry out the flood insurance program authorized by this chapter, the Secretary is authorized to establish in the Treasury of the United States a National Flood Insurance Fund (hereinafter referred to as the "fund") which

shall be available, without fiscal year limitation—

(1) for making such payments as may, from time to time, be required under section 4054 of this title;

(2) to pay reinsurance claims under the excess loss reinsurance coverage provided under section 4055 of this title;

(3) to repay to the Secretary of the Treasury such sums as may be borrowed from him (together with interest) in accordance with the authority provided in section 4016 of this title; and

(4) to pay such administrative expenses (or portion of such expenses) of carrying out the flood insurance program as he may deem necessary; and

(5) for the purposes specified in subsection (d) of this section under the conditions provided therein.

(b) Credits to Fund

The fund shall be credited with—

(1) such funds borrowed in accordance with the authority provided in section 4016 of this title as may from time to time be deposited in the fund;

(2) premiums, fees, or other charges which may be paid or collected in connection with the excess loss reinsurance coverage provided under section 4055 of this title;

(3) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

(4) interest which may be earned on investments of the fund pursuant to subsection (c) of this section;

(5) such sums as are required to be paid to the Secretary under section 4015(d) of this title; and

(6) receipts from any other operations under this chapter (including premiums under the conditions specified in subsection (d) of this section, and salvage proceeds, if any, resulting from reinsurance coverage).

(c) Investment of moneys in obligations issued or guaranteed by United States

If, after—

(1) all outstanding obligations of the fund have been liquidated, and

(2) any outstanding amounts which may have been advanced to the fund from appropriations authorized under section 4127(a)(2)(B) of this title have been credited to the appropriation from which advanced, with interest accrued at the rate prescribed under section 2414(e) of this title, as in effect immediately prior to August 1, 1968,

the Secretary determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(d) Availability of Fund if operation of program is carried out through facilities of Federal Government

In the event the Secretary makes a determination in accordance with the provisions of section 4071 of this title that operation of the flood insurance program, in whole or in part, should be carried out through the facilities of the Federal Government, the fund shall be available for all purposes incident thereto, including—

(1) cost incurred in the adjustment and payment of any claims for losses, and

(2) payment of applicable operating costs set forth in the schedules prescribed under section 4018 of this title,

for so long as the program is so carried out, and in such event any premiums paid shall be deposited by the Secretary to the credit of the fund.

(e) Annual budget

An annual business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 847, 848, and 849 of title 31) for wholly-owned Government corporations.

(Pub. L. 90-448, title XIII, § 1310, Aug. 1, 1968, 82 Stat. 577.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4015, 4016, 4127 of this title.

§ 4018. Operating costs and allowances; definitions

(a) The Secretary shall from time to time negotiate with appropriate representatives of the insurance industry for the purpose of establishing—

(1) a current schedule of operating costs applicable both to risk-sharing insurance companies and other insurers and to insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations participating on other than a risk-sharing basis, and

(2) a current schedule of operating allowances applicable to risk-sharing insurance companies and other insurers,

which may be payable in accordance with the provisions of subchapter II of this chapter, and such schedules shall from time to time be prescribed in regulations.

(b) For purposes of subsection (a) of this section—

(1) the term "operating costs" shall (without limiting such term) include—

(A) expense reimbursements covering the direct, actual, and necessary expenses incurred in connection with selling and servicing flood insurance coverage;

(B) reasonable compensation payable for selling and servicing flood insurance coverage, or commissions or service fees paid to producers;

(C) loss adjustment expenses; and

(D) other direct, actual, and necessary expenses which the Secretary finds are in-

curred in connection with selling or servicing flood insurance coverage; and

(2) the term "operating allowances" shall (without limiting such term) include amounts for profit and contingencies which the Secretary finds reasonable and necessary to carry out the purposes of this chapter.

(Pub. L. 90-448, title XIII, § 1311, Aug. 1, 1968, 82 Stat. 579.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4014, 4017, 4052, 4081 of this title.

§ 4019. Payment of claims

The Secretary is authorized to prescribe regulations establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any damage to or loss of property which is covered by flood insurance made available under the provisions of this chapter.

(Pub. L. 90-448, title XIII, § 1312, Aug. 1, 1968, 82 Stat. 579.)

REFERENCES IN TEXT

This chapter, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

§ 4020. Dissemination of flood insurance information

The Secretary shall from time to time take such action as may be necessary in order to make information and data available to the public, and to any State or local agency or official, with regard to—

(1) the flood insurance program, its coverage and objectives, and

(2) estimated and chargeable flood insurance premium rates, including the basis for and differences between such rates in accordance with the provisions of section 4015 of this title.

(Pub. L. 90-448, title XIII, § 1313, Aug. 1, 1968, 82 Stat. 579.)

§ 4021. Repealed. Pub. L. 93-234, title II, § 203, Dec. 31, 1973, 87 Stat. 982

Section, Pub. L. 90-448, title XIII, § 1314, Aug. 1, 1968, 82 Stat. 579 denied Federal disaster assistance after Dec. 31, 1973, to persons who for a period of a year or more could have purchased flood insurance but did not do so, and defined "Federal disaster assistance" and "financial assistance".

LOSS, DESTRUCTION, OR DAMAGE OCCURRING ON OR BEFORE DECEMBER 31, 1973

Pub. L. 92-213, § 2(b), Dec. 22, 1971, 85 Stat. 775, made the provisions of subsec. (a)(2) of section 4021 inapplicable with respect to any loss, destruction, or damage of real or personal property that occurred on or before Dec. 31, 1973.

§ 4022. State and local land use controls

After December 31, 1971, no new flood insurance coverage shall be provided under this chapter in any area (or subdivision thereof) unless an appropriate public body shall have adopted adequate land use and control measures (with effective enforcement provisions) which the Secretary finds are consistent with the comprehensive criteria for land management and use under section 4102 of this title.

(Pub. L. 90-448, title XIII, § 1315, Aug. 1, 1968, 82 Stat. 580; Pub. L. 91-152, title IV, § 410(b), Dec. 24, 1969, 83 Stat. 397.)

REFERENCES IN TEXT

This chapter, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

AMENDMENTS

1969—Pub. L. 91-152 substituted provisions prohibiting new flood insurance coverage after Dec. 31, 1971 unless adequate land use measures have been adopted, for provisions prohibiting such coverage after June 30, 1970 unless permanent land use measures have been adopted.

§ 4023. Properties in violation of State and local law

No new flood insurance coverage shall be provided under this chapter for any property which the Secretary finds has been declared by a duly constituted State or local zoning authority, or other authorized public body, to be in violation of State or local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

(Pub. L. 90-448, title XIII, § 1316, Aug. 1, 1968, 82 Stat. 580.)

REFERENCES IN TEXT

This chapter, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

§ 4024. Coordination with other programs

In carrying out this chapter, the Secretary shall consult with other departments and agencies of the Federal Government, and with interstate, State, and local agencies having responsibilities for flood control, flood forecasting, or flood damage prevention, in order to assure that the programs of such agencies and the

flood insurance program authorized under this chapter are mutually consistent.

(Pub. L. 90-448, title XIII, § 1317, Aug. 1, 1968, 82 Stat. 581.)

REFERENCES IN TEXT

This chapter, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

§ 4025. Flood insurance advisory committee

(a) Appointment; duties

The Secretary shall appoint a flood insurance advisory committee without regard to the provisions of title 5 governing appointments in the competitive service, and such committee shall advise the Secretary in the preparation of any regulations prescribed in accordance with this chapter and with respect to policy matters arising in the administration of this chapter, and shall perform such other responsibilities as the Secretary may, from time to time, assign to such committee.

(b) Membership

Such committee shall consist of not more than fifteen persons and such persons shall be selected from among representatives of—

(1) the insurance industry,
(2) State and local governments,
(3) lending institutions,
(4) the homebuilding industry, and
(5) the general public.

(c) Compensation and travel expenses

Members of the committee shall, while attending conferences or meetings thereof, be entitled to receive compensation at a rate fixed by the Secretary but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5 for persons in the Government service employed intermittently.

(Pub. L. 90-448, title XIII, § 1318, Aug. 1, 1968, 82 Stat. 581.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

This chapter, referred to in subsec. (a), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4013, 4015 of this title.

§ 4026. Expiration of program

No new contract for flood insurance under this chapter shall be entered into after June 30, 1977.

(Pub. L. 90-448, title XIII, § 1319, Aug. 1, 1968, 82 Stat. 581; Pub. L. 93-4, Feb. 2, 1973, 87 Stat. 4; Pub. L. 93-38, June 5, 1973, 87 Stat. 73; Pub. L. 93-234, title I, § 105, Dec. 31, 1973, 87 Stat. 979.)

REFERENCES IN TEXT

This chapter, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

AMENDMENTS

1973—Pub. L. 93-234 substituted expiration of program provisions for $6,000,000,000 limitation on flood insurance coverage outstanding.

Pub. L. 93-38 increased limitation on face amount of outstanding flood insurance coverage from $4,000,000,000 to $6,000,000,000.

Pub. L. 93-4 increased limitation on face amount of outstanding flood insurance coverage from $2,500,000,000 to $4,000,000,000.

§ 4027. Annual report to the President

The Secretary shall include a report of operations under this chapter in the annual report to the President for submission to the Congress required by section 3536 of this title.

(Pub. L. 90-448, title XIII, § 1320, Aug. 1, 1968, 82 Stat. 581.)

REFERENCES IN TEXT

This chapter, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

SUBCHAPTER II—ORGANIZATION AND ADMINISTRATION OF FLOOD INSURANCE PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 4011, 4018 of this title.

§ 4041. Implementation of program

Following such consultation with representatives of the insurance industry as may be necessary, the Secretary shall implement the flood insurance program authorized under subchapter I of this chapter in accordance with the provisions of part A of this subchapter and, if a determination is made by him under section 4071 of this title, under part B of this subchapter.

(Pub. L. 90-448, title XIII, § 1330, Aug. 1, 1968, 82 Stat. 581.)

PART A—INDUSTRY PROGRAM WITH FEDERAL FINANCIAL ASSISTANCE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 4041, 4071, 4084 of this title.

§ 4051. Industry flood insurance pool; requirements for participation

(a) The Secretary is authorized to encourage and otherwise assist any insurance companies and other insurers which meet the requirements prescribed under subsection (b) of this section to form, associate, or otherwise join together in a pool—

(1) in order to provide the flood insurance coverage authorized under subchapter I of this chapter; and

(2) for the purpose of assuming, on such terms and conditions as may be agreed upon, such financial responsibility as will enable such companies and other insurers, with the Federal financial and other assistance available under this chapter, to assume a reasonable proportion of responsibility for the adjustment and payment of claims for losses under the flood insurance program.

(b) In order to promote the effective administration of the flood insurance program under this part, and to assure that the objectives of this chapter are furthered, the Secretary is authorized to prescribe appropriate requirements for insurance companies and other insurers participating in such pool including, but not limited to, minimum requirements for capital or surplus or assets.

(Pub. L. 90-448, title XIII, § 1331, Aug. 1, 1968, 82 Stat. 582.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4013, 4015, 4052, 4054, 4055, 4082 of this title.

§ 4052. Agreements with flood insurance pool

(a) Authorization

The Secretary is authorized to enter into such agreements with the pool formed or otherwise created under this part as he deems necessary to carry out the purposes of this chapter.

(b) Terms and conditions

Such agreements shall specify—

(1) the terms and conditions under which risk capital will be available for the adjustment and payment of claims,

(2) the terms and conditions under which the pool (and the companies and other insurers participating therein) shall participate in premiums received and profits or losses realized or sustained,

(3) the maximum amount of profit, established by the Secretary and set forth in the schedules prescribed under section 4018 of this title, which may be realized by such pool (and the companies and other insurers participating therein),

(4) the terms and conditions under which operating costs and allowances set forth in the schedules prescribed under section 4018 of this title may be paid, and

(5) the terms and conditions under which premium equalization payments under section 4054 of this title will be made and reinsurance claims under section 4055 of this title will be paid.

(c) Additional provisions

In addition, such agreements shall contain such provisions as the Secretary finds necessary to assure that—

(1) no insurance company or other insurer which meets the requirements prescribed under section 4051(b) of this title, and which has indicated an intention to participate in the flood insurance program on a risk-sharing basis, will be excluded from participating in the pool,

(2) the insurance companies and other insurers participating in the pool will take whatever action may be necessary to provide continuity of flood insurance coverage by the pool, and

(3) any insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations will be permitted to cooperate with the pool as fiscal agents or otherwise, on other than a risk-sharing basis, to the maximum extent practicable.

(Pub. L. 90-448, title XIII, § 1332, Aug. 1, 1968, 82 Stat. 582.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

§ 4053. Adjustment and payment of claims; judicial review; limitations; jurisdiction

The insurance companies and other insurers which form, associate, or otherwise join together in the pool under this part may adjust and pay all claims for proved and approved losses covered by flood insurance in accordance with the provisions of this chapter and, upon the disallowance by any such company or other insurer of any such claim, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance of the claim, may institute an action on such claim against such company or other insurer in the United States district court for the district in which the insured property or the major part thereof shall have been situated, and jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in controversy.

(Pub. L. 90-448, title XIII, § 1333, Aug. 1, 1968, 82 Stat. 583.)

REFERENCES IN TEXT

This chapter, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

§ 4054. Premium equalization payments; basis; aggregate amount; establishment of designated periods

(a) The Secretary, on such terms and conditions as he may from time to time prescribe, shall make periodic payments to the pool formed or otherwise created under section 4051 of this title, in recognition of such reductions in chargeable premium rates under section 4015 of this title below estimated premium rates under section 4014(a)(1) of this title as are required in order to make flood insurance available on reasonable terms and conditions.

(b) Designated periods under this section and the methods for determining the sum of premiums paid or payable during such periods shall be established by the Secretary.

(Pub. L. 90-448, title XIII, § 1334, Aug. 1, 1968, 82 Stat. 583; Pub. L. 93-234, title I, § 111, Dec. 31, 1973, 87 Stat. 981.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-234 redesignated former subsec. (c) as (b), and struck out former subsec. (b) prescribing formula for sharing losses between Government and industry and permit necessary flexibility in loss sharing to take into account longer-term loss experience trends and to compensate for lack of precision in actuarial computations.

Subsec. (c). Pub. L. 93-234 redesignated former subsec. (c) as (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4017, 4052, 4056, 4127 of this title.

§ 4055. Reinsurance coverage

(a) Availability for excess losses

The Secretary is authorized to take such action as may be necessary in order to make available, to the pool formed or otherwise created under section 4051 of this title, reinsurance for losses (due to claims for proved and approved losses covered by flood insurance) which are in excess of losses assumed by such pool in accordance with the excess loss agreement entered into under subsection (c) of this section.

(b) Availability pursuant to contract, agreement, or other arrangement; payment of premium, fee, or other charge

Such reinsurance shall be made available pursuant to contract, agreement, or any other arrangement, in consideration of such payment of a premium, fee, or other charge as the Secretary finds necessary to cover anticipated losses and other costs of providing such reinsurance.

(c) Excess loss agreement; negotiation

The Secretary is authorized to negotiate an excess loss agreement, from time to time, under which the amount of flood insurance retained by the pool, after ceding reinsurance, shall be adequate to further the purposes of this chapter, consistent with the objective of maintaining appropriate financial participation and risk sharing to the maximum extent practicable on the part of participating insurance companies and other insurers.

(d) Submission of excess losses on portfolio basis

All reinsurance claims for losses in excess of losses assumed by the pool shall be submitted on a portfolio basis by such pool in accordance with terms and conditions established by the Secretary.

(Pub. L. 90-448, title XIII, § 1335, Aug. 1, 1968, 82 Stat. 583.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4017, 4052, 4054, 4127 of this title.

§ 4056. Emergency implementation of flood insurance program; applicability of other provisions of law

(a) Notwithstanding any other provisions of this chapter, for the purpose of providing flood insurance coverage at the earliest possible time, the Secretary shall carry out the flood insurance program authorized under subchapter I of this chapter during the period ending September 30, 1977, in accordance with the provisions of this part and the other provisions of this chapter insofar as they relate to this part but subject to the modifications made by or under subsection (b) of this section.

(b) In carrying out the flood insurance program pursuant to subsection (a) of this section, the Secretary—

(1) shall provide insurance coverage without regard to any estimated risk premium rates which would otherwise be determined under section 4014 of this title; and

(2) shall utilize the provisions and procedures contained in or prescribed by this part (other than section 4054 of this title) and sections 4081 and 4082 of this title to such extent and in such manner as he may consider necessary or appropriate to carry out the purpose of this section.

(Pub. L. 90-448, title XIII, § 1336, as added Pub. L. 91-152, title IV, § 408, Dec. 24, 1969, 83 Stat. 396, and amended Pub. L. 92-213, § 2(a), Dec. 22, 1971, 85 Stat. 775; Pub. L. 93-234, title I, § 106, Dec. 31, 1973, 87 Stat. 979; Pub. L. 94-173, § 5, Dec. 23, 1975, 89 Stat. 1028; Pub. L. 94-375, § 14(b), Aug. 3, 1976, 90 Stat. 1075.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-375 substituted "September 30, 1977" for "December 31, 1976".

1975—Subsec. (a). Pub. L. 94-173 substituted "December 31, 1976" for "December 31, 1975".

1973—Subsec. (a). Pub. L. 93-234 substituted "December 31, 1975" for "December 31, 1973".

1971—Subsec. (a). Pub. L. 92-213 substituted "December 31, 1973" for "December 31, 1971".

PART B—GOVERNMENT PROGRAM WITH INDUSTRY ASSISTANCE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 4041, 4084 of this title.

§ 4071. Federal operation of program; determination by Secretary; fiscal agents; report to the Congress

(a) If at any time, after consultation with representatives of the insurance industry, the Secretary determines that operation of the flood insurance program as provided under part A cannot be carried out, or that such operation, in itself, would be assisted materially by the Federal Government's assumption, in whole or in part, of the operational responsibility for flood insurance under this chapter (on a temporary or other basis) he shall promptly undertake any necessary arrangements to carry out the program of flood insurance authorized under subchapter I of this chapter through the facilities of the Federal Government, utilizing, for purposes of providing flood insurance coverage, either—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States,

(2) officers and employees of the Department of Housing and Urban Development, and such other officers and employees of any executive agency (as defined in section 105 of title 5) as the Secretary and the head of any such agency may from time to time, agree upon, on a reimbursement or other basis, or

(3) both the alternatives specified in paragraphs (1) and (2).

(b) Upon making the determination referred to in subsection (a) of this section, and at least thirty days prior to implementing the program of flood insurance authorized under subchapter I of this chapter through the facilities of the Federal Government, the Secretary shall make a report to the Congress and such report shall—

(1) state the reasons for such determination,

(2) be supported by pertinent findings,

(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing flood insurance coverage under the program, and

(4) contain such recommendations as the Secretary deems advisable.

(Pub. L. 90-448, title XIII, § 1340, Aug. 1, 1968, 82 Stat. 584.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4017, 4041, 4072 of this title.

§ 4072. Adjustment and payment of claims; judicial review; limitations; jurisdiction

In the event the program is carried out as provided in section 4071 of this title, the Secretary shall be authorized to adjust and make payment of any claims for proved and approved losses covered by flood insurance, and upon the disallowance by the Secretary of any such claim, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance by the Secretary, may institute an action against the Secretary on such claim in the United States district court for the district in which the insured property or the major part thereof shall have been situated, and jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in the controversy.

(Pub. L. 90-448, title XIII, § 1341, Aug. 1, 1968, 82 Stat. 584.)

PART C—GENERAL PROVISIONS

§ 4081. Services by insurance industry; contracts, agreements, or other arrangements

(a) In administering the flood insurance program under this subchapter, the Secretary is authorized to enter into any contracts, agreements, or other appropriate arrangements which may, from time to time, be necessary for the purpose of utilizing, on such terms and con-

ditions as may be agreed upon, the facilities and services of any insurance companies or other insurers, insurance agents and brokers, or insurance adjustment organizations; and such contracts, agreements, or arrangements may include provision for payment of applicable operating costs and allowances for such facilities and services as set forth in the schedules prescribed under section 4018 of this title.

(b) Any such contracts, agreements, or other arrangements may be entered into without regard to the provisions of section 5 of title 41 or any other provision of law requiring competitive bidding.

(Pub. L. 90-448, title XIII, § 1345, Aug. 1, 1968, 82 Stat. 585.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4056 of this title.

§ 4082. Use of insurance pool, companies, or other private organizations for certain payments

(a) Authorization to enter into contracts for certain responsibilities

In order to provide for maximum efficiency in the administration of the flood insurance program and in order to facilitate the expeditious payment of any Federal funds under such program, the Secretary may enter into contracts with pool formed or otherwise created under section 4051 of this title, or any insurance company or other private organizations, for the purpose of securing performance by such pool, company, or organization of any or all of the following responsibilities:

(1) estimating and later determining any amounts of payments to be made;

(2) receiving from the Secretary, disbursing, and accounting for funds in making such payments;

(3) making such audits of the records of any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization as may be necessary to assure that proper payments are made; and

(4) otherwise assisting in such manner as the contract may provide to further the purposes of this chapter.

(b) Terms and conditions of contract

Any contract with the pool or an insurance company or other private organization under this section may contain such terms and conditions as the Secretary finds necessary or appropriate for carrying out responsibilities under subsection (a) of this section, and may provide for payment of any costs which the Secretary determines are incidental to carrying out such responsibilities which are covered by the contract.

(c) Competitive bidding

Any contract entered into under subsection (a) of this section may be entered into without regard to section 5 of title 41 or any other provision of law requiring competitive bidding.

(d) Findings of Secretary

No contract may be entered into under this section unless the Secretary finds that the pool, company, or organization will perform its obligations under the contract efficiently and effectively, and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

(e) Bond; liability of certifying officers and disbursing officers

(1) Any such contract may require the pool, company, or organization or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

(2) No individual designated pursuant to a contract under this section to certify payments shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this section.

(3) No officer disbursing funds shall in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by an individual designated to certify payments as provided in paragraph (2) of this subsection.

(f) Term of contract; renewals; termination

Any contract entered into under this section shall be for a term of one year, and may be made automatically renewable from term to term in the absence of notice by either party of an intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after reasonable notice to the pool, company, or organization involved) if he finds that the pool, company, or organization has failed substantially to carry out the contract, or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the flood insurance program authorized under this chapter.

(Pub. L. 90-448, title XIII, § 1346, Aug. 1, 1968, 82 Stat. 585.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (f), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4056 of this title.

§ 4083. Settlement of claims; arbitration

(a) The Secretary is authorized to make final settlement of any claims or demands which may arise as a result of any financial transactions which he is authorized to carry out under this subchapter, and may, to assist him in making any such settlement, refer any disputes relating to such claims or demands to arbitration, with the consent of the parties concerned.

(b) Such arbitration shall be advisory in nature, and any award, decision, or recommen-

dation which may be made shall become final only upon the approval of the Secretary.

(Pub. L. 90-448, title XIII, § 1347, Aug. 1, 1968, 82 Stat. 586.)

§ 4084. Records and audits

(a) The flood insurance pool formed or otherwise created under part A of this subchapter, and any insurance company or other private organization executing any contract, agreement, or other appropriate arrangement with the Secretary under part B of this subchapter or this part, shall keep such records as the Secretary shall prescribe, including records which fully disclose the total costs of the program undertaken or the services being rendered, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the pool and any such insurance company or other private organization that are pertinent to the costs of the program undertaken or the services being rendered.

(Pub. L. 90-448, title XIII, § 1348, Aug. 1, 1968, 82 Stat. 586.)

SUBCHAPTER III—COORDINATION OF FLOOD INSURANCE WITH LAND-MANAGEMENT PROGRAMS IN FLOOD-PRONE AREAS

§ 4101. Identification of flood-prone areas

(a) Publication of information; establishment of flood-risk zones; estimates of flood-caused loss

The Secretary is authorized to consult with, receive information from, and enter into any agreements or other arrangements with the Secretaries of the Army, the Interior, Agriculture, and Commerce, the Tennessee Valley Authority, and the heads of other Federal departments or agencies, on a reimbursement basis, or with the head of any State or local agency, or enter into contracts with any persons or private firms, in order that he may—

(1) identify and publish information with respect to all flood plain areas, including coastal areas located in the United States, which has special flood hazards, within five years following August 1, 1968, and

(2) establish flood-risk zones in all such areas, and make estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas, within fifteen years following such date.

(b) Accelerated identification of flood-risk zones; authority of Secretary: grants, technical assistance, transactions, and payments

The Secretary is directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of this section, in order to make known the degree of hazard within each such zone at the earliest possible date. To accomplish this objective, the Secretary is authorized, without regard to section 529 of title 31 and section 5 of title 41, to make grants, provide technical assistance, and enter into contracts, cooperative agreements, or other transactions, on such terms as he may deem appropriate, or consent to modifications thereof, and to make advance or progress payments in connection therewith.

(c) Priority in allocation of manpower and other available resources for identification and mapping of flood hazard areas and flood-risk zones

The Secretary of Defense (through the Army Corps of Engineers), the Secretary of the Interior (through the United States Geological Survey), the Secretary of Agriculture (through the Soil Conservation Service), the Secretary of Commerce (through the National Oceanic and Atmospheric Administration), the head of the Tennessee Valley Authority, and the heads of all other Federal agencies engaged in the identification or delineation of flood-risk zones within the several States shall, in consultation with the Secretary, give the highest practicable priority in the allocation of available manpower and other available resources to the identification and mapping of flood hazard areas and flood-risk zones, in order to assist the Secretary to meet the deadline established by this section.

(Pub. L. 90-448, title XIII, § 1360, Aug. 1, 1968, 82 Stat. 587; Pub. L. 93-234, title II, § 204, Dec. 31, 1973, 87 Stat. 983.)

AMENDMENTS

1973—Pub. L. 93-234 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4015, 4105 of this title.

§ 4102. Criteria for land management and use

(a) Studies and investigations

The Secretary is authorized to carry out studies and investigations, utilizing to the maximum extent practicable the existing facilities and services of other Federal departments or agencies, and State and local governmental agencies, and any other organizations, with respect to the adequacy of State and local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention, and may enter into any contracts, agreements, or other appropriate arrangements to carry out such authority.

(b) Extent of studies and investigations

Such studies and investigations shall include, but not be limited to, laws, regulations, or ordinances relating to encroachments and obstructions on stream channels and floodways, the orderly development and use of flood plains of rivers or streams, floodway encroachment lines, and flood plain zoning, building codes, building permits, and subdivision or other building restrictions.

(c) Development of comprehensive criteria designed to encourage adoption of adequate State and local measures

On the basis of such studies and investigations, and such other information as he deems necessary, the Secretary shall from time to time develop comprehensive criteria designed to

encourage, where necessary, the adoption of adequate State and local measures which, to the maximum extent feasible, will—

(1) constrict the development of land which is exposed to flood damage where appropriate,

(2) guide the development of proposed construction away from locations which are threatened by flood hazards,

(3) assist in reducing damage caused by floods, and

(4) otherwise improve the long-range land management and use of flood-prone areas,

and he shall work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies, to encourage the application of such criteria and the adoption and enforcement of such measures.

(Pub. L. 90-448, title XIII, § 1361, Aug. 1, 1968, 82 Stat. 587; Pub. L. 91-152, title IV, § 410(c), Dec. 24, 1969, 83 Stat. 397.)

AMENDMENTS

1969—Subsec. (c). Pub. L. 91-152 substituted provisions requiring the development of criteria designed to encourage the adoption of adequate State and local measures, for provisions requiring the development of criteria designed to encourage the adoption of permanent State and local measures.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4012, 4022, 4104 of this title.

§ 4103. Purchase of insured properties damaged substantially beyond repair by flood

The Secretary may, when he determines that the public interest would be served thereby, enter into negotiations with any owner of real property or interest therein which—

(1) was located in any flood-risk area, as determined by the Secretary,

(2) was covered by flood insurance under the flood insurance program authorized under this chapter, and

(3) was damaged substantially beyond repair by flood while so covered,

and may purchase such property or interests therein, for subsequent transfer, by sale, lease, donation, or otherwise, to any State or local agency which enters into an agreement with the Secretary that such property shall, for a period not less than forty years following transfer, be used for only such purposes as the Secretary may, by regulation, determine to be consistent with sound land management and use in such area.

(Pub. L. 90-448, title XIII, § 1362, Aug. 1, 1968, 82 Stat. 588.)

§ 4104. Flood elevation determinations

(a) Publication or notification of proposed flood elevation determinations

In establishing projected flood elevations for land use purposes with respect to any community pursuant to section 4102 of this title, the Secretary shall first propose such determinations by publication for comment in the Federal Register, by direct notification to the chief executive officer of the community, and by publication in a prominent local newspaper.

(b) Publication of flood elevation determinations; appeal of owner or lessee to local government; scientific or technical knowledge or information as basis for appeal; modification of proposed determinations

The Secretary shall publish notification of flood elevation determinations in a prominent local newspaper at least twice during the ten-day period following notification to the local government. During the ninety-day period following the second publication, any owner or lessee of real property within the community who believes his property rights to be adversely affected by the Secretary's proposed determination may appeal such determination to the local government. The sole basis for such appeal shall be the possession of knowledge or information indicating that the elevations being proposed by the Secretary with respect to an identified area having special flood hazards are scientifically or technically incorrect, and the sole relief which shall be granted under the authority of this section in the event that such appeal is sustained in accordance with subsection (e) or (f) of this section is a modification of the Secretary's proposed determination accordingly.

(c) Appeals by private persons; submission of negativing or contradicting data to community; opinion of community respecting justification for appeal by community; transmission of individual appeals to Secretary; filing of community action with Secretary

Appeals by private persons shall be made to the chief executive officer of the community, or to such agency as he shall publicly designate, and shall set forth the data that tend to negate or contradict the Secretary's finding in such form as the chief executive officer may specify. The community shall review and consolidate all such appeals and issue a written opinion stating whether the evidence presented is sufficient to justify an appeal on behalf of such persons by the community in its own name. Whether or not the community decides to appeal the Secretary's determination, copies of individual appeals shall be sent to the Secretary as they are received by the community, and the community's appeal or a copy of its decision not to appeal shall be filed with the Secretary not later than ninety days after the date of the second newspaper publication of the Secretary's notification.

(d) Administrative review of appeals by private persons; modification of proposed determinations; decision of Secretary: form and distribution

In the event the Secretary does not receive an appeal from the community within the ninety days provided, he shall consolidate and review on their own merits, in accordance with the procedures set forth in subsection (e) of this section, the appeals filed within the community by private persons and shall make such modifications of his proposed determinations as may be appropriate, taking into account the written opinion, if any, issued by the community in not supporting such appeals. The Secretary's decision shall be in written form, and copies thereof shall be sent both to the chief executive officer of the community and to each individual appellant.

(e) Administrative review of appeals by community; agencies for resolution of conflicting data; availability of flood insurance pending such resolution; time for determination of Secretary; community adoption of local land use and control measures within reasonable time of final determination; public inspection and admissibility in evidence of reports and other administrative information

Upon appeal by any community, as provided by this section, the Secretary shall review and take fully into account any technical or scientific data submitted by the community that tend to negate or contradict the information upon which his proposed determination is based. The Secretary shall resolve such appeal by consultation with officials of the local government involved, by administrative hearing, or by submission of the conflicting data to an independent scientific body or appropriate Federal agency for advice. Until the conflict in data is resolved, and the Secretary makes a final determination on the basis of his findings in the Federal Register, and so notifies the governing body of the community, flood insurance previously available within the community shall continue to be available, and no person shall be denied the right to purchase such insurance at chargeable rates. The Secretary shall make his determination within a reasonable time. The community shall be given a reasonable time after the Secretary's final determination in which to adopt local land use and control measures consistent with the Secretary's determination. The reports and other information used by the Secretary in making his final determination shall be made available for public inspection and shall be admissible in a court of law in the event the community seeks judicial review as provided by this section.

(f) Judicial review of final administrative determinations; venue; time for appeal; scope of review; good cause for stay of final determinations

Any appellant aggrieved by any final determination of the Secretary upon administrative appeal, as provided by this section, may appeal such determination to the United States district court for the district within which the community is located not more than sixty days after receipt of notice of such determination. The scope of review by the court shall be as provided by chapter 7 of title 5. During the pendency of any such litigation, all final determinations of the Secretary shall be effective for the purposes of this chapter unless stayed by the court for good cause shown.

(Pub. L. 90-448, title XIII, § 1363, as added Pub. L. 93-234, title I, § 110, Dec. 31, 1973, 87 Stat. 980.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (f), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

§ 4104a. Notification of purchaser or lessee of special flood hazards in area of location of improved real estate or mobile home securing loan; regulations prescribing procedures

Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation require such institutions, as a condition of making, increasing, extending, or renewing (after the expiration of thirty days following August 22, 1974) any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary under this chapter or Public Law 93-234 as an area having special flood hazards, to notify the purchaser or lessee (or obtain satisfactory assurances that the seller or lessor has notified the purchaser or lessee) of such special flood hazards, in writing, a reasonable period in advance of the signing of the purchase agreement, lease, or other documents involved in the transaction.

(Pub. L. 90-448, title XIII, § 1364, as added Pub. L. 93-383, title VIII, § 816(a), Aug. 22, 1974, 88 Stat. 739.)

REFERENCES IN TEXT

This chapter, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

Public Law 93-234, referred to in text, means Pub. L. 93-234, Dec. 31, 1973, 87 Stat. 975, known as the Flood Disaster Protection Act of 1973, which enacted sections 4002, 4003, 4012a, 4104 to 4107, and 4128 of this title, amended sections 4001, 4013 to 4016, 4026, 4054, 4056, 4101, and 4121 of this title and sections 24 and 1709-1 of Title 12, Banks and Banking, repealed section 4021 of this title, and enacted provision set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables volume.

§ 4105. Disaster mitigation requirements; notification to flood-prone areas

(a) Initial notification

Not later than six months following December 31, 1973, the Secretary shall publish information in accordance with section 4101(1) of this title, and shall notify the chief executive officer of each known flood-prone community not already participating in the national flood insurance program of its tentative identification as a community containing one or more areas having special flood hazards.

(b) Alternative actions of tentatively identified communities; public hearing; opportunity for submission of evidence; finality of administrative determination of existence or extent of flood hazard area

After such notification, each tentatively identified community shall either (1) promptly make proper application to participate in the national flood insurance program or (2) within six months submit technical data sufficient to establish to the satisfaction of the Secretary

that the community either is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The Secretary may, in his discretion, grant a public hearing to any community with respect to which conflicting data exist as to the nature and extent of a flood hazard. If the Secretary decides not to hold a hearing, the community shall be given an opportunity to submit written and documentary evidence. Whether or not such hearing is granted, the Secretary's final determination as to the existence or extent of a flood hazard area in a particular community shall be deemed conclusive for the purposes of this Act if supported by substantial evidence in the record considered as a whole.

(c) Subsequent notification to additional communities known to be flood prone areas

As information becomes available to the Secretary concerning the existence of flood hazards in communities not known to be flood prone at the time of the initial notification provided for by subsection (a) of this section he shall provide similar notifications to the chief executive officers of such additional communities, which shall then be subject to the requirements of subsection (b) of this section.

(d) Provisions of section 4106 applicable to flood-prone communities disqualified for flood insurance program

Formally identified flood-prone communities that do not qualify for the national flood insurance program within one year after such notification or by the date specified in section 4106 of this title, whichever is later, shall thereafter be subject to the provisions of that section relating to flood-prone communities which are not participating in the program.

(Pub. L. 93-234, title II, § 201, Dec. 31, 1973, 87 Stat. 982.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means Pub. L. 93-234, Dec. 31, 1973, 87 Stat. 975, known as the Flood Disaster Protection Act of 1973, which enacted sections 4002, 4003, 4012a, 4104 to 4107, and 4128 of this title, amended sections 4001, 4013 to 4016, 4026, 4054, 4056, 4101, and 4121 of this title and sections 24 and 1709-1 of Title 12, Banks and Banking, repealed section 4021 of this title, and enacted provision set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables volume.

CODIFICATION

Section was enacted as part of Flood Disaster Protection Act of 1973, and not as part of National Flood Insurance Act of 1968, which comprises this chapter.

§ 4106. Nonparticipation in flood insurance program

(a) Prohibition against Federal approval of financial assistance

No Federal officer or agency shall approve any financial assistance for acquisition or construction purposes on and after July 1, 1975, for use in any area that has been identified by the Secretary as an area having special flood hazards unless the community in which such area is situated is then participating in the national flood insurance program.

(b) Federal regulations against loans by financial institutions; pre-March 1, 1976 residences not affected; small business concerns; improvements under $5,000; nonresidential farm improvement

Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation prohibit such institutions on and after July 1, 1975, from making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary as an area having special flood hazards, unless the community in which such area is situated is then participating in the national flood insurance program, except that the prohibition contained in this sentence shall not apply to (1) any loan made to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) any loan, which does not exceed an amount prescribed by the Secretary, to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

(Pub. L. 93-234, title II, § 202, Dec. 31, 1973, 87 Stat. 982; Pub. L. 94-50, title III, § 303, July 2, 1975, 89 Stat. 256; Pub. L. 94-198, Dec. 31, 1975, 89 Stat. 1116; Pub. L. 94-375, § 14(a), Aug. 3, 1976, 90 Stat. 1075.)

CODIFICATION

Section was enacted as part of Flood Disaster Protection Act of 1973, and not as part of National Flood Insurance Act of 1968, which comprises this chapter.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-375 incorporated provision regarding any loan made prior to March 1, 1976 to finance the acquisition of a previously occupied residential dwelling into cl. (1) as so designated, added remainder of cl. (1), and cls. (2) to (4).

1975—Subsec. (b). Pub. L. 94-198 substituted "March 1, 1976" for "January 1, 1976".

Pub. L. 94-50 added provision excepting from the prohibition of this section any loan made prior to January 1, 1976, to finance the acquisition of a previously occupied residential dwelling.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4105 of this title.

§ 4107. Consultation with local officials; scope

In carrying out his responsibilities under the provisions of this title and the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.] which relate to notification to and identifica-

tion of flood-prone areas and the application of criteria for land management and use, including criteria derived from data reflecting new developments that may indicate the desirability of modifying elevations based on previous flood studies, the Secretary shall establish procedures assuring adequate consultation with the appropriate elected officials of general purpose local governments, including but not limited to those local governments whose prior eligibility under the program has been suspended. Such consultation shall include, but not be limited to, fully informing local officials at the commencement of any flood elevation study or investigation undertaken by any agency on behalf of the Secretary concerning the nature and purpose of the study, the areas involved, the manner in which the study is to be undertaken, the general principles to be applied, and the use to be made of the data obtained. The Secretary shall encourage local officials to disseminate information concerning such study widely within the community, so that interested persons will have an opportunity to bring all relevant facts and technical data concerning the local flood hazard to the attention of the agency during the course of the study.

(Pub. L. 93-234, title II, § 206, Dec. 31, 1973, 87 Stat. 983.)

REFERENCES IN TEXT

This title, referred to in text, means title II of Pub. L. 93-234, Dec. 31, 1973, 87 Stat. 975, which enacted sections 4105 to 4107 and 4128 of this title and amended section 4101 of this title and sections 24 and 1709-1 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables volume.

The National Flood Insurance Act of 1968, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified principally to this chapter (§ 4001 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

CODIFICATION

Section was enacted as part of Flood Disaster Protection Act of 1973, and not as part of National Flood Insurance Act of 1968, which comprises this chapter.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 4121. Definitions

(a) As used in this chapter—

(1) the term "flood" shall have such meaning as may be prescribed in regulations of the Secretary, and may include inundation from rising waters or from the overflow of streams, rivers, or other bodies of water, or from tidal surges, abnormally high tidal water, tidal waves, tsunamis, hurricanes, or other severe storms or deluge;

(2) the terms "United States" (when used in a geographic sense) and "State" includes the several States, the District of Columbia, the territories and possessions, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands;

(3) the terms "Insurance company", "other insurer" and "insurance agent or broker" include any organizations and persons authorized to engage in the insurance business under the laws of any State;

(4) the term "insurance adjustment organization" includes any organizations and persons engaged in the business of adjusting loss claims arising under insurance policies issued by any insurance company or other insurer;

(5) the term "person" includes any individual or group of individuals, corporation, partnership, association, or any other organized group of persons, including State and local governments and agencies thereof; and

(6) the term "Secretary" means the Secretary of Housing and Urban Development.

(b) The term "flood" shall also include inundation from mudslides which are proximately caused by accumulations of water on or under the ground; and all of the provisions of this chapter shall apply with respect to such mudslides in the same manner and to the same extent as with respect to floods described in paragraph (1), subject to and in accordance with such regulations, modifying the provisions of this chapter (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Secretary may prescribe to achieve (with respect to such mudslides) the purposes of this chapter and the objectives of the program.

(c) The term "flood" shall also include the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, and all of the provisions of this chapter shall apply with respect to such collapse or subsidence in the same manner and to the same extent as with respect to floods described in paragraph (1), subject to and in accordance with such regulations, modifying the provisions of this chapter (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Secretary may prescribe to achieve (with respect to such collapse or subsidence) the purposes of this chapter and the objectives of the program.

(Pub. L. 90-448, title XIII, § 1370, Aug. 1, 1968, 82 Stat. 588; Pub. L. 91-152, title IV, § 409(b), Dec. 24, 1969, 83 Stat. 397; Pub. L. 93-234, title I, §§ 107, 108(b), Dec. 31, 1973, 87 Stat. 979, 980.)

REFERENCES IN TEXT

This chapter, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-234, § 107, inserted "proximately" before "caused".

Subsec. (c). Pub. L. 93-234, § 108(b), added subsec. (c).

1969—Pub. L. 91-152 designated existing provisions as subsec. (a) and added subsec. (b).

§ 4122. Studies of other natural disasters; cooperation and consultation with other departments and agencies

(a) The Secretary is authorized to undertake such studies as may be necessary for the purpose of determining the extent to which insurance protection against earthquakes or any other natural disaster perils, other than flood, is not available from public or private sources, and the feasibility of such insurance protection being made available.

(b) Studies under this section shall be carried out, to the maximum extent practicable, with the cooperation of other Federal departments and agencies and State and local agencies, and the Secretary is authorized to consult with, receive information from, and enter into any necessary agreements or other arrangements with such other Federal departments and agencies (on a reimbursement basis) and such State and local agencies.

(Pub. L. 90-448, title XIII, § 1371, Aug. 1, 1968, 82 Stat. 588.)

§ 4123. Advance payments

Any payments under this chapter may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

(Pub. L. 90-448, title XIII, § 1372, Aug. 1, 1968, 82 Stat. 589.)

REFERENCES IN TEXT

This chapter, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

§ 4124. Applicability of Government Corporation Control Act

The provisions of the Government Corporation Control Act [31 U.S.C. 841 et seq.] shall apply to the program authorized under this chapter to the same extent as they apply to wholly owned Government corporations.

(Pub. L. 90-448, title XIII, § 1373, Aug. 1, 1968, 82 Stat. 589.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in text, is act Dec. 6, 1945, ch. 557, 59 Stat. 597, as amended, which is classified generally to chapter 14 (§ 841 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 841 of Title 31 and Tables volume.

This chapter, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

§ 4125. Finality of certain financial transactions

Notwithstanding the provisions of any other law—

(1) any financial transaction authorized to be carried out under this chapter, and

(2) any payment authorized to be made or to be received in connection with any such financial transaction,

shall be final and conclusive upon all officers of the Government.

(Pub. L. 90-448, title XIII, § 1374, Aug. 1, 1968, 82 Stat. 589.)

REFERENCES IN TEXT

This chapter, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

§ 4126. Administrative expenses

Any administrative expenses which may be sustained by the Federal Government in carrying out the flood insurance program authorized under this chapter may be paid out of appropriated funds.

(Pub. L. 90-448, title XIII, § 1375, Aug. 1, 1968, 82 Stat. 589.)

REFERENCES IN TEXT

This chapter, referred to in text, is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4127 of this title.

§ 4127. Authorization of appropriations; availability

(a) There are hereby authorized to be appropriated such sums as may from time to time be necessary to carry out this chapter, including sums—

(1) to cover administrative expenses authorized under section 4126 of this title;

(2) to reimburse the National Flood Insurance Fund established under section 4017 of this title for—

(A) premium equalization payments under section 4054 of this title which have been made from such fund; and

(B) reinsurance claims paid under the excess loss reinsurance coverage provided under section 4055 of this title; and

(3) to make such other payments as may be necessary to carry out the purposes of this chapter.

(b) All such funds shall be available without fiscal year limitation.

(c) There are authorized to be appropriated for studies under this title not to exceed $100,000,000 for the fiscal year 1977.

(Pub. L. 90-448, title XIII, § 1376, Aug. 1, 1968, 82 Stat. 589; Pub. L. 94-375, § 14(c), Aug. 3, 1976, 90 Stat. 1075.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), is Pub. L. 90-448, title XIII, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which enacted this chapter, amended section 2414 of this title, repealed sections 2401 to 2413 and 2415 to 2421 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-375 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4017 of this title.

§ 4128. Rules and regulations

(a) The Secretary is authorized to issue such regulations as may be necessary to carry out the purpose of this Act.

(b) The head of each Federal agency that administers a program of financial assistance relating to the acquisition, construction, reconstruction, repair, or improvement of publicly or privately owned land or facilities, and each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions, shall, in cooperation with the Secretary, issue appropriate rules and regulations to govern the carrying out of the agency's responsibilities under this Act.

(Pub. L. 93-234, title II, § 205, Dec. 31, 1973, 87 Stat. 983.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 93-234, Dec. 31, 1973, 87 Stat. 975, known as the Flood Disaster Protection Act of 1973, which enacted sections 4002, 4003, 4012a, 4104 to 4107, and 4128 of this title, amended sections 4001, 4013 to 4016, 4026, 4054, 4056, 4101, and 4121 of this title and sections 24 and 1709-1 of Title 12, Banks and Banking, repealed section 4021 of this title, and enacted provision set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables volume.

CODIFICATION

Section was enacted as part of Flood Disaster Protection Act of 1973, and not as part of National Flood Insurance Act of 1968, which comprises this chapter.

CHAPTER 51—DESIGN AND CONSTRUCTION OF PUBLIC BUILDINGS TO ACCOMMODATE THE PHYSICALLY HANDICAPPED

Sec.
4151. Definitions.
4152. Standards for design, construction, and alteration of buildings; Administrator of General Services.
4153. Standards for design, construction, and alteration of buildings; Secretary of Housing and Urban Development.
4154. Standards for design, construction, and alteration of buildings; Secretary of Defense.
4154a. Standards for design, construction and alteration of buildings; United States Postal Service.
4155. Effective date of standards.
4156. Waiver and modification of standards.
4157. Reports to Congress and congressional committees.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 3041a, 6042, 6063 of this title; title 20 sections 1132d-11, 1406, 2441, 2443; title 29 sections 776, 792; title 39 section 410.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 1-1442a of the District of Columbia Code.

§ 4151. Definitions

As used in this chapter, the term "building" means any building or facility (other than (A) a privately owned residential structure not leased by the Government for subsidized housing programs and (B) any building or facility on a military installation designed and constructed primarily for use by able bodied military personnel) the intended use for which either will require that such building or facility be accessible to the public, or may result in the employment or residence therein of physically handicapped persons, which building or facility is—

(1) to be constructed or altered by or on behalf of the United States;

(2) to be leased in whole or in part by the United States after August 12, 1968;

(3) to be financed in whole or in part by a grant or a loan made by the United States after August 12, 1968, if such building or facility is subject to standards for design, construction, or alteration issued under authority of the law authorizing such grant or loan; or

(4) to be constructed under authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or title III of the Washington Metropolitan Area Transit Regulation Compact.

(Pub. L. 90-480, § 1, Aug. 12, 1968, 82 Stat. 718; Pub. L. 91-205, Mar. 5, 1970, 84 Stat. 49; Pub. L. 94-541, title II, § 201(1), Oct. 18, 1976, 90 Stat. 2507.)

REFERENCES IN TEXT

The National Capital Transportation Act of 1960, referred to in par. (4), is Pub. L. 86-669, July 14, 1960, 74 Stat. 537, which enacted sections 651, 652, 661 to 665, and 671 of Title 40, Public Buildings, Property, and Works, and enacted provisions set out as notes under section 651 of Title 40 and which was repealed by Pub. L. 91-143, § 8(a)(1), Dec. 9, 1969, 83 Stat. 322. See now provisions of the Washington Metropolitan Area Transit Regulation Compact, set out under D.C. Code §§ 1-1410, 1-1431.

The National Capital Transportation Act of 1965, referred to in par. (4), is Pub. L. 89-173, Sept. 8, 1965, 79 Stat. 663, which enacted sections 681 to 685 of Title 40, Public Buildings, Property, and Works, amended section 662 of Title 40, and enacted provisions set out as notes under section 681 of Title 40. Sections 681, 684, and 685 of Title 40 have been omitted from the Code. Sections 682 and 683 of Title 40 were repealed by Pub. L. 91-143, § 8(a)(2), Dec. 9, 1969, 83 Stat. 323.

AMENDMENTS

1976—Pub. L. 94-541 inserted in parenthetical text following "structure" the words "not leased by the Government for subsidized housing programs" and deleted from par. (2) following "August 12, 1968" text reading ", after construction or alteration in accordance with plans and specifications of the United States".

1970—Par. (4). Pub. L. 91-205 added par. (4).

SHORT TITLE

Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718, which enacted this chapter, is popularly known as the Architectural Barriers Act of 1968.

APPLICABILITY OF 1976 AMENDMENT TO LEASES ENTERED INTO BEFORE, ON, OR AFTER JANUARY 1, 1977

Section 202 of Pub. L. 94-541 provided that: "The amendment made by paragraph (1) of section 201 of this Act [amending this section] shall not apply to any lease entered into before January 1, 1977. It shall apply to every lease entered into on or after January 1, 1977, including any renewal of a lease entered into before such date which renewal is on or after such date."

§ 4152. Standards for design, construction, and alteration of buildings; Administrator of General Services

The Administrator of General Services, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe standards for the design, construction, and alteration of buildings (other than residential structures subject to this chapter and buildings, structures, and facilities of the Department of Defense and of the United States Postal Service subject to this chapter) to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.

(Pub. L. 90-480, § 2, Aug. 12, 1968, 82 Stat. 719; Pub. L. 94-541, title II, § 201(2), Oct. 18, 1976, 90 Stat. 2507.)

AMENDMENTS

1976—Pub. L. 94-541 substituted "shall prescribe" and "to insure whenever possible" for "is authorized to prescribe such" and "as may be necessary to insure" and inserted in parenthetical text "and of the United States Postal Service" following "Department of Defense".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4156 of this title.

§ 4153. Standards for design, construction, and alteration of buildings; Secretary of Housing and Urban Development

The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe standards for the design, construction, and alteration of buildings which are residential structures subject to this chapter to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.

(Pub. L. 90-480, § 3, Aug. 12, 1968, 82 Stat. 719; Pub. L. 94-541, title II, § 201(3), Oct. 18, 1976, 90 Stat. 2507.)

AMENDMENTS

1976—Pub. L. 94-541 substituted "shall prescribe" and "to insure whenever possible" for "is authorized to prescribe such" and "as may be necessary to insure".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4156 of this title.

§ 4154. Standards for design, construction, and alteration of buildings; Secretary of Defense

The Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe standards for the design, construction, and alteration of buildings, structures, and facilities of the Department of Defense subject to this chapter to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.

(Pub. L. 90-480, § 4, Aug. 12, 1968, 82 Stat. 719; Pub. L. 94-541, title II, § 201(4), Oct. 18, 1976, 90 Stat. 2507.)

AMENDMENTS

1976—Pub. L. 94-541 substituted "shall prescribe" and "to insure whenever possible" for "is authorized to prescribe such" and "as may be necessary to insure".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4156 of this title.

§ 4154a. Standards for design, construction and alteration of buildings; United States Postal Service

The United States Postal Service, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe such standards for the design, construction, and alteration of its buildings to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.

(Pub. L. 90-480, § 4a, as added Pub. L. 94-541, title II, § 201(5), Oct. 18, 1976, 90 Stat. 2508.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4156 of this title.

§ 4155. Effective date of standards

Every building designed, constructed, or altered after the effective date of a standard issued under this chapter which is applicable to such building, shall be designed, constructed, or altered in accordance with such standard.

(Pub. L. 90-480, § 5, Aug. 12, 1968, 82 Stat. 719.)

§ 4156. Waiver and modification of standards

The Administrator of General Services, with respect to standards issued under section 4152 of this title, and the Secretary of Housing and Urban Development, with respect to standards issued under section 4153 of this title, and the Secretary of Defense with respect to standards issued under section 4154 of this title, and the United States Postal Service with respect to standards issued under section 4154a of this title—

(1) is authorized to modify or waive any such standard, on a case-by-case basis, upon application made by the head of the department, agency, or instrumentality of the

United States concerned, and upon a determination by the Administrator or Secretary, as the case may be, that such modification or waiver is clearly necessary, and

(2) shall establish a system of continuing surveys and investigations to insure compliance with such standards.

(Pub. L. 90-480, § 6, Aug. 12, 1968, 82 Stat. 719; Pub. L. 94-541, title II, § 201(6), Oct. 18, 1976, 90 Stat. 2508.)

AMENDMENTS

1976—Pub. L. 94-541, in introductory text, inserted reference to the United States Postal Service with respect to standards issued under section 4154a of this title and deleted end text "is authorized"; in par. (1), inserted introductory words "is authorized"; and in par. (2), substituted "shall establish a system of continuing surveys and investigations" for "to conduct such surveys and investigations as he deems necessary".

§ 4157. Reports to Congress and congressional committees

(a) The Administrator of General Services shall report to Congress during the first week of January of each year on his activities and those of other departments, agencies, and instrumentalities of the Federal Government under this chapter during the preceding fiscal year including, but not limited to, standards issued, revised, amended, or repealed under this chapter and all case-by-case modifications, and waivers of such standards during such year.

(b) The Architectural and Transportation Barriers Compliance Board established by section 792 of title 29 shall report to the Public Works and Transportation Committee of the House of Representatives and the Committee on Environment and Public Works of the Senate during the first week of January of each year on its activities and actions to insure compliance with the standards prescribed under this chapter.

(Pub. L. 90-480, § 7, as added Pub. L. 94-541, title II, § 201(7), Oct. 18, 1976, 90 Stat. 2508, and amended S. Res. 4, Feb. 4, 1977.)

CHANGE OF NAME

The Committee on Public Works of the Senate, referred to in subsec. (b), was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

CHAPTER 52—INTERGOVERNMENTAL COOPERATION

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(d) Consultation with other significantly affected Federal departments and agencies.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 3232, 4531 of this title; title 40 section 461.

SUBCHAPTER I—GENERAL PROVISIONS

§ 4201. Definitions

When used in this chapter—

(1) The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government and any wholly owned Government corporation.

(2) The term "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State.

(3) The term "political subdivision" or "local government" means a local unit of government, including specifically a county, municipality, city, town, township, or a school or other special district created by or pursuant to State law.

(4) "Unit of general local government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

(5) "Special-purpose unit of local government" means any special district, public-purpose corporation, or other strictly limited-purpose political subdivision of a State, but shall not include a school district.

(6) The term "grant" or "grant-in-aid" means money, or property provided in lieu of money, paid or furnished by the United States under a fixed annual or aggregate authorization—

(A) to a State; or

(B) to a political subdivision of a State; or

(C) to a beneficiary under a plan or program, administered by a State or a political subdivision of a State, which is subject to approval by a Federal agency;

if such authorization either (i) requires the States or political subdivisions to expend non-Federal funds as a condition for the receipt of money or property from the United States; or (ii) specifies directly, or establishes by means of a formula, the amounts which may be paid or furnished to States or political subdivisions, or the amounts to be allotted for use in each of the States by the States, political subdivisions, or other beneficiaries. The term also includes money, or property provided in lieu of money, paid and furnished by the United States to any community action agency under the Economic Opportunity Act of 1964, as amended [42 U.S.C. 2701 et seq.]. The term does not include (1) shared revenues; (2) payments of taxes; (3) payments in lieu of taxes; (4) loans or repayable advances; (5) surplus property or surplus agricultural commodities furnished as such; (6) payments under research and development contracts or grants which are awarded directly and on similar terms to all qualifying organizations, whether public or private; or (7) payments to States or political subdivisions as full reimbursement for the costs incurred in paying benefits or furnishing services to persons entitled thereto under Federal laws.

(7) The term "Federal assistance", "Federal financial assistance", "Federal assistance programs", or "federally assisted programs", means programs that provide assistance through grant or contractual arrangements, and includes technical assistance programs or programs providing assistance in the form of loans, loan guarantees, or insurance. The term does not include any annual payment by the United States to the District of Columbia authorized by article VI of the District of Columbia Revenue Act of 1947 (D.C. Code secs. 47-2501a and 47-2501b).

(8) "Specialized or technical services" means statistical and other studies and compilations, development projects, technical tests and evaluations, technical information, training activities, surveys, reports, documents, and any other similar service functions which any department or agency of the executive branch of the Federal Government is especially equipped and authorized by law to perform.

(9) "Comprehensive planning" includes the following, to the extent directly related to area needs or needs of a unit of general local government: (A) preparation, as a guide for governmental policies and action, of general plans with respect to (i) the pattern and intensity of land use, (ii) the provision of public facilities (including transportation facilities) and other government services, and (iii) the effective development and utilization of human and natural resources; (B) long-range physical and fiscal plans for such action; (C) programing of capital improvements and other major expenditures, based on a determination of relative urgency, together with definitive financing plans for such expenditures in the earlier years of the program; (D) coordination of all related plans and activities of the State and local governments and agencies concerned; and (E) preparation of regulatory and administrative measures in support of the foregoing.

(10) The term "head of a Federal agency" or "head of a State agency" includes a duly designated delegate of such agency head.

(Pub. L. 90-577, title I, §§ 101-110, Oct. 16, 1968, 82 Stat. 1098-1101.)

REFERENCES IN TEXT

"This chapter", referred to in the introductory text, read in the original "this Act", meaning Pub. L. 90-577, which enacted this chapter and sections 531 to 535 of Title 40, Public Buildings, Property, and Works.

The Economic Opportunity Act of 1964, referred to in par. (6), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, which is classified generally to chapter 34 (§ 2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

CODIFICATION

Section is comprised of sections 101 to 110 of Pub. L. 90-577, constituting pars. (1) to (10), respectively, of this section.

SHORT TITLE

Section 1 of Pub. L. 90-577 provided: "That this Act [which enacted this chapter and sections 531 to 535 of Title 40, Public Buildings, Property, and Works] may be cited as the 'Intergovernmental Cooperation Act of 1968'."

SUBCHAPTER II—GRANTS-IN-AID TO THE STATES; IMPROVED ADMINISTRATION

§ 4211. Full information on funds received

Any department or agency of the United States Government which administers a program of grants-in-aid to any of the State governments of the United States or to their political subdivisions shall, upon request, notify in writing the Governor, the State legislature, or other official designated by either, of the purpose and amounts of actual grants-in-aid to the State or to its political subdivisions. In each instance, a copy of requested information shall be furnished the State legislature or the Governor depending upon the original request for such data.

(Pub. L. 90-577, title II, § 201, Oct. 16, 1968, 82 Stat. 1101.)

§ 4212. Deposit of grants-in-aid

No grant-in-aid to a State shall be required by Federal law or administrative regulation to be deposited in a separate bank account apart from other funds administered by the State. All Federal grant-in-aid funds made available to

the States shall be properly accounted for as Federal funds in the accounts of the State. In each case the State agency concerned shall render regular authenticated reports to the appropriate Federal agency covering the status and the application of the funds, the liabilities and obligations on hand, and such other facts as may be required by said Federal agency. The head of the Federal agency and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to the grant-in-aid received by the States.

(Pub. L. 90-577, title II, § 202, Oct. 16, 1968, 82 Stat. 1101.)

§ 4213. Scheduling of Federal transfers to the States

Heads of Federal departments and agencies responsible for administering grant-in-aid programs shall schedule the transfer of grant-in-aid funds consistent with program purposes and applicable Treasury regulations, so as to minimize the time elapsing between the transfer of such funds from the United States Treasury and the disbursement thereof by a State, whether such disbursement occurs prior to or subsequent to such transfer of funds, or subsequent to such transfer of funds.[1] States shall not be held accountable for interest earned on grant-in-aid funds, pending their disbursement for program purposes.

(Pub. L. 90-577, title II, § 203, Oct. 16, 1968, 82 Stat. 1101.)

§ 4214. Eligible State agency

Notwithstanding any other Federal law which provides that a single State agency or multimember board or commission must be established or designated to administer or supervise the administration of any grant-in-aid program, the head of any Federal department or agency administering such program may, upon request of the Governor or other appropriate executive or legislative authority of the State responsible for determining or revising the organizational structure of State government, waive the single State agency or multimember board or commission provision upon adequate showing that such provision prevents the establishment of the most effective and efficient organizational arrangements within the State government and approve other State administrative structure or arrangements: *Provided,* That the head of the Federal department or agency determines that the objectives of the Federal statute authorizing the grant-in-aid program will not be endangered by the use of such other State structure or arrangements.

(Pub. L. 90-577, title II, § 204, Oct. 16, 1968, 82 Stat. 1101.)

Section Referred to in Other Sections

This section is referred to in title 29 section 982.

[1] So in original.

SUBCHAPTER III—SPECIAL OR TECHNICAL SERVICES PROVIDED FOR STATE AND LOCAL UNITS OF GOVERNMENT BY FEDERAL DEPARTMENTS AND AGENCIES

§ 4221. Statement of purpose

It is the purpose of this subchapter to encourage intergovernmental cooperation in the conduct of specialized or technical services and provision of facilities essential to the administration of State or local governmental activities, many of which are nationwide in scope and financed in part by Federal funds; to enable State or local governments to avoid unnecessary duplication of special service functions; and to authorize all departments and agencies of the executive branch of the Federal Government which do not have such authority to provide reimbursable specialized or technical services to State and local governments.

(Pub. L. 90-577, title III, § 301, Oct. 16, 1968, 82 Stat. 1102.)

§ 4222. Authority to provide service

The head of any Federal department or agency is authorized within his discretion, upon written request from a State or political subdivision thereof, to provide specialized or technical services, upon payment, to the department or agency by the unit of government making the request, of salaries and all other identifiable direct or indirect costs of performing such services: *Provided, however,* That such services shall include only those which the Director of the Office of Management and Budget through rules and regulations determines Federal departments and agencies have special competence to provide. Such rules and regulations shall be consistent with and in furtherance of the Government's policy of relying on the private enterprise system to provide those services which are reasonably and expeditiously available through ordinary business channels.

(Pub. L. 90-577, title III, § 302, Oct. 16, 1968, 82 Stat. 1102; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

Transfer of Functions

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970 redesignated the Bureau of the Budget as the Office of Management and Budget.

Section Referred to in Other Sections

This section is referred to in section 4223 of this title.

§ 4223. Reimbursement of appropriation

All moneys received by any department or agency of the executive branch of the Federal Government, or any bureau or other administrative division thereof, in payment for furnishing specialized or technical services as authorized under section 4222 of this title shall be deposited to the credit of the principal appropri-

ation from which the cost of providing such services has been paid or is to be charged.

(Pub. L. 90-577, title III, § 303, Oct. 16, 1968, 82 Stat. 1102.)

§ 4224. Reports to Congress

The Secretary of any department or the administrative head of any agency of the executive branch of the Federal Government shall furnish annually to the respective Committees on Government Operations of the Senate and House of Representatives a summary report on the scope of the services provided under the administration of this subchapter.

(Pub. L. 90-577, title III, § 304, Oct. 16, 1968, 82 Stat. 1102.)

CHANGE OF NAME

The Senate Committee on Government Operations was abolished and replaced by the Committee on Governmental Affairs effective Mar. 19, 1975. See Rule XXV of the Standing Rules of the Senate as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

§ 4225. Reservation of existing authority

This subchapter is in addition to and does not supersede any existing authority now possessed by any Federal department or agency with respect to furnishing services, whether on a reimbursable or nonreimbursable basis, to State and local units of government.

(Pub. L. 90-577, title III, § 305, Oct. 16, 1968, 82 Stat. 1103.)

SUBCHAPTER IV—DEVELOPMENT ASSISTANCE PROGRAMS; COORDINATED INTERGOVERNMENTAL POLICY AND ADMINISTRATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3151a, 5304 of this title; title 16 section 1456; title 40 section 601a.

§ 4231. Declaration of development assistance policy

(a) Sound and orderly development of urban and rural areas; rules and regulations governing formulation, evaluation, and review of Federal programs and projects; objectives

The economic and social development of the Nation and the achievement of satisfactory levels of living depend upon the sound and orderly development of all areas, both urban and rural. Moreover, in a time of rapid urbanization, the sound and orderly development of urban communities depends to a large degree upon the social and economic health and the sound development of smaller communities and rural areas. The President shall, therefore, establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development, including programs providing Federal assistance to the States and localities, to the end that they shall most effectively serve these basic objectives. Such rules and regulations shall provide for full consideration of the concurrent achievement of the following specific objectives and, to the extent authorized by law, reasoned choices shall be made between such objectives when they conflict:

(1) Appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes;

(2) Wise development and conservation of natural resources, including land, water, minerals, wildlife, and others;

(3) Balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other modes for the movement of people and goods;

(4) Adequate outdoor recreation and open space;

(5) Protection of areas of unique natural beauty, historical and scientific interest;

(6) Properly planned community facilities, including utilities for the supply of power, water, and communications, for the safe disposal of wastes, and for other purposes; and

(7) Concern for high standards of design.

(b) Consideration of national, regional, state, and local viewpoints and objectives in planning programs and projects

All viewpoints—national, regional, State, and local—shall, to the extent possible, be fully considered and taken into account in planning Federal or federally assisted development programs and projects. State and local government objectives, together with the objectives of regional organizations shall be considered and evaluated within a framework of national public objectives, as expressed in Federal law, and available projections of future national conditions and needs of regions, States, and localities shall be considered in plan formulation, evaluation, and review.

(c) Consistency of Federal aid with objectives of State, regional, and local comprehensive planning; consideration to developmental aspects of total national community

To the maximum extent possible, consistent with national objectives, all Federal aid for development purposes shall be consistent with and further the objectives of State, regional, and local comprehensive planning. Consideration shall be given to all developmental aspects of our total national community, including but not limited to housing, transportation, economic development, natural and human resources development, community facilities, and the general improvement of living environments.

(d) Consultation with other significantly affected Federal departments and agencies

Each Federal department and agency administering a development assistance program shall, to the maximum extent practicable, consult with and seek advice from all other significantly affected Federal departments and agencies in an effort to assure fully coordinated programs.

(e) Coordination of systematic planning with comprehensive local and areawide development planning

Insofar as possible, systematic planning required by individual Federal programs (such as highway construction, urban renewal, and open space) shall be coordinated with and, to the extent authorized by law, made part of comprehensive local and areawide development planning.

(Pub. L. 90-577, title IV, § 401, Oct. 16, 1968, 82 Stat. 1103.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300*l*-2 of this title; title 40 section 461.

§ 4232. Favoring units of general local government

Where Federal law provides that both special-purpose units of local government and units of general local government are eligible to receive loans or grants-in-aid, heads of Federal departments and agencies shall, in the absence of substantial reasons to the contrary, make such loans or grants-in-aid to units of general local government rather than to special-purpose units of local government.

(Pub. L. 90-577, title IV, § 402, Oct. 16, 1968, 82 Stat. 1104.)

§ 4233. Rules and regulations

The Office of Management and Budget or such other agency as may be designated by the President is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this subchapter.

(Pub. L. 90-577, title IV, § 403, Oct. 16, 1968, 82 Stat. 1104; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970 redesignated the Bureau of the Budget as the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300*l*-2 of this title.

SUBCHAPTER V—REVIEW OF FEDERAL GRANT-IN-AID PROGRAMS

§ 4241. Congressional review of grant-in-aid programs

(a) Where any Act of Congress authorizes the making of grants-in-aid and no expiration date for such authority has been specified by law, then prior to the expiration of each period specified in subsection (b) of this section the Committees of the Senate and the House having legislative jurisdiction over such grants-in-aid shall, separately or jointly, conduct studies of the program under which such grants-in-aid are made and advise their respective Houses of the results of their findings with special attention to—

(1) The extent to which the purposes for which the grants-in-aid are authorized have been met;

(2) The extent to which the objectives of such programs can be carried on without further financial assistance from the United States;

(3) Whether or not any changes in purpose, direction or administration of the original program, or in procedures and requirements applicable thereto, shall be made; and

(4) The extent to which such grant-in-aid programs are adequate to meet the growing and changing needs which they were designed to support.

(b)(1) A study of a grant-in-aid program to which subsection (a) of this section applies and which is authorized by an Act of Congress enacted before October 16, 1968, shall be conducted prior to the expiration of the fourth calendar year beginning after October 16, 1968, and thereafter prior to the expiration of the fourth calendar year following the year during which a study of such program was last conducted under this paragraph.

(2) A study of a grant-in-aid program to which subsection (a) of this section applies and which is authorized by an Act of Congress enacted after October 16, 1968, shall be conducted prior to the expiration of the fourth calendar year following the year of enactment of such Act, and prior to the expiration of each fourth calendar year thereafter.

(Pub. L. 90-577, title VI, § 601, Oct. 16, 1968, 82 Stat. 1106.)

§ 4242. Studies by Comptroller General of Federal grant-in-aid programs; reports to Congress

(a) Upon request of any committee having jurisdiction over a grant-in-aid program, the Comptroller General shall make a study of such program to determine among other relevant matters, the extent to which—

(1) such program conflicts with or duplicates other grant-in-aid programs; and

(2) more effective, efficient, economical, and uniform administration of such program can be achieved by changing certain requirements and procedures applicable thereto.

(b) In reviewing grant-in-aid programs the Comptroller General shall consider, among other relevant matters, and[1] the budgetary, accounting, reporting and administrative procedures applicable to such programs. Reports on such studies, together with recommendations, shall be submitted by the Comptroller General to the Congress. Reports on expiring programs should, to the extent practicable, be submitted in the year prior to the date set for their expiration.

(Pub. L. 90-577, title VI, § 602, Oct. 16, 1968, 82 Stat. 1107.)

§ 4243. Studies by Advisory Commission on Intergovernmental Relations; report to Congress

Upon request of any committee having jurisdiction over a grant-in-aid program, the Advisory Commission on Intergovernmental Relations (established by Public Law 86-380, as amended) shall conduct studies of the intergovernmental relations aspects of such program including (1) the impact of such program, if any, on the structural organization of State and local governments and on Federal-State-local fiscal relations, and (2) the coordination of Federal administration of such program with State and local administration thereof, and shall report

[1] So in original.

its findings and recommendations to such committee and to the Congress.

(Pub. L. 90-577, title VI, § 603, Oct. 16, 1968, 82 Stat. 1107.)

REFERENCES IN TEXT

Pub. L. 86-380, referred to in text, is Pub. L. 86-380, Sept. 24, 1959, 73 Stat. 703, which is classified generally to chapter 53 (§ 4271 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

§ 4244. Preservation of House and Senate committee jurisdiction

Nothing in this chapter shall be construed to affect the jurisdiction of committees under the rules of the Senate and the House of Representatives.

(Pub. L. 90-577, title VI, § 604, Oct. 16, 1968, 82 Stat. 1107.)

REFERENCES IN TEXT

"This chapter", referred to in the text, read in the original "this Act", meaning Pub. L. 90-577, which enacted this chapter and sections 531 to 535 of Title 40, Public Buildings, Property, and Works.

CHAPTER 52A—JOINT FUNDING SIMPLIFICATION

Sec.
4251. Statement of purposes.
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4260. Report by President to Congress; contents.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3020a of this title.

§ 4251. Statement of purposes

The purpose of this chapter is to enable State and local governments and private, nonprofit organizations to use Federal assistance more effectively and efficiently, and to adapt that assistance more readily to their particular needs through the wider use of projects drawing upon resources available from more than one Federal agency, program, or appropriation. It is the further purpose of this chapter to encourage Federal-State arrangements under which local governments and private, nonprofit organizations may more effectively and efficiently combine State and Federal resources in support of projects of common interest to the governments and organizations concerned.

(Pub. L. 93-510, § 2, Dec. 5, 1974, 88 Stat. 1604.)

EFFECTIVE AND EXPIRATION DATES

Section 13 of Pub. L. 93-510 provided that: "This Act [enacting this chapter and note set out under this section] shall become effective sixty days following the date of enactment [Dec. 5, 1974], and shall expire five years following the date upon which it becomes effective; except that the expiration of this Act shall not affect the status of any project approved prior to the date of such expiration."

SHORT TITLE

Section 1 of Pub. L. 93-510 provided: "That this Act [enacting this chapter and note set out under this section] may be cited as the 'Joint Funding Simplification Act of 1974'."

§ 4252. Implementation of joint funding provisions by Federal officials

(a) Promulgation by President of regulations governing administrative procedures

The President shall promulgate such regulations as may be necessary or appropriate to assure that this chapter is applied by all Federal agencies in a consistent manner and in accordance with its purposes. He may, for this purpose, require that Federal agencies adopt or prescribe procedures that will assure that applicants for assistance to projects funded pursuant to the provisions of this chapter make appro-

priate efforts (1) to secure the views and recommendations of non-Federal agencies that may be significantly affected by such projects, and (2) to resolve questions of common interest to those agencies prior to submission of any application.

(b) Authorized activities of heads of Federal agencies pursuant to internal agency orders or interagency agreements

Subject to such regulations as the President may prescribe, and to other applicable law, the heads of Federal agencies, by internal agency order or interagency agreement, may take the following actions:

(1) Identification of related programs likely to be particularly suitable or appropriate for providing joint support for specific kinds of projects thereunder.

(2) Development and promulgation of guidelines, model or illustrative projects, joint or common application forms, and other material or guidance to assist in the planning and development of projects drawing support from different programs.

(3) Review of administratively established program requirements in order to determine which of those requirements may impede joint support of projects thereunder and the extent to which such requirements may be modified, making such modifications where appropriate.

(4) Establishment of common technical or administrative rules with respect to related programs to assist in the joint use of funds in the support of specific projects or classes of projects under such programs.

(5) Creation of joint or common application processing and project supervision procedures or mechanisms including procedures for designating lead agencies to assume responsibilities for processing applications on behalf of several agencies and for designation of managing agencies to assume responsibilities for project supervision on behalf of several agencies.

(c) Responsibilities of heads of Federal agencies with respect to Federal assistance programs administered by agencies

The head of each Federal agency shall be responsible for taking actions, to the maximum extent permitted under applicable law, that will further the purpose of this chapter with respect to Federal assistance programs administered by his agency. Each Federal agency head shall also consult and cooperate with the heads of other Federal agencies in order similarly to promote the purposes of this chapter with respect to Federal assistance programs of different agencies that may be used jointly in support of projects undertaken by State or local governments, or private, nonprofit organizations.

(Pub. L. 93-510, § 3, Dec. 5, 1974, 88 Stat. 1604.)

EX. ORD. NO. 11867. DELEGATION TO ADMINISTRATOR OF GENERAL SERVICES OF AUTHORITY TO ISSUE REGULATIONS

Ex. Ord. No. 11867, eff. June 19, 1975, 40 F.R. 26253, provided:

By virtue of the authority vested in me by Sections 3, 5, 7, 10, and 11 of the Joint Funding Simplification Act of 1974 (Public Law 93-510, 88 Stat. 1604), [sections 4252, 4254, 4256, 4259, and 4260 of this title], Section 408 of the Domestic Volunteer Service Act of 1973 (87 Stat. 410, 42 U.S.C. 5048), Section 5 of the Rehabilitation Act of 1973 (87 Stat. 359, 29 U.S.C. 704), Section 701(*l*) of the Housing Act of 1954, as amended (40 U.S.C. 461(*l*)), Section 728 of the Housing and Urban Development Act of 1970 (42 U.S.C. 4531), Section 406 of the Juvenile Delinquency Prevention and Control Act of 1968, as amended (now Section 407, 86 Stat. 537, 42 U.S.C. 3887), Section 612 of the Economic Opportunity Act of 1964, as amended (81 Stat. 717, 42 U.S.C. 2962), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Administrator of General Services is designated and empowered to exercise, without approval, ratification, or other action by the President, the function vested in the President by Sections 3, 5, 7, and 10 of the Joint Funding Simplification Act of 1974 (Public Law 93-510, 42 U.S.C. 4252, 4254, 4256 and 4259, respectively). The Administrator shall promulgate such regulations as may be necessary or appropriate to assure that that Act is applied by all Federal agencies in a consistent manner and in accordance with its purposes.

SEC. 2. The Administrator of General Services shall prepare, for the President's transmission to Congress, the report required by Section 11 of the Joint Funding Simplification Act of 1974 [section 4260 of this title], which report shall be submitted to the President through the Director of the Office of Management and Budget, at least fourteen months prior to the expiration of that Act [this chapter].

SEC. 3. The Administrator of General Services is designated and empowered to exercise, without approval, ratification, or other action by the President, the authority vested in the President to issue regulations with respect to joint funding by:

(a) Section 408 of the Domestic Volunteer Service Act of 1973 (87 Stat. 410, 42 U.S.C. 5048),

(b) Section 5 of the Rehabilitation Act of 1973 (87 Stat. 359, 29 U.S.C. 704),

(c) Section 406 of the Juvenile Delinquency Prevention and Control Act of 1968, as amended (now Section 407, 86 Stat. 537, 42 U.S.C. 3887),

(d) Section 612 of the Economic Opportunity Act of 1964, as amended (81 Stat. 717, 42 U.S.C. 2962),

(e) Section 701(*l*) of the Housing Act of 1954, as amended (40 U.S.C. 461(*l*)), and

(f) Section 728 of the Housing and Urban Development Act of 1970 (42 U.S.C. 4531).

SEC. 4. The functions delegated to the Administrator of General Services by this Order shall be performed:

(a) subject to the general oversight and policy direction of the Director of the Office of Management and Budget;

(b) with respect to joint management funds, subject to the existing authority of the Director of the Office of Management and Budget; and

(c) in accordance with the provisions of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577, 82 Stat. 1098) [section 531 et seq. of Title 40, Public Buildings, Property, and Works, and section 4201 et seq. of this title].

SEC. 5. The delegations of authority provided by Section 3 of this Order, and the supersessions provided by this Section, shall not be deemed to affect in any way the exercise of such authority previously delegated to the Administrator of General Services. The following Executive orders are superseded: Executive Order No. 11784 of May 30, 1974, and Executive Order No. 11466 of April 18, 1969.

SEC. 6. Section 1 of Executive Order No. 11758 of January 15, 1974 [set out as a note under section 701 of Title 29, Labor], is revised to read as follows:

"The Director of the Office of Management and Budget is hereby designated and empowered to exercise, without approval, ratification, or other action of the President, the authority of the President under section 500(a) of the Rehabilitation Act of 1973 (87

Stat. 390, 29 U.S.C. 790) with respect to the transfer of unexpended appropriations."

GERALD R. FORD.

SUPERSEDURE

Ex. Ord. No. 11867 superseded to the extent that it is inconsistent with Ex. Ord. No. 11893, eff. Dec. 31, 1975, 41 F.R. 1040, see section 4 of Ex. Ord. No. 11893, set out as a note below.

EX. ORD. NO. 11893. TRANSFERRING CERTAIN FUNCTIONS FROM GENERAL SERVICES ADMINISTRATION TO OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 11893, eff. Dec. 31, 1975, 41 F.R. 1040, provided:

By virtue of the authority vested in me as President by the Constitution and Statutes of the United States, particularly by section 301 of title 3 of the United States Code, the Federal Property and Administrative Services Act of 1949, as amended, the Budget and Accounting Act, 1921, as amended, the Budget and Accounting Procedures Act of 1950, as amended, Reorganization Plan No. 2 of 1970 [set out in the Appendix to Title 5, Government Organization and Employees]; and section 5317 of title 5 of the United States Code, it is hereby ordered as follows:

SECTION 1. There are hereby transferred to the Director of the Office of Management and Budget all policy functions that were transferred to the Administrator of General Services by Section 1 (1) of Executive Order No. 11717, dated May 9, 1973 [set out as a note under section 16 of Title 31, Money and Finance], and Executive Order No. 11867, dated June 19, 1975 [set out as a note above].

SEC. 2. The Director of the Office of Management and Budget shall continue to perform policy formulation and general oversight functions with regard to the other transfers made by Executive Order No. 11717 and Executive Order No. 11867. No function vested by statute in the Administrator shall be deemed to be affected by the provisions of this order.

SEC. 3. So much of the personnel, property and records attendant to the functions transferred by this order as the Director of the Office of Management and Budget shall determine, shall be transferred to the Office of Management and Budget, at such times as the Director shall specify.

SEC. 4. Executive Order No. 11717 of May 9, 1973, and Executive Order No. 11867 of June 19, 1975, are hereby superseded to the extent that they are inconsistent with this order. Any circulars, directives, or regulations issued pursuant to functions transferred by this order shall remain in effect until modified or rescinded by the Office of Management and Budget.

SEC. 5. Section 2 of Executive Order No. 11861 of May 21, 1975, as amended [set out as a note under section 5317 of Title 5, Government Organization and Employees], placing certain positions in level V of the Executive Schedule, is further amended by deleting "(9) Associate Administrator for Federal Management Policy, General Services Administration.".

SEC. 6. This order shall be effective as of December 31, 1975.

GERALD R. FORD.

§ 4253. Activities by heads of Federal agencies relating to application processing or assistance requests under two or more Federal programs supporting any project; criteria

Actions taken by Federal agency heads pursuant to this chapter that relate to the processing of applications or requests for assistance under two or more Federal programs in support of any project shall be designed to assure, so far as reasonably possible, that (1) all required reviews and approvals are handled expeditiously; (2) full account is taken of any special considerations of timing that are made known by the applicant that would affect the feasibility of a jointly funded project; (3) the applicant is required to deal with a minimum number of Federal representatives, acting separately or as a common board or panel; (4) the applicant is promptly informed of decisions with respect to an application and of any special problems or impediments that may affect the feasibility of Federal provision of assistance on a joint basis; and (5) the applicant is not required by representatives of any one Federal agency or program to obtain information or assurances concerning the requirements or action of another Federal agency that could more appropriately be secured through direct communication among the Federal agencies involved.

(Pub. L. 93-510, § 4, Dec. 5, 1974, 88 Stat. 1605.)

§ 4254. Special authorities of heads of Federal agencies with respect to projects assisted under more than one Federal assistance program; exercise pursuant to regulations prescribed by President

Where appropriate to further the purposes of this chapter, and subject to the conditions prescribed in this section, heads of Federal agencies may use the authorities described in sections 4255, 4256, and 4257 of this title (relating to the establishment of uniform technical or administrative requirements, delegation of powers and responsibilities, and establishment of joint management funds) with respect to projects assisted under more than one Federal assistance program. These authorities shall be exercised only pursuant to regulations prescribed by the President. Those regulations shall include criteria or procedures to assure that the authorities are limited in use to problems that cannot be adequately dealt with through other actions pursuant to this chapter or other applicable law, that they are applied only as necessary to promote expeditious processing of applications or effective and efficient administration of projects, and that they are applied in a manner consistent with the protection of the Federal interest and with program purposes and statutory requirements.

(Pub. L. 93-510, § 5, Dec. 5, 1974, 88 Stat. 1605.)

§ 4255. Establishment by heads of Federal agencies of uniform technical and administrative provisions

(a) Requirements for projects

In order to provide for projects that would otherwise be subject to varying or conflicting technical or administrative rules and procedures not required by law, the heads of Federal agencies may adopt uniform provisions with respect to—

(1) inconsistent or conflicting requirements relating to financial administration of such projects, including accounting, reporting and auditing, and maintaining separate bank accounts, but only to the extent consistent with the requirements of section 4257 of this title;

(2) inconsistent or conflicting requirements relating to the timing of Federal payments for such projects where a single or combined schedule is to be established for the project as a whole;

(3) inconsistent or conflicting requirements that assistance be extended in the form of a grant rather than a contract, or a contract rather than a grant; and

(4) inconsistent of conflicting requirements relating to accountability for, or the disposition of, records, property, or structures acquired or constructed with Federal assistance where common rules are established for the project as a whole.

(b) Review of project proposals

In order to permit processing of applications in accordance with the purposes of this chapter, Federal agency heads may provide for review of proposals for projects by a single panel, board, or committee in lieu of review by separate panels, boards, or committees except when such review is specifically required by law.

(c) Waiver of single or specific public agency requirement for administering Federal assistance drawn upon by jointly funded project

In promoting the more effective and efficient use of Federal assistance resources, Federal agency heads may waive requirements that a single or specific public agency be utilized or designated to receive, supervise, or otherwise administer a part of the Federal assistance drawn upon by any jointly funded project to the extent that administration by another public agency is determined to be fully consistent with applicable State or local law and with the objectives of the Federal assistance program involved. This authority may be exercised only (1) upon request of the head of a unit of general government, with respect to agencies that he certifies to be under his jurisdiction, or (2) with the agreement of the several State or local public agencies concerned.

(Pub. L. 93-510, § 6, Dec. 5, 1974, 88 Stat. 1606.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4254 of this title.

§ 4256. Delegation by Federal agency heads of powers and functions relating to supervision, etc., of Federal assistance; approval by President; conditions

With the approval of the President, agency heads may delegate to other Federal agencies powers and functions relating to the supervision or administration of Federal assistance, or otherwise arrange for other agencies to perform such activities, with respect to projects or classes of projects funded under the terms of this chapter. Delegations under this section shall be made only on such conditions as may be appropriate to assure that the powers and functions delegated are exercised in full conformity with applicable statutory provisions and policies, and shall not relieve agency heads of responsibility for the proper and efficient management of projects funded by their agencies.

(Pub. L. 93-510, § 7, Dec. 5, 1974, 88 Stat. 1606.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4254 of this title.

§ 4257. Joint management fund for financing of projects

(a) Establishment for funds drawn from more than one Federal program or appropriation; transfer to fund of proportionate amounts from program or appropriation for payment to grantee; return to fund of unexpended amounts

In order to provide for the more effective administration of funds drawn from more than one Federal program or appropriation in support of projects under this chapter, there may be established joint management funds with respect to such projects. There shall be transferred to the joint management fund from each affected program or appropriation, from time to time, its proportionate share of amounts needed for payment to the grantee. Any unexpended amounts shall be returned to the joint management fund by the grantee at the completion of the project.

(b) Agreements by concerned Federal agencies relating to fund accounts; required provisions

Any account in a joint management fund shall be subject to such agreements, not inconsistent with this section and other applicable law, as may be entered into by the Federal agencies concerned with respect to the discharge of the responsibilities of those agencies and shall assure the availability of necessary information to those agencies and to the Congress. These agreements shall also provide that the agency administering a joint management fund shall be responsible and accountable by program and appropriation for the amounts provided for the purposes of each account established in the fund; and shall include procedures for determining, from time to time, whether amounts in the account are in excess of the amounts required, and for returning that excess to the participating Federal agencies according to the applicable appropriations, subject to fiscal year limitations. Excess amounts applicable to expired appropriations will be lapsed from that fund.

(c) Recordkeeping requirements for recipients of moneys drawn from fund; prescription by Federal agency head responsible for administering fund

For each project financed through an account in a joint management fund established pursuant to this section, the recipients of moneys drawn from the fund shall keep such records as the head of the Federal agency responsible for administering the fund will prescribe. Such records shall, as a minimum, fully disclose the amount and disposition by such recipient of Federal assistance received under each program and appropriation, the total cost of the project in connection with which such Federal assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(d) Audit and examination of books, etc., of recipient by Federal agency head responsible for administering fund and Comptroller General

The head of the Federal agency responsible for administering such joint management fund and the Comptroller General of the United States or any of their duly authorized represen-

tatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the moneys received from such fund.

(e) Establishment of single non-Federal share

In the case of any project covered in a joint management fund, a single non-Federal share may be established according to the Federal share ratios applicable to the several Federal assistance programs involved and the proportion of funds transferred to the project account from each of these programs.

(Pub. L. 93-510, § 8, Dec. 5, 1974, 88 Stat. 1606.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4254, 4255 of this title.

§ 4258. Availability of appropriations for joint funding of programs

Appropriations available to any Federal assistance program for technical assistance or the training of personnel may be made available for the provision of technical assistance and training in connection with projects proposed or approved for joint funding involving that program and any other Federal assistance program.

(Pub. L. 93-510, § 9, Dec. 5, 1974, 88 Stat. 1607.)

§ 4259. Agreements between Federal agencies and States extending joint funding provisions to assisted projects; regulations by President

Subject to such regulations as the President may prescribe, Federal agencies may enter into agreements with States as appropriate to extend the benefits of this chapter to projects involving assistance from one or more Federal agencies and one or more State agencies. These agreements may include arrangements for the processing of requests for, or the administration of, assistance to such projects on a joint basis.

(Pub. L. 93-510, § 10, Dec. 5, 1974, 88 Stat. 1607.)

§ 4260. Report by President to Congress; contents

At least one year prior to the expiration of this chapter, the President shall submit a comprehensive report to the Congress on actions taken under this chapter, and make recommendations for its continuation, modification, or termination. The report shall provide a detailed evaluation of the functioning of this chapter, including information regarding the benefits and costs of jointly funded projects accruing to the participating State and local governments and private, nonprofit organizations, and to the Federal Government.

(Pub. L. 93-510, § 11, Dec. 5, 1974, 88 Stat. 1608.)

REFERENCES IN TEXT

For expiration date of this chapter, referred to in text, see Effective and Expiration Dates note set out under section 4251 of this title.

§ 4261. Definitions

As used in this chapter—

(1) the term "Federal assistance programs" means programs that provide assistance through grant or contractual arrangements, but does not include assistance in the form of revenue sharing, loans, loan guarantees, or insurance;

(2) the term "applicant" means any State or local government or private, nonprofit organization acting separately or together in seeking assistance with respect to a single project;

(3) the term "project" means any undertaking, whether of a temporary or continuing nature that includes components proposed or approved for assistance under more than one Federal program, or one or more Federal and one or more State programs, if each of those components contributes materially to the accomplishment of a single purpose or closely related purposes;

(4) the term "Federal agency" means any agency, department, corporation, independent establishment, or other entity of the executive branch of the Government of the United States;

(5) the term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, and any tribe as defined in section 1452(c) of title 25;

(6) the term "local government" means a local unit of government including a city, county, parish, town, township, village, school district, council of governments, or other agency or instrumentality of a local unit of government.

(Pub. L. 93-510, § 12, Dec. 5, 1974, 88 Stat. 1608.)

CHAPTER 53—ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Sec.
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4272. Declaration of purpose.
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(b) Political and geographic composition.
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(e) Applicability of other laws to employees.
(f) Maximum compensation of employees.
4277. Compensation of members.
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4279. Receipt of funds; consideration by Congress.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 4243 of this title.

§ 4271. Establishment

There is established a permanent bipartisan commission to be known as the Advisory Commission on Intergovernmental Relations, hereinafter referred to as the "Commission".

(Pub. L. 86-380, § 1, Sept. 24, 1959, 73 Stat. 703.)

CODIFICATION

Section was formerly classified to section 2371 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1. Sept. 6, 1966, 80 Stat. 378.

EXECUTIVE ORDER NO. 11455

Ex. Ord. No. 11455, eff. Feb. 14, 1969, 34 F.R. 2299, formerly set out as a note under this section, which established the Office of Intergovernmental Relations, was revoked by Ex. Ord. No. 11690, eff. Dec. 14, 1972, 37 F.R. 26815, set out as a note under section 301 of Title 3, The President.

OFFICE OF INTERGOVERNMENTAL RELATIONS; AUTHORIZATION OF APPROPRIATIONS; COMPENSATION OF DIRECTOR; APPOINTMENT OF PERSONNEL; EXPERTS AND CONSULTANTS

Pub. L. 91-186, Dec. 30, 1969, 83 Stat. 849, authorized the appropriation of such sums as may be necessary for the expenses of the Office of Intergovernmental Relations, established by Ex. Ord. No. 11455, formerly set out as a note under this section, prescribed the compensation of the Director of the Office, and authorized the Director to appoint such personnel as he deems necessary and to obtain the services of experts and consultants.

§ 4272. Declaration of purpose

Because the complexity of modern life intensifies the need in a federal form of government for the fullest cooperation and coordination of activities between the levels of government, and because population growth and scientific developments portend an increasingly complex society in future years, it is essential that an appropriate agency be established to give continuing attention to intergovernmental problems.

It is intended that the Commission, in the performance of its duties, will—

(1) bring together representatives of the Federal, State, and local governments for the consideration of common problems;

(2) provide a forum for discussing the administration and coordination of Federal grant and other programs requiring intergovernmental cooperation;

(3) give critical attention to the conditions and controls involved in the administration of Federal grant programs;

(4) make available technical assistance to the executive and legislative branches of the Federal Government in the review of proposed legislation to determine its overall effect on the Federal system;

(5) encourage discussion and study at an early stage of emerging public problems that are likely to require intergovernmental cooperation;

(6) recommend, within the framework of the Constitution, the most desirable allocation of governmental functions, responsibilities, and revenues among the several levels of government; and

(7) recommend methods of coordinating and simplifying tax laws and administrative practices to achieve a more orderly and less competitive fiscal relationship between the levels of government and to reduce the burden of compliance for taxpayers.

(Pub. L. 86-380, § 2, Sept. 24, 1959, 73 Stat. 703.)

CODIFICATION

Section was formerly classified to section 2372 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4275 of this title.

§ 4273. Membership of Commission; appointment of members; term

(a) Number of members; appointment; qualifications

The Commission shall be composed of twenty-six members, as follows:

(1) Six appointed by the President of the United States, three of whom shall be officers of the executive branch of the Government, and three private citizens, all of whom shall have had experience or familiarity with relations between the levels of government;

(2) Three appointed by the President of the Senate, who shall be Members of the Senate;

(3) Three appointed by the Speaker of the House of Representatives, who shall be Members of the House;

(4) Four appointed by the President from a panel of at least eight Governors submitted by the Governors' Conference;

(5) Three appointed by the President from a panel of at least six members of State legislative bodies submitted by the board of managers of the Council of State Governments;

(6) Four appointed by the President from a panel of at least eight mayors submitted jointly by the National League of Cities and the United States Conference of Mayors; and

(7) Three appointed by the President from a panel of at least six elected county officers submitted by the National Association of Counties.

(b) Political and geographical composition

The members appointed from private life under paragraph (1) of subsection (a) of this section shall be appointed without regard to political affiliation; of each class of members enumerated in paragraphs (2) and (3) of subsection (a) of this section, two shall be from the majority party of the respective houses; of each class of members enumerated in paragraphs (4), (5), (6), and (7) of subsection (a) of this section, not more than two shall be from any one political party; of each class of members enumerated in paragraphs (5), (6) and (7) of subsection (a) of this section, not more than one shall be from any one State; at least two of the appointees under paragraph (6) of subsection (a) of this section shall be from cities under five hundred thousand population.

(c) Term of office; reappointment; period of service

The term of office of each member of the Commission shall be two years; members shall be eligible for reappointment; and, except as provided in section 4274(d) of this title, mem-

bers shall serve until their successors are appointed.

(Pub. L. 86-380, § 3, Sept. 24, 1959, 73 Stat. 704; Pub. L. 89-733, §§ 1, 2, Nov. 2, 1966, 80 Stat. 1162.)

CODIFICATION

Section was formerly classified to section 2373 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1966—Subsec. (a)(6). Pub. L. 89-733, § 1, substituted "National League of Cities" for "American Municipal Association".

Subsec. (a)(7). Pub. L. 89-733, § 1, substituted "National Association of Counties" for "National Association of County Officials".

Subsec. (c). Pub. L. 89-733, § 2, inserted provision that members shall serve until their successors are appointed, except as provided in section 4274(d) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4274 of this title.

§ 4274. Organization of the Commission

(a) Initial meeting

The President shall convene the Commission within ninety days following September 24, 1959 at such time and place as he may designate for the Commission's initial meeting.

(b) Chairman and Vice Chairman

The President shall designate a Chairman and a Vice Chairman from among members of the Commission.

(c) Vacancies in membership

Any vacancy in the membership of the Commission shall be filed in the same manner in which the original appointment was made; except that where the number of vacancies is fewer than the number of members specified in paragraphs (4), (5), (6), and (7) of section 4273(a) of this title, each panel of names submitted in accordance with the aforementioned paragraphs shall contain at least two names for each vacancy.

(d) Termination of service in official position from which originally appointed

Where any member ceases to serve in the official position from which originally appointed under section 4273(a) of this title, his place on the Commission shall be deemed to be vacant.

(e) Quorum

Thirteen members of the Commission shall constitute a quorum, but two or more members shall constitute a quorum for the purpose of conducting hearings.

(Pub. L. 86-380, § 4, Sept. 24, 1959, 73 Stat. 705.)

CODIFICATION

Section was formerly classified to section 2374 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4273 of this title.

§ 4275. Duties of the Commission

It shall be the duty of the Commission—

(1) to engage in such activities and to make such studies and investigations as are necessary or desirable in the accomplishment of the purposes set forth in section 4272 of this title;

(2) to consider, on its own initiative, ways and means for fostering better relations between the levels of government;

(3) to submit an annual report to the President and the Congress on or before January 31 of each year. The Commission may also submit such additional reports to the President, to the Congress or any committee of the Congress, and to any unit of government or organization as the Commission may deem appropriate.

(Pub. L. 86-380, § 5, Sept. 24, 1959, 73 Stat. 705.)

CODIFICATION

Section was formerly classified to section 2375 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

STUDY AND REPORT TO CONGRESS OF EFFECT ON FUNDS AVAILABLE FOR HOUSING AND STATE AND LOCAL BOND MARKETS OF FULL DEPOSIT INSURANCE FOR PUBLIC FUNDS; SUBMISSION DATE; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93-495, title I, § 101(f), Oct. 28, 1974, 88 Stat. 1502, required the Advisory Commission on Intergovernmental Relations to conduct a study of the impact of section 101 of Pub. L. 93-495 [amending sections 1464, 1724, 1728, 1757, 1787, 1813, 1817 and 1821 of Title 12, Banks and Banking, and enacting provision set out as a note under section 1813 of Title 12] on funds available for housing and on State and local bond markets, and to make a report to the Congress of the results of its study not later than two years after Oct. 28, 1974, and authorized the appropriation of such sums as may be necessary to carry out section 101(f) of Pub. L. 93-495.

§ 4276. Powers and administrative provisions

(a) Hearings; oaths and affirmations

The Commission or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this chapter, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

(b) Cooperation by Federal agencies

Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this chapter.

(c) Executive director

The Commission shall have power to appoint, fix the compensation of, and remove an executive director without regard to the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5. Such appointment shall be

made solely on the basis of fitness to perform the duties of the position and without regard to political affiliation.

(d) Appointment and compensation of other personnel; temporary and intermittent services

Subject to such rules and regulations as may be adopted by the Commission, the Chairman, without regard to the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5, and without reference to political affiliation, shall have the power—

(1) to appoint, fix the compensation of, and remove such other personnel as he deems necessary,

(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 but at rates not to exceed $50 a day for individuals.

(e) Applicability of other laws to employees

Except as otherwise provided in this chapter, persons in the employ of the Commission under subsections (c) and (d)(1) of this section shall be considered to be Federal employees for all purposes, including—

(1) subchapter III of chapter 83 of title 5,

(2) chapter 87 of title 5,

(3) annual and sick leave, and

(4) subchapter I of chapter 57 of this title 5.

(f) Maximum compensation of employees

No individual employed in the service of the Commission shall be paid compensation for such employment at a rate in excess of the highest rate provided for grade 18 under the General Schedule, except that the executive director of the Commission may be paid compensation at any rate not exceeding the rate prescribed for level V in the Federal Executive Salary Schedule of subchapter II of chapter 53 of title 5.

(Pub. L. 86-380, § 6, Sept. 24, 1959, 73 Stat. 705; Pub. L. 88-426, title III, § 306(e), Aug. 14, 1964, 78 Stat. 429; Pub. L. 89-733, §§ 3, 4, Nov. 2, 1966, 80 Stat. 1162.)

REFERENCES IN TEXT

The civil service laws, referred to in subsecs. (c) and (d), are set out in Title 5, Government Organization and Employees. See particularly section 3301 et seq. of that title.

Annual and sick leave, referred to in subsec. (e)(3), is covered generally by section 6301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (f), is set out under section 5332 of Title 5, Government Organization and Employees.

CODIFICATION

In subsecs. (c) and (d), "chapter 51 and subchapter III of chapter 53 of title 5" were substituted for "the Classification Act of 1949" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

In subsec. (d)(2), "section 3109 of title 5" was substituted for "section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

In subsec. (e), "subchapter III of chapter 83 of title 5", "chapter 87 of title 5", and "subchapter I of chapter 57 of title 5" were substituted for "the Civil Service Retirement Act, as amended", "the Federal Employees' Group Life Insurance Act of 1954, as amended", and "the Travel Expense Act of 1949, as amended", respectively, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

In subsec. (f), "subchapter II of chapter 53 of title 5" was substituted for "the Federal Executive Salary Act of 1964" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2376 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1966—Subsec. (c). Pub. L. 89-733, § 3, substituted "executive director" for "staff director".

Subsec. (f). Pub. L. 89-733, § 4, authorized the executive director of the Commission to be paid compensation at any rate not exceeding the rate prescribed for level V in the Federal Executive Salary Schedule.

1964—Subsec. (f). Pub. L. 88-426 substituted "at a rate in excess of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended" for "at a rate in excess of $20,000 per annum".

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426.

§ 4277. Compensation of members

(a) Members of the Commission who are Members of Congress, officers of the executive branch of the Federal Government, Governors, or full-time salaries officers of city and county governments shall serve without compensation in addition to that received in their regular public employment, but shall be allowed necessary travel expenses (or, in the alternative, a per diem in lieu of subsistence and mileage not to exceed the rates prescribed in subchapter I of chapter 57 of title 5), without regard to subchapter I of chapter 57 of title 5, the Standardized Government Travel Regulations, or section 5731(a) of title 5, and other necessary expenses incurred by them in the performance of duties vested in the Commission.

(b) Unless prohibited by State or local law, members of the Commission, other than those to whom subsection (a) of this section is applicable, shall receive compensation at the rate of $50 per day for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission, as provided for in subsection (a) of this section.

(Pub. L. 86-380, § 7, Sept. 24, 1959, 73 Stat. 706; Pub. L. 89-733, § 5, Nov. 2, 1966, 80 Stat. 1162.)

CODIFICATION

In subsec. (a), "subchapter I of chapter 57 of title 5" was substituted for "the Travel Expense Act of 1949, as amended" and for "the Travel Expense Act of 1949, as amended (5 U.S.C. 835-842)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

"Section 5731(a) of title 5" was substituted for "section 10 of the Act of March 3, 1933, (5 U.S.C. 73(b)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 which enacted Title 5.

Section was formerly classified to section 2377 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1966—Subsec. (b). Pub. L. 89-733 inserted phrase "Unless prohibited by State or local law".

§ 4278. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 86-380, § 8, Sept. 24, 1959, 73 Stat. 706.)

CODIFICATION

Section was formerly classified to section 2378 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 4279. Receipt of funds; consideration by Congress

The Commission is authorized to receive funds through grants, contracts, and contributions from State and local governments and organizations thereof, and from nonprofit organizations. Such funds may be received and expended by the Commission only for purposes of this chapter. In making appropriations to the Commission the Congress shall consider the amount of any funds received by the Commission in addition to those funds appropriated to it by the Congress.

(Pub. L. 86-380, § 9, as added Pub. L. 89-733, § 6, Nov. 2, 1966, 80 Stat. 1162.)

CODIFICATION

Section was formerly classified to section 2379 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

CHAPTER 54—CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

§§ 4301 to 4312. Omitted

CODIFICATION

Sections 4301 to 4312 of this title, Pub. L. 91-181, §§ 1-12, Dec. 30, 1969, 83 Stat. 838, were omitted from the Code pursuant to section 4312 of this title which provided that Pub. L. 91-181 shall expire five years after Dec. 30, 1969.

Section 4301, Pub. L. 91-181, § 1, Dec. 30, 1969, 83 Stat. 838, related to Congressional declaration of purpose.

Section 4302, Pub. L. 91-181, § 2, Dec. 30, 1969, 83 Stat. 838, related to the establishment of the Cabinet Committee on Opportunities for Spanish-Speaking People, its composition, appointment of Chairman.

Section 4303, Pub. L. 91-181, § 3, Dec. 30, 1969, 83 Stat. 838, related to the functions of the Committee.

Section 4304, Pub. L. 91-181, § 4, Dec. 30, 1969, 83 Stat. 839, related to the administrative powers of the Committee.

Section 4305, Pub. L. 91-181, § 5, Dec. 30, 1969, 83 Stat. 839, related to utilization of services and facilities of governmental agencies.

Section 4306, Pub. L. 91-181, § 6, Dec. 30, 1969, 83 Stat. 839, related to the compensation of personnel and transfer of personnel from other federal departments and agencies.

Section 4307, Pub. L. 91-181, § 7, Dec. 30, 1969, 83 Stat. 839, related to the establishment of an Advisory Council on Spanish-Speaking Americans.

Section 4308, Pub. L. 91-181, § 8, Dec. 30, 1969, 83 Stat. 840, related to the nonimpairment of existing powers of other federal departments and agencies.

Section 4309, Pub. L. 91-181, § 9, Dec. 30, 1969, 93 Stat. 840, related to the restrictions on the political activities of the Committee and the Advisory Council.

Section 4310, Pub. L. 91-181, § 10, Dec. 30, 1969, 83 Stat. 840; Pub. L. 92-122, Aug. 16, 1971, 85 Stat. 342, related to authorization of appropriations.

Section 4311, Pub. L. 91-181, § 11, Dec. 30, 1969, 83 Stat. 840, related to submission of reports to the President and the Congress.

Section 4312, Pub. L. 91-181, § 12, Dec. 30, 1969, 83 Stat. 840, provided that this chapter shall expire five years after Dec. 30, 1969.

CHAPTER 55—NATIONAL ENVIRONMENTAL POLICY

Sec.
4321. Congressional declaration of purpose.

SUBCHAPTER I—POLICIES AND GOALS

4331. Congressional declaration of national environmental policy.
4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts.
4333. Conformity of administrative procedures to national environmental policy.
4334. Other statutory obligations of agencies.
4335. Efforts supplemental to existing authorizations.

SUBCHAPTER II—COUNCIL ON ENVIRONMENTAL QUALITY

4341. Reports to Congress; recommendations for legislation.
4342. Establishment; membership; Chairman; appointments.
4343. Employment of personnel, experts and consultants.
4344. Duties and functions.
4345. Consultation with the Citizen's Advisory Committee on Environmental Quality and other representatives.
4346. Tenure and compensation of members.
4346a. Travel reimbursement by private organizations and Federal, State, and local governments.
4346b. Expenditures in support of international activities.
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SUBCHAPTER III—MISCELLANEOUS PROVISIONS

4361. Plan for research, development and demonstration.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2242, 4374, 5175, 5304 of this title; title 15 sections 719f, 719h, 793; title 16 sections 1602, 1604; title 23 section 117; title 30 section 185; title 33 sections 59c-2, 59k, 59n, 59o, 1293a, 1371, 1505; title 43 sections 421h, 1577, 1597, 1652, 1751; title 49 sections 1604, 1716.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 5-1004 of the District of Columbia Code.

§ 4321. Congressional declaration of purpose

The purposes of this chapter are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will pre-

vent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

(Pub. L. 91-190, § 2, Jan. 1, 1970, 83 Stat. 852.)

SHORT TITLE

Section 1 Pub. L. 91-190 provided: "That this Act [enacting this chapter] may be cited as the 'National Environmental Policy Act of 1969'."

EX. ORD. NO. 11472. CABINET COMMITTEE ON THE ENVIRONMENT AND CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

Ex. Ord. No. 11472, eff. May 29, 1969, 34 F.R. 8693, as amended by Ex. Ord. No. 11514, eff. Mar. 5, 1970, 35 F.R. 4247, provided:

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

PART I—CABINET COMMITTEE ON THE ENVIRONMENT

SECTION 101. *Establishment of the Cabinet Committee.* (a) There is hereby established the Cabinet Committee on the Environment (hereinafter referred to as "the Cabinet Committee").

(b) The President of the United States shall preside over meetings of the Cabinet Committee. The Vice President shall preside in the absence of the President.

(c) The Cabinet Committee shall be composed of the following members:

The Vice President of the United States
Secretary of Agriculture
Secretary of Commerce
Secretary of Health, Education, and Welfare
Secretary of Housing and Urban Development
Secretary of the Interior
Secretary of Transportation

and such other heads of departments and agencies and others as the President may from time to time direct.

(d) Each member of the Cabinet Committee may designate an alternate, who shall serve as a member of the Cabinet Committee whenever the regular member is unable to attend any meeting of the Cabinet Committee.

(e) When matters which affect the interest of Federal agencies the heads of which are not members of the Cabinet Committee are to be considered by the Cabinet Committee, the President or his representative may invite such agency heads or their alternates to participate in the deliberations of the Cabinet Committee.

(f) The Director of the Bureau of the Budget [now the Director of the Office of Management and Budget], the Director of the Office of Science and Technology, the Chairman of the Council of Economic Advisers, and the Executive Secretary of the Council for Urban Affairs or their representatives may participate in the deliberations of the Cabinet Committee on the Environment as observers.

(g) The Chairman of the Council on Environmental Quality (established by Public Law 91-190) [this chapter] shall assist the President in directing the affairs of the Cabinet Committee.

SEC. 102. *Functions of the Cabinet Committee.* (a) The Cabinet Committee shall advise and assist the President with respect to environmental quality matters and shall perform such other related duties as the President may from time to time prescribe. In addition thereto, the Cabinet Committee is directed to:

(1) Recommend measures to ensure that Federal policies and programs, including those for development and conservation of natural resources, take adequate account of environmental effects.

(2) Review the adequacy of existing systems for monitoring and predicting environmental changes so as to achieve effective coverage and efficient use of facilities and other resources.

(3) Foster cooperation between the Federal Government, State and local governments, and private organizations in environmental programs.

(4) Seek advancement of scientific knowledge of changes in the environment and encourage the development of technology to prevent or minimize adverse effects that endanger man's health and well-being.

(5) Stimulate public and private participation in programs and activities to protect against pollution of the Nation's air, water, and land and its living resources.

(6) Encourage timely public disclosure by all levels of government and by private parties of plans that would affect the quality of environment.

(7) Assure assessment of new and changing technologies for their potential effects on the environment.

(8) Facilitate coordination among departments and agencies of the Federal Government in protecting and improving the environment.

(b) The Cabinet Committee shall review plans and actions of Federal agencies affecting outdoor recreation and natural beauty. The Cabinet Committee may conduct studies and make recommendations to the President on matters of policy in the fields of outdoor recreation and natural beauty. In carrying out the foregoing provisions of this subsection, the Cabinet Committee shall, as far as may be practical, advise Federal agencies with respect to the effect of their respective plans and programs on recreation and natural beauty, and may suggest to such agencies ways to accomplish the purposes of this order. For the purposes of this order, plans and programs may include, but are not limited to, those for or affecting: (1) Development, restoration, and preservation of the beauty of the countryside, urban and suburban areas, water resources, wild rivers, scenic roads, parkways and highways, (2) the protection and appropriate management of scenic or primitive areas, natural wonders, historic sites, and recreation areas, (3) the management of Federal land and water resources, including fish and wildlife, to enhance natural beauty and recreational opportunities consistent with other essential uses, (4) cooperation with the States and their local subdivisions and private organizations and individuals in areas of mutual interest, (5) interstate arrangements, including Federal participation where authorized and necessary, and (6) leadership in a nationwide recreation and beautification effort.

SEC. 103. *Coordination.* The Secretary of the Interior may make available to the Cabinet Committee for coordination of outdoor recreation the authorities and resources available to him under the Act of May 28, 1963, 77 Stat. 49 [section 460*l* et seq. of Title 16, Conservation], to the extent permitted by law, he may make such authorities and resources available to the Cabinet Committee also for promoting such coordination of other matters assigned to the Cabinet Committee by this order.

SEC. 104. *Assistance for the Cabinet Committee.* In compliance with provisions of applicable law, and as necessary to serve the purposes of this order, (1) the Council on Environmental Quality (established by Public Law 91-190) [this chapter] shall provide or arrange for necessary administrative and staff services, support, and facilities for the Cabinet Committee, and (2) each department and agency which has membership on the Cabinet Committee under Section 101(c) hereof shall furnish the Cabinet Committee such information and other assistance as may be available.

PART II—CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

SEC. 201. *Establishment of the Committee.* There is hereby established the Citizens' Advisory Committee on Environmental Quality (hereinafter referred to as the "Citizens' Committee"). The Citizens' Committee shall be composed of a chairman and not more than 14 other members appointed by the President. Appointments to membership on the Citizens' Committee shall be for staggered terms, except that the chairman of the Citizens' Committee shall serve until his successor is appointed.

SEC. 202. *Functions of the Citizens' Committee.* The Citizens' Committee shall advise the President and the Cabinet Committee on matters assigned to the Cabinet Committee by the provisions of this order.

SEC. 203. *Expenses.* Members of the Citizens' Committee shall receive no compensation from the United States by reason of their services under this order but shall be entitled to receive travel and expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701-5708) for persons in the Government service employed intermittently.

SEC. 204. *Continuity.* Persons who on the date of this order are members of the Citizens' Advisory Committee on Recreation and Natural Beauty established by Executive Order No. 11278 of May 4, 1966, as amended, shall, until the expirations of their respective terms and without further action by the President, be members of the Citizens' Committee established by the provisions of this Part in lieu of an equal number of the members provided for in section 201 of this order.

PART III—GENERAL PROVISIONS

SEC. 301. *Construction.* Nothing in this order shall be construed as subjecting any department, establishment, or other instrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

SEC. 302. *Prior bodies and orders.* The President's Council on Recreation and Natural Beauty and the Citizens' Advisory Committee on Recreation and Natural Beauty are hereby terminated and the following are revoked:

(1) Executive Order No. 11278 of May 4, 1966.
(2) Executive Order No. 11359A of June 29, 1967.
(3) Executive Order No. 11402 of March 29, 1968.

RICHARD NIXON.

TERMINATION OF CABINET COMMITTEE ON THE ENVIRONMENT

The Cabinet Committee on the Environment was terminated and its functions transferred to the Domestic Council, see section 2(b) of Ex. Ord. No. 11541, eff. July 1, 1970, 35 F.R. 10737, set out as a note under section 16 of Title 31, Money and Finance.

EXTENSION OF TERM OF CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

Term of the Citizens' Advisory Committee on Environmental Quality extended until Dec. 31, 1978, see Ex. Ord. No. 11948, eff. Dec. 20, 1976, 41 F.R. 55705, set out as a note under section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

EX. ORD. NO. 11514. PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

Ex. Ord. No. 11514, eff. Mar. 5, 1970, 35 F.R. 4247, provided:

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law No. 91-190, approved January 1, 1970) [this chapter], it is ordered as follows:

SECTION 1. *Policy.* The Federal Government shall provide leadership in protecting and enhancing the quality of the Nation's environment to sustain and enrich human life. Federal agencies shall initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals. The Council on Environmental Quality, through the Chairman, shall advise and assist the President in leading this national effort.

SEC. 2. *Responsibilities of Federal agencies.* Consonant with Title I of the National Environmental Policy Act of 1969 [sections 4331 to 4335 of this title], hereafter referred to as the "Act", the heads of Federal agencies shall:

(a) Monitor, evaluate, and control on a continuing basis their agencies' activities so as to protect and enhance the quality of the environment. Such activities shall include those directed to controlling pollution and enhancing the environment and those designed to accomplish other program objectives which may affect the quality of the environment. Agencies shall develop programs and measures to protect and enhance environmental quality and shall assess progress in meeting the specific objectives of such activities. Heads of agencies shall consult with appropriate Federal, State and local agencies in carrying out their activities as they affect the quality of the environment.

(b) Develop procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action. Federal agencies shall also encourage State and local agencies to adopt similar procedures for informing the public concerning their activities affecting the quality of the environment.

(c) Insure that information regarding existing or potential environmental problems and control methods developed as part of research, development, demonstration, test, or evaluation activities is made available to Federal agencies, States, counties, municipalities, institutions, and other entities, as appropriate.

(d) Review their agencies' statutory authority, administrative regulations, policies, and procedures, including those relating to loans, grants, contracts, leases, licenses, or permits, in order to identify any deficiencies or inconsistencies therein which prohibit or limit full compliance with the purposes and provisions of the Act. A report on this review and the corrective actions taken or planned, including such measures to be proposed to the President as may be necessary to bring their authority and policies into conformance with the intent, purposes, and procedures of the Act, shall be provided to the Council on Environmental Quality not later than September 1, 1970.

(e) Engage in exchange of data and research results, and cooperate with agencies of other governments to foster the purposes of the Act.

(f) Proceed, in coordination with other agencies, with actions required by section 102 of the Act [section 4332 of this title].

SEC. 3. *Responsibilities of Council on Environmental Quality.* The Council on Environmental Quality shall:

(a) Evaluate existing and proposed policies and activities of the Federal Government directed to the control of pollution and the enhancement of the environment and to the accomplishment of other objectives which affect the quality of the environment. This shall include continuing review of procedures employed in the development and enforcement of Federal standards affecting environmental quality. Based upon such evaluations the Council shall, where appropriate, recommend to the President policies and programs to achieve more effective protection and enhancement of environmental quality and shall, where appropriate, seek resolution of significant environmental issues.

(b) Recommend to the President and to the agencies priorities among programs designed for the control of pollution and for enhancement of the environment.

(c) Determine the need for new policies and programs for dealing with environmental problems not being adequately addressed.

(d) Conduct, as it determines to be appropriate, public hearings or conferences on issues of environmental significance.

(e) Promote the development and use of indices and monitoring systems (1) to assess environmental conditions and trends, (2) to predict the environmental impact of proposed public and private actions, and (3)

to determine the effectiveness of programs for protecting and enhancing environmental quality.

(f) Coordinate Federal programs related to environmental quality.

(g) Advise and assist the President and the agencies in achieving international cooperation for dealing with environmental problems, under the foreign policy guidance of the Secretary of State.

(h) Issue guidelines to Federal agencies for the preparation of detailed statements on proposals for legislation and other Federal actions affecting the environment, as required by section 102(2)(C) of the Act [section 4332(2)(C) of this title].

(i) Issue such other instructions to agencies, and request such reports and other information from them, as may be required to carry out the Council's responsibilities under the Act.

(j) Assist the President in preparing the annual Environmental Quality Report provided for in section 201 of the Act [section 4341 of this title].

(k) Foster investigations, studies, surveys, research, and analyses relating to (i) ecological systems and environmental quality, (ii) the impact of new and changing technologies thereon, and (iii) means of preventing or reducing adverse effects from such technologies.

SEC. 4. *Amendments of E.O. 11472.* Executive Order No. 11472 of May 29, 1969, including the heading thereof, is hereby amended:

(1) By substituting for the term "the Environmental Quality Council", wherever it occurs, the following: "the Cabinet Committee on the Environment".

(2) By substituting for the term "the Council", wherever it occurs, the following: "the Cabinet Committee".

(3) By inserting in subsection (f) of section 101, after "Budget,", the following: "the Director of the Office of Science and Technology,".

(4) By substituting for subsection (g) of section 101 the following:

"(g) The Chairman of the Council on Environmental Quality (established by Public Law 91-190) [this chapter] shall assist the President in directing the affairs of the Cabinet Committee."

(5) By deleting subsection (c) of section 102.

(6) By substituting for "the Office of Science and Technology", in section 104, the following: "the Council on Environmental Quality (established by Public Law 91-190) [this chapter]".

(7) By substituting for "(here- inafter referred to as the 'Committee')", in section 201, the following: "(hereinafter referred to as the 'Citizens' Committee')".

(8) By substituting for the term "the Committee", wherever it occurs, the following: "the Citizens' Committee".

RICHARD NIXON.

EX. ORD. NO. 11523. NATIONAL INDUSTRIAL POLLUTION CONTROL COUNCIL

Ex. Ord. No. 11523, eff. Apr. 9, 1970, 35 F.R. 5993, provided:

By virtue of the authority vested in me as President of the United States, and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law 91-190, approved January 1, 1970) [this chapter], it is ordered as follows:

SECTION 1. *Establishment of the Council.* (a) There is hereby established the National Industrial Pollution Control Council (hereinafter referred to as "the Industrial Council") which shall be composed of a Chairman, a Vice-chairman, and other representatives of business and industry appointed by the Secretary of Commerce (hereinafter referred to as "the Secretary").

(b) The Secretary, with the concurrence of the Chairman, shall appoint an Executive Director of the Industrial Council.

SEC. 2. *Functions of the Industrial Council.* The Industrial Council shall advise the President and the Chairman of the Council on Environmental Quality, through the Secretary, on programs of industry relating to the quality of the environment. In particular, the Industrial Council may—

(1) Survey and evaluate the plans and actions of industry in the field of environmental quality.

(2) Identify and examine problems of the effects on the environment of industrial practices and the needs of industry for improvements in the quality of the environment, and recommend solutions to those problems.

(3) Provide liaison among members of the business and industrial community on environmental quality matters.

(4) Encourage the business and industrial community to improve the quality of the environment.

(5) Advise on plans and actions of Federal, State, and local agencies involving environmental quality policies affecting industry which are referred to it by the Secretary, or by the Chairman of the Council on Environmental Quality through the Secretary.

SEC. 3. *Subordinate Committees.* The Industrial Council may establish, with the concurrence of the Secretary, such subordinate committees as it may deem appropriate to assist in the performance of its functions. Each subordinate committee shall be headed by a chairman appointed by the Chairman of the Industrial Council with the concurrence of the Secretary.

SEC. 4. *Assistance for the Industrial Council.* In compliance with applicable law, and as necessary to serve the purposes of this order, the Secretary shall provide or arrange for administrative and staff services, support, and facilities for the Industrial Council and any of its subordinate committees.

SEC. 5. *Expenses.* Members of the Industrial Council or any of its subordinate committees shall receive no compensation from the United States by reason of their services hereunder, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

SEC. 6. *Regulations.* The provisions of Executive Order No. 11007 of February 26, 1962 (3 CFR 573) [set out as a note under section 901 of Title 5, Government Organization and Employees] prescribing regulations for the formation and use of advisory committees, are hereby made applicable to the Industrial Council and each of its subordinate committees. The Secretary may exercise the discretionary powers set forth in that order.

SEC. 7. *Construction.* Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency to the authority of any other Federal agency or of the Industrial Council or of any of its subordinate committees, or as abrogating or restricting any such function in any manner.

RICHARD NIXON.

EXECUTIVE ORDER NO. 11574

Ex. Ord. No. 11574, eff. Dec. 23, 1970, 35 F.R. 19627, set out as a note under section 407 of Title 33, Navigation and Navigable Waters, provides for the administration of the Refuse Act permit program to regulate the discharge of pollutants and other refuse matter into the navigable waters of the United States or their tributaries.

EX. ORD. NO. 11643. ENVIRONMENTAL SAFEGUARDS ON ACTIVITIES FOR ANIMAL DAMAGE CONTROL ON FEDERAL LANDS

Ex. Ord. No. 11643, eff. Feb. 8, 1972, 37 F.R. 2875, as amended by Ex. Ord. No. 11870, eff. July 18, 1975, 40 F.R. 30611; Ex. Ord. No. 11917, eff. May 28, 1976, 41 F.R. 22239, provided:

By virtue of the authority vested in me as President of the United States and in furtherance of the purposes and policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) [this chapter] and the Endangered Species Conservation Act of 1969 (16 U.S.C. 668aa), it is ordered as follows:

SECTION 1. It is the policy of the Federal Government, consistent with the authorities cited above, to:

(1) Manage the public lands to protect all animal resources thereon in the manner most consistent with the public trust in which such lands are held;

(2) Conduct all mammal or bird damage control programs in a manner which contributes to the maintenance of environmental quality, and to the conservation and protection of the Nation's wildlife resources, including predatory animals;

(3) Restrict the use on public lands and in Federal predator control programs of any chemical toxicant for the purpose of killing predatory animals or birds which would have secondary poisoning effects;

(4) Restrict the use of chemical toxicants for the purpose of killing predatory or other mammals or birds in Federal programs and on Federal lands in a manner which will balance the need for a responsible animal damage control program consistent with the other policies set forth in this Order; and

(5) assure that where chemical toxicants or devices are used pursuant to Section 3(b), only those combinations of toxicants and techniques will be used which best serve human health and safety and which minimize the use of toxicants and best protect nontarget wildlife species and those individual predatory animals and birds which do not cause damage, consistent with the policies of this Order.

SEC. 2. Definitions. As used in this Order the term:

(a) "Federal lands" means all real property owned by or leased to the Federal Government, excluding (1) lands administered by the Secretary of the Interior pursuant to his trust responsibilities for Indian affairs, and (2) real property located in metropolitan areas.

(b) "Agencies" means the departments, agencies and establishments of the Executive branch of the Federal Government.

(c) "Chemical toxicant" means any chemical substance which, when ingested, inhaled, or absorbed, or when applied to or injected into the body, in relatively small amounts, by its chemical action may cause significant bodily malfunction, injury, illness, or death, to animals or to man.

(d) "Predatory mammal or bird" means any mammal or bird which habitually preys upon other animals, birds, reptiles or fish.

(e) "Secondary poisoning effect" means the result attributable to a chemical toxicant which, after being ingested, inhaled, or absorbed, or when applied to or injected into, a mammal, bird, repitle or fish, is retained in its tissue, or otherwise retained in such a manner and quantity that the tissue itself or retaining part if thereafter ingested by man, mammal, bird, reptile or fish, produces the effects set forth in paragraph (c) of this Section.

(f) "Field use" means use on lands not in, or immediately adjacent to occupied buildings.

SEC. 3. Restrictions on Use of Chemical Toxicants. (a) Heads of agencies shall take such action as is necessary to prevent on any Federal lands under their jurisdiction, or in any Federal program of mammal or bird damage control under their jurisdiction:

(1) the field use of any chemical toxicant for the purpose of killing a predatory mammal or bird; or

(2) the field use of any chemical toxicant which causes any secondary poisoning effect for the purpose of killing mammals, birds, or reptiles.

(b) Notwithstanding the provisions of subsection (a) of this Section, the head of any agency may authorize the emergency use on Federal lands under his jurisdiction of a chemical toxicant for the purpose of killing predatory mammals or birds, or of a chemical toxicant which causes a secondary poisoning effect for the purpose of killing other mammals, birds, or reptiles, but only if in each specific case he makes a written finding, following consultation with the Secretaries of the Interior, Agriculture, and Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency, that an emergency exists that cannot be dealt with by means which do not involve use of chemical toxicants, and that such use is essential:

(1) to the protection of the health or safety of human life;

(2) to the preservation of one or more wildlife species threatened with extinction, or likely within the foreseeable future to become so threatened; or

(3) to the prevention of substantial irretrievable damage to nationally significant natural resources.

(c) Notwithstanding the provisions of subsection (a) of this Section, the head of an agency may authorize the use, on an experimental basis, of sodium cyanide to control coyote and other predatory mammal or bird damage to livestock on Federal lands or in Federal programs, provided that such use is in accordance with all applicable laws and regulations, including those relating to the use of chemical toxicants, and continues for no more than one year.

(d) Notwithstanding the provisions of subsection (a) of this Section, the head of an agency may authorize the operational use of sodium cyanide in Federal programs or on Federal lands, but only in accordance with regulations and on the terms and subject to all the restrictions which may now or hereafter be prescribed by the Environmental Protection Agency; provided that, such use of sodium cyanide is prohibited in (1) areas where endangered or threatened animal species might be adversely affected; (2) areas of the National Park System; (3) areas of the National Wildlife Refuge System; (4) areas of the National Wilderness Preservation System; (5) areas within national forests or other Federal lands specifically set aside for recreational use; (6) prairie dog towns; (7) National Monument areas; and (8) any areas where exposure to the public and family pets is probable.

SEC. 4. Rules for Implementation of Order. Heads of agencies shall issue such rules or regulations as may be necessary and appropriate to carry out the provisions and policy of this Order.

GERALD R. FORD.

EX. ORD. NO. 11644. USE OF OFF-ROAD VEHICLES ON PUBLIC LANDS

Ex. Ord. No. 11644, eff. Feb. 8, 1972, 37 F.R. 2877, provided:

An estimated 5 million off-road recreational vehicles—motorcycles, minibikes, trail bikes, snowmobiles, dunebuggies, all-terrain vehicles, and others—are in use in the United States today, and their popularity continues to increase rapidly. The widespread use of such vehicles on the public lands—often for legitimate purposes but also in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity—has demonstrated the need for a unified Federal policy toward the use of such vehicles on the public lands.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) [this chapter], it is hereby ordered as follows:

SECTION 1. *Purpose.* It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.

SEC. 2. *Definitions.* As used in this order, the term:

(1) "public lands" means (A) all lands under the custody and control of the Secretary of the Interior and the Secretary of Agriculture, except Indian lands, (B) lands under the custody and control of the Tennessee Valley Authority that are situated in western Kentucky and Tennessee and are designated as "Land Between the Lakes," and (C) lands under the custody and control of the Secretary of Defense;

(2) "respective agency head" means the Secretary of the Interior, the Secretary of Defense, the Secretary of Agriculture, and the Board of Directors of the Tennessee Valley Authority, with respect to public lands under the custody and control of each;

(3) "off-road vehicle" means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; except that such term excludes (A) any registered motorboat, (B) any military, fire, emergency, or law enforcement vehicle when used for emergency purposes, and (C) any vehicle whose use is expressly authorized by the respective agency head under a permit, lease, license, or contract; and

(4) "official use" means use by an employee, agent, or designated representative of the Federal Government or one of its contractors in the course of his employment, agency, or representation.

SEC. 3. *Zones of Use.* (a) Each respective agency head shall develop and issue regulations and administrative instructions, within six months of the date of this order, to provide for administrative designation of the specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted, and set a date by which such designation of all public lands shall be completed. Those regulations shall direct that the designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands. The regulations shall further require that the designation of such areas and trails shall be in accordance with the following—

(1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

(3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(4) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas. Areas and trails shall be located in areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.

(b) The respective agency head shall ensure adequate opportunity for public participation in the promulgation of such regulations and in the designation of areas and trails under this section.

(c) The limitations on off-road vehicle use imposed under this section shall not apply to official use.

SEC. 4. *Operating Conditions.* Each respective agency head shall develop and publish, within one year of the date of this order, regulations prescribing operating conditions for off-road vehicles on the public lands. These regulations shall be directed at protecting resource values, preserving public health, safety, and welfare, and minimizing use conflicts.

SEC. 5. *Public Information.* The respective agency head shall ensure that areas and trails where off-road vehicle use is permitted are well marked and shall provide for the publication and distribution of information, including maps, describing such areas and trails and explaining the conditions on vehicle use. He shall seek cooperation of relevant State agencies in the dissemination of this information.

SEC. 6. *Enforcement.* The respective agency head shall, where authorized by law, prescribe appropriate penalties for violation of regulations adopted pursuant to this order, and shall establish procedures for the enforcement of those regulations. To the extent permitted by law, he may enter into agreements with State or local governmental agencies for cooperative enforcement of laws and regulations relating to off-road vehicle use.

SEC. 7. *Consultation.* Before issuing the regulations or administrative instructions required by this order or designating areas or trails are required by this order and those regulations and administrative instructions, the Secretary of the Interior shall, as appropriate, consult with the Atomic Energy Commission.

SEC. 8. *Monitoring of Effects and Review.* (a) The respective agency head shall monitor the effects of the use of off-road vehicles on lands under their jurisdictions. On the basis of the information gathered, they shall from time to time amend or rescind designation of areas or other actions taken pursuant to this order as necessary to further the policy of this order.

(b) The Council on Environmental Quality shall maintain a continuing review of the implementation of this order.

RICHARD NIXON.

EXECUTIVE ORDER NO. 11752

Ex. Ord. No. 11752, eff. Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of this title, provides for the prevention, control and abatement of environmental pollution at federal facilities.

REORGANIZATION PLAN NO. 3 OF 1970

Eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, July 9, 1970, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

ENVIRONMENTAL PROTECTION AGENCY

SECTION 1. ESTABLISHMENT OF AGENCY

(a) There is hereby established the Environmental Protection Agency, hereinafter referred to as the "Agency."

(b) There shall be at the head of the Agency the Administrator of the Environmental Protection Agency, hereinafter referred to as the "Administrator." The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313).

(c) There shall be in the Agency a Deputy Administrator of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(d) There shall be in the Agency not to exceed five Assistant Administrators of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). Each Assistant Administrator shall perform such functions as the Administrator shall from time to time assign or delegate.

SEC. 2. TRANSFERS TO ENVIRONMENTAL PROTECTION AGENCY

(a) There are hereby transferred to the Administrator:

(1) All functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered through the Federal Water Quality Administration, all functions which were transferred to the Secretary of the Interior by Reorganization Plan No. 2 of 1966 (80 Stat. 1608), and all functions vested in the Secretary of the Interior or the Depart-

ment of the Interior by the Federal Water Pollution Control Act or by provisions of law amendatory or supplementary thereof.

(2)(i) The functions vested in the Secretary of the Interior by the Act of August 1, 1958, 72 Stat. 479, 16 U.S.C. 742d-1 (being an Act relating to studies on the effects of insecticides, herbicides, fungicides, and pesticides upon the fish and wildlife resources of the United States), and (ii) the functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered by the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries at Gulf Breeze, Florida.

(3) The functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the following components thereof:

(i) The National Air Pollution Control Administration,

(ii) The Environmental Control Administration:

(A) Bureau of Solid Waste Management,

(B) Bureau of Water Hygiene,

(C) Bureau of Radiological Health,

except that functions carried out by the following components of the Environmental Control Administration of the Environmental Health Service are not transferred: (i) Bureau of Community Environmental Management, (ii) Bureau of Occupational Safety and Health, and (iii) Bureau of Radiological Health, insofar as the functions carried out by the latter Bureau pertain to (A) regulation of radiation from consumer products, including electronic product radiation, (B) radiation as used in the healing arts, (C) occupational exposures to radiation, and (D) research, technical assistance, and training related to clauses (A), (B), and (C).

(4) The functions vested in the Secretary of Health, Education, and Welfare of establishing tolerances for pesticide chemicals under the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. 346, 346a, and 348, together with authority, in connection with the functions transferred, (i) to monitor compliance with the tolerances and the effectiveness of surveillance and enforcement, and (ii) to provide technical assistance to the States and conduct research under the Federal Food, Drug, and Cosmetic Act, as amended [21 U.S.C. 301 et seq.], and the Public Health Service Act, as amended [42 U.S.C. 201 et seq.].

(5) So much of the functions of the Council on Environmental Quality under section 204(5) of the National Environmental Policy Act of 1969 [section 4344(5) of this title], (Public Law 91-190, approved January 1, 1970, 83 Stat. 855), as pertains to ecological systems.

(6) The functions of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended, administered through its Division of Radiation Protection Standards, to the extent that such functions of the Commission consist of establishing generally applicable environmental standards for the protection of the general environment from radioactive material. As used herein, standards mean limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radio-active material.

(7) All functions of the Federal Radiation Council (42 U.S.C. 2021(h)).

(8)(i) The functions of the Secretary of Agriculture and the Department of Agriculture under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135-135k), (ii) the functions of the Secretary of Agriculture and the Department of Agriculture under section 408(*l*) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346a(*l*)), and (iii) the functions vested by law in the Secretary of Agriculture and the Department of Agriculture which are administered through the Environmental Quality Branch of the Plant Protection Division of the Agricultural Research Service.

(9) So much of the functions of the transferor officers and agencies referred to in or affected by the foregoing provisions of this section as is incidental to or necessary for the performance by or under the Administrator of the functions transferred by those provisions or relates primarily to those functions. The transfers to the Administrator made by this section shall be deemed to include the transfer of (1) authority, provided by law, to prescribe regulations relating primarily to the transferred functions, and (2) the functions vested in the Secretary of the Interior and the Secretary of Health, Education, and Welfare by section 169(d)(1)(B) and (3) of the Internal Revenue Code of 1954 (as enacted by section 704 of the Tax Reform Act of 1969, 83 Stat. 668); but shall be deemed to exclude the transfer of the functions of the Bureau of Reclamation under section 3(b)(1) of the Water Pollution Control Act (33 U.S.C. 466a(b)(1)).

(b) There are hereby transferred to the Agency:

(1) From the Department of the Interior, (i) the Water Pollution Control Advisory Board (33 U.S.C. 466f), together with its functions, and (ii) the hearing boards provided for in sections 10(c)(4) and 10(f) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466g(c)(4); 466g(f)). The functions of the Secretary of the Interior with respect to being or designating the Chairman of the Water Pollution Control Advisory Board are hereby transferred to the Administrator.

(2) From the Department of Health, Education, and Welfare, the Air Quality Advisory Board (42 U.S.C. 1857e), together with its functions. The functions of the Secretary of Health, Education, and Welfare with respect to being a member and the Chairman of that Board are hereby transferred to the Administrator.

SEC. 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any other officer, or by any organizational entity or employee, of the Agency.

SEC. 4. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Administrator or the Agency by this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Agency at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 5. INTERIM OFFICERS

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator, authorize any such person to act as Assistant Administrator, and authorize any such person to act as the head of any principal constituent organizational entity of the Administration.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of,

but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 6. ABOLITIONS

(a) Subject to the provisions of this reorganization plan, the following, exclusive of any functions, are hereby abolished:

(1) The Federal Water Quality Administration in the Department of the Interior (33 U.S.C. 466-1).

(2) The Federal Radiation Council (73 Stat. 690; 42 U.S.C. 2021(h)).

(b) Such provisions as may be necessary with respect to terminating any outstanding affairs shall be made by the Secretary of the Interior in the case of the Federal Water Quality Administration and by the Administrator of General Services in the case of the Federal Radiation Council.

SEC. 7. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect sixty days after the date they would take effect under 5 U.S.C. 906(a) in the absence of this section.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1970, prepared in accordance with chapter 9 of title 5 of the United States Code and providing for an Environmental Protection Agency. My reasons for transmitting this plan are stated in a more extended accompanying message.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 3 of 1970 is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in section 1 of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the executive branch who have similar responsibilities.

Section 907 of title 5 of the United States Code will operate to preserve administrative proceedings, including any public hearing proceedings, related to the transferred functions, which are pending immediately prior to the taking effect of the reorganization plan.

The reorganization plan should result in more efficient operation of the Government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which will result from this action.

RICHARD NIXON.

THE WHITE HOUSE,
July 9, 1970.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

As concern with the condition of our physical environment has intensified, it has become increasingly clear that we need to know more about the total environment—land, water and air. It also has become increasingly clear that only by reorganizing our Federal efforts can we develop that knowledge, and effectively ensure the protection, development and enhancement of the total environment itself.

The Government's environmentally-related activities have grown up piecemeal over the years. The time has come to organize them rationally and systematically. As a major step in this direction, I am transmitting today two reorganization plans: one to establish an Environmental Protection Agency, and one to establish, within the Department of Commerce, a National Oceanic and Atmospheric Administration.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Our national government today is not structured to make a coordinated attack on the pollutants which debase the air we breathe, the water we drink, and the land that grows our food. Indeed, the present governmental structure for dealing with environmental pollution often defies effective and concerted action.

Despite its complexity, for pollution control purposes the environment must be perceived as a single, interrelated system. Present assignments of departmental responsibilities do not reflect this interrelatedness.

Many agency missions, for example, are designed primarily along media lines—air, water, and land. Yet the sources of air, water, and land pollution are interrelated and often interchangeable. A single source may pollute the air with smoke and chemicals, the land with solid wastes, and a river or lake with chemical and other wastes. Control of the air pollution may produce more solid wastes, which then pollute the land or water. Control of the water-polluting effluent may convert it into solid wastes, which must be disposed of on land.

Similarly, some pollutants—chemicals, radiation, pesticides—appear in all media. Successful control of them at present requires the coordinated efforts of a variety of separate agencies and departments. The results are not always successful.

A far more effective approach to pollution control would:

—identify pollutants.
—trace them through the entire ecological chain, observing and recording changes in form as they occur.
—Determine the total exposure of man his environment.
—Examine interactions among forms of pollution.
—Identify where in the ecological chain interdiction would be most appropriate.

In organizational terms, this requires pulling together into one agency a variety of research, monitoring, standard-setting and enforcement activities now scattered through several departments and agencies. It also requires that the new agency include sufficient support elements—in research and in aids to State and local antipolution programs, for example—to give it the needed strength and potential for carrying out its mission. The new agency would also, of course, draw upon the results of research conducted by other agencies.

COMPONENTS OF THE EPA

Under the terms of Reorganization Plan No. 3, the following would be moved to the new Environmental Protection Agency:

—The functions carried out by the Federal Water Quality Administration (from the Department of the Interior).
—Functions with respect to pesticides studies now vested in the Department of the Interior.
—The functions carried out by the National Air Pollution Control Administration (from the Department of Health, Education, and Welfare).
—The functions carried out by the Bureau of Solid Waste Management and the Bureau of Water Hygiene, and portions of the functions carried out by the Bureau of Radiological Health of the Environmental Control Administration (from the Department of Health, Education, and Welfare).
—Certain functions with respect to pesticides carried out by the Food and Drug Administration (from the Department of Health, Education, and Welfare).
—Authority to perform studies relating to ecological systems now vested in the Council on Environmental Quality.
—Certain functions respecting radiation criteria and standards now vested in the Atomic Energy Commission and the Federal Radiation Council.
—Functions respecting pesticides registration and related activities now carried out by the Agricultural

Research Service (from the Department of Agriculture).

With its broad mandate, EPA would also develop competence in areas of environmental protection that have not previously been given enough attention, such, for example, as the problem of noise, and it would provide an organization to which new programs in these areas could be added.

In brief, these are the principal functions to be transferred:

FEDERAL WATER QUALITY ADMINISTRATION—Charged with the control of pollutants which impair water quality, it is broadly concerned with the impact of degraded water quality. It performs a wide variety of functions, including research, standard-setting and enforcement, and provides construction grants and technical assistance.

CERTAIN PESTICIDES RESEARCH AUTHORITY FROM THE DEPARTMENT OF THE INTERIOR—Authority for research on the effects of pesticides on fish and wildlife would be provided to the EPA through transfer of the specialized research authority of the pesticides act enacted in 1958. Interior would retain its responsibility to do research on all factors affecting fish and wildlife. Under this provision, only one laboratory would be transferred to the EPA—the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries. The EPA would work closely with the fish and wildlife laboratories remaining with the Bureau of Sport Fisheries and Wildlife.

NATIONAL AIR POLLUTION CONTROL ADMINISTRATION—As the principal Federal agency concerned with air pollution, it conducts research on the effects of air pollution, operates a monitoring network, and promulgates criteria which serve as the basis for setting air quality standards. Its regulatory functions are similar to those of the Federal Water Quality Administration. NAPCA is responsible for administering the Clean Air Act, which involves designating air quality regions, approving State standards and providing financial and technical assistance to State Control agencies to enable them to comply with the Act's provisions. It also sets and enforces Federal automotive emission standards.

ELEMENTS OF THE ENVIRONMENTAL CONTROL ADMINISTRATION—ECA is the focal point within HEW for evaluation and control of a broad range of environmental health problems, including water quality, solid wastes, and radiation. Programs in the ECA involve research, development of criteria and standards, and the administration of planning and demonstration grants. From the ECA, the activities of the Bureaus of Water Hygiene and Solid Waste Management and portions of the activities of the Bureau of Radiological Health would be transferred. Other functions of the ECA including those related to the regulation of radiation from consumer products and occupational safety and health would remain in HEW.

PESTICIDES RESEARCH AND STANDARD-SETTING PROGRAMS OF THE FOOD AND DRUG ADMINISTRATION—FDA's pesticides program consists of setting and enforcing standards which limit pesticide residues in food. EPA would have the authority to set pesticide standards and to monitor compliance with them, as well as to conduct related research. However, as an integral part of its food protection activities, FDA would retain its authority to remove from the market food with excess pesticide residues.

GENERAL ECOLOGICAL RESEARCH FROM THE COUNCIL ON ENVIRONMENTAL QUALITY—This authority to perform studies and research relating to ecological systems would be in addition to EPA's other specific research authorities, and it would help EPA to measure the impact of pollutants. The Council on Environmental Quality would retain its authority to conduct studies and research relating to environmental quality.

ENVIRONMENTAL RADIATION STANDARDS PROGRAMS—The Atomic Energy Commission is now responsible for establishing environmental radiation standards and emission limits for radioactivity. Those standards have been based largely on broad guidelines recommended by the Federal Radiation Council. The Atomic Energy Commission's authority to set standards for the protection of the general environment from radioactive material would be transferred to the Environmental Protection Agency. The functions of the Federal Radiation Council would also be transferred. AEC would retain responsibility for the implementation and enforcement of radiation standards through its licensing authority.

PESTICIDES REGISTRATION PROGRAM OF THE AGRICULTURAL RESEARCH SERVICE—The Department of Agriculture is currently responsible for several distinct functions related to pesticides use. It conducts research on the efficacy of various pesticides as related to other pest control methods and on the effects of pesticides on non-target plants, livestock, and poultry. It registers pesticides, monitors their persistence and carries out an educational program on pesticide use through the extension service. It conducts extensive pest control programs which utilize pesticides.

By transferring the Department of Agriculture's pesticides registration and monitoring function to the EPA and merging it with the pesticides programs being transferred from HEW and Interior, the new agency would be given a broad capability for control over the introduction of pesticides into the environment.

The Department of Agriculture would continue to conduct research on the effectiveness of pesticides. The Department would furnish this information to the EPA, which would have the responsibility for actually licensing pesticides for use after considering environmental and health effects. Thus the new agency would be able to make use of the expertise of the Department.

ADVANTAGES OF REORGANIZATION

This reorganization would permit response to environmental problems in a manner beyond the previous capability of our pollution control programs. The EPA would have the capacity to do research on important pollutants irrespective of the media in which they appear, and on the impact of these pollutants on the total environment. Both by itself and together with other agencies, the EPA would monitor the condition of the environment—biological as well as physical. With these data, the EPA would be able to establish quantitative "environmental baselines"—critical if we are to measure adequately the success or failure of our pollution abatement efforts.

As no disjointed array of separate programs can, the EPA would be able—in concert with the States—to set and enforce standards for air and water quality and for individual pollutants. This consolidation of pollution control authorities would help assure that we do not create new environmental problems in the process of controlling existing ones. Industries seeking to minimize the adverse impact of their activities on the environment would be assured of consistent standards covering the full range of their waste disposal problems. As the States develop and expand their own pollution control programs, they would be able to look to one agency to support their efforts with financial and technical assistance and training.

In proposing that the Environmental Protection Agency be set up as a separate new agency, I am making an exception to one of my own principles: that, as a matter of effective and orderly administration, additional new independent agencies normally should not be created. In this case, however, the arguments against placing environmental protection activities under the jurisdiction of one or another of the existing departments and agencies are compelling.

In the first place, almost every part of government is concerned with the environment in some way, and affects it in some way. Yet each department also has its own primary mission—such as resource development, transportation, health, defense, urban growth or agriculture—which necessarily affects its own view of environmental questions.

In the second place, if the critical standard-setting functions were centralized within any one existing department, it would require that department constantly to make decisions affecting other departments—in which, whether fairly or unfairly, its own objectivity as an impartial arbiter could be called into question.

Because environmental protection cuts across so many jurisdictions, and because arresting environmental deterioration is of great importance to the quality of life in our country and the world, I believe that in this case a strong, independent agency is needed. That agency would, of course, work closely with and draw upon the expertise and assistance of other agencies having experience in the environmental area.

Roles and Functions of EPA

The principal roles and functions of the EPA would include:

—The establishment and enforcement of environmental protection standards consistent with national environmental goals.

—The conduct of research on the adverse effects of pollution and on methods and equipment for controlling it, the gathering of information on pollution, and the use of this information in strengthening environmental protection programs and recommending policy changes.

—Assisting others, through grants, technical assistance and other means in arresting pollution of the environment.

—Assisting the Council on Environmental Quality in developing and recommending to the President new policies for the protection of the environment.

One natural question concerns the relationship between the EPA and the Council on Environmental Quality, recently established by Act of Congress.

It is my intention and expectation that the two will work in close harmony, reinforcing each other's mission. Essentially, the Council is a top-level advisory group (which might be compared with the Council of Economic Advisers), while the EPA would be an operating, "line" organization. The Council will continue to be a part of the Executive Office of the President and will perform its overall coordinating and advisory roles with respect to all Federal programs related to environmental quality.

The Council, then, is concerned with all aspects of environmental quality—wildlife preservation, parklands, land use, and population growth, as well as pollution. The EPA would be charged with protecting the environment by abating pollution. In short, the Council focuses on what our broad policies in the environment field should be; the EPA would focus on setting and enforcing pollution control standards. The two are not competing, but complementary—and taken together, they should give us, for the first time, the means to mount an effectively coordinated campaign against environmental degradation in all of its many forms.

National Oceanic and Atmospheric Administration

The oceans and the atmosphere are interacting parts of the total environmental system upon which we depend not only for the quality of our lives, but for life itself.

We face immediate and compelling needs for better protection of life and property from natural hazards, and for a better understanding of the total environment—and understanding which will enable us more effectively to monitor and predict its actions, and ultimately, perhaps to exercise some degree of control over them.

We also face a compelling need for exploration and development leading to the intelligent use of our marine resources. The global oceans, which constitute nearly three-fourths of the surface of our planet, are today the least-understood, the least-developed, and the least-protected part of our earth. Food from the oceans will increasingly be a key element in the world's fight against hunger. The mineral resources of the ocean beds and of the oceans themselves, are being increasingly tapped to meet the growing world demand. We must understand the nature of these resources, and assure their development without either contaminating the marine environment or upsetting its balance.

Establishment of the National Oceanic and Atmospheric Administration—NOAA—within the Department of Commerce would enable us to approach these tasks in a coordinated way. By employing a unified approach to the problems of the oceans and atmosphere, we can increase our knowledge and expand our opportunities not only in those areas, but in the third major component of our environment, the solid earth, as well.

Scattered through various Federal departments and agencies, we already have the scientific, technological, and administrative resources to make an effective, unified approach possible. What we need is to bring them together. Establishment of NOAA would do so.

By far the largest of the components being merged would be the Commerce Department's Environmental Science Services Administration (ESSA), with some 10,000 employees (70 percent of NOAA's total personnel strength) and estimated Fiscal 1970 expenditures of almost $200 million. Placing NOAA within the Department of Commerce therefore entails the least dislocation, while also placing it within a Department which has traditionally been a center for service activities in the scientific and technological area.

Components of NOAA

Under terms of Reorganization Plan No. 4, the programs of the following organizations would be moved into NOAA:

—The Environmental Science Services Administration (from within the Department of Commerce).

—Elements of the Bureau of Commercial Fisheries (from the Department of the Interior).

—The marine sport fish program of the Bureau of Sport Fisheries and Wildlife (from the Department of the Interior).

—The Marine Minerals Technology Center of the Bureau of Mines (from the Department of the Interior).

—The Office of Sea Grant Programs (from the National Science Foundation).

—Elements of the United States Lake Survey (from the Department of the Army).

In addition, by executive action, the programs of the following organizations would be transferred to NOAA:

—The National Oceanographic Data Center (from the Department of the Navy).

—The National Oceanographic Instrumentation Center (from the Department of the Navy).

—The National Data Buoy Project (from the Department of Transportation).

In brief, these are the principal functions of the programs and agencies to be combined:

The Environmental Science Services Administration

(ESSA) comprises the following components:

—The Weather Bureau (weather, marine, river and flood forecasting and warning).

—The Coast and Geodetic Survey (earth and marine description, mapping and charting).

—The Environmental Data Service (storage and retrieval of environmental data).

—The National Environmental Satellite Center (observation of the global environment from earth-orbiting satellites).

—The ESSA Research Laboratories (research on physical environmental problems).

ESSA's activities include observing and predicting the state of the oceans, the state of the lower and upper atmosphere, and the size and shape of the earth. It maintains the nation's warning systems for such natural hazards as hurricanes, tornadoes, floods, earthquakes and seismic sea waves. It provides information for national defense, agriculture, transportation and industry.

ESSEA monitors atmospheric, oceanic and geophysical phenomena on a global basis, through an unparalleled complex of air, ocean, earth and space facilities. It also prepares aeronautical and marine maps and charts.

BUREAU OF COMMERCIAL FISHERIES AND MARINE SPORT FISH ACTIVITIES—Those fishery activities of the Department of the Interior's U.S. Fish and Wildlife Service which are ocean related and those which are directed toward commercial fishing would be transferred. The Fish and Wildlife Service's Bureau of Commercial Fisheries has the dual function of strengthening the fishing industry and promoting conservation of fishery stocks. It conducts research on important marine species and on fundamental oceanography, and operates a fleet of oceanographic vessels and a number of laboratories. Most of its activities would be transferred. From the Fish and Wildlife Service's Bureau of Sport Fisheries and Wildlife, the marine sport fishing program would be transferred. This involves five supporting laboratories and three ships engaged in activities to enhance marine sport fishing opportunities.

THE MARINE MINERALS TECHNOLOGY CENTER is concerned with the development of marine mining technology.

OFFICE OF SEA GRANT PROGRAMS—The Sea Grant Program was authorized in 1966 to permit the Federal Government to assist the academic and industrial communities in developing marine resources and technology. It aims at strengthening education and training of marine specialists, supporting applied research in the recovery and use of marine resources, and developing extension and advisory services. The Office carries out these objectives by making grants to selected academic institutions.

THE U.S. LAKE SURVEY has two primary missions. It prepares and publishes navigation charts of the Great Lakes and tributary waters and conducts research on a variety of hydraulic and hydrologic phenomena of the Great Lakes' waters. Its activities are very similar to those conducted along the Atlantic and Pacific coasts by ESSA's Coast and Geodetic Survey.

THE NATIONAL OCEANOGRAPHIC DATA CENTER is responsible for the collection and dissemination of oceanographic data accumulated by all Federal agencies.

THE NATIONAL OCEANOGRAPHIC INSTRUMENTATION CENTER provides a central Federal service for the calibration and testing of oceanographic instruments.

THE NATIONAL DATA BUOY DEVELOPMENT PROJECT WAS established to determine the feasibility of deploying a system of automatic ocean buoys to obtain oceanic and atmospheric data.

ROLE OF NOAA

Drawing these activities together into a single agency would make possible a balanced Federal program to improve our understanding of the resources of the sea, and permit their development and use while guarding against the sort of thoughtless exploitation that in the past laid waste to so many of our precious natural assets. It would make possible a consolidated program for achieving a more comprehensive understanding of oceanic and atmospheric phenomena, which so greatly affect our lives and activities. It would facilitate the cooperation between public and private interests that can best serve the interests of all.

I expect that NOAA would exercise leadership in developing a national oceanic and atmospheric program of research and development. It would coordinate its own scientific and technical resources with the technical and operational capabilities of other government agencies and private institutions. As important, NOAA would continue to provide those services to other agencies of government, industry and private individuals which have become essential to the efficient operation of our transportation systems, our agriculture and our national security. I expect it to maintain continuing and close liaison with the new Environmental Protection Agency and the Council on Environmental Quality as part of an effort to ensure that environmental questions are dealt with in their totality and they benefit from the full range of the government's technical and human resources.

Authorities who have studied this matter, including the Commission on Marine Science, Engineering and Resources, strongly recommended the creation of a National Advisory Committee for the Oceans. I agree. Consequently, I will request, upon approval of the plan, that the Secretary of Commerce establish a National Advisory Committee for the Oceans and the Atmosphere to advise him on the progress of governmental and private programs in achieving the nation's oceanic and atmospheric objectives.

AN ON-GOING PROCESS

The reorganizations which I am here proposing afford both the Congress and the Executive Branch an opportunity to re-evaluate the adequacy of existing program authorities involved in these consolidations. As these two new organizations come into being, we may well find that supplementary legislation to perfect their authorities will be necessary. I look forward to working with the Congress in this task.

In formulating these reorganization plans, I have been greatly aided by the work of the President's Advisory Council on Executive Organization (the Ash Council), the Commission on Marine Science, Engineering and Resources (the Stratton Commission, appointed by President Johnson), my special task force on oceanography headed by Dr. James Wakelin, and by the information developed during both House and Senate hearings on proposed NOAA legislation.

Many of those who have advised me have proposed additional reorganizations, and it may well be that in the future I shall recommend further changes. For the present, however, I think the two reorganizations transmitted today represent a sound and significant beginning. I also think that in practical terms, in this sensitive and rapidly developing area, it is better to proceed a step at a time—and thus to be sure that we are not caught up in a form of organizational indigestion from trying to rearrange too much at once. As we see how these changes work out, we will gain a better understanding of what further changes—in addition to these—might be desirable.

Ultimately, our objective should be to insure that the nation's environmental and resource protection activities are so organized as to maximize both the effective coordination of all and the effective functioning of each.

The Congress, the Administration and the public all share a profound commitment to the rescue of our natural environment, and the preservation of the Earth as a place both habitable by and hospitable to man. With its acceptance of these reorganization plans, the Congress will help us fulfill that commitment.

RICHARD NIXON.

THE WHITE HOUSE,
July 9, 1970.

TRANSFER OF FUNCTIONS

Functions of the Environmental Protection Agency and the officers and components thereof as relate to or are utilized in connection with research, development, but not assessment or monitoring for regulatory purposes, of alternative automotive power systems, transferred to and vested in the Administrator, Energy Research and Development Administration, see section 5814 of this title.

SUBCHAPTER I—POLICIES AND GOALS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 4342, 4344 of this title.

§ 4331. Congressional declaration of national environmental policy

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(Pub. L. 91-190, title I, § 101, Jan. 1, 1970, 83 Stat. 852.)

COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE

Pub. L. 91-213, §§ 1 to 9, Mar. 16, 1970, 84 Stat. 67-69, established the Commission on Population Growth and the American Future to conduct and sponsor such studies and research and make such recommendations as might be necessary to provide information and education to all levels of government in the United States, and to our people regarding a broad range of problems associated with population growth and their implications for America's future; prescribed the composition of the Commission; provided for the appointment of its members, and the designation of a Chairman and Vice Chairman; required a majority of the members of the Commission to constitute a quorum, but allowed a lesser number to conduct hearings; prescribed the compensation of members of the Commission; required the Commission to conduct an inquiry into certain prescribed aspects of population growth in the United States and its foreseeable social consequences; provided for the appointment of an Executive Director and other personnel and prescribed their compensation; authorized the Commission to enter into contracts with public agencies, private firms, institutions, and individuals for the conduct of research and surveys, the preparation of reports, and other activities necessary to the discharge of its duties, and to request from any Federal department or agency any information and assistance it deems necessary to carry out its functions; required the General Services Administration to provide administrative services for the Commission on a reimbursable basis; required the Commission to submit an interim report to the President and the Congress one year after it was established and to submit its final report two years after Mar. 16, 1970; terminated the Commission sixty days after the date of the submission of its final report; and authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as might be necessary to carry out the provisions of Pub. L. 91-213.

EXECUTIVE ORDER NO. 11507

Ex. Ord. No. 11507, eff. Feb. 4, 1970, 35 F.R. 2573, formerly set out as a note under this section, which related to prevention, control, and abatement of air and water pollution at federal facilities was superseded by Ex. Ord. No. 11752, eff. Dec. 17, 1973, 38 F.R. 34793, set out as a note below.

EX. ORD. NO. 11752. PREVENTION, CONTROL, AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, eff. Dec. 17, 1973, 38 F.R. 34793, provided:

By virtue of the authority vested in me as President of the United States of America, including section 301 of title 3 of the United States Code, and in furtherance of the purpose and policies of the Clean Air Act, as amended (42 U.S.C. 1857), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251), the Solid Waste Disposal Act, as amended (42 U.S.C. 3251), the Noise Control Act of 1972 (42 U.S.C. 4901), the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431), the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 (7 U.S.C. 136), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321) [this chapter], it is ordered as follows:

SECTION 1. *Policy.* It is the purpose of this order to assure that the Federal Government, in the design, construction, management, operation, and maintenance of its facilities, shall provide leadership in the nationwide effort to protect and enhance the quality of our air, water, and land resources through compliance with applicable standards for the prevention, control, and abatement of environmental pollution in full cooperation with State and local governments. Compliance by Federal facilities with Federal, State, interstate, and local substantive standards and substantive limitations, to the same extent that any person is subject to such standards and limitations, will accomplish the objective of providing Federal leadership and cooperation in the prevention of environmental pollution. In light of the principle of Federal supremacy embodied in the Constitution, this order is not intended, nor should it be interpreted, to require Federal facilities to comply with State or local administrative procedures with respect to pollution abatement and control.

SEC. 2. *Definitions.* As used in this order:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "Federal agencies" means the departments, agencies, establishments, and instrumentalities of the executive branch.

(3) The term "State, interstate, and local agencies" means any of the following:

(A) a State agency designated by the Governor of that State as an official State agency responsible for enforcing State and local laws relating to the prevention, control, and abatement of environmental pollution;

(B) any agency established by two or more States and having substantial powers or duties pertaining to the prevention, control, and abatement of environmental pollution;

(C) a city, county, or other local government authority charged with responsibility for enforcing ordinances or laws relating to the prevention, control, and abatement of environmental pollution; or

(D) an agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention, control, and abatement of environmental pollution.

(4) The term "facilities" means the buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned by, or constructed or manufactured for the purpose of leasing to, the Federal Government.

(5) The term "United States" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 3. *Responsibilities.* (a) Heads of Federal agencies shall, with regard to all facilities under their jurisdiction in the United States:

(1) Ensure that applicable standards specified in section 4 of this order are met on a continuing basis.

(2) Cooperate with the Administrator and State, interstate, and local agencies in the prevention, control, and abatement of environmental pollution and, in accordance with guidelines issued by the Administrator, provide to the Administrator and to those agencies such information as is necessary to determine compliance with applicable standards. Such cooperation shall include development of an abatement plan and schedule for meeting applicable standards.

(3) Present to the Director of the Office of Management and Budget, annually, a plan to provide for such improvement in the design, construction, management, operation, and maintenance of existing facilities as may be necessary to meet applicable standards specified in section 4.

(4) Consider the environmental impact in the initial stages of planning for each new facility or modification to an existing facility in accordance with the National Environmental Policy Act [this chapter].

(5) Include with all budget requests for the design and construction of new facilities or for modification of existing facilities funds for such measures as may be necessary to meet applicable standards specified in section 4. Budget requests shall reflect the most efficient alternative for meeting applicable standards.

(6) Consult, as appropriate, with the Administrator and with State and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution.

(7) Ensure that any funds appropriated and apportioned for the prevention, control, and abatement of environmental pollution are not used for any other purpose unless permitted by law and unless specifically approved by the Office of Management and Budget.

(b) Where activities are carried out at Federal facilities acquired by leasing or other Federal agreements, the head of the responsible agency may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to assume full responsibility for complying with standards for the prevention, control, and abatement of environmental pollution.

(c) Heads of Federal agencies responsible for the construction and operation of Federal facilities outside the United States shall assure that such facilities are operated so as to comply with the environmental pollution standards of general applicability in the host country or jurisdictions concerned.

(d) The Administrator shall:

(1) Provide technical advice and assistance to the heads of Federal agencies in connection with their duties and responsibilities under this order.

(2) Maintain such review of Federal facilities' compliance with the standards specified in section 4 as may be necessary.

(3) Provide liaison as required to assure that actions taken by Federal agencies pursuant to this order are coordinated with State, interstate, and local programs for the prevention, control, and abatement of environmental pollution.

(4) Mediate conflicts between Federal agencies and State, interstate, or local agencies in matters affecting the application of, or compliance with, applicable standards specified in section 4.

(5) Develop in consultation with the heads of other Federal agencies a coordinated strategy for Federal facility compliance with applicable standards specified in section 4 which incorporates, to the maximum extent practicable, common procedures for an integrated approach to Federal agency compliance with such standards, and issue such regulations and guidelines as are deemed necessary to facilitate implementation of that strategy and to provide a framework for coordination and cooperation among the Environmental Protection Agency, the other Federal agencies, and the State, interstate, and local agencies.

(6) Maintain a continuing review of the implementation of this order and, from time to time, report to the President on the progress of the Federal agencies in implementing this order.

SEC. 4. *Standards.* (a) Heads of Federal agencies shall ensure that all facilities under their jurisdiction are designed, constructed, managed, operated, and maintained so as to conform to the following requirements:

(1) Federal, State, interstate, and local air quality standards and emission limitations adopted in accordance with or effective under the provisions of the Clean Air Act, as amended [section 1857 et seq. of this title].

(2) Federal, State, interstate, and local water quality standards and effluent limitations respecting the discharge or runoff of pollutants adopted in accordance with or effective under the provisions of the Federal Water Pollution Control Act, as amended [section 1251 et seq. of Title 33, Navigation and Navigable Waters].

(3) Federal regulations and guidelines respecting dumping of material into ocean waters adopted in accordance with the Marine Protection, Research, and Sanctuaries Act of 1972 [section 1431 et seq. of Title 16, Conservation], and the Federal Water Pollution Control Act, as amended [section 1251 et seq. of Title 33, Navigation and Navigable Waters].

(4) Guidelines for solid waste recovery, collection, storage, separation, and disposal systems issued by the Administrator pursuant to the Solid Waste Disposal Act, as amended [section 6901 et seq. of this title].

(5) Federal noise emission standards for products adopted in accordance with provisions of the Noise Control Act of 1972 [section 4901 et seq. of this title] and State, interstate, and local standards for control and abatement of environmental noise.

(6) Federal guidance on radiation and generally applicable environmental radiation standards promulgated or recommended by the Administrator and adopted in accordance with the Atomic Energy Act, as amended (42 U.S.C. 2011), and rules, regulations, requirements, and guidelines on discharges of radioactivity as prescribed by the Atomic Energy Commission.

(7) Federal regulations and guidelines respecting manufacture, transportation, purchase, use, storage, and disposal of pesticides promulgated pursuant to the

provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 [section 136 et seq. of Title 7, Agriculture].

(b) In those cases in which there are no environmental pollution standards as specified in subsection (a) for a particular geographic area or class of Federal facilities, the Administrator, in consultation with appropriate Federal, State, interstate, and local agencies, may issue regulations, which shall be published in the FEDERAL REGISTER, establishing environmental pollution standards for the purpose of this order.

SEC. 5. *Exemptions.* (a) The heads of Federal agencies, in consultation with the Administrator, may, from time to time, identify facilities or uses thereof which are exempted from applicable standards specified in section 4 in the interest of national security or in extraordinary cases in which it is in the paramount interest of the United States. No such exemptions shall be made except as are permissible under applicable Federal law.

(b) In any case in which the Administrator does not agree with a determination to exempt a facility or use thereof from the provisions of this order, the head of the Federal agency making such a determination must have the approval of the Director of the Office of Management and Budget to exempt that facility or use thereof; except that, the Administrator is solely responsible for approval of exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 [section 136 et seq. of Title 7, Agriculture].

(c) The heads of Federal agencies shall present to the Director of the Office of Management and Budget at the end of each calendar year a report of all exemptions made during that year, together with the justification for each such exemption.

SEC. 6. *Saving Provisions.* Except to the extent that they are inconsistent with this order, all outstanding rules, regulations, orders, delegations, or other forms of administrative action issued, made, or otherwise taken under the order superseded by Section 7 hereof or relating to the subject of this order shall remain in full force and effect until amended, modified, or terminated by proper authority.

SEC. 7. *Order Superseded.* Executive Order No. 11507 of February 4, 1970, is hereby superseded.

RICHARD NIXON.

§ 4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisonmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, and shall accompany the proposal through the existing agency review processes;

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

(i) the State agency or official has statewide jurisdiction and has the responsibility for such action,

(ii) the responsible Federal official furnishes guidance and participates in such preparation,

(iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and

(iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this chapter; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.[1]

[1]So in original. The period probably should be a semicolon.

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by subchapter II of this chapter.

(Pub. L. 91-190, title I, § 102, Jan. 1, 1970, 83 Stat. 853; Pub. L. 94-83, Aug. 9, 1975, 89 Stat. 424.)

AMENDMENTS

1975—Subpar. (D). Pub. L. 94-83 added subpar. (D). Former subpar. (D) redesignated (E).

Subpars. (E) to (I). Pub. L. 94-83 redesignated former subpars. (D) to (H) as (E) to (I), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2242, 4334 of this title; title 15 section 793; title 16 section 1604; title 30 section 185; title 33 section 1504; title 43 section 1751; title 45 section 791; title 49 section 1431.

§ 4333. Conformity of administrative procedures to national environmental policy

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this chapter.

(Pub. L. 91-190, title I, § 103, Jan. 1, 1970, 83 Stat. 854.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4334 of this title.

§ 4334. Other statutory obligations of agencies

Nothing in section 4332 or 4333 of this title shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

(Pub. L. 91-190, title I, § 104, Jan. 1, 1970, 83 Stat. 854.)

§ 4335. Efforts supplemental to existing authorizations

The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of Federal agencies.

(Pub. L. 91-190, title I, § 105, Jan. 1, 1970, 83 Stat. 854.)

SUBCHAPTER II—COUNCIL ON ENVIRONMENTAL QUALITY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 4332 of this title.

§ 4341. Reports to Congress; recommendations for legislation

The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the "report") which shall set forth (1) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban, and rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

(Pub. L. 91-190, title II, § 201, Jan. 1, 1970, 83 Stat. 854.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4344, 5910 of this title.

§ 4342. Establishment; membership; Chairman; appointments

There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Fed-

eral Government in the light of the policy set forth in subchapter I of this chapter; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

(Pub. L. 91-190, title II, § 202, Jan. 1, 1970, 83 Stat. 854.)

§ 4343. Employment of personnel, experts and consultants

(a) The Council may employ such officers and employees as may be necessary to carry out its functions under this chapter. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this chapter, in accordance with section 3109 of title 5 (but without regard to the last sentence thereof).

(b) Notwithstanding section 665(b) of title 31, the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.

(Pub. L. 91-190, title II, § 203, Jan. 1, 1970, 83 Stat. 855; Pub. L. 94-52, § 2, July 3, 1975, 89 Stat. 258.)

AMENDMENTS

1975—Pub. L. 94-52 designated existing provisions as subsec. (a) and added subsec. (b).

§ 4344. Duties and functions

It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 4341 of this title;

(2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in subchapter I of this chapter, and to compile and submit to the President studies relating to such conditions and trends;

(3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

(Pub. L. 91-190, title II, § 204, Jan. 1, 1970, 83 Stat. 855.)

TRANSFER OF FUNCTIONS

So much of the functions of the Council on Environmental Quality under par. (4) of this section as pertains to ecological systems was transferred to the Administrator of the Environmental Protection Agency by Reorg. Plan No. 3 of 1970, § 2(a)(5), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, set out under section 4321 of this title.

§ 4345. Consultation with the Citizen's Advisory Committee on Environmental Quality and other representatives

In exercising its powers, functions, and duties under this chapter, the Council shall—

(1) consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order numbered 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

(Pub. L. 91-190, title II, § 205, Jan. 1, 1970, 83 Stat. 855.)

REFERENCES IN TEXT

Executive Order numbered 11472, dated May 29, 1969, referred to in par. (1), is set out as a note under section 4321 of this title.

TERMINATION OF ADVISORY COMMITTEE

Term of the Citizens' Advisory Committee on Environmental Quality extended until Dec. 31, 1978, see Ex. Ord. No. 11948, eff. Dec. 20, 1976, 41 F.R. 55705, set out as a note under section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 4346. Tenure and compensation of members

Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for Level IV or[1] the Executive Schedule Pay Rates (5 U.S.C. 5315).

[1]So in original. Probably should be "of".

(Pub. L. 91-190, title II, § 206, Jan. 1, 1970, 83 Stat. 856.)

§ 4346a. Travel reimbursement by private organizations and Federal, State, and local governments

The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.

(Pub. L. 91-190, title II, § 207, as added Pub. L. 94-52, § 3, July 3, 1975, 89 Stat. 258.)

§ 4346b. Expenditures in support of international activities

The Council may make expenditures in support of its international activities, including expenditures for: (1) international travel; (2) activities in implementation of international agreements; and (3) the support of international exchange programs in the United States and in foreign countries.

(Pub. L. 91-190, title II, § 208, as added Pub. L. 94-52, § 3, July 3, 1975, 89 Stat. 258.)

§ 4347. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this chapter not to exceed $300,000 for fiscal year 1970, $700,000 for fiscal year 1971, and $1,000,000 for each fiscal year thereafter.

(Pub. L. 91-190, title II, § 209, formerly § 207, Jan. 1, 1970, 83 Stat. 856, renumbered Pub. L. 94-52, § 3, July 3, 1975, 89 Stat. 258.)

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§ 4361. Plan for research, development, and demonstration

The Administrator of the Environmental Protection Agency shall transmit to the Congress, within 6 months after October 11, 1976, a comprehensive 5-year plan for environmental research, development, and demonstration. This plan shall be appropriately revised annually, and such revisions shall be transmitted to the Congress no later than two weeks after the President submits his annual budget to the Congress in such year.

(Pub. L. 94-475, § 5, Oct. 11, 1976, 90 Stat. 2071.)

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1976, and not as part of the National Environmental Policy Act of 1969, which comprises this chapter.

CHAPTER 56—ENVIRONMENTAL QUALITY IMPROVEMENT

Sec.
4371. Congressional findings, declarations, and purposes.
4372. Office of Environmental Quality.
(a) Establishment; Director; Deputy Director.
(b) Compensation of Deputy Director.
(c) Employment of personnel, experts, and consultants; compensation.
(d) Duties and functions of Director.
(e) Authority of Director to contract.
4373. Referral of Environmental Quality Reports to standing committees having jurisdiction.
4374. Authorization of appropriations.

§ 4371. Congressional findings, declarations, and purposes

(a) The Congress finds—

(1) that man has caused changes in the environment;

(2) that many of these changes may affect the relationship between man and his environment; and

(3) that population increases and urban concentration contribute directly to pollution and the degradation of our environment.

(b)(1) The Congress declares that there is a national policy for the environment which provides for the enhancement of environmental quality. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.

(2) The primary responsibility for implementing this policy rests with State and local government.

(3) The Federal Government encourages and supports implementation of this policy through appropriate regional organizations established under existing law.

(c) The purposes of this chapter are—

(1) to assure that each Federal department and agency conducting or supporting public works activities which affect the environment shall implement the policies established under existing law; and

(2) to authorize an Office of Environmental Quality, which, notwithstanding any other provision of law, shall provide the professional and administrative staff for the Council on Environmental Quality established by Public Law 91-190.

(Pub. L. 91-224, title II, § 202, Apr. 3, 1970, 84 Stat. 114.)

REFERENCES IN TEXT

Pub. L. 91-190, referred to in subsec. (c)(2), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, known as the National Environmental Policy Act of 1969, which is classified generally to chapter 55 (§ 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables volume.

SHORT TITLE

Section 201 of Pub. L. 91-224 provided that: "This title [enacting this chapter] may be cited as the 'Environmental Quality Improvement Act of 1970'."

§ 4372. Office of Environmental Quality

(a) Establishment; Director; Deputy Director

There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (hereafter in this chapter referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91-190 shall

be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Compensation of Deputy Director

The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Office of Management and Budget.

(c) Employment of personnel, experts, and consultants; compensation

The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions under this chapter and Public Law 91-190, except that he may employ no more than ten specialists and other experts without regard to the provisions of title 5, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of title 5.

(d) Duties and functions of Director

In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by—

(1) providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91-190.

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;

(3) reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(4) promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(5) assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;

(6) assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government;

(7) collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) Authority of Director to contract

The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to section 529 of title 31 and section 5 of title 41 in carrying out his functions.

(Pub. L. 91-224, title II, § 203, Apr. 3, 1970, 84 Stat. 114; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

REFERENCES IN TEXT

Pub. L. 91-190, referred to in subsecs. (a), (c), (d), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, known as the National Environmental Policy Act of 1969, which is classified generally to chapter 55 (§ 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables volume.

The provisions of title 5, governing appointments in the competitive service, referred to in subsec. (c), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (c), is set out under section 5332 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of Reorg. Plan No. 2 of 1970, redesignated the Bureau of the Budget as the Office of Management and Budget.

§ 4373. Referral of Environmental Quality Reports to standing committees having jurisdiction

Each Environmental Quality Report required by Public Law 91-190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

(Pub. L. 91-224, title II, § 204, Apr. 3, 1970, 84 Stat. 115.)

REFERENCES IN TEXT

Pub. L. 91-190, referred to in text, is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, known as the National Environmental Policy Act of 1969, which is classified generally to chapter 55 (§ 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables volume.

§ 4374. Authorization of appropriations

There are hereby authorized to be appropriated for the operations of the Office of Environmental Quality and the Council on Environmental Quality not to exceed the following sums for the following fiscal years which sums are in addition to those contained in Public Law 91-190:

(a) $2,000,000 for the fiscal year ending June 30, 1976.

(b) $500,000 for the transition period (July 1, 1976, to September 30, 1976).

(c) $3,000,000 for the fiscal year ending September 30, 1977.

(d) $3,000,000 for the fiscal year ending September 30, 1978.

(Pub. L. 91-224, title II, § 205, Apr. 3, 1970, 84 Stat. 115; Pub. L. 93-36, May 18, 1973, 87 Stat.

72; Pub. L. 94-52, § 1, July 3, 1975, 89 Stat. 258; Pub. L. 94-298, May 29, 1976, 90 Stat. 587.)

REFERENCES IN TEXT

Pub. L. 91-190, referred to in text, is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, known as the National Environmental Policy Act of 1969, which is classified generally to chapter 55 (§ 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables volume.

AMENDMENTS

1976—Pub. L. 94-298 made changes in structure by designating existing provisions as cls. (a) and (b) and adding cls. (c) and (d).

1975—Pub. L. 94-52 substituted "$2,000,000 for the fiscal year ending June 30, 1976, and not to exceed $500,000 for the transition period (July 1, 1976 to September 30, 1976)" for "$1,500,000 for the fiscal year ending June 30, 1974, and $2,000,000 for the fiscal year ending June 30, 1975".

1973—Pub. L. 93-36 substituted provisions authorizing to be appropriated for the operations of the Office of Environmental Quality and the Council on Environmental Quality $1,500,000 for the fiscal year ending June 30, 1974, and $2,000,000 for the fiscal year ending June 30, 1975, for provisions authorizing to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1970, not to exceed $750,000 for the fiscal year ending June 30, 1971, not to exceed $1,250,000 for the fiscal year ending June 30, 1972, and not to exceed $1,500,000 for the fiscal year ending June 30, 1973.

CHAPTER 57—ENVIRONMENTAL POLLUTION STUDY

Sec.
4391. Congressional statement of findings.
4392. Presidential study.
4393. Report to Congress by President.
4394. Supplemental reports by President.
4395. Authorization of appropriations.

§ 4391. Congressional statement of findings

The Congress finds that there is general agreement that air, water, and other common environmental pollution may be hazardous to the health of individuals resident in the United States, but that despite the existence of various research papers and other technical reports on the health hazards of such pollution, there is no authoritative source of information about (1) the nature and gravity of these hazards, (2) the availability of medical and other assistance to persons affected by such pollution, especially when such pollution reaches emergency levels, and (3) the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals.

(Pub. L. 91-515, title V, § 501(a), Oct. 30, 1970, 84 Stat. 1309.)

§ 4392. Presidential study

The President shall immediately commence (1) a study of the nature and gravity of the hazards to human health and safety created by air, water, and other common environmental pollution, (2) a survey of the medical and other assistance available to persons affected by such pollution, especially when such pollution reaches emergency levels, and (3) a survey of the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals.

(Pub. L. 91-515, title V, § 501(b), Oct. 30, 1970, 84 Stat. 1310.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4393 of this title.

§ 4393. Report to Congress by President

The President shall, within nine months of October 30, 1970, transmit to the Congress a report of the study and surveys required by section 4392 of this title, including (1) his conclusions regarding the nature and gravity of the hazards to human health and safety created by environmental pollution, (2) his evaluation of the medical and other assistance available to persons affected by such pollution, especially when such pollution reaches emergency levels, (3) his assessment of the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals, and (4) such legislative or other recommendations as he may deem appropriate.

(Pub. L. 91-515, title V, § 501(c), Oct. 30, 1970, 84 Stat. 1310.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4394 of this title.

§ 4394. Supplemental reports by President

The President shall, within one year of his transmittal to the Congress of the report required by section 4393 of this title, and annually thereafter, supplement that report with such new data, evaluations, or recommendations as he may deem appropriate.

(Pub. L. 91-515, title V, § 501(d), Oct. 30, 1970, 84 Stat. 1310.)

§ 4395. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 91-515, title V, § 501(e), Oct. 30, 1970, 84 Stat. 1310.)

CHAPTER 58—DISASTER RELIEF

§§ 4401, 4402. Repealed. Pub. L. 93-288, title VI, § 603, May 22, 1974, 88 Stat. 164

Section 4401, Pub. L. 91-606, title I, § 101, Dec. 31, 1970, 84 Stat. 1744, related to Congressional findings and declarations.

Section 4402, Pub. L. 91-606, title I, § 102, Dec. 31, 1970, 84 Stat. 1745, related to definitions.

EFFECTIVE DATE OF REPEAL

Repeal of sections by Pub. L. 93-288 effective Apr. 1, 1974, see section 605 of Pub. L. 93-288, set out as an Effective Date note under section 5121 of this title.

SHORT TITLE

Pub. L. 91-606, § 1, Dec. 31, 1970, 84 Stat. 1744, provided that Pub. L. 91-606 which enacted this chapter, amended section 1926 of Title 7, Agriculture, sections 1706c, 1709, and 1715l of Title 12, Banks and Banking, sections 241-1, 646, and 758 of Title 20, Education, sec-

tions 165, 5064, and 5708 of Title 26, Internal Revenue Code, section 1820 of Title 38, Veterans' Benefits, section 461 of Title 40, Public Buildings, Property, and Works, section 1681 note of Title 48, Territories and Insular Possessions, repealed sections 1855 to 1855g, 1855aa, 1855aa note, 1855bb to 1855ii, 1855aaa, 1855aaa note, 1855bbb to 1855nnn of this title, and enacted provisions set out as notes under sections 4401 and 4434 of this title, may be cited as the "Disaster Relief Act of 1970".

SAVINGS PROVISIONS

Section 603 of Pub. L. 93-288 provided in part that notwithstanding repeal of the provisions of Disaster Relief Act of 1970, such provisions should continue in effect with respect to any major disaster declared prior to May 22, 1974.

REFERENCES TO DISASTER RELIEF ACT OF 1970

Section 602(m) of Pub. L. 93-288 provided that: "Whenever reference is made in any provision of law (other than this Act [the Disaster Relief Act of 1974, see Short Title note under section 5121 of this title]), regulation rule, record, or documents of the United States to provisions of the Disaster Relief Act of 1970 (84 Stat. 1744) [see Short Title note above], repealed by this Act such reference shall be deemed to be a reference to the appropriate provision of this Act."

REFERENCES TO ACT OF SEPTEMBER 30, 1950

Pub. L. 91-606, title III, § 301(*l*), Dec. 31, 1970, 84 Stat. 1758, which provided that whenever reference is made in any provision of law (other than this chapter), regulation, rule, record, or document of the United States to the Act of Sept. 30, 1950, ch. 1125, 64 Stat. 1109, (classified to sections 1855 to 1855g of this title), or to any provision of such Act, such reference shall be deemed to be a reference to the Disaster Relief Act of 1970 or to the appropriate provision of the Disaster Relief Act of 1970 unless no such provision was included therein, was repealed by Pub. L. 93-288, title VI, § 603, May 22, 1974, 88 Stat. 164.

AVAILABILITY OF FUNDS APPROPRIATED UNDER THIS CHAPTER FOR USE UNDER CHAPTER 68

Section 604 of Pub. L. 93-288 provided that: "Funds heretofore appropriated and available under Public Laws 91-606, as amended [this chapter], and 92-385 [which amended section 4451 of this title and sections 633 and 636 of Title 15, Commerce and Trade, repealed section 1969 of Title 7, Agriculture, enacted provisions set out as notes under section 4401 of this title and section 636 of Title 15] shall continue to be available for the purpose of providing assistance under those Acts as well as for the purposes of this Act [see Short Title note set out under section 5121 of this title]."

USE OF FUNDS ALLOCATED BEFORE DECEMBER 31, 1970

Pub. L. 91-606, title III, § 303, Dec. 31, 1970, 84 Stat. 1759, provided that funds allocated before Dec. 31, 1970, under a Federal-State Disaster Agreement for the relief of a major disaster and not expended on Dec. 31, 1970, may be used by the state to make payments to any person for reimbursement of expenses actually incurred by such person in the removal of debris from community areas, but not to exceed the amount that such expenses exceed the salvage value of such debris, or in otherwise carrying out the act of Sept. 30, 1950, or this chapter.

REPORT TO CONGRESS; PROPOSALS FOR LEGISLATION

Pub. L. 92-385, § 3, Aug. 16, 1972, 86 Stat. 556, required the President to conduct a thorough review of existing disaster relief legislation and to submit a report to Congress not later than Jan. 1, 1973.

EXECUTIVE ORDER NO. 11526

Ex. Ord. No. 11526, eff. Apr. 22, 1970, 35 F.R. 6569, which provided for the establishment of the National Council on Federal Disaster Assistance, was superseded by Ex. Ord. No. 11749, set out as a note under section 5121 of this title.

EXECUTIVE ORDER NO. 11575

Ex. Ord. No. 11575, eff. Dec. 31, 1970, 36 F.R. 37, which related to the administration of this chapter, was superseded by Ex. Ord. No. 11749, set out as a note under section 5121 of this title.

§§ 4411 to 4413. Repealed. Pub. L. 93-288, title VI, § 603, May 22, 1974, 88 Stat. 164

Section 4411, Pub. L. 91-606, title II § 201, Dec. 31, 1970. 84 Stat. 1746, related to cooperation of Federal agencies of a Federal coordinating officer.

Section 4412, Pub. L. 91-606, title II, § 202, Dec. 31, 1970, 84 Stat. 1746, related to the formation of emergency support teams of Federal personnel.

Section 4413, Pub. L. 91-606, title II, § 203, Dec. 31, 1970, 84 Stat. 1747, related to cooperation of Federal agencies in rendering emergency assistance, the scope of services, non-liability of the Federal government, employment of temporary personnel, rules and regulations, review of programs, and reports to Congress.

EFFECTIVE DATE OF REPEAL

Repeal of sections by Pub. L. 93-288 effective Apr. 1, 1974 see section 605 of Pub. L. 93-288, set out as an Effective Date note under section 5121 of this title.

§ 4413a. Transferred

CODIFICATION

Section, Pub. L. 92-383, title IV, § 406, Aug. 14, 1972, 86 Stat. 553, which related to Housing and Urban Development Disaster Assistance Fund, and which was enacted as a part of the Department of Housing and Urban Development; Space, Science, Veterans' and Certain Other Independent Agencies Appropriation Act, 1973, and not as a part of the Disaster Relief Act of 1970, was transferred to section 3539 of this title.

§§ 4414 to 4420. Repealed. Pub. L. 93-288, title VI, § 603, May 22, 1974, 88 Stat. 164

Section 4414, Pub. L. 91-606, title II, § 204, Dec. 31, 1970, 84 Stat. 1748, related to use of local firms and individuals.

Section 4415, Pub. L. 91-606, title II, § 205, Dec. 31, 1970, 84 Stat. 1748, related to Federal grant-in-aid programs.

Section 4416, Pub. L. 91-606, title II § 206, Dec. 31, 1970, 84 Stat. 1749, related to state disaster plans.

Section 4417, Pub. L. 91-606, title II, § 207, Dec. 31, 1970, 84 Stat. 1749, related to use and coordination of relief organizations.

Section 4418, Pub. L. 91-606, title II, § 208, Dec. 31, 1970, 84 Stat. 1750, related to restriction on duplication of benefits.

Section 4419, Pub. L. 91-606, title II, § 209, Dec. 31, 1970, 84 Stat. 1750, related to nondiscrimination restrictions in disaster assistance.

Section 4420, Pub. L. 91-606, title II, § 210, Dec. 31, 1970, 84 Stat. 1750, related to disaster warnings.

EFFECTIVE DATE OF REPEAL

Repeal of sections by Pub. L. 93-288 effective Apr. 1, 1974, see section 605 of Pub. L. 93-288, set out as an Effective Date note under section 5121 of this title.

§§ 4431 to 4436. Repealed. Pub. L. 93-288, title VI, § 603, May 22, 1974, 88 Stat. 164

Section 4431, Pub. L. 91-606, title II, § 221, Dec. 31, 1970, 84 Stat. 1751, related to predisaster assistance.

Section 4432, Pub. L. 91-606, title II, § 222, Dec. 31, 1970, 84 Stat. 1751, related to emergency communications.

Section 4433, Pub. L. 91-606, title II, § 223, Dec. 31, 1970, 84 Stat. 1751, related to emergency transportation.

Section 4434, Pub. L. 91-606, title II, § 224, Dec. 31, 1970, 84 Stat. 1751, related to removal of debris.

Section 4435, Pub. L. 91-606, title II, § 225, Dec. 31, 1970, 84 Stat. 1751, related to fire suppression.

Section 4436, Pub. L. 91-606, title II, § 226, Dec. 31, 1970, 84 Stat. 1751, related to temporary housing assistance.

EFFECTIVE DATE OF REPEAL

Repeal of sections by Pub. L. 93-288 effective Apr. 1, 1974, see section 605 of Pub. L. 93-288, set out as an Effective Date note under section 5121 of this title.

§ 4451. Transferred

CODIFICATION

Section, Pub. L. 91-606, title II, § 231, Dec. 31, 1970, 84 Stat. 1752; Pub. L. 92-385, § 6, Aug. 16, 1972, 86 Stat. 559, which related to small business disaster loans, was transferred to section 636a of Title 15, Commerce and Trade.

§ 4452. Repealed. Pub. L. 93-24, § 7, Apr. 20, 1973, 87 Stat. 25

Section, Pub. L. 91-606, title II, § 232, Dec. 31, 1970, 84 Stat. 1753, provided for emergency farm loans. See emergency loans for designated major disaster areas provided in section 1961(b) of Title 7, Agriculture.

§§ 4453 to 4456. Transferred

CODIFICATION

Section 4453, Pub. L. 91-606, title II, § 234, Dec. 31, 1970, 84 Stat. 1754, which related to disaster loan interest rates, was transferred to section 636b of Title 15, Commerce and Trade.

Section 4454, Pub. L. 91-606, title II, § 235, Dec. 31, 1970, 84 Stat. 1754, which related to the prohibition on consideration of age of applicant for disaster loans, was transferred to section 636c of Title 15.

Section 4455(a), Pub. L. 91-606, title II, § 236(a), Dec. 31, 1970, 84 Stat. 1754, which related to the authority of the Secretary of Agriculture to reschedule and refinance federal loans under the Rural Electrification Administration, was transferred to section 912a of Title 7, Agriculture.

Section 4455(b), Pub. L. 91-606, title II, § 236(b), Dec. 31, 1970, 84 Stat. 1754, which related to the authority of the Secretary of Housing and Urban Development to reschedule and refinance federal loans, was transferred to section 3538 of this title.

Section 4456, Pub. L. 91-606, title II, § 237, Dec. 31, 1970, 84 Stat. 1754, which related to disaster aid to major sources of employment, was transferred to section 636d of Title 15.

§§ 4457 to 4462. Repealed. Pub. L. 93-288, title VI, § 603, May 22, 1974, 88 Stat. 164

Section 4457, Pub. L. 91-606, title II, § 238, Dec. 31, 1970, 84 Stat. 1755, related to food stamp and surplus commodities programs.

Section 4458, Pub. L. 91-606, title II, § 239, Dec. 31, 1970, 84 Stat. 1755, related to legal services.

Section 4459, Pub. L. 91-606, title II, § 240, Dec. 31, 1970, 84 Stat. 1755, related to unemployment assistance.

Section 4460, Pub. L. 91-606, title II, § 241, Dec. 31, 1970, 84 Stat. 1756, related to community disaster grants to local governments.

Section 4461, Pub. L. 91-606, title II, § 242, Dec. 31, 1970, 84 Stat. 1756, related to timber sale contracts.

Section 4462, Pub. L. 91-606, title II, § 243, Dec. 31, 1970, 84 Stat. 1757, related to standards for residential structure restoration.

EFFECTIVE DATE OF REPEAL

Repeal of sections by Pub. L. 93-288 effective Apr. 1, 1974, see section 605 of Pub. L. 93-288, set out as an Effective Date note under section 5121 of this title.

§§ 4481 to 4485. Repealed. Pub. L. 93-288, title VI, § 603, May 22, 1974, 88 Stat. 164

Section 4481, Pub. L. 91-606, title II, § 251, Dec. 31, 1970, 84 Stat. 1757, related to repair and restoration of damaged United States facilities.

Section 4482, Pub. L. 91-606, title II, § 252, Dec. 31, 1970, 84 Stat. 1757; Pub. L. 93-251 title I, § 45(a), Mar. 7, 1974, 88 Stat. 24, related to restoration of state and local public facilities.

Section 4483, Pub. L. 91-606, title II, § 253, Dec. 31, 1970, 84 Stat. 1758, related to priority to applications for public facility and public housing assistance in major disaster areas.

Section 4484, Pub. L. 91-606, title II, § 254, Dec. 31, 1970, 84 Stat. 1758, related to relocation assistance.

Section 4485, Pub. L. 91-606, title II, § 255, as added Pub. L. 92-209, § 1, Dec. 18, 1971, 85 Stat. 742, related to private medical care facilities grants for repair, reconstruction, or replacement of damaged or destroyed facilities.

EFFECTIVE DATE OF REPEAL

Repeal of sections by Pub. L. 93-288 effective Apr. 1, 1974, see section 605 of Pub. L. 93-288, set out as an Effective Date note under section 5121 of this title.

CHAPTER 59—URBAN GROWTH AND NEW COMMUNITY DEVELOPMENT

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1439, 5307 of this title.

§ 4501. Congressional statement of purpose

It is the policy of the Congress and the purpose of this chapter to provide for the development of a national urban growth policy and to encourage the rational, orderly, efficient, and economic growth, development, and redevelopment of our States, metropolitan areas, cities, counties, towns, and communities in predominantly rural areas which demonstrate a special potential for accelerated growth; to encourage the prudent use and conservation of our natural resources; and to encourage and support development which will assure our communities of adequate tax bases, community services, job opportunities, and well-balanced neighborhoods in socially, economically, and physically attractive living environments.

(Pub. L. 91-609, title VII, § 701(b), Dec. 31, 1970, 84 Stat. 1791.)

REFERENCES IN TEXT

This chapter, referred to in text, read in the original, this title, meaning Pub. L. 91-609, title VII, Dec. 31, 1970, 84 Stat. 1791, known as the Urban Growth and New Community Development Act of 1970, which enacted this chapter, amended sections 1453, 1460, and 1492 of this title, sections 371 and 1464 of Title 12, Banks and Banking, and section 461 of Title 40, Public Buildings, Property, and Works, and enacted provisions set out as notes under sections 1453 and 4501 of this title. For complete classification of title VII to the Code, see Short Title note set out below and Tables volume.

SHORT TITLE

Section 701(a) of Pub. L. 91-609 provided that: "This title [title VII of Pub. L. 91-609 which enacted this chapter, amended sections 1453, 1460, and 1492 of this title, sections 371 and 1464 of Title 12, Banks and Banking, and section 461 of Title 40, Public Buildings, Property, and Works, and enacted provisions set out as a note under section 1453 of this title] may be cited as the 'Urban Growth and New Community Development Act of 1970'."

PART A—DEVELOPMENT OF A NATIONAL URBAN GROWTH POLICY

§ 4502. Congressional findings and declaration of policy

(a) The Congress finds that the rapid growth of urban population and uneven expansion of urban development in the United States, together with a decline in farm population, slower growth in rural areas, and migration to the cities, has created an imbalance between the Nation's needs and resources and seriously threatens our physical environment, and that the economic and social development of the Nation, the proper conservation of our natural resources, and the achievement of satisfactory living standards depend upon the sound, orderly, and more balanced development of all areas of the Nation.

(b) The Congress further finds that Federal programs affect the location of population, economic growth, and the character of urban development; that such programs frequently conflict and result in undesirable and costly patterns of urban development which adversely affect the environment and wastefully use our natural resources; and that existing and future programs must be interrelated and coordinated within a system of orderly development and established priorities consistent with a national urban growth policy.

(c) To promote the general welfare and properly apply the resources of the Federal Government in strengthening the economic and social health of all areas of the Nation and more adequately protect the physical environment and conserve natural resources, the Congress declares that the Federal Government, consistent with the responsibilities of State and local government and the private sector, must assume responsibility for the development of a national urban growth policy which shall incorporate social, economic, and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of urban growth and shall provide a framework for development of interstate, State, and local growth and stabilization policy.

(d) The Congress further declares that the national urban growth policy should—

(1) favor patterns of urbanization and economic development and stabilization which offer a range of alternative locations and encourage the wise and balanced use of physical and human resources in metropolitan and urban regions as well as in smaller urban places which have a potential for accelerated growth;

(2) foster the continued economic strength of all parts of the United States, including central cities, suburbs, smaller communities, local neighborhoods, and rural areas;

(3) help reverse trends of migration and physical growth which reinforce disparities among States, regions, and cities;

(4) treat comprehensively the problems of poverty and employment (including the erosion of tax bases, and the need for better community services and job opportunities) which are associated with disorderly urbanization and rural decline;

(5) develop means to encourage good housing for all Americans without regard to race or creed;

(6) refine the role of the Federal Government in revitalizing existing communities and encouraging planned, large-scale urban and new community development;

(7) strengthen the capacity of general governmental institutions to contribute to balanced urban growth and stabilization; and

(8) facilitate increased coordination in the administration of Federal programs so as to encourage desirable patterns of urban growth and stabilization, the prudent use of natural resources, and the protection of the physical environment.

(Pub. L. 91-609, title VII, § 702, Dec. 31, 1970, 84 Stat. 1791.)

§ 4503. Urban growth report

(a) Submission by President to Congress; contents

In order to assist in the development of a national urban growth policy, the President shall utilize the capacity of his office, adequately organized and staffed for the purpose, through an identified unit of the Domestic Council, and of the departments and agencies within the executive branch to collect, analyze, and evaluate such statistics, data, and other information (including demographic, economic, social, land use, environmental, and governmental information) as will enable him to transmit to the Congress, during the month of February in every even-numbered year beginning with 1972, a Report on Urban Growth for the preceding two calendar years which shall include—

(1) information and statistics describing characteristics of urban growth and stabilization and identifying significant trends and developments;

(2) a summary of significant problems facing the United States as a result of urban growth trends and developments;

(3) an evaluation of the progress and effectiveness of Federal efforts designed to meet such problems and to carry out the national urban growth policy;

(4) an assessment of the policies and structure of existing and proposed interstate planning and developments affecting such policy;

(5) a review of State, local, and private policies, plans, and programs relevant to such policy;

(6) current and foreseeable needs in the areas served by policies, plans, and programs designed to carry out such policy, and the steps being taken to meet such needs; and

(7) recommendations for programs and policies for carrying out such policy, including such legislation and administrative actions as may be deemed necessary and desirable.

(b) Supplementary reports

The President may transmit from time to time to the Congress supplementary reports on urban growth which shall include such supplementary and revised recommendations as may be appropriate.

(c) Advisory board

To assist in the preparation of the Report on Urban Growth and any supplementary reports, the President may establish an advisory board, or seek the advice from time to time of temporary advisory boards, the members of whom shall be drawn from among private citizens familiar with the problems of urban growth and from among Federal officials, Governors of States, mayors, county officials, members of State and local legislative bodies, and others qualified to assist in the preparation of such reports.

(Pub. L. 91-609, title VII, § 703, Dec. 31, 1970, 84 Stat. 1792.)

PART B—DEVELOPMENT OF NEW COMMUNITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1492 of this title; title 12 section 1464.

§ 4511. Congressional findings and purpose; new community development; Federal financial assistance; Federal government, organizational improvement

(a) The Congress finds that this Nation is likely to experience during the remaining years of this century a population increase of about seventy-five million persons.

(b) The Congress further finds that continuation of established patterns of urban development, together with the anticipated increase in population, will result in (1) inefficient and wasteful use of land resources which are of national economic and environmental importance; (2) destruction of irreplaceable natural and recreational resources and increasing pollution of air and water; (3) diminished opportunity for the private homebuilding industry to operate at its highest potential capacity in providing good housing needed to serve the expanding population and to replace substandard housing; (4) costly and inefficient public facilities and services at all levels of government; (5) unduly limited options for many of our people as to where they may live, and the types of housing and environment in which they may live; (6) failure to make the most economic use of present and potential resources of many of the Nation's smaller cities and towns, including those in rural and economically depressed areas, and decreasing employment and business opportunities for their residents; (7) further lessening of employment and business opportunities for the residents of central cities and of the ability of such cities to retain a tax base adequate to support vital services for all their citizens, particularly the poor and disadvantaged; (8) further separation of people within metropolitan areas by income and by race; (9) further increases in the distances between the places where people live and where they work and find recreation; and (10) increased cost and decreased effectiveness of public and private facilities for urban transportation.

(c) The Congress further finds that better patterns of urban development and revitalization are essential to accommodate future population growth; to prevent further deterioration of the Nation's physical and social environment; and to make positive contributions to improving the overall quality of life within the Nation.

(d) The Congress further finds that the national welfare requires the encouragement of well-planned, diversified, and economically

sound new communities, including major additions to existing communities, as one of several essential elements of a consistent national program for bettering patterns of development and renewal.

(e) The Congress further finds that desirable new community development on a significant national scale has been prevented by difficulties in (1) obtaining adequate financing at moderate cost for enterprises which involve large initial capital investment, extensive periods before investment can be returned, and irregular patterns of returns; (2) the timely assembly of sufficiently large sites in economically favorable locations at reasonable cost; and (3) making necessary arrangements, among all private and public organizations involved, for providing site and related improvements (including streets, sewer and water facilities, and other public and community facilities) in a timely and coordinated manner.

(f) It is, therefore, the purpose of this part to provide private developers and State and local public bodies and agencies (including regional or metropolitan public bodies and agencies) with financial and other assistance necessary for encouraging the orderly development of well-planned, diversified, and economically sound new communities, including major additions to existing communities, and to do so in a manner which will rely to the maximum extent on private enterprise; strengthen the capacity of State and local governments to deal with local problems; preserve and enhance both the natural and urban environment; increase for all persons, particularly members of minority groups, the available choices of locations for living and working, thereby providing a more just economic and social environment; encourage the fullest utilization of the economic potential of older central cities, smaller towns, and rural communities; assist in the efficient production of a steady supply of residential, commercial, and industrial building sites at reasonable cost; increase the capability of all segments of the home-building industry, including both small and large producers, to utilize improved technology in producing the large volume of well-designed, inexpensive housing needed to accommodate population growth; help create neighborhoods designed for easier access between the places where people live and the places where they work and find recreation; and encourage desirable innovation in meeting domestic problems whether physical, economic, or social. It is also the purpose of this part to improve the organizational capacity of the Federal Government to carry out programs of assistance for the development of new communities and the revitalization of the Nation's urban areas.

(Pub. L. 91-609, title VII, § 710, Dec. 31, 1970, 84 Stat. 1793.)

§ 4512. Definitions

As used in this part—

(a) The term "new community development program" means a program which is intended to result in a newly built community or a major addition to an existing community and which meets the eligibility standards set forth in section 4513 of this title.

(b) The term "private new community developer" means any private entity organized in a form satisfactory to the Secretary for carrying out one or more new community development programs.

(c) The term "State land development agency" means any State or local public body or agency with authority to act as developer in carrying out one or more new community development programs.

(d) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of any of the foregoing.

(e) The term "local public body or agency" means any public body or agency, including a political subdivision, created by or under the laws of a State or two or more States, or a combination of such bodies or agencies.

(f) The term "land development" means the process of clearing and grading land, making, installing, or constructing waterlines and water supply installations, sewerlines and sewage or waste disposal installations, steam, gas, and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, community or neighborhood central heating or air conditioning systems, and other installations or work, whether on or off the site, which the Secretary deems necessary or desirable to prepare land for residential, commercial, industrial, or other uses, or to provide facilities for public or common use. The term "land development" includes the construction of public facilities, but does not include the construction of any other building unless it is (1) needed in connection with a water supply or sewage or waste disposal installation, a community or neighborhood central heating or airconditioning system, or a steam, gas, or electric line or installation, or (2) is to be owned and maintained by residents of the new community under joint or cooperative arrangements approved by the Secretary.

(g) The term "actual cost" means the costs (exclusive of rebates or discounts) incurred by a new community developer in carrying out the land development assisted under this chapter. These costs may include amounts paid for labor, materials, construction contracts, land planning, engineers' and architect's fees, surveys, taxes, and interest during development, organizational and legal expenses, such allocation of general overhead expenses as are acceptable to the Secretary, and other items of expense incidental to development which may be approved by the Secretary. If the Secretary determines that there is an identity of interest between the developer and a contractor, there may be included as a part of actual cost an allowance for the contractor's profit or risk an amount deemed reasonable by the Secretary.

(h) The term "Secretary" means the Secretary of Housing and Urban Development.

(i) The term "New Community Development Corporation" means the corporation established within the Department of Housing and Urban Development under section 4532 of this title.

(Pub. L. 91-609, title VII, § 711, Dec. 31, 1970, 84 Stat. 1795; Pub. L. 93-383, title VIII, § 803(a)(1), (e), Aug. 22, 1974, 88 Stat. 725.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (g), read in the original, this Act, probably meaning Pub. L. 91-609, title VII, Dec. 31, 1970, 84 Stat. 1791, known as the Urban Growth and New Community Development Act of 1970, which enacted this chapter, amended sections 1453, 1460, and 1492 of this title, sections 371 and 1464 of Title 12, Banks and Banking, and section 461 of Title 40, Public Buildings, Property, and Works, and enacted provisions set out as notes under sections 1453 and 4501 of this title. For complete classification of title VII to the Code, see Short Title note set out below and Tables volume.

AMENDMENTS

1974—Subsec. (f). Pub. L. 93-383, § 803(e), added references to community or neighborhood central heating or air conditioning systems and waste disposal wherever appearing therein.

Subsec. (i). Pub. L. 93-383, § 803(a)(1), substituted reference to New Community Development Corporation for reference to Community Development Corporation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5302 of this title.

§ 4513. Eligible new community development

(a) A new community development program is eligible for assistance under this part only if the Secretary determines that the program (or the new community it contemplates)—

(1) will provide an alternative to disorderly urban growth, helping preserve or enhance desirable aspects of the natural and urban environment or so improving general and economic conditions in established communities as to help reverse migration from existing cities or rural areas;

(2) will be economically feasible in terms of economic base or potential for economic growth;

(3) will contribute to the welfare of the entire area which will be substantially affected by the program and of which the land to be developed is a part;

(4) is consistent with comprehensive planning, physical and social, determined by the Secretary to provide an adequate basis for evaluating the new community development program in relation to other plans (including State, local, and private plans) and activities involving area population, housing and development trends, and transportation, water, sewerage, open space, recreation, and other relevant facilities;

(5) has received all governmental reviews and approvals required by State or local law, or by the Secretary;

(6) will contribute to good living conditions in the community, and that such community will be characterized by well balanced and diversified land use patterns and will include or be served by adequate public, community, and commercial facilities (including facilities needed for education, health and social services, recreation, and transportation) deemed satisfactory by the Secretary;

(7) makes substantial provision for housing within the means of persons of low and moderate income and that such housing will constitute an appropriate proportion of the community's housing supply; and

(8) will make significant use of advances in design and technology with respect to land utilization, materials and methods of construction, and the provision of community facilities and services.

(b) A new community development program approved for assistance under this part shall be undertaken by a private new community developer or State land development agency approved by the Secretary on the basis of financial, technical, and administrative ability which demonstrates capacity to carry out the program with reasonable assurance of its completion.

(Pub. L. 91-609, title VII, § 712, Dec. 31, 1970, 84 Stat. 1796.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4512, 4528, 5302 of this title.

§ 4514. Guarantees

(a) Authority to grant; prohibition

The Secretary (acting through the New Community Development Corporation) is authorized to guarantee, and enter into commitments to guarantee, the bonds, debentures, notes, and other obligations issued by or on behalf of private new community developers and State land development agencies for the purpose of financing real property acquisition and land development and to compensate for the use of real property or the removal of liens or encumbrances on such property, pursuant to the new community development programs approved by the Secretary. The Secretary may make such guarantees and enter into such commitments upon such terms and conditions as he may prescribe consistent with the limitations and conditions contained in section 4517 of this title; except that no obligation of any State land development agency shall be guaranteed under this section if the income from such obligation is exempt from Federal taxation. The Secretary is authorized to make grants to any State land development agency the obligations of which are guaranteed under this section in amounts equal to 30 per centum of the interest paid on such obligations.

(b) Full faith and credit of the United States

The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

(c) Single new community development program; amount of principal obligation

The outstanding bonds, debentures, notes or other obligations guaranteed under this section with respect to a single new community development program shall involve a principal obligation in an amount (1) in the case of a State land development agency, not exceeding 100

per centum of the sum of the Secretary's estimate of the value of the real property before development and his estimate of the actual cost of the land development, or (2) in the case of a private new community developer, not exceeding the sum of 80 per centum of the Secretary's estimate of the value of the real property before development and 90 per centum of his estimate of the actual cost of the land development.

(d) Single new community development program; limitation on outstanding principal obligations

The outstanding principal obligations guaranteed under this section with respect to a single new community development program shall at no time exceed $50,000,000.

(e) Limitation on aggregate of outstanding principal obligations

The aggregate of the outstanding principal obligations guaranteed under this section shall at no time exceed $500,000,000, which amount shall be increased by $195,500,000 on July 1, 1973.

(Pub. L. 91-609, title VII, § 713, Dec. 31, 1970, 84 Stat. 1796; Pub. L. 93-117, § 12, Oct. 2, 1973, 87 Stat. 423; Pub. L. 93-383, title VIII, § 803(a)(1), (c), Aug. 22, 1974, 88 Stat. 725.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383 added "New" preceding "Community" and substituted provisions authorizing grants in amounts equal to 30 per centum of the interest paid on obligations for provisions authorizing grants in amounts estimated not to exceed the difference between the interest paid on obligations and the interest paid on obligations which have income exempt from Federal taxation.

1973—Subsec. (e). Pub. L. 93-117 provided for an increase in the authorized aggregate amount by $195,500,000 on July 1, 1973.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4518 of this title.

§ 4515. Loans

(a) Grant of authority; amount

The Secretary (acting through the New Community Development Corporation) is authorized, subject to the limitations and conditions contained in section 4517 of this title, to make and enter into agreements to make loans to or on behalf of private new community developers and State land development agencies for the purpose of assisting them to make interest payments on indebtedness incurred by them to finance new community development programs approved by him. Loans under this section shall be in amounts which do not exceed the amount of interest the Secretary estimates is payable on indebtedness attributable to land acquisition or land development and shall be made only with respect to interest payments on indebtedness outstanding during an initial development period (not to exceed fifteen years) which the Secretary estimates to be prior to the time when land marketing activity is of sufficient volume to permit continued development under the new community development program without the benefit of further loans under this section.

(b) Repayment; interest rate

The Secretary shall require that loans under this section shall be repaid, with interest and on terms and conditions satisfactory to him, commencing at such time as development progress and marketing under the new community development program permit such repayment, but not later than fifteen years after the date the loan is made. Such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum.

(c) Single new community development program; principal amount of outstanding loans

The principal amount of the loans outstanding at any time under this section with respect to a single new community development program shall not exceed $20,000,000.

(d) Aggregate principal amount of outstanding loans

The aggregate principal amount of the loans outstanding under this section shall at no time exceed $240,000,000.

(Pub. L. 91-609, title VII, § 714, Dec. 31, 1970, 84 Stat. 1797; Pub. L. 93-383, title VIII, § 803(a)(1), Aug. 22, 1974, 88 Stat. 725.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383 added "New" preceding "Community".

§ 4516. Public service grants; authorization of appropriations

In addition to providing assistance under the preceding sections, the Secretary (acting through the New Community Development Corporation) may make public service grants (in such amounts and on such terms and conditions as he deems appropriate) to a State land development agency or to the State or local public body having responsibility for providing the services involved to cover the cost of providing during an initial period (not exceeding three years) essential public services (including educational, health, and safety services) which the Secretary deems necessary adequately to serve the needs of the residents of the development prior to completion of permanent arrangements for the provisions of such services. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(Pub. L. 91-609, title VII, § 715, Dec. 31, 1970, 84 Stat. 1798; Pub. L. 93-383, title VIII, § 803(a)(1), Aug. 22, 1974, 88 Stat. 725.)

AMENDMENTS

1974—Pub. L. 93-383 added "New" preceding "Community".

§ 4517. Limitations on guarantees and loans

(a) No guarantee or loan shall be made under this part unless the Secretary has determined that the new community development program represents an acceptable financial risk to the United States, taking into consideration (1) the

financial and security interests of the United States, including the manner in which the developer proposes to finance and schedule land acquisition, land development, and marketing, and (2) the public purposes of this part and the special problems involved in financing new communities, including (i) the large amount of initial capital required to finance sound new communities, (ii) the extended period before initial returns can be expected, and (iii) the irregular pattern of cash returns characteristic of this type of development.

(b) The Secretary shall take such steps as he considers reasonable to assure that bonds, debentures, notes, and other obligations guaranteed, or with respect to which interest loans are made, under this part will—

(1) be issued to investors approved by, or meeting requirements prescribed by, the Secretary, or if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(2) bear interest at a rate satisfactory to the Secretary;

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by the Secretary relating to subrogation, liens, and releases of liens, payment of taxes, cost certification procedures, escrow or trusteeship requirements or other matters.

(Pub. L. 91-609, title VII, § 716, Dec. 31, 1970, 84 Stat. 1798.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4514, 4515, 4528 of this title.

§ 4518. Revolving fund

(a) Establishment

The Secretary is authorized to establish a revolving fund to provide for (1) the timely payment of any liabilities incurred as the result of guarantees or grants under section 4514 of this title; (2) making loans authorized under this part; (3) payment of obligations issued to the Secretary of the Treasury under subsection (b) of this section; and (4) any other program expenditures, including administrative and nonadministrative expenses. Such revolving fund shall be comprised of (1) receipts from fees and charges; (2) recoveries under security, subrogation, and other rights; (3) repayments, interest income, and any other receipts obtained in connection with guarantees or loans under this part; (4) proceeds of the obligations issued to the Secretary of the Treasury pursuant to subsection (b) of this section; and (5) such sums, which are hereby authorized to be appropriated, as may be required for the payment of the obligations issued to the Secretary of the Treasury for the purpose of making grants to State land development agencies under section 4514 of this title, and for other purposes under this part. Money in the revolving fund not currently needed for the purpose of this part shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(b) Financing

The Secretary may issue obligations to the Secretary of the Treasury in an amount sufficient to enable the Secretary to carry out the functions authorized by this part. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations so issued, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include purchases of the obligations, hereunder.

(c) Payment of expenses

Notwithstanding any other provision of law relating to the acquisition, handling, improvement, disposal of real and other property by the United States, the Secretary shall have power, for the protection of the interests of the fund authorized under this section, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property, real or personal, acquired by him as a result of recoveries under security, subrogation, or other rights.

(Pub. L. 91-609, title VII, § 717, Dec. 31, 1970, 84 Stat. 1798.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (b), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

§ 4519. Supplementary grants for public facilities; new community assistance project

(a) Authority to grant; amount of grant in relation to cost; total Federal contributions

The Secretary is authorized to make supplementary grants to any State, local public body or agency, or other entity carrying out a new community assistance project, as defined in subsection (c) of this section, if the Secretary determines that such project is necessary or desirable for carrying out a new community development program. In no case shall any grant under this section exceed 20 per centum of the cost of the new community assistance project for which the grant is made; and in no case shall the total Federal contributions to the cost of such project be more than 80 per centum.

(b) Consultation with other Federal departments and agencies

In carrying out his authority under this section, the Secretary shall, with respect to any new community assistance project assisted by grants administered by a Federal department or agency other than the Department of Housing and Urban Development, consult with such department or agency concerning the project; and he shall, for the purpose of subsection (a) of this section, accept the certification of such

department or agency as to the cost of such project.

(c) Definition

For the purposes of this section, a "new community assistance project" is a project assisted by grants under section 3 of the Urban Mass Transportation Act of 1964 [49 U.S.C. 1602]; section 120(a) of title 23; section 19 of the Airport and Airway Development Act of 1970 [49 U.S.C. 1719]; title VI of the Public Health Service Act [42 U.S.C. 291 et seq.]; title II of the Library Services and Construction Act [20 U.S.C. 355a et seq.]; section 5 of the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*-8]; title VII of the Housing Act of 1961 [42 U.S.C. 1500 et seq.]; section 702 or 703 of the Housing and Urban Development Act of 1965 [42 U.S.C. 3102, 3103]; section 8 of the Federal Water Pollution Control Act [33 U.S.C. 1158]; section 306(a)(2) of the Consolidated Farmers Home Administration Act [7 U.S.C. 1926(a)(2)]; section 103 or 104 of the Higher Education Facilities Act of 1963 [20 U.S.C. 715, 716]; or section 101(a)(1) of the Public Works and Economic Development Act of 1965 [42 U.S.C. 3131(a)(1)] with respect to projects of a type eligible for assistance under any of the other provisions of law listed in this subsection, or a project or portion of a project consisting of the purchase, renovation, or construction of facilities, the purchase of land, or the acquisition of equipment or works of art assisted by contracts or grants under section 5 of the National Foundation on the Arts and the Humanities Act of 1965 [20 U.S.C. 954].

(d) Authorization of appropriations

There are authorized to be appropriated for supplementary grants under this section not to exceed $36,000,000 for the fiscal year ending June 30, 1971, not to exceed $66,000,000 for each of the fiscal years ending June 30, 1972, and June 30, 1973, and not to exceed such sums as may be necessary for any fiscal year commencing after June 30, 1973. Any amount so appropriated shall remain available until expended, and any amounts authorized for any fiscal year but not appropriated may be appropriated for any succeeding fiscal year. In addition, the amounts authorized to be appropriated for grants under section 412 of the Housing and Urban Development Act of 1968 [42 U.S.C. 3911] and the amounts appropriated thereunder shall be available for carrying out this section and shall remain available until appropriated and expended.

(Pub. L. 91-609, title VII, § 718, Dec. 31, 1970, 84 Stat. 1799; Pub. L. 92-213, § 7, Dec. 22, 1971, 85 Stat. 776; Pub. L. 93-383, title VIII, § 803(d), Aug. 22, 1974, 88 Stat. 725.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (c), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title VI of the Public Health Service Act is classified generally to subchapter IV (§ 291 et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

The Library Services and Construction Act, referred to in subsec. (c), is act June 19, 1956, ch. 407, 70 Stat. 293, as amended. Title II of the Library and Construction Act is classified generally to subchapter II (§ 355a et seq.) of chapter 16 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 351 of Title 20 and Tables volume.

The Housing Act of 1961, referred to in subsec. (c), is Pub. L. 87-70, June 30, 1961, 75 Stat. 149, as amended. Title VII of the Housing Act of 1961 is classified generally to chapter 8C (§ 1500 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1961 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

Section 8 of the Federal Water Pollution Control Act, referred to in subsec. (c), is a reference to section 8 of act June 30, 1948, ch. 758, 62 Stat. 1155, which was classified to section 1158 of Title 33, Navigation and Navigable Waters, prior to the general amendment of act June 30, 1948, ch. 758, by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of Title 33.

Sections 103 and 104 of the Higher Education Facilities Act of 1963 [20 U.S.C. 715, 716], referred to in subsec. (c), were repealed by Pub. L. 92-318, § 161(b)(2), June 23, 1972, 86 Stat. 303. See sections 1132a-3 and 1132a-4 of Title 20, Education.

AMENDMENTS

1974—Subsec. (c). Pub. L. 93-383 added reference to projects, etc., authorized under section 5 of the National Foundation on the Arts and the Humanities Act of 1965.

1971—Subsec. (a). Pub. L. 92-213 added "other entity" to the enumeration of potential recipients to which supplementary grants may be made.

§ 4520. Technical assistance

The Secretary is authorized to provide, either directly or by contract or other arrangements, technical assistance to private new community developers and State land development agencies, or State and local public bodies and agencies to assist them in connection with planning and carrying out new community development programs.

(Pub. L. 91-609, title VII, § 719, Dec. 31, 1970, 84 Stat. 1800.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4527 of this title.

§ 4521. Agreements for financial aid

(a) Restrictions on financial aid

The Secretary may, until October 1, 1977, enter into agreements with private new community developers and State land development agencies to provide financial assistance, in amounts, not exceeding two-thirds of the estimated cost of such work, for planning new community development programs, including planning work which he determines will have special value in assuring that new community development programs (1) will be fully responsive to social or environmental problems related to the public purposes of new community development, or (2) will adequately provide for, or encourage the use of, new or advanced technology in support of program objectives.

(b) Programs eligible for aid

The Secretary shall enter into agreements under this section only with respect to new community development programs which had been approved or are being actively considered for approval, having met such initial feasibility

criteria as the Secretary may have prescribed, and, in the case of private new community developers, only with respect to planning work which the Secretary determines is in excess of that which would ordinarily be needed to establish final market, financial, and engineering feasibility for programs or projects of similar size and scope not subject to the special purposes of this part. The financial assistance extended pursuant to such agreements shall be subject to such terms and conditions, which, in the case of private new community developers, may include provisions for repayment where appropriate, as the Secretary may prescribe.

(c) Authorization of appropriations

There are authorized to be appropriated for financial assistance under this section not to exceed $5,000,000, which limit shall be increased by $5,000,000 on July 1, 1971. Any amount appropriated under this section shall remain available until expended.

(Pub. L. 91-609, title VII, § 720, Dec. 31, 1970, 84 Stat. 1800; Pub. L. 94-375, § 19, Aug. 3, 1976, 90 Stat. 1077.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-375 substituted "October 1, 1977" for "June 30, 1975".

§ 4522. Fees and charges

The Secretary is authorized to establish and collect fees for guarantees under this part, and may make such charges in connection with guarantees, loans, and technical and other assistance under this part as he considers reasonable for the analysis of applications, appraisals, inspections, and other activities related to such assistance. On or before March 1, 1973, the Secretary shall make a report to the Congress concerning the fees and charges for guarantees under this part that he estimates will be adequate to provide income sufficient for a self-supporting guarantee program and concerning the relationship of other charges to costs incurred under this part.

(Pub. L. 91-609, title VII, § 721, Dec. 31, 1970, 84 Stat. 1801.)

§ 4523. Encouragement of small builders

The Secretary shall adopt such requirements as he deems necessary to assure that new community assistance under this part will (1) help maintain a diversified, local homebuilding industry; (2) increase the capability of all segments of the home-building industry, including both small and large producers, to participate, through an increased supply of building sites at reasonable costs and through improved technology, in producing the needed, large volume of well-designed, inexpensive housing; and (3) encourage broad participation by the homebuilding industry, particularly small builders.

(Pub. L. 91-609, title VII, § 722, Dec. 31, 1970, 84 Stat. 1801.)

§ 4524. New community demonstration projects

Upon specific authorization by the President and under applicable Federal law respecting the use of federally owned lands, the Secretary, utilizing funds made available for the purpose by the Congress, is authorized to plan and carry out large-scale projects demonstrating the development of new communities, which shall be designed to contribute to the achievement of the purposes of this part and serve as models for new community developments which could feasibly be carried out by other public and private developers.

(Pub. L. 91-609, title VII, § 723, Dec. 31, 1970, 84 Stat. 1801.)

§ 4525. Real property taxation

Nothing in this part shall be construed to exempt any real property that may be acquired and held by the Secretary as a result of the exercise of lien or subrogation rights from real property taxation to the same extent, according to its value, as other real property is taxed.

(Pub. L. 91-609, title VII, § 724, Dec. 31, 1970, 84 Stat. 1801.)

§ 4526. Audit by General Accounting Office; records, access

Insofar as they relate to any guarantees, loans, or grants made pursuant to this part, the financial transactions of recipients of Federal assistance may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files and all other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

(Pub. L. 91-609, title VII, § 725, Dec. 31, 1970, 84 Stat. 1801.)

§ 4527. General powers of Secretary

In the performance of, and with respect to, the functions, powers, and duties vested in him by this part, the Secretary, in addition to any authority otherwise vested in him, shall—

(1) have the functions, powers, and duties (including the authority to issue rules and regulations) set forth in section 1749a, except subsections (c)(2), (c)(4), (d), and (f), of title 12: *Provided*, That subsection (a)(1) of section 1749a of title 12 shall not apply with respect to functions, powers, and duties under section 4520 of this title;

(2) have the power, notwithstanding any other provision of law, in connection with any assistance under this part, whether before or after any default, to provide by contract for the extinguishment upon default of any redemption, equitable, legal, or other right, title, or interest of the private new community developer or State land development agency in any mortgage, deed, trust, or other instrument held by or on behalf of the Secretary for the protection of the security interests of the United States; and

(3) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon him by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which he has

provided assistance pursuant to this part. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property. Notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this part.

(Pub. L. 91-609, title VII, § 726, Dec. 31, 1970, 84 Stat. 1801.)

§ 4528. Technical and conforming provisions

No bonds, debentures, notes, or other obligations shall be guaranteed under title IV of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.] after December 31, 1970, except pursuant to an offer or commitment to guarantee, or a project approval, made before that date: *Provided,* That a new community developer whose new community development project has, as of December 31, 1970, been approved by the Secretary under title IV shall be eligible with respect to obligations thereafter issued by him for guarantee assistance as authorized either by title IV or by this part, and such guarantee assistance may be given without a further determination by the Secretary under sections 4513 and 4517(a) of this title. If the Secretary finds that an applicant for title IV assistance has submitted complete financial and internal development plans and related materials pursuant to section 404 of such title IV [42 U.S.C. 3903], or major elements of such plans or materials, the Secretary may accept such plans and materials or major elements, respectively, as fully or partially satisfying the requirement under this part for the submission of a new community development program. All receipts, funds, or other assets and all liabilities of the revolving fund established pursuant to section 407 of the Housing and Urban Development Act of 1968 [42 U.S.C. 3906] (including liabilities arising under guarantees made pursuant to such title IV and this section) shall become and be assets and liabilities of the revolving fund established pursuant to this part, as if such assets and liabilities had been received or incurred pursuant to this part, and shall be paid over, held, and accounted for accordingly.

(Pub. L. 91-609, title VII, § 727(a), Dec. 31, 1970, 84 Stat. 1802.)

REFERENCES IN TEXT

The Housing and Urban Development Act of 1968, referred to in text, is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IV of the Housing and Urban Development Act of 1968 is classified principally to chapter 48 (§ 3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

§ 4529. Labor standards

All laborers and mechanics employed by contractors or subcontractors in land development assisted under this part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). No assistance shall be extended under this part for any land development without first obtaining adequate assurance that these labor standards will be maintained upon the construction work involved in such program. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), and section 276c of title 40.

(Pub. L. 91-609, title VII, § 727(f), Dec. 31, 1970, 84 Stat. 1803.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 4530. Interest on obligations as gross income

With respect to any obligation issued by or on behalf of any State land development agency for which the issuer has elected to receive the benefits of the guarantees provided under this part, the interest paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of title 26.

(Pub. L. 91-609, title VII, § 727(g), Dec. 31, 1970, 84 Stat. 1803.)

§ 4531. Joint funding

Funds made available under any Federal assistance program for projects or activities approved as part of, or pursuant to, a new community development program may be used jointly with funds made available for such projects or activities under any other Federal assistance program, subject to regulations prescribed by the President. Such regulations may include provisions for common technical or administrative requirements where varying or conflicting provisions of law would otherwise apply, for establishing joint management funds and common non-Federal shares, and for special agreements, or delegations of authority, among different Federal agencies in connection with the supervision or administration of assistance. Such regulations shall in any case include appropriate criteria and procedures to assure that any special authorities conferred, which are not otherwise provided for by law, shall be employed only as necessary to promote effective and efficient administration and in a manner consistent with the protection of the Federal interest and program purposes or statutory requirements of a substantive nature. For pur-

poses of this section, the term "Federal assistance program" has the same meaning as under the Intergovernmental Cooperation Act of 1968 [42 U.S.C. 4201 et seq.].

(Pub. L. 91-609, title VII, § 728, Dec. 31, 1970, 84 Stat. 1803.)

REFERENCES IN TEXT

The Intergovernmental Cooperation Act of 1968, referred to in text, is Pub. L. 90-577, Oct. 16, 1968, 82 Stat. 1098, which is classified principally to chapter 52 (§ 4201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4201 of this title and Tables volume.

DELEGATION OF AUTHORITY TO ISSUE JOINT FUNDING REGULATIONS

Authority of the President under this section delegated to the Administrator of General Services, see section 3 of Ex. Ord. No. 11867, eff. June 19, 1975, 40 F.R. 26253, set out as a note under section 4252 of this title, and policy functions transferred to Director of Office of Management and Budget see section 1 of Ex. Ord. No. 11893, eff. Dec. 31, 1975, 41 F.R. 1040, set out as a note under section 4252 of this title.

§ 4532. New Community Development Corporation

(a) Establishment

There is hereby created within the Department of Housing and Urban Development a body corporate to be known as the New Community Development Corporation which shall carry out its functions subject to the direction and supervision of the Secretary.

(b) Membership; compensation and travel expenses

The Corporation shall have a Board of Directors (hereinafter referred to as the "Board") which shall consist of seven members as follows:

(1) The Secretary, who shall be Chairman of the Board;

(2) one person, to be appointed by the President by and with the advice and consent of the Senate, who shall serve at the pleasure of the President, shall be the General Manager of the Corporation, serving as its chief executive officer under the Board's general direction, and shall receive compensation at the rate provided for positions at level IV of the Executive Schedule (section 5315 of title 5); and

(3) five persons, to be appointed by the Secretary who shall serve at his pleasure, but not more than one such person shall be selected from among officers or employees of the Department of Housing and Urban Development. Members of the Board who are regular, full-time officers or employees of the Federal Government shall receive no additional compensation for their services as Board members. Other members shall receive for their services as members, when engaged in the performance of their duties, the per diem equivalent to the rate for level IV of the Federal Executive Salary Schedule under section 5315 of title 5. Each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title for persons in the Government service employed intermittently.

(c) Functions

The functions of the Secretary with respect to guarantees and loans in aid of new community development under this part shall be administered through the New Community Development Corporation, and the Corporation shall perform such additional functions, powers, and duties as the Secretary may prescribe from time to time.

(Pub. L. 91-609, title VII, § 729, Dec. 31, 1970, 84 Stat. 1804; Pub. L. 93-383, title VIII, § 803(a), (b), Aug. 22, 1974, 88 Stat. 725.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383, § 803(a), added "New" preceding "Community".

Subsec. (b). Pub. L. 93-383, § 803(b), substituted "seven" for "five" in provisions preceding par. (1) and "five" for "three" in par. (3).

Subsec. (c). Pub. L. 93-383, § 803(a), added "New" preceding "Community".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4512 of this title.

CHAPTER 60—COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAM

Sec.
4541. Congressional findings and declaration of purpose.
4542. Congressional declaration for utilization of programs under other Federal laws in fields of health and social services.

SUBCHAPTER I—NATIONAL INSTITUTE ON, AND INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR, ALCOHOL ABUSE AND ALCOHOLISM; REPORTS AND RECOMMENDATIONS

4551. National Institute on Alcohol Abuse and Alcoholism.
(a) Establishment; functions of Institute; functions of Secretary regarding alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs.
(b) Appointment of Director and employment and functions of officers and employees of Institute.
(c) Administration of programs to encourage widest participation of professionals and paraprofessionals in certain related disciplines.
4552. Reports and recommendations.
4553. Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism.
(a) Establishment; functions.
(b) Chairman of Committee; membership; meetings.
(c) Term of office; vacancies; original appointments.
(d) Compensation and travel expenses.
(e) Staff, information, and other assistance.

SUBCHAPTER II—ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAMS FOR FEDERAL CIVILIAN EMPLOYEES

4561. Programs for federal civilian employees.
(a) Development and maintenance by the Civil Service Commission.
(b) Programs in State and local governments and private industry.

Sec.
(c) Prior alcohol abuse no bar to federal employment; exceptions.
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SUBCHAPTER III—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

PART A—GRANTS TO STATES

4571. Authorization of appropriations.
4572. State allotment.
(a) Minimum allotment for any one state; determination of incidence of alcohol abuse within States.
(b) Availability of unused allotments for use in succeeding years.
(c) Payment of state plan expenditures.
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4573. State plans.
(a) Submission; required contents.
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4576. Special grants for implementation of the Uniform Alcoholism and Intoxication Treatment Act.
(a) Grant period; State's costs; number.
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(a) Projects and programs.
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(c) Applications; coordination in State; evaluation of projects and programs; review and recommendation by Council; criteria for approval.
4578. Authorizations of appropriations.

PART C—ADMISSION TO HOSPITALS AND OUTPATIENT FACILITIES; CONFIDENTIALITY OF RECORDS

4581. Admission of alcohol abusers and alcoholics to general hospitals and outpatient facilities.
(a) Discrimination prohibition against private or public hospitals and outpatient facilities receiving any Federal support.
(b) Regulations of Secretary: enforcement procedures, suspension or revocation of Federal support.
4582. Confidentiality of patient records.
(a) Disclosure authorization.
(b) Purposes and circumstances of disclosure affecting consenting patient and patient regardless of consent.
(c) Prohibition against use of record in making criminal charges or investigation of patient.
(d) Continuing prohibition against disclosure irrespective of status as patient.
(e) Armed Forces and Veterans' Administration; interchange of records.
(f) Penalty for first and subsequent offenses.
(g) Regulations of Secretary; definitions, safeguards, and procedures, including procedures and criteria for issuance and scope of orders.

SUBCHAPTER IV—RESEARCH

4585. Encouragement of research.
4586. Scientific peer review of grants and contracts.
4587. Authorization of appropriations.
4588. National Alcohol Research Centers.
(a) Designation; procedures applicable for approval of applications.
(b) Annual grants; amount; limitation on uses.
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SUBCHAPTER V—GENERAL PROVISIONS

4591. Separability of provisions.
4592. Recordkeeping for audit.
4593. Payments.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 217a-1, 300l-2, 300m, 300m-3, 4542 of this title; title 7 section 2012; title 38 section 4134.

§ 4541. Congressional findings and declaration of purpose

(a) The Congress finds that—

(1) alcohol is one of the most dangerous drugs and the drug most frequently abused in the United States;

(2) of the Nation's estimated ninety-five million drinkers, at least nine million, or 7 per centum of the adult population, are alcohol abusers and alcoholics;

(3) problem drinking costs the national economy at least $15,000,000,000 annually in lost working time, medical and public assistance expenditures, and police and court costs;

(4) alcohol abuse is found with increasing frequency among persons who are multiple-drug abusers and among former heroin users who are being treated in methadone maintenance programs;

(5) alcohol abuse is being discovered among growing numbers of youth; and

(6) alcoholism is an illness requiring treatment and rehabilitation through the assistance of a broad range of community health and social services, and with the cooperation of law enforcement agencies.

(b) It is the policy of the United States and the purpose of this chapter to approach alcohol abuse and alcoholism from a comprehensive community care standpoint, and to meet the problems of alcohol abuse and alcoholism through—

(1) comprehensive Federal, State, and local planning for, and effective use of, Federal assistance to States, and direct Federal assistance to community-based programs to meet the urgent needs of special populations, in coordination with all other governmental and nongovernmental sources of assistance;

(2) the development of methods for diverting problem drinkers from criminal justice systems into prevention and treatment programs; and

(3) increased Federal commitment to research into the behavioral and biomedical etiology of, the treatment of, and the mental

and physical health and social and economic consequences of, alcohol abuse and alcoholism.

(Pub. L. 91-616, § 2, as added Pub. L. 93-282, title I, § 102(a), May 14, 1974, 88 Stat. 126, and amended Pub. L. 94-371, § 2, July 26, 1976, 90 Stat. 1035.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), in the original read "this Act", meaning Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, known as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970", which enacted this chapter and section 2688j-2 of this title and amended sections 218, 246, 2688h, and 2688t of this title.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-371 restructured provisions and added authorization for increased Federal commitment to research into the behavioral and biomedical etiology of alcohol abuse and alcoholism and the treatment and consequences of alcohol abuse and alcoholism.

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94-371 provided: "That this Act [enacting sections 4578 and 4585 to 4588 of this title, amending sections 218, 3511, 4541, 4571 to 4573, 4576, 4577, and 4581 of this title and sections 1176 and 1177 of Title 21, Food and Drugs, and enacting provisions set out as notes under sections 4573 and 4577 of this title, and sections 1176 and 1177 of Title 21] may be cited as the 'Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1976'."

SHORT TITLE OF 1974 AMENDMENT

Section 101 of Pub. L. 93-282 provided that: "This title [which enacted sections 4541, 4542, 4553, 4576, and 4577 of this title, amended sections 242a, 4571, 4572, 4573, 4581, and 4582 of this title, and enacted provisions set out as notes under sections 4581 and 4582 of this title] may be cited as the 'Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974'."

SHORT TITLE

Section 1 of Pub. L. 91-616 provided that: "This Act [enacting this chapter and section 2688j-2 of this title and amending sections 218, 246, 2688h and 2688t of this title] may be cited as the 'Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970'."

CROSS REFERENCES

Appointments to advisory committees established to assist in implementing this chapter, without regard to political affiliations, see section 217a-1 of this title.

§ 4542. Congressional declaration for utilization of programs under other Federal laws in fields of health and social services

The Congress declares that, in addition to the programs under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [42 U.S.C. 4541 et seq.], programs under other Federal laws which provide Federal or federally assisted research, prevention, treatment, or rehabilitation in the fields of health and social services should be appropriately utilized to help eradicate alcohol abuse and alcoholism as a major problem.

(Pub. L. 93-282, title I, § 102(b), May 14, 1974, 88 Stat. 126.)

REFERENCES IN TEXT

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, referred to in text, is Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, as amended, which is classified principally to this chapter (§ 4541 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 4541 of this title and Tables volume.

CODIFICATION

Section was not enacted as part of Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, known as the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, which comprises this chapter.

SUBCHAPTER I—NATIONAL INSTITUTE ON, AND INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR, ALCOHOL ABUSE AND ALCOHOLISM; REPORTS AND RECOMMENDATIONS

§ 4551. National Institute on Alcohol Abuse and Alcoholism

(a) Establishment; functions of Institute; functions of Secretary regarding alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs

There is established the National Institute on Alcohol Abuse and Alcoholism (hereafter in this chapter referred to as the "Institute") to administer the programs and authorities assigned to the Secretary of Health, Education, and Welfare (hereafter in this chapter referred to as the "Secretary") by this chapter and part C of the Community Mental Health Centers Act [42 U.S.C. 2688e et seq.]. The Secretary, acting through the Institute, shall, in carrying out the purposes of sections 241 and 242a of this title with respect to alcohol abuse and alcoholism, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitations of alcohol abusers and alcoholics. The Secretary shall carry out through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

(b) Appointment of Director and employment and functions of officers and employees of Institute

(1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs to be carried out through the Institute.

(c) Administration of programs to encourage widest participation of professionals and paraprofessionals in certain related disciplines

The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines.

(Pub. L. 91-616, title I, § 101, Dec. 31, 1970, 84 Stat. 1848; Pub. L. 93-282, title II, § 203(a), May 14, 1974, 88 Stat. 135.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), in the original read "this Act", meaning Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, known as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970", which enacted this chapter and section 2688j-2 of this title and amended sections 218, 246, 2688h, and 2688t of this title.

The Community Mental Health Centers Act, referred to in subsec. (a), is Pub. L. 88-164, title II, Oct. 31, 1963, 77 Stat. 290. Part C of the Community Mental Health Centers Act, comprising sections 2688e to 2688j-2, was classified generally to part C (§ 2688e et seq.) of subchapter III of chapter 33 of this title. Sections 2688e to 2688j-1 of this title were omitted as superseded in the general amendment of the Community Mental Health Centers Act by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309. Section 2688j-2 of this title was repealed by Pub. L. 93-282, title III, § 302, May 14, 1974, 88 Stat. 137. For complete classification of this Act to the Code, see Tables volume. See section 2689 et seq. of this title.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-282 deleted provisions for establishment of the Institute in the National Institute of Mental Health, inserted reference to section 242a of this title, and required the Secretary to carry out through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions required for implementation of prescribed programs and authorities.

Subsec. (b). Pub. L. 93-282 designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 93-282 added subsec. (c).

§ 4552. Reports and recommendations

The Secretary shall—

(1) submit an annual report to Congress which shall include a description of the actions taken, services provided, and funds expended under this chapter and part C of the Community Mental Health Centers Act [42 U.S.C. 2688e et seq.], an evaluation of the effectiveness of such actions, services, and expenditures of funds, and such other information as the Secretary considers appropriate;

(2) submit to Congress on or before the expiration of the one-year period beginning December 31, 1970, and every three years thereafter, a report (A) containing current information on the health consequences of using alcoholic beverages, and (B) containing such recommendations for legislation and administrative action as he may deem appropriate;

(3) submit such additional reports as may be requested by the President of the United States or by Congress;

(4) submit to the President of the United States and to Congress such recommendations as will further the prevention, treatment, and control of alcohol abuse and alcoholism; and

(5) submit to Congress on or before the end of each calendar year a report on the extent to which other Federal programs and departments are concerned and dealing effectively with the problems of alcohol abuse and alcoholism.

Before submitting a report under paragraph (5), the Secretary shall give each department and agency of the Government which (or a program of which) is referred to in the report he proposes to submit under such paragraph an opportunity to comment on the proposed report; and the Secretary shall include in the report submitted to Congress under such paragraph the comments received by him from any such department or agency within 30 days from the date the proposed report was submitted to such department or agency.

(Pub. L. 91-616, title I, § 102, Dec. 31, 1970, 84 Stat. 1848; Pub. L. 93-282, title II, § 203(b)(1), (2)(A), May 14, 1974, 88 Stat. 136.)

REFERENCES IN TEXT

This chapter, referred to in par. (1), in the original read "this Act", meaning Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, known as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970", which enacted this chapter and section 2688j-2 of this title and amended sections 218, 246, 2688h, and 2688t of this title.

The Community Mental Health Centers Act, referred to in par. (1), is Pub. L. 88-164, title II, Oct. 31, 1963, 77 Stat. 290. Part C of the Community Mental Health Centers Act, comprising sections 2688e to 2688j-2, was classified generally to part C (§ 2688e et seq.) of subchapter III of chapter 33 of this title. Sections 2688e to 2688j-1 of this title were omitted as superseded in the general amendment of the Community Mental Health Centers Act by Pub. L. 94-63, title III, § 303, July 29, 1975, 89 Stat. 309. Section 2688j-2 of this title was repealed by Pub. L. 93-282, title III, § 302, May 14, 1974, 88 Stat. 137. For complete classification of this Act to the Code, see Tables volume. See section 2689 et seq. of this title.

AMENDMENTS

1974—Pub. L. 93-282 provided for triennial reports in par. (2) and added par. (5) and provision for opportunity for agency comments on proposed par. (5) reports.

SUBMITTAL DATE OF INITIAL PARAGRAPH (5) REPORT

Section 203(b)(2)(B) of Pub. L. 93-282 provided that the first report to be submitted by the Secretary of Health, Education, and Welfare under par. (5) of this section was to be submitted not later than Dec. 31, 1974.

§ 4553. Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism

(a) Establishment; functions

The Secretary shall establish an Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism (hereinafter in this section referred to as the "Committee"). The Committee shall (1) evaluate the adequacy and technical soundness of all Federal programs and activities which relate to alcoholism and alcohol abuse and provide for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seek to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.

(b) Chairman of Committee; membership; meetings

The Secretary or the Director of the National Institute on Alcohol Abuse and Alcoholism (or

the Director's designee) shall serve as Chairman of the Committee, the membership of which shall include (1) appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, and such other Federal agencies and offices (including appropriate agencies and offices of the Department of Health, Education, and Welfare) as the Secretary determines administer programs directly affecting alcoholism and alcohol abuse, and (2) five individuals from the general public appointed by the Secretary from individuals who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Committee shall meet at the call of the Chairman, but not less often than four times a year.

(c) Term of office; vacancies; original appointments

Each appointed member of the Committee shall be appointed for a term of four years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed, two shall be appointed for a term of four years, two shall be appointed for a term of three years, and one shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

(d) Compensation and travel expenses

Appointed members of the Committee shall receive for each day they are engaged in the performance of the functions of the Committee compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(e) Staff, information, and other assistance

The Secretary shall make available to the Committee such staff, information, and other assistance as it may require to carry out its activities effectively.

(Pub. L. 91-616, title I, § 103, as added Pub. L. 93-282, title I, § 131, May 14, 1974, 88 Stat. 133.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (d), is set out in section 5332 of Title 5, Government Organization and Employees.

CROSS REFERENCES

Appointments to advisory committees established to assist in implementing this chapter, without regard to political affiliations, see section 217a-1 of this title.

SUBCHAPTER II—ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAMS FOR FEDERAL CIVILIAN EMPLOYEES

§ 4561. Programs for federal civilian employees

(a) Development and maintenance by the Civil Service Commission

The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Secretary and with other Federal agencies and departments, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among Federal civilian employees, consistent with the purposes of this chapter. Such policies and services shall make optimal use of existing governmental facilities, services, and skills.

(b) Programs in State and local governments and private industry

The Secretary, acting through the Institute, shall be responsible for fostering similar alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry.

(c) Prior alcohol abuse no bar to federal employment; exceptions

(1) No person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the ground of prior alcohol abuse or prior alcoholism.

(2) This subsection shall not apply to employment (A) in the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, or any other department or agency of the Federal Government designated for purposes of national security by the President, or (B) in any position in any department or agency of the Federal Government, not referred to in clause (A), which position is determined pursuant to regulations prescribed by the head of such agency or department to be a sensitive position.

(d) Dismissal for incapacity unaffected

This subchapter shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

(Pub. L. 91-616, title II, § 201, Dec. 31, 1970, 84 Stat. 1849.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this Act", meaning Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, known as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970", which enacted this chapter and section 2688j-2 of this title and amended sections 218, 246, 2688h, and 2688t of this title.

SUBCHAPTER III—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

PART A—GRANTS TO STATES

§ 4571. Authorization of appropriations

There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30,

1971, $60,000,000 for the fiscal year ending June 30, 1972, $80,000,000 for each of the next two fiscal years, $80,000,000 for the fiscal year ending June 30, 1975, $80,000,000 for the fiscal year ending June 30, 1976, $70,000,000 for the fiscal year ending September 30, 1977, $77,000,000 for the fiscal year ending September 30, 1978, and $85,000,000 for the fiscal year ending September 30, 1979, grants to States to assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism. For purposes of this part, the term "State" includes the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, in addition to the fifty States.

(Pub. L. 91-616, title III, § 301, Dec. 31, 1970, 84 Stat. 1849; Pub. L. 92-554, Oct. 25, 1972, 86 Stat. 1167; Pub. L. 93-282, title I, § 105(a), May 14, 1974, 88 Stat. 127; Pub. L. 94-371, § 3(a), July 26, 1976, 90 Stat. 1035.)

AMENDMENTS

1976—Pub. L. 94-371 struck out "and" after "1975" and added provisions authorizing $70,000,000 to be appropriated for the fiscal year ending Sept. 30, 1977, $77,000,000 to be appropriated for the fiscal year ending Sept. 30, 1978, and $85,000,000 to be appropriated for the fiscal year ending Sept. 30, 1979.

1974—Pub. L. 93-282 authorized appropriation of $80,000,000 for fiscal years ending June 30, 1975 and June 30, 1976.

1972—Pub. L. 92-554 substituted "for each of the next two fiscal years" for "for the fiscal year ending June 30, 1973".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4572 of this title.

§ 4572. State allotment

(a) Minimum allotment for any one state; determination of incidence of alcohol abuse within States

For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to section 4571 of this title among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism; except that no such allotment to any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any fiscal year shall be less than $200,000. In determining the extent of a State's need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism, the Secretary shall (within 180 days after July 26, 1976) by regulation establish a methodology to assess and determine the incidence and prevalence of alcohol abuse within the States.

(b) Availability of unused allotments for use in succeeding years

Any amount allotted to a State in a fiscal year (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year, may be reallocated by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) of this section to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands in a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such next two years, which the Secretary determines will remain unobligated at the close of the second of such next two years, may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to any other of such four States, which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallocated to a State shall be in addition to the amounts allotted and available to the State for the period.

(c) Payment of state plan expenditures

At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this part, except that not more than 10 per centum of the total of the allotments of such State for a year, or $50,000, whichever is the least, shall be available for such purpose for such year.

(d) Reduction of allotment upon request of any State for assignment of Department officers and employees or for equipment or supplies in lieu of portion of allotment; consideration of expenditures as payment to the State

On the request of any State, the Secretary is authorized to arrange for the assignment of officers and employees of the Department or provide equipment or supplies in lieu of a portion of the allotment of such State. The allotment may be reduced by the fair market value of any equipment or supplies furnished to such State and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the State. The amount by which such payments are so reduced shall be available for pay-

ment of such costs (including the costs of such equipment and supplies) by the Secretary, but shall for purposes of determining the allotment under subsection (a) of this section, be deemed to have been paid to the State.

(Pub. L. 91-616, title III, § 302, Dec. 31, 1970, 84 Stat. 1849; Pub. L. 93-282, title I, § 106(a), May 14, 1974, 88 Stat. 127; Pub. L. 94-371, § 3(b), July 26, 1976, 90 Stat. 1035.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-371 added provision authorizing the Secretary, within 180 days after July 26, 1976, to establish a methodology to assess the prevalence of alcohol abuse within the States, in determining the extent of a State's need for more effective prevention and treatment of alcohol abuse and alcoholism.

1974—Subsec. (b). Pub. L. 93-282, § 106(a)(2), substituted in first sentence "allotted to a State in a fiscal year" for "so allotted to a State" and in second sentence "in a fiscal year" for "for a fiscal year".

Subsec. (d). Pub. L. 93-282, § 106(a)(1), added subsec. (d).

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976; PAYMENT OF ALLOTMENTS

Pub. L. 94-274, title I, § 108(a), (b), Apr. 21, 1976, 90 Stat. 387, provided that:

"(a) For the purposes of section 302(c) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4572(c)), the period of July 1, 1976, through September 30, 1976, shall be considered part of the fiscal year beginning July 1, 1975, and the limitation of $50,000 specified in section 302(c) shall be increased to $62,500 for that period.

"(b) For the purposes of section 302(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4572(a)), the period of July 1, 1976, through September 30, 1976, shall be considered a fiscal year and the amount of $200,000 specified in section 302(a) shall be decreased to $50,000 for that period."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (b) of this section, see section 204(9) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 392, set out as a note under section 390e of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4573, 4576 of this title.

§ 4573. State plans

(a) Submission; required contents

Any State desiring to participate in this part shall submit a State plan for carrying out its purposes. Such plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter in this section referred to as the "State agency") will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations, of groups to be served with attention to assuring representation of minority and poverty groups, and of public agencies concerned with the prevention and treatment of alcohol abuse and alcoholism, and at least one representative of the Statewide Health Coordinating Council established pursuant to section 300m-3 of this title, to consult with the State agency in carrying out the plan;

(4)(A) set forth, in accordance with criteria established by the Secretary, a survey of need for the prevention and treatment of alcohol abuse and alcoholism, including a survey of the health facilities needed to provide services for alcohol abuse and alcoholism and a plan for the development and distribution of such facilities and programs throughout the State;

(B) include in the survey conducted pursuant to subparagraph (A) an identification of the need for prevention and treatment of alcohol abuse and alcoholism by women and by individuals under the age of eighteen and provide assurance that prevention and treatment programs within the State will be designed to meet such need;

(5) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(7) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (6);

(8) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary;

(9) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event supplant such State, local, and other non-Federal funds;

(10) set forth, in accordance with criteria to be set by the Secretary, standards (including enforcement procedures and penalties) for (A) construction and licensing of public and private treatment facilities, and (B) for other

community services or resources available to assist individuals to meet problems resulting from alcohol abuse;

(11) contain, to the extent feasible, a complete inventory of all public and private resources available in the State for the purpose of alcohol abuse and alcoholism treatment, prevention, and rehabilitation, including but not limited to programs funded under State and local laws, occupational programs, voluntary organizations, education programs, military and Veterans' Administration resources, and available public and private third-party payment plans;

(12) provide assurance that the State agency will coordinate its planning with local alcoholism and alcohol abuse planning agencies and with other State and local health planning agencies;

(13) provide assurance that State certification, accreditation, or licensure requirements, if any, applicable to alcohol abuse and alcoholism treatment facilities and personnel take into account the special nature of such programs and personnel, including the need to encourage the development of nonmedical modes of treatment and the need to acknowledge previous experience when assessing the adequacy of treatment personnel;

(14) provide reasonable assurance that prevention or treatment projects or programs supported by funds made available under section 4572 of this title have provided to the State agency a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such prevention or treatment programs or projects;

(15) provide that the State agency will review admissions to hospitals and outpatient facilities to assist the Secretary in determining the compliance of such hospitals and facilities with the requirement of section 4581 of this title and shall make periodic reports to the Secretary respecting such review; and

(16) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this part.

(b) Approval of plan and modification

The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a) of this section.

(c) Conditions to approval

The Secretary shall by regulation require, as a condition to the approval of the State plan, that the State for which such plan was submitted report to the Secretary (in such form and manner as the Secretary shall prescribe) an assessment of the progress of the State in the implementation of its State plan. After making an initial such report, a State shall make additional reports every third year thereafter in which it receives an allotment under this part. The reporting requirement shall first apply with respect to State plans submitted for allotments for fiscal years beginning after September 30, 1977.

(Pub. L. 91-616, title III, § 303, Dec. 31, 1970, 84 Stat. 1850; Pub. L. 93-282, title I, § 106(b), May 14, 1974, 88 Stat. 127; Pub. L. 94-371, § 5(a), (b)(1), (c), July 26, 1976, 90 Stat 1036.)

AMENDMENTS

1976—Subsec. (a)(3). Pub. L. 94-371, § 5(a), added provision requiring any plan submitted under this section to provide for inclusion in a State advisory council of at least one representative of the Statewide Health Coordinating Council established pursuant to section 300m-3 of this title.

Subsec. (a)(4). Pub. L. 94-371, § 5(c)(2), designated existing provision as subsec. (a)(4)(A) and added subsec. (a)(4)(B).

Subsec. (a)(11) to (16). Pub. L. 94-371, § 5(b)(1), added subsec. (a)(11) to (a)(15). Former subsec. (a)(11) redesignated (a)(16).

Subsec. (c). Pub. L. 94-371, § 5(c)(1), added subsec. (c).

1974—Subsec. (a)(3). Pub. L. 93-282, § 106(b)(1), substituted ", of groups to be served with attention to assuring representation of minority and poverty groups" for "or groups".

Subsec. (a)(10). Pub. L. 93-282, § 106(b)(3), (4), added par. (10) and redesignated former par. (10) as (11).

Subsec. (a)(11). Pub. L. 93-282, § 106(b)(3), redesignated former par. (10) as (11).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 5(b)(2) of Pub. L. 94-371 provided that: "The amendments made by paragraph (1) [amending subsec. (a)(11) to (16) of this section] shall apply with respect to State plan requirements for allotments under section 302 of the Act [section 4572 of this title] after June 30, 1976."

PERIOD OF JULY 1, 1975, THROUGH SEPTEMBER 30, 1976, CONSIDERED AS ONE YEAR

Period of July 1, 1975, through Sept. 30, 1976, considered as one year for purposes of this section, see section 206(3) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 394, set out as a note under section 1176 of Title 21, Food and Drugs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4577 of this title.

§ 4574. Transferred

CODIFICATION

Section, Pub. L. 91-616, title III, § 304, as added Pub. L. 93-282, title I, § 107, May 14, 1974, 88 Stat. 127, which related to special grants for implementation of the Uniform Alcoholism and Intoxication Treatment Act, was transferred to section 4576 of this title.

PART B—IMPLEMENTATION AND PROJECT GRANTS AND CONTRACTS

§ 4576. Special grants for implementation of the Uniform Alcoholism and Intoxication Treatment Act

(a) Grant period; State's costs; number

To assist States which have adopted the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act (hereinafter in this section referred to as the "Uniform Act") to utilize fully the protections of the Uniform Act in their efforts to approach alcohol abuse and alcoholism from a community care standpoint, the Secretary, acting through the Institute, shall, during the period beginning July 1, 1974, and ending September 30, 1979, make grants to such States for the implementation of the Uniform Act. A grant under this section to any State may only be made for that State's costs (as determined in accordance with regulations which the Secretary shall promulgate not later

than July 1, 1974) in implementing the Uniform Act for a period which does not exceed one year from the first day of the first month for which the grant is made. No State may receive more than six grants under this section.

(b) Applications; submissions; approval by Secretary; form; contents; determinations

No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve an application of a State under this section unless he determines the following:

(1) The State and each of its political subdivisions are committed to the concept of care for alcoholism and alcohol abuse through community health and social service agencies, and, in accordance with the purposes of sections 1 and 19 of the Uniform Act, have repealed those portions of their criminal statutes and ordinances under which drunkenness is the gravamen of a petty criminal offense, such as loitering, vagrancy, or disturbing the peace.

(2) The laws of the State respecting acceptance of individuals into alcoholism and intoxication treatment programs are in accordance with the following standards of acceptance of individuals for such treatment (contained in section 10 of the Uniform Act):

(A) A patient shall, if possible, be treated on a voluntary rather than an involuntary basis.

(B) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

(C) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

(D) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(E) Provision shall be made for a continuum of coordinated treatment services so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

(3) The laws of the State respecting involuntary commitment of alcoholics are consistent with the provisions of section 14 of the Uniform Act which protect individual rights.

(4) The application of the State contains such assurances as the Secretary may require to carry out the purposes of this section.

(c) Maximum amount; payments; advances or reimbursements; intervals and conditions

The amount of any grant under this section to any State for any fiscal year may not exceed the sum of $150,000 and an amount equal to 20 percent of the allotment of such State for such fiscal year under section 4572 of this title. Payments under grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

(Pub. L. 91-616, title III, § 310, formerly § 304, as added Pub. L. 93-282, title I, § 107, May 14, 1974, 88 Stat. 127, amended Pub. L. 94-273, § 2(26), Apr. 21, 1976, 90 Stat. 376, and renumbered and amended Pub. L. 94-371, § 4(a), (b), (c)(1), (2), (d), July 26, 1976, 90 Stat. 1035, 1036.)

CODIFICATION

Section was formerly set out as section 4574 of this title prior to the general amendment of this subchapter by Pub. L. 94-371.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-371, § 4(d), substituted "September 30, 1979" for "September 30, 1977" and "six grants" for "three grants".

Pub. L. 94-273 substituted "September" for "June".

Subsec. (b). Pub. L. 94-371, § 4(a), struck out provision that for purposes of subsec. (a) of this section, if a State has a plan approved under section 4573 of this title, the term "basic provisions of the Uniform Alcoholism and Intoxication Treatment Act" shall not include any provision of the Uniform Act respecting the organization of such State's treatment programs if they are inconsistent with the requirements of such State plan.

Subsec. (c). Pub. L. 94-371, § 4(b), substituted "20 percent" for "10 per centum" and "$150,000" for "$100,000".

Subsec. (d). Pub. L. 94-371, § 4(c)(1), struck out subsec. (d) which related to the authorization of appropriations for the fiscal year ending June 30, 1975 and each of the next two fiscal years. Provisions are now covered by section 4578 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 4(b) of Pub. L. 94-371 provided in part that the amendment of subsec. (c) by Pub. L. 94-371 is effective July 1, 1976.

Section 4(c) of Pub. L. 94-371 provided in part that the redesignation of section and repeal of subsec. (d) by Pub. L. 94-371 is effective July 1, 1976.

PERIOD OF JULY 1, 1975, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR; INCREASE OF AMOUNT

Pub. L. 94-274, title I, § 108(c), Apr. 21, 1976, 90 Stat. 387, provided that: "For the purposes of section 304(c) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4574(c)) [subsec. (c) of this section], the period of July 1, 1975, through September 30, 1976, shall be considered a fiscal year, and the 10 per centum limitation specified in section 304(c) shall be increased to 40 per centum for that period."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4578 of this title.

§ 4577. Grants and contracts for the prevention and treatment of alcohol abuse and alcoholism

(a) Projects and programs

The Secretary, acting through the Institute, may make grants to public and nonprofit private entities and may enter into contracts with public and private entities and with individuals—

(1) to conduct demonstration and evaluation projects, including projects designed to develop methods for the effective coordination of all alcoholism treatment, training, prevention, and research resources available within a health service area established under section 300*l* of this title,

(2) to provide treatment and prevention services, with special emphasis on currently un-

derserved populations, such as racial and ethnic minorities, native Americans, youth, female alcoholics, and individuals in geographic areas where such services are not otherwise adequately available,

(3) to provide education and training, which may include additional training to enable treatment personnel to meet certification requirements of public or private accreditation or licensure, or requirements of third-party payors, and

(4) to provide programs and services, including education and counseling services, in cooperation with law enforcement personnel, schools, courts, penal institutions, and other public agencies,

for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

(b) Community participation

Projects and program for which grants and contracts are made under this section shall (1) whenever possible, be community based, seek to insure care of good quality in general community care facilities and under health insurance plans, and be integrated with, and provide for the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals; (2) where a substantial number of the individuals in the population served by the project or program are of limited English-speaking ability, utilize the services of outreach workers fluent in the language spoken by a predominant number of such individuals and develop a plan and make arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and identify an individual employed by the project or program, or who is available to the project or program on a full-time basis, who is fluent both in that language and English and whose responsibilities shall include providing guidance to the individuals of limited English speaking ability and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences; and (3) where appropriate utilize existing community resources (including community mental health centers).

(c) Applications; coordination in State; evaluation of projects and programs; review and recommendation by Council; criteria for approval

(1) In administering this section, the Secretary shall require coordination of all applications for projects and programs in a State.

(2)(A) Each applicant from within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency designated under section 4573 of this title, if such designation has been made. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project or program set forth in the application. Such evaluation shall include comments on the relationship of the project to other projects and programs pending and approved and to the State comprehensive plan for treatment and prevention of alcohol abuse and alcoholism under section 4573 of this title. The State shall furnish the applicant a copy of any such evaluation.

(B)(i) Except as provided in clause (ii), each application for a grant under this section shall be submitted by the Secretary to the National Advisory Council on Alcohol Abuse and Alcoholism for his[1] review. The Secretary may approve an application for a grant under this section only if it is recommended for approval by such Council.

(ii) Clause (i) shall not apply to an application for a grant under this section for a project or program for any period of 12 consecutive months for which period payments under such grant will be less than $250,000, if an application for a grant under this section for such project or program and for a period of time which includes such 12-month period has been submitted to, and approved by, the Secretary.

(3) Approval of any application for a grant or contract by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

(A) provides that the projects and programs for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

(B) provides for such methods of administration as are necessary for the proper and efficient operation of such programs and projects;

(C) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

(D) provides reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the projects and programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

(4) The Secretary shall give special consideration to applications under this section for programs and projects for prevention and treatment of alcohol abuse and alcoholism by women and for programs and projects for prevention and treatment of alcohol abuse and alcoholism by individuals under the age of eighteen.

(5) Each applicant, upon filing its application with the Secretary for a grant or contract to provide prevention or treatment services, shall provide a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such services.

(Pub. L. 91-616, title III, § 311, as added Pub. L. 93-282, title I, § 111, May 14, 1974, 88 Stat. 129, and amended Pub. L. 94-371, §§ 4(c)(1), 6, 12(a), July 26, 1976, 90 Stat. 1035, 1037, 1041. Pub. L. 94-573, § 19(a), Oct. 21, 1976, 90 Stat. 2720.)

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[1] So in original. Probably should be "its".

PRIOR PROVISIONS

A prior section 311 of Pub. L. 91-616, title III, Dec. 31, 1970, 84 Stat. 1851, amended former section 2688j-2 of this title, which was repealed by Pub. L. 93-282, title III, § 302, May 14, 1974, 88 Stat. 137, and is now incorporated in this section.

Provisions similar to those comprising this section were contained in Pub. L. 88-164, title II, § 247, formerly § 246, as added Pub. L. 90-574, title III, § 301, Oct. 15, 1968, 82 Stat. 1009, renumbered Pub. L. 91-211, title III, § 304, Mar. 13, 1970, 84 Stat. 59, and amended Pub. L. 91-616, title III, § 311, Dec. 31, 1970, 84 Stat. 1851; Pub. L. 93-45, title II, § 204(b), June 18, 1973, 87 Stat. 94, which was classified to section 2688j-2 of this title prior to repeal of that section by Pub. L. 93-282, title III, § 302, May 14, 1974, 88 Stat. 137.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-371, § 6(a), added provisions which authorized the development of effective coordination of all alcoholism treatment resources available, the emphasis in treatment projects of those of the population currently underserved, and, the training of personnel to enable them to meet certification requirements of public and private accreditation.

Subsec. (b). Pub. L. 94-371, § 6(b), added cl. (2). Former cl. (2) redesignated (3).

Subsec. (c)(2). Pub. L. 94-573 added provision that requirements for submission of applications to the Council for review and approval not apply to a grant application for a project or program for any period of 12 consecutive months for which period payments under such grant will be less than $250,000, if a grant application for a project or program and for a period of time which includes such 12 month period has been submitted to, and approved by, the Secretary.

Pub. L. 94-371, § 12(a), added provision that each grant application be submitted by the Secretary to the Council for review and could not be approved by the Secretary unless recommended for approval by the Council.

Subsec. (c)(4), (5). Pub. L. 94-371, § 6(c), added subsec. (c)(4) and (5).

Subsec. (d). Pub. L. 94-371, § 4(c)(1), struck out subsec. (d) which related to the authorization of appropriations for the fiscal year ending June 30, 1975 and the fiscal year ending June 30, 1976. Provisions are now covered by section 4578 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Section 4(c) of Pub. L. 94-371 provided in part that the repeal of subsec. (d) by Pub. L. 94-371 is effective July 1, 1976.

Section 12(b) of Pub. L. 94-371 provided that: "The amendment made by subsection (a) [amending subsec. (c)(2) of this section] shall apply with respect to applications for grants under section 311 of the Act [this section] after June 30, 1976."

Section 19(b) of Pub. L. 94-573 provided that: "The amendment made by subsection (a) [amending subsec. (c)(2) of this section] shall apply with respect to applications for grants under section 311 of such Act [this section] after June 30, 1976."

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4578 of this title.

§ 4578. Authorizations of appropriations

For purposes of sections 4576 and 4577 of this title, there are authorized to be appropriated $85,000,000 for the fiscal year ending September 30, 1977, $91,000,000 for the fiscal year ending September 30, 1978, and $102,500,000 for the fiscal year ending September 30, 1979.

(Pub. L. 91-616, title III, § 312, as added Pub. L. 94-371, § 4(c)(3), July 26, 1976, 90 Stat. 1036.)

EFFECTIVE DATE

Section 4(c) of Pub. L. 94-371 provided in part that this section is effective July 1, 1976.

PART C—ADMISSION TO HOSPITALS AND OUTPATIENT FACILITIES; CONFIDENTIALITY OF RECORDS

CODIFICATION

Part consists of Part C and portions of Part D of title III of Pub. L. 91-616. Part B of such title enacted section 2688j-2 of this title. Part D, in addition to enacting section 4582 of this title, amended sections 246 and 2688h of this title.

§ 4581. Admission of alcohol abusers and alcoholics to general hospitals and outpatient facilities

(a) Discrimination prohibition against private or public hospitals and outpatient facilities receiving any Federal support

Alcohol abusers and alcoholics who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their alcohol abuse or alcoholism, by any private or public general hospital, or outpatient facility (as defined in section 300a-3(6) of this title) which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

(b) Regulations of Secretary: enforcement procedures, suspension or revocation of Federal support

(1) The Secretary shall issue regulations not later than December 31, 1976 for the enforcement of the policy of subsection (a) of this section with respect to the admission and treatment of alcohol abusers and alcoholics in hospitals or outpatient facilities which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) of this section has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital or outpatient facility subject to such regulations has violated subsection (a) of this section and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital or outpatient facility from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital or outpatient facility receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital or outpatient facility.

(2) Superseded. Pub. L. 94-581, title I, § 111(c)(1), Oct. 21, 1976, 90 Stat. 2852.

(Pub. L. 91-616, title III, § 321, Dec. 31, 1970, 84 Stat. 1852; Pub. L. 93-282, title I, § 121(a), May 14, 1974, 88 Stat. 130; Pub. L. 94-371, § 11(a), (b), July 26, 1976, 90 Stat. 1041; Pub. L. 94-581, title I, § 111(c)(1), Oct. 21, 1976, 90 Stat. 2852.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-371, § 11(a), inserted ", or outpatient facility (as defined in section 300s-3(6) of this title)" following "hospital".

Subsec. (b)(1). Pub. L. 94-371, § 11(b), inserted "and outpatient facilities" following "hospitals", and "or outpatient facility" following "hospital" wherever appearing, and substituted "shall issue regulations not later than December 31, 1976" for "is authorized to make regulations".

Subsec. (b)(2). Pub. L. 94-581 provided that subsec. (b)(2), which directed the Administrator of Veteran's Affairs, through the Chief Medical Director, to prescribe regulations making applicable the regulations prescribed by the Secretary under subsec. (b)(1) to the provision of hospital care, nursing home care, domiciliary care, and medical services under title 38 to veterans suffering from alcohol abuse or alcoholism and to consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribed, was superseded by section 4131 et seq. of Title 38, Veterans' Benefits.

1974—Subsec. (a). Pub. L. 93-282, in revising the text, prohibited discrimination because of alcohol abuse, substituted provisions respecting eligibility for admission and treatment based on suffering from medical conditions for former provision based on medical need and ineligibility, because of discrimination, for support in any form from any program supported in whole or in part by funds appropirated to any Federal department or agency for former requirement for treatment by a general hospital which received Federal funds, and deleted prohibition against receiving Federal financial assistance for violation of section and for termination of Federal assistance on failure to comply, now incorporated in regulation authorization of subsec. (b) of this section.

Subsec. (b). Pub. L. 93-282 substituted provisions respecting issuance of regulations by the Secretary concerning enforcement procedures and suspension or revocation of Federal support and by the Administrator concerning applicable regulations for veterans, and for coordination of the respective regulations for former provisions respecting judicial review.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of Title 38, Veterans' Benefits.

REPORT OF ADMINISTRATOR OF VETERANS' AFFAIRS TO CONGRESSIONAL COMMITTEES; PUBLICATION IN FEDERAL REGISTER

Section 121(b) of Pub. L. 93-282, which directed the Administrator of Veterans' Affairs to submit to the appropriate committees of the House of Representatives and the Senate a full report (1) on the regulations (including guidelines, policies, and procedures thereunder) he had prescribed pursuant to section 321(b)(2) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [former subsec. (b)(2) of this section], (2) explaining the bases for any inconsistency between such regulations and regulations of the Secretary under section 321(b)(1) of such Act [subsec. (b)(1) of this section], (3) on the extent, substance, and results of his consultations with the Secretary respecting the prescribing and implementation of the Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determined were necessary and desirable, with the Administrator to submit the report not later than sixty days after the effective date of the regulations prescribed by the Secretary under such section 321(b)(1) [subsec. (b)(1) of this section], and to publish such report in the Federal Register, was characterized by section 111(c)(5) of Pub. L. 94-581 as having been superseded by section 4134 of Title 38, Veterans' Benefits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4573 of this title.

§ 4582. Confidentiality of patient records

(a) Disclosure authorization

Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) of this section, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

(b) Purposes and circumstances of disclosure affecting consenting patient and patient regardless of consent

(1) The content of any record referred to in subsection (a) of this section may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g) of this section.

(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(c) Prohibition against use of record in making criminal charges or investigation of patient

Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any

criminal charges against a patient or to conduct any investigation of a patient.

(d) Continuing prohibition against disclosure irrespective of status as patient

The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

(e) Armed Forces and Veterans' Administration; interchange of records

The prohibitions of this section do not apply to any interchange of records—

(1) within the Armed Forces or within those components of the Veterans' Administration furnishing health care to veterans, or

(2) between such components and the Armed Forces.

(f) Penalty for first and subsequent offenses

Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

(g) Regulations of Secretary; definitions, safeguards, and procedures, including procedures and criteria for issuance and scope of orders

Except as provided in subsection (h) of this section, the Secretary shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C) of this section, as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(Pub. L. 91-616, title III, § 333, Dec. 31, 1970, 84 Stat. 1853; Pub. L. 93-282, title I, § 122(a), May 14, 1974, 88 Stat. 131; Pub. L. 94-581, title I, § 111(c)(4), Oct. 21, 1976, 90 Stat. 2852.)

REFERENCES IN TEXT

Subsection (h) of this section, referred to in subsec. (g), was superseded by Pub. L. 94-581, title I, § 111(c)(4), Oct. 21, 1976, 90 Stat. 2852.

AMENDMENTS

1976—Subsec. (h). Pub. L. 94-581 provided that subsec. (h), which directed the Administrator of Veterans' Affairs, through the Chief Medical Director, to prescribe regulations making applicable the regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under title 38 to veterans suffering from alcohol abuse or alcoholism and to consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribed, was superseded by section 4131 et seq. of Title 38, Veterans' Benefits.

1974—Subsecs. (a) to (h). Pub. L. 93-282 substituted subsecs. (a) to (h) for former provisions empowering the Secretary to authorize persons engaged in research on, or treatment with respect to alcohol abuse and alcoholism to protect the privacy of individuals who were the subject of such research or treatment by withholding from all persons not connected with the conduct of such research or treatment the names or other identifying characteristics of such individuals and prohibiting compulsory identification of such individuals in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding by any persons so authorized to protect the privacy of such individuals.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of Title 38, Veterans' Benefits.

REPORT OF ADMINISTRATOR OF VETERANS' AFFAIRS TO CONGRESSIONAL COMMITTEES; PUBLICATION IN FEDERAL REGISTER

Section 122(c) of Pub. L. 93-282, which directed the Administrator of Veterans' Affairs to submit to the appropriate committees of the House of Representatives and the Senate a full report (1) on the regulations (including guidelines, policies, and procedures thereunder) he had prescribed pursuant to section 333(h) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [former subsec. (h) of this section], (2) explaining the basis for any inconsistency between such regulations and regulations of the Secretary under section 333(g) of such Act [subsec. (g) of this section], (3) on the extent, substance, and results of his consultations with the Secretary respecting the prescribing and implementation of the Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determined were necessary and desirable, with the Administrator to submit the report not later than sixty days after the effective date of the regulations prescribed by the Secretary under such section 333(g) [subsec. (g) of this section], and to publish such report in the Federal Register, was characterized by section 111(c)(8) of Pub. L. 94-581 as having been superseded by section 4134 of Title 38, Veterans' Benefits.

SUBCHAPTER IV—RESEARCH

§ 4585. Encouragement of research

(a) The Secretary, acting through the Institute, shall carry out a program of research, investigations, experiments, demonstrations, and studies, directly and by grant or contract, into—

(1) the behavioral and biomedical etiology of,

(2) treatment of,

(3) mental and physical health consequences of, and

(4) social and economic consequences of,

alcohol abuse and alcoholism.

(b) In carrying out the program described in subsection (a) of this section, the Secretary, acting through the Institute, is authorized to—

(1) collect and make available through publications and other appropriate means, information as to, and the practical application of, the research and other activities under the program;

(2) make available research facilities of the Public Health Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(3) make grants to universities, hospitals, laboratories, and other public or nonprofit institutions, and to individuals for such research projects as are recommended by the National Advisory Council on Alcohol Abuse and Alcoholism;

(4) secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(5) promote the coordination of research programs conducted by the Institute, and similar programs conducted by other agencies, organizations, and individuals, including all National Institutes of Health research activities which are or may be related to the problems of individuals suffering from alcoholism or alcohol abuse;

(6) conduct an intramural program of biomedical and behavioral research, including research into the most effective means of treatment and service delivery, and including research involving human subjects, which is—

(A) located in an institution capable of providing all necessary medical care for such human subjects, including complete 24-hour medical diagnostic services by or under the supervision of physicians, acute and intensive medical care, including 24-hour emergency care, psychiatric care, and such other care as is determined to be necessary for individuals suffering from alcoholism and alcohol abuse; and

(B) associated with an accredited medical or research training institution;

(7) for purposes of study, admit and treat at institutions, hospitals, and stations of the Public Health Service, persons not otherwise eligible for such treatment;

(8) provide to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields;

(9) enter into contracts under this subchapter without regard to section 529 of title 31 and section 5 of title 41; and

(10) adopt, upon recommendation of the National Advisory Council on Alcohol Abuse and Alcoholism, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

(Pub. L. 91-616, title V, § 501, as added Pub. L. 94-371, § 7, July 26, 1976, 90 Stat. 1038.)

PRIOR PROVISIONS

A prior section 501 of Pub. L. 91-616, title V, Dec. 31, 1970, 84 Stat. 1854, was renumbered 601 by section 7 of Pub. L. 94-371, and is set out as section 4591 of this title.

TERMINATION OF ADVISORY COMMITTEE

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4587 of this title.

§ 4586. Scientific peer review of grants and contracts

The Secretary, acting through the Institute, shall, by regulation, provide for review of all research grants and contracts, training, treatment, and prevention activity grants, and programs over which he has authority under this chapter by utilizing, to the maximum extent possible, appropriate peer review groups, composed principally of non-Federal scientists and other experts in the field of alcoholism.

(Pub. L. 91-616, title V, § 502, as added Pub. L. 94-371, § 7, July 26, 1976, 90 Stat. 1039.)

PRIOR PROVISIONS

A prior section 502 of Pub. L. 91-616, title V, Dec. 31, 1970, 84 Stat. 1854, was renumbered 602 by section 7 of Pub. L. 94-371, and is set out as section 4592 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4587 of this title.

§ 4587. Authorization of appropriations

There are authorized to be appropriated for carrying out the purposes of section 4585 and 4586 of this title $20,000,000 for the fiscal year ending September 30, 1977, $24,000,000 for the fiscal year ending September 30, 1978, and $28,000,000 for the fiscal year ending September 30, 1979.

(Pub. L. 91-616, title V, § 503, as added Pub. L. 94-371, § 7, July 26, 1976, 90 Stat. 1039.)

PRIOR PROVISIONS

A prior section 503 of Pub. L. 91-616, title V, Dec. 31, 1970, 84 Stat. 1855, was renumbered 603 by section 7 of Pub. L. 94-371, and is set out as section 4593 of this title.

§ 4588. National Alcohol Research Centers

(a) Designation; procedures applicable for approval of applications

The Secretary acting through the Institute may designate National Alcohol Research Centers for the purpose of interdisciplinary research relating to alcoholism and other alcohol problems. No entity may be designated as a Center unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such manner and contain such information as the Secretary may reasonably require. The Secretary may not approve such an application unless—

(1) the application contains or is supported by reasonable assurances that—

(A) the applicant has the experience, or capability, to conduct, through biomedical, behavioral, social, and related disciplines, long-term research on alcoholism and other alcohol problems and to provide coordination of such research among such disciplines;

(B) the applicant has available to it sufficient laboratory facilities and reference services (including reference services that will afford access to scientific alcohol literature);

(C) the applicant has facilities and personnel to provide training in the prevention and treatment of alcoholism and other alcohol problems;

(D) the applicant has the capacity to train predoctoral and postdoctoral students for careers in research on alcoholism and other alcohol problems; and

(E) the applicant has the capacity to conduct courses on alcohol problems and research on alcohol problems for undergrad-

uate and graduate students, and for medical and osteopathic students and physicians;

(2) the application contains a detailed five-year plan for research relating to alcoholism and other alcohol problems.

(b) Annual grants; amount; limitation on uses

The Secretary shall, under such conditions as the Secretary may reasonably require, make annual grants to Centers which have been designated under this section. No annual grant to any Center may exceed $1,000,000. No funds provided under a grant under this subsection may be used for the purchase or rental of any land or the rental, purchase, construction, preservation, or repair of any building. For the purposes of the preceding sentence, the term "construction" has the meaning given that term by section 292a(2) of this title.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of this section $6,000,000 for the fiscal year ending September 30, 1977, and for each of the next two succeeding fiscal years.

(Pub. L. 91-616, title V, § 504, as added Pub. L. 94-371, § 7, July 26, 1976, 90 Stat. 1039.)

SUBCHAPTER V—GENERAL PROVISIONS

§ 4591. Separability of provisions

If any section, provision, or term of this chapter is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this chapter, and the remaining sections, provisions, and terms shall be and remain in full force and effect.

(Pub. L. 91-616, title VI, § 601, formerly title V, § 501, Dec. 31, 1970, 84 Stat. 1854, renumbered Pub. L. 94-371, § 7, July 26, 1976, 90 Stat. 1038.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, known as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970", which enacted this chapter and section 2688j-2 of this title and amended sections 218, 246, 2688h, and 2688t of this title.

CODIFICATION

Pub. L. 94-371, § 7, July 26, 1976, 90 Stat. 1038, redesignated title V of Pub. L. 91-616, which was classified to subchapter IV of this chapter, as title VI without renumbering the sections therein. Section 501 of Pub. L. 91-616 was renumbered 601, as the probable intent of Congress.

§ 4592. Recordkeeping for audit

(a) Each recipient of assistance under this chapter pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the grants or contracts entered into under the provisions of this chapter under other than competitive bidding procedures.

(Pub. L. 91-616, title VI, § 602, formerly title V, § 502, Dec. 31, 1970, 84 Stat. 1854, renumbered Pub. L. 94-371, § 7, July 26, 1976, 90 Stat. 1038.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, known as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970", which enacted this chapter and section 2688j-2 of this title and amended sections 218, 246, 2688h, and 2688t of this title.

CODIFICATION

Pub. L. 94-371, § 7, July 26, 1976, 90 Stat. 1038, redesignated title V of Pub. L. 91-616, which was classified to subchapter IV of this chapter, as title VI without renumbering the sections therein. Section 502 of Pub. L. 91-616 was renumbered 602, as the probable intent of Congress.

§ 4593. Payments

Payments under this chapter may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(Pub. L. 91-616, title VI, § 603, formerly title V, § 503, Dec. 31, 1970, 84 Stat. 1855, renumbered Pub. L. 94-371, § 7, July 26, 1976, 90 Stat. 1038.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, known as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970", which enacted this chapter and section 2688j-2 of this title and amended sections 218, 246, 2688h, and 2688t of this title.

CODIFICATION

Pub. L. 94-371, § 7, July 26, 1976, 90 Stat. 1038, redesignated title V of Pub. L. 91-616, which was classified to subchapter IV of this chapter, as title VI without renumbering the sections therein. Section 503 of Pub. L. 91-616 was renumbered 603, as the probable intent of Congress.

CHAPTER 61—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5181 of this title; title 16 section 460o-1; title 23 section 117; title 25 section 640d-14; title 40 sections 616, 875, 877; title 43 sections 1578, 1598; title 49 sections 1604, 1716.

SUBCHAPTER I—GENERAL PROVISIONS

§ 4601. Definitions

As used in this chapter—

(1) The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government (except the National Capital Housing Authority), any wholly owned Government corporation (except the District of Columbia Redevelopment Land Agency), and the Architect of the Capitol, the Federal Reserve banks and branches thereof.

(2) The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

(3) The term "State agency" means the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

(4) The term "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

(5) The term "person" means any individual, partnership, corporation, or association.

(6) The term "displaced person" means any person who, on or after January 2, 1971, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a Federal agency, or with Federal financial assistance; and solely for the purposes of sections 4622(a) and (b) and 4625 of this title, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

(7) The term "business" means any lawful activity, excepting a farm operation, conducted primarily—

(A) for the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(B) for the sale of services to the public;

(C) by a nonprofit organization; or

(D) solely for the purposes of section 4622(a) of this title, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(8) The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(9) The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(Pub. L. 91-646, title I, § 101, Jan. 2, 1971, 84 Stat. 1894.)

REFERENCES IN TEXT

This chapter, referred to in the provision preceding par. (1), read in the original, this Act, meaning Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For complete classification of this Act to the Code, see Short Title note set out below and Tables volume.

EFFECTIVE DATE

Section 221 of Pub. L. 91-646 provided that:

"(a) Except as provided in subsections (b) and (c) of this section, this Act and the amendments made by this Act [see Short Title note below] shall take effect on the date of its enactment [Jan. 2, 1971].

"(b) Until July 1, 1972, sections 210 and 305 [sections 4630 and 4655 of this title] shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. After July 1, 1972, such sections [sections 4630 and 4655 of this title] shall be completely applicable to all States.

"(c) The repeals made by paragraphs (4) [of section 1606(b) of Title 49, Transportation], (5) [of section 1465 of Title 42, The Public Health and Welfare], (6) [of section 1415(7)(b)(ii) and (8) second sentence of title 42], (8) [of section 3074 of title 42], (9) [of section 3307(b), (c) of title 42], (10) [of chapter 5 (sections 501-511) of Title 23, Highways], (11) [of provisions set out as notes under sections 501 and 510 of title 23], and (12) of section 220(a) of this title and section 306 of title III [of sections 3071 to 3073 of this title, section 141 of title 23, and section 596 of Title 33, Navigation and Navigable Waters] shall not apply to any State so long as sections 210 and 305 [sections 4630 and 4655 of this title] are not applicable in such State."

SHORT TITLE

Section 1 of Pub. L. 91-646 provided: "That this Act [which enacted this chapter, amended sections 1457, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3071 to 3074 of this title, section 2680 of Title 10, Armed Forces, sections 141 and 501 to 512 of Title 23, Highways, section 596 of Title 33, Navigation and Navigable Waters, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601, 4621, and 4651 of this title, and repealed provisions set out as notes under sections 501 and 510 of Title 23] may be cited as the 'Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970'."

TRANSFER OF FUNCTIONS

For transfer of the powers, duties, and functions of the District of Columbia Land Redevelopment Agency, as set forth in sections 5-701 to 5-737 of the District of Columbia Code, to the Director of the Department of Housing and Community Development, with certain exceptions, see part 4 of Reorg. Plan No. 3 of 1975, eff. July 3, 1975, 21 DCR 2793, set out in the Appendix to Title I, Administration, of the District of Columbia Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4603 of this title; title 16 sections 460e-1, 460l-8, 460bb-2, 698b, 698h.

§ 4602. Effect upon property acquisition

(a) The provisions of section 4651 of this title create no rights or liabilities and shall not affect the validity of any property acquisition by purchase or condemnation.

(b) Nothing in this chapter shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to January 2, 1971.

(Pub. L. 91-646, title I, § 102, Jan. 2, 1971, 84 Stat. 1895.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), read in the original, this Act, meaning Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which enacted this chapter, amended sections 1457, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3071 to 3074 of this title, section 2680 of Title 10, Armed Forces, sections 141 and 501 to 512 of Title 23, Highways, section 596 of Title 33, Navigation and Navigable Waters, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601, 4621, and 4651 of this title and under section 501 of Title 23. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

§ 4603. Additional appropriations for moving costs, relocation benefits and other expenses incurred in acquisition of lands for National Park System; waiver of benefits

(a) In all instances where authorizations of appropriations for the acquisition of lands for the National Park System enacted prior to January 9, 1971, do not include provisions therefor, there are authorized to be appropriated such additional sums as may be necessary to provide for moving costs, relocation benefits, and other expenses incurred pursuant to the applicable provisions of this chapter. There are also authorized to be appropriated not to exceed $8,400,000 in addition to those authorized in Public Law 92-272 (86 Stat. 120) to provide for such moving costs, relocation benefits, and other related expenses in connection with the acquisition of lands authorized by Public Law 92-272.

(b) Whenever an owner of property elects to retain a right of use and occupancy pursuant to any statute authorizing the acquisition of property for purposes of a unit of the National Park

System, such owner shall be deemed to have waived any benefits under sections 4623, 4624, 4625, and 4626 of this title, and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 4601(6) of this title.

(Pub. L. 93-477, title IV, § 405, Oct. 26, 1974, 88 Stat. 1448.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), read in the original, this Act, meaning Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which enacted this chapter, amended sections 1457, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3071 to 3074 of this title, section 2680 of Title 10, Armed Forces, sections 141 and 501 to 512 of Title 23, Highways, section 596 of Title 33, Navigation and Navigable Waters, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601, 4621, and 4651 of this title and under section 501 of Title 23. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

Public Law 92-272, referred to in subsec. (a), is Pub. L. 92-272, Apr. 11, 1972, 86 Stat. 120, which to the extent classified to the Code, amended sections 284b, 428m, 459f-10, 460m-1, 460m-7 and 460t-4 of Title 16, Conservation, and amended a provision set out as a note under section 450*ll* of Title 16. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was not enacted as part of, Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which comprises this chapter.

SUBCHAPTER II—UNIFORM RELOCATION ASSISTANCE

§ 4621. Declaration of policy

The purpose of this subchapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole.

(Pub. L. 91-646, title II, § 201, Jan. 2, 1971, 84 Stat. 1895.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original, this title, meaning Pub. L. 91-646, title II, Jan. 2, 1971, 84 Stat. 1895, which enacted this subchapter, amended sections 1415, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3074 of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601 and 4621 of this title and under sections 501 to 512 of Title 23. For complete classification of title II to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

SAVINGS PROVISIONS

Section 220(b) of Pub. L. 91-646 provided that: "Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Acts or portions thereof under subsection (a) of this section [repealing sections 1415(7)(b)(iii), (8) second sentence, 1465, 2473(b)(14), 3074, and 3807(b), (c) of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and section 1606(b) of Title 49, Transportation, and provisions set out as notes under sections 501 and 511 of Title 23]."

§ 4622. Moving and related expenses

(a) General provision

Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after January 2, 1971, the head of such agency shall make a payment to any displaced person, upon proper application as approved by such agency head, for—

(1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the head of the agency; and

(3) actual reasonable expenses in searching for a replacement business or farm.

(b) Displacement from dwelling; election of payments: moving expense and dislocation allowance

Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive a moving expense allowance, determined according to a schedule established by the head of the Federal agency, not to exceed $300; and a dislocation allowance of $200.

(c) Displacement from business or farm operation; election of payments; limitations; eligibility for business payments; "average annual net earnings" defined

Any displaced person eligible for payments under subsection (a) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than $2,500 nor more than $10,000. In the case of a business no payment shall be made under this subsection unless the head of the Federal agency is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the United States, which is engaged in the same or similar business. For purposes of this subsection, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of such agency determines to be more equitable for establish-

ing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

(Pub. L. 91-646, title II, § 202, Jan. 2, 1971, 84 Stat. 1895.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4601, 4630 of this title; title 25 section 640d-14.

§ 4623. Replacement housing for homeowner; mortgage insurance

(a)(1) In addition to payments otherwise authorized by this subchapter, the head of the Federal agency shall make an additional payment not in excess of $15,000 to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(A) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the Federal agency, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this subparagraph shall be made in accordance with standards established by the head of the Federal agency making the additional payment.

(B) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the Federal agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(C) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this subsection shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one year period beginning on the date on which he receives from the Federal agency final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(b) The head of any Federal agency may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, which mortgage is eligible for insurance under any Federal law administered by such agency notwithstanding any requirements under such law relating to age, physical condition, or other personal characteristics of eligible mortgagors, and may make commitments for the insurance of such mortgage prior to the date of execution of the mortgage.

(Pub. L. 91-646, title II, § 203, Jan. 2, 1971, 84 Stat. 1896.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a)(1), read in the original, this title, meaning Pub. L. 91-646, title II, Jan. 2, 1971, 84 Stat. 1895, which enacted this subchapter, amended sections 1415, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3074 of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601 and 4621 of this title and under sections 501 to 512 of title 23. For complete classification of title II to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4603, 4624, 4630 of this title; title 16 sections 450e-1, 460*l*-8, 460bb-2, 698b, 698h.

§ 4624. Replacement housing for tenants and certain others

In addition to amounts otherwise authorized by this subchapter, the head of the Federal agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 4623 of this title which dwelling was actually and lawfully occupied by such displaced person for not less than ninety days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either—

(1) the amount necessary to enable such displaced person to lease or rent for a period not to exceed four years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed $4,000, or

(2) the amount necessary to enable such person to make a downpayment (including incidental expenses described in section 4623(a)(1)(C) of this title) on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed $4,000, except that if such amount exceeds $2,000, such person must equally match any such amount in excess of $2,000, in making the downpayment.

(Pub. L. 91-646, title II, § 204, Jan. 2, 1971, 84 Stat. 1897.)

REFERENCES IN TEXT

This subchapter, referred to in provision preceding par. (1), read in the original, this title, meaning Pub. L. 91-646, title II, Jan. 2, 1971, 84 Stat. 1895, which enacted this subchapter, amended sections 1415, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3074 of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601 and 4621 of this title and under sections 501 to 512 of Title 23. For complete classification of title II to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4603, 4630 of this title; title 16 sections 450e-1, 460l-8, 460bb-2, 698b, 698h.

§ 4625. Relocation assistance advisory services

(a) Program for displaced persons and economically injured occupants of adjacent property

Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after January 2, 1971, the head of such agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in subsection (c) of this section. If such agency head determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under such program.

(b) Cooperation between assisting and displacing agencies to assure maximum assistance

Federal agencies administering programs which may be of assistance to displaced persons covered by this chapter shall cooperate to the maximum extent feasible with the Federal or State agency causing the displacement to assure that such displaced persons receive the maximum assistance available to them.

(c) Measures, facilities, or services; description

Each relocation assistance advisory program required by subsection (a) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to—

(1) determine the need, if any, of displaced persons, for relocation assistance;

(2) provide current and continuing information on the availability, prices, and rentals, of comparable decent, safe, and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

(3) assure that, within a reasonable period of time, prior to displacement there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as defined by such Federal agency head, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment, except that the head of that Federal agency may prescribe by regulation situations when such assurances may be waived;

(4) assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(5) supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons; and

(6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

(d) Coordination of relocation activities with project work and governmental actions in the community or nearby areas affecting carrying out relocation assistance programs

The heads of Federal agencies shall coordinate relocation activities with project work, and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of relocation assistance programs.

(Pub. L. 91-646, title II, § 205, Jan. 2, 1971, 84 Stat. 1897.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), read in the original, this Act, meaning Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which enacted this chapter, amended sections 1457, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3071 to 3074 of this title, section 2680 of Title 10, Armed Forces, sections 141 and 501 to 512 of Title 23, Highways, section 596 of Title 33, Navigation and Navigable Waters, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601, 4621, and 4651 of this title and under section 501 of Title 23. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4601, 4603, 4626, 4630 of this title; title 16 sections 450e-1, 460l-8, 460bb-2, 698b, 698h.

§ 4626. Housing replacement by Federal agency as last resort

(a) If a Federal project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the head of the Federal agency determines that such housing cannot otherwise be made available he may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project.

(b) No person shall be required to move from his dwelling on or after January 2, 1971, on account of any Federal project, unless the Federal agency head is satisfied that replacement housing, in accordance with section 4625(c)(3) of this title, is available to such person.

(Pub. L. 91-646, title II, § 206, Jan. 2, 1971, 84 Stat. 1898.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4603, 4631, 4632 of this title; title 16 sections 450e-1, 460l-8, 460bb-2, 698b, 698h.

§ 4627. State required to furnish real property incident to Federal assistance (local cooperation)

Whenever real property is acquired by a State agency and furnished as a required contribution incident to a Federal program or project, the Federal agency having authority over the program or project may not accept such property unless such State agency has made all payments and provided all assistance and assurances, as are required of a State agency by sections 4630 and 4655 of this title. Such State agency shall pay the cost of such requirements in the same manner and to the same extent as the real property acquired for such project, except that in the case of any real property acquisition or displacement occurring prior to July 1, 1972, such Federal agency shall pay 100 per centum of the first $25,000 of the cost of providing such payments and assistance

(Pub. L. 91-646, title II, § 207, Jan. 2, 1971, 84 Stat. 1898.)

§ 4628. State acting as agent for Federal program

Whenever real property is acquired by a State agency at the request of a Federal agency for a Federal program or project, such acquisition shall, for the purposes of this chapter, be deemed an acquisition by the Federal agency having authority over such program or project.

(Pub. L. 91-646, title II, § 208, Jan. 2, 1971, 84 Stat. 1899.)

REFERENCES IN TEXT

This chapter, referred to in text, read in the original, this Act, meaning Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which enacted this chapter, amended sections 1457, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3071 to 3074 of this title, section 2680 of Title 10, Armed Forces, sections 141 and 501 to 512 of Title 23, Highways, section 596 of Title 33, Navigation and Navigable Waters, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601, 4621, and 4651 of this title and under section 501 of Title 23. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

§ 4629. Public works programs and projects of District of Columbia government and Washington Metropolitan Area Transit Authority

Whenever real property is acquired by the government of the District of Columbia or the Washington Metropolitan Area Transit Authority for a program or project which is not subject to sections 4630 and 4631 of this title, and such acquisition will result in the displacement of any person on or after January 2, 1971, the Mayor of the District of Columbia or the Washington Metropolitan Area Transit Authority, as the case may be, shall make all relocation payments and provide all assistance required of a Federal agency by this chapter. Whenever real property is acquired for such a program or project on or after such effective date, such Mayor or Authority, as the case may be, shall make all payments and meet all requirements prescribed for a Federal agency by subchapter III of this chapter.

(Pub. L. 91-646, title II, § 209, Jan. 2, 1971, 84 Stat. 1899; Pub. L. 93-198, title IV, § 421, Dec. 24, 1973, 87 Stat. 789.)

REFERENCES IN TEXT

This chapter, referred to in text, read in the original, this Act, meaning Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which enacted this chapter, amended sections 1457, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3071 to 3074 of this title, section 2680 of Title 10, Armed Forces, sections 141 and 501 to 512 of Title 23, Highways, section 596 of Title 33, Navigation and Navigable Waters, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601, 4621, and 4651 of this title and under section 501 of Title 23. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

Subchapter III of this chapter, referred to in text, was in the original, title III of this Act, meaning Pub. L. 91-646, title III, Jan. 2, 1971, 84 Stat. 1904, which enacted subchapter III of this chapter, repealed sections 3071 to 3073 of this title, section 141 of Title 23, Highways, and section 596 of Title 33, Navigation and Navigable Waters, and enacted provisions set out as a note under section 4651 of this title. For complete classification of title III to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

CODIFICATION

Section is also set out in D.C. Code, § 5-732a.

TRANSFER OF FUNCTIONS

"Mayor" was substituted for "Commissioner" pursuant to section 421 of Pub. L. 93-198. The Office of Commissioner of the District of Columbia, as established by Reorg. Plan No. 3 of 1967, was abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, and replaced by the Office of Mayor of the District of Columbia by section 421 of Pub. L. 93-198, classified to section 1-161 of the District of Columbia Code.

§ 4630. Requirements for relocation payments and assistance of Federally assisted program; assurances of availability of housing

Notwithstanding any other law, the head of a Federal agency shall not approve any grant to, or contract or agreement with, a State agency, under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, unless he receives satisfactory assurances from such State agency that—

(1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under sections 4622, 4623, and 4624 of this title;

(2) relocation assistance programs offering the services described in section 4625 of this title shall be provided to such displaced persons;

(3) within a reasonable period of time prior to displacement, decent, safe, and sanitary replacement dwellings will be available to displaced persons in accordance with section 4625(c)(3) of this title.

(Pub. L. 91-646, title II, § 210, Jan. 2, 1971, 84 Stat. 1899.)

EFFECTIVE DATE

Section as completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with this section, see section 221(b) of Pub. L. 91-646, set out as an Effective Date note under section 4601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4627, 4629, 4631, 4632 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 5-732a of the District of Columbia Code.

§ 4631. Federal share of costs

(a) Cost to State agency; limitation

The cost to a State agency of providing payments and assistance pursuant to sections 4626, 4630, 4635, and 4655 of this title, shall be included as part of the cost of a program or project for which Federal financial assistance is available to such State agency, and such State agency shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs, except that, notwithstanding any other law in the case where the Federal financial assistance is by grant or contribution the Federal agency shall pay the full amount of the first $25,000 of the cost to a State agency of providing payments and assistance for a displaced person under sections 4626, 4630, 4635, and 4655 of this title, on account of any acquisition or displacement occurring prior to July 1, 1972, and in any case where such Federal financial assistance is by loan, the Federal agency shall loan such State agency the full amount of the first $25,000 of such cost.

(b) Comparable State payment

No payment or assistance under section 4630 or 4655 of this title shall be required or included as a program or project cost under this section, if the displaced person receives a payment required by the State law of eminent domain which is determined by such Federal agency head to have substantially the same purpose and effect as such payment under this section, and to be part of the cost of the program or project for which Federal financial assistance is available.

(c) Agreements prior to January 2, 1971; advancements

Any grant to, or contract or agreement with, a State agency executed before January 2, 1971, under which Federal financial assistance is available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, shall be amended to include the cost of providing payments and services under sections 4630 and 4655 of this title. If the head of a Federal agency determines that it is necessary for the expeditious completion of a program or project he may advance to the State agency the Federal share of the cost of any payments or assistance by such State agency pursuant to sections 4626, 4630, 4635, and 4655 of this title.

(Pub. L. 91-646, title II, § 211, Jan. 2, 1971, 84 Stat. 1900.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4629 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 5-732a of the District of Columbia Code.

§ 4632. Administration; relocation assistance in programs receiving Federal financial assistance

In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under sections 4626, 4630, and 4635 of this title, a State agency may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under this subchapter through any Federal or State governmental agency or instrumentality having an established organization for conducting relocation assistance programs. Such State agency shall, in carrying out the relocation assistance activities described in section 4626 of this title, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.

(Pub. L. 91-646, title II, § 212, Jan. 2, 1971, 84 Stat. 1900.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original, this title, meaning Pub. L. 91-646, title II, Jan. 2, 1971, 84 Stat. 1895, which enacted this subchapter, amended sections 1415, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3074 of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601 and 4621 of this title and under sections 501 to 512 of Title 23. For complete classification of title II to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

§ 4633. Regulations and procedures

(a) Consultation among Federal agencies

In order to promote uniform and effective administration of relocation assistance and land acquisition of State or local housing agencies, or other agencies having programs or projects by Federal agencies or programs or projects by State agencies receiving Federal financial assistance, the heads of Federal agencies shall consult together on the establishment of regulations and procedures for the implementation of such programs.

(b) Fair and reasonable administration; prompt payments; review

The head of each Federal agency is authorized to establish such regulations and procedures as he may determine to be necessary to assure—

(1) that the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(2) that a displaced person who makes proper application for a payment authorized for such person by this subchapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(3) that any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of a payment, may have his application reviewed by the head of the Federal agency having authority over the applicable program or project, or in the case of a program or project receiving Federal financial assistance, by the head of the State agency.

(c) Additional regulations and procedures

The head of each Federal agency may prescribe such other regulations and procedures, consistent with the provisions of this chapter, as he deems necessary or appropriate to carry out this chapter.

(Pub. L. 91-646, title II, § 213, Jan. 2, 1971, 84 Stat. 1900.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1), (3), (c), read in the original, this Act, meaning Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which enacted this chapter, amended sections 1457, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3071 to 3074 of this title, section 2680 of Title 10, Armed Forces, sections 141 and 501 to 512 of Title 23, Highways, section 596 of Title 33, Navigation and Navigable Waters, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601, 4621, and 4651 of this title and under section 501 of Title 23. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

This subchapter, referred to in subsec. (b)(2), read in the original, this title, meaning Pub. L. 91-646, title II, Jan. 2, 1971, 84 Stat. 1895, which enacted this subchapter, amended sections 1415, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3074 of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601 and 4621 of this title and under sections 501 to 512 of Title 23. For complete classification of title II to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

§ 4634. Annual report to President; Presidential report to Congress

The head of each Federal agency shall prepare and submit an annual report to the President on the activities of such agency with respect to the programs and policies established or authorized by this chapter, and the President shall submit such reports to the Congress not later than January 15 of each year, beginning January 15, 1972, and ending January 15, 1975, together with his comments or recommendations. Such reports shall give special attention to: (1) the effectiveness of the provisions of this chapter assuring the availability of comparable replacement housing, which is decent, safe, and sanitary, for displaced homeowners and tenants; (2) actions taken by the agency to achieve the objectives of the policies of Congress, declared in this chapter, to provide uniform and equal treatment, to the greatest extent practicable, for all persons displaced by, or having real property taken for, Federal or federally assisted programs; (3) the views of the Federal agency head on the progress made to achieve such objectives in the various programs conducted or administered by such agency, and among the Federal agencies; (4) any indicated effects of such programs and policies on the public; and (5) any recommendations he may have for further improvements in relocation assistance and land acquisition programs, policies, and implementing laws and regulations.

(Pub. L. 91-646, title II, § 214, Jan. 2, 1971, 84 Stat. 1901.)

REFERENCES IN TEXT

This chapter, referred to in text, read in the original, this Act, meaning Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which enacted this chapter, amended sections 1457, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3071 to 3074 of this title, section 2680 of Title 10, Armed Forces, sections 141 and 501 to 512 of Title 23, Highways, section 596 of Title 33, Navigation and Navigable Waters, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601, 4621, and 4651 of this title and under section 501 of Title 23. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

§ 4635. Planning and other preliminary expenses for additional housing

In order to encourage and facilitate the construction or rehabilitation of housing to meet the needs of displaced persons who are displaced from dwellings because of any Federal or Federal financially assisted project, the head of the Federal agency administering such project is authorized to make loans as a part of the cost of any such project, or to approve loans as a part of the cost of any such project receiving Federal financial assistance, to nonprofit, limited dividend, or cooperative organizations or to public bodies, for necessary and reasonable expenses, prior to construction, for planning and obtaining federally insured mortgage financing for the rehabilitation or construction of housing for such displaced persons. Notwithstanding the preceding sentence, or any other law, such loans shall be available for not to exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing, prior to the availability of such financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering, preliminary architectural fees, site acquisition, application and mortgage commitment fees, and construction loan fees and discounts. Loans to an organization established for profit shall bear interest at a market rate established by the head of such Federal agency. All other loans shall be without interest. Such Federal agency head shall require repayment of loans made under this section, under such terms and conditions as he may require, upon completion of the project or sooner, and except in the case of a loan to an organization established for profit, may cancel any part or all of a loan if he determines that a permanent loan to finance the rehabilitation or

the construction of such housing cannot be obtained in an amount adequate for repayment of such loan. Upon repayment of any such loan, the Federal share of the sum repaid shall be credited to the account from which such loan was made, unless the Secretary of the Treasury determines that such account is no longer in existence, in which case such sum shall be returned to the Treasury and credited to miscellaneous receipts.

(Pub. L. 91-646, title II, § 215, Jan. 2, 1971, 84 Stat. 1901.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4631, 4632 of this title.

§ 4636. Payments not to be considered as income for revenue purposes or for eligibility for assistance under Social Security Act or other Federal law

No payment received under this subchapter shall be considered as income for the purposes of title 26; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act [42 U.S.C. 301 et seq.] or any other Federal law.

(Pub. L. 91-646, title II, § 216, Jan. 2, 1971, 84 Stat. 1902.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original, this title, meaning Pub. L. 91-646, title II, Jan. 2, 1971, 84 Stat. 1895, which enacted this subchapter, amended sections 1415, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3074 of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601 and 4621 of this title and under sections 501 to 512 of Title 23. For complete classification of title II to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

§ 4637. Displacement by code enforcement, rehabilitation, and demolition programs receiving Federal assistance

A person who moves or discontinues his business, or moves other personal property, or moves from his dwelling on or after January 2, 1971, as a direct result of any project or program which receives Federal financial assistance under title I of the Housing Act of 1949, as amended [42 U.S.C. 1450 et seq.], or as a result of carrying out a comprehensive city demonstration program under title I of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3301 et seq.] shall, for the purposes of this subchapter, be deemed to have been displaced as the result of the acquisition of real property.

(Pub. L. 91-646, title II, § 217, Jan. 2, 1971, 84 Stat. 1902.)

REFERENCES IN TEXT

The Housing Act of 1949, as amended, referred to, in text, is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title I of the Housing Act of 1949, as added by Aug. 2, 1954, ch. 649, title III, 68 Stat. 622, is classified generally to subchapter II (§ 1450 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under 1441 of this title and Tables volume.

The Demonstration Cities and Metropolitan Development Act of 1966, referred to in text, is Pub. L. 89-754, Nov. 3, 1966, 80 Stat. 1255. Title I of the Demonstration Cities and Metropolitan Development Act of 1966 is classified generally to subchapter I (§ 3301 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables volume.

This subchapter, referred to in text, read in the original, this title, meaning Pub. L. 91-646, title II, Jan. 2, 1971, 84 Stat. 1895, which enacted this subchapter, amended sections 1415, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3074 of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601 and 4621 of this title and under sections 501 to 512 of Title 23. For complete classification of title II to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

§ 4638. Transfers of surplus property

The Administrator of General Services is authorized to transfer to a State agency for the purpose of providing replacement housing required by this subchapter, any real property surplus to the needs of the United States within the meaning of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.]. Such transfer shall be subject to such terms and conditions as the Administrator determines necessary to protect the interests of the United States and may be made without monetary consideration, except that such State agency shall pay to the United States all amounts received by such agency from any sale, lease, or other disposition of such property for such housing.

(Pub. L. 91-646, title II, § 218, Jan. 2, 1971, 84 Stat. 1902.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original, this title, meaning Pub. L. 91-646, title II, Jan. 2, 1971, 84 Stat. 1895, which enacted this subchapter, amended sections 1415, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3074 of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601 and 4621 of this title and under sections 501 to 512 of Title 23. For complete classification of title II to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

The Federal Property and Administrative Services Act of 1949, as amended, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The surplus property provisions of that Act are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of Title 40 and Tables volume.

SUBCHAPTER III—UNIFORM REAL PROPERTY ACQUISITION POLICY

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in section 5-732a of the District of Columbia Code.

§ 4651. Uniform policy on real property acquisition practices

In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the many Federal programs, and to promote public confidence in Federal land acquisition practices, heads of Federal agencies shall, to the greatest extent practicable, be guided by the following policies:

(1) The head of a Federal agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(3) Before the initiation of negotiations for real property, the head of the Federal agency concerned shall establish an amount which he believes to be just compensation therefor and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The head of the Federal agency concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount he established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the head of the Federal agency concerned pays the agreed purchase price, or deposits with the court in accordance with section 258a of title 40, for the benefit of the owner, an amount not less than the agency's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for such property.

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by subchapter II of this chapter will be available), or to move his business or farm operation, without at least ninety days' written notice from the head of the Federal agency concerned, of the date by which such move is required.

(6) If the head of a Federal agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the Government on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the head of a Federal agency either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

(8) If any interest in real property is to be acquired by exercise of the power of eminent domain, the head of the Federal agency concerned shall institute formal condemnation proceedings. No Federal agency head shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(9) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the head of the Federal agency concerned shall offer to acquire the entire property.

(Pub. L. 91-646, title III, § 301, Jan. 2, 1971, 84 Stat. 1904.)

REFERENCES IN TEXT

Subchapter II of this chapter, referred to in par. (5), read in the original, title II of this Act, meaning Pub. L. 91-646, title II, Jan. 2, 1971, 84 Stat. 1895, which enacted subchapter II of this chapter, amended sections 1415, 2473, and 3307 of this title and section 1606 of Title 49, Transportation, repealed sections 1465 and 3074 of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601 and 4621 of this title and under sections 501 to 512 of Title 23. For complete classification of title II to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

SAVINGS PROVISIONS

Section 306 of Pub. L. 91-646 provided in part that: "Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Act or portions thereof under this section [repealing sections 3071 to 3073 of this title, section 141 of Title 23, Highways, and section 596 of Title 33, Navigation and Navigable Waters]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4602, 4655 of this title; title 16 section 698f.

§ 4652. Buildings, structures, and improvements

(a) Notwithstanding any other provision of law, if the head of a Federal agency acquires any interest in real property in any State, he shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which he requires to be removed from such real property or which he determines will be adversely affected by the use to which such real property will be put.

(b)(1) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired by subsection (a) of this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market

value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor.

(2) Payment under this subsection shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release to the United States all his right, title, and interest in and to such improvements. Nothing in this subsection shall be construed to deprive the tenant of any rights to reject payment under this subsection and to obtain payment for such property interests in accordance with applicable law, other than this subsection.

(Pub. L. 91-646, title III, § 302, Jan. 2, 1971, 84 Stat. 1905.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4655 of this title.

§ 4653. Expenses incidental to transfer of title to United States

The head of a Federal agency, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, shall reimburse the owner, to the extent the head of such agency deems fair and reasonable, for expenses he necessarily incurred for—

(1) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the United States;

(2) penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(3) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, whichever is the earlier.

(Pub. L. 91-646, title III, § 303, Jan. 2, 1971, 84 Stat. 1906.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4655 of this title.

§ 4654. Litigation expenses

(a) Judgment for owner or abandonment of proceedings

The Federal court having jurisdiction of a proceeding instituted by a Federal agency to acquire real property by condemnation shall award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if—

(1) the final judgment is that the Federal agency cannot acquire the real property by condemnation; or

(2) the proceeding is abandoned by the United States.

(b) Payment

Any award made pursuant to subsection (a) of this section shall be paid by the head of the Federal agency for whose benefit the condemnation proceedings was instituted.

(c) Claims against the United States

The court rendering a judgment for the plaintiff in a proceeding brought under section 1346(a)(2) or 1491 of title 28, awarding compensation for the taking of property by a Federal agency, or the Attorney General effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will in the opinion of the court or the Attorney General reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

(Pub. L. 91-646, title III, § 304, Jan. 2, 1971, 84 Stat. 1906.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4655 of this title.

§ 4655. Requirements for uniform land acquisition policies; payments of expenses incidental to transfer of real property to State; payment of litigation expenses in certain cases

Notwithstanding any other law, the head of a Federal agency shall not approve any program or project or any grant to, or contract or agreement with, a State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after January 2, 1971, unless he receives satisfactory assurances from such State agency that—

(1) in acquiring real property it will be guided, to the greatest extent practicable under State law, by the land acquisition policies in section 4651 of this title and the provisions of section 4652 of this title, and

(2) property owners will be paid or reimbursed for necessary expenses as specified in sections 4653 and 4654 of this title.

(Pub. L. 91-646, title III, § 305, Jan. 2, 1971, 84 Stat. 1906.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4627, 4631 of this title.

CHAPTER 62—INTERGOVERNMENTAL PERSONNEL PROGRAM

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4701. Congressional findings and declaration of policy.
4702. Administration of authorities.

SUBCHAPTER I—DEVELOPMENT OF POLICIES AND STANDARDS

Sec.
4711 to 4713. Omitted.

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SUBCHAPTER III—TRAINING AND DEVELOPING STATE AND LOCAL EMPLOYEES

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SUBCHAPTER IV—GENERAL PROVISIONS

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4770. Limitations on availability of funds for cost sharing.
4771. Method of payment; installments; advances or reimbursement; adjustments.
4772. Effective date of grant provisions.

§ 4701. Congressional findings and declaration of policy

The Congress hereby finds and declares—

That effective State and local governmental institutions are essential in the maintenance and development of the Federal system in an increasingly complex and interdependent society.

That, since numerous governmental activities administered by the State and local governments are related to national purpose and are financed in part by Federal funds, a national interest exists in a high caliber of public service in State and local governments.

That the quality of public service at all levels of government can be improved by the development of systems of personnel administration consistent with such merit principles as—

(1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) providing equitable and adequate compensation;

(3) training employees, as needed, to assure high-quality performance;

(4) retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;

(5) assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, or religious creed and with proper regard for their privacy and constitutional rights as citizens; and

(6) assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

That Federal financial and technical assistance to State and local governments for strengthening their personnel administration in a manner consistent with these principles is in the national interest.

(Pub. L. 91-648, § 2, Jan. 5, 1971, 84 Stat. 1909.)

SHORT TITLE

Section 1 of Pub. L. 91-648 provided: "That this Act [which enacted this chapter and sections 3371 to 3376 of Title 5, Government Organization and Employees, amended section 246(f) of this title, section 1304 of title 5, repealed sections 1881 to 1888 of Title 7, Agriculture, and section 869b of Title 20, Education, and enacted provisions set out as notes under section 3371 of title 5] may be cited as the 'Intergovernmental Personnel Act of 1970'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4722, 4723, 4743 of this title.

§ 4702. Administration of authorities

The authorities provided by this chapter shall be administered in such manner as (1) to recognize fully the rights, powers, and responsibilities of State and local governments, and (2) to encourage innovation and allow for diversity on the part of State and local governments in the design, execution, and management of their own systems of personnel administration.

(Pub. L. 91-648, § 3, Jan. 5, 1971, 84 Stat. 1909.)

REFERENCES IN TEXT

This chapter, referred to in text, read in the original, this Act, meaning Pub. L. 91-648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which enacted this chapter and sections 3371 to 3376 of Title 5, Government Organization and Employees, amended section 246(f) of this title, section 1304 of title 5, repealed sections 1881 to 1888 of Title 7, Agriculture, and section 869b of Title 20, Education, and enacted provisions set out as notes under section 3371 of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of this title and Tables volume.

SUBCHAPTER I—DEVELOPMENT OF POLICIES AND STANDARDS

§§ 4711 to 4713. Omitted

CODIFICATION

Section 4711, Pub. L. 91-648, title I, § 101, Jan. 5, 1971, 84 Stat. 1910, which declared the purpose of this subchapter to provide intergovernmental cooperation in the development of policies and standards for the administration of programs authorized by this Act, was omitted from the Code as obsolete in view of the omission of the remainder of this subchapter.

Section 4712, Pub. L. 91-648, title I, § 102, Jan. 5, 1971, 84 Stat. 1910, which provided for the establishment of an Advisory Council on Intergovernmental Personnel Policy by the President, membership, duties, compensation and travel expenses of the council and termination of the council by the President at any time after the expiration of three years following its establishment, was omitted from the Code as executed in view of the revocation of Ex. Ord. No. 11607, July 20, 1971, 36 F.R. 13317, which established the Council, by Ex. Ord. No. 11792, June 25, 1974, 39 F.R. 23191.

Section 4713, Pub. L. 91-648, title I, § 103, Jan. 5, 1971, 84 Stat. 1910, which provided that the Council report to the President and Congress, from time to time, its recommendations and findings, was omitted from the Code as obsolete in view of the abolishment of the Council.

SUBCHAPTER II—STRENGTHENING STATE AND LOCAL PERSONNEL ADMINISTRATION

§ 4721. Declaration of purpose

The purpose of this subchapter is to assist State and local governments to strengthen their staffs by improving their personnel administration.

(Pub. L. 91-648, title II, § 201, Jan. 5, 1971, 84 Stat. 1911.)

§ 4722. State government and statewide programs and grants

(a) Amount of grants; executive certification; systems of personnel administration: innovation and diversity in design, execution, and management

The United States Civil Service Commission (hereinafter referred to as the "Commission") is authorized to make grants to a State for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this chapter, for up to 50 per centum) of the costs of developing and carrying out programs or projects, on the certification of the Governor of that State that the programs, or projects contained within the State's application are consistent with the applicable principles set forth in clauses (1)-(6) of the third paragraph of section 4701 of this title, to strengthen personnel administration in that State government or in local governments of that State. The authority provided by this section shall be employed in such a manner as to encourage innovation and allow for diversity on the part of State and local governments in the design, execution, and management of their own systems of personnel administration.

(b) Application; time of making; information; terms and conditions; personnel administration improvement

An application for a grant shall be made at such time or times, and contain such information, as the Commission may prescribe. The Commission may make a grant under subsection (a) of this section only if the application therefor—

(1) provides for designation, by the Governor or chief executive authority, of the State office that will have primary authority and responsibility for the development and administration of the approved program or project at the State level;

(2) provides for the establishment of merit personnel administration where appropriate and the further improvement of existing systems based on merit principles;

(3) provides for specific personnel administration improvement needs of the State government and, to the extent appropriate, of the local governments in that State, including State personnel administration services for local governments;

(4) provides assurance that the making of a Federal Government grant will not result in a reduction in relevant State or local government expenditures or the substitution of the Federal funds for State or local funds previously made available for these purposes; and

(5) sets forth clear and practicable actions for the improvement of particular aspects of personnel administration such as—

(A) establishment of statewide personnel systems of general or special functional coverage to meet the needs of urban, suburban, or rural governmental jurisdictions that are not able to provide sound career services, opportunities for advancement, adequate retirement and leave systems, and other career inducements to well-qualified professional, administrative, and technical personnel;

(B) making State grants to local governments to strengthen their staffs by improving their personnel administration;

(C) assessment of State and local government needs for professional, administrative, and technical manpower, and the initiation of timely and appropriate action to meet such needs;

(D) strengthening one or more major areas of personnel administration, such as recruitment and selection, training and development, and pay administration;

(E) undertaking research and demonstration projects to develop and apply better personnel administration techniques, including both projects conducted by State and local government staffs and projects conducted by colleges or universities or other appropriate nonprofit organizations under grants or contracts;

(F) strengthening the recruitment, selection, assignment, and development of handicapped persons, women, and members of disadvantaged groups whose capacities are not being utilized fully;

(G) training programs related directly to upgrading within the agency for nonprofessional employees who show promise of developing a capacity for assuming professional responsibility;

(H) achieving the most effective use of scarce professional, administrative, and technical manpower; and

(I) increasing intergovernmental cooperation in personnel administration, with respect to such matters as recruiting, examining, pay studies, training, education, personnel interchange, manpower utilization, and fringe benefits.

(Pub. L. 91-648, title II, § 202, Jan. 5, 1971, 84 Stat. 1911.)

REFERENCES IN TEXT

For effective date of the grant provisions of this chapter, referred to in subsec. (a), as being 180 days after Jan. 5, 1971, see section 4772 of this title.

This chapter, referred to in subsec. (a), read in the original, this Act, meaning Pub. L. 91-648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which enacted this chapter and sections 3371 to 3376 of Title 5, Government Organization and Employees, amended section 246(f) of this title, section 1304 of title 5, repealed sections 1881 to 1888 of Title 7, Agriculture, and section 869b of Title 20, Education, and enacted provisions set out as notes under section 3371 of Title 5. For complete classification of this Act to the Code, see Short Title note set out section 4701 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4723, 4728 of this title.

§ 4723. Local government programs and grants

(a) Population served; amount of grants; executive certification; State grant, conditions

The Commission is authorized to make grants to a general local government, or a combination of general local governments, that serve a population of fifty thousand or more, for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this chapter, for up to 50 per centum) of the costs of developing and carrying out programs or projects, on the certification of the mayor(s), or chief executive officer(s), of the general local government or combination of local governments that the programs or projects are consistent with the applicable principles set forth in clauses (1)-(6) of the third paragraph of section 4701 of this title to strengthen the personnel administration of such governments. Such a grant may not be made—

(1) if, at the time of submission of an application, the State concerned has an approved plan which, with the agreement of the particular local government concerned, provides for strengthening one or more aspects of personnel administration in that local government, unless the local government concerned has problems which are not met by the previously approved plan and for which, with the agreement of the State government concerned with respect to those aspects of personnel administration covered in the approved plan, it is submitting an application; or

(2) after the State concerned has a statewide plan which has been developed by an appropriate State agency designated or es-

tablished pursuant to State law which provides such agency with adequate authority, administrative organization, and staffing to develop and administer such a statewide plan, and to provide technical assistance and other appropriate support in carrying out the local components of the plan, and which provides procedures insuring adequate involvement of officials of affected local governments in the development and administration of such a statewide plan, unless the local government concerned has special, unique, or urgent problems which are not met by the approved statewide plan and for which it submits an application for funds to be distributed under section 4766(a) of this title.

Upon the request of a Governor or chief executive authority, a grant to a general local government or combination of such governments in that State may not be made during a period not to exceed ninety days commencing with the date provided in section 4772 of this title, or the date on which official regulations for this chapter are promulgated, whichever date is later: *Provided*, That the request of the Governor or chief executive authority indicates that he is developing a plan under (1) above, or during a period not to exceed one hundred and eighty days commencing with the date provided in section 4772 of this title, or the date on which official regulations for this chapter are promulgated, whichever date is later, provided the request of the Governor or chief executive authority indicates that he is developing a statewide plan under (2) above.

(b) Application; time of making; information; terms and conditions; waiver; development costs; population served

An application for a grant from a general local government or a combination of general local governments shall be made at such time or times and shall contain such information as the Commission may prescribe. The Commission may make a grant under subsection (a) of this section only if the application therefor meets requirements similar to those established in section 4722(b) of this title for a State application for a grant, unless any such requirement is specifically waived by the Commission, and the requirements of subsection (c) of this section. Such a grant may cover the costs of developing the program or project covered by the application. The Commission may make grants to general local governments, or combinations of such governments, that serve a population of less than fifty thousand, if it finds that such grants will help meet essential needs in programs or projects of national interest and will assist general local governments experiencing special problems in personnel administration related to such programs or projects.

(c) Gubernatorial review of application; disapproval explanation

An application to be submitted to the Commission under subsection (b) of this section shall first be submitted by the general local government or combination of such governments to the Governor for review, comments, and recommendations. The Governor may refer the application to the State office designated under section 4722(b)(1) of this title for review. Comments and recommendations (if any) made as a result of the review, and a statement by the general local government or combination of such governments that it has considered the comments and recommendations of the Governor shall accompany the application to the Commission. The application need not be accompanied by the comments and recommendations of the Governor if the general local government or combination of such governments certifies to the Commission that the application has been before the Governor for review and comment for a period of sixty days without comment by the Governor. An explanation in writing shall be sent to the Governor of a State by the Commission whenever the Commission does not concur with recommendations of the Governor in approving any local government applications.

(Pub. L. 91-648, title II, § 203, Jan. 5, 1971, 84 Stat. 1912.)

REFERENCES IN TEXT

For effective date of the grant provisions of this chapter, referred to in subsec. (a), as being 180 days after Jan. 5, 1971, see section 4772 of this title.

This chapter, referred to in subsec. (a), read in the original this Act, meaning Pub. L. 91-648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which enacted this chapter and sections 3371 to 3376 of Title 5, Government Organization and Employees, amended section 246(f) of this title, section 1304 of title 5, repealed sections 1881 to 1888 of Title 7, Agriculture, and section 869b of Title 20, Education, and enacted provisions set out as notes under section 3371 of Title 5. For complete classification of this Act to the Code, see Short Title note set out section 4701 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4728 and 4762 of this title.

§ 4724. Intergovernmental cooperation in recruiting and examining activities; potential employees, certification; payments for costs; credits to appropriation or fund for payment of expenses

(a) The Commission may join, on a shared-costs basis, with State and local governments in cooperative recruiting and examining activities under such procedures and regulations as may jointly be agreed upon.

(b) The Commission also may, on the written request of a State or local government and under such procedures as may be jointly agreed upon, certify to such governments from appropriate Federal registers the names of potential employees. The State or local government making the request shall pay the Commission for the costs, as determined by the Commission, of performing the service, and such payments shall be credited to the appropriation or fund from which the expenses were or are to be paid.

(Pub. L. 91-648, title II, § 204, Jan. 5, 1971, 84 Stat. 1914.)

§ 4725. Technical assistance; waiver of payments for costs; credits to appropriation or fund for payment of expenses

The Commission may furnish technical advice and assistance, on request, to State and General local governments seeking to improve their systems of personnel administration. The

Commission may waive, in whole or in part, payments from such governments for the costs of furnishing such assistance. All such payments shall be credited to the appropriation or fund from which the expenses were or are to be paid.

(Pub. L. 91-648, title II, § 205, Jan. 5, 1971, 84 Stat. 1914.)

§ 4726. Coordination of Federal programs

The Commission, after consultation with other agencies concerned, shall—

(1) coordinate the personnel administration support and technical assistance given to State and local governments and the support given State programs or projects to strengthen local government personnel administration, including the furnishing of needed personnel administration services and technical assistance, under authority of this chapter with any such support given under other Federal programs; and

(2) make such arrangements, including the collection, maintenance, and dissemination of data on grants for strengthening State and local government personnel administration and on grants to States for furnishing needed personnel administration services and technical assistance to local governments, as needed to avoid duplication and insure consistent administration of related Federal activities.

(Pub. L. 91-648, title II, § 206, Jan. 5, 1971, 84 Stat. 1914.)

REFERENCES IN TEXT

This chapter, referred to in cl. (1), read in the original, this Act, meaning Pub. L. 91-648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which enacted this chapter and sections 3371 to 3376 of Title 5, Government Organization and Employees, amended section 246(f) of this title, section 1304 of Title 5, repealed sections 1881 to 1888 of Title 7, Agriculture, and section 869b of Title 20, Education, and enacted provisions set out as notes under section 3371 of Title 5. For complete classification of this Act to the Code, see Short Title note set out section 4701 of this title and Tables volume.

§ 4727. Interstate compacts

The consent of the Congress is hereby given to any two or more States to enter into compacts or other agreements, not in conflict with any law of the United States, for cooperative efforts and mutual assistance (including the establishment of appropriate agencies) in connection with the development and administration of personnel and training programs for employees and officials of State and local governments.

(Pub. L. 91-648, title II, § 207, Jan. 5, 1971, 84 Stat. 1915.)

§ 4728. Transfer of functions

(a) Prescription of personnel standards on a merit basis

There are hereby transferred to the Commission all functions, powers, and duties of—

(1) the Secretary of Agriculture under section 2019(e)(2) of title 7;

(2) the Secretary of Labor under—

(A) the Act of June 6, 1933, as amended (29 U.S.C. 49 et seq.); and

(B) section 503(a)(1) of this title;

(3) the Secretary of Health, Education, and Welfare under—

(A) sections 2674(a)(6) and 2684(a)(6) of this title;

(B) section 3023(a)(6) of this title;

(C) sections 246(a)(2)(F) and (d)(2)(F) and 291d(a)(8) of this title; and

(D) sections 302(a)(5)(A), 602(a)(5)(A), 705(a)(3)(A), 1202(a)(5)(A), 1352(a)(5)(A), 1382(a)(5)(A), and 1396a(a)(4)(A) of this title; and

(4) any other department, agency, office, or officer (other than the President) under any other provision of law or regulation applicable to a program of grant-in-aid that specifically requires the establishment and maintenance of personnel standards on a merit basis with respect to the program;

insofar as the functions, powers, and duties relate to the prescription of personnel standards on a merit basis.

(b) Powers and duties of Commission

The Commission shall—

(1) provide consultation and technical advice and assistance to State and local governments to aid them in complying with standards prescribed by the Commission under subsection (a) of this section; and

(2) advise Federal agencies administering programs of grants or financial assistance as to the application of required personnel administration standards, and recommend and coordinate the taking of such actions by the Federal agencies as the Commission considers will most effectively carry out the purpose of this subchapter.

(c) Transfer of personnel, property, records, and funds; time of transfer

So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds of any Federal agency employed, used, held, available, or to be made available in connection with the functions, powers, and duties vested in the Commission by this section as the Director of the Management and Budget shall determine shall be transferred to the Commission at such time or times as the Director shall direct.

(d) Modification or supersedure of personnel standards

Personnel standards prescribed by Federal agencies under laws and regulations referred to in subsection (a) of this section shall continue in effect until modified or superseded by standards prescribed by the Commission under subsection (a) of this section.

(e) Systems of personnel administration; innovation and diversity in design, execution, and management

Any standards or regulations established pursuant to the provisions of this section shall be such as to encourage innovation and allow for diversity on the part of State and local governments in the design, execution, and management of their own individual systems of personnel administration.

(f) Interpretation of certain provisions; limitation

Nothing in this section or in section 4722 or 4723 of this title shall be construed to—

(1) authorize any agency or official of the Federal Government to exercise any authority, direction, or control over the selection, assignment, advancement, retention, compensation, or other personnel action with respect to any individual State or local employee;

(2) authorize the application of personnel standards on a merit basis to the teaching personnel of educational institutions or school systems;

(3) prevent participation by employees or employee organizations in the formulation of policies and procedures affecting the conditions of their employment, subject to the laws and ordinances of the State or local government concerned;

(4) require or request any State or local government employee to disclose his race, religion, or national origin, or the race, religion, or national origin, of any of his forebears;

(5) require or request any State or local government employee, or any person applying for employment as a State or local government employee, to submit to any interrogation or examination or to take any psychological test or any polygraph test which is designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters; or

(6) require or request any State or local government employee to participate in any way in any activities or undertakings unless such activities or undertakings are related to the performance of official duties to which he is or may be assigned or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties.

(g) Effective date

This section shall become effective sixty days after January 5, 1971.

(Pub. L. 91-648, title II, § 208, Jan. 5, 1971, 84 Stat. 1915.)

REFERENCES IN TEXT

The Act of June 6, 1933, as amended, referred to in subsec. (a)(2)(A), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified principally to chapter 4B (§ 49 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Tables volume.

Sections 2674(a)(6) and 2684(a)(6) of this title, referred to in subsec. (a)(3)(A), was in the original a reference to sections 134(a)(6) and 204(a)(6) of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963. Section 134 of the Act was renumbered "133" and amended by Pub. L. 94-103, and is now classified to section 6063 of this title. Provisions relating to personnel standards on a merit basis appear in section 6063(b)(7) of this title. Title II of the Act was amended generally by Pub. L. 94-63, and provisions relating to personnel standards on a merit basis now appear in section 237(a)(1)(D) of the Act, which is classified to section 2689t(a)(1)(D) of this title.

Section 3023(a)(6) of this title, referred to in subsec. (a)(3)(B), was in the original a reference a section 303(a)(6) of the Older Americans Act of 1965. Section 301 of Pub. L. 93-29 amended the Older Americans Act of 1965 by striking out title III and inserting in lieu thereof a new title III. Provisions relating to personnel standards on a merit basis now appear in section 305(a)(2) of the Act, which is classified to section 3025(a)(2) of this title.

Section 1382(a)(5)(A) of this title, referred to in subsec. (a)(3)(D), was in a reference to section 1602(a)(5)(A) of the Social Security Act. Title XVI of the Social Security Act (section 1381 et seq. of this title) was amended generally by Pub. L. 92-603, title III, § 301, Oct. 30, 1972, 86 Stat. 1465, and the provisions formerly contained in section 1382 of this title are now covered by section 802 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300m-1 of this title.

SUBCHAPTER III—TRAINING AND DEVELOPING STATE AND LOCAL EMPLOYEES

§ 4741. Declaration of purpose

The purpose of this subchapter is to strengthen the training and development of State and local government employees and officials, particularly in professional, administrative, and technical fields.

(Pub. L. 91-648, title III, § 301, Jan. 5, 1971, 84 Stat. 1916.)

§ 4742. Admission to Federal employee training programs

(a) State and local government officers and employees

In accordance with such conditions as may be prescribed by the head of the Federal agency concerned, a Federal agency may admit State and local government employees and officials to agency training programs established for Federal professional, administrative, or technical personnel.

(b) Waiver of payments for training costs

Federal agencies may waive, in whole or in part, payments from, or on behalf of, State and local governments for the costs of training provided under this section. Payments received by the Federal agency concerned for training under this section shall be credited to the appropriation or fund used for paying the training costs.

(c) Initial costs; reimbursement of other Federal agencies

The Commission may use appropriations authorized by this chapter to pay the initial additional developmental or overhead costs that are incurred by reason of admittance of State and local government employees to Federal training courses and to reimburse other Federal agencies for such costs.

(Pub. L. 91-648, title III, § 302, Jan. 5, 1971, 84 Stat. 1916.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), read in the original, this Act, meaning Pub. L. 91-648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which enacted this chapter and sections 3371 to 3376 of Title 5, Government Organization and Employees, amended section 246(f) of this title, section 1304 of title 5, repealed sections 1881 to 1888 of Title 7, Agriculture, and section 869b of Title 20, Education, and enacted provisions set out as notes

under section 3371 of Title 5. For complete classification of this Act to the Code, see Short Title note set out section 4701 of this title and Tables volume.

§ 4743. Grants to State and local governments for training

(a) Amount of grants; executive certification; use restrictions; uses for nonfederal share; personnel training and education programs: innovation and diversity in development and execution

If in its judgment training is not adequately provided for under grant-in-aid or other statutes, the Commission is authorized to make grants to State and general local governments for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this chapter, for up to 50 per centum) of the costs of developing and carrying out programs, on the certification of the Governor of that State, or the mayor or chief executive officer of the general local government, that the programs are consistent with the applicable principles set forth in clauses (1)-(6) of the third paragraph of section 4701 of this title, to train and educate their professional, administrative, and technical employees and officials. Such grants may not be used to cover costs of full-time graduate-level study, provided for in section 4745 of this title, or the costs of the construction or acquisition of training facilities. The State and local government share of the cost of developing and carrying out training and education plans and programs may include, but shall not consist solely of, the reasonable value of facilities and of supervisory and other personal services made available by such governments. The authority provided by this section shall be employed in such a manner as to encourage innovation and allow for diversity on the part of State and local governments in developing and carrying out training and education programs for their personnel.

(b) Application; time of making; information; terms and conditions; waiver; development costs

An application for a grant from a State or general local government shall be made at such time or times, and shall contain such information, as the Commission may prescribe. The Commission may make a grant under subsection (a) of this section, only if the application therefor meets requirements established by this subsection unless any requirement is specifically waived by the Commission. Such grant to a State, or to a general local government under subsection (c) of this section, may cover the costs of developing the program covered by the application. The program covered by the application shall—

(1) provide for designation, by the Governor or chief executive authority, of the State office that will have primary authority and responsibility for the development and administration of the program at the State level;

(2) provide, to the extent feasible, for coordination with relevant training available under or supported by other Federal Government programs or grants;

(3) provide for training needs of the State government and of local governments in that State;

(4) provide, to the extent feasible, for intergovernmental cooperation in employee training matters, especially within metropolitan or regional areas; and

(5) provide assurance that the making of a Federal Government grant will not result in a reduction in relevant State or local government expenditures or the substitution of Federal funds for State or local funds previously made available for these purposes.

(c) Population served; amount of grants; executive certification; State grant, conditions; terms and conditions; waiver

A grant authorized by subsection (a) of this section may be made to a general local government, or a combination of such governments, that serve a population of fifty thousand or more, for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this chapter, for up to 50 per centum) of the costs of developing and carrying out programs or projects, on the certification of the mayor(s), or chief executive officer(s), of the general local government or combination of local governments that the programs or projects are consistent with the applicable principles set forth in clauses (1)-(6) of the third paragraph of section 4701 of this title to train and educate their professional, administrative, and technical employees and officials. Such a grant may not be made—

(1) if, at the time of submission of an application, the State concerned has an approved plan which, with the agreement of the particular local government concerned, provides for strengthening one or more aspects of training in that local government, unless the local government concerned has problems which are not met by the previously approved plan and for which, with the agreement of the State government concerned with respect to those aspects of training covered in the approved plan, it is submitting an application; or

(2) after the State concerned has a statewide plan which has been developed by an appropriate State agency designated or established pursuant to State law which provides such agency with adequate authority, administrative organization, and staffing to develop and administer such a statewide plan, and to provide technical assistance and other appropriate support in carrying out the local components of the plan, and which provides procedures insuring adequate involvement of officials of affected local governments in the development and administration of such a statewide plan, unless the local government concerned has special, unique, or urgent problems which are not met by the approved statewide plan and for which it submits an application for funds to be distributed under section 4766(a) of this title.

Upon the request of a Governor or chief executive authority, a grant to a general local government or combination of such governments in that State may not be made during a period not to exceed ninety days commencing with the date provided in section 4772 of this title, or the date on which official regulations for this chapter are promulgated, whichever date is later:

Provided, That the request of the Governor or chief executive authority indicates that he is developing a plan under (1) above, or during a period not to exceed one hundred and eighty days commencing with the date provided in section 4772 of this title, or the date on which official regulations for this chapter are promulgated, whichever date is later, provided the request of the Governor or chief executive authority indicates that he is developing a statewide plan under (2) above. To be approved, an application for a grant under this subsection must meet requirements similar to those established in subsection (b) of this section for State applications, unless any such requirement is specifically waived by the Commission, and the requirements of subsection (d) of this section. The Commission may make grants to general local governments, or combinations of such governments that serve a population of less than fifty thousand if it finds that such grants will help meet essential needs in programs or projects of national interest and will assist general local governments experiencing special needs for personnel training and education related to such programs or projects.

(d) Gubernatorial review of application; disapproval explanation

An application to be submitted to the Commission under subsection (c) of this section shall first be submitted by the general local government or combination of such governments to the Governor for review, comments, and recommendations. The Governor may refer the application to the State office designated under subsection (b)(1) of this section for review. Comments and recommendations (if any) made as a result of the review and a statement by the general local government or combination of such governments that it has considered the comments and recommendations of the Governor shall accompany the application to the Commission. The application need not be accompanied by the comments and recommendations of the Governor if the general local government or combination of such governments certifies to the Commission that the application has been before the Governor for review and comment for a period of sixty days without comment by the Governor. An explanation in writing shall be sent to the Governor of a State by the Commission whenever the Commission does not concur with recommendations of the Governor in approving any local government applications.

(Pub. L. 91-648, title III, § 303, Jan. 5, 1971, 84 Stat. 1917.)

REFERENCES IN TEXT

For effective date of the grant provisions of this chapter, referred to in subsecs. (a) and (c), as being 180 days after Jan. 5, 1971, see section 4772 of this title.

This chapter, referred to in subsecs. (a), (c), read in the original, this Act, meaning Pub. L. 91-648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which enacted this chapter and sections 3371 to 3376 of Title 5, Government Organization and Employees, amended section 246(f) of this title, section 1304 of title 5, repealed sections 1881 to 1888 of Title 7, Agriculture, and section 869b of Title 20, Education, and enacted provisions set out as notes under section 3371 of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4762 of this title.

§ 4744. Grants to other organizations

(a) Amount of grants; conditions

The Commission is authorized to make grants to other organizations to pay up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this chapter, up to 50 per centum) of the costs of providing training to professional, administrative, or technical employees and officials of State or local governments if the Commission—

(1) finds that State or local governments have requested the proposed program;

(2) determines that the capability to provide such training does not exist, or is not readily available, within the Federal or the State or local governments requesting such program or within associations of State or local governments, or if such capability does exist that such government or association is not disposed to provide such training; and

(3) approves the program as meeting such requirements as may be prescribed by the Commission in its regulations pursuant to this chapter.

(b) "Other organization" defined

For the purpose of this section "other organization" means—

(1) a national, regional, statewide, areawide, or metropolitan organization, representing member State or local governments;

(2) an association of State or local public officials; or

(3) a nonprofit organization one of whose principal functions is to offer professional advisory, research, development, educational or related services to governments.

(Pub. L. 91-648, title III, § 304, Jan. 5, 1971, 84 Stat. 1919.)

REFERENCES IN TEXT

For effective date of the grant provisions of this chapter, referred to in subsec. (a), as being 180 days after Jan. 5, 1971, see section 4772 of this title.

This chapter, referred to in subsec. (a), read in the original, this Act, meaning Pub. L. 91-648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which enacted this chapter and sections 3371 to 3376 of Title 5, Government Organization and Employees, amended section 246(f) of this title, section 1304 of title 5, repealed sections 1881 to 1888 of Title 7, Agriculture, and section 869b of Title 20, Education, and enacted provisions set out as notes under section 3371 of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4764 of this title.

§ 4745. Government Service Fellowships

(a) Diverse payments

The Commission is authorized to make grants to State and general local governments to sup-

port programs approved by the Commission for providing Government Service Fellowships for State and local government personnel. The grants may cover—

(1) the necessary costs of the fellowship recipient's books, travel, and transportation, and such related expenses as may be authorized by the Commission;

(2) reimbursement to the State or local government for not to exceed one-fourth of the salary of each fellow during the period of the fellowship; and

(3) payment to the educational institutions involved of such amounts as the Commission determines to be consistent with prevailing practices under comparable federally supported programs for each fellow, less any amount charged the fellow for tuition and nonrefundable fees and deposits.

(b) Period of fellowships; eligibility criteria

Fellowships awarded under this section may not exceed two years of full-time graduate-level study for professional, administrative, and technical employees. The regulations of the Commission shall include eligibility criteria for the selection of fellowship recipients by State and local governments.

(c) Selection of fellows; continuation of salary and employment benefits; public service plans upon completion of study: outline of plans in application for grant

The State or local government concerned shall—

(1) select the individual recipients of the fellowships;

(2) during the period of the fellowship, continue the full salary of the recipient and normal employment benefits such as credit for seniority, leave accrual, retirement, and insurance; and

(3) make appropriate plans for the utilization and continuation in public service of employees completing fellowships and outline such plans in the application for the grant.

(Pub. L. 91-648, title III, § 305, Jan. 5, 1971, 84 Stat. 1919.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4743 of this title.

§ 4746. Coordination of Federal programs

The Commission, after consultation with other agencies concerned, shall—

(1) prescribe regulations concerning administration of training for employees and officials of State and local governments provided for in this subchapter, including requirements for coordination of and reasonable consistency in such training programs;

(2) coordinate the training support given to State and local governments under authority of this chapter with training support given such governments under other Federal programs; and

(3) make such arrangements, including the collection and maintenance of data on training grants and programs, as may be necessary to avoid duplication of programs providing for training and to insure consistent administration of related Federal training activities, with particular regard to title IX of the Higher Education Act of 1965 [20 U.S.C. 1134 et seq.].

(Pub. L. 91-648, title III, § 306, Jan. 5, 1971, 84 Stat. 1920.)

REFERENCES IN TEXT

This chapter, referred to in cl. (2), read in the original, this Act, meaning Pub. L. 91-648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which enacted this chapter and sections 3371 to 3376 of Title 5, Government Organization and Employees, amended section 246(f) of this title, section 1304 of title 5, repealed sections 1881 to 1888 of Title 7, Agriculture, and section 869b of Title 20, Education, and enacted provisions set out as notes under section 3371 of Title 5. For complete classification of this Act to the Code, see Short Title note set out section 4701 of this title and Tables volume.

The Higher Education Act of 1965, referred to in par. (3), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IX of the Act is classified generally to subchapter IX (§ 1134 et seq.) of chapter 28 of Title 20, Education. Title IX as originally added by Pub. L. 89-329 related to education for the public service. Pub. L. 92-318 struck out title IX and inserted in lieu thereof a new title IX relating to graduate programs. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables volume.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 4761. Declaration of purpose

The purpose of this subchapter is to provide for the general administration of subchapters I, II, III, and IV of this chapter (hereinafter referred to as "this chapter"), and to provide for the establishment of certain advisory committees.

(Pub. L. 91-648, title V, § 501, Jan. 5, 1971, 84 Stat. 1925.)

§ 4762. Definitions

For the purpose of this chapter—

(1) "Commission" means the United States Civil Service Commission;

(2) "Federal agency" means an executive department, military department, independent establishment, or agency in the executive branch of the Government of the United States, including Government owned or controlled corporations;

(3) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States, and includes interstate and Federal-interstate agencies but does not include the governments of the political subdivisions of a State;

(4) "local government" means a city, town county, or other subdivision or district of a State, including agencies, instrumentalities, and authorities of any of the foregoing and any combination of such units or combination of such units and a State. A "general local government" means a city, town, county, or comparable general-purpose political subdivision of a State; and

(5) Notwithstanding the population requirements of sections 4723(a) and 4743(c) of this title, a "local government" and a "general local government" also mean the recognized governing body of an Indian tribe, band,

pueblo, or other organized group or community, including any Alaska Native village, as defined in the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.], which performs substantial governmental functions. The requirements of sections 4723(c) and 4743(d) of this title, relating to reviews by the Governor of a State, do not apply to grant applications from the governing body of an Indian tribe, although nothing in this chapter is intended to discourage or prohibit voluntary communication and cooperation between Indian tribes and State and local governments.

(Pub. L. 91-648, title V, § 502, Jan. 5, 1971, 84 Stat. 1925; Pub. L. 93-638, title I, § 105(d), Jan. 4, 1975, 88 Stat. 2208.)

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

The Alaska Native Claims Settlement Act, referred to in par. (5), is Pub. L. 92-203, § 2, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables volume.

AMENDMENTS

1975—Par. (5). Pub. L. 93-638 added par. (5).

§ 4763. General administrative provisions

(a) Administration by Commission

Unless otherwise specifically provided, the Commission shall administer this chapter.

(b) Advice and assistance

The Commission shall furnish such advice and assistance to State and local governments as may be necessary to carry out the purposes of this chapter.

(c) Regulations and standards; contracts: modification, covenants, conditions, and provisions; utilization of other agencies

In the performance of, and with respect to, the functions, powers, and duties vested in it by this chapter, the Commission may—

(1) issue such standards and regulations as may be necessary to carry out the purposes of this chapter;

(2) consent to the modification of any contract entered into pursuant to this chapter, such consent being subject to any specific limitations of this chapter;

(3) include in any contract made pursuant to this chapter such covenants, conditions, or provisions as it deems necessary to assure that the purposes of this chapter will be achieved; and

(4) utilize the services and facilities of any Federal agency, any State or local government, and any other Public or nonprofit agency or institution, on a reimbursable basis or otherwise, in accordance with agreements between the Commission and the head thereof.

(d) Information: collection and availability; research and evaluation; administration report; coordination of Federal programs

In the performance of, and with respect to the functions, powers, and duties vested in it by this chapter, the Commission—

(1) may collect information from time to time with respect to State and local government training programs and personnel administration improvement programs and projects under this chapter, and make such information available to interested groups, organizations, or agencies, public or private;

(2) may conduct such research and make such evaluation as needed for the efficient administration of this chapter;

(3) shall include in its annual report a report of the administration of this chapter; and

(4) shall make such arrangements as may be necessary to avoid duplication of programs providing for training and to insure consistent administration of the related Federal training activities, with particular regard to title I of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.].

(e) Additional authority

The provisions of this chapter are not a limitation on existing authorities under other statutes but are in addition to any such authorities, unless otherwise specifically provided in this chapter.

(Pub. L. 91-648, title V, § 503, Jan. 5, 1971, 84 Stat. 1926.)

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

The Higher Education Act of 1965, referred to in subsec. (d)(4), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title I of the Higher Education Act of 1965 is classified generally to subchapter I (§ 1001 et seq.) of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables volume.

§ 4764. Reporting and recordkeeping requirements for State or local governments and other organizations

(a) A State or local government office designated to administer a program or project under this chapter shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal funds and the operation of the approved program or project as the Commission may require, and shall keep and make available such records as may be required by the Commission for the verification of such reports and evaluations.

(b) An organization which receives a training grant under section 4744 of this title shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal grant funds and the operation of the training program as the Commission may require, and shall keep and make available such records as may be required by the Commission for the verification of such reports and evaluations.

(Pub. L. 91-648, title V, § 504, Jan. 5, 1971, 84 Stat. 1926.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

§ 4765. Review and audit

The Commission, the head of the Federal agency concerned, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of a grant recipient that are pertinent to the grant received.

(Pub. L. 91-648, title V, § 505, Jan. 5, 1971, 84 Stat. 1927.)

§ 4766. Distribution of grants

(a) State and local government allocations; equitable distribution

The Commission shall allocate 20 per centum of the total amount available for grants under this chapter in such manner as will most nearly provide an equitable distribution of the grants among States and between State and local governments, taking into consideration such factors as the size of the population, number of employees affected, the urgency of the programs or projects, the need for funds to carry out the purposes of this chapter, and the potential of the governmental jurisdictions concerned to use the funds most effectively.

(b) Weighted formula; minimum allocation; reallocation; "State" defined

(1) The Commission shall allocate 80 per centum of the total amount available for grants under this chapter among the States on a weighted formula taking into consideration such factors as the size of population and the number of State and local government employees affected.

(2) The amount allocated for each State under paragraph (1) of this subsection shall be further allocated by the Commission to meet the needs of both the State government and the local governments within the State on a weighted formula taking into consideration such factors as the number of State and local government employees and the amount of State and local government expenditures. The Commission shall determine the categories of employees and expenditures to be included or excluded, as the case may be, in the number of employees and amount of expenditures. The minimum allocation for meeting needs of local governments in each State (other than the District of Columbia) shall be 50 per centum of the amount allocated for the State under paragraph (1) of this subsection.

(3) The amount of any allocation under paragraph (2) of this subsection which the Commission determines, on the basis of information available to it, will not be used to meet needs for which allocated shall be available for use to meet the needs of the State government or local governments in that State, as the case may be, on such date or dates as the Commission may fix.

(4) The amount allocated for any State under paragraph (1) of this subsection which the Commission determines, on the basis of information available to it, will not be used shall be available for reallocation by the Commission from time to time, on such date or dates as it may fix, among other States with respect to which such a determination has not been made, in accordance with the formula set forth in paragraph (1) of this subsection, but with such amount for any of such other States being reduced to the extent it exceeds the sum the Commission estimates said State needs and will be able to use; and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced.

(5) For the purposes of this subsection, "State" means the several States of the United States and the District of Columbia.

(c) Payment limitation

Notwithstanding the other provisions of this section, the total of the payments from the appropriations for any fiscal year under this chapter made with respect to programs or projects in any one State may not exceed an amount equal to 12½ per centum of such appropriation.

(Pub. L. 91-648, title V, § 506, Jan. 5, 1971, 84 Stat. 1927.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b)(1), and (c), means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4743 of this title.

§ 4767. Termination of grants

Whenever the Commission, after giving reasonable notice and opportunity for hearing to the State or general local government concerned, finds—

(1) that a program or project has been so changed that it no longer complies with the provisions of this chapter; or

(2) that in the operation of the program or project there is a failure to comply substantially with any such provision;

the Commission shall notify the State or general local government of its findings and no further payments may be made to such government by the Commission until it is satisfied that such noncompliance has been, or will promptly be, corrected. However, the Commission may authorize the continuance of payments to those projects approved under this chapter which are not involved in the noncompliance.

(Pub. L. 91-648, title V, § 507, Jan. 5, 1971, 84 Stat. 1928.)

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

§ 4768. Advisory committees; appointment; compensation and travel expenses

(a) The Commission may appoint, without regard to the provisions of title 5 governing appointments in the competitive service, such advisory committee or committees as it may determine to be necessary to facilitate the administration of this chapter.

(b) Members of advisory committees who are not regular full-time employees of the United States, while serving on the business of the committees including traveltime may receive compensation at rates not exceeding the daily rate for GS-18; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for individuals in the Government service employed intermittently.

(Pub. L. 91-648, title V, § 508, Jan. 5, 1971, 84 Stat. 1928.)

REFERENCES IN TEXT

The provisions of Title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

This chapter, referred to in subsec. (a), means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

GS-18, referred to in subsec. (b), is set out under section 5332 of Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 4769. Authorization of appropriations

There are authorized to be appropriated, without fiscal year limitation, such sums as may be necessary to carry out the programs authorized by this chapter.

(Pub. L. 91-648, title V, § 509, Jan. 5, 1971, 84 Stat. 1928.)

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

§ 4770. Limitations on availability of funds for cost sharing

Federal funds made available to State or local governments under other programs may not be used by the State or local government for cost-sharing purposes under grant provisions of this chapter, except that Federal funds of a program financed wholly by Federal funds may be used to pay a prorata share of such cost sharing. State or local government funds used for cost sharing on other federally assisted programs may not be used for cost sharing under grant provisions of this chapter.

(Pub. L. 91-648, title V, § 511, Jan. 5, 1971, 84 Stat. 1928.)

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

§ 4771. Method of payment; installments; advances or reimbursement; adjustments

Payments under this chapter may be made in installments, and in advance or by way of reimbursement, as the Commission may determine, with necessary adjustments on account of overpayments or underpayments.

(Pub. L. 91-648, title V, § 512, Jan. 5, 1971, 84 Stat. 1929.)

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

§ 4772. Effective date of grant provisions

Grant provisions of this chapter shall become effective one hundred and eighty days following January 5, 1971.

(Pub. L. 91-648, title V, § 513, Jan. 5, 1971, 84 Stat. 1929.)

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4723, 4743 of this title.

CHAPTER 63—LEAD-BASED PAINT POISONING PREVENTION

SUBCHAPTER I—GRANTS FOR DETECTION AND TREATMENT OF LEAD-BASED PAINT POISONING

Sec.
4801. Development of local programs.
(a) Assistance of Secretary.
(b) Limitation on amount of grant.
(c) Required provisions.
(d) Employment opportunities for local residents.
(e) Centralized laboratory facilities.
(f) Condition of grants; provision of additional services or improvement in quality of services; Federal funds for supplementation and not for supplanting of non-Federal funds; services to be provided under local programs.

SUBCHAPTER II—GRANTS FOR ELIMINATION OF LEAD-BASED PAINT POISONING

Sec.
4811. Development of local programs; assistance of Secretary; required provisions; consistency of assisted programs; employment opportunities for local residents; audit and examination of books, documents, papers, and records.

SUBCHAPTER III—FEDERAL DEMONSTRATION AND RESEARCH PROGRAM: FEDERAL HOUSING ADMINISTRATION REQUIREMENTS

4821. Development of program; consultation; nature of program; report to Congress.
4822. Federal Housing Administration procedure requirements for elimination of hazards; housing coverage: existing housing; housing constructed before 1950; housing constructed during or after 1950, discretion of Secretary; federally owned property for residential habitation; other implementing procedures.

SUBCHAPTER IV—PROHIBITION AGAINST FUTURE USE OF LEAD-BASED PAINT

4831. Use of lead-based paint.
(a) Prohibition by Secretary of Health, Education, and Welfare in application to cooking, drinking, or eating utensils.
(b) Prohibition by Secretary of Housing and Urban Development of use in residential structures constructed or rehabilitated by Federal government or with Federal assistance.
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SUBCHAPTER V—GENERAL PROVISIONS

4841. Definitions.
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(a) Establishment; functions; residential representation; compensation; reimbursement of expenses.
(b) Advisory boards for local programs; establishment; residential representation; parental majority; reimbursement of expenses.
4846. State laws superseded, and null and void.

SUBCHAPTER I—GRANTS FOR DETECTION AND TREATMENT OF LEAD-BASED PAINT POISONING

§ 4801. Development of local programs

(a) Assistance of Secretary

The Secretary of Health, Education, and Welfare (hereafter referred to in this subchapter as the "Secretary") is authorized to make grants to public agencies of units of general local government in any State and to private nonprofit organizations in any State for the purpose of assisting such units in developing and carrying out local programs to detect and treat incidents of lead-based paint poisoning.

(b) Limitation on amount of grant

The amount of any such grant shall not exceed 90 per centum of the cost of developing and carrying out a local program, as approved by the Secretary, during a period of three years.

(c) Required provisions

A local program shall include—

(1) educational programs intended to communicate the health danger and prevalence of lead-based paint poisoning among children of inner city areas, to parents, educators, and local health officials;

(2) development and carrying out of intensive community testing programs designed to detect incidents of lead-based paint poisoning among community residents, and to insure prompt medical treatment for such afflicted individuals;

(3) development and carrying out of intensive followup programs to insure that identified cases of lead-based paint poisoning are protected against further exposure to lead-based paints in their living environment; and

(4) any other actions which will reduce or eliminate lead-based paint poisoning.

Follow-up programs described in paragraph (3) shall include programs to eliminate lead-based paint hazards from surfaces in and around residential dwelling units or houses, including programs to provide for such purpose financial assistance to the owners of such units or houses who are financially unable to eliminate such hazards from their units or houses. In administering programs for the elimination of such hazards, priority shall be given to the elimination of such hazards in residential dwelling units or houses in which reside children with diagnosed lead-based paint poisoning.

(d) Employment opportunities for local residents

Each local program shall afford opportunities for employing the residents of communities or neighborhoods affected by lead-based paint poisoning, and for providing appropriate training, education, and any information which may be necessary to inform such residents of opportunities for employment in lead-based paint poisoning elimination programs.

(e) Centralized laboratory facilities

The Secretary is also authorized to make grants to State agencies for the purpose of establishing centralized laboratory facilities for analyzing biological and environmental lead specimens obtained from local lead based paint poisoning detection programs.

(f) Condition of grants; provision of additional services or improvement in quality of services; Federal funds for supplementation and not for supplanting of non-Federal funds; services to be provided under local programs

No grant may be made under this section unless the Secretary determines that there is satisfactory assurance that (A) the services to be provided will constitute an addition to, or a significant improvement in quality (as determined in accordance with criteria of the Secretary) in, services that would otherwise be provided, (B) Federal funds made available under this section for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program described in this section, and will in no

event supplant such State, local, and other non-Federal funds, and (C) the services to be provided will be provided under local programs which meet the requirements of subsections (c) and (d) of this section.

(Pub. L. 91-695, title I, § 101, Jan. 13, 1971, 84 Stat. 2078; Pub. L. 93-151, § 1, Nov. 9, 1973, 87 Stat. 565; Pub. L. 94-317, title II, § 204(a), June 23, 1976, 90 Stat. 705.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-317, § 204(a)(1), (2)(A), substituted in provisions preceding par. (1) "shall include" for "should include" and added following par. (4) provisions relating to followup programs which include programs to eliminate lead-based paint hazards from residential dwellings and giving priority to dwellings where lead poisoning of children has been diagnosed.

Subsec. (f). Pub. L. 94-317, § 204(a)(2)(B), added subsec. (f)(C).

1973—Subsec. (a). Pub. L. 93-151, § 1(a), substituted "public agencies of units of general local government in any State and to private nonprofit organizations in any State" for "units of general local government in any State".

Subsec. (b). Pub. L. 93-151, § 1(b), increased limitation from 75 to 90 per centum.

Subsec. (e). Pub. L. 93-151, § 1(c), added subsec. (e).

Subsec. (f). Pub. L. 93-151, § 1(d), added subsec. (f).

SHORT TITLE

Section 1 of Pub. L. 91-695 provided: "That this Act [which enacted this chapter] may be cited as the 'Lead-Based Paint Poisoning Prevention Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4811, 4844 of this title.

SUBCHAPTER II—GRANTS FOR ELIMINATION OF LEAD-BASED PAINT POISONING

§ 4811. Development of local programs; assistance of Secretary; required provisions; consistency of assisted programs; employment opportunities for local residents; audit and examination of books, documents, papers, and records

The Secretary of Health, Education, and Welfare is authorized to make grants to public agencies of units of general local government in any State and to private nonprofit organizations in any State for the purpose of assisting such units in developing and carrying out programs that identify those areas that present a high risk to the health of residents because of the presence of lead-based paints on interior surfaces, and then to develop and carry out programs to eliminate the hazards of lead-based paint poisoning.

(a) A local program should include:

(1) development and carrying out of comprehensive testing programs to detect the presence of lead-based paints on surfaces of residential housing;

(2) the development and carrying out of procedures to remove from exposure to young children all interior surfaces of residential housing, porches, and exterior surfaces of such housing to which children may be commonly exposed, in those areas that present a high risk for the health of residents because of the presence of lead based paints. Such programs should include those surfaces on which non-lead-based paints have been used to cover surface to which lead based paints were previously applied; and

(3) any other actions which will reduce or eliminate lead-based paint poisoning.

(b) Each such program shall—

(1) be consistent with the appropriate local program assisted under section 4801 of this title, and

(2) afford, to the maximum extent feasible, opportunities for employing the residents of communities or neighborhoods affected by lead-based paint poisoning, and for providing appropriate training, education, and any information which may be necessary to inform such residents of opportunities for employment in lead-based paint elimination programs.

(c) Any public agency, of a unit of local government or private nonprofit organization which receives assistance under this chapter shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for purposes of audit and examination, any books, documents, papers, and records that are pertinent to the assistance received by such public agency of a unit of local government or private nonprofit organization under this chapter.

(Pub. L. 91-695, title II, § 201, Jan. 13, 1971, 84 Stat. 2078; Pub. L. 93-151, § 2, Nov. 9, 1973, 87 Stat. 565.)

AMENDMENTS

1973—Pub. L. 93-151, § 2(a), substituted in introductory text "public agencies of units of general local government in any State and to private nonprofit organizations in any State" for "units of general local government in any State".

Subsec. (a)(2). Pub. L. 93-151, § 2(b), incorporated existing provisions in rearranging the text, substituted provisions respecting development of procedures for provisions for development of comprehensive program, and provided for such development in areas of high risk to the residents' health.

Subsec. (c). Pub. L. 93-151, § 2(c), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4844 of this title.

SUBCHAPTER III—FEDERAL DEMONSTRATION AND RESEARCH PROGRAM: FEDERAL HOUSING ADMINISTRATION REQUIREMENTS

§ 4821. Development of program; consultation; nature of program; safe level of lead; report to Congress

(a) The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, shall develop and carry out a demonstration and research program to determine the nature and extent of the problem of lead based paint poisoning in the United States, particularly in urban areas, including the methods by which the lead based paint hazard can most effectively be removed from interior surfaces, porches, and exterior surfaces of residential housing to which children may be exposed.

(b) Omitted.

(Pub. L. 91-695, title III, § 301, Jan. 13, 1971, 84 Stat. 2079; Pub. L. 93-151, § 3, Nov. 9, 1973, 87 Stat. 566.)

CODIFICATION

Subsec. (b), which provided that the Chairman of the Consumer Products Safety Commission conduct research on multiple layers of dried paint film, containing the various lead compounds commonly used, to ascertain the safe level of lead in residential paint products and to submit to Congress, not later than Dec. 31, 1974, a full report on his findings and recommendations, accompanied by any proposed legislation he deemed necessary to carry out his recommendations, was omitted from the Code as executed.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-151 incorporated existing first sentence in provisions designated as subsec. (a).

Subsec. (b). Pub. L. 93-151 required the Chairman of the Consumer Product Safety Commission to conduct research to ascertain the safe level of lead in provisions designated as subsec. (b), incorporated existing second sentence as the second sentence of the subsection, substituting requirement of submission of report by the Chairman no later than Dec. 31, 1974, for former similar requirement for submission of a report by the Secretary within one year after Jan. 13, 1971.

§ 4822. Federal Housing Administration procedure requirements for elimination of hazards; housing coverage: existing housing; housing constructed before 1950; housing constructed during or after 1950, discretion of Secretary; federally owned property for residential habitation; other implementing procedures

The Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall establish procedures to eliminate as far as practicable the hazards of lead based paint poisoning with respect to any existing housing which may present such hazards and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary. Such procedures shall apply to all such housing constructed prior to 1950 and shall as a minimum provide for (1) appropriate measures to eliminate as far as practicable immediate hazards due to the presence of paint which may contain lead and to which children may be exposed, and (2) assured notification to purchasers and tenants of such housing of the hazards of lead based paint, of the symptoms and treatment of lead based paint poisoning, and of the importance and availability of maintenance and removal techniques for eliminating such hazards. Such procedures may apply to housing constructed during or after 1950 if the Secretary determines, in his discretion, that such housing presents hazards of lead based paint. The Secretary may establish such other procedures as may be appropriate to carry out the purposes of this section. Further, the Secretary shall establish and implement procedures to eliminate the hazards of lead based paint poisoning in all federally owned properties prior to the sale of such properties when their use is intended for residential habitation.

(Pub. L. 91-695, title III, § 302, as added Pub. L. 93-151, § 4(a)(1), Nov. 9, 1973, 87 Stat. 566.)

EFFECTIVE DATE

Section 4(b) of Pub. L. 93-151 provided that: "The amendments made by subsection (a) of this section [enacting this section] become effective upon the expiration of ninety days following the date of enactment of this Act [Nov. 9, 1973]."

SUBCHAPTER IV—PROHIBITION AGAINST FUTURE USE OF LEAD-BASED PAINT

§ 4831. Use of lead-based paint

(a) Prohibition by Secretary of Health, Education, and Welfare in application to cooking, drinking, or eating utensils

The Secretary of Health, Education, and Welfare shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any cooking utensil, drinking utensil, or eating utensil manufactured and distributed after January 13, 1971.

(b) Prohibition by Secretary of Housing and Urban Development of use in residential structures constructed or rehabilitated by Federal government or with Federal assistance

The Secretary of Housing and Urban Development shall take steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabiliated by the Federal Government, or with Federal assistance in any form after January 13, 1971.

(c) Prohibition by Consumer Product Safety Commission in application to toys or furniture articles

The Consumer Product Safety Commission shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any toy or furniture article.

(Pub. L. 91-695, title IV, § 401, Jan. 13, 1971, 84 Stat. 2079; Pub. L. 93-151, § 5, Nov. 9, 1973, 87 Stat. 566; Pub. L. 94-317, title II, § 204(b), June 23, 1976, 90 Stat. 705.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-317 designated existing text as subsec. (a), and as so designated, struck out requirement of consultation with Secretary of Housing and Urban Development and provisions relating to prohibition of use of lead based paint in residential structures constructed or rehabilitated by Federal government or with Federal assistance.

Subsecs. (b), (c). Pub. L. 94-317 added subsecs. (b) and (c).

1973—Pub. L. 93-151 provided for consultation of the Secretaries, incorporated existing text in provisions designated as cl. (1) and added cl. (2).

SUBCHAPTER V—GENERAL PROVISIONS

§ 4841. Definitions

As used in this chapter—

(1) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(2) The term "units of general local government" means (A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, (B) any combination of units of general local gov-

ernment in one or more States, (C) an Indian tribe, or (D) with respect to lead-based paint poisoning elimination activities in their urban areas, the territories and possessions of the United States.

(3)(A) Except as provided in subparagraph (B), the term "lead-based paint" means any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.

(B)(i) The Consumer Product Safety Commission shall, during the six-month period beginning on the date of the enactment of the National Health Promotion and Disease Prevention Act of 1976, determine, on the basis of available data and information and after providing opportunity for an oral hearing and considering recommendations of the Secretary of Health, Education, and Welfare (including those of the Center for Disease Control) and of the National Academy of Sciences, whether or not a level of lead in paint which is greater than six one-hundredths of 1 per centum but not in excess of five-tenths of 1 per centum is safe. If the Commission determines, in accordance with the preceding sentence, that another level of lead is safe, the term "lead-based paint" means, with respect to paint which is manufactured after the expiration of the six-month period beginning on the date of the Commission's determination, paint containing by weight (calculated as lead metal) in the total nonvolatile content of the paint more than the level of lead determined by the Commission to be safe or the equivalent measure of lead in the dried film of paint already applied, or both.

(ii) Unless the definition of the term "lead-based paint" has been established by a determination of the Consumer Product Safety Commission pursuant to clause (i) of this subparagraph, the term "lead-based paint" means, with respect to paint which is manufactured after the expiration of the twelve-month period beginning on such date of enactment, paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.

(Pub. L. 91-695, title V, § 501, Jan. 13, 1971, 84 Stat. 2080; Pub. L. 93-151, § 6, Nov. 9, 1973, 87 Stat. 567; Pub. L. 94-317, title II, § 204(c), June 23, 1976, 90 Stat. 706.)

REFERENCES IN TEXT

The National Health Promotion and Disease Prevention Act of 1976, referred to in par. (3)(B)(i), probably means Pub. L. 94-317, June 23, 1976, 90 Stat. 695, which enacted sections 300u to 300u-5 of this title, amended sections 201, 243, 247b, 247c, 264, 300f, 4801, 4831, and 4841 to 4843 of this title, and enacted provisions set out as notes under sections 201, 247b, and 247c of this title. For complete classification of this Act to the Code, see Tables volume.

Such date of enactment, referred to in par. (3)(B)(ii), probably means the date of approval of Pub. L. 94-317, which was June 23, 1976.

AMENDMENTS

1976—Par. (3). Pub. L. 94-317 substituted provisions redefining standards for lead in paint and the procedures used to determine such standards, for provisions defining standards of lead-based paint to be paint containing more than five-tenths of 1 per centum of lead by weight prior to Dec. 31, 1974, and after such date, paint containing more than six one-hundredths of 1 per centum of lead by weight, except where the Chairman of the Consumer Product Safety Commission determined that the pre-1974 level was safe, then such level to become effective.

1973—Subd. (3). Pub. L. 93-151 added subd. (3). Former subd. (3) defined "lead-based paint" to mean any paint containing more than 1 per centum lead by weight (calculated as lead metal) in the total non-volatile content of liquid paints or in the dried film of paint already applied.

§ 4842. Consultation by Secretary with other departments and agencies

In carrying out their respective authorities under this chapter, the Secretary of Housing and Urban Development and the Secretary of Health, Education, and Welfare shall each cooperate with and seek the advice of the heads of any other departments or agencies regarding any programs under their respective responsibilities which are related to, or would be affected by, such authority.

(Pub. L. 91-695, title V, § 502, Jan. 13, 1971, 84 Stat. 2080; Pub. L. 94-317, title II, § 204(d), June 23, 1976, 90 Stat. 706.)

AMENDMENTS

1976—Pub. L. 94-317 substituted "In carrying out their respective authorities under this chapter, the Secretary of Housing and Urban Development and the Secretary of Health, Education, and Welfare shall each" for "In carrying out the authority under this chapter, the Secretary of Health, Education, and Welfare shall".

§ 4843. Authorization of appropriations

(a) There are authorized to be appropriated to carry out this chapter $10,000,000 for the fiscal year 1976, $12,000,000 for the fiscal year 1977, and $14,000,000 for the fiscal year 1978.

(b) Any amounts appropriated under this section shall remain available until expended when so provided in appropriation Acts; and any amounts authorized for one fiscal year but not appropriated may be appropriated for the succeeding fiscal year.

(Pub. L. 91-695, title V, § 503, Jan. 13, 1971, 84 Stat. 2080; Pub. L. 93-151, § 7(a)-(d), Nov. 9, 1973, 87 Stat. 567; Pub. L. 94-317, title II, § 204(e), June 23, 1976, 90 Stat. 706.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-317, § 204(e)(1), substituted provisions authorizing appropriations for this chapter of $10,000,000 for fiscal year 1976, $12,000,000 for fiscal year 1977, and $14,000,000 for fiscal year 1978 for provisions authorizing appropriations for subchapter I of this chapter not to exceed $3,330,000 for fiscal year 1971, $6,660,000 for fiscal year 1972, and $25,000,000 for each of the fiscal years 1974 and 1975.

Subsec. (b). Pub. L. 94-317, § 204(e)(1), (2), redesignated former subsec. (d) as (b). Former subsec. (b), which provided authorization of appropriations for subchapter II of this chapter not to exceed $5,000,000 for fiscal year 1971, $10,000,000 for fiscal year 1972, and $35,000,000 for each of the fiscal years 1974 and 1975, was struck out.

Subsec. (c). Pub. L. 94-317, § 204(e)(1), struck out subsec. (c) which provided for authorization of appropriations for subchapter III of this chapter not to exceed $1,670,000 for the fiscal year 1971, $3,340,000 for fiscal year 1972, and $3,000,000 for each of the fiscal years 1974 and 1975.

Subsec. (d). Pub. L. 94-317, § 204(e)(2), redesignated subsec. (d) as (b).

1973—Subsec. (a). Pub. L. 93-151, § 7(a), provided for appropriations authorization of $25,000,000 for fiscal years 1974 and 1975 for carrying out subchapter I provisions.

Subsec. (b). Pub. L. 93-151, § 7(b), provided for appropriations authorization of $35,000,000 for fiscal years 1974 and 1975 for carrying out subchapter II provisions.

Subsec. (c). Pub. L. 93-151, § 7(c), provided for appropriations authorization of $3,000,000 for fiscal years 1974 and 1975 for carrying out subchapter III provisions.

Subsec. (d). Pub. L. 93-151, § 7(d), substituted "amounts authorized for one fiscal year but not appropriated may be appropriated for the succeeding fiscal year" for "amounts authorized for the fiscal year 1971 but not appropriated may be appropriated for the fiscal year 1972".

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (d) of this section [now subsec. (b)], see section 204(3) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 997, set out as a note under section 390e of Title 7, Agriculture.

§ 4844. Eligibility of certain State agencies

Notwithstanding any other provision of this chapter, grants authorized under sections 4801 and 4811 of this title may be made to an agency of State government in any case where State government provides direct services to citizens in local communities or where units of general local government within the State are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with their intended purpose.

(Pub. L. 91-695, title V, § 504, as added Pub. L. 93-151, § 7(e), Nov. 9, 1973, 87 Stat. 567.)

§ 4845. National Childhood Lead Based Paint Poisoning Advisory Board

(a) Establishment; functions; residential representation; compensation; reimbursement of expenses

The Secretary of Health, Education, and Welfare, in consultation with the Secretary of Housing and Urban Development, is authorized to establish a National Childhood Lead Based Paint Poisoning Advisory Board to advise the Secretary on policy relating to the administration of this chapter. Members of the Board shall include residents of communities and neighborhoods affected by lead based paint poisoning. Each member of the National Advisory Board who is not an officer of the Federal Government is authorized to receive an amount equal to the minimum daily rate prescribed for GS-18, under section 5332 of title 5, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of the Board. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

(b) Advisory boards for local programs; establishment; residential representation; parental majority; reimbursement of expenses

The Secretary of Health, Education, and Welfare, in consultation with the Secretary of Housing and Urban Development, shall promulgate regulations for establishment of an advisory board for each local program assisted under this chapter to assist in carrying out this program. Two-thirds of the board shall be residents of communities and neighborhoods affected by lead based paint poisoning. A majority of the board shall be appointed from among parents, who, when appointed, have at least one child under six years of age. Each member of a local advisory board shall only be reimbursed for necessary expenses incurred in the actual performance of his duties as a member of the board.

(Pub. L. 91-695, title V, § 505, as added Pub. L. 93-151, § 7(e), Nov. 9, 1973, 87 Stat. 568.)

TERMINATION OF ADVISORY BOARDS

Advisory Boards established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 4846. State laws superseded, and null and void

It is hereby expressly declared that it is the intent of the Congress to supersede any and all laws of the States and units of local government insofar as they may now or hereafter provide for a requirement, prohibition, or standard relating to the lead content in paints or other similar surface-coating materials which differs from the provisions of this chapter or regulations issued pursuant to this chapter. Any law, regulation, or ordinance purporting to establish such different requirement, prohibition, or standard shall be null and void.

(Pub. L. 91-695, title V, § 506, as added Pub. L. 93-151, § 7(e), Nov. 9, 1973, 87 Stat. 568.)

CHAPTER 64—PUBLIC SERVICE EMPLOYMENT PROGRAMS

§§ 4871 to 4883. Omitted

CODIFICATION

The public service employment programs covered by this chapter and authorized pursuant to the Emergency Employment Act of 1971, Pub. L. 92-54, July 12, 1971, 85 Stat. 146, which enacted this chapter, are omitted since appropriations were not authorized after June 30, 1973. Similar public service employment programs are included in the Comprehensive Employment and Training Act of 1973, Pub. L. 93-203, title II, §§ 201-211, Dec. 28, 1973, 87 Stat. 850-857, which is classified to section 841 et seq. of Title 29, Labor. The former and new sections are comparable according to the following table:

Former sections Title 42	*New sections Title 29*
4871	841
4872	843
4873	844
4874	802
4875	Omitted
4876	845
4877	846
4878	842
4879	843
4880	847
4881	848
4882	849
4883	981

Section 4871, Pub. L. 92-54, § 2, July 12, 1971, 85 Stat. 146, which set forth the Congressional statement of findings and purposes, was omitted from the Code as superseded by Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973. See section 841 of Title 29, Labor.

Section 4872, Pub. L. 92-54, § 3, July 12, 1971, 85 Stat. 147, which related to financial assistance, was omitted from the Code as superseded by Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973. See section 843 of Title 29, Labor.

Section 4873, Pub. L. 92-54, § 4, July 12, 1971, 85 Stat. 147, which related to the eligibility of applicants, was omitted from the Code as superseded by Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973. See section 844 of Title 29, Labor.

Section 4874, Pub. L. 92-54, § 5, July 12, 1971, 85 Stat. 148, which related to authorization of appropriations and the national unemployment rate, was omitted from the Code as superseded by Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973. See section 802 of Title 29, Labor.

Section 4875, Pub. L. 92-54, § 6, July 12, 1971, 85 Stat. 148, which related to special employment assistance, was omitted from the Code as superseded by Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973.

Section 4876, Pub. L. 92-54, § 7, July 12, 1971, 85 Stat. 149, which related to applications for financial assistance, was omitted from the Code as superseded by Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973. See section 845 of Title 29, Labor.

Section 4877, Pub. L. 92-54, § 8, July 12, 1971, 85 Stat. 151, which related to approval of applications and non-Federal contributions, was omitted from the Code as superseded by Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973. See section 846 of Title 29, Labor.

Section 4878, Pub. L. 92-54, § 9, July 12, 1971, 85 Stat. 151, which related to interstate and intrastate allocation of funds, was omitted from the Code as superseded by Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973. See section 842 of Title 29, Labor.

Section 4879, Pub. L. 92-54, § 10, July 12, 1971, 85 Stat. 152, which related to training and manpower services, was omitted from the Code as superseded by Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973. See section 843 of Title 29, Labor.

Section 4880, Pub. L. 92-54, § 11, July 12, 1971, 85 Stat. 152, which related to periodic review and evaluation by the Secretary, was omitted from the Code as superseded by Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973. See section 847 of Title 29, Labor.

Section 4881, Pub. L. 92-54, § 12, July 12, 1971, 85 Stat. 153, which set forth special provisions relating to programs, was omitted from the Code as superseded by Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973. See section 848 of Title 29, Labor.

Section 4882, Pub. L. 92-54, § 13, July 12, 1971, 85 Stat. 155, which related to a special report to Congress, was omitted from the Code as superseded by Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973. See section 849 of Title 29, Labor.

Section 4883, Pub. L. 92-54, § 14, July 12, 1971, 85 Stat. 155, setting forth definitions, was omitted from the Code as superseded by Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973. See section 981 of Title 29, Labor.

CHAPTER 65—NOISE CONTROL

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 section 228g.

§ 4901. Congressional findings and statement of policy

(a) The Congress finds—

(1) that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

(2) that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other products in commerce; and

(3) that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce control of which require national uniformity of treatment.

(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this chapter to establish a means for effective coordination of Federal research and activities in noise control, to authorize the establishment of Federal noise emission standards for products distributed in commerce, and to provide information to the public respecting the noise emission and noise reduction characteristics of such products.

(Pub. L. 92-574, § 2, Oct. 27, 1972, 86 Stat. 1234.)

SHORT TITLE

Section 1 of Pub. L. 92-574 provided that: "This Act [which enacted this chapter, amended section 1431 of Title 49, Transportation, and enacted provisions set out as notes under this section and section 1431 of Title 49] may be cited as the 'Noise Control Act of 1972'."

EXECUTIVE ORDER No. 11752

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of this title, provides for the prevention, control, and abatement of environmental pollution at federal facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4903 of this title.

§ 4902. Definitions

For purposes of this chapter:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "person" means an individual, corporation, partnership, or association, and (except as provided in sections 4910(e) and 4911(a) of this title) includes any officer, employee, department, agency, or instrumentality of the United States, a State, or any political subdivision of a State.

(3) The term "product" means any manufactured article or goods or component thereof; except that such term does not include—

(A) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 1301 of title 49; or

(B)(i) any military weapons or equipment which are designed for combat use; (ii) any rockets or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration; or (iii) to the extent provided by regulations of the Administrator, any other machinery or equipment designed for use in experimental work done by or for the Federal Government.

(4) The term "ultimate purchaser" means the first person who in good faith purchases a product for purposes other than resale.

(5) The term "new product" means (A) a product the equitable or legal title of which has never been transferred to an ultimate purchaser, or (B) a product which is imported or offered for importation into the United States and which is manufactured after the effective date of a regulation under section 4905 or 4907 of this title which would have been applicable to such product had it been manufactured in the United States.

(6) The term "manufacturer" means any person engaged in the manufacturing or assembling of new products, or the importing of new products for resale, or who acts for, and is controlled by, any such person in connection with the distribution of such products.

(7) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(8) The term "distribute in commerce" means sell in, offer for sale in, or introduce or deliver for introduction into, commerce.

(9) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(10) The term "Federal agency" means an executive agency (as defined in section 105 of title 5) and includes the United States Postal Service.

(11) The term "environmental noise" means the intensity, duration, and the character of sounds from all sources.

(Pub. L. 92-574, § 3, Oct. 27, 1972, 86 Stat. 1234.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4903 of this title.

§ 4903. Federal programs

(a) Furtherance of Congressional policy

The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 4901(b) of this title.

(b) Presidential authority to exempt activities or facilities from compliance requirements

Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government—

(1) having jurisdiction over any property or facility, or

(2) engaged in any activity resulting, or which may result, in the emission of noise,

shall comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements. The President may exempt any single activity or facility, including noise emission sources or classes thereof, of any department, agency, or instrumentality in the executive branch from compliance with any such requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption, other than for those products referred to in section 4902(3)(B) of this title, may be granted from the requirements of sections 4905, 4916, and 4917 of this title. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

(c) Coordination of programs of Federal agencies; standards and regulations; status reports

(1) The Administrator shall coordinate the programs of all Federal agencies relating to noise research and noise control. Each Federal agency shall, upon request, furnish to the Administrator such information as he may reasonably require to determine the nature, scope, and results of the noise-research and noise-control programs of the agency.

(2) Each Federal agency shall consult with the Administrator in prescribing standards or regulations respecting noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation, of any Federal agency respecting noise does not protect the public health and welfare to the extent he believes to be required and feasible, he may request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request may be published in the Federal Register and shall be accompanied by a detailed statement of the information on which it is based. Such agency shall complete the requested review and report to the Administrator within such time as the Administrator specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standard or regulation. With respect to the Federal Aviation Administration, section 1431 of title 49 shall apply in lieu of this paragraph.

(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish, from time to time, a report on the status and progress of Federal activities relating to noise research and noise control. This report shall describe the noise-control programs of each Federal agency and assess the contributions of those programs to the Federal Government's overall efforts to control noise.

(Pub. L. 92-574, § 4, Oct. 27, 1972, 86 Stat. 1235.)

§ 4904. Identification of major noise sources

(a) Development and publication of criteria

(1) The Administrator shall, after consultation with appropriate Federal agencies and within nine months of October 27, 1972, develop and publish criteria with respect to noise. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise.

(2) The Administrator shall, after consultation with appropriate Federal agencies and within twelve months of October 27, 1972, publish information on the levels of environmental noise the attainment and maintenance of which in defined areas under various conditions are requisite to protect the public health and welfare with an adequate margin of safety.

(b) Compilation and publication of reports on noise sources and control technology

The Administrator shall, after consultation with appropriate Federal agencies, compile and publish a report or series of reports (1) identifying products (or classes of products) which in his judgment are major sources of noise, and

(2) giving information on techniques for control of noise from such products, including available data on the technology, costs, and alternative methods of noise control. The first such report shall be published not later than eighteen months after October 27, 1972.

(c) Supplemental criteria and reports

The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports published under this section.

(d) Publication in Federal Register

Any report (or revision thereof) under subsection (b)(1) of this section identifying major noise sources shall be published in the Federal Register. The publication or revision under this section of any criteria or information on control techniques shall be announced in the Federal Register, and copies shall be made available to the general public.

(Pub. L. 92-574, § 5, Oct. 27, 1972, 86 Stat. 1236.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4905 of this title.

§ 4905. Noise emission standards for products distributed in commerce

(a) Proposed regulations

(1) The Administrator shall publish proposed regulations, meeting the requirements of subsection (c) of this section, for each product—

(A) which is identified (or is part of a class identified) in any report published under section 4904(b)(1) of this title as a major source of noise,

(B) for which, in his judgment, noise emission standards are feasible, and

(C) which falls in one of the following categories:

(i) Construction equipment,

(ii) Transportation equipment (including recreational vehicles and related equipment).

(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

(iv) Electrical or electronic equipment.

(2)(A) Initial proposed regulations under paragraph (1) shall be published not later than eighteen months after October 27, 1972, and shall apply to any product described in paragraph (1) which is identified (or is a part of a class identified) as a major source of noise in any report published under section 4904(b)(1) of this title on or before the date of publication of such initial proposed regulations.

(B) In the case of any product described in paragraph (1) which is identified (or is part of a class identified) as a major source of noise in a report published under section 4904(b)(1) of this title after publication of the initial proposed regulations under subparagraph (A) of this paragraph, regulations under paragraph (1) for such product shall be proposed and published by the Administrator not later than eighteen months after such report is published.

(3) After proposed regulations respecting a product have been published under paragraph (2), the Administrator shall, unless in his judgment noise emission standards are not feasible for such product, prescribe regulations, meeting the requirements of subsection (c) of this section, for such product—

(A) not earlier than six months after publication of such proposed regulations, and

(B) not later than—

(i) twenty-four months after October 27, 1972, in the case of a product subject to proposed regulations published under paragraph (2)(A), or

(ii) in the case of any other product, twenty-four months after the publication of the report under section 4904(b)(1) of this title identifying it (or a class of products of which it is a part) as a major source of noise.

(b) Authority to publish regulations not otherwise required

The Administrator may publish proposed regulations, meeting the requirements of subsection (c) of this section, for any product for which he is not required by subsection (a) of this section to prescribe regulations but for which, in his judgment, noise emission standards are feasible and are requisite to protect the public health and welfare. Not earlier than six months after the date of publication of such proposed regulations respecting such product, he may prescribe regulations, meeting the requirements of subsection (c) of this section, for such product.

(c) Contents of regulations; appropriate consideration of other standards; participation by interested persons; revision

(1) Any regulation prescribed under subsection (a) or (b) of this section (and any revision thereof) respecting a product shall include a noise emission standard which shall set limits on noise emissions from such product and shall be a standard which in the Administrator's judgment, based on criteria published under section 4904 of this title, is requisite to protect the public health and welfare, taking into account the magnitude and conditions of use of such product (alone or in combination with other noise sources), the degree of noise reduction achievable through the application of the best available technology, and the cost of compliance. In establishing such a standard for any product, the Administrator shall give appropriate consideration to standards under other laws designed to safeguard the health and welfare of persons, including any standards under the National Traffic and Motor Vehicle Safety Act of 1966 [15 U.S.C. 1381 et seq.], the Clean Air Act [42 U.S.C. 1857 et seq.], and the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.]. Any such noise emission standards shall be a performance standard. In addition, any regulation under subsection (a) or (b) of this section (and any revision thereof) may contain testing procedures necessary to assure compliance with the emission standard in such regulation, and may contain provisions respecting instructions of the manufacturer for the maintenance, use, or repair of the product.

(2) After publication of any proposed regulations under this section, the Administrator shall allow interested persons an opportunity to

participate in rulemaking in accordance with the first sentence of section 553(c) of title 5.

(3) The Administrator may revise any regulation prescribed by him under this section by (A) publication of proposed revised regulations, and (B) the promulgation, not earlier than six months after the date of such publication, of regulations making the revision; except that a revision which makes only technical or clerical corrections in a regulation under this section may be promulgated earlier than six months after such date if the Administrator finds that such earlier promulgation is in the public interest.

(d) Warranty by manufacturer of conformity of product with regulations; transfer of cost obligation from manufacturer to dealer prohibited

(1) On and after the effective date of any regulation prescribed under subsection (a) or (b) of this section, the manufacturer of each new product to which such regulation applies shall warrant to the ultimate purchaser and each subsequent purchaser that such product is designed, built, and equipped so as to conform at the time of sale with such regulation.

(2) Any cost obligation of any dealer incurred as a result of any requirement imposed by paragraph (1) of this subsection shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

(3) If a manufacturer includes in any advertisement a statement respecting the cost or value of noise emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Clean Air Act [42 U.S.C. 1857j].

(e) State and local regulations

(1) No State or political subdivision thereof may adopt or enforce—

(A) with respect to any new product for which a regulation has been prescribed by the Administrator under this section, any law or regulation which sets a limit on noise emissions from such new product and which is not identical to such regulation of the Administrator; or

(B) with respect to any component incorporated into such new product by the manufacturer of such product, any law or regulation setting a limit on noise emissions from such component when so incorporated.

(2) Subject to sections 4916 and 4917 of this title, nothing in this section precludes or denies the right of any State or political subdivision thereof to establish and enforce controls on environmental noise (or one or more sources thereof) through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products.

(Pub. L. 92-574, § 6, Oct. 27, 1972, 86 Stat. 1237.)

REFERENCES IN TEXT

The National Traffic and Motor Vehicle Safety Act of 1966, referred to in subsec. (c)(1), is Pub. L. 89-563, Sept. 9, 1966, 80 Stat. 718, as amended, which is classified generally to chapter 38 (§ 1381 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1381 of Title 15 and Tables volume.

The Clean Air Act, referred to in subsec. (c)(1), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, which is classified generally to chapter 15B (§ 1857 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1857 of this title and Tables volume.

The Federal Water Pollution Control Act, referred to in subsec. (c)(1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4902, 4903, 4907, 4909, 4912, 4914 to 4917 of this title; title 15 section 2002.

§ 4906. Omitted

CODIFICATION

Section, Pub. L. 92-574, § 7(a), Oct. 27, 1972, 86 Stat. 1239, which related to a study by the Administrator of the adequacy of noise controls, noise emission standards, and measures available to control such noise, the results of such study to be reported to the appropriate committees of Congress within nine months after Oct. 27, 1972, has been omitted as executed.

§ 4907. Labeling

(a) Regulations

The Administrator shall by regulation designate any product (or class thereof)—

(1) which emits noise capable of adversely affecting the public health or welfare; or

(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise.

(b) Manner of notice; form; methods and units of measurement

For each product (or class thereof) designated under subsection (a) of this section the Administrator shall by regulation require that notice be given to the prospective user of the level of the noise the product emits, or of its effectiveness in reducing noise, as the case may be. Such regulations shall specify (1) whether such notice shall be affixed to the product or to the outside of its container, or to both, at the time of its sale to the ultimate purchaser or whether such notice shall be given to the prospective user in some other manner, (2) the form of the notice, and (3) the methods and units of measurement to be used. Section 4905(c)(2) of this title shall apply to the prescribing of any regulation under this section.

(c) State regulation of product labeling

This section does not prevent any State or political subdivision thereof from regulating product labeling or information respecting products in any way not in conflict with regulations prescribed by the Administrator under this section.

(Pub. L. 92-574, § 8, Oct. 27, 1972, 86 Stat. 1241.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4902, 4909, 4912, 4915 of this title.

§ 4908. Imports

The Secretary of the Treasury shall, inconsultation with the Administrator, issue regulations to carry out the provisions of this chapter with respect to new products imported or offered for importation.

(Pub. L. 92-574, § 9, Oct. 27, 1972, 86 Stat. 1242.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4909 of this title.

§ 4909. Prohibited acts

(a) Except as otherwise provided in subsection (b) of this section, the following acts or the causing thereof are prohibited:

(1) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 4905 of this title which is applicable to such product, except in conformity with such regulation.

(2)(A) The removal or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any product in compliance with regulations under section 4905 of this title, prior to its sale or delivery to the ultimate purchaser or while it is in use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative by any person.

(3) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 4907(b) of this title (requiring information respecting noise) which is applicable to such product, except in conformity with such regulation.

(4) The removal by any person of any notice affixed to a product or container pursuant to regulations prescribed under section 4907(b) of this title, prior to sale of the product to the ultimate purchaser.

(5) The importation into the United States by any person of any new product in violation of a regulation prescribed under section 4908 of this title which is applicable to such product.

(6) The failure or refusal by any person to comply with any requirement of section 4910(d) or 4912(a) of this title or regulations prescribed under section 4912(a), 4916, or 4917 of this title.

(b)(1) For the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security, the Administrator may exempt for a specified period of time any product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a) of this section, upon such terms and conditions as he may find necessary to protect the public health or welfare.

(2) Paragraphs (1), (2), (3), and (4) of subsection (a) of this section shall not apply with respect to any product which is manufactured solely for use outside any State and which (and the container of which) is labeled or otherwise marked to show that it is manufactured solely for use outside any State; except that such paragraphs shall apply to such product if it is in fact distributed in commerce for use in any State.

(Pub. L. 92-574, § 10, Oct. 27, 1972, 86 Stat. 1242.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4910, 4911, 4916, 4917 of this title.

§ 4910. Enforcement

(a) Criminal penalties

Any person who willfully or knowingly violates paragraph (1), (3), (5), or (6) of subsection (a) of section 4909 of this title shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(b) Separate violations

For the purpose of this section, each day of violation of any paragraph of section 4909(a) of this title shall constitute a separate violation of that section.

(c) Actions to restrain violations

The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violations of section 4909(a) of this title.

(d) Orders issued to protect the public health and welfare; notice; opportunity for hearing

(1) Whenever any person is in violation of section 4909(a) of this title, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare.

(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5.

(e) "Person" defined

The term "person," as used in this section, does not include a department, agency, or instrumentality of the United States.

(Pub. L. 92-574, § 11, Oct. 27, 1972, 86 Stat. 1242.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4902, 4909, 4916, 4917 of this title.

§ 4911. Citizen suits

(a) Authority to commence suits

Except as provided in subsection (b) of this section, any person (other than the United States) may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the

Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (e) of this section), or

(2) against—

(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this chapter which is not discretionary with such Administrator, or

(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under section 1431 of title 49 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controvery, to restrain such person from violating such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

(b) Notice

No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administrator in the case of a violation of a noise control requirement under such section 1431 of title 49) and (ii) to any alleged violator of such requirement, or

(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right, or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

(c) Intervention

In an action under this section, the Administrator of the Environmental Protection Agency, if not a party, may intervene as a matter of right. In an action under this section respecting a noise control requirement under section 1431 of title 49, the Administrator of the Federal Aviation Administration, if not a party, may also intervene as a matter of right.

(d) Litigation costs

The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(e) Other common law or statutory rights of action

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

(f) "Noise control requirement" defined

For purposes of this section, the term "noise control requirement" means paragraph (1), (2), (3), (4), or (5) of section 4909(a) of this title, or a standard, rule, or regulation issued under section 4916 or 4917 of this title or under section 1431 of title 49.

(Pub. L. 92-574, § 12, Oct. 27, 1972, 86 Stat. 1243.)

Section Referred to in Other Section

This section is referred to in sections 4902, 4916, 4917 of this title.

§ 4912. Records, reports, and information

(a) Duties of manufacturers of products

Each manufacturer of a product to which regulations under section 4905 or 4907 of this title apply shall—

(1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this chapter,

(2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and

(3) to the extent required by regulations of the Administrator, make products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator.

(b) Confidential information; disclosure

(1) All information obtained by the Administrator or his representatives pursuant to subsection (a) of this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other Federal officers or employees, in whose possession it shall remain confidential, or when relevant to the matter in controversy in any proceeding under this chapter.

(2) Nothing in this subsection shall authorize the withholding of information by the Administrator, or by any officers or employees under his control, from the duly authorized committees of the Congress.

(c) Violations and penalties

Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall upon conviction be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

(Pub. L. 92-574, § 13, Oct. 27, 1972, 86 Stat. 1244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4909 of this title.

§ 4913. Research, technical assistance, and public information

In furtherance of his responsibilities under this chapter and to complement, as necessary, the noise-research programs of other Federal agencies, the Administrator is authorized to:

(1) Conduct research, and finance research by contract with any person, on the effects, measurement, and control of noise, including but not limited to—

(A) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects;

(B) development of improved methods and standards for measurement and monitoring of noise, in cooperation with the National Bureau of Standards, Department of Commerce; and

(C) determination of the most effective and practicable means of controlling noise emission.

(2) Provide technical assistance to State and local governments to facilitate their development and enforcement of ambient noise standards, including but not limited to—

(A) advice on training of noise-control personnel and on selection and operation of noise-abatement equipment; and

(B) preparation of model State or local legislation for noise control.

(3) Disseminate to the public information on the effects of noise, acceptable noise levels, and techniques for noise measurement and control.

(Pub. L. 92-574, § 14, Oct. 27, 1972, 86 Stat. 1244.)

§ 4914. Development of low-noise-emission products

(a) Definitions

For the purpose of this section:

(1) The term "Committee" means the Low-Noise-Emission Product Advisory Committee.

(2) The term "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) The term "low-noise-emission product" means any product which emits noise in amounts significantly below the levels specified in noise emission standards under regulations applicable under section 4905 of this title at the time of procurement to that type of product.

(4) The term "retail price" means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

(b) Certification of products; Low-Noise-Emission Product Advisory Committee

(1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

(2) The Administrator shall certify any product—

(A) for which a certification application has been filed in accordance with paragraph (5)(A) of this subsection;

(B) which is a low-noise-emission product as determined by the Administrator; and

(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Bureau of Standards, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for Grade GS-18 of the General Schedule for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(4) Certification under this section shall be effective for a period of one year from the date of issuance.

(5)(A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

(B) The Administrator shall publish in the Federal Register a notice of each application received.

(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product at a place designated in regulations prescribed under subparagraph (A).

(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a

suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

(c) Federal procurement of low-noise-emission products

(1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

(d) Product selection

The procuring agency shall be required to purchase available certified low-noise-emission products which are eligible for purchase to the extent they are available before purchasing any other products for which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-emission qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute.

(e) Waiver of statutory price limitations

For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

(f) Tests of noise emissions from products purchased by Federal government

The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at any time he finds that the noise-emission levels exceed the levels on which certification under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

(g) Authorization of appropriations

There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 for each of the two succeeding fiscal years, $2,200,000 for the fiscal year ending June 30, 1976, $550,000 for the transition period of July 1, 1976, through September 30, 1976, and $2,420,000 for the fiscal year ending September 30, 1977.

(h) Promulgation of procedures

The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after October 27, 1972.

(Pub. L. 92-574, § 15, Oct. 27, 1972, 86 Stat. 1245; Pub. L. 94-301, § 1, May 31, 1976, 90 Stat. 590.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b)(3), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1976—Subsec. (g). Pub. L. 94-301 added authorization of appropriations for the fiscal year ending June 30, 1976, the transition period, and the fiscal year ending September 30, 1977.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. A committee established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a committee established by the President or an officer of the federal government, such committee is renewed by appropriate action prior to the end of such period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4918 of this title.

§ 4915. Judicial review

(a) Petition for review

A petition for review of action of the Administrator of the Environmental Protection Agency in promulgating any standard or regulation under sections 4905, 4916, or 4917 of this title or any labeling regulation under section 4907 of this title may be filed only in the United States Court of Appeals for the District of Columbia Circuit, and a petition for review of action of the Administrator of the Federal Aviation Administration in promulgating any standard or regulation under section 1431 of title 49 may be filed only in such court. Any such petition shall be filed within ninety days from the date of such promulgation, or after date if such petition is based solely on grounds arising after such ninetieth day. Action of either Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.

(b) Additional evidence

If a party seeking review under this chapter applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and

was not available at the time of the proceeding before the Administrator of such Agency or Administration (as the case may be), the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before such Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. Such Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(c) Stay of agency action

With respect to relief pending review of an action by either Administrator, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay is (1) likely to prevail on the merits in the review proceeding and (2) will suffer irreparable harm pending such proceeding.

(d) Subpenas

For the purpose of obtaining information to carry out this chapter, the Administrator of the Environmental Protection Agency may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(Pub. L. 92-574, § 16, Oct. 27, 1972, 86 Stat. 1247.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4916, 4917 of this title.

§ 4916. Railroad noise emission standards

(a) Regulations; standards; consultation with Secretary of Transportation

(1) Within nine months after October 27, 1972, the Administrator shall publish proposed noise emission regulations for surface carriers engaged in interstate commerce by railroad. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 4905 of this title.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 4915 of this title, the Administrator shall promulgate final regulations. Such regulations may be revised, from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) Regulations to insure compliance with noise emission standards

The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Safety Appliance Acts [45 U.S.C. 1 et seq.], the Interstate Commerce Act [49 U.S.C. 1 et seq.], and the Department of Transportation Act [49 U.S.C. 1651 et seq.]. Regulations promulgated under this section shall be subject to the provisions of sections 4909, 4910, 4911, and 4915 of this title.

(c) State and local standards and controls

(1) Subject to paragraph (2) but notwithstanding any other provision of this chapter, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad, no State or political subdivision thereof may adopt or enforce any standard applicable to noise emissions resulting from the operation of the same equipment or facility of such carrier unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

(d) Definitions

The terms "carrier" and "railroad" as used in this section shall have the same meaning as such terms have under section 22 of title 45.

(Pub. L. 92-574, § 17, Oct. 27, 1972, 86 Stat. 1248.)

REFERENCES IN TEXT

The Safety Appliances Acts, referred to in subsec. (b), are acts Mar. 2, 1893, ch. 196, 27 Stat. 531, which enacted sections 1 to 7 of Title 45, Railroads; act Mar. 2, 1903, ch. 976, 32 Stat. 943, which enacted sections 8, 9, and 10 of Title 45, and act Apr. 14, 1910, ch. 160, 36 Stat. 298, which enacted sections 11 to 16 of Title 45. For complete classification of these Acts to the Code, see Tables volume.

The Interstate Commerce Act, referred to in subsec. (b), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, which is classified generally to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49 Transportation. For complete classification of this Act to the Code, see note captioned Interstate Commerce Act set out under section 27 of Title 49 and Tables volume.

The Department of Transportation Act, referred to in subsec. (b), is Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, as amended, which is classified generally to chapter 23 (§ 1651 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1651 of Title 49 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4903, 4905, 4909, 4911, 4915 of this title.

§ 4917. Motor carrier noise emission standards

(a) Regulations; standards; consultation with Secretary of Transportation

(1) Within nine months after October 27, 1972, the Administrator shall publish proposed noise emission regulations for motor carriers engaged in interstate commerce. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of motor carriers engaged in interstate commerce which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 4905 of this title.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 4915 of this title, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) Regulations to insure compliance with noise emission standards

The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Interstate Commerce Act [49 U.S.C. 1 et seq.] and the Department of Transportation Act [49 U.S.C. 1651 et seq.]. Regulations promulgated under this section shall be subject to the provisions of sections 4909, 4910, 4911, and 4915 of this title.

(c) State and local standards and controls

(1) Subject to paragraph (2) of this subsection but notwithstanding any other provision of this chapter, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any motor carrier engaged in interstate commerce, no State or political subdivision thereof may adopt or enforce any standard applicable to the same operation of such motor carrier, unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

(d) Definitions

For purposes of this section, the term "motor carrier" includes a common carrier by motor vehicle, a contract carrier by motor vehicle, and a private carrier of property by motor vehicle as those terms are defined by paragraphs (14), (15), and (17) of section 203(a) of the Interstate Commerce Act (49 U.S.C. 303(a)).

(Pub. L. 92-574, § 18, Oct. 27, 1972, 86 Stat. 1249.)

REFERENCES IN TEXT

The Interstate Commerce Act, referred to in subsec. (b), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which is classified generally to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see note captioned Interstate Commerce Act set out under section 27 of Title 49 and Tables volume.

The Department of Transportation Act, referred to in subsec. (b), is Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, as amended, which is classified generally to chapter 23 (§ 1651 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1651 of Title 49 and Tables volume.

Paragraphs (14), (15), and (17) of section 203(a) of the Interstate Commerce Act (49 U.S.C. 303(a)), referred to in subsec. (d), appear as paragraphs (14), (15), and (17) of section 303(a) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4903, 4905, 4909, 4911, 4915 of this title.

§ 4918. Authorization of appropriations

There is authorized to be appropriated to carry out this chapter (other than section 4914 of this title) $3,000,000 for the fiscal year ending June 30, 1973; $6,000,000 for the fiscal year ending June 30, 1974; $12,000,000 for the fiscal year ending June 30, 1975; $11,090,000 for the fiscal year ending June 30, 1976; $2,772,500 for the transition period of July 1, 1976, through September 30, 1976; and $12,199,000 for the fiscal year ending September 30, 1977; except that no part of any amount appropriated pursuant to this section or section 4914 of this title for any period after the fiscal year ending June 30, 1975, shall be available for research or development.

(Pub. L. 92-574, § 19, Oct. 27, 1972, 86 Stat. 1250; Pub. L. 94-301, § 2, May 31, 1976, 90 Stat. 590.)

AMENDMENTS

1976—Pub. L. 94-301 added authorization of appropriations for the fiscal year ending June 30, 1976, the transition period, and the fiscal year ending September 30, 1977, and provisions excepting appropriations for research and development use.

CHAPTER 66—DOMESTIC VOLUNTEER SERVICES

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This chapter is referred to in section 6063 of this title; title 20 sections 1077, 1078.

SUBCHAPTER I—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 294d, 5081 of this title.

PART A—VOLUNTEERS IN SERVICE TO AMERICA

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 4972, 4992, 5041, 5055, 5081 of this title; title 5 section 8332.

§ 4951. Congressional statement of purpose

This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems.

(Pub. L. 93-113, title I, § 101, Oct. 1, 1973, 87 Stat. 396.)

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-293, § 1, May 27, 1976, 90 Stat. 525, provided: "That this Act [enacting sections 4958 and 4993 of this title; amending sections 4974, 4992, 5011, 5042, 5045, 5081, 5083, and 5084 of this title, repealing section 5053 of this title, and enacting provision set out as a note under section 4958 of this title] may be cited as the 'Domestic Volunteer Service Act Amendments of 1976'."

SHORT TITLE

Section 1 of Pub. L. 93-113 provided: "That this Act [which enacted this chapter, amended section 3067 of this title and section 8332(b)(7) of Title 5, Government Organization and Employees, and repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under this section and section 5041 of this title] may be cited as the 'Domestic Volunteer Service Act of 1973'."

§ 4952. Authority to operate Vista program

The Director may recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purpose of this part.

(Pub. L. 93-113, title I, § 102, Oct. 1, 1973, 87 Stat. 396.)

§ 4953. Assignment of volunteers

(a) Programs or projects for Indians, migratory and seasonal farmworkers and their families, residents of certain areas, mentally ill, developmentally disabled, and other handicapped individuals, and persons eligible for assistance under this chapter or for economic opportunity assistance

The Director, upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to work in the several States in appropriate projects and programs—

(1) in meeting the health, education, welfare, or related needs of Indians living on reservations or Federal trust lands, of migratory and seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other handicapped individuals, especially those with severe handicaps, under the supervision of nonprofit institutions or facilities; and

(3) in connection with programs or activities authorized, supported, or of a character eligible for assistance under this chapter or the Economic Opportunity Act of 1964, as amended [42 U.S.C. 2701 et seq.] in furtherance of the purpose of this subchapter.

(b) Home community services of teams of low-income community volunteers and nationally recruited specialist volunteers; individual plans for low-income community volunteers; updating and review of individual plans

The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. Prior to the assignment of any such community volunteer, the Director shall insure that each such volunteer is provided an individual plan designed to provide an opportunity for job advancement or for transition to a situation leading to gainful employment. One hundred and twenty days prior to the completion of such community volunteer's term of service, the Director shall insure that such plan is updated and reviewed with the volunteer.

(c) Terms and conditions; restrictions on political activities; place of service

Except as provided in subsection (d) of this section, the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

(d) Program submittal to Governor; commencement and termination of service

Volunteers under this part shall not be assigned to duties or work in any State unless such program has been submitted to the Governor or other chief executive officer of the State concerned, and has not been disapproved by him within forty-five days of such submission. The assignment of a volunteer shall be terminated by the Director when so requested by the Governor or chief executive officer of the State concerned not later than thirty days after such request has been made, or at a time after such request has been made as agreed upon by such Governor or chief executive officer of the State concerned and the Director.

(Pub. L. 93-113, title I, § 103, Oct. 1, 1973, 87 Stat. 396.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(3), in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Economic Opportunity Act of 1964, as amended, referred to in subsec. (a)(3), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, which is classified generally to chapter 34 (§ 2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4972, 4974 of this title.

§ 4954. Terms and periods of service

(a) Personal commitment; scope of commitment

Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty and poverty-related human, social, and environmental problems. To the maximum extent practicable, this shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave.

(b) Minimum period of service; critical scarce-skill needs exception; reenrollment; limitation

Volunteers serving under this part may be enrolled for periods of service not exceeding two years, but for not less than one-year periods of service, except that volunteers serving under this part may be enrolled for periods of service of less than one year when the Director determines, on an individual basis, that a period of service of less than one year is necessary to meet a critical scarce-skill need. Volunteers serving under this part may be reenrolled for periods of service totaling not more than two years. No volunteer shall serve for more than a total of five years under this part.

(c) Oath or affirmation

Volunteers under this part shall, upon enrollment, take the oath of office as prescribed in section 2504(j) of title 22, except that persons legally residing within a State but who are not citizens or nationals of the United States, may serve under this part without taking or subscribing to such oath, if the Director determines that the service of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

(d) Grievance and personal view presentation procedure; notice and hearing; information

The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on October 1, 1973, and to each such volunteer beginning service thereafter, information regarding such procedure and the terms and conditions of their service.

(Pub. L. 93-113, title I, § 104, Oct. 1, 1973, 87 Stat. 397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4972, 4973 of this title.

§ 4955. Support services

(a) Stipend; limitation; volunteer leaders; payment upon completion of term; advancement of accrued stipend; beneficiary of deceased volunteer

(1) The Director may provide a stipend to volunteers, while they are in training and during their assignments, enrolled for periods of service of not less than one year under this part, except that the Director may, on an individual basis, make an exception to provide a stipend to a volunteer enrolled under this part for an extended period of service not totaling one year. Such stipend shall not exceed $75 per month during the volunteer's service, except that the Director may provide a stipend not to exceed $75 per month in the case of persons who have served for at least one year and who, in accordance with standards established in regulations which the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(2) Stipends shall be payable only upon completion of a period of service, except that in extraordinary circumstances the Director may from time to time advance all or a portion of the accrued stipend to or on behalf of a volunteer. In the event of the death of a volunteer during service, the amount of any unpaid sti-

pend shall be paid in accordance with the provisions of section 5582 of title 5.

(b) Description of allowances and support services

The Director shall also provide volunteers such living, travel (including travel to and from places of training), and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, technical assistance, and such other support as he deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work to which such volunteer is assigned.

(Pub. L. 93-113, title I, § 105, Oct. 1, 1973, 87 Stat. 398; Pub. L. 94-130, § 5(a), Nov. 14, 1975, 89 Stat. 684.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94-130 substituted "shall not exceed $75" for "shall not exceed $50".

ADDITIONAL APPROPRIATIONS AUTHORIZATION

Section 5(b) of Pub. L. 94-130 provided that: "There are authorized to be appropriated, in addition to the sums authorized to be appropriated pursuant to section 501 of such Act [section 5081 of this title], such additional sums as may be necessary to carry out the amendments made by subsection (a) of this section [to subsec. (a)(1) of this section]. Such amendments are to be effective for each fiscal year only to such extent and for such amounts as are specifically provided for such purpose in such appropriation Acts."

§ 4956. Participation of program beneficiaries

To the maximum extent practicable, the people of the communities to be served by volunteers under this subchapter shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the people served by such agencies, shall take all necessary steps to establish, in regulations he shall prescribe, a continuing mechanism for the meaningful participation of such program beneficiaries.

(Pub. L. 93-113, title I, § 106, Oct. 1, 1973, 87 Stat. 398.)

§ 4957. Participation of older persons

In carrying out this part and part C of this subchapter, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the various programs and activities authorized under such parts and, because of the high proportion of older persons within the poverty group, shall encourage the development of a variety of volunteer services to older persons, including special projects, to assure that such persons are served in proportion to their need.

(Pub. L. 93-113, title I, § 107, Oct. 1, 1973, 87 Stat. 399.)

§ 4958. Limitation on funds appropriated for grants and contracts for direct cost of supporting volunteers in programs or projects

Of funds appropriated for the purpose of this part under section 5081 of this title, not more than 20 per centum for the fiscal year ending September 30, 1977, and for each fiscal year thereafter, may be obligated for the direct cost of supporting volunteers in programs or projects carried out pursuant to grants and contracts made under section 5042(12) of this title.

(Pub. L. 93-113, title I, § 108, as added Pub. L. 94-293, § 4(a)(1), May 27, 1976, 90 Stat. 525.)

EFFECTIVE DATE

Section 4(c) of Pub. L. 94-293 provided that: "The amendments made by subsection (a) and subsection (b) of this section [enacting this section and amending section 5042 of this title, respectively] shall be effective on October 1, 1976, and shall not apply to any agreement for the assignment of volunteers entered into before such date during the period of any such agreement."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5042 of this title.

PART B—SERVICE-LEARNING PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 5041, 5055 of this title; title 5 section 8332.

§ 4971. Congressional statement of purpose

This part provides for the University Year for ACTION (UYA) program of full-time volunteer service by students enrolled in institutions of higher education, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems by enabling students at such cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of such students' course work during their periods of service while attending such institutions, in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. Its purpose further is to encourage other students and faculty members to engage, on a part-time, self-supporting basis, in such volunteer service and work along with volunteers serving under this part; and to promote participation by such institutions in meeting the needs of the poor in the surrounding community through expansion of service-learning programs and otherwise. Its purpose further is to provide for a program of part-time or short-term service—learning by secondary and post-secondary school students to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems.

(Pub. L. 93-113, title I, § 111, Oct. 1, 1973, 87 Stat. 399.)

§ 4972. Authority to operate University Year for ACTION program; institutional benefits affecting stipend for volunteers

Except as otherwise provided in this part, the Director is authorized to conduct or make grants and contracts for, or both, programs to carry out the purposes of this part in accordance with the authorities and subject to the restrictions in the provisions of part A of this subchapter, except for the provisions of sections 4953(d) and 4954(d) of this title, and except that the Director may, in accordance with regulations he shall prescribe, determine to reduce or eliminate the stipend for volunteers serving under this part on the basis of the value of benefits provided such volunteers by the institution in question (including the reduction or waiver of tuition).

(Pub. L. 93-113, title I, § 112, Oct. 1, 1973, 87 Stat. 399.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4973, 4974 of this title.

§ 4973. Special conditions

(a) Academic credit

Volunteers serving under this part shall be enrolled for periods of service as provided for in subsection (b) of section 4954 of this title, and may receive academic credit for such service in accordance with the regulations of the sponsoring institution of higher education.

(b) Participation of student volunteers and educational institutions

Grants to and contracts with institutions to administer programs under this part shall provide that prospective student volunteers shall participate substantially in the planning of such programs and that such institutions shall make available to the poor in the surrounding community all available facilities, including human resources, of such institutions in order to assist in meeting the needs of such poor persons.

(c) Financial assistance limitation; commitment stipulations; monitoring of compliance with commitment; compliance information to Secretary

(1) In making grants or contracts for the administration of UYA programs under this part, the Director shall insure that financial assistance under this chapter to programs carried out pursuant to section 4972 of this title shall not exceed 90 per centum of the total cost (including planning costs) of such program during the first year and such amounts less than 90 per centum as the Director, in consultation with the institution, may determine for not more than four additional years, including years in which support was received under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991-2994d). Each such grant or contract shall stipulate that the institution will make every effort to (A) assume an increasing proportion of the cost of continuing a program carrying out the purpose of this part while the institution receives support under this part; (B) waive or otherwise reduce tuition for participants in such program, where such waiver is not prohibited by law; (C) utilize students and faculty at such institution to carry out, on a self-supporting basis, appropriate planning for such programs; and (D) maintain similar service-learning programs after such institution no longer receives support under this part.

(2) The Director shall take necessary steps to monitor the extent of compliance by such institutions with commitments entered into under paragraph (1) of this subsection and shall advise the Secretary of Health, Education, and Welfare of the extent of each such institution's compliance.

(Pub. L. 93-113, title I, § 113, Oct. 1, 1973, 87 Stat. 399.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Economic Opportunity Act of 1964, as amended, referred to in subsec. (c)(1), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title VIII of such Act probably means title VIII of Pub. L. 88-452 as added by Pub. L. 89-794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1472, and generally revised and amended by Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 722, which was classified generally to subchapter VIII (§ 2991 et seq.) of chapter 34 of this title. Title VIII of the Economic Opportunity Act of 1964 as so added and amended was repealed by Pub. L. 93-113, title VI, § 603, and its provisions are now covered by this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

§ 4974. Special service-learning programs

(a) Financial assistance limitation for programs and projects described in section 4953(a) and (c) of this title

Of the funds appropriated for the operation of programs under this part, up to 10 per centum may be used, notwithstanding any other provisions of this part, to encourage and enable students in secondary, secondary vocational, and post-secondary schools to participate in service-learning programs on an in- or out-of-school basis in assignments of a character and on such terms and conditions as described in subsections (a) and (c) of section 4953 of this title. In any fiscal year in which the funds appropriated for the purposes of the University Year for ACTION program under section 4972 of this title exceed $6,700,000, the limitation provided in the preceding sentence shall not apply with respect to that portion of such appropriation which exceeds $6,700,000.

(b) Federal employee status prohibition

Persons serving as volunteers under this section shall not be deemed to be Federal employees for any purpose.

(c) Living and other support or allowances

The Director may provide volunteers serving under this section a living allowance and only such other support or allowances as he determines, pursuant to regulations which he shall

prescribe, are required because of unusual or special circumstances affecting the program.

(Pub. L. 93-113, title I, § 114, Oct. 1, 1973, 87 Stat. 400; Pub. L. 94-293, § 2, May 27, 1976, 90 Stat. 525.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-293 added provisions relating to funds appropriated in any fiscal year for the purposes of the University Year for ACTION exceeding $6,700,000.

PART C—SPECIAL VOLUNTEER PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 4957, 5055 of this title; title 5 section 8332.

§ 4991. Congressional statement of purpose

This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs.

(Pub. L. 93-113, title I, § 121, Oct. 1, 1973, 87 Stat. 400.)

§ 4992. Authority to establish and operate special volunteer programs or demonstration programs

(a) Youthful offender incarceration alternatives; veterans educational opportunities; drug abusers counseling; periods of service; identification of segments of poverty community which could benefit from volunteer and other antipoverty efforts

The Director is authorized to conduct or make grants or contracts, or both, for special volunteer programs or demonstration programs (such as but not limited to a program to provide alternatives to the incarceration of youthful offenders; a program to promote educational opportunities for veterans; and a program to provide community-based peer group outreach and counseling for drug abusers) designed to stimulate and initiate improved methods of providing volunteer services, to encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part, and to identify particular segments of the poverty community which could benefit from volunteer and other antipoverty efforts.

(b) Assignment of volunteers; terms and conditions

Except as provided in subsection (c) of this section, assignment of volunteers under this section shall be on such terms and conditions as the Director shall determine, pursuant to regulations which he shall prescribe.

(c) Allowances and stipends; extent and amount; volunteer service programs; implementation, etc.

The Director, in accordance with regulations he shall prescribe, may provide to persons serving as full-time volunteers in a program of at least one year's duration under this part such allowances and stipends, to the extent and in amounts not in excess of those authorized to be provided under part A of this subchapter, as he determines are necessary to carry out the purpose of this part. The Director is authorized to undertake and support volunteer service programs, and to recruit, select, and train volunteers to carry out the purpose of this part.

(Pub. L. 93-113, title I, § 122, Oct. 1, 1973, 87 Stat. 401; Pub. L. 94-293, § 3(a), May 27, 1976, 90 Stat. 525.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-293 added provision authorizing the Director to undertake and support volunteer service programs, and recruit, etc., volunteers to carry out this part.

§ 4993. Technical and financial assistance to Federal agencies, etc., for improvement of volunteer programs; purposes and methods of assistance

The Director may provide technical and financial assistance to Federal agencies, State and local governments and agencies, and private nonprofit organizations, which utilize or desire to utilize volunteers in connection with carrying out the purpose of this part. Such assistance may be used to facilitate and improve (1) methods of recruiting, training, or utilizing volunteers, or (2) the administration of volunteer programs. In providing such technical and financial assistance, the Director shall utilize, to the maximum extent feasible, existing programs, and shall seek to avoid duplication of existing programs in the public or private sectors.

(Pub. L. 93-113, title I, § 123, as added Pub. L. 94-293, § 3(b)(1), May 27, 1976, 90 Stat. 525.)

SUBCHAPTER II—NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5041, 5058, 5061 of this title.

PART A—RETIRED SENIOR VOLUNTEER PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 5082 of this title.

§ 5001. Grants and contracts for volunteer service projects

(a) Approval of programs; rules and regulations

In order to help retired persons to avail themselves of opportunities for volunteer service in their community, the Director is authorized to make grants to State agencies (established or designated pursuant to section 3024(a)(1) of this title) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service programs under this section, if he determines, in accordance with regulations he shall prescribe, that—

(1) volunteers will not be reimbursed for other than transportation, meals, and other out-of-pocket expenses incident to the provision of services under this part;

(2) only individuals aged sixty or over will be enrolled as volunteers to provide services under this part (except for administrative

purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (A) on publicly owned and operated facilities or projects, or (B) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the program includes such short-term training as may be necessary to make the most effective use of the skills and talents of participating volunteers and individuals, and provide for the payment of the reasonable expenses of such volunteers while undergoing such training; and

(4) the program is being established and will be carried out with the advice of persons competent in the field of service involved, and of persons with interest in and knowledge of the needs of older persons.

(b) Proportion of required local contribution; exceptions

In no event shall the required proportion of the local contribution (including in-kind contributions) for a grant or contract made under this section be more than 10 per centum in the first year of assistance under this section, 20 per centum in the second such year, 30 per centum in the third such year, 40 per centum in the fourth such year, and 50 per centum in any subsequent such years: *Provided, however,* That the Director may make exceptions in cases of demonstrated need, determined (in accordance with regulations which the Director shall prescribe) on the basis of the financial capability of a particular recipient of assistance under this section, to permit a lesser local contribution proportion than any required contribution proportion established by the Director in generally applicable regulations.

(c) Conditions upon award of grant or contract

The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 3024(a)(1) of this title, such agency itself is the recipient of the award or such agency has been afforded at least sixty days in which to review the project application and make recommendations thereon.

(Pub. L. 93-113, title II, § 201, Oct. 1, 1973, 87 Stat. 401; Pub. L. 93-351, § 4, July 10, 1974, 88 Stat. 357.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-351 added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 93-351 redesignated former subsec. (b) as (c).

AGING RESOURCE SPECIALISTS FOR COORDINATION OF NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS WITH STATE AND COMMUNITY PROGRAMS ON AGING AND NUTRITION PROGRAMS FOR ELDERLY; DESIGNATION; DUTIES; DEFINITIONS

Pub. L. 94-135, title II, § 205(c), Nov. 28, 1975, 89 Stat. 727, provided that:

"(1) In order to provide maximum coordination between programs carried out under title III and title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.; 42 U.S.C. 3045 et seq.) and national older American volunteer programs carried out under title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.), in order to enhance the effectiveness of the support provided to such national older American volunteer programs by the ACTION Agency, the Director of the ACTION Agency shall designate an aging resource specialist with respect to programs carried out in each State under title II of the Domestic Volunteer Service Act of 1973 [this subchapter].

"(2)(A) Each aging resource specialist designated under paragraph (1) shall be qualified to serve in such capacity by appropriate experience and training, and shall be stationed in a State office of the ACTION Agency.

"(B) The primary responsibility of each aging resource specialist shall be—

"(i) to support programs carried out under title II of the Domestic Volunteer Service Act of 1973 [this subchapter] in any State or other jurisdiction served by the State office involved; and

"(ii) to seek to coordinate such programs with programs carried out under title III and title VII of the Older Americans Act of 1965 [sections 3021 et seq. and 3045 et seq. of this title] in any such State or other jurisdiction.

"(3) For purposes of this subsection—

"(A) the term 'ACTION Agency' means the ACTION Agency established by section 401 of the Act (42 U.S.C. 5041);

"(B) the term 'primary responsibility' means the devotion of more than one-half of regular working hours to the performance of duties described in paragraph (2)(B); and

"(C) the term 'State' means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands."

PART B—FOSTER GRANDPARENT PROGRAM AND OLDER AMERICAN COMMUNITY SERVICE PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 5082 of this title.

§ 5011. Grants and contracts for individual service projects

(a) Foster Grandparent projects; amount

The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to individuals serving under this part) designed for the purpose of providing opportunities for low-income persons aged sixty or over to provide supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services by individuals serving as "foster grandparents" to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs. The Director may approve assistance in excess of 90 per centum of the costs of the development and operation of such projects only if he determines, in accordance with regulations he shall prescribe establishing objective criteria, that such action is required in furtherance of the purpose of this section. Provision for such assistance shall be effective as of September 19, 1972. In the case of any project with respect to which, prior to such date, a grant or

contract has been made under section 3044b(a) of this title or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

(b) Services as senior health aides and senior companions

The Director is also authorized to make grants or contracts to carry out the purpose described in subsection (a) of this section in the case of persons (other than children) having exceptional needs, including services by individuals serving as "senior health aides" to work with persons receiving home health care, nursing care, or meals on wheels or other nutritional services, and as "senior companions" to persons having developmental disabilities or other special needs for companionship.

(c) Person-to-person services to children in an individual service project by public or private nonprofit agency; authority and criteria for determinations; mutual agreements between parties

(1) Any public or private nonprofit agency or organization responsible for providing person-to-person services to a child in a project carried out under subsection (a) of this section shall have the exclusive authority to determine, pursuant to the provisions of paragraph (2) of this subsection—

(A) which children may receive supportive person-to-person services under such project; and

(B) the period of time during which such services shall be continued in the case of each individual child.

(2) In the event that such an agency or organization determines that it is in the best interests of a mentally retarded child receiving, and of a particular foster grandparent providing, services in such a project, such relationship may be continued after the child reaches the chronological age of 21: *Provided*, That such child was receiving such services prior to attaining the chronological age of 21.

(3) Any determination made by a public or nonprofit private agency or organization under paragraphs (1) and (2) of this subsection shall be made through mutual agreement by all parties involved with respect to the provision of services to the child involved.

(d) Definitions

For the purposes of this section, the terms "child" and "children" mean any individual or individuals who are less than 21 years of age.

(Pub. L. 93-113, title II, § 211, Oct. 1, 1973, 87 Stat. 402; Pub. L. 94-135, title II, § 205(b)(1), (2), Nov. 28, 1975, 89 Stat. 727; Pub. L. 94-293, § 7, May 27, 1976, 90 Stat. 526.)

REFERENCES IN TEXT

Section 3044b of this title, referred to in subsec. (a), related to grants and contracts for Foster Grandparent projects and for services as senior health aides and senior companions, amount of award, method of payment, and exclusion as income of compensation to individual volunteers, was repealed by section 604(a) of Pub. L. 93-113, and is now covered by this section and sections 5022 and 5058 of this title.

AMENDMENTS

1976—Subsecs. (c), (d). Pub. L. 94-293 added subsecs. (c) and (d).

1975—Subsec. (a). Pub. L. 94-135, § 205(b)(1), substituted "individuals" for "volunteers" where appearing the first and third places and struck out "serve as volunteers to" preceding "provide supportive person-to-person services".

Subsec. (b). Pub. L. 94-135, § 205(b)(2), substituted "individuals" for "volunteers".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5082 of this title.

§ 5012. Conditions of grants and contracts; "community action agency" defined

(a)(1) In carrying out this part, the Director shall insure that individuals receiving assistance in any project are older persons of low income who are no longer in the regular work force.

(2) The Director shall not award a grant or contract under this part which involves a project proposed to be carried out throughout the State or over an area more comprehensive than one community unless—

(A) the State agency established or designated under section 3024(a)(1) of this title is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project; and

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate to be conducted, in consultation with, or with the participation of, such agency.

(3) The Director shall not award a grant or contract under this part which involves a project proposed to be undertaken entirely in a community served by a community action agency unless—

(A) such agency is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project;

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency; and

(C) if such State has a State agency established or designated pursuant to section 3024(a)(1) of this title, such agency has been afforded at least forty-five days in which to

review the project application and make recommendations thereon.

(b) The term "community action agency" as used in this section means a community action agency as defined in title II of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2781-2837).

(Pub. L. 93-113, title II, § 212, Oct. 1, 1973, 87 Stat. 402; Pub. L. 94-135, title II, § 205(b)(3), Nov. 28, 1975, 89 Stat. 727.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, as amended, referred to in subsec. (b), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title II of the Economic Opportunity Act of 1964 is classified generally to subchapter II (§ 2781 et seq.) of chapter 34 of this title. For complete classification of that Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94-135 substituted "individuals" for "volunteers".

PART C—GENERAL PROVISIONS

§ 5021. Coordination with other Federal programs

In carrying out this subchapter, the Director shall consult with the Community Services Administration, the Departments of Labor and Health, Education, and Welfare, and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs, and shall promote the coordination of projects under this subchapter with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this subchapter and in promoting the identification and interest of low-income and other older persons whose services may be utilized in projects under this subchapter.

(Pub. L. 93-113, title II, § 221, Oct. 1, 1973, 87 Stat. 403; Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 2310.)

CODIFICATION

Community Services Administration was substituted for Office of Economic Opportunity on the authority of section 9(a) of Pub. L. 93-644, Jan. 4, 1975, 88 Stat. 2310, which established the Community Services Administration as the successor to the Office of Economic Opportunity. See section 2941 of this title.

§ 5022. Payments; adjustments; advances or reimbursement; installments; conditions

Payments under this subchapter pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine.

(Pub. L. 93-113, title II, § 222, Oct. 1, 1973, 87 Stat. 403.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 241-1.

§ 5023. Minority group participation

The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to serve as volunteers under this subchapter.

(Pub. L. 93-113, title II, § 223, Oct. 1, 1973, 87 Stat. 404.)

SUBCHAPTER III—NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTEER SERVICE BY PERSONS WITH BUSINESS EXPERIENCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5058, 5083 of this title.

§ 5031. Congressional statement of purpose

This subchapter provides for programs in which persons with business experience volunteer to assist persons, especially those who are economically disadvantaged, engaged in, or who seek to engage in, small business enterprises, and to make available their expertise as volunteers in programs authorized by, or of a character eligible for assistance under, this chapter, the Economic Opportunity Act of 1964, as amended (42 U.S.C. chap. 34) (particularly subchapter VII thereof [42 U.S.C. 2981 et seq.]), or the Small Business Act (15 U.S.C. chap. 14A). The purpose of this subchapter is to utilize the skills and expertise of persons with business experience to assist persons in, or seeking to enter, business enterprises, or to carry out management and financial counseling activities in furtherance of the purposes of this chapter.

(Pub. L. 93-113, title III, § 301, Oct. 1, 1973, 87 Stat. 404.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Economic Opportunity Act of 1964, as amended, referred to in text, is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, which is classified generally to chapter 34 (§ 2701 et seq.) of this title. Subchapter VII of the Economic Opportunity Act, also referred to in the text, was added by Pub. L. 92-424, § 25(a), Sept. 19, 1972, 86 Stat. 697, and is classified generally to subchapter VII (§ 2981 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

The Small Business Act, referred to in text, is Pub. L. 85-536, July 18, 1958, 72 Stat. 384, as amended, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete

classification of that Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables volume.

§ 5032. Authority to establish, coordinate, and operate programs

(a) Volunteer program inclusion of Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE); direction of Administrator of financial or management counseling assistance from Small Business Administration

The Director is authorized to establish and conduct, and to recruit, select, and train volunteers for (and to make grants or enter into contracts therefor), volunteer programs, including a Service Corps of Retired Executives (SCORE) and an Active Corps of Executives (ACE) and programs in which SCORE and ACE volunteers expand the application of their expertise beyond Small Business Administration clients, to carry out the purpose of this subchapter: *Provided, however,* That the services of volunteers who are assisting persons or enterprises seeking to obtain, or receiving, financial or management counseling assistance from the Small Business Administration shall be performed under the direction of the Administrator of the Small Business Administration (hereinafter referred to in this subchapter as the "Administrator") pursuant to section 637(b)(1) of title 15.

(b) Assignment of volunteers; terms and conditions

The assignment of volunteers engaged in programs under this subchapter shall be on such terms and conditions as the Director may determine, except that he shall prescribe such terms and conditions in agreement with the Administrator with respect to the service of volunteers described in the proviso in subsection (a) of this section.

(c) Federal employee status for purpose of Federal tort claims; expenses, reimbursement; travel expenses; Small Business Administration loan applicants service prohibition

(1) Such volunteers, while carrying out activities under this subchapter and section 637(b)(1), of title 15, shall be deemed Federal employees for the purpose of the Federal tort claims provisions in title 28.

(2) The Director is authorized to reimburse such volunteers only for such necessary out-of-pocket expenses incident to their provision of services under this chapter as he shall determine, in accordance with regulations which he shall prescribe, and, while they are carrying out such activities away from their homes or regular places of business, for travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5 for individuals serving without pay.

(3) Such volunteers shall in no way (A) participate for the benefit of the Small Business Administration (rather than on behalf of their clients) in any screening or evaluation activities in connection with applications for loans from such Administration, or (B) provide services to a client of such Administration with a delinquent loan outstanding, except upon a specific request signed by such client for assistance in connection with such matter.

(d) Cooperation of Small Business Administration and ACTION Agency in making office facilities and supplies available

The Director and the Administrator shall cooperate in order to make available to such volunteers, or groups thereof, such use of the office facilities and related supplies, materials, and services of the Small Business Administration and the ACTION Agency as they deem appropriate to assist such volunteers to carry out such activities, including authorized meetings of groups of volunteers.

(e) Preferred application of subchapter provisions

Except as otherwise provided in this chapter, activities authorized to be carried out both by this subchapter and by section 637(b)(1) of title 15 shall be carried out under this subchapter to the maximum extent feasible.

(Pub. L. 93-113, title III, § 302, Oct. 1, 1973, 87 Stat. 404.)

REFERENCES IN TEXT

Federal tort claims provisions in title 28, referred to in subsec. (c)(1), is the Federal Tort Claims Act, which is classified generally to section 1346(b) and to chapter 171 (§ 2671 et seq.) of Title 28, Judiciary and Judicial Procedure.

This chapter, referred to in subsec. (e), in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

TRANSFER OF FUNCTIONS

Transfer of functions, powers, and duties vested in ACTION Agency or its Director under this subchapter relating to SCORE and ACE Programs to Small Business Administration, see Ex. Ord. No. 11871, eff. July 18, 1975, 40 F.R. 30915, set out as a note under section 641 of Title 15, Commerce and Trade.

SUBCHAPTER IV—ADMINISTRATION AND COORDINATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5084 of this title.

§ 5041. ACTION Agency; establishment; officials of ACTION Agency: Director, Deputy Director, Associate Director and Deputy Associate Directors for Domestic and Anti-Poverty Operations, Associate Director for International Operations, and Assistant Directors; appointment, compensation, and functions

There is hereby established in the executive branch of the Government an agency to be known as the ACTION Agency. Such Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5. There shall also be in such agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5. The Deputy Director shall perform such functions as the Director shall from time to time pre-

scribe, and shall act as Director of the ACTION Agency during the absence or disability of the Director. There shall also be in such agency two Associate Directors who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5. One such Associate Director shall be designed "Associate Director for Domestic and Anti-Poverty Operations" and shall carry out operational responsibility for all programs authorized under this chapter, and the other such Associate Director shall be designated "Associate Director for International Operations" and shall carry out operational responsibility for all programs authorized under the Peace Corps Act (22 U.S.C. 2501 et seq.). There shall also be in such agency no more than two Assistant Directors appointed by the President by and with the advice and consent of the Senate, who shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5. Each such Assistant Director shall perform such staff and support functions for such Associate Directors as the Director shall from time to time prescribe. There shall also be in such agency one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under parts A and B of subchapter I of this chapter and one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under subchapter II of this chapter, each of whom shall be appointed by the Director.

(Pub. L. 93-113, title IV, § 401, Oct. 1, 1973, 87 Stat. 405.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Peace Corps Act, referred to in text, is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables volume.

TRANSFER OF FUNCTIONS

Transfer of functions, powers, and duties vested in ACTION Agency or its Director under this subchapter relating to SCORE and ACE Programs to Small Business Administration, see Ex. Ord. No. 11871, eff. July 18, 1975, 40 F.R. 30915, set out as a note under section 641 of Title 15, Commerce and Trade.

SUPERSEDURE OF 1971 REORG. PLAN NO. 1

Section 601 of Pub. L. 93-113 provided that:

"(a) [*Superseded provisions*] Sections 1, 2(a), 3, and 4 of Reorganization Plan Number 1 of 1971 (July 1, 1971) are hereby superseded.

"(b) [*Transfer of functions; personnel, property, records, and unexpended funds*] The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by sections 2(a) and 4 of such reorganization plan are hereby transferred to the ACTION Agency established by section 401 [this section]. All grants, contracts, and other agreements awarded or entered into under the authority of such reorganization plan will be recognized under comparable provisions of this Act [this chapter] so that there is no disruption of ongoing activities for which there is continuing authority.

"(c) [*Continuing effectiveness of official actions and continuation of volunteer services*] All official actions taken by the Director of the ACTION Agency, his designee, or any other person under the authority of such reorganization plan which are in force on the effective date of this Act [Oct. 1, 1973] and for which there is continuing authority under the provisions of this Act [this chapter], and the length of the period of service of volunteers serving or undergoing training under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991-2994d) on the effective date of this Act, [Oct. 1, 1973], shall continue in full force and effect until modified, superseded, or revoked by the Director.

"(d) [*References to ACTION or Director of ACTION*] All references to ACTION, or the Director of ACTION in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after the effective date of this Act [Oct. 1, 1973], be deemed to refer to the ACTION Agency established by section 401 [this section] and the Director thereof.

"(e) [*Abatement of actions or proceedings*] No suit, action, or other proceeding, and no cause of action, by or against the agency known as ACTION created by such reorganization plan, or any action by any officer thereof acting in his official capacity, shall abate by reason of enactment of this Act [this chapter].

"(f) [*Continuation of prior appointments*] Persons appointed by the President, by an with the advice and consent of the Senate, to positions requiring such advice and consent under such reorganization plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advise and consent by the Senate."

§ 5042. Authority of Director

In addition to the authority conferred upon him by other sections of this chapter, the Director is authorized to—

(1) Appointment and compensation of personnel

appoint in accordance with the Civil Service laws such personnel as may be necessary to enable the ACTION Agency to carry out its functions, and, except as otherwise provided herein, fix the compensation of such personnel in accordance with chapter 51 of title 5;

(2) Employment and compensation of experts and consultants

(A) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, except that no individual may be employed under the authority of this subsection for more than one hundred days in any fiscal year; (B) compensate individuals so employed at rates not in excess of the daily equivalent of the rate payable to a GS-18 employee under section 5332 of such title, including traveltime; (C) allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently, while so employed; and

(D) annually renew contracts for such employment under this clause;

(3) Reimbursement of other Federal agencies for performance of provisions; delegation of functions

with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this chapter and, as necessary or appropriate, delegate any of his functions under this chapter and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the ACTION Agency and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the ACTION Agency and the furnishing of such information by the ACTION Agency to such other agencies;

(4) Utilization of services and facilities of Federal and State agencies

with their consent, utilize the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision without reimbursement;

(5) Acceptance of gifts, devices, and bequests

accept in the name of the ACTION Agency, and employ or dispose of in furtherance of the purposes of this chapter, or of any subchapter thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(6) Acceptance of voluntary and uncompensated services

accept voluntary and uncompensated services;

(7) Allocation and expenditure of funds; transfer of funds to other Federal agencies

allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this chapter as he deems necessary to carry out the provisions hereof, including (without regard to the provisions of section 4774(d) of title 10), expenditure for construction, repairs, and capital improvements;

(8) Dissemination of data and information

disseminate, without regard to the provisions of section 3204 of title 39, data and information, in such form as he shall deem appropriate to public agencies, private organizations, and the general public;

(9) Seal

adopt an official seal, which shall be judicially noticed;

(10) Collection or compromise of obligations

collect or compromise all obligations to or held by him and all legal or equitable rights accruing to him in connection with the payment of obligations in accordance with Federal Claims Collection Act of 1966 (31 U.S.C. 951-53);

(11) Expenditures for printing and binding, rent, and repairs, alteration, and improvement of buildings

expend funds made available for purposes of this chapter as follows: (A) for printing and binding, in accordance with applicable law and regulations; and (B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subclause (B)—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this chapter, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority;

(12) Grants or contracts for assignment or referral of volunteers; payment of program costs

notwithstanding any other provision of law, make grants to or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under this chapter (except as provided in section 4958 of this title), which may provide that the agency or organization shall pay all or a part of the costs of the program;

(13) Educational and vocational counseling

provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this chapter to (A) encourage them to use in the national interest the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (B) promote the development, and the placement therein of such volunteers, of appropriate opportunities for the use of such skills and experience;

(14) Specific necessary or appropriate functions

establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organizations and persons, and make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants otherwise authorized under this chapter, with necessary adjustments on account of overpayments and underpayments) as are necessary or appropriate to carry out the provisions of this chapter; and

(15) Other necessary or appropriate functions

generally perform such functions and take such steps, consistent with the purposes and provisions of this chapter, as he deems necessary or appropriate to carry out the provisions of this chapter.

(Pub. L. 93-113, title IV, § 402, Oct. 1, 1973, 87 Stat. 406; Pub. L. 94-293, § 4(b), May 27, 1976, 90 Stat. 526.)

REFERENCES IN TEXT

This chapter, referred to in introductory clause and in pars. (3), (5), (7), (11), (12), (13), (14), and (15) in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Civil Service laws, referred to in par. (1), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

Section 4774(d) of title 10, referred to in par. (7) was redesignated as entirety of section 4774 by Pub. L. 93-166, title V, § 509(c), Nov. 29, 1973, 87 Stat. 677.

The Federal Claims Collection Act of 1966, referred to in par. (10), is Pub. L. 89-508, July 19, 1966, 80 Stat. 308, which is classified generally to chapter 18 (§ 951 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 31 and Tables volume.

AMENDMENTS

1976—Par. (12). Pub. L. 94-293 substituted "as provided in section 4958 of this title" for "for volunteers serving under part A of subchapter I thereof".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-293 effective on Oct. 1, 1976 and not applicable to any agreement for the assignment of volunteers entered into before such date during the period of any such agreement, see section 4(c) of Pub. L. 94-293, set out as an Effective Date note under section 4958 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4958, 5044, 5045 of this title.

§ 5043. Political activities

(a) Funds use prohibition; "election" and "Federal office" defined

No part of any funds appropriated to carry out this chapter, or any program administered by the ACTION Agency, shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the ACTION Agency, who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 431(a) of title 2, and the term "Federal office" has the same meaning given such term by section 431(c) of title 2.

(b) Program identification prohibition; enforcement: rules and regulations; emergencies

Programs assisted under this chapter shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or non-partisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. The Director, after consultation with the Civil Service Commission, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than thirty days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis.

(Pub. L. 93-113, title IV, § 403, Oct. 1, 1973, 87 Stat. 408.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

§ 5044. Special limitations

(a) Volunteer activities; limitation

The Director shall prescribe regulations and shall carry out the provisions of this chapter so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this chapter is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(b) Support costs

All support, including transportation provided to volunteers under this chapter, shall be furnished at the lowest possible costs consistent with the effective operation of volunteer programs.

(c) Compensation of supervising agencies or organizations

No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any volunteer program hereunder, shall request or receive any compensation for services of volunteers supervised by such agency or organization.

(d) Labor or antilabor organization activities; funds use prohibition

No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or antilabor organization or related activity.

(e) Selection procedure

Persons serving as volunteers under this chapter shall provide such information concerning their qualifications, including their ability to perform their assigned tasks, and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this chapter. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this chapter who wish to become volun-

teers as he determines will further the purposes of this chapter.

(f) Delegation of functions; compensation: conversion requirement; Peace Corps exceptions

Notwithstanding any other provision of law and except as provided in the second sentence of this subsection, the Director shall assign or delegate any substantial responsibility for carrying out programs under this chapter only to persons appointed or employed pursuant to clauses (1) and (2) of section 5042 of this title, and persons assigned or delegated such substantial responsibilities on October 1, 1973, and who are receiving compensation in accordance with provisions of law other than the applicable provisions of title 5 on such date shall, by operation of law on such date, be assigned a grade level pursuant to such latter provisions so as to fix the compensation of such persons under such authority at no less than their compensation rate on the day preceding such date. The Director may personally make exceptions to the requirement set forth in the first sentence of this subsection for persons he finds will be assigned to carrying out functions under the Peace Corps Act (22 U.S.C. 2501 et seq.) within six months after October 1, 1973.

(g) Government assistance; eligibility

Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this chapter shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any governmental program.

(Pub. L. 93-113, title IV, § 404, Oct. 1, 1973, 87 Stat. 408.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), (e), (f), and (g), in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Peace Corps Act, referred to in subsec. (f), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code see Short Title note set out under section 2501 of Title 22 and Tables volume.

§ 5045. National Voluntary Service Advisory Council

(a) Establishment; membership; appointment and term; representation of interests; temporary and permanent chairperson; initial and annual meetings; compensation and travel expenses; ex officio membership

There is hereby established in the ACTION Agency a National Voluntary Service Advisory Council (hereinafter referred to as the "Council") to be composed of not more than twenty-five members appointed, not later than ninety days after October 1, 1973, by and serving at the pleasure of the President. Such members shall be representative of public and private organizations, groups, and individuals interested in serving and benefited by programs carried out under this chapter and the Peace Corps Act (22 U.S.C. 2501 et seq.). The President shall designate a temporary chairperson from such members and shall call the initial meeting of the Council within thirty days after appointment of such Council. Members of the Council shall designate a permanent chairperson from such members and shall meet at the call of such chairperson, but not less than four times in each year. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of such Council shall receive compensation and travel expenses as provided in section 5042(2) of this title with respect to experts and consultants. The Director and Deputy Director of the ACTION Agency shall be ex officio members of the Council.

(b) Functions of Council

The Council shall—

(1) advise the Director with respect to policy matters arising in the administration of this chapter and the Peace Corps Act (22 U.S.C. 2501 et seq.); and

(2) upon the request of the Director, review the effectiveness and the operation of programs under this chapter and the Peace Corps Act and make recommendations (including such proposals for changes in this chapter and such Act as the Council deems appropriate) concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist the beneficiaries of this chapter and such Act.

(c) Report to President for transmittal to Congress

Not later than January 1 of each calendar year beginning with the calendar year 1975, the Council shall make an annual report of its findings and recommendations to the President for transmittal by the President to the Congress together with his comments and recommendations.

(d) Applicability of provisions to National Advisory Council to ACTION Agency established by administrative action after January 1, 1976

In the event that a National Advisory Council to the ACTION Agency is established by administrative action after January 1, 1976, the provisions of subsections (a), (b), and (c) of this section shall apply to any such Council.

(Pub. L. 93-113, title IV, § 405, Oct. 1, 1973, 87 Stat. 409; Pub. L. 94-293, § 5(a), May 27, 1976, 90 Stat. 526.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Peace Corps Act, referred to in subsecs. (a) and (b), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse.

For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables volume.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-293 added subsec. (d).

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973 to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a council established by the President or an officer of the federal government, such council is renewed by appropriate action prior to the end of such period, or in the case of a council established by the Congress, its duration is otherwise provided by law see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 5046. Labor standards for federally assisted projects, buildings, and works

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and in section 276c of title 40.

(Pub. L. 93-113, title IV, § 406, Oct. 1, 1973, 87 Stat. 410.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Davis-Bacon Act, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 5047. Report to President for transmittal to Congress

Not later than one hundred and twenty days after the end of each fiscal year, the Director shall prepare and submit to the President for transmittal by the President to the Congress a full and complete report on the activities of the ACTION Agency during such year.

(Pub. L. 93-113, title IV, § 407, Oct. 1, 1973, 87 Stat. 410.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5056 of this title.

§ 5048. Joint funding; single non-Federal share requirement; grant or contract requirement waiver

Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this chapter where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this chapter, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the ACTION Agency, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this chapter, which requirement is inconsistent with the similar requirements under or pursuant to this chapter.

(Pub. L. 93-113, title IV, § 408, Oct. 1, 1973, 87 Stat. 410.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

DELEGATION OF AUTHORITY TO ISSUE JOINT FUNDING REGULATIONS

Authority of the President under this section delegated to the Administrator of General Services, see section 3 of Ex. Ord. No. 11867, eff. June 19, 1975, 40 F.R. 26253, set out as a note under section 4252 of this title, and policy functions transferred to Director of Office of Management and Budget see section 1 of Ex. Ord. No. 11893, eff. Dec. 31, 1975, 41 F.R. 1040, set out as a note under section 4252 of this title.

§ 5049. Prohibition of Federal control of educational institution or school system

Nothing contained in this chapter shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any education institution or school system.

(Pub. L. 93-113, title IV, § 409, Oct. 1, 1973, 87 Stat. 410.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2294 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

§ 5050. Coordination with other programs

The Director shall take necessary steps to coordinate volunteer programs authorized under this chapter with one another, with community action programs, and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsibility for programs related to the purposes of this chapter with a view to encouraging greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pursuant to this chapter.

(Pub. L. 93-113, title IV, § 410, Oct. 1, 1973, 87 Stat. 410.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 386, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

§ 5051. Performance of functions by existing departments or offices rather than new departments or offices.

In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this chapter, no funds appropriated to carry out this chapter shall be used to establish any new department or office when the intended function is being performed by an existing department or office.

(Pub. L. 93-113, title IV, § 411, Oct. 1, 1973, 87 Stat. 411.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2294 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

§ 5052. Suspension and termination of financial assistance; procedures; notice and hearing; emergency situations; refunding applications

The Director is authorized, in accordance with the provisions of this section, to suspend further payments or to terminate payments under any contract or grant providing assistance under this chapter, whenever he determines there is a material failure to comply with the applicable terms and conditions of any such grant or contract. The Director shall prescribe procedures to insure that—

(1) assistance under this chapter shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days, nor shall an application for refunding under this chapter be denied, unless the recipient has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) assistance under this chapter shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(Pub. L. 93-113, title IV, § 412, Oct. 1, 1973, 87 Stat. 411.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisons set out as notes under sections 4951 and 5041 of this title.

§ 5053. Repealed. Pub. L. 94-293, § 5(b)(1), May 27, 1976, 90 Stat. 526

Section, Pub. L. 93-113, title IV, § 413, Oct. 1, 1973, 87 Stat. 411, authorized the Director to carry out the programs of this chapter during the fiscal year ending June 30, 1974, and the three succeeding fiscal years, and authorizing Congress to appropriate such sums as necessary for each fiscal year.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING OCTOBER 1, 1976

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning Oct. 1, 1976, for purposes of former provisions of this section, see section 205(18) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 393, set out as a note under section 5532 of Title 5, Government Organization and Employees.

§ 5054. Distribution of benefits between rural and urban areas

The Director shall adopt appropriate administrative measures to assure that the benefits of and services under this chapter will be distributed equitably between residents of rural and urban areas.

(Pub. L. 93-113, title IV, § 414, Oct. 1, 1973, 87 Stat. 411.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

§ 5055. Application of Federal law

(a) General rule

Except as provided in subsections (b), (c), (d), and (e) of this section, volunteers under this chapter shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal officers and employees and Federal employment.

(b) Specific Federal legislation

Individuals enrolled in programs under subchapter I of this chapter for periods for service of at least one year shall, with respect to such service or training, (1) for the purposes of subchapter III of chapter 73 of title 5, be deemed persons employed in the executive branch of the Federal Government, (2) for the purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), be deemed employees of the United States, and any service performed by an individual as a volunteer (including training) shall be deemed to be performed in the employ of the United States, (3) for the purposes of the Federal Tort Claims provisions of title 28, be deemed employees of the United States, and (4) for the purposes of subchapter I of chapter 81 of title 5 (relative to compensation to Federal employees for work injuries), shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, and the provisions of that subchapter shall apply except as follows: (A) in computing compensation benefits for disability or death, the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS-7 employee, and subsection (a) and (b) of section 8113 of title 5 shall apply, and (B) compensation for disability shall not begin to accrue until the day following the date on which the injured volunteer is terminated.

(c) Subsequent government employment

Any period of service of a volunteer enrolled in a program for a period of service of at least one year under part A of subchapter I of this chapter, and any period of full-time service of a volunteer enrolled in a program for a period of service of at least one year under part B or C of subchapter I of this chapter, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of section 1092(a)(1) of title 22 and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Civil Service Commission, the Foreign Service Act of 1946 [22 U.S.C. 801 et seq.], and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided,* That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(d) Competitive service

Volunteers serving in programs for periods of service of at least one year under part A of subchapter I of this chapter, and volunteers serving for such periods under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991-2994d), including those whose service was completed under such Act, who the Director determines, in accordance with regulations he shall prescribe, have successfully completed their periods of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order Number 11103 (April 10, 1963).

(e) References in other laws to service under provisions relating to Volunteers in Service to America deemed references to service under subchapter I of this chapter

Notwithstanding any other provision of law, all references in any other law to persons serving as volunteers under title VIII of the Economic Opportunity Act of 1964, as amended [42 U.S.C. 2991 et seq.], shall be deemed to be references to persons serving as full-time volunteers in a program of at least one year's duration under part A, B, or C of subchapter I of this chapter.

(Pub. L. 93-113, title IV, § 415, Oct. 1, 1973, 87 Stat. 411.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

Federal Tort Claims provisions of title 28, referred to in subsec. (b)(3), are the Federal Tort Claims Act, which is classified generally to section 1346(b) and to chapter 171 (§ 2671 et seq.) of Title 28, Judiciary and Judicial Procedure.

Entrance salary for a grade GS-7 employee, referred to in subsec. (b)(4), is set out in the General Schedule in section 5332 of Title 5, Government Organization and Employees.

Section 1092 of title 22, referred to in subsec. (c)(1), was repealed by Pub. L. 94-350, title V, § 516, July 12, 1976, 90 Stat. 845. The provisions of that section are now covered by sections 1071 and 1091 of Title 22, Foreign Relations and Intercourse.

The Foreign Service Act of 1946, referred to in subsec. (c)(2), is act Aug. 13, 1946, ch. 957, titles 1 to 60 Stat. 999, as amended, which is classified generally to chapter 14 (§ 801 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 22 and Tables volume.

The Economic Opportunity Act of 1964, as amended, referred to in subsecs. (d) and (e), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title VIII of such Act, probably means title VIII of Pub. L. 88-452 as added by Pub. L. 89-794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1472, and generally revised and amended by Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 722, which was classified generally to subchapter VIII (§ 2991 et seq.) of chapter 34 of this title. Title VIII of the Economic Opportunity Act of 1964 as so added and amended was repealed by Pub. L. 93-113, title VI, 603, and its provisions are now covered by this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

Executive Order Number 11103 (April 10, 1963), referred to in subsec. (d), is set out under section 2504 of Title 22, Foreign Relations and Intercourse.

EX. ORD. NO. 11561. DELEGATION OF AUTHORITY

Ex. Ord. No. 11561, eff. Sept. 25, 1970, 35 F.R. 14981, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, the authority conferred upon the President by that portion of section 833(c)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2994b(c)(2)) [former section 2994b(c)(2) of this title, now subsec. (c)(2) of this section] which reads "except as otherwise determined by the President" is hereby delegated as follows: (1) To the Civil Service Commission to the extent that such authority is with respect to the laws administered by the Commission, and (2) to the Secretary of State to the extent that such authority is with respect to the Foreign Service Act of 1946, as amended [section 801 et seq. of Title 22, Foreign Relations and Intercourse].

§ 5056. Evaluation of programs and projects

(a) General objectives; persons conducting the evaluation

The Director shall periodically measure and evaluate the impact of all programs authorized by this chapter, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) General standards; publication; reports of ensuing actions

The Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this chapter. Reports submitted pursuant to section 5047 of this title shall describe the actions taken as a result of evaluations carried out under this section.

(c) Opinions of participants

In carrying out evaluations under this subchapter, the Director shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of such programs and projects.

(d) Summaries of results; publication

The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

(e) Federal property

The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) Funds limitation; reduction of allotments

The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this chapter, to conduct program and project evaluations (directly, or by grants or contracts) as required by this chapter. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriate therefor) shall be reduced accordingly.

(Pub. L. 93-113, title IV, § 416, Oct. 1, 1973, 87 Stat. 412.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (f), in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

§ 5057. Nondiscrimination

(a) The Director shall not provide financial assistance for any program under this chapter unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, belief, color, national origin, sex, age, or political affiliation.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this chapter. The Director shall enforce the provisions of the preceding sentence in accordance with section 2000d-1 of this title. Section 2000d-2 of this title shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this chapter.

(Pub. L. 93-113, title IV, § 417, Oct. 1, 1973, 87 Stat. 413.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

§ 5058. Eligibility for other benefits

Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to subchapters II and III of this chapter shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement, public assistance, or similar benefit payments, or minimum wage laws. This section shall become effective with respect to all payments made after October 1, 1973.

(Pub. L. 93-113, title IV, § 418, Oct. 1, 1973, 87 Stat. 413.)

§ 5059. Legal expenses

Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers (or part-time volunteers when such proceeding arises directly out of the performance of activities pursuant to this chapter or section 637(b)(1) of title 15) serving under this chapter have been made parties.

(Pub. L. 93-113, title IV, § 419, Oct. 1, 1973, 87 Stat. 413.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

§ 5060. Rules, regulations, guidelines, instructions, and application forms; publication in Federal Register

All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this chapter shall be published in the Federal Register at least thirty days prior to their effective date.

(Pub. L. 93-113, title IV, § 420, Oct. 1, 1973, 87 Stat. 414.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

§ 5061. Definitions

For the purposes of this chapter—

(1) the term "Director" means the Director of the ACTION agency;

(2) the terms "United States" and "States" mean the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, and American Samoa and, for the purposes of subchapter II of this chapter, the Trust Territory of the Pacific Islands;

(3) the term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(4) the term "poor" or "low-income" persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 2971d of this title: *Provided*, That in determining who is "poor" or "low-income", the Director shall take into consideration existing poverty guidelines as appropriate to local situations.

(Pub. L. 93-113, title IV, § 421, Oct. 1, 1973, 87 Stat. 414.)

REFERENCES IN TEXT

This chapter, referred to in introductory clause in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

§ 5062. Audit

(a) Recordkeeping

Each recipient of Federal grants, subgrants, contracts, subcontracts, or loans entered into under this chapter other than by formal advertising, and which are otherwise authorized by this chapter, shall keep such records as the Director shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Access to books, documents, papers, and records; limitations

The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or loans referred to in subsection (a) of this section.

(Pub. L. 93-113, title IV, § 422, Oct. 1, 1973, 87 Stat. 414.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

SUBCHAPTER V—AUTHORIZATION OF APPROPRIATIONS

§ 5081. National Volunteer Antipoverty Programs

(a) There are authorized to be appropriated $37,600,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary each for the fiscal years ending June 30, 1975, June

30, 1976, September 30, 1977, and September 30, 1978, for the purpose of carrying out subchapter I of this chapter. In each such year, of the sums appropriated pursuant to this subchapter not less than $29,600,000 shall be expended on programs designed to eliminate poverty and poverty-related human, social, and environmental problems. Of this amount not less than $22,300,000 shall be expended on programs authorized under part A of subchapter I of this chapter in each such fiscal year.

(b) Any sums authorized to be appropriated for subchapter I of this chapter in excess of $37,600,000 shall be reflected in a commensurate increase in the sums to be made available for Part A of such subchapter.

(Pub. L. 93-113, title V, § 501, Oct. 1, 1973, 87 Stat. 415; Pub. L. 94-293, § 6(a), May 27, 1976, 90 Stat. 526.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-293 added "September 30, 1977, and September 30, 1978," following "June 30, 1976".

ADDITIONAL APPROPRIATIONS AUTHORIZATION

Additional appropriations authorization for meeting increase in stipend to volunteers under section 4955(a)(1) of this title, see section 5(b) of Pub. L. 94-130, set out as a note under section 4955 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4958 of this title.

§ 5082. National Older Americans Volunteer Programs

(a) There are authorized to be appropriated $17,500,000 for the fiscal year ending June 30, 1974, $20,000,000 each for the fiscal year ending June 30, 1975, and for the fiscal year ending June 30, 1976, respectively, $6,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $22,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, to be used for the purpose of carrying out programs under part A of subchapter II of this chapter.

(b)(1) There are authorized to be appropriated $32,500,000 for the fiscal year ending June 30, 1974, $40,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, $10,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $43,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, for the purpose of carrying out programs under part B of such subchapter of which (A) $26,500,000 for the fiscal year ending June 30, 1974, $32,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, $8,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $35,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, shall be available for such years for grants or contracts under subsection (a) of section 5011 of this title, and (B) $6,000,000 for the fiscal year ending June 30, 1974, $8,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, shall be available for such years for grants or contracts under subsection (b) of such section.

(2) If the sums authorized to be appropriated under paragraph (1) of this subsection are not appropriated and made available in full for each such fiscal year, then such sums as are appropriated and made available for each such fiscal year shall be allocated so that—

(A) any amounts appropriated not in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 5011 of this title equal $25,000,000 shall be used for grants or contracts under such subsection; and

(B) any amounts appropriated in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 5011 of this title equals[1] $31,000,000 for the fiscal year ending June 30, 1974, and $33,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, shall be used for grants or contracts for such fiscal years under such subsection.

(Pub. L. 93-113, title V, § 502, Oct. 1, 1973, 87 Stat. 415; Pub. L. 94-135, title II, § 205(a), Nov. 28, 1975, 89 Stat. 727.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-135, § 205(a)(1), authorized appropriations of $6,000,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $22,000,000 for fiscal years ending Sept. 30, 1977, and 1978.

Subsec. (b). Pub. L. 94-135, § 205(a)(2), authorized appropriations of $10,750,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $43,000,000 for fiscal years ending Sept. 30, 1977, and 1978, in introductory text; $8,750,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $35,000,000 for fiscal years ending Sept. 30, 1977, and 1978, in cl. (A); and $2,000,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $8,000,000 for fiscal years ending Sept. 30, 1977, and 1978, in cl. (B).

§ 5083. National Volunteer Programs to Assist Small Businesses and Promote Volunteer Service by Persons with Business Experience

There are authorized to be appropriated $208,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary each for the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978, respectively, for the purpose of carrying out programs under subchapter III of this chapter.

(Pub. L. 93-113, title V, § 503, Oct. 1, 1973, 87 Stat. 415; Pub. L. 94-293, § 6(b), May 27, 1976, 90 Stat. 526.)

AMENDMENTS

1976—Pub. L. 94-293 added "September 30, 1977, and September 30, 1978," following "June 30, 1976,".

§ 5084. Administration and coordination

There are authorized to be appropriated each for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978, respectively, such sums as may be necessary for the administration of this

[1] So in original. Probably should be "equal".

chapter as authorized in subchapter IV of this chapter.

(Pub. L. 93-113, title V, § 504, Oct. 1, 1973, 87 Stat. 416; Pub. L. 94-293, § 6(c), May 27, 1976, 90 Stat. 526.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

AMENDMENTS

1976—Pub. L. 94-293 added "September 30, 1977, and September 30, 1978," following "June 30, 1976,".

§ 5085. Availability of appropriations

Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this chapter or any predecessor authority shall remain available, in accordance with the provisions of this chapter, for obligation and expenditure until expended.

(Pub. L. 93-113, title V, § 505, Oct. 1, 1973, 87 Stat. 416.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

CHAPTER 67—CHILD ABUSE PREVENTION AND TREATMENT

Sec.
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§ 5101. National Center on Child Abuse and Neglect

(a) Establishment

The Secretary of Health, Education, and Welfare (hereinafter referred to in this chapter as the "Secretary") shall establish an office to be known as the National Center on Child Abuse and Neglect (hereinafter referred to in this chapter as the "Center").

(b) Functions

The Secretary, through the Center, shall—

(1) Annual research summary

Compile, analyze, and publish a summary annually of recently conducted and currently conducted research on child abuse and neglect;

(2) Information clearinghouse

Develop and maintain an information clearinghouse on all programs, including private programs, showing promise of success, for the prevention, identification, and treatment of child abuse and neglect;

(3) Training materials for personnel.

Compile and publish training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of child abuse and neglect;

(4) Technical assistance

Provide technical assistance (directly or through grant or contract) to public and nonprofit private agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect;

(5) Research into causes, prevention, identification, and treatment

Conduct research into the causes of child abuse and neglect, and into the prevention, identification, and treatment thereof; and

(6) Study

Make a complete and full study and investigation of the national incidence of child abuse and neglect, including a determination of the extent to which incidents of child abuse and neglect are increasing in number or severity.

(c) Grant and contract authority

The Secretary may carry out his functions under subsection (b) of this section either directly or by way of grant or contract.

(Pub. L. 93-247, § 2, Jan. 31, 1974, 88 Stat. 4; Pub. L. 93-644, § 8(d)(1), Jan. 4, 1975, 88 Stat. 2310.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 93-644 added subsec. (c).

SHORT TITLE

Section 1 of Pub. L. 93-247 provided: "That this Act [this chapter] may be cited as the 'Child Abuse Prevention and Treatment Act'."

§ 5102. Definitions

For purposes of this chapter the term "child abuse and neglect" means the physical or mental injury, sexual abuse, negligent treatment, or maltreatment of a child under the age of eighteen by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary.

(Pub. L. 93-247, § 3, Jan. 31, 1974, 88 Stat. 5.)

§ 5103. Demonstration programs and projects

(a) Grants and contracts; scope of activities; funds for fiscal year

The Secretary, through the Center, is authorized to make grants to, and enter into contracts with, public agencies or nonprofit private organizations (or combinations thereof) for demonstration programs and projects designed to prevent, identify, and treat child abuse and neglect. Grants or contracts under this subsection may be—

(1) for the development and establishment of training programs for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of the prevention, identification, and treatment of child abuse and neglect; and training programs for children, and for persons responsible for the welfare of children, in methods of protecting children from child abuse and neglect;

(2) for the establishment and maintenance of centers, serving defined geographic areas, staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect cases, to provide a broad range of services related to child abuse and neglect, including direct support and supervision of satellite centers and attention homes, as well as providing advice and consultation to individuals, agencies, and organizations which request such services;

(3) for furnishing services of teams of professional and paraprofessional personnel who are trained in the prevention, identification, and treatment of child abuse and neglect cases, on a consulting basis to small communities where such services are not available; and

(4) for such other innovative programs and projects, including programs and projects for parent self-help, and for prevention and treatment of drug-related child abuse and neglect, that show promise of successfully preventing or treating cases of child abuse and neglect as the Secretary may approve.

Not less than 50 per centum of the funds appropriated under this chapter for any fiscal year shall be used only for carrying out the provisions of this subsection.

(b) Grants to States; funds for fiscal year; qualifications for assistance; compliance of social security provisions with certain requirements

(1) Of the sums appropriated under this chapter for any fiscal year, not less than 5 per centum and not more than 20 per centum may be used by the Secretary for making grants to the States for the payment of reasonable and necessary expenses for the purpose of assisting the States in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

(2) In order for a State to qualify for assistance under this subsection, such State shall—

(A) have in effect a State child abuse and neglect law which shall include provisions for immunity for persons reporting instances of child abuse and neglect from prosecution, under any State or local law, arising out of such reporting;

(B) provide for the reporting of known and suspected instances of child abuse and neglect;

(C) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect;

(D) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such administrative procedures, such personnel trained in child abuse and neglect prevention and treatment, such training procedures, such institutional and other facilities (public and private), and such related multidisciplinary programs and services as may be necessary or appropriate to assure that the State will deal effectively with child abuse and neglect cases in the State;

(E) provide for methods to preserve the confidentiality of all records in order to protect the rights of the child, his parents or guardians;

(F) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

(G) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings;

(H) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to assure that Federal funds made available under this chapter for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

(I) provide for dissemination of information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect; and

(J) to the extent feasible, insure that parental organizations combating child abuse and neglect receive preferential treatment.

(3) Programs or projects related to child abuse and neglect assisted under part A or B of title IV of the Social Security Act [42 U.S.C. 601 et seq. and 620 et seq.] shall comply with the requirements set forth in clauses (B), (C), (E), and (F) of paragraph (2).

(c) Prohibition of assistance for construction of facilities; lease or rental and alteration or repair of facilities

Assistance provided pursuant to this section shall not be available for construction of facilities; however, the Secretary is authorized to supply such assistance for the lease or rental of facilities where adequate facilities are not otherwise available, and for repair or minor remodeling or alteration of existing facilities.

(d) Criteria for equitable distribution of assistance

The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this section among the States, among geographic areas of the Nation, and among rural and urban areas. To the extent possible, citizens of each State shall receive assistance from at least one project under this section.

(e) Definition

For the purpose of this section, the term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam and the Trust Territories of the Pacific.

(Pub. L. 93-247, § 4, Jan. 31, 1974, 88 Stat. 5; Pub. L. 93-644, § 8(d)(2), Jan. 4, 1975, 88 Stat. 2310.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A and Part B of title IV of the Social Security Act are classified generally to Part A (§ 601 et seq.) and Part B (§ 620 et seq.) of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

AMENDMENTS

1975—Subsec. (e). Pub. L. 93-644 added subsec. (e).

§ 5104. Authorization of appropriations

There are hereby authorized to be appropriated for the purposes of this chapter $15,000,000 for the fiscal year ending June 30, 1974, $20,000,000 for the fiscal year ending June 30, 1975, and $25,000,000 for the fiscal year ending June 30, 1976, and for the succeeding fiscal year.

(Pub. L. 93-247, § 5, Jan. 31, 1974, 88 Stat. 7.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5105 of this title.

§ 5105. Advisory Board on Child Abuse and Neglect

(a) Appointment; membership; Federal agencies represented; functions

The Secretary shall, within sixty days after January 31, 1974, appoint an Advisory Board on Child Abuse and Neglect (hereinafter referred to as the "Advisory Board"), which shall be composed of representatives from Federal agencies with responsibility for programs and activities related to child abuse and neglect, including the Office of Child Development, the Office of Education, the National Institute of Education, the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Social and Rehabilitation Service, and the Health Services Administration. The Advisory Board shall assist the Secretary in coordinating programs and activities related to child abuse and neglect administered or assisted under this chapter with such programs and activities administered or assisted by the Federal agencies whose representatives are members of the Advisory Board. The Advisory Board shall also assist the Secretary in the development of Federal Standards for child abuse and neglect prevention and treatment programs and projects.

(b) Report to President and Congress

The Advisory Board shall prepare and submit, within eighteen months after January 31, 1974, to the President and to the Congress a report on the programs assisted under this chapter and the programs, projects, and activities related to child abuse and neglect administered or assisted by the Federal agencies whose representatives are members of the Advisory Board. Such report shall include a study of the relationship between drug addiction and child abuse and neglect.

(c) Funds for report

Of the funds appropriated under section 5104 of this title, one-half of 1 per centum, or $1,000,000, whichever is the lesser, may be used by the Secretary only for purposes of the report under subsection (b) of this section.

(Pub. L. 93-247, § 6, Jan. 31, 1974, 88 Stat. 7.)

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a board established by the President or an officer of the federal government, such board is renewed by appropriate action prior to the end of such period, or in the case of a board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 5106. Coordination of Federal programs; regulations; arrangements

The Secretary shall promulgate regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination between programs related to child abuse and neglect under this chapter and other such programs which are assisted by Federal funds.

(Pub. L. 93-247, § 7, Jan. 31, 1974, 88 Stat. 8.)

CHAPTER 68—DISASTER RELIEF

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This chapter is referred to in sections 1382a, 3231, 4003 of this title; title 7 sections 1421, 1427, 1961; title 12 section 1715*l*; title 15 section 636; title 23 section 125; title 26 sections 165, 5064, 5708; title 33 section 701s; title 38 section 1820.

SUBCHAPTER I—FINDINGS, DECLARATIONS, AND DEFINITIONS

§ 5121. Congressional findings and declarations

(a) The Congress hereby finds and declares that—

(1) because disasters often cause loss of life, human suffering, loss of income, and property loss and damage; and

(2) because disasters often disrupt the normal functioning of governments and communities, and adversely affect individuals and families with great severity;

special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this chapter, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing disaster relief programs;

(2) encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and by local governments;

(3) achieving greater coordination and responsiveness of disaster preparedness and relief programs;

(4) encouraging individuals, States, and local governments to protect themselves by obtaining insurance coverage to supplement or replace governmental assistance;

(5) encouraging hazard mitigation measures to reduce losses from disasters, including development of land use and construction regulations;

(6) providing Federal assistance programs for both public and private losses sustained in disasters; and

(7) providing a long-range economic recovery program for major disaster areas.

(Pub. L. 93-288, title I, § 101, May 22, 1974, 88 Stat. 143.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out below and Tables volume.

EFFECTIVE DATE

Section 605 of Pub. L. 93-288 provided that: "Except for section 408 [section 5178 of this title], this Act [see Short Title note below] shall take effect as of April 1, 1974."

SHORT TITLE

Section 1 of Pub. L. 93-288 provided: "That this Act [enacting sections 3231 to 3236, 5121, 5122, 5131, 5132, 5141 to 5158, 5171 to 5189, 5201, and 5202 of this title, and section 1264 of Title 31, Money and Finance, amending sections 1706c, 1709, 1715*l* of Title 12, Banks and Banking, sections 241-1, 646, 758 of Title 20, Education, sections 165, 5064, 5708 of Title 26, Internal Revenue Code, section 1820 of Title 38, Veterans' Benefits, section 461 of Title 40, Public Buildings, Property, and Works, repealing sections 4401, 4402, 4411 to 4413, 4414 to 4420, 4431 to 4436, 4457 to 4462, 4481 to 4485 of this title, and enacting provisions set out as notes under sections 4401, 5121, and 5178 of this title, section 1264 of Title 31, and section 1681 of Title 48, Territories and Insular Possessions] may be cited as the 'Disaster Relief Act of 1974'."

REFERENCES TO DISASTER RELIEF ACT OF 1970

Section 602(m) of Pub. L. 93-288 provided that: "Whenever reference is made in any provision of law (other than this Act [the Disaster Relief Act of 1974, see Short Title note above]), regulation rule, record, or documents of the United States to provisions of the Disaster Relief Act of 1970 (84 Stat. 1744), repealed by this Act such reference shall be deemed to be a reference to the appropriate provisions of this Act."

EX. ORD. NO. 11749. CONSOLIDATION OF FUNCTIONS ASSIGNED TO THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Ex. Ord. No. 11749, eff. Dec. 10, 1973, 38 F.R. 34177, provided:

By virtue of the authority vested in me by Reorganization Plan No. 1 of 1973 [set out in the Appendix to Title 5, Government Organization and Employees], the Disaster Relief Act of 1970, as amended (42 U.S.C. 4401, *et seq.*), and section 301 of title 3 of the United States Code and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of Housing and Urban Development is designated and empowered to exercise without the approval, ratification, or other action of the President, all of the authority vested in the President by the Disaster Relief Act of 1970, as amended, hereinafter referred to as the "Act", except (1) the authorities vested in the President by section 102(1) of the Act to declare a major disaster [section 4402 of this title], by section 251 of the Act [section 4481 of this title] to provide for the restoration of Federal facilities, and by section 253 of the Act [section 4483 of this title] to prescribe time limits for granting priorities for certain public facilities and certain public housing assistance which are hereby reserved to the President; (2) the authority vested in the President by section 210 of the Act [section 4420 of this title] concerning the utilization and availability of the civil defense communications system for the purpose of disaster warnings which the Secretary of Defense is empowered to exercise by this order; and (3) the authority vested in the President by section 238 of the Act [section 4457 of this title] concerning food coupons and surplus commodities, which the Secretary of Agriculture is empowered to exercise by this order.

(b) The Secretary of Housing and Urban Development is hereby empowered to exercise without the approval, ratification, or other action of the President,

all of the authority conferred upon the President by section 4 of the act entitled "An Act to authorize for a limited period additional loan assistance under the Small Business Act for disaster victims, to provide for a study and report to the Congress by the President setting forth recommendations for a comprehensive revision of disaster relief legislation, and for other purposes."

(c) The Secretary of Housing and Urban Development may delegate or assign to the head of any agency of the executive branch of the Government, subject to the consent of the agency head concerned in each case, any authority or functions delegated or assigned to the Secretary by the provisions of this section. Any such head of the agency may redelegate any authority or function so delegated or assigned to him by the Secretary to any officer or employee subordinate to such head of the agency whose appointment is required to be made by and with the advice and consent of the Senate.

SEC. 2. The Secretary of Housing and Urban Development is designated and empowered to exercise, without the approval, ratification, or other action of the President:

(1) All authority which was vested in the Office of Emergency Preparedness, or the Director thereof, by the Disaster Relief Act of 1970, as amended, and which was transferred to the President by Reorganization Plan No. 1 of 1973 [set out in the Appendix to Title 5, Government Organization and Employees].

(2) All authority which was vested in the Director of the Office of Emergency Preparedness with respect to determining whether a major disaster has occurred within the meaning of (A) section 16 of the Act of September 23, 1950, as amended (20 U.S.C. 646), (B) section 7 of the Act of September 30, 1950, as amended (20 U.S.C. 241-1), and (C) section 762(a) of the Higher Education Act of 1965 as added by section 161(a) of the Education Amendments of 1972, Public Law 92-318, 86 Stat. 288 at 299 (relating to the furnishing by the Commissioner of Education of disaster relief assistance for educational purposes) [section 1132d-1 of Title 20, Education], and which was transferred to the President by Reorganization Plan No. 1 of 1973 [set out in the Appendix to Title 5, Government Organization and Employees].

SEC. 3. (a) There is hereby established the National Council on Federal Disaster Assistance (hereinafter referred to as the "Council") which shall be composed of the Secretary of Housing and Urban Development, who shall be the Chairman of the Council, and policy level representatives of the Departments of Defense; the Interior; Agriculture; Commerce; Labor; Health, Education, and Welfare; and Transportation; and of the Small Business Administration and the Office of Economic Opportunity, and such other members as the President may from time to time designate. This Council supersedes the National Council on Federal Disaster Assistance established by Executive Order No. 11526. Representatives of the other Federal departments or agencies, officials of state and local governments, and private citizens may be invited by the Chairman to participate in the deliberations of the Council.

(b) The Council shall advise and assist the Secretary of Housing and Urban Development in: (1) Insuring that the Federal agencies furnish necessary assistance following a large-scale disaster on a priority basis to the Federal Coordinating Officer appointed by the President to operate under the Secretary of Housing and Urban Development, pursuant to section 201 of the Disaster Relief Act of 1970 [section 4411 of this title]; (2) developing policies and programs to provide a strong and integrated total Federal disaster assistance effort; (3) stimulating cooperation and the sharing of data, views, and information concerning disaster assistance among Federal agencies, State and local governments, and private organizations having disaster assistance responsibilities and interests; (4) facilitating cooperation among Federal, State, and local governments with special concern for the maintenance of local initiative and decisionmaking with respect to emergency restoration and rebuilding programs; (5) promoting the participation of Federal agencies in providing Federal assistance for rebuilding efforts; (6) encouraging research on means of preventing disasters and ameliorating the effects of those that occur; (7) reviewing, from time to time, the effectiveness of the Federal disaster assistance programs and suggesting needed changes.

(c) Consistent with law, the Department of Housing and Urban Development shall provide staff and other assistance to the Council, and executive departments and agencies shall furnish to the Council such available information as the Council may require in performance of its functions.

(d) Nothing in this order shall be construed as subjecting any Federal agency or officer, or any function vested by law in, or assigned, pursuant to law to, any Federal agency or officer to the authority of the Council or of any other agency or officer or as abrogating any such function in any manner.

SEC. 4. The Secretary of Housing and Urban Development is designated and empowered to exercise, without the approval, ratification, or other action of the President all other incidental authority relating to matters described in sections 1 through 3 of this Executive order that has been vested in the Office of Emergency Preparedness or the Director thereof by the President by letter, memorandum, or other form of directive, or otherwise.

SEC. 5. (a) The Secretary of Defense is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 210 of the Act concerning the utilization and availability of the civil defense communications system for the purpose of disaster warnings [section 4420 of this title].

(b) The Secretary of Agriculture is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 238 of the Act concerning food coupons and surplus commodities [section 4457 of this title].

SEC. 6. (a) Executive Order Nos. 11526, 11575, 11662, and 11678, and section 1 of Executive Order No. 11725 are hereby superseded.

(b) This order shall be effective thirty days after the date of its issuance.

RICHARD NIXON.

TRANSFER OF FUNCTIONS

The Office of Economic Opportunity, established by section 2941 of this title, was superseded by the Community Services Administration pursuant to Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 805. References to the Office of Economic Opportunity now deemed references to the Community Services Administration, see section 2941(d)(2) of this title.

EX. ORD. NO. 11795. DELEGATION OF PRESIDENTIAL FUNCTIONS

Ex. Ord. No. 11795, eff. July 11, 1974, 39 F.R. 25939, as amended by Ex. Ord. No. 11910, Apr. 13, 1976, 41 F.R. 15681, provided:

By virtue of the authority vested in me by the Disaster Relief Act of 1974 (Public Law 93-288; 88 Stat. 143) [this chapter], section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of Housing and Urban Development is designated and empowered to exercise without the approval, ratification or other action by the President all of the authority vested in the President by the Disaster Relief Act of 1974 [this chapter], hereinafter referred to as the "act", except: (1) The authority vested in the President by section 301 of the act [section 5141 of this title] to declare emergencies and major disasters, by section 313 of the act [section 5153 of this title] to prescribe time limits for granting priorities for certain public facilities and certain public housing assistance, by section 401 of the act

[section 5171 of this title] to provide for the repair, reconstruction, restoration, or replacement of Federal facilities, and by title V to provide for economic recovery [sections 3231 to 3236 of this title], which are hereby reserved to the President; (2) the authority vested in the President by that part of section 202(c) of the act [section 5132(c) of this title] concerning the utilization and availability of the Federal civil defense communications system for the purpose of disaster warnings which the Secretary of Defense is empowered to exercise by this order; and (3) the authority vested in the President by section 409 of the act [section 5179 of this title] concerning food coupons and distribution, which the Secretary of Agriculture is empowered to exercise by this order.

(b) The Secretary of Housing and Urban Development may delegate or assign to the head of any agency of the executive branch of the Government, subject to the consent of the agency head concerned in each case, any authority or function delegated or assigned to the Secretary by the provisions of this section. Any such head of the agency may redelegate any authority or function so delegated or assigned to him by the Secretary to any officer or employee subordinate to such head of the agency.

(c) The Secretary of Housing and Urban Development shall prepare a plan for the implementation of the provisions of section 412 of the act [section 5182 of this title], relating to legal services, and shall submit that plan to the President through the Director of the Office of Management and Budget.

SEC. 2. The Secretary of Defense is designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by section 202(c) of the act [section 5132(c) of this title] concerning the utilization and availability of the Federal civil defense communications system for the purpose of disaster warnings.

SEC. 3. The Secretary of Agriculture is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 409 of the act [section 5179 of this title] concerning food coupons and distribution.

SEC. 4. This order shall be effective as of May 22, 1974, and all actions taken by the Secretary of Housing and Urban Development pursuant to the act prior to the date of this order are, to the extent such actions would be authorized and under this order, ratified.

RICHARD NIXON.

§ 5122. Definitions

As used in this chapter—

(1) "Emergency" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster.

(2) "Major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter, above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(3) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

(4) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, or the Trust Territory of the Pacific Islands.

(5) "Governor" means the chief executive of any State.

(6) "Local government" means (A) any county, city, village, town, district, or other political subdivision of any State, any Indian tribe or authorized tribal organization, or Alaska Native village or organization, and (B) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof.

(7) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.

(Pub. L. 93-288, title I, § 102, May 22, 1974, 88 Stat. 144.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 sections 1706c, 1709; title 20 sections 241-1, 646, 1132d-5.

SUBCHAPTER II—DISASTER PREPAREDNESS ASSISTANCE

§ 5131. Federal and state disaster preparedness programs

(a) Utilization of services of other agencies

The President is authorized to establish a program of disaster preparedness that utilizes services of all appropriate agencies (including the Defense Civil Preparedness Agency) and includes—

(1) preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;

(2) training and exercises;

(3) postdisaster critiques and evaluations;

(4) annual review of programs;

(5) coordination of Federal, State, and local preparedness programs;

(6) application of science and technology;

(7) research.

(b) Technical assistance for the development of plans and programs

The President shall provide technical assistance to the States in developing comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation; for assistance to individuals, business, and State and local govern-

ments following such disasters; and for recovery of damaged or destroyed public and private facilities.

(c) Grants to states for development of plans and programs

Upon application by a State, the President is authorized to make grants, not to exceed in the aggregate to such State $250,000, for the development of plans, programs, and capabilities for disaster preparedness and prevention. Such grants shall be applied for within one year from May 22, 1974. Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such a disaster preparedness program, and shall, through such agency, submit a State plan to the President, which shall—

(1) set forth a comprehensive and detailed State program for preparation against and assistance following, emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments; and

(2) include provisions for appointment and training of appropriate staffs, formulation of necessary regulations and procedures and conduct of required exercises.

(d) Grants for improvement, maintenance, and updating of state plans

The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining and updating State disaster assistance plans, except that no such grant shall exceed $25,000 per annum to any State.

(Pub. L. 93-288, title II, § 201, May 22, 1974, 88 Stat. 145.)

§ 5132. Disaster warnings

(a) Readiness of federal agencies to issue warnings to state and local officials

The President shall insure that all appropriate Federal agencies are prepared to issue warnings of disasters to State and local officials.

(b) Technical assistance to state and local governments for effective warnings

The President shall direct appropriate Federal agencies to provide technical assistance to State and local governments to insure that timely and effective disaster warning is provided.

(c) Warnings to governmental authorities and public endangered by disaster

The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 2281(c) of title 50, Appendix, or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters.

(d) Agreements with commercial communications systems for use of facilities

The President is authorized to enter into agreements with the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable or nonreimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters.

(Pub. L. 93-288, title II, § 202, May 22, 1974, 88 Stat. 145.)

SUBCHAPTER III—DISASTER ASSISTANCE ADMINISTRATION

§ 5141. Procedure for determination of the existence of emergency or major disaster

(a) All requests for a determination by the President that an emergency exists shall be made by the Governor of the affected State. Such request shall be based upon the Governor's finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. The Governor's request will furnish information describing State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may determine that an emergency exists which warrants Federal assistance.

(b) All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such Governor's request shall be based upon a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of this request, and as a prerequisite to major disaster assistance under this chapter, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the disaster, and shall certify that for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster. Based upon such Governor's request, the President may declare that a major disaster exists, or that an emergency exists.

(Pub. L. 93-288, title III, § 301, May 22, 1974, 88 Stat. 146.)

References in Text

This chapter, referred to in subsec. (b) in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

Section Referred to in Other Sections

This section is referred to in title 12 sections 1706c, 1709; title 20 sections 241-1, 646; title 31 section 1264.

§ 5142. Federal assistance

(a) Coordination of federal efforts in providing disaster assistance; scope of services; rules and regulations

In the interest of providing maximum mobilization of Federal assistance under this chapter, the President shall coordinate, in such manner as he may determine, the activities of all Federal agencies providing disaster assistance. The President may direct any Federal agency, with or without reimbursement, to utilize its available personnel, equipment, supplies, facilities, and other resources including managerial and technical services in support of State and local disaster assistance efforts. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this chapter, and he may exercise any power or authority conferred on him by any section of this chapter either directly or through such Federal agency as he may designate.

(b) Waiver of administrative conditions for assistance

Any Federal agency charged with the administration of a Federal assistance program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.

(c) Damage to farm fencing; special assistance

Notwithstanding any other provision of law, any repair, restoration, reconstruction, or replacement of farm fencing damaged or destroyed as a result of any major disaster shall be considered an emergency conservation measure eligible for payments under chapter I of the Third Supplemental Appropriation Act, 1957, or any other provision of law.

(Pub. L. 93-288, title III, § 302, May 22, 1974, 88 Stat. 146.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

Chapter I of the Third Supplemental Appropriation Act, 1957, referred to in subsec. (c), is chapter I of Pub. L. 85-58, 71 Stat. 176, which was not classified to the Code.

§ 5143. Coordinating officers

(a) Appointment of federal coordinating officer

Immediately upon his declaration of a major disaster, the President shall appoint a Federal coordinating officer to operate in the affected area.

(b) Functions of federal coordinating officer

In order to effectuate the purpose of this chapter, the Federal coordinating officer, within the affected area, shall—

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the President;

(3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this chapter shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599) [36 U.S.C. 1 et seq.]; and

(4) take such other action, consistent with authority delegated to him by the President, and consistent with the provisions of this chapter, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

(c) State coordinating officer

When the President determines assistance under this chapter is necessary, he shall request that the Governor of the affected State designate a State coordinating officer for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government.

(Pub. L. 93-288, title III, § 303, May 22, 1974, 88 Stat. 147.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c), in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

The Act of January 5, 1905, as amended (33 Stat. 599), referred to in subsec. (b), is act Jan. 5, 1905, ch. 23, 33 Stat. 599, which enacted sections 1, 2, 3, 4, 4a, 5, 6, 8, and 9 of Title 36, Patriotic Societies and Observances. For complete classification of this Act to the Code, see Tables volume.

§ 5144. Emergency support teams

The President shall form emergency support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to this chapter. Upon request of the President, the head of any Federal agency is directed to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the President, such personnel within the administrative jurisdiction of the head of the Federal agency as the President may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.

(Pub. L. 93-288, title III, § 304, May 22, 1974, 88 Stat. 148.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5145. Emergency assistance

(a) Authority of the President

In any emergency, the President may provide assistance to save lives and protect property and public health and safety.

(b) Technical assistance; advisory personnel

The President may provide such emergency assistance by directing Federal agencies to provide technical assistance and advisory personnel to the affected State to assist the State and local governments in—

(1) the performance of essential community services; warning of further risks and hazards; public information and assistance in health and safety measures; technical advice on management and control; and reduction of immediate threats to public health and safety; and

(2) the distribution of medicine, food, and other consumable supplies, or emergency assistance.

(c) Other assistance

In addition, in any emergency, the President is authorized to provide such other assistance under this chapter as the President deems appropriate.

(Pub. L. 93-288, title III, § 305, May 22, 1974, 88 Stat. 148.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

EMERGENCY HAY PROGRAM; REPAYMENT OF TRANSPORTATION COSTS; EFFECTIVE AND TERMINATION DATES

Pub. L. 94-463, § 8, Oct. 8, 1976, 90 Stat. 1983, provided that: "In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 [this section] because of an emergency or major disaster in such area, the President shall direct the Secretary of Agriculture to pay 80 percent of the cost of transporting hay (not to exceed $50 per ton) from areas in which hay is in plentiful supply to the area in which such farmers or ranchers are located. The provisions of this section shall expire on October 1, 1977, and shall become effective on October 1, 1976, or on the date of enactment of this Act [Oct. 8, 1976], whichever is later."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5175 of this title.

§ 5146. Cooperation of federal agencies in rendering disaster assistance

(a) In any major disaster or emergency, Federal agencies are hereby authorized, on the direction of the President, to provide assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies, including that determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government, to State and local governments for use or distribution by them for the purposes of this chapter; and

(4) performing on public or private lands or waters any emergency work or services essential to save lives and to protect and preserve property, public health and safety, including but not limited to: search and rescue, emergency medical care, emergency mass care, emergency shelter, and provisions of food, water, medicine, and other essential needs, including movement of supplies or persons; clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services; provision of temporary facilities for schools and other essential community services; demolition of unsafe structures that endanger the public; warning of further risks and hazards; public information and assistance on health and safety measures; technical advice to State and local governments on disaster management and control; reduction of immediate threats to life, property, and public health and safety; and making contributions to State or local governments for the purpose of carrying out the provisions of this paragraph.

(b) Work performed under this section shall not preclude additional Federal assistance under any other section of this chapter.

(Pub. L. 93-288, title III, § 306, May 22, 1974, 88 Stat. 148.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5175, 5189 of this title.

§ 5147. Reimbursement of federal agencies

Federal agencies may be reimbursed for expenditures under this chapter from funds appropriated for the purposes of this chapter. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this chapter shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

(Pub. L. 93-288, title III, § 307, May 22, 1974, 88 Stat. 149.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5148. Nonliability of Federal Government

The Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this chapter.

(Pub. L. 93-288, title III, § 308, May 22, 1974, 88 Stat. 149.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5149. Performance of services

(a) Utilization of services or facilities of state and local governments

In carrying out the purposes of this chapter, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government.

(b) Appointment of temporary personnel, experts, and consultants; acquisition, rental, or hire of equipment, services, materials and supplies

In performing any services under this chapter, any Federal agency is authorized—

(1) to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5 governing appointments in competitive service;

(2) to employ experts and consultants in accordance with the provisions of section 3109 of such title, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

(3) to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

(Pub. L. 93-288, title III, § 309, May 22, 1974, 88 Stat. 149.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (b)(1), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 5150. Use of local firms and individuals

In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster.

(Pub. L. 93-288, title III, § 310, May 22, 1974, 88 Stat. 150.)

§ 5151. Nondiscrimination in disaster assistance

(a) Regulations for equitable and impartial relief operations

The President shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out Federal assistance functions at the site of a major disaster or emergency. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status.

(b) Compliance with regulations as prerequisite to participation by other bodies in relief operations

As a condition of participation in the distribution of assistance or supplies under this chapter or of receiving assistance under section 5172 or 5174 of this title, governmental bodies and other organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the President, and such other regulations applicable to activities within an area affected by a major disaster or emergency as he deems necessary for the effective coordination of relief efforts.

(Pub. L. 93-288, title III, § 311, May 22, 1974, 88 Stat. 150.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5174 of this title.

§ 5152. Use and coordination of relief organizations

(a) In providing relief and assistance under this chapter, the President may utilize, with their consent the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the President finds that such utilization is necessary.

(b) The President is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster

relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster or emergency. Any such agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination promulgated by the President under this chapter, and such other regulation as the President may require.

(Pub. L. 93-288, title III, § 312, May 22, 1974, 88 Stat. 150.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5153. Priority to certain applications for public facility and public housing assistance

(a) In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters, under the following Acts:

(1) title II of the Housing Amendments of 1955 [42 U.S.C. 1491 et seq.], or any other Act providing assistance for repair, construction, or extension of public facilities;

(2) the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] for the provision of low-rent housing;

(3) section 462 of title 40 for assistance in public works planning;

(4) section 3102 of this title providing for grants for public facilities;

(5) section 1926 of title 7;

(6) the Public Works and Economic Development Act of 1965, as amended [42 U.S.C. 3121 et seq.];

(7) the Appalachian Regional Development Act of 1965, as amended; or

(8) title II of the Federal Water Pollution Control Act, as amended [33 U.S.C. 1281 et seq.].

(b) In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects in major disaster areas in which a Recovery Planning Council has been designated pursuant to title VIII of the Public Works and Economic Development Act of 1965 [42 U.S.C. 3231 et seq.].

(Pub. L. 93-288, title III, § 313, May 22, 1974, 88 Stat. 150.)

REFERENCES IN TEXT

The Housing Amendments of 1955, referred to in subsec. (a)(1), is act Aug. 11, 1955, ch. 783, 69 Stat. 635, as amended. Title II of the Housing Amendments of 1955 is classified generally to chapter 8B (§ 1491 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1955 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

The United States Housing Act of 1937, referred to in subsec. (a)(2), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables volume.

The Public Works and Economic Development Act of 1965, as amended, referred to in subsec. (a)(6), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified principally to chapter 38 (§ 3121 et seq.) of this title. Title VIII of the Public Works and Economic Development Act of 1965, referred to in subsec. (b), is classified generally to subchapter VIII (§ 3231 et seq.) of chapter 38 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of this title and Tables volume.

The Appalachian Regional Development Act of 1965, referred to in subsec. (a)(7), is Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, which is set out in the Appendix to Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Tables volume.

The Federal Water Pollution Control Act, referred to in subsec. (a)(8), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. Title II of the Federal Water Pollution Control Act is classified generally to subchapter II (§ 1281 et seq.) of chapter 26 of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables volume.

§ 5154. Insurance

(a) Compliance with regulations requiring insurance coverage

(1) An applicant for assistance under section 3233, 5172, or 5189 of this title, shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary to protect against future loss to such property.

(2) In making his determination with respect to such availability, adequacy and necessity, the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.

(b) Requirement of insurance coverage for assistance under certain provisions

No applicant for assistance under section 3233, 5172, or 5189 of this title, shall receive such assistance for any property or part thereof for which he has previously received assistance under this chapter unless all insurance required pursuant to this section has been obtained and maintained with respect to such property.

(c) States electing to be self-insurers

A State may elect to act as a self-insurer with respect to any or all of the facilities belonging to it. Such an election, if declared in writing at the time of accepting assistance under section 3233, 5172, or 5189 of this title, or subsequently, and accompanied by a plan for self-insurance which is satisfactory to the President, shall be

deemed compliance with subsection (a) of this section. No such self-insurer shall receive assistance under such sections for any property or part thereof for which it has previously received assistance under this chapter, to the extent that insurance for such property or part thereof would have been reasonably available.

(Pub. L. 93-288, title III, § 314, May 22, 1974, 88 Stat. 151.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c), in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5155. Duplication of benefits

(a) Financial assistance under other programs

The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) Insurance compensation; partial compensation

The President shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Misapplication of loans and cash benefits

Whenever the President determines (1) that a person, business concern, or other entity has received assistance under this chapter for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

(Pub. L. 93-288, title III, § 315, May 22, 1974, 88 Stat. 152.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5156. Reviews and reports

The President shall conduct annual reviews of the activities of Federal agencies and State and local governments providing disaster preparedness and assistance, in order to assure maximum coordination and effectiveness of such programs, and shall from time to time report thereon to the Congress.

(Pub. L. 93-288, title III, § 316, May 22, 1974, 88 Stat. 152.)

§ 5157. Criminal and civil penalties

(a) Fraudulent or willful misrepresentation

Any individual who fraudulently or willfully misstates any fact in connection with a request for assistance under this chapter shall be fined not more than $10,000 or imprisoned for not more than one year or both for each violation.

(b) Violation of orders and regulations

Any individual who knowingly violates any order or regulation under this chapter shall be subject to a civil penalty of not more than $5,000 for each violation.

(c) Misapplication of loans and cash benefits

Whoever knowingly misapplies the proceeds of a loan or other cash benefit obtained under any section of this chapter shall be subject to a fine in an amount equal to one and one-half times the original principal amount of the loan or cash benefit.

(Pub. L. 93-288, title III, § 317, May 22, 1974, 88 Stat. 152.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), (c), in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5158. Availability of materials

The President is authorized, at the request of the Governor of an affected State, to provide for a survey of construction materials needed in the area affected by a major disaster on an emergency basis for housing repairs, replacement housing, public facilities repairs and replacement, farming operations, and business enterprises and to take appropriate action to assure the availability and fair distribution of needed materials, including, where possible, the allocation of such materials for a period of not more than one hundred and eighty days after such major disaster. Any allocation program shall be implemented by the President to the extent possible, by working with and through those companies which traditionally supply construction materials in the affected area. For the purposes of this section "construction materials" shall include building materials and materials required for repairing housing, replacement housing, public facilities repairs and replacement, and for normal farm and business operations.

(Pub. L. 93-288, title III, § 318, May 22, 1974, 88 Stat. 152.)

SUBCHAPTER IV—FEDERAL DISASTER ASSISTANCE PROGRAMS

§ 5171. Federal facilities

(a) Repair, reconstruction, restoration or replacement of United States facilities

The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States

and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes, or the obtaining of congressional committee approval.

(b) Availability of funds appropriated to agency for repair, reconstruction, restoration, or replacement of agency facilities

In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.

(c) Steps for mitigation of hazards

In implementing this section, Federal agencies shall evaluate the natural hazards to which these facilities are exposed and shall take appropriate action to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed by the President.

(Pub. L. 93-288, title IV, § 401, May 22, 1974, 88 Stat. 153.)

§ 5172. Repair and restoration of damaged facilities

(a) Public facilities of state and local governments

The President is authorized to make contributions to State or local governments to help repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster.

(b) Nonprofit educational, utility, emergency, medical, and custodial care facilities

The President is also authorized to make grants to help repair, restore, reconstruct, or replace private nonprofit educational, utility, emergency, medical, and custodial care facilities, including those for the aged or disabled, and facilities on Indian reservations as defined by the President, which were damaged or destroyed by a major disaster.

(c) Facilities under completion at the time of disaster

For those facilities eligible under this section which were in the process of construction when damaged or destroyed by a major disaster, the grant shall be based on the net costs of restoring such facilities substantially to their predisaster condition.

(d) Definition

For the purposes of this section, "public facility" includes any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, any other public building, structure, or system including those used for educational or recreational purposes, and any park.

(e) Maximum limit of grants

The Federal contribution for grants made under this section shall not exceed 100 per centum of the net cost of repairing, restoring, reconstructing, or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications, and standards.

(f) Decision by state or local government not to restore damaged facilities; limit on federal contribution

In those cases where a State or local government determines that public welfare would not be best served by repairing, restoring, reconstructing, or replacing particular public facilities owned or controlled by that State or that local government which have been damaged or destroyed in a major disaster, it may elect to receive, in lieu of the contribution described in subsection (e) of this section, a contribution based on 90 per centum of the Federal estimate of the total cost of repairing, restoring, reconstructing, or replacing all damaged facilities owned by it within its jurisdiction. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications and standards. Funds contributed under this subsection may be expended either to repair or restore certain selected damaged public facilities or to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area.

(Pub. L. 93-288, title IV, § 402, May 22, 1974, 88 Stat. 153.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3232, 5151, 5154, 5175, 5189 of this title.

§ 5173. Debris removal

(a) The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and

(2) to make grants to any State or local government for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.

(Pub. L. 93-288, title IV, § 403, May 22, 1974, 88 Stat. 154.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5175, 5189 of this title.

§ 5174. Temporary housing assistance

(a) Rent free accommodations; utilities

The President is authorized to provide, either by purchase or lease, temporary housing, including, but not limited to, unoccupied habitable dwellings, suitable rental housing, mobile homes or other readily fabricated dwellings for those who, as a result of a major disaster, require temporary housing. During the first twelve months of occupancy no rentals shall be established for any such accommodations, and thereafter rentals shall be established, based upon fair market value of the accommodations being furnished, adjusted to take into consideration the financial ability of the occupant. Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided either by the State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. The President may authorize installation of essential utilities at Federal expense and he may elect to provide other more economical or accessible sites when he determines such action to be in the public interest.

(b) Temporary mortgage or rental payments

The President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to such disaster. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser.

(c) Repair or restoration of owner-occupied residential structures

In lieu of providing other types of temporary housing after a major disaster, the President is authorized to make expenditures for the purpose of repairing or restoring to a habitable condition owner-occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly to a habitable condition with minimal repairs. No assistance provided under this section may be used for major reconstruction or rehabilitation of damaged property.

(d) Sale of temporary housing acquired by purchase

(1) Notwithstanding any other provision of law, any temporary housing acquired by purchase may be sold directly to individuals and families who are occupants of temporary housing at prices that are fair and equitable, as determined by the President.

(2) The President may sell or otherwise make available temporary housing units directly to States, other governmental entities, and voluntary organizations. The President shall impose as a condition of transfer under this paragraph a covenant to comply with the provisions of section 5151 of this title requiring nondiscrimination in occupancy of such temporary housing units. Such disposition shall be limited to units purchased under the provisions of subsection (a) of this section and to the purposes of providing temporary housing for disaster victims in emergencies or in major disasters.

(Pub. L. 93-288, title IV, § 404, May 22, 1974, 88 Stat. 154.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5151 of this title.

§ 5175. Protection of environment

No action taken or assistance provided pursuant to section 5145, 5146, or 5173 of this title, or any assistance provided pursuant to section 5172 or 5189 of this title that has the effect of restoring facilities substantially as they existed prior to the disaster, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852) [42 U.S.C. 4321 et seq.]. Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 (83 Stat. 852) to other Federal actions taken under this chapter or under any other provision of law.

(Pub. L. 93-288, title IV, § 405, May 22, 1974, 88 Stat. 155.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in text, is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables volume.

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5176. Minimum standards for public and private structures

As a condition of any disaster loan or grant made under the provisions of this chapter, the recipient shall agree that any repair or construction to be financed therewith shall be in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards, and shall furnish such evidence of compliance with this section as may be required by regulation. As a further condition of any loan or grant made under the provisions of this chapter, the State or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluated and appropriate action shall be taken to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed or approved by the President after adequate consultation with the appropriate elected officials of general purpose local governments, and the State shall furnish such evidence of compliance

with this section as may be required by regulation.

(Pub. L. 93-288, title IV, § 406, May 22, 1974, 88 Stat. 155.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5177. Unemployment assistance

(a) The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than one year after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred, and the amount of assistance under this section to any such individual for a week of unemployment shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) The President is further authorized for the purposes of this chapter to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster.

(Pub. L. 93-288, title IV, § 407, May 22, 1974, 88 Stat. 156.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5178. Individual and family grant programs

(a) Grants to states

The President is authorized to make a grant to a State for the purpose of such State making grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this chapter, or from other means. The Governor of a State shall administer the grant program authorized by this section.

(b) Matching grants by states

The Federal share of a grant to an individual or a family under this section shall be equal to 75 per centum of the actual cost of meeting such an expense or need and shall be made only on condition that the remaining 25 per centum of such cost is paid to such individual or family from funds made available by a State. Where a State is unable immediately to pay its share, the President is authorized to advance to such State such 25 per centum share, and any such advance is to be repaid to the United States when such State is able to do so. No individual and no family shall receive any grant or grants under this section aggregating more than $5,000 with respect to any one major disaster.

(c) Regulations

The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and the administration of grants made under this section.

(d) Expenditure for administering grants

A State may expend not to exceed 3 per centum of any grant made by the President to it under subsection (a) of this section for expenses of administering grants to individuals and families under this section.

(Pub. L. 93-288, title IV, § 408(a)-(d), May 22, 1974, 88 Stat. 156.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

EFFECTIVE DATE

Section 408(e) of Pub. L. 93-288 provided that: "This section shall take effect as of April 20, 1973."

§ 5179. Food coupons and distribution

(a) Persons eligible; terms and conditions

Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 (P.L. 91-671; 84 Stat. 2048) [7 U.S.C. 2011 et seq.] and to make surplus commodities available pursuant to the provisions of this chapter.

(b) Duration of assistance; factors considered

The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Food Stamp Act provisions unaffected

Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 [7 U.S.C. 2011 et seq.] except as they relate to the availability of food stamps in an area affected by a major disaster.

(Pub. L. 93-288, title IV, § 409, May 22, 1974, 88 Stat. 157.)

REFERENCES IN TEXT

The Food Stamp Act of 1964, referred to in subsecs. (a), (c), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (§ 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables volume.

This chapter, referred to in subsec. (a), in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5180. Food commodities

(a) Emergency mass feeding

The President is authorized and directed to assure that adequate stocks of food will be ready and conveniently available for emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.

(b) Funds for purchase of food commodities

The Secretary of Agriculture shall utilize funds appropriated under section 612c of title 7, to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

(Pub. L. 93-288, title IV, § 410, May 22, 1974, 88 Stat. 157.)

§ 5181. Relocation assistance

Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) [42 U.S.C. 4601 et seq.] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.

(Pub. L. 93-288, title IV, § 411, May 22, 1974, 88 Stat. 157.)

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in text, is Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, as amended, which is classified principally to chapter 61 (§ 4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables volume.

§ 5182. Legal services

Whenever the President determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goals of the programs authorized by this chapter, the President shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

(Pub. L. 93-288, title IV, § 412, May 22, 1974, 88 Stat. 157.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5183. Crisis counseling assistance and training

The President is authorized (through the National Institute of Mental Health) to provide professional counseling services, including financial assistance to State or local agencies or private mental health organizations to provide such services or training of disaster workers, to victims of major disasters in order to relieve mental health problems caused or aggravated by such major disaster or its aftermath.

(Pub. L. 93-288, title IV, § 413, May 22, 1974, 88 Stat. 157.)

§ 5184. Community disaster loans

(a) The President is authorized to make loans to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions. The amount of any such loan shall be based on need, and shall not exceed 25 per centum of the annual operating budget of that local government for the fiscal year in which the major disaster occurs. Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.

(b) Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this chapter.

(Pub. L. 93-288, title IV, § 414(a), (b), May 22, 1974, 88 Stat. 158.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5185. Emergency communications

The President is authorized during, or in anticipation of, an emergency or major disaster to establish temporary communications systems and to make such communications available to State and local government officials and other persons as he deems appropriate.

(Pub. L. 93-288, title IV, § 415, May 22, 1974, 88 Stat. 158.)

§ 5186. Emergency public transportation

The President is authorized to provide temporary public transportation service in an area affected by a major disaster to meet emergency needs and to provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order

to enable the community to resume its normal pattern of life as soon as possible.

(Pub. L. 93-288, title IV, § 416, May 22, 1974, 88 Stat. 158.)

§ 5187. Fire suppression grants

The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster.

(Pub. L. 93-288, title IV, § 417, May 22, 1974, 88 Stat. 158.)

§ 5188. Timber sale contracts

(a) Cost-sharing arrangement

Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than $1,000 for sales under one million board feet, (2) of more than $1 per thousand board feet for sales of one to three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) Cancellation of authority

If the appropriate Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, he may allow cancellation of a contract entered into by his Department notwithstanding contrary provisions therein.

(c) Public notice of sale

The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by section 476 of title 16, in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

(d) State grants for removal of damaged timber; reimbursement of expenses limited to salvage value of removed timber

The President, when he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

(Pub. L. 93-288, title IV, § 418, May 22, 1974, 88 Stat. 158.)

REFERENCES IN TEXT

Section 476 of title 16, referred to in subsec. (c), was repealed by Pub. L. 94-588, § 13, Oct. 22, 1976, 90 Stat. 2958.

§ 5189. Alternate contribution

In any case in which the Federal estimate of the total cost of (1) repairing, restoring, reconstructing, or replacing, under section 5172 of this title, all damaged or destroyed public facilities owned by a State or local government within its jurisdiction, and (2) emergency assistance under section 5146 of this title and debris removed under section 5173 of this title, is less than $25,000, then on application of a State or local government, the President is authorized to make a contribution to such State or local government under the provisions of this section in lieu of any contribution to such State or local government under section 5146, 5172, or 5173 of this title. Such contribution shall be based on 100 per centum of such total estimated cost, which may be expended either to repair, restore, reconstruct, or replace all such damaged or destroyed public facilities, to repair, restore, reconstruct, or replace certain selected damaged or destroyed public facilities, to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area, or to undertake disaster work as authorized in section 5146 or 5173 of this title. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications and standards.

(Pub. L. 93-288, title IV, § 419, May 22, 1974, 88 Stat. 159.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5154, 5175 of this title.

SUBCHAPTER V—MISCELLANEOUS

§ 5201. Rules and regulations

The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this chapter, and he may exercise any power or authority conferred on him by any section of this chapter either directly or through such Federal agency or agencies as he may designate.

(Pub. L. 93-288, title VI, § 601, May 22, 1974, 88 Stat. 163.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88

Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

§ 5202. Authorization of appropriations

Except as provided by the amendment made by section 501, there are authorized to be appropriated to the President such sums as may be necessary to carry out this chapter through the close of June 30, 1977.

(Pub. L. 93-288, title VI, § 606, May 22, 1974, 88 Stat. 164.)

REFERENCES IN TEXT

The amendment made by section 501, referred to in text, means the enactment of subchapter VIII (§ 3231 et seq.) of chapter 38 of this title by section 501 of Pub. L. 93-288.

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables volume.

CHAPTER 69—COMMUNITY DEVELOPMENT

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1439, 1440, 1452b, 2985b of this title; title 12 sections 1701u, 1701x; title 40 section 461; title 40 App. section 214.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 5-1002 of the District of Columbia Code.

§ 5301. Congressional findings and declaration of purpose

(a) Critical social, economic, and environmental problems facing Nation's urban communities

The Congress finds and declares that the Nation's cities, towns, and smaller urban communities, face critical social, economic, and environmental problems arising in significant measure from—

(1) the growth of population in metropolitan and other urban areas, and the concentration of persons of lower income in central cities; and

(2) inadequate public and private investment and reinvestment in housing and other physical facilities, and related public and social services, resulting in the growth and persistence of urban slums and blight and the marked deterioration of the quality of the urban environment.

(b) Establishment and maintenance of viable urban communities; systematic and sustained action by Federal, State, and local governments; expansion of and continuity in Federal assistance; increased private investment; streamlining programs and improvement of functioning of agencies

The Congress further finds and declares that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable urban communities as social, economic, and political entities, and require—

(1) systematic and sustained action by Federal, State, and local governments to eliminate blight, to conserve and renew older urban areas, to improve the living environment of low- and moderate-income families, and to develop new centers of population growth and economic activity;

(2) substantial expansion of and greater continuity in the scope and level of Federal assistance, together with increased private investment in support of community development activities; and

(3) continuing effort at all levels of government to streamline programs and improve the functioning of agencies responsible for planning, implementing, and evaluating community development efforts.

(c) Decent housing, suitable living environment, and economic opportunities for persons of low and moderate income; community development activities which may be supported by Federal assistance

The primary objective of this chapter is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this primary objective, the Federal assistance provided in this chapter is for the support of community development activities which are directed toward the following specific objectives—

(1) the elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally persons of low and moderate income;

(2) the elimination of conditions which are detrimental to health, safety, and public welfare, through code enforcement, demolition, interim rehabilitation assistance, and related activities;

(3) the conservation and expansion of the Nation's housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income;

(4) the expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development and for the development of viable urban communities;

(5) a more rational utilization of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers;

(6) the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income; and

(7) the restoration and preservation of properties of special value for historic, architectural, or esthetic reasons.

It is the intent of Congress that the Federal assistance made available under this chapter not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance.

(d) Consolidation of complex and overlapping Federal assistance programs into consistent system of Federal aid

It is also the purpose of this chapter to further the development of a national urban growth policy by consolidating a number of complex and overlapping programs of financial assistance to communities of varying sizes and needs into a consistent system of Federal aid which—

(1) provides assistance on an annual basis, with maximum certainty and minimum delay, upon which communities can rely in their planning;

(2) encourages community development activities which are consistent with comprehensive local and areawide development planning;

(3) furthers achievement of the national housing goal of a decent home and a suitable living environment for every American family; and

(4) fosters the undertaking of housing and community development activities in a coordinated and mutually supportive manner.

(Pub. L. 93-383, title I, § 101, Aug. 22, 1974, 88 Stat. 633.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c) and (d), in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

SHORT TITLE

Section 1 of Pub. L. 93-383 provided: "That this Act [which enacted this chapter, sections 1701j-2, 1701*l*-1, 1701z-5, 1701z-6, 1706e, 1715z-9 to 1715z-11, and 1735f-3 to 1735f-5 of Title 12, Banks and Banking, section 803a of Title 20, Education, and sections 1437 to 1437j, 1438 to 1440, 1490e to 1490g, 4104a, and 5401 to 5426 of this title, amended sections 5315 and 5316 of Title 5, Government Organization and Employees, sections 24, 371, 1431, 1436, 1454, 1464, 1701q, 1701u, 1701x, 1701z-3, 1703, 1709, 1709-1, 1713, 1715e, 1715h, 1715k to 1715n, 1715v, 1715w, 1715y, 1715z, 1715z-1, 1715z-3, 1715z-6, 1715z-7, 1717, 1718, 1719, 1723a, 1735b, 1748h-1, 1748h-2, 1749bb, 1749aaa, 1749aaa-4, 1749aaa-5, 1757, 1759, 1761b, 1761d, 1763, 1772, 1782, 1786, and 1788 of Title 12, sections 1701 to 1703 of Title 15, Commerce and Trade, sections 801, 802, and 806 of Title 20, section 711 of Title 31, Money and Finance, sections 460 and 461 of Title 40, Public Buildings, Property, and Works, sections 1441a, 1441c, 1452b, 1453, 1471, 1472, 1474, 1476 to 1478, 1483, 1485, 1487, 1490, 1490a, 1490c, 1490d, 1586, 3311, 3533, 3604 to 3606, 3631, 4014, 4512, 4514 to 4516, 4519, and 4532 of this title, and sections 1602 and 1602a of Title 49, Transportation, repealed sections 1411d and 1455a of this title, and enacted provisions set out as notes under this section, sections 1464, 1701q, 1715*l*, 1715z-1, 1716b, and 1723a of Title 12, section 1703 of Title 15, sections 1410, 1421b, 1437, 1437a, 1437f, 3532, and 5401 of this title, and section 1602a of Title 49] may be cited as the 'Housing and Community Development Act of 1974'."

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Section 817 of Pub. L. 93-383 provided that: "Assistance provided for in this Act [see Short Title note above] the National Housing Act, [12 U.S.C. 1701 et seq.], the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the Housing Act of 1949 [42 U.S.C. 1441 et seq.], the Demonstration Cities and Metropolitan Development Act of 1966 [see Short Title note under section 3301 of this title], and the Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 [see Short Title notes under section 1701 of Title 12, Banks and Banking] shall not be withheld or made subject to conditions or preference by reason of the tax-exempt status of bonds or other obligations issued or to be issued to provide financing for use in connection with such assistance, except where otherwise expressly provided or authorized by law."

§ 5302. General provisions

(a) Definitions

As used in this chapter—

(1) The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary; the District of Columbia; the Trust Territory of the Pacific Islands; and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States. Such term also includes a State or a local public body or agency (as defined in section 4512 of this title), community association, or other entity, which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 4513 of this title or title IV of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.].

(2) The term "State" means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico.

(3) The term "metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget.

(4) The term "metropolitan city" means (A) a city within a metropolitan area which is the central city of such area, as defined and used by the Office of Management and Budget, or (B) any other city, within a metropolitan area, which has a population of fifty thousand or more.

(5) The term "city" means (A) any unit of general local government which is classified as a municipality by the United States Bureau of the Census or (B) any other unit of general local government which is a town or township and which, in the determination of the Secretary, (i) possesses powers and performs functions comparable to these associated with municipalities, (ii) is closely settled, and (iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

(6) The term "urban county" means any county within a metropolitan area which (A) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government, and (B) has a combined population of two hundred thousand or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government (i) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded or (ii) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities.

(7) The term "population" means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(8) The term "extent of poverty" means the number of persons whose incomes are below the poverty level. Poverty levels shall be determined by the Secretary pursuant to criteria provided by the Office of Management and Budget, taking into account and making adjustments, if feasible and appropriate and in the sole discretion of the Secretary, for regional or area variations in income and cost of living, and shall be based on data referable to the same point or period in time.

(9) The term "extent of housing overcrowding" means the number of housing units with 1.01 or more persons per room based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(10) The term "Federal grant-in-aid program" means a program of Federal financial assistance other than loans and other than the assistance provided by this chapter.

(11) The term "program period" means the period beginning January 1, 1975, and ending June 30, 1975, and the period covering each fiscal year thereafter.

(12) The term "Community Development Program" means a program described in section 5304(a)(2) of this title.

(13) The term "Secretary" means the Secretary of Housing and Urban Development.

(b) Basis and modification of definitions

Where appropriate, the definitions in subsection (a) of this section shall be based, with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available ninety days prior to the beginning of such fiscal year. The Secretary may by regulation change or otherwise modify the meaning of the terms defined in subsection (a) of this section in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

(c) Designation of public agencies to undertake Community Development Programs

One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake a Community Development Program in whole or in part.

(Pub. L. 93-383, title I, § 102, Aug. 22, 1974, 88 Stat. 635.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

The Housing and Urban Development Act of 1968, referred to in par. (1), is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IV of the Housing and Urban Development Act of 1968 is classified principally to chapter 48 (§ 3901 et seq.) of this title. For com-

plete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (a)(11) of this section, see section 201(37) of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

§ 5303. Grants for State and local Community Development Programs

(a) Authority of Secretary; limitation on amount of obligations incurred; authorization of appropriations for liquidation of obligations; availability of unobligated amounts; allocation of appropriated amounts

(1) The Secretary is authorized to make grants to States and units of general local government to help finance Community Development Programs approved in accordance with the provisions of this chapter. The Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating such sum, not to exceed $8,400,000,000, as may be approved in an appropriation Act. The amount so approved shall become avaialble for obligation on January 1, 1975, and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this subsection not to exceed $2,500,000,000 prior to the close of the fiscal year 1975, which amount may be increased to not to exceed an aggregate of $5,450,000,000 prior to the close of the fiscal year 1976, and to not to exceed an aggregate of $8,400,000,000 prior to the close of the fiscal year 1977. Subject to the limitations contained in the preceding sentence, appropriations for—

(A) grants under title VII of the Housing Act of 1961 [42 U.S.C. 1500 et seq.];

(B) grants under sections 3102 and 3103 of this title; and

(C) supplemental grants under title I of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3301 et seq.],

may be used, to the extent not otherwise obligated prior to January 1, 1975, for the liquidation of contracts entered into pursuant to this section.

(2) Of the amounts approved in appropriation Acts pursuant to paragraph (1), $50,000,000 for each of the fiscal years 1975 and 1976, and $200,000,000 for the fiscal year 1977, not more than 50 per centum of which amount may be used under section 5306(d)(1) of this title, shall be added to the amount available for allocation under section 5306(d) of this title and shall not be subject to the provisions of section 5307 of this title.

(b) Additional authorization of appropriations for general local government units having urgent community development needs

In addition to the amounts made available under subsection (a) of this section, and for the purpose of facilitating an orderly transition to the program authorized under this chapter, there are authorized to be appropriated not to exceed $50,000,000 for each of the fiscal years 1975 and 1976, and not to exceed $100,000,000 for the fiscal year 1977, for grants under this chapter to units of general local government having urgent community development needs which cannot be met through the operation of the allocation provisions of section 5306 of this title.

(c) Availability of unexpended appropriations

Sums appropriated pursuant to this section shall remain available until expended.

(d) Submission to Congress of requests for additional appropriations

To assure program continuity and orderly planning, the Secretary shall submit to the Congress timely requests for additional authorizations for the fiscal years 1978 through 1980.

(Pub. L. 93-383, title I, § 103, Aug. 22, 1974, 88 Stat. 637; Pub. L. 94-375, § 15(a), Aug. 3, 1976, 90 Stat. 1076.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

The Housing Act of 1961, referred to in subsec. (a)(1)(A), is Pub. L. 87-70, June 30, 1961, 87 Stat. 149, as amended. Title VII of the Housing Act of 1961 is classified generally to chapter 8C (§ 1500 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

The Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsec. (a)(1)(C), is Pub. L. 89-754, Nov. 3, 1966, 80 Stat. 1255, as amended. Title I of the Demonstration Cities and Metropolitan Development Act of 1966 is classified principally to subchapter I (§ 3301 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-375 inserted ", and $200,000,000 for the fiscal year 1977, not more than 50 per centum of which amount may be used under section 5306(d)(1) of this title," following "1976".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5306, 5307, 5308, 5312, 5316 of this title.

§ 5304. Procedures for award of grants

(a) Application; contents; statements of assurances

No grant may be made pursuant to section 5306 of this title unless an application shall have been submitted to the Secretary in which the applicant—

(1) sets forth a summary of a three-year community development plan which identifies community development needs, demonstrates a comprehensive strategy for meeting those needs, and specifies both short- and long-term community development objectives which have been developed in accordance with areawide development planning and national urban growth policies;

(2) formulates a program which (A) includes the activities to be undertaken to meet its community development needs and objec-

tives, together with the estimated costs and general location of such activities, (B) indicates resources other than those provided under this chapter which are expected to be made available toward meeting its identified needs and objectives, and (C) takes into account appropriate environmental factors;

(3) describes a program designed to—

(A) eliminate or prevent slums, blight, and deterioration where such conditions or needs exist; and

(B) provide improved community facilities and public improvements, including the provision of supporting health, social, and similar services where necessary and appropriate;

(4) submits a housing assistance plan which—

(A) accurately surveys the condition of the housing stock in the community and assesses the housing assistance needs of lower-income persons (including elderly and handicapped persons, large families, and persons displaced or to be displaced) residing in or expected to reside in the community,

(B) specifies a realistic annual goal for the number of dwelling units or persons to be assisted, including (i) the relative proportion of new, rehabilitated, and existing dwelling units, and (ii) the sizes and types of housing projects and assistance best suited to the needs of lower-income persons in the community, and

(C) indicates the general locations of proposed housing for lower-income persons, with the objective of (i) furthering the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible, (ii) promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons, and (iii) assuring the availability of public facilities and services adequate to serve proposed housing projects;

(5) provides satisfactory assurances that the program will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284; and

(6) provides satisfactory assurances that, prior to submission of its application, it has (A) provided citizens with adequate information concerning the amount of funds available for proposed community development and housing activities, the range of activities that may be undertaken, and other important program requirements, (B) held public hearings to obtain the views of citizens on community development and housing needs, and (C) provided citizens an adequate opportunity to participate in the development of the application; but no part of this paragraph shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its Community Development Program.

(b) Additional requirements of application; certifications to Secretary; waiver of required Program provisions

(1) Not more than 10 per centum of the estimated costs referred to in subsection (a)(2) of this section which are to be incurred during any contract period may be designated for unspecified local option activities which are eligible for assistance under section 5305(a) of this title or for a contingency account for activities designated by the applicant pursuant to subsection (a)(2) of this section.

(2) Any grant under this chapter shall be made only on condition that the applicant certify to the satisfaction of the Secretary that its Community Development Program has been developed so as to give maximum feasible priority to activities which will benefit low- or moderate-income families or aid in the prevention or elimination of slums or blight. The Secretary may also approve an application describing activities which the applicant certifies and the Secretary determines are designed to meet other community development needs having a particular urgency as specifically described in the application.

(3) The Secretary may waive all or part of the requirements contained in paragraphs (1), (2), and (3) of subsection (a) of this section if (A) the application for assistance is in behalf of a locality having a population of less than 25,000 according to the most recent data compiled by the Bureau of the Census which is located either (i) outside a standard metropolitan statistical area, or (ii) inside such an area but outside an "urbanized area" as defined by the Bureau of the Census (or as such definition is modified by the Secretary for purposes of this chapter), (B) the application relates to the first community development activity to be carried out by such locality with assistance under this chapter, (C) the assistance requested is for a single development activity under this chapter of a type eligible for assistance under title VII of the Housing Act of 1961 [42 U.S.C. 1500 et seq.] or title VII of the Housing and Urban Development Act of 1965 [42 U.S.C. 3101 et seq.], and (D) the Secretary determines that, having regard to the nature of the activity to be carried out, such waiver is not inconsistent with the purposes of this chapter.

(4) The Secretary may accept a certification from the applicant that it has complied with the requirements of paragraphs (5) and (6) of subsection (a) of this section.

(c) Approval of application

The Secretary shall approve an application for an amount which does not exceed the amount determined in accordance with section 5306(a) of this title unless—

(1) on the basis of significant facts and data, generally available and pertaining to community and housing needs and objectives, the Secretary determines that the applicant's description of such needs and objectives is plainly inconsistent with such facts or data; or

(2) on the basis of the application, the Secretary determines that the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the ap-

plicant pursuant to subsection (a) of this section; or

(3) the Secretary determines that the application does not comply with the requirements of this chapter or other applicable law or proposes activities which are ineligible under this chapter.

(d) Submission of annual performance report by grantee to Secretary; contents; annual review and audit by Secretary of program implementation; adjustments in amount of annual grants

Prior to the beginning of fiscal year 1977 and each fiscal year thereafter, each grantee shall submit to the Secretary a performance report concerning the activities carried out pursuant to this chapter, together with an assessment by the grantee of the relationship of those activities to the objectives of this chapter and the needs and objectives identified in the grantee's statement submitted pursuant to subsection (a) of this section. The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether the grantee has carried out a program substantially as described in its application, whether that program conformed to the requirements of this chapter and other applicable laws, and whether the applicant has a continuing capacity to carry out in a timely manner the approved Community Development Program. The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with his findings pursuant to this subsection.

(e) Submission of application for review and comment by areawide agency under procedures established by President pursuant to applicable statutes

No grant may be made under this chapter unless the application therefor has been submitted for review and comment to an areawide agency under procedures established by the President pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3331 et seq.] and title IV of the Intergovernmental Cooperation Act of 1968 [42 U.S.C. 4231 et seq.].

(f) Approval date of application; adjustment of amount of grant subsequent to approval of application

An application subject to subsection (c) of this section, if submitted after any date established by the Secretary for consideration of applications, shall be deemed approved within 75 days after receipt unless the Secretary informs the applicant of specific reasons for disapproval. Subsequent to approval of the application, the amount of the grant may be adjusted in accordance with the provisions of this chapter.

(g) Audit of grantees by General Accounting Office; access to books, accounts, records, etc., by representatives of General Accounting Office

Insofar as they relate to funds provided under this chapter, the financial transactions of recipients of such funds may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

(h) Environmental protection measures applicable for release of funds to applicants for projects; issuance of regulations by Secretary subsequent to consultation with Council on Environmental Quality; request and certification to Secretary for approval of release of funds; form, contents and effect of certification

(1) In order to assure that the policies of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] are most effectively implemented in connection with the expenditure of funds under this chapter, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of funds for particular projects to applicants who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this subsection only after consultation with the Council on Environmental Quality.

(2) The Secretary shall approve the release of funds for projects subject to the procedures authorized by this subsection only if, at least fifteen days prior to such approval and prior to any commitment of funds to such projects other than for purposes authorized by section 5305(a)(12) of this title or for environmental studies, the applicant has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act [42 U.S.C. 4321 et seq.] insofar as those responsibilities relate to the applications and releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(3) A certification under the procedures authorized by this subsection shall—

(A) be in a form acceptable to the Secretary,

(B) be executed by the chief executive officer or other officer of the applicant qualified under regulations of the Secretary,

(C) specify that the applicant has fully carried out its responsibilities as described under paragraph (1) of this subsection, and

(D) specify that the certifying officer (i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] insofar as the provisions of such Act apply pursuant to paragraph (1) of this subsection, and (ii) is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(Pub. L. 93-383, title I, § 104, Aug. 22, 1974, 88 Stat. 638.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

Public Law 88-352, referred to in subsec. (a)(5), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX (§ 2000a et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

Public Law 90-284, referred to in subsec. (a)(5), is Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 73. For complete classification of this Act to the Code, see Tables volume.

The Housing Act of 1961, referred to in subsec. (b)(3), is Pub. L. 87-70, June 30, 1961, 87 Stat. 149, as amended. Title VII of the Housing Act of 1961 is classified generally to chapter 8C (§ 1500 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

The Housing and Urban Development Act of 1965, referred to in subsec. (b)(3), is Pub. L. 89-117, Aug. 10, 1965, 79 Stat. 451, as amended. Title VII of the Housing and Urban Development Act of 1965 is classified generally to chapter 37 (§ 3101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

The Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsec. (e), is Pub. L. 89-754, Nov. 3, 1966, 80 Stat. 1255, as amended. Title II of the Demonstration Cities and Metropolitan Act of 1966 is classified generally to subchapter II (§ 3331 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables volume.

The Intergovernmental Cooperation Act of 1968, referred to in subsec. (e), is Pub. L. 90-577, Oct. 16, 1968, 82 Stat. 1098, as amended. Title IV of the Intergovernmental Cooperation Act of 1968 is classified generally to subchapter IV (§ 4231 et seq.) of chapter 52 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4201 of this title and Tables volume.

The National Environmental Policy Act of 1969, referred to in subsec. (h), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437c, 1439, 5302, 5306, 5308, 5316 of this title.

§ 5305. Activities of Community Development Programs eligible for assistance; reimbursement of Secretary for administrative services connected with rehabilitation of properties

(a) A Community Development Program assisted under this chapter may include only—

(1) the acquisition of real property (including air rights, water rights, and other interests therein) which is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (B) appropriate for rehabilitation or conservation activities; (C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this chapter; or (E) to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation of public works, facilities, and site or other improvements—including neighborhood facilities, centers for the handicapped, senior centers, historic properties, utilities, streets, street lights, water and sewer facilities, foundations and platforms for air rights sites, pedestrian malls and walkways, and parks, playgrounds, and recreation facilities, flood and drainage facilities in cases where assistance for such facilities under other Federal laws or programs is determined to be unavailable, and parking facilities, solid waste disposal facilities, and fire protection services and facilities which are located in or which serve designated community development areas;

(3) code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, and rehabilitation of buildings and improvements (including interim assistance and financing rehabilitation of privately owned properties when incidental to other activities);

(5) special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

(6) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by program activities under this chapter;

(7) disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this chapter or its retention for public purposes;

(8) provision of public services not otherwise available in areas where other activities assisted under this chapter are being carried out in a concentrated manner, if such services are determined to be necessary or appropriate to support such other activities and if assistance in providing or securing such services under other applicable Federal laws or programs has been applied for and denied or not made available within a reasonable period of time, and if such services are directed toward (A) improving the community's public services and facilities, including those concerned with the employment, economic development, crime prevention, child care, health, drug abuse, education, welfare, or recreation needs of persons residing in such areas, and (B) coordinating public and private development programs;

(9) payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of the Community Development Program;

(10) payment of the cost of completing a project funded under title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.];

(11) relocation payments and assistance for individuals, families, businesses, organizations, and farm operations displaced by activities assisted under this chapter;

(12) activities necessary (A) to develop a comprehensive community development plan, and (B) to develop a policy-planning-management capacity so that the recipient of assistance under this chapter may more rationally and effectively (i) determine its needs, (ii) set long-term goals and short-term objectives, (iii) devise programs and activities to meet these goals and objectives, (iv) evaluate the progress of such programs in accomplishing these goals and objectives, and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation; and

(13) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities.

(b) Upon the request of the recipient of a grant under this chapter, the Secretary may agree to perform administrative services on a reimbursable basis on behalf of such recipient in connection with loans or grants for the rehabilitation of properties as authorized under subsection (a)(4) of this section.

(Pub. L. 93-383, title I, § 105, Aug. 22, 1974, 88 Stat. 641; Pub. L. 94-375, § 15(b), Aug. 3, 1976, 90 Stat. 1076.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

The Housing Act of 1949, referred to in subsec. (a)(10), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title I of the Housing Act of 1949 is classified generally to subchapter II (§ 1450 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-375 inserted "centers for the handicapped," following "neighborhood facilities,".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5304, 5308 of this title.

§ 5306. Allocation and distribution of funds

(a) Amount allocated to metropolitan areas; annual grants for metropolitan cities and urban counties; limitations

Of the amount approved in an appropriation Act under section 5303(a) of this title for grants in any year (excluding the amount provided for use in accordance with sections 5303(a)(2) and 5307 of this title), 80 per centum shall be allocated by the Secretary to metropolitan areas. Except as provided in subsections (c) and (e) of this section, each metropolitan city and urban county shall, subject to the provisions of section 5304 of this title and except as otherwise specifically authorized, be entitled to annual grants from such allocation in an aggregate amount not exceeding the greater of its basic amount computed pursuant to paragraph (2), or (3) of subsection (b) of this section or its hold-harmless amount computed pursuant to subsection (g) of this section.

(b) Amount allocated to metropolitan cities; basic grant amounts for metropolitan cities and urban counties; computations

(1) The Secretary shall determine the amount to be allocated to all metropolitan cities which shall be an amount that bears the same ratio to the allocations for all metropolitan areas as the average of the ratios between—

(A) the population of all metropolitan cities and the population of all metropolitan areas;

(B) the extent of poverty in all metropolitan cities and the extent of poverty in all metropolitan areas; and

(C) the extent of housing overcrowding in all metropolitan cities and the extent of housing overcrowding in all metropolitan areas.

(2) From the amount allocated to all metropolitan cities the Secretary shall determine for each metropolitan city a basic grant amount which shall equal an amount that bears the same ratio to the allocation for all metropolitan cities as the average of the ratios between—

(A) the population of that city and the population of all metropolitan cities;

(B) the extent of poverty in that city and the extent of poverty in all metropolitan cities; and

(C) the extent of housing overcrowding in that city and the extent of housing overcrowding in all metropolitan cities.

(3) The Secretary shall determine the basic grant amount of each urban county by—

(A) calculating the total amount that would have been allocated to metropolitan cities and urban counties together under paragraph (1) of this subsection if data pertaining to the population, extent of poverty, and extent of housing overcrowding in all urban counties were included in the numerator of each of the fractions described in such paragraph; and

(B) determining for each county the amount which bears the same ratio to the total amount calculated under subparagraph (A) of this paragraph as the average of the ratios between—

(i) the population of that urban county and the population of all metropolitan cities and urban counties;

(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan cities and urban counties; and

(iii) the extent of housing overcrowding in that urban county and the extent of housing overcrowding in all metropolitan cities and urban counties.

(4) In determining the average of ratios under paragraphs (1), (2), and (3), the ratio involving the extent of poverty shall be counted twice.

(5) In computing amounts or exclusions under this section with respect to any urban county there shall be excluded units of general local government located in the county (A) which receive hold-harmless grants pursuant to subsection (h) of this section, or (B) the populations of which are not counted in determining the eligibility of the urban county to receive a grant under this subsection.

(c) Adjustment of basic grant amounts for metropolitan cities and urban counties; time periods for adjustments

During the first three years for which funds are approved for distribution to a metropolitan city or urban county under this section, the basic grant amount of such city or county as computed under subsection (b) of this section shall be adjusted as provided in this subsection if the amount so computed for the first such year exceeds the city's or county's hold-harmless amount as determined under subsection (g) of this section. Such adjustment shall be made so that—

(1) the amount for the first year does not exceed one-third of the full basic grant amount computed under subsection (b) of this section, or the hold-harmless amount, whichever is the greater,

(2) the amount for the second year does not exceed two-thirds of the full basic grant amount computed under subsection (b) of this section, or the hold-harmless amount, or the amount allowed under paragraph (1) of this subsection, whichever is the greatest, and

(3) the amount for the third year does not exceed the full basic grant amount computed under subsection (b) of this section.

(d) Additional allocations of amounts allocated to metropolitan areas and added amounts for grants to metropolitan cities, urban counties, specified units of general local government, and States; computations

Any portion of the amount allocated to metropolitan areas under the first sentence of subsection (a) of this section which remains after the allocation of grants to metropolitan cities and urban counties in accordance with subsections (b) and (c) of this section and any amounts added in accordance with the provisions of section 5303(a)(2) of this title shall be allocated by the Secretary—

(1) first, for grants to metropolitan cities, urban counties, and other units of general local government within metropolitan areas to meet their hold-harmless needs as determined under subsections (g) and (h) of this section; and

(2) second, for grants to units of general local government (other than metropolitan cities and urban counties) and States for use in metropolitan areas, allocating for each such metropolitan area an amount which bears the same ratio to the allocation for all metropolitan areas available under this paragraph as the average of the ratios between—

(A) the population of that metropolitan area and the population of all metropolitan areas,

(B) the extent of poverty in that metropolitan area and the extent of poverty in all metropolitan areas, and

(C) the extent of housing overcrowding in that metropolitan area and the extent of housing overcrowding in all metropolitan areas.

In determining the average of ratios under paragraph (2), the ratio involving the extent of poverty shall be counted twice; and in computing amounts under such paragraph there shall be excluded any metropolitan cities, urban counties, and units of general local government which receive hold-harmless grants pursuant to subsection (h) of this section.

(e) Reallocation of amounts allocated to metropolitan cities, urban counties, and metropolitan areas for use by States, metropolitan cities, urban counties, or specified units of general local government; prerequisites; review by Secretary

Any amounts allocated to a metropolitan city or urban county pursuant to the preceding provisions of this section which are not applied for during a program period or which are not approved by the Secretary, and any other amounts allocated to a metropolitan area which the Secretary determines, on the basis of the applications and other evidence available, are not likely to be fully obligated during such program period, shall be reallocated during the same period for use by States, metropolitan cities, urban counties, or units of general local government, first, in any metropolitan area in the same State, and second, in any other metropolitan area. The Secretary shall review determinations under this subsection from time to time as appropriate with a view of assuring maximum use of all available funds in the period for which such funds were appropriated.

(f) Amounts allocated to units of general local government of metropolitan areas and States; computations; reallocation of amounts to nonmetropolitan areas of other States; prerequisites; review by Secretary

(1) Of the amount approved in an appropriation Act under section 5303(a) of this title for grants in any year (excluding the amount provided for use in accordance with sections 5303(a)(2) and 5307 of this title), 20 per centum shall be allocated by the Secretary—

(A) first, for grants to units of general local government outside of metropolitan areas to meet their hold-harmless needs as determined under subsection (h) of this section; and

(B) second, for grants to units of general local government outside of metropolitan areas and States for use outside of metropolitan areas, allocating for the nonmetropolitan areas of each State an amount which bears the same ratio to the allocation available under this subparagraph for the nonmetropolitan areas of all States as the average of the ratios between—

(i) the population of the nonmetropolitan areas of that State and the population of the nonmetropolitan areas of all the States,

(ii) the extent of poverty in the nonmetropolitan areas of that State and the extent of poverty in the nonmetropolitan areas of all the States, and

(iii) the extent of housing overcrowding in the nonmetropolitan areas of that State and the extent of housing overcrowding in the nonmetropolitan areas of all the States.

In determining the average of ratios under subparagraph (B), the ratio involving the extent of poverty shall be counted twice; and in computing amounts under such subparagraph there shall be excluded units of general local government which receive hold-harmless grants pursuant to subsection (h) of this section.

(2) Any amounts allocated to a unit of general local government under paragraph (1) which are not applied for during a program period or which are not approved by the Secretary, and any amounts allocated to the nonmetropolitan areas of a State under paragraph (1)(B) which the Secretary determines, on the basis of applications and other evidence available, are not likely to be fully obligated during such period, shall be reallocated as soon as practicable during the same period to the nonmetropolitan areas of other States. The Secretary shall review determinations under this paragraph from time to time with a view to assuring maximum use of all available funds in the program period for which such funds were appropriated.

(g) Hold-harmless amount of metropolitan cities and urban counties; factors determining computation of sum

(1) The full hold-harmless amount of each metropolitan city or urban county shall be the sum of (i) the sum of the average during the five fiscal years ending prior to July 1, 1972, of (1) commitments for grants (as determined by the Secretary) pursuant to part A of title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.]; (2) loans pursuant to section 312 of the Housing Act of 1964 [42 U.S.C. 1452b]; (3) grants pursuant to sections 702 and 703 of the Housing and Urban Development Act of 1965 [42 U.S.C. 3102 and 3103]; (4) loans pursuant to title II of the Housing Amendments of 1955 [42 U.S.C. 1491 et seq.]; and (5) grants pursuant to title VII of the Housing Act of 1961 [42 U.S.C. 1500 et seq.]; and (ii) the average annual grant, as determined by the Secretary, made in accordance with part B of title I of the Housing Act of 1949 [42 U.S.C. 1469 et seq.] during the fiscal years ending prior to July 1, 1972, or during the fiscal year 1973 in the case of a metropolitan city or urban county which first received a grant under part B of such title in such fiscal year. In the case of a metropolitan city or urban county which has participated in the program authorized under section 105 of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3305] and which has been funded or extended in the fiscal year 1973 for a period ending after June 30, 1973, determinations of the hold-harmless amount of such metropolitan city or urban county for the following specified years shall be made so as to include, in addition to the amounts specified in clauses (i) and (ii) of the preceding sentence, the following percentages of the average annual grant, as determined by the Secretary made in accordance with such section during fiscal years ending prior to July 1, 1972—

(A) 100 per centum for each of a number of years which when added to the number of funding years for which the city or county received grants under such section 105 [42 U.S.C. 3305], equals five;

(B) 80 per centum for the year immediately following year five as determined pursuant to clause (A),

(C) 60 per centum for the year immediately following the year provided for in clause (B); and

(D) 40 per centum for the year immediately following the year provided for in clause (C).

For the purposes of this paragraph the average annual grant under part B of title I of the Housing Act of 1949 [42 U.S.C. 1469 et seq.] or under section 105 of the Demonstration Cities and Metropolitan Develop Act of 1966 [42 U.S.C. 3305] shall be established by dividing the total amount of grants made to a participant under the program by the number of months of program activity for which funds were authorized and multiplying the result by twelve.

(2) During the fiscal years 1975, 1976, and 1977, the hold-harmless amount of any metropolitan city or urban county shall be the full amount computed for the city or county in accordance with paragraph (1). In the fiscal years 1978, 1979, and 1980, if such amount is greater than the basic grant amount of the metropolitan city or urban county for that year, as computed under subsection (b)(2) or (3) of this section, it shall be reduced so that—

(i) in the fiscal year 1978, the excess of the hold-harmless amount over the basic grant amount shall equal two-thirds of the difference between the amount computed under paragraph (1) and the basic grant amount for such year,

(ii) in the fiscal year 1979, the excess of the hold-harmless amount over the basic grant amount shall equal one-third of the difference between the amount computed under paragraph (1) and the basic grant amount for such year, and

(iii) in the fiscal year 1980, there shall be no excess of the hold-harmless amount over the basic grant amount.

(h) Hold-harmless grants for units of general local government not a metropolitan city or urban county; computation of aggregate amount; prerequisites

(1) Any unit of general local government which is not a metropolitan city or urban county shall, subject to the provisions of section 5304 of this title and except as otherwise specifically authorized, be entitled to grants under this chapter for any year in an aggregate amount at last equal to a hold-harmless amount as computed under the provisions of subsection (g)(1) of this section if, during the five-fiscal-year period specified in the first sentence of subsection (g)(1) of this section (or during the fiscal year 1973 in the case of a locality which first received a grant for a neighborhood development program in that year) one or more urban renewal projects, code enforcement programs, neighborhood development programs, or model cities programs were being carried out by such unit of general local government pursuant to commitments for assistance entered into during such period under title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.] or title I of the Demonstration

Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3301 et seq.].

(2) In the fiscal years 1978, 1979, and 1980, in determining the hold-harmless amount of units of general local government qualifying under this subsection, the second sentence of subsection (g)(2) of this section shall be applied as though such units were metropolitan cities or urban counties with basic grant amounts of zero.

(i) Percentages excluded from data in computation of hold-harmless grants for units of general local government for fiscal years 1978 and 1979

In excluding the population, poverty, and housing overcrowding data of units of general local government which receive a hold-harmless grant pursuant to subsection (h) of this section from the computations described in subsections (b)(5), (d), and (f) of this section, the Secretary shall exclude only two-thirds of such data for the fiscal year 1978 and one-third of such data for the fiscal year 1979.

(j) Waiver of eligibility by units of general local government for hold-harmless grants; computations unaffected by waiver

Any unit of general local government eligible for a hold-harmless grant pursuant to subsection (h) of this section may, not later than thirty days prior to the beginning of any program period, irrevocably waive its eligibility under such subsection. In the case of such a waiver the unit of general local government shall not be excluded from the computations described in subsections (b)(5), (d), and (f) of this section.

(k) Qualification or submission dates, and finality and conclusiveness of computations and determinations

The Secretary may fix such qualification or submission dates as he determines are necessary to permit the computations and determinations required by this section to be made in a timely manner, and all such computations and determinations shall be final and conclusive.

(l) Report to Congress and study by Secretary; contents

Not later than March 31, 1977, the Secretary shall make a report to the Congress setting forth such recommendations as he deems advisable, in furtherance of the purposes and policy of this chapter, for modifying or expanding the provisions of this section relating to the method of funding and the allocation of funds and the determination of the basic grant entitlement, and for the application of such provisions in the further distribution of funds under this chapter. In making this report, the Secretary shall conduct a study to determine how funds authorized under this chapter can be distributed in accordance with community development needs, objectives, and capacities, measured to the maximum extent feasible by objective standards.

(Pub. L. 93-383, title I, § 106, Aug. 22, 1974, 88 Stat. 642.)

REFERENCES IN TEXT

The Housing Act of 1949, referred to in subsecs. (g)(1) and (h)(1), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title I of the Housing Act of 1949 is classified generally to subchapter II (§ 1450 et seq.) of chapter 8A of this title. Parts A and B of title I of the Housing Act of 1949 are classified generally to part A (§ 1450 et seq.) and B (§ 1469 et seq.) of subchapter II of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables volume.

The Housing Amendments of 1955, referred to in subsec. (g)(1), is act Aug. 11, 1955, ch. 783, 69 Stat. 645, as amended. Title II of the Housing Amendments of 1955 is classified generally to chapter 8B (§ 1491 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

The Housing Act of 1961, referred to in subsec. (g)(1), is Pub. L. 87-70, June 30, 1961, 87 Stat. 149, as amended. Title VII of the Housing Act of 1961 is classified generally to chapter 8C (§ 1500 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

The Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsec. (h)(1), is Pub. L. 89-754, Nov. 3, 1966, 80 Stat. 1255, as amended. Title I of the Demonstration Cities and Metropolitan Development Act of 1966 is classified principally to subchapter I (§ 3301 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables volume.

This chapter, referred to in subsec. (l), in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5304, 5307, 5308, 5312, 5316 of this title.

§ 5307. Special discretionary fund

(a) Amount; purposes for expenditure from fund

Of the total amount of authority to enter into contracts approved in appropriation Acts under section 5303(a)(1) of this title for each of the fiscal years 1975, 1976, and 1977, an amount equal to 2 per centum thereof shall be reserved and set aside in a special discretionary fund for use by the Secretary in making grants (in addition to any other grants which may be made under this chapter to the same entities or for the same purposes)—

(1) in behalf of new communities assisted under title VII of the Housing and Urban Development Act of 1970 [42 U.S.C. 4501 et seq.] or title IV of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.] or in behalf of new community projects assisted under title X of the National Housing Act [12 U.S.C. 1749aa et seq.] which meet the eligibility standards set forth in title VII of the Housing and Urban Development Act of 1970 [42 U.S.C. 4501 et seq.] and which were the subject of an application or preapplication under such title prior to January 14, 1975;

(2) to States and units of general local government which join in carrying out housing and community development programs that are areawide in scope;

(3) in Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands;

(4) to States and units of general local government for the purpose of demonstrating innovative community development projects;

(5) to States and units of general local government for the purpose of meeting emergency community development needs caused by federally recognized disasters; and

(6) to States and units of general local government where the Secretary deems it necessary to correct inequities resulting from the allocation provisions of section 5306 of this title.

(b) Limitation on amount reserved for emergency disaster needs

Not more than one-fourth of the total amount reserved and set aside in the special discretionary fund under subsection (a) of this section for each year may be used for grants to meet emergency disaster needs under subsection (a)(5) of this section.

(c) Availability of unexpended amounts

Amounts reserved and set aside in the special discretionary fund under subsection (a) of this section in any fiscal year but not used in such year shall remain available for use in accordance with subsections (a) and (b) of this section in subsequent fiscal years.

(Pub. L. 93-383, title I, § 107, Aug. 22, 1974, 88 Stat. 647; Pub. L. 94-375, § 15(c), Aug. 3, 1976, 90 Stat. 1076.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

The Housing and Urban Development Act of 1970, referred to in subsec. (a)(1), is Pub. L. 91-609, Dec. 31, 1970, 84 Stat. 1770, as amended. Title VII of the Housing and Urban Development Act of 1970, known as the Urban Growth and New Community Development Act of 1970, is classified principally to chapter 59 (§ 4501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

The Housing and Urban Development Act of 1968, referred to in subsec. (a)(1), is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IV of the Housing and Urban Development Act of 1968 is classified principally to chapter 48 (§ 3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

The National Housing Act, referred to in subsec. (a)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title X of the National Housing Act is classified generally to subchapter IX-A (§ 1749aa et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-375 included new community projects assisted under title X of the National Housing Act as within the authority of the Secretary to make grants from the special discretionary fund.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5316 of this title.

§ 5308. Guarantee and commitment to guarantee loans for acquisition of property

(a) Authority of Secretary; issuance of obligations by units of general local government or designated public agencies

The Secretary is authorized, upon such terms and conditions as he may prescribe, to guarantee and make commitments to guarantee the notes or other obligations issued by units of general local government, or by public agencies designated by such units of general local government, for the purpose of financing the acquisition or assembly of real property (including such expenses related thereto as the Secretary may permit by regulation) to serve or be used in carrying out activities which are eligible for assistance under section 5305 of this title and are identified in the application under section 5304 of this title, and with respect to which grants have been or are to be made under section 5303 of this title, but no such guarantee shall be issued in behalf of any agency designed to benefit, in or by the flotation of any issue, a private individual or corporation.

(b) Prerequisites

No guarantee or commitment to guarantee shall be made with respect to any unit of general local government or public agency designated by any such unit of general local government unless—

(1) the Secretary, from sums approved in appropriation Acts and allocated for obligation to the unit of general local government pursuant to sections 5306 and 5307 of this title, shall have reserved and withheld, for the purpose of paying the guaranteed obligations (including interest), an amount which is at least equal to 110 per centum of the difference between the cost of acquiring the land and related expenses and the estimated proceeds to be derived from the sale or other disposition of the land, as determined or approved by the Secretary, which amount may subsequently be increased by the Secretary to the extent he determines such increase is necessary or appropriate because of any unanticipated, major reduction in such estimated disposition proceeds;

(2) the unit of general local government shall have given to the Secretary, in a form acceptable to him, a pledge of its full faith and credit, or a pledge of revenues approved by the Secretary, for the repayment of so much of any amount required to be paid by the United States pursuant to any guarantee under this section as is equal to the difference between the principal amount of the guaranteed obligations and interest thereon and the amount which is to be reserved and withheld under paragraph (1); and

(3) the unit of general local government has pledged to the repayment of any amounts which are required to be paid by the United States pursuant to its guarantee under this section, and which are not otherwise fully repaid when due pursuant to paragraph (1) and (2), the proceeds of any grants for which such unit of general local government may become eligible under this chapter.

(c) Full faith and credit of United States pledged for payment; conclusiveness and validity of guarantee

The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

(d) Issuance of obligations by Secretary to Secretary of Treasury to satisfy authorized guarantee obligations; establishment of maturities and rates of interest and purchase of obligations by Secretary of Treasury

The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his obligations under guarantees authorized by this section. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this section, and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which such securities may be issued under such Act are extended to include the purchases of the Secretary's obligations hereunder.

(e) Federal taxation of guaranteed obligations; grants to borrowing unit or agency of taxable obligations for net interest costs, etc.; limitation on amount of grant

Obligations guaranteed under this section, may, at the option of the issuing unit of general local government or designated agency, be subject to Federal taxation as provided in subsection (f) of this section. In the event that taxable obligations are issued and guaranteed, the Secretary is authorized to make, and to contract to make, grants to or on behalf of the issuing unit of general local government or public agency to cover not to exceed 30 per centum of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing unit or agency of such obligations.

(f) Inclusion within gross income for purpose of chapter 1 of title 26 of interest paid on taxable obligations

With respect to any obligation issued by a unit of general local government or designated agency which such unit or agency has elected to issue as a taxable obligation pursuant to subsection (e) of this section, the interest paid on such obligation shall be included in gross income for the purpose of chapter 1 of title 26.

(Pub. L. 93-383, title I, § 108(a)-(e), (g), Aug. 22, 1974, 88 Stat. 647-649.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(3), in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

The Second Liberty Bond Act, referred to in subsec.(d), is act Sept. 2, 1917, ch. 56, 40 Stat. 288. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

CODIFICATION

Subsec. (f) was, in the original, subsec. (g) and has been designated as (f) for purposes of codification. Subsec. (f) of section 108 of Pub. L. 93-383 amended section 711(22) of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 711.

§ 5309. Nondiscrimination in programs and activities

(a) Prohibited conduct

No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this chapter.

(b) Compliance procedures available to Secretary

Whenever the Secretary determines that a State or unit of general local government which is a recipient of assistance under this chapter has failed to comply with subsection (a) of this section or an applicable regulation, he shall notify the Governor of such State or the chief executive officer of such unit of local government of the noncompliance and shall request the Governor or the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed sixty days, the Governor or the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); (3) exercise the powers and functions provided for in section 5311(a) of this title; or (4) take such other action as may be provided by law.

(c) Civil action by Attorney General

When a matter is referred to the Attorney General pursuant to subsection (b) of this section or whenever he has reason to believe that a State government or unit of general local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(Pub. L. 93-383, title I, § 109, Aug. 22, 1974, 88 Stat. 649.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

§ 5310. Labor standards; rate of wages; exceptions; enforcement powers

All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with grants received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). *Provided*, That this section shall apply to the rehabilitation of residential property only if such property is designed for residential use for eight or more families. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40.

(Pub. L. 93-383, title I, § 110, Aug. 22, 1974, 88 Stat. 649.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

The Davis-Bacon Act, as amended, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildiings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 5311. Remedies for noncompliance with community development requirements

(a) Notice and hearing; termination, reduction, or limitation of payments by Secretary

If the Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this chapter has failed to comply substantially with any provision of this chapter, the Secretary, until he is satisfied that there is no longer any such failure to comply, shall—

(1) terminate payments to the recipient under this chapter, or

(2) reduce payments to the recipient under this chapter by an amount equal to the amount of such payments which were not expanded in accordance with this chapter, or

(3) limit the availability of payments under this chapter to programs, projects, or activities not affected by such failure to comply.

(b) Referral of matters to Attorney General; institution of civil action by Attorney General

(1) In lieu of, or in addition to, any action authorized by subsection (a) of this section, the Secretary may, if he has reason to believe that a recipient has failed to comply substantially with any provision of this chapter, refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

(2) Upon such a referral the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this chapter which was not expended in accordance with it, or for mandatory or injunctive relief.

(c) Petition for review of action of Secretary in Court of Appeals; filing of record of proceedings in court by Secretary; affirmance, etc., of findings of Secretary; exclusiveness of jurisdiction of court; review by Supreme Court on writ of certiorari or certification

(1) Any recipient which receives notice under subsection (a) of this section of the termination, reduction, or limitation of payments under this chapter may, within sixty days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

(2) The Secretary shall file in the court record of the proceeding on which he based his action, as provided in section 2112 of title 28. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(3) The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. The Secretary may modify his findings of fact, or make new findings, by reason of the new evidence so taken and filed with the court, and he shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file his recommendation, if any, for the modification or setting aside of his original action.

(4) Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 93-383, title I, § 111, Aug. 22, 1974, 88 Stat. 650.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title,

section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5309 of this title.

§ 5312. Use of grants for settlement of outstanding urban renewal loans of units of general local government; limitation on amounts; prerequisites; financial settlement of urban renewal project; approval by Secretary

(a) The Secretary is authorized, notwithstanding any other provision of this chapter, to apply a portion of the grants, not to exceed 20 per centum thereof without the request of the recipient, made or to be made under section 5303(a) of this title in any fiscal year pursuant to an allocation under section 5306 of this title to any unit of general local government toward payment of the principal of, and accrued interest on, any temporary loan made in connection with urban renewal projects under title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.], being carried out within the jurisdiction of such unit of general local government if—

(1) the Secretary determines, after consultation with the local public agency carrying out the project and the chief executive of such unit of general local government, that the project cannot be completed without additional capital grants, or

(2) the local public agency carrying out the project submits to the Secretary an appropriate request which is concurred in by the governing body of such unit of general local government.

In determining the amounts to be applied to the payment of temporary loans, the Secretary shall make an accounting for each project taking into consideration the costs incurred or to be incurred, the estimated proceeds upon any sale or disposition of property, and the capital grants approved for the project.

(b) Upon application by any local public agency carrying out an urban renewal project under title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.], which application is approved by the governing body of the unit of general local government in which the project is located, the Secretary may approve a financial settlement of such project if he finds that a surplus of capital grant funds after full repayment of temporary loan indebtedness will result and may authorize the unit of general local government to use such surplus funds, without deduction or offset, in accordance with the provisions of this chapter.

(Pub. L. 93-383, title I, § 112, Aug. 22, 1974, 88 Stat. 650.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

The Housing Act of 1949, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title I of the Housing Act of 1949 is classified generally to subchapter II (§ 1450 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5316 of this title.

§ 5313. Reporting requirements

(a) Not later than 180 days after the close of each fiscal year in which assistance under this chapter is furnished, the Secretary shall submit to the Congress a report which shall contain—

(1) a description of the progress made in accomplishing the objectives of this chapter; and

(2) a summary of the use of such funds as approved by the Secretary during the preceding fiscal year.

(b) The Secretary is authorized to require recipients of assistance under this chapter to submit to him such reports and other information as may be necessary in order for the Secretary to make the report required by subsection (a) of this section.

(Pub. L. 93-383, title I, § 113, Aug. 22, 1974, 88 Stat. 651.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

§ 5314. Consultation by Secretary with other Federal departments, etc.

In carrying out the provisions of this chapter including the issuance of regulations, the Secretary shall consult with other Federal departments and agencies administering Federal grant-in-aid programs.

(Pub. L. 93-383, title I, § 114, Aug. 22, 1974, 88 Stat. 651.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

§ 5315. Interstate agreements or compacts; purposes

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative effort and mutual assistance in support of community development planning and programs carried out under this chapter as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

(Pub. L. 93-383, title I, § 115, Aug. 22, 1974, 88 Stat. 651.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and

amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

§ 5316. Transition provisions

(a) Prohibition on new grants or loans after January 1, 1975; exceptions

Except with respect to projects and programs for which funds have been previously committed, no new grants or loans shall be made after January 1, 1975, under (1) title I of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3301 et seq.], (2) title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.] (3) section 702 or section 703 of the Housing and Urban Development Act of 1965 [42 U.S.C. 3102 or 3103], (4) title II of the Housing Amendments of 1955 [42 U.S.C. 1491 et seq.], or (5) title VII of the Housing Act of 1961 [42 U.S.C. 1500 et seq.].

(b) Deductions from grants for fiscal year 1975; construction of appropriations for fiscal year 1975

To the extent that grants under title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.] or title I of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3301 et seq.] are payable from appropriations made for the fiscal year 1975, and are made with respect to a project or program being carried on in any unit of general local government which is eligible to receive a grant for such fiscal year under section 5306(a) or (h) of this title, the amount of such grants made under title I of the Housing Act of 1949 or title I of the Demonstration Cities and Metropolitan Development Act of 1966 shall be deducted from the amount of grants which such unit of general local government is eligible to receive for the fiscal year 1975 under such section 5306(a) or (h) of this title. The deduction required by the preceding sentence shall be disregarded in determining the amount of grants made to any unit of general local government that may be applied, pursuant to section 5312 of this title, to payment of temporary loans in connection with urban renewal projects under title I of the Housing Act of 1949. The amount of any appropriations made for the fiscal year 1975 which is used for grants so as to be subject to the provisions of this subsection relating to deductions shall be deemed to have been appropriated for grants pursuant to section 5303(a) of this title for such fiscal year for purposes of calculations under sections 5306 and 5307 of this title.

(c) Advances for program period beginning January 1, 1975

With respect to the program period beginning January 1, 1975, the Secretary may, without regard to the requirements of section 5304 of this title, advance to any metropolitan city, urban county or other unit of general local government, out of the amount allocated to such entity pursuant to section 5306(a) or (h) of this title, an amount not to exceed 10 per centum of the amount so allocated which shall be available only for use (1) to continue projects or programs referred to in clauses (1) and (2) of subsection (a) of this section, or (2) to plan and prepare for the implementation of activities to be assisted under this chapter.

(d) Final date in fiscal year for submission of application for grant; establishment by Secretary

In the case of funds available for any fiscal year, the Secretary shall not consider any application from a metropolitan city or urban county for a grant pursuant to section 5306(a) of this title or from a unit of general local government for a grant pursuant to section 5306(h) of this title unless such application is submitted on or prior to such date (in that fiscal year) as the Secretary shall establish as the final date for submission of applications for such grants in that year.

(e) Sources of funds to meet deficiency in fiscal year 1977

In the event that the total amount available for distribution in fiscal year 1977 in metropolitan areas is insufficient to meet all basic grant and hold-harmless entitlement needs, as provided by section 5306(a) of this title, and funds are not otherwise appropriated to meet such deficiency, the Secretary shall meet the deficiency, first, from amounts available for use under section 5307 of this title and, if such amounts are exhausted, through a ratable reduction of all entitlements under section 5306(a) of this title.

(Pub. L. 93-383, title I, § 116(a), (b), (f), (g), Aug. 22, 1974, 88 Stat. 652, 653; Pub. L. 94-375, § 15(d), Aug. 3, 1976, 90 Stat. 1076.)

REFERENCES IN TEXT

The Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsecs. (a) and (b), is Pub. L. 89-754, Nov. 3, 1966, 80 Stat. 1255, as amended. Title I of the Demonstration Cities and Metropolitan Development Act of 1966 is classified principally to subchapter I (§ 3301 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables volume.

The Housing Act of 1949, referred to in subsecs. (a) and (b), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title I of the Housing Act of 1949 is classified generally to subchapter II (§ 1450 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables volume.

The Housing Amendments of 1955, referred to in subsec. (a), is act Aug. 11, 1955, ch. 783, 69 Stat. 645, as amended. Title II of the Housing Amendments of 1955 is classified generally to chapter 8B (§ 1491 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

The Housing Act of 1961, referred to in subsec. (a), is Pub. L. 87-70, June 30, 1961, 87 Stat. 149, as amended. Title VII of the Housing Act of 1961 is classified generally to chapter 8C (§ 1500 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables volume.

This chapter, referred to in subsec. (c), in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

CODIFICATION

Subsecs. (c) and (d) were, in the original, subsecs. (f) and (g) and have been designated as (c) and (d) for purposes of codification. Subsec. (c) of section 116 of Pub. L. 93-383 amended section 1453(b) of this title, subsec. (d) of such section amended section 3311 (b)

and (c) of this title, and subsec. (e) of such section amended section 1452b(a) and (h) of this title.

Subsec. (e) was, in the original, subsec. (h) and has been redesignated as (e) for purposes of codification.

AMENDMENTS

1976—Subsec. (e). Pub. L. 94-375 added subsec. (e).

§ 5317. Liquidation of superseded or inactive programs

The Secretary is authorized to transfer the assets and liabilities of any program which is superseded or inactive by reason of this chapter to the revolving fund for liquidating programs established pursuant to section 1701g-5 of title 12.

(Pub. L. 93-383, title I, § 117(b), Aug. 22, 1974, 88 Stat. 653.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

Section 1701g-5 of title 12, referred to in text, was in the original a reference to title II of the Independent Offices Appropriation Act of 1965 (Public Law 81-428; 68 Stat. 272, 295).

CHAPTER 70—MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

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§ 5401. Congressional declaration of purposes

The Congress declares that the purposes of this chapter are to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from mobile home accidents and to improve the quality and durability of mobile homes. Therefore, the Congress determines that it is necessary to establish Federal construction and safety standards for mobile homes and to authorize mobile home safety research and development.

(Pub. L. 93-383, title VI, § 602, Aug. 22, 1974, 88 Stat. 700.)

EFFECTIVE DATE

Section 628 of Pub. L. 93-383 provided that: "The provisions of this title [enacting this chapter and provision set out as a note under this section] shall take effect upon the expiration of 180 days following the date of enactment of this title [Aug. 22, 1974]."

SHORT TITLE

Section 601 of Pub. L. 93-383 provided that: "This title [which enacted this chapter and provision set out as a note under this section] may be cited as the 'National Mobile Home Construction and Safety Standards Act of 1974'."

§ 5402. Definitions

As used in this chapter, the term—

(1) "mobile home construction" means all activities relating to the assembly and manufacture of a mobile home including but not limited to those relating to durability, quality, and safety;

(2) "dealer" means any person engaged in the sale, leasing, or distribution of new mobile homes primarily to persons who in good faith purchase or lease a mobile home for purposes other than resale;

(3) "defect" includes any defect in the performance, construction, components, or material of a mobile home that renders the home or any part thereof not fit for the ordinary use for which it was intended;

(4) "distributor" means any person engaged in the sale and distribution of mobile homes for resale;

(5) "manufacturer" means any person engaged in manufacturing or assembling mobile homes, including any person engaged in importing mobile homes for resale;

(6) "mobile home" means a structure, transportable in one or more sections, which is eight body feet or more in width and is thirty-two body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein;

(7) "Federal mobile home construction and safety standard" means a reasonable standard for the construction, design, and performance of a mobile home which meets the needs of the public including the need for quality, durability, and safety;

(8) "mobile home safety" means the performance of a mobile home in such a manner that the public is protected against any un-

reasonable risk of the occurrence of accidents due to the design or construction of such mobile home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(9) "imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury;

(10) "purchaser" means the first person purchasing a mobile home in good faith for purposes other than resale;

(11) "Secretary" means the Secretary of Housing and Urban Development;

(12) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa; and

(13) "United States district courts" means the Federal district courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

(Pub. L. 93-383, title VI, § 603, Aug. 22, 1974, 88 Stat. 700.)

§ 5403. Construction and safety standards

(a) Establishment pursuant to orders of Secretary; consultation with Consumer Product Safety Commission; reasonableness; consideration of State and local laws

The Secretary, after consultation with the Consumer Product Safety Commission, shall establish by order appropriate Federal mobile home construction and safety standards. Each such Federal mobile home standard shall be reasonable and shall meet the highest standards of protection, taking into account existing State and local laws relating to mobile home safety and construction.

(b) Notice and hearing

All orders issued under this section shall be issued after notice and an opportunity for interested persons to participate are provided in accordance with the provisions of section 553 of title 5.

(c) Effective date of orders establishing standards

Each order establishing a Federal mobile home construction and safety standard shall specify the date such standard is to take effect, which shall not be sooner than one hundred and eighty days or later than one year after the date such order is issued, unless the Secretary finds for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

(d) Supremacy of Federal standards

Whenever a Federal mobile home construction and safety standard established under this chapter is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any mobile home covered, any standard regarding the construction or safety applicable to the same aspect of performance of such mobile home which is not identical to the Federal mobile home construction and safety standard.

(e) Amendment or revocation by Secretary; effective date

The Secretary may by order amend or revoke any Federal mobile home construction or safety standard established under this section. Such order shall specify the date on which such amendment or revocation is to take effect, which shall not be sooner than one hundred and eighty days or later than one year from the date the order is issued, unless the Secretary finds, for good cause shown, than[1] an earlier or later date is in the public interest, and publishes his reasons for such finding.

(f) Criteria

In establishing standards under this section, the Secretary shall—

(1) consider relevant available mobile home construction and safety data, including the results of the research, development, testing, and evaluation activities conducted pursuant to this chapter, and those activities conducted by private organizations and other governmental agencies to determine how to best protect the public;

(2) consult with such State or interstate agencies (including legislative committees) as he deems appropriate;

(3) consider whether any such proposed standard is reasonable for the particular type of mobile home or for the geographic region for which it is prescribed;

(4) consider the probable effect of such standard on the cost of the mobile home to the public; and

(5) consider the extent to which any such standard will contribute to carrying out the purposes of this chapter.

(g) Time for issuance of order establishing initial standards

The Secretary shall issue an order establishing initial Federal mobile home construction and safety standards not later than one year after August 22, 1974.

(Pub. L. 93-383, title VI, § 604, Aug. 22, 1974, 88 Stat. 701.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5405, 5406, 5414, 5420, 5422 of this title.

§ 5404. National Mobile Home Advisory Council

(a) Appointment; composition; appointments without regard to civil service laws; publication of names of members and designation of members representing general public

The Secretary shall appoint a National Mobile Home Advisory Council with the following composition: eight members selected from among consumer organizations, community organizations, and recognized consumer leaders; eight members from the mobile home industry and related groups including at least one representative of small business; and eight members selected from government agencies including Federal, State, and local governments. Appointments under this subsection shall be made without regard to the provisions of title 5 relating to appointments in the competitive service,

[1] So in original. Probably should be "that".

classification, and General Schedule pay rates. The Secretary shall publish the names of the members of the Council annually and shall designate which members represent the general public.

(b) Consultation by Secretary with Council prior to establishment, etc., of standards

The Secretary shall, to the extent feasible, consult with the Advisory Council prior to establishing, amending, or revoking any mobile home construction or safety standard pursuant to the provisions of this chapter.

(c) Compensation; per diem; travel expenses

Any member of the National Mobile Home Advisory Council who is appointed from outside the Federal Government may be compensated at a rate not to exceed $100 per diem (including travel time) when engaged in the actual duties of the Advisory Council. Such members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703(b) of title 5 for persons in the Government service employed intermittently.

(Pub. L. 93-383, title VI, § 605, Aug. 22, 1974, 88 Stat. 702.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The provisions of title 5 relating to classification, referred to in subsec. (a), are classified generally to chapter 51 (§ 5101 et seq.) and to subchapter III (§ 5331 et seq.) of chapter 53 of Title 5

The General Schedule, referred to in subsec. (a), is set out under section 5332 of Title 5.

Section 5703 of title 5, referred to in subsec. (c), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973 to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a council established by the President or an officer of the federal government, such council is renewed by appropriate action prior to the end of such period, or in the case of a council established by the Congress, its duration is otherwise provided by law see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 5405. Judicial review of orders establishing standards; petition; additional evidence before Secretary; certified copy of transcript

(a)(1) In a case of actual controversy as to the validity of any order under section 5403 of this title, any person who may be adversely affected by such order when it is effective may at any time prior to the sixtieth day after such order is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judical review of such order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the order in accordance with the provisions of sections 701 through 706 of title 5, and to grant appropriate relief.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(b) A certified copy of the transcript of the record and proceedings under this section shall be furnished by the Secretary to any interested party at his request and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceeding arising under or in respect of this chapter, irrespective of whether proceedings with respect to the order have previously been initiated or become final under subsection (a) of this section.

(Pub. L. 93-383, title VI, § 606, Aug. 22, 1974, 88 Stat. 702.)

§ 5406. Submission of cost or other information by manufacturer

(a) Purpose of submission; detail of information

Whenever any manufacturer is opposed to any action of the Secretary under section 5403 of this title or under any other provision of this chapter on the grounds of increased cost or for other reasons, the manufacturer shall submit such cost and other information (in such detail as the Secretary may by rule or order prescribe) as may be necessary in order to properly evaluate the manufacturer's statement.

(b) Conditions upon availability to public of submitted information

Such information shall be available to the public unless the manufacturer establishes that it contains a trade secret or that disclosure of any portion of such information would put the manufacturer at a substantial competitive dis-

advantage. Notice of the availability of such information shall be published promptly in the Federal Register. If the Secretary determines that any portion of such information contains a trade secret or that the disclosure of any portion of such information would put the manufacturer at a substantial competitive disadvantage, such portion may be disclosed to the public only in such manner as to preserve the confidentiality of such trade secret or in such combined or summary form so as not to disclose the identity of any individual manufacturer, except that any such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress.

(c) Establishment, etc., of standards on basis of submitted information; publication of notice in Federal Register by Secretary to allow comment by interested parties

If the Secretary proposes to establish, amend, or revoke a Federal mobile home construction and safety standard under section 5403 of this title on the basis of information submitted pursuant to subsection (a) of this section, he shall publish a notice of such proposed action, together with the reasons therefor, in the Federal Register at least thirty days in advance of making a final determination, in order to allow interested parties an opportunity to comment.

(d) Definitions

For purposes of this section, "cost information" means information with respect to alleged cost increases resulting from action by the Secretary, in such a form as to permit the public and the Secretary to make an informed judgment on the validity of the manufacturer's statements. Such term includes both the manufacturer's cost and the cost to retail purchasers.

(e) Power of Secretary to obtain or require submission of information under other provisions unaffected

Nothing in this section shall be construed to restrict the authority of the Secretary to obtain or require submission of information under any other provision of this chapter.

(Pub. L. 93-383, title VI, § 607, Aug. 22, 1974, 88 Stat. 703.)

§ 5407. Research, testing, development, and training by Secretary; scope; contracts and grants with States, interstate agencies, and independent institutions

(a) The Secretary shall conduct research, testing, development, and training necessary to carry out the purposes of this chapter, including, but not limited to—

(1) collecting data from any source for the purpose of determining the relationship between mobile home performance characteristics and (A) accidents involving mobile homes, and (B) the occurrence of death, personal injury, or damage resulting from such accidents;

(2) procuring (by negotiation or otherwise) experimental and other mobile homes for research and testing purposes; and

(3) selling or otherwise disposing of test mobile homes and reimbursing the proceeds of such sale or disposal into the current appropriation available for the purpose of carrying out this chapter.

(b) The Secretary is authorized to conduct research, testing, development, and training as authorized to be carried out by subsection (a) of this section by contracting for or making grants for the conduct of such research, testing, development, and training to States, interstate agencies, and independent institutions.

(Pub. L. 93-383, title VI, § 608, Aug. 22, 1974, 88 Stat. 704.)

§ 5408. Cooperation by Secretary with public and private agencies

The Secretary is authorized to advise, assist, and cooperate with other Federal agencies and with State and other interested public and private agencies, in the planning and development of—

(1) mobile home construction and safety standards; and

(2) methods for inspecting and testing to determine compliance with mobile homes standards.

(Pub. L. 93-383, title VI, § 609, Aug. 22, 1974, 88 Stat. 704.)

§ 5409. Prohibited acts; exemptions

(a) No person shall—

(1) make use of any means of transportation or communication affecting interstate or foreign commerce or the mails to manufacture for sale, lease, sell, offer for sale or lease, or introduce or deliver, or import into the United States, any mobile home which is manufactured on or after the effective date of any applicable Federal mobile home construction and safety standard under this chapter and which does not comply with such standard, except as provided in subsection (b) of this section, where such manufacture, lease, sale, offer for sale or lease, introduction, delivery, or importation affects commerce;

(2) fail or refuse to permit access to or copying of records, or fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under section 5413 of this title;

(3) fail to furnish notification of any defect as required by section 5414 of this title;

(4) fail to issue a certification required by section 5415 of this title, or issue a certification to the effect that a mobile home conforms to all applicable Federal mobile home construction and safety standards, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect; or

(5) fail to comply with a final order issued by the Secretary under this chapter.

(b)(1) Paragraph (1) of subsection (a) of this section shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any mobile home after the first purchase of it in good faith for purposes other than resale.

(2) For purposes of section 5410 of this title, paragraph (1) of subsection (a) of this section shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such mobile home is not in conformity with applicable Federal mobile home construction and safety standards, or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such mobile home to the effect that such mobile home conforms to all applicable Federal mobile home construction and safety standards, unless such person knows that such mobile home does not so conform.

(3) A mobile home offered for importation in violation of paragraph (1) of subsection (a) of this section shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary, except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such mobile home into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such mobile home will be brought into conformity with any applicable Federal mobile home construction or safety standard prescribed under this chapter, or will be exported from, or forfeited to, the United States.

(4) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the importation of any mobile home after the first purchase of it in good faith for purposes other than resale.

(5) Paragraph (1) of subsection (a) of this section shall not apply in the case of a mobile home intended solely for export, and so labeled or tagged on the mobile home itself and on the outside of the container, if any, in which it is to be exported.

(c) Compliance with any Federal mobile home construction or safety standard issued under this chapter does not exempt any person from any liability under common law.

(Pub. L. 93-383, title VI, § 610, Aug. 22, 1974, 88 Stat. 704.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5410 of this title.

§ 5410. Civil and criminal penalties

(a) Whoever violates any provision of section 5409 of this title, or any regulation or final order issued thereunder, shall be liable to the United States for a civil penalty of not to exceed $1,000 for each such violation. Each violation of a provision of section 5409 of this title, or any regulation or order issued thereunder shall constitute, a separate violation with respect to each mobile home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed $1,000,000 for any related series of violations occurring within one year from the date of the first violation.

(b) An individual or a director, officer, or agent of a corporation who knowingly and willfully violates section 5409 of this title in a manner which threatens the health or safety of any purchaser shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(Pub. L. 93-383, title VI, § 611, Aug. 22, 1974, 88 Stat. 705.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5409, 5411, 5422 of this title.

§ 5411. Injunctive relief

(a) Jurisdiction; petition of United States attorney or Attorney General; notice by Secretary to affected persons to present views

The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this chapter, or to restrain the sale, offer for sale, or the importation into the United States, of any mobile home which is determined, prior to the first purchase of such mobile home in good faith for purposes other than resale, not to conform to applicable Federal mobile home construction and safety standards prescribed pursuant to this chapter or to contain a defect which constitutes an imminent safety hazard, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views and the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

(b) Criminal contempt proceedings; conduct of trial

In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this chapter, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(c) Venue

Actions under subsection (a) of this section and section 5410 of this title may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

(d) Subpenas

In any action brought by the United States under subsection (a) of this section or section 5410 of this title, subpenas by the United States for witnesses who are required to attend at United States district court may run into any other district.

(e) Designation by manufacturer of agent for service of administrative and judicial processes, etc.; filing and amendment of designation; failure to make designation

It shall be the duty of every manufacturer offering a mobile home for importation into the

United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made for and on behalf of such manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made upon such manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such manufacturer, and in default of such designation of such agent, service of process or any notice, order, requirement, or decision in any proceeding before the Secretary or in any judicial proceeding pursuant to this chapter may be made by mailing such process, notice, order, requirement, or decision to the Secretary by registered or certified mail.

(Pub. L. 93-383, title VI, § 612, Aug. 22, 1974, 88 Stat. 705.)

REFERENCES IN TEXT

Rule 65 of the Federal Rules of Civil Procedure, referred to in subsec. (a), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 42 of the Federal Rules of Criminal Procedure, referred to in subsec. (b), is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

§ 5412. Noncompliance with standards or defective nature of mobile home; administrative or judicial determination; repurchase by manufacturer or repair by distributor or dealer; reimbursement of expenses, etc., by manufacturer; injunctive relief against manufacturer for failure to comply; jurisdiction and venue; damages; period of limitation

(a) If the Secretary or a court of appropriate jurisdiction determines that any mobile home does not conform to applicable Federal mobile home construction and safety standards, or that it contains a defect which constitutes an imminent safety hazard, after the sale of such mobile home by a manufacturer to a distributor or a dealer and prior to the sale of such mobile home by such distributor or dealer to a purchaser—

(1) the manufacturer shall immediately repurchase such mobile home from such distributor or dealer at the price paid by such distributor or dealer, plus all transportation charges involved and a reasonable reimbursement of not less than 1 per centum per month of such price paid prorated from the date of receipt by certified mail of notice of such nonconformance to the date of repurchase by the manufacturer; or

(2) the manufacturer, at his own expense, shall immediately furnish the purchasing distributor or dealer the required conforming part or parts or equipment for installation by the distributor or dealer on or in such mobile home, and for the installation involved the manufacturer shall reimburse such distributor or dealer for the reasonable value of such installation plus a reasonable reimbursement of not less than 1 per centum per month of the manufacturer's or distributor's selling price prorated from the date of receipt by certified mail of notice of such nonconformance to the date such vehicle is brought into conformance with applicable Federal standards, so long as the distributor or dealer proceeds with reasonable diligence with the installation after the required part or equipment is received.

The value of such reasonable reimbursements as specified in paragraphs (1) and (2) of this subsection shall be fixed by mutual agreement of the parties, or, failing such agreement, by the court pursuant to the provisions of subsection (b) of this section.

(b) If any manufacturer fails to comply with the requirements of subsection (a) of this section, then the distributor or dealer, as the case may be, to whom such mobile home has been sold may bring an action seeking a court injunction compelling compliance with such requirements on the part of such manufacturer. Such action may be brought in any district court in the United States in the district in which such manufacturer resides, or is found, or has an agent, without regard to the amount in controversy, and the person bringing the action shall also be entitled to recover any damage sustained by him, as well as all court costs plus reasonable attorney's fees. Any action brought pursuant to this section shall be forever barred unless commenced within three years after the cause of action shall have accrued.

(Pub. L. 93-383, title VI, § 613, Aug. 22, 1974, 88 Stat. 706.)

§ 5413. Inspections and investigations for promulgation or enforcement of standards or execution of other duties

(a) Authority of Secretary; results furnished to Attorney General and Secretary of Treasury for appropriate action

The Secretary is authorized to conduct such inspections and investigations as may be necessary to promulgate or enforce Federal mobile home construction and safety standards established under this chapter or otherwise to carry out his duties under this chapter. He shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with such standards for appropriate action.

(b) Designation by Secretary of persons to enter and inspect factories, etc.; presentation of credentials; reasonableness and scope of inspection

(1) For purposes of enforcement of this chapter, persons duly designated by the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized—

(A) to enter, at reasonable times and without advance notice, any factory, warehouse, or establishment in which mobile homes are manufactured, stored, or held, for sale; and

(B) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, any such factory, warehouse, or establishment, and to inspect such books, papers, records, and documents as are set forth in subsection (c) of this section.

Each such inspection shall be commenced and completed with reasonable promptness.

(2) The Secretary is authorized to contract with State and local governments and private

inspection organizations to carry out his functions under this subsection.

(c) Powers of Secretary

For the purpose of carrying out the provisions of this chapter, the Secretary is authorized—

(1) to hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records, as the Secretary or such officer or employee deems advisable. Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States;

(2) to examine and copy any documentary evidence of any person having materials or information relevant to any function of the Secretary under this chapter;

(3) to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this chapter. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe;

(4) to request from any Federal agency any information he deems necessary to carry out his functions under this chapter, and each such agency is authorized and directed to cooperate with the Secretary and to furnish such information upon request made by the Secretary, and the head of any Federal agency is authorized to detail, on a reimbursable basis, any personnel of such agency to assist in carrying out the duties of the Secretary under this chapter; and

(5) to make available to the public any information which may indicate the existence of a defect which relates to mobile home construction or safety or of the failure of a mobile home to comply with applicable mobile home construction and safety standards. The Secretary shall disclose so much of other information obtained under this subsection to the public as he determines will assist in carrying out this chapter; but he shall not (under the authority of this sentence) make available or disclosure to the public any information which contains or relates to a trade secret or any information the disclosure of which would put the person furnishing such information at a substantial competitive disadvantage, unless he determines that it is necessary to carry out the purpose of this chapter.

(d) Refusal to obey subpoena or order of Secretary; order of compliance by district court; failure to obey order of compliance punishable as contempt

Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpena or order of the Secretary issued under paragraph (1) or paragraph (3) of subsection (c) of this section, issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Submission by manufacturer of building plans for mobile homes; certification by manufacturer of conformity of building plans to standards

Each manufacturer of mobile homes shall submit the building plans for every model of such mobile homes to the Secretary or his designee for the purpose of inspection under this section. The manufacturer must certify that each such building plan meets the Federal construction and safety standards in force at that time before the model involved is produced.

(f) Records, reports and information from manufacturers, distributors and dealers of mobile homes; inspection and examination of relevant books, papers, records and documents by designated person

Each manufacturer, distributor, and dealer of mobile homes shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer, distributor, or dealer has acted or is acting in compliance with this chapter and Federal mobile home construction and safety standards prescribed pursuant to this chapter and shall, upon request of a person duly designated by the Secretary, permit such person to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer, distributor, or dealer has acted or is acting in compliance with this chapter and mobile home construction and safety standards prescribed pursuant to this chapter.

(g) Performance and technical data from manufacturer; persons required to receive notification of data

Each manufacturer of mobile homes shall provide to the Secretary such performance data and other technical data related to performance and safety as may be required to carry out the purposes of this chapter. These shall include records of tests and test results which the Secretary may require to be performed. The Secretary is authorized to require the manufacturer to give notification of such performance and technical data to—

(1) each prospective purchaser of a mobile home before its first sale for purposes other than resale, at each location where any such manufacturer's mobile homes are offered for sale by a person with whom such manufacturer has a contractual, proprietary, or other legal relationship and in a manner determined by the Secretary to be appropriate, which may include, but is not limited to, printed matter (A) available for retention by such prospective purchaser, and (B) sent by mail to such prospective purchaser upon his request; and

(2) the first person who purchases a mobile home for purposes other than resale, at the time of such purchase or in printed matter placed in the mobile home.

(h) Disclosure of confidential information and trade secrets

All information reported to or otherwise obtained by the Secretary or his representative

pursuant to subsection (b), (c), (f), or (g) of this section which contains or relates to a trade secret, or which, if disclosed, would put the person furnishing such information at a substantial competitive disadvantage, shall be considered confidential, except that such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress.

(Pub. L. 93-383, title VI, § 614, Aug. 22, 1974, 88 Stat. 707.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5409, 5414, 5422 of this title.

§ 5414. Notification and correction of defects by manufacturer

(a) Notice to purchaser within reasonable time after discovery of defect

Every manufacturer of mobile homes shall furnish notification of any defect in any mobile home produced by such manufacturer which he determines, in good faith, relates to a Federal mobile home construction or safety standard or contains a defect which constitutes an imminent safety hazard to the purchaser of such mobile home, within a reasonable time after such manufacturer has discovered such defect.

(b) Notification by mail

The notification required by subsection (a) of this section shall be accomplished—

(1) by mail to the first purchaser (not including any dealer or distributor of such manufacturer) of the mobile home containing the defect, and to any subsequent purchaser to whom any warranty on such mobile home has been transferred;

(2) by mail to any other person who is a registered owner of such mobile home and whose name and address has been ascertained pursuant to procedures established under subsection (f) of this section; and

(3) by mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such mobile home was delivered.

(c) Form and requisites of notification

The notification required by subsection (a) of this section shall contain a clear description of such defect or failure to comply, an evaluation of the risk to mobile home occupants' safety reasonably related to such defect, and a statement of the measures needed to repair the defect. The notification shall also inform the owner whether the defect is a construction or safety defect which the manufacturer will have corrected at no cost to the owner of the mobile home under subsection (g) of this section or otherwise, or is a defect which must be corrected at the expense of the owner.

(d) Copy to Secretary of all notices, bulletins, and communications sent by manufacturer to dealers and purchasers concerning defects; disclosure to public by Secretary

Every manufacturer of mobile homes shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or purchasers of mobile homes of such manufacturer regarding any defect in any such mobile home produced by such manufacturer. The Secretary shall disclose to the public so much of the information contained in such notices or other information obtained under section 5413 of this title as he deems will assist in carrying out the purposes of this chapter, but he shall not disclose any information which contains or relates to a trade secret, or which, if disclosed, would put such manufacturer at a substantial competitive disadvantage, unless he determines that it is necessary to carry out the purposes of this chapter.

(e) Notice by Secretary to manufacturers of noncompliance with standards or defective nature of mobile home; contents of notice; presentation by manufacturer of views; notice to purchasers of defects

If the Secretary determines that any mobile home—

(1) does not comply with an applicable Federal mobile home construction and safety standard prescribed pursuant to section 5403 of this title; or

(2) contains a defect which constitutes an imminent safety hazard,

then he shall immediately notify the manufacturer of such mobile home of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance. If after such presentation by the manufacturer the Secretary determines that such mobile home does not comply with applicable Federal mobile home construction or safety standards, or contains a defect which constitutes an imminent safety hazard, the Secretary shall direct the manufacturer to furnish the notification specified in subsections (a) and (b) of this section.

(f) Maintenance by manufacturer of record of names and addresses of first purchasers of mobile homes; procedures for ascertaining names and addresses of subsequent purchasers; establishment and reasonableness of procedures for maintaining records

Every manufacturer of mobile homes shall maintain a record of the name and address of the first purchaser of each mobile home (for purposes other than resale), and, to the maximum extent feasible, shall maintain procedures for ascertaining the name and address of any subsequent purchaser thereof and shall maintain a record of names and addresses so ascertained. Such records shall be kept for each home produced by a manufacturer. The Secretary may establish by order procedures to be followed by manufacturers in establishing and maintaining such records, including procedures

to be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection. Such procedures shall be reasonable for the particular type of mobile home for which they are prescribed.

(g) Correction of defects by manufacturer; conditions; procedures; contract or legal rights of purchasers or other persons unaffected

A manufacturer required to furnish notification of a defect under subsection (a) or (e) of this section shall also bring the mobile home into compliance with applicable standards and correct the defect or have the defect corrected within a reasonable period of time at no expense to the owner, but only if—

(1) the defect presents an unreasonable risk of injury or death to occupants of the affected mobile home or homes;

(2) the defect can be related to an error in design or assembly of the mobile home by the manufacturer.

The Secretary may direct the manufacturer to make such corrections after providing an opportunity for oral and written presentation of views by interested persons. Nothing in this section shall limit the rights of the purchaser or any other person under any contract or applicable law.

(h) Submission to Secretary by manufacturer of plan for notifying owners of defects and repair of defects; approval of manufacturer's remedy plan; effectuation and implementation of remedy plan

The manufacturer shall submit his plan for notifying owners of the defect and for repairing such defect (if required under subsection (g) of this section) to the Secretary for his approval before implementing such plan. Whenever a manufacturer is required under subsection (g) of this section to correct a defect, the Secretary shall approve with or without modification, after consultation with the manufacturer of the mobile home involved, such manufacturer's remedy plan including the date when, and the method by which, the notification and remedy required pursuant to this section shall be effectuated. Such date shall be the earliest practicable one but shall not be more than sixty days after the date of discovery or determination of the defect or failure to comply, unless the Secretary grants an extension of such period for good cause shown and publishes a notice of such extension in the Federal Register. Such manufacturer is bound to implement such remedy plan as approved by the Secretary.

(i) Defective or inadequately repaired mobile homes; replacement with new or equivalent home or refund of purchase price

Where a defect or failure to comply in a mobile home cannot be adequately repaired within sixty days from the date of discovery or determination of the defect, the Secretary may require that the mobile home be replaced with a new or equivalent home without charge, or that the purchase price be refunded in full, less a reasonable allowance for depreciation based on actual use if the home has been in the possession of the owner for more than one year.

(Pub. L. 93-383, title VI, § 615, Aug. 22, 1974, 88 Stat. 709.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5409, 5422 of this title.

§ 5415. Certification by manufacturer of conformity of mobile home with standards; form and placement of certification

Every manufacturer of mobile homes shall furnish to the distributor or dealer at the time of delivery of each such mobile home produced by such manufacturer certification that such mobile home conforms to all applicable Federal construction and safety standards. Such certification shall be in the form of a label or tag permanently affixed to each such mobile home.

(Pub. L. 93-383, title VI, § 616, Aug. 22, 1974, 88 Stat. 711.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5409 of this title.

§ 5416. Consumer's manual; contents

The Secretary shall develop guidelines for a consumer's manual to be provided to mobile home purchasers by the manufacturer. These manuals should identify and explain the purchasers' responsibilities for operation, maintenance, and repair of their mobile homes.

(Pub. L. 93-383, title VI, § 617, Aug. 22, 1974, 88 Stat. 711.)

§ 5417. Effect upon antitrust laws

Nothing contained in this chapter shall be deemed to exempt from the antitrust laws of the United States any conduct that would otherwise be unlawful under such laws, or to prohibit under the antitrust laws of the United States any conduct that would be lawful under such laws. As used in this section, the term "antitrust laws" includes, but is not limited to, the Act of July 2, 1890, as amended; the Act of October 14, 1914, as amended; the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1894, as amended.

(Pub. L. 93-383, title VI, § 618, Aug. 22, 1974, 88 Stat. 711.)

REFERENCES IN TEXT

The Act of July 2, 1890, as amended, referred to in text, is known as the Sherman Act, and is classified to sections 1 to 7 of Title 15, Commerce and Trade.

The Act of October 14, 1914, as amended, referred to in text, is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15, Commerce and Trade, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables volume.

The Federal Trade Commission Act, referred to in text, is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of that Act to the Code, see section 58 of Title 15 and Tables volume.

Sections 73 and 74 of the Act of August 27, 1894, referred to in text, are set out as sections 8 and 9 of Title 15, Commerce and Trade.

§ 5418. Use of services, research and testing facilities of public agencies and independent laboratories

The Secretary, in exercising the authority under this chapter, shall utilize the services, research and testing facilities of public agencies and independent testing laboratories to the maximum extent practicable in order to avoid duplication.

(Pub. L. 93-383, title VI, § 619, Aug. 22, 1974, 88 Stat. 711.)

§ 5419. Inspection fees

In carrying out the inspections required under this chapter, the Secretary may establish and impose on mobile home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by him in conducting such inspections, except that this section shall not apply in any State which has in effect a State plan under section 5422 of this title.

(Pub. L. 93-383, title VI, § 620, Aug. 22, 1974, 88 Stat. 712.)

§ 5420. Failure to report violations; penalties

Any person, other than an officer or employee of the United States, or a person exercising inspection functions under a State plan pursuant to section 5422 of this title, who knowingly and willfully fails to report a violation of any construction or safety standard established under section 5403 of this title may be fined up to $1,000 or imprisoned for up to one year, or both.

(Pub. L. 93-383, title VI, § 621, Aug. 22, 1974, 88 Stat. 712.)

§ 5421. Prohibition on waiver of rights

The rights afforded mobile home purchasers under this chapter may not be waived, and any provision of a contract or agreement entered into after August 22, 1974, to the contrary shall be void.

(Pub. L. 93-383, title VI, § 622, Aug. 22, 1974, 88 Stat. 712.)

§ 5422. State enforcement

(a) Jurisdiction of State agency or court under State law

Nothing in this chapter shall prevent any State agency or court from asserting jurisdiction under State law over any mobile home construction or safety issue with respect to which no Federal mobile home construction and safety standard has been established pursuant to the provisions of section 5403 of this title.

(b) Assumption of responsibility for enforcement of Federal standards; submission of enforcement plan to Secretary

Any State which, at any time, desires to assume responsibility for enforcement of mobile home safety and construction standards relating to any issue with respect to which a Federal standard has been established under section 5403 of this title, shall submit to the Secretary a State plan for enforcement of such standards.

(c) Criteria for approval of State plan by Secretary

The Secretary shall approve the plan submitted by a State under subsection (b) of this section, or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

(2) provides for the enforcement of mobile home safety and construction standards promulgated under section 5403 of this title;

(3) provides for a right of entry and inspection of all factories, warehouses, or establishments in such State in which mobile homes are manufactured and for the review of plans, in a manner which is identical to that provided in section 5413 of this title;

(4) provides for the imposition of the civil and criminal penalties under section 5410 of this title;

(5) provides for the notification and correction procedures under section 5414 of this title;

(6) provides for the payment of inspection fees by manufacturers in amounts adequate to cover the costs of inspections;

(7) contains satisfactory assurances that the State agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards;

(8) give satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards;

(9) requires manufacturers, distributors, and dealers in such State to make reports to the Secretary in the manner and to the same extent as if the State plan were not in effect;

(10) provides that the State agency or agencies will make such reports to the Secretary in such form and containing such information as the Secretary shall from time to time require; and

(11) complies with such other requirements as the Secretary may by regulation prescribe for the enforcement of this chapter.

(d) Notice and hearing prior to rejection by Secretary of State plan

If the Secretary rejects a plan submitted under subsection (b) of this section, he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

(e) Discretionary enforcement by Secretary of standards in State having approved plan

After the Secretary approves a State plan submitted under subsection (b) of this section, he may, but shall not be required to, exercise his authority under this chapter with respect to enforcement of mobile home construction and safety standards in the State involved.

(f) Annual evaluation by Secretary of execution of State plan; basis of evaluation; submission of evaluation and data to Congress; determination by Secretary of improper administration, etc., of State plan; procedure; effect of determination

The Secretary shall, on the basis of reports submitted by the designated State agency and his own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Such evaluation shall be made

by the Secretary at least annually for each State, and the results of such evaluation and the inspection reports on which it is based shall be promptly submitted to the appropriate committees of the Congress. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan or that the State plan has become inadequate, he shall notify the State agency or agencies of his withdrawal of approval of such plan. Upon receipt of such notice by such State agency or agencies such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce mobile home standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

(Pub. L. 93-383, title VI, § 623, Aug. 22, 1974, 88 Stat. 712.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5419, 5420, 5423 of this title.

§ 5423. Grants to States

(a) Purposes

The Secretary is authorized to make grants to the States which have designated a State agency under section 5422 of this title to assist them—

(1) in identifying their needs and responsibilities in the area of mobile home construction and safety standards; or

(2) in developing State plans under section 5422 of this title.

(b) Designation by Governor of State agency for receipt of grant

The Governor of each State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(c) Submission of application by State agency to Secretary; review by Secretary

Any State agency designated by the Governor of a State desiring a grant under this section shall submit an application therefor to the Secretary. The Secretary shall review and either accept or reject such application.

(d) Amount of Federal share; equality of distribution of funds

The Federal share for each State grant under subsection (a) of this section may not exceed 90 per centum of the total cost to the State in identifying its needs and developing its plan. In the event the Federal share for all States under such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(Pub. L. 93-383, title VI, § 624, Aug. 22, 1974, 88 Stat. 713.)

§ 5424. Rules and regulations

The Secretary is authorized to issue, amend, and revoke such rules and regulations as he deems necessary to carry out this chapter.

(Pub. L. 93-383, title VI, § 625, Aug. 22, 1974, 88 Stat. 713.)

§ 5425. Reports to Congress

(a) Contents of annual report

The Secretary shall prepare and submit to the President for transmittal to the Congress on March 1 of each year a comprehensive report on the administration of this chapter for the preceding calendar year. Such report shall include but not be restricted to (1) a thorough statistical compilation of the accidents, injuries, deaths, and property losses occurring in or involving mobile homes in such year; (2) a list of Federal mobile home construction and safety standards prescribed or in effect in such year; (3) the level of compliance with all applicable Federal mobile home standards; (4) a summary of all current research grants and contracts together with a description of the problems to be studied in such research; (5) an analysis and evaluation, including relevant policy recommendations, of research activities completed and technological progress achieved during such year; (6) a statement of enforcement actions including judicial decisions, settlements, defect notifications, and pending litigation commenced during the year; and (7) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to mobile home owners and prospective buyers.

(b) Recommendations of annual report

The report required by subsection (a) of this section shall contain such recommendations for additional or revised legislation as the Secretary deems necessary to promote the improvement of mobile home construction and safety and to strengthen the national mobile home program.

(c) Study and report of State inspection requirements and procedures for used mobile homes; time for submission; contents and recommendations of report

In order to assure a continuing and effective national mobile home construction and safety program, it is the policy of Congress to encourage the adoption of State inspection of used mobile homes. Therefore, to that end the Secretary shall conduct a thorough study and investigation to determine the adequacy of mobile home construction and safety standards and mobile home inspection requirements and procedures applicable to used mobile homes in each State, and the effect of programs authorized by this chapter upon such standards, requirements, and procedures for used mobile homes, and report to Congress as soon as practicable, but not later than one year after August 22, 1974, the results of such study, and recommendations for such additional legislation as he deems necessary to carry out the purposes of this chapter. Such report shall also include recommendations by the Secretary relating to the problems of disposal of used mobile homes.

(Pub. L. 93-383, title VI, § 626, Aug. 22, 1974, 88 Stat. 74.)

§ 5426. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 93-383, title VI, § 627, Aug. 22, 1974, 88 Stat. 714.)

CHAPTER 71—SOLAR ENERGY

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SUBCHAPTER I—HEATING AND COOLING

Transfer of Functions

Functions of the National Science Foundation relating to or utilized in connection with solar heating and cooling development transferred and vested in the Administrator, Energy Research and Development Administration, see section 5814(f) of this title.

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 5553, 5902, 5905 of this title.

§ 5501. Congressional findings and declaration of policy

(a) The Congress hereby finds that—

(1) the current imbalance between supply and demand for fuels and energy is likely to persist for sometime;

(2) the early demonstration of the feasibility of using solar energy for the heating and cooling of buildings could help to relieve the demand upon present fuel and energy supplies;

(3) the technologies for solar heating are close to the point of commercial application in the United States;

(4) the technologies for combined solar heating and cooling still require research, development, testing and demonstration, but no insoluble technical problem is now foreseen in achieving commercial use of such technologies;

(5) the early development and export of viable solar heating equipment and combined solar heating and cooling equipment, consistent with the established preeminence of the United States in the field of high technology products, can make a valuable contribution to our balance of trade;

(6) the widespread use of solar energy in place of conventional methods for the heating and cooling of buildings would have a significantly beneficial effect upon the environment;

(7) the mass production and use of solar heating and cooling equipment will help to eliminate the dependence of the United States upon foreign energy sources and promote the national defense;

(8) the widespread introduction of low-cost solar energy will be beneficial to consumers in a period of rapidly rising fuel cost;

(9) innovation and creativity in the development of solar heating and combined solar heating and cooling components and systems can be fostered through encouraging direct contact between the manufacturers of such systems and the architects, engineers, developers, contractors, and other persons interested in installing such systems in buildings;

(10) evaluation of the performance and reliability of solar heating and combined solar heating and cooling technologies can be expedited by testing under carefully controlled conditions; and

(11) commercial application of solar heating and combined solar heating and cooling technologies can be expedited by early commercial demonstration under practical conditions.

(b) It is therefore declared to be the policy of the United States and the purpose of this subchapter to provide for the demonstration within a three-year period of the practical use of solar heating technology, and to provide for the development and demonstration within a five-year period of the practical use of combined heating and cooling technology.

(Pub. L. 93-409, § 2, Sept. 3, 1974, 88 Stat. 1069.)

SHORT TITLE

Section 1 of Pub. L. 93-409 provided: "That this Act [enacting this subchapter and amending section 2473 of this title] may be cited as the 'Solar Heating and Cooling Demonstration Act of 1974'."

Section 1 of Pub. L. 93-473 provided: "That this Act [enacting subchapter II of this chapter] may be cited as the 'Solar Energy Research, Development, and Demonstration Act of 1974'."

§ 5502. Definitions

For purposes of this subchapter—

(1) the term "solar heating", with respect to any building, means the use of solar energy to meet such portion of the total heating needs of such building (including hot water), or such portion of the needs of such building for hot water (where its remaining heating needs are met by other methods), as may be required under performance criteria prescribed by the Secretary of Housing and Urban Development utilizing the services of the Director of the National Bureau of Standards, and in consultation with the Director of the National Science Foundation, and the Administrator of the National Aeronautics and Space Administration;

(2) the terms "solar heating and cooling" and "combined solar heating and cooling", with respect to any building, mean the use of solar energy to provide both such portion of the total heating needs of such building (including hot water) and such portion of the total cooling needs of such building, or such portion of the needs of such building for hot water (where its remaining heating needs are met by other methods) and such portion of the total cooling needs of a building, as may be required under performance criteria prescribed by the secretary of Housing and Urban Development utilizing the services of the Director of the National Bureau of Standards, and in consultation with the Director of the National Science Foundation, and the Administrator of the National Aeronautics and Space Administration, and such term includes cooling by means of nocturnal heat radiation, by evaporation, or by other methods of meeting peakload energy requirements at nonpeakload times;

(3) the term "residential dwellings" includes previously occupied and new single family and multifamily dwellings, mobile homes, and publicly assisted housing owned by a private sponsor or a State or local housing authority not covered by section 5515 of this title;

(4) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(5) the term "Secretary" means the Secretary of Housing and Urban Development; and

(6) the term "Director" means the Director of the National Science Foundation.

(Pub. L. 93-409, § 3, Sept. 3, 1974, 88 Stat. 1070.)

§ 5503. Development and demonstration of solar heating systems for use in residential dwellings

(a) Functions of Administrator and Secretary

The Administrator and the Secretary shall promptly initiate and carry out a program, as provided in this section, for the development and demonstration of solar heating systems (including collectors, controls, and thermal storage) for use in residential dwellings.

(b) Time for determination, prescription and publishing of interim performance criteria; selection of designs for suitable dwellings

(1) Within 120 days after September 3, 1974, the Secretary, utilizing the services of the Director of the National Bureau of Standards and in consultation with the Administrator and the Director, shall determine, prescribe, and publish—

(A) interim performance criteria for solar heating components and systems to be used in residential dwellings, and

(B) interim performance criteria (relating to suitability for solar heating) for such dwellings themselves,

taking into account in each instance climatic variations existing between different geographic areas.

(2) As soon as possible after the publication of the performance criteria prescribed under paragraph (1), the Secretary, in consultation with the Director of the National Bureau of Standards and the Administrator, will select on the basis of open competition a number of designs for various types of residential dwellings suitable for and adapted to the installation of solar heating systems meeting the performance criteria prescribed under paragraph (1)(A).

(c) Contracts and grants for development of heating systems for commercial production and residential use; contracts for procurement of heating systems and components

The Administrator, in accordance with the applicable provisions of title II of the National Aeronautics and Space Act of 1958 [42 U.S.C. 2471 et seq.] and under program guidelines established jointly by the Administrator and the Secretary, shall, after consultation with the Secretary—

(1) enter into such contracts and grants as may be necessary or appropriate for the development (for commercial production and residential use) of solar heating systems meeting the performance criteria prescribed under subsection (b)(1)(A) of this section (including any further planning and design which may be required to conform with the specifications set forth in such criteria); and

(2) enter into contracts with a number of persons or firms for the procurement of solar heating components and systems meeting such performance criteria (including adequate numbers of spare and replacement parts for such systems).

(d) Installation of heating systems; operation during demonstration period; title and ownership of dwellings and systems; agreement of owner to observe and monitor system for five years; reports by owner

The Secretary shall (1) arrange for the installation of solar heating systems procured by the Administrator under subsection (c)(2) of this section in a substantial number of residential dwellings and (2) provide for the satisfactory operation of such installations during the demonstration period. Title to and ownership of any dwellings constructed hereunder and of solar heating systems installed hereunder may be conveyed to purchasers or owners of such

dwellings under terms and conditions prescribed by the Secretary, including an express agreement that any such purchaser or owner shall, in such manner and form and on such terms and conditions as the Secretary may prescribe, observe and monitor (or permit the Secretary to observe and monitor) the performance and operation of such system for a period of five years, and that such purchaser or owner (including any subsequent owner and occupant of the property who also makes such an agreement) shall regularly furnish the Secretary with such reports thereon as the agreement may require.

(e) Installation of heating systems by Secretary of Defense in dwellings located on Federal or federally administered property

The Secretary of Defense shall arrange for the installation of solar heating systems procured by the Administrator under subsection (c)(2) of this section in a substantial number of residential dwellings which are located on Federal or federally administered property where the performance and operation of such systems can be regularly and effectively observed and monitored by designated Federal personnel.

(f) Coordination of activities to assure a realistic and effective demonstration

The Secretary and the Secretary of Defense, and officials responsible for administering Federal or federally administered property, shall coordinate their activities under this section to assure that solar heating systems are installed in a substantial number of residential dwellings and in a sufficient number of different geographic areas under varying climatic conditions to constitute a realistic and effective demonstration in support of the objectives of this subchapter.

(Pub. L. 93-409, § 5, Sept. 3, 1974, 88 Stat. 1070.)

REFERENCES IN TEXT

The National Aeronautics and Space Act of 1958, referred to in subsec. (c), is Pub. L. 85-568, July 29, 1958, 72 Stat. 426, as amended. Title II of the National Aeronautics and Space Act of 1958 is classified generally to subchapter II (§ 2471 et seq.) of chapter 26 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2473, 5506, 5507, 5509, 5511, 5513 of this title.

§ 5504. Development and demonstration of combined solar heating and cooling systems for use in residential dwellings

(a) Functions of Administrator and Secretary

The Administrator and the Secretary shall promptly initiate and carry out a program, as provided in this section, for the development and demonstration of combined solar heating and cooling systems (including collectors, controls, and thermal storage) for use in residential dwellings.

(b) Time for determination, prescription and publishing of interim performance criteria; selection of designs for suitable dwellings

(1) As soon as possible after September 3, 1974, the Secretary, utilizing the services of the Director of the National Bureau of Standards and in consultation with the Administrator and the Director, shall determine, prescribe, and publish—

(A) interim performance criteria for combined solar heating and cooling components and systems to be used in residential dwellings, and

(B) interim performance criteria (relating to suitability for solar heating and cooling) for such dwellings themselves,

taking into account in each instance climatic variations existing between different geographic areas.

(2) As soon as possible after the publication of the performance criteria prescribed under paragraph (1) (and if possible before the completion of the research and development provided for in subsection (c) of this section), the Secretary, in consultation with the Director of the National Bureau of Standards and the Administrator, will select on the basis of open competition a number of designs for various types of residential dwellings suitable for and adapted to the installation of combined solar heating and cooling systems meeting the performance criteria prescribed under paragraph (1)(A).

(c) Program of research, development and testing to provide additional technological resources for development and commercial application of combined systems

During the period immediately following the publication of performance criteria under subsection (b)(1) of this section, the Administrator, in coordination with the Director, shall undertake and conduct with respect to solar heating and cooling a program of research, development, and testing designed to provide the additional technological resources necessary for the development and commercial application of combined solar heating and cooling systems as contemplated by the program under this section.

(d) Contracts and grants for development of combined systems for commercial production and residential use; contracts for procurement of combined systems

The Administrator, in accordance with the applicable provisions of title II of the National Aeronautics and Space Act of 1958 [42 U.S.C. 2471 et seq.] and under program guidelines established jointly by the Administrator and the Secretary, and at the earliest possible time during or immediately after the period specified in subsection (c) of this section, shall, after consultation with the Secretary—

(1) enter into such contracts and grants as may be necessary or appropriate for the development (for commercial production and residential use) of combined solar heating and cooling systems meeting the performance criteria prescribed under subsection (b)(1)(A) of this section (including any further planning and design which may be required to conform with the specifications set forth in such criteria or to reflect the results of the activities conducted under subsection (c) of this section); and

(2) enter into contracts with a number of persons or firms for the procurement of com-

bined solar heating and cooling systems meeting such performance criteria (including adequate numbers of spare and replacement parts for such systems).

(e) Installation of combined systems; operation during demonstration period; title and ownership of dwellings and systems; agreement of owner to observe and monitor system; reports by owner

The Secretary shall (1) arrange for the installation of combined solar heating and cooling systems procured by the Administrator under subsection (d)(2) of this section in a substantial number of residential dwellings and (2) provide for the satisfactory operation of such installations during the demonstration period. Title to and ownership of any dwellings constructed hereunder and of combined solar heating and cooling systems installed hereunder may be conveyed to purchasers or owners of such dwellings under terms and conditions prescribed by the Secretary, including an express agreement that any such purchaser or owner shall, in such manner and form and on such terms and conditions as the Secretary may prescribe, observe and monitor (or permit the Secretary to observe and monitor) the performance and operation of such system for a period of five years, and that such purchaser or owner (including any subsequent owner and occupant of the property who also makes such an agreement) shall regularly furnish the Secretary with such reports thereon as the agreement may require.

(f) Installation of combined systems by Secretary of Defense in dwellings located on Federal or federally administered property

The Secretary of Defense shall arrange for the installation of combined solar heating and cooling systems procured by the Administrator under subsection (d)(2) of this section in a substantial number of residential dwellings which are located on Federal or federally administered property where the performance and operation of such systems can be regularly and effectively observed and monitored by designated Federal personnel.

(g) Coordination of activities to assure a realistic and effective demonstration

The Secretary and the Secretary of Defense, and officials responsible for administering Federal or federally administered property, shall coordinate their activities under this section to assure that combined solar heating and cooling systems are installed in a substantial number of residential dwellings and in a sufficient number of geographic areas under varying climatic conditions to constitute a realistic and effective demonstration in support of the objectives of this subchapter.

(Pub. L. 93-409, § 6, Sept. 3, 1974, 88 Stat. 1072.)

REFERENCES IN TEXT

The National Aeronautics and Space Act of 1958, referred to in subsec. (d), is Pub. L. 85-568, July 29, 1958, 72 Stat. 426, as amended. Title II of the National Aeronautics and Space Act of 1958 is classified generally to subchapter II (§ 2471 et seq.) of chapter 26 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2473, 5506, 5507, 5509, 5511, 5513 of this title.

§ 5505. Omitted

CODIFICATION

Section, Pub. L. 93-409, § 7, Sept. 3, 1974, 88 Stat. 1073, which authorized and directed the Administrator and Secretary to prepare a comprehensive plan for the conduct of the development and demonstration activities under section 5503 and 5504, such plan to be transmitted to the President and Congress within 120 days after Sept. 3, 1974, has been omitted from the Code as executed.

§ 5506. Test procedures and definitive performance criteria for solar heating and combined solar heating and cooling components and systems and suitable dwellings; determination, consultation and publication in Federal Register

As soon as feasible, and utilizing data available from the demonstration programs under sections 5503 and 5504 of this title, the Secretary, utilizing the services of the Director of the National Bureau of Standards and in consultation with the Administrator and the Director shall determine, prescribe, and publish in the Federal Register in accordance with the applicable provisions regarding rulemaking prescribed by section 553 of title 5,

(1) definitive performance criteria for solar heating and combined solar heating and cooling components and systems to be used in residential dwellings, taking into account climatic variations existing between different geographic areas;

(2) definitive performance criteria (relating to suitability for solar heating and for combined solar heating and cooling) for such dwellings, taking into account climatic variations existing between different geographic areas; and

(3) procedures whereby manufacturers of solar heating and combined solar heating and cooling components and systems shall have their products tested in order to provide certification that such products conform to the performance criteria established under paragraph (1).

(Pub. L. 93-409, § 8, Sept. 3, 1974, 88 Stat. 1073.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5509 of this title.

§ 5507. Arrangements with Federal agencies for development and demonstration of solar heating and combined heating and cooling systems for commercial buildings

The Administrator, in consultation with the Secretary, the Director, the Administrator of General Services, and the Director of the National Bureau of Standards and concurrently with the conduct of the programs under sections 5503 and 5504 of this title, shall enter into arrangements with appropriate Federal agencies to carry out such projects and activities (including demonstration projects) with respect to apartment buildings, office buildings, factories, crop-drying facilities and other agricultural structures, public buildings (including schools and colleges), and other non-residential, com-

mercial, or industrial buildings, taking into account the special needs of and individual differences in such buildings based upon size, function, and other relevant factors, as may be appropriate for the early development and demonstration of solar heating and combined solar heating and cooling systems suitable and effective for use in such buildings.

(Pub. L. 93-409, § 9, Sept. 3, 1974, 88 Stat. 1074.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2473, 5511, 5513 of this title.

§ 5508. Program of applied research by Director for improvement and development of heating systems for commercial application; transmission of results to Secretary and Administrator

(a) The Director shall conduct a program of applied research relevant to (1) the improvement of solar heating components and systems and (2) the development and commercial application of combined solar heating and cooling components and systems as contemplated by the programs under this subchapter.

(b) The Director shall apprise the Secretary and the Administrator on a continuing basis of the results of the programs being conducted in accordance with subsection (a) of this section, and the Secretary and the Administrator shall insure that such results, where appropriate, are incorporated into the development and demonstration programs established by this subchapter.

(Pub. L. 93-409, § 10, Sept. 3, 1974, 88 Stat. 1074.)

§ 5509. Supervision of systems and programs by Secretary

(a) Monitoring of performance; collection and evaluation of data; studies and investigation; reports to Congress

The Secretary, utilizing the services of the Director of the National Bureau of Standards and in coordination with such other Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of solar heating and combined solar heating and cooling systems installed in residential dwellings under this subchapter;

(2) collect and evaluate data and information on the performance and operation of solar heating and combined solar heating and cooling systems installed in residential dwellings under this subchapter; and

(3) from time to time, carrying out such studies and investigations and take such other actions, including the submission of special reports to the Congress when appropriate, as may be necessary to assure that the programs for which the Secretary is responsible under this subchapter effectively carry out the policy of this subchapter.

(b) Cooperation with scientific, technical, and professional societies and industry representatives in development of performance criteria and test procedures

In the development of the performance criteria and test procedures required under sections 5503, 5504, and 5506 of this title, the Secretary shall work closely with the appropriate scientific, technical, and professional societies and industry representatives to insure the best possible use of available expertise in this area.

(c) Continued liaison with building and related industries and scientific and technical communities

The Secretary shall also maintain continuing liaison with the building industry and related industries and interests, and with the scientific and technical community during and after the period of the programs carried out under this subchapter, in order to assure that the projected benefits of such programs are and will continue to be realized.

(Pub. L. 93-409, § 11, Sept. 3, 1974, 88 Stat. 1074.)

§ 5510. Dissemination of information to promote practical use of solar heating and cooling technologies

(a) Coordination by Secretary with other Federal agencies in dissemination to Federal, State, and local authorities, etc.

The Secretary shall take all possible steps to assure that full and complete information with respect to the demonstrations and other activities conducted under this subchapter is made available to Federal, State, and local authorities, the building industry and related segments of the economy, the scientific and technical community, and the public at large, both during and after the close of the programs under this subchapter, with the objective of promoting and facilitating to the maximum extent feasible the early and widespread practical use of solar energy for the heating and cooling of buildings throughout the United States. In accordance with regulations prescribed under section 5514 of this title such information shall be disseminated on a coordinated basis by the Secretary, the Administrator, the Director of the National Bureau of Standards, the Director, the Commissioner of the Patent and Trademark Office, and other appropriate Federal offices and agencies.

(b) Studies, investigations and modifications of building codes, zoning ordinances, etc., to promote use of solar energy in buildings

In addition, the Secretary shall—

(1) study and investigate the effect of building codes, zoning ordinances, tax regulations, and other laws, codes, ordinances, and practices upon the practical use of solar energy for the heating and cooling of buildings;

(2) determine the extent to which such laws, codes, ordinances, and practices should be changed to permit or facilitate such use, and the methods by which any such changes may best be brought about; and

(3) study the necessity of a program of incentives to accelerate the commercial application of solar heating and cooling technology.

(c) Establishment and operation of Solar Heating and Cooling Information Data Bank; retrieval and dissemination services; compilation of information for use by governmental agencies, nonprofit organizations and private persons; utilization of existing information

(1) In carrying out his functions under subsections (a) and (b) of this section the Secretary, utilizing the capabilities of the National

Aeronautics and Space Administration, the Department of Commerce, and the National Science Foundation to the maximum extent possible, shall establish and operate a Solar Heating and Cooling Information Data Bank (hereinafter in this subsection referred to as the "bank") for the purpose of collecting, reviewing, processing, and disseminating solar heating and cooling information and data in a timely and accurate manner in support of the objectives of this subchapter.

(2) Information and data compiled in the bank shall include—

(A) technical information (including reports, journal articles, dissertations, monographs, and project descriptions) on solar energy research, development, and applications;

(B) technical information on the design, construction, and maintenance of buildings compatible with solar heating and cooling concepts;

(C) physical and chemical properties of the materials required for solar heating and cooling;

(D) climatic conditions in appropriate areas of the United States, including those areas where the demonstrations are to be located; and

(E) engineering performance of devices utilized in solar heating and cooling or to be employed in the demonstrations.

(3) In accordance with regulations prescribed under section 5514 of this title, the Secretary shall provide retrieval and dissemination services to cover the solar heating and cooling information described under paragraph (2) for—

(A) Federal, State, and local government organizations that are active in the area of energy resources (and their contractors);

(B) universities, colleges, and other nonprofit organizations; and

(C) private persons, upon request, in appropriate cases.

(4) In carrying out his functions under this subsection, the Secretary shall utilize, when feasible, the existing data base of scientific and technical information in Federal agencies, adding to such data base any information described in paragraph (2) which does not already reside in such base.

(d) Annual reports to President and Congress by officers and agencies; contents; special annual report by Secretary

Each Federal officer and agency having functions under this subchapter shall include in his or its annual report to the President and the Congress a full and complete description of his or its activities (current and projected) under this subchapter, along with his or its recommendations for legislative, administrative, or other action to improve the programs under this subchapter or to achieve the objectives of this subchapter more promptly and effectively. In addition, the Secretary shall submit annually to the President and the Congress a special report summarizing in appropriate detail all of the activities (current and projected) of the various Federal officers and agencies having functions under this subchapter, with the objective of presenting a comprehensive overall view of such programs.

(Pub. L. 93-409, § 12, Sept. 3, 1974, 88 Stat. 1075; Pub. L. 93-596, § 3, Jan. 2, 1975, 88 Stat. 1949.)

CHANGE OF NAME

The Patent Office, referred to in subsec. (a) was redesignated the Patent and Trademark Office by Pub. L. 93-596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

§ 5511. Federally assisted or federally constructed housing

(a) Maximum dollar amount of federally assisted mortgage loan or maximum per unit or other cost or floor area limitation of federally constructed housing

(1) In determining the maximum dollar amount of any federally assisted mortgage loan (as defined in subsection (b) of this section) or the maximum per unit or other cost or floor area limitation of any federally constructed housing (as defined in subsection (c) of this section), where the law establishing the program under which the loan is made or the housing is constructed specifies such maximum per unit or other cost on floor area limitation and the structure involved is furnished with solar heating or combined solar heating and cooling equipment under the demonstration program established by section 5503, 5504, or 5507 of this title, the maximum amount or cost or floor area limitation so specified which is applicable to such structure shall be deemed to be increased by the amount by which (as determined by the Secretary or the Secretary of Defense, as appropriate) the price or cost or floor area limitation of the structure including such solar heating or combined solar heating and cooling equipment exceeds the price or cost or floor area limitation of the structure with such equipment replaced by conventional heating equipment or conventional heating and cooling equipment (as the case may be).

(2) In addition, in the case of a federally assisted mortgage loan, the cost excess specified in subsection (a) of this section shall be fully taken into account in determining the value or cost of the structure involved for purposes of applying any statutory provision specifying the maximum loan-to-value or -cost ratio; except that, if the law specifies different rates of downpayment for successive increments of such value or cost, the lowest such rate shall apply to the additional cost attributable to the solar heating or combined solar heating and cooling equipment, and such equipment shall otherwise be excluded in determining the total value or cost of the structure.

(b) Definition of "mortgage loans" and "federally assisted mortgage loans"

As used in subsection (a) of this section, the term "mortgage loan" means a loan which is made to finance the purchase or construction of a residence or any other building or structure; and the term "federally assisted mortgage loan" means a mortgage loan which—

(1) is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any

lender which is itself regulated by any agency of the Federal Government; or

(2) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or any other officer or agency of the Federal Government or under or in connection with a housing, urban development, or related program administered by the Secretary or a housing or related programing administered by any other such officer or agency; or

(3) is eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or from any financial institution from which it could be purchased by the Federal Home Loan Mortgage Corporation; or

(4) is made in whole or in part by any "creditor," as defined in section 1602(f) of title 15, who makes or invests in residential real estate loans aggregating more than $1,000,000 per year.

(c) Definition of "federally constructed housing"

As used in subsection (a) of this section, the term "federally constructed housing" means (1) residential or multifamily housing which is constructed by agencies of the Federal Government to provide dwelling accommodations for particular types or classes of persons under programs administered by such Federal agencies (including all housing constructed by the Department of Defense to provide dwelling accommodations for personnel of the armed services or for such personnel and their families), and (2) residential or multifamily housing which is constructed by agencies of State or local government, with financial assistance in any form from the Federal Government, to provide dwelling accommodations for particular types or classes of persons under programs administered by such State or local agencies.

(Pub. L. 93-409, § 13, Sept. 3, 1974, 88 Stat. 1076.)

§ 5512. Small business concerns' opportunities to participate in programs

In carrying out their functions under this subchapter, all Federal officers and agencies shall take steps to assure that small business concerns will have realistic and adequate opportunities to participate in the programs under this subchapter to the maximum extent possible.

(Pub. L. 93-409, § 14, Sept. 3, 1974, 88 Stat. 1077.)

§ 5513. Priorities and criteria of demonstration programs

The Secretary shall set priorities as far as possible consistent with the intent and operation of this subchapter in accordance with the following criteria:

(a) The residential dwellings and other buildings which will be part of the demonstration programs referred to in sections 5503, 5504, and 5507 of this title shall be located in a sufficient number of different geographic areas in the United States to assure a realistic and effective demonstration of the solar heating systems and combined solar heating and cooling systems involved, and of the dwellings and other buildings themselves, in both rural and urban locations and under climatic conditions which vary as much as possible.

(b) Consideration shall be given to projected costs of commercial production and maintenance of the solar heating systems and combined solar heating and cooling systems utilized in the demonstration programs.

(c) Encouragement should be given in the conduct of programs under this subchapter to those projects in which funds, appropriated by any State or political subdivision thereof for the purpose of sharing costs with the Federal Government for the purchase and installation of solar heating or combined solar heating and cooling components and systems, are committed before or after September 3, 1974.

(Pub. L. 93-409, § 15, Sept. 3, 1974, 88 Stat. 1077.)

§ 5514. Regulations

The Administrator and the Secretary in consultation with the Director of the National Bureau of Standards, the Director, the Administrator of the General Services Administration, the Secretary of Defense, and other appropriate officers and agencies shall prescribe such regulations as may be necessary or appropriate to carry out this subchapter promptly and efficiently. Each such officer or agency, in consultation with the Administrator and the Secretary may prescribe such regulations as may be necessary or appropriate to carry out his or its particular functions under this subchapter promptly and efficiently.

(Pub. L. 93-409, § 16, Sept. 3, 1974, 88 Stat. 1078.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5510 of this title.

§ 5515. Use of publicly assisted housing by Secretary in demonstrations

The Secretary shall make appropriate use of publicly assisted housing and particularly low-rent housing assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] in demonstrating solar heating systems and combined solar heating and cooling systems under this subchapter.

(Pub. L. 93-409, § 17, Sept. 3, 1974, 88 Stat. 1078.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note under section 1437 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5502 of this title.

§ 5516. Transfer of functions

Within sixty days after the effective date of the law creating the Energy Research and De-

velopment Administration or any other law creating a permanent Federal organization or agency having jurisdiction over the energy research and development functions of the United States (or within sixty days after September 3, 1974, if the effective date of such law occurs prior to the enactment of this subchapter), the energy research and development functions vested in the National Aeronautics and Space Administration and the National Science Foundation under this subchapter and any funds which may have been appropriated pursuant to section 5517 of this title, to the extent necessary or appropriate, may, in accordance with regulations prescribed by the Office of Mangement and Budget, be transferred to and vested in the Energy Research and Development Administration or such other organization or agency.

(Pub. L. 93-409, § 18, Sept. 3, 1974, 88 Stat. 1078.)

§ 5517. Authorization of appropriations

(a) Appropriations to National Aeronautics and Space Administration

There is hereby authorized to be appropriated to the National Aeronautics and Space Administration for the fiscal year ending June 30, 1975, $5,000,000, to remain available until expended, to carry out the functions vested in the Administrator by this subchapter.

(b) Appropriations to Department of Housing and Urban Development

There is hereby authorized to be appropriated to the Department of Housing and Urban Development for the fiscal year ending June 30, 1975, $5,000,000, to remain available until expended. Any sums so appropriated shall be available (1) to carry out the functions vested in the Secretary of Housing and Urban Development by this subchapter, and (2) for transfer to the Department of Defense, the National Bureau of Standards, and the General Services Administration to enable them to carry out their respective functions under this subchapter.

(c) Appropriations for programs under this subchapter

There is hereby authorized to be appropriated for the fiscal years ending June 30, 1976, 1977, 1978, and 1979, $50,000,000 in the aggregate to carry out the programs established by this subchapter.

(Pub. L. 93-409, § 19, Sept. 3, 1974, 88 Stat. 1078.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5516 of this title.

SUBCHAPTER II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5902, 5905 of this title.

§ 5551. Congressional declaration of findings and policy

(a) The Congress hereby finds that—

(1) the needs of a viable society depend on an ample supply of energy;

(2) the current imbalance between domestic supply and demand for fuels and energy is likely to persist for some time;

(3) dependence on nonrenewable energy resources cannot be continued indefinitely, particularly at current rates of consumption;

(4) it is in the Nation's interest to expedite the long-term development of renewable and nonpoluting energy resources, such as solar energy;

(5) the various solar energy technologies are today at widely differing stages of development, with some already near the stage of commercial application and others still requiring basic research;

(6) the early development and export of viable equipment utilizing solar energy, consistent with the established preeminence of the United States in the field of high technology products, can make a valuable contribution to our balance of trade;

(7) the mass production and use of equipment utilizing solar energy will help to eliminate the dependence of the United States upon foreign energy sources and promote the national defense;

(8) to date, the national effort in research, development, and demonstration activities relating to the utilization of solar energy has been extremely limited; therefore

(9) the urgency of the Nation's critical energy shortages and the need to make clean and renewable energy alternatives commercially viable require that the Nation undertake an intensive research, development, and demonstration program with an estimated Federal investment which may reach or exceed $1,000,000,000.

(b) The Congress declares that it is the policy of the Federal Government to—

(1) pursue a vigorous and viable program of research and resource assessment of solar energy as a major source of energy for our national needs; and

(2) provide for the development and demonstration of practicable means to employ solar energy on a commercial scale.

(Pub. L. 93-473, § 2, Oct. 26, 1974, 88 Stat. 1431.)

SHORT TITLE

For Short Title of Pub. L. 93-473, which enacted this subchapter, see Short Title note set out under section 5501 of this title.

§ 5552. Definitions

For the purposes of this subchapter—

(1) the term "solar energy" means energy which has recently originated in the Sun, including direct and indirect solar radiation and intermediate solar energy forms such as wind, sea thermal gradients, products of photosynthetic processes, organic wastes, and others;

(2) the term "byproducts" includes, with respect to any solar energy technology or process, any solar energy products (including energy forms) other than those associated with or constituting the primary product of such technology or process;

(3) the term "insolation" means the rate at which solar energy is received at the surface of the Earth;

(4) the term "Project" means the Solar Energy Coordination and Management Project; and

(5) the term "Chairman" means the Chairman of the Project.

(Pub. L. 93-473, § 3, Oct. 26, 1974, 88 Stat. 1431.)

§ 5553. Solar Energy Coordination and Management Project

(a) Establishment

There is hereby established the Solar Energy Coordination and Management Project.

(b) Membership; chairman; compensation

(1) The Project shall be composed of six members as follows:

(A) an Assistant Director of the National Science Foundation;

(B) an Assistant Secretary of Housing and Urban Development;

(C) a member of the Federal Power Commission;

(D) an Associate Administrator of the National Aeronautics and Space Administration;

(E) the General Manager of the Atomic Energy Commission; and

(F) a member to be designated by the President.

(2) The President shall designate one member of the Project to serve as Chairman of the Project.

(3) If the individual designated under paragraph (1)(F) is an officer or employee of the Federal Government, he shall receive no additional pay on account of his service as a member of the Project. If such individual is not an officer or employee of the Federal Government, he shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for level IV of the Executive Schedule (5 U.S.C. 5315) for each day (including traveltime) during which he is engaged in the actual performance of duties vested in the Project.

(c) Responsibilities

The Project shall have overall responsibility for the provision of effective management and coordination with respect to a national solar energy research, development, and demonstration program, including—

(1) the determination and evaluation of the resource base, including its temporal and geographic characteristics;

(2) research and development on solar energy technologies; and

(3) the demonstration of appropriate solar energy technologies.

(d) Cooperation with other Federal agencies; assignment of other Federal agency personnel to Project

(1) The Project shall carry out its responsibilities under this section in cooperation with the following Federal agencies:

(A) the National Science Foundation, the responsibilities of which shall include research;

(B) the National Aeronautics and Space Administration, the responsibilities of which shall include the provision of management capability and the development of technologies;

(C) the Atomic Energy Commission, the responsibilities of which shall include the development of technologies;

(D) the Department of Housing and Urban Development, the responsibilities of which shall include fostering the utilization of solar energy for the heating and cooling of buildings, pursuant to subchapter I of this chapter; and

(E) the Federal Power Commission, the responsibilities of which shall include fostering the utilization of solar energy for the generation of electricity and for the production of synthetic fuels.

(2) Upon request of the Chairman, the head of any such agency is authorized to detail or assign, on a reimbursable basis or otherwise, any of the personnel of such agency to the Project to assist it in carrying out its responsibilities under this subchapter.

(e) Establishment or approval of program or project; operation and administration of program or project

The Project shall have exclusive authority with respect to the establishment or approval of programs or projects initiated under this subchapter, but the agency involved in any particular program or project shall be responsible for the operation and administration of such program or project.

(f) Authorization of National Aeronautics and Space Administration to undertake and carry out assigned programs

The National Aeronautics and Space Administration is authorized to undertake and carry out those programs assigned to it by the Project.

(Pub. L. 93-473, § 4, Oct. 26, 1974, 88 Stat. 1432.)

TRANSFER OF FUNCTIONS

For transfer of the functions of the Federal Power Commission, with certain reservations, to the chairman of such Commission, see Reorg. Plan No. 9 of 1950, §§ 1,2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out in the Appendix to Title 5, Government Organization and Employees.

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

§ 5554. Solar energy resource determination and assessment program; objectives; implementation

(a) The Chairman shall initiate a solar energy resource determination and assessment program with the objective of making a regional and national appraisal of all solar energy resources, including data on isolation, wind, sea thermal gradients, and potentials for photosynthetic conversion. The program shall emphasize identification of promising areas for commercial exploitation and development. The specific goals shall include—

(1) the development of better methods for predicting the availability of all solar energy

resources, over long time periods and by geographic location;

(2) the development of advanced meteorological, oceanographic, and other instruments, methodology, and procedures necessary to measure the quality and quantity of all solar resources on periodic bases;

(3) the development of activities, arrangements, and procedures for the collection, evaluation, and dissemination of information and data relating to solar energy resource assessment.

(b) The Chairman, acting through the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and other appropriate agencies, shall—

(1) develop and carry out a general plan for inventorying all forms of solar energy resources associated with Federal lands and (where consistent with property rights) non-Federal lands;

(2) conduct regional surveys based upon such general plan, using innovative meteorological, oceanographic, and space-related techniques, in sufficient numbers to lead to a national inventory of solar energy resources in the United States;

(3) publish and make available maps, reports, and other documents developed from such surveys to encourage and facilitate the commercial development of solar energy resources; and

(4) make such recommendations for legislation as may appear to be necessary to establish policies for solar resources involving Federal lands and waters, consistent with known inventories of various resource types, with the state of technologies for solar energy development, and with evaluation of the environmental impacts of such development.

(Pub. L. 93-473, § 5, Oct. 26, 1974, 88 Stat. 1433.)

§ 5555. Research and development program

(a) Purpose

The Chairman shall initiate a research and development program for the purpose of resolving the major technical problems inhibiting commercial utilization of solar energy in the United States.

(b) Implementation

In connection with or as a part of such program, the Chairman shall—

(1) conduct, encourage, and promote scientific research and studies to develop effective and economical processes and equipment for the purpose of utilizing solar energy in an acceptable manner for beneficial uses;

(2) carry out systems, economic, social, and environmental studies to provide a basis for research, development and demonstration planning and phasing; and

(3) perform or cause to be performed technology assessments relevant to the utilization of solar energy.

(c) Scope

The specific solar energy technologies to be addressed or dealt with in the program shall include—

(1) direct solar heat as a source for industrial processes, including the utilization of low-level heat for process and other industrial purposes;

(2) thermal energy conversion, and other methods, for the generation of electricity and the production of chemical fuels;

(3) the conversion of cellulose and other organic materials (including wastes) to useful energy or fuels;

(4) photovoltaic and other direct conversion processes;

(5) sea thermal gradient conversion;

(6) windpower conversion;

(7) solar heating and cooling of housing and of commercial and public buildings; and

(8) energy storage.

(Pub. L. 93-473, § 6, Oct. 26, 1974, 88 Stat. 1433.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5556 of this title.

§ 5556. Solar energy demonstration facilities program

(a) Authorization for design and construction of facilities; objectives

The Chairman is authorized to initiate a program to design and construct, in specific solar energy technologies (including, but not limited to, those listed in section 5555(c) of this title,[1] facilities or powerplants of sufficient size to demonstrate the technical and economic feasibility of utilizing the various forms of solar energy. The specific goals of such programs shall include—

(1) production of electricity from a number of powerplants, on the order of one to ten megawatts each;

(2) production of synthetic fuels in commercial quantities;

(3) large-scale utilization of solar energy in the form of direct heat;

(4) utilization of thermal and all other by-products of the solar facilities;

(5) design and development of hybrid systems involving the concomitant utilization of solar and other energy sources; and

(6) the continuous operation of such plants and facilities for a period of time.

(b) Criteria for determination to proceed from development program to demonstration

For each of the technologies for which a successful and appropriate development program is completed, the Chairman shall make a determination to proceed to demonstration based on criteria including, but not necessarily limited to, the following:

(1) the technological feasibility of the project;

(2) the costs and benefits of the project, as determined by an economic assessment;

(3) the immediate and the potential uses of the solar energy utilized in the project;

(4) long-term national need for the technology;

(5) environmental impact;

(6) potential for technology transfer to other applications; and

[1] So in original. Probably should have close parenthesis.

(7) the nature and extent of Federal participation, if any, in the project.

(c) Establishment of one or more projects utilizing each form of solar energy

In carrying out his responsibilities under this section, the Chairman, acting through the appropriate Federal agencies, may provide for the establishment of one or more demonstration projects utilizing each form of solar energy, which shall include, as appropriate, the specific research, development, pilot plant construction and operation, demonstration plant construction and operation, and other facilities and activities which may be necessary to show commercial viability of the specific solar technology.

(d) Investigation and agreements for cooperative development of demonstration facilities

The Chairman, acting through the appropriate Federal agencies, is authorized to investigate and enter into agreements for the cooperative development of facilities to demonstrate solar technologies. The responsible Federal agency may consider—

(1) cooperative agreements with non-Federal entities for construction of facilities and equipment to demonstrate solar energy technologies; and

(2) cooperative agreements with other Federal agencies for the construction of facilities and equipment and operation of facilities to produce energy for direct Federal utilization.

(e) Construction and operation of demonstration projects without cooperative agreements

The Chairman, acting through appropriate Federal agencies is authorized to construct and operate demonstration projects without entering into cooperative agreements with respect to such projects, if the Chairman finds that—

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or any other significant factor of the specific demonstration project offers opportunities to make important contributions to the general knowledge of solar resources, the techniques of its development, or public confidence in the technology; and

(2) there is no opportunity for cooperative agreements with any non-Federal entity willing and able to cooperate in the demonstration project under subection (d)(1) of this section, and there is no opportunity for cooperative agreements with other Federal agencies under subsection (d)(2) of this section.

(f) Additional appropriations for projects exceeding maximum amount

If the estimate of the Federal investment with respect to construction and operation costs of any demonstration project proposed to be established under this section exceeds $20,000,000, no amount may be appropriated for such project except as specifically authorized by legislation hereafter enacted by the Congress.

(g) Disposition of Federal property interests, electricity, synthetic fuels, and other byproducts upon completion of project

(1) At the conclusion of any demonstration project established under this section, or as soon thereafter as may be practicable, the responsible Federal agencies shall, by sale, lease, or otherwise, dispose of all Federal property interests which they have acquired pursuant to this section in accordance with existing law and the terms of the cooperative agreements involved.

(2) The agency involved shall, under appropriate agreements or other arrangements, provide for the disposition of electricity, synthetic fuels, and other byproducts administered by such agency.

(Pub. L. 93-473, § 7, Oct. 26, 1974, 88 Stat. 1434.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5557, 5566 of this title.

§ 5557. Solar Energy Information Data Bank

(a) Establishment; utilization of other Federal agencies; information and data to be compiled; retrieval and dissemination services; utilization of existing scientific and technical information

(1) In carrying out his functions under this subchapter the Chairman, utilizing the capabilities of the National Science Foundation, the National Aeronautics and Space Administration, the Department of Commerce, the Atomic Energy Commission, and other appropriate Federal agencies to the maximum extent possible, shall establish and operate a Solar Energy Information Data Bank (hereinafter in this subsection referred to as the "bank") for the purpose of collecting, reviewing, processing, and disseminating information and data in all of the solar energy technologies referred to in section 5556(c) of this title in a timely and accurate manner in support of the objectives of this subchapter.

(2) Information and data compiled in the bank shall include—

(A) technical information (including reports, journal articles, dissertations, monographs, and project descriptions) on solar energy research, development, and applications;

(B) similar technical information on the design, construction, and maintenance of equipment utilizing solar energy;

(C) general information on solar energy applications to be disseminated for popular consumption;

(D) physical and chemical properties of materials required for solar energy activities and equipment; and

(E) engineering performance data on equipment and devices utilizing solar energy.

(3) In accordance with regulations prescribed under section 5561 of this title, the Chairman shall provide retrieval and dissemination services with respect to the information described under paragraph (2) for—

(A) Federal, State, and local government organizations that are active in the area of energy resources (and their contractors);

(B) universities and colleges in their related research and consulting activities; and

(C) the private sector upon request in appropriate cases.

(4) In carrying out his functions under this subsection, the Chairman shall utilize, when

feasible, the existing data base of scientific and technical information in Federal agencies, adding to such data base any information described in paragraph (2) which does not already reside in such base. He shall coordinate or merge this data bank with other Federal energy information data banks as necessary to assure efficient and effective operation.

(b) Studies and research to promote consumer acceptance and utilization of solar energy technologies

In carrying out his functions under this subchapter the Chairman shall perform or cause to be performed studies and research on incentives to promote broader utilization and consumer acceptance of solar energy technologies.

(c) Coordination of solar energy technology utilization programs

The Chairman shall enter into such arrangements and take such other steps as may be necessary or appropriate to provide for the effective coordination of solar energy technology utilization with all other technology utilization programs within the Federal Government.

(Pub. L. 93-473, § 8, Oct. 26, 1974, 88 Stat. 1435.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

§ 5558. Scientific and technical education programs

The Chairman, acting through the National Science Foundation, is authorized and directed to support programs of education in the sciences and engineering to provide the necessary trained personnel to perform the solar energy research, development, and demonstration activities required under this subchapter. Such support may include fellowships, traineeships, technical training programs, technologist training programs, and summer institute programs.

(Pub. L. 93-473, § 9, Oct. 26, 1974, 88 Stat. 1436.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5560 of this title.

§ 5559. Solar Energy Research Institute; establishment; functions; location

(a) There is established a Solar Energy Research Institute, which shall perform such research, development, and related functions as the Chairman may determine to be necessary or appropriate in connection with the Project's activities under this subchapter or to be otherwise in furtherance of the purpose and objectives of this subchapter.

(b) The Institute may be located (as designated by the Chairman) at a new or existing Federal laboratory (including a non-Federal laboratory performing functions under a contract entered into with the Project or with any of the agencies represented in the Project as well as a laboratory whose personnel are Federal employees).

(Pub. L. 93-473, § 10, Oct. 26, 1974, 88 Stat. 1436.)

§ 5560. International cooperation in solar energy research and programs of education

(a) The Chairman, in furtherance of the objectives of this subchapter, is authorized to cooperate and participate jointly with other nations, especially those with agreements for scientific cooperation with the United States, in the following activities:

(1) interinstitutional, bilateral, or multilateral research projects in the field of solar energy; and

(2) agreements and programs which will facilitate the exchange of information and data relating to solar energy resource assessment and solar energy technologies.

(b) The National Science Foundation is authorized to encourage, to the maximum extent practicable and consistent with the other objectives of this subchapter, international participation and cooperation in the development and maintenance of programs of education to carry out the policy set forth in section 5558 of this title.

(Pub. L. 93-473, § 11, Oct. 26, 1974, 88 Stat. 1437.)

§ 5561. Regulations

The Chairman, in consultation with heads of the Federal agencies having functions under this subchapter and with other appropriate officers and agencies, shall prescribe such regulations as may be necessary or appropriate to carry out this subchapter promptly and efficiently. Each such officer or agency, in consultation with the Chairman, may prescribe such regulations as may be necessary or appropriate to carry out his or its particular functions under this subchapter promptly and efficiently.

(Pub. L. 93-473, § 12, Oct. 26, 1974, 88 Stat. 1437).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5557 of this title.

§ 5562. Annual report to the President and Congress

The Chairman shall report, on an annual basis, to the President and the Congress all actions taken under the provisions of this subchapter, all action planned for the ensuing year, and, to the extent practical, a projection of activities and funding requirements, for the ensuing five years. The Chairman also shall recommend, as he deems appropriate, any legislation or reorganization which might further the purposes of this subchapter.

(Pub. L. 93-473, § 13, Oct. 26, 1974, 88 Stat. 1437.)

§ 5563. Project information to Congressional committees

Notwithstanding any other provision of law, the Chairman (or the head of any agency which assumes the functions of the Project pursuant to section 5565 of this title) shall keep the appropriate committees of the House of Representatives and the Senate fully and cur-

rently informed with respect to all activities under this subchapter.

(Pub. L. 93-473, § 14, Oct. 26, 1974, 88 Stat. 1437.)

§ 5564. Comprehensive program definition; preparation; utilization of and consultation with other agencies; transmittal to the President and Congress; time of transmittal

(a) The Chairman is authorized and directed to prepare a comprehensive program definition of an integrated effort and commitment for effectively developing solar energy resources. The Chairman, in preparing such program definition, shall utilize and consult with the appropriate Federal agencies, State and local government agencies, and private organizations.

(b) The Chairman shall transmit such comprehensive program definition to the President and to each House of the Congress. An interim report shall be transmitted not later than March 1, 1975. The comprehensive program definition shall be transmitted as soon as possible thereafter, but in any case not later than June 30, 1975.

(Pub. L. 93-473, § 15, Oct. 26, 1974, 88 Stat. 1437.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5566 of this title.

§ 5565. Transfer of functions

Within sixty days after the effective date of the law creating a permanent Federal organization or agency having jurisdiction over the energy research and development functions of the United States (or within sixty days after October 26, 1974, if the effective date of such law occurs prior to October 26, 1974), all of the authorities of the Project and all of the research and development functions (and other functions except those related to scientific and technical education) vested in Federal agencies under this subchapter along with related records, documents, personnel, obligations, and other items, to the extent necessary or appropriate, shall, in accordance with regulations prescribed by the Office of Management and Budget, be transferred to and vested in such organization or agency.

(Pub. L. 93-473, § 16, Oct. 26, 1974, 88 Stat. 1438.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5563 of this title.

§ 5566. Authorization of appropriations

To carry out the provisions of this subchapter, there are authorized to be appropriated—

(1) for the fiscal year ending June 30, 1976, $75,000,000;

(2) for subsequent fiscal years, only such sums as the Congress hereafter may authorize by law;

(3) such amounts as may be authorized for the construction of demonstrations pursuant to section 5556(f) of this title; and

(4) to the National Science Foundation for the fiscal year ending June 30, 1975, not to exceed $2,000,000 to be made available for use in the preparation of the comprehensive program definition under section 5564 of this title.

(Pub. L. 93-473, § 17, Oct. 26, 1974, 88 Stat. 1438.)

CHAPTER 72—JUVENILE JUSTICE AND DELINQUENCY PREVENTION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3733 of this title.

SUBCHAPTER I—GENERALLY

§ 5601. Congressional statement of findings

(a) The Congress hereby finds that—

(1) juveniles account for almost half the arrests for serious crimes in the United States today;

(2) understaffed, overcrowded juvenile courts, probation services, and correctional facilities are not able to provide individualized justice or effective help;

(3) present juvenile courts, foster and protective care programs, and shelter facilities are inadequate to meet the needs of the countless, abandoned, and dependent children who, because of this failure to provide effective services, may become delinquents;

(4) existing programs have not adequately responded to the particular problems of the increasing numbers of young people who are addicted to or who abuse drugs, particularly nonopiate or polydrug abusers;

(5) juvenile delinquency can be prevented through programs designed to keep students in elementary and secondary schools through the prevention of unwarranted and arbitrary suspensions and expulsions;

(6) States and local communities which experience directly the devastating failures of the juvenile justice system do not presently have sufficient technical expertise or adequate resources to deal comprehensively with the problems of juvenile delinquency; and

(7) existing Federal programs have not provided the direction, coordination, resources, and leadership required to meet the crisis of delinquency.

(b) Congress finds further that the high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss of human life, personal security, and wasted human resources and that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency.

(Pub. L. 93-415, title I, § 101, Sept. 7, 1974, 88 Stat. 1109.)

Effective Date

Section 263 of Pub. L. 93-415, as amended by Pub. L. 94-273, § 32(a), Apr. 21, 1976, 90 Stat. 380, provided that:

"(a) Except as provided by subsection (b), the foregoing provisions of this Act [enacting subchapters I and II of this chapter and amending section 5108 of Title 5, Government Organization and Employees] shall take effect on the date of enactment of this Act [Sept. 7, 1974].

"(b) Section 204(b)(5) and 204(b)(6) [section 5614 (b)(5) and 5614(b)(6) of this title] shall become effective at the close of the thirty-first day of the twelfth calendar month of 1974. Section 204(*l*) [section 5614(*l*) of this title] shall become effective at the close of the thirtieth day of the eleventh month of 1976."

Short Title

Section 1 of Pub. L. 93-415 provided: "That this Act [enacting this chapter and sections 3772 to 3774, and 3821 of this title, and sections 4351 to 4353, 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amending sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, 3883 and 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealing section 3889 of this title] may be cited as the 'Juvenile Justice and Delinquency Prevention Act of 1974'."

Section 301 of Pub. L. 93-415 provided that: "This title [enacting subchapter III of this chapter] may be cited as the 'Runaway Youth Act'."

§ 5602. Congressional declaration of purpose and policy

(a) It is the purpose of this chapter—

(1) to provide for the thorough and prompt evaluation of all federally assisted juvenile delinquency programs;

(2) to provide technical assistance to public and private agencies, institutions, and individuals in developing and implementing juvenile delinquency programs;

(3) to establish training programs for persons, including professionals, paraprofessionals, and volunteers, who work with delinquents or potential delinquents or whose work or activities relate to juvenile delinquency programs;

(4) to establish a centralized research effort on the problems of juvenile delinquency, including an information clearinghouse to disseminate the findings of such research and all data related to juvenile delinquency;

(5) to develop and encourage the implementation of national standards for the administration of juvenile justice, including recommendations for administrative, budgetary, and legislative action at the Federal, State, and local level to facilitate the adoption of such standards;

(6) to assist States and local communities with resources to develop and implement programs to keep students in elementary and secondary schools and to prevent unwarranted and arbitrary suspensions and expulsions; and

(7) to establish a Federal assistance program to deal with the problems of runaway youth.

(b) It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination (1) to develop and implement effective methods of preventing and reducing juvenile delinquency; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States; and (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention.

(Pub. L. 93-415, title I, § 102, Sept. 7, 1974, 88 Stat. 1110.)

References in Text

This chapter, referred to in subsec. (a), in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this

title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

§ 5603. Definitions

For purposes of this chapter—

(1) the term "community based" facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services;

(2) the term "Federal juvenile delinquency program" means any juvenile delinquency program which is conducted, directly, or indirectly, or is assisted by any Federal department or agency, including any program funded under this chapter;

(3) the term "juvenile delinquency program" means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug and alcohol abuse programs; the improvement of the juvenile justice system; and any program or activity for neglected, abandoned, or dependent youth and other youth who are in danger of becoming delinquent;

(4) the term "Law Enforcement Assistance Administration" means the agency established by section 3711(a) of this title;

(5) the term "Administrator" means the agency head designated by section 3711(b) of this title;

(6) the term "law enforcement and criminal justice" means any activity pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services[1], activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction;

(7) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States;

(8) the term "unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agency may be used to provide the non-Federal share of the cost of programs or projects funded under this subchapter;

(9) the term "combination" as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan;

(10) the term "construction" means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings);

(11) the term "public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing;

(12) the term "correctional institution or facility" means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses; and

(13) the term "treatment" includes but is not limited to medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict or other user by eliminating his dependence on addicting or other drugs or by controlling his dependence, and his susceptibility to addiction or use.

(Pub. L. 93-415, title I, § 103, Sept. 7, 1974, 88 Stat. 1111.)

REFERENCES IN TEXT

This chapter, referred to in introductory clause and in par. (2), in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

SUBCHAPTER II—PROGRAMS AND OFFICES

PART A—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

§ 5611. Establishment

(a) Placement within Law Enforcement Assistance Administration, Department of Justice

There is hereby created within the Department of Justice, Law Enforcement Assistance Administration, the Office of Juvenile Justice and Delinquency Prevention (referred to in this chapter as the "Office").

(b) Administration of programs

The programs authorized pursuant to this chapter unless otherwise specified in this chapter shall be administered by the Office established under this section.

[1] So in original. Probably should be close parenthesis.

(c) Assistant Administrator; nomination by President

There shall be at the head of the Office an Assistant Administrator who shall be nominated by the President by and with the advice and consent of the Senate.

(d) Powers of Assistant Administrator

The Assistant Administrator shall exercise all necessary powers, subject to the direction of the Administrator of the Law Enforcement Assistance Administration.

(e) Deputy Assistant Administrator; appointment; general functions

There shall be in the Office a Deputy Assistant Administrator who shall be appointed by the Administrator of the Law Enforcement Assistant Administration. The Deputy Assistant Administrator shall perform such functions as the Assistant Administrator from time to time assigns or delegates, and shall act as Assistant Administrator during the absence or disability of the Assistant Administrator or in the event of a vacancy in the Office of the Assistant Administrator.

(f) Supervision of National Institute for Juvenile Justice and Delinquency Prevention

There shall be established in the Office a Deputy Assistant Administrator who shall be appointed by the Administrator whose function shall be to supervise and direct the National Institute for Juvenile Justice and Delinquency Prevention established under section 5651 of this title.

(Pub. L. 93-415, title II, § 201(a)-(f), Sept. 7, 1974, 88 Stat. 1112, 1113.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3773, 5651 of this title.

§ 5612. Personnel

(a) Selection; employment; compensation

The Administrator is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and to prescribe their functions.

(b) Special personnel

The Administrator is authorized to select, appoint, and employ not to exceed three officers and to fix their compensation at rates not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5.

(c) Personnel from other agencies

Upon the request of the Administrator, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Assistant Administrator to assist him in carrying out his functions under this chapter.

(d) Experts and consultants

The Administrator may obtain services as authorized by section 3109 of title 5, at rates not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5.

(Pub. L. 93-415, title II, § 202, Sept. 7, 1974, 88 Stat. 1113.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

CODIFICATION

"Section 5332 of title 5", referred to in subsec. (d), was, in the original, "section 5332 of Title I" and has been editorially changed to conform to the apparent intent of Congress.

§ 5613. Voluntary and uncompensated services

The Administrator is authorized to accept and employ, in carrying out the provisions of this chapter, voluntary and uncompensated services notwithstanding the provisions of section 665(b) of title 31.

(Pub. L. 93-415, title II, § 203, Sept. 7, 1974, 88 Stat. 1113.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

§ 5614. Concentration of federal efforts

(a) Implementation of policy by Administrator; consultation with Council and Advisory Committee

The Administrator shall implement overall policy and develop objectives and priorities for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvement of the juvenile justice system in the United States. In carrying out his functions, the Administrator shall consult with the Council and the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

(b) Duties of Administrator

In carrying out the purposes of this chapter, the Administrator shall—

(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile delinquency programs and Federal policies regarding juvenile delinquency;

(2) assist operating agencies which have direct responsibilities for the prevention and treatment of juvenile delinquency in the development and promulgation of regulations, guidelines requirements, criteria, standards, procedures, and budget requests in accordance with the policies, priorities, and objectives he establishes;

(3) conduct and support evaluations and studies of the performance and results achieved by Federal juvenile delinquency programs and activities and of the prospective performance and results that might be achieved by alternative programs and activities supplementary to or in lieu of those currently being administered;

(4) implement Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which he determines may have an important bearing on the success of the entire Federal juvenile delinquency effort;

(5) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to December 31, an analysis and evaluation of Federal juvenile delinquency programs conducted and assisted by Federal departments and agencies, the expenditures made, the results achieved, the plans developed, and problems in the operations and coordination of such programs. The report shall include recommendations for modifications in organization, management, personnel, standards, budget requests, and implementation plans necessary to increase the effectiveness of these programs;

(6) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to June 1, a comprehensive plan for Federal juvenile delinquency programs, with particular emphasis on the prevention of juvenile delinquency and the development of programs and services which will encourage increased diversion of juveniles from the traditional juvenile justice system; and

(7) provide technical assistance to Federal, State, and local governments, courts, public and private agencies, institutions, and individuals, in the planning, establishment, funding, operation, or evaluation of juvenile delinquency programs.

(c) Report by President to Congress and Council; time for report

The President shall, no later than ninety days after receiving each annual report under subsection (b)(5) of this section, submit a report to the Congress and to the Council containing a detailed statement of any action taken or anticipated with respect to recommendations made by each annual report.

(d) First and second annual reports of Administrator; contents

(1) The first annual report submitted to the President and the Congress by the Administrator under subsection (b)(5) of this section shall contain, in addition to information required by subsection (b)(5) of this section, a detailed statement of criteria developed by the Administrator for identifying the characteristics of juvenile delinquency, juvenile delinquency prevention, diversion of youths from the juvenile justice system, and the training, treatment, and rehabilitation of juvenile delinquents.

(2) The second such annual report shall contain, in addition to information required by subsection (b)(5) of this section, an identification of Federal programs which are related to juvenile delinquency prevention or treatment, together with a statement of the moneys expended for each such program during the most recent complete fiscal year. Such identification shall be made by the Administrator through the use of criteria developed under paragraph (1).

(e) Third annual report of Administrator; contents

The third such annual report submitted to the President and the Congress by the Administrator under subsection (b)(6) of this section shall contain, in addition to the comprehensive plan required by subsection (b)(6) of this section, a detailed statement of procedures to be used with respect to the submission of juvenile delinquency development statements to the Administrator by Federal agencies under subsection (*l*) of this section. Such statement submitted by the Administrator shall include a description of information, data, and analyses which shall be contained in each such development statement.

(f) Information, reports, studies, and surveys from other agencies

The Administrator may require, through appropriate authority, departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide him with such information and reports, and to conduct such studies and surveys, as he may deem to be necessary to carry out the purposes of this part.

(g) Delegation of functions

The Administrator may delegate any of his functions under this part, except the making of regulations, to any officer or employee of the Administration.

(h) Utilization of services and facilities of other agencies; reimbursement

The Administrator is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(i) Transfer of funds to other agencies

The Administrator is authorized to transfer funds appropriated under this subchapter to any agency of the Federal Government to develop or demonstrate new methods in juvenile delinquency prevention and rehabilitation and to supplement existing delinquency prevention and rehabilitation programs which the Assistant Administrator finds to be exceptionally effective or for which he finds there exists exceptional need.

(j) Grants and contracts to other agencies, institutions and individuals

The Administrator is authorized to make grants to, or enter into contracts with, any public or private agency, institution, or individual to carry out the purposes of this part.

(k) Coordination of functions of Administrator and Secretary of Health, Education, and Welfare

All functions of the Administrator under this part shall be coordinated as appropriate with the functions of the Secretary of the Department of Health, Education, and Welfare under the Juvenile Delinquency Prevention Act (42 U.S.C. 3801 et seq.).

(l) Annual juvenile delinquency development statements of other agencies; procedure; contents; review by Administrator

(1) The Administrator shall require through appropriate authority each Federal agency which administers a Federal juvenile delinquency program which meets any criterion developed by the Administrator under subsection (d)(1) of this section to submit annually to the Council a juvenile delinquency development statement. Such statement shall be in addition to any information, report, study, or survey which the Administrator may require under subsection (f) of this section.

(2) Each juvenile delinquency development statement submitted to the Administrator under this subsection shall be submitted in accordance with procedure established by the Administrator under subsection (e) of this section and shall contain such information, data, and analyses as the Administrator may require under subsection (e) of this section. Such analyses shall include an analysis of the extent to which the juvenile delinquency program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile delinquency prevention and treatment goals and policies.

(3) The Administrator shall review and comment upon each juvenile delinquency development statement transmitted to him under this subsection. Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation which significantly affects juvenile delinquency prevention and treatment.

(Pub. L. 93-415, title II, § 204, Sept. 7, 1974, 88 Stat. 1113; Pub. L. 94-273, §§ 8(3), 12(3), Apr. 21, 1976, 90 Stat. 378.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

The Juvenile Delinquency Prevention Act, referred to in subsec. (k), is Pub. L. 90-445, as added Pub. L. 92-381, Aug. 14, 1972, 86 Stat. 532, as amended, which is classified generally to chapter 47 (§ 3801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3801 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (b)(5). Pub. L. 94-273, § 8(3), substituted "December 31" for "September 30".

Subsec. (b)(6). Pub. L. 94-273, § 12(3), substituted "June" for "March".

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a committee established by the President or an officer of the federal government, such committee is renewed by appropriate action prior to the end of such period, or in the case of a committee established by the Congress, its duration is otherwise provided by law see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5616, 5656 of this title.

§ 5615. Joint funding; non-Federal share requirements

Notwithstanding any other provision of law, where funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.

(Pub. L. 93-415, title II, § 205, Sept. 7, 1974, 88 Stat. 1116.)

§ 5616. Coordinating Council on Juvenile Justice and Delinquency Prevention

(a) Establishment; membership

(1) There is hereby established, as an independent organization in the executive branch of the Federal Government a Coordinating Council on Juvenile Justice and Delinquency Prevention (hereinafter referred to as the "Council") composed of the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the Office of Drug Abuse Policy, the Secretary of Housing and Urban Development, or their respective designees, the Assistant Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Deputy Assistant Administrator of the Institute for Juvenile Justice and Delinquency Prevention, and representatives of such other agencies as the President shall designate.

(2) Any individual designated under this section shall be selected from individuals who exercise significant decisionmaking authority in the Federal agency involved.

(b) Chairman and Vice Chairman

The Attorney General shall serve as Chairman of the Council. The Assistant Administrator of the Office of Juvenile Justice and Delinquency Prevention shall serve as Vice Chairman of the Council. The Vice Chairman shall act as Chairman in the absence of the Chairman.

(c) Functions

The function of the Council shall be to coordinate all Federal juvenile delinquency programs. The Council shall make recommendations to the Attorney General and the President at least annually with respect to the coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs and activities.

(d) Meetings

The Council shall meet a minimum of six times per year and a description of the activities of the Council shall be included in the annual report required by section 5614(b)(5) of this title.

(e) Executive Secretary of Council: appointment; responsibilities

(1) The Chairman shall, with the approval of the Council, appoint an Executive Secretary of the Council.

(2) The Executive Secretary shall be responsible for the day-to-day administration of the Council.

(3) The Executive Secretary may, with the approval of the Council, appoint such personnel as he considers necessary to carry out the purposes of this subchapter.

(f) Expenses of Council members; reimbursement

Members of the Council who are employed by the Federal Government full time shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Council.

(g) Authorization of appropriations

To carry out the purposes of this section there is authorized to be appropriated such sums as may be necessary.

(Pub. L. 93-415, title II, § 206, Sept. 7, 1974, 88 Stat. 1116; Pub. L. 94-237, § 4(c)(5)(D), Mar. 19, 1976, 90 Stat. 244.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-237 substituted "Office of Drug Abuse Policy" for "Special Action Office for Drug Abuse Prevention".

SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

Provisions establishing the Special Action Office for Drug Abuse Prevention, authorizing the appointment of a Director, etc., and setting forth the powers, functions, and duties of the Office and Director were classified to sections 1111 to 1143 of Title 21, Food and Drugs, prior to repeal of such sections and abolition of the Office and each position in the Office of Director, etc., by Pub. L. 92-255, title I, § 104, Mar. 21, 1972, 86 Stat. 67, eff. June 30, 1975.

§ 5617. National Advisory Committee for Juvenile Justice and Delinquency Prevention

(a) Membership

There is hereby established a National Advisory Committee for Juvenile Justice and Delinquency Prevention (hereinafter referred to as the "Advisory Committee") which shall consist of twenty-one members.

(b) Members of Coordinating Council as ex officio members

The members of the Coordinating Council or their respective designees shall be ex officio members of the Committee.

(c) Regular members; appointment; qualifications

The regular members of the Advisory Committee shall be appointed by the President from persons who by virtue of their training or experience have special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, such as juvenile or family court judges; probation, correctional, or law enforcement personnel; and representatives of private voluntary organizations and community-based programs. The President shall designate the Chairman. A majority of the members of the Advisory Committee, including the Chairman, shall not be full-time employees of Federal, State, or local governments. At least seven members shall not have attained twenty-six years of age on the date of their appointment.

(d) Term of office; time of appointment; reappointment; vacancies

Members appointed by the President to the Committee shall serve for terms of four years and shall be eligible for reappointment except that for the first composition of the Advisory Committee, one-third of these members shall be appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms; thereafter each term shall be four years. Such members shall be appointed within ninety days after September 7, 1974. Any members appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term.

(Pub. L. 93-415, title II, § 207, Sept. 7, 1974, 88 Stat. 1117.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973 to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a committee established by the President or an officer of the federal government, such committee is renewed by appropriate action prior to the end of such period, or in the case of a committee established by the Congress, its duration is otherwise provided by law see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 5618. Duties of Advisory Committee

(a) Meetings

The Advisory Committee shall meet at the call of the Chairman, but not less than four times a year.

(b) Recommendations to Administrator

The Advisory Committee shall make recommendations to the Administrator at least annually with respect to planning, policy, priorities, operations, and management of all Federal juvenile delinquency programs.

(c) Subcommittee for advice on particular functions

The Chairman may designate a subcommittee of the members of the Advisory Committee to

advise the Administrator on particular functions or aspects of the work of the Administration.

(d) Subcommittee to serve on Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention

The Chairman shall designate a subcommittee of five members of the Committee to serve, together with the Director of the National Institute of Corrections, as members of an Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention to perform the functions set forth in section 5655 of this title.

(e) Subcommittee to serve as Advisory Committee to Administrator on Standards for Administration of Juvenile Justice

The Chairman shall designate a subcommittee of five members of the Committee to serve as an Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice to perform the functions set forth in section 5657 of this title.

(f) Appointment of personnel

The Chairman, with the approval of the Committee, shall appoint such personnel as are necessary to carry out the duties of the Advisory Committee.

(Pub. L. 93-415, title II, § 208, Sept. 7, 1974, 88 Stat. 1117.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973 to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a committee established by the President or an officer of the federal government, such committee is renewed by appropriate action prior to the end of such period, or in the case of a committee established by the Congress, its duration is otherwise provided by law see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5655, 5657 of this title.

§ 5619. Compensation and expenses

(a) Members of the Advisory Committee who are employed by the Federal Government full time shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee.

(b) Members of the Advisory Committee not employed full time by the Federal Government shall receive compensation at a rate not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5, including traveltime for each day they are engaged in the performance of their duties as members of the Advisory Committee. Members shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee.

(Pub. L. 93-415, title II, § 209, Sept. 7, 1974, 88 Stat. 1118.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a committee established by the President or an officer of the federal government, such committee is renewed by appropriate action prior to the end of such period, or in the case of a committee established by the Congress, its duration is otherwise provided by law see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

PART B—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

SUBPART I—FORMULA GRANTS

§ 5631. Grants to States and local governments

The Administrator is authorized to make grants to States and local governments to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

(Pub. L. 93-415, title II, § 221, Sept. 7, 1974, 88 Stat. 1118.)

§ 5632. Allocation of funds

(a) Time; basis; amounts

In accordance with regulations promulgated under this part, funds shall be allocated annually among the States on the basis of relative population of people under age eighteen. No such allotment to any State shall be less than $200,000, except that for the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands no allotment shall be less than $50,000.

(b) Reallocation of unobligated funds

Except for funds appropriated for fiscal year 1975, if any amount so allotted remains unobligated at the end of the fiscal year, such funds shall be reallocated in a manner equitable and consistent with the purpose of this part. Funds appropriated for fiscal year 1975 may be obligated in accordance with subsection (a) of this section until June 30, 1976, after which time they may be reallocated. Any amount so reallocated shall be in addition to the amounts already allotted and available to the State, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands for the same period.

(c) Use of allotted funds for development of state plans; limitations

In accordance with regulations promulgated under this part, a portion of any allotment to any State under this part shall be available to develop a State plan and to pay that portion of the expenditures which are necessary for efficient administration. Not more than 15 per centum of the total annual allotment of such State shall be available for such purposes. The State shall make available needed funds for planning and administration to local governments within the State on an equitable basis.

(d) Limitations on financial assistance

Financial assistance extended under the provisions of this section shall not exceed 90 per centum of the approved costs of any assisted programs or activities. The non-Federal share shall be made in cash or kind consistent with the maintenance of programs required by section 5671 of this title.

(Pub. L. 93-415, title II, § 222, Sept. 7, 1974, 88 Stat. 1118.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5633 of this title.

§ 5633. State plans

(a) Requirements

In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes consistent with the provisions of section 3733(a)(1), (3), (5), (6), (8), (10), (11), (12), (15), and (17) of this title. In accordance with regulations established under this subchapter, such plan must—

(1) designate the State planning agency established by the State under section 3723 of this title as the sole agency for supervising the preparation and administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter referred to in this part as the "State planning agency") has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

(3) provide for an advisory group appointed by the chief executive of the State to advise the State's planning agency and its supervisory board (A) which shall consist of not less than twenty-one and not more than thirty-three persons who have training, experience, or special knowledge concerning the prevention and treatment of a juvenile delinquency or the administration of juvenile justice, (B) which shall include representation of units of local government, law enforcement and juvenile justice agencies such as law enforcement, correction or probation personnel, and juvenile or family court judges, and public agencies concerned with delinquency prevention or treatment such as welfare, social services, mental health, education, or youth services departments, (C) which shall include representatives of private organizations concerned with delinquency prevention or treatment; concerned with neglected or dependent children; concerned with the quality of juvenile justice, education, or social services for children; which utilize volunteers to work with delinquents or potential delinquents; community-based delinquency prevention or treatment programs; and organizations which represent employees affected by this chapter, (D) a majority of whose members (including the chairman) shall not be full-time employees of the Federal, State, or local government, and (E) at least one-third of whose members shall be under the age of twenty-six at the time of appointment;

(4) provide for the active consultation with and participation of local governments in the development of a State plan which adequately takes into account the needs and requests of local governments;

(5) provide that at least 66⅔ per centum of the funds received by the State under section 5632 of this title shall be expended through programs of local government insofar as they are consistent with the State plan, except that this provision may be waived at the discretion of the Administrator for any State if the services for delinquent or potentially delinquent youth are organized primarily on a statewide basis;

(6) provide that the chief executive officer of the local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure (hereinafter in this part referred to as the "local agency") which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

(7) provide for an equitable distribution of the assistance received under section 5632 of this title within the State;

(8) set forth a detailed study of the State needs for an effective, comprehensive, coordinated approach to juvenile delinquency prevention and treatment and the improvement of the juvenile justice system. This plan shall include itemized estimated costs for the development and implementation of such programs;

(9) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, health, and welfare within the State;

(10) provide that not less than 75 per centum of the funds available to such State under section 5632 of this title, whether expended directly by the State or by local government or through contracts with public or private agencies, shall be used for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, and to provide community-based alternatives to juvenile detention and correctional facilities. That advanced techniques include—

(A) community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster-care and shelter-care homes, group homes, half-way houses, homemaker and home health services, and any other designated community-based diagnostic, treatment, or rehabilitative service;

(B) community-based programs and services to work with parents and other family members to maintain and strengthen the family unit so that the juvenile may be retained in his home;

(C) youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and youth in danger of becoming delinquent;

(D) comprehensive programs of drug and alcohol abuse education and prevention and programs for the treatment and rehabilitation of drug addicted youth, and "drug dependent" youth (as defined in section 201(q) of this title);

(E) educational programs or supportive services designed to keep delinquents and to encourage other youth to remain in elementary and secondary schools or in alternative learning situations;

(F) expanded use of probation and recruitment and training of probation officers, other professional and paraprofessional personnel and volunteers to work effectively with youth;

(G) youth initiated programs and outreach programs designed to assist youth who otherwise would not be reached by assistance programs;

(H) provides for a statewide program through the use of probation subsidies, other subsidies, other financial incentives or disincentives to units of local government, or other effective means, that may include but are not limited to programs designed to—

(i) reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the State juvenile population;

(ii) increase the use of nonsecure community-based facilities as a percentage of total commitments to juvenile facilities; and

(iii) discourage the use of secure incarceration and detention;

(11) provides for the development of an adequate research, training, and evaluation capacity within the State;

(12) provide within two years after submission of the plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities;

(13) provide that juveniles alleged to be or found to be delinquent shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;

(14) provide for an adequate system of monitoring jails, detention facilities, and correctional facilities to insure that the requirements of paragraphs (12) and (13) are met, and for annual reporting of the results of such monitoring to the Administrator;

(15) provide assurance that assistance will be available on an equitable basis to deal with all disadvantaged youth including, but not limited to, females, minority youth, and mentally retarded and emotionally or physically handicapped youth;

(16) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

(17) provide that fair and equitable arrangements are made to protect the interests of employees affected by assistance under this chapter. Such protective arrangements shall, to the maximum extent feasible, include, without being limited to, such provisions as may be necessary for—

(A) the preservation or rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements or otherwise;

(B) the continuation of collective-bargaining rights;

(C) the protection of individual employees against a worsening of their positions with respect to their employment;

(D) assurances of employment to employees of any State or political subdivision thereof who will be affected by any program funded in whole or in part under provisions of this chapter;

(E) training or retraining programs.

The State plan shall provide for the terms and conditions of the protection arrangements established pursuant to this section;

(18) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this subchapter;

(19) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase (but not supplant), to the extent feasible and practical, the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event replace such State, local, and other non-Federal funds;

(20) provide that the State planning agency will from time to time, but not less often then[1] annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary; and

(21) contain such other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of the programs assisted under this subchapter.

Such plan may at the discretion of the Administrator be incorporated into the plan specified in section 3733(a) of this title.

(b) Approval by State planning agency

The State planning agency designated pursuant to subsection (a) of this section, after consultation with the advisory group referred to in subsection (a) of this section, shall approve the State plan and any modification thereof prior to submission to the Administrator.

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[1]So in original. Probably should be "than".

(c) Approval by Administrator

The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

(d) Failure to submit or qualify plan; expenditure of allotted funds

In the event that any State fails to submit a plan, or submits a plan or any modification thereof, which the Administrator, after reasonable notice and opportunity for hearing, in accordance with sections 3757, 3758, and 3759 of this title, determines does not meet the requirements of this section, the Administrator shall make that State's allotment under the provisions of section 5632(a) of this title available to public and private agencies for special emphasis prevention and treatment programs as defined in section 5634 of this title.

(e) Disqualification of plan by neglect or oversight; expenditure of allotted funds

In the event the plan does not meet the requirements of this section due to oversight or neglect, rather than explicit and conscious decision, the Administrator shall endeavor to make that State's allotment under the provisions of section 5632(a) of this title available to public and private agencies in that State for special emphasis prevention and treatment programs as defined in section 5634 of this title.

(Pub. L. 93-415, title II, § 223, Sept. 7, 1974, 88 Stat. 1119; Pub. L. 94-503, title I, § 130(b), Oct. 15, 1976, 90 Stat. 2425.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(3)(C) and (17), in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-503 substituted "(15), and (17)" for "and (15)" in the provisions preceding par. (1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3733, 5635 of this title.

SUBPART II—SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAMS

§ 5634. Funding

(a) Grants and contracts to public and private agencies, organizations, etc.; purpose

The Administrator is authorized to make grants to and enter into contracts with public and private agencies, organizations, institutions, or individuals to—

(1) develop and implement new approaches, techniques, and methods with respect to juvenile delinquency programs;

(2) develop and maintain community-based alternatives to traditional forms of insti-tutionalization;

(3) develop and implement effective means of diverting juveniles from the traditional juvenile justice and correctional system;

(4) improve the capability of public and private agencies and organizations to provide services for delinquents and youths in danger of becoming delinquent;

(5) facilitate the adoption of the recommendations of the Advisory Committee on Standards for Juvenile Justice and the Institute as set forth pursuant to section 5657 of this title; and

(6) develop and implement model programs and methods to keep students in elementary and secondary schools and to prevent unwarranted and arbitrary suspensions and expulsions.

(b) Limitations on availability of appropriated funds

Not less than 25 per centum or more than 50 per centum of the funds appropriated for each fiscal year pursuant to this part shall be available only for special emphasis prevention and treatment grants and contracts made pursuant to this section.

(c) Availability of funds for private agencies, etc.

At least 20 per centum of the funds available for grants and contracts made pursuant to this section shall be available for grants and contracts to private nonprofit agencies, organizations, or institutions who have had experience in dealing with youth.

(Pub. L. 93-415, title II, § 224, Sept. 7, 1974, 88 Stat. 1122.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a committee established by the President or an officer of the federal government, such committee is renewed by appropriate action prior to the end of such period, or in the case of a committee established by the Congress, its duration is otherwise provided by law see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5633, 5635 of this title.

§ 5635. Applications for grants and contracts

(a) Time and manner prescribed by Administrator

Any agency, institution, or individual desiring to receive a grant, or enter into any contract under section 5634 of this title, shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

(b) Contents

In accordance with guidelines established by the Administrator, each such application shall—

(1) provide that the program for which assistance is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out one or more of the purposes set forth in section 5634 of this title;

(3) provide for the proper and efficient administration of such program;

(4) provide for regular evaluation of the program;

(5) indicate that the applicant has requested the review of the application from the

State planning agency and local agency designated in section 5633 of this title, when appropriate, and indicate the response of such agency to the request for review and comment on the application;

(6) provide that regular reports on the program shall be sent to the Administrator and to the State planning agency and local agency, when appropriate;

(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this subchapter; and

(8) indicate the response of the State agency or the local agency to the request for review and comment on the application.

(c) Approval by Administrator; criteria

In determining whether or not to approve applications for grants under section 5634 of this title, the Administrator shall consider—

(1) the relative cost and effectiveness of the proposed program in effectuating the purposes of this part;

(2) the extent to which the proposed program will incorporate new or innovative techniques;

(3) the extent to which the proposed program meets the objectives and priorities of the State plan, when a State plan has been approved by the Administrator under section 5633(c) of this title and when the location and scope of the program makes such consideration appropriate;

(4) the increase in capacity of the public and private agency, institution, or individual to provide services to delinquents or youths in danger of becoming delinquents;

(5) the extent to which the proposed project serves communities which have high rates of youth unemployment, school dropout, and delinquency; and [1]

(6) the extent to which the proposed program facilitates the implementation of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth pursuant to section 5657 of this title. [1]

(7) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than forty thousand, located within States which have not [2] city with a population over two hundred and fifty thousand.

(d) Application by city

No city should be denied an application solely on the basis of its population.

(Pub. L. 93-415, title II, § 225, Sept. 7, 1974, 88 Stat. 1123; Pub. L. 94-503, title I, § 130(c), Oct. 15, 1976, 90 Stat. 2425.)

AMENDMENTS

1976—Subsec. (c)(7). Pub. L. 94-503, § 130(c)(1), added subsec. (c)(7).

Subsec. (d). Pub. L. 94-503, § 130(c)(2), added subsec. (d).

[1] So in original. Amendment of section by addition of subsec. (c)(7) made no provision for conjunction and punctuation.

[2] So in original. Probably should read "no".

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973 to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a committee established by the President or an officer of the federal government, such committee is renewed by appropriate action prior to the end of such period, or in the case of a committee established by the Congress, its duration is otherwise provided by law see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 5636. Noncompliance of program or activity; proceedings by Administrator

Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this subchapter, finds—

(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this subchapter; or

(2) that in the operation of the program or activity there is failure to comply substantially with any such provision; the Administrator shall initiate such proceedings as are appropriate.

(Pub. L. 93-415, title II, § 226, Sept. 7, 1974, 88 Stat. 1124.)

§ 5637. Use of funds; limitations

(a) Funds paid pursuant to this subchapter to any State, public or private agency, institution, or individual (whether directly or through a State or local agency) may be used for—

(1) planning, developing, or operating the program designed to carry out the purposes of this part; and

(2) not more than 50 per centum of the cost of the construction of innovative community-based facilities for less than twenty persons which, in the judgment of the Administrator, are necessary for carrying out the purposes of this part.

(b) Except as provided by subsection (a) of this section, no funds paid to any public or private agency, institution, or individual under this part (whether directly or through a State agency or local agency), may be used for construction.

(Pub. L. 93-415, title II, § 227, Sept. 7, 1974, 88 Stat. 1124.)

§ 5638. Continuing financial assistance for programs

(a) Congressional statement of policy

In accordance with criteria established by the Administrator, it is the policy of Congress that programs funded under this subchapter shall continue to receive financial assistance providing that the yearly evaluation of such programs is satisfactory.

(b) Utilization of formula grant funds; limitations

At the discretion of the Administrator, when there is no other way to fund an essential juvenile delinquency program not funded under this part, the State may utilize 25 per centum of the formula grant funds available to it under this part to meet the non-Federal matching

share requirement for any other Federal juvenile delinquency program grant.

(c) Contributions by recipient

Whenever the Administrator determines that it will contribute to the purposes of this part, he may require the recipient of any grant or contract to contribute money, facilities, or services.

(d) Methods of payment

Payments under this part, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursements, in such installments and on such conditions as the Administrator may determine.

(Pub. L. 93-415, title II, § 228, Sept. 7, 1974, 88 Stat. 1124.)

PART C—NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

§ 5651. Institute structure and operation

(a) Establishment

There is hereby established within the Juvenile Justice and Delinquency Prevention Office a National Institute for Juvenile Justice and Delinquency Prevention.

(b) Deputy Assistant Administrator as head; supervision and direction by Assistant Administrator

The National Institute for Juvenile Justice and Delinquency Prevention shall be under the supervision and direction of the Assistant Administrator, and shall be headed by a Deputy Assistant Administrator of the Office appointed under section 5611(f) of this title.

(c) Coordination of activities with National Institute of Law Enforcement and Criminal Justice

The activities of the National Institute for Juvenile Justice and Delinquency Prevention shall be coordinated with the activities of the National Institute of Law Enforcement and Criminal Justice in accordance with the requirements of section 5611(b) of this title.

(d) Responsibilities of Administrator

The Administrator shall have responsibility for the administration of the organization, employees, enrollees, financial affairs, and other operations of the Institute.

(e) Delegation of power by Administrator

The Administrator may delegate his power under this chapter to such employees of the Institute as he deems appropriate.

(f) Purpose of Institute

It shall be the purpose of the Institute to provide a coordinating center for the collection, preparation, and dissemination of useful data regarding the treatment and control of juvenile offenders, and it shall also be the purpose of the Institute to provide training for representatives of Federal, State, and local law enforcement officers, teachers, and other educational personnel, juvenile welfare workers, juvenile judges and judicial personnel, probation personnel, correctional personnel and other persons, including lay personnel, connected with the treatment and control of juvenile offenders.

(g) Additional powers

In addition to the other powers, express and implied, the Institute may—

(1) request any Federal agency to supply such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions;

(2) arrange with and reimburse the heads of Federal agencies for the use of personnel or facilities or equipment of such agencies;

(3) confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other public or private local agencies;

(4) enter into contracts with public or private agencies, organizations, or individuals, for the partial performance of any functions of the Institute; and

(5) compensate consultants and members of technical advisory councils who are not in the regular full-time employ of the United States, at a rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 and while away from home, or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(h) Cooperation of other federal agencies

Any Federal agency which receives a request from the Institute under subsection (g)(1) of this section may cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information and advice to the Institute.

(Pub. L. 93-415, title II, § 241, Sept. 7, 1974, 88 Stat. 1125.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

CODIFICATION

Subsec. (h) of this section was, in the original, designated as "(b)" and has been editorially changed to conform to the apparent intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5611 of this title.

§ 5652. Information function of Institute

The National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

(1) serve as an information bank by collecting systematically and synthesizing the data and knowledge obtained from studies and research by public and private agencies, institutions, or individuals concerning all aspects of juvenile delinquency, including the prevention and treatment of juvenile delinquency;

(2) serve as a clearinghouse and information center for the preparation, publication, and dissemination of all information regarding ju-

venile delinquency, including State and local juvenile delinquency prevention and treatment programs and plans, availability of resources, training and educational programs, statistics, and other pertinent data and information.

(Pub. L. 93-415, title II, § 242, Sept. 7, 1974, 88 Stat. 1126.)

§ 5653. Research, demonstration, and evaluation functions of Institute

The National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

(1) conduct, encourage, and coordinate research and evaluation into any aspect of juvenile delinquency, particularly with regard to new programs and methods which show promise of making a contribution toward the prevention and treatment of juvenile delinquency;

(2) encourage the development of demonstration projects in new, innovative techniques and methods to prevent and treat juvenile delinquency;

(3) provide for the evaluation of all juvenile delinquency programs assisted under this subchapter in order to determine the results and the effectiveness of such programs;

(4) provide for the evaluation of any other Federal, State, or local juvenile delinquency program, upon the request of the Administrator;

(5) prepare, in cooperation with educational institutions, Federal, State, and local agencies, and appropriate individuals and private agencies, such studies as it considers to be necessary with respect to the prevention and treatment of juvenile delinquency and related matters, including recommendations designed to promote effective prevention and treatment;

(6) disseminate the results of such evaluations and research and demonstration activities particularly to persons actively working in the field of juvenile delinquency; and

(7) disseminate pertinent data and studies (including a periodic journal) to individuals, agencies, and organizations concerned with the prevention and treatment of juvenile delinquency.

(Pub. L. 93-415, title II, § 243, Sept. 7, 1974, 88 Stat. 1126.)

§ 5654. Training function of Institute

The National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

(1) develop, conduct, and provide for training programs for the training of professional, paraprofessional, and volunteer personnel, and other persons who are or who are preparing to work with juveniles and juvenile offenders;

(2) develop, conduct, and provide for seminars, workshop, and training programs in the latest proven effective techniques and methods of preventing and treating juvenile delinquency for law enforcement officers, juvenile judges, and other court personnel, probation officers, correctional personnel, and other Federal, State, and local government personnel who are engaged in work relating to juvenile delinquency;

(3) devise and conduct a training program, in accordance with the provisions of sections 5659, 5660, and 5661 of this title, of short-term instruction in the latest proven-effective methods of prevention, control, and treatment of juvenile delinquency for correctional and law enforcement personnel, teachers and other educational personnel, juvenile welfare workers, juvenile judges and judicial personnel, probation officers, and other persons (including lay personnel) connected with the prevention and treatment of juvenile delinquency; and

(4) develop technical training teams to aid in the development of training programs in the States and to assist State and local agencies which work directly with juveniles and juvenile offenders.

(Pub. L. 93-415, title II, § 244, Sept. 7, 1974, 88 Stat. 1127.)

§ 5655. Advisory Committee of Institute; functions

The Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention established in section 5618(d) of this title shall advise, consult with, and make recommendations to the Deputy Assistant Administrator for the National Institute for Juvenile Justice and Delinquency Prevention concerning the overall policy and operations of the Institute.

(Pub. L. 93-415, title II, § 245, Sept. 7, 1974, 88 Stat. 1127.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973 to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a committee established by the President or an officer of the federal government, such committee is renewed by appropriate action prior to the end of such period, or in the case of a committee established by the Congress, its duration is otherwise provided by law see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat., 776 set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5618 of this title.

§ 5656. Annual report by Deputy Assistant Administrator; time; contents; summary to President and Congress

The Deputy Assistant Administrator for the National Institute for Juvenile Justice and Delinquency Prevention shall develop annually and submit to the Administrator after the first year the legislation is enacted, prior to September 30, a report on research, demonstration, training, and evaluation programs funded under this subchapter, including a review of the results of such programs, an assessment of the application of such results to existing and to new juvenile delinquency programs, and detailed recommendations for future research, demonstration, training, and evaluation programs. The Administrator shall include a summary of these results and recommendations in his report to the President and Congress required by section 5614(b)(5) of this title.

(Pub. L. 93-415, title II, § 246, Sept. 7, 1974, 88 Stat. 1127; Pub. L. 94-273, § 2(27), Apr. 21, 1976, 90 Stat. 376.)

AMENDMENTS

1976—Pub. L. 94-273 substituted "September" for "June".

§ 5657. Standards for juvenile justice system

(a) Functions of Institute

The National Institute for Juvenile Justice and Delinquency Prevention, under the supervision of the Advisory Committee on Standards for Juvenile Justice established in section 5618(e) of this title, shall review existing reports, data, and standards, relating to the juvenile justice system in the United States.

(b) Report by Advisory Committee to President and Congress; contents

Not later than one year after September 7, 1974, the Advisory Committee shall submit to the President and the Congress a report which, based on recommended standards for the administration of juvenile justice at the Federal, State, and local level—

(1) recommends Federal action, including but not limited to administrative and legislative action, required to facilitate the adoption of these standards throughout the United States; and

(2) recommends State and local action to facilitate the adoption of these standards for juvenile justice at the State and local level.

(c) Availability of information of Federal departments, etc.

Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Advisory Committee such information as the Committee deems necessary to carry out its functions under this section.

(Pub. L. 93-415, title II, § 247, Sept. 7, 1974, 88 Stat. 1127.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a committee established by the President or an officer of the federal government, such committee is renewed by appropriate action prior to the end of such period, or in the case of a committee established by the Congress, its duration is otherwise provided by law see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5618, 5634, 5635 of this title.

§ 5658. Records; restrictions on disclosure and transfer

Records containing the identity of individual juveniles gathered for purposes pursuant to this subchapter may under no circumstances be disclosed or transferred to any individual or other agency, public or private.

(Pub. L. 93-415, title II, § 248, Sept. 7, 1974, 88 Stat. 1128.)

§ 5659. Training program; establishment; purpose; utilization of state and local facilities, personnel, etc.; enrollees

(a) The Administrator shall establish within the Institute a training program designed to train enrollees with respect to methods and techniques for the prevention and treatment of juvenile delinquency. In carrying out this program the Administrator is authorized to make use of available State and local services, equipment, personnel, facilities and the like.

(b) Enrollees in the training program established under this section shall be drawn from correctional and law enforcement personnel, teachers and other educational personnel, juvenile welfare workers, juvenile judges and judicial personnel, probation officers, and other persons (including lay personnel) connected with the prevention and treatment of juvenile delinquency.

(Pub. L. 93-415, title II, § 249, Sept. 7, 1974, 88 Stat. 1128.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5654, 5660, 5661 of this title.

§ 5660. Curriculum for training program

The Administrator shall design and supervise a curriculum for the training program established by section 5659 of this title which shall utilize an interdisciplinary approach with respect to the prevention of juvenile delinquency, the treatment of juvenile delinquents, and the diversion of youths from the juvenile justice system. Such curriculum shall be appropriate to the needs of the enrollees of the training program.

(Pub. L. 93-415, title II, § 250, Sept. 7, 1974, 88 Stat. 1128.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5654 of this title.

§ 5661. Enrollment for training program

(a) Application

Any person seeking to enroll in the training program established under section 5659 of this title shall transmit an application to the Administrator, in such form and according to such procedures as the Administrator may prescribe.

(b) Admittance; determination by Secretary

The Administrator shall make the final determination with respect to the admittance of any person to the training program. The Administrator, in making such determination, shall seek to assure that persons admitted to the training program are broadly representative of the categories described in section 5659(b) of this title.

(c) Travel expenses and per diem allowance

While studying at the Institute and while traveling in connection with his study (including authorized field trips), each person enrolled in the Institute shall be allowed travel expenses and a per diem allowance in the same manner as prescribed for persons employed intermittently in the Government service under section 5703(b) of title 5.

(Pub. L. 93-415, title II, § 251, Sept. 7, 1974, 88 Stat. 1128.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (c), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5654 of this title.

PART D—AUTHORIZATION OF APPROPRIATIONS

§ 5671. Fiscal years 1975, 1976, and 1977; juvenile delinquency programs

(a) To carry out the purposes of this subchapter there is authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1975, $125,000,000 for the fiscal year ending June 30, 1976, and $150,000,000 for the fiscal year ending September 30, 1977.

(b) In addition to the funds appropriated under subsection (a) of this section, the Administration shall maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least 19.15 percent of the total appropriations for the Administration, for juvenile delinquency programs.

(Pub. L. 93-415, title II, § 261, Sept. 7, 1974, 88 Stat. 1129; Pub. L. 94-273, § 32(b), Apr. 21, 1976, 90 Stat. 380; Pub. L. 94-503, title I, § 130(a), Oct. 15, 1976, 90 Stat. 2425.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-273 substituted "September 30, 1977" for "June 30, 1977".

Subsec. (b). Pub. L. 94-503 substituted "subsection (a) of this section" for "this section" and "the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least 19.15 percent of the total appropriations for the Administration, for juvenile delinquency programs" for "other Law Enforcement Assistance Administration appropriations other than the appropriations for administration, at least the same level of financial assistance for juvenile delinquency programs assisted by the Law Enforcement Assistance Administration during fiscal year 1972".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3768, 5632 of this title.

§ 5672. Prohibitions against discrimination; required provisions in grants, contracts and agreements; enforcement

(a) No financial assistance for any program under this chapter shall be provided unless the grant, contract, or agreement with respect to such program specifically provides that no recipient of funds will discriminate as provided in subsection (b) of this section with respect to any such program.

(b) No person in the United States shall on the ground of race, creed, color, sex, or national origin be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this chapter. The provisions of the preceding sentence shall be enforced in accordance with section 2000d-2 of this title. Section 2000d-2 of this title shall apply with respect to any action taken to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if such person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this chapter.

(Pub. L. 93-415, title II, § 262, Sept. 7, 1974, 88 Stat. 1129.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

SUBCHAPTER III—RUNAWAY YOUTH

§ 5701. Congressional statement of findings

The Congress hereby finds that—

(1) the number of juveniles who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without resources and live on the street;

(2) the exact nature of the problem is not well defined because national statistics on the size and profile of the runaway youth population are not tabulated;

(3) many such young people, because of their age and situation, are urgently in need of temporary shelter and counseling services;

(4) the problem of locating, detaining, and returning runaway children should not be the responsibility of already overburdened police departments and juvenile justice authorities; and

(5) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop accurate reporting of the problem nationally and to develop an effective system of temporary care outside the law enforcement structure.

(Pub. L. 93-415, title III, § 302, Sept. 7, 1974, 88 Stat. 1129.)

SHORT TITLE

For Short Title of title III of Pub. L. 93-415, which enacted this subchapter, see Short Title note set out under section 5601 of this title.

§ 5702. Promulgation of rules

The Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") may prescribe such rules as he considers necessary or appropriate to carry out the purposes of this subchapter.

(Pub. L. 93-415, title III, § 303, Sept. 7, 1974, 88 Stat. 1130.)

PART A—GRANTS PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 5751 of this title.

§ 5711. Authorization for grants and technical assistance; purposes; amount of grant; priority

The Secretary is authorized to make grants and to provide technical assistance to localities and nonprofit private agencies in accordance with the provisions of this part. Grants under this part shall be made for the purpose of developing local facilities to deal primarily with the immediate needs of runaway youth in a manner which is outside the law enforcement structure and juvenile justice system. The size of such grant shall be determined by the number of runaway youth in the community and the existing availability of services. Among applicants priority shall be given to private organizations or institutions which have had past experience in dealing with runaway youth.

(Pub. L. 93-415, title III, § 311, Sept. 7, 1974, 88 Stat. 1130.)

§ 5712. Eligibility; plan requirements

(a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund an existing or proposed runaway house, a locally controlled facility providing temporary shelter, and counseling services to juveniles who have left home without permission of their parents or guardians.

(b) In order to qualify for assistance under this part, an applicant shall submit a plan to the Secretary meeting the following requirements and including the following information. Each house—

(1) shall be located in an area which is demonstrably frequented by or easily reachable by runaway youth;

(2) shall have a maximum capacity of no more than twenty children, with a ratio of staff to children of sufficient portion to assure adequate supervision and treatment;

(3) shall develop adequate plans for contacting the child's parents or relatives (if such action is required by State law) and assuring the safe return of the child according to the best interests of the child, for contacting local government officials pursuant to informal arrangements established with such officials by the runaway house, and for providing for other appropriate alternative living arrangements;

(4) shall develop an adequate plan for assuring proper relations with law enforcement personnel, and the return of runaway youths from correctional institutions;

(5) shall develop an adequate plan for aftercare counseling involving runaway youth and their parents within the State in which the runaway house is located and for assuring, as possible, that aftercase[1] services will be provided to those children who are returned beyond the State in which the runaway house is located;

(6) shall keep adequate statistical records profiling the children and parents which it serves, except that records maintained on individual runaway youths shall not be disclosed without parental consent to anyone other than another agency compiling statistical records or a government agency involved in the disposition of criminal charges against an individual runaway youth, and reports or other documents based on such statistical records shall not disclose the identity of individual runaway youths;

(7) shall submit annual reports to the Secretary detailing how the house has been able to meet the goals of its plans and reporting the statistical summaries required by paragraph (6);

(8) shall demonstrate its ability to operate under accounting procedures and fiscal control devices as required by the Secretary;

(9) shall submit a budget estimate with respect to the plan submitted by such house under this subsection; and

(10) shall supply such other information as the Secretary reasonably deems necessary.

(Pub. L. 93-415, title III, § 312, Sept. 7, 1974, 88 Stat. 1130.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5713 of this title.

§ 5713. Approval of application by Secretary; priority

An application by a State, locality, or nonprofit private agency for a grant under this part may be approved by the Secretary only if it is consistent with the applicable provisions of this part and meets the requirements set forth in section 5712 of this title. Priority shall be given to grants smaller than $75,000. In considering grant applications under this part, priority shall be given to any applicant whose program budget is smaller than $100,000.

(Pub. L. 93-415, title III, § 313, Sept. 7, 1974, 88 Stat. 1131.)

§ 5714. Grants to nonprofit private agencies; control over staff and personnel

Nothing in this part shall be construed to deny grants to nonprofit private agencies which are fully controlled by private boards or persons but which in other respects meet the requirements of this part and agree to be legally responsible for the operation of the runaway house. Nothing in this part shall give the Federal Government control over the staffing and personnel decisions of facilities receiving Federal funds.

(Pub. L. 93-415, title III, § 314, Sept. 7, 1974, 88 Stat. 1131.)

§ 5715. Annual report to Congress

The Secretary shall annually report to the Congress on the status and accomplishments of the runaway houses which are funded under this part, with particular attention to—

(1) their effectiveness in alleviating the problems of runaway youth;

(2) their ability to reunite children with their families and to encourage the resolution of intrafamily problems through counseling and other services;

[1] So in original. Probably should be "aftercare".

(3) their effectiveness in strengthening family relationships and encouraging stable living conditions for children; and

(4) their effectiveness in helping youth decide upon a future course of action.

(Pub. L. 93-415, title III, § 315, Sept. 7, 1974, 88 Stat. 1131.)

§ 5716. Federal and non-Federal share; methods of payment

(a) The Federal share for the acquisition and renovation of existing structures, the provision of counseling services, staff training, and the general costs of operations of such facility's budget for any fiscal year shall be 90 per centum. The non-Federal share may be in cash or in kind, fairly evaluated by the Secretary, including plant, equipment, or services.

(b) Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(Pub. L. 93-415, title III, § 316, Sept. 7, 1974, 88 Stat. 1132.)

PART B—STATISTICAL SURVEY

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 5751 of this title.

§ 5731. Scope; report to Congress; time for report

The Secretary shall gather information and carry out a comprehensive statistical survey defining the major characteristic of the runaway youth population and determining the areas of the Nation most affected. Such survey shall include the age, sex, and socioeconomic background of runaway youth, the place from which and to which children run, and the relationship between running away and other illegal behavior. The Secretary shall report the results of such information gathering and survey to the Congress not later than June 30, 1975.

(Pub. L. 93-415, title III, § 321, Sept. 7, 1974, 88 Stat. 1132.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5732 of this title.

§ 5732. Records; restrictions on disclosure and transfer

Records containing the identity of individual runaway youths gathered for statistical purposes pursuant to section 5731 of this title may under no circumstances be disclosed or transferred to any individual or to any public or private agency.

(Pub. L. 93-415, title III, § 322, Sept. 7, 1974, 88 Stat. 1132.)

PART C—AUTHORIZATION OF APPROPRIATIONS

§ 5751. Amounts for grant program and statistical survey

(a) To carry out the purposes of part A of this subchapter there is authorized to be appropriated for each of the fiscal years ending June 30, 1975, and 1976, and September 30, 1977, the sum of $10,000,000.

(b) To carry out the purposes of part B of this subchapter there is authorized to be appropriated the sum of $500,000.

(Pub. L. 93-415, title III, § 331, Sept. 7, 1974, 88 Stat. 1132; Pub. L. 94-273, § 32(c), Apr. 21, 1976, 90 Stat. 380.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-273 added "and" preceding "1976" and substituted "September 30, 1977" for "1977".

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This chapter is referred to in section 5905 of this title.

§ 5801. Congressional declaration of policy and purpose

(a) Development and utilization of energy sources

The Congress hereby declares that the general welfare and the common defense and security require effective action to develop, and increase the efficiency and reliability of use of, all energy sources to meet the needs of present and future generations, to increase the productivity of the national economy and strengthen its position in regard to international trade, to make the Nation self-sufficient in energy, to advance the goals of restoring, protecting, and enhancing environmental quality, and to assure public health and safety.

(b) Necessity of establishing Energy Research and Development Administration

The Congress finds that, to best achieve these objectives, improve Government operations, and assure the coordinated and effective development of all energy sources, it is necessary to establish an Energy Research and Development Administration to bring together and direct Federal activities relating to research and development on the various sources of energy, to increase the efficiency and reliability in the use of energy, and to carry out the performance of other functions, including but not limited to the Atomic Energy Commission's military and production activities and its general basic research activities. In establishing an Energy Research and Development Administration to achieve these objectives, the Congress intends that all possible sources of energy be developed consistent with warranted priorities.

(c) Separation of licensing and regulatory functions of the Atomic Energy Commission

The Congress finds that it is in the public interest that the licensing and related regulatory functions of the Atomic Energy Commission be separated from the performance of the other functions of the Commission, and that this separation be effected in an orderly manner, pursuant to this chapter, assuring adequacy of technical and other resources necessary for the performance of each.

(d) Small business participation

The Congress declares that it is in the public interest and the policy of Congress that small business concerns be given a reasonable opportunity to participate, insofar as is possible, fairly and equitably in grants, contracts, purchases, and other Federal activities relating to research, development, and demonstration of sources of energy efficiency, and utilization and conservation of energy. In carrying out this policy, to the extent practicable, the Administrator shall consult with the Administrator of the Small Business Administration.

(e) Priorities

Determination of priorities which are warranted should be based on such considerations as power-related values of an energy source, preservation of material resources, reduction of pollutants, export market potential (including reduction of imports), among others. On such a basis, energy sources warranting priority might include, but not be limited to, the various methods of utilizing solar energy.

(Pub. L. 93-438, § 2, Oct. 11, 1974, 88 Stat. 1233.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), in the original read "this Act" meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes below.

EFFECTIVE DATE; INTERIM APPOINTMENTS

Section 312 of Pub. L. 93-438 provided that:

"(a) This Act [see Short Title note below] shall take effect one hundred and twenty days after the date of its enactment [Oct. 11, 1974], or on such earlier date as the President may prescribe and publish in the Federal Register [see Ex. Ord. No. 11834, set out below] except that any of the officers provided for in title I of this Act [subchapter I of this chapter] may be nominated and appointed, as provided by this Act, at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), any functions of which are transferred to the Administrator and the Commission by this Act, may, with the approval of the President, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

"(b) In the event that any officer required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of this Act, to act in such office until the office is filled as provided in this Act. While so acting, such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act."

SHORT TITLE

Section 1 of Pub. L. 93-438 provided that: "This Act [enacting this chapter, repealing sections 2031 and 2032 of this title, amending sections 5313 to 5316 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under section 5801 of this title] may be cited as the 'Energy Reorganization Act of 1974'."

SEPARABILITY OF PROVISIONS

Section 311 of Pub. L. 93-438 provided that: "If any provision of this Act [See Short Title note above], or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the ap-

plication of such provision to other persons or circumstances, shall not be affected thereby."

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

EX. ORD. NO. 11834. EFFECTIVE DATE OF CHAPTER

Ex. Ord. No. 11834, eff. Jan. 15, 1975, 40 F.R. 2971, provided:

By the virtue of the authority vested in me by the Energy Reorganization Act of 1974 (Public Law 93-438; 88 Stat. 1233) [this chapter], section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered:

SECTION 1. Pursuant to Section 312(a) of the Energy Reorganization Act of 1974 [set out as a note above] I hereby prescribe January 19, 1975, as the effective date of that Act. This action shall not impair in any way the activation of the Energy Resources Council by Executive Order No. 11814 of October 11, 1974 [set out as a note under section 5818 of this title].

SEC. 2. The Director of the Office of Management and Budget shall take all steps necessary or appropriate to ensure or effectuate the transfers provided for in the Energy Reorganization Act of 1974 [this chapter], the Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93-409; 88 Stat. 1069) [section 5501 et seq. of this title], the Geothermal Energy Research, Development, and Demonstration Act of 1974 (Public Law 93-410; 88 Stat. 1079) [section 1101 et seq. of Title 30, Mineral Lands and Mining], the Solar Energy Research, Development, and Demonstration Act of 1974 (Public Law 93-473; 88 Stat. 1431) [section 5551 et seq. of this title], to the extent required or permitted by law, including transfers of funds, personnel and positions, assets, liabilities, contracts, property, records, and other items related to the transfer of functions, programs, or authorities.

SEC. 3. As required by the Energy Reorganization Act of 1974 [this chapter], this Order shall be published in the FEDERAL REGISTER.

GERALD R. FORD.

SUBCHAPTER I—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5876 of this title.

§ 5811. Establishment of Energy Research and Development Administration

There is hereby established an independent executive agency to be known as the Energy Research and Development Administration (hereinafter in this chapter referred to as the "Administration").

(Pub. L. 93-438, title I, § 101, Oct. 11, 1974, 88 Stat. 1234.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

§ 5812. Officers of the Administration

(a) Administrator; appointment

There shall be at the head of the Administration an Administrator of Energy Research and Development (hereinafter in this chapter referred to as the "Administrator"), who shall be appointed from civilian life by the President by and with the advice and consent of the Senate. A person may not be appointed as Administrator within two years after release from active duty as a commissioned officer of a regular component of an Armed Force. The Administration shall be administered under the supervision and direction of the Administrator, who shall be responsible for the efficient and coordinated management of the Administration.

(b) Deputy Administrator

There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Qualifications of Administrator and Deputy Administrator

The President shall appoint the Administrator and Deputy Administrator from among individuals who, by reason of their general background and experience are specially qualified to manage a full range of energy research and development programs.

(d) Assistant Administrators; number; appointment; qualifications

There shall be in the Administration six Assistant Administrators, one of whom shall be responsible for fossil energy, another for nuclear energy, another for environment and safety, another for conservation, another for solar, geothermal, and advanced energy systems, and another for national security. The Assistant Administrators shall be appointed by the President, by and with the advice and consent of the Senate. The President shall appoint each Assistant Administrator from among individuals who, by reason of general background and experience, are specially qualified to manage the energy technology area assigned to such Assistant Administrator.

(e) General Counsel

There shall be in the Administration a General Counsel who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator.

(f) Additional officers

There shall be in the Administration not more than eight additional officers appointed by the Administrator. The positions of such officers shall be considered career positions and be subject to section 2201(d) of this title.

(g) Director of Military Application; functions; qualifications; compensation

The Division of Military Application transferred to and established in the Administration by section 5814(d) of this title shall be under the direction of a Director of Military Application, who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator and shall be an active commissioned officer of the Armed Forces serving in general or flag officer rank or grade. The functions, qualifications, and com-

pensation of the Director of Military Application shall be the same as those provided under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], for the Assistant General Manager for Military Application.

(h) Allocation of functions; responsibility for international cooperation

Officers appointed pursuant to this section shall perform such functions as the Administrator shall specify from time to time. The Administrator shall delegate to one such officer the special responsibility for international cooperation in all energy and related environmental research and development.

(i) Order of succession

The Deputy Administrator (or in the absence or disability of the Deputy Administrator, or in the event of a vacancy in the office of the Deputy Administrator, an Assistant Administrator, the General Counsel or such other official, determined according to such order as the Administrator shall prescribe) shall act for and perform the functions of the Administrator during any absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

(Pub. L. 93-438, title I, § 102, Oct. 11, 1974, 88 Stat. 1234.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the orignal read "this Act" meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

The Atomic Energy Act of 1954, as amended, referred to in subsec. (g), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5815 of this title.

§ 5813. Responsibilities of the Administrator

The responsibilities of the Administrator shall include, but not be limited to—

(1) exercising central responsibility for policy planning, coordination, support, and management of research and development programs respecting all energy sources, including assessing the requirements for research and development in regard to various energy sources in relation to near-term and long-range needs, policy planning in regard to meeting those requirements, undertaking programs for the optimal development of the various forms of energy sources, managing such programs, and disseminating information resulting therefrom;

(2) encouraging and conducting research and development, including demonstration of commercial feasibility and practical applications of the extraction, conversion, storage, transmission, and utilization phases related to the development and use of energy from fossil, nuclear, solar, geothermal, and other energy sources;

(3) engaging in and supporting environmental, biomedical, physical, and safety research related to the development of energy sources and utilization technologies;

(4) taking into account the existence, progress, and results of other public and private research and development activities, including those activities of the Federal Energy Administration relating to the development of energy resources using currently available technology in promoting increased utilization of energy resources, relevant to the Administration's mission in formulating its own research and development programs;

(5) participating in and supporting cooperative research and development projects which may involve contributions by public or private persons or agencies, of financial or other resources to the performance of the work;

(6) developing, collecting, distributing, and making available for distribution, scientific and technical information concerning the manufacture or development of energy and its efficient extraction, conversion, transmission, and utilization;

(7) creating and encouraging the development of general information to the public on all energy conservation technologies and energy sources as they become available for general use, and the Administrator, in conjunction with the Administrator of the Federal Energy Administration shall, to the extent practicable, disseminate such information through the use of mass communications;

(8) encouraging and conducting research and development in energy conservation, which shall be directed toward the goals of reducing total energy consumption to the maximum extent practicable, and toward maximum possible improvement in the efficiency of energy use. Development of new and improved conservation measures shall be conducted with the goal of the most expeditious possible application of these measures;

(9) encouraging and participating in international cooperation in energy and related environmental research and development;

(10) helping to assure an adequate supply of manpower for the accomplishment of energy research and development programs, by sponsoring and assisting in education and training activities in institutions of higher education, vocational schools, and other institutions, and by assuring the collection analysis, and dissemination of necessary manpower supply and demand data;

(11) encouraging and conducting research and development in clean and renewable energy sources.

(Pub. L. 93-438, title I, § 103, Oct. 11, 1974, 88 Stat. 1235.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5814, 5817 of this title.

§ 5814. Abolition and transfers

(a) Abolition of Atomic Energy Commission

The Atomic Energy Commission is hereby abolished.

(b) Transfer or lapse of functions of Atomic Energy Commission

All other functions of the Commission, the Chairman and members of the Commission, and the officers and components of the Commission are hereby transferred or allowed to lapse pursuant to the provisions of this chapter.

(c) Functions of Atomic Energy Commission transferred to Administrator

There are hereby transferred to and vested in the Administrator all functions of the Atomic Energy Commission, the Chairman and members of the Commission, and the officers and components of the Commission, except as otherwise provided in this chapter.

(d) Transfer of General Advisory Committee, Patent Compensation Board, and Divisions of Military Application and Naval Reactors to Administration

The General Advisory Committee established pursuant to section 2036 of this title, the Patent Compensation Board established pursuant to section 2187 of this title, and the Divisions of Military Application and Naval Reactors established pursuant to section 2035 of this title, are transferred to the Energy Research and Development Administration and the functions of the Commission with respect thereto, and with respect to relations with the Military Liaison Committee established by section 2037 of this title, are transferred to the Administrator.

(e) Transfer to Administrator of certain functions of Secretary of the Interior and Department of the Interior; study of potential energy application of helium; report to President and Congress

There are hereby transferred to and vested in the Administrator such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of such department—

(1) as relate to or are utilized by the Office of Coal Research established pursuant to the Act of July 1, 1960 (74 Stat. 336; 30 U.S.C. 661–669);

(2) as relate to or are utilized in connection with fossil fuel energy research and development programs and related activities conducted by the Bureau of Mines "energy centers" and synthane plant to provide greater efficiency in the extraction, processing, and utilization of energy resources for the purpose of conserving those resources, developing alternative energy resources, such as oil and gas secondary and tertiary recovery, oil shale and synthetic fuels, improving methods of managing energy-related wastes and pollutants, and providing technical guidance needed to establish and administer national energy policies; and

(3) as relate to or are utilized for underground electric power transmission research.

The Administrator shall conduct a study of the potential energy applications of helium and, within six months from October 11, 1974, report to the President and Congress his recommendations concerning the management of the Federal helium programs, as they relate to energy.

(f) Transfer to Administrator of certain functions of National Science Foundation

There are hereby transferred to and vested in the Administrator such functions of the National Science Foundation as relate to or are utilized in connection with—

(1) solar heating and cooling development; and

(2) geothermal power development.

(g) Transfer to Administrator of certain functions of Environmental Protection Agency

There are hereby transferred to and vested in the Administrator such functions of the Environmental Protection Agency and the officers and components thereof as relate to or are utilized in connection with research, development, and demonstration, but not assessment or monitoring for regulatory purposes, of alternative automotive power systems.

(h) Exercise of authority necessary or appropriate to perform transferred functions and carry out transferred programs

To the extent necessary or appropriate to perform functions and carry out programs transferred by this chapter, the Administrator and Commission may exercise, in relation to the functions so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such functions were transferred.

(i) Utilization of technical and management capabilities of other executive agencies; assignment of specific programs or projects in energy research and development

In the exercise of his responsibilities under section 5813 of this title, the Administrator shall utilize, with their consent, to the fullest extent he determines advisable the technical and management capabilities of other executive agencies having facilities, personnel, or other resources which can assist or advantageously be expanded to assist in carrying out such responsibilities. The Administrator shall consult with the head of each agency with respect to such facilities, personnel, or other resources, and may assign, with their consent, specific programs or projects in energy research and development as appropriate. In making such assignments under this subsection, the head of each such agency shall insure that—

(1) such assignments shall be in addition to and not detract from the basic mission responsibilities of the agency, and

(2) such assignments shall be carried out under such guidance as the Administrator deems appropriate.

(Pub. L. 93–438, title I, § 104, Oct. 11, 1974, 88 Stat. 1237.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c), and (h), in the original read "this Act" meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

The Act of July 1, 1960 (74 Stat. 336; 661–668), referred to in subsec. (e)(1), probably means Pub. L. 86–599, July 7, 1960, 74 Stat. 336, which is classified principally to chapter 18 (§ 661 et seq.) of Title 30, Mineral

Lands and Mining. For complete classification of this Act to the Code, see Tables volume.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5812, 5815, 5817, 5841 of this title.

§ 5815. Administrative provisions

(a) Rules and regulations

The Administrator is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

(b) Policy planning and evaluation

The Administrator shall engage in such policy planning, and perform such program evaluation analyses and other studies, as may be necessary to promote the efficient and coordinated administration of the Administration and properly assess progress toward the achievement of its missions.

(c) Delegation of functions

Except as otherwise expressly provided by law, the Administrator may delegate any of his functions to such officers and employees of the Administration as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(d) Organization

Except as provided in sections 5812 and 5814(d) of this title, the Administrator may organize the Administration as he may deem to be necessary or appropriate.

(e) Field offices

The Administrator is authorized to establish, maintain, alter, or discontinue such State, regional, district, local, or other field offices as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

(f) Seal

The Administrator shall cause a seal of office to be made for the Administration of such device as he shall approve, and judicial notice shall be taken of such seal.

(g) Working capital fund

The Administrator is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, assets other than real property, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund, in such amounts as may be necessary to provide additional working capital, are authorized. The working capital fund shall recover, from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual or annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

(h) Information from other agencies

Each department, agency, and instrumentality of the executive branch of the Government is authorized to furnish to the Administrator, upon his request, any information or other data which the Administrator deems necessary to carry out his duties under this subchapter.

(Pub. L. 93-438, title I, § 105, Oct. 11, 1974, 88 Stat. 1238.)

§ 5816. Personnel and services

(a) Appointment and compensation of officers and employees

The Administrator is authorized to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, pursuant to section 2201(d) of this title as are necessary to perform the functions now or hereafter vested in him and to prescribe their functions.

(b) Employment of experts and consultants

The Administrator is authorized to obtain services as provided by section 3109 of title 5.

(c) Participation of military personnel

The Administrator is authorized to provide for participation of military personnel in the performance of his functions. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Administration by the appropriate military Secretary, pursuant to cooperative agreements with the Secretary, for service in the Administration in positions other than a position the occupant of which must be approved by and with the advice and consent of the Senate.

(d) Status of military personnel unaffected

Appointment, detail, or assignment to, acceptance of, and service in, any appointive or other position in the Administration under this section shall in no way affect the status, office, rank, or grade which such officers or enlisted men may occupy or hold, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. A member so appointed, detailed, or assigned shall not be subject to direction or control by his Armed Force, or any officer thereof, directly or indirectly, with respect

to the responsibilities exercised in the position to which appointed, detailed or assigned.

(e) Transportation and per diem expenses

The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5 for travel between places of recruitment and duty, and while at places of duty, of persons appointed for emergency, temporary, or seasonal services in the field service of the Administration.

(f) Personnel of other agencies

The Administrator is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency, or instrumentality, including any independent agency of the Government.

(g) Advisory boards

The Administrator is authorized to establish advisory boards, in accordance with the provisions of the Federal Advisory Committee Act (Public Law 92-463), to advise with and make recommendations to the Administrator on legislation, policies, administration, research, and other matters.

(h) Employment of noncitizens

The Administrator is authorized to employ persons who are not citizens of the United States in expert, scientific, technical, or professional capacities whenever he deems it in the public interest.

(Pub. L. 93-438, title I, § 106, Oct. 11, 1974, 88 Stat. 1239.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY BOARDS

Advisory Boards established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 5817. Powers of the Administrator

(a) Research and development

The Administrator is authorized to exercise his powers in such manner as to insure the continued conduct of research and development and related activities in areas or fields deemed by the Administrator to be pertinent to the acquisition of an expanded fund of scientific, technical, and practical knowledge in energy matters. To this end, the Administrator is authorized to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities with private or public institutions or persons, including participation in joint or cooperative projects of a research, developmental, or experimental nature; to make payments (in lump sum or installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments); and generally to take such steps as he may deem necessary or appropriate to perform functions now or hereafter vested in him. Such functions of the Administrator under this chapter as are applicable to the nuclear activities transferred pursuant to this subchapter shall be subject to the provisions of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], and to other authority applicable to such nuclear activities. The nonnuclear responsibilities and functions of the Administrator referred to in sections 5813 and 5814 of this title shall be carried out pursuant to the provisions of this chapter, applicable authority existing immediately before the effective date of this chapter, or in accordance with the provisions of chapter 4 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2051-2053).

(b) Facilities and real property

Except for public buildings as defined in the Public Buildings Act of 1959, as amended [40 U.S.C. 601 et seq.], and with respect to leased space subject to the provisions of Reorganization Plan Numbered 18 of 1950, the Administrator is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain facilities and real property as the Administrator deems to be necessary in and outside of the District of Columbia. Such authority shall apply only to facilities required for the maintenance and operation of laboratories, research and testing sites and facilities, quarters, and related accommodations for employees and dependents of employees of the Administration, and such other special-purpose real property as the Administrator deems to be necessary in and outside the District of Columbia. Title to any property or interest therein, real, personal, or mixed, acquired pursuant to this section, shall be in the United States.

(c) Services for employees at remote locations

(1) The Administrator is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(A) Emergency medical services and supplies.

(B) Food and other subsistence supplies.

(C) Messing facilities.

(D) Audiovisual equipment, accessories, and supplies for recreation and training.

(E) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons.

(F) Living and working quarters and facilities.

(G) Transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(2) The furnishing of medical treatment under subparagraph (A) of paragraph (1) and the furnishing of services and supplies under paragraphs (B) and (C) of paragraph (1) shall be at prices reflecting reasonable value as determined by the Administrator.

(3) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Administrator to pay directly the cost of such work or services, to repay or make advances to appropriations or funds which do or will bear all or a part of such cost, or to refund excess sums when necessary; except that such payments may be credited to a service or working capital fund otherwise established by law, and used under the law governing such funds, if the fund is available for use by the Administrator for performing the work or services for which payment is received.

(d) Acquisition of copyrights and patents

The Administrator is authorized to acquire any of the following described rights if the property acquired thereby is for use in, or is useful to, the performance of functions vested in him:

(1) Copyrights, patents, and applications for patents, designs, processes, specifications, and data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before suit is brought, for past infringement of patents or copyrights.

(e) Dissemination of information

Subject to the provisions of chapter 12 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2161–2166), and other applicable law, the Administrator shall disseminate scientific, technical, and practical information acquired pursuant to this subchapter through information programs and other appropriate means, and shall encourage the dissemination of scientific, technical, and practical information relating to energy so as to enlarge the fund of such information and to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding.

(f) Gifts and bequests

The Administrator is authorized to accept, hold, administer, and utilize gifts, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Administration. Gifts and bequests of money and proceeds from the sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Administrator. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to the United States.

(Pub. L. 93–438, title I, § 107, Oct. 11, 1974, 88 Stat. 1240.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this Act" meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

The Atomic Energy Act of 1954, as amended, referred to in subsecs. (a) and (e), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. Chapters 4 and 12 of the Atomic Energy Act of 1954, as amended, are classified generally to subchapters III (§ 2051 et seq.) and XI (§ 2161 et seq.), respectively, of chapter 23 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

The effective date of this chapter, referred to in subsec. (a), refers to the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as a note under section 5801 of this title.

The Public Buildings Act of 1959, as amended, referred to in subsec. (b), is Pub. L. 86–249, Sept. 9, 1959, 73 Stat. 479, as amended, which is classified principally to chapter 12 (§ 601 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 40 and Tables volume.

Reorganization Plan Numbered 18 of 1950, referred to in subsec. (b), is Reorg. Plan No. 18 of 1950, eff. July 1, 1950, 15 F.R. 3177, 64 Stat. 1270, which is set out in the Appendix to Title 5, Government Organization and Employees.

AIR TRANSPORTATION OF PLUTONIUM; EXEMPT SHIPMENT OF PLUTONIUM

Pub. L. 94–187, title V, §§ 501, 502, Dec. 31, 1975, 89 Stat. 1077, provided that:

"The Energy Research and Development Administration shall not ship plutonium in any form by aircraft whether exports, imports, or domestic shipment: *Provided*, That any exempt shipments of plutonium, as defined by section 502, are not subject to this restriction. This restriction shall be in force until the Energy Research and Development Administration has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not rupture under crash and blast testing equivalent to the crash and explosion of a high-flying aircraft.

"SEC. 502. For the purposes of this title [sections 501 and 502 of Pub. L. 94–187], the term 'exempt shipments of plutonium' shall include the following:

"(1) Plutonium shipments in any form designed for medical application.

"(2) Plutonium shipments which pursuant to rules promulgated by the Administrator of the Energy Research and Development Administration are determined to be made for purposes of national security, public health and safety, or emergency maintenance operations.

"(3) Shipments of small amounts of plutonium deemed by the Administrator of the Energy Research and Development Administration to require rapid shipment by air in order to preserve the chemical, physical, or isotopic properties of the transported item or material."

§ 5818. Energy Resources Council

(a) Establishment; composition

There is established in the Executive Office of the President an Energy Resources Council. The Council shall be composed of the Secretary of the Interior, the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, the Secretary of State, the Director, Office of Management and Budget, and such other officials of the Federal Government as the President may designate. The President shall designate one of the members of the Council to serve as Chairman.

(b) Duties and functions

It shall be the duty and function of the Council to—

(1) insure communication and coordination among the agencies of the Federal Government which have responsibilities for the development and implementation of energy

policy or for the management of energy resources;

(2) make recommendations to the President and to the Congress for measures to improve the implementation of Federal energy policies or the management of energy resources with particular emphasis upon policies and activities involving two or more Departments or independent agencies;

(3) advise the President in the preparation of the reorganization recommendations required by section 5820 of this title;

(4) prepare a report on national energy conservation activities which shall be submitted to the President and the Congress annually, beginning on July 1, 1977, and which shall include—

(A) a review of all Federal energy conservation expenditures and activities, the purpose of each such activity, the relation of the activity to national conservation targets and plans, and the success of the activity and the plans for the activity in future years;

(B) an analysis of all conservation targets established for industry, residential, transportation, and public sectors of the economy, whether the targets can be achieved or whether they can be further improved, and the progress toward their achievement in the past year;

(C) a review of the progress made pursuant to the State energy conservation plans under sections 6321 through 6326 of this title and other similar efforts at the State and local level, and whether further conservation can be carried on by the States or by local governments, and whether further Federal assistance is required;

(D) a review of the principal conservation efforts in the private sector, the potential for more widespread implementation of such efforts and the Federal Government's efforts to promote more widespread use of private energy conservation initiatives; and

(E) an assessment of whether existing conservation targets and goals are sufficient to bridge the gap between domestic energy production capacity and domestic energy needs, whether additional incentives or programs are necessary or useful to close that gap further, and a discussion of what mandatory measures might be useful to further bring domestic demand into harmony with domestic supply.

The Chairman of the Energy Resources Council shall coordinate the preparation of the report required under paragraph (5).[1]

(c) Energy reorganization plan; submission of plan to Congress; interim and transitional energy policy planning

The President, through the Energy Resources Council, shall—

(1) prepare a plan for the reorganization of the Federal Government's activities in energy and natural resources, including, but not limited to, a study of—

(A) the principal laws and directives that constitute the energy and natural resource policy of the United States;

(B) prospects of developing a consolidated national energy policy;

(C) the major problems and issues of existing energy and natural resource organizations;

(D) the options for Federal energy and natural resource organizations;

(E) an overview of available resources pertinent to energy and natural resource organization;

(F) recent proposals for a national energy and natural resource policy for the United States; and

(G) the relationship between energy policy goals and other national objectives;

(2) submit to Congress—

(A) no later than December 31, 1976, the plan prepared pursuant to subsection (c)(1) of this section and a report containing his recommendations for the reorganization of the Federal Government's responsibility for energy and natural resource matters together with such proposed legislation as he deems necessary or appropriate for the implementation of such plans or recommendations; and

(B) not later than April 15, 1977, such revisions to the plan and report described in subparagraph (A) of this paragraph as he may consider appropriate; and

(3) provide interim and transitional policy planning for energy and natural resource matters in the Federal Government.

(d) Testimony before Congress

The Chairman of the Council may not refuse to testify before the Congress or any duly authorized committee thereof regarding the duties of the Council or other matters concerning interagency coordination of energy policy and activities.

(e) Effective and termination dates

This section shall be effective no later than sixty days after October 11, 1974, or such earlier date as the President shall prescribe and publish in the Federal Register, and shall terminate upon enactment of a permanent department responsible for energy and natural resources or not later than September 30, 1977, whichever shall occur first.

(Pub. L. 93-438, title I, § 108, Oct. 11, 1974, 88 Stat. 1242; Pub. L. 94-385, title I, §§ 162, 163, Aug. 14, 1976, 90 Stat. 1140, 1142.)

Amendments

1976—Subsec. (b). Pub. L. 94-385, § 162(a), added par. (4).

Subsec. (c). Pub. L. 94-385, § 162(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 94-385, § 162(b)(1), redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 94-385, §§ 162(b)(1), 163, redesignated former subsec. (d) as (e) and, as redesignated, substituted "not later than September 30, 1977" for "two years after such effective date".

[1] So in original. There is no paragraph (5) of subsec. (b).

EX. ORD. NO. 11814. ACTIVATION OF ENERGY RESOURCES COUNCIL

Ex. Ord. No. 11814, eff. Oct. 11, 1974, 39 F.R. 36955, as amended by Ex. Ord. No. 11819, eff. Nov. 16, 1974, 39 F.R. 40743; Ex. Ord. No. 11855, eff. May 1, 1975, 40 F.R. 19423, provided:

In my address to the Congress on October 8, 1974, I expressed my intention to create a new National Energy Board, under the chairmanship of the Secretary of the Interior, to develop, coordinate, and assure the implementation of Federal energy policy. Subsequent to my delivery of that address, the Congress completed action on the Energy Reorganization Act of 1974 [this chapter] which I have just approved into law. Section 108 of that act [this section] creates in the Executive Office of the President a new Energy Resources Council which would be charged with performing functions that are essentially the same as those I had intended to assign to the National Energy Board. Consequently, I have determined that it would serve no useful purpose to create that Board. Instead, I am now exercising the authority vested in me by section 108 of the Energy Reorganization Act of 1974 [this section], to activate immediately the Energy Resources Council, to designate the Secretary of the Interior as its Chairman, and to designate additional officials as members thereof.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States of America by the Constitution and laws of the United States, particularly section 108 of the Energy Reorganization Act of 1974 [this section], and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. Section 108 of the Energy Reorganization Act of 1974 [this section] shall be effective as of the date of this order and the Energy Resources Council shall be deemed to have been activated as of that date.

SEC. 2. The Council shall consist of the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Director of the National Science Foundation, the Administrator of General Services, the Chairman of the Federal Power Commission, the Assistant to the President for National security affairs, the Assistant to the President for Economic Affairs, the Assistant to the President for Domestic Affairs, the Special Assistant to the President for Consumer Affairs, and such other members as the President may, from time to time, designate. The Chairman shall be designated by the President.

SEC. 3. The Energy Resources Council shall perform such functions as are assigned to it by section 108 of the Energy Reorganization Act of 1974 [this section], shall develop a single national energy policy and program, and shall perform such other functions as may be assigned to it, from time to time, by the President.

SEC. 4. All departments and agencies shall cooperate with the Council and shall, to the extent permitted by law, provide it with such assistance and information as the Chairman of the Council may request.

SEC. 5. The Committee on Energy, the establishment of which was announced on June 14, 1974, is hereby abolished.

SEC. 6. The Council shall terminate in accordance with the provisions of section 108 of the Energy Reorganization Act of 1974 [this section].

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 790e.

§ 5819. Report to Congress on future reorganization

(a) The President shall transmit to the Congress as promptly as possible, but not later than June 30, 1975, such additional recommendations as he deems advisable for organization of energy and related functions in the Federal Government, including, but not limited to, whether or not there shall be established (1) a Department of Energy and Natural Resources, (2) an Energy Policy Council, and (3) a consolidation in whole or in part of regulatory functions concerning energy.

(b) This report shall replace and serve the purposes of the report required by section 774(a)(4) of title 15.

(Pub. L. 93-438, title I, § 109, Oct. 11, 1974, 88 Stat. 1242.)

§ 5820. Coordination with environmental efforts

The Administrator is authorized to establish programs to utilize research and development performed by other Federal agencies to minimize the adverse environmental effects of energy projects. The Administrator of the Environmental Protection Agency, as well as other affected agencies and departments, shall cooperate fully with the Administrator in establishing and maintaining such programs, and in establishing appropriate interagency agreements to develop cooperative programs and to avoid unnecessary duplication.

(Pub. L. 93-438, title I, § 110, Oct. 11, 1974, 88 Stat. 1242.)

RESEARCH APPLIED TO NATIONAL NEEDS; COORDINATION OF ENERGY RESEARCH AND DEVELOPMENT ACTIVITIES

Pub. L. 94-471, § 2(e)(3), Oct. 11, 1976, 90 Stat. 2053, provided that: "In the conduct of the energy research and development activities under the 'Research Applied to National Needs' category, the National Science Foundation shall coordinate all new energy research project awards with the Administrator of the Energy Research and Development Administration or his designee."

Similar provisions were contained in Pub. L. 94-86, § 5, Aug. 9, 1975, 89 Stat. 430.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5818 of this title.

SUBCHAPTER II—NUCLEAR REGULATORY COMMISSION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5876 of this title.

§ 5841. Establishment and transfers

(a) Composition; Chairman; Acting Chairman; quorum; official spokesman; seal; functions of Chairman and Commission

(1) There is established an independent regulatory commission to be known as the Nuclear Regulatory Commission which shall be composed of five members, each of whom shall be a citizen of the United States. The President shall designate one member of the Commission as chairman thereof to serve as such during the pleasure of the President. The Chairman may from time to time designate any other member of the Commission as Acting Chairman to act

in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all meetings of the Commission and a quorum for the transaction of business shall consist of at least three members present. Each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information relating to the performance of his duties or responsibilities, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or Acting Chairman in the absence of the Chairman) shall be the official spokesman of the Commission in its relations with the Congress, Government agencies, persons, or the public, and, on behalf of the Commission, shall see to the faithful execution of the policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct. The Commission shall have an official seal which shall be judicially noticed.

(2) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (a) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman, and except as otherwise provided in this chapter), (b) the distribution of business among such personnel and among administrative units of the Commission, and (c) the use and expenditure of funds.

(3) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(4) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(5) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

(b) Appointment of members

(1) Members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Appointments of members pursuant to this subsection shall be made in such a manner that not more than three members of the Commission shall be members of the same political party.

(c) Term of office

Each member shall serve for a term of five years, each such term to commence on July 1, except that of the five members first appointed to the Commission, one shall serve for one year, one for two years, one for three years, one for four years, and one for five years, to be designated by the President at the time of appointment; and except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. For the purpose of determining the expiration date of the terms of office of the five members first appointed to the Nuclear Regulatory Commission, each such term shall be deemed to have begun July 1, 1975.

(d) Submission of appointments to Senate

Such initial appointments shall be submitted to the Senate within sixty days of October 11, 1974. Any individual who is serving as a member of the Atomic Energy Commission on October 11, 1974, and who may be appointed by the President to the Commission, shall be appointed for a term designated by the President, but which term shall terminate not later than the end of his present term as a member of the Atomic Energy Commission, without regard to the requirements of subsection (b)(2) of this section. Any subsequent appointment of such individuals shall be subject to the provisions of this section.

(e) Removal of members; prohibition against engagement in business or other employment

Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. No member of the Commission shall engage in any business, vocation, or employment other than that of serving as a member of the Commission.

(f) Transfer of licensing and regulatory functions of the Atomic Energy Commission

There are hereby transferred to the Commission all the licensing and related regulatory functions of the Atomic Energy Commission, the Chairman and members of the Commission, the General Counsel, and other officers and components of the Commission—which functions officers, components, and personnel are excepted from the transfer to the Administrator by section 5814(c) of this title.

(g) Additional transfers

In addition to other functions and personnel transferred to the Commission, there are also transferred to the Commission—

(1) the functions of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Board;

(2) such personnel as the Director of the Office of Management and Budget determines are necessary for exercising responsibilities under section 5845 of this title, relating to, research, for the purpose of confirmatory assessment relating to licensing and other regulation under the provisions of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], and of this chapter.

(Pub. L. 93-438, title II, § 201, Oct. 11, 1974, 88 Stat. 1242; Pub. L. 94-79, title II, §§ 201-203, Aug. 9, 1975, 89 Stat. 413, 414.)

References in Text

This chapter, referred to in subsec. (a)(2), in the original read "the Energy Reorganization Act of 1974" meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, as amended, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032

of this title, and enacted provisions set out as notes under section 5801 of this title.

The Atomic Energy Act of 1954, as amended, referred to in subsec. (g), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

This chapter, referred to in subsec. (g), in the original read "this Act" meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-79, § 201, designated existing provisions as par. (1) and added pars. (2) to (5).

Subsec. (c). Pub. L. 94-79, §§ 202, 203, provided for appointment for remainder of term where vacancy occurs prior to expiration of term of predecessor appointee and designated July 1, 1975, as commencement date of initial appointees for purpose of determining expiration date of terms of office.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

PLUTONIUM SHIPMENTS RESTRICTIONS

Section 201 of Pub. L. 94-79 provided in part that: "The Nuclear Regulatory Commission shall not license any shipments by air transport of plutonium in any form, whether exports, imports or domestic shipments: *Provided, however,* That any plutonium in any form contained in a medical device designed for individual human application is not subject to this restriction. This restriction shall be in force until the Nuclear Regulatory Commission has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not rupture under crash and blast-testing equivalent to the crash and explosion of a high-flying aircraft."

EX. ORD. NO. 11902. PROCEDURES FOR EXPORT LICENSING POLICY AS TO NUCLEAR MATERIALS AND EQUIPMENT

Ex. Ord. No. 11902, eff. Feb. 2, 1976, 41 F.R. 4877, provided:

The Energy Reorganization Act of 1974 [this chapter] transferred to the United States Nuclear Regulatory Commission the licensing and related regulatory functions previously exercised by the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended [section 2011 et seq. of this title].

The exercise of discretion and control over nuclear exports within the limits of law concerns the authority and responsibility of the President with respect to the conduct of foreign policy and the ensuring of the common defense and security.

It is essential that the Executive branch inform the Nuclear Regulatory Commission of its views before the Commission issues or denies a license, or grants an exemption.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of State is designated to receive from the Nuclear Regulatory Commission a copy of each export license application, each proposal by the Nuclear Regulatory Commission to issue a general license for export, and each proposal by the Nuclear Regulatory Commission for exemption from the requirement for a license, which may involve a determination, pursuant to the Atomic Energy Act of 1954, as amended [section 2011 et seq. of this title], that the issuance of the license or exemption from the requirement for a license will, or will not, be inimical to or constitute an unreasonable risk to the common defense and security.

(b) The Secretary of State shall ensure that a copy of each such application, proposed general license, or proposed exemption is received by the Secretary of Defense, the Secretary of Commerce, the Administrator of the United States Energy Research and Development Administration, hereinafter referred to as the Administrator, the Director of the Arms Control and Disarmament Agency, hereinafter referred to as the Director, and the head of any other department or agency which may have an interest therein, in order to afford them the opportunity to express their views, if any, on whether the license should be issued or the exemption granted.

SEC. 2. Within thirty days of receipt of a copy of a license application, proposed general license, or proposed exemption, the Secretary of Defense, the Secretary of Commerce, the Administrator, the Director, and the head of any other agency or department to which such copy has been transmitted, shall each transmit to the Secretary of State his views, if any, on whether and under what conditions the license should be issued or the exemption granted.

SEC. 3. The Secretary of State shall, after the provisions of section 2 of this order have been complied with, transmit to the Secretary of Defense, the Secretary of Commerce, the Administrator, the Director, and the head of any other department or agency who has expressed his views thereon, a proposed position of the Executive branch as to whether the license should be issued or the exemption granted, including a proposed judgment as to whether issuance of the license or granting of the exemption will, or will not, be inimical to or constitute an unreasonable risk to the common defense and security.

SEC. 4. If the heads of departments and agencies specified in section 2 of this order are unable to agree upon a position for the Executive branch, the Secretary of State shall refer the matter to the Chairman of the Under Secretaries Committee of the National Security Council in order to obtain a decision. In the event the Under Secretaries Committee is unable to reach a decision, the Chairman of that Committee shall refer the matter to the President for his decision.

SEC. 5. The Secretary of State, after taking the actions required by this order, shall notify the Nuclear Regulatory Commission of the position of the Executive branch as to whether the license should be issued or the exemption granted, including the judgment of the Executive branch as to whether issuance of the license or granting of the exemption will, or will not, be inimical to or constitute an unreasonable risk to the common defense and security. The Executive branch position shall be supported by relevant information and documentation as appropriate to the proceedings before the Nuclear Regulatory Commission.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5845 of this title.

§ 5842. Licensing and related regulatory functions respecting selected Administration facilities

Notwithstanding the exclusions provided for in section 110a. [42 U.S.C. 2140(a)] or any other provisions of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], the Nuclear Regulatory Commission shall, except as other-

wise specifically provided by section 110b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2140(b)), or other law, have licensing and related regulatory authority pursuant to chapters 6, 7, 8, and 10 of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2071 et seq., 2091 et seq., 2111 et seq., 2131 et seq.], as to the following facilities of the Administration:

(1) Demonstration Liquid Metal Fast Breeder reactors when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

(2) Other demonstration nuclear reactors—except those in existence on the effective date of this chapter—when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

(3) Facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from activities licensed under such Act.

(4) Retrievable Surface Storage Facilities and other facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive waste generated by the Administration which are not used for, or are part of, research and development activities.

(Pub. L. 93-438, title II, § 202, Oct. 11, 1974, 88 Stat. 1244.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in introductory text, is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. Chapters 6, 7, 8, and 10 of the Atomic Energy Act of 1954, as amended, are classified generally to subchapters V (§ 2071 et seq.), VI (§ 2091 et seq.), VII (§ 2111 et seq.), and IX (§ 2131 et seq.) of chapter 23 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

The effective date of this chapter, referred to in par. (2), refers to the effective date of Pub. L. 93-438. See section 312 of Pub. L. 93-438, set out as a note under section 5801 of this title.

§ 5843. Office of Nuclear Reactor Regulation

(a) Establishment; appointment of Director

There is hereby established in the Commission an Office of Nuclear Reactor Regulation under the direction of a Director of Nuclear Reactor Regulation, who shall be appointed by the Commission, who may report directly to the Commission, as provided in section 5849 of this title, and who shall serve at the pleasure of and be removable by the Commission.

(b) Functions of Director

Subject to the provisions of this chapter, the Director of Nuclear Reactor Regulation shall perform such functions as the Commission shall delegate including:

(1) Principal licensing and regulation involving all facilities, and materials licensed under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], associated with the construction and operation of nuclear reactors licensed under the Atomic Energy Act of 1954, as amended;

(2) Review the safety and safeguards of all such facilities, materials, and activities, and such review functions shall include, but not be limited to—

(A) monitoring, testing and recommending upgrading of systems designed to prevent substantial health or safety hazards; and

(B) evaluating methods of transporting special nuclear and other nuclear materials and of transporting and storing high-level radioactive wastes to prevent radiation hazards to employees and the general public.

(3) Recommend research necessary for the discharge of the functions of the Commission.

(c) Responsibility for safe operation of facilities

Nothing in this section shall be construed to limit in any way the functions of the Administration relating to the safe operation of all facilities resulting from all activities within the jurisdiction of the Administration pursuant to this chapter.

(Pub. L. 93-438, title II, § 203, Oct. 11, 1974, 88 Stat. 1244.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), in the original read "this Act" meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

The Atomic Energy Act of 1954, as amended, referred to in subsec. (b)(1), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

§ 5844. Office of Nuclear Safety and Safeguards

(a) Establishment; appointment of Director

There is hereby established in the Commission an Office of Nuclear Material Safety and Safeguards under the direction of a Director of Nuclear Material Safety and Safeguards, who shall be appointed by the Commission, who may report directly to the Commission as provided in section 5849 of this title, and who shall serve at the pleasure of and be removable by the Commission.

(b) Functions of Director

Subject to the provisions of this chapter, the Director of Nuclear Material Safety and Safeguards shall perform such functions as the Commission shall delegate including:

(1) Principal licensing and regulation involving all facilities and materials, licensed under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], associated with the processing, transport, and handling of nuclear materials, including the provision and maintenance of safeguards against threats, thefts, and sabotage of such licensed facilities, and materials.

(2) Review safety and safeguards of all such facilities and materials licensed under the Atomic Energy Act of 1954, as amended, and

such review shall include, but not be limited to—

(A) monitoring, testing, and recommending upgrading of internal accounting systems for special nuclear and other nuclear materials licensed under the Atomic Energy Act of 1954, as amended;

(B) developing, in consultation and coordination with the Administration, contingency plans for dealing with threats, thefts, and sabotage relating to special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities licensed under the Atomic Energy Act of 1954, as amended;

(C) assessing the need for, and the feasibility of, establishing a security agency within the office for the performance of the safeguards functions, and a report with recommendations on this matter shall be prepared within one year of the effective date of this chapter and promptly transmitted to the Congress by the Commission.

(3) Recommending research to enable the Commission to more effectively perform its functions.

(c) Responsibility for safeguarding special nuclear materials; high-level radioactive wastes and nuclear facilities

Nothing in this section shall be construed to limit in any way the functions of the Administration relating to the safeguarding of special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities within the jurisdiction of the Administration pursuant to this chapter.

(Pub. L. 93-438, title II, § 204, Oct. 11, 1974, 88 Stat. 1245.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), in the original read "this Act" meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

The Atomic Energy Act of 1954, as amended, referred to in subsec. (b)(1), (2), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

The effective date of this chapter, referred to in subsec. (b)(2)(C), refers to the effective date of Pub. L. 93-438. See section 312 of Pub. L. 93-438, set out as a note under section 5801 of this title.

§ 5845. Office of Nuclear Regulatory Research

(a) Establishment; appointment of Director

There is hereby established in the Commission an Office of Nuclear Regulatory Research under the direction of a Director of Nuclear Regulatory Research, who shall be appointed by the Commission, who may report directly to the Commission as provided in section 5849 of this title, and who shall serve at the pleasure of and be removable by the Commission.

(b) Functions of Director

Subject to the provisions of this chapter, the Director of Nuclear Regulatory Research shall perform such functions as the Commission shall delegate including:

(1) Developing recommendations for research deemed necessary for performance by the Commission of its licensing and related regulatory functions.

(2) Engaging in or contracting for research which the Commission deems necessary for the performance of its licensing and related regulatory functions.

(c) Cooperation of federal agencies

The Administrator of the Administration and the head of every other Federal agency shall—

(1) cooperate with respect to the establishment of priorities for the furnishing of such research services as requested by the Commission for the conduct of its functions;

(2) furnish to the Commission, on a reimbursable basis, through their own facilities or by contract or other arrangement, such research services as the Commission deems necessary and requests for the performance of its functions; and

(3) consult and cooperate with the Commission on research and development matters of mutual interest and provide such information and physical access to its facilities as will assist the Commission in acquiring the expertise necessary to perform its licensing and related regulatory functions.

(d) Responsibility for safety of activities

Nothing in subsections (a) and (b) of this section or section 5841 of this title shall be construed to limit in any way the functions of the Administration relating to the safety of activities within the jurisdiction of the Administration.

(e) Information and research services

Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission and provide such information and research services, on a reimbursable basis, as it may have or be reasonably able to acquire.

(Pub. L. 93-438, title II, § 205, Oct. 11, 1974, 88 Stat. 1246.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), in the original read "this Act" meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5841 of this title.

§ 5846. Compliance with safety regulations

(a) Notification to the Commission of noncompliance

Any individual director, or responsible officer of a firm constructing, owning, operating, or supplying the components of any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended [42 U.S.C. 2011 et seq.], or pursuant to this chapter, who obtains information reasonably indicating that such facility or activity or basic components supplied to such facility or activity—

(1) fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission relating to substantial safety hazards, or

(2) contains a defect which could create a substantial safety hazard, as defined by regulations which the Commission shall promulgate,

shall immediately notify the Commission of such failure to comply, or of such defect, unless such person has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

(b) Penalty for failure to notify

Any person who knowingly and consciously fails to provide the notice required by subsection (a) of this section shall be subject to a civil penalty in an amount equal to the amount provided by section 234 of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2282].

(c) Posting of requirements

The requirements of this section shall be prominently posted on the premises of any facility licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.].

(d) Inspection and enforcement

The Commission is authorized to conduct such reasonable inspections and other enforcement activities as needed to insure compliance with the provisions of this section.

(Pub. L. 93-438, title II, § 206, Oct. 11, 1974, 88 Stat. 1246.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in subsecs. (a) and (c), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

This chapter, referred to in subsec. (a), in the original read "this Act" meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

§ 5847. Nuclear energy center site survey

(a)[1](1) The Commission is authorized and directed to make or cause to be made under its direction, a national survey, which shall include consideration of each of the existing or future electric reliability regions, or other appropriate regional areas, to locate and identify possible nuclear energy center sites. This survey shall be conducted in cooperation with other interested Federal, State, and local agencies, and the views of interested persons, including electric utilities, citizens' groups, and others, shall be solicited and considered.

(2) For purposes of this section, the term "nuclear energy center site" means any site, including a site not restricted to land, large enough to support utility operations or other elements of the total nuclear fuel cycle, or both including, if appropriate, nuclear fuel reprocessing facilities, nuclear fuel fabrication plants, retrievable nuclear waste storage facilities, and unranium[1] enrichment facilities.

(3) The survey shall include—

(a) a regional evaluation of natural resources, including land, air, and water resources, available for use in connection with nuclear energy center sites; estimates of future electric power requirements that can be served by each nuclear energy center site; an assessment of the economic impact of each nuclear energy site; and consideration of any other relevant factors, including but not limited to population distribution, proximity to electric load centers and to other elements of the fuel cycle, transmission line rights-of-way, and the availability of other fuel resources;

(b) an evaluation of the environmental impact likely to result from construction and operation of such nuclear energy centers, including an evaluation whether such nuclear energy centers will result in greater or lesser environmental impact than separate siting of the reactors and/or fuel cycle facilities; and

(c) consideration of the use of federally owned property and other property designated for public use, but excluding national parks, national forests, national wilderness areas, and national historic monuments.

(4) A report of the results of the survey shall be published and transmitted to the Congress and the Council on Environmental Quality not later than one year from October 11, 1974, and shall be made available to the public, and shall be updated from time to time thereafter as the Commission, in its discretion, deems advisable. The report shall include the Commission's evaluation of the results of the survey and any conclusions and recommendations, including recommendations for legislation, which the Commission may have concerning the feasibility and practicality of locating nuclear power reactors and/or other elements of the nuclear fuel cycle on nuclear energy center sites. The Commission is authorized to adopt policies which will encourage the location of nuclear power reactors and related fuel cycle facilities on nuclear energy center sites insofar as practicable.

(Pub. L. 93-438, title II, § 207, Oct. 11, 1974, 88 Stat. 1247.)

§ 5848. Abnormal occurrence reports

The Commission shall submit to the Congress each quarter a report listing for that period any abnormal occurrences at or associated with any facility which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended [42 U.S.C. 2011 et seq.], or pursuant to this chapter. For the purposes of this section an abnormal occurrence is an unscheduled incident or event which the Commission determines is significant from the standpoint of public health or safety. Nothing in the preceding sentence shall limit the authority of a court to review the determination of the Commission. Each such report shall contain—

(1) the date and place of each occurrence;

[1] So in original. Section enacted without a subsec. (b).

[1] So in original. Probably should read "uranium".

(2) the nature and probable consequence of each occurrence;

(3) the cause or causes of each; and

(4) any action taken to prevent reoccurrence;

the Commission shall also provide as wide dissemination to the public of the information specified in clauses (1) and (2) of this section as reasonably possible within fifteen days of its receiving information of each abnormal occurrence and shall provide as wide dissemination to the public as reasonably possible of the information specified in clauses (3) and (4) as soon as such information becomes available to it.

(Pub. L. 93-438, title II, § 208, Oct. 11, 1974, 88 Stat. 1248.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in text, is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

§ 5849. Other officers

(a) Executive Director

The Commission shall appoint an Executive Director for Operations, who shall serve at the pleasure of and be removable by the Commission.

(b) Functions of Executive Director

The Executive Director shall perform such functions as the Commission may direct, except that the Executive Director shall not limit the authority of the director of any component organization provided in this chapter to communicate with or report directly to the Commission when such director of a component organization deems it necessary to carry out his responsibilities.

(c) Additional officers

There shall be in the Commission not more than five additional officers appointed by the Commission. The positions of such officers shall be considered career positions and be subject to section 2201(d) of this title.

(Pub. L. 93-438, title II, § 209, Oct. 11, 1974, 88 Stat. 1248.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), in the original read "this Act" meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5843, 5844, 5845, of this title.

SUBCHAPTER III—MISCELLANEOUS AND TRANSITIONAL PROVISIONS

§ 5871. Transitional provisions

(a) Lapse of agency or other body from which functions or programs have been transferred and positions or officers therein

Except as otherwise provided in this chapter, whenever all of the functions or programs of an agency, or other body, or any component thereof, affected by this chapter, have been transferred from that agency, or other body, or any component thereof by this chapter, the agency, or other body, or component thereof shall lapse. If an agency, or other body, or any component thereof, lapses pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316), shall lapse.

(b) Continuation of orders, determinations, rules, etc.

All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this chapter, and

(2) which are in effect at the time this chapter takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Administrator, the Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(c) Effect of chapter on proceedings pending before Atomic Energy Commission or other department or agency

The provisions of this chapter shall not affect any proceeding pending, at the time this section takes effect, before the Atomic Energy Commission or any department or agency (or component thereof) functions of which are transferred by this chapter; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this chapter had not been enacted.

(d) Effect of chapter on suits commenced prior to effective date

Except as provided in subsection (f) of this section—

(1) the provisions of this chapter shall not affect suits commenced prior to the date this chapter takes effect, and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this chapter had not been enacted.

(e) Abatement of suits, or other proceedings by or against officer, department, or agency

No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this chapter, shall abate by reason of the enactment of this chapter. No cause of action by or against any department or agency, functions of which are transferred by this chapter, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this chapter. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(f) Continuation of suits; substitution of parties

If, before the date on which this chapter takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this chapter any function of such department, agency, or officer is transferred to the Administrator or Commission, or any other official, then such suit shall be continued as if this chapter had not been enacted, with the Administrator or Commission, or other official, as the case may be, substituted.

(g) Judicial review of orders and actions in performance of transferred functions; statutory requirements relating to notices, hearings, action upon record, or administrative review

Final orders and actions of any official or component in the performance of functions transferred by this chapter shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this chapter. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred by this chapter shall apply to the performance of those functions by the Administrator or Commission, or any officer or component.

(h) References in other laws to department, agency, officer, or office whose functions have been transferred deemed reference to Administration, Administrator, or Commission

With respect to any functions transferred by this chapter and performed after the effective date of this chapter, reference in any other law to any department or agency, or any officer or office, the functions of which are so transferred, shall be deemed to refer to the Administration, the Administrator or Commission, or other office or official in which this chapter vests such functions.

(i) Limitation, curtailment, etc., of presidential functions or authority

Nothing contained in this chapter shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this chapter; or to limit, curtail, abolish, or terminate his authority to perform such function; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

(j) References in chapter to provision of law deemed to include references thereto as amended or supplemented

Any reference in this chapter to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

(k) Functions conferred by chapter deemed in addition to and not substitution for functions existing before effective date

Except as may be otherwise expressly provided in this chapter, all functions expressly conferred by this chapter shall be in addition to and not in substitution for functions existing immediately before the effective date of this chapter and transferred by this chapter.

(Pub. L. 93-438, title III, § 301, Oct. 11, 1974, 88 Stat. 1248.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

References to "at the time this chapter takes effect" in subsec. (b)(2), "the date this chapter takes effect" in subsec. (d)(1), "date on which this chapter takes effect" in subsec. (f), and "the effective date of this chapter" in subsecs. (g), (h), (i), and (k), refer to the effective date of Pub. L. 93-438. See section 312 of Pub. L. 93-438, set out as a note under section 5801 of this title.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5872 of this title.

§ 5872. Transfer of personnel

(a) Provisions of law applicable

Except as provided in the next sentence, the personnel employed in connection with, and the personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions and programs transferred by this chapter, are, subject to section 581c of title 31, correspondingly

transferred for appropriate allocation. Personnel positions expressly created by law, personnel occupying those positions on the effective date of this chapter, and personnel authorized to receive compensation at the rate prescribed for offices and positions at levels II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313–5316) on the effective date of this chapter shall be subject to the provisions of subsection (c) of this section and section 5871 of this title.

(b) Prohibition against separation or reduction in grade or compensation for one year after transfer

Except as provided in subsection (c) of this section, transfer of nontemporary personnel pursuant to this chapter shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer.

(c) Compensation in new position at not less than rate provided for in previous position

Any person who, on the effective date of this chapter, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, and who, without a break in service, is appointed in the Administration to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position.

(Pub. L. 93–438, title III, § 302, Oct. 11, 1974, 88 Stat. 1250.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

The effective date of this chapter, referred to in subsecs. (a) and (c), refers to the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as a note under section 5801 of this title.

§ 5873. Director of the Office of Management and Budget; power to make dispositions

The Director of the Office of Management and Budget is authorized to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with functions transferred by this chapter as he may deem necessary or appropriate to accomplish the intent and purpose of this chapter.

(Pub. L. 93–438, title III, § 303, Oct. 11, 1974, 88 Stat. 1250.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

§ 5874. Definitions

As used in this chapter—

(1) any reference to "function" or "functions" shall be deemed to include references to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance", when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

(Pub. L. 93–438, title III, § 304, Oct. 11, 1974, 88 Stat. 1251.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

§ 5875. Authorization of appropriations

(a) Except as otherwise provided by law, appropriations made under this chapter shall be subject to annual authorization.

(b) Authorization of appropriations to the Commission shall reflect the need for effective licensing and other regulation of the nuclear power industry in relation to the growth of such industry.

(Pub. L. 93–438, title III, § 305, Oct. 11, 1974, 88 Stat. 1251.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this Act" meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

§ 5876. Comptroller General audit

(a) Section 166 of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2206], shall be deemed to be applicable, respectively, to the nuclear and nonnuclear activities under subchapter I of this chapter and to the activities under subchapter II of this chapter.

(b) The Comptroller General of the United States shall audit, review, and evaluate the implementation of the provisions of subchapter II of this chapter by the Nuclear Safety and Licensing Commission not later than sixty months after the effective date of this chapter, the Comptroller General shall prepare and submit to the Congress a report on his audit, which shall contain, but not be limited to—

(1) an evaluation of the effectiveness of the licensing and related regulatory activities of the Commission and the operations of the Office of Nuclear Safety Research and the Bureau of Nuclear Materials Security;

(2) an evaluation of the effect of such Commission activities on the efficiency, effectiveness, and safety with which the activities licensed under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], are carried out;

(3) recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of subchapter II of this chapter.

(Pub. L. 93-438, title III, § 306, Oct. 11, 1974, 88 Stat. 1251.)

REFERENCES IN TEXT

The effective date of this chapter referred to in subsec. (b), is the effective date of Pub. L. 93-438. See section 312 of Pub. L. 93-438, set out as a note under section 5801 of this title.

The Atomic Energy Act of 1954, as amended, referred to in subsec. (b)(2), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

§ 5877. Reports to President for submission to Congress

(a) Report by Administrator on activities of Administration

The Administrator shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Administration during the preceding fiscal year. Such report shall include a statement of the short-range and long-range goals, priorities, and plans of the Administration together with an assessment of the progress made toward the attainment of those objectives and toward the more effective and efficient management of the Administration and the coordination of its functions.

(b) Review of desirability and feasibility of transferring functions of Administrator respecting military application and restricted data to Department of Defense or other Federal agencies; report to Administrator

During the first year of operation of the Administration, the Administrator, in collaboration with the Secretary of Defense, shall conduct a thorough review of the desirability and feasibility of transferring to the Department of Defense or other Federal agencies the functions of the Administrator respecting military application and restricted data, and within one year after the Administrator first takes office the Administrator shall make a report to the President, for submission to the Congress, setting forth its comprehensive analysis, the principal alternatives, and the specific recommendations of the Administrator and the Secretary of Defense.

(c) Report to Commission on activities of Commission

The Commission shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Commission during the preceding fiscal year. Such report shall include a clear statement of the short-range and long-range goals, priorities, and plans of the Commission as they relate to the benefits, costs, and risks of commercial nuclear powers. Such report shall also include a clear description of the Commission's activities and findings in the following areas—

(1) insuring the safe design of nuclear powerplants and other licensed facilities;

(2) investigating abnormal occurrences and defects in nuclear powerplants and other licensed facilities;

(3) safeguarding special nuclear materials at all stages of the nuclear fuel cycle;

(4) investigating suspected, attempted, or actual thefts of special nuclear materials in the licensed sector and developing contingency plans for dealing with such incidents;

(5) insuring the safe, permanent disposal of high-level radioactive wastes through the licensing of nuclear activities and facilities;

(6) protecting the public against the hazards of low-level radioactive emissions from licensed nuclear activities and facilities.

(Pub. L. 93-438, title III, § 307, Oct. 11, 1974, 88 Stat. 1251.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5914 of this title.

§ 5878. Information to Congressional committees

The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Administration's activities.

(Pub. L. 93-438, title III, § 308, Oct. 11, 1974, 88 Stat. 1252.)

§ 5878a. Report to Congressional Committees

The Administrator shall, by June 30, 1976, and by the end of each fiscal year thereafter, submit a report to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate detailing the extent to which small business and nonprofit organizations are being funded by the nonnuclear research, development, and demonstration programs of the Administrator, and the extent to which small business involvement pursuant to section 5801(d) of this title is being encouraged by the Administration.

(Pub. L. 94-187, title III, § 308, Dec. 31, 1975, 89 Stat. 1074; S. Res. 4, Feb. 4, 1977.)

CODIFICATION

Section was not enacted as a part of the Energy Reorganization Act of 1974, which comprises this chapter.

CHANGE OF NAME

The Committee on Interior and Insular Affairs of the Senate was abolished and replaced by the Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

§ 5879. Transfer of funds

The Administrator, when authorized in an appropriation Act, may, in any fiscal year, transfer funds from one appropriation to another within the Administration; except, that no appropriation shall be either increased or decreased pursuant to this section by more than 5 per centum of the appropriation for such fiscal year.

(Pub. L. 93-438, title III, § 309, Oct. 11, 1974, 88 Stat. 1252.)

SUBCHAPTER IV—SEX DISCRIMINATION

§ 5891. Sex discrimination prohibited

No person shall on the ground of sex be excluded from participation in, be denied a license under, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under any subchapter of this chapter. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.]. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

(Pub. L. 93-438, title IV, § 401, Oct. 11, 1974, 88 Stat. 1254.)

REFERENCES IN TEXT

Any subchapter of this chapter, referred to in text, in the original read "any title of this Act" meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

CHAPTER 74—NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 6981 of this title.

§ 5901. Congressional statement of findings

The Congress hereby finds that—

(a) The Nation is suffering from a shortage of environmentally acceptable forms of energy.

(b) Compounding this energy shortage is our past and present failure to formulate a comprehensive and aggressive research and development program designed to make available to American consumers our large domestic energy reserves including fossil fuels, nuclear fuels, geothermal resources, solar energy, and other forms of energy. This failure is partially because the unconventional energy technologies have not been judged to be economically competitive with traditional energy technologies.

(c) The urgency of the Nation's energy challenge will require commitments similar to those undertaken in the Manhattan and Apollo projects; it will require that the Nation undertake a research, development, and demonstration program in nonnuclear energy technologies with a total Federal investment which may reach or exceed $20,000,000,000 over the next decade.

(d) In undertaking such program, full advantage must be taken of the existing technical and managerial expertise in the various energy fields within Federal agencies and particularly in the private sector.

(e) The Nation's future energy needs can be met if a national commitment is made now to dedicate the necessary financial resources, to enlist our scientific and technological capabilities, and to accord the proper priority to developing new nonnuclear energy options to serve national needs, conserve vital resources, and protect the environment.

(Pub. L. 93-577, § 2, Dec. 31, 1974, 88 Stat. 1879.)

SHORT TITLE

Section 1 of Pub. L. 93-577 provided that: "This Act [enacting this chapter] may be cited as the 'Federal Nonnuclear Energy Research and Development Act of 1974'."

§ 5902. Congressional declaration of policy and purpose; implementation and administration of program by Administrator of Energy Research and Development Administration

(a) It is the policy of the Congress to develop on an urgent basis the technological capabilities to support the broadest range of energy policy options through conservation and use of domestic resources by socially and environmentally acceptable means.

(b)(1) The Congress declares the purpose of this chapter to be to establish and vigorously conduct a comprehensive, national program of basic and applied research and development, including but not limited to demonstrations of practical applications, of all potentially beneficial energy sources and utilization technologies, within the Energy Research and Development Administration.

(2) In carrying out this program, the Administrator of the Energy Research and Development Administration (hereinafter in this chapter referred to as the "Administrator") shall be governed by the terms of this chapter and other applicable provisions of law with respect to all nonnuclear aspects of the research, development, and demonstration program; and the policies and provisions of the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], and other provisions of law shall continue to apply to the nuclear research, development, and demonstration program.

(3) In implementing and conducting the research, development, and demonstration programs pursuant to this chapter the Administrator shall incorporate programs in specific nonnuclear technologies previously enacted into law, including those established by the Solar Heating and Cooling Act of 1974 (Public Law 93-409) [42 U.S.C. 5501 et seq.], the Geothermal Energy Research, Development, and Demonstration Act of 1974 (Public Law 93-410) [30

U.S.C. 1101 et seq.], and the Solar Energy Research, Development, and Demonstration Act of 1974 (Public Law 93-473) [42 U.S.C. 5551 et seq.].

(Pub. L. 93-577, § 3, Dec. 31, 1974, 88 Stat. 1879.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (b)(2), is act Aug. 1, 1946, ch. 724, as amended generally by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

The Solar Heating and Cooling Act of 1974, referred to in subsec. (b)(3), probably means the Solar Heating and Cooling Demonstration Act of 1974, Pub. L. 93-409, Sept. 3, 1974, 88 Stat. 1069, which is classified principally to subchapter I (§ 5501 et seq.) of chapter 71 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5501 of this title and Tables volume.

The Geothermal Energy Research, Development, and Demonstration Act of 1974, referred to in subsec. (b)(3), is Pub. L. 93-410, Sept. 3, 1974, 88 Stat. 1079, which is classified generally to chapter 24 (§ 1101 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 30 and Tables volume.

The Solar Energy Research, Development, and Demonstration Act of 1974, referred to in subsec. (b)(2), is Pub. L. 93-473, Oct. 26, 1974, 88 Stat. 1431, which is classified generally to subchapter II (§ 5551 et seq.) of chapter 71 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5501 of this title and Tables volume.

§ 5903. Duties and functions of Administrator

The Administrator shall—

(a) review the current status of nonnuclear energy resources and current nonnuclear energy research and development activities, including research and development being conducted by Federal and non-Federal entities;

(b) formulate and carry out a comprehensive Federal nonnuclear energy research, development, and demonstration program which will expeditiously advance the policies established by this chapter and other relevant legislation establishing programs in specific energy technologies;

(c) utilize the funds authorized pursuant to this chapter to advance energy research and development by initiating and maintaining, through fund transfers, grants, or contracts, energy research, development and demonstration programs or activities utilizing the facilities, capabilities, expertise, and experience of Federal agencies, national laboratories, universities, nonprofit organizations, industrial entities, and other non-Federal entities which are appropriate to each type of research, development, and demonstration activity;

(d) establish procedures for periodic consultation with representatives of science, industry, environmental organizations, consumers, and other groups who have special expertise in the areas of energy research, development, and technology; and

(e) initiate programs to design, construct, and operate energy facilities of sufficient size to demonstrate the technical and economic feasibility of utilizing various forms of nonnuclear energy.

(Pub. L. 93-577, § 4, Dec. 31, 1974, 88 Stat. 1880.)

§ 5903a. Nonduplication of programs, projects, and research facilities

The Administrator shall coordinate nonnuclear programs of the Administration with the heads of relevant Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

(Pub. L. 94-187, title III, § 309, Dec. 31, 1975, 89 Stat. 1074.)

CODIFICATION

Section was not enacted as a part of the Federal Nonnuclear Energy Research and Development Act of 1974, which comprises this chapter.

§ 5903b. Environmental and safety research, development, and demonstration program

The Administrator shall conduct an environmental and safety research, development, and demonstration program related to fossil fuels.

(Pub. L. 94-187, title III, § 316, Dec. 31, 1975, 89 Stat. 1077.)

CODIFICATION

Section was not enacted as a part of the Federal Nonnuclear Energy Research and Development Act of 1974, which comprises this chapter.

§ 5904. Research, development, and demonstration program governing principles

(a) The Congress authorizes and directs that the comprehensive program in research, development, and demonstration required by this chapter shall be designed and executed according to the following principles:

(1) Energy conservation shall be a primary consideration in the design and implementation of the Federal nonnuclear energy program. For the purposes of this chapter, energy conservation means both improvement in efficiency of energy production and use, and reduction in energy waste.

(2) The environmental and social consequences of a proposed program shall be analyzed and considered in evaluating its potential.

(3) Any program for the development of a technology which may require significant consumptive use of water after the technology has reached the stage of commercial application shall include thorough consideration of the impacts of such technology and use on water resources pursuant to the provisions of section 5912 of this title.

(4) Heavy emphasis shall be given to those technologies which utilize renewable or essentially inexhaustible energy sources.

(5) The potential for production of net energy by the proposed technology at the stage of commercial application shall be analyzed and considered in evaluating proposals.

(b) The Congress further directs that the execution of the comprehensive research, development, and demonstration program shall conform to the following principles:

(1) Research and development of nonnuclear energy sources shall be pursued in such

a way as to facilitate the commercial availability of adequate supplies of energy to all regions of the United States.

(2) In determining the appropriateness of Federal involvement in any particular research and development undertaking, the Administrator shall give consideration to the extent to which the proposed undertaking satisfies criteria including, but not limited to, the following:

(A) The urgency of public need for the potential results of the research, development, or demonstration effort is high, and it is unlikely that similar results would be achieved in a timely manner in the absence of Federal assistance.

(B) The potential opportunities for non-Federal interests to recapture the investment in the undertaking through the normal commercial utilization of proprietary knowledge appear inadequate to encourage timely results.

(C) The extent of the problems treated and the objectives sought by the undertaking are national or widespread in their significance.

(D) There are limited opportunities to induce non-Federal support of the undertaking through regulatory actions, end use controls, tax and price incentives, public education, or other alternatives to direct Federal financial assistance.

(E) The degree of risk of loss of investment inherent in the research is high, and the availability or risk capital to the non-Federal entities which might otherwise engage in the field of the research is inadequate for the timely development of the technology.

(F) The magnitude of the investment appears to exceed the financial capabilities of potential non-Federal participants in the research to support effective efforts.

(Pub. L. 93-577, § 5, Dec. 31, 1974, 88 Stat. 1880.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5906, 5907 of this title.

§ 5905. Comprehensive plan and implementing program for energy research, development, and demonstration; transmission to Congress; purposes; scope of program

(a) Pursuant to the authority and directions of this chapter and the Energy Reorganization Act of 1974 (Public Law 93-438) [42 U.S.C. 5801 et seq.], the Administrator shall transmit to the Congress, on or before June 30, 1975, a comprehensive plan for energy research, development, and demonstration. This plan shall be appropriately revised annually as provided in section 5914(a) of this title. Such plan shall be designed to achieve—

(1) solutions to immediate and short-term (to the early 1980's) energy supply system and associated environmental problems;

(2) solutions to middle-term (the early 1980's to 2000) energy supply system and associated environmental problems; and

(3) solutions to long-term (beyond 2000) energy supply system and associated environmental problems.

(b)(1) Based on the comprehensive energy research, development, and demonstration plan developed under subsection (a) of this section, the Administrator shall develop and transmit to the Congress, on or before June 30, 1975, a comprehensive nonnuclear energy research, development, and demonstration program to implement the nonnuclear research, development, and demonstration aspects of the comprehensive plan.

(2) This program shall be designed to achieve solutions to the energy supply and associated environmental problems in the immediate and short-term (to the early 1980's), middle-term (the early 1980's to 2000), and long-term (beyond 2000) time intervals. In formulating the nonnuclear aspects of this program, the Administrator shall evaluate the economic, environmental, and technological merits of each aspect of the program.

(3) The Administrator shall assign program elements and activities in specific nonnuclear energy technologies, to the short-term, middle-term, and long-term time intervals, and shall present full and complete justification for these assignments and the degree of emphasis for each. These program elements and activities shall include, but not be limited to, research, development, and demonstrations designed—

(A) to advance energy conservation technologies, including but not limited to—

(i) productive use of waste, including garbage, sewage, agricultural wastes, and industrial waste heat;

(ii) reuse and recycling of materials and consumer products;

(iii) improvements in automobile design for increased efficiency and lowered emissions, including investigation of the full range of alternatives to the internal combustion engine and systems of efficient public transportation; and

(iv) advanced urban and architectural design to promote efficient energy use in the residential and commercial sectors, improvements in home design and insulation technologies, small thermal storage units and increased efficiency in electrical appliances and lighting fixtures;

(B) to accelerate the commercial demonstration of technologies for producing low-sulfur fuels suitable for boiler use;

(C) to demonstrate improved methods for the generation, storage, and transmission of electrical energy through (i) advances in gas turbine technologies, combined power cycles, the use of low British thermal unit gas and, if practicable, magnetohydrodynamics; (ii) storage systems to allow more efficient load following, including the use of inertial energy storage systems; and (iii) improvement in cryogenic transmission methods;

(D) to accelerate the commercial demonstration of technologies for producing substitutes for natural gas, including coal gasification: *Provided*, That the Administrator shall invite and consider proposals from potential participants based upon Federal assistance and participation in the form of a joint Federal-industry corporation, and recommendations pursuant to this clause shall be accompanied by a report on the viability of using

this form of Federal assistance or participation;

(E) to accelerate the commercial demonstration of technologies for producing syncrude and liquid petroleum products from coal: *Provided,* That the Administrator shall invite and consider proposals from potential participants based upon Federal assistance and participation through guaranteed prices or purchases of the products, and recommendations pursuant to this clause shall be accompanied by a report on the viability of using this form of Federal assistance or participation;

(F) in accordance with the program authorized by the Geothermal Energy Research, Development, and Demonstration Act of 1974 (Public Law 93-410) [30 U.S.C. 1101 et seq.], to accelerate the commercial demonstration of geothermal energy technologies;

(G) to demonstrate the production of syncrude from oil shale by all promising technologies including in situ technologies;

(H) to demonstrate new and improved methods for the extraction of petroleum resources, including secondary and tertiary recovery of crude oil;

(I) to demonstrate the economics and commercial viability of solar energy for residential and commercial energy supply applications in accordance with the program authorized by the Solar Heating and Cooling Act of 1974 (Public Law 93-409) [42 U.S.C. 5501 et seq.];

(J) to accelerate the commercial demonstration of environmental control systems for energy technologies developed pursuant to this chapter;

(K) to investigate the technical and economic feasibility of tidal power for supplying electrical energy;

(L) to commercially demonstrate advanced solar energy technologies in accordance with the Solar Research, Development, and Demonstration Act of 1974 (Public Law 93-473) [42 U.S.C. 5551 et seq.];

(M) to determine the economics and commercial viability of the production of synthetic fuels such as hydrogen and methanol;

(N) to commercially demonstrate the use of fuel cells for central station electric power generation;

(O) to determine the economics and commercial viability of in situ coal gasification;

(P) to improve techniques for the management of existing energy systems by means of quality control; application of systems analysis, communications, and computer techniques; and public information with the objective of improving the reliability and efficiency of energy supplies and encourage the conservation of energy resources; and

(Q) to improve methods for the prevention and cleanup of marine oil spills.

(Pub. L. 93-577, § 6, Dec. 31, 1974, 88 Stat. 1881.)

REFERENCES IN TEXT

The Energy Reorganization Act of 1974, referred to in subsec. (a), is Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, as amended, which is classified principally to chapter 73 (§ 5801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables volume.

The Solar Heating and Cooling Act of 1974, referred to in subsec. (b)(3), probably means the Solar Heating and Cooling Demonstration Act of 1974, Pub. L. 93-409, Sept. 3, 1974, 88 Stat. 1069, which is classified principally to subchapter I (§ 5501 et seq.) of chapter 71 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5501 of this title and Tables volume.

The Geothermal Energy Research, Development, and Demonstration Act of 1974, referred to in subsec. (b)(3)(F), is Pub. L. 93-410, Sept. 3, 1974, 88 Stat. 1079, which is classified generally to chapter 24 (§ 1101 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 30 and Tables volume.

The Solar Research, Development, and Demonstration Act of 1974, referred to in subsec. (b)(3)(L), is Pub. L. 93-473, Oct. 26, 1974, 88 Stat. 1431, which is classified generally to subchapter II (§ 5551 et seq.) of chapter 71 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5551 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5914 of this title.

§ 5906. Federal assistance and participation in programs

(a) Forms of activities authorized

In carrying out the objectives of this chapter, the Administrator may utilize various forms of Federal assistance and participation which may include but are not limited to—

(1) joint Federal-industry experimental, demonstration, or commercial corporations consistent with the provisions of subsection (b) of this section;

(2) contractual arrangements with non-Federal participants including corporations, consortia, universities, governmental entities and nonprofit institutions;

(3) contracts for the construction and operation of federally owned facilities;

(4) Federal purchases or guaranteed price of the products of demonstration plants or activities consistent with the provisions of subsection (c) of the section;

(5) Federal loans to non-Federal entities conducting demonstrations of new technologies; and

(6) incentives, including financial awards, to individual inventors, such incentives to be designed to encourage the participation of a large number of such inventors.

(b) Proposed joint Federal-industry corporations; operational guidelines; powers, duties, and functions; composition; scope of Federal assistance and participation; dissolution

Joint Federal industry corporations proposed for congressional authorization pursuant to this chapter shall be subject to the provisions of section 5908 of this title and shall conform to the following guidelines except as otherwise authorized by Congress:

(1) Each such corporation may design, construct, operate, and maintain one or more experimental, demonstration, or commercial-size facilities, or other operations which will ascertain the technical, environmental, and economic feasibility of a particular energy technology. In carrying out this function, the

corporation shall be empowered either directly or by contract, to utilize commercially available technologies, perform tests, or design, construct, and operate pilot plants, as may be necessary for the design of the full-scale facility.

(2) Each corporation shall have—

(A) a Board of nine directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. The Board shall be empowered to adopt and amend bylaws. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from any non-Fede al entity or entities entering into contractual arrangements to participate in the corporation;

(B) a President and such other officers and employees as may be named and appointed by the Board (with the rates of compensation of all officers and employees being fixed by the Board); and

(C) the usual powers conferred upon corporations by the laws of the District of Columbia.

(3) An appropriate time interval, not to exceed 12 years, shall be established for the term of Federal participation in the corporation, at the expiration of which the Board of Directors shall take such action as may be necessary to dissolve the corporation or otherwise terminate Federal participation and financial interests. In carrying out such dissolution, the Board of Directors shall dispose of all physical facilities of the corporation in such manner and subject to such terms and conditions as the Board determines are in the public interest and consistent with existing law; and a share of the appraised value of the corporate assets proportional to the Federal participation in the corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the Treasury of the United States as miscellaneous receipts. All patent rights of the corporation shall, on such date of dissolution, be vested in the Administrator: *Provided*, That Federal participation may be terminated prior to the time established in the authorizing Act upon recommendation of the Board of Directors.

(4) Any commercially valuable product produced by demonstration facilities shall be disposed of in such manner and under such terms and conditions as the corporation shall prescribe. All revenues received by the corporation from the sale of such products shall be available to the corporation for used by it in defraying expenses incurred in connection with carrying out its functions to which this chapter applies.

(5) The estimated Federal share of the construction, operation, and maintenance cost over the life of each corporation shall be determined in order to facilitate a single congressional authorization of the full amount at the time of establishment of the corporation.

(6) The Federal share of the cost of each such corporation shall reflect (A) the technical and economic risk of the venture, (B) the probability of any financial return to the non-Federal participants arising from the venture, (C) the financial capability of the potential non-Federal participants, and (D) such other factors as the Administrator may set forth in proposing the corporation: *Provided*, That in no instance shall the Federal share exceed 90 per centum of the cost.

(7)(A) Prior to the establishment of any joint Federal-industry corporation pursuant to this chapter, the Administrator shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, and to the appropriate committees of the House of Representatives and the Senate a report setting forth in detail the consistency of the establishment of the corporation with the principles and directives set forth in section 5904 of this title and this section, and the proposed purpose and planned activities of the corporation.

(B) No such corporation shall be established unless previously authorized by specific legislation enacted by the Congress.

(c) Proposed competitive systems of price supports for demonstration facilities; guidelines

Competitive systems of price supports proposed for congressional authorization pursuant to this chapter shall conform to the following guidelines:

(1) The Administrator shall determine the types and capacities of the desired full-scale, commercial-size facility or other operation which would demonstrate the technical, environmental, and economic feasibility of a particular nonnuclear energy technology.

(2) The Administrator may award planning grants for the purpose of financing a study of the full cycle economic and environmental costs associated with the demonstration facility selected pursuant to paragraph (1) of this subsection. Such planning grants may be awarded to Federal and non-Federal entities including, but not limited to, industrial entities, universities, and nonprofit organizations. Such planning grants may also be used by the grantee to prepare a detailed and comprehensive bid to construct the demonstration facility.

(3) Following the completion of the studies pursuant to the planning grants awarded under paragraph (2) of this subsection regarding each such potential price supported demonstration facility for which the Administrator intends to request congressional authorization, he shall invite bids from all interested parties to determine the minimum amount of Federal price support needed to construct the demonstration facility. The Administrator may designate one or more competing entities, each to construct one commercial demonstration facility. Such designation shall be made on the basis of those entities, (A) commitment to construct the demonstration facility at the minimum level of Federal price supports, (B) detailed plan of environmental protection, and (C) proposed

design and operation of the demonstration facility.

(4) The construction plans and actual construction of the demonstration facility, together with all related facilities, shall be monitored by the Environmental Protection Agency. If additional environmental requirements are imposed by the Administrator after the designation of the successful bidders and if such additional environmental requirements result in additional costs, the Administrator is authorized to renegotiate the support price to cover such additional costs.

(5) The estimated amount of the Federal price support for a demonstration facility's product over the life of such facility shall be determined by the Administrator to facilitate a single congressional authorization of the full amount of such support at the time of the designation of the successful bidders.

(6) No price support program shall be implemented unless previously authorized by specific legislation enacted by the Congress.

(d) Support for joint university-industry research efforts

Nothing in this section shall preclude Federal participation in, and support for, joint university-industry nonnuclear energy research efforts.

(Pub. L. 93-577, § 7, Dec. 31, 1974, 88 Stat. 1883.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5907 of this title.

§ 5907. Demonstration projects

(a) Scope of authority of Administrator

The Administrator is authorized to—

(1) identify opportunities to accelerate the commercial applications of new energy technologies, and provide Federal assistance for or participation in demonstration projects (including pilot plants demonstrating technological advances and field demonstrations of new methods and procedures, and demonstrations of prototype commercial applications for the exploration, development, production, transportation, conversion, and utilization of energy resources); and

(2) enter into cooperative agreements with non-Federal entities to demonstrate the technical feasibility and economic potential of energy technologies on a prototype or full-scale basis.

(b) Criteria applicable in reviewing potential projects

In reviewing potential projects, the Administrator shall consider criteria including but not limited to—

(1) the anticipated, research, development, and application objectives to be achieved by the activities or facilities proposed;

(2) the economic, environmental, and societal significance which a successful demonstration may have for the national fuels and energy system;

(3) the relationship of the proposal to the criteria of priority set forth in section 5904(b)(2) of this title;

(4) the availability of non-Federal participants to construct and operate the facilities or perform the activities associated with the proposal and to contribute to the financing of the proposal;

(5) the total estimated cost including the Federal investment and the probable time schedule;

(6) the proposed participants and the proposed financial contributions of the Federal Government and of the non-Federal participants; and

(7) the proposed cooperative arrangement, agreements among the participants, and form of management of the activities.

(c) Federal and non-Federal share of costs

(1) A financial award under this section may be made only to the extent of the Federal share of the estimated total design and construction costs, plus operation and maintenance costs.

(2) For the purposes of this chapter the non-Federal share may be in any form, including, but not limited to, lands or interests therein needed for the project or personal property or services, the value of which shall be determined by the Administrator.

(d) Submission of proposals to Administration; promulgation of regulations by Administrator establishing procedures; required contents of proposals and regulations

(1) The Administrator shall, within six months of December 31, 1974, promulgate regulations establishing procedures for submission of proposals to the Energy Research and Development Administration for the purposes of this chapter. Such regulations shall establish a procedure for selection of proposals which—

(A) provides that projects will be carried out under such conditions and varying circumstances as will assist in solving energy extraction, transportation, conversion, conservation, and end-use problems of various areas and regions, under representative geological, geographic, and environmental conditions; and

(B) provides time schedules for submission of, and action on, proposal requests for the purposes of implementing the goals and objectives of this chapter.

(2) Such regulations also shall specify the types and form of the information, data, and support documentation that are to be contained in proposals for each form of Federal assistance or participation set forth in section 5906(a) of this title: *Provided*, That such proposals to the extent possible shall include, but not be limited to—

(A) specification of the technology;

(B) description of prior pilot plant operating experience with the technology;

(C) preliminary design of the demonstration plant;

(D) time tables containing proposed construction and operation plans;

(E) budget-type estimates of construction and operating costs;

(F) description and proof of title to land for proposed site, natural resources, electricity and water supply and logistical information related to access to raw materials to construct and operate the plant and to dispose of salable products produced from the plant;

(G) analysis of the environmental impact of the proposed plant and plans for disposal of

wastes resulting from the operation of the plant;

(H) plans for commercial use of the technology if the demonstration is successful;

(I) plans for continued use of the plant if the demonstration is successful; and

(J) plans for dismantling of the plant if the demonstration is unsuccessful or otherwise abandoned.

(3) The Administrator shall from time to time review and, as appropriate, modify and promulgate regulations issued pursuant to this section.

(e) Amount of estimate of Federal investment requiring Congressional authorization for appropriation

If the estimate of the Federal investment with respect to construction costs of any demonstration project proposed to be established under this section exceeds $50,000,000, no amount may be appropriated for such project except as specifically authorized by legislation hereafter enacted by the Congress.

(f) Amount of estimated Federal contribution authorizing Administrator to proceed with negotiation of agreements and implementation of proposal; amount of Federal contribution requiring Administrator to submit report to Congress as prerequisite to expenditure of funds

If the total estimated amount of the Federal contribution to the construction cost of a demonstration project does not exceed $50,000,000, the Administrator is authorized to proceed with the negotiation of agreements and implementation of the proposal subject to the availability of funds under the authorization of appropriations pursuant to section 5915 of this title: *Provided,* That if such Federal contribution to the construction cost is estimated to exceed $25,000,000 the Administrator shall provide a full and comprehensive report on the proposed demonstration project to the appropriate committees of the Congress and no funds may be expended for any agreement under the authority granted by this section prior to the expiration of sixty calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Administrator's report on the proposed project is received by the Congress. Such reports shall contain an analysis of the extent to which the proposed demonstration satisfies the criteria specified in subsection (b) of this section.

(Pub. L. 93-577, § 8, Dec. 31, 1974, 88 Stat. 1886.)

§ 5908. Patents and inventions

(a) Vesting of title to invention and issuance of patents to United States; prerequisites

Whenever any invention is made or conceived in the course of or under any contract of the Administration, other than nuclear energy research, development, and demonstration pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and the Administrator determines that—

(1) the person who made the invention was employed or assigned to perform research, development, or demonstration work and the invention is related to the work he was employed or assigned to perform, or that it was within the scope of his employment duties, whether or not it was made during working hours, or with a contribution by the Government of the use of Government facilities, equipment, materials, allocated funds, information proprietary to the Government, or services of Government employees during working hours; or

(2) the person who made the invention was not employed or assigned to perform research, development, or demonstration work, but the invention is nevertheless related to the contract or to the work or duties he was employed or assigned to perform, and was made during working hours, or with a contribution from the Government of the sort referred to in clause (1).[1]

title to such invention shall vest in the United States, and if patents on such invention are issued they shall be issued to the United States, unless in particular circumstances the Administrator waives all or any part of the rights of the United States to such invention in conformity with the provisions of this section.

(b) Contract as requiring report to Administration of invention, etc., made in course of contract

Each contract entered into by the Administration with any person shall contain effective provisions under which such person shall furnish promptly to the Administration a written report containing full and complete technical information concerning any invention, discovery, improvement, or innovation which may be made in the course of or under such contract.

(c) Waiver by Administrator of rights of United States; regulations prescribing procedures; record of waiver determinations; objectives

Under such regulations in conformity with the provisions of this section as the Administrator shall prescribe, the Administrator may waive all or any part of the rights of the United States under this section with respect to any invention or class of inventions made or which may be made by any person or class of persons in the course of or under any contract of the Administration if he determines that the interests of the United States and the general public will be best served by such waiver. The Administration shall maintain a publicly available, periodically updated record of waiver determinations. In making such determinations, the Administrator shall have the following objectives:

(1) Making the benefits of the energy research, development, and demonstration program widely available to the public in the shortest practicable time.

(2) Promoting the commercial utilization of such inventions.

(3) Encouraging participation by private persons in the Administration's energy research, development, and demonstration program.

(4) Fostering competition and preventing undue market concentration or the creation or maintenance of other situations inconsistent with the antitrust laws.

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[1] So in original. Probably should be a comma.

(d) Considerations applicable at time of contracting for waiver determination by Administrator

In determining whether a waiver to the contractor at the time of contracting will best serve the interests of the United States and the general public, the Administrator shall specifically include as considerations—

(1) the extent to which the participation of the contractor will expedite the attainment of the purposes of the program;

(2) the extent to which a waiver of all or any part of such rights in any or all fields of technology is needed to secure the participation of the particular contractor;

(3) the extent to which the contractor's commercial position may expedite utilization of the research, development, and demonstration program results;

(4) the extent to which the Government has contributed to the field of technology to be funded under the contract;

(5) the purpose and nature of the contract, including the intended use of the results developed thereunder;

(6) the extent to which the contractor has made or will make substantial investment of financial resources or technology developed at the contractor's private expense which will directly benefit the work to be performed under the contract;

(7) the extent to which the field of technology to be funded under the contract has been developed at the contractor's private expense;

(8) the extent to which the Government intends to further develop to the point of commercial utilization the results of the contract effort;

(9) the extent to which the contract objectives are concerned with the public health, public safety, or public welfare;

(10) the likely effect of the waiver on competition and market concentration; and

(11) in the case of a nonprofit educational institution, the extent to which such institution has a technology transfer capability and program, approved by the Administrator as being consistent with the applicable policies of this section.

(e) Considerations applicable to identified invention for waiver determination by Administrator

In determining whether a waiver to the contractor or inventor or rights to an identified invention will best serve the interests of the United States and the general public, the Administrator shall specifically include as considerations paragraphs (4) through (11) of subsection (d) of this section as applied to the invention and—

(1) the extent to which such waiver is a reasonable and necessary incentive to call forth private risk capital for the development and commercialization of the invention; and

(2) the extent to which the plans, intentions, and ability of the contractor or inventor will obtain expeditious commercialization of such invention.

(f) Rights subject to reservation where title to invention vested in United States

Whenever title to an invention is vested in the United States, there may be reserved to the contractor or inventor—

(1) a revocable or irrevocable nonexclusive, paid-up license for the practice of the invention throughout the world; and

(2) the rights to such invention in any foreign country where the United States has elected not to secure patent rights and the contractor elects to do so, subject to the rights set forth in paragraphs (2), (3), (6), and (7) of subsection (h) of this section: *Provided*, That when specifically requested by the Administration and three years after issuance of such a patent, the contractor shall submit the report specified in subsection (h)(1) of this section.

(g) Licenses to inventions; promulgation of regulations specifying terms and conditions; criteria and procedures for grant of exclusive or partially exclusive licenses; record of determinations

(1) Subject to paragraph (2) of this subsection, the Administrator shall determine and promulgate regulations specifying the terms and conditions upon which licenses may be granted in any invention to which title is vested in the United States.

(2) Pursuant to paragraph (1) of this subsection, the Administrator may grant exclusive or partially exclusive licenses in any invention only if, after notice and opportunity for hearing, it is determined that—

(A) the interests of the United States and the general public will best be served by the proposed license, in view of the applicant's intentions, plans, and ability to bring the invention to the point of practical or commercial applications;

(B) the desired practical or commercial applications have not been achieved, or are not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;

(C) exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth risk capital and expenses to bring the invention to the point of practical or commercial applications; and

(D) the proposed terms and scope of exclusivity are not substantially greater than necessary to provide the incentive for bringing the invention to the point of practical or commercial applications and to permit the licensee to recoup its costs and a reasonable profit thereon:

Provided, That, the Administrator shall not grant such exclusive or partially exclusive license if he determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates. The Administration shall maintain a publicly available, periodically updated record of determinations to grant such licenses.

(h) Required terms and conditions in waiver of rights or grant of exclusive or partially exclusive licenses

Each waiver of rights or grant of an exclusive or partially exclusive license shall contain such terms and conditions as the Administrator may determine to be appropriate for the protection of the interests of the United States and the

general public, including provisions for the following:

(1) Periodic written reports at reasonable intervals, and when specifically requested by the Administration, on the commercial use that is being made or is intended to be made of the invention.

(2) At least an irrevocable, nonexclusive, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the United States (including any Government agency) and States and domestic municipal governments, unless the Administrator determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments.

(3) The right in the United States to sublicense any foreign government pursuant to any existing or future treaty of agreement if the Administrator determines it would be in the national interest to acquire this right.

(4) The reservation in the United States of the rights to the invention in any country in which the contractor does not file an application for patent within such time as the Administration shall determine.

(5) The right in the Administrator to require the granting of a nonexclusive, exclusive, or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances, (A) to the extent that the invention is required for public use by governmental regulations, or (B) as may be necessary to fulfill health, safety, or energy needs, or (C) for such other purposes as may be stipulated in the applicable agreement.

(6) The right in the Administrator to terminate such waiver or license in whole or in part unless the recipient of the waiver or license demonstrates to the satisfaction of the Administrator that he has taken effective steps, or within a reasonable time thereafter is expected to take such steps, necessary to accomplish substantial utilization of the invention.

(7) The right in the Administrator, commencing three years after the grant of a license and four years after a waiver is effective as to an invention, to require the granting of a nonexclusive or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances, and in appropriate circumstances to terminate the waiver or license in whole or in part, following a hearing upon notice thereof to the public, upon a petition by an interested person justifying such hearing—

(A) if the Administrator determines, upon review of such material as he deems relevant, and after the recipient of the waiver or license, or other interested person, has had the opportunity to provide such relevant and material information as the Administrator may require, that such waiver or license has tended substantially to lessen competition or to result in undue concentration in any section of the country in any line of commerce to which the technology relates; or

(B) unless the recipient of the waiver or license demonstrates to the satisfaction of the Administrator at such hearing that he has taken effective steps, or within a reasonable time thereafter is expected to take such steps, necessary to accomplish substantial utilization of the invention.

(i) Publication in Federal Register by Administrator of waiver or license termination hearing requirements and availability of records

The Administrator shall provide an annual periodic notice to the public in the Federal Register, or other appropriate publication, of the right to have a hearing as provided by subsection (h)(7) of this section, and of the availability of the records of determinations provided in this section.

(j) Small business status of applicant for waiver or licenses

The Administrator shall, in granting waivers or licenses, consider the small business status of the applicant.

(k) Protection of invention, etc., rights by Administrator

The Administrator is authorized to take all suitable and necessary steps to protect any invention or discovery to which the United States holds title, and to require that contractors or persons who acquire rights to inventions under this section protect such inventions.

(l) Administration as defense agency of United States for purpose of maintaining secrecy of inventions

The Administration shall be considered a defense agency of the United States for the purpose of chapter 17 of title 35.

(m) Definitions

As used in this section—

(1) the term "person" means any individual, partnership, corporation, association, institution, or other entity;

(2) the term "contract" means any contract, grant, agreement, understanding, or other arrangement, which includes research, development, or demonstration work, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder;

(3) the term "made", when used in relation to any invention, means the conception or first actual reduction to practice of such invention;

(4) the term "invention" means inventions or discoveries, whether patented or unpatented; and

(5) the term "contractor" means any person having a contract with or on behalf of the Administration.

(n) Report concerning applicability of existing patent policies to energy programs; time for submission to President and appropriate congressional committees

Within twelve months after December 31, 1974, the Administrator with the participation of the Attorney General, the Secretary of Commerce, and other officials as the President may designate, shall submit to the President and the appropriate congressional committees a report concerning the applicability of existing patent policies affecting the programs under this chapter, along with his recommendations for amendments or additions to the statutory patent policy, including his recommendations on mandatory licensing, which he deems advis-

able for carrying out the purposes of this chapter.

(Pub. L. 93-577, § 9, Dec. 31, 1974, 88 Stat. 1887.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (a), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

The antitrust laws, referred to in subsec. (c)(4), probably mean the laws specified as antitrust laws in section 5909(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5906, 6981 of this title; title 15 section 2511.

§ 5909. Relationship to antitrust laws

(a) Nothing in this chapter shall be deemed to convey to any individual corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust law" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.) as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(Pub. L. 93-577, § 10, Dec. 31, 1974, 88 Stat. 1891.)

REFERENCES IN TEXT

Act of July 2, 1890, referred to in subsec. (b)(1), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which enacted sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables volume.

Act of October 15, 1914, referred to in subsec. (b)(2), is act Oct. 15, 1914, ch. 323, 78 Stat. 730, as amended, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15, Commerce and Trade, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables volume.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended, referred to in subsec. (b)(3), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables volume.

Act of June 19, 1936, referred to in subsec. (b)(5), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Antidiscrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Tables volume.

§ 5910. Environmental evaluations by Council on Environmental Quality

(a) Continuing analysis of effect of nonnuclear energy technologies

The Council on Environmental Quality is authorized and directed to carry out a continuing analysis of the effect of application of nonnuclear energy technologies to evaluate—

(1) the adequacy of attention to energy conservation methods; and

(2) the adequacy of attention to environmental protection and the environmental consequences of the application of energy technologies.

(b) Employment of consultants or contractors and services of other Federal agencies for studies and investigations

The Council on Environmental Quality, in carrying out the provisions of this section, may employ consultants or contractors and may by fund transfer employ the services of other Federal agencies for the conduct of studies and investigations.

(c) Annual public hearings on conduct of energy research and development and environmental consequences; availability of transcript

The Council on Environmental Quality shall hold annual public hearings on the conduct of energy research and development and the probable environmental consequences of trends in the development and application of energy technologies. The transcript of the hearings shall be published and made available to the public.

(d) Reports to President, Administrator, and Congress; inclusion by President of findings of Council in annual Environmental Quality Report

The Council on Environmental Quality shall make such reports to the President, the Administrator, and the Congress as it deems appropriate concerning the conduct of energy research and development. The President as a part of the annual Environmental Policy Report required by section 4341 of this title shall set forth the findings of the Council on Environmental Quality concerning the probable environmental consequences of trends in the development and application of energy technologies.

(Pub. L. 93-577, § 11, Dec. 31, 1974, 88 Stat. 1892.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5915 of this title.

§ 5911. Allocation or acquisition of essential materials and equipment pursuant to Presidential rule or order; transmission to Congress and effective date of proposed rule or order; disapproval by Congress

(a) The President may, by rule or order, require the allocation of, or the performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment if he finds that—

(1) such supplies are scarce, critical, and essential to carry out the purposes of this chapter; and

(2) such supplies cannot reasonably be obtained without exercising the authority granted by this section.

(b) The President shall transmit any rule or order proposed under subsection (a) of this section (bearing an identification number) to each House of Congress on the date on which it is proposed. If such proposed rule or order is transmitted to the Congress such proposed rule or order shall take effect at the end of the first period of thirty calendar days of continuous session of Congress after the date on which such proposed rule or order is transmitted to it unless, between the date of transmittal and the end of the thirty day period, either House passes a resolution stating in substance that such House does not favor such a proposed rule or order.

(Pub. L. 93-577, § 12, Dec. 31, 1974, 88 Stat. 1892.)

§ 5912. Water resource assessments

(a) Request by Administrator for assessment by Water Resources Council of water resource requirements and water supply availability for nonnuclear energy technologies; preparation requirements

At the request of the Administrator, the Water Resources Council shall undertake assessments of water resource requirements and water supply availability for any nonnuclear energy technology and any probable combinations of technologies which are the subject of Federal research and development efforts authorized by this chapter and the commercial development of which could have significant impacts on water resources. In the preparation of its assessment, the Council shall—

(1) utilize to the maximum extent practicable data on water supply and demand available in the files of member agencies of the Council;

(2) collect and compile any additional data it deems necessary for complete and accurate assessments;

(3) give full consideration to the constraints upon availability imposed by treaty, compact, court decree, State water laws, and water rights granted pursuant to State and Federal law;

(4) assess the effects of development of such technology on water quality;

(5) include estimates of cost associated with production and management of the required water supply, and the cost of disposal of waste water generated by the proposed facility or process;

(6) assess the environmental, social, and economic impact of any change in use of currently utilized water resource that may be required by the proposed facility or process; and

(7) consult with the Council on Environmental Quality.

(b) Assessment by Administrator or others of availability of adequate water resources as precondition for Federal assistance for proposed demonstration project; publication of report in Federal Register

For any proposed demonstration project which may involve a significant impact on water resources, the Administrator shall, as a precondition of Federal assistance to that project, prepare or have prepared an assessment of the availability of adequate water resources. A report on the assessment shall be published in the Federal Register for public review thirty days prior to the expenditure of Federal funds on the demonstration.

(c) Assessment by Water Resources Council of availability of adequate water resources as precondition for Federal assistance for commercial application of nonnuclear energy technologies

For any proposed Federal assistance for commercial application of energy technologies pursuant to this chapter, the Water Resource[1] Council shall, as a precondition of such Federal assistance, provide to the Administrator an assessment of the availability of adequate water resources for such commercial application and an evaluation of the environmental, social, and economic impacts of the dedication of water to such uses.

(d) Publication of reports of assessments and evaluations by Water Resources Council in Federal Register; public review and comments

Reports of assessments and evaluations prepared by the Council pursuant to subsections (a) and (c) of this section shall be published in the Federal Register and at least ninety days shall be provided for public review and comment. Comments received shall accompany the reports when they are submitted to the Administrator and shall be available to the public.

(e) Inclusion of survey and analysis of regional and national water resource availability in biennial assessment by Water Resources Council

The Council shall include a broad survey and analysis of regional and national water resource availability for energy development in the biennial assessment required by section 1962a-1(a) of this title.

(Pub. L. 93-577, § 13, Dec. 31, 1974, 88 Stat. 1893.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5904, 5915 of this title.

§ 5913. Evaluation by National Bureau of Standards of energy-related inventions prior to awarding of grants by Administrator; promulgation of regulations

The National Bureau of Standards shall give particular attention to the evaluation of all promising energy-related inventions, particularly those submitted by individual inventors and small companies for the purpose of obtaining direct grants from the Administrator. The National Bureau of Standards is authorized to promulgate regulations in the furtherance of this section.

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[1] So in original. Probably should be "Resources".

(Pub. L. 93-577, § 14, Dec. 31, 1974, 88 Stat. 1894.)

§ 5914. Reports to Congress

(a) Required contents

Concurrent with the submission of the President's annual budget to the Congress, the Administrator shall submit to the Congress each year—

(1) a report detailing the activities carried out pursuant to this chapter during the preceding fiscal year;

(2) a detailed description of the comprehensive plan for nuclear and nonnuclear energy research, development, and demonstration then in effect under section 5905(a) of this title; and

(3) a detailed description of the comprehensive nonnuclear research, development, and demonstration program then in effect under section 5905(b) of this title including its program elements and activities,

setting forth such modifications in the comprehensive plan referred to in clause (2) and the comprehensive program referred to in clause (3) as may be necessary to revise appropriately such plan and program in the light of the activities referred to in clause (1) and any changes in circumstances which may have occurred since the last previous report under this subsection.

(b) Additional required contents

The description of the comprehensive nonnuclear research, development, and demonstration program submitted under subsection (a)(2) of this section shall include a statement setting forth—

(1) the anticipated research, development, and application objectives to be achieved by the proposed program;

(2) the economic, environmental, and societal significance which the proposed program may have;

(3) the total estimated cost of individual program items;

(4) the estimated relative financial contributions of the Federal Government and non-Federal participants in the research and development program;

(5) the relationship of the proposed program to any Federal national energy or fuel policies; and

(6) the relationship of any short-term undertakings and expenditures to long-range goals.

(c) Satisfaction of requirements for reports relating to development of energy sources

The reports required by subsections (a) and (b) of this section will satisfy the reporting requirements of section 5877(a) of this title insofar as is concerned activities, goals, priorities, and plans of the Energy Research and Development Administration pertaining to nonnuclear energy.

(Pub. L. 93-577, § 15, Dec. 31, 1974, 88 Stat. 1894.)

SOLAR ENERGY: DIVISION PERSONNEL LEVELS AND PROGRESS TOWARD OBJECTIVES

Pub. L. 94-187, title III, § 311, Dec. 31, 1975, 89 Stat. 1074, provided that:

"As a part of the annual report required by section 15(a)(1) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914(a)(1), the Administrator shall:

"(a) detail the Solar Energy Division personnel level recommended for the current fiscal year by the Administrator and submitted to the Office of Management and Budget, and the personnel level authorized upon review by that Office; and

"(b) detail progress toward competition by January 1, 1980, of the objectives of the Solar Energy Research Development, and Demonstration Act of 1974 (42 U.S.C. 5551, et seq.)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5905 of this title.

§ 5915. Authorization of appropriations

(a) There may be appropriated to the Administrator to carry out the purposes of this chapter such sums as may be authorized in annual authorization Acts.

(b) Of the amounts appropriated pursuant to subsection (a) of this section—

(1) $500,000 annually shall be made available by fund transfer to the Council on Environmental Quality for the purposes authorized by section 5910 of this title; and

(2) not to exceed $1,000,000 annually shall be made available by fund transfer to the Water Resources Council for the purposes authorized by section 5912 of this title.

(c) There also may be appropriated to the Administrator by separate Acts such amounts as are required for demonstration projects for which the total Federal contribution to construction costs exceeds $50,000,000.

(Pub. L. 93-577, § 16, Dec. 31, 1974, 88 Stat. 1894.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5907 of this title.

§ 5916. Central source of nonnuclear energy information; acquisition of proprietary and other information; availability of information to public, Government agencies, Federal agencies and agency heads for execution of duties and responsibilities, and chairmen of Congressional Committees; disclosure restrictions

The Administrator shall promptly establish, develop, acquire, and maintain a central source of information on all energy resources and technology in furtherance of the Administrator's research, development, and demonstration mission carried out directly or indirectly under this chapter. When the Administrator determines that such information is needed to carry out the purposes of this chapter, he may acquire proprietary and other information (a) by purchase through negotiation or by donation from any person, or (b) from another Federal agency. The information maintained by the Administrator shall be made available to the public, subject to the provisions of section 552 of title 5 and section 1905 of title 18, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the

Administrator directly or indirectly from such person, would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this chapter, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, when necessary to carry out their duties and responsibilities under this chapter and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress or any committee of Congress upon request of the chairman.

(Pub. L. 93-577, § 17, as added Pub. L. 94-187, title III, § 312, Dec. 31, 1975, 89 Stat. 1075.)

§ 5917. Energy information

The Administrator is, upon request, authorized to obtain energy information under section 796(d) of title 15.

(Pub. L. 93-577, § 18, as added Pub. L. 94-187, title III, § 313, Dec. 31, 1975, 89 Stat. 1075.)

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EX. ORD. NO. 11776. PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Ex. Ord. No. 11776, eff. Mar. 28, 1974, 39 F.R. 11865, provided:

The President's Committee on Mental Retardation, established by Executive Order No. 11280 on May 11, 1966, has mobilized national planning and carried out

basic programs in the field of mental retardation. National goals have been established to reduce the occurrence of mental retardation by one-half before the end of the century and to return one-third of the people in mental institutions to useful lives in their communities. The achievement of these goals will require the most effective possible use of public and private resources.

Our country has become increasingly aware in recent years of the need to assure those who are retarded their full status as citizens under the law, and of the continuing need to mobilize the support of the general public and of specialized professional and volunteer groups for mental retardation activities. We also know that we must constantly evaluate existing programs to determine their adequacy and must continually consider a broad range of proposals for new mental retardation activities.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. *Committee continued and responsibilities expanded.* The President's Committee on Mental Retardation (hereinafter referred to as the Committee), with expanded membership and expanded responsibilities, is hereby continued in operation.

SEC. 2. *Composition of Committee.* The Committee shall be composed of the following members:

(1) The Secretary of Health, Education, and Welfare, who shall be the Chairman of the Committee.

(2) The Attorney General.

(3) The Secretary of Labor.

(4) The Secretary of Housing and Urban Development.

(5) The Director of the Office of Economic Opportunity [now the Director of the Community Services Administration].

(6) The Director of ACTION.

(7) Not more than twenty-one other members who shall be appointed to the Committee by the President. These persons may be employed in either the public or the private sectors and may include specialists in medicine and other healing arts, human development, special education, law, and employment problems, as well as members of foundations and other private organizations active in the mental retardation field. Except as the President may from time to time otherwise direct, appointees under this paragraph shall have three-year terms, except that an appointment made to fill a vacancy occurring before the expiration of a term shall be made for the balance of the unexpired term.

SEC. 3. *Functions of the Committee.* (a) The Committee shall provide such advice and assistance in the area of mental retardation as the President or Secretary of the Department of Health, Education, and Welfare may request and particularly shall advise with respect to the following areas:

(1) evaluation of the adequacy of the national effort to combat mental retardation;

(2) identification of the potential of various Federal programs for achieving Presidential goals in mental retardation;

(3) provision of adequate liaison between Federal activities and related activities of State and local governments, foundations, and other private organizations; and

(4) development and dissemination of such information as will tend to reduce the incidence of retardation and ameliorate its effects.

(b) The Committee shall make an annual report to the President concerning mental retardation. Such additional reports or recommendations may be made as the President may require or as the Committee may deem appropriate.

SEC. 4. *Cooperation by other agencies.* To assist the Committee in providing advice to the President, Federal departments and agencies requested to do so by the Committee shall designate liaison officers with the Committee. Such officers shall, on request by the Committee, and to the extent permitted by law, provide it with information on department and agency programs which do contribute to or which could contribute to achievement of the President's goals in the field of mental retardation.

SEC. 5. *Administrative arrangements.* (a) The office of the Secretary of the Department of Health, Education, and Welfare shall, to the extent permitted by law, provide the Committee with necessary staff, administrative services, and facilities.

(b) Each member of the Committee, except any member who then receives other compensation from the United States, may receive compensation for each day he or she is engaged upon the work of the Committee, as authorized by law (5 U.S.C. 3109), and may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(c) The Secretary of Health, Education, and Welfare shall perform such other functions with respect to the Committee as may be required by the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I; 86 Stat. 770) [set out in the Appendix to Title 5, Government Organization and Employees].

SEC. 6. *Construction.* Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency, to the authority of the Committee or as abrogating or restricting any such function in any manner.

SEC. 7. Executive Order No. 11280 of May 11, 1966, is hereby superseded.

RICHARD NIXON.

EXTENSION OF TERM OF PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Term of the President's Committee on Mental Retardation extended until Dec. 31, 1978, see Ex. Ord. No. 11948, eff. Dec. 20, 1976, 41 F.R. 55705, set out as a note under section 14 of Appendix to Title 5, Government Organization and Employees.

EX. ORD. NO. 11973. PRESIDENT'S COMMISSION ON MENTAL HEALTH

Ex. Ord. No. 11973, eff. Feb. 17, 1977, 42 F.R. 10677, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), [set out in the Appendix to Title 5, Government Organization and Employees], it is hereby ordered as follows:

SECTION 1. (a) There is hereby established the President's Commission on Mental Health, hereinafter referred to as the Commission, which shall be composed of not more than twenty persons who shall be appointed by the President.

(b) The President shall designate a Chairperson and a Vice Chairperson from among the members.

SEC. 2. (a) The Commission shall conduct such public hearings, inquiries, and studies as may be necessary to identify the mental health needs of the Nation. In particular, the Commission shall seek to identify:

(1) How the mentally ill, emotionally disturbed, and mentally retarded are being served, to what extent they are being underserved, and who is affected by such underservice.

(2) The projected needs for dealing with emotional stress during the next twenty-five years.

(3) The various ways the President, the Congress, and the Federal Government may most efficiently support the treatment of the underserved mentally ill, emotionally disturbed, and mentally retarded.

(4) Various methods for coordinating a unified approach to all mental health and people-helping services.

(5) The types of research the Federal Government should support to further the prevention and treatment of mental illness and mental retardation.

(6) What role the various educational systems, volunteer agencies and other people-helping institutions can perform to minimize emotional disturbance in our country.

(7) As nearly as possible, what programs will cost, when the money should be spent, and how the financing should be divided among Federal, State and local governments, and the private sector.

(b) The Commission shall submit a report to the President recommending how the mental health needs of the Nation can be met and identifying the relative priority of those needs.

SEC. 3. The Commission shall make a preliminary report with recommendations to the President by September 1, 1977. A final report with recommendations and priorities shall be submitted to the President by April 1, 1978.

SEC. 4. (a) The Chairperson of the Commission is authorized to establish such advisory committees as may be deemed appropriate to carry out the purposes of this Order.

(b) The Commission, and any advisory committees established pursuant to this Order, shall hold such hearings and public meetings as the Chairperson may deem necessary and as required by law.

SEC. 5. The Commission is authorized to request, at the direction of the Chairperson, from any executive department or agency, any information deemed necessary to carry out its functions under this Order. Each department or agency shall, to the extent permitted by law, furnish information and otherwise cooperate with the Commission in performing its functions under this Order.

SEC. 6. The General Services Administration shall provide administrative services and facilities to the Commission on a reimbursable basis.

SEC. 7. (a) Each member of the Commission and its advisory committees and staff who is not otherwise employed in the Government, may receive, to the extent permitted by law, compensation for each day he or she is engaged upon the work of the Commission at a rate not to exceed the maximum daily rate now or hereafter prescribed by law for GS-18 of the General Schedule, and may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703) for persons in the government service employed intermittently.

(b) The Commission is authorized to appoint and fix the compensation of such other persons as may be necessary to enable it to carry out its functions, and is authorized to obtain services in accordance with the provisions of Section 3109 of Title 5 of the United States Code, to the extent funds are available therefor.

(c) All necessary expenses incurred in connection with the work of the Commission shall be paid from the appropriation for "Unanticipated Needs," in the Executive Office Appropriations Act, 1977, or from such other funds as may be available.

(d) Within the limitations permitted by law the Commission has the authority to seek and receive other than government funds to carry out its work.

SEC. 8. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. I), except that of reporting annually to the Congress, which are applicable to the Commission or its advisory committees, shall be performed by the Secretary of Health, Education, and Welfare in accordance with guidelines and procedures established by the Office of Management and Budget.

SEC. 9. The Commission shall terminate sixty days after the transmittal of its final report to the President.

JIMMY CARTER.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 217a-1, 229b, 289k-1, 300a-7, 300*l*-2, 1320a-1, 3195, 3509 of this title; title 40 App. sections 202, 204.

SUBCHAPTER I—GENERAL PROVISIONS

§ 6001. Definitions

For purposes of this chapter:

(1) The term "State" includes Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

(2) The term "facility for persons with developmental disabilities" means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.

(3) The terms "nonprofit facility for persons with developmental disabilities" and "nonprofit private institution of higher learning" mean, respectively, a facility for persons with developmental disabilities and an institution of higher learning which are owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term "nonprofit private agency or organization" means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

(4) The term "construction" includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities); including architect's fees, but excluding the cost of offsite improvements and the cost of the acquisition of land.

(5) The term "cost of construction" means the amount found by the Secretary to be necessary for the construction of a project.

(6) The term "title", when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

(7) The term "developmental disability" means a disability of a person which—

(A)(i) is attributable to mental retardation, cerebral palsy, epilepsy, or autism;

(ii) is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or

(iii) is attributable to dyslexia resulting from a disability described in clause (i) or (ii) of this subparagraph;

(B) originates before such person attains age eighteen;

(C) has continued or can be expected to continue indefinitely; and

(D) constitutes a substantial handicap to such person's ability to function normally in society.

(8) The term "services for persons with developmental disabilities" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability; and such term includes diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and sociolegal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities;

(9) The term "satellite center" means an entity which is associated with one or more university affiliated facilities and which functions as a community or regional extension of such university affiliated facilities in the delivery of training, services, and programs to the developmentally disabled and their families, to personnel of State agencies concerned with developmental disabilities, and to others responsible for the care of persons with developmental disabilities.

(10) The term "university affiliated facility" means a public or nonprofit facility which is associated with, or is an integral part of, a college or university and which aids in demonstrating the provision of specialized services for the diagnosis and treatment of persons with developmental disabilities and which provides education and training (including interdisciplinary training) of personnel needed to render services to persons with developmental disabilities.

(11) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(Pub. L. 88-164, title I, § 102, as added Pub. L. 94-103, title I, § 125, Oct. 4, 1975, 89 Stat. 496.)

Prior Provisions

Provisions similar to those comprising subds. (1) to (8) and 11 of this section were contained in Pub. L. 88-164, title IV, § 401, Oct. 31, 1963, 77 Stat. 296; Pub. L. 90-31, § 4(a), June 24, 1967, 81 Stat. 79; Pub. L. 91-211, title I, §§ 102(b), 104, 105, Mar. 13, 1970, 84 Stat. 54-56; Pub. L. 91-517, title I, § 102(a), Oct. 30, 1970, 84 Stat. 1324; Pub. L. 94-63, title III, § 305(a), July 29, 1975, 89 Stat. 333 (formerly classified to section 2691(a), (b), (d) to (g), and (k) to (m) of this title) prior to repeal of section 401 of Pub. L. 88-164, as amended by Pub. L. 94-103, § 302(c).

Effective Date

Section 303 of Pub. L. 94-103 provided that: "The amendments made by this Act [see Short Title note below] shall take effect with respect to appropriations under the Act for fiscal years beginning after June 30, 1975."

Short Title of 1975 Amendment

Section 1 of Pub. L. 94-103 provided that: "This Act [which enacted sections 6001 to 6006, 6009 to 6012, 6031 to 6033, 6041 to 6043, 6067, 6068, and 6081 of this title; amended sections 6007, 6008, 6061 to 6066, and 6068 of this title; eliminated sections 295 to 295d-1, 2661 to 2666, and 2678 to 2678d of this title; repealed sections 2670, 2675, 2676, 2691, and 2693 to 2697b of this title; transferred sections 2671 to 2674 and 2677 to 2677c of this title; and enacted provisions set out as notes under sections 6001, 6007, and 6010 of this title] may be cited as the 'Developmentally Disabled Assistance and Bill of Rights Act'."

Short Title

Section 1 of Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 282, as amended, provided that: "This Act [which enacted this chapter and subchapter III (§ 2689 et seq.) of chapter 33 of this title, and enacted provisions set out as notes under sections 2689 and 6001 of this title] may be cited as the 'Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963'."

Section 101 of Pub. L. 88-164, title I, as added by Pub. L. 94-103, title I, § 125, provided that: "This title [this chapter] may be cited as the Developmental Disabilities Services and Facilities Construction Act'."

Fiscal Year Transition Period of July 1, 1976, through September 30, 1976; Applicability to Determinations, Limitations, Etc.

Pub. L. 94-274, title I, § 107, Apr. 21, 1976, 90 Stat. 387, provided that:" For the purposes of the Developmental Disabilities Services and Facilities Construction Act (42 U.S.C. 6001 et seq.) [this chapter] (1) the term 'fiscal year' includes the period of July 1, 1976, through September 30, 1976, (2) for purposes of paragraphs (3) and (4) of section 132(a) of that Act (42 U.S.C. 6062(a)(3) and (4)) that period shall be considered part of the fiscal year beginning July 1, 1975; and (3) the minimum allotment of the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands for that period under section 132(a)(1) of that Act (42 U.S.C. 6062(a)(1)) shall be $12,500 and the minimum allotment of each State for that period shall be $37,500."

Report and Study; Report to Congress and Congressional Committees

Section 301 of Pub. L. 94-103, as amended by Pub. L. 94-278, title XI, § 1107(d), Apr. 22, 1976, 90 Stat. 416, provided that:

"(a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary') shall, in accordance with section 102(7) of the Act (defining the term 'developmental disability') (as amended by title I of this Act) [par. (7) of this section], determine the conditions of persons which should be included as developmental disabilities for purposes of the programs authorized by title I of the Act [this chapter]. Within six months of the date of enactment of this Act [Oct. 4, 1975] the Secretary shall make such determination and shall make a report thereon to the Congress specifying the conditions which he determined should be so included, the conditions which he determined should not be so included, and the reasons for each such determination. After making such report, the Secretary shall periodically, but not less often than annually, review the conditions not so included as developmental disabilities to determine if they should be so included. The Secretary shall report to the Congress the results of each such review.

"(b)(1) The Secretary shall contract for the conduct of an independent objective study to determine (A) if the basis of the definition of the developmental disabilities (as amended by title I of this Act) [par. (7) of this section] with respect to which assistance is authorized under such title [this chapter] is appropriate and, to the extent that it is not, to determine an appropriate basis for determining which disabilities should be included and which disabilities should be excluded from the definition, and (B) the nature and adequacy of services provided under other Federal programs for persons with disabilities not included in such definition.

"(2) A final report giving the results of the study required by paragraph (1) and providing specifications for the definition of developmental disabilities for purposes of title I of the Act [this chapter] shall be submitted by the organization conducting the study to the Committee on Interstate and Foreign Commerce

of the House of Representatives and the Committee on Labor and Public Welfare of the Senate [now the Committee on Human Resources] not later than eighteen months after the date of enactment of this Act [Oct. 4, 1975]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6862 of this title.

§ 6002. Federal share

(a) Percentage limitation

The Federal share of any project to be provided through grants under subchapter II of this chapter and allotments under subchapter III of this chapter may not exceed 75 per centum of the necessary cost thereof as determined by the Secretary, except that if the project is located in an urban or rural poverty area, the Federal share may not exceed 90 per centum of the project's necessary costs as so determined.

(b) Non-Federal share; medium of payment

The non-Federal share of the cost of any project assisted by a grant or allotment under this chapter may be provided in kind.

(c) State expenditures

For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of a State or by a nonprofit private entity shall, subject to such limitations and conditions the Secretary may by regulation prescribe, be deemed to be expenditures by such State in the case of a project under subchapter III of this chapter or by a university-affiliated facility or a satellite center, as the case may be, in the case of a project assisted under subchapter II of this chapter.

(Pub. L. 88-164, title I, § 103, as added Pub. L. 94-103, title I, § 125, Oct. 4, 1975, 89 Stat. 498.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 88-164, title IV, § 401(h), Oct. 31, 1963, 77 Stat. 296; Pub. L. 91-211, title I, § 104, Mar. 13, 1970, 84 Stat. 55; Pub. L. 91-517, title I, § 102(a)(4), Oct. 30, 1970, 84 Stat. 1324; Pub. L. 94-63, title III, § 305(a), July 29, 1975, 89 Stat. 333 (formerly classified to section 2691(h) of this title) prior to repeal of section 401 of Pub. L. 88-164, as amended by Pub. L. 94-103, § 302(c).

Provisions similar to those comprising subsecs. (a) and (c) of this section were contained in Pub. L. 88-164, title I, § 137(a)(2), (b), as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1323, and amended Pub. L. 93-45, title III, § 301(c) (formerly classified to section 2677(a)(2), (b), of this title) prior to general revision of title I of Pub. L. 88-164 by Pub. L. 94-103.

§ 6003. State control of operations

Except as otherwise specifically provided, nothing in this chapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for persons with developmental disabilities with respect to which any funds have been or may be expended under this chapter.

(Pub. L. 88-164, title I, § 104, as added Pub. L. 94-103, title I, § 125, Oct. 4, 1975, 89 Stat. 498.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 88-164, title IV, § 406, Oct. 31, 1963, 77 Stat. 299; Pub. L. 91-517, title I, § 102(b), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94-63, title III, § 305(e), July 29, 1975, 89 Stat. 334 (formerly classified to section 2696 of this title) prior to repeal of section 406 of Pub. L. 88-164, as amended by Pub. L. 94-103, § 302(c).

§ 6004. Records and audit

(a) Each recipient of assistance under this chapter shall keep such records as the Secretary shall prescribe, including (1) records which fully disclose (A) the amount and disposition by such recipient of the proceeds of such assistance, (B) the total cost of the project or undertaking in connection with which such assistance is given or used, and (C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and (2) such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of assistance under this chapter that are pertinent to such assistance.

(Pub. L. 88-164, title I, § 105, as added Pub. L. 94-103, title I, § 125, Oct. 4, 1975, 89 Stat. 498.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 88-164, title IV, § 408, as added Pub. L. 89-105, § 3, Aug. 4, 1965, 79 Stat. 429 (formerly classified to section 2697 of this title) prior to repeal of section 408 of Pub. L. 88-164 by Pub. L. 94-103, § 302(c).

§ 6005. Employment of handicapped individuals

As a condition of providing assistance under this chapter, the Secretary shall require that each recipient of such assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals by the provisions of the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.] which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

(Pub. L. 88-164, title I, § 106, as added Pub. L. 94-103, title I, § 125, Oct. 4, 1975, 89 Stat. 498.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in text, is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 357, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables volume.

§ 6006. Recovery of expenditures under certain conditions; lien

If any facility with respect to which funds have been paid under subchapter II or III of this chapter shall, at any time within twenty years after the completion of construction—

(1) be sold or transferred to any person, agency, or organization which is not a public or nonprofit private entity, or

(2) cease to be a public or other nonprofit facility for persons with developmental disabilities,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment. The Secretary, in accordance with regulations prescribed by him, may, upon finding good cause therefor, release the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities.

(Pub. L. 88-164, title I, § 107, as added Pub. L. 94-103, title I, § 125, Oct. 4, 1975, 89 Stat. 499.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 88-164, title I, § 125, formerly § 124, Oct. 31, 1963, 77 Stat. 285, renumbered and amended Pub. L. 91-517, title II, §§ 201(c), 202, 205, Oct. 30, 1970, 84 Stat. 1326 (formerly classified to section 2664 of this title) prior to general revision of title I of Pub. L. 88-164 by Pub. L. 94-103.

Provisions similar to those comprising this section were contained in Pub. L. 88-164, title IV, § 405, Oct. 31, 1963, 77 Stat. 298; Pub. L. 91-517, title I, § 102(b), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94-63, title III, § 305(d), July 29, 1975, 89 Stat. 334 (formerly classified to section 2695 of this title) prior to repeal of section 405 of Pub. L. 88-164, as amended by Pub. L. 94-103, § 302(c).

§ 6007. National Advisory Council on Services and Facilities for the Developmentally Disabled

(a) Establishment; membership; ex officio members; representation of interests; designation of Chairman; meetings; nonapplication of Federal Advisory Committee Act to duration of Council

(1) There is established a National Advisory Council on Services and Facilities for the Developmentally Disabled (hereinafter in this section referred to as the "Council") which shall consist of nine ex officio members and sixteen members appointed by the Secretary. The ex officio members of the Council are the Deputy Commissioner of the Bureau of Education for the Handicapped, the Commissioner of Rehabilitation Services Administration, the Administrator of the Social and Rehabilitation Service, the Director of the National Institute of Child Health and Human Development, the Director of the National Institute of Neurological Disease and Stroke, the Director of the National Institute of Mental Health, and three other representatives of the Department of Health, Education, and Welfare selected by the Secretary. The appointed members of the Council shall be selected from persons who are not full-time employees of the United States and shall be selected without regard to the provisions of title 5 governing appointments in the competitive service. The appointed members shall be selected from advocates in the field of services to persons with developmental disabilities, including leaders in State or local government, in institutions of higher education, and in organizations which have demonstrated advocacy on behalf of such persons. At least five such members shall be representatives of State or local public or nonprofit private agencies responsible for services to persons with developmental disabilities, and at least five other such members shall be persons with developmental disabilities or the parents or guardians of such persons.

(2) The Secretary shall from time to time designate one of the appointed members to serve as Chairman of the Council.

(3) The Council shall meet at least twice a year.

(4) The Federal Advisory Committee Act shall not apply with respect to the duration of the Council.

(b) Terms of office; reappointment limitation

Each appointed member of the Council shall hold office for a term of four years. An individual who has served as a member of the Council may not be reappointed to the Council before two years has expired since the expiration of his last term of office as a member.

(c) Duties and functions

It shall be the duty and function of the Council to—

(1) advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by the Secretary in the implementation of the provisions of this chapter;

(2) study and evaluate programs authorized by this chapter to determine their effectiveness in carrying out the purposes for which they were established;

(3) monitor the development and execution of this chapter and report directly to the Secretary any delay in the rapid execution of this chapter;

(4) review grants made under this chapter and advise the Secretary with respect thereto; and

(5) submit to the Congress annually an evaluation of the efficiency of the administration of the provisions of this chapter.

(d) Technical and clerical assistance; statistical and other pertinent data

The Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such statistical and other pertinent data prepared by or available to the Department of Health, Education, and Welfare as it may require to carry out such functions.

(e) Compensation and travel expenses

Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate pro-

vided for GS-18 of the General Schedule for each day of such service (including travel time), and, while so serving away from their homes or regular places of business, all of the members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(Pub. L. 88-164, title I, § 108, formerly § 133, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1318, and renumbered and amended Pub. L. 94-103, title I, § 126(a), Oct. 4, 1975, 89 Stat. 499.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a)(1), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

Federal Advisory Committee Act, referred to in subsec. (a)(4), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5.

The General Schedule, referred to in subsec. (e), is set out under section 5332 of Title 5.

CODIFICATION

Section was formerly classified to section 2673 of this title.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-103, § 126(a)(1), substituted provisions for a Council of nine ex officio members and sixteen appointed members for prior provision for a Council of twenty appointed members, listed the ex officio membership substituted provision for selection of appointees from advocates in the field of services to persons with developmental disabilities for prior provision for selection of members "from leaders in the fields of service to the mentally retarded and other persons with developmental disabilities", substituted provision for representation by at least five persons with developmental disabilities or the parents or guardians of such persons for prior provision for such representation by at least five consumers of such services, required at least two meetings a year, and made the Federal Advisory Committee Act inapplicable to the duration of the Council.

Subsec. (b). Pub. L. 94-103, § 126(a)(2), substituted "Each appointed member" for "Each member", deleted provision respecting making appointments in the case of vacancies only for the remainder of the unexpired term and provision respecting appointment of original appointees five for a three year, five for a two year, and five for a one year term, and required a two year period from expiration of his term before former member may be reappointed to another term.

Subsec. (c). Pub. L. 94-103, § 126(a)(3), incorporated existing provisions in cls. (1) and (2) and added cls. (3), (4), and (5).

Subsec. (e). Pub. L. 94-103, § 126(a)(4), substituted "Appointed members" and "all of the members" for "Members" and "they", respectively.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-103 effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

TERMS OF OFFICE OF EXISTING MEMBERS; VACANCIES AFTER OCTOBER 4, 1975; EX OFFICIO MEMBERS, TERM AS OF OCTOBER 4, 1975

Section 126(b) of Pub. L. 94-103 provided that: "The amendments made by subsection (a) [to this section] do not affect the term of office of persons who on the date of the enactment of this Act [Oct. 4, 1975] are members of the National Advisory Council on Services and Facilities for the Developmentally Disabled. The Secretary of Health, Education, and Welfare shall make appointments to such Council in accordance with section 108 of the Act [this section] as vacancies occur in the membership of such Council on and after the date of the enactment of this Act [Oct. 4, 1975]. The ex officio members prescribed by section 108 of the Act [this section] shall take office as of the date of the enactment of this Act [Oct. 4, 1975]."

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

CROSS REFERENCES

Appointment of advisory committees, without regard to political affiliations, see section 217a-1 of this title.

§ 6008. Promulgation of regulations

The Secretary, as soon as practicable, by general regulations applicable uniformly to all the States, shall prescribe—

(1) the kinds of services which are needed to provide adequate programs for persons with developmental disabilities, the kinds of services which may be provided under a State plan approved under subchapter III of this chapter, and the categories of persons for whom such services may be provided;

(2) standards as to the scope and quality of services provided for persons with developmental disabilities under a State plan approved under subchapter III of this chapter;

(3) the general manner in which a State, in carrying out its State plan approved under subchapter III of this chapter, shall determine priorities for services and facilities based on type of service, categories of persons to be served, and type of disability, with special consideration being given to the needs for such services and facilities in areas of urban and rural poverty; and

(4) general standards of construction and equipment for facilities of different classes and in different types of location.

Regulations of the Secretary shall provide for approval of an application submitted by a State for a project to be completed by two or more political subdivisions, by two or more public or nonprofit private entities, or by any combination of such subdivisions and entities. Within one hundred and eighty days of the date of the enactment of any amendments to this chapter, the Secretary shall promulgate such regulations as may be required for implementation of such amendments.

(Pub. L. 88-164, title I, § 109, formerly § 139, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1323, and renumbered and amended Pub. L. 94-103, title I, § 127, Oct. 4, 1975, 89 Stat. 500.)

CODIFICATION

Section was formerly classified to section 2677b of this title.

AMENDMENTS

1975—Pub. L. 94-103 substituted "subchapter III of this chapter" for "this subchapter" wherever appearing, substituted numerical (1) to (4) for alphabetical (a) to (d) paragraph designations, deleted provision for promulgation of regulations only after consultation by the Secretary with the Council and added provisions respecting combination projects and promulgation of regulations for implementation of amendments to this chapter.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-103 effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6042 of this title.

§ 6009. Evaluation system

(a) Development; time-phased plan

The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, shall within two years of October 4, 1975, develop a comprehensive system for the evaluation of services provided to persons with developmental disabilities through programs (including residential and nonresidential programs) assisted under this chapter. Within six months after the development of such a system, the Secretary shall require, as a condition to the receipt of assistance under this chapter, that each State submit to the Secretary, in such form and manner as he shall prescribe, a time-phased plan for the implementation of such a system. Within two years after the date of the development of such a system, the Secretary shall require, as a condition to the receipt of assistance under this chapter, that each State provide assurances satisfactory to the Secretary that the State is using such a system.

(b) Statement of purpose

The evaluation system to be developed under subsection (a) of this section shall—

(1) provide objective measures of the developmental progress of persons with developmental disabilities using data obtained from individualized habilitation plans as required under section 6011 of this title or other comparable individual data;

(2) provide a method of evaluating programs providing services for persons with developmental disabilities which method uses the measures referred to in paragraph (1); and

(3) provide effective measures to protect the confidentiality of records of, and information describing, persons with developmental disabilities.

(c) Report to Congress

Not later than two years after October 4, 1975, the Secretary shall submit to the Congress a report on the evaluation system developed pursuant to subsection (a) of this section. Such report shall include an estimate of the costs to the Federal Government and the States of developing and implementing such a system.

(d) Grants and contracts; exception

The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, may make grants to public and private nonprofit entities and may enter into contracts with individuals and public and nonprofit private entities to assist in developing the evaluation to be developed under subsection (a) of this section, except that such a grant or contract may not be entered into with entities or individuals who have any financial or other direct interest in any of the programs to be evaluated under such a system. Contracts may be entered into under this subsection without regard to section 529 of title 31 and section 5 of title 41.

(Pub. L. 88-164, title I, § 110, as added Pub. L. 94-103, title I, § 128, Oct. 4, 1975, 89 Stat. 501.)

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6063 of this title.

§ 6010. Congressional findings respecting rights of the developmentally disabled

Congress makes the following findings respecting the rights of persons with developmental disabilities:

(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

(3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities that—

(A) does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or

(B) does not meet the following minimum standards:

(i) Provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.

(ii) Provision to such persons of appropriate and sufficient medical and dental services.

(iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

(iv) Prohibition on the excessive use of chemical restraints on such persons and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with

services, treatment, or habilitation for such persons.

(v) Permission for close relatives of such persons to visit them at reasonable hours without prior notice.

(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

(A) in the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 17, 1974 (39 Fed. Reg. pt. II), as appropriate when taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

(B) in the case of other residential programs for persons with developmental disabilities, which assure that care is appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

(C) in the case of nonresidential programs, which assure the care provided by such programs is appropriate to the persons served by the programs.

(Pub. L. 88-164, title I, § 111, as added Pub. L. 94-103, title II, § 201, Oct. 4, 1975, 89 Stat. 502.)

STUDIES AND RECOMMENDATIONS; REVIEW AND EVALUATION; REPORT TO CONGRESSIONAL COMMITTEES

Section 204 of Pub. L. 94-103 provided that the Secretary of Health, Education, and Welfare conduct a review and evaluation and make recommendations respecting standards and quality assurance mechanisms applicable to residential facilities and community agencies under certain Federal laws administered by the Secretary and that the Secretary make a report on such review, evaluation, and development of recommendations to the Committee on Labor and Public Welfare of the Senate (now the Committee on Human Resources) and the Committee on Interstate and Foreign Commerce of the House of Representatives.

§ 6011. Habilitation plans

(a) Condition for receipt of State allotment

The Secretary shall require as a condition to a State's receiving an allotment under subchapter III of this chapter after September 30, 1976, that the State provide the Secretary satisfactory assurances that each program (including programs of any agency, facility, or project) which receives funds from the State's allotment under such part (1) has in effect for each developmentally disabled person who receives services from or under the program a habilitation plan meeting the requirements of subsection (b) of this section, and (2) provides for an annual review, in accordance with subsection (c) of this section, of each such plan.

(b) Requirements

A habilitation plan for a person with developmental disabilities shall meet the following requirements:

(1) The plan shall be in writing.

(2) The plan shall be developed jointly by (A) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established, (B) such person, and (c)[1] where appropriate, such person's parents or guardian or other representative.

(3) Such plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainments of such goals. Such objectives shall be stated specifically and in sequence and shall be expressed in behavioral or other terms that provide measurable indices of progress. The plan shall (A) describe how the objectives will be achieved and the barriers that might interfere with the achievement of them, (B) state an objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (C) provide for a program coordinator who will be responsible for the implementation of the plan.

(4) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided, shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the initiation of each service to be provided and the anticipated duration of each such service.

(5) The plan shall specify the role and objectives of all parties to the implementation of the plan.

(c) Annual review

Each habilitation plan shall be reviewed at least annually by the agency primarily responsible for the delivery of services to the person for whom the plan was established or responsible for the coordination of the delivery of services to such person. In the course of the review, such person and the person's parents or guardian or other representative shall be given an opportunity to review such plan and to participate in its revision.

(Pub. L. 88-164, title I, § 112, as added Pub. L. 94-103, title II, § 202, Oct. 4, 1975, 89 Stat. 503.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6009 of this title.

§ 6012. Protection and advocacy of individual rights; State allotments; authorization of appropriations

(a) The Secretary shall require as a condition to a State receiving an allotment under subchapter III of this chapter for a fiscal year ending before October 1, 1977, that the State

[1] So in original. Probably should be "(C)".

provide the Secretary satisfactory assurances that not later than such date (1) the State will have in effect a system to protect and advocate the rights of persons with development disabilities, and (2) such system will (A) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State, and (B) be independent of any State agency which provides treatment, services, or habilitation to persons with developmental disabilities. The Secretary may not make an allotment under subchapter III of this chapter to a State for a fiscal year beginning after September 30, 1977, unless the State has in effect a system described in the preceding sentence.

(b)(1) To assist States in meeting the requirements of subsection (a) of this section, the Secretary shall allot to the States the sums appropriated under paragraph (2). Such allotments shall be made in accordance with subsections (a)(1)(A) and (d) of section 6062 of this title.

(2) For allotments under paragraph (1), there are authorized to be appropriated $3,000,000 for fiscal year 1976, $3,000,000 for fiscal year 1977, and $3,000,000 for fiscal year 1978.

(Pub. L. 88-164, title I, § 113, as added Pub. L. 94-103, title II, § 203, Oct. 4, 1975, 89 Stat. 504.)

SUBCHAPTER II—UNIVERSITY AFFILIATED FACILITIES

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 6002, 6006 of this title.

Part I—Demonstration and Training Grants

Part Referred to in Other Sections

This part is referred to in section 3195 of this title.

§ 6031. Grant authority; satellite centers

(a)(1) From appropriations under section 6033 of this title, the Secretary shall make grants to university affiliated facilities to assist them in meeting the cost of administering and operating—

(A) demonstration facilities for the provision of services for persons with developmental disabilities, and

(B) interdisciplinary training programs for personnel needed to render specialized services for persons with developmental disabilities.

(2) A university affiliated facility which has received a grant under paragraph (1) may apply to the Secretary for an increase in the amount of its grant under such paragraph to assist it in meeting the cost of conducting a feasibility study of the ways in which it, singly or jointly with other university affiliated facilities which have received a grant under paragraph (1), can establish and operate one or more satellite centers which would be located in areas not served by a university affiliated facility and which would provide, in coordination with demonstration facilities and training programs for which a grant was made under paragraph (1), services for persons with developmental disabilities. If the Secretary approves an application of a university affiliated facility under this paragraph for such a study, the Secretary may for such study increase the amount of the facility's grant under paragraph (1) by an amount not to exceed $25,000. Such a study shall be carried out in consultation with the State Planning Council for the State in which the facility is located and where the satellite center would be established.

(b) The Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. The Secretary may approve an application for a grant under this subsection only if the feasibility of establishing or operating the satellite center for which the grant is applied for has been established by a study assisted under subsection (a)(2) of this section.

(Pub. L. 88-164, title I, § 121, as added Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 486.)

Section Referred to in Other Sections

This section is referred to in sections 6032, 6033, 6041 of this title.

§ 6032. Applications

(a) Approval by Secretary

No grant may be made under section 6031 of this title unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application may be approved by the Secretary only if the application contains or is supported by reasonable assurances that the making of the grant applied for will not result in any decrease in the level of State, local, and other non-Federal funds for services for persons with developmental disabilities and training of persons to provide such services which funds would (except for such grant) be available to the applicant, but that such grant will be used to supplement, and, to the extent practicable, to increase the level of such funds.

(b) Special consideration for community rather than institutional services

The Secretary shall give special consideration to applications for grants under section 6031(a) of this title for programs which demonstrate an ability and commitment to provide within a community rather than in an institution services for persons with developmental disabilities.

(Pub. L. 88-164, title I, § 122, as added Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 487.)

Prior Provisions

Provisions similar to those comprising last sentence of subsec. (a) of this section were contained in Pub. L. 88-164, title I, § 127, as added Pub. L. 91-517, title II, § 206, Oct. 30, 1970, 84 Stat. 1326 (formerly classified to section 2666 of this title) prior to general revision of title I of Pub. L. 88-164 by Pub. L. 94-103.

§ 6033. Authorization of appropriations

(a) For the purpose of making grants under section 6031 of this title there are authorized to be appropriated $15,000,000 for fiscal year 1976,

$18,000,000 for fiscal year 1977, and $21,000,000 for fiscal year 1978.

(b)(1) Of the sums appropriated under subsection (a) of this section for fiscal years 1976 and 1977, not less than $5,000,000 shall be made available for grants in each such fiscal year under section 6031(a)(1) of this title. The remainder of the sums appropriated for such fiscal years shall be made available as follows:

(A) First, $750,000 shall be made available in each such fiscal year for studies described in section 6031(a)(2) of this title. The portion of such $750,000 not required for such studies shall be made available for grants under section 6031(a)(1) of this title.

(B) Second, any remaining sums shall be made available as the Secretary determines except that at least 40 per centum of such sums shall be made available for grants under section 6031(b) of this title.

(2) Of the sums appropriated under subsection (a) of this section for fiscal year 1978, not less than $5,500,000 shall be made available for grants in such fiscal year under section 6031(a)(1) of this title. The remainder of the sums appropriated for such fiscal year shall be made available as the Secretary determines except that at least 40 per centum of the remainder shall be made available for grants under section 6031(b) of this title.

(Pub. L. 88-164, title I, § 123, as added Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 487.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6031 of this title.

PART II—CONSTRUCTION

§ 6041. Projects authorized

The Secretary may make grants—

(1) to university-affiliated facilities to assist them in meeting the costs of the renovation or modernization of buildings which are being used in connection with an activity assisted by a grant under section 6031(a) of this title; and

(2) to university-affiliated facilities for the construction, renovation, or modernization of buildings to be used as satellite centers.

(Pub. L. 88-164, title I, § 125, as added Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 488.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6042, 6043 of this title.

§ 6042. Grants for projects; application; approval by Secretary; contents

No grant may be made under section 6041 of this title unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application may be approved by the Secretary only if it contains or is supported by reasonable assurances that—

(1) the plans and specifications for the project to be assisted by the grant applied for are in accord with regulations prescribed by the Secretary under section 6008 of this title;

(2) title to the site for such project is or will be vested in the applicant or in the case of a grant for a satellite center, in a public or other nonprofit entity which is to operate the center;

(3) adequate financial support will be available for completion of the construction, renovation, or modernization of the project and for its maintenance and operation when completed;

(4) all laborers and mechanics employed by contractors or subcontractors in the performance of work on the project will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of title 40); and

(5) the building which will be constructed, renovated, or modernized with the grant applied for will meet standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151-4156) (known as the Architectural Barriers Act of 1968).

(Pub. L. 88-164, title I, § 126, as added Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 488.)

REFERENCES IN TEXT

The Act of March 3, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act), referred to in par. (4), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in par. (4), is set out in the Appendix to Title 5, Government Organization and Employees.

Section 276c of title 40, referred to in par. (4), was in the original a reference to "section 2 of the Act of June 13, 1934 (40 U.S.C. 267c)".

The Act of August 12, 1968 (42 U.S.C. 4151-4156) (known as the Architectural Barriers Act of 1968), referred to in par. (4), is Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718, as amended, which is classified generally to chapter 51 (§ 4151 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

PRIOR PROVISIONS

Provisions similar to those comprising subds. (1) to (4) of this section were contained in Pub. L. 88-164, title I, § 135(a)(2)-(5), as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1321 (formerly classified to section 2675(a)(2)-(5) of this title) prior to repeal of section 135 of Pub. L. 88-164 by Pub. L. 94-103, § 112.

EFFECTIVE DATE

Section effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

§ 6043. Authorization of appropriations

For the purpose of making payments under grants under section 6041 of this title, there are authorized to be appropriated $3,000,000 for

fiscal year 1976, $3,000,000 for fiscal year 1977, and $3,000,000 for fiscal year 1978.

(Pub. L. 88-164, title I, § 127, as added Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 488.)

SUBCHAPTER III—STATE ALLOTMENTS

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 6002, 6006, 6008, 6011, 6012, 6081 of this title.

§ 6061. Authorization of appropriations

For allotments under section 6062 of this title, there are authorized to be appropriated $40,000,000 for fiscal year 1976, $50,000,000 for fiscal year 1977, and $60,000,000 for fiscal year 1978.

(Pub. L. 88-164, title I, § 131, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1317, and amended Pub. L. 93-45, title III, § 301(b), June 18, 1973, 87 Stat. 95; Pub. L. 94-103, title I, §§ 101(a), 110(a), Oct. 4, 1975, 89 Stat. 486, 489.)

Codification

Section was formerly classified to section 2671 of this title.

Amendments

1975—Pub. L. 94-103, § 110(a), substituted appropriations authorization under allotment program of $40,000,000; $50,000,000; and $60,000,000 for fiscal years ending 1976, 1977, and 1978, for prior appropriations authorization for grants for planning, provision of services, and construction and operation of facilities for persons with developmental disabilities of $60,000,000; $105,000,000; $130,000,000; $32,500,000; and $32,500,000 for fiscal years ending June 30, 1971 through 1975, respectively.

Pub. L. 94-103, § 101(a), authorized appropriation of $32,500,000 for fiscal year ending June 30, 1975.

1973—Pub. L. 93-45 authorized appropriation of $32,500,000 for the fiscal year ending June 30, 1974.

Effective Date of 1975 Amendment

Amendment by Pub. L. 94-103 effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

Section Referred to in Other Sections

This section is referred to in section 6062 of this title.

§ 6062. Allotments to States

(a) Determination of amount; availability of unexpended funds

(1)(A) In each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 6061 of this title among the States on the basis of—

(i) the population,

(ii) the extent of need for services and facilities for persons with developmental disabilities, and

(iii) the financial need,

of the respective States. Sums allotted to the States under this section shall be used in accordance with approved State plans under section 6063 of this title for the provision under such plans of services and facilities for persons with developmental disabilities.

(B)(i) Except as provided by clause (ii)—

(I) the allotment of the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands under subparagraph (A) of this paragraph in any fiscal year shall not be less than $50,000; and

(II) the allotment of each other State in any fiscal year shall not be less than the greater of $150,000, or the amount of the allotment (determined without regard to subsection (d) of this section) received by the State for the fiscal year ending June 30, 1974.

(ii) If the amount appropriated under section 6061 of this title for any fiscal year exceeds $50,000,000, the minimum allotment of a State for such fiscal year shall be increased by an amount which bears the same ratio to the amount determined for such State under clause (i) as the difference between the amount so appropriated and the amount authorized to be appropriated for such fiscal year bears to $50,000,000.

(2) In determining, for purposes of paragraph (1)(A)(ii), the extent of need in any State for services and facilities for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services specified, pursuant to section 6063(b)(5) of this title, in the State plan of such State approved under section 6063 of this title.

(3) Sums allotted to a State in a fiscal year and designated by it for construction and remaining unobligated at the end of such year shall remain available to such State for such purpose in the next fiscal year (and in such year only), in addition to the sums allotted to such State in such next fiscal year; except that if the maximum amount which may be specified for construction (pursuant to section 6063(b)(15) of this title) for a year plus any part of the amount so specified pursuant to such section for the preceding fiscal year and remaining unobligated at the end of such fiscal year is not sufficient to pay the Federal share of the cost of construction of a specific facility included in the construction program of the State developed pursuant to section 6063(b)(13) of this title, the amount specified pursuant to section 6063(b)(15) of this title for such preceding year shall remain available for a second additional year for the purpose of paying the Federal share of the cost of construction of such facility.

(4) Of the amount allotted to any State under paragraph (1) for fiscal year 1976, not less than 10 per centum of that allotment shall be used by such State, in accordance with the plan submitted pursuant to section 6063(b)(20) of this title, for the purpose of assisting it in developing and implementing plans designed to eliminate inappropriate placement in institutions of persons with developmental disabilities; and of the amount allotted to any State under paragraph (1) for each succeeding fiscal year, not less than 30 per centum of that allotment shall be used by such State for such purpose.

(b) Apportionment of allotment among State agencies

Whenever the State plan approved in accordance with section 6063 of this title provides for participation of more than one State agency in administering or supervising the administration

of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of the State plan. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, provided the purposes of the State plan will receive proportionate benefit from the combination.

(c) Combined allotments to States involved in joint effort

Whenever the State plan approved in accordance with section 6063 of this title provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies involved.

(d) Reallotment of funds not required by a State

The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, (but not earlier than thirty days after he has published notice of his intention to make such reallotment in the Federal Register) to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment under subsection (a) of this section for such fiscal year.

(Pub. L. 88-164, title I, § 132, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1317, and amended Pub. L. 94-103, title I, § 110(b)-(e)(1), title III, § 302(b)(1), Oct. 4, 1975, 89 Stat. 489, 490, 506; Pub. L. 94-278, title XI, § 1107(a) Apr. 22, 1976, 90 Stat. 416.)

CODIFICATION

Section was formerly classified to section 2672 of this title.

AMENDMENTS

1976—Subsec. (a)(1)(A)(iii). Pub. L. 94-278 substituted references to section "133" for "134", classified in the text as section 6063 of this title. Identical substitution was previously effected under Pub. L. 94-103. See 1975 Amendment note hereunder.

1975—Pub. L. 94-103, § 302(b)(1), substituted references to section "133" for "134" wherever appearing, classified in the text as section 6063 of this title.

Subsec. (a)(1). Pub. L. 94-103, § 110(b), substituted in provisions designated as subpar. (A) "In each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 6061 of this title among the States on the basis of" for prior provision reading "From the sums appropriated to carry out the purposes of section 2670 of this title for each fiscal year, other than amounts reserved by the Secretary for projects under subsection (e) of this section, the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of", redesignated as cls. (i) to (iii) of subpar. (A) provisions formerly designated as cls. (A) to (C) of par. (1), inserted in par. (1) the sentence "Sums allotted to the States under this section shall be used in accordance with approved State plans under section 6063 of this title for the provision under such plans of services and facilities for persons with developmental disabilities", inserted subpar. (B)(i)(I) provisions, substituted subpar. (B)(i)(II) provisions for prior par. (1) provision "except that the allotment of any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any such fiscal year shall not be less than $100,000", and substituted subpar. (B)(ii) provisions for prior par. (1) provisions "if such fiscal year is later than the fiscal year ending June 30, 1971, and if the sums so appropriated for such fiscal year exceed the amount authorized to be appropriated to carry out such purposes for the fiscal year ending June 30, 1971, an amount which bears the same ratio to $100,000 as the difference between the amount so appropriated and the amount authorized to be appropriated for the fiscal year ending June 30, 1971, bears to the amount authorized to be appropriated for the fiscal year ending June 30, 1971."

Subsec. (a)(2). Pub. L. 94-103, § 110(b), substituted "paragraph (a)(A)(ii)" and "section 6063 of this title" for "paragraph (1)" and "this subchapter".

Subsec. (a)(3). Pub. L. 94-103, § 110(b), reenacted par. (3) provisions, making nonsubstantial changes, including substitution of "in a fiscal year", "in the next fiscal year", "in such year only", "in such next fiscal year" for "for a fiscal year," "for the next fiscal year", "for such year only", "for such next fiscal year" and "except that" for "Provided, That".

Subsec. (a)(4). Pub. L. 94-103, § 110(b), added par. (4).

Subsec. (b). Pub. L. 94-103, § 110(e)(1), substituted "the State plan" for "this subchapter" at end of first sentence and in the second sentence.

Subsec. (d). Pub. L. 94-103, § 110(c), inserted "(but not earlier than thirty days after he has published notice of his intention to make such reallotment in the Federal Register)" after "as he may fix".

Subsec. (e). Pub. L. 94-103, § 110(d), repealed subsec. (e) which provided for grants to public or nonprofit private agencies for projects of special national significance, now covered in section 6081(e) of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-103 effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976 THROUGH SEPTEMBER 30, 1976; APPLICABILITY TO DETERMINATIONS, LIMITATIONS, ETC.

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, applicability to determinations of allotments, see section 107 of Pub. L. 94-274, Apr. 21, 1976, 90 Stat. 387, set out as a note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6012, 6061, 6063 to 6066 of this title.

§ 6063. State plans

(a) Submission and approval

Any State desiring to take advantage of this subchapter must have a State plan submitted to and approved by the Secretary under this section.

(b) Conditions for approval

In order to be approved by the Secretary under this section, a State plan for the provision of services and facilities for persons with developmental disabilities must—

(1) designate (A) a State Planning Council as prescribed by section 6067 of this title, to be responsible for submitting revisions of the State plan and transmitting such reports as may be required by the Secretary; (B) except as provided in clause (C), the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise); and (C) a single State agency as the sole agency for administering or supervising the administration of grants for construction under the State plan, except that during fiscal year 1971, the Secretary may waive, in whole or in part, the requirements of this paragraph;

(2) describe (A) the quality, extent, and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for Federally assisted State programs as may be specified by the Secretary, but in any case including education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health plans, and (B) how funds allotted to the State in accordance with section 6062 of this title will be used to complement and augment rather than duplicate or replace services and facilities for persons with developmental disabilities which are eligible for Federal assistance under such other State programs;

(3) set forth priorities, policies, and procedures for the expenditure of funds under the plan, which, in the judgment of the Secretary, are designed to assure effective continuing State planning, evaluation, and delivery of services (both public and private) for persons with developmental disabilities;

(4) contain or be supported by assurances satisfactory to the Secretary that (A) the funds paid to the State under section 6062 of this title will be used to make a significant contribution toward strengthening services for persons with developmental disabilities in the various political subdivisions of the State in order to improve the quality, scope, and extent of such services; (B) part of such funds will be made available to other public or nonprofit private agencies, institutions, and organizations; (C) such funds will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided and not to supplant such non-Federal funds; and (D) there will be reasonable State financial participation in the cost of carrying out the State plan;

(5) describe the quality, extent, and scope of treatment, services, and habilitation being provided or to be provided in implementing the State plan to persons with developmental disabilities;

(6) provide that services and facilities furnished under the plan for persons with developmental disabilities will be in accordance with standards prescribed by regulations, including standards as to the scope and quality of such services and the maintenance and operation of such facilities, except that during fiscal year 1971, the Secretary may waive, in whole or in part, the requirements of this paragraph;

(7) include provisions, meeting such requirements as the United States Civil Service Commission may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis;

(8) provide that the State Planning Council be adequately staffed and identify the staff assigned to the Council;

(9) provide that the State Planning Council will from time to time, but not less often than annually, review and evaluate its State plan approved under this section and submit appropriate modifications to the Secretary;

(10) provide that the State agencies designated pursuant to paragraph (1) will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(11) provide that special financial and technical assistance shall be given to areas of urban or rural poverty in providing services and facilities for persons with developmental disabilities who are residents of such areas;

(12) describe the methods to be used to assess the effectiveness and accomplishments of the State in meeting the needs of persons with developmental disabilities in the State;

(13) provide for the development of a program of construction of facilities for the provision of services for persons with developmental disabilities which (A) is based on a statewide inventory of existing facilities and survey of need; and (B) meets the requirements prescribed by the Secretary for furnishing needed services to persons unable to pay therefor;

(14) set forth the relative need, determined in accordance with regulations prescribed by the Secretary, for the several projects included in the construction program referred to in paragraph (13), assign priority to the construction of projects, insofar as financial resources available therefor and for the maintenance and operation make possible, in the order of such relative need, and require that construction of projects be done in accordance with standards prescribed by the Secretary pursuant to the Act of August 12, 1968 (42 U.S.C. 4151-4156) (known as the Architectural Barriers Act of 1968);

(15) specify the per centum of the State's allotment (under section 6062 of this title) for any year which is to be devoted to construction of facilities, which per centum shall be not more than 10 per centum of the State's allotment or such lesser per centum as the Secretary may from time to time prescribe;

(16) provide for affording to every applicant for a construction project an opportunity for hearing before the State agency;

(17) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this subchapter;

(18) provide reasonable assurance that adequate financial support will be available to complete the construction of, and to maintain and operate when such construction is completed, any facility, the construction of which is assisted with sums allotted under section 6062 of this title;

(19) provide reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project assisted with sums allotted under section 6062 of this title will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of title 40;

(20) contain a plan designed (A) to eliminate inappropriate placement in institutions of persons with developmental disabilities, and (B) to improve the quality of care and the state of surroundings of persons for whom institutional care is appropriate;

(21) provide for the early screening, diagnosis, and evaluation (including maternal care, developmental screening, home care, infant and preschool stimulation programs, and parent counseling and training) of developmentally disabled infants and preschool children, particularly those with multiple handicaps;

(22) provide for counseling, program coordination, follow-along services, protective services, and personal advocacy on behalf of developmentally disabled adults;

(23) support the establishment of community programs as alternatives to institutionalization and support such programs which are designed to provide services for the care and habilitation of persons with developmental disabilities, and which utilize, to the maximum extent feasible, the resources and personnel in related community programs to assure full coordination with such programs and to assure the provision of appropriate supplemental health, educational, or social services for persons with developmental disabilities;

(24) contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this chapter will be protected;

(25) provide for a design for implementation which shall include details on the methodology of implementation of the State plan, priorities for spending of funds provided under this subchapter, a detailed plan for the use of such funds, specific objectives to be achieved under the State plan, a listing of the programs and resources to be used to meet such objectives, and a method for periodic evaluation of the design's effectiveness in meeting such objectives;

(26) provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 (Public Law 93-113) [42 U.S.C. 4951 et seq.] and other appropriate voluntary organizations except that volunteer services shall supplement, but shall not be in lieu of, services of paid employees;

(27) provide for the implementation of an evaluation system in accordance with the system developed under section 6009 of this title;

(28) provide, to the maximum extent feasible, an opportunity for prior review and comment by the State Planning Council of all State plans of the State which relate to programs affecting persons with developmental disabilities;

(29) provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions to carry out the plan described in paragraph (20)(A), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees; and

(30) contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this subchapter.

(c) Approval of conforming plan; notice and hearing prior to final disapproval

The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section. The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

(d) Administrative expenditures; limitation of amount; payments: advances or reimbursement, installments

(1) At the request of any State, a portion of any allotment or allotments of such State under this subchapter for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the State plan approved under this section; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be available for such purpose. Payments under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from

the State sources for such year for administration of the State plan approved under this section not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1975.

(Pub. L. 88-164, title I, § 133, formerly § 134, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1319, and renumbered and amended Pub. L. 94-103, title I, §§ 110(e)(2), 111, title III, § 302(a), (b)(2), Oct. 4, 1975, 89 Stat. 490, 506.)

REFERENCES IN TEXT

The Act of August 12, 1968 (42 U.S.C. 4151-4156) (known as the Architectural Barriers Act of 1968), referred to in subsec. (b)(14), is Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718, as amended, which is classified generally to chapter 51 (§ 4151 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

The Act of March 3, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act), referred to in subsec. (b)(19), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b)(19), is set out in the Appendix to Title 5, Government Organization and Employees.

Section 276c of title 40, referred to in subsec. (b)(19), was in the original a reference to "section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)".

The Domestic Volunteer Service Act of 1973 (Public Law 93-113), referred to in subsec. (b)(26), is Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 394, which is classified principally to chapter 66 (§ 4951 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4951 of this title and Tables volume.

CODIFICATION

Section was formerly classified to section 2674 of this title.

AMENDMENTS

1975—Subsec. (b)(1)(A). Pub. L. 94-103, §§ 111(a)(1), 302(b)(2), substituted "State Planning Council as prescribed by section 6067 of this title" for "State planning and advisory council".

Subsec. (b)(3). Pub. L. 94-103, § 111(a)(2), substituted "priorities, policies, and procedures" for "policies and procedures".

Subsec. (b)(4)(A). Pub. L. 94-103, § 110(e)(2), substituted "under section 6062 of this title" for "under this subchapter".

Subsec. (b)(5). Pub. L. 94-103, § 111(a)(3), substituted "describe the quality, extent, and scope of treatment, services, and habilitation being provided or to be provided in implementing the State plan to persons with developmental disabilities" for "(A) provide for the furnishing of services and facilities for persons with developmental disabilities associated with mental retardation, (B) specify the other categories of developmental disabilities (approved by the Secretary) which will be included in the State plan, and (C) describe the quality, extent, and scope of services as will be provided to eligible persons".

Subsec. (b)(7). Pub. L. 94-103, § 111(a)(4), substituted "include provisions, meeting such requirements as the United States Civil Service Commission may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis" for "provide such methods of administration, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan".

Subsec. (b)(8). Pub. L. 94-103, § 111(a)(5), substituted "State Planning Council be adequately staffed and identify the staff assigned to the Council" for "State planning and advisory council shall be adequately staffed, and shall include representatives of each of the principal State agencies and representatives of local agencies and nongovernmental organizations and groups concerned with services for persons with developmental disabilities: Provided, That at least one-third of the membership of such council shall consist of representatives of consumers of such services".

Subsec. (b)(9). Pub. L. 94-103, § 111(a)(6), substituted "State Planning Council" for "State planning and advisory council".

Subsec. (b)(14). Pub. L. 94-103, § 111(a)(8), required that construction of projects be done in accordance with standards prescribed by the Secretary pursuant to the Architectural Barriers Act of 1968.

Subsec. (b)(15). Pub. L. 94-103, § 111(a)(7), substituted "10 per centum" for "50 per centum".

Subsec. (b)(18). Pub. L. 94-103, § 111(a)(9), added par. (18) and redesignated former par. (18) as (30).

Subsec. (b)(19) to (29). Pub. L. 94-103, § 111(a)(9), added pars. (19) to (29).

Subsec. (b)(30). Pub. L. 94-103, § 111(a)(9), redesignated former par. (18) as (30).

Subsec. (d). Pub. L. 94-103, § 111(b), added subsec. (d).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-103 effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

TRANSFER OF FUNCTIONS

Functions, powers, and duties relating to prescription of personnel standards on a merit basis, under prior provisions, were transferred to the United States Civil Service Commission by section 4728(a)(3)(A) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6062, 6064 to 6066, 6068 of this title.

§ 6064. Payments to the States for planning, construction, administration, and services

(a) From each State's allotments for a fiscal year under section 6062 of this title, the State shall be paid the Federal share of the expenditures, other than expenditures for construction, incurred during such year under its State plan approved under this subchapter. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

(b)(1) Upon certification to the Secretary by the State agency, designated pursuant to section 6063(b)(1) of this title, based upon inspection by it, that work has been performed upon a construction project, or purchases have been made for such project, in accordance with the approved plans and specifications and that payment of an installment is due to the applicant, such installment shall be paid to the State with respect to such project, from the applicable allotment of such State, except that (A) if the State is not authorized by law to make pay-

ments to the applicant, the payment shall be made directly to the applicant, (B) if the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 6065 of this title, payment may, after he has given the State agency so designated notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (C) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

(2) In case the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such revision is approved.

(Pub. L. 88-164, title I, § 134, formerly § 137, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1323, amended Pub. L. 93-45, title III, § 301(c), June 18, 1973, 87 Stat. 95, and renumbered and amended Pub. L. 94-103, title I, §§ 101(b), 113, title III, § 302(a), Oct. 4, 1975, 89 Stat. 486, 492, 506; Pub. L. 94-278, title XI, § 1107(b), (c), Apr. 22, 1976, 90 Stat. 416.)

CODIFICATION

Section was formerly classified to section 2677 of this section.

AMENDMENTS

1976—Subsec. (b)(1). Pub. L. 94-278 substituted reference to section "133" for "134", classified in the text as section 6063 of this title and reference to section "135" for "136", classified in the text as section 6065 of this title.

1975—Pub. L. 94-103, § 113(1), inserted in the heading "construction," after "planning".

Subsec. (a). Pub. L. 94-103, § 113(2), deleted par. (1) designation and par. (2) deeming expenditures by a political subdivision of a State or by nonprofit private agencies, organizations, and groups as State expenditures for purpose of determining the Federal share of a State, now covered in section 6002(c) of this title.

Subsec. (b). Pub. L. 94-103, § 113(3), substituted provisions respecting installment payments to a State from applicable allotment to the State upon approval of a construction project, including direct payments to applicants, withholding of payments pending corrective action, limitation of amount to Federal share of construction costs of the project, and additional payment in case of upward revision of estimated project cost from applicable State allotment for prior provisions prescribing the "Federal share", including such share in an urban or rural poverty area, now covered in section 6002(a) of this title.

Subsec. (b)(1). Pub. L. 94-103, § 101(b), provided a "Federal share" of 70 per centum of nonconstruction expenditures during fiscal year ending June 30, 1975.

1973—Subsec. (b)(1). Pub. L. 93-45 provided for a Federal share of 70 per centum of nonconstruction expenditures for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-103 effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

§ 6065. Withholding of payments for planning, construction, administration, and services; State's plan: review and notice of results

(a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Planning Council and the appropriate State agencies or agency, designated pursuant to section 6063(b)(1) of this title finds that—

(1) there is a failure to comply substantially with any of the provisions required by section 6063 of this title to be included in the State plan; or

(2) there is a failure to comply substantially with any regulations of the Secretary which are applicable to this subchapter.

the Secretary shall notify such State Council and agency or agencies that further payments will not be made to the State under section 6062 of this title (or, in his discretion, that further payments will not be made to the State under section 6062 of this title for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no further payment to the State under section 6062 of this title, or shall limit further payment under section 6062 of this title to such State to activities in which there is no such failure.

(b) The State Planning Council of a State shall review the State's plan (including the design for implementation of such plan) under section 6063 of this title and the actions of the State under such plan for the purpose of determining if the State is complying with the requirements of the plan (and its design for implementation). For the purpose of assisting the Secretary in the implementation of this section, a State Planning Council may notify the Secretary of the results of any review carried out under this subsection.

(Pub. L. 88-164, title I, § 135, formerly § 138, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1323, and renumbered and amended Pub. L. 94-103, title I, §§ 110(e)(3), 114, title III, § 302(a), (b)(3), Oct. 4, 1975, 89 Stat. 490, 493, 506.)

CODIFICATION

Section was formerly classified to section 2677a of this title.

Section 302(b)(3)(B) of Pub. L. 94-103 authorized substitution in subsec. (b) of reference to "section 6065" for "section 6066" but the only internal reference is to "section 6063 of this title".

Pub. L. 94-103, § 302(b)(3)(A), substituted reference to "section 133" for "section 134", classified in subsec. (a) introductory text, subsec. (a)(1), and subsec. (b) as section 6063 of this title.

AMENDMENTS

1975—Pub. L. 94-103, § 114(1), inserted in the section heading "construction," after "planning,".

Subsec. (a). Pub. L. 94-103, §§ 110(e)(3), 114(2), (3), substituted "under section 6062 of this title" for "under this subchapter" wherever appearing and "State Planning Council" and "State Council" for "State planning and advisory council" and "State council"; and designated existing provisions as subsec. (a) and redesignated as pars. (1) and (2) prior par. (a) and (b) designations.

Subsec. (b). Pub. L. 94-103, § 114(3), added subsec. (b).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-103 effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6064, 6068 of this title.

§ 6066. Nonduplication of payments

In determining the amount of any State's Federal share of the expenditures incurred by it under a State plan approved under section 6063 of this title, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than section 6062 of this title, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

(Pub. L. 88-164, title I, § 136, formerly § 140, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1324, and renumbered and amended Pub. L. 94-103, title I, § 115, title III, § 302(a), (b)(4), Oct. 4, 1975, 89 Stat. 493, 506.)

CODIFICATION

Section was formerly classified to section 2677c of this title.

AMENDMENTS

1975—Pub. L. 94-103, § 302(b)(4), substituted reference to section "133" for "134", classified in the text as section 6063 of this title.

Pub. L. 94-103, § 115, deleted existing subsec. (a) provisions respecting requirements for determining amount of payments by the Secretary for construction projects, now to be funded by States from their allotments under section 6062 of this title, deleted subsec. (b) designation for remaining provisions, and substituted provisions respecting expenditures incurred by a State under a State plan approved under section 6063 of this title for prior provisions for expenditures for planning, administration, and services incurred by the State under a State plan approved under the prior subchapter and provisions excepting from Federal financing funds under section 6062 of this title for such prior exception under the prior subchapter.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-103 effective with respect to appropriations under Pub. L. 94-103 for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94-103, set out as an Effective Date note under section 6001 of this title.

§ 6067. State Planning Councils

(a) Establishment; membership

Each State which receives assistance under this subchapter shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities. The members of a State's State Planning Council shall be appointed by the Governor of such State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies, and groups concerned with services to persons with developmental disabilities. At least one-third of the membership of such a Council shall consist of persons with developmental disabilities, or their parents or guardians, who are not officers of any entity, or employees of any State agency or of any other entity, which receives funds or provides services under this subchapter.

(b) Duties

The State Planning Council shall—

(1) supervise the development of and approve the State plan required by this subchapter;

(2) monitor and evaluate the implementation of such State plan;

(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities, and

(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request.

(c) Personnel

Each State receiving assistance under this subchapter shall provide for the assignment to its State Planning Council of personnel adequate to insure that the Council has the capacity to fulfill its responsibilities under subsection (b) of this section.

(Pub. L. 88-164, title I, § 137, formerly § 141, as added and renumbered Pub. L. 94-103, title I, § 116, title III, § 302(a), Oct. 4, 1975, 89 Stat. 493, 506.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6063 of this title.

§ 6068. Appeals; petition; record; jurisdiction of courts of appeals; conclusiveness of findings; review by Supreme Court; stay of administrative action

If any State is dissatisfied with the Secretary's action under section 6063(c) or section 6065 of this title, such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of the fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28. The commence-

ment of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

(Pub. L. 88-164, title I, § 138, formerly § 142, as added, renumbered, and amended Pub. L. 94-103, title I, § 117, title III, § 302(a), (b)(5), Oct. 4, 1975, 89 Stat. 494, 506.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 88-164, title IV, § 404, Oct. 31, 1963, 77 Stat. 298; Pub. L. 91-517, title I, § 102(c), Oct. 30, 1970, 84 Stat. 1324 (formerly classified to section 2694 of this title) prior to repeal of section 404 of Pub. L. 88-164, as amended by Pub. L. 94-103, § 302(c).

AMENDMENTS

1975—Pub. L. 94-103, § 302(b)(5), substituted references to "section 133(c)" for "section 134(c)" and "section 135" for "section 136", classified in the text to section 6063(c) and section 6065 of this title.

SUBCHAPTER IV—SPECIAL PROJECT GRANTS

§ 6081. Grant authority

(a) Specific projects

The Secretary, after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled, may make project grants to public or nonprofit private entities for—

(1) demonstrations (and research and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are disadvantaged or multihandicapped), including programs for parent counseling and training, early screening and intervention, infant and preschool children, seizure control systems, legal advocacy, and community based counseling, care, housing, and other services or systems necessary to maintain a person with developmental disabilities in the community;

(2) public awareness and public education programs to assist in the elimination of social, attitudinal, and environmental barriers confronted by persons with developmental disabilities;

(3) coordinating and using all available community resources in meeting the needs of persons with developmental disabilities (especially those from disadvantaged backgrounds);

(4) demonstrations of the provision of services to persons with developmental disabilities who are also disadvantaged because of their economic status;

(5) technical assistance relating to services and facilities for persons with developmental disabilities, including assistance in State and local planning or administration respecting such services and facilities;

(6) training of specialized personnel needed for the provision of services for persons with developmental disabilities or for research directly related to such training;

(7) developing or demonstrating new or improved techniques for the provision of services to persons with developmental disabilities (including model integrated service projects);

(8) gathering and disseminating information relating to developmental disabilities; and

(9) improving the quality of services provided in and the administration of programs for such persons.

(b) Applications; approval by Secretary; contents; review and commentary of State Planning Councils

No grant may be made under subsection (a) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary may not approve such an application unless the State in which the applicant's project will be conducted has a State plan approved under subchapter III of this chapter. The Secretary shall provide to the State Planning Council for the State in which an applicant's project will be conducted an opportunity to review the application for such project and to submit its comments thereon.

(c) Payments; advances or reimbursement; intervals; conditions; amount of grants: exclusions

Payments under grants under subsection (a) of this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. The amount of any grant under subsection (a) of this section shall be determined by the Secretary. In determining the amount of any grant under subsection (a) of this section for the costs of any project, there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(d) Authorization of appropriations

For the purpose of making payments under grants under subsection (a) of this section, there are authorized to be appropriated $18,000,000 for fiscal year 1976, $22,000,000 for fiscal year 1977, and $25,000,000 for fiscal year 1978.

(e) Funds for projects of national significance

Of the funds appropriated under subsection (d) of this section for any fiscal year, not less than 25 per centum of such funds shall be used for projects which the Secretary determines (after consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled) are of national significance.

(f) Use of funds; restriction

No funds appropriated under the Public Health Service Act [42 U.S.C. 201 et seq.], under this chapter (other than under subsection (d) of this section), or under section 304 of the Rehabilitation Act of 1973 [29 U.S.C. 774] may be used to make grants under subsection (a) of this section.

(Pub. L. 88-164, title I, § 145, as added Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 495.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (f), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to chapter 6A (§ 201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables volume.

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a)(5)-(7) of this section were contained in Pub. L. 88-164, title I, § 130(d)-(f), as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1316 (formerly classified to section 2670(d)-(f) of this title) prior to repeal of section 130 of Pub. L. 88-164 by Pub. L. 94-103, § 302(c).

Provisions similar to those comprising last sentence of subsec. (c) of this section were contained in Pub. L. 88-164, title IV, § 409, as added Pub. L. 90-574, title III, § 304, Oct. 15, 1968, 82 Stat. 1011 (formerly classified to section 2697a of this title) prior to repeal of section 409 of Pub. L. 88-164 by Pub. L. 94-103, § 302(c).

Provisions similar to those comprising subsec. (e) of this section were contained in Pub. L. 88-164, title I, § 132(e), as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1317 (formerly classified to section 2672(e) of this title) prior to general revision of title I of Pub. L. 88-164 by Pub. L. 94-103.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

CHAPTER 76—AGE DISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

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CROSS REFERENCES

Age discrimination in employment, see section 621 et seq. of Title 29, Labor.

Civil rights, Federally assisted programs, see section 2000d et seq. of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 31 section 1242.

§ 6101. Statement of purpose

It is the purpose of this chapter to prohibit unreasonable discrimination on the basis of age in programs or activities receiving Federal financial assistance, including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.).

(Pub. L. 94-135, title III, § 302, Nov. 28, 1975, 89 Stat. 728.)

REFERENCES IN TEXT

The State and Local Fiscal Assistance Act of 1972, referred to in text, is title I of Pub. L. 92-512, Oct. 20, 1972, 86 Stat. 919, as amended, which is classified principally to chapter 24 (§ 1221 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 1221 of Title 31 and Tables volume.

SHORT TITLE

Section 301 of Pub. L. 94-135 provided that: "The provisions of this title [this chapter] may be cited as the 'Age Discrimination Act of 1975'."

§ 6102. Prohibition of discrimination

Pursuant to regulations prescribed under section 6103 of this title, and except as provided by section 6103(b) and section 6103(c) of this title, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(Pub. L. 94-135, title III, § 303, Nov. 28, 1975, 89 Stat. 728.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6103 of this title.

§ 6103. Regulations

(a) Publication in Federal Register of proposed general regulations, final general regulations, and anti-discrimination regulations; effective date

(1) Not later than one year after the transmission of the report required by section 6106(b) of this title, or two and one-half years after November 28, 1975, whichever occurs first, the Secretary of Health, Education, and Welfare shall publish in the Federal Register pro-

posed general regulations to carry out the provisions of section 6102 of this title.

(2)(A) The Secretary shall not publish such proposed general regulations until the expiration of a period comprised of—

(i) the forty-five day period specified in section 6106(e) of this title; and

(ii) an additional forty-five day period, immediately following the period described in clause (i), during which any committee of the Congress having jurisdiction over the subject matter involved may conduct hearings with respect to the report which the Commission is required to transmit under section 6106(d) of this title, and with respect to the comments and recommendations submitted by Federal departments and agencies under section 6106(e) of this title.

(B) The forty-five day period specified in subparagraph (A)(ii) shall include only days during which both Houses of the Congress are in session.

(3) Not later than ninety days after the Secretary publishes proposed regulations under paragraph (1), the Secretary shall publish in the Federal Register final general regulations to carry out the provisions of section 6102 of this title, after taking into consideration any comments received by the Secretary with respect to the regulations proposed under paragraph (1).

(4) Not later than ninety days after the Secretary publishes final general regulations under paragraph (a)(3), the head of each Federal department or agency which extends Federal financial assistance to any program or activity by way of grant, entitlement, loan, or contract other than a contract of insurance or guaranty, shall transmit to the Secretary and publish in the Federal Register proposed regulations to carry out the provisions of section 6102 of this title and to provide appropriate investigative, conciliation, and enforcement procedures. Such regulations shall be consistent with the final general regulations issued by the Secretary.

(5) Notwithstanding any other provision of this section, no regulations issued pursuant to this section shall be effective before January 1, 1979.

(b) Nonviolative actions; program or activity exemption

(1) It shall not be a violation of any provision of this chapter, or of any regulation issued under this chapter, for any person to take any action otherwise prohibited by the provisions of section 6102 of this title if, in the program or activity involved—

(A) such action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of such program or activity; or

(B) the differentiation made by such action is based upon reasonable factors other than age.

(2) The provisions of this chapter shall not apply to any program or activity established under authority of any law which (A) provides any benefits or assistance to persons based upon the age of such persons; or (B) establishes criteria for participation in age-related terms or describes intended beneficiaries or target groups in such terms.

(c) Employment practices and labor-management joint apprenticeship training program exemptions; Age Discrimination in Employment Act unaffected

(1) Except with respect to any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act of 1974 (29 U.S.C. 801 et seq.), as amended, nothing in this chapter shall be construed to authorize action under this chapter by any Federal department or agency with respect to any employment practice of any employer, employment agency, or labor organization, or with respect to any labor-management joint apprenticeship training program.

(2) Nothing in this chapter shall be construed to amend or modify the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621-634), as amended, or to affect the rights or responsibilities of any person or party pursuant to such Act.

(Pub. L. 94-135, title III, § 304, Nov. 28, 1975, 89 Stat. 729.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1974 (29 U.S.C. 801 et seq.), as amended, referred to in subsec. (c)(1), probably means Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, as amended, known as the Comprehensive Employment and Training Act of 1973, which is classified principally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables volume.

The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621-634), as amended, referred to in subsec. (c)(2), is Pub. L. 90-202, Dec. 15, 1967, 81 Stat. 602, as amended, which is classified generally to chapter 14 (§ 621 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 29 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6102, 6104 of this title.

§ 6104. Enforcement

(a) Methods of achieving compliance with regulations

The head of any Federal department or agency who prescribes regulations under section 6103 of this title may seek to achieve compliance with any such regulation—

(1) by terminating, or refusing to grant or to continue, assistance under the program or activity involved to any recipient with respect to whom there has been an express finding on the record, after reasonable notice and opportunity for hearing, of a failure to comply with any such regulation; or

(2) by any other means authorized by law.

(b) Limitations on termination of, or on refusal to grant or to continue, assistance

Any termination of, or refusal to grant or to continue, assistance under subsection (a)(1) of this section shall be limited to the particular political entity or other recipient with respect to which a finding has been made under subsection (a)(1) of this section. Any such termination or refusal shall be limited in its effect to the particular program or activity, or part of such

program or activity, with respect to which such finding has been made. No such termination or refusal shall be based in whole or in part on any finding with respect to any program or activity which does not receive Federal financial assistance.

(c) Advice as to failure to comply with regulation; determination that compliance cannot be secured by voluntary means

No action may be taken under subsection (a) of this section until the head of the Federal department or agency involved has advised the appropriate person of the failure to comply with the regulation involved and has determined that compliance cannot be secured by voluntary means.

(d) Report to congressional committees

In the case of any action taken under subsection (a) of this section, the head of the Federal department or agency involved shall transmit a written report of the circumstances and grounds of such action to the committees of the House of Representatives and the Senate having legislative jurisdiction over the program or activity involved. No such action shall take effect until thirty days after the transmission of any such report.

(e) Exclusiveness of remedy

The provisions of this section shall be the exclusive remedy for the enforcement of the provisions of this chapter.

(Pub. L. 94-135, title III, § 305, Nov. 28, 1975, 89 Stat. 730.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6105 of this title.

§ 6105. Judicial review

(a) Provisions of other laws

Any action by any Federal department or agency under section 6104 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by any such department or agency on other grounds.

(b) Provisions of chapter 7 of title 5; reviewable agency discretion

In the case of any action by any Federal department or agency under section 6104 of this title which is not otherwise subject to judicial review, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with the provisions of chapter 7 of title 5. For purposes of this subsection, any such action shall not be considered committed to unreviewable agency discretion within the meaning of section 701(a)(2) of such title.

(Pub. L. 94-135, title III, § 306, Nov. 28, 1975, 89 Stat. 730.)

§ 6106. Study of discrimination based on age

(a) Study by Commission on Civil Rights

The Commission on Civil Rights shall (1) undertake a study of unreasonable discrimination based on age in programs and activities receiving Federal financial assistance; and (2) identify with particularity any such federally assisted program or activity in which there is found evidence of persons who are otherwise qualified being, on the basis of age, excluded from participation in, denied the benefits of, or subjected to discrimination under such program or activity.

(b) Public hearings

As part of the study required by this section, the Commission shall conduct public hearings to elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination in programs and activities receiving Federal financial assistance, and particularly with respect to the reasonableness of distinguishing, on the basis of age, among potential participants in, or beneficiaries of, specific federally assisted programs.

(c) Publication of results of analyses, research and studies by independent experts; services of voluntary or uncompensated personnel

The Commission is authorized to obtain, through grant or contract, analyses, research and studies by independent experts of issues relating to age discrimination and to publish the results thereof. For purposes of the study required by this section, the Commission may accept and utilize the services of voluntary or uncompensated personnel, without regard to the provisions of section 1975(b) of this title.

(d) Report to President and Congress; copies to affected Federal departments and agencies

Not later than eighteen months after November 28, 1975, the Commission shall transmit a report of its findings and its recommendations for statutory changes (if any) and administrative action, including suggested general regulations, to the Congress and to the President and shall provide a copy of its report to the head of each Federal department and agency with respect to which the Commission makes findings or recommendations.

(e) Comments and recommendations of Federal departments and agencies; submission to President and congressional committees

Not later than forty-five working days after receiving a copy of the report required by subsection (d) of this section, each Federal department or agency with respect to which the Commission makes findings or recommendations shall submit its comments and recommendations regarding such report to the President and to the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

(f) Cooperation of Federal departments and agencies with Commission

The head of each Federal department or agency shall cooperate in all respects with the Commission with respect to the study required by subsection (a) of this section, and shall provide to the Commission such data, reports, and documents in connection with the subject matter of such study as the Commission may request.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

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(Pub. L. 94-135, title III, § 307, Nov. 28, 1975, 89 Stat. 731; S. Res. 4, Feb. 4, 1977.)

CHANGE OF NAME

The Committee on Labor and Public Welfare of the Senate was abolished and replaced by the Committee on Human Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6103 of this title.

§ 6107. Definitions

For purposes of this chapter—

(1) the term "Commission" means the Commission on Civil Rights;

(2) the term "Secretary" means the Secretary of Health, Education, and Welfare; and

(3) the term "Federal department or agency" means any agency as defined in section 551 of title 5 and includes the United States Postal Service and the Postal Rate Commission.

(Pub. L. 94-135, title III, § 308, Nov. 28, 1975, 89 Stat. 731.)

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 sections 719j, 759.

§ 6201. Congressional statement of purpose

The purposes of this chapter are—

(1) to grant specific standby authority to the President, subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of

energy conservation plans, and to fulfill obligations of the United States under the international energy program;

(2) to provide for the creation of a Strategic Petroleum Reserve capable of reducing the impact of severe energy supply interruptions;

(3) to increase the supply of fossil fuels in the United States, through price incentives and production requirements;

(4) to conserve energy supplies through energy conservation programs, and, where necessary, the regulation of certain energy uses;

(5) to provide for improved energy efficiency of motor vehicles, major appliances, and certain other consumer products;

(6) to reduce the demand for petroleum products and natural gas through programs designed to provide greater availability and use of this Nation's abundant coal resources; and

(7) to provide a means for verification of energy data to assure the reliability of energy data.

(Pub. L. 94-163, § 2, Dec. 22, 1975, 89 Stat. 874.)

REFERENCES IN TEXT

This chapter, referred to in introductory clause, was in the original "this Act", meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out below and Tables volume.

SHORT TITLE

Section 1 of Pub. L. 94-163 provided: "That this Act [enacting this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amending sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 2071 of the Appendix to Title 50, War and National Defense, enacting provisions set out as notes under this section, sections 753 and 796 of Title 15, and section 2071 of Title 50 App., and repealing provisions formerly set out as a note under section 1904 of Title 12, Banks and Banking] may be cited as the 'Energy Policy and Conservation Act'."

EX. ORD. NO. 11912. DELEGATION OF AUTHORITIES

Ex. Ord. No. 11912, eff. Apr. 13, 1976, 41 F.R. 15825, provided:

By virtue of the authority vested in me by the Constitution and the statutes of the United States of America, including the Energy Policy and Conservation Act (Public Law 94-163, 89 Stat. 871, 42 U.S.C. 6201 et seq.), the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 1901 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), and section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) The Administrator of General Services is designated and empowered to perform without approval, ratification, or other action by the President, the functions vested in the President by section 510 of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 915, 15 U.S.C. 2010). In performing these functions, the Administrator of General Services shall consult with the Secretary of Transportation and the Administrator of the Federal Energy Administration.

(b) The Administrator of the Federal Energy Administration, in consultation with the Administrator of General Services and the Administrator of Energy Research and Development, shall coordinate the overall development of the 10-year plan for energy conservation with respect to Government buildings, as provided by section 381(a)(2) of the Energy Policy and Conservation Act (89 Stat. 939, 42 U.S.C. 6361(a)(2)). The Administrator of the Federal Energy Administration shall also consult with the Secretary of Commerce for the development of appropriate standards and technical criteria included in this plan. The heads of those Federal agencies that have the authority to construct, operate, manage, or lease Federal buildings shall prepare plans for buildings under the custody and control of, or leased by, such agencies. The Administrator of the Federal Energy Administration shall submit such plan to the President for his consideration.

SEC. 2. The Secretary of Commerce is designated and empowered to perform without approval, ratification, or other action by the President, the functions vested in the President by section 103 of the Energy Policy and Conservation Act (89 Stat. 877, 42 U.S.C. 6212). In performing each of these functions, the Secretary of Commerce shall consult with appropriate Executive agencies, as set forth in the provisions of section 5(a) of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2404(a)).

SEC. 3. The Administrator of the Office of Federal Procurement Policy, in the exercise of his statutory responsibility to provide overall direction of procurement policy (41 U.S.C. 405), shall, after consultation with the heads of appropriate agencies, including those responsible for developing energy conservation and efficiency standards, and to the extent he considers appropriate and with due regard to the program activities of the Executive agencies, provide policy guidance governing the application of energy conservation and efficiency standards in the Federal procurement process in accord with section 381(a)(1) of the Energy Policy and Conservation Act (89 Stat. 939, 42 U.S.C. 6361(a)(1)).

SEC. 4. (a) The Administrator of the Federal Energy Administration, in consultation with the heads of appropriate agencies, is hereby authorized and directed to develop for the President's consideration, in accord with section 201 of the Energy Policy and Conservation Act (89 Stat. 890, 42 U.S.C. 6261), the energy conservation and rationing contingency plans prescribed under sections 202 and 203 of the Energy Policy and Conservation Act (89 Stat. 892, 42 U.S.C. 6262 and 6263).

(b) The Administrator of the Federal Energy Administration shall prepare, with the assistance of the heads of appropriate agencies, for the President's consideration, the annual reports provided by section 381(c) of the Energy Policy and Conservation Act (89 Stat. 939, 42 U.S.C. 6361(c)).

SEC. 5. The Secretary of State is hereby delegated the authority vested in the President by Section 252(c)(1)(A)(iii) of the Energy Policy and Conservation Act (89 Stat. 895, 42 U.S.C. 6272(c)(1)(A)(iii)).

SEC. 6. The Administrator of the Federal Energy Administration is designated and empowered to perform without approval, ratification, or other action by the President, the functions vested in the President by:

(a) Section 251 of the Energy Policy and Conservation Act (89 Stat. 894, 42 U.S.C. 6271), except the making of the findings provided by subparagraph (b)(1)(B) thereof; however, in performing these functions, the Administrator shall consult with the Secretary of Commerce with respect to the international allocation of petroleum products which are within the territorial jurisdiction of the United States; and *provided that* the Secretary of Commerce shall promulgate rules, pursuant to the procedures established by the Export Administration Act of 1969, as amended [section 2401 et seq. of Title 50, App., War and National Defense], to authorize the export of petroleum and petroleum products, as may be necessary for implementation of the obligations of the United States under the International Energy Program, and in accordance with the rules promulgated under Section 251 of the Energy Policy and Conservation Act [section 6271 of this title] by the Administrator pursuant to this subsection.

(b) Section 253(c) of the Energy Policy and Conservation Act (89 Stat. 898, 42 U.S.C. 6273);

(c) Section 254(a) of the Energy Policy and Conservation Act (89 Stat. 899, 42 U.S.C. 6274(a)), including the receipt of petitions under section 254(a)(3)(B) [section 6274(a)(3)(B) of this title]; *provided that*, the authority under section 254(a) [section 6274(a) of this title] may be exercised only after consultation with the Secretary of State;

(d) Section 254(b) of the Energy Policy and Conservation Act (89 Stat. 900, 42 U.S.C. 6274(b)); *provided that*, in determining whether the transmittal of data would prejudice competition or violate the antitrust laws, the Administrator shall consult with the Attorney General, and in determining whether the transmittal of data would be inconsistent with national security interests, he shall consult with the Secretaries of State and Defense, and the heads of such other agencies as he deems appropriate;

(e) Section 523(a)(2)(A) of the Energy Policy and Conservation Act (89 Stat. 962, 42 U.S.C. 6393(a)(2)(A)), but only to the extent applicable to other functions delegated or assigned by this Order to the Administrator of the Federal Energy Administration.

SEC. 7. (a). The Administrator of General Services is designated and empowered to perform without approval, ratification, or other action by the President, the functions vested in the President by section 101(c) of the Defense Production Act of 1950, as amended (89 Stat. 878, 50 U.S.C. App. 2071(c)).

(b) The Administrator of General Services shall redelegate the functions provided by section 101(c)(1) of the Defense Production Act of 1950, as amended [section 2071(c)(1) of Title 50, App., War and National Defense], to the Secretary of Commerce.

(c) The Administrator of General Services shall redelegate the functions provided by section 101(c)(3) of the Defense Production Act of 1950, as amended [section 2071(c)(3) of Title 50, Appendix, War and National Defense], to the Secretary of Commerce, who shall redelegate those functions, except the findings that the supplies are scarce and that it is necessary to exercise the authority provided by section 101(c)(1) [section 2071(c)(1) of Title 50, App.], to the Administrator of the Federal Energy Administration.

(d) The Administrator of General Services shall provide for the overall coordination and direction of the functions provided by section 101(c) of the Defense Production Act of 1950, as amended [section 2071(c) of Title 50, App., War and National Defense], in a manner similar to the exercise of functions under sections 101(a) and (b) of that Act [section 2071(a) and (b) of Title 50, App.], except that, the Administrator shall first obtain the approval of the President if the implementation of any authority under section 101(c) of that Act [section 2071(c) of Title 50, App.] would result in controlling the general distribution of materials in the civilian market, as that phrase is used in section 101(b) of that Act [section 2071(b) of Title 50, App.].

SEC. 8. Nothing in this Order shall be deemed or construed to limit the provisions of Executive Order No. 11790 of June 25, 1974 [set out as a note under section 761 of Title 15, Commerce and Trade], except that any action taken pursuant to the Defense Production Act of 1950, as amended [section 2061 et seq. of Title 50, App., War and National Defense], requiring the allocation of, or priority performance under contracts or orders relating to, supplies of materials and equipment in order to maximize domestic energy supplies shall be taken in accordance with the provisions of section 7 of this Order rather than Executive Order No. 11790.

SEC. 9. All orders, regulations, circulars or other directives issued and all other action taken prior to the date of this order that would be valid under the authority delegated by this Order, are hereby confirmed and ratified and shall be deemed to have been issued under this order.

GERALD R. FORD.

§ 6202. Definitions

As used in this chapter:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "person" includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (C) the government and any agency of the United States or any State or political subdivision thereof.

(3) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product).

(4) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(5) The term "United States" when used in the geographical sense means all of the States and the Outer Continental Shelf.

(6) The term "Outer Continental Shelf" has the same meaning as such term has under section 1331 of title 43.

(7) The term "international energy program" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974, including (A) the annex entitled "Emergency Reserves", (B) any amendment to such Agreement which includes another nation as a party to such Agreement, and (C) any technical or clerical amendment to such Agreement.

(8) The term "severe energy supply interruption" means a national energy supply shortage which the President determines—

(A) is, or is likely to be, of significant scope and duration, and of an emergency nature;

(B) may cause major adverse impact on national safety or the national economy; and

(C) results, or is likely to result, from an interruption in the supply of imported petroleum products, or from sabotage or an act of God.

(9) The term "antitrust laws" includes—

(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1, et seq.);

(B) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12, et seq.);

(C) the Federal Trade Commission Act (15 U.S.C. 41, et seq.);

(D) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purpose", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

(10) The term "Federal land" means all lands owned or controlled by the United States, including the Outer Continental Shelf, and any land in which the United

States has reserved mineral interests, except lands—

(A) held in trust for Indians or Alaska Natives,

(B) owned by Indians or Alaska Natives with Federal restrictions on the title,

(C) within any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National System of Trails, or the Wild and Scenic Rivers System, or

(D) within military reservations.

(Pub. L. 94-163, § 3, Dec. 22, 1975, 89 Stat. 874.)

REFERENCES IN TEXT

This chapter, referred to in introductory clause, in the original read "this Act", meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which enacted this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amended sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 2071 of Title 50, App., War and National Defense, enacted provisions set out as notes under sections 6201 of this title, sections 753 and 796 of Title 15, and section 2071 of Title 50, App., and repealed provisions formerly set out as a note under section 1904 of Title 12, Banks and Banking.

The Act approved July 2, 1890, referred to in par. (9)(A), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which enacted sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables volume.

The Act approved October 15, 1914, referred to in par. (9)(B), is act Oct. 15, 1914, ch. 323, 78 Stat. 730, as amended, known as the Clayton Act which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15, Commerce and Trade, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables volume.

The Federal Trade Commission Act, referred to in par. (9)(C), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables volume.

The Act of June 19, 1936, chapter 592, referred to in par. (9)(E), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Antidiscrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade and amended section 13 of Title 15. For complete classification of this Act to the Code, see Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6341 of this title; title 15 sections 760d, 760e.

SUBCHAPTER I—DOMESTIC SUPPLY AVAILABILITY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6391, 6393, 6394, 6396, 6401 of this title.

PART A—DOMESTIC SUPPLY

§ 6211. Incentives to develop underground coal mines

(a) Loan guarantees

The Administrator may, in accordance with subsection (b) of this section and rules prescribed under subsection (d) of this section, guarantee loans made to eligible persons described in subsection (c)(1) of this section for the purpose of developing new underground coal mines.

(b) Administrator's determinations prerequisite to loan guarantee; maximum guarantees; aggregate outstanding guaranteed loans; new underground coal mines

(1) A person may receive for a loan guarantee under subsection (a) of this section only if the Administrator determines that—

(A) such person is capable of successfully developing and operating the mine with respect to which the loan guarantee is sought;

(B) such person has provided adequate assurance that the mine will be constructed and operated in compliance with the provisions of the Federal Coal Mine Health and Safety Act [30 U.S.C. 801 et seq.] and that no final judgment holding such person liable for any fine or penalty under such Act is unsatisfied;

(C) there is a reasonable prospect of repayment of the guaranteed loan;

(D) such person has obtained a contract, of at least the duration of the period during which the loan is required to be repaid, for the sale or resale of coal to be produced from such mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act [42 U.S.C. 1857 et seq.], and of any applicable implementation plan (as defined in section 110 of such Act) [42 U.S.C. 1857c-5];

(E) the loan will be adequately secured;

(F) such person would be unable to obtain adequate financing without such guarantee;

(G) the guaranteeing of a loan to such person will enhance competition or encourage new market entry; and

(H) such person has adequate coal reserves to cover contractual commitments described in subparagraph (D).

(2) The total amount of guarantees issued to any person (including all persons affiliated with such person) may not exceed $30,000,000. The amount of a guarantee issued with respect to any loan may not exceed 80 percent of the lesser of (A) the principal balance of the loan or, (B) the cost of developing such new underground coal mine.

(3) The aggregate outstanding principal amount of loans which are guaranteed under this section may not at any time exceed $750,000,000. Not more than 20 percent of the amount of guarantees issued under this section in any fiscal year may be issued with respect to loans for the purpose of opening new underground coal mines which produce coal which is not low sulfur coal.

(c) Construction and definition of terms

For purposes of this section—

(1) A person shall be considered eligible for a guarantee under this section if such person (together with all persons affiliated with such person)—

(A) did not produce more than 1,000,000 tons of coal in the calendar year preceding the year in which he makes application for a loan guarantee under this section;

(B) did not produce more than 300,000 barrels of crude oil or own an oil refinery in such preceding calendar year; and

(C) did not have gross revenues in excess of $50,000,000 in such calendar year.

(2) A person is affiliated with another person if he controls, is controlled by, or is under common control with such other person, as such term may be further defined by rule by the Administrator.

(3) The term "low sulfur coal" means coal which, in a quantity necessary to produce one million British thermal units, does not contain sulfur or sulfur compounds the elemental sulfur content of which exceeds 0.6 pound. Sulfur content shall be determined after the application of any coal preparation process which takes place before sale of the coal by the producer.

(4) The term "developing new underground coal mine" includes expansion of any existing underground coal mine in a manner designed to increase the rate of production of such mine, and the reopening of any underground coal mine which had previously been closed.

(d) Rules and regulations

The Administrator shall prescribe such regulations as may be necessary or appropriate to carry out this section. Such rules shall require that each application for a guarantee under this section shall be made in writing to the Administrator in such form and with such content and other submissions as the Administrator shall require, in order reasonably to protect the interests of the United States. Each guarantee shall be issued in accordance with subsections (a) through (c) of this section, and—

(1) under such terms and conditions as the Administrator, in consultation with the Secretary of the Treasury, considers appropriate;

(2) with such provisions with respect to the date of issue of such guarantee as the Administrator, with the concurrence of the Secretary of the Treasury, considers appropriate, except that the required concurrence of the Secretary of the Treasury may not, without the consent of the Administrator, result in a delay in the issuance of such guarantee for more than 60 days; and

(3) in such form as the Administrator considers appropriate.

(e) Recordkeeping

Each person who receives a loan guarantee under this section shall keep such records as the Administrator or the Secretary of the Treasury shall require, including records which fully disclose the total cost of the project for which a loan is guaranteed under this section and such other records as the Administrator or the Secretary of the Treasury determines necessary to facilitate an effective audit and performance evaluation. The Administrator, the Secretary of the Treasury, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any person who receives a loan guarantee under this section.

(Pub. L. 94-163, title I, § 102, Dec. 22, 1975, 89 Stat. 876; Pub. L. 94-385, title I, § 164, Aug. 14, 1976, 90 Stat. 1142.)

References in Text

The Federal Coal Mine Health and Safety Act, referred to in subsec. (b)(1)(B), is Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, as amended, which is classified principally to chapter 22 (§ 801 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 30 and Tables volume.

The Clean Air Act, referred to in subsec. (b)(1)(D), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, which is classified generally to chapter 15B (§ 1857 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1857 of this title and Tables volume.

Amendments

1976—Subsec. (c)(4). Pub. L. 94-385 added par. (4).

§ 6212. Domestic use of energy supplies and related materials and equipment

(a) Export restrictions

The President may, by rule, under such terms and conditions as he determines to be appropriate and necessary to carry out the purposes of this chapter, restrict exports of—

(1) coal, petroleum products, natural gas, or petrochemical feedstocks, and

(2) supplies of materials or equipment which he determines to be necessary (A) to maintain or further exploration, production, refining, or transportation of energy supplies, or (B) for the construction or maintenance of energy facilities within the United States.

(b) Exemptions

(1) The President shall exercise the authority provided for in subsection (a) of this section to promulgate a rule prohibiting the export of crude oil and natural gas produced in the United States, except that the President may, pursuant to paragraph (2), exempt from such prohibition such crude oil or natural gas exports which he determines to be consistent with the national interest and the purposes of this chapter.

(2) Exemptions from any rule prohibiting crude oil or natural gas exports shall be included in such rule or provided for in an amendment thereto and may be based on the purpose for export, class of seller or purchaser, country of destination, or any other reasonable classification or basis as the President determines to be appropriate and consistent with the national interest and the purposes of this chapter.

(c) Implementing restrictions

In order to implement any rule promulgated under subsection (a) of this section, the President may request and, if so, the Secretary of Commerce shall, pursuant to the procedures established by the Export Administration Act of 1969 [50 App. U.S.C. 2401 et seq.] (but without regard to the phrase "and to reduce the serious inflationary impact of foreign demand" in section 3(2)(A) of such Act [50 App. U.S.C. 2402(2)(A)]), impose such restrictions as specified in any rule under subsection (a) of this section on exports of coal, petroleum products, natural gas, or petrochemical feedstocks, and such supplies of materials and equipment.

(d) Restrictions and national interest

Any finding by the President pursuant to subsection (a) or (b) of this section and any action taken by the Secretary of Commerce pursuant thereto shall take into account the national interest as related to the need to leave uninterrupted or unimpaired—

(1) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state,

(2) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign state which exports reenter the United States, and

(3) the historical trading relations of the United States with Canada and Mexico.

(e) Waiver of notice and comment period

(1) The provisions of subchapter II of chapter 5 of title 5 shall apply with respect to the promulgation of any rule pursuant to this section, except that the President may waive the requirement pertaining to the notice of proposed rulemaking or period for comment only if he finds that compliance with such requirements may seriously impair his ability to impose effective and timely prohibitions on exports.

(2) In the event such notice and comment period are waived with respect to a rule promulgated under this section, the President shall afford interested persons an opportunity to comment on any such rule at the earliest practicable date thereafter.

(3) If the President determines to request the Secretary of Commerce to impose specified restrictions as provided for in subsection (c) of this section, the enforcement and penalty provisions of the Export Administration Act of 1969 [50 App. U.S.C. 2401 et seq.] shall apply, in lieu of this chapter, to any violation of such restrictions.

(f) Quarterly reports to Congress

The President shall submit quarterly reports to the Congress concerning the administration of this section and any findings made pursuant to subsection (a) or (b) of this section.

(Pub. L. 94-163, title I, § 103, Dec. 22, 1975, 89 Stat. 877.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (e)(3), in the original read "this Act", meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which enacted this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amended sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 2071 of Title 50, App., War and National Defense, enacted provisions set out as notes under sections 6201 of this title, sections 753 and 796 of Title 15, and section 2071 of Title 50, App., and repealed provisions formerly set out as a note under section 1904 of Title 12, Banks and Banking.

The Export Administration Act of 1969, referred to in subsecs. (c) and (e)(3), is Pub. L. 91-184, Dec. 30, 1969, 83 Stat. 841, as amended, which is classified generally to section 2401 et seq. of Title 50, App., War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of Title 50, App., and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6271, 6393 of this title; title 15 section 719j.

§ 6213. Certain lease bidding arrangements prohibited

(a) Promulgation of rule by Secretary of the Interior

The Secretary of the Interior shall, not later than 30 days after December 22, 1975, prescribe and make effective a rule which prohibits the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in such person. Such rule shall define affiliate relationships and significant ownership interests.

(b) Definitions

As used in this section:

(1) The term "major oil company" means any person who, individually or together with any other person with respect to which such person has an affiliate relationship or significant ownership interest, produced during a prior 6-month period specified by the Secretary, an average daily volume of 1,600,000 barrels of crude oil, natural gas liquids equivalents, and natural gas equivalents.

(2) One barrel of natural gas equivalent equals 5,626 cubic feet of natural gas measured at 14.73 pounds per square inch (MSL) and 60 degrees Fahrenheit.

(3) One barrel of natural gas liquids equivalent equals 1.454 barrels of natural gas liquids at 60 degrees Fahrenheit.

(c) Exemptions

The Secretary may, by amendment to the rule, exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development, problems.

(d) Unitization of producing fields

This section shall not be construed to prohibit the unitization of producing fields to increase production or maximize ultimate recovery of oil or natural gas, or both.

(e) Report to Congress covering extension of restrictions on joint bidding

The Secretary shall study and report to the Congress, not later than 6 months after December 22, 1975, with respect to the feasibility and desirability of extending the prohibition on joint bidding to—

(1) bidding for any right to develop crude oil, natural gas, and natural gas liquids on Federal lands other than those located on the Outer Continental Shelf; and

(2) bidding for any right to develop coal and oil shale on such lands.

(Pub. L. 94-163, title I, § 105, Dec. 22, 1975, 89 Stat. 879).

§ 6214. Production of oil or gas at the maximum efficient rate and temporary emergency production rate

(a) Determination by Secretary of the Interior

(1) The Secretary of the Interior, by rule on the record after an opportunity for a hearing, shall, to the greatest extent practicable, determine the maximum efficient rate of production and, if any, the temporary emergency production rate for each field on Federal lands which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

(2) Except as provided in subsection (f) of this section, the President may, by rule or order, require crude oil or natural gas, or both, to be produced from fields on Federal lands designated by him—

(A) at the maximum efficient rate of production, and

(B) during a severe energy supply interruption, at the temporary emergency production rate

as determined pursuant to paragraph (1) for such field.

(b) Determination of rate of production by States; required production

(1) Each State or the appropriate agency thereof may, for the purposes of this section, pursuant to procedures and standards established by the State, determine the maximum efficient rate of production and, if any, the temporary emergency production rate, for each field (other than a field on Federal lands) within such State which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

(2) If a State or the appropriate agency thereof has determined the maximum efficient rate of production and, if any, the temporary emergency production rate, or both, or their equivalents (however characterized), for any field (other than a field on Federal lands) within such State, the President may, by rule or order, during a severe energy supply interruption, require the production of such fields at the rates of production established by the State.

(c) Fields composed of Federal and non-Federal land

With respect to any field, which produces, or is determined to be capable of producing, significant volumes of crude oil, or natural gas, or both, which field is unitized and is composed of both Federal lands and lands other than Federal lands and there has been no determination of the maximum efficient rate of production or the temporary emergency production rate or both, the Secretary of the Interior may, pursuant to subsection (a)(1) of this section, determine a maximum efficient rate of production and a temporary emergency production rate, if any, for such field. The President may, during a severe energy supply interruption by rule or order, require production at the maximum efficient rate of production and the temporary emergency production rate, if any, determined for such field.

(d) Action to recover just compensation

If loss of ultimate recovery of crude oil or natural gas, or both, occurs or will occur as the result of a rule or order under the authority of this section to produce at the temporary emergency production rate, the owner of any property right who considers himself damaged by such order may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

(e) Definitions

As used in this section:

(1) The term "maximum efficient rate of production" means the maximum rate of production of crude oil or natural gas, or both, which may be sustained without loss of ultimate recovery of crude oil or natural gas, or both, under sound engineering and economic principles.

(2) The term "temporary emergency production rate" means the maximum rate of production for a field—

(A) which rate is above the maximum efficient rate of production established for such field; and

(B) which may be maintained for a temporary period of less than 90 days without reservoir damage and without significant loss of ultimate recovery of crude oil or natural gas, or both, from such field.

(f) Naval Petroleum Reserves

Nothing in this section shall be construed to authorize the production of crude oil, or natural gas, or both, from any Naval Petroleum Reserve subject to the provisions of chapter 641 of title 10.

(Pub. L. 94-163, title I, § 106, Dec. 22, 1975, 89 Stat. 880.)

PART B—STRATEGIC PETROLEUM RESERVE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 10 sections 7430, 7432; title 12 section 1701z-8.

§ 6231. Congressional finding and declaration of policy

(a) The Congress finds that the storage of substantial quantities of petroleum products will diminish the vulnerability of the United States to the effects of a severe energy supply interruption, and provide limited protection from the short-term consequences of interruptions in supplies of petroleum products.

(b) It is hereby declared to be the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products, but not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on December 22, 1975, for the purpose of reducing the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program. It is further declared to be the policy of the United States to provide for the creation of an Early Storage Reserve, as part of the Reserve, for the purpose of providing limited protection from the impact of near-term disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.

(Pub. L. 94-163, title I, § 151, Dec. 22, 1975, 89 Stat. 881.)

§ 6232. Definitions

As used in this part:

(1) The term "Early Storage Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 6235 of this title.

(2) The term "importer" means any person who owns, at the first place of storage, any petroleum product imported into the United States.

(3) The term "Industrial Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products owned by importers or refiners and acquired, stored, or maintained pursuant to section 6236 of this title.

(4) The term "interest in land" means any ownership or possessory right with respect to real property, including ownership in fee, an easement, a leasehold, and any subsurface or mineral rights.

(5) The term "readily available inventories" means stocks and supplies of petroleum products which can be distributed or used without affecting the ability of the importer or refiner to operate at normal capacity; such term does not include minimum working inventories or other unavailable stocks.

(6) The term "refiner" means any person who owns, operates, or controls the operation of any refinery.

(7) The term "Regional Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 6237 of this title.

(8) The term "related facility" means any necessary appurtenance to a storage facility, including pipelines, roadways, reservoirs, and salt brine lines.

(9) The term "Reserve" means the Strategic Petroleum Reserve.

(10) The term "storage facility" means any facility or geological formation which is capable of storing significant quantities of petroleum products.

(11) The term "Strategic Petroleum Reserve" means petroleum products stored in storage facilities pursuant to this part; such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve.

(Pub. L. 94-163, title I, § 152, Dec. 22, 1975, 89 Stat. 882.)

§ 6233. Strategic Petroleum Reserve Office

There is established, in the Federal Energy Administration, a Strategic Petroleum Reserve Office. The Administrator, acting through such Office and in accordance with this part, shall exercise authority over the establishment, management, and maintenance of the Reserve.

(Pub. L. 94-163, title I, § 153, Dec. 22, 1975, 89 Stat. 882.)

§ 6234. Strategic Petroleum Reserve

(a) Establishment

A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part. By the end of the 3-year period which begins on December 22, 1975, the Strategic Petroleum Reserve (or the Early Storage Reserve authorized by section 6235 of this title, if no Strategic Petroleum Reserve Plan has become effective pursuant to the provisions of section 6239(a) of this title) shall contain not less than 150 million barrels of petroleum products.

(b) Strategic Petroleum Reserve Plan

The Administrator, not later than December 15, 1976, shall prepare and transmit to the Congress, in accordance with section 6421 of this title, a Strategic Petroleum Reserve Plan. Such Plan shall comply with the provisions of this section and shall detail the Administrator's proposals for designing, constructing, and filling the storage and related facilities of the Reserve.

(c) Levels of crude oil to be stored

(1) To the maximum extent practicable and except to the extent that any change in the storage schedule is justified pursuant to subsection (e)(6) of this section, the Strategic Petroleum Reserve Plan shall provide that:

(A) within 7 years after December 22, 1975, the volume of crude oil stored in the Reserve shall equal the total volume of crude oil which was imported into the United States during the base period specified in paragraph (2);

(B) within 18 months after December 22, 1975, the volume of crude oil stored in the Reserve shall equal not less than 10 percent of the goal specified in subparagraph (A);

(C) within 3 years after December 22, 1975, the volume of crude oil stored in the Reserve shall equal not less than 25 percent of the goal specified in subparagraph (A); and

(D) within 5 years after December 22, 1975, the volume of crude oil stored in the Reserve shall equal not less than 65 percent of the goal specified in subparagraph (A).

Volumes of crude oil initially stored in the Early Storage Reserve and volumes of crude oil stored in the Industrial Petroleum Reserve, and the Regional Petroleum Reserve shall be credited toward attainment of the storage goals specified in this subsection.

(2) The base period shall be the period of the 3 consecutive months, during the 24-month period preceding December 22, 1975, in which average monthly import levels were the highest.

(d) Plan objectives

The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that the Reserve will minimize the impact of any interruption or reduction in imports of refined petroleum products and residual fuel oil in any region which the Administrator determines is, or is likely to become, dependent upon such imports for a substantial portion of the total energy requirements of such region. The Strategic Petroleum Reserve Plan shall be designed to assure, to the maxi-

mum extent practicable, that each noncontiguous area of the United States which does not have overland access to domestic crude oil production has its component of the Strategic Petroleum Reserve within its respective territory.

(e) Plan provisions

The Strategic Petroleum Reserve Plan shall include:

(1) a comprehensive environmental assessment;

(2) a description of the type and proposed location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve) proposed to be included in the Reserve;

(3) a statement as to the proximity of each such storage facility to related facilities;

(4) an estimate of the volumes and types of petroleum products proposed to be stored in each such storage facility;

(5) a projection as to the aggregate size of the Reserve, including a statement as to the most economically-efficient storage levels for each such storage facility;

(6) a justification for any changes, with respect to volumes or dates, proposed in the storage schedule specified in subsection (c) of this section, and a program schedule for overall development and completion of the Reserve (taking into account all relevant factors, including cost effectiveness, the need to construct related facilities, and the ability to obtain sufficient quantities of petroleum products to fill the storage facilities to the proposed storage levels);

(7) an estimate of the direct cost of the Reserve, including—

(A) the cost of storage facilities;

(B) the cost of the petroleum products to be stored;

(C) the cost of related facilities; and

(D) management and operation costs;

(8) an evaluation of the impact of developing the Reserve, taking into account—

(A) the availability and the price of supplies and equipment and the effect, if any, upon domestic production of acquiring such supplies and equipment for the Reserve;

(B) any fluctuations in world, and domestic, market prices for petroleum products which may result from the acquisition of substantial quantities of petroleum products for the Reserve;

(C) the extent to which such acquisition may support otherwise declining market prices for such products; and

(D) the extent to which such acquisition will affect competition in the petroleum industry;

(9) an identification of the ownership of each storage and related facility proposed to be included in the Reserve (other than storage and related facilities of the Industrial Petroleum Reserve);

(10) an identification of the ownership of the petroleum products to be stored in the Reserve in any case where such products are not owned by the United States;

(11) a statement of the manner in which the provisions of this part relating to the establishment of the Industrial Petroleum Reserve and the Regional Petroleum Reserve will be implemented; and

(12) a Distribution Plan setting forth the method of drawdown and distribution of the Reserve.

(Pub. L. 94-163, title I, § 154, Dec. 22, 1975, 89 Stat. 882.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6235, 6238, 6239, 6246 of this title.

§ 6235. Early Storage Reserve

(a) Establishment; design; ownership of stored petroleum products; minimum number of barrels of petroleum products in Reserve if Strategic Petroleum Reserve Plan has not become effective

(1) The Administrator shall establish an Early Storage Reserve as part of the Strategic Petroleum Reserve. The Early Storage Reserve shall be designed to store petroleum products, to the maximum extent practicable, in existing storage capacity. Petroleum products stored in the Early Storage Reserve may be owned by the United States or may be owned by others and stored pursuant to section 6236(b) of this title.

(2) If the Strategic Petroleum Reserve Plan has not become effective under section 6239(a) of this title, the Early Storage Reserve shall contain not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on December 22, 1975.

(b) Meeting regional needs for residual fuel oil and refined petroleum products

The Early Storage Reserve shall provide for meeting regional needs for residual fuel oil and refined petroleum products in any region which the Administrator determines is, or is likely to become, dependent upon imports of such oil or products for a substantial portion of the total energy requirements of such region.

(c) Early Storage Reserve Plan

Within 90 days after December 22, 1975, the Administrator shall prepare and transmit to the Congress an Early Storage Reserve Plan which shall provide for the storage of not less than 150 million barrels of petroleum products by the end of 3 years from December 22, 1975. Such plan shall detail the Administrator's proposals for implementing the Early Storage Reserve requirements of this section. The Early Storage Reserve Plan shall, to the maximum extent practicable, provide for, and set forth the manner in which, Early Storage Reserve facilities will be incorporated into the Strategic Petroleum Reserve after the Strategic Petroleum Reserve Plan has become effective under section 6239(a) of this title. The Early Storage Reserve Plan shall include, with respect to the Early Storage Reserve, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 6234(e) of this title requires to be included in the Strategic Petroleum Reserve Plan, including a Distribution Plan for the Early Storage Reserve.

(Pub. L. 94-163, title I, § 155, Dec. 22, 1975, 89 Stat. 884.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6232, 6234, 6246 of this title.

§ 6236. Industrial Petroleum Reserve

(a) Establishment

The Administrator may establish an Industrial Petroleum Reserve as part of the Strategic Petroleum Reserve.

(b) Amounts of petroleum products required to be stored by importers and refiners; exemption of products from tariff or import license fee

To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 6239(a) of this title, the Administrator may require each importer of petroleum products and each refiner to (1) acquire, and (2) store and maintain in readily available inventories, petroleum products in amounts determined by the Administrator, except that the Administrator may not require any such importer or refiner to store such petroleum products in an amount greater than 3 percent of the amount imported or refined by such person, as the case may be, during the previous calendar year. Petroleum products imported and stored in the Industrial Petroleum Reserve shall be exempt from any tariff or import license fee.

(c) Implementation of section by Administrator

The Administrator shall implement this section in a manner which is appropriate to the maintenance of an economically sound and competitive petroleum industry. The Administrator shall take such steps as are necessary to avoid inequitable economic impacts on refiners and importers, and he may grant relief to any refiner or importer who would otherwise incur special hardship, inequity, or unfair distribution of burdens as the result of any rule, regulation, or order promulgated under this section. Such relief may include full or partial exemption from any such rule, regulation, or order and the issuance of an order permitting such an importer or refiner to store petroleum products owned by such importer or refiner in surplus storage capacity owned by the United States.

(Pub. L. 94-163, title I, § 156, Dec. 22, 1975, 89 Stat. 885.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6232, 6235, 6239, 6241 of this title; title 15 section 760e.

§ 6237. Regional Petroleum Reserve

(a) Federal Energy Administration Regions in which Reserve may be established and maintained

The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of a Regional Petroleum Reserve in, or readily accessible to, each Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations in effect on November 1, 1975, in which imports of residual fuel oil or any refined petroleum product, during the 24-month period preceding the date of computation, equal more than 20 percent of demand for such oil or product in such regions during such period, as determined by the Administrator. Such volume shall be computed annually.

(b) Level of Reserve

To implement the Strategic Petroleum Reserve Plan, the Administrator shall accumulate and maintain in or near any such Federal Energy Administration Region described in subsection (a) of this section, a Regional Petroleum Reserve containing volumes of such oil or product, described in subsection (a) of this section, at a level adequate to provide substantial protection against an interruption or reduction in imports of such oil or product to such region, except that the level of any such Regional Petroleum Reserve shall not exceed the aggregate volume of imports of such oil or product into such region during the period of the 3 consecutive months, during the 24-month period specified in subsection (a) of this section, in which average monthly import levels were the highest, as determined by the Administrator. Such volume shall be computed annually.

(c) Substitutions for all or part of volume stored in Reserve

The Administrator may place in storage crude oil, residual fuel oil, or any refined petroleum product in substitution for all or part of the volume of residual fuel oil or any refined petroleum product stored in any Regional Petroleum Reserve pursuant to the provisions of this section if he finds that such substitution (1) is necessary or desirable for purposes of economy, efficiency, or for other reasons, and (2) may be made without delaying or otherwise adversely affecting the fulfillment of the purpose of the Regional Petroleum Reserve.

(Pub. L. 94-163, title I, § 157, Dec. 22, 1975, 89 Stat. 885.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6232 of this title.

§ 6238. Utility Reserves; Coal Reserves; Remote Crude Oil and Natural Gas Reserves

Within 6 months after the Strategic Petroleum Reserve Plan is transmitted to the Congress, pursuant to the requirements of section 6234(b) of this title, the Administrator shall prepare and transmit to the Congress a report setting forth his recommendations concerning the necessity for, and feasibility of, establishing—

(1) Utility Reserves containing coal, residual fuel oil, and refined petroleum products, to be established and maintained by major fossil-fuel-fired baseload electric power generating stations;

(2) Coal Reserves to consist of (A) federally-owned coal which is mined by or for the United States from Federal lands, and (B) Federal lands from which coal could be produced with minimum delay; and

(3) Remote Crude Oil and Natural Gas Reserves consisting of crude oil and natural gas to be acquired and stored by the United States, in place, pursuant to a contract or other agreement or arrangement entered into between the United States and persons who discovered such oil or gas in remote areas.

(Pub. L. 94-163, title I, § 158, Dec. 22, 1975, 89 Stat. 886.)

§ 6239. Congressional review of Strategic Petroleum Reserve Plan; implementation

(a) Congressional review of Strategic Petroleum Reserve Plan as prerequisite to implementation

The Strategic Petroleum Reserve Plan shall not become effective and may not be implemented, unless—

(1) the Administrator has transmitted such Plan to the Congress pursuant to section 6234(b) of this title; and

(2) neither House of Congress has disapproved (or both Houses have approved) such Plan, in accordance with the procedures specified in section 6421 of this title.

(b) Effective date of Strategic Petroleum Reserve Plan

For purposes of congressional review of the Strategic Petroleum Reserve Plan under subsection (a) of this section, the 5 calendar days described in section 6421(f)(4)(A) of this title shall be lengthened to 15 calendar days, and the 15 calendar days described in section 6421(c) and (d) of this title shall be lengthened to 45 calendar days.

(c) Preparation and transmittal to Congress of proposals for designing, constructing, and filling storage or related facilities; statement accompanying proposal

The Administrator may, prior to transmittal of the Strategic Petroleum Reserve Plan, prepare and transmit to the Congress proposals for designing, constructing, and filling storage or related facilities. Any such proposal shall be accompanied by a statement explaining (1) the need for action on such proposals prior to completion of such Plan, (2) the anticipated role of the proposed storage or related facilities in such Plan, and (3) to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 6234(e) of this title requires to be included in the Strategic Petroleum Reserve Plan.

(d) Preparation and transmittal to Congress of amendments to Strategic Petroleum Reserve Plan or Early Storage Reserve Plan; statement accompanying amendment

The Administrator may prepare amendments to the Strategic Petroleum Reserve Plan or to the Early Storage Reserve Plan. He shall transmit any such amendment to the Congress together with a statement explaining the need for such amendment and, to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 6234(e) of this title requires to be included in the Strategic Petroleum Reserve Plan.

(e) Congressional review of proposals and amendments as prerequisite to implementation

Any proposal transmitted under subsection (c) of this section and any amendment transmitted under subsection (d) of this section, other than a technical or clerical amendment or an amendment to the Early Storage Reserve Plan, shall not become effective and may not be implemented unless—

(1) the Administrator has transmitted such proposal or amendment to the Congress in accordance with subsection (c) or (d) of this section (as the case may be), and

(2) neither House of Congress has disapproved (or both Houses of Congress have approved) such proposal or amendment, in accordance with the procedures specified in section 6421 of this title.

(f) Powers of Administrator in implementing Strategic Petroleum Reserve Plan, Early Storage Reserve Plan, proposals, and amendments

To the extent necessary or appropriate to implement—

(1) the Strategic Petroleum Reserve Plan which has taken effect pursuant to subsection (a) of this section;

(2) the Early Storage Reserve Plan;

(3) any proposal described in subsection (c) of this section or any amendment described in subsection (d) of this section, which such proposal or amendment has taken effect pursuant to subsection (e) of this section; and

(4) any technical or clerical amendment or any amendment to the Early Storage Reserve Plan,

the Administrator may:

(A) promulgate rules, regulations, or orders;

(B) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

(C) construct, purchase, lease, or otherwise acquire storage and related facilities;

(D) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired pursuant to this part;

(E) acquire, subject to the provisions of section 6240 of this title, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve;

(F) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if such facilities are subject to audit by the United States;

(G) execute any contracts necessary to carry out the provisions of such Strategic Petroleum Reserve Plan, Early Storage Reserve Plan, proposal or amendment;

(H) require any importer of petroleum products or any refiner to (A) acquire, and (B) store and maintain in readily available inventories, petroleum products in the Industrial Petroleum Reserve, pursuant to section 6236 of this title;

(I) require the storage of petroleum products in the Industrial Petroleum Reserve, pursuant to section 6236 of this title, on such reasonable terms as the Administrator may specify in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if such facilities are subject to audit by the United States;

(J) require the maintenance of the Industrial Petroleum Reserve;

(K) maintain the Reserve; and

(L) bring an action, whenever he deems it necessary to implement the Strategic Petroleum Reserve Plan, in any court having jurisdiction of such proceedings, to acquire by con-

demnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located thereon or used therewith.

(g) Acquisition of property by negotiation as prerequisite to condemnation

Before any condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation, unless, the effort to acquire such property by negotiation would, in the judgment of the Administrator be futile or so time-consuming as to unreasonably delay the implementation of the Strategic Petroleum Reserve Plan, because of (1) reasonable doubt as to the identity of the owners, (2) the large number of persons with whom it would be necessary to negotiate, or (3) other reasons.

(Pub. L. 94-163, title I, § 159, Dec. 22, 1975, 89 Stat. 886.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6234 to 6236, 6241, 6246 of this title.

§ 6240. Petroleum products for storage; objectives in determining manner of acquisition

(a) The Administrator is authorized, for purposes of implementing the Strategic Petroleum Reserve Plan or the Early Storage Reserve Plan, to place in storage, transport, or exchange—

(1) crude oil produced from Federal lands, including crude oil produced from the Naval Petroleum Reserves to the extent that such production is authorized by law;

(2) crude oil which the United States is entitled to receive in kind as royalties from production on Federal lands; and

(3) petroleum products acquired by purchase, exchange, or otherwise.

(b) The Administrator shall, to the greatest extent practicable, acquire petroleum products for the Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve in a manner consonant with the following objectives:

(1) minimization of the cost of the Reserve;

(2) orderly development of the Naval Petroleum Reserves to the extent authorized by law;

(3) minimization of the Nation's vulnerability to a severe energy supply interruption;

(4) minimization of the impact of such acquisition upon supply levels and market forces; and

(5) encouragement of competition in the petroleum industry.

(Pub. L. 94-163, title I, § 160, Dec. 22, 1975, 89 Stat. 888.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6239 of this title.

§ 6241. Drawdown and distribution of Reserve

(a) Power of Administrator

The Administrator may drawdown and distribute the Reserve only in accordance with the provisions of this section.

(b) Drawdown and distribution of Reserve in accordance with Distribution Plan contained in Strategic Petroleum Reserve Plan

Except as provided in subsections (c) and (f) of this section, no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan contained in the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 6239(a) of this title.

(c) Drawdown and distribution of Early Storage Reserve in accordance with Distribution Plan contained in Early Storage Reserve Plan

Drawdown and distribution of the Early Storage Reserve may be made in accordance with the provisions of the Distribution Plan contained in the Early Storage Reserve Plan until the Strategic Petroleum Reserve Plan has taken effect pursuant to section 6239(a) of this title.

(d) Presidential finding prerequisite to implementation of Distribution Plan

Neither the Distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribution Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless the President has found that implementation of either such Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program.

(e) Price levels and allocation procedures

The Administrator may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such rules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 753(b)(1) of title 15.

(f) Removal or disposal of products in Industrial Petroleum Reserve

The Administrator may permit any importer or refiner who owns any petroleum products stored in the Industrial Petroleum Reserve pursuant to section 6236 of this title to remove or otherwise dispose of such products upon such terms and conditions as the Administrator may prescribe.

(Pub. L. 94-163, title I, § 161, Dec. 22, 1975, 89 Stat. 888.)

§ 6242. Coordination with import quota system

No quantitative restriction on the importation of any petroleum product into the United States imposed by law shall apply to volumes of any such petroleum product imported into the United States for storage in the Reserve.

(Pub. L. 94-163, title I, § 162, Dec. 22, 1975, 89 Stat. 889.)

§ 6243. Records and accounts

(a) Preparation and maintenance

The Administrator may require any person to prepare and maintain such records or accounts

as the Administrator, by rule, determines necessary to carry out the purposes of this part.

(b) Audit of operations of storage facility

The Administrator may audit the operations of any storage facility in which any petroleum product is stored or required to be stored pursuant to the provisions of this part.

(c) Access to and inspection of records or accounts and storage facilities

The Administrator may require access to, and the right to inspect and examine, at reasonable times, (1) any records or accounts required to be prepared or maintained pursuant to subsection (a) of this section and (2) any storage facilities subject to audit by the United States under the authority of this part.

(Pub. L. 94-163, title I, § 163, Dec. 22, 1975, 89 Stat. 889.)

§ 6244. Report on development of Naval Petroleum Reserve Number 4

The Administrator shall, in cooperation and consultation with the Secretary of the Navy and the Secretary of the Interior, develop and submit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within 180 days after December 22, 1975, a written report recommending procedures for the exploration, development, and production of Naval Petroleum Reserve Number 4. Such report shall include recommendations for protecting the economic, social, and environmental interests of Alaska Natives residing within the Naval Petroleum Reserve Number 4 and analyses of arrangements which provide for (1) participation by private industry and private capital, and (2) leasing to private industry. The Secretary of the Navy and the Secretary of the Interior shall cooperate fully with one another and with the Administrator; the Secretary of the Navy shall provide to the Administrator and Secretary of the Interior all relevant data on Naval Petroleum Reserve Number 4 in order to assist the Administrator in the preparation of such report.

(Pub. L. 94-163, title I, § 164, Dec. 22, 1975, 89 Stat. 889; Pub. L. 94-258, title I, § 105(a), Apr. 5, 1976, 90 Stat. 305.)

AMENDMENTS

1976—Pub. L. 94-258 substituted "to the Committees on Interior and Insular Affairs of the Senate and House of Representatives" for "to the Congress".

CHANGE OF NAME

The Committee on Interior and Insular Affairs of the Senate was abolished and replaced by the Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

§ 6245. Annual report

The Administrator shall report to the President and the Congress, not later than one year after the transmittal of the Strategic Petroleum Reserve Plan to the Congress and each year thereafter, on all actions taken to implement this part. Such report shall include—

(1) a detailed statement of the status of the Strategic Petroleum Reserve;

(2) a summary of the actions taken to develop and implement the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan;

(3) an analysis of the impact and effectiveness of such actions on the vulnerability of the United States to interruption in supplies of petroleum products;

(4) a summary of existing problems with respect to further implementation of the Early Storage Reserve Plan and the Strategic Petroleum Reserve Plan; and

(5) any recommendations for supplemental legislation deemed necessary or appropriate by the Administrator to implement the provisions of this part.

(Pub. L. 94-163, title I, § 165, Dec. 22, 1975, 89 Stat. 889.)

§ 6246. Authorization of appropriations

There are authorized to be appropriated—

(1) such funds as are necessary to develop and implement the Early Storage Reserve Plan (including planning, administration, acquisition, and construction of storage and related facilities) and as are necessary to permit the acquisition of petroleum products for storage in the Early Storage Reserve or, if the Strategic Petroleum Reserve Plan has become effective under section 6239(a) of this title, for storage in the Strategic Petroleum Reserve in the minimum volume specified in section 6234(a) or 6235(a)(2) of this title, whichever is applicable; and

(2) $1,100,000,000 to remain available until expended to carry out the provisions of this part to develop the Strategic Petroleum Reserve Plan and to implement such plan which has taken effect pursuant to section 6239(a) of this title, including planning, administration, and acquisition and construction of storage and related facilities, but no funds are authorized to be appropriated under this paragraph for the purchase of petroleum products for storage in the Strategic Petroleum Reserve.

(Pub. L. 94-163, title I, § 166, Dec. 22, 1975, 89 Stat. 890.)

SUBCHAPTER II—STANDBY ENERGY AUTHORITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6391, 6393, 6394, 6396, 6401 of this title.

PART A—GENERAL EMERGENCY AUTHORITIES

§ 6261. Contingency plans

(a) Transmittal to Congress; submission of additional plans; term; contingency plan defined

(1) Within 180 days after December 22, 1975, the President shall transmit to the Congress pursuant to subsection (b)(1) of this section one or more energy conservation contingency plans and a rationing contingency plan. The President may at any time submit additional contingency plans. A contingency plan may become effective only as provided in this section. Such plan may remain in effect for a period specified

in the plan but not more than 9 months, unless earlier rescinded by the President.

(2) For purposes of this section, the term "contingency plan" means—

(A) an energy conservation contingency plan prescribed under section 6262 of this title; or

(B) a rationing contingency plan prescribed under section 6263 of this title.

(b) Prerequisites to plan becoming effective

Except as otherwise provided in subsection (d) or (e) of this section and subject to the requirements of subsection (c) of this section, no contingency plan may become effective, unless—

(1) the President has transmitted such contingency plan to the Congress in accordance with section 6422(a) of this title;

(2) such contingency plan has been approved by a resolution by each House of Congress in accordance with the procedures specified in section 6422 of this title; and

(3) after approval of such contingency plan the President—

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program, and

(B) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such plan.

(c) Additional prerequisites for rationing contingency plans

In addition to the requirements of subsection (b) of this section, a rationing contingency plan approved under subsection (b)(2) of this section may not become effective unless—

(1) the President has transmitted to the Congress in accordance with section 6421(b) of this title a request to put such rationing contingency plan into effect, and

(2) neither house of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 6421 of this title.

(d) Amendment of plan

(1) Except as provided in paragraph (2) or (3), a contingency plan may not be amended unless the President has transmitted such amendment to the Congress in accordance with section 6422 of this title and each House of Congress has approved such amendment in accordance with the procedures specified in section 6422 of this title.

(2) An amendment to a contingency plan which is transmitted to the Congress during any period in which such plan is in effect may take effect if the President has transmitted such amendment to the Congress in accordance with section 6421(b) of this title and neither House of Congress has disapproved (or both Houses have approved) such amendment in accordance with the procedures specified in section 6421 of this title.

(3) The President may prescribe technical or clerical amendments to a contingency plan in accordance with section 6393 of this title.

(e) Temporary enactment

Beginning at any time during the 90-day period which begins December 22, 1975, the President may put a contingency plan into effect for a period of not more than 60 days if—

(1) the President—

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or is necessary to comply with obligations of the United States under the international energy program; and

(B) has transmitted such contingency plan to the Congress in accordance with section 6421(b) of this title, together with a request to put such plan into effect; and

(2) neither House of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 6421 of this title.

(f) Statement accompanying transmittal of plan to Congress

Any contingency plan which the President transmits to the Congress pursuant to subsection (b)(1) or (e)(1)(B) of this section shall contain a specific statement explaining the need for and the rationale and operation of such plan and shall be based upon a consideration of, and to the extent practicable, be accompanied by an evaluation of, the potential economic impacts of such plan, including an analysis of—

(1) any effects of such plan on—

(A) vital industrial sectors of the economy;

(B) employment (on a national and regional basis);

(C) the economic vitality of States and regional areas;

(D) the availability and price of consumer goods and services; and

(E) the gross national product; and

(2) any potential anticompetitive effects.

(Pub. L. 94-163, title II, § 201, Dec. 22, 1975, 89 Stat. 890.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6263, 6422 of this title.

§ 6262. Energy conservation and contingency plans

(a) Prescription by President; energy conservation contingency plan defined; consideration of mobility needs of handicapped; prohibited provisions

(1) The President shall prescribe, in accordance with section 6393(a) of this title, one or more energy conservation contingency plans. As used in this section, the term "energy conservation contingency plan" means a plan which imposes reasonable restrictions on the public or private use of energy which are necessary to reduce energy consumption. In prescribing energy conservation contingency plans, the President shall take into consideration the mobility needs of the handicapped, as defined in section 6263(a)(2)(B) of this title.

(2) An energy conservation contingency plan prescribed under this section may not—

(A) impose rationing or any tax, tariff, or user fee;

(B) contain any provision respecting the price of petroleum products; or

(C) provide for a credit or deduction in computing any tax.

(b) Geographical application

Any energy conservation contingency plan shall apply in each State or political subdivision thereof, except such plan may provide for procedures for exempting any State or political subdivision thereof from such plan, in whole or part, during a period for which (1) the President determines a comparable program of such State or political subdivision is in effect, or (2) the President finds special circumstances exist in such State or political subdivision.

(c) One logically consistent subject matter

Any energy conservation contingency plan shall not deal with more than one logically consistent subject matter.

(Pub. L. 94-163, title II, § 202, Dec. 22, 1975, 89 Stat. 892.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6261, 6395 of this title.

§ 6263. Rationing contingency plan

(a) Prescription by President; plan deemed part of regulation under Emergency Petroleum Allocation Act; required provisions; consideration of mobility needs of handicapped persons; handicapped person defined

(1) The President shall prescribe, by rule in accordance with section 6393(a) of this title, a rationing contingency plan which shall, for purposes of enforcement under section 5 of the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 754], be deemed a part of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 753(a)] and which shall provide, consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act [15 U.S.C. 753(b)(1)]—

(A) for the establishment of a program for the rationing and ordering of priorities among classes of end-users of gasoline and diesel fuel used in motor vehicles, and

(B) for the assignment of rights, and evidence of such rights, to end-users of gaosline and such diesel fuel, entitling such end-users to obtain gasoline or such diesel fuel in precedence to other classes of end-users not similarly entitled.

(2)(A) For purposes of paragraph (1), the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 753(b)(1)] shall be deemed to include consideration of the mobility needs of handicapped persons and their convenience in obtaining the end-user's rights specified in paragraph (1).

(B) For purposes of this part, the term "handicapped person" means any individual who, by reason of disease, injury, age, congenital malfunction, or other permanent incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities, and services and who has a substantial, permanent impediment to mobility.

(b) Required finding of President

Any finding required to be made by the President pursuant to section 6261(b)(3) of this title and any request to put a rationing contingency plan into effect pursuant to section 6261(e) of this title shall be accompanied by a finding of the President that such plan is necessary to attain, to the maximum extent practicable, the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 753(b)(1)] and the purposes of this chapter.

(c) Adjustments in allocations under Emergency Petroleum Allocation Act

The President shall, by order under section 4 of the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 753], for the purpose of carrying out a rationing contingency plan which is in effect, cause such adjustments to be made in the allocations made pursuant to the regulation under section 4(a) of such Act [15 U.S.C. 753(a)] as the President determines to be necessary to carry out the purposes of this section and to be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act [15 U.S.C. 753(b)(1)] and the purposes of this chapter.

(d) Local boards

(1) The President shall, to the extent practicable, provide for the use of local boards described in paragraph (2) with authority to—

(A) receive petitions from any end-user of gasoline and diesel fuel used in motor vehicles with respect to the priority and entitlement of such user under a rationing contingency plan, and

(B) order a reclassification or modification of any determination made under a rationing contingency plan with respect to such end-user's rationing priority or rights specified in paragraph (1).

Such boards shall operate under the procedures prescribed by the President by rule.

(2) Not later than 30 days after the date of the approval of a rationing contingency plan pursuant to section 6261(b)(2) of this title, the President shall, by rule, prescribe—

(A) criteria for delegation of his functions, in whole or part, under this chapter with respect to such rationing contingency plan to officers or local boards (of balanced composition reflecting the community as a whole) of States or political subdivisions thereof; and

(B) procedures for petitioning for the receipt of such delegation.

(3)(A) Officers or local boards of States or political subdivisions thereof, following the establishment of criteria and procedures under paragraph (2), may petition the President to receive delegation under such paragraph.

(B) The President shall, within 30 days after the date of the receipt of any such petition which is properly submitted, grant or deny such petition.

(e) Prohibited provisions

No rationing contingency plan under this section may—

(1) impose any tax,

(2) provide for a credit or deduction in computing any tax, or

(3) impose any user fee, except to the extent necessary to defray the cost of administering the rationing contingency plan or to provide for initial distribution of end-user rights specified in paragraph (1).

(f) Expiration of authority

Notwithstanding section 6401 of this title, all authority to carry out any rationing contingency plan shall expire on the same date as authority to issue and enforce rules and orders under the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.].

(Pub. L. 94-163, title II, § 203, Dec. 22, 1975, 89 Stat. 892.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c), and (d)(2)(A), in the original read "this Act", meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which enacted this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amended sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 2071 of Title 50, App., War and National Defense, enacted provisions set out as notes under sections 6201 of this title, sections 753 and 796 of Title 15, and section 2071 of Title 50, App., and repealed provisions formerly set out as a note under section 1904 of Title 12, Banks and Banking.

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (f), is Pub. L. 93-159, Nov. 27, 1973, 87 Stat. 628, as amended, which is classified generally to chapter 16A (§ 751 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 751 of Title 15 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6261, 6262 of this title.

PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

§ 6271. International oil allocations

(a) Authority of President to prescribe rules of implementations of obligations of United States relating to international allocation of petroleum products; amounts of allocation and prices; petroleum products subject to rule; term of rule

The President may, by rule, require that persons engaged in producing, transporting, refining, distributing, or storing petroleum products, take such action as he determines to be necessary for implementation of the obligations of the United States under chapters III and IV of the international energy program insofar as such obligations relate to the international allocation of petroleum products. Allocation under such rule shall be in such amounts and at such prices as are specified in (or determined in a manner prescribed by) such rule. Such rule may apply to any petroleum product owned or controlled by any person described in the first sentence of this subsection who is subject to the jurisdiction of the United States, including any petroleum product destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States. Subject to subsection (b)(2) of this section, such a rule shall remain in effect until amended or rescinded by the President.

(b) Prerequisites to rule taking effect; time rule may be put into effect or remain in effect

(1) No rule under subsection (a) of this section may take effect unless the President—

(A) has transmitted such rule to the Congress;

(B) has found that putting such rule into effect is required in order to fulfill obligations of the United States under the international energy program; and

(C) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such rule.

(2) No rule under subsection (b) of this section may be put into effect or remain in effect after the expiration of 12 months after the date such rule was transmitted to Congress under paragraph (1)(A).

(c) Consistency of rule with attainment of objectives specified in section 753(b)(1) of title 15; limitation on authority of officers or agencies of United States

(1) Any rule under this section shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 753(b)(1) of title 15.

(2) No officer or agency of the United States shall have any authority, other than authroity under this section, to require that petroleum products be allocated to other countries for the purpose of implementation of the obligations of the United States under the international energy program.

(d) Nonapplicability of export restrictions under other laws

Neither section 6212 of this title nor section 185(u) of title 30 shall preclude the allocation and export, to other countries in accordance with this section, of petroleum products produced in the United States.

(Pub. L. 94-163, title II, § 251, Dec. 22, 1975, 89 Stat. 894.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6395 of this title.

§ 6272. International voluntary agreements

(a) Exclusiveness of section's requirements

Effective 90 days after December 22, 1975, the requirements of this section shall be the sole procedures applicable to—

(1) the development or carrying out of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program, and

(2) the availability of immunity from the antitrust laws with respect to the development or carrying out of such voluntary agreements and plans of action.

(b) Prescription by Administrator of standards and procedures for developing and carrying out voluntary agreements and plans of action

The Administrator, with the approval of the Attorney General, after each of them has con-

sulted with the Federal Trade Commission and the Secretary of State, shall prescribe, by rule, standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products may develop and carry out voluntary agreements, and plans of action, which are required to implement the allocation and information provisions of the international energy program.

(c) Requirements for standards and procedures

The standards and procedures prescribed under subsection (b) of this section shall include the following requirements:

(1)(A)(i) Except as provided in clause (ii) or (iii) of this subparagraph, meetings held to develop or carry out a voluntary agreement or plan of action under this subsection shall permit attendance by representatives of committees of Congress and interested persons, including all interested segments of the petroleum industry, consumers, and the public; shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, committees of Congress, and (except during an international energy supply emergency with respect to meetings to carry out a voluntary agreement or to develop or carry out a plan of action) the public; and shall be initiated and chaired by a regular full-time Federal employee.

(ii) Meetings of bodies created by the International Energy Agency established by the international energy program need not be open to interested persons and need not be initiated and chaired by a regular full-time Federal employee.

(iii) The President, in consultation with the Administrator, the Secretary of State, and the Attorney General, may determine that a meeting held to carry out a voluntary agreement or to develop or carry out a plan of action shall not be open to interested persons or that attendance by interested persons may be limited, if the President finds that a wider disclosure would be detrimental to the foreign policy interests of the United States.

(B) No meetings may be held to develop or carry out a voluntary agreement or plan of action under this section unless a regular full-time Federal employee is present.

(2) Interested persons permitted to attend such a meeting shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings, subject to any reasonable limitations with respect to the manner of presentation of data, views, and arguments as the Administrator may impose.

(3) A full and complete record, and where practicable a verbatim transcript, shall be kept of any meeting held, and a full and complete record shall be kept of any communication (other than in a meeting) made, between or among participants or potential participants, to develop, or carry out a voluntary agreement or a plan of action under this section. Such record or transcript shall be deposited, together with any agreement resulting therefrom, with the Administrator, and shall be available to the Attorney General and the Federal Trade Commission. Such records or transcripts shall be available for public inspection and copying in accordance with section 552 of title 5; except that (A) matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), or so much of (b)(4) as relates to trade secrets; and (B) in the exercise of authority under section 552(b)(1), the President shall consult with the Secretary of State, the Administrator, and the Attorney General with respect to questions relating to the foreign policy interests of the United States.

(4) No provision of this section may be exercised so as to prevent representatives of committees of Congress from attending meetings to which this section applies, or from having access to any transcripts, records, and agreements kept or made under this section.

(d) Participation of Attorney General and Federal Trade Commission in development and carrying out of voluntary agreements and plans of action

(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, and when practicable, in the carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this part. A voluntary agreement or plan of action under this section may not be carried out unless approved by the Attorney General, after consultation with the Federal Trade Commission. Prior to the expiration of the period determined under paragraph (2), the Federal Trade Commission shall transmit to the Attorney General its views as to whether such an agreement or plan of action should be approved, and shall publish such views in the Federal Register. The Attorney General, in consultation with the Federal Trade Commission, the Secretary of State, and the Administrator, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of the Federal Trade Commission or any interested person, any voluntary agreement or plan of action at any time, and, if revoked, thereby withdraw prospectively any immunity which may be conferred by subsection (f) or (k) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented; except that during an international energy supply emergency, the Administrator, subject to approval of the Attorney General, may reduce such 20-day period. Any such agreement or plan of action shall be available for public inspection and copying, except that a plan of action shall be so available only to the extent to which records or transcripts are so available as provided in the last sentence of subsection (c)(3) of this section. Any action taken pursuant to such voluntary agreement or plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as

shall be prescribed under paragraphs (3) and (4) of subsection (e) of this section.

(3) A plan of action may not be approved by the Attorney General under this subsection unless such plan (A) describes the types of substantive actions which may be taken under the plan, and (B) is as specific in its description of proposed substantive actions as is reasonable in light of known circumstances.

(e) Monitoring of development and carrying out of voluntary agreements and plans of action by Attorney General and Federal Trade Commission

(1) The Attorney General and the Federal Trade Commission shall monitor the development and carrying out of voluntary agreements and plans of action authorized under this section in order to promote competition and to prevent anticompetitive practices and effects, while achieving substantially the purposes of this part.

(2) In addition to any requirement specified under subsections (b) and (c) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Administrator, shall promulgate rules concerning the maintenance of necessary and appropriate records related to the development and carrying out of voluntary agreements and plans of action authorized pursuant to this section.

(3) Persons developing or carrying out voluntary agreements and plans of action authorized pursuant to this section shall maintain such records as are required by rules promulgated under paragraph (2). The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Attorney General and the Federal Trade Commission may each prescribe such rules as may be necessary or appropriate to carry out their respective responsibilities under this section. They may both utilize for such purposes and for purposes of enforcement any powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by the antitrust laws or the Antitrust Civil Process Act [15 U.S.C. 1311 et seq.]; and wherever any such law refers to "the purposes of this Act" or like terms, the reference shall be understood to include this section.

(f) Defense to civil or criminal antitrust actions

(1) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar State law) in respect to actions taken to develop or carry out a voluntary agreement or plan of action by persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products (provided that such actions were not taken for the purpose of injuring competition) that—

(A) such actions were taken—

(i) in the course of developing a voluntary agreement or plan of action pursuant to this section, or

(ii) to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section, and

(B) such persons complied with the requirements of this section and the rules promulgated hereunder.

(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if the person asserting the defense demonstrates that the actions were specified in, or within the reasonable contemplation of, an approved plan of action.

(3) Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(g) Acts or practices occurring prior to date of enactment of chapter or subsequent to its expiration or repeal

No provision of this section shall be construed as granting immunity for, or as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any act or practice which occurred prior to the date of enactment of this chapter or subsequent to its expiration or repeal.

(h) Applicability of Defense Production Act of 1950

Upon the expiration of the 90-day period which begins on December 22, 1975, the provisions of sections 708 and 708A (other than 708A (o)) of the Defense Production Act of 1950 [50 App. U.S.C. 2158, 2158a] shall not apply to any agreement or action undertaken for the purpose of developing or carrying out (1) the international energy program, or (2) any allocation, price control, or similar program with respect to petroleum products under this chapter or under the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.]. For purposes of section 708(A)(o)[1] of the Defense Production Act of 1950 [50 App. U.S.C. 2158a(o)], the effective date of the provisions of this chapter which relate to international voluntary agreements to carry out the International Energy Program shall be deemed to be 90 days after December 22, 1975.

(i) Reports by Attorney General and Federal Trade Commission to Congress and President

The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every 6 months, a report on the impact on competition and on small business of actions authorized by this section.

(j) Expiration of authority

The authority granted by this section shall terminate June 30, 1979.

(k) Defense in breach of contract actions

In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an international energy supply emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.

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[1] So in original. A reference to section 708A(o) was probably intended.

(l) Definitions

As used in this section and section 6274 of this title:

(1) The term "international energy supply emergency" means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international energy program is required by chapters III and IV of such program, and (B) ending on a date on which he determines that such allocation is no longer required. Such a period may not exceed 90 days, but the President may establish one or more additional 90-day periods by making anew the determination under subparagraph (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

(2) The term "allocation and information provisions of the international energy program" means the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in such program.

(Pub. L. 94-163, title II, § 252, Dec. 22, 1975, 89 Stat. 894.)

REFERENCES IN TEXT

The antitrust laws, referred to in subsec. (a)(2), (e)(4), and (f)(1), are classified generally to section 1 et seq. of Title 15, Commerce and Trade.

The Antitrust Civil Process Act, referred to in subsec. (e)(4), is Pub. L. 87-664, Sept. 19, 1962, 76 Stat. 548, which is classified generally to chapter 34 (§ 1311 et seq.) of Title 15, Commerce and Trade. For complete classification of that Act to the Code, see Short Title note set out under section 1311 of Title 15 and Tables volume.

The date of enactment of this chapter, referred to in subsec. (g), means the date of enactment of Pub. L. 94-163, which was approved on Dec. 22, 1975.

This chapter, referred to in subsec. (h), in the original read "this Act", meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which enacted this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amended sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 2071 of Title 50, App., War and National Defense, enacted provisions set out as notes under sections 6201 of this title, sections 753 and 796 of Title 15, and section 2071 of Title 50, App., and repealed provisions formerly set out as a note under section 1904 of Title 12, Banks and Banking.

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (h), is Pub. L. 93-159, Nov. 27, 1973, 87 Stat. 628, which is classified generally to chapter 16A (§ 751 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 751 of Title 15 and Tables volume.

CLASSIFICATION OF CERTAIN INFORMATION AND MATERIAL

For provisions relating to the classification of certain information and material obtained from advisory bodies created to implement the International Energy Program, see Ex. Ord. No. 11932, eff. Aug. 4, 1976, 41 F.R. 32691, set out as a note under section 401 of Title 50, War and National Defense.

CROSS REFERENCES

Inapplicability of sections 2158 and 2158a of Title 50, Appendix, to certain voluntary agreements upon effective date of this section, see section 2158a of Title 50, Appendix, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6395 of this title.

§ 6273. Advisory committees

(a) Authority of Administrator to establish; applicability of section 17 of Federal Energy Administration Act of 1974; chairman; inclusion of representatives of public; public meetings; notice of meeting to Attorney General and Federal Trade Commission; attendance and participation of their representatives

To achieve the purposes of the international energy program with respect to international allocation of petroleum products and the information system provided in such program, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section, such advisory committees shall be subject to the provisions of section 17 of the Federal Energy Administration Act of 1974 [15 U.S.C. 776] (whether or not such Act [15 U.S.C. 761 et seq.] or any of its provisions expire or terminate before June 30, 1985); shall be chaired by a regular full-time Federal employee; and shall include representatives of the public. The meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(b) Transcript of meetings

A verbatim transcript shall be kept of such advisory committee meetings, and shall be deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be made available for public inspection and copying in accordance with section 552 of title 5, except that matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), and so much of (b)(4) as relates to trade secrets, or pursuant to a determination under subsection (c) of this section.

(c) Suspension of application of certain requirements by President

The President, after consultation with the Secretary of State, the Federal Trade Commission, the Attorney General, and the Administrator, may suspend the application of—

(1) sections 10 and 11 of the Federal Advisory Committee Act,

(2) subsections (b) and (c) of section 17 of the Federal Energy Administration Act of 1974 [15 U.S.C. 776],

(3) the requirement under subsection (a) of this section that meetings be open to the public, and

(4) the second sentence of subsection (b) of this section;

if the President determines with respect to a particular meeting, (A) that such suspension is essential to the developing or carrying out of

the international energy program, (B) that such suspension related solely to the purpose of international allocation of petroleum products and the information system provided in such program, and (C) that the meeting deals with matters described in section 552(b)(1) of title 5. Such determination by the President shall be in writing, shall set forth a detailed explanation of reasons justifying the granting of such suspension, and shall be published in the Federal Register at a reasonable time prior to the effective date of any such suspension.

(Pub. L. 94-163, title II, § 253, Dec. 22, 1975, 89 Stat. 898.)

REFERENCES IN TEXT

The Federal Energy Administration Act of 1974, referred to in subsec. (a), is Pub. L. 93-275, May 7, 1974, 88 Stat. 96, as amended, which is classified generally to chapter 16B (§ 761 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 761 of Title 15 and Tables volume.

Sections 10 and 11 of the Federal Advisory Committee Act, referred to in subsec. (c)(1), are sections 10 and 11 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which are set out in the Appendix to Title 5, Government Organization and Employees.

CLASSIFICATION OF CERTAIN INFORMATION AND MATERIAL

For provisions relating to the classification of certain information and material obtained from advisory bodies created to implement the International Energy Program, see Ex. Ord. No. 11932, eff. Aug. 4, 1976, 41 F.R. 32691, set out as a note under section 401 of Title 50, War and National Defense.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a committee established by the President or an officer of the federal government, such committee is renewed by appropriate action prior to the end of such period, or in the case of a committee established by the Congress, its duration is otherwise provided by law see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6395 of this title.

§ 6274. Exchange of information with International Energy Agency

(a) Submission of information by Administrator to Secretary of State; transmittal to Agency; aggregation and reporting of geological or geophysical information, trade secrets, or commercial or financial information; availability of such information during international energy supply emergency; certification by President that Agency has adopted security measures; review of compliance of other nations with program; petition to President for changes in procedure

(1) Except as provided in subsections (b) and (c) of this section, the Administrator, after consultation with the Attorney General, may provide to the Secretary of State, and the Secretary of State may transmit to the International Energy Agency established by the international energy program, the information and data related to the energy industry certified by the Secretary of State as required to be submitted under the international energy program.

(2)(A) Except as provided in subparagraph (B) of this paragraph, any such information or data which is geological or geophysical information or a trade secret or commercial or financial information to which section 552(b)(9) or (b)(4) of title 5 applies shall, prior to such transmittal, be aggregated, accumulated, or otherwise reported in such manner as to avoid, to the fullest extent feasible, identification of any person from whom the United States obtained such information or data, and in the case of geological or geophysical information, a competitive disadvantage to such person.

(B)(i) Notwithstanding subparagraph (A) of this paragraph, during an international energy supply emergency, any such information or data with respect to the international allocation of petroleum products may be made available to the International Energy Agency is otherwise authorized to be made available to such Agency by paragraph (1) of this subsection.

(ii) Subparagraph (A) shall not apply to information described in subparagraph (A) (other than geological or geophysical information) if the President certifies, after opportunity for presentation of views by interested persons, that the International Energy Agency has adopted and is implementing security measures which assure that such information will not be disclosed by such Agency or its employees to any person or foreign country without having been aggregated, accumulated, or otherwise reported in such manner as to avoid identification of any person from whom the United States obtained such information or data.

(3)(A) Within 90 days after December 22, 1975, and periodically thereafter, the President shall review the operation of this section and shall determine whether other signatory nations to the international energy program are transmitting information and data to the International Energy Agency in substantial compliance with such program. If the President determines that other nations are not so complying, paragraph (2)(B)(ii) shall not apply until he determines other nations are so complying.

(B) Any person who believes he has been or will be damaged by the transmittal of information or data pursuant to this section shall have the right to petition the President and to request changes in procedures which will protect such person from any competitive damage.

(b) Halting transmittal of information that would prejudice competition, violate antitrust laws, or be inconsistent with security interests

If the President determines that the transmittal of data or information pursuant to the authority of this section would prejudice competition, violate the antitrust laws, or be inconsistent with United States national security interests, he may require that such data or information not be transmitted.

(c) Information protected by statute

Information and data the confidentiality of which is protected by statute shall not be provided by the Administrator to the Secretary of State under subsection (a) of this section for transmittal to the International Energy Agency, unless the Administrator has obtained

the specific concurrence of the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data. In making a determination to concur in providing such information and data, the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data shall consider the purposes for which such information and data were collected, gathered, and obtained, the confidentiality provisions of such statutory authority, and the international obligations of the United States under the international energy program with respect to the transmittal of such information and data to an international organization or foreign country.

(d) Continuation of authority to collect data under Energy Supply and Environmental Coordination Act and Federal Energy Administration Act of 1974

For the purposes of carrying out the obligations of the United States under the international energy program, the authority to collect data granted by sections 11 and 13 of the Energy Supply and Environmental Coordination Act [15 U.S.C. 796] and the Federal Energy Administration Act of 1974 [15 U.S.C. 772], respectively, shall continue in full force and effect without regard to the provisions of such Acts relating to their expiration.

(e) Limitation on disclosure contained in other laws

The authority under this section to transmit information shall be subject to any limitations on disclosure contained in other laws, except that such authority may be exercised without regard to—

(1) section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 796(d)];

(2) section 14(b) of the Federal Energy Administration Act of 1974 [15 U.S.C. 773(b)];

(3) section 7 of the Export Administration Act of 1969 [50 App. U.S.C. 2406];

(4) section 9 of title 13;

(5) section 176a of Title 15; and

(6) section 1905 of title 18.

(Pub. L. 94-163, title II, § 254, Dec. 22, 1975, 89 Stat. 899.)

REFERENCES IN TEXT

The antitrust laws, referred to in subsec. (b), are classified generally to section 1 et seq. of Title 15, Commerce and Trade.

The provisions of such Acts relating to their expiration, referred to in subsec. (d), means section 11(g) of Pub. L. 93-319, June 22, 1974, 88 Stat. 246, the Energy Supply and Environmental Coordination Act, which enacted section 796(g) of Title 15, Commerce and Trade, and section 30 of Pub. L. 93-275, May 7, 1974, 88 Stat. 97, the Federal Energy Administration Act of 1974, which is set out as a note under section 761 of Title 15.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6272, 6395 of this title.

§ 6275. Relationship between standby emergency authorities and international energy program

The purpose of the Congress in enacting this subchapter is to provide standby energy emergency authority to deal with energy shortage conditions and to minimize economic dislocations and adverse impacts on employment. While the authorities contained in this subchapter may, to the extent authorized by this subchapter, be used to carry out obligations incurred by the United States in connection with the International Energy Program, this subchapter shall not be construed in any way as advice and consent, ratification, endorsement, or other form of congressional approval of the specific terms of such program.

(Pub. L. 94-163, title II, § 255, Dec. 22, 1975, 89 Stat. 900.)

SUBCHAPTER III—IMPROVING ENERGY EFFICIENCY

PART A—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

CODIFICATION

This part was, in the original, designated Part B and has been redesignated as Part A for purposes of codification.

§ 6291. Definitions

(a)[1] For purposes of this part:

(1) The term "consumer product" means any article (other than an automobile, as defined in section 2001(1) of title 15) of a type—

(A) which in operation consumes, or is designed to consume, energy; and

(B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals;

without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual.

(2) The term "covered product" means a consumer product of a type specified in section 6292 of this title.

(3) The term "energy" means electricity, or fossil fuels. The Administrator may, by rule, include other fuels within the meaning of the term "energy" if he determines that such inclusion is necessary or appropriate to carry out the purposes of this chapter.

(4) The term "energy use" means the quantity of energy directly consumed by a consumer product at point of use, determined in accordance with test procedures under section 6293 of this title.

(5) The term "energy efficiency" means the ratio of the useful output of services from a consumer product to the energy use of such product, detemrined in accordance with test procedures under section 6293 of this title.

(6) The term "energy efficiency standard" means a performance standard—

(A) which prescribes a minimum level of energy efficiency for a covered product, determined in accordance with test procedures prescribed under section 6293 of this title, and

(B) which includes any other requirements which the Administrator may prescribe under section 6295(c) of this title.

[1] Section enacted without a subsec. (b).

(7) The term "estimated annual operating cost" means the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product, determined in accordance with section 6293 of this title.

(8) The term "measure of energy consumption" means energy use, energy efficiency, estimated annual operating cost, or other measure of energy consumption.

(9) The term "class of covered products" means a group of covered products, the functions or intended uses of which are similar (as determined by the Administrator).

(10) The term "manufacture" means to manufacture, produce, assemble or import.

(11) The terms "import" and "importation" mean to import into the customs territory of the United States.

(12) The term "manufacturer" means any person who manufactures a consumer product.

(13) The term "retailer" means a person to whom a consumer product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale.

(14) The term "distributor" means a person (other than a manufacturer or retailer) to whom a consumer product is delivered or sold for purposes of distribution in commerce.

(15)(A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) such product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of such product, (ii) the person with whose brand or trademark such product (or container) is labeled has authorized or caused such product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(16) The terms "to distribute in commerce" and "distribution in commerce" mean to sell in commerce, to import, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(17) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(18) The term "Commission" means the Federal Trade Commission.

(Pub. L. 94-163, title III, § 321, Dec. 22, 1975, 89 Stat. 917.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(3), in the original read "this Act", meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which enacted this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amended sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 2071 of Title 50, App., War and National Defense, enacted provisions set out as notes under sections 6201 of this title, sections 753 and 796 of Title 15, and section 2071 of Title 50, App., and repealed provisions formerly set out as a note under section 1904 of Title 12, Banks and Banking.

§ 6292. Covered products

(a) A consumer product is a covered product if it is one of the following types (or is designed to perform a function which is the principal function of any of the following types):

(1) Refrigerators and refrigerator-freezers.

(2) Freezers.

(3) Dishwashers.

(4) Clothes dryers.

(5) Water heaters.

(6) Room air conditioners.

(7) Home heating equipment, not including furnaces.

(8) Television sets.

(9) Kitchen ranges and ovens.

(10) Clothes washers.

(11) Humidifiers and dehumidifiers.

(12) Central aid[1] conditioners.

(13) Furnaces.

(14) Any other type of consumer product which the Administrator classifies as a covered product under subsection (b) of this section.

(b)(1) The Administrator may classify a type of consumer product as a covered product if he determines that—

(A) classifying products of such type as covered products is necessary or appropriate to carry out the purposes of this chapter, and

(B) average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

(2) For purposes of this subsection:

(A) The term "average annual per-household energy use with respect to a type of product[2] means the estimated aggregate annual energy use (in kilowatt-hours or the Btu equivalent) of consumer products of such type which are used by households in the United States, divided by the number of such households which use products of such type.

(B) The Btu equivalent of one kilowatt-hour is 3,412 British thermal units.

(C) The term "household" shall be defined under rules of the Administrator.

(Pub. L. 94-163, title III, § 322, Dec. 22, 1975, 89 Stat. 918.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1)(A), in the original read "this Act", meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which enacted this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amended sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 2071 of Title 50, App., War and National Defense, enacted provisions set out as notes under sections 6201 of this title, sections 753 and 796 of Title 15, and section 2071 of Title 50, App., and repealed provisions formerly set out as a

[1] So in original. Probably should be "air".

[2] So in original. Probably should be followed by closing quotations.

note under section 1904 of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6291, 6293 to 6295 of this title.

§ 6293. Test procedures

(a) Presentment of written data, views, and arguments by interested persons; development of test procedures by National Bureau of Standards; publication of proposed test procedures; comment period; time of publication; prescription of test procedures by Administrator; delay in publication of proposed test procedures or prescription of test procedures

(1) The Administrator shall, during the 30-day period which begins on December 22, 1975, afford interested persons an opportunity to present written data, views, and arguments with respect to test procedures to be developed for covered products of each of the types specified in paragraphs (1) through (13) of section 6292(a) of this title.

(2) The Administrator shall direct the National Bureau of Standards to develop test procedures for the determination of (A) estimated annual operating costs of covered products of the types specified in paragraphs (1) through (13) of section 6292(a) of this title, and (B) at least one other useful measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(3) Except as provided in paragraph (6), the Administrator shall publish proposed test procedures with respect to all covered products of each of the types specified in paragraphs (1) through (13) of section 6292(a) of this title, and shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. Such proposed test procedures shall be published not later than June 30, 1976, except that (A) in the case of covered products of the types specified in paragraphs (7) and (9) of section 6292(a) of this title, such proposed test procedures shall be published not later than September 30, 1976, and (B) in the case of covered products of the types specified in paragraphs (10) and (13) of section 6292(a) of this title, such proposed test procedures shall be published not later than June 30, 1977.

(4)(A) Except as provided in paragraph (6), the Administrator shall prescribe test procedures for the determination of (i) estimated annual operating costs of all covered products of each of the types specified in paragraphs (1) through (13) of section 6292(a) of this title, and (ii) at least one other measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(B) Such test procedures shall be prescribed not later than September 30, 1976, except that (i) in the case of covered products of the types specified in paragraphs (7) and (9) of section 6292(a) of this title, such procedures shall be prescribed not later than December 31, 1976, and (ii) in the case of covered products of the types specified in paragraphs (10) through (13) of section 6292(a) of this title, such test procedures shall be published not later than September 30, 1977.

(5) If the Administrator has classified a type of product as a covered product under section 6292(b) of this title, the Administrator may, after affording interested persons an opportunity to comment, direct the National Bureau of Standards to develop, and may publish proposed test procedures for such type of covered product (or class thereof). The Administrator shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. The Administrator may thereafter prescribe test procedures in accordance with subsection (b) of this section with respect to such type or class of product, if the Administrator or the Commission determines that—

(A) the application of subsection (C)[1] to such type of covered product (or class thereof) will assist consumers in making purchasing decisions, or

(B) labeling in accordance with section 6294 of this title will assist purchasers in making purchasing decisions.

(6) The Administrator may delay the publication of proposed test procedures or the prescription of test procedures for a type of covered product (or class thereof) beyond the dates specified in paragraph (3), or (4), if he determines that he cannot, within the applicable time period, publish proposed test procedures or prescribe test procedures applicable to such type (or class thereof) which meet the requirements of subsection (b) of this section, and publishes such determination in the Federal Register. In any such case, he shall publish proposed test procedures or prescribe test procedures for covered products of such type (or class thereof) as soon as practicable, unless he determines that test procedures cannot be developed which meet the requirements of subsection (b) of this section and publishes such determination in the Federal Register, together with the reasons therefor.

(b) Requirements for test procedures

(1) Any test procedures prescribed under this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle (as determined by the Administrator), and shall not be unduly burdensome to conduct.

(2) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator), and from representative average unit costs of the energy needed to operate such product during such cycle. The Administrator shall provide information to manufacturers respecting representative average unit costs of energy.

[1] So in original. Probably should be "(c)".

(c) Prohibited representations

Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

(1) in writing (including a representation on a label), or

(2) in any broadcast advertisement,

respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

(Pub. L. 94-163, title III, § 323, Dec. 22, 1975, 89 Stat. 919.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6291, 6294 to 6297, 6303, 6306 of this title.

§ 6294. Labeling

(a) Requirement; exceptions

(1) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (1) through (9) of section 6292(a) of this title, except to the extent that, with respect to any such type (or class thereof)—

(A) the Administrator determines under the second sentence of section 6293(a)(6) of this title that test procedures cannot be developed which meet the requirements of section 6293(b) of this title; or

(B) the Commission determines under the second sentence of subsection (b)(5) of this section that labeling in accordance with this section is not technologically or economically feasible.

(2) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (10) through (13) of section 6292(a) of this title, except to the extent that with respect to any such type (or class thereof)—

(A) the Administrator determines under the second sentence of section 6293(a)(6) of this title that test procedures cannot be developed which meet the requirements of section 6293(b) of this title; or

(B) the Commission determines under the second sentence of subsection (b)(5) of this section that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.

(3) The Commission may prescribe a labeling rule under this section applicable to covered products of a type specified in paragraph (14) of section 6292(a) of this title (or a class thereof) if—

(A) the Commission or the Administrator has made a determination with respect to such type (or class thereof) under section 6293(a)(5)(B) of this title,

(B) the Administrator has prescribed test procedures under section 6293(a)(5) of this title for such type (or class thereof), and

(C) the Commission determines with respect to such type (or class thereof) that application of labeling rules under this section to such type (or class thereof) is economically and technologically feasible.

(4) Any determination under this subsection shall be published in the Federal Register.

(b) Procedure for prescribing rules

(1) Not later than 30 days after the date on which a proposed test procedure applicable to a covered product of any of the types specified in paragraphs (1) through (14) of section 6292(a) of this title (or class thereof) is published under section 6293(a) of this title, the Commission shall publish a proposed labeling rule applicable to such type (or class thereof).

(2) The Commission shall afford interested persons an opportunity to present written or oral data, views, and comments with respect to the proposed labeling rules published under paragraph (1). The period for such presentations shall not be less than 45 days.

(3) Not earlier than 45 days nor later than 60 days after the date on which test procedures are prescribed under section 6293 of this title with respect to covered products of any type (or class thereof) specified in paragraphs (1) through (13) of section 6292(a) of this title, the Commission shall prescribe labeling rules with respect to covered products of such type (or class thereof). Not earlier than 45 days after the date on which test procedures are prescribed under section 6293 of this title with respect to covered products of a type specified in paragraph (14) of section 6292(a) of this title, the Commission may prescribe labeling rules with respect to covered products of such type (or class thereof).

(4) A labeling rule prescribed under paragraph (3) shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Commission determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

(5) The Commission may delay the publication of a proposed labeling rule, or the prescription of a labeling rule, beyond the dates specified in paragraph (1) or (3), if it determines that it cannot published proposed labeling rules or prescribe labeling rules which meet the requirements of this section on or prior to the date specified in the applicable paragraph and publishes such determination in the Federal Register, together with the reasons therefor. In any such case, it shall publish proposed labeling rules or prescribe labeling rules for covered products of such type (or class thereof) as soon as practicable unless it determines (A) that labeling in accordance with this section is not economically or technically feasible, or (B) in the case of a type specified in paragraphs (10) through (13) of section 6292(a) of this title, that labeling in accordance with this section is not likely to assist consumers in purchasing decisions. Any such determination shall be published in the Federal Register, together with the reasons therefor. This paragraph shall not apply to the prescription of a labeling rule with

respect to covered products of a type specified in paragraph (14) of section 6292(a) of this title.

(c) Form and content of rules and labels

(1) Subject to paragraph (6), a rule prescribed under this section shall require that each covered product in the type or class of covered products to which the rule applies bear a label which discloses—

(A) the estimated annual operating cost of such product (determined in accordance with test procedures prescribed under section 6293 of this title), except that if—

(i) the Administrator determines that disclosure of estimated annual operating cost is not technologically feasible, or

(ii) the Commission determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible,

the Commission shall require disclosure of a different useful measure of energy consumption (determined in accordance with test procedures prescribed under section 6293 of this title); and

(B) information respecting the range of estimated annual operating costs for covered products to which the rule applies; except that if the Commission requires disclosure under subparagraph (A) of a measure of energy consumption different from estimated annual operating cost, then the label shall disclose the range of such measure of energy consumption of covered products to which such rule applies.

(2) A rule under this section shall include the following:

(A) A description of the type or class of covered products to which such rule applies.

(B) Subject to paragraph (6), information respecting the range of estimated annual operating costs or other useful measure of energy consumption (determined in such manner as the rule may prescribe) for such type or class of covered products.

(C) A description of the test procedures under section 6293 of this title used in determining the estimated annual operating costs or other measure of energy consumption of the type or class of covered products.

(D) A prototype label and directions for displaying such label.

(3) A rule under this section shall require that the label be displayed in a manner that the Commission determines is likely to assist consumers in making purchasing decisions and is appropriate to carry out this part. The Commission may permit a tag to be used in lieu of a label in any case in which the Commission finds that a tag will carry out the purposes for which the label was intended.

(4) A rule under this section applicable to a covered product may require disclosure, in any printed matter displayed or distributed at the point of sale of such product, of any information which may be required under this section to be disclosed on the label of such product. Requirements under this paragraph shall not apply to any broadcast advertisement or any advertisement in any newspaper, magazine, or other periodical.

(5) The Commission may require that a manufacturer of a covered product to which a rule under this section applies—

(A) include on the label,

(B) separately attach to the product, or

(C) ship with the product,

additional information relating to energy consumption, if the Commission determines that such additional information would assist consumers in making purchasing decisions or in using such product, and that such requirement would not be unduly burdensome to manufacturers.

(6) The Commission may delay the effective date of the requirement specified in paragraph (1)(B) of this subsection applicable to a type or class of covered product, insofar as it requires the disclosure on the label of information respecting range of a measure of energy consumption, for not more than 12 months after the date on which the rule under this section is first applicable to such type or class, if the Commission determines that such information will not be available within an adequate period of time before such date.

(d) Products completed prior to effective date of rules or amendments

A rule under this section (or an amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of such rule or amendment, as the case may be.

(e) Study to determine coverage for additional consumer products

The Administrator, in consultation with the Commission, shall study consumer products for which labeling rules under this section have not been proposed, in order to determine (1) the aggregate energy consumption of such products, and (2) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions. The Administrator shall include the results of such study in the annual report under section 6308 of this title.

(f) Consultation between Administrator and Commission

The Administrator and the Commission shall consult with each other on a continuing basis as may be necessary or appropriate to carry out their respective responsibilities under this part. Before the Commission makes any determination under subsection (a)(1) or (2) of this section, it shall obtain the views of the Administrator and shall take such views into account in making such determination.

(g) Labeling authority under Federal Trade Commission Act

Until such time as labeling rules under this section take effect with respect to a type or class of covered product, this section shall not affect any authority of the Commission under the Federal Trade Commission Act [15 U.S.C. 41 et seq.] to require labeling with respect to energy consumption of such type or class of covered product.

(Pub. L. 94-163, title III, § 324, Dec. 22, 1975, 89 Stat. 920.)

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (g), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6293, 6295 to 6297, 6302, 6304, 6306 of this title.

§ 6295. Energy efficiency standards

(a) Duty of Administrator to prescribe

(1)(A) The Administrator shall direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (1) through (10) of section 6292(a) of this title. Not later than 90 days after August 14, 1976, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each such type of covered product.

(B) The targets prescribed under subparagraph (A) shall be designed so that, if met, the aggregate energy efficiency of covered products of all types specified in paragraphs (1) through (10) of section 6292(a) of this title which are manufactured in calendar year 1980 will exceed the aggregate energy efficiency achieved by products of all such types manufactured in calendar year 1972 by a percentage which is the maximum percentage improvement which the Administrator determines is economically and technologically feasible, but which in any case is not less than 20 percent.

(2) The Administrator shall direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (11), (12), and (13) of section 6292(a) of this title. Not later than one year after August 14, 1976, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each such type of product. Each such target shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is economically and technologically feasible to attain for each such type manufactured in calendar year 1980.

(3) The Administrator may, from time to time, by rule, modify any energy efficiency improvement target prescribed under paragraph (1) or (2) so long as such target, as modified, meets the applicable requirements of paragraph (1) or (2).

(4)(A) The Administrator shall require each manufacturer of covered products of the types specified in paragraphs (1) through (13) of section 6292(a) of this title to submit such reports, with respect to improvement of energy efficiency of such products, as the Administrator determines may be necessary to establish targets under this subsection or to ascertain whether covered products of any such type will achieve the percentage improvement prescribed by the energy efficiency improvement target for such type.

(B) If, on the basis of the reports received under subparagraph (A) or other information available to the Administrator, he determines that an energy efficiency improvement target applicable to any type of covered product specified in paragraphs (1) through (13) of section 6292(a) of this title is not likely to be achieved, the Administrator shall commence a proceeding under subsection (b) of this section to prescribe an energy efficiency standard for such type.

(C) If, in a proceeding required to be commenced under subparagraph (B), the Administrator determines with respect to the type of product to which the proceeding relates (or class thereof)—

(i) improvement of energy efficiency of covered products of such type (or class thereof) is technologically feasible and economically justified, and

(ii) the application of a labeling rule under section 6294 of this title applicable to such type (or class thereof) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class thereof) which achieve the maximum energy efficiency which it is technologically feasible to attain, and which is economically justified,

the Administrator shall prescribe an energy efficiency standard for such type (or, if the determinations are made with respect to one or more classes of such type, for such class or classes).

(D) For purposes of subparagraph (B), improvement of energy efficiency is economically justified if it is economically feasible the[1] benefits of reduced energy consumption, and the savings in operating costs throughout the estimated average life of the covered product, outweigh—

(i) any increase to purchasers in initial charges for, or maintenance expenses of, the covered product which is likely to result from the imposition of the standard,

(ii) any lessening of the utility or the performance of the covered product, and

(iii) any negative effects on competition.

(E) For purposes of subparagraph (D)(iii), the Administrator shall not determine that there are any negative effects on competition, unless the Attorney General (on request of the Administrator, the Commission, or any person, or on his own motion) makes such determination and submits it in writing to the Administrator, together with his analysis of the nature and extent of such negative effects. The determination of the Attorney General shall be available for public inspection.

(5) The Administrator may (without regard to paragraphs (1) through (4)(B)) commence a proceeding to prescribe an energy efficiency standard applicable to any type or class of covered product (other than a consumer product classified as a covered product under section 6292(b) of this title). In such proceeding he may prescribe such a standard if he makes the determinations specified in clauses (i) and (ii) of paragraph (4)(C) of this subsection.

(b) Procedure

Any energy efficiency standard shall be prescribed in accordance with the following procedure:

(1) The Administrator shall (A) publish an advance notice of proposed rulemaking which

[1] So in original. Probably should read "and if the".

specifies (i) the type or class of covered products to which the rule will apply, and (ii) the energy efficiency level which the Administrator proposes to require by such energy efficiency standard, and (B) invite interested persons to submit, within 90 days after the date of publication of such advance notice—

(i) written or oral presentations of data, views, and argument as to the proposed level of energy efficiency, and

(ii) a proposed energy efficiency standard applicable to such type or class of covered product.

(2) A proposed rule which prescribes an energy efficiency standard for a type or class of covered products may not be prescribed earlier than 120 days after the date of publication of advance notice of proposed rulemaking for such type or class.

(3) A rule prescribing an energy efficiency standard for a class or type of covered product may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type or class. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of the rule or amendment as the case may be.

(c) Test procedures; requirements necessary to meet minimum energy efficiency levels

An energy efficiency standard prescribed under this section shall include test procedures prescribed in accordance with section 6293 of this title, and may include any requirement which the Administrator determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.

(d) Labeling rules

A rule with respect to any type or class of covered product prescribed under this section may not take effect unless a rule under section 6294 of this title with respect to such type or class of covered product has been in effect at least 18 months prior to the effective date of the rule under this section.

(Pub. L. 94-163, title III, § 325, Dec. 22, 1975, 89 Stat. 923; Pub. L. 94-385, title I, § 161, Aug. 14, 1976, 90 Stat. 1140.)

AMENDMENTS

1976—Subsec. (a)(1)(A). Pub. L. 94-385, § 161(a), transferred authority to determine energy targets from the Administrator to the National Bureau of Standards and substituted 90 days after August 14, 1976, for 180 days after December 22, 1975, for the promulgation of rules by the Administrator.

Subsec. (a)(2). Pub. L. 94-385, § 161(b), transferred authority to determine energy targets from the Administrator to the National Bureau of Standards and substituted one year after August 14, 1976, for one year after December 22, 1975, for the promulgation of rules by the Administrator.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6291, 6296, 6297, 6304 to 6306 of this title.

§ 6296. Requirements of manufacturers

(a) Display of labels; catalog information

Each manufacturer of a covered product to which a rule under section 6294 of this title applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule. If such manufacturer or any distributor, retailer, or private labeler of such product advertises such product in a catalog from which it may be purchased, such catalog shall contain all information required to be displayed on the label, except as otherwise provided by rule of the Commission. The preceding sentence shall not require that a catalog contain information respecting a covered product if the distribution of such catalog commenced before the effective date of the labeling rule under section 6294 of this title applicable to such product.

(b) Notification of products covered; label data; test models; energy consumption data; observation of test procedures

(1) Each manufacturer of a covered product to which a rule under section 6294 of this title applies shall notify the Commission, not later than 60 days after the date such rule takes effect, of the models in current production (and starting serial numbers of those models) to which such rule applies.

(2) If requested by the Administrator or Commission, the manufacturer of a covered product to which a rule under section 6294 of this title applies shall provide, within 30 days of the date of the request, the data from which the information included on the label and required by the rule was derived. Data shall be kept on file by the manufacturer for a period specified in the rule.

(3) When requested by the Commission, the manufacturer of covered products to which a rule under section 6294 of this title applies shall supply at his expense a reasonable number of such covered products to any laboratory designated by the Commission for the purpose of ascertaining whether the information set out on the label, as required under section 6294 of this title, is accurate. Any reasonable charge levied by the laboratory for such testing shall be borne by the United States.

(4) Each manufacturer of a covered product to which a rule under section 6294 of this title applies shall annually, at a time specified by the Commission, supply to the Commission relevant data respecting energy consumption developed in accordance with the test procedures applicable to such product under section 6293 of this title.

(5) A rule under section 6293, 6294, or 6295 of this title may require the manufacturer or his agent to permit a representative designated by the Commission or the Administrator to observe any testing required by this part and inspect the results of such testing.

(c) Tables of ranges

Each manufacturer shall use labels reflecting the range data required to be disclosed under section 6294(c)(1)(B) of this title after the expiration of 60 days following the date of publication of any revised table of ranges unless the rule under section 6294 of this title provides for a later date. The Commission may not require

labels be changed to reflect revised tables of ranges more often than annually.

(Pub. L. 94-163, title III, § 326, Dec. 22, 1975, 89 Stat. 926.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6302 to 6304 of this title.

§ 6297. State regulation

(a) State regulations superseded

This part supersedes any State regulation insofar as such State regulation may now or hereafter provide for—

(1) the disclosure of information with respect to any measure of energy consumption of any covered product—

(A) if there is any rule under section 6293 of this title applicable to such covered product, and such State regulation requires testing in any manner other than that prescribed in such rule under section 6293 of this title, or

(B) if there is a rule under section 6294 of this title applicable to such covered product and such State regulation requires disclosure of information other than information disclosed in accordance with such rule under section 6294 of this title; or

(2) any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of a covered product—

(A) if there is a standard under section 6295 of this title applicable to such product, and such State regulation is not identical to such standard, or

(B) if there is a rule under section 6293 or 6294 of this title applicable to such product and such State regulation requires testing in accordance with test procedures which are not identical to the test procedures specified in such rule.

(b) Petition to Administrator for prescription of rule which superseded state regulation; issuance of rule; state regulations not superseded

(1) If a State regulation provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product and if such State regulation is not superseded by subsection (a)(2) of this section, then any person subject to such State regulation may petition the Administrator for the prescription of a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator shall, within 6 months after the date such a petition is filed, either deny such petition or prescribe a rule under this subsection superseding such State regulation. The Administrator shall issue such a rule with respect to a State regulation if and only if the petitioner demonstrates to the satisfaction of the Administrator that—

(A) there is no significant State or local interest sufficient to justify such State regulation; and

(B) such State regulation unduly burdens interstate commerce.

(2) Notwithstanding the provisions of subsection (a) of this section, any State regulation which provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product shall not be superseded by subsection (a) of this section if the State prescribing such standard demonstrates and the Administrator finds, by rule, that—

(A) there is a substantial State or local need which is sufficient to justify such State regulation;

(B) such State regulation does not unduly burden interstate commerce; and

(C) if there is a Federal energy efficiency standard applicable to such product, such State regulation contains a more stringent energy efficiency standard than the corresponding Federal standard.

(c) Procurement standard regulations

Notwithstanding the provisions of subsection (a) of this section, any State regulation which sets forth procurement standards for a State (or political subdivision thereof) shall not be superseded by the provisions of this part if such State standards are more stringent than the corresponding Federal standards.

(d) State regulation defined

For purposes of this section, the term "State regulation" means a law or regulation of a State or political subdivision thereof.

(e) Warranties

Any disclosure with respect to energy use, energy efficiency, or estimated annual operating cost, which is required to be made under the provisions of this part, shall not create an express or implied warranty under State or Federal law that such energy efficiency will be achieved, or that such energy use or estimated annual operating cost will not be exceeded, under conditions of actual use.

(Pub. L. 94-163, title III, § 327, Dec. 22, 1975, 89 Stat. 926.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6306 of this title.

§ 6298. Rules

The Commission and the Administrator may each issue such rules as each deems necessary to carry out the provisions of this part.

(Pub. L. 94-163, title III, § 328, Dec. 22, 1975, 89 Stat. 928.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6306 of this title.

§ 6299. Authority to obtain information

(a) For purposes of carrying out this part, the Commission and the Administrator may each sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, records, papers, and other documents, and may each administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of contumacy by, or refusal to obey a subpena served, upon any persons subject to this part, the Commission and the Administrator may each seek an order from

the district court of the United States for any district in which such person is found or resides or transacts business requiring such person to appear and give testimony, or to appear and produce documents. Failure to obey any such order is punishable by such court as a contempt thereof.

(b) Any information submitted by any person to the Administrator or the Commission under this part shall not be considered energy information as defined by section 796(e)(1) of title 15 for purposes of any verification examination authorized to be conducted by the Comptroller General under section 6381 of this title.

(Pub. L. 94-163, title III, § 329, Dec. 22, 1975, 89 Stat. 928.)

§ 6300. Exports

This part shall not apply to any covered product if (1) such covered product is manufactured, sold, or held for sale for export from the United States (or such product was imported for export), unless such product is in fact distributed in commerce for use in the United States, and (2) such covered product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such covered product is intended for export.

(Pub. L. 94-163, title III, § 330, Dec. 22, 1975, 89 Stat. 928.)

§ 6301. Imports

Any covered product offered for importation in violation of section 6302 of this title shall be refused admission into the customs territory of the United States under rules issued by the Secretary of the Treasury, except that the Secretary of the Treasury may, by such rules, authorize the importation of such covered product upon such terms and conditions (including the furnishing of a bond) as may appear to him appropriate to ensure that such covered product will not violate section 6302 of this title, or will be exported or abandoned to the United States. The Secretary of the Treasury shall prescribe rules under this section not later than 180 days after December 22, 1975.

(Pub. L. 94-163, title III, § 331, Dec. 22, 1975, 89 Stat. 928.)

§ 6302. Prohibited acts

(a) It shall be unlawful—

(1) for any manufacturer or private labeler to distribute in commerce any new covered product to which a rule under section 6294 of this title applies, unless such covered product is labeled in accordance with such rule;

(2) for any manufacturer, distributor, retailer, or private labeler to remove from any new covered product or render illegible any label requried to be provided with such product under a rule under section 6294 of this title;

(3) for any manufacturer to fail to permit access to, or copying of, records required to be supplied under this part, or fail to make reports or provide other information required to be supplied under this part;

(4) for any person to fail to comply with an applicable requirement of section 6296(a), (b)(2), (b)(3), or (b)(5) of this title; or

(5) for any manufacturer or private labeler to distribute in commerce any new covered product which is not in conformity with an applicable energy efficiency standard prescribed under this part.

(b) For purposes of this section, the term "new covered product" means a covered product the title of which has not passed to a purchaser who buys such product for purposes other than (1) reselling such product, or (2) leasing such product for a period in excess of one year.

(Pub. L. 94-163, title III, § 332, Dec. 22, 1975, 89 Stat. 928.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6301, 6303 to 6305 of this title.

§ 6303. Enforcement

(a) Civil penalties

Except as provided in subsection (b) of this section, any person who knowingly violates any provision of section 6302 of this title shall be subject to a civil penalty of not more than $100 for each violation. Such penalties shall be assessed by the Commission, except that penalties for violations of section 6302(a)(3) of this title which relate to requirements prescribed by the Administrator, violations of section 6302(a)(4) of this title which relate to requests of the Administrator under section 6296(b)(2) of this title, or violations of section 6302(a)(5) of this title shall be assessed by the Administrator. Civil penalties assessed under this part may be compromised by the agency or officer authorized to assess the penalty, taking into account the nature and degree of the violation and the impact of the penalty upon a particular respondent. Each violation of paragraph (1), (2), or (5) of section 6302(a) of this title shall constitute a separate violation with respect to each covered product, and each day of violation of section 6302(a)(3) or (4) of this title shall constitute a separate violation.

(b) Knowingly defined

As used in subsection (a) of this section, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

(c) Unfair or deceptive acts or practices

It shall be an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 45(a)(1) of title 15) for any person to violate section 6293(d)(2)[1] of this title.

(Pub. L. 94-163, title III, § 333, Dec. 22, 1975, 89 Stat. 929.)

§ 6304. Injunctive enforcement

The United States district courts shall have jurisdiction to restrain (1) any violation of sec-

[1]So in original. Section 6293 of this title consists only of subsecs. (a) to (c).

tion 6302 of this title and (2) any person from distributing in commerce any covered product which does not comply with an applicable rule under section 6294 or 6295 of this title. Any such action shall be brought by the Commission, except that any such action to restrain any violation of section 6302(a)(3) of this title which relates to requirements prescribed by the Administrator, any violation of section 6302(a)(4) of this title which relates to requests of the Administrator under section 6296(b)(2) of this title, or any violation of section 6302(a)(5) of this title shall be brought by the Administrator. Any such action may be brought in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.

(Pub. L. 94-163, title III, § 334, Dec. 22, 1975, 89 Stat. 929.)

§ 6305. Citizen suits

(a) Civil actions; jurisdiction

Except as otherwise provided in subsection (b) of this section, any person may commence a civil action against—

(1) any manufacturer or private labeler who is alleged to be in violation of any provision of this part or any rule under this part (excluding sections 6295 and 6302(a)(5) of this title, and rules thereunder); or

(2) any Federal agency which has a responsibility under this part where there is an alleged failure of such agency to perform any act or duty under this part which is not discretionary (excluding any act or duty under section 6295 or 6302(a)(5) of this title).

The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such provision or rule, as the case may be.

(b) Notice

No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the date on which the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the Commission, and (iii) to any alleged violator of such provision or rule, or

(B) if the Commission has commenced and is diligently prosecuting a civil action to require compliance with such provision or rule, but, in any such action, any person may intervene as a matter of right.

(2) under subsection (a)(2) of this section prior to 60 days after the date on which the plaintiff has given notice of such action to the Administrator and Commission.

Notice under this subsection shall be given in such manner as the Commission shall prescribe by rule.

(c) Intervention

In such action under this section, the Administrator or the Commission (or both), if not a party, may intervene as a matter of right.

(d) Costs

The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) Other remedies unaffected

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this part or any rule thereunder, or to seek any other relief (including relief against the Administrator or the Commission).

(f) Good faith compliance with invalid rules

For purposes of this section, if a manufacturer or private labeler complied in good faith with a rule under this part, then he shall not be deemed to have violated any provision of this part by reason of the alleged invalidity of such rule.

(Pub. L. 94-163, title III, § 335, Dec. 22, 1975, 89 Stat. 930.)

§ 6306. Administrative procedure and judicial review

(a)(1) Rules under sections 6293, 6294, 6295(a)(1), (2), or (3), 6297(b), or 6298 of this title shall be prescribed in accordance with section 553 of title 5, except that—

(A) interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rule, and

(B) in the case of a rule under paragraph (1), (2), or (3) of section 6295(a) of this title, the Administrator shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question—

(i) other interested persons who have made oral presentations under subparagraph (A), and

(ii) employees of the United States who have made written or oral presentations,

with respect to disputed issues of material fact. Such opportunity shall be afforded to the extent the Administrator determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues.

A transcript shall be kept of any oral presentations made under this paragraph.

(2) Subsections (c) and (d) of section 57a of title 15 shall apply to rules under section 6295 of this title (other than subsections (a)(1), (2), and (3)) to the same extent that such subsections apply to rules under section 57a(a)(1)(B) of title 15.

(b)(1) Any person who will be adversely affected by a rule prescribed under section 6293 or 6294 of this title when it is effective may, at any time prior to the sixtieth day after the date such rule is prescribed, file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the agency which prescribed the rule. Such agency thereupon shall file in the court the written submis-

sions to, and transcript of, the proceedings on which the rule was based as provided in section 2112 of title 28.

(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5 and to grant appropriate relief as provided in such chapter. No rule under section 6293 or 6294 of this title may be affirmed unless supported by substantial evidence.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

(5) Section 57a(e) of title 15 shall apply to rules under section 6295 of this title (other than subsections (a)(1), (2), and (3)) to the same extent that it applies to rules under section 57a(a)(1)(B) of title 15.

(Pub. L. 94-163, title III, § 336, Dec. 22, 1975, 89 Stat. 930.)

§ 6307. Consumer education

The Administrator shall, in close cooperation and coordination with the Commission and appropriate industry trade associations and industry members, including retailers, and interested consumer and environmental organizations, carry out a program to educate consumers and other persons with respect to—

(1) the significance of estimated annual operating costs;

(2) the way in which comparative shopping, including comparisons of estimated annual operating costs, can save energy for the Nation and money for consumers; and

(3) such other matters as the Administrator determines may encourage the conservation of energy in the use of consumer products.

Such steps to educate consumers may include publications, audiovisual presentations, demonstrations, and the sponsorship of national and regional conferences involving manufacturers, distributors, retailers, and consumers, and State, local, and Federal Government representatives. Nothing in this section may be construed to require the compilation of lists which compare the estimated annual operating costs of consumer products by model or manufacturer's name.

(Pub. L. 94-163, title III, § 337, Dec. 22, 1975, 89 Stat. 931.)

§ 6308. Annual report

The Administrator shall report to the Congress and the President either (1) as part of his annual report, or (2) in a separate report submitted annually, on the progress of the program undertaken pursuant to this part and on the energy savings impact of this part.

(Pub. L. 94-163, title III, § 338, Dec. 22, 1975, 89 Stat. 932.)

Section Referred to in Other Sections

This section is referred to in section 6294 of this title.

§ 6309. Authorization of appropriations

(a) Appropriations to Administrator

There are authorized to be appropriated to the Administrator not more than the following amounts to carry out his responsibilities under this part—

(1) $1,700,000 for fiscal year 1976;
(2) $1,500,000 for fiscal year 1977; and
(3) $1,500,000 for fiscal year 1978.

(b) Appropriations to Commission

There are authorized to be appropriated to the Commission not more than the following amounts to carry out its responsibilities under this part—

(1) $650,000 for fiscal year 1976;
(2) $700,000 for fiscal year 1977; and
(3) $700,000 for fiscal year 1978.

(c) Appropriations to Administrator for allocation

There are authorized to be appropriated to the Administrator to be allocated not more than the following amounts—

(1) $1,100,000 for fiscal year 1976;
(2) $700,000 for fiscal year 1977; and
(3) $700,000 for fiscal year 1978.

Such amounts shall, and any amounts authorized to be appropriated under subsection (a) of this section, may be allocated by the Administrator to the National Bureau of Standards.

(Pub. L. 94-163, title III, § 339, Dec. 22, 1975, 89 Stat. 932.)

Part B—State Energy Conservation Plans

Codification

This part was, in the original, designated Part C and has been redesignated Part B for purposes of codification.

Part Referred to in Other Sections

This part is referred to in section 6851 of this title; title 12 section 1701z-8.

§ 6321. Congressional findings and declaration of purpose

(a) The Congress finds that—

(1) the development and implementation by States of laws, policies, programs, and procedures to conserve and to improve efficiency in the use of energy will have an immediate and substantial effect in reducing the rate of growth of energy demand and in minimizing the adverse social, economic, political, and environmental impacts of increasing energy consumption;

(2) the development and implementation of energy conservation programs by States will most efficiently and effectively minimize any adverse economic or employment impacts of changing patterns of energy use and meet local economic, climatic, geographic, and other unique conditions and requirements of each State; and

(3) the Federal Government has a responsibility to foster and promote comprehensive energy conservation programs and practices by establishing guidelines for such programs and providing overall coordination, technical

assistance, and financial support for specific State initiatives in energy conservation.

(b) It is the purpose of this part to promote the conservation of energy and reduce the rate of growth of energy demand by authorizing the Administrator to establish procedures and guidelines for the development and implementation of specific State energy conservation programs and to provide Federal financial and technical assistance to States in support of such programs.

(Pub. L. 94-163, title III, § 361, Dec. 22, 1975, 89 Stat. 932.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5818 of this title.

§ 6322. State energy conservation plans

(a) Feasibility reports

The Administrator shall, by rule, within 60 days after December 22, 1975, prescribe guidelines for the preparation of a State energy conservation feasibility report. The Administrator shall invite the Governor of each State to submit, within 3 months after the effective date of such guidelines, such a report. Such report shall include—

(1) an assessment of the feasibility of establishing a State energy conservation goal, which goal shall consist of a reduction, as a result of the implementation the[1] State energy conservation plan described in this section, of 5 percent or more in the total amount of energy consumed in such State in the year 1980 from the projected energy consumption for such State in the year 1980, and

(2) a proposal by such State for the development of a State energy conservation plan to achieve such goal.

(b) Guidelines

The Administrator shall, by rule, within 6 months after December 22, 1975, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, State energy conservation plans. The Administrator shall invite the Governor of each State to submit, within 5 months after the effective date of such guidelines, a report. Such report shall include—

(1) a proposed State energy conservation plan designed to result in scheduled progress toward, and achievement of, the State energy conservation goal of such State; and

(2) a detailed description of the requirements, including the estimated cost of implementation and the estimated energy savings, associated with each functional category of energy conservation included in the State energy conservation plan.

(c) Mandatory features of plans

Each proposed State energy conservation plan to be eligible for Federal assistance under this part shall include—

(1) mandatory lighting efficiency standards for public buildings (except public buildings owned or leased by the United States);

(2) programs to promote the availability and use of carpools, vanpools, and public transportation (except that no Federal funds provided under this part shall be used for subsidizing fares for public transportation);

(3) mandatory standards and policies relating to energy efficiency to govern the procurement practices of such State and its political subdivisions;

(4) mandatory thermal efficiency standards and insulation requirements for new and renovated buildings (except buildings owned or leased by the United States); and

(5) a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping.

(d) Optional features of plans

Each proposed State energy conservation plan may include—

(1) restrictions governing the hours and conditions of operation of public buildings (except buildings owned or leased by the United States);

(2) restrictions on the use of decorative or nonessential lighting;

(3) transportation controls;

(4) programs of public education to promote energy conservaton; and

(5) any other appropriate method or programs to conserve and to improve efficiency in the use of energy.

(e) Standby plans

The Governor of any State may submit to the Administrator a State energy conservation plan which is a standby energy conservation plan to significantly reduce energy demand by regulating the public and private consumption of energy during a severe energy supply interruption, which plan may be separately eligible for Federal assistance under this part without regard to subsections (c) and (d) of this section.

(Pub. L. 94-163, title III, § 362, Dec. 22, 1975, 89 Stat. 933.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6323 to 6325, 6327 of this title.

§ 6323. Federal assistance to States

(a) Information, technical assistance, and assistance in preparation of reports and development, implementation, or modification of energy conservation plan

Upon request of the Governor of any State, the Administrator shall provide, subject to the availability of personnel and funds, information and technical assistance, including model State laws and proposed regulations relating to energy conservation, and other assistance in—

(1) the preparation of the reports described in section 6322 of this title, and

(2) the development, implementation, or modification of an energy conservation plan of such State submitted under section 6322(b) or (e) of this title.

[1] So in original. Probably should read "of the".

(b) Financial assistance to assist State in development, implementation, or modification of energy conservation plan; submission of plan to and approval of Administrator; considerations governing approval; amount of assistance

(1) The Administrator may grant Federal financial assistance pursuant to this section for the purpose of assisting such State in the development of any such energy conservation plan or in the implementation or modification of a State energy conservation plan or part thereof which has been submitted to and approved by the Administrator pursuant to this part.

(2) In determining whether to approve a State energy conservation plan submitted under section 6322(b) or (e) of this title, the Administrator—

(A) shall take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State on the opportunity to conserve and to improve efficiency in the use of energy in such State; and

(B) may extend the period of time during which a State energy conservation feasibility report or State energy conservation plan may be submitted if the Administrator determines that participation by the State submitting such report or plan is likely to result in significant progress toward achieving the purposes of this chapter.

No such plan shall be disapproved without notice and an opportunity to present views.

(3) In determining the amount of Federal financial assistance to be provided to any State under this subsection, the Administrator shall consider—

(A) the contribution to energy conservation which can reasonably be expected,

(B) the number of people affected by such plan, and

(C) the consistency of such plan with the purposes of this chapter, and such other factors as the Administrator deems appropriate.

(c) Records

Each recipient of Federal financial assistance under subsection (b) of this section shall keep such records as the Administrator shall require, including records which fully disclose the amount and disposition by each recipient of the proceeds of such assistance, the total cost of the plan, program, projects, measures, or systems for which such assistance was given or used, the source and amount of funds for such plan, program, projects, measures, or systems not supplied by the Administrator, and such other records as the Administrator determines necessary to facilitate an effective audit and performance evaluation. The Administrator and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, at reasonable times and under reasonable conditions, to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this part.

(Pub. L. 94-163, title III, § 363, Dec. 22, 1975, 89 Stat. 934; Pub. L. 94-385, title IV, § 432(b), (c), Aug. 14, 1976, 90 Stat. 1162.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2)(B), (C), in the original read "this Act", meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which enacted this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amended sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 2071 of Title 50, App., War and National Defense, enacted provisions set out as notes under sections 6201 of this title, sections 753 and 796 of Title 15, and section 2071 of Title 50, App., and repealed provisions formerly set out as a note under section 1904 of Title 12, Banks and Banking.

AMENDMENTS

1976—Subsec. (b)(2). Pub. L. 94-385, § 432(b), added provision requiring notice and opportunity to present views prior to disapproval of plans.

Subsec. (c). Pub. L. 94-385, § 432(c), added references to plan, measures, or systems wherever appearing and required that examinations be at reasonable times and under reasonable conditions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6325, 6327 of this title.

§ 6324. Energy conservation goals

Upon the basis of the reports submitted pursuant to this part and such other information as is available, the Administrator shall, at the earliest practicable date, set an energy conservation goal for each State for 1980 and may set interim goals. Such goal or goals shall consist of the maximum reduction in the consumption of energy during any year as a result of the implementation of the State energy conservation plan described in section 6322(b) of this title which is consistent with technological feasibility, financial resources, and economic objectives, by comparison with the projected energy consumption for such State in such year. The Administrator shall specify the assumptions used in the determination of the projected energy consumption in each State, taking into account population trends, economic growth, and the effects of national energy conservation programs.

(Pub. L. 94-163, title III, § 364, Dec. 22, 1975, 89 Stat. 935.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6325 of this title.

§ 6325. General provisions

(a) Rules

The Administrator may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

(b) Departmental consultation

In carrying out the provisions of sections 6322 and 6324 of this title and subsection (a) of section 6323 of this title, the Administrator shall consult with appropriate departments and Federal agencies.

(c) Annual report

The Administrator shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of each State, on the operation of the program under this part. Such report shall include an es-

timate of the energy conservation achieved, the degree of State participation and achievement, a description of innovative conservation programs undertaken by individual States, and the recommendations of the Administrator, if any, for additional legislation.

(d) Duty of Federal Trade Commission to prevent unfair or deceptive practices or acts relating to implementation of energy measures

The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act [15 U.S.C. 41 et seq.], to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.

(e) List of energy measures eligible for financial assistance; designation of types and requirements of energy audits

Within 90 days after August 14, 1976, the Administrator shall—

(1) develop, by rule after consultation with the Secretary of Housing and Urban Development, and publish a list of energy conservation measures and renewable-resource energy measures which are eligible (on a national or regional basis) for financial assistance pursuant to section 1701z-8 of title 12 or section 6881 of this title;

(2) designate, by rule, the types of, and requirements for, energy audits.

(f) Authorization of appropriations

There are authorized to be appropriated for carrying out the provisions of this part (other than section 6327 of this title) $50,000,000 for fiscal year 1976, $50,000,000 for fiscal year 1977, and $50,000,000 for fiscal year 1978.

(Pub. L. 94-163, title III, § 365, Dec. 22, 1975, 89 Stat. 935; Pub. L. 94-385, title IV, § 432(d), Aug. 14, 1976, 90 Stat. 1162.)

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (d), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables volume.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-385, § 432(d)(1), (2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 94-385, § 432(d)(2), added subsec. (e).

Subsec. (f). Pub. L. 94-385, § 432(d)(1), (3), redesignated former subsec. (d) as (f) and, as so redesignated, added "(other than section 6327 of this title)" after "part".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6326, 6881 of this title; title 12 section 1701z-8.

§ 6326. Definitions

As used in this part—

(1) The term "appliance" means any article, such as a room air-conditioner, refrigerator-freezer, or dishwasher, which the Administrator classifies as an appliance for purposes of this part.

(2) The term "building" means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) The term "energy audit" means any process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of particular energy conservation measures or renewable-resource energy measures and which—

(A) is carried out in accordance with rules of the Administrator; and

(B) imposes—

(i) no direct costs, with respect to individuals who are occupants of dwelling units in any State having a supplemental State energy conservation plan approved under section 6327 of this title, and

(ii) only reasonable costs, as determined by the Administrator, with respect to any person not described in clause (i).

Rules referred to in subparagraph (A) may include minimum qualifications for, and provisions with respect to conflicts of interest of, persons carrying out such energy audits.

(4) The term "energy conservation measure" means a measure which modifies any building or industrial plant, the construction of which has been completed prior to August 14, 1976, if such measure has been determined by means of an energy audit or by the Administrator, by rule under section 6325(e)(1) of this title, to be likely to improve the efficiency of energy use and to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Administrator) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

(A) the useful life of the modification involved, as determined by the Administrator, or

(B) 15 years after the purchase and installation of such measure,

whichever is less. Such term does not include (i) the purchase or installation of any appliance, (ii) any conversion from one fuel or source of energy to another which is of a type which the Administrator, by rule, determines is ineligible on the basis that such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels, or (iii) any measure, or type of measure, which the Administrator determines does not have as its primary purpose an improvement in efficiency of energy use.

(5) The term "industrial plant" means any fixed equipment or facility which is used in

connection with, or as part of, any process or system for industrial production or output.

(6) The term "renewable-resource energy measure" means a measure which modifies any building or industrial plant, the construction of which has been completed prior to August 14, 1976, if such measure has been determined by means of an energy audit or by the Administrator, by rule under section 6325(e)(1) of this title, to—

(A) involve changing, in whole or in part, the fuel or source of the energy used to meet the requirements of such building or plant from a depletable source of energy to a nondepletable source of energy; and

(B) be likely to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Administrator) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

(i) the useful life of the modification involved, as determined by the Administrator, or

(ii) 25 years after the purchase and installation of such measure,

whichever is less.

Such term does not include the purchase or installation of any appliance.

(7) The term "public building" means any building which is open to the public during normal business hours.

(8) The term "transportation controls" means any plan, procedure, method, or arrangement, or any system of incentives, disincentives, restrictions, and requirements, which is designed to reduce the amount of energy consumed in transportation, except that the term does not include rationing of gasoline or diesel fuel.

(Pub. L. 94-163, title III, § 366, Dec. 22, 1975, 89 Stat. 935; Pub. L. 94-385, title IV, § 431, Aug. 14, 1976, 90 Stat. 1158.)

AMENDMENTS

1976—Pub. L. 94-385 redesignated former pars. (1) and (2) as (7) and (8), respectively, and added pars. (1) to (6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5818, 6881 of this title; title 12 section 1701z-8.

§ 6327. Supplemental State energy conservation plans

(a) Development and promulgation of guidelines and rules; consultation with State Governors; publication in Federal Register; financial assistance to States

(1) The Administrator shall, within 6 months after August 14, 1976, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, supplemental State energy conservation plans. Such guidelines shall include the provisions of one or more model supplemental State energy conservation plans with respect to the requirements of this section.

(2) In prescribing such guidelines, the Administrator shall solicit and consider the recommendations of, and be available to consult with, the Governors of the States as to such guidelines. At least 60 days prior to the date of final publication of such guidelines, the Administrator shall publish proposed guidelines in the Federal Register and invite public comments thereon.

(3) The Administrator shall invite the Governor of each State to submit to the Administrator a proposed supplemental State energy conservation plan which meets the requirements of subsection (b) of this section and any guidelines applicable thereto.

(4) The Administrator may prescribe rules applicable to supplemental State energy conservation plans under this section pursuant to which—

(A) a State may apply for and receive assistance for a supplemental State energy conservation plan under this section; and

(B) such plan under this section may be administered;

as if such plan was a part of the State energy conservation plan program under section 6322 of this title. Such rules shall not have the effect of delaying funding of the program under section 6322 of this title.

(5) Section 6323(b)(2)(A) of this title, the last sentence of section 6323(b)(2) of this title, section 6323(b)(3) of this title, and section 6323(c) of this title, shall apply to the supplemental State energy conservation plans to the same extent as such provisions apply to State energy conservation plans.

(6) The Administrator may grant Federal financial assistance pursuant to this section for the purpose of assisting any State in the development of any supplemental State energy conservation plan or in the implementation or modification of such a plan or part thereof which has been submitted to and approved by the Administrator pursuant to this section.

(b) Required provisions

(1) Each proposed supplemental State energy conservation plan to be eligible for Federal financial assistance under this section shall include—

(A) procedures for carrying out a continuing public education effort to increase significantly public awareness of—

(i) the energy and cost savings which are likely to result from the implementation (including implementation through group efforts) of energy conservation measures and renewable-resource energy measures; and

(ii) information and other assistance (including information as to available technical assistance) which is or may be available with respect to the planning, financing, installing, and with respect to monitoring the effectiveness of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures;

(B) procedures for insuring that effective coordination exists among various local, State, and Federal energy conservation programs within and affecting such State, in-

cluding any energy extension service program administered by the Energy Research and Development Administration;

(C) procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants within such State; and

(D) any procedures, programs, or other actions required by the Administrator pursuant to paragraph (2).

(2) The Administrator may promulgate guidelines under this section to provide that, in order to be eligible for Federal assistance under this section, a supplemental State energy conservation plan shall include, in addition to the requirements of paragraph (1) of this subsection, one or more of the following:

(A) the formation of, and appointment of qualified individuals to be members of, a State energy conservation advisory committee. Such a committee shall have continuing authority to advise and assist such State and its political subdivisions, with respect to matters relating to energy conservation in such State, including the carrying out of such State's energy conservation plan, the development and formulation of any improvements or amendments to such plan, and the development and formulation of procedures which meet the requirements of subparagraphs (A), (B), and (C) of subsection (b)(1) of this section. The applicable guidelines shall be designed to assure that each such committee carefully considers the views of the various energy-consuming sectors within the State and of public and private groups concerned with energy conservation;

(B) an adequate program within such State for the purpose of preventing any unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures and renewable-resource energy measures;

(C) procedures for the periodic verification (by use of sampling or other techniques), at reasonable times, and under reasonable conditions, by qualified officials designated by such State of the purchase and installation and actual cost of energy conservation measures and renewable-resource energy measures for which financial assistance was obtained under section 1701z-8 of title 12, or section 6881 of this title; and

(D) assistance for individuals and other persons to undertake cooperative action to implement energy conservation measures and renewable-resource energy measures.

(c) Authorization of appropriation

There are authorized to be appropriated for supplemental State energy conservation plans which are approved under this section $25,000,000 for fiscal year 1977, $40,000,000 for fiscal year 1978, and $40,000,000 for fiscal year 1979.

(Pub. L. 94-163, title III, § 367, as added Pub. L. 94-385, title IV, § 432(a), Aug. 14, 1976, 90 Stat. 1160.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6325, 6326 of this title.

PART C—INDUSTRIAL ENERGY CONSERVATION

CODIFICATION

This part was, in the original, designated Part D and has been redesignated Part C for purposes of codification.

§ 6341. Definitions

As used in this part—

(1) The term "chief executive officer" means, within a corporation, the individual whom the Administrator determines, for purposes of this part, is in charge of operations.

(2) The term "corporation" means a person as defined in section 6202(2)(B) of this title and includes any person so defined which controls, is controlled by, or is under common control with such person. If a corporation is engaged in more than one major energy-consuming industry, such corporation shall be treated as a separate corporation with respect to each such industry.

(3) The term "energy efficiency" means the amount of industrial output or activity per unit of energy consumed therein, as determined by the Administrator.

(4) The term "major energy-consuming industry" means a two-digit classification, within the manufacturing division of economic activity set forth in the Standard Industrial Classification (SIC) Manual by a code number, which the Administrator determines is suited to the purposes of this part.

(Pub. L. 94-163, title III, § 371, Dec. 22, 1975, 89 Stat. 936.)

§ 6342. Energy efficiency program

The Administrator shall establish and maintain, in consultation with the Secretary of Commerce and the Administrator of the Energy Research and Development Administration, a program—

(1) to promote increased energy efficiency by American industry, and

(2) to establish voluntary energy efficiency improvement targets for at least the 10 most energy-consumptive major energy-consuming industries.

(Pub. L. 94-163, title III, § 372, Dec. 22, 1975, 89 Stat. 936.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6344 to 6346 of this title.

§ 6343. Identification of major energy consumers

Within 90 days after December 22, 1975, the Administrator shall identify each major energy-consuming industry in the United States, and shall establish a priority ranking of such industries on the basis of their respective total annual energy consumption. Within each industry so identified, the Administrator shall identify each corporation which—

(1) consumes at least one trillion British thermal units of energy per year, and

(2) is among the corporations identified by the Administrator as the 50 most energy-consumptive corporations in such industry.

(Pub. L. 94-163, title III, § 373, Dec. 22, 1975, 89 Stat. 936.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6344 to 6346 of this title.

§ 6344. Individual energy efficiency improvement targets

(a) Establishment for ten most energy-consumptive industries

Within one year after December 22, 1975, the Administrator shall set an industrial energy efficiency improvement target for each of the 10 most energy-consumtive[1] industries identified under section 6343 of this title. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(b) Determination of maximum feasible improvement

In determining maximum feasible improvement under subsection (a) of this section and under subsection (c) of this section, the Administrator shall consider—

(1) the objectives of the program established under section 6342 of this title,

(2) the technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies,

(3) any special circumstances or characteristics of the industry for which the target is being set, and

(4) any actions planned or implemented by each such industry to reduce consumption by such industry of petroleum products and natural gas.

(c) Targets for other industries

The Administrator may, in order to carry out section 6342(1) of this title, set an industrial energy efficiency improvement target for any major energy-consuming industry to which subsection (a) of this section does not apply. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(d) Modification of targets

Any target established under subsection (a) or (c) of this section may be modified at any time if the Administrator—

(1) determines that such target cannot reasonably be attained, or could reasonably be made more stringent, and

(2) publishes such determination in the Federal Register, together with a statement of the basis and justification for such modification.

[1] So in original. Should be "energy-consumptive".

(Pub. L. 94-163, title III, § 374, Dec. 22, 1975, 89 Stat. 936.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6345, 6346 of this title.

§ 6345. Reports

(a) Report by chief executive officer of corporation to Administrator on progress corporation has made in improving its energy efficiency

The chief executive officer (or individual designated by such officer) of each corporation which is identified by the Administrator pursuant to section 6343 of this title, and which is in an industry for which an industrial energy efficiency improvement target has been set under section 6344(a) of this title, shall report to the Administrator not later than January 1, 1977, and annually thereafter, on the progress which such corporation has made in improving its energy efficiency. Such report shall contain such information as the Administrator determines is necessary to measure progress toward meeting the energy efficiency improvement target set for the industry of which such corporation is a part, except that the Administrator shall not require such report if such corporation is in an industry which has an adequate voluntary reporting program (as defined by section 6346(g) of this title).

(b) Forms

The Administrator shall prepare, publish, and make available, for use in complying with the reporting requirements under subsection (a) of this section, a simple form which shall be designed in such a way as to avoid imposing an undue burden on any corporation which is required to submit reports under subsection (a) of this section.

(c) Report by Administrator to Congress and President on industrial energy efficiency program

The Administrator shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 6342 of this title. Each such report shall include—

(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Administrator; and

(2) a summary of the progress made toward meeting such industrial energy efficiency improvement targets since the date of publication of the previous such report, if any.

(Pub. L. 94-163, title III, § 375, Dec. 22, 1975, 89 Stat. 937.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6346 of this title.

§ 6346. General provisions

(a) Jurisdiction to order compliance with reporting requirement

The district courts of the United States shall have jurisdiction, upon petition, to issue an order to the chief executive officer of any corporation subject to the reporting requirements of section 6345(a) of this title, requiring such

person to comply forthwith. Failure to obey such an order shall be treated by any such court as a contempt thereof.

(b) Authority to obtain information for energy efficiency program

In addition to the exercise of authority under this part, the Administrator may exercise any authority he has under any provision of law (other than this part) to obtain such information with respect to industrial energy efficiency and industrial energy conservation as is necessary or appropriate to the attainment of the objectives of the program established under section 6342 of this title.

(c) Opportunity for interested persons to submit data, views, and arguments

The Administrator shall afford interested persons an opportunity to submit written and oral data, views, and arguments prior to the establishment of any industrial energy efficiency improvement target under section 6344 of this title and prior to publication of any reporting requirements under section 6345 of this title.

(d) Information submitted by corporations

Any information submitted by a corporation to the Administrator under this part shall not be considered energy information, as defined by section 796(e)(1) of title 15, for purposes of any verification examination authorized to be conducted by the Comptroller General under section 6381 of this title.

(e) Disclosure of trade secrets and commercial or financial information

The Administrator may not disclose any information obtained under this part which is a trade secret or other matter described in section 552(b)(4) of title 5 disclosure of which may cause significant competitive damage; except to committees of Congress upon request of such committees. Prior to disclosing any information described in such section 552(b)(4), the Administrator shall afford the person who provided such information an opportunity to comment on the proposed disclosure.

(f) Failure to meet industrial energy efficiency improvement targets

No liability shall attach, and no civil or criminal penalties may be imposed, for any failure to meet any industrial energy efficiency improvement target established under section 6344 of this title.

(g) Voluntary reporting programs

(1) The Administrator shall exempt a corporation from the requirements of section 6345(a) of this title if such corporation is in an industry which has an adequate voluntary reporting program, as determined by the Administrator annually after notice and opportunity for interested persons to comment. An industry's voluntary reporting program shall be determined to be adequate only if—

(A) each corporation within such industry which is identified under section 6343 of this title fully participates in such program;

(B) all information deemed necessary by the Administrator for purposes of evaluating the progress made by such industry in achieving the industry energy efficiency improvement target set forth under section 6344 of this title is provided to the Administrator; and

(C) reports made to a trade association or other person, in connection with such program, are retained for a reasonable period of time and are available to the Administrator.

(2) If the Administrator determines that an industry's voluntary reporting program is not adequate solely on the basis that any corporation within such industry is not fully participating in such program, he shall exempt from the requirements of section 6345(a) of this title only those corporations which fully participate in such program.

(h) Reporting requirements under other authority

Nothing in this part shall limit the authority of the Administrator to require reports of energy information under any other law.

(Pub. L. 94-163, title III, § 376, Dec. 22, 1975, 89 Stat. 938.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6345 of this title.

PART D—OTHER FEDERAL ENERGY CONSERVATION MEASURES

CODIFICATION

This part was, in the original, designated Part E and has been redesignated Part D for purposes of codification.

§ 6361. Federal energy conservation programs

(a) Establishment and coordination of Federal agency actions

(1) The President shall, to the extent of his authority under other law, establish or coordinate Federal agency actions to develop mandatory standards with respect to energy conservation and energy efficiency to govern the procurement policies and decisions of the Federal Government and all Federal agencies, and shall take such steps as are necessary to cause such standards to be implemented.

(2) The President shall develop and, to the extent of his authority under other law, implement a 10-year plan for energy conservation with respect to buildings owned or leased by an agency of the United States. Such plan shall include mandatory lighting efficiency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation, and plans for replacing or retrofitting to meet such standards.

(b) Public education programs

(1) The Administrator shall establish and carry out a responsible public education program—

(A) to encourage energy conservation and energy efficiency; or

(B) to promote van pooling and carpooling arrangements.

(2) For purposes of this subsection:

(A) The term "van" means any automobile which the Administrator determines is manufactured primarily for use in the transportation of not less than 8 individuals and not more than 15 individuals.

(B) The term "van pooling arrangement" means an arrangement for the transportation of employees between their residences or other designated locations and their place of employment on a nonprofit basis in which the operating costs of such arrangement are paid for by the employees utilizing such arrangement.

(c) Report to Congress

The President shall submit to the Congress an annual report concerning all steps taken under subsections (a) and (b) of this section.

(Pub. L. 94-163, title III, § 381, Dec. 22, 1975, 89 Stat. 939.)

§ 6362. Energy conservation policies and practices

(a) Reports to Congress by Federal agencies; feasibility of additional savings in energy consumption; administration of laws permitting inefficient use of energy

(1) The Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Maritime Commission, the Federal Power Commission, and the Federal Aviation Administration shall each conduct a study and shall each report to the Congress within 60 days after December 22, 1975, with respect to energy conservation policies and practices which such agencies have instituted subsequent to October 1973.

(2) Each of the agencies specified in paragraph (1) shall, within 120 days after December 22, 1975, report to the Congress with respect to the content and feasibility of proposed programs for additional savings in energy consumption by the persons regulated by each such agency which have as a minimum goal a 10-percent reduction, within 12 months of the institution of such programs, in energy consumption from the amount of energy consumed during calendar 1972, including any legislative recommendations each such agency finds are necessary to achieve such goal.

(3) Each of the agencies specified in paragraph (1) shall conduct a study and prepare a report with respect to any requirement of any law administered by such agency or any major regulatory action which the agency determines has the effect of requiring, permitting, or inducing the inefficient use of petroleum products, coal, natural gas, electricity, and other forms of energy, together with a statement of the need, purpose, or justification of any such requirement or such action. Each such report shall be submitted to the Congress within one year after December 22, 1975.

(b) Statement of probable impact of major regulatory action on energy efficiency

Except as provided in subsection (c) of this section, each of the agencies specified in subsection (a)(1) of this section shall, where practicable and consistent with the exercise of their authority under other law, include in any major regulatory action (as defined by rule by each such agency) taken by each such agency, a statement of the probable impact of such major regulatory action on energy efficiency and energy conservation.

(c) Application of provisions to authority exercised to protect public health and safety

Subsection (b) of this section shall not apply to any authority exercised under any provision of law designed to protect the public health or safety.

(Pub. L. 94-163, title III, § 382, Dec. 22, 1975, 89 Stat. 939.)

§ 6363. Federal actions with respect to recycled oil

(a) Purpose

The purposes of this section are—

(1) to encourage the recycling of used oil;

(2) to promote the use of recycled oil;

(3) to reduce consumption of new oil by promoting increased utilization of recycled oil; and

(4) to reduce environmental hazards and wasteful practices associated with the disposal of used oil.

(b) Definitions

As used in this section:

(1) the term "used oil" means any oil which has been refined from crude oil, has been used, and as a result of such use has been contaminated by physical or chemical impurities.

(2) The term "recycled oil" means—

(A) used oil from which physical and chemical contaminants acquired through use have been removed by re-refining or other processing, or

(B) any blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives,

with respect to which the manufacturer has determined, pursuant to the rule prescribed under subsection (d)(1)(A)(i) of this section, is substantially equivalent to new oil for a particular end use.

(3) The term "new oil" means any oil which has been refined from crude oil and has not been used, and which may or may not contain additives. Such term does not include used oil or recycled oil.

(4) The term "manufacturer" means any person who re-refines or otherwise processes used oil to remove physical or chemical impurities acquired through use or who blends such re-refined or otherwise processed used oil with new oil or additives.

(5) The term "Commission" means the Federal Trade Commission.

(c) Test procedures for determining substantial equivalency of recycled oil and new oil

As soon as practicable after December 22, 1975, the National Bureau of Standards shall develop test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil for a particular end use. As soon as practicable after development of such test procedures, the National Bureau of Standards shall report such procedures to the Commission.

(d) Promulgation of rules prescribing test procedures and labeling standards

(1)(A) Within 90 days after the date on which the Commission receives the report under sub-

section (c) of this section, the Commission shall, by rule, prescribe—

(i) test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil distributed for a particular end use; and

(ii) labeling standards applicable to containers of recycled oil in order to carry out the purposes of this section.

(B) Such labeling standards shall permit any container of recycled oil to bear a label indicating any particular end use for which a determination of substantial equivalency has been made pursuant to subparagraph (A)(i).

(2) Not later than the expiration of such 90-day period, the Administrator of the Environmental Protection Agency shall, by rule, prescribe labeling standards applicable to containers of new oil, used oil, and recycled oil relating to the proper disposal of such oils after use. Such standards shall be designed to reduce, to the maximum extent practicable, environmental hazards and wasteful practices associated with the disposal of such oils after use.

(e) Labeling standards

Beginning on the effective date of the standards prescribed pursuant to subsection (d)(1)(A) of this section—

(1) no rule or order of the Commission, other than the rules required to be prescribed pursuant to subsection (d)(1)(A) of this section, and no law, regulation, or order of any State or political subdivision thereof may apply, or remain applicable, to any container of recycled oil, if such law, regulation, rule, or order requires any container of recycled oil, which container bears a label in accordance with the terms of the rules prescribed under subsection (d)(1)(A) of this section, to bear any label with respect to the comparative characteristics of such recycled oil with new oil which is not identical to that permitted by the rule respecting labeling standards prescribed under subsection (d)(1)(A)(ii) of this section; and

(2) no rule or order of the Commission may require any container of recycled oil to also bear a label containing any term, phrase, or description which connotes less than substantial equivalency of such recycled oil with new oil.

(f) Conformity of acts of Federal officials to Commission rules

After the effective date of the rules required to be prescribed under subsection (d)(1)(A) of this section, all Federal officials shall act within their authority to carry out the purposes of this section, including—

(1) revising procurement policies to encourage procurement of recycled oil for military and nonmilitary Federal uses whenever such recycled oil is available at prices competitive with new oil procured for the same end use; and

(2) educating persons employed by Federal and State governments and private sectors of the economy of the merits of recycled oil, the need for its use in order to reduce the drain on the Nation's oil reserves, and proper disposal of used oil to avoid waste of such oil and to minimize environmental hazards associated with improper disposal.

(Pub. L. 94-163, title III, § 383, Dec. 22, 1975, 89 Stat. 940.)

Section Referred to in Other Sections

This section is referred to in section 6394 of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

Part A—Energy Data Base and Energy Information

§ 6381. Verification examinations

(a) Authority of Comptroller General

The Comptroller General may conduct verification examinations with respect to the books, records, papers, or other documents of—

(1) any person who is required to submit energy information to the Federal Energy Administration, the Department of the Interior, or the Federal Power Commission pursuant to any rule, regulation, order, or other legal process of such Administration, Department or Commission;

(2) any person who is engaged in the production, processing, refining, transportation by pipeline, or distribution (at other than the retail level) of energy resources—

(A) if such person has furnished, directly or indirectly, energy information (without regard to whether such information was furnished pursuant to legal requirements) to any Federal agency (other than the Internal Revenue Service), and

(B) if the Comptroller General of the United States determines that such information has been or is being used or taken into consideration, in whole or in part, by a Federal agency in carrying out responsibilities committed to such agency; or

(3) any vertically integrated petroleum company with respect to financial information of such company related to energy resource exploration, development, and production and the transportation, refining and marketing of energy resources and energy products.

(b) Request for examination

The Comptroller General shall conduct verification examinations of any person or company described in subsection (a) of this section, if requested to do so by any duly established committee of the Congress having legislative or oversight responsibilities under the rules of the House of Representatives or of the Senate, with respect to energy matters or any of the laws administered by the Department of the Interior (or the Secretary thereof), the Federal Power Commission, or the Federal Energy Administration (or the Administrator).

(c) Definitions

For the purposes of this subchapter—

(1) The term "verification examination" means an examination of such books, records, papers, or other documents of a person or company as the Comptroller General determines necessary and appropriate to assess the accuracy, reliability, and adequacy of the

energy information, or financial information, referred to in subsection (a) of this section.

(2) The term "energy information" has the same meaning as such term has in section 796(e)(1) of title 15.

(3) The term "person" has the same meaning as such term has in section 796(e)(2) of title 15.

(4) The term "vertically integrated petroleum company" means any person which itself, or through a person which is controlled by, controls, or is under common control with such person, is engaged in the production, refining, and marketing of petroleum products.

(Pub. L. 94-163, title V, § 501, Dec. 22, 1975, 89 Stat. 956.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6299, 6346, 6382 of this title.

§ 6382. Powers and duties of Comptroller General

(a) Subpenas; discovery and inspection; oaths; search

For the purpose of carrying out his authority under section 6381 of this title—

(1) the Comptroller General may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories, to submit books, records, papers, or other documents, or to submit any other information or reports, and such answers or other submissions shall be made within such reasonable period, and under oath or otherwise, as the Comptroller General may determine; and

(C) administer oaths.

(2) the Comptroller General, or any officer or employee duly designated by the Comptroller General, upon presenting appropriate credentials and a written notice from the Comptroller General to the owner, operator, or agent in charge, may—

(A) enter, at reasonable times, any business premise or facility; and

(B) inspect, at reasonable times and in a reasonable manner, any such premise or facility, inventory and sample any stock of energy resources therein, and examine and copy books, records, papers, or other documents, relating to any energy information, or any financial information in the case of a vertically integrated petroleum company.

(b) Information in possession of Federal agencies

The Comptroller General shall have access to any energy information within the possession of any Federal agency (other than the Internal Revenue Service) as is necessary to carry out his authority under this section.

(c) Transmission of examination results to Federal agencies

(1) Except as provided in subsections (d) and (e) of this section, the Comptroller General shall transmit a copy of the results of any verification examination conducted under section 6381 of this title to the Federal agency to which energy information which was subject to such examination was furnished.

(2) Any report made pursuant to paragraph (1) shall include the Comptroller General's findings with respect to the accuracy, reliability, and adequacy of the energy information which was the subject of such examination.

(d) Report to Congressional committees

If the verification examination was conducted at the request of any committee of the Congress, the Comptroller General shall report his findings as to the accuracy, reliability, or adequacy of the energy information which was the subject of such examination, or financial information in the case of a vertically integrated petroleum company, directly to such committee of the Congress and any such information obtained and such report shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(e) Disclosure of geological or geophysical information

(1) Any information obtained by the Comptroller General or any officer or employee of the General Accounting Office pursuant to the exercise of responsibilities or authorities under this section which relates to geological or geophysical information, or any estimate or interpretation thereof, the disclosure of which would result in significant competitive disadvantage or significant loss to the owner thereof shall not be disclosed except to a committee of Congress. Any such information so furnished to a committee of the Congress shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(2) Any person who knowingly discloses information in violation of paragraph (1) shall be subject to the penalties specified in section 754(a)(3)(B) and (4) of title 15.

(f) Reports to Congress

The Comptroller General shall prepare and submit to the Congress an annual report with respect to the exercise of its authorities under this part, which report shall specifically identify any deficiencies in energy information or financial information reviewed by the Comptroller General and include a discussion of action taken by the person or company so examined, if any, to correct any such deficiencies.

(Pub. L. 94-163, title V, § 502, Dec. 22, 1975, 89 Stat. 957.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6384 of this title.

§ 6383. Accounting practices

(a) Development by Securities and Exchange Commission; time of taking effect

For purposes of developing a reliable energy data base related to the production of crude oil and natural gas, the Securities and Exchange Commission shall take such steps as may be

necessary to assure the development and observance of accounting practices to be followed in the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States. Such practices shall be developed not later than 24 months after December 22, 1975, and shall take effect with respect to the fiscal year of each such person which begins 3 months after the date on which such practices are prescribed or made effective under the authority of subsection (b)(2) of this section.

(b) Consultation with Federal Energy Administration, General Accounting Office and Federal Power Commission; rules; reliance on practices developed by Financial Accounting Standards Board; opportunity to submit written comment

In carrying out its responsibilities under subsection (a) of this section, the Securities and Exchange Commission shall—

(1) consult with the Federal Energy Administration, the General Accounting Office, and the Federal Power Commission with respect to accounting practices to be developed under subsection (a) of this section, and

(2) have authority to prescribe rules applicable to persons engaged in the production of crude oil or natural gas, or make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board, if the Securities and Exchange Commission is assured that such practice will be observed by persons engaged in the production of crude oil or natural gas to the same extent as would result if the Securities and Exchange Commission had prescribed such practices by rule.

The Securities and Exchange Commission shall afford interested persons an opportunity to submit written comments with respect to whether it should exercise its discretion to recognize or otherwise rely on such accounting practice in lieu of prescribing such practices by rule and may extend the 24-month period referred to in subsection (a) of this section as it determines may be necessary to allow for a meaningful comment period with respect to such determination.

(c) Requirements for accounting practices

The Securities and Exchange Commission shall assure that accounting practices developed pursuant to this section, to the greatest extent practicable, permit the compilation, treating domestic and foreign operations as separate categories, of an energy data base consisting of:

(1) The separate calculation of capital, revenue, and operating cost information pertaining to—

(A) prospecting,

(B) acquisition,

(C) exploration,

(D) development, and

(E) production,

including geological and geophysical costs, carrying costs, unsuccessful exploratory drilling costs, intangible drilling and development costs on productive wells, the cost of unsuccessful development wells, and the cost of acquiring oil and gas reserves by means other than development. Any such calculation shall take into account disposition of capitalized costs, contractual arrangements involving special conveyance of rights and joint operations, differences between book and tax income, and prices used in the transfer of products or other assets from one person to any other person, including a person controlled by[1] controlling[1] or under common control with such person.

(2) The full presentation of the financial information of persons engaged in the production of crude oil or natural gas, including—

(A) disclosure of reserves and operating activities, both domestic and foreign, to facilitate evaluation of financial effort and result; and

(B) classification of financial information by function to facilitate correlation with reserve and operating statistics, both domestic and foreign.

(3) Such other information, projections, and relationships of collected data as shall be necessary to facilitate the compilation of such data base.

(Pub. L. 94-163, title V, § 503, Dec. 22, 1975, 89 Stat. 958.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 796.

§ 6384. Enforcement

(a) Civil penalties

Any person who violates any general or special order of the Comptroller General issued under section 6382(a)(1)(B) of this title may be assessed a civil penalty not to exceed $10,000 for each violation. Each day of failure to comply with such an order shall be deemed a separate violation. Such penalty shall be assessed by the Comptroller General and collected in a civil action brought by the Comptroller General through any attorney employed by the General Accounting Office or any other attorney designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General. A person shall not be liable with respect to any period during which the effectiveness of the order with respect to such person was stayed.

(b) Jurisdiction; process

Any action to enjoin or set aside an order issued under section 6382(a)(1)(B) of this title may be brought only before the United States Court of Appeals for the District of Columbia. Any action to collect a civil penalty for violation of any general or special order may be brought only in the United States District Court for the District of Columbia. In any action brought under subsection (a) of this section to collect a civil penalty, process may be served in any judicial district of the United States.

(c) Securing compliance with subpena

Upon petition by the Comptroller General through any attorney employed by the General Accounting Office or designated by the Comp-

[1] So in original. Probably should be followed by a comma.

troller General, or, upon request of the Comptroller General, the Attorney General, any United States district court within the jurisdiction of which any inquiry under this part is carried on may, in the case of refusal to obey a subpena of the Comptroller General issued under this part, issue an order requiring compliance therewith; and any failure to obey the order of the court may be treated by the court as a contempt thereof.

(Pub. L. 94-163, title V, § 504, Dec. 22, 1975, 89 Stat. 959.)

PART B—GENERAL PROVISIONS

§ 6391. Prohibited actions

(a) Unreasonable classifications and differentiations

Action taken under the authorities to which this section applies, resulting in the allocation of petroleum products or electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy shall not be based upon unreasonable classifications of, or unreasonable differentiations between, classes of users. In making any such allocation the President, or any agency of the United States to which such authority is delegated, shall give consideration to the need to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce in those countries.

(b) Unreasonably disproportionate share of burdens between segments of business community

To the maximum extent practicable, any restriction under authorities to which this section applies on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific class of industry, business, or commercial enterprise, or on any individual segment thereof. In prescribing any such restriction, due consideration shall be given to the needs of commercial, retail, and service establishments whose normal function is to supply goods or services of an essential convenience nature during times of day other than conventional daytime working hours.

(c) Authorities to which section applies

This section applies to actions under any of the following authorities:

(1) subchapters I and II of this chapter.

(2) this subchapter.

(3) the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.].

(Pub. L. 94-163, title V, § 521, Dec. 22, 1975, 89 Stat. 960.)

REFERENCES IN TEXT

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (c)(3), is Pub. L. 93-159, Nov. 27, 1973, 87 Stat. 628, as amended, which is classified generally to chapter 16A (§ 751 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 751 of Title 15 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6395 of this title.

§ 6392. Conflicts of interest

(a) Filing of written statements covering known financial interests

Each officer or employee of the Federal Energy Administration or of the Department of the Interior who—

(1) performs any function or duty under this chapter; and

(2) has any known financial interests—

(A) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products, or

(B) in property from which coal, natural gas, or crude oil is commercially produced;

shall, beginning on February 1, 1977, annually file with the Administrator or the Secretary of the Interior, as the case may be, a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) Enforcement and monitoring of filing requirements; report to Congress

The Administrator and the Secretary of the Interior shall each—

(1) act, within 90 days after December 22, 1975, in accordance with section 553 of title 5—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator or the Secretary of the Interior, as the case may be, of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) Exemption

In the rules prescribed in subsection (b) of this section, the Administrator and the Secretary of the Interior each may identify specific positions, or classes thereof within the Federal Energy Administration or Department of the Interior, as the case may be, which are of a nonregulatory and non-policymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Penalty

Any officer or employee who is subject to, and knowingly violates, subsection (a) of this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

(Pub. L. 94-163, title V, § 522, Dec. 22, 1975, 89 Stat. 961.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), in the original read "this Act", meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which enacted this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amended sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 2071 of Title 50, App., War and National Defense, enacted provisions set out as notes under sections 6201 of this title, sections 753 and 796 of Title 15, and section 2071 of Title 50, App., and repealed provisions formerly set out as a note under section 1904 of Title 12, Banks and Banking.

§ 6393. Administrative procedure and judicial review

(a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5 shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in section 551(4) of title 5 issued under subchapter I of this chapter (other than section 6212 of this title) and subchapter II of this chapter, or this subchapter.

(2)(A) Notice of any proposed rule, regulation, or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to the effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be—

(i) reduced to no less than 10 days if the President finds that strict compliance would seriously impair the operation of the program to which such rule, regulation, or order relates and such findings are set out in such rule, regulation, or order, or

(ii) waived entirely, if the President finds that such waiver is necessary to act expeditiously during an emergency affecting the national security of the United States.

(B) Public notice of any rule, regulation, or order which is substantive and of general applicability which is promulgated by officers of a State or political subdivision thereof or to State or local boards which have been delegated authority pursuant to subchapter I or II of this chapter or this subchapter shall, to the maximum extent practicable, be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of general circulation calculated to receive widest practicable notice.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded and such opportunity shall be afforded prior to the effective date of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than 45 days, and no later than 10 days (in the case of a waiver of the entire comment period under paragraph (2)(ii)), after such date. A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this chapter as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) of this section or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) The procedures for judicial review established by section 211 of the Economic Stabilization Act of 1970 shall apply to proceedings to which subsection (a) of this section applies, as if such proceedings took place under such Act. Such procedures for judicial review shall apply notwithstanding the expiration of the Economic Stabilization Act of 1970.

(c) Any agency authorized to issue any rule, regulation, or order described in subsection (a)(1) of this section shall, upon written request of any person, which request is filed after any grant or denial of a request for exception or exemption from any such rule, regulation, or order, furnish such person, within 30 days after the date on which such request is filed, with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial.

(Pub. L. 94-163, title V, § 523, Dec. 22, 1975, 89 Stat. 962.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(4), in the original read "this Act", meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which enacted this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amended sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 2071 of Title 50, App., War and National Defense, enacted provisions set out as notes under sections 6201 of this title, sections 753 and 796 of Title 15, and section 2071 of Title 50, App., and repealed provisions formerly set out as a note under section 1904 of Title 12, Banks and Banking.

The Economic Stabilization Act of 1970, referred to in subsec. (b), is Pub. L. 91-379, title II, Aug. 15, 1970, 84 Stat. 799, which is set out in its entirety as a note under section 1904 of Title 12, Banks and Banking.

CODIFICATION

Words "(other than any provision of such titles which amends another law)", appearing in the original at the end of subsec. (a), have been omitted as unnecessary. Such titles meant titles I, II, and V of Pub. L. 94-163, which titles are classified to subchapters I, II, and V of this chapter. The provisions of such titles that amended other laws were not classified to subchapters I, II, and V of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6261 to 6263 of this title.

§ 6394. Prohibited acts

It shall be unlawful for any person—

(1) to violate any provision of subchapter I or subchapter II of this chapter or this subchapter,

(2) to violate any rule, regulation, or order issued pursuant to any such provision or any provision of section 6363 of this title; or

(3) to fail to comply with any provision prescribed in, or pursuant to, an energy conservation contingency plan which is in effect.

(Pub. L. 94-163, title V, § 524, Dec. 22, 1975, 89 Stat. 963.)

CODIFICATION

Words "(other than any provision of such titles which amends another law)", appearing in the original at the end of par. (1), have been omitted as unnecessary. Such titles meant titles I, II, and V of Pub. L. 94-163, which titles are classified to subchapters I, II, and V of this chapter. The provisions of such titles that amended other laws were not classified to subchapters I, II, and V of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6395 of this title.

§ 6395. Enforcement

(a) Civil penalty

Whoever violates section 6394 of this title shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Penalty for willful violation

Whoever willfully violates section 6394 of this title shall be fined not more than $10,000 for each violation.

(c) Penalty for violation after having been subjected to civil penalty for prior violation

Any person who knowingly and willfully violates section 6394 of this title with respect to the sale, offer of sale, or distribution in commerce of a product or commodity after having been subjected to a civil penalty for a prior violation of section 6394 of this title with respect to the sale, offer of sale, or distribution in commerce of such product or commodity shall be fined not more than $50,000 or imprisoned not more than 6 months, or both.

(d) Injunction action by Attorney General

Whenever it appears to any officer or agency of the United States in whom is vested, or to whom is delegated, authority under this chapter that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 6394 of this title, such officer or agency may request the Attorney General to bring an action in an appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any rule, regulation, or order described in section 6394 of this title.

(e) Private right of action

(1) Any person suffering legal wrong because of any act or practice arising out of any violation of any provision of this chapter described in paragraph (2), may bring an action in an appropriate district court of the United States without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

(2) The provisions of this chapter referred to in paragraph (1) are as follows:

(A) Section 6262 of this title (relating to energy conservation plans).

(B) Section 6271 of this title (relating to international oil allocation).

(C) Section 6272 of this title (relating to international voluntary agreements).

(D) Section 6273 of this title (relating to advisory committees).

(E) Section 6274 of this title (relating to international exchange of information).

(F) Section 6391 of this title (relating to prohibition on certain actions).

(Pub. L. 94-163, title V, § 525, Dec. 22, 1975, 89 Stat. 963.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (d) and (e), in the original read "this Act", meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which enacted this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amended sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 2071 of Title 50, App., War and National Defense, enacted provisions set out as notes under sections 6201 of this title, sections 753 and 796 of Title 15, and section 2071 of Title 50, App., and repealed provisions formerly set out as a note under section 1904 of Title 12, Banks and Banking.

§ 6396. State laws or programs

No State law or State program in effect on December 22, 1975, or which may become effective thereafter, shall be superseded by any provision of subchapter I or II of this chapter or any rule, regulation, or order thereunder, except insofar as such State law or State program is in conflict with such provision, rule, regulation, or order.

(Pub. L. 94-163, title V, § 526, Dec. 22, 1975, 89 Stat. 964.)

CODIFICATION

Words "(other than any provision of such title which amends another law)", appearing in the original in this section, have been omitted as unecessary. Such title meant title I or title II of Pub. L. 94-163, which titles are classified to subchapters I and II of this chapter. The provisions of such titles that amended other laws were not classified to subchapters I and II of this chapter.

§ 6397. Transfer of authority upon termination of Federal Energy Administration

In accordance with section 774(a) of title 15, the President shall designate, where applicable and not otherwise provided by law, an appropriate Federal agency to carry out functions vested in the Administrator under this Act and amendments made thereby after the termination of the Federal Energy Administration.

(Pub. L. 94-163, title V, § 527, Dec. 22, 1975, 89 Stat. 964.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which is classified principally to this chapter (§§ 6201 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables volume.

§ 6398. Authorization of appropriations

Any authorization of appropriations in this Act, or in any amendment to any other law made by this Act, for the fiscal year 1976 shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for fiscal year 1976, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted.

(Pub. L. 94-163, title V, § 528, Dec. 22, 1975, 89 Stat. 964.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which is classified principally to this chapter (§ 6201 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables volume.

§ 6399. Intrastate natural gas

No provision of this chapter shall permit the imposition of any price controls on, or require any allocation of, natural gas not subject to the jurisdiction of the Federal Power Commission.

(Pub. L. 94-163, title V, § 529, Dec. 22, 1975, 89 Stat. 964.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which enacted this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amended sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 2071 of Title 50, App., War and National Defense, enacted provisions set out as notes under sections 6201 of this title, sections 753 and 796 of Title 15, and section 2071 of Title 50, App., and repealed provisions formerly set out as a note under section 1904 of Title 12, Banks and Banking.

§ 6400. Limitation on loan guarantees

Loan guarantees and obligation guarantees under this Act or any amendment to another law made by this Act may not be issued in violation of any limitation in appropriations or other Acts, with respect to the amounts of outstanding obligational authority.

(Pub. L. 94-163, title V, § 530, Dec. 22, 1975, 89 Stat. 964.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which is classified principally to this chapter (§ 6201 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables volume.

§ 6401. Expiration of authority

Except as otherwise provided in subchapter I or subchapter II of this chapter, all authority under any provision of subchapter I or subchapter II of this chapter and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, June 30, 1985, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1985.

(Pub. L. 94-163, title V, § 531, Dec. 22, 1975, 89 Stat. 965.)

CODIFICATION

Words "(other than a provision of either such title amending another law) appearing in the original in this section, have been omitted as unnecessary. Such title meant title I or title II of Pub. L. 94-163, which titles are classified to subchapters I and II of this chapter. The provisions of such titles that amended other laws were not classified to subchapters I and II of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6263 of this title.

PART C—CONGRESSIONAL REVIEW

§ 6421. Procedure for Congressional review of Presidential requests to implement certain authorities

(a) Energy action defined

For purposes of this section, the term "energy action" means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) Transmittal of energy action to Congress

The President shall transmit any energy action (bearing an identification number) to both Houses of Congress on the same day. If both Houses are not in session on the day any energy action is received by the appropriate officers of each House, for purposes of this section such energy action shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(c) Effective date of energy action

(1) Except as provided in paragraph (2) of this subsection, if energy action is transmitted to the Houses of Congress, such action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such action is transmitted to such Houses, unless between the date of transmittal and the end of such 15-day period, either House passes a resolution stating in substance that such House does not favor such action.

(2) An energy action described in paragraph (1) may take effect prior to the expiration of the 15-calendar-day period after the date on which such action is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such action.

(d) Computation of period

For the purpose of subsection (c) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in

the computation of the 15-calendar-day period.

(e) Provision in energy action for later effective date

Under provisions contained in an energy action, a provision of such an action may take effect on a date later than the date on which such action otherwise takes effect pursuant to the provisions of this section.

(f) Resolutions with respect to energy action

(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B) of this paragraph.

(A) A resolution the matter after the resolving clause of which is as follows: "That the——does not object to the energy action numbered——submitted to the Congress on————, 19——.", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy action.

(B) A resolution the matter after the resolving clause of which is as follows: "That the——does not favor the energy action numbered——transmitted to Congress on————, 19——.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

(3) A resolution once introduced with respect to an energy action shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly priviledged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to; except that it shall be in order—

(i) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(A) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(B) of this subsection with respect to the same such action, or

(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(B) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(A) of this subsection with respect to the same such action.

The amendments described in clauses (i) and (ii) of this subparagraph shall not be amendable.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy action, then it shall not be in order to consider in that House any other resolution with respect to the same such action.

(Pub. L. 94-163, title V, § 551, Dec. 22, 1975, 89 Stat. 965.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6234, 6239, 6261 of this title; title 15 sections 757, 760a, 760b, 2002.

§ 6422. Expedited procedure for Congressional consideration of certain authorities

(a) Contingency plan identification number; transmittal of plan to Congress

Any contingency plan transmitted to the Congress pursuant to section 6261(a)(1) of this title shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(b) Necessity of Congressional resolution within certain period for plan to be considered approved

No such contingency plan may be considered approved for purposes of section 6261(a)(2) of this title unless between the date of transmittal and the end of the first period of 60 calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in subsection (d)(2) of this section.

(c) Computation of period

For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-calendar-day period.

(d) Resolution with respect to contingency plan

(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress the matter after the resolving clauses of which is as follows: "That the——approves the contingency plan numbered——submitted to the Congress on————, 19——.", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one contingency plan.

(3) A resolution once introduced with respect to a contingency plan shall immediately be referred to a committee (and all resolutions with respect to the same contingency plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to a contingency plan has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such contingency plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same contingency plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same contingency plan.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the notion[1] shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

(Pub. L. 94-163, title V, § 552, Dec. 22, 1975, 89 Stat. 967.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6261, 6834 of this title.

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[1]So in original. Should be "motion".

CHAPTER 78—NATIONAL PETROLEUM RESERVE IN ALASKA

Sec.
6501. Definition.
6502. Designation of National Petroleum Reserve in Alaska; reservation of lands; disposition and conveyance of mineral materials, lands, etc., preexisting property rights.
6503. Transfer of jurisdiction, duties, property, etc., to Secretary of the Interior from Secretary of Navy.
(a) Transfer of jurisdiction over reserve; date of transfer.
(b) Protection of environmental, fish and wildlife, and historical or scenic values; promulgation of rules and regulations.
(c) Contract responsibilities and functions.
(d) Equipment, facilities, and other properties used in connection with operation of reserve; transfer without reimbursement.
(e) Unexpended funds previously appropriated for use in connection with reserve and civilian personnel ceilings assigned to management and operation of reserve.
6504. Administration of reserve.
(a) Congressional authorization as precondition for production and development of petroleum.
(b) Conduct of exploration within designated areas to protect surface values.
(c) Continuation of ongoing petroleum exploration program by Secretary of Navy prior to date of transfer of jurisdiction; duties of Secretary of Navy prior to transfer date.
(d) Commencement of petroleum exploration by Secretary of the Interior as of date of transfer of jurisdiction; powers and duties of Secretary of the Interior in conduct of exploration.
(e) Development and continuation of operation by Secretary of Navy prior transfer of reserve of gas fields supplying villages, etc., at or near Point Barrow, Alaska; rates; continuation of service by Secretary of the Interior after transfer.
6505. Executive department responsibility for studies to determine procedures used in development, production, transportation, and distribution of petroleum resources in reserve; reports to Congress by President; establishment of task force by Secretary of the Interior; purposes; membership; report and recommendations to Congress by Secretary; contents.
6506. Applicability of antitrust provisions; plans and proposals submitted to Congress to contain report by Attorney General on impact of plans and proposals on competition.
6507. Authorization of appropriations; Federal financial assistance for increased municipal services and facilities in communities located on or near reserve resulting from authorized exploration and study activities.

Chapter Referred to in Other Sections

This chapter is referred to in title 10 section 7432.

§ 6501. Definition

As used in this chapter, the term "petroleum" includes crude oil, gases (including natural gas), natural gasoline, and other related hydrocarbons, oil shale, and the products of any of such resources.

(Pub. L. 94-258, title I, § 101, Apr. 5, 1976, 90 Stat. 303.)

Short Title

Section 1 of Pub. L. 94-258 provided: "That this Act [enacting this chapter and section 7420 of Title 10, Armed Forces, and amending section 6244 of this title and sections 7421 to 7436 and 7438 of title 10] may be cited as the 'Naval Petroleum Reserves Production Act of 1976'."

§ 6502. Designation of National Petroleum Reserve in Alaska; reservation of lands; disposition and conveyance of mineral materials, lands, etc., preexisting property rights

The area known as Naval Petroleum Reserve Numbered 4, Alaska, established by Executive order of the President, dated February 27, 1923, except for tract Numbered 1 as described in Public Land Order 2344, dated April 24, 1961, shall be transferred to and administered by the Secretary of the Interior in accordance with the provisions of this Act. Effective on the date of transfer all lands within such area shall be redesignated as the "National Petroleum Reserve in Alaska" (hereinafter in this chapter referred to as the "reserve"). Subject to valid existing rights, all lands within the exterior boundaries of such reserve are hereby reserved and withdrawn from all forms of entry and disposition under the public land laws, including the mining and mineral leasing laws, and all other Acts; but the Secretary is authorized to (1) make dispositions of mineral materials pursuant to the Act of July 31, 1947 (61 Stat. 681), as amended [30 U.S.C. 601 et seq.], for appropriate use by Alaska Natives, (2) make such dispositions of mineral materials and grant such rights-of-way, licenses, and permits as may be necessary to carry out his responsibilities under this Act, and (3) convey the surface of lands properly selected on or before December 18, 1975, by Native village corporations pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]. All other provisions of law heretofore enacted and actions heretofore taken reserving such lands as a Naval Petroleum Reserve shall remain in full force and effect to the extent not inconsistent with this Act.

(Pub. L. 94-258, title I, § 102, Apr. 5, 1976, 90 Stat. 303.)

References in Text

This Act, referred to in text, is Pub. L. 94-258, Apr. 5, 1976, 90 Stat. 303, which enacted this chapter and section 7420 of Title 10, Armed Forces, and amended section 6244 of this title and sections 7421 to 7436 and 7438 of Title 10. For complete classification of this Act to the Code, see Short Note set out under section 6501 of this title and Tables volume.

The public land laws, referred to in text, are classified generally to Title 43, Public Lands.

The mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

Mineral leasing laws, referred to in text, have been defined in sections 505, 530, and 541e of title 30 to mean acts Oct. 20, 1914, ch. 330, 38 Stat. 741; Feb. 25, 1920, ch. 85, 41 Stat. 437; Apr. 17, 1926, ch. 158, 44 Stat. 301; and Feb. 7, 1927, ch. 66, 44 Stat. 1057. The act of Oct. 20, 1914, was repealed by Pub. L. 86-252,

§ 1, Sept. 9, 1959, 73 Stat. 490. The act of Feb. 25, 1920, is popularly known as the Mineral Lands Leasing Act and is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of title 30. The act of Apr. 17, 1926, is classified generally to subchapter VIII (§ 271 et seq.) of chapter 3A of title 30. The act of Feb. 7, 1927, is classified principally to subchapter IX (§ 281 et seq.) of chapter 3A of title 30. For complete classification of these Acts to the Code, see Tables volume.

The Act of July 31, 1947 (61 Stat. 681), as amended, referred to in text, is classified generally to subchapter I (§ 601 et seq.) of chapter 15 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Tables volume.

The Alaska Native Claims Settlement Act, referred to in text, is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables volume.

§ 6503. Transfer of jurisdiction, duties, property, etc., to Secretary of the Interior from Secretary of Navy

(a) Transfer of jurisdiction over reserve; date of transfer

Jurisdiction over the reserve shall be transferred by the Secretary of the Navy to the Secretary of the Interior on June 1, 1977.

(b) Protection of environmental, fish and wildlife, and historical or scenic values; promulgation of rules and regulations

With respect to any activities related to the protection of environmental, fish and wildlife, and historical or scenic values, the Secretary of the Interior shall assume all responsibilities as of April 5, 1976. As soon as possible, but not later than the effective date of transfer, the Secretary of the Interior may promulgate such rules and regulations as he deems necessary and appropriate for the protection of such values within the reserve.

(c) Contract responsibilities and functions

The Secretary of the Interior shall, upon the effective date of the transfer of the reserve, assume the responsibilities and functions of the Secretary of the Navy under any contracts which may be in effect with respect to activities within the reserve.

(d) Equipment, facilities, and other properties used in connection with operation of reserve; transfer without reimbursement

On the date of transfer of jurisdiction of the reserve, all equipment, facilities, and other property of the Department of the Navy used in connection with the operation of the reserve, including all records, maps, exhibits, and other informational data held by the Secretary of the Navy in connection with the reserve, shall be transferred without reimbursement from the Secretary of the Navy to the Secretary of the Interior who shall thereafter be authorized to use them to carry out the provisions of this chapter.

(e) Unexpended funds previously appropriated for use in connection with reserve and civilian personnel ceilings assigned to management and operation of reserve

On the date of transfer of jurisdiction of the reserve, the Secretary of the Navy shall transfer to the Secretary of the Interior all unexpended funds previously appropriated for use in connection with the reserve and all civilian personnel ceilings assigned by the Secretary of the Navy to the management and operation of the reserve as of January 1, 1976.

(Pub. L. 94-258, title I, § 103, Apr. 5, 1976, 90 Stat. 303.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6504 of this title.

§ 6504. Administration of reserve

(a) Congressional authorization as precondition for production and development of petroleum

Except as provided in subsection (e) of this section, production of petroleum from the reserve is prohibited and no development leading to production of petroleum from the reserve shall be undertaken until authorized by an Act of Congress.

(b) Conduct of exploration within designated areas to protect surface values

Any exploration within the Utukok River, the Teshekpuk Lake areas, and other areas designated by the Secretary of the Interior containing any significant subsistence, recreational, fish and wildlife, or historical or scenic value, shall be conducted in a manner which will assure the maximum protection of such surface values to the extent consistent with the requirements of this Act for the exploration of the reserve.

(c) Continuation of ongoing petroleum exploration program by Secretary of Navy prior to date of transfer of jurisdiction; duties of Secretary of Navy prior to transfer date

The Secretary of the Navy shall continue the ongoing petroleum exploration program within the reserve until the date of the transfer of jurisdiction specified in section 6503(a) of this title. Prior to the date of such transfer of jurisdiction the Secretary of the Navy shall—

(1) cooperate fully with the Secretary of the Interior providing him access to such facilities and such information as he may request to facilitate the transfer of jurisdiction;

(2) provide to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives copies of any reports, plans, or contracts pertaining to the reserve that are required to be submitted to the Committees on Armed Services of the Senate and the House of Representatives; and

(3) cooperate and consult with the Secretary of the Interior before executing any new contract or amendment to any existing contract pertaining to the reserve and allow him a reasonable opportunity to comment on such contract or amendment, as the case may be.

(d) Commencement of petroleum exploration by Secretary of the Interior as of date of transfer of jurisdiction; powers and duties of Secretary of the Interior in conduct of exploration

The Secretary of the Interior shall commence further petroleum exploration of the reserve as of the date of transfer of jurisdiction specified in section 6503(a) of this title. In conducting this exploration effort, the Secretary of the Interior—

(1) is authorized to enter into contracts for the exploration of the reserve, except that no such contract may be entered into until at least thirty days after the Secretary of the Interior has provided the Attorney General with a copy of the proposed contract and such other information as may be appropriate to determine legal sufficiency and possible violations under, or inconsistencies with, the antitrust laws. If, within such thirty day period, the Attorney General advises the Secretary of the Interior that any such contract would unduly restrict competition or be inconsistent with the antitrust laws, then the Secretary of the Interior may not execute that contract;

(2) shall submit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives any new plans or substantial amendments to ongoing plans for the exploration of the reserve. All such plans or amendments submitted to such committees pursuant to this section shall contain a report by the Attorney General of the United States with respect to the anticipated effects of such plans or amendments on competition. Such plans or amendments shall not be implemented until sixty days after they have been submitted to such committees; and

(3) shall report annually to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives on the progress of, and future plans for, exploration of the reserve.

(e) Development and continuation of operation by Secretary of Navy prior transfer of reserve of gas fields supplying villages, etc., at or near Point Barrow, Alaska; rates; continuation of service by Secretary of the Interior after transfer

Until the reserve is transferred to the jurisdiction of the Secretary of the Interior, the Secretary of the Navy is authorized to develop and continue operation of the South Barrow gas field, or such other fields as may be necessary, to supply gas at reasonable and equitable rates to the native village of Barrow, and other communities and installations at or near Point Barrow, Alaska, and to installations of the Department of Defense and other agencies of the United States located at or near Point Barrow, Alaska. After such transfer, the Secretary of the Interior shall take such actions as may be necessary to continue such service to such village, communities, installations, and agencies at reasonable and equitable rates.

(Pub. L. 94-258, title I, § 104, Apr. 5, 1976, 90 Stat. 304.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 94-258, Apr. 5, 1976, 90 Stat. 303, which enacted this chapter and section 7420 of Title 10, Armed Forces, and amended section 6244 of this title and sections 7421 to 7436 and 7438 of title 10. For complete classification of this Act to the Code, see Short Note set out under section 6501 of this title and Tables volume.

The antitrust laws, referred to in subsec. (d), are classified generally to section 1 et seq. of Title 15, Commerce and Trade.

CHANGE OF NAME

The Committee on Interior and Insular Affairs of the Senate was abolished and replaced by the Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

§ 6505. Executive department responsibility for studies to determine procedures used in development, production, transportation, and distribution of petroleum resources in reserve; reports to Congress by President; establishment of task force by Secretary of the Interior; purposes; membership; report and recommendations to Congress by Secretary; contents

(a)(1) The President shall direct such Executive departments and/or agencies as he may deem appropriate to conduct a study, in consultation with representatives of the State of Alaska, to determine the best overall procedures to be used in the development, production, transportation, and distribution of petroleum resources in the reserve. Such study shall include, but shall not be limited to, a consideration of—

(A) the alternative procedures for accomplishing the development, production, transportation, and distribution of the petroleum resources from the reserve, and

(B) the economic and environmental consequences of such alternative procedures.

(2) The President shall make semiannual progress reports on the implementation of this subsection to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives beginning not later than six months after April 5, 1976, and shall, not later than one year after the transfer of jurisdiction of the reserve, and annually thereafter, report any findings or conclusions developed as a result of such study together with appropriate supporting data and such recommendations as he deems desirable. The study shall be completed and submitted to such committees, together with recommended procedures and any proposed legislation necessary to implement such procedures not later than January 1, 1980.

(b)(1) The Secretary of the Interior shall establish a task force to conduct a study to determine the values of, and best uses for, the lands contained in the reserve, taking into consideration (A) the natives who live or depend upon such lands, (B) the scenic, historical, recreational, fish and wildlife, and wilderness values, (C) mineral potential, and (D) other values of such lands.

(2) Such task force shall be composed of representatives from the government of Alaska, the Arctic slope native community, and such offices and bureaus of the Department of the Interior as the Secretary of the Interior deems appropriate, including, but not limited to, the Bureau of Land Management, the United States Fish and Wildlife Service, the United States Geological Survey, and the Bureau of Mines.

(3) The Secretary of the Interior shall submit a report, together with the concurring or dissenting views, if any, of any non-Federal representatives of the task force, of the results of such study to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives within three years after April 5, 1976, and shall include in such report his rec-

ommendations with respect to the value, best use, and appropriate designation of the lands referred to in paragraph (1).

(Pub. L. 94-258, title I, § 105(b), (c), Apr. 5, 1976, 90 Stat. 305.)

CODIFICATION

In the original, subsecs. (a) and (b) were subsecs. (b) and (c), respectively, of section 105 of Pub. L. 94-258 and have been redesignated as (a) and (b) for codification purposes. Section 105(a) of Pub. L. 94-258 amended section 6244 of this title.

CHANGE OF NAME

The Committee on Interior and Insular Affairs of the Senate was abolished and replaced by the Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

§ 6506. Applicability of antitrust provisions; plans and proposals submitted to Congress to contain report by Attorney General on impact of plans and proposals on competition

Unless otherwise provided by Act of Congress, whenever development leading to production of petroleum is authorized, the provisions of subsections (g), (h), and (i) of section 7430 of title 10 shall be deemed applicable to the Secretary of the Interior with respect to rules and regulations, plans of development and amendments thereto, and contracts and operating agreements. All plans and proposals submitted to the Congress under this chapter or pursuant to legislation authorizing development leading to production shall contain a report by the Attorney General of the United States on the anticipated effects upon competition of such plans and proposals.

(Pub. L. 94-258, title I, § 106, Apr. 5, 1976, 90 Stat. 306.)

§ 6507. Authorization of appropriations; Federal financial assistance for increased municipal services and facilities in communities located on or near reserve resulting from authorized exploration and study activities

(a) There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the provisions of this chapter.

(b) If the Secretary of the Interior determines that there is an immediate and substantial increase in the need for municipal services and facilities in communities located on or near the reserve as a direct result of the exploration and study activities authorized by this chapter and that an unfair and excessive financial burden will be incurred by such communities as a result of the increased need for such services and facilities, then he is authorized to assist such communities in meeting the costs of providing increased municipal services and facilities. The Secretary of the Interior shall carry out the provisions of this section through existing Federal programs and he shall consult with the heads of the departments or agencies of the Federal Government concerned with the type of services and facilities for which financial assistance is being made available.

(Pub. L. 94-258, title I, § 107, Apr. 5, 1976, 90 Stat. 306.)

CHAPTER 79—SCIENCE AND TECHNOLOGY POLICY, ORGANIZATION AND PRIORITIES

SUBCHAPTER I—NATIONAL SCIENCE, ENGINEERING, AND TECHNOLOGY POLICY AND PRIORITIES

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SUBCHAPTER IV—FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY

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SUBCHAPTER I—NATIONAL SCIENCE, ENGINEERING, AND TECHNOLOGY POLICY AND PRIORITIES

Subchapter Referred to in Other Sections

This subchapter is referred to in section 6632 of this title.

§ 6601. Congressional findings; priority goals

(a) The Congress, recognizing the profound impact of science and technology on society, and the interrelations of scientific, technological, economic, social, political, and institutional factors, hereby finds and declares that—

(1) the general welfare, the security, the economic health and stability of the Nation, the conservation and efficient utilization of its natural and human resources, and the effective functioning of government and society require vigorous, perceptive support and employment of science and technology in achieving national objectives;

(2) the many large and complex scientific and technological factors which increasingly influence the course of national and international events require appropriate provision, involving long-range, inclusive planning as well as more immediate program development, to incorporate scientific and technological knowledge in the national decision-making process;

(3) the scientific and technological capabilities of the United States, when properly fostered, applied, and directed, can effectively assist in improving the quality of life, in anticipating and resolving critical and emerging international, national, and local problems, in strengthening the Nation's international economic position, and in furthering its foreign policy objectives;

(4) Federal funding for science and technology represents an investment in the future which is indispensable to sustained national progress and human betterment, and there should be a continuing national investment in science, engineering, and technology which is commensurate with national needs and opportunities and the prevalent economic situation;

(5) the manpower pool of scientists, engineers, and technicians, constitutes an invaluable national resource which should be utilized to the fullest extent possible; and

(6) the Nation's capabilities for technology assessment and for technological planning and policy formulation must be strengthened at both Federal and State levels.

(b) As a consequence, the Congress finds and declares that science and technology should contribute to the following priority goals without being limited thereto:

(1) fostering leadership in the quest for international peace and progress toward human freedom, dignity, and well-being by enlarging the contributions of American scientists and engineers to the knowledge of man and his universe, by making discoveries of basic science widely available at home and abroad, and by utilizing technology in support of United States national and foreign policy goals;

(2) increasing the efficient use of essential materials and products, and generally contributing to economic opportunity, stability, and appropriate growth;

(3) assuring an adequate supply of food, materials, and energy for the Nation's needs;

(4) contributing to the national security;

(5) improving the quality of health care available to all residents of the United States;

(6) preserving, fostering, and restoring a healthful and esthetic natural environment;

(7) providing for the protection of the oceans and coastal zones, and the polar regions, and the efficient utilization of their resources;

(8) strengthening the economy and promoting full employment through useful scientific and technological innovations;

(9) increasing the quality of educational opportunities available to all residents of the United States;

(10) promoting the conservation and efficient utilization of the Nation's natural and human resources;

(11) improving the Nation's housing, transportation, and communication systems, and assuring the provision of effective public services throughout urban, suburban, and rural areas;

(12) eliminating air and water pollution, and unnecessary, unhealthful, or ineffective drugs and food additives; and

(13) advancing the exploration and peaceful uses of outer space.

(Pub. L. 94-282, title I, § 101, May 11, 1976, 90 Stat. 459.)

Short Title

Section 1 of Pub. L. 94-282 provided that: "This Act [enacting this chapter, amending section 1863 of this title, repealing sections 1, 2, 3, and 4 of Reorganization Plan Numbered 2 of 1962 (76 Stat. 1253), set out as a note under section 1861 of this title, and section 2 of Reorganization Plan Numbered 1 of 1973 (87 Stat. 1089), set out as a note under section 2271 of the Appendix to Title 50, War and National Defense, and enacting provisions set out as notes under sections 6601, 1862, and 6611 of this title] may be cited as the 'Na-

tional Science and Technology Policy, Organization, and Priorities Act of 1976'."

Section 201 of Pub. L. 94-282 provided that: "This title [enacting subchapter II of this title] may be cited as the 'Presidential Science and Technology Advisory Organization Act of 1976'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6614, 6615 of this title.

§ 6602. Congressional declaration of policy

(a) Principles

In view of the foregoing, the Congress declares that the United States shall adhere to a national policy for science and technology which includes the following principles:

(1) The continuing development and implementation of strategies for determining and achieving the appropriate scope, level, direction, and extent of scientific and technological efforts based upon a continuous appraisal of the role of science and technology in achieving goals and formulating policies of the United States, and reflecting the views of State and local governments and representative public groups.

(2) The enlistment of science and technology to foster a healthy economy in which the directions of growth and innovation are compatible with the prudent and frugal use of resources and with the preservation of a benign environment.

(3) The conduct of science and technology operations so as to serve domestic needs while promoting foreign policy objectives.

(4) The recruitment, education, training, retraining, and beneficial use of adequate numbers of scientists, engineers, and technologists, and the promotion by the Federal Government of the effective and efficient utilization in the national interest of the Nation's human resources in science, engineering, and technology.

(5) The development and maintenance of a solid base for science and technology in the United States, including: (A) strong participation of and cooperative relationships with State and local governments and the private sector; (B) the maintenance and strengthening of diversified scientific and technological capabilities in government, industry, and the universities, and the encouragement of independent initiatives based on such capabilities, together with elimination of needless barriers to scientific and technological innovation; (C) effective management and dissemination of scientific and technological information; (D) establishment of essential scientific, technical and industrial standards and measurement and test methods; and (E) promotion of increased public understanding of science and technology.

(6) The recognition that, as changing circumstances require periodic revision and adaptation of this subchapter, the Federal Government is responsible for identifying and interpreting the changes in those circumstances as they occur, and for effecting subsequent changes in this subchapter as appropriate.

(b) Implementation

To implement the policy enunciated in subsection (a) of this section, the Congress declares that:

(1) The Federal Government should maintain central policy planning elements in the executive branch which assist Federal agencies in (A) identifying public problems and objectives, (B) mobilizing scientific and technological resources for essential national programs, (C) securing appropriate funding for programs so identified, (D) anticipating future concerns to which science and technology can contribute and devising strategies for the conduct of science and technology for such purposes, (E) reviewing systematically Federal science policy and programs and recommending legislative amendment thereof when needed. Such elements should include an advisory mechanism within the Executive Office of the President so that the Chief Executive may have available independent, expert judgment and assistance on policy matters which require accurate assessments of the complex scientific and technological features involved.

(2) It is a responsibility of the Federal Government to promote prompt, effective, reliable, and systematic transfer of scientific and technological information by such appropriate methods as programs conducted by nongovernmental organizations, including industrial groups and technical societies. In particular, it is recognized as a responsibility of the Federal Government not only to coordinate and unify its own science and technology information systems, but to facilitate the close coupling of institutional scientific research with commercial application of the useful findings of science.

(3) It is further an appropriate Federal function to support scientific and technological efforts which are expected to provide results beneficial to the public but which the private sector may be unwilling or unable to support.

(4) Scientific and technological activities which may be properly supported exclusively by the Federal Government should be distinguished from those in which interests are shared with State and local governments and the private sector. Among these entities, cooperative relationships should be established which encourage the appropriate sharing of science and technology decisionmaking, funding support, and program planning and execution.

(5) The Federal Government should support and utilize engineering and its various disciplines and make maximum use of the engineering community, whenever appropriate, as an essential element in the Federal policymaking process.

(6) Comprehensive legislative support for the national science and technology effort requires that the Congress be regularly informed of the condition, health and vitality, and funding requirements of science and technology, the relation of science and technology to changing national goals, and the need for legislative modification of the Feder-

al endeavor and structure at all levels as it relates to science and technology.

(c) Procedures

The Congress declares that, in order to expedite and facilitate the implementation of the policy enunciated in subsection (a) of this section, the following coordinate procedures are of paramount importance:

(1) Federal procurement policy should encourage the use of science and technology to foster frugal use of materials, energy, and appropriated funds; to assure quality environment; and to enhance product performance.

(2) Explicit criteria, including cost-benefit principles where practicable, should be developed to identify the kinds of applied research and technology programs that are appropriate for Federal funding support and to determine the extent of such support. Particular attention should be given to scientific and technological problems and opportunities offering promise of social advantage that are so long range, geographically widespread, or economically diffused that the Federal Government constitutes the appropriate source for undertaking their support.

(3) Federal promotion of science and technology should emphasize quality of research, recognize the singular importance of stability in scientific and technological institutions, and for urgent tasks, seek to assure timeliness of results. With particular reference to Federal support for basic research, funds should be allocated to encourage education in needed disciplines, to provide a base of scientific knowledge from which future essential technological development can be launched, and to add to the cultural heritage of the Nation.

(4) Federal patent policies should be developed, based on uniform principles, which have as their objective the preservation of incentives for technological innovation and the application of procedures which will continue to assure the full use of beneficial technology to serve the public.

(5) Closer relationships should be encouraged among practitioners of different scientific and technological disciplines, including the physical, social, and biomedical fields.

(6) Federal departments, agencies, and instrumentalities should assure efficient management of laboratory facilities and equipment in their custody, including acquisition of effective equipment, disposal of inferior and obsolete properties, and cross-servicing to maximize the productivity of costly property of all kinds. Disposal policies should include attention to possibilities for further productive use.

(7) The full use of the contributions of science and technology to support State and local government goals should be encouraged.

(8) Formal recognition should be accorded those persons whose scientific and technological achievements have contributed significantly to the national welfare.

(9) The Federal Government should support applied scientific research, when appropriate, in proportion to the probability of its usefulness, insofar as this probability can be determined; but while maximizing the beneficial consequences of technology, the Government should act to minimize foreseeable injurious consequences.

(10) Federal departments, agencies, and instrumentalities should establish procedures to insure among them the systematic interchange of scientific data and technological findings developed under their programs.

(Pub. L. 94-282, title I, § 102, May 11, 1976, 90 Stat. 460.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6614 of this title.

SUBCHAPTER II—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6632, 6671 of this title.

§ 6611. Establishment of Office

There is established in the Executive Office of the President an Office of Science and Technology Policy (hereinafter referred to in this title as the "Office").

(Pub. L. 94-282, title II, § 202, May 11, 1976, 90 Stat. 463.)

§ 6612. Director; Associate Directors

There shall be at the head of the Office a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level II of the Executive Schedule in section 5313 of title 5. The President is authorized to appoint not more than four Associate Directors, by and with the advice and consent of the Senate, who shall be compensated at a rate not to exceed that provided for level III of the Executive Schedule in section 5314 of such title. Associate Directors shall perform such functions as the Director may prescribe.

(Pub. L. 94-282, title II, § 203, May 11, 1976, 90 Stat. 463.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6632 of this title.

§ 6613. Functions of the Director

(a) The primary function of the Director is to provide, within the Executive Office of the President, advice on the scientific, engineering, and technological aspects of issues that require attention at the highest levels of Government.

(b) In addition to such other functions and activities as the President may assign, the Director shall—

(1) advise the President of scientific and technological considerations involved in areas of national concern including, but not limited to, the economy, national security, health, foreign relations, the environment, and the technological recovery and use of resources;

(2) evaluate the scale, quality, and effectiveness of the Federal effort in science and technology and advise on appropriate actions;

(3) advise the President on scientific and technological considerations with regard to

Federal budgets, assist the Office of Management and Budget with an annual review and analysis of funding proposed for research and development in budgets of all Federal agencies, and aid the Office of Management and Budget and the agencies throughout the budget development process; and

(4) assist the President in providing general leadership and coordination of the research and development programs of the Federal Government.

(Pub. L. 94-282, title II, § 204, May 11, 1976, 90 Stat. 463.)

§ 6614. Policy planning; analysis; advice; establishment of Advisory Panel

(a) The Office shall serve as a source of scientific and technological analysis and judgment for the President with respect to major policies, plans, and programs of the Federal Government. In carrying out the provisions of this section, the Director shall—

(1) seek to define coherent approaches for applying science and technology to critical and emerging national and international problems and for promoting coordination of the scientific and technological responsibilities and programs of the Federal departments and agencies in the resolution of such problems;

(2) assist and advise the President in the preparation of the Science and Technology Report, in accordance with section 6618 of this title;

(3) gather timely and authoritative information concerning significant developments and trends in science, technology, and in national priorities, both current and prospective, to analyze and interpret such information for the purpose of determining whether such developments and trends are likely to affect achievement of the priority goals of the Nation as set forth in section 6601(b) of this title;

(4) encourage the development and maintenance of an adequate data base for human resources in science, engineering, and technology, including the development of appropriate models to forecast future manpower requirements, and assess the impact of major governmental and public programs on human resources and their utilization;

(5) initiate studies and analyses, including systems analyses and technology assessments, of alternatives available for the resolution of critical and emerging national and international problems amendable to the contributions of science and technology and, insofar as possible, determine and compare probable costs, benefits, and impacts of such alternatives;

(6) advise the President on the extent to which the various scientific and technological programs, policies, and activities of the Federal Government are likely to affect the achievement of the priority goals of the Nation as set forth in section 6601(b) of this title;

(7) provide the President with periodic reviews of Federal statutes and administrative regulations of the various departments and agencies which affect research and development activities, both internally and in relation to the private sector, or which may interfere with desirable technological innovation, together with recommendations for their elimination, reform, or updating as appropriate;

(8) develop, review, revise, and recommend criteria for determining scientific and technological activities warranting Federal support, and recommend Federal policies designed to advance (A) the development and maintenance of broadly based scientific and technological capabilities, including human resources, at all levels of government, academia, and industry, and (B) the effective application of such capabilities to national needs;

(9) assess and advise on policies for international cooperation in science and technology which will advance the national and international objectives of the United States;

(10) identify and assess emerging and future areas in which science and technology can be used effectively in addressing national and international problems;

(11) report at least once each year to the President on the overall activities and accomplishments of the Office, pursuant to section 6618 of this title;

(12) periodically survey the nature and needs of national science and technology policy and make recommendations to the President, for review and transmission to the Congress, for the timely and appropriate revision of such policy in accordance with section 6602(a)(6) of this title; and

(13) perform such other duties and functions and make and furnish such studies and reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

(b)(1) The Director shall establish an Intergovernmental Science, Engineering, and Technology Advisory Panel (hereinafter referred to as the "Panel"), whose purpose shall be to (A) identify and define civilian problems at State, regional, and local levels which science, engineering, and technology may assist in resolving or ameliorating; (B) recommend priorities for addressing such problems; and (C) advise and assist the Director in identifying and fostering policies to facilitate the transfer and utilization of research and development results so as to maximize their application to civilian needs.

(2) The Panel shall be composed of (A) the Director of the Office, or his representative; (B) at least ten members representing the interests of the States, appointed by the Director of the Office after consultation with State officials; and (C) the Director of the National Science Foundation, or his representative.

(3)(A) The Director of the Office, or his representative, shall serve as Chairman of the Panel.

(B) The Panel shall perform such functions as the Chairman may prescribe, and shall meet at the call of the Chairman.

(4) Each member of the Panel shall, while serving on business of the Panel, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, including traveltime, and, while so serving away

from his home or regular place of business, he may be allowed travel expenses, including per diem in lieu of subsistence in the same manner as the expenses authorized by section 5703(b) of title 5 for persons in government service employed intermittently.

(Pub. L. 94-282, title II, § 205, May 11, 1976, 90 Stat. 464.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (b)(4), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

TERMINATION OF ADVISORY PANELS

Advisory Panels established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a panel established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6617 of this title.

§ 6615. Five-year outlook

(a) Identification and description of situations and conditions warranting special attention

Within its first year of operation, the Office shall, to the extent practicable, within the limitations of available knowledge and resources, and with appropriate assistance from the departments and agencies and such consultants and contractors as the Director deems necessary, identify and describe situations and conditions which warrant special attention within the next five years, involving—

(1) current and emerging problems of national significance that are identified through scientific research, or in which scientific or technical considerations are of major significance; and

(2) opportunities for, and constraints on, the use of new and existing scientific and technological capabilities which can make a significant contribution to the resolution of problems identified under paragraph (1) of this subsection or to the achievement of Federal program objectives or national goals, including those set forth in section 6601(b) of this title.

(b) Annual revision

The Office shall annually revise the five-year outlook developed under subsection (a) of this section so that it takes account of new problems, constraints and opportunities and changing national goals and circumstances, and shall extend the outlook so that it always extends five years into the future.

(c) Consultation with officials of departments and agencies having related programs and responsibilities

The Director of the Office shall consult as necessary with officials of the departments and agencies having programs and responsibilities relating to the problems, constraints, and opportunities identified under subsections (a) and (b) of this section, in order to—

(1) identify and evaluate alternative actions that might be taken by the Federal Government, State and local governments, or the private sector to deal with such problems, constraints, or opportunities; and

(2) ensure that alternative actions identified under paragraph (1) of this subsection are fully considered by departments and agencies in formulating their budget, program, and legislative proposals.

(d) Consultation with officials of Office of Management and Budget and other appropriate elements of Executive Office of President

The Director of the Office shall consult as necessary with officials of the Office of Management and Budget and other appropriate elements of the Executive Office of the President to ensure that the problems, constraints, opportunities, and alternative actions identified under subsections (a), (b), and (c) of this section are fully considered in the development of the President's Budgets and legislative programs.

(Pub. L. 94-282, title II, § 206, May 11, 1976, 90 Stat. 466.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6618 of this title.

§ 6616. Additional functions of Director

(a) Service as Chairman of Federal Coordinating Council for Science, Engineering, and Technology and as member of Domestic Council

The Director shall, in addition to the other duties and functions set forth in this subchapter—

(1) serve as Chairman of the Federal Coordinating Council for Science, Engineering, and Technology established under subchapter IV of this chapter; and

(2) serve as a member of the Domestic Council.

(b) Advice to National Security Council

For the purpose of assuring the optimum contribution of science and technology to the national security, the Director, at the request of the National Security Council, shall advise the National Security Council in such matters concerning science and technology as relate to national security.

(c) Officers and employees; services; contracts; payments

In carrying out his functions under this chapter, the Director is authorized to—

(1) appoint such officers and employees as he may deem necessary to perform the functions now or hereafter vested in him and to prescribe their duties;

(2) obtain services as authorized by section 3109 of title 5 at rates not to exceed the rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5; and

(3) enter into contracts and other arrangements for studies, analyses, and other services with public agencies and with private persons, organizations, or institutions, and make such

payments as he deems necessary to carry out the provisions of this chapter without legal consideration, without performance bonds, and without regard to section 5 of title 41.

(Pub. L. 94-282, title II, § 207, May 11, 1976, 90 Stat. 466.)

§ 6617. Coordination with other organizations

(a) Consultation and cooperation with Federal departments and agencies; utilization of consultants; establishment of advisory panels; consultation with State and local agencies, professional groups, and representatives of industry, etc.; hearings; utilization of services, personnel, equipment, etc., of public and private agencies and organizations, and individuals

In exercising his functions under this chapter, the Director shall—

(1) work in close consultation and cooperation with the Domestic Council, the National Security Council, the Council on Environmental Quality, the Council of Economic Advisers, the Office of Management and Budget, the National Science Board, and the Federal departments and agencies;

(2) utilize the services of consultants, establish such advisory panels, and, to the extent practicable, consult with State and local governmental agencies, with appropriate professional groups, and with such representatives of industry, the universities, agriculture, labor, consumers, conservation organizations, and such other public interest groups, organizations, and individuals as he deems advisable;

(3) hold such hearings in various parts of the Nation as he deems necessary, to determine the views of the agencies, groups, and organizations referred to in paragraph (2) of this subsection and of the general public, concerning national needs and trends in science and technology; and

(4) utilize with their consent to the fullest extent possible the services, personnel, equipment, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order to avoid duplication of effort and expense, and may transfer funds made available pursuant to this chapter to other Federal agencies as reimbursement for the utilization of such personnel, services, facilities, equipment, and information.

(b) Information from Executive departments, agencies, and instrumentalities

Each department, agency, and instrumentality of the Executive Branch of the Government, including any independent agency, is authorized to furnish the Director such information as the Director deems necessary to carry out his functions under this chapter.

(c) Assistance from Administrator of National Aeronautics and Space Administration

Upon request, the Administrator of the National Aeronautics and Space Administration is authorized to assist the Director with respect to carrying out his activities conducted under paragraph (5) of section 6614(a) of this title.

(Pub. L. 94-282, title II, § 208, May 11, 1976, 90 Stat. 467.)

§ 6618. Science and technology report

(a) Transmittal to Congress; preparation; issues discussed

The President shall transmit annually to the Congress, beginning February 15, 1978, a Science and Technology Report (hereinafter referred to as the "Report") which shall be prepared by the Office, with appropriate assistance from Federal departments and agencies and such consultants and contractors as the Director deems necessary. The report shall draw upon the information prepared by the Director pursuant to section 6615 of this title, and to the extent practicable, within the limitations of available knowledge and resources, discuss such issues as—

(1) a review of developments of national significance in science and technology;

(2) the significant effects of current and projected trends in science and technology on the social, economic, and other requirements of the Nation;

(3) a review and appraisal of selected science- and technology-related programs, policies, and activities of the Federal Government;

(4) an inventory and forecast of critical and emerging national problems the resolution of which might be substantially assisted by the application of science and technology;

(5) the identification and assessment of scientific and technological measures that can contribute to the resolution of such problems, in light of the related social, economic, political, and institutional considerations;

(6) the existing and projected scientific and technological resources, including specialized manpower, that could contribute to the resolution of such problems; and

(7) recommendations for legislation on science- and technology-related programs and policies that will contribute to the resolution of such problems.

(b) Use of relevant data available from National Science Foundation and other Government departments and agencies

In preparing the Report under subsection (a) of this section, the Office shall make maximum use of relevant data available from the National Science Foundation and other Government departments and agencies.

(c) Availability as public document

The Director shall insure that the Report, in the form approved by the President, is printed and made available as a public document.

(Pub. L. 94-282, title II, § 209, May 11, 1976, 90 Stat. 468.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6614 of this title.

SUBCHAPTER III—PRESIDENT'S COMMITTEE ON SCIENCE AND TECHNOLOGY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6671 of this title.

§ 6631. Establishment of Committee

The President shall establish within the Executive Office of the President a President's Committee on Science and Technology (hereinafter referred to as the "Committee").

(Pub. L. 94-282, title III, § 301, May 11, 1976, 90 Stat. 468.)

§ 6632. Membership of Committee

(a) Composition; appointment

The Committee shall consist of—

(1) the Director of the Office of Science and Technology Policy established under subchapter II of this chapter; and

(2) not less than eight nor more than fourteen other members appointed by the President not more than sixty days after the Director has assumed office (as provided in section 6612 of this title).

(b) Qualifications

Members of the Committee appointed by the President pursuant to subsection (a)(2) of this section shall—

(1) be qualified and distinguished in one or more of the following areas: science, engineering, technology, information dissemination, education, management, labor, or public affairs;

(2) be capable of critically assessing the policies, priorities, programs, and activities of the Nation, with respect to the findings, policies, and purposes set forth in subchapter I of this chapter; and

(3) shall collectively constitute a balanced composition with respect to (A) fields of science and engineering, (B) academic, industrial, and government experience, and (C) business, labor, consumer, and public interest points of view.

(c) Chairman; Vice Chairman

The President shall appoint one member of the Committee to serve as Chairman and another member to serve as Vice Chairman for such periods as the President may determine.

(d) Compensation

Each member of the Committee who is not an officer of the Federal Government shall, while serving on business of the Committee, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, including traveltime, and while so serving away from his home or regular place of business he may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5 for persons in Government service employed intermittently.

(Pub. L. 94-282, title III, § 302, May 11, 1976, 90 Stat. 468.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (d), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 95, and as so amended does not contain a subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6633 of this title.

§ 6633. Federal science, engineering, and technology survey; reports

(a) The Committee shall survey, examine, and analyze the overall context of the Federal science, engineering, and technology effort including missions, goals, personnel, funding, organization, facilities, and activities in general, taking adequate account of the interests of individuals and groups that may be affected by Federal scientific, engineering, and technical programs, including, as appropriate, consultation with such individuals and groups. In carrying out its functions under this section, the Committee shall, among other things, consider needs for—

(1) organizational reform, including institutional realinement designed to place Federal agencies whose missions are primarily or solely devoted to scientific and technological research and development, and those agencies primarily or solely concerned with fuels, energy, and materials, within a single cabinet-level department;

(2) improvements in existing systems for handling scientific and technical information on a Government-wide basis, including consideration of the appropriate role to be played by the private sector in the dissemination of such information;

(3) improved technology assessment in the executive branch of the Federal Government;

(4) improved methods for effecting technology innovation, transfer, and use;

(5) stimulating more effective Federal-State and Federal-industry liaison and cooperation in science and technology, including the formation of Federal-State mechanisms for the mutual pursuit of this goal;

(6) reduction and simplification of Federal regulations and administrative practices and procedures which may have the effect of retarding technological innovation or opportunities for its utilization;

(7) a broader base for support of basic research;

(8) ways of strengthening the Nation's academic institutions' capabilities for research and education in science and technology;

(9) ways and means of effectively integrating scientific and technological factors into our national and international policies;

(10) technology designed to meet community and individual needs;

(11) maintenance of adequate scientific and technological manpower with regard to both quality and quantity;

(12) improved systems for planning and analysis of the Federal science and technology programs; and

(13) long-range study, analysis, and planning in regard to the application of science and technology to major national problems or concerns.

(b)(1) Within twelve months from the time the Committee is activated in accordance with section 6632(a) of this title, the Committee shall issue an interim report of its activities and operations to date. Not more than twenty-four months from the time the Committee is activated, the Committee shall submit a final report of its activities, findings, conclusions, and recom-

mendations, including such supporting data and material as may be necessary, to the President.

(2) The President, within sixty days of receipt thereof, shall transmit each such report to each House of Congress together with such comments, observations, and recommendations thereon as he deems appropriate.

(Pub. L. 94-282, title III, § 303, May 11, 1976, 90 Stat. 469.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6634, 6635 of this title.

§ 6634. Continuation of Committee

(a) Ninety days after submission of the final report prepared under section 6633 of this title, the Committee shall cease to exist, unless the President, before the expiration of the ninety-day period, makes a determination that it is advantageous for the Committee to continue in being.

(b) If the President determines that it is advantageous for the Committee to continue in being, (1) the Committee shall exercise such functions as are prescribed by the President; and (2) the members of the Committee shall serve at the pleasure of the President.

(Pub. L. 94-282, title III, § 304, May 11, 1976, 90 Stat. 470.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6635 of this title.

§ 6635. Staff and consultant support

(a) In the performance of its functions under sections 6633 and 6634 of this title, the Committee is authorized—

(1) to select, appoint, employ, and fix the compensation of such specialists and other experts as may be necessary for the carrying out of its duties and functions, and to select, appoint, and employ, subject to the civil service laws, such other officers and employees as may be necessary for carrying out its duties and functions; and

(2) to provide for participation of such civilian and military personnel as may be detailed to the Committee pursuant to subsection (b) of this section for carrying out the functions of the Committee.

(b) Upon request of the Committee, the head of any Federal department, agency, or instrumentality is authorized (1) to furnish to the Committee such information as may be necessary for carrying out its functions and as may be available to or procurable by such department, agency, or instrumentality, and (2) to detail to temporary duty with the Committee on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions. Each such detail shall be without loss of seniority, pay, or other employee status, to civilian employees so detailed, and without loss of status, rank, office, or grade, or of any emolument, perquisite, right, privilege, or benefit incident thereto to military personnel so detailed. Each such detail shall be made pursuant to an agreement between the Chairman and the head of the relevant department, agency, or instrumentality, and shall be in accordance with the provisions of subchapter III of chapter 33, title 5.

(Pub. L. 94-282, title III, § 305, May 11, 1976, 90 Stat. 470.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a)(1), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

SUBCHAPTER IV—FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6616 of this title.

§ 6651. Establishment, membership, and functions of Council

(a) Designation

There is established the Federal Coordinating Council for Science, Engineering, and Technology (hereinafter referred to as the "Council").

(b) Composition

The Council shall be composed of the Director of the Office of Science and Technology Policy and one representative of each of the following Federal agencies: Department of Agriculture, Department of Commerce, Department of Defense, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of State, Department of Transportation, Veterans' Administration, National Aeronautics and Space Administration, National Science Foundation, Environmental Protection Agency, and Energy Research and Development Administration. Each such representative shall be an official of policy rank designated by the head of the Federal agency concerned.

(c) Chairman

The Director of the Office of Science and Technology Policy shall serve as Chairman of the Council. The Chairman may designate another member of the Council to act temporarily in the Chairman's absence as Chairman.

(d) Participation of unnamed Federal agencies in meetings; invitations to attend meetings

The Chairman may (1) request the head of any Federal agency not named in subsection (b) of this section to designate a representative to participate in meetings or parts of meetings of the Council concerned with matters of substantial interest to such agency, and (2) invite other persons to attend meetings of the Council.

(e) Consideration of problems and developments affecting more than one Federal agency; recommendations

The Council shall consider problems and developments in the fields of science, engineering, and technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures designed to—

(1) provide more effective planning and administration of Federal scientific, engineering, and technological programs,

(2) identify research needs including areas requiring additional emphasis,

(3) achieve more effective utilization of the scientific, engineering, and technological resources and facilities of Federal agencies, including the elimination of unwarranted duplication, and

(4) further international cooperation in science, engineering, and technology.

(f) Other advisory duties

The Council shall perform such other related advisory duties as shall be assigned by the President or by the Chairman.

(g) Assistance to Council by agency represented thereon

For the purpose of carrying out the provisions of this section, each Federal agency represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

(1) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman may assign to them, and

(2) undertaking, upon request of the Chairman, such special studies for the Council as come within the functions herein assigned.

(h) Establishment of subcommittees and panels

For the purpose of conducting studies and making reports as directed by the Chairman, standing subcommittees and panels of the Council may be established.

(Pub. L. 94-282, title IV, § 401, May 11, 1976, 90 Stat. 471.)

SUBCHAPTER V—GENERAL PROVISIONS

§ 6671. Authorization of appropriations

(a) For the purpose of carrying out subchapter II of this chapter, there are authorized to be appropriated—

(1) $750,000 for the fiscal year ending June 30, 1976;

(2) $500,000 for the period beginning July 1, 1976, and ending September 30, 1976;

(3) $3,000,000 for the fiscal year ending September 30, 1977; and

(4) such sums as may be necessary for each of the succeeding fiscal years.

(b) For the purpose of carrying out subchapter III of this chapter, there are authorized to be appropriated—

(1) $750,000 for the fiscal year ending June 30, 1976;

(2) $500,000 for the period beginning July 1, 1976, and ending September 30, 1976;

(3) $1,000,000 for the fiscal year ending September 30, 1977; and

(4) such sums as may be necessary for each of the succeeding fiscal years.

(Pub. L. 94-282, title V, § 501, May 11, 1976, 90 Stat. 472.)

CHAPTER 80—PUBLIC WORKS EMPLOYMENT

SUBCHAPTER I—LOCAL PUBLIC WORKS

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SUBCHAPTER I—LOCAL PUBLIC WORKS

§ 6701. Definitions

As used in this subchapter, the term—

(1) "Secretary" means the Secretary of Commerce, acting through the Economic Development Administration.

(2) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(3) "local government" means any city, county, town, parish, or other political subdivision of a State, and any Indian tribe.

(Pub. L. 94-369, title I, § 102, July 22, 1976, 90 Stat. 999.)

SHORT TITLE

Section 1 of Pub. L. 94-369 provided: "That this Act [enacting this chapter and provision set out as a note under section 1287 of Title 33, Navigation and Navigable Waters] may be cited as the 'Public Works Employment Act of 1976'."

Section 101 of Pub. L. 94-369 provided that: "This title [enacting this subchapter] may be cited as the 'Local Public Works Capital Development and Investment Act of 1976'."

§ 6702. Direct grants; Federal share

(a) The Secretary is authorized to make grants to any State or local government for construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects including but not limited to those public works projects of State and local governments for which Federal financial assistance is authorized under provisions of law other than this chapter. In addition the Secretary is authorized to make grants to any State or local government for the completion of plans, specifications, and estimates for local public works projects where either architectural design or preliminary engineering or related planning has already been undertaken and where additional architectural and engineering work or related planning is required to permit construction of the project under this chapter.

(b) The Federal share of any project for which a grant is made under this section shall be 100 per centum of the cost of the project.

(Pub. L. 94-369, title I, § 103, July 22, 1976, 90 Stat. 999.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6705 of this title.

§ 6703. Grants supplementing Federal contributions under other Federal laws; Federal share

In addition to the grants otherwise authorized by this chapter, the Secretary is authorized to make a grant for the purpose of increasing the Federal contribution to a public works project for which Federal financial assistance is authorized under provisions of law other than this chapter. Any grant made for a public works project under this section shall be in such amount as may be necessary to make the Federal share of the cost of such project 100 per centum. No grant shall be made for a project under this section unless the Federal financial assistance for such project authorized under provisions of law other than this chapter is immediately available for such project and construction of such project has not yet been initiated because of lack of funding for the non-Federal share.

(Pub. L. 94-369, title I, § 104, July 22, 1976, 90 Stat. 999.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6705 of this title.

§ 6704. Grants providing State or local contributions required under State or local law

In addition to the grants otherwise authorized by this chapter, the Secretary is authorized to make a grant for the purpose of providing all or any portion of the required State or local share of the cost of any public works project for which financial assistance is authorized under any provision of State or local law requiring such contribution. Any grant made for a public works project under this section shall be made in such amount as may be necessary to provide the requested State or local share of the cost of such project. A grant shall be made under this section for either the State or local share of the cost of the project, but not both shares. No grant shall be made for a project under this section unless the share of the financial assistance for such project (other than the share with respect to which a grant is requested under this section) is immediately available for such project and construction of such project has not yet been initiated.

(Pub. L. 94-369, title I, § 105, July 22, 1976, 90 Stat. 999.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6705 of this title.

§ 6705. Limitations on use of grants

(a) Projects relating to natural watercourse or canals

No grant shall be made under section 6702, 6703, or 6704 of this title for any project having as its principal purpose the channelization, damming, diversion, or dredging of any natural watercourse, or the construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site) and having as its permanent effect the channelization, damming, diversion, or dredging of such watercourse or construction or enlargement of any canal (other than a canal

or raceway designated for maintenance as an historic site).

(b) Acquisition of interest in real property

No part of any grant made under section 6702, 6703, or 6704 of this title shall be used for the acquisition of any interest in real property.

(c) Maintenance costs

Nothing in this chapter shall be construed to authorize the payment of maintenance costs in connection with any projects constructed (in whole or in part) with Federal financial assistance under this chapter.

(d) Commencement of on-site labor within 90 days of project approval as prerequisite

Grants made by the Secretary under this chapter shall be made only for projects for which the applicant gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that, if funds are available, on-site labor can begin within ninety days of project approval.

(Pub. L. 94-369, title I, § 106, July 22, 1976, 90 Stat. 1000.)

§ 6706. Implementing rules, regulations, and procedures; criteria; determinations of applications for grants

The Secretary shall, not later than thirty days after July 22, 1976, prescribe those rules, regulations, and procedures (including application forms) necessary to carry out this chapter. Such rules, regulations, and procedures shall assure that adequate consideration is given to the relative needs of various sections of the country. The Secretary shall consider among other factors (1) the severity and duration of unemployment in proposed project areas, (2) the income levels and extent of underemployment in proposed project area, and (3) the extent to which proposed projects will contribute to the reduction of unemployment. The Secretary shall make a final determination with respect to each application for a grant submitted to him under this chapter not later than the sixtieth day after the date he receives such application. Failure to make such final determination within such period shall be deemed to be an approval by the Secretary of the grant requested. For purposes of this section, in considering the extent of unemployment or underemployment, the Secretary shall consider the amount of unemployment or underemployment in the construction and construction-related industries.

(Pub. L. 94-369, title I, § 107, July 22, 1976, 90 Stat. 1000.)

§ 6707. Priority and amounts of projects

(a) Projects in any one State and in Guam, Virgin Islands, and American Samoa; minimum amounts of grants

Not less than one-half of 1 per centum or more than 12½ per centum of all amounts appropriated to carry out this subchapter shall be granted under this chapter for local public works projects within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the aggregate shall be granted for such projects in all three of these jurisdictions.

(b) Local government projects

In making grants under this chapter, the Secretary shall give priority and preference to public works projects of local governments.

(c) Unemployment rates; applicability

In making grants under this chapter, if for the three most recent consecutive months, the national unemployment rate is equal to or exceeds 6½ per centum, the Secretary shall (1) expedite and give priority to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of the national unemployment rate and (2) shall give priority thereafter to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of 6½ per centum, but less than the national unemployment rate. Information regarding unemployment rates may be furnished either by the Federal Government, or by States or local governments, provided the Secretary determines that the unemployment rates furnished by States or local governments are accurate, and shall provide assistance to States or local governments in the calculation of such rates to insure validity and standardization.

(d) Classifications of priority

Seventy per centum of all amounts appropriated to carry out this chapter shall be granted for public works projects submitted by State or local governments given priority under clause (1) of the first sentence of subsection (c) of this section. The remaining 30 per centum shall be available for public works projects submitted by State or local governments in other classifications of priority.

(e) Community or neighborhood basis of unemployment rates

The unemployment rate of a local government shall, for the purposes of this chapter, and upon request of the applicant, be based upon the unemployment rate of any community or neighborhood (defined without regard to political or other subdivisions or boundaries) within the jurisdiction of such local government, except that any grant made to a local government based upon the unemployment rate of a community or neighborhood within its jurisdiction must be for a project of direct benefit to, or provide employment for, unemployed persons who are residents of that community or neighborhood.

(f) Consideration of adjoining area unemployment in determining unemployment rate

In determining the unemployment rate of a local government for the purposes of this section, unemployment in those adjoining areas from which the labor force for such project may be drawn, shall, upon request of the applicant, be taken into consideration.

(g) Criteria for requests

States and local governments making application under this chapter should (1) relate their specific requests to existing approved plans and programs of a local community development or

regional development nature so as to avoid harmful or costly inconsistencies or contradictions; and (2) where feasible, make requests which, although capable of early initiation, will promote or advance longer range plans and programs.

(Pub. L. 94-369, title I, § 108, July 22, 1976, 90 Stat. 1000.)

§ 6708. Wage standards for laborers and mechanics; enforcement

All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). The Secretary shall not extend any financial assistance under this chapter for such project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 276c of title 40.

(Pub. L. 94-369, title I, § 109, July 22, 1976, 90 Stat. 1001.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 6709. Sex discrimination; prohibition; enforcement

No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any project receiving Federal grant assistance under this chapter, including any supplemental grant made under this chapter. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.]. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

(Pub. L. 94-369, title I, § 110, July 22, 1976, 90 Stat. 1002.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

§ 6710. Authorization of appropriations

There is authorized to be appropriated not to exceed $2,000,000,000 for the period ending September 30, 1977, to carry out this chapter.

(Pub. L. 94-369, title I, § 111, July 22, 1976, 90 Stat. 1002.)

SUBCHAPTER II—ANTIRECESSION PROVISIONS

§ 6721. Congressional findings of fact and declaration of policy

The Congress finds—

(1) that State and local governments represent a significant segment of the national economy whose economic health is essential to national economic prosperity;

(2) that present national economic problems have imposed considerable hardships on State and local government budgets;

(3) that those governments, because of their own fiscal difficulties, are being forced to take budget-related actions which tend to undermine Federal Government efforts to stimulate the economy;

(4) that efforts to stimulate the economy through reductions in Federal Government tax obligations are weakened when State and local governments are forced to increase taxes;

(5) that the net effect of Federal Government efforts to reduce unemployment through public service jobs is substantially limited if State and local governments use federally financed public service employees to replace regular employees that they have been forced to lay off;

(6) that efforts to stimulate the construction industry and reduce unemployment are substantially undermined when State and local governments are forced to cancel or delay the construction of essential capital projects; and

(7) that efforts by the Federal Government to stimulate the economic recovery will be substantially enhanced by a program of emergency Federal Government assistance to State and local governments to help prevent those governments from taking budget-related actions which undermine the Federal Government efforts to stimulate economic recovery.

(Pub. L. 94-369, title II, § 201, July 22, 1976, 90 Stat. 1002.)

§ 6722. Financial assistance

(a) Payments to State and local governments

The Secretary of the Treasury (hereafter in this subchapter referred to as the "Secretary") shall, in accordance with the provisions of this subchapter, make payments to States and to local governments to coordinate budget-related actions by such governments with Federal Government efforts to stimulate economic recovery.

(b) Authorization of appropriations

Subject to the provisions of subsections (c) and (d) of this section, there are authorized to be appropriated for each of the five succeeding calendar quarters (beginning with the calendar

quarter which begins on July 1, 1976) for the purpose of payments under this subchapter—

(1) $125,000,000 plus

(2) $62,500,000 multiplied by the number of one-half percentage points by which the rate of seasonally adjusted national unemployment for the most recent calendar quarter which ended three months before the beginning of such calendar quarter exceeded 6 percent.

(c) Aggregate authorization

In no case shall the aggregate amount authorized to be appropriated under the provisions of subsection (b) of this section for the five calendar quarters beginning with the calendar quarter which begins July 1, 1976, exceed $1,250,000,000.

(d) Termination

No amount is authorized to be appropriated under the provisions of subsection (b) of this section for any calendar quarter if—

(1) the average rate of national unemployment during the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 6 percent, or

(2) the rate of national unemployment for the last month of the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 6 percent.

(Pub. L. 94-369, title II, § 202, July 22, 1976, 90 Stat. 1002; Pub. L. 94-447, title II, § 201(1), Oct. 1, 1976, 90 Stat. 1498.)

AMENDMENTS

1976—Subsec. (d)(1). Pub. L. 94-447 substituted "6 percent, or" for "6 percent, and".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6723 of this title.

§ 6723. Allocation of amounts

(a) Reservations for eligible States and units of local government

(1) The Secretary shall reserve one-third of the amounts appropriated pursuant to authorization under section 6722 of this title for each calendar quarter for the purpose of making payments to eligible State governments under subsection (b) of this section.

(2) The Secretary shall reserve two-thirds of such amounts for the purpose of making payments to eligible units of local government under subsection (c) of this section.

(b) State allocation; percentage; definitions

(1) The Secretary shall allocate from amounts reserved under subsection (a)(1) of this section an amount for the purpose of making payments to each State equal to the total amount reserved under subsection (a)(1) of this section for the calendar quarter multiplied by the applicable State percentage.

(2) For purposes of this subsection, the applicable State percentage is equal to the quotient resulting from the division of the product of—

(A) the State excess unemployment percentage, multiplied by

(B) the State revenue sharing amount by the sum of such products for all the States.

(3) For the purposes of this section—

(A) the term "State" means each State of the United States;

(B) the State excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the State unemployment rate for that State but shall not be less than zero;

(C) the State unemployment rate is equal to the rate of unemployment in the State during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary; and

(D) the State revenue sharing amount is the amount determined under section 107 of the State and Local Fiscal Assistance Act of 1972 [31 U.S.C. 1226] for the one-year period beginning on July 1, 1975.

(c) Local government allocation; percentage; special rule for other than identifiable local governments; definitions; special limitation

(1) The Secretary shall allocate from amounts reserved under subsection (a)(2) of this section an amount for the purpose of making payments to each local government, subject to the provisions of paragraphs (3) and (5), equal to the total amount reserved under such subsection for calendar quarter multiplied by the local government percentage.

(2) For purposes of this subsection, the local government percentage is equal to the quotient resulting from the division of the product of—

(A) the local excess unemployment percentage, multiplied by

(B) the local revenue sharing amount, by the sum of such products for all local governments.

(3)(A) For purposes of paragraphs (1) and (2), all local governments within the jurisdiction of a State other than identifiable local governments shall be treated as though they were one local government.

(B) The Secretary shall set aside from the amount allocated under paragraph (1) of this subsection for all local government within the jurisdiction of a State which are treated as though they are one local government under subparagraph (A) an amount determined under subparagraph (C) for the purpose of making payments to each local government, other than identifiable local governments within the jurisdiction of such State.

(C) The amount set aside for the purpose of making payments to each local government, other than an identifiable local government, with[1] the jurisdiction of a State under subparagraph (B) shall be—

(i) equal to the total amount allocated under paragraph (1) of this subsection for all local governments within the jurisdiction of such State which are treated as though they are one local government under subparagraph (A) multiplied by the local government percentage as defined in paragraph (2) (determined without regard to the parenthetical phrases at the end of paragraphs (4)(B) and (C) of this subsection), unless

(ii) such State submits, within 90 days, after July 22, 1976, an allocation plan which has

[1] So in original. Probably should be "within".

been approved by the State legislature and which meets the requirements set forth in section 6726(a) of this title, and is approved by the Secretary under the provisions of section 6726(b) of this title. In the event that a State legislature is not scheduled to meet in regular session within three months after July 22, 1976, the Governor of such State shall be authorized to submit an alternative plan which meets the requirements set forth in section 6726(a) of this title, and is approved by the Secretary under the provisions of section 6726(b) of this title.

(D) If local unemployment rate data (as defined in paragraph (4)(B) of this subsection without regard to the parenthetical phrase at the end of such definition) for a local government jurisdiction is unavailable to the Secretary for purposes of determining the amount to be set aside for such government under subparagraph (C) then the Secretary shall determine such amount under subparagraph (C) by using the local unemployment rate determined under the parenthetical phrase of subsection (4)(B) for all local governments in such State treated as one jurisdiction under paragraph (A) of this subsection unless better unemployment rate data, certified by the Secretary of Labor, is available.

(4) For purposes of this subsection—

(A) the local excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the local unemployment rate, but shall not be less than zero;

(B) the local unemployment rate is equal to the rate of unemployment in the jurisdiction of the local government during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary (in the case of local governments treated as one local government under paragraph (3)(A), the local unemployment rate shall be the unemployment rate of the State adjusted by excluding consideration of unemployment and of the labor force within identifiable local governments, other than county governments, within the jurisdiction of that State);

(C) the local revenue sharing amount is the amount determined under section 108 of the State and Local Fiscal Assistance Act of 1972 [31 U.S.C. 1227] for the one-year period beginning on July 1, 1975 (and in the case of local governments treated as one local government under paragraph (3)(A), the local revenue sharing amount shall be the sum of the local revenue sharing amounts of all eligible local governments within the State, adjusted by excluding an amount equal to the sum of the local revenue sharing amounts of identifiable local governments within the jurisdiction of that State);

(D) the term "identifiable local government" means a unit of general local government for which the Secretary of Labor has made a determination concerning the rate of unemployment for purposes of title II [29 U.S.C. 841 et seq.] or title VI [29 U.S.C. 961 et seq.] of the Comprehensive Employment and Training Act of 1973 during the current or preceding fiscal year; and

(E) the term "local government" means the government of a county, municipality, township, or other unit of government below the State which—

(i) is a unit of general government (determined on the basis of the same principles as are used by the Social and Economic Statistics Administration for general statistical purposes), and

(ii) performs substantial governmental functions. Such term includes the District of Columbia and also includes the recognized governing body of an Indian tribe or Alaskan Native village which performs substantial governmental functions. Such term does not include the government of a township area unless such government performs substantial governmental functions.

For the purpose of paragraph (4)(D), the Secretary of Labor shall, notwithstanding any other provision of law, continue to make determinations with respect to the rate of unemployment for the purposes of such title VI [29 U.S.C. 961 et seq.].

(5) If the amount which would be allocated to any unit of local government under this subsection is less than $100, then no amount shall be allocated for such unit of local government under this subsection.

(Pub. L. 94-369, title II, § 203, July 22, 1976, 90 Stat. 1003; Pub. L. 94-447, title II, § 201(2), (3), Oct. 1, 1976, 90 Stat. 1498.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (c)(4)(D), (E), is Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, as amended. Titles II and IV of the Comprehensive Employment and Training Act are classified generally to subchapters II (§ 841 et seq.) and VI (§ 961 et seq.) of chapter 17 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables volume.

AMENDMENTS

1976—Subsec. (c)(3)(C)(ii). Pub. L. 94-447, § 201(2), substituted "90 days" for "thirty days".

Subsec. (c)(4)(E)(ii). Pub. L. 94-447, § 201(3), substituted "or Alaskan Native village" for "of Alaskan Native village".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6726, 6730 of this title.

§ 6724. Uses of payments

Each State and local government shall use payments made under this subchapter for the maintenance of basic services customarily provided to persons in that State or in the area under the jurisdiction of that local government, as the case may be. State and local governments may not use emergency support payments made under this subchapter for the acquisition of supplies and materials and for construction unless such supplies and materials or construction are to maintain basic services.

(Pub. L. 94-369, title II, § 204, July 22, 1976, 90 Stat. 1006; Pub. L. 94-447, title II, § 201(4), Oct. 1, 1976, 90 Stat. 1498.)

AMENDMENTS

1976—Pub. L. 94-447 substituted "support payments" for "support grants".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6725 of this title.

§ 6725. Statement of assurances as prerequisite for payments; rules governing time and manner of filing; contents of statement

Each State and unit of local government may receive payments under this subchapter only upon filing with the Secretary, at such time and in such manner as the Secretary prescribes by rule, a statement of assurances. Such rules shall be prescribed by the Secretary not later than ninety days after July 22, 1976. The Secretary may not require any State or local government to file more than one such statement during each fiscal year. Each such statement shall contain—

(1) an assurance that payments made under this subchapter to the State or local government will be used for the maintenance, to the extent practical, of levels of public employment and of basic services customarily provided to persons in that State or in the area under the jurisdiction of that unit of local government which is consistent with the provisions of section 6724 of this title;

(2) an assurance that the State or unit of local government will—

(A) use fiscal, accounting, and audit procedures which conform to guidelines established therefor by the Secretary (after consultation with the Comptroller General of the United States), and

(B) provide to the Secretary (and to the Comptroller General of the United States), on reasonable notice, access to, and the right to examine, such books, documents, papers, or records as the Secretary may reasonably require for purposes of reviewing compliance with this subchapter;

(3) an assurance that reasonable reports will be furnished to the Secretary in such form and containing such information as the Secretary may reasonably require to carry out the purposes of this subchapter and that such report shall be published in a newspaper of general circulation in the jurisdiction of such government unless the cost of such publication is excessive in relation to the amount of the payments received by such government under this subchapter or other means of publicizing such report is more appropriate, in which case such report shall be publicized pursuant to rules prescribed by the Secretary;

(4) an assurance that the requirements of section 6727 of this title will be complied with;

(5) an assurance that the requirements of section 6728 of this title will be complied with;

(6) an assurance that the requirements of section 6729 of this title will be complied with;

(7) an assurance that the State or unit of local government will spend any payment it receives under this subchapter before the end of the six-calendar-month period which begins on the day after the date on which such State or local government receives such payment; and

(8) an assurance that the State or unit of local government will spend amounts received under this subchapter only in accordance with the laws and procedures applicable to the expenditure of its own revenues.

(Pub. L. 94-369, title II, § 205, July 22, 1976, 90 Stat. 1006.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6730, 6732 of this title.

§ 6726. Optional State allocation plans; approval

(a) A State may file an allocation plan with the Secretary for purposes of section 6723(c)(3)(C)(ii) of this title at such time, in such manner, and containing such information as the Secretary may require by rule. Such rules shall be provided by the Secretary not later than sixty days of July 22, 1976. Such allocation plan shall meet the following requirements:

(1) the criteria for allocation of amounts among the local governments within the State shall be consistent with the allocation formula for local governments under section 6723(c)(2) of this title;

(2) the plan shall use—

(A) the best available unemployment rate data for such government if such data is determined in a manner which is substantially consistent with the manner in which local unemployment rate data is determined, or

(B) if no consistent unemployment rate data is available, the local unemployment rate data for the smallest unit of identifiable local government in the jurisdiction of which such government is located,

(3) the allocation criteria must be specified in the plan, and

(4) the plan must be developed after consultation with appropriate officials of local governments within the State other than identifiable local governments.

(b) The Secretary shall approve any allocation plan that meets the requirements of subsection (a) of this section within thirty days after he receives such allocation plan, and shall not finally disapprove, in whole or in part, any allocation plan for payments under this subchapter without first affording the State or local governments involved reasonable notice and an opportunity for a hearing.

(Pub. L. 94-369, title II, § 206, July 22, 1976, 90 Stat. 1007.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6723 of this title.

§ 6727. Discriminatory activities

(a) General prohibition

No person in the United States shall, on the grounds of race, religion, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity

funded in whole or in part with funds made available under this subchapter.

(b) Duties of Secretary

Whenever the Secretary determines that a State government or unit of local government has failed to comply with subsection (a) of this section or an applicable regulation, he shall, within ten days, notify the Governor of the State (or, in the case of a unit of local government the Governor of the State in which such unit is located, and the chief elected official of the unit) of the noncompliance. If within thirty days of the notification compliance is not achieved, the Secretary shall within ten days thereafter—

(1) exercise all the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000e[1]) [42 U.S.C. 2000d et seq.];

(2) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(3) take such other action as may be provided by law.

(c) Enforcement

Upon his determination of discrimination under subsection (b) of this section, the Secretary shall have the full authority to withhold or temporarily suspend any payment under this subchapter, or otherwise exercise any authority contained in title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], to assure compliance with the requirement of nondiscrimination in federally assisted programs funded, in whole or in part, under this subchapter.

(d) Applicability of specified civil rights provisions

(1) Any party who is injured or deprived within the meaning of section 1983 of this title or of section 1985 of this title by any person, or two or more persons in the case of such section 1985, in connection with the administration of a payment under this subchapter may bring a civil action under such section 1983 or 1985, as applicable, subject to the terms and conditions of those sections.

(2) Any person who is aggrieved by an unlawful employment practice within the meaning of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) by any employer in connection with the administration of a payment under this title may bring a civil action under section 706(f)(1) of such Act (42 U.S.C. 2000e-5(f)(1)) subject to the terms and conditions of such title [42 U.S.C. 2000e et seq.].

(Pub. L. 94-369, title II, § 207, July 22, 1976, 90 Stat. 1007.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsecs. (b)(1), (c), (d)(2), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Titles VI and VII of the Civil Rights Act of 1964 are classified generally to subchapters V (§ 2000d et seq.) and VI (§ 2000e et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6725 of this title.

[1]So in original. Probably should be "2000d".

§ 6728. Wage standards for laborers and mechanics; enforcement

All laborers and mechanics employed by contractors on all construction projects funded in whole or in part by payments under this subchapter shall be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

(Pub. L. 94-369, title II, § 208, July 22, 1976, 90 Stat. 1008.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6725 of this title.

§ 6729. Reports to Secretary by States and local governments; contents

Each State and unit of local government which receives a payment under the provisions of this subchapter shall report to the Secretary any increase or decrease in any tax which it imposes and any substantial reduction in the number of individuals it employs or in services which such State or local government provides. Each State which receives a payment under the provisions of this subchapter shall report to the Secretary any decrease in the amount of financial assistance which the State provides to the units of local governments during the twelve-month period which ends on the last day of the calendar quarter immediately preceding July 22, 1976, together with an explanation of the reasons for such decrease. Such reports shall be made as soon as it is practical and, in any case, not more than six months after the date on which the decision to impose such tax increase or decrease, such reductions in employment or services, or such decrease in State financial assistance is made public.

(Pub. L. 94-369, title II, § 209, July 22, 1976, 90 Stat. 1008.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6725 of this title.

§ 6730. Payments

(a) Time and amount

From the amount allocated for State and local governments under section 6723 of this title, the Secretary shall pay not later than five

days after the beginning of each quarter to each State and to each local government which has filed a statement of assurances under section 6725 of this title, an amount equal to the amount allocated to such State or local government under section 6723 of this title.

(b) Adjustments

Payments under this subchapter may be made with necessary adjustments on account of overpayments or underpayments.

(c) Termination

No amount shall be paid to any State or local government under the provisions of this section for any calendar quarter if—

(1) the average rate of unemployment within the jurisdiction of such State or local government during the most recent calendar quarter which ended three months before the beginning of such calendar quarter was less than 4.5 percent, or

(2) the rate of unemployment within the jurisdiction of such government for the last month of the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 4.5 percent.

(Pub. L. 94-369, title II, § 210, July 22, 1976, 90 Stat. 1009; Pub. L. 94-447, title II, § 201 (5), Oct. 1, 1976, 90 Stat. 1498.)

AMENDMENTS

1976—Subsec. (c)(1). Pub. L. 94-447 substituted "4.5 percent, or" for "4.5 percent, and".

§ 6731. Economization by State and local governments; statement of assurances, etc., required

Each State or unit of local government which receives payments under this subchapter shall provide assurances in writing to the Secretary, at such time and in such manner and form as the Secretary may prescribe by rule, that it has made substantial economies in its operations and that payments under this subchapter are necessary to maintain essential services without weakening Federal Government efforts to stimulate the economy through reductions in Federal tax obligations.

(Pub. L. 94-369, title II, § 211, July 22, 1976, 90 Stat. 1009.)

§ 6732. Withholding of payments for failure to comply with statement of assurances; procedures applicable

Whenever the Secretary, after affording reasonable notice and an opportunity for a hearing to any State or unit of local government, finds that there has been a failure to comply substantially with any assurance set forth in the statement of assurances of that State or units of local government filed under section 6725 of this title, the Secretary shall notify that State or unit of local government that further payments will not be made under this subchapter until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made under this subchapter.

(Pub. L. 94-369, title II, § 212, July 22, 1976, 90 Stat. 1009.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6733 of this title.

§ 6733. Reports to Congress by Secretary; contents

The Secretary shall report to the Congress as soon as is practical after the end of each calendar quarter during which payments are made under the provisions of this subchapter. Such report shall include information on the amounts paid to each State and units of local government and a description of any action which the Secretary has taken under the provisions of section 6732 of this title during the previous calendar quarter. The Secretary shall report to Congress as soon as is practical after the end of each calendar year during which payments are made under the provisions of this subchapter. Such reports shall include detailed information on the amounts paid to State and units of local government under the provisions of this subchapter, any actions with[1] which the Secretary has taken under the provisions of section 6732 of this title, and an evaluation of the purposes to which amounts paid under this subchapter were put by State and units of local government and economic impact of such expenditures during the previous calendar year.

(Pub. L. 94-369, title II, § 213, July 22, 1976, 90 Stat. 1009.)

§ 6734. Administration; rules; authorization of appropriations

(a) The Secretary is authorized to prescribe, after consultation with the Secretary of Labor, such rules as may be necessary for the purpose of carrying out his functions under this subchapter. Such rules should be prescribed by the Secretary not later than ninety days of July 22, 1976.

(b) There are authorized to be appropriated such sums as may be necessary for the administration of this subchapter.

(Pub. L. 94-369, title II, § 214, July 22, 1976, 90 Stat. 1010.)

§ 6735. Program studies and recommendations; evaluation; countercyclical study

(a) The Comptroller General of the United States shall conduct an investigation of the impact which emergency support grants have on the operations of State and local governments and on the national economy. Before and during the course of such investigation the Comptroller General shall consult with and coordinate his activities with the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations. The Comptroller General shall report the results of such investigation to the Congress within one year after July 22, 1976, together with an evaluation of the macroeconomic effect of the program established under this subchapter and any recommendations for improving the effectiveness of similar programs. All officers and employees of the United States shall make available all information, reports, data, and any other material necessary to carry out the provisions of this

[1] So in original.

subsection to the Comptroller General upon a reasonable request.

(b) The Congressional Budget Office and the Advisory Commission on Intergovernmental Relations shall conduct a study to determine the most effective means by which the Federal Government can stabilize the national economy during periods of rapid economic growth and high inflation through programs directed toward State and local governments. Such study shall include a comparison of the effectiveness of alternative factors for triggering and measuring the extent of the fiscal coordination problem addressed by this program, and the effect of the recession on State and local expenditures. Before and during the course of such study, the Congressional Budget Office and the Advisory Commission shall consult with and coordinate their activities with the Comptroller General of the United States. The Congressional Budget Office and the Advisory Commission shall report the results of such study to Congress within two years after July 22, 1976. Such study shall include the opinions of the Comptroller General with respect to such study.

(Pub. L. 94-369, title II, § 215, July 22, 1976, 90 Stat. 1010.)

CHAPTER 81—ENERGY CONSERVATION AND RESOURCE RENEWAL

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SUBCHAPTER I—ELECTRIC UTILITY RATE DESIGN INITIATIVES

§ 6801. Congressional findings and purpose

(a) The Congress finds that improvement in electric utility rate design has great potential for reducing the cost of electric utility services to consumers and current and projected shortages of capital, and for encouraging energy conservation and better use of existing electrical generating facilities.

(b) It is the purpose of this subchapter to require the Federal Energy Administration to develop proposals for improvement of electric utility rate design and transmit such proposals to Congress; to fund electric utility rate demonstration projects; to intervene or participate, upon request, in the proceedings of utility regulatory commissions; and to provide financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions.

(Pub. L. 94-385, title II, § 201, Aug. 14, 1976, 90 Stat. 1142.)

SHORT TITLE

Section 1 of Pub. L. 94-385 provided: "That this Act [enacting this chapter, section 6327 of this title, section 1701z-8 of Title 12, Banks and Banking, sections 787 and 790 to 790h of Title 15 amending, Commerce and Trade, sections 5818, 6211, 6295, 6323, 6325, and 6326 of this title and sections 757, 764, 766, 772, 774, 777 and 784 of Title 15, and enacting provisions set out as notes under sections 6801, 6831, and 6851 of this title, and sections 753, 757, 761, and 790 of Title 15] may be cited as the 'Energy Conservation and Production Act'."

Section 301 of Pub. L. 94-385 provided that: "This title [enacting subchapter II of this chapter] may be cited as the 'Energy Conservation Standards for New Buildings Act of 1976'."

Section 401 of Pub. L. 94-385 provided that: "This title [enacting subchapter III of this chapter, section 6327 of this title, and section 1701z-8 of Title 12, Banks and Banking, and amending sections 6323, 6325, and 6326 of this title] may be cited as the 'Energy Conservation in Existing Buildings Act of 1976'."

§ 6802. Definitions

As used in this subchapter:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this subchapter.

(2) The term "electric utility" means any person, State agency, or Federal agency which sells electric energy.

(3) The term "Federal agency" means any agency or instrumentality of the United States.

(4) The term "State agency" means a State, political subdivision thereof, or any agency or instrumentality of either.

(5) The term "State utility regulatory commission" means (A) any utility regulatory commission which is a State agency or (B) the Tennessee Valley Authority.

(6) The term "State" means any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

(7) The term "utility regulatory commission" means any State agency or Federal

agency which has authority to fix, modify, approve, or disapprove rates for the sale of electric energy by any electric utility (other than by such agency).

(Pub. L. 94-385, title II, § 202, Aug. 14, 1976, 90 Stat. 1142.)

§ 6803. Development of electric utility rate design proposals by Administrator; contents; submission to Congress; supporting analysis

(a) The Administrator shall develop proposals to improve electric utility rate design. Such proposals shall be designed to encourage energy conservation, minimize the need for new electrical generating capacity, and minimize costs of electric energy to consumers, and shall include (but not be limited to) proposals which provide for the development and implementation of—

(1) load management techniques which are cost effective;

(2) rates which reflect marginal cost of service, or time of use of service, or both;

(3) ratemaking policies which discourage inefficient use of fuel and encourage economical purchases of fuel; and

(4) rates (or other regulatory policies) which encourage electric utility system reliability and reliability of major items of electric utility equipment.

(b) The proposals prepared under subsection (a) of this section shall be transmitted to each House of Congress not later than 6 months after August 14, 1976, for review and for such further action as the Congress may direct by law. Such proposals shall be accompanied by an analysis of—

(1) the projected savings (if any) in consumption of petroleum products, natural gas, electric energy, and other energy resources,

(2) the reduction (if any) in the need for new electrical generating capacity, and of the demand for capital by the electric utility industry, and

(3) changes (if any) in the cost of electric energy to consumers,

which are likely to result from the implementation nationally of each of the proposals transmitted under this subsection.

(Pub. L. 94-385, title II, § 203, Aug. 14, 1976, 90 Stat. 1143.)

§ 6804. Funding, administrative, and judicial authorities of Administrator

The Administrator may—

(1) fund (A) demonstration projects to improve electric utility load management procedures and (B) regulatory rate reform initiatives,

(2) on request of a State, a utility regulatory commission, or of any participant in any proceeding before a State utility regulatory commission which relates to electric utility rates or rate design, intervene and participate in such proceeding, and

(3) on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Administrator intervened or participated under paragraph (2), intervene and participate in such action.

(Pub. L. 94-385, title II, § 204, Aug. 14, 1976, 90 Stat. 1143.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6807 of this title.

§ 6805. Grants for State consumer protection offices by Administrator

(a) Establishment, operation, and purpose; qualifications for funds

The Administrator may make grants to States, or otherwise as provided in subsection (c) of this section, under this section to provide for the establishment and operation of offices of consumer services to assist consumers in their presentations before utility regulatory commissions. Any assistance provided under this section shall be provided only for an office of consumer services which is operated independently of any such utility regulatory commission and which is empowered to—

(1) make general factual assessments of the impact of proposed rate changes and other proposed regulatory actions upon all affected consumers;

(2) assist consumers in the presentation of their positions before utility regulatory commissions; and

(3) advocate, on its own behalf, a position which it determines represents the position most advantageous to consumers, taking into account developments in rate design reform.

(b) Grants subject to State assurances on funds

Grants pursuant to subsection (a) of this section shall be made only to States which furnish such assurances as the Administrator may require that funds made available under such section will be in addition to, and not in substitution for, funds made available to offices of consumer services from other sources.

(c) Offices established by Tennessee Valley Authority

Assistance may be provided under this section to an office of consumer services established by the Tennessee Valley Authority, if such office is operated independently of the Tennessee Valley Authority.

(Pub. L. 94-385, title II, § 205, Aug. 14, 1976, 90 Stat. 1144.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6807 of this title.

§ 6806. Annual report and recommendations to Congress by Administrator

Not later than the last day in December in each year, the Administrator shall transmit to the Congress a report with respect to activities conducted under this subchapter and recommendations as to the need for and types of further Federal legislation.

(Pub. L. 94-385, title II, § 206, Aug. 14, 1976, 90 Stat. 1144.)

§ 6807. Authorization of appropriations

(a) There are authorized to be appropriated to carry out this subchapter (other than section 6805 of this title) for the period beginning July 1, 1976, and ending September 30, 1977, not to

exceed $13,056,000, of which not more than $1,000,000 may be assigned for purposes of section 6804(2) and (3) of this title.

(b) There are authorized to be appropriated to carry out section 6805 of this title for such period not to exceed $2,000,000.

(Pub. L. 94-385, title II, § 207, Aug. 14, 1976, 90 Stat. 1144.)

SUBCHAPTER II—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

§ 6831. Congressional findings and purpose

(a) The Congress finds that—

(1) large amounts of fuel and energy are consumed unnecessarily each year in heating, cooling, ventilating, and providing domestic hot water for newly constructed residential and commercial buildings because such buildings lack adequate energy conservation features;

(2) Federal performance standards for newly constructed buildings can prevent such waste of energy, which the Nation can no longer afford in view of its current and anticipated energy shortage;

(3) the failure to provide adequate energy conservation measures in newly constructed buildings increases long-term operating costs that may affect adversely the repayment of, and security for, loans made, insured, or guaranteed by Federal agencies or made by federally insured or regulated instrumentalities; and

(4) State and local building codes or similar controls can provide an existing means by which to assure, in coordination with other building requirements and with a minimum of Federal interference in State and local transactions, that newly constructed buildings contain adequate energy conservation features.

(b) The purposes of this subchapter, therefore, are to—

(1) redirect Federal policies and practices to assure that reasonable energy conservation features will be incorporated into new commercial and residential buildings receiving Federal financial assistance;

(2) provide for the development and implementation, as soon as practicable, of performance standards for new residential and commercial buildings which are designed to achieve the maximum practicable improvements in energy efficiency and increases in the use of nondepletable sources of energy; and

(3) encourage States and local governments to adopt and enforce such standards through their existing building codes and other construction control mechanisms, or to apply them through a special approval process.

(Pub. L. 94-385, title III, § 302, Aug. 14, 1976, 90 Stat. 1144.)

§ 6832. Definitions

As used in this subchapter:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this subchapter.

(2) The term "building" means any structure to be constructed which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) The term "building code" means a legal instrument which is in effect in a State or unit of general purpose local government, the provisions of which must be adhered to if a building is to be considered to be in conformance with law and suitable for occupancy and use.

(4) The term "commercial building" means any building other than a residential building, including any building developed for industrial or public purposes.

(5) The term "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, including the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(6) The term "Federal building" means any building to be constructed by, or for the use of, any Federal agency which is not legally subject to State or local building codes or similar requirements.

(7) The term "Federal financial assistance" means (A) any form of loan, grant, guarantee, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance (other than general or special revenue sharing or formula grants made to States) approved by any Federal officer or agency; or (B) any loan made or purchased by any bank, savings and loan association, or similar institution subject to regulation by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration.

(8) The term "National Institute of Building Sciences" means the institute established by section 1701j-2 of title 12.

(9) The term "performance standards" means an energy consumption goal or goals to be met without specification of the methods, materials, and processes to be employed in achieving that goal or goals, but including statements of the requirements, criteria and evaluation methods to be used, and any necessary commentary.

(10) The term "residential building" means any structure which is constructed and developed for residential occupancy.

(11) The term "Secretary" means the Secretary of Housing and Urban Development.

(12) The term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory and possession of the United States.

(13) The term "unit of general purpose local government" means any city, county, town, municipality, or other political subdivision of a State (or any combination thereof), which has a building code or similar authority over a particular geographic area.

(Pub. L. 94-385, title III, § 303, Aug. 14, 1976, 90 Stat. 1145.)

§ 6833. Development and promulgation of energy conservation performance standards for new commercial and residential buildings

(a) Consultations by Secretary with Federal officials, etc.; publication of proposed and final standards; effective date of final standards; services of National Institute of Building Sciences

(1) As soon as practicable, but in no event later than 3 years after August 14, 1976, the Secretary, only after consultation with the Administrator, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall develop and publish in the Federal Register for public comment proposed performance standards for new commercial buildings. Final performance standards shall be promulgated within 6 months after the date of publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after the date of promulgation, as specified by the Secretary.

(2) As soon as practicable, but in no event later than 3 years after August 14, 1976, the Secretary, only after consultation with the Administrator and the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, shall develop and publish in the Federal Register for public comment proposed performance standards for new residential buildings. Final performance standards for such buildings shall be promulgated within 6 months after the date of publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after the date of promulgation, as specified by the Secretary.

(3) In the development of performance standards, the Secretary shall utilize the services of the National Institute of Building Sciences, under appropriate contractual arrangements.

(b) Exceptions to standards; considerations

All performance standards promulgated pursuant to subsection (a) of this section shall take account of, and make such allowance or particular exception as the Secretary determines appropriate for, climatic variations among the different regions of the country.

(c) Periodic review and updating of standards.

The Secretary, in consultation with the Administrator, the Secretary of Commerce, the Administrator of the General Services Administration, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall periodically review and provide for the updating of performance standards promulgated pursuant to subsection (a) of this section.

(d) Maximum extension period for publication or promulgation of standards

The Secretary, if he finds that the dates otherwise specified in this section for publication of proposed, or for promulgation of final, performance standards under subsection (a)(1) or (a)(2) of this section cannot practicably be met, may extend the time for such publication or promulgation, but no such extension shall result in a delay of more than 6 months in promulgation.

(Pub. L. 94-385, title III, § 304, Aug. 14, 1976, 90 Stat. 1146.)

Section Referred to in Other Sections

This section is referred to in sections 6834, 6839 of this title.

§ 6834. Requirements for availability or approval of Federal financial assistance for new construction of buildings

(a) State certification of implementation of final standards; investigation of accuracy of State certification; notice and hearing upon rejection of State application

Subject to the provisions of subsection (c) of this section and after the effective date of final performance standards for new commercial and residential buildings pursuant to section 6833(a) of this title, no Federal financial assistance shall be made available or approved with respect to the construction of any new commercial or residential building in any area of any State, unless—

(1) such State has certified, in accordance with regulations of the Secretary, that—

(A) the unit of general purpose local government which has jurisdiction over such area has adopted and is implementing a building code, or other construction control mechanism, which meets or exceeds the requirements of such final performance standards, or

(B) such State has adopted and is implementing, on a statewide basis or with respect to such area, a building code or other laws or regulations which provide for the effective application of such final performance standards;

(2) such new building has been determined, pursuant to any applicable approval process described in subsection (b) of this section, to be in compliance with such final performance standards; or

(3) such new building is to be located in any area in which the construction of new buildings is not of a magnitude to warrant the costs of implementing final performance standards, as determined by the Secretary after receiving a request for such a determination (and material justifying such request) from the State in which the area is located; except that the Secretary may rescind such a determination whenever the Secretary finds that the amount of construction of new buildings has increased in such area to an extent that such costs are warranted.

The Secretary shall review and conduct such investigations as are deemed necessary to determine the accuracy of such certifications and shall provide for the periodic updating thereof. The Secretary may reject, disapprove, or require the withdrawal of any such certification after notice to such State and an opportunity for a hearing.

(b) Approval process; exempted areas; overall responsibility of Secretary; definitions; State agencies as responsible for administration of approval process

(1) The provisions of this subsection shall not apply to any area subject to the jurisdiction of a unit of general purpose local government or of a State described in subsection (a)(1) of this section, and the provisions of this subsection and the approval process applicable under this subsection shall cease to apply to any area at such time as the Secretary receives a certification under subsection (a)(1) of this section with respect to such area.

(2) The Secretary shall have overall responsibility for the effective application of the applicable approval process described in this subsection in any area not exempted therefrom pursuant to paragraph (1).

(3) As used in this section, the term "approval process" means a mechanism and procedure for the consideration and approval of an application to construct a new building and which involves (A) determining whether such proposed building would be in compliance with the final performance standards for new buildings promulgated under section 6833 of this title, and (B) administration by the level and agency of government specified by the Secretary pursuant to paragraph (4).

(4) The level and agency of government which shall administer the approval process described in this subsection is—

(A) first, the agency which grants building permits on behalf of the unit of general purpose local government which has jurisdiction over the area in which new construction is proposed, if such agency is willing and able to administer such approval process;

(B) second, if the agency described in subparagraph (A) is not willing and able to administer such approval process, any other agency of the unit of general purpose local government described in such paragraph which has authority to administer such approval process, if such agency is willing and able to administer such approval process; and

(C) third, if no agency described in subparagraphs (A) and (B) is willing and able to administer such approval process, any agency of the State in which new construction is proposed which has authority to administer such approval process, if such agency is willing and able to administer such approval process.

(c) Presidential transmission of final performance standards to Congress for review; determination by Congress of application of sanctions; method and time

The President shall transmit the final performance standards for new buildings to both Houses of Congress upon the date of promulgation of such standards pursuant to section 6833(a) of this title, for review by the Congress under this subsection to determine whether the sanction set forth in the introductory clause to subsection (a) of this section is necessary and appropriate to assure that such standards are in fact applied to all new buildings. Such sanction shall be deemed approved as necessary for such purpose (and shall thereafter be enforced, directly and indirectly, by each applicable person and governmental entity) if the use of such sanction is approved by a resolution of each House of Congress in accordance with the procedures specified in section 6422 of this title; except that for purposes of this section the 60 calendar days described in section 6422(b) and (c)(2) of this title shall be lengthened to 90 calendar days.

(Pub. L. 94-385, title III, § 305, Aug. 14, 1976, 90 Stat. 1147.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6836 of this title.

§ 6835. Compliance with final performance standards by Federal agencies

The head of each Federal agency responsible for the construction of any Federal building shall adopt such procedures as may be necessary to assure that any such construction meets or exceeds the applicable final performance standards promulgated pursuant to this subchapter.

(Pub. L. 94-385, title III, § 306, Aug. 14, 1976, 90 Stat. 1148.)

§ 6836. Grants to States, etc., for adoption and implementation of performance standards and administration of State certification procedures or approval process; authorization of appropriations

(a) The Secretary may make grants to States and units of general purpose local government to assist them in meeting the costs of adopting and implementing performance standards or of administering State certification procedures or any applicable approval process to carry out the provisions of section 6834 of this title.

(b) There is authorized to be appropriated for the purpose of carrying out this section, not to exceed $5,000,000 for the fiscal year ending September 30, 1977. Any amount appropriated pursuant to this subsection shall remain available until expended.

(Pub. L. 94-385, title III, § 307, Aug. 14, 1976, 90 Stat. 1149.)

§ 6837. Technical assistance to States, etc.

The Secretary (directly, by contract, or otherwise) may provide technical assistance to States and units of general purpose local government to assist them in meeting the requirements of this subchapter.

(Pub. L. 94-385, title III, § 308, Aug. 14, 1976, 90 Stat. 1149.)

§ 6838. Consultations by Secretary with interested and affected groups in developing and promulgating performance standards; establishment of advisory committees

In developing and promulgating performance standards and carrying out other functions under this subchapter the Secretary shall consult with appropriate representatives of the building community (including representatives of labor and the construction industry, engineers, and architects), with appropriate public officials and organizations of public officials, and with representatives of consumer groups. For purposes of such consultation, the Secretary shall, to the extent practicable, make use

of the National Institute of Building Sciences. The Secretary may also establish one or more advisory committees as may be appropriate. Any advisory committee or committees established pursuant to this section shall be subject to the provisions of the Federal Advisory Committee Act.

(Pub. L. 94-385, title III, § 309, Aug. 14, 1976, 90 Stat. 1149.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 6839. Support activities necessary or appropriate to develop and implement performance standards

The Secretary, in cooperation with the Administrator, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall carry out any activities which the Secretary determines may be necessary or appropriate to assist in the development of performance standards under section 6833(a) of this title and to facilitate the implementation of such standards by State and local governments. Such activities shall be designed to assure that such standards are adequately analyzed in terms of energy efficiency, stimulation of use of nondepletable sources of energy, institutional resources, habitability, economic cost and benefit, and impact upon affected groups.

(Pub. L. 94-385, title III, § 310, Aug. 14, 1976, 90 Stat. 1149.)

§ 6840. Monitoring of State and local adoption and implementation of standards; report to Congress on implementation and effectiveness of standards

The Secretary, with the advice and assistance of the National Institute of Building Sciences, shall—

(1) monitor the progress made by the States and their political subdivisions in adopting and enforcing energy conservation standards for new buildings;

(2) identify any procedural obstacles or technical constraints inhibiting implementation of such standards;

(3) evaluate the effectiveness of such prevailing standards; and

(4) within 12 months after August 14, 1976, and semiannually thereafter, report to the Congress on (A) the progress of the States and units of general purpose local government in adopting and implementing energy conservation standards for new buildings, and (B) the effectiveness of such standards.

(Pub. L. 94-385, title III, § 311, Aug. 14, 1976, 90 Stat. 1149.)

SUBCHAPTER III—ENERGY CONSERVATION AND RENEWABLE-RESOURCE ASSISTANCE FOR EXISTING BUILDINGS

§ 6851. Congressional findings and purpose

(a) The Congress finds that—

(1) the fastest, most cost-effective, and most environmentally sound way to prevent future energy shortages in the United States, while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units, nonresidential buildings, and industrial plants;

(2) current efforts to encourage and facilitate such measures are inadequate as a consequence of—

(A) a lack of adequate and available financing for such measures, particularly with respect to individual consumers and owners of small businesses;

(B) a shortage of reliable and impartial information and advisory services pertaining to practicable energy conservation measures and renewable-resource energy measures and the cost savings that are likely if they are implemented in such units, buildings, and plants; and

(C) the absence of organized programs which, if they existed, would enable consumers, especially individuals and owners of small businesses, to undertake such measures easily and with confidence in their economic value;

(3) major programs of financial incentives and assistance for energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants would—

(A) significantly reduce the Nation's demand for energy and the need for petroleum imports;

(B) cushion the adverse impact of the high price of energy supplies on consumers, particularly elderly and handicapped low-income persons who cannot afford to make the modifications necessary to reduce their residential energy use; and

(C) increase, directly and indirectly, job opportunities and national economic output;

(4) the primary responsibility for the implementation of such major programs should be lodged with the governments of the States; the diversity of conditions among the various States and regions of the Nation is sufficiently great that a wholly federally administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities; the State should be allowed flexibility within which to fashion such programs, subject to general Federal guidelines and monitoring sufficient to protect the financial investments

of consumers and the financial interest of the United States and to insure that the measures undertaken in fact result in significant energy and cost savings which would probably not otherwise occur;

(5) to the extent that direct Federal administration is more economical and efficient, direct Federal financial incentives and assistance should be extended through existing and proven Federal programs rather than through new programs that would necessitate new and separate administrative bureaucracies; and

(6) such programs should be designed and administered to supplement, and not to supplant or in any other way conflict with, State energy conservation programs under part C of title III of the Energy Policy and Conservation Act [42 U.S.C. 6321 et seq.]; the emergency energy conservation program carried out by community action agencies pursuant to section 2809(a)(2) of this title; and other forms of assistance and encouragement for energy conservation.

(b) It is, therefore, the purpose of this subchapter to encourage and facilitate the implementation of energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants, through—

(1) supplemental State energy conservation plans; and

(2) Federal financial incentives and assistance.

(Pub. L. 94-385, title IV, § 402, Aug. 14, 1976, 90 Stat. 1150.)

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsec. (a)(5), is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended. Part C of title III of the Energy Policy and Conservation Act is classified generally to part B (§ 6321 et seq.) of subchapter III of chapter 77 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables volume.

This subchapter, referred to in subsec. (b), in the original read "this title," meaning title IV of Pub. L. 94-385 which enacted this subchapter, section 6327 of this title, and section 1701z-8 of Title 12, Banks and Banking, amended sections 6323, 6325, and 6326 of this title, and enacted provisions set out as a note under section 6801 of this title.

PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

§ 6861. Congressional findings and purpose

(a) The Congress finds that—

(1) dwellings owned or occupied by low-income persons frequently are inadequately insulated;

(2) low-income persons, particularly elderly and handicapped low-income persons, can least afford to make the modifications necessary to provide for adequate insulation in such dwellings and to otherwise reduce residential energy use;

(3) weatherization of such dwellings would lower utility expenses for such low-income owners or occupants as well as save thousands of barrels per day of needed fuel; and

(4) States, through community action agencies established under the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to ameliorate the adverse effects of high energy costs on such low-income persons, to supplement other Federal programs serving such persons, and to conserve energy.

(b) It is, therefore, the purpose of this part to develop and implement a supplementary weatherization assistance program to assist in achieving a prescribed level of insulation in the dwellings of low-income persons, particularly elderly and handicapped low-income persons, in order both to aid those persons least able to afford higher utility costs and to conserve needed energy.

(Pub. L. 94-385, title IV, § 411, Aug. 14, 1976, 90 Stat. 1151.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (a)(4), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, which is classified generally to chapter 34 (§ 2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

§ 6862. Definitions

As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Director" means the Director of the Community Services Administration.

(3) The term "elderly" means any individual who is 60 years of age or older.

(4) The term "Governor" means the chief executive officer of a State (including the Mayor of the District of Columbia).

(5) The term "handicapped person" means any individual (A) who is a handicapped individual as defined in section 7(6) of the Rehabilitation Act of 1973 [29 U.S.C. 706(6)], (B) who is under a disability as defined in section 1614 (a)(3)(A) or 233(d)(1) of the Social Security Act [42 U.S.C. 1382c(a)(3)(A) or 423(d)(1)] or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act [42 U.S.C. 6001(7)], or (C) who is receiving benefits under chapter 11 or 15 of title 38.

(6) The terms "Indian", "Indian tribe", and "tribal organization" have the meanings prescribed for such terms by paragraphs (4), (5), and (6), respectively, of section 102 of the Older Americans Act of 1965 [42 U.S.C. 3002].

(7) The term "low-income" means that income in relation to family size which (A) is at or below the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (B) is the basis on which cash assistance payments have been paid during the preceding 12-month period under titles IV

and XVI of the Social Security Act [42 U.S.C. 601 et seq. and 1381 et seq.] or applicable State or local law.

(8) The term "State" means each of the States and the District of Columbia.

(9) The term "weatherization materials" means items primarily designed to improve the heating or cooling efficiency of a dwelling unit, including, but not limited to, ceiling, wall, floor, and duct insulation, storm windows and doors, and caulking and weatherstripping, but not including mechanical equipment valued in excess of $50 per dwelling unit.

(Pub. L. 94-385, title IV, § 412, Aug. 14, 1976, 90 Stat. 1152.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (7), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles IV and XVI of the Social Security Act are classified generally to subchapters IV (§ 601 et seq.) and XVI (§ 1381 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

§ 6863. Weatherization program

(a) Development and conduct of program by Administrator; grants to States and Indian tribal organizations

The Administrator shall develop and conduct, in accordance with the purpose and provisions of this part, a weatherization program. In developing and conducting such program, the Administrator may, in accordance with this part and regulations promulgated under this part, make grants (1) to States, and (2) in accordance with the provisions of subsection (d) of this section, to Indian tribal organizations to serve Native Americans. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, in which the head of the household is a low-income person.

(b) Consultation by Administrator with other Federal departments and agencies on development and publication in Federal Register of proposed regulations; required regulatory provisions

(1) The Administrator, after consultation with the Director, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the ACTION Agency, and the heads of such other Federal departments and agencies as the Administrator deems appropriate, shall develop and publish in the Federal Register for public comment, not later than 60 days after August 14, 1976, proposed regulations to carry out the provisions of this part. The Administrator shall take into consideration comments submitted regarding such proposed reglations and shall promulgate and publish final regulations for such purpcse not later than 90 days after August 14, 1976. The development of regulations under this part shall be fully coordinated with the Director.

(2) The regulations promulgated pursuant to this section shall include provisions—

(A) prescribing, in coordation with the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Director of the National Bureau of Standards in the Department of Commerce, for use in various climatic, structural, and human need settings, standards for weatherization materials, energy conservation techniques, and balance combinations thereof, which are designed to achieve a balance of a healthful dwelling environment and maximum practicable energy conservation; and

(B) designed to insure that (i) the benefits of weatherization assistance in connection with leased dwelling units will accrue primarily to low-income tenants; (ii) the rents on such dwelling units will not be raised because of any increase in the value thereof due solely to weatherization assistance provided under this part; and (iii) no undue or excessive enhancement will occur to the value of such dwelling units.

(c) Failure of State to submit application; alternate application by any unit of general purpose local government or community action agency; submission of amended application by State

If a State does not, within 90 days after the date on which final regulations are promulgated under this section, submit an application to the Administrator which meets the requirements set forth in section 6864 of this title, any unit of general purpose local government of sufficient size (as determined by the Administrator), or a community action agency carrying out programs under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.], may, in lieu of such State, submit an application (meeting such requirements and subject to all other provisions of this part) for carrying out projects under this part within the geographical area which is subject to the jurisdiction of such government or is served by such agency. If any such application submitted by a unit of general purpose local government proposes that the allocation requirement and the priority for an applicable community action agency, as set forth under section 6865(b)(2)(B) of this title, be determined to be no longer applicable, the Administrator, as part of the notice and public hearing procedure carried out under section 6868 of this title with respect to such application, shall be responsible for making the necessary determination under the proviso in section 6865(b)(2)(B) of this title. A State may, in accordance with regulations promulgated under this part, submit an amended application.

(d) Direct grants to low-income members of Indian tribal organizations or alternate service organizations; application for funds

(1) Notwithstanding any other provision of this part, in any State in which the Administrator determines (after having taken into account the amount of funds made available to the State to carry out the purposes of this part) that the low-income members of an Indian tribe are not receiving benefits under this part that are equivalent to the assistance provided to other low-income persons in such State under this part, and if he further determines that the members of such tribe would be better served by means of a grant made directly to provide such assistance, he shall reserve from

sums that would otherwise be allocated to such State under this part not less than 100 percent, nor more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Indians for whom a determination under this subsection has been made bears to the population of all low-income persons in such State.

(2) The sums reserved by the Administrator on the basis of his determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or, where there is no tribal organization, to such other entity as he determines has the capacity to provide services pursuant to this part.

(3) In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Administrator an application meeting the requirements set forth in section 6864 of this title.

(e) Transfer of funds

Notwithstanding any other provision of law, the Administrator may transfer to the Director sums appropriated under this part to be utilized in order to carry out programs, under section 222(a)(12) of the Economic Opportunity Act of 1964 [42 U.S.C. 2809(a)(12)], which further the purpose of this part.

(Pub. L. 94-385, title IV, § 413, Aug. 14, 1976, 90 Stat. 1152.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (c), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title II of the Economic Opportunity Act of 1964 is classified generally to subchapter II (§ 2781 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6864, 6865, 6868 of this title.

§ 6864. Financial assistance; annual application; contents; allocation to States; requirements for assistance

(a) The Administrator shall provide financial assistance, from sums appropriated for any fiscal year under this part, only upon annual application. Each such application shall describe the estimated number and characteristics of the low-income persons and the number of dwelling units to be assisted and the criteria and methods to be used by the applicant in providing weatherization assistance to such persons. The application shall also contain such other information (including information needed for evaluation purposes) and assurances as may be required (1) in the regulations promulgated pursuant to section 6863 of this title and (2) to carry out this section. The Administrator shall allocate financial assistance to each State on the basis of the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors:

(A) The number of dwelling units to be weatherized.

(B) The climatic conditions in the State respecting energy conservation, which may include consideration of annual degree days.

(C) The type of weatherization work to be done in the various settings.

(D) Such other factors as the Administrator may determine necessary in order to carry out the purpose and provisions of this part.

(b) The Administrator shall not provide financial assistance under this part unless the applicant has provided reasonable assurances that it has—

(1) established a policy advisory council which (A) has special qualifications and sensitivity with respect to solving the problems of low-income persons (including the weatherization and energy-conservation problems of such persons), (B) is broadly representative of organizations and agencies which are providing services to such persons in the State or geographical area in question, and (C) is responsible for advising the responsible official or agency administering the allocation of financial assistance in such State or area with respect to the development and implementation of such weatherization assistance program;

(2) established priorities to govern the provision of weatherization assistance to low-income persons, including methods to provide priority to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate for single-family or other high-energy-consuming dwelling units; and

(3) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State or local funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this part, including plans and procedures (A) for securing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to the Comprehensive Employment and Training Act of 1973 [29 U.S.C. 801 et seq.], to work under the supervision of qualified supervisors and foremen, and (B) for complying with the limitations set forth in section 6865 of this title.

(Pub. L. 94-385, title IV, § 414, Aug. 14, 1976, 90 Stat. 1154.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (b)(3), is Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, as amended, which is classified principally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6863, 6865, 6869 of this title.

§ 6865. Limitations on financial assistance

(a) Purchase of materials and administration of projects

Financial assistance provided under this part shall, to the maximum extent practicable as determined by the Administrator, be used for the purchase of weatherization materials, except that not to exceed 10 percent of any grant made under this part may be used for the administration of weatherization projects under this part.

(b) Allocation, termination or discontinuance by Administrator

The Administrator shall insure that financial assistance provided under this part will—

(1) be allocated within the State or area in accordance with a published State or area plan, which is adopted by such State after notice and a public hearing, describing the proposed funding distributions and recipients;

(2) be allocated, pursuant to such State or area plan, to community action agencies carrying out programs under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.] or to other appropriate and qualified public or nonprofit entities in such State or area so that—

(A) funds will be allocated on the basis of the relative need for weatherization assistance among the low-income persons within such State or area, taking into account appropriate climatic and energy conservation factors;

(B)(i) funds to be allocated for carrying out weatherization projects under this part in the geographical area served by the emergency energy conservation program carried out by a community action agency under section 222(a)(12) of the Economic Opportunity Act of 1964 [42 U.S.C. 2809(a)(12)] will be allocated to such agency, and (ii) priority in the allocation of such funds for carrying out such projects under this part will be given such a community action agency in so much of the geographical area served by it as is not served by the emergency energy conservation program it is carrying out: *Provided*, That such allocation requirement and such priority shall no longer apply if the Governor of a State preparing an application for financial assistance under this part makes a determination, on the basis of the public hearing required by paragraph (1) of this subsection, or if the Administrator makes a determination, on the basis of a public hearing pursuant to section 6863(c) of this title, that the emergency energy conservation program carried out by such agency has been ineffective in meeting the purpose of this part or is clearly not of sufficient size, and cannot in timely fashion develop the capacity, to support the scope of the project to be carried out in such area with funds under this part; and

(C) due consideration will be given to the results of periodic evaluations of the projects carried out under this part in light of available information regarding the current and anticipated energy and weatherization needs of low-income persons within the State; and

(3) be terminated or discontinued during the application period only in accordance with policies and procedures consistent with the policies and procedures set forth in section 6868 of this title.

(c) Maximum amount for each dwelling unit; exceptions

The cost of the weatherization materials provided with financial assistance under this part shall not exceed $400 in the case of any dwelling unit unless the State policy advisory council, established pursuant to section 6864(b)(1) of this title, provides for a greater amount with respect to specific categories of units or materials.

(Pub. L. 94-385, title IV, § 415, Aug. 14, 1976, 90 Stat. 1155.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (b)(2), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title II of the Economic Opportunity Act of 1964 is classified generally to subchapter II (§ 2781 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6863, 6864 of this title.

§ 6866. Monitoring and evaluation of funded projects; technical assistance; limitation on assistance

The Administrator, in coordination with the Director, shall monitor and evaluate the operation of projects receiving financial assistance under this part through methods provided for in section 6867(a) of this title, through onsite inspections, or through other means, in order to assure the effective provision of weatherization assistance for the dwelling units of low-income persons. The Administrator shall also carry out periodic evaluations of the program authorized by this part and projects receiving financial assistance under this part. The Administrator may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-income persons, utilizing in any fiscal year not to exceed 10 percent of the sums appropriated for such year under this part.

(Pub. L. 94-385, title IV, § 416, Aug. 14, 1976, 90 Stat. 1156.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6871 of this title.

§ 6867. Administration of projects receiving financial assistance

(a) Reporting requirements

The Administrator, in consultation with the Director, by general or special orders, may require any recipient of financial assistance

under this part to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Administrator and the Director to carry out their functions under this part.

(b) Maintenance of records

Each person responsible for the administration of a weatherization assistance project receiving financial assistance under this part shall keep such records as the Administrator may prescribe in order to assure an effective financial audit and performance evaluation of such project.

(c) Audit and examination of books, etc.

The Administrator, the Director (with respect to community action agencies), and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance under this part that are pertinent to the financial assistance received under this part.

(d) Method of payments

Payments under this part may be made in installments and in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(Pub. L. 94-385, title IV, § 417, Aug. 14, 1976, 90 Stat. 1156.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6866 of this title.

§ 6868. Approval of application or amendment for financial assistance; administrative procedures applicable

(a) The Administrator shall not finally disapprove any application submitted under this part, or any amendment thereto, without first affording the State (or unit of general purpose local government or community action agency under section 6863(c) of this title, as appropriate) in question, as well as other interested parties, reasonable notice and an opportunity for a public hearing. The Administrator may consolidate into a single hearing the consideration of more than one such application for a particular fiscal year to carry out projects within a particular State. Whenever the Administrator, after reasonable notice and an opportunity for a public hearing, finds that there is a failure to comply substantially with the provisions of this part or regulations promulgated under this part, he shall notify the agency or institution involved and other interested parties that such State (or unit of general purpose local government or agency, as appropriate) will no longer be eligible to participate in the program under this part until the Administrator is satisfied that there is no longer any such failure to comply.

(b) Reasonable notice under this section shall include a written notice of intention to act adversely (including a statement of the reasons therefor) and a reasonable period of time within which to submit corrective amendments to the application, or to propose corrective action.

(Pub. L. 94-385, title IV, § 418, Aug. 14, 1976, 90 Stat. 1157.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6863, 6865, 6869 of this title.

§ 6869. Judicial review of final action by Administrator on application

(a) Time for appeal; jurisdiction; filing of administrative record by Administrator

If any applicant is dissatisfied with the Administrator's final action with respect to the application submitted by it under section 6864 of this title, or with a final action under section 6868 of this title, such applicant may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the State involved is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator. The Administrator thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28.

(b) Conclusiveness of findings of Administrator; remand; modified findings by Administrator; certification of record

The findings of fact by the Administrator, if supported by substantial evidence, shall be conclusive. The court may, for good cause shown, remand the case to the Administrator to take further evidence, and the Administrator may thereupon make new or modified findings of fact and may modify his previous action. The Administrator shall certify to the court the record of any such further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Power of court to affirm or set aside action of Administrator; appeal to Supreme Court

The court shall have jurisdiction to affirm the action of the Administrator or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28.

(Pub. L. 94-385, title IV, § 419, Aug. 14, 1976, 90 Stat. 1157.)

§ 6870. Prohibition against discrimination; notification to funded project of violation; penalties for failure to comply

(a) No person in the United States shall, on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this part.

(b) Whenever the Administrator determines that a recipient of financial assistance under this part has failed to comply with subsection

(a) of this section or any applicable regulation, he shall notify the recipient thereof in order to secure compliance. If, within a reasonable period of time thereafter, such recipient fails to comply, the Administrator shall—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the power and functions provided by title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] and any other applicable Federal nondiscrimination law; or

(3) take such other action as may be authorized by law.

(Pub. L. 94-385, title IV, § 420, Aug. 14, 1976, 90 Stat. 1158.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b)(2), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6871 of this title.

§ 6871. Annual report by Administrator and Director to President and Congress on weatherization program

The Administrator and (with respect to the operation and effectiveness of activities carried out through community action agencies) the Director shall each submit, on or before March 31, 1977, and annually thereafter through 1979, a report to the Congress and the President describing the weatherization assistance program carried out under this part or any other provision of law, including the results of the periodic evaluations and monitoring activities required by section 6866 of this title.

(Pub. L. 94-385, title IV, § 421, Aug. 14, 1976, 90 Stat. 1158.)

§ 6872. Authorization of appropriations

There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $65,000,000 for the fiscal year ending September 30, 1978, and not to exceed $80,000,000 for the fiscal year ending September 30, 1979, such sums to remain available until expended.

(Pub. L. 94-385, title IV, § 422, Aug. 14, 1976, 90 Stat. 1158.)

PART B—ENERGY CONSERVATION AND RENEWABLE-RESOURCE OBLIGATION GUARANTEES

CODIFICATION

This part was, in the original, designated Part D and has been redesignated Part B for purposes of codification.

§ 6881. Energy resource and renewable-resource obligation guarantee program

(a) Authorization; requirements for guarantees and commitments to guarantee; procedures

(1) The Administrator may, in accordance with this section and such rules as he shall prescribe after consultation with the Secretary of the Treasury, guarantee and issue commitments to guarantee the payment of the outstanding principal amount of any loan, note, bond, or other obligation evidencing indebtedness, if—

(A) such obligation is entered into or issued by any person or by any State, political subdivision of a State, or agency and instrumentality of either a State or political subdivision thereof; and

(B) the purpose of entering into or issuing such obligation is the financing of any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in any building or industrial plant owned or operated by the person or State, political subdivision of a State, or agency or instrumentality of either a State or political subdivision thereof, (i) which enters into or issues such obligation, or (ii) to which such measure is leased.

(2) No guarantee or commitment to guarantee may be issued under this subsection with respect to any obligation—

(A) which is a general obligation of a State; or

(B) which is entered into or issued for the purpose of financing any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in a residential building containing 2 or fewer dwelling units.

(3) Before prescribing rules pursuant to this subsection, the Administrator shall consult with the Administrator of the Small Business Administration in order to formulate procedures which would assist small business concerns in obtaining guarantees and commitments to guarantee under this section.

(b) Preconditions for issuance of guarantees and commitments to guarantee

No obligation may be guaranteed, and no commitment to guarantee an obligation may be issued, under subsection (a) of this section, unless the Administrator finds that the measure which is to be financed by such obligation—

(1) has been identified by an energy audit to be an energy conservation measure or a renewable-resource energy measure; or

(2) is included on a list of energy conservation measures and renewable-resource energy measures which the Administrator publishes under section 6325(e)(1) of this title.

Before issuing a guarantee under subsection (a) of this section, the Administrator may require that an energy audit be conducted with respect to an energy conservation measure or a renewable-resource energy measure which is on a list described in paragraph (2) and which is to be financed by the obligation to be guaranteed under this section. The amount of any obligation which may be guaranteed under subsection

(a) of this section may include the cost of an energy audit.

(c) Limitations on availability of guarantees; term of guarantees; aggregate outstanding principal amount of obligations of one borrower

(1) The Administrator shall limit the availability of a guarantee otherwise authorized by subsection (a) of this section to obligations entered into by or issued by borrowers who can demonstrate that financing is not otherwise available on reasonable terms and conditions to allow the measure to be financed.

(2) No obligation may be guaranteed by the Administrator under subsection (a) of this section unless the Administrator finds—

(A) there is a reasonable prospect for the repayment of such obligation; and

(B) in the case of an obligation issued by a person, such obligation constitutes a general obligation of such person for such guarantee.

(3) The term of any guarantee issued under subsection (a) of this section may not exceed 25 years.

(4) The aggregate outstanding principal amount which may be guaranteed under subsection (a) of this section at any one time with respect to obligations entered into or issued by any borrower may not exceed $5,000,000.

(d) Limitations on original principal amount guaranteed; revocation of guarantees and commitments to guarantee; conclusiveness of guarantee

The original principal amount guaranteed under subsection (a) may not exceed 90 percent of the cost of the energy conservation measure or the renewable-resource energy measure financed by the obligation guaranteed under such subsection; except that such amount may not exceed 25 percent of the fair market value of the building or industrial plant being modified by such energy conservation measure or renewable-resource energy measure. No guarantee issued, and no commitment to guarantee, which is issued under subsection (a) of this section shall be terminated, canceled, or otherwise revoked except in accordance with reasonable terms and conditions prescribed by the Administrator, after consultation with the Secretary of the Treasury and the Comptroller General, and contained in the written guarantee or commitment to guarantee. The full faith and credit of the United States is pledged to the payment of all guarantees made under subsection (a) of this section. Any such guarantee made by the Administrator shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation except for fraud or material misrepresentation on the part of such holder.

(e) Information and assurances required prior to guarantees and commitments to guarantee; maintenance and availability of records; fees to borrowers; exceptions

(1) No guarantee and no commitment to guarantee may be issued under subsection (a) of this section unless the Administrator obtains any information reasonably requested and such assurances as are in his judgment (after consultation with the Secretary of the Treasury and the Comptroller General) reasonable to protect the interests of the United States and to assure that such guarantee or commitment to guarantee is consistent with and will further the purpose of this subchapter. The Administrator shall require that records be kept and made available to the Administrator or the Comptroller General, or any of their duly authorized representatives, in such detail and form as are determined necessary to facilitate (A) an effective financial audit of the energy conservation measure or renewable-resource energy measure investment involved, and (B) an adequate evaluation of the effectiveness of this section. The Administrator and the Comptroller General, or any of their duly authorized representatives, shall have access to pertinent books, documents, papers, and records of any recipient of Federal assistance under this section.

(2) The Administrator may collect a fee from any borrower with respect to whose obligation a guarantee or commitment to guarantee is issued under subsection (a) of this section; except that the Administrator may waive any such fee with respect to any such borrower or class of borrowers. Fees shall be designed to recover the estimated administrative expenses incurred under this part; except that the total of the fees charged any such borrower may not exceed (A) one percent of the amount of the guarantee, or (B) one-half percent of the amount of the commitment to guarantee, whichever is greater. Any amount collected under this paragraph shall be deposited in the miscellaneous receipts of the Treasury.

(f) Default in payment of principal due under guaranteed obligation; procedures applicable

(1) If there is a default by the obligor in any payment of principal due under an obligation guaranteed under subsection (a) of this section, and if such default continues for 30 days, the holder of such obligation or his agent has the right to demand payment by the Administrator of the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation. Such payment may be demanded within such period as may be specified in the guarantee or related agreements, which period shall expire not later than 90 days from the date of such default. If demand occurs within such specified period, then not later than 60 days from the date of such demand, the Administrator shall pay to such holder the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation; except that (A) the Administrator shall not be required to make any such payment if he finds, prior to the expiration of the 60-day period beginning on the date on which the demand is made, that there was no default by the obligor in the payment of principal or that such default has been remedied, and (B) no such holder shall receive payment or be entitled to retain payment in a total amount which together with any other recovery (including any recovery based upon any security interest) exceeds the actual loss of principal by such holder.

(2) If the Administrator makes payment to a holder under paragraph (1), the Administrator shall thereupon—

(A) have all of the rights granted to him by law or agreement with the obligor; and

(B) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement applicable to the guaranteed obligation.

(3) The Administrator may, in his discretion, take possession of, complete, recondition, reconstruct, renovate, repair, maintain, operate, remove, charter, rent, sell, or otherwise dispose of any property or other interests obtained by him pursuant to this subsection. The terms of any such sale or other disposition shall be as approved by the Administrator.

(4) If there is a default by the obligor in any payment due under an obligation guaranteed under subsection (a) of this section, the Administrator shall take such action against such obligor or any other person as is, in his discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Administrator all records and evidence necessary to prosecute any such suit. The Administrator may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him. If the Administrator receives, through the sale of property, an amount greater than his cost and the amount paid to the holder under paragraph (1), he shall pay such excess to the obligor.

(g) Limitation on aggregate outstanding principal amount of obligations guaranteed; time limitation on guarantees and commitments to guarantee; authorization of appropriations

(1) The aggregate outstanding principal amount of obligations which may be guaranteed under this section may not at any one time exceed $2,000,000,000. No guarantee or commitment to guarantee may be issued under subsection (a) of this section after September 30, 1979.

(2) There is authorized to be appropriated for the payment of amounts to be paid under subsection (f) of this section, not to exceed $60,000,000. Any amount appropriated pursuant to this paragraph shall remain available until expended.

(h) Wages paid laborers and mechanics; labor standards

All laborers and mechanics employed in construction, alteration, or repair which is financed by an obligation guaranteed under subsection (a) of this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act [40 U.S.C. 276a et seq.]. The Administrator shall not guarantee any obligations under subsection (a) of this section without first obtaining adequate assurance that these labor standards will be maintained during such construction, alteration, or repair. The Secretary of Labor shall, with respect to the labor standards in this subsection, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

(i) Definitions

As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The terms "energy audit", "energy conservation measure", "renewable-resource energy measure", "building", and "industrial plant" have the meanings prescribed for such terms in section 6326 of this title.

(Pub. L. 94-385, title IV, § 451, Aug. 14, 1976, 90 Stat. 1165.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (e)(1), in the original read "this title" meaning title IV of Pub. L. 94-385 which enacted this subchapter, section 6327 of this title, and section 1701z-8 of Title 12, Banks and Banking, amended sections 6323, 6325, and 6326 of this title, and enacted provisions set out as a note under section 6801 of this title.

The Davis-Bacon Act, referred to in subsec. (h) is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (h), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6325, 6327 of this title.

PART C—MISCELLANEOUS PROVISIONS

CODIFICATION

This part was, in the original, designated Part E and has been redesignated Part C for purposes of codification.

§ 6891. Exchange of energy information among the States

The Administrator shall (through conferences, publications, and other appropriate means) encourage and facilitate the exchange of information among the States with respect to energy conservation and increased use of nondepletable energy sources.

(Pub. L. 94-385, title IV, § 461, Aug. 14, 1976, 90 Stat. 1168.)

§ 6892. Annual report to Congress by Comptroller General

(a) Requirements; access to information

For each fiscal year ending before October 1, 1979, the Comptroller General shall report to the Congress on the activities of the Administrator and the Secretary under this subchapter and any amendments to other statutes made by this title. The provisions of section 771 of title 15 (relating to access by the Comptroller General to books, documents, papers, statistics, data, records, and information in the possession of the Administrator or of recipients of Federal

funds) shall apply to data which relate to such activities.

(b) Contents of report

Each report submitted by the Comptroller General under subsection (a) of this section shall include—

(1) an accounting, by State, of expenditures of Federal funds under each program authorized by this subchapter or by amendments made by this title;

(2) an estimate of the energy savings which have resulted thereby;

(3) a thorough evaluation of the effectiveness of the programs authorized by this subchapter or by amendments made by this title in achieving the energy conservation or renewable resource potential available in the sectors and regions affected by such programs;

(4) a review of the extent and effectiveness of compliance monitoring of programs established by this subchapter or by amendments made by this title and any evidence as to the occurrence of fraud with respect to such programs; and

(5) the recommendations of the Comptroller General with respect to (A) improvements in the administration of programs authorized by this subchapter or by amendments made by this title, and (B) additional legislation, if any, which is needed to achieve the purposes of this subchapter.

(c) Definitions

As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The term "Secretary" means the Secretary of Housing and Urban Development.

(Pub. L. 94-385, title IV, § 462, Aug. 14, 1976, 90 Stat. 1168.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a), (b)(1), (3), (4), and (5), in the original read "this title" meaning title IV of Pub. L. 94-385 which enacted this subchapter, section 6327 of this title, and section 1701z-8 of Title 12, Banks and Banking, amended sections 6323, 6325, and 6326 of this title, and enacted provisions set out as a note under section 6801 of this title.

This title, referred to in subsecs. (a) and (b)(1), (5), means title IV of Pub. L. 94-385. For amendments made by title IV, see note above.

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SUBCHAPTER I—GENERAL PROVISIONS

§ 6901. Congressional findings

(a) Solid waste

The Congress finds with respect to solid waste—

(1) that the continuing technological progress and improvement in methods of manufacture, packaging, and marketing of consumer products has resulted in an ever-mounting increase, and in a change in the characteristics, of the mass material discarded by the purchaser of such products;

(2) that the economic and population growth of our Nation, and the improvements in the standard of living enjoyed by our population, have required increased industrial production to meet our needs, and have made necessary the demolition of old buildings, the construction of new buildings, and the provision of highways and other avenues of transportation, which, together with related industrial, commercial, and agricultural operations, have resulted in a rising tide of scrap, discarded, and waste materials;

(3) that the continuing concentration of our population in expanding metropolitan and other urban areas has presented these communities with serious financial, management, intergovernmental, and technical problems in the disposal of solid wastes resulting from the industrial, commercial, domestic, and other activities carried on in such areas;

(4) that while the collection and disposal of solid wastes should continue to be primarily the function of State, regional, and local agencies, the problems of waste disposal as set forth above have become a matter national in scope and in concern and necessitate Federal action through financial and technical assistance and leadership in the development, demonstration, and application of new and improved methods and processes to reduce the amount of waste and unsalvageable materials and to provide for proper and economical solid-waste disposal practices.

(b) Environment and health

The Congress finds with respect to the environment and health, that—

(1) although land is too valuable a national resource to be needlessly polluted by discarded materials, most solid waste is disposed of on land in open dumps and sanitary landfills;

(2) disposal of solid waste and hazardous waste in or on the land without careful planning and management can present a danger to human health and the environment;

(3) as a result of the Clean Air Act [42 U.S.C. 1857 et seq.], the Water Pollution Control Act [33 U.S.C. 1251 et seq.], and other Federal and State laws respecting public health and the environment, greater amounts of solid waste (in the form of sludge and other pollution treatment residues) have been created. Similarly, inadequate and environmentally unsound practices for the disposal or use of solid waste have created greater amounts of air and water pollution and other problems for the environment and for health;

(4) open dumping is particularly harmful to health, contaminates drinking water from underground and surface supplies, and pollutes the air and the land;

(5) hazardous waste presents, in addition to the problems associated with non-hazardous solid waste, special dangers to health and requires a greater degree of regulation than does non-hazardous solid waste; and

(6) alternatives to existing methods of land disposal must be developed since many of the cities in the United States will be running out of suitable solid waste disposal sites within five years unless immediate action is taken;[1]

(c) Materials

The Congress finds with respect to materials, that—

(1) millions of tons of recoverable material which could be used are needlessly buried each year;

(2) methods are available to separate usable materials from solid waste; and

(3) the recovery and conservation of such materials can reduce the dependence of the United States on foreign resources and reduce the deficit in its balance of payments.

(d) Energy

The Congress finds with respect to energy, that—

(1) solid waste represents a potential source of solid fuel, oil, or gas that can be converted into energy;

(2) the need exists to develop alternative energy sources for public and private consumption in order to reduce our dependence on such sources as petroleum products, natural gas, nuclear and hydroelectric generation; and

(3) technology exists to produce usable energy from solid waste.

(Pub. L. 89-272, title II, § 1002, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2796.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (b)(3), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, which is classified generally to chapter 15B (§ 1857 et seq.) of this title. For complete classification of this act to the Code, see Short Title note set out under section 1857 of this title and Tables volume.

The Water Pollution Control Act, referred to in subsec. (b)(3), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables volume.

CODIFICATION

The statutory system governing the disposal of solid wastes set out in this chapter is found in Pub. L. 89-272, title II, as amended in its entirety and completely revised by section 2 of Pub. L. 94-580, Oct. 21, 1976, 90 Stat. 2795. See Short Title note below.

The act, as set out in this chapter, carries a statutory credit showing the sections as having been added by Pub. L. 94-580, without reference to amendments to the act between its original enactment in 1965 and its complete revision in 1976. The act, as originally enacted in 1965, was classified to section 3251 et seq. of this title. For a recapitulation of the provisions of the act as originally enacted, see notes in chapter 39 of

[1] So in original. Probably should be a period.

this title [section 3251 et seq. of this title] where the act was originally set out.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3251 of this title prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

SHORT TITLE

Section 1 of Pub. L. 94-580 provided that: "This Act [which enacted this chapter and provisions set out as notes under this section and section 6981 of this title] may be cited as the 'Resource Conservation and Recovery Act of 1976'."

Section 1001 of Pub. L. 89-272, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2795, provided in part that title II of Pub. L. 89-272 [this chapter] may be cited as the "Solid Waste Disposal Act".

NATIONAL COMMISSION ON MATERIALS POLICY

Pub. L. 91-512, title II, §§ 201 to 206, Oct. 26, 1970, 84 Stat. 1234, known as the "National Materials Policy Act of 1970", provided for the establishment of the National Commission on Materials Policy to make a full investigation and study for the purpose of developing a national materials policy to utilize present resources and technology more efficiently and to anticipate the future materials requirements of the Nation and the world, the Commission to submit to the President and Congress a report on its findings and recommendations no later than June 30, 1973, ninety days after the submission of which it should cease to exist.

§ 6902. Objectives

The objectives of this chapter are to promote the protection of health and the environment and to conserve valuable material and energy resources by—

(1) providing technical and financial assistance to State and local governments and interstate agencies for the development of solid waste management plans (including resource recovery and resource conservation systems) which will promote improved solid waste management techniques (including more effective organizational arrangements), new and improved methods of collection, separation, and recovery of solid waste, and the environmentally safe disposal of nonrecoverable residues;

(2) providing training grants in occupations involving the design, operation, and maintenance of solid waste disposal systems;

(3) prohibiting future open dumping on the land and requiring the conversion of existing open dumps to facilities which do not pose a danger to the environment or to health;

(4) regulating the treatment, storage, transportation, and disposal of hazardous wastes which have adverse effects on health and the environment;

(5) providing for the promulgation of guidelines for solid waste collection, transport, separation, recovery, and disposal practices and systems;

(6) promoting a national research and development program for improved solid waste management and resource conservation techniques, more effective organizational arrangements, and new and improved methods of collection, separation, and recovery, and recycling of solid wastes and environmentally safe disposal of nonrecoverable residues;

(7) promoting the demonstration, construction, and application of solid waste management, resource recovery, and resource conservation systems which preserve and enhance the quality of air, water, and land resources; and

(8) establishing a cooperative effort among the Federal, State, and local governments and private enterprise in order to recover valuable materials and energy from solid waste.

(Pub. L. 89-272, title II, § 1003, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2798.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3251 of this title, prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

§ 6903. Definitions

As used in this chapter:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "construction," with respect to any project of construction under this chapter, means (A) the erection or building of new structures and acquisition of lands or interests therein, or the acquisition, replacement, expansion, remodeling, alteration, modernization, or extension of existing structures, and (B) the acquisition and installation of initial equipment of, or required in connection with, new or newly acquired structures or the expanded, remodeled, altered, modernized or extended part of existing structures (including trucks and other motor vehicles, and tractors, cranes, and other machinery) necessary for the proper utilization and operation of the facility after completion of the project; and includes preliminary planning to determine the economic and engineering feasibility and the public health and safety aspects of the project, the engineering, architectural, legal, fiscal, and economic investigations and studies, and any surveys, designs, plans, working drawings, specifications, and other action necessary for the carrying out of the project, and (C) the inspection and supervision of the process of carrying out the project to completion.

(2A) The term "demonstration" means the initial exhibition of a new technology process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness.

(3) The term "disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(4) The term "Federal agency" means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office.

(5) The term "hazardous waste" means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physi-

cal, chemical, or infectious characteristics may—

(A) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(6) The term "hazardous waste generation" means the act or process of producing hazardous waste.

(7) The term "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

(8) For purposes of Federal financial assistance (other than rural communities assistance), the term "implementation" does not include the acquisition, leasing, construction, or modification of facilities or equipment or the acquisition, leasing, or improvement of land and after December 31, 1979, such term does not include salaries of employees due pursuant to subchapter IV of this chapter.

(9) The term "intermunicipal agency" means an agency established by two or more municipalities with responsibility for planning or administration of solid waste.

(10) The term "interstate agency" means an agency of two or more municipalities in different States, or an agency established by two or more States, with authority to provide for the disposal of solid wastes and serving two or more municipalities located in different States.

(11) The term "long-term contract" means, when used in relation to solid waste supply, a contract of sufficient duration to assure the viability of a resource recovery facility (to the extent that such viability depends upon solid waste supply).

(12) The term "manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(13) The term "municipality" (A) means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law, with responsibility for the planning or administration of solid waste management, or an Indian tribe or authorized tribal organization or Alaska Native village or organization, and (B) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof.

(14) The term "open dump" means a site for the disposal of solid waste which is not a sanitary landfill within the meaning of section 6944 of this title.

(15) The term "person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

(16) The term "procurement item" means any device, good, substance, material, product, or other item whether real or personal property which is the subject of any purchase, barter, or other exchange made to procure such item.

(17) The term "procuring agency" means any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract.

(18) The term "recoverable" refers to the capability and likelihood of being recovered from solid waste for a commercial or industrial use.

(19) The term "recovered material" means material which has been collected or recovered from solid waste.

(20) The term "recovered resources" means material or energy recovered from solid waste.

(21) The term "resource conservation" means reduction of the amounts of solid waste that are generated, reduction of overall resource consumption, and utilization of recovered resources.

(22) The term "resource recovery" means the recovery of material or energy from solid waste.

(23) The term "resource recovery system" means a solid waste management system which provides for collection, separation, recycling, and recovery of solid wastes, including disposal of nonrecoverable waste residues.

(24) The term "resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

(25) The term "regional authority" means the authority established or designated under section 6946 of this title.

(26) The term "sanitary landfill" means a facility for the disposal of solid waste which meets the criteria published under section 6944 of this title.

(26A) The term "sludge" means any solid, semisolid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.

(27) The term "solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 1342 of title 33, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) [42 U.S.C. 2011 et seq.].

(28) The term "solid waste management" means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

(29) The term "solid waste management facility" includes (A) any resource recovery

system or component thereof, (B) any system, program, or facility for resource conservation, and (C) any facility for the treatment of solid wastes, including hazardous wastes, whether such facility is associated with facilities generating such wastes or otherwise.

(30) The terms "solid waste planning", "solid waste management," and "comprehensive planning" include planning or management respecting resource recovery and resource conservation.

(31) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(32) The term "State authority" means the agency established or designated under section 6947 of this title.

(33) The term "storage", when used in connection with hazardous waste, means the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

(34) The term "treatment", when used in connection with hazardous waste, means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amendable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(35) The term "virgin material" means a raw material, including previously unused copper, aluminum, lead, zinc, iron, or other metal or metal ore, any undeveloped resource that is, or with new technology will become, a source of raw materials.

(Pub. L. 89-272, title II, § 1004, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2798.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended (68 Stat. 923), referred to in par. (27), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3252 of this title, prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6921 of this title.

§ 6904. Governmental cooperation

(a) Interstate cooperation

The provisions of this chapter to be carried out by States may be carried out by interstate agencies and provisions applicable to States may apply to interstate regions where such agencies and regions have been established by the respective States and approved by the Administrator. In any such case, action required to be taken by the Governor of a State, respecting regional designation shall be required to be taken by the Governor of each of the respective States with respect to so much of the interstate region as is within the jurisdiction of that State.

(b) Consent of Congress to compacts

The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for—

(1) cooperative effort and mutual assistance for the management of solid waste or hazardous waste (or both) and the enforcement of their respective laws relating thereto, and

(2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements or compacts.

No such agreement or compact shall be binding or obligatory upon any State a party thereto unless it is agreed upon by all parties to the agreement and until it has been approved by the Administrator and the Congress.

(Pub. L. 89-272, title II, § 1005, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2801.)

§ 6905. Application of chapter and integration with other Acts

(a) Application of chapter

Nothing in this chapter shall be construed to apply to (or to authorize any State, interstate, or local authority to regulate) any activity or substance which is subject to the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], the Safe Drinking Water Act [42 U.S.C. 300f et seq.], the Marine Protection, Research and Sanctuaries Act of 1972 [33 U.S.C. 1401 et seq.], or the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.] except to the extent that such application (or regulation) is not inconsistent with the requirements of such Acts.

(b) Integration with other acts

The Administrator shall integrate all provisions of this chapter for purposes of administration and enforcement and shall avoid duplication, to the maximum extent practicable, with the appropriate provisions of the Clean Air Act [42 U.S.C. 1857 et seq.], the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.], the Safe Drinking Water Act [42 U.S.C. 300f et seq.], the Marine Protection, Research and Sanctuaries Act of 1972 [33 U.S.C. 1401 et seq.], and such other Acts of Congress as grant regulatory authority to the Administrator. Such integration shall be effected only to the extent that it can be done in a manner consistent with the goals and policies expressed in this chapter and in the other acts referred to in this subsection.

(Pub. L. 89-272, title II, § 1006, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2802.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsecs. (a) and (b), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18,

1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables volume.

The Atomic Energy Act of 1954, as amended, referred to in subsec. (a), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables volume.

The Marine Protection, Research and Sanctuaries Act of 1972, referred to in subsecs. (a) and (b), is Pub. L. 92-532, Oct. 23, 1972, 86 Stat. 1052, as amended, which is classified principally to chapter 27 (§ 1401 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of Title 33 and Tables volume.

The Safe Drinking Water Act, referred to in subsecs. (a) and (b), is Pub. L. 93-523, Dec. 16, 1974, 88 Stat. 1660, as amended, which is classified principally to subchapter XII (§ 300f et seq.) of chapter 6A of this title. For complete classification of this Act to the Code see Short Title note set out under section 201 of this title and Tables volume.

The Clean Air Act, referred to in subsec. (b), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, which is classified generally to chapter 15B (§ 1857 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1857 of this title and Tables volume.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (b), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92-516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§ 136 et seq.) of chapter 6 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 136 of Title 7 and Tables volume.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3257 of this title, prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

§ 6906. Financial disclosure

(a) Statement

Each officer or employee of the Administrator who—

(1) performs any function or duty under this chapter; and

(2) has any known financial interest in any person who applies for or receives financial assistance under this chapter

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) Action by Administrator

The Administrator shall—

(1) act within ninety days after October 21, 1976—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provision for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

(2) report to the Congress on June 1, 1978, and of each succeeding calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) Exemption

In the rules prescribed under subsection (b) of this section, the Administrator may identify specific positions within the Environmental Protection Agency which are of a nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Penalty

Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

(Pub. L. 89-272, title II, § 1007, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2802.)

§ 6907. Solid waste management information and guidelines

(a) Guidelines

Within one year of October 21, 1976, and from time to time thereafter, the Administrator shall, in cooperation with appropriate Federal, State, municipal, and intermunicipal agencies, and in consultation with other interested persons, and after public hearings, develop and publish suggested guidelines for solid waste management. Such suggested guidelines shall—

(1) provide a technical and economic description of the level of performance that can be attained by various available solid waste management practices (including operating practices) which provide for the protection of public health and the environment;

(2) not later than two years after October 21, 1976, describe levels of performance, including appropriate methods and degrees of control, that provide at a minimum for (A) protection of public health and welfare; (B) protection of the quality of ground waters and surface waters from leachates; (C) protection of the quality of surface waters from runoff through compliance with effluent limitations under the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.]; (D) protection of ambient air quality through compliance with new source performance standards or requirements of air quality implementation plans under the Clean Air Act, as amended [42 U.S.C. 1857 et seq.]; (E) disease and vector control; (F) safety; and (G) esthetics; and

(3) provide minimum criteria to be used by the States to define those solid waste management practices which constitute the open dumping of solid waste or hazardous waste and are to be prohibited under title IV of this Act.

Where appropriate, such suggested guidelines also shall include minimum information for use in deciding the adequate location, design, and construction of facilities associated with solid waste management practices, including the con-

sideration of regional, geographic, demographic, and climatic factors.

(b) Notice

The Administrator shall notify the Committee on Environment and Public Works of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a reasonable time before publishing any suggested guidelines, pursuant to this section of the content of such proposed suggested guidelines.

(Pub. L. 89-272, title II, § 1008, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2803, and amended S. Res. 4, Feb. 4, 1977.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (a)(2), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables volume.

The Clean Air Act, referred to in subsec. (a)(2), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, which is classified generally to chapter 15B (§ 1857 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1857 of this title and Tables volume.

Title IV of this Act, referred to in subsec. (a)(3), probably was intended as a reference to a prohibition on open dumping which formed a part of the House and Senate bills which became Pub. L. 94-580 but which was eliminated prior to the enactment of Pub. L. 94-580. There is no title IV in either Pub. L. 89-272 or 94-580. See section 6945 of this title.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3254c of this title, prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

CHANGE OF NAME

The Committee on Public Works of the Senate, referred to in subsec. (b), was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6948, 6964, 6981, 6984, 6986 of this title.

SUBCHAPTER II—OFFICE OF SOLID WASTE; AUTHORITIES OF THE ADMINISTRATOR

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6948 of this title.

§ 6911. Office of Solid Waste

The Administrator shall establish within the Environmental Protection Agency an Office of Solid Waste (hereinafter referred to as the "Office") to be headed by a Deputy Assistant Administrator of the Environmental Protection Agency. The duties and responsibilities (other than duties and responsibilities relating to research and development) of the Administrator under this chapter (as modified by applicable reorganization plans) shall be carried out through the Office.

(Pub. L. 89-272, title II, § 2001, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2804.)

§ 6912. Authorities of Administrator

(a) Authorities

In carrying out this chapter, the Administrator is authorized to—

(1) prescribe, in consultation with Federal, State, and regional authorities, such regulations as are necessary to carry out his functions under this chapter;

(2) consult with or exchange information with other Federal agencies undertaking research, development, demonstration projects, studies, or investigations relating to solid waste;

(3) provide technical and financial assistance to States or regional agencies in the development and implementation of solid waste plans and hazardous waste management programs;

(4) consult with representatives of science, industry, agriculture, labor, environmental protection and consumer organizations, and other groups, as he deems advisable; and

(5) utilize the information, facilities, personnel and other resources of Federal agencies, including the National Bureau of Standards and the National Bureau of the Census, on a reimbursable basis, to perform research and analyses and conduct studies and investigations related to resource recovery and conservation and to otherwise carry out the Administrator's functions under this chapter.

(b) Revision of regulations

Each regulation promulgated under this chapter shall be reviewed and, where necessary, revised not less frequently than every three years.

(Pub. L. 89-272, title II, § 2002, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2804.)

§ 6913. Resource Recovery and Conservation Panels

The Administrator shall provide teams of personnel, including Federal, State, and local employees or contractors (hereinafter referred to as "Resource Conservation and Recovery Panels") to provide States and local governments upon request with technical assistance on solid waste management, resource recovery, and resource conservation. Such teams shall include technical, marketing, financial, and institutional specialists, and the services of such teams shall be provided without charge to States or local governments.

(Pub. L. 89-272, title II, § 2003, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2804.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6916 of this title.

§ 6914. Grants for discarded tire disposal

(a) Grants

The Administrator shall make available grants equal to 5 percent of the purchase price of tire shredders (including portable shredders attached to tire collection trucks) to those eligi-

ble applicants best meeting criteria promulgated under this section. An eligible applicant may be any private purchaser, public body, or public-private joint venture. Criteria for receiving grants shall be promulgated under this section and shall include the policy to offer any private purchaser the first option to receive a grant, the policy to develop widespread geographic distribution of tire shredding facilities, the need for such facilities within a geographic area, and the projected risk and viability of any such venture. In the case of an application under this section from a public body, the Administrator shall first make a determination that there are no private purchasers interested in making an application before approving a grant to a public body.

(b) Authorization of appropriations

There is authorized to be appropriated $750,000 for each of the fiscal years 1978 and 1979 to carry out this section.

(Pub. L. 89-272, title II, § 2004, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2805.)

§ 6915. Annual report

The Administrator shall transmit to the Congress and the President, not later than ninety days after the end of each fiscal year, a comprehensive and detailed report on all activities of the Office during the preceding fiscal year. Each such report shall include—

(1) a statement of specific and detail[1] objectives for the activities and programs conducted and assisted under this chapter;

(2) statements of the Administrator's conclusions as to the effectiveness of such activities and programs in meeting the stated objectives and the purposes of this chapter, measured through the end of such fiscal year;

(3) a summary of outstanding solid waste problems confronting the Administrator, in order of priority;

(4) recommendations with respect to such legislation which the Administrator deems necessary or desirable to assist in solving problems respecting solid waste;

(5) all other information required to be submitted to the Congress pursuant to any other provision of this chapter; and

(6) the Administrator's plans for activities and programs respecting solid waste during the next fiscal year.

(Pub. L. 89-272, title II, § 2005, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2805.)

§ 6916. General authorization

(a) General administration

There are authorized to be appropriated to the Administrator for the purpose of carrying out the provisions of this chapter, $35,000,000 for the fiscal year ending September 30, 1977, $38,000,000 for the fiscal year ending September 30, 1978, and $42,000,000 for the fiscal year ending September 30, 1979.

(b) Resource Recovery and Conservation Panels

Not less than 20 percent of the amount appropriated under subsection (a) of this section shall be used only for purposes of Resource Recovery and Conservation Panels established under section 6913 of this title (including travel expenses incurred by such panels in carrying out their functions under this chapter).

(c) Hazardous waste

Not less than 30 percent of the amount appropriated under subsection (a) of this section shall be used only for purposes of carrying out subchapter III of this chapter (relating to hazardous waste) other than section 6931 of this title.

(Pub. L. 89-272, title II, § 2006, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2805.)

SUBCHAPTER III—HAZARDOUS WASTE MANAGEMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6916, 6948 of this title.

§ 6921. Identification and listing of hazardous waste

(a) Criteria for identification or listing

Not later than eighteen months after October 21, 1976, the Administrator shall, after notice and opportunity for public hearing, and after consultation with appropriate Federal and State agencies, develop and promulgate criteria for identifying the characteristics of hazardous waste, and for listing hazardous waste, which should be subject to the provisions of this subchapter, taking into account toxicity, persistence, and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness, and other hazardous characteristics. Such criteria shall be revised from time to time as may be appropriate.

(b) Identification and listing

Not later than eighteen months after October 21, 1976, and after notice and opportunity for public hearing, the Administrator shall promulgate regulations identifying the characteristics of hazardous waste, and listing particular hazardous wastes (within the meaning of section 6903(5) of this title), which shall be subject to the provisions of this subchapter. Such regulations shall be based on the criteria promulgated under subsection (a) of this section and shall be revised from time to time thereafter as may be appropriate.

(c) Petition by State Governor

At any time after the date eighteen months after October 21, 1976, the Governor of any State may petition the Administrator to identify or list a material as a hazardous waste. The Administrator shall act upon such petition within ninety days following his receipt thereof and shall notify the Governor of such action. If the Administrator denies such petition because of financial considerations, in providing such notice to the Governor he shall include a statement concerning such considerations.

(Pub. L. 89-272, title II, § 3001, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2806.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6930 of this title.

[1] So in original. Probably should be "detailed".

§ 6922. Standards applicable to generators of hazardous waste

Not later than eighteen months after October 21, 1976, and after notice and opportunity for public hearings and after consultation with appropriate Federal and State agencies, the Administrator shall promulgate regulations establishing such standards, applicable to generators of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment. Such standards shall establish requirements respecting—

(1) recordkeeping practices that accurately identify the quantities of such hazardous waste generated, the constituents thereof which are significant in quantity or in potential harm to human health or the environment, and the disposition of such wastes;

(2) labeling practices for any containers used for the storage, transport, or disposal of such hazardous waste such as will identify accurately such waste;

(3) use of appropriate containers for such hazardous waste;

(4) furnishing of information on the general chemical composition of such hazardous waste to persons transporting, treating, storing, or disposing of such wastes;

(5) use of a manifest system to assure that all such hazardous waste generated is designated for treatment, storage, or disposal in treatment, storage, or disposal facilities (other than facilities on the premises where the waste is generated) for which a permit has been issued as provided in this subchapter; and

(6) submission of reports to the Administrator (or the State agency in any case in which such agency carries out an authorized permit program pursuant to this subchapter at such times as the Administrator (or the State agency if appropriate) deems necessary, setting out—

(A) the quantities of hazardous waste identified or listed under this subchapter that he has generated during a particular time period; and

(B) the disposition of all hazardous waste reported under subparagraph (A).

(Pub. L. 89-272, title II, § 3002, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2806.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6923, 6924, 6926 of this title.

§ 6923. Standards applicable to transporters of hazardous waste

(a) Standards

Not later than eighteen months after October 21, 1976, and after opportunity for public hearings, the Administrator, after consultation with the Secretary of Transportation and the States, shall promulgate regulations establishing such standards, applicable to transporters of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment. Such standards shall include but need not be limited to requirements respecting—

(1) recordkeeping concerning such hazardous waste transported, and their source and delivery points;

(2) transportation of such waste only if properly labeled;

(3) compliance with the manifest system referred to in section 6922(5) of this title; and

(4) transportation of all such hazardous waste only to the hazardous waste treatment, storage, or disposal facilities which the shipper designates on the manifest form to be a facility holding a permit issued under this subchapter.

(b) Coordination with regulations of Secretary of Transportation

In case of any hazardous waste identified or listed under this subchapter which is subject to the Hazardous Materials Transportation Act (88 Stat. 2156; 49 U.S.C. 1801 and following), the regulations promulgated by the Administrator under this subchapter shall be consistent with the requirements of such Act and the regulations thereunder. The Administrator is authorized to make recommendations to the Secretary of Transportation respecting the regulations of such hazardous waste under the Hazardous Materials Transportation Act and for addition of materials to be covered by such Act.

(Pub. L. 89-272, title II, § 3003, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2807.)

REFERENCES IN TEXT

The Hazardous Materials Transportation Act (88 Stat. 2156; 49 U.S.C. 1801 and following), referred to in subsec. (b), is Pub. L. 93-633, title I, Jan. 3, 1975, 88 Stat. 2156, as amended, which is classified principally to chapter 27 (§ 1801 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 49 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6926 of this title.

§ 6924. Standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities

Not later than eighteen months after October 21, 1976, and after opportunity for public hearings and after consultation with appropriate Federal and State agencies, the Administrator shall promulgate regulations establishing such performance standards, applicable to owners and operators of facilities for the treatment, storage, or disposal of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment. Such standards shall include, but need not be limited to, requirements respecting—

(1) maintaining records of all hazardous wastes identified or listed under this chapter which is treated, stored, or disposed of, as the case may be, and the manner in which such wastes were treated, stored, or diposed of;

(2) satisfactory reporting, monitoring, and inspection and compliance with the manifest system referred to in section 6922(5) of this title;

(3) treatment, storage, or disposal of all such waste received by the facility pursuant

to such operating methods, techniques, and practices as may be satisfactory to the Administrator;

(4) the location, design, and construction of such hazardous waste treatment, disposal, or storage facilities;

(5) contingency plans for effective action to minimize unanticipated damage from any treatment, storage, or disposal of any such hazardous waste;

(6) the maintenance of operation of such facilities and requiring such additional qualifications as to ownership, continuity of operation, training for personnel, and financial responsibility as may be necessary or desirable; and

(7) compliance with the requirements of section 6925 of this title respecting permits for treatment, storage, or disposal.

No private entity shall be precluded by reason of criteria established under paragraph (6) from the ownership or operation of facilities providing hazardous waste treatment, storage, or disposal services where such entity can provide assurances of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage, or disposal of specified hazardous waste.

(Pub. L. 89-272, title II, § 3004, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2807.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6925, 6926 of this title.

§ 6925. Permits for treatment, storage, or disposal of hazardous waste

(a) Permit requirements

Not later than eighteen months after October 21, 1976, the Administrator shall promulgate regulations requiring each person owning or operating a facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subchapter to have a permit issued pursuant to this section. Such regulations shall take effect on the date provided in section 6930 of this title and upon and after such date the disposal of any such hazardous waste is prohibited except in accordance with such a permit.

(b) Requirements of permit application

Each application for a permit under this section shall contain such information as may be required under regulations promulgated by the Administrator, including information respecting—

(1) estimates with respect to the composition, quantities, and concentrations of any hazardous waste identified or listed under this subchapter, or combinations of any such hazardous waste and any other solid waste, proposed to be disposed of, treated, transported, or stored, and the time, frequency, or rate of which such waste is proposed to be disposed of, treated, transported, or stored; and

(2) the site at which such hazardous waste or the products of treatment of such hazardous waste will be disposed of, treated, transported to, or stored.

(c) Permit issuance

Upon a determination by the Administrator (or a State, if applicable), of compliance by a facility for which a permit is applied for under this section with the requirements of this section and section 6924 of this title, the Administrator (or the State) shall issue a permit for such facilities. In the event permit applicants propose modification of their facilities, or in the event the Administrator (or the State) determines that modifications are necessary to conform to the requirements under this section and section 6924 of this title, the permit shall specify the time allowed to complete the modifications.

(d) Permit revocation

Upon a determination by the Administrator (or by a State, in the case of a State having an authorized hazardous waste program under section 6926 of this title) of noncompliance by a facility having a permit under this chapter with the requirements of this section or section 6924 of this title, the Administrator (or State, in the case of a State having an authorized hazardous waste program under section 6926 of this title) shall revoke such permit.

(e) Interim status

Any person who—

(1) owns or operates a facility required to have a permit under this section which facility is in existence on October 21, 1976,

(2) has complied with the requirements of section 6930(a) of this title, and

(3) has made an application for a permit under this section shall be treated as having been issued such permit until such time as final administrative disposition of such application is made, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

(Pub. L. 89-272, title II, § 3005, as added Pub. L. 94-580, § 2, Oct. 21. 1976, 90 Stat. 2808.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6924, 6926, 6928 of this title.

§ 6926. Authorized State hazardous waste programs

(a) Federal guidelines

Not later than eighteen months after October 21, 1976, the Administrator, after consultation with State authorities, shall promulgate guidelines to assist States in the Development of State hazardous waste programs.

(b) Authorization of State program

Any State which seeks to administer and enforce a hazardous waste program pursuant to this subchapter may develop and, after notice and opportunity for public hearing, submit to the Administrator an application, in such form as he shall require, for authorization of such program. Within ninety days following submission of an application under this subsection, the Administrator shall issue a notice as to whether or not he expects such program to be authorized, and within ninety days following

such notice (and after opportunity for public hearing) he shall publish his findings as to whether or not the conditions listed in items (1), (2), and (3) below have been met. Such State is authorized to carry out such program in lieu of the Federal program under this subchapter in such State and to issue and enforce permits for the storage, treatment, or disposal of hazardous waste unless, within ninety days following submission of the application the Administrator notifies such State that such program may not be authorized and, within ninety days following such notice and after opportunity for public hearing, he finds that (1) such State program is not equivalent to the Federal program under this subchapter, (2) such program is not consistent with the Federal or State programs applicable in other States, or (3) such program does not provide adequate enforcement of compliance with the requirements of this subchapter.

(c) Interim authorization

Any State which has in existence a hazardous waste program pursuant to State law before the date ninety days after the date required for promulgation of regulations under sections 6922, 6923, 6924, and 6925 of this title, submit to the Administrator evidence of such existing program and may request a temporary authorization to carry out such program under this subchapter. The Administrator shall, if the evidence submitted shows the existing State program to be substantially equivalent to the Federal program under this subchapter, grant an interim authorization to the State to carry out such program in lieu of the Federal program pursuant to this subchapter for a twenty-four month period beginning on the date six months after the date required for promulgation of regulations under sections 6922 through 6925 of this title.

(d) Effect of State permit

Any action taken by a State under a hazardous waste program authorized under this section shall have the same force and effect as action taken by the Administrator under this subchapter.

(e) Withdrawal of authorization

Whenever the Administrator determines after public hearing that a State is not administering and enforcing a program authorized under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw authorization of such program and establish a Federal program pursuant to this subchapter. The Administrator shall not withdraw authorization of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(Pub. L. 89-272, title II, § 3006, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2809.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6925, 6928, 6930 of this title.

§ 6927. Inspections

(a) Access entry

For purposes of developing or assisting in the development of any regulation or enforcing the provisions of this subchapter, any person who generates, stores, treats, transports, disposes of, or otherwise handles hazardous wastes shall, upon request of any officer or employee of the Environmental Protection Agency, duly designated by the Administrator, or upon request of any duly designated officer[1] employee of a State having an authorized hazardous waste program, furnish or permit such person at all reasonable times to have access to, and to copy all records relating to such wastes. For the purposes of developing or assisting in the development of any regulation or enforcing the provisions of this chapter, such officers or employees are authorized—

(1) to enter at reasonable times any establishment or other place maintained by any person where hazardous wastes are generated, stored, treated, or disposed of;

(2) to inspect and obtain samples from any person of any such wastes and samples of any containers or labeling for such wastes.

Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each such sample equal in volume or weight to the portion retained. If any analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

(b) Availability to public

Any records, reports, or information obtained from any person under this section shall be available to the public, except that upon a showing satisfactory to the Administrator (or the State, as the case may be) by any person that records, reports, or information, or particular part thereof, to which the Administrator (or the State, as the case may be) has access under this section if made public, would divulge information entitled to protection under section 1905 of title 18, the Administrator (or the State, as the case may be) shall consider such information or particular portion thereof confidential in accordance with the purposes of that section, except that such record, report, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

(Pub. L. 89-272, title II, § 3007, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2810.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this title". Section 1001 of Pub. L. 89-272, title II, as added by section 2 of Pub. L. 94-580, provided that "this title" (meaning title II of Pub. L. 89-272) was to be thereafter referred to as "this Act" (meaning the Solid Waste Disposal Act). The Solid Waste Disposal Act is classified generally to this chap-

[1] So in original.

ter. Therefore, "this title" has been translated as "this chapter" as the probable intent of Congress.

§ 6928. Federal enforcement

(a) Compliance orders

(1) Except as provided in paragraph (2), whenever on the basis of any information the Administrator determines that any person is in violation of any requirement of this subchapter, the Administrator shall give notice to the violator of his failure to comply with such requirement. If such violation extends beyond the thirtieth day after the Administrator's notification, the Administrator may issue an order requiring compliance within a specified time period or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

(2) In the case of a violation of any requirement of this subchapter where such violation occurs in a State which is authorized to carry out a hazardous waste program under section 6926 of this title, the Administrator shall give notice to the State in which such violation has occurred thirty days prior to issuing an order or commencing a civil action under this section.

(3) If such violator fails to take corrective action within the time specified in the order, he shall be liable for a civil penalty of not more than $25,000 for each day of continued noncompliance and the Administrator may suspend or revoke any permit issued to the violator (whether issued by the Administrator or the State).

(b) Public hearing

Any order or any suspension or revocation of a permit shall become final unless, no later than thirty days after the order or notice of the suspension or revocation is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

(c) Requirements of compliance orders

Any order issued under this section shall state with reasonable specificity the nature of the violation and specify a time for compliance and assess a penalty, if any, which the Administrator determines is reasonable taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

(d) Criminal penalty

Any person who knowingly—

(1) transports any hazardous waste listed under this subchapter to a facility which does not have a permit under section 6925 of this title (or section 6926 of this title in the case of a State program),

(2) disposes of any hazardous waste listed under this subchapter without having obtained a permit therefor under this subchapter,

(3) makes any false statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of compliance with this subchapter,

shall, upon conviction, be subject to a fine of not more than $25,000 for each day of violation, or to imprisonment not to exceed one year, or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(Pub. L. 89-272, title II, § 3008, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2811.)

§ 6929. Retention of State authority

Upon the effective date of regulations under this subchapter no State or political subdivision may impose any requirements less stringent than those authorized under this subchapter respecting the same matter as governed by such regulations, except that if application of a regulation with respect to any matter under this subchapter is postponed or enjoined by the action of any court, no State or political subdivision shall be prohibited from acting with respect to the same aspect of such matter until such time as such regulation takes effect.

(Pub. L. 89-272, title II, § 3009, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2812.)

§ 6930. Effective date

(a) Preliminary notification

Not later than ninety days after promulgation or revision of regulations under section 6921 of this title identifying by its characteristics or listing any substance as hazardous waste subject to this subchapter, any person generating or transporting such substance or owning or operating a facility for treatment, storage, or disposal of such substance shall file with the Administrator (or with States having authorized hazardous waste permit programs under section 6926 of this title) a notification stating the location and general description of such activity and the identified or listed hazardous wastes handled by such person. Not more than one such notification shall be required to be filed with respect to the same substance. No identified or listed hazardous waste subject to this subchapter may be transported, treated, stored, or disposed of unless notification has been given as required under this subsection.

(b) Effective date of regulation

The regulations under this subchapter respecting requirements applicable to the generation, transportation, treatment, storage, or disposal of hazardous waste (including requirements respecting permits for such treatment, storage, or disposal) shall take effect on the date six months after the date of promulgation thereof (or six months after the date of revision in the case of any regulation which is revised after the date required for promulgation thereof).

(Pub. L. 89-272, title II, § 3010, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2812.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6925 of this title.

§ 6931. Authorization of assistance to States

(a) Authorization of appropriations

There is authorized to be appropriated $25,000,000 for each of the fiscal years 1978 and 1979 to be used to make grants to the States for purposes of assisting the States in the development and implementation of authorized State hazardous waste programs.

(b) Allocation

Amounts authorized to be appropriated under subsection (a) of this section shall be allocated among the States on the basis of regulations promulgated by the Administrator, after consultation with the States, which take into account, the extent to which hazardous waste is generated, transported, treated, stored, and disposed of within such State, the extent of exposure of human beings and the environment within such State to such waste, and such other factors as the Administrator deems appropriate.

(Pub. L. 89-272, title II, § 3011, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2812.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6916 of this title.

SUBCHAPTER IV—STATE OR REGIONAL SOLID WASTE PLANS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6903, 6986 of this title.

§ 6941. Objectives of subchapter

The objectives of this subchapter are to assist in developing and encouraging methods for the disposal of solid waste which are environmentally sound and which maximize the utilization of valuable resources and to encourage resource conservation. Such objectives are to be accomplished through Federal technical and financial assistance to States or regional authorities for comprehensive planning pursuant to Federal guidelines designed to foster cooperation among Federal, State, and local governments and private industry.

(Pub. L. 89-272, title II, § 4001, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2813.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3254 of this title, prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6942 of this title.

§ 6942. Federal guidelines for plans

(a) Guidelines for identification of regions

For purposes of encouraging and facilitating the development of regional planning for solid waste management, the Administrator, within one hundred and eighty days after October 21, 1976, and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which have common solid waste management problems and are appropriate units for planning regional solid waste management services. Such guidelines shall consider—

(1) the size and location of areas which should be included,

(2) the volume of solid waste which should be included, and

(3) the available means of coordinating regional planning with other related regional planning and for coordination of such regional planning into the State plan.

(b) Guidelines for State plans

Not later than eighteen months after October 21, 1976, and after notice and hearing, the Administrator shall, after consultation with appropriate Federal, State, and local authorities, promulgate regulations containing guidelines to assist in the development and implementation of State solid waste management plans (hereinafter in this chapter referred to as "State plans"). The guidelines shall contain methods for achieving the objectives specified in section 6941 of this title. Such guidelines shall be reviewed from time to time, but not less frequently than every three years, and revised as may be appropriate.

(c) Consideration for State plan guidelines

The guidelines promulgated under subsection (b) of this section shall consider—

(1) the varying regional, geologic, hydrologic, climatic, and other circumstances under which different solid waste practices are required in order to insure the reasonable protection of the quality of the ground and surface waters from leachate contamination, the reasonable protection of the quality of the surface waters from surface runoff contamination, and the reasonable protection of ambient air quality;

(2) characteristics and conditions of collection, storage, processing, and disposal operating methods, techniques and practices, and location of facilities where such operating methods, techniques, and practices are conducted, taking into account the nature of the material to be disposed;

(3) methods for closing or upgrading open dumps for purposes of eliminating potential health hazards;

(4) population density, distribution, and projected growth;

(5) geographic, geologic, climatic, and hydrologic characteristics;

(6) the type and location of transportation;

(7) the profile of indutries;

(8) the constituents and generation rates of waste;

(9) the political, economic, organizational, financial, and management problems affecting comprehensive solid waste management;

(10) types of resource recovery facilities and resource conservation systems which are appropriate; and

(11) available new and additional markets for recovered material.

(Pub. L. 89-272, title II, § 4002, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2813.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), in the original read "this title". Section 1001 of Pub. L. 89-272, title II, as added by section 2 of Pub. L. 94-580, provided that "this title" (meaning title II of Pub. L. 89-272) was to be thereafter referred to as "this Act" (meaning the Solid Waste Disposal Act). The Solid Waste Disposal Act is classified generally to this chapter. Therefore, "this title" has been translated as "this chapter" as the probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6946 of this title.

§ 6943. Minimum requirements for approval of plans

In order to be approved under section 6947 of this title, each State plan must comply with the following minimum requirements—

(1) The plan shall identify (in accordance with section 6946(b) of this title) (A) the responsibilities of State, local, and regional authorities in the implementation of the State plan, (B) the distribution of Federal funds to the authorities responsible for development and implementation of the State plan, and (C) the means for coordinating regional planning and implementation under the State plan.

(2) The plan shall, in accordance with section 6945(c) of this title, prohibit the establishment of new open dumps within the State, and contain requirements that all solid waste (including solid waste originating in other States, but not including hazardous waste) shall be (A) utilized for resource recovery or (B) disposed of in sanitary landfills (within the meaning of section 6944(a) of this title) or otherwise disposed of in an environmentally sound manner.

(3) The plan shall provide for the closing or upgrading of all existing open dumps within the State pursuant to the requirements of section 6945 of this title.

(4) The plan shall provide for the establishment of such State regulatory powers as may be necessary to implement the plan.

(5) The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities.

(6) The plan shall provide for such resource conservation or recovery and for the disposal of solid waste in sanitary landfills or any combination of practices so as may be necessary to use or dispose of such waste in a manner that is environmentally sound.

(Pub. L. 89-272, title II, § 4003, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2814.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6944, 6945, 6946, 6947 of this title.

§ 6944. Criteria for sanitary landfills; sanitary landfills required for all disposal

(a) Criteria for sanitary landfills

Not later than one year after October 21, 1976, after consultation with the States, and after notice and public hearings, the Administrator shall promulgate regulations containing criteria for determining which facilities shall be classified as sanitary landfills and which shall be classified as open dumps within the meaning of this chapter. At a minimum, such criteria shall provide that a facility may be classified as a sanitary landfill and not an open dump only if there is no reasonable probability of adverse effects on health or the environment from disposal of solid waste at such facility. Such regulations may provide for the classification of the types of sanitary landfills.

(b) Disposal required to be in sanitary landfills, etc.

For purposes of complying with section 6943(2) of this title each State plan shall prohibit the establishment of open dumps and contain a requirement that disposal of all solid waste within the State shall be in compliance with such section 6943(2) of this title.

(c) Effective date

The prohibition contained in subsection (b) of this section shall take effect on the date six months after the date of promulgation of regulations under subsection (a) of this section or on the date of approval of the State plan, whichever is later.

(Pub. L. 89-272, title II, § 4004, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2815.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6903, 6945 of this title.

§ 6945. Upgrading of open dumps

(a) Open dumps

For purposes of this chapter, the term "open dump" means any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 6944 of this title and which is not a facility for disposal of hazardous waste.

(b) Inventory

Not later than one year after promulgation of regulations under section 6944 of this title, the Administrator, with the cooperation of the Bureau of the Census shall publish an inventory of all disposal facilities or sites in the United States which are open dumps within the meaning of this chapter.

(c) Closing or upgrading of existing open dumps

Any solid waste management practice or disposal of solid waste or hazardous waste which constitutes the open dumping of solid waste or hazardous waste is prohibited, except in the case of any practice or disposal of solid waste under a timetable or schedule for compliance established under this section. For purposes of complying with section 6943(2) of this title, each State plan shall contain a requirement that all existing disposal facilities or sites for solid waste in such State which are open dumps listed in the inventory under subsection (b) of this section shall comply with such measures as may be promulgated by the Administrator to eliminate health hazards and minimize potential health hazards. Each such plan shall establish, for any entity which demonstrates that it has considered other public or private alternatives for solid waste management to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply,

a timetable or schedule for compliance for such practice or disposal of solid waste which specifies a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with the prohibition on open dumping of solid waste within a reasonable time (not to exceed 5 years from the date of publication of the inventory under subsection (b) of this section).

(Pub. L. 89-272, title II, § 4005, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2815.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6943, 6946, 6948, 6949 of this title.

§ 6946. Procedure for development and implementation of State plan

(a) Identification of regions

Within one hundred and eighty days after publication of guidelines under section 6942(a) of this title (relating to identification of regions), the Governor of each State, after consultation with local elected officials, shall promulgate regulations based on such guidelines identifying the boundaries of each area within the State which, as a result of urban concentrations, geographic conditions, markets, and other factors, is appropriate for carrying out regional solid waste management. Such regulations may be modified from time to time (identifying additional or different regions) pursuant to such guidelines.

(b) Identification of State and local agencies and responsibilities

(1) Within one hundred and eighty days after the Governor promulgates regulations under subsection (a) of this section, for purposes of facilitating the development and implementation of a State plan which will meet the minimum requirements of section 6943 of this title, the State, together with appropriate elected officials of general purpose units of local government, shall jointly (A) identify an agency to develop the State plan and identify one or more agencies to implement such plan, and (B) identify which solid waste functions will, under such State plan, be planned for and carried out by the State and which such functions will, under such State plan, be planned for and carried out by a regional or local authority or a combination of regional or local and State authorities. If a multi-functional regional agency authorized by State law to conduct solid waste planning and management (the members of which are appointed by the Governor) is in existence on October 21, 1976, the Governor shall identify such authority for purposes of carrying out within such region clause (A) of this paragraph. Where feasible, designation of the agency for the affected area designated under section 1288 of title 33 shall be considered. A State agency identified under this paragraph shall be established or designated by the Governor of such State. Local or regional agencies identified under this paragraph shall be composed of individuals at least a majority of whom are elected local officials.

(2) If planning and implementation agencies are not identified and designated or established as required under paragraph (1) for any affected area, the governor shall, before the date two hundred and seventy days after promulgation of regulations under subsection (a) of this section, establish or designate a State agency to develop and implement the State plan for such area.

(c) Interstate regions

(1) In the case of any region which, pursuant to the guidelines published by the Administrator under section 6942(a) of this title (relating to identification of regions), would be located in two or more States, the Governors of the respective States, after consultation with local elected officials, shall consult, cooperate, and enter into agreements identifying the boundaries of such region pursuant to subsection (a) of this section.

(2) Within one hundred and eighty days after an interstate region is identified by agreement under paragraph (1), appropriate elected officials of general purpose units of local government within such region shall jointly establish or designate an agency to develop a plan for such region. If no such agency is established or designated within such period by such officials, the Governors of the respective States may, by agreement, establish or designate for such purpose a single representative organization including elected officials of general purpose units of local government within such region.

(3) Implementation of interstate regional solid waste management plans shall be conducted by units of local government for any portion of a region within their jurisdiction, or by multijurisdictional agencies or authorities designated in accordance with State law, including those designated by agreement by such units of local government for such purpose. If no such unit, agency, or authority is so designated, the respective Governors shall designate or establish a single interstate agency to implement such plan.

(4) For purposes of this subchapter, so much of an interstate regional plan as is carried out within a particular State shall be deemed part of the State plan for such State.

(Pub. L. 89-272, title II, § 4006, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2816.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6903, 6943, 6944, 6947, 6948 of this title.

§ 6947. Approval of State plan; Federal assistance

(a) Plan approval

The Administrator shall, within six months after a State plan has been submitted for approval, approve or disapprove the plan. The Administrator shall approve a plan if he determines that—

(1) it meets the requirements of paragraphs (1), (2), (3), and (5) of section 6943 of this title; and

(2) it contains provision for revision of such plan, after notice and public hearing, whenever the Administrator, by regulation, determines—

(A) that revised regulations respecting minimum requirements have been promulgated under paragraphs (1), (2), (3), and (5)

of section 6943 of this title with which the State plan is not in compliance;

(B) that information has become available which demonstrates the inadequacy of the plan to effectuate the purposes of this subchapter or

(C) that such revision is otherwise necessary.

The Administrator shall review approved plans from time to time and if he determines that revision or corrections are necessary to bring such plan into compliance with the minimum requirements promulgated under section 6943 of this title (including new or revised requirements), he shall, after notice and opportunity for public hearing, withdraw his approval of such plan. Such withdrawl of approval shall cease to be effective upon the Administrator's determination that such complies with such minimum requirements.

(b) Eligibility of States for Federal financial assistance

(1) The Administrator shall approve a State application for financial assistance under this subchapter, and make grants to such State, if such State and local and regional authorities within such State have complied with the requirements of section 6946 of this title within the period required under such section and if such State has a State plan which has been approved by the Administrator under this subchapter.

(2) The Administrator shall approve a State application for financial assistance under this subchapter, and make grants to such State, for fiscal years 1978 and 1979 if the Administrator determines that the State plan continues to be eligible for approval under subsection (a) of this section and is being implemented by the State.

(3) Upon withdrawl of approval of a State plan under subsection (a) of this section, the Administrator shall withhold Federal financial and technical assistance under this subchapter (other than such technical assistance as may be necessary to assist in obtaining the reinstatement of approval) until such time as such approval is reinstated.

(c) Existing activities

Nothing in this subchapter shall be construed to prevent or affect any activities respecting solid waste planning or management which are carried out by State, regional, or local authorities unless such activities are inconsistent with a State plan approved by the Administrator under this subchapter.

(Pub. L. 89-272, title II, § 4007, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2817.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6903, 6943 of this title.

§ 6948. Federal assistance

(a) Authorization of Federal financial assistance

(1) There are authorized to be appropriated $30,000,000 for fiscal year 1978 and $40,000,000 for fiscal year 1979 for purposes of making grants to the States for the development and implementation of State plans under this subchapter.

(2)(A) The Administrator is authorized to provide financial assistance to States, counties, municipalities, and intermunicipal agencies and State and local public solid waste management authorities for implementation of programs to provide solid waste management, resource recovery, and resource conservation services and hazardous waste management. Such assistance shall include assistance for facility planning and feasibility studies; expert consultation; surveys and analyses of market needs; marketing of recovered resources; technology assessments; legal expenses; construction feasibility studies; source separation projects; and fiscal or economic investigations or studies; but such assistance shall not include any other element of construction, or any acquisition of land or interest in land, or any subsidy for the price of recovered resources. Agencies assisted under this subsection shall consider existing solid waste management and hazardous waste management services and facilities as well as facilities proposed for construction.

(B) An applicant for financial assistance under this paragraph must agree to comply with respect to the project or program assisted with the applicable requirements of section 6945 of this title and subchapter III of this chapter and apply applicable solid waste management practices, methods, and levels of control consistent with any guidelines published pursuant to section 6907 of this title. Assistance under this paragraph shall be available only for programs certified by the State to be consistent with any applicable State or areawide solid waste management plan or program.

(C) There are authorized to be appropriated $15,000,000 for each of the fiscal years 1978 and 1979 for purposes of this section.

(b) State allotment

The sums appropriated in any fiscal year under subsection (a)(1) of this section shall be allotted by the Administrator among all States, in the ratio that the population in each State bears to the population in all of the States, except that no State shall receive less than one-half of 1 per centum of the sums so allotted in any fiscal year. No State shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than non-recurrent expenditures for solid waste management control programs will be less than its expenditures were for such programs during fiscal year 1975, except that such funds may be reduced by an amount equal to their proportionate share of any general reduction of State spending ordered by the Governor or legislature of such State. No State shall receive any grant for solid waste management programs unless the Administrator is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, regional, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such programs.

(c) Distribution of Federal financial assistance within the State

The Federal assistance allotted to the States under subsection (b) of this section shall be allocated by the State receiving such funds to State, local, regional, and interstate authorities carrying out planning and implementation of the State plan. Such allocation shall be based upon the responsibilities of the respective parties as determined pursuant to section 6946(b) of this title.

(d) Technical assistance

The Administrator may provide technical assistance to State and local governments for purposes of developing and implementing State plans. Technical assistance respecting resource recovery and conservation may be provided through resource recovery and conservation panels, established in the Environmental Protection Agency under subchapter II of this chapter, to assist the State and local governments with respect to particular resource recovery and conservation projects under consideration and to evaluate their effect on the State plan.

(e) Special communities

(1) The Administrator, in cooperation with State and local officials, shall identify communities within the United States (A) having a population of less than twenty-five thousand persons, (B) having solid waste disposal facilities in which more than 75 per centum of the solid waste disposal of[1] is from areas outside the jurisdiction of the communities, and (C) which have serious environmental problems resulting from the disposal of such solid waste.

(2) There is authorized to be appropriated to the Administrator $2,500,000 for each of the fiscal years 1978 and 1979 to make grants to be used for the conversion, improvement, or consolidation of existing solid waste disposal facilities, or for the construction of new solid waste disposal facilities, or for both, within communities identified under paragraph (1). Not more than one community in any State shall be eligible for grants under this paragraph and not more than one project in any State shall be eligible for such grants.

(3) Grants under this subsection shall be made only to projects which the Administrator determines will be consistent with an applicable State plan approved under this subchapter and which will assist in carrying out such plan.

(Pub. L. 89-272, title II, § 4008, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2818.)

§ 6949. Rural communities assistance

(a) In general

The Administrator shall make grants to States to provide assistance to municipalities with a population of five thousand or less, or counties with a population of ten thousand or less or less than twenty persons per square mile and not within a metropolitan area, for solid waste management facilities (including equipment) necessary to meet the requirements of section 6945 of this title or restrictions on open burning or other requirements arising under the Clean Air Act [42 U.S.C. 1857 et seq.] or the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.]. Such assistance shall only be available—

(1) to any municipality or county which could not feasibly be included in a solid waste management system or facility serving an urbanized, multijurisdictional area because of its distance from such systems;

(2) where existing or planned solid waste management services or facilities are unavailable or insufficient to comply with the requirements of section 6945 of this title; and

(3) for systems which are certified by the State to be consistent with any plans or programs established under any State or areawide planning process.

(b) Allotment

The Administrator shall allot the sums appropriated to carry out this section in any fiscal year among the States in accordance with regulations promulgated by him on the basis of the average of the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States, the ratio which the population of counties in each State having less than twenty persons per square mile bears to the total population of such counties in all the States, and the ratio which the population of such low-density counties in each State having 33 per centum or more of all families with incomes not in excess of 125 per centum of the poverty level bears to the total population of such counties in all the States.

(c) Limit

The amount of any grant under this section shall not exceed 75 per centum of the costs of the project. No assistance under this section shall be available for the acquisition of land or interests in land.

(d) Authorization of appropriations

There are authorized to be appropriated $25,000,000 for each of the fiscal years 1978 and 1979 to carry out this section.

(Pub. L. 89-272, title II, § 4009, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2819.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, which is classified generally to chapter 15B (§ 1857 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1857 of this title and Tables volume.

The Federal Water Pollution Control Act, referred to in subsec. (a), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short title note set out under section 1251 of title 33 and Tables volume.

SUBCHAPTER V—DUTIES OF THE SECRETARY OF COMMERCE IN RESOURCE AND RECOVERY

§ 6951. Functions

The Secretary of Commerce shall encourage greater commercialization of proven resource recovery technology by providing—

[1] So in original.

(1) accurate specifications for recovered materials;

(2) stimulation of development of markets for recovered materials;

(3) promotion of proven technology; and

(4) a forum for the exchange of technical and economic data relating to resource recovery facilities.

(Pub. L. 89-272, title II, § 5001, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2820.)

§ 6952. Development of specifications for secondary materials

The Secretary of Commerce, acting through the National Bureau of Standards, and in conjunction with national standards-setting organizations in resource recovery, shall, after public hearings, and not later than two years after October 21, 1976, publish guidelines for the development of specifications for the classification of materials recovered from waste which were destined for disposal. The specifications shall pertain to the physical and chemical properties and characteristics of such materials with regard to their use in replacing virgin materials in various industrial, commercial, and governmental uses. In establishing such guidelines the Secretary shall also, to the extent feasible, provide such information as may be necessary to assist Federal agencies with procurement of items containing recovered materials. The Secretary shall continue to cooperate with national standards-setting organizations, as may be necessary, to encourage the publication, promulgation and updating of standards for recovered materials and for the use of recovered materials in various industrial, commercial, and governmental uses.

(Pub. L. 89-272, title II, § 5002, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2820.)

§ 6953. Development of markets for recovered materials

The Secretary of Commerce shall within two years after October 21, 1976, take such actions as may be necessary to—

(1) identify the geographical location of existing or potential markets for recovered materials;

(2) identify the economic and technical barriers to the use of recovered materials; and

(3) encourage the development of new uses for recovered materials.

(Pub. L. 89-272, title II, § 5003, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2821.)

§ 6954. Technology promotion

The Secretary of Commerce is authorized to evaluate the commercial feasibility of resource recovery facilities and to publish the results of such evaluation, and to develop a data base for purposes of assisting persons in choosing such a system.

(Pub. L. 89-272, title II, § 5004, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2821.)

SUBCHAPTER VI—FEDERAL RESPONSIBILITIES

§ 6961. Application of Federal, State, and local law to Federal facilities

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any solid waste management facility or disposal site, or (2) engaged in any activity resulting, or which may result, in the disposal of solid waste or hazardous waste shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of solid waste or hazardous waste disposal in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. The President may exempt any solid waste management facility of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

(Pub. L. 89-272, title II, § 6001, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2821.)

§ 6962. Federal procurement

(a) Application of section

Except as provided in subsection (b) of this section, a procuring agency shall comply with the requirements set forth in this section and any regulations issued under this section, with respect to any purchase or acquisition of a procurement item where the purchase price of the item exceeds $10,000 or where the quantity of such items or of functionally equivalent items purchased or acquired in the course of the preceding fiscal year was $10,000 or more.

(b) Procurement subject to other law

Any procurement, by any procuring agency, which is subject to regulations of the Administrator under section 6964 of this title (as promulgated before October 21, 1976, under comparable provisions of prior law) shall not be subject to the requirements of this section to

the extent that such requirements are inconsistent with such regulations.

(c) Requirements

(1)[1] (A) After two years after October 21, 1976, each procuring agency shall procure items composed of the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition. The decision not to procure such items shall be based on a determination that such procurement items—

(i) are not reasonably available within a reasonable period of time;

(ii) fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or

(iii) are only available at an unreasonable price. Any determination under clause (ii) shall be made on the basis of the guidelines of the Bureau of Standards in any case in which such material is covered by such guidelines.

(B) Agencies that generate heat, mechanical, or electrical energy from fossil fuel in systems that have the technical capability of using recovered material and recovered-material-derived fuel as a primary or supplementary fuel shall use such capability to the maximum extent practicable.

(C) Contracting officers shall require that vendors certify the percentage of the total material utilized for the performance of the contract which is recovered materials.

(d) Specifications

(1) All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement item procured by Federal agencies shall, in reviewing those specifications, ascertain whether such specifications violate the prohibitions contained in subparagraphs (A) through (C) of paragraph (2). Such review shall be undertaken not later than eighteen months after October 21, 1976.

(2) In drafting or revising such specifications, after October 21, 1976—

(A) any exclusion of recovered materials shall be eliminated;

(B) such specification shall not require the item to be manufactured from virgin materials; and

(C) such specifications shall require reclaimed materials to the maximum extent possible without jeopardizing the intended end use of the item.

(e) Guidelines

The Administrator, after consultation with the Administrator of General Services, the Secretary of Commerce (acting through the Bureau of Standards), and the Public Printer, shall prepare, and from time to time revise, guidelines for the use of procuring agencies in complying with the requirements of this section. Such guidelines shall set forth recommended practices with respect to the procurement of recovered materials and items containing such materials and shall provide information as to the availability, sources of supply, and potential uses of such materials and items.

[1] So in original. No par. (2) has been enacted.

(f) Procurement of services

A procuring agency shall, to the maximum extent practicable, manage or arrange for the procurement of solid waste management services in a manner which maximizes energy and resource recovery.

(g) Executive office

The Office of Procurement Policy in the Executive Office of the President, in cooperation with the Administrator, shall implement the policy expressed in this section. It shall be the responsibility of the Office of Procurement Policy to coordinate this policy with other policies for Federal procurement, in such a way as to maximize the use of recovered resources, and to annually report to the Congress on actions taken by Federal agencies and the progress made in the implementation of such policy.

(Pub. L. 89-272, title II, § 6002, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2822.)

§ 6963. Cooperation with Environmental Protection Agency

All Federal agencies having functions relating to solid waste or hazardous waste shall cooperate to the maximum extent permitted by law with the Administrator in carrying out his functions under this chapter and shall make all appropriate information, facilities, personnel, and other resources available, on a reimbursable basis, to the Administrator upon his request.

(Pub. L. 89-272, title II, § 6003, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2823.)

§ 6964. Applicability of solid waste disposal guidelines to Executive agencies

(a) Compliance

(1) If—

(A) an Executive agency (as defined in section 105 of title 5) has jurisdiction over any real property or facility the operation or administration of which involves such agency in solid waste disposal activities, or

(B) such an agency enters into a contract with any person for the operation by such person of any Federal property or facility, and the performance of such contract involves such person in solid waste disposal activities,

then such agency shall insure compliance with the guidelines recommended under section 6907 of this title and the purposes of this chapter in the operation or administration of such property or facility, or the performance of such contract, as the case may be.

(2) Each Executive agency which conducts any activity—

(A) which generates solid waste, and

(B) which, if conducted by a person other than such agency, would require a permit or license from such agency in order to dispose of such solid waste,

shall insure compliance with such guidelines and the purposes of this chapter in conducting such activity.

(3) Each Executive agency which permits the use of Federal property for purposes of disposal of solid waste shall insure compliance with such

guidelines and the purposes of this chapter in the disposal of such waste.

(4) The President shall prescribe regulations to carry out this subsection.

(b) Licenses and permits

Each Executive agency which issues any license or permit for disposal of solid waste shall, prior to the issuance of such license or permit, consult with the Secretary to insure compliance with guidelines recommended under section 6907 of this title and the purposes of this chapter.

(Pub. L. 89-272, title II, § 6004, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2823.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3254e of this title, prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6962 of this title.

SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

§ 6971. Employee protection

(a) General

No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this chapter or under any applicable implementation plan, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this chapter or of any applicable implementation plan.

(b) Remedy

Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator or subject to judicial review under this chapter.

(c) Costs

Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

(d) Exception

This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any requirement of this chapter.

(e) Employment shifts and loss

The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provisions of this chapter and applicable implementation plans, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement. Any employee who is discharged, or laid off, threatened with discharge or layoff, or otherwise discriminated against by any person because of the alleged results of such administration or enforcement, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days' notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such administration or enforcement on employment and on any alleged discharge, layoff, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such administration or enforcement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator or any State to modify or withdraw any standard, limitation, or any other requirement of this chapter or any applicable implementation plan.

(Pub. L. 89-272, title II, § 7001, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2824.)

§ 6972. Citizen suits

(a) In general

Except as provided in subsection (b) or (c) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (a) the United States, and (b) any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any permit, standard, regulation, condition, requirement, or order which has become effective pursuant to this chapter; or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator.

Any action under paragraph (a)(1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under paragraph (a)(2) of this subsection may be brought in the district court for the district in which the alleged violation occurred or in the District Court of the District of Columbia. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such regulation or order, or to order the Administrator to perform such act or duty as the case may be.

(b) Actions prohibited

No action may be commenced under paragraph (a)(1) of this section—

(1) prior to sixty days after the plaintiff has given notice of the violation (A) to the Administrator; (B) to the State in which the alleged violation occurs; and (C) to any alleged violator of such permit, standard, regulation, condition, requirement, or order; or

(2) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with such permit, standard, regulation, condition, requirement, or order: *Provided, however,* That in any such action in a court of the United States, any person may intervene as a matter of right.

(c) Notice

No action may be commenced under paragraph (a)(2) of this section prior to sixty days after the plaintiff has given notice to the Administrator that he will commence such action, except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of section 212 of this Act. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation. Any action respecting a violation under this chapter may be brought under this section only in the judicial district in which such alleged violation occurs.

(d) Intervention

In any action under this section the Administrator, if not a party, may intervene as a matter of right.

(e) Costs

The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, requiring the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(f) Other rights preserved

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or requirement relating to the management of solid waste or hazardous waste, or to seek any other relief (including relief against the Administrator or a State agency).

(Pub. L. 89-272, title II, § 7002, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2825.)

REFERENCES IN TEXT

Section 212 of this Act, referred to in subsec. (c), is a reference to a nonexistent section of the Act. Probably the reference should be to "subtitle C of this Act", which is classified to subchapter III (§§ 6921 to 6931) of this chapter. Various provisions of Pub. L. 94-580 originated in S. 3622 and S. 2150, 94th Cong. In both bills, the section relating to citizen suits was numbered section 215 and contained reference to violations of section 212 of this Act. Both bills contained a section 212 which related to hazardous waste disposal control. As enacted by Pub. L. 94-580, the provisions relating to citizen suits appear in section 7002 (which is classified to this section), and the provisions relating to hazardous waste management appear as subtitle C consisting of sections 3001 to 3011 (which is classified to subchapter III of this chapter).

The Federal Rules of Civil Procedure, referred to in subsec. (e), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 6973. Imminent hazard

Notwithstanding any other provision of this chapter, upon receipt of evidence that the handling, storage, treatment, transportation or disposal of any solid waste or hazardous waste is presenting an imminent and substantial endangerment to health or the environment, the Administrator may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person for contributing to the alleged disposal to stop such handling, storage, treatment, transportation, or disposal or to take such other action as may be necessary. The Administrator shall provide notice to the affected State of any such suit.

(Pub. L. 89-272, title II, § 7003, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2826.)

§ 6974. Petition for regulations; public participation

(a) Petition

Any person may petition the Administrator for the promulgation, amendment, or repeal of any regulation under this chapter. Within a reasonable time following receipt of such petition, the Administrator shall take action with respect to such petition and shall publish notice of such action in the Federal Register, together with the reasons therefor.

(b) Public participation

Public participation in the development, revision, implementation, and enforcement of any regulation, guideline, information, or program under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish minimum guidelines for public participation in such processes.

(Pub. L. 89-272, title II, § 7004, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2826.)

§ 6975. Separability of provisions

If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

(Pub. L. 89-272, title II, § 7005, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2827.)

§ 6976. Judicial review

Any judicial review of final regulations promulgated pursuant to this chapter shall be in accordance with sections 701 through 706 of title 5, except that—

(1) a petition for review of action of the Administrator in promulgating any regulation, or requirement under this chapter may be filed only in the United States Court of Appeals for the District of Columbia. Any such petition shall be filed within ninety days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after such ninetieth day. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement; and

(2) in any judicial proceeding brought under this section in which review is sought of a determination under this chapter required to be made on the record after notice and opportunity for hearing, if a party seeking review under this chapter applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(Pub. L. 89-272, title II, § 7006, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2827.)

§ 6977. Grants or contracts for training projects

(a) General authority

The Administrator is authorized to make grants to, and contracts with any eligible organization. For purposes of this section the term "eligible organization" means a State or interstate agency, a municipality, educational institution, and any other organization which is capable of effectively carrying out a project which may be funded by grant under subsection (b) of this section.

(b) Purposes

(1) Subject to the provisions of paragraph (2), grants or contracts may be made to pay all or a part of the costs, as may be determined by the Administrator, of any project operated or to be operated by an eligible organization, which is designed—

(A) to develop, expand, or carry out a program (which may combine training, education, and employment) for training persons for occupations involving the management, supervision, design, operation, or maintenance of solid waste disposal and resources recovery equipment and facilities; or

(B) to train instructors and supervisory personnel to train or supervise persons in occupations involving the design, operation, and maintenance of solid waste disposal and resource recovery equipment and facilities.

(2) A grant or contract authorized by paragraph (1) of this subsection may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it provides for the same procedures and reports (and access to such reports and to other records) as required by section 3254a(b)(4) and (5) of this title (as in effect before October 21, 1976) with respect to applications made under such section (as in effect before October 21, 1976).

(c) Study

The Administrator shall make a complete investigation and study to determine—

(1) the need for additional trained State and local personnel to carry out plans assisted under this chapter and other solid waste and resource recovery programs;

(2) means of using existing training programs to train such personnel; and

(3) the extent and nature of obstacles to employment and occupational advancement in the solid waste disposal and resource recovery field which may limit either available manpower or the advancement of personnel in such field.

He shall report the results of such investigation and study, including his recommendations to the President and the Congress.

(Pub. L. 89-272, title II, § 7007, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2827.)

REFERENCES IN TEXT

Sectin 3254a(b)(4) and (5) of this title, referred to in subsec. (b)(2), was in the original, section 207(b)(4) and (5), meaning section 207(b)(4) and (5) of the Solid Waste Disposal Act, which was omitted in the general revision of the Solid Waste Disposal Act by Pub. L. 94-580 on Oct. 21, 1976.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3254d of this title, prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

§ 6978. Payments

(a) General rule

Payments of grants under this chapter may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Administrator may determine.

(b) Prohibition

No grant may be made under this chapter to any private profitmaking organization.

(Pub. L. 89-272, title II, § 7008, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2828.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3258 of this title, prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

§ 6979. Labor standards

No grant for a project of construction under this chapter shall be made unless the Secretary finds that the application contains or is supported by reasonable assurance that all laborers and mechanics employed by contractors or subcontractors on projects of the type covered by the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with that Act; and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of title 40.

(Pub. L. 89-272, title II, § 7009, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2828.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3256 of this title, prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

SUBCHAPTER VIII—RESEARCH, DEVELOPMENT, DEMONSTRATION, AND INFORMATION

§ 6981. Research, demonstration, training, and other activities

(a) General authority

The Administrator, alone or after consultation with the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, or the Chairman of the Federal Power Commission, shall conduct, and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, public education programs, and studies relating to—

(1) any adverse health and welfare effects of the release into the environment of material present in solid waste, and methods to eliminate such effects;

(2) the operation and financing of solid waste disposal programs;

(3) the planning, implementation, and operation of resource recovery and resource conservation systems and hazardous waste management system, including the marketing of recovered resources;

(4) the production of usable forms of recovered resources, including fuel, from solid waste;

(5) the reduction of the amount of such waste and unsalvageable waste materials;

(6) the development and application of new and improved methods of collecting and disposing of solid waste and processing and recovering materials and energy from solid wastes;

(7) the identification of solid waste components and potential materials and energy recoverable from such waste components;

(8) small scale and low technology solid waste management systems, including but not limited to, resource recovery source separation systems;

(9) methods to improve the performance characteristics of resources recovered from solid waste and the relationship of such performance characteristics to available and potentially available markets for such resources;

(10) improvements in land disposal practices for solid waste (including sludge) which may reduce the adverse environmental effects of such disposal and other aspects of solid waste disposal on land, including means for reducing the harmful environmental effects of earlier and existing landfills, means for restoring areas damaged by such earlier or existing landfills, means for rendering landfills safe for purposes of construction and other uses, and techniques of recovering materials and energy from landfills;

(11) methods for the sound disposal of, or recovery of resources, including energy, from, sludge (including sludge from pollution control and treatment facilities, coal slurry pipelines, and other sources);

(12) methods of hazardous waste management, including methods of rendering such waste environmentally safe; and

(13) any adverse effects on air quality (particularly with regard to the emission of heavy metals) which result from solid waste which is burned (either alone or in conjunction with other substances) for purposes of disposal or energy recovery.

(b) Management program

(1)(A) In carrying out his functions pursuant to this chapter, and any other Federal legislation respecting solid waste or discarded material research, development, and demonstrations, the Administrator shall establish a management program or system to insure the coordination of all such activities and to facilitate and accelerate the process of development of sound new technology (or other discoveries) from the research phase, through development, and into the demonstration phase.

(B) The Administrator shall (i) assist, on the basis of any research projects which are developed with assistance under this chapter or without Federal assistance, the construction of pilot plant facilities for the purpose of investigating or testing the technological feasibility of any promising new fuel, energy, or resource recovery or resource conservation method or technology; and (ii) demonstrate each such method and technology that appears justified by an evaluation at such pilot plant stage or at a pilot plant stage developed without Federal assistance. Each such demonstration shall incorporate new or innovative technical advances or shall apply such advances to different circumstances and conditions, for the purpose of evaluating design concepts or to test the performance, efficiency, and economic feasibility of a particular method or technology under actual operating conditions. Each such demonstration shall be so planned and designed that, if successful, it can be expanded or utilized directly as a full-scale operational fuel, energy, or resource recovery or resource conservation facility.

(2) Any energy-related research, development, or demonstration project for the conversion including bioconversion, of solid waste carried out by the Environmental Protection Agency or by the Energy Research and Development Administration pursuant to this chapter or any other Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy from Solid Wastes and specifically, that in accordance with this agreement, (A) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related portions of projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; (C) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 6907 of this title, and any applicable State or regional solid waste management plan; and (D) any activities undertaken under provisions of sections 6982 and 6983 of this title as related to energy; as related to energy or synthetic fuels recovery from waste; or as related to energy conservation shall be accomplished through coordination and consultation with the Energy Research and Development Administration.

(c) Authorities

(1) In carrying out subsection (a) of this section respecting solid waste research, studies, development, and demonstration, except as otherwise specifically provided in section 6984(d) of this title, the Administrator may make grants to or enter into contracts (including contracts for construction) with, public agencies and authorities or private persons.

(2) Contracts for research, development, or demonstrations or for both (including contracts for construction) shall be made in accordance with and subject to the limitations provided with respect to research contracts of the military departments in section 2353 of title 10, except that the determination, approval, and certification required thereby shall be made by the Administrator.

(3) Any invention made or conceived in the course of, or under, any contract under this chapter shall be subject to section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 [42 U.S.C. 5908] to the same extent and in the same manner as inventions made or conceived in the course of contracts under such Act [42 U.S.C. 5901 et seq.], except that in applying such section, the Environmental Protection Agency shall be substituted for the Energy Research and Development Administration and the words "solid waste" shall be substituted for the word "energy" where appropriate.

(4) For carrying out the purpose of this chapter the Administrator may detail personnel of the Environmental Protection Agency to agencies eligible for assistance under this section.

(Pub. L. 89-272, title II, § 8001, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2829.)

REFERENCES IN TEXT

Such Act, referred to in subsec. (c)(3), means the Federal Nonnuclear Energy Research and Development Act of 1974, which is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, and which is classified generally to chapter 74 (§ 5901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of this title and Tables volume.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3253 of this title, prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

SOLID WASTE CLEANUP ON FEDERAL LANDS IN ALASKA; STUDY AND REPORT TO CONGRESSIONAL COMMITTEES

Section 3 of Pub. L. 94-580 provided that:

"(a) The President shall direct such executive departments or agencies as he may deem appropriate to conduct a study, in consultation with representatives of the State of Alaska and the appropriate Native organizations, to determine the best overall procedures for removing existing solid waste on Federal lands in Alaska. Such study shall include, but shall not be limited to, a consideration of—

"(1) alternative procedures for removing the solid waste in an environmentally safe manner, and

"(2) the estimated costs of removing the solid waste.

"(b) The President shall submit a report of the results together with appropriate supporting data and

such recommendations as he deems desirable to the Committee on Public Works of the Senate [now the Committee on Environment and Public Works] and to the Committee on Interstate and Foreign Commerce of the House of Representatives not later than one year after the enactment of the Solid Waste Utilization Act of 1976 [Oct. 21, 1976]. The President shall also submit, within six months after the study has been submitted to the committees, recommended administrative actions, procedures, and needed legislation to implement such procedures and the recommendations of the study."

LEACHATE CONTROL RESEARCH PROGRAM IN DELAWARE

Section 4 of Pub. L. 94-580 provided that:

"(a) In order to demonstrate effective means of dealing with contamination of public water supplies by leachate from abandoned or other landfills, the Administrator of the Environmental Protection Agency is authorized to provide technical and financial assistance for a research program to control leachate from the Llangollen Landfill in New Castle County, Delaware.

"(b) The research program authorized by this section shall be designed by the New Castle County areawide waste treatment management program, in cooperation with the Environmental Protection Agency, to develop methods for controlling leachate contamination from abandoned and other landfills that may be applied at the Llangollen Landfill and at other landfills throughout the Nation. Such research program shall investigate all alternative solutions or corrective actions, including—

"(1) hydrogeologic isolation of the landfill combined with the collection and treatment of leachate;

"(2) excavation of the refuse, followed by some type of incineration;

"(3) excavation and transportation of the refuse to another landfill; and

"(4) collection and treatment of contaminated leachate or ground water.

Such research program shall consider the economic, social, and environmental consequences of each such alternative.

"(c) The Administrator of the Environmental Protection Agency shall make available personnel of the Agency, including those of the Solid and Hazardous Waste Research Laboratory (Cincinnati, Ohio), and shall arrange for other Federal personnel to be made available, to provide technical assistance and aid in such research. The Administrator may provide up to $250,000, of the sums appropriated under the Solid Waste Disposal Act [this chapter], to the New Castle County areawide waste treatment management program to conduct such research, including obtaining consultant services.

"(d) In order to prevent further damage to public water supplies during the period of this study, the Administrator of the Environmental Protection Agency shall provide up to $200,000 in each of fiscal years 1977 and 1978, of the sums appropriated under the Solid Waste Disposal Act [this chapter] for the operating costs of a counter-pumping program to contain the leachate from the Llangollen Landfill."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6984, 6985 of this title.

§ 6982. Special studies; plans for research, development, and demonstrations

(a) Glass and plastic

The Administrator shall undertake a study and publish a report on resource recovery from glass and plastic waste, including a scientific, technological, and economic investigation of potential solutions to implement such recovery.

(b) Composition of waste stream

The Administrator shall undertake a systematic study of the composition of the solid waste stream and of anticipated future changes in the composition of such stream and shall publish a report containing the results of such study and quantitatively evaluating the potential utility of such components.

(c) Priorities study

For purposes of determining priorities for research on recovery of materials and energy from solid waste and developing materials and energy recovery research, development, and demonstration strategies, the Administrator shall review, and make a study of, the various existing and promising techniques of energy recovery from solid waste (including, but not limited to, waterwall furnace incinerators, dry shredded fuel systems, pyrolysis, densified refuse-derived fuel systems, anerobic digestion, and fuel and feedstock preparation systems). In carrying out such study the Administrator shall investigate with respect to each such technique—

(1) the degree of public need for the potential results of such research, development, or demonstration,

(2) the potential for research, development, and demonstration without Federal action, including the degree of restraint on such potential posed by the risks involved, and

(3) the magnitude of effort and period of time necessary to develop the technology to the point where Federal assistance can be ended.

(d) Small-scale and low technology study

The Administrator shall undertake a comprehensive study and analysis of, and publish a report on, systems of small-scale and low technology solid waste management, including household resource recovery and resource recovery systems which have special application to multiple dwelling units and high density housing and office complexes. Such study and analysis shall include an investigation of the degree to which such systems could contribute to energy conservation.

(e) Front-end source separation

The Administrator shall undertake research and studies concerning the compatibility of front-end source separation systems with high technology resource recovery systems and shall publish a report containing the results of such research and studies.

(f) Mining waste

The Administrator, in consultation with the Secretary of the Interior, shall conduct a detailed and comprehensive study on the adverse effects of solid wastes from active and abandoned surface and underground mines on the environment, including, but not limited to, the effects of such wastes on humans, water, air, health, welfare, and natural resources, and on the adequacy of means and measures currently employed by the mining industry, Government agencies, and others to dispose of and utilize such solid wastes and to prevent or substantially mitigate such adverse effects. Such study shall include an analysis of—

(1) the sources and volume of discarded material generated per year from mining;

(2) present disposal practices;

(3) potential dangers to human health and the environment from surface runoff of leachate and air pollution by dust;

(4) alternatives to current disposal methods;

(5) the cost of those alternatives in terms of the impact on mine product costs; and

(6) potential for use of discarded material as a secondary source of the mine product.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal agencies concerning such wastes with a view toward avoiding duplication of effort and the need to expedite such study. The Administrator shall publish a report of such study and shall include appropriate findings and recommendations for Federal and non-Federal actions concerning such effects.

(g) Sludge

The Administrator shall undertake a comprehensive study and publish a report on sludge. Such study shall include an analysis of—

(1) what types of solid waste (including but not limited to sewage and pollution treatment residues and other residues from industrial operations such as extraction of oil from shale liquefaction and gasification of coal and coal slurry pipeline operations) shall be classified as sludge;

(2) the effects of air and water pollution legislation on the creation of large volumes of sludge;

(3) the amounts of sludge originating in each State and in each industry producing sludge;

(4) methods of disposal of such sludge, including the cost, efficiency, and effectiveness of such methods;

(5) alternative methods for the use of sludge, including agricultural applications of sludge and energy recovery from sludge; and

(6) methods to reclaim areas which have been used for the disposal of sludge or which have been damaged by sludge.

(h) Tires

The Administrator shall undertake a study and publish a report respecting discarded motor vehicle tires which shall include an analysis of the problems involved in the collection, recovery of resources including energy, and use of such tires.

(i) Resource recovery facilities

The Administrator shall conduct research and report on the economics of, and impediments, to the effective functioning of resource recovery facilities.

(j) Resource Conservation Committee

(1) The Administrator shall serve as Chairman of a Committee composed of himself, the Secretary of Commerce, the Secretary of Labor, the Chairman of the Council on Environmental Quality, the Secretary of Treasury, the Secretary of the Interior, and a representative of the Office of Management and Budget, which shall conduct a full and complete investigation and study of all aspects of the economic, social, and environmental consequences of resource conservation with respect to—

(A) the appropriateness of recommended incentives and disincentives to foster resource conservation;

(B) the effect of existing public policies (including subsidies and economic incentives and disincentives, percentage depletion allowances, capital gains treatment and other tax incentives and disincentives) upon resource conservation, and the likely effect of the modification or elimination of such incentives and disincentives upon resource conservation;

(C) the appropriateness and feasibility of restricting the manufacture or use of categories of consumer products as a resource conservation strategy;

(D) the appropriateness and feasibility of employing as a resource conservation strategy the imposition of solid waste management charges on consumer products, which charges would reflect the costs of solid waste management services, litter pickup, the value of recoverable components of such product, final disposal, and any social value associated with the nonrecycling or uncontrolled disposal of such product; and

(E) the need for further research, development, and demonstration in the area of resource conservation.

(2) The study required in paragraph (2)(D) may include pilot scale projects, and shall consider and evaluate alternative strategies with respect to—

(A) the product categories on which such charges would be imposed;

(B) the appropriate state in the production of such consumer product at which to levy such charge;

(C) appropriate criteria for establishing such charges for each consumer product category;

(D) methods for the adjustment of such charges to reflect actions such as recycling which would reduce the overall quantities of solid waste requiring disposal; and

(E) procedures for amending, modifying, or revising such charges to reflect changing conditions.

(3) The design for the study required in paragraph (2)(D) of this subsection shall include timetables for the completion of the study. A preliminary report putting forth the study design shall be sent to the President and the Congress within six months following October 21, 1976, and followup reports shall be sent six months thereafter. Each recommendation resulting from the study shall include at least two alternatives to the proposed recommendation.

(4) The results of such investigation and study, including recommendations, shall be reported to the President and the Congress not later than two years after October 21, 1976.

(5) There are authorized to be appropriated not to exceed $2,000,000 to carry out this subsection.

(k) Airport landfills

The Administrator shall undertake a comprehensive study and analysis of and publish a report on systems to alleviate the hazards to

aviation from birds congregating and feeding on landfills in the vicinity of airports.

(l) Completion of research and studies

The Administrator shall complete the research and studies, and submit the reports, required under subsections (b), (c), (d), (e), (f), (g), and (k) of this section not later than October 1, 1978. The Administrator shall complete the research and studies, and submit the reports, required under subsections (a), (h), (i), and (j) of this section not later than October 1, 1979. Upon completion, each study specified in subsections (a) through (k) of this section, the Administrator shall prepare a plan for research, development, and demonstration respecting the findings of the study and shall submit any legislative recommendations resulting from such study to appropriate committees of Congress.

(m) Authorization of appropriations

There are authorized to be appropriated not to exceed $8,000,000 for the fiscal years 1978 and 1979 to carry out this section other than subsection (j) of this section.

(Pub. L. 89-272, title II, § 8002, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2831.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6981, 6987 of this title.

§ 6983. Coordination, collection, and dissemination of information

(a) Information

The Administrator shall develop, collect, evaluate, and coordinate information on—

(1) methods and costs of the collection of solid waste;

(2) solid waste management practices, including data on the different management methods and the cost, operation, and maintenance of such methods;

(3) the amounts and percentages of resources (including energy) that can be recovered from solid waste by use of various discarded materials management practices and various technologies;

(4) methods available to reduce the amount of solid waste that is generated;

(5) existing and developing technologies for the recovery of energy or materials from solid waste and the costs, reliability, and risks associated with such technologies;

(6) hazardous solid waste, including incidents of damage resulting from the disposal of hazardous solid wastes; inherently and potentially hazardous solid wastes; methods of neutralizing or properly disposing of hazardous solid wastes; facilities that properly dispose of hazardous wastes;

(7) methods of financing resource recovery facilities or, sanitary landfills, or hazardous solid waste treatment facilities, whichever is appropriate for the entity developing such facility or landfill (taking into account the amount of solid waste reasonably expected to be available to such entity);

(8) the availability of markets for the purchase of resources, either materials or energy, recovered from solid waste; and

(9) research and development projects respecting solid waste management.

(b) Library

(1) The Administrator shall establish and maintain a central reference library for (A) the materials collected pursuant to subsection (a) of this section and (B) the actual performance and cost effectiveness records and other data and information with respect to—

(i) the various methods of energy and resource recovery from solid waste,

(ii) the various systems and means of resource conservation,

(iii) the various systems and technologies for collection, transport, storage, treatment, and final disposition of solid waste, and

(iv) other aspects of solid waste and hazardous solid waste management.

Such central reference library shall also contain, but not be limited to, the model codes and model accounting systems developed under this section, the information collected under subsection (d) of this section, and, subject to any applicable requirements of confidentiality, information respecting any aspect of solid waste provided by officers and employees of the Environmental Protection Agency which has been acquired by them in the conduct of their functions under this chapter and which may be of value to Federal, State, and local authorities and other persons.

(2) Information in the central reference library shall, to the extent practicable, be collated, analyzed, verified, and published and shall be made available to State and local governments and other persons at reasonable times and subject to such reasonable charges as may be necessary to defray expenses of making such information available.

(c) Model accounting system

In order to assist State and local governments in determining the cost and revenues associated with the collection and disposal of solid waste and with resource recovery operations, the Administrator shall develop and publish a recommended model cost and revenue accounting system applicable to the solid waste management functions of State and local governments. Such system shall be in accordance with generally accepted accounting principles. The Administrator shall periodically, but not less frequently than once every five years, review such accounting system and revise it as necessary.

(d) Model codes

The Administrator is authorized, in cooperation with appropriate State and local agencies, to recommend model codes, ordinances, and statutes, providing for sound solid waste management.

(e) Information programs

(1) The Administrator shall implement a program for the rapid dissemination of information on solid waste management, hazardous waste management, resource conservation, and methods of resource recovery from solid waste, including the results of any relevant research, investigations, experiments, surveys, studies, or other information which may be useful in the implementation of new or improved solid waste management practices and methods and infor-

mation on any other technical, managerial, financial, or market aspect of resource conservation and recovery facilities.

(2) The Administrator shall develop and implement educational programs to promote citizen understanding of the need for environmentally sound solid waste management practices.

(f) Coordination

In collecting and disseminating information under this section, the Administrator shall coordinate his actions and cooperate to the maximum extent possible with State and local authorities.

(g) Special restriction

Upon request, the full range of alternative technologies, programs or processes deemed feasible to meet the resource recovery or resource conservation needs of a jurisdiction shall be described in such a manner as to provide a sufficient evaluative basis from which the jurisdiction can make its decisions, but no officer or employee of the Environmental Protection Agency shall, in an official capacity, lobby for or otherwise represent an agency position in favor of resource recovery or resource conservation, as a policy alternative for adoption into ordinances, codes, regulations, or law by any State or political subdivision thereof.

(Pub. L. 89-272, title II, § 8003, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2834.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6981 of this title.

§ 6984. Full-scale demonstration facilities

(a) Authority

The Administrator may enter into contracts with public agencies or authorities or private persons for the construction and operation of a full-scale demonstration facility under this chapter, or provide financial assistance in the form of grants to a full-scale demonstration facility under this chapter only if the Administrator finds that—

(1) such facility or proposed facility will demonstrate at full scale a new or significantly improved technology or process, a practical and significant improvement in discarded material management practice, or the technological feasibility and cost effectiveness of an existing, but unproven technology, process, or practice, and will not duplicate any other Federal, State, local, or commercial facility which has been constructed or with respect to which construction has begun (determined as of the date action is taken by the Administrator under this chapter),

(2) such contract or assistance meets the requirements of section 6981 of this title and meets other applicable requirements of this chapter,

(3) such facility will be able to comply with the guidelines published under section 6907 of this title and with other laws and regulations for the protection of health and the environment,

(4) in the case of a contract for construction or operation, such facility is not likely to be constructed or operated by State, local, or private persons or in the case of an application for financial assistance, such facility is not likely to receive adequate financial assistance from other sources, and

(5) any Federal interest in, or assistance to, such facility will be disposed of or terminated, with appropriate compensation, within such period of time as may be necessary to carry out the basic objectives of this chapter.

(b) Time limitation

No obligation may be made by the Administrator for financial assistance under this subchapter for any full-scale demonstration facility after the date ten years after October 21, 1976. No expenditure of funds for any such full-scale demonstration facility under this subchapter may be made by the Administrator after the date fourteen years after October 21, 1976.

(c) Cost sharing

[1]Wherever practicable, in constructing, operating, or providing financial assistance under this subchapter to a full-scale demonstration facility, the Administrator shall endeavor to enter into agreements and make other arrangements for maximum practicable cost sharing with other Federal, State, and local agencies, private persons, or any combination thereof.

(2) The Administrator shall enter into arrangements, wherever practicable and desirable, to provide monitoring of full-scale solid waste facilities (whether or not constructed or operated under this chapter) for purposes of obtaining information concerning the performance, and other aspects, of such facilities. Where the Administrator provides only monitoring and evaluation instruments or personnel (or both) or funds for such instruments or personnel and provides no other financial assistance to a facility, notwithstanding section 6981(c)(3) of this title, title to any invention made or conceived of in the course of developing, constructing, or operating such facility shall not be required to vest in the United States and patents respecting such invention shall not be required to be issued to the United States.

(d) Prohibition

After October 21, 1976, the Administrator shall not construct or operate any full-scale facility (except by contract with public agencies or authorities or private persons).

(Pub. L. 89-272, title II, § 8004, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2836.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6981 of this title.

§ 6985. Special study and demonstration projects on recovery of useful energy and materials

(a) Studies

The Administrator shall conduct studies and develop recommendations for administrative or legislative action on—

(1) means of recovering materials and energy from solid waste, recommended uses of such materials and energy for national or international welfare, including identification

[1]So in original. There is no par. (1).

of potential markets for such recovered resources, the impact of distribution of such resources on existing markets, and potentials for energy conservation through resource conservation and resource recovery;

(2) actions to reduce waste generation which have been taken voluntarily or in response to governmental action, and those which practically could be taken in the future, and the economic, social, and environmental consequences of such actions;

(3) methods of collection, separation, and containerization which will encourage efficient utilization of facilities and contribute to more effective programs of reduction, reuse, or disposal of wastes;

(4) the use of Federal procurement to develop market demand for recovered resources;

(5) recommended incentives (including Federal grants, loans, and other assistance) and disincentives to accelerate the reclamation or recycling of materials from solid wastes, with special emphasis on motor vehicle hulks;

(6) the effect of existing public policies, including subsidies and economic incentives and disincentives, percentage depletion allowances, capital gains treatment and other tax incentives and disincentives, upon the recycling and reuse of materials, and the likely effect of the modification or elimination of such incentives and disincentives upon the reuse, recycling and conservation of such materials;

(7) the necessity and method of imposing disposal or other charges on packaging, containers, vehicles, and other manufactured goods, which charges would reflect the cost of final disposal, the value of recoverable components of the item, and any social costs associated with nonrecycling or uncontrolled disposal of such items; and

(8) the legal constraints and institutional barriers to the acquisition of land needed for solid waste management, including land for facilities and disposal sites;

(9) in consultation with the Secretary of Agriculture, agricultural waste management problems and practices, the extent of reuse and recovery of resources in such wastes, the prospects for improvement, Federal, State, and local regulations governing such practices, and the economic, social, and environmental consequences of such practices; and

(10) in consultation with the Secretary of the Interior, mining waste management problems, and practices, including an assessment of existing authorities, technologies, and economics, and the environmental and public health consequences of such practices.

(b) Demonstration

The Administrator is also authorized to carry out demonstration projects to test and demonstrate methods and techniques developed pursuant to subsection (a) of this section.

(c) Application of other sections

Section 6981(b) and (c) of this title shall be applicable to investigations, studies, and projects carried out under this section.

(Pub. L. 89-272, title II, § 8005, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2837.)

Prior Provisions

Provisions similar to this section were contained in section 3253a of this title, prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

§ 6986. Grants for resource recovery systems and improved solid waste disposal facilities

(a) Authority

The Administrator is authorized to make grants pursuant to this section to any State, municipal, or interstate or intermunicipal agency for the demonstration of resource recovery systems or for the construction of new or improved solid waste disposal facilities.

(b) Conditions

(1) Any grant under this section for the demonstration of a resource recovery system may be made only if it (A) is consistent with any plans which meet the requirements of subchapter IV of this chapter; (B) is consistent with the guidelines recommended pursuant to section 6907 of this title; (C) is designed to provide area-wide resource recovery systems consistent with the purposes of this chapter, as determined by the Administrator, pursuant to regulations promulgated under subsection (d) of this section; and (D) provides an equitable system for distributing the costs associated with construction, operation, and maintenance of any resource recovery system among the users of such system.

(2) The Federal share for any project to which paragraph (1) applies shall not be more than 75 percent.

(c) Limitations

(1) A grant under this section for the construction of a new or improved solid waste disposal facility may be made only if—

(A) a State or interstate plan for solid waste disposal has been adopted which applies to the area involved, and the facility to be constructed (i) is consistent with such plan, (ii) is included in a comprehensive plan for the area involved which is satisfactory to the Administrator for the purposes of this chapter, and (iii) is consistent with the guidelines recommended under section 6907 of this title, and

(B) the project advances the state of the art by applying new and improved techniques in reducing the environmental impact of solid waste disposal, in achieving recovery of energy or resources, or in recycling useful materials.

(2) The Federal share for any project to which paragraph (1) applies shall be not more than 50 percent in the case of a project serving an area which includes only one municipality, and not more than 75 percent in any other case.

(d) Regulations

(1) The Administrator shall promulgate regulations establishing a procedure for awarding grants under this section which—

(A) provides that projects will be carried out in communities of varying sizes, under such conditions as will assist in solving the community waste problems of urban-industrial centers, metropolitan regions, and rural areas, under representative geographic and environmental conditions; and

(B) provides deadlines for submission of, and action on, grant requests.

(2) In taking action on applications for grants under this section, consideration shall be given by the Administrator (A) to the public benefits to be derived by the construction and the propriety of Federal aid in making such grant; (B) to the extent applicable, to the economic and commercial viability of the project (including contractual arrangements with the private sector to market any resources recovered); (C) to the potential of such project for general application to community solid waste disposal problems; and (D) to the use by the applicant of comprehensive regional or metropolitan area planning.

(e) Additional limitations

A grant under this section—

(1) may be made only in the amount of the Federal share of (A) the estimated total design and construction costs, plus (B) in the case of a grant to which subsection (b)(1) of this section applies, the first-year operation and maintenance costs;

(2) may not be provided for land acquisition or (except as otherwise provided in paragraph (1)(B)) for operating or maintenance costs;

(3) may not be made until the applicant has made provision satisfactory to the Administrator for proper and efficient operation and maintenance of the project (subject to paragraph (1)(B)); and

(4) may be made subject to such conditions and requirements, in addition to those provided in this section, as the Administrator may require to properly carry out his functions pursuant to this chapter.

For purposes of paragraph (1), the non-Federal share may be in any form, including, but not limited to, lands or interests therein needed for the project or personal property or services, the value of which shall be determined by the Administrator.

(f) Single State

(1) Not more than 15 percent of the total of funds authorized to be appropriated for any fiscal year to carry out this section shall be granted under this section for projects in any one State.

(2) The Administrator shall prescribe by regulation the manner in which this subsection shall apply to a grant under this section for a project in an area which includes all or part of more than one State.

(Pub. L. 89-272, title II, § 8006, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2838.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3254b of this title, prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

§ 6987. Authorization of appropriations

There are authorized to be appropriated not to exceed $35,000,000 for the fiscal year 1978 to carry out the purposes of this subchapter (except for section 6982 of this title).

(Pub. L. 89-272, title II, § 8007, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2839.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3259 of this title, prior to the complete revision of the Solid Waste Disposal Act by Pub. L. 94-580.

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